

ORIGINAL

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the matter of:

CONSUMERS POWER COMPANY
(Midland Plant, Units 1 & 2)

Docket No. 50-329 OL
50-330 OL

*Return original to P. Wilder EW/w-439
Distribution TR.01*

Location: Midland, Michigan

Pages: 14272 -14493

Date: Wednesday, April 27, 1983

TAYLOE ASSOCIATES

Court Reporters
1625 I Street, N.W. Suite 1004
Washington, D.C. 20006
(202) 293-3950

8305030457 830427
PDR ADOCK 05000329
T PDR

1 UNITED STATES OF AMERICA
 2 NUCLEAR REGULATORY COMMISSION
 3 ATOMIC SAFETY AND LICENSING BOARD
 4

-----x
 5 In the Matter of: :
 6 CONSUMERS POWER COMPANY : Docket Nos. 50-329 OM
 7 (Midland Plant, Units 1 & 2) : 50-330 OM
 8 : Docket Nos. 50-329 OL
 : 50-330 OL
 -----x

9
 10 Wednesday, April 27, 1983
 Quality Inn Central
 1815 Sough Saginaw Road
 11 Midland, Michigan 48640

12 Evidentiary hearing in the above-entitled
 13 matter was resumed pursuant to adjournment, at 9:15 a.m.

14 BEFORE:

15 CHARLES BECHHOEFER, Esq., Chairman
 Administrative Judge
 16 Atomic Safety and Licensing Board

17 DR. FREDERICK P. COWAN, Esq., Member
 Administrative Judge
 18 Atomic Safety and Licensing Board

19 DR. JERRY HARBOUR, Esq., Member
 Administrative Judge
 20 Atomic Safety and Licensing Board

1 APPEARANCES:

2 On behalf of the Applicant, Consumers Power Company:

3 JAMES BRUNNER, Esq.

4 MICHAEL MILLER, Esq.

5 FREDERICK WILLIAMS, Esq.

6 Isham, Lincoln & Beale

7 One First National Plaza, 42nd Floor

8 Chicago, I-linois 60602

9 On behalf of the Nuclear Regulatory Commission:

10 WILLIAM PATON, Esq.

11 MICHAEL WILCOVE, Esq.

12 Office of the Executive Legal Director

13 1717 H Street, N.W.

14 Washington, D.C.

15 On behalf of Ms. Barbara Stamiris

16 LYNNE BERNABEI, Esq.

17 Government Accountability Project Institute
18 for Policy Studies

19 1901 Q Street, N.W.

20 Washington, D.C. 20009

21 On behalf of the Mapleton Intervenors:

22 WENDELL H. MARSHALL, Esq.

23 RFD 10

24 Midland, Michigan 48640

25 Appearing Pro Se:

MS. MARY SINCLAIR

5711 Summerset Street

Midland, Michigan 48640

I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>BOARD</u>	<u>REDIRECT</u>	<u>RECROSS</u>
----------------	---------------	--------------	--------------	-----------------	----------------

RONALD J. COOK					
----------------	--	--	--	--	--

By Mr. Wilcove	14368				
----------------	-------	--	--	--	--

By Mr. Marshall		14442			
-----------------	--	-------	--	--	--

By Ms. Bernabei		14449			
-----------------	--	-------	--	--	--

RONALD N. GARDNER					
-------------------	--	--	--	--	--

By Mr. Wilcove	14369				
----------------	-------	--	--	--	--

By Ms. Bernabei		14449			
-----------------	--	-------	--	--	--

ROSS B. LANDSMAN					
------------------	--	--	--	--	--

By Mr. Wilcove	14369				
----------------	-------	--	--	--	--

By Mr. Marshall		14426			
-----------------	--	-------	--	--	--

By Ms. Bernabei		14463			
-----------------	--	-------	--	--	--

WILLIAM D. SHAFER					
-------------------	--	--	--	--	--

By Mr. Wilcove	14369				
----------------	-------	--	--	--	--

By Ms. Bernabei		14471			
-----------------	--	-------	--	--	--

Testimony of: Messrs. Cook, Gardner, Landsman and Shafer, and Attachment 10					14374
--	--	--	--	--	-------

Attachments 1-A, 1-B, 1-C and 2					14376
---------------------------------	--	--	--	--	-------

Afternoon Session					14379
-------------------	--	--	--	--	-------

E X H I B I T SFOR IDENTIFICATIONRECEIVED

Staff Exhibit 19					14420
------------------	--	--	--	--	-------

Stamiris Exhibit 46					14492
---------------------	--	--	--	--	-------

1 CHAIRMAN BECHHOEFER: Good morning ladies
2 and gentlemen. We are now on the record.

3 As far as preliminary matters go, the Board
4 has only one or two matters. We would like a report
5 on what happened as a result of the discovery last week,
6 this week, just to know what disadvantage, if any, the
7 Intervenors have been under. And after that, we have
8 one comment. Well, maybe we will do this first.

9 There was one comment involving a document
10 that we received in the mail last week. It was a copy
11 of a letter from the Tera Corporation, and that letter
12 made a statement that is usually true, but not always.
13 And I just wanted to call it to the Staff's attention
14 and perhaps everybody else.

15 A letter dated April 21, and it said that,
16 "Please note we have not revised certain affidavits.
17 Both of these individuals were employed at the NRC
18 research program and in this capacity was not involved
19 in the review of the specific license application."

20 That statement is generally true, but not
21 universally. And my inquiry is whether these people
22 were asked whether they were involved in specific
23 license applications. I'm not sure that anyone here
24 could answer that at this time. It was Dr. Babbitt
25 from Dr. Anderson.

1 There are people -- I have heard from very
2 good authority that there are people in the research
3 division that get involved, especially in the
4 probablistic analysis area.

5 So, I don't seem to have the resume of
6 Dr. Anderson and so I'm not sure if Dr. Babbitt got
7 involved in this kind of thing or not. This was just
8 to call attention to the Applicant or the Staff both.
9 But it may need some clarification.

10 MR. MILLER: Do you wish to have a response
11 by the Applicant on the record, Judge Bechhoefer?

12 CHAIRMAN BECHHOEFER: I think it would be
13 useful at some point. There are several witnesses'
14 that gets into this to some degree.

15 I didn't want to surprise the witnesses
16 and we think it could be clarified.

17 In our discussions of discovery, we would
18 like to know what the Applicant would like us to do
19 or wishes us to do with respect to the privilege
20 question. It is sort of a suggestion in there. We
21 would not want to issue another ruling without getting
22 any responses from other parties that wish to do so.
23 So, I would like to inquire whether you think there is
24 a foul as a matter of principle or whether you think
25 that there would be any reason that we should issue a

1 reconsideration order.

2 MR. MILLER: Judge Bechhoefer, we filed the
3 comments we did along with the requested affidavits
4 costs so that our acquiescence in the procedure that
5 the Board ordered would not be taken by the Board as
6 any waiver of our rights to assert the attorney-client
7 privilege or work product privilege, in accordance with
8 what we believe the applicable legal doctrines are.

9 I think that the need for an order on recon-
10 sideration is probably not there. We've given the
11 affidavits. We've responded, I think, to the discovery
12 requests of Mrs. Stamiris.

13 In the event that additional discovery should
14 take place, I would hope that we could do it in a some-
15 what more structured manner so that we can properly raise
16 our claims of privilege and have them acted on by the
17 Board in, perhaps, a more timely fashion.

18 I don't mean to suggest that it was anybody's
19 fault that it didn't take place that way this time, but
20 I think we were just trying to stake out some ground
21 for any possible future controversies over documents that
22 might arise.

23 CHAIRMAN BECHHOEFER: Okay. Well, we won't
24 ask the parties to brief it, then, at least at this
25 point.

If we get further requests later on, maybe we

1 will have to.

2 Miss Bernabei, do you have anything?

3 MS. BERNABEI: Yes, we have a few comments on
4 it.

5 We haven't really been able to focus on filing
6 anything, but we probably will bring up our comments this
7 afternoon, if that would be okay. We haven't focused
8 on this particular issue, although we do have some
9 questions about the affidavit. But we haven't had time
10 to confer on this specifically, since we weren't sure
11 it was going to be considered this morning.

12 CHAIRMAN BECHHOEFER: Okay. Well, I was just
13 trying to ascertain whether we had to prepare an order
14 on reconsideration because, if so, we would have asked
15 you if you wished to brief it.

16 MS. BERNABEI: Well, I think we probably would
17 like that opportunity. We haven't focused on it as we
18 wish, and I can't say now if that's absolutely necessary,
19 but I have a feeling it may be.

20 I think that these problems are going to crop
21 up again and that may be a useful way to proceed.

22 CHAIRMAN BECHHOEFER: Right. Well, it is a
23 possibility that we could wait until the problems crop
24 up and then brief it, although we're not going to pre-
25 clude you from filing anything. We are not going to

1 issue an order, though, either reconfirming or changing,
2 doing anything at this point. But if you wish to address
3 it later any way you wish to proceed, that's fine.

4 Could we get a report of what happened on
5 discovery?

6 MS. BERNABEI: I suppose it's up to us to
7 start off, since we're probably the dissatisfied party
8 here.

9 We did get a number of documents from the NRC
10 Staff subsequent to the Board's order that formal dis-
11 covery could proceed.

12 I can say, being fair, that we're not very
13 happy with what we've got, unfortunately.

14 We received some documents on April 14th,
15 when we negotiated for about five hours. Those documents
16 essentially were documents collected in response to a
17 FOIA request, they were not collected in response to Mrs.
18 Stamiris' discovery. They were on the Diesel Generator
19 Building inspection.

2-1-1
CM/dw
inspects 1

2 Then we received no documents until
3 April 20th, the following week, and we received a box
4 of documents on April 20th and another box on
5 April 21st and then a file on the 22nd.

6 Most of the documents -- and we only tallied
7 about half of them -- but we found that about two-thirds
8 of the documents were already on the public record and,
9 therefore, they weren't very useful.

10 We had told the NRC Staff attorneys a long
11 time ago that we weren't interested in anything on the
12 public record, we already had those materials. And I
13 assume that if we tallied the rest of the documents they
14 gave us that it would be running about two-thirds
15 already in the PDR and one-third documents that would
16 be useful to us.

17 They also have withheld a number of documents
18 on the ground of privilege. Essentially, they delivered
19 a process privilege and on the grounds that documents
20 are already available said that we don't need these.

21 The ones that I consider most important I'll
22 recount, and Mr. Wilcove can correct me if I'm wrong.
23 He was kind enough, last Friday, to describe for me some
24 of the documents that they're withholding, very much in
25 the vein of a Vaughn index kind of description. Some
of them included memos on the Spessard investigation or

1 the Boos investigation. Some of them were personal
2 notes from I. E. headquarters about the CCP, about
3 a meeting they had on December 7th about the CCP, or,
4 as Mr. Wilcove said, the embryonic stages of the CCP.

5 There were drafts of inspection reports in
6 the enforcement package that have been withheld. There
7 was a Mr. Craig's handwritten notes on the -- or his
8 file on the Spessard memo issues.

9 There were also, from Ms. Adamson, notes on
10 the IDCPDs and notes on the SALP meeting in April of
11 1982.

12 There's Wayne Shafer's record book, and
13 then there were, as I understand it, notes about the
14 Landsman investigation.

15 Now, some of these issues, we believe, are
16 real essential to this hearing. They have to do with
17 the Applicant's honesty or dishonesty or lack of
18 character and competence and we believe are the central
19 issues in these hearings.

20 Some of this information is especially
21 important because the Staff has indicated it does not
22 intend to introduce direct testimony.

23 If I understood the Staff correctly on the
24 Boos investigation, they said that they do not intend
25 to introduce any direct testimony; therefore, the only

1 thing we have to go on is -- other than the report itself,
2 is the materials collected in the course of the report.

3 The notes on that CCP, I think, are very
4 important, since there has been a lot of controversy
5 about that, and one of the Staff's positions is that
6 the CCP or the various independent reviews are going
7 to solve the problems at Midland. And I think that how
8 that program was developed and what alternatives were
9 considered and Consumers' attitude about the program
10 is real essential to the proceeding, so I think these
11 are very critical.

12 That's sort of the second problem we've had,
13 other than the quality of the documents, the fact that
14 a lot of them are -- a lot of what appeared to be the
15 most useful documents have been withheld.

16 The third problem we've had is that the Staff
17 has not searched, or we have not received at this point
18 a majority or a great number of documents from
19 Region III.

20 When we negotiated on April 14th, they had
21 not checked anyone in Region III other than the Office
22 of Special Cases.

23 I, frankly, was outraged that they had
24 not even checked with Mr. Keppler or
25 Mr. Davis to see if they had any

1 relevant documents to our discovery request.
 2 That was after they had had our discovery request for a
 3 week.

4 At those negotiations, they checked
 5 Mr. Keppler and Mr. Davis' office, or we asked them to
 6 check the rest of Region III that had anything to do
 7 with Midland, and they said they didn't know who the
 8 people were.

9 Well, we then had the conference call with
 10 the Board the subsequent week and we gave them a list
 11 of names.

12 As I understand it, we have not received any
 13 of those documents at this point. We gave them a list
 14 of names of people who we knew that we basically
 15 gathered off the other documents.

16 We also, as I understand it, will not receive
 17 until sometime this week or next week or -- I hope --
 18 documents from Mr. Weil, from the Office of
 19 Investigations, and he, of course, was the person that
 20 is pivotal in the Landsman and the Spessard
 21 investigations. And we do not -- he was in Korea, as
 22 I understand it. No one would agree to search his
 23 files, and we have no documents from his files at all.
 24 I think he's a real pivotal person in these two
 25 investigations.

1 CHAIRMAN BECHHOEFER: Mr. Paton, Mr. Wilcove,
2 do you have any comments?

3 MR. WILCOVE: Yes. My first comment is that
4 Miss Bernabei is correct in saying that the Staff had not
5 been intending to put on direct testimony with respect
6 to the March 10th and March 12th statement about table
7 instrumentation. We have since changed our position on
8 that and Mr. Weil will testify about those matters as
9 well. He will do so at the same time in which he will
10 testify about the legal violations for the Board's order.

11 With respect to the rest of the Board's order,
12 that report --

13 CHAIRMAN BECHHOEFER: I take it this won't be
14 in the two-week period?

15 MR. WILCOVE: No, sir, it will not. As I
16 understand that report is in a draft stage and I'm not
17 quite sure when it will be in final form, but when it is,
18 we will be putting on direct testimony on that.

19 CHAIRMAN BECHHOEFER: Can you make these dates
20 between June 1 and 10th that we set up? I think the
21 report will be finished in sufficient time and we can
22 take it up then?

23 MR. WILCOVE: We have urged the Office of
24 Investigation to get that inspection done. We hope
25 that they will do it in time for this hearing. Quite

1 frankly, I hope that we will be able to have it here in
2 June, but I cannot commit to that.

3 And Mr. Weil's files will be checked when he
4 does return from Korea. It is -- which is, I believe,
5 he is scheduled to return this coming Monday.

6 The Staff would ask to withhold documents
7 about the on-going investigation for the alleged vio-
8 lations of the Board's order until that investigation
9 is completed.

10 CHAIRMAN BECHHCEFER: That is the normal Com-
11 mission procedure.

12 MS. BERNABEI: We have no problem with that.
13 They are withholding documents on investigations that
14 is something like a Catch-22. You can't have them when
15 it is going on and you can't have them when it is
16 finished. That is what has happened with the Boos
17 investigation. They are claiming different privileges
18 after the investigation is completed. I would assume
19 that when it is on-going there is certain kinds of con-
20 cerns about revealing information. But we are in the
21 situation, the Boos situation, because the investigation,
22 that the privilege came after the investigation is over.

1 MR. WILCOVE: The privilege we are claiming
2 are the 10 CFR 2.744, not necessarily to a proper
3 determination privilege. Those documents basically, I
4 think, are personal notes in one of the enforcement
5 files related to that investigation as well as a couple
6 documents entitled Enforcement Travelers, which is
7 essentially within the file, a log of activities that
8 have taken place when it was assigned to a certain
9 person, for instance, comments made by certain persons
10 with the appropriate dates.

11 We have those documents here and we will be
12 willing to submit them to the Board for its in camera
13 inspection. And if the Board so determines that they
14 should be disclosed, we will do so.

15 However, with respect to the March 10
16 investigation, I note that very lengthy investigation
17 reports, a number of attachments has been made
18 available. And I know that the Office of Special Cases
19 did search their files and any documents that they had
20 were turned over with respect to that investigation.

21 Turning to some other Miss Bernabei's comments,
22 it is true that a number of the packages did contain
23 information that was publicly available. And we do
24 acknowledge that Miss Bernabei did not specifically ask
25 for that information. However, in going through files,

1 it was much easier on the Staff for them to submit all
 2 those documents. The most that happens is that the
 3 Applicant and the Intervenors would have an extra copy
 4 of those documents.

5 And with respect to Miss Bernabei's comment
 6 about which documents we are claiming privilege on, to
 7 my knowledge, none of the documents which I had here
 8 which we are claiming privilege have to do with the
 9 legal violation of the Board's order. If I am not
 10 thinking clearly at this point, then I made a mistake.
 11 I will so advise the Board.

12 Also Mr. Cook and Mr. Burgess have some
 13 personal notes that we will call 10 CFR 2.744.

14 For the record, both Mr. Cook and Mr. Burgess
 15 are resident inspectors at the site.

T4fol

16
 17
 18
 19
 20
 21
 22
 23
 24
 25

site.

1 Mr. Warnick has brought with him a record log
2 that he keeps similar to the ones that Mr. Schaefer
3 keeps. Again, those documents will be available for the
4 Board's in camera inspection, if they wish.

5 Also, I have been advised that we have some
6 personal notes by Mr. Davis that we also are claiming the
7 10 CFR 2.744 privilege. And also Miss Bernabei did give
8 a listing of members of Region III which were checked.
9 And in a package, that I left at the Receptionist's desk
10 at the Quality Inn, I included documents, relevant docu-
11 ments as a result of that search. The Applicant has not
12 yet gotten a copy of those and we will do so.

13 CHAIRMAN BECHHOEFER: Miss Bernabei, have you
14 gotten that?

15 MS. BERNABEI: Yes, those were only a few
16 documents, only about 10 pages or so. We did get them
17 yesterday.

18 MR. WILCOVE: Okay, just let me read the list
19 of names that Miss Bernabei asked us to check, and if
20 I leave out any, correct me. The names are: Norelis,
21 Foster, Yin, Sutphin. It might be easier if I at a
22 later time Xeroxed this list.

23 Sutphin, S-u-t-p-h-i-n, Lanksbury, L-a-n-k-s-
24 b-u-r-y, McCarten, M-c-C-a-r-t-e-n, Williams, that's
25 Cordell Williams, Hind, Little, Danielson, Boyd, B-o-y-d,

1 Spessard.

2 CHAIRMAN BECHHOEFER: Who after Spessard?

3 MR. WILCOVE: Ward and Mendez.

4 MR. WILLIAMS: Could you clarify what this list
5 is?

6 MR. WILCOVE: These are lists of employees
7 within Region III. At a conference call last week,
8 Miss Bernabei offered to give the Staff a list of
9 regional employees that she will require that their files
10 be searched. And I'm reading the list that Miss Bernabei
11 gave me in addition to the members of the Office of
12 Special Cases, Mr. Keppler and Mr. Davis.

13 Mr. Lanksbury and Sutphin and Mr. Ward were
14 out of the office last week. So, their files have not
15 yet been checked. Mr. McCarten is no longer employed
16 by the NRC. And while we are on the subject of Region
17 III, I would like to give a --

18 CHAIRMAN BECHHOEFER: Are the persons, Sutphin,
19 Lanksbury and Ward, are their files going to be checked?

20 MR. WILCOVE: We will check those files when
21 they return.

1 JUDGE COWAN: Did you check the rest of them?
2 MR. WILCOVE: Yes. The rest of the files
3 have been checked. They were brought to the hearing
4 by Region III personnel and I went through and found
5 the relevant documents and turned them over yesterday
6 afternoon.
7 MR. MILLER: Not to the Applicant.
8 MR. WILLIAMS: I would like to get copies of
9 the set of documents that you said you turned over to
10 Miss Bernabei.
11 MS. BERNABEI: There's only one set. There's
12 only about 10 pages of documents, unless you are
13 talking about something else.
14 MR. WILCOVE: No.
15 MR. WILLIAMS: Well, you indicated that there
16 was two sets, one that you brought from Washington and
17 that you delivered and one that you turned over
18 yesterday.
19 MS. BERNABEI: They are one in the same.
20 MR. WILCOVE: They are one in the same.
21 With respect to documents relating to the
22 Construction Completion Plan, there were three
23 documents that were not in the package that
24 Miss Bernabei received either Thursday or Friday. I
25 can't remember which, and these were documents brought

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

here and they have been turned over.

And in addition, this document that came out of the files of these people here were --

CHAIRMAN BECHHOEFER: I would suggest that we make sure that both the Applicant and the Intervenors have copies, copies of the documents.

MR. MILLER: If I understand correctly then, with the exception of the file of Lanksbury, Sutphin, Mr. Ward and Mr. Weil, that the NRC Staff has complied fully with the documents requested by the Intervenors?

MS. BERNABEI: There's a number of documents that have been withheld, and at least, I think the four people, in leaving Mr. McCarten aside, the four people are real essential people. They have a lot to do with Midland. So that there is complete compliance except for these four people is not saying a lot.

And I might note something else as well, from the identification of the documents that have been withheld, these are things that are very essential to the issues that are going to be discussed at this hearing. They have to do with potential violation of the Board's order and intentional violation of an NRC regulation by the Applicant. And those are essential to the issues that are going to be discussed.

And again, it leaves from our review of the

1 documents that have been released, these seem more
2 relevant than those that had been released. It is hard
3 to tell, because we haven't seen them. But it seems
4 to be very important to the issues that are being put
5 forward.

6 MR. MILLER: I interrupted already, but --

7 MR. WILCOVE: If we have any further comments.

8 MR. MILLER: The only additional comments that
9 I would make is it would seem to us that waiting for
10 Mr. Weil's files on these investigations before any
11 testimony is heard on the subject of the March 10
12 instrumentation investigation or the alleged intentional
13 violation of this Board's April order is unnecessary.
14 Mr. Weil is after all an investigator. He doesn't have
15 firsthand knowledge of these events. People who do,
16 are scheduled to be witnesses. And much of the
17 relevant facts underline the events surrounding those
18 two investigations, both a matter of public record and
19 has been made available through discovery already.

20 We would resist any efforts to simply defer
21 the whole issue of these two investigations until some
22 definite time in the future when Mr. Weil's notes have
23 been made available. And since he is the least
24 important witness on the subject, since all he does is
25 collect everybody else's impressions, write them up and

1 attach them to his investigation reports, which is
2 then reviewed by the Region and the evaluation of the
3 investigation reports is conducted by, I'm not sure by
4 whom, but Mr. Keppler in any event, who is the author
5 of the letter which advises the licensee for the
6 action, if any, that is going to be taken as a result
7 of the investigation.

3-5fol

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRMAN BECHHOEFER: You may want to comment. I'm not sure how analogous it is, but the Commission had and realized somewhat distinguishable -- the Commission recently issued an order at Comanche Peak where it bent over backwards to the investigative processes. So even though the information was public knowledge at the time, I don't know if you're --

MR. MILLER: I'm not familiar with that decision, Judge Bechhoefer.

CHAIRMAN BECHHOEFER: The Commission, I think reversed the appeal order in the Comanche Peak decision. The names of the people contacted were already public knowledge, so that the request for confidentiality was moot. And the Commission reversed that.

I think they sort of bent over backwards, but they did seem to go out of their way to protect the process of investigation. And there were some confidential informants involved, so it may be distinguishable, but I'm not sure. The Commission policy does bend over backwards to at least say that the investigation should be completed before there is any judicatory consideration. I'm not sure about that. It is a possible interpretation by recent orders.

MR. MILLER: I would like very much to urge the Staff and the Board to make some decision with

3-5-2

1 respect to these documents as to which two points is
2 being asserted. I'm looking at the stock of
3 documents in front of Mr. Wilcove. They don't look
4 like they are a large volume of papers, and I'm not
5 certain if that is all of them or not. But, you know,
6 complicating the ongoing evidentiary hearing with
7 disputes over discovery is not going to help us advance
8 to a conclusion of the session on quality assurance,
9 which I believe is everybody's stated goal.

10 CHAIRMAN BECHHOEFER: I can agree with that.
11 I don't know the quantity, but it is possible that we,
12 not during the break in the day, but maybe we can
13 adjourn a little bit early and look over some points.

14 MS. BERNABEI: If I could note something.
15 One of the factors that has to be considered by the
16 Board is whether these documents are available from any
17 other source or the information in the documents are
18 available from any other source. Some of it appears
19 to be, and again we haven't seen the documents so we are
20 guessing, some of it appears to be drafts and other
21 recommendations on the enforcement package following
22 the generating building inspection. We think that is
23 very important. And it does appear that there was
24 dissent within the Staff about what enforcement action
25 should be taken as a result of that inspection.

1 CHAIRMAN BECHHOEFER: Of course, you can
2 ask the witnesses if there was dissent in the Staff.
3 The Staff is under an obligation to reveal such. I
4 don't think a nitpicking of a couple of words necessarily
5 is a dissent, but if there is a policy dissent on a
6 significant matter, the Staff is supposed to tell us.
7 And it has been done on similar occasions. There is
8 differences between individual recommendations,
9 Dr. Landsman doesn't see eye to eye with the rest of
10 Region III or --

11 MS. BERNABEI: In some cases other Staff
12 members who were overruled -- I mean, we have
13 encountered that situation where a number of the Staff
14 were overruled by Mr. Keppler and it is sometimes
15 easier if the documents are turned over to discovery
16 for the Staff to speak about these matters.

17 I'm not suggesting that there is undue
18 pressure, but there is a general reluctance of once
19 a decision has been made to talk about that decision.
20 The documents that we are talking about cannot be
21 obtained from any other source.

22 I also note that some personal notes had been
23 turned over. I believe Mr. Shaeffer's log and things
24 of that nature have been turned over without any
25 suggestions that that is improper. The other things

1 that the Staff is withholding are of that nature, of
2 personal logs, personal notes, notes from meetings about
3 the CCP. You know, right offhand I don't know whether
4 that information can be obtained from any other source.
5 And it is relevant to testing the basis of the Staff's
6 testimony.

7 MR. WILCOVE: If I may comment first off,
8 the Office of Special Cases have been accused of a lot
9 of things, but that offense is not one of them. I don't
10 think there would be any problem like that. And you
11 know, Miss Bernabei is correct, although we have
12 turned over some personal notes, I do feel that the
13 fact that we do turn over some personal notes where we
14 could claim a privilege should not prejudice us in
15 claiming privilege with respect to notes and other
16 draft documents that we would prefer not be disclosed
17 into discovery.

18 CHAIRMAN BECHHOEFER: What is the total
19 quantity for which the 744 privilege is being claimed,
20 but not necessarily for that kind of privilege? Just
21 approximately?

22 MR. WILCOVE: Approximately eight, nine, ten
23 documents.

24 CHAIRMAN BECHHOEFER: So it is not going to
25 take us --

3-5-5

1 MR. WILCOVE: No, it will not take us a full
2 day to do so.

3 Three of them we will be claiming attorney-
4 client privilege. That's a memo from Mr. Davis to
5 Steve Burns of the EOD with respect to asking a legal
6 opinion with respect to the March 10th and March 12th
7 table instrumentation statement and then Mr. Burns'
8 reply. And the EOD's comments on the enforcement
9 practice. Those three documents we would be claiming
10 attorney-client privilege here. The rest of the
11 documents we will be claiming the 2.744 privilege.

3-6fol

12
13
14
15
16
17
18
19
20
21
22
23
24
25

2.744 pri¹

1 MR. MILLER: Judge Bechhoefer, I would like to
2 observe my review of the document that was turned over
3 by the Staff. There was at least one draft of the Diesel
4 Generator Building inspection report that did indicate
5 one somewhat different approach than the one ultimately
6 taken by the Staff. I think the Staff has been pretty
7 forthcoming in providing significant differences of
8 opinion within the Staff or inside its deliberative
9 process. And the documents have already been turned over.
10 I think to suggest examinations cannot be conducted
11 because the last ten pages of somebody's personal mus-
12 ings, events that otherwise disclose documents that have
13 been turned over is just simply wrong.

14 MS. BERNABEI: I think perhaps you don't
15 really have an idea what documents you are talking about.
16 As far as Mr. Wilcove has represented to me, there is four
17 drafts of the investigation or the enforcement package,
18 which we don't have. We did get a few of those. The
19 personal notes have to do, as I understand in part with
20 the dissent of the enforcement action. In terms of the
21 Staff's forthright approach to this, I must state Miss
22 Stamiris originally asked for dissenting views within
23 the Staff. We were told that no such documents existed.
24 Mr. Hernan said, "Oh, no, I know documents exist."
25 And subsequent research to the Staff's credit did bring

1 up these dissenting documents. This has not been the
2 case where they have been totally forthright or Region
3 III has been totally forthright in bringing forth this
4 information.

5 CHAIRMAN BECHHOEFER: When could the Staff give
6 us documents?

7 MR. WILCOVE: With the exception of Mr. Cook's
8 notes, all the other documents are in this room. So,
9 we could give them to you on a moment's notice.

10 CHAIRMAN BECHHOEFER: I think we would like to
11 look them over at the close of the session today. And
12 by tomorrow morning -- I might say that we won't be
13 100 percent sure of what has already been turned over.
14 And so whether something is cumulative or not, we may
15 be guessing. It may be self-evident or may not be. We
16 won't be able to tell you whether for instance one draft
17 is similar to another draft or identical because we will
18 not have had the other one. So, we will have to have the
19 final report. We could probably tell if there is any-
20 thing significantly different. What we won't be able to
21 tell you is whether anything is significantly different
22 from another draft.

23 MR. WILCOVE: Mr. Chairman, we will not object
24 on the grounds of cumulativeness for that very reason.

25 MS. BERNABEI: I could be wrong, but I think

1 what you are going to get from Mr. Wilcove's representa-
2 tion is two drafts prior to the final version. So what
3 you should get is two drafts.

4 MR. WILCOVE: Three, I think.

5 CHAIRMAN BECHHOEFER: What I said, if you
6 already have gotten the draft, we can't tell what is in
7 the earlier draft is in what you got already.

8 MR. WILCOVE: Mr. Chairman, Miss Bernabei made
9 a comment about Mr. Shafer's forthcomingness or -- which
10 I cannot understand in that Mr. Shafer, during the
11 process we were trying to work out an informal discovery,
12 Mr. Shafer spent at least five hours on the phone with
13 Miss Stamiris. I was not privy to those conversations
14 except for maybe three minutes on one time. So, I can't--
15 so, I can't represent what Miss Stamiris asked him or
16 what Mr. Shafer replied. But I have no doubt that in
17 view of the time, that Mr. Shafer has spent on the phone
18 with Miss Stamiris and Miss Gard, the Government Account-
19 ability Project, I'm confident there was no attempt to
20 mislead Miss Stamiris.

21 Mr. Shafer will be on the stand under oath
22 and if Mrs. Stamiris wishes to ask him what he meant,
23 the Staff would have no objections to that. As a matter
24 of fact, to a reasonable extent, if Miss Bernabei wishes
25 to question these witnesses about what they did to

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

comply with Mrs. Stamiris' discovery request, the Staff
will not object if she feels that there is a need to do
so.

3-7

1 CHAIRMAN BECHHOEFER: Well, I guess we can.
2 We will look over those documents tonight and if any of
3 them have to be turned over, there aren't that many,
4 they are turned over, they could be looked at before any
5 of the Panel are excused. I'm assuming that this Panel
6 will come on today will not get through by tonight.

7 MR. WILCOVE: I doubt that very much.

8 I do have a few more points that I must about
9 discovery. One being that I realize this is taking a
10 fair amount of time. I do feel it necessary to get
11 this on the record.

12 With respect to the Office of Special Cases'
13 attempts to comply with the requests, they went through
14 all their section files, their personal files and
15 official Region III files called "The Blue Room," which
16 has public and non-publicly available information.
17 Mr. Kepplier, Mr. Davis and Mr. Schultz were checked
18 during this process.

19 I would also note that when we negotiated with
20 Miss Bernabei, the search was on-going. So if there is
21 an indication that Region III refused or said that they
22 would not go through Mr. Davis' file, I don't think that
23 that is quite accurate. While it is true that at the
24 time that they had -- we negotiated with Miss Bernabei,
25 they had not yet gone through those files. We did

1 immediately speak to the Office of Special Cases and
2 they promised that they would go through Mr. Keppler
3 and Mr. Davis' file.

4 Mr. Harrison of the Office of Special Cases
5 informs me that approximately 200 manhours have been
6 spent going through a number of files, both official
7 and personal. And I would note that with respect to
8 NRC, they have spent approximately two days at least,
9 five people spent at least two days to comply with
10 Miss Stamiris' request.

11 In short, there being my indication to the
12 contrary, the Staff has been working quite hard to
13 satisfy Mrs. Stamiris' requests.

14 I would note that the bulk of her requests,
15 the time frame in which the Office of Special Cases
16 was created and it was safe to say outside of those files
17 and certain files within the Division of Licensing,
18 there is simply not that many documents. I would note
19 that Inspection Enforcement has been checked. And with
20 respect to the Office of Investigation, Mr. Hernan has
21 spoken to members of Region III Office of Investigation
22 and Headquarters. And it is my understanding that the
23 only documents that would be in existence with respect
24 to either the two investigations, the March 10th and
25 March 12th statement, and the alleged violations of

1 the Board's order would be in Mr. Weil's office. And I
2 also do not think it is improper in the least that the
3 members of the Office of Investigation's secretaries
4 would be -- I don't think it is improper that they would
5 be reluctant to go through his personal notes, his per-
6 sonal draft. I think he is entitled to be present to
7 explain the content discussions what he wished to claim
8 privilege.

9 So in short, I cannot see anything improper
10 since we have committed to talk to Mr. Weil when he does
11 return from Korea

12 CHAIRMAN BECHHOEFER: Let me ask you, when the
13 Office of Special Cases was created, did it pick up
14 files from on-going matters from other divisions that
15 might have had the responsibility where those documents
16 would be reflected in the Office of Special Cases file?

17 MR. WILCOVE: Mr. Warnick advises me that that
18 is the case.

19 I do have a few more comments. I again direct
20 the -- also, I would note that Miss Bernabei has
21 requested that Mr. Cummings of the Office of Inspection
22 and Auditing, I think. OIA, and we will do so.

23 CHAIRMAN BECHHOEFER: You will do what, search
24 his files?

25 MR. WILCOVE: We can contact him.

1 Along those lines, Miss Bernabei has already
2 requested that Mr. Denton, Mr. McWilliams, both of the
3 NRC, their files be checked.

4 Mr. Hernan, Mr. Stillow, Mr. Ingram, I believe
5 she has requested that their files be checked as well.
6 She also asks about a J. Cook and Aneod, I believe that
7 is Mr. Cook of Public Affairs, and we can't acknowledge
8 that would be a relevant document there.

t4

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 Miss Bernabei also requested that Mr. Fitz-
2 gerald's offices in OI be checked, but in speaking with
3 Mr. Ward at Headquarters and with the Region III's
4 Office of Investigation, it was determined that the only
5 files -- or the person who would have relevant files
6 would be Mr. Weil.

7 And, finally, the --

8 CHAIRMAN BECHHOEFER: Well, has Mr. Denton not
9 gotten involved in any of these investigations to this
10 time? Any of the inspections, I should say.

11 MR. WILCOVE: Mr. Hernan, the other Midland
12 project manager, has indicated that he will check with
13 Mr. Denton's office. It is highly unlikely that he would
14 have a personal file on Midland, but he will be checked.

15 MS. BERNABEI: Perhaps I could explain how we
16 got to this list.

17 I would certainly agree this is not the most
18 efficient way to do this.

19 The Diesel Generator Building inspection
20 report and the enforcement package were sent to all these
21 offices. Since we, basically, got our list of people
22 whose files we wanted to check from the documents we
23 had, we included people to whom that report had been
24 sent. That's how we got the PR person, Jean Cook, and
25 some of these other people.

1 It's very likely that some of these other
2 people have no information.

3 CHAIRMAN BECHHOEFER: I think you left us out.

4 MS. BERNABEI: I would certainly --

5 MR. MILLER: Does the Board get copies of the
6 enforcement packages before they're issued?

7 CHAIRMAN BECHHOEFER: No, we don't, but I think
8 the final report had a transmittal notice that we're on.

9 MR. MILLER: Oh, I see.

10 MR. WILCOVE: Just a couple more matters along
11 this line and then we'll get down more to the business at
12 hand, and that's with respect to Miss Staniris' request
13 for documents related to the CCP. The second part of
14 that request was the retraining and recertification of
15 QC personnel.

16 Miss Bernabei received those documents as to
17 the Applicant late last week.

18 I should note, though, that in conducting
19 that search what was brought forth were documents related
20 to the retraining and recertification of QC personnel as it
21 was discussed in the CCP.

22 Now, as can be seen from the Staff's prefiled
23 testimony, the issue of retraining and recertification
24 of QC personnel emerged in the final third of 1982, and
25 I am advised by the Staff that documents do exist which

1 address retraining and recertification of QC personnel
2 prior to the development of the CCP. They were not
3 included in the package.

4 If the Board feels that these documents should
5 be provided, we will be happy to do so.

6 CHAIRMAN BECHHOEFER: Are you now excluding
7 soils related documents, retraining and recertification
8 of QC people involved in soils work? Because that has
9 been a prime issue for some time, and I think that kind
10 of document, at the very least, should be turned over.

11 MS. BERNABEI: We agree.

12 MR. WILCOVE: If I could have a moment, Judge
13 Bechhoefer.

14 CHAIRMAN BECHHOEFER: Yes.

15 (Discussion had off the
16 record.)

17 MR. WILCOVE: I've been advised by the Staff
18 that since the CCP does not apply to remedial soils work,
19 those documents would not be included in that package.

20 Essentially, when the Region III did their
21 search for that portion of the request they did not
22 lump into it documents related to retraining and recer-
23 tification of QC personnel as that issue emerged before
24 the issuance of this CCP. Again, if the Board wishes
25 us --

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

(Discussion had off the
record.)

1 CHAIRMAN BECHHOEFER: We think those
2 documents should be turned over, the retraining and
3 recertification documents. Not to us, but to the
4 parties.

5 MR. WILCOVE: Yes. We will be happy to do so.
6 (Discussion had off the
7 record.)

8 MR. WILCOVE: Mr. Cook would be able to turn
9 over his documents within a couple of days. The problem
10 is --

11 MR. COOK: If I don't have to be here.

12 MR. WILCOVE: The problem is the Office of
13 Special Cases is here now and we have to wait until
14 they go back to the Region for them to search their
15 files.

16 MR. MILLER: Could we have an identification
17 of the specific request Mrs. Stamiris made to which
18 these documents would be responsive Mrs. Bernabei? The
19 recertifying and requalifying QC inspectors.

20 We clarified that during our discovery
21 negotiations.

22 MR. WILCOVE: Yes. And Miss Bernabei did
23 send me a letter, which I can show to the Applicant
24 and the Board. It's really no different from what was
25 submitted in her motion to continue the proceeding.

1 MR. MILLER: I'd appreciate it.

2 MS. BERNABEI: We can provide you with a copy.

3 MR. MILLER: I think that communication --
4 certainly we copy the service list of all
5 communications to the parties or to the Board and it
6 would be appreciated if the Intervenors would do the
7 same.

8 It hasn't been a problem up until now.

9 MS. BERNABEI: That certainly is no problem.
10 This is all information that was repeated in our motion
11 for a continuance, which you certainly were served with.

12 CHAIRMAN BECHHOEFER: Our ruling would apply.
13 These documents ought to be turned over to the Applicant
14 as well.

15 I don't want to have to look them over first,
16 but I suspect that they could be relevant to a number of
17 the issues that are the subject of the direct testimony.

18 MS. BERNABEI: And this would be for soils
19 and non-soils, I presume?

20 CHAIRMAN BECHHOEFER: Yes. Well, I would
21 assume that the soils documents here should have been
22 turned over already if they haven't been up to this time.

23 What we were talking about was specifically,
24 I guess, the CCP related documents.

25 But we have a lot of testimony on the

4-2-3

1 qualification of the soils, qualification or
2 requalification of the soils inspectors, and I would
3 hope -- I would certainly include those. Those should
4 be turned over even more than the others. I mean, those
5 are directly pertinent and people should have access
6 to them. The others, I think, are relevant as well.

7 MR. WILCOVE: We certainly do not object to
8 doing so, but if I could explain.

9 The CCP does not apply to remedial soils
10 work, so that when the Staff did look at the request
11 and searched their files, I can fully understand why
12 their search would not pick up those documents.

13 Now that they have been requested and the
14 Board has asked us to turn them over, we will do so.
15 But just so the Board and the parties understand why
16 they were not initially picked up in the search.

17 Finally, Mr. Gardner informs me that last
18 week, at the caseload forecast panel meeting, Consumers
19 Power turned over to him some documents which pertained
20 to the CCP.

21 As Mr. Gardner was at that meeting virtually
22 all week, not even the Staff has had a chance to look
23 at those documents. And, if the Board wishes, we could
24 turn over those documents as well.

25

well.

1 (Discussion had off the
2 record.)

3 CHAIRMAN BECHHOEFER: We don't know what they
4 involve, so it's hard to say.

5 (Discussion had off the
6 record.)

7 CHAIRMAN BECHHOEFER: If it relates to the
8 QA aspects of this case, they certainly should be turned
9 over.

10 If it relates to business conditions and timing
11 and that kind of thing, I'm not sure it's relevant to
12 what we have to decide.

13 So it's hard for me to rule off the cuff with-
14 out any further description.

15 MR. WILCOVE: We will turn those documents
16 over. I think that's the easiest way.

17 CHAIRMAN BECHHOEFER: That will save me the
18 trouble of ruling.

19 MR. WILCOVE: Yes, we understand that.

20 Two things, also, with respect to I&E's
21 files, they sent me a listing. There are two documents
22 on there. One read working schedule plan and NRC open
23 items list.

24 In going through their files, I could not
25 tell which of the documents those two were.

1 Jane Axelrad, the Acting Director of Enforce-
2 ment, advises me that they were in the file. I will
3 verify that those documents are accounted for and either
4 that they're turned over or they're one of the ones upon
5 which we are claiming the privilege.

6 I believe that should conclude the Staff's
7 discussion of discovery except to repeat that both
8 within Washington and the Region, a very, very, very
9 large number of hours have been spent in attempting to
10 comply with Mrs. Stamiris' request. We started to
11 comply with that request as soon as we received her
12 formal request on April 7th.

13 I would say that while normally a party has
14 30 days to comply with a request, we have been trying to
15 do it in a significantly shorter time.

16 To the best of our knowledge, we have turned
17 over all documents that are responsive, with the
18 exception of what I've explained here today. But I
19 should note that it was a best faith effort, it was done
20 under pressure in a short amount of time. So that there
21 could have been some mistakes made, which is why if
22 Miss Bernabei wishes to, to a reasonable extent, cross
23 examine our witnesses as to the extent to which they
24 did comply with -- as to what they did to comply with
25 her request, the Staff will have no objection.

1 Oh, two postscripts. I did forget a couple of
2 things.

3 One is that Mr. Warnick advised me that in
4 doing this search files concerning the allegations prior
5 to the creation of the Office of Special Cases, which
6 was July '82, they were sort of -- they wound up in a
7 twilight zone between OI and Region III. So those
8 files were not checked.

9 We have no reason to believe, though, that
10 those files would contain information relevant to Mrs.
11 Stamiris' request, and, unless otherwise directed by
12 the Board, we do not intend to search those files.

13 Also, Miss Bernabei asked me about certain
14 consultants from Argonne who were involved in inspections.

15 Members from Argonne were in training when
16 the Diesel Generator Building inspection was conducted.
17 I have been advised by the Staff that they would not have
18 any documents and --

19 (Discussion had off the
20 record.)

21 MR. WILCOVE: I just wish to correct what I
22 said. They were not even involved in the Diesel Genera-
23 tor Building inspections. They were doing some training
24 exercises with respect to the balance of plant related
25 work.

1 Our bottom line is that they have -- it is
2 our understanding that they have not been involved in
3 any inspections which would be relevant to Mrs. Stamiris'
4 request. And, again, unless directed by the Board to do
5 otherwise, the Staff does not intend to check their
6 files either.

7 MS. BERNABEI: May I address a few of the
8 things that Mr. Wilcove brought up.

9 I would certainly agree that the search the
10 Staff has done has taken a lot of time, and I think that
11 really can be attributed to the fact that they started
12 too late and they have been sort of dragged --

13 CHAIRMAN BECHHOEFER: Well, we'll --

14 MS. BERNABEI: In other words, all I'm saying
15 is I'm sure this hasn't been done -- the most efficient
16 way, and I think that we've tried in every way we can
17 to accommodate them and try
18 to consider things as this Board has considered; that is,
19 when OSC was organized.

1 The second thing I would say, this twilight
2 zone document that exists somewhere between OI and
3 Region III, we have reason to believe that includes a
4 number of Staff dissents about what policy to take on
5 the soils work in Midland.

6 I understand that that's from the spring and
7 summer of 1982, that period of time, and especially
8 since OI, the Office of Investigations, is concerned
9 with intentional wrongdoing, which is of central interest
10 to this Board, intentional violation of Board orders,
11 intentional wrongdoing, that will be central to this
12 Board's decision about whether the Applicants have
13 the character and competence and managerial attitudes
14 to operate a nuclear plant. I think those documents are
15 very important, and we would be very concerned that they
16 be retrieved from the twilight zone, if they can.

17 MR. WILCOVE: Have you finished?

18 MS. BERNABEI: Just to finish the other issues
19 that you mentioned.

20 We would like to reserve the right to question
21 any of the NRC witnesses after we have had a chance to
22 review the documents. As it appears now, we won't get
23 them until the end of this week, at the earliest, and
24 possibly next week. We would, therefore, reserve the
25 right to recall them on anything that we find in the

1 documents that we think is significant enough to ask
2 some questions about.

3 Without the documents now, we don't know if
4 that will be necessary, but I have a feeling it might be.

5 We regret that that's the situation, but,
6 unfortunately, we forecasted that last week when we
7 asked for a continuance.

8 CHAIRMAN BECHHOEFER: Let me ask if the Panel
9 that's going to be offered today will be here all next
10 week.

11 MR. WILCOVE: If it is necessary -- well,
12 some members will be.

13 I would prefer to get back to you on that.

14 And, of course, you know, Miss Bernabei and
15 Mrs. Stamiris are always free to move the Board that a
16 certain witness be recalled. And, should she do so, we
17 will respond at that time.

18 In case there's any misunderstanding, the
19 files that I sent were similar between OI and Region III.
20 They basically concern allegations made prior to the
21 creation of the Office of Investigation, which is why
22 I say they're not really particularly relevant to Mrs.
23 Stamiris' discovery request. I did, of course, commit,
24 as the Staff recited in their April 15th response to the
25 request, that I would advise what the on-going

1 investigations are. I don't have that list in front of
2 me, but I will do so.

3 But, in any event, we do not think that those
4 documents would contain information relevant to the
5 request, and unless the Board directs us to do otherwise,
6 we still do not intend to go through those files.

7 (Discussion had off the
8 record.)

9 CHAIRMAN BECHHOEFER: The Board does not think
10 that a search now, at least, would be necessary. But we
11 are interested in whether or not there were any Staff
12 dissenting opinions as to how to go about -- how to
13 resolve the soils issues. And we will allow considerable
14 questioning of the witnesses who will be here on that
15 subject, and if it appears that there may be some dissent-
16 ing opinions that haven't been brought out, we may later
17 ask for further file searches in connection with that type
18 of thing. But I think the witnesses who are here, we
19 have a fairly wide variety of witnesses. I would think
20 that those people would have some knowledge of dissenting
21 opinions.

22 MR. WILCOVE: The Staff recognizes the Inter-
23 venor's right to inquire, to the extent there were dis-
24 senting opinions, and intends to be very lenient in
25 any objections it would make, if any were proper even,

1 along those grounds.

2 And -- oh, as far as other preliminary
3 matters not related to discovery --

4 CHAIRMAN BECHHOEFER: We were going to ask
5 about that.

6 MR. WILCOVE: Yes.

7 MR. MILLER: May I just make one
8 observation.

9 It seems to me that if after witnesses are
10 excused there are subsequently documents that come to
11 light that in the judgment of one counsel or another
12 justifies recall of that witness that there be an
13 application made to the Board, the other parties be
14 given an opportunity to respond to it, and that there
15 be a decision by the Board.

16 Miss Bernabei's reservation of the right, in
17 her judgment, to simply recall witnesses, I think, is
18 not warranted and improper, and we would object to any
19 sort of proceeding along those lines.

20 CHAIRMAN BECHHOEFER: We're not really
21 issuing any order on that. We'd have to see the
22 circumstance to see whether the particular witnesses
23 must be recalled, or would have to be recalled.

24 Many of the Staff witnesses will be here, I
25 think, so it may well be that those people could
adequately answer the questions.

1 I'm presuming you will have those documents
2 to look at over the weekend. I hope you will.

3 MR. WILCOVE: By "those documents" --

4 CHAIRMAN BECHHOEFER: Certain documents that
5 you said were on the way or were going to be produced.

6 MR. WILCOVE: The only documents that we
7 have not turned over that will be produced would be
8 Mr. Cook's file on retraining and recertification of
9 QC inspectors.

10 CHAIRMAN BECHHOEFER: Right.

11 MR. WILCOVE: We will check with Mr. Weil
12 next week, and when the Office of Special Cases gets
13 back to the Region they will check their files for
14 documents related to retraining and recertification of
15 QC inspectors.

16 MS. BERNABEI: So when could we expect those?
17 I think those are the ones we have the most concern
18 about.

19 MR. WILCOVE: Mr. Cook indicated that he
20 could get his within a couple of days.

21 MS. BERNABEI: It's the other ones?

22 MR. COOK: Yeah, but that's bearing in mind
23 that I'm not tied up with the hearing here. I mean,
24 give us a break down there. You have a limited staff.

25 Now, we could go in if you want to release me

1 now. I'll go down there and start searching what
2 files and probable locations where I might find these
3 documents, and then we can go into the copying process.

4 I can't do that while I'm here. Okay?

5 So if you want to release me now you'll
6 probably have them by afternoon Thursday. Friday I
7 will not be here. I will not be here Saturday. I will
8 not get back until Sunday night.

9 So, if you want to start on Monday, then
10 excuse me from Monday, or however you want to work it.

11 (Discussion had off the
12 record.)

13 CHAIRMAN BECHHOEFER: I can't say that you'll
14 be excused immediately, but you'll have to get the
15 documents as soon as possible and then Miss Bernabei
16 can look them over and decide whether further testimony
17 was necessary based on that.

18 MR. WILCOVE: With respect to -- this is a
19 preliminary matter with respect to what Mr. Cook said.
20 This, evidently, is not the only branch of the
21 government that wants Mr. Cook. He has Reserve duty
22 Friday and Saturday and will not be available those two
23 days, and we would like to have him excused for those
24 two days.

25

1 MR. MILLER: It has been the Applicant's under-
2 standing that the Intervenor, at least last week when we
3 spoke on the telephone, approximately three days at least
4 of cross examination of the first Staff. If I would
5 assume that Mr. Cook would be available for Applicant's
6 cross when that occurs. This is an unexpected complica-
7 tion, frankly, in scheduling witnesses.

8 MR. WILCOVE: I just found out about this
9 problem yesterday. To the extent that -- Mr. Chairman,
10 Mr. Cook does have orders to go to serve duty.

11 CHAIRMAN BECHHOEFER: That might be that he
12 might be recalled later, but the Applicant, Miss Stamiris
13 and Miss Sinclair and Mr. Marshall all have a right to
14 cross examine.

15 MR. MARSHALL: And I look forward to it.

16 CHAIRMAN BECHHOEFER: I had a comment that they
17 won't have a chance to comment until next week-end any-
18 way.

19 We will allow Mr. Cook to go, but we won't
20 guarantee that he won't be brought back.

21 MR. WILCOVE: To the extent that there is a
22 need for him to be recalled, the Staff certainly would
23 not have any objections to that.

24 MR. MILLER: I would like to inquire as to
25 whether there is a possibility that Mr. Cook could

1 reschedule his reserve commitment so that we could stay
2 in some sequential fashion.

3 CHAIRMAN BECHHOEFER: Well, you can let us
4 know on break. I wanted to see if there was some other
5 preliminary matters. We will get rid of the preliminary
6 matters before we take a break.

7 MR. WILCOVE: One is the Staff's caseload for
8 the cast of Penel met last week. They are currently
9 working up a position as to what the construction, their
10 construction schedule would be and when that position
11 is reached, we will advise the Board and the parties.

12 And also, I believe I did mention it before
13 with respect to the March 10th and March 12th statement
14 about table instrumentation and alleged violations of the
15 Board's order, the Staff is not putting on its direct
16 case at this time. You know, when we do so, all the
17 appropriate witnesses will be available. So, we ask
18 that cross examination on those issues be withheld at
19 this time.

20 MR. MARSHALL: Mr. Wilcove, I would like you to
21 reaffirm your former letter to me that I will get Mr.
22 Cook.

23 MR. WILCOVE: As I was discussing with the
24 Board and the parties a few minutes ago, Mr. Cook will
25 be recalled to the extent that's necessary for any

1 party, but of course, to include Mr. Marshall to cross
2 examine.

3 MR. MARSHALL: Thank you very much.

4 MR. WILCOVE: And finally, there are three,
5 what I might call three Board modification items. When
6 the Panel does take the stand, we will let the Panel
7 explain what these are.

8 CHAIRMAN BECHHOEFER: Miss Bernabei, do you
9 have any further preliminary matters?

10 MS. BERNABEI: I have something to follow what
11 Mr. Wilcove said, that perhaps could be discussed now
12 if the Applicant's don't mind. Mr. Wilcove did mention
13 that the Landsman investigation issue wouldn't be ready
14 for presentation. They wouldn't have anything until
15 sometime in the future.

16 It appears to me that it is probably first
17 to defer all questions and cross examination on those
18 issues until such time as the Staff enter direct testi-
19 mony. We have noticed that the Applicant's have sub-
20 mitted testimony on that issue and I think it is, since
21 the Staff did request a re-opening of the hearing and
22 since they are going first, that their direct testimony
23 be submitted prior to the testimony on that.

24 I also believe there is at least one and
25 possibly three issues that we are now preparing to

1 have testimony on today that we would certainly want to
2 be heard in these hearings and that would include the
3 Zack issues. And at this point, as I understand it,
4 everyone is going into discovery right now. There is
5 some depositions that are scheduled on it. And the
6 SALP report -- on the SALP report, we informed and I
7 assumed that Mr. Kepplier had an intention not to issue
8 that report for this year. We received a memorandum in
9 which we learned that there would be a SALP report that
10 will be issued on July of this year, July or September
11 of this year contrary to representation that had been
12 made prior to our receipt of the document. The document
13 is dated April 18th. So, it is a quite recent decision.

14 I understand that the Board and the parties
15 have been interested in any SALP evaluation of Midland.
16 And I think that this is one issue that has been covered
17 in this hearing at some time, whenever the SALP report
18 is prepared.

19 The fourth thing that I think should be covered
20 and frankly, I'm a little uneasy about how this is going
21 to be done in the Star investigation. We assumed that
22 such an important issue, that in fact the Staff would
23 introduce direct testimony. They have none and we believe
24 that they should. Essentially, we believe the Board, if
25 it is interested, could express an interest in the

1 direct testimony on the Spessard issue.

2 There has been a report that has been issued
3 but other than that, there is no direct testimony. And
4 it is my understanding that the Staff does not intend to
5 introduce testimony, so basically there is four issues
6 that should be covered sometime during this set of OM
7 hearings.

8 MR. MILLER: Excuse me.

5-2

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 MS. STAMIRIS: Can we have just one minute
2 so that she could finish up her bit on this?

3 MS. BERNABEI: I guess my requests were to
4 the Board that all be deferred until such time that
5 the Staff can proceed with them.

6 MR. MILLER: First of all, could I have a
7 clarification when you refer to the Spessard memo,
8 what subject matter are you talking about?

9 MS. BERNABEI: The Boos investigation.

10 MR. MILLER: Mr. Chairman, as far as the
11 Applicant is concerned, with respect to the
12 investigation that has now been concluded with respect
13 to cable instrumentation in March of 1982, it is my
14 belief that all these facts are presently before the
15 parties and that cross-examination should go forward
16 on that issue when knowledgeable witnesses are before
17 the Board now. That includes such individuals as
18 Mr. Landsman, who was one of the prime actors in those
19 events. He is here and should be cross-examined as
20 appropriate.

21 Similarly with respect to the investigation
22 into the alleged violation of the Board's order, the
23 underlying facts are known and available to all the
24 parties. Other than the writing of an investigation
25 report by Mr. Weil, there is nothing else to do in terms

1 of the investigation, at least as I understand it. The
2 Staff can certainly correct me if I am wrong.

3 Perhaps if some limited additional
4 cross-examination of Mr. Weil is necessary after he
5 unburdens himself with his investigation report, we can
6 do it at that time.

7 In any event, the Applicant has presented
8 testimony on the issues. The witnesses are on the
9 record with respect to their interpretation of the
10 events and they should be cross-examined as they take
11 the stand in this set of hearings.

12 The two other items that Ms. Bernabei
13 mentioned, the Zack issues, that is quite clearly an
14 operating license contention. The Board has
15 previously ruled that these matters ought to be heard
16 in the operating license hearing. We are just getting
17 started with discovery. If the hearing record is
18 held open until the parties are prepared to present
19 testimony on that issue, we won't close this record
20 for another year, because there is investigative
21 reports that is supposed to come out of that also.
22 The history has been that those reports lag behind full
23 knowledge of all the facts.

24 Finally, with respect to the SALP report that
25 is currently contemplated for issuance in July, one of

1 the problems that we all have been struggling with is
2 an effort to find a point in time when the record is
3 closed so that the Board can write a partial initial
4 decision so that all the parties, including the
5 Intervenors, will have the benefit of the Board's --
6 of the mass of evidence that has been presented to it
7 on these issues. However, Intervenors continually seem
8 to find just one more milestone that we have to cross
9 before we can close this record. The SALP report by
10 its very nature is going to be an evaluation of the
11 events that have taken place, largely within the time
12 period that is contemplated by the evidence that is
13 going to be presented to the Board in these hearings.

14 I don't think that we can prejudge it as to
15 whether or not it is going to contain information that
16 the Board feels would be useful or necessary to its
17 partial initial decision on the quality assurance
18 issue.

19 In the event that the report comes out and
20 that some party feels that it is necessary to reopen
21 the evidentiary evidence to discuss the findings of the
22 third SALP report, let's deal with the issue at that
23 point in time.

24 Simply to now hold open the record
25 indefinitely until the SALP report is issued and some

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

hearings are scheduled to consider it, is not the way
to get this record closed and the evidence before the
Board in a timely fashion.

5-3fol

1 MR. WILCOVE: Mr. Chairman, if I could make a
2 few comments.

3 With respect to Mr. Miller's comment about
4 the SALP reports, I would agree with what he has said.
5 In that, you know, when the SALP report does come out,
6 you know, if it should contain information that a party
7 feels is grounds for reopening the record, they can make
8 that motion. Indeed, if the Staff would feel that way,
9 we would make that motion to reopen the record.

10 With respect to the Zack matters, I know that
11 there has been some confusion as to whether it is an
12 OL or an OM issue. I'm not quite sure. It has been a
13 lot of dispute as to which tag should be put on it. I
14 think the bottom line is that before Consumers Power
15 Company can receive its operating license, those issues
16 will have to be litigated and the Board will have to make
17 a ruling. So, should we decide to flip the tag over and
18 call it OL, I'm not quite sure it would make that much
19 difference because it is my understanding that Consumers
20 Power did not get its operating license until those con-
21 tentions were litigated and a decision was made.

22 With respect to testimony on the Spessard memo
23 and the alleged violation of the Board's order, the Staff
24 has no objection if the Applicant puts on its direct case
25 at this time. Quite frankly, I can imagine that not

1 happening until June, but with respect to the Staff's
2 direct case, although with respect to the Spessard memo,
3 we had indicated before that we would not put on a
4 direct case as I mentioned earlier this morning. We
5 have --the Staff has reconsidered and we will do so and
6 we will also put on our case on the alleged violation of
7 the Board's order. But, we would prefer when we put on
8 our direct case that it be in a one package -- we be
9 allowed to put on our direct case when we are able to
10 do so and cross examination would follow.

11 Mr. Miller is also correct that many of the
12 witnesses involved in both instances are here now. But
13 nonetheless, the Staff would oppose any cross examination
14 before our direct examination.

15 I also do not think that having all direct and
16 cross examination of the Staff witnesses at one time
17 would unduly prolong the proceedings either.

18 CHAIRMAN BECHHOEFER: I take it the Staff is
19 willing to bring back the particular witnesses involved
20 even though they may be here now, you are willing to
21 bring them back later along with Mr. Weil.

22 MR. WILCOVE: Absolutely, that would be our
23 intention.

24 MR. BECHHOEFER: Are there any other pre-
25 liminary matters? We will let you know after the

1 morning break what we decide on this matter.

2 MS. BERNABEI: May I respond to what the
3 Applicant said about the scope of this hearing?

4 I do disagree and I believe that the Staff and
5 the Intervenors and Miss Stamiris are fairly close.

6 First of all, the Zack issues are QA issues.
7 And they have been taken out of the broad range of QA.
8 The Zack issues are critical to the Board's determina-
9 tion. Again, the character and managerial attitude of
10 the Applicant and whether they are QA approved.

11 We are now proposing that the discovery go
12 forward and that we in this instance, according to the
13 Applicant, that is very likely. What we are now proposing
14 is to go ahead with the discovery and see what we get
15 and then litigate the issue as soon as possible. It
16 doesn't look like these hearings are going to end
17 certainly before June. And if the Staff brings back
18 witnesses back in perhaps July, if we proceed expedi-
19 tiously within the time frame that we are talking about.
20 As for the SALP report, Miss Stamiris has been talking
21 to the Staff a long time about the SALP report and when
22 it was going to be issued and when the schedule was.

23 Historically, the SALP report -- and what
24 was directly contrary to this Board, we don't know that
25 is going to be the case this year, but it seems to me

1 that it would be information the Board would have wanted
2 to have before it made a decision.

3 In fact, the problem, if the self-purported
4 issue is in July, it should have a time table decision
5 by the Board if testimony goes on beyond June.

6 As to the Applicant's request that the record
7 has to close sometime, I would just mention that the
8 Intervenors have not brought up the issues that we are
9 concerned with now. We have not brought the Zack problem
10 to the Board. That is the Applicant's fault. I would
11 also note that the Generator Building inspection is some-
12 thing that the Intervenors could not be held responsible
13 for. And the fact that there are serious problems in
14 Midland that should be considered by this Board, cer-
15 tainly cannot laid at the feet of the Intervenor. So,
16 it is not us that are putting milestones before the
17 Board that have to be met. It is rather a continuing
18 problem of the problems at Midland.

19 As to the Landsman issue being handled separate-
20 ly, I agree that it is not going to delay. And if that
21 is handled as a chunk at one later session, that can be
22 done fairly expeditiously.

5-4-1
Gwen
exped-
itously

1 MR. MILLER: I would like to observe that
2 if there has ever been a suggestion that the Zack
3 issues were something that were apart of the OM
4 proceedings, that the Applicant would certainly not
5 have deferred as long as it did before it instituted
6 discovery. It was only on the understanding, which
7 I believe we can find accordingly, if not a -- at
8 least in a transcript interchange that the Zack issues
9 were a part of the OL proceeding that we agreed to
10 defer our discovery for as long as we have.

11 While it is true that the scope of the
12 quality assurance issue in the OM proceedings have not
13 been limited strictly to the narrow scope of soils
14 quality assurance, it is also true that there are
15 specific operating license contentions on the Zack
16 issues. And I think it is really a 180 degree change
17 in position by the Intervenors to now argue that they
18 have to be part of the OM proceeding. It is also
19 straining that Ms. Stamiris, who has for many months
20 has been urging hearings on quality assurance so that
21 the record could be closed and the Board could issue a
22 decision before work proceeds on various aspects of
23 soil and remedial work. Now, through her counsel is
24 taking just the opposite position.

25 CHAIRMAN BECHHOEFER: We are well aware -- we

5-4-2

1 have mentioned that Zack issues might well be part
2 of the OM, but then we were anticipating that the Zack
3 issue would be resolved a lot earlier. What we would
4 hold now, we will discuss it. We did in our August
5 '82 prehearing conference.

6 MR. MILLER: That was based on a
7 representation by the Staff that the investigation
8 would be concluded around the first of the year,
9 discovery could have been conducted, and we would be in
10 a position to hold a hearing at this point in time. I
11 think what Mr. Wilcove said is quite true to the extent
12 that the Zack issues bear on the issues that the Board
13 is going to be considering in connection with the OM
14 proceedings. That decision can be modified or
15 supplemented as necessary. But we simply must reach an
16 end point so that this record could be closed. We are
17 about 12,000 pages of transcript right now.

18 CHAIRMAN BECHHOEFER: We will decide during
19 a break on these matters.

20 Are there other preliminary matters that we
21 should take up before we -- we will take a break and
22 then have the Staff panel --

23 MR. WILCOVE: Mr. Chairman, one thing on the
24 Zack matter and that is this: You know, discovery is
25 beginning to commence with the Applicant and the

1 Intervenors. There are outstanding
 2 interrogatories directed to the Staff submitted by
 3 Ms. Sinclair.

4 Investigations are still continuing. With
 5 respect to either discovery against the Staff or
 6 commencement of hearings on these issues, the Staff is
 7 going to have to formulate a position as to when those
 8 issues should be heard in light of the fact that the
 9 investigations are still ongoing. We will do so and
 10 when it is necessary for determination to be reached
 11 either with respect to the time of discovery or when
 12 those issues should be litigated, the Staff will present
 13 its position on it.

14 I just don't, you know, I don't want any
 15 inferences that may not say that the Staff feels that
 16 everything with respect to Zack can go forward and the
 17 Staff still has to formulate its position.

5-5fol

18
 19
 20
 21
 22
 23
 24
 25

position

CHAIRMAN BECHHOEFER: I might comment, I signed some subpoenas several days ago for certain employees, direct to certain employees. They are ex-employees of Zack. Two of those occurred during one of our hearing sessions. I'm certain that Miss Bernabei is not going to be participating in those. I was assuming that Mr. Clark or someone else would be participating in those, because I signed those subpoenas which, of course, somebody could move to change the dates if they interfered.

MS. BERNABEI: The dates have been changed, I believe.

CHAIRMAN BECHHOEFER: There were some out in Texas and I think those were during hearing dates here.

MR. PATON: Mr. Chairman, I believe the first of those depositions are set for next week, Wednesday or Thursday and Mr. Stahl -- I thought that was, because I discussed it with him. And I indicated that the day of the depositions was during the hearing next week and he indicated that he would take care of that. It wouldn't take place at that time. I don't have those subpoenas with me.

MR. MILLER: I think the parties are cooperating with scheduling their depositions so they don't interfere with the hearing dates. I think the witnesses

1 generally are agreeable to suiting the convenience of
2 all the parties including the Intervenors and the Staff.

3 CHAIRMAN BECHHOEFER: Those are set for June
4 1st and 2nd.

5 MS. BERNABEI: I think the ones for next week
6 have been changed.

7 MR. PATON: If they have, the Staff has not
8 been advised of them. I was told that they were going
9 to be changed.

10 CHAIRMAN BECHHOEFER: I hope the parties can
11 work out dates. I didn't want to have dates -- I just
12 signed the documents. I assumed the dates could be
13 worked out.

14 MR. PATON: Could we ask the Applicants within
15 the next day or two the present status of that and if
16 there is any changes the Staff has not been advised.

17 MR. MILLER: We will do it, of course.

18 CHAIRMAN BECHHOEFER: Are there further matters?

19 MS. BERNABEI: One short further matter.

20 The Intervenors, both Miss Sinclair and Miss
21 Stamiris request permission to take depositions on the
22 Zack issues by tape recorder rather than by court
23 reporter for financial reasons. There is precedence
24 within the federal court and the NRC for that.

25 Recently in the Catawba decision did allow Intervenors

1 for financial reasons to take depositions by tape
2 recorders. Obviously, we would require -- I'm sure
3 the Applicants would require that some assurance that
4 the transcript was faithful to the tape recording, but
5 we would certainly be able to work with them to provide
6 that.

7 So, I guess what we are doing is asking for a
8 formal motion to take the deposition by tape recording
9 rather than by court reporter.

10 MR. MILLER: We would not agree to any such
11 procedure. Any depositions taken at our issuance will
12 be taken stenographically as required by the rules. My
13 guess is that there are certain court reporters who would
14 object strenuously to an independent tape recording
15 being made of a deposition. I don't know how that has
16 been worked out in the past, and I don't know whether the
17 Board is sufficient to take care of it or just how the
18 proceedings are, but as far as we are concerned, any
19 depositions which we participate in must be a Certified
20 Shorthand Reporter present.

21 MS. BERNABEI: Perhaps you misunderstood me.
22 I'm saying depositions that we would like to take, the
23 two Intervenors would like to take of other witnesses.

24 MR. MILLER: In any event, we are going to have
25 a shorthand reporter there.

1 MS. BERNABEI: If you agree to provide us
2 copies at a rate comparable to what we can arrange
3 then we would do by tape recording, that is fine.

4 CHAIRMAN BECHHOEFER: If you can make some
5 arrangements by that, then you wouldn't have to con-
6 sider -- I would want to see what the Board did. I'm
7 not familiar with that.

8 MR. PATON: Mr. Chairman, may I inquire, if
9 intervenors, if they don't make this arrangement, what
10 they propose to do, I assume, is tape it and then type
11 it up themselves and provide the other parties with
12 copies, is that what they intended to do?

13 MS. BERNABEI: That's correct.

14 MR. MARSHALL: I'm a notary. I have a seal
15 as well until 1986.

16 CHAIRMAN BECHHOEFER: Well, if you could work
17 something out such as Mr. Miller was describing, then
18 we won't have to. Unfortunately, otherwise, at least,
19 I'll want to see what the Catawba order was. But we
20 would, if you can't work something out, let us know and
21 we will have to look forward to see whether we can
22 authorize that or not.

23 We will take about a 15 minute break and resume
24 with the Staff Panel.

25 MS. SINCLAIR: Can I discuss my preliminary

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

matters right after the break?

CHAIRMAN BECHHOEFER: Yes, I guess so.

MS. BERNABEI: Miss Stamiris also has one as well.

CHAIRMAN BECHHOEFER: Let's take a break anyway.

(Brief recess.)

t6

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRMAN BECHHOEFER: Back on the record.
We've considered the various order of hearing matters
that were before us.

We've decided we can postpone the Zack
matters until the operating license stage, or after the
first PID.

MS. SINCLAIR: You can or can't?

CHAIRMAN BECHHOEFER: We can. We can and will.
We recognize that conclusions there could
have some effect on prior conclusions that we reach, but
certainly that would be open to argue.

We also agree that at this time we will not
specify that the SALP matter be included under the
first PID, but that too is subject to being
considered after the PID if the SALP report has
anything that would affect any conclusions that we
might reach in the PID.

The third matter, which involved the
investigation of the violation of our order plus the
instrumentation matter, we have no objection to the
Applicant going first on that matter but we do think
that we certainly can't -- wouldn't want to have the
examination of their witnesses complete until the
Staff had issued its report. And we are urging the
Staff to issue that report as soon as possible, the

6-1-2
1 so-called Weil report, or whatever it might be.

2 The Staff may present its direct case on
3 that matter all at once and any cross-examination of
4 its witnesses should not include those matters. The
5 Staff has agreed to recall any of the witnesses who
6 have anything to do with that particular investigation;
7 in addition to Mr. Weil, that is.

8 But we don't object to the Applicant's
9 witnesses going on first on that, but we would like --
10 as a basis for cross-examination, we do think the
11 report should be available.

12 MR. MILLER: There is, of course, one report
13 available on the instrumentation issue, and it has
14 been available for some months now.

15 CHAIRMAN BECHHOEFER: Right. So we don't
16 object to the cross-examination on that, but we do
17 think the Applicant's witnesses should be available
18 after the forthcoming Staff report as well.

19 But we're urging the Staff to try to issue
20 that report before the June hearings, if possible,
21 because I don't think the Applicant's witnesses on that
22 subject -- we probably won't get to them until the June
23 hearings. If that report could be issued, it would
24 put it in a much neater package, with the agreement
25 that your witnesses on that subject could follow the

6-1-3

1 Applicant's.

2 MR. WILCOVE: Mr. Chairman, the Staff has
3 urged OI to expedite this before, and we will certainly
4 renew our request that they do so.

5 CHAIRMAN BECHHOEFER: Yes. Express to them
6 the strong desirability of having that report issued
7 before the June hearings.

8 MR. WILCOVE: While we are on the subject
9 of these investigations, Dr. Landsman informed me
10 during the break that four documents relating to the
11 March 10th and March 12th investigation were
12 inadvertently excluded from the package, and we will
13 get copies of those to the Applicant and the Staff as
14 soon as possible.

15 MS. BERNABEI: And the Intervenors?

16 MR. WILCOVE: I meant Applicant and
17 Intervenors. I'm sorry.

18 CHAIRMAN BECHHOEFER: Beyond that, I
19 understood we had a couple of other preliminary matters
20 to consider?

21 MS. SINCLAIR: Yes.

22 CHAIRMAN BECHHOEFER: Mrs. Sinclair, I think,
23 you haven't been heard yet, so --

24 MS. SINCLAIR: Yes. First of all, I was
25 served a third set of interrogatories by Consumers

6-1-4

1 Power Company dated April 8th, and in reviewing them it
2 seemed to me that the person writing the
3 interrogatories hadn't even read my contentions,
4 because the questions were, in many instances,
5 irrelevant and meaningless, and I rather object to
6 having to put in time at such a critical time in the
7 responses to such a document. I consider that a
8 harassment and I have to use my limited resources and
9 time at a time when I could use it in other ways for
10 responding to this. But I do have my responses and I
11 will serve them on all parties here today.

6-2fol

12
13
14
15
16
17
18
19
20
21
22
23
24
25

6-2-1
today

1 And Barbara Stamiris was asked to do the same
2 thing.

3 Now, I also am not dissatisfied -- I'm not
4 satisfied at all with the discovery on the questions
5 that I had, because I haven't received anything at all
6 on what I consider perhaps the most significant
7 decision that has been made in the history of this
8 proceeding -- and there have been a number of them --
9 and that is the decision of Consumers Power Company on
10 December 2nd to halt most of the safety related work
11 on key areas of this plant.

12 I tried to avoid the situation that we are in
13 today, certainly with respect to my requests for
14 discovery, by putting a motion in after the February
15 enforcement action and public meeting, and I indicated
16 that here were significant areas in which we needed
17 documents in order to go forward with the operating
18 license in a meaningful way. And I even asked to have
19 the operating license deferred until we had gotten these
20 documents so that we had the proper information base
21 to proceed. Because, as it stood, we were being asked
22 to go forward with the operating license based only on
23 the contentions and discoveries that were available to
24 us as of July of '82. The diesel generator
25 inspection and Consumers Power Company's subsequent

1 decision of December 2nd showed us clearly that the
2 safety evaluation report on which we had based most
3 of our contentions and discovery were really mythology
4 and did not reflect the actual as-built condition of
5 this plant at all, and yet here we were going forward
6 with the operating license on this erroneous and
7 limited base.

8 The Board denied that motion but subsequently
9 had asked us to agree to informal discovery on these
10 matters.

11 Now, we agreed, Barbara and I, to go forward
12 with the informal discovery and acted in good faith
13 to expedite matters.

14 I asked the Consumers Power Company to put
15 into writing for the record, however, what our
16 requests were.

17 Consumers Power Company drafted such a
18 letter, and it was dated March 22nd, and it indicated
19 the range of questions and documents that we had asked
20 for.

21 However, in a subsequent letter of April 12th
22 I received a letter from Consumers Power Company saying
23 that they had looked through their files and found
24 nothing as background information or documentation on
25 the December 2nd decision to halt most of the safety

1 related work at the plant.

2 Now, it seems that a decision of this
3 magnitude could hardly have been made without
4 generating a considerable amount of underlying
5 documents; letters, memos, and studies. And, therefore,
6 frankly, I do not believe Consumers Power Company's
7 statements.

8 But, since that time, since we received that
9 letter, Barbara Stamiris, during a conference call
10 when I was out of town, asked that Consumers Power
11 Company certify in writing for the record all the
12 sources that they had checked out to determine that no
13 documents indeed were available.

14 So far we do not have that certification from
15 Consumers Power Company.

16 Well, given these facts, then, I'm forced
17 to go for formal discovery at this point. And I want
18 to note for the record that I am forced to begin this
19 discovery when the hearings are actually in progress.

20 My position is such that I believe my full
21 position in the hearings has been severely prejudiced
22 because of the failure of Consumers Power Company to
23 follow the orders for formal discovery of this Board
24 and the Commission to proceed with informal discovery
25 also.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Now, if there are matters as a result of this formal discovery that must be heard in the future and that it will be necessary to extend these hearings, then I want it to be a matter of record that it is not the action of the Intervenors that these delays are taking place but the fact that Consumers Power Company and, in some instances, the NRC Staff have not proceeded with the informal discovery which was requested by this Board and which has been ruled as essential by the Commission.

(Discussion had off the record.)

6-3fol

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRMAN BECHHOEFER: Mr. Williams?

MR. WILLIAMS: I was involved in the negotiation of the letter that Mrs. Sinclair referred to, and we have treated that request in every respect as though it had been a formal discovery request.

Mr. Brunner has been in charge of conducting the search, and he represented orally to Mrs. Sinclair, I believe, that the appropriate level of search had been conducted and that indeed no such documents had been found.

He is in the process of rechecking with all of the individuals whose files were checked in the first place, and that recheck is not yet completed but it will be fairly soon, I believe, and we will be in a position to respond a second time that no such documents have been found if that indeed is borne out by the second search.

I think that if Mrs. Sinclair is unhappy with the results of this document search that she has every right to pursue those remedies that are set forth in the rules by making a motion to compel. However, I don't think that it's appropriate to have a second discovery request on this same matter filed at this point.

MR. BRUNNER: I might add --

1 CHAIRMAN BECHHOEFER: Mr. Brunner, I was going
2 to ask you, was your response influenced by the fact
3 that the first word of the request was "key"?

4 MR. BRUNNER: I am advised by the people that
5 conducted the search that there simply were no
6 documents that met the description that appears in
7 Mr. Williams' March 22nd, 1983 letter to Mrs. Stamiris
8 and Sinclair.

9 As Mr. Williams represented, I'm in the
10 process of verifying that again, as I stated I would do
11 during the last conference call with the Board. That
12 verification isn't complete.

13 If there are any documents that are produced
14 -- I'm confident there won't be any, but if we do find
15 some that meet the terms of the request as stated in
16 that letter, then they will be provided forthwith to
17 Mrs. Sinclair.

18 CHAIRMAN BECHHOEFER: Well, would your answer
19 have been different if the word "key" hadn't been
20 there?

21 MR. BRUNNER: I don't believe it would have.

22 MR. WILLIAMS: And I'd like to point out that
23 it was Mrs. Sinclair that insisted that that word be
24 in there.

25 CHAIRMAN BECHHOEFER: I recognize that, but I

1 don't have any very clear view of what the word key
2 is being interpreted as, as distinct, perhaps, from
3 material of significance, or something like that.

4 MR. BRUNNER: I might say that there are some
5 documents that I am aware of wherein a decision was
6 implemented; in other words, a memo from one person to
7 another directing them that these many people are
8 being laid off. But we didn't interpret that as being
9 within the scope of the request as described, since it
10 states "leading up to the decision to lay off
11 individuals and stop work."

12 JUDGE HARBOUR: Do you include minutes of
13 meetings and records of telephone conversations here
14 as being part of the request?

15 MR. BRUNNER: I believe so, because I think
16 the request states that those are included.

17 MS. BERNABEI: Thank you.

18 Mr. Chairman, we have received --
19 Mrs. Stamiris has received documents in response to her
20 discovery request, some of which are clearly producible
21 under that request, and the documents she has received
22 indicate there were a number of meetings prior to the
23 stop work in December, and I don't see any way in
24 which those documents -- certainly the ones she turned
25 over and others that would be relative to meetings

1 occurring during that period -- wouldn't be responsive
2 to that request.

3 I mean, you know, we haven't gone through
4 Mrs. Stamiris' documents to see which particular
5 documents are responsive, but if they could turn them
6 over to Mrs. Stamiris I think they certainly should
7 turn them over to Mrs. Sinclair or at least indicate
8 to her that Mrs. Stamiris has responsive documents.

9 She has also indicated there were a number of
10 meetings, and I assume that some notes and other
11 informal documents concerning or memorializing those
12 meetings exist.

13

14

15

16

17

18

19

20

21

22

23

24

25

1 MR. BRUNNER: Well, if Mrs. Stamiris would
2 point out which documents had been turned over to her
3 which she believes meets the terms of that request,
4 I'd be happy to look at them.

5 MS. BERNABEI: I don't think that's our
6 responsibility.

7 MR. WILLIAMS: We don't so interpret
8 Mrs. Sinclair's response but, you know, if
9 Mrs. Sinclair interprets those documents turned over
10 to Mrs. Stamiris as having been responsive -- I believe
11 we sent copies to all parties, did we not?

12 MS. SINCLAIR: No.

13 MR. BRUNNER: No, not to Mrs. Sinclair.

14 MR. WILLIAMS: Well, we will certainly make a
15 set available to her. But we sat with Mrs. Stamiris
16 and Mrs. Sinclair in this hearing room late in the
17 February session of these hearings and had this
18 discussion about what was likely to be found in this
19 document search, and we put her on notice at that time
20 that we thought there would be very little found that
21 would be specifically relating to the decision to lay
22 off workers, which is the subject of her request.

23 CHAIRMAN BECHHOEFER: Did you include in her
24 request to incorporate any discussion of what work
25 should not be stopped? In other words, what categories

6-4-2

1 of work should be exempt from the stop work order, of
2 which there are four or five, I think.

3 MR. BRUNNER: No. Mr. Chairman, let me --
4 could I borrow the letter?

5 MS. SINCLAIR: Yes.

6 CHAIRMAN BECHHOEFER: Well, it says "leading
7 to the decision to stop work." I'm wondering whether
8 you included the decision not to stop work on certain
9 subjects.

10 MR. BRUNNER: Well, the "which" clause which
11 appears at the end of the description in the request is
12 the thing which I believe probably was the most
13 restrictive portion of the request.

14 It asks for documents --

15 MS. STAMIRIS: Excuse me. Are you going to
16 read the whole request at this point?

17 MR. BRUNNER: Yes. I think that might be
18 helpful.

19 MS. STAMIRIS: I think it would be.

20 MR. BRUNNER: The request as stated in
21 Mr. Williams' March 22nd, 1983 letter was. What key
22 documents, if any, including correspondence,
23 communications, memoranda or minutes of meetings
24 created during the time period from mid-October through
25 December 1982 leading up to the decision in early

1 December to stop work on the plant, which documents
2 would set forth the reasons for the decision to halt
3 construction on certain parts of the plant and lay off
4 a number of workers?

5 And I believe it was the "which" clause
6 which is probably the most restrictive part of that
7 request.

8 We would not include just general minutes
9 leading up to the decision unless they set forth the
10 reasons for the decision to halt construction and lay
11 off a number of workers.

12 MR. WILLIAMS: I might add that Mrs. Sinclair
13 had opportunity to review the language which is in this
14 letter, since I sent out a draft of the letter with that
15 paragraph in it for her to look at and sign off on
16 before I sent out this final version of the letter.

17 MS. SINCLAIR: Judge Bechhoefer, I don't
18 happen to be an attorney but I am an English major, and
19 I did read that statement, and it seemed to me that
20 when I discussed wanting documents leading up to the
21 decision in early December to stop work on certain
22 parts of the plant -- and I think I defined the parts
23 of the plant within my discussion -- that, to me, was
24 clearly stating the kinds of documents I wanted,
25 because subsequently the laying off of workers took

1 place because of that decision, and that is the key
2 thing, the documents leading to the decision to stop
3 work. Because, after that, that's why the layoffs took
4 place.

T7fol

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 MS. STAMIRIS: And I would like to say in
2 response to the document that they, we had provided in
3 addition to what Ms. Bernabei said about them, that
4 there were also references to certain meetings or certain
5 other memorandums that weren't specifically provided
6 that seem to indicate that there were some kind of
7 written communication on the subject leading up to this
8 important decision.

9 MS. SINCLAIR: It seems to be that the
10 jeopardy, if these artful ways of reading conversations
11 that we have with the Applicant or the Staff are
12 stated in their words and we try to accept them in good
13 faith that they understood what we meant to reduce the
14 amount of exchange and so on. I really think that it
15 is their obligation, as well as ours, to try to record
16 what our full intent was in our conversation.

17 MR. WILLIAMS: Your Honor, I thought I had
18 done that. And I think Mr. Bruner believed the same
19 thing.

20 MS. SINCLAIR: If you give us the documents
21 leading to your December decision to stop work on the
22 key portions of the plant, that is the key thing that
23 I was after.

24 MR. WILLIAMS: Beyond those that have been
25 provided to Ms. Stamiris and we will shortly verify.

1 MR. BRUNNER: Mr. Chairman, to my knowledge
2 at the present time there are no documents which record
3 the deliberation of the management of the Consumers
4 Power Company leading up to the decision to stop work
5 and lay off people. Like I said before, I'm in the
6 process of going out and verifying that, and I believe
7 that in the event that my verification bears out that
8 representation, then Ms. Sinclair can provide with the
9 formal discovery or other affidavits she wishes to, but
10 I think until that time, it is of no use to continue
11 this debate.

12 MS. SINCLAIR: I have to ask for formal
13 discovery then.

14 CHAIRMAN BECHHOEFER: The only comment that
15 we would like to make is that we do think that it may
16 not have been included in the discovery request. It
17 probably wasn't, but the reasons why certain areas or
18 why work was not stopped in certain areas, we believe
19 is a significant part of the time that is before us,
20 and we will certainly permit extensive cross-examination
21 on that subject. It is part of the -- I think both the
22 Applicant and the Staff's testimony and why certain
23 areas were excluded from stop work and that certainly
24 is a proper subject of cross-examination. And I don't
25 know whether there is much documentation on that or not.

1 I'm not sure that you were requested from reading the
2 discovery as I read it carefully.

3 MS. SINCLAIR: Judge Bechhoefer, at the time
4 we were asked to make this formal discovery there had
5 not been stated for us which part of the plants were
6 not -- safety related work was not halted. We were
7 just provided that nearly all safety work. It was in
8 general terms.

9 MR. WILLIAMS: The Company stated in its
10 February 8th presentation to the NRC at the public
11 meeting and had given copies of some of the documents,
12 according to the construction completion program at that
13 time, I believe it was clearly a matter of record as of
14 the 8th of February what systems were to be -- would be
15 stopped. The January 10, I believe it is 11, which
16 the Company sent to the NRC contained the details of
17 the program. Ms. Sinclair is on the distribution list
18 for that letter. So, the disclosure on this matter
19 goes back to at least January.

20 MR. MILLER: January 10 letter is an
21 attachment to Mr. Cook's prepared testimony.

22 CHAIRMAN BECHHOEFER: I knew I had seen it
23 someplace. We will just note that that subject will
24 be appropriate for cross-examination by the Board, if
25 not by other people. Since it is part of the direct

7-1-4

1 testimony -- but, you can certainly ask questions on
2 that subject.

3 MS. SINCLAIR: Then I'll have to ask for a
4 formal discovery specify more clearly in a document that
5 I prepared myself, what is really being requested.

6 MR. WILLIAMS: The licensee would object to
7 that procedure. We have treated the previous request
8 as discovery. And the appropriate remedies, if any,
9 is for a Motion to Compel not to expand the discovery
10 request that I'm sure will happen in any event that the
11 new document is drafted.

7-2fol

TAYLOE ASSOCIATES

REGISTERED PROFESSIONAL REPORTERS

NORFOLK, VIRGINIA

7-2-1

drafted

1 CHAIRMAN BECHHOEFER: I do think that in
2 relation to the subject I raised, there is some
3 question whether your request including that --

4 MS. SINCLAIR: There was no formal discovery,
5 so I can't go for the Motion to Compel, and therefore
6 I'm going to formal discovery to clear the way for
7 getting the documents that we ought to have about the
8 December 2nd decision which I consider one of the most
9 critically important decisions that had been made in
10 this proceeding.

11 CHAIRMAN BECHHOEFER: Several of the
12 witnesses -- of course you will have the witnesses to
13 question about that.

14 MS. SINCLAIR: But I don't have the
15 background documents.

16 CHAIRMAN BECHHOEFER: You may -- there may
17 be none, but you could ask them if documents were
18 prepared or if they were aware of any documents. It
19 may be that --

20 MS. SINCLAIR: Apparently, I'm going to have
21 to ask for formal discovery so that I have this in the
22 record. So that I could follow up on this later.

23 MR. WILLIAMS: Mr. Chairman, my March 10th
24 letter is already on the docket. It was sent to the
25 entire service list.

1 MS. SINCLAIR: March 22nd.

2 MR. WILLIAMS: March 22nd, I'm sorry.

3 Ms. Sinclair had ample opportunity to craft
4 the limits of her discovery request in the process of
5 going back and forth several times on this letter. We
6 would object to the expansion of the discovery request
7 by a new filing at this time.

8 MS. SINCLAIR: I don't think that there was
9 this exchange back and forth that he is talking about.

10 CHAIRMAN BECHHOEFER: At that point, I think
11 you could file whatever motion or discovery you wish
12 and we will rule on it. But you should file a motion
13 to file further discovery, I suppose, include that with
14 your filing. Then the parties can -- the parties
15 against whom the discovery is directed at least could
16 comment.

17 MS. SINCLAIR: I will do so.

18 CHAIRMAN BECHHOEFER: Let's see,
19 Ms. Stamiris, you have one further matter?

20 MS. STAMIRIS: I just want to put the Board
21 and parties on notice that I will raise as a
22 preliminary matter, hopefully tomorrow, my outstanding
23 concerns I have as to discovery with the Applicant. I
24 have received a large number of documents. The last
25 installment on which I did have an opportunity to pick

1 up yesterday at our service center. And so as soon as
2 I go through that and determine what is there that might
3 meet my outstanding request, then I'll come to the
4 Board and parties with a response on that.

5 CHAIRMAN BECHHOEFER: Is there anything --

6 MS. STAMIRIS: And I should say at this
7 point that unless it turns out when I see those
8 documents that certain documents do exist, to answer
9 specific requests that up to this point it appears that
10 there is certain portions of my request that have not
11 been responded to, so I will make that determination.
12 And I guess I could add also that I did also receive
13 the Applicant's set of interrogatories or requests for
14 documents on April 8th, which were essentially the same
15 questions that Ms. Sinclair received regarding her
16 contention in the Zack issues and I do not have any
17 particular knowledge of that at this point, but I will
18 respond and give a --

19 CHAIRMAN BECHHOEFER: You can respond.

20 Is there anything else before we have the
21 Staff put the panel on?

22 MR. WILCOVE: I have nothing further.

23 MR. MILLER: Nothing from the Applicant.

24 MR. WILCOVE: Mr. Shafer has not yet been
25 sworn in this proceeding.

1 Whereupon,

2 WAYNE SHAFER,

3 called as a witness by Counsel for the Regulatory
4 Staff, having first been duly sworn by the Chairman,
5 was examined and testified as follows:

6 MR. WILCOVE: I advised earlier that we had
7 three Board notifications, and before I put the direct
8 testimony into evidence, I would like the panel to
9 just describe what those three items are.

10 CHAIRMAN BECHHOEFER: For the purpose of the
11 record, are you going to ask Mr. Shafer to put his
12 qualifications and his position --

13 MR. WILCOVE: I believe they were submitted
14 with the October 29th filing.

15 MR. MILLER: They are.

16 CHAIRMAN BECHHOEFER: Well, for the record
17 at least have the witnesses identify themselves and
18 their current positions.

19 Whereupon,

20 ROSS B. LANDSMAN,
21 RONALD J. COOK, and
22 RONALD N. GARDNER,

23 called as witnesses by counsel for the Regulatory Staff,
24 having previously been duly sworn by the Chairman, were
25 further examined and testified as follows:

7-3fol

1
2 DIRECT EXAMINATION

3 BY MR. WILCOVE:

4 Q Beginning with Mr. Gardner, would you state
5 your name and position for the NRC?6 A (WITNESS GARDNER) Ron Gardner. I am the
7 Project Inspector with the Office of Special Cases,
8 Region III for Midland.

9 Q Dr. Landsman, would you do the same?

10 A (WITNESS LANDSMAN) My name is Russell Lands-
11 man. I'm with the Office of Special Cases, Region III.12 A (WITNESS COOK) I'm Ron Cook, I'm the Senior
13 Resident Inspector at the Midland site.14 Q Mr. Shafer, for the record, would you state
15 your name and your current position?16 A (WITNESS SHAFER) My name is Wayne Shafer.
17 I'm the Chief of Branch 2 in the Division of Resident
18 and Project Inspection.

19 Q How long have you had that position?

20 A (WITNESS SHAFER) Since April 4, 1982.

21 Q What was your formal position?

22 A (WITNESS SHAFER) I was Chief of the Midland
23 section of Office of Special Cases.24 Q Am I correct that you are testifying today
25 in that capacity?

A (WITNESS SHAFER) That is correct.

1 Q Who is your successor as head of the Office of,
2 the Midland section of the Office of Special Cases?

3 A (WITNESS SHAFER) Mr. J. Harrison.

4 Q For the record, Mr. Harrison has held depo-
5 sitions for approximately three weeks now. He is here
6 and to the extent that it would be necessary, he could
7 take the stand, although we don't anticipate that to
8 be the case.

9 Would you now explain to the Board what I have
10 determined to be the three Board notification items?

11 A (WITNESS LANDSMAN) Last week, the licensee
12 notified Region III that in part of their break mantling
13 of the surface water pump structure, two of the cracks
14 have reached the alert limit for the surface water pump
15 structure. They were in the process of calling in their
16 consultants to analyze the cracks.

17 Last week, I think it was, Region III was also
18 informed that the licensee in their shallow probing
19 around the surface water pump structure inadvertently
20 drilled into a Q electrical duct bank. They are in the
21 process of also reviewing that.

22 We were just notified yesterday that during the
23 PLO test for Pier 11 W it determined that the PLO test
24 wasn't going according to the way it's supposed to and
25 the maximum load that was applied at that time the pier

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

wasn't reaching the bottom one. We are able to determine that because of the Carlson stress gauges.

As far as I know, we haven't had any discussions with them since yesterday. They are in the process of reviewing that.

JUDGE HARBOUR: What pier was that again?

WITNESS LANDSMAN: Pier 11 W West, it is the west pier.

7-4

1 BY MR. WILCOVE:

2 Q Does that conclude your statement,
3 Dr. Landsman?

4 A (WITNESS LANDSMAN) Yes, it does.

5 Q Turning now to the pretrial testimony,
6 Mr. Shafer, do you have any or does the panel have with
7 you at the table the NRC Staff testimony of
8 R. J. Cook, R. B. Landsman, R. N. Gardner and
9 W. D. Shafer with respect to quality assurance dated
10 October 29, 1982?

11 A (WITNESS SHAFER) Yes, we do.

12 Q What questions are you sponsoring at this
13 time? I address this to Dr. Landsman and Mr. Cardner.

14 A (WITNESS GARDNER) All the questions in the
15 testimony. We sponsored Question 6 and No. 9 the last
16 time. So, it is all of the remaining questions.

17 Q Did you just state that you were sponsoring
18 6 and 9 the last time?

19 A (WITNESS LANDSMAN) Yes.

20 MR. WILCOVE: May we go off the record for a
21 moment?

22 CHAIRMAN BECHHOEFER: Off the record.

23 (Discussion had off the
24 record.)

25 CHAIRMAN BECHHOEFER: Back on the record.

1 BY MR. WILCOVE:

2 Q Which questions in the October 29, 1982
3 testimony of R. J. Cook, R. N. Gardner, R. B. Landsman
4 and W. D. Shafer with respect to quality assurance are
5 you sponsoring now?

6 A (WITNESS LANDSMAN) We are going to sponsor
7 all the questions that we had not previously sponscred
8 in the testimony.

9 Q Is that testimony true and complete to your
10 knowledge and belief?

11 A (WITNESS LANDSMAN) Yes, it is.

12 MR. WILCOVE: Mr. Chairman, this testimony
13 has already been bound into the record except for
14 Attachment 10 which I have given to the reporter now.
15 I now move that all questions except for Questions 3 and
16 5 which were previously offered into evidence, I move
17 that all those questions be offered into evidence now
18 and that Attachment 10 be bound into the record as if
19 read.

20 MR. MILLER: We have no objection.

21 MS. BERNABEI: No objection.

22 CHAIRMAN BECHHOEFER: The Board will accept
23 that offer and admit into evidence the rest of the
24 testimony plus Attachment 10. Attachment 10 will be
25 bound here.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Off the record for a minute.

(Discussion had off the
record.)

(The documents referred to, the testimony of
R. J. Cook, R. N. Gardner, R. B. Landsman and
W. D. Shafer with respect to quality assurance and
Attachment 10, follow:)

3/25/83

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
CONSUMERS POWER COMPANY) Docket Nos. 50-329 OM & OL
(Midland Plant, Units 1 and 2)) 50-330 OM & OL

SUPPLEMENTAL TESTIMONY OF R.J. COOK, R.N. GARDNER,
R.B. LANDSMAN AND W.D. SHAFER WITH RESPECT TO QUALITY ASSURANCE

Q1. Please state your names and positions with the NRC.

A1. My name is Ronald J. Cook. I am the Senior Inspector for the NRC
at the Midland plant.

My name is Ronald N. Gardner. I am an Inspector for the NRC,
Region III.

My name is Ross B. Landsman. I am an Inspector for the NRC, Region
III.

My name is Wayne D. Shafer. I am the Chief, Midland Section,
Office of Special Cases for the NRC, Region III.

Q2. Have your professional qualifications previously been submitted in
this proceeding?

A2. Yes.

Q3. What is the purpose of this testimony?

- A3. This testimony supplements the "NRC Staff Testimony of R.J. Cook, R.N. Gardner, R.B. Landsman, and W.D. Shafer With Respect to Quality Assurance," dated October 29, 1982. (October 1982 testimony.)
- Q4. Dr. Landsman and Mr. Gardner, in your response to question 2 of your October 1982 testimony, you state that CPC committed to developing a program for the retraining and requalifying of QC personnel, but had not yet submitted the program. Has that program been submitted?
- A4. Yes. However, there has been no formal submittal of the QC retraining and recertification program. Rather, we received copies of the procedures by which QC inspectors would be trained and certified. These procedures do require a combination of written and oral examination for the requalification of QC inspectors, as CPC had committed to do. Also, these procedures conform to the requirements of ANSI (American National Standards Institute, Inc.) N45.2.6 (1978)
- Q5. Dr. Landsman and Mr. Gardner, do you monitor the training, qualifying, and certifying of QC inspectors?
- A5. Yes. We have monitored the training, qualifying and certifying of QC inspectors and will continue to do so. Recently, we were concerned with the manner in which training for non-soils inspectors was being conducted. We felt that the pace of it was too rushed. As a result, instructors were not always prepared,

questions raised by trainees could not always be answered, and instructional materials were not always available at the classes. To CPC's credit, they acknowledged this problem, suspended the training program, and are taking steps to improve it. When training of non-soils inspectors is resumed, we will monitor the program to assess whether its deficiencies have been corrected. As for other areas of the requalification and recertification program, we have found no significant problems.

- Q6. Dr. Landsman, in your response to question 4 of your October 1982 testimony, you discuss the QA program for underpinning activities. Is there supplementation to that testimony?
- A6. Yes. That supplementation is contained in the "Supplemental Testimony of John W. Gilray, Ross Landsman and Wayne Shafer with Respect to the Quality Assurance Program for the Underpinning Activities of the Service Water Pump Structure and Auxiliary Building."
- Q7. Dr. Landsman, in your response to question 6 of your October 1982 testimony, you state that with respect to quality assurance overview of remedial soils work, it was your assessment that CPC's QA staff was not "commensurate with the complexity of the task." Are you still of that opinion?
- A7. Yes. I still am concerned about the lack of previous QA experience of certain MPQAD supervisory personnel responsible for overseeing remedial soils work.

Since July, 1982, there was established in MPQAD a separate group responsible for overseeing remedial soils work. As indicated by the following excerpts from inspection reports, I have documented a large number of NRC identified concerns with respect to the implementation of remedial soils work.

A. Inspection Report 82-18 (Attachment 5, October 1982 testimony)

Section 1. "Licensee Action on Previously Identified Items"
last paragraph (procedural requirements for dewatering well fines monitoring)

Section 2. "Functional or Program Areas Inspected"

subpart (b) Slope Layback at Auxiliary Building Access Shafts

subpart (c) BWST Foundation Grouting

B. Inspection Report 82-20 (Attachment 1a)

Section 1. Review of Training Program for Remedial Soils Activities

C. Inspection Report 82-21 (Attachment 1b)

Section 1. Review of Remedial Soils QC Recertification Program.

D. Inspection Report 82-22 (Attachment 4 to Supplemental Testimony of James Keppler With Respect to Quality Assurance)

Section 25. Perimeter Dike Armor Stone

E. Inspection Report 82-26 (Attachment 1c)

"Licensee Actions on Previously Identified Items,"

subpart (a) Documentation of Training

"Functional or Program Areas Inspected"

Section 1. Remedial Soils Work Activities

Section 2. FIVP Proof Load Jacking

Had the QA supervisors in question had greater QA experience, I feel that there would not have been this many NRC identified concerns. It should be noted, however, that no problem with CPC's performance of actual underpinning activities has been so significant to warrant a recommendation that this work be halted. I also note that in the response to this question, I am expressing my personal opinion and not the Staff's opinion.

- Q8. Mr. Shafer, what is the Staff position as to the lack of quality assurance experience of certain management personnel within MPQAD, as discussed by Dr. Landsman in the response to the previous question?
- A8. With respect to the positions in question, there are no regulatory requirements which dictate the level of QA experience for the persons who fill those positions. Accordingly, the Staff will monitor the activities of the CPC employees in question until the Staff is satisfied with their managerial performance.
- Q9. Dr. Landsman, in your response to Question 9 of your October, 1982 testimony, you discuss the Staff evaluation of drawing 7220-C-45. You state that CPC needed to take the following two steps for the submittal to be acceptable; (1) revise the drawing to provide Q controls for the permitter and baffle dikes adjacent to the ECWR and

(2) reconfirm that no seismic category I underground utilities extend beyond the Q areas of the drawing. Has CPC done so?

A9. In a letter from James W. Cook to Harold R. Denton, dated December 10, 1982, CPC confirmed that they have taken the above-mentioned two steps. (Attachment 2). The Staff now finds drawing 7220-C-45 to be acceptable.



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION III
799 ROOSEVELT ROAD
GLEN ELLYN, ILLINOIS 60137

Attachment 10

APR 26 1982

Docket No. 50-329 (DETP) 92-06
Docket No. 50-330 (DETP) 92-06

Consumers Power Company
ATTN: Mr. James W. Cook
Vice President
Midland Project
1945 West Parnall Road
Jackson, MI 49201

Gentlemen:

This refers to the routine safety inspection conducted by Messrs. R. Gardner and R. B. Landsman of this office on March 17-19, 1982, of activities at Midland Nuclear Power Plant, Units 1 and 2, authorized by NRC Construction Permits No. CPPR-81 and No. CPPR-82 and to the discussion of our findings with Mr. Marguglio at the conclusion of the inspection.

The enclosed copy of our inspection report identifies areas examined during the inspection. Within these areas, the inspection consisted of a selective examination of procedures and representative records, observations, and interviews with personnel.

During this inspection, certain of your activities appeared to be in non-compliance with NRC requirements, as specified in the enclosed Appendix. A written response is required.

In accordance with 10 CFR 2.790 of the Commission's regulations, a copy of this letter, the enclosures, and your response to this letter will be placed in the NRC's Public Document Room. If this report contains any information that you (or your contractors) believe to be exempt from disclosure under 10 CFR 9.5(a)(4), it is necessary that you (a) notify this office by telephone within ten (10) days from the date of this letter of your intention to file a request for withholding; and (b) submit within twenty-five (25) days from the date of this letter a written application to this office to withhold such information. If your receipt of this letter has been delayed such that less than seven (7) days are available for your review,

Midland 92-06
DRPI FILE COPY
DETP

APR 26 1982

please notify this office promptly so that a new due date may be established. Consistent with Section 2.790(b)(1), any such application must be accompanied by an affidavit executed by the owner of the information which identifies the document or part sought to be withheld, and which contains a full statement of the reasons which are the bases for the claim that the information should be withheld from public disclosure. This section further requires the statement to address with specificity the considerations listed in 10 CFR 2.790(b)(4). The information sought to be withheld shall be incorporated as far as possible into a separate part of the affidavit. If we do not hear from you in this regard within the specified periods noted above, a copy of this letter, the enclosures, and your response to this letter will be placed in the Public Document Room.

We will gladly discuss any questions you have concerning this inspection.

Sincerely,

(Faint signature)

C. E. Norelius, Director
Division of Engineering and
Technical Programs

Enclosures:

- 1. Appendix, Notice of Violation
- 2. Inspection Reports
No. 50-329/82-06(DETP)
and No. 50-330/82-06(DETP)

cc w/encls:

DMB/Document Control Desk (RIDS)
Resident Inspector, RIII
The Honorable Charles Bechhoefer, ASLB
The Honorable Jerry Harbour, ASLB
The Honorable Frederick P. Cowan, ASLB
The Honorable Ralph S. Decker, ASLB
Michael Miller
Ronald Callen, Michigan
Public Service Commission
Myron M. Cherry
Barbara Stamiris
Mary Sinclair
Wendell Marshall
Colonel Steve J. Gadler (P.E.)
RIII
Gardner/so
4/9/82

RIII *Landman*
Landman
Williams

RIII *Little*
Little

RIII *Boyd*
Boyd

RIII
~~_____~~

RIII *Norelius*
Norelius

Appendix

NOTICE OF VIOLATION

Consumers Power Company

Docket No. 50-329
Docket No. 50-330

As a result of the inspection conducted on March 17-19, 1982, and in accordance with the NRC Enforcement Policy, 47 FR 9987 (March 9, 1982), the following violations were identified:

1. 10 CFR 50, Appendix B, Criterion II states, in part, "The quality assurance program shall provide control over activities affecting the quality of the identified structures, systems, and components, to an extent consistent with their importance to safety. Activities affecting quality shall be accomplished under suitably controlled conditions."

Consumers Power Company Quality Assurance Program Policy No. 2, Revision 11, Paragraph 1.0 states, in part, "The Quality Assurance Program assures that activities affecting quality are accomplished by use of appropriate equipment and under suitable environmental conditions. The program establishes the requirements for special controls, processes, test equipment..."

Contrary to the above, the Midland Project Quality Assurance Department has not adequately established a Quality Assurance Program which provides controls over the installation of underpinning instrumentation. This condition is exemplified by the installation of underpinning instrumentation cables without documented procedures, approved drawings, or the development and implementation of inspection and audit requirements.

This is a Severity Level IV violation (Supplement II).

2. 10 CFR 50, Appendix B, Criterion X states, in part, "A program for inspection activities affecting quality shall be established and executed by or for the organization performing the activity to verify conformance with the documented instructions, procedures, and drawings for accomplishing the activity."

Consumers Power Company Quality Assurance Program Policy No. 10, Revision 11, Paragraph 1.0 states, in part, "Inspection and surveillance are performed to assure that activities affecting quality comply with documented instructions, design documents..."

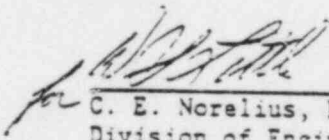
Contrary to the above, licensee construction quality control inspections performed during the period of October 9, 1978 and July 21, 1981 failed to verify conformance of cable pulling activities with documented instructions as follows:

- a. Paragraph 2.6 of Project Quality Control Instruction E-4.0 states, in part, "Verify that the cable is correctly installed in the identified vias as specified on the cable pull card." Fifty-five Class 1E cables were inspected and accepted even though the cables were not routed in accordance with the cable pull cards.
- b. Paragraph 2.1 of Project Quality Control Instruction E-4.0 states, in part, "Verify that the cable to be installed... is identified by a reel number which incorporates the purchase order number and the manufacturer's reel number." Sixty-six Class 1E cables were inspected and accepted even though non-conforming cable reel numbers were recorded on inspection records.

This is a Severity Level IV violation (Supplement II).

Pursuant to the provisions of 10 CFR 2.201, you are required to submit to this office within thirty days of the date of this Notice a written statement or explanation in reply, including for each item of noncompliance: (1) corrective action taken and the results achieved; (2) corrective action to be taken to avoid further noncompliance; and (3) the date when full compliance will be achieved. Consideration may be given to extending your response time for good cause shown.

April 21 1982
Dated


C. E. Norelius, Director
Division of Engineering and
Technical Programs

U.S. NUCLEAR REGULATORY COMMISSION
REGION III

Reports No. 50-329/82-06(DETP); 50-330/82-06(DETP)

Docket Nos. 50-329; 50-330

Licenses No. CPPR-61; CPPR-82

Licensee: Consumers Power Company
1945 West Parnall Road
Jackson, MI 49201

Facility Name: Midland Nuclear Power Plant, Units 1 and 2

Inspection At: Midland Site, Midland, MI

Inspection Conducted: March 17-19, 1982

Inspectors: *R. N. Gardner*
R. N. Gardner

C. C. Williams
R. B. Landsman

Approved By: *C. C. Williams*
C. C. Williams, Chief
Plant Systems Section

4/12/82
4/13/82
4/13/82

Inspection Summary

Inspection on March 17-19, 1982 (Reports No. 50-329/82-06(DETP);
50-330/82-06(DETP))

Areas Inspected: Verification of QA program for auxiliary building remedial
soils instrumentation and a review of a previously identified item.

Results: Of the areas inspected, two items of noncompliance were identified -
Severity Level IV, Lack of QA Program; Severity Level IV, Lack of Adequate
Inspection.

DETAILS

Persons at Exit Interview

Consumers Power Company (CPCo)

B. Marguglio, QA Director
W. Bird, QA Manager
M. Corland, MPQAD, Site Superintendent
D. E. Horn, MPQAD, Civil Section Head
M. J. Schaeffer, MPQAD, Electrical Section Head
R. E. Savo, MPQAD, IE&TV Civil Supervisor
*J. Mooney, Project Office
*J. Schaub, Engineering

Bechtel Power Corporation

*A. Boos, Assistant Project Manager
M. A. Dietrich, PQAE
S. Kirker, QC Civil

NRC

R. Cook, Resident Inspector

Other licensee and contractor personnel were routinely contacted during the course of the inspection.

*Denotes those attending the exit interview by telecon.

1. Licensee Action on Previous Inspection Findings

(Closed) Unresolved Item (329/81-12-08; 330/81-12-09): During a previous inspection, it was determined that the Midland Project Quality Assurance Department (MPQAD) was identifying numerous non-conforming conditions pertaining to items that had been previously inspected and accepted by the electrical contractor's Quality Control (QC) inspectors. As a result of the inspectors' concerns with this matter, the licensee was requested to perform the following:

- a. Verify the adequacy of the training, qualification, and examination of personnel.

The licensee has conducted two audits of the Bechtel QC department. Audit No. M-01-24-01 was conducted during the period of June 2 to July 3, 1981. Audit No. M-01-72-1 was conducted during the period of November 2-6, 1981. These audits evaluated the adequacy of the Bechtel QC training and certification program. As a result of the audits, the following improvements have been made in the area of QC inspector training and certification.

- (1) Bechtel is now documenting on-the-job training as part of the certification/training process for QC inspectors.
- (2) MPQAD site personnel are overseeing Bechtel's certification process to ensure that the certification of QC inspectors meets Midland Project requirements.

The inspector selected three QC inspectors to be questioned concerning two Quality Control Instructions (QCI's) to which they had previously been certified. The QCI's pertained to cable pulling and cable terminations. The selected QC inspectors were each hired in 1981, had no prior QC experience, and were certified within approximately three months of their reporting date. In answering the inspector's questions, the QC inspectors demonstrated acceptable knowledge in the two areas.

- b. Determine if previous inspections performed by the QC inspectors, against whom MPQAD had initiated nonconformance reports, were acceptable.

The licensee has reported to the inspector that MPQAD and Bechtel QC personnel have performed overinspections of 1,084 Class 1E cables pulled and inspected during the period of October 9, 1978 to July 21, 1981. During these overinspections, MPQAD and Bechtel QC inspectors have identified 55 misrouted cables. This is contrary to the inspection requirements of Paragraph 2.6 of Project Quality Control Instruction (PQCI) E-4.0 which states, in part, "Verify that the cable is correctly installed in the identified vias as specified on the Cable Pull Card." In performing the overinspections, MPQAD personnel and Bechtel QC personnel have identified 66 instances in which nonconforming cable reel numbers were recorded on inspection documents. This is contrary to the inspection requirements of Paragraph 2.1 of PQCI E-4.0 which states, in part, "Verify that the cable to be installed... is identified by a reel number which incorporates the purchase order number and the manufacturer's reel number."

The inspector informed the licensee that this unresolved item is escalated to an item of noncompliance with 10 CFR 50, Appendix B, Criterion X, as described in Appendix A of the report transmittal letter. (329/82-06-01; 330/82-06-01)

2. Observation of Underpinning Instrumentation Installation Activities

- a. At the conclusion of the March 10, 1982, meeting in Bethesda, Maryland between licensee representatives, NRR Licensing representatives, and NRC Region III representatives, all remaining underpinning activities were classified as "Q." The purpose of this inspection was to observe underpinning instrumentation installation activities and determine the conformance of these activities with documented instructions, procedures, and drawings. During this inspection, it was determined that the licensee had

initiated underpinning instrumentation cable pulling activities on March 11, 1982. In observing the instrumentation cable pulling activities, the inspectors determined the following:

- (1) Cable pulling activities were being conducted without approved instructions or procedures.
- (2) Cable routing was being conducted in accordance with an unapproved drawing. (C-1493(Q))
- (3) Inspection and audit requirements for cable pulling activities were not developed or implemented.
- (4) Measures had not been established for the selection and review for acceptability of purchased underpinning instrumentation.

The inspectors questioned MPQAD personnel concerning the Quality Assurance program established to control the cable pulling activities. The inspectors were informed that no Quality Assurance program had been established to provide controls over these activities.

This failure to establish a Quality Assurance program which provides controls over the installation of underpinning instrumentation cables is considered to be in noncompliance with 10 CFR 50, Appendix B, Criterion II as described in Appendix A of the report transmittal letter. (329/82-06-02; 330/82-06-02)

Subsequent to the inspectors' identification of this matter, the licensee's QA staff informed the inspectors that cable pulling would be stopped. On the following day, the inspectors observed that cable pulling was continuing. Based on discussions with licensee personnel, it was determined that some confusion existed on the part of the licensee as to whether this activity was "Q" or not. The licensee requested another day to decide if this activity was "Q" or not.

Based on this evaluation, the licensee again informed the inspectors that cable pulling would be suspended. However, licensee personnel indicated that no formal stop work would be issued. The licensee was informed that the Region was considering the initiation of escalated enforcement action on this matter pending a meeting to be held in the Region III office. See IE Report No. 82-05.

- b. The inspectors determined from reviewing Drawings C-1490 and C-1491 that there were nine outstanding FCR's on each drawing. These FCR's are, by site procedures, taped onto the back of each drawing. To say the least, it is confusing to review let alone figure out what the designers intent really is. The inspectors further determined that site Procedure MED 4.62 controls

the revisions of drawings with changes. The procedure requires that a drawing be revised after five DCN's have been issued and after ten FCN's have been issued. However, it only requires for FCR's that a drawing be revised after 180 days have elapsed. It does not have a limit on the number of FCR's that can be issued on a drawing before requiring a revision. The licensee agreed to review their criteria for outstanding FCR's in Procedure MED 4.62. Pending results of their review, this item remains open. (329/82-06-03; 330/82-06-03)

Open Items

Open items are matters, not otherwise categorized in the report, that require followup during future inspections. Open items disclosed during this inspection are discussed in Section 2, Paragraph b.

Exit Interview

The inspectors met with licensee representatives (denoted under Persons at Exit Interview) at the conclusion of the inspection on March 19, 1982. The inspectors summarized the scope and findings of the inspection. The licensee acknowledged the information.

1 CHAIRMAN BECHHOEFER: Back on the record.

2 BY MR. WILCOVE:

3 Q Yes, do you have at the table the Supplemental
4 Testimony of R. J. Cook, R. N. Gardner, R. B. Landsman
5 and W. D. Shafer with Respect to Quality Assurance
6 dated March 25th, 1983?

7 A (WITNESS SHAFER) Yes, we do.

8 Q Are there any changes that you wish to make
9 to that testimony?

10 A (WITNESS SHAFER) I have no changes.

11 A (WITNESS LANDSMAN) No changes.

12 A (WITNESS GARDNER) No changes.

13 A (WITNESS COOK) No changes.

14 Q Is this testimony true and complete to the
15 best of your knowledge and belief?

16 A (WITNESS COOK) Yes, it is.

17 A (WITNESS GARDNER) Yes.

18 A (WITNESS LANDSMAN) Yes.

19 A (WITNESS SHAFER) Yes.

20 MR. WILCOVE: I now offer into evidence the
21 supplemental testimony of R. J. Cook, R. N. Gardner,
22 R. B. Landsman and W. D. Shafer with respect to
23 quality assurance dated March 25th, 1983 and ask that
24 this be bound into the record as if read.

25 MR. MILLER: Are you including the attachment?

1 CHAIRMAN BECHHOEFER: I was going to ask you,
2 this includes Attachment 1-A, 1-B, 1-C and 2?

3 MR. WILCOVE: That is correct, all the
4 attachments.

5 MR. MILLER: No objection.

6 MS. SINCLAIR: No objection.

7 MS. BERNABEI: No objection.

8 CHAIRMAN BECHHOEFER: That testimony will be
9 be bound into the record at this point.

10 (The documents referred to, the Attachments
11 1-A, 1-B, 1-C and 2, follow:)

12

13

14

15

16

17

18

19

20

21

22

23

24

25



Attachment 1: B

UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION III
798 ROOSEVELT ROAD
GLEN ELLYN, ILLINOIS 60137

OCT 6 1982

Docket No. 50-329/82-20
Docket No. 50-330, 82-20

Consumers Power Company
ATTN: Mr. James W. Cook
Vice President
Midland Project
1945 West Parnall Road
Jackson, MI 49201

Gentlemen:

This refers to the routine safety inspection conducted by Messrs. B. Burgess, R. Cook, R. Gardner, and R. Landsman of this office on August 20 through September 20, 1982, of activities at Midland Nuclear Power Plant, Units 1 and 2, authorized by NRC Construction Permits No. CPPR-81 and No. CPPR-82 and to the discussion of our findings with Mr. J. A. Mooney at the conclusion of the inspection.

The enclosed copy of our inspection report identifies areas examined during the inspection. Within these areas, the inspection consisted of a selective examination of procedures and representative records, observations, and interviews with personnel.

No items of noncompliance with NRC requirements were identified during the course of this inspection.

In accordance with 10 CFR 2.790 of the Commission's regulations, a copy of this letter and the enclosed inspection report will be placed in the NRC's Public Document Room. If this report contains any information that you (or your contractors) believe to be exempt from disclosure under 10 CFR 9.5(a)(4), it is necessary that you (a) notify this office by telephone within ten (10) days from the date of this letter of your intention to file a request for withholding; and (b) submit within twenty-five (25) days from the date of this letter a written application to this office to withhold such information. If your receipt of this letter has been

OCT 6 1982

delayed such that less than seven (7) days are available for your review, please notify this office promptly so that a new due date may be established. Consistent with Section 2.790(b)(1), any such application must be accompanied by an affidavit executed by the owner of the information which identifies the document or part sought to be withheld, and which contains a full statement of the reasons which are the bases for the claim that the information should be withheld from public disclosure. This section further requires the statement to address with specificity the considerations listed in 10 CFR 2.790(b)(4). The information sought to be withheld shall be incorporated as far as possible into a separate part of the affidavit. If we do not hear from you in this regard within the specified periods noted above, a copy of this letter and the enclosed inspection report will be placed in the Public Document Room.

We will gladly discuss any questions you have concerning this inspection.

Sincerely,

151 for R F Warnick

R. F. Warnick, Acting Director
Office of Special Cases

Enclosure: Inspection Reports
No. 50-329/82-20(OSC)
and No. 50-330/82-20(OSC)

cc w/encl:
DMB/Document Control Desk (RIDS)
Resident Inspector, RIII
The Honorable Charles Bechhoefer, ASLB
The Honorable Jerry Harbour, ASLB
The Honorable Frederick P. Cowan, ASLB
The Honorable Ralph S. Decker, ASLB
William Paton, ELD
Michael Miller
Ronald Callen, Michigan
Public Service Commission
Myron M. Cherry
Barbara Starniris
Mary Sinclair
Wendell Marshall
Colonel Steve J. Gadler (P.E.)

RIII
Burgess
9/30/82

RIII
Cox

RIII
AMG
Gardner

RIII
Landsman
RBR

RIII
Shaffer

RIII
RFW
Warnick
10/6/82

U.S. NUCLEAR REGULATORY COMMISSION

REGION III

Reports No. 50-329/82-20(OSC); 50-330/82-20(OSC)

Docket Nos. 50-329; 50-330

Licenses No. CPPR-81; CPPR-82

Licensee: Consumers Power Company
1945 West Parnall Road
Jackson, MI 49201

Facility Name: Midland Nuclear Power Plant, Units 1 and 2

Inspection At: Midland Site, Midland, MI

Inspection Conducted: August 20 through September 20, 1982

Inspectors: B. L. Burgess *W. Shafer for* 10-6-82
R. J. Cook *W. Shafer for* 10-6-82
R. N. Gardner *R. N. Gardner* 10-4-82
R. B. Landsman *R. B. Landsman* 10-4-82
Approved By: W. D. Shafer, Chief 10-6-82
Midland Section
W. D. Shafer

Inspection Summary

Inspection on August 20 through September 20, 1982 (Reports No. 50-329/82-20(OSC); 50-330/82-20(OSC))

Areas Inspected: Review of Remedial Soils work activities, review of training program for Remedial Soils activities, inspection of materials used by Zack Company, and review of protective tagging procedure. The inspection involved 113 inspector-hours onsite by four NRC inspectors and 14 inspector-hours of inoffice direct inspection effort.

Results: No items of noncompliance or deviations were identified during this inspection.

DETAILS

Persons Contacted

Consumers Power Company

J. A. Mooney, Executive Manager
B. W. Marguglio, QA Director
D. Miller, Site Manager
W. R. Bird, MPQAD
M. L. Curland, Site QA Superintendent
J. P. Foley, MPQAD
L. P. Kettren, MPQAD
J. K. Meisenheimer, MPQAD
B. H. Peck, Construction Superintendent
R. M. Wheeler, Technical Section Head

Bechtel Power Corporation

L. E. Davis, Site Manager
J. W. Darby, Resident Engineer
M. A. Dietrich, PQAE/MPQAD

Other licensee and contractor personnel were routinely contacted during the course of these inspections.

Functional or Program Areas Inspected

1. Review of Training Program for Remedial Soils Activities

The inspectors reviewed the training program initiated by the licensee for personnel involved in the future Remedial Soils activities. Remedial Soils training is primarily obtained through attendance of a special Quality Assurance (QA) Indoctrination Session and during construction of a mock-up test pit. In addition, both Mergentine and Spencer, White and Prentis (SW&P) personnel require specific procedure training prior to initiating any quality related construction activities. The licensee has indicated that a new Quality Improvement Plan (QIP) will be initiated within 4-6 weeks.

The inspectors reviewed the records and logs to determine which personnel had attended the special QA Indoctrination Session. The licensee's records and logs documenting the attendance at these sessions were inadequate resulting in the licensee having difficulty in determining which personnel had attended and which personnel needed to attend these sessions. Further, the inspector determined that the Mergentine and SW&P training in specific procedures was documented only for superintendents, field engineers, etc. Except for two procedures, there was no documented training provided for craft foremen or craft workmen.

The Resident Inspector and another Midland Team Inspector examined a prototype pit resembling the pit and lagging considerations needed for the construction of Pier 12 for the actual underpinning work. The prototype pier is being constructed in the parking area by the main gate and was examined as a portion of the NRC review of training for individuals involved in the underpinning work. Construction of the prototype pier has revealed the need for some modifications in soil supporting techniques used at the base of the excavation.

In addition, the inspector determined that the licensee has not, as yet, provided training for the remedial soils emergency procedures such as C-200 and OP-41. During the exit meeting on September 15, 1982, the inspector informed the licensee that the training program, to date, was not well documented and in some instances, such as training in emergency procedures and training for craft foremen and craft workmen in work procedures, was not complete. The inspector informed the licensee that, prior to initiating future remedial soil work activities, these training program deficiencies would have to be corrected. In addition, the licensee would have to ensure that all deficiencies identified during mockup test pit activities were adequately addressed in their program. This matter is considered an open item (50-329/82-20-01; 50-330/82-20-01).

2. Remedial Soils Work Activities

The inspectors reviewed and authorized the following work activities during the report period:

- a. Calibration of jacks and gauges for the FIVP modification work.
- b. Rebar mapping of the existing BWST foundation.
- c. Stripping of waterproof membrane from BWST valve pit walls.
- d. Installation of the permanent security fence.
- e. Placing armor stone on the N.E. cooling pond dike.
- f. Installation of dewatering wells and piezometers for SWPS dewatering.
- g. Installation of utilities in non-Q soil for the technical support center.
- h. Backfill of two abandoned temporary dewatering ejector holes.
- i. Probing for shallow utilities around SWPS.
- j. Core drilling SWPS for temporary dewatering wells.
- k. Reinstalling piping, pipe hangers and electrical facilities for the BWSTs.
- l. Hydro testing of new service water pipe after replacement.
- m. Relocating fire line by SWPS.

No items of noncompliance or deviations were identified.

3. Midland Section

The Office of Special Cases was formed in July 1982 to address the significant inspection activities at the Midland and Zimmer construction sites. Mr. R. F. Warnick is Acting Director of this office. The Midland Section consists of W. D. Shafer, Section Chief, R. N. Gardner and Dr. R. B. Landsman from the Regional Office, and R. J. Cook, who remains the Senior Resident Inspector. Mr. E. L. Burgess has been assigned as the Resident Inspector effective August 29, 1982.

4. Zack Material Inspection

During the month of August, the Zack Company issued a potential 10 CFR Part 21 to the Region III office (Letter to Region III from the Zack Company, dated August 2, 1982). The Part 21 addressed a possible discrepancy between the welder of record and the welder who may have performed the actual welds. In response to the Part 21, Region III requested an inspection to determine if material manufactured by the Zack Company in Cicero, Illinois was received onsite during the inspection period.

The Resident Inspectors conducted a random sampling of Zack HVAC material from various storage locations onsite. The inspectors traced traveler reference numbers painted on the individual pieces to traveler documentation. Of the 20 pieces identified, 5 were determined to be manufactured by the Zack facility in Cicero, Illinois. The inspector reviewed shipment documentation and receipt inspection reports to confirm material traceability.

5. Workman's Protective Tags

The inspector reviewed Midland Plant Procedure 1042.1, Revision 3, titled "Workman's Protective Tagging." The review was conducted by the resident inspector to ascertain the effectiveness of the plant tagging procedure. In addition, the inspector reviewed the Switching and Tagging Log and the Workman's Protective Tag Log. No major discrepancies were identified. One item was identified during the review pertaining to the licensee's corrective action system. The inspector was unable to determine if items identified as nonconforming during preoperational testing by the operations department were transferred to the corrective action tracking system of the production and testing groups. This item will be reviewed during a future inspection and is considered an open item. (50-329/82-20-02; 50-330/82-20-02)

No items of noncompliance were identified.

6. Extension of SALP III Reporting Period

Consumers Power Company corporate management was informed that the SALP III period would be extended from the original period termination date of June 30, 1982 to December 31, 1982. The decision to extend the period was based on allowing the licensee time to implement those comments from the SALP II period which might help improve the licensee performance in those areas classified as Category III for the period ending June 30, 1981.

7. Radiation Monitoring System Equipment - Inferior Workmanship - 50.55(e) Item

During the reporting period, the licensee performed an inspection in conjunction with the Bechtel Power Corporation of Victoreen Inc., the manufacturers for the radiation monitoring equipment. This joint inspection found that at least 80% of the 820 electronic modules examined would require rework to make them usable. This inspection also revealed

that 12 of the 19 QA program criteria had not been adhered to and that use of the workmanship standard had been deleted without approval of the licensee.

The modules examined had not been completely inspected and/or functionally tested. However, the poor workmanship being used in the manufacture of the modules puts the reliability of the modules in jeopardy.

The licensee has invoked hold shipment restrictions on items slated for the Midland Site and stopped further processes for inspection and testing activities. Manufacture of the modules had not been stopped at the end of this reporting period.

8. Modified Auxiliary Feedwater Header

During the reporting period, the licensee has continued to modify the steam generators to accommodate an external feedwater header. The holes for the Unit 2 steam generators have been sized with the exception of two holes in one steam generator and one hole in the other steam generator. Work has recently commenced for sizing the holes for the Unit 1 steam generators. All 1/2 inch diameter pilot holes have been located and drilled.

Progress on the modifications for the steam generators has been monitored by a Regional Based inspector and the Resident Inspector, including observation of work performed on the mock-up located onsite.

9. Open Items

Open items are matters, not otherwise categorized in the report, that require followup during a future inspection. Open items identified during this inspection are discussed in Section 1 and 5.

10. Exit Interview

The inspectors met with licensee representatives at the conclusion of the inspections on September 15, 17 and 21, 1982. The inspectors summarized the scope and findings of the inspection. The licensee acknowledged the information.



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION III
798 ROOSEVELT ROAD
GLDEN ELLYN, ILLINOIS 60137

Attachment 1.6

NOV 08 1982

Docket No. 50-329/82-21
Docket No. 50-330/82-21

Consumers Power Company
ATTN: Mr. James W. Cook
Vice President
Midland Project
1945 West Parnall Road
Jackson, MI 49201

Gentlemen:

This refers to the routine safety inspection conducted by Messrs. W. Shafer, R. Cook, R. Gardner, R. Landsman, and B. Burgess of this office on September 20 to October 12, 1982, of activities at Midland Nuclear Power Plant, Units 1 and 2, authorized by NRC Construction Permits NO. CPPR-81 and No. CPPR-82 and to the discussion of our findings with Mr. J. A. Mooney at the conclusion of the inspection.

The enclosed copy of our inspection report identifies areas examined during the inspection. Within these areas, the inspection consisted of a selective examination of procedures and representative records, observations, and interviews with personnel.

During this inspection, certain of your activities appeared to be in non-compliance with NRC requirements, as specified in the enclosed Appendix. A written response is required.

In accordance with 10 CFR 2.790 of the Commission's regulations, a copy of this letter, the enclosures, and your response to this letter will be placed in the NRC's Public Document Room. If this report contains any information that you (or your contractors) believe to be exempt from disclosure under 10 CFR 9.5(a)(4), it is necessary that you (a) notify this office by telephone within ten (10) days from the date of this letter of your intention to file a request for withholding; and (b) submit within twenty-five (25) days from the date of this letter a written application to this office to withhold such information. If your receipt of this letter has been delayed such that less than seven (7) days are available for your review, please notify this office promptly so that a new due date may be established. Consistent with Section 2.790(b)(1), any such application must be accompanied by

NOV. 08 1982

an affidavit executed by the owner of the information which identifies the document or part sought to be withheld, and which contains a full statement of the reasons which are the bases for the claim that the information should be withheld from public disclosure. This section further requires the statement to address with specificity the considerations listed in 10 CFR 2.790(b)(4). The information sought to be withheld shall be incorporated as far as possible into a separate part of the affidavit. If we do not hear from you in this regard within the specified periods noted above, a copy of this letter, the enclosures, and your response to this letter will be placed in the Public Document Room.

We will gladly discuss any questions you have concerning this inspection.

Sincerely,

15/ for R. F. Warnick

R. F. Warnick, Acting Director,
Office of Special Cases

Enclosures:

- 1. Appendix, Notice of Violation
- 2. Inspection Reports
No. 50-329/82-21
No. 50-330/82-21

cc w/encs:

DMB/Document Control Desk (RIDS)
 Resident Inspector, RIII
 The Honorable Charles Bechhoefer, ASLB
 The Honorable Jerry Harbour, ASLB
 The Honorable Frederick P. Cowan, ASLB
 The Honorable Ralph S. Decker, ASLB
 Michael Miller
 Ronald Callen, Michigan
 Public Service Commission
 Myron M. Cherry
 Barbara Stamiris
 Mary Sinclair
 Wendell Marshall
 Colonel Steve J. Gadler (P. E.)

OFFICE	R.I.I.I.	R.I.I.I.	R.I.I.I.	R.I.I.I.	R.I.I.I.	R.I.I.I.
SURNAME	R. Warnick	W. Shafer	R. Cook	R. Gardner	R. Landman	B. Burgess
DATE			11/6/82	11/4/82	11/2/82	R.B.K.

Appendix

NOTICE OF VIOLATION

Consumers Power Company

Docket No. 50-329

Docket No. 50-330

As a result of the inspections conducted on September 20 to October 12, 1982, and in accordance with the NRC Enforcement Policy, 47FR9987 (March 9, 1982), the following violations were identified:

10 CFR 50, Appendix B, Criterion VI, states in part that, "Measures shall be established to control the issuance of documents"

Consumers Power Company Quality Assurance Program Policy No. 6, Revision 12, dated April 2, 1982, states in part, that, "Documents which prescribe activities affecting quality . . . are . . . controlled . . . and distributed according to a controlled distribution . . . The assigned holders of the document are responsible for maintaining the latest revisions of the documents."

Contrary to the above, the inspectors determined the following two examples of noncompliance:

1. The QA department was using a controlled copy of PQCI UP-C-1.013 to make up QC recertification exam questions. This copy of the PQCI was different from a controlled copy obtained from the QC records vault. Both documents were marked revision 0 and dated 8/20/82. There were two pages that were different dealing with the same interface document UP-C-1.008. Furthermore, during the inspection, the licensee could not produce the controlled distribution list for the referenced PQCI.
2. Two controlled copies, Manual numbers 1456 and 1369A, of the Bechtel "Quality Control Notices Manual", Procedure G-6.1, which controls PQCIs, were not of the latest revision.

This is a Severity Level IV violation (Supplement II).

Pursuant to the provisions of 10 CFR 2.201, you are required to submit to this office within thirty days of the date of this Notice a written statement or explanation in reply, including for each item of noncompliance: (1) corrective action taken and the results achieved; (2) corrective action to be taken to avoid further noncompliance; and (3) the date when full compliance will be achieved. Consideration may be given to extending your response time for good cause shown.

NOV 0 8 1982

Dated _____

R. F. Warnick
R. F. Warnick, Acting Director
Office of Special Cases

U.S. NUCLEAR REGULATORY COMMISSION

REGION III

Reports No. 50-329/82-21(OSC); 50-330/82-21(OSC)

Docket Nos. 50-329; 50-330

Licenses No. CPPR-81; CPPR-82

Licensee: Consumers Power Company
1945 West Parnall Road
Jackson, MI 49201

Facility Name: Midland Nuclear Power Plant, Units 1 and 2

Inspection At: Midland Site, Midland, MI

Inspection Conducted: September 20 through October 12, 1982

Inspectors:	^{P.C.} B. L. Burgess	<i>R. B. Landsman</i>	<u>11/8/82</u>
	R. J. Cook	<i>R. J. Cook</i>	<u>11/4/82</u>
	R. N. Gardner	<i>R. N. Gardner</i>	<u>11/4/82</u>
	R. B. Landsman	<i>R. B. Landsman</i>	<u>11/4/82</u>
Approved By:	<i>R. Williams for</i> W. D. Shafer, Chief Midland Section		<u>11/2/82</u>

Inspection Summary

Inspection on September 20 through October 12, 1982 (Reports No. 50-329/82-21(OSC); 50-330/82-21(OSC))

Areas Inspected: Review of Remedial Soils QC recertification program; examination of site conditions; conditions for limited site fire main capability and repairs; management meetings and examination of the Zimmer site. The inspection involved 180 inspector-hours on site by four NRC inspectors.

Results: Of the areas inspected, one item of noncompliance was identified with two examples: Severity Level IV failure to maintain the latest revision of documents.

DETAILS

Persons Contacted

Consumers Power Company

J. A. Mooney, Executive Manager
D. B. Miller, Site Manager
M. L. Curland, Site Project QA Superintendent
D. E. Horn, MPQAD, Civil
J. K. Meisenheimer, MPQAD, Soils
B. H. Beck, Construction Superintendent
J. Schaub, Midland Project Office
R. M. Wheeler, Technical Section Supervisor

Bechtel Power Corporation

M. A. Dietrich, Project QA Engineer
J. Fisher, Manager, Remedial Soils
M. M. Blendy, QC, Civil
J. W. Darbey, Resident Engineer
S. D. Kirker, QC, Civil

Other licensee and contractor personnel were routinely contacted during the course of these inspections.

Functional or Program Areas Inspected

1. Review of Remedial Soils QC Recertification Program

Consumer Power Company letter to the NRC, dated September 17, 1982, "Quality Assurance Program Implementation for Soils Remedial Work", identified the licensee's actions in regards to integrating the Soils QA and QC functions under the direction of MPQAD. In response to this letter, the licensee was required to initiate a recertification program for all Bechtel QC inspectors integrated into the Soils QA/QC organization. The licensee subsequently informed the NRC that the recertification of Bechtel QC inspectors would be accomplished through oral examinations. A schedule of these examinations was submitted by the licensee at the request of the NRC.

On September 23-24, 1982, the Region III inspectors conducted an inspection of the Bechtel QC recertification activities being accomplished by MPQAD. During this inspection, the inspectors determined the following:

- a. The inspectors observed that in administering the oral examinations, MPQAD would excessively repeat the questions, allowing the examinee several attempts to correct previously incorrect examination responses.

- b. The inspectors observed that in administering the oral examination, MPQAD would mark questions, which the examinee failed to correctly answer, as NA, when the question was relevant to the pertinent PQCI.
- c. The inspectors observed that the technical portion of the oral examination lacked the technical content necessary to establish the examinee's level of comprehension of the activity addressed by the subject PQCI.
- d. The inspectors observed that the QA examiner used a controlled copy of PQCI UP-C-1.013 to make up the exam questions. This copy was different from another controlled copy obtained from the QC records vault. Both documents were marked revision 0 and dated 8/20/82. There were two pages that were different dealing with the same interface document, UP-C-1.008. This failure to control documents is in noncompliance with 10 CFR Part 50, Appendix B, Criterion VI, as described in the Appendix of the report transmittal letter (50-329/82-21-1A; 50-330/82-21-1A). Furthermore, during the inspection, the licensee could not produce the controlled distribution list for the referenced PQCI.

The inspectors, while attempting to ascertain why the PQCIs were different, reviewed ten copies of the Bechtel "Quality Control Notices Manual", Procedure G-6.1, which controls PQCIs. During the review, one controlled copy of G-6.1 had pages missing from the procedure. Two other copies, Manual numbers 1456 and 1369A, of G-6.1 were not of the latest revision. This is another example of noncompliance to 10 CFR 50, Appendix B, Criterion VI, as described in the Appendix of the report transmittal letter (50-329/82-21-01B; 50-330/82-21-01B).

During the exit meeting, the licensee committed to review the complete PQCI control process.

Subsequently, Region III issued a Confirmatory Action Letter (CAL) on September 24, 1982, regarding the licensee's commitments in regard to the problems identified in the remedial soils QC requalification program. The licensee commitments identified by the CAL included: (1) the issuance of a Stop Work for all work on remedial soils with the exception of those continuous activities such as maintaining the freeze wall; (2) the suspension of all examinations relating to remedial soils QC requalifications; (3) the decertification of all remedial soils QC personnel previously certified; (4) the establishment of a retraining program for all QC personnel who fail the recertification examinations; and (5) the development of a written examination for all remedial soils QC recertifications.

2. Site Tours

At periodic intervals during the report period, tours of selected site areas were performed. These tours were intended to assess the cleanliness of the site; storage conditions of equipment and piping being used in site construction; the potential for fire or other hazards which might have a deleterious effect on personnel and equipment; and to witness construction activities in progress. A system walk down was performed of portions of the decay heat removal and component cooling water systems prior to the witnessing of initial performance tests.

3. Limited Site Fire Main Capability

As a result of inspection effort into the qualification of QC Inspectors for the remedial soils work, a Stop Work was invoked on September 24, 1982. However, at the time of the Stop Work, the licensee was in the process of making a tie-in between the temporary construction fire main and the permanent site fire main. This tie-in was being made to facilitate remedial soils work at the Service Water Building. Although no excavation was involved, the work was being controlled by use of an excavation permit (WP-106). The Stop Work negated the excavation permit and subsequently any work being performed under the excavation permit.

The licensee became fully aware of the limited fire main capacity on September 25, 1982, and completed working on the fire main tie-in to restore fire main capacity. The licensee notified the NRC that technically the work may have violated the Stop Work, but when considering the limited fire main capacity, it was more prudent to take emergency measures to restore the system to normal capacity. The Resident Inspector was informed of these actions and examined the system tie-in. No excavation work was in process as the excavation for access to the fire main had been performed at an earlier time. The NRC concurred with the licensee emergency action to restore the fire main capacity. (Reference ltr. Warnick to Cook dtd. October 5, 1982).

4. Management Meetings

On September 29, 1982, a meeting was conducted at the Ramada Inn Central in Midland, Michigan. The purpose of the meeting was to discuss the integration of Quality Control (QC) activities into the Midland Project Quality Assurance Department (MPQAD).

On September 28, 1982, the Midland Inspection Site Team met with members of Stone & Webster and Consumers Power Company. The meeting was conducted to introduce the Third Party Independent Assessment Team members for remedial soils work and to explain their function onsite.

On September 22, 1982, the Midland Inspection Site Team met in the regional office to discuss with Consumers Power Company the management of Quality Control personnel onsite. One of the issues discussed was how Consumers Power Company could manage and supervise Bechtel QC inspectors without jeopardizing the Bechtel owned "N" stamp.

5. Resident Inspector Visit to Zimmer Nuclear Power Station

On October 7 and 8, 1982, the Senior Resident Inspector (SRI) toured the Zimmer Nuclear Power Station. This tour was performed to compare the uniqueness of regulatory difficulties between the Zimmer and Midland Sites - both plants have been assigned special attention through Inspection Teams assigned to the Office of Special Cases, RIII.

It appeared to the SRI that inadequate structural steel, welding material traceability and the extensiveness of rework (excluding soils work) were more profound at the Zimmer Station than at Midland. It was apparent that there was little similarity between the exact nature of nonconforming conditions at the Zimmer and Midland Plants.

6. Exit Interview

The inspectors met with licensee representatives at the conclusion of the inspection on September 24, 1982. The inspectors summarized the scope and findings of the inspection. The licensee acknowledged the information.



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION III
799 ROOSEVELT ROAD
GLEN ELLYN, ILLINOIS 60137

Attachment 1c

TEL : 2 1965

Docket No. 50-329/82-26
Docket No. 50-330/82-26

Consumers Power Company
ATTN: Mr. James W. Cook
Vice President
Midland Project
1945 West Parnall Road
Jackson, MI 49201

Gentlemen:

This refers to the routine safety inspection conducted by Messrs. B. L. Burgess, R. J. Cook, R. N. Gardner and R. B. Landsman of this office on December 22, 1982 through January 21, 1983, of activities at Midland Nuclear Power Plant, Units 1 and 2, authorized by NRC Construction Permits No. CPPR-81 and No. CPPR-82 and to the discussion of our findings with Mr. J. A. Mooney and others at the conclusion of the inspection.

The enclosed copy of our inspection report identifies areas examined during the inspection. Within these areas, the inspection consisted of a selective examination of procedures and representative records, observations, and interviews with personnel.

No items of noncompliance with NRC requirements were identified during the course of this inspection.

In accordance with 10 CFR 2.790(a), a copy of this letter and the enclosure(s) will be placed in the NRC Public Document Room unless you notify this office, by telephone, within ten days of the date of this letter and submit written application to withhold information contained therein within thirty days of the date of this letter. Such application must be consistent with the requirements of 2.790(b)(1). If we do not hear from you in this regard within the specified periods noted above, a copy of this letter and the enclosed inspection report will be placed in the Public Document Room.

Consumers Power Company

2

We will gladly discuss any questions you have concerning this inspection.

Sincerely,

151 for W. D. Stager

for R. F. Warnick, Director
Office of Special Cases

Enclosure: Inspection
Report No. 50-329/82-26(OSC);
Report No. 50-330/82-26(OSC)

cc w/encl:

DMB/Document Control Desk (RIDS)
Resident Inspector, RIII
The Honorable Charles Bechhoefer, ASLB —
The Honorable Jerry Harbour, ASLB
The Honorable Frederick P. Cowan, ASLB
The Honorable Ralph S. Decker, ASLB
William Paton, ELD
Michael Miller
Ronald Callen, Michigan
Public Service Commission
Myron M. Cherry
Barbara Stamiris
Mary Sinclair
Wendell Marshall
Colonel Steve J. Gadler (P.E.)

RIII
RFG
Gardner/jp
2/9/83

RIIV
[Signature]

RIII
Warnick
[Signature] for 2-11-83

U.S. NUCLEAR REGULATORY COMMISSION

REGION III

Report No. 50-329/82-26(OSC); 50-330/82-26(OSC)

Docket No. 50-329; 50-330

License No. CPPR-81; CPPR-82

Licensee: Consumers Power Company
1945 West Parnall
Jackson, MI 49201

Facility Name: Midland Nuclear Power Plant, Units 1 and 2

Inspection At: Midland Site, Midland, MI

Inspection Conducted: December 22, 1982 through January 21, 1983

Inspectors: *W. Shafer for*
B. L. Burgess

2-11-83

W. Shafer for
R. J. Cook

2-11-83

R. N. Gardner
R. N. Gardner

2/10/83

R. B. Landsman
R. B. Landsman

2/10/83

Approved By: *W. D. Shafer*
W. D. Shafer, Chief
Section 2, Midland

2-11-83

Inspection Summary

Inspection on December 22, 1982 through January 21, 1983 (Report No. 50-329/82-26(OSC); 50-330/82-26(OSC))

Areas Inspected: Licensee actions on previously identified items, review of Remedial Soils work activities, FIVP proof load jacking; equipment qualification audit; auxiliary feedwater assembly and personnel safety. The inspection involved a total of 185 inspector-hours onsite by four NRC inspectors including 24 inspector-hours onsite during offshifts.

Results: No items of noncompliance or deviations were identified during this inspection.

DETAILS

Persons Contacted

Consumers Power Company

J. A. Mooney, Executive Manager
R. Wells, Executive Manager
D. Miller, Site Manager
W. Bird, MPQAD
F. Buckman, Executive Manager
M. Curland, MPQAD
E. Jones, MPQAD
B. H. Peck, Construction Superintendent
F. Shulmeister, MPQAD
R. M. Wheeler, Technical Section Head
R. E. McCue, Technical Superintendent
J. S. Kreple, Engineer

Bechtel Power Corporation

L. E. Davis, Site Manager
M. A. Dietrich, MPQAD
J. Fisher, Manager, Bechtel Remedial Soils
E. Smith, PFQCE

Other licensee and contractor personnel were routinely contacted during the course of these inspections.

Licensee Actions on Previously Identified Items

(Open) Open Item (50-329/82-20-01; 50-330/82-20-01): The training program pertaining to Remedial Soils work activities was not well documented and in some instances was incomplete. On January 5 and 6, 1983, the inspectors determined that the licensee had made the following changes in the Remedial Soils training program:

- a. A matrix system had been developed which documented the training requirements and the actual training provided for Remedial Soils personnel.
- b. Training in emergency procedures OP-41 and C-200 had been documented for Remedial Soils personnel. This training was documented for the Mergentime supervisory personnel down to the craft foreman level.
- c. QA Indoctrination had been documented for all Remedial Soils personnel (excluding secretaries, etc.).
- d. The Quality Improvement Program (QIP) had been initiated and was documented for Remedial Soils personnel. For Mergentime personnel the program was documented for supervisory personnel down to the

superintendent level. The licensee indicated future consideration would be given to include Mergentine personnel below the superintendent level in the QIP program.

- e. Deficiencies identified during mockup test pit activities had resulted in the following changes:
- (1) Excavation Procedure MCP35.000 had been revised
 - (2) Concrete Placement Procedure MCP3.000 had been revised
 - (3) Specification C-195 had been revised
 - (4) Procedure MCP29.000 had been clarified
- f. Training in specific work procedures had been documented for Remedial Soils personnel. For Mergentine craft personnel work procedure training was documented for craft foremen for all work procedures, but was documented for craft workers only for specific work procedures such as cad-welding procedures and anchor bolt installation procedures.

During the NRC exit meeting on January 7, 1983 the licensee was informed that documented training for Mergentine craft workers must be expanded to include training for all work activities which required special skills or knowledge. The majority of the foremen and craft workmen were being hired out of the local union hall and had no prior underpinning experience.

On January 21, 1983 the licensee provided the inspectors with a copy of the Mergentine Quality Awareness Reports which documented weekly (or more frequent as required) Mergentine "tool box" meetings during which craft workmen will be informed of special work requirements pertaining to future or ongoing remedial soils work activities.

The licensee was subsequently informed during a telephone call on January 27, 1982 that the scope of the "tool box" meetings must be increased to include items peculiar and important to the successful completion of the complex underpinning work. The licensee during this conversation agreed to increase the scope of the training sessions.

This matter will remain open pending further review of craft training during subsequent inspections.

Functional or Program Areas Inspected

1. Remedial Soils Work Activities

The inspector was requested to review and authorize 46 prioritized separate work activities in accordance with the NRC/CPCo Work Authorization Procedure. During the review of the initial ten work packages, the following concerns were identified: (a) the drawings had not been previously reviewed by CPCo personnel prior to issuance to the NRC; (b)

the drawings were still in the design/review process as evidenced by pending drawing revisions; (c) the drawings were not ready for construction to begin as evidenced by all the required construction details not being delineated on the drawings; and (d) the inspector was being asked to authorize activities on the premise that the inspector's concerns would be incorporated during construction of the activity.

These concerns were derived from the following observations:

- a. SWPS deep-seated benchmarks - Drawing C-2004, Revision 1;
 - (1) The strap spacing for holding the benchmark riser pipes rigid during underpinning was not delineated on the drawing. Subsequently, Bechtel Field Engineering indicated that revision 2 of the drawing was being issued which illustrated the strap spacing.
 - (2) Four out of the six benchmarks appeared to be located in the permanent underpinning wall. Personnel were asked if any thought went into protecting the riser pipes either during installation or while actually digging the underpinning walls. The cognizant field engineer stated, "I have no idea."
 - (3) The top locations (elevations) of the benchmarks were not clearly delineated on the drawing.
 - (4) There was no provision on the drawing to ensure that during coring of the bottom SWPS slabs, the hole would not blow in (i.e., remove underlying supporting soil from the structure). Personnel indicated that they were planning to install a standpipe before coring all the way through the floor, but no actual details had been worked out to date.
 - (5) Four of the benchmarks were to be read off the floor of the pumphouse instead of the wall as required. The inspector was informed that the next revision of the drawing would illustrate all readings and that they would be read off the walls of the pump structure as required.
- b. SWPS construction dewatering - Drawing C-1320, Revision 1, C-1320-1, Revision 1 and C-1321, Revision 0;
 - (1) The drawings illustrated two gradations of filter sand to be used in the dewatering well construction. However, they did not indicate which filter sand gradation went into which well.
 - (2) There was no method specified to install the filter sand in the smaller interior dewatering wells.
 - (3) Notes on the drawings indicated to install a standpipe before coring all the way through the bottom slab to balance the hydraulic pressure. However, the notes did not indicate that

to balance the hydraulic pressure, a column of water inside the standpipe greater than the water level outside the structure must be maintained.

c. SWPS to CWIS hydraulic seal - Drawing C-2038, Revision 0;

The drawing indicated that the installation was "Q". However, there was a handwritten note added to the drawing indicating that only the inspection of the work would be "Q". The inspector requested to see an official FCN, DCN, FCR, etc., that would change the drawing and instructions in accordance with the Quality Assurance Program.

Subsequently, on January 6, 1982, a meeting was held on site to discuss the inspector's concerns. The meeting ended with the licensee verbally committing to do the following:

- (1) Withdraw all documents previously submitted to the NRC which provided information associated with the 46 previously requested work activities.
- (2) Provide additional review by licensee management of all work activity packages prior to their issuance to the NRC.
- (3) To assure that appropriate personnel will be on site to discuss any issues that may arise in the future concerning work activity packages.

2. FIVP Proof Load Jacking

The licensee has calculated that the FIVP weighs approximately 1720 kips. However, there was approximately three feet of backfill concrete beneath the entire FIVP mat which has the potential to be connected to the underside of the FIVP mat. The licensee had stated that it was not connected, but there was no assurance that it was or was not. This mass of backfill concrete weighs approximately 150 kips. During the horizontal drift to Pier 9, approximately 50 kips of this weight would be removed, leaving approximately 100 kips.

This additional weight, if attached to the FIVP mat, might overstress some of the existing rock bolts beyond their capacity. This may occur since the original rock bolts were only overstressed to 110% of their design load. During proof load jacking of the entire FIVP structure, redistribution of load will occur in the rock bolts as the load is increased due to inaccuracies in the load distribution assumptions. Thus, some of the bolts may see a load greater than the tested capacity.

These concerns were expressed to the licensee during a conference call on January 25, 1983 between the licensee, NRR and IE staff. It was agreed that the proof load would be increased to a maximum of 110% of the calculated FIVP weight. This would ensure that the additional weight of the fill concrete, if encountered by the grillage assembly, would not endanger the FIVP structure.

3. Auxiliary Feedwater Assembly - B&W 10 CFR Part 21 Reportable

During the report period, the licensee informed the Resident Inspectors that material on site intended for use in the modified auxiliary feed-water header were of questionable quality. This material consisted of 6 inch caps and tees and 3 inch flanges which were shipped from the Tube Line Company, Houston, Texas (an unapproved vendor) through Capital Pipe and Steel Products Co., Bala Cynwyd, PA to B&W for use at Oconee 3, Davis Besse and Midland 1 and 2 Nuclear Plants. Certified Material Test Reports accompanying the material shipped from Houston, Texas indicated that the fittings were manufactured at an "approved" Tube Line Corporation facility in Long Island City, New York when in actuality the items were not manufactured at Long Island City.

B&W issued a 10 CFR Part 21 notification to Mr. R. C. DeYoung, Director, Office of Inspection and Enforcement on January 10, 1983. In this notification, B&W stated that some of the questionable material (3 inch flanges) had been tested and exhibited lower strength values. Review of this problem will be followed up through the Office of Inspection and Enforcement. The issue is an open item (50-329/83-26-01; 50-330/83-26-01).

4. Personnel Safety - Pier Excavation

During the reporting period the Resident Inspector determined that there appeared to be minimal preparation by Mergentime, Inc. for establishing the mechanism for personnel rescue from the below ground excavated areas and the interface with the Bechtel Power Corp. safety personnel at grade height. In response to these concerns, Mergentime, Inc. developed personnel rescue procedures, formed rescue teams at each shaft for each shift, and established training for the rescue teams. The rescue procedures being used are patterned after the Bechtel Procedures and Bechtel is conducting the team training and maintaining the appropriate records. MIOSHA is monitoring the Mergentime, Inc. rescue team development and periodically inspects the excavation for conformance to safety requirements.

5. Equipment Qualification Audit

The inspector attended an Environmental Equipment Qualification audit on January 11-13, 1983. The audit consisted of two days of equipment files review at the Bechtel, Ann Arbor office and a one day inspection of equipment at the Midland Plant Site. Audit findings will be documented in a supplement to the Safety Evaluation Report (SER).

6. Tours

At periodic intervals during the report period, tours of selected site areas were performed. These tours were conducted to assess the cleanliness of site areas, storage conditions of equipment and piping being used in site construction, the potential for fire or other hazards which

might have a deleterious effect on personnel and equipment, and to witness construction activities in progress. Periodic tours of the remedial soils work on Pier 12 West were conducted by resident and RIII inspectors.

7. Meetings

On January 20, 1983, members of the Midland Section met with licensee representatives to clarify the general issues identified in the licensee's Construction Completion Program (CCP).

8. Open Items

Open items are matters, not otherwise categorized in the report, that require followup during a future inspection. Open items identified during this inspection are discussed in Section 3.

9. Exit Interview

The inspectors met with licensee representatives at the conclusion of the inspections on January 7 and 21, 1983. The inspectors summarized the scope and findings of the inspection. The licensee acknowledged the information.

10. Independent Assessment of Auxiliary Building Underpinning

The inspectors reviewed the weekly reports (attached) submitted by Stone and Webster Engineering Corporation to document the results of the independent assessment of Auxiliary Building underpinning activities. No significant concerns were identified in these reports.



**Consumers
Power
Company**

General Office: 1848 West Fernald Road, Jackson, MI 48201 • (517) 788-0483

December 10, 1982

Attachment 2

James W Cook
Vice President - Projects, Engineering
and Construction

Harold R Denton, Director
Office of Nuclear Reactor Regulation
Division of Licensing
US Nuclear Regulatory Commission
Washington, DC 20555

MIDLAND NUCLEAR COGENERATION PLANT
MIDLAND DOCKET NOS 50-329, 50-330
REVIEW OF SEISMIC CATEGORY I UTILITIES
WITHIN DRAWING C-45 BOUNDARIES
FILE: 0485.16 SERIAL: 19732

PRINCIPAL STAFF	
RA	NI
D/RA	MF
A/RA	SP 01273
DP/RA	MA
DEP&CS	ISI O
DE&TP	
ML	
OL	FILE <i>lee</i>

REFERENCE: D EISENHUT (NRC) LETTER TO J W COOK
DATED MAY 25, 1982

Items 1 through 3, inclusive, identified in Enclosure 7 to the above referenced NRC correspondence of May 25, 1982 requested that Consumers Power Company revise Drawing 7220-C-45 to extend Q-listed controls of soils activities to several areas in the vicinity of safety-related structures. Item 4 of Enclosure 7 requested that Consumers Power Company reconfirm that no Seismic Category I underground utilities extend beyond the Q-listed area boundaries identified on drawing C-45.

Revision 9 of Drawing 7220-C-45 is the current drawing revision which resolves the four NRC items of concern identified in Enclosure 7. Revision 9 of Drawing 7220-C-45 along with several other revised documents incorporates those NRC requests identified as Items 1 through 3 of Enclosure 7. We have also completed a careful review of the underground utility locations on as-installed field sketches and wish to confirm that no Seismic Category I utilities are located outside those Q-listed areas shown on Revision 9 of Drawing 7220-C-45.

James W. Cook

JWC/NR/RLT/bjb

DEC 15 1982

oc1182-0266a100

- CC Atomic Safety and Licensing Appeal Board
- CBechhoefer, ASLB
- MMCherry, Esq
- FPCowan, ASLB
- RJCook, Midland Resident Inspector
- RSDecker, ASLB
- SGadler, Esq
- JHarbour, ASLB
- GHarstead, Harstead Engineering
- DSHood, NRC (2)
- DFJudd, B&W
- FJKelley, Esq
- RBLandsman, NRC Region III
- WHMarshall
- JPMatra, Naval Surface Weapons Center
- WOtto, Army Corps of Engineers
- WDPatton, Esq
- SJPoulos, Geotechnical Engineers
- HSingh, Army Corps of Engineers
- BStamiris

CONSUMERS POWER COMPANY
Midland Units 1 and 2
Docket No 50-329, 50-330

Letter Serial 19732 Dated December 10, 1982

At the request of the Commission and pursuant to the Atomic Energy Act of 1954, and the Energy Reorganization Act of 1974, as amended and the Commission's Rules and Regulations thereunder, Consumers Power Company submits correspondence which resolves several concerns and closes four action items identified in the NRC's correspondence of May 25, 1982. These concerns relate to an extension of Q-listed controls to soils activities in the vicinity of CONSUMERS POWER COMPANY safety-related structures and to a reconfirmation of the location of Seismic Category 1 underground utilities.

By /s/ J W Cook
J W Cook, Vice President
Projects, Engineering and Construction

Sworn and subscribed before me this 13 day of December, 1982

/s/ Barbara P Townsend
Notary Public
Jackson County, Michigan

My Commission Expires September 8, 1984

1 MR. WILCOVE: May we go off the record for
2 just one moment?

3 CHAIRMAN BECHHOEFER: Off the record.

4 (Discussion had off the
5 record.)

6 CHAIRMAN BECHHOEFER: We have decided that
7 we will break for lunch that Dr. Harbour would have a
8 question about the Board's notification first.

9 JUDGE HARBOUR: Dr. Landsman, I believe it
10 was in that February hearing we heard at that time,
11 I believe Mr. Bird, that a hand-held drill had knicked
12 a duct bank. Is that the same that you are referring
13 to here as a probing around the --

14 WITNESS LANDSMAN: No, it is not.

15 JUDGE HARBOUR: That is a separate --

16 WITNESS LANDSMAN: Yes.

17 JUDGE HARBOUR: Thank you.

18 CHAIRMAN BECHHOEFER: I think at this point,
19 we will break.

20 Ms. Bernabei, did you have a --

21 MS. BERNABEI: I have one question of the
22 Staff.

23 Is there any written notification other than
24 what Mr. Landsman has testified to? Perhaps it would
25 be useful to read it over the break.

1 MR. WILCOVE: No, there is no written
2 notification.

3 CHAIRMAN BECHHOEFER: Will there be?

4 MR. WILCOVE: We have not currently planned
5 on any written notification, but we will meet over the
6 break to determine if these instances are such a nature
7 that a written notification wouldn't be appropriate.

8 CHAIRMAN BECHHOEFER: Okay, we will break
9 for lunch until quarter of 2:00. Let's try to start
10 as close as possible to that.

11 (Whereupon, a luncheon recess
12 was had, to reconvene at
13 1:45 p.m. this same day.)
14
15
16
17
18
19
20
21
22
23
24
25

1 A F T E R N O O N S E S S I O N 1:55 p.m.

2 CHAIRMAN BECHHOEFER: Okay, back on the
3 record.

4 I would like to comment before the Staff
5 presents its further direct that I don't know whether
6 the Staff intends to address in any more detail any of
7 the three matters that are the subject of Board
8 notification but at some point I would like, with
9 respect to the drilling question and the probing near
10 the surface water pump structure, to find out, one,
11 whether or not the excavation work permit system
12 applied to that particular activity, and, two, if it
13 didn't, would it have made any difference, and, three,
14 if it did, what happened.

15 MR. MILLER: Judge Bechhoefer, it's our
16 belief -- it really is just a belief -- that in fact
17 the incident which Dr. Landsman referred to in his
18 testimony is the same one that was described by
19 Mr. Bird and Mr. Wheeler when they were here in
20 February.

21 The nonconformance report for the incident
22 is dated February 14th, and we're reasonably certain
23 that it's the same.

24 I don't know whether Dr. Landsman can throw
25 any more light on the subject or not.

1 If it's not the same, obviously, they'd
2 certainly want to make whatever evidentiary
3 presentation on it is appropriate. If it's not, it's
4 ground that we've gone over -- if it is the same,
5 rather, we really have, I think, thoroughly explored
6 this on the record already.

7 CHAIRMAN BECHHOEFER: Anyway, you may
8 proceed. The subject of the excavation work permit
9 system is part of the Staff's direct testimony and we
10 are interested in exploring that but to the extent it
11 should be applied further, or whether it should be
12 applied further.

13 MR. WILCOVE: Dr. Landsman was going to check
14 into the situation to make sure, or to determine
15 whether the incident he described this morning is
16 indeed the same one as was reported on February 14th.
17 If it is, we shall, of course, inform the Board and
18 the parties.

19 Mr. Paton has one matter.

20 MR. PATON: Mr. Chairman, very quickly. I
21 learned that we have received a paper at our office
22 indicating that a deposition that was set for May 5th,
23 next Thursday, I believe, has been postponed to
24 May 10th. So those depositions will start,
25 apparently, immediately after we conclude this hearing.

1 MR. WILCOVE: I would also note that we
2 contacted our offices in Washington and Ms. Wright is
3 going to contact the Office of Investigations and
4 emphasize the need that that investigation be completed
5 as rapidly as possible.

6 Also, the transcript page at which the
7 panel's October testimony was bound into the record is
8 11391.

9 That's all the matters the Staff has.

10 CHAIRMAN BECHHOEFER: Okay, you may proceed
11 with your further direct.

12 DIRECT EXAMINATION (Resumed)

13 BY MR. WILCOVE:

14 Q Gentlemen, do you have with you at the table
15 the testimony of Walter Bird on quality assurance?

16 A (WITNESS SHAFER) Yes, we do.

17 Q Would you please turn to Page 2 of that
18 testimony, and I call your attention to the first full
19 paragraph.

20 Have you read the paragraph that begins:
21 "Promptly after the NRC pointed out the discrepancy"?

22 A (WITNESS LANDSMAN) Yes, we have.

23 Q Do you believe it to be of serious concern
24 when a field change notice is issued where a
25 nonconformance report should have been issued?

1 A (WITNESS LANDSMAN) Yes, we do.

2 Q Could you explain why?

3 A (WITNESS LANDSMAN) Yes. The field change
4 notice is a document prepared on site to change somewhat
5 the design property prior to implementing the construction
6 on it.

7 After you've constructed something and you
8 find it's wrong, then, by site procedures, you're supposed
9 to write an NCR on it.

10 So by them writing an FCN instead of an NCR,
11 it was contrary to their site procedures, which MPQAD,
12 as it goes on later in that paragraph, became involved
13 with it and they had to issue an NCR on it.

14 Q Mr. Shafer, do you wish to add?

15 A (WITNESS SHAFER) Yes. I would like to point
16 out that by not writing an NCR at the time of the inci-
17 dent this incident essentially bypassed the corrective
18 action system. An NCR would get a different type of
19 review, and if it is not written, then obviously this
20 incident would not go into the corrective action system.

21 Q Could you briefly explain what that different
22 type of review is?

23 A (WITNESS SHAFER) The review from a non-con-
24 formance report goes through the QA organization,
25 supposedly a determination of significance is made,

1 an evaluation of corective action, immediate corrective
2 action and ultimately corrective action to prevent
3 reoccurrence would be made.

4 If a field change request were used, or field
5 change notice, I believe is the term they have, then it
6 would simply get an engineering review and the problem
7 would be resolved through the change program.

8 A (WITNESS COOK) The change notice would be
9 reflected in an intended design change, as opposed to
10 a violation of what the intended design was.

11 Q Dr. Landsman, do you recall the incident
12 described here in Question 2 and Answer 2 of Mr. Bird's
13 testimony?

14 A (WITNESS LANDSMAN) Yes, I do.

15 Q I call your attention to the last sentence of
16 the first full paragraph on page two, the sentence that
17 reads: "At this point MPQAD became involved in the
18 problem and issued NCR MO1-4-2-109."

19 Do you believe that MPQAD was properly respon-
20 sive to this concern?

21 A (WITNESS LANDSMAN) No, I do not. It took them
22 approximately two weeks after the FCN was issued to
23 write the NCR.

24 Q When was either the quality assurance depart-
25 ment of Consumers or the quality control department of

1 Bechtel first notified of this incident?

2 MR. MILLER: I'm going to object. We've got
3 two different organizations there. Can we have two
4 separate questions, please, so the record will be clear
5 as to what we're talking about?

6 CHAIRMAN BECHHOEFER: Could we split them up?

7 MR. WILCOVE: Yes, I can split that up.

8 BY MR. WILCOVE:

9 Q When was QC first notified of this incident?

10 A (WITNESS LANDSMAN) I don't think quality
11 control was ever notified of this incident. A field
12 change notice was written by Project Engineering.

13 Q When was the QA department notified?

14 A (WITNESS LANDSMAN) As soon as I identified it
15 I had a quality assurance engineer with me on a site
16 tour during my inspection at that time.

17 Q Do you have at the table with you the testi-
18 mony of John Rutgers?

19 A (WITNESS SHAFER) Yes, we do.

do

1 Q I call your attention to Question 3 and
2 Answer 3. Is there a commitment in the FSAR with
3 respect to the percentage of cables which must be
4 properly installed?

5 A (WITNESS GARDNER) Yes, there is.

6 Q What is that commitment?

7 A (WITNESS GARDNER) Section 8.3.1.4.2 of the
8 FSAR states in part that all cables are installed in
9 accordance with design drawings and schedules.

10 It further states that the routing is also
11 confirmed by the quality control personnel doing
12 installation to be consistent with the design documents.

13 Q Would you please turn to Page 4 of
14 Mr. Rutgers' testimony, and I call your attention to
15 the first full paragraph, the one that begins with
16 "Thus."

17 Have you read that paragraph, Mr. Gardner?

18 A (WITNESS GARDNER) Yes, I have.

19 Q Do you have any comment on it?

20 A (WITNESS GARDNER) Well, I have a comment,
21 I guess a general comment on that paragraph applied to
22 the second paragraph that starts out with the word
23 "subsequently," in that in the review of the licensee's
24 plans and in a review of the licensee's reports which
25 were written to cover these QC misses pertaining to

8-3-2

1 cable installation, the NRC took the position that
2 while the licensee, I believe, stated that 38 out of the
3 55 misrouted cables were deemed to be of a less than
4 significant nature we took the position that all
5 misrouted cables would have to be identified by the
6 licensee such that engineering -- and by that I mean
7 the proper engineering people who have the ability to
8 make decisions as to use as is or rework -- would be
9 involved in the decision as to the relevance of these
10 misroutings. And we did not expect a position with QC
11 would be in that chain of decision-making.

12 We also did not accept the licensee's
13 position that a future walk-down inspection would be
14 acceptable in identifying 100 percent of the misrouted
15 cables.

16 As required by the FSAR, we concur with their
17 FSAR commitment that says that all cables should be
18 installed in accordance with design requirements, and,
19 therefore, we require them, as the second paragraph
20 beginning with the word "Subsequently," states, that
21 we require that all Class 1E cables be reinspected to
22 ensure that they met the FSAR requirements.

23 The status of that is the licensee is at
24 present within 500 or so cables of complying with that
25 request.

1 Q I will call your attention now to Question
2 and Answer 4 of Mr. Rutgers' testimony; in particular,
3 Pages 5 and 6.

4 Do you have any comments on that portion of
5 the testimony?

6 A (WITNESS GARDNER) Well, the thrust of the
7 licensee's position in regard to the pipe support
8 hanger installation was very similar to the direction
9 they took in regards to the cable installation in that
10 the licensee stated that they had done an analysis of
11 the misinstalled supports and had determined that a
12 significant percentage of these misinstallations were
13 of no large safety significance.

14 Again the NRC took the position that it was
15 not the quality control's position to make such a
16 decision, it was engineering, and therefore we
17 requested the licensee to perform a reinspection of
18 the pipe supports to ensure that all misinstallations
19 were identified and that the proper engineering
20 organization would be the ones that would make the
21 determination of the relevance to safety.

22 Q Could you expand on why you believe that
23 quality control should not make such a determination?

24 A (WITNESS GARDNER) Well, our concern would be
25 that if any licensee will take the position or will

1 accept the position that misinstallations,
2 misroutings, failure to follow as-built drawings is
3 acceptable without a complete or a reinspection, then
4 the QC personnel are implicitly led to believe that
5 misinstallations can be tolerated.

804fol

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

tolerated

Q Mr. Cook, do you wish to comment on the statistical analyses used by the Applicant with respect to identifying misinstalled pipe supports?

A (WITNESS COOK) Yes. Their statistics, although they indicated that of the 45 percent of the 123 supports that were inspected, that they indicated that each one had at least one non-conforming condition, when the licensee presented his statistics he had indicated that it was a small percentage, three or four percentage, instead of indicating the fact that indeed half of the hangers not only had a defect of the type that were purely luck and happenstance as to the significance of that, and later on, if I remember right, in their testimony, they go into the types of defects that they did find, which to us would have been significant, such as missing components, incorrect component orientation, incorrect clevis rotation and incorrectly located wells and incorrect clearances between the pipe and the support.

So our analysis of the data indicates that the overall problem was more significant statistically than what was presented to us.

1 BY MR. WILCOVE:

2 Q What basis did the Applicant give you for
3 saying that there was only a three or four percent mis-
4 installation?

5 A (WITNESS COOK) Well, they had so many attri-
6 butes associated with the inspection of the hangers that
7 by looking at the violation of each attribute meant that
8 they were statistically spread thin. It would be the
9 case if you had a thousand attributes that was covered
10 over 100 hangers and 50 of the hangers had one attribute
11 wrong, then it would be the ratio of 50 over 1,000
12 attributes when in actuality it would be 50 over say 100,
13 which would be the total number of the hangers.

14 Q I now call your attention to Question and
15 Answer 7 of Mr. Rutger's testimony.

16 Do you feel that storage and maintenance is
17 still an on-going problem at the site?

18 A (WITNESS COOK) Yes.

19 Q Do you have -- has it recently been a concern
20 for the Staff?

21 A (WITNESS COOK) It was a concern to the Staff
22 during the Diesel Generator Inspection, the period of the
23 Diesel Generator Building inspection. We have had in
24 the past different, at different times, we had problems
25 with the storage area. We had non-compliance pertaining

1 to the covers not being installed that should have been
2 installed. That the people supervising the order --
3 try to get the right thing done for the storage. During
4 the Diesel Generator Building inspection, we had some
5 difficulties with it. And as recently as oh, about two
6 weeks ago, we inspected this laid down area for those
7 components that were housed by the HVAC components and
8 had some difficulty with regards to the conditions of
9 the laid down areas with regard to the Zack.

10 On January of 1982, we pointed out discrepancies
11 to the licensee and we have done this at some other
12 times before.

13 Q Have you cited them for non-compliances?

14 A (WITNESS COOK) Yes, we have. And we have
15 addressed in our inspection reports, although I don't
16 have the number of the reports with me right now.

17 Q Mr. Cook, I believe you mentioned in January
18 of 1982 you pointed out certain problems?

19 A (WITNESS COOK) Yes, I had to deal with some
20 piping that had caps off them and was off the dunnage in
21 the laid down area. And then we got involved in some
22 other areas. We did make that an item of non-compliance
23 because time constraints did not allow us to close the
24 loop, if you will, to establish by the time we got back
25 to closing the loop, the situation had temporarily been

1 rectified at that time.

2 Q Talking about --

3 CHAIRMAN BECHHOEFER: Why do you say at least
4 temporarily?

5 A (WITNESS COOK) Because then later on we had
6 the Diesel Generator Building inspection that occurred
7 in August through October. We found problems in the
8 laid down area at that time. And as of two weeks ago,
9 we found some conditions of the laid down area that we
10 didn't appreciate.

11 BY MR. WILCOVE:

12 Q Mr. Cook, when you say you didn't appreciate,
13 could you explain what you mean by that?

14 A (WITNESS COOK) Well, we'd go into a laid down
15 area, we expect to find the equipment stored in a manner
16 which will not have a dilatorious effect on the equipment
17 being housed there. And we would find items that were
18 not on dunnage and items that was alleged to be non-
19 conforming but not segregated and housed in a non-con-
20 forming location in a hold area, if you will. Pipe caps
21 off of dunnage, drainage in the laid down area. In other
22 words, the water could creep up on equipment that is
23 stored there. And with regard to -- okay, you are just
24 addressing the laid down area, right?

25 Q Mr. Shafer, is there anything you wish to

1 add?

2 A (WITNESS SHAFER) We wanted the record to show
3 that we recognized that this is a continuing problem
4 in the area of storage and maintenance. However, the
5 problem continued to crop up. We did not feel that the
6 licensee had taken the initiative to identify the prob-
7 lems and correct them until the NRC or the QA department
8 identified the problem. It is more representative of
9 a way of doing business.

10 A (WITNESS COOK) It is kind of reactive in
11 nature. There's one statement in the testimony, it is
12 just a paragraph R to question 8, that states that Mr.
13 Rutger, I believe that our response to the problems
14 noted in the material storage and maintenance program
15 are positive. Bechtel Consumers are both permitted to
16 problem materials and storage and maintenance. This com-
17 mitment is illustrated by the changes that have been
18 implemented.

19 Just recently, we have had an item of non-
20 compliance written against the material conditions of
21 the mechanical and hydraulic snubbers that although they
22 are installed in the plant, they are still on a storage
23 and maintenance condition. We also ran across similar
24 types of weaknesses during the inspection of the Diesel
25 Generator Building.

1 Q Mr. Cook, I call your attention to Question
2 and Answer 10 of Mr. Rutger's testimony. Have you read
3 that question and answer?

4 A (WITNESS COOK) Yes.

5 Q After having read the response to this question,
6 do you still stand by your statement in Attachment B to
7 Mr. Keppler's testimony that workmanship done by Bechtel
8 has been slipshod?

9 A (WITNESS COOK) Yes. I think we showed that
10 during the inspection of the Diesel Generator Building.

9-2

building 1

BY MR. WILCOVE:

2 Q Mr. Shafer, would you please turn to Page 18
3 of Mr. Rutger's testimony. I call your attention to
4 the paragraph that begins, "I agree . . ." Have you
5 read that paragraph?

6 A (WITNESS SHAFER) Yes, sir.

7 Q Do you have a comment?

8 A (WITNESS SHAFER) Yes, I do. Mr. Rutger's
9 is identifying in fact that the total process that
10 Bechtel performed consists of performing the
11 installation and inspecting it by the QC organization.
12 And that as long as QC had not inspected it, it did not
13 feel that it was in noncompliance. This is represented
14 by several examples and the fact when noncompliance was
15 issued by our office. And in fact the response coming
16 back, they did not feel it was noncompliance because
17 QC had not inspected. We had pointed this out to
18 them several times, and I believe Mr. Cook's
19 Attachment B talks to the effect that we are looking
20 for the quality to be installed as opposed to the
21 quality being inspected.

22 I would also point out that during the
23 Diesel Generator Building inspection, there were
24 several instances where the process by Mr. Rutger's
25 definition was complete. That is QC had inspected

1 certain areas such as hangers, I believe it was one.
2 Another one was an electrical panel and yet we found
3 noncompliance, certainly poor work performance.

4 I would also point out that the previous
5 discussion regarding the hangers would be another
6 example of where QC inspectors performed the
7 inspection and the inspection by the Staff indicated
8 the work was unacceptable.

9 Q Now, I call to the panel's attention Question
10 11 and the response.

11 Dr. Landsman, I call your attention to
12 the paragraph that begins "On May 21, 1982 . . ." In
13 particular the sentence that reads, "I, Dr. Landsman,
14 commented that the information provided was not
15 specific enough."

16 Why did you feel that that information was
17 not specific enough?

18 A (WITNESS LANDSMAN) The information which I
19 received at that exit meeting was a retyped page that
20 had one liners after everyone's name that I was
21 interested in and they left out such important
22 information such as education and his experience, which
23 was what I was looking for when I asked for their
24 resumes.

25 Q Besides this example discussed in Answer 11

9-2-3

1 to Mr. Rutger's testimony, have there been other
2 examples where you feel that there has been a
3 reluctance to provide information to inspectors?

4 A (WITNESS LANDSMAN) Yes, there has been.

5 Q Could you please describe those instances?

6 A (WITNESS LANDSMAN) After this one occurred,
7 I asked for another resume of the QC supervisor in
8 charge of the remedial sales group and that took
9 approximately one month before I got a copy of that
10 one.

11 I also since then, I have asked for
12 calculations on a beam in the Auxiliary Building and
13 it seems the first thing that they brought me was one
14 page of just some static calculations. I was very
15 explicit. I asked for all calculations on that beam,
16 and it is very difficult to get information off that
17 site. I think the other people with me probably have
18 other examples.

19 Q Mr. Cook, is there anything you wish to add?

20 A (WITNESS COOK) I can go through a couple
21 other examples that I am aware of. Mr. Katz at our
22 regional office wanted calculations on anchor bolts
23 for the paneling and the battery charger room and it
24 took him quite a while to get those calculations,
25 exactly how long I'm not really sure now but more than a

1 day or so.

2 MR. MILLER: I'm sorry, I'm going to move to
3 strike Mr. Cook's answer. It is not based on his own
4 personal experience and it is hearsay. And on that
5 ground he can give any of the details, I don't think
6 it is very worthwhile to have that evidence put in the
7 record.

8 MS. BERNABEI: I would just note that
9 hearsay is acceptable in the hearing. He obviously
10 spoke to other people that are involved in the Midland
11 project that has good information.

12 CHAIRMAN BECHHOEFER: I think most of that
13 will go to the weight that we can give it. Certainly
14 cross-examination, you can appeal whether he knows
15 more about it. We will deny the motion to strike.

9-3fol

16

17

18

19

20

21

22

23

24

25

strike.

BY MR. WILCOVE:

Q Mr. Cook, do you have other examples?

A (WITNESS COOK) We had a case where we wanted calculations for the jack and bolts underneath the mufflers for the diesel generators and that took several days. I would have to check with the residence to find out -- I don't know how many days it took before we got this, but it was several days before we got those calculations.

There was one other instance where I requested calculations and Consumers requested the calculations through Mike Shafer pertaining to using a welded connection in lieu of a bolted connection of the analysis associated with the mounting of an instrument panel, and he had quite a difficult time getting those calculations. It got to a point to which I threatened to drop down through Ann Arbor and if they didn't have those calculations sitting on their doorstep when I get there, and the calculations came to the site. Saved me a trip.

Q Mr. Shafer, directing your attention or discussing the Applicant's March 10th response to the February 8th notice of violation and imposition of civil penalties, what is the status of the Staff's view of that response?

A (WITNESS SHAFER) My understanding is that,

1 our response to that response is in typing. It has not
2 been mailed out yet.

3 A (WITNESS GARDNER) It is under some -- if I
4 can answer that, it is under some review also. It has
5 not been finalized as yet. We are still working on it.
6 And we have some revisions to it. I would say the best
7 answer would be that the Staff is still working on it.

8 CHAIRMAN BECHHOEFER: Will that include the
9 Staff's determination for the request of mitigation?

10 A (WITNESS GARDNER) It should, yes.

11 BY MR. WILCOVE:

12 Q I now call your attention to the testimony of
13 Roy Wells.

14 A (WITNESS SHAFER) If we may, we have another
15 concern that we wanted to identify with regard to Mr.
16 Rutgers testimony. Is that possible?

17 Q Yes.

18 A (WITNESS COOK) That was Question 12, and this
19 makes reference to the personnel showing an unwillingness,
20 because of influence from supervisors to candidly speak
21 with the NRC. The latest event that we did have of this
22 is an individual, during a Diesel Generator Building
23 inspection, that we wish to inquire information pertain-
24 ing to some hangers and he indicated to us that he could
25 not talk to us without going through his boss. And Ross,

1 you have -- should I keep going?

2 We have memos that refer to or give the
3 illusion that -- the sentence that starts in the answer
4 12 line, we do have two memos that duress the illusion
5 of the work force talking candidly with the NRC, which
6 caused us some concern.

7 Q Do you have the memo with you?

8 A (WITNESS COOK) I think I do.

9 A (WITNESS LANDSMAN) One of them, we have for
10 sure. Yes, we have them.

11 MR. WILCOVE: Mr. Chairman, at the break, we
12 will make copies of those memos and distribute to the
13 Board and the parties.

14 CHAIRMAN BECHHOEFER: Are these memos different
15 from the memos dated January 29, 1981 and November 10,
16 1982, which are attached to that testimony? Are these
17 different ones?

18 A (WITNESS LANDSMAN) Yes, they are different.
19 One of them is different though we think we will find
20 them at break.

21 MR. WILCOVE: Moving on to Mr. Wells' testimony
22 now with respect --

23 MR. MILLER: Before you get into that, may I
24 inquire, do you have the name of the individual whom you
25 sought information from about the hangers during the

1 Diesel Generator Building inspection?

2 A (WITNESS COOK) Yes, I do. It is over in my
3 briefcase. That was known who the individual was to the
4 licensee at the time. The Consumers employee was a guy
5 by the name of Kripple, and I'm not sure of the indi-
6 vidual's name that insisted on seeing his supervisor,
7 but I have his name in my briefcase. And this was made
8 known to the licensee at the time.

9 MR. MILLER: I guess I'm -- are these notes
10 some of the documents that were screened in response to
11 the intervenors' document request to the Staff and
12 otherwise withheld?

13 MR. WILCOVE: No, they are not.

14 MS. BERNABEI: We never received them yet,
15 but I assume that we will receive them at the break.

16 MR. WILCOVE: Yes, the one memorandum that the
17 Panel just referred to, we will make copies.

18 MR. MILLER: My question is somewhat broader
19 than that. I'm hearing from Mr. Cook that he's got notes
20 of at least one instance where he spoke to somebody and
21 was told that they could not give them the information.
22 I'm not familiar with --

23 A (WITNESS COOK) I don't have the notes of that.
24 All I have is the guy's name, which is written down on
25 a piece of paper in my briefcase. And under the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Freedom of Information or Board of Requests, whichever or, those pages, I think they were copied. If they are not, they are with the personal notes. I believe those pages were copied.

MR. MILLER: That is all I wanted to determine.

9-4

determine.¹

BY MR. WILCOVE:

² Q Mr. Shafer?

³ A (WITNESS SHAFER) If I may, we have some
⁴ clarification. The particular instance where an indi-
⁵ vidual stated that he did not desire to talk to the NRC,
⁶ there is no documentation on that particular instance.
⁷ However, the November 10, 1982 direction from Bechtel
⁸ with regard to communication was a direct result of that
⁹ encounter. Recognizing, I believe at that time, the
¹⁰ licensee recognized that January 1981 direction left
¹¹ something to be desired.

¹² Q Turning now to Mr. Wells' testimony with
¹³ respect to QA and QC organization changes, do you feel
¹⁴ that -- strike that.

¹⁵ Do you feel that the decision of Consumers
¹⁶ Power Company to take control of the Bechtel QC function
¹⁷ reflect strong initiatives on the part of Consumers
¹⁸ Power Company?

¹⁹ A (WITNESS SHAFER) The answer to that is no.
²⁰ Essentially, it reflects an agreement on their part to
²¹ go along with the recommendation that we make. And I
²² will refer you to Attachment D, to Mr. Keppler's
²³ testimony, Mr. Warnick identified there is a memo that
²⁴ identifies in fact that it was our recommendation that
²⁵ Consumers assume responsibility for the Bechtel QC

1 function. That was a letter of August 18, 1982.

2 This in addition related to the soils -- no,
3 it related to the entire program. However, it was
4 September 24, 1982 and a CAL was written which describes
5 a meeting that we were going to have on the 29th of
6 September. At this time, we all discussed Consumers
7 assuming responsibility for the QC function. These
8 issues ultimately ended up in the September 17th letter
9 that Mr. Cook is speaking about.

10 CHAIRMAN BECHHOEFER: What is the connection
11 between that and the September 24th document? You just
12 spoke about or did I get the dates wrong?

13 WITNESS SHAFER: I'm sorry, I didn't hear you.

14 CHAIRMAN BECHHOEFER: I understand something
15 happened on September 24th. You said this --

16 WITNESS SHAFER: We had problems with regard
17 to QC training for soils and a letter was issued on that
18 date. We then requested a meeting with Consumers Power
19 on the 29th of September, which also addressed the balance
20 and plan QC personnel, and the need for upgrading their
21 training and Consumers assuming responsibility for the
22 QC function.

23 CHAIRMAN BECHHOEFER: So what happened on
24 September 17th is only related to the soils?

25 WITNESS SHAFER: There were two letters written

1 on September 27th by the licensee. I know the one
2 that discusses the soils were indeed talked about, the
3 interrogation of QC in the Consumers organization.
4 I'm not sure of the second letter.

5 BY MR. WILCOVE:

6 Q I now call your attention to page 9 of Mr.
7 Wells' testimony. In particular Section 4 IPIN issues.

8 In particular, please turn to page 11. It
9 says, and I call your attention to the second full para-
10 graph, the first sentence of that paragraph which reads,
11 "When the NRC advised the company of the details of its
12 findings on January 18th, 1983, Mr. Cook directed me to
13 institute a project investigation to determine how IPIN
14 were being used."

15 Was January 18, 1983 the first time that the
16 Applicant was informed of Staff concerns with respect to
17 IPINS?

18 A (WITNESS COOK) No.

19 A (WITNESS SHAFER) No, sir.

20 Q When were these first performed?

21 A (WITNESS SHAFER) They were made aware of
22 findings in October during the Diesel Generator Building
23 inspection.

24 Q I now call your attention to the last sentence
25 of page 12 of Mr. Wells' testimony. The sentence reads,

1 "I do represent that the use of IPINs for non-soils work
2 be discontinued on January 25, 1983."

3 Do you have an opinion with respect to the time
4 it took for Consumers to discontinue the IPIN process
5 after finding out about it?

6 A (WITNESS SHAFTER) Yes, sir, we feel it was
7 untimely.

8 Q Why is that?

9 A (WITNESS SHAFER) They were aware of the problem
10 in October and it was January 25, 1983, before they dis-
11 continued the use of it.

12 Q Dr. Landsman, would you please turn to Question
13 and Answer 7 of your March 25th supplemental testimony?

14 CHAIRMAN BECHHOEFER: Mr. Wilcove, what question?

15 MR. WILCOVE: This will be Question and Answer
16 7 to the supplemental testimony of the Panel.

17 Dr. Landsman, do you have any examples that
18 you would like to add?

19 WITNESS LANDSMAN: Yes, I would like to add
20 paragraph F which will be entitled Inspection Report
21 8303, and it would be Attachment 1-D, whatever, and I
22 would like to focus the attention on Section 1-C which
23 has to do with Attachment 10 forms and Section 3, which
24 is dealing with document control.

25 CHAIRMAN BECHHOEFER: Mr. Wilcove, do you

1 plan on introducing the document that was just referred
2 to?

3 MR. WILCOVE: I was going to discuss that.
4 The Staff doesn't intend to offer 8303 into evidence.
5 My concern is that it has just recently been issued and
6 I wasn't sure whether all parties and the Board had
7 received copies of it. If they had not, then I would
8 have recommended that we defer discussing 8303.

9 CHAIRMAN BECHHOEFER: Well, I'm raising the
10 question whether you included it as part of the testimony
11 and you probably would have to offer however many copies
12 to have it bound in the record. You can offer it as
13 a Staff exhibit, you can probably get by with three.

14 MR. WILCOVE: I probably will offer it as a
15 Staff exhibit. I will have to make -- I don't have three
16 copies for the reporter right now, but if the Board
17 wishes, we can offer it into evidence right now and then
18 I can subsequently provide three copies to the reporter.

10-1

10-1-1
Carol

1 MR. MILLER: We have, in fact, received a
2 copy, and we have no objection to its introduction into
3 evidence.

4 CHAIRMAN BECHHOEFER: What was the date of
5 that? Off the record.

6 (Discussion had off the
7 record.)

8 CHAIRMAN BECHHOEFER: Back on the record.
9 You can offer it as -- since everybody has it, you can
10 offer it as an exhibit and identify it as a Staff
11 exhibit, and provide the reporter, then, with three
12 copies, rather than having it bound in.

13 MR. WILCOVE: At this point, I move that
14 Inspection Report 8303, dated April 7, 1983, be offered
15 into evidence as the next Staff exhibit. I'm not quite
16 sure what the number is.

17 CHAIRMAN BECHHOEFER: As a point of
18 clarification, I assume you are including the letter
19 dated April 7th and the attached notice of violation
20 and then the inspection report? Are you including all
21 of those?

22 MR. WILCOVE: That is correct, sir.

23 JUDGE COWAN: And I assume you're correcting
24 the testimony to include Item F as stated on the record?

25 CHAIRMAN BECHHOEFER: Well, it will be on the

1 record.

2 JUDGE COWAN: Do you understand?

3 MR. WILCOVE: I'm not quite sure.

4 JUDGE COWAN: He stated that he wished to
5 have Item F added to Page 4 of this testimony --

6 MR. WILCOVE: Uh-huh.

7 JUDGE COWAN: -- which is a correction to
8 the testimony. And I assume that that is what you are
9 proposing.

10 CHAIRMAN BECHHOEFER: I assume you're proposing
11 it, though, as an exhibit.

12 (Discussion had off the
13 record.)

14 MR. WILCOVE: May we go off the record for
15 just a moment?

16 (Discussion had off the
17 record.)

18 JUDGE COWAN: Just the words that he said
19 should be understood to be on Page 4.

20 MR. WILCOVE: Okay. All right.

21 JUDGE COWAN: I don't ask very much.

22 MR. WILCOVE: I guess what we're doing is
23 we're supplementing that question and answer with
24 references to the exhibit.

25 CHAIRMAN BECHHOEFER: Without objection, this

1 inspection report and the cover letter and the notice
2 of violation will be entered into evidence as Staff
3 Exhibit --

4 MR. MILLER: I believe it's Staff Exhibit 18,
5 but I'm not certain. It's either 18 or 19.

6 MR. WILCOVE: Mr. Chairman, off the top of my
7 head, I believe that is correct. We'll assume that it
8 is Staff Exhibit 18. If that turns out to be in error
9 in the numbering system we will report back to the
10 Board.

11 CHAIRMAN BECHHOEFER: Okay, fine.

12 BY MR. WILCOVE:

13 Q Dr. Landsman, do you recall at the hearings
14 in mid-February discussing on the record the need to
15 expand the excavation permit system?

16 A (WITNESS LANDSMAN) Yes, I do.

17 Q Have you had further discussions with the
18 Applicant --

19 A (WITNESS LANDSMAN) Yes, I have.

20 Q What has been the result of those
21 discussions?

22 A (WITNESS LANDSMAN) The licensee does not
23 want to do it.

24 Q Do you still perceive the need for --

25 A (WITNESS LANDSMAN) Yes, I do.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Q Okay. Could you explain briefly why you feel that this system is necessary?

A (WITNESS LANDSMAN) Yes. It's like the last line of review before we go in to do some of the construction that entail -- it's one of the forms on the back of that excavation permit system. It requires all the personnel on site who are most familiar with the work a sign off that they have looked at the drawings and reviewed them and made sure that everything is okay.

Q Has the Applicant given a reason for not wishing to expand the excavation permit system?

A (WITNESS LANDSMAN) Yes, they have, in an April 4th letter that we received in the Region.

10-2fol

region 1

Q What is that reason?

2

A (WITNESS LANDSMAN) The licensee states in a nutshell that they have all the controls in place necessary on the underpinning work.

3

4

5

Q Could you please turn back to Mr. Weil's testimony briefly, in particular --

6

7

CHAIRMAN BECHHOEFER: Mr. Wilcove, are you through asking questions now about the excavation permit system, or do you have --

8

9

10

MR. WILCOVE: At this time I am.

11

12

CHAIRMAN BECHHOEFER: At some point, maybe now, I would like to know whether, Dr. Landsman, have you gotten any other members of the Staff that you know of to agree with you that such an expansion is needed?

13

14

15

I recall it was your recommendation before that didn't have overall Staff support at that time. Do you wish to comment on that at this time?

16

17

18

WITNESS LANDSMAN: Yes, I've got other members' support.

19

20

CHAIRMAN BECHHOEFER: Is it the official Staff's position now that the system should be expanded or --

21

22

23

WITNESS LANDSMAN: No, it is not the official Staff position yet.

24

25

(Laughter.)

1 The Staff's position is there's no regulatory
2 requirement to require the license to abide by a
3 recommendation that I made to the licensing board.

4 BY MR. WILCOVE:

5 Q Dr. Landsman, perhaps you could tell the Board
6 and the parties who else on the Staff agreed with you
7 that it is necessary to expand the excavation permit
8 system.

9 A (WITNESS LANDSMAN) Ron Gardner, for one.

10 Q Is there anybody who disagrees with you or
11 has voiced disagreement?

12 A (WITNESS LANDSMAN) Just what I have stated
13 what the Staff's official position is on that.

14 Q Well, is there an official Staff position that
15 the permit system should not be expanded?

16 A (WITNESS LANDSMAN) No. We just got the
17 April 4th letter and we really haven't had the time to
18 answer it officially.

19 810-3
20
21
22
23
24
25

1 Q Okay. Now, turning to Mr. Wells' testimony,
2 Page 9, I call your attention again to the paragraph
3 that begins "The IPIN issue," in particular the
4 sentence that reads: "The inspection involved a
5 substantial number of NRC inspection manhours augmented
6 by outside consultants working with the Region III
7 inspectors."

8 Do you feel that that inspection was, and I
9 quote, augmented by outside consultants? Mr. Shafer.

10 A (WITNESS SHAFER) No, we do not, and, for
11 clarification, at the time of the Diesel Generator
12 Building inspection there were four contract employees
13 on site. However, they were in a training status; that
14 is, an on-the-job training. They did go into the
15 Diesel Generator Building, however they had no input
16 to the Diesel Generator Building inspection or input
17 into the final report.

18 MR. WILCOVE: Mr. Chairman, may I please have
19 a moment to caucus with the panel to determine whether
20 I have any more questions or not?

21 CHAIRMAN BECHHOEFER: I have one question.
22 Are those the Argonne people which we had some
23 discussion of earlier today?

24 WITNESS SHAFER: Yes, it is.

25 WITNESS COOK: Yes.

1 MS. STAMIRIS: Are all four of them the
2 Argonne people?

3 WITNESS SHAFER: Yes.

4 WITNESS COOK: There were four at that
5 particular time. Since that time the four of them have
6 been split in two and dedicate their time to Midland
7 and two of them dedicate their time to the Zimmer plant.
8 But at that time there were four of them.

9 CHAIRMAN BECHHOEFER: I think we could take
10 a break, if the Staff wants to do that.

11 Let's take a 15-minute break.

12 (Whereupon, a short recess
13 was taken.)

14 CHAIRMAN BECHHOEFER: Back on the record.
15 Mr. Wilcove, are you ready to proceed?

16 MR. WILCOVE: Yes. I would like the record
17 to show that I have handed to the Board and to the
18 parties two documents. One is a Bechtel Power
19 Corporation memo from Mr. L. E. Davis to
20 Mr. D. B. Miller dated December 16th, 1980.

1980

1 Staff does not presently have concerns about
2 this document. Our purpose in providing it to the Board
3 and the parties was just so they knew which document Mr.
4 Cook was referring to.

5 The second document is a handwritten document.

6 CHAIRMAN BECHHOEFER: Do you not intend to
7 introduce that?

8 MR. WILCOVE: The first one we do not and the
9 second one we will.

10 MS. STAMIRIS: Is the first one already attached
11 to the testimony?

12 CHAIRMAN BECHHOEFER: No, it is not attached to
13 the testimony.

14 MR. WILCOVE: And the second document I wish
15 to ask some questions on now of the Panel.

16 CHAIRMAN BECHHOEFER: Fine.

17 BY MR. WILCOVE:

18 Q Dr. Landsman, are you familiar with a hand-
19 written document which had five items and at the top
20 reads: Priority Items - Civil?

21 A (WITNESS LANDSMAN) Yes, I am.

22 Q Do you see in this document the name Sevo?

23 A (WITNESS LANDSMAN) Yes, I do.

24 Q Do you know who that person is?

25 A (WITNESS LANDSMAN) Yes, I do.

1 Q Could you please tell us?

2 A (WITNESS LANDSMAN) He was and is a -- he's
3 a supervisor in the MPQAD department. He works for
4 Bechtel. He's a Bechtel employee.

5 Q I call your attention to Item 4 of that docu-
6 ment. Do you have any concerns about that item?

7 A (WITNESS LANDSMAN) Yes, I do.

8 Q Could you please tell us what those concerns
9 are?

10 A (WITNESS LANDSMAN) Yes. For the record, I'll
11 read Item 4. It says: "Conduct with NRC inspectors by
12 some is unacceptable in the civil QA group."

13 And the reason we're entering this on the
14 record is there was a statement in Consumers Power
15 Company direct testimony that said there are no memos to
16 this effect, referring to communications with the NRC
17 inspectors.

18 This was just one example that we found that
19 there are memos on site referring to communications with
20 NRC inspectors.

21 Q What do you understand Item 4 to be saying?

22 A (WITNESS LANDSMAN) There was certain indi-
23 viduals -- this was, as you can see by the dates, it's
24 over a year old -- that there were individuals in the
25 MPQAD department that were doing their job and were

10-4,pj3

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

talking to us on a regular basis. And I take this statement 4 to mean that their conduct, meaning their discussing things with us, is unacceptable.

10-5

unacceptable

1 MR. WILCOVE: Mr. Chairman, at this point I
2 wish to offer this document into evidence as Staff
3 Exhibit 19.

4 MS. BERNABEI: No objection.

5 MS. SINCLAIR: No objection.

6 MR. MILLER: I don't have any objection.

7 CHAIRMAN BECHHOEFER: The document will be
8 entered into evidence as Staff Exhibit 19.

9 (The document referred to,
10 previously marked Staff
11 Exhibit 19 for identification,
12 was received in evidence.)

13 BY MR. WILCOVE:

14 Q Mr. Gardner, could you please give for us a
15 description of how the Office of Special Cases functions?

16 A (WITNESS GARDNER) Yes, I can. When the Office
17 of Special Cases was formed under Mr. Warnick, each of
18 us in the Office of Special Cases -- and I'm speaking now
19 for the Midland section -- was given a relatively wide
20 latitude and responsibilities in regards to decision-
21 making of the Office of Special Cases.

22 Most of the time, if not all the time, when a
23 significant issue comes before the Office of Special
24 Case Midland section, the team -- and I speak of about
25 six of us where we consider Mr. Warnick a team member --

1 are polled as to our opinions in regards to the issue.
2 We are given the opportunity to vocalize our position
3 either for or against or whatever our opinion might be.

4 We are polled in that we would vote, raise our
5 hands give a method of assent or dissent to an issue, and,
6 of course, then a majority normally works with Mr.
7 Warnick, of course, being a director, having the ultimate
8 authority.

9 I think we've all been impressed with working
10 with this group with the fact that our opinions have been
11 given substantial weight.

12 I would also say that if there is a case in
13 which we have a dissenting opinion versus just a dif-
14 ferent opinion or a particular point of view we have the
15 opportunity to express that different opinion through
16 several avenues, one of which being inspection evaluation
17 forms, memos to file, different inspector opinion files.
18 There are several vehicles that we can use.

19 And so I guess I could say that while there are
20 instances in which we have conflicting professional
21 opinions that I'm not aware of any instances in which
22 it has gone so far as to become a formal incident, a
23 formal incident based on a document having to be prepared
24 to substantiate that different opinion.

25 Q Did you say a formalized incident?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A (WITNESS GARDNER) Yes, or incidents.

Q Would that be the same as a dissent?

A (WITNESS GARDNER) Yes. I would say that if I myself had an opinion concerning any regulatory position regarding Consumers Power that was counter to what I perceived the direction that the team was taking, then I would, without hesitation, write a document, either an inspector evaluation or a memo to file or some other vehicle to put into the record my different opinion.

1 I have done that for -- personally, I have
2 done that for issues outside of this team.

3 Q Assuming a vote is taken as you've just
4 described and you are in the minority, would that
5 necessarily mean that you dissented?

6 A (WITNESS GARDNER) This would mean that you
7 had a -- that for that topic, whatever it might be,
8 that you had an opinion which was not completely in
9 line with the other members.

10 Now, we are all different personalities and
11 have some differing viewpoints on a lot of topics, so
12 it would be pretty hard for us to anticipate that
13 there would be 100 percent agreement on each issue.

14 Q But the fact that you were in the minority
15 on a given vote, would that necessarily mean that you
16 would then file a formal dissent?

17 A (WITNESS GARDNER) You could. But you would
18 not normally unless -- again I would stress it depends
19 on how significant you thought the difference between
20 what you thought was the correct avenue and the way
21 the team is going. And again I would say that I haven't
22 seen that done as far as this team is concerned.

23 I would personally believe that Mr. Warnick
24 or Mr. Keppler, whomever, upon knowing that such an
25 opinion was so strong, would take special action to find

1 out the cause of that differing opinion without
 2 allowing something to go on.

3 I reiterate the position that we have pretty
 4 wide latitudes as individuals on the team.

5 Q Is there anything else that members of the
 6 panel wish to add to that?

7 A (WITNESS SHAFER) No.

8 MR. WILCOVE: Mr. Chairman, I have no further
 9 direct examination of these witnesses. I will now
 10 tender them for cross-examination, but I wish to note
 11 that while, let's say, Mr. Keppler's testimony
 12 discusses some things, such as the Diesel Generator
 13 Building inspection and, oh, Attachment A, Attachment B
 14 to Mr. Keppler's October testimony, for instance, and
 15 the panel's testimony has been more narrowly focused
 16 to specific incidents. In cross-examination, the
 17 Staff would ask that all cross-examination of the panel
 18 take place within the Intervenors' or the Applicant's
 19 turn regardless of whether it's actually part of the
 20 panel's testimony or a part of Mr. Keppler's testimony.

21 MR. MILLER: I am certainly agreeable to
 22 trying to do that, but it is at least possible that
 23 as part of Mr. Keppler's testimony, or his cross-
 24 examination, that some or all of these witnesses
 25 may be required to return.

10-6-3

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. MARSHALL: Agreed.

MR. WILCOVE: Yes, the Staff certainly understands that, and I think that Mr. Miller is correct in that what I was asking is that the effort be made if possible.

Tllfol

1 CHAIRMAN BECHHOEFER: I think that would be a
2 desired goal, I think the possibility has been left
3 open or the information that arose for the people that
4 they have to testify about. I understand that
5 Mr. Marshall wanted to lead off. Is everybody agreeing
6 to that?

7 MR. MARSHALL: Yes, and I have just a few
8 questions. I'm going to speak extemporaneously. I
9 would like to start out with Dr. Landsman.

10 CROSS-EXAMINATION

11 BY MR. MARSHALL:

12 Q I would like to ask Dr. Landsman, that isn't
13 it true that during his present job on the site down
14 at the nuclear plant that he has on occasion come upon
15 noncomformance with progress at one time or another,
16 and that when citing it at the time that the parties
17 to whom it was directed didn't react as they should
18 have reacted as good workmen or under good workmanship
19 rules and regulations that it was contrary. Is that
20 true or not true?

21 A (WITNESS LANDSMAN) Yes, that is true.

22 Q Now, Doctor, I would like to ask you further,
23 if you know, would this particular man be a Consumers
24 Company man or would that be under the Bechtel
25 Corporation?

1 A (WITNESS LANDSMAN) I think it is
2 applicable to both.

3 Q To both Consumers Power Company and also the
4 Bechtel Company man?

5 A (WITNESS LANDSMAN) Yes.

6 Q Okay, Doctor. Isn't it true that even
7 though it isn't an important construction such as
8 you are working on now, just the simplest construction
9 in the City of Midland, require construction, even
10 constructing a house for a man who lives in it?

11 A (WITNESS LANDSMAN) Right.

12 Q Now, to take a departure from such a thing
13 is a crime, is it not? A crime in your mind, if they
14 are doing it with intent?

15 MR. WILCOVE: I'm going to have to object.
16 I think that to determine something is a crime or not
17 would call for a legal conclusion which these witnesses
18 are not competent to make.

19 MR. MARSHALL: The judge is able to draw that
20 conclusion.

21 CHAIRMAN BECHHOEFER: I don't think we could
22 -- whether something is criminal or contrary to the
23 regulations, I'm not sure we could --

24 MR. MARSHALL: I'm only asking, Judge, with
25 a measuring stick, that is all I'm talking about. A

1 measuring stick to construct even in a minor manner,
2 not in a big manner as this, I'm talking in a dog house.

3 CHAIRMAN BECHHOEFER: I'm not sure the answer
4 would be the same. I think we will have to sustain
5 that one.

6 BY MR. MARSHALL:

7 Q Doctor, let me ask you this. In your opinion,
8 do you still feel that there is -- that there is quite
9 a few nonconformances down there at this time that
10 hasn't been spelled out here this morning?

11 A (WITNESS LANDSMAN) Yes.

12 Q Would you say, sir, that there is a
13 document on the audit that says that there is some
14 17,000 nonconformances at that plant right at the
15 present time? There is in existence such a document?

16 A (WITNESS LANDSMAN) I don't know.

17 Q That's a correct answer. Okay, Doctor, I
18 have one more question for you.

19 Do you feel that the nonconformances could
20 be attributed more to the lack of direction to the
21 prime contractor or would you say it would be from a
22 lack of nondirection from the Consumers Power Company?

23 A (WITNESS LANDSMAN) I would say from both.

24 Q Both. I see. And I'll get into a legal
25 question if I ask the next question.

1 Okay, Doctor, how would you go about
2 discouraging the nonconformances that they are having
3 so many of down there now. You are doing the best you
4 can, what would you suggest?

5 A (WITNESS LANDSMAN) We are trying our best.

6 Q And yet there doesn't seem to be any answer
7 of overcoming the problem, is that right?

8 A (WITNESS LANDSMAN) It is undetermined.

9 Q What I'm trying to say, Doctor, when you go
10 into there every day, you look for something to be
11 wrong, don't you. It would be a good day if you would
12 go by there and there wouldn't be anything wrong, isn't
13 that true?

14 MR. WILCOVE: Do you understand the question?

15 WITNESS LANDSMAN: I don't go in there looking
16 for anything wrong.

17 BY MR. MARSHALL:

18 Q That is not my question. I said, that it
19 would be a good day if you went in there and didn't
20 find anything wrong?

21 A (WITNESS LANDSMAN) I would agree with your
22 statement.

23 Q Very good. Now Doctor, this doesn't happen.
24 People have to be negligent to do those things. I mean
25 if there is steam fitters, there are steam fitters and

11-1-5

1 they know how to fit pipe together correctly, isn't
2 that true sir?

3 A (WITNESS LANDSMAN) Negligence, I don't think
4 is the word.

5 Q Then sir, what would you say the word is?

6 A (WITNESS LANDSMAN) In Midland, the team has
7 been there for a good six months, and we have been
8 trying to put our finger on what is wrong, and we
9 really haven't yet.

10 Q Let me ask you have you had any evidence of
11 anyone having any toddies down there? Say we have
12 heard some talk about from our Canadian friends,
13 Canadian Club, that they have seen evidence of that?

14 A (WITNESS LANDSMAN) I personally have not.

15 Q We also read in our Midland Daily News of
16 cases down there where they find marijuana on the job
17 in cars on the site. Have you encountered some of that?

18 A (WITNESS LANDSMAN) Just what you read in the
19 paper.

20 Q Will Rogers hasn't been with us for a while.
21 Something has to happen or the police wouldn't
22 report it?

23 A (WITNESS LANDSMAN) True.

24 Q Would you say that that possibly might
25 have something to do with these infractions that you

1 are finding?

2 A (WITNESS LANDSMAN) No.

3 Q You don't think that has anything to do with
4 it?

5 A (WITNESS LANDSMAN) No.

6 Q Would you say that it is a lack of
7 intelligent jurisdiction over the people that are
8 working there on behalf of the prime contractor?

9 MR. MILLER: Judge Bechhoefer, I'm going to
10 object. This examination is so vague and the
11 questions are so unfocused.

11-2fol

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 CHAIRMAN BECHHOEFER: I think Dr. Landsman
2 has said that he hasn't been able to pinpoint any
3 particulars.

4 BY MR. MARSHALL:

5 Q There must be an answer. If there's a ques-
6 tion then there should be an answer that should resolve
7 the problem.

8 A (WITNESS LANDSMAN) We are trying.

9 Q You just can't go on day after day not knowing
10 what is causing the problems out there. You have audits
11 and then after everything we still have the problem.

12 Is there too few inspectors, would you say?

13 A (WITNESS LANDSMAN) NRC inspectors?

14 Q Yes.

15 A (WITNESS LANDSMAN) No, that is not the reason
16 why we can't put our finger on it.

17 Q Well, is it, sir, would you say that it is a
18 lack of cooperation on the part of anybody in management
19 down there?

20 A (WITNESS LANDSMAN) I wouldn't call it lack of
21 cooperation.

22 Q Sir, what would you say it is?

23 A (WITNESS LANDSMAN) I have already stated on
24 the record, I personally cannot put my finger on it.

25 Q Would you agree, sir, that as a member of your

1 Panel has already testified that the work is shoddy down
2 there.

3 A (WITNESS LANDSMAN) I would agree with that.

4 Q And don't you think that Midland is entitled
5 to something better than shoddy work at a nuclear plant?

6 A (WITNESS LANDSMAN) Yes.

7 Q And don't you think, sir, that it is liable
8 to jeopardize the public health and safety, the people
9 of the City of Midland?

10 A (WITNESS LANDSMAN) Yes.

11 Q And the surrounding counties?

12 A (WITNESS LANDSMAN) Yes.

13 Q And don't you think that something better
14 be done about finding out right now what is the cause
15 that you are having so much trouble with those people,
16 even if it takes more people to come in to help you?

17 A (WITNESS LANDSMAN) All I can say is is that
18 we are trying. We are doing our best.

19 Q Well, it seems the fines aren't stiff enough.
20 I shot right where I wanted to go to.

21 The thing is that you are talking a good
22 straight testimony here. You can't think of anything
23 at all that we can do to maybe bring a little ray of
24 sunlight in this particular area, something that can be
25 done to help you?

1 A (Witness Landsman) We are trying to get their
2 attention on the site.

3 Q When you say "they" you usually say they, but
4 you don't know who they are. I want you to tell me what
5 one person or group of persons could the heat be brought
6 to bear to get the cooperation that we want?

7 A (WITNESS LANDSMAN) I know we have had meetings
8 with -- directly with Mr. Selby and I think we have
9 impressed on him our concerns. I don't know how much
10 higher up the organization we can go.

11 Q Selby, you mean Consumers Power Company?

12 A (WITNESS LANDSMAN) Right.

13 Q And what was his reaction when you talked to
14 him?

15 A (WITNESS LANDSMAN) I, personally? It was a
16 meeting, but I know Mr. Keppler instilled on him at the
17 meeting that we were very concerned.

18 Q Let me ask you this. Was Mr. Cook at that
19 meeting? I'm talking about the Cook from Consumers
20 Power Company?

21 A (WITNESS LANDSMAN) I guess, sir.

22 Q He was there. Did you say Mr. Keppler was
23 also present?

24 A (WITNESS LANDSMAN) Yes, he was.

25 Q Did Mr. Keppler, did he attempt to impress

1 them to that something had to be done?

2 A (WITNESS LANDSMAN) Yes.

3 Q And did they promise to do better?

4 A (WITNESS LANDSMAN) They always do.

5 Q Was there anybody there from the prime con-
6 tractor at that meeting?

7 A (WITNESS LANDSMAN) Yes, there was.

8 Q And who would that be, sir?

9 A (WITNESS LANDSMAN) I think Mr. Rutgers was
10 there. There was a vice president from California there.
11 I can't recall his name -- Mr. Henry.

12 Q Mr. Schultz wasn't there?

13 MR. MILLER: The Secretary of State.

14 JUDGE HARBOUR: The Secretary of State wouldn't
15 have been there.

16 CHAIRMAN BECHHOEFER: On what date was that
17 meeting?

18 WITNESS LANDSMAN: That was the Enforcement
19 Meeting that we had.

20 WITNESS SHAFER: January 18, 1983.

21 WITNESS LANDSMAN: I'm just using that one as
22 an example.

23 BY MR. MARSHALL:

24 Q There were others?

25 A (WITNESS LANDSMAN) Yes.

1 Q You had a series of meetings along that same
2 line?

3 A (WITNESS LANDSMAN) Well, there have been
4 meetings throughout the years, I'm sure. I'm just using
5 that one as an example to answer your question.

6 Q You have had other meetings addressing the
7 same problem, correct?

8 A (WITNESS LANDSMAN) I didn't say I had them
9 personally, I said the Commission has them.

10 Q But there has been other meetings addressing
11 this problem that we are talking about right now?

12 A (WITNESS LANDSMAN) I would presume so.

13 Q And still we can't get anyplace, is that
14 correct?

15 A (WITNESS LANDSMAN) It appears that way.

16
17
18
19
20
21
22
23
24
25

1 Q Would you say that they had a joint merger
2 as to liability that is to the assumption of liability
3 on the question, when you say there was someone there
4 of high office from the prime contractor, were they
5 equally as high in your estimation as those that were
6 present from Consumers Power Company?

7 MR. WILCOVE: That, I would have to object to

8 CHAIRMAN BECHHOEFER: The Board as going to
9 object. I don't think this panel can discuss
10 liabilities between someone other --

11 MR. MARSHALL: I'm not talking in that sense,
12 I'm talking in the sense of responsibility to the
13 public.

14 CHAIRMAN BECHHOEFER: Again, under our
15 regulations, Consumers is responsible for health and
16 safety.

17 MR. MARSHALL: I understand.

18 BY MR. MARSHALL:

19 Q Well, let me ask you this then,
20 Dr. Landsman, have you found that since this meeting
21 any noticeable change for the better?

22 A (WITNESS LANDSMAN) The only work they have
23 been doing on site since this meeting is the remedial
24 sales work.

25 Q Well, all right, with the remedial sales work,

1 you are talking about Mergantine Company, is that who
2 you are speaking of now?

3 A (WITNESS LANDSMAN) Yes.

4 Q And you are talking about their soil work,
5 excavation work?

6 A (WITNESS LANDSMAN) Yes, I am.

7 Q And sir, are they being watched by a watch-
8 dog outfit from Massachusetts?

9 A (WITNESS LANDSMAN) I wouldn't call them a
10 watchdog. It is a third party.

11 Q Yes, well, I'm sorry. That is my
12 connotation. That is how I feel.

13 Now, what is their function, to see that the
14 other fellows put the dirt where it belongs?

15 A (WITNESS LANDSMAN) That's a good way to put
16 it.

17 Q Now, when you came along, did you watch both
18 of them?

19 A (WITNESS LANDSMAN) When I come along, I do
20 my normal job, and if Stoner & Webster happen to be in
21 the way, yes, I watch them also. I identified some
22 concern that I had with Stoner & Webster that is
23 documented in one of the inspection reports, but
24 Consumers Power Company has addressed those concerns
25 that I had with Stoner & Webster.

1 Q Do you believe that Stoner & Webster, while
2 watching them, have filed with the Nuclear Regulatory
3 Commission a conflict of interest report?

4 A (WITNESS LANDSMAN) I don't understand the
5 question.

6 Q I just asked you if you would believe that
7 while working for the Consumers Power Company they had
8 filed a letter to the Nuclear Regulatory in
9 Washington, D.C. over their signature, which represents
10 a conflict of interest. Would you believe that or are
11 they hired to watch the people --

12 MR. WILCOVE: Your Honor, I would object to
13 "would you believe." If he has such a letter --

14 MR. MARSHALL: If he Nuclear Regulatory
15 has such a letter.

16 MR. WILCOVE: If Mr. Marshall is referring to
17 a particular letter which he has seen, I would ask that
18 he show it to the witness.

19 BY MR. MARSHALL:

20 Q I'll ask you sir, did you read the letter
21 submitted to the Nuclear Regulatory Commission in
22 which Stoner & Webster of Massachusetts stated they
23 were opposed to the question of how shall we say,
24 electromagnetic power when in fact they were employed
25 under contract the next 30 days later from the date

11-3-4

1 they wrote the letter, they were working for Consumers
2 Power Company?

3 A (WITNESS LANDSMAN) I haven't seen the letter.

4 Q Okay, that is the answer. That doesn't mean
5 that this sharp boy over here won't find the letter.

6 CHAIRMAN BECHHOEFER: I'm not sure of the
7 relevance of any Stoner & Webster position on EMP at
8 least --

9 MR. MARSHALL: The point I'm making, your
10 Honor, is that the question of them watching, like the
11 fox in the chicken coop, they are watching Mergantine
12 do the work. They are a little shady themselves. If
13 you take a look at the letter, everybody doesn't know
14 that, they purport to make a statement --

15 JUDGE HARBOUR: Do you have more questions
16 for the witness?

17 MR. MARSHALL: Yes.

18 JUDGE HARBOUR: Would you please proceed.

19 BY MR. MARSHALL:

20 Q Have you changed your mind at all in the
21 past from what you had in the last time we had you
22 under oath, asked you the question, as to whether
23 they are improving or not improving on the site?

24 A (WITNESS LANDSMAN) I don't think I was asked
25 that the last time.

11-3-5

1 Q Last time they asked you a question about --
2 of the person not complying with your directive and you
3 stated that something to the effect that they didn't
4 give it any attention, that they went right on with
5 what you had told them was wrong, and in the record, if
6 you want me to find it, I'll go look it up.

7 MR. WILCOVE: I'm not quite sure, but
8 Mr. Marshall might be referring to the drilling
9 incident of Dr. Landsman. I would say that that is
10 already been litigated and I --

11 MR. MARSHALL: I asked him if he changed his
12 mind that there has been any improvements.

13 MR. WILCOVE: I don't believe that
14 Mr. Landsman at that time was addressing the overall
15 issue of quality assurance, and implementation at
16 Midland. He was talking about the five separate
17 instances. I don't believe that he testified as to
18 the state of QA instrumentation. I think there is a
19 miscalculation of what his previous testimony was.

20 CHAIRMAN BECHHOEFER: My best recollection is
21 that that is correct.

11-4

TAYLOE ASSOCIATES

REGISTERED PROFESSIONAL REPORTERS

NORFOLK, VIRGINIA

correct. 1

BY MR. MARSHALL:

2 Q Okay, I would like to ask a question of Mr.
3 Cook.

4 Mr. Cook, you gave a deposition sometime ago
5 that was part of -- printed on the front page of the
6 Midland Daily News quoting you, is that true?

7 A (WITNESS COOK) I don't know about a deposi-
8 tion. You would have to refresh my thinking on that.

9 Q Refresh your memory?

10 A (WITNESS COOK) Yes.

11 Q Do you keep articles that appear on the front
12 page of the Midland Daily News?

13 A (WITNESS COOK) I read good books more than I
14 read those.

15 Q I have a couple of those myself.

16 Do you recall making a statement that they
17 did shoddy work down there at the plant site?

18 A (WITNESS COOK) I made that statement.

19 Q It was printed on the front page of the Midland
20 Daily News over the byline?

21 A (WITNESS COOK) I can't vouch for that. I
22 don't have the newspaper article in front of me.

23 Q Usually, the newspaper article is inadmissible
24 as evidence.

25 Mr. Cook, you said, yes, you did say that

1 they were doing shoddy work down there. Have you changed
2 your mind any until now?

3 A (WITNESS COOK) No, I think we have already
4 discussed that today.

5 Q I want to ask you on cross examination.

6 A (WITNESS COOK) I didn't change my mind. That
7 is, provided that shoddy is in the same connotation of
8 slipshod.

9 Q And on the other hand, Mr. Cook, you stated
10 one time that they were noted for not expressing great
11 brilliance in that work down there. Do you still main-
12 tain your former position in that regard?

13 A (WITNESS COOK) That brilliant statement had
14 something to do with something that I remember pertaining
15 to -- over that same issue, I would have to admit that
16 they didn't show much semblance of brilliance.

17 MR. MARSHALL: I don't have any further questions.
18 That is all I have. And I think you very much. You only
19 had the one objection.

20 MR. WILCOVE: I think I had two.

21 CHAIRMAN BECHHOEFER: Miss Bernabei.

22 MS. BERNABEI: May we have a few minutes.
23 There are some documents being copied.

24 MR. MILLER: Perhaps while we are waiting,
25 Miss Bernabei could give us an outline of the portions

1 that the cross examination that she is going to conduct
2 and Miss Stamiris is going to conduct?

3 MS. BERNABEI: I can do it in general order
4 for the next day or so. I was going to conduct the
5 cross examination on research certification and requali-
6 fication of QC personnel.

7 The lack of QA experience and competence in
8 Consumers management. The DBG inspection. The findings
9 and Consumers response to the findings.

10 And then I guess what I would call the
11 general category of the CCP and the adequacy of the
12 independent audit dealing with the problems at Midland.

13 Miss Stamiris is going to cover some of the
14 issues in the Spessard memorandum and what we call the
15 SALP issue. And those last SALP reports and the decision
16 to postpone the current SALP.

17 MR. MILLER: Thank you.

18 MS. BERNABEI: There are going to be another
19 sort of series of smaller issues that have been brought
20 up in terms of the supplemental issues that the Staff
21 has offered. I don't think I will take too long.

22 MR. WILCOVE: As a point of clarification,
23 Miss Bernabei mentioned the Spessard memorandum. So,
24 there is no misunderstanding, the Staff, with respect to
25 that will come at another time.

1 CHAIRMAN BECHHOEFER: Which Spessard memorandum?

2 MS. BERNABEI: This one dealing with cable
3 instrumentation.

4 MR. WILCOVE: We will introduce --

5 CHAIRMAN BECHHOEFER: The Staff's cross
6 examination will be deferred until that time on that
7 issue.

8 MS. BERNABEI: I have no problem with that.
9 I thought you were going to introduce direct testimony,
10 but not on Spessard, but on both of them you will intro-
11 duce direct testimony.

12 MR. WILCOVE: We will introduce testimony on
13 that, but neither one right now.

14 MS. BERNABEI: It might be easier if I come
15 and question you over here.

16 CROSS EXAMINATION

17 BY MS. BERNABEI:

18 Q I want to ask you a little bit about the
19 history of the problem with the CQ certification and
20 qualification.

21 MR. WILCOVE: Miss Bernabei, I do have a prob-
22 lem. I would like to keep eye contact on the witness.
23 I got my papers here. I do feel it is important that I
24 maintain eye contact.

25 MS. BERNABEI: Starting with the October 29

1 testimony, I guess Dr. Landsman and Mr. Gardner testified
2 that the problem, some of the problems that were first
3 noted in inspection report 8306. I wonder if you could
4 detail for me either using 8206, which is Attachment 10
5 or from memory, what those particular problems were that
6 you found during that inspection?

7 MR. MILLER: I object. The document is not
8 in evidence and to simply have them recite what is in the
9 document is going to add nothing to the record.

10 MS. BERNABEI: I think it is important, because
11 we are going to get into the history of the problem and
12 Consumers failure to correct the problem.

13 MR. MILLER: Let's get into that then instead
14 of repeating on the record out of the witnesses mouths
15 what is already in an exhibit.

16 CHAIRMAN BECHHOEFER: You just want a summary,
17 because I think you asked for details?

18 MS. BERNABEI: I just want a summary.

19 CHAIRMAN BECHHOEFER: Why don't you ask that?
20 Make it brief.

21 MR. PATON: Mr. Chairman, we don't want to
22 sit through three days straining to hear what she is
23 saying. I would ask that she go back to her table or
24 triple her volume. I don't want to sit here for three
25 days and --

1 MS. BERNABEI: I think the mike is on. I
2 will try to talk louder.

3 MR. PATON: If she can sit at the table?

4 MS. BERNABEI: It is difficult to see.

5 MR. PATON: It would be much more preferable
6 if you would do just like everybody else and go back to
7 your seat. I don't want to watch you and try to watch
8 the witness.

9 MS. BERNABEI: You don't need to watch me.

10 MR. PATON: Yes, I do.

11 I really object to this, having to look at
12 Miss Bernabei's back.

13 MS. BERNABEI: I'm sorry, we are not in a
14 courtroom, but these are the accommodations that we have.

15 MR. PATON: Everybody has remained at the
16 table. It is going to be annoying to watch this for
17 three days.

18 MS. BERNABEI: Well then I think we should push
19 this table back there.

20 MR. PATON: Why should we have to push a table.
21 Why can't you just sit --

22 MR. MILLER: We will be happy to move our
23 table back.

24 CHAIRMAN BECHHOEFER: Can't you see like if
25 you push your table up, move that table up a bit.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

MR. WILCOVE: Maybe we should go off the record for this.

(Discussion had off the record.)

t12

1 CHAIRMAN BECHHOEFER: Back on the record.

2 BY MS. BERNABEI:

3 Q Mr. Gardner and Dr. Landsman, could you sum-
4 marize findings made in report 8206 which led you to
5 believe that there were problems with qualifications of
6 the Bechtel QC inspectors at Midland?

7 A (WITNESS GARDNER) Okay. For us to do that I
8 have to go back even further, okay, and that would allude
9 to inspection report 8112 I believe was the number of it.
10 It was the team inspection that was conducted in, I
11 believe, May of 1981.

12 A (WITNESS COOK) Yes.

13 A (WITNESS GARDNER) At that time, I identified
14 concerns with electrical QC inspections as they pertained
15 to the installation of electrical Class IE cables and,
16 as I have previously testified, we requested the
17 licensee to perform reinspections of previously installed
18 and previously inspected Class IE cables so as to deter-
19 mine both the adequacy of the installation of those
20 cables and the adequacy of the inspections that were done
21 in regards to those cables. So it was a dual function.

22 I also previously testified that the licensee
23 took some steps to upgrade the Bechtel QC certification
24 process. One of the steps was the initiation of formal-
25 ized documentation of on-the-job training, and the second

1 was the overview by quality assurance of Becntel electri-
2 cal QC inspectors. That was primarily done by Mr. Ed
3 Jones and Mike Shafer of MPQAD.

4 Q When was that done?

5 A (WITNESS GARDNER) That probably started in
6 December '81. I'm just trying to remember as best I can.

7 At that time, and when I was testifying at that
8 time, I stated that I believed that the QC certifications
9 with those improvements would be acceptable. However,
10 I do not know the status of the previous QC certifications.
11 That would come out as part of the licensee's reinspection
12 of the electrical cables that we had asked them to.

13 There were some discussions as to how much
14 reinspection of cables would be required, et cetera.
15 The licensee performed reinspections of a certain amount
16 of cables, about 1,084, as documented in this subject
17 inspection report 8206. In that over-inspection they
18 identified 55 misrouted cables.

19 Based on that information, the concern or
20 unresolved item as it pertains to the installation of
21 the cables and QC inspections done in regards to those
22 installations was upgraded or escalated to an item of
23 non-compliance.

1 Now, in going ahead and finishing this
2 summary, even though I might be getting somewhat ahead
3 of you, in the 8207 report one of our regional
4 inspectors identified concerns with the installation of
5 pipe supports.

6 The licensee at that time had completed an
7 overview of previously installed and previously
8 accepted pipe supports and had identified to Region III
9 that approximately 45 percent of those previously
10 installed and previously accepted hangers or supports
11 were deficient in one characteristic or another.

12 Coupled with the large amount of electrical
13 cable misinstallations, I was very concerned as to the
14 adequacy of the quality control inspections that had
15 been performed at the Midland site.

16 There were approximately six percent, I
17 believe, errors in cable installations that had been
18 identified.

19 About that time -- and this is summer of '82
20 -- the Midland section was formed. We were able to
21 focus more attention on Midland, we were able to even
22 focus more authority as far as our regulatory posture
23 on Midland as a result of that formation of the Office
24 of Special Cases, and we directed the licensee to
25 perform a 100 percent over-inspection of all Class 1-E

12-2-2

1 cables that had been previously installed and a 100
2 percent inspection of pipe supports.

3 Now, the 100 percent reinspection of pipe
4 supports had a caveat in it which would pertain to
5 certain dates, okay. As of a certain date 100 percent
6 had to be done if it fell within a certain date of
7 installation, and for those that were installed after
8 another date a sample, I believe, was the way we
9 approached it.

10 Q Do you remember what those dates were,
11 approximately?

12 A (WITNESS GARDNER) No, but it's in the
13 PDR as one of the NRC's letters to the licensee in
14 regards to 8207 inspection reports, okay?

15 Now, again, tying together the pipe support
16 problems, the electrical cable installation problems
17 and the discussions that this hearing process had
18 generated in regards to the adequacy of the qualification
19 and certification of Bechtel inspectors, I perceived a
20 problem in regards to the inadequate inspection that
21 resulted primarily in a management error, or
22 mismanagement of the Bechtel QC inspectors. And
23 partly my recommendation, in addition to other members
24 of the team, was that the QC management for the Midland
25 plant be assimilated by Consumers Power in lieu of

10-2-3

1 Bechtel, as had been previously done for so many years.

2 Q And when was that done, if it has been done?

3 A (WITNESS GARDNER) It has started in the --
4 excuse me; when did that start?

10-3

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 The September 17th letter started the
2 commitment of the licensee to do that, but it has been
3 in process now for -- or in progress now for some time.

4 The licensee has integrated the Bechtel QC
5 under Consumers Power except for the ASME QC functions
6 which they were not able to do.

7 Also, based on problems with the initial
8 attempts by Consumers Power to recertify or requalify
9 QC inspectors, particularly in the soils area, we
10 directed the licensee to change from an oral
11 examination format to a written examination and to make
12 other changes which would put their certification
13 posture more in line with REG Guide 158 and ANSI 14526.

14 Q If we could back up for a minute, in the
15 August-September period you found a number of problems
16 with Consumers Power's recertification program, did
17 you not, during the initiation of the program?

18 A (WITNESS GARDNER) Yes. On September 23rd
19 and 24th, 1982 --

20 MR. MILLER: Excuse me. The witness has
21 answered the question, and we've had a narrative
22 answer that went on for probably four pages or five
23 pages of transcript without another question.

24 I think that this examination is going to be
25 basically formless and of no assistance to anybody unless

1 we have a question and then an answer and then
2 another question, rather than simply having the
3 witness take off in a direction which may or may not be
4 where Ms. Bernabei wants him to go.

5 MS. BERNABEI: He was being responsive to the
6 question, which is why I didn't interrupt.

7 I will attempt to shape the examination more.

8 BY MS. BERNABEI:

9 Q I believe you were answering the question
10 about the problems you found with the Consumers Power
11 recertification program on or around September 23rd and
12 September 24th. Can you continue, please.

13 A (WITNESS GARDNER) Right. Well, on
14 September 23rd and 24th, 1982, Dr. Landsman and myself
15 conducted an inspection of the Bechtel QC
16 recertification activities being accomplished by MPQAD,
17 and this would pertain to the soils area.

18 During this inspection we observed the
19 following concerns.

20 One, there was excessive repeating of
21 questions by the examiner to the examinee.

1 MR. MILLER: Excuse me. Mr. Gardner
2 appears to be reading from a document which I believe
3 is probably the inspection report that sets these out.

4 If he's not reading from that, which is in
5 evidence, then the document he's reading from ought to
6 be marked and entered as an exhibit.

7 MS. BERNABEI: We have no problem. We can
8 introduce this as an exhibit.

9 BY MS. BERNABEI:

10 Q I believe you're reading from the Midland
11 monthly status report for the period August 1 through
12 October 31?

13 A (WITNESS: GARDNER) No. What I'm doing is I
14 made some notes so that I would have some of this
15 information readily available so that if someone asked
16 me a question I could answer in a rather forward
17 manner.

18 MR. MILLER: Let's get the document into
19 evidence if it's otherwise admissible and go on to
20 something else.

21 MS. BERNABEI: Well, he hasn't testified he's
22 reading from a document, so I suggest that we allow the
23 witness to answer the question.

24 (Discussion had off the
25 record.)

1 WITNESS LANDSMAN: He's reading from
2 handwritten notes.

3 MR. MILLER: Well, the witness is supposed
4 to testify from memory. If the witness' memory needs
5 to be refreshed, then it's up to the examiner to give
6 him pieces of paper that will refresh his recollection.

7 But to simply have him read from a script
8 which may or may not be responsive to the questions
9 that are asked is improper.

10 MS. BERNABEI: I think it's clear that this
11 answer is responsive to my question and --

12 MR. MILLER: Your last question was "Please
13 continue."

14 MS. BERNABEI: That's because you rudely
15 interrupted the witness.

16 CHAIRMAN BECHHOEFER: My only comment is that
17 I've seen in some document the references to the
18 excessive repeating of questions. I can't remember
19 exactly where, but I have seen that, and --

20 MS. BERNABEI: If I could help, I believe
21 that this witness has probably collected information
22 from a number of documents. It is included, at least
23 the portion I've heard so far, in the Midland monthly
24 status report, which the Applicant has access to.

25 I think some of this also may be in one of

12-4-3

1 the inspection reports, although I'm not sure of that.

2 MR. WILCOVE: That sounds so familiar that I
3 do believe it is in an inspection report.

4 MS. BERNABEI: But if this witness can
5 testify from his own memory, I can see no problem.

6 If the Applicant wants to cross-examine
7 claiming that he's got the facts wrong --

8 CHAIRMAN BECHHOEFER: I think the Applicant
9 was worried about the fact that he was referring to
10 some notes.

12-5

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

12-5-1
notes

1 MS. BERNABEI: I know of no rule of
2 evidence that does not allow a witness to consult
3 his notes.

4 MR. MILLER: Oh, I disagree. The witness is
5 supposed to be here testifying from his memory.

6 If he has no memory, no present recollection
7 of the facts that would enable him to respond to the
8 question as asked, then his memory can be refreshed.

9 But he's not testifying from memory, he's
10 testifying from a piece of paper he prepared at some
11 other time. That's clear.

12 MR. WILCOVE: Mr. Chairman, perhaps we could
13 just ask Mr. Gardner, although he may be reading from
14 his notes, whether what he is reading is also within
15 his memory.

16 MR. MILLER: Let him put the piece of paper
17 down.

18 MS. BERNABEI: I have never heard of a rule
19 of evidence like this even in a court of law. I think
20 it's absolutely incredible that the Applicants are
21 making this.

22 If they want to get their witnesses up there
23 with no notice and no documents to refer to, that's
24 their privilege. But it's very usual in proceedings
25 of this sort for witnesses to refer to their notes and

1 to other documents.

2 These are very complicated technical issues,
3 and very few witnesses can remember all this from their
4 own memory.

5 MR. MILLER: Well, the technique, if I may
6 be heard, that I am most familiar with and which is
7 ordinarily followed in courts of law is that you
8 exhaust the witness' memory, if that's what you want,
9 and then you use the documents to refresh his
10 recollection.

11 If there's a document here, the document can
12 go into evidence and that will be evidence just as much
13 as his reading from that document into the record is
14 evidence.

15 CHAIRMAN BECHHOEFER: Well, I'm not sure it's
16 technically a document if somebody just made the notes
17 about potential answers to questions he might be asked
18 if he did it himself, but I'm not positive that would
19 be considered a document.

20 MR. MILLER: Well, it's certainly a written
21 instrument of some sort which this witness, apparently,
22 prepared.

23 CHAIRMAN BECHHOEFER: All right. Well, there
24 are interpretations saying the document has to mean
25 something.

1 MR. WILCOVE: Mr. Chairman, perhaps we can
2 ask Mr. Gardner, do you need those notes to testify?

3 WITNESS GARDNER: No.

4 (Laughter.)

5 JUDGE COWAN: He put them down some time ago.

6 CHAIRMAN BECHHOEFER: Well, why don't you try
7 to proceed, if you can, to the extent you can without
8 notes.

9 If you are going to refer to notes, just
10 mention that you are and perhaps, depending upon what
11 the source is, it may or may not be in evidence or be
12 appropriate to refer to.

13 WITNESS GARDNER: Sure.

14 Okay, do you want me to continue then?

15 CHAIRMAN BECHHOEFER: Yes.

16 BY WITNESS GARDNER (Continuing):

17 A As I was saying, the main problems we had in
18 the September 23rd and 24th inspection was that the
19 MPQAD person who was administering the oral
20 examination to a prospective QC trainee was that, one,
21 they were repeating the questions excessively such that
22 if a person did not give an answer that might be
23 satisfactory the question was repeated. If he
24 subsequently answered a question satisfactorily he was
25 given credit for the answer.

12-5-4

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Questions were marked N/A, or not applicable,
when, in fact, the questions were relevant to the PQCI
that was being tested, or that the trainee was being
tested to.

12-6

to.

1 The technical content of some of the questions
2 was not -- or, in general, the technical content as
3 a question was not sufficient so as to provide assurance
4 that the prospective QC person would have knowledge of
5 the facts that he was supposed to inspect.

6 I think that's the main problems that we had.

7 BY MS. BERNABEI:

8 Q Well, was there not also a problem with con-
9 trolled copy of the PQCI to make up the examination
10 questions?

11 A (WITNESS GARDNER) Yes. Dr. Landsman was the
12 one that was dealing primarily with that. He could --

13 Q Dr. Landsman, can you address that issue?

14 A (WITNESS LANDSMAN) Yes. The issue with the
15 uncontrolled project quality control instruction was
16 on one of the exams that I was witnessing. The examiner
17 was asking the examinee a question repeatedly and the
18 examinee kept answering it, but I forgot what the answer
19 was exactly. But he kept answering it and the examiner
20 and I had a copy of a PQCI in front of us and his answer
21 continued to be wrong, it did not agree with the project
22 quality control instruction provision that I had nor the
23 instructions that the examiner had.

24 As Ron said, he kept asking. One of the
25 problems we had with oral exams was that they would

1 keep asking the question or they would rephrase it until
2 the guy would get it right.

3 Well, he just kept asking him this, and I
4 didn't say anything, and finally the examinee grabbed
5 his copy, his own copy of the project quality control
6 instruction, and shoved it in the examiner's face and
7 said, "Here it is; this is what I've been answering."
8 And, sure enough, his answer was the right answer in
9 the revision of the project quality control instructions
10 that he had. It just so happens it wasn't the same one
11 that we had, even though all three documents were con-
12 trolled on site by document control.

13 Q Now, after finding these problems, you issued
14 a confirmatory action letter to the licensee, is that
15 correct?

16 A (WITNESS LANDSMAN) Right.

17 Q And in that you required that the licensee
18 commit itself to, basically, four actions, is that
19 right?

20 A (WITNESS LANDSMAN) Yes, that is.

21 Q And what are those?

22 A (WITNESS LANDSMAN) Do you want me to read
23 them?

24 Q You can read them or summarize them.

25 For the record, this is Attachment 1-A to

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

your testimony.

A (WITNESS LANDSMAN) Yes, I'll just --

MR. MILLER: Excuse me. If it is Attachment 1-A it's in the record. There's absolutely no purpose in burdening the record again by having Dr. Landsman read it into the transcript.

12-7

1 MS. BERNABEI: My next question is going to
2 be about the --

3 MR. MILLER: I might add for the record that
4 the inspection report which gives the detail of what
5 we've just spent a half hour going over in question and
6 answer form is Exhibit 1-B to the March 25th, 1983
7 testimony of this panel. The confirmatory action
8 letter is Attachment 1-A to the October 29th, '82
9 testimony of this panel.

10 MS. BERNABEI: I don't believe that's
11 correct. The part of Attachment 1-B that's referred to
12 has to do with recertification, the 8221 report. It
13 is not the report that was referred to today by
14 Mr. Gardner.

15 MR. WILCOVE: I believe, though, that
16 Mr. Miller is correct that 8221 does explain what the
17 problems the inspectors found with the recertification
18 process are.

19 WITNESS LANDSMAN: Report No. 8221 is all
20 about the -- it's about a review of the remedial soil
21 quality control recertification program and is included
22 as Attachment 1-B to our supplemental testimony.

23 CHAIRMAN BECHHOEFER: I think to the extent
24 the answers are fully in the document they can just
25 refer to that. That would be sufficient if they referred

12-7-2

1 to the portion of the testimony where the answer is.

2 BY MS. BERNABEI:

3 Q Dr. Landsman, is it fair to say, then, in
4 Attachment 1-A the licensee is committed to doing the
5 four things that are listed on Page 1 of Attachment 1-A?
6 Is that correct?

7 A (WITNESS LANDSMAN) That's correct.

8 Q Now, what is the NRC's position as to any
9 reinspection which must be completed, reinspection of
10 things that were originally inspected by unqualified
11 or dequalified PC inspectors?

12 MR. WILCOVE: Mr. Chairman, I think that
13 Ms. Bernabei had better be specific as to what items
14 need be reinspected. I think to lump it all into
15 one category would lead to some confusion in the
16 record.

17 MS. BERNABEI: Okay, let me lay a little
18 foundation for this.

19 BY MS. BERNABEI:

20 Q There were discussions between the NRC and
21 I believe it was Mr. Gardner. You conducted some
22 discussions with the licensee about whether a
23 reinspection had to be completed for individuals who
24 failed programmatic examinations, is that correct?

25 A (WITNESS GARDNER) There was discussions -- as

12-7-3

1 far as I can remember, there were discussions as to
2 what type of reinspections would be required if an
3 inspector failed portions of the recertification
4 process. But as far as whether it was programmatic I
5 don't know. It could have been. I don't remember
6 completely.

7 Q But, in other words, those inspectors could
8 not pass the requalification test, there were
9 discussions about what kind of reinspection of their
10 work had to be done?

11 A (WITNESS GARDNER) Yes.

12 Q Now, the NRC's position was that reinspection
13 was necessary for work of all individuals who failed
14 the test, is that correct?

15 A (WITNESS GARDNER) Yes.

16 Q And the licensee's position was that that
17 was not required, is that correct?

12-8

18
19
20
21
22
23
24
25

1 A (WITNESS GARDNER) The licensee, I believe,
2 presented an alternative solution in which they would
3 do a sample, I believe, instead of 100 percent.

4 A (WITNESS LANDSMAN) I think we're getting
5 off the beaten path. If you're addressing our
6 testimony here, we were just -- most of -- our
7 Question No. 2 and Answer No. 2 --

8 MR. MILLER: What testimony, Dr. Landsman?

9 WITNESS LANDSMAN: In the October '82.

10 BY MS. BERNABEI:

11 Q I think I may be going a little beyond that.
12 What I'm really talking about is reinspection
13 required by the NRC for inspections done by people who
14 couldn't then pass the requalification test.

15 A (WITNESS LANDSMAN) Are you referring to the
16 balance of the plant or the remedial soils?

17 Q Well, I guess the balance of the plant.

18 A (WITNESS GARDNER) That's true. That's what
19 I said was correct as far as that goes.

20 There were discussions between the licensee
21 and the NRC as to the ramifications of a QC inspector
22 who failed to be able to be recertified during the
23 recertification process.

24 A (WITNESS LANDSMAN) And the only discussion,
25 to add to what Ron said, the discussion I remember that

1 Mr. Cook also indicated was our impression was that,
2 as the licensee said in the September 29th of 1982
3 public meeting, they committed to us that anyone who
4 failed the exam that work would be reinspected.

5 We had some subsequent discussions after that
6 because we determined some people had flunked the exam
7 and they were not going to reinspect the work, and
8 their impression was that, well, we'll give them
9 another chance to pass the exam and if he passes it we
10 will not have to reinspect it.

11 I don't remember either exactly how we
12 resolved it, but I know we informed the licensee that --
13 we told them any failure during a first -- on the
14 programmatic side or on the technical side -- we would
15 require them to reinspect all the work.

16 The reason the problem went away is we
17 committed to -- this was before the CCP. Now we have
18 the -- the reason this all goes away is in the CCP we
19 informed the licensee that they will reinspect 100
20 percent of the work.

T13fol

TAYLOE ASSOCIATES

REGISTERED PROFESSIONAL REPORTERS
NORFOLK, VIRGINIA

1 BY MS. BERNABEI:

2 Q I guess my question is prior to the CCP dated
3 November 8th, '82, in which Mr. Wells documented the
4 agreement with the NRC, perhaps I could quote from the
5 memorandum and see if it gibes with your memory. He is
6 talking in this memorandum about the discussion Mr.
7 Gardner described. He said, "Agreements and understand-
8 ings can be summarized as follows: If failure occurs
9 during any part of the examination of the recertifica-
10 tion, the significance of the failed portion of the
11 exam will be evaluated in regards to previous work per-
12 formed by the inspector. A determination will be made
13 as to whether and to what extent the reinspection is
14 required.

15 Number two, if failure occurs during testing
16 for new certification, this failure will be evaluated
17 with respect to similar certification hailed by the
18 inspector. For each exam failure resulting in the
19 evaluation as to whether inspection is required and the
20 extent necessary will be shared with the NRC."

21 That indicates they were not initially eager
22 to do a 100 percent reinspection?

23 A (WITNESS COOK) That is right.

24 A (WITNESS SHAFER) That is true.

25 Q I guess essentially what you are saying, that

1 never had to be resolved because the CCP never required
2 it?

3 A (WITNESS GARDNER) It was something we would
4 have neither made an agreement, whether their decision
5 not to reinspect was going to be acceptable to us, it
6 never got to that point as Mr. Landsman said.

7 Q It is fair to say that they didn't want to do
8 it, they didn't want to do what the NRC told them to do?

9 CHAIRMAN BECHHOEFER: Were you people aware,
10 any of you aware of this policy or this memo as the
11 case may be before the CCP was instituted or presented
12 to you?

13 A (WITNESS GARDNER) We had a meeting with Mr.
14 Wells and he stated very much what is in that memo. And
15 we told him that we would be receptive to seeing his
16 position in writing on a case by case basis as far as
17 each individual failure occurred. That our position was
18 that we would always expect a reinspection to 100 per-
19 cent or requirement to be enforced.

20 CHAIRMAN BECHHOEFER: Sorry for the interruption.

21 MS. BERNABEI: No problem.

22 BY MS. BERNABEI:

23 Q Isn't it now true, in reviewing the qualifica-
24 tion case of the QC inspector in November, you found that
25 two of the 19 QC inspections had failed the exams?

1 A (WITNESS GARDNER) Yes.

2 Q And didn't the licensee at that time not
3 agree to reinspect all previous work of those two failed
4 ten QC inspectors?

5 A (WITNESS LANDSMAN) I don't think we remember.

6 Q I'm reading now from a monthly status report
7 dated December 10, 1982. It does state in here that the
8 licensee agreed to reinspect all previous work completed
9 by the failed QC inspector?

10 A (WITNESS LANDSMAN) I'll agree with it.

11 Q Do you know if that was done?

12 A (WITNESS LANDSMAN) No, we don't.

13 Q And this was the same period during which there
14 was a controversy about whether or not the licensee would
15 conduct 100 percent reinspection?

16 A (WITNESS LANDSMAN) Yes, I think it was.

17 MR. WILCOVE: Mr. Chairman, one point. When
18 Dr. Landsman said, "I'll agree with that", I think the
19 record is unclear. Is he saying that he remembers it or
20 that he has no reason to question the memorandum. My
21 reason for saying so is that that monthly status report
22 that Miss Bernabei was reading from is not in evidence.
23 So that unless Dr. Landsman can say that his memory has
24 been refreshed, there is no competent answer in the
25 record that Miss Bernabei was speaking of.

1 CHAIRMAN BECHHOEFER: Could you clarify that?

2 MS. BERNABEI: I'm willing to introduce
3 it into evidence. We may not have sufficient copies now,
4 but I can show this to Mr. Landsman.

5 WITNESS LANDSMAN: I think I can answer it.
6 If that is our monthly status report, I'm one of the
7 authors of that, and if you are reading the right words,
8 then those are the words.

9 MR. WILCOVE: Mr. Chairman, I don't believe
10 that is the same as saying that Dr. Landsman now remembers
11 that point.

12 MS. BERNABEI: I can show it to him and we
13 are willing to introduce it as an exhibit.

14 Dr. Landsman, I show you what has been marked
15 as Landsman Exhibit 1.

16 CHAIRMAN BECHHOEFER: We have about 42 or 43
17 that came before that.

18 MR. MILLER: 46.

19 MR. WILCOVE: The next document will be 46.

20 MS. BERNABEI: Stamiris Exhibit 46, do you
21 recognize that?

22 WITNESS LANDSMAN: I'll honestly say that I
23 do not remember.

24 BY MS. BERNABEI:

25 Q Does anyone else on the Panel remember that

1 report?

2 WITNESS COOK: The status report, we remember
3 the status report.

4 MR. WILCOVE: Mr. Chairman, I think the witness
5 may be confused. I think Miss Bernabei has identified
6 what that report is. Because I believe the witnesses
7 were saying that they don't remember personal recollec-
8 tion of the facts contained in the document.

9 MS. BERNABEI: I think the department was --
10 the document is what it appears to be. They have no
11 reason to believe it to be inaccurate. It was produced
12 by the NRC Staff, and we don't have no reason to believe
13 that they are producing bogus documents.

1 MR. WILCOVE: I think the witnesses
2 misunderstood what Ms. Bernabei was trying to elicit.

3 WITNESS SHAFER: We recognize the document.

4 MS. BERNABEI: And what appears in that
5 document is to the best of your knowledge is correct?

6 WITNESS LANDSMAN: That is correct.

7 WITNESS SHAFER: If I can have a point of
8 clarification. You will notice that the attachment to
9 this letter is in draft form. Therefore the final
10 summary of the status report may not contain all the
11 information that is in the draft report. I don't know.

12 BY MS. BERNABEI:

13 Q But the information contained in there is
14 correct?

15 A (WITNESS LANDSMAN) To the best of our
16 knowledge.

17 A (WITNESS SHAFER) I was present at the
18 meeting on November 8th when it occurred. I had the
19 meeting with Mr. Wells in a trailer and yes, it is
20 correct.

21 Q And do you know whether or not, Mr. Shafer,
22 the licensee carried through on that commitment?

23 A (WITNESS SHAFER) I do not.

24 MR. MILLER: Which commitment?
25

1 BY MS. BERNABEI:

2 Q To do 100 percent inspections for the two
3 QC inspectors?

4 A (WITNESS SHAFER) That was a verbal
5 commitment conveyed to me from Mr. Wells. You must
6 remember this is November 8th and we were in the middle
7 of the Generator Building inspection. We did not
8 pursue to see if he made that commitment.

9 Q Now, Dr. Landsman?

10 A (WITNESS LANDSMAN) Can I clarify a statement?

11 Q Certainly.

12 A (WITNESS LANDSMAN) When I said this whole
13 discussion was a moot, because of the CCP come about,
14 it's not really moot in regard to the remedial soils
15 area. Because the CCP is not going to uncover the
16 remedial soils area. That is all.

17 Q And therefore --

18 A (WITNESS LANDSMAN) Or the BNW work or the
19 HVAC. But there is no QC certification in the BNW work
20 or the HVAC, only in the remedial soils area. There was
21 a certification.

22 Q Is the NRC position still that 100 percent
23 has to occur through all QC inspectors, soil remedial
24 area?

25 A (WITNESS LANDSMAN) Yes.

1 A (WITNESS GARDNER) There's one thing you
2 have to consider, and that is the remedial soils area,
3 PQCI's are relatively new. Such that if you go back,
4 even a year ago, they probably were not in existence.
5 So, most of the inspectors that are being utilized in
6 that activity are being -- were either just certified
7 or would have done very little, if anything, prior to
8 their recertification.

9 Q So what you are saying, there is not much
10 reinspection being done?

11 A (WITNESS GARDNER) I would be surprised
12 except for a couple of areas that there would be much
13 to do.

14 Q Had there been a hundred percent reinspections,
15 leaving aside the QC inspectors that were found
16 unqualified, originally has been -- has there been 100
17 percent reinspection -- I'm talking now the September
18 or August period?

19 MR. MILLER: I think the question is vague.
20 I'm not -- are we talking about soils area, quality
21 control inspectors or others?

22 MS. BERNABEI: I'll rephrase the question, I
23 agree.

24 BY MS. BERNABEI:

25 Q You said that certain commitments that you

1 wanted from the licensee confirmed other licensee
 2 letters of September 24th for all those QC inspectors,
 3 who you at that point determined were perhaps
 4 unqualified. Did you require the licensee to do 100
 5 percent licensee inspections for all their work, has
 6 that ever been done?

7 A (WITNESS SHAFER) I can answer that. No, we
 8 did not require. As a matter of fact, we asked the
 9 licensee to decertify the present QC staff and then
 10 provide the proper training and recertify these
 11 personnel. We did not say that they had to reinspect
 12 all their work that any individual they had working on
 13 soils when he was decertified.

14 Q So, there has been no backwards look at the
 15 inspections by unqualified QC inspectors?

16 A (WITNESS SHAFER) If we are speaking just to
 17 the soil, there was very little work taking place.
 18 It was primarily the preparatory work.

19 Q And for the non-soil work?

20 A (WITNESS LANDSMAN) The only concern that we
 21 had was the QC inspectors who were presently on site
 22 and certified, they were getting recertified to any
 23 existing PQCI and if they failed that exam, that is all
 24 we were required of them, to go back and reinspect.
 25 If it was like Mr. Gardner was saying, a brand new

1 PQCI for the underbidding work, that was a unique
2 activity, there wouldn't be anything to reinspect. So,
3 it was only for those old project quality control
4 instructions that they are using now in the remedial
5 soils area that were from the old -- that they were old
6 ones.

13-3

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 Q And that is not very much work, is that what
2 you are saying?

3 A (WITNESS GARDNER) It is probably all the
4 concrete placement and probably all the structural
5 steel, but because of CCP, most of that will be covered
6 now any way.

7 Q Now, if your October testimony -- excuse me.
8 In your March testimony, you stated on Page 2 of those
9 documents, I ask Mr. Gardner, you encountered or you
10 have seen a number of problems that training for soil
11 inspectors, including the pace of the instructions to
12 rush the -- where instructions were not always prepared.
13 The questions that the trainees could not always be
14 and instructors were not -- have you documented that
15 anyplace?

16 A (WITNESS GARDNER) It is an inspection report
17 -- I don't have the number of it right offhand. It
18 might be in two inspection reports. They have been
19 fairly recent.

20 Q One is 8303.

21 A (WITNESS GARDNER) It could be. I was going
22 to say 8303, but I don't have a copy in front of me.

23 Q What is your opinion as to the cause for the
24 problems as documented in 8303?

25 A (WITNESS GARDNER) At the time that I

1 observed the irregularity, I guess you would clarify
2 them as irregularities. I would say that the licensee
3 was trying to meet a date in which they would have the
4 QC inspectors available to perform needed functions,
5 and the date was -- it was so complex that as far as
6 the time they were in, they were required to proceed at
7 a pace that did not allow them the comfort of cleaning
8 up the whole recertification efforts. And that is why
9 they had instructional material that wasn't present as
10 required. That is why they had questions that were
11 generated during the training session that were not
12 being readily addressed. That is why they had
13 prerequisites for certain POCIs not well defined. And
14 some of the other things that I stated in this testimony
15 and subsequent reports.

16 Q Now, in fact in Consumers January 10, 1983
17 letter to the NRC, they state that the schedule which
18 they established for retraining was dependent on
19 ongoing work consisting of systems activity?

20 A (WITNESS GARDNER) Could you tell me again
21 what document that is?

22 Q This is the January 10, 1983 letter.

23 MR. MILLER: It is an attachment to one
24 Jim Cook's testimony.

25 MS. BERNABEI: January 10, 1983 letter in

1 which there is a portion to Page 7, to the attachment
2 to the letter which the section on recertification are
3 QC inspection states, Consumers will be certified on a
4 schedule which supports ongoing work and system
5 activities.

6 WITNESS GARDNER: Okay, I'm familiar with
7 that.

8 BY MS. BERNABEI:

9 Q In fact, Consumers were saying they were
10 going to recertify the QC inspectors so that they
11 could continue working in an expeditious fashion, is
12 that not correct?

13 A (WITNESS GARDNER) Obviously, what the
14 testimony and the recertification program as pertaining
15 to the CCP is characterized as Phase 1 activity, or
16 characterized Phase 1 activity. That would assume that
17 the NRC has approved the CCP and we haven't done that
18 yet. So, I would say what you are talking about is an
19 indefinite date.

20 I would also say that in regards to some of
21 those concerns or irregularities that I mentioned a few
22 moments ago, the licensee has to take some steps to
23 correct those.

those.

1 Q My question was that one of their concerns,
2 perhaps the major concern was their scheduling and keeping
3 work on-going at the site in terms of their schedule for
4 recertification?

5 A (WITNESS GARDNER) Certainly.

6 Q And it appears from your testimony that this --
7 the schedule concerns had an impact on the quality of
8 the recertification training?

9 A (WITNESS GARDNER) That's true.

10 Q Is there any scheduling established at this
11 point either by the licensee or the NRC for recertifica-
12 tion of the QC inspectors?

13 A (WITNESS GARDNER) Well, in early April the
14 licensee based in part on our concern suspended recer-
15 tification of the balance of planning activity for a
16 period of approximately one week. But continued that
17 suspension for PQCI's that were in the process of being
18 revised. So, I have no known date on which the licensee
19 anticipates completion other than the fact that they are
20 prepared to support, claim they are prepared to support
21 the CCP activity whenever the NRC authorizes those
22 activities to commence.

23 Q So, you are saying there is no schedule right
24 now, no firm schedule?

25 A (WITNESS GARDNER) None that I have. I'm sure

1 the NRC has a firm schedule.

2 Q Well, in your mind it is dependent on --

3 A (WITNESS GARDNER) It would be tied to the CCP.
4 Since it is impossible to initiate Phase 1 activity other
5 than the status part of the Phase 1 activity without
6 having a pool of qualified QC inspectors to do the recer-
7 tification mark.

8 Q Now, the deficiencies which you found in the
9 recertification program in Report 8303 were not found by
10 Stoner and Webster, were they?

11 A (WITNESS GARDNER) Well, Stoner and Webster,
12 once that I identified the balance and plant in that
13 report, Stoner and Webster would have been over viewing
14 the soils related area. Since there is no third party
15 of viewing the balance of plan activity, we couldn't
16 expect to inquire.

17 Q Since September of 1982, have you -- meaning
18 the NRC team, found any insufficient --

19 MR. MILLER: I object. I think that has been
20 asked and answered. We spent 15 minutes on it.

21 MS. BERNABEI: I don't think so.

22 WITNESS GARDNER: You are talking about since
23 the CAO?

24 MS. BERNABEI: Yes, more or less.

25 WITNESS GARDNER: I don't think so. Although

1 I would characterize that statement by saying we have
2 spent most of our time, and I can say personally, I have
3 spent all of my time in the recertification activities
4 in the balance of plan area. But again, regardless of
5 that, we haven't come up with any deficiencies in the
6 soils recertification activity.

7 WITNESS LANDSMAN: I think I can answer that.
8 We haven't looked at the recertification in the soils
9 area.

10 Q And why is that?

11 WITNESS LANDSMAN: We haven't had time.

12 CHAIRMAN BECHHOEFER: Dr. Landsman, clarify
13 one thing. It was my impression that the Staff, I think
14 does authorizations for soil work to proceed, was
15 prefaced in part on the Staff's satisfaction of the
16 recertification in the soils area. If I'm incorrect,
17 let me know.

18 WITNESS GARDNER: Well, I think you are alluding
19 to the inspection report, which I assume, you are allud-
20 ing to the inspection report, that we expressed an open
21 item or open issue concerning remedial soils training,
22 which we expected and stated in that report would have to
23 be resolved prior to any soil related activity to com-
24 mence. And these activities which you are referring to
25 now, pertain to the Mergentine Craft personnel, training

1 of the Bechtel field engineering personnel, training
2 of the QC personnel and procedures and training of the
3 QA personnel and procedure. And also this would involve
4 training in regard to the QA and indoctrination that the
5 site has imposed that ties the NRC activities and QA
6 and QC functions. And we did identify some fairly
7 significant concerns with the acceptability of those
8 areas of training. And we conveyed those to the licensee
9 and stated in the report that we expected those to be
10 resolved prior to authorizing any remedial soils acti-
11 vity.

12 Dr. Landsman and myself subsequently reviewed
13 the training of the Mergentine personnel and the others
14 that I mentioned except for one area which involved
15 tool boxes on -- that would bring the trainee down to
16 the level of the actual digger, if you want to call them
17 that, that are digging the pits itself. The training had
18 been -- probably had been corrected. And beyond that,
19 Dr. Landsman followed it up and how can I say it, has
20 convinced the licensee to modify the tool boxes, also
21 such that they are not acceptable.

t;4

14-1-1 1 Q There were certain items in the Diesel
2 Generator Building inspection which indicated
3 continuing problems with training of PQ inspectors, is
4 that correct?

5 A (WITNESS GARDNER) Well, certainly the fact
6 that we found deficiencies in items that had been
7 previously inspected cast doubts as to the adequacy
8 of the inspection.

9 Q And I guess I'm also referring to the IPIN
10 problem and the fact that QC inspectors were not
11 documenting all deficiencies.

12 A (WITNESS GARDNER) While it was a significant
13 problem in regards to quality control in the inspections
14 that they would do, I don't believe that could
15 readily be attributed to a training problem. I think
16 that would go more to a management problem.

17 Q You spoke about a 100 percent reinspection
18 which the licensee is not now conducting as part of the
19 CCP.

20 A (WITNESS SHAFER) Excuse me. There has been
21 no decision made with regards to whether a 100 percent
22 inspection will be accomplished.

23 I believe we sent a letter to the licensee on
24 March 28th describing, in fact, that we thought that it
25 was necessary to do a 100 percent reinspection or

1 provide the bases for not doing so.

2 Q I think I'm talking about something
3 different. I'm talking about the failed QC inspectors
4 in the non-soils area.

5 A (WITNESS SHAFER) This whole issue of the CCP
6 falls in the non-soils area.

7 Q Right; I understand that. What I am referring
8 to and I believe Mr. Gardner talked about this very
9 small area where a 100 percent reinspection for failed
10 QC inspectors was going to be required, is that
11 correct?

12 A (WITNESS COOK) Oh, that's the cable --

13 Q Oh, that's just the cables.

14 A (WITNESS GARDNER) I'm a little confused.
15 Could you put the question to me one more time, please.

16 (Discussion had off the
17 record.)

18 MS. BERNABEI: It's my mistake. I think you
19 were talking about the 100 percent reinspection for
20 cables.

21 WITNESS GARDNER: Yes. And, again, I might
22 have been, because I did mention 100 percent
23 reinspection of the cables and practically 100 percent
24 reinspection of the pipe supports.

25

1 BY MS. BERNABEI:

2 Q But there are certain systems exempted from
3 that, where I think you mentioned -- there are certain
4 systems exempted from that, are there not?

5 A (WITNESS GARDNER) Well, those two areas are
6 defined as the pipe support issue and the cable
7 installation issue. They are characterized as being,
8 or have been defined as requiring 100 percent.

9 Again, as Mr. Shafer just said, the
10 requirements for 100 percent, or whatever, for the
11 remaining balance of the plant work is on the basis
12 of being worked out between the NRC and the Applicant.

13 CHAIRMAN BECHHOEFER: Mrs. Bernabei, at some
14 point when you come to a good breaking point, it might
15 be desirable to break for the evening. We have some
16 documents to look over, and things like that.

17 I don't know when you're going to come to a
18 good breaking point.

19 MS. BERNABEI: Well, I was going to move on
20 to another area, which I think is quite extensive,
21 about the lack of QA experience in Consumers.

22 I would be willing to break now, if that's
23 convenient.

24 CHAIRMAN BECHHOEFER: Have you finished the
25 requalification and recertification areas?

1 MS. BERNABEI: Yes, I have.

2 (Discussion had off the
3 record.)

4 CHAIRMAN BECHHOEFER: I think if this is a
5 point where you are going to change subjects it might be
6 desirable to break for the evening.

7 MS. BERNABEI: That's fine with us.

8 MR. MILLER: Can we have some estimate from
9 Ms. Bernabie how long she and Mrs. Stamiris will be
10 going in total on their cross-examination?

11 MS. BERNABEI: I imagine four to five hours
12 tomorrow, at least. Probably most of tomorrow.

13 MR. MILLER: All right.

14 CHAIRMAN BECHHOEFER: I think it would be
15 good to break, unless anybody has anything to raise
16 before we break.

17 MR. WILCOVE: Yes. With respect to Stamiris
18 Exhibit 46, I don't believe that has been offered into
19 evidence.

20 CHAIRMAN BECHHOEFER: Well, that's correct.

21 MR. WILCOVE: Will Mrs. Stamiris and
22 Ms. Bernabei introduce that?

23 MS. BERNABEI: Yes. We don't have copies.
24 I'll offer it at this time subject to my providing
25 sufficient copies.

1 MR. WILCOVE: Will these copies be provided
2 tomorrow?

3 MS. BERNABEI: Yes.

4 MR. MILLER: We have no objection.

5 CHAIRMAN BECHHOEFER: We haven't seen it,
6 but from what I've heard about it I think we would
7 accept it into evidence.

8 MS. BERNABEI: Would you like to see a copy?

9 CHAIRMAN BECHHOEFER: I understand that it's
10 a status report.

11 We'll accept this into evidence.

12 (Whereupon, Stamiris Exhibit
13 No. 46 was received into
14 evidence.)

15 CHAIRMAN BECHHOEFER: Make sure you provide
16 not only the reporter but make sure we have copies
17 and anybody else who doesn't have them.

18 We haven't seen this yet.

19 (Discussion had off the
20 record.)

21 CHAIRMAN BECHHOEFER: We will accept that
22 document into evidence as Stamiris Exhibit 46. Copies
23 will be provided as necessary to the reporter and at
24 least the Board.

25 Is there anything further before we break

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

then?

We will resume at 9:00 tomorrow morning.

(Whereupon, the hearing in the above-entitled matter was adjourned at 5:15 p.m., April 27, 1983, to reconvene on Thursday, April 28, 1983 at the hour of 9:00 o'clock a.m.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T E

This is to certify that the attached proceedings for the U.S. Nuclear Regulatory Commission in the matter of Consumers Power Company (Midland Plants, Units 1 and 2), Docket No. 50-329 OM; 50-330 OM; 50-329 OL and 50-330 OL, on Wednesday, April 27, 1983, in Midland, Michigan, Quality Inn, were held as herein transcribed for the file of the Commission.

PAULINE JAMES & ASSOCIATES

Pauline James
(Signature)