

ORIGINAL

OFFICIAL TRANSCRIPT  
PROCEEDINGS BEFORE

NUCLEAR REGULATORY COMMISSION  
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

DKT/CASE NO. 50-322-OL  
TITLE LONG ISLAND LIGHTING COMPANY  
(Shoreham Nuclear Power Station)  
PLACE Bethesda, Maryland  
DATE November 16, 1982  
PAGES 14,026 - 14,224

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

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

- - - - -x

Bethesda, Maryland  
Tuesday, November 16, 1982

The hearing in the above-entitled matter  
convened, pursuant to notice, at 9:10 a.m.

BEFORE:

LAWRENCE BRENNER, Chairman  
Administrative Judge

JAMES CARPENTER, Member  
Administrative Judge

PETER A. MORRIS, Member  
Administrative Judge

## 1 APPEARANCES:

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1 C-O-N-F-I-N-I-S

2 WITNESSES:                      DIRECT   CROSS   REDIRECT   RECROSS   BOARD

3    Joseph M. Kelly,

4    Arthur R. Muller and

5    Edward J. Youngling (Resumed)

6           By Mr. Dynner                                  14,103

7    (Afternoon Session..14,133)

8    Joseph M. Kelly,

9    Arthur R. Muller and

10    Edward J. Youngling (Resumed)

11           By Mr. Dynner    14,134

12

13 RECESSES:

14    Morning - 14,100

15    Noon - 14,133

16    Afternoon - 14,174

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JUDGE BRENNER: Good morning.

We have a list of miscellaneous matters to discuss. As you all know, we just a few moments ago received Suffolk County's filing concerning the Torrey Pines technology report. We are not going to take that up first thing this morning. We will be back on it later today or tomorrow. Suffice it to say that the proposal of the County is unacceptable in terms of the schedule and we will be back to discuss alternate arrangements.

A brief reminder on emergency planning. We're going to be taking that up in full next Monday at 10:00 o'clock. As the parties know, previously we indicated we believed we have the authority to go ahead and order the depositions before hearing. We have seen nothing to dissuade us.

We are not definitively ruling yet, however. We will await the further filings, principally by the North Shore Committee, which we will be receiving Thursday. And we will rule on our authority to do it on or about next Monday. We may have a written ruling ready at the beginning of that day or shortly before or perhaps a day after.

But in any event, by that Monday we will

1 discuss whether we continue to believe we have the  
2 authority to do it, and we will use next Monday to  
3 discuss the details of the arrangement. However, we  
4 have previously ordered that if we found we had the  
5 authority to go ahead we wanted the schedule to begin  
6 the week of November 29th. That remains our order and  
7 therefore the parties continue to be under our Board  
8 order to make arrangements to hold these examinations by  
9 way of deposition before the hearing in a public place.

10 I'm reminding the parties because we do not  
11 want to hear next Monday that there is a problem in  
12 terms of making the arrangements. All the parties have  
13 essentially agreed, with some variations, on what the  
14 order would be at a hearing, and that same order would  
15 be followed at the depositions before the hearing. So  
16 arrangements should be made to have witnesses ready to  
17 travel, and we presume that the logical first place to  
18 try to hold it would be at the County legislative  
19 hearing room in Riverhead.

20 If we find we have the authority to go ahead  
21 and hold these and if, despite that finding of our  
22 authority, the party chooses to be in default as to  
23 holding them, we will take appropriate action. The  
24 obvious potential is that the party and its contentions  
25 will be dismissed. It's that simple. So we don't want

1 inertia to take over.

2           However, certainly before we take any such  
3 extreme action we will be very sure that we have the  
4 authority to order the examinations before the hearing  
5 and, although we continue to believe we have that  
6 authority, we are doing further research to be sure.

7           We continue to believe it unfortunate that the  
8 County chose not to take advantage of the opportunity to  
9 explain its legal reasons why we do not have the  
10 authority. However, it is possible that Mr. Shapiro's  
11 filing will inform us of something that we had not  
12 considered, and we're certainly going to wait for that.  
13 So go ahead and make the arrangements.

14           If a party refuses to participate in  
15 coordinating the arrangements -- and these are  
16 conditional arrangements; if we find we don't have the  
17 authority, certainly the matter will be called off.  
18 That order has always been in effect, but we remind the  
19 parties of it so that there will be no doubt.

20           One other miscellaneous matter which you  
21 probably didn't expect to hear about from us: Judge  
22 Lawrenson has asked me to see if we can ascertain the  
23 prognosis for settlement or narrowing of the security  
24 issues, and the reason he asked me to do that is he will  
25 have to go ahead and make arrangements for hearing space

1 beyond the initial day of December 13th, because after  
2 the 13th we will be in this room.

3 MR. IRWIN: Judge Brenner, as I indicated on  
4 page 8 of the status report we filed this morning,  
5 barring highly unlikely last minute difficulties we  
6 expect to execute a full settlement of security issues  
7 with Suffolk County and the Staff before the close of  
8 this week.

9 JUDGE BRENNER: I read it and it didn't  
10 register when I read it before. Thank you.

11 JUDGE MORRIS: We wanted to let the Staff know  
12 that we have reviewed their recent filing on status of  
13 open SER items and unresolved safety issues, and the  
14 current position of the Board is that we will not have  
15 any questions or wish any further discussion of those at  
16 this time.

17 JUDGE BRENNER: Just to round out the thought  
18 on the unresolved safety issues, we received the filing,  
19 I guess, from Mr. Repka on behalf of the Staff on  
20 November 2nd. It was very helpful. It pulled together  
21 the unresolved safety issues from the different sources  
22 in a fashion that I suggest be considered for future  
23 SER's in the first instance, not necessarily in that  
24 format but at least something that pulls it all  
25 together.



1           As to unresolved safety issues that are  
2 unaffected by issues in controversy, we have no further  
3 questions.

4           Now, as Mr. Repka indicated, some of the ones  
5 that the Staff did file proposed findings on are  
6 nevertheless in some part affected or potentially  
7 affected by issues in controversy, and as to the  
8 portions so affected we will rule in the course of our  
9 decision on the individual issues in controversy. But  
10 as to the others, it was sufficient for us to understand  
11 the Staff's basis and we have no questions.

12           So under River Bend and North Anna, we see no  
13 need to pursue unresolved safety issues further. Our  
14 purpose in requiring the various filings, as the parties  
15 know, was to be able to let them know one way or the  
16 other as to our view before findings and the close of  
17 the record, which is a rather late date to be hearing,  
18 we didn't like something.

19           As to the SER issues, as Judge Morris  
20 indicated, as of now we are not going to pursue anything  
21 on our own that isn't encompassed within issues in  
22 controversy. However, we will be reading the further  
23 Staff issuances, presumably another SER supplement, to  
24 satisfy ourselves that the fashion in which it looks as  
25 if matters will be closed based upon what we see so far

1 is in fact the way the matters will be followed through  
2 on.

3 That is, if we see something that surprises us  
4 or raises a new question it potentially could give rise  
5 to an important question.

6 All right, why don't we proceed through the  
7 issues for which settlement has been pending and see if  
8 we can ascertain what the inertia is all about on some  
9 of these issues. We can take them in the order of  
10 LILCO's filing if the County has no objection, and it  
11 appears Mr. Lanpher doesn't care.

12 Loose parts monitoring. We have LILCO's  
13 position in its filing, so I guess we need the County's  
14 position and the Staff.

15 MR. LANPHER: I advised Mr. Irwin yesterday I  
16 did not know he was filing this paper that we have  
17 tentatively -- or counsel has tentatively approved, the  
18 document which we have received, and it is undergoing  
19 final County review at this time.

20 JUDGE BRENNER: Let's set a date for when it  
21 will be executed and filed or, if it is the case, any  
22 problems raised, since it has been pending since October  
23 26th or thereabouts according to LILCO.

24 MR. LANPHER: Judge Brenner, I may as well  
25 make a comment about that. I don't know the exact

1 timing on LILCO's part. In a number of places in here  
2 LILCO talks about how the County has had inertia. My  
3 recollection is that I had sent materials on this  
4 particular agreement to LILCO well before the 26th. So  
5 I think in many instances both sides have sometimes  
6 dragged their feet or had other factors. I don't mean  
7 to take that up on each of the items.

8 In terms of setting a precise date, I have  
9 sent it to the County, to the persons who review it. I  
10 cannot commit them to a precise date when they will  
11 review it. They tend to turn it around quite rapidly  
12 and I would hope to have it back in no more than a week  
13 or ten days. But I don't control their time schedules.

14 JUDGE BRENNER: Well, I don't want to leave it  
15 open-ended at this point, because we are coming into --

16 MR. LANPHER: This issue, of course, has been  
17 fully litigated, Judge Brenner.

18 JUDGE BRENNER: I know. I still don't want to  
19 leave it open-ended because the other alternative if  
20 there is no agreement is to get the updated status in  
21 the record before us of what LILCO is doing and have us  
22 simply rule in light of that updated status. So as far  
23 as -- I may not recall, but as far as the official  
24 record before us goes, it was the proposal by LILCO at  
25 the time it litigated it -- and we understand through

1 these discussions on the status of settlement from time  
2 to time that that is no longer the status. So the other  
3 alternative is to simply file it and see if that  
4 resolves our concerns.

5 We had concerns about it. Whether those  
6 concerns would have on our own translated into any  
7 further requirements is problematical at this point. So  
8 it isn't correct that if nothing further is filed before  
9 us that we can just stand pat, and that is why I'm  
10 anxious to set a date.

11 Well, let's just set Tuesday, November 30th as  
12 the date by which we require the agreement to be filed,  
13 or else information that agreement cannot be reached  
14 because of some problem unanticipated as of today. And  
15 that provides two weeks, which should be ample time,  
16 given everything that has taken place heretofore.

17 So what we want by November 30th is the signed  
18 agreement or a filing indicating that there will be no  
19 signed agreement, and if that is the case we will have  
20 to set a time for receiving the updated status in the  
21 record.

22 Let's vary the order and come back to  
23 inadequate core cooling, and take up human factors  
24 equipment.

25 MR. LANPHER: Judge Brenner, that is in

1 exactly the same status as loose parts monitoring.

2 JUDGE BRENNER: In the sense that you expect  
3 that the agreement as it stands now can be executed, but  
4 it is still in the process of final review?

5 MR. LANPHER: That is correct.

6 JUDGE BRENNER: Is there any reason why  
7 November 30th would be unfair for that one?

8 MR. LANPHER: Judge Brenner, I don't know if  
9 November 30th is. From my point of view, I have  
10 completed all my review. As I said, I don't know what  
11 my client's schedule is for their review. They tend to  
12 be very fast in reporting back.

13 JUDGE BRENNER: You're talking about technical  
14 experts?

15 MR. LANPHER: No. This is my clients in the  
16 County government. I think LILCO has a similar  
17 procedure. There is a final review process for all of  
18 these resolution agreements. I send it to my client and  
19 when they review it they advise us whether we can  
20 execute it or not.

21 In every instance so far we have been advised  
22 that we can. I just can't commit them to a particular  
23 deadline.

24 JUDGE BRENNER: Well, but I can, because I  
25 have a litigation to schedule here and I need to know in

1 order to set a schedule sufficiently in advance.

2 MR. LANPHER: Well, if they can get back by  
3 November 30th, fine. If not, you will I guess have to  
4 just set it for whatever you need to set it for.

5 JUDGE BRENNER: Well, why don't you tell them  
6 that that is the date and tell them a little more  
7 strongly than, they can do it at their convenience, and  
8 let them know the reasons why we feel we need to have it  
9 in by then.

10 MR. LANPHER: I will convey to them your  
11 instructions, and I will send them the transcript, in  
12 fact.

13 JUDGE BRENNER: Because it's going to affect  
14 the County's schedule also in their preparation for  
15 litigation.

16 MR. LANPHER: We think we have an agreement  
17 here and that nothing has to be litigated on either --  
18 nothing further on SC-5 or on SC-18.

19 JUDGE BRENNER: Well, if that is the case we  
20 should be able to find out two weeks from today. So the  
21 order would be the same. We want either the signed  
22 agreement or an indication that there can be no  
23 agreement, and if so what areas will be litigated, and  
24 we will set those areas for litigation.

25 I should come back to the Staff on both those

1 issues and see if the Staff has any remaining problems  
2 on the agreement or the agreements as they have been  
3 last drafted.

4 MR. REPKA: We have no problems with those  
5 agreements.

6 JUDGE BRENNER: Has the Staff signed the  
7 agreement?

8 MR. REPKA: We haven't signed them. They  
9 normally come to us after they come through the County.

10 JUDGE BRENNER: Well, you'd better make  
11 arrangements so there is time for the Staff to execute  
12 it before November 30th also, if in fact the County is  
13 going to execute it by then. You might consider varying  
14 the procedure if necessary.

15 Mr. Lanpher, I must say I'm a little  
16 surprised. We said today is the date by which we  
17 expected the signed agreements, assuming there were no  
18 substantive problems. So I don't know why we don't have  
19 them today.

20 MR. LANPHER: Well, I will tell you, the  
21 reason why you don't have it on SC-5 is that, while it  
22 was sent to me whenever it was sent by Mr. Irwin, I  
23 didn't get to looking at it until very recently because  
24 I have been tied up on a daily basis in QA/QC matters,  
25 and that is an agreement pursuant to my responsibility.

1 There is just so much I can do.

2 JUDGE BRENNER: How about the other one?

3 MR. LANPHER: The other one is an area where  
4 Ms. Letsche has been involved, and Ms. Letsche happens  
5 to be involved in another trial which -- or another  
6 case, which went to trial yesterday, and her time has  
7 been very short also.

8 JUDGE BRENNER: When we set this discussion  
9 for today, we purposely set the date well in advance, I  
10 think at least three weeks in advance, so that parties  
11 would have an opportunity to plan on getting these in.  
12 November 30th is going to be it.

13 All right, the next item would be cracking of  
14 materials, which is Suffolk County contention 24 and  
15 also has some associated SOC contentions. Again, as far  
16 as LILCO is concerned they thought they had an  
17 agreement, and the County wanted to look at one other  
18 matter. I guess I will ask the County for its view of  
19 the status and also its comments on what LILCO has said  
20 in its filing.

21 MR. LANPHER: We don't agree with what LILCO  
22 has said in its filing, in terms of -- well, the problem  
23 that arose happened to be that some meetings were held  
24 or at least one meeting was held that in the view of our  
25 consultant was directly relevant to matters which had



1 been under discussion. And quite frankly, he was  
2 extremely disturbed that he would not be able to be  
3 present at that meeting.

4 He has since received the materials from that  
5 meeting and has had a chance to look at them once and  
6 intends to look at them again within the next week, and  
7 the preliminary view is that the materials will not  
8 change the resolution agreement which we had tentatively  
9 agreed to.

10 JUDGE BRENNER: I lost you. There was a  
11 meeting which you were not permitted to attend?

12 MR. LANPHER: We were not advised it was  
13 taking place. It was a meeting on the cracking of  
14 materials issue which occurred in September, at which  
15 General Electric made a presentation on matters directly  
16 relevant in this contention. The matters which were  
17 covered at that meeting our consultant Mr. Bridenbaugh  
18 had been asking for the information on and that  
19 information had not been available up to the time when  
20 the draft resolution was reached.

21 And he would have very much liked to have been  
22 at that meeting and did not learn about the meeting  
23 until this I&E Bulletin came out some time in October.  
24 I guess it was October 14 that the I&E Bulletin came  
25 out, and it was the materials from that meeting or

1 information generated at that meeting that Mr.  
2 Bridenbaugh feels he needs to review before he can  
3 finally recommend execution of this agreement.

4 JUDGE BRENNER: This was a meeting held with  
5 the Staff and General Electric?

6 MR. LANPHER: I should let Mr. Repka answer  
7 that.

8 JUDGE BRENNER: Mr. Repka?

9 MR. REPKA: This was a meeting on  
10 intergranular stress corrosion cracking at Nine Mile  
11 Point 2. The meeting was to discuss Nine Mile Point.  
12 The participants were Nine Mile Point people, and they  
13 never made the cross-reference to send out notice to  
14 participants in other proceedings.

15 We have made available through LILCO the  
16 presentation GE made at that meeting. We have also made  
17 available the Staff people that were at that meeting.  
18 We have had them talk with Mr. Bridenbaugh. So in our  
19 view all of the information that passed at that meeting  
20 is available to the County.

21 MR. IRWIN: Judge Brenner, if I may add a  
22 couple of notes. The I&E Bulletin which Mr. Lanpher  
23 referred to is a follow-up from an earlier I&E notice,  
24 which I presume Suffolk County had access to some months  
25 before.

1           Secondly, the agreement as drafted contains  
2 references to Nine Mile Point. To my knowledge there is  
3 no -- I know of nothing which would lead me to conclude  
4 that there was information out there which Mr.  
5 Bridenbaugh was not aware of and which he wanted to  
6 obtain before being able to agree on this resolution.

7           As Mr. Repka noted, this was not a  
8 Shoreham-specific meeting and we just have difficulty  
9 with the proposition that this is a new issue or that  
10 there was significant new information raised at the  
11 meeting. As I did note in the pleading, we made one  
12 document that was filed there available as soon as we  
13 became aware that it had been filed, and it was  
14 considered proprietary.

15           JUDGE BRENNER: Well, the County's point is  
16 presumably that they would like to ascertain for  
17 themselves whether or not there was significant new  
18 information raised at the meeting, and that is what they  
19 had to do after the fact, which is not as efficient as  
20 if they had been in the meeting in the first place. And  
21 in a perfect world it would be nice to be able to draw  
22 the cross-reference between meetings involving plant A  
23 and the possible effect on issues involving plant B.  
24 Unfortunately, that cross-reference is not always easy  
25 to draw.

1 I hope Staff counsel and Staff technical  
2 people in this case are alert to that possibility in the  
3 future on any issues still left before us.

4 I think I heard you say, Mr. Lanpher, that now  
5 that Mr. Bridenbaugh, in a more inefficient fashion than  
6 the County would have liked because of not having had  
7 the opportunity to be at the meeting in the first  
8 instance, has gone through it and believes at least at  
9 this point that the agreement can be executed. Is that  
10 accurate?

11 MR. LANPHER: That is his preliminary  
12 judgment, yes. He wants to satisfy himself one more  
13 time in reviewing the materials, hopefully later this  
14 week. He is back here for other meetings this week, but  
15 hopefully he will have an opportunity.

16 JUDGE BRENNER: I'm going to set November 30th  
17 for that one also, and we're talking about either an  
18 executed agreement or a designation in a filing, a  
19 written filing, as to what remains to be litigated in  
20 the County's view. And then we will set that portion  
21 for litigation.

22 I recognize that in this case the agreement  
23 would not settle the so-called Halipatts concern, but  
24 would put it to one side. And I don't need a separate  
25 filing on that. If the agreement is executed it will

1 cover that point, as I understand it.

2 I must point out the obvious. November 30th  
3 is not an arbitrary date. It is a late date, because if  
4 we're going to litigate these matters things have to  
5 take place before the first day of litigation on them  
6 and that first day of litigation on them could occur  
7 late December or very early January.

8 Here again, if the Staff is in a position  
9 where it is satisfied with the agreement arrangements  
10 should be made to have that properly before us even if  
11 the County does not execute the agreement, so we can see  
12 what the positions of the parties are. And depending  
13 upon the sequence and the timing, the Staff may have to  
14 execute it ahead of when they had previously expected to  
15 do it.

16 MR. REPKA: We will make those arrangements.

17 MR. LANPHER: You can sign it now if you  
18 want.

19 JUDGE BRENNER: That's the first thing that's  
20 happened in this hearing in a hurry in a long time.

21 (Laughter.)

22 JUDGE BRENNER: Okay, let's try electrical  
23 separation, with the copies we have now been provided.  
24 I'm sorry, I don't have my own annotated version, but I  
25 think the filing by LILCO lays it out sufficiently for

1 my recollection.

2 As I understand it, the parties are proposing  
3 not to vary the wording of the agreement at all, but to  
4 have these additional explanations of what is  
5 anticipated.

6 MR. IRWIN: Judge Brenner, this is LILCO's  
7 proposal. I do not understand the Board's questions  
8 required modification of the agreement. I provided a  
9 copy of this letter to Mr. Lanpher yesterday evening and  
10 discussed it with him briefly over the phone. He  
11 neither objected to nor assented to the proposals LILCO  
12 has advanced, but I consider them to be LILCO's  
13 responses to the County's question rather than requiring  
14 agreement of other parties so long as the agreement did  
15 not need to be modified.

16 JUDGE BRENNER: Well, the County was happy  
17 with the agreement before. So I guess the one limiting  
18 question to the County is whether these explanations of  
19 what LILCO intends to do in any way changes the County's  
20 acceptance of the agreement. I don't see where it  
21 should, but let me ask anyway.

22 MR. LANPHER: Well, Judge Brenner, as Mr.  
23 Erwin indicated, we got this agreement about quarter of  
24 7:00 last night and I was not able to make it available  
25 to Mr. Hubbard until this morning at 8:30 for him to

1 take a quick look at it. And frankly, he or Mr. Minor,  
2 who also is familiar with this, is going to have to take  
3 a look at it further.

4 An area where we had raised concern in the  
5 past had been with respect to the adequacy of the  
6 procedures and the random sampling matters, and we just  
7 haven't had a chance to look at this carefully. This  
8 morning the random sampling on its face looks pretty  
9 good. That is our preliminary view. I don't think  
10 anything is going to have to be changed in terms of the  
11 agreement, but it is possible that we might have a  
12 question or need a clarification on the procedures, and  
13 thus I'm not in a position to give you a definitive  
14 answer this morning.

15 MR. IRWIN: Judge Brenner, the only thing I  
16 would add about the procedures is that the County has a  
17 right to comment on the procedure LILCO would use, but  
18 that is a matter contemplated within the existing four  
19 corners of the agreement.

20 JUDGE BRENNER: I don't think it is that  
21 complicated, Mr. Lanpher. Maybe you can get back to us  
22 today on it.

23 MR. LANPHER: Well, I'm proposing to send this  
24 to Mr. Minor so he can look at it. Mr. Hubbard, while  
25 he is here this morning, is going to have to be devoting

1 his time today to QA/QC matters.

2 I'm not sure that it is that complicated. I  
3 don't think we have, frankly, a big dispute here. But I  
4 on behalf of my client, I have to have more than just a  
5 cursory review done of this to make sure that it is  
6 satisfactory to the client, and Mr. Minor is the person  
7 I'm proposing to have do that.

8 I will put this in Federal Express to him  
9 immediately. Mr. Minor it happens will be in town on  
10 Thursday for another meeting in this case, and if he had  
11 any -- I want to get it to him before he gets to town,  
12 so he can look at it on the plane.

13 JUDGE BRENNER: All right. We will give you  
14 an opportunity to do that, of course. But let me point  
15 out -- and for your benefit, in case you are not keyed  
16 in, because I'm afraid you're not based upon some of  
17 your comments, that is, you personally -- the 20 percent  
18 sample selection was something that LILCO and the County  
19 assured us that they understood and the words of the  
20 agreement implied that they understood it.

21 It was the Board who didn't quite understand  
22 it, because we had not been involved in the  
23 negotiations. So I don't think item 3 adds anything.  
24 I'm just giving him my comments and you can pass them on  
25 to Mr. Minor.



1           MR. LANPHER: Judge Brenner, let me just  
2 comment on that. In our letter of October 11th, which  
3 in our view was not untimely in terms of commenting on  
4 procedures because we had discussions going on -- we had  
5 not wanted to even have to send a letter. We wanted to  
6 handle it all informally. We had raised a question  
7 about whether we in fact had an understanding about  
8 sampling, and that is why we are getting Mr. Irwin's  
9 response now.

10           And as I say, our preliminary view is that  
11 there is not going to be a problem on it. It looks  
12 pretty good. I think I was keyed into that aspect of  
13 the agreement, and there has been a difference or a  
14 potential difference of opinion in the past and we are  
15 just trying to make sure that once they do their  
16 inspections everyone is agreed that that is the way it  
17 should be done, so we don't have quibbling about that at  
18 a later time, which wouldn't serve anyone's interest.

19           MR. IRWIN: Judge Brenner, I hate to join in  
20 quibbling, but with reference to October 11 and the need  
21 for discussion, I am not aware of any substantive  
22 discussion about the procedures prior to that date. Mr.  
23 Hubbard notified me late in September that the County  
24 would have some comments, or I guess in the middle of  
25 September, the County would have some comments on the

1 procedures. But to my knowledge no substantive  
2 discussions took place between Mr. McCaffrey or myself  
3 or the two principals for LILCO and Suffolk County prior  
4 to October 11.

5 JUDGE BRENNER: We will give the County an  
6 opportunity to consider where it stands now, including  
7 the matter of procedures, and to have an opportunity to  
8 check with Mr. Minor, who isn't here today.

9 Let me go down the other items, however, which  
10 the Board had raised. In terms of the lateness of  
11 potential litigation, as I understand what LILCO states  
12 it will do now, the time frame in paragraph 2 of the  
13 agreement of ten days, if there is a problem in the  
14 County's view, we'll be keyed in from each and every  
15 notification. And I want to make sure the County  
16 understands that, so we don't have to wait until the  
17 last one for the ten days to start running, and that was  
18 precisely our concern.

19 It is still possible that something will arise  
20 in the last one, but at least the possibility will be  
21 minimized.

22 MR. IRWIN: That is what we intend to do,  
23 Judge Brenner. And you understand exactly how we  
24 propose to try to eliminate a logjam at the end.

25 JUDGE BRENNER: Does the County understand

1 that and agree with that? It seems to be a better way  
2 to do it, rather than getting all of us bogged down at  
3 the last minute.

4 MR. LANPHER: Well, I understand it. Of  
5 course, I think conceptually it is agreeable. What we  
6 really have is 23, or potentially 23 ten-day periods,  
7 and we're getting into some holiday seasons people I  
8 think are going to be working. But there has to be some  
9 flexibility in some of those. If we get something two  
10 days before Christmas or something like that, there may  
11 be some difficulty in getting things reviewed. But I'm  
12 sure that that can be worked out among the parties.  
13 That would be my only concern in that.

14 JUDGE BRENNER: Well, if you're not talking  
15 about the last period and you are talking about working  
16 it out by a day or two, I too am sure that can be worked  
17 out. If the ten days expires on Christmas, you won't  
18 have to meet it, obviously.

19 MR. LANPHER: Well, schedules get difficult in  
20 that time period for everyone, and so I think there is  
21 just going to have to be some flexibility if we are  
22 contemplating starting to receive those reports during  
23 that time period. And I understand from this that that  
24 would be highly likely.

25 JUDGE BRENNER: All right. But where you are

1 going to want the flexibility, and hopefully the parties  
2 will be able to agree on it by a day or two, again so  
3 long as it is not the last item, memorialize it some way  
4 so that we see an indication that there is a particular  
5 matter that the County thinks it might have a problem  
6 with. And we might see something not within the 10  
7 days, but maybe in 11 or 12 days, because the parties  
8 have agreed to be flexible on that particular point.  
9 You may get two or three together; you may not get all  
10 23 separately.

11 MR. IRWIN: That is a significant probability,  
12 Judge Brenner. And from LILCO's standpoint, we have no  
13 difficulty with giving the County some flexibility in  
14 response. What we are concerned about, and I'm sure  
15 that Mr. Lanpher shares this concern, is that we avoid  
16 the possibility of a logjam at the end. And if we're  
17 talking about an extra day or two -- I think that is  
18 what we are talking about, not an extra week or two,  
19 because we do need to clear our own decks as time goes  
20 along.

21 JUDGE BRENNER: One moment, please.

22 (Board conferring.)

23 JUDGE BRENNER: Regarding the Staff  
24 involvement in the inspection, I want to ask the Staff  
25 if they agree with the description provided in LILCO's

1 filing.

2 MR. REPKA: We agree with that.

3 JUDGE BRENNER: As written, it is sufficient  
4 to alleviate our concern. However, a lot depends on the  
5 interpretation and implementation of that sentence.  
6 Recall our concern, that is, that the Staff be  
7 sufficiently knowledgeable and thoroughly knowledgeable,  
8 so that if we need to litigate any of these matters we  
9 will all be ready, all of the parties will be ready on  
10 very short notice to come before us.

11 Therefore, the observation on random basis is  
12 going to have to include a large enough sample so that  
13 the Staff can thoroughly and sufficiently testify, if  
14 necessary, as to what the situation is and not come  
15 before us and say, oh, we didn't look at that one and we  
16 can't tell from the others we have looked at anything  
17 about the one we didn't look at.

18 That is the situation that we will not  
19 permit. So we can't state what size the sample has to  
20 be. The Staff is going to have to decide that, and it  
21 certainly is reasonable that it may not have to be 100  
22 percent, but depending upon what is involved and the  
23 homogeneity of what is being done, I guess, the Staff is  
24 going to have to observe enough so that they can  
25 supportably inform us about whatever is in controversy,

1 if there is such a matter that comes back before us.

2 With that very important caveat, the proposal  
3 take care of our concern. So the Staff's normal  
4 definition of the sample size necessary and the random  
5 basis necessary, suitable for its technical judgment --  
6 and I'm not questioning that it might be suitable on its  
7 own for its technical judgment, but that might not be  
8 sufficient for what you need to support testimony before  
9 the Board.

10 So along with my summary of our concerns in  
11 that area this morning, I hope the appropriate Staff is  
12 apprised of what we said when the agreement came before  
13 us the last time in this regard. Well, we might as well  
14 keep it uniform and set this one for November 30th also,  
15 even though it doesn't appear you need the full time.

16 And what we should get then is -- I don't know  
17 where the original copy of this agreement is. When we  
18 come back on November 30th we will get the resubmitted  
19 original copy, which we will be prepared to approve in  
20 light of these understandings or some notification from  
21 the County that there is now a problem.

22 Again, as soon as these are ready we would  
23 like to see them and whatever order should be received  
24 along with them, because some of these we haven't read  
25 and we would sure like to read it in advance of November

1 30th. In fact, it might be a good idea if we can get  
2 the versions of the latest proposals on the ones we  
3 haven't seen, with the important caveat that there might  
4 be some variation as part of the County's final review,  
5 so we will at least have time among ourselves to read it  
6 over the next week or two.

7 MR. IRWIN: We will provide those.

8 JUDGE BRENNER: ECCS cutoff and restart, which  
9 is Suffolk County 28(a)(i). This was an agreement that  
10 was previously approved and contemplated. In effect, it  
11 was an interim agreement and it contemplated further  
12 action, given the contemplated further reports.

13 According to LILCO, the further reports have now been  
14 issued and the matter is still being reviewed, with the  
15 possibility of a final agreement.

16 I guess I would like to ask the County in the  
17 sense of optimism on the part of LILCO that final  
18 agreement will be reached is shared by the County, given  
19 the information now available?

20 MR. LANPHER: Yes, it is. I think LILCO's  
21 description is accurate, and the reason is that Ms.  
22 Letsche is involved in a jury trial this week and she is  
23 the one involved in this and she can't be in two  
24 places. And hopefully that trial is going to be  
25 finished this Friday and she will get together with Mr.

1 Irwin to work out the final details.

2 This is based upon a proposal which we had  
3 made, and so I don't think that there is going to be any  
4 disagreement.

5 JUDGE BRENNER: But in this case the actual  
6 agreement still has to be drafted.

7 MR. IRWIN: Judge Brenner, my impression is  
8 that it will be a very simple agreement, basically  
9 implementing some -- or involving a procedural review,  
10 and that it should not be difficult to draft or take a  
11 long time to approve on either side.

12 JUDGE BRENNER: Well, let's set November 30th  
13 for that one also, hopefully for a final agreement at  
14 that point. However, on this one we will allow the  
15 parties the flexibility that if it was just drafted  
16 close in time to the 30th and one or another party is  
17 still looking at it we could extend it a little bit.  
18 But we at least want to know that a draft agreement has  
19 been prepared and is being reviewed, and if possible, of  
20 course, we would like to see an executed agreement.

21 Is this one that would have to go through the  
22 full County review process, Mr. Lanpher, given the prior  
23 involvement and the status, or is it one that could be  
24 handled more informally by simply talking to them and  
25 telling your client what the situation is?



1                   MR. LANPHER: I honestly don't know, Judge  
2 Brenner, on that one. I think I agree with Mr. Irwin,  
3 though, that what has to be done here is conceptually  
4 pretty simple.

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1           JUDGE BRENNER: Well, we will hear more about  
2 it on the 30th, and if it has to go through the full  
3 review process, we understand as to this one item that  
4 it might not be completed, depending upon when it is  
5 drafted.

6           All right, let's talk about inadequate core  
7 cooling. Meetings have taken place, and I gained this  
8 knowledge from LILCO's filing and the fact that I ran  
9 into Mr. Minor and his colleagues in the lobby of the  
10 Phillips Building on the day of the meeting on November  
11 8th. And there is a meeting scheduled for Thursday,  
12 November 18th.

13           Where does the matter stand in terms of  
14 probabilities? Will it be settled, or substantially  
15 narrowed, such that the testimony previously filed has  
16 to be modified in some way? That is one of our  
17 concerns. And I guess I will ask the county.

18           MR. LANPHER: I think there is a good chance  
19 that a portion of the contention will be resolved in  
20 terms of the meetings that really divided the contention  
21 into two kinds of issues, the so-called water level  
22 problem with flashing and steps to make -- to alleviate  
23 that, and my understanding is that there are some  
24 proposals that have been going back and forth, and that  
25 the experts are reasonably close to some understanding

1 on that aspect.

2           The other aspect is what at least the county  
3 has called the development of an acceptance criteria for  
4 the level, the water level instrumentation system for  
5 ensuring that even absent the flashing matter, that it  
6 meets the general design criteria and really is an  
7 adequate system, and that is where the discussions are  
8 continuing.

9           I don't want to speak for Mr. Irwin, but I  
10 believe that he may have some -- a preliminary proposal  
11 on that aspect later today that we can convey to our  
12 consultants before the meeting, or at least some  
13 materials on that.

14           I am less hopeful as to that aspect being  
15 resolved than the first.

16           MR. IRWIN: Judge Brenner, while I might not  
17 use exactly the same terminology to describe the  
18 contours of the discussions that have taken place that  
19 Mr. Lanpher has essentially his right, we have divided  
20 the issues into two areas: one, those dealing with  
21 water level measurement and its reliability; and  
22 secondly, more diverse ICC issues which have tended to  
23 focus on the availability or need for diverse sources of  
24 information concerning the water level measurement.

25           I agree with Mr. Lanpher that there is a

1 significant probability of resolution of the first  
2 issue. As to the second one, I would not want to try to  
3 place a probability on it. In the event that we are  
4 unable to resolve both sets of issues, we will need to  
5 supplement our testimony. I intend that it will be a  
6 brief, essentially formal supplement whose principal  
7 purpose will be to place into the record the Levy  
8 reports, copies of which have been filed with the board  
9 and the parties, and to summarize what we believe are  
10 their essential findings.

11 JUDGE BRENNER: I am glad you added the last  
12 part. Yes, this is why I got so excited about the  
13 apparently lackadaisical timing of these meetings last  
14 time. We anticipated precisely that possibility, that  
15 if things were not settled but were narrowed, or if the  
16 focus shifted somewhat, there would have to be this  
17 modification. We want to litigate this issue  
18 immediately after quality assurance, quality control,  
19 and we may get to this issue in December.

20 MR. IRWIN: Judge Brenner, Mr. Miller, who has  
21 been discussing this matter for the county, and I have  
22 both agreed that this is a high priority matter, and the  
23 county has taken an extremely businesslike approach to  
24 these discussions, and I frankly think we will know on  
25 Thursday whether or not we will have an agreement, and

1 if so, how far it is likely to go, and we have also  
2 discussed the need to draft any supplemental testimony  
3 on an expedited basis if necessary.

4 So as far as I know without prejudging where  
5 the county or staff will come from, I think we are all  
6 prepared to take this issue up quickly.

7 JUDGE BRENNER: I wasn't criticizing the  
8 county by any means. I was addressing my comments to  
9 all parties.

10 MR. IRWIN: If it would be helpful --

11 JUDGE BRENNER: I am looking at a calendar, as  
12 I am wont to do from time to time in this proceeding.  
13 Let's get a report back next Monday, when we are going  
14 to be here anyway. The report can be oral. That would  
15 be the 22nd of November. The reason I am picking that  
16 date rather than the November 30th date is, testimony is  
17 going to have to be modified and filed with us very  
18 quickly after November 22nd, because then if that  
19 modified testimony raises any counter concerns or  
20 motions, we want to be able to handle that.

21 Pick a date for any modified testimony next  
22 Monday, but just looking very preliminarily, a date like  
23 December 7th would be the latest date, so the parties  
24 should begin thinking in that time frame, and after  
25 that, we will want to have time for the potential for a

1 motion to strike any of the new matter filed, although  
2 hopefully one result of all of these meetings would be  
3 to eliminate that, and also modified cross plans  
4 thereafter, and so on.

5 (Pause.)

6 JUDGE BRENNER: Is there any potential effect  
7 of staff's position on the ICC litigation in terms of  
8 still looking at any further proposals by LILCO or not  
9 being fully satisfied with any of them?

10 MR. REPKA: No, we believe we have the  
11 information now that we need for licensing, and the only  
12 necessity we will have is to modify our testimony to  
13 address that position effectively. When we filed the  
14 testimony in May that position had not really been  
15 formulated, so we will have a need to file modified  
16 testimony.

17 JUDGE BRENNER: All right. So again all  
18 parties should be gearing that possibility toward no  
19 later than December 7th, recognizing that the meeting  
20 later this week could have an effect on what you are  
21 saying. That testimony, where you are relying on thick  
22 documents, and there are some on this issue, summaries  
23 will be very helpful. I don't mean an entire summary of  
24 the document. I mean explanatory testimony of a witness  
25 of the salient points of the document.

1 I think we have covered everything except the  
2 open SER items. Am I correct?

3 MR. IRWIN: That is correct.

4 JUDGE BRENNER: The remote shutdown panel, we  
5 knew the staff's review was completed on that. That is  
6 Suffolk County Contention 1. And the testimony is due  
7 on Thursday, December 2nd. It obviously makes sense if  
8 there is going to be a settlement or a partial  
9 settlement to see if that can be accomplished  
10 sufficiently in advance of December 2nd so as to either  
11 eliminate the need for the testimony or scope the  
12 testimony the first time, because there won't be much  
13 time to come back and rescope it in this instance.

14 Where does the county stand? According to  
15 LILCO, they are waiting for a settlement proposal from  
16 the county. I don't know if that is accurate or not in  
17 the county's view.

18 MR. LANPHER: We have it in draft, and I can  
19 put probabilities on it. It looks pretty hopeful,  
20 though this is another where unfortunately this trial  
21 that wasn't supposed to go forward went forward, and so  
22 we will not get that to LILCO until early next week. We  
23 would hope to get it to them early next week, but there  
24 have been discussions among the experts, and I think  
25 most of the items which were being addressed by the

1 county have been satisfactorily resolved.

2 I think there are one or two relatively minor  
3 outstanding matters that ought to lend themselves to  
4 resolution, but we are just going to have to see.

5 MR. IRWIN: Judge Brenner, let me pick up on a  
6 point you just made, and I am glad to hear this  
7 information from Mr. Lanpher. It is consistent with  
8 what I have been hoping was happening, but it is quite  
9 clear that as time goes on, LILCO has to begin working  
10 on testimony. In fact, we have begun already, and the  
11 world being what it is, once incentive to reach a  
12 settlement agreement approaches the incentive to file  
13 testimony diminishes.

14 We have to file testimony. They don't. If  
15 there is any way that we can learn what their proposal  
16 is before next week, that would help us, and even  
17 whether it is formal or informal, or technical  
18 consultant to technical consultant, or lawyer to  
19 lawyer. We don't care. We would simply like to try to  
20 converge on this issue.

21 JUDGE BRENNER: I don't know. Sometimes when  
22 you are in the process of preparing testimony that  
23 increases the incentive to settle.

24 MR. IRWIN: It depends upon the issue.

25 JUDGE BRENNER: It depends upon your



1 witnesses, too, but putting strategems aside, you would  
2 like to hear as soon as possible. They know that. They  
3 would like to get back to you as early as possible, and  
4 the estimate is early next week. The county can better  
5 it if they will, but we will accept the estimate of  
6 early next week.

7           We would like to get a report back on this  
8 matter on November 30th, and at that time if there is  
9 not a settlement, a little more detail on what matters  
10 remain in dispute, it may be that at the minimum there  
11 can be agreement in principle as to narrowing the scope  
12 of the issue by the beginning of next week so that  
13 parties in good faith can take that into account in  
14 scoping their testimony, even though the actual written  
15 agreement or narrowing would not be available for a few  
16 days thereafter.

17           This could also affect the staff's review of  
18 the matter in the sense that if anything different is  
19 being done from what the staff stated in their draft SER  
20 writeup which we have read, they will want to factor  
21 that in. The staff will want to factor that into its  
22 final SER item.

23           MR. REPKA: We will certainly do that.

24           JUDGE BRENNER: So you are going to have to  
25 stay involved also, and we will know more on the 30th.

1 Hopefully the parties will know more before the 30th.

2 (Pause.)

3 JUDGE BRENNER: Seismic qualification. Is  
4 that the one? This is SOC 19 I. I think the county has  
5 been involved with it, as I recall. Is that the one we  
6 said would be combined with environmental qualification  
7 if they were litigated?

8 MR. IRWIN: I believe that's right.

9 MR. LANPHER: Yes, sir. I mean, they are not  
10 identical issues, but they seem to logically -- if we  
11 were going to litigate them both, we could take them  
12 either sequentially or together.

13 JUDGE BRENNER: Well, what happened was, it  
14 seems like a long time ago, we preliminarily believed  
15 that given the wording, the contention, we could go  
16 ahead and litigate it, notwithstanding the pendency of  
17 the staff's review, and I hope I am talking about the  
18 right contention, but we would hold it in abeyance if  
19 the time frame was suitable, because it would be more  
20 productive to do that, but in terms of possible  
21 settlement, and in terms of litigation, if it was going  
22 to be litigated anyway, but the time is now starting to  
23 run out, that is, when we exhaust other issues in the  
24 proceeding, other safety issues in the proceeding. The  
25 time is coming.

1           So maybe we should jump ahead for the moment  
2 and look at the schedule for the related contentions on  
3 environmental qualifications which is SC Contention 8  
4 with a related SOC contention. When does the staff  
5 believe it will complete its review?

6           MR. REPKA: The environmental qualification  
7 SER will come out in two parts. The first part will  
8 deal with the whole EQ program, and that SER is due this  
9 week or next. The only other remaining part of the EQ  
10 program after that will be the justifications for  
11 interim operation and those are currently under review,  
12 and they will be addressed in the second SER which will  
13 probably be some time in December.

14           JUDGE BRENNER: Why are you separating -- why  
15 is the staff separating them out after waiting so long  
16 to come out with an SER supplement anyway?

17           MR. REPKA: The two portions are analytically  
18 separate, and we believe that the first SER provides the  
19 necessary information for litigation of the issue. The  
20 interim justifications are normally something that comes  
21 prior to licensing, and more as a confirmatory item, and  
22 these are not necessarily within the scope of the  
23 contention as we view it.

24           So, when the SER comes out on the total EQ  
25 program, we believe that that -- it provides a

1 sufficient basis to address the issue.

2 JUDGE BRENNER: Regardless, or putting aside  
3 for the moment your view that the interim justifications  
4 are not within the contention, is that pretty firm, that  
5 the SER on that will be out in December?

6 (Whereupon, counsel for NRC conferred.)

7 BY MR. REPKA: That is fairly firm, mid to  
8 late December. I would say very firm.

9 JUDGE BRENNER: Okay. Good. You are a brave  
10 man, Mr. Repka.

11 Let me back up and stay with the staff. What  
12 about the staff's review of the seismic qualification  
13 matter?

14 MR. REPKA: We are due to get -- well, I  
15 issued or sent to the board and parties the second audit  
16 report a week or two ago. LILCO is in the process of  
17 responding to the open items identified by that audit.  
18 We expect to get that information by the end of this  
19 week. LILCO told us they will have that, and then it  
20 will be just a matter, we hope, of a few weeks to look  
21 at that and write up the SER, so that one we are looking  
22 at a December SER also.

23 JUDGE BRENNER: Are you going to issue a lot  
24 of little SER supplements, or, for example, do you think  
25 this one might be combined with the other mid-December

1 SER supplement?

2 MR. REPKA: These we will issue as separate  
3 SER's. They are different review teams, and they will  
4 each prepare their SER input. They will eventually be  
5 published together in a published SER.

6 JUDGE BRENNER: Okay. That was my question.  
7 When you are talking about these issuing states, you  
8 will be following the practice that we have liked of  
9 getting them out to the board and the parties right  
10 away, and worrying about publishing them later.

11 MR. REPKA: That is correct.

12 JUDGE BRENNER: Well, I am guessing, and  
13 correct me if I am wrong, Mr. Repka, that given these  
14 very close issuance dates of within the next week or so  
15 for one part of one of the issues and then mid-December  
16 to finish up the other parts of the two issues, staff  
17 has a good idea of what it is doing by now in terms of  
18 its position.

19 MR. REPKA: Yes, that is a fair statement.

20 JUDGE BRENNER: And I meant that in the best  
21 sense of the word.

22 (General laughter.)

23 JUDGE BRENNER: Well, shouldn't meetings now  
24 be scheduled on these two matters as far as the staff is  
25 concerned? Is it ready for such meetings?

1 MR. REPKA: Absolutely.

2 JUDGE BRENNER: Okay. LILCO I know is ready.  
3 How about the county?

4 MR. LANPHER: The county is obviously eager to  
5 see the staff's SER document, which I guess will be here  
6 this week, hopefully. Mr. Minor, who has been handling  
7 this for the county, since he will be here on Thursday,  
8 hopefully can get a copy of it on Thursday or a draft.  
9 That would be very helpful. And he will have to look at  
10 it. In addition, Mr. Minor has just received, I guess  
11 on Monday, Revision 4, I believe it is, to LILCO's  
12 environmental qualification report, and Mr. Minor also  
13 received that on Monday, and is reviewing that.

14 So I expect that with all of these materials  
15 coming together, that there will be a possibility to  
16 have a meeting in the relatively near future.

17 MR. REPKA: Just one clarification. We  
18 already have had technical meetings both on seismic  
19 qualification and environmental qualification where we  
20 have set out pretty much our position.

21 JUDGE BRENNER: Well, it happens that  
22 immediate written issuance might be ready in a few days  
23 anyway, in which case it would be ready before any  
24 meeting could be scheduled, but when we encouraged, more  
25 than encouraged, we ordered early settlement meetings at

1 such time as the staff was ready to tell the county its  
2 position, and the staff is now ready, and apparently has  
3 been for at least a little bit of time, so you don't  
4 have to wait for the formal issuance particularly of the  
5 ones coming out later in December.

6 All right. We are going to require that  
7 meetings begin to take place on these two issues no  
8 later than the week of November 30th, and we have in  
9 mind that by that time, the staff's or the first part of  
10 the staff's environmental qualification assessment will  
11 be available, but that is not a prerequisite. However,  
12 it would obviously make the meeting much more  
13 efficient.

14 The reason that would be the latest for  
15 definitive meetings is that testimony will have to be  
16 filed shortly thereafter if testimony is going to be  
17 necessary, so the parties should obviously -- I don't  
18 have to say this -- the parties should be already in the  
19 testimony preparation stage.

20 Obviously, the meetings should be scheduled  
21 earlier rather than later in the week of November 30th  
22 in case there has to be follow-up reading and a  
23 follow-up meeting. Perhaps it can be held later that  
24 same week. So on November 30th, tell us either when the  
25 meeting took place or when it is going to take place

1 that week.

2 All right. Electrical penetrations. LILCO  
3 still owes the staff material on that.

4 MR. IRWIN: That is correct. We expect to  
5 file it on or about November 22nd.

6 JUDGE BRENNER: Is it possible for the staff  
7 to estimate completion of its review?

8 MR. REPKA: Given the meeting that was held  
9 with LILCO on November 5th, we expect that that  
10 submittal on the 22nd should be sufficient to close out  
11 the issue. So assuming that happens, I would expect a  
12 couple of weeks for review after November 22nd in the  
13 preparation of the SER.

14 JUDGE BRENNER: Okay. On November 30th, let  
15 the staff tell us whether it feels it can complete its  
16 review. Now, the completion of that review might be  
17 that you find something unacceptable in the filing.  
18 Let's send the rounds back and forth and come out one  
19 way or the other, and staff should inform the other  
20 parties of its position even before November 30th, and  
21 what the outlines of its final report will look like, so  
22 that the parties can be apprised very quickly, and we  
23 won't have to wait for the draft report to start  
24 definitive meetings.

25 And then we will schedule meetings at the



1 November 30th conference before us to take place  
2 thereafter on this issue. I assume the county for its  
3 part is keeping abreast of what LILCO has filed, and  
4 will continue a dialogue with the staff so you can at  
5 least informally learn where the staff is going.

6 MR. LANPHER: Yes.

7 JUDGE BRENNER: Would the staff be willing to  
8 meet now with the county? Or not now. Well, you  
9 haven't received the filing from LILCO, but you have had  
10 the benefit of a meeting from which I gathered you know  
11 what you expect to see in the filing from LILCO.

12 MR. REPKA: I expect a meeting would be  
13 worthwhile.

14 MR. IRWIN: Judge Brenner, let me add that I  
15 understand a representative of Suffolk County was  
16 present at that November 5 meeting, so Suffolk County  
17 should know what we told the staff. We believe that a  
18 meeting covering the scope of the contention would be  
19 productive at this time.

20 JUDGE BRENNER: Would it be the same people  
21 for the county as would be present on the environmental  
22 and seismic qualification meeting?

23 (Whereupon, counsel for Suffolk County  
24 conferred.)

25 MR. LANPHER: It would be Mr. Minor, but also

1 Mr. Hubbard would be involved on that also. So there is  
2 potentially a little bit of problem as to his  
3 availability.

4 JUDGE BRENNER: But you don't have to have  
5 both people at all meetings, as distinguished from the  
6 possibility of testimony at a hearing.

7 MR. LANPHER: Well, that is true. But you  
8 asked if it is the same people.

9 JUDGE BRENNER: Why don't you expand the scope  
10 of the other meeting that you schedule and include this  
11 contention also, since it will be Mr. Minor who will be  
12 present?

13 Containment isolation. These items are open,  
14 and LILCO still has to file further information. Why do  
15 you think it will be fruitful to hold meetings now, Mr.  
16 Irwin, in light of that?

17 MR. IRWIN: Judge Brenner, there are three  
18 issues that are still open with the staff at this point,  
19 only one of which, as I understand it, that relating to  
20 NLREG-0737, Item 24(e)(2), which deals with containment  
21 venting and purge valves, is in our view within the  
22 scope of the contention.

23 We submitted information to the staff on this  
24 issue last week. On the remaining two issues, we expect  
25 to make one submittal to the staff this week and our

1 third submittal next week.

2 So, the long and short of it is that as to  
3 areas within the scope of this contention, we have made  
4 all our filings. We believe that a preliminary meeting  
5 would be useful, and we would be prepared to go through  
6 with it at any time.

7 JUDGE BRENNER: Does the staff think a meeting  
8 would be useful at this time or in the next week or  
9 two?

10 MR. REPKA: I would think in the next week we  
11 could have a meeting. We are due to get the submittal  
12 on the NUREG-0803 thing next week or this week, and  
13 after we get that submittal, I think we could definitely  
14 have a meeting.

15 MR. LANPHER: Judge Brenner, I would point out  
16 that the NUREG-0803 item which Mr. Repka just referenced  
17 in our view is clearly within the contention. The last  
18 sentence of Suffolk County Contention 23 deals with  
19 0803, and so that submittal, which is due next week, I  
20 guess, clearly would be relevant to any meeting.

21 JUDGE BRENNER: Is that the scram discharge  
22 break one?

23 MR. LANPHER: Yes, it is.

24 MR. IRWIN: Judge Brenner, in our view, that  
25 is within the scope of environmental qualifications and

1 not within the scope of this contention, but wherever it  
2 lands, I don't think that should deter people from  
3 getting together to talk about it to see if they can  
4 resolve it.

5 JUDGE BRENNER: I guess there is something in  
6 the contention about it. I don't have the contention  
7 right in front of me.

8 MR. LANPHER: The last sentence reads, "LILCO  
9 has not demonstrated the requirements of NUREG-0803  
10 regarding a postulated break in the scram discharge  
11 volume have been met." That is the last sentence in  
12 Contention 23.

13 JUDGE BRENNER: I will let you all thrash it  
14 out before you come back to us. The staff is still  
15 looking at this matter of isolation on a high radiation  
16 signal, is it not?

17 MR. REPKA: That is the 2E42 item that Mr.  
18 Irwin was talking about.

19 JUDGE BRENNER: They said they were not going  
20 to do it.

21 MR. REPKA: They said they were going to do it  
22 by December of '83.

23 JUDGE BRENNER: They said they were not going  
24 to do it before their proposed startup.

25 MR. REPKA: And we are looking at that right

1 now, and haven't formulated a final position.

2 JUDGE BRENNER: So that is still open.

3 MR. REPKA: That is definitely open.

4 JUDGE BRENNER: I would be interested in the  
5 staff's position on that. I assume that as part of what  
6 the staff is looking at, it will be looking at work by  
7 LILCO that has proceeded heretofore on that item as  
8 distinguished from assuming that time zero started when  
9 they changed their fuel load, or if you are not going to  
10 consider that, somebody may ask you why not.

11 MR. LANPHER: Judge Brenner, it might be worth  
12 pointing out that there was a meeting generally covering  
13 some of these matters yesterday, though some of the data  
14 were not in, and it covered other matters not as clearly  
15 related to the contention, and so Mr. Bridenbaugh  
16 informs me that a meeting just to meet without having  
17 the data in his view would not be terribly productive.  
18 He was at yesterday's meeting.

19 JUDGE BRENNER: All right. What I  
20 contemplated, and perhaps did not say expressly, is that  
21 after LILCO would file this further filing which is  
22 expected in the next few days, somebody said --

23 MR. IRWIN: That is correct, Judge Brenner.

24 JUDGE BRENNER: So we are talking about after  
25 that. All right, for now we will leave it up to the

1 good judgment of the parties as to whether a meeting  
2 should take place before November 30th or in that time  
3 frame, after having an opportunity to see LILCO's  
4 filing, which is expected in the next few days, and on  
5 November 30th let us know what the situation is at that  
6 time in terms of meeting schedules and possible  
7 narrowing.

8 (Whereupon, the board conferred.)

9 JUDGE BRENNER: I don't need to know this now,  
10 but I am curious. If the staff does know, do you intend  
11 to put out a published SER supplement on all matters  
12 other than containment isolation if that one ends up  
13 lagging such that you can't get a supplement out in  
14 January?

15 MR. REPKA: The way the schedule is right now,  
16 we have one in preparation for publication in December,  
17 so I doubt that it would include -- it won't include  
18 containment isolation, and it probably won't include  
19 seismic or environmental qualification either. That is  
20 tentatively due out in December.

21 JUDGE BRENNER: I thought you were going to  
22 hold publication of the next supplement until you could  
23 include the seismic and environmental qualification  
24 writeups.

25 MR. REPKA: The two are kind of working

1 independently of each other. There are a bunch of  
2 issues where there already are SER inputs, so I think  
3 the plan is to go ahead and publish those, and to  
4 publish those as just inputs.

5 JUDGE BRENNER: And then catch up with another  
6 publication after?

7 MR. REPKA: Right.

8 JUDGE BRENNER: Assuming we get one, I should  
9 look carefully at the table of contents to see what you  
10 decided to include depending upon your schedule at that  
11 time.

12 All right. I have exhausted my list of  
13 miscellaneous matters, the board's list. If the parties  
14 have anything --

15 MR. REVELEY: Judge, I just have one thing, if  
16 I may, a return to the deposition issue briefly. The  
17 company is obviously very concerned that we not reach an  
18 impasse over that issue. We are also very concerned  
19 that the county has taken the position that the proposed  
20 use of depositions is impermissible.

21 JUDGE BRENNER: Well, they said unlawful  
22 without explication."

23 MR. REVELEY: Well, it is that without  
24 explanation or explication that concerns us the most.  
25 We very much hope that the county will by the 18th file

1 its views so that we can understand them and the board  
2 can understand them. It is also our opinion that if the  
3 county does not file its views by the 18th, then it is  
4 in effect estopped to do so later, because it would not  
5 be fair in our opinion for a party to withhold its legal  
6 analysis before the trial board and then present it on  
7 appeal in effect, and we will take that position later.  
8 We would much rather not have to take that position.

9 JUDGE BRENNER: You will argue that before  
10 somebody else.

11 MR. REVELEY: But I don't want to be told  
12 later on if I argue it before somebody else that I  
13 hadn't said it previously.

14 JUDGE BRENNER: Well, I didn't intend to get  
15 into this this extensively, because Mr. Brown isn't here  
16 and I intend to save it for his presence. However, the  
17 county is already in that position as far as we are  
18 concerned preliminarily. It was supposed to file its  
19 views on Friday.

20 When we got the filing we did get from the  
21 county which did not contain its legal analysis, I  
22 specifically asked the question, was this just an  
23 advance indication of what it contains, and are you  
24 still going to file your legal views on Friday, and we  
25 were informed, no, that was all the county intended to



1 file, and that is a paraphrase, but pretty close to a  
2 quote, so we asked for its anticipatory views so we  
3 would know whether it was going to file it,  
4 notwithstanding that view. If the county filed  
5 something on Friday we of course would have received it  
6 and considered it, but it did not, and so the county is  
7 already in default on not having filed its views.

8 MR. REVELEY: Well, we hope perhaps it will  
9 respond to our views on the 18th.

10 JUDGE BRENNER: We are not precluding that,  
11 but whether or not that is timely is something else,  
12 because we are preparing our analysis, and we needed the  
13 benefit of the views on Friday with some time for  
14 further input next Thursday from NSC, but not to start  
15 the argument from the beginning again as late as next  
16 Thursday.

17 However, if the county sees fit to file its  
18 legal views, we will look at it, even if we consider it  
19 untimely, and of course Thursday would be the very last  
20 day. They are already in default. Our reaction to that  
21 default depends upon further actions by the county in  
22 the case.

23 Did you want to say something else beyond  
24 that?

25 MR. REVELEY: No. It falls, I suppose, by way

1 of a plea that notwithstanding the fact that they missed  
2 their deadline, that if they do have legal views that  
3 are pertinent to the issue, that they go ahead and file  
4 them so that we can understand them. If they are  
5 persuasive, that is a material factor to be taken into  
6 account.

7 MR. DYNNER: Well, Judge Brenner, we may not  
8 get into a who struck John, but I just want to state for  
9 the record that the county filed the document which the  
10 board stated it should file by the 12th.

11 JUDGE BRENNER: No, sir, the county did not.  
12 I do not want to get into a dialogue in the absence of  
13 Mr. Brown.

14 MR DYNNER: Well, my statement is there for  
15 the record.

16 JUDGE BRENNER: What you filed in no way was  
17 the filing we requested. We requested the county's  
18 legal analysis in support of its view that we could not  
19 proceed having examinations by way of deposition before  
20 the hearing. The county simply stated it was unlawful  
21 without explication. It attached a letter which did not  
22 follow any appellate procedure that I am familiar with,  
23 and that's it. There won't be any impasse. If we take  
24 action, we will take action. We are not going to sit  
25 around and tell the county, please do it.

1           And in fact we, in an effort to further invite  
2 the county not to stand pat on that filing which we  
3 received at the beginning of that week, asked expressly,  
4 as I have just said, if they were still going to file  
5 something last Friday, which I guess was the 12th, and  
6 the county said it would not, and in fact it did not.  
7 So we went out of our way to invite further filing. If  
8 the county still wants to file something on the 18th, we  
9 will consider it.

10                   (Pause.)

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1           JUDGE BRENNER: We are not precluding the fact  
2 that our research may disclose to us on our own that we  
3 do not have the authority to do this. Our preliminary  
4 research was that we did have the authority to do it.  
5 That is why we went ahead and aired the proposal before  
6 the parties. We would not have done that in the absence  
7 of any preliminary research. Nothing that we have seen  
8 yet has dissuaded us from that, and the course of our  
9 own further research has not dissuaded us from that  
10 view. So if somebody has something, you had better tell  
11 us about it.

12           Well, Mr. Dynner, since you did jump in, why  
13 don't you tell me what in the County's filing provided  
14 the legal analysis as to why we couldn't direct the  
15 examinations before hearing by way of deposition,  
16 because I saw nothing in there.

17           MR. DYNNER: Well, I really have nothing to  
18 add to the County's filing. It stands on its face. And  
19 whether or not the legal reasoning contained in there  
20 was persuasive or not, it was, at least in our view, in  
21 compliance with the Board's order to file a document as  
22 to this matter.

23           MR. REVELEY: There is no legal analysis in  
24 that paper, and that is the problem. If you have got  
25 some legal analysis, file it.

1 JUDGE BRENNER: Hold on, Mr. Reveley.

2 MR. LANPHER: Judge Brenner.

3 JUDGE BRENNER: Hold on, everybody. My  
4 question to Mr. Dynner is -- and you misunderstood the  
5 question, Mr. Dynner. I'm not asking you to discuss  
6 whether the reasoning is persuasive or not. I am sorry  
7 Mr. Reveley jumped in in the tone he did, because that  
8 in effect was my question although in a much calmer  
9 tone, and I will ask it again.

10 Identify for me where there is any legal  
11 reasoning in that filing, because I don't see it, and  
12 not whether it is persuasive or not persuasive. I  
13 thought you were about to tell me that there was when  
14 you jumped in before stating that filing responded to  
15 our direction.

16 MR. DYNNER: I will just repeat, the document  
17 stands on its face and, in our view, is responsive.

18 JUDGE BRENNER: Okay. Well, we had a  
19 different view and aired that view as soon as we  
20 received the document. It was last Tuesday when we  
21 stated that unfortunately, in our view, the County did  
22 not provide any legal analysis, and we therefore asked  
23 if the County still planned on filing its legal analysis  
24 by the 12th. So this is far from the first time we are  
25 making this point, and we will presumably hold all of

1 this for our written ruling on the authority to order  
2 the depositions or the possibility of further  
3 depositions next Monday.

4 [Board conferring.]

5 JUDGE BRENNER: There was one procedural  
6 matter, and we are going to ask the County next Thursday  
7 or Friday -- that is, Thursday or Friday of this week --  
8 if we still believe we have the authority to proceed  
9 with this, whether the County is going to simply refuse  
10 to proceed and therefore be in default, because if that  
11 is the case, we might as well know it before we do a lot  
12 of work on motions to strike and summary disposition and  
13 so on. So we will ask that question on Thursday or  
14 Friday, and we expect to get that definitive word from  
15 the County at a minimum.

16 Now, if there is any question on the part of  
17 the County as to the details as to how we would  
18 implement this procedure, that is something else. That  
19 is something we are prepared to fully discuss on  
20 Monday. But if the County is going to refuse to proceed  
21 regardless of the procedure -- and you already have a  
22 good inkling of the outlines of the procedure from our  
23 previous comments and from at least LILCO's view of what  
24 its comments mean in our filing, which is, in fact,  
25 quite close to the procedure we had in mind. So if you

1 are worried about the details of how it would be  
2 implemented, that is something else. We are fully  
3 prepared to discuss that with the parties next Monday.  
4 But if the County is going to refuse to go ahead no  
5 matter what, no how, no way, we want to hear that when  
6 we ask on Thursday or Friday because we can save a lot  
7 of time on a lot of other matters that will no longer be  
8 material.

9 We also will continue to ascribe the County's  
10 views to SOC since we have not heard separately from  
11 SOC, although we asked several times and the County has  
12 been courteous to pass that on to SOC, so the County may  
13 want to confirm that with SOC as to whether it too  
14 refuses to participate if that becomes the County's view  
15 when we ask later on this week. W

16 We will let NSC speak for itself because we  
17 will see the filing from Mr. Shapiro on Thursday. I  
18 guess it will be helpful if the County could contact Mr.  
19 Shapiro and tell him that if he would refuse to  
20 participate no matter what, and emphasize the "no matter  
21 what," he should inform us of that as part of this  
22 filing so we will know on Thursday from him. And in  
23 talking to him, please make sure to distinguish that  
24 from the position, that there may be certain things he  
25 might not like about it in terms of implementation

1 procedure, which we are fully prepared to discuss with  
2 him and the parties next Monday.

3 Do you have another matter?

4 MR. LANPHER: Judge Brenner, a while ago you  
5 had asked if the parties had any preliminary matters,  
6 and Mr. Reveley brought up the one he wanted to, and I  
7 do have one.

8 JUDGE BRENNER: Yes, he did. Go ahead. What  
9 is yours?

10 MR. LANPHER: Mine has to do with getting back  
11 to quality assurance, and it has to do with LILCO's  
12 designation of documents to be used when they  
13 cross-examine Mr. Hubbard. We did get a further  
14 designation yesterday pursuant to the Board's order. I  
15 do not believe it complies with the requirements. For  
16 instance, while technical specifications are listed as  
17 being used, we have not gotten a breakdown of those.

18 JUDGE BRENNER: I guess instead of for  
19 instance, we are at the point where you had better tell  
20 us explicitly would it be more efficient.

21 MR. LANPHER: I made a Xerox of their list,  
22 and let me explain what the handwritten marks are on it.

23 [Counsel handing document to Board and  
24 parties.]

25 MR. LANPHER: Mr. Earley apparently was facing



1 the situation that I sometimes face, and I have no  
2 quibble with it, that he didn't have typing facilities  
3 available at the time yesterday. So this represents the  
4 list of documents as originally given to us, and the  
5 handwritten notations under Item 7 is an addition, in  
6 which they limited the Quadrex support to the executive  
7 summary pursuant to our conversation yesterday. The  
8 same with Number 11, the QA manual. They indicated that  
9 they were going to at least cover all the portions used  
10 in the County's OCA cross.

11 They indicated that items 15 and 16 on page 2  
12 would not be utilized. They gave us specific sections  
13 on Item 17. They deleted items 20 and 22 on page 3, and  
14 they added items 23 through 27. So that is what the  
15 handwritten -- this is the way I took them down, and I  
16 think I understand all of the things that they added,  
17 and actually those items on page 3, items 23 through 27,  
18 I do not necessarily want to bring to the Board's  
19 attention.

20 I am concerned, for instance, if you look at  
21 item 12, they refer to the table in Mr. Hubbard's  
22 testimony where you list regulatory guides and ANSI  
23 standards. I believe last week's ruling asked them to  
24 give a breakdown as to specific portions. Item 14, the  
25 last portion --

1 JUDGE BRENNER: Okay, let's wait a minute and  
2 let me make a suggestion. If you have more than one of  
3 these, why don't you take them one at a time unless you  
4 have two that are very much related.

5 MR. LANPHER: I will start with number 1.

6 JUDGE BRENNER: Good idea.

7 MR. LANPHER: I don't know what specific  
8 portions of all of these NRC I&E reports they are  
9 planning to utilize, and we have been provided no  
10 further breakdown than what you see.

11 JUDGE BRENNER: Mr. Lanpher, let me interrupt  
12 you. This is going to take more than a few minutes, I  
13 think.

14 MR. LANPHER: If you want to take a break,  
15 that is fine.

16 JUDGE BRENNER: Why don't we take a break.

17 MR. LANPHER: Why don't I tell you the ones I  
18 was going to raise. I don't know if you want to  
19 consider it over the break. I think it is the ones that  
20 I have circled, Item Number 1 --

21 JUDGE BRENNER: The ones that say no breakdown  
22 or insufficient breakdown?

23 MR. LANPHER: Yes.

24 JUDGE BRENNER: That gives me a hint.

25 MR. LANPHER: Number 1, number 8, number 11.

1 Some of these didn't come out well in the Xerox. Number  
2 12, 14, 18, 19. Those are the ones.

3 JUDGE BRENNER: Did you give Mr. Earley a copy?

4 MR. LANPHER: I think I did, yes.

5 JUDGE BRENNER: Do you want to talk about it  
6 some more and we will take it up after lunch, or do you  
7 want us to take it up directly, because there is no  
8 sense talking about it any more.

9 MR. LANPHER: I am going to go from here to  
10 work with Mr. Hubbard on his QA/QC preparation, so the  
11 earlier we can get a designation --

12 JUDGE BRENNER: Well, why don't we talk about  
13 it right after lunch.

14 MR. LANPHER: Whatever the Board wants to do.

15 JUDGE BRENNER: I would be happy if you all  
16 settled it and came back and talked to us about it, but  
17 if that doesn't happen, I won't force you to talk some  
18 more.

19 MR. LANPHER: I would like a more detailed  
20 breakdown.

21 JUDGE BRENNER: Do you want to talk to him  
22 some more, Mr. Earley, or do you want us to get involved  
23 sooner rather than later?

24 MR. EARLEY: Judge, all of the items, I  
25 believe, and I think it is all of the items, are items

1 that are referenced and used in Mr. Hubbard's  
2 testimony. And we have discussed this in the context of  
3 our witnesses, that the County's position then was that  
4 if we used it in our testimony, it was appropriate to  
5 test the witnesses on all aspects of the particular  
6 attachment or the reference. I think that is true of  
7 all of the items that Mr. Lanpher has circled. They are  
8 all things that the County used in the testimony.

9 In order to test that testimony, we are going  
10 to have to go into those items. We also told him in the  
11 letter to which this was attached that we would continue  
12 to work on narrowing the issues so that we could focus  
13 the cross-examination, and to the extent that we can  
14 give him specific sections, we will do so in advance,  
15 but we think that this is an adequate breakdown for the  
16 purposes of preparing cross-examination.

17 JUDGE BRENNER: Well, we discussed this last  
18 week on Friday. I don't have the transcript in front of  
19 me, but when we discussed it --

20 MR. LANPHER: I have it.

21 JUDGE BRENNER: I think I remember what I said  
22 when we discussed it. I noted that yes, if it was  
23 included in the direct testimony, it was fair game, and  
24 we had said that with respect to LILCC's matters, too,  
25 when the County filed its documents. However, I believe

1 I also said that where the reference was to an extensive  
2 document, that the particular portions of that document  
3 should be identified unless your position is -- and this  
4 is, I guess, a further clarification that I am adding  
5 now -- unless your position is that the only use you  
6 will make of those documents are as to the portions that  
7 were used by Mr. Hubbard and where he cited a general  
8 document for a general proposition, if you are  
9 referencing the whole document, if that is all you tend  
10 to do with it.

11 Now, that is different than an intention to  
12 probe particular subsections in an extensive document by  
13 cross-examination so as to undercut his general  
14 proposition.

15 MR. LANPHER: Judge Brenner, your comments are  
16 at 14,023 of the transcript.

17 JUDGE BRENNER: Am I consistent?

18 MR. LANPHER: You are pretty consistent.  
19 Where we are talking about particular documents or  
20 particular subsections are going to be inquired into,  
21 such as ANSI standards or QA manual or tech specs, have  
22 them better designated as to which ones. And then you  
23 say it doesn't preclude overall questions as to the  
24 overall documents that may be appropriate.

25 JUDGE BRENNER: That is a clarification I am

1 adding now, and I guess I mentioned that earlier.

2 Are you not ready to better designate the  
3 portions because of your preparation stage now, Mr.  
4 Earley, or do you think it would be prejudicial to  
5 designate it? Those are two very different positions. I  
6 think we could accommodate the first one.

7 MR. EARLEY: I think that we are in the course  
8 of trying to narrow down the cross-examination and, in  
9 fact, trying to figure out what some of the references  
10 in Mr. Hubbard's testimony were used for, and in  
11 preparing our cross-examination, we may focus on  
12 particular sections within some of the reference  
13 documents, but generally it will be to test why Mr.  
14 Hubbard cited them in the testimony and why he thought  
15 it was relevant to the testimony within the context of  
16 the written testimony that has been prefiled.

17 JUDGE BRENNER: All right. We had better go  
18 down the list with the parties present, I think, where  
19 you have gotten a good further breakdown the County has  
20 but not the final breakdown we had in mind, and we will  
21 talk about the timing of when the further breakdown  
22 might be available. You have certainly got enough to get  
23 going, and some of what you think you should have more  
24 breakdown on might be sufficient, and that is why I want  
25 to go through each item when we come back from the break.

1 MR. LANPHER: From the break or from lunch,  
2 Judge Brenner?

3 JUDGE BRENNER: Well, if you want to talk  
4 about it some more, I will put it off till after lunch.

5 MR. LANPHER: Before you said after lunch. I  
6 want to know if I should be here after the break.

7 JUDGE BRENNER: The only reason to be here  
8 after lunch is if you were willing to talk about it some  
9 more, we want to give LILCO some more time as they  
10 further delve into this, just as we did for the County  
11 on several occasions to get a better breakdown, but we  
12 don't want LILCO to believe they need provide no further  
13 breakdown on any of these. On the other hand, we don't  
14 want the County to think that necessarily they are  
15 entitled to a further breakdown on all of these.

16 MR. LANPHER: That sounds like everyone is  
17 going to lose.

18 [Laughter.]

19 JUDGE BRENNER: That is why we have to go down  
20 it one item at a time, and I'm not sure as to which  
21 category the Board would put each of these items. But  
22 if you want to talk about it some more and try to divide  
23 it up, we are willing to let you do that.

24 MR. LANPHER: I am willing to talk. I don't  
25 know if they have information. To be more specific, I

1 will be happy to hear it.

2 MR. EARLEY: We will discuss our position on  
3 the various items with the County today and clarify  
4 what we will use the documents for.

5 JUDGE BRENNER: Let me give you some examples  
6 on the first three that you circled. These are  
7 preliminary. I don't know if the rest of the Board  
8 would agree with me, even, but just to get your  
9 discussion going. All I&E reports forming the basis of  
10 Suffolk County Attachment 2. Attachment 2 is the  
11 appendix of specific allegations that we required. I  
12 think that is a fair breakdown as it stands because  
13 these are the specific allegations that we required.

14 MR. LANPHER: Are they going beyond those  
15 specific portions of the I&E reports? We didn't use all  
16 portions of those I&E reports. Or are they going only  
17 to the portions of the I&E reports which are cited in  
18 the contention?

19 JUDGE BRENNER: Well, it says forming the  
20 basis of Suffolk County Attachment 2, and I therefore  
21 read it as to those portions forming the basis for those  
22 items.

23 MR. LANPHER: Maybe Mr. Earley can answer.

24 MR. EARLEY: If we ask a question on an I&E  
25 report that is not part of the basis of Suffolk County



1 Attachment 2? That is the answer to the question?

2 MR. LANPHER: No. I was assuming that you are  
3 asking a question as to that I&E report, but an I&E  
4 report may have many parts. Are they going to probe  
5 other parts of an I&E report besides the specific  
6 violatio which is focused in the contention?

7 JUDGE BRENNER: Well, I think he answered the  
8 question. If he asked you as to a particular portion of  
9 a report that Mr. Hubbard or the County did not use in  
10 support of that allegation, that would be the answer.  
11 And therefore, Mr. Hubbard would not be expected to be  
12 familiar with it.

13 MR. LANPHER: Thank you.

14 JUDGE BRENNER: The ANSI standard, I don't  
15 remember the size of it, but I am sure it is big. This  
16 is Item 8. You should identify the particular portions  
17 of the ANSI standard that you are going to cross-examine  
18 on. I don't recall how general the reference was in Mr.  
19 Hubbard's testimony to it, but nevertheless, if you are  
20 going to use specific parts to undercut his general  
21 proposition, if it was a general proposition, you should  
22 identify those as soon as you can, hopefully in the next  
23 few days. Well, let's say by the close of business  
24 tomorrow. If you are merely going to question him  
25 generally on the general proposition, then the total

1 reference would suffice. It depends upon your approach,  
2 and I understand you are still considering your  
3 approach, and that too is understandable.

4           Item 11 is another example. According to Mr.  
5 Lanpher's note, which may not be accurate -- and that is  
6 one of the things you two can talk about, but assuming  
7 it is accurate, LILCO would say at least all of the  
8 LILCO QA manual used in DQA cross. If you take out the  
9 "at least," the designation is sufficient. If you are  
10 going to use other portions of the manual that were not  
11 used in cross, that should be identified.

12           Now, where you had a manual section that was  
13 extensively cross-examined by the County and subsection  
14 by subsection, but there may be that there are a few  
15 subsections left out, that is sufficient for the County  
16 to have said what they said, that is, just that manual  
17 chapter, because the cross was so extensive that in  
18 effect it was the whole chapter. Just because the  
19 County left out one subsection doesn't mean LILCO has to  
20 leave out the whole same subsection, but if there was a  
21 manual chapter where only one or two subsections were  
22 asked about, in that case, unless you make the better  
23 designation, we will assume just those one or two  
24 subsections. So it is a matter of judgment on that  
25 one. And those are three different examples to help

1 spirit you on the way to resolve the others.

2 In terms of time, we are going to have to  
3 finish off the operating QA cross today. Given the time  
4 we have taken, it will be the rest of the day. Then we  
5 will start with ISEG tomorrow. And immediately after  
6 ISEG, we will go to the County's redirect -- I'm sorry,  
7 the Staff's questions on operating QA, then LILCO's  
8 redirect on operating QA.

9 MR. LANPHER: Judge Brenner, could we inquire  
10 of LILCO whether they have any idea as of now how long  
11 that may take?

12 JUDGE BRENNER: Well, why don't you ask them  
13 during the break, and then you can all come back and  
14 tell us. In fact, as soon as we come back from the  
15 break, we will get the time estimates. The reason I am  
16 doing this is to see how much time we can allow LILCO in  
17 fairness to it to definitively figure out which portions  
18 of the documents and further breakdown that we use, and  
19 that time would be obviously the time you have to file  
20 your cross plan.

21 Mr. Hubbard, I think, could take the stand on  
22 Thursday. It may not be until Friday, but he could take  
23 the stand on Thursday, and that will depend on some of  
24 these other time frames. So I think we had better set  
25 it, as I said, with close of business on Wednesday. If

1 an adjustment is warranted given where we are on midday  
2 Wednesday, we will consider extending that to Thursday  
3 morning, but you come back and let us know if you need  
4 that extension and if you feel circumstances of where we  
5 are warrant that extension, and you can give them part  
6 of the information perhaps before Thursday morning in  
7 any event, even if we say you don't have to give us the  
8 full cross plan until Thursday morning. But I would  
9 sure like to be able to read it Wednesday night.  
10 Whether or not we require it depends upon your situation.

11 Okay, let's break until 11:20.

12 [Recess.]

13 JUDGE BRENNER: Okay, we are back on the  
14 record. We wanted you to just very quickly get the time  
15 estimates to see if we could estimate when Mr. Hubbard  
16 would take the stand. We would spend the rest of today  
17 on the operating CA cross examination by the County,  
18 which would give the County, combined with the time on  
19 Friday, the minimum amount we said it could have, and we  
20 will see where we are as we approach the end of the  
21 day.

22 Assume that ISEG and related matters begin  
23 tomorrow first thing, let's assume that that takes not  
24 quite all day but a good part of it, and that therefore  
25 the Staff's questions could be completed tomorrow on

1 overall operating QA. Let's assume that LILCO's redirect  
2 on all operating QA matters including ISEG-related  
3 matters would not begin until late Wednesday and  
4 possibly not till the first thing Thursday morning. How  
5 much time would LILCO's redirect take?

6 MR. ELLIS: LILCO's redirect on OQA will be  
7 less than a day. The redirect in relation to the ISEG  
8 panel I can't gauge yet.

9 JUDGE BRENNER: Your redirect would take less  
10 than a day plus whatever it takes for ISEG or possibly  
11 that would be included in the less than a day estimate.

12 MR. ELLIS: No, sir, that would not be  
13 included, so it would be a little less than a day plus  
14 whatever ISEG would take.

15 JUDGE BRENNER: It looks like Mr. Hubbard is  
16 not highly likely to take the stand before Friday  
17 morning.

18 MR. LANPHER: I just wanted that clarification.

19 JUDGE BRENNER: Well, it is not a promise. It  
20 is an estimate. Don't hold me to it. So if you get the  
21 final breakdown, depending on what we were talking about  
22 before the break, by the close of business Wednesday, if  
23 possible, with the possibility that there may be yet  
24 better breakdown of some of the matters on Thursday  
25 morning, by which time we would want to receive the

1 cross-examination plan, that would be our ruling as to  
2 schedule. If we can get the cross plan by the end of  
3 the day Wednesday, that would be nice, but we won't  
4 require it. And the same would apply to the Staff's  
5 amended cross plan on operating QA.

6 MR. LANPHER: Judge Brenner, I will note for  
7 the record that we didn't receive any designation of  
8 documents from the Staff for use with Mr. Hubbard, so I  
9 am assuming there aren't any.

10 JUDGE BRENNER: If there are any, let's get  
11 them designated right away, by tomorrow, subject to  
12 possible better breakdown. Is that 1-1/2 days for LILCO  
13 cross-examination of Mr. Hubbard still a reasonable  
14 estimate?

15 MR. ELLIS: That is the best estimate I have  
16 right now, Judge Brenner. We are, frankly, always  
17 reassessing. I would say that it is not going to be any  
18 less than that.

19 JUDGE BRENNER: Okay. As we said this  
20 morning, we will get back to you on setting procedures  
21 in motion for the Torrey Pines report, perhaps this  
22 afternoon, perhaps tomorrow.

23 All right, let's pick up the operating QA  
24 cross-examination at this point.  
25 Whereupon,

1 JOSEPH M. KELLY,  
2 ARTHUR R. MULLER and  
3 EDWARD J. YOUNGLING,  
4 witnesses previously on the stand, having been sworn,  
5 resumed the stand and were examined and testified  
6 further as follows:

7 CROSS EXAMINATION -- Resumed

8 BY MR. DYNNER:

9 Q Good morning, gentlemen. I can ask you to  
10 turn to Section 12 of the QA manual, which we were  
11 discussing on Friday.

12 JUDGE CARPENTER: Mr. Dynner, could you direct  
13 me to the right spot in the cross plan, please?

14 MR. DYNNER: Yes, sir. I am going to begin on  
15 page 1, the last paragraph.

16 BY MR. DYNNER: (Resuming)

17 Q Gentlemen, in Subsection 12.3.6 on page 3 of  
18 Section 12, there is no indication in this procedure as  
19 to who is responsible for maintaining the calibration  
20 standards, is there?

21 [Panel of witnesses conferring.]

22 A (WITNESS MULLER) Mr. Dynner, no specific  
23 organization is referenced; however, it is the  
24 responsibility of the organization performing the  
25 calibration.

1 Q So there can be several calibration standards  
2 maintained by various LILCO organizations; is that  
3 correct?

4 A (WITNESS MULLER) That is correct, and that is  
5 very true.

6 Q There is no provision in this procedure as to  
7 where physically the calibration standard shall be kept,  
8 is there?

9 A (WITNESS MULLER) Mr. Dynner, Paragraph  
10 12.3.12 indicates storage conditions.

11 Q Well, if we turn to Subsection 12.3.12 for a  
12 moment, that subsection refers to the fact that "M&TE  
13 shall be stored and calibrated under favorable  
14 environmental conditions that will not adversely affect  
15 accuracy." And there are no specific requirements as to  
16 what constitutes those favorable environmental  
17 conditions, are there?

18 [Panel of witnesses conferring.]

19 A (WITNESS YOUNGLING) The paragraph does cite  
20 the factors that should be considered in achieving the  
21 goals of effective storage and calibration. That  
22 paragraph is a paraphrase out of the IEEE Standard 498  
23 dealing with the environmental control for measuring and  
24 test equipment.

25 Q The manufacturers of various M&TE do state the



1 environmental conditions under which particular items  
2 should be stored, don't they?

3 A (WITNESS MULLER) For certain equipment that  
4 is possible, yes.

5 Q And yet in the reference that you gave to  
6 Subsection 12.3.12, where certain factors should be  
7 considered are referred to with respect to environmental  
8 conditions, there is no reference to the manufacturer's  
9 recommendations, is there?

10 A (WITNESS YOUNGLING) No, there is no  
11 reference; however, the manufacturer would be considering  
12 the same factors that are listed there.

13 Q But the manufacturer might be giving different  
14 weight or different considerations to each one of those  
15 factors than a particular individual in a LILCO  
16 organization might give to those factors, couldn't it?

17 A (WITNESS YOUNGLING) Yes, the manufacturer  
18 might give different weight. However, the factors would  
19 be reviewed by our people and the manufacturer, and we  
20 would deem the ones that are most appropriate.

21 Q If we were to take as an example a particular  
22 type of measuring and test equipment, let's say, a vault  
23 meter, for example, is there any reason why the vault  
24 meter of one LILCO organization should be capped under  
25 environmental conditions different than the vault meter

1 of another LILCO organization?

2 [Panel of witnesses conferring.]

3 A (WITNESS KELLY) In all cases the equipment  
4 would be stored to the conditions required. The only  
5 differences that could occur from one organization to  
6 another would be in excess of the requirement.

7 Q Well, if that is the case, why doesn't LILCO  
8 establish a set of specific environmental requirements  
9 with regard to each piece of equipment and then state  
10 that this is the minimum and it can be increased?

11 [Panel of witnesses conferring.]

12 A (WITNESS YOUNGLING) Mr. Dynner, each  
13 organization specifies an area to store their measuring  
14 and test equipment. In the case of the plant staff,  
15 that is one area for the I&C people and another area for  
16 the health physics people. The meter and test people  
17 are located in Hicksville and their standards are kept  
18 in their shop in Hicksville. So your question being do  
19 we designate one area: no, there isn't just one area,  
20 there are several areas.

21 JUDGE BRENNER: I don't think that was the  
22 question. Do you want to repeat it?

23 MR. DYNNER: I think I can paraphrase the  
24 question again.

25 BY MR. DYNNER: (Resuming)

1           Q     My question was: If in fact there was some  
2     minimum that LILCO applies to the environmental  
3     conditions with respect to its M&TE, then why doesn't  
4     LILCO state in its manual of procedures that there will  
5     be certain fixed standards for environmental conditions  
6     with respect to each type of equipment as a minimum but  
7     that those minimum requirements can be exceeded?

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1           A       (WITNESS YOUNGLING) In order to specify a set  
2 of requirements, each piece of equipment would have to  
3 be looked at. We do look at the equipment that is  
4 stored, the M&TE equipment that is stored and handled  
5 and calibrated, and we set up the criteria to ensure  
6 that of a particular set of equipment we meet the  
7 minimum requirements for the lowest level of equipment,  
8 if you will, such if you have ten pieces of gear, you  
9 pick the lowest one, and you meet those requirements, if  
10 you needed to meet each of the organization, designation  
11 organization, to keep their equipment in to meet that  
12 criteria.

13           Q       Well, let me pursue this just a little bit  
14 longer, Mr. Youngling, because I think again, as I  
15 understand your answer, you're telling me what you do;  
16 and my question goes to the fact that your procedures or  
17 your manual, I should say, does not set forth any  
18 specific environmental standards which should be applied  
19 as a minimum.

20                   My question is why doesn't LILCO state here  
21 that, for example, for a volt meter you would look at  
22 what the manufacturer's recommendations are, and you  
23 would come up with a statement that said that they won't  
24 be stored below 45 degrees Fahrenheit or in an  
25 environment in which the humidity exceeded 87 degrees or

1 87 percent. And then if in a particular instance a  
2 LILCO organization wanted to place even higher standards  
3 on the environmental conditions, it could do so.

4 Why haven't you adopted an approach that sets  
5 some specific minimum standards for such an important  
6 area?

7 (Panel of witnesses conferring.)

8 A (WITNESS KELLY) As far as this section of the  
9 manual, we have specified the factors that must be taken  
10 into consideration. We do not consider that the QA  
11 manual is the appropriate place to provide a listing of  
12 every conceivable piece of equipment that might be  
13 stored. You could possibly have the example of a volt  
14 meter. There could possibly be different storage  
15 requirements for a vacuum tube volt meter versus a  
16 digital volt meter. So you would create a situation  
17 where every time you buy a new piece of equipment, you  
18 would have to revise the section of the QA Manual, which  
19 it would not be productive, efficient nor required.

20 Q But you certainly could say in your manual  
21 that the procedures will follow at a minimum the  
22 environmental standards set by manufacturers, couldn't  
23 you?

24 (Panel of witnesses conferring.)

25 A (WITNESS KELLY) These would be the same

1 factors that manufacturers would be addressing in  
2 whatever information they might provide.

3 Q Do the procedures that are referred to in  
4 Section 12 of the manual set forth specific minimum  
5 environmental standards for each piece of equipment?

6 (Panel of witnesses conferring.)

7 A (WITNESS KELLY) Paragraph 12.3.3 requires  
8 that procedures and instructions shall be provided for  
9 each instrument or generic grouping thereof, and they  
10 shall describe calibration and maintenance methods,  
11 calibration frequencies, storage, and handling  
12 requirements in operating criteria. So the manual  
13 section does require that the storage and handling  
14 requirements be included in the procedures and  
15 instructions.

16 Q Well, I understand what the manual provides.  
17 My question was whether in fact the procedures that are  
18 referred to in the manual contain specific minimum  
19 standards for environmental conditions with respect to  
20 each M&TE.

21 (Panel of witnesses conferring.)

22 A (WITNESS YOUNGLING) The procedures, to the  
23 best of our knowledge, would not designate for each  
24 individual component but would designate the  
25 requirements for a particular storage area, not for each

1 individual component. But they would be set up to cover  
2 the worst case situation, as I testified earlier.

3 Q And in the list of factors to be considered in  
4 subsection 12.3.12 there are no standards or guidance in  
5 this manual that would give guidance as to the weight  
6 that each factor was to be given in a determination, is  
7 there?

8 A (WITNESS KELLY) I believe, as I stated  
9 before, that would come from the manufacturer's  
10 recommendations. You would have to look at each and  
11 every specific piece of equipment to determine what the  
12 minimum requirement for that storage area would be.

13 Q So your answer is no?

14 A (WITNESS KELLY) It doesn't specify criteria  
15 because -- it is not possible to specify the criteria  
16 here because, as I said before, if tomorrow we went and  
17 bought a new piece of equipment, that could have  
18 significantly more restrictive environmental  
19 requirements. And to create a situation where you would  
20 have to revise a section of your QA Manual because you  
21 bought one piece of measuring and test equipment like I  
22 said would be, in my view, quite counterproductive.

23 A (WITNESS YOUNGLING) In addition, as we  
24 testified earlier, the words that are written there are  
25 generally paraphrased from the IEEE standard which gives

1 the same generalized guidance. Each one of those  
2 attributes would have to be considered based upon the  
3 piece of gear. For instance, a pressure gauge we might  
4 not be too concerned with fumes, we might not be too  
5 concerned with humidity, but vibration may be a concern.

6 Q Now, gentlemen, let me ask you to go back to  
7 subsection 12.3.6 on page 3, if a calibration standard  
8 is not traceable to the National Bureau of Standards,  
9 can it properly still be used as a standard?

10 (Panel of witnesses conferring.)

11 A (WITNESS MULLER) Yes.

12 Q Does any LILCO organization currently have a  
13 calibration standard that is not traceable to the  
14 National Bureau of Standards?

15 (Panel of witnesses conferring.)

16 A (WITNESS MULLER) Mr. Dynner, we are not aware  
17 of any.

18 Q Well, that subsection of the manual suggests  
19 the possibility, which you have now confirmed, that  
20 there can be a proper standard which is not traceable to  
21 the National Bureau of Standards, and in references in  
22 that case "recognized industry standards."

23 Is there any definition --

24 JUDGE BRENNER: You'd better finish the  
25 sentence just to be fair.



1 MR. DYNNER: I'm only going to ask a question  
2 concerning the quote "recognized industry standards" at  
3 this point.

4 JUDGE BRENNER: Okay.

5 BY MR. DYNNER: (Resuming)

6 Q Is there any definition or criterion as to  
7 what constitutes a "recognized industry standard?"

8 (Panel of witnesses conferring.)

9 A (WITNESS KELLY) In that case, "recognized  
10 industry standards" would, for the most part, refer to  
11 standards that were endorsed by professional societies  
12 such as ASM, ASME, IEEE, et cetera.

13 Q And to your knowledge are there any such  
14 recognized industry standards that are not traceable to  
15 the National Bureau of Standards?

16 JUDGE BRENNER: For calibration?

17 MR. DYNNER: For calibration standards. All  
18 of these questions are on calibration standards.

19 JUDGE BRENNER: I didn't want to get the whole  
20 universe of standards.

21 (Panel of witnesses conferring.)

22 WITNESS KELLY: I do know it exists, that  
23 there are cases, not in the LILCO system as we said  
24 before, as far as we believe -- there are cases where  
25 there are not standards traceable back to NBS, and there

1 are cases where industry standards are used.  
2 Unfortunately, I can't recall any offhand, but I know  
3 that to be a fact.

4 BY MR. DYNNER: (Resuming)

5 Q The last sentence of this subsection 12.3.6  
6 suggests that LILCO could in a situation where no  
7 suitable standard exists for calibrating a particular  
8 instrument develop, document, justify, qualify and  
9 approve a calibration method. There are no standards or  
10 criteria set forth which would tell LILCO how to go  
11 about developing such a calibration method, are there?

12 (Panel of witnesses conferring.)

13 A (WITNESS KELLY) That sentence addresses a  
14 case where we don't have a standard traceable back to  
15 NBS or recognized industry standard. It does take into  
16 account all the things that would be necessary to be  
17 considered in doing that calibration. As far as that  
18 development, you have to read all those items together.  
19 As far as documented, we require a technical  
20 justification, and it would have to be qualified and  
21 approved.

22 Q But there is nothing in this section that  
23 indicates how the method should be developed, how it  
24 should be documented, how it should be justified, how it  
25 should be qualified, how it should be approved, or who

1 would carry out those matters, is there?

2 A (WITNESS KELLY) The "who" is not there. The  
3 "who" would depend upon which organization had the piece  
4 of equipment. It also could be a situation where the  
5 Long Island Lighting Company could possibly feel that  
6 they do not have the necessary equipment in house to do  
7 it, so you could have situation where you would send out  
8 to a test lab. And a lot of the detail you are looking  
9 for would largely depend as far as type and how on the  
10 particular piece of equipment that we are trying to  
11 address here in some unforeseen case.

12 Q Or it could depend upon the circumstances in  
13 which the need arose, couldn't it?

14 A (WITNESS KELLY) Could you explain what you  
15 mean by the circumstances in which the case arose?

16 Q Well, for example, if a LILCO organization  
17 wanted to take up any particular calibration standard  
18 which was not traceable to the National Bureau of  
19 Standards or recognized industry standards, and it could  
20 simply -- and cost and scheduling requirements were such  
21 that the absence of that standard would impair or slow  
22 down the operation of the plant or some part of the  
23 plant, then the responsible individual, whoever he or  
24 she may be, could simply set any standard that was  
25 necessary to perform the task and justify a piece of

1 equipment as being operable. Document it in any way  
2 they want, justify it in any way they want, have it  
3 qualified in any way they want, and have anyone they  
4 want in the plant approve it. Isn't that correct?

5 A (WITNESS MULLER) No, Mr. Dynner, that is not  
6 correct. Any calibration procedure would have to be  
7 designated in the plant, a station procedure, and we  
8 have a procedure that tells us how to develop, approve,  
9 review procedures. So this procedure would have to go  
10 through the cycle just like any other procedure..

11 A (WITNESS KELLY) Also, similarly as far as  
12 procedures, as far as the procedures developed in the  
13 review cycle, our meter and test department, which is  
14 one of the other organizations we talked about, they  
15 have similar procedures as the station does.

16 JUDGE BRENNER: Did you mean that they would  
17 approve such a procedure, or that they themselves have  
18 to prepare their own procedures?

19 WITNESS KELLY: If it was a case where they  
20 were preparing the procedure. They have in-house  
21 procedures that address the format, the review cycle,  
22 and the justifications that are necessary to be written  
23 into a calibration procedure.

24 JUDGE BRENNER: For their own procedures?

25 WITNESS KELLY: Yes, that is correct.

1 JUDGE BRENNER: I guess I knew that from the  
2 other day. I was wondering if by your interjection you  
3 meant that they would approve a procedure, if there was  
4 a calibration procedure developed by an organization  
5 other than the meter and test department?

6 WITNESS KELLY: No. What I was referring to  
7 was that Mr. Muller had addressed the station procedures  
8 and how it would work in the station, and I was  
9 addressing the other organizations that could possibly  
10 be doing this calibration activity.

11 JUDGE BRENNER: I see. Thank you.

12 WITNESS YOUNGLING: I would like to add that  
13 for the station procedures dealing with measuring and  
14 test equipment calibrations, those procedures all pass  
15 through the Review of Operations Committee which would  
16 provide the delivered checks and balances to ensure that  
17 the situation that you described would not occur.

18 BY MR. DYNNER: (Resuming)

19 Q Now, gentlemen, if we look for a moment at  
20 subsection 12.3.7, the second sentence states that "If  
21 it can be shown that use of calibration standards having  
22 the same accuracy as required by those to be calibrated  
23 will adequately meet accuracy requirements, such use may  
24 be permitted provided the basis is approved by  
25 responsible management in the this document."

1           There is nothing in this section that sets  
2 forth the standards or criteria by which this  
3 determination could be made, are there?

4           (Panel of witnesses conferring.)

5           A     (WITNESS YOUNGLING) No, there are no criteria  
6 here. As part of our submittal to NRC during the  
7 questioning process on the FSAR we reviewed with them  
8 the lower tier calibration requirements and provided to  
9 them the justification that lower tier calibrations  
10 could be performed with standards having equal to or  
11 greater than accuracy.

12          Q     Is it your position that each time that you  
13 wanted to use a calibration standard having equal but  
14 not greater accuracy that you will obtain prior NRC  
15 approval?

16          A     (WITNESS YOUNGLING) No.

17          Q     And nothing in this subsection indicates how  
18 the basis for acceptance will be documented or who will  
19 approve it, does it?

20          (Panel of witnesses conferring.)

21          A     (WITNESS MULLER) Mr. Dynner, the section  
22 doesn't say who will approve the procedure. However,  
23 once again we are getting back to the station procedure  
24 is used to calibrate instruments. The station procedure  
25 tells you what to calibrate the M&TE with. That

1 procedure would have to go through the same review cycle  
2 as we testified earlier.

3 Q Is it your testimony that the existing  
4 procedures that were prepared in accordance with Section  
5 12 of the QA Manual in fact do state the standards for  
6 making the determination referred to in the second  
7 section of subsection 12.3.7?

8 (Panel of witnesses conferring.)

9 A (WITNESS MULLER) The station procedures do  
10 say that.

11 Q Can you tell me which station procedure you  
12 are referring to, please?

13 A (WITNESS MULLER) Mr. Dynner, each station  
14 procedure talks about the test equipment required, and  
15 it indicates the piece of M&TE that is being calibrated,  
16 so this would appear in every calibration procedure.

17 Q As I understood your testimony, and correct me  
18 if I am wrong, on Friday, I believe in answer to a  
19 question of how many organizations have prepared  
20 procedures to comply with subsection 12.3.1, that is to  
21 say, M&TE procedures, you answered that there were two  
22 organizations, as I recall.

23 How many procedures are there that cover the  
24 requirements of this Section 12?

25 (Panel of witnesses conferring.)

1           A       (WITNESS YOUNGLING) There are probably a half  
2 a dozen to a dozen administrative control type  
3 procedures, and in the area of 50 to 100 individual  
4 calibration procedures for the different types of M&TE.

5           Q       Now, when you say, Mr. Youngling, that there  
6 are perhaps a hundred procedures, are you referring to  
7 the calibration standards for each piece of equipment,  
8 or do you mean as a separate document that is called out  
9 for by Section 12.3 of this manual?

10          A       (WITNESS YOUNGLING) The M&TE calibration  
11 procedure would be for a specific piece of equipment.  
12 In that procedure it would define the higher tier or  
13 lower tier, I'm sorry, lower tier calibration equipment  
14 to be used to make that calibration. That procedure is  
15 an approved procedure that requires review and approval  
16 in accordance with the plant administrative programs  
17 that we required earlier.

18          Q       And is it your testimony that each one of  
19 those procedures would set forth the standards and  
20 criterion which would justify the use of a lower tier  
21 standard, of a standard that has only equal accuracy to  
22 the equipment which it is being used with?

23          A       (WITNESS YOUNGLING) Under the guidance of the  
24 FSAR submittal, if we make a calibration on a particular  
25 piece of measuring and test equipment, the equipment



1 designated as the calibration equipment for the  
2 equipment to be calibrated would meet these criteria as  
3 specified in the FSAR, yes. And that evaluation in  
4 selecting those calibration sources would cover that  
5 criteria.

6 Q And does each one of these hundred or so  
7 procedures state how the acceptance referred to in the  
8 last paragraph of subsection 12.3.8 would be documented  
9 and by whom it would have to be approved?

10 JUDGE BRENNER: You mean the last sentence?

11 MR. DYNNER: Yes.

12 (Panel of witnesses conferring.)

13 MR. DYNNER: I think I misspoke. I meant to  
14 refer you to subsection 12.3.7 at this point.

15 MR. ELLIS: For my benefit could you just  
16 repeat the question?

17 BY MR. DYNNER: (Resuming)

18 Q The question is does each one of these  
19 hundred-odd procedures provide how when a determination  
20 is made pursuant to the last sentence of subsection  
21 12.3.7, how that determination is documented and by whom  
22 it is approved?

23 JUDGE BRENNER: You can ask the same question  
24 about the last sentence of both those sections if you  
25 want to, 12.3.7 and 12.3.8. I will modify the question

1 to you can answer it as to both.

2 WITNESS KELLY: Yes, that would be documented,  
3 and that's addressed in the administrative procedures  
4 that specify the justifications and the review and the  
5 approvals that must be performed when calibrating any  
6 item.

7 BY MR. DYNNER: (Resuming)

8 Q If I could refer you now to subsection  
9 12.3.10, there is no statement in the subsection as to  
10 who carries out that responsibility, is there?

11 A (WITNESS KELLY) That statement delineates the  
12 requirement of what is to be done when an item is lost  
13 or found to be not in calibration or performing  
14 erratically. Specifically, who would do that function  
15 would be addressed and is addressed in the  
16 administrative procedures of the organizations involved  
17 with the calibration of measuring and test equipment.

18 Q So it would be each organization, is that  
19 correct, someone within each organization that deals  
20 with that particular piece of equipment?

21 (Panel of witnesses conferring.)

22 A (WITNESS KELLY) It would be the  
23 responsibility of each of the organizations, as I said,  
24 to define in their administrative procedures to initiate  
25 the actions described in that subparagraph.

1 Q When you testified that, as I believe you  
2 said, that M&TE are principally under the control of the  
3 Instrumentation and Control Section, is that correct?

4 A (WITNESS YOUNGLING) Can we ask what you're  
5 reading from?

6 Q I'm trying to recall your testimony from  
7 Friday, and I'm asking, to make it simpler, which  
8 organization in LILCO has principal responsibility over  
9 M&TE.

10 A (WITNESS YOUNGLING) I believe on Friday we  
11 testified that the I&C section within the plant staff  
12 has the majority of the M&TE equipment in the plant  
13 staff, so it has the largest number under its control.  
14 However, we also testified that the health physics  
15 section, the maintenance section and the chemistry  
16 section, along with the meter and test department in  
17 Hicksville, also has measuring and test equipment under  
18 their control.

19 JUDGE BRENNER: Yes. And we just now repeated  
20 the testimony about Section 12.2.3 and the related  
21 sections. We're going to have to pick up the pace.

22 MR. DYNNER: Well, I was just trying to recall  
23 for myself.

24 BY MR. DYNNER: (Resuming)

25 Q The question is is there an administrative

1 procedure for I&C which in fact sets forth who makes the  
2 determination in 12.3.10?

3 A (WITNESS YOUNGLING) Yes, there, is.

4 Q And do you have handy or no the reference to  
5 that procedure?

6 A (WITNESS YOUNGLING) I believe the number is  
7 station procedure 41 003.01.

8 JUDGE BRENNER: That's pretty good if you're  
9 right.

10 WITNESS MULLER: It's very close, Judge  
11 Brenner. It's maybe off by a digit or two.

12 JUDGE BRENNER: I take it you've abandoned the  
13 numbering system of starting with a key into the QA  
14 Manual system when you get into the area of station  
15 procedures?

16 WITNESS YOUNGLING: Yes, we did.

17 JUDGE BRENNER: I thought I finally understood  
18 your numbering until then. Go ahead.

19 BY MR. DYNNER: (Resuming)

20 Q The subsection 12.3.11, there is no statement  
21 in this section as to who makes and retains the records  
22 referred to in the first sentence, is there?

23 A (WITNESS MULLER) There is no specific  
24 reference. However, the administrative procedures do  
25 indicate who maintains and controls the records.

1 Q And there is no requirement --

2 (Panel of witnesses conferring.)

3 Q And there is no requirement as to where and  
4 how long the records must be maintained, is there?

5 (Panel of witnesses conferring.)

6 A (WITNESS KELLY) That paragraph does require  
7 that the records shall be made and that they shall be  
8 retained. The specific detail, how long and where, is  
9 contained in the administrative procedures that control  
10 the measuring and test equipment.

11 Q Yes. But, you see, my problem, Mr. Kelly, is  
12 that you keep referring us to the administrative  
13 procedures, but it is the QA Manual that sets forth or  
14 is supposed to set forth the requirements to be  
15 contained in those procedures, isn't it?

16 A (WITNESS KELLY) The QA Manual defines how we  
17 meet the requirements of Appendix B and specifies our  
18 commitments. It requires that procedures will be  
19 initiated. It tells you what those procedures have to  
20 address and the responsibilities that have to be  
21 addressed, and that is done. And as far as the total  
22 program, you have to take into account the manual and  
23 all of the implementing procedures, and that constitutes  
24 your total quality program.

25 Q Well, I understand that, Mr. Kelly, but my

1 problem, you see, is that if the QA Manual doesn't say  
2 where and how long these records must be maintained,  
3 then each procedure can set up its own standards and  
4 criteria, and one procedure could say the records will  
5 be maintained in the secretary's office down the hall  
6 for six months, and the other procedure could say that  
7 the records will be maintained for five years, and the  
8 other procedure could say the records will be maintained  
9 for one month, isn't that correct?

10 (Panel of witnesses conferring.)

11 A (WITNESS KELLY) Section 17 of our manual  
12 requires that our record systems comply with the  
13 requirements of NRC Regulatory Guide 1.88 which endorses  
14 ANSI N-45 29 1974. That specifies the type of storage  
15 requirements and duration requirements.

16 JUDGE BRENNER: Mr. Kelly, let me make sure  
17 I'm understanding your terminology and that of your  
18 colleagues on the panel. When you said something was in  
19 the administrative procedures, by that label did you  
20 mean either a QAP or a QAPS as distinguished from  
21 station procedures?

22 WITNESS KELLY: No. That could be a station  
23 procedure or a meter and test department procedure. And  
24 when we referred to an administrative procedure, that  
25 would be a procedure that would basically outline format

1 of a specific calibration procedure, how the test would  
2 be performed, how it would be documented, what type of  
3 review cycle is required for generating a specific  
4 calibration procedure for a specific model of equipment.

5 JUDGE BRENNER: Mr. Dynner, are you going to  
6 finish with this section soon, because we would like to  
7 break for lunch.

8 MR. DYNNER: Yes. I expect to certainly  
9 complete it. I don't know when you want to break for  
10 lunch, but I would say just a few more minutes on this.

11 JUDGE BRENNER: All right.

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1 BY MR. DYNNER:

2 Q In the statement in Subsection 12.3.11, it  
3 gives only illustrations of what these records should  
4 contain but does not provide specific requirements for  
5 what the record should contain, does it?

6 [Panel of witnesses conferring.]

7 A (WITNESS YOUNGLING) The detailed  
8 administrative procedures required that each of the  
9 attributes stated there be addressed, with one  
10 exception, the quotation "any noted errors or deviations  
11 in the action taken." When we send a piece of measuring  
12 and test equipment out to an outside laboratory, it goes  
13 out as a black box, if you will. It is out of  
14 calibration. Where we suspect the calibration, it is  
15 sent out and it returns with a certificate of compliance  
16 that it is in calibration.

17 The calibration lab may not tell us as to what  
18 actions he took to put it into calibration, but all we  
19 know is it is in calibration, and that is what we are  
20 most concerned about.

21 Q I have one last question concerning Section  
22 12, and that is this. Where are there requirements, if  
23 any, for the qualification of personnel involved in  
24 providing calibration services and testing?

25 [Panel of witnesses conferring.]



1           A       (WITNESS YOUNGLING) The requirements for the  
2       qualifications of the personnel performing activities in  
3       the plant staff dealing with measuring and test  
4       equipment are contained in the administrative procedures  
5       within the plant. In addition, those requirements or  
6       qualification standards are set forth in the FSAR in  
7       Chapter 13. We dictate in there our commitment to NRC  
8       as to the qualification levels of the personnel. Those  
9       are further detailed in the implementing procedures.

10          Q       Do you off-hand know what the administrative  
11       procedures are that set forth these requirements for  
12       calibration service in testing of personnel?

13                   [Panel of witnesses conferring.]

14          A       (WITNESS YOUNGLING) It is a 12-series  
15       procedure. I don't know the exact number.

16          Q       Do you mean SP-12 something?

17          A       (WITNESS YOUNGLING) Yes, sir.

18                   JUDGE BRENNER: I didn't hear you at the end,  
19       Mr. Youngling.

20                   WITNESS YOUNGLING: It is an SP procedure in  
21       the 12 series, but I don't know the other numbers.

22                   MR. DYNNER: Judge Brenner, that is going to  
23       conclude my questioning on this session. We can start  
24       somewhere else or break for lunch. It is your discretion.

25                   JUDGE BRENNER: We will break in a moment.

1 Let me note something in terms of the English language  
2 in this section so anybody reading the record can  
3 understand it. The word "standards" as used when  
4 talking about a calibration standard, depending upon the  
5 context, can and in this section often does mean a piece  
6 of equipment. For example, a calibration standard could  
7 be a ruler as opposed to a standard in the sense of  
8 criteria, and unless you know that, some of these  
9 sentences will read rather oddly to you, and some of the  
10 answers and questions have used the word "standard" in  
11 both senses, so you have to pay attention to the context.

12 For example, Mr. Youngling's next to the last  
13 answer used a standard in the sense of criteria. Am I  
14 right that the word "standard" in this written section  
15 is a piece of equipment, depending upon how it is used?

16 WITNESS YOUNGLING: Yes, sir.

17 JUDGE BRENNER: I know that thanks to Judge  
18 Morrison. Now I understand the wording of some of those  
19 sentences

20 Mr. Dynner, in order to give you the minimum  
21 full hearing day that we said you could have on these  
22 matters, which is broken up over one day, you are  
23 entitled to about 3-1/2 hours more hearing time. You  
24 are going to have to pick up the pace dramatically in  
25 order to get in what you hope to get in, and the answers

1 are going to have to be quicker, also. Just answer the  
2 question. Don't worry about what the next question  
3 might be. Does the section contain this, yes or no.  
4 And if you want to add that it may be someplace else,  
5 just say that. You don't have to give him the someplace  
6 else unless he then asks for it. So don't waste ten  
7 minutes looking for the someplace else unless he asks  
8 for it. You can indicate it may be someplace else. You  
9 can do that without a lot of research, usually.

10 You had better look at your cross plan over  
11 lunch, Mr. Dynner, and figure out how you can continue  
12 to give us the message that you want to give us without  
13 having to ask each and every question. You are  
14 alternating between the manual and procedures as you go  
15 through. I think it is a good idea to give us a flavor  
16 for each, but remember, I wanted you to and I assume you  
17 wanted to also pick up that last general reference on  
18 page 7, which includes three paragraphs.

19 MR. DYNNER: Yes, I will be skipping around a  
20 bit this afternoon, Judge Brenner, and I will notify you  
21 where I am before I begin questioning on the cross plan.

22 JUDGE BRENNER: Okay. You have got my  
23 message. Feel free to skip around and do so. I  
24 understand you drafted this in terms of some priority,  
25 but priorities can shift depending upon your answers,

1 the answers you receive.

2 Let's take a slightly shorter lunch in order  
3 to be able to work in 3-1/2 more hours of hearing time  
4 today. So we will take an hour and 15 minutes and break  
5 until -- well, let's make it 1:45.

6 [Whereupon, at 12:35 p.m. the hearing was  
7 recessed, to reconvene at 1:45 p.m. the same day.]

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## 1 AFTERNOON SESSION

2 [1:50 p.m.]

3 JUDGE BRENNER: I apologize. I had been  
4 working on another case for a change, so I apologize for  
5 being a few minutes late. Let's pick up the  
6 cross-examination.

7 I guess I should ask if there is still a  
8 dispute that we need to resolve on the other matter of  
9 the identification of documents to be used by LILCO in  
10 the cross-examination of the County.

11 MR. LANPHER: We haven't had any discussions.  
12 I was under the impression that they were going back to  
13 look at stuff, and that is why I came back, to see if  
14 there was going to be talk, and I don't know where Mr.  
15 Earley is.

16 MR. ELLIS: He is upstairs.

17 JUDGE BRENNER: Well, I don't want to hear  
18 about it again until you talk to each other. Let's pick  
19 up the cross-examination.

20 Whereupon,

21 EDWARD J. YOUNGLING,

22 ARTHUR R. MULLER and

23 JOSEPH M. KELLY,

24 the witnesses on the stand at the time of recess,  
25 resumed the stand and were examined and testified

1 further as follows:

2 CROSS EXAMINATION -- Resumed

3 BY MR. DYNNER:

4 Q I am going to move, Judge Brenner, to the  
5 bottom of page 7 of the cross plan, the last line, and I  
6 would ask you gentlemen to turn to Table 17.2.6-1 of the  
7 FSAR. That document is entitled "Quality-Related  
8 Document Control Responsibility," and in the bottom  
9 right-hand corner my copy has the indication "Revision  
10 25, February 1982." Is that the latest copy of this  
11 document?

12 A (WITNESS KELLY) Yes, it is.

13 Q And is the OQA program consistent with this  
14 document?

15 [Panel of witnesses conferring.]

16 A (WITNESS KELLY) It is essentially consistent.

17 Q And when you say "essentially consistent," do  
18 you mean that there are parts of it that are not  
19 consistent with the OQA program? Is that correct?

20 [Panel of witnesses conferring.]

21 A (WITNESS KELLY) The program meets as a  
22 minimum those statements in that table. There are cases  
23 where we exceed the table requirements.

24 Q Now, at the top of the table, immediately  
25 under the title, "Quality-Related Document Control

1 Responsibility," we see five headings or columns, and  
2 they are entitled, "Document," "Prepared," "Reviewed,"  
3 "Approved" and "Issued." Is that correct?

4 A (WITNESS KELLY) That is correct.

5 Q Now, would you turn for a moment to Appendix D  
6 of the Quality Assurance Manual. The document that I  
7 have indicates in the lower right-hand corner "Rev. 0"  
8 and the date is June 1, 1982. Is that the same as your  
9 copy?

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

11 Q And that Appendix D is entitled "LILCO  
12 Quality-Related Documents Control Responsibilities" and  
13 has five columns bearing the same headings as in Table  
14 17.2.6-1 of the FSAR, doesn't it?

15 A (WITNESS KELLY) Yes, it has the same headings.

16 Q Does this Appendix D cover the same  
17 substantive issues that are addressed by the table that  
18 we referred to in the FSAR: that is to say, the control  
19 responsibilities for quality-related documents?

20 [Panel of witnesses conferring.]

21 A (WITNESS KELLY) They do address  
22 quality-related documents, but it is not a one-for-one  
23 listing.

24 Q My question was whether both documents address  
25 the same issue: that is to say, the control

1 responsibilities for quality-related documents.

2 A (WITNESS KELLY) Yes.

3 Q Now, if we look at those two documents side by  
4 side, we see that there are a number of inconsistencies  
5 or variances, aren't there?

6 A (WITNESS KELLY) As I said before, the table  
7 specifies some minimums. The appendix goes beyond the  
8 requirements spelled out in the FSAR table.

9 Q What is the authority for the manual going  
10 beyond the quality-related document control  
11 responsibilities stated in the FSAR?

12 A (WITNESS KELLY) We can exceed any time the  
13 requirements in the FSAR.

14 Q And by exceeding you mean, don't you, changing  
15 something that is stated in the FSAR?

16 A (WITNESS KELLY) No, I would mean in case of,  
17 say, an item that specifies three, if the FSAR table  
18 indicates two persons or organizations, we might let, in  
19 addition to those two specified, three additional.

20 Q And you would do that without updating or  
21 changing the FSAR to reflect those commitments; is that  
22 correct?

23 [Panel of witnesses conferring.]

24 A (WITNESS KELLY) Could you repeat the  
25 question, please?



1 Q I said you would make those changes without  
2 updating or revising the FSAR; is that correct?

3 A (WITNESS KELLY) That is correct, as long as  
4 they did not change the intent of the FSAR and included  
5 those items as a minimum that were originally specified  
6 in the FSAR. And as I said, we are talking about  
7 additions to, not changes.

8 Q Well, could you also delete something that is  
9 required in the FSAR in terms of the requirements of the  
10 QA manual?

11 [Panel of witnesses conferring.]

12 A (WITNESS KELLY) I believe, if I understand  
13 your question correctly, if we had any intention to  
14 change from something that was specified in the FSAR, we  
15 would submit that change to the NRC.

16 Q Well, let me give you a concrete example. If  
17 you look at page 1 of the FSAR table, the column on the  
18 left describes the document at the bottom of the page,  
19 and at the bottom of the page it lists special test  
20 procedures, and under the column saying "Reviewed,"  
21 there is in the FSAR table reference to the Station OQA  
22 organization. Now, if you look at page 1 of Appendix D,  
23 under the same document, "Special Test Procedures,"  
24 there is no requirement under the "Reviewed" column for  
25 a review by the Station OQA organization, is there?

1 [Panel of witnesses conferring.]

2 A (WITNESS MULLER) Mr. Dynner, as I testified  
3 earlier, the OQA organization does not appear in that  
4 column under "Reviewed By." However, the OQAE is a  
5 member of the Review of Operations Committee, and the  
6 OQA Section is required to review this type of procedure  
7 as part of the normal administrative process.

8 Q Yes, Mr. Muller, but if you will look at both  
9 of those documents, you will see that they both call for  
10 a review by the Review of Operations Committee" but that  
11 the FSAR requires review by the Station OQA  
12 organization, a requirement that has been deleted from  
13 Appendix D, hasn't it?

14 A (WITNESS MULLER) The requirement has not been  
15 deleted from Appendix D; it is just not explicitly there  
16 under OQAE. The OQA Section does in fact review that  
17 type of procedure.

18 Q Now, is it your testimony, Mr. Muller, that  
19 when something is expressly contained in the FSAR and is  
20 not contained in the QA manual covering precisely the  
21 same substantive area, that its absence should be regard  
22 as implicitly there even though it is not there?

23 [Panel of witnesses conferring.]

24 A (WITNESS YOUNGLING) In this particular case  
25 the words are not identical. The statement that the

1 Review of Operations Committee reviews the special test  
2 procedures covers both the requirements in the FSAR that  
3 the Review of Operations Committee and the Station QQA  
4 organization review those procedures. The station  
5 procedure dealing with the charter of the FSAR, Station  
6 Procedure 12004.01, has in the list of members and  
7 alternates the operating quality assurance engineer  
8 listed as one of the dozen or so members of the Review  
9 of Operations Committee.

10 Q Well, you have testified already that you  
11 regard the Review of Operations Committee as in essence  
12 a quality assurance review because the QQA engineer is a  
13 member, but the FSAR doesn't seem to agree with you,  
14 does it, because it lists under the "Review" column the  
15 requirement that special test procedures be reviewed by  
16 both the Review of Operations Committee and the Station  
17 QQA Organization, doesn't it?

18 [Panel of witnesses conferring.]

19 A (WITNESS MULLER) Both Appendix D and Table  
20 17.2.6-1 of the FSAR note, "Review of Operations  
21 Committee responsible engineer." Appendix D does not  
22 specifically mention the QQA or the QQA Section;  
23 however, he is a member of the Review of Operations  
24 Committee and is included.

25 A (WITNESS KELLY) And the fact is that all the

1 procedures are reviewed as required in the FSAR.

2 Q Well, let me get this straight. Is it your  
3 testimony that the fact that the FSAR requires special  
4 test procedures expressly to be reviewed by the Station  
5 QQA Organization and that the QA manual in Appendix D  
6 contains no such requirement is not an inconsistency?  
7 Is that your testimony?

8 A (WITNESS MULLER) Yes, Mr. Dynner. And if, in  
9 fact, the QQA was not a member of the Review of  
10 Operations Committee, then there would be an  
11 inconsistency.

12 JUDGE CARPENTER: Mr. Dynner, if I may, could  
13 you help me just a little bit? What is the virtue of  
14 omitting explicit reference to the review by the  
15 Operating QA in Appendix D? I don't understand the  
16 virtue of this.

17 A (WITNESS MULLER) I think, Judge Carpenter,  
18 that the QA Department personnel are well aware that the  
19 QQA is a member of the Review of Operations Committee  
20 and that is why it was omitted. We are members. We have  
21 been members. Maybe it would have been clearer to the  
22 outside reviewer, but to people within LILCO  
23 organization, they are aware that I am a member of the  
24 ROC committee and I do, in fact, review the procedures.

25 JUDGE BRENNER: Well, was it a mistake that

1 doesn't matter or was it purposefully left out, in your  
2 view?

3 WITNESS KELLY: I believe it was purposefully  
4 left out, but I did not prepare Appendix D. That is my  
5 belief.

6 JUDGE CARPENTER: Do you know who did prepare  
7 Appendix D?

8 WITNESS KELLY: The specific individual in the  
9 QA Department? It was a member of the Quality Systems  
10 Division, which is the other division of the Quality  
11 Assurance Department.

12 A (WITNESS YOUNGLING) Judge Carpenter, also the  
13 manual would have received the review cycle and been  
14 reviewed by various members of the plant staff  
15 organization who participate in the Review of Operations  
16 Committee, and they would have seen it, and they felt it  
17 was adequately expressed as written here.

18 JUDGE CARPENTER: Well, I guess all of this  
19 leads to the bottom line, but there is no obvious virtue  
20 but there doesn't seem to be a strong detriment. Is  
21 that a fair summary?

22 A (WITNESS YOUNGLING) Yes, sir.

23 JUDGE CARPENTER: Thank you.

24 JUDGE BRENNER: Procedures, I take it -- well,  
25 let me ask. I don't know. Procedures have some

1 affirmative indication of which organization has  
2 reviewed them in spite of approval process? We are  
3 talking about the station procedures here.

4 [Panel of witnesses conferring.]

5 WITNESS YOUNGLING: Yes, Judge Brenner, the  
6 particular SP has a sign-off block by the submitted  
7 party, which is usually the responsible section head, it  
8 has the approval of the plant manager, and in addition  
9 it has the approval signature of the QA engineer if it  
10 is appropriate.

11 WITNESS MULLER: That is a review signature,  
12 but approval for the OQAE.

13 JUDGE BRENNER: Is that a form block that  
14 appears on every station procedure?

15 WITNESS YOUNGLING: Yes, sir, up in the corner.

16 JUDGE BRENNER: So notwithstanding the absence  
17 from this table, each individual procedure has that form  
18 block, and if it is not filled in, it is immediately  
19 apparent that there is the absence of the signature of  
20 the OQA Department; is that right?

21 A (WITNESS YOUNGLING) For the procedure to be  
22 considered in effect, all three signatures have to be in  
23 place.

24 JUDGE BRENNER: How about the Review of  
25 Operations Committee? Is there a block for their

1 approval?

2 A (WITNESS YOUNGLING) No, there is not. That  
3 is documented through the minutes of meeting of the  
4 Review of Operations Committee where they approve the  
5 procedure and all of the changes to the procedure.

6 JUDGE BRENNER: Would the Review of Operations  
7 Committee take up its consideration of station procedure  
8 if it has not completed the full cycle, including the  
9 OQA review block filled in on the individual procedure?

10 WITNESS MULLER: Those signatures are placed  
11 after approval by the ROC Committee. The plant manager  
12 is the chairman of the ROC Committee, and the reason why  
13 it is done this way is that OQA has a chance to review  
14 the procedure after it has been approved by ROC.

15 JUDGE BRENNER: Do you review it before also?

16 WITNESS MULLER: Yes, we also review it  
17 before. There have been a number of -- well, at least  
18 one case where some page numbers were missing and that  
19 type of thing, and we just review it one last time  
20 before it goes out on the street.

21 JUDGE BRENNER: So OQA has performed its  
22 review, in substance, before the ROC considers it, but  
23 does not finally sign off until after in order to double  
24 check all matters at the end of the cycle? Is that an  
25 accurate description?

1           WITNESS MULLER: That is correct. We review  
2 the procedures before the ROC meeting. We are members  
3 of the ROC Committee and we do review the procedures  
4 after they are approved by the ROC Committee.

5           JUDGE BRENNER: And on that last review, that  
6 is when you or your designee would sign it? Do you have  
7 to sign it yourself for OQA?

8           WITNESS MULLER: It could be by my designee.  
9 Otherwise there would be a stack of them sitting on my  
10 desk right now.

11          JUDGE BRENNER: And that is when it is signed  
12 for the OQA organization, in that last cycle?

13          WITNESS MULLER: The procedure itself, yes.

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

15          BY MR. DYNNER: (Resuming)

16          Q       But while that may be a description of what  
17 you have been doing, in fact there is no requirement  
18 that the OQA Section review those procedures, is there?

19          A       (WITNESS MULLER) Yes, there is, Mr. Dynner,  
20 and that appears in the administrative procedure for the  
21 review initiation and preparation of station  
22 procedures. That is an SP 12006.01.

23          Q       But it doesn't appear in Appendix D of the QA  
24 manual which purports to show what the control  
25 responsibilities are, does it?



1           A       (WITNESS MULLER) It is not specifically  
2 listed in Appendix D, no.

3           Q       And if it is not required by the QA manual and  
4 it is not required by the FSAR, then the procedure can  
5 either contain a review or not contain such a review; is  
6 that correct?

7           A       (WITNESS KELLY) It is required by the FSAR  
8 and it is required by Appendix D.

9           Q       Well, let's take a look at the FSAR table  
10 again because as I read it, I don't see any reference  
11 whatsoever to station procedures in the FSAR table while  
12 I do see a reference to station procedures in Appendix  
13 D. Do you agree with me?

14                   [Panel of witnesses conferring.]

15           A       (WITNESS MULLER) Mr. Dynner, specifically in  
16 the FSAR there are no specific words that say "station  
17 procedures." However, there are examples, which include  
18 procurement documents, special test procedures, test and  
19 calibration procedures, maintenance repair procedures,  
20 one again, special process procedures, in which you will  
21 note that they are being prepared by the plant staff.

22           Q       But that doesn't cover all station procedures,  
23 does it, because if it did, there would be no reason to  
24 have a reference to station procedures in Appendix D,  
25 which also contains the reference to procurement

1 documents and the other documents that you mentioned,  
2 doesn't it?

3 [Panel of witnesses conferring.]

4 A (WITNESS MULLER) Mr. Dynner, you are  
5 correct. The FSAR table does list those. However, in  
6 the QA manual we realize that we may not have covered  
7 all of the possibilities in the FSAR as far as in the  
8 general description, so we added specifically these  
9 station procedures, but the intent of the FSAR was to  
10 list those, and that is what I get out of the FSAR  
11 table, that they were required and they are required to  
12 be reviewed.

13 Q But the fact is there is nothing in the FSAR  
14 table that requires station procedures to be reviewed by  
15 the Review of Operations Committee, the Station OQA  
16 Organization or anybody else; isn't that correct?

17 MR. ELLIS: I object to the question because I  
18 think it has been asked and answered.

19 [Panel of witnesses conferring.]

20 JUDGE BRENNER: That objection is sustained.

21 BY MR. DYNNER: (Resuming)

22 Q Is there any requirement in the FSAR for  
23 control responsibilities as to other offsite procedures  
24 and instructions as identified in Appendix D of the QA  
25 manual?

1 [Panel of witnesses conferring.]

2 A (WITNESS KELLY) Those words are specifically  
3 not in Table 17.2.6-1, but in the FSAR itself on page  
4 17.2-12, it says in general the Station OQA Organization  
5 would perform the review functions for station-generated  
6 procedures, specification changes, et cetera, and the QA  
7 Department would perform the review when such documents  
8 were generated offsite. Either of the QA groups would  
9 have the capability of performing this function for the  
10 other if necessary. So we believe the FSAR does in fact  
11 cover this.

12 Q Well, does this table, then, just contain some  
13 of the document control responsibilities but not all of  
14 them? Is that your testimony?

15 [Panel of witnesses conferring.]

16 A (WITNESS KELLY) The table has to be taken  
17 with the FSAR text material itself, specifically Section  
18 17.2.

19 Q And in Section 17.2.5 of the FSAR, it states  
20 in the last sentence at the bottom of page 17.2-11, the  
21 LILCO QA Department or the Station OQA Organization  
22 performs review of the safety-related test, calibration,  
23 special process, maintenance, modification and repair  
24 procedures, the in-service inspection program, drawing  
25 specifications and changes thereto with respect to

1 requirements as indicated in Section 17.2.6 and  
2 delineated in Table 17.2.6-1. So that if a requirement  
3 was not delineated in this table, there would be a  
4 defect in the FSAR; isn't that correct?

5 A (WITNESS KELLY) No, that is not correct, and  
6 if you go to the top of page 12 of that section, is  
7 where the words that I have just recently read from the  
8 FSAR.

9 Q And that statement appears in the OQA Manual  
10 -- or in the QA Manual, excuse me. Strike that.

11 That statement appears in the QA Procedure for  
12 Station 5.4, doesn't it?

13 A (WITNESS KELLY) What is the document you are  
14 referencing, again? Is it procedure or manual section?

15 Q Let me see if I can get it for you. I think I  
16 gave you the wrong reference. The statement I am  
17 referring to is in Section 5 of the QA Manual, in  
18 Section 5.3.4, which says, in general, the OQA Section  
19 review station generator procedures, et cetera; and I  
20 was suggesting that that is similar to the statement at  
21 the top of page 17.2-12 of the FSAR. Do you see that?

22 A (WITNESS KELLY) Yes, that is correct. And it  
23 also addresses the QA Department's reviews for those  
24 generated offsite.

25 Q And just for the record again, Appendix D to

1 the QA Manual, when it refers to station procedures,  
2 does not list the QQA Organization or the QQA engineer  
3 even though both the FSAR and Section 5 of the QA Manual  
4 in the quoted passages do require that in general the  
5 QQA Organization will review station procedures. Isn't  
6 that correct?

7 A (WITNESS KELLY) I think we have gone through  
8 that several times. The QQAE is a member of ROC. As  
9 you said, the FSAR requires it; as you stated, the QA  
10 Manual in Section 5 requires it; and in fact it is  
11 done. And it is also established inasfar as station  
12 procedures go in the appropriate station procedure that  
13 requires the operational quality assurance section  
14 review.

15 JUDGE BRENNER: Mr. Dynner, no one objected,  
16 but I quite agree with the witness. We have been  
17 through that, as you noted in the question, "for the  
18 record." You have got to pick up the pace, and if you  
19 ask a question that is going to require the witness to  
20 then come back and summarize, you are not helping your  
21 own pace. I can see once in a while why you would want  
22 to pull a few things together in the end, but that one  
23 had been pulled together quite well by your previous  
24 questions, I think.

25

1 BY MR. DYNNER: (Resuming)

2 Q Let me, in order to speed things up, point to  
3 a number of the areas, as I read the FSAR Table 17.2.6-1  
4 and Appendix D of the QA manual, where there appear to  
5 be discrepancies. And I would like you to either,  
6 perhaps as I state each one, either agree with me or  
7 disagree with me as to whether there is a difference in  
8 these two documents.

9 The review requirement for the QA manual on  
10 the first line does not require an FSAR review by the  
11 DQA engineer, but there is such a requirement in  
12 Appendix D; is that correct?

13 A (WITNESS KELLY) Yes, that is correct. And  
14 that is an example, as I stated before, where Appendix D  
15 has something in addition. In reality, nothing is  
16 changed because the copy that went to the plant manager,  
17 in addition to being reviewed by the plant manager, was  
18 also sent to the operational QA section and they also  
19 reviewed it, because I know we got the comments from  
20 them.

21 Q Thank you. And the same is true of the review  
22 requirements for the QA department procedures and  
23 instructions; is that correct?

24 A (WITNESS KELLY) My previous answer verbatim  
25 to this one.

1 Q And on page 2 of the FSAR table, can I ask  
2 you, before I proceed with these questions on the  
3 differences, if you would help me out as to how one  
4 would read the document here under "special process  
5 procedures" as to who prepares it, reviews it, approves  
6 it and issues it on the FSAR table?

7 A (WITNESS KELLY) I don't understand. Do you  
8 mean you don't have a legible copy, is that what you  
9 mean?

10 Q No, my copy is legible. But "special process  
11 procedures" appears immediately under "maintenance and  
12 repair procedures," and it is not clear, as you move  
13 over to the columns to the right, which columns on the  
14 right-hand side cover special process procedures.

15 JUDGE BRENNER: Does the first item in each of  
16 those columns apply to special process procedures?

17 WITNESS KELLY: Okay, just bear with me. I  
18 believe we're on page 2, where it says, "The test and  
19 count procedures, maintenance and repair procedures,  
20 special process procedures."

21 JUDGE BRENNER: Yes.

22 WITNESS KELLY: That is one grouping.

23 JUDGE BRENNER: Okay. As to the reviewed  
24 column, where is the separation between the items that  
25 belong to that first grouping and the items that belong

1 to the in-service inspection program grouping? Is  
2 "responsible plant chief engineer" the first item for  
3 in-service inspection program under the reviewed  
4 column?

5 WITNESS KELLY: Yes, the grouping would be for  
6 those prepared, under the prepared column for operating  
7 plant staff, all of those items are the review, starting  
8 with the responsible plant chief engineer running down  
9 to the third one, station OQA organization. That would  
10 go -- that review cycle would be for those prepared by  
11 the operating plant staff, for that total category of  
12 documents. For those prepared by responsible offsite  
13 staff, the review would be manager, responsible offsite  
14 organization, and QA department.

15 JUDGE BRENNER: Okay. I don't think I got the  
16 answer any quicker than you have, but I think we now  
17 have the answer.

18 BY MR. DYNNER: (Resuming)

19 Q I would just like a clarification, if I may,  
20 Mr. Kelly. So that the three kinds of documents listed  
21 there, the test and calibration procedures, the  
22 maintenance and repair procedures, and the special  
23 process procedures, are all prepared either by the  
24 operating plant staff or by the responsible offsite  
25 staff; is that correct?



1 (Panel of witnesses conferring.)

2 A (WITNESS KELLY) Yes, sir, or under their  
3 cognizance.

4 Q Okay. And if you look at Appendix D then,  
5 just for further clarification, it is intended again  
6 that those three groupings at the top of page 2 are  
7 prepared either by the plant staff or the responsible  
8 offsite staff, and it is not intended that special  
9 process procedures only will be prepared by the  
10 responsible offsite staff only; is that correct?

11 A (WITNESS KELLY) That is correct.

12 Q Thank you.

13 Now, moving on to the on-service inspection  
14 program, the FSAR in the "prepared" column refers to  
15 "responsible engineering organization and/or operating  
16 plant staff." The Appendix D'column on "prepared"  
17 refers to "ISI agent, nuclear engineering department,  
18 and plant staff"; isn't that correct?

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

20 Q Another distinction --

21 JUDGE BRENNER: Well, wait. Are you going to  
22 ask if that is a difference?

23 MR. DYNNER: Well, I can. I thought that is  
24 what he was saying, is that there is that difference.

25 JUDGE BRENNER: No, he said the words were

1 different.

2 BY MR. DYNNER: (Resuming)

3 Q Are those the same organizations?

4 A (WITNESS YOUNGLING) Yes, sir, as defined in  
5 the NDCS policy, nuclear engineering is the responsible  
6 engineering section for the in-service inspection  
7 program development.

8 Q And what about the ISI agent? Why isn't that  
9 listed in the FSAR?

10 A (WITNESS YOUNGLING) Because the ISI agent  
11 could write the program for us as an implementation  
12 organization working for the nuclear engineering  
13 department.

14 JUDGE BRENNER: That is consistent with the  
15 testimony you gave last time when we discussed the ISI  
16 procedure, right?

17 WITNESS YOUNGLING: Yes.

18 JUDGE BRENNER: Mr. Dynner, I guess I knew  
19 those were the same organizations and I picked it up  
20 either from your cross-examination or looking at the  
21 documents. So I hope these questions are based upon  
22 your experts having serious concerns, as opposed to just  
23 questioning differences in language.

24 You are nodding. I hope you're agreeing.

25 MR. DYNNER: I am indicating to you that it is

1 -- that there is an area here where we may not have  
2 known whether -- since the words that are used are  
3 different on FSAR and on the Appendix D, I thought it  
4 was fair, and I'm not trying to explore an area I  
5 already know. If I knew it was the same I wouldn't ask  
6 the question.

7 JUDGE BRENNER: I appreciate the fact that you  
8 personally didn't know, and sometimes even if you  
9 personally did know you need to get something on the  
10 record in some circumstances. But this is the world's  
11 worst forum for learning about things. I have said that  
12 before. I can't think of a worse forum.

13 This is a place to thrash out real differences  
14 and not to learn about things, and I hope you use your  
15 time to thrash out real differences.

16 BY MR. DYNNER: (Resuming)

17 Q If in fact your Appendix D contains additional  
18 control responsibilities for quality-related documents  
19 and if in fact some of the items in Appendix D are  
20 additions to the FSAR table we have been referring to,  
21 then it is true, isn't it, that the FSAR table would not  
22 describe the established control for preparation review,  
23 approval and distribution of LILCC-generated documents,  
24 isn't it?

25 (Panel of witnesses conferring.)

1           A       (WITNESS KELLY) We feel that that FSAR table  
2 adequately describes those quality-related documents  
3 responsibilities. As we pointed out, the FSAR text  
4 material further expands on that. As we went through an  
5 example, the Appendix D to the QA manual simply provides  
6 additional clarification. It is nothing new.

7                   I think a perfect example of that was the area  
8 of in-service inspection, where we broke out the ISI  
9 agent. As we indicated in our previous testimony, that  
10 in no way changes anything on the table.

11           Q       Thank you.

12                   MR. DYNNER: We are going to move on, Judge  
13 Brenner, to Roman numeral III on page 3 of the cross  
14 plan.

15                   Gentlemen, could you please turn to QAPS 2.1,  
16 entitled "Station Operational Quality Assurance, OQA  
17 Indoctrination and Training."

18                   JUDGE BRENNER: Okay, I see what happened.  
19 You have two Roman III's on page 3. I'm with you now.  
20 Is that one of the QAPS' in the LILCO attachment,  
21 because it is not one of the ones in the exhibit.

22                   MR. DYNNER: Yes, it is. It's in attachment  
23 46, I believe, or one of the 40's.

24                   JUDGE BRENNER: It is attachment 45 and it is  
25 within their -- it is attached to their testimony.

1 BY MR. DYNNER: (Resuming)

2 Q The copy that I have is from QAPS 2.1, is  
3 Revision 2, with an effective date of 4-16-81. Is that  
4 the copy that you have before you?

5 A (WITNESS MULLER) Yes, sir.

6 Q And is that the latest effective copy of this  
7 procedure?

8 A (WITNESS MULLER) Yes, it is.

9 Q Paragraph 4.1 on page 1 refers to the QA  
10 manual, but it does not specify the section or sections  
11 relevant to that statement, does it?

12 A (WITNESS MULLER) The QA manual sections are  
13 not specifically noted in the procedure. However, it is  
14 section 2.

15 A (WITNESS YOUNGLING) Mr. Dynner, in addition,  
16 nuclear operations corporate policy, NOCS Policy No. 11,  
17 defines the responsibilities for corporate quality  
18 assurance indoctrination and training.

19 Q Now, this procedure purports to set forth the  
20 requirements for quality assurance indoctrination and  
21 training of plant personnel, including plant management  
22 personnel, operating personnel, and CQA personnel,  
23 doesn't it?

24 A (WITNESS MULLER) Yes.

25 Q If we turn to paragraph 4.2.1, the procedure

1 refers to respective managers being responsible for  
2 establishing and maintaining personnel certification and  
3 qualification programs. But it does not identify who  
4 the respective managers are, does it?

5 A (WITNESS MULLER) Specifically, the managers  
6 are not identified. However, any LILCO organization  
7 involved in quality would have a management or a manager  
8 that would be responsible for the training program for  
9 his personnel.

10 Q Is each -- excuse me. Does each of the  
11 managers of each LILCO organization have its own  
12 training program?

13 A (WITNESS MULLER) They have training  
14 requirements. They could have their own program or they  
15 could subscribe to the training program given by one of  
16 the QA organizations.

17 Q Is the determination of whether they're  
18 responsible for their own certification and  
19 qualification program or use someone else's determined  
20 at the discretion of each particular manager of a LILCO  
21 department or section?

22 (Panel of witnesses conferring.)

23 A (WITNESS KELLY) If you would bear with me,  
24 could you repeat the question?

25 MR. DYNNER: Could you read it back?

1           (The reporter read the record as requested.)  
2           WITNESS KELLY: That is not in all cases  
3 subject to the determination of that individual manager  
4 or organization. For example, nondestructive  
5 examination, the qualification and certification is done  
6 by the field quality assurance division corporately.  
7 Likewise as far as welder certification, as in  
8 accordance with our corporate welding manual, in that  
9 testing and certification is administered by our  
10 production training center where the training and  
11 testing of those personnel is accomplished.

12           And that is delineated in both station  
13 procedures and quality assurances.

14           WITNESS YOUNGLING: I would like to add that,  
15 as far as the respective managers within the plant  
16 staff, they do have in place procedures to qualify their  
17 personnel, for instance technicians in the I&C area or  
18 the health physics area or the chemistry area, to  
19 qualify those people in accordance with a program that  
20 they, the responsible section head or responsible  
21 manager, develops and puts in place.

22           BY MR. DYNNER: (Resuming)

23           Q     Does each one of these managers determine at  
24 his own discretion whether formal training is  
25 appropriate or not?

1 (Panel of witnesses conferring.)

2 A (WITNESS MULLER) The responsible manager  
3 would consider formal training and he would consider on  
4 the job training and he would choose the type of  
5 training that is adequate for his people.

6 Q And there is no higher authority that reviews  
7 this, that determines whether the particular manager  
8 would exercise his discretion properly in deciding what  
9 kind of training to give his people; is that correct?

10 A (WITNESS YOUNGLING) Yes, the training is  
11 described in the commitments in the FSAR. Chapter 13  
12 does describe the technical training given to  
13 technicians, operators, maintenance mechanics, fire  
14 brigade people and so forth.

15 Q But this paragraph indicates that formal  
16 training may be optional, doesn't it?

17 A (WITNESS YOUNGLING) Formal training forms a  
18 part of the commitment. If there is no formal training  
19 available, a substitution can be made, yes, and that is  
20 evaluated and put in place. On the job training is also  
21 an essential part of the training program.

22 Q And my question was, Mr. Youngling, that where  
23 that discretion is exercised by a particular manager, is  
24 there any review process by anyone in LILCO of all of  
25 these various managers making all of these different



1 determinations to see whether each manager exercised  
2 proper discretion or not?

3 (Panel of witnesses conferring.)

4 A (WITNESS KELLY) The way his discretion would  
5 be assessed would be through the audit programs, the  
6 surveillance programs and inspection programs performed  
7 by both the quality assurance department and the station  
8 OQA section.

9 Q And is there any other procedure of the OQA  
10 section, for example, which would set forth the  
11 standards or criteria by which that discretion could be  
12 judged?

13 (Panel of witnesses conferring.)

14 A (WITNESS MULLER) Mr. Dynner, in the review of  
15 a procedure that each procedure would have for training  
16 we would review, "we" meaning OQA, would review the  
17 procedure to assure that it met the commitment set forth  
18 in the FSAR or the station procedures and the QA  
19 manual.

20 Q Now, paragraph 4.2.2 states that the plant  
21 manager is responsible for the overall training program  
22 for all plant personnel. But there is no provision in  
23 this procedure of what the plant manager is supposed to  
24 do, is there?

25 A (WITNESS MULLER) There are no specific words

1 in this procedure that tell the plant manager what to  
2 do. However, he delegates that responsibility to the  
3 section heads and the OQA engineer and they in turn  
4 provide implementing procedures.

5 A (WITNESS YOUNGLING) There is in place on the  
6 plant staff operating procedures a series of 12 to 14  
7 procedures dealing with the training of operators, the  
8 general employee training and so forth. In addition,  
9 within each of the technical sections, maintenance and  
10 I&E and health physics, there are qualification and  
11 training procedures describing the programs that they go  
12 through.

13 The plant manager is responsible for the  
14 training and that is delegated to each of the  
15 responsible section heads or the training coordinator to  
16 carry out the requirements as stated forth in the  
17 procedures and as committed to in the FSAR and approved  
18 by NRC.

19 Q And there are no cross-references in this  
20 procedure to any of those many SP's that you referred  
21 to, are there?

22 A (WITNESS YOUNGLING) No, and they don't have  
23 to be here.

24 Q Does the plant manager have any responsibility  
25 for the overall training program for plant personnel

1 which he does not delegate?

2 (Pause.)

3 Q You are looking puzzled. In other words, does  
4 he delegate all of his responsibility in this area?

5 A (WITNESS YOUNGLING) I would say that he  
6 delegates it all, yes, because he does not do the  
7 training. He does not arrange for the training  
8 programs. However, he does approve the procedures that  
9 describe the training. That aspect he doesn't delegate  
10 to anyone. He approves those.

11 Q In paragraph 4.2.4 there is no identification  
12 of the "applicable station organizations," is there?

13 A (WITNESS MULLER) There are no specific  
14 references to other station organizations in this  
15 paragraph. However, people in OQA, especially the OQA  
16 engineer, are aware of the station organization.

17 A (WITNESS YOUNGLING) And in fact the plant  
18 staff does have on it a training supervisor who is  
19 responsible for the plant staff training, and he is the  
20 primary liaison with the OQA organization when it comes  
21 time for them to perform these audits.

22 Q Well, what puzzles me a little bit, Mr.  
23 Youngling, is when I asked you about cross-references to  
24 all of these various training procedures that you  
25 identified as existing and you said they were

1 unnecessary. And then we look at paragraph 4.2.4, which  
2 refers to station OQA's responsibility for auditing  
3 other applicable station organizations in accordance  
4 with QAPS 18.1 to verify compliance with their  
5 established training requirements.

6 And then we look back for a moment to QAPS  
7 18.1. There still is no cross-reference at all to any  
8 of the SP's on training that you are referring to, are  
9 there?

10 A (WITNESS YOUNGLING) No. And as I testified,  
11 there don't have to be. There isn't a person in that  
12 power station that doesn't receive some level of  
13 training. There isn't an organization in that power  
14 station that doesn't have a requirement for some level  
15 of training program to be in place.

16 All he has to do is go to every section, and  
17 there has got to be something in place. It is not a  
18 very difficult task at all.

19 Q And your OQA people don't need any  
20 cross-references to any of these hundreds of procedures  
21 in order to verify compliance with all of these hundreds  
22 of training programs, is that your testimony?

23 A (WITNESS YOUNGLING) Absolutely not. They do  
24 not need the cross-reference.

25 Q Is that because they receive such excellent

1 training themselves?

2 A (WITNESS MULLER) Mr. Dynner, I agree with Mr.  
3 Youngling, and the reason why they don't have to have  
4 all of those procedures specified in the QAPS is because  
5 they are indexed. They know how to get the information  
6 when they need it and, yes, they are trained well. But  
7 they are trained well in a lot of areas, including how  
8 to reference procedures, how to read procedures.

9 Q Now, if we look at paragraph 5.1 under the  
10 requirements section, it states that, "Requirements may  
11 be satisfied through the utilization of programs offered  
12 by outside agencies, programs developed by internal  
13 LILCO organizations, and/or on the job training, unless  
14 another specific method satisfies specified  
15 requirements."

16 When you read those words it means, doesn't  
17 it, that the requirements may be satisfied by the use  
18 only of on the job training, does it?

19 A (WITNESS MULLER) No, Mr. Dynner, that is not  
20 correct. On the job training in my definition could  
21 include formal training courses.

22 Q Well, my suggestion to you was that if you  
23 look at those words, it uses the conjunctive "and/or,"  
24 and if you can use any three of those methods and one of  
25 them is on the job training that you might just use that

1 single one; isn't that correct?

2 A (WITNESS YOUNGLING) Absolutely. We may make  
3 a conscious decision that that is the only mechanism to  
4 achieve that level of training that we are looking for,  
5 yes.

6 Q And when we get down to paragraph 5.1.1, that  
7 doesn't contain any requirements, does it? It is just a  
8 suggestion, isn't it?

9 A (WITNESS MULLER) That is correct, it is a  
10 suggestion that the OQAE remain alert to outside  
11 training courses. And the reason why it is in here is  
12 because it highlights one of the responsibilities of the  
13 OQAE.

14 Q Well, it is not a responsibility in the sense  
15 of a requirement. It is just a responsibility in the  
16 sense of a recommendation that he may or may not adopt,  
17 isn't it?

18 A (WITNESS YOUNGLING) That is a true  
19 statement. The technical people are responsible to  
20 define the programs, the training programs, for their  
21 particular area of expertise, and they would take  
22 recommendations from the OQA, as mentioned here.  
23 However, the technical judgment remains with the  
24 technical people.

25 Q And if we turn to paragraph 5.1.2, which deals

1 with on the job training, that is strictly optional  
2 also, isn't it?

3 A (WITNESS MULLER) It is optional as far as a  
4 "may" requirement, but if on the job training is in fact  
5 required to achieve the goal it would be used.

6 Q Did you say if it were required to achieve the  
7 goal?

8 A (WITNESS MULLER) Yes.

9 Q And that judgment would be made by some  
10 individual, not by anything in these procedures, isn't  
11 that correct?

12 A (WITNESS MULLER) It would be made by the  
13 individual in order to meet the intent of the  
14 procedures. The requirement is that we have qualified  
15 people. If we have to perform on the job training to  
16 qualify the people, that is what we will use.

17 A (WITNESS YOUNGLING) Again, within the plant  
18 staff training programs there are procedures for  
19 qualification and certification of people and training  
20 of people, that deal not only with them going through  
21 formal training but also exercising that formal training  
22 through on the job training. And there are sign-offs  
23 that say that they can do the functions, that carry them  
24 over from the formal training to practical application.

25 Q And there are no standards or criteria in this

1 procedure which would permit the QQA section or any  
2 other responsible person dealing with this matter to  
3 determine whether on the job training were practical or  
4 not, is there?

5 A (WITNESS MULLER) The procedure does not  
6 specifically reference the criteria. However, to use as  
7 an example where, in the construction phase, certain  
8 activities are going on that will continue to go on  
9 during operations, one of them is the installation of  
10 fire stops and seals, it is my plan to send a number of  
11 people to a formal training program to qualify them to  
12 inspect the installation of the fire stops and seals.

13 At my discretion, I may train other people at  
14 the plant using on the job training, using the qualified  
15 inspection personnel to take them through the on the job  
16 training program, which would involve the actual  
17 inspection of work going on in the field with a  
18 qualified individual right next to them. That would be  
19 a criteria that I would use.

20 A (WITNESS YOUNGLING) As far as the plant staff  
21 is concerned, in the area of operator training there is  
22 more guidance than -- well, there is much guidance  
23 relative to operator training certainly, in light of the  
24 post-TMI environment, even before TMI. In addition,  
25 there are industry standards for qualification of



1 measuring and test personnel and in-service inspection  
2 personnel.

3           There are numerous standards in place that we  
4 use that we commit to as far as the training of our  
5 people in the plant staff.

6           Q       In the statement in paragraph 5.1.2 in the  
7 last sentence, there is just a recommendation, isn't  
8 it?

9           A       (WITNESS MULLER) It is a "should"  
10 requirement. It is not a "shall" requirement. Once  
11 again, at the discretion of the OQAE, he will determine  
12 what method to use to achieve the maximum benefit.

13          Q       You agree that a "should" requirement means  
14 that it is a recommendation, isn't that correct?

15          A       (WITNESS MULLER) I would think it would only  
16 be a recommendation if it applies. It may also be a  
17 good management practice.

18          Q       Well, I don't quite understand when you say,  
19 may be a recommendation if it applies. You have  
20 testified that you now have committed to ANSI N18.7-1976  
21 and you are aware, aren't you, that the definitional  
22 section there certainly says that the word "should"  
23 connotes a recommendation? You are aware of that,  
24 aren't you?

25          A       (WITNESS MULLER) It is a recommendation as

1 far as that is concerned.

2 Q Thank you.

3 Now, in paragraph 5.2 of this procedure there  
4 aren't any standards or criteria in this procedure for  
5 determining how previous experience may be relevant,  
6 either generally or in any particular area, is there?

7 A (WITNESS MULLER) There is no specific  
8 criteria spelled out. However, once again, at the  
9 discretion of the OQAE, who is responsible for reviewing  
10 each individual's resumes, prior training records, test  
11 results wherever they were given, he would then decide  
12 the appropriate training to take.

13 For instance, if someone from the quality  
14 assurance department transferred to the OQA section, I  
15 would take a look at his previous records and determine  
16 from that the appropriate indoctrination that this  
17 individual would need. I would see in his past  
18 experience that he is and was familiar with 10 CFR 50,  
19 Appendix B, and many of the reg guides that we have  
20 committed to, and from that I would come up with an  
21 adequate training program or indoctrination program for  
22 that individual.

23 But once again, it would depend upon the  
24 individual and his previous experience.

25 Q And what you did as the OQA engineer would

1 also depend upon you as an individual in your exercise  
2 of discretion, because in fact so far under this  
3 paragraph 5 entitled "Requirements" we have seen nothing  
4 that is a requirement except that QA indoctrination and  
5 training requirements take into account previous  
6 experience; isn't that correct?

7 MR. ELLIS: I object to the question. It is  
8 asked and answered insofar as it talks about what he was  
9 previously asked about, and it is summary.

10 JUDGE BRENNER: Yes, it is somewhat summary,  
11 but it wasn't asked and answered. And he is just trying  
12 to pull this together, and the difference between this  
13 and the other one that I sustained was that it was in  
14 effect asked about just before the summary.

15 I will allow the question.

16 MR. ELLIS: Yes, sir. May I ask the Board's  
17 indulgence to have it read back?

18 JUDGE BRENNER: Well, the question in effect  
19 is, isn't it correct that the requirements section,  
20 Section 5, contains no requirements other than the fact  
21 -- and this is a paraphrase -- that QA training take  
22 into account the previous experience and training of the  
23 personnel?

24 MR. DYNNER: Insofar as we have together  
25 reviewed Section 5 today.

1           WITNESS KELLY: Section 5 is a lot longer than  
2 what we have just discussed.

3           JUDGE BRENNER: Well, I may have messed up Mr.  
4 Dynner's question. He added the addition at the end.

5           WITNESS KELLY: Mr. Dynner is focusing on a  
6 couple of subparagraphs in Section 5 on requirements  
7 that go specifically into 5.3, management personnel,  
8 plant operating personnel, and section operating  
9 personnel.

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1 JUDGE BRENNER: His question is as to what  
2 he's asked about so far, and I left that out of my  
3 paraphrase.

4 WITNESS MULLER: Mr. Dynner, that is the only  
5 "should" up to that point, and the reason why the  
6 "shoulds" appear is because the DQAE does have the  
7 discretion of after reviewing the individual's training  
8 record, of developing and indoctrination and training  
9 plan for that individual.

10 WITNESS KELLY: I have to add to that.  
11 Flexibility is necessary based upon the experience and  
12 the judgment of the station DQA engineer. I think a  
13 perfect example that Mr. Muller gave was a member of the  
14 QA department transferring in to the station CQA  
15 section. This would be an example where it would not be  
16 necessary based upon the QA department training for the  
17 man to have additional training in the requirements of  
18 LILCO's QA Manual.

19 This would be significantly different than  
20 that if you hired a person off the street from an  
21 architect-engineer firm who had worked ten years in a  
22 quality organization. He would not in any way be  
23 familiar with the requirements of LILCO's QA Manual and  
24 have to have that training. And so we have to have that  
25 type of flexibility to adjust to the individual

1 circumstances.

2 MR. DYNNER: Judge Brenner, is it convenient  
3 to break now?

4 JUDGE BRENNER: Yes, if you would like to at  
5 this point.

6 All right. We will come back at 3:35.

7 (Recess.)

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

2 The Board has already discussed these matters,  
3 so I can just go ahead and apprise the parties, and we  
4 will pick up with the cross after.

5 First of all, in terms of timing, we owe you  
6 another two hours to hit the minimum, Mr. Dynner; and  
7 you won't get that two hours in today in terms of your  
8 actual hearing time, not counting breaks or anything  
9 else. So you will be able to get in about another hour  
10 and fifteen minutes today and then finish up, unless we  
11 decide differently, in the first 45 minutes tomorrow.  
12 But your assumption should be that you will have to  
13 finish by then unless and until we tell you differently.

14 On Torrey Pines, the report has been available  
15 since very early November. I forget the exact date, but  
16 it is November 3rd, give or take a day. Originally we  
17 were going to require depositions without testimony and  
18 then have portions of the depositions filed with us  
19 along with whatever further testimony parties wanted to  
20 prepare. However, the advantage of that was to be able  
21 to do it during Thanksgiving week, and that in fact was  
22 one of the reasons that we were not in hearing that week  
23 other than the procedural session on Monday. That  
24 wasn't the only reason, but it was one of the important  
25 reasons.

1           The County tells us its witness will not be  
2 ready. In light of that it seems fruitless to require a  
3 deposition of the County's witness, and we are not going  
4 to spin our wheels on that matter. Therefore, our  
5 alternate order, which we will propose to confirm  
6 tomorrow morning -- we are going to give the parties an  
7 opportunity to come back and tell us how we should  
8 modify that in light of our goals, so we will entertain  
9 further discussion tomorrow morning.

10           But as of now our proposed order is that  
11 testimony will be filed by all parties who wish to file  
12 testimony on December 7th as received by us, and all  
13 parties on Tuesday, December 7th. LILCO is required to  
14 file testimony. We deem Torrey Pines, the Torrey Pines  
15 work, to merit consideration in this record, and  
16 especially as it falls squarely within Suffolk County  
17 Contention 15.

18           What we would like to see included in LILCO's  
19 testimony -- and, of course, LILCO is free to include  
20 anything else it sees fit to include -- but included  
21 would be a description and discussion of the scope of  
22 the Torrey Pines work, the processes involved within  
23 that scope, and a meaningful discussion of the  
24 significant results of the Torrey Pines work.

25           It would not be our choice to put all of that



1 Torrey Pines report into evidence. You can use parts of  
2 it as references in your testimony, and perhaps we will  
3 mark it for identification if LILCO or any other party  
4 wishes. But the idea is to have something more concise,  
5 yet at the same time meaningful. So if you can hit  
6 those two inconsistent goals, we would appreciate it.

7 We, in addition, would strongly encourage the  
8 County to depose LILCO's witnesses on Torrey Pines on  
9 November 22nd and 23rd. What we have in mind would be  
10 the County can have a day and a half to cross examine.  
11 This would be, in effect, a discovery-type deposition  
12 since there is no testimony available at that time.  
13 However, there is the report available, so it could  
14 later serve as a bridge to greatly assist the focusing  
15 of the record before us and also the focusing of the  
16 County's preparation of its own testimony in time to  
17 file on December 7th.

18 After the County finishes its examination, if  
19 it chooses to take the deposition, which we strongly  
20 encourage it to do, and the time would be no longer than  
21 a day and a half, and the staff should ask any questions  
22 it wishes to ask of LILCO's witnesses, and LILCO is  
23 encouraged to spend the rest of that second day on the  
24 23rd asking questions in the nature of redirect. The  
25 rules, even on pure discovery depositions, contemplate

1 questioning by the other party. And the reason we  
2 encourage it is we are going to permit any party to file  
3 portions of the deposition that it would propose to put  
4 in evidence along with its prepared written testimony on  
5 December 7th, and that should help focus the testimony.

6 We think it would be of greatest benefit to  
7 the County. So if the County passes up this  
8 opportunity, that is the County's business. We are not  
9 requiring it, because we think it would be to the  
10 County's detriment not to do it.

11 We also think it will help us in focusing our  
12 attention on this matter which we deem useful and  
13 important to the record and pertinent to Suffolk County  
14 Contention 15.

15 In addition, if the deposition is not taken,  
16 that will affect our judgment on how prepared LILCO's  
17 witnesses would be expected to be to answer cross  
18 examination by the County at the hearing. If the cross  
19 examination ranges well beyond the direct testimony and  
20 we don't think it is otherwise important examination,  
21 and the witnesses don't know the answer, that will be  
22 the end of it. But if the County takes a deposition and  
23 if through those questions highlights the areas it is  
24 interested in, then, of course, we would have higher  
25 expectation of the preparedness of LILCO's witnesses in

1 those areas that were asked about on the deposition.

2 So this is another strong reason in our view  
3 as to why it will be to the County's advantage and  
4 ultimately to the record's advantage for those  
5 depositions to be taken.

6 Now, we picked the 22nd and the 23rd as the  
7 likely two days on that week when the parties would like  
8 to have it and be done with it, but if the parties want  
9 to pick a different two days that week, we will leave it  
10 up to the parties. But presumably you would like to  
11 have Wednesday free before Thanksgiving.

12 LILCO should include among its witnesses as  
13 part of one of the sponsors for the December 7th  
14 testimony and therefore also available for deposition, a  
15 person or persons in LILCO's judgment of appropriate  
16 responsibility who performed the work for Torrey Pines.

17 That is our proposal. We will be happy to  
18 hear from the parties, but we have to hear very quickly  
19 in view of what we want to do, and that would be  
20 tomorrow morning. We also want to hear tomorrow morning  
21 whether the County wishes to take the depositions so  
22 some arrangements can be made, but these arrangements  
23 will be up to the parties. We are not ordering the  
24 depositions, and therefore, the depositions are solely  
25 the parties' responsibility in terms of location,

1 privacy, payment, whatever.

2 Mr. Ellis.

3 MR. ELLIS: Judge Brenner, would you entertain  
4 two brief comments now?

5 JUDGE BRENNER: Yes, surely.

6 MR. ELLIS: First, with respect to the  
7 depositions, the deposition, if it is taken, in your  
8 previous description or order outlining the procedure,  
9 you had included something which I thought would very  
10 definitely help expedite and focus the deposition  
11 examination. And that was some advance notice of those  
12 portions of this very voluminous report that they would  
13 want to focus on.

14 JUDGE BRENNER: Yes, but they said they  
15 wouldn't be ready, and for all I know they're going to  
16 pass up what I consider a golden opportunity to take the  
17 deposition. So we're not going to require it, but the  
18 obvious areas of interest are the significant results.  
19 That is the area we have already keyed in. And if your  
20 deponents don't know the answer at the time of the  
21 deposition, that will be the answer. You are not  
22 required to supplement the deposition in the absence of  
23 any advance notification that the County wants to ask  
24 about something.

25 MR. ELLIS: The second comment or observation,

1 if I may, is does the Board contemplate giving LILCU and  
2 the staff an opportunity to take a deposition of the  
3 County expert with respect to the County's views of  
4 Torrey Pines?

5 JUDGE BRENNER: You can ask us about that  
6 tomorrow. Our thought would be that it would be a waste  
7 of time in light of the County's filing, because, as we  
8 understand it, their answer is we don't know, we don't  
9 know, and we don't know because we haven't had time to  
10 look at it. So we are not going to require it or  
11 encourage it.

12 If the other parties have a different view as  
13 to the usefulness of it, we will hear about it. But you  
14 are going to have trouble fitting it in that week also,  
15 and I think Mr. Hubbard's schedule would not permit  
16 doing it any other week. If the staff plans to file  
17 testimony on it, we would certainly like to hear by the  
18 end of this week, unless that is not possible, but we  
19 would like to hear by the end of this week if it is  
20 possible, and that may affect whether or not you want to  
21 depose the staff. But in light of the more heavier  
22 controversy in this matter between LILCO preparing it  
23 and the County, you might be able to work out informal  
24 procedures with the staff, and the County might be able  
25 to also.

1           So we think the prime value is focusing on the  
2 work, and in the first instance that would be the  
3 responses to the work of Torrey Pines and its client,  
4 LILCO. So think about the value after the testimony is  
5 filed on December 7th. Depending on where we are in the  
6 hearing and where the schedule is, and whether there are  
7 surprises or such depth of testimony that further  
8 depositions will, in our view, assist the efficiency of  
9 matters we might entertain further depositions, but we  
10 don't know yet.

11           MR. DYNNER: Judge Brenner, has the staff  
12 indicated any areas of the Torrey Pines report that it  
13 intends to pursue?

14           JUDGE BRENNER: No. But I never asked  
15 either. And presumably we can get that at the end of  
16 this week as an expansion of the question I have just  
17 asked; that is, what I had in mind when I asked the  
18 staff if they were going to file testimony. But you  
19 asked the question better. That is really the question  
20 I want the answer to. And the testimony would follow or  
21 not follow from that answer.

22           All right. On ISEG and related matters, which  
23 we will get to presumably tomorrow, one of the things  
24 we're going to pursue is the current organization, and  
25 it might help to have a current organization chart that

1 focuses on the RCC, the ISEG group and the Nuclear  
2 Review Board.

3 We have had charts in the draft testimony. We  
4 don't know if they're up to date. And that maybe is why  
5 there are no charts included in the ISEG material we  
6 received today.

7 We have looked at the charts in the QA Manual  
8 and FSAR, and how up to date they are for this  
9 particular aspect we're not sure. We recognize titles  
10 have changed very recently, but if you have a chart  
11 where the organization in essence is the same even  
12 though the titles have varied very slightly, we would  
13 like to get that as soon as possible because it might  
14 make things more efficient tomorrow. One of the things  
15 we want to get into the record is the current  
16 organization.

17 It will be our proposal tomorrow, unless there  
18 are objections that convince us otherwise, to put  
19 LILCO's filing into evidence outlining the procedures  
20 and the resumes -- that is, the screen packet -- and in  
21 addition, the responses to our information request which  
22 we have previously received also into evidence, along  
23 with any charts that you think might make things more  
24 efficient.

25 MR. ELLIS: We will try to get those before

1 the end of today, the chart.

2 JUDGE BRENNER: Okay. Thank you.

3 And, again, if there are some minor title  
4 changes such as Mr. McCaffrey's title, we don't care  
5 about that. You can make that hand correction on the  
6 chart.

7 Okay. Let's pick up the cross examination.  
8 One advantage to not finishing today from your point of  
9 view, Mr. Dynner, since you're going to be here  
10 tomorrow, is for the last, potential last lap, so to  
11 speak, you will have an opportunity to pull your  
12 thoughts together and then roll with it tomorrow morning.

13 But we will pick up, I guess, for  
14 approximately another hour here.

15 BY MR. DYNNER: (Resuming)

16 Q Gentlemen, we were discussing QAPS 2.1 when we  
17 adjourned, and if you could turn back to that procedure  
18 and specifically paragraph 5.3.1, there is no definition  
19 in this paragraph or procedure as to who constitutes  
20 "plant management personnel," is there?

21 A (WITNESS MULLER) Mr. Dynner, there is no  
22 specific reference. However, plant management are  
23 considered anyone that is not a member of the union or  
24 ex-contract personnel or plant management personnel.

25 JUDGE BRENNER: Mr. Dynner, I'm sorry to



1 interrupt. There is one thing I left out on Torrey  
2 Pines. I apologize. I should have said that if the  
3 staff wishes to depose LILCO's people even if the County  
4 doesn't, the staff is entitled to do that also. And  
5 given the arrangements that have to be made as to that  
6 one aspect we would have to hear tomorrow rather than  
7 Friday, but as to the other aspects we can wait.

8 I know the staff has its own review processes,  
9 but if it thinks this is an efficient way of capping or  
10 assisting that review as well as getting material that  
11 we can use, I will leave that up to the staff.

12 MR. BORDENICK: Judge Brenner, I am fairly  
13 certain we will not be deposing LILCO. I will confirm  
14 that definitely by tomorrow morning.

15 JUDGE BRENNER: Then as to the other portion  
16 you can tell us on Friday.

17 MR. BORDENICK: Yes.

18 JUDGE BRENNER: I'm sorry, Mr. Dynner.

19 BY MR. DYNNER: (Resuming)

20 Q So your testimony is that this paragraph 5.2.3  
21 dealing with management personnel QA indoctrination and  
22 training will be and is intended to be applied to all  
23 non-union employees of LILCO, is that correct?

24 A (WITNESS MULLER) No, Mr. Dynner. That is the  
25 personnel at the plant. Yes for the plant. No for all

1 personnel.

2 Q What do you understand by the statement that  
3 plant management personnel are to become familiar with  
4 the QA program? What is meant by familiar?

5 A (WITNESS MULLER) By "familiar" I would mean  
6 that they know what 10 CFR 50 Appendix B is, what it  
7 means, its general requirements. That would be an  
8 example. And by that, Mr. Dynner, we select the  
9 materials that they need to read. We describe 10 CFR 50  
10 Appendix B, what the NRC is, Nuclear Review Board, what  
11 their interface is, what a reg guide is, what some of  
12 them mean. We expose them to industry standards such as  
13 ANSI or ANS. We go into the AFSAR as far as some of our  
14 commitments in the FSAR.

15 Q By familiarization do you mean that they have,  
16 for example, to read all of the station OQA procedures?

17 A (WITNESS MULLER) No. They would be required  
18 to understand the general requirements, not the specific  
19 requirements. They may have to read the station OQA  
20 procedures as part of their own program to fully  
21 understand our interface.

22 Q There are no standards or criteria then for  
23 determining in these procedures how much familiarity is  
24 required and how detailed the training has to be for  
25 plant management personnel, isn't that correct?

1           A       (WITNESS YOUNGLING)   There are no criteria  
2 written here.  However, within the FSAR Chapter 13 we  
3 have a commitment to what we call the general employee  
4 training program.  Part of that program is the OQA  
5 indoctrination.  That program, general employee  
6 training, is described in detail in the plant procedure  
7 12.14.03.  That procedure covers the content of the  
8 general employee training, one topic of which is the OQA  
9 indoctrination.  That training is carried out in  
10 accordance with lesson plans.  The lesson plan for the  
11 OQA indoctrination is some, oh, it looks like about 12  
12 or 13 pages long, and describes in detail or describes  
13 in detail various aspects of the quality assurance  
14 program that Mr. Muller referred to earlier, such as the  
15 FSAR procedures and so forth.

16                       We can go through that in detail if you would  
17 like.

18           Q       So this plant procedure 12.14.03 that you  
19 referred to is one of the station OQA indoctrination and  
20 training procedures, is that correct?

21           A       (WITNESS YOUNGLING)   No, sir.  It is a station  
22 procedure which is used to implement the requirement for  
23 general employee training, one aspect of which is OQA  
24 indoctrination.  Other aspects include familiarization  
25 with the plant organization, security plan, health

1 physics aspects, industrial safety, emergency planning  
2 also.

3 Q Well, are the OQA personnel that give the  
4 training in the QA indoctrination program required to  
5 follow that plant procedure in addition to this OQA  
6 procedure, QAPS 2.1?

7 A (WITNESS MULLER) QAPS 2.1 provides the  
8 guidelines. The instructor during the general employee  
9 training has to follow the requirements or follow the  
10 outline of the station procedure on training.

11 Q There is no requirement in this procedure that  
12 he do so, is there?

13 (Panel of witnesses conferring.)

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1           A       (WITNESS MULLER) The QAPS procedure does  
2 provide certain "shall" requirements that have to be  
3 included on the general employee training lesson plan.

4           Q       But there is not even any reference to this  
5 plant procedure in this OQA procedure, is there?

6           A       (WITNESS MULLER) There is no specific  
7 reference, and there doesn't have to be. Everyone at  
8 the plant is required to go through this training.

9           A       (WITNESS YOUNGLING) In addition, LILCO has  
10 made a decision to include the OQA indoctrination  
11 training as part of the general employee training. We  
12 could have had a separate section, but we chose to group  
13 it in with several other topics for convenience and  
14 efficiency's sake. However, the topic is covered.

15          Q       Well, now, why would you prepare an OQA  
16 procedure that purports to lay down the guidelines and  
17 requirements for a QA indoctrination and training  
18 program and not even refer to some kind of other  
19 procedure that says what the lesson plan has to be?

20                   (Witnesses conferred.)

21          A       (WITNESS MULLER) Mr. Dynner, as I testified  
22 earlier, the OQA procedure provides the minimum  
23 guidelines. If the plant manager chooses to send his  
24 people through this program which he has, including our  
25 people, there is no reason for us to reference it in our

1 procedure. We have reviewed the general employee  
2 training procedure and outline. And we will continue to  
3 review the outline and will continue to attend the  
4 classes to make sure that it does meet the requirements  
5 set forth in our procedure.

6 Q Do I understand that your definition of plant  
7 manager personnel includes plant operating personnel and  
8 station CQA personnel?

9 A (WITNESS MULLER) Station operating personnel  
10 may be union personnel. Station CQA personnel are not  
11 union personnel; they are considered plant management.

12 Q Now, if we look at paragraph 5.3.2, there is a  
13 statement that the QA indoctrination and training  
14 requirements for plant management personnel shall  
15 include the following and may be satisfied through the  
16 LILCO QA indoctrination and training program, NRC  
17 management presentation and/or its equivalent. What is  
18 meant by "its equivalent"?

19 A (WITNESS MULLER) Mr. Dynner, its equivalent  
20 would be a training course that included the attributes  
21 A, B, and C, which are: A, general quality assurance  
22 philosophy requirements; B, LILCO QA program; and, C,  
23 station CQA procedures.

24 Q Could that be an individual in the CQA section  
25 who invites in some plant management personnel and goes

1 over with them in general outline items A, B, and C of  
2 paragraph 5.3.2, for example?

3 (Witnesses conferred.)

4 A (WITNESS MULLER) Mr. Dynner, yes, it could be  
5 because OQA section does give indoctrination and  
6 training courses. These courses would be to an outline  
7 and would be documented, and a test would be given after  
8 the course to indicate that the individuals taking the  
9 course understood what we taught them.

10 A (WITNESS YOUNGLING) However, that approach  
11 would really be impractical because this general  
12 employee training program that I mentioned requires once  
13 a year that these people go through this training and on  
14 a repetitive basis they are -- they receive  
15 indoctrination in the OQA aspects. So the management  
16 people once a year receive that training so that the  
17 technique would really be impractical since we have a  
18 much better mechanism in place.

19 Q Does this other training that you are  
20 referring to for union --- is it for union and non-union  
21 personnel, plant personnel both?

22 A (WITNESS YOUNGLING) Yes, it is.

23 Q In your view, does it duplicate the job of the  
24 OQA section under this procedure?

25 A (WITNESS MULLER) It doesn't duplicate it.

1 They would either go through one training course or the  
2 other. They both would be approved means of training.

3 Q How do you determine whether an individual  
4 should go through one type of training or the other?

5 A (WITNESS MULLER) Mr. Dynner, the general  
6 employee training program has only officially started  
7 within the last few months. Prior to that, OCA did  
8 provide that training, and we will continue to provide  
9 it as required.

10 Q My question really is what do you mean by "as  
11 required"? How do you make the choice?

12 A (WITNESS MULLER) I think it may be a choice  
13 of scheduling. We are required to perform the training  
14 for some of our own new people. We can give other  
15 people that same training course in lieu of or at least  
16 part of the indoctrination and training.

17 Q Is what you refer to as "this general employee  
18 training" carried out by individuals from the OCA  
19 section?

20 A (WITNESS MULLER) It is carried out by  
21 personnel in the training section at the plant.

22 Q So the answer is no?

23 A (WITNESS MULLER) The answer is no. However,  
24 we could fill in as instructors in those courses.

25 A (WITNESS YOUNGLING) The procedure for general



1 employee training allows for the program to be presented  
2 via slide instruction or it could be on a videotape as  
3 long as the content of the program addresses the  
4 requirements. That is all that matters. Those  
5 instructors could be training personnel, they could be  
6 Artie's personnel or through the videotape program we  
7 could hire an outside consultant to control the  
8 videotapes. Those three mechanisms are required to  
9 fulfill the requirement.

10 MR. ELLIS: Could we just have the record  
11 reflect that "Artie" is Mr. Muller?

12 JUDGE BRENNER: We know who he is.

13 BY MR. DYNNER: (Resuming)

14 Q What kind of QA indoctrination and training  
15 requirements are there for the vice president, nuclear,  
16 of LILCO?

17 A (WITNESS YOUNGLING) The vice president,  
18 nuclear, would receive general employee training just  
19 like any other personnel. So he would get the same  
20 indoctrination in OQA as the plant manager, as the chief  
21 operating engineer, as a maintenance mechanic.

22 Q They all get general employee training. Are  
23 they given any higher degree of QA indoctrination and  
24 training than the general employee training that you  
25 refer to?

1           A       (WITNESS YOUNGLING) All he is required to  
2 have is the general employee training.

3           Q       Is the intention of the OQA engineering, now  
4 that you have this other general employee training  
5 procedure apparently implemented, to essentially do away  
6 with the QA indoctrination and training program provided  
7 by QAPS 2.1?

8           A       (WITNESS MULLER) We intend to maintain our  
9 procedure to ensure that the general employee training  
10 does maintain the requirements and to maintain  
11 flexibility.

12          Q       Aside from the standard lesson plans which you  
13 testified are part of this other general employee  
14 training program, are there any standards or criteria  
15 with respect to the requirements of QAPS 2.1 as to the  
16 level of indoctrination and training for QA required for  
17 plant management personnel?

18                   (Witnesses conferred.)

19          A       (WITNESS MULLER) Mr. Dynner, our commitment  
20 to training also appears in the FSAR section 13.

21          Q       And is it your testimony that section 13 of  
22 the FSAR goes into the specific detail as to how much in  
23 depth you are going to indoctrinate plant management  
24 personnel into station OQA procedures in the LILCO QA  
25 program?

1           A       (WITNESS MULLER) No. The FSAR would not give  
2 the detail that would be in the implementing procedures  
3 such as the QAPS or the station procedures.

4           Q       It is true that under this procedure the QA  
5 indoctrination and training requirements for plant  
6 management personnel could be a 5-minute or 10-minute  
7 session in which someone summarized the general quality  
8 assurance philosophy and requirements, the LILCO QA  
9 program, and station OQA procedures, isn't it?

10                   (Witnesses conferred.)

11           A       (WITNESS MULLER) No, Mr. Dynner, we could not  
12 do it in 5 minutes, because the program has to be  
13 designed to assure that plant management personnel are  
14 familiar with the overall regulatory requirements,  
15 policies, programs, and procedures which apply for a  
16 quality assurance. I don't know anybody that could do  
17 that in 5 minutes.

18           JUDGE BRENNER: We certainly have not been  
19 able to do it here in 5 minutes.

20                   (Laughter.)

21           MR. DYNNER: I think I could do it in 5  
22 minutes if I could determine familiarity levels.

23           JUDGE BRENNER: Maybe the lack of those levels  
24 is part of the problem here. But let's go on.

25           BY MR. DYNNER: (Resuming)

1 Q Now, gentlemen, paragraph 5.3.3 gives you some  
2 guidance as to how QA indoctrination will normally be  
3 scheduled. But there are no standards or guidance as to  
4 how the scheduling will occur in a situation other than  
5 normal, is there?

6 A (WITNESS MULLER) No, Mr. Dynner, there is no  
7 specific criteria. However, the training would be  
8 scheduled as required.

9 A (WITNESS YOUNGLING) In addition, the general  
10 employee training, as described in the station procedure  
11 12.14.03, does make specific reference to the  
12 requirement that the training will last for a 1-year  
13 period.

14 Q Now, if you look at paragraph 5.3.4, there is  
15 no guidance in this procedure for determining in what  
16 manner or how the operating QA engineer will arrange for  
17 personnel to present an indoctrination program, is there?

18 A (WITNESS MULLER) No, Mr. Dynner, there is no  
19 specific criteria. However, the OQAE, in order to  
20 fulfill his requirements, would assign personnel to  
21 first come up with lesson plans if they didn't already  
22 exist, review those lesson plans with the OQAE, and then  
23 provide the actual training from those lesson plans.

24 Q Are the personnel that are referred to in that  
25 paragraph required to be OQA personnel?

1 (Witnesses conferred.)

2 A (WITNESS MULLER) Mr. Dynner, we could use a  
3 contractor to perform the training. However, the  
4 training would be done under the cognizance of the OQAE.

5 A (WITNESS YOUNGLING) Mr. Dynner, the  
6 performance of the general employee training is handled  
7 through the training section on the plant staff. They  
8 have a scheduling technique to ensure that the people on  
9 the permanent plant staff receive the training on a  
10 regular basis. In addition, they have scheduling  
11 techniques in place to ensure that people who come into  
12 the station -- temporary employees, new employees --  
13 receive this training in as quick a fashion as possible  
14 so they can go to work. So there are mechanisms in  
15 place to ensure that this training is carried out in a  
16 timely fashion.

17 Q Now, this general employee training that you  
18 have just referred to, Mr. Youngling, has that been  
19 given yet by LILCO?

20 A (WITNESS MULLER) Yes, it has.

21 Q And was it given more than once?

22 A (WITNESS MULLER) The lesson plans were given,  
23 the same lesson plans were given more than once, yes.

24 Q How many times was this training given by  
25 LILCO?

1 (Witnesses conferred.)

2 A (WITNESS MULLER) I think between a half dozen  
3 and a dozen times.

4 A (WITNESS YOUNGLING) Mr. Dynner, it is  
5 probably given at least six times. We have a sixth  
6 shift rotation for the operating personnel. So it has  
7 to be given to each of those rotating shifts. So it  
8 probably was given at least six times.

9 Q How long did each one of these sessions last?  
10 (Witnesses conferred.)

11 A (WITNESS MULLER) It was roughly 8 hours.

12 Q 8 hours. And what percentage of that general  
13 employee training dealt with the QA program?

14 A (WITNESS MULLER) Approximately 20 percent.

15 JUDGE BRENNER: Excuse me, Mr. Dynner. Maybe  
16 I misunderstood a few questions ago when you were  
17 talking about the general training and questions about  
18 it, including how many times it was given. I assumed  
19 that you were only asking about the OQA portion of it,  
20 because that was the whole focus within this procedure.  
21 But maybe I misunderstood what you were asking about.

22 MR. DYNNER: I understood the witness to  
23 testify that the general employee training included as  
24 one of its components the QA program. I asked how many  
25 times the general training program was given, and he

1 replied six. And I then asked approximately what  
2 percentage of each session which he has testified lasted  
3 8 hours was devoted to the QA program.

4 JUDGE BRENNER: I understood what you are  
5 asking now. It was never clear to me that when you used  
6 that shorthand reference to the general training program  
7 you were up until the last question that you were  
8 talking about anything other than the OQA component.

9 Did the witnesses understand he was asking  
10 about the entire general training program?

11 WITNESS MULLER: Yes, Judge Brenner.

12 JUDGE BRENNER: I guess I am the only one. Go  
13 ahead.

14 BY MR. DYNNER: (Resuming)

15 Q So as I understand it, the general training  
16 program which you have now given at least six times to  
17 the six different shifts would be repeated for each  
18 individual at least once a year; is that correct?

19 A (WITNESS YOUNGLING) Yes. Let me clarify.  
20 You said, given at least six times, six times for the  
21 shift personnel. Now, that doesn't cover the plant  
22 management personnel that are on the day run, if you  
23 will, plus with the other scheduling requirements, I am  
24 sure it was more than six, but we would have at least  
25 have to have given it six times. And yes, they will

1 receive it on a yearly basis.

2 Q Now, just so that I understand, since we have  
3 now talked about shifts and six times, and the shift  
4 personnel, is there the intention in this program for  
5 the general way the employee training has been carried  
6 out, to provide for each individual to receive the  
7 8-hour general employee training program at least once a  
8 year?

9 A (WITNESS MULLER) Yes.

10 Q So you are able to familiarize each of the  
11 individuals with the general quality assurance, quality  
12 and requirements the LILCO QA program, and the station  
13 JQA procedures in something less than 2 hours; is that  
14 correct?

15 A (WITNESS MULLER) Yes, they would be generally  
16 familiar with the program in that amount of time, and  
17 they would be tested after giving that section of the  
18 general employee training.

19 Q Now, in addition to this general employee  
20 training, has anyone in the last year received the plant  
21 management personnel QA indoctrination and training  
22 program pursuant to QAPS 2.1, as described in paragraph  
23 5.3?

24 (Witnesses conferred.)

25 A (WITNESS MULLER) Yes, Mr. Dynner. We have,



1 before the general employee training, we had been giving  
2 the OQA section of the indoctrination and training.

3 Q And how long did one of these indoctrination  
4 and training sessions last? And when I say how long did  
5 one of them last, I am talking about how long in the  
6 average, what is the average amount of time that was  
7 devoted to each one of these types of training?

8 A (WITNESS MULLER) I think the average was  
9 between 2 and 4 hours.

10 Q And since the general employee training  
11 program has been instituted, you haven't given any of  
12 this plant management personnel OQA indoctrination and  
13 training pursuant to QAPS 2.1; is that correct?

14 A (WITNESS MULLER) I don't know that we have.  
15 However, the reason why all of our section lasted a  
16 little bit longer is we had to cover the requirements of  
17 the startup program also.

18 A (WITNESS YOUNGLING) Let me clarify that. The  
19 task engineers that work within the startup organization  
20 are required to have QA indoctrination, and they receive  
21 that indoctrination by this program that Mr. Muller is  
22 responsible for.

23 Q Paragraph 5.3.5 contains a recommendation that  
24 the station training coordinator inform the OQA engineer  
25 of new plant management personnel requiring QA

1 indoctrination and training, doesn't it?

2 A (WITNESS MULLER) Yes, it does.

3 Q Why is that statement in the form of a  
4 recommendation instead of a requirement?

5 A (WITNESS MULLER) Mr. Dynner, there is no  
6 requirement for us to know on a day-to-day basis who has  
7 received the station indoctrination and training. We  
8 audit the program. We can very easily find out who has  
9 received the training. And it is a recommendation  
10 because of hta. We are not required to have that  
11 information at hand. We can determine that by going  
12 over to training and reviewing the records.

13 A (WITNESS YOUNGLING) However, within the plant  
14 staff general employee training program 12.14.03, it is  
15 a "shall" requirement that all permanent plant staff  
16 personnel receive the general employee training;  
17 therefore, they could not be overlooked.

18 Q Now, under paragraph 5.4, which deals with QA  
19 indoctrination and training of plant operating  
20 personnel, is it correct that this paragraph deals with  
21 the plant union employees?

22 A (WITNESS MULLER) That is correct.

23 Q Who determines what constitutes adequate  
24 knowledge of quality assurance program requirements as  
25 used in paragraph 5.4.1?

1           A       (WITNESS MULLER)   That would be determined by  
2   the OQAE and the responsible section heads.  The section  
3   heads know what type of work the people perform; they  
4   know the quality interface required.

5           A       (WITNESS YOUNGLING)  And again, that is  
6   documented in the general employee training program,  
7   which is reviewed and approved, reviewed by the review  
8   of operations committee and the quality assurance  
9   organization and approved by the plant manager.

10          Q       And as I understand it, everybody, both union  
11   and non-union personnel, goes through the general  
12   employee training; is that correct?

13          A       (WITNESS YOUNGLING)  Yes, sir.

14          Q       Knowledge of the quality assurance program  
15   that would be adequate would vary from individual to  
16   individual, wouldn't it?

17          A       (WITNESS YOUNGLING)  Yes, it would.  And an  
18   example within the plant staff, the clerical work force,  
19   their degree of knowledge of the quality assurance  
20   program might be different between them and a mechanic;  
21   however, they do receive the identical training as the  
22   mechanic just to make sure.

23          Q       Everybody gets this hour and a half to 2 hours  
24   whether they are a clerk or whether they have the most  
25   critical involvement in the operation of the plant; is

1 that your testimony?

2 A (WITNESS YOUNGLING) That is the purpose of  
3 the general employee training program.

4 Q And there is no provision in this procedure  
5 for giving a higher standard of training or greater  
6 training to a plant operator or engineer than to a  
7 clerk, is there?

8 A (WITNESS MULLER) As far as official  
9 indoctrination and training, there are very few  
10 differences. But as far as the plant management  
11 personnel, they have to be very much aware of the QA  
12 program, and that is obtained through their experience  
13 and working knowledge of the plant procedures.

14 Q But not through the QA indoctrination and  
15 training courses that they have to take; isn't that  
16 correct?

17 A (WITNESS YOUNGLING) No, sir, that is wrong.  
18 As you pointed out, the mechanic, the clerk, the plant  
19 manager, the vice president, nuclear, the operating --  
20 the plant operator on the control board receive the same  
21 indoctrination into the QA program as defined by the  
22 general employee training.

23

24

25

1 JUDGE BRENNER: Maybe I misunderstood his  
2 question, Mr. Youngling. Why did you say he was wrong,  
3 given that answer? It sounded to me like your answer  
4 agreed with his question. What did you think you were  
5 disagreeing with?

6 WITNESS YOUNGLING: I thought he was saying  
7 that the plant manager needed to have more QA  
8 indoctrination than the clerk.

9 JUDGE BRENNER: Well, he knows what he asked.  
10 I don't have to go back, but I thought he suggested the  
11 opposite in his question. That is, equality of  
12 treatment. Well, we have your answer in any event.

13 WITNESS YOUNGLING: Mr. Dynner, if I could  
14 add, we're talking here about quality assurance  
15 indoctrination. I make it clear that the quality  
16 requirements to meet our program is incorporated into  
17 the various procedures and instructions that each of  
18 these individuals must use in their work function in the  
19 different sections of the plant.

20 So this, we are talking indoctrination here.  
21 The additional quality commitment to meet the program is  
22 in the implementation of the detailed procedures and  
23 instructions, not just in a simple indoctrination  
24 course.

25 BY MR. DYNNER: (Resuming)

1 Q But this procedure sets forth the QA  
2 indoctrination and training requirements even of the  
3 station OQA personnel, doesn't it?

4 A (WITNESS KELLY) That is correct.

5 Q And it purports to provide the level and the  
6 depth of training and familiarity that they require with  
7 regard to performance of their functions in the QA  
8 department, such as indicated in paragraph 5.5.2,  
9 doesn't it?

10 (Panel of witnesses conferring.)

11 A (WITNESS KELLY) That section deals with the  
12 station OQA personnel. It talks about general QA  
13 indoctrination, such as Appendix B of the manual for  
14 specific procedures. Again, there is more to it than  
15 just this general indoctrination. There are additional  
16 procedures that talk about the qualifications of  
17 inspection and testing personnel which these quality  
18 personnel must follow.

19 So it simply is not just a familiarity with  
20 Appendix B. It is a familiarity with the inspection  
21 procedures they must utilize and their qualification and  
22 training that is necessary.

23 Q Yes, and these are all procedures as they  
24 relate to the OQA personnel that are contained in the  
25 QAPS manual, isn't that correct?

1           A       (WITNESS KELLY) If you're referring to  
2 strictly station OQA personnel?

3           Q       Yes.

4           A       (WITNESS KELLY) They would be contained in  
5 this manual and others.

6                    JUDGE BRENNER: I'm a little confused about  
7 the terminology. You said QAPS manual. Did you mean  
8 this procedure or the manual?

9                    MR. DYNNER: I meant the station operating  
10 quality assurance procedures.

11                   BY MR. DYNNER: (Resuming)

12           Q       It is correct, isn't it, that the QA  
13 indoctrination in training requirements for plant  
14 management personnel and for plant operating personnel  
15 are the same, isn't it?

16           A       (WITNESS MULLER) For OQA indoctrination,  
17 yes.

18           Q       Let me ask you to move to paragraph 5.5.1,  
19 which deals with QA indoctrination and training of  
20 station OQA personnel; is that correct?

21           A       (WITNESS MULLER) That is correct.

22           Q       There are no standards or criteria in this  
23 procedure as to the level of understanding that is  
24 required of station OQA personnel, of the QA program  
25 commitments and the means of implementation, are there?

1           A       (WITNESS MULLER) There are no specific  
2 criteria stated. However, the OQA personnel must be  
3 familiar with the QA program to perform their  
4 functions. This procedure only provides for their  
5 indoctrination. Their training and experience levels  
6 determine their level of qualification, which is  
7 described in QAPS 2.2 and QAPS 2.3 as they apply to  
8 their activities.

9           Q       Well, since you mentioned it, although it is  
10 not on the list that I gave to Mr. Ellis, why don't we  
11 take a look at QAPS 2.2, which is entitled "Station OQA  
12 Training Qualification and Certification of Auditors."

13           JUDGE BRENNER: I guess you were clairvoyant  
14 in knowing he would mention it, Mr. Dynner.

15           MR. DYNNER: No, I didn't know if he would or  
16 wouldn't mention it.

17           JUDGE BRENNER: It's part of your cross plan.

18           MR. DYNNER: It is part of the cross plan that  
19 I told Mr. Ellis the other day I didn't think I would  
20 take up because I didn't think I would have time to get  
21 to it, and it is, as I identified to him, one of the  
22 documents that was not in my initial letter.

23           JUDGE BRENNER: Okay, you've explained it. I  
24 was not being deadly serious about the comment in any  
25 event. I don't want you to get too far off the track if



1 you intend to come back to 2.1, although I recognize the  
2 connection here. But go ahead.

3 BY MR. DYNNER: (Resuming)

4 Q This procedure, QAPS 2.2, is really  
5 discretionary in terms of the requirements for an  
6 auditor, isn't it?

7 A (WITNESS MULLER) No.

8 Q Well, for example, paragraph 4.4 on page 2 of  
9 this procedure allows any of the requirements to be  
10 modified on a case by case basis "when other factors,  
11 such as previous performance, satisfactory completion of  
12 proficiency testing, formal QA education, et cetera,  
13 provide reasonable assurance that a person can  
14 competently perform required tasks," isn't that  
15 correct?

16 A (WITNESS MULLER) That is what it says.  
17 However, he must meet all the requirements in section 5,  
18 and in addition this procedure is based upon the  
19 requirements of ANSI N45.2.23, which is entitled  
20 "Qualifications of QA Program Audit Personnel for  
21 Nuclear Facilities." And I would also like to add that  
22 in order to become an auditor one in the OQA section  
23 would have to complete his indoctrination and training  
24 and in addition meet the requirements of QAPS 2.2 in  
25 both education and experience in order to be qualified

1 and certified as an auditor.

2 Q Well, we're going to talk a little bit about  
3 this, because as I read -- and you correct me if I'm  
4 wrong -- as I read 4.4, it says, doesn't it, that you  
5 can in effect waive the requirements of paragraph 5 of  
6 QAPS 2.2, doesn't it?

7 A (WITNESS MULLER) It doesn't say I can waive  
8 the requirements. The requirements must be met.  
9 However, there is some flexibility as far as  
10 experience.

11 Q Well, let's take a look, for example, at the  
12 training requirements in paragraph 5.1.1, and that  
13 requirement states that, since the QA auditor shall  
14 receive training in one or more of the following areas,  
15 that the only training he need receive is C, on the job  
16 training, guidance and counseling under the direct  
17 supervision of a lead auditor, isn't that correct?

18 A (WITNESS MULLER) That is correct, and on the  
19 job training would include the general employee training  
20 and review of the requirements of the ANSI standards as  
21 applicable.

22 Q Well, wait a minute, now. C doesn't say  
23 anything about ANSI standards, does it?

24 (Panel of witnesses conferring.)

25 A (WITNESS MULLER) C does refer back to

1 reference 2.3, which is QAPS 2.1.

2 Q Right, which is the general indoctrination and  
3 training for QA that we have been talking about, isn't  
4 it?

5 A (WITNESS MULLER) Yes, it is.

6 Q But that is not ANSI standards, is it?

7 A (WITNESS MULLER) Section 5.5 indicates that  
8 operational quality assurance personnel, should they  
9 require familiarization with any of the six items listed  
10 below, are to receive training so that they do become  
11 familiar with those references. And those references do  
12 include the ANSI N45.2 series, of which ANSI N45.2.12  
13 and 45 are a part of.

14 Q And that is just a recommendation, isn't it?

15 MR. DYNNER: For the clarification of the  
16 Board, I think the witness was referring there to  
17 paragraph 5.5.2 of QAPS 2.1 and not 2.2; is that  
18 correct?

19 JUDGE BRENNER: We were following, I thought  
20 he said, 2.1. Regardless, that is the reference. 2.3  
21 is the reference within 2.2, procedure 2.2, and that  
22 reference 2.3 under this wonderful numbering system.

23 MR. DYNNER: I just thought I would clarify it  
24 for the record, Judge Brenner.

25 JUDGE BRENNER: I guess we found the answer

1 before he gave it in this case. But go ahead.

2 MR. ELLIS: What was the question pending,  
3 please?

4 JUDGE BRENNER: There is no question pending  
5 that I know of.

6 BY MR. DYNNER: (Resuming)

7 Q You were referring, weren't you, to paragraph  
8 5.5.2 of QAPS 2.1 when you referred to training on ANSI  
9 standards, weren't you?

10 A (WITNESS MULLER) Yes, sir.

11 Q Now, my question is, that is just a  
12 recommendation, isn't it, because it says it should  
13 include familiarization?

14 JUDGE BRENNER: Where are you reading from?

15 MR. DYNNER: I'm reading from paragraph 5.5.2  
16 of QAPS 2.1.

17 JUDGE BRENNER: Okay, go ahead.

18 WITNESS MULLER: Yes, Mr. Dynner, it does say  
19 "should," and what that means is if the individual has a  
20 working knowledge of that he may not be re-indoctrinated  
21 into that, and his previous experience and  
22 certifications would indicate that he was certified in  
23 accordance with ANSI N45.2.23 if he had such a  
24 certification.

25 WITNESS KELLY: Also, in addition, as far as

1 the requirement of training to ANSI N45.2.12, that is  
2 the ANSI standard that specifically deals with and is  
3 entitled "Requirements for Auditing Quality Assurance  
4 Programs for Nuclear Power Plants." So in the conduct  
5 of his on the job training, as far as performance of  
6 audits, as part of his qualification he would be  
7 familiar with that ANSI standard, since our program of  
8 auditing is built around that ANSI standard.

9 So in fact he would have that training that is  
10 referenced in QAPS 2.2, paragraph 5.1.1.8.

11 BY MR. DYNNER: (Resuming)

12 Q So your testimony, Mr. Kelly, is that the  
13 introduction in paragraph 5.1.1 of QAPS 2.2 that says  
14 that the QA auditor shall receive training in one or  
15 more of the following areas, is an incorrect statement  
16 because, as I understand your testimony, he must receive  
17 training in ANSI N45.2.12; is that correct?

18 A (WITNESS KELLY) I would say it is  
19 inevitable.

20 Q If we look to the requirement for the lead  
21 auditor, in paragraph 5.1.2 we see that all he need  
22 receive is on the job training also; isn't that  
23 correct?

24 A (WITNESS MULLER) Yes, Mr. Dynner, that is the  
25 same situation. If as part of his training he were to

1 go through an on the job training program which included  
2 referencing and reviewing all the applicable reg guides  
3 and standards, that may be all that is required. As  
4 long as he was familiar with the standards that he needs  
5 to be familiar with and as long as he meets the  
6 experience and training requirements stated in the  
7 procedure, he may be able to perform he audit when  
8 certified.

9 Q There are no requirements given for  
10 constituting proper on the job training in either QAPS  
11 2.1 or in QAPS 2.2, are there?

12 (Panel of witnesses conferring.)

13 JUDGE BRENNER: Mr. Dynner, why don't you come  
14 to a logical temporary halt at some place soon. I want  
15 to ask one question and then we will adjourn.

16 WITNESS KELLY: Mr. Dynner, for example, in  
17 paragraph 5.2.1, the lead auditor, it says, "A person  
18 who has participated as a member of or directed an audit  
19 team in at least five quality assurance audits within a  
20 period of time not to exceed three years, one audit of  
21 which has to be within one year prior to  
22 qualification."

23 So I think that does define and give a  
24 criteria for what is necessary for a lead auditor. In  
25 addition, there has to be a yearly assessment performed

1 as required by this procedure to evaluate the continued  
2 acceptability of this man to perform the function of an  
3 auditor.

4 BY MR. DYNNER: (Resuming)

5 Q Well, Mr. Kelly, I would like very much to get  
6 into the area of the qualification requirements for  
7 auditors, as opposed to the training requirements that  
8 we were discussing. But I would like first if you would  
9 answer my question, which was, there are no requirements  
10 as to what is necessary to constitute proper on the job  
11 training in either QAPS 2.1 or 2.2, are there?

12 A (WITNESS KELLY) I believe there are and I  
13 believe the statement about participating in five audits  
14 under the direction of a lead auditor is on the job  
15 training.

16 Q Are there any other requirements with respect  
17 to what constitutes proper on the job training in these  
18 two procedures?

19 MR. ELLIS: Judge Brenner, since you mentioned  
20 that this was a time perhaps we could reach an ending  
21 point, since this was not an instruction or a procedure  
22 that was mentioned, and since it is a four-page one, we  
23 would like to have an opportunity to look at it.

24 JUDGE BRENNER: Well, let's see if they know,  
25 because I agree with Mr. Dynner. Even though he in the

1 back of his mind would have liked to have gotten into it  
2 on his own, he was led into it by their answers. They  
3 referenced it as support for some of his questions about  
4 QAPS 2.1. So let's see if they know.

5 (Panel of witnesses conferring.)

6 JUDGE BRENNER: I don't want you to read the  
7 whole procedure now. If you don't know without reading  
8 the whole procedure, tell us.

9 WITNESS KELLY: We would like an opportunity  
10 to review the procedure in detail.

11 JUDGE BRENNER: They passed Mr. Ellis'  
12 training course.

13 (Laughter.)

14 JUDGE BRENNER: Mr. Dynner, would this be a  
15 logical time to stop?

16 MR. DYNNER: That will be fine.

17 JUDGE BRENNER: Mr. Mullar, I don't understand  
18 one thing. In QAPS 2.1, Section 5.5.2, Mr. Dynner was  
19 talking about the sentence in the middle of that section  
20 which comes after the item number 4, but before the  
21 second item, number 1, and suggested that there was no  
22 requirement for training in the ANSI N45.2 series  
23 because of the use of the word "should." And you said  
24 that only means that the QQA personnel and by reference  
25 the auditors, which is how we got back into this



1 section, do not have to receive indoctrination and  
2 training in that ANSI series if they already know it.

3 But it doesn't say that in this section, does  
4 it?

5 WITNESS MULLER: It doesn't specifically say  
6 that, but that is why the "should" is in there. If the  
7 individual has had previous training and experience and  
8 has been certified by a recognized organization as an  
9 auditor, for example, it is a "should" requirement. I  
10 mean, he already knows it. He could go over it again,  
11 yes.

12 And I think the other reason why we put the  
13 "should" in there is because not every one of my  
14 personnel is an auditor and not every one is an  
15 inspector. Certain requirements apply to inspection  
16 personnel; certain requirements apply to audit  
17 personnel.

18 JUDGE BRENNER: But some of the requirements  
19 apply to all to whom Section 5.5.2 would apply,  
20 correct?

21 WITNESS MULLER: Some of them may apply, yes.

22 JUDGE BRENNER: The procedure could have been  
23 written that way, correct?

24 WITNESS KELLY: Correct, Judge Brenner. But  
25 in the vast majority of the cases, we are talking about

1 items that would be specific to, in some cases, a  
2 particular discipline. For example, regulatory guides;  
3 that covers obviously a vast spectrum of items, some of  
4 which relate to the mechanical disciplines, some of  
5 which relate to electrical disciplines.

6 A lot of Mr. Muller's people are specialists  
7 in a particular discipline, so they would be trained in  
8 that particular reg guide that was applicable to their  
9 discipline. Similarly with ASME Section 3 and ASME  
10 Section 11, that would deal primarily with the people  
11 who were involved with the mechanical and welding  
12 activities in the plant, and there would be no necessity  
13 for an electrical inspector, for example, to be familiar  
14 with those.

15 JUDGE BRENNER: Well, I could understand that  
16 as a reason as to why it says "should" instead of  
17 "shall." But I'm still disturbed by Mr. Muller's other  
18 reason as to why it says "should" instead of "shall,"  
19 with respect to the N45.2 ANSI series.

20 I don't want to get too semantic, but let me  
21 suggest that if the sentence said "should include  
22 training," I would understand a little more why you  
23 would need a "should" there. But when you are using  
24 familiarization, it could have easily been written,  
25 "Quality assurance indoctrination and training shall be

1 given so as to assure as the end result familiarization  
2 with." And when you use "familiarization" instead of  
3 "training," you could presumably satisfy that by testing  
4 prior knowledge as well as by including it in a current  
5 training program.

6 I understand Mr. Kelly's reason for "should"  
7 much better than your reason for "should," but I will  
8 leave it at that for now.

9 We have nothing further at the end of today.  
10 We will take up the matters we promised we would take up  
11 tomorrow morning.

12 MR. ELLIS: Judge Brenner, I have these graphs  
13 and let us take a moment and look at them and see if I  
14 can answer any questions in terms of the names on them  
15 right now that might assist you tonight.

16 JUDGE BRENNER: Well, let us take a look at it  
17 on our own. We have a reasonable idea, based upon what  
18 we've seen so far.

19 MR. ELLIS: All right, sir. For my planning  
20 purposes, may I have some idea of what is contemplated  
21 by the County, the Staff and the Board with respect to  
22 ISEG?

23 JUDGE BRENNER: I'm glad you reminded me of  
24 that, because I wrote myself a note and neglected it.  
25 Last week, Mr. Dynner, in addition to requiring the

1 better cross plan on general operating QA matters which  
2 you filed, I asked -- I don't think it was a  
3 requirement, but I asked if we could get a better plan  
4 from the County on its questions on NDMIS and NPRDS and  
5 the .C.5 0737 item, because all we had so far was your  
6 very preliminary indication, which we had asked for to  
7 serve just that purpose in a tight time frame.

8           And I'm wondering if you're going to be able  
9 to give us one tomorrow morning.

10           MR. DYNNER: Up to this time, I have received  
11 no further information that would enable me to produce a  
12 more detailed type of cross plan. It is conceivable if  
13 I were to go through the manual that was handed out  
14 today that I might be able to do so. I would wonder  
15 whether it is the intention of the Board to go first?

16           JUDGE BRENNER: We will go first.

17           MR. DYNNER: And that might cut down quite a  
18 bit the scope of my cross-examination, because it is  
19 likely that the Board would cover a good many of the  
20 areas that I was intending to cover.

21           JUDGE BRENNER: Okay. I will leave it up to  
22 you whether our lack of knowledge as to where you might  
23 go might affect our willingness to let you go. So you  
24 try to be efficient and only ask what you have to ask.  
25 That is what always worries me about not having a cross

1 plan, is the normal tendency of a litigant to react to  
2 the previous answer without having considered where in  
3 the scheme of things it might fit and thereby judge the  
4 importance of it in light of the time spent on it.

5 So I hope you are alert to that, and we will  
6 be, too. And we will first and that should help focus  
7 things.

8 We are going to give him another hour tomorrow  
9 as a minimum, and after he has completed, which will be  
10 the hour unless we give him more, and as to now he is to  
11 assume he is not going to get more, we will then pick up  
12 our questions on ISEG and related matters. And then we  
13 will go back to the County for their questions on ISEG  
14 and related matters.

15 Then we will go to the Staff for their  
16 operating QA questions, including ISEG, unless you want  
17 to split your panel up, and I leave that up to you and  
18 you had better tell us tomorrow.

19 MR. ELLIS: Well, let me tell you now if I  
20 may. I think we should finish the ISEG panel altogether  
21 -- direct, redirect, re-cross, everything at one time.

22 JUDGE BRENNER: All right, that is acceptable  
23 to us. We, as we said last week, we would give you  
24 flexibility and then we will go back to the Staff  
25 questions on operating QA, and then your redirect.

1 MR. ELLIS: I guess what I was sort of trying  
2 to get your sense for, and perhaps Mr. Dynner's and Mr.  
3 Bordenick's, is whether we think, given the additional  
4 hour that the Board is allotting to OQA cross --

5 JUDGE BRENNER: Well, it's not an additional  
6 hour. It's part of our original promise. He hasn't hit  
7 his expected six hours of hearing time yet.

8 MR. ELLIS: By "additional" I meant beyond the  
9 original allotted time. But in any event, what I was  
10 hunting for was whether I can plan on OQA redirect  
11 tomorrow or whether the entire day is likely to be  
12 consumed by ISEG.

13 JUDGE BRENNER: Left up to our own devices,  
14 we're not going to consume the entire day on it. We  
15 believe a couple of hours for our questions. It depends  
16 upon the answers, but it will be at least a couple of  
17 hours. But we will see. We will try to be efficient.

18 So I don't know if your ISEG panel will be  
19 finished tomorrow, if that was the end result and your  
20 purpose in asking the questions.

21 MR. ELLIS: That is precisely what I was  
22 after.

23 JUDGE BRENNER: I don't want to break this  
24 topic, if that is what you had in mind, unless it is  
25 absolutely important to you to do that.

1 MR. ELLIS: Break which topic, sir?

2 JUDGE BRENNER: The cross-examination now, and  
3 start with ISEG first thing.

4 MR. ELLIS: We agree. This is just for  
5 purposes of people making travel plans and that sort of  
6 thing, and also for business plans I was trying to make  
7 the best estimate I could of the situation.

8 I think you also indicated that you wanted us  
9 to be able to respond tomorrow with more considered  
10 observations on the Board's proposed order with respect  
11 to the Torrey Pines matter.

12 JUDGE BRENNER: Yes, that is what I had in  
13 mind when I mentioned things we expect tomorrow.

14 MR. DYNNER: I might add, a note has just been  
15 handed to me that states that our response to LILCO's  
16 emergency planning to strike has been delivered to the  
17 Board and Staff. However, LILCO's copy got lost. It  
18 will be here tomorrow.

19 JUDGE BRENNER: Well, we can loan you one of  
20 ours and share it. Don't you have another copy?

21 MR. DYNNER: We don't. That is why I thought  
22 I would bring it up at this point.

23 JUDGE BRENNER: We will share ours. In fact,  
24 we will run another copy of our own. So that is a  
25 gift.

1           We do want to hear whether we can get the  
2 latest word tomorrow, when we will get LILCO's response  
3 to the motion for summary -- I'm sorry, the County's  
4 response to LILCO's motion for summary disposition. We  
5 required it by Friday, by midday on Friday, but we asked  
6 the County to please try very hard to get it to us by  
7 Thursday. And maybe you can give us a status report on  
8 that as to whether the County will in fact be able to  
9 make it by Thursday.

10           And as we noted previously, the affidavits  
11 don't have to be signed. You can catch up with that  
12 later so long as they are sufficiently reviewed by the  
13 affiants so as to be accurate.

14           All right, let's adjourn for the day and we'll  
15 be back at 9:00 o'clock tomorrow morning.

16           (Whereupon, at 5:10 p.m., the hearing in the  
17 above-entitled matter was recessed, to reconvene at 9:00  
18 a.m. on Wednesday, November 17, 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 16, 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)