

ORIGINAL

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the matter of:

DUKE POWER COMPANY, et al

(Catawba Nuclear Station,
Units 1 & 2)

Docket No. 50-413 OL
50-414 OL

ASLBP No. 81-463-01 OL

Location: Charlotte, N. C.

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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: :
: Docket Nos. 50-413 OL
DUKE POWER COMPANY, et al. : 50-414 OL
: ASLBP No. 81-463-01-OL
(Catawba Nuclear Station, :
Units 1 and 2) :
:
-----X

BB&T Center
Fourth Floor - Carolina Room
200 South Tryon Street
Charlotte, North Carolina 28202

Tuesday, December 6, 1983

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

BEFORE:

JAMES L. KELLEY, ESQ., Chairman
Atomic Safety and Licensing Board
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

RICHARD F. FOSTER, Member
Atomic Safety and Licensing Board
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

PAUL W. PURDOM, Member
Atomic Safety and Licensing Board
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

1 APPEARANCES:

2 On Behalf of the Applicants:

3 J. MICHAEL MCGARRY, ESQ.
4 ANNE COTTINGHAM, ESQ.
5 Debevoise & Liberman
1200 17th Street, N. W.
Washington, D. C.

6 - and -

7 ALBERT V. CARR, ESQ.
8 RONALD L. GIBSON, ESQ.
9 Duke Power Company
422 South Church Street
Charlotte, North Carolina 28242

10 On Behalf of the NRC Regulatory Staff:

11 GEORGE E. JOHNSON, ESQ.
12 Office of the Executive Legal Director
U. S. Nuclear Regulatory Commission
13 Washington, D. C. 20555

14 On Behalf of the Intervenors:

15 ROBERT GUILD, ESQ.
16 Palmetto Alliance
P. O. Box 12097
Charleston, South Carolina 29412

17 JESSE L. RILEY
18 Carolina Environmental Study Group
854 Henley Place
19 Charlotte, North Carolina 28207

20 On Behalf of the State of South Carolina:

21 RICHARD P. WILSON, ESQ.
22 Assistant Attorney General
P. O. Box 11549
Columbia, South Carolina 29211

23 * * * * *

24 Q

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I N D E XWITNESSES

Jack C. Bryant,
George F. Maxwell and
Peter Kim Van Doorn

<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
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E X H I B I T S

<u>ON BEHALF OF STAFF:</u>	<u>I.D.</u>	<u>RECEIVED</u>
No. 11	9964	9964
No. 3		9966
<u>ON BEHALF OF THE BOARD</u>		
No. 1	10,030	10,030

P R O C E E D I N G S

1
2 JUDGE KELLEY: We can go on the record

3 I will just reannounce the time allocations
4 for today, before that is there anything else that we need
5 to bring up before moving into the applicants who are next
6 I believe for questioning?

7 MR. McGARRY: Yes. I was going to say with
8 respect to time allocations, we have been given an hour
9 and fifteen minutes. We have tailored our cross-examination
10 to embrace that hour and fifteen minutes hopefully. This
11 is an important piece of testimony and we would ask the
12 Board to allow us some flexibility in event that we go over
13 an hour and fifteen minutes. I don't mean to suggest that
14 it is going to be three hours or two hours, but we have
15 got a lot of questions and I am going to move through them
16 as rapidly as I can. All I can say is we would appreciate
17 consideration by the Board.

18 JUDGE KELLEY: You have flagged the possibility
19 that you may want a little more time, and that is fine and
20 we will see where you end up and then we will see where
21 we go.

22 MR. McGARRY: Thank you.

23 JUDGE KELLEY: Mr. Guild, do you have something?

24 MR. GUILD: Yes, Mr. Chairman. There are two
25 matters I wanted to bring to the Board's attention that

1 are I guess pending, or if not pending, I should make them.

2 First, there are two subpoena requests for
3 witnesses to testify. The first with respect to the staff
4 is the outstanding request, or if you want to call it a
5 renewed request at this point then for the testimony of
6 James P. O'Reilly, the Regional Administrator. We do renew
7 that request and I can speak to the specifics if you would
8 like, but I think it is probably only necessary that I renew
9 it. We do press that request, particularly in light of
10 the indications that Mr. O'Reilly's role ---

11 JUDGE KELLEY: Let me just interrupt. I understand
12 the point. I think that if you want to renew it that it
13 ought to be renewed, as we earlier contemplated, in the
14 light of the record that got developed particularly with
15 this panel.

16 Now you have heard this panel and you are going
17 to be hearing some more from this panel. My suggestion
18 would be, and it is not that I am suggesting that we need
19 a terribly, long and elaborate chapter and verse presentation,
20 but we would be interested in knowing what is different
21 in your view in what does the record now show that might
22 justify calling O'Reilly.

23 I would suggest we get all the questioning done
24 and maybe we can budget a little time in the late afternoon
25 when we are otherwise through with this panel to then hear

1 why and whether we ought to call O'Reilly.

2 MR. GUILD: That would be fine, Judge.

3 The other one is sort of a similar matter, and
4 that is the outstanding request or renewed request, if you
5 will, for the testimony of Mr. Lee, the Chairman of Duke.
6 It may have a similar status, although it is founded somewhat
7 on different authority given the peculiar status of the
8 NRC staff as far as production of evidence and witnesses.

9 Mr. Lee, if you will recall, we deposed him this
10 summer and we got a subpoena request for him that is either
11 pending or to be renewed. I don't remember the exact status
12 of it, frankly, but we do desire the testimony of Mr. Lee
13 and, if necessary, we renew that request at this time.

14 JUDGE KELLEY: The Lee request was deferred on
15 a very similar theory that we wanted to hear the case and
16 then decide in the light of that whether there was something
17 one could point to that made Mr. Lee's appearance either
18 essential or important or being some such standard.

19 MR. GUILD: Yes, sir.

20 JUDGE KELLEY: Would you be prepared to speak
21 to both toward the end of the day?

22 MR. GUILD: Yes, sir. That would be fine.

23 JUDGE KELLEY: Again, I think ten or fifteen
24 minutes on both would be plenty.

25 MR. GUILD: I agree.

1 JUDGE KELLEY: Then we could hear some response
2 and then we could very shortly make a ruling on those
3 requests.

4 MR. McGARRY: Your Honor, there is also one
5 other subpoena request and that has to do with the heavy
6 load that was made yesterday, and we would be prepared to
7 address that perhaps at the same time this afternoon

8 JUDGE KELLEY: Heavy load?

9 MR. McGARRY: The heavy load in the spent fuel
10 pool. Mr. Guild asked that a subpoena be issued for a Duke
11 witness knowledgeable in NUREG 0612.

12 JUDGE KELLEY: Oh, okay. All right. Thank you.
13 I understand.

14 MR. GUILD: It wasn't a witness, Judge. The
15 subpoena was not for a witness. It was for the production
16 of evidence and, if you will, to either bring the physical
17 evidence before the Board or the Board before the physical
18 evidence. It was focused on the physical evidence and there
19 was not witness attached to it.

20 JUDGE KELLEY: You have got a sort of mountain
21 and Mohammad problem here.

22 MR. GUILD: Yes, sir.

23 JUDGE KELLEY: In any event, I understand the
24 motion to be that we should all go look at the spent fuel
25 pool.

1 MR. GUILD: In short, that is right, Judge.

2 JUDGE KELLEY: You would be ready to speak to
3 that later today you think?

4 MR. GUILD: Oh, yes.

5 JUDGE KELLEY: Okay. Well why don't we program
6 those three items for late afternoon. We do still want
7 to get done a little on the early side. I certainly can
8 say we are in the process of working on the motions to strike
9 and it is important that we get that done pretty soon. So
10 that is one reason I wanted to quit early today and make
11 a little more progress.

12 Let me read off these time allocations that we
13 previously made and we will adjust them upwards by 15
14 minutes. It is just about 9:15 instead of nine in terms
15 of getting started. The applicants would have from 9:15
16 to 10:30 as an initial allocation anyway. Then there is
17 a break of maybe ten minutes. So 10:40 to 11 o'clock for
18 the state, 20 minutes. Then from 11 o'clock to about 12:15
19 for the Board. I think we do want the hour for lunch.
20 From 1:15 to 2:15 for such recross as Palmetto may have
21 and a break of ten minutes or so and then the staff from
22 2:30 to 4 on redirect. Then we would take a short break
23 and at about a quarter past four we would go to the three
24 matters that we just talked about, the two subpoena requests
25 and the request for a site visit essentially. I would think

1 those three matters in the aggregate we should be able to
2 do in an hour or less and get out of here by five o'clock.

3 So with that, Mr. McGarry may begin for the
4 applicants.

5 Whereupon,

6 JACK C. BRYANT

7 GEORGE F. MAXWELL

8 and

9 PETER KIM VanDOORAN

10 having been previously duly sworn by Judge Kelley, resumed
11 the stand and were further examined and testified as follows:

12 CROSS-EXAMINATION

13 INDEX

BY MR. MCGARRY:

14 Q Mr. VanDooran, Duke Power Company's quality
15 assurance program permits for the handling of deficiencies
16 in various was, does it not?

17 A (Witness VanDooran) Yes, it does.

18 Q It is not limited to strictly the Q-1 procedure;
19 isn't that correct?

20 A (Witness VanDooran) That is correct.

21 Q And I believe, Mr. Bryant, on page 20 of your
22 testimony in response to question No.37 you indicate that
23 a deficiency may be handled in the following way. One,
24 craft foremen may be instructed to correct it.

25 MR. GUILD: What page is that, counsel?

1 MR. McGARRY: Page 20

2 BY MR. McGARRY:

3 Q Or he may refuse to sign his check-off sheet
4 or he may refuse to sign a hold point or he may issue
5 deficiency reports; isn't that correct?

6 A (Witness Bryant) Yes.

7 Q Now I think the record reflects, gentlemen, that
8 that there are over 17,000 NCI's that have been written
9 by the Quality Assurance Department. Do you agree with
10 that number?

11 A (Witness VanDooran) Yes.

12 Q Now with respect to R-2A, Mr. VanDooran, would
13 you accept the figure that over 17,000 R-2A's have been
14 written?

15 A (Witness VanDooran) Yes.

16 Q Are you aware of other forms used by Duke Power
17 Company to document deficiencies?

18 A (Witness VanDooran) Yes, I am.

19 Q Such as the M-4A form?

20 A (Witness VanDooran) Yes.

21 Q And the M-4I form?

22 A (Witness VanDooran) Yes.

23 Q And the M-19A form?

24 A (Witness VanDooran) Yes.

25 Q And the M-19C form? That is entitled

1 "Supplemental Process Control Information for Welding
2 and Corrective Action."

3 A (Witness VanDooran) Okay, yes.

4 Q The M-19E form, "Minor Surface Defect Record?"

5 A (Witness VanDooran) Yes.

6 Q And the M-21A form, "Field Weld Check-Off List -
7 Structural Steel"?

8 A (Witness VanDooran) Yes, I believe I am aware
9 of that.

10 Q Now with respect to these last items that I have
11 discussed, beginning with the M-4A, based on your knowledge
12 of Duke's handling and documenting of deficiencies, could
13 you give us a judgment of how many forms have been utilized
14 by the Quality Assurance Department? Would the number be
15 in the thousands? How many times have these forms been
16 utilized by the Quality Assurance Department? Would the
17 number be thousands?

18 A (Witness VanDooran) I would suspect it to be
19 in the thousands.

20 Q Doesn't this lead you to conclude, Mr. VanDooran,
21 that Duke Power Company does indeed document quality
22 assurance deficiencies?

23 A (Witness VanDooran) Yes, it does.

24 Q And not exclusively on NCI's?

25 A (Witness VanDooran) That is correct. I might

1 add there is even one more form that I thought of I think
2 where problems are identified. It is in the hanger program,
3 an M-51C I believe, that is also another form that is used
4 to document problems.

5 Q And there may be others; is that correct?

6 A (Witness VanDooran) There may be a couple of
7 others.

8 Q Questions concerning Appendix B and Duke's quality
9 assurance program, I believe it was Friday, Mr. VanDooran,
10 were directed to you. Now Appendix and Duke's quality
11 assurance program require the welding inspectors to identify
12 deficiencies, do they not?

13 A (Witness VanDooran) That is correct.

14 Q And with respect to those matters documented on
15 an NCI or an R-2A, the welding inspectors are not to resolve
16 those deficiencies, are they?

17 A (Witness VanDooran) That is correct.

18 Q Rather, the resolution of the matter is for
19 supervision or other technically knowledgeable people;
20 isn't that correct?

21 A (Witness VanDooran) That is correct.

22 Q Just because a welding inspector doesn't under-
23 stand the resolution process doesn't mean that Appendix
24 B has been violated, does it?

25 A (Witness VanDooran) That is correct as stated.

1 Q Based upon your review of the concerns of the
2 welding inspectors, is it not proper to say that the welding
3 inspectors' lack of understanding of the resolution process
4 perhaps is the result of a communication problem, but is
5 not a safety problem?

6 A (Witness VanDooran) I believe that is the end
7 result of the review of the welding concerns, that there
8 were no bottom line safety concerns, and that the primary
9 contributor to the fact that these concerns surfaced as
10 in fact communications issues.

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2A-c-1

1 Q That is your conclusion?

2 A (Witness Van Doorn) Yes, it is.

3 Q Now, in your review, gentlemen, of Catawba,
4 or any facility, from time to time, you will find a
5 company in violation of regulatory requirements.

6 For example, Appendix B; isn't that correct?

7 A (Witness Bryant) Yes.

8 (Witness Maxwell) Yes.

9 (Witness Van Doorn) Yes.

10 Q However, the fact that there are errors from
11 time to time doesn't in and of itself result in the
12 conclusion that the quality assurance program is defective,
13 does it?

14 A (Witness Bryant) That's correct.

15 (Witness Van Doorn) That's correct.

16 Q Don't you expect to find errors from time to
17 time when you go out and conduct your inspections?

18 A (Witness Bryant) Yes.

19 (Witness Van Doorn) Yes.

20 Q With respect to Catawba, you have found a
21 problem in violation of QA requirements, have you not?

22 A (Witness Van Doorn) Yes.

23 Q Does that fact lead you to conclude that the
24 Catawba quality assurance program is not working?

25 A (Witness Bryant) No.

2A-2
1 (Witness Van Doorn) No.

2 MR. MC GARRY: Just a second, for the court
3 reporter, several of these instances, all three gentlemen
4 have answered yes.

5 MR. GUILD: How about in that last instance?

6 BY MR. MC GARRY:

7 Q I believe there were three that responded
8 affirmatively; is that correct?

9 A (Witness Bryant) That's correct. I believe
10 it was in the negative.

11 Q Exactly right. It was in the negative. Is
12 that correct?

13 A (All witnesses nodded heads affirmatively.)

14 Q With regard to welding inspectors keeping
15 concern over resolutions in their black book, you gentlemen
16 have heard that testimony?

17 A (Witness Van Doorn) Yes.

18 Q In your opinion, shouldn't they have brought
19 these concerns forward at the time the concern over the
20 resolution occurred?

21 A (Witness Van Doorn) I believe that to be --

22 MR. GUILD: Objection. The question
23 mischaracterizes the evidence. The evidence reflects not
24 that the black book reflected concerns over resolutions as
25 the premise, which seems to suggest that, but that the

24.3
1 black books, at least from the testimony of Mr. Maxwell,
2 reflected identification of deficiencies that weren't
3 otherwise reported on Duke quality assurance forms.

4 MR. MC GARRY: Your Honor, my premise is
5 correct. Look at 3908, Mr. Guild, as to what Mr. Maxwell
6 said in general about the NCIs, when the NCI is dispositioned
7 to use as is. It should be looked into to determine if Duke
8 technical staff at Catawba site had provided the correct
9 disposition.

10 MR. GUILD: Mr. Chairman, that's not the
11 reference to the testimony of the black book where it was
12 improper documentations. They were documenting it in the
13 black book, deficiencies that did not get into the form,
14 the M-19F was the example, the surveillance forms should
15 have been used to document random welding inspections by
16 welding inspectors, instead of putting it in the black book.

17 JUDGE KELLEY: Repeat the question slowly.

18 MR. MC GARRY: May I make a statement? Mr.
19 Guild is right with respect to the M-19F. Taking that out
20 of the question, if you will, our position is that that
21 matter has been fully discussed.

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25
2b fols.

2B-C-1

1 BY MR. MC GARRY:

2 Q With respect to the welding inspectors
3 keeping concerns over resolutions in their black books,
4 in your opinion, shouldn't they have brought that matter,
5 or those matters forward at the time of their concern over
6 the resolution of the NCIs arose?

7 MR. MC GARRY: We maintain that is a proper
8 question.

9 MR. GUILD: Our position is, Mr. Chairman,
10 that the M-19F was the subject of the documentation in
11 the black book which is evidence reflected --

12 JUDGE KELLEY: I think the witness understands
13 it. We all heard all this testimony. The question seems
14 neutral enough. You can answer the question.

15 WITNESS VAN DOORN: I believe it would be
16 their duty to bring those concerns forward. I do believe,
17 and certainly the majority of the instances, in fact,
18 they had brought them forward, and the black book was
19 simply a notation where they had previous concerns.

20 BY MR. MC GARRY:

21 Q But in some instances, particularly,
22 Mr. Maxwell, I believe, shared with you that their general
23 concern was over the resolution, over NCIs; is that
24 correct?

25 A (Witness Maxwell) That's correct.

1 Q Isn't that a function, Mr. Van Doorn, of
2 supervision to see that concerns of employees are brought
3 forward and resolved?

4 A (Witness Van Doorn) Yes.

5 Q And if management told the welding inspectors,
6 or the welding inspector supervisors to bring their
7 concerns over resolutions forward, and they did not, or
8 they were slow in bringing those matters forward, don't you
9 think that management would have a basis for concern?

10 A (Witness Van Doorn) A basis for a concern,
11 yes, in that the concern may not have been addressed as it
12 should have been.

13 Q Wouldn't they have a basis for concern over
14 the welding inspector's actions, itself, where the
15 welding inspector's supervision acts, itself, in not
16 bringing these matters forward?

17 A Yes, I would say so.

18 Q Now, with respect to the M-19F, Mr. Maxwell,
19 between your visit of June 1980 and October 1980, there
20 were some concerns in your mind about whether or not the
21 M-19Fs were still being kept in the black book rather than
22 being documented; isn't that correct?

23 A No, that is not correct. That is between the
24 time period of October 6 to October 10, 1980.

25 Q I hand you this document, and see if you

1 would agree with me that from the time of July 1980 to
2 October 1980, and that is July 15, 1980 --

3 MR. GUILD: You are showing a document,
4 please. May I see it?

5 MR. MC GARRY: -- to October 23, 1980, 15
6 NCIs were written, 15 M-19Fs were written?

7 WITNESS VAN DOORN: Yes, I see that.

8 MR. GUILD: May I see the document before the
9 question is posed, please? Counsel, will you identify the
10 document?

11 MR. MC GARRY: Yes. Those are the M-19Fs.

12 MR. GUILD: The question was to count the
13 number of papers in front of him?

14 MR. MC GARRY: Yes. Or the 15 -- I represent
15 that there are 15.

16 BY MR. MC GARRY:

17 Q Would you agree with that, Mr. Maxwell? You
18 can count them up. Does that look like about 15 to you?

19 MR. GUILD: Give him the time, counsel,
20 please.

21 MR. MAXWELL: From July 15, 1980 to October
22 23, 1980.

23 MR. GUILD: Thank you.

24 WITNESS MAXWELL: 15 documents there, yes.

25 BY MR. MC GARRY:

2B-4

1 Q Now, during that time between June and
2 October 1980, the record might be somewhat unclear,
3 Mr. Maxwell, so I would just like to ask you this question:
4 Whether or not the NCIs were being written during that
5 time. Do you have any doubts that NCIs were being written
6 during that time?

7 A No, I do not have any doubts. In fact, one
8 was written the day I was there. Numerous NCIs were
9 written during that time period.

10 Q If I were to represent to you that over 200
11 NCIs were written during that time, would you have any
12 question to doubt it?

13 A No, I wouldn't.

14 JUDGE KELLEY: That's mechanical?

15 MR. MC GARRY: No. I am sorry. This is with
16 respect to welding inspectors.

17 JUDGE KELLEY: That's what I was wondering.

18 BY MR. MC GARRY:

19 Q You would agree with that?

20 A (Witness Van Doorn) I recall that in the NCI
21 log book, that seems reasonable, that numerous NCIs were
22 written during 1980.

23 Q Now, Mr. Bryant, do you recall Judge Kelley's
24 questions about an applicant's violation of NRC regulations
25 about not following or writing NCIs or procedures when

20.5
1 they should? I believe this was on Friday?

2 A (Witness Bryant) NCIs --

3 Q Do you recall Judge Kelley's question about
4 applicants being in violation of NRC regulations for not
5 following procedures for writing NCIs when the procedures
6 said they should have?

7 A (Witness Bryant) Oh, yes.

8 Q If Duke was not writing NCIs when they
9 should have been according to their program, would that
10 have been a violation?

11 A It would be a violation of NCI criteria.

12 Q You led an inspection team, looked into Duke's
13 QA program early in June 1981; is that correct?

14 A Yes.

15 Q And your team did not find that Duke was not
16 writing NCIs when it should have been, did they?

17 A They did not find that.

18 Q Is it your opinion, or was it your opinion
19 that at that time Duke was writing NCIs on items that
20 could have been handled by another method or by another
21 procedure that Duke had in effect at that time?

22 A Yes.

23

24

25

2C-c-1

1 Q In your opinion, would it have been
2 appropriate for some of the NCIs that you had reviewed to
3 have been invalidated or have been handled by another
4 means?

5 A Yes.

6 Q Now, there was a question, gentlemen, about
7 the level of NCI activity during the time that Mr. Maxwell
8 left, and during the time Mr. Van Doorn came to the site.

9 And the question was whether or not whether
10 the NRC had frequented Catawba with regularity and
11 conducted inspections. Do you recall that dialogue?

12 A (Witness Van Doorn) Yes.

13 (Witness Bryant) Yes.

14 Q Gentlemen, I would represent to you that from
15 time to time, Mr. Maxwell and Mr. Van Doorn came on the
16 site, and 23 inspections were conducted, one for every
17 week, except Thanksgiving, Christmas, and New Year's.
18 Would you agree with that?

19 A (Witness Van Doorn) I would agree.

20 Q Mr. Bryant?

21 A (Witness Bryant) I agree that is very close.
22 I counted -- I couldn't swear to those particular dates.

23 Q Now, Mr. Maxwell, during your review, I
24 believe it was in October of 1980, you came across, you
25 looked at 24 NCIs?

2C-2

1 A (Witness Van Doorn) That's correct.

2 (Witness Maxwell) That's correct.

3 Q There was one that you had some question
4 about, potentially one. I believe you referred to it.

5 A (Witness Maxwell) That's correct.

6 Q You mentioned this to Mr. McFarland; is that
7 correct?

8 A That's correct.

9 Q And Mr. McFarland close that matter out; isn't
10 that correct?

11 A That is correct.

12 Q And that matter had to do with processing
13 NCIs?

14 A Yes.

15 Q Mr. Van Doorn, Mr. Bryant, Mr. Maxwell, there
16 was some discussions concerning the level of activity by
17 mechanical inspectors with respect to writing NCIs during
18 the 1980 time frame.

19 Do you recall that discussion? I believe it
20 was Mr. Maxwell.

21 A (Witness Maxwell) In reference -- I don't
22 recall.

23 Q I believe the discussion had focused
24 primarily on welding inspectors and the statement was that
25 mechanical inspectors or electrical inspectors may not

1 have been as familiar with it.

2 A (Witness Maxwell) That's correct.

3 Q Do you recall that?

4 A (Witness Maxwell) I recall that.

5 Q Now, I represent to you, I am holding a
6 stack in my hands of mechanical NCIs for the year of 1980
7 and I will be glad to have you look at them. I represent
8 to you there is about 400. Would you accept that
9 representation based upon your review of NCIs?

10 A My concern was not whether or not it was
11 welding, mechanical, or electrical inspectors. In some
12 instances, a welding inspector was writing NCIs. It was
13 their understanding of the use of the NCI form.

14 Q But would you agree with my representation
15 that roughly 400 NCIs were written by mechanical people
16 during 1980? Does that seem reasonable?

17 A It seems reasonable during my tenure there,
18 a considerable amount of mechanical NCIs were written.

19 Q Now, there was some discussion, I believe it
20 was Mr. Van Doorn, I am a little fuzzy here. We were
21 going fast and furious, concerning welding symbols on
22 electrical drawings. Do you recall that discussion? Any
23 of you? Was that you, Mr. Maxwell?

24 A (Witness Maxwell) My discussion.

25 Q Do you recall that discussion?

2C-4
1 A Yes.

2 Q Was that matter closed out?

3 A (Witness Maxwell) It was not closed out by me.
4 (Witness Van Doorn) I did close that item
5 out, Mr. McGarry.

6 Q To your satisfaction; is that correct?

7 A (Witness Van Doorn) Yes.

8 Q There was some question in the cross-
9 examination Friday about the clarity of NCIs and whether or
10 not the proper descriptions were contained in the NCIs. I
11 believe, Mr. Bryant, as a result of your task force, Duke
12 took steps and reviewed a great number of NCIs to reassure
13 themselves that the proper description was contained in the
14 NCIs; is that correct?

15 A (Witness Bryant) Yes.

16 Q Now, gentlemen, there was some question
17 concerning our speed laws analogy concerning our speed law,
18 I believe, on Friday.

19 The NRC says the law says 55 miles an hour,
20 and Duke is at 40 miles an hour. Do you recall that
21 analogy?

22 A (Witness Van Doorn) Yes.

23 Q I asked you a couple questions about that.
24 First of all, let me stop there. There was also some
25 discussion about a marginal factor. Do you recall that

1 discussion?

2 A (Witness Bryant) Yes.

3 (Witness Van Doorn) Yes.

4 Q If quality assurance department at Duke told
5 the welding inspectors to identify everything they saw,
6 everything that was not in compliance with procedures,
7 and someone else determined the safety implication, isn't
8 it reasonable to conclude that indeed the welding inspectors
9 will write down the deficiencies that they see, or will take
10 corrective action, Mr. Van Doorn?

11 A (Witness Van Doorn) I think that is
12 reasonable.

13 Q Accordingly, is it reasonable to conclude
14 that Duke Power Company welding inspectors, as a general
15 matter, do enforce quality assurance procedures by citing
16 deficiencies at 41 miles an hour?

17 A Yes, they do, quite strictly.

18 Q If welders are not following construction
19 permit procedures or construction procedures, welding
20 inspectors will write them up for it, or will refuse to
21 sign off, or they will tell them to correct it, isn't that
22 the normal course at Duke Power?

23 A (Witness Van Doorn) That's normal practice,
24 as I understand it.

25 Q Indeed, doesn't the record in this case,

20-6
1 because you have been here, haven't you, Mr. Van Doorn,
2 for most of it?

3 A Yes, sir.

4 Q That's what the welding inspectors told this
5 Board and told this record?

6 A I believe they did.

7 Q Assuming that the welding inspectors have
8 done their job. They have written up a deficiency in
9 construction procedure, a deficiency at 41 miles an hour,
10 and that it is someone else's job, then, is it not, to
11 decide what to do about the deficiencies?

12 A That's accepted practice, yes.

13 Q And the situations at Duke were that even
14 though there is a violation of the construction procedure,
15 supervision can exercise discretion in the resolution to
16 determine if the condition at 41 miles an hour is acceptable
17 with respect to public health and safety; isn't that
18 correct?

19 A That's correct.

20 Q And at Duke, don't they have a range of
21 discretion, and that range is between 40 and 50 miles an
22 hour, assuming 55 is your code criteria?

23 A Generally, I would agree with that.

24 Q And then, even though there was a violation of
25 the construction procedure at 41 miles an hour, isn't it

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1 proper for supervision, technical support at Duke Power
2 Company, to exercise judgment to evaluate this violation
3 and determine if it is acceptable as is?

4 A It would be proper and it is one of their
5 duties.

6 Q Indeed, if they find that it is acceptable as
7 is at, say, 43 miles an hour, that then, that is not a
8 violation of Appendix B, is it?

9 A In essence, at the time the Criteria 5
10 procedure requirement was violated -- now, again, you get
11 back to the training on this, being at a certain point.
12 An item is supposed to be acceptable for inspection in terms
13 of inspection if it doesn't meet, in a strict sense, the
14 procedural QA requirement.

15 Q No. I am saying, assuming that QA picked it
16 up, they found that there was a construction procedure
17 violation. So there was no QA violation. And once that
18 construction procedure violation is documented, then, I ask
19 you the question: Isn't it proper for supervision, for
20 technical support, for engineers, to determine if that
21 construction procedure violation is acceptable?

22 A (Witness Van Doorn) I think I understand.
23 But you are differentiating between the construction
24 procedure and the QA procedure.

25 Q That's precisely correct. I am asking you a

20-8

1 question, that in tha' situation, where the construction
2 procedure has been violated and has been picked up, so
3 there is no QA procedure violation, isn't it proper for
4 engineering judgment to be applied to determine how we
5 handle this construction procedure violation?

6 A Yes. Proper to do an engineering judgment.

7 Q And when Duke does that judgment to
8 determine if construction procedures can be -- that
9 violation of construction procedure can be left as is, or
10 they may determine it cannot be left as is, it has to be
11 corrected, that technical judgment is not a violation of
12 Appendix B? Indeed, it has nothing to do with Appendix B,
13 isn't that correct?

14 A For the most part, I would agree with that.
15 The CP is still a procedure, and off the top of my head, I
16 can't think of an example, but I believe there are probably
17 examples in the CP procedures which I may judge to be an
18 activity affecting quality, which I may judge to be,
19 perhaps, in violation of the criterion requirements.
20 There may be some items in those CPs that I think are
21 quality requirements.

22 In essence, in those cases, and there are both
23 in the CP, that is a lower tiered level.

24 Q I understand. And if in those cases, if
25 there is a violation of the construction procedure --

1 strike that.

2 If in those cases there is a violation of
3 the quality assurance procedure, then there isn't a
4 violation of Appendix B, then there wouldn't be a
5 violation?

6 A Yes, for Number 5. Yes.

7 Q But as a general matter, just so we can wrap
8 this up, there is quite a bit of discussion on the
9 violation of a construction procedure. In most cases in
10 and of itself, it does not equate with a violation of
11 Appendix B, isn't that correct?

12 A Many of those requirements would. The CP
13 is, for instance, is used to implement administrative
14 requirements, which really had nothing to do with QA.
15 It is an example of something that is obvious.

16 Q Excuse me, Mr. Van Doorn. Would you other
17 two gentlemen agree with that statement?

18 A (Witness Bryant) Yes.

19 (Witness Maxwell) Yes. I would equate it
20 differently, though.

21 MR. GUILD: I am sorry. I missed that answer.

22 WITNESS MAXWELL: I would equate that
23 differently from the speed limit that you were discussing.

24 MR. MC GARRY: I have shied away from the
25 speed limit. I appreciate that, Mr. Maxwell. I think I

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1 understand what you are saying.

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1 MR. GUILD: Well, I guess maybe I would,
2 Mr. Chairman, ask if Mr. Maxwell has a different answer.

3 MR. MC GARRY: That's a question for recross.
4 My dime is running.

5 JUDGE KELLEY: Your witness.

6 MR. GUILD: I object, if the witness has an
7 answer that he would state it now.

8 MR. MC GARRY: Objection.

9 JUDGE KELLEY: Save it for later.

10 MR. MC GARRY: I guess, Mr. Van Doorn, to
11 round it out, even though there is a violation in some
12 instances of the QA procedure, if Duke takes corrective
13 action, you may not view that as a violation of Appendix B,
14 isn't that correct?

15 WITNESS VAN DOORN: No, in a very strict
16 sense, it would violate the criterion Number 5 requirements.

17 We would not view it, let's say, as a
18 breakdown in the QA program if the Duke corrective action
19 system properly identifies and corrects the issue.

20 I would be glad to refer to the enforcement
21 criteria which addresses that.

22 BY MR. MC GARRY:

23 Q I think it is satisfactory that there is an
24 enforcement criteria that addresses that, isn't that
25 correct?

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1 A That's correct. And it says that if, for
2 example, if it was identified by the licensee, it is three,
3 four, five, the lower level was reported if required, or
4 it will be corrected, including measures to prevent
5 recurrences within a reasonable time, and was not a
6 violation that could be reasonably expected to have been
7 prevented by the licensee's corrective action of previous
8 violations. All those are words out of the 10 CFR
9 Appendix C requirements.

10 MR. GUILD: Could we have a citation?

11 WITNESS VAN DOORN: I have Page 129, the
12 middle left column, under 4, a notice of violation,
13 beginning Appendix C of Part 2.

14 MR. GUILD: Thank you.

15 WITNESS VAN DOORN: And that's because the
16 NRC wants to encourage and supports the initiative of
17 self-identification and correction of problems.

18 Those are words right out of that same
19 paragraph.

20 BY MR. MC GARRY:

21 Q Focusing on some questions of Judge Kelley,
22 that during the same vein that we have just been discussing,
23 Mr. Van Doorn, this was on Friday, Judge Kelley was saying:
24 Are you saying, though, that insofar as those procedures,
25 these Duke procedures, they are more stringent than the

25-3
1 NRC criteria in Appendix B, that the NRC just does not
2 care? Is that your position?

3 A (Witness Van Doorn) Absolutely not. We do
4 insist that the QA program, as established, be followed,
5 and that is part of our inspection review to see that
6 those procedures are being followed.

7 Q There was some discussion, I think, some
8 misunderstanding, in my judgment, of the word violation.

9 Would you agree with that?

10 A Yes.

11 Q I believe you spoke to that, to some extent,
12 yesterday, and that was helpful.

13 Appendix B is violated, is it not, if Duke
14 does not catch a construction error in its QA program?

15 A Yes.

2E-c-1

1 Q It is also violated if we don't resolve a
2 construction error, or we resolve it improperly?

3 A That's correct.

4 Q Or there is a deficiency in the procedure?

5 A That's also correct.

6 Q The important part in this regard is that
7 Duke and Catawba is indeed judged by the program that it
8 submitted to the NRC; isn't that correct?

9 A Yes, they are.

10 Q And if it is not followed, then they are
11 subjected to enforcement action by the NRC; isn't that
12 correct?

13 A Yes, they are, and they have been.

14 Q And to be clear, any violation of, say, a Q-1,
15 or R-2, is indeed a violation of Appendix B?

16 A It would be, yes.

17 Q Now, once Appendix B has been violated, then
18 it is a matter for the NRC to determine what enforcement
19 action, if any, to take; isn't that correct?

20 A That's correct.

21 Q Now, there was another question by Judge
22 Kelley. Let me read this to you, gentlemen.

23 I am going to have a series of questions to
24 ask you. This is still when you bless the plant, you bless
25 the QA program.

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1 You say, okay. Do it that way.

2 Now, in fact, they go into operation, and
3 they find themselves drawn into a lot of nickel-and-dime
4 stuff, NCIs, and someone says: Let's cut down on NCIs.

5 Now, maybe the person who said that is a
6 pretty, pretty smart man, and that's what they ought to do.

7 But if they don't amend their procedure to
8 do that, they didn't do it in fact, and just start
9 ignoring the procedure, why doesn't that violate an NRC
10 rule, the one that says: Follow your own procedure.

11 Do you gentlemen recall that question? It
12 was last Friday afternoon.

13 A (Witness Bryant) I recall that.

14 (Witness Van Doorn nodding head.)

15 Q I want to focus on that, a lot of that
16 nickel-and-dime stuff, as I understand it, the
17 nickel-and-dime stuff is not a matter that would normally
18 be an NCI. Is that how you interpret nickel-and-dime stuff?

19 MR. GUILD: Objection.

20 BY MR. MC GARRY:

21 Q Is that how you interpret nickel and dime?

22 MR. GUILD: Objection.

23 JUDGE KELLEY: I have an objection. Let
24 Mr. Guild state it.

25 MR. GUILD: The objection is that that is

1 not at all the premise of the question in the context in
2 which the discussion was held.

3 MR. MC GARRY: I will withdraw the question.

4 JUDGE KELLEY: He has withdrawn the question.

5 BY MR. MC GARRY:

6 Q What is your interpretation of a lot of the
7 nickel-and-dime stuff, Mr. Van Doorn?

8 MR. GUILD: Same objection, Mr. Chairman.
9 Let me state my objection. It is to clear --

10 JUDGE KELLEY: All right.

11 MR. GUILD: -- the premise was that it was
12 in fact a violation of Q-1 at the time it was cited by the
13 inspector because the Q-1 procedure said it was. Okay?
14 Now, that is the erroneous point that counsel is assuming
15 when he phrases the question the second time, is that
16 somehow it wasn't a violation of Q-1.

17 JUDGE KELLEY: Well, it was my question. I
18 know what I meant. I just meant that you wrote the
19 procedure. You put it into gear, into operation. You
20 found yourself looking at nit-picking stuff of extremely
21 marginal safety significance, and the only thing that was
22 elaborate was up through engineering review, and everything
23 else, and I was saying that the first-line guy should be
24 able to get rid of it, like a result. That's what I meant.

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1 BY MR. MC GARRY:

2 Q Is that how you interpret it?

3 A (Witness Van Dorn) Yes.

4 Q Was that type of information a part of the Q1
5 procedure at that time?--the nickel-and-dime stuff--or was
6 it appropriate for Duke to handle it under another procedure?

7 Did Duke--let me ask the question another way:

8 Did Duke Power Company's Q1 procedure in effect at
9 the time under discussion, require that nickel-and-dime stuff
10 be handled exclusively by Q1?

11 A Not, it did not. And I believe I did state that
12 yesterday: it did not require that; it allowed it; it did
13 not require those minor issues to be handled by an NCI.

14 Q And they could have been handled under some of the
15 forms that we discussed at the outset of this cross-
16 examination, could they not?

17 A Yes, sir.

18 Q And, therefore, there's no need--was there--for
19 Duke to amend the Q1 procedure to eliminate the nickel-and-
20 dime stuff?

21 A That's correct.

22 I think some clarification was needed, it's not a
23 simple question, but I think certainly an understanding of the
24 inspectors would have been in order; which I think was
25 attempted: let's not put the nickel-and-dime stuff on the

1 NCI program; let's handle it--let's not dilute that program
2 reserved for the more significant items; and let's handle
3 them in a more appropriate manner.

4 So I think since the practice had been to use
5 NCI's almost exclusively, the procedure would not required to
6 be changed; but certainly instructions to the various people
7 using them as to how to handle that procedure at this point.

8 Q Now, during that point in time, is there any
9 evidence that Duke ignored, as a general matter, those
10 procedures?

11 I'm talking about the quality assurance procedure?

12 A As a general matter, no.

13 A (Witness Bryant) No.

14 A (Witness Maxwell) No.

15 Q Are you aware, gentlemen, of any failure of the
16 quality assurance program to identify and document construction
17 deficiencies at this time--as a general programmatic matter?

18 A (Witness Bryant) No.

19 A (Witness Maxwell) No.

20 A (Witness Van Doorn) No, not in a general sense;
21 no.

22 Q In your judgment--strike that question.

23 Mr. Bryant, I want to get an understanding of your
24 role with respect to your testimony at the time of the
25 --you addressed Hoopingarner-McAfee; isn't that correct, sir?

1 A (Witness Bryant) Yes, sir.

2 Q Now, in preparing your testimony, did you meet with
3 people?

4 A Yes.

5 Q And during the time of the Hoopingarner-McAfee
6 allegations, did you have a group of welding inspectors
7 and a group of NRC inspectors who worked with you?

8 A Yes.

9 Q And they investigated matters set forth by
10 Hoopingarner-McAfee?

11 A Yes.

12 Q And you met with these individuals, did you not?

13 A Yes.

14 Q And did you review their reports, with them?

15 A Yes, and I qualify that: at the time of
16 Mr. McFarland's report, I was on a different assignment at
17 that time; so I did not sign specific reports. But I was
18 familiar with the contents and did discuss it with Mr.
19 McFarland later. It was not necessarily right at the...

20 Q And in discussing that matter with Mr. McFarland
21 and discussing the other matters that you relied upon--

22 A Yes, sir?

23 Q --did you satisfy yourself that as to the content
24 of those documents?

25 A Yes.

1 Q In preparation for this testimony, you met with
2 individuals; did you not?

3 A Yes.

4 Q You met with individuals who conducted NRC reviews
5 of Hoopingarner-McAfee allegations; did you not?

6 A I met with individuals.

7 Q NRC inspectors?

8 A Yes.

9 Q And did you review reports?

10 A Yes.

11 Q Now, gentlemen, there's an allegation made by
12 Mr. Hoopingarner that, Mr. Maxwell, you were on Duke's
13 payroll.

14 MR. GUILD: Objection. The testimony doesn't
15 reflect that at all. It reflects--Mr. Hoopingarner, that the
16 question of Mr. Maxwell's and Mr. Robert David's independence,
17 that they were in cahoots together; but he explicitly denied
18 that he says anything about Mr. Maxwell being on Duke's
19 payroll.

20 MR. MC GARRY: I withdraw the question.

21 JUDGE KELLEY: All right.

22 BY MR. MC GARRY:

23 Q Mr. Maxwell, didn't you take Mr. Hoopingarner's
24 comment as saying you were on Duke's payroll?

25 A (Witness Maxwell) Yes.

1 Q Have you been, or are you, on Duke's payroll?

2 A Absolutely not.

3 Q Mr. Bryant, have you been, or are you, on Duke's
4 payroll?

5 A (Witness Bryant) No.

6 Q Mr. Van Doorn, have you been, or are you, on Duke's
7 payroll?

8 A (Witness Van Doorn) Absolutely not.

9 Q Have any of you gentlemen ever been offered any
10 inducement by Duke in return for an easy inspection?

11 A (Witness Bryant) No.

12 A (Witness Maxwell) No.

13 A (Witness Van Doorn) No.

14 Q Now, Mr. Bryant, let's turn to the matter of diesel
15 generators.

16 A Yes, sir.

17 Q Flooding.

18 To your knowledge was an investigation conducted of
19 the flooding of the diesel generators?

20 A (Witness Bryant) An inspection was conducted.

21 Q Yes, sir.

22 A Of the flooding.

23 I draw some distinction between "investigation" and
24 "inspection".

25 Q I appreciate that; I stand corrected, sir.

1 The would would be--

2 A Inspection.

3 Q Inspection.

4 May I ask, was an inspection conducted of the flood-
5 ing of the diesel generators?

6 A Yes.

7 Q And who conducted that investigation--that
8 inspection?

9 A Milton Hunt.

10 Q And did you review Mr. Hunt's inspection report?

11 A Yes.

12 Q And did you supervise Mr. Hunt at that time?

13 A Literally, yes, for the time. I want to clarify
14 one bit: there was some movement right about that time;
15 Mr. Hunt moved to project; I moved to projects; whether he
16 specifically reported to me every day, I don't know. He was
17 assigned, certainly, he was assigned to me for that. As I
18 wrote the report--I mean, I signed the report, he reported to
19 me for that specific inspection.

20 Q Let me just clarify this. I am going to hand you a
21 copy of the inspection report.

22 (Mr. McGarry distributing documents to Mr. Guild
23 and to panel)

24 MR. GUILD: Counsel, could you clarify the status?
25 This is 7918, where is 7918? Is that in as an exhibit, or

1 is that excluded?

2 MR. JOHNSON: I think it's 10A or 10B, as I recall.

3 MR. GUILD: It's in?

4 MR. JOHNSON: It was admitted for--as an authentic
5 document reflecting that an inspection had occurred.

6 MR. GUILD: But not for the substance of the
7 diesel generator matter? Is that right?

8 I'll object if I don't--

9 JUDGE KELLEY: Yes. I would go further and say
10 that is correct.

11 MR. GUILD: Thank you.

12 JUDGE KELLEY: The beginning of the transcript
13 yesterday, first thing.

14 BY MR. MC GARRY:

15 Q Mr. Bryant, I am handing you this document, and I
16 ask you to look at it and see--and if you can state whether
17 or not that that is the inspection report written by Mr. Hunt
18 concerning flooding of the diesel generators?

19 A (Witness Bryant) Yes.

20 Q And did you sign--

21 A Yes. I signed as approving; and also I signed it
22 for Mr. Hunt.

23 Q So it would be reasonable to conclude that at that
24 time Mr. Hunt did work for you, and did report to you?

25 A At least for that, for that.

1 Q And--

2 A May I? To clarify, to try to get some understanding
3 of my reasoning, if you will, on this: As I say, I don't
4 recall exactly the status at that time. There are other
5 reports in evidence here which were signed by me as
6 approver for inspectors who did not normally report to me;
7 but I---they were assigned to me for that inspection.
8 Therefore, they were reporting to me for that, for that
9 incident, at least.

10 Q Now, with respect to the diesel generator flooding:
11 do you recall Mr. Hunt investigating that back in 1979?

12 A Yes.

13 Q That was a pretty big matter, wasn't it?

14 MR. GUILD: I think the term is "inspect",
15 Mr. Chairman.

16 JUDGE KELLEY: All right.

17 MR. MC GARRY: I'm sorry, I've got a mind-set for
18 "investigate". Let the record reflect every time I say
19 "investigate", strike that, and insert "inspect".

20 (Laughter)

21 BY MR. MC GARRY:

22 Q Isn't it reasonable to conclude, and I ask you this
23 that you sat down and discussed this matter with Mr. Hunt?

24 A (Witness Bryant) I did then and since then.

25 Q And you went through his inspection report, did you

1 not?

2 A Yes.

3 Q And if you had questions, you asked him about that
4 inspection; isn't that correct?

5 A Yes.

6 Q So you satisfied yourself that you were knowledgeable
7 with respect to this inspection report, isn't that correct?

8 A Yes.

9 Q Now, the diesel generator flooding occurred in
10 September of 1979; isn't that correct?

11 A Yes.

12 Q And as I understand it, Mr. Bryant--you tell me if
13 I'm wrong--it involved water running down ungraded land,
14 into an open manhole, and through conduits which were open,
15 because cable was being pulled; is that your understanding?

16 A Yes.

17 Q Now, is it reasonable to conclude, Mr. Bryant,
18 that now in late 1983, based on your knowledge of the job site
19 --and, Mr. Van Doorn, perhaps you can answer this question,
20 also--that the conduit in question has been sealed?

21 A (Witness Van Doorn) Absolutely, in fact, the
22 diesel generator testing has been in progress; and we are
23 witnessing that testing; so those cables be pulled and,
24 consequently, the conduits would be sealed.

25 Q And the land has been graded?

1 A I believe it has.

2 Q And a drainage system has been installed?

3 A (Witness Bryant) Yes.

4 Q Thus, even if the manhole cover was taken off,
5 it is not likely, is it, that the diesel generator room would
6 flood?

7 A I have to agree to that.

8 Q It is also reasonable to conclude, is it not,
9 that Duke Power Company is not going to take off that manhole
10 cover for any appreciable length of time, given what
11 happened the last time?

12 Would that be reasonable to conclude?

13 A (Witness Van Doorn) Sounds reasonable to me.

14 A (Witness Bryant) Yes, sir.

15 Q Mr. Bryant, with respect to your investigation in
16 January-February,--your inspection--of January-February 1981,
17 questions were raised as to the clarity and completeness
18 of NCI's, as to the adequacy of resolutions of NCI's,
19 and as to the reportability of NCI's; isn't that correct?

20 A Yes.

21 Q And as a result, Duke conducted an engineering
22 review of 11,000 NCI's with respect to concerns raised by
23 NRC; isn't that correct?

24 A They conducted a review at that time, I believe, for
25 all since January 1 of '78; there were other reviews at other

1 times by our people. But I will not agree absolutely on
2 11,000.

3 Q Roughly 11,000?

4 A Ballpark, yes.

5 Q Did this action on the part of Duke Power Company
6 serve to close-out the matter?

7 A Yes.

8 Q And was the NRC satisfied with the resolution?

9 A I was, Mr. Van Doorn closed it out; he did a lot
10 of inspections in the area.

11 A (Witness Van Doorn) Yes.

12 Q And were you satisfied with the resolution,
13 Mr. Van Doorn?

14 A Yes, I was.

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1 Q And were you satisfied with the resolution,
2 Mr. VanDooran?

3 A (Witness VanDooran) Yes, I was.
4

5 Q There was some discussion yesterday, I believe
6 it was with you, Mr. VanDooran, concerning the 130 welding
7 inspector concerns and the need for specific tangible infor-
8 mization, a specific tangible basis. Do you recall that
9 discussion?

10 A (Witness VanDooran) Yes, I do.

11 Q Now is it necessary in all instances to have a
12 specific tangible basis such as information regarding a
13 certain weld in order to evaluate the concerns raised by
14 the welding inspectors?

15 A (Witness VanDooran) No.

16 Q If you decided that there was merit to the concern,
17 then you would need to get specific information; isn't that
18 correct?

19 A (Witness VanDooran) That is correct.

20 Q However, if it could be decided on the basis
21 of what was before you, you didn't need tangible evidence,
22 did you?

23 A (Witness VanDooran) That is correct.

24 Q Now, Mr. VanDooran, having conducted an independent
25 investigation, which I understand you did with respect to
these 130 concerns, isn't that correct?

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A (Witness VanDooran) That is correct.

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Q And having spoken for the welding inspectors, which I understand you did with respect to these concerns, isn't that correct?

A (Witness VanDooran) Yes, I did.

Q And having reviewed the technical task force report, which you did, isn't that correct?

A (Witness VanDooran) That is correct.

Q Do you feel that the technical task force report is a fraud?

A (Witness VanDooran) Absolutely not.

Q There was some discussion concerning the motives of Charles Baldwin and Larry Davison regarding instructions of how to handle NCI's. Do you recall that, Mr. VanDooran?

A (Witness VanDooran) I believe I do.

Q Based on your investigations, did you find anything improper concerning Mr. Baldwin or Mr. Davison's motives regarding instructions of how to handle NCI's?

A (Witness VanDooran) Improper, no. They were making judgments that certainly they felt was in their authority.

Q Mr. VanDooran, based on your inspection and review of these matters, did you find any evidence that Larry Davison was trying to cover up his alleged past mistakes?

1 A (Witness VanDooran) No.

2 Q Did you find any evidence that any other indivi-
3 duals at Duke Power Company were trying to cover up any
4 past mistake?

5 A (Witness VanDooran) No.

6 Q And wouldn't that have been something that you
7 would have been particularly looking for in your review?

8 A (Witness VanDooran) Yes, I did, again primarily
9 through the interview process, discuss motives and objectives
10 of all of the various issues, especially with supervision.

11 MR. McGARRY: Your Honor, I surprised myself.
12 I would suggest if we could take a break now, I could look
13 at my notes and I think I am finished.

14 JUDGE KELLEY: But you may have a couple more
15 minutes after the break.

16 MR. McGARRY: I may have a couple of minutes,
17 yes, sir.

18 JUDGE KELLEY: Fine. So you just used an
19 hour. Do you want 15?

20 MR. McGARRY: I think ten will be fine.

21 JUDGE KELLEY: We will come back at 10:25.

22 (Short recess.)

23 JUDGE KELLEY: Back on the record.

24 Mr. McGarry.

25 MR. McGARRY: Thank you, Your Honor.

4-4

1 BY MR. McGarry:

2 Q Mr. Bryant, there was an allegation by Mr.
3 Hoopengartner, I believe, concerning pressure not to talk
4 to the NRC. Do you recollect that?

5 A (Witness Bryant) Yes.

6 Q Now, Mr. Bryant, based on your visits to Catawba,
7 which have been many, isn't that correct?

8 A (Witness Bryant) A number of them, yes.

9 Q And based on the inspectors who worked for you
10 and their visits to Catawba, has any inspector or you seen
11 any evidence of pressure by Duke Power Company with regard
12 to telling employees don't go to the NRC?

13 A (Witness Bryant) I have not had such related
14 to me.

15 Q And have you seen it?

16 A (Witness Bryant) No.

17 Q Mr. VanDooran?

18 A (Witness VanDooran) No.

19 Q Mr. Maxwell?

20 A (Witness Maxwell) Could you say the question
21 again.

22 Q Certainly. During the time you were an inspector
23 at Catawba, Mr. Maxwell, did you see any evidence where
24 Duke pressured employees not to go to the NRC?

25 A (Witness Maxwell) Quite the contrary.

4-5

1 A (Witness VanDooran) In regard to the question,
2 Mr. McGarry, I would say certainly that there was an
3 encouragement that they handle their problems in house first.
4 I think testimony in this case indicates that that was
5 misunderstood, as I deemed it to be intended in isolated
6 cases, but as a general pressure not to go to the NRC,
7 absolutely not.
8

9 A (Witness Maxwell) In reference to what I spoke
10 of, I felt that the Catawba site, the inspection group
11 at that site was quite vocal. If they had a complaint,
12 I heard about it. I did feel anyone was held back.

13 Q Now Mr. VanDooran, I just want to go over a topic
14 I did discuss with you earlier to make sure the record
15 is crystal clear.

16 If in carrying out quality assurance procedures
17 it is determined that a design requirement is violated,
18 does that mean that Appendix B is violated?

19 A (Witness VanDooran) Generally it would be a
20 violation of Appendix B in that there would be a procedural
21 requirement in all cases that I know of, a QA procedural
22 requirement implementing that design requirement and as
23 a minimum it would violate the Criterion 5.

24 Q Let me go through it again, because this is
25 important. In carrying out an inspection a welder inspector

4-6

1 follows the quality assurance procedure and determines that
2 a design requirement, something set forth in a construction
3 procedure, for example, has been violated, the weld was
4 too big, and he writes it up. That isn't a violation of
5 Appendix B, is it?

6 A (Witness VanDooran) Well, depending on the
7 instance, I would think that, or maybe even your example,
8 may be a case where I would consider that type of CP require-
9 ment in fact related to QA. I think QA is there to
10 assure that, and it is one of the reasons for the QA program,
11 to assure that the design requirements are met.

12 I am not saying in all cases that they would
13 be a violation of Appendix B, some on both sides.

14 Q Let me say it a different way. If the QA program
15 is working so as to assure that design requirements are
16 being met, then there is no violation of Appendix B, is
17 there?

18 A (Witness VanDooran) The answer would be affirma-
19 tive to that question, yes.

20 Q There would be no violation of Appendix B?

21 A (Witness VanDooran) Without further scenario,
22 yes.

23 MR. McGARRY: I think that is it, Mr. Chairman.

24 JUDGE KELLEY: All right.

25 MR. McGARRY: Mr. Chairman, I know this is a

4-7

1 bit out of order, but due to the cross-examination that
2 has just taken place with Mr. Bryant on the staff's Exhibit
3 10-A, which was the inspection report 79-18 which was
4 admitted on a limited basis for its authenticity that an
5 inspection of the diesel generator flooding incident did
6 take place, it seems to me that we do have a more fully
7 developed record based on the cross-examination of Mr. Bryant,
8 that Mr. Bryant was involved quite intimately in the prepara-
9 tion of the approval review of that report and that he has
10 been able to be cross-examined based on that as to the truth
11 of those matters.

12 I request at this time that the Board reconsider
13 its limited admission based on the San Onofre rule that
14 this readily distinguishable from those to instances of
15 an FSAR that was being brought in in toto without a sponsoring
16 witness. It is a very narrow point and it has been demonstrated
17 that he is knowledgeable and is available, and, secondly,
18 that Mr. Nauman of FEMA, his situation was readily distin-
19 guishable also because he wasn't in a position and, in fact,
20 he said he could not be cross-examined on the national
21 agency's positions. Mr. Bryant is here and has been able
22 to answer the questions, and it seems to me that it is
23 appropriate now to remove for its admission.

24 JUDGE KELLEY: I wasn't aware that he was asked
25 any questions about the condition of the diesels at the

4-8

1 plant. He said he supervised Mr. Hunt and talked to Mr.
2 Hunt about it and presumably this was at the office.

3 MR. JOHNSON: He was asked questions yesterday
4 by Mr. Guild.

5 MR. GUILD: Mr. Chairman, we oppose the motion
6 and would like to be heard on it, please.

7 MR. MCGARRY: Your Honor?

8 JUDGE KELLEY: One at a time. Let me probe
9 this a bit.

10 You yourself did not go and inspect those
11 diesel generators, did you?

12 WITNESS BRYANT: No, sir, I did not inspect
13 them. I have seen those diesel generators.

14 JUDGE KELLEY: At one time or another, but you
15 didn't go and look at it in the wake of the flooding
16 incident.

17 WITNESS BRYANT: No, sir.

18 JUDGE KELLEY: If we got into the dispute about
19 let's say whether the water got up into the crack shaft
20 at the top of the middle, and the report says what the
21 report says, but if I start cross-examining you about how
22 high the water was, you couldn't say, could you?

23 WITNESS BRYANT: I couldn't say. It would
24 only be relying on several people's transcripts.

25 JUDGE KELLEY: All you know is what you got
from Hunt on those matters, right?

4-9

1 WITNESS BRYANT: Other records than Hunt's, but
2 again only from records.
3

4 MR. MCGARRY: Your Honor, so we can be heard,
5 we maintain that it is clearly permissible for Mr. Bryant
6 to testify about the diesel generators, even though he
7 wasn't there, as long as he had a nexus to the inspection
8 of the diesel generators, then it is clear that he can
9 testify.

10 It is for Mr. Guild to probe the extent of his
11 knowledge, but this document should come in. I was looking
12 at the San Onofre ALAB 717 last night which had to do with
13 the FSAR issue. But the point there is it said the witnesses
14 need not be the author or authors of every section in
15 controversey. Point Beach speaks to this and I can get
16 a citation after lunch.

17 JUDGE KELLEY: The FSAR is a little bit different.

18 MR. MCGARRY: It is a little bit different, but
19 the principal I think is the same. It is recognized in
20 NRC practice that given the complexity of issues and given
21 the desire to move proceedings along and keep the number
22 of witnesses limited, that there can be sponsoring witnesses.

23 The problem prior to the moving of this document
24 today was it was unclear whether or not Mr. Bryant had
25 any connection whatsoever with this ---

JUDGE KELLEY: How can we maintain that Mr. Bryant

4-10

1 can stand cross on the factual issues involved in the flooding
2 of those diesel generators? The man doesn't know anything,
3 except what Hunt and some other people, what he got in
4 some records.

5 MR. McGARRY: But that is permissible under NRC
6 law is our position. If, Your Honor, Mr. Hunt worked for
7 Mr. Bryant, Mr. Hunt was directed by Mr. Bryant in this
8 inspection. Mr. Hunt conducted the inspection pursuant
9 to Mr. Bryant's directions, Mr. Hunt wrote his inspection
10 report, Mr. Bryant went over that inspection report with
11 him, Mr. Bryant asked him questions and satisfied himself
12 as to the content, then it is clear under NRC law that this
13 gentleman, Mr. Bryant, is permitted to discuss this topic
14 and this document should come in.

15 JUDGE KELLEY: I don't have a special quarrel
16 with you, Mr. McGarry. I think you could probably persuade
17 me on that. See the reversal? That is there staring at
18 me, and I just cannot understand how that can be distinguished.

19 MR. McGARRY: All right, Your Honor, let me please
20 distinguish it. I have it right here, and I think there
21 are two points. I just read it five minutes ago.

22 First of all, the FEMA witness, Mr. Nauman,
23 through the testimony that FEMA National Review elicited,
24 considered himself incompetent to speak to any questions
25 regarding those national views. That is a red flag. The

4-11

1 guy said I am not competent to testify. It shouldn't come
2 in. This witness hasn't said that.

3 JUDGE KELLEY: Yes, he has. I asked him if he
4 could testify about high the water got and he said no, on
5 his personal knowledge.

6 MR. MCGARRY: That is right. That is the
7 distinction. But if he can tell you how high that water
8 is based on his discussions with Hunt, that is the critical
9 distinction, and then it comes in. We think that that is
10 a critical distinction and we also quite frankly think it
11 is well recognized NRC law.

12 JUDGE KELLEY: Can you point me to anything?

13 MR. MCGARRY: I will after lunch. I can tell
14 you it is Point Beach. I had several citations, and I
15 must have left it in my hotel room last night in preparing
16 for this cross-examination.

17 JUDGE KELLEY: All right.

18 MR. MCGARRY: The second point, if I can just
19 have 15 seconds.

20 (Brief pause.)

21 MR. MCGARRY: There may be another distinction
22 with respect to the FEMA document and obviously you are
23 the best to judge that having been there, but it is our
24 understanding that what was involved was expert opinion
25 testimony.

4-12

1 JUDGE KELLEY: No.

2
3 MR. MCGARRY: And in fact it says "The evaluation
4 by the FEMA National Office is essentially a conclusory
5 expert opinion concerning the state of off-site emergency
6 planning as of September 24th, 1981.

7 JUDGE KELLEY: It is certainly conclusory. You
8 couldn't dispute that. It was a one liner. Everything
9 is fine with regard to emergency planning if they do
10 everything they said they were going to do. Very truly
11 yours, FEMA. That is what it said.

12 The presumption of expertise, I think that is
13 in the rule. It certainly wasn't in the testimony.

14 MR. MCGARRY: Quite frankly, I am not totally
15 familiar with that argument. I think the argument that
16 is persuasive in my mind is the one I have already made
17 to this Board.

18 JUDGE KELLEY: Mr. Guild.

19 MR. GUILD: Mr. Chairman, let's put this into
20 some context. I think as an abstract proposition Mr. Bryant
21 can sponsor a document that he has some supervisory nexus
22 to, but not this one, and the reason is this.

23 There are central issues of facts in dispute
24 with respect to the diesel generator flooding incident.
25 It is not a piece of paper issue. It is a fact question.

4-13

1 Now we have already started our day with a
2 motion to strike the applicant's testimony in its entirety
3 on this subject because there wasn't sufficient nexus
4 between Mr. Dressler and his awareness of the facts with
5 respect to this flooding incident to be able to present
6 intelligible testimony other than what somebody else had
7 offered to him by way of reports and secondhand information
8 and that sort of thing. We couldn't get sufficient nexus
9 to the facts in question as contradistinct from the
10 Palmetto witnesses who are just workers there. They saw
11 it and they offered testimony on the matter.

12 Now Mr. Bryant comes in and if he has a nexus
13 to the facts, the nexus is even more remote than Mr. Dressler's
14 because it appears that Mr. Dressler, at least in preparing
15 testimony, went out and got somebody to look at all this
16 stuff. It wasn't him, but somebody else did.

17 Mr. Bryant's is an NRC report simply prepared
18 in the due course of his official status, if you will. He
19 was unclear himself about his relationship to Mr. Hunt,
20 as I understood Mr. Bryant's explanation at this particular
21 time. Did I supervise him generally; did I supervise him
22 on this one; why did I sign for Hunt as well as approving
23 the Hunt report?

24 The bottom line point is I don't dispute the
25 fact that Mr. Bryant can tell us to the extent he recalls

4-14

1 what he was doing in October of '79 when Mr. Hunt did
2 this report, and maybe he can't even remember that the
3 piece of paper came across his desk. It just doesn't get
4 us any closer to resolving the factual disputes about the
5 flooding of the diesel generator incident and the safety
6 significance of that.

7 Here, Mr. Chairman, at page 27, Question 51
8 of Mr. Bryant's testimony, he is asked for something much
9 more than simply did he supervise the report. He is asked
10 what is the significance of this event relative to the safe
11 operation of Catawaba, and he expresses the opinion non.

12 I maintain that is an expert opinion and that
13 there is insufficient factual basis for the expression of
14 that opinion.

15 Let's just be absolutely clear at this point.
16 I move to strike Mr. Bryant's testimony in that regard.
17 He is not capable, he is incompetent to express that expert
18 opinion.

19 JUDGE KELLEY: Let me be precise about the scope
20 of the motion. Just on that question and answer, is that
21 what it relates to?

22 MR. GUILD: Yes, sir.

23 JUDGE KELLEY: Okay, gentlemen, we have a motion
24 for reconsideration from the staff that we admit, 79-18,
25 is it?

MR. JOHNSON: Yes, sir.

4-15

end 4

1 JUDGE KELLEY: It is for all purposes essentially
2 rather than for the limited purpose it was previously
3 admitted, and we have heard from everybody. We think that
4 if we answer that by tomorrow that would be timely. It
5 is not going to hold anything up between now and then. So
6 we will take that under advisement and move directly to
7 Mr. Wilson.

5A-C-1

1 JUDGE KELLEY: We will move on to Mr. Wilson.

2 BY MR. WILSON:

3 Q Mr. Van Doorn, earlier you mentioned during
4 your inspection, I believe is the proper term, you examined
5 motives and whatnot of various supervisors in an attempt
6 to determine whether there was any substance in the
7 allegation of cover-ups of problems at the plant, and you
8 said you found nothing; is that right?

9 A (Witness Van Doorn) That's correct.

10 Q What period did you look at of the
11 construction that was already in place at Catawba? From
12 the very first day, or was it simply from the time that
13 you had come on to the site as resident inspector, or when?

14 A Well, I familiarized myself, certainly, with
15 all of the records that we had available previous to my
16 arriving on the site.

17 Largely, that would have been a review of
18 various open items that involved NRC reports, certainly, to
19 get a general feel for the situation at Catawba in that
20 vein.

21 Also, the welding inspector concerns did, at
22 least, a few of them, I did go back to 1978, I believe.
23 And, of course, I looked at all of those and in that vein,
24 that review would have covered, at least, the time period
25 that the welding inspector concerns covered.

5A-2

1 Q So if I hear you correctly, then, you began
2 with the time frames that had been identified by the
3 welding inspector concerns; is that right?

4 A Yes.

5 The basis of my review was the welding
6 inspector concerns which did -- didn't encompass 1978 at
7 all.

8 Q So it did encompass the period, then, where
9 there was a joinder of the construction-QA departments as
10 far as their function, they were still under construction
11 together, during the first part of that period; is that
12 correct?

13 A Yes, that's correct.

14 Q And as I understood the testimony from way
15 back in the beginning of the hearing, Mr. Davison was the
16 site manager; is that right, in charge of the QA program
17 in construction?

18 A I believe his title is Senior QC Engineer.
19 But he was the top site man over the inspectors.

20 Q So during that time, you found no indications
21 of any apparent conflict in his position such as would
22 have motivated a cover-up of any kind?

23 A No, I did not.

24 Q I might add I have done a number of
25 inspections at Catawba as Regional Manager, as well as

5A-3
1 prior to my being assigned permanently to Catawba.

2 So in all of those, Mr. Davison would have
3 been in charge of the inspectors.

4 Q During your tours around the site, the
5 inspection tour, is it often or infrequently that you were
6 approached by workers with specific concerns, whether it
7 is safety or nonsafety-related?

8 A It is fairly frequent that we have concerns
9 of some sort expressed to us.

10 Fortunately, most of them are minor problems.

11 But, in fact, I think, really, part of our
12 duty, and especially as resident inspector, is to get a
13 feel for whether there are concerns, and we, in fact, I
14 guess in a sense, sort of solicit that.

15 We try to establish a rapport regularly with
16 inspectors, especially, and craft personnel to see if they
17 really have any significant problems that aren't being
18 addressed.

19 I go out of my way to make them feel
20 comfortable in talking to me as part of my routine inspection,
21 and try to assess that situation.

22 Q So you certainly don't discourage workers
23 coming to you to discuss possible problems as they perceive
24 them; is that right? You don't discourage them?

25 A No, I do. I am obligated, certainly, to

5A-4
1 reiterate the NRC policy and it does say that we should
2 encourage them to give their management a chance at the
3 problem, don't come running to me if they don't get their
4 overtime pay, or obvious issues as that.

5 Even on other issues, we encourage them to
6 try to use their in-process program. We expect that to be
7 working. But then, we always explain that if, hey, they
8 don't have to use that program, they can come to us about
9 anything at any time.

10 Q Mr. Maxwell, based on your experience, was
11 that your practice when you were the resident inspector?

12 A (Witness Maxwell) Generally, yes.

13 Q Did you also find worker contact to be
14 frequent?

15 A Quite frequent.

16 Q Mr. Bryant, you mentioned earlier that you
17 required an engineering review of NCI Report 81-02 that we
18 have already in evidence.

19 I guess the question really is to Mr. Van Doorn.
20 Again, you, as I noted from the earlier testimony, have since
21 that time been receiving routinely copies of all NCIs that
22 are issued at the site; is that correct?

23 A (Witness Van Doorn) That's correct.

24 Q Do you continue to on this date exercise that
25 kind of review of NCIs that are written?

5A-5
1 A Not reviewing a hundred percent of the NCIs
2 in this time frame. I am, in essence, on permanent
3 distribution. NRC is typed on the bottom of the form.

4 Now, I did request, although it was not an
5 NRC requirement, I did request that they put me on,
6 automatically, on the distribution of all NCIs shortly
7 after that, and I am still on the distribution.

8 I reviewed 100 percent of those for
9 approximately two years running.

10 Q Mr. Van Doorn, I am not quite clear that I
11 got the question that you were responding to on direct.
12 So if I am incorrect --

13 A I missed part of your question.

14 Q If you would listen closely to this, if I am
15 incorrect, the part that is wrong, tell me. I think
16 earlier you had said that in that review you noted no
17 systematic failure or no general failure to document
18 problems at the plant. Is that correct? Is that what you
19 were testifying to?

20 A Yes, I believe I was.

21 Q Did you notice any specific feelings of a
22 programmatic nature when you said generally you found no
23 failing?

24 A You said specifics of a programmatic nature.
25 I don't know if that is compatible.

5A-6

1 Q Programmatic, implications, perhaps, for one
2 isolated incident?

3 A There are certainly isolated instances where
4 a procedure has not failed, or perhaps, where an NCI should
5 have been written. There are isolated cases of that in a
6 general sense. It was not some kind of a broad QA
7 breakdown.

8 Q You noticed no pattern of violation in that
9 respect, is that right? I mean, to the individual failings
10 that you observed from time to time, there was no pattern
11 of conduct that would indicate a general breakdown, is that
12 basically what you are saying?

13 A I think so.

14 If you have a specific in mind -- there were
15 violations involving the NCI program, different aspects of
16 that program.

17 Q Mr. Maxwell and Mr. Van Doorn, in your
18 inspections and follow-up enforcement actions when
19 appropriate, is the fact that the NRC, through some branch,
20 either yours or somebody else's, previously approved a QA
21 program, does that in any way estop you or restrict the
22 action which you may feel is necessary to remedy a
23 violation you have noted?

24 A (Witness Van Doorn) No.

25 (Witness Maxwell) No.

1 Q Is that true, Mr. Maxwell?

2 A (Witness Maxwell) I go back initially to
3 when I came to the site. I usually went back to the
4 initial source of requirement, with no disregard of their
5 topical report, in many instances.

6 Q Then, those last two gentlemen, let me ask
7 you generally, based on your personal experience and
8 observations at the Catawba nuclear station during your
9 respective periods of assignment there, have you observed
10 any incorrect work which went into that plant as a result
11 of confusion regarding welding symbols? Are you aware
12 of any, or did you observe it personally?

13 A (Witness Van Doorn) I think there were a
14 couple of instances where there was some confusion over
15 welding symbols, and there had to be some corrective action
16 taken to make some rewelding or additional welding or
17 something.

18 But I know of none that went uncorrected or
19 unevaluated, if that is what you are asking.

20 (Witness Maxwell) I agree with that comment.
21 The one that I recall being involved with were corrected.

22 Q And those two gentlemen, let me ask you
23 finally, have you, or are you personally satisfied, based
24 on your examination of the records and the actual
25 observations you have made of the practices at Catawba

1 nuclear station, that the plant has been and continues to
2 be constructed in strict compliance with the law,
3 Mr. Van Doorn?

4 A (Witness Van Doorn) I do.

5 Q Mr. Maxwell?

6 A (Witness Maxwell) In reference to the time
7 period I was there, yes.

8 MR. WILSON: Thank you, Mr. Chairman. That
9 is all I have.

10 EXAMINATION BY JUDGE PURDOM:

11 Q Mr. Van Doorn, I have a series of questions
12 here that I want to ask you. These questions have been
13 asked over and over again, but it is not clear in my mind.

14 I want to kind of trace like a tree and see
15 if I am following the situation properly from the first
16 notation to the final resolution, and also where in the
17 process an NRC regulation violation occurs.

18 So these questions have to do with procedures
19 and violations.

20 I guess my first question is that Duke is
21 required to have procedures for checking if work is done
22 properly?

23 A (Witness Van Doorn) Absolutely.

24 Q Now, Mr. McGarry mentioned construction
25 procedures and quality assurance procedures.

5A-9
1 Would you distinguish then those for me?

2 A Yes. There is a base quality assurance
3 program. In essence, what I tend to call the yellow
4 book at Catawba, three volumes, construction quality
5 assurance requirements. There are others as well. But
6 that is the main one.

7 The site chooses to have what I would call a
8 lower tiered system of construction implementing procedures
9 which instruct the craft and inspectors as to how to
10 implement that base set of requirements.

5B fols.

5B-C-1

1 Those construction procedures sometimes simply
2 reiterate the quality assurance requirements, and other
3 times they may add redundant steps to assure that that base
4 requirement is met.

5 The construction procedures also are used to
6 implement administrative-type requirements, as well as QA-type
7 requirements.

8 And the QA procedures, as I understand it,
9 is basically reserved for quality assurance issues and
10 requirements.

11 So you get a little more muddled when you get
12 down to the construction procedure implementation.
13 It is generally stricter than the base QA program.

14 Q Does the quality assurance program procedure --
15 does the quality assurance procedure have the design
16 drawing in it, or is that in the construction procedure?

17 A I believe the actual drawings, let's say,
18 are not an attachment or a part of the procedure.

19 They would be incorporated primarily by
20 reference. They would be incorporated by references,
21 really, in both instances.

22 Q The NRC enforcement is primarily directed at
23 the quality assurance procedure?

24 A Primarily. But we also enforce the CP
25 process, because in my estimation many requirements --

5/12/82
1 Q Because the quality assurance procedures say
2 you have to follow the construction procedure?

3 A Yes. In fact, the quality assurance procedure
4 is in some cases -- it will have a requirement that a
5 construction procedure be issued to control a certain
6 activity.

7 It requires that construction procedure to be
8 written. I would interpret that as a quality assurance
9 requirement if it says that a CP should be written and
10 followed, and to implement this requirement, and then that
11 CP, at least for the most part, to me, I would consider
12 falling under the criterion, the five criteria.

13 Q Now, the quality assurance inspector notes
14 that in his opinion, or her opinion, there appears to be a
15 deviation at that point.

16 The inspector's action would be to make a
17 notation of that, is that right, of the deviation on some
18 form?

19 A Yes. Typically, he might have a little
20 notebook that we have discussed here that he would note
21 some problem.

22 Q But you would go ahead and put it on a form
23 that is for that purpose; is that right?

24 A It depends on the instance. We have no
25 objection to the hold point type process that Duke uses.

1 It is very typical in our estimation. This withholding of
2 the inspector's signature is within our NRC requirements,
3 and it can be accomplished in that manner.

4 Q So he has the option, then, of either the
5 hold point, or filling out a form that causes other actions
6 to take place?

7 A Generally, one or the other.

8 Q Now, he decides in this case it requires some
9 documentation.

10 A Okay.

11 Q And he fills out the appropriate document.

12 Now, the inspector's action at that point
13 may be reviewed to determine if he had made the proper
14 interpretation of the applicable procedure; is that right?

15 A That could happen, and does happen, yes.

16 Q If it wasn't the proper application -- in
17 other words, in the supervisor's judgment, the inspector
18 had erred, it either wasn't the right form, or it was not a
19 proper interpretation of the procedure, and therefore not
20 a requirement --

21 A Uh-huh.

22 Q In the latter case, if it is not a require-
23 ment, say he filled out an NCI form, would it be appropriate
24 to void that form at that point if it was not really a
25 proper interpretation of the procedures?

5B4
1 A I think it would be appropriate. Again,
2 within your scenario. Certainly I think that some form of
3 feedback would be in order in that case. I think, in
4 fact, it may have broken down in a number of instances,
5 but it led to some of these concerns that the inspector
6 should be fed back, why it wasn't a violation, that sort of
7 thing.

8 Q In the specific case where an NCI is voided,
9 when it was not properly used, is that a violation of NRC
10 regulations?

11 A No, it is not.

12 Q If it is then a true application of the
13 procedures, a correct application, the problem has been
14 documented at that point, it may be investigated under
15 some additional applicable procedures; is that right, by
16 company personnel?

17 A Possibly.

18 Q Either supervision of the QA program or
19 design people or something like that?

20 A Yes, it is possible.

21 Q Well, the review, itself, is not a violation;
22 is it?

23 A Yes, sir.

24 Q Yes, sir, it is, or yes, sir, it isn't?

25 A Well, would you explain the question? I don't

1 know if I understood your previous question before.

2 Q Say an NCI has been documented, and
3 supervision decides that this is a matter to be reviewed
4 by the design engineer.

5 A All right.

6 Q And sends it to him for review. That is not
7 a violation, is it?

8 A No, certainly not.

9 Q A resolution is formulated somewhere. It may
10 be from design. One resolution could be after evaluation
11 to accept the work and material as built, even though it
12 has not been in accordance with previously approved
13 procedures?

14 A Absolutely. That's correct.

5C fols.

5C-c-1

1 Q They made a design judgment, decided to
2 accept it?

3 A Yes, sir.

4 Q Is the resolution in that case a violation of
5 NRC regulations?

6 A No. Not in and of itself. Obviously that
7 evaluation has to be appropriate. We do look at those,
8 that it is technically appropriate, that they use it as is.

9 Q So if they made a proper judgment, the act
10 of doing it --

11 A Is not a violation.

12 Q Reviewing it and resolving it in that fashion
13 is not a violation?

14 A No. In fact, we inspect the program to work
15 that way for those kinds of issues.

16 Q Another resolution could be after that
17 evaluation, say, by design engineering, that some
18 modification could be applied to the work to make it
19 acceptable?

20 A (Witness Van Doorn nodding head.)

21 Q Now, that may or may not be in accordance
22 with previously approved procedures?

23 A Agreed.

24 Q Now, in that case, this is a violation of
25 NRC regulations, the fact, itself?

5C-c-2

1 A No.

2 Q Is the removal of work and material for
3 which an NCI has been issued and replacing it in
4 accordance with that established procedure, is that a
5 violation of NRC regulations?

6 A That act would not be a violation of
7 regulations.

8 We would expect that to occur, certainly, if
9 a procedure requirement or design requirement is not met,
10 and it is decided that we want to scrap this item, in fact
11 replace it with a -- an example in point -- you don't have
12 a proper heat number, you don't know, really, what it is.
13 So that would definitely be appropriate corrective
14 action in that instance to replace that material in
15 accordance with the QA program.

16 Q So any of those actions that we have described,
17 if done in accordance with the established procedures and
18 the judgment was a proper judgment, would be acceptable
19 and would not be a violation of NRC?

20 A That's correct. None of those scenarios of
21 the evaluation process that you have described to me would,
22 I say, would be an NRC violation.

23 Q There has been some testimony about the
24 number of NCIs written, and whether they were the most
25 appropriate form for them.

50-3
1 I believe that somewhere in the testimony, we
2 have had some statements that the NRC inspectors told
3 someone at Duke that they were writing too many NCIs.

4 Do any of you have a recollection that any
5 one of you might have made a statement that would be
6 interpreted in that -- to mean that?

7 A (Witness Bryant) Yes, sir, I do.

8 Q What would have been the context of that?

9 A The context was after a review, as an
10 inspection that we have mentioned, 81-02, that this was in
11 no way telling Duke not to write so many. They can write
12 all they want to.

13 But we felt that they were writing them in
14 areas that were not required.

15 Our concern was that they might possibly be
16 watering down their review effort, and that we had found
17 problems with their documentation and of their reviews,
18 and this was a comment to them that apparently -- I can't
19 recall the words that were in the report -- but they were
20 apparently writing more than they needed to. It is not
21 something to hang their hat on. Certainly I did not mean
22 that it was violating procedures. That was not the case.

23 Q Was it in the context of another form, or
24 another procedure might be more appropriate than an NCI?

25 A It is hard to remember exactly what was said

504
1 in that meeting at the time. That was the intent. That was
2 our idea.

3 Q That was your intent?

4 A Yes, sir.

5 (Witness Van Doorn) I did have some verbal
6 discussion in that vein, as well, with a couple different
7 people.

8 We do have a section in our report, 81-02,
9 which is Mr. Bryant's inspection team. I can read those
10 words for you. I think I found them. I was looking for
11 them. The subject is covered by the NCI, a range from
12 relatively minor documentation problems.

13 MR. GUILD: Excuse me, the cite?

14 WITNESS VAN DOORN: 81-02, first paragraph
15 under subheading small b, the subjects covered by these
16 NCIs range from the relatively minor documentation problems
17 through major problems with safety-related hardware.

18 A large volume of all types of problems were
19 being handled in the same manner and was pointed out to the
20 licensee that management is a possible contributor to the
21 reason why generic items and/or trends were apparently going
22 on notice.

23 So that brings in the fact that they may be
24 diluting that process which we expect to be reserved for
25 the more important issues. It may be deleting some

50-5
J
breakdown of the evaluation in significant areas.

5D fols.

1 BY JUDGE PURDOM:

2 Q So at that time the technical analysis might
3 be clouded by including matters that should have been
4 excluded? Is that what you are saying?

5 A (Witness Van Doorn) We wondered if a fellow
6 had 50 of them on his desk, whether he would be diluted,
7 and, yes, it has been some, sometimes, in reviewing, in
8 signing them -- I believe one of them has got 13, 14
9 signatures -- he could have diluted those to maybe five to
10 ten that really were the more significant issues that we
11 would want a better evaluation on.

12 Q If I had been a Duke supervisor, and I had
13 received such comments, don't you think it would be
14 reasonable for me to communicate that information with the
15 people under my supervision, some guidance as to when to
16 use an NCI, and when not to?

17 A I think it would be appropriate to communicate
18 the NCI's use, yes.

19 I believe in fact it was done in this time
20 frame of 1981 that, let's -- I don't know -- maybe as a
21 reaction or comment, or what, but I believe there was some
22 instruction given during that time frame. Let's not handle
23 the nits, if you will, in the NCI program. Let's reserve
24 that for the more important items.

25 Q In fact, that's what you expected them to do,

55-2
1 wasn't it?

2 A We didn't insist on it, but we certainly
3 insisted on an adequate evaluation of those which were
4 important.

5 In fact, I did a hundred percent review for
6 two years running, and expected almost perfection in the
7 NCI process.

8 Q You seemed a little unwilling to come out and
9 say good, one way or the other, as to whether or not you
10 expected them to do so. Did you put things in your report
11 which you don't expect somebody to heed?

12 A We expected them to listen to suggestions,
13 but the NRC policy, generally, is not to tell them they are
14 doing more than the minimum.

15 We expect that whatever their processes were,
16 that those minimum -- that the minimum is met, and that
17 those that were significant got the proper evaluation.

18 They could have continued to apply the NCI
19 process in the same vein. Another corrective action would
20 be, maybe, to bring in more people in the review process.

21 For instance, we weren't saying that was the
22 only thing to consider in correcting these problems that
23 we found in the NCI program.

24 Q But a reasonable supervisor might take the
25 words that they received from the NRC and advise and guide

1 the personnel under his supervision as to when it is most
2 appropriate to use an NCI, and when it might not be used;
3 is that right?

4 A I certainly think they would, when we make
5 the suggestion, they would seriously consider it, yes, to a
6 good result.

7 Q I will ask this for all the panel members.
8 Who is notified when the NRC plans to make a
9 visit and inspect certain items?

10 A (Witness Bryant) Sir, are you speaking of
11 routine inspections?

12 Q Routine or special inspections. Someone is
13 coming on site and going to make some inspections. Who do
14 you notify that you are going to do that?

15 A I have to break it into two. I have to talk
16 about routine inspections in which no one, no one from
17 Duke -- if this is what you mean -- is notified that we are
18 coming.

19 On some special inspections, which it would
20 be certainly less than 10 percent, when, let's say, we put
21 it in a start-up test context, the inspector wants to watch
22 a particular test, and as you probably know, the tests
23 don't come when they are scheduled, usually. There are
24 delays.

25 He would ask to be notified when that was

55-H
1 going to be performed, and then he would go.

2 Well, it's pretty clear, probably he's going
3 to be there. But for the bulk of inspections performed
4 in the region, there is no announcement. It is clear to
5 state there is no announcement. That is what it means.

6 Now, the resident inspectors are not -- a
7 resident inspector makes inspection reports, I believe,
8 and they are not generally listed as unannounced because he
9 is on the site. Obviously he is there.

10 Q What I am trying to find is the basis for
11 some statements by some of the witnesses we have had that
12 said they knew when the inspector was coming.

13 What do you think they meant by that?

14 A (Witness Van Doorn) We do have an entrance
15 interview each time we arrive on site to let management
16 know that we are there, in a broad sense, of what we intend
17 to inspect, what part of the program.

18 That is the first time that Duke knows we are
19 on site.

20 Certainly the inspector walks by that office
21 and sees an NRC hat. He may indicate to somebody that, hey,
22 I saw NRC. Apparently they are here this week.

23 That would happen. Just no way we can totally,
24 absolutely, be unannounced in that vein.

25 I think some of the statements that were made,

55-5
1 I think I am familiar with what you are talking about -- I
2 don't think there is any way that a particular craftsperson
3 or welding inspector in that vein would know what
4 particular welder is going to inspect what particular hold
5 point.

6 It is different with the authorized nuclear
7 inspector. We are quite often confused with the ASME
8 Hartford, typically, an insurance inspector for ASME
9 programs.

10 They have an established program whereby they
11 review, for instance, these M-4A weld forms, the weld
12 travelers, before they are issued to the field for welding,
13 and check off the specific hold points which they wish to
14 witness.

15 And so they have a regularly announced hold
16 point that the craft or inspector or the hold point has to
17 hold it up, called the A-9, before he does it, and announces
18 them.

19 At this hold point, you check it off, come
20 down and look at it. I think that is where the confusion
21 technically may arise.

22 Q Mr. Maxwell, in your contacts with Mr. Davison,
23 when do you think you first became aware independently of
24 the welding inspectors' concerns?
25

1 A I'm not sure, exactly, sir.

2 Q Well, was it the first meeting you had with him?
3 Did you think that he was--that he was aware of their concerns
4 at that time?

5 A The concerns in reference to the Duke as-is
6 nonconformance reports?

7 Q Yes?

8 A He may have been.

9 Q But you don't know whether he was or not?
10 Was anything said at that point that would lead you
11 to believe he definitely had knowledge of that?

12 A No, sir.

13 Q When was the first time you felt he had that
14 knowledge?

15 A After conducting the meeting with Mr. Davison
16 we had had accident review with Duke management, and I had
17 no further contact with Mr. Davison until here in the last
18 few weeks.

19 Q Mr. Van Doorn, when would you have felt that
20 Duke would have had the first knowledge that you were aware
21 of?

22 A (Witness Van Doorn) Well, I do I think lay some
23 blame on Duke management, for not recognizing earlier on
24 that this disgruntled situation amongst the welding inspectors;
25 I think certainly there were obviously situations which

1 the inspectors disagreed with, and there was some communica-
2 tion breakdown there that was not recognized by Duke
3 management.

4 I would expect that Mr. Davison in the routine
5 probably was aware that there were some issues that maybe
6 some people disagreed with him on. I think you almost have
7 to understand that.

8 I don't think he really realized the extent of
9 it until, you know, this group of concerns came in and began
10 to surface during the late '81; and eventually got defined
11 in '82.

12 Q Mr. Van Doorn, is it obligatory under NRC
13 regulations for an inspector notify NRC if he or she feels
14 that the resolution of an incident or NCI is not proper?

15 A That would be their personal judgment.

16 I would hope that their sincerity would be enough
17 if they did feel strongly about a technical issue, that they
18 would come to me.

19 And I specifically encouraged them to come to me,
20 if there is an issue, an unknown condition and a situation
21 where they just think it may be unsafe, you know, and whether
22 they understand the engineering evaluation or not, to tell
23 me about it so I can investigate it.

24 That's sort of in the main what I was talking to
25 Mr. Wilson; I do sort of sol' it that type of information; and

1 in that sense, I encourage them to come to me with those
2 types of issues, even if it's going to be a personal judgment
3 on their part: are they really dissatisfied with it? Is it
4 just a question in their mind, and it's not strong enough
5 for them to come to me or not? You know, there's a number of
6 different scenarios that you could come up with there.

7 Q In the first instance when the inspector notices
8 a deviation from procedures, is there any objection by the
9 NRC to the Duke inspectors going to their supervision first,
10 before coming to the NRC?

11 A No, in fact, we encourage that to take place.
12 We think they ought to have their own programs to address
13 those concerns.

14 Q All right.

15 When their supervisors suggested to the employees
16 they bring it to the supervisors' attention first, and let
17 them try to handle it, you wouldn't have any objection to
18 that?

19 A In a broad sense, no; because that is the policy,
20 I think as was previously stated.

21 You have to be, certainly, very careful in the
22 communications process; you can do the best you can to
23 at the same time encourage them to handle it in-house; but
24 to let them know that if they're still not satisfied, they
25 have an absolute right to come to us; and are protected

1 when they do so.

2 Q They have a right to do that at any time, whether
3 they've already gone to their supervisor or not; is that
4 correct?

5 A Sure.

6 Q But under normal conditions you would encourage them
7 to go to their supervisor and try to get it handled through
8 company procedures?

9 A We encourage them to do that, while not discouraging
10 them from coming to us.

11 And it takes more than a couple of sentences to do
12 that. I mean, I do that and I make it fairly clear; and it's
13 a fairly long conversation when I reiterate that policy.

14 Q Let me ask you something: we have heard a lot of
15 discussion about filler material for welding, and the control
16 of that filler material.

17 How serious a problem--well, let's not call it a
18 "problem"--what is the safety implication of the lack of
19 control of filler material?

20 A The issues that we've heard in this hearing regard-
21 ing filler material have very little safety implications.

22 There are a number of redundant assurances that
23 the right filler metal was used, and one of those, I believe,
24 is the fact that the welder should keep this material under
25 his control.

1 There really isn't a lot of different types of
2 filler metal material at a nuclear power plant. There isn't
3 a lot of materials that can be mixed up.

4 It's not like the Navy program that I'm used to,
5 where we welded on virtually every type of material possible,
6 even stuff that wasn't supposed to be welded.

7 But--so you're dealing with basically carbon
8 steel and stainless steel filler metals. You do rely somewhat
9 on the integrity of the craftsman not to steal somebody
10 else's filler metal and use it.

11 And that training is there. There is a check by
12 the welding inspector that the fellow is using the approp-
13 riate filler material, what the heat number is; satisfactory
14 heat number; and some of the NDE methods and further inspec-
15 tions could identify whether the wrong filler metal was
16 used, due to the results in using the wrong filler metal.

17 Q Are you familiar h the incident that might be
18 described as pouring concrete r the rain?

19 A I'm generally familiar with those requirements,
20 and, really, I mean, I am familiar with the requirements for
21 concrete.

22 I did not review that specific incident, myself;
23 but I am familiar with that general requirement. I heard the
24 testimony in this hearing.

25 Q How serious would that problem be--evaluated to be?

1 A From what I've heard, I don't see anything that
2 indicates to me that there's some unsafe concrete, putting
3 it all together.

4 The thing is that, you know, concrete typically
5 displaces water. It can rain on concrete, and once it's in
6 place, it's good for it.

7 The thing is, if you're placing it and you're
8 mixing it, and, in essence, that would be with a shovel or,
9 mainly with the vibrator that's used to make sure it's
10 jiggled into all the little corners and around the rebar
11 where it's supposed to be; if you were then mixing this water
12 in with that concrete, that would dilute the strength of the
13 concrete.

14 I think that's the key point of that particular
15 problem.

16 And I have looked at concrete pours, and I don't
17 recall that I've actually looked at any in the rain; so, I
18 don't know what's the value; but--I haven't found any
19 problems.

20 And to my knowledge, our inspectors have not found
21 any problems in that area, that they were somehow, you know,
22 mixing this water in with the concrete.

23 It happens. It's very difficult, you know, you have
24 a large amount of yardage of concrete to pour--I've forgotten
25 the figure. It's phenomenal, you know, you could send a

1 sidewalke from here across the country, I guess, if you add
2 it all up.

3 So there's going to be those incidents where you
4 have a freak storm come in and, if they lay their concrete,
5 and the water sloughs off of that, and you don't mix it in;
6 then that concrete will probably be all right.

7 JUDGE PURDOM: I have no further questions.

8 BY JUDGE FOSTER:

9 Q Mr. Maxwell, if we could turn to your testimony;
10 attached to it you have an Attachment-2, which is a
11 memorandum of October 14th, 1980, to the Region II
12 Investigating Staff.

13 And what we had was a so-called "sanitized"
14 version that was sanitized for the purpose, as I understand
15 it, of protecting the identity of the individuals who
16 I guess came to you at first, or you came across in a
17 meeting.

18 Now, without trying to find out specific names of
19 people that were involved, I am interested in knowing whether
20 we have had the benefit of listening to some of these people.

21 I wonder if you could tell us whether any of the
22 people that were involved and you talked to, have been
23 witnesses in this hearing?

24 MR. JOHNSON: Judge Foster, the problem is that
25 hypothetically, if one of the individuals has been a witness

1 in the proceeding, there's a chance that it would tend to--
2 his answer might tend to--identify these, one or more of
3 these individuals who came to him; therefore, breaching the
4 confidentiality which they sought.

5 And if you could rephrase the question so as not
6 to require him to say, identify, whether they were here or
7 not?--because it was a rather small group that was here.

8 JUDGE FOSTER: Well, we've listened to quite a few
9 welding inspectors, and what I'm trying to get a feel for is
10 as to whether we've had an opportunity to get a feel on
11 directly from any of these people on what was going on in
12 their minds.

13 And if Mr. Maxwell can answer my question in any
14 fashion which would let us know whether or not we have in
15 fact had that benefit?

16 MR. JONES: Could we take maybe 30 seconds to talk
17 to the witness--

18 JUDGE KELLEY: Sure.

19 MR. JONES: --to understand the facts and make sure
20 he will not--?

21 JUDGE KELLEY: All right.

22 WITNESS VAN DOORN: I think we'd like to respond,
23 but...

24 (Staff counsel and Witness Maxwell conferred
25 outside the hearing room, whereafter Staff counsel returned,

1 and Witness Maxwell resumed his place on the panel.)

2 MR. JOHNSON: The product of our colloquy is
3 that the witness feels that he would prefer not to answer
4 your question directly; but would be willing to answer a
5 question whether evidence was heard in this proceeding that
6 would give you confidence as to whether the subject matter
7 was heard.

8 JUDGE FOSTER: Fair enough.

9 MR. GUILD: Mr. Chairman, I am afraid that puts
10 me in a position of having to object: if it's a question of
11 evidence that's evidence that's out of reach of this party,
12 but somehow is in possession of an adversary--in this case,
13 the NRC Staff--which, of course, takes the position that the
14 plant is perfectly safe, and there's no problems with the QA
15 systems, then that evidence is not evidence we can effectively
16 confront and deal with.

17 So I'm very interested in the answer to the first
18 question that Judge Foster asked; but the answer that simply
19 says: you heard all the evidence on this point, and there
20 isn't any problem; you should feel comfortable about it--
21 unfortunately, puts us in the position where we can't
22 adequately respond or confront.

23 Let me make a suggestion:

24 I think it's a very important question. And I
25 would be desirous of an answer subject to the protective

1 order, and to the oath of the participants as has been the
2 case with the in camera witnesses, so that the identity
3 of the individuals or the identifying information would be
4 protected.

5 But I think that it should be available for the
6 Board to answer the essential question that Judge Foster
7 asked.

8 So I guess I would move that the answers, or the
9 sanitized version--the unsanitized version of the attachment
10 be produced for the answers, of filling in those blanks,
11 be given, subject to a protective order that would prohibit
12 its disclosure in a way to identify the individuals to
13 those who would not subscribe to an affidavit.

14 MR. JOHNSON: We would definitely oppose that.
15 That goes far beyond Judge Foster's question.

16 It's a borderline question--an answer whether there
17 was an inspector here, one or more inspectors here, who
18 was a person who came to Mr. Maxwell; and quite another to
19 identify the specific NCI's; that would definitely reveal
20 the names of those individuals.

21 It's not necessary. And we would strenuously
22 oppose it.

23 I think we have a very important issue in terms
24 of confidentiality of foremen who specifically requested
25 that their identities not be disclosed, even to the Office of

1 Investigations.

2 JUDGE KELLEY: Why don't you allow us a moment?

3 (The Board conferring)

4 JUDGE FOSTER: The question is withdrawn.

5 MR. GUILD: Mr. Chairman, excuse me?--and Judge
6 Foster?

7 I do have that motion, and I stand by the motion,
8 notwithstanding withdrawal of the question.

9 JUDGE KELLEY: Okay. Motion denied.

10 We don't think that the answer to that question
11 is essential to the case; and it just creates more problems
12 than it solves; that's why we are denying.

13 MR. GUILD: Thank you.

14 BY JUDGE FOSTER:

15 Q Mr. Maxwell, relative to the "black book" thing
16 again, as I understand it, you were upset about the use of
17 the black books; and you talked to Larry Davison about this.

18 Can you clarify specifically for the record
19 what it was about the use of the black books that was
20 upsetting to you?

21 A (Witness Maxwell) Well, in the instance of welding
22 inspectors, the first incident in June 17th and 18th in
23 1980, which I covered earlier; and Mr. Van Doorn subsequently
24 wrote a violation about, the concern was that they were not
25 using the correct form, the M19F form, as I recall, in

1 documenting welding surveillance that they were doing over
2 work that was covered by AWS.

3 I was also concerned that there may be instances
4 where inspectors were keeping--may have been keeping informa-
5 tion in these books that should have been indicated on some
6 other form, perhaps a Q1A form, or one of the other forms
7 that Mr. Van Doorn was asked about earlier.

8 I also felt that by allowing inspection personnel
9 to keep their own private record of what they observed, and
10 not revealing it through these correct forms, would make
11 management not aware of the performance of welders on the
12 site.

13 And it would, essentially, leave the welding
14 inspectors as the sole bearer of responsibility of determining
15 when a senior document, such as the Q1 form, should be
16 utilized.

17 I felt that this information should be frequently
18 passed up through the chain of command by using the approp-
19 riate forms so that management is aware or was aware of
20 the performance of welders on-site. The inspector did not
21 have to make a determination on his own from looking at
22 his private notes, as to the performance of that welder;
23 and when to award a Q1 form.

24 Q Are you saying that you don't think the welding
25 inspectors should have any black books that they're carrying

1 around, and they can't carry notes in at all, while they're
2 making their rounds?

3 A Well, what I visualize between conversations
4 in October between myself and the welding inspectors was
5 that I had the strong feeling that they were using these
6 books--this one inspector claimed to have been using this
7 book--for the same purposes as I had found in June 1980.

8 Q Well,--

9 A (Witness Van Doorn) May I may a comment, maybe,
10 Judge Foster?

11 Q Yes?

12 A I think there were some similar concerns in this
13 larger group of welding concerns that relate also I think what
14 Mr. Maxwell's trying to say: there was the whole point
15 process in existence at that time.

16 And, for example, there might be a fit-up whole
17 point where the inspector had to go back multiple times,
18 three, four, five times, before that crew was able to get
19 that fit-up to meet the QA procedure.

20 The inspector wanted to correct that situation,
21 by using the NCI process and that was the stick, he felt that
22 that crew, you know, maybe wasn't up to some of the other
23 crews, up to where they should be in doing an adequate job;
24 so he didn't allow it to go incorrect; but he made a judgment
25 on his own that this crew was not doing as well as it should.

1 And we wanted to use that NCI for that purpose,
2 to get that crew corrected.

3 Perhaps a more appropriate approach would have been
4 to handle it as a supervisory problem, rather than an NCI;
5 I guess it either got the job done, you know, the improvement
6 in this crew--fine, as far as NRC requirements go. But I
7 think the licensee, as I understand, intended those sorts of
8 things to be handled through the foreman interrelationship.
9 He should have gone to, say, his QC foreman who should have
10 gone to the craft foreman, and say: we've been having
11 problems with your crew.

12 Q What does this have to do with black books,
13 though?

14 A They were keeping in these black books--"this
15 crew I rejected today," and "that crew, I had another
16 fit-up rejection the next day." Those sort of statistics
17 were part of that black book notation, the types of problems
18 that they may have typically been having with a specific
19 crew. Fit-up is a case in point that I recall as an
20 example as a part of these 100-and-some concerns.

21 END T6

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1 Q You have an impression that the black books were
2 ones in which particular crews were being scored with good
3 brownie points or negative points?

4 A (Witness VanDooran) That was one of the aspects,
5 and I read Mr. Maxwell's statement as indicating that that
6 was one of the, and he can correct me, and I have had
7 discussions with him as well, that that was one of the
8 aspects of that black book use, and as well it involved
9 at least a couple of the concerns in this large category
10 of concerns. That was one use of it.

11 Q My knowledge of what welding inspectors do is
12 pretty well gained from listening to the testimony here,
13 but I have the impression that they may be going out away
14 from their, let's say, home station and covering a number
15 of different items that they may be inspecting on one
16 particular trip.

17 It seems to me that if I were a welding inspector
18 and expecting to hit a lot of different points before I
19 got back to fill out the paper form, that I would like to
20 make some notes about some of these things that I wanted
21 to follow up on.

22 A (Witness VanDooran) Absolutely. I would expect
23 them to have a notebook myself. Maybe that disagrees with
24 Mr. Maxwell.

25 Q Well, I thought I was just hearing from you that

7-2

1 they shouldn't be carrying a book at all.

2 A (Witness Maxwell) Well, let me explain. I see
3 no problem with carrying, you know, notebooks around or
4 whatever documents people want to write on, but it should
5 be transferred to management on the appropriate forms and
6 not disregarded, not the appropriate form disregarded, as
7 I saw it was being done in June of 1980.

8 Q Did you have some concrete evidence that they had
9 not transferred those things?

10 A (Witness Maxwell) Yes, sir.

11 Q You did?

12 A (Witness Maxwell) Yes, sir. As I recall, we
13 were missing a six-months' period.

14 A (Witness VanDooran) I think the only concrete
15 evidence we found was this surveillance, that requirement,
16 the M-19F that we have spoken of. That was the evidence.
17 I don't recall if there was any other.

18 Q You didn't have any forms coming in, is that what
19 you are saying?

20 A (Witness VanDooran) Yes. They weren't documenting
21 those random surveillances on the appropriate form.

22 Q Do you think then that your comment about that
23 to Mr. Davison may have resulted in a signal that says you,
24 welding inspectors, shouldn't be carrying notebooks around
25 any more?

7-3

1 A (Witness Maxwell) I am sure it triggered a
2 signal to him that I was dissatisfied with the use of
3 black books, yes, sir.

4 Q Do you think this could have resulted in the
5 welding inspectors ceasing to take notes on other matters
6 as well, to jog your memory, shall I say?

7 A (Witness Maxwell) I would think not.

8 Q Mr. Maxwell, on page 2 of your testimony at the
9 top, the paragraph indicates that you on the morning of
10 April 28th.

11 (Brief pause.)

12 It is the second paragrah here that on the
13 the morning of April 21st you talked with your acting
14 supervisor who wanted me to report back to the Region II
15 office immediately upon completion of your assignment for
16 assistance at least for three. What was the reason for
17 your supervisor wanting you to come back immediately to
18 the regional office?

19 A (Witness Maxwell) My supervisor, as I recall,
20 to be brief, was upset about the way I had written my
21 previous NRC monthly report. It was not in the format
22 that Region II was accustomed to using and he wanted me
23 to bring all of my notes from the previous month with me
24 to theregional office and put them into the Region II format.

25 Q All right. That was the same time as you were

7-4

1 involved with your conversations with Mr. Hoopengartner and
2 about the same time that you had been taken off of that
3 investigation. Was there an element here involved relative
4 to Mr. Hoopengartner's concern that prompted your being
5 called back to Region II?

6 A (Witness Maxwell) No, sir.

7 Q Mr. VanDooran, on page 12 of your testimony, the
8 first full paragraph on that page toward the bottom third,
9 you have a sentence that says "I read the discussion problems
10 relative to NCI's with licensee management at the time."
11 Can you tell us what those problems relative to NCI's were?

12 A (Witness VanDooran) Well, I can't give you
13 violation numbers, but I can tell you that I began almost
14 immediately after the early '82 inspection to do a hundred
15 percent review of all of the NCI's. I reviewed them for
16 really all of the aspects of the corrective action program,
17 proper description, complete evaluations, complete documenta-
18 tion of evaluations, generic implications, the right person
19 doing the evaluation, if it was a design issue, the statement
20 relative to design should be made by a design engineer,
21 for instance, and probably some other aspects, but all
22 of the expected proper processing of those NCI's, and I
23 did identify additional violations during primarily the
24 1981 calendar year.

25 I believe there five or six violations relative

7-5

1 to the NCI's that I identified.

2 Q Let me sharpen the question up a little bit.
3 The problems that you were talking about were those mainly
4 concerned with problems with individual NCI's or were they
5 more related to the NCI procedures as a whole?

6 A (Witness VanDooran) It was primarily the handling
7 of the NCI's properly in accordance with all of the various
8 criteria I have just described. I did identify additional
9 violations in that area.

10 Q Those same kind of problem that we have heard
11 about earlier this morning that Judge Purdom was asking
12 you about?

13 A (Witness VanDooran) Yes, those different aspects
14 of the process fell down to some degree in several instances.
15 If I would find one, I would write a violation. I pretty
16 much expected perfection at that point. I was pretty
17 tough. I did a hundred percent review and expected them
18 all to be right.

19 Q I will try to speed this up. The Board's time
20 is fast drawing to a close.

21 On the top of page 16 of your testimony in the
22 first paragraph, you talk about this memorandum serves as
23 a flag to flag the falsification and the harassment issues.
24 What was this falsification issue that you referred to?

25 A (Witness VanDooran) That was the category where,

7-6

1 and we have seen testimony to that effect, where an
2 inspector had signed for something which he did not neces-
3 sarily agree with at the direction of his supervision, and
4 there were those instances and I described those in one
5 of my paragraphs I think later on in the report.

6 Q This is an item that we have already heard
7 testified about?

8 A (Witness VanDooran) Yes. There is nothing new
9 that we are talking about. I used a a very broad term
10 falsification in that memo to red flag that particular
11 situation, and in that vein that was the type of situation
12 I was calling a falsification issue, and I was also
13 paraphrasing inspectors' words. They used the term falsifi-
14 cation I believe in a couple of instances.

15 Q Just two more quick questions. In making your
16 rounds as an inspector, do you actually look at welds
17 yourself?

18 A (Witness VanDooran) Yes, sir, many of them.

19 Q Have you found welds yourself which have been
20 approved by the QA inspectors or QC inspectors that you
21 consider unacceptable?

22 A (Witness VanDooran) I may have in one or two
23 instances. I just don't recall off the top of my head,
24 and I don't recall any significant findings in that area.
25 I may have a weld size question that I have identified.

7-7

1 I am not sure. We have had violations, not necessarily
2 from myself, but we have had NRC inspectors identify some
3 weld size problems that had passed inspection, as an example.

4 Q Can you give us an idea of about what the
5 frequency of that is? Is that one weld in a hundred or
6 one in a thousand, or one in ten thousand?

7 A (Witness VanDooran) One in a hundred I would say
8 would be closer than one in a thousand in which we would
9 find some aspect of the QA program being violated regarding
10 welding, not that that weld is inadequately technically,
11 but maybe some step in the program skips ---

12 Q I am not referring to steps in the program. I
13 am really talking about the final product as to whether
14 it represented a technical adequacy or not.

15 A (Witness VanDooran) Then you approached more
16 the one in a thousand of that final product actually being
17 unacceptable technically. There were very, very few
18 issues in that regard.

19 Q All right. One final question. We have focused
20 on a lot of QA problems during these hearings. Do you
21 think there is something that should be brought out that
22 hasn't been brought out relative to the QA problem?

23 A (Witness VanDooran) I do not. I think this
24 hearing is pretty complete, and of course I myself have
25 spent hundreds of hours reviewing these issues for some

7-8

1 almost two years now. I think the record is complete. I
2 have been here almost a hundred percent of the time as a
3 participant and assistant to Mr. Johnson and I have heard
4 all the testimony and, if anything, I think my bottom line
5 conclusion is more solidified based on what I have heard
6 in this hearing process.

7 JUDGE HARRIS: That is all.

8 BY JUDGE KELLEY:

9 Q On the frequently visited subject of talking to
10 the NRC, Mr. VanDooran, I think you said a bit ago to
11 Judge Purdom that as you saw it employees with safety
12 concerns could come to you and you wanted them to feel free
13 to come to you, but that you would encourage them to take
14 their concerns up first with their own management; is that
15 right, essentially?

16 A (Witness VanDooran) That is correct, yes.

17 Q Now is that just your view of the correct policy,
18 or is that an official NRC policy?

19 A (Witness VanDooran) I believe that has been
20 reiterated officially. I think this temporary instruction
21 had some words to that effect, and I forget who introduced
22 it, Mr. Guild the other day, and I forget the number, TI-
23 12-10, and I believe we have an information notice that
24 was published at one time that reiterates that policy as
25 well.

7-9

1

JUDGE KELLEY: Let me take it one at a time.

2

Now the thing that was handed out the other day, the TI document ---

3

4

5

WITNESS VanDOORAN: I believe that addresses that. In No. 1 in that it says encourage. I don't have the number.

6

7

MR. GUILD: It is Palmetto Alliance Exhibit 118.

8

9

JUDGE KELLEY: TI-12-10/1 issued 2/29/80?

10

11

12

13

14

WITNESS VanDOORAN: Yes. It says encourage the employees to forward their suggestions in writing to plant mangement and, if appropriate, to the NRC, and that kind of addresses that. There are not a lot of words in here, but there are words to that effect in here.

15

16

17

JUDGE KELLEY: All right. It has some words to that effect, but this is a circular that is distributed to inspectors, right?

18

19

20

21

22

WITNESS VanDOORAN: Yes. The information notice, I believe it was, that I was referring to was distributed to licensees, that is all the licensees get that notice. I don't have that handy. If it is an exhibit, I can't remember.

23

24

25

MR. JOHNSON: Judge Kelley, Staff Exhibit 1 was submitted at your request, and on the third page it is called "Notice to Employees."

7-10

1 JUDGE KELLEY: Okay. That is Attachment E and
2 I have got that here. I wasn't asking about that.

3 In any event, this document doesn't do anything
4 to tell employees what they ought to do. It tells
5 inspectors how to react to employees who come to them.

6 WITNESS VanDOORAN: That is right. That is
7 correct.

8 BY JUDGE KELLEY:

9 Q And then there is Attachment E. Form 3, is that
10 what it is called, NRC Form 3?

11 MR. JOHNSON: No. Let me show it to you.

12 (The document was given to Judge Kelley by
13 Mr. Johnson.

14 (Brief pause.)

15 JUDGE KELLEY: Well, I appreciate your bringing
16 this to my attention. I don't know that I had focused on
17 it before. Is this a document that has been distributed
18 to licensees?

19 MR. JONES: Yes. That was a document, Judge
20 Kelly, if you remember there was a letter from Dick and
21 you had asked where that language came from in his letter.
22 It was NRC language for their language and we confirmed
23 that that was sent to all licensees and that was where he
24 got the language that he used. That was in response to
25 your question.

7-11

1 JUDGE KELLEY: I remember the Dick letter, yes,
2 which you now tell me uses some language out of this notice?

3 MR. JONES: Yes. You had specifically asked
4 the staff to address the issue of whether that was their
5 language or our language.

6 JUDGE KELLEY: Okay, right. I understand that.
7
8 Now this document which you are referring to
9 is in evidence, I take it?

10 MR. JONES: Yes, sir.

11 JUDGE KELLEY: Is this a document which is
12 currently posted?

13 MR. McGARRY: Your Honor, yes, it is. It is
14 posted with a Bob Dick letter.

15 MR. JONES: And a copy of the Bob Dick letter
16 is attached to the panel testimony of Dressler, Davis,
17 et al.

18 JUDGE KELLEY: Right, I understand that. Okay.
19
20 Now this says that employees may bring these
21 matters to the attention of an NRC inspector at the nearest
22 regional office if they cannot be resolved directly with
23 his or her employer.

24 Are you familiar with that, sir?

25 WITNESS Vandooran: Yes.

7-12

BY JUDGE KELLEY:

Q Do you understand that to mean that the employee must first go to the employer or that he is encouraged to do so?

A (Witness VanDooran) Encouraged to do so.

Q It doesn't say that though. It says if they cannot be resolved directly with his or her employer. That says go to the employer first, doesn't it?

A (Witness VanDooran) Those words mean to me we encourage them. We don't restrict them. In policy we don't restrict them.

Q Wouldn't you agree it is unclear?

A (Witness VanDooran) That document by itself without some guidance and, you know, maybe further explanation may be construed as unclear to certain individuals, I would have to agree.

Q I think it says you have to go to the employer first. That is my view and you don't read it that way, but it says what it says. It uses whatever words it uses.

When you say then that the employee, let's say, is encouraged to go to the employer, how far does he have to take it? What does go to the employer mean? It doesn't mean go to Mr. Lee, does it, before he can go to you?

A (Witness VanDooran) No. In fact, he can come to me first if he really wishes.

7-13

1
2 Q That is not my question. My question is if you
3 are telling him go to the employer, what do you mean? What
4 does the man have to do?

5 A (Witness VanDooran) Primarily bring it to as
6 a minimum his immediate supervisor. Of course, we have
7 talked at some length about the corrective action processes
8 that are established as far as the program. We would hope
9 that he would use those processes. If there is an NCI-
10 able item to coin a phrase, he should use that process.
11 I mean he shouldn't come to me each and every time he
12 identifies a question. He should use the various processes,
13 the avenues of communication that he has within management,
14 whatever recourse avenues are available. He should use
15 what he has available to him.

16 Q All right, but there is a recourse procedure and
17 we have heard testimony about that. You can take that
18 clear up to the President of the company, right?

19 A (Witness VanDooran) Yes.

20 Q So are you saying that he should go clear up
21 to the President of the company before he can come to the
22 NRC?

23 A (Witness VanDooran) No, I don't think he should
24 have to go that far in my estimation.

25 Q Well, then how far? That is what I am trying to
get at?

7-14

1 A (Witness VanDooran) I would suspect -- and it is
2 hard to answer it broadly -- we don't require him to, you
3 know, I don't encourage the employee to go clear to the
4 President of the company. I think if he can't satisfy it
5 within the first two or three levels of supervision, then --
6 it ought to be satisfied at that point in my estimation.
7 I mean the licensee's program ought to be sufficient and
8 the communications ought to be sufficient to assure that
9 at least, you know, the vast majority of those issues are
10 handled within that -- you know, before it would ever have
11 to go off site, and I would expect that to be the case.

12 Q All right. So if he takes it up through the
13 first couple levels of supervision perhaps, then he would
14 be received by the NRC, and he would be in a position to
15 say to you, gee, I tried over there and I am not satisfied,
16 so here I am talking to you, right?

17 MR. JOHNSON: Judge Kelley, I think you are
18 mischaracterizing his answer. You asked him if they
19 were required to go to management before going to the NRC
20 and he said no.

21 JUDGE KELLEY: Well, then we get into the question
22 of what the distinction really is between encouragement
23 and requirement. Right now I am focusing on how high up
24 you would agree with me you don't have to take it clear
25 to the President of the company in order to come to the

7-15

1 NRC?

2 WITNESS VanDOORAN: Sure, absolutely.

3 BY JUDGE KELLEY:

4 Q I don't know if we have to debate the differences
5 between encouragement and requirement. There is some
6 difference I suppose. I am willing to let that one pass.

7 Don't you think that if that is the policy, and
8 I am not criticizing it. Maybe I sound critical, but I
9 am not necessarily criticizing it, but don't you think if
10 that is the policy that the policy ought to be crystal clear
11 and it ought to be stated in very simple English for
12 employees on the site?

13 A (Witness VanDooran) I think it ought to be as
14 clear as possible. I so feel that you are dealing somewhat
15 with human relations issues here and communications issues.
16 In reality I realize it is difficult to at the same time
17 encourage them to handle the thing in-house, but yet say
18 that your option is open to go to the NRC. You are dealing
19 with, as I say, communications and human relations issues.

20 There is always a danger in that situation that
21 there is going to be some misinterpretation of that policy.
22 I do, in my efforts at least, in almost all of my discussions
23 with the people that seem to have concerns at least, talk
24 at some length to try to make it crystal clear. I don't
25 know as that we have a multi-page document that describes

7-16

1 this policy within the NRC.

2 Q I don't think you do in what I call Form 3,
3 Attachment E. It seems to me this leaves something to
4 be desired. Again, I am not quarreling with the policy
5 as you state, but rather that whatever the policy is, that
6 it be clear so that everybody knows what it is.

7 A (Witness VanDooran) We try in our routine contacts
8 both with management and with inspectors or whoever to
9 obviously -- we get a lot of instructions on what this
10 policy means and we try to reiterate it as best we can.

11 Q You do it orally in contacts with employees,
12 right?

13 A (Witness VanDooran) Primarily, yes.

14 Q Wouldn't it be better to have a posting, at
15 least one's best effort to set it forth?

16 A (Witness VanDooran) It may or may not be. That
17 is difficult to answer.

18 Q Does anybody ever read postings?

19 A (Witness VanDooran) I think they do, yes.

20 Q I have a question about the area of harassment.
21 As I would use the term, you can modify or correct me, but
22 my notion of harassment in the context of the QA inspector,
23 harassment of QA inspectors, would be conduct that is intended
24 to either deter or punish an inspector for doing his job
25 and one could give examples, but that is how I would state

7-17

1 it. Do you agree with that?

2 A (Witness VanDooran) I believe that is part of
3 it. I, unfortunately, don't have a very absolute definition
4 of harassment.

5 Q What is wrong with my definition?

6 A (Witness VanDooran) I guess as a broad definition,
7 I think probably I would accept that. We do consider the
8 effects of that harassment, what it has on the inspector
9 in our evaluation of those issues I guess is what I am
10 saying. Harassment is a pretty involved issue and we are
11 dealing with human relations and there are two sides to
12 every story. We have heard mostly one side -- well, no,
13 we have heard two sides in most all these.

14 Q You have referred to harassment as a concern,
15 and in your testimony you indicated that you thought it
16 had been addressed. You don't I believe speak directly
17 to the contention by Mr. Ross that he had been retaliated
18 against when he was given a rating of two. He claims
19 that that rating was in retaliation for his raising safety
20 concerns. I think that is a fair, very broad paraphrase
21 of what he said.

22 Now you don't in your direct testimony, you do
23 mention Mr. Ross I think at least once, but you don't go
24 into that particular matter, and I wondered whether you
25 have an opinion about whether Mr. Ross' rating was

7-18

1 retaliatory?

2 A (Witness VanDooran) There are several aspects
3 to that issue. First of all, my knowledge of his feeling
4 of retaliation occurred after my review of these concerns.
5 It was a more recent concern of his, in other words, and
6 of course the primary thrust of my testimony here was to
7 address this non-technical/technical welding concerns that
8 were brought up earlier.

9 I am aware of Mr. Ross' concern and I have in
10 fact forwarded information relative to that fact to our
11 regional office primarily for their decision as to what
12 they wish to do about that issue.

13 I have not really come to a final judgment myself.
14 I still have a question in my mind as to what issue to be
15 honest with my personal feelings.

16 Q Let me interject just at this point. I mean you
17 and I have both been here for eight or nine weeks and we
18 have heard a lot of testimony on this point. We have both
19 heard the same material I think.

20 A (Witness VanDooran) Yes.

21 Q But did you have prior to the hearing an
22 independent basis for an opinion on the question either
23 talking to Ross, Davidson, Allum, or whoever? Did you have
24 any other basis?

25 A (Witness VanDooran) That Mr. Ross was being

7-19

1 retaliated against is what we are asking.

2 Q It bears on that point.

3 A (Witness VanDooran) I don't recall sensing
4 that retaliation problem.

5 Q But did you look into it yourself?

6 A (Witness VanDooran) Of whether Mr. Ross was
7 being retaliated against during the time frame when I
8 reviewed these welding inspector concerns? That is how
9 I would understand your question. I did not look into
10 retaliation against Mr. Ross in that time frame.

11 Q So is it fair that what you know about that is
12 what I know about that basically? Or is there anything
13 you can tell me that I don't already know?

14 A (Witness VanDooran) Yes, I think so. I had
15 reviewed a fair amount of the evidence that came into this
16 hearing in that regard prior to this hearing, but in essence
17 we have heard here what I knew at any point in time.

18 Q On a possibly related point, and this is at
19 the bottom of 34 and the top of 35 in your testimony beginning
20 with "A major of the concerns expressed came from one
21 inspection crew and their supervisor, Mr. Ross, and so
22 forth. On the next page "Although Duke did not in the
23 documented recommendations clearly indicate a need for
24 reorganization, Duke did reorganize so that the particular
25 second-line supervisor was no longer supervising that crew

7-20

1 and I concluded that this was an appropriate action." Now
2 that I think refers to the transfer of Charles Baldwin and
3 moving Mr. Allum into that slop, correct?

4 A (Witness VanDooran) Yes, and I can explain that.
5 I think we had seen a document in this hearing that showed
6 that there was some consideration relative to these concerns
7 in moving these individuals. I was not aware of that
8 particular document when I did my review and I wrote this
9 testimony in that vein.

10 I chose not to correct the testimony and maybe
11 that would be a correction. At the time I recognized that
12 the changes were being made, but I did not tie it to
13 specific documentation. You know, it sounded like a good
14 idea because I recognized there were communications problems
15 as well.

16 I can state that I reviewed in the documented
17 recommendations I reviewed that this would be in this day
18 more clear, but that is why that sounds contrary. We have
19 seen some documentation.

20 Q I am afraid that I am a little confused now.
21 Looking again at those two sentences and really about the
22 transfer of Baldwin and Allum -- well, let me ask you this.
23 Knowing what you now know, would you change this and, if
24 so, how?

25 A (Witness VanDooran) Well, I now know that there

7-21

1 was a consideration and documentation of that consideration
2 relative to movement of people and Baldwin and Ross as
3 well, because that is where the majority I think of
4 communications problems existed.

5 Q There was a memo from Mr. Davison making
6 some bottom-line recommendations.

7 A (Witness VanDooran) That we ought to move this
8 person or that person, consider moving this person or
9 that person.

10 Q Yes, right. That is what you mean that you
11 now know about documentation and you didn't before?

12 A (Witness VanDooran) That is correct.

13 Q All right. Go ahead. What I am getting at, and
14 I don't mean to obscure my interest here, is you say that
15 you thought it was appropriate which indicates that the
16 particular personnel changes would in your opinion would
17 be beneficial, and we have heard some testimony at least
18 that might call that into question, Mr. Davison's memo,
19 and I don't remember the exhibit number, but I think you
20 know the one I mean, cited a communications problem and then
21 the implication was by making this switch things would
22 be improved. And now we have had various inspectors coming
23 in and saying Allum is not a very good communicator. That
24 sounds to me like it was sort of a net minus to put Allum
25 in there if you wanted to improve communications. Now you

7-22

1 may not agree with those inspectors, I don't know, but
2 that is the question I am putting to you. Do you credit
3 that kind of testimony and does that change your view?
4 Why did you think it was a good idea to substitute Allum
5 for Baldwin?

6 A (Witness VanDooran) I think one of the major
7 communication gaps in this process did occur between
8 specifically Mr. Baldwin and Mr. Ross, and there were some
9 very strong personal feelings I think eventually on both
10 sides.

11 I felt that it was entirely appropriate to somehow
12 split those two people up as a minimum and that was an
13 appropriate action. Bringing in Mr. Allum obviously was
14 a judgment by the licensee that they had to bring in somebody.

15 I do think Mr. Allum does have let's say some
16 weaknesses in the communications area and obviously when
17 they brought him in it didn't satisfy all of the inspectors.
18 He had problems and some communications problems at least
19 continued to exist. We have seen evidence to that effect.

20 I think the situation improved, whether Allum
21 was there or not, due to certainly a lot of the other actions
22 that were implemented, the actions of having meetings with
23 employees for them to air their concerns, the recourse process
24 and that sort of thing. But certainly putting in Mr. Allum
25 didn't cure all the communications ills that had existed
in that particular situation.

end 7

8A-c-1

1 EXAMINATION BY JUDGE KELLEY:

2 Q What was the nature of the communication --
3 the phrase, communication problems, that was used a lot in
4 this case. In a general way I think I know what it means.
5 It is kind of a broad euphemism, and one has trouble
6 pinning it down. At least I do.

7 When you say you thought there were
8 communication problems between Ross and Baldwin, of what
9 nature? I have heard both gentlemen here, and they are
10 both intelligent people. What was the problem as you saw
11 it?

12 A (Witness Van Doorn) Well, I saw some
13 problems on both sides of the fence. It is hard to say
14 what came first, the chicken or the egg in this case.

15 But I saw a lack of, certainly, a feedback on
16 NCI resolutions.

17 It was a very common communication gap.
18 That perhaps led to --

19 Q Why wasn't that taken care of when you get
20 the come-back copy? Is it because they don't say very much?
21 Is it just some sort of cryptic "take it as it is" sort of
22 thing? I would think that after I got my copy back, I
23 would know what the resolution was.

24 A That may be, sometimes, that that is the case.

25 Q You do get a copy back?

8A-2
1 A It is not that simple.

2 Q You do get a copy back, don't you?

3 A They should. I don't think in this case the
4 inspector -- he didn't necessarily get a copy back.
5 Another problem.

6 Q This is helpful.

7 A But, you know, for that inspector to accept
8 that resolution, he was not fully convinced as to why it
9 was acceptable.

10 In some cases, I believe that legitimate
11 reasons were reiterated to Mr. Ross, for instance, like
12 Mr. Baldwin, and they were not perhaps fully passed on to
13 the inspector because Mr. Ross disagreed with them.

14 Q Okay.

15 A Sort of siding with his inspector, perhaps,
16 in all cases, and Mr. Ross was not totally objective. Both
17 sides, I think.

18 Now, I think it built sort of a mistrust.
19 I think I talked about that in portions of my testimony
20 where it got worse, and pretty soon, you know, Mr. Ross
21 seemed to be, maybe, more reluctant to accept things from
22 Mr. Baldwin, just on his say.

23 And, you know, the situation got worse, that
24 mistrust, and it finally just sort of --

25 Q That is one kind of communication problem.

8A3
1 That is helpful. I appreciate your testimony on the point.

2 I suppose people get so mad at each other
3 they don't speak to each other, no matter how intelligent
4 they are.

5 A I think that happened on some occasions.
6 I think Mr. Baldwin might have said, "Quit questioning me
7 every time you have a problem. I am the supervisor."

8 You know, that is the way it is. I have made
9 the judgment and, you know, I believe there was some degree
10 of breakdown to that effect.

11 Q Is there anything else that you would cite
12 along those lines?

13 A I believe there was some reluctance on the
14 management side, as well.

15 I sort of maybe said something specifically
16 negative about Mr. Ross. But I think it got to the point,
17 also, that perhaps Mr. Baldwin didn't always listen as
18 fully as he should have, you know, "Quit bugging me."

19 And there was some instances where the
20 inspectors had identified procedural violations and felt
21 they should be documented, and they weren't documented.

22 And there were a few of those that probably
23 should have been documented.

24 There were a fair number of procedural
25 clarifications issued as a part of this task force effort.

PA-4

1 And perhaps, if that side had listened more
2 carefully in certain instances, maybe those procedures
3 would have been clarified a little bit earlier. At least
4 a number of the concerns would have been less. You try
5 to use this feedback to identify where you might have
6 unclariv in a procedure, for instance.

7 And, you know, it would have, perhaps, not
8 gotten to the point that it got with the number of concerns
9 in their mind that they had outstanding.

10 Q Do you see a difference in velocity? It is
11 sort of the medium in the long chain of command, not the
12 command, but just the hierarchy, the welding inspector,
13 Mr. Ross above him, Mr. Baldwin above him, Mr. Davison
14 above him.

15 And then you have the QA engineering technical
16 people that are often in another realm. Might you get an
17 orientation that at the inspector level, they are focusing
18 strictly on procedures, that if something isn't three
19 inches long, it is no good.

20 That the engineer is not caring how long it
21 is so long as he thinks it will not break.

22 So if you get the orientation -- they are
23 different, are they not, from procedures to engineering?

24 A There is a process. That is right. And the
25 welding inspector, he is told pretty much --

1 Q Yes.

2 A -- the black-and-white situation.

3 Q I am just looking, asking, really, about
4 attitudes. If you don't know, tell me. It is not that
5 important. I don't feel I know Mr. Baldwin very well, but
6 conceivably he is the man in the middle who may be more
7 oriented to an engineering solution kind of impact, where
8 it is three inches long. I don't know. Is that possible?

9 A It certainly has been inferred in the
10 examination during this hearing that somehow Mr. Baldwin,
11 and maybe Mr. Davison, had made some decision that might
12 have been more appropriate for design engineering, and
13 maybe, typically, it would have been done by design
14 engineering.

15 Certainly I think Mr. Baldwin is competent
16 technically. Mr. Davison is a registered engineer, for
17 instance. They have fairly frequent contacts with design
18 individuals, with the technical support individuals as to
19 many of these issues.

20 I didn't really require design engineering
21 to make a decision on them. They were so simple, it was
22 obvious that maybe, in a few cases the process says it is
23 okay. This is something that a design engineer ought to
24 handle.

25 And that broke down, but certainly the case

1 in point was pretty obvious that it was not a technical
2 issue.

3 Of course, the inspectors sort of wanted --
4 you know, when the procedure was violated -- they wanted it
5 to be documented.

6 Typically, they wanted it documented on an
7 NCI. Does that explain it?

8 Q That does. I will finish it off with one
9 question, or a small group, maybe, for all three of you.

10 We have heard the phrase, breakdown in quality
11 assurance, which I take to mean the situation where the QA
12 system isn't working, to detect and ensure the correction
13 of mistakes to such a degree that things are sort of falling
14 apart. You have no assurance that the thing is safe at all.

15 Is that sort of a reasonable rough paraphrase
16 of what a QA breakdown is?

17 A I would think narrowly, I would say QA
18 breakdown means that it does not function to first identify
19 whether it's a deficiency, and, second, to correct those
20 deficiencies whereby that system will function in service.

21 It doesn't have to be in a broad situation.
22 In other words, I think the QA breakdown goes to both the
23 unknowns, as well as the knowns.

24 Is it functioning? And in our estimation,
25 to identify those conditions significantly adverse to

1 quality, and are those corrected?

2 Maybe, I guess, I restated what you said.

3 Q I think it may be significant. The question,
4 in a degree, may be significant. I would like to have
5 whatever your perspective is. You are closest to this kind
6 of thing. I know what I read in ALABs. I would like to
7 have your perspective. I had the notion that if you just
8 say the QA system fails to work and doesn't detect
9 something, I suppose on any given day that could happen
10 with the concrete inspector, anybody else.

11 But that it has to be sort of a programmatic
12 breakdown in order to qualify for that phrase, true or not
13 true? Maybe you wouldn't use it that way?

14 A We'll, I think I would restrict it somewhat
15 more towards what I said.

16 Obviously they are probably some procedural
17 violations that have gone undetected.

18 I don't think it is possible to identify each
19 and every time a procedure is violated. There is probably
20 some missed, some procedure violations.

21 But considering the redundant type of
22 requirements in the program, you know, the safeguards
23 and that sort of thing that comes in, and the particular QA
24 procedures that have multiple steps on almost every type of
25 thing that you are concerned with, that there are various

1 cross-checks on the items.

2 With all of those put together, you have not
3 broken down to leave us any doubt as to whether the actual
4 systems installed out there should in fact function as
5 intended.

6 Q You mean breakdown, where not only the
7 original line of defense, but the back-up has failed, too,
8 the back-up procedures?

9 A Yes, in essence.

10 Q Have you seen -- I will put it this way,
11 have you seen that at the Catawba site, any instances of
12 a breakdown?

13 A We have seen instances of isolated breakdowns,
14 maybe, that where they have had to do some rework.

15 But I know of none that went uncorrected,
16 which I guess leads to the answer of no.

17 Q I guess not.

18 A Taking that definition.

19 Q Well, I think I understand the term a little
20 more broadly from what you do, given the answer, that if
21 there has been some big breakdown, I guess you would have
22 to say no to that.

23 A I would say no.

24 Q Because that would include the answer you just
25 gave.

1 A That's correct. Again, it is a reasonable
2 assurance, not 100 percent guaranteed.

3 JUDGE KELLEY: This brings us to about
4 twelve twenty-five. Now, we have some recross by Mr. Guild.

5 MR. GUILD: Yes, sir.

6 JUDGE KELLEY: Should we resume at one thirty?
7 We will have recross by Mr. Guild and redirect from the
8 Staff.

9 MR. MC GARRY: We have that citation, the
10 argument we had earlier this morning.

11 JUDGE KELLEY: You have the book?

12 MR. MC GARRY: I found it. It wasn't in my
13 hotel room, but underneath one of these books here. It is
14 .B5ADC319.

15 JUDGE KELLEY: AEC?

16 MR. MC GARRY: ALAB, 78 -- going back to the
17 foundation.

18 JUDGE KELLEY: The real log head.

19 MR. MC GARRY: At 332, it is a pretty good
20 description of Dr. Schneider, and the head of Alliance.
21 This part of the data is prepared by others. It does not
22 mean that his study was not independent, although his use
23 of such data must be taken into account in evaluating the
24 weight.

25 JUDGE KELLEY: Okay. Fine.

9A-10

9 fols.

(Luncheon recess taken from 12:30 p.m. to
1:30 p.m.)

AFTERNOON SESSION

(1:30 p.m.)

JUDGE KELLEY: We are back on the record.

This brings us to Mr. Guild's opportunity for
recross for which we allocated a maximum of an hour.

MR. GUILD: Thank you, Mr. Chairman.

Whereupon,

JACK C. BRYANT,

GEORGE F. MAXWELL,

and

PETER K. VAN DOORN

resumed the stand as a witness panel on behalf of Staff and,
having been previously duly sworn, were further examined and
further testified as follows:

CROSS-EXAMINATION

BY MR. GUILD:

Q Gentlemen, the procedure M-19 provides for the
process control for erection and inspection of containment
plate, liner plate, and tanks; is that right?

A (Witness Van Doorn) I believe that's correct.

Q And the M-19F, the surveillance form that you
previously referred to in your testimony, relates to
surveillance that is performed in the process of inspecting
such components, i.e., containment plate, liner plate and
tanks; isn't that right?

1 A I would prefer to refresh my memory.

2 Q Sure. Let me show you the procedure.

3 MR. GUILD: I don't need to offer it in evidence,
4 but I have Revision 13 to the NRC Procedure.

5 BY MR. GUILD:

6 Q And do you confirm that's the title? I just read
7 from the title?

8 A (Witness Van Doorn) Yes.

9 Q All right.

10 On the back is a 19F, is that correct?

11 A (Witness Van Doorn) Um-huh.

12 Q And, Mr. Maxwell, you're looking on; can you
13 confirm that?

14 A (Witness Maxwell) Yes, sir.

15 Q Is that the form in question that is supposed to
16 be used to document the surveillance results under that
17 procedure?

18 A (Witness Van Doorn) I believe it is, Mr. Guild,
19 from looking at it.

20 Q It appears to be, doesn't it?

21 A Yes, and relying on Mr. Maxwell, I believe it is.

22 Q And the title of the form is Inspections Performed
23 During Welding; correct?

24 A Yes, um-huh.

25 Q Okay.

1 Now, I'm just trying to clear this up:

2 It appears that this procedure and the form
3 associated with it relates to the inspection of those
4 specific described systems and components; does it not?

5 A (Witness Maxwell) Yes.

6 A (Witness Van Doorn) Yes.

7 Q What surveillance form should an inspector use for
8 looking at ASME Code Piping and associated installation,
9 and not containment liner, plate and tanks?

10 A I'm not sure of the form number, Mr. Guild; but I
11 suspect it's part of the M4 procedure.

12 Q Is there a corresponding surveillance form for
13 those systems and inspections, for surveillance that would
14 be performed in conjunction with inspection of those systems--
15 code piping?

16 A I believe there is a similar form of some sort
17 for code piping.

18 Q And, Mr. Maxwell, Mr. Van Doorn, Mr. Bryant,
19 is it a fair assumption that the, I think it was the American
20 Welding Society Standard that you had reference to that
21 specified the surveillance, that it would have similar
22 surveillance obligations with respect to code piping; welds
23 on code piping?

24 A (Witness Van Doorn) No, that's not correct.

25 Q Explain why that isn't, and where the source of any

1 surveillance authority would come from with respect to code
2 piping?

3 A You can't tie that into code, I guess, as I read
4 your question.

5 There is not a code requirement, per se, that
6 says you have to do these random surveillance-type inspec-
7 tions.

8 Q On piping?

9 A On piping, and I don't believe in AWS, as well.
10 I may stand corrected by Mr. Maxwell; but to the best of
11 my recollection, in AWS.

12 There is certainly amperage and voltage ranges
13 and preheats and that sort of thing that are established
14 directly or indirectly due to code requirements; and in one
15 of the QA program requirements to assure that those are being
16 followed, is this random surveillance-type of activity.

17 Q Which is for code piping?

18 A Yes. It would be a similar--there is random
19 surveillances in code piping; and it would n o go on this
20 form.

21 Q Okay.

22 Is there a QA form that's required to be used to
23 document the results of those surveillances, to your
24 knowledge?

25 A There is documentation of those surveillances. I

1 don't recall off the top of my head the form number.

2 Q Is it a fair assumption that the surveillance
3 obligations and the practices with respect to welds on code
4 piping would be similar to the practices and requirements
5 with respect to surveillance on containment plate, liner
6 plate, and tanks under M-19?

7 A I would think the requirements that the type of
8 attributes that they would check during those surveillances
9 and the fact that they had to be periodic, random type of
10 thing, that there would be similar types of surveillances
11 in both area.

12 Q My focus, Mr. Maxwell, then, is on the concern
13 that you expressed or the problem you identified and passed
14 on to Mr. Van Doorn, and that is, apparently welding inspec-
15 tors, instead of using the M19F's to record results of their
16 random surveillances of welds performed on these structures,
17 containment plate, liner plate and tanks, were writing them
18 in their "black books", and not on appropriate M19F forms.

19 Is there a common-sense basis for the inference
20 that the same problem would exist with respect to random
21 surveillance results with respect to code piping?

22 (Witness Maxwell) As I recall, and it's been a
23 long time for me being at the site, I believe the inspectors
24 that conducted these inspections on AWS, if you would call it
25 structural welding, were not the same weldment inspectors

1 that performed observations on piping, code piping.

2 I may be wrong in that, but I think that is a
3 different group of people.

4 Q Why is that?

5 A Perhaps you should ask Duke; they essentially
6 assigned different people to inspect different types of
7 welds.

8 Q So your understanding was there were different
9 weldment inspectors whose primary, or, I guess, sole,--
10 that's my question--was it your understanding there were
11 welding inspectors at that time whose sole responsibility
12 was to look at structural welding under the M19 procedure?

13 A I can't recall. I think that's correct. It may
14 be an area assignment, rather than a particular type of
15 code application.

16 Q Well, I understand in the testimony that that's
17 correct, the latter, an area assignment: you work in RB1
18 and it's--you do a variety of inspection work as called for.

19 Now, if that assumption is correct, that is, that
20 the same welding inspectors who would look at structural
21 welds under the M19 procedure also looked at code pipe welding
22 under the M4 procedure.

23 Again, the question: is there a basis for either
24 inferring or not inferring that the same problem with
25 documentation of surveillance results would exist with respect

1 to the M4 area, that is, code piping, as did for the M19?

2 A Well, my concern, whenever I saw this black book
3 being used was that ASME piping did have a specific procedure
4 that addressed numerous whole points that could be applied
5 for inspection personnel to go out and conduct an inspection.

6 I believe you referred to that as M4 form?

7 Q Yes.

8 A Which was made up prior to weld ever commencing,
9 which may have also included ANI to check various attributes
10 in process; and, therefore, I observed many inspectors
11 conducting these inspections; and they had in front of them
12 when they went to look at the in-process work, what the welder
13 was doing--

14 Q Right?

15 A --and if they chose at that time to look at his
16 work, whatever it was, even though it was a whole point, they
17 had that option.

18 Q Sure.

19 A Because they had to sign the form at whatever the
20 previously established whole point was, and with that in mind,
21 reading AWS Section 6, I believe it is, 6.1.15, perhaps,
22 and reading that section, I visualized the welding inspectors
23 looking at these structural welds associated with M19F
24 as being more of a final inspection, final visual. And my
25 question was: what happens in-between?

1 Q I understand.

2 But we've heard much talk now about the whole point
3 method, and that is a whole point method where the hardware
4 problem gets reworked if it's a fit-up problem, if it's a
5 cleanliness problem, if it's a problem of just bad weld,
6 you do a final visual on a bad weld, cut it out, and rework
7 it.

8 And the M4A may not indicate for that particular
9 whole point that there was an initial reject or it does
10 indicate an initial reject and a rework, but it may not indi-
11 cate the nature of the original problem; it may not document
12 deficient work, if you will, in a detailed way that the
13 surveillance report does.

14 Isn't that true?

15 A I understand what you're saying, but I might add that
16 in general terms, usually utilities have a remarks block on
17 the bottom of their weld data card--that's my interpretation
18 of what that is--on their weld data card they would have a
19 remarks section that a welding inspector can write remarks
20 on that particular weld that he's looking at.

21 And it can remain open, that entire data sheet,
22 can remain unsigned until those remarks can be cleared.
23 That is an other option that I have seen utilities use.

24 Q All right, sir.

25 Well, the bottom-line problem, though, is

1 if the purpose of a surveillance is to be able to monitor
2 the effectiveness of the work of a particular welder or a
3 particular crew, and provide a running source of data for
4 use by management in monitoring the effectiveness of the
5 craft work, I understood your concern with respect to the
6 M19F to be that management may never learn of those
7 deficiencies; because it is up to the inspector to translate
8 those personal notes into the final Q1, an NCI for that
9 weldment; isn't that right?

10 A The decision would be up to him.

11 Q The decision would be up to him.

12 Well, isn't the same concern likely to be present
13 with respect to code piping, if in fact there's a welding
14 crew or a welder that has repetitive problems, and there is
15 no document being used to record the surveillance of that
16 welder or crew's work, like, analogous to the M19F; and it's
17 solely up to the welding inspector, then, to accumulate
18 notes or notes at the bottom of an M4A, or on the welding
19 card; and finally get to the point where it's the decision
20 of the inspector to initiate an NCI or otherwise document
21 the defective work.

22 Wouldn't that likely follow to be the same problem?

23 A Not having current knowledge of the requirements of
24 the particular procedure for your ASME applications, I would
25 offer this comment:

1 That there are numerous places that an ASME weld
2 can be rejected along the way; and I would submit that if an
3 inspector--he was not satisfied with that particular point,
4 he may initial the reject block, and it will remain
5 rejected until it is resolved.

6 Subsequently the documentation should receive a
7 final QA review before being filed away in archives as a
8 permanent plant record. And it would therefore remain a
9 tracking mechanism for determining who and what the condi-
10 tions were.

11 Whereas, having no documents in the vault to
12 go back and reassess performance of the welders, or the
13 conditions which exist when welds were taking place, that's
14 another subject.

15 Q Did you look at, did you investigate this
16 potential problem? Did you investigate whether or not
17 the comparable surveillance document for code welding
18 --comparable to the M19F--was being properly submitted and
19 completed by welder inspectors; or whether in that area,
20 as they did with M19, they retained the information, the
21 surveillance information, in their black books?

22 Mr. Maxwell, Mr. Van Doorn?

23 A (Witness Van Doorn) It's probably more a question
24 for me, Mr. Guild. I did most of the follow-up in this
25 area after Mr. Maxwell talked to the people.

1 It's difficult to recall everything I specifically
2 did on this issue. I seem to remember there was some
3 reasoning that we did to think that this may be more of an
4 issue in that particular structural area, than it was in
5 piping.

6 And I don't recall that reasoning.

7 Q Now, I know I have looked at the piping type
8 random surveillance reports. I have reviewed that program
9 to see that it's being implemented. I don't honestly recall
10 whether that was part of that follow-up, or part of, perhaps,
11 a routine inspection effort.

12 I may have looked at the other areas as well,
13 I don't recall.

14 Q You just don't recall?

15 A I may have looked at the area, I do recall that.

16 Q The question, Mr. Van Doorn, is: were the welding
17 inspectors using their black books as a means for documenting
18 surveillance results in the code piping area; do you know?

19 A I did not, let's say, go to inspectors and say:
20 are you documenting surveillances in black books, rather
21 than the appropriate form.

22 I did review the process to determine that those
23 surveillances were done in a sufficient number of times in the
24 time period required, and were documented; the program was
25 being followed as required.

1 Q Well, you said you found surveillance documents
2 in the piping areas; is that what you're saying?

3 A Yes.

4 Q All right.

5 How many did you find?

6 A I don't recall an exact number, or the time period
7 that I looked at them.

8 Q Okay.

9 Mr. McGarry, for example, pulled out 15 M19F's
10 during the very period that Mr. Maxwell was concerned about
11 whether the surveillance effort had been adequate in that
12 area.

13 The fact that there were 15 doesn't mean that
14 there weren't 150 that never got beyond the black books,
15 does it?

16 Does it?

17 A No, but it doesn't mean the contrary, either.

18 Q It just leaves the question open. It doesn't
19 resolve the matter at all; does it?

20 A The program was being followed, the surveillances
21 were being done. I had no reason to believe that significant
22 problems identified during these random surveillances, or
23 any other inspection activities, went uncorrected.

24 That's the bottom line of the issue.

25 Q All right, sir.

1 Q Are you familiar with the testimony of Boyce
2 Cauthen, Mr. Van Doorn?

3 A Yes, sir.

4 Q Are you familiar with Mr. Cauthen's attachment A,
5 let me just read quickly:

6 "I feel that the Larry Jackson charges filed against
7 Ed McKensie was handled with poor support for our QA
8 department."

9 Okay?

10 "I have worked with Ed's area and I've heard him
11 make remarks that his men are too fast and slick for welding
12 inspectors to catch them."

13 Okay?

14 "Item No. 1, the technical concern, now--I was
15 checking a fit-up of one of Ed's fitters, and I noticed
16 they used a piece of pipe not listed in the released piping
17 material log. I told the fitter I had to NCI this fit.
18 I left the reactor and went to the QA office to file out a
19 Q-1A and get the NCI number. Upon getting back to the
20 reactor with the Q-1B tag I discovered I had nothing to
21 nonconform."

22 You remember that?

23 A Yes, sir.

24 Q Okay.

25 "Mr. McKensie had instructed the fitter to

1 cut out the pipe and remake the fit. I wanted to NCI
2 Mr. McKensie for doing away with my bad fit. I was told to
3 get a note put on my NCI stating that the fit was cut out
4 prior to placing the Q-1B. I don't recall how this NCI
5 was handled, but the following instances may let someone
6 know how Ed McKensie gets his work done."

7 And you recall Mr. Cauthen went on and listed a
8 number of other examples about deficient work, bad practices,
9 violation of procedures by Ed McKensie's crew; don't you?

10 A I believe there were two other instances that
11 involved Mr. McKensie.

12 Q All right, sir.

13 Well, a crew like Mr. McKensie's doing bad fit-up
14 work, if we assume Mr. Cauthen's testimony is correct, is
15 exactly the kind of thing that the surveillance program is
16 designed to document and flag and bring to the attention of
17 management so that appropriate corrective action can be taken.

18 Isn't it?

19 A It's one of the processes which may identify that
20 problem.

21 The primary tool to identify a bad fit-up is the
22 fit-up inspection whole point.

23 Q Yes, but let's assume--

24 A Random inspections primarily are geared towards
25 the intermediate welding stages which don't require, for

1 instance, a whole point. There are, say, once the root weld
2 begins,--

3 Q Um-huh?

4 A --it may not require the inspector to come back
5 until that weld is completed.

6 Q Right.

7 A And do the final inspection.

8 And one of the gaps that the random inspection fills
9 is verifying, for instance, that they're following heat input
10 requirements during this intermediate phase where there's
11 no whole point.

12 Q Now, I would appreciate a short answer--

13 A Preheat--

14 Q Let me just interrupt you for a second here:

15 Counsel for the Applicant led you through about an
16 hour's worth of questions and got yes-or-no answers to
17 virtually everyone that I can recall.

18 Now, I have an hour. And I have some matters I
19 want to ask you about. And, really, I appreciate your
20 wanting to tell us a lot more; but my time is limited; so if
21 you would give me a responsive answer, yes-no, and then
22 explain--but please be brief and responsive. I'd appreciate
23 it.

24 A Well, Mr. Guild, the questions were worded so that
25 they could better have yes-or-no answers. I feel an obligation

1 to complete the record.

2 Q I'll make a very strong effort to give you a
3 question that leads to a yes-or-no answer. Let me just do
4 that.

5 You are familiar with Mr. Cauthen's concerns; and
6 you investigated those; didn't you?

7 A Yes, I did.

8 Q All right, sir.

9 Well, he's got the concern here--I wonder how many
10 fits--his--Mr. McKensie's--his crew has made by violating
11 construction procedures? I have tried to be as slick and
12 fast as I could but we were told to slack up on writing
13 NCI's at one time.

14 Did you investigate that concern?

15 MR. JOHNSON: Could you just point where that is?

16 MR. GUILD: Sure, page 2, that's been denominated
17 nontechnical concern B of Mr. Cauthen.

18 WITNESS VAN DOORN: I reviewed all of the concerns,
19 that one included.

20 BY MR. GUILD:

21 Q Well, what did you do to investigate that concern?
22 Did you look into whether or not Mr. Cauthen was accurately
23 reflecting consistent or repetitive bad work by Mr.
24 McKensie's crew, as he describes it?

25 A (Witness Van Doorn) I believe it was an

1 investigation as part of the corrective action of that crew
2 to determine whether they were--had a bad attitude.

3 Q How about bad work, not attitude--bad work?

4 A I didn't see anything to indicate that they had
5 allowed bad work to exist in the plant.

6 Q Okay.

7 How about this, now: the concern just above that
8 page 2 is, item 2 under Mr. Cauthen: One of Ed's fitters
9 was caught making socket welds without the one-eighth-inch
10 gap. I was told by him that his lead man instructed him
11 to do this. I also--then it goes on.

12 That's a technical concern we're talking about;
13 correct--the socket welds?

14 A Yes.

15 Q D2, right?

16 A I'll take your word for it.

17 Q All right. D2.

18 Now what I want to know is what did you do to
19 investigate that, because it's not--that's Ed McKensie's
20 crew; that's one example of several that Mr. Cauthen gives
21 about bad work by Mr. McKensie's crew; and, according to
22 Mr. Cauthen, per instructions by the fitter's supervision,
23 to do the fit-up without the one-eighth-inch gap.

24 Did you investigate whether or not that happened?
25 You didn't, did you?

1 A I investigated the corrective actions relative to
2 that issue. But I am under a handicap. I don't have the
3 thing in front of me.

4 Q Well, let's solve your handicap.

5 MR. JOHNSON: What document--

6 WITNESS VAN DOORN: I believe you're referring to
7 Volume 2 of the task force--

8 BY MR. GUILD:

9 Q Yes.

10 Let me see if I can shorten it and paraphrase.
11 You just tell me if I'm remembering right:

12 We talked about E2--

13 MR. JOHNSON: One second.

14 MR. GUILD: Hold on one second, counsel,--

15 MR. JOHNSON: I object.

16 MR. GUILD: --I have a question.

17 MR. JOHNSON: he's not giving him a chance to--

18 JUDGE KELLEY: Gentlemen, let him provide the
19 witness with the document in question.

20 MR. GUILD: Can we stop the clock, Mr. Chairman?
21 Because I have a large number of matters I have to try to
22 fit into this hour.

23 JUDGE KELLEY: Ten seconds, Mr. Guild.

24 BY MR. GUILD:

25 Q You got E2 there?

1 A (Witness Van Doorn) Yes, I do.

2 Q You talked about E2, and didn't you conclude in
3 your testimony last time I asked you about this, that you
4 didn't know whether Duke even looked at socket welds, even
5 investigated actual weld work; do you?

6 A I believe I stated I don't think they looked at
7 actual welds relative to this concern. They evaluated it
8 as I recall without having a specific weld number associated
9 with that specific concern.

10 Q Right.

11 And you weren't aware whether Duke even asked
12 Mr. Cauthen whether he's talking about a specific part of the
13 plant, a specific weld, or a specific series of welds when
14 he was referring to Ed McKensie's crew doing improper fits
15 without the one-eighth-inch gap?

16 Isn't that right?

17 A Again, I don't believe it's alleged that there
18 were welds that went uncorrected; that's the way I read this
19 concern. And I think my discussions perhaps with Mr. Cauthen
20 showed that as well.

21 Q Well, did you go look at any welds, yourself,
22 Mr. Van Doorn, on this point?

23 A On this point, no, I didn't.

24 Q All right, sir. That's all I have on that.

25 Now, what was the violation that you cited Duke

1 for with respect to the failure to perform adequate
2 surveillances in the M19F matter, Mr. Van Doorn?

3 A I don't really recall, Mr. Guild. Mr. Maxwell
4 may have a reference to it.

5 Q That would be helpful; appreciate it?

6 A Mr. Maxwell is indicating to me it's 80-15-43.

7 Q That's a violation number?

8 A I believe it would be.

9 Q And can you tell me what inspection report that's
10 associated with?

11 A It would be 80-15.

12 Q May I see that, please?

13 A I don't know as we have it. He just had a little
14 note that that was the number.

15 Q Oh, I see; oh, okay. I'll check it out; thank you.
16 Do you know whether that was--was that lower than
17 a severity-level-3?

18 A It was a deficiency.

19 Q How does that count? What does that mean?

20 A That was the lowest category at that time.

21 Q Okay. All right, sir.

22 Now, Mr. Maxwell, we had a series of questions
23 the other day where we were trying to talk about the NRC
24 enforcement policy, the Appendix B regulations, and Duke's
25 procedures and how they all fit together.

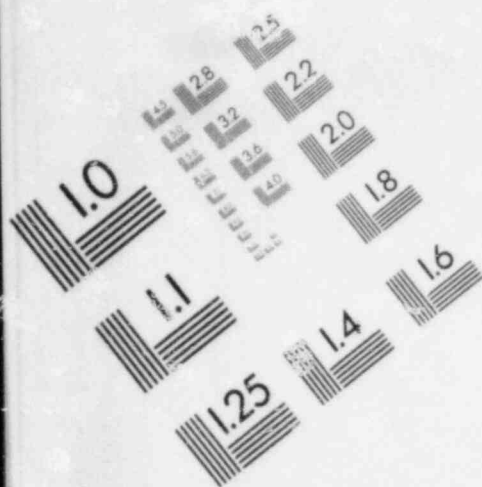
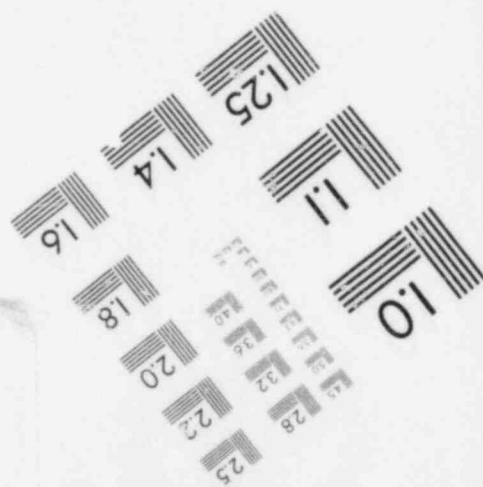
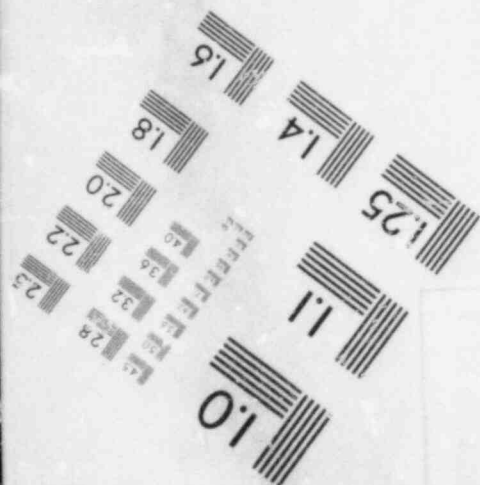
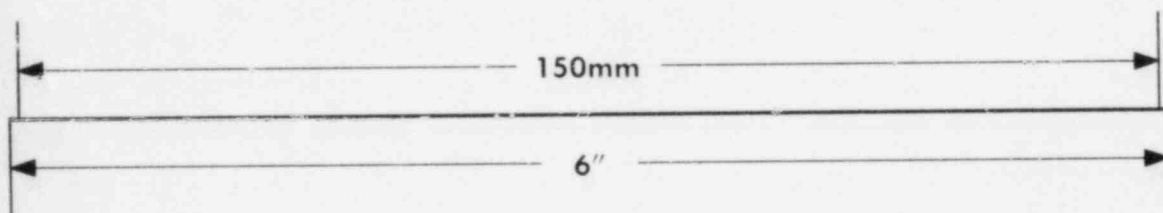
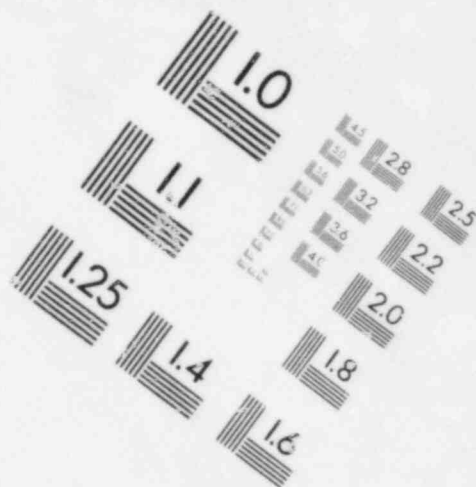


IMAGE EVALUATION TEST TARGET (MT-3)



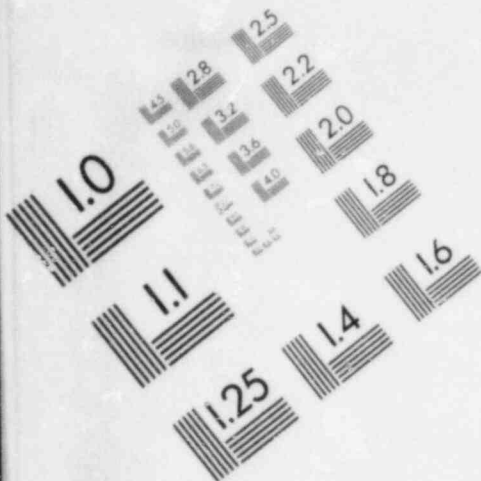
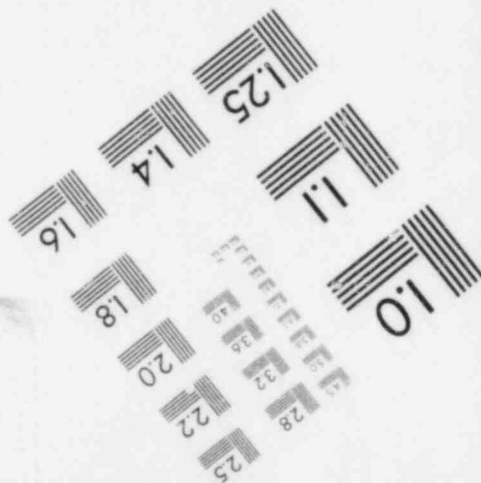
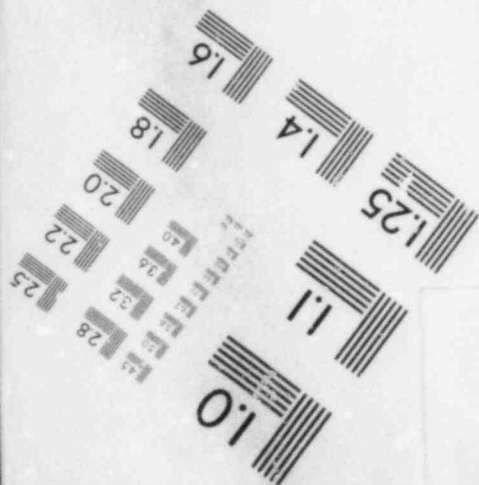
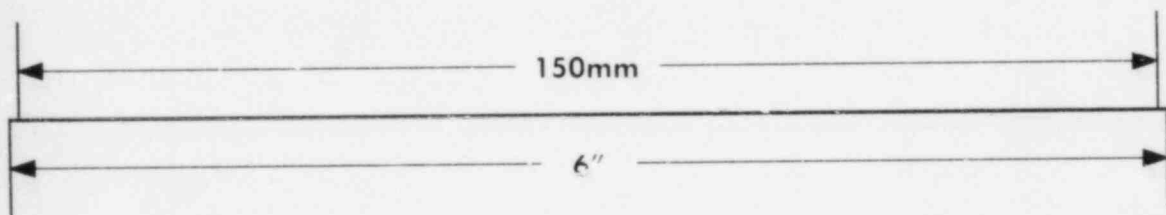
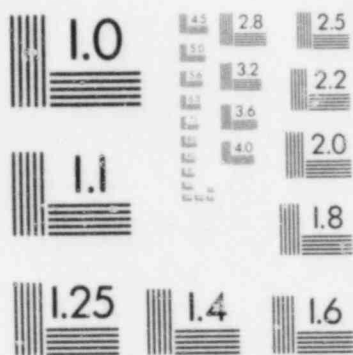
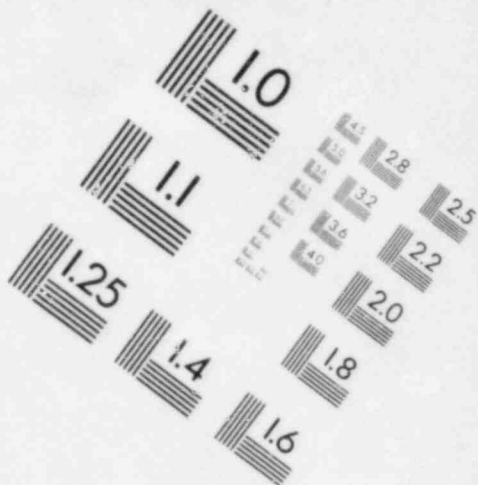


IMAGE EVALUATION
TEST TARGET (MT-3)



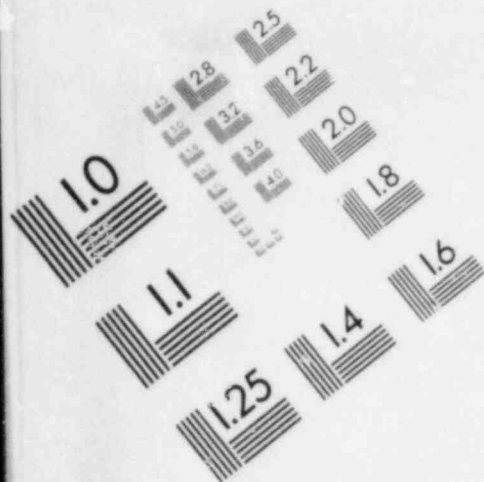
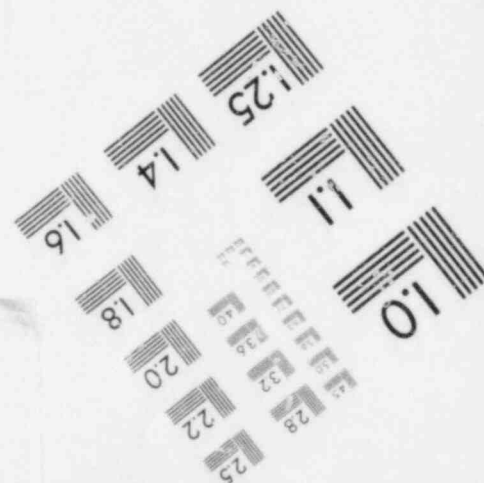
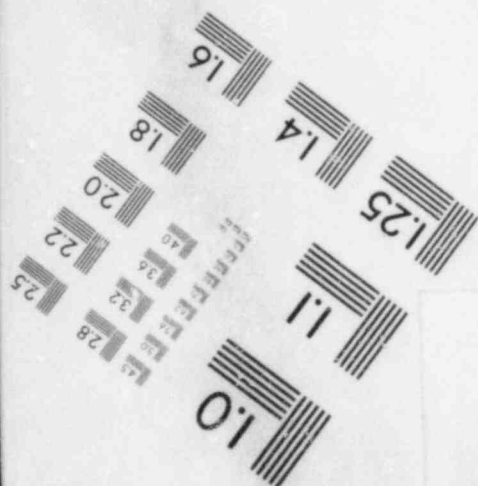
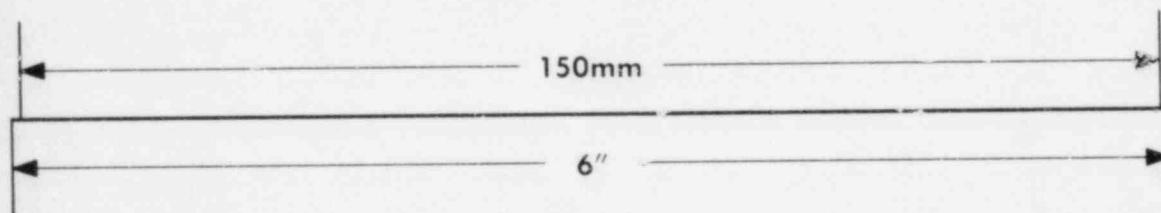
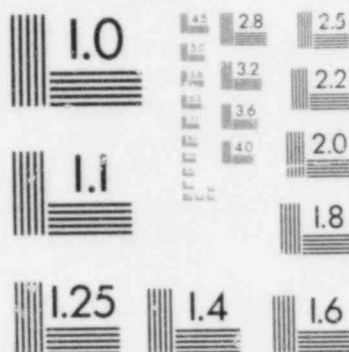
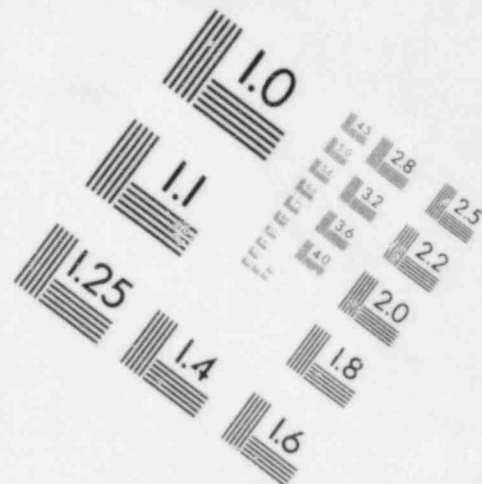


IMAGE EVALUATION TEST TARGET (MT-3)



1 And I think I probably started thinking in terms
2 of speed limit, and Mr. Bryant decided that he wanted to
3 volunteer that Duke--Duke was 15 miles more stringent than
4 the 55 mile an hour speed limit in their standards.

5 And I think one of the Judges asked a few questions
6 about that.

7 First, I guess, Mr. Bryant, let me start with you,
8 sir:

9 You don't mean to suggest by that comment about
10 Duke setting a 40 mile an hour speed limit where the NRC
11 standard is 55, that that accurately reflects the margin of
12 safety, if you will; that the error range where Duke's
13 constructions procedure, the quality assurance procedures
14 can be violated before there's a technical inadequacy?

15 A (Witness Bryant) No, sir.

16 Q Okay.

17 And, in fact, they were--

18 A Those were--

19 Q Pardon me?

20 A I believe those were your numbers.

21 Q I don't think I used the 40, I think that was
22 yours; you didn't pick 40 out as having any special signifi-
23 cance; did you?

24 It might be 52 than 55?

25 A Might be.

1 Q It might be 54 instead of 55?

2 A Might be.

3 Q And in some instances it might be 55 and 55;
4 right?

5 A Possibly so.

6 Q Well, there are, in fact, instances where a
7 violation of Duke's procedure is a violation of the NRC
8 rules, regulations, law, if you will, isn't that right?

9 A Yes.

10 Q Where the same standards apply and there is no
11 margin; isn't that right?

12 A That is correct.

13 And we've been back over that some. There was--
14 since then--it was discussed several times.

15 We were--I was--I'll speak for myself, but
16 Mr. Van Doorn, I think, agreed too--get caught up in inspector
17 jargon when we talked about violation. And when Duke
18 violates a procedure essentially that's a violation of
19 Appendix B.

20 Q Right?

21 A But it is not necessarily cited.

22 Q Not cited?

23 A As a violation.

24 Depending on conditions.

25 Q I want to address that point, as well; but I

1 appreciate your clarifying on this other matter.

2 Now--

3 A (Witness Van Doorn) Can I comment, Mr. Guild?

4 Q No.

5 MR. JOHNSON: Well, I object to that. If he has
6 something to add, it seems to me it's perfectly--

7 MR. GUILD: I really don't seek to engage in another
8 extended colloquy with Mr. Van Doorn on the subject,
9 Mr. Chairman. I've got a limited time.

10 JUDGE KELLEY: Given the fact that we've worked
11 this one over in pretty great detail, I don't think we need
12 a further answer.

13 Go ahead, Mr. Guild.

14 BY MR. GUILD:

15 Q Now, Mr. Bryant, and Mr. Van Doorn, because you've
16 been present, Mr. Maxwell, you have heard testimony, have you
17 not, that there were instances where--let me back up--
18 background:

19 There's a general proposition that there is a
20 standard to which the plant is constructed, and that may be a
21 CP, construction procedure; maybe a QA procedure. And then
22 there's a design justification, or design standard.

23 Right? And somewhere where that design standard is,
24 it may be at more than one level, but somewhere where that
25 design standard is, there's an engineering decision

1 about the minimum adequate hardware to perform in-service
2 without failing the safety significance; are we on the wave-
3 length on that? You know what I'm saying?

4 A (Witness Van Doorn) Yes, we're talking about
5 the Greer (phonetic) diagram.

6 Q Yuh, the Greer diagram.

7 And let's just take an example of a weld: there's
8 an engineering judgment, an engineering point, there may be
9 a gray area, but it's the results of calculational analysis
10 and metallurgical knowledge, you know, and engineering physics
11 et certera, about what kind of weld you need to stand up
12 in a nuclear plant; right?

13 A There is a point in that sequence of situations
14 where there is an engineering evaluation point.

15 Q Okay.

16 And the general relationship between that and the
17 design specification, or the construction specification, as
18 you say, the construction procedure, specification, quality
19 assurance procedure, specification, is that you build in
20 some conservatism; isn't that right?

21 A Absolutely.

22 Q You get the craftsman to do the work better than
23 the minimum design standard; isn't that right?

24 A And provide redundant steps of assurance.
25

1 Q You inspect?

2 A Yes.

3 Q Okay. But lay aside the inspection point.

4 The inspector checks behind the craft, the craft
5 is supposed in the first instance to build to specification
6 and the specifications are supposed to include some conserva-
7 tism above the minimum design requirement; right?

8 A Yes.

9 Q Okay. But there are instances, aren't there,
10 and we've all heard testimony, where that design requirement
11 is the same as the construction procedure; isn't that true?

12 Size of a weld--or thickness of material?

13 A Yes. The size--there are a few, and the size of
14 the weld is one that stands out where typically, let's say
15 the procedural requirement--excuse me--and the design require-
16 ment come together.

17 There still is a range, even if the size of the
18 weld is not met according to design specification, between
19 that and the design justification point in this diagram.

20 Q Okay.

21 The point where we actually fail in service?

22 A No, the design justification point.

23 Another point even to the left of that--we all know
24 what the Greer diagram looks like, I assume--would be the
25 failure.

1 Q Okay .

2 A There's conservancy built-in each section, I guess
3 is what I am saying.

4 Q Okay. Well, you would agree, wouldn't you,
5 Mr. Van Doorn, that there are places such as weld size where
6 the weld size is based on the print, if you will; it's
7 built on the thickness of the material being welded; okay?
8 And there's a direct relationship to that where the QA
9 procedure and the construction procedure are at the same
10 point as whatever the first point to the left usually was,
11 the design requirement. How about that?

12 A The specification.

13 Q The design specification. Okay .

14 And so there is no margin for error between those
15 two, although we hope there is some margin for error between
16 that and fails-in-service; right?

17 A And, again, there's a design justification point
18 in between those two.

19 Q Okay.

20 A That's right.

21 Q All right.

22 In those instances you would agree with me, wouldn't
23 you, that it's important for the inspector to enforce speci-
24 fically, the terms of the construction procedure in his
25 inspection work?

1 A That is important; yes, that's correct.

2 Q And in that instance it wouldn't be a question of
3 judgment for Mr. Larry Davison or Mr. Charles Baldwin to
4 say, no, you don't need to enforce the construction procedure
5 or quality assurance procedure in that instance? That
6 wouldn't be within their authority to do that, would it?

7 A If we're talking specifically the weld size issue?

8 Q Yes?

9 A I think that more appropriately would be a design
10 engineering design; although it may be such a minor instance
11 that, you know, a simple conversation with the design
12 engineer and simple--I think the case we're talking about,
13 where the plate was a little bit thinner than as-ordered?
14 It's fairly common knowledge, you know, if someone has an
15 engineering background and deals with these types of
16 construction activities, that it's probably okay that that
17 weld meets that plate thickness.

18 It's probably common knowledge that those weld
19 sizes are typically in that instance specified to equal
20 plate thickness.

21 Q Well, but in this instance it would be a violation
22 of procedures if Mr. Davison were to make that decision;
23 wouldn't it?

24 He's in quality assurance?

25 A Yes, I believe in a strict procedural approach

1 that type of instance is supposed to be addressed by the
2 design engineer.

3 Q Well, in fact, it would be bad practice too,
4 I mean, you want to have somebody with some independence
5 from the inspector, not in the direct chain of supervision,
6 making the independent engineering calculations and
7 judgments, to accept work as-is that violates construction
8 standards?

9 A I don't think it is an independence issue. I
10 think, though, you know, you don't want to flagrantly violate
11 that criterion; certainly, we don't want to violate it at
12 all if we can prevent it.

13 But I don't see how that relates to independence.
14 But--because Mr. Davison and the inspector are still QA;
15 I mean, they are not on the same side as construction in
16 either case.

17 Q Not now?

18 A And they weren't back then; they had their
19 independence criteria even when they were under the
20 construction organization.

21 Q They used to work under the construction department,
22 did they not?

23 A In the construction department; yes.

24 Q So in your opinion there's no independence issue
25 there; it's just an issue of whether they follow the letter

1 of the procedure, and Mr. Davison making engineering decisions?

2 A I don't relate an independence issue to the
3 specific concern we're talking about.

4 Q You disagree with my observation that it's
5 also bad practice, aside from the procedural violation?

6 A I think it's--yes, those things are reserved for
7 design engineering evaluation, and ought to be done as such.

8 Q Well, is there a good reason for that, aside from
9 the black-and-white of the procedure--that's what I'm
10 driving at?

11 A Well, number-one, that's their duty; number-two,
12 they are generally more qualified.

13 Q Design engineers?

14 A And that's their assignment, to consider those
15 positions. That's correct.

16 Q Mr. Davison, in the course of his daily work,
17 Mr. Baldwin in the course of his daily work, they don't do
18 calculation analysis, design; they don't do that sort of thing;
19 do they?

20 They supervise quality control?

21
22
23
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25
End T9
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10A-c-1

1 A (Witness Van Doorn) In the course of their
2 present daily work, I believe that is true. I am not so
3 sure Mr. Davison doesn't have any design background in his
4 background.

5 Q Yes. But he has been a supervisor in quality
6 control work since 1974?

7 A A long time.

8 Q He did design work, it was sometime before
9 then, wasn't it?

10 A To my understanding, it would be.

11 Q He may be a very qualified man who has that
12 knowledge at the tip of his fingertips, do you agree with
13 me, that reaching that far back in his experience, is it
14 not sound practice, in terms of the qualifications for
15 making a day-to-day engineering judgment, would you agree
16 with that?

17 A Yes, in essence.

18 Q Now, Mr. Van Doorn, you in your testimony at
19 Page 14 have what I consider to be a very intriguing
20 analysis here.

21 This is essentially responsive to the
22 question that says: What is the regulatory basis for your
23 review of the welding inspector concerns?

24 That's Question 12, Page 13, and continuing
25 on to 14.

1 And I think in response to earlier questions
2 you directed our attention to the Commission's enforcement
3 policy, what is your bottom-line discussion in that long
4 paragraph at the conclusion of that answer, that it is
5 founded upon the Commission's enforcement policy, isn't
6 that right?

7 A In part, that is one of the bases that I used,
8 yes, sir.

9 Q Let's look at that. I have reference to
10 Page 129 of my volume here, Appendix 2, to part --

11 A Appendix C?

12 Q Part 2.

13 A Uh-huh.

14 Q And it is under a large Roman numeral IV,
15 Enforcement Actions, a Notice of Violation; correct?

16 A That's correct.

17 Q And the introduction there is as follows --
18 just so we can ask you this, and I probably have the only
19 book here, except for other counsel. -- the NRC uses the
20 notice of violation under the second paragraph under

21 A. Do you follow me?

22 A Uh-huh.

23 Q NRC notice of violation, standard method,
24 formalizing the existence of a violation.

25 A notice of violation is normally the only

1 enforcement action taken except in cases where the criteria
2 for civil penalty or an ordinance set forth in another
3 section is met.

4 In such case, the notice of violation will
5 be issued in conjunction with the elevated actions.

6 Then we have a language that you quoted,
7 we are really referring to that, this part of your
8 testimony; correct?

9 A I believe that is true.

10 Q Because the NRC wants to encourage and
11 supports licensee's initiative for self-identification and
12 correction of problems, and NRC will not generally issue
13 notice of violation for a violation.

14 I mean, it has met all of the following
15 tests.

16 You go on.

17 Was it your conclusion that Duke Power, the
18 licensee in the incidents that you reviewed in your review
19 of the welding inspector task force effort, did that lead
20 you to the conclusion that pursuant to that policy, no
21 notices of violations were appropriate; is that right?

22 A That's true.

23 Q That was because the noncompliances that you
24 found were lower than Level 3, and there were other
25 circumstances present that mitigated or made enforcement

10A-4

1 action inappropriate; isn't that right?

2 A I believe that is right.

3 Q Here is what seems to be the bottom of your
4 conclusion, top of Page 14.

5 Since the inspectors initially identified
6 their concerns to Duke management, you are talking about
7 welding inspectors there; right?

8 A Uh-huh.

9

10B fols.

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10B-c-1

1 Q Duke was appropriately given credit for
2 having identified the concerns. That is your conclusion;
3 right?

4 A That's right.

5 Q Now, without that conclusion, can we agree
6 that it is inappropriate to apply the standards set forth
7 in that quoted section of Appendix C and not issue a notice
8 of violation? Can we agree with that, Mr. Van Doorn?

9 A Generally, I would agree.

10 Q Absent that, your conclusion that Duke should
11 be given credit for having identified these concerns, the
12 four factors that must all be met there would not be met,
13 and it would be appropriate to cite Duke for Level -- for
14 violation levels that were identified; correct?

15 A We did give them credit for having identified
16 it themselves. Basically, Factor 1, which says it was
17 identified by the licensee.

18 Q Let's lay that point aside, that conclusion
19 about giving Duke that credit.

20 Then, let's turn to the other things now.

21 Item 1, it was identified by the licensee.
22 These are conditions where the NRC could encourage,
23 et cetera, and will not generally issue a notice of
24 violation; right?

25 A Right.

1 Q One was identified by the licensee,
2 Number 2. The severity, Level 4 or 5.

3 Three, it was reported if required.

4 And four, it was or will be corrected,
5 including measures to prevent recurrence in a reasonable
6 time.

7 And five, it was not a violation that could
8 reasonably be expected to have been prevented by the
9 licensee's corrective action for a previous violation.

10 All of those factors have to be present in
11 order to reach the conclusion that no notice of violation
12 should be issued where a violation is identified; right?

13 A I agree.

14 Q First of all, did you identify any violations?

15 A It depends by what you mean by violations,
16 Mr. Guild.

17 I am talking about the citation of notice
18 from NRC.

19 Q No. I am talking about -- I am talking about
20 violations that were not the subject of a citation or a
21 notice of violation, violations that qualify for the, if
22 you will, the waiver of prosecution. I am just going to
23 use that as a sort of a catch-all.

24 I don't mean to be perjorative by that, but
25 you found violations, didn't you?

103-3
1 A There had occurred violations in Criterion 5
2 procedural requirements.

3 Q Criterion 5 requirements. Let's be clear
4 about what we are talking about.

5 Criterion 5 is one of the 16 criterion under
6 Appendix B; is that correct? 16, 17?

7 A That's correct.

8 Q And Criterion 5 states -- I am going to read
9 it. It is short. It is entitled, "Construction
10 Procedures and Drawings."

11 It says, "Activities affecting quality
12 shall be prescribed by documented instructions, procedures
13 or drawings of a type appropriate for the circumstances
14 and shall be accomplished in accordance with these
15 instructions, procedures or drawings.

16 "Instructions, procedures or drawings shall
17 include an appropriate quantitative or qualitative acceptance
18 criteria for determining that important activities have
19 been satisfactorily accomplished."

20 That's what Criterion 5 provides; right?

21 A Yes, it is.

22 Q So violations of procedures or failure to have
23 procedures in the first place, or a failure to have
24 appropriate quantitative or qualitative acceptance criteria,
25 those represent the substance of Criterion 5 violations;

1 right?

2 A Yes.

3 Q And you identified, in the course of your
4 review of the welding inspector task force, violations of
5 Criterion 5?

6 A There were cases where procedures were
7 violated, that's correct.

8 Q And, now, what I would like for you to do is
9 tell me which ones those were, what NRC violations of
10 Criterion 5 did you identify in your review of the task
11 force effort that were not subject to the notice of
12 violations because of the other reasons in the enforcement
13 policy that we are going to get to?

14 Tell me, first, which violations you
15 identified to make that determination.

16 A I do not have, off the top of my head, a list
17 of the specific concerns that would have been violations
18 had they occurred, had the NRC in fact identified them
19 first, which is what we are talking about in this vein.

20 There were at least some of those 130
21 technical concerns, for instance, that in my estimation,
22 if I had discovered that problem, I probably would have
23 issued a notice of violation.

24 I would have, at least, proposed that to my
25 management.

1 There were no Level 3s or above.

2 The main thing I was concentrating on was
3 if I found a Level 3. Those would have gotten special
4 documentation, evaluation, for escalating the enforcement.

5 I can tell you there was nothing there that
6 was above the Level 4.

7 Q If we take Duke's own summary statistics at
8 face value, which I don't -- I think even you don't. You
9 agree that they should be altered in some respects, or
10 arguably so, anyway. The overall statistics reflect that
11 there were 43 actual procedure violations reflected in
12 the concerns.

13 There were 26 potential, and 58 were none.

14 I think we both agree that something in the
15 range between 10 to 20 might be moved into a more serious
16 category if we did some more analysis, didn't we agree to
17 that?

18 A I believe from one of the categories, that
19 was the number.

20 Q But we had 43 actual procedural violations by
21 Duke's own count. That gives us a basis. We have 43
22 violations of failure to follow procedures by Duke's count,
23 and those represent 43 instances of violations of Criterion 5,
24 don't they, to Appendix B?

25 A I would say the majority of them in a very

1 strict sense would at least -- a fairly large number of
2 them -- would in fact violate Criterion 5.

3 Q Let's assume that is the case. I understand
4 your previous answer. You don't have a list of what those
5 are; right?

6 A No.

7 Q Assume we got 43 violations of Criterion 5,
8 Appendix B. We are not going to initiate any enforcement
9 action. We are not going to bring a notice of violation.
10 You didn't, did you?

11 A No.

12 Q Because in your judgment, Duke was exempt
13 from prosecution, if you will, exempt from citation for
14 these violations because they qualified under each of the
15 five legs of the enforcement policy with respect to
16 nonprosecution, if you will? Right?

17 A In essence, I think that is correct.

18 I think we are missing one point of when we
19 issue a notice of violation, that is, even if there is a
20 violation of Criterion 5 requirement, we may not necessarily
21 issue a notice of violation.

22 That is a judgment factor applied to that
23 violation as to -- there is a number of things that go into
24 that judgment.

25 Certainly the technical merits of it, and I

103-7
1 will say that that threshold is pretty low. You don't get
2 far away from that procedure requirement before they do
3 get a violation.

4 But we do allow some judgment as to whether,
5 if it is a nit, really, it does not have any safety
6 significance, we will not necessarily issue a notice of
7 violation of procedure violation.

8 In fact, if they are minor issues, we don't
9 even require them, by returning to 16, to the document.

10 We do not tolerate flagrant procedural
11 violations, even on minor issues.

12 Q Where is flagrant in here? Anywhere? Or
13 did I miss it in my reading?

14 A I don't know that it is in here. That is my
15 instruction from my supervision, and that is in fact what
16 I am --

17 Q I was told this was the bible. This is
18 10 CFR. This is Appendix B. I thought that was the bible
19 of quality assurance?

20 A That's not all I go by.

21 Q Then we have the enforcement policy. There
22 is nothing in here about flagrant; right?

23 A I don't recall the wording, flagrant, in there.

24

25

10C-c-1

1 Q Was anything else in there that says: You
2 have the express authority in enforcing NRC policies to
3 make a judgment? You just said that Criterion 5 violation
4 is to be passed by for reasons other than set out in those
5 five factors?

6 A I think the appendices to the enforcement
7 policy, there is one for construction, one for operations,
8 and so forth, do indicate a description of the severity-
9 level indicator that has to be taken on significant issues.

10 Q We are talking about quality assurance.

11 A It is graded. Severity-level descriptions
12 do describe in general the basis for when you say something
13 is at Level 5 violation or Level 4 violation or so forth.
14 There is guidance there.

15 It applies to this.

16 Q You have implicit authority, sort of, to make
17 it significant?

18 A It says that, I think, if you read the words,
19 it is pretty clear.

20 Q We have 43 actual procedure violations
21 according to Duke's count, maybe a bunch more, if we went
22 by my count, and a few more by yours.

23 Now, let's look at the enforcement policy
24 here.

25 Is it also fair to say that all of those

1 procedural violations represented Level 4 or 5, severity-
2 level 4 or 5 noncompliances? That is, a violation of
3 Criterion 5?

4 A No. Some of them would, I discovered, if I
5 had discovered them.

6 Q There were three or five -- which ones, if
7 you discovered, would have been higher than four or five?

8 A None.

9 Q None of them would have been higher than four
10 or five?

11 A That's correct.

12 Q Maybe I misunderstood your answer. I thought
13 you said if you discovered them, you thought they would
14 have been higher than four or five?

15 A No. You misunderstood.

16 Q So they were all either four or five, right?
17 All the procedure violations reflected in the welding
18 inspector task force results?

19 A I wouldn't have issued a violation for all of
20 those procedure violations. The ones that I would have,
21 in my judgment, would have been fours or fives.

22 Q So some subset of the ones you think were
23 significant enough, adding your sort of implicit authority
24 to make a significant decision, would have been at a four
25 or five. That is, Number 2, Item Number 2, we have passed

100-3

1 over, Number 1 of the five-item list, because it was
2 identified by licensee. That is the one where you gave
3 them credit for identifying these concerns; right?

4 A Yes.

10D fols.

10D-C-1

1 Q Pass on that for a moment to Item 2. It
2 fits in severity level 4 or 5.

3 You are saying that all of the procedure
4 violations you identified qualify under that item, correct,
5 the four or five? They are not higher?

6 A Yes. Arguing the point further.

7 Q Three, it was reported, if required. Were
8 these reported? How do they qualify?

9 A If they were, this is in reference to, let's
10 say, the 55E or 21 requirement. There were no new issues
11 reported to us.

12 There were a couple concerns, I believe, that
13 had involved reportable items to the NRC, and they had been
14 appropriately reported when it was realized that it met the
15 reportable criteria.

16 Q When was that? After the concerns were raised?

17 A I believe it was before the concerns were
18 raised.

19 Q If it wasn't before the concerns were raised,
20 if they were only recorded after the concerns were raised,
21 would you give them -- did you report -- did you credit it
22 for reporting?

23 A I don't believe I could have gotten credit
24 under this section.

25 Q But as far as the reporting aspect, this only

10B-2

1 relates to 55E and Part two one. It is not that they were
2 reported -- that Duke said we had made some violations of
3 this procedure or that procedure?

4 A It is my understanding that that is what that
5 is referring to, and again we are dealing with construction
6 activity.

7 Q In four, it was, or will be corrected,
8 including measures to prevent occurrences in a reasonable
9 time.

10 Some of these matters have been outstanding
11 since 1978, right?

12 A Some of the concerns. Some of the concerns
13 went back to 1978.

14 Q And went back to 1978?

15 A Addressed by inspectors, and did include a
16 few that occurred in 1978.

17 Q I don't think that relates to this specific
18 requirement.

19 Some of them would have gone back to 1980,
20 didn't they? Some went back a couple years?

21 A Yes.

22 Q A lot of them, you say, yourself, they were
23 historical; right?

24 A Yes.

25 Q Well, the problem was, they weren't

10K3
1 corrected. Many of the procedural problems that Duke,
2 itself, identified and provided corrective action for, they
3 didn't provide corrective action until after the welding
4 inspectors brought it up. That was the problem.
5 Procedures had been violated for years at the plant.

6 So how do you give Duke credit for correcting
7 these problems that didn't get brought to their attention --
8 they were brought to their attention earlier through NCIs,
9 through Mr. Davison, who knew about a lot of them,
10 Mr. Baldwin knew about a lot of them, the welding inspectors
11 did everything they were supposed to do as far as bringing
12 it to their attention, yet you give Duke management,
13 Mr. Davison, credit, in essence, for correcting problems
14 that were only corrected because these welding inspectors
15 went to the mat with the QA problem. Why?

16 A First of all, Mr. Guild, it is not unusual
17 to have procedures violated. Violated clear back to 1978.
18 It isn't particularly significant.

19 Procedures are probably violated weekly.
20 Okay?

21 Q Okay.

22 A Secondly, Number 4 says that once the problem
23 is recognized, adequate corrective action is taken, you tie
24 that back to Number 1.

25 They did recognize the problems.

1 It didn't get there as smoothly as it should
2 have, obviously.

3 Q No.

4 A But they did identify it in-house.
5 They beat us to the punch, if you want to call it that.

6 They took appropriate corrective action as
7 part of the task force review. That's what Number 4 means
8 in my judgment. That's what happened.

9 Q Let's look at Number 5, the last item.

10 It is not a violation that could reasonably
11 be expected to have been prevented by the licensee's
12 corrective action for a previous violation.

13 Now, with respect to this whole subject of
14 NCIs, your position, Mr. Bryant, and Mr. Maxwell before
15 you, Mr. Van Doorn, had gone to great lengths according to
16 their own testimony in the inspection of reporting 81-02,
17 to review the whole question of NCIs. They cited them for
18 a number of violations on a failure to follow procedure
19 Q-1, failure to adequately evaluate for corrective action,
20 failure to evaluate any generic problems, et cetera, et
21 cetera.

22 There were a whole bunch of violations there,
23 weren't there, previous violations?

24 A The inspector concerns, I am trying to think
25 of the timing here. There were violations identified in

1 Mr. Bryant's report relative to the NCI program.

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10E fols.

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1 Q Was that early '81?

2 A Early '81, that's correct.

3 Q They were told to fix it; right? They were
4 told to correct this problem?

5 A Those issues, types of issues identified in
6 Mr. Bryant's report, yes.

7 Q Why did they get credit for Number 5 here if
8 Mr. Bryant and you and Mr. Maxwell all went to management
9 earlier to tell them they needed to clean up the problem
10 with the NCIs and in identifying deficiencies -- and the
11 report will speak for itself -- what I want to understand
12 is why does Duke get credit for each and every one of those
13 procedural violations identified in their own report, and
14 identified by you in your review where they should have
15 corrected these problems at least a year before because
16 you brought it to their attention?

17 A I think the types of issues that Mr. Bryant
18 identified were different enough from the inspector-
19 identified items, that the judgment was that we did not
20 think it met Number 5.

21 The reasonable expectation that the licensee
22 made corrective action from previous violations -- again,
23 concerns were historic. They went back to '78. There was
24 some overlap with some of the concerns with Mr. Bryant's
25 identified violations.

10E-2

1 Q Let's look at the first item. One, we passed
2 over. Page 4 of your testimony, since the inspector
3 officially identified their concerns to Duke management,
4 Duke was appropriately given credit for having identified
5 the concern.

6 And that's Item Number 1 on this enforcement
7 policy.

8 It was identified by the licensee; isn't
9 that right?

10 A Yes.

11 Q Now, these welding inspectors, or a bunch of
12 them, they came to George Maxwell in October of 1980,
13 didn't they?

14 A Repeat that.

15 Q The welding inspectors came to you in 1980
16 with problems about NCIs, didn't they?

17 A (Witness Maxwell) I encountered welding
18 inspectors. I called them to the NRC office.

19 Q Mr. Van Doorn, in your testimony, you say you
20 got an anonymous note in December of '81 to look into
21 harassment?

22 A (Witness Van Doorn) A specific harassment
23 charge, yes.

24 Q February 1st of '82, one of the first days you
25 were on the job, Mr. Van Doorn, on a permanent basis, there

1 were a bunch of these welding inspectors that came to your
2 office and told you that they had problems with harassment,
3 falsification. They expected Duke to whitewash their
4 concerns?

5 MR. JOHNSON: The year, I don't think, is
6 right. '82.

7 MR. GUILD: I take it back. I have gotten the
8 sequence of your arrival -- February of '82.

9 BY MR. GUILD:

10 Q You had been there for a while?

11 A Yes. After the concerns had been expressed to
12 Duke by inspectors.

13 Q Right. But these guys come in and tell you,
14 the NRC, that they are worried that Duke is going to
15 whitewash the investigation. That's why they came to you,
16 isn't it?

17 A One of the inspectors used the term whitewash.

18 Q You used that term to your supervisor?

19 A Yes, I think.

20 Q You sent it off to the chain, Region 2, so
21 that they would see that there is some concern about
22 whitewash by Duke?

23 A I documented it to the region.

24 Q Notwithstanding that sequence of events, the
25 inspectors coming to Mr. Maxwell in 1980, somebody raising

1 the harassment issue to you by this note in December of '81,
2 and the guys coming in February and saying they are worried
3 about a whitewash, you still want to give Duke credit for
4 identifying these concerns?

5 A We did make a judgment, Mr. Guild. I mean,
6 we certainly were aware of these earlier concerns that were
7 expressed both to Mr. Maxwell and a couple of other, what we
8 consider isolated instances.

9 It is not untypical to have concerns expressed
10 in a welding area. And it is a very vulnerable area for a
11 lot of misunderstanding, even more so than most of the other
12 activity in my estimation.

13 So it is not atypical to have some concerns
14 expressed in the welding area.

15 And we had not, in our judgment, thought that
16 we had significant enough information at that time to
17 trigger some sort of, you know, broad investigation, for
18 instance, or to indicate that this type of more broad
19 problem existed, this communication issue, and other issue.

20 Q Communications problem?

21 A That we have seen here.

22 Secondly, I don't think -- I don't think that
23 Duke had enough, as well. So I think we have to factor
24 what was known in that time frame, and there is a judgment,
25 hindsight is 20-20.

1 In looking back, maybe a couple of those
2 issues were indicative of things to come.

3 But I think in this time frame, we made an
4 honest judgment that we didn't have enough information to
5 cry wolf, if you will.

6 Q You heard Mr. Ross's testimony, didn't you?

7 A Yes, I did.

8 Q And have you reviewed his prefiled testimony?

9 A Yes.

10 Q You remember the point of his prefiled
11 testimony on Page 8? I will show it to you. But my nickel
12 is run out. I will get done real quick.

13 Mr. Ross at Page 8 says as follows, beginning
14 Line 1. I also feel that I have, along with most inspection
15 personnel who submitted concerns, have been adversely
16 affected by this submitting of concerns in terms of treatment
17 of potential promotion, or transfer potential.

18 I know in my own case, I have been treated very
19 badly on my evaluation and pay raises. I have received very
20 negative treatment from Joe Willis, Art Allum. I feel to a
21 degree, from R. L. Davison in the sense of no help from my
22 recourse. I feel I have been discriminated against in the
23 10 CFR 50, in the conditions of my employment and compensation
24 for employment has been adversely affected by my expressing
25 my concerns of no support from QA management, and they are

1 not following the procedure.

2 I only submitted concerns because I felt we
3 were living a lie, saying one thing in our manual, but in
4 reality doing something else.

5 He goes on.

6 Mr. Ross said that it was you, Mr. Van Doorn,
7 that told him that his rights were protected under 10 CFR
8 Part 50 after he tried to go to Mr. Allum and get an answer
9 about what the NRC rules were protecting the rights of
10 employees who complained about safety problems, and got no
11 answer from Duke management.

12 He came to you and asked you, and that you
13 told him that his rights were protected under 10 CFR 50,
14 a provision on its face, which protects NRC inspectors,
15 NRC employees.

16 Now, did he come up to you and tell you that?

17 MR. JOHNSON: We object to that characterization
18 of the regulation. It is 50.7 that deals with this. It
19 doesn't only apply to NRC inspectors.

20 MR. GUILD: Protection of inspectors.

21 JUDGE KELLEY: Well, we have an objection here --

22 MR. GUILD: The substance is what I'm
23 interested in.

24 JUDGE KELLEY: Just a minute, Mr. Guild. I
25 want to make sure I have the objection. You can finish up

1 this line in a few minutes. I want to make sure we are
2 straight on what the question is. Your objection, restate
3 it.

4 MR. JOHNSON: Well, his characterization was
5 that the provision that Mr. Ross is referring to only
6 applies to NRC.

7 JUDGE KELLEY: The cite is 50.7 in Appendix B?

8 MR. JOHNSON: No. It is regulation 10 CFR,
9 Section 50.7.

10 MR. MC GARRY: Page 388.

11 JUDGE KELLEY: Thank you. Just a moment.

12
13 10F fols.

10F-C-1

1 JUDGE KELLEY: Mr. Guild, could you reframe
2 the question?

3 BY MR. GUILD:

4 Q Counsel has shown me 50.7. Is that the
5 authority you referred Mr. Ross to? Do you recall?

6 A (Witness Van Doorn) I believe I informed
7 Mr. Ross of 50.7. I think something in the two ten.
8 I received a specific package from the regional office, and
9 I don't remember exactly what was entered. I think maybe
10 the NRC form 3, or something, might have been in there as
11 well. And I did pass on to Mr. Ross several documents, one
12 of which I specifically remember was, at least, a reference
13 to 50.7 regarding --

14 Q Did you show him this?

15 A I showed him this.

16 Q This is an attachment to Mr. Dressler's
17 testimony, Form 3, right?

18 A I believe I may have given him a copy of that
19 as well. I think I already had that form posted.

20 Q Posted on bulletin boards?

21 A Yes.

22 Q But the section that I showed him on cross-
23 examination, it is my understanding of his answer -- please
24 correct me -- but his answer, I thought, said that:
25 Mr. Van Doorn pointed out protection of inspectors that

1 appears on Form 3.

2 Now, I read that. I frankly read that to
3 apply to employees of the Nuclear Regulatory Commission
4 who were inspectors. Is that the provision you discussed?

5 A Primarily, I referred him to .7.

6 Q Did you show him a copy of 10 CFR?

7 A I believe I gave him a copy of 50.7, a large
8 issue -- it's issued in different ways. I think I gave him
9 a large binder-sized, 8 by 10.

10 Q You showed him .3?

11 A I don't remember showing him that in particular,
12 Mr. Guild. I do remember 50.7 as being the key thing that I
13 pointed out to him.

14 Q Let me get you to describe, sir, what Mr. Ross
15 came to you about. What did he say? He described his end
16 of the conversation, as I recall. He said to you --

17 MR. JOHNSON: Mr. Van Doorn believes that he
18 is not permitted to say whether Mr. Ross came to him on
19 his own.

20 MR. GUILD: I appreciate that, Mr. Chairman.
21 If I can ask the witness to reflect on the testimony of the
22 witness, Mr. Ross, was that he talked to Mr. Van Doorn on
23 the subject. It did not come from Mr. Van Doorn's mouth
24 to confirm that I heard the witness say that. I believe
25 that to be the truth.

1 BY MR. GUILD:

2 Q Can you tell me about the conversation on
3 this subject? Don't tell me about any hardware complaints
4 or anything else. I want to know about the issue of
5 retaliation and what you had to say to him about it.

6 A (Witness Van Doorn) I specifically asked
7 Mr. Ross about his concern for retaliation and, well,
8 along with instructing him that he is protected. I asked
9 him for some details.

10 I did some level of review of his personnel
11 file that would be extraneous to my conferring with
12 Mr. Ross.

13 I documented that conversation, the fact that
14 he didn't -- he did feel discriminated against, and that it
15 may at least in some way tie into 10 50 CFR .7. I
16 forwarded that information to the regional office.

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1 Q When did that happen, Mr. VanDoorn? Give me
2 an idea of the time.

3 A (Witness VanDoorn) Some time ago, Mr. Guild.

4 Q In 1982?

5 A (Witness VanDoorn) Prior to this hearing.

6 Q I am sorry, prior to?

7 A (Witness VanDoorn) Prior to the beginning
8 of this hearing.

9 Q Right, prior to the testimony in the hearing.
10 Was it in 1983 or 1982?

11 MR. JOHNSON: Let me just clarify for a second.
12 Are you referring to this testimony which you read?

13 MR. GUILD: I am referring to Mr. Ross' oral
14 testimony where he clarified this point. When I asked
15 him about that citation, he said he got it from Mr. VanDoorn,
16 that he had to go to Mr. VanDoorn to get advice about what
17 his rights were since Mr. Allum never responded in substance
18 to his request for information as to those rights.

19 BY MR. GUILD:

20 Q Do you recall the testimony?

21 A (Witness VanDoorn) I believe Mr. Ross did say
22 something to that effect. I forget what it was that was
23 said, but I believe he said he got some stuff from me, and
24 this was it.

25 Q When did that happen? Let's try and pin that

1 down if you can recall and give us a time frame. Was it
2 after he filed his recourse about retaliation?

3 A (Witness VanDoorn) I believe it is after he
4 filed his recourse with the company, or it may have still
5 been going on. I don't recall the exact dates.

6 Q In the spring of this year?

7 A (Witness VanDoorn) That is possible. I was
8 after I had conducted my welding inspector review and prior
9 to this hearing.

10 Q And prior to your testimony being prepared for
11 this hearing?

12 A (Witness VanDoorn) Yes, that is correct.

13 Q What I am driving at is you were aware of
14 Mr. Ross' version of the circumstances and his charge of
15 retaliation before you prepared your testimony?

16 A (Witness VanDoorn) Well, I am not sure of that.

17 Q Well, what are you in doubt about knowledge at
18 the time you prepared your testimony?

19 A (Witness VanDoorn) I am in doubt about whether
20 I talked to Mr. Ross about his discrimination charge at
21 the time I prepared my testimony. I don't recall the
22 exact timing.

23 Q Okay. Let's assume that you had and that you
24 learned about Mr. Ross' retaliation, the detail, and you
25 talked to him at the time prior to preparing your testimony.

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1 A (Witness VanDoorn) I think it was prior, to the
2 best of my recollection.

3 Q You think that your meeting was prior?

4 A (Witness VanDoorn) I think so.

5 Q Let's see if we can put two and two together
6 to solve the problem. Mr. Ross' testimony was prefiled
7 the same day yours was, the 23rd of September, or or about.

8 A (Witness VanDoorn) Yes.

9 Q This is September 23rd, right?

10 A (Witness VanDoorn) Yes.

11 Q And he cites that 10 CFR 50 which he says he
12 got from you which implies strongly that you gave it to
13 him before the 23rd of September when you wrote your testimony.

14 A (Witness VanDoorn) Yes, I think that is correct.

15 Q Let's assume that is true then. Now ---

16 JUDGE KELLEY: I point out that your time your
17 time has expired and would you wrap up.

18 MR. GUILD: Yes, sir.

19 BY MR. GUILD:

20 Q So in light of the senior man who expressed
21 concerns to Duke Power Company, Mr. G. E. Ross, first-level
22 supervisor with all the history we know, the first welding
23 inspector supervisor on the Catawba site and at McGuire
24 before that and thought of pretty highly by the large
25 number of people who worked for him and around him, in light

11-4

1 of him telling you that he had been retaliated against for
2 expressing his concerns to Duke, is it your testimony still
3 that it is appropriate to give Duke credit for having
4 identified the concerns of G. E. Ross and others?

5 A (Witness VanDoorn) Yes.

6 MR. GUILD: Mr. Chairman, with that I have
7 no further questions.

8 JUDGE KELLEY: Let's take five minutes and then
9 we will proceed with the staff.

end 11

10 (Short recess.)

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1 JUDGE KELLEY: Okay, we've allotted an hour and a
2 half for Staff, and given Mr. Johnson's efficiency and
3 instinct for the jugular, he undoubtedly won't take that
4 long.

5 MR. JOHNSON: I appreciate the comment.

6 REDIRECT EXAMINATION

7 BY MR. JOHNSON:

8 Q I want to hand out a set of documents, one page of
9 which is attached, and is in fact, I think it is Palmetto
10 Alliance Exhibit 118.

11 It's entitled U. S. Nuclear Regulatory Commission
12 and it's dated April 2, 1980, SSINS N O. 6870, and it's
13 entitled Safety Suggestions from Employees, and it's
14 referred to as IE Information Notice No. 80-14.

15 Mr. Maxwell, are you familiar with that document?

16 A (Witness Maxwell) Yes, I am.

17 Q Would you read it for the record?

18 Read the text of it for the record?

19 A Yes.

20 It's titled Safety Suggestions from Employees.

21 "On February 29, 1980, the NRC Office of Inspec-
22 tion and Enforcement issued an instruction tp NRC inspectors
23 on the handling of safety suggestions received from
24 licensee employees during inspections. A copy of the
25 instruction, Temporary Instruction No. 1210/1, is enclosed.

1 "The purpose of this instruction is to reaffirm
2 to inspectors that they must be sensitive to the safety
3 concerns of employees. We encourage employees to
4 attempt resolution of their safety concerns through the
5 normal communication channel to their supervisors and
6 managers. Nevertheless, there are instances where an
7 employee apparently feels more comfortable expressing his or
8 her concerns to an NRC inspector. In these cases, the
9 inspector will follow the practices described in the enclosed
10 instruction.

11 "We suggest that licensees post this Information
12 Notice and the enclosed instruction in an area where employees
13 can read them."

14 Q Okay, thank you.

15 Mr. Maxwell, was this Information Notice 80-14
16 posted at the Catawba site when you there as a resident
17 inspector?

18 A Yes, sir, it was.

19 MR. JOHNSON: I would request this exhibit--this
20 document be marked Staff Exhibit No. 11 and received as
21 such.

22 JUDGE KELLEY: Marked and received.

23 (The document referred to was
24 marked Staff Exhibit No. 11 for
25 identification and received.)

1 WITNESS VAN DOORN: I guess I do need to correct
2 my testimony, Judge Kelley; I believe I stated I didn't
3 think this temporary instruction was disseminated; and
4 apparently I was mistaken.

5 It was disseminated along with this information.

6 I based that certainly on--typically temporary
7 instructions aren't part of our inspection; and they do not
8 get disseminated. So this was an unusual situation, where
9 we apparently did disseminate that temporary instruction.

10 BY MR. JOHNSON:

11 Q Okay, Mr. Maxwell, I believe yesterday you were
12 asked by Mr. Guild several questions about your--what was it
13 called?--a cleanliness, housekeeping, inspection performed
14 in I believe it was June 1980?

15 A (Witness Maxwell) May.

16 Q May 1980?

17 And that document was, I mean that inspection was
18 documented in Inspection Report 80-12?

19 A That's correct.

20 Q Okay.

21 MR. JOHNSON: I would move that this inspection
22 report 80-12, which was previously submitted as Staff
23 Exhibit 3, be moved into evidence. It was previously moved
24 and it was subject to an objection.

25 I think that objection was to the purpose for which

1 it was offered, and sponsorship by Mr. Maxwell having been
2 procured by virtue of Palmetto Alliance's cross-
3 examination and his ability to verify the report and to talk
4 about what it was.

5 MR. GUILD: Mr. Chairman, we now understand the
6 context. We think that the nexus with Mr. Hoopingarner
7 which is some, but--I won't restate--but, I now understand
8 the context; and I withdraw my objection previously stated.

9 JUDGE KELLEY: Thank you.

10 Exhibit received.

11 MR. JOHNSON: Thank you.

12 (The document referred to,
13 previously marked Staff Exhibit
14 3 for identification, was
15 received in evidence.)

16 BY MR. JOHNSON:

17 Q Mr. Van Doorn, when we started Staff's case, we
18 presented a document, Inspection Report 50-413-82-21, and
19 50-413-82-19; this was an inspection report which decided
20 some problems dealing with evaluations of nonconforming
21 items that you were responsible for writing?

22 A (Witness Van Doorn) Yes.

23 Q Okay.

24 Now, this was a document Staff submitted to
25 connect with the NCI evaluation team, which Duke Power Company

1 initiated as a result of these violations?

2 A Yes, that's the connection.

3 Q Now, going back to the Inspection Report 80-102,
4 which identified the various problems with respect to the
5 clarity and completeness of NCI documents and the documenta-
6 tion process, and the resolution process, you followed up on
7 that in the course of approximately two years that you
8 stated in which you did 100 percent of review of Duke's
9 NCI's?

10 Is that correct?

11 A That's correct.

12 Q Okay. During that time to the extent that you
13 found that they weren't, as you said, perfect, you cited them
14 for violations with respect to certain items?

15 A Yes, I did.

16 Q Okay.

17 Now, after these violations were cited in
18 Inspection Report 82-2182-19, were there any further
19 citations of Duke Power Company for improper documentation
20 and evaluation of NCI's?--by you?

21 A That was the last I recall in my series. Once the
22 task force for NCI review--the task force we discussed
23 earlier--Mr. Bradley's task force--was implemented, I did
24 not identify further problems in handling of NCI's.

25 Q Okay.

1 A But after that date I did not find problems.

2 Q Thank you.

3 Mr. Bryant, yesterday you were asked to comment
4 on inspection report 8102, some pages or some references in
5 there, 8102 is an attachment to Mr. Van Doorn's testimony.
6 Let's see if I can get the page for you.

7 With specific reference in the cross-examination
8 by Mr. Guild--would you turn to page 6 at the bottom?

9 It's section c, Management Accessibility to
10 Employees, subparagraph 2. Freedom to Express Opinions?

11 A (Witness Bryant) Yes.

12 Q It states there, Duke Procedure Q1 states that
13 all employees are required to report conditions adverse to
14 quality; there was evidence that employees are encouraged
15 to take any problems to their supervision and to higher
16 supervision if they feel they need.

17 And it seems to me there were other similar
18 references in this report; and you were questioned whether
19 you would amend or alter your--or the conclusion therein,
20 based on an incident that Mr. Guild recounted in which
21 an employee, a welding inspector, had been told by his
22 supervisor that the supervisor was as far as he could go.

23 Do you recall that cross-examination?

24 A Yes.

25 Q I am going to show you Palmetto Alliance Exhibit

1 38; and I want to represent to you that--well, I'll read
2 part of this document, the third paragraph that says--this
3 is a letter from John Rockholt (phonetic) to W. H. Bradley,
4 and it says in part:

5 "I told Larry that I fully intended to do everything
6 in a professional manner according to all company policies,
7 and they wanted to talk to Mr. Owen. Larry told me that if
8 I didn't do as he said, I was headed for real problems; he
9 said he wanted to make sure I understood that; and I told
10 Larry I questioned decisions that had been made by myself
11 and others, and wanted to assure myself that people above
12 Mr. Wells were aware of the overall situation."

13 What is the date on that document?

14 A January 13, 1982.

15 Q Thank you.

16 And what was the date of the inspection report
17 8102?

18 A The report was issued April 10, 1981, the dates of
19 inspections were January 26, February 6, 1981.

20 Q Did Region II attempt to contact Messrs.
21 Hoopingarner and McAfee in order to obtain more information
22 about their concerns earlier this year?

23 A Yes.

24 Q I'm sorry, let's see, was it this year? No, it was
25 last year?

1 In the summer, I believe, the summer and fall
2 of 1982?

3 A I don't recall the date.

4 There were attempts to contact Mr. McAfee,
5 and early--I don't recall--comes to mine 1980--were not
6 successful. They did not contact him.

7 Then there was a--contacts were made with them
8 by the investigators--and now the date escapes me; I read
9 the letter, a letter to--by the Office of Investigations to
10 --I believe from the Office of Investigations in
11 Washington to Harold Denton--there were several names
12 involved, in which a contact was made with Mr. McAfee
13 and Mr. Hoopingarner.

14 Q Did this occur in approximately August and
15 September 1982 to the best of your recollection?

16 A That's my recollection; yes.

17 Q And what was the outcome of those contacts with
18 Mr. Hoopingarner and Mr. McAfee?

19 A Mr. McAfee said that he had presented his
20 testimony at a hearing. I assume he was speaking of a
21 prehearing conference at that time, that is--and he did not
22 want to talk to any investigators.

23 Mr. Hoopingarner said that he had given all he
24 had, at that time; that he had no further information; that
25 he would--I believe he said he'd probably testify

1 for Palmetto Alliance. He had no further information.

2 Q And what was the purpose of those communications?
3 Why was NRC trying to talk to Mr. Hoopingarner and Mr.
4 McAfee; do you recollect?

5 A To see if there were any claims to investigate,
6 anything that an investigation should be--should be launched.

7 Q Did--was this a follow-up to requests by the
8 Licensing Board in this case to follow-up on the charges that
9 Mr. McAfee and Mr. Hoopingarner made in connection with the
10 initiation of this case at a prehearing conference, in respect
11 to the allegations made?

12 A Yes, that was my understanding; and if I'm recall-
13 ing correctly, it was a response to Mr. Denton on the
14 request.

15 MR. GUILD: Mr. Chairman, let me make a statement:
16 Mr. Hoopingarner and Mr. McAfee were acting under my
17 instructions at the time.

18 MR. JOHNSON: I don't think this is an appropriate
19 time for Mr. Guild to start making a statement.

20 MR. GUILD: I'd like to make a statement. They
21 are my clients.

22 JUDGE KELLEY: Gentlemen, just a moment.

23 MR. GUILD: Mr. Chairman, they were acting pursuant
24 to my advice.

25 MR. JOHNSON: I object.

1 JUDGE KELLEY: Mr. Guild, you will be allowed
2 to make a statement after Mr. Johnson finishes.

3 BY MR. JOHNSON:

4 Q So, Mr. Hoopingarner and Mr. McAfee refused to be
5 interviewed?

6 MR. GUILD: That's incorrect, and I object.

7 JUDGE KELLEY: Mr. Guild, just wait for your
8 turn.

9 MR. GUILD: I object. It is an incorrect statement.
10 And I respect the Chair's ruling and will make my statement
11 later--

12 JUDGE KELLEY: Well, if you respect it, then,
13 just cool it.

14 MR. GUILD: But it is factually wrong, and I move
15 that it be stricken. It is not true.

16 JUDGE KELLEY: Motion denied.

17 Mr. Guild, wait your turn.

18 MR. GUILD: I object, Mr. Chairman.

19 WITNESS BRYANT: According to that letter, for
20 whatever reason, the gentlemen declined to be interviewed,
21 to be contacted by Office of Investigations.

22 BY MR. JOHNSON:

23 Q Thank you.

24 Mr. Bryant, based on your review of the records,
25 of the events surrounding the termination of Mr. Hoopingarner

1 is it your opinion that he was fired for having expressed
2 concerns to management to the NRC?

3 A (Witness Bryant) No, sir. He was fired for
4 failing to come to work, on two consecutive days, I believe,
5 when he had been told to report to work.

6 Q Okay.

7 I am referring now to your testimony of Friday,
8 December 2nd, last week, in which we discussed your
9 professional qualifications.

10 You said that you had 30-plus years since you
11 finished school you spent in construction, inspection, or
12 inspection and operation of nuclear reactors, and that
13 at Savannah River you spent several years inspecting
14 construction work, and writing acceptance tests for--

15 MR. GUILD: Objection, Mr. Chairman. It's
16 asked-and-answered.

17 There's no need for counsel to read from the
18 transcript a question he's already asked the witness.

19 JUDGE KELLEY: He may be working up to a question.

20 MR. JOHNSON: I am, I'm working up to a question.

21 BY MR. JOHNSON:

22 Q In short, you outlined your many years of
23 inspection experience and in construction and operation of
24 nuclear reactors; that's correct, isn't it?

25 A (Witness Bryant) Yes.

1 Q Okay.

2 I want to go to your testimony dealing with the
3 flooding of diesel generators; could you briefly describe
4 what steps you took at the time or during the period from the
5 time the event which I believe was September 1979, to the
6 present, to acquire information with regard to the events
7 that occurred there, the status of the diesel generator room,
8 and the diesel generators and the corrective actions that
9 were taken?

10 A As I believe we've already gone over, I discussed
11 with Mr. Hunt, when he returned from his inspection; he
12 was on the site October 2nd and 3rd.

13 I believe the incident occurred on the evening
14 of September 29th and 30. Duke informed us on the 1st of
15 October. And Mr. Hunt was there on the 2nd and the 3rd.

16 I discussed with him, when he got back, findings;
17 received his belief that the corrective action as outlined
18 was satisfactory.

19 And later in 1980, Mr. Hunt went again to the site
20 and looked at corrective action that had been taken to that
21 time, looked at the status of the generators; and they were
22 the diesel generators; and saw that they were protected,
23 kept warm.

24 In September of 1983, I went to the site with
25 two men, and I asked Mr. Gibbons, who is an electrical

1 engineer, to review the diesel generator corrective action,
2 review the incident, and tell me about it; which he did.

3 And he--

4 MR. GUILD: Mr. Chairman, I want to make an
5 objection at this point.

6 He can--the witness can tell what someone else did,
7 but now he's going to tell us what Mr. Gibbons said to him.
8 And that is--goes to the heart of our hearsay objection,
9 that makes Mr. Bryant's testimony, with all respect, subject
10 to our motion to strike, which is pending, because of his
11 lack of personal knowledge.

12 He's incapable of expressing--he's unqualified
13 to express the opinion that he does, that there's no
14 safety significance, whatever paraphrase the question is--
15 because it's founded only on what other people have said
16 to him.

17 Now, this is where he's beginning to relate what
18 someone else has said; and I object.

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1 MR. JOHNSON: Well, see, what I am trying to
2 do, with all due respect to counsel, is to establish what
3 is the basis of the testimony, and it seems to me that what
4 we are trying to show here is that, first, the facts that
5 Mr. Bryant had at his disposal in making his evaluation;
6 and, secondly, the nature of his evaluation was as an
7 expert reviewing the facts.

8 And it seems to me for this purpose, a general
9 discussion of what he did, is appropriate.

10 But I am prepared to approach it in a
11 different direction, perhaps, move it along faster.

12 JUDGE KELLEY: What is the pending question
13 again?

14 MR. GUILD: It wasn't a question. It was what
15 he did. He began to say: Mr. Gibbons. Then he said what
16 I objected to.

17 MR. JOHNSON: I will handle it a different
18 way, to speed it up.

19 JUDGE KELLEY: Go ahead.

20 BY MR. JOHNSON:

21 Q With respect to the corrective actions that
22 Duke Power Company undertook as a result of this
23 September '79 flooding of the diesel generator room, the
24 NRC, per Mr. Hunt, reviewed, during the inspection of
25 July 28, 1980, corrective steps that were to be undertaken

1 pursuant to the construction procedure -- let's see --
2 construction procedure -- it was a procedure that was
3 created pursuant to the NCI to clean up the die generator
4 room; is that correct?

5 A (Witness Bryant) Yes.

6 Q It says here on Page 2 of the report, 80-19 --
7 JUDGE KELLEY: Is that something that has
8 been in evidence?

9 MR. JOHNSON: Yes, sir. Palmetto Alliance
10 exhibit.

11 MR. GUILD: Wait a second now.

12 MR. JOHNSON: Number 107.

13 MR. GUILD: May I have a moment, Mr. Chairman?
14 That Exhibit 107, this is my citation, that
15 Mr. Johnson is repeating from it a second time.

16 MR. JOHNSON: I object to that
17 characterization.

18 MR. GUILD: It is in fact a September 29, 1980
19 letter from Mr. Borsch to Mr. Hoopingarner. It has nothing
20 to do with diesel generators.

21 MR. JOHNSON: It is attached to that document.
22 I think it is clear that is what it is.

23 MR. GUILD: The point, Mr. Johnson, is that
24 this witness --

25 MR. JOHNSON: My time is being eaten up.

1 JUDGE KELLEY: I am going to interrupt.

2 MR. GUILD: I have an objection.

3 JUDGE KELLEY: I am going to talk to you a
4 minute, and you are going to listen.

5 You are looking at what number?

6 MR. JOHNSON: 80-19.

7 JUDGE KELLEY: We went through this the other
8 day. First, you are referring to something like 107 was
9 one. The next thing we know it was 107, 106. This
10 shouldn't be a big deal. Surely we can find out what the
11 number is.

12 MR. GUILD: We now know what the number is.
13 The point is --

14 JUDGE KELLEY: Tell me what the number is.

15 MR. GUILD: I don't want this presented by
16 Mr. Johnson.

17 JUDGE KELLEY: Mr. Guild --

18 MR. GUILD: Number 106 is the letter that I
19 just described to you.

20 JUDGE KELLEY: If this is a Palmetto Alliance
21 exhibit, I would like to know what number it is.

22 MR. GUILD: Yes, sir. Let me show it to you.
23 It is 107. It was offered to reflect the correspondence by
24 Mr. Borsch to Mr. Hoopingarner.

25 Now, the objection is as to --

1 JUDGE KELLEY: Mr. Guild, let me look at it
2 just a minute.

3 MR. GUILD: He does have it attached to it.

4 MR. JOHNSON: So what are you objecting to?

5 MR. GUILD: If you give me a chance, I will
6 state it.

7 MR. JOHNSON: You're eating up my time.

8 JUDGE KELLEY: Mr. Johnson, we have tried to
9 adjust to such things. I think we have done fairly well on
10 the whole. You have an objection. Wait until it is
11 resolved. What is the objection?

12 MR. GUILD: My objection is that the point
13 that he is directing to the witness's attention is
14 objectionable. It is Mr. Hunt's inspection report. Again,
15 it is just because Mr. Hoopingarner said: I have got this
16 correspondence back from NRC for my concerns that aren't
17 in issue at Page 2, the diesel generator room, clean-up,
18 counsel can't then go to that portion of the report that
19 has been objected to because of the hearsay objection as to
20 Mr. Bryant and get it in by the back door.

21 JUDGE KELLEY: I have a simple question.
22 When this exhibit was introduced by Palmetto, it was 107,
23 right?

24 MR. GUILD: It is the number on it, Mr.
25 Chairman.

13B-c-1

1 JUDGE KELLEY: When it came in it was offered
2 and admitted. Was it offered and admitted for a limited
3 purpose, or just generally? I don't know the answer.

4 MR. GUILD: It was offered in support of
5 Mr. Hoopingarner's testimony that the NRC did not follow up
6 his concerns, Judge.

7 JUDGE KELLEY: I am not asking for the context
8 in which it was offered. I don't care about the context.

9 I am asking whether it came in for a limited
10 purpose or whether it came in for any purpose.

11 MR. GUILD: It came in for the purpose I just
12 offered. Rick Hoopingarner was on the stand. He said that
13 Borsch wrote him this letter. I object to Mr. Bryant being
14 questioned by his lawyer on a matter we have objected to
15 and resolved a day ago, and this is the hearsay content
16 of that inspection report from Mr. Hunt about what Mr. Hunt
17 saw at the diesel generator, not Mr. Bryant's.

18 JUDGE KELLEY: Well, gentlemen, if you want a
19 ruling on this objection right now, we are first going to
20 have to find the transcript point where this document was
21 let in. If it takes a minute, it will take a minute.

22 MR. JOHNSON: Mr. Guild mischaracterized the
23 record. This document was admitted without objection when
24 it was offered by Mr. Guild.

25 And the hearsay matter pertained to another

1352
1 report.

2 JUDGE KELLEY: Have you got a citation?

3 MR. MC GARRY: It was marked for
4 identification at Page 7762, Your Honor. We are looking
5 for the place where you admitted it.

6 MR. GUILD: Judge, I have a hearsay objection
7 to this portion of the report that deals with diesel
8 generators.

9 JUDGE KELLEY: Your objection in that regard
10 is crystal clear. You don't have to explain it to me. I
11 get the picture.

12 MR. GUILD: And you ruled for me, Judge.

13 JUDGE KELLEY: Not on this. I ruled on 79- --
14 whatever it was.

15 MR. GUILD: This is the steam generator.

16 JUDGE KELLEY: I don't think it was the same
17 one.

18 MR. GUILD: Can I have my copy of that, Judge?
19 I will see if I can solve this problem. Thank you, sir.

20 JUDGE KELLEY: What we need is a ruling.

21 MR. CARR: The next page of the transcript,
22 I am checking that now.

23 JUDGE KELLEY: Well, while we are looking at
24 that, let me make sure I am right about one thing. Maybe I
25 am wrong.

1 Our ruling, if I am not mistaken, went to one
2 report, and it was 79- -- I think it was 12.

3 MR. JOHNSON: Yes.

4 JUDGE KELLEY: That was yesterday.

5 MR. JOHNSON: Two reports.

6 JUDGE KELLEY: That's the Hunt report.

7 MR. JOHNSON: It is a different report, sir.
8 It is not the same report.

9 JUDGE KELLEY: That, Mr. Johnson, is precisely
10 what I am trying to clarify because Mr. Guild is telling me
11 it is the same report.

12 MR. JOHNSON: That was 79-18. That was
13 exclusively the report of Mr. Hunt's initial visit and the
14 inspection in the diesel generator room in the fall of 1979.

15 JUDGE KELLEY: Are they both by Mr. Hunt?

16 MR. JOHNSON: Yes, they are.

17 JUDGE KELLEY: All right.

18 MR. GUILD: Mr. Chairman, if this is a second
19 report from Mr. Hunt on the diesel generator incident, and
20 I misspoke about it being ruled on previously, because I
21 thought it was the same one, then I would like to apologize
22 for my misspeaking my objection. My objection is the same,
23 though.

24 The objection is it is Hunt's knowledge of the
25 diesel generator incident, not Mr. Bryant's.

1 And we could do it either one of two ways.
2 We can object and keep the matter out by the question
3 that is now pending, or move to strike that portion of that
4 inspection report now that counsel is seeking as substantive
5 evidence to lard in the record through Mr. Bryant, what
6 another man, Mr. Hunt, found, who is not available for
7 cross.

8 So either way, I object to the question as
9 pending to elicit hearsay from Mr. Bryant, or I move to
10 strike that portion of 79 -- whatever it is.

11 MR. JOHNSON: It seems to me it is entirely
12 improper. This is Mr. Guild's exhibit. It was offered.

13 MR. GUILD: 80-99.

14 JUDGE KELLEY: Mr. Johnson, if you could
15 demonstrate that to me, we would all know. Mr. McGarry is
16 looking for it. He hasn't found it yet.

17 Now, Mr. Guild says it is offered for a limited
18 purpose. You say it wasn't. Neither of you can show me the
19 transcript. Where does this leave me? Might as well take
20 five minutes.

21 (Recess)

22 JUDGE KELLEY: All right. Gentlemen, here is
23 just how we see the present situation. What we would rather
24 do is get a fix for this afternoon so we can move along.
25 We think that is possible.

1 Here is our understanding. We now have this
2 exhibit referred to. It is 80- -- Palmetto Exhibit 107?

3 MR. GUILD: That's true.

4 JUDGE KELLEY: Now, there is a dispute between
5 counsel as to when this document was previously admitted.
6 It was admitted for a limited purpose, or just admitted
7 generally for evidentiary purposes.

8 We have asked counsel to find some transcript
9 citation. They have done that. We appreciate that.

10 The action occurred on November 17, November
11 18. We have just been referred, first, to the transcript
12 cite when it was marked at Page 7762.

13 And then, along about 1974 to 77, that
14 document and some other documents were ruled upon.

15 Now, I understand, Mr. Guild, we haven't
16 heard from you in full, but I understand your position, and
17 I will paraphrase it.

18 That it is in for some limited purpose, and
19 ought not be regarded as in for general purposes. I don't
20 know how much chance you have had to look at the transcript.
21 Do you think there is a place in there somewhere where it
22 says that in so many nice, clear words, or is your
23 argument a contextual one?

24 MR. GUILD: Both, Judge. It requires us to
25 put the matter in some context of when Mr. Hoopingarner was

138-6
1 on the stand, and what the subject was being talked about.

2 I take the position, as you characterize it,
3 that it was offered for a limited purpose, and you have to
4 read the whole section of the transcript about when the
5 initial objections were made, that documents relating to
6 Mr. Hoopingarner's termination and his complaints to the NRC,
7 to understand that limited purposes for which it was
8 offered.

9 JUDGE KELLEY: Well, I think we can undertake
10 to read the sections between the marking and the admittance,
11 and we can go over that tonight, probably, by tomorrow.

12 Then we can, if we decide that it is for
13 some limited purpose, then you have your objection pending.
14 We will hear that.

15 If we decide that it is in for general
16 purposes, then, presumably it is in for whatever anybody
17 wants to cite it for.

18 Then Mr. Johnson prevails.

19 But it is a matter of reading this transcript
20 and deciding that, and I think we understand both sides.

21 What we would like to do this afternoon is,
22 Mr. Johnson was on the verge, I believe, of asking some
23 questions about this exhibit.

24 We would like to let him do it on an offer-of-
25 proof basis subject to whatever we rule, I hope, tomorrow,

1 on the point.

2 MR. GUILD: May I do this? I think that is a
3 fine way of approaching it.

4 I have a motion to strike that portion of
5 the inspection report 80-19, which is Mr. Hunt's work on
6 the diesel generator matter that appears at Page 2, Item C,
7 on the grounds of hearsay.

8 Then, any responses of the witness that are of
9 that same character, that are hearsay responses of what
10 Mr. Hunt told him, or what he got from the report --

11 JUDGE KELLEY: 80-19 is also 107?

12 MR. GUILD: Yes, sir. That portion of 107 of
13 Mr. Hunt on the diesel generator, that I have a motion to
14 strike that and the testimony that will follow. I think
15 if you read the context overnight, that will be fine.

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1 JUDGE KELLEY: Let's do it that way.

2 MR. JOHNSON: I would like to say that, one,
3 I think it is improper. If it was admitted for all
4 purposes, it is improper to move to strike any portion of
5 it now.

6 JUDGE KELLEY: All right.

7 MR. JOHNSON: And second of all, I am not
8 trying to offer this document at all.

9 It is in evidence now. Therefore, it is not
10 appropriate to suggest that it is an offer of proof.

11 All I want to do is use it as an aid in
12 cross-examination.

13 JUDGE KELLEY: You are assuming the result of
14 our review.

15 It has been argued to us it is not for general
16 purposes. We have to assume that is so until we decide it.

17 MR. JOHNSON: My ability to question is based
18 on, it seems to me -- is not based on it being in evidence
19 at all. I can ask a question on a document that is not in
20 evidence.

21 MR. GUILD: Then, I would object to the
22 hearsay character of the question to avoid all that.

23 MR. JOHNSON: I haven't asked any questions
24 yet.

25 MR. GUILD: It is pending the hearsay

130-2
1 objection.

2 JUDGE KELLEY: We are going to treat the whole
3 thing, the status of the document, we will decide based on
4 the transcript from sometime back. The questions are
5 coming in right now as an offer of proof, the questions and
6 answers.

7 MR. JOHNSON: I can ask these questions without
8 the document.

9 BY MR. JOHNSON:

10 Q Mr. Bryant, are you familiar with the steps
11 that are undertaken in order to satisfy the procedure that
12 was preceded pursuant to the NCI that was written on the
13 flooding of the diesel generator room?

14 A (Witness Bryant) I have reviewed that.

15 Q Can you tell me what those steps were to the
16 best of your recollection?

17 A The limitations to -- with all the jargon, may
18 I refer to something, a review of one of my inspectors?

19 MR. GUILD: Tell us what you are referring to.
20 May I ask that the record reflect, Mr. Chairman, what the
21 witness is refreshing his recollection from?

22 THE WITNESS: I am not refreshing. You can
23 have this, if you want. It is 11-02.

24 BY MR. JOHNSON:

25 Q Can you describe what was done without

1 refreshing your recollection?

2 A (Witness Bryant) I don't have anything here
3 to refresh it with. My question was: May I address my
4 discussion with Mr. Hunt at all about the steps, or must I
5 use only other information?

6 Q I just asked you a specific question: Could
7 you please describe the steps that were undertaken as
8 corrective action after the flooding of the diesel generator
9 room which Mr. Hunt --

10 MR. JOHNSON: I represent to the Board that
11 Mr. Hunt inspected against, or that were being followed up
12 by inspectors, other than Mr. Bryant, but Mr. Bryant is
13 familiar with, and I would like him to express what those
14 were.

15 WITNESS BRYANT: I had discussions first with
16 Mr. Hunt. I later reviewed the procedures myself, and that
17 is the basis of my information. I reviewed the letter, the
18 report -- you don't want me to go into --

19 BY MR. JOHNSON:

20 Q The steps.

21 A (Witness Bryant) As I recall them, there were
22 a number of them. They would clean out the base of the
23 diesel generator, treat it as necessary to avoid rust.

24 They would pull, remove all piping that had
25 been in contact with water, bacteria, the exterior, interior,

1 have it cleaned, pickled, treated, returned to the site
2 for that.

3 There were at least three breakers listed
4 that would be replaced because they had been under water.

5 Sequencing circuits to be replaced.

6 The bearing seals on the diesel to be removed
7 once clean conditions had been established, the bearings
8 inspected, the seals inspected, and heat would be applied
9 inside the crank case, in case there was any dampness.

10 The generators, three cables that had their
11 wrap ends submerged would be repulled.

12 The generator had a pedestal bearing pulled,
13 cleaned, refilled with oil.

14 The generator, itself, would be flushed with
15 high-volume low-pressure water.

16 It would be air-dried, warm air, after a tent
17 or enclosure had been built around it.

18 Some material not identified in the head
19 would be passed around between the gap -- between the rotor
20 and the statat, to verify it was clean, clear.

21 The voltagizor, if I recall from the welding
22 machine, would be applied to poles within the generator to
23 apply heat to dry up the coils.

24 The mega reading would be taken on at least a
25 12-hour basis until such time as they reached reasonable

1 readings.

2 All electrical gear would be inspected and
3 replaced if questionable at all. Otherwise cleaned.

4 Several auxiliary pumps were to be removed,
5 returned to the vendor, for rework.

6 Pumps were to be pulled down, stripped. I
7 don't recall if some of those were being shipped off or not,
8 but they were being torn down and examined.

9 Probably more than that, doesn't come -- that's
10 all the steps I can remember at the present time.

11 Q Were you satisfied that the corrective actions
12 that were undertaken were sufficient to restore the diesel
13 generator to an appropriate condition?

14 A Yes. Based, also, on the tests that would be
15 done on the blades.

16 Q It was your opinion based on your review of
17 the inspections of Mr. Hunt -- let me clarify that -- step
18 back for a second.

19 On Page 26 of your prefiled testimony in
20 Answer 49, you say that the inspection began on October 2,
21 1979 as reported in Report Number 5413-414-79-18, 80-19,
22 and 81-08.

23 Did you sign those reports?

24 A Yes.

25 Q Did you review those reports before signing

1 them?

2 A Yes.

3 Q Did you agree with everything in those reports?

4 A Yes.

5 Q Were you responsible for -- were you the
6 supervisor for the purposes of those inspections?

7 A Yes.

8 Q Is it your testimony -- your testimony in the
9 next answer is that the Applicant's corrective actions were
10 adequate; is that correct?

11 A Yes.

12 Q Did you personally write the testimony with
13 respect to this?

14 A Yes.

15 Q Since the time of these inspection reports,
16 did you also go to the site and undertake a review of the
17 records with respect to the flooding in the diesel generator
18 room incident?

19 JUDGE KELLEY: Excuse me, Mr. Johnson. I want
20 to be clear.

21 When we got into the dispute over was it 80-19,
22 we got to where our interim solution of that problem was,
23 and then you were going to ask some questions which you
24 understood was the subject of the motion to strike, but they
25 were related, as I understand it, to -- are you shaking your

1 head? We have a problem? Maybe you don't understand what
2 I am doing.

3 MR. JOHNSON: Go ahead.

4 JUDGE KELLEY: It sounds to me like you have
5 moved beyond 80-19. I thought Mr. Bryant's rather lengthy
6 answer about corrective actions tied in with 80-19. Was I
7 right?

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1 MR. JOHNSON: I was trying to do it
2 independent of the document so that his testimony could
3 stand on its own.

4 There is reference to corrective action,
5 none of the details that he went into are in that report.

6 JUDGE KELLEY: I just want to be clear about
7 that. If I have a pending motion to strike or not.

8 You say you don't think we do?

9 MR. JOHNSON: I don't believe we do. That's
10 why I asked the questions I did.

11 JUDGE KELLEY: I just want to clarify that.
12 All right. Go ahead.

13 BY MR. JOHNSON:

14 Q I was about to ask Mr. Bryant -- Mr. Bryant,
15 you returned to the site during the last several months
16 to do a further record review of the incident, the records,
17 the documentation, corrective action surrounding the flooding
18 of the diesel generator room; didn't you?

19 A Yes.

20 Q Did your investigation of the records at the
21 site confirm your view that the corrective actions were
22 complete and adequate?

23 A I did not personally do it at that time.

24 I had a man with me who did it. We discussed
25 his findings there, and he found them adequate.

1 MR. GUILD: Mr. Chairman, I am refraining
2 from objecting. I could have objected a dozen times.

3 I understood I was preserving my hearsay
4 objection generally. If I can be heard at the end of this
5 line of questioning on that general subject briefly, I
6 won't interrupt Mr. Johnson.

7 MR. JOHNSON: This is the first answer that
8 has anything to do, remotely, with hearsay.

9 MR. GUILD: That's not the case, Mr. Chairman.
10 My hearsay objection goes to every item in this testimony,
11 as far as I can tell, as to the diesel generator subject.

12 But I can simply be heard at the end, it will
13 suit me fine.

14 JUDGE KELLEY: Briefly, at the end.

15 I want to ask a factual question here.
16 Mr. Hunt performed some of these inspections?

17 WITNESS BRYANT: Yes.

18 JUDGE KELLEY: Does he still work for the NRC?

19 WITNESS BRYANT: Yes, sir.

20 JUDGE KELLEY: Where is he? Do you know?

21 WITNESS BRYANT: At Atlanta.

22 JUDGE KELLEY: He works in Atlanta?

23 WITNESS BRYANT: He works from Atlanta.

24 JUDGE KELLEY: Is there any strong practical
25 reason why Mr. Hunt couldn't have come up here and spoken

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1 to these matters?

2 MR. JOHNSON: That is a choice the Staff made
3 that Mr. Bryant was the supervisor, and he was familiar
4 with all of the events involved that the Staff was charged
5 with, addressing a large number of events and charges,
6 allegations by Mr. Hoopingarner, Mr. McAfee, and Mr. Bryant
7 was directly or indirectly involve' with most or all of
8 these events.

9 It seemed appropriate to have him come and
10 testify as an expert on the significance of those charges.

11 JUDGE KELLEY: Conceding all that to be true,
12 is there any strong reason why Mr. Hunt could not have come
13 up here?

14 MR. JOHNSON: He can be here, if the Board so
15 wishes.

16 JUDGE KELLEY: Thank you. Go ahead.

17 BY MR. JOHNSON:

18 Q Mr. Bryant, based on what you know in your
19 experience as an engineer, are you satisfied that corrective
20 action with respect to the flooding of the diesel generator
21 room was adequate?

22 A Yes.

23 MR. GUILD: Does that conclude that subject,
24 counsel?

25 MR. JOHNSON: It does, yes.

13E-4

1 MR. GUILD: Mr. Chairman, I move to strike
2 Mr. Bryant's testimony in toto on the subject of diesel
3 generator. The bottom line is, it has virtually no
4 probative value with respect to the facts that are in
5 dispute about the matter.

6 He did a record review, it is true. He
7 has seen some papers, it is true.

8 But first, his initial information is all
9 hearsay from Mr. Hunt. That is, the three inspection
10 reports we are aware of, second, when it came time to prepare
11 his testimony, he had Mr. Gibbons do the report review.
12 He didn't do the record review that he is now testifying
13 about. That was the final basis for him expressing his
14 bottom-line conclusion that there is no safety significance,
15 and that the corrective action is appropriate.

16 So it is all hearsay. I mean, every bit of
17 it is hearsay. And hearsay in this important public
18 statement impugns its probative value. We really want to
19 get down to the facts of what happened.

20 He can't do it through Mr. Bryant, with all
21 due respect. He just is not in a position to tell us,
22 firsthand, how high the water is, how high the water was,
23 what components were damaged or affected, through personal
24 knowledge, whether or not the corrective action was
25 appropriate or effective. We move to strike all testimony,

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1 essentially, on the same basis as Mr. Dressler's testimony.

2 MR. JOHNSON: Our response to that is there
3 is several distinctions between Mr. Dressler's testimony,
4 his sponsorship of his testimony, his familiarity with the
5 incidents involved, his responsibility for the -- Dressler
6 wasn't able to describe what was done, and he hasn't
7 personally reviewed all the records.

8 And it seems to me that we have here a
9 situation that is an exception to the hearsay rule. I know
10 that the Board has ruled against us in another context
11 on the question of official records, and so on, but it seems
12 to me that in numerous incidences in these proceedings
13 various individuals are required to rely on experts and are
14 called in to testify in these proceedings, and we have to
15 rely on reports to them of fact by others which they in
16 turn make their own judgment.

17 Mr. Bryant is a responsible person. He is
18 intimately familiar with the report. It is true he didn't
19 personally perform the inspections, so he couldn't go to the
20 site at the time the problem occurred to review that
21 problem, but it seems to me that our evaluation stands for
22 what it is.

23 And it should be accepted on that basis. We
24 are not asserting that Mr. Bryant was there personally, but
25 that his review functions were performed in the ordinary

1 course of his responsibilities for Region 2, and that he
2 would not have signed off on those inspection reports for
3 which he was responsible if he had no familiarity with
4 them.

5 And that it is his responsibility for the
6 review of corrective action on its face, and it is quite
7 distinguished from the questions that were raised by
8 Mr. Dressler.

9 I would refer the Board to the transcript,
10 Page 9607, and subsequent pages of which Mr. Guild asked
11 Mr. Bryant detailed questions about the diesel generator,
12 and was able to respond in a way in which Mr. Dressler
13 responded.

14 WITNESS BRYANT: Your Honor, may I correct a
15 misstatement by Mr. Guild?

16 MR. GUILD: Sure. Suits me fine.

17 JUDGE KELLEY: Yes.

18 WITNESS BRYANT: No big deal, your statement
19 was that I didn't do a record review. That is not correct.

20 MR. GUILD: I understood the witness to say
21 that Mr. Gibbons did a review of the records.

22 WITNESS BRYANT: This was not at the same
23 time.

24 MR. MC GARRY: Your Honor, may we be heard
25 briefly? We support the Staff. We don't think that the

135-7
1 subject is governed by the hearsay rule.

2 I think it is quite clear in the NRC practice
3 that the hearsay rule is accepted, and the Board will
4 recognize this, I think, the test as previously argued this
5 morning, I believe, on another matter -- I am a bit
6 confused -- it may have been the same one -- but I think it
7 was a different document, that as long as it is clear that
8 Mr. Bryant has some access to the subject matter, then he
9 should be able to testify.

10 What it boils down to is how much weight
11 this Board gives the testimony. I think aside from his lack
12 of knowledge of the height of the water, I think he did
13 respond to the questions.

14 I agree with Mr. Johnson. A review of the
15 record will reflect that. I don't think that his lack of
16 knowledge as to the height of the water is the key item
17 that supports a motion to strike.

18 Clearly he can ask somebody who was there
19 how high the water was. It is a matter of record.

20 So I think all in all this document clearly
21 should come in.

22 JUDGE KELLEY: Mr. Johnson, do you want to
23 move on to something else?

24 MR. JOHNSON: I just have a couple more
25 questions on this.

1 BY MR. JOHNSON:

2 Q Mr. Van Doorn, based on your review of
3 inspector concerns and testimony that has been presented
4 here, would you say that harassment is a significant
5 problem at the Catawba site?

6 A (Witness Van Doorn) No.

7 Q Do you feel that given the scope of the work,
8 the major of the contacts of various individuals at the
9 site, that the specific enumerated incidents of disagreements,
10 however you want to characterize them, say, between Mr. Reep
11 and Mr. Jones and Mr. Jackson -- between Mr. Reep and
12 Mr. Jones, I think it was -- and similar incidents, were
13 significant in terms of numbers over the period of time, in
14 relation to the volume and amount of work that was being
15 done?

16 A (Witness Van Doorn) No. We would expect a
17 certain amount of those types of confrontations to have
18 occurred. I don't judge that there was an excessive number
19 of them.

20 MR. JOHNSON: Thank you. The Staff has no
21 further questions.

22 JUDGE KELLEY: Anything else?

23 MR. GUILD: No, sir. Yes, sir. If this is
24 the conclusion of the Staff's case, I have two motions.

25 JUDGE KELLEY: Yes. I was going to mention

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1 that.

2 MR. JOHNSON: Subject to the motion to strike
3 of that one portion we move to have that marked and
4 received.

5 JUDGE KELLEY: It is moved to be marked and
6 received.

7 We have a couple other things to do but,
8 gentlemen, Mr. Bryant, Mr. Maxwell, Mr. Van Doorn, we
9 appreciate your attendance. I think Mr. Van Doorn has been
10 here as long as we have.

11 Mr. Bryant, a long time, Mr. Maxwell, a long
12 time too, but we very much appreciate your coming and your
13 attention to the whole thing, your responsiveness to the
14 questions.

15 And with that, you are excused.

16 (Witnesses excused.)

17 JUDGE KELLEY: There are three matters, a
18 renewal of a request for a subpoena on Riley and Lee, and
19 then the third matter is --

20 MR. MC GARRY: The heavy loads.

21 JUDGE KELLEY: Mr. Guild, you made your motion.
22 That was yesterday. You were going to come back and respond
23 to it.

24 Did you speak on that, Mr. Johnson, yesterday?

25 MR. JOHNSON: Yes, I did.

1 JUDGE KELLEY: So we have to hear from
2 Mr. McGarry on that.

3 Why don't we take a little stretch, then,
4 and come back and finish right off? We will set some time
5 frames on that.

6 (Recess)
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1 JUDGE KELLEY: We can go back on the record.

2 We do have one matter that we can speak to now:

3 Yesterday, Palmetto offered as an exhibit a letter
4 from Mr. Dircks to Ms. Garde, I believe, referencing the
5 OI investigation.

6 And in that connection they made a motion that
7 we postpone and defer certain portions, at least, of the
8 case--well, the portions referenced in the OI investigations
9 pending the upshot of those investigations.

10 It seems to us that the motion and the exhibit
11 associated with it raise issues we have ruled on before,
12 and have--we've not accepted the idea that we should
13 tie this case to the OI investigation; and we continue to be
14 of that view.

15 As to the letter, it does refer explicitly to the
16 two investigations, and contains a little, one-sentence,
17 description.

18 But we already have a Board Notification that
19 goes to that; so I think that the parties and the Board are
20 --know that there is an investigation ongoing; and we don't
21 see that the letter really adds anything, once you take that
22 fact into account.

23 And we are going to deny the motion that we
24 postpone the case to await the result of the OI investigations.

25 We did review in that connection the Commission's

1 Statement of Policy on Investigations and Adjudicatory
2 Proceedings, dated August 10, 1983, and it says nothing
3 as we read it, about postponing or waiting for OI
4 investigations.

5 And in view of the existence of the Commission's
6 policy on Conduct of Adjudicatory Proceedings, which we
7 have cited numerous times earlier in this case, which says
8 in effect: finish the proceedings prior to fuel-load, if
9 you can; it seems to us that the idea of waiting for OI
10 to investigate something is contrary to that.

11 And we think we are bound by it, the policy
12 statement as set forth.

13 Under the August 10 policy statement it's up to
14 the Staff or OI to trigger the in camera proceedings if
15 they have to protect some information.

16 And they haven't done that. They might, concei-
17 vably at some later point; although it seems to be late
18 in the day.

19 But in any event, nothing has been done under
20 that policy statement to cause us to do anything different
21 than what we've done.

22 We might just add that we did inform OI, as we
23 said on the record sometime back, when this question first
24 came up, that we intended to proceed.

25 And they said nothing in that regard--said nothing

1 at that time to discourage us and, indeed, indicated that
2 they felt that was proper.

3 And we've heard nothing since.

4 So, we are denying the motion to await the OI
5 effort; and we are going to go ahead as we planned.

6 MR. GUILD: Judge Kelley, could--I guess a part of
7 that motion, or one that I hoped to clarify, was a request
8 to perhaps as a threshold matter, to make an inquiry for the
9 Board to inquire of the Office of Investigations, in some
10 kind of, you know, formal fashion, you know, not necessarily
11 on the record; but a fashion nonetheless with some formality,
12 to essentially solicit their view as to the implications
13 for the issues that are joined in this proceeding of the
14 tentative finding or findings, if you will, as of this date
15 in the OI investigation.

16 I appreciate the nature of the contact that you
17 described; now, it's eight weeks ago? Seven weeks ago?
18 In any event, early--before welding inspector testimony;
19 before the Board notification that there was an OI investiga-
20 tion. I think that's a matter of fact.

21 And certainly before the Board would entertain
22 closing the record, since that is now fast approaching,
23 with respect to Contention 6.

24 JUDGE KELLEY: You mean have a sort of "how-things-
25 look-now" inquiry?

1 MR. GUILD: Yes, sir, a more or less formal
2 inquiry that says, you know, we have conducted, you know,
3 this proceeding, looking into this subject; and we are
4 prepared to close the record in this proceeding; are there
5 any findings that you have made which in the judgment of
6 the Office of Investigation would affect the result of the
7 record on those issues before us?

8 And we maintain that there is probably cause, if
9 you will, to believe that such a inquiry would be fruitful
10 in the sense that there is evidence that is not available
11 to us that would be available to the Board through OI that
12 bears on Contention 6.

13 And, again, the authority or the precedent, if
14 you will, is this very recent information from the Zimmer
15 proceeding, where just such a two-track process is going
16 on: the Board proceeding on an operating license, and an OI
17 investigation on QA matters; and, in fact, the NRC Public
18 Notice I am referring to--I don't have it in front of me,
19 but I can get you a reference overnight, perhaps--says,
20 essentially, OI said essentially to the Board, there:

21 Don't go forward with the license conditions that
22 allow completion of the plant under these circumstances
23 because of QA findings we've reached on a tentative basis
24 through OI.

25 And that is a threshold matter I think that underlies

1 our motion.

2 We certainly don't ask the Board to make any
3 kind of speculations or suppositions about what happened at
4 OI; we ask for that as a matter of fact before the record
5 is closed here.

6 JUDGE KELLEY: Why shouldn't the burden be on OI?
7 If they've got information, why don't they come to us?

8 MR. GUILD: Well, of course, I can't speak for--

9 JUDGE KELLEY: It's not new to them that we're
10 carrying on this case.

11 MR. GUILD: Yes, I understand that.

12 Of course, I think it would be desirable from all
13 our perspectives if they did that.

14 But I just would say this: the Board has some
15 stature in this matter that none of the parties do, for
16 certain.

17 And it is true that Palmetto has requested assis-
18 tance from the Government Accountability Project; they in
19 turn asked for an OI investigation, which they've got.

20 Now, we are partisan in the matter, and our
21 stature is somewhat different and I would suggest more limited
22 than that of a decisionmaking licensing board that's trying
23 move on the appropriateness of an operating license for
24 this plant.

25 So I frankly think that coming from the Board,

1 --nothing elaborate--but simply an inquiry to responsible
2 OI officials at this stage, before the record is closed,
3 would get that information.

4 I wish it would come otherwise. I wish they would
5 you know, feel interested to offer information on the status
6 to the Board; but I really feel like it's appropriate
7 before closing the record that the Board make that inquiry
8 in the absence of their having contacted us.

9 JUDGE KELLEY: Well, we'll think of that, discuss
10 that specifically in the morning.

11 So we've got these two subpoena requests and the
12 heavy load.

13 And on the two subpoena requests, Mr. Guild, I
14 think, as you know what we want is, we know the argument
15 that was made earlier; and then the question is--and where
16 we either deferred or denied--and now we want to know:

17 Well, what have we heard in the last eight weeks
18 that makes us need to hear from either or both of these
19 gentlemen?

20 How much time do you think you need?

21 MR. GUILD: About ten minutes.

22 JUDGE KELLEY: All right, go ahead.

23 MR. GUILD: Let me just note that correspondence
24 is in as an offer of proof, and it's 117 for identification;
25 that's the Dircks letter.

1 JUDGE KELLEY: In as an offer of proof.

2 MR. GUILD: Yes, both Mr. William S. Lee, and
3 Mr. James O'Reilly (phonetic), for previous requests by
4 Palmetto for subpoenas to compel their testimony.

5 And in the case of Mr. O'Reilly, his deposition.

6 Mr. Lee's deposition was taken this summer in
7 preparation for this hearing.

8 10 CRF 2.720 provides authority for the
9 compulsion of such testimony upon the application of any
10 party and a showing that the testimony is of general
11 relevance to the subject matter of this proceeding.

12 Now, that standard is what applies to Mr. Lee.
13 He is the Chief Executive Officer of the Applicant, the
14 principal Applicant, Duke Power Company.

15 A standard somewhat different on the fact of it,
16 more stringent, applies to the second gentleman, that being
17 Mr. O'Reilly, the Regional Administrator of Region II
18 of the NRC.

19 With respect to Mr. O'Reilly, who is a Commission,
20 NRC, employee, the provisions 2.720(h)(2) appear to apply.
21 And that requires essentially, since he has not been
22 designated by the Staff as one of the witnesses to testify
23 on the pending question of Contention 6, those witnesses
24 being gentlemen subordinate to him, Mr. Bryant, section
25 chief, former section chief and two former resident

1 inspectors.

2 He is sought under the provision as follows:
3 that the president officer may, upon a showing of
4 exceptional circumstances, such as a case in which a
5 particular NRC employee has direct personal knowledge of
6 a material fact not known to the witnesses made available
7 by the Executive Director of Operations, require the
8 attendance and testimony of the named NRC personnel.

9 First as to Mr. Lee:

10 We believe that the standard for requiring Mr.
11 Lee's attendance has been met in this proceeding.

12 We note that by way of analogy the same standard
13 would apply to taking his deposition. His deposition was
14 taken. It was, as best I recall, not the subject of an
15 objection in terms of production of Mr. Lee for deposition.
16 The Board's authority to Palmetto with respect to discovery
17 testimony of Mr. Lee was to question named Duke employees,
18 a class of Duke employees, whose names were identified,
19 including Mr. Lee, who had knowledge of the subject of the
20 welding inspector concerns for quality assurance in welding
21 at Catawba.

22 Mr. Lee was deposed on that subject.

23 We believe that reflects the relevance of his
24 testimony to the general subject matter of this proceeding.

25 More particularly, though, Mr. Lee, of course, has

1 been the--is the Chief Executive Officer of the company
2 today; and has previously had personal knowledge of quality
3 assurance matters which are within the scope of
4 Contention 6.

5 He was the first corporate quality assurance
6 manager for Applicant, Duke Power Company; and, if you will,
7 put his mark from day-one on the structure, organization,
8 the policies, procedures, practice and philosophy of quality
9 assurance at Duke Power Company, which is in issue in this
10 case.

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1 More importantly, his knowledge we believe reflects
2 what we believe is a structural flaw in quality assurance
3 at Duke Power Company at reported at Catawba, and that is
4 part and parcel of Duke's unique character as constructing,
5 designing and operating its own facilities.

6 Mr. Lee for a time wore two hats, and his wearing
7 of two hats was the subject of some criticism by the staff
8 when they first approved Duke's topical report and required
9 shortly thereafter the appointment of an independent QA
10 manger for the company who subsequently was the person of
11 Mr. Wells.

12 We believe that the record in this proceeding
13 will reflect that Mr. Wells was singularly unqualified for
14 the position he held, that Mr. Wells' ultimate removal
15 and replacement by Mr. George Grier as part of the remedial
16 action for the welding inspector concerns must be viewed
17 in the same light as the removal of Mr. Charles Baldwin
18 and replacement by Art Allum, the shifting of personnel,
19 the reorganization that was referred to by Mr. VanDoorn.

20 Note that Mr. VanDoorn says "Well, Duke didn't
21 acknowledge that they were reorganizing as part of the
22 remedial measures, but I, Mr. VanDoorn, note that the
23 reorganization, in my judgment was responsive to the welding
24 inspector concerns and was appropriate."

25 Well, in the same vein Mr. Wells' replacement

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1 by Mr. Grier, in our view, while it not acknowledged by
2 Duke as remedial, certainly must be viewed in that light
3 on the substance. Witness after witness has said that
4 Mr. Wells was not qualified, and Mr. Wells and Mr. Davison
5 shared some of the brunt of accusations of lack of management
6 support and other specific claims by the welding inspectors,
7 and by contradistinction Mr George Grier by a number of
8 witnesses was held up as a man more qualified and more
9 responsive and more skilled in the communications field,
10 and what-have-you.

11 But the fact of the matter remains that Mr. Lee
12 put Mr. Wells in this job, and for most of the life of the
13 Catawba station charged him with the responsibility of
14 assuring the quality of construction at that plant. In
15 fact, from the day when Mr. Lee took off the hat, the second
16 hat and gave it to Mr. Wells, it was Mr. Wells who had
17 the delegated responsibility directly from Mr. Lee to look
18 out for QA and construction at Catawba.

19 I want to refer the Board with respect to Mr.
20 Lee to Applicant's Exhibit 6, and that is the multi-volume
21 set of what has been identified as Quality Assurance Manuals.
22 This is a quality assurance manual that is entitled "Quality
23 Assurance Program - Quality Assurance Department. It is
24 the departmental policy, if you will, and under the tab
25 at the beginning it where it says "Policy Statement," there

15-3

1 is an October 13th, 1982 letter and it is signed W. S. Lee
2 and it is entitled "Duke Power Company Quality Assurance
3 Program Policy Statement."

4 I just want to read the final paragraph. "All
5 matters concerning quality assurance which cannot be
6 resolved at the normal interfaces among departments shall
7 be referred to the Executive Vice President, Engineering
8 and Construction," and that is Mr. Owen. "In case of involve-
9 ment by power operations, the Executive Vice President of
10 Power Operations shall be a party to decisions reached. In
11 case of involvement of transmission and distribution, the
12 Senior Vice President of Distributions shall be a party
13 to decisions reached."

14 Then this point: "Matters that cannot be
15 resolved at this level will be referred to me for final
16 resolution."

17 Mr. Lee is the final arbiter of quality assurance
18 problems at Duke Power Company and is the Chief Executive
19 Officer. Mr. Lee, the record will reflect, was personally
20 involved and has personal knowledge and personally directed
21 the response to the welding inspector concerns. He was
22 the arbiter, if you will, of the final stage of the pay
23 recourse which Duke, at least in the earlier days in this
24 proceeding, offered as the explanation, if you will, as
25 to why these welding inspectors were raising these concerns.

15-4

1 It is a pay dispute, just a pay recourse.

2 We all know it is not just a pay recourse and
3 that that defense, if you will, has been sort of withdrawn
4 over time. But nonetheless, it was Mr. Lee who resolved
5 that pay recourse, and in the process of resolving it, put
6 his imprimatur on the reduction, in our judgment, on the
7 qualification of welding inspectors, the replacement of
8 seasoned, trained, qualified and experienced welders with
9 what I will just characterize as kids off the street, folks
10 who have been trained and schooled using plastic weld models
11 on how to do welding inspections.

12 We think that reflects personal knowledge and
13 personal judgment of Mr. Lee about a matter that we think
14 was a serious mistake with quality assurance ramifications.

15 Further, Mr. Lee directed the investigation of
16 technical concerns that went forth and, as far as we can
17 understand, also approved the non-technical investigation.
18 The non-technical investigation I think most charitably
19 can be characterized as a sham. It consisted of virtually
20 nothing. The record reflects what Mr. Alexander said and
21 did and it was virtually nothing.

22 The Technical Task Force, while voluminous and
23 detailed, we think stands for little more when you go page
24 by page and look at the actual results. There are misstatements
25 of fact. One witness called it a lie, the evaluation.

15-5

1 MR. JOHNSON: I am going to object to this. This
2 is more like a closing statement than a request for a
3 subpoena to me. It has gone beyond ten minutes certainly.

4 JUDGE KELLEY: I was going to note that ten minutes
5 has gone and you are still on the first guy. I think you
6 should move on to O'Reilly.

7 MR. GUILD: I don't know how else to do this,
8 Mr. Chairman. I apologize if I misestimated my time, and
9 I apparently did, but if I am asked essentially to tell
10 every reason or the basis for why I think Mr. Lee now should
11 be called, because you decided he wasn't appropriately to
12 be called before, which means what in the record has happened
13 so far that implicates him and requires his testimony, and
14 I am trying to do that.

15 JUDGE KELLEY: Go ahead and make it sort of
16 specific.

17 MR. GUILD: Mr. Lee, according to the testimony,
18 approved the work plans for the investigation of the welding
19 inspector concerns. It was his charge to go out and look
20 at these matters and he must bear responsibility for the
21 adequacy of this work. He can't shield himself by simply
22 well, it was someone else that did it.

23 The bottom line on Mr. Lee is that he sets
24 overall corporate policy. The buck has to stop at Mr. Lee's
25 desk. We have seen the highest corporate official at Duke

15-6

1 Power Company who was offered, and that was Mr. Owen, and
2 I respectfully suggest that Mr. Owen's testimony probably
3 raised more questions than it settled with respect to the
4 adequacy of quality assurance in terms of organization,
5 in terms of philosophy, and in terms of company policy. I
6 reference the speech.

7 We ask that Mr. Lee be required to testify, and
8 we think we have clearly made the showing that his testimony
9 is within the scope of Contention 6. It is relevant to
10 the subject matter and it is the way Palmetto would choose
11 to demonstrate its case through his testimony. Regardless
12 of whether the applicants have selected him as their witness,
13 we would like him to testify and we believe it is proper.

14 Now with respect to Mr. O'Reilly, I will try
15 to be brief. The bottom line on Mr. O'Reilly is this.
16 The exceptional circumstances that justify the testimony
17 of Mr. O'Reilly, the special circumstances, if you will,
18 such as his knowledge of material facts, are Mr. O'Reilly's
19 personal knowledge of the enforcement action, the inspection
20 and enforcement effort or lack thereof more appropriately
21 mounted historically by Region II of quality assurance
22 matters which have now been in dispute in this proceeding.

23 We cited all the places Mr. O'Reilly's finger-
24 prints, if you will, were on the deposition testimony of
25 Messrs. Bryant and VanDoorn when we offered ---

MR. JOHNSON: I object to that characterization.

15-6

1 JUDGE KELLEY: Go ahead.

2 MR. GUILD: When we offered the original request
3 for his testimony, they were numerous, and that is in the
4 record.

5 Since then I think the record reflects that
6 the witnesses in this panel who just concluded repeatedly
7 said the mangement decision to do this and the mangement
8 decision to do that. The recommendations by the inspector
9 on the scene as to the appropriate level of violation to
10 be cited got kicked up the chain of command and the FOIA
11 request and the FOIA response, which now is in evidence,
12 reflects Mr. O'Reilly being present physically or reviewing
13 virtually every significant document that has come forth
14 in this case.

15 We would offer to show that Mr. O'Reilly runs
16 a tight ship. Mr. O'Reilly manages his region with a
17 centralized management philosophy, if you will, that
18 he participates personally in virtually every decision of
19 consequence and that virtually everything that happened
20 with respect to the welding inspector incidents and allegations
21 that have arise at Catawba crossed his desk.

22 Now he also can do a couple of things that
23 are very significant. If, as I read applicant's testimony,
24 the significance of the SALP I evaluation, the below average
25 evaluation, the almost poor evaluation if you look at the

15-7

1 minutes of the SALP Board, of Catawba 1 and 2 primarily
2 on the basis of quality assurance deficiencies, if we are
3 to decide the contested issue of fact of what it does mean,
4 what the significance of it is, and applicants contest it,
5 witness after witness for applicants, and management said
6 oh, it didn't mean what it says or it is historical or
7 it is interpretative and it is unfair, you know, a variety
8 of characterizations, they simply counted deficiencies and
9 it is unfair, if that is to be resolved, then it is
10 significant because we think it is significant adverse
11 evidence against applicants. It has to be resolved through
12 the testimony of the man who is principally responsible
13 for the regional input on that, and that is where applicants
14 offered an exhibit and it has only been identified and
15 it hasn't been received as -- not applicants, the staff's
16 exhibit for identification, No. 9, the January 27th, 1981
17 memo from James P. O'Reilly, Director, Region II, to the
18 Chairman of the SALP Board, entitled "SALP Board Results
19 For Duke Power Company" reflects the region's input into
20 that process. At least as we understand it, that is what
21 it was characterized as by counsel.

22 Now I would note just on the face of it there
23 is a little confusion because the review period for Catawbe
24 appears to be different from the review period that is included
25 in the SALP -- the appraisal period in this document offered

15-8

1 by staff is September 1, '79 through August 31, '80, and
2 the the review period is -- strike that. I take it back.
3 It is exactly the same period. I was looking at a different
4 set of dates in the document.

5 So it appears to be the regional office's input
6 to the national SALP Review Board's decisions on Catawba.

7 Mr. O'Reilly signs not only the transmittal
8 document, but the material document that relates to Catawba
9 which is denominated Enclosure 5 and cites Catawba as
10 follows:

11 "An increase in inspection frequency is recommended
12 for this area, and that is the area of quality assurance
13 management and training due to the number and nature of
14 non-compliances. A trend analysis indicates that a closer
15 control of quality assurance manzgement and training is
16 needed in order to reduce the number of non-compliances,"
17 and that is at page 5-2.

18 Page 1-2 and and the cover transmittal indicates
19 as follows: "The poor performance of Duke's sites under
20 construction clearly reflects the need for improved corporate
21 control of safety related functions. This will involve
22 in upgrading the quality assurance programs."

23 And under the overall evaluation finally: "Improve-
24 ment is anticiated in the areas of an appropriate quality
25 assurance program as related to construction sites."

15-9 1 That is all over Mr. O'Reilly's signature and presumably
2 reflects his personal conclusions and submittals to the
3 national office.

4 Now, finally, with respect to Mr. O'Reilly,
5 frankly the last testimony of Mr. VanDoorn with respect
6 to the NRC enforcement policy and his application of that
7 policy to the welding inspector concerns leaves me absolutely
8 baffled. As a lawyer trying to understand how to apply
9 the law that I read in front of me, I am absolutely baffled
10 hearing that testimony.

11 Now if that reflects policy, and I understood
12 the witness to say that he was enforcing policy in the
13 region as he understood it, then we had best have somebody
14 who is beyond the grade of the three witnesses who were
15 before us. Mr. Bryant, Mr. Maxwell and Mr. VanDoorn, to
16 tell us what on earth is going on in Region II with respect
17 to what I submit on its face is an implausible and incorrect
18 application of the terms of that enforcement policy as I
19 read it.

20 That is enough said, but the only person that
21 I know who can answer that question with any degree of
22 authority is the Regional Administrator and that is
23 Mr. O'Reilly.

24 And with that, sir, we believe that reflects
25 the personal knowledge of material facts in this case

15-10

1 justifying Mr. O'Reilly's subpoena.

2 JUDGE KELLEY: Okay. Now it will work this
3 way. Mr. McGarry or whichever of you would speak, it would
4 be on the Mr. Lee matter and then Mr. Johnson will speak
5 on the O'Reilly matter. I don't know that you need to
6 speak on each other's man.

7 MR. MCGARRY: We will address Mr. Lee. However,
8 we would oppose the subpoena of Mr. O'Reilly also.

9 With respect to Mr. Lee, we won't belabor this
10 Board and take any time going through and responding point
11 by point to the characterizations of the record made by
12 Mr. Guild. We believe the record will speak for itself.
13 We believe that he has mischaracterized the record in several
14 instances.

15 The subpoena. This is a renewal of a subpoena
16 that was previously filed with this Board. When we go
17 through the nine items listed in the subpoena for Mr. Lee,
18 we see, with the exception of one, that every single one
19 has been covered in this proceeding.

20 A. Quality assurance program organization
21 history. That was discussed by the first panel.

22 B. His involvement as original QA manager. That
23 was not discussed. That took place in 1974 and that is
24 not relevant to this proceeding.

25 C. Lack of independence of QA from construction.

15-11

1 Discussed on this record.

2 D. Response to welding inspector concerns.

3 Discussed on this record.

4 E. Organization of welding inspector task force.

5 Discussed on this record.

6 F. Pay reclassification of welding inspectors.

7 Discussed on this record.

8 G. Contract with Management Analysis Company.

9 Discussed on this record.

10 H. Cause and remedial response to SALP 1 report
11 below average rating. Discussed on this record.

12 I. INPO construction analysis. Discussed
13 on this record.

14 We maintain that with that one exception, there
15 is absolutely no reason to call Mr. Lee. His testimony
16 would be cumulative to this proceeding, and with respect
17 to the one item, I have already addressed that. That matter
18 simply is irrelevant to this proceeding.

19 Thirty-two witnesses have been called by the
20 applicant on this issue. We had additional witnesses to
21 call, and this Board determined that their testimony would
22 be cumulative. I think so it is with Mr. Lee. It is time
23 to draw the line.

24 We have had a very high ranking official from
25 Duke Power Company, indeed, the man who reports directly

15-12 1 to Mr. Lee, Mr. Warren Owen.

2 Mr. Warren Owen assumed responsibility for quality
3 assurance in 1978. I think the record reflects that the
4 issues involved in this proceeding go back to 1978 and work
5 themselves forward. There is no need to discuss matters
6 prior to 1978.

7 I think the question for the Board is does the
8 Board feel that Mr. Lee will help in its deliberations
9 of the matters. We feel that while Mr. Lee is a very
10 forceful witness and could be of assistance to the Board
11 in the first instance, this Board through the presentation
12 of 32 witnesses has got enough information so that it can
13 do its job.

14 If the Board feels that Mr. Lee is necessary,
15 we of course will check with him immediately to determine
16 his availability.

17 JUDGE KELLEY: Thank you.

18 Mr. Johnson.

19 MR. JOHNSON: The staff opposes the subpoena
20 of Mr. O'Reilly as well as Mr. Lee, but specifically opposes
21 the subpoena for oral examination at hearing Mr. James
22 P. O'Reilly, Regional II Administrator, primarily on the
23 basis that there has been a failing to show exceptional
24 circumstances, and specifically that the named individual
25 has direct personal knowledge of a material fact not known

15-13

1 not known to the witnesses made available by the staff.

2 Now Mr. Guild has gone over what he could find
3 in his recollection of the record to try to show that there
4 is some need for Mr. O'Reilly. He points mainly to the
5 question of enforcement policy.

6 To the extent that enforcement policy is relevant
7 to the matters in question, it was discussed in detail by
8 Mr. VanDoorn. How the enforcement policy was applied to
9 the issues in this case and the facts in this case
10 was clearly set forth in the record in great detail, parti-
11 cularly by Mr. VanDoorn. It is what the policy is that
12 was applied to the facts of our case which are relevant
13 and not statements about their origin or general statements
14 about a particular administrator's opinion about what the
15 regulations mean.

16 The regulations speak for themselves. Mr. VanDoorn
17 cited to Appendix C, which gives the enforcement criteria
18 that were applied. These aren't particularly regional.
19 They apply to the region, but they are general code law
20 application to all NRC operations.

21 He also referred to a supplement with respect
22 to the question of significance, and that is referred to
23 in a number of places also in the Appendix C, particularly
24 on page 128, the first column, and in the supplements that
25 follow, for example, on page 134. Those things are already

15-14

1 in the record.

2 The management decisions were what they were.
3 It doesn't appear that there is anything significant that
4 could be added by Mr. O'Reilly coming to testify about the.

5 With respect to the FOIA request, that was
6 not the subject of any examination. It was a document that
7 was offered early on in the last few days. So we didn't
8 understand why it was offered. Now we understand why it
9 was offered. There was no discussion of it and it has
10 marginal significance, except for the fact of discussing
11 some documents that were produced to Palmetto Alliance
12 and the Government Accountability Project.

13 The fact that Mr. O'Reilly may have signed
14 the request or have been the denying official or the granting
15 official is that it is more or less a ministerial task.
16 I believe that Mr. O'Reilly did not review every single
17 document in any event and had somebody else do it for him
18 and he approved it.

19 The fact that Mr. O'Reilly runs a tight ship
20 is, as far as I can see, not relevant at all to the matters
21 here in this case, let alone material.

22 The question is not how decisions were made,
23 but what decisions were made and what did the staff do and
24 what did the inspection personnel do and how did they come
25 about and make their determinations. To the extent that

1 the staff's position is material to that case, it is
2 adequately and fully discussed in the record.

3 Now Staff Exhibit 9 was offered at the request
4 of the Board. We requested that it be marked and received.
5 However, my review of the transcript is that it was neither
6 marked nor received. The Board stated their request for
7 the document, but did not elect to discuss it. I believe
8 at some point early or mid-morning on Friday the Board
9 said that it would, if it wanted to, discuss that document
10 on its own time. So we left that to the Board's discretion.
11 So the fact that Mr. O'Reilly may have signed a couple of
12 pages -- my review of that document is that he signed
13 the cover letter and he signed the action plans that were
14 implemented for the various nuclear stations involved
15 for Duke.

16 I suspect that if we had offered the testimony
17 of Mr. O'Reilly on this document that Mr. Guild would
18 have objected based on secondhand hearsay in much the
19 same vein that he objected to Mr. Bryant's signature on
20 the document, the inspection report 8019 and the other
21 inspection reports.

22 MR. GUILD: That just is not true, Mr. Chairman,
23 and it is not appropriate to make that comment.

24 MR. JOHNSON: He would have it both ways.
25 Mr. O'Reilly may have signed some of these documents, but

15-16

1 in any event, I do not believe that this evidence is material
2 or reflects personal knowledge of Mr. O'Reilly that is
3 material to the outcome of this decision. We already
4 have quite a bit of discussion in the record about SALP,
5 and I don't know how much, but it is certainly several
6 hours. That has been fully explored and I don't believe
7 that the witnesses that were proffered, particularly
8 Mr. Bryant, were asked questions, but they were, as we
9 indicated, available, Mr. Bryant particularly, to discuss
10 the SALP if it had been so requested.

11 The request for Mr. O'Reill is not fully
12 supported under the standards in the regulations.

13 JUDGE KELLEY: Let me just make an observation
14 about that SALP document. May I call it the Regional SALP?
15 In any event, the document that you just referred to, and
16 you were doing to offer it in response to my earlier request,
17 now at least it is tied up in some fashion and related to
18 the pending request for a subpoena for Mr. O'Reilly.

19 So I think the Board will simply decide the
20 subpoena issue and at the same time whether we have any
21 further interest in that or what should happen to it.

22 MR. GUILD: It is not sort of a trick response
23 to get the O'Reilly signature in front of you because I
24 will offer it in support of the motion, if need be, but
25 having reviewed it, I don't have any substantive objection

15-17

1 to it being received as an evidence on the SALP question.

2 Frankly, it was rather helpful to me to understand what
3 was behind it. So I withdraw any objection I had before
4 if that facilitates its admission as identified.

5 JUDGE KELLEY: If there is no objection, we
6 will receive the document and we will call it Board Exhibit
7 1.

8 (The document referred to was
9 marked Board Exhibit 1 for
10 identification and was received
11 in evidence.)

12 MR. JOHNSON: May I just make a point. That
13 doesn't cure the point that I was making.

14 MR. McGARRY: What is the date of that?

15 MR. GUILD: January 27, '81.

16 MR. JOHNSON: We had a witness that we made
17 available to discuss this based on his personal knowledge
18 of the evaluation and now Mr. Bryant is not available to
19 be cross-examined and I dn't think that should be considered
20 a basis for calling Mr. O'Reilly. That is my only point.

21 JUDGE KELLEY: We are not making this admission
22 the basis for anything one way or the other. We were
23 interested in the document. So now we have got it because
24 there was no objection. We can decide the subpoena issue
25 separate and apart from that.

XXXXXXXXXX

1 MR. JOHNSON: Yes, sir.

2 MR. GUILD: Mr. Chairman, let me just make
3 this observation. Maybe I can just inquire of counsel
4 through the Chair. This document is helpful, but I recall
5 the testimony of a couple of Duke witnesses talking about
6 something that was like a slide presentation. It was a
7 chart or something that was supposed to have somehow reflected
8 that Duke either didn't fair as badly by relative terms
9 as they later found out in the August report to show, but
10 it certainly isn't contained in this, whatever it was. It
11 was like transparencies or a chart, and I just wonder whether
12 or not for clarity's sake if this is what exists on that
13 subject, or is there something that I heard Mr. Owen and
14 others identify differently?
15

16 MR. JOHNSON: Was that a question?

17 MR. GUILD: Yes, that was sort of for the
18 staff.

19 MR. JOHNSON: I didn't hear the question.

20 MR. GUILD: I heard Mr. Owen and others identify
21 some transparencies or a chart comparing Duke in terms
22 of number of non-compliances apparently that was presented
23 at a management meeting, and maybe the October 24th, '80
24 meeting that is described on the cover letter here. My
25 question is it is not contained in here and is there such
a document, or is this all there is?

15-19

1 MR. JOHNSON: I do not know.

2 MR. GUILD: Mr. Jones can answer it.

3 MR. JONES: I am not certain that they exist
4 any longer, those transparencies.

5 JUDGE KELLEY: Okay. Mr. McGarry, on the
6 question of heavy burdens, are you prepared to bury
7 your burden?

8 MR. MCGARRY: I am a bit confused as to precisely
9 the motion that is before the Board, and I understood it
10 was a subpoena request, but then it was characterized as
11 bringing Mohammad to the mountain. I think I understand
12 that. The Board would go down and look at the spent fuel
13 pool and see if certain stops are in.

14 JUDGE KELLEY: I take it it is a motion for
15 a site visit. Is that a fair statement, to look at the
16 equipment?

17 MR. GUILD: It is fair to us. It reflects
18 examination and production of physical evidence in this
19 case if something that doesn't move very easily.

20 MR. MCGARRY: If the Board will just bear with
21 me for one second.

22 (Brief pause.)

23 MR. MCGARRY: I want to make sure this is
24 correct. On page 9458 of the transcript Mr. Guild moved
25 pursuant to 2.720, which my recollection is a subpoena

15-20

1 section, and that is correct.

2 Now the document in question bears a caption
3 November 21st, 1983, and Mr. Guild alleges that he just
4 became knowledgeable on this subject matter and that is
5 a reason for the subpoena coming at this time. The subpoena
6 is some sort of evidence and it is further explicated that
7 the evidence could be gathered at the site.

8 We maintain that in a review of our files, and
9 this is by no means exclusive, that the subject matter,
10 which is NUREG 0612, is not new. Indeed, NUREG 0612, which
11 is entitled "Control of Heavy Loads," was issued, it looks
12 like December of 1980.

13 It is a long-standing document and it is not
14 limited to spent fuel pools or spent fuel casks by any
15 manner. The review of our records reflects that in looking
16 at an August 6th, 1982 document concerning this subject
17 matter and specifically identifying spent fuel pools and
18 control of heavy loads was cc'd to Mr. Guild.

19 Again on December 16th cc'd to Mr. Guild.

20 Again on June 9th cc'd to Mr. Guild.

21 MR. GUILD: Would you identify what you are
22 now going through, Mr. McGarry?

23 MR. McGARRY: Yes. An August 6th, 1982 letter
24 from Mr. Tucker to Mr. Denton concerning NUREG 0612, control
25 of heavy loads.

15-21

1 Mr. Guild is on a service list.

2 December 16th, 1982, letter from Mr. Tucker
3 to Mr. Denton, the same subject, and Mr. Guild is on the
4 service list.

5 I have other documents, five on my table right
6 now. Mr. Guild has been served with all these documents.

7 The first point is that this information has
8 been long-standing. If he sought information and sought
9 evidence, he could have sought that in discovery. He had
10 ample notice of this subject matter.

11 Second of all, consistent with this Board's
12 ruling of September 14th, 1983, which specified that the
13 designation of witnesses was to be established for Contention
14 16 on September 23rd. The Board indicated also that the
15 names of subpoenaed witnesses are included in that requirement.

16 Now inasmuch as this motion is made pursuant
17 to the same subpoena section, 2.720, we maintain that if
18 Mr. Guild sought such information, that the time was in
19 September of 1983 and not in December of 1983.

20 Lastly, the document itself referenced by
21 Mr. Guild, provides some interesting information.

22 JUDGE KELLEY: Give us once more the title
23 of that document.

24 MR. McGARRY: That document is a letter from
25 Eleanor Aidensam dated November 21st, 1983 to Mr. Tucker

15- 22

1 of Duke Power Company and the subject is control of heavy
2 loads, phase 2, NUREG 0612, Catawba Nuclear Station, Units
3 1 and 2.

4 JUDGE KELLEY: I am sorry. I just don't
5 remember. This is in support of a motion really. Was
6 that served around?

7 MR. GUILD: It was circulated through the
8 service and that is how it came to me.

9 MR. JOHNSON: It was addressed to the Board.

10 JUDGE KELLEY: Okay.

11 MR. JOHNSON: Would you like to look at my
12 copy?

13 JUDGE KELLEY: I would like to borrow one anyway
14 eventually. Yes, I would appreciate it.

15 MR. McGARRY: On page 21 of this document there
16 is a concluding summary, and that concluding summary
17 deals in part with the spent fuel area. The staff states
18 that within the premises used the analyses show that
19 Catawba 1 and 2 are consistent with this guideline.

20 So for three separate distinct reasons this
21 motion should be denied.

22 First, the intervenor could have sought this
23 information in discovery.

24 Second, the intervenor did not abide by the
25 Board's subpoena ruling.

15-23 1

2 And, third, the document itself provides no
3 information that would support such a request at this time.
4 Indeed, it is simply the contrary. This document says that
5 the situation in the spent fuel pool is satisfactory.

6 JUDGE KELLEY: Okay. Thank you.

7 MR. MCGARRY: We have two other matters, Your
8 Honor, that will take just a second.

9 MR. MCGARRY: I would just like the record to
10 reflect that today we did hand out the SIE panel opening
11 statement as we said we would do.

12 JUDGE KELLEY: Yes, thank you.

13 MR. GUILD: Judge, before Mr. McGarry moves
14 on, I just wanted to make my reference, if it is not clear
15 now, that you have a copy of this document. I had a
16 reference to page 19 of the document and there essentially
17 is the alternative method. If absence stops in place,
18 administrative or physical or what-have-you, the alternative
19 means that I understand from reading the NUREG requirement
20 is the single failure proof handling systems that are
21 described there.

22 The document that was transmitted by this
23 cover letter of November 21st is a study, the substantive
24 study done by the NRC for the NRC by EG&G Idaho called
25 Control of Heavy Loads at Nuclear Power Plants, Catawba
Nuclear Station, Units 1 and 2, and it is published October

1 1983 and transmitted by this cover of November 21st. It
2 didn't come into our possession until several days thereafter.

3 MR. MCGARRY: And, Your Honor, what is interesting
4 is that on May 31st Ms. Aidensam sent a similar document
5 to Mr. Tucker which was a draft of the EG&G report and
6 that was served on Mr. Guild.

7 JUDGE KELLEY: Okay. Let's go ahead.

8 MR. MCGARRY: The last item that we would like
9 to make reference to is the panel on Contentions 18 and
10 44, which is the embrittlement issue.

11 With respect to the embrittlement issue, I had
12 some discussions with Mr. Johnson, just so we have it on
13 the record. Due to some scheduling conflicts, we requested
14 that the applicant could go first. We actually had thought
15 we were going first on 18 and 44. We thought it was 17
16 that the staff was going first on. So we are prepared to
17 go first and we would put on our panel on Friday afternoon.

18 JUDGE KELLEY: In that regard, and I think we
19 all want to quit, but as to the first of the technical
20 issues, 16, beginning on Thursday, Mr. Riley's aware of
21 our batting order and times?

22 MR. GUILD: Yes. Just one point. I had a
23 grief comment with George about this. 18-44, if you recall,
24 CSG is the lead intervenor on it and as a practical matter
25 Mr. Riley, not to be confused with the august Mr. O'Reilly,

1 is the technical source on that issue. I won't confess
2 how much ignorance, but a lot on the subject.

3 (Laughter.)

4 I just want to ask if George Johnson would
5 call Jess Riley. I don't have any problem with any
6 lineup that parties want to set up for the convenience
7 of their witnesses, but it really is Mr. Riley's ball game,
8 if you would. So I would ask that they call him about
9 the scheduling.

10 MR. MCGARRY: I think the setup was that we
11 were going to go first and the staff was second, but if
12 that is not the case, we are prepared to go first, which
13 will be Friday afternoon.

14 MR. GUILD: I thought it was Mr. Riley first.

15 JUDGE KELLEY: Once we get here and get going
16 Riley will be here for all of this, won't he, all the
17 technical stuff?

18 MR. GUILD: I can't say, Judge, for sure.

19 JUDGE KELLEY: All right. I just wanted to
20 ask one question about just the first of the three. We
21 haven't made any time demarcations other than the gross
22 cut for the whole thing. Now on the very first one for
23 16 are there two panels there?

24 MR. MCGARRY: On 16 there are two panels,
25 the applicant and the staff.

15-26 1

JUDGE KELLEY: All right. Would you agree or not that the time spent on your respective panels should be roughly equal?

4

MR. McGARRY: That is what I would have envisioned, that we take three-quarters of a day for one and three-quarters of a day for another.

7

JUDGE KELLEY: Do you concur?

8

MR. JOHNSON: I concur in that.

9

MR. GUILD: That makes sense on 16, Judge. It may not on the other two.

11

JUDGE KELLEY: It may not, and it may shake out differently on some others, but at least for planning purposes if we can know that much.

14

We would like to quit and go work on motions to strike. If there anything else that has to be brought up?

15

16

17

MR. McGARRY: No, sir.

18

JUDGE KELLEY: We have got the INPO people coming here at 9 tomorrow.

19

20

MR. McGARRY: Yes, and we are going to try to coordinate it. Maybe we can go off the record and discuss it.

22

23

JUDGE KELLEY: I guess so.

24

We will now adjourn and go off the record.

25

(Whereupon at 5:10 p.m., the hearing recessed, to reconvene at 9:00 a.m., Wednesday, December 7, 1983.)

* * * * *

CERTIFICATE OF PROCEEDINGS

This is to certify that the attached proceedings before the
NRC COMMISSION

In the matter of: Duke Power Company, et. al
Catawba Nuclear Station Units 1 and 2

Date of Proceeding:

Tuesday, December 6, 1983

Place of Proceeding: Charlotte, North Carolina

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

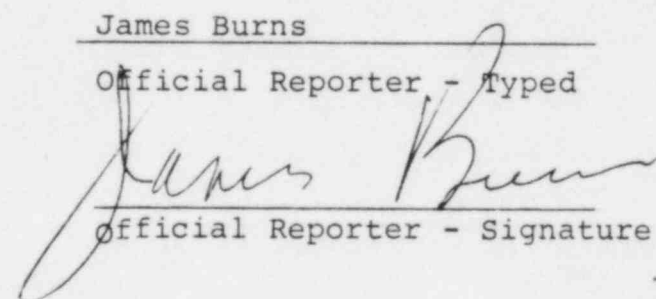
Mary C. Simons

Official Reporter - Typed


Official Reporter - Signature

James Burns

Official Reporter - Typed


Official Reporter - Signature

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Marcia B. Hall

Official Reporter - Typed

Marcia B. Hall

Official Reporter - Signature