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

In the Matter of:	) Docket No.
	) 50-729-OM
CONSUMERS POWER COMPANY	) 50-330-OM
(Midland Plant, Units 1 and 2)	) 50-329-OL
_____	) 50-330-OL

DEPOSITION OF JOHN L. DONNELL

Taken on Saturday, October 15, 1983

At ten o'clock a.m.

At 333 N. Rancho Drive, Ste. 333

Las Vegas, Nevada

8310280078 831025
PDR ADOCK 05000329
T PDR

Reported by: Janet Harris, C.E.R.

1 APPEARANCES:

2 For the Applicant: FREDERICK C. WILLIAMS, ESQ.
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 4 1120 Connecticut Avenue, N.W.
 Suite 840
 Washington, D.C. 20036

5 For the Consumers
 Power Company: JAMES E. BRUNNER, ESQ.
 6 212 W. Michigan Avenue
 Jackson, Michigan 49201

7 For the Nuclear
 Regulatory Commission: MATHEW A. WRIGHT, ESQ.
 8 Nuclear Regulatory Commission
 Washington, D.C. 20555
 201-492-7443

9 Also Present: J.R. LaRiviere

10

11

12 I N D E X

13 Witness Direct Cross Red. Rec.

14 John L. Donnell

15 (By Mr. Williams)

16 (By Ms. Wright) 96

17

18 E X H I B I T E

19 Applicant Number Description Page

20 No. 1 Order Issuing Subpoena Duces tecum 3

21 No. 2 Investigation Report 20

22 No. 3 9-12-83 Investigation Report 23

23 No. 4 Stop Work Order 74

24 No. 5 4-23-82 Letter, Miller to Davis 75

25 No. 6 5-29-82 Memo, Harbour to Bird, 79

1 Thereupon--

2 JOHN L. DONNELL.

3 was called as a witness by the applicant, and having
4 been first duly sworn testified as follows.

5 DIRECT EXAMINATION

6 BY MR. WILLIAMS:

7 Q. Mr. Donnell, would you state your full
8 name for the record, please?

9 A. John Lewis Donnell, D-o-n-n-e-l-l.

10 Q. Now, I would like to mark this as
11 Consumers Power Exhibit 1 for the purposes of this
12 deposition.

13 (The document referred to was
14 thereupon marked, "Applicant's
15 Exhibit No. 1 for
16 Identification," and is attached
17 to the original transcript of
18 this deposition.)

19 Q. (By MR. WILLIAMS) Mr. Donnell, this
20 exhibit identified as Applicant's Exhibit 1 consists
21 of four pages and it purports to be an order issuing
22 a subpoena and a subpoena. Would you look at it for
23 a minute?

24 Did you receive a copy of that subpoena?

25 A. Yes, it was in the mail when I returned.

1 home last Monday.

2 Q. And you agreed to be deposed pursuant
3 to this subpoena without the full hand service by a
4 process server; is that correct?

5 A. That is correct. I have given Mr.
6 Brunner a copy of the receipt of it.

7 Q. Thank you. Now, I would like to turn
8 to a few things just to get some of your personal
9 history on the record. To start off, I would like to
10 get your residence and telephone number?

11 A. 3101 West Oakey Boulevard, Las Vegas
12 Nevada, 89102, telephone number, area code
13 702/362-8003.

14 Q. And what is your business address?

15 A. 2750-2759 South Highland, that is the
16 main office.

17 Q. And the name of your company?

18 A. Science Application.

19 Q. How long have you been employed at
20 Science Application?

21 A. Since March the 7th, 1983.

22 Q. What is your capacity or title at that
23 outfit?

24 A. Quality Assurance Engineer.

25 Q. Now, I would like to go back over your

1 educational history and your work history to some
2 extent, just to get some background in the record.
3 Could you tell me where you graduated from high
4 school?

5 A. Greensboro, North Carolina, Greensboro
6 High School, 1936.

7 Q. Did you grow up in North Carolina?

8 A. Yes. My entire school was in North
9 Carolina until I went to college.

10 Q. Where did you go to college?

11 A. The Citadel, C-i-t-a-d-e-l, in
12 Charleston, South Carolina.

13 Q. Did you have a major subject at the
14 Citadel?

15 A. Civil engineer.

16 Q. When did you graduate from the Citadel?

17 A. 1940.

18 Q. Did you obtain a commission in the
19 military service at the Citadel?

20 A. Yes, I did I was commissioned regular
21 second lieutenant in June, on June the 25th, 1940.

22 Q. In what service in the Army?

23 A. United States Marine Corps.

24 Q. Now, when you were at the Citadel, you
25 majored in civil engineering. Could you just

1 generally describe for us what engineering courses
2 you took?

3 A. Soils, asphalt, stress, concrete
4 structures, electricity, physics, and then all the
5 other required subjects for a civil engineering
6 bachelor of science; to include the special
7 requirements of college in literature, grammar and
8 modern history.

9 Q. Is the Citadel particularly oriented
10 towards civil engineering?

11 A. And the military subjects for
12 commission, excuse me.

13 Q. I will ask that question again. Is the
14 Citadel particularly oriented towards civil
15 engineering?

16 A. No. It has other degrees.

17 Q. All right.

18 A. It is the military college of South
19 Carolina. It was established about 120 years ago.

20 Q. After you left the Citadel, did you
21 pursue any graduate study in engineering or in any
22 other subject formally, at a university, I mean?

23 A. Yes. Loyola University in New Orleans,
24 Louisiana. I think that period was about 1963 or '64
25 and I obtained about two-thirds of the credit for

1 masters in business, USA.

2 Q. Any other ones besides Loyola?

3 A. I attended senior military schools at
4 Fort Sill, Oklahoma, the Artillery Guidance School,
5 Quantico, Virginia, the Senior Amphibious Warfare
6 School. And I instructed as the head of the
7 operations and intelligence section at Norfolk,
8 Virginia at the amphibious warfare schools, joint
9 amphibious warfare schools in Norfolk. That was a
10 combination Navy/Marine school. Then I had various
11 quality assurance training at Babcock & Wilcox, and
12 management training with Babcock & Wilcox, mainly
13 senior management training.

14 Q. Well, that gets a little bit ahead of
15 the chronology I was trying to develop here, so let's
16 go back a minute. You were commissioned a second
17 lieutenant in the Marine Corps upon graduation from
18 the Citadel. Did you remain--how long did you remain
19 in military service?

20 A. 21 years.

21 Q. So from the time you were commissioned
22 in 1940, you remained continuously in the military
23 for 21 years?

24 A. Yes.

25 Q. Could you briefly describe the duties

1 what you had during those 21 years?

2 A. Well, I was mainly in the artillery and
3 I had overseas duty from Iceland throughout the
4 Pacific War. And after the war I was naval staff
5 duty, which included legal duties on a naval staff
6 for three years. And then I--let's see--came back to
7 the States. I was on duty in Korea for a year as a
8 battalion commander of artillery, and then I came
9 back to the States.

10 Went to the senior school and conducted,
11 as test director, the screening of some 1200
12 candidates as prospective officers. Then I went to
13 duty in Richmond, Virginia as inspector/instructor of
14 a reserve battalion, and then to Norfolk, Virginia as
15 head of the operations and intelligence section at
16 the amphibious schools there. And I was retired from
17 Norfolk.

18 Q. What was your rank upon retiring?

19 A. Lieutenant Colonel.

20 Q. So that would take us to approximately--

21 A. '61.

22 Q. 1961, yes. What did you do then in
23 1961?

24 A. For one year I worked for Babcock &
25 Wilcox, which was the title of the organization was

1 The Block and Pipe Manufacturing Outfit where I was
2 plant manager for a year.

3 Q. What did The Block and Pipe
4 Manufacturing Outfit do?

5 A. We manufactured some 50,000 tons of
6 reinforced concrete pipe for conduits and highways,
7 underpasses. We manufactured prestress concrete
8 beams in an outlying plant, and we manufactured
9 prefabricated buildings, wooden buildings in another
10 outlying plant. And we manufactured at the plant
11 where I worked some five to ten million concrete
12 block a year for building commercial structures.
13 This was an automated operation, and I was
14 instrumental in completing the automation of the
15 operation and reducing the manpower there.

16 Q. Where was this facility located that
17 you worked at?

18 A. Little Creek Road in Norfolk, Virginia.

19 Q. And you say you were the general
20 manager of that facility?

21 A. Plant manager. At first I was
22 concerned in organizing corporate structure for the
23 organization, and then the old plant superintendent
24 wanted to leave so the president asked me if I would
25 set up a structure I had organized as a plant manager

1 for the three main plants and two outlying plants.

2 Q. How long did you remain in that
3 position?

4 A. Approximately a year.

5 Q. What did you do then?

6 A. I left because I couldn't get a pay
7 raise for the year, and I was seeking a more
8 lucrative position. I got a position with Boeing
9 Company in New Orleans, Louisiana with the aerospace
10 program as an engineer--as a senior engineer, excuse
11 me.

12 Q: What were your duties for Boeing?

13 A. Oh, first I was in the planning section,
14 facilities planning for the activation of the plant.
15 And I was in charge of manufacturing facilities, the
16 construction of manufacturing facilities, and the
17 construction of test facilities. Then I was
18 supervisor at program planning and control. And then
19 I moved over to systems test, where we were involved
20 in the manufacturing test of the first stage boosters
21 for the S-1C program. That was for the Apollo
22 program. And then the program was in the throes of
23 completion, so I moved to Seattle in the 747 program.

24 I was involved in planning in the 747
25 and then I--when 747 went into manufacture I was

1 involved in the B-1 proposal program, which Boeing
2 did not receive, and then I transferred to the 737
3 program for a short time before moving to the SST
4 program, supersonic transport. The 737 program was
5 only an interim move until I could get into the SST
6 program, which I was interested in.

7 Then the SST got shot down and Boeing
8 offered me a job at the Cape at a considerable
9 reduction, which I refused. And within two weeks I
10 went to work for Babcock &--within two weeks I had an
11 interview at Babcock & Wilcox Navy Nuclear Fuel
12 Division in Lynchburg, Virginia. I reported in there
13 the first of June.

14 Q. What year was this?

15 A. 1971. Worked in the Navy Nuclear Fuel
16 Division for approximately a year and then moved over
17 to Commercial Nuclear where I was involved until my
18 termination by Babcock in 1982, late '82, and I ended
19 up as the audit manager of the Commercial Nuclear
20 Division. During that period, in the last two years
21 I was involved on loan to Babcock Canada in the
22 construction of nuclear plants at Point Lepreau,
23 capital L-e P-e-r-r-e-u, New Brunswick, where I was the
24 quality assurance manager. And then I moved to
25 Argentina Railroad where I had a similar job as

1 quality assurance manager on a similar plant being
2 constructed in Argentina. And I remained down there
3 until completion of that plant. That was only a
4 matter of a few months.

5 Then I came back to the States. My old
6 job had disappeared with Babcock and so I elected to
7 go to Midland, Michigan as a contract employee, after
8 having refused a job with Commonwealth Edison--
9 not Commonwealth--

10 Q. Consolidated?

11 A. No. It was the outfit that
12 Meisenheimer worked for, Gilbert Commonwealth, after
13 having refused a job as supervisor with Gilbert
14 Commonwealth.

15 Q. Well, I will ask you about your
16 experiences at Midland a little later, but I would
17 like to go through a few things in this very detailed
18 history you have related.

19 When you were managing the reinforced
20 concrete facility in Norfolk were your duties
21 strictly managerial or did you get involved in
22 engineering or application of your civil engineering
23 background?

24 A. Yes, sir. I was responsible for
25 manufacturing and plant improvement and I was not in

1 the design section, they had a vice president for
2 engineering. But I felt that I did apply the
3 engineering license in civil engineering which I had
4 received while at New Orleans with Boeing. I applied
5 for my engineering license while I was with Boeing in
6 New Orleans.

7 Q. Is that in the State of Louisiana?

8 A. Yes.

9 Q. Are you registered as a professional as
10 an engineer in any other states besides New Orleans?

11 A. No, have my registration and kept it
12 current in Louisiana.

13 Q. When you took over the job with Boeing
14 Aerospace in New Orleans it sounded like you had a
15 very responsible position in facilities planning for
16 manufacturing facilities, et cetera. Did that
17 involve direct application of your civil engineering
18 background? In other words did you have to supervise
19 the design of these facilities?

20 A. No, I was not actively engaged in
21 supervision of design, but I was actively engaged in
22 inspection of the--prior to becoming a supervisor,
23 inspection of the manufacturing and test facilities
24 and the procurement of items, procurement of items
25 that went into building of the booster itself as well

1 as qualification testing by suppliers.

2 Q. So this was inspection to see that
3 things conformed to what the design documents
4 required; is that correct?

5 A. That's correct.

6 Q. Now, did you have similar duties in any
7 of your work with regard to the planning for the 747
8 or the B-1 proposal or the 737 program?

9 A. No, my duties in 747, 737, SST, were
10 strictly from the standpoint of engineering not
11 construction.

12 Q. When you say from the standpoint of
13 engineering what does that encompass, what sort of
14 engineering did you do?

15 A. At that time it was a forerunner of
16 quality assurance really, it was called value
17 engineering, that was the buzz words for the function
18 in the industry.

19 Q. When you went to work in the Navy
20 Nuclear Fuel Division of Babcock & Wilcox in Norfolk,
21 what duties did you have in that division?

22 A. I was hired in planning division--
23 planning section, excuse me, not that big of an
24 organization. I was hired on in the planning section.
25 After some time, it became apparent that the

1 activities in the planning section were rather
2 restricted, so I looked around and finally got a job
3 in quality assurance/quality control, and ended up
4 setting up a supplier audit system.

5 I was also involved in the old
6 forerunner of the Malpractice Program,
7 m-a-l-p-r-a-c-t-i-c-e-s, one word, which was devised by
8 Admiral Rickover to eliminate malpractice among
9 supplier functions. This was devised as an audit
10 function.

11 Q. This is still while you were in the
12 Navy Nuclear field program?

13 A. Yes, it is.

14 Q. Was this your first--well, you said a
15 minute ago you did value engineering while you were
16 with Boeing, and I take it that could be
17 characterized probably as your first encounter with
18 quality assurance; is that correct?

19 A. Yes. That was in the late sixties.

20 Q. Now, then your first formal encounter
21 with Boeing Quality, the quality assurance program
22 was in this Navy nuclear program where you set up
23 this system of audits?

24 A. That's correct.

25 Q. What in the remainder of your--well,

1 during the time between when you finished up your
2 work with the Navy nuclear field division and time
3 you became quality assurance manager for Babcock
4 plant at LaParea, did you have other jobs which
5 entailed work in quality assurance?

6 A. Yes, I was transferred over to the
7 commercial nuclear where I became a quality assurance
8 audit manager within weeks after I transferred, so
9 you might say that my quality assurance active
10 involvement was from 1971 from the time I went into
11 Navy nuclear, with some previous involvement at
12 Boeing.

13 Q. What did the duties of QA audit manager
14 entail?

15 A. We coordinated with the qualification
16 of suppliers, audit of suppliers. At one time I had,
17 I think, was five or six auditors working for me and
18 we covered the whole United States, Canada and German
19 suppliers. We made a trip to Israel to investigate
20 the capability of the Israelis in providing for the
21 quote scope of supply for nuclear reactors within
22 Israel.

23 Q. Were you responsible for quality
24 assurance on purchasing for everything that the
25 Babcock & Wilcox facility purchased?

1 A. No, I was not. I was responsible for
2 qualifying the suppliers and auditing the suppliers.
3 We had at one time some 100 suppliers and we did 100
4 audits a year. The QA engineering is the function
5 which reviews design documents, and the design
6 section is the one that establishes quality assurance
7 requirements in the design documentation. Quality
8 assurance reviews the design documentation to assure
9 that they have the proper requirements listed in them,
10 and then the audit section goes out and qualifies the
11 suppliers and sees that they have an adequate QA
12 program, and then follows up on the manufacturer of
13 the items under which the contract pertains.

14 Q. But what I was asking you or what I
15 meant to ask you was were you responsible for
16 auditing the QA program of every supplier that
17 Babcock & Wilcox had at that time?

18 A. Yes, and we also did internal audits
19 and site audits.

20 Q. Okay. Inside Babcock & Wilcox and
21 before you became QA manager at the LePareu plant,
22 what was your next position?

23 A. I was QA manager at the section head
24 level.

25 Q. For the whole time until you went to

1 LePereau?

2 A. Yes.

3 Q. And what responsibilities did you have
4 as QA manager at the LePereau plant?

5 A. We were involved in the refurbishment
6 of CAN-CANDU, that is a trade name, steam generators,
7 which were in question by the Atomic Energy
8 Commission of Canada and B & W. Canada was committed
9 to an "in situ" replacement of the steam generators
10 internals in place at the site. This involved a
11 considerable amount of work entailing about 15 months
12 at the site, and included first stripping out the old
13 internals with a steam generator without bothering--
14 change that to disturbing--disturbing the essential,
15 and the bottom plate of the steam generator which is
16 quite a massive installation. Then building clean
17 rooms around the four steam generators involved, and
18 then accepting, inspecting and installing all of the
19 approximately 60 to 70,000 tubes in those four
20 generators, and checking them out for delivery to
21 AECL, that is Atomic Energy of Canada, Limited.

22 Then I volunteered to go on a similar
23 job where a sister plant was being built in Embalse,
24 Argentina, because the QA manager down there,
25 contract was finishing up, and he wanted to return to

1 the States, and the job was not completed.

2 Q. And your duties at Embalse were
3 essentially similar or identical to your duties at
4 LePareu?

5 A. Yes, completing the installation of the
6 refurbishment of the steam generators.

7 Q. I would like to turn now to some of the
8 events that took place at the Midland plant. You are
9 aware certain investigations have been performed with
10 respect to allegations that Consumers Power Company
11 violated an order of the Atomic Safety and Licensing
12 Board in this case, are you not?

13 A. I am.

14 Q. I would like to mark as Applicant's
15 Exhibit 2, an investigation report dated June 2nd,
16 1983, which is approximately 50 pages long
17 encompassing--perhaps even more than 50 pages long,
18 maybe 100 pages long--encompassing many attachments
19 which also bears a cover letter of June 2nd, 1983,
20 transmitting the report to James G. Keppler, Regional
21 Administrator, Region III, which bears a second cover
22 letter transmitting the report to the Administrative
23 Judges of the Atomic Safety and Licensing Board,
24 which is presently hearing evidence with respect to
25 certain matters at Midland.

1 I am not going to provide copies of
2 this report for the reporter since everybody, almost
3 everybody involved has a copy of this.

4 Now, Mr. Donnell, I don't think you do
5 have a copy of this, but you can look at mine.

6 A. That is not this report?

7 Q. No, second report. I will get you one
8 of these.

9 (The document referred to was
10 thereupon marked, "Applicant's
11 Exhibit No. 2 for
12 Identification," and is attached
13 to the original transcript of
14 this deposition.)

15 Q. (By MR. WILLIAMS) I would like to
16 direct your attention to a document which has been
17 marked as Attachment 6 to the report which has been
18 identified as Applicant's Exhibit 2 to this
19 deposition. For completeness also, we will mark the
20 second folder as exhibit, Applicant's Exhibit 3, and
21 again everybody has copies of this.

22 This is a report of investigation of
23 the Office of Investigations of the Nuclear
24 Regulatory Commission, dated September 12, 1993 and
25 also consisting of about 30, 40 pages of report and

1 many, many pages of exhibits, totalling about 100
2 pages in all. The same document appears as
3 Attachment 5 to that second report.

4 Now, I would like to direct--

5 A. I don't think it is, that is a separate
6 copy.

7 Q. Strike the reference to Exhibit 3 then.
8 We will still mark it and I will use it for other
9 purposes later, but this is only Attachment 5 to the
10 initial report, and you have another loose copy of it?

11 A. I have another copy, that's correct.

12 Q. Now, would you look at the very last
13 signature line on that document down at the bottom.
14 Can you identify the writing?

15 A. That is my signature.

16 Q. That is your signature on there?

17 A. Yes.

18 Q. Can you tell me what date appears next
19 to that signature?

20 A. 7-72-82.

21 Q. Couldn't that be 22?

22 A. Yes, it is, I think. It is on the line.
23 It is 7-22, July the 22nd, because the previous
24 signature was 21, and they were all--the other one
25 before that was 22.

1 Q. Are you able to identify whose
2 signature appears on the next line above yours?

3 A. Glen Murrey.

4 Q. Are there a set of initials to the left
5 of your signature on the last line?

6 A. Yes, Brian Palmer who worked for me.

7 Q. What capacity did you sign that
8 document, do you remember?

9 A. As supervisor of remedial soils.

10 Q. Would you, for the record, describe
11 what this document purports to be?

12 A. This is a document that was devised to
13 control excavations on site, and I attended a meeting
14 in explanation of this document, a training session
15 so to speak, and later I signed some of them, but not
16 all of them.

17 Q. When did that training session take
18 place?

19 A. Well, sometime before the 22nd, it was
20 pretty closely involved--this all involved about the
21 same time.

22 Q. So you think was sometime about in July?

23 A. I think so, yes.

24 Q. The system of having excavation permits
25 was a new system which had been created recently?

1 A. It had been--I don't know what is the
2 proper word, either reconstituted, rejuvenated,
3 because of problems that were occurring on
4 excavations.

5 Q. Now, were you aware during this time
6 period of June and July of 1982 that the Atomic
7 Safety and Licensing Board, which had jurisdiction
8 over the plant and the construction thereof, had
9 issued an order on April 30th, 1982 setting forth
10 certain conditions with respect to the work at the
11 plant?

12 A. Yes.

13 Q. What was your understanding of the
14 conditions that were set forth? First of all, before
15 I ask you that question, did you ever actually see a
16 copy of that April 30th order?

17 A. I really don't remember. I believe I
18 did.

19 Q. But you couldn't remember today exactly
20 what the terms of the order were, could you?

21 A. If I saw a copy of the order, I could
22 recollect, I believe.

23 Q. We'll show you one a little bit later
24 on.

25 A. All right.

1 Q. Do you recall whether the creation of
2 this excavation permit system was in response to that
3 April 30th Atomic Safety and Licensing Board order?

4 A. I believe it was.

5 Q. How did you gain that impression?

6 A. Well, it was necessary because of
7 difficulty in locating subservice utilities to assure
8 that excavation being carried out, was being done
9 where it was supposed to be and that we would not
10 encounter any utilities. Essentially it was to
11 control excavation.

12 Q. At the time, in the time frame of July
13 of 1982 what was your general understanding of the
14 contents of the Licensing Board's order of April
15 30th, 1982?

16 A. That we would not excavate without
17 previous NRC permission, authority, whatever.

18 Q. Did you have a detailed knowledge at
19 that time as to how the NRC's approval of excavations
20 was to be given?

21 A. I did not control that. I was only
22 aware of it through contacts with other Consumers
23 people.

24 Q. Okay. Now, could you describe again
25 for the record what excavation this particular

1 excavation permit concerns itself with?

2 A. Well, it describes location and limits
3 of excavation as twelve by three foot pit below deep
4 Q duct bank, elevation from 597 to 535, see attached
5 drawing.

6 Q. Does the attached drawing show the
7 excavation which was to be conducted?

8 A. Yes.

9 Q. Below that duct bank?

10 A. It shows it to elevation 585.

11 Q. Now, is there another document attached
12 to that?

13 A. Yes.

14 Q. What is the nature of that document?

15 A. It is a remedial soils work permit, WP,
16 William Peter dash 5.

17 Q. Now, under the initial approval bank,
18 does it appear to you that the work, that this
19 document relates to the same work as this previous
20 excavation permit?

21 A. It does.

- 22 Q. Does it appear to you that this work
23 was fully approved as required by this work permit
24 form?

25 A. Yes it does.

1 Q. It does indicate also that the approval
2 was later withdrawn; is that correct?

3 A. Yes.

4 Q. What is the date the approval appears
5 to have been initially granted?

6 A. 7-22, I believe.

7 Q. Is that the same date that approval was
8 granted on the excavation permit EPEP 407?

9 A. That is true.

10 Q. In other words, it is the same date
11 that the last--

12 A. It is the same date of the final sign-
13 off. Evidently it took a couple days to get it
14 signed off, two days.

15 Q. Now, you are aware by having been
16 contacted by NRC investigators and by other means
17 that there has been some controversy about this
18 excavation below the deep Q duct bank, are you not?

19 A. Yes.

20 Q. You were in fact interviewed by a
21 couple of NRC investigators out here in Las Vegas
22 some months ago concerning this matter; is that
23 correct?

24 A. Yes.

25 Q. And you are aware that there are

1 certain allegations that you knew that the excavation
2 was conducted without proper NRC authority; is that
3 not correct?

4 A. Please restate the question.

5 MR. WILLIAMS: Can we have it read back?

6 (Thereupon the requested portion
7 of the record was read by the
8 reporter.)

9 MS. WRIGHT: Hold it.

10 (Discussion off the record.)

11 Q. (By MR. WILLIAMS) Let's go back on the
12 record and then answer the question.

13 A. I became aware of it at the NRC
14 investigation in Las Vegas. I was shown copies of
15 statements by Landsman, an NRC inspector, and Cook; I
16 don't remember his first name.

17 Q. Ron Cook?

18 A. Ron Cook, the resident inspector at the
19 plant.

20 Q. I am going to ask you about those
21 statements in a couple of minutes. But before I do
22 that, would you have signed this excavation permit--
23 you were at this point the soil supervisor for the
24 MPQAD, were you not?

25 A. Yes. I had the inspection and the

1 engineering section.

2 Q. Would you have signed this excavation
3 permit had you known that Consumers Power Company was
4 proceeding with an unauthorized piece of work?

5 A. No, I would not.

6 Q. Now, I would like you to turn to
7 Exhibit 3.

8 (The document referred to was
9 thereupon marked, "Applicant's
10 Exhibit No. 3 for
11 Identification," and is attached
12 to the original transcript of
13 this deposition.)

14 Q. (By MR. WILLIAMS) If you even
15 suspected the work was unauthorized, you would not
16 have approved it; is that correct?

17 A. That is correct, because the geotech
18 whose signature appears two lines above mine was
19 really the controlling factor in the signature of
20 these things, and they had to be checked out with the
21 geotech to be sure it was properly represented. He
22 was the technical person in charge.

23 Q. You relied on the geotech's knowledge
24 of approval; is that right?

25 A. Yes, but if I had had any ideas that he

1 had not approved it or that his approval was
2 incorrect, and I had inspectors on the job, I would
3 have refused to sign it.

4 Q. Now, I would like you to direct your
5 attention to your copy of exhibit, Applicant's
6 Exhibit 3 to this deposition, which you have your own
7 copy of in front of you. And I think you have opened
8 it to the handwritten statement, Dr. Ross, R-o-s-s,
9 B. Landsman. This is identified within the report as
10 Attachment 1. And I would ask you now to review the
11 contents of that handwritten statement. Review the
12 whole thing briefly, and then I will direct your
13 attention to specific parts of it.

14 Now, first I would like to direct your
15 attention to the second full paragraph on the first
16 page of this report, starting with the third line
17 down on it. Indicates, "When Donnell came in and
18 began talking to me about Consumers Power Company
19 continuing to dig under the deep Q duct bank after
20 they had been told not to dig "--

21 Do you have any recollection of ever
22 having made such a statement to Dr. Landsman?

23 A. No.

24 Q. Do you believe that it is likely that
25 you made such a statement even though you can't

1 remember it?

2 A. I do not. I can explain the reason for
3 my going over to see Dr. Landsman.

4 Q. Why don't you do that?

5 A. I considered it quite a while because
6 after Consumers had terminated me on the site, which
7 was about 20 July--

8 Q. Do you have a calendar with you which
9 could pin that date down?

10 A. Got my little black book here.

11 I have a note here on 20 July,
12 re-organization of QA. Now, on that day I was called
13 over to Mr. Williams' office who was the Babcock &
14 Wilcox administrator, and later Marve L. Curland,
15 site superintendent for Consumers came in, QA
16 superintendent. And I was told that I was being
17 replaced by Jim Meisenheimer, a geotech, and my
18 services would no longer be required by Consumers.
19 It was agreed by Babcock that I would move over to
20 the Babcock office immediately and that I could see
21 if I could find another position on site; whereupon,
22 I moved out of the office that afternoon and--to the
23 Babcock & Wilcox's office on site.

24 Q. Well, I would just like to clear up one
25 little matter here. This excavation permit indicates

1 you signed it on the 22nd and your calendar seems to
2 indicate you moved on the 20th. Did you stay on the
3 job for a few days perhaps after you got the initial
4 notification?

5 A. No, I can't account for the difference
6 in dates. It could have been on the same day, I
7 don't remember, maybe my notation in the book is
8 wrong. I got a re-organization at QA, but I seem to
9 remember I moved out on Thursday, which was the 22nd.
10 The 20th is Tuesday.

11 Q. So it is at least within your memory,
12 it's possible that you were still performing as soils
13 superintendent--

14 A. I would not have signed it if I was
15 still not performing as soils superintendent, because
16 after I was notified by Williams, I didn't do
17 anything.

18 Q. I think the records will show Mr.
19 Meisenheimer occupied his offices on the 26th.

20 A. And it would appear to me would be more
21 reasonable the date I was called into Williams'
22 office was Thursday not Tuesday. That is probably
23 the day the re-organization was dated.

24 Q. But you were going to continue and
25 explain how it was you came to visit Dr. Landman in

1 his--in the NRC trailer.

2 A. After I was over at the B & W trailer
3 engaged in trying to get another position on site, I
4 decided I would go over and see Dr. Landsman to find
5 out that if I tried to reinstate my NRC application
6 which I had submitted some years before, would he
7 have any objection to it. I was apprehensive about
8 going to see him because I did not want to put myself
9 in the position of being considered as running in and
10 out of the NRC trailer because I had any gripes
11 against Consumers.

12 However, I called him up that morning--
13 I seem to remember it was late in August and I was
14 obligated to move off site on August the 31st--and
15 asked him if I could see him. He said yes.

16 I went over to his office, and as I
17 recall, our total conversation evolved about my
18 application to NRC and if he would object to it. It
19 was a very short conversation. As I said, I didn't
20 want to put myself in the position of being--of
21 running to the NRC, because I had no objections
22 really against Consumers.

23 Q. But you knew at the time, however, did
24 you not, that it was your right to communicate with
25 the NRC staff?

1 A. Yes, I did.

2 Q. Were you ever intimidated in any way by
3 anyone from Consumers Power Company with respect to
4 communicating with the NRC?

5 A. No.

6 Q. Or from Babcock & Wilcox?

7 A. No.

8 Q. Did anyone ever tell you you weren't
9 supposed to communicate with the NRC?

10 A. No.

11 Q. Okay. I would like you to turn your
12 attention now to the second page of this handwritten
13 statement of Dr. Landsman. Do you have any
14 recollection of any discussion at all in this meeting
15 with Dr. Landsman about the deep Q duct bank?

16 A. No.

17 Q. Do you have any idea how Dr. Landsman
18 could have come to his conclusion, what he was
19 telling, what he reports on the first page?

20 A. Not unless he was confusing other
21 conversations with other people with me. Now, I have
22 thought about this very seriously and there was only
23 one other guy that was heavy set like I am that
24 worked over there. Now he could have had some
25 conversations with some other people that worked

1 anywhere. It disturbed me that when I read this
2 thing in Landsman's statement, because all of my
3 acquaintance of Landsman have been amenable. And he
4 appeared to me to be an honest individual. And that
5 was the reason I was disturbed, that he thought I had
6 told him that, but my only purpose in going over
7 there was to get some assurance that he would not
8 squelch a renewal of my application.

9 Q. Now, you are aware of an earlier
10 drilling incident with respect to the same deep Q
11 duct bank, are you not?

12 A. I am only aware of one incident that
13 occurred with that deep Q duct bank and that was the
14 drilling immediately outside the rear entrance to the
15 auxiliary building.

16 Q. Is it possible somehow or other Dr.
17 Landsman confused the two items; number one, the
18 drilling incident, and possibly conversations you may
19 have had with him earlier with the question of
20 excavation under the deep Q duct bank?

21 A. It is.

22 Q. It is the same duct bank; is that not
23 correct?

24 A. Yes, I believe it is. Now, I had had
25 some problems reconstructing that when JRC was in

1 here, and they showed me some pictures and the only
2 incident I could remember was when we drilled through
3 the duct bank and punctured an electrical conduit and
4 we did not know where the drilling mud was going
5 until the next day when it came out in the junction
6 box of the auxiliary building out of the conduit.

7 Q. This NRC report has both the original
8 material in the back and it has further reports of
9 oral statements in the front. And then it has
10 further condensation into a summary. The summary
11 occurs right after the signature page on the front of
12 the report. In the very first paragraph of the
13 summary, there is a sentence that begins, "The former
14 supervisor advised, though, that it was common
15 knowledge at the Midland facility, et cetera."

16 Have you read that sentence?

17 A. That the NRC soils inspector had
18 prohibited the excavation beneath the deep Q duct
19 bank?

20 Q. Yes.

21 A. Yes, I have.

22 Q. Do you recall making any statements to
23 Dr. Landsman in this meeting in August that were
24 specifically directed to the excavation beneath the
25 deep Q duct bank?

1 A. Not specifically, no.

2 Q. Is it possible that you may have spoken
3 to Dr. Landsman about the general prohibition of
4 excavations under the Atomic Safety and Licensing
5 Board order?

6 A. Yes, it is.

7 Q. Can you recall specifically whether you
8 did have such a conversation or not?

9 A. Not really, because the purpose of my
10 going over there was very pointed and I stated my
11 business and didn't tarry, got out of there.

12 Q. This sentence indicates that you told,
13 you gave this information to the NRC investigator.
14 Do you recall making such a statement to the
15 investigator that it was common knowledge that the
16 excavation under the duct bank was prohibited?

17 Okay. The witness is looking at
18 Attachment 3 to Deposition Exhibit 3.

19 A. My recollection is it was common
20 knowledge about the ASLB order, and I remember at
21 some time conversations in the construction meetings,
22 first, that--regarding the ASLB order; and, second,
23 that everything had to be cleared through Landsman
24 before we progressed.

25 Q. Now, going back to the summary of this

1 report, that first paragraph that we talked about
2 before, does--is that sentence that you were looking
3 at before a correct rendition of what you recall
4 telling the NRC inspector?

5 A. I believe I stated to the NRC that it
6 was real well understood by everybody that Mr.
7 Landsman's position--what Mr. Landsman's position was
8 regarding excavation. And I corrected the statement
9 that was made to so indicate that on page 2.

10 Q. On page 2 of your statement which is
11 Attachment 3?

12 A. Yes, at the bottom of the page there is
13 an initial correction. I struck out "I voiced my
14 agreement with Landsman's orders concerning
15 excavation", and changed it to read: "I stated in
16 discussions with Mr. Walker that it was my opinion
17 that at those meetings it was well understood by
18 everybody what Mr. Landsman's position was regarding
19 excavation. I don't really know whether that is
20 concerned with the mixup between understanding the
21 ASLB order and any orders that Landsman had given."

22 Q. But when you made this particular
23 statement in this, when you changed this part of your
24 written statement and hand wrote in, were you
25 referring to a explicit position with respect to the

1 deep Q duct bank, or were you referring to a generic
2 position with respect to any and all excavations at
3 the site?

4 A. A generic position.

5 Q. Does that, back to the original
6 question, does that sentence which we were talking
7 about in the summary in the front fairly reflect what
8 you told the NRC staff investigators?

9 MS. WRIGHT: I believe that has been
10 asked and answered, but if he can answer the question,
11 he can.

12 THE WITNESS: Let me find the sentence,
13 I lost it again.

14 I can't really recollect whether or not
15 there was a confusion when the NRC investigators were
16 here between Landsman's orders and the ASLB order.

17 Q. (By MR. WILLIAMS) But, now, this
18 particular sentence that we are talking here, that
19 ends, "The NRC soils inspector had prohibited the
20 excavation beneath the deep Q duct bank." Is it your
21 belief that that confuses your statement about the
22 generic prohibition with a specific prohibition?

23 A. Yes, I think there was some confusion.

24 Q. All right. Now, going back to the
25 attachments to Exhibit 1 and back to the second page

1 of Dr. Landsman's statement, the first sentence at
2 the top of the page. Would you take a look at that
3 where it says, "Continuing, Donnell said that he"--

4 A. "Donnell stated that he had also
5 informed"--

6 Q. "Donnell said that he had just had a
7 fight with someone."

8 A. Oh, all right.

9 Q. And it indicates later on that as a
10 result, Donnell said that he was subsequently laid
11 off. Do you recall making a statement to Dr.
12 Landsman that you were laid off as a result of your
13 having been involved in a fight?

14 A. I don't really remember having
15 discussed that with Landsman. I am sure that
16 Landsman knew about the fact which had occurred some
17 months before this, sometime in February, I believe.

18 Q. That was before you became soils
19 supervisor, was it not?

20 A. Yes, and I am sure that that was not
21 the reason I was laid off. I was laid off because
22 Meisenheimer had a geotech rating and NRC was looking
23 for a geotech. They were practically demanding that
24 a geotech be in the job. I was somewhat surprised
25 because Meisenheimer had no QA experience.

1 Q. Now, in the next sentence, Dr. Landsman
2 says, "I am unable to say if Donnell stated his
3 argument with Consumers Power occurred in preparation
4 to the digging, or during the actual digging."

5 A. That had nothing to do with the fight,
6 because the fight occurred several months before this
7 ever happened.

8 Q. By that you mean the--that the digging
9 under the deep Q duct bank?

10 A. That's correct. There is no connection
11 between the fight and the digging of the deep Q duct
12 bank and my termination, other than the fact that Mr.
13 Merguglio had been some what disturbed about the
14 fight.

15 Q. Let's go over to the next attachment
16 which is identified, strangely enough, as Attachment
17 2, but this is the statement of Ronald J. Cook who is
18 another NRC inspector attached to the site. And take
19 a few minutes and just read through the whole
20 statement, it is only two pages.

21 A. All right.

22 Q. Now, looking at the sentence that--it
23 is the second sentence from the end of the first page.
24 It starts out, "Donnell said he was released, he felt,
25 due to breaking up a fight between some QA personnel."

1 Do you recall this particular meeting
2 with Mr. Cook shortly before you left the site?

3 A. Yes. On Mr. Curland's recommendation
4 that I discuss with Cook his reaction to my reopening
5 the application with NRC, I contacted Cook and asked
6 him if I could talk to him. He came out to the
7 trailer which I was occupying because I had sold my
8 house. This was sometime after the 31st of August
9 when I had been terminated and already sold my house
10 and moved into a trailer so I could conduct a job
11 search from that area, using the same telephone.

12 Q. Do you recall having made this
13 particular statement?

14 A. Which one are you talking about?
15 Donnell said he was released due to breaking up a
16 fight?

17 Q. Yes.

18 A. Cook had been in the area when this
19 fight occurred and I believe he sympathized with me
20 on the fight, but I did not attribute my layoff
21 because of the fight. I figured I considered that
22 that had created some animosity between Mr. Marguglio
23 and it might be that he was looking for an
24 opportunity to get rid of me. But I believe that the
25 major reason for the layoff is that Weisenheimer was

1 a qualified geotech and I was not.

2 Q. Is it correct to say you have no
3 specific recollection of making this particular
4 statement?

5 A. No, I did not. I am sure I did not say
6 I was released due to breaking up a fight between
7 some QA personnel.

8 Q. Looking at the next sentence says,
9 "Donnell told me he told Consumers Power Company that
10 they"--et cetera, going over to the top of the next
11 page.

12 A. No, I do not recollect that specific
13 statement.

14 Q. Do you think that is likely or unlikely
15 that you made the statement and can't remember?

16 A. No, I don't think so.

17 Q. Don't think that is likely?

18 A. That is correct because at that time
19 the form we just looked at was in effect.

20 Q. Now, what bearing does that have?

21 A. Well, the statement is that I told them
22 they shouldn't be digging under the deep Q duct bank
23 without approval from Ross Landsman. I don't
24 recollect ever planning to dig under the deep Q duct
25 bank.

1 2. The following sentence says, "In
2 addition, Donnell stated he had also informed
3 Consumers Power Company when they were making
4 preparation to dig, that they needed approval from
5 Ross Landsman to dig."

6 Do you recall making that statement to
7 Mr. Cook?

8 A. Not specifically; however, the
9 situation was--correction. The situation evolved into
10 we needed Ross Landsman's permission to dig anywhere.

11 Q. Yes.

12 A. That was the reason for the forms that
13 contained one--one of which contained my signature
14 and the geotech's signature. That was why the forms
15 were devised.

16 Q. Which was the one we referred to
17 earlier in your testimony?

18 A. That's correct.

19 Q. Now, if you would look at the next
20 sentence where it says, "Donnell told me he
21 represented a threat to Consumers Power Company
22 because he had told Consumers Power Company they were
23 in violation of Landsman's orders barring the
24 digging." Do you recall having had this particular
25 piece of conversation with Mr. Cook at the time of

1 his visit to your trailer?

2 A. Not in relation to the deep duct bank.

3 Q. Well, in relation to anything?

4 A. There was a general understanding at
5 Consumers Power that they were not to dig without
6 Landsman's specific approval.

7 Q. Did you discuss the general
8 understanding of Mr. Cook at the time he visited your
9 trailer?

10 A. I don't really recollect, we may have.

11 Q. Okay.

12 A. This was a very short visit to my
13 trailer, and again, the only purpose of the visit was
14 to see if he would approve my application or object
15 to it to NRC.

16 Q. But you have no recollection of any
17 direct conversation relating to specific prohibitions
18 for excavation under the deep Q duct bank?

19 A. No.

20 Q. Thank you.

21 Okay. Now, let's go onto your
22 handwritten statement which is the next exhibit,
23 which is called Attachment 3. Is that your
24 handwriting that appears on this statement?

25 A. It is on the side of the page and the

1 initials JLD are mine.

2 Q. But?

3 A. I signed each page and initialed
4 changes.

5 Q. The main body of the handwriting, whose
6 is that?

7 A. I don't know which of the NRC
8 investigators it was, I think it was Walker's because
9 this statement was returned to me by Galanti for
10 signature after he and Walker had made their first
11 visit. He stayed in town in Las Vegas and came back
12 with a prepared statement for me to sign.

13 Q. And did he ask you to sign that
14 statement?

15 A. Yes.

16 Q. What was your response?

17 A. Negative. I said the statement was
18 written as if Galanti had written it, not as if I had
19 said it.

20 And I told Galanti I would be willing
21 to sign the statement if I had the privilege of
22 changing it to get everything in context.

23 Q. And did he give you that opportunity?

24 A. Yes. As we previously discussed, I
25 made one particular change on the bottom of page 2.

1 Q. And there appeared to be other changes.
2 Now, if I--

3 A. Excuse me, there is one other pertinent
4 thing here. At the last of the statement I put a
5 note down there, "The above statement was prepared by
6 H.C. Walker after discussions with me in Las Vegas,
7 Wednesday, July the 13th. He read his notes of our
8 conversation, and I said I'd sign that if you write
9 it up. He said he would. The above returned by D.M.
10 Galanti this date and is true as corrected by me."

11 Q. Okay. You mentioned while we were
12 talking about Dr. Landsman's statement that there was
13 another person who was heavy-set like yourself whom
14 you thought it might be possible that Dr. Landsman
15 had confused with you. Can you remember what that
16 person's name might have been?

17 A. His name was Johnson and he worked in
18 another section of QA there. I don't remember his
19 first name. He is no longer with NRC--excuse me,
20 with Consumers. He was about the same build I was,
21 but that is the only thing I can even vaguely connect
22 with a person that would have had the same
23 configuration as I did that could have been confused
24 with me.

25 Q. Now, going back to the exhibit which is

1 Attachment 6 to Exhibit 2, that we looked at before?

2 A. This?

3 Q. Yes. Are you quite sure in your own
4 mind that this excavation permit relates to the sem-
5 duct bank excavation that was the subject of this
6 investigation by the NRC investigators?

7 A. I think so because it reads below deep
8 Q duct bank elevation 597 to 565.

9 Q. Did the NRC investigators ever discuss
10 this particular document with you at the time that
11 they --

12 A. No, they did not--whoops, they may have
13 discussed it, but I did not see it at that time.

14 Q. Neither you nor they focused on the
15 fact that your signature appeared on it?

16 A. No.

17 Q. Okay. Now--

18 (Discussion off the record.)

19 Q. (By MR. WILLIAMS) Back on the record.

20 I have asked you about all the
21 questions I want to ask you about those various
22 written statements, but if you have anything else you
23 think that is important that ought to be said about
24 them, we will be glad to listen to them and take it
25 down.

1 A. No. I think I have said about all I
2 can about Landsman's statement. I feel they are both
3 honest gentlemen and they were trying to represent
4 what they thought, but I cannot understand the
5 confusion about what I said, because I went in there
6 with one purpose to talk to both of them, and that
7 was just on Curland's suggestion that I find out what
8 their reaction would be before I opened my
9 application to NRC.

10 Now, I had a further conversation with
11 Marguglio on Curland's suggestion because when it
12 became apparent I was not going to get a job there at
13 Midland, even after a discussion with the plant
14 manager, Don Miller, everything seemed to be going
15 sour. I went into ask Marguglio what his
16 recommendation would be if I put his name on my
17 resume' as a contact. He said that it would be okay,
18 but it later turned out that I had reason to believe
19 that it was not okay. So I removed his name from my
20 resume'. I don't know if that has got anything to do
21 with the issues here or not. I suspect that it does
22 not.

23 Q. Let us go back then to your employment
24 at the Midland plant. Do you recall approximately
25 when you came to Midland for the first time?

1 A. Some time in June of '81.

2 Q. What were you told before you came and
3 --before you accepted the position and came up to
4 Midland about what it would be that you would be
5 doing?

6 A. Well, I was told that I would be hired
7 as a senior engineer in QA, and with my experience, I
8 felt that I would be utilized, but I was put to
9 reviewing resume's for a period of about six to eight
10 months, and I voiced my objections to that to
11 management and got no reaction.

12 Q. Now, before you came up to the site,
13 did you interview with anyone from Consumers?

14 A. Not until I was on site. I interviewed
15 with a Mr. Turnbull, who was the site superintendent
16 at that time.

17 Q. But that was after Babcock & Wilcox
18 assigned you to Midland and you had actually come to
19 Midland?

20 A. Yes. The negotiations were made with
21 my boss, Jim Ansell, who headquartered in Lynchburg,
22 and Jim Williams, who was an administrator of all
23 Babcock people on site. At one time we had
24 approximately 50 people up there under contract.

25 Q. Do you recall any discussions either

1 just before or just after you got to the site about
2 your working in the site management office in
3 hydrotesting program; that is, initially when you
4 came to the site?

5 A. Now, when it became apparent to me is
6 somehow or other through contacts, I became
7 acquainted with Don Miller, and from the beginning
8 Don said I see you have taken a position with QA, you
9 will probably end up in my organization. And when it
10 became apparent that I was going to be doing a
11 clerk's job in quality assurance, I asked him to see
12 about moving me. He kept telling me he would try,
13 but--even after I was laid off, he told me he would
14 try and nothing happened. I was interviewed by a Mr.
15 McCue and that was sort of a cursory interview. Of
16 course this occurred after I was term--after I was
17 laid off before I was terminated.

18 Q. But it is your best recollection you
19 began your work initially as soon as you came to the
20 site, MPQAD, working for Mr. Turnbull?

21 A. That's correct.

22 Q. And that was late June of '81 and--

23 A. I think I actually moved there in June
24 because I got back from Argentina about the last of
25 May.

1 Q. Who was your immediate supervisor?
2 A. I guess you could say Turnbull.
3 Q. Did you have another supervisor that
4 you worked for from time to time?
5 A. After I was transferred to remedial
6 soils--
7 Q. Let's stick with the MPQAD for a moment.
8 A. I worked with and had quite a few
9 contacts with Mr. Bird.
10 Q. Did you have any dealings with Mr. Mike
11 Schaeffer?
12 A. Yes, he was the electrical supervisor.
13 Q. But you didn't work directly for him?
14 A. No, I did not.
15 Q. What work were you given to do when you
16 arrived and began to conduct your activities at MPQAD?
17 A. I was asked to straighten out the
18 resume' situation and to get some people in there to
19 hire.
20 Q. What kind of people were being hired?
21 A. All kinds for QA, all disciplines.
22 Q. For example, inspectors?
23 A. Inspectors, QA engineers, electrical,
24 mechanical soils.
25 Q. You say you were asked to straighten

1 out the situation. What was the nature of the
2 problem that you had to straighten out?

3 A. It seems that they weren't able to get
4 people to fill the slots that were required.

5 Q. And how did these resume's come to be
6 in MPQAD to be reviewed in the first place?

7 A. Some of them had been put in there by
8 personnel organizations involved in hiring, by
9 contract organizations who wanted to get contract
10 people in there all the way from U.S. Testing to
11 Babcock, Quadrex, E G & G; all of the organizations
12 involved in the assistance to nuclear plants.

13 Q. In other words, a number of
14 organizations that are commonly referred to as body
15 shops?

16 A. That's correct, slave labor. I
17 reviewed some 1200 resume's in a period of eight
18 months. Yes, I got punchy at it.

19 Q. Well, in addition to reviewing the
20 resume's, what were you required to do?

21 A. Recommend the ones that should come in
22 there for interviews, but I had difficulty getting
23 anybody to agree with anything. There were certain
24 people in the Consumers organization couldn't make up
25 their minds, I guess you could say.

1 Q. Were you required to, for example,
2 interview some of the potential candidates over the
3 telephone?

4 A. Yes, I made a preliminary interview.

5 Q. And you carried on this activity more
6 or less straight for eight months?

7 A. Yes.

8 Q. Were there ever any comments back to
9 you, feedback, about how you were performing your job?

10 A. Not really, except it was a required
11 job, they needed the help.

12 Q. Did you-

13 A. That was from Mr. Bird.

14 Q. Did you consider this job to be within
15 the--let me strike that, and start over again.

16 Did you consider this job to be up to
17 the abilities and training and experience that you
18 had accrued over your years with Babcock & Wilcox?

19 A. No, I did not. I didn't figure that
20 was what I was hired for, and I expressed myself to
21 Mr. Bird and I believe Mr. Marguglio, I don't
22 remember specifically Marguglio, but I do remember
23 talking to Bird and Turnbull that I was being totally
24 underutilized.

25 Q. Did Mr. Turnbull or anyone else ever

1 tell you you were doing a good job with this
2 reviewing of resume's and initial interviewing?

3 A. Not really. They just told me it was
4 something that had to be done.

5 Q. Now, during the time that you were
6 involved with this resume' screening you, at least
7 for part of that time, you shared a cubicle with a
8 man named T.K. Subramanian, did you not?

9 A. Yes, he was East Indian, Pakistani.

10 Q. Now, we talked briefly when we were
11 going over Dr. Landsman's statement about a reference
12 to a fight. Was there--were you involved in an
13 altercation which also involved Mr. Subramanian and
14 occurred in the cubicle you shared with him?

15 A. Yes, T.K. was quite an intellectual
16 type, as are a lot of people of east Indian and
17 Pakistan extraction. And he was quite a talker, and
18 I was put in a cubicle with him. I had no objection
19 to him. He was a very small man, slight. And one
20 day a tall Texan, I don't even remember his name, it
21 was an inspector there, stormed into the cubicle.

22 Q. If I suggest a name of Blackington to
23 you, does that refresh your recollection?

24 A. That is correct, I don't remember first
25 name, but if you said it I would know it.

1 Q. Rich?

2 A. Yes, Rich Blackington. He later left
3 the company. Rich Blackington stormed into the
4 cubicle and accosted T.K. in a very belligerent
5 manner. I attempted to ignore them for a period of
6 time. They were shouting and screaming so they could
7 be heard all over the department; that is, Rich was.
8 And he was standing over T.K. who was sitting at his
9 desk.

10 He picked up the telephone and started
11 banging it on the desk. T.K. tried to get up from
12 his desk, and I thought Blackington was going to hit
13 him with the telephone or something. He was quite
14 belligerent, so I stepped across the cubicle and
15 attempted to restrain Blackington. Blackington
16 turned around and shoved me to the floor; whereupon,
17 I came up and hit him and somebody stopped the fight.
18 It was not a fight. It was an attempt on my part to,
19 I guess you would say, protect T.K., because I
20 thought he was in danger of being molested somehow.

21 Q. Do you recall the circumstances that
22 triggered Blackington's entry into the cubicle and
23 his--

24 A. Yes, I do. He was shouting something
25 which I couldn't really ignore about T.K. having

1 dialed into a conversation that he was having with
2 somebody on the other end of the line that he was
3 quite incensed about it.

4 Q. Did they share a telephone line?

5 A. Yes. Nobody knew who was on the other
6 ends of the line, communication situation was quite
7 confused. Was right after we had moved into the new
8 trailers.

9 Q. Now, what occurred with respect to you
10 and Mr. Blackington after the--after somebody stopped
11 the fight?

12 A. Turnbull made an investigation which I
13 was allowed--I would say very little, and reported it
14 to Bird who was in Jackson. And informed me that I
15 would be laid off for three days.

16 Q. Turnbull was your direct supervisor?

17 A. Yes. Everybody was laid off for three
18 days except T.K.

19 Q. Do you remember what Turnbull's title
20 was at the time?

21 A. Site superintendent.

22 Q. And he reported to Mr. Bird?

23 A. Yes.

24 Q. Did he take a full statement from Mr.
25 Blackington about what had happened?

1 A. I don't really know. I was quite
2 incensed at the time, and I finally subdued. As a
3 matter of fact, when the fight was broken up
4 Blackington came at me shouting at my face and I
5 turned around and went back to my desk and told him I
6 wasn't going to talk to him, I was so disturbed.

7 Q. But was your feeling in the events that
8 happened after the fight, Mr. Turnbull did not listen
9 to your side of the story; is that correct?

10 A. That's correct. Shortly after that,
11 Turnbull was removed from his job and put into an
12 administrative job. Quite a few people were upset
13 with Mr. Turnbull.

14 Q. How were your relations with Mr.
15 Turnbull before?

16 A. Standoffish.

17 Q. What about before the fight?

18 A. He was superintendent, and I was taught
19 to discipline myself in the Marine Corps, so I put up
20 with him. He was not an intellectual, he wasn't even
21 technically competent as far as I was concerned.

22 Q. Now, do you remember what Mr. Curland's
23 position was at approximately that time, say, the
24 time before the fight?

25 A. Curland came in there later.

1 Q. After the fight?

2 A. Yes. He was a PAC, P-A-C, all caps,
3 contract employee who was put in there by
4 Professional Assistance Corporation. His previous
5 job had been with Electric Boat, out of Connecticut.
6 They make nuclear submarines. He was quite a
7 competent QA man and was in there by PAC to take over
8 Turnbull's job. He was the vice president of PAC.

9 Q. Do you recall approximately when the,
10 if you can just refer to it for shorthand as "the
11 fight", when the fight took place?

12 A. Some time in the early part of the year,
13 was right after we moved over from the engineering
14 building.

15 Q. Some time in January sound about right?

16 A. January or February, I don't know.

17 Q. Do you remember when Mr. Curland came
18 into the organization?

19 A. Shortly after the fight. His first
20 question is why are you doing this sort of work
21 around here.

22 Q. How were your relations with Mr.
23 Curland generally?

24 A. Excellent.

25 Q. Would you say you and he were personal

1 friends or became personal friends?

2 A. Not sticky, but we were friends. Later
3 in the year after I had been on the job, he came over
4 to the house for dinner and his boss, Dr. Goldstein
5 from the west coast of PAC came over, and we are
6 rather gregarious people, having been around as much
7 as we have and my wife likes to entertain.

8 Q. During the time that you were screening
9 resume's, you indicated that you really thought that
10 this was beneath your level of skills and training.
11 Did you--

12 A. That is incorrect, it was menial.

13 Q. Was it your desire to obtain a more
14 responsible position?

15 A. Yes, I thought I could be of some help
16 around there.

17 Q. Could you give us a description of the
18 efforts that you made to get a more responsible
19 position?

20 A. I talked to Bird a couple of times, and
21 it became very apparent Bird wasn't going to listen
22 to me, so I knocked it off. And then in screening
23 the resume's, they were trying to get at NRC's
24 instigation a civil engineer in a job in soils. One
25 of the supervisors in the mechanical section, I don't

1 remember his name, came to me one day and he says how
2 come they hired this guy, Acres, he is not even a
3 civil engineer and you are. And I said nobody asked
4 me, Turnbull has known my qualifications ever since I
5 came here.

6 And then shortly after that this
7 gentleman left, and Curland came in. And Curland
8 evidently had had some contact with him before. And
9 that is when Curland says why are you doing what you
10 are doing here, you are qualified for other things.

11 Q. Now, do you recall a situation in which
12 --well, strike that. Let me start over again.

13 You refer to a Mr. Acres. Do you
14 recall exactly what the position was that Mr. Acres
15 held?

16 A. He was in remedial soils working for
17 Don Horn in a position which required a civil
18 engineer and which NRC had been asking that a civil
19 engineer be put in. He was not a civil engineer. He
20 was an ex-Dow Chemical employee and I had recommended
21 several other civil engineers for that job.

22 Q. Do you recall specifically Dr. Landsman
23 requesting that the company have a civil engineer put
24 into that position?

25 A. There was quite a bit of discussion at

1 the time. I don't believe I ever talked to Dr.
2 Landsman about it, but again it was just common
3 knowledge in my job that NRC wanted a civil engineer
4 and that Landsman wasn't pleased.

5 Q. With the fact that Acres didn't have a
6 civil background?

7 A. I think he had a political science or a
8 business administration. He had no QA experience nor
9 a civil engineering degree.

10 Q. Did you at some point replace Mr. Acres?

11 A. The thing was re-organized and I don't
12 know whether I replaced him or not, but he was moved
13 over to another position in civil engineering under
14 Horn. He was opposite me, I had the remedial soils
15 portion of it.

16 Q. Do you recall when this re-organization
17 took place approximately?

18 A. I don't know whether that is in my
19 little book or not. I am starting to distrust this
20 little book.

21 Q. If you have something there--

22 A. I think was sometime in March, was
23 still snowing, always snows in Michigan.

24 Q. Does the end of March sound
25 approximately correct?

1 A. Yes--no, I don't think--I don't seem to
2 have anything in here, I think was some time in March.

3 Q. But was your understanding that you
4 were put in the position of remedial soils supervisor
5 or whatever the right title is as a result of the
6 NRC's criticism of Mr. Acres?

7 A. That's correct. Curland and I
8 discussed it several times. He was the one that was
9 primary in getting me into the job because I was a
10 civil engineer and had QA experience.

11 Q. So by this time Mr. Curland had
12 replaced Mr. Turnbull; is that right?

13 A. Yes.

14 Q. And you had a number of discussions
15 with him about it before it happened?

16 A. No, it all evolved pretty quickly,
17 because I came in one Monday morning and Turnbull had
18 asked me come up with a plan; Acres, Horn, myself,
19 for re-organization of the civil engineering
20 discipline. And I drew up some organization charts
21 and I was participating very little in the
22 conversation, the conversation was being dominated by
23 Acres and others. And I said all of a sudden how
24 about me up here, I was getting a little whizzed off
25 at the procrastination. Somehow or other Curland got

1 in on it, I don't remember the details, and all of a
2 sudden I ended up there. And that is just the way it
3 evolved. It all happened in one day.

4 Q. Do you recall people using the terms
5 "soil czar"?

6 A. Yes, Curland used it. That was a
7 favorite term of his. That is how he described the
8 job.

9 Q. What is the actual technical title you
10 held in this job?

11 A. Remedial soils supervisor under Horn.

12 Q. You took on that responsibility
13 approximately the end of March?

14 A. Yes.

15 Q. What--I gather that this was really
16 more a result of your generally asking for more
17 responsibility and Mr. Curland specifically putting
18 you in this job, than you applying for this
19 particular job; is that correct?

20 A. Yes. I got the impression he had quite
21 a problem with getting that approved somewhat
22 reluctantly by Bird and Marguglio.

23 Q. What were your duties as remedial soils
24 superintendent?

25 A. Supervisor.

1 Q. Supervisor, excuse me?

2 A. I had a section of inspectors who were
3 supposed to do--strike that--inspectors who were
4 supposed to do over inspection of the soils work on
5 site which was concerned with underpinning of the
6 diesel generator and auxiliary building, and a QA
7 section headed up by Bob Sevo, QA engineering section
8 headed up by Bob Sevo. The inspection section, after
9 some ground work on my part, I managed to get Brian
10 Palmer, who I had a great deal of respect for, in as
11 the head of the inspection section, basically because
12 Palmer had good experience. He expressed himself
13 well, and he was well qualified for the job. His
14 approach to problems was quite direct and narrow.

15 Q. So your duties involved supervision
16 basically of these two sections, the over inspection
17 group and the QA's?

18 A. Yes.

19 Q. What did that involve, what were your
20 day-to-day activities like?

21 A. Knowing what was going on on site,
22 reviewing their work. Bob Sevo had several people,
23 they were reviewing the documentation and the
24 inspection function, I was there. I got around all
25 the time to see that the inspectors were doing their

1 job. I was quite often there on Saturdays and
2 Sundays because work was going on, and generally
3 before I got Palmer in there as supervisor of the
4 inspection section, I was more or less running the
5 inspection section.

6 Q. Did you have--were there any particular
7 individuals in MPQAD with whom you had particularly
8 bad relations during this period?

9 A. Not particularly.

10 Q. Was there anyone that you ran across
11 whom you didn't think was doing his job properly?

12 A. No. I did have some words with John
13 Shaw as a result of a meeting, and with Don Horn, my
14 boss, that certain things ought to be cleared with
15 Landsman before they were done.

16 Q. Do you remember when that occurred?

17 A. Not specifically, no, I don't.

18 Q. Do you remember what the subject matter
19 of what those things were that should have been
20 cleared with Landsman?

21 A. They had to do with this ALSS order.

22 Q. Can you remember specifically what work
23 it was that was involved?

24 A. No. Was just generally the clearance
25 with them with things as a result of the ALSS order,

1 because that kept coming up in the meetings in
2 Fisher's trailer who was the superintendent of
3 construction there for Bechtel.

4 Q. Your direct supervisor was Mr. Horn; is
5 that correct?

6 A. Don Horn, he was head of civil
7 engineering section.

8 Q. How were your relations with Mr. Horn
9 generally?

10 A. Sort of standoffish. I was never--I
11 went to Curland one time and told him that I wasn't
12 really being allowed full freedom in doing my job
13 because Don Horn was trying to keep too tight a rein
14 on me.

15 Q. In what respect were you not being
16 given full freedom to do your job?

17 A. Well, a number of things. Marguglio
18 wanted me--Curland wanted me to go to meetings,
19 Marguglio wanted Horn or somebody else to go to
20 meetings. And ended up I was going to meetings, Horn
21 was going to meetings, Savo was going to meetings.
22 And I expressed if I am going to the meetings, why
23 the hell is everybody else there?

24 Q. Were there particular meetings that
25 this was addressed to?

1 A. These were the weekly meetings.
2 Q. The Friday weekly project meetings?
3 A. Yes, in Mr. Fisher's trailer. He
4 presided at these meetings, or his designee, and they
5 were essentially scheduling meetings. Were attended
6 by Shaw who was the engineering representative for
7 remedial soils; Mooney, who was the executive
8 director, never did find out what that exactly means;
9 and a Mr. Boos, B-o-o-s.
10 Q. During this period when you were soils
11 supervisor did anyone make directly to you any
12 adverse comments or remarks about your performance on
13 this job?
14 A. No.
15 Q. Now you mentioned you had Brian Palmer
16 in as head of your inspections and you seem to speak
17 very highly of Brian Palmer. How were your relations
18 generally with him?
19 A. Good, I trusted him.
20 Q. What about some of the other people who
21 worked for you, for example, Mr. Butterworth?
22 A. Butterfield?
23 Q. Yes.
24 A. He reported to Bob Sevo in QA
25 engineering.

1 Q. So you didn't work directly with him?

2 A. No, not really. He was sort of
3 standoffish.

4 Q. How about Mr. Sevo himself?

5 A. Sevo is a very opinionated guy. He had
6 a lot of knowledge about the job, he had been there a
7 long time, he was a well qualified QA engineer, but
8 Sevo gave me the impression, and I discussed this
9 with Palmer several times, as being more interested
10 in Bechtel than he was Consumers. He was a Bechtel
11 employee. Sevo seemed to resent me being there. I
12 guess he thought he should have it.

13 Q. Okay. So as part of your job at least
14 you thought from some of the directives you had you
15 had to attend all the Friday weekly meetings?

16 A. Curland insisted on it.

17 Q. Did you in fact attend most of the
18 meetings?

19 A. Vast majority of them, yes.

20 Q. Did there come a time when you stopped
21 attending the meetings?

22 A. Not until I was removed from the job.

23 Q. Was it within the scope of your duties
24 to attend entrance and exit meetings for NRC
25 inspections?

1 A. Yes when they called us.

2 Q. Do you recall having attended a
3 particular NRC exit meeting on the 21st of May, 1982?

4 A. I attended several meetings, but not
5 all of them. I think Palmer and Savo attended some
6 of them. Which meeting are you referring to? I
7 can't--

8 Q. I am going to show you a document which
9 is another attachment to one of these investigative
10 reports. This is Deposition Exhibit 3, the September
11 12th, 1983 report of investigation. And I want to
12 show you Attachment 6 which is a June 4th, 1982
13 memorandum signed by D.E. Horn and addressed to W.R.
14 Bird, B.W. Morguglio and M.A. Dietrich, and this
15 purports to be a record or minutes of an exit meeting
16 held on May 21st, 1982. You can either look at your
17 own copy or my copy.

18 Reason I ask you this is you were shown
19 the a--the attendees list is a little obscure. While
20 the text of the document indicates the exit meeting
21 took place on the 21st, the actual attendance list is
22 dated 5-19, but I believe the right date should have
23 been 5-21. In any event, your name appears on the
24 attendance list.

25 Could you review that memorandum for me

1 and tell me whether you have any recollection of
2 attending that exit meeting?

3 A. Doesn't say where this meeting was.

4 Q. I don't think it does.

5 A. Could I ask a question?

6 Q. Yes.

7 A. Was this meeting on Friday? What was
8 the date?

9 Q. It is my belief that May 21st was a
10 Friday, but we can verify that.

11 MS. WRIGHT: It was.

12 THE WITNESS: I don't really remember
13 if this meeting was held in Fisher's trailer or up in
14 the engineering building on the second floor. From
15 the list of people and the subject: Monitoring of
16 Fines, I remember one meeting where Butterfield was
17 invited because he had had some experience in the
18 monitoring of fines, and I notice Palmer was also
19 there, but I don't see that Bob was there.

20 Q. (By MR. WILLIAMS) Is Butterfield on
21 the attendance list? Let's look at the attendance
22 list which is actually on the next page?

23 A. Okay. Here is Butterfield, yeah,
24 second one from the top, I noticed him in the body of
25 it on monitoring of fines--

1 Q. I don't want you to simply repeat what
2 is in the document, my question to you is do you
3 remember having attended this particular meeting?

4 A. I was trying to relate it from the
5 contents of the meeting and I really can't.

6 Q. So this document does not refresh your
7 recollection about the contents of this meeting?

8 A. No, the one I was remembering
9 specifically was Marguglio attended and I don't see
10 him on there.

11 Q. Let me just propose to you there were
12 several meetings in the two or three-day period
13 ending on the 21st. There were other individuals
14 have referred to a meeting, an NRC audit of Consumers
15 Power activities which took place on the preceding
16 day on the 20th. And I think there may have been
17 even two meetings on the 20th. So there were a lot
18 of meetings during that period.

19 A. Yeah.

20 Q. If you can't remember this specific
21 meeting that is all right.

22 A. Well, 5-19, that is not a Friday.

23 Q. No, but you see this is the exit
24 meeting and the text of the memo of the minutes
25 indicates that the exit meeting took place on 5-11,

1 and it is my guess that that 5-19 on the last page is
2 a misprint?

3 A. Entrance meeting on 5-19, exit meeting
4 on 5-21, you are correct.

5 Q. Now, looking at these particular
6 subject matters that were discussed, does that
7 refresh your recollection as to anything that
8 occurred at that particular meeting?

9 A. I remember a meeting that Butterfield
10 was called to because he was the expert on fines and
11 he got into quite a discussion on fines with Landsman.

12 Q. Do you remember any discussion about
13 backfilling of excavations that had been made for
14 utility protection at any of these meetings?

15 A. I remember something about it, but I
16 don't remember the details, I don't believe that had
17 any connection with the deep Q duct bank. That was a
18 separate issue.

19 Q. Do you have any recollection of Dr.
20 Landsman being at any of these meetings?

21 A. Yes, I do.

22 Q. Well, do you recall Dr. Landsman
23 stating in substance at any of these meetings that
24 there was to be no excavation under the deep Q duct
25 bank without his specific approval?

1 A. Yes, I generally remember that
2 statement, but I don't know when it was made.

3 Q. When you say you don't know when it was
4 made, are you confining your time frame to this few
5 day period--

6 A. I am talking about a specific meeting.
7 I don't remember specifically what meeting it was
8 said in. As you say, there was a proliferation of
9 meetings at this time.

10 Q. But you think at one of these meetings
11 in this time frame of the 19th to the 21st such a
12 statement was made?

13 A. Yes, I remember a statement about
14 everything being Q.

15 Q. Now is that what you mean when you
16 refer to Dr. Landsman's statement?

17 A. And Landsman got sort of disturbed,
18 seems it is my recollection, that everything was Q
19 and everything that was Q would require his approval
20 to proceed.

21 Q. That is what you were referring to just
22 a few minutes ago when I asked you the question about
23 hearing this in the meeting?

24 A. Yes.

25 Q. In other words, Dr. Landsman's generic

1 statement that everything that was Q in the--

2 A. Everything was Q.

3 Q. And that everything, therefore, would
4 be subject to his approval?

5 A. Yes. That started out, there was a
6 discussion, I don't remember who was involved in it
7 and I did not get involved, that some things had
8 started out non-Q, and that is what triggered
9 Landsman to say, well, everything is being Q now
10 because of the ALGB order.

11 Q. Well, do you remember Dr. Landsman in
12 any of these meetings having directed that comment
13 about everything requiring his approval specifically
14 to the excavation under the deep Q duct bank?

15 A. Not directly, no.

16 Q. If you don't remember--

17 A. I don't, I am searching for something,
18 but no light turns on.

19 Q. Okay. Now, let us turn to another
20 matter and I want to show you a few more documents.

21 Let's just start off with this, will be
22 Applicant's Exhibit 4.

23 (The document referred to was
24 thereupon marked, "Applicant's
25 Exhibit No. 4 for

1 Identification," and is attached
2 to the original transcript of
3 this deposition.)

4 Q. (By MR. WILLIAMS) Applicant's Exhibit
5 4, just for the record is a document which carries a
6 title across the top of it Stop Work Order. Would
7 you examine this document for a few minutes?

8 A. Yes, I recognize my signature on the
9 bottom.

10 Q. What is the nature of this document?

11 A. It refers to a condition requiring the
12 stop work action, hitting of an electrical duct bank.
13 I guess that is the one we were talking about
14 previously.

15 Q. This incident involves drilling, does
16 it not?

17 A. Yes.

18 Q. Are you able to state based on your
19 present knowledge whether the drilling into the duct
20 bank which is referred to in this document is the
21 same duct bank as we were talking about before with
22 regard to excavation underneath?

23 A. I believe so, yes, but I don't think it
24 has anything to do with digging below the duct bank.

25 Q. Right. This is a different incident?

1 A. Yes.

2 Q. What is the date of issuance of that
3 Stop Work Order, if you can tell me?

4 A. Issuance--it was approved by W. Bird on
5 5-19 which was Wednesday, May the 19th, I was aware
6 of some of the circumstances--work was stopped on
7 4-28. I really don't understand the timing on it.

8 Q. Let me offer another exhibit here which
9 will be Applicant's Exhibit 5 which perhaps could
10 clear up the timing problem for you.

11 (The document referred to was
12 thereupon marked, "Applicant's
13 Exhibit No. 5 for
14 Identification," and is attached
15 to the original transcript of
16 this deposition.)

17 Q. (By MR. WILLIAMS) First of all, just
18 for identification, this document is on Consumers
19 Power Company's letterhead, dated April 28 1982, a
20 letter from D.B. Miller, site manager, to L.E. Davis,
21 Bechtel Power Corporation.

22 Could you describe the import of that
23 letter?

24 A. This letter confirms the verbal stop
25 work directive. It is evidently this stop work

1 directive we are talking about in Exhibit 4 signed
2 off by Bird on 5-19. It says, "provided to your Mr.
3 John Fisher by our Mr. Bruce H. Peck at about 10:30
4 a.m. on April 28, 1982. The stop work applies to all
5 drilling operations and sheet-piling activities by
6 Mergentime Corporation, and its subcontractors, in
7 all Q and Non-Q areas. We are very concerned about
8 the lack of control by Bechtel over the activities of
9 Mergentime..."

10 Q. Now, this other document which is
11 Applicant's Exhibit 4 is a Stop Work Order issued by
12 MPQAD, is it not?

13 A. Yes.

14 Q. And what--you mentioned that your
15 signature appears at the bottom of it. What does
16 your signature signify?

17 A. Completion of the corrective action and
18 the stop work listed.

19 Q. What was the corrective action that was
20 recommended?

21 A. "Mergentime drilling procedures C-195-2,
22 (Ground Water Control System - Moretrench)" that is a
23 title, it is an organization, "and C-195-53
24 (Installation of Well Points, Ejectors and
25 Observation Wells - Mergentime) revised to provide

1 survey controls and verification to assure location
2 of utilities prior to drilling by the subcontractor."

3 Q. Now, you were involved in some way in
4 the observation of this incident when it first
5 occurred, weren't you?

6 A. (No audible response.)

7 Q. Weren't you on site and observed the
8 drilling being done at some point?

9 A. Well, I believe this is the instance
10 where I came to work Sunday morning and noticed a
11 drill rig that appeared to be out of position, and I
12 called it to Palmer's attention and I believe I
13 called up the inspector, who was at home. And I was
14 told that they had stopped drilling in that position
15 and that was the instance where later on Monday it
16 occurred that they found out that the electrical
17 ducting had been ruptured and the drill mud was
18 coming out in the junction box of the aux building.
19 And I discussed this with Palmer who was in charge of
20 the inspectors and Palmer said that he would be sure
21 there was no more drilling done in that location.

22 Q. Okay. I would like to show you next
23 which will be Applicant's Exhibit 5--excuse me, 6, a
24 copy of a revised nonconformance report, which I
25 believe relates to this particular incident.

1 (The document referred to was
2 thereupon marked, "Applicant's
3 Exhibit No. 6 for
4 Identification," and is attached
5 to the original transcript of
6 this deposition.)

7 Q. (By MR. WILLIAMS) Now, what I want you
8 to focus on is two things, whether this refers to the
9 incident we have been talking about first of all and
10 second of all what is the corrective action that is
11 recommended in here?

12 A. This concerned the damage of the
13 conduits in the duct bank, I presume this is the same
14 situation, and the report is by C.E. Harbour, it is
15 requiring the repair of the ducts. Harbour was an
16 inspector that worked for Palmer.

17 Q. So he was also indirectly under your
18 supervision; is that right?

19 A. Yes.

20 Q. Do you recall what was required for the
21 rework of the ducts?

22 A. Not otherwise on this report that
23 examined cables for damaged outer jacket, I think it
24 goes per se that the cables were not shorted out
25 because, but it also is evident that the outer jacket

1 was damaged because the water came out in the
2 function box, but that would only indicate damage to
3 the conduit containing the cable and not the cable.

4 Q. Right. Now, did you ever become aware
5 that some sort of digging or excavation or trenching
6 would be required to carry out the repair work that
7 is referred to in that nonconformance report?

8 A. Not specifically.

9 Q. Did you ever become aware of any kind
10 of NRC hold or point or Stop Work Order which related
11 to the repair, specifically the repair of this duct
12 bank from this drilling incident?

13 A. Not specifically.

14 Q. Now, your signature on the MPQAD Stop
15 Work Order, does it indicate that repair work would
16 go forward, or what, if not that, does it indicate?

17 A. It indicates a completion of corrective
18 action has been verified. "Verified C-195-2-4 and
19 C-195-63-3 have been reviewed, approved and issued as
20 controlled documents by Document Control, by MPQAD
21 with appropriate controls and verification mechanism
22 provided.

23 "Bechtel procedures FIC 5.100, Rev 0
24 reviewed and approved by MPQAD, signed off by all
25 parties and is in the process of issue, with

1 appropriate training conducted on May 25, 1982." And
2 that the Stop Work Order had been listed because we
3 had verified this corrective action.

4 Q. So the only thing that Stop Work Order
5 goes to is the procedures, it doesn't per se allow
6 the work to go forward?

7 A. That is true.

8 Q. Now, the corrective action that is
9 referred to in Exhibit 4, with respect to procedure,
10 field procedure FIC 5.100?

11 A. Yeah, excavation permit system.

12 Q. That is the excavation permit system
13 and that document I am going to show you, Attachment
14 5 to deposition Exhibit 2, and ask you if that
15 attachment is the procedure that is referred to?

16 A. I believe that is the procedure that
17 set up this form.

18 Q. This form you are now referring to,
19 Attachment 6?

20 A. That's correct.

21 Q. To the deposition Exhibit 2 which is
22 entitled excavation permit. And this is a system
23 which allowed further excavation and/or drilling to
24 go forward, right?

25 A. To the extent delineated on the

1 specific excavation, for instance, this EP-46 is
2 Excavation Permit 46, and it states the location and
3 limits of excavation is a 12 by three foot pit below
4 deep Q duct bank, elevation 597 to 585. That means
5 excavation is permitted between the limits of 597 to
6 585 in the deep Q duct bank area.

7 Q. But this has nothing to do with any,
8 with approval or not of any repair work on that deep
9 Q duct bank conduit, right?

10 A. No.

11 Q. That is all I was trying to get at.

12 A. Oh, I am sorry.

13 Q. Now, if you would go back to Exhibit 3
14 and go back to your statement in the back of that,
15 look at the paragraph on the bottom of the first page
16 and the first part of the paragraph that begins on
17 top of page 2.

18 A. Yeah, excuse me, yes.

19 Q. Now, you indicate in the paragraph that
20 begins on the top of page 2, "I cannot totally relate
21 with the deep Q duct bank; however, I do recall a
22 drilling rig which at the time I felt was improperly
23 positioned, et cetera."

24 Now, is this drilling rig that was
25 improperly positioned, is this the April 22nd or 24th

1 incident which is the subject of these stop work
2 orders which are Exhibit 4 and 5?

3 A. Yes, it was the one in which we hit the
4 electrical duct bank.

5 Q. All right. Now, you seem to be stating
6 in this written statement and correct me if I am
7 wrong, that there is some confusion in Dr. Landsman's
8 mind perhaps as to a holdover on work having to do
9 with this drilling or the duct bank and what you were
10 being asked about; am I correct in that statement?

11 MS. WRIGHT: Objection that it asks him
12 to speculate whether Dr. Landsman was confused. If
13 he wants to answer, he can.

14 THE WITNESS: Run that by again, please.

15 Q. (By MR. WILLIAMS) I am asking what you
16 were trying to get at in your statement here. You
17 refer on the first page, you refer to a hold order
18 and the previous paragraph had asked about some
19 questions about violating a hold order and then you
20 cannot relate this in some way to the deep Q duct
21 bank, but to the drilling incident. Was it your
22 intention to imply, either you or the NRC was
23 confusing the drilling incident with the excavation
24 below the deep Q duct bank?

25 A. I say, I cannot totally relate with the

1 deep 2 duct bank. I think that is a true statement,
2 and I did recall the drill rig. I think there are
3 two different instances.

4 Q. But?

5 A. There was confusion on my part, not Dr.
6 Landsman's. I can't say what is in his mind, it
7 could well be.

8 Q. What could well be?

9 A. That he also was confused.

10 Q. Can you recall discussion with him at
11 this meeting that you had in the NRC trailer on
12 specifically relating to the drilling incident?

13 A. No, I don't.

14 Q. You don't.

15 A. That's why I thought was probably
16 talking about somebody else. I did talk to him about
17 the rupture of the electrical duct bank, but not
18 digging below the duct bank.

19 Q. That is exactly what I am getting at.
20 At the time you met with him in his trailer, when you
21 were talking to him about reactivating your
22 application with the NRC, did you talk to him about
23 the rupture of the conduit in the duct bank?

24 A. I believe I did. It is not really
25 clear. I tried to restrict my conversation to the--

1 his relationship to comments on my application to NRC,
2 and if I remember that was all I really talked to him
3 about.

4 Q. Do you recall at sometime not
5 necessarily at that meeting, but at some time in the
6 summer of 1982 having a conversation with Dr.
7 Landsman about the rupture of the conduit in the deep
8 Q duct bank?

9 A. We had so many conversations,
10 particularly in afternoons after he had completed his
11 inspections over in the QA trailer, QA office, which
12 was near the position of the drilling. I don't
13 believe this occurred during the time I went to the
14 NRC trailer to talk to Landsman. It may have
15 occurred in some of these other conversation we had
16 when we were pouring over drawings in the QA trailer.
17 There were two trailers, my office was in one and
18 Sevo's office, and the other QA engineers was in the
19 other. They were side by side and I remember several
20 conversation when Landsman was on site after working
21 hours that we met over there and we had conversations
22 about specifics, but I don't remember when those
23 conversations actually occurred.

24 Q. Okay. But do you remember a
25 conversation about specifics of the rupture of the

1 conduit?

2 A. Of the electrical conduit, now that was
3 the one where the drill rig appeared to be out of
4 position. I think they are all the same subject.

5 Q. But do you remember any such
6 conversations relating to excavation underneath the
7 duct bank as opposed to rupture by a drill rig?

8 A. No. I don't think they are the same
9 instance because when the thing was ruptured the
10 drill rig was used, and Brian Palmer assured me there
11 would be no drilling there.

12 Q. Now, how did you become aware of the
13 April 30th, 1982 Licensing Board order?

14 A. I think it was circulated around the
15 site and it came up in several meetings, was
16 discussed in several meetings at Fisher's trailer.

17 Q. Do you have any recollection of, well
18 --strike that.

19 You have mentioned, I believe, that the
20 excavation permit system was put into place as a
21 response to the Board order. Do I quote you
22 correctly on that?

23 A. I don't remember what the timing
24 relationship was of the issuance of the Board order
25 and the training on the excavation permit system, but

1 they were very close together.

2 Q. Now, did you observe any other
3 activities around the site that were directed towards
4 compliance with the Board order either paperwork
5 activities--

6 A. There was a training activity on the
7 excavation permit system.

8 Q. You felt that was related to compliance
9 with the Board order?

10 A. Yes, because there had been a lot of
11 problems in locating utilities there on the site, and
12 this thing was ostensibly done to be certain that the
13 utilities were properly located and the drilling was
14 occurring in the proper spots.

15 Q. You know who Mr. Robert Wheeler is?

16 A. Yes.

17 Q. And you knew Glen Murray?

18 A. Yes.

19 Q. Did you, was it your opinion that they
20 were conscientious in attempting to follow the Board
21 order?

22 A. Yes.

23 Q. Can you think of any specific instances
24 in which they demonstrated this conscientiousness?

25 A. Well, they were quite active in

1 checking up on things and I always felt that they
2 were thorough. And they were adamant about getting
3 the geotech's opinion on these things and signature
4 on the excavation permits. I wasn't always involved
5 in them, but all of the instances in which I had
6 occurrence to be involved I had confidence in them.

7 MR. WILLIAMS: Could we have a short
8 break?

9 (Thereupon a brief recess was
10 taken, after which the following
11 proceedings were had:)

12 Q. (By MR. WILLIAMS) Did you ever become
13 aware that Mr. Wheeler entered into any kind of an
14 oral agreement with Dr. Landsman on or about June
15 11th, 1982?

16 A. No.

17 Q. Did you ever have any conversation with
18 anyone at the site regarding any generic approvals of
19 work under the ASLB April 30th order?

20 A. No.

21 Q. Okay. Now, I would like to turn to the
22 unfortunate and unpleasant subject of your release
23 from Consumers Power Company and your later
24 termination by Babcock & Wilcox. Could you just
25 explain for the record how that came about?

1 A. Well, Consumers informed Jim Williams,
2 who was the inspector, the administrative supervisor
3 for Babcock, that my services would no longer be
4 required. I was told that I would be--move out of my
5 office immediately and to move into the Babcock site
6 office, that I would be allowed to use that office
7 until I could find a position. And I talked to my
8 boss, Jim Ansell, came up from Lynchburg, within a
9 couple of days. He also was sympathetic and did not
10 understand.

11 As stated previously, I talked to Don
12 Miller and he was, appeared to be sympathetic;
13 however, nothing developed from it. I also talked
14 with Mr. McCue and several other Consumers people and
15 nothing came of that. So later, prior to the time I
16 left Consumers on August 31st, the personnel director
17 from Lynchburg came up with Ansell and I talked to
18 him. They too were sympathetic to the extent that I
19 was allowed four months of termination pay and the
20 privilege of moving my household effects back to
21 Lynchburg at Babcock's expense.

22 That was why when I left the site and
23 was able to sell my house in Midland, I moved into
24 the trailer to establish my job search from there.
25 Shortly after moving into the trailer, I set a date

1 to go back to Lynchburg immediately after
2 Thanksgiving, if my job search had not been
3 successful. As the extent of the Babcock offer was
4 until the first of the year and I did not want to
5 have to stand the expense of the move to Lynchburg on
6 my own, right after Thanksgiving I terminated my
7 lease on the trailer and moved back to Lynchburg,
8 eventually finding a job, as stated, with SAI on 11
9 March. I guess that is about all, could go on and on
10 and on.

11 Q. No, do you recall the reasons that you
12 were given for why Consumers Power Company no longer
13 required your services?

14 A. Very cursory, just that NRC required a
15 geotech on the job.

16 Q. Didn't have something to do with Mr.
17 Meisenheimer coming in?

18 A. Meisenheimer was available. He was a
19 geotech; however, he didn't have any QA experience
20 and I understand that has been a point of contention
21 since then.

22 Q. But it was your understanding that you
23 were being replaced because of your lack of
24 geotechnical experience?

25 A. I wouldn't say that just because

1 Meisenheimer was a bonafide geotech and NRC wanted a
2 geotech on the job. This was a change in their
3 previous expression that they wanted a civil engineer
4 on the job.

5 Q. Okay.

6 A. I seem to recollect somewhere that Mr.
7 Margulio stated, I don't remember exactly when, that
8 there had been some objection to--by John Schaub in
9 that "they couldn't have that". I don't really
10 recollect what that was in relation to.

11 Q. Do you recall that comment about, I
12 believe you were speaking of Mr. Schaub, as being in
13 the context and in the time frame of when you were
14 being told your services were no longer required, or
15 was it some other time?

16 A. It was after I was told my services
17 were no longer required.

18 Q. I would like to turn now to your
19 interviews with the NRC investigators who came out
20 here to Las Vegas to talk to you. Can you describe
21 for us how those interviews went and what you were
22 asked and how the investigators conducted their
23 business with you?

24 A. Well, I guess you would say that they
25 were quite demanding.

1 Q. In what sense?

2 A. And at one time I made the comment,
3 "what is this, an inquisition?" or something to that
4 effect, I don't remember exactly. I got a little uptight
5 about their probing questions.

6 Q. When you say probing questions, what do
7 you mean by that?

8 A. Well, and their insinuation that--
9 their insistence rather, that I make a statement.
10 Now, they did add to that that it was not required
11 that I make a statement and I guess the phraseology I
12 would use, they were quite pushy about it, and they
13 didn't seem to be too well acquainted with the facts.

14 Q. Were they pushy to the point where you
15 felt intimidated?

16 A. No, I don't intimidate very easily. I
17 sometimes react.

18 Q. But you did form the impression that
19 the investigators did not understand the subject
20 matter?

21 A. There was some confusion about the ASLB
22 order and the deep duct bank excavation and this sort
23 of thing. Now, they seem to take offense--there is
24 something in the results of the interview that I
25 accused them of stealing my pen.

1 Q. Yes. Could you explain the
2 circumstances of your inquiry about your pen?

3 A. Well, I guess I took a little offense
4 at that because I certainly didn't intend they should
5 interpret my reaction that way. I merely asked them
6 if--I think it was Galanti because he stayed over in
7 town. I had occasion to call his home and I asked
8 his wife if she would ask him if someone had picked
9 up my pen when they left the office.

10 Now, it comes out in the interview I
11 accused them of stealing it. I don't think that is
12 true, I don't accuse anybody of stealing anything,
13 but I think it is quite normal for a man in the
14 course of business to inadvertently pick up a
15 fountain pen or something and not realize where he
16 got it. I later, seemed to be a thread of it through
17 their report that I was accusatory about the fountain
18 pen, I certainly did not intend to be.

19 Q. Was it your impression you were simply
20 asking in a regular, normal tone of voice?

21 A. Yes, and it occurred over the phone.
22 When I called up later to Consumers, I think their
23 headquarters is in Chicago, I asked them. I believe
24 I was talking to the first one, Walker.

25 Q. You said you called Consumers and their

1 headquarters was in Chicago, I think you meant NRC?

2 A. Yes. I called NRC and I asked him if
3 they had taken my pen, but I certainly didn't
4 consider that to be accusatory in tone. It was more
5 joking. I felt I had some rapport with them in spite
6 of the fact that they had come up with this statement,
7 which I finally signed after corrections. I thought
8 I was trying to be cooperative with them in telling
9 them everything I knew, and I certainly didn't want
10 to set up any antagonistic situation.

11 Q. Did you feel more was made of this
12 incident than should have been?

13 A. Yes, I really do.

14 Q. How do you account for that?

15 A. I don't know, unless they were very
16 defensive. If somebody said to me, hey, you guys
17 take my pen? I certainly wouldn't take offense at
18 that I would say no, and drop it.

19 Q. Did the NRC investigators send you a
20 copy of this report when it was issued?

21 A. They left a copy the second time when I
22 signed it.

23 Q. They left a copy of your statement?

24 A. No. I had never had seen a copy of the
25 report. You sent me the public record, but I never

1 have seen a copy of their personal reports on the--on
2 their visit.

3 Q. Their handwritten notes?

4 A. No. I saw the report that they wanted
5 me to sign, and I signed it and made copies of it
6 which I kept, but evidently their report, the first
7 time I ever became aware of it was when I got this
8 copy of the public record. And there are two reports
9 in there, one from--both Walker and Galanti,
10 G-a-l-a-n-t-i. Walker's report seems to be pretty
11 good, he did the primary questioning. However,
12 Galanti's the one that really took up the issue of
13 the pen. And he further made the statement that
14 "cannot be termed a cooperative witness, attitude was
15 antagonistic and accusatory in nature."

16 I don't think those statements were
17 called for, because I was trying to cooperate with
18 them. I did take exception to several times to what
19 they said, but I eventually corrected their statement
20 and signed it off. Now, if I had been antagonistic,
21 I never would have signed anything. The hell with
22 them.

23 Q. Okay. I have just a few more questions,
24 Mr. Donnell.

25 Did anyone from Consumers Power Company

1 ever intimidate you in any way about telling the
2 truth with respect to these matters we have been
3 discussing?

4 A. No, they did not.

5 Q. Did anything happen to you which would
6 stop you from telling the truth and the whole truth
7 today in this deposition?

8 A. No. The only contention I had was it
9 seemed to be a personality clash between Marguglio
10 and I and Bird, but that has really nothing to do
11 with this investigation.

12 Q. Were you aware of any instances apart
13 from this deep Q duct bank where Consumers Power
14 Company in your opinion violated the April 30th Board
15 order?

16 A. No, I was not.

17 MR. WILLIAMS: That is all I have.

18 CROSS-EXAMINATION

19 BY MS. WRIGHT:

20 Q. Mr. Donnell, I have a few questions for
21 you. I will try and be brief.

22 A. I hoped--

23 (Thereupon a brief recess was
24 taken, after which the following
25 proceedings were had:)

1 Q. (BY MS. WRIGHT) Would you take a look
2 at Attachment 3 to Applicant's Exhibit 3. That is
3 your handwritten statement?

4 A. Not my handwritten--

5 Q. Well, the handwritten statement?

6 A. That was my objection to it.

7 Q. Okay. Given the testimony you have
8 related today, do you still stand behind the
9 statement as is or would you like to make corrections
10 or additions to it? And if you want to look at it go
11 ahead.

12 A. No. I think the statement I've added
13 to it and the corrections I have made, that is--well,
14 let's put it this way: I would not have signed it
15 off if I didn't think it was correct.

16 Q. Okay.

17 A. Even though I objected to the way it
18 was done.

19 Q. Then I can conclude your statements
20 today have seemed to be consistent with this and you
21 are confirming that they are, they are just more
22 elaboration to this statement itself?

23 A. That's true.

24 Q. Could you explain to me just as
25 clarification what Landsman's hold order refers to at

1 the bottom of the first page last paragraph, first
2 four or five words?

3 A. Well, Landsman's hold order was to the
4 effect that everything was to be considered as Q,
5 even though it had started out as non-Q.

6 Q. All excavation, everything?

7 A. Yeah, everything. Everything with the
8 remedial soils thing, because at that time things
9 were in quite a quandry, and I can understand NRC's
10 position in that they wanted to get in control of
11 things and they considered that this was the only way
12 to adequately control it. I don't remember any
13 detailed discussions about that, but I do remember
14 generally expressing that to some people that they
15 wanted to control it and this was their way of
16 controlling it and I understood that.

17 Q. Do you believe that Landsman's hold
18 order is synonymous with the Board order or is it an
19 elaboration on the Board order?

20 A. They both came out about the same time.
21 I really don't know from reference to the statements
22 that were made which came first.

23 Now, I can add to that, it is in
24 continuation of something I previously said here. I
25 was well aware at the time that if I had been aware

1 of anything going on surreptitiously, under the table or
2 whatever, that I had every right to go to NRC and
3 report it, but I was not aware. That is the reason I
4 was apprehensive about even going into Landsman's
5 trailer because I didn't want anybody from,
6 intervenors for Consumers to infer that I was
7 whistle-blowing on Consumers. I had no reason to and
8 I certainly wouldn't set up a situation that would
9 allow anybody to accuse me of that.

10 Q. Thank you.

11 In reference to the discussions
12 surrounding the altercation that you broke up--or I
13 hope I haven't--I don't think there was more than one
14 fight that you broke up, and that left some
15 personality conflict with Mr. Marguglio?

16 A. Yes.

17 Q. Is it possible that you spoke to Dr.
18 Landsman and Mr. Cook about that personality conflict
19 in terms of the fight or that you were relating how
20 the personality conflict may have come about?

21 A. I don't really believe so because
22 Landsman wasn't involved in it and Cook was there at
23 the time of the fight, of my breaking up the fight
24 and he sympathized with me, Cook did. As a matter of
25 fact, I think he--somebody said, I don't remember

1 whether it was him, he would have done the same damn
2 thing.

3 Q. But you did state earlier that you may
4 have stated that there was an altercation that led to
5 a personality conflict with Mr. Marguglio, to Mr.
6 Cook when he came to visit you at your trailer?

7 A. I don't know whether that was discussed
8 or not, I don't know whether that was discussed or
9 not because that had nothing to do with the situation.
10 Only the fact that it could reflect upon me in
11 getting a job later if it was improperly represented.

12 Q. Okay.

13 A. But I had never run into anybody yet
14 that had any criticism from me, and I believe the
15 investigation up there will bear that out. That is
16 what you get into when you try to help some other guy
17 if you are not careful. Maybe the Chinese are right,
18 if you pick up somebody, you are responsible for it.

19 Q. Earlier you speculated in response to a
20 question by Mr. Williams that Dr. Landsman may have
21 confused a Mr. Johnson who worked for Consumers at
22 one point in terms of some statements from you
23 regarding excavation at the plant?

24 A. That was only conjecture on my part,
25 because I am a rather stocky individual and I am very

1 direct. And in trying to rationalize who he could
2 have talked to other--that is the only name that
3 comes up, because Johnson is a very stocky guy like
4 me. He is heavy-set and he is a direct individual.

5 Q. And he worked on this project?

6 A. He was in a position to have been in
7 contact with both Cook and Dr. Landsman. That is the
8 only thing I can even drag out of the sky on that.

9 Q. With regard to excavation at the
10 soils--

11 A. Yes, he was in a position to discuss
12 excavations. He was in the trailer, he was quite
13 often there late in the afternoon when Landsman was
14 in there, and that is the only remote possibility I
15 can think of. But I was totally amazed when Walker
16 and Galanti let me read those statements. Was the
17 first time I had seen them.

18 Now, Dr. Landsman was somewhat of an
19 unpredictable individual. I thought he was trying to
20 do a good job and he was sort of a--well, only way I
21 can explain it he was a PhD who would fit the
22 description long hair, and he was sort of erratic in
23 his thinking and a lot of people ridiculed him on
24 site, which I don't agree with. He was only trying
25 to do his job, but he was understandable, but I

1 couldn't understand why he had misconstrued the
2 purpose of my going over to that trailer to talk to
3 him.

4 Q. Okay, thank you.

5 Earlier you responded to a question
6 about whether Dr. Landsman had ever made an explicit
7 statement that excavation beneath the deep Q duct
8 bank would require express NRC approval because it
9 fell under the Board order and you stated no; is that
10 correct?

11 A. Yes, I believe that's correct.

12 Q. Would Dr. Landsman have to have stated
13 that in order for someone at the plant to know that
14 excavation beneath the deep Q bank would fall under
15 the terms of the Board's order?

16 A. I don't think so.

17 MS. WRIGHT: Okay. Thank you, that is
18 all the questions I have.

19 MR. WILLIAMS: We have nothing else.

20 (Discussion off the record.)

21 MR. WILLIAMS: Let's go back on the
22 record for a minute.

23 Mr. Donnell, there is a requirement in
24 the regulations that you read a copy of the
25 deposition and make corrections on it, if that is

1 necessary, and then sign it. Miss Harris will give
2 you a call when the transcript is ready to be signed
3 and if you could make arrangements to come into her
4 office and do that.

5 Since we go to hearing on this matter
6 in a little over two weeks, I would--I don't want to
7 press you too much for your time, because you have
8 been most cooperative so far, but I can appreciate
9 you doing that.

10 Any notary?

11 MS. WRIGHT: Yes.

12 (Thereupon the taking of the
13 deposition was concluded.)

14 * * * * *

CERTIFICATE OF DEPONENT

I, John L. Donnell, deponent herein, do hereby certify and declare the within and foregoing transcription to be my deposition in said action; that I have read, corrected and do hereby affix my signature to said deposition.

JOHN L. DONNELL, Deponent

Subscribed and sworn to before me this ____ day of _____, 1983.

Notary Public

CERTIFICATE OF REPORTER

STATE OF NEVADA)

SS:

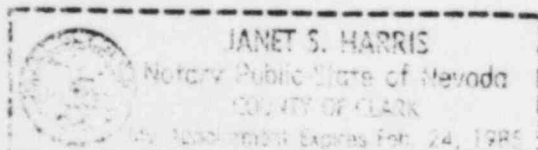
COUNTY OF CLARK)

I, Janet S. Harris, a duly commissioned
Notary Public, Clark County, State of Nevada, do
hereby certify: That I reported the taking of the
deposition of the witness, John L. Donnell,
commencing on Saturday, October 15, 1983, at ten
o'clock a.m.

That prior to being examined the witness was
by me duly sworn to testify to the truth. That I
thereafter transcribed my said shorthand notes into
typewriting and that the typewritten transcript of
said deposition is a complete, true and accurate
transcription of my said shorthand notes.

I further certify that I am not a relative
or employee of an attorney or counsel of any of the
parties, nor a relative or employee of an attorney or
counsel involved in said action, nor a person
financially interested in the action.

IN WITNESS WHEREOF, I have hereunto set my
hand and affixed my official seal in my office in the
County of Clark, State of Nevada, this 18 day of
October, 1983.



Janet S. Harris
JANET S. HARRIS, C.S.R.



UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Charles Bechhoefer, Chairman
Dr. Frederick Cowan
Dr. Jerry Harbour

In the Matter of	)	Docket No. 50-329-OM
	)	50-330-OM
CONSUMERS POWER COMPANY	)	50-329-OL
	)	50-330-OL
(Midland Plant, Units 1)	
and 2))	

ORDER ISSUING SUPOENA DUCES TECUM

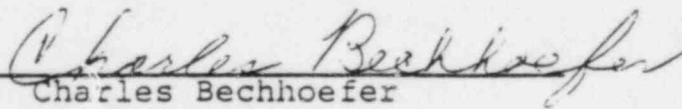
Upon consideration of Consumers Power Company's
Application for Deposition Subpoena Duces Tecum, dated
October 3, 1983, the motion is granted.

ORDERED:

That the attached subpoena is issued.

FOR THE

ATOMIC SAFETY AND LICENSING BOARD


Charles Bechhoefer
ADMINISTRATIVE JUDGE

Bethesda, Maryland

Dated: October 3, 1983

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

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	Docket No. 50-329-OM
	)	50-330-OM
CONSUMERS POWER COMPANY	)	50-329-OL
	)	50-330-OL
(Midland Plant, Units 1)	
and 2))	

SUBPOENA DUCES TECUM

TO: Mr. John L. Donnell
Science Applications, Inc.
2769 South Highland Drive
Las Vegas, Nevada 89109

YOU ARE HEREBY COMMANDED to appear at the offices of

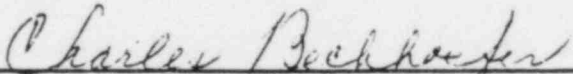
Thorndall, Backus & Maupin, Ltd.
Suite 333
330 North Rancho Drive
Las Vegas, Nevada 89106

at 10:00 a.m. on Saturday, October 15, 1983, and continuing thereafter from day-to-day until completion of testimony, for the purpose of giving deposition testimony regarding your participation in events related the above-captioned project. You are further commanded to bring with you all documents within your possession, custody, on control as itemized in Schedule A attached hereto.

Please be advised that on motion made promptly and in any event before October 15, 1983 and on notice to the party at whose instance this subpoena was issued, the Atomic Safety and Licensing Board or, if unavailable, the Commission may (1) quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter

in issue, or (2) condition denial of the motion on just and reasonable terms.

FOR THE ATOMIC SAFETY AND
LICENSING BOARD


Charles Bechhoefer
ADMINISTRATIVE JUDGE

Dated at Bethesda, Maryland
this 3rd day of October, 1983.

This subpoena was issued on the motion of Consumers Power Company, by its attorney Frederick C. Williams, Isham, Lincoln & Beale, 1120 Connecticut Avenue, NW., Washington, D.C. 20036, telephone (202) 833-9730.

AFFIDAVIT OF SERVICE

I _____, being over the age of 18 years and not being a party to the above-captioned matter, hereby state that I served the attached Subpoena Duces Tecum to Mr. John L. Donnell on October _____, 1983 by delivering a copy of the Subpoena Duces Tecum to him in person and by tendering to him the statutory witness fee and mileage allowance.

Pursuant to 28 U.S.C. § 1746, I certify under penalty of perjury that the foregoing is true and correct.

SCHEDULE A

As used in this schedule, the word "document" shall mean:


any correspondence, memorandum, handwritten notes, and any other type of written or printed paper, including photographs, either original or photocopy.

1. All documents relating to or describing your employment with Babcock & Wilcox, Inc., or any subdivision or subsidiary thereof, including documents pertaining to any contract assignment from Babcock & Wilcox, Inc., prior to your assignment to the Midland Project.
2. All documents relating to or describing your initial employment, work experiences, release by Consumers Power Company, and termination as a Babcock & Wilcox, Inc., employee at the Midland Project.
3. All documents relating to or describing your efforts to find other employment subsequent to your termination from Babcock & Wilcox, Inc.
4. All documents relating to, describing, or memorializing conversations at any time with employees or officers of Consumers Power Company, Bechtel Power Corporation or Babcock & Wilcox, Inc., whether permanent employees or contract workers, concerning conditions at the Midland Project construction site.

FROM CONSUMERS POWER COMPANY

To W. Bird

ATTN: C.E. Harbour

SUBJECT	Bechtel NCR #4199 Rev 1	DATE	5/19/82
MESSAGE	<p>Attached is a <u>Revised</u> copy of the Bechtel NCR that was issued in relation to the damaged "Q" duct bank east of the Turbine Building.</p> <p>I also sent a revised copy to J.E. Brunner</p>		
REPLY	<p>REPLY TO  SIGNED <u>C.E. Harbour</u></p>		
<p>DEPOSITION EXHIBIT</p> <p>Applicant's</p>			
DATE		SIGNED	

Send white and pink copies with carbons intact to recipient. Pink copy to be returned with reply. Yellow copy retained by sender.

1. PROJECT NAME MIDLAND		JOB NO. 7220		19. Rev. 1 NO. 4199		20. PAGE 1 OF 1	
2. UNIT(S) 7220-E-531 SH 1-D	3. DRAWING/PART NO. 7220-E-531 SH 1-D	REV 1	4. ITEM DESCRIPTION ELECTRIC DUCT BANK E530541 PER G. 5. ITEM LOCATION EAST OF TUBELINE.	5. ITEM LOCATION EAST OF TUBELINE.			
6. P.O. OR SPEC NO. N/A	7. SERIAL NO. N/A	8. REPLACEMENT PART P/N N/A REV N/A	9. SOURCE SUBCONTRACTOR	10. CONTRACTOR/SUPPLIER MORE TRENCH	14. Discovers During () Rec'g () Const () Test		
11. INSPECTION CRITERIA () DWG () SPEC () OTHER		IR NO N/A	12. ASME AUTHORIZED INSPECTION REQ'D () YES () NO		15. Equip Furnished By () Client () Eng () FLD		
16. NONCONFORMING CONDITION: CONDUITS ZBA073 AND ZBA074 WERE DAMAGED TO AN EXTENT THAT WATER WAS NOTED COMING FROM BOTH CONDUITS INTO ZBMH008.							
HOLD FOR ENGINEERING DISPOSITION.							
E-531 HAD TAGS APPLIED Q#3,006							
17. REPORTED BY J. W. Miller		DATE 4-29-82		18. VALIDATED BY E. J. Smith		DATE 5/4/82	
22. ROUTING: <input checked="" type="checkbox"/> TO FIELD ENGINEERING () TO OTHERS (SPECIFY)		23. PROJECT ENGINEERING DISPOSITION					
Expose the ducts at the location of damage. Examine cables for damage to outer jacket. Repair ducts per E-42(G) sh. 11B and repull any damaged cables. Repair duct bank encasement. (N.H.) 5/6/82							
26. QC ACCEPTANCE							
QC ENGINEER				DATE			
AUTHORIZED INSPECTOR				DATE			

BLOCK 16 CONTINUED.

[IT SHOULD BE NOTED THAT 2BA074 IS ABANDONED
PER 7220-E-36, REV 62.
FURTHER, IT IS INDETERMINATE IF ANY OTHER
CONDUITS IN THE DUCT BANK ARE DAMAGED.

^{5/5/82}
JWM
5-4-82
5/5/82



STOP WORK ORDER

PROJECTS, ENGINEERING AND CONSTRUCTION -
QUALITY ASSURANCE DEPARTMENT

PAGE 1 OF 1

9. PROJECT: Midland		10. SUBJECT OF STOP WORK ORDER: Drilling and sheet-piling activities by Mergentime and subcontractors		1. STOP WORK ORDER NO: FSW-22	
11. ORAL STOP WORK ORDER GIVEN: TO: J Fisher BY: B H Peck DATE: 4/28/82 TIME: 10:30 AM		12. WORK STOPPED: DATE: 4/28/82 TIME: 10:30 AM		2. PREPARED BY: W R Bird <i>WRB</i>	
13. DESCRIPTION OF CONDITION REQUIRING STOP WORK ACTION: Several instances of drilling resulting in nonconforming conditions, the latest being hitting of an electrical duct bank documented on Bechtel NCR 4199. Letter D B Miller to L E Davis, Serial CSC-6058, confirmed the verbal stop work directive given on April 28, 1982. (Attached). This stop work order is issued to provide tracking within the quality system of the previous stop work directive and to give a close loop mechanism to assure that the required procedural controls are in place prior to lifting the stop work.				3. DATE: 5/19/82 TIME: 1:00 PM	
				4. APPROVED BY: <i>WRB</i>	
				5. DATE: May 19, 1982	
				6. FILE: 16.13	
				7. THIS STOP WORK ORDER ISSUED TO: LEDavis/JFisher	
14. CORRECTIVE ACTION TAKEN: 1. Mergentime drilling procedures C-195-2 (Ground Water Control System - Moretrench) and C-195-63 (Installation of Well Points, Ejectors and Observation Wells - Mergentime) revised to provide survey controls and verification to assure location of utilities prior to drilling by the Subcontractor. 2. Bechtel Field Procedure FIC 5.100 titled "Excavation Permit System" developed to provide controls and verification of utilities prior to drilling by Bechtel.				8. DISTRIBUTION: RCBauman DEHorn WRBird BWMarguglio JEBrunner DBMiller JWCook JAMooney MLCurland JARutgers MADietrich ESmith	
15. METHOD OF CORRECTIVE ACTION VERIFICATION: 1. Verified C-195-2-4 and C-195-63-3 have been reviewed, approved and issued as controlled documents by Document Control, by MPQAD with appropriate controls and verification mechanism provided. 2. Bechtel Procedure FIC 5.100, Rev 0 reviewed and approved by MPQAD, signed off by all parties and is in process of issue, with appropriate training conducted on May 25, 1982.					
16. COMPLETION OF CORRECTIVE ACTION VERIFIED <i>John L. Donnell</i> BY: John L. Donnell DATE: 5/26/82			17. STOP WORK ORDER LIFTED <i>John L. Donnell</i> BY: John L. Donnell DATE: 5/26/82 TIME: 5:15 p.m.		





Consumers
Power
Company

COPIES SENT DOO CONTROL
DATE 4-28-82 UFI _____

Midland Project: PO Box 1963, Midland, MI 48640 • (517) 631-8650

April 28, 1982

Mr. L. E. Davis
Bechtel Power Corporation
P.O. Box 2167
Midland, MI 48640

MIDLAND PROJECT GWO 7020 -
SOILS REMEDIAL WORK
File: C-195 UFI: 01100(E) Serial: CSC-6058

This letter confirms a verbal stop work directive provided to your Mr. John Fisher by our Mr. Bruce H. Peck at about 10:30 a.m. on April 28, 1982. The stop work applies to all drilling operations and sheet-piling activities by Mergentime Corporation, and its subcontractors, in all Q and Non-Q areas. - We are very concerned about the lack of control by Bechtel over the activities of Mergentime, as evidenced by the recent penetration of an electrical ductbank by a drilling operation. This stop work directive shall remain in effect until we have been provided assurance that Bechtel can provide a proper degree of control over Mergentime activities.

D. B. Miller
Site Manager

DBM/BHP/jn

cc: JWCook, P26-336B
JAMooney, P14-115A
BWMarguglio, Midland
JARutgers, Bechtel Ann Arbor

