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ORIGINAL

NUCLEAR REGULATORY COMMISSION
THE REVIEW TEAM FOR REASSESSMENT OF THE NRC PROGRAM
FOR PROTECTING ALLEGERS AGAINST RETALIATION
PUBLIC MEETING

Embassy Suites Hotel
3210 N.W. Grand Avenue
Phoenix, Arizona

Wednesday,
September 29, 1993

NUCLEAR REGULATORY COMMISSION:

James Lieberman, Chairman
John T. Green
Brian Grimes

SPEAKERS:

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P R O C E E D I N G S

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P R O C E E D I N G S

(9:00 a.m.)

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3 CHAIRMAN LIEBERMAN: Good morning. I
4 am James Lieberman, Chairman of the review
5 team for reassessment on the NRC program for
6 protecting allegers against retaliation.

7 With me today from the review team, on
8 my left is John Greeves, the director of the
9 division of low level waste and the office of
10 nuclear material safety and safeguards; on my
11 right is John Grimes, the director of the
12 division of operating reactor support and the
13 office of nuclear reactor regulation.

14 Also with us today from the Nuclear
15 Regulatory Commission is Dick Brady from the
16 office of nuclear reactor regulation, Laben
17 Cob. -tz from my office, Randy Huey, our
18 enforcement officer from Region V, Gregg Cook,
19 our public affairs officer from Region V, Jim
20 Sloan, our resident inspector at Palo Verde
21 and Howard Wong, our section chief in Region V
22 responsible for Palo Verde.

23 This is the second session of the
24 second of four public meetings to obtain
25 comments from interested persons, including



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1 licensees, their contractors and their
2 employees.

3 At each of these meetings we are
4 having an evening session and a morning
5 session. The purpose of the meeting is to
6 obtain information to assist the review team
7 in evaluating current NRC activities and
8 making recommendations to improve the
9 regulatory process.

10 The evening section was provided to
11 make it easier for workers to provide us
12 comments. This morning's meeting will begin
13 with a presentation from Arizona Public
14 Service Company to invite its comments and its
15 efforts to obtain employee concerns and safety
16 issues and any recommendations they might have
17 to improve its process. Then after that, we
18 will listen to comments from other persons.

19 The review team was formed at the
20 direction of the Commission to consider
21 whether NRC has taken sufficient steps within
22 its authority to create an atmosphere within
23 licensee's organizations where employees,
24 including contract employees, feel free to
25 raise safety issues without fear of



1 retaliation.

2 The review team is considering issues
3 such as, one, whether the NRC has taken
4 sufficient steps through regulations, policy
5 statements and inspections to insure that
6 licensees encourage their workers and
7 contractors to raise safety issues.

8 Two, whether the current NRC process
9 for handling allegations is appropriate from
10 the perspective of the employee feeling free
11 to raise safety issues to the NRC.

12 Three, whether NRC is sufficiently
13 proactive in cases where employees raise
14 concerns or express fears that they may become
15 subject to retaliation if they do raise safety
16 issues in the future.

17 And four, whether the NRC policies are
18 appropriate when discrimination may have
19 occurred, including our relationships with the
20 Department of Labor, treating the potential
21 for chilling effects, performing investigations
22 and taking enforcement action.

23 As I noted, we are seeking comments
24 from both workers and licensees. We have
25 published a federation notice seeking public



1 comments. We have copies of the federal
2 register on the table by the front entrance.
3 We are accepting public comments through
4 mid-October.

5 We have also met with attorneys
6 representing both workers and licensees.
7 These efforts, including the meetings today,
8 are intended for the purpose of employees,
9 licensees and other concerned individuals to
10 bring forth issues and ideas for our
11 consideration.

12 Following the completion of the public
13 meetings and the review of the written
14 comments, we will be preparing a report to
15 submit to the Commission. We expect that
16 report to be submitted in January of 1994.

17 The issue before us is an important
18 one. NRC, even with its many inspectors, can
19 only observe a fraction of license activities.
20 We will never have the knowledge possessed by
21 the thousands of employees in the nuclear
22 industry.

23 Employees in the nuclear industry have
24 clearly made contributions to the public
25 health and safety by coming forward with



1 concerns. Employees must feel free to raise
2 potential safety issues to the NRC; however,
3 in the Commission's view it is not enough for
4 employees to feel free to come directly to the
5 NRC.

6 Licensees have the first
7 responsibility for safety. Thus employees
8 must also feel free to raise safety issues to
9 their management.

10 We recognize that there is
11 dissatisfaction with the current system.
12 Employees are not always comfortable with
13 raising safety issues. There are cases where
14 discrimination has occurred where employees
15 engaged in protected activities.

16 We are looking forward today for ideas
17 and what actions NRC should consider to
18 improve the regulatory process. I want to
19 emphasize today that our purpose today is not
20 to debate or resolve specific cases, but
21 rather to gain ideas on how to improve the
22 regulatory system.

23 The ground rules for this meeting will
24 be that persons who desire to speak will need
25 to check in at the table in the front of the



1 room and a number will be provided to you and
2 we will call the speakers in order of the
3 numbers.

4 We'll begin the presentation with
5 Arizona Public Service Company. We have asked
6 them to provide a presentation of about 30
7 minutes to us. After the discussion with the
8 licensee, then we will open it to others.

9 Speakers will be allocated initially
10 ten minutes to make their presentations, but
11 given last evening's presentations, if people
12 want to speaker longer, time will be provided.

13 We don't intend to debate the merits
14 of the comments and please don't take our
15 silence to mean that we either disagree or
16 agree with the comments.

17 We recognize there may be some here
18 this morning who may not be comfortable in
19 public speaking before this audience. Those
20 individuals, as well as any of the speakers,
21 if they have not done so, are invited to
22 submit written comments to us on the issues
23 raised in the federal register notice.

24 We have forms on the table by the
25 entrance with postage paid envelopes that you



1 can mail comments directly to us.

2 We welcome each of you here today and
3 appreciate your taking the time to meet with
4 us. This is a transcribed meeting; speakers
5 do not have to identify themselves by name,
6 but it would be helpful if speakers would
7 provide us some background on their past
8 involvement in the nuclear industry so we can
9 put their comments into perspective.

10 With that, we can begin the meeting.
11 If Mr. Conway would like to come up to the
12 microphone, we can begin.

13 MR. CONWAY: Thank you. Mr. Chairman,
14 members of the task force, my name is
15 William F. Conway. I am the executive vice
16 president nuclear with the Arizona Public
17 Service Company.

18 I am pleased to have the opportunity
19 today to meet with your team and present my
20 remarks. You have a very important assignment
21 and, on behalf of the Arizona Public Service
22 Company, who is the operator of the Palo Verde
23 Nuclear Generating Station, I am here to help
24 support that effort.

25 You are of course familiar with Palo



1 Verde, one of the nation's largest, if not the
2 largest, nuclear generating station. The
3 station has a good record, been in operation
4 for about five years distributing safe,
5 reliable power to customers in Arizona, New
6 Mexico, Texas and California.

7 I am the senior nuclear officer for
8 the Arizona Public Service Company. I have
9 devoted virtually my entire professional life
10 to the nuclear power business. I have served
11 with the Institute of Nuclear Power
12 Operations, was a member of their board of
13 directors and head of the nuclear programs of
14 several utilities.

15 Like you and others who have devoted
16 their careers to this industry, I am
17 instinctively drawn to the concept of defense
18 and depth, the basic safety principal of
19 nuclear design.

20 When we use that term, it generally
21 refers to the multiple backup systems and the
22 redundant safety hardware, which assure that
23 no single failure will trigger a serious
24 event.

25 But defense and depth has yet another



1 element, a human dimension. One of our most
2 valuable assets is our corps of well-trained,
3 thoroughly disciplined employees, who are
4 really at the front line of this in-depth
5 protective system. My words today are really
6 addressed to them and the role they play in
7 assuring nuclear safety.

8 We have an extremely dedicated and
9 highly qualified work force at Palo Verde.
10 They perform splendidly in a very unforgiving
11 industry in which a great deal is demanded of
12 them. It tends to be very stressful work,
13 but our employees perform day in and day out
14 in a professional manner which reflects credit
15 on them and the company. We are very proud
16 of their contributions.

17 In addition to their assigned tasks,
18 we ask something extra. We expect every
19 person on the plant site to promptly identify
20 and report hardware deficiencies, failures to
21 follow procedures and, in fact, any condition
22 which could adversely affect safety, quality
23 or reliability.

24 We place this burden on our work force
25 for two reasons: first, to help fulfill our



1 responsibility to protect the public health
2 and safety; second, to preserve the enormous
3 investment in the plant and its related
4 equipment.

5 Our employees are chosen for this very
6 important task for one overriding reason;
7 because of their skill and closeness to the
8 work, they are in a unique position to spot
9 and correct problems. So as I said earlier,
10 our staff is an indispensable element of our
11 defense in-depth concept.

12 For the most part, this system works
13 very well. Employees understand their
14 responsibility to report safety concerns.
15 They do so conscientiously and supervisors
16 respond appropriately.

17 As you know, however, things do not
18 work perfectly in the real world, especially
19 in an area where so much depends on successful
20 interactions between people. We have always
21 actively solicited the assistance of our
22 employees. In some instances, through
23 personal meetings which I attended, to help
24 identify safety and quality concerns.

25 In October of 1992, the Nuclear



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1 Regulatory Commission surveyed employee
2 attitudes toward raising safety concerns at
3 Palo Verde and found that better than
4 92 percent of those interviewed felt free to
5 raise safety concerns. An additional
6 5 percent, I should add, indicated that they
7 may have a problem reporting safety concerns
8 to someone in the line of progression above
9 their supervisor and we found that very, very
10 interesting. But not, I think, unusual.

11 We remain concerned about the
12 possibility that there might be pockets of
13 employees with reservations about doing so, so
14 we retained Behavioral Consultant Services, an
15 independent consultant, in order to provide an
16 evaluation of the factors that impede or
17 encourage employees in the raising of safety
18 concerns.

19 We also asked them to recommend
20 actions to foster a positive environment in
21 which employees are encouraged to make a
22 constructive input and supervisors are in fact
23 motivated to respond in a receptive manner.

24 The BCS review has in fact provided a
25 number of very, very valuable insights. We

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1 have in fact found several pockets where some
2 employees do not feel comfortable in raising
3 safety concerns with their supervisors.

4 We intend to meet with management and
5 supervisors in each of these areas and hold
6 them personally accountable for correcting
7 that situation. In addition, these will be
8 among the areas most closely targeted for
9 action in a site program aimed at fostering an
10 environment and taking corrective action as
11 necessary in order to insure the free flow of
12 communications and concerns.

13 While we value direct communications
14 between employees and supervisors at all
15 levels, we also make provisions for other
16 means by which employees can raise concerns
17 if, for some reason, they do not feel
18 comfortable doing so through the normal
19 channels.

20 The Palo Verde employee concerns
21 program affords employees an opportunity to
22 raise issues in confidence or even
23 anonymously.

24 We recently commissioned an
25 independent review of that employee concerns



1 program. Duke Engineering Services has been
2 retained to conduct an evaluation of the
3 effectiveness of the program and its
4 relationship to other organizations, including
5 line management, to determine whether there
6 are steps that can be taken to make the
7 employee concerns program a more effective
8 tool for everyone. This study should be
9 completed within the next few weeks.

10 I am personally a strong proponent of
11 such programs, but real assurance that
12 employees will communicate concerns comes from
13 having a site at which there is a genuine
14 sense of openness. Employees who feel free to
15 express their views and supervisors who are
16 truly receptive to hearing from the people who
17 work for them.

18 This is the key finding, in fact, of
19 the BCS study. The critical component and the
20 starting point for all improvement is
21 desensitizing supervisors to their critical
22 position as listeners and communicators.

23 I would like to emphasize this point
24 because it is so central to what I believe is
25 your mission. It is similar to an observation



1 which Chairman Selem made before the Senate
2 Subcommittee on Nuclear Regulation in July of
3 this year as well.

4 Whether we refer to it as labor
5 relations or industrial relations, the fact is
6 clear that we are dealing with a problem of
7 human relations, of interactions between
8 people.

9 If I am correct, we do not need more
10 regulations or new laws, but rather more
11 emphasis on what we as professional managers
12 are supposed to do best, motivating people to
13 deal constructively with each other for the
14 benefit of their common enterprise, which in
15 this case is the safe and reliable operation
16 of a nuclear power plant.

17 I am convinced that if this is done
18 well, safety concerns and in fact all matters
19 essential to successful operation will be
20 effectively communicated.

21 This simple-sounding solution is
22 easier to describe, of course, than to
23 implement; and I guess that some of our recent
24 experience at Palo Verde is testimony to that
25 very fact. I will not discuss any specific



1 case in detail. In some cases, legal
2 proceedings are pending and in others
3 considerations of privacy would make that an
4 inappropriate thing to do.

5 Suffice to say, we are not satisfied
6 with some of our recent experience and that
7 steps are being taken to deal with it. I
8 will outline some of those initiatives in a
9 moment.

10 As a matter of background, we have
11 been trying for several years to create a site
12 environment consistent with the ideal that I
13 just described. Arizona Public Service
14 Company management has promulgated policies,
15 management expectation and standards documents,
16 which encourage employees to bring their
17 concerns to the company, or to the NRC if
18 they choose, and we make it abundantly clear
19 that they may do so without fear of
20 retribution of any type.

21 Meetings were held with employees and
22 supervisors emphasizing the appropriate roles
23 of each in handling safety concerns. I met
24 personally with Palo Verde managers,
25 supervisors and directors in sessions designed



1 to encourage them to build an atmosphere in
2 which employees and contractor personnel feel
3 absolutely free to raise safety concerns.

4 I emphasized the absolute
5 responsibility of managers and supervisors to
6 assure that such communications occur in a
7 nonthreatening environment, free of any
8 possibility or perception of retaliation.
9 More generally, I stressed the need for
10 sensitivity to employee concerns and the
11 importance of being responsive to them.

12 We also initiated a special civil
13 treatment course for managers. A range of
14 employment discrimination categories is
15 covered, including specific instructions on
16 how to interact and respond to employees who
17 raise nuclear safety and quality concerns. In
18 addition to lectures, the training encompasses
19 interactive role playing in order to emphasize
20 appropriate responses in the context of real
21 life situations.

22 This training will be expanded and
23 provided to all front line employees as well.
24 We are devoting particular emphasis to
25 supervisory training because one of the



1 insights gained from the BCS study is that the
2 key to successful communication and resolution
3 of concerns is the attitude and responses of
4 the first line supervision when these matters
5 are brought to their attention.

6 Additional sessions are planned on the
7 interaction between supervisors and employees
8 regarding the raising of safety and quality
9 concerns. Other sessions will emphasize the
10 rights and responsibilities of nuclear workers
11 and the resources available to support them,
12 including our employee concerns program.

13 There are many other changes underway
14 at the facility, personnel and organizational,
15 all of which are designed to address
16 institutional and other obstacles in order to
17 free the ability for open communication.

18 In the last analysis, however, it is
19 the results that will count. Toward that end,
20 we have advised supervisors and managers that
21 their ability to create a receptive work
22 environment, one in which employees feel
23 completely free to raise any concerns, will be
24 reflected in performance evaluations.

25 Demonstrable success in reestablishing

1 trust between employees and management will be
2 treated as a prime performance indicator of
3 good management practices and professional
4 behavior.

5 Before turning to some closing
6 remarks, I would like to briefly address some
7 of the questions in the federal register
8 notice announcing the creation of your review
9 team.

10 On the general question of whether it
11 might be desirable for the NRC to spell out
12 requirements for acceptable employee concerns
13 programs, I have certain reservations. In
14 principle, a general set of criteria and a
15 policy statement might not be objectionable if
16 the criteria were phrased in broad terms which
17 allowed licensees reasonable flexibility.

18 I am concerned, however, that either
19 in spelling out the criteria or in inspecting
20 against them, the requirements will become
21 very prescriptive. My experience suggests
22 that the program must be tailored to the
23 specific characteristics and culture of a
24 given site.

25 At one site that I am familiar with,



1 a key player in the employee concerns program
2 was a single long-term employee, whom the
3 workers respected and trusted and whom they
4 looked to for assurance that their concerns
5 would be fully and faithfully handled.

6 If a program of that type works in
7 one place, it should be allowed to continue.
8 Another situation may require a more formal
9 program. Regulatory solutions in this area
10 should be approached very carefully so that
11 the benefits of a health diversity of
12 approaches among licensees are not lost.

13 On the matter of referring allegations
14 to licensees, my views are based on a
15 principal which I think every one of us
16 shares. The licensee has the nondelegable
17 responsibility for the safety of operations.
18 It follows that in all, except the most
19 extraordinary cases, allegations should be
20 referred to the licensee, the organization
21 with the best capability and the ultimate
22 responsibility for protecting the public
23 health and safety.

24 I recognize the concern that the
25 employee making the allegation may fear the



1 responsibility or the possibility of
2 retaliation, but I believe the law affords
3 ample protection for the employee and, as a
4 practical manner, it is highly unlikely that
5 any employer would react in that fashion in
6 dispositioning an allegation referred by the
7 NRC.

8 With respect to the Department of
9 Labor and Nuclear Regulatory Commission
10 interface, I am generally in agreement with
11 the position that has been expressed by others
12 in the industry. The relationship between the
13 agencies is not dysfunctional and I strongly
14 believe in the value of allowing the
15 Department of Labor mediation process to work.

16 This is a labor relations problem and
17 I think the Department of Labor brings very
18 special skills to that particular table. Of
19 course, if there is evidence of deliberate,
20 widespread intimidation or harassment, then
21 prompt Nuclear Regulatory Commission
22 intervention may be required.

23 As a general matter, however, I would
24 not be inclined to tinker with the present
25 arrangements under the Department of Labor



1 Nuclear Regulatory Commission memorandum of
2 understanding.

3 There has been some discussion of the
4 extent to which licensees should be
5 responsible for the action of their
6 contractors who violate whistle blower
7 protection requirements. As a general matter,
8 the licensee is responsible for everything
9 that goes on at its site and that is as it
10 should be.

11 However, it seems to me that if the
12 licensee has taken all reasonable measures to
13 assure the protection of all employees,
14 including contractors, for example, by way of
15 publishing and otherwise disseminating its
16 policies on employee protection, providing
17 instruction and training to contractors and
18 their employees and such other steps as may be
19 appropriate, then the full burden of punitive
20 or other enforcement action should properly
21 fall on the contractor.

22 I know there have been questions
23 raised about the effectiveness of chilling
24 effect letters. You should have no doubt
25 about their impact. Speaking at least for



1 Arizona Public Service Company, the impact of
2 these letters is extremely significant.

3 They sound an alarm throughout the
4 organization. They trigger meaningful action
5 and the commitments made in response to the
6 letters are taken very seriously. It is an
7 effective regulatory tool.

8 Relatedly, in the general area of
9 enforcement, I share the skepticism expressed
10 by Chairman Selem and others that
11 significantly greater penalties would have any
12 material effect in dealing with this issue. I
13 can assure you that the adverse publicity
14 associated with any civil penalty, but
15 particularly one for a violation of
16 Section 50.7, completely overwhelms the amount
17 of the penalty.

18 I would be happy to share my thoughts
19 with you on any other aspect of the policy
20 issue you have under review, but I'd like
21 first to make a few closing observations
22 relating to our operation at Palo Verde and
23 our corporate policy on employee concerns.

24 We have come to the conclusion that
25 establishing an atmosphere conducive to open



1 communication is at the very heart of the
2 issue we are discussing today. Our chief
3 executive officer, Mark DeMichael, in a memo
4 to all Palo Verde personnel last month,
5 emphasized that employees who identify safety
6 concerns perform an invaluable service for the
7 company and the public, and that our managers
8 and supervisory personnel -- and I
9 quote -- have a special responsibility to
10 foster an atmosphere in which conscientious
11 employees know that their concerns will be
12 treated seriously and that they may be
13 expressed without fear, retribution or other
14 adverse consequences, unquote.

15 I can tell you that nothing short of
16 full compliance with these expectations and
17 policies will be acceptable to Arizona Public
18 Service Company. This is a message which we
19 have conveyed in several all-hands meetings,
20 which Mr. DeMichael and I have conducted and
21 which we will continue to drive home at every
22 opportunity.

23 I appreciate the opportunity to
24 present these remarks and I would be happy to
25 respond to any of the panel's questions.



1 Thank you.

2 CHAIRMAN LIEBERMAN: Thank you. I
3 certainly agree with the philosophy you
4 stated, Mr. Conway. The challenge for all of
5 us in the industry is to get that philosophy
6 to all the supervisors throughout the
7 industry.

8 I have several questions -- I know my
9 panel members here also have some questions.

10 The first one I have is, your view on
11 employee concerns programs, that they should
12 be tailored to the culture and uniqueness at
13 the very sites. How should NRC go about
14 evaluating whether at a particular site an
15 employee concerns program is effective, that
16 employees are using them, that they are
17 responsive to the employee's concerns and
18 things like that?

19 MR. CONWAY: I think that provides an
20 opportunity for the resident inspectors to
21 accomplish that kind of survey. I know for a
22 fact that at our facility there have been in
23 the past questions raised by resident
24 inspectors relative to our employee concerns
25 program and I think that is a vehicle that

1 can provide an excellent opportunity for the
2 NRC to survey, if you will, on an individual
3 site basis, the appropriateness of the program
4 at that particular plant site.

5 I really believe that tailoring is
6 probably an appropriate thing to do. There
7 are plants, I think, who have very effective
8 programs and I think the trust factor
9 associated with them spells out the fact that
10 employees believe that they can become
11 involved with that type of program and it
12 serves their purpose.

13 On the other hand, as I said in my
14 prepared statement, I believe that if certain
15 facilities find they have to do something in a
16 more explosive manner, if you will, then
17 that's something that should be tailored for
18 that precise site.

19 CHAIRMAN LIEBERMAN: Any thoughts on
20 NRC providing a written survey form to all
21 employees being sent back to the NRC to have
22 evaluate?

23 MR. CONWAY: Your question is, should
24 the NRC survey employees? I don't think that
25 is something I would find egregious. That



1 happened at our facility, as you probably
2 know, and I mentioned that in my prepared
3 text. It was, what I think was described as
4 a rather quick and dirty survey and certainly
5 not as comprehensive as the one we had BCS
6 perform for us.

7 But on the other hand, quite candidly,
8 the numbers came out reasonably close. So I
9 suspect -- I don't think there should be an
10 avoidance associated with that kind of an NRC
11 suggestion. I think it may very well tell
12 you some information that you probably don't
13 know but what maybe would more in fact comply
14 with the thoughts I have on the overall issue.

15 CHAIRMAN LIEBERMAN: You noted that
16 you thought that we should normally refer
17 allegations that we receive back to the
18 licensee for investigation and resolution.

19 Do you have any thoughts on NRC
20 sharing the results of the licensee's reviews
21 that they submit to NRC with the person
22 raising the issue to us before we make our
23 final decision on how to close out the
24 allegation?

25 MR. CONWAY: Let me tell you one of

1 the real problems I have and I didn't state
2 it in my prepared text. There are, as you
3 have indicated, occasions when the NRC will
4 send a letter to the licensee stating that an
5 allegation has been raised and the letter will
6 clearly indicate that a response to that
7 through our own investigation is required
8 within 30 days.

9 We find ourselves in a position where,
10 yes, we know that something was raised, but
11 frequently one can go on an egg hunt to try
12 and figure out exactly how to investigate and
13 provide the absolute corrective action, if in
14 fact it's necessary, to that kind of
15 allegation.

16 But I guess to your point, and I
17 think the real question was, would we have a
18 problem as licensees if you informed an
19 individual who raised an allegation what the
20 results of that allegation may be? I don't
21 have any personal problem with that.

22 CHAIRMAN LIEBERMAN: And sharing the
23 documentation that the licensee provided with
24 the Agency?

25 MR. CONWAY: I believe that we have I



1 think emphatically stated the need for free
2 and open communication and I think that
3 reasonably falls within that particular
4 charter.

5 CHAIRMAN LIEBERMAN: Okay, in talking
6 about enforcement action where the licensee is
7 acting responsibly in training contractors or
8 assuring training occurs and supervising
9 contractors and the supervisor discriminates,
10 I think you said that enforcement action, if
11 any, should be focused on the individual and
12 not the licensee.

13 MR. CONWAY: If you're talking about a
14 licensee supervisor; or are you talking about
15 a contractor supervisor?

16 CHAIRMAN LIEBERMAN: Well, your
17 remarks I think addressed the contractor
18 supervisor.

19 MR. CONWAY: Yes.

20 CHAIRMAN LIEBERMAN: And my question
21 is your views on the licensee supervisor,
22 where he's been trained, easily supervised,
23 the message is out as to what the company's
24 expectations are and, for whatever reason, the
25 supervisor chooses to discriminate.

57.

1 MR. CONWAY: Against a contractor or
2 anybody?

3 CHAIRMAN LIEBERMAN: Anybody.

4 MR. CONWAY: He's wrong.

5 CHAIRMAN LIEBERMAN: Correct. But
6 should we be taking enforcement action solely
7 against the individual supervisor or the
8 licensee, or both?

9 MR. CONWAY: I think perhaps we're at
10 the point in the industry's clock where it
11 would not be unusual for enforcement action to
12 be imposed against an individual. I mean, the
13 opportunity exists today with a licensed
14 operator to suffer, if you will, the same type
15 of affliction and I don't see why there should
16 be any separation between one entity and
17 another.

18 CHAIRMAN LIEBERMAN: Okay, thank you.
19 Brian?

20 MR. GRIMES: First, just a background
21 question. I asked Mr. Conway last week just
22 to put things in perspective in terms of
23 number of concerns handled.

24 Could you give a feel for -- you have
25 normal processes for identifying problems in



1 the facility and taking corrective action,
2 both in your maintenance area and your QA
3 areas.

4 Can you give maybe a yearly estimate
5 of how many items are handled through those
6 processes and then how many items are handled
7 through the employee concerns group?

8 MR. CONWAY: Well, I can give you a
9 number with respect to employee concerns and I
10 would suggest that within the last year,
11 nominally, 250 to 300 concerns have been
12 addressed or received by the employee concerns
13 program.

14 And as you have stated, there are a
15 myriad of other opportunities for those kinds
16 of concerns to be raised outside the employee
17 concern program through quality assurance
18 monitoring, through audit reports associated
19 with quality assurance activities.

20 And, in fact, at Palo Verde we have
21 another type of program in which people can
22 submit any condition that they discover. It
23 could range anywhere from a defective water
24 bubble to perhaps a leaking valve or to a
25 system that they feel has an inappropriate

operational history.

1
2 It is awfully tough, I think, to try
3 and give you a number. Perhaps in the order
4 of 1,000 a year, but it would be an estimate
5 on my part. I haven't gone back and counted
6 all the ingredients, if you will, associated
7 with the various types of programs we have,
8 but perhaps 1,000, perhaps 1,200.

9 We encourage people to do that and I
10 think that tends to increases, hopefully and
11 thankfully, the number of concerns that people
12 will either address through some manner,
13 through some program.

14 MR. GRIMES: I was speaking to your
15 words on defense and depth and we recognize
16 the employee concerns and the NRC availability
17 is a second and third level of opportunity.
18 We would like the base level programs to
19 function well.

20 Just for the record, I think there
21 were probably 70 or 80 items brought to the
22 NRC in the last year at Palo Verde, so that
23 gives another perspective on --

24 MR. CONWAY: Well, we know and we
25 know through the results of the report that



1 was used in Senator Lieberman's hearing in
2 July that there were in the order of 72 that
3 you received over the last four-and-a-half
4 years. So I'm not sure when you state that
5 it was within the last year -- I want to be
6 sure that --

7 MR. GRIMES: I may have got a wrong
8 number in my head.

9 MR. CONWAY: Yeah, but see, that
10 creates a problem for us, a problem in the
11 sense that they're out there and you know
12 they're out there and we can't always feel
13 terribly comfortable that we're able to
14 address those promptly if you know them and we
15 don't.

16 MR. GRIMES: Right. No, I think it's
17 very important for the NRC to communicate at
18 least the substance of those problems to you.

19 How do you feel about the NRC
20 following up and raising those concerns as
21 substantive concerns in the inspection process
22 without specifically identifying them as
23 allegations? In other words, bringing those
24 things up in a substantive manner so you are
25 aware of them, but without identifying them



1 specifically as allegations.

2 MR. CONWAY: Well, I believe they
3 should be identified and I believe, as I
4 stated in my prepared text, that we should
5 have the opportunity to address those right
6 off the top.

7 I think that's our responsibility and
8 I think you should handle it such that it is
9 our responsibility in order to do something
10 like that and if you feel, as the regulator,
11 that we're not handling that properly, then of
12 course you have every opportunity to address
13 us in that regard as well.

14 MR. GRIMES: Going back to your
15 comments on your consultant reports, could you
16 elaborate a little bit. I take the first
17 report was to kind of provide a base line and
18 then Duke Engineering Services is to provide
19 actual modifications to your processes?

20 MR. CONWAY: Two distinct thoughts
21 here. The Behavioral Consultant Services
22 survey that we had conducted was in fact a
23 spinoff of the quick survey that was done by
24 the NRC perhaps a year ago.

25 As a result of the findings that I

1 indicated earlier where 92 percent of the
2 people indicated they would not have a problem
3 raising concerns to their immediate
4 supervisor, we concluded that the remaining
5 8 percent that we didn't know about. Where
6 in the organization or where located in the
7 organization were the 8 percent?

8 So we elected to go out and get this
9 independent survey conducted. And within the
10 last two to three weeks, we have received that
11 final report and, as I indicated in my
12 prepared text, there were pockets identified
13 that now for the first time in our history,
14 we know through surveying of employees -- and
15 I must tell you that there were in excess of
16 2,800 employees, contractors as well as APS
17 employees -- who responded to the survey, a
18 very large, well into the 90 percent range.

19 What we concluded from that, there
20 were five pockets. I should tell you that as
21 we conducted this survey, there was
22 considerable interaction on a discussion basis
23 between myself and the region; and it is still
24 our intent to provide the region with an
25 update of what we discovered, what we found.



1 That response is in preparation as we speak
2 today, so we will share that information.

3 But what we found were five pockets.
4 We know where those five pockets are and, as
5 I identified in my text, we're taking the
6 appropriate planning action in order to go out
7 and speak -- I guess that's the correct
8 term -- to people who are located in those
9 pockets, shake the fruit off the tree and see
10 where it takes us.

11 MR. GRIMES: And the Duke Engineering
12 contract is a --

13 MR. CONWAY: Duke is a different
14 situation.

15 Duke was brought in at my behest to
16 ascertain whether in fact we have in their
17 view, because they have done this kind of
18 thing before in other facilities, whether we
19 have the ingredients for a good solid workable
20 employee concerns program.

21 We expect to get the results of that
22 within the next couple of weeks from that
23 organization and that will tell us whether, at
24 least from an outsider's perspective, we have
25 the appropriate tools in place from a



1 programmatic aspect, to say yes, we have a
2 very viable program, now what do we have to
3 do if programmatically we're okay, to make it
4 functional to the extent that it's a usable
5 product and people view it as a usable
6 product.

7 MR. GRIMES: I understand. Back on
8 the previous survey that identified the
9 pockets, I guess the panel would be
10 interested, not from the standpoint of
11 specific results that you found, but in the
12 methodology that was used in that survey, the
13 type of questions that were asked, those kind
14 of things, if that could be shared with the
15 panel that would be very useful.

16 MR. CONWAY: Yes, absolutely.

17 MR. GRIMES: Thank you. Your thoughts
18 on the NRC role, you mentioned that we don't
19 need new regulations, that we really need to
20 put the evidence on motivating people to do
21 what they know they should do, what's the NRC
22 role in all this? I'm thinking not just Palo
23 Verde, but across the industry.

24 MR. CONWAY: I think, given the fact
25 that I have raised an issue relative to our



1 unawareness of allegations that you might
2 have -- and I'll reflect on the 72 that were
3 identified at Senator Lieberman's
4 hearing -- that aside for the moment, I
5 believe that you have all the appropriate
6 hardware on your shelves right now to make a
7 determination as to whether we are effectively
8 handling employee concerns in the manner in
9 which we should. I don't believe you need
10 anything else to be able to react and enforce
11 that, if necessary.

12 I still, though, have a problem with
13 what I will refer to as the unknowns and
14 those are the things that I think are
15 extremely frustrating to a licensee in trying
16 to deal with the overall bag, if you will.

17 We have now a situation where there
18 are some that we become aware of through our
19 own processes, but there are some we never
20 become aware of until somebody like a Senator
21 Lieberman holds a hearing. And I have to be
22 candid with you, that was the first time that
23 I ever knew that for the last four and a half
24 years you were in possession of 72 allegations
25 with respect to this organization.



1 MR. GRIMES: Okay. So if I could
2 summarize what I think I heard, that the NRC
3 role does not need to be in a prescriptive
4 way measuring against specific criteria, but
5 rather doing some more qualitative evaluation
6 of whether the processes are working?

7 MR. CONWAY: I think the
8 implementation of existing processes will
9 suffice to get the attention of those
10 licensees who haven't been awakened to it at
11 this point.

12 MR. GRIMES: One more question on your
13 comments on the enforcement burden falling on
14 contractors where they are at fault, I guess
15 we're faced with the situation of what's the
16 licensee's responsibility to make sure there
17 are appropriate contract provisions or
18 appropriate training for the contractors
19 included.

20 What are your thoughts on how we
21 should divide up the responsibility in the
22 case where contractor supervisor --

23 MR. CONWAY: Let me tell you what
24 we've done. I have two documents here which
25 you're welcome to take, if you like.

1 One document is a letter or a sample
2 of a letter that was forwarded to people with
3 whom we do contract work and it's dated
4 March 8, 1993, and it advises people with
5 respect to nuclear whistle blower protection
6 and of course it's a spinoff of the
7 reinforcement we received from your agency on
8 the need, the essentials for making sure that
9 contractors understand what their
10 responsibility should be with respect to
11 whistle blowers.

12 I also have a copy of a contract
13 change order that reinforced that particular
14 letter or that type of letter. I would be
15 happy to pass that on to you because it does
16 in fact identify clearly to our contractors
17 what the nuclear whistle blower protection
18 atmosphere is really all about and it's
19 attached to each contract that we send out to
20 people who do contract work for us.

21 MR. GRIMES: Your comments on the
22 enforcement burden falling on the contractor
23 would assume that this sort of thing had been
24 done by the licensee to -- reasonable measures
25 have been taken by the licensee to make sure



1 they were aware of --

2 MR. CONWAY: I certainly believe from
3 the aspect of our organization, we quickly
4 jumped on the need to do that. And, as I
5 indicated, this goes back to the March 1993
6 time frame and we in fact did it.

7 MR. GRIMES: I was speaking in a more
8 general case of --

9 MR. CONWAY: I think all contractors
10 should be aware of what I believe their
11 responsibilities are in the area, much the
12 same as I recognize and believe the
13 responsibilities we as a licensee have.

14 MR. GRIMES: Do you think there's a
15 need for any NRC regulations or statements in
16 that area? Part 21, for example, puts certain
17 burdens directly on contractors.

18 MR. CONWAY: I'll go back, I guess,
19 to what I responded to earlier to one of your
20 questions and that is, how or what kind of
21 mechanics do you have in order to provide
22 assurance to yourselves that in fact a
23 licensee is doing the right thing in this
24 arena?

25 And I think again, it would not be



1 beyond the purview of your processor, the
2 actions of a site resident inspector to
3 perhaps ask the question periodically like,
4 what are you doing with respect to this kind
5 of situation? And we should be able to
6 provide what I'm going to provide you.

7 MR. GRIMES: Thank you. That
8 completes my questions. We would be
9 interested in getting a copy of what you just
10 referred to.

11 MR. CONWAY: I have it right here.

12 CHAIRMAN LIEBERMAN: Just a couple of
13 areas that have been troubling me, I thought
14 you maybe you might be able to shed some
15 light on.

16 One is, you talk about unknowns in
17 terms of allegations that we receive that you
18 don't know about. There was an unknown that
19 people have been expressing in terms of
20 comments about, I raise concerns and I wonder,
21 how does that affect my promotion
22 possibilities? How does that affect my job
23 assignments in terms of going to, maybe a
24 preferred job.

25 We're heard comments about this, we've



1 gotten written comments about this. It
2 troubles me. How do you mean with that? I'd
3 be interested in any thoughts you have now and
4 maybe any followup you might want to provide
5 us.

6 I'm trouble with how to address that.
7 It's hard to pin down, but it's the same kind
8 of thing you were talking about. You'd like
9 to know what those allegations are? Well,
10 these people would like to know, are my
11 chances of promotion being affected because I
12 raised three safety concerns? And I'm trouble
13 by how to sort that out.

14 As I said, if you have some thoughts
15 now or later, I'd appreciate hearing them.

16 MR. CONWAY: Well, my initial impulse
17 is there are many, many people I think in any
18 organization -- not necessarily this one, but
19 any organization -- who can and will,
20 regardless I think of what may be in place
21 within that organization question, why me
22 rather than he?

23 And I guess I share the same
24 frustration level you may have. I recognize
25 it's an imperfect world and I don't for the



1 moment believe that I can even remotely try to
2 convince you that there's an absolutely
3 panacea associated with being able to solve
4 those problems.

5 I think we have to go after and chase
6 down those kind of concerns, those kind of
7 issues. They are, in my opinion, based on
8 many, many interactions I've had with people,
9 shared by perhaps a minimum of people in the
10 organization, which doesn't mean that it's not
11 something that's important and should be
12 chased down, but I'd be absolutely remiss and
13 dishonest, I guess, if I indicated to you that
14 I had an absolute solution as to how
15 to fix that.

16 CHAIRMAN LIEBERMAN: If you have
17 further thoughts on it, that is one item I'd
18 appreciate hearing from you on.

19 MR. CONWAY: I will.

20 CHAIRMAN LIEBERMAN: The second one
21 is, you mentioned the process is acceptable
22 the way it exists now. One that troubles me
23 is the length of time it takes to get through
24 the DOL process. It takes literally years and
25 that hurts both sides, the person who has been



1 accused and the accuser and it just drags the
2 thing out.

3 We've got to find ways to make the
4 process more timely. It hurts everybody and
5 to me that is a functional problem that we
6 have. Do you have any ideas or thoughts on
7 that?

8 MR. CONWAY: I do. And I hope you
9 excuse the way I form them. I don't frankly
10 see a great deal of difference between the
11 amount of time that it takes a federal agency
12 such as the Department of Labor to reach a
13 conclusion on anything.

14 I don't view that much differently
15 than I view your organization, for example,
16 another arm of the federal government, in
17 trying to deal with issues, like perhaps a
18 technical specification change, that could
19 take as long if not longer than perhaps some
20 of the reactions, results, decisions from the
21 Department of Labor.

22 Forgive me if I say I believe it may
23 be a disease associated with the way we do
24 business -- and I say we, I have similar
25 problems, I don't get things turned out in



1 perhaps 30 days like I'd like to as well.
2 But I don't think this is a special piece, I
3 think it's endemic and I think it's part of
4 the way we've learned to do business over the
5 years. It's wrong, but I think that's the
6 way it is.

7 CHAIRMAN LIEBERMAN: To me it's a
8 special piece because it affects individuals.
9 A lot of the decisions that I believe you're
10 referring to affects positions that we're
11 taking globally across the industry, et
12 cetera.

13 But these affect individuals and I
14 think it's incumbent upon all of us to look
15 for ways to expedite that process. So again,
16 if you have ideas on how to do that, I'd
17 appreciate hearing about those.

18 MR. CONWAY: Well, let me give you
19 one. And again, forgive me for my frankness.

20 You as an agency, I think, have
21 learned to react very responsibly when someone
22 like a congressional committee brings some of
23 your people to the Hill and makes a strong
24 appointed emphasis on the fact that something
25 has to get done.



1 Perhaps holding DOL's feet to the fire
2 would not be illogical as well.

3 CHAIRMAN LIEBERMAN: Thank you.

4 We understand they're also going to
5 have an opportunity to appear before the Hill,
6 too. Maybe that will have an effect.

7 MR. CONWAY: No one should be excused
8 from a bonus.

9 CHAIRMAN LIEBERMAN: Just a few more
10 questions. In other meetings, the comments
11 we've received, questions have arisen as to
12 how issues raised in various employee concern
13 programs should be documented, the degree of
14 documentation.

15 Some have suggested that a concern
16 that is looked into by the employee concerns
17 program should be documented in the same
18 manner that a deficiency that is raised within
19 the quality assurance program is documented in
20 accordance with Appendix B. Do you have any
21 thoughts on that?

22 MR. CONWAY: Yes, I do. I think if
23 an employee requests anonymity through the
24 process, that to the very ultimate extent
25 should be honored. As someone indicated last

1 night, I think there's always a possibility,
2 depending on what the particular issue is,
3 that it can find itself in such a narrow
4 corner that perhaps it's somewhat impossible
5 to shield that anonymity.

6 But I don't think it should be
7 identified as something that would be similar
8 to a maintenance request, for example. I
9 think there has to be -- the trust factor
10 that has to be implicit in that kind of a
11 program I think has to be able to, to the
12 very greatest extent, kept within the confines
13 of what we advertised those kinds of programs
14 to be.

15 CHAIRMAN LIEBERMAN: You're referring
16 to protecting identity of individuals. But
17 putting that issue to one side, referring more
18 to making sure that the people who look into
19 matters are qualified in the particular area,
20 that they document what they looked at and how
21 they resolved the issue as you would any other
22 technical concern arising during an Appendix B
23 type of --

24 MR. CONWAY: And retained in the
25 archives of that program?



1 CHAIRMAN LIBERMAN: Correct.

2 MR. CONWAY: I think that's
3 appropriate.

4 CHAIRMAN LIEBERMAN: You mentioned
5 that you didn't appreciate the number of
6 allegations that NRC had received for Palo
7 Verde. Do you have any thoughts on NRC
8 periodically publishing the number of
9 allegations we receive by plant and the number
10 of complaints filed with DOL by employees at a
11 given plant?

12 MR. CONWAY: When you say publish,
13 you're talking something like PDR material?

14 CHAIRMAN LIEBERMAN: Correct.

15 MR. CONWAY: I don't think that's
16 terribly egregious, but I do think it is if
17 the licensee becomes aware of it through that
18 vehicle for the first time.

19 CHAIRMAN LIEBERMAN: I appreciate
20 that. Your point I think was very clear that
21 you want to understand what issues pertain to
22 your plan so you can deal with it.

23 MR. CONWAY: Correct.

24 CHAIRMAN LIEBERMAN: I'm thinking of
25 the idea of by publishing a list of numbers

1 of allegations. It may build a competition
2 within the industry to try to have a minimum
3 number of allegations and encourage more of
4 their employee concerns programs to be more
5 effective.

6 MR. CONWAY: I don't think that's a
7 bad practice.

8 CHAIRMAN LIEBERMAN: Okay. Well, we
9 thank you very much for your views today.

10 MR. CONWAY: I appreciate the
11 opportunity to provide them. Can I give you
12 these now or would you prefer to wait?

13 CHAIRMAN LIEBERMAN: Now would be
14 fine.

15 Laben, have we had any individuals who
16 are interested in speaking? Speaker
17 Number 21, will you come to the microphone?

18 MR. LANGDORF: Good morning, my name
19 is Scott Langdorf and I'm a senior tech at
20 Unit 1 INC.

21 My co-worker was here last evening. I
22 had no intention of showing up here but after
23 his description I felt he needed some support.

24 I didn't bring any material, but I
25 called and got some numbers that I felt would

1 address my co-worker's discussion last night
2 about some of the -- not necessarily -- but
3 anyway, I wrote a critter (ph) last year on a
4 reactor pump seal bleedoff alarm card that has
5 contacts failed.

6 At the time I didn't realize this was
7 a result of when RK got cross-connected to the
8 280-volt system, but I went in the
9 confrontation with the foreman, Michael
10 Grigsby, and I almost came into a shouting
11 match to convince the man that this card was
12 bad.

13 The critter is 3-2-0388 and I'm still
14 a little dismayed with its disposition, the
15 conclusion that was reached with that vehicle,
16 in that out of that grew -- maybe
17 reprisal is too harsh of a term -- but I went
18 through human resources and didn't have a
19 resolution through that.

20 The man is now going up to be an STA
21 and I'm the guy that my partner referenced as
22 having been denied through the bid process a
23 position which I forced the equity system to
24 work, but I think under the circumstances, any
25 rational man who would simply read the



1 procedures would have realized that it should
2 have never gone that far.

3 Sometimes I feel the sincerity of the
4 people in charge might be questioned, their
5 commitment to what they write down on the
6 paper and the way they go about
7 implementing -- it looks good, but in practice
8 it doesn't seem to function as well as it's
9 written.

10 Another example would be a critter I
11 wrote -- 1-3-0234. This is a critter on a
12 fire protection panel, which two years ago I
13 mentioned to the system engineer that there
14 was a relay configuration in there to reset
15 this alarm that didn't function in a testing
16 mode that was doggone annoying because the
17 alarm couldn't be silenced; then as it turns
18 out -- I found out about this during the
19 battery equalization test when the UV detector
20 was bad.

21 But I talked to him, he said, yeah,
22 sure, I'll take care of it. Well, it came
23 around a year later when it hadn't been taken
24 care of and I wrote it up again. This time I
25 wrote the critter and the system engineer's



1 resolution on the critter -- I'm not sure how
2 he arrived at his conclusion the way I'd
3 written it -- and you pull these up, I'm sure
4 you might even be able to get a faxed copy of
5 them before I leave -- I came off a 12-hour
6 shift this evening, my night shift and I
7 didn't plan to be here but I'm here now.

8 This again speaks to the
9 implementation of the sincerity that goes to
10 that program, that sometimes in practice it
11 gets overlooked.

12 Then here recently I wrote a critter,
13 1-3-0481, which was an AC/TC rigging device we
14 made in the shop in INC and I was supposed to
15 test it. But after looking at the load it
16 was going to undergo in testing and the way
17 the thimbles were constructed, it seemed to me
18 and when I talked to the rigging guys and the
19 mechanical foreman who was there who was going
20 to be -- that it wouldn't make it.

21 So I went ahead and wrote the critter
22 and had it addressed. I don't doubt that
23 this cable could lift houses off their
24 foundations without failing; it's not that I'm
25 worried that any of these would actually



1 result in the meltdown of the reactor, these
2 contaminations to the public.

3 But the way in which they were
4 dispositioned, specifically the pump, the
5 first one I mentioned, the fire protection on
6 the second one I mentioned and the rigging,
7 which wouldn't pass by our own procedure and
8 initial inspection for lifting devices, is in
9 use.

10 Although to the compliment of those in
11 charge, a new lifting rig was ordered from an
12 outfit here in town, which was part of the
13 suggestion of the critter and they could have
14 easily had that lifting rig at the site well
15 before it was required to be used. But it
16 wasn't and the one I was supposed to test is
17 in use. And I don't think it's going to
18 break.

19 To the compliment of the company, the
20 critter program is pretty dynamite.
21 Unfortunately, it gets shut down from time to
22 time and the not being promoted deal is an
23 example.

24 I believe you had Mike Salazar here
25 last night. As I understand it, he's a



1 supervisor of motor-operated valves. Now, I
2 don't know how they run their outfit, but the
3 supervisor in mine is twice removed from
4 picking up a wrench.

5 His division also had 14 bids last
6 year for in-house and out of that, one of the
7 fellows in my shop was denied that, only two
8 in-house people were accepted into his and 12
9 other contractors who previously worked for
10 him were ruled in.

11 The foreman I had my disagreement with
12 over the critter, the first one I mentioned,
13 3-2-0388, is now in STA training. And though
14 you can't definitively -- and I couldn't draw
15 the conclusions -- and I only see a small
16 portion of what happens; as an INC tech I'm
17 not privy to memos or other information, but
18 after the way dealing with human resources on
19 a few occasions I have, they're not in the
20 position of promoting or supporting me.

21 And the guys I was dealing with was
22 Rubin Sanchez, Scott McFarland and Keith
23 Davis. So I'd be willing to answer some
24 questions and, also to the company's
25 compliment, a few years ago they instituted a



1 program to redraw the drawings that I use to
2 do my job with. Man, I'll tell you, those
3 are the best things I've ever had now.

4 They've also finally gotten around to,
5 after -- I've been with the company for six
6 years and the previous six years I spent as a
7 reactor operator in the Navy -- they've
8 finally got around and given me techs that I
9 can use and are high quality. Those drawings
10 are dynamite.

11 And finally, through standards to the
12 company's compliment, and the infusion of INC
13 techs from my unit, we have procedures now
14 that are finally workable and the guys up
15 there are responsive to when we have
16 suggestions to make to them.

17 So this company -- in regard to the
18 tools I need to implement and do my job has
19 vastly improved over what it was six years
20 ago; however, I felt that my partner in the
21 shop might have needed a little support so I
22 bring three critters, an RCP-1, to address the
23 fact that I have a foreman, who even going to
24 HR, I've never gotten an apology from, which I
25 nearly came to a shouting match.

1 I didn't feel that was appropriate,
2 that it should ever go so far for him to tell
3 me that a card that is obviously bad, is
4 good, just log it down and continue on and
5 put me on the spot like that, bothered me.

6 Then to have subsequent retribution
7 which went through HR, which in no way was a
8 result in my favor and is also now going up
9 for SCA training and seems to get some good
10 treatment.

11 The fire protection critter, which was
12 dispositioned initially incorrectly and I
13 recontacted the engineer to pursue that,
14 that's now supposed to be taken care of with
15 a work request at some time in the future.

16 And the rigging is to address that the
17 quality that is acceptable to those that are
18 in charge, their idea of what is a quality
19 piece of equipment is not really good.

20 And if you pull that critter up and
21 the pictures I submitted with it, I think you
22 might agree. Especially when the alternative
23 was so easy, just to call downtown and order
24 that sucker and, as I understand it for the
25 riggers, something like that could be



1 delivered -- and I wrote it in the
2 critter -- within four hours of the placement
3 of the order.

4 But that speaks to the sincerity and
5 the commitment -- at least at the level of
6 management that I routinely deal with. That's
7 all.

8 CHAIRMAN LIEBERMAN: Have you utilized
9 the employee concerns programs for any of your
10 concerns?

11 MR. LANGDORF: No, I haven't. The
12 concerns I have, as for safety, I don't see
13 any of these impacting the fact that we're
14 going to suffer a meltdown that's going to
15 impair safety systems, that we're going to
16 have a catastrophe.

17 As regards nuclear safety, I don't
18 sweat that we're going to have a problem.
19 It's a well-designed plant and we take care of
20 it.

21 CHAIRMAN LIEBERMAN: Do you feel the
22 employee concerns program is only usable for
23 safety issues versus general procedural
24 concerns or the other type things you've been
25 referring to?

1 MR. LANGDORF: Pretty much, yes. They
2 have their human resources program, and
3 through the equity process, which I finally
4 forced to work and it did work in my favor,
5 although I'm not at rework yet -- but that's
6 all right, I agreed to stay for the
7 outage -- it was oppressive.

8 CHAIRMAN LIEBERMAN: Do you have any
9 thoughts on how to improve the process?

10 MR. LANGDORF: Have them follow their
11 procedures.

12 CHAIRMAN LIEBERMAN: Okay, thank you
13 very much.

14 Next speaker, Number 22?

15 MR. CLARK: Good morning, my name is
16 Jude Clark. I'm an employee of Arizona Public
17 Service assigned to the Palo Verde Nuclear
18 Station. I'd like to take this opportunity to
19 thank you for allowing me to address this
20 forum.

21 My career in nuclear power began in
22 1972. Since that time, I have been employed
23 as an engineer, operator and a technician. My
24 formal education includes a Bachelor of
25 Science Degree in nuclear technology and



1 post-graduate studies toward a Master's Degree
2 in project management. I am also a graduate
3 of the Naval nuclear power program.

4 I began my employment with Arizona
5 Public Service in 1982 assigned to the Palo
6 Verde station. I am presently assigned to the
7 nuclear projects department as a primary
8 discipline engineer.

9 First, it's important -- I'm extremely
10 nervous, so bear with me.

11 CHAIRMAN LIEBERMAN: Take your time.

12 MR. CLARK: It is important for me to
13 note that I do not come here with intent to
14 incite nor to single out any individual.
15 Rather, I am here to address an issue that
16 has caused great distress to innocent
17 individuals and the industry and that is the
18 rights of the whistle blower.

19 While it is imperative that we must
20 protect the rights of individuals who, for
21 whatever reason, feel they must move outside
22 of the established process to notify
23 regulatory agencies of potentially unresolved
24 safety issues, it is equally imperative that
25 we insure these protections do not include



1 protection of claims which are found to be
2 unsubstantiated, malicious or, worst of all,
3 fraudulent.

4 I have been subjected to the
5 unsubstantiated claims of a protected
6 individual. I have been required to sit
7 through hours of investigation by various
8 members of company management based solely on
9 the accusations of a protected employee whom I
10 was not allowed to face nor question.

11 I was subpoenaed for deposition by the
12 protected employee and required to address
13 questions pertaining to my professionalism,
14 character and integrity without benefit of
15 redress.

16 Indeed, when I sought advice of
17 counsel on what avenues were available to
18 prevent being subjected to further scrutiny,
19 as a result of unsubstantiated claims, I was
20 informed that if I believed I was being
21 harassed or discriminated against, I could
22 also seek protection under the auspices of the
23 law and become a whistle blower myself.

24 When I chose to protect myself from
25 further involvement by not communicating with



1 this individual, I was informed I was guilty
2 of creating a hostile environment. Yet when
3 this individual publicly stated, I will shut
4 this place down, for me to raise that issue
5 could have been perceived as retribution by
6 the protected employee.

7 The activities providing protection
8 under Section 210 of the Energy Reorganization
9 Act of 1974 are an important part of our
10 industry. 10CFR50.7 must be an integral part
11 of our culture. They're necessary to insure
12 that all members of the licensee staff and
13 their contractors and subcontractors always
14 have an avenue for expressing their perceived
15 concerns as they relate to the safety of the
16 facility, the workers and the general public.

17 But what happens when the system is
18 corrupted by a few individuals? What of the
19 co-workers who must continue to work in an
20 environment that has been turned upsidedown by
21 a protected status employee or employees?

22 And lastly, what happens to the
23 resources of the licensees and the NRC that
24 are expended addressing problems born of a
25 private agenda.



1 Mr. Conway has stated that Palo Verde
2 has the highest number of allegations of any
3 facility in Region V. How many of these
4 allegations have been substantiated and, of
5 those found to be without merit, not safety,
6 significant or discriminatorily based, how
7 much followup with the initiator of the
8 allegation has been conducted to determine the
9 real cause for making the allegation?

10 What have been the political
11 consequences for both the targeted individual
12 and the utility as a result of false,
13 malicious or unsubstantiated allegations? And
14 most importantly, what permanent damage has
15 been done to a successful, safety-oriented
16 industry as a result of these allegations,
17 most of which have no relative significance
18 outside of personal gain?

19 It seems completely improbable to me
20 that an industry which prides itself on
21 accountability would so purposefully preclude
22 holding these individuals responsible for
23 their unsubstantiated allegations.

24 That we would in fact choose to hold
25 these individuals completely harmless for



1 destroying careers, and in some cases lives, I
2 find this flies in the face of reason that is
3 contrary to the very precepts of our society
4 and that it borders being morally
5 reprehensible.

6 I would like to leave one last
7 thought. If I misrepresent myself to my
8 employer, if I fudge on my timecard, if I
9 creatively balance my expense report, I can
10 expect a disciplinary action by my employer.

11 If I provide false information to the
12 NRC under any circumstance I am subject to
13 federal penalty. Yet if I provide false
14 allegations under the umbrella of 10CFR50.7, I
15 am granted defacto immunity as long as I couch
16 my allegation as a potential safety concern
17 for harassment or discrimination issue.

18 Those who take issue with me for doing
19 so are creating a chilling environment. This
20 cannot continue. The present content of
21 10CFR50.7 and its subparagraphs must be
22 revised to provide for accountability of the
23 whistle blower if allegations prove to be
24 without merit.

25 I fully support the need to protect



1 the whistle blower. I also fully support the
2 need to protect and provide redress for the
3 innocent individual who is subjected to
4 malicious accusations.

5 Thank you for your time.

6 MR. GREEVES: Thank you very much.

7 I guess we don't have any more people
8 lined up for comments at this point, but I
9 would like to make one remark, or two remarks,
10 perhaps. This is a reaction to what we heard
11 last night and this morning.

12 There are a number -- and I guess I
13 want to address my remarks, not just to Palo
14 Verde, but also there's a sizeable number of
15 people from other utilities, although we
16 haven't heard from those folks this morning,
17 and from the NRC site and region and
18 headquarters here today.

19 I just want to give my reaction and
20 hope you all will think about it a little
21 bit. There's a lot of impact of the way
22 we've been handling these sorts of things over
23 the last few years. The impact clearly is
24 not just on the operation of the plant, but
25 on individuals, and on individuals on both



1 sides of the issue.

2 It seems to me we just have to think
3 of better ways to approach these things. We
4 just can't afford, either from an economic or
5 safety standpoint to be tying people's times
6 and emotions up and thinking about whether
7 they have been properly treated or not as
8 opposed to getting at the substance of the
9 concerns that they raise and the problems that
10 need to be dealt with.

11 So I guess I would like you to just
12 think about how are we, as regulators and the
13 industry, going to make this process better,
14 make the basic atmosphere within the
15 organizations that work on a day-to-day basis;
16 we need these programs, these outlets, either
17 the NRC or employee concern programs as
18 outlets when things don't work because nothing
19 is perfect. But I think we have to really
20 give a lot of attention to the underlying
21 basic culture.

22 And I guess the second comment I
23 wanted to make is to thank Mr. Conway and the
24 employees here at Palo Verde, because this has
25 been immensely valuable to the panel to have a

1 frank exchange and have people say what they
2 really think. I think that information will
3 help us a great deal in putting things into
4 perspective.

5 I guess no matter what problems Palo
6 Verde has had in the past, at least we can
7 say, I think, Mr. Conway, you and the managers
8 and the employees have developed a culture
9 which at least has provided the freedom and
10 the ability for people to say what they think
11 in this forum.

12 So we thank you for that and I just
13 wanted to express before we lose too many from
14 the audience, my personal thanks to all of
15 you.

16 CHAIRMAN LIEBERMAN: We're now going
17 to take a half hour of break until 10:45 to
18 see if there's any other individuals who are
19 interested in speaking.

20 Let me remind everybody that we do
21 have the forms by the front door to provide
22 us written comments if you don't want to speak
23 today. Thank you.

24 (Whereupon, a short recess was taken.)

25 CHAIRMAN LIBERMAN: It is now 10:45

1 and we still don't have any additional
2 speakers. We are going to be here until
3 noontime in case anyone appears who wants to
4 make a presentation.

5 Again, we do have the forms to file
6 any written comments and we'll take a break
7 now for an hour, until 11:45, if anybody does
8 want to speak before that time, let me know.
9 Thank you.

10 (Whereupon, a short recess was taken.)

11 CHAIRMAN LIEBERMAN: It is now 11:50.
12 I think it's pretty clear we're not going to
13 have any more comments, so I declare this
14 meeting over. Thank you very much.

15 (Whereupon, the meeting was concluded
16 at 11:50 a.m.)
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CERTIFICATE

AS THE REPORTER, I HEREBY CERTIFY THAT THE ATTACHED
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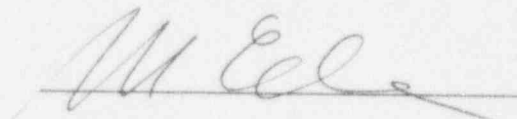
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DATE: SEPTEMBER 28 AND 29, 1993

WERE HELD AS HEREIN APPEARS AND THAT THE STATEMENTS THAT
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AND THAT THIS TRANSCRIPT IS A TRUE AND ACCURATE RECORD
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IN WITNESS THEREOF, I HAVE HEREUNTO SET MY HAND ON
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