

ORIGINAL

OFFICIAL TRANSCRIPT
PROCEEDINGS BEFORE

NUCLEAR REGULATORY COMMISSION
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

DKT/CASE NO. 50-322-OL
TITLE LONG ISLAND LIGHTING COMPANY
(Shoreham Nuclear Power Station)
PLACE Bethesda, Maryland
DATE November 30, 1982
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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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In the Matter of: :
LONG ISLAND LIGHTING COMPANY : Docket No. 50-322-0L
(Shoreham Nuclear Power Station) : :

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Bethesda, Maryland
Tuesday, November 30, 1982

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

BEFORE:

LAWRENCE BRENNER, Chairman
Administrative Judge

JAMES CARPENTER, Member
Administrative Judge

PETER A. MORRIS, Member
Administrative Judge

1 APPEARANCES:

2 On behalf of Applicant:

3 ANTHONY F. EARLEY, Esq.

4 W. TAYLOR REVELEY III, Esq.

5 T. S. ELLIS III, Esq.

6 DONALD P. IRWIN, Esq.

7 Hunton & Williams

8 707 East Main Street

9 Richmond, Va. 23212

10 On behalf of the Regulatory Staff:

11 BERNARD BORDENICK, Esq.

12 DAVID A. REPKA, Esq.

13 Washington, D.C.

14 On behalf of Suffolk County:

15 LAWRENCE COE LANPHER, Esq.

16 ALAN ROY DYNNER, Esq.

17 Kirkpatrick, Lockhart, Hill,

18 Christopher & Phillips

19 1900 M Street, N.W.

20 Washington, D.C. 20036

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1	<u>C O N T E N T S</u>			
2	<u>WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u> <u>RECROSS</u> <u>BOARD</u>
3	Joseph M. Kelly,			
4	Edward J. Youngling and			
	Arthur R. Muller (Resumed)			
5	By Mr. Ellis		14,835	
6				
				<u>(Afternoon Session.....14,857)</u>
7	Joseph M. Kelly,			
8	Edward J. Youngling and			
	Arthur R. Muller (Resumed)			
9	By Mr. Ellis		14,865	
	By Judge Morris			14,894
10	By Mr. Ellis		14,901	
	By Judge Morris			14,925
11	By Mr. Ellis		14,931	

12				
13	<u>E X H I B I T S</u>			
14	<u>NUMBER</u>	<u>IDENTIFIED</u>	<u>RECEIVED</u>	<u>BOUND IN TRANSCRIPT</u>
15	LILCO 39	14,835	14,836	14,836
16	LILCO 40	14,882	14,882	14,882
17	LILCO 41	14,945		14,958
18	LILCO 42	14,945		14,958
19				

20	<u>RECESSES:</u>
21	Morning - 14,814
22	Noon - 14,856
23	Afternoon - 14,918
24	
25	

P R O C E E D I N G S

1
2 JUDGE BRENNER: Good morning. We have
3 received a letter from Mr. Shapiro on behalf of the
4 North Shore Committee, dated November 24. Mr. Shapiro
5 takes the position on behalf of his client that because
6 he believes that the examination before hearing
7 procedure ordered in our November 19th order violates
8 due process: "NSC will decline to participate further
9 in this phase of the hearings. It does so with full
10 awareness of the sanctions for such refusal stated in
11 the order."

12 NSC, therefore, is in default of our November
13 19th order for the same reasons and to the same extent
14 as SOC and the County, and the same sanctions are hereby
15 imposed as to NSC.

16 Accordingly, there are no Phase I emergency
17 planning contentions remaining in controversy before us
18 as to any party, and the previously admitted Phase I
19 emergency planning contentions are dismissed.

20 As to NSC, we previously dismissed them as to
21 SOC and the County.

22 MR. DYNNER: Judge Brenner, I wonder if I
23 could raise a preliminary matter before we get into the
24 other items, insofar as Mr. Bland, who is a consultant
25 to the County is standing by on Long Island, for the

1 Board's ruling on a matter which arose yesterday.

2 Yesterday Mr. Bland --

3 JUDGE BRENNER: Tell me what the subject is.

4 MR. DYNNER: The subject involves the County's
5 involvement with the NRC Staff I&D process, which is
6 taking place.

7 JUDGE BRENNER: I don't want to get diverted
8 in that now. I will take it up, if you want to, after
9 we do the other preliminary matters. We have a lot to
10 do on settlement status and so on. And presumably,
11 doing it now as opposed to a half hour or an hour from
12 now won't matter. We are going to get back involved in
13 the whole schedule of what we're going to do first on
14 QA, and I have a feeling that your matter is much more
15 closely tied to that. And we can avoid repeating
16 ourselves if we delay a short time.

17 Let's go down the issues for which settlements
18 are pending. We received some time ago the then-latest
19 versions of the settlement papers from LILCO, as we had
20 requested. We also received just a few moments ago the
21 Suffolk County status report on outstanding issues. And
22 we have scanned it, but haven't necessarily absorbed
23 every detail in it.

24 MR. REVELEY: Judge, did you get one from
25 LILCO also?

1 JUDGE BRENNER: Today or yesterday?

2 MR. REVELEY: This morning.

3 JUDGE BRENNER: Not on that subject. I
4 received late yesterday a volume from LILCO on the
5 subject of Torrey Pines.

6 MR. REVELEY: No. We sent down via secretary
7 this morning to your fifth floor office.

8 JUDGE BRENNER: Do you mean fourth floor? We
9 were up here pretty early this morning. That might be
10 the problem.

11 MR. REVELEY: You will find four copies of it
12 lurking somewhere during the course of the day.

13 JUDGE BRENNER: All right. Well, we obviously
14 haven't read it, so we will try to absorb it as we take
15 it item by item.

16 Loose parts monitoring, Suffolk County
17 Contention 5. As I read while I talk, both parties say
18 the agreement is either signed or ready for signature.
19 Is it, in fact, signed?

20 MR. IRWIN: It has been signed this morning.

21 JUDGE BRENNER: Is it similar to the version
22 we received on November 17?

23 MR. IRWIN: Identical.

24 JUDGE BRENNER: Let's take the easy ones
25 first, or apparently easy ones. SC 18, human factors

1 equipment. Has that been signed?

2 MR. IRWIN: That has been signed by every
3 party except for SOC. Neither Mr. Lanpher nor I have
4 yet contacted SOC as to the final agreement. I will do
5 so this morning. And I believe the agreement is
6 identical to the agreement which was sent to the Board a
7 couple of weeks ago.

8 JUDGE BRENNER: SC 24, cracking of materials.

9 MR. IRWIN: That agreement was also signed by
10 all parties except for SOC this morning. It has been
11 changed in three immaterial ways. Two of the changes
12 deal with the dates by which certain actions would be
13 performed by LILCO to account for the slip in the
14 signing date, and the third was simply a descriptive
15 matter.

16 I will also contact SOC about that this
17 morning.

18 JUDGE BRENNER: I wonder if you could do us a
19 favor in addition to the normal number of copies on the
20 settlement for SC 24 that we would receive, if we could
21 get one additional copy, that would be hand-marked as to
22 where the changes were.

23 MR. IRWIN: In fact, the copy that the Board
24 will receive has pen-and-ink changes noted on it.

25 JUDGE BRENNER: That will make it easy.

1 All right, I think those are probably all of
2 the agreements that are actually signed now; is that
3 correct?

4 MR. IRWIN: That is correct.

5 JUDGE BRENNER: SC 28(a) and (i), ECCS cutoff
6 and restart. That is the one, as we all know, for which
7 a follow-up action was necessary. And when previously
8 we took this up, we understood that there was general
9 agreement, but there was not then enough time to draft
10 an agreement. And we had hoped that by giving this
11 additional time, we would solve that problem. When are
12 we going to get something drafted?

13 MR. IRWIN: I think the ball is in Mr.
14 Lanpher's court on that.

15 MR. LANPHER: The Suffolk County attorney
16 handling that matter is, as we described in our filing
17 this morning, has been involved in jury trial in D.C.
18 Superior Court every work day including the day after
19 Thanksgiving. And it has gone inordinately long, and I
20 don't need to go into the reasons for that. It is being
21 presented to the jury today.

22 JUDGE BRENNER: I will let that judge worry
23 about that one.

24 MR. LANPHER: I talked with Ms. Letsche last
25 night and final arguments are today, so it goes to the

1 jury today. So given a day for decompression, she has
2 indicated she is going to get back on this stuff late
3 this week. And so we are hopeful that next week we will
4 have a draft agreement.

5 JUDGE BRENNER: Well, if there is an agreement
6 reached, another week is clearly no problem. The
7 problem, as always, is if we find out something has
8 fallen through and needs to be litigated, we don't want
9 to find out too late.

10 MR. LANPHER: There is a conceptual agreement
11 that has been reached; this exchange of letters that was
12 referenced. I don't think we're going to have a
13 problem reducing that to final written language.

14 JUDGE BRENNER: Can we pick it up and look
15 forward to it next Tuesday?

16 MR. LANPHER: I doubt that it can be done next
17 Tuesday. I think next Wednesday or Thursday is more
18 realistic, as we have a testimony filing date also next
19 Tuesday that one of the consultants will be involved in
20 who would want to review that ECCS cutoff final
21 agreement. So to be realistic, by sometime next week I
22 would hope to have it.

23 JUDGE BRENNER: I hate to admit I don't know
24 what's going on in my own proceeding, but what testimony
25 do you have to file on the 7th?

1 MR. LANPHER: SC 3, revised testimony on
2 inadequate core cooling.

3 JUDGE BRENNER: All right, why don't we make
4 it Friday, the 10th, so you will have the extra day.
5 The idea is we would like to be able to look at it
6 before next week completely expires. And I would ask
7 that we receive that by midday. Can we get a further
8 status on SC 31, electrical separation? And I am
9 reading now the report that the County expects to
10 receive responses before today on the matters it has
11 raised with LILCO.

12 MR. LANPHER: There were discussions last
13 night by telephone among the technical consultants for
14 the County and LILCO with the expectation that a
15 rewritten proposal from LILCO will be received just as
16 soon as it can be put into writing. So that still
17 stands open.

18 MR. IRWIN: Our expectation, Judge Brenner, is
19 that we will have a proposal to the County either this
20 evening or tomorrow. And we are hopeful of being able
21 to tie down these one or two open areas within the next
22 few days so that the inspection itself is not impacted
23 by the pendency of these items.

24 JUDGE BRENNER: Could we hear about that one
25 finally one way or the other by next Tuesday? That is

1 the one we have always been concerned about, you may
2 recall, in terms of the time left on the back end for
3 the parties and the Board.

4 MR. LANPHER: We will take a look at it as
5 soon as we get it from LILCO, probably by next Tuesday,
6 I would think so.

7 MR. IRWIN: We are hopeful of being able to
8 tie it down, I think, if we can get some continuity of
9 thought on both sides. There should be no reason we
10 cannot tie it up by next Tuesday.

11 JUDGE BRENNER: Well, now that you have closed
12 the settlement on security, you will have some time for
13 this. What I would be looking for next Tuesday,
14 December 7, would be, as a minimum, an accurate answer.
15 Is there a real problem or not, even if you are still
16 working on some language? Inadequate core cooling,
17 Suffolk County Contention 3, and the County informs us
18 in its status report that it appears doubtful that the
19 issue will be fully resolved, although several meetings
20 have been held, and the County references what we just
21 discussed.

22 The revised testimony will be filed on the 7th
23 on those aspects which are not resolved. When we last
24 discussed it, we were informed of a little further
25 detail, and I wonder if I could take a moment and read

1 what LILCO has just said.

2 (Pause.)

3 JUDGE BRENNER: All right, that is consistent,
4 although the description of the areas that LILCO
5 believes will likely be susceptible to agreement is
6 phrased a little differently than I previously
7 encountered it, and I am not sure I personally
8 understand fully what it means.

9 Do you mean when you say "agreement is
10 likely," that agreement will be reached on those aspects
11 of the contention involving the Shoreham water level
12 measuring system? Do you mean the frothing problem?

13 MR. IRWIN: There are actually two parts to
14 it, Judge.

15 JUDGE BRENNER: One is the frothing or
16 flashing, and the other is a problem dealing with
17 potential inaccuracies in reference leg measurements if
18 you get -- or water level measurements -- if you get a
19 break in a reference leg. Both of those issues would be
20 encompassed within the intended scope of the settlement
21 as with any peripheral matters stemming from
22 cross-examination that took place on Contention 7(b).

23 Does the County with the assessment in LILCO's
24 filing?

25 MR. LANPHER: We think there is a reasonable

1 likelihood that an aspect will be resolved. We are not
2 confident. We are going ahead and planning testimony on
3 all of it right now, unless we get it resolved. We are
4 hopeful that the next day or two it will be. We will
5 just have to see.

6 JUDGE BRENNER: All right. Why don't the
7 parties come back to us on this one as soon as they are
8 ready this week, given the testimony filing date of the
9 7th.

10 MR. IRWIN: As a practical matter, Judge, I
11 think it is likely that we will both end up filing
12 testimony because there is a fair amount of complexity
13 to this issue. There are two distinct aspects to it. I
14 think, as Mr. Lanpher indicated, we are fairly well
15 focused on the first aspect. The second aspect is still
16 more in the discussion stage, and I doubt we will have
17 it fully resolved by the 7th.

18 JUDGE BRENNER: When you file testimony on the
19 7th, each party -- and I don't want refiling of
20 testimony from all parties -- to the extent you repeat
21 testimony that is already filed, that is fine. But I
22 don't want to have to put two together. The parties
23 will do that for us. So we are going to throw out the
24 old set and keep the new set. And that applies to all
25 parties. Tell us on the day of filing. Well, you won't

1 be able to tell us then, but within a day or two after
2 the day of filing, whether you think you want to file
3 motions to strike. And then we will set schedules for
4 motions to strike no later than a week after filing.
5 But if it turns out to be necessary, we won't worry
6 about schedules.

7 JUDGE CARPENTER: I would like to interrupt
8 and ask a question. Is the Staff technical experts able
9 to participate in these meetings?

10 MR. REPKA: Yes, the Staff experts have been
11 participating.

12 JUDGE CARPENTER: Thank you.

13 JUDGE BRENNER: Suffolk County 8 and SOC
14 19(i), environmental and seismic qualification. We had,
15 as I recall, talked about a meeting schedule last time,
16 which did not take place apparently because of this
17 other court case. I guess someday I will have to find
18 out who the judge is and what the issue is to find out
19 why some parties had more luck before Superior Court
20 judges than parties in my experience in terms of trial.

21 But putting that aside where it belongs, is
22 there any sense of how far apart the parties are on this
23 issue? There has been quite a bit of correspondence on
24 these issues between the Staff and LILCO.

25 MR. IRWIN: Judge Brenner, I don't believe

1 that LILCO has any sense of how far apart we are. The
2 discussions that have taken place to date have, at the
3 County's request, been basically informal discovery
4 sessions. And we have not been able to obtain a concrete
5 sense, really, of the County's positions on these
6 issues. It is our -- that is what we are trying to
7 obtain in the next meeting that takes place. We hope
8 that more concrete discussions can take place than have
9 to date.

10 JUDGE BRENNER: What about the relationship
11 between the Staff and LILCO on this issue? LILCO filed
12 its justifications for interim operation on some of
13 these items recently.

14 MR. REPKA: All the justifications are now in
15 from LILCO, and the Staff is currently reviewing those.
16 And as we indicated at the last status report, we expect
17 to be able to complete that review and have an SER out
18 in mid to late December.

19 JUDGE BRENNER: I hope, in looking at those
20 interim justifications, whatever technical reviewers are
21 looking at them is familiar with the record on issues
22 that we have litigated, which arguably might have some
23 relationship to some of those items even though they
24 were not litigated in the context of environmental
25 qualification of the equipment, and for the Staff to

1 assure itself in the first instance that LILCO's view of
2 the use of that equipment is consistent with the use of
3 that equipment as stated in evidence at least by the
4 Staff and LILCO in the record before us; for example,
5 the scram systems.

6 My comment should carry no implication that
7 there is an inconsistency. All we have had is a very
8 summary-type letter. And I want to make sure that the
9 Staff's review is cognizant of the content of the issues
10 in this proceeding and not just a generic-type approach.

11 As we had earlier asked, the meeting scheduled
12 for electrical penetrations on Suffolk County 32 is
13 going to be set to coincide with the meeting schedule
14 for the environmental and seismic qualification.

15 Mr. Repka, could you remind me of the status
16 of the Staff's review on that? I know you told us last
17 time, but I don't remember at this moment.

18 MR. REPKA: The problem with penetrations is
19 the GE 200 series is open. We are expecting information
20 from LILCO. That submittal was originally due November
21 22, but we have not received that submittal yet, so we
22 are still awaiting the submission.

23 JUDGE BRENNER: I guess I should ask LILCO to
24 comment.

25 MR. IRWIN: I was under the impression, Judge

1 Brenner, I know that LILCO was planning on getting its
2 submission to the Staff on the 200 series out the door
3 last week. I frankly didn't check yesterday to make
4 sure that it had gone, but I did not hear of any delay.
5 I suspect it is probably in transit.

6 JUDGE BRENNER: When are the parties going to
7 meet on these issues? And I guess I should ask the
8 County.

9 MR. LANPHER: We tentatively set next
10 Wednesday. I have to confirm that. I hope I can
11 confirm it later today. But Mr. Irwin and I talked
12 yesterday about that, and I think that date is set forth
13 on page 2 of our submittal just above the SC 18
14 discussion.

15 JUDGE BRENNER: All right. As part of those
16 meetings, we would like the parties to jointly agree on
17 a date for the filing of testimony, remembering the
18 parameters that always apply in setting that schedule at
19 both ends; that is, testimony can't be filed before the
20 issue is ripe; however, once the issue is ripe,
21 testimony should be filed so that you allow at least 2
22 weeks before the litigation date and, if possible, a
23 little more. At least 2 weeks is the normal rule of
24 thumb which can be adjusted. But we don't like to have
25 to adjust it.

1 If the Staff's review is at a stage -- and you
2 will know more from these meetings next week -- where
3 testimony can be scheduled, we want to be in a position
4 to litigate those issues in January.

5 All right, containment isolation, Suffolk
6 County 23. We recall that the Staff was still waiting
7 for its submittals when we last discussed it. So that
8 matter is under review. LILCO now states it has filed
9 everything it believes is necessary. I guess I should
10 ask the Staff its view.

11 MR. REPKA: With respect to the first two
12 items, the signal and the purge valve, that I believe we
13 have everything we need from LILCO, and the Staff is
14 reviewing it and developing a position on the scram
15 discharge volume NUREG-0308 item. We also have received
16 a submittal from LILCO. We got that one on the 17th of
17 November and are looking at that.

18 On the third item, Reg Guide 1.11 instrument
19 lines, we got a submittal from LILCO early in November.
20 There was a meeting in the middle of November, and it is
21 our understanding that we are still to get some
22 information on that one as a follow-up to the meeting.
23 And LILCO indicates that that one is probably in transit
24 also.

25 JUDGE BRENNER: What would the Staff's review

1 schedule be?

2 MR. REPKA: On 2(e)(4)(2), we would expect to
3 have a position finalized very shortly. It is more
4 speculative on the scram discharge volume. I don't have
5 a date on that and can't say anything beyond the mere
6 speculation. With respect to instrument lines, that
7 will depend again upon what we see from LILCO.

8 JUDGE BRENNER: Remember what the Board said
9 last time. We are now at the point where if in
10 reviewing the submittals the Staff doesn't believe it
11 can reach a conclusion favorable to LILCO, that's fine.
12 Whether that's because there's a real problem or because
13 you don't have the information is fine also. Just write
14 something and issue it and explain what your problem is,
15 and then we will deal with it here, because this
16 back-and-forth has got to stop.

17 MR. REVELEY: Judge, I think as you just
18 suggested, if a date for filing testimony were set, that
19 would have an unusually soothing effect, I think, on the
20 progress of discussions. Absent those sorts of dates,
21 it is sometimes difficult to get people's attention.

22 JUDGE BRENNER: I don't want to do that yet,
23 because scram discharge volume submittal has just come
24 in, and I know we have just seen it, and the other one
25 the Staff has not yet received. But I would like to get

1 a better time frame on the review. I understand you
2 can't do that this morning, Mr. Repka. Based upon the
3 last item, I am not sure why you can't on scram
4 discharge volume.

5 But in any event, why don't we come back to
6 containment isolation next Tuesday with the object of
7 scheduling the filing of testimony, and we will factor
8 in the Staff's review schedule, and remembering you
9 don't have to commit to the results of that review, just
10 issuing the Staff's view of matters, and we will
11 litigate it if we have to.

12 Obviously, between now and next Tuesday all
13 parties should be apprised of what the review schedule
14 is and what matters might still remain open. But don't
15 ask any more questions. Just work with what you have
16 and write it up, and you can ask them on the stand. And
17 if the Staff wishes, we will set deposition schedules
18 right around the time of filing of the testimony, maybe
19 right after.

20 So we will give you plenty of time to find out
21 what is up. We just want more before us than has been
22 here heretofore. LILCO has the burden of proof. If you
23 don't have enough information to find their proposal
24 acceptable, just say so and why.

25 All right. So we will expect to see a

1 proposal next Tuesday on the filing of testimony on
2 those subjects by all parties, as well as schedules for
3 meetings and negotiations before, during, and after
4 filing testimony. Here again, the object would be to
5 finish the litigation in January, and we would be
6 willing to hear next week if any party believes that is
7 not possible. But that is our object as of now.

8 Remote shutdown panel, both parties believe
9 settlement is likely, but the County wants to defer the
10 testimony filing date, which is something we have been
11 reluctant to do, given the way negotiations seem to just
12 fall apart every time we do that or at least become
13 stretched out.

14 MR. LANPHER: Judge Brenner, that was done or
15 proposed for the benefit of LILCO, quite frankly. If
16 they don't want to defer it, that's fine with us. We
17 are not intending to put in testimony on that, because
18 we really think it should be resolved.

19 JUDGE BRENNER: So you're not filing testimony
20 in any event?

21 MR. LANPHER: That's right. Our view was, why
22 put people through what we think would be a needless
23 exercise, since there have been meetings and if LILCO
24 hasn't had a sufficient opportunity to review what we
25 sent them. But at least if their preliminary review

1 indicates that there seems room for agreement, why go
2 through the exercise. But if they want to put it in,
3 that's fine.

4 JUDGE BRENNER: If a party is not going to
5 file testimony on a subject, we would like to hear about
6 that sooner rather than later because the opposite
7 inference may be drawn from the way the County's report
8 is phrased. And sometimes we have set longer testimony
9 filing dates for the benefit of parties other than
10 LILCO, and quite frankly may have set a date earlier
11 than December 2, and in fact we extended the date until
12 December 2 at the request of the County.

13 I understand at that time you might not have
14 known you weren't going to file testimony, but we
15 certainly should have heard it as soon as you reached
16 that decision. We might have gone back to the other
17 date. We are inclined to hold the date and keep the
18 schedule for motions to strike and everything else be
19 ready for litigation.

20 MR. IRWIN: LILCO believes that would be the
21 soundest thing to do. We, like the County, hope that
22 this matter will be resolved by negotiation. We did
23 receive -- Mr. Lanpher apparently sent out a draft
24 Thanksgiving Friday. I did not receive it until
25 yesterday morning. We reviewed it preliminarily with

1 our consultants yesterday, and we believe that there is
2 substantial progress toward a complete settlement of
3 this issue.

4 My frank hope is -- and I noticed from the
5 County's pleading that they don't expect to be able to
6 make people available until after December 2 -- we would
7 hope to frankly have discussions with them this week.
8 If we had received the draft earlier, we could have had
9 the discussions before Thanksgiving.

10 But that's water over the dam. We would like
11 to mush on. We are filing testimony in what we hope is
12 against an eventuality we hope won't occur; namely, that
13 we won't settle. We do think we need to keep a schedule.

14 JUDGE BRENNER: Let me ask this. The County
15 states it believes the issue will be resolved.
16 Obviously -- well, is it correct that the County has
17 some aspect not as large as the full scope of the
18 contention that it is still considering, and can we
19 narrow it to that aspect at this time at least; that is,
20 hold the testimony filing date to the 2nd but the scope
21 of what is in controversy being better defined than the
22 contention previously defined it, and then all the
23 parties can focus on matters still covered by that
24 aspect and have the testimony limited to that and
25 thereby making it easier on LILCO and easier on the

1 County, focusing on what is in the testimony?

2 MR. LANPHER: I think the matters that are in
3 controversy are those matters that are described in our
4 draft settlement agreement which involves one additional
5 item that we want LILCO to do or we want firm
6 commitments that various other items which are raised in
7 the Staff SER data will in fact be accomplished.

8 It is our understanding that those will be
9 accomplished. And that is why the scope of this
10 contention, we believe, has been narrowed. But we
11 wanted to firm that up through this resolution
12 agreement. I don't think we can do that on the record
13 right now, narrow the scope. And maybe Mr. Irwin and I
14 can talk later. I think they know where we are coming
15 from at this point.

16 JUDGE BRENNER: I think that at least that
17 much could be accomplished in the next couple of days
18 and come up with some written agreement. It could be as
19 simple as a restatement of the contention in the narrow
20 areas, and thereby limit the testimony that we receive
21 on the 2nd to that.

22 MR. LANPHER: Well, Judge Brenner, I am not
23 going to have much time in the next couple of days to do
24 that, I will be honest with you, because I don't want to
25 create some false expectations. Mr. Hubbard is going on

1 the stand, and I have got work that I need to do with
2 him. So I can meet briefly with Mr. Irwin. I cannot
3 meet for any length of time.

4 JUDGE BRENNER: Well, we're not talking about
5 a full agreement and a full drafting. We're talking
6 about a simple statement of what is still in
7 controversy. And I think you ought to be able to find
8 time to do that in the next few days.

9 MR. LANPHER: If it can be done very quickly,
10 I can. Otherwise, I wouldn't be doing justice to my
11 other obligations to do that.

12 JUDGE BRENNER: It is as simple as this: We
13 have got a contention, the full contention is apparently
14 no longer in controversy. It is standard practice and,
15 in fact, embodied in at least two of the regulations
16 that I recall, that when that occurs, you narrow it.
17 And you can do it very simply. You can make the
18 statement on the record if you don't have time to write
19 it out even. But it can just take a few days, and
20 thereby the testimony can be focused, and you can make
21 all of our jobs easier, the Board's as well as the
22 County's. And then we can focus on just what truly is
23 in controversy.

24 So we are going to order that that be done so
25 that we can receive that narrowing on Thursday.

1 We had previously indicated our inclination
2 and will establish now that motions to strike would be
3 filed 1 week later, on December 9, and responses a week
4 after that on December 16. But as always, tell us as
5 soon as possible after the testimony is filed if there
6 are not going to be any motions to strike. We would
7 litigate any part of the remote shutdown panel
8 contention which needs to be litigated after inadequate
9 core cooling unless something unexpected happens on the
10 inadequate core cooling issue. That should give you a
11 little bit of time after the testimony is filed to see
12 if you can put an agreement together.

13 I think that that covers all of the issues in
14 terms of settlement status or preparation for
15 litigation. Am I correct?

16 MR. IRWIN: I believe so, Judge Brenner.

17 JUDGE BRENNER: Let's take up Torrey Pines.

18 (Pause.)

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1 JUDGE BRENNER: We received LILCO's response
2 to Suffolk County's schedule, but we had directed that
3 we receive a newly-proposed schedule from Suffolk County
4 so that the issue could be litigated at least a week
5 earlier. Has the county looked at LILCO's response and
6 has it amended its own proposal?

7 MR. LANPHER: Judge Brenner, we have looked at
8 LILCO's response which was telephoned to us yesterday.
9 I am not going to address the specific dates in there
10 except for one thing. What we put in our filing stands;
11 that Mr. Hubbard is an essential person in this review,
12 from our point of view, and their proposal for us to put
13 in testimony on I believe it is December 14th on Torrey
14 Pines is completely unrealistic. From our point of
15 view, it cannot be done, and especially with Mr.
16 Hubbard's obligations in the other proceeding that are
17 referenced. There are other meetings he is going to
18 have to be present at.

19 JUDGE BRENNER: Has the county been able to
20 modify its proposal to meet our requirement of coming in
21 a week earlier?

22 MR. LANPHER: We have not put in a formal
23 statement to that effect, Judge Brenner. You can tinker
24 with it and maybe cut a week out, or move the testimony
25 filing date upsomewhat. I don't see how you can move it

1 up significantly. I'm not willing to schedule or
2 propose a schedule of anything during the Christmas
3 week. It is just too difficult for moving people around
4 the country that week -- in terms of depositions or
5 anything.

6 So we think that a January 7th or -- I'm sorry
7 -- January 18 date for hearing really provides a good
8 opportunity to focus on the issue. And one of the
9 factors which makes us reluctant to move it up is that
10 we are going to have -- at least we are assuming that we
11 are going to have to take cognizance of the Teledyne
12 report, which I understand will be out in about two
13 weeks. I expect it's going to be similar and it's going
14 to be something that the Board will want to review for
15 this record.

16 Given all of those factors, we think December
17 18th continues to be sensible. The only way you could
18 shorten that, in our view, would be to have testimony
19 maybe come in on December 23 or 24. But to gain one
20 week, the county does not see any real benefit given the
21 other issues that are going to have to be litigated, and
22 the fact that the Teledyne report is going to need to be
23 considered.

24 JUDGE BRENNER: Let me give you our
25 perspective. Incidentally, you said December 18th; I

1 think you meant January 18th.

2 MR. LANPHER: Excuse me, I did mean January
3 18th in terms of the commencement of a hearing that is
4 required.

5 JUDGE BRENNER: We believe, just looking at
6 the Torrey Pines matters alone, ample time was provided
7 by our original schedule, which was even earlier than
8 LILCO's schedule. However, given the availability of
9 the report and the fact that -- we are just not going to
10 stop everything for one person; it is that simple.
11 However, given the events thereafter in terms of the
12 fact that obviously, we were still going to be doing
13 some QA matters beyond the time that we had contemplated
14 in our wildest dreams we would be, and given that at the
15 last moment the staff still had things it wanted to do,
16 we felt we could relax it and accomodate the county to a
17 greater extent than we had previously accomodated it.
18 We don't believe we had to, but as long as we could we
19 certainly wanted to. And we have already discussed how
20 we were anxious to get the full benefit of everybody's
21 assistance on the issue.

22 We believe, we hope that we will able to
23 finish up QA in mid-January, and we note the staff has
24 taken our suggestion to heart and scheduled its further
25 inspection a week earlier, and that will help. The idea

1 is to finish everything else before then, and not to
2 wait until then to do everything else.

3 So we want to balance the fact that we feel we
4 could give the county more time than we believed
5 initially it was entitled to, but as long as that time
6 is there we want the county to have the benefit of it,
7 but not so much more time that there is a danger that we
8 are sitting around with nothing to do at the hearing,
9 while waiting to close out the staff's OQA report and
10 some of the other staff matters under review, which
11 won't be ready for litigation earlier in January.

12 So there is the potential that we would be
13 sitting around at some point in the first half of
14 January with nothing to do. I concede it is just a
15 potential, but it is a potential we don't want to
16 permit. We do not think that the matter has to be
17 scheduled so that it would be litigated as early as
18 January 4th. We don't think it would be fair to do
19 that; we just don't think it is necessary, and we can
20 give the county the benefit of the additional week.
21 But we do want it set for January 11th.

22 Since the parties were unable to agree on a
23 schedule, we have one and it is keyed off LILCO's
24 schedule with adjusted dates. The reason we are keying
25 off that schedule is given the additional time that we

1 can permit relative to our original schedule, we believe
2 it makes sense not to take depositions until testimony
3 of all parties are filed, and then we can use the
4 depositions as we said we would. That is, any party is
5 free to file portions of the depositions in evidence,
6 and LILCO's proposal recognizes that.

7 Looking at LILCO's schedule, which is
8 contained in the November 29, 1982 LILCO's Response to
9 Suffolk County's Proposed Torrey Pines Schedule, and the
10 schedule starts on page 3 and continues over to page 4,
11 we would stay with the December 7th date for LILCO to
12 file its written testimony on the Torrey Pines report.
13 We would then set December 21st as the date for the
14 county and the NRC staff to file written testimony; and
15 thereby, give the county and the staff two weeks to look
16 at the LILCO testimony -- and this is on top of all the
17 time the parties have already had with the report.

18 We would then schedule December 30th as the
19 last day for completion of depositions of the
20 LILCO/Torrey Pines panel and county witnesses, and we
21 agree with the rest of that paragraph in LILCO's
22 proposal; that is, dates and locations to be arranged
23 among parties with cross examination not to exceed one
24 and one-half days per witness panel, and total
25 deposition time including redirect limited to two days.

1 Parties are required to give notice five
2 working days in advance of deposition, and this notice
3 must include specific page and paragraph references to
4 the Torrey Pines report of witness's testimony to be
5 inquired into, and a description of any other topics or
6 matters to be pursued in depositions, if those topics or
7 matters are not specifically discussed in the report or
8 testimony.

9 We will modify that very slightly in the sense
10 that if the course of the answers leads to other
11 paragraphs in the testimony or the report, the
12 questioner is certainly free to follow up on those
13 without having identified those paragraphs in advance.

14 In addition, if somebody forgot to identify a
15 particular paragraph but it is obviously pretty much the
16 same subject matter as other paragraphs and sections
17 that were identified, the questioner can inquire, also.
18 If the witnesses aren't prepared to answer, that will be
19 the answer.

20 Obviously, then, the time for the taking of
21 these depositions could be the week we are not in
22 hearing, and we think that is a good week to take
23 advantage of that time. And one reason we extended the
24 last -- well, if we had just added a week it would have
25 been the 29th. One reason we extended it to the 30th is

1 so that there is a block of four days that week so
2 people don't have to travel back and forth to the
3 location. If the parties agree on different dates
4 earlier, that would be okay, but then the parties would
5 have to agree to waive the notice requirement.

6 I certainly hope this Board doesn't have to
7 get involved in arbitrating where the depositions should
8 be held, given the fact that there are witnesses from
9 different places and counsel from different places.

10 We would then set January 5th as the date for
11 motions to strike, if any, and also, the designation of
12 the portions of depositions to be admitted into
13 evidence. I don't know what LILCO meant by the last
14 part of that, "include an indication of whether the
15 party intends to conduct cross examination." We will
16 eliminate that, unless there is something important in
17 there that I don't understand.

18 We will find out about the cross examination
19 on January 10th when we get the responses to the motions
20 to strike, if any, and also, the cross examination
21 plans, and also, designation of rebuttal excerpts of the
22 deposition transcripts, if any. And then we will be
23 prepared, if we are ready given the litigation of other
24 issues, to begin the litigation of Torrey Pines on
25 January 11th.

1 Now, as we approach it, if the parties wish to
2 set a date certain for this issue due to witness
3 availability and so on, we would consider stopping the
4 other matters and taking this up on a date certain, but
5 we will let the parties work that out and let us know.
6 And we would certainly want to know that on January 4th,
7 if that is going to be the case.

8 MR. LANPHER: Judge Brenner, are you intending
9 to -- the final thing in the LILCO schedule is the limit
10 of two days of hearings per witness panel.

11 JUDGE BRENNER: No. We will judge the length
12 based upon the productivity and bearing in mind what
13 could have been asked at the deposition. We would be
14 more inclined to set a time limit if we had set no time
15 limit for the deposition. Because we're setting a time
16 limit for the deposition, we are not also in advance
17 going to set a time limit for the cross examination.

18 It would be our hope that the extensive report
19 that is available with the additional benefit of the
20 testimony and the deposition will save a lot of time
21 which otherwise would have had to be spent in cross
22 examination. And by admitting portions of the
23 deposition into evidence, we would hope that we could
24 save even more time.

25 As we get close to it after the depositions,

1 the parties will have a better feel for how much time
2 they think they will need, and that may affect your
3 decision as to whether to schedule a date certain, for
4 example, if we believe we can't finish in four days.
5 And we would hope that is the case, although that may
6 provide good reason as to why that is not the case.
7 That might be a good reason to start first thing on a
8 Tuesday with this issue so that we can get all the
9 witnesses out of there.

10 We are not ignoring what you said about
11 Teledyne, Mr. Lanpher, either previously or today. But
12 if we do decide to hear matters related to the Teledyne
13 report before us -- and we don't know what our decision
14 would be on that -- but if we do decide, it occurs to us
15 that there would be plenty to do on that, and it doesn't
16 make sense to bunch it all up together. We should
17 certainly have all of the prehearing preparation proceed
18 apace.

19 Now, as we get close to it, if events ever
20 take us and there's a good reason to combine the
21 litigation on both matters, we might be willing to
22 consider that. And it will depend on the number of
23 witnesses that are in common. The issues certainly
24 apparently are related, but there will still be plenty
25 of prehearing procedures on that.

1 So, we will be willing to hear from the county
2 or any party later as to any adjustments it feels should
3 be made and when we actually litigate the matters, but
4 we don't want to litigate -- we don't want to adjust the
5 prehearing procedures.

6 Are there any questions about that schedule?

7 MR. LANPHER: Judge Brenner, I just feel
8 compelled to reiterate my view that to require
9 depositions during the Christmas holiday week, someone
10 is going to have to be flying across the country that
11 week, and I think the schedule -- and I want to think
12 about it; I may come back with a request for
13 reconsideration tomorrow -- I just want to think it
14 through more carefully rather than come up with an
15 alternate proposal. I think it is something that should
16 be avoided. I don't see the need for it.

17 I don't particularly personally want to travel
18 to California during Christmas week. I don't want my
19 people from California or Houston or anywhere else to
20 have to travel from there back here during that week.
21 It is a terrible week for travel; people have family
22 commitments. I just think it imposes a burden that is
23 unnecessary and really should be avoided. And I'm sorry
24 that the Board has seen fit to schedule depositions for
25 that week.

1 JUDGE BRENNER: It is not a good week for
2 travel, and that is one reason we are setting it as soon
3 as possible in advance, given the absence of agreement.
4 Our original schedule called for depositions on
5 Thanksgiving week when we were not going to be in
6 hearing. We received violent objections from the county
7 due to its witness not being able to be ready. This is
8 now an accomodation to the county. It is another week
9 when we are not in hearing; it is going to be the only
10 other week when we are not in hearing between now and
11 the end of January unless something unexpected occurs.
12 And it is the best time to do it in terms of the
13 schedule and in terms of the hearing schedule.

14 Within those timeframes, if the parties can
15 make some adjustments of doing part of the depositions
16 at the end of the week before, that would be
17 acceptable. We have squeezed our week, also. We
18 normally like to receive responses to motions to strike
19 further in advance than the day before the litigation,
20 but we have compressed our time, also, in order to give
21 the county more time in terms of its testimony and
22 taking the depositions.

23 And in recognition of difficult travel
24 schedules, I might tell you primarily for the California
25 witnesses, which at that time is likely to be only Mr.

1 Hubbard, we are not holding the hearing on that
2 Thursday, the 23rd of December, as we had previously
3 announced. As to our schedules, we could have kept a
4 normal hearing week that week of beginning on Monday and
5 going through Thursday afternoon, but we are not going
6 to, so we make accommodations when we can; we just don't
7 always tell you about them. We will be here; we could
8 have held a hearing on that day.

9 I have some other miscellaneous matters.
10 These matters arise out of the Board's review of some of
11 the technical correspondence from the staff and from
12 LILCO. We received a copy of the staff's November 24th,
13 1982 letter from Mr. Schwencer to Mr. Pollock of LILCO
14 seeking further information on -- as a follow-up to the
15 previous LILCO filing on LILCO issue number 47, which is
16 the multiple control system failure concern. This is an
17 item which we have continued to follow in the SER
18 because of its relationship to Contention 7B which we
19 have litigated.

20 We have had testimony on the status of it at
21 that time, which was somewhat more predictive in nature
22 than necessary, so we are still following this item.
23 And our question is whether LILCO has provided a
24 schedule as within seven days of November 24th, which I
25 guess will be tomorrow, and just to hear from the staff

1 and LILCO what the status is and when this item is going
2 to be finally concluded in a staff review, either
3 acceptable or unacceptable. And we would like to hear
4 on that as soon as the parties are ready to tell us.

5 Another miscellaneous matter is a generic
6 letter filed in this docket as well as others. It's
7 generic letter number 82-27, dated November 15, 1982,
8 from Mr. Eisenhut of the NPC staff which transmits
9 NUREG-0763 entitled Guidelines for Confirmatory Inplant
10 Tests of Safety Relief Valve Discharges for BWR Plants,
11 and also transmits NUREG-0783 entitled Suppression Pool
12 Temperature Limits for BWR Containments.

13 Our question to the staff and to LILCO and any
14 other party that wishes to comment is whether anything
15 in these further regulatory guide-type requirements from
16 the staff affect the record previously educed before us
17 on safety relief valves and testing, and also, on the
18 aspect of the MARK II suppression and suppression pool
19 and other containment criteria, which we litigated --
20 no, we did not litigate everything about MARK II; we
21 litigated a certain aspect of it.

22 In particular, the generic letter states, with
23 respect to the suppression pool temperature limit NUREG,
24 that "the acceptance criteria as specified in the report
25 can be considered a relaxation of the existing

1 suppression pool temperature limit criteria which are
2 specified in NUREG-0661, MARK I -- and that doesn't
3 apply to Shoreham -- and NUREG-0487 MARK II containment
4 lead program load evaluations and acceptance criteria."

5 Now, the testimony before us certainly updated
6 to some extent the criteria in the NUREGs and we recall
7 that. Our specific question is whether these or other
8 matters have changed the circumstances previously
9 expressed in the testimony before us.

10 We would like to hear back on those two items
11 by early next week. Tuesday would be a good day. And
12 parties can do it in writing or orally or some
13 combination of the two. I guess we would prefer a brief
14 writing and then we can follow up orally with any detail.

15 I have another matter but it relates to QA/QC
16 so I will wait until we get to that. And one last
17 preliminary matter which is a very important one; we are
18 going to set a findings schedule now for findings that
19 can be scheduled, and we are going to adjust somewhat
20 our previous proposal in a minor way.

21 Our premise is we believe we can schedule
22 findings on all matters which we have already litigated,
23 not counting QA/QC. And if there's any question as to
24 what those matters are, come back to us for
25 clarification. I don't think I need to list them.

1 We would schedule January 10th as the date to
2 receive the proposed findings of fact and conclusions of
3 law from LILCO on those matters. Originally, we had
4 talked about receiving an advance procedural background
5 findings. We are going to modify that for a number of
6 reasons. One reason is we are giving you less notice.
7 At least, you might have anticipated a later filing
8 date, and if we back it up 15 days that date will be
9 upon you.

10 In addition, rather than have the parties
11 spend a lot of time trying to agree on procedural
12 background findings, we would ask that LILCO attempt to
13 coordinate with the other parties and thereby make any
14 adjustments that LILCO feels can and should be made in
15 the interest of accuracy and in the interest of reaching
16 agreement. However, there is no obligation to come up
17 with agreement. If there is disagreement, LILCO would
18 file its views on the procedural background part and the
19 other parties could file their views on the procedural
20 background part when they file their findings.

21 Also, we will take those from LILCO on the
22 same date as the other findings; that is, January 10th,
23 but keep it in a separate section suitable for not
24 publishing, if we decide not to publish it. We are not
25 sure whether we will publish it as an appendix, whether

1 we will not publish it as an appendix or whether we will
2 put a portion of it in the beginning of the decision and
3 leave a portion out.

4 Now, the parties are free to, in addition to
5 the appendix part, to include in some more summary
6 fashion whatever procedural background they think is
7 important for the findings in terms of things that
8 should find its way into the published decision in order
9 to understand some of the substance. But we don't want
10 the first 30 pages of our decision to just be a recital
11 of where we met, on what issues and so on.

12 All right. So that date from LILCO -- these
13 are receipt dates, received by the Board and by the
14 other active parties --. Now, the active parties does
15 not include NSC because they have no involvement other
16 than emergency planning, so they don't have to receive
17 these findings on a rapid schedule. SOC, where
18 possible, should receive the findings on the same rapid
19 schedule, but if you get the findings to the county,
20 that will be sufficient, but try to get it to SOC within
21 a day after if you can't get it on the same receipt date.

22 January 10th for LILCO's proposed findings of
23 fact and conclusions of law and the rest of the schedule
24 consistent with 2.7541. January 20th for the county's
25 findings. To the extent SOC wants to file any findings,

1 it is SOC's obligation to coordinate it with the county,
2 and it should come in as a joint filing. But the county
3 doesn't have an obligation to act and negotiate with
4 SOC, other than to inform SOC of what we just stated.
5 It is SOC's obligation to propose findings to the county
6 in sufficient time for the county to include those
7 findings in its filing.

8 January 31st, adjusting slightly to wind up
9 with a Monday, for the staff's proposed findings; and
10 then February 7th, again adjusting slightly to get by
11 the weekend, for LILCO's reply findings.

12 All right. Let me raise our QA/QC matter and
13 then we will turn to yours, Mr. Dynner. We have read
14 with interest Inspection Report Number 50-322/82-29,
15 issued by the NRC staff, and its cover is in the form of
16 a letter to Mr. Pollock of LILCO dated November 18,
17 1982. It had not cleared proprietary review at the time
18 of filing. I don't know if it has yet. I don't see
19 anything in there that is proprietary, but I won't
20 presume to give the details now in any event, just in
21 case. But I think there are some matters that I can
22 discuss without fear of any proprietary matters.

23 First of all, this report was triggered by a
24 letter to the Board addressed to me raising certain
25 allegations, and we appreciate the fact that the staff

1 has followed up on them. We have no concerns as to the
2 allegations that were raised. This was by Mr. Hall. At
3 least, he transmitted them, as it was disclosed in the
4 report. We urged that when the report has cleared
5 proprietary review, that a copy be sent to Mr. Hall, and
6 he is not shown on the cc list now.

7 I guess I would like to comment as an aside
8 that it is a very well-written report in terms of our
9 ability to understand it. It supplies the bases as well
10 as the conclusions.

11 All right. Beyond the concerns raised by Mr.
12 Hall to which we have no lingering questions, we have
13 some lingering questions as to other matters which are
14 not related to the concerns raised by Mr. Hall, but
15 which the inspector came upon in the course of pursuing
16 Mr. Hall's allegations. We think they are related to
17 the matters before us on QA/QC, and we're going to want
18 to hear about them from LILCO's witnesses, either in the
19 timeframe of their testimony here now this week, or if
20 not possible, as soon as possible thereafter.

21 One matter was indicated on page 6 of the
22 report. It involves a change that was made without any
23 E&DCR being issued, and an E&DCR was never issued until
24 the staff inspector discovered it quite sometime later,
25 and LILCO thereafter issued the E&DCR. It was

1 apparently a non-safety related change; however,
2 consistent with the testimony we have had and what the
3 report itself states, it was LILCO's practice to issue
4 E&DCRs in the same way for those matters as for safety
5 related. We want to get a good understanding as to what
6 happened here and what that says about LILCO's
7 procedures. If a change could go that long undetected
8 without an E&DCR being issued, we want to know what
9 happened in the particular item and how the process
10 could have allowed it to occur that way and then go
11 undetected thereafter.

12 So, that would be the initial change
13 procedures, the audits, the verifications, the field
14 quality control, whatever should have been involved in
15 QA.

16 The other matters are covered on pages 9 and
17 10 of the report. In there, the inspector questioned
18 the lack of QA/QC reviews on the flood protection
19 analyse, and also on the core drilling procedures; that
20 is, the procedure for drilling for penetrations through
21 concrete, which in turn, affects rebar in the concrete.
22 The inspector was told that at least in part, there was
23 no QA/QC performed because these items were not safety
24 related, but that characterization may only apply to the
25 flood protection analysis. I'm not sure right now.

1 But in any event, we would like to know
2 whether the inspector's version of what LILCO's reasons
3 were are accurate, and whether that -- and if so, how
4 LILCO people could believe that in light of all the
5 testimony as to the important of looking at non-safety
6 related matters for their impact on safety. When you
7 read the report you will see that the very analysis
8 being performed for flood protection at least was to
9 assess its impact on safety-related matters.

10 And beyond the full explanation of the
11 particular matters involved here, what that says about
12 the overall implementation of the program in terms of
13 the evidence that we have heard as to how the program
14 was proposed to be implemented, and how cognizant
15 personnel could believe that no QA/QC was necessary.

16 Now, if LILCO believes they are correct, they
17 can explain why before us. The inspector didn't think
18 they were correct. And what this means about the
19 overall QA/QC program beyond the particular incidents.
20 All of these, including the E&DCR are illustrations or
21 examples beyond the particular incidents. We want to
22 know what it says about the program.

23 Now, you may decide you want to put something
24 in writing on it and get the right people here, and we
25 will permit LILCO the time to do that. In addition, the

1 staff is keeping some of the items open; not the E&DCR
2 item, but the other two, for their inspection. We are
3 asking that we hear it before us on a schedule suitable
4 for our litigation.

5 So we want to get LILCO's full explanation and
6 then give the other parties, including the staff, a
7 chance to react before us instead of leaving the parties
8 to their own schedule. So come back and propose a
9 schedule to us as soon as you can to cover these
10 matters. If you can do it this week, fine. If you
11 can't, we will understand.

12 We just received this report. I saw it
13 yesterday. I suppose it could have come in Friday; I
14 was not here on Friday. So we have reacted as quickly
15 as we could.

16 MR. LANPHER: Judge Brenner, could we get an
17 indication maybe from the staff when this report is
18 going to be cleared? I know nothing about it,
19 obviously. The last report we got was 82-28.

20 JUDGE BRENNER: Well, it is up to LILCO how
21 fast they clear it. It has to be cleared within 20
22 days, as I recall, or perhaps 30 but I think it is 20,
23 under 2.790 and some subsection thereunder. And LILCO
24 can clear it in two minutes if they are ready. There's
25 nothing proprietary I don't believe. Why doesn't LILCO

1 clear it right away, and either declare it clear and get
2 it out and or give it to the county right away under a
3 suitable agreement; one or the other. LILCO may have
4 already cleared it. You see, this goes back to the date
5 it was written up by the staff on November 18th, so I
6 don't know.

7 Mr. Bordenick, did you want to say something?

8 MR. BORDENICK: I was merely going to point
9 out, Judge Brenner, that I think 20 days is the correct
10 period. I think there is a provision where an applicant
11 can ask for more time. With respect to inspection
12 reports generally, it is my understanding that LILCO has
13 never made a proprietary claim but they have sought
14 extensions for review purposes on several occasions. I
15 don't know what the status of this particular report is.

16 JUDGE BRENNER: Well, we will let LILCO take a
17 look at it.

18 MR. ELLIS: We will look into it, Judge
19 Brenner.

20 MR. LANPHER: Judge Brenner, I didn't
21 understand one of the last aspects you brought up in
22 terms of the staff addressing matters. Do you want the
23 staff to address the same two matters which you raised,
24 or only the status of the open items?

25 JUDGE BRENNER: Well, I have raised, I guess,

1 a combination of three matters. Two of them are closely
2 related, and maybe that is where you got your two. The
3 staff doesn't have to do anything until after LILCO
4 does. The staff, as far as we are concerned, has well
5 explained its views in this inspection report, and that
6 is one reason that we were pleased; that it was thorough
7 enough to understand the bases. And the staff itself in
8 the report, as you will see when you read it, is
9 carrying two of the items --

10 MR. LANPHER: The flood items and the
11 containment items?

12 JUDGE BRENNER: It is core drilling; it is not
13 just containment. But yes, as open items, which means
14 that they're going to follow up, but we are changing
15 what may have been the initial schedule, whatever LILCO
16 and the staff had in mind.

17 MR. LANPHER: And that is what you want the
18 staff to be prepared to address? Those two items?

19 JUDGE BRENNER: Yes. After LILCO makes its
20 filing. Now, the staff is free to address the E&DCR
21 item. Well, let me back up. We would like the staff to
22 address all of the items.

23 MR. LANPHER: Okay. I just wanted that
24 clarification.

25 JUDGE BRENNER: But not in the first

1 instance. And depending upon the schedule when we get
2 this, it may be that the staff can address some of the
3 items in the course of its testimony. But I think it
4 would be better as to some of the larger issues to get
5 something sooner rather than later. That is, if we are
6 not going to do it in the next couple of days, let's get
7 it in writing first, unless there is a good reason not
8 to. And after we've received whatever we receive from
9 LILCO, we will ask the staff when it can respond and how
10 and the same for the county, if the county wishes to
11 after seeing the response.

12 We are reacting preliminarily to a report, and
13 it may be that what we understand is apparently the case
14 from the report is not, in fact, the case. And maybe
15 the staff will have a different view after it sees the
16 filing, but we want to get further information at this
17 point.

18 All right. If there are no other preliminary
19 miscellaneous matters, I will allow Mr. Dynner to raise
20 his matter. All right, Mr. Dynner?

21 MR. DYNNER: Judge Brenner, pursuant to our
22 understanding of your comments the week before last
23 concerning the involvement by the county in the staff's
24 I&E inspection on the operating QA program, Mr. William
25 Bland, who is the county's consultant, came up from

1 Houston to Long Island, and I traveled up there
2 yesterday, to attend the I&E entrance meeting at the
3 Shoreham plant.

4 We were permitted to attend that meeting under
5 conditions which were explained to us; that we would not
6 be allowed to participate or make comments during the
7 meeting.

8 JUDGE BRENNER: I read the protocol,
9 incidentally, if that will save you any time. I have
10 seen the letter from Mr. Hayes.

11 MR. DYNNER: The protocol was between the NRC
12 staff and the county. What I'm referring to were the
13 conditions imposed by LILCO as to the meeting.
14 Following the meeting, it was our intention to have Mr.
15 Bland stay up in Long Island, and today accompany one or
16 two of the inspectors in connection with their review of
17 the operating procedures.

18 Our desire to do this involved a conversation
19 with I had with Mr. McCaffrey of LILCO, and during the
20 course of that conversation Mr. McCaffrey indicated that
21 it was LILCO's position that the county could only
22 involve itself in the I&E inspection to the extent of a
23 maximum of eight hours accompanying the inspector. And
24 at our request, to the attendance at the two interim
25 exit conferences scheduled for 11:30 a.m. this Friday

1 and the following Friday, and the following exit
2 conference which is scheduled for December 15th.

3 I stated that the position of the county was
4 that our understanding of the Board's request was that
5 the county would be involved to the extent that it
6 wanted to involve itself in all relevant aspects of the
7 inspection as to the operating QA program. I further
8 indicated that at this time, the county was not in a
9 position to state whether it would want Mr. Bland to
10 participate in any inspections as an observer, beyond
11 the inspection today; but that that couldn't really be
12 determined until after we had his views on the
13 procedures and processes that were being carried out.

14 Mr. McCaffrey consulted with LIILCO's counsel
15 by telephone and subsequently stated that the position
16 of LIILCO was that unless and until the county agreed to
17 a limitation of eight hours to Mr. Bland's observation
18 of the inspection, that he would not be permitted to
19 observe at all.

20 I regret having to bring this matter before
21 the Board, but it does involve an interpretation of the
22 parties' understandings as to the extent to which the
23 Board thought it would be useful for the county to
24 participate, and we would like to get your clarification.

25 JUDGE BRENNER: All right. Before I ask the

1 other parties what happened, let me state one
2 modification of what you said. We didn't say the county
3 could involve itself as much as it wanted to; it was as
4 much as it wanted to subject to not getting in the way
5 of the staff's business.

6 MR. DYNNER: That is clearly our
7 understanding, as is in accordance with the protocol
8 that we did sign with the staff.

9 JUDGE BRENNER: As long as I'm talking to you
10 still, Mr. Dynner, what did the staff up there say?
11 Where did this eight hours nonsense come from?

12 MR. DYNNER: The staff's position was that the
13 county and its consultants could involve themselves to
14 any extent that they wished, that the staff would
15 cooperate fully and would meet with us individually and
16 had no objection whatsoever so long as there was an
17 ongoing protocol, non-interference protocol, that would
18 be continuously signed covering each inspection and
19 observation.

20 JUDGE BRENNER: Consistent with Mr. Hayes's
21 letter and the protocol he attached. Is that correct?

22 MR. DYNNER: That is correct.

23 JUDGE BRENNER: Which gives the inspector the
24 right to throw Mr. Bland out if he gets in the way.

25 MR. DYNNER: That is correct.

1 JUDGE BRENNER: Well, maybe Mr. McCaffrey was
2 applying LILCO's overtime policies to other parties.
3 What is the story? Why do I have to waste time with
4 this?

5 MR. EARLEY: Judge, let me just make a couple
6 of preliminary comments before I address what Mr. Dynner
7 brought up. I found it very unusual that, first of all,
8 counsel for LILCO was given no notice of attendance at
9 the meeting. I found out when somebody called me and
10 said we've had a request to have counsel for the county
11 and their consultant come onsite, and then the
12 additional request to have the consultant for the county
13 accompany the I&E inspectors onsite, as Mr. Dynner said,
14 was not a request from counsel for the county but the
15 request had come directly from the client, which I find
16 unusual.

17 So, we didn't find out about the request until
18 I guess it was late yesterday afternoon when it was
19 brought to our attention that these discussions had been
20 going on. It is our position we are willing to
21 cooperate with the county to resolve the issues that
22 have been brought before the Board in OQA. We think
23 that the county's participation at the entrance meeting
24 and the exit conferences would adequately serve the
25 needs of the parties to be able to understand what went

1 on in the I&E inspections so that if there is a basis
2 for any agreement, we can reach that agreement.

3 We think it is additional and fairly
4 extraordinary discovery to have the county accompany the
5 I&E inspectors on their inspection. First of all, the
6 inspection is much broader than the issues that have
7 been raised in the contention. The I&E inspectors will
8 be looking at the OQA procedures. In addition to that,
9 they will be looking at a number of other procedures and
10 a number of other organizations, so I think that that is
11 beyond the scope of the particular contention.

12 And I think it is going to be difficult to
13 decide on a case-by-case basis when the inspector is
14 going into something that is within the contention and
15 when he is not going into something that is within the
16 contention. I think Mr. McCaffrey's offer of eight
17 hours was based on the fact that he knew they were
18 starting with OQA. He thought it would be reasonable to
19 allow them to see how the process worked, to have a full
20 day with the inspection and then attend the exit
21 conferences -- I believe there are two weekly status
22 conferences and then the final exit conference -- to
23 find out the results of the I&E inspection.

24 JUDGE BRENNER: Explain to me why LILCO even
25 has a right of rejection so long as it is the staff who

1 is conducting the inspection and they believe that they
2 have controlled the situation through the protocol and
3 other means, as necessary as circumstances arise, to
4 conduct the staff's business? That is all that is
5 involved here. Unless they are hurting you in some way
6 that I can't see.

7 If there was no hearing here before us and the
8 county had, or any party had, requested permission of
9 the staff to be involved and the staff said that is fine
10 with us, we are happy to cooperate, I don't see why we
11 have to get involved. They have limited the number of
12 people, which makes sense, and so on.

13 I am disturbed, incidentally, before I
14 criticize the last part of what you said, that there was
15 no notice to counsel, and obviously, I want you to
16 operate through counsel.

17 MR. LANPHER: Judge Brenner, I have to respond
18 to that because I learned of the schedule for this late
19 on Wednesday from Mr. Greenman of the NRC staff. I was
20 leaving town over the Thanksgiving weekend on Friday. I
21 spoke with Mr. Greenman again on Friday morning early.
22 He called me and said we would get the exact details as
23 soon as those details became available from Mr.
24 Greenman, and he explained the protocol.

25 He at that time informed me that we would have

1 to make arrangements for getting onto the site through
2 LILCO. I tried to phone LILCO's counsel continually on
3 Friday morning; I tried to phone Mr. Earley, I tried to
4 phone Mr. Irwin. I don't which other numbers I phoned
5 in Richmond. I was unable to raise anyone.

6 I then called back to Mr. Greenman and
7 explained my situation; that I was leaving town, and I
8 requested him to attempt to contact Mr. Higgins, the
9 resident inspector, to convey a request to LILCO that I
10 would get in touch with people first thing on Monday
11 morning. Before 9:00 o'clock yesterday morning I spoke
12 with Mr. Flanagan, apologized to him that I had not been
13 able to contact someone prior to that time, and
14 explained the situation.

15 JUDGE BRENNER: You agree that normally you
16 should work through counsel?

17 MR. LANPHER: I always, of course, agree with
18 that, and I did attempt.

19 JUDGE BRENNER: All right. That covers the
20 matter. You might have called Mr. Bordenick or other
21 staff counsel on Friday, and maybe you did.

22 MR. LANPHER: Well, Mr. Bordenick earlier had
23 put me in contact with Mr. Greenman, and invited me to
24 converse with him directly. Mr. Greenman is the branch
25 chief of Region I who is heading up this inspection.

1 MR. BORDENICK: That is correct, Judge
2 Brenner, and I might explain my part. Wednesday was my
3 last day in the office. I think the holidays probably
4 contributed to all of this, and I simply assumed that
5 since staff had been in contact with the applicant, the
6 technical people and also the county, that the word
7 would get to counsel. I apologize for my not personally
8 calling them, but I think the holiday situation
9 contributed to this.

10 JUDGE BRENNER: It doesn't apply here but
11 sometimes on inspection there is a problem in notifying
12 the utility. If it is an unannounced inspection, they
13 shouldn't be notified. You could have inspections
14 unannounced at the utility which a third party might
15 know about it if they are going to accompany them. It
16 is rare, but once in a while that happens. But that
17 doesn't apply here.

18 All right, we all agree on the principle, and
19 I understand what happened now. In terms of this
20 particular inspection, we're not going to try to decide
21 what's in controversy and what is not in controversy.
22 It is not their right to do this. Whether it be a right
23 or not I don't know. It is acceptable to us for the
24 county to participate; we encourage that kind of
25 participation. We're not going to separate out what is

1 in controversy and what is not. They are allowed to
2 participate in the inspection as far as the staff is
3 concerned, and we are happy with that staff attitude.
4 If they get in the way, they will get the heave-ho. It
5 is that simple. If they are not in the way, they can
6 accompany them.

7 Unless I can see something else that I am not
8 understanding, Mr. McCaffrey's idea of eight hours
9 limitation has nothing to do with what makes sense in
10 this situation. If he wanted to apply it, he should
11 apply it by what is going on and not by an arbitrary
12 eight hours. And LILCO -- the county doesn't have to
13 work through Mr. McCaffrey.

14 Here again, we can deal with counsel, and the
15 staff at the site should assist the county, as long as
16 the staff agrees they are not in the way, in making sure
17 that they have the access they need.

18 MR. BORDENICK: I think we have done that,
19 Judge Brenner, and we will continue to do that.

20 JUDGE BRENNER: Well, I hope you stated that
21 to your representative and that your representative
22 stated it to LILCO's representative that this eight
23 hours was a figment of his belief.

24 MR. BORDENICK: I hope he did. I can't
25 actually state whether he did that or not. I wan't

1 there.

2 JUDGE BRENNER: All right. Unless I can see
3 that LILCO is prejudiced in some way, the county can
4 participate consistent with the staff's protocol. We
5 will be very sensitive to the staff taking whatever
6 action it sees fit to assure that the efficiency of its
7 inspection and the thoroughness of its inspection is not
8 compromised. And the staff, in the first instance, has
9 the full authority and right to do that.

10 MR. BORDENICK: Judge Brenner, I want to point
11 out that that is correct, but then we get into a
12 situation where it is the applicant's property, we can't
13 control who the applicant is going to allow to move
14 around on his property.

15 JUDGE BRENNER: Well, I don't think it is at
16 the point where I have to consider whether we have to
17 issue an order to allow them on, now that we have
18 discussed the situation.

19 MR. EARLEY: Judge, since this matter only
20 came to our attention yesterday afternoon, we haven't
21 had an opportunity to look into it in detail, but I am
22 not so sure that the staff does have the right to bring
23 anyone onsite to accompany them in the I&E inspection.
24 That would take some research.

25 I do think in this proceeding that the county

1 does have the right to certain discovery procedures, and
2 that would be covered on discovery. If discovery was
3 appropriate, discovery would be limited to the scope of
4 the particular contentions in controversy.

5 Additionally, our other objection, Judge, was
6 the fact that having people onsite does impose some
7 burdens on LILCO in that for security reasons, you have
8 to provide escorts. I&E people do not require escorts.

9 JUDGE BRENNER: We're talking about a maximum
10 of two people there who are going to go with the I&E
11 people. I don't want to deal with this nonsense, it is
12 that simple, considering all the issues we have before
13 us. If LILCO has a legal problem it wants to come back
14 and raise, so far we have only been discussing the view
15 that they can look for eight hours and no more. That is
16 wrong, that is not the deciding factor.

17 If you think you have a legal basis for saying
18 they shouldn't be there at all, and if you want to
19 assert that legal basis notwithstanding the staff's
20 willingness to have them there and the Board's
21 encouragement that they be involved as closely as
22 possible for the sake of efficiency and thoroughness of
23 this proceeding, then LILCO can raise that. We will
24 defer the rest of the inspection until we decide the
25 issue, if necessary.

1 But as of now, unless there is further
2 complaint, then they are to continue to accompany the
3 I&E inspectors. Again, nothing we have said is in
4 derogation of the authority of the staff's
5 representatives on the spot there to do whatever they
6 see fit, and they can do it without any prior
7 authorization from us. We will deal with that after the
8 fact if necessary, but I want to make sure nothing gets
9 in the way of the efficiency or the thoroughness of the
10 inspection so that the staff can accomplish what it
11 wants to accomplish.

12 MR. BORDENICK: Judge Brenner, I appreciate
13 that statement. I do want to point out, though, in
14 fairness to the county I just don't anticipate that that
15 this is going to be the case on this situation.

16 JUDGE BRENNER: Good.

17 MR. DYNNER: Judge Brenner, just for
18 clarification now -- is it the position, now that I have
19 Mr. Bland standing by in his hotel room, that I can
20 notify Mr. Bland that he can proceed?

21 JUDGE BRENNER: I thought he didn't use up his
22 eight hours yet anyway.

23 MR. DYNNER: He didn't, but it the
24 determination that he couldn't start until this Board
25 made its determination.

1 JUDGE BRENNER: Is that right?

2 MR. DYNNER: Yes, sir.

3 JUDGE BRENNER: I would like to know, when
4 LILCO's counsel has had a chance to talk to its people,
5 if that last statement is true. And if so, why it was
6 LILCO's position. But take the opportunity to find out.

7 MR. EARLEY: Judge, I do know, and the reason
8 we took that position was that we did not believe that
9 the county had a right to accompany the inspector. The
10 offer, -- I believe Mr. McCaffrey made the offer as a
11 compromise that he was willing to go with to give the
12 county's consultant an opportunity to see how the
13 process worked, and not have to decide when the
14 inspector had gotten away from going into OQA matters
15 into matters outside the scope of the contention.

16 JUDGE BRENNER: Well, if that was acceptable
17 to Mr. McCaffrey, why couldn't Mr. Bland proceed towards
18 his first eight hours while we considered the matter?

19 MR. EARLEY: Judge, we just thought the matter
20 should have been presented to the Board. Right now, I
21 think what we propose to do is to allow Mr. Bland on. I
22 believe OQA is underway and we will consider whether
23 there should be limitations based upon the scope of the
24 contentions after we have had a chance to take a look at
25 some of the case law.

1 JUDGE BRENNER: If there are matters unrelated
2 to the scope of the contentions that you feel you can
3 separate out, then you had better raise it with the
4 staff, because as long as the staff is willing to let
5 them accompany them, that is good enough for me. I am
6 not going to tell them they can't if the staff is
7 willing, and if there are matters related to issues in
8 controversy and you feel it is discovery beyond what
9 should take place, given the efficiency of this
10 proceeding that we are worried about and the lateness of
11 when we were all apprised of what the staff was going to
12 do when, you can raise that and we will consider it.

13 MR. EARLEY: We will take that up with the
14 staff.

15 JUDGE BRENNER: Because if we're going to have
16 problems like this it would be very easy on the life of
17 this Board to just do things by the book every time and
18 not try to adjust flexible approaches to circumstances
19 and allow the staff to conduct their inspection and then
20 allow a period of reasonable time for the county to
21 conduct discovery on the inspection and then not
22 schedule testimony until after that. And you have used
23 up another month before you're done. So if that is what
24 LILCO wants, we will do that from now on. You think
25 about it.

1 And I must say I understand your potential
2 legal arguments but I don't understand how this idea of
3 eight hours makes any sense in light of those
4 arguments. Either you do it by subject or you don't let
5 them on at all, or you let them on. But we will let you
6 on for eight hours; if you don't raise it, that just
7 doesn't make any sense.

8 Now we are hearing things second and third
9 hand, but I haven't heard anything from LILCO
10 inconsistent with the report we heard from the county.
11 Now, grow up. Not you, but everybody involved.

12 All right, let's take a break until 11:10.

13 (A short recess was taken.)

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

2 MR. BORDENICK: Judge Brenner, I don't know
3 how you are going to proceed at this point, but I just
4 wanted to briefly state a matter to the Board which I
5 have discussed with the parties, and essentially it has
6 to do with when the Staff's QA/QC panel will start its
7 testimony. I don't know if you want to hear from
8 Applicant first on how long it is going to be with this
9 panel.

10 JUDGE BRENNER: Let's do it that way, and then
11 come back to you at the end. I guess I also should
12 state that maybe I should have more patience with what I
13 consider relatively unimportant matters and welcome them
14 as a pleasant diversion from the important matters. But
15 sometimes I think we should spend time on the important
16 things.

17 Anyhow, back to important things, we have read
18 the portion of LILCO's response to the Torrey Pines
19 report which alluded to its proposal on how to proceed.
20 That is fine with us, with the important caveat that
21 LILCO strongly believes it would not add a lot of time.
22 We do not know in the abstract how to divide up those
23 OQA matters that are likely to be affected by the
24 Staff's further review and those that are not. We could
25 make some guesses, but where the time frame involved is

1 not great, we are willing to go ahead with the thought
2 that the time wasted, if any, would be minimal and that
3 it may even assist having a better record as a basis for
4 that, for what's going on even as we sit here in terms
5 of the Staff's review at the site.

6 But why don't you tell us how much redirect
7 you have and how extensive you would expect to get
8 involved with the details of the procedures on redirect?

9 MR. ELLIS: At present, I think the redirect
10 that we have planned is roughly 3 to 4 hours. I will
11 begin by summarizing by going back and just setting the
12 stage briefly on the organizational point. I have some
13 additional information that I think the witnesses are
14 going to testify to on organization. We then will go to
15 the subject of FSAR and the manual and the procedures.
16 I do not intend to cover every procedure that was
17 covered on cross-examination. There are certain
18 procedures we think can be grouped or categories of
19 things that we think fall into certain groups that we
20 want to cover on redirect examination. And then we will
21 cover staffing briefly and the number of miscellaneous
22 matters. That generally is the outline of the redirect
23 examination.

24 JUDGE BRENNER: All right. As long as you had
25 essentially, if not completely, finished today, given

1 the amount of time we have left, we will allow you that
2 flexibility. It's just hard for us to call in advance.
3 Some of what you get on redirect may change if there are
4 changes later. But we will allow it, given that limited
5 time frame, and again with the thought that it might
6 help the bases for the record later, I don't know.

7 In terms of -- all right, after completion of
8 that and then follow-up questions and even though it
9 might have to be repeated to some extent, we will, of
10 course, allow follow-up on the redirect because the
11 outcome of the further inspection could be no change, in
12 which case we have the record.

13 After that, after we complete LILCO's
14 witnesses, we would go to Mr. Hubbard. We have looked
15 at his testimony again. There is very little, if any,
16 in there that is likely to be changed very much by the
17 further review. It is just not that specific. It talks
18 about his view of problems of implementing some of the
19 things which certainly touch on procedures and things
20 like that. But it is not the kind of detail that is
21 likely to be wasted time.

22 So we will allow cross-examination on his
23 direct testimony, if that is the way the parties want to
24 proceed without limitation. If we see that it starts to
25 get bogged down in the kind of detail that we think is

1 likely to be undone later, we will hear from any party
2 at that point or step in ourselves. The Staff is a
3 little different.

4 MR. ELLIS: I just wanted to mention we did
5 revise our redirect with the hope in mind that we could
6 streamline this procedure. I am not going to go through
7 the procedures one by one. I will, however, be talking
8 about some of the procedures that were talked about and
9 some of the matters that Mr. Dynner raised.

10 JUDGE BRENNER: I understand that. And as I
11 said, given the total time frame, we will allow you to
12 do it.

13 MR. LANPHER: Judge Brenner, if we are going
14 to proceed after this panel with the cross of Mr.
15 Hubbard on OQA as well as the other areas, I note in the
16 footnote of LILCO's pleading, they state that it does
17 not intend to conduct detailed cross-examination on all
18 of the specific OQA procedures. I would like to ask for
19 a listing of those they intend to cover so that Mr.
20 Hubbard then doesn't -- I mean he is one person, and if
21 there is some that he should take a look at, that would
22 be very helpful. In other words, which ones.

23 JUDGE BRENNER: Can you do that?

24 MR. ELLIS: Yes, sir, we can do that. I think
25 it is going to be hampered a bit because right now,

1 frankly, I don't know if he's familiar with any of them
2 from his direct testimony, and if he is not, I don't
3 intend to ask him any questions about the CQA
4 procedures. From his direct testimony, I don't think he
5 is.

6 JUDGE BRENNER: Well, you're not going to add
7 anything to what you have identified on the previous
8 identification. Mr. Lanpher's request is whether you
9 want to eliminate anything from that identificaton. I
10 don't offhand remember whether there are procedures
11 listed on that previous identification.

12 MR. LANPHER: I think the previous
13 identification was all of the manual sections and all of
14 the procedures utilized by Mr. Dynner in his
15 cross-examination. I don't have it in front of me, so
16 that may not be exactly accurate. But I think it was
17 roughly like that.

18 JUDGE BRENNER: Why don't, as we get closer to
19 it, which will be the end of the day, between the end of
20 the day today and tomorrow morning, why don't you see if
21 you can help him out a little bit beyond? You have
22 already met our requirement in identification, but I
23 think the County's request is reasonable, if you can
24 accommodate it.

25 The idea is, given the estimated time frames,

1 that if the Staffs review ends up with no change in
2 circumstances, then we will not have to come back to
3 this issue as far as testimony of LILCO and as far as
4 testimony of the County is concerned. I am not sure how
5 to proceed with the Staff. I think we would offer the
6 Staff the option, consistent with our remarks when Mr.
7 Starostecki was here and then shortly thereafter, of not
8 commenting on the implementation of the FSAR through the
9 manual and, in turn, the procedures until it has
10 completed its review, because as I understand it, that
11 certainly is the subject of its review. And then you
12 can supplement your panel with those people, some of
13 those people who participated in this further inspection.

14 MR. BORDENICK: Judge Brenner, tentatively,
15 that is what I had in mind. I don't know whether it's
16 premature for me to raise the point that I was going to
17 raise earlier.

18 JUDGE BRENNER: We can do it now.

19 MR. BORDENICK: In discussions with counsel
20 for the County and the Applicant yesterday and again
21 this morning, it appears to me that we are not going to
22 reach the Staff panel this week, and the County agrees
23 with that. LILCO felt that there was a chance one of
24 the five present panel members is Mr. Higgsins, who is
25 up at the site, and his presence at the site for this

1 week is quite important, I think, to everyone.

2 Two of the other panel members could be here,
3 but it seems to me that even if we reached them Friday,
4 it would only be for a couple of hours and it would be
5 kind of a waste of resources to bring two people down.
6 So I guess, in sum and substance, I am suggesting we not
7 start it with the Staff's panel until at least next
8 Tuesday. But if the Board feels otherwise, they will be
9 here.

10 JUDGE BRENNER: How much lead time do you
11 need? Can we adjust as late as Thursday morning?

12 MR. BORDENICK: I was going to suggest
13 tomorrow evening, which doesn't give us much time.

14 JUDGE BRENNER: Well, that is essentially the
15 same as Thursday morning. I mean I am saying yes, that
16 is fine.

17 MR. BORDENICK: Early Thursday morning, given
18 that the people involved, two of the people, two of the
19 panel are here in Bethesda, so of course that is no
20 problem.

21 JUDGE BRENNER: I am agreeing with you. We
22 will take a look at it Wednesday evening.

23 MR. BORDENICK: That is fine, except again I
24 would suggest that Mr. Higgins would be better left at
25 the site.

1 JUDGE BRENNER: Yes. I am sure we could work
2 around that, especially since we're only talking about a
3 very small part of a week, if anything. And in
4 addition, that is one reason we suggested changing the
5 date of that inspection, not the only reason, but it
6 occurred to us that next week you would be smack in the
7 middle of Mr. Higgins being here.

8 MR. BORDENICK: Yes, that is all worked out as
9 the Board suggested. One other related --

10 JUDGE BRENNER: Bring it back up Wednesday
11 evening in case we forget.

12 MR. BORDENICK: I will do that. One other
13 related aspect. I have had discussions with Mr. Lanpher
14 on this. One is, I think that the County is perfectly
15 amenable to doing this, and the Staff has total
16 flexibility in this regard. I would not like to have
17 members of the Staff panel who are not directly involved
18 in the question sitting there. They can all be off
19 doing other things. I think the parties can work it out
20 among themselves, and I just wanted to alert the Board
21 that that is the way I would propose to proceed.

22 Our panel is certainly not as large as the
23 LIICO panel was. But I would like to proceed along the
24 same lines that the County and the Applicant proceeded
25 with the Applicant's panel, and if the County will give

1 me at least a day's notice, I can possibly release
2 people for even a day to go do other things.

3 I guess the critical people are the
4 out-of-town people. The two Bethesda people are
5 certainly available on an hour's notice.

6 JUDGE BRENNER: To the extent you can work it
7 out with minimal disruption, that is fine. Don't
8 shuttle individuals back and forth so much that we keep
9 having to adjust, because I am concerned about
10 arbitrarily separating a related portion of the record
11 out. I think it worked out reasonably well with LIICO's
12 people, although there were some occasions when it would
13 have been nice to have somebody else here, and we did
14 have to artificially separate the record. So we will
15 do it where we can along the lines you suggest, provided
16 the County, as the primary cross-examiner, agrees. And
17 we are sensitive to its wishes very much. But don't
18 abuse it.

19 MR. BORDENICK: I don't intend to, Judge
20 Brenner. As I indicated, the Staff is totally
21 flexible. It is not a question. But we will work it
22 out with the County, and we will keep its concerns in
23 mind. I merely wanted to alert the Board ahead of time
24 that it was our contemplation to be doing something
25 similar to what was done with the Applicant's panel.

1 JUDGE BRENNER: Let me add one thing. One
2 good way to make sure you can accommodate the desires
3 not to waste their time and our desire to keep the
4 issues together is for the Staff witnesses to bring work
5 that they can do here, and then you can keep them close
6 in offices here or in Bethesda. And it should be easy
7 even for the out-of-towners to bring work.

8 There has always been this thought on the part
9 of the Staff witnesses, for some reason, or their
10 supervisors', that once they are out of the office they
11 can't be working. And I have never understood that.
12 And there is a lot they could do. So we could release
13 them here as long as they are physically close. And we
14 will be willing to do that as opposed to releasing
15 meaning they are going off to some distant place.

16 MR. BORDENICK: We will keep that in mind.

17 JUDGE BRENNER: Mr. Lanpher.

18 MR. LANPHER: Before we switch subjects, Mr.
19 Bordenick and I did talk about this yesterday, the five
20 Staff witnesses, Mr. Gilray and Mr. Rivenbark are
21 witnesses only on OQA. They don't participate in any of
22 the other testimony. So my view would be that to the
23 extent we are separating out the OQA --

24 JUDGE BRENNER: Wait a minute. Mr. Rivenbark
25 is involved with the ISEG organization, and remember OQA

1 is too broad a description of what we are going to
2 defer. We are only going to defer the implementation of
3 the details of the FSAR commitments through the manual
4 and the procedures.

5 MR. LANPHER: But to the extent that we are
6 going to proceed separately on Contentions 12, 14, and
7 15 versus Contention 13, 13 being OQA, a portion of that
8 will be heard now, a portion of that will be deferred.
9 While we are proceeding on -- 12, 14, and 15 -- I have
10 no objection to Messrs. Rivenbark and Gilray not being
11 here and vice versa.

12 But beyond that, I think Mr. Gallow, Mr.
13 Higgins, and Mr. Narrow will need to be present on
14 Contentions 12, 14, and 15 because they are all
15 interrelated and they all participate. But we will do
16 our best to accommodate.

17 MR. BORDENICK: Well, we can work it out. I
18 don't think we need to get into the details this morning.

19 JUDGE BRENNER: All right, why don't you try
20 to do that. Try to separate it out. Don't try to
21 separate it out too narrowly so that we have to
22 artificially wait for somebody else to have the answer.

23 MR. BORDENICK: We won't do that. And again I
24 would point out that Mr. Rivenbark and Mr. Gilray are on
25 call within the hour. They are right down the street.

1 JUDGE BRENNER: They are going to be the
2 easier parties. Based upon the County's estimat, they
3 are going to spend, they propose to spend more time on
4 the nonoperating QA with the out-of-town people.
5 Whether they spend the full time they contemplated will
6 be a function of their own adjustment and our
7 direction. We will see how things go.

8 MR. BORDENICK: The remaining, somewhat
9 related, item is I have had several discussions over the
10 last several weeks with Mr. Lanpher as regards documents
11 that he proposes to use with respect to
12 cross-examination of Staff's panel. And he has given me
13 a listing in the past. There are several items that
14 were quite broad, and he has acknowledged they are
15 broad. I recognize that he has been extremely busy in
16 connection with the Applicant's panel and
17 cross-examination and so forth.

18 I just simply wanted to indicate for the
19 record, though, that the Staff is generally familiar
20 with the documents he has indicated, but the more
21 specificity we can get as to what he wants to use and
22 how he wants to use it, the faster the proceeding is
23 going to go. So I would just simply state that as a
24 summary of what I think is where we are vis-a-vis our
25 discussions between Mr. Lanpher and I.

1 JUDGE BRENNER: Why don't you talk to each
2 other very quickly to make sure that you are
3 communicating the Staff's view of which documents are
4 broad and where greater specificity would be most highly
5 desired. If you haven't already done that.

6 MR. BORDENICK: We have done that, and Mr.
7 Lanpher has promised me more in that regard. And I have
8 indicated that I am willing to have the Staff be looking
9 at documents the day before they have to testify. I
10 just don't want to be in a position where they are
11 referred to a document and they have to take the Board's
12 time and everybody's else's time on the stand looking at
13 it because they didn't get advance notice that he was
14 going to make inquiry with respect to that document.

15 JUDGE BRENNER: Can you give them that better
16 specification this week?

17 MR. LANPHER: That is what I told Mr.
18 Bordenick, that I hope to be able to do, and I intend to.

19 JUDGE BRENNER: Even if you don't have it all,
20 just as we have done when the shoe was on the other
21 foot, the County's witnesses, give them what you have as
22 soon as you have it so they can make use of it as much
23 this week as possible in reviewing those documents, and
24 then finalize it certainly by next Monday with the idea
25 that what you give them later would not be the first

1 item you are going to ask as they take the stand.

2 MR. LANPHER: Judge Brenner, one last
3 clarification. I understand that the detailed
4 implementation aspects of OQA with respect to the Staff
5 are being deferred, the rest of the Staff testimony on
6 OQA will not be deferred. Correct?

7 JUDGE BRENNER: That is correct. And in fact,
8 if you look at their direct testimony, it is my
9 recollection -- and I might be wrong; it's been a while
10 since I read it -- there is very little of that detail
11 in the testimony.

12 MR. LANPHER: Fine. With that
13 understanding. At an earlier time you had requested the
14 County to proceed with OQA prior to Contentions 12, 14,
15 and 15. Does that continue to be the Board's desire?

16 JUDGE BRENNER: I would still like to do
17 that. The reason is we want to have a better control of
18 the time frame. Very candidly, as I think we stated
19 before, we were surprised by your time estimate of 8
20 hearing days for non-OQA cross-examination.

21 Now, you may show us that, yes, indeed, you
22 need all of those days. But we want to be in a position
23 to judge it, and we thought OQA would be less
24 controversial in terms of the time taken, given the time
25 estimates of 2 days. And it should come in about those

1 2 days, since, if anything, there will be a little less,
2 recognizing you are going to get another opportunity for
3 the details of the procedures with the Staff witnesses
4 after they have prepared their assessment as a result of
5 their inspection.

6 So come back to the further OQA on that
7 aspect. We would still like to proceed that way. If
8 there is a big problem because Mr. Dynner wants to be up
9 at the site for part of this inspection, we would be
10 willing to adjust. But if you don't raise any problems
11 with us, we would rather proceed that way.

12 Did you plan to be up at the site for part of
13 that inspection, Mr. Dynner?

14 MR. DYNNER: I really can't make the judgment
15 now until I get a report from our consultants about
16 whether it would be useful for me to do that. I did
17 expect to go up for the final exit meeting on the 15th.

18 JUDGE BRENNER: If you want to adjust our
19 proposed order so that you can be at the site, we would
20 be willing to do that. You just let us know.

21 MR. BORDENICK: Judge Brenner, in just talking
22 with Mr. Gilray, it is his feeling as one of the
23 witnesses that it would probably be more efficient,
24 although he is responsible for the SER input, he thinks
25 it would be more efficient to do it as a package rather

1 than separate them out. That is, what I am suggesting
2 is essentially what the County is suggesting -- I am
3 agreeing with the County -- is to defer it. But I am
4 not urging that. I am just giving Mr. Gilray's views.

5 JUDGE BRENNER: Maybe I don't have a good
6 handle on what is still involved in the Staff's
7 inspection at the site. What parts of the OQA issues
8 that we have had cross-examination on here so far beyond
9 the procedures is involved there? That is, are they
10 looking at the ISEG organizations and that type of thing?

11 MR. BORDENICK: Yes. They are looking at a
12 broad range of procedures up there. It is not limited
13 to, if one can use the term, OQA.

14 MR. DYNNER: From our point of view, Judge
15 Brenner, we have no preference. We could do it
16 whichever seems to be the most efficient and convenient
17 way for all parties.

18 MR. BORDENICK: Again, I don't think we have a
19 preference either, but just passing on Mr. Gilray's
20 comment to me right here that he thinks it would be more
21 efficient to do it as a package.

22 JUDGE BRENNER: Well, I am trying to find out
23 why, and you can let him talk if you want rather than do
24 it through you. My criterion is that which is likely to
25 be changed by the inspection, we defer. If it's not

1 likely to be changed by the inspection, I would rather
2 go ahead and get at least some of the OQA now.

3 MR. BORDENICK: I don't think it would be
4 possible to say what would or wouldn't be changed.

5 JUDGE BRENNER: Well, within the scope of the
6 inspection would be good enough. I am going to take a
7 look at Contention 13. Maybe we all should do that.

8 (Pause.)

9 JUDGE BRENNER: For example, is the adequate
10 staffing of operating QA/QC personnel going to be a
11 subject or is the Staff review on that complete?

12 MR. DYNNER: Judge Brenner, I may be able to
13 be of some assistance.

14 JUDGE BRENNER: Let me get their views.

15 MR. BORDENICK: I think Mr. Dynner was going
16 to say he was present at the entrance interview
17 yesterday, which I wasn't. So maybe he can shed more
18 light on it than I can at this point.

19 JUDGE BRENNER: Mr. Gilray should know what
20 the scope of what they're going to do is going to be.
21 Is that right?

22 MR. BORDENICK: He does know the scope, and
23 yes, they are going to look at that.

24 JUDGE BRENNER: What about 13(c), assuring
25 that replacement material and parts will be equivalent

1 to the original equipment? And that is a summary; there
2 are other parts of it.

3 MR. BORDENICK: They will be looking the
4 procedural aspects of it.

5 JUDGE BRENNER: Well, that is certainly part
6 of it. (b) is affected by the procedures.

7 MR. BORDENICK: I think you can probably
8 generally say it is all affected by procedures. And it
9 might be a little difficult to separate it out in the
10 abstract. On the other hand, we could proceed with the
11 Staff witnesses, and it depends upon the kind of answers
12 you get. But I think, as Mr. Gilray has suggested, it
13 is probably going to be more efficient to do it at one
14 time.

15 JUDGE BRENNER: All right, you have convinced
16 us. We will separate out the Staff's part of OQA. We
17 think the party putting it together is in the best
18 position to judge. And I guess we also didn't fully
19 appreciate what the Staff is doing vis-a-vis the scope
20 of the full contention. So we will wait until after the
21 Staff is ready with its supplemented information in the
22 formal report of its inspection and its supplemented
23 witness panel to do OQA.

24 So we will defer OQA. However, we are still
25 going to let -- and we are trying to compromise by

1 accommodating all parties -- we are still going to let
2 LILCO include what it wishes to include in the redirect,
3 given the short length of time. And also given Mr.
4 Hubbard's testimony to date, we will allow inquiry into
5 that direct testimony because it doesn't quite go into
6 that great a detail on these matters. We recognize that
7 some of it could change. It is just impossible to draw
8 the line very clearly, and we are going to allow the
9 County a chance to supplement its testimony after the
10 report also, if it wishes.

11 So the greatest danger for redundancy I think
12 is going to be with Mr. Hubbard's testimony, and we will
13 take that chance provided it doesn't go on too long.
14 But we will separate out the Staff's portion, and that
15 will free Mr. Dynner's time up, too, to some extent.

16 Are we prejudicing any party to the extent we
17 are not realizing?

18 (No response.)

19 JUDGE BRENNER: Hearing nothing, we want to
20 move on quickly before somebody thinks of something.

21 (Laughter.)

22 JUDGE BRENNER: All right, let's -- well, it's
23 quarter to 12:00. Why don't we get in at least half an
24 hour's worth of redirect.

25 MR. ELLIS: Judge Brenner, as I indicated, the

1 first area that I intended to complete is the area of
2 organization that we had started in the 20 or so minutes
3 that we pursued redirect on Friday. I have given the
4 Board several documents. One which the Board need not
5 be concerned with because it was LILCO Exhibit 38, a
6 portion of it already, that was the WASS-1284. But I
7 have given the Board a copy of -- and the parties -- a
8 copy of ANSI N18.7-1976, the cover page, and pages 4 and
9 5. And I apologize for the quality of this copy. It is
10 the best that we could find. We will supplement the
11 record with a better copy as soon as we are able to do
12 so.

13 That, if we could have, I will be using that
14 very briefly. And also, the transcript for OQA
15 testimony is what we will be using during this few
16 minutes prior to lunch.

17 My last number, I believe, is 38, and I think
18 these would be 39 and 40.

19 JUDGE BRENNER: Let's go off the record.

20 (Discussion off the record.)

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

22 We had a discussion off the record, and it may
23 not be necessary to put the excerpts from the ANSI
24 standard in as an exhibit if its use is brief enough.
25 So we will hold off on that for now and decide later.

1 All right, we are up to LILCO Exhibit 39. We
2 can mark the one-page entitled "Transcript Corrections
3 for OQA Testimony" as LILCO Exhibit 39. And if you ask
4 the right questions and get the right answers, we can
5 put it into evidence. And I will let you do that now.

6 (The document referred to
7 was marked LILCO Exhibit No.
8 39 for identification.)

9 Whereupon,

10 JOSEPH M. KELLY

11 ARTHUR R. MULLER

12 and

13 EDWARD J. YOUNGLING

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

17 REDIRECT EXAMINATION -- Resumed

18 BY MR. ELLIS:

19 Q Mr. Kelly, do you have before you what has
20 been marked LILCO Exhibit 39?

21 A (WITNESS KELLY) Is that the transcript
22 corrections?

23 Q Yes, sir.

24 A (WITNESS KELLY) Yes, sir, I do.

25 Q And what is LILCO Exhibit Number 39?

1 A (WITNESS KELLY) "Transcript Corrections to
2 the OQA Testimony."

3 Q Does that list the page numbers and the
4 correctinons?

5 A (WITNESS KELLY) Yes, it does.

6 Q And are these corrections that you made or
7 were made under your direction and supervision?

8 A (WITNESS KELLY) Yes, they are.

9 MR. ELLIS: I would move this into evidence,
10 Judge.

11 JUDGE BRENNER: All right, we will admit it
12 into evidence and bind it in to the record as if read.

13 (The document previously
14 marked LILCO Exhibit No. 39
15 for identification was
16 received in evidence.)

17 (The document referred to, LILCO Exhibit No.
18 39, follows:)

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Transcript Corrections for OQA Testimony

- Tr. 12,651, line 15: change "1977" to "1976"
- Tr. 12,671, line 15: change "meet" to "need"
- Tr. 12,707, line 21: change "safety-related" to "non-safety related"
- Tr. 12,813, line 13: change "17.2.4" to "17.2-24"
- Tr. 12,815, line 5: change "Appendix C" to "Appendix B"
- Tr. 12,830, line 5: change "OQA" to "QA"
- Tr. 12,830, line 6: change "Department" to "Section"
- Tr. 12,894, line 24: change "wouldn't" to "would"
- Tr. 12,948, line 2: change "SC1201301" to "SP 12.013.01"
- Tr. 12,956, line 11: change "of" to "not"
- Tr. 12,957, line 24: change "report" to "support"
- Tr. 12,958, line 12: change "local" to "LILCO"
- Tr. 12,137, line 19: change "9.5.1" to "5.9.1"
- Tr. 13,139, line 7: change "prolong" to "perform"

1 BY MR. ELLIS: (Resuming)

2 Q Mr. Muller, when we recessed on Friday a week
3 ago, you were testifying on the subject of NRC guidance
4 and industry guidance on OQA organizations. And I
5 believe you testified that the NRC guidance was
6 WASH-1284 and ANSI N18.7-1976. Do you recall that
7 testimony?

8 A (WITNESS MULLER) Yes.

9 Q And with respect to ANSI N18.7-1976, I believe
10 you testified that that standard approved or recommended
11 the organizational structure that LILCO uses; is that
12 correct?

13 A (WITNESS MULLER) Yes.

14 Q Could you read the sentence or sentences
15 giving the page number in the ANSI standard N18.7-1976,
16 on which you were basing your answer?

17 A (WITNESS MULLER) Yes. It is paragraph 3.4.2
18 on page 4. The second column, the last paragraph,
19 middle of the paragraph, depending upon the
20 organizational structure, the individual or
21 organizational unit may report functionally on site to
22 plant management or an off-site organization.

23 Q Mr. Muller, read that once again, if you
24 would, please. I think there were some prepositions
25 that got out of place.

1 A (WITNESS MULLER) Depending upon the
2 organizational structure, the individual or
3 organizational unit may report functionally to on-site
4 plant management or an off-site organization.

5 Q All right. Continue, please.

6 A (WITNESS MULLER) Reporting to on-site plant
7 management is preferable since such an arrangement
8 usually results in improved communications in
9 identifying problems and initiating corrective action.

10 Q Now, those are the sentences to which you were
11 referring in connection with your testimony on NRC
12 guidance?

13 A (WITNESS MULLER) Yes, sir.

14 Q And is ANSI N18.7-1976 endorsed by a reg guide?

15 A (WITNESS MULLER) Yes, it is Reg Guide 1.33,
16 Revision 2.

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1 Q All right. Then I believe you testified also
2 in connection with WASH-1284 and you referred to LILCO
3 Exhibit 38. Do you have that before you? Table 2, or
4 Figure 2, I beg your pardon.

5 A (WITNESS MULLER) Yes, I do.

6 Q And is Figure 2 one of the permissible
7 organizational structures under the WASH document?

8 A (WITNESS MULLER) Yes, it is, and that is the
9 organization that LILCO has.

10 MR. ELLIS: Judge Brenner, I think in light of
11 his reading from the ANSI standard there will be no need
12 to have that included.

13 JUDGE CARPENTER: May I interrupt for just a
14 second?

15 MR. ELLIS: Yes, sir.

16 JUDGE CARPENTER: As I read the copy of ANSI
17 N18.7-1976 that you provided the Board this morning, at
18 the end of the sentence which reads, "Depending on the
19 organizational structure, the individual organizational
20 unit may report functionally to on-site plant management
21 or an off-site organization," as I read it, it goes on
22 to say "(See also 3.2)"

23 MR. ELLIS: Yes

24 JUDGE CARPENTER: Is that Correct?

25 WITNESS MULLER: Yes, sir.

1 JUDGE CARPENTER: I would like to ask whether
2 you felt it wasn't appropriate to put that portion of
3 the document into the record when you read that sentence
4 and the following sentence? Do you feel that that was --

5 WITNESS MULLER: I don't feel that is
6 appropriate. If I should have read it in, I'm sorry.

7 JUDGE CARPENTER: Well, I would like your help
8 in understanding why you don't think it is appropriate.
9 I don't have 3.2 before me, so I need help.

10 WITNESS MULLER: Paragraph 3.2 is entitled
11 "Assignment of Authority and Responsibility," and that
12 appears on page 3. And it notes that the organizational
13 structure and the responsibility assignments shall be
14 such that -- it lists the responsibility assignments.
15 Would you like me to read some of it, Judge Carpenter?

16 JUDGE BRENNER: I tell you, why don't you give
17 us a copy of 3.2 and we will take a look at it. Not
18 right now. Over the lunch break.

19 JUDGE CARPENTER: Thank you.

20 MR. ELLIS: I'm sorry, Judge Carpenter, I
21 should have caught that when that parenthetical was
22 omitted.

23 JUDGE CARPENTER: Thank you for allowing me to
24 interrupt.

25 BY MR. ELLIS (Resuming):

1 Q All right, Mr. Muller, you've told us about
2 Reg Guide 1.33, Revision 2, which endorses the ANSI
3 standard N18.7-1976, and the WASH-1284 document. Are
4 you aware of any other NRC guidance on the subject of
5 OQA organizational reporting structure?

6 A (WITNESS MULLER) Yes, there is a draft
7 revision to Reg Guide 1.33 and there is also NUREG-0731,
8 which neither prohibit nor recommend the LILCO
9 organizational structure. Both these documents, or at
10 least the revision to the reg guide, note that the staff
11 will continue to evaluate the organizational structure
12 as far as the quality assurance group reporting onsite
13 or offsite, but it does not prohibit that organizational
14 line.

15 Q Mr. Muller, you mentioned NUREG-0731. Is that
16 published or is that in draft form?

17 A (WITNESS MULLER) That is a draft.

18 Q And you mentioned Reg Guide 1.33, Revision 3.
19 Is that published or in draft form?

20 A (WITNESS MULLER) That has not been published
21 or endorsed.

22 Q As of this time then, what are the published
23 NRC guidance documents relating to this particular
24 subject; namely, the reporting structure for OQA?

25 A (WITNESS MULLER) That would be the WASH

1 document 1284 and Reg Guide 1.33, Revision 2 that
2 endorses ANSI N18.7-1976.

3 Q As of this time then in your opinion, is the
4 OQA reporting structure in accordance with published NRC
5 guidance?

6 A (WITNESS MULLER) Yes, we are.

7 Q Has the NRC staff reviewed or approved LILCO's
8 organizational structure?

9 A (WITNESS MULLER) Yes, they have. And that has
10 been noted in the SER, page 17.6, paragraph 1, or
11 paragraph 17.4. Paragraph 1, which reads, "The quality
12 assurance organization of Long Island Lighting Company
13 provides independence for cost and schedule (when
14 opposed to safety consideration) authority to
15 effectively carry out the operations and quality
16 assurance program, and a sense of management necessary
17 to perform the quality assurance functions."

18 Q Mr. Muller, in your testimony a week ago
19 Friday at pages -- for the convenience of the Board and
20 the parties, I think it was at pages 14,685 through 89
21 -- you referred to some advantages and important
22 features of having OQA report to the plant manager in
23 the structure as LILCO has that. How long has the OQA
24 program been in effect at Shoreham?

25 A (WITNESS MULLER) Since approximately 1976.

1 Q And it has been in effect in connection with
2 what activities?

3 A (WITNESS MULLER) The pre-operational test
4 phase or the start-up phases, as we know it.

5 Q Now, those advantages that you testified to
6 were those advantages you've actually found to exist in
7 the operations in your experience of the operation of
8 the OQA Department in this pre-fuel load phase?

9 A (WITNESS MULLER) Yes, as far as being a member
10 of the plant staff. Once again, I stated on the 19th
11 that we were a part of the plant staff; we were not an
12 outside organization. And it is an intangible item in
13 that we are presented as members of the plant staff. We
14 are not outsiders. And it instills the quality as part
15 of the plant staff, not just an outside activity that
16 has to be met.

17 Q Instilled in whom?

18 A (WITNESS MULLER) In the other members of the
19 plant staff.

20 Q You also mentioned communication. Have you
21 found that to be advantageous in your position?

22 A (WITNESS MULLER) Well, yes. As a member of
23 the plant staff I have a direct line to the plant
24 manager; I do report to the plant manager, and I have
25 direct communications with him.

1 Q The material you read from the ANSI standard
2 indicated that "reporting to on-site plant management is
3 preferable, since such an arrangement usually results in
4 improved communications in identifying problems and
5 initiating corrective action." Has that been your
6 experience?

7 A (WITNESS MULLER) Yes, it has.

8 JUDGE BRENNER: Excuse me. What did you mean,
9 you had a direct line to the plant manager? Do you mean
10 organizationally?

11 WITNESS MULLER: Organizationally, and the
12 fact that I report to him. I can walk in on him and let
13 him know that I have a problem. I don't have to go
14 through anyone else. To walk into the plant manager.
15 Judge Brenner, what I meant by that is I don't have to
16 go to one of the chief engineers to talk to the plant
17 manager and go directly to the plant manager. I don't
18 report to a chief engineer. I don't report to a
19 maintenance engineer or an I&C engineer; I report
20 directly to the plant manager. I don't need anyone
21 else's okay to see the plant manager.

22 JUDGE BRENNER: Well, since you added it, I
23 will ask now what I was going to wait and ask later.
24 Why should we infer that if you did not report to the
25 on-site plant management, you would then have to go

1 through all of these intermediate people before you
2 could simply tell the plant manager he's got a problem
3 or he's doing something wrong?

4 WITNESS MULLER: I could, but I would first go
5 to my supervisor and let him know what I intend to do.
6 If I couldn't get in touch with my supervisor I would go
7 to the plant manager, but the plant manager is my
8 supervisor and he is responsible for implementing the QA
9 program at the plant. And once again, if I have a
10 problem with him, I go right to the QA manager.

11 JUDGE BRENNER: I guess I still don't
12 understand why you postulate that you would be dependent
13 on going through some supervisor by any off-site
14 organizational structure of your organization.

15 WITNESS MULLER: That would be a professional
16 courtesy. Any manager doesn't like to know what is
17 going on secondhand; he likes to know from his own
18 people what is going on.

19 JUDGE BRENNER: Why would it not be the case
20 that the only manager you would have would be your
21 relation -- the same as your present relationship to the
22 QA manager, except that instead of having to report
23 onsite through the plant manager, you could tell him
24 what the situation is anytime you want to?

25 WITNESS MULLER: If I understand your

1 question, we could have us reporting offsite and I could
2 go to the plant manager through one of our procedures.
3 That would say that I have direct access to the plant
4 manager.

5 JUDGE BRENNER: Exactly.

6 WITNESS MULLER: This is an advantage that I
7 feel I have.

8 JUDGE BRENNER: Yes, but couldn't you have all
9 the same advantages without the potential disadvantage
10 of having to report through the plant manager?

11 WITNESS MULLER: On paper, yes, I could. I
12 just don't feel that it is the same.

13 JUDGE BRENNER: I understand you don't feel it
14 is the same, and I'm trying to explore the validity of
15 your differences and I don't understand the lack of a
16 direct line difference. You seem to be postulating all
17 or nothing as soon as you are offsite and I don't
18 understand why.

19 WITNESS MULLER: No, that is not true at all
20 because I did state that through procedures I could have
21 a direct line to the plant manager. It is just that it
22 isn't the same reporting to a QA manager and reporting
23 to the plant manager.

24 WITNESS KELLY: Judge Brenner, if I could add
25 to that possibly, it is a multi-faceted arrangement. I

1 think what Mr. Muller was saying was that as far as
2 being part of the plant staff, he is part of that group
3 of individuals and has a free flow of communication to
4 show that he reports to a sufficient high level.

5 The point of reporting directly to the plant
6 manager as opposed to the maintenance engineer, the I&C
7 engineers and other section heads to report to a chief
8 engineer before going to the plant manager, that he goes
9 directly, I think that was the point that he was trying
10 to get across.

11 JUDGE BRENNER: Well, I understood and that is
12 why I asked the question I asked. Aren't there
13 advantages from a QA point of view -- and I will ask
14 you, too, Mr. Kelly, since you are heavily involved in
15 QA and QC work -- not to be part of the organization, so
16 that you are not part of the normal business of what is
17 going on and you are an outside entity with independent
18 authority so you don't have to feel as if you are part
19 of the team effort. That is, it is easier for you to
20 dissent or point out problems?

21 WITNESS KELLY: I can speak for the particular
22 case of the Long Island Lighting Company. The fact that
23 we have audited the station OQA organization for the
24 past, I guess, six years and we have never seen that
25 reporting responsibility to be a problem. We have seen,

1 in fact, just the opposite; that the teamwork that Mr.
2 Muller was describing is there. We instill in the
3 people QA and QC isn't just something that a group of
4 14, 16 or 20 people do; it is the concern of the whole
5 organization, especially the plant manager. He has got
6 that responsibility in that plant.

7 JUDGE BRENNER: I didn't ask my question very
8 well. Let me try to rephrase it. If you take Mr.
9 Muller's reasoning and apply it to the situation of your
10 organization or construction QA organization, wouldn't
11 those QA people report to Mr. Museler during the period
12 of construction so that they would have the feeling of
13 direct access and camaraderie and being part of Mr.
14 Museler's team, just the same as Mr. Muller has cited
15 the advantages of being on the plant manager's staff?

16 WITNESS KELLY: As far as the actual situation
17 that reporting could occur and it would have no
18 degradation whatsoever to the program as far as I'm
19 concerned.

20 JUDGE BRENNER: But it is inherent in every
21 construction QA/QC organization I've seen in nuclear
22 power since the early seventies at least that those
23 QA/QC organizations decidedly do not report to the
24 construction manager's organization so they can have the
25 independence. And my question turned around by the same

1 question, I guess, to you, Mr. Muller, is why shouldn't
2 that type of organization be the preferred one in
3 operating QA, just as it is for construction QA? What
4 are the differences?

5 WITNESS KELLY: I think I could add a little
6 to that. The construction is a far more complex
7 situation from an organizational standpoint. You
8 typically have various situations where you have an
9 architect engineering firm for a QC; you have a utility
10 doing QA, you may have some situations where some
11 utility is doing their own construction management; in
12 other cases it is a different firm than the firm that is
13 doing the QC work.

14 There are far more vast organizational
15 complexities to the situation as opposed to a situation
16 where you're talking about strictly Long Island Lighting
17 employees, and a smaller number of employees when
18 compared to the complexity of the construction project.

19 JUDGE BRENNER: Mr. Muller, did you have
20 anything you wanted to say? I would like to get your
21 views on that.

22 WITNESS MULLER: As far as the independence is
23 concerned, I think the ANSI standards realize that the
24 plant manager is responsible for the operations of the
25 plant.

1 JUDGE BRENNER: Well, I know, and the
2 construction manager is responsible for constructing the
3 plant correctly. But I'm trying to understand why the
4 distinction between the construction QA organizational
5 structure and what you claim is the preferred
6 operational QA organizational structure.

7 WITNESS MULLER: I think this is where we get
8 into the license and responsibility for the operation of
9 the plant. Maybe you could carry it over to the
10 construction side, too, but the plant manager is
11 responsible for the operations of the plant. If he
12 doesn't have his license or it is taken away, the plant
13 doesn't operate. He doesn't want that condition. He
14 wants a safe, reliable plant, and he wants a plant that
15 has a quality program.

16 He does have pressures, he does have cost
17 considerations, but he is significantly free from the
18 cost considerations. You can't say that no one is free
19 from cost and scheduling; I'm not saying that. But the
20 plant manager is responsible for the long-term operation
21 of the plant; he is not responsible for the day-to-day
22 operations. And the licensing consideration is a very
23 big part of his concerns. And if his plant violates the
24 tech specs or the reg guides or any other regulation, he
25 is in trouble.

1 JUDGE BRENNER: Wouldn't you have more muscle
2 in telling him he's got a problem if you didn't report
3 to him?

4 WITNESS MULLER: I don't think so because --
5 well, once again, I can go to the QA Department manager
6 and force the issue that way. I don't think that is the
7 case with the plant manager.

8 JUDGE BRENNER: The theory on the construction
9 QA I believe -- and you or Mr. Kelly can correct me if
10 I'm wrong -- is to give the QA organization, especially
11 the on-site QA/QC people, more freedom and muscle, if I
12 can use that term, by not reporting to the construction
13 organization. And I don't fully understand why the same
14 theory wouldn't carry over. And the answer on the
15 construction QA side could have been that they could
16 always go to the QA manager, also.

17 WITNESS MULLER: In our case, we have the QA
18 Department looking over our shoulder, also. That is one
19 of the considerations. I am not just looked at by the
20 NRC. The QA Department comes in and looks at me, NRB
21 comes in and looks at me, and any adverse findings from
22 either -- well, any of the organizations that look at my
23 program would reflect upon my administration of the
24 program, and the plant manager's administration of the
25 program through his line of authority, through me.



1 JUDGE BRENNER: Let me ask you a hypothetical
2 question. You, either through your people on your staff
3 or yourself, become aware of a situation in which the
4 plant as operating is in violation of some specification
5 in your view, and under the requirements of the license
6 would have to be shut down. In that circumstance as it
7 exists then, you tell the plant manager that, he
8 disagrees with you, he says he doesn't have to shut the
9 plant down and there's no one else available in the
10 short amount of time necessary. Whose view prevails?
11 Yours or the plant manager's?

12 WITNESS MULLER: I could issue a stop-work
13 order which would include shutdown of the plant.

14 JUDGE BRENNER: I'm not talking about stop
15 work or stop maintenance work. I'm talking about
16 shutting the plant down.

17 WITNESS MULLER: That is what I mean.

18 JUDGE BRENNER: And your authority to issue
19 stop-work orders encompasses ordering the plant to be
20 shut down over the plant manager's views?

21 WITNESS MULLER: That is correct. I would
22 have to take that responsibility. It is not taken
23 lightly at all. It is a very serious consideration, and
24 the licensing or the licensed operators are also
25 responsible for maintaining the plant within the tech



1 spec requirements. They have big concerns in that area,
2 also.

3 JUDGE BRENNER: Yes, I know, but I'm
4 postulating on purpose an area where the plant manager
5 disagrees with you that the plant is in violation.
6 We're not postulating that you've got a plant manager
7 who is purposefully violating the law. But on your own,
8 you can order the plant to be shut down?

9 WITNESS MULLER: Yes, I can, and that is
10 reflected in the policy statement in the front of the QA
11 Manual. The program applies to all.

12 JUDGE BRENNER: Are the operators informed
13 that in the case of contradictory instructions from the
14 plant manager and you that they are to follow your
15 instruction to shut the plant down?

16 (Panel of witnesses conferring.)

17 WITNESS MULLER: I'm not sure that every one
18 of the operators would be aware of that. I would go
19 through the operating engineer and the watch engineer
20 and let them know the situation and then I would take
21 action. Per my procedures, I'm required to notify upper
22 management that I am doing something like that.

23 JUDGE BRENNER: Before you do it?

24 WITNESS MULLER: If I have to do it
25 immediately, I would do it and then notify.



1 JUDGE BRENNER: Could you tell me which
2 procedure it is that sets all this forth?

3 WITNESS MULLER: Well, it appears in the QA
4 Manual and it's in QAPS 2. -- no, let me get that
5 straight.

6 JUDGE BRENNER: All right. Why don't you take
7 a look at it over the lunch break and give me the
8 specific references in the manual and the procedures,
9 and if we don't already have the procedures before us,
10 if you can, give us the excerpt. That is, your
11 authority to shut the plant down on your own in exigent
12 circumstances of the type we have been postulating. And
13 I understand that normally you would inform other people
14 where time allowed and so on.

15 WITNESS MULLER: Judge Brenner, it doesn't
16 specifically say shut the plant down; it says stop
17 work. That is the interpretation that we are working
18 toward.

19 JUDGE BRENNER: Stop work has a different
20 meaning than shut the plant down, in nuclear parlance,
21 wouldn't you agree?

22 WITNESS MULLER: I don't agree.

23 JUDGE BRENNER: All right. Why don't you show
24 us the procedure and then we will take any further
25 clarification you think you want to give.



1 MR. ELLIS: If I could have a moment, Judge, I
2 think a certain amount of redirect has been covered.

3 JUDGE BRENNER: All right. It might be a good
4 time to break now, anyway. Now that I glance at the
5 time. I apologize; I didn't mean to take that much
6 time. I was going to come back to it after your
7 redirect and then --

8 MR. ELLIS: Well, it was part of the
9 redirect. I'm glad you did. Maybe during the lunch
10 hour we could further flesh this out.

11 JUDGE BRENNER: I'm striving to understand --
12 and I'm telling you, Mr. Ellis, so you might help me --
13 why one organization that is strongly preferred in the
14 construction site does not carry over by analogy to the
15 operating side. Obviously, these are very
16 well-considered organizations set up by ANSI and LILCO
17 and so on, but I don't have reasons in this record that
18 I am fully appreciating, just speaking personally and
19 not for the entire Board, as to why the same analogies
20 don't carry over.

21 And it seems to me many of the reasons we're
22 hearing could have, in the past, been applied to justify
23 the on-site type reporting construction for QA and QC,
24 and it was found that as a lot of things in life, there
25 were competing interests. And the interest that should



1 have been paramount was the independent reporting
2 structure off site.

3 So I'm trying to focus on the differences.
4 And every time I hear an explanation for the differences
5 I try to apply it as to why that same reason wouldn't
6 apply to construction QA, and I'm sure there are some
7 salient differences, in LILCO's mind at least, that I'm
8 obviously not fully appreciating. And I'm going to be
9 asking the staff the same questions when we get its
10 witnesses. And maybe in its inspection now the
11 organization will disclose something either unique or
12 not unique about LILCO which affects this situation. I
13 don't know.

14 And I would also like to know if there is a
15 procedure which says stop work, whether or not Mr.
16 Muller's interpretation of what stop work means is
17 everyone else's interpretation at LILCO.

18 All right, let's come back at 1:45.

19 (Whereupon, at 12:15 p.m., the hearing in the
20 above-entitled matter was recessed for lunch, to
21 reconvene at 1:45 p.m. the same day.)

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AFTERNOON SESSION1
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(1:50 p.m.)

JUDGE BRENNER: All right, we are back on the record. We have another miscellaneous matter related to QA/QC which is in the same vein as the matters in the inspection report this morning that we said we wanted to hear about.

We received a copy of another inspection report; not very rapidly, I might add. The report is inspection number 50-322/82-26. The cover letter transmitting that report from the staff to LILCO is dated October 29, 1982. We received a copy from staff counsel dated November 29, 1982. That is a whole month that went by.

It contains one matter pertinent to this contention in the litigation, and the item was a subject of a notice of violation issued by the staff, and the staff has categorized it as a severity level V violation. A description of the item appears on page 8 and 9 of the inspection report. It involves the fact that drawings were not updated, contrary to E&DCRs which had been issued. And -- well, the description is in there. While the description is in there, it talks about how this preliminary report by the inspector, the revisions to the drawings were issued incorrectly,

1 indicating that the E&DCRs had been incorporated when in
2 fact they had not been.

3 The log also incorrectly indicated the
4 drawings had been updated, and of course, through the
5 testimony we are familiar with these procedures by now
6 and our question is similar to the ones we asked: what
7 happened, and what does that mean in terms of the way
8 this program is being implemented in the context of the
9 testimony that we have heard.

10 Mr. Bordenick, you might want to tell the
11 region to plug reports in more quickly to you so you can
12 plug us in more quickly.

13 MR. BORDENICK: Judge Brenner, I was going to
14 say I had a couple of comments with regard to your
15 statement on the timing aspects, and this one was that
16 this may well have been -- although I don't know that
17 this is the case, but it may have been the one where
18 LILCO asked for an extension of time on the proprietary
19 review.

20 Secondly, I don't know whether the Board has
21 noticed, but up until fairly recently, the inspection
22 reports were sent out by me when I received them, and I
23 was ostensibly receiving them in the normal course of
24 business. I finally prevailed upon the region to send
25 them directly to the Board. This is one that I think

1 came in after the time that I prevailed on them to send
2 them directly to the Board. From here on in, the Board
3 should be receiving them directly from the region, and
4 they are going out as promptly as possible.

5 JUDGE BRENNER: Are they going to wait for the
6 proprietary review?

7 MR. BORDENICK: Up until this morning that was
8 my impression, that they would wait for the proprietary
9 review simply because it would be a little unfair to
10 send it to the Board and not to the parties, and they
11 don't want to send it to the other parties, of course,
12 until the proprietary matters are ironed out.

13 I was a little surprised, frankly, about what
14 appears to be the short turn-around time with respect to
15 the inspection report that you mentioned this morning.
16 I forget the number. I think it was 82-29.

17 JUDGE BRENNER: That one, it appeared to me
18 that we received it before, but it may be that LILCO
19 didn't have a problem with it.

20 MR. BORDENICK: That may be correct, I don't
21 know. But in any event, in response to your last
22 statement, the report should get to the Board. There is
23 no delay that I know of. Certainly, there is always a
24 chance that it can get stuck in a mail room somewhere
25 for a couple of days. But the region had agreed to send

1 the reports directly to the Board and the parties, thus
2 saving the time it would have taken for me to get it
3 when it might have sat in one of my mail rooms or sat in
4 my inbox and that sort of thing. So I did take steps
5 sometime ago to cut that time period out.

6 JUDGE BRENNER: I think they should send it to
7 the Board without waiting for the proprietary review,
8 given the timeframe we are in now. Normally, I do not
9 like to receive things ahead of the other parties.
10 However, we're talking about a minimal period during
11 which we can react if we see things like this, and I
12 think that would be better for the proceeding, with the
13 knowledge that the parties are going to receive it as
14 soon as the proprietary review is cleared.

15 I'm also going to direct LILCO to immediately
16 review the report and immediately -- and I mean right
17 away, unless there is a problem -- inform the staff if
18 it is the case that there is no proprietary problem, so
19 that the staff can then catch up and get it to the other
20 parties.

21 MR. ELLIS: We will pass that on, Judge
22 Brenner. We have already taken steps to find out about
23 the one from this morning. We don't have it here but we
24 have determined that there is not a proprietary
25 problem. I think we've made arrangements with your

1 office to borrow your copy to copy yours to give it out.

2 JUDGE BRENNER: Yes, my secretary asked me for
3 it, but I've got it up here, and that is a problem. So
4 I think she's going to suggest getting it from the staff
5 if she can't find it. Mine's a little marked up, is the
6 problem.

7 MR. BORDENICK: Could I make a suggestion to
8 LILCO in furtherance of your previous request? If they
9 will get word to the resident inspector --

10 JUDGE BRENNER: Whoever you think they should.

11 MR. BORDENICK: -- the resident inspector;
12 then he will call me.

13 MR. ELLIS: Well, with respect to the one
14 we're talking about this morning, no. We're just going
15 to distribute the copies.

16 MR. BORDENICK: I'm talking about in the
17 future.

18 MR. ELLIS: I see.

19 Judge Brenner, so that we are clear about what
20 you would like us to do, I understand that we are to
21 review immediately all I&E reports for what time period?

22 JUDGE BRENNER: As soon as possible, and if
23 you think you need more time to review it, tell the
24 staff that. If you have completed the review and know
25 that they can clear it, tell them that. Stay plugged in

1 instead of waiting for the normal timeframes, and if
2 there is clearly no problem, the staff can issue it more
3 quickly.

4 And back up for the last 30 days; there might
5 be some others in the mill. Let's see what is still in
6 the mill and get them out. And the staff can be helpful
7 in terms of getting you that list, I'm sure.

8 This particular one, if we had received this
9 timely your witnesses would have been here and I would
10 have liked to ask them about it.

11 MR. ELLIS: I take it that this should
12 continue then until the record is closed on QA? Or do
13 you want it until --

14 JUDGE BRENNER: I think it should continue
15 until the decision, because if something pops up we
16 would like to --

17 MR. ELLIS: I just want to be clear about how
18 long you want it.

19 JUDGE BRENNER: We will entertain
20 modifications if there are problems that crop up that we
21 don't foresee now, but I think it is in everyone's
22 interest not to have a report sit around for 30 days
23 even after the record is closed, while we are receiving
24 proposed findings. And it is very important on the
25 staff's behalf that after LILCO gives them the rapid

1 clearance if there is, indeed, clearance, that the other
2 parties get it rapidly.

3 Now, of course, you can adjust. Get it to the
4 county attorney right away and the rest of the service
5 list you can do through document service. I am sure you
6 can come up with procedures. If Mr. Bordenick gets a
7 copy right away also without waiting for the proprietary
8 review and then later is given the word that there is
9 clearance, he could make his copy rapidly available to
10 the county informally, even though they will catch up
11 with the more formal service later from the region.
12 There are a lot of variations.

13 The idea is if the staff works hard to finish
14 an inspection in time and get the report out, it is a
15 shame to then have their report sit when there are steps
16 that perhaps could be taken.

17 We couldn't find a copy of 82-29 up here,
18 other than mine.

19 MR. ELLIS: The staff just gave us a copy.

20 MR. BORDENICK: Two copies were just delivered
21 to the hearing room.

22 MR. ELLIS: We will copy these and distribute
23 these.

24 JUDGE BRENNER: And if there is no proprietary
25 problem get it to the county right away. If there is a

1 problem, make whatever arrangements you need to make for
2 them to see it.

3 Okay. We have nothing else. We are ready to
4 continue with the redirect.

5 Whereupon,

6 ARTHUR R. MUI ER,
7 JOSEPH M. KELLY and
8 EDWARD J. YOUNGLING,

9 the witnesses on the stand at the time of recess,
10 resumed the stand and, having been previously duly
11 sworn, were examined and testified further as follows:

12 MR. ELLIS: Two things, Judge Brenner, first.
13 If I may go off the record for just a moment.

14 (Discussion off the record.)

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

16 MR ELLIS: What I would like to do now is ask
17 some additional questions based upon the examination by
18 the Board and see if I can clarify because I think there
19 is some imprecision in language that I think I can
20 clarify.

21 JUDGE BRENNER: I thought we were going to get
22 copies of the procedures that the witness was relying on.

23 MR. ELLIS: Yes, we have those here as well.
24 But that is not going to be the whole story. We need to
25 go into it in some additional detail, more than I had

1 planned, because -- but I think it is important to do
2 it, given the Board's questions in this area.

3 REDIRECT EXAMINATION - Resumed

4 BY MR. ELLIS:

5 Q Mr. Kelly and Mr. Muller and Mr. Youngling,
6 Judge Brenner asked you a number of questions concerning
7 the differences between construction organizational
8 structures for nuclear power plants and the operational
9 organizational structures that might make it
10 advantageous or might not make it advantageous to use
11 one or another reporting structure.

12 What are those differences that in your view
13 would militate in favor of using a reporting structure
14 that is used for OQA at Shoreham, for the operational QA
15 and yet at the same time, militate in favor of using a
16 different organizational structure for a construction
17 organization that was used at Shoreham?

18 A (WITNESS MULLER) Mr. Ellis, some of the
19 differences in the organization are, for one, diversity
20 in size. The construction organization is much more
21 diverse and approximately 10 times larger. You have
22 various contractors involved in the construction, and
23 you have different grades of people involved.

24 Q Well, Mr. Muller, what do these differences
25 mean in terms of the advantages or disadvantages that

1 you testified to that accrue with respect -- in your
2 experience and in the ANSI standard -- with to reporting
3 onsite for OQA?

4 A (WITNESS MULLER) Well, as far as the size and
5 the diversity, it is difficult to meet with all of the
6 individuals on a daily basis in the construction area,
7 whereas the plant meetings that the OQAE is required to
8 attend would meet on the daily basis with the other
9 plant managers and engineers, and we discuss the
10 activities that are going on continuously. We can input
11 the OQA position.

12 Q Well, -- did you want to say something, Mr.
13 Kelly?

14 A (WITNESS KELLY) Yes. We have numerous
15 contractors out there handling the various contractual
16 work, mechanical piping, HVAC. We have the architect
17 engineer out there, we have the construction management
18 organization consisting of different people. We have
19 the NSSS supplier, the contractors with their own QA
20 programs.

21 So that as Mr. Muller says, as far as
22 diversity of personnel, you have many different
23 organizations with many different managerial chains. It
24 is a far more complex situation than the team effort
25 that Mr. Muller was referring to. As far as staff

1 meetings, et cetera, it just is not humanly possible
2 because we're talking about numbers in the range of two
3 to three thousand people.

4 Q All right, let me see if I understand. The
5 advantages you testified to, both Mr. Kelly and Mr.
6 Muller, were advantages in terms I think you said of
7 better communication, feeling a part of the team, and
8 instilling attitudes favorable to quality. Are you
9 saying that the structure of a construction organization
10 with this size and diversity militates against that?

11 MR. DYNNER: That's a leading question. I
12 object.

13 JUDGE BRENNER: Very.

14 MR. ELLIS: It is, but I think I'm trying to --

15 JUDGE BRENNER: I know, and I tried, too, and
16 I couldn't get answers that satisfied me, and I don't
17 want you to put too many words in their mouths.

18 MR. ELLIS: Well, I think those are the words
19 that they have -- well, let me try --

20 JUDGE BRENNER: Well, you had plenty of time
21 to plan the redirect. Well, not plenty of time, but you
22 had sometime to talk with them, and if they are not
23 saying it the way you think it should best be said,
24 maybe those aren't the facts. Let's not lead them too
25 far.

1 MR. ELLIS: Yes, sir.

2 JUDGE BRENNER: Why don't you try again?

3 BY MR. ELLIS (Resuming):

4 Q Mr. Muller, Mr. Kelly, tell us why the
5 diversity and size of the construction -- or how the
6 size and diversity of the construction organization
7 affects, in your opinion, being able to achieve the
8 advantages that you testified to with respect to the OQA
9 organization reporting line. If you do.

10 MR. DYNNER: Excuse me for a minute. Judge
11 Brenner, I have another objection that I would like to
12 register, and that is that unfortunately, Mr. Kelly was
13 not present at the time that I was cross examining this
14 panel on the issue of the organization, and I think it
15 is only fair that redirect be limited to those witnesses
16 that I have had an opportunity, on behalf of the county,
17 to cross examine.

18 I am perfectly willing -- and I waited until
19 now to see just how much Mr. Kelly was going to get
20 involved in this area. I think clearly, he should be
21 able to ask questions of Mr. Kelly on redirect in areas
22 which were covered by cross examination of Mr. Kelly.
23 But I think in fairness, Mr. Kelly ought not to be
24 participating in redirect in areas in which I have not
25 cross examined him.

1 WITNESS KELLY: Judge Brenner, if I may add, I
2 was responding to your questions.

3 JUDGE BRENNER: I know. I have no
4 recollection -- and this is part of my problem in
5 shifting witnesses around too much -- that Mr. Kelly was
6 not here for those questions, and I still have no
7 independent recollection, although I'm perfectly willing
8 to believe Mr. Dynner. Is that right that Mr. Kelly
9 wasn't here for those questions on organizational setup?

10 MR. ELLIS: I simply don't know, Judge Brenner.

11 JUDGE BRENNER: I think that is right because
12 when I talked about is there a missing witness, I
13 suggested that Mr. Gerecke wasn't here and then I
14 mentioned that perhaps that was part of what you had Mr.
15 Kelly for, and then you said no, you were going to have
16 him here for another area.

17 MR. ELLIS: I might add, though, that there
18 are a couple of differences. First of all, Mr. Kelly
19 was not here because of convenience to the witnesses.
20 He was actually not here because he was ill.

21 JUDGE BRENNER: Yes, that is an important
22 difference, but nevertheless, I agreed that when we put
23 him back on it would be that he was put back on while
24 there was still cross examination going on on a lot of
25 those procedures, and the understanding was or should

1 have been that his redirect would be limited to that
2 which he was crossed on; otherwise, the county has an
3 opportunity to cross examine Mr. Kelly in this area.

4 I might also add I'm a little surprised at the
5 extent to which Mr. Kelly is answering some questions
6 that I thought were Mr. Muller's bailiwick, even the way
7 your redirect started off. But independently, I
8 wouldn't have limited his participation other than this
9 other matter.

10 How are we going to straighten it out, given
11 the fact that he wasn't here for cross?

12 MR. ELLIS: Well, there's another factor, too,
13 and that is that we did have the redirect last week. I
14 don't know whether Mr. Kelly answered. I carefully
15 reviewed the transcript to see whether he answered any
16 questions there, but they didn't raise any objection at
17 that time.

18 JUDGE BRENNER: If they didn't raise the
19 objection, don't worry about it; you're not expected to
20 go back over and apply it universally. It is only where
21 they have raised the objection.

22 MR. ELLIS: Well, I will direct this question
23 --

24 JUDGE BRENNER: Let me try to draw a balance.
25 I on my own I think focused the analogy between

1 operating QA and construction QA more than it had
2 heretofore been focused. In light of that, I think it
3 is proper for Mr. Kelly to participate because he's got
4 the other end of the perspective; that is, the
5 construction QA perspective. And we are exploring why
6 the analogy holds up or does not hold up between the
7 construction QA organization and the operating QA
8 organization.

9 So I think it would be important to get the
10 views of both witnesses, and for that reason, I will
11 allow it. You can follow up, Mr. Dynner, if you want to
12 afterwards. So let's leave it at that. But when we're
13 talking mostly about operating QA, I think we should
14 primarily hear from Mr. Muller. But you can involve Mr.
15 Kelly to the extent you want to, Mr. Ellis.

16 MR. ELLIS: Thank you, gentlemen.

17 BY MR. ELLIS (Resuming):

18 Q Let me repeat the question. You've indicated
19 that the differences between the construction
20 organizational structure, or the construction
21 organization and the operational organization is that
22 the construction organization is much larger and it is
23 diverse and it includes contractors, NSSS suppliers and
24 so forth.

25 Did those differences, differences of size and

1 so forth that you have testified to, affect, in your
2 opinion, the ability or potential to obtain the benefits
3 that you testified to result from reporting onsite for
4 OQA in the construction phase? In other words, in your
5 opinion, do you think you could get the same advantages
6 by doing it -- I will direct it initially to Mr.

7 Muller: do you think you could get the same advantages
8 from reporting onsite in construction that you testified
9 you could get from reporting onsite in operations?

10 A (WITNESS MULLER) No, I don't think you would.
11 The communications would be a much larger problem for
12 construction than it is for the plant staff. Once
13 again, you've got a lot of people involved.

14 JUDGE BRENNER: Mr. Muller, I think I asked
15 this question when the subject first came up during the
16 county's cross a number of weeks ago, and I am going to
17 ask it again in light of where we are going and where
18 we've gone today. Can you succinctly explain to me why
19 you cannot have all of the advantages of attending the
20 meetings, rapid communications, having telephone
21 contact, personal contact, notices of copies of
22 everything you now get copies of, and still not have to
23 work for the plant manager?

24 WITNESS MULLER: Judge Brenner, I think I
25 testified that yes, we could, in fact, work that way but

1 there is a difference, and it may not be a tangible
2 difference. One advantage is the plant is a dynamic
3 structure as opposed to construction. If you find
4 something wrong in construction, you go back and fix
5 it. The plant is a little bit different. We are
6 operating, we have fuel onsite, we have to be very much
7 in tune with what is going on at the plant.

8 Yes, if we attended the meetings every day, no
9 matter who we reported to, we would learn something.
10 But I feel that we are part of the organization.
11 Everyone feels that. We are not outsiders.

12 JUDGE BRENNER: Let me try to summarize the
13 competing considerations, at the risk of being leading
14 myself, because I am anxious to get the benefit of your
15 views while you are here. Simplified into two models,
16 very simplified, it seems to me that what one might say,
17 and I believe maybe what you are saying, you can assure
18 to plug into all of the communications and take steps to
19 do that for procedures and organization and whatever and
20 still not report to the plant manager, and that would
21 give you the advantage of all of the communications,
22 although in some ways it may be a little more difficult
23 to arrange than if you had been directly on the plant
24 staff. But nevertheless, it can be arranged, and you
25 would then have the independent protection of not

1 reporting. That would be one simplified model.

2 On the other hand, you could have a model like
3 your proposed organization where you are on the plant
4 staff and therefore you are assured of being in
5 communication and knowing what is going on at the plant,
6 reporting to the plant manager, yet having some
7 safeguards to assure your independence of not being
8 overridden by the plant manager.

9 Is that a fair summary of the two simplified
10 models?

11 WITNESS MULLER: That is a fair summary. We
12 do have safeguards in our organization.

13 JUDGE BRENNER: So if I wanted to save some
14 time, and not spend a lot of time probing why you don't
15 just adopt the other model, I could stay with your
16 proposal but make sure that either I or your counsel or
17 some other counsel focuses very thoroughly on what the
18 safeguards are, recognizing that there is a lot of
19 convenience in your being on the plant staff and
20 reporting to the plant manager; taking that as a given,
21 and then focusing on what the safeguards are that are in
22 place. I guess that is a statement rather than a
23 question.

24 WITNESS MULLER: I would say that it is a
25 convenience but it is not a compromise.

1 JUDGE BRENNER: So long as the safeguards are
2 present.

3 WITNESS MULLER: We are required to have the
4 safeguards by regulation.

5 JUDGE BRENNER: And then is what I was asking
6 about this morning in terms of your authority. Given a
7 hypothetical disagreement between you and the plant
8 manager.

9 WITNESS MULLER: And once again, that ability
10 to go offsite appears in the QA Manual and in our
11 procedures.

12 JUDGE BRENNER: I guess the area I started
13 probing that I thought we would get back to in that
14 context -- and I'm talking to you now, Mr. Ellis -- is
15 Mr. Muller's comment on authority. Maybe that would be
16 the most productive area left.

17 MR. ELLIS: Yes, sir, I'm coming to that
18 because I think that needs to be clarified. And I would
19 ask the Board's indulgence, because there is a language
20 problem in this area that I do want to clarify.

21 JUDGE BRENNER: I didn't want to get in the
22 way too much, but I wanted you to know what was on my
23 mind as one individual on the Board, to give you some
24 direction.

25 MR. ELLIS: I want to ask one more clarifying

1 question on what you just asked.

2 BY MR. ELLIS (Resuming):

3 Q Judge Brenner just asked you -- gave you a
4 summary of the two situations, and you indicated it
5 would be fair, that that was a fair summary. In your
6 opinion, though, even though you could arrange to have
7 all of these lines of communication and arrange to have
8 these other conveniences, in your opinion would it be as
9 effective to do it that way as it would to report onsite
10 and to have that on-site connection?

11 A (WITNESS MULLER) In my opinion, no. And once
12 again, the ANSI standard does say that reporting onsite
13 has certain preferable advantages.

14 A (WITNESS KELLY) Judge Brenner, specifically
15 when you talk about how construction organizations are
16 arranged as far as reporting to QA personnel and you say
17 experience has shown that it is better not to have the
18 QA organizations reporting to, say, the construction
19 manager, that is more probably the typical case. When
20 the ANSI standard which is dated 1976 was written, which
21 states that it is the preferable method to report to the
22 plant manager, that was based upon many, many years of
23 operating experience behind them.

24 So actually, what we're saying is from an
25 industry standpoint, the industry has found out and been

1 endorsed by the NRC that that is the best arrangement.

2 JUDGE BRENNER: Well, you see, I can
3 understand very well why somebody running a nuclear
4 power plant would prefer that organization.

5 WITNESS KELLY: Well, the NRC has also
6 endorsed that and I'm sure that's not their concern.

7 JUDGE BRENNER: Okay. I want to probe on this
8 record the merits and demerits, though.

9 BY MR. ELLIS (Resuming):

10 Q All right, Mr. Muller, let's turn now to the
11 issue of the safeguards. In response to Judge Brenner's
12 questions you indicated that stop work included shutdown
13 authority. Under what circumstances does your stop work
14 authority include shutdown authority?

15 A (WITNESS MULLER) I would have the authority to
16 stop work when the limiting conditions of operation are
17 being violated.

18 Q Do you mean a shutdown or stop work?

19 A (WITNESS MULLER) Well, actually I would
20 initiate a stop work which would shut down the plant.

21 Q Now, let me be very specific about this. You
22 don't have -- or, do you have authority, Mr. Muller,
23 actually to touch any switches or controls to initiate a
24 shutdown of the plant?

25 A (WITNESS MULLER) No, sir, I'm not a licensed

1 individual.

2 Q And that authority resides only in the
3 operators; is that correct?

4 A (WITNESS MULLER) There is a chain of command,
5 yes, but it is in the hands of licensed individuals.

6 Q So with that in mind, when you say authority
7 to include shutdown, what precisely do you mean that you
8 would be doing?

9 A (WITNESS MULLER) What I would be doing is
10 notifying the proper personnel that they are, in fact,
11 in violation of the LCOs or limiting conditions of
12 operation.

13 Q Now, does your authority to do that extend
14 beyond the LCOs of the tech specs?

15 A (WITNESS MULLER) As far as stopping work, yes.

16 Q How about as far as the plant shutdown?

17 A (WITNESS MULLER) I can't think of any instance
18 where that would occur.

19 Q So when you talked about shutdown before, did
20 you have in mind the LCOs of the tech specs?

21 A (WITNESS MULLER) Yes, I did.

22 Q And to be very, very specific now, you do not
23 have authority actually to initiate physically the plant
24 shutdown, do you?

25 MR. DYNNER: That's leading, I object.

1 JUDGE BRENNER: That's okay. It is leading
2 but it is okay. It is a minor point that he wants to
3 nail down. A point which I was not confused on, by the
4 way, if this is for my benefit, but let's get it in the
5 record anyway.

6 WITNESS MULLER: Physically, no. And I would
7 like to add to that that there are checks and balances
8 built into that system. You can't have anyone running
9 into the control room demanding that the plant be shut
10 down. The licensed operator is responsible for the
11 license and the plant, and I have my responsibilities.
12 If I can identify a condition that warrants a shutdown
13 of the plant, then I would initiate a stop work action
14 in accordance with my procedures.

15 BY MR. ELLIS (Resuming):

16 Q Now, would that stop work action lead to a
17 shutdown of the plant, a required shutdown of the plant
18 if the LCOs of the text specs were not violated?

19 A (WITNESS MULLER) Were not violated?

20 Q Were not violated. In other words, let me
21 restate the question. I think you testified that your
22 authority to stop work would include plant shutdown
23 authority only -- or, in the event that the LCOs of the
24 tech specs are violated. Is that correct?

25 A (WITNESS MULLER) That is correct. And it

1 would depend upon the LCO.

2 Q And your authority to initiate the stop work
3 that would lead to a plant shutdown is only in the case
4 of LCOs under the tech specs, is that correct?

5 A (WITNESS MULLER) For the shutdown, yes.

6 MR. ELLIS: Now, Judge Brenner, I should have
7 done this a few moments ago, I suppose. We do have that
8 procedure that you requested, and I will go through it
9 now with your permission.

10 WITNESS MULLER: Could I add to that briefly?

11 BY MR. EARLEY (Resuming):

12 Q Certainly.

13 A (WITNESS MULLER) The stop work action could
14 also indirectly shut down the plant.

15 Q Would you explain that, please?

16 A (WITNESS MULLER) If there were a maintenance
17 activity going on that was performed incorrectly, I
18 would stop work on that maintenance activity. That
19 maintenance activity could be part of these limiting
20 conditions of operation; for instance, they may have so
21 many hours to get a system back into service. If they
22 don't meet that time limit, they would have to shut down
23 the plant. I would not initiate a stop work order to
24 shut down the plant in that case; I would just stop work
25 on the system. The LCO would take care of the shutdown

1 by itself.

2 JUDGE BRENNER: I'm sure we will get into
3 this, Mr. Ellis, when you go through the procedure. I
4 didn't have much doubt that you had, Mr. Muller, the
5 authority to stop work on some work activities, and I
6 also understand, as you just outlined, that that
7 indirectly could cause a shutdown of the plant.

8 And somebody, I hope, will show me how the use
9 of the English language in this procedure involving stop
10 work also means directing that the plant be shut down,
11 because those are two different contexts and two
12 different uses of language so far as I'm presently
13 concerned. But I haven't read this procedure other than
14 glance at it.

15 WITNESS MULLER: I think I may be able to
16 answer that in part at least.

17 JUDGE BRENNER: Why don't we get the procedure
18 identified if we're going to work with it, and then I
19 will let Mr. Ellis lead into it with you.

20 MR. ELLIS: Well, if he can answer your
21 question directly, I would just as soon have him do it.

22 WITNESS MULLER: First of all, the procedure
23 is QAPS 1.2, and as far as --

24 MR. ELLIS: Just a minute, Mr. Muller.

25 JUDGE BRENNER: Let's make it LILCO Exhibit

1 40, because in my memory, if my memory serves correctly,
2 we admitted the other procedures into evidence on the
3 same basis. Let's admit this procedure into evidence
4 and bind it into the transcript for convenience, since
5 it is just a few pages.

6 (The document referred to
7 was marked LILCO Exhibit No.
8 40 for identification and
9 was received in evidence.)

10 (LILCO Exhibit 40 follows:)

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QAPS- 01.2

PAGE 1 OF 5

REVISION 2

EFFECTIVE DATE
04/16/81

OPERATIONAL QUALITY ASSURANCE PROCEDURE

PREPARED BY
D. M. Durand

TITLE:

STATION OPERATIONAL QUALITY ASSURANCE (OQA) STOP WORK AUTHORITY

APPROVED FOR USE:

J. Powell

4/13/81
DATE

DATE

1.0 PURPOSE

To establish the authority of Station OQA personnel to initiate stop work action for unsatisfactory work associated with safety-related structures, systems, components or services. In addition, to prescribe the criteria for exercising this authority and the requirements for executing stop work action.

2.0 REFERENCES

2.1 LILCO Quality Assurance Manual

3.0 ATTACHMENTS

None

4.0 DISCUSSION

4.1 Reference 2.1 provides the Operating QA Engineer with the authority to control processing, delivery or installation activities should unsatisfactory items or conditions be present and, if necessary, to initiate stop work action through appropriate channels.

4.2 This procedure establishes the administrative controls for initiation of a stop work order, either at the nuclear station or at offsite facilities. Further, it defines the criteria to be used as guidance in evaluation of a situation to determine whether work should be stopped. Also specified are the required actions to be taken by Station OQA personnel in initiating stop work action, as well as those conditions necessary to allow resumption of work.



OPERATIONAL QUALITY ASSURANCE PROCEDURE

QAP-S-01.2

PAGE 2 OF 5

REVISION 2

TITLE STATION OPERATIONAL QUALITY ASSURANCE (OOA)

STOP WORK AUTHORITY

EFFECTIVE
DATE 04/16/81

- 4.3 The Operating QA Engineer is responsible for assuring adherence to the requirements of this procedure.
- 4.4 Reference 2.1 provides the Operating QA Engineer with the necessary authority to initiate stop work action.
- 4.5 Stop work action at the nuclear station shall normally be processed through the Operating QA Engineer. The Operating QA Engineer may delegate authority to stop work to designated personnel on the Station OQA staff. This delegation is authorized only in the absence of the Operating QA Engineer and shall be in accordance with the requirements of this procedure.
- 4.6 Criteria for Stop Work Action
- 4.6.1 Stop work authority shall be considered only as a last resort and shall be initiated only when continued work would result in one of the following conditions:
- A. Could possibly cause undue risk to the health and safety of the public
 - B. Would cause extensive or irreparable damage
 - C. Would preclude further inspection or verification of quality
 - D. Would make remedial action ineffective
- 4.6.2 Consideration of stop work action shall include the consequences of this action such as possible dangerous or unsafe conditions or situations which might be created if work is stopped.
- 4.6.3 Every effort shall be made to identify potential quality problems early so that timely corrective action may be initiated to preclude stop work. However, when the conditions described in 4.6.1 exist, OQA personnel shall not hesitate to exercise stop work authority.



OPERATIONAL QUALITY ASSURANCE PROCEDURE

QAP-S-01.2

PAGE 3 OF 5

REVISION 2

TITLE STATION OPERATIONAL QUALITY ASSURANCE (OQA)

STOP WORK AUTHORITY

EFFECTIVE
DATE 04/16/81

5.0 REQUIREMENTS

- 5.1 Normally, the Operating QA Engineer shall initiate any station OQA stop work orders. Station OQA personnel who identify conditions which, in their judgment, justify stopping work shall notify the Operating QA Engineer immediately of the conditions. The Operating QA Engineer shall evaluate the situation and, if necessary, initiate required actions.
- 5.2 In the absence of the Operating QA Engineer, when the situation will not permit delay of action, those personnel on the Station OQA staff who have been delegated stop work authority shall be contacted and shall initiate required action.
- 5.3 The stop work order and reasons for initiation of the order shall normally be issued by Station OQA to the appropriate Section Head. In the absence of the cognizant Section Head, or in the event of disagreement over the necessity of stopping work, work may continue only at the discretion of Station OQA and the matter shall be referred first to the appropriate Chief Engineer and then to the Plant Manager.
- 5.4 In the event of a difference of opinion between the Plant Manager and the Operating QA Engineer over the necessity of stopping work, the Operating QA Engineer shall refer the matter to the QA Dept. Manager.
- 5.5 As soon as practicable after issuance of a stop work order, written notification of this action and the reasons for the action shall be provided to the:
- A. Cognizant Section Head
 - B. Cognizant Chief Engineer
 - C. Plant Manager
 - D. Manager, Quality Assurance Department
 - E. Vice President, Nuclear



OPERATIONAL QUALITY ASSURANCE PROCEDURE

QAP-S-01.2

PAGE 4

OF 5

REVISION 2

TITLE STATION OPERATIONAL QUALITY ASSURANCE (OQA)

STOP WORK AUTHORITY

EFFECTIVE
DATE 04/16/81

5.6 Written notification shall identify:

- A. The condition that led to the issue of the stop work order.
- B. Personnel involved.
- C. Person to whom the order was issued.
- D. Time and date of the order.
- E. Where possible, the recommended corrective action.

5.7 Off-Site Activities

- 5.7.1 A stop work order at an offsite facility, such as a vendor plant, shall normally be initiated by the Operating QA Engineer when quality assurance for such work is under his cognizance. Station OQA personnel who identify conditions, which, in their judgment necessitate stop work action, shall notify the Operating QA Engineer immediately. The Operating QA Engineer shall evaluate the situation and, if necessary, initiate required action.
- 5.7.2 In the absence of the Operating QA Engineer designated personnel on the Station OQA staff are authorized to initiate stop work orders.
- 5.7.3 The Operating QA Engineer shall contact the Plant Manager, or his designee immediately, detail the situation and initiate the stop work order.
- 5.7.4 Written notification, containing the information specified in Paragraph 5.6, shall be provided to the Plant Manager by the Operating QA Engineer as soon as practicable with a copy to the QA Department Manager. This information will be transmitted to cognizant management personnel of the organization where work has been stopped.



OPERATIONAL QUALITY ASSURANCE PROCEDURE

OOAPS 01.2

PAGE 5 OF 5

REVISION 2

TITLE STATION OPERATIONAL QUALITY ASSURANCE (OQA)

STOP WORK AUTHORITY

EFFECTIVE
DATE 04/16/81

5.8 Resumption of Work

5.8.1 Work may be resumed only when authorized by the personnel responsible for issuing the stop work order and only under the following conditions:

- A. The nonconforming conditions have been or are in the process of being corrected and verified.
- B. Measures have been taken to prevent recurrence of the nonconforming condition.

6.0 RECORDS

The Operating QA Engineer is responsible for maintaining the documentation of stop work actions, corrective/preventive action and verification, and authorizations to resume work in the Station OQA file as part of the permanent plant file.

1 JUDGE BRENNER: Go ahead, Mr. Muller, I am
2 sorry.

3 WITNESS MULLER: As far as stop work and
4 shutdown, there may be differences of opinion as far as
5 what they mean. And by stopping work or shutting down,
6 what I mean would be that I would identify that there
7 has been a limiting condition of operation violation.
8 This would be something that would have not been
9 detected by the operating staff. I would be notifying
10 them through the stop work that they have violated it.

11 Due to their licensing commitments, they would
12 have to shut down the plant.

13 MR. ELLIS: May I pursue that one for just a
14 minute?

15 JUDGE BRENNER: Yes.

16 BY MR. ELLIS (Resuming):

17 Q First of all, is the interpretation you just
18 gave also the interpretation of the plant management?

19 A (WITNESS MULLER) Yes, it is. Under those
20 conditions I would be initiating a stop work because I
21 would be notifying them that they have violated the
22 limiting conditions of operations.

23 Q Now, if you did initiate a stop work that
24 involved a limiting condition of operation under the
25 tech spec and the operator did not agree with you and

1 you could not physically shut the plant down, as you
2 have already testified, what would then happen?

3 A (WITNESS MULLER) First of all, I would go to
4 the appropriate section head first, which would be the
5 operating engineer, and if we had a disagreement with
6 him, I would go to the appropriate section head or plant
7 manager, and I would go up the chain of command if we
8 had a disagreement, which would include going to the QA
9 manager.

10 Q Now, that is for a violation of a limiting
11 condition of operation in which you disagreed with the
12 operator to whom you presented the stop work order.
13 Let's go to what has been marked as LILCO Exhibit 40,
14 and referring specifically to 5.3 and 5.4, is your
15 authority to initiate the stop work order independent of
16 the plant manager?

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1 A (WITNESS MULLER) Yes, it is. I would not
2 have to ask the plant manager if I could issue a
3 stop-work order, or the section head, for that matter.

4 Q Maybe the best way to do this is speak
5 hypothetically. Suppose that you observed a condition
6 which, in your opinion, required based upon the criteria
7 in the procedure required a stop-work order, and would
8 you then prepare any sort of piece of paper to give to
9 someone?

10 A (WITNESS MULLER) Yes. In accordance with the
11 procedure, I would have to prepare a written stop-work
12 order, and I would prepare it.

13 Q To whom would you give it, assuming the
14 situation I gave you, that there is some maintenance
15 procedure or some sort of repair procedure going on
16 that, in your opinion, requires a stop-work order?

17 A (WITNESS MULLER) If it were a maintenance
18 activity, I would give it to the maintenance engineer.
19 He is the appropriate section head.

20 Q Now, is he required to obey that stop-work
21 order?

22 A (WITNESS MULLER) He is required to obey it if
23 he agrees with it. If not, he can bring it up with the
24 plant management. We go up the chain from that point.
25 But he would stop work.

1 Q He might disagree with you, but would he have
2 to stop work whether he agreed or disagreed?

3 A (WITNESS MULLER) If I insisted, yes. Now,
4 once again, these are -- they involve evaluation. I
5 would not hesitate to go up the chain if work didn't
6 stop; if I demanded the work to stop, they would have to
7 stop the work.

8 Q Well, paragraph 5.3, though, indicates, does
9 it not, that work may continue only at the discretion of
10 the station OQA?

11 A (WITNESS MULLER) I just said that if I
12 demanded it, if he could convince me that there may be
13 more involved with that, we may have to go up above him
14 to find out exactly what the story is.

15 (Counsel for LILCO conferred.)

16 Q So if there is a disagreement then, and the
17 person to whom you issued the stop-work order disagrees,
18 you have indicated he must nevertheless stop work, and
19 the disagreement is taken up your chain and his chain.
20 Can the work continue without your approval?

21 A (WITNESS MULLER) No.

22 Q Now, is there a difference between this
23 situation that we have been discussing and the operator
24 of the plant involving shutdown, is the operator of the
25 plant obligated to follow a direction or a suggestion in

1 your stop-work order that a condition, a limiting
2 condition of operation has been violated and the plant
3 should be shut down?

4 A (WITNESS MULLER) He is required to
5 investigate that condition, yes.

6 Q He is not required to follow that instruction
7 or suggestion, is he?

8 A (WITNESS MULLER) He would have to evaluate
9 that. And if, in fact, the limiting condition of
10 operation were being violated, he would shut down in
11 accordance with his license requirements.

12 (Witnesses conferred.)

13 A (WITNESS MULLER) What I have to add to that
14 is that I do not have direct authority to shut the plant
15 down. There are only five people: the plant manager,
16 two chief engineers, the operating engineer, and the
17 watch engineer. Once again, if I initiate the stop-work
18 action and they are violating an LCO, they would have no
19 choice but to shut down. If there is an interpretation
20 problem, we would go up the chain of command.

21 Q Now, if there is a disagreement in the
22 interpretation, and you said you would go up the chain
23 of command, if the operator, though, did not want to
24 shut the plant down, the plant would not be shut down;
25 isn't that correct?

1 A (WITNESS MULLER) That is correct. It is his
2 licensing decision or license decision.

3 Q By contrast, and I think it is a contrast,
4 would the person to whom you gave a stop-work order when
5 you were observing a maintenance condition or some other
6 condition that you thought warranted stop work, they, I
7 think you indicated, were obligated to stop work?

8 A (WITNESS MULLER) Yes, they are, per this
9 procedure. The difference is, is that the operating or
10 the license personnel are responsible for the operation
11 of the plant. They have more knowledge than I do as to
12 the status of the plant. They would have to determine
13 all of this. This would be a written stop work that I
14 would issue, and that whole process would have to be
15 evaluated not only by the plant manager but possibly by
16 other organizations, including the QA manager.

17 Q Could there be circumstances involved in
18 shutting the plant down that might make it more or might
19 make it unsafe or undesirable to shut the plant down
20 despite what would appear to you to be a violation of an
21 LCO that you might not be aware of?

22 A (WITNESS MULLER) I think I just said that
23 licensed individual is aware of the operating status of
24 the plant. He is the licensed individual responsible
25 for his license.

1 Q All right. Let's go back to the hypothetical
2 where you are observing a maintenance procedure. And I
3 think you indicated that if you issue a written
4 stop-work order, suppose the plant manager than learns
5 of the stop-work order and disagrees with it. Can he
6 without your approval rescind it?

7 A (WITNESS MULLER) No. Once I have issued it
8 -- pardon me, this is my responsibility to rescind it,
9 it is no one else's. And that is in paragraph 5.8 of
10 the procedure.

11 (Counsel for LILCO conferred.)

12 JUDGE BRENNER: This last question and answer,
13 as I understand it, was in the context of stopping some
14 sort of work activity as distinguished from operation;
15 is that correct, Mr. Muller?

16 WITNESS MULLER: That is correct as far as
17 once I have issued the stop-work, according to the
18 procedure, I would be the only one that could rescind
19 it. If I am proven wrong by the QA manager or the plant
20 manager, then I would rescind it, and I don't have to
21 explain exactly why.

22 JUDGE BRENNER: I believe you earlier
23 testified that an instruction from you to shut the plant
24 down was the same as or came within the scope of a
25 stop-work order. And I now understand that that is not

1 the case.

2 WITNESS MULLER: Well, it could be the case
3 depending upon the conditions. If there is an
4 interpretation problem, they wouldn't shut the plant
5 down immediately. If there is a clear-cut violation of
6 the limiting conditions of operations, the end result
7 would be the shutdown of the plant.

8 JUDGE BRENNER: That would have been the
9 operating staff's decision?

10 WITNESS MULLER: It means they would have
11 agreed with me as far as the limiting conditions of
12 operations.

13 JUDGE BRENNER: I repeat my question. As I
14 read particularly 5.3 and 5.4 as to whose word counts
15 when there is a difference of opinion right away, those
16 sections say that your word counts and they're written
17 in terms of a stop-work order. Therefore, the situation
18 you are describing about shutting down the plant does
19 not come within the scope of the stop-work order as
20 those procedures apply. Is that correct or incorrect?

21 WITNESS MULLER: Well, from the point of view
22 that I cannot order a shutdown, yes. However,
23 indirectly, the stop-work could affect the shutdown.

24 JUDGE BRENNER: I am not talking about that
25 situation, I am talking about a situation where they are

1 violating the plant, in your view, violating the
2 limiting condition of operation and not just because of
3 the work going on but because of the circumstance of the
4 operation at that moment. If you point that out and
5 state it as your view that the plant should be shut down
6 due to that violation, that is not a stop-work order as
7 that term is applied in section 5.3 of this procedure,
8 is it?

9 WITNESS MULLER: I cannot order a shutdown of
10 the plant. So it does not apply in that sense.

11 JUDGE BRENNER: Well, wasn't that the most
12 important sense of the stop-work order from an OCA point
13 of view; that is, that immediate authority to stop work
14 by the OQA?

15 WITNESS MULLER: That is very important.
16 However, if I am not technically qualified, then that
17 would be a check-and-balance put into the system.

18 JUDGE BRENNER: That's fine. I understand
19 that. But we got into the stop-work procedure because
20 you told me you have the authority under the rubric of
21 stop-work that a plant be shut down, and that is how we
22 got back into this. And I was surprised by that. And
23 that is why we have gone as far as we have with it.

24 WITNESS MULLER: What I didn't say was
25 indirectly. And once again, you can't have unlicensed

1 individuals or unqualified individuals telling someone
2 to shut down the plant. That is very important.

3 JUDGE BRENNER: I understand that. It is just
4 not the response we got earlier, and that might have
5 been the response that distinguished the operating QA
6 organization from the construction QA organization also.

7 Incidentally, in passing, you have stated that
8 there were a limited number of people who could shut the
9 plant down. And you ran down their positions. Are you
10 sure of that?

11 WITNESS MULLER: I don't have the procedure in
12 front of me. But we did review it earlier. And it was
13 the plant manager, two chief operating engineers, the
14 operating engineer, the watch engineer, and I think the
15 licensed operators. Mr. Youngling can add to that.

16 JUDGE BRENNER: You didn't include the last
17 one before.

18 WITNESS MULLER: I meant as far as the upper
19 chain of command.

20 JUDGE BRENNER: A licensed operator can on his
21 or her own shut the plant down; isn't that correct?

22 WITNESS YOUNGLING: That is a true statement,
23 Judge, yes.

24 JUDGE BRENNER: I have heard that before
25 somewhere in this proceeding.

1 WITNESS MULLER: What I meant by that, Judge
2 Brenner, is I would not go to any operator, I would go
3 through the chain. It wouldn't be normal to go to the
4 first operator I see and say, shut down the plant. That
5 is not the case.

6 (Counsel for LILCO conferred.)

7 BY MR. ELLIS: (Resuming)

8 Q Mr. Muller, do you know whether the NRC
9 requires or even recommends that the OQA engineer have
10 the authority to shut the plant down? That is, the
11 authority without going through the procedures that we
12 discussed?

13 A (WITNESS MULLER) That is not a regulatory
14 requirement, so, that the OQA or the OQA individual have
15 the authority to shut down the plant. But he has to
16 have the authority to stop work.

17 (Counsel for LILCO conferred.)

18 JUDGE BRENNER: Let me try to put it another
19 way. Even if you reported as the OQAE to an off-site
20 organization before action was taken to change the
21 operational mode of the plant, either the plant manager
22 or his designee available at the moment needed would be
23 involved in that type of decision; is that correct?

24 WITNESS MULLER: That is correct.

25 JUDGE BRENNER: Because of his or her

1 designee's cognizance through licensing, operating
2 licensing, operator license authority and also knowledge
3 of what situations exist in terms of the running of the
4 plant; is that correct?

5 WITNESS MULLER: That is correct.

6 JUDGE BRENNER: So even if you reported them
7 off-site, he would still have to be plugged into that
8 type of decision?

9 WITNESS MULLER: Absolutely.

10 MR. ELLIS: Judge Brenner, I think that clears
11 up, at least from my perspective, and I propose to
12 continue on beyond the procedure at this point unless
13 the Board has further questions on it.

14 BOARD EXAMINATION

15 BY JUDGE MORRIS:

16 Q Mr. Muller, did you participate in the
17 decision making as to which of the acceptable on-site QA
18 organizations would take place at Shoreham?

19 A (WITNESS MULLER) Me specifically, no. I have
20 only been the operating QA engineer since September or
21 October. I don't remember the date. It has only been a
22 few weeks.

23 Q Do you have any direct knowledge of the basis
24 for the decision that led to the current organization?

25 A (WITNESS MULLER) The decision was made based

1 upon the WASH document during the origin of the
2 operating QA group. That was 1975 and 1976.

3 Q The WASH document describes more than one
4 organization that is acceptable?

5 A (WITNESS MULLER) Yes, it does. It describes
6 four organizations.

7 Q So you do have any direct knowledge as to why
8 one of those was selected by LILCO?

9 A (WITNESS MULLER) Personally, no.

10 Q Mr. Kelly?

11 MR. ELLIS: Judge Morris, may I just
12 interject, if I may, that the term "direct knowledge"
13 may be difficult for him. By that do you include
14 conversations with others? That may be helpful to them
15 in understanding.

16 BY JUDGE MORRIS:

17 Q By "direct knowledge," I mean either
18 participated in discussions or be a part of the decision
19 making or be a direct observer of those processes.

20 A (WITNESS KELLY) To the best of my
21 recollection at the time that that decision was made, my
22 recollection is based upon, as Mr. Muller said, the WASH
23 document and also as one of the acceptable means, plus
24 the fact that based upon discussions with various
25 operating plants, that mode was decided, as far as I can

1 recollect, to be the optimum method of operation.

2 Q Did you participate in the consideration
3 yourself?

4 A (WITNESS KELLY) No, I did not.

5 Q Were you present during the discussions?

6 A (WITNESS KELLY) No. Those were discussions
7 with people who were involved in it.

8 Q Mr. Muller, we have skirted around the direct
9 question of whether QAPS 1.2 anywhere states that plant
10 shutdown is included in the definition of stop-work. Is
11 it your opinion that there are some words that imply
12 that or directly state it in that procedure?

13 A (WITNESS MULLER) Not directly, but indirectly.

14 Q Where in the procedures is it indirectly
15 implied?

16 A (WITNESS MULLER) It is implied through the
17 limiting condition of operations.

18 Q Where is limiting condition of operation
19 mentioned in this procedure?

20 A (WITNESS MULLER) It is not mentioned in
21 there, Judge Morris. It is not mentioned in there.
22 That is just part of the tech spec requirements. We do
23 not reference the tech spec in that procedure. That is
24 correct.

25 Q If you look at section 4.6, which is labeled

1 "Criteria for Stop-Work Action," it lists four items.
2 Are those equivalent to limiting conditions of operation?

3 A (WITNESS MULLER) If I remember correctly,
4 those conditions are part of the considerations. I
5 would have to review that section of the tech spec, but
6 I think those words do appear in there. I know they
7 appear in the QA manual. I have to go back and look at
8 that specifically.

9 Q Other members of the panel may respond if they
10 think they can add something to this.

11 A (WITNESS YOUNGLING) Judge Morris, I would say
12 that certainly 4.6(a) would be implied and associated
13 with the limiting conditions of operations of the tech
14 specs, in that the limiting conditions provide an
15 envelope which allows us to operate the plant so we
16 don't get into that condition, if you will. And I would
17 say, yes, that it is implied that that would correspond
18 to the ground rules set up in the tech specs limiting
19 conditions for operation.

20 Q Where is limiting condition of operation
21 defined? Is it defined in your own tech specs, or is it
22 defined in Commission guidance or rules?

23 A (WITNESS YOUNGLING) To my knowledge, it is
24 defined as part of the technical specifications in the
25 definition section.

1 Q And it is your recollection that that
2 definition includes words like these?

3 A (WITNESS YOUNGLING) I would have to check if
4 the exact words were there. I would have to check back.

5 Q Well, is it your opinion that conditions could
6 arise which might satisfy one or more of these items
7 which might not be spelled out as a limiting condition
8 of operation in your tech specs?

9 A (WITNESS YOUNGLING) We talked about this over
10 lunch, and in that short period of time we could not
11 come up with an instance where we saw ourselves as being
12 outside the tech specs. So I would say, no, we couldn't
13 come up with one.

14 Q Did I understand, Mr. Muller, that in your
15 deciding on whether or not to issue a stop-work order,
16 that you would be using these criteria, or would you be
17 using solely the limiting conditions of operations in
18 the tech specs?

19 A (WITNESS MULLER) Judge Morris, I would be
20 using both. The LCOs would provide further guidance as
21 far as a situation that could possibly cause undue risk
22 to the health of the public, to the health and safety of
23 the public. That is a very general term. I would need
24 more definition to make a decision like that.

25 Q And would you make that decision, or would you

1 consult with operating staff?

2 A (WITNESS MULLER) I would review the limiting
3 conditions first, and then I may consult with them. And
4 it would be my decision to initiate the stop-work. They
5 may do it after I just discuss something with them, but
6 that would be part of my decision. I am sure as soon as
7 they found out that they were violating a limiting
8 condition, they would shut down the plant on their own.
9 I think their license is enough incentive to do that.

10 Q In your consideration, would you also consider
11 the admonition of 4.6.2? And for the record, this says,
12 "Consideration of stop-work action shall include the
13 consequences of this action, such as possible dangerous
14 or unsafe conditions or situations which might be
15 created if work is stopped."

16 A (WITNESS MULLER) Yes, I would consider that,
17 and by no means would I consider economics to be a
18 situation which might be created if work is stopped. I
19 don't feel that that fits into that. If -- what that
20 means is that if we cause a greater potential of danger
21 by stopping work, then we may issue the stop-work
22 allowing them to continue the work. I am not sure of
23 any examples right now. But that would be a possibility.

24 Or one that comes to mind may involve the
25 repair of a tank that contains some radioactive waste.

1 They may not be following the procedure properly to
2 repair it, but if I stop the work, the leak could
3 continue and cause irreparable damage or cause a
4 condition that would be very dangerous or unsafe. It
5 would depend upon the situation.

6 A (WITNESS KELLY) If I could add and give
7 probably an easier example is, say, a hook for a crane,
8 say the OQA engineer found out there was a defect in the
9 hook. And you had an item in midair held by a crane.
10 Obviously, you would not want to go out and say, stop
11 work, and have it hanging in the air. You would lower
12 it down and then not allow that crane to be used again
13 until that hook was examined and fixed as opposed to
14 creating a dangerous situation with something suspended
15 there.

16 Q Mr. Muller, would you agree with me that there
17 could arise situations in which you would not be able to
18 make that judgment yourself but would need to consult?

19 A (WITNESS MULLER) That would be very possible,
20 yes. I do not have a license, and I would have to go to
21 the technical people to evaluate my concerns. And they
22 would have to convince me that I am either right or
23 wrong. Once again, the stop-work is a very serious
24 consideration, and I would not use it lightly. But I
25 would use it if I needed to.

1 JUDGE MORRIS: Thank you, gentlemen.

2 JUDGE BRENNER: Mr. Ellis.

3 MR. ELLIS: Judge Morris, if I may, there is
4 one question that you asked that I thought I understood,
5 and I am not sure that I was clear on the answer.

6 REDIRECT EXAMINATION -- Resumed

7 BY MR. ELLIS:

8 Q Mr. Muller, could 4.6.1(a) through (d), are
9 there situations that could arise involving (a), (b),
10 (c), or (d) that would not necessarily involve any LCO?

11 JUDGE MORRIS: I thought that was asked and
12 answered, Mr. Ellis.

13 MR. ELLIS: I thought it was, but I am not
14 sure I understood the answer. Maybe the answer came out
15 a different way for me. That is why I reasked it. I
16 thought the answer was obvious, and that is why I was
17 struck when the answer I thought I came out
18 differently. But perhaps I am wrong. It was indeed
19 asked and answered.

20 WITNESS MULLER: I don't remember what I said,
21 but the answer would be yes.

22 MR. ELLIS: Judge Morris, let me stop at this
23 point and see if you wanted to follow up.

24 JUDGE MORRIS: No, I don't want to follow up.

25 (Pause.)

1 MR. ELLIS: Judge Morris, Judge Brenner, I
2 don't mean to be cryptic, but I understood the answer is
3 different the last time it was asked.

4 (Counsel for LILCO conferred.)

5 BY MR. ELLIS: (Resuming)

6 Q Mr. Muller, we have talked about your
7 stop-work authority as one safeguard involved in or
8 supplied, furnished in connection with the
9 organizational structure that LILCO uses for OQA. Are
10 there other safeguards?

11 A (WITNESS MULLER) As I have testified earlier,
12 we are audited by the Quality Assurance Department, and
13 we are also audited by the NRB. Plus, our procedures
14 have to be reviewed by other organizations, including
15 the Quality Assurance Department. I testified earlier
16 that the plant manager would not sign one of our
17 procedures until the comments had been successfully
18 resolved between the QA Department and OQA or the plant
19 manager.

20 We also have the feedback and communications
21 with the Quality Assurance Department. They approve our
22 audit schedule. They receive copies of our audits or
23 our deficiency reports or our NDE reports. Plus we have
24 the corporate policy to back us up as far as going to
25 the plant manager -- I mean going to the QA manager when

1 we have problems with the plant manager as far as
2 disagreements.

3 Q You mentioned corporate policy. Issuing from
4 whom, Mr. Muller?

5 A (WITNESS MULLER) The corporate policy appears
6 in the QA manual. It is signed by two senior vice
7 presidents of LILCO.

8 Q You are referring now to the QA manual?

9 A (WITNESS MULLER) Yes, the QA manual, section
10 III, Roman numeral -- no, that's just III, page 1 of 1,
11 the second page in the QA manual. The policy -- well,
12 it reads, the corporate statement of quality assurance
13 policy, and it states that the requirements stipulated
14 in these manuals are mandatory and shall be
15 appropriately imposed on all personnel and organizations
16 who perform quality-affecting activities from the design
17 through operation phases of a nuclear power plant. It
18 is essential that strict adherence to the quality
19 assurance requirements shall prevail.

20 Q Mr. Muller, with respect to whether the plant
21 manager would approve a QAPS without the concurrence of
22 the QA manager, I think you indicated to Mr. Dynner that
23 that was a practice. Is there any procedure or
24 provision that makes it more than simply a practice?

25 (Witnesses conferred.)

1 A (WITNESS MULLER) Yes, it appears in QAPS
2 5.2. There is a requirement that the preparer of the
3 procedure shall review and disposition the comments, and
4 that omitted comments are required to be resolved with
5 the reviewer prior to the approval of the procedure. If
6 the plant manager approved the procedure in front of him
7 without having the comments resolved, he would be in
8 violation of the QAPS.

9 JUDGE BRENNER: Could you give us a reference
10 to the section of the QAPS 5.2 that you are relying on?

11 WITNESS MULLER: Paragraph 5.2.5. And
12 paragraph 5.3.2.

13 (Counsel for LILCO conferred.)

14 BY MR. ELLIS: (Resuming)

15 Q Does that operate as any kind of safeguard in
16 the sense that we have been talking about it?

17 A (WITNESS MULLER) Yes, it does because it
18 means that the comments would have to be resolved prior
19 to the plant manager's signing our procedure, which
20 would mean that the Quality Assurance Department has a
21 direct input into our procedures.

22 MR. ELLIS: Judge Brenner, I propose to go on
23 to another subject.

24 JUDGE BRENNER: Proceed.

25 BY MR. ELLIS: (Resuming)

1 Q Mr. Youngling, on or about I think it was
2 transcript page 12,662, I think you indicated that the
3 FSAR does explain how Appendix B will be met in
4 accordance with 50.34.B.6.II. Can you please explain
5 your basis for that answer and why you think that is so?

6 A (WITNESS YOUNGLING) 50.34.B.6 Roman numeral
7 II requires that there be a discussion of how the
8 applicable requirements of Appendix B will be satisfied.

9 Appendix B to 10 CFR 50 requires that various
10 measures and programs be established to satisfy each of
11 the 18 criteria within the Shoreham FSAR. Particularly,
12 section 17.2 we state the measures and programs that
13 will be established through the QA program. We present
14 the structure of the quality assurance organizations and
15 describe the scope of the program.

16 In addition, we discuss the existence of the
17 quality assurance manual, and we make the commitment
18 that there be in place written implementing procedures
19 to carry out the requirements of the quality assurance
20 manual. Through that description in the FSAR, we state
21 how the requirements of Appendix B will be met. The
22 FSAR does not have to provide the specific details of
23 each procedure, nor is it required to.

24 Q What do you base your last statement on that
25 the FSAR does not have to include the detail to satisfy

1 50.34.B.6.II?

2 A (WITNESS YOUNGLING) Both the NRC and the
3 industry have construed 50.34.B.6.II to require the
4 level of detail provided in the Shoreham FSAR. The FSAR
5 has been reviewed by the NRC Staff; in particular,
6 section 17.2. Additional information was provided to
7 the Staff in response to questions during the review
8 process.

9 In addition, the NRC Staff by virtue of
10 publishing the safety evaluation report has indicated
11 that the level of detail provided in the FSAR,
12 particularly 17.2, does satisfy its regulations,
13 including 50.34.B.6.

14 Q Can you give us an SER reference on that?

15 A (WITNESS YOUNGLING) Yes. The SER, page 17-6,
16 in its conclusions, section 17.4 entitled "Conclusions,"
17 the NRC makes the following statement under 17.4(2):
18 The quality assurance program, with the exception of the
19 outstanding issue described in 17.5 of this SER,
20 describes requirements, procedures, and controls that
21 when properly implemented comply with the requirements
22 of Appendix B to 10 CFR Part 50, with the acceptance
23 criteria contained in the Standard Review Plan, section
24 17.2.

25 Accordingly, the Staff concludes that the

1 Applicant's description of the quality assurance
2 program, with the exception of the outstanding issues
3 noted below, is in compliance with applicable NRC
4 regulations.

5 Q Mr. Youngling, would you turn, please, to
6 transcript page 12,863, where Mr. Dynner characterized
7 your previous testimony relating to content of section
8 17.2.16 of the FSAR and asked you a question. Have you
9 had an opportunity now to review that characterization
10 to see whether you agree that that characterization is
11 correct?

12 A (WITNESS YOUNGLING) Yes, I have reviewed the
13 testimony.

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1 Q All right. Is Mr. Dynner's characterization
2 correct?

3 A (WITNESS YOUNGLING) No, it was not. At the
4 time that I testified, I corrected what I thought was a
5 misstatement by Mr. Dynner as to whether he was talking
6 about the quality assurance procedures or the quality
7 assurance manual, and then with respect to that correct
8 or other than that correction, I answered that as I
9 followed the statement, the characterization was correct.

10 In reviewing the testimony, I also noted an
11 additional error in the question. That error is that
12 Mr. Dynner stated that the FSAR does not say how the
13 requirements of criterion 16 to Appendix B would be
14 satisfied. As I just testified, it is my opinion that
15 the FSAR does say how the applicable requirements will
16 be satisfied, and it does not include the procedural
17 details, nor is it required to include those details.

18 Q Mr. Youngling, are the detailed written
19 procedures and the manual actually a part of the FSAR?

20 A (WITNESS YOUNGLING) No, they are not.

21 Q Did you have something further to add?

22 A (WITNESS YOUNGLING) The detailed procedures
23 are not a part of the FSAR. They are required by the
24 quality assurance program as stated and committed to in
25 the quality assurance manual. LILCO does have a QA

1 program, and the detailed implementing procedures as
2 stated in the FSAR are in place.

3 Q Does the FSAR, in your opinion, have to
4 reference all of the detailed implementing procedures of
5 the QA program?

6 A (WITNESS YOUNGLING) No, that is not
7 necessary. The level of detail is not required by the
8 regulations in Section 50.34.B, nor is it required by
9 the NRC for its review. The FSAR, as I stated earlier,
10 states to have or makes a commitment to have the written
11 procedures in place. The Quality Assurance Manual
12 requires the written procedures, and in fact, written
13 procedures are in place, as we have discussed during
14 this entire period.

15 JUDGE BRENNER: Mr. Ellis, the length of your
16 redirect is relatively quite short compared to the
17 length of the cross, so I don't want to be uncharitable,
18 and I want to state that at the outset. However, I know
19 that question and answer has been on this record any
20 number of times throughout that long cross examination
21 in one incarnation or another.

22 It is a summary of the whole position, and the
23 question is the detail supporting that.

24 MR. ELLIS: Yes, sir, I agree.

25 BY MR. ELLIS (Resuming):

1 Q Mr. Youngling, look at --

2 MR. ELLIS: I think what I was doing, Judge
3 Brenner, just in a meager defense, if I may, was just
4 following up on clarifying something and I probably
5 should have stopped one question earlier.

6 JUDGE BRENNER: As I said, you are being quite
7 brief, and if we can get going you will be even
8 briefer. But we have heard that answer a lot.

9 BY MR. ELLIS (Resuming):

10 Q Mr. Youngling, look at page --

11 (Counsel for LILCO conferring.)

12 This is on the same subject, Mr. Youngling.
13 Look at page 12,864 through the top of 12,866. Have you
14 got that testimony in front of you?

15 A (WITNESS YOUNGLING) Yes, I do.

16 Q Are there any other characterizations of your
17 testimony that you would like to correct there that are
18 in line with what you have just done?

19 A (WITNESS YOUNGLING) Yes. I would like to make
20 a correction. I would like to state that this rather
21 lengthy question similarly mischaracterized our
22 testimony, and therefore, my response was incorrect.
23 And now that I have had a chance to review the testimony
24 in detail, I do believe that the FSAR says how the
25 requirements of Appendix B will be satisfied.

1 MR. DYNNER: I would like to say for the
2 record that I object to the constant use of the term
3 analogy that I, cross examining Mr. Youngling,
4 mischaracterized his testimony. It is clear from the
5 transcript that I was asking questions and he was giving
6 me answers.

7 JUDGE BRENNER: The situation -- and I will
8 state my view and that will be the last word on it --
9 was that we let you ask some lengthy questions and asked
10 the witnesses and discouraged Mr. Ellis from jumping in
11 saying the witnesses could straighten it out or he could
12 straighten it out on redirect. And we gave you a lot of
13 flexibility in asking some very long, convoluted
14 questions which chose to summarize your view of a lot of
15 the testimony.

16 So I'm not going to let you interrupt Mr.
17 Ellis along the lines that you just did because we
18 specifically stopped him from jumping in then to give
19 him the right to do what he is doing now. And it
20 doesn't surprise me that the witness at the time
21 couldn't absorb each and every clause and subclause
22 which modified and remodified your question as you asked
23 it.

24 This particular question runs almost a page in
25 the transcript, so I think what they are doing is fair.

1 Just as I stopped LILCO from interrupting you, I don't
2 want you to interrupt his redirect with that kind of
3 problem. It is their view that you mischaracterized the
4 testimony and he is getting the sworn witness's answer
5 as to what he thinks was wrong. And Mr. Youngling was
6 careful to state, as I followed your question and then
7 gave the answer. However, even where he didn't
8 expressly state that, it is clear that that is always
9 the situation, and it is understandable that he would
10 need to go back, given the flexibility we allowed you.

11 So that is what redirect is all about. Go
12 ahead, Mr. Ellis.

13 BY MR. ELLIS (Resuming):

14 Q Mr. Youngling, you were asked I believe by
15 Judge Brenner -- I think the transcript page reference
16 is on or about 14,288 --. I say on or about, Judge
17 Brenner, because it has been sometime since I looked.

18 JUDGE BRENNER: I should tell Mr. Dynner, you
19 see now, they're going to pick on one of my long
20 convoluted questions, so it's okay.

21 MR. DYNNER: As long as they don't say you
22 mischaracterized anything, Judge.

23 (Laughter.)

24 BY MR. ELLIS (Resuming):

25 Q Mr. Youngling, you were asked by Judge Brenner

1 what was used by LILCO as a basis for preparing or
2 drafting the QA Manual and procedures in terms of
3 format, content and detail. Do you now have an answer
4 with respect to that question?

5 A (WITNESS YOUNGLING) Yes. We did check with
6 our people. Not only the quality assurance procedures,
7 but also the Quality Assurance Manual was developed
8 after looking at four major attributes. First of all,
9 we reviewed the industry to determine what was out
10 there, what was acceptable, what was working and what
11 was in place. We looked at the manuals and the
12 procedures of five utilities, Niagara-Mowhawk, the Nine
13 Mile plant; Power Authority of the State of New York,
14 the Fitzpatrick plant; Boston Edison, the Pilgrim plant;
15 Georgia Power, the Hatch plant; and Florida Power and
16 Light, the Turkey Point plant.

17 In addition to the review of what was in the
18 industry, the people who were involved in the
19 preparation of the manual and procedures were and are
20 participants of the EEI, the Edison Electrical
21 Institute, quality assurance task force. It was through
22 that task force and those various meetings that we
23 gained additional insight on a much broader scale as to
24 what was acceptable at other utilities as far as quality
25 assurance manuals and procedures and formatting and so

1 forth.

2 In addition, for the procedures we also used
3 the guidance contained in Regulatory Guide 1.33, ANSI
4 18,7, as appropriate to the quality assurance
5 procedures. We feel that what we have in place is
6 entirely consistent with the industry, and to the extent
7 that we reviewed it, which we feel is a very significant
8 extent, we feel that what we have in place represents a
9 good working set of procedures and manual.

10 Q What do you mean by good working set?

11 A (WITNESS YOUNGLING) Well, as I stated, we used
12 the guidance of ANSI 18.7. In that standard there are
13 very clear words. Maybe I ought to find them, which
14 state -- and I'm on page 19 of ANSI standard 18.7-1976
15 -- which say under Section 5.3., Preparation of
16 Instructions and Procedures, it says, "Activities
17 affecting safety at nuclear power plants shall be
18 described by written procedures of a type appropriate to
19 the circumstances, and shall be accomplished in
20 accordance with these instructions and procedures."

21 And what that is saying is when we develop
22 procedures, they must be appropriate for the
23 circumstances that we are using them; they cannot be
24 cookbooks. They have to rely upon the judgment of the
25 people who are trained and qualified to use them. We

1 feel that what we have in place has been in place for a
2 good six years. It is working, and we feel we have a
3 good set of procedures.

4 Q This is for any member of the panel. With
5 respect to the QA Manual for Shoreham, was it reviewed
6 before it was issued, and if so, can you tell us who
7 reviewed it?

8 A (WITNESS KELLY) Yes, it was reviewed before it
9 was issued. It was reviewed by 22 people. It was
10 reviewed by the Vice President of Purchasing, the QA
11 Manager, the Manager of the Field Purchasing Department,
12 the Manager of Nuclear Engineering, the Manager of
13 Purchasing, the Plant Manager, the OQAE, the Vice
14 President of Nuclear, the Manager of Environmental
15 Engineering, the Manager of Field QA Division, the
16 Manager of Quality Assurance Division, the Manager of
17 Construction and Engineering, the Shoreham Project
18 Engineer, the Vice President of Engineering, the Manager
19 of Engineering, the Manager of Power Engineering, the
20 Manager of Nuclear Operations and Support, the Manager
21 of Special Services Department, the Director of
22 Production, the Manager of Meter and Test Department,
23 the Vice President of Operations, and the Startup
24 Manager.

25 Q Did the review include the opportunity to

1 comment and submit comments?

2 A (WITNESS KELLY) Most definitely, they did.

3 Q Mr. Muller, you've described the review and
4 approval cycle for procedures, and I think in response --

5 JUDGE BRENNER: Are you going to ask them to
6 characterize the comments they got and the level of
7 detail on the procedures?

8 BY MR. ELLIS (Resuming):

9 Q Yes. Mr. Kelly, are you familiar with the
10 comments? Did you see any of the comments?

11 A (WITNESS KELLY) Yes, sir. And I'm also one of
12 the persons who made the comments.

13 Q Can you tell the Board what the comments were
14 with respect to the level of detail in the procedures in
15 the manual?

16 A (WITNESS KELLY) They varied in detail from
17 minor comments to very extensive commenting, depending
18 upon the responsibility of that particular organization
19 in the nuclear work.

20 Q Were there any comments that related to the
21 level of detail in the manual itself? In other words,
22 where the comment in the manual isn't detailed enough?

23 A (WITNESS KELLY) No, sir. I misunderstood your
24 question. No, sir.

25 JUDGE BRENNER: None of the commenters felt

1 there were some details in their bailiwick that they
2 suggested be added to the QA Manual?

3 WITNESS KELLY: Not -- when we are talking
4 details, I presume we're talking about the same context
5 of the type of detail we were talking about during my
6 cross examination. As far as outlining responsibilities
7 of organizations as it was outlined in the manual, those
8 organizations, to the best of my recommendation, found
9 that to be quite satisfactory the way it is outlined.

10 BY MR. ELLIS (Resuming):

11 Q Mr. Kelly, to pursue this a bit further, can
12 you just tell the Board, to the best of your
13 recollection, some of the comments that you recall that
14 you received?

15 (Panel of witnesses conferring.)

16 A (WITNESS YOUNGLING) Judge Brenner, I made a
17 comment to the manual in my review process. In the
18 organization section there was an oversight in
19 designating the startup organization as part of the
20 operational phase. They had overlooked the fact that
21 the startup organization will be around after fuel load
22 for final cleanup and testing, and we needed to be put
23 in the organizational section so that our work would
24 continue under the QA program, since we would be around
25 after fuel load.

1 (Pause.)

2 JUDGE BRENNER: I didn't have any comment;
3 don't look at me.

4 (Laughter.)

5 MR. ELLIS: I was just pausing in the event
6 the Board wanted to pursue this.

7 WITNESS MULLER: OQA also had comments
8 concerning some of our activities. In some cases the
9 activities were not always listed. We added comments so
10 that all of the activities that we were responsible for
11 were listed in the QA Manual, such as surveillance,
12 audit inspection, review.

13 MR. ELLIS: Shall I proceed, Judge Brenner?

14 JUDGE BRENNER: I thought somebody was going
15 to cite good job, signed so-and-so. Would this be a
16 good time to take a 15-minute break?

17 MR. ELLIS: Yes, sir.

18 JUDGE BRENNER: All right, we will come back
19 at 3:45.

20 (A short recess was taken.)

21

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23

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1 JUDGE BRENNER: All right, we are ready to
2 continue with the redirect. I realize we took a lot of
3 the time you planned to use. Do you have an idea of how
4 much more you have?

5 MR. ELLIS: Yes, sir, I do. I am a little
6 less than half. I think I have and I have indicated to
7 the parties that I have approximately two hours
8 remaining. I just didn't anticipate what we did do, and
9 I am making some adjustments now to further streamline
10 and expedite it, and I hope they will work.

11 JUDGE BRENNER: While we were off the record I
12 spoke briefly to Mr. Lanpher and asked him to speak to
13 the appropriate LILCO counsel, and I talked about LILCO
14 getting together to talk about getting together on a
15 narrowing of the remote shutdown contention for which
16 testimony is going to be filed on Thursday. Although we
17 had certainly discussed it within a minute or two, at
18 the time I was talking about when parties would get
19 together, I forgot the testimony was being filed
20 Thursday by LILCO and presumably the Staff, and that
21 doesn't leave very much time to scope it through. So I
22 suggested counsel talk and with the possibility of
23 getting together on that narrowing, certainly in the
24 next day or so, and perhaps deferring the filing of the
25 testimony until next Monday or Tuesday. I don't want to

1 get a lot of testimony in that then has to be refiled.

2 I just wanted to state that for the record
3 since for efficiency's sake I had that conversation
4 during the break with Mr. Lanpher. Both of you had left
5 the room by then. So I wanted to reflect that.

6 MR. ELLIS: Yes, sir. If it is any
7 assistance, Mr. Irwin is upstairs right now and is
8 available, prepared to discuss that.

9 JUDGE BRENNER: I don't want to discuss it on
10 the record. I just wanted to solve my brief ex parte
11 problem, which I have now done, and I expect the parties
12 to tell me what they have worked out tomorrow morning.

13 MR. ELLIS: I was just indicating to Mr.
14 Dynner that he may want to tell Mr. Lanpher that Mr.
15 Irwin is upstairs right now.

16 JUDGE BRENNER: I think they know where they
17 are by now. Proceed.

18 BY MR. ELLIS: (Resuming)

19 Q Mr. Muller, you have already indicated in your
20 cross-examination the review and approval cycle for
21 procedures, and I think in response to Mr. Bordenick's
22 questions, this is related to that. Would you explain,
23 please, how LILCO ensures that FSAR commitments and
24 regulatory requirements are incorporated in the plant
25 procedures?

1 A (WITNESS MULLER) I think I have a good place
2 to start this time. The first requirement you have to
3 have is a procedure that tells you how to prepare
4 procedures, review procedures, the format of the
5 procedures, their contents, the review cycle and the
6 approval cycle.

7 First, the plant staff has developed that
8 procedure. We have referenced that in our testimony.
9 That is SP 12006-01, which is entitled "Station
10 Procedures, Preparation, Review Approval, Change,
11 Revision and Cancellation." In Paragraph 8.2.2, that
12 procedure requires specifically that, reading from the
13 procedure, "Review of draft station procedures shall be
14 under the direction of the responsible section head,
15 chief engineer or plant manager. He shall ensure
16 compliance with technical specifications, safety analysis
17 report, NRC regulatory requirements, conformance to
18 station procedures and technical accuracy."

19 Starting out with that procedure, we developed
20 our other procedures. This station procedure provides
21 guidelines as to the format, the scope, purpose,
22 responsibility sections, discussion, precautions,
23 prerequisites, limitations and actions, materials and/or
24 test equipment, the actual procedure, acceptance
25 criteria, final conditions, references and appendices.

1 This provides the basis for all the other
2 station procedures. Once the station procedure is
3 initiated, it is reviewed by the section head, he
4 assures that the reg guides requirements are in the
5 procedure, the procedure then goes out for review to the
6 various other organizations and section heads in the
7 plant.

8 Q Just the reg guides, or is there anything else
9 that he ensures is incorporated, is required to be
10 incorporated?

11 A (WITNESS MULLER) What I had read was the
12 technical specifications, safety analysis report, NRC
13 requirements, conformance to station procedures and
14 technical accuracy.

15 Q Now, does audit play any role in assuring that
16 the FSAR commitments and regulatory requirements are
17 incorporated in procedures?

18 A (WITNESS MULLER) Yes, it does, Mr. Ellis, but
19 I wasn't quite finished with the response.

20 Q Forgive me. Go ahead.

21 A (WITNESS MULLER) I had mentioned that the
22 procedure goes out for review. It goes out for review
23 to OQA for one, and other sections. They comment and
24 review the procedures to the FSAR, the Reg Guides, the
25 QA manual requirements and the other technical

1 requirements that the procedures have to meet. This is
2 just for -- what I am talking about now is just the
3 initial procedure. So the comments come back, they are
4 incorporated into the procedure, the procedure is
5 reviewed by the responsible section head and presented
6 to ROC if appropriate. And whether it goes to ROC or
7 not, it has to be approved by the plant manager and has
8 to be reviewed by the OQA engineer, and the individual
9 who submits the procedure also has to sign it.

10 Now, for a revision to a procedure, if we have
11 an FSAR change, a regulatory requirement change, the
12 procedure would go through the review cycle. This
13 review cycle would be initiated through another station
14 procedure that requires that all incoming
15 correspondence, bulletins, be reviewed for their
16 applicability to Shoreham and the Shoreham procedures.

17 Each one of the bulletins that comes in and is
18 found to be applicable would go to the responsible
19 section head, who would review his procedures to assure
20 that the proper changes are made. If changes are made
21 it would go through the review cycle specified in
22 SP-12006-01. And once again, the review cycle includes
23 other section heads, the OQA section, ROC if applicable,
24 the plant manager approval, and signature or review by
25 the OQAE, and audit would also play a role in this.

1 After the procedure has been reviewed, the OQA
2 section or the OQA Department may perform an audit of
3 the procedure and the activities performed by a specific
4 section. The audit would include a checklist which
5 would require research into the procedures being used,
6 the regulatory requirements, FSAR commitments that we
7 made. The audit would assure that these commitments in
8 fact do appear in the procedure and are in fact being
9 implemented.

10 MR. ELLIS: Judge Brenner -- Well, did you
11 want to add anything, Mr. Youngling?

12 WITNESS YOUNGLING: Yes, just one point. Mr.
13 Muller mentioned initial review of procedures and
14 changes initiated from external sources. In addition,
15 there is a requirement in the ANSI standard that is
16 implemented in this procedure that procedures be
17 reviewed on a periodic basis to ensure that they are
18 kept up to date and reflective of the plant
19 configuration and good operating practice.

20 MR. ELLIS: Judge Brenner, I am now going to
21 try to proceed to the area of procedures, avoiding
22 procedure by procedure, streamlining it somehow, but
23 there will be some references to procedures.

24 JUDGE BRENNER: Is that the last subject?

25 MR. ELLIS: No, sir; I have a miscellaneous

1 section and I have a section involving staffing.

2 JUDGE BRENNER: Judge Morris has some
3 questions.

4 BOARD EXAMINATION

5 BY JUDGE MORRIS:

6 Q Gentlemen, from your prior testimony it was my
7 understanding that each department at the site develops
8 its own QA procedures. Is that correct?

9 A (WITNESS MULLER) Judge Morris, that was each
10 responsible department, not necessarily at the site. At
11 the operating plant there will be the plant staff
12 organization known as the Shoreham Nuclear Power
13 Station. There will be representatives from the Quality
14 Assurance Department at times, there is ISEG and there
15 may be other organizations at the site, but as far as
16 the corporation is concerned, each department has to
17 develop its own quality assurance implementing
18 procedures.

19 Q Well, the latter is what I was interested in,
20 but I was interested in the Shoreham plant site
21 organization and whether there were different
22 organizations on site which develop their own
23 implementing procedures for compliance with corporate
24 policy on QA.

25 A (WITNESS MULLER) Within the plant

1 organization the procedure that I have just mentioned,
2 the SP 12006-01, is the procedure that provides for the
3 guidance and the preparation and review and approval of
4 station procedures. The station organization consists
5 of different sections with different departments.

6 Q So different sections would develop their own
7 implementing procedures for OQA?

8 A (WITNESS MULLER) They would develop their own
9 procedures in accordance with this particular station
10 procedure. The procedures would implement the QA
11 program as far as the responsibilities of the plant
12 staff organization.

13 Q Can you tell me why, and what is puzzling me
14 is why one procedure for the plant would not suffice.
15 That would apply to the different sections.

16 A (WITNESS MULLER) Judge Morris, this one
17 procedure for the preparation, review, approval of
18 station procedures does apply to the plant.

19 Q I understand that guidance, but I thought I
20 understood you to say that the different sections at the
21 plant site develop their own implementing procedures.

22 A (WITNESS MULLER) What I meant by the sections
23 were the INC section writes its own procedures, the
24 maintenance section writes its own procedures, the
25 operating section writes its own procedures, and they

1 are all in accordance with this particular station
2 procedure.

3 Q Well, I understand that structure. My
4 question is why wouldn't a single implementing procedure
5 be a simpler way of doing it at the plant site? Why do
6 there have to be different implementing procedures for
7 each section?

8 [Panel of witnesses conferring.]

9 A (WITNESS YOUNGLING) Judge Morris, to the
10 maximum extent possible, we have one procedure to
11 implement a particular aspect in the plant. For
12 instance, we have one procedure on how to write
13 procedures. I think what might be confusing you was
14 earlier testimony that we gave, for instance, on the
15 control of measuring and test equipment.

16 I mentioned that the INC people and health
17 physics people and the chemistry people and the
18 maintenance people each had a procedure to control their
19 own measuring and test equipment. So for procedures
20 within the plant designed to cover a particular aspect
21 of the QA program, the reason we chose to do that was in
22 that particular instance each of the section heads that
23 I mentioned, responsible department heads for INC,
24 health physics, chemistry and maintenance, are
25 responsible to control their measuring and test

1 equipment, so the plant has made a conscious decision to
2 allow each of them to develop their mechanism to control
3 it.

4 However, each of the four is, number one,
5 responsive to this procedure on how to write a
6 procedure, so it has all of the essential ingredients,
7 plus it is fully responsive to the quality assurance
8 program requirements on control of measuring and test
9 equipment. But in most instances we have one procedure
10 to control a particular activity. For instance, the
11 control of all of our maintenance repairs, the MWR
12 procedure, we only have one procedure to do that.

13 Q Tell me if I am correct that the one reason
14 for doing this is that the kind of work that the INC
15 people would do would be different, for example, than
16 the maintenance section at the plant.

17 A (WITNESS YOUNGLING) Yes, sir.

18 Q Is that the main reason?

19 A (WITNESS YOUNGLING) That is one of the
20 primary reasons.

21 Q That it was decided that they should develop
22 their own implementing procedures?

23 A (WITNESS YOUNGLING) Yes, sir.

24 Q Now, what mechanisms are there to assure
25 uniformity of the nature of quality assurance that is

1 applied among those various organizations?

2 A (WITNESS YOUNGLING) The way the uniformity is
3 obtained is in the review cycle. When a particular
4 procedure is sent out for review, the responsible
5 section head will select the people that it will go to.
6 Let me choose an example, the control of measuring and
7 test equipment, the INC procedure. The INC engineer
8 would want to put that procedure out for review. He
9 would probably send it to the maintenance engineer, the
10 health physics engineer, the chemistry engineer, and, of
11 course, the QA people to ensure that his program is
12 consistent. So that is accomplished in the review cycle.

13 Then as a full committee the Review of
14 Operations Committee will look at that procedure and
15 approve it to ensure that there is a uniformity of
16 approach. And then, of course, the quality assurance
17 people will come in and perform a programmatic audit of
18 that procedure and the implementation of the QA
19 requirements associated with that to ensure that the INC
20 people are meeting all of the program requirements. So
21 there is a multi-layer situation there.

22 Q So do I infer correctly that it would be both
23 Mr. Muller's organization and representatives of the
24 Quality Assurance Department that would review these
25 implementing procedures for uniformity?

1 A (WITNESS MULLER) The procedures would not be
2 reviewed in every case by both organizations. They may
3 be reviewed by one of the organizations but they would
4 be required to be reviewed by either the Operating
5 Quality Assurance section or the Quality Assurance
6 Department, depending upon who prepares the particular
7 procedure. If the plant generates a procedure, the
8 Operating Quality Assurance section would perform that
9 review. If another organization prepares the procedure,
10 the Quality Assurance Department as a minimum would be
11 required to review that procedure.

12 Q Are they reviewed specifically to assure
13 uniformity in the implementation of the company QA
14 policy?

15 A (WITNESS MULLER) That would be done by a
16 review of the procedure that tells them how to write a
17 procedure. We would review the station procedure to the
18 requirements of the procedure that tells them how the
19 procedure should be written, including the format and
20 inclusion of all of the required items, such as
21 acceptance criteria, requirements, references. We would
22 also review it to the applicable regulatory guides, FSAR
23 commitments, QA manual requirements.

24 A (WITNESS KELLY) Likewise the QA Department
25 would assure that uniformity to the requirements that we

1 are committed to, so that in fact you would have
2 uniformity of QA requirements from one organization to
3 another, yes.

4 A (WITNESS YOUNGLING) In addition, that
5 uniformity is also ensured or enhanced by the review,
6 the peer review that is done at the plant within the
7 plant staff complement, within the technical people in
8 the plant staff. So there is an additional layer
9 there. It is not just the QA people that are ensuring
10 that, but we ourselves; the plant staff people, the
11 technical people ourselves are ensuring the uniformity.

12 JUDGE MORRIS: Thank you.

13 JUDGE BRENNER: Proceed.

14 REDIRECT EXAMINATION -- Resumed

15 BY MR. ELLIS:

16 Q Gentlemen, Mr. Dynner asked you a number of
17 questions concerning procedures and whether the
18 procedures listed the specific responsible organizations
19 or individuals. Look at 12.1, QAPS 12.1 if you would,
20 please, either Mr. Muller or Mr. Kelly.

21 JUDGE BRENNER: This is part of Suffolk County
22 Exhibit 76.

23 BY MR. ELLIS: (Resuming)

24 Q Mr. Kelly or Mr. Muller, I think you were
25 here, Mr. Kelly, and you can say if you weren't --

1 MR. DYNNER: Excuse me. QAPS 12.1 was not the
2 subject of cross-examination in accordance with the
3 detailed cross-examination plan that was furnished
4 indicating which parts were done and which were not done.

5 MR. ELLIS: Well, that may be my error. I
6 don't have a page reference number. I will just ask the
7 question the other way.

8 WITNESS KELLY: Well, we can do it simply.
9 Why don't we talk about the QA Manual Section 12, which
10 was discussed.

11 MR. ELLIS: I beg your pardon. That is my
12 error, Judge Brenner. I meant the QA Manual Section
13 12.1.

14 JUDGE BRENNER: If you have Mr. Kelly ask the
15 question, then you will have to answer it, instead of
16 the other way around.

17 [Laughter.]

18 WITNESS KELLY: That sounds good to me.

19 [Laughter.]

20 MR. ELLIS: I am suffering from cabin fever
21 here.

22 JUDGE BRENNER: It is getting late. Proceed.

23 BY MR. ELLIS: (Resuming)

24 Q Let me rephrase my question. I think Mr.
25 Dynner asked a number of questions concerning whether

1 provisions in the QA manual referenced specific
2 responsible organizations or individuals. Is 12.1 one
3 of those sections that was asked about?

4 A (WITNESS KELLY) Yes, it is.

5 Q And does 12.1 specifically list all of the
6 responsible organizations or individuals?

7 A (WITNESS KELLY) Manual Section 12.2.1 has a
8 statement in there that organizations that requisition
9 products and services, including measure and test
10 calibration, are responsible for imposing upon suppliers
11 the applicable requirements of this section.

12 Q Now, Mr. Muller or Mr. Kelly, in your opinion,
13 is it advantageous or required by any regulation or
14 otherwise that 12.2.1, instead of referring to
15 organizations that requisition products and services,
16 actually contain a list of organizations?

17 A (WITNESS KELLY) No, sir.

18 Q Why wouldn't it be a good idea or why is it a
19 bad idea, if that is your view?

20 A (WITNESS KELLY) Well, number one, there is
21 nothing to be gained by it. Number two --

22 Q Why isn't there anything to be gained by it?

23 A (WITNESS KELLY) Because the QA Department and
24 the OQA Section are aware of the duties and
25 responsibilities of the various organizations involved

1 with measuring and test equipment. The various NOC
2 policies define the responsibilities. The QA Manual
3 Section 1 defines responsibilities as part of our audit
4 program. Prior to an audit being started, research is
5 done into all of the duties and responsibilities of the
6 organization to be audited, and when the audits are
7 conducted, besides assuring that those responsibilities
8 are identified, we assure that they are implemented.

9 Also in the process of QA review, the various
10 procedures of these organizations, that is taken into
11 account. To put this kind of listing in the manual
12 would necessitate needless changing of procedures when
13 one organization or one particular individual was
14 added. We would now have to have a manual change, which
15 in our opinion is needless and a wasted effort that does
16 nothing to improve the quality of the plant.

17 A (WITNESS YOUNGLING) I would also like to add
18 to that that each of the organizations that provide
19 services to the Shoreham station within the LILCO
20 nuclear program are or have copies of the quality
21 assurance manual, and in this way those organizations
22 are aware of their responsibilities and aware of the
23 program requirements.

24 Q Mr. Muller, does audit play any role in
25 determining whether the appropriate organizations in

1 fact have imposed upon suppliers applicable requirements
2 of that section as set forth in 12.2.1?

3 A (WITNESS MULLER) Yes. Audit and review of
4 the purchase audits would determine that this section of
5 the manual has in fact been complied with, and that
6 audit review would be done by either the Operational
7 Quality Assurance Section or the Quality Assurance
8 Department.

9 Q Mr. Muller, is Section 12.2.1, in terms of not
10 listing the specific organizations, typical of a number
11 of representative and typical of the provisions in the
12 QA manual that you were asked about by Mr. Dynner in
13 this connection?

14 A (WITNESS MULLER) Yes, 12.2.1 is a typical
15 statement in the responsibility section of many sections
16 of the QA manual. We do not list specifically in every
17 section the organizations that are to comply with the QA
18 manual. We do list the organizations in Section 1 of
19 the QA manual, and that is sufficient.

20 Q Are the reasons that you and Mr. Kelly have
21 given for not listing specific organizations with
22 respect to 12.2.1 also applicable to the other
23 provisions in the QA manual and the procedures that do
24 not identify specifically the organizations that have
25 the responsibilities referred to in the manual?

1 A (WITNESS MULLER) Yes, I do agree with Mr.
2 Kelly's reasons.

3 Q And are they representative? Are those
4 reasons applicable to the other provisions that you
5 asked about on cross-examination that are similar to
6 12.2.1 in the manual that defines the organizations
7 generally but not specifically?

8 A (WITNESS MULLER) Yes, that is correct.

9 Q Another group of questions you were asked
10 about, Mr. Muller, involved references in the
11 procedures, that is, references to the QA manual without
12 referring to specific sections of the QA manual or
13 cross-references between procedures. Is there any
14 regulatory requirement that there be such references?

15 A (WITNESS MULLER) No, there is none.

16 Q Are there reasons, in your opinion, for not
17 including such references in the manual or procedures?

18 A (WITNESS MULLER) Yes. Once again, the
19 individuals that use these procedures are aware of the
20 cross-references, they are aware of the other procedures
21 in the manual. We don't need to reference every other
22 procedure in our QA procedures or in the QA manual
23 because of the reasons that Mr. Kelly just stated. It
24 does not provide any additional assurance of quality. It
25 may provide more confusion. It is just not required by

1 the regulations.

2 Q Well, when you say more confusion, are you
3 referring to change control problems that Mr. Kelly
4 referred to?

5 A (WITNESS MULLER) That is correct. The change
6 control could be a cascading effect if we list every
7 cross-reference, and I would like to add to that, in the
8 QAPS's our standard reference is the QA manual. We do
9 not list specific sections in the QA manual, and it is
10 not required by regulation. In our view it is not
11 required. The procedures have been in use for a number
12 of years. There haven't been any problems identified by
13 either myself or the Quality Assurance Department in
14 doing things that way.

15 Q Mr. Muller, on the subject of
16 cross-referencing, on pages 12,903 to 905 the subject
17 was the use of the surveillance schedule to track, I
18 think, corrective action, and you were asked
19 specifically about the reference between QAPS 16.1 and
20 QAPS 10.5, the surveillance procedure. Is that an
21 example where a reference is not required, in your
22 opinion, based upon your experience?

23

24

25

1 A (WITNESS MULLER) Yes. Specifically, paragraph
2 5.2.3 of QAPS 16.1 notes that verification of completed
3 corrective action will normally be to audit surveillance
4 or review of documentation. There is no need to
5 reference the audit procedure, surveillance procedure or
6 the documentation review procedure in this particular
7 procedure just because those terms are referenced in
8 here.

9 The individuals in my organization know that
10 when they perform a surveillance, their surveillance
11 must be performed in accordance with the surveillance
12 procedure, QAPS 10.5.

13 Q Mr. Muller, you were also asked about whether
14 the QA Manual listed every procedure, every QAPS
15 procedure or every procedure used to control
16 quality-related activities. Is it required or advisable
17 that such a list be in the QAPS Manual?

18 A (WITNESS MULLER) No, it is not required by
19 regulation. That list would, in fact, be very large.
20 It would include hundreds of procedures. Each
21 procedures manual contains its own table of contents.
22 If one needs to know what procedures implement a
23 particular criterion, one would go to the specific
24 procedures manuals to find out what procedures to use.
25 Every time a procedure would change, that would mean

1 that the QA Manual would have to be changed.

2 A (WITNESS YOUNGLING) In addition, the QA Manual
3 is a program manual that establishes responsibilities
4 and requirements. It is not -- it would be impractical
5 and, in fact, unnecessary to describe or reference every
6 single procedure or document in that manual.

7 (Counsel for LILCO conferring.)

8 A (WITNESS MULLER) I would like to add that.
9 Once again, the audit program would once again come into
10 effect as far as the Operational Quality Assurance
11 Section, and the QA Department would audit the other
12 organizations on the implementation of their procedures
13 and the preparation and control of their procedures. So
14 we don't have to have a list of all the other procedures
15 in the QA Manual. We would go to the other
16 organizations' control manuals and use that as a basis
17 for our audit because they are required to control the
18 procedures and the manuals, and to maintain the
19 procedures and the manuals in an updated fashion.

20 Q Gentlemen, look at transcript page 13,176
21 through 179. There, you were asked about Section 8 of
22 the QA Manual, referencing the implementing procedures
23 for identification and control of material being
24 received.

25 Judge Brenner, actually, I'm not going to key

1 to a specific; I just do that for the subject matter.

2 I think there you indicated that each
3 organization had certain procedures that were not
4 cross-referenced. Tell me, Mr. Muller, during the
5 operation of the Shoreham station, what organizations
6 other than the plant itself will receive materials for
7 installation at the plant?

8 A (WITNESS MULLER) The only organization that
9 will receive the material is the plant.

10 Q And what organization would do the receipt
11 inspection in that instance?

12 A (WITNESS MULLER) That would be the Operational
13 Quality Assurance Section.

14 Q In your view, do you think there would be any
15 confusion resulting from different procedures being used
16 for identification of materials by different local
17 organizations?

18 A (WITNESS MULLER) No, because if we perform the
19 receipt inspection, the identification numbers would be
20 clear to us and everyone else. In addition, the plant
21 has an identification system for parts and components.
22 These identification numbers would have to appear on the
23 parts and components coming into the plant. The
24 purchase order is specifically assigned part numbers to
25 all incoming items, and items are stored under their

1 identification numbers that would be unique to the plant.

2 Q Let me direct your attention now, Mr. Muller,
3 to transcript page 12,969 where the subject was whether
4 QAPS 15.1 defined hold or reject. I think you indicated
5 the terms were defined or clarified at 10.1.

6 In the absence of any reference to 10.1 in
7 15.1, would the persons using those instructions know
8 how to interpret those terms, even though there is no
9 reference to 10.1?

10 A (WITNESS MULLER) Yes, they would. The terms
11 "hold" and "reject" come out of the receipt inspection
12 procedure. During the performance of this activity is
13 when we would attach the hold or reject tag; the reject
14 tag would be part of the non-conformance control. The
15 hold tag would also be -- the hold tag would be part of
16 the receipt inspection; the hold tag would also be part
17 of the receipt inspection procedure, the documentation.
18 Or if the part is defective it would be tagged and then
19 the non-conformance report would be written.

20 There is no need for the terms "hold" and
21 "reject" to be defined within the QAPS 15.1 on
22 non-conformance control. The individuals performing the
23 receipt inspection would be familiar with the issuance
24 of a non-conformance report or a LILCO deficient report,
25 an LDR.

1 Q Mr. Muller, you have given us some examples
2 and testified about the extent to which there is cross
3 referencing in the manual and the procedures. Is the
4 cross-referencing that exists in your opinion adequate
5 and appropriate, and if so, why?

6 A (WITNESS MULLER) The cross-referencing in the
7 procedures is adequate because the individuals using the
8 procedures are aware of the requirements. The
9 procedures have been in effect and in use for, in some
10 cases, six years. The Quality Assurance Department has
11 audited us on the implementation of these procedures and
12 they have not identified any problems.

13 Q How do new people learn about the relationship?

14 A (WITNESS MULLER) Through the indoctrination
15 and training program, and through the use of the
16 procedures.

17 A (WITNESS YOUNGLING) In addition, our review of
18 the implementation of these procedures has shown that we
19 are not missing requirements as a result of the lack of
20 cross-referencing, nor do we experience any difficulty
21 in training the people on the use of the procedures.
22 And in addition, we feel that the extent of
23 cross-referencing that was questioned would be confusing
24 and would make it difficult for us to accomplish these
25 tasks. And, of course, the concept of cross-referencing

1 and the cascading changes that would result as a result
2 of changing something would just be overwhelming, and
3 would even add more to the confusion and the
4 difficulties involved.

5 (Counsel for LILCO conferring.)

6 JUDGE BRENNER: Mr. Youngling, when you were
7 talking about cross-referencing, do you mean
8 cross-referencing to the particular sections of the
9 manual or to othe procedures, or both?

10 WITNESS YOUNGLING: Both, Judge.

11 WITNESS MULLER: I would like to add one
12 item. If we continuously change the procedures, I think
13 that would lead to a lot of confusion with the
14 individuals no longer aware of the procedural
15 requirements on a continuously changing basis.

16 MR. ELLIS: I'm sorry, Judge Brenner, may I go
17 ahead?

18 JUDGE BRENNER:

19 BY MR. ELLIS (Resuming):

20 Q Mr. Muller or Mr. Youngling, you were asked a
21 number of questions by Mr. Dynner concerning whether
22 procedures included adequate criteria or standards. Is
23 12.3.7 of the QA Manual an example that is typical of
24 those sections that you were asked about?

25 A (WITNESS YOUNGLING) Yes, it is.

1 Q Just for context, Mr. Youngling, what did that
2 deal with?

3 A (WITNESS YOUNGLING) Yes. That particular
4 section of the QA Manual dealt with the need to provide
5 the basis for the selection of a calibration standard
6 when calibrating measuring and test equipment.

7 Q Well, Mr. Youngling, in your opinion, is the
8 guidance given in 12.3.7 adequate?

9 A (WITNESS YOUNGLING) Yes, it is. Again, the
10 Quality Assurance Manual provides the program
11 requirements. In this particular instance, the number
12 of possibilities that exist -- as I testified earlier,
13 there are some 250 pieces of measuring and test
14 equipment at the station, so the number of possibilities
15 that exist would make it very difficult to spell out the
16 criteria in the QA Manual.

17 So what we do is we have in place detailed
18 calibration procedures for each of the pieces of
19 measuring and test equipment which specify the
20 calibration standard to be used. That calibration
21 standard is selected in full conformance with the
22 requirements of the Quality Assurance Manual and our FSAR
23 commitments.

24 I have two procedures with me which are
25 typical of the calibration procedures for measuring and

1 test equipment that we have in place at the station.

2 MR ELLIS: Mr. Youngling, before you do that,
3 I have given those to the Board and the parties and it
4 might be useful to mark those at this time, Judge
5 Brenner. I will need Judge Morris to help me on the
6 number; I think it is 41 and 42. Should we mark them
7 together or separately?

8 JUDGE BRENNER: I think separately. Why don't
9 you identify them and mark each one in turn.

10 MR. ELLIS: Number 41 will be SP 46051.12.
11 I'm sorry, 050.12, Revision 9, 11/25,81, entitled "Fluke
12 8000, A Calibration."

13 BY MR. ELLIS (Resuming):

14 Q Did I read that correctly, Mr. Youngling?

15 A (WITNESS YOUNGLING) Yes, sir.

16 MR. ELLIS: That will be 41. And 42 is SP
17 46050.06, Revision 4, 5/19/81, "Transmation Model 1040
18 Digital Calibrator, or Calibration."

19 BY MR. ELLIS (Resuming):

20 Q Did I read that correctly, Mr. Youngling?

21 A (WITNESS YOUNGLING) Yes, sir.

22 JUDGE BRENNER: They will be so marked.

23 (The documents referred to
24 were marked LILCO Exhibit
25 No. 41 and 42 for

1 identification.)

2 BY MR. ELLIS (Resuming):

3 Q Mr. Youngling, continue with your explanation,
4 please.

5 A (WITNESS YOUNGLING) What we have here, looking
6 at Exhibit 51, is an example of an MT&E calibration
7 procedure. The Fluke 8000 instrument is what we call a
8 field standard. It would be taken into the field to
9 calibrate permanently-installed equipment in the
10 station. The procedure is written in compliance with
11 the station procedure 120601. It is reflective of the
12 requirements of ANSI standard 18.7. It is reflective of
13 the requirements of the Quality Assurance Manual Section
14 12, as well as reflective of the requirements of the
15 IEEE standard 498 which deals with measuring and test
16 equipment.

17 And if you trace through the procedure you
18 will see under the materials to be used, Section 7, we
19 make a clear designation of the test equipment to be
20 used to calibrate, the Fluke 8000 instrument. So what
21 we are using is we are using a Fluke 5100B programmable
22 calibrator, and a Fluke 8000A digital multimeter and
23 construction manual to implement the procedures.

24 JUDGE BRENNER: You had better read 7.1 in its
25 entirety, since so far this is just for identification.

1 WITNESS YOUNGLING: 7.1 also adds the
2 qualifier or equivalent, Those particular instruments,
3 or that particular instrument in 7.1 has been selected
4 to be in compliance with the requirements of Section 12
5 of the QA Manual, as well as our FSAR commitment which
6 commits us to insure that field standards are calibrated
7 by shop standard, which are four times more accurate or
8 at an accuracy level equivalent to the state of the
9 art. In other words, if I can't achieve four times more
10 accurate than the state of the art, I am allowed to
11 achieve two times or three times.

12 So we have in place not only the criteria to
13 use and the particular piece of shop standard, but in
14 the back of the procedure you will see the detailed
15 calibration data to be taken, and that is Appendix 12.1
16 of this procedure, which gives me the ranges and the
17 accuracy requirements that I have to achieve in order to
18 declare a successful calibration of this particular
19 piece of measuring and test equipment.

20 The second procedure, Exhibit 42, is set up in
21 an identical fashion, and if we look at Section 7.0,
22 that procedure identifies the particular test equipment
23 to be used. And again, in this particular instance, we
24 are achieving the requirements of the QA Manual Section
25 12 as well as our FSAR commitment. And again, we are

1 achieving a four times more accurate calibration in this
2 particular instance.

3 These two procedures are typical of the
4 calibration procedures that are at the plant, and in
5 addition, they are examples of how the specific criteria
6 to implement requirements of the Quality Assurance
7 Manual are set down in detailed implementing procedures.

8 BY MR. ELLIS (Resuming):

9 Q Mr. Youngling, I think you indicated in the
10 initial part of your answer that there were so many
11 different varieties or examples that could arise that
12 you couldn't be -- that made it difficult to be specific
13 in the manual or the QAPS procedure itself. Is that
14 what I understood you to say?

15 A (WITNESS YOUNGLING) Yes, sir.

16 Q And as examples, are LILCO Exhibit 41 and 42
17 examples in the M&TE section, the calibration section,
18 where the ultimate detail is provided?

19 A (WITNESS MULLER) Yes, those would be two
20 examples. Yes.

21 (Counsel for LILCO conferring.)

22 Q Are these examples that you've given of the
23 section in Section 12 in the QA Manual and these
24 procedures, LILCO Exhibits 41 and 42, representative of
25 the sections that Mr. Dynner asked you about concerning

1 the adequacy of criteria or standards?

2 A (WITNESS MULLER) Yes, these examples would be
3 represententative. Yes.

4 Q Are the reasons for not providing more
5 detailed criteria or guidance in the manual or in the
6 OQA procedure the same as the reasons you have given
7 with respect to the examples and with respect to your
8 answers to Judge Morris, a variety of situations?

9 A (WITNESS YOUNGLING) Yes. These would be the
10 same kind of reasons for the rest of the procedures, yes.
11 (Counsel for LILCO conferring.)

12 Q Gentlemen, you were asked a number of
13 questions also about procedures that required action
14 without specifying a specific time period. Is QAPS 15.1
15 involving dispositioning of LDRs in "timely fashion" an
16 example of this?

17 (Panel of witnesses conferring.)

18 By that I mean an example of procedures that
19 require action without specifying a specific time period.

20 A (WITNESS KELLY) Yes, sir.

21 Q Okay. Mr. Kelly, --

22 MR. DYNNER: Excuse me, for the Board's
23 guidance I am going to renew my objection about Mr.
24 Kelly answering issues that he wasn't present for. And
25 for the guidance of all parties, Mr. Kelly's first day

1 of cross examination was November 12th. That appears on
2 transcript 13,953. On transcript 13,952 it is shown
3 that that was the day when, in fact, the county set
4 forth its detailed supplemental cross examination plan.

5 Accordingly, an easy reference for all as to
6 what areas what Mr. Kelly was cross examined on would be
7 the areas in the county's supplemental cross examination
8 plan, which are a part of the record and indicated as
9 having been covered in the cross examination.

10 MR. ELLIS: I can't recall specifically
11 whether Mr. Kelly was there for that particular question
12 or not. I think the fact that he was not here, again,
13 is not his problem. I will obviate the problem and
14 direct my questions to Mr. Muller, but I think it is
15 appropriate for Mr. Kelly to add if he wishes.

16 JUDGE BRENNER: Let's try to avoid the need
17 for him to add unless you really think it's essential,
18 because then I'm going to let the county cross examine
19 him on it and I don't want to go through another round
20 on the same material, if the witness who was cross
21 examined knows the answers.

22 WITNESS MULLER: I can answer that. The
23 answer to Mr. Ellis's question is yes, that was one of
24 the examples of a procedure that did not specify
25 specific time limits for an activity to be performed, or

1 to be responded to.

2 BY MR. ELLIS (Resuming):

3 Q All right. Mr. Muller, is there any
4 regulatory requirement or any advantage in that instance
5 in specifying a time period which would be "timely"?

6 A (WITNESS MULLER) There is no regulatory
7 requirement, and in many instances a time limit may not
8 be required. Examples would be a disposition to a
9 deficiency report may require an engineering evaluation
10 which may not be required for a certain length of time.
11 It may not be required in 30, 60 or 90 days.

12 Another example would be a long lead time on
13 the replacement part that had been written up. We may
14 not require a disposition immediately on that or within
15 30, 60 or 90 days. Another example may be the technical
16 specifications. The technical specifications may
17 dictate the time limit rather than the LDR.

18 Q Mr. Muller, is there, then, a great deal of
19 variety of circumstances or situations that could arise
20 involving disposition of LDRs that would make a time
21 period specified either impractical or impossible?

22 A (WITNESS MULLER) There are a great range of
23 conditions; whether it is impossible or impractical
24 would be a matter of evaluation. It is not required
25 that we have a response everytime within 30 days or a

1 week. We do keep track of the open deficiency reports
2 and undispositioned reports as a matter of part of our
3 program. We maintain a list of reports that have not
4 been closed out within 30, 60 or 90 days and we do issue
5 those reports to the plant manager and the startup
6 manager so they can evaluate the status of each and
7 every LDR.

8 The key point is that these items are tracked
9 and will continue to be tracked until they are closed
10 out.

11 Q Well in doing that, do you evaluate whether or
12 not an open or undispositioned LDR ought to continue to
13 remain open or not?

14 A (WITNESS YOUNGLING) I would like to respond to
15 that. Yes, that evaluation is made, and that is a
16 judgment that is made by the technical people
17 considering all of the requirements and the influences
18 on the LDR, and the disposition and the correction as a
19 result of the LDR. However, again, both the plant
20 manager and myself and other people who receive those
21 LDRs have as one of their prime considerations the
22 closure of those items as quickly as possible.

23 We all carry that -- those closure
24 requirements as one of our priorities. LDRs, CARs, they
25 all fall in the same vein; they are to be addressed and

1 to be addressed in a timely fashion.

2 Q Mr. Muller, how, as the OQAE -- you've
3 indicated you keep track of them -- do you make any
4 evaluation of whether they are being closed in a timely
5 fashion or not?

6 A (WITNESS MULLER) Yes, we would. We would
7 consider what a timely fashion is. And if a disposition
8 is required immediately, we would let the parties know
9 that a disposition is required immediately. If the item
10 is significant, we may issue a corrective action request
11 with a specific due date on it. So we do have
12 flexibility to review and evaluate the LDRs and the
13 status of their disposition. We may not allow work to
14 continue if we don't have a disposition to a particular
15 LDR. It once again depends upon the circumstance.

16 Q Mr. Muller, is QAPS 15.1 -- you've already
17 indicated it was typical. Are the reasons that you have
18 given with respect to not listing a specific time period
19 to define "timely" fashion applicable to the other
20 procedures that Mr. Dynner asked you about, involving
21 reference to or non-specific reference to a time period;
22 whether it is specific days or weeks or whatever?

23 A (WITNESS MULLER) This would be a typical
24 procedure. Other procedures may be in the same vein.
25 If there is a particular requirement, then we would list

1 that requirement such as in the audit procedures. We do
2 list time requirements for initiation of the report
3 after the exit conference, and then we do initiate a
4 timeframe for the responses to the audit findings.

5 But in the other procedures, once again, there
6 is no regulatory requirement. It is a matter of
7 evaluation, for someone's evaluation.

8 Q Back to the disposition of the LDR. Could a
9 dispositioning of an LDR require a long period because
10 of long lead times for replacement parts?

11 A (WITNESS MULLER) Yes. And I think I mentioned
12 that. It allows us the flexibility that we need. We
13 don't have to be tied to a specific week, month, year
14 time period.

15 A (WITNESS YOUNGLING) I would like to comment on
16 the parts situation. There are many, many times when it
17 is very difficult for us to get adequate replacement
18 parts from the vendors, and we do exert maximum
19 expediting efforts. But again, the vendors often
20 provide the time interval as to when they are going to
21 give us the equipment. It is very, very difficult for
22 us sometimes to say exactly when a replacement part is
23 coming in.

24 Q Well, Mr. Muller, do you keep track of that in
25 determining whether an LDR should continue to remain

1 open?

2 A (WITNESS YOUNGLING) If he doesn't, I sure do,
3 because those replacement parts are usually vital to me.

4 Q How about you, Mr. Muller?

5 A (WITNESS MULLER) We do review the LDR
6 dispositions, and we do review the LDRs for their
7 dispositions and like I said, on a 30, 60 or 90-day time
8 period.

9 Q And would you consult with the individuals
10 involved on the reasons why a particular LDR remained
11 undispositioned?

12 A (WITNESS MULLER) Yes, if we felt that the
13 disposition were, in fact, late, we would. We would
14 notify them that their disposition has been outstanding
15 for so many days and we would like to know why.

16 Q Well, I take it that based upon what you said,
17 that as far as you're concerned a disposition is not
18 timely unless you have got a good reason for it still
19 being open.

20 A (WITNESS MULLER) That is correct. If there is
21 a good reason for it being open, it is within the
22 timeframe. If a disposition is required immediately and
23 we don't receive it, it would be an untimely response.

24 JUDGE BRENNER: I don't understand the answer,
25 probably because I don't understand the question.

1 Apparently, the witness understood the question. He
2 said, as I recall the question, you said a disposition
3 is timely unless there is not a good reason for it to be
4 open. I think that is pretty close to your wording. Is
5 that what you meant to say?

6 MR. ELLIS: Judge, I think -- let me ask it
7 again, because I understood it a little bit differently.

8 JUDGE BRENNER: I may have heard it wrong.

9 BY MR. ELLIS (Resuming):

10 Q An LDR that is not dispositioned remains open?

11 A (WITNESS MULLER) That is correct.

12 Q Am I correct that you consider that untimely
13 unless there is a reason for it to remain open?

14 JUDGE BRENNER: I don't understand the
15 starting point for the timeframe; it can't be untimely
16 as of the second day it is written.

17 MR. ELLIS: Well, let me ask a further
18 question on that.

19 BY MR. ELLIS (Resuming):

20 Q What is the answer to that question, Mr.
21 Muller?

22 A (WITNESS MULLER) Yes.

23 Q All right. And you said you review the LDRs
24 on a 30, 60, 90-day period; is that correct?

25 A (WITNESS MULLER) That is how we report their

1 status as far as being open.

2 Q Now, you also indicated that you could issue a
3 CAR if you thought that an LDR had to be issued or had
4 to be dispositioned more promptly. When do you review
5 the LDRs to make this determination?

6 A (WITNESS MULLER) That would be on the 30, 60,
7 90-day basis as far as we have to review each LDR to
8 determine if, in fact, the response is late and that it
9 is causing a significant concern.

10 (Counsel for LILCO conferring.)

11 JUDGE BRENNER: Mr. Ellis, if you could come
12 to a convenient break we will adjourn for the day and
13 pick it up tomorrow.

14 MR. ELLIS: Yes, sir, I think this is as
15 convenient as any, and for the convenience of the Board
16 and the parties, I think I am substantially beyond
17 halfway, and I would say an hour and a half, and I will
18 do my utmost to further streamline it.

19 JUDGE BRENNER: All right. And as soon as you
20 are complete we will then take the follow-up questions
21 and then we will finish this panel and pick up with Mr.
22 Hubbard.

23 Should we bind in Exhibits 41 and 42, even
24 though they are only in for identification?

25 MR. ELLIS: Yes, sir. I think so, since there

1 was some testimony about one of them, it might be
2 convenient. They are fairly slender.

3 JUDGE BRENNER: Okay, we will bind them both
4 in for convenience, even though they are still exhibits
5 for identification, and we will continue at 9:00 o'clock
6 tomorrow morning.

7 (LILCO Exhibits 41 and 42 follow:)

8 (Whereupon, at 4:55 p.m., the hearing in the
9 above-entitled matter was recessed, to reconvene at 9:00
10 a.m. the following day, Wednesday, December 1, 1982.)

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Submitted: *James M. Smith Jr.*

Approved: *J. Revilla*
(Plant Manager)

MC-1

SP Number 46.050.12
Revision 9
Date Eff. 11/25/81
TPC _____
TPC _____
TPC _____

FLUKE 8000A CALIBRATION

1.0 PURPOSE

To provide an effective procedure for calibrating a Fluke digital Multimeter Model 8000A.

2.0 RESPONSIBILITY

The I & C Engineer shall be responsible for insuring compliance with this procedure.

3.0 DISCUSSION

- 3.1 The Fluke 8000A Digital Multimeter is a portable unit operating on either 115 VAC or a rechargeable battery pack. It has a 3 1/2 digit LED display, pushbutton selection for range and function, self locating decimal point, auto polarity and self zeroing. It will measure from 100 μ v to 100 v DC or AC, 100 nanoseconds to 1.99A AC or DC, 100 milliohms to 19.99 megohms. It measures AC voltage (RMS) from 45 Hz to 10 kHz with 1% accuracy.
- 3.2 Calibration is done on a semi-annual basis by following the manufacturer's recommended procedure to bring the instrument back into manufacturer's specifications.

4.0 PRECAUTIONS

- 4.1 Do not exceed the maximum input voltage of 1200 v, DC or AC (RMS) and 2 amperes DC or AC (RMS).
- 4.2 Avoid exceeding the maximum limits as damage to the instrument can result.

5.0 PREREQUISITES

- 5.1 Verify that the manufacturer, model and serial numbers listed on the MSTR form agree with the instrument identification tag.
- 5.2 Ensure that the calibration due date has not expired on the standard to be used.

6.0 LIMITATIONS AND ACTIONS

N/A

7.0 MATERIALS OR TEST EQUIPMENT

- 7.1 Fluke 5100B Programmable calibrator or equivalent.
- 7.2 Fluke 8000A Digital Multimeter Instruction Manual.

8.0 PROCEDURE

- 8.1 Follow the instructions in paragraphs 4.15 through 4.20 of Reference II.1. Record the "As Found" data as required of the data sheet, Appendix 12.1.
- 8.2 If the "As Found" data is within manufacture specifications no further calibration is necessary.
- 8.3 If the "As Found" data is out of specification, follow the recommended adjustment in paragraph 4.21 through 4.31 and Figure 4.1 of Reference II.1 to bring the instrument back into manufacture specifications.

8.4 If the instrument cannot be calibrated, proceed with paragraph 4.33 troubleshooting and follow the flow chart, Figure 4.3.

8.5 When the adjustments have been made and the correct readout attained, repeat paragraph 4.15 through 4.20 and record data in the "As Left" column of the data sheet.

9.0 ACCEPTANCE CRITERIA

9.1 The instrument calibration is acceptable if the readings obtained are within the required limits specified on the data sheet, Appendix 12.1.

10.0 FINAL CONDITIONS

10.1 Place calibration tag on the instrument and forward the data sheets to I&C supervisor for approval per Reference 11.2.

11.0 REFERENCES

11.1 Fluke 8000A Digital Multimeter Instruction Manual; F035 .410.04.

11.2 Control of Measuring and Test Equipment, SP 41.003.01.

12.0 APPENDICES

12.1 Fluke 8000A Data Sheet, SP 46.050.12-01.

CALIBRATION CHECK OF FLUKE 8900A DIGITAL MULTIMETER

M&T No. _____
 MFG/MODEL Fluke 8900A
 S/N _____
 Cal. Freq. 6 months

M&T USED NO. _____
 Cal. Due Date _____

Function & Range	Applied Value	Inst. Reading "AS FOUND"	8000 Display Minimum	Limits Maximum	Inst. Reading "AS LEFT"
D.C. Voltage					
200 mv	0 mv (Short)		-00.1 (Flashing)	+00.1	
200 mv	0 mv (Open)		-01.0	+01.0	
200 mv	+190 mv		+189.7	+190.3	
2 v	+1.9 v		+1.897	+1.903	
20 v	-19 v		-18.97	-19.03	
200 v	+190 v		+189.7	+190.3	
1200 v	+1000 v		+998	+1002	
RES					
200 ohm	100 ohm		99.7	100.3	
2 k ohm	1.000 k ohm		0.997	1.003	
20 k ohm	10.00 k ohm		9.97	10.03	
200 k ohm	100.0 k ohm		99.7	100.3	
2000 k ohm	1.0 M ohm		.997	1.003	
20 M ohm	10 M ohm		9.94	10.06	
A.C. Voltage					
200 mv	0 mv (Short)		000.0 mv	000.1 mv	

Calibrated By: _____
 Approved By: _____
 SPF 46.050.12-1

Date: _____
 Date: _____

CALIBRATION CHECK OF THE FLUKE 8000A DIGITAL MULTIMETER

Function Range	Applied Value	Inst. Reading "AS FOUND"	8000 Display Limits		Inst. Reading AS LEFT
			Minimum	Maximum	
200 mv	190mv @ 20kHz		187.9	192.1	
200 mv	190mv @ 100kHz		188.8	191.2	
2 v	1.9 v @ 20kHz		1.879	1.921	
2 v	1.9 v @ 100 kHz		1.888	1.912	
20 v	19 v @ 10 kHz		18.88	19.12	
200 v	190 v @ 1 kHz		187.9	192.1	
200 v	190 v @ 100 Hz		187.9	192.1	
1200 v	1kv @ 1 kHz		988	1012	
1200 v	1kv @ 100Hz		993	1007	
DIRECT CURRENT					
200 uA	(OPEN) 0 uA		000.0	000.1	
200 uA	+190 uA		+189.3	+190.7	
2 mA	+1.9 mA		+1.893	+1.907	
20 mA	-19 mA		-18.93	-19.07	
200 mA	+190 mA		+189.3	+190.7	
2000 mA	+1.9 A		+1893	+1907	
ALTERNATING CURRENT					
200 uA	(OPEN) 0 uA		000.0	000.2	
200 uA	190uA @ 100Hz		187.9	192.1	
200 uA	190 uA @ 5kHz		187.9	192.1	
2 mA	1.9mA @ 100Hz		1.879	1.921	
2 mA	1.9 mA @ 5kHz		1.879	1.921	

SPF 46.050.12-1

CALIBRATION CHECK OF THE FLUKE 800A DIGITAL MULTIMETER

Function Range	Applied Value	Inst. Reading "As Found"	800A Display Limits		Inst. Reading "As Left"
			Minimum	Maximum	
20 mA	19.9mA @ 100Hz		18.79	19.21	
20 mA	19.9mA @ 50Hz		18.79	19.21	
200 mA	199.9mA @ 100Hz		187.9	192.1	
200 mA	199.9mA @ 50Hz		187.9	192.1	
2000 mA	1.99A @ 100Hz		1879	1921	
2000 mA	1.99A @ 50Hz		1879	1921	
REMARKS					

SP46-050.12-1

Submitted: W. E. Hunter Jr.

INSECT#4 L-42

Approved: J. Powell
(Plant Manager)

MC-1

SE Number 46-050-06
Revision 4
Date Eff. 5/19/81
TPC _____
TPC _____
TPC _____

TRANSMATION MODEL 1040 DIGITAL CALIBRATOR
CALIBRATION

1.0 PURPOSE

To provide an effective procedure for calibrating a Transmation Model 1040 digital calibrator.

2.0 RESPONSIBILITY

The I & C Engineer shall be responsible for insuring compliance with this procedure.

PPF1021.400-6.421

3.0 DISCUSSION

The Transation Model 1040 digital calibrator is a high accuracy portable test instrument intended for use as a field standard. It has the capabilities to measure unknown voltages and current and act as a voltage and current source. The digital calibrator can also simulate a two wire transmitter in the 0-22 apd, 0-54 ms. ranges. The instrument is powered by rechargeable Ni-Cd batteries with built-in recharger. <4

4.0 PRECAUTIONS

To protect the batteries and prolong their life, avoid completely discharging. Anytime display reads less than 4.700 in "BAT. CHG" position the batteries should be recharged.

5.0 PREREQUISITES

- 5.1 Verify the manufacturer, model number, equipment identification number and serial number listed on the MATB form agrees with the nameplate data.
- 5.2 Ensure calibration due date has not expired on the test equipment used as a calibration standard.
- 5.3 Allow adequate warm-up time on test equipment used for calibration. <4

6.0 LIMITATIONS AND ACTIONS

N/A

7.0 MATERIALS OR TEST EQUIPMENT

- 7.1 Precision voltage/current source; Fluke 5100B or equivalent. <4
- 7.2 E.S.L. Model 300A Potentiometric Voltmeter Bridge, or equivalent.

8.0 CALIBRATION PROCEDURE

8.1 Calibration of 0 to 11V IS

- 8.1.1 Set the function switch to the 0 to 11V, in position.
- 8.1.2 Connect the precision voltage source to the V IN/OUT terminals.
- 8.1.3 Adjust the precision voltage source to each of the 5 specified test points listed on Appendix 12.2, and record the readings under "As Found" conditions.

8.2 Calibration of 0 to 110 MV IN

- 8.2.1 Set the function switch to the 0 to 110 MV, in position.

- 8.2.2 Connect the precision voltage source to the V IN/OUT terminals.
- 8.2.3 Adjust the precision voltage source to each of the 5 specified test points listed on Appendix 12.2, and record the readings under "As Found" conditions.
- 8.3 Calibration of Current IN
- 8.3.1 Set the function switch to the mA, in position.
- 8.3.2 Connect the precision current source to the mA in terminals.
- 8.3.3 Adjust the precision current source to each of the two specified test points listed on Appendix 12.2 and record the readings under "As Found" condition.
- 8.4 Calibration of ϕ to 11 V OUT
- 8.4.1 Set the function switch to the ϕ to 11V OUT position
- 8.4.2 Connect the bridge to the V IN/OUT terminals.
- 8.4.3 Using both the coarse and fine adjustments, set the output voltage, on the display, to the values shown in Appendix 12.2. Record the readings from the bridge under the "As Found" conditions.
- 8.5 Calibration of ϕ to 11 ϕ MV OUT
- 8.5.1 Set the function switch to the ϕ to 11 ϕ MV OUT position.
- 8.5.2 Connect the bridge to the V IN/OUT terminals.
- 8.5.3 Using both the coarse and fine adjustments, set the output voltage, on the display, to the values shown in Appendix 12.2. Record the readings from the bridge under the "As Found" conditions.
- 8.6 Calibration of current out
- 8.6.1 Set the function switch to the mA out position.
- 8.6.2 Connect the bridge to the mA out terminals.
- 8.6.3 Using both the coarse and fine adjustments, set the output current, on the display, to the values shown in Appendix 12.2. Record the readings from the bridge under the "As Found" conditions.
- 8.7 If the "As Found" data is within required tolerances, no further calibration is necessary.
- 8.8 If the "As Found" data is not within required tolerances, refer to the vendors manual for adjustments. See Reference 11.1 and Appendix 12.1.

8.9 When the adjustments have been made and the correct readout attained, repeat steps 8.1 thru 8.6 and record readings on Appendix 12.2 under "As Left" conditions. K4

9.0 ACCEPTANCE CRITERIA

The instrument calibration is acceptable if readings obtained are within the tolerances specified on the Data Sheet, Appendix 12.2.

10.0 FINAL CONDITIONS

Calibration tag placed on instrument and data sheet forwarded to the I & C Engineer for approval as per Reference 11.2.

11.0 REFERENCES

11.1 Transation Inc. instruction manual for model 1040 digital calibrator, I.S. No. 100724-900, T024.200.01. K4

11.2 SP41.003.01 Control of I & C Measuring and Test Equipment.

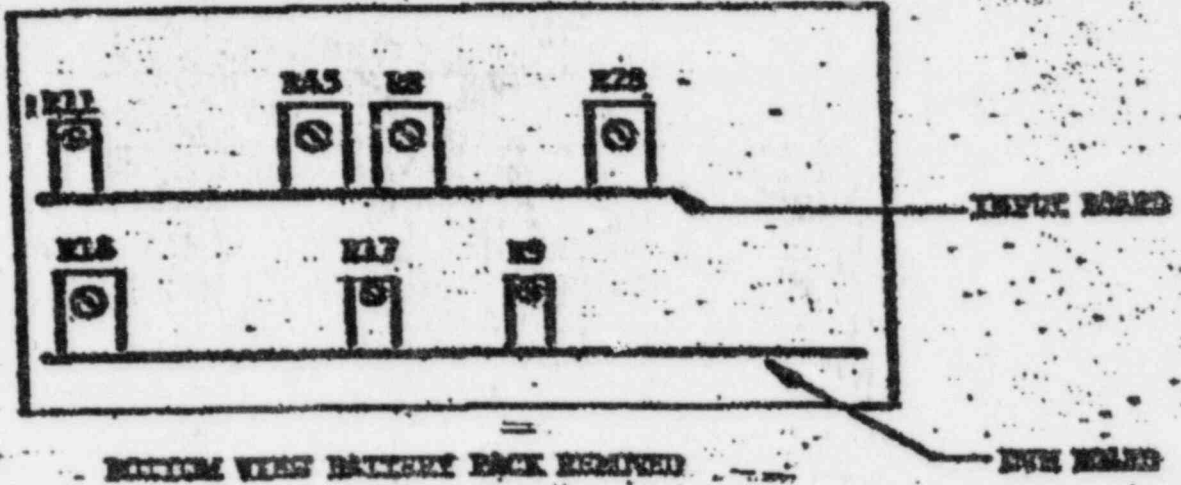
12.0 APPENDICES

12.1 Calibration Control Location Drawing

12.2 Transation Model 1040 FPS Calibration Data Sheet, SPV 46.030.06-2 K4

CALIBRATION CONTROL LOCATION DRAWING

CALIBRATION CONTROL LOCATION



TRANSMATION MODEL 1040 EPS
CALIBRATION DATA SHEET

M&TE NO. _____

M&TE Used: No. _____

Mfg./Model Transmation/1040

Cal due date _____

S/B _____

No. _____

Range 0-11V, 0-110mV, 0-22 mA

Cal due date _____

APPLIED VALUE	"AS FOUND"	REQUIRED READING		"AS LEFT"
		MINIMUM	MAXIMUM	
B.1 0-11 Volt In + 0.04% of range plus + 0.03 of reading				
0.010V		0.006V	0.014V	
2.500V		2.495V	2.505V	
5.000V		4.995V	5.005V	
7.500V		7.494V	7.506V	
10.000V		9.993V	10.007V	
B.2 0-110 mV IN + 0.06% of range plus + 0.06 of reading				
0.100mV		0.04mV	0.16mV	
25.00mV		24.92mV	25.08mV	
50.00mV		49.91mV	50.09mV	
75.00mV		74.89mV	75.11mV	
100.00mV		99.88mV	100.12mV	
B.3 0-22 mA IN + 0.12 of range plus + 0.06% of reading				
4.00mA		3.98mA	4.02mA	
20.00mA		19.97mA	20.03mA	
B.4 0-11V Out + 0.04% of range plus + 0.03% of reading				
0.000V		-0.004V	0.004V	
3.100V		3.095V	3.105V	
5.300V		5.295V	5.305V	
7.500V		7.494V	7.506V	
9.700V		9.693V	9.707V	
B.5 0-110 mV Out + 0.06% of range plus + 0.06% of reading				
12.00		11.93mV	12.07mV	
44.00		43.91mV	44.09mV	
66.00		65.90mV	66.10mV	
88.00		87.89mV	88.11mV	
110.00		109.87mV	110.13mV	
B.6 0-22 mA Out + 0.12 of range plus + 0.06% of reading				
4.00		3.98mA	4.02mA	
20.00		19.97mA	20.03mA	

Calibrated by: _____ Date: _____

Approved by: _____

SPE 46.050.06-2

NUCLEAR REGULATORY COMMISSION

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

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

Date of Proceeding: November 30, 1982

Docket Number: 50-322 OL

Place of Proceeding: Bethesda, Maryland

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

Ray Heer

Official Reporter (Typed)

Ray Heer

Official Reporter (Signature)