

1 UNITED STATES OF AMERICA  
2 NUCLEAR REGULATORY COMMISSION

3 IN THE MATTER OF: ) Docket Nos. 50-329-OL  
4 ) 50-330-OL  
5 CONSUMERS POWER ) 50-329-OM  
6 COMPANY ) 50-330-OM  
7 (Midland Plant, )  
8 Units 1 & 2) )

9 January 16, 1981,

10 9:20 a.m.

11 The deposition of JAMES GEORGE KEPPLER,  
12 resumed pursuant to adjournment, at Nuclear Regulatory  
13 Commission Region No. 3, 799 Roosevelt Road, Glen Ellyn,  
14 Illinois.

15 PRESENT:

16 MESSRS. ISHAM, LINCOLN & BEALE,  
17 (One First National Plaza,  
18 Chicago, Illinois 60603), by:  
19 MR. RONALD G. ZAMARIN and  
20 MR. ALAN S. FARNELL,

21 appeared on behalf of the Consumers  
22 Power Company;

23 MR. BRADLEY JONES,  
24 (United States Nuclear Regulatory Commission,  
Washington, D.C. 20555),

appeared on behalf of the Nuclear  
Regulatory Commission.

ALSO PRESENT:

MR. GILBERT S. KEELEY,  
MR. BENJAMIN W. MARGUGLIO,  
Consumers Power Company;

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ALSO PRESENT (CONTINUED):

MR. EUGENE J. GALLAGHER,  
Nuclear Regulatory Commission.

REPORTED BY: ANTOINETTE M. HAYNES, C.S.R.

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I N D E X

<u>WITNESS</u>	<u>DX</u>	<u>CX</u>	<u>RDX</u>	<u>RCX</u>
JAMES GEORGE KEPPLER				
By Mr. Zamarin	170			

E X H I B I T S

<u>EXHIBIT NUMBER</u>	<u>MARKED FOR ID</u>
CPCo Deposition Exhibit	
No. 8	177
9	195
10	220
11	221
12	235
13	241

1 JAMES GEORGE KEPPLER,  
2 called as a witness herein, having been previously duly  
3 sworn and having testified, was examined and testified  
4 further as follows:

5 DIRECT EXAMINATION (Resumed)

6 BY MR. ZAMARIN:

7 Q Okay. Mr. Keppler, you understand that you  
8 are still under oath from last time and sworn to tell  
9 the truth?

10 A Yes.

11 Q With regard to the March 22, 1979  
12 investigative report, 78-20, there were groups of  
13 infractions or noncompliances, and there were nine such  
14 groups, I believe; and I was wondering if you can tell  
15 us if there is any scheme or guideline for grouping  
16 certain things, for example, as to why there were nine  
17 infractions or noncompliances as opposed to three or  
18 four or twenty.

19 A May I see the report, please?

20 Q I am looking for a clean copy of it right  
21 now.

22 I will give you my marked up --

23 A That's all right. Maybe I can answer the  
24 question in a general way, what our policy is on this.

1 Q Let me let you look at this, first.

2 (WHEREUPON, the document was tendered  
3 to the witness.)

4 BY THE WITNESS:

5 A Where are they?

6 BY MR. ZAMARIN:

7 Q There were none presented in there?

8 Okay. You may need one othe. document. Let  
9 me show you the December 6th order. And what the  
10 question really is is with regard to the information  
11 and the findings in --

12 MR. ZAMARIN: Let us go off the record a minute.

13 (WHEREUPON, discussion was had  
14 off the record.)

15 BY MR. ZAMARIN:

16 Q If you could simply explain, then, what the  
17 policy is with regard to grouping of items or how they  
18 are either joined or separated out to make separate  
19 instances of infractions or noncompliances.

20 A First of all, let me ask, are you aware of  
21 the categorization of the items of noncompliance and  
22 the basis for that --

23 Q No.

24 A -- whether they're called violations,

1 infractions, or deficiencies?

2 Q Why don't you describe that?

3 A Okay. Prior to September, 1980, the NRC's  
4 enforcement policy required that items of noncompliance  
5 be categorized according to their safety importance,  
6 and three categories were identified. These were  
7 violations, infractions, and deficiencies.

8 A violation was an item of noncompliance that  
9 had direct safety consequences. An infraction was an  
10 item of noncompliance which, if left uncorrected,  
11 might lead to a potential safety problem. And a  
12 deficiency was an item of noncompliance with relatively  
13 minor safety significance.

14 You can see from that set of definitions that  
15 an infraction category was a rather broad category that  
16 covered a rather broad spectrum of importance and was  
17 one of the reasons why we modified our enforcement  
18 policy most recently.

19 Now, in determining actual numbers of items  
20 of noncompliance, what we tried to do was to look at a  
21 basic requirement, and violations of that requirement  
22 represented an item of noncompliance. And if there  
23 were multiple examples of that same basic requirement,  
24 then these were treated, or are treated, generally as

1 examples of an item of noncompliance, and they're not  
2 additive.

3 For purposes of consideration where items of  
4 noncompliance are allowed to occur over periods of times,  
5 the law did provide for considering each day that that  
6 item of noncompliance existed as a separate item of  
7 noncompliance. However, our practice was that only for  
8 the more egregious types of problems did we use that  
9 approach.

10 Does that help?

11 Q I think so. And I understand the principle.  
12 And, actually, when I look at Appendix A to the  
13 December 6th order, I can now see where the four  
14 numbered items are referenced, at least to different  
15 provisions in 10 CFR, Part 50.

16 A Different criteria.

17 Q Although, if one does not look specifically  
18 to those criteria, they appear to overlap: so the  
19 basis for it, then, is not that they constitute  
20 actually independent actions, but that they are  
21 referenced by separate criteria, is that right?

22 A Different requirements, yes.

23 Q In Appendix A on Item No. 3, there is a  
24 statement that:

1           "CPCo Topical Report CPC 1-A, Policy No. 10,  
2           Section 3.1, speaks, in part, that 'work  
3           activities are accomplished according to approved  
4           procedures or instructions which include  
5           inspection hold points beyond which work does not  
6           proceed until the inspection is complete or  
7           written consent for bypassing the inspection has  
8           been received --'" et cetera.

9           Would your understanding of that language be  
10          that hold points would be effective for all work  
11          activities?

12          MR. ZAMARIN: Read the question.

13                         (WHEREUPON, the record was read  
14                         by the reporter as requested.)

15          BY THE WITNESS:

16           A         As I read this piece of paper, my  
17          interpretation would be that it would cover those work  
18          activities covered by CPCo Topical Report CPC 1-A.

19          BY MR. ZAMARIN:

20           Q         And all of those without exception, is that  
21          right?

22           A         All of those that are safety-related.

23           Q         In your opinion would it constitute bad  
24          management attitude toward quality assurance if a



1 licensee should disagree with the judgment of an NRC  
2 Region 3 inspector with regard to a certain item?

3 A No.

4 Q And in your opinion would it demonstrate bad  
5 management attitude if a licensee in a situation where  
6 there was a difference of opinion, for example, as to  
7 whether a material should be Q-listed or not to check  
8 with its IE to find the design basis for it and to  
9 attempt to resolve that matter and present its position  
10 to the NRC inspector in an effort to, perhaps, persuade  
11 the inspector that perhaps they are right and he might  
12 be wrong?

13 A No.

14 Q At the SALP board meeting -- I guess I have  
15 heard it referred to -- where input was received from  
16 the various inspectors with regard to Midland, do you  
17 know whether Ron Cook had any input?

18 A I believe that the SALP report shows who the  
19 board was comprised of. And I can't answer without  
20 looking at that.

21 But the list of members were on there, and I  
22 would certainly believe he was.

23 Q I take it, then, since you cannot recall  
24 whether he was on there, that you do not recall what

1 precise input, if any, he had.

2 A I did not attend the SALP board meeting. I  
3 was only briefed afterwards of the board's finding.  
4 And that has been the practice on all SALP meetings.

5 Q By whom were you briefed?

6 A Mr. Fiorelli was present, Mr. Knop was  
7 present, I believe Mr. Gallagher was present, and others  
8 were present.

9 Q When you say you were briefed on the board  
10 findings, did the board take input from other  
11 individuals and reach conclusions, or did you refer to  
12 findings simply as the mass of inputs?

13 A Basically what they come to me with is a  
14 draft SALP report to work with and let me see it and  
15 see if I have any major problems with it.

16 Q And were you provided a draft SALP report in  
17 this instance?

18 A Yes.

19 Q Do you have any idea where -- strike that.  
20 Do you know whether that draft would have  
21 been retained after a final was produced?

22 A I don't know. You'd have to ask  
23 Mr. Fiorelli or Mr. Knop. My guess is probably not.  
24 Simply, it was a working paper to talk from.

1 It wasn't a full report. It was the sum and substance  
2 of the report, listing the items of noncompliance and  
3 the reportable events on the kinds of things that are  
4 in there.

5 Q You refer to a "SALP report." Is that the  
6 same as -- all I have seen that even suggested that it  
7 might be a SALP report is a summary of a meeting of  
8 some date, and I do not recall when it was -- of  
9 November 24, 1980.

10 Is that the SALP report to which you refer?

11 And I have a copy here that I will -- here  
12 let me see if I can --

13 A You want me to get mine?

14 Q No. That is okay. What I will do is see if  
15 you can tell without looking at the cover sheet.

16 A I'll tell you what I'll do. I'll get mine.

17 (WHEREUPON, there was a short  
18 interruption.)

19 MR. ZAMARIN: Off the record.

20 (WHEREUPON, discussion was had  
21 off the record.)

22 (WHEREUPON, a certain document was  
23 marked CPCo Deposition Exhibit No. 3,  
24 for identification, as of 1/16/81.)

1 BY MR. ZAMARIN:

2 Q I am marking No. 8, a letter dated  
3 December 18, 1980, to Consumers Power Company, a  
4 two-page letter over the signature of James G. Keppler.  
5 And there are two enclosures to that, inspection  
6 reports 50-329/80-35, 50-330/80-36, as well as what is  
7 referred to as a Licensee Performance Evaluation  
8 (construction), or a SALP appraisal, which is an  
9 attachment to those two referenced inspection reports.

10 Mr. Keppler, is this document that I have  
11 marked as Exhibit 8 what you refer to as the "SALP  
12 report"?

13 A Yes.

14 Q I notice on the very last page there is kind  
15 of a chart, and it has "Functional Area" and then 13  
16 items listed. And there are some x's, and one of the  
17 line items, No. 13, "Reporting," does not have an x.

18 Do you know why or where an x would go if one  
19 were to be put on there?

20 (WHEREUPON, the document was tendered  
21 to the witness.)

22 BY THE WITNESS:

23 A I'm assuming it's an oversight. I did not  
24 notice this before. But it would go in "No Change."

1 BY MR. ZAMARIN:

2 Q Okay. I also notice on the first page of  
3 the inspection reports down at the bottom, it has  
4 "Meeting Summary" and then "Results."

5 Do you see that?

6 A Yes.

7 Q And it states that "The performance at  
8 Midland Unit 1 and 2 was considered to be adequate."

9 A Yes.

10 Q I have seen other reports that have used  
11 both the term "adequate" and also "average."

12 Is there any difference in your mind to  
13 saying that the performance was average or the  
14 performance was adequate?

15 A I don't believe I've seen one marked average.

16 Q I have got one here. I have a report with  
17 respect to -- I do not need to identify it -- with  
18 respect to another plant and another utility, and I  
19 will just show you that.

20 MR. JONES: You are speaking of the Midland Plant?

21 MR. ZAMARIN: This is a different plant and  
22 different utility where --

23 MR. JONES: I thought you said you saw the Midland  
24 Plant referred to as both average and adequate.

1 MR. ZAMARIN: I am sorry. I did not mean to  
2 confuse you.

3 BY THE WITNESS:

4 A There is no intended difference. I guess I  
5 would like to elaborate and say that the SALP  
6 appraisal program was instituted this last year as a  
7 means for the Commission to set back away from the  
8 day-to-day activities and conduct some kind of a  
9 meaningful assessment of the licensee's regulatory  
10 performance with the idea of identifying those  
11 performers that are very strong either in terms of  
12 their outstanding regulatory performance or in terms of  
13 their weak regulatory performance and to identify areas  
14 that need attention.

15 And the process has been an evolving type of  
16 process, but one which I viewed as being -- as trying  
17 to give as much meaningful information to the licensee  
18 as possible. If you look at the appraisals that we  
19 have done on operating reactors, you'll find that I  
20 have used terms like "above average," "below average,"  
21 and "average" throughout the various areas that we  
22 inspect.

23 However, I felt, at this point in time,  
24 anyway, reluctant to try to give an overall grade,

1 simply because I didn't feel I knew what weight to  
2 apply to each area. The construction program has been  
3 a little bit more difficult for me to do  
4 self-appraisals on, because there are not as many areas  
5 and regulatory requirements that one can get your  
6 teeth into as well, so to speak.

7           And I feel that in many ways the  
8 self-appraisals in the construction program have been  
9 a little bit on the bland side. And I feel we have got  
10 to -- we will be making efforts to upgrade our  
11 self-appraisals in the construction program, but,  
12 generally, I did not intend any overall ranking of  
13 utilities. But I did try to list those areas where I  
14 could -- that I felt they were strong or weak in.

15           Does that help?

16 BY MR. ZAMARIN:

17           Q     Yes. I also notice that on Page 2 of the  
18 inspection report to which the SALP evaluation is  
19 enclosed there is a particularization of significant  
20 problems. And I believe that flows from Subparagraph c  
21 where it says, "however, some problems persist."

22                     Do you see, then, in d it says, "These  
23 significant problems --" I am sorry.

24                     In Subparagraph d on Page 2, it says, "These

1 significant problems were identified during the  
2 evaluation period."

3           There are three reactor pedestal anchor bolts  
4 which probably originated in 1973, qualification of  
5 inspectors for containment post tensioning work, and  
6 the Zack HVAC activities.

7           And, to your knowledge, were those the only  
8 three significant problems that were identified during  
9 the SALP evaluation period?

10          A     Yes.

T2         11          Q     And with regard to the qualification of QC  
12 inspectors for containment post tensioning work, are  
13 you familiar with the actual details of what that  
14 involved?

15          A     Not really. I recall that there were some  
16 problems with the company on that, but I was not  
17 present in any of the meetings, that I recall.

18          Q     Do you recall that being a matter of whether--  
19 a disagreement, I guess, between the Region 3  
20 inspector and the licensee as to whether individuals  
21 were exempted from a certain ANSI education and  
22 experience provision by virtue of training and  
23 experience or --

24          A     What you say is familiar, but I don't recall



1 the details at all.

2 (WHEREUPON, discussion was had  
3 off the record.)

4 BY MR. ZAMARIN:

5 Q When you were briefed on the SALP board  
6 meeting, were you provided with any written materials?

7 A Just the draft of the --

8 Q Of the report?

9 A Yes.

10 Q Okay. Were you provided with a description  
11 of specific input by individual inspectors?

12 A No.

13 Q Okay. So, for example, nobody said that Gene  
14 Gallagher has a certain position with regard to  
15 attitude with respect to compliance, and he based it  
16 upon --

17 A Let me -- I guess I took your question  
18 narrowly.

19 When I was briefed on the SALP appraisal, I  
20 was made aware at that time that Mr. Gallagher and  
21 Mr. Naidu had concerns about the quality assurance  
22 program, the revised quality assurance program that we  
23 discussed at our last session. And it was at that time  
24 that I made that decision that since we are going to

1 have a meeting with a company, I don't want to be in a  
2 position of not bringing up these issues, and we'll  
3 break up the meeting into two parts.

4           So I became aware of it. I was not given any  
5 memos or particular correspondence at that time to --  
6 it was all verbal discussions.

7           Q     Okay. Actually, it was not with regard to  
8 that that I was thinking.

9           For example, I noted that we received at  
10 Mr. Gallagher's deposition a copy of his memorandum  
11 which had been styled to refer to as his SALP input  
12 memorandum, and it has six different categories. And  
13 what I had in mind was whether, for example, it was  
14 his opinion that the licensee and the contractor had  
15 a poor attitude in compliance, that that in particular  
16 would have been related to -- someone would have said  
17 that Gene Gallagher thinks that they have got a poor  
18 attitude in compliance.

19           A     Well, I don't recall all the discussions  
20 that went on, but we certainly had a fairly lengthy  
21 session on things. I did not see Mr. Gallagher's  
22 memo until the day before you were coming in last time.  
23 I'm sure that some of the material was discussed.

24           We sat and talked about Midland for probably

1 an hour that day, and -- but I don't know necessarily  
2 that -- I guess I don't recall specifically belaboring  
3 any specific comments on it. I guess I was more taken  
4 up with the concern that I was hearing for the first  
5 time that we were uncomfortable with the revised QA  
6 organization, and I felt very strongly that we ought to  
7 get that information before the licensee as soon as  
8 possible.

9 Q Have you read Gene Gallagher's deposition  
10 transcript from his deposition?

11 A No.

12 Q Do you plan to read it?

13 A Probably not. I guess if I get a signal  
14 that I ought to read it I probably will, but I haven't  
15 gotten a signal that I probably ought to read it yet.

16 Q Okay.

17 A I've had enough other problems to keep me  
18 busy right now.

19 Q Okay.

20 A For that matter, I haven't read anybody's  
21 depositions.

22 Q The reason I asked that is that we had gone  
23 through each of the six items in Mr. Gallagher's SALP  
24 input with Mr. Gallagher at his deposition and asked

1 for the basis for some of the conclusions stated  
2 therein, which is information that I think you ought  
3 to be aware of.

4 So you know who the signals come from, I  
5 think you ought to read his transcript. I thought I  
6 should go through these with you if you had not had an  
7 opportunity to read his transcript.

8 In your opinion would a situation -- strike  
9 that.

10 Are you familiar with the situation where  
11 Mr. Gallagher had requested the Question 23 closeout  
12 packets be taken to the site for his review from Ann  
13 Arbor?

14 A Something sticks in the back of my mind that  
15 I heard about it, but I don't recall involving myself  
16 in any way.

17 Q Okay. Mr. Gallagher had requested that the  
18 Question 23 closeout packets be brought to the site  
19 for his review, and at least one of the reasons stated  
20 for that in a telephone conversation to Consumers QA  
21 personnel was that going into Ann Arbor required a  
22 certain amount of paperwork, because it was like going  
23 into a vendor. And this request to have the packets  
24 brought to the site was referred to Consumers

1 management, and they decided that they ought not to be  
2 brought to the site, because they were Bechtel  
3 Engineering documents and, in fact, were kept at Bechtel  
4 Engineering, where all the backup for them was.

5           Would you consider that reluctance to bring  
6 those closeout packets to the site evidence of a poor  
7 attitude of compliance on the part of Consumers?

8           A       Based on the way you described it, I wouldn't  
9 consider it a significant matter, no.

10                       (WHEREUPON, discussion was had  
11 off the record between the witness and  
12 Mr. Gallagher outside the hearing of  
13 counsel and the court reporter.)

14 BY MR. ZAMARIN:

15           Q       I cannot resist asking what Mr. Gallagher  
16 just told you.

17           A       He just reminded me that they did go to Ann  
18 Arbor and did the inspection.

19           Q       That is correct, and that was, in fact, prior  
20 to the completion of Mr. Gallagher's deposition, and --  
21 that is right. He indicated that he had gone and, I  
22 believe, Mr. Gilray was there, also, and they had done  
23 that.

24           MR. ZAMARIN: Off the record.

1 (WHEREUPON, discussion was had  
2 off the record.)

3 (WHEREUPON, there was a short  
4 interruption.)

5 BY THE WITNESS:

6 A Go ahead. I'm listening.

7 BY MR. ZAMARIN:

8 Q Okay. When you were briefed on the SALP  
9 board findings, do you recall any qualifications that  
10 were provided with regard to Mr. Gallagher's input, and  
11 that is either the particular items upon which he based  
12 his conclusions in his memorandum or the time frame  
13 for those items or anything of that nature?

14 A The only thing I recall is that when we sat  
15 down and discussed the concerns by Mr. Gallagher and  
16 Mr. Naidu and they were brought to my attention by  
17 Mr. Fiorelli in an opening presentation to me, he made  
18 the point right then that these concerns have manifested  
19 themselves outside of the SALP appraisal period.

20 And my reaction to that was that I didn't  
21 care in terms of -- the SALP appraisal was one thing  
22 that had to be dealt with, and we would do that. But  
23 I felt very strongly that it was -- if our people had  
24 some concerns about the company's QA program and the

1 company had not been made aware of these concerns,  
2 that I wanted them upfront as early as possible so that  
3 they could be dealt with.

4 Q What I am driving at, and I will give you  
5 some examples out of Exhibit 2 from Mr. Gallagher's  
6 deposition, were you aware, for example, that where  
7 the statement was made -- and this is the document that  
8 you indicated you reviewed just prior to the first  
9 session of your deposition -- that:

10 "CPCo in conjunction with their contractor  
11 has a poor attitude in compliance. In addition,  
12 CPCo has been reluctant to give the NRC requested  
13 documents without first clearing it with upper  
14 CPCo management. This has been considered as an  
15 inhibiting factor in our inspection program."

16 Were you aware that the sole basis for that  
17 input was this request for the Question 23 closeout  
18 packets not being taken to the site?

19 A At the time that I was briefed on the SALP  
20 appraisal, I did not have a lot of time, and the  
21 briefing did not last a long time.

22 What it really focused on was -- we spent  
23 very little time on the SALP appraisal itself. As I  
24 mentioned earlier, it was somewhat nonsensational one

1 way or the other.

2           And when I learned about the new problems or  
3 became aware that we had additional concerns in the  
4 quality assurance, I believe my reaction at the time  
5 was, "Look, I want a meeting set up with Consumers as  
6 soon as possible. Let's tie it into the SALP meeting."

7           And for other reasons which were primarily  
8 related to my schedule, I said, "Let's do the  
9 Palisades and Big Rock SALP at the same time if we can  
10 and get on with it."

11           And I didn't go into any details of the  
12 things at that time, so -- and you were present at the  
13 SALP meeting, and you recall how I handled that.

14           I just threw the thing right on the table  
15 and encouraged my people and Consumers' people to get  
16 together as soon as possible.

17           Q     I understand that. And perhaps I can tell  
18 you that the reason why I am trying to probe these  
19 things through you is we are faced with the situation  
20 where staff counsel has indicated that you are the only  
21 one here that we are able to talk to. Their position  
22 is they are not going to allow us to talk to anybody  
23 else, so that is why I am trying to probe all of this  
24 through you.



1 Well, let me ask a question about that.

2 Has anyone ever conferred with you as to  
3 whether Mr. Naidu should be produced for his  
4 deposition?

5 A Mr. Paton asked me if I had any problem with  
6 Mr. Naidu being interviewed or deposed by you people,  
7 and I told him I didn't have any problem.

8 Q Well, one of the reasons why I am asking you  
9 these kinds of questions is not because I was not  
10 aware of what you said or what went on. It is just,  
11 for example, that the staff counsel have refused to  
12 allow us to depose Mr. Naidu. That is why I am asking  
13 for all these particulars, because at least without  
14 the board intervening, you are it as far as what we  
15 are to -- I am just telling you why I am asking you  
16 those questions. Even though I understand how this  
17 procedure worked, I have to get as much as I can from  
18 you.

19 A I can only say that if you have to have  
20 somebody from the staff, I'm probably the best guy you  
21 could have, because I'm the guy who is going to make  
22 the decision.

23 Q Okay. But I am just trying to explain why I  
24 am trying to get these particulars.

1           A       As I told you -- and I can't recall what the  
2 circumstances were, but -- the prebriefing on the SALP  
3 appraisal and problems was not a lengthy session  
4 because of other problems going on in the office.

5           Q       Do you know any of the particulars with  
6 regard to the Region 3 review of answers to Question 23  
7 of the 50.54(f) questions and in particular why it took  
8 so long after those answers were submitted for them  
9 to be reviewed?

10          A       Is this the 50.54(f) letter that was  
11 submitted by Licensing or written by Licensing?

12          Q       No. I am talking about the response to  
13 Question 23. In other words, responses were submitted  
14 by the licensee to Question 23 to Region 3, and then  
15 it took a considerable amount of time before any  
16 reviews commenced for those responses.

17          MR. JONES: Why do you mean by "considerable  
18 amount of time"?

19          MR. ZAMARIN: That is what I am asking.

20 BY THE WITNESS:

21          A       I have no input into it at all.

22          MR. JONES: I thought you had a date.

23          MR. ZAMARIN: I do. But my question was was he --  
24

1 BY THE WITNESS:

2 A I was not involved in that answer in any way.

3 BY MR. ZAMARIN:

4 Q Would the review of Question 23 and the  
5 direction to do that have been within Mr. Fiorelli's  
6 responsibility to oversee?

7 A The 50.54(f) letter was handled by the  
8 licensing people, NRR, and they would have coordinated  
9 with our staff to some degree on getting input in that  
10 answer.

11 I guess Mr. Fiorelli would have been involved  
12 in that coordination.

13 (WHEREUPON, there was a short  
14 interruption.)

15 BY MR. ZAMARIN:

16 Q I see. The implementation of that review  
17 would be up to Region 3, is that right?

18 For example, my understanding was that  
19 Question 23 had been given to someone at Region 3 for  
20 review.

21 A I don't know. I am sure somebody can trace  
22 that for you as to how it was handled, but I can't.

23 Q Does the NRC have a tracking system or method  
24 of closing out open inspection findings?

1           A     Yes.

2           Q     And can you describe generally or briefly  
3 what that system or method is?

4           A     Well, there's really two types of tracking  
5 systems. One is what we call the action item tracking  
6 system, which is a computerized tracking of actions  
7 that are assigned from one NRC office to another or  
8 within an NRC office and can even be used within a  
9 region to track items that are -- for which action has  
10 been requested. The handling of unresolved inspection  
11 matters may be a part of this system.

12                     When I said there's two methods, I guess I  
13 would refer to the second method as probably the  
14 informal method by which inspectors keep track of their  
15 own action items as they relate to inspection programs.  
16 And that's some kind of a note-keeping system to  
17 themselves, if you will.

18           Q     Do you believe that there is any reluctance  
19 on Consumers' part to include NRC requirements or codes  
20 or standards in their QA programs when these things  
21 are brought to their attention?

22           A     I don't have a basis for such an observation.

23           MR. ZAMARIN: Excuse me a minute.

24                     (WHEREUPON, there was a short  
                          interruption.)

1 BY MR. ZAMARIN:

2 Q I have what is to be marked Exhibit No. 9 as  
3 of today's date.

4 (WHEREUPON, said document was marked  
5 CPCo Deposition Exhibit No. 9, for  
6 identification, as of 1/16/81.)

7 BY MR. ZAMARIN:

8 Q It is the March 15, 1979 correspondence to  
9 Consumers Power Company over your signature, and  
10 attached to it is what is styled a presentation of  
11 investigation findings of the diesel generator  
12 building, et cetera. And it is marked preliminary.  
13 And I believe that this has been identified previously  
14 in discovery as a preliminary document to  
15 Investigative Report 78-20.

16 On Page 11 of this exhibit, 9, it has -- I  
17 am going to draw a circle around a little thing to  
18 direct your attention to it.

19 There is a statement that Consumers'  
20 management "(Corporate Project Engineer and Manager)  
21 were not properly informed of the Administration  
22 Building settlement."

23 And this is referring to the administration  
24 building grade beam failure which preceded the

1 discovery of the other problem.

2           Were you ever made aware other than, perhaps,  
3 reviewing that investigative report of any such  
4 purported finding?

5                           (WHEREUPON, the document was tendered  
6 to the witness.)

7 BY THE WITNESS:

8           A       I can't recall receiving input to this  
9 finding as such. I do recall that in the course of our  
10 review of this problem and the discussions on it with  
11 the company that concern was expressed that there  
12 should have been some forewarning of this problem as  
13 a result of experiences with the administrative  
14 building.

15 BY MR. ZAMARIN:

16           Q       We discussed that at our previous session  
17 as to whether there was an investigation and whether we  
18 should have "taken a clue," I think were your words,  
19 from the administrative building failure.

20           A       But the question was to the statement that  
21 they were not properly informed. I don't recall being  
22 a party to any specific discussions on that.

23           Q       Okay. I would like to know if -- what you  
24 consider to be the significance or

1 level of significance of that statement, if, in fact,  
2 you consider there to be some significance to it, if  
3 it were true.

4 A The significance I would attach to the  
5 statement is that a problem was known or identified  
6 with a nonsafety-related structure that conceivably  
7 could have ramifications for safety-related structures  
8 and that the company was not informed of the problem.

9 Q If, in fact, that statement is wrong, would  
10 that affect any of the conclusions or findings in your  
11 opinion that is contained in that exhibit, 9?

12 A The finding on this particular page?

13 Q Yes.

14 A Let me read them.

15 (WHEREUPON, there was a short  
16 interruption.)

17 BY THE WITNESS:

18 A Let me ask this question, first, that when  
19 you say if a statement were erroneous --

20 BY MR. ZAMARIN:

21 Q Yes.

22 A -- in what way should I read it to be  
23 erroneous, that they were informed?

24 Q Yes, if that statement -- my understanding

1 of that statement -- and it has been testified -- is  
2 that that statement was based upon a conclusion that  
3 the project manager, that Mr. Keeley, was not aware  
4 of the administration building grade beam failure until  
5 after the unusual settlement in the diesel generator  
6 building was observed.

7           And when I say that that statement is wrong,  
8 we know that it was wrong and have memoranda that  
9 demonstrate that that conclusion is simply wrong.

10           A     Okay. So you are asking me if the statement  
11 read CPCo management was informed of the admin.  
12 building settlement, would it change any of the  
13 conclusions.

14           Q     There was an impression, or there was a  
15 significance that you stated to the finding in there  
16 that they did not know about it, and I am really  
17 trying to find out what the significance of that error  
18 in that report is, if that would change an impression  
19 or change a conclusion or have any impact whatsoever  
20 in your opinion or as relates to you.

21           A     No. It wouldn't change the conclusions or  
22 the findings as I read it. It might make me think  
23 less of Mr. Keeley.

24           Q     Less of Mr. Keeley in what regard?



1           A       In handling the job, because if he was aware  
2 of the problem more, I guess I'd be concerned that he  
3 didn't take more positive action.

4           Q       Well, I think that we discussed last time,  
5 a couple of weeks ago, that you really weren't that  
6 familiar with what action was taken after the  
7 administration grade beam failure or the investigation  
8 that was undertaken in order to determine whether it  
9 was an isolated problem or not, is that right?

10          A       Yes. I guess the implication, though, that  
11 I read into your question is that if Consumers Power  
12 management people were aware of the administrative  
13 building settlement and -- it seems to me that the  
14 situation makes the conclusions and findings worse, at  
15 least in one sense, that it had management input into  
16 it at the expense of if it didn't have management input  
17 into it.

18          Q       Well, okay. I am not sure that I understood  
19 what you are saying. It seems to me that you are  
20 making that -- somewhat in a vacuum.

21                    Are you saying that if Consumers management  
22 knew about it, that you would expect them to take some  
23 kind of action, for example, to initiate an  
24 investigation and to make some kind of a judgment as

1 to whether it was a localized problem or not?

2 A I'm just looking at the conclusions and  
3 findings on their face value and weighing them in  
4 light of if management input was involved to reach  
5 those same findings as opposed to no management  
6 involved.

7 Q Do you mean the conclusion that Consumers  
8 did not adequately investigate the extent of the soil  
9 deficiency in the class 1 fill?

10 A Yes. I'm saying that if that's a finding,  
11 taking that finding at face value, if that conclusion,  
12 that same conclusion, is reached as a result of having  
13 management input versus not having management input,  
14 it doesn't speak well for the management.

15 Q You are taking as a fact that Consumers did  
16 not adequately investigate?

17 A Yes.

18 Q So if, in fact, they did conduct an adequate  
19 investigation and an investigation that was consistent  
20 with good principles, but the result of that  
21 investigation came up with the finding that it was an  
22 isolated problem and not one that extended throughout  
23 the plant fill, would that then change the conclusion  
24 that you have just stated?

1           A     Yes.

2           Q     Okay. Were you aware, by the way, that  
3 borings were taken after the grade beam failure,  
4 both in and around the administration building and at  
5 other locations and that the remainder of the site was  
6 checked for any manifestation of unusual settlement and  
7 that the procedures with regard to the grade beam were  
8 investigated before a determination was made, an  
9 engineering determination was made that it was an  
10 isolated situation and not one that extended throughout  
11 the site?

12          A     I don't recall getting any significant  
13 briefing on the thing, and if I was briefed, it was  
14 just in a passing way on that matter.

15          Q     And it was some time ago, also, wasn't it?

16          A     Yes. It's hard to -- I think I'm -- I guess  
17 the best way to say it is I'm aware of the conclusion  
18 of our people in that regard, that they felt that the  
19 matter of settlement of the administrative building  
20 was probably some kind of a precursor in terms of  
21 identification of the other problem. But I didn't  
22 go into any detail on it.

23          Q     Okay. With regard to that, of course, the  
24 thing that comes to mind is a discussion that we had

1 last time, and that was there is a tendency to be more  
2 bottom line-oriented, that if a problem shows up, that  
3 that indicates that there was some breakdown or some  
4 deficiency earlier or some down the line, and I guess  
5 it would be easy to say that if an investigation was  
6 conducted and a conclusion was reached that it was an  
7 isolated problem, and when we later find out it was  
8 not an isolated problem, it is easy to say that that  
9 investigation was inadequate, even though it may have  
10 been conducted at the time with good engineering  
11 principles and so forth.

12 A That's a true statement.

13 Q In your opinion has Consumers management  
14 directed adequate attention to the root causes of the  
15 deficiencies with regard to QA work?

16 A Could you repeat the question?

17 MR. ZAMARIN: Read the question.

18 (WHEREUPON, the record was read  
19 by the reporter as requested.)

20 BY THE WITNESS:

21 A I think that's been one of their weak points  
22 in their quality assurance program.

23 BY MR. ZAMARIN:

24 Q In what way?

1           A     Because of the time lapse that it seems to  
2 take to solve the problem permanently.

3                     I am thinking in terms of issues like the  
4 Zack problem, issues like the problems with embedments,  
5 that things kept occurring and recurring albeit they  
6 were identified by Consumers Power. But the lasting  
7 correction of the problem took a long time.

8           Q     Are you aware of whether root causes and  
9 root cause investigation are listed on the NCR's, the  
10 Midland NCR's?

11           A     I am not. My statement is based strictly on  
12 the fact that problems seem to recur before they are  
13 permanently corrected.

14           MR. ZAMARIN: Okay. Why don't we take about five  
15 minutes.

16                     (WHEREUPON, a recess was had.)

17 BY MR. ZAMARIN:

18           Q     Okay. Do you recall when prior to the  
19 middle of February, 1979, you were informed in any way  
20 of what the investigation with regard to the soils  
21 problem was doing?

22                     I know that is a while ago, and I am picking  
23 a specific point in time.

24           A     I believe that the February 15th memo

1 suggests that we were conducting an investigation, so  
2 I obviously was aware. I know what investigations are  
3 being conducted.

4 Q Okay. And prior to the February 15th memo,  
5 to your recollection, would you have also been aware  
6 of what was being found or what the general findings  
7 of the investigation were?

8 A Could I see the memo, again, the  
9 February 15th memo?

10 Q Sure. When I say "sure," to the extent I  
11 can find it.

12 (WHEREUPON, there was a short  
13 interruption.)

14 BY THE WITNESS:

15 A I think I can answer the question easily if  
16 I see the memo.

17 MR. ZAMARIN: Do you have the exhibits, Alan,  
18 from last -- I had them all clipped together.

19 (WHEREUPON, certain documents  
20 were tendered to Mr. Zamarin.)

21 MR. ZAMARIN: Thank you.

22 I guess it was not an exhibit.

23 (WHEREUPON, there was a short  
24 interruption.)

1 (WHEREUPON, a certain document  
2 was tendered to the witness.)

3 BY THE WITNESS:

4 A This is February 15th, isn't it?

5 BY MR. ZAMARIN:

6 Q Yes.

7 (WHEREUPON, there was a short  
8 interruption.)

9 BY THE WITNESS:

10 A I think the best way to answer that  
11 question is to say that I had major involvement and  
12 input into this particular document, the  
13 February 15th document. So, obviously, I had some  
14 information on the diesel generator building  
15 settlement problem.

16 The way the memo was written suggests to me  
17 that what we had at that time was some preliminary  
18 information and that -- but our investigation was still  
19 incomplete at the time, and, therefore, I didn't want  
20 to draw any firm conclusions from it at that point.  
21 But, obviously, the way it's discussed here, I knew  
22 something about the problems beforehand.

23 BY MR. ZAMARIN:

24 Q To your recollection, during the

1 investigation of the soils at Midland, were you aware  
2 or informed of whether the investigators were looking  
3 at the activities with respect to Canonic, who was  
4 placing soils in the dike area, I believe?

5 A I don't recall.

6 Q To your knowledge did the investigation with  
7 regard to the soils point out any problems about the  
8 capabilities of U.S. Testing?

9 A Well, again, I'd have to go back to the  
10 investigation report at this particular time. I think  
11 we got into some of this discussion last time, and I  
12 guess I would like to characterize the situation as  
13 being that I participated in the significant  
14 management meetings with the company to discuss the  
15 investigation findings, and all of those things were  
16 aired at that time. And to the extent that that  
17 particular problem was discussed, I would have been  
18 aware of it.

19 Q Okay. Has anyone ever indicated to you that  
20 they believed that Consumers Power was withholding  
21 information from the NRC with regard to the soils  
22 issues?

23 A Not that I recall. We did look very  
24 pointedly into whether or not the matter was reported



1 in a timely manner and concluded that there were no  
2 reporting deficiencies associated with that matter.

3 Q Do you know whether anyone in Region 3 has  
4 any thoughts with regard to the adequacy of the  
5 proposed remedial action from a technical standpoint?

6 A On the soils foundation problem?

7 Q Yes.

8 A Yes, I believe we do have.

9 Q Can you tell me what your knowledge of those  
10 thoughts is?

11 A I'm aware that Mr. Gallagher and perhaps  
12 others within Region 3 have some concerns over the  
13 technical adequacy of the corrective action proposed  
14 and implemented by Consumers Power Company.

15 They are working with the licensing people  
16 with respect to these matters. The responsibility  
17 within NRC for the adequacy of the site foundation  
18 rests with NRR.

19 Q When you refer to the licensing people, are  
20 you referring to the people within NRR?

21 A Yes, and their consultants.

22 Q I take it, then, from that answer that with  
23 regard to particular concerns over the technical  
24 adequacy of the proposed fixes that you are not familiar

1 with --

2 A Specifics?

3 Q Yes.

4 A No. I am aware that the reason, to the  
5 extent we are involved at all in this thing, is because  
6 of Mr. Gallagher's and some of the other people's  
7 expertise in this area.

8 Q To your knowledge did Region 3 review any  
9 of the cost/benefit analysis in answers to the  
10 50.54(f) questions?

11 A If we did, I'm not aware of that.

12 Q In making management decisions, does  
13 Region 3 evaluate cost versus benefit?

14 A The only time we would be involved in a  
15 cost/benefit-type of analysis is if we were asked to  
16 participate by the NRR people.

17 Q Participate in what?

18 A In such an evaluation by the NRR people.

19 Our job in terms of an inspection program  
20 is for assuring or verifying that the activities are  
21 being conducted in accordance with the regulations,  
22 and that doesn't address cost/benefit relationships.

23 Q To your knowledge has any Region 3 personnel  
24 ever expressed opinions that they did not like Bechtel

1 as a company?

2 A No, I don't think so. I don't think I've  
3 ever heard a statement like that.

4 I have been personally very critical of  
5 Bechtel throughout the years that I've been here, but  
6 I've also been critical of a lot of other people.  
7 But it's always been related toward a specific problem  
8 and the handling of that specific problem. I am not  
9 aware of any derogatory-type statement made at a  
10 company with no other basis other than the company --  
11 the nature of our work does require us to be critical  
12 of activities, and I guess I would go so far as to say  
13 in -- particularly in dealings with Consumers Power  
14 Company, I have been critical of -- used Bechtel in a  
15 critical sense in that I have felt that they have been  
16 a dominating force at the site or in connection with  
17 the work many times.

18 Q Have you ever been of the belief that  
19 Bechtel, Ann Arbor office, has been uncooperative with  
20 respect to the NRC or Region 3 in particular?

21 A I can't recall any instance that stands out  
22 in my mind as being a case that bothered me, and,  
23 certainly, if there were such a case, that it wasn't  
24 of any significance that I remember it.

1 Q Has anyone recently indicated to you that  
2 they do not think that Consumers Power Company reports  
3 matters pursuant to 50.55(e) as readily as they did  
4 in the past?

5 A No.

6 Q What is Region 3's opinion as to the single  
7 largest cause, primary cause, of the soils problem?

8 A I don't know whether I'd be speaking for my  
9 staff with this answer, but I'll give you my personal  
10 view on it, and that is that the quality assurance  
11 program related to the soils problem right from the  
12 beginning was ineffective to assure that the soil  
13 requirements were as they were stated to be in the  
14 application.

15 That's a very broad answer, but it's, I  
16 think, the gut issue involved.

17 Q As you sit here now, could you point to any  
18 specific changes in the program that in your opinion  
19 would have eliminated or prevented those problems?

20 A I guess I'd have to think about that, but I  
21 think the general impression I have had, right or  
22 wrong, is that the soil foundation did not get the  
23 same initial type of attention that other systems that  
24 are known to be more readily associated with the

1 safety of the plant get.

2 For example, the civil work in terms of the  
3 structures and the welding work and the electrical  
4 work are all recognized as being areas that need a  
5 strong quality assurance program, and they sort of  
6 get it from the recognition that those are very  
7 important systems.

8 I am not certain that right from the  
9 beginning that anybody really recognized or paid  
10 attention to the fact that there was this clear  
11 possibility that the soil was going to be that  
12 critical an issue. I guess what I'm saying is that I  
13 sort of got the impression that the soil aspects might  
14 have been more taken for granted than the other areas.

15 Q Now, I have here a copy of the memorandum  
16 and order in ALAB-106, and on Page 17 of that is the  
17 statement that "the Board requests --" and then it  
18 has some -- certain information, and they use the term  
19 "staff." They are requesting that certain things be  
20 done by the "staff," and they reference items,  
21 numbered items that appear on the two preceding pages.

22 And I would like you to take a look at that,  
23 and, if you can, tell me whether the reference there  
24 to "staff" by the Appeals Board refers to Region 3, for

1 example, or NRR, or whether you can even draw such an  
2 opinion.

3 (WHEREUPON, the document was  
4 tendered to the witness.)

5 BY THE WITNESS:

6 A You are talking about this area, here  
7 (indicating)?

8 BY MR. ZAMARIN:

9 Q Yes.

10 (WHEREUPON, there was a short  
11 interruption.)

12 BY THE WITNESS:

13 A Okay. I've read this.

14 BY MR. ZAMARIN:

15 Q Then my question was, when I read that, it  
16 is somewhat general when it refers to requests that the  
17 staff do certain things. And do you read that as  
18 referring to Region 3 I & E or as to NRR, Region 3  
19 Headquarters, or do you really have a handle on what  
20 they mean by that?

21 A I think a fair characterization when they  
22 talk about "staff" is probably a coordinated effort  
23 between Region 3, the NRR people, and the legal staff.

24 Q And would carrying out of Region 3's

1 responsibilities with regards to that effort, again,  
2 be something that Gaston Fiorelli would have  
3 responsibility of taking care of?

4 A Yes.

5 I would add that Region 3 does not deal  
6 directly with the boards without the knowledge of what  
7 NRR or the legal staff is doing.

8 Q Okay. When you say you do not deal  
9 directly with the boards without the knowledge of  
10 what they are doing --

11 A We wouldn't send anything directly to the  
12 board from here without it going through Washington.

13 Q And it does not necessarily go through  
14 I & E Headquarters in Washington for --

15 A No. I'd think you'd have to go back and  
16 look at what arrangements were set up in terms of  
17 dealing with these things at that particular time.

18 Q We went through a couple of weeks ago that  
19 memorandum of that possible ex parte communication,  
20 and I believe we had discussed what you would  
21 consider to be technical errors in there. And what  
22 comes to mind now as I sit here was one of them was  
23 the statement that I & E had discovered the soil  
24 settlement problem when, in fact, it was the licensee

1 that had; and the other one, I recall, was the  
2 statement that there had been no QA program with  
3 respect to soils.

4 And I believe that you indicated that that  
5 should have indicated that in your opinion there was  
6 no effective QA program with regard to soils.

7 I also note that, I believe, a copy of that  
8 communication and memorandum had been provided to the  
9 licensing board.

10 Do you believe that the licensing board --  
11 in order to place your comments in proper perspective--  
12 should also have the benefit of your corrections as  
13 you describe it to us?

14 A I would expect they will ask me it.

T4 15 Q Okay. Actually, the reason that I asked  
16 that, I have been toying with the idea of somehow  
17 finding some vehicle of informing them of your  
18 explanation, now, and I have not come up with any way  
19 to do that.

20 A Could I go off the record a minute?

21 Q Yes.

22 (WHEREUPON, discussion was had  
23 off the record.)  
24



1 BY MR. ZAMARIN:

2 Q Has anyone ever indicated to you that any  
3 Region 3 inspectors may have taken a threatening  
4 position with regard to Consumers Power, for example,  
5 indicating that if they did not comply with an  
6 inspector's decision, that you would be told that the  
7 plant should not be licensed?

8 A I don't recall anything.

9 Let me just add that I'm the person  
10 responsible for making the recommendation from Region 3  
11 to my bosses in Washington with respect to licensing  
12 action. The only so-called threat that I can recall  
13 is the one that I made at the SALP hearing -- SALP  
14 meeting in which I told Consumers Power representatives  
15 that if their operation at Palisades didn't begin to  
16 show some measureable improvement, that I would not  
17 recommend issuance of the operating license at Midland  
18 if and when this project were built.

19 So if you want to call that a threat --

20 Q That is not what I was referring to. But  
21 let me ask you a question about that.

22 Are you then saying that irrespective of  
23 that, the fact that there would be differing  
24 operational procedures at two plants, the fact that

1 Consumers Power Company is ultimately responsible for  
2 the operation at Palisades, therefore the performance  
3 would impact your decision as to whether to recommend  
4 a license at Midland?

5 A I'm saying that the performance at the  
6 Palisades plant suggests to me that Consumers may not  
7 be able to run the Midland plant with a high degree  
8 of quality in the operation and that -- and I viewed  
9 the problems at Palisades as not strictly site-oriented.

10 Q Okay. Can you tell me what you mean by  
11 that?

12 A I see that -- I believe that the problems  
13 are not necessarily restricted just to personnel  
14 performance, but relate to the -- to issues broader  
15 in the sense of procedural controls, communications  
16 controls, quality of people, and so forth.

17 Q And when you say "quality of people," are  
18 you referring to quality of people who are actually  
19 involved in the hands-on operation or quality of  
20 people who should be initiating procedural controls?

21 A I think both.

22 Q One more question before I pass out of this  
23 area.

24 And when you refer to "procedural controls,"

1 can you tell me what you mean by that?

2 A Could I go off the record a minute?

3 Q Sure.

4 (WHEREUPON, discussion was had  
5 off the record.)

6 MR. ZAMARIN: Strike that last question.

7 Just a second.

8 (WHEREUPON, there was a short  
9 interruption.)

10 BY MR. ZAMARIN:

11 Q Do you have any knowledge with respect to  
12 in what frame of mind the alleged material false  
13 statement in the FSAR was made?

14 By that I mean whether it was willful or  
15 deceitful, for example.

16 A Well, if we felt it was willful or  
17 deceitful, we would have suggested that the matter be  
18 referred to the Department of Justice. So we did not  
19 feel there was an intention to deceive the NRC.

20 Q I have here an October 4, 1979 memo for you  
21 from George Gower, and it has been previously marked  
22 as Exhibit 13 at the deposition of Darl Hood on  
23 October 8th, 1980.

24 I am going to hand this to you and ask you

1 to take a look at it, and then I am going to ask you  
2 a question. So direct your attention to what the  
3 sentence means -- actually, it is the last sentence in  
4 the third paragraph.

5 (WHEREUPON, the document was  
6 tendered to the witness.)

7 BY MR. ZAMARIN:

8 Q Or at least to help you or me understand  
9 what it means.

10 (WHEREUPON, there was a short  
11 interruption.)

12 BY THE WITNESS:

13 A Okay, Ron.

14 BY MR. ZAMARIN:

15 Q Okay. I need to see it again to remember  
16 what my question was.

17 (WHEREUPON, the document was  
18 tendered to Mr. Zamarin.)

19 BY MR. ZAMARIN:

20 Q With regard to the statement in this letter  
21 that says -- or this memorandum, it says:

22 "Based on the information presented, we  
23 do not believe that the four infractions to be  
24 included in Appendix C meet the civil penalty

1 criteria, and, therefore, would not carry  
2 monetary penalties."

3 And up above it talks about the three  
4 appendices, Appendix A being related to the material  
5 false statement, Appendix B being a notice of imposed  
6 civil penalties--and I assume that would be civil  
7 penalties resulting from the Appendix A material false  
8 statement--and Appendix C would be another Notice of  
9 Violation specifying the four infractions found.

10 And, I guess, really, what I am interested  
11 in knowing is what the four infractions found refer to.

12 A Those are the items of noncompliance, I  
13 believe, which you asked me about earlier. And I  
14 think you called them nine, but they were numbered  
15 1, 2, 3, and 4.

16 Those are those infractions that you  
17 mentioned earlier when I discussed the nature of the  
18 enforcement program and how we characterized the items  
19 of noncompliance. They are not the material false  
20 statements.

21 Q And I have here an October 29, 1979  
22 memorandum for George Gower from you, subject, Midland-  
23 recommended civil penalty, and this is marked as  
24 Exhibit No. 10.

1 (WHEREUPON, said document was  
2 marked CPCo Deposition Exhibit No. 10,  
3 for identification, as of  
4 1/16/81.)

5 BY MR. ZAMARIN:

6 Q And there is an attachment here with an  
7 Appendix C, Notice of Violation. Is that the  
8 Appendix C that is referred to in that October 4, 1979  
9 letter, Hood Deposition Exhibit No. 13?

10 (WHEREUPON, the document was  
11 tendered to the witness.)

12 BY THE WITNESS:

13 A Yes.

14 BY MR. ZAMARIN:

15 Q Okay. Could I see that a minute?

16 (WHEREUPON, the document was  
17 tendered to Mr. Zamarin.)

18 BY MR. ZAMARIN:

19 Q What does XOOS stand for?

20 A Executive Officer for Operations Support,  
21 I think.

22 Q I notice that in this draft, Appendix C, it  
23 refers to the four items as infractions. Now, is that  
24 based upon the determination that if left unresolved,

1 these are matters which might lead to potential safety  
2 problems?

3 A Yes.

4 (WHEREUPON, a certain document was  
5 marked CPCo Deposition Exhibit  
6 No. 11, for identification, as of  
7 1/16/81.)

8 BY MR. ZAMARIN:

9 Q I have here what has been marked as  
10 Exhibit No. 11 as of today's date. It is a  
11 November 19, 1979 memo for Harold Thornburg from  
12 Mr. Shewmaker.

13 MR. JONES: Off the record.

14 MR. ZAMARIN: Off the recrd.

15 (WHEREUPON, discussion was had  
16 off the record.)

17 BY MR. ZAMARIN:

18 Q I notice that you indicated on Page 2, which  
19 has Meeting Notice Distribution -- I would like you to  
20 take a look at that, and could you tell me, do you  
21 recall, one, whether you attended that meeting, and,  
22 two, what the occasion of the meeting was, in other  
23 words, the purpose.

24

1 (WHEREUPON, the document was  
2 tendered to the witness.)

3 (WHEREUPON, there was a short  
4 interruption.)

5 BY THE WITNESS:

6 A I believe this is the meeting notice that  
7 is put out by our staff for meetings, which was aimed  
8 at the discussions on the overall performance of the  
9 Midland site. The second meeting that we'd had and  
10 this meeting, I believe, also, was the one which  
11 eventually led or which led to the discussions that  
12 focused on the diesel generator building settlement  
13 problem, as to the action to be taken.

14 The purpose of the meeting, again, was to  
15 review the series of problems overall and to determine  
16 whether Region 3's actions in this regard were  
17 acceptable or adequate.

18 BY MR. ZAMARIN:

19 Q When you say "Region 3's actions in this  
20 regard," do you mean recommendation --

21 A Yes.

22 Q -- for proposed action?

23 A Yes.

24 Q Now, I notice that this is from



1 Mr. Shewmaker. Why was he initiating this memorandum,  
2 or was he kind of running the show?

3 A I believe he was coordinating the activities.

4 MR. ZAMARIN: Off the record.

5 (WHEREUPON, discussion was had  
6 off the record.)

7 BY MR. ZAMARIN:

8 Q I have here what has been marked  
9 Exhibit No. 15, as of October 8, 1980, the Hood  
10 deposition, and it is a sheet of paper with six items  
11 listed on it.

12 And I would like to show this to you and ask  
13 you if you recall ever having seen that before.

14 (WHEREUPON, the document was  
15 tendered to the witness.)

16 (WHEREUPON, there was a short  
17 interruption.)

18 BY MR. ZAMARIN:

19 Q Our recollection is that Mr. Hood testified  
20 that he and Mr. Rubenstein had prepared that document,  
21 so I will put it in context.

22 Do you recall ever having seen this before?

23 A No. I'm familiar with many of the items in  
24 there, though.

1 Q Good, because I am going to ask you about a  
2 couple of them.

3 In regard to the statement that in March of  
4 1979 "IE recommended to NRR that a show cause be  
5 issued to stop construction," do you know who it was  
6 within IE that made that recommendation?

7 A I'd have to go back to look at some of the  
8 paperwork that was submitted to Washington, but I  
9 believe the basis for that recommendation came from  
10 here, that we at least encouraged consideration of a  
11 show cause as one possibility for dealing with this  
12 problem.

13 Q Okay. And why was that? Does it relate to  
14 what you described last time as your concern that if  
15 construction, for example, continues to go on, that  
16 there is some feeling that engineering judgment might  
17 be affected by the fact that it is continued?

18 A That certainly was a consideration.  
19 Whether it was the total one or not, I don't know.  
20 But I was bothered by the fact that there was no  
21 position on the part of both the company and on the  
22 part of the staff that whatever was going to be done  
23 was going to be an acceptable solution to the  
24 problem.

1 Q It indicates on here that it was agreed by  
2 NRR and IE that 50.54(f) as opposed to a show cause  
3 to stop construction would be sufficient.

4 Do you know why it was agreed that that would  
5 be sufficient rather than stopping construction?

6 A No. I'm sure that decision was discussed  
7 between the IE staff back there and the NRR.

8 Could I ask a question of Mr. Jones?

9 Q Sure, you can.

10 (WHEREUPON, discussion was had  
11 off the record.)

12 BY THE WITNESS:

13 A Let me say that I believe, but I'm not  
14 certain of this, that a consideration associated with  
15 the 50.54(f) approach was to stay out of a hearing.

16 BY MR. ZAMARIN:

17 Q Okay. The consideration of a show cause to  
18 stop construction, was that to stop construction only  
19 with regard to soils foundation?

20 A Yes.

21 Q Down in Item 6 it says, "IE now raises  
22 question as to the acceptability of the design fix --"  
23 was it your understanding that prior to the time of  
24 this memorandum, that IE did not raise any question a.

1 to the acceptability of the fix?

2 A No. That has always been an issue, and I  
3 think it focused on a difference of perspective in  
4 terms of the relative importance of certain aspects  
5 as viewed by the staff.

6 Q Okay. It refers here to -- there is a  
7 reference at the top that 50.54(f) was sent to  
8 Consumers Power in March of 1979, and down in Item 6  
9 it says, "In a meeting on November 28 --" do you know  
10 if that November 28 refers to 1979?

11 A Yes. It's that same meeting notice that you  
12 referred to before.

13 Q Well, for the first time we have been able  
14 to put this together with something. So this  
15 Exhibit No. 15 from the Hood deposition, to the best  
16 of your recollection, goes together with what we had  
17 just marked as Exhibit No. 11 of this deposition, and  
18 that is the forthcoming meeting, that I do see it  
19 refers to a November 28 meeting, and that is what the  
20 reference in Item 6 here is, that November 28 meeting.

21 A Yes.

22 Q I guess what I wonder about is it says that  
23 "IE developed a new position," and that it "now raises  
24 the question --" and do you know how that differed from

1 any old position and what it used to raise?

2           A       What it refers to -- and if you go back to  
3 our previous conversations -- we had made the  
4 recommendation for issuance of the civil penalty on  
5 the material false statements case. The technical  
6 adequacy of the soils foundation problem, that  
7 responsibility rested with NRR.

8                       When we met with our management back there  
9 to discuss the assessments of the Midland site and the  
10 impact of the soils problem, my boss, Mr. Stello,  
11 wanted to focus back on the adequacy of the technical  
12 aspects of this problem rather than on the civil  
13 penalty consideration, which, going back in time, was  
14 the same concerns we had flagged earlier, and that was  
15 going back to why we had recommended consideration of  
16 issuance of a show cause order.

17                      Here it was in December, and the staff still  
18 had no better appreciation for whether or not the  
19 actions being taken and proposed by Consumers Power  
20 Company were going to be acceptable.

21           Q       In the statement under Item 6 on this  
22 exhibit, 15, from Darl Hood's deposition, "In a  
23 meeting on November 28, IE developed a new position,"  
24 and, under a, "Overall QA performance acceptable

1 because it identifies QA deficiencies," was that  
2 a new position, or had that been the position  
3 all along?

4 A That had been my position throughout. While  
5 I had a number of specific concerns with the QA  
6 program, the bottom line was as stated there.

7 Q And is that bottom line also shared by IE  
8 headquarters in Washington, to your knowledge?

9 A Yes.

10 Q Who is it that has the ultimate  
11 responsibility for determining whether the staff would  
12 have reasonable assurance that the QA program with  
13 regard to remedial fixes for the soils foundation  
14 problems would be done in a fashion so as not to be a  
15 danger to the health and safety of the public?

16 A I guess I'm not sure I really understand what  
17 you are getting at. Perhaps if I offer some thoughts  
18 on the subject, it might help.

19 The NRC is to take any such action in terms  
20 of an issuance of an order or anything that involves an  
21 escalated enforcement action to accomplish a protection  
22 of the public health and safety. That would be done  
23 by the director of I & E or the director of NRR or by  
24 the Commission itself, if they so chose.

1 I'm not sure that's the question you asked  
2 me, however.

3 Q Okay. I guess the bottom line of what I am  
4 trying to get to is whether the staff has reasonable  
5 assurance that the affected safety-related portions of  
6 the Midland facility that are to have remedial fixes  
7 done to them will be constructed in such a way that it  
8 would be without undue risk to the health and safety  
9 of the public; and if they do not have that reasonable  
10 assurance, who is the individual that makes that  
11 decision?

12 A The quality assurance aspects of it or the  
13 technical aspects of it?

14 Q For the purposes of this question, we are  
15 assuming that the technical aspects -- some decision is  
16 reached somehow on acceptable technical fix, and now  
17 we get to the question of how that assurance will be  
18 implemented.

19 A I think it rests with me.

20 Q I asked you a moment ago with regard to the  
21 statement in Hood Exhibit 15 that "Overall QA  
22 performance acceptable because it identifies QA  
23 deficiencies," and I asked if that was also the bottom  
24 line for IE headquarters. You indicated it was.

1 Do you know if that is all the bottom line  
2 for NRR QAB?

3 A I believe so. They certainly were at the  
4 meeting in which we discussed this, and I believe they  
5 accepted our bottom line position.

6 Q And the meeting you refer to is that  
7 November 28, 1979 meeting?

8 A That's correct. And that, again, was -- one  
9 of the purposes of that meeting was to discuss the  
10 problems, not only the soils problem, but all of the  
11 problems collectively, to determine that the support --  
12 that the Region 3 positions taken on this matter were  
13 shared by the people in Washington.

14 Q Okay. I have here a memo dated March 5, 1980  
15 from you to Harold Thornburg suggesting that a  
16 memorandum be sent to the Commission encouraging that  
17 the hearing relating to soils foundations be expedited.

18 Do you know whether such a memo was ever  
19 sent to the Commission?

20 Do you want to see this?

21 (WHEREUPON, the document was  
22 tendered to the witness.)

23 (WHEREUPON, there was a short  
24 interruption.)



1 BY THE WITNESS:

2 A I don't know, but I don't believe so.

3 BY MR. ZAMARIN:

4 Q Okay.

5 A Do you --

6 Q You have never seen one, so I take it, then,  
7 since you are not sure that any one was, you would not  
8 be aware of any reason why one was not sent, if it was  
9 not sent.

10 A No.

11 MR. ZAMARIN: This is a good place to break.  
12 We will break for lunch. It is twenty-five after  
13 12:00. How about 1:15?

14 (WHEREUPON, the deposition was  
15 recessed until 1:15 p.m. this  
16 date, January 16, 1981.)

1 UNITED STATES OF AMERICA  
2 NUCLEAR REGULATORY COMMISSION

3 IN THE MATTER OF: ) Docket Nos. 50-329-OL  
4 ) 50-330-OL  
5 CONSUMERS POWER ) 50-329-OM  
6 COMPANY ) 50-330-OM  
7 (Midland Plant, )  
8 Units 1 & 2) )

9 January 16, 1981,

10 1:30 p.m.

11 The deposition of JAMES GEORGE KEPPLER,  
12 resumed pursuant to recess, at Nuclear Regulatory  
13 Commission Region No. 3, 799 Roosevelt Road, Glen  
14 Ellyn, Illinois.

15 PRESENT:

16 MESSRS. ISHAM, LINCOLN & BEALE,  
17 (One First National Plaza,  
18 Chicago, Illinois 60603), by:  
19 MR. RONALD G. ZAMARIN and  
20 MR. ALAN S. FARNELL,

21 appeared on behalf of the Consumers  
22 Power Company;

23 MR. BRADLEY JONES,  
24 (United States Nuclear Regulatory Commission,  
Washington, D.C. 20555),

appeared on behalf of the Nuclear  
Regulatory Commission.

ALSO PRESENT:

MR. GILBERT S. KEELEY,  
MR. BENJAMIN W. MARGUGLIO,  
Consumers Power Company;

1 ALSO PRESENT (CONTINUED):

2 MR. EUGENE J. GALLAGHER,  
3 Nuclear Regulatory Commission.

4 REPORTED BY: ANTOINETTE M. HAYNES, C.S.R.

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1 JAMES GEORGE KEPPLER,  
2 called as a witness herein, having been previously duly  
3 sworn and having testified, was examined and testified  
4 further as follows:

5 DIRECT EXAMINATION (Resumed)  
6 BY MR. ZAMARIN:

7 Q I have here a copy of that December 14, 1978  
8 letter that you wrote to Myron Cherry in response to  
9 his claims about the resident inspector at Midland,  
10 and I note that on the -- there really is not any need  
11 for the background. I am not going to ask much  
12 substance to this.

13 I just note that on the second page of this  
14 letter in someone's handwriting, "ELD concurrence by  
15 telephone --- Olmstead," "RCI concurrence by  
16 telephone --- Thornburg."

17 Is that your handwriting?

18 A That's Mr. Norelius's handwriting. No.  
19 Wait a minute. I take that back. It is my  
20 handwriting.

21 Q Am I correct in understanding that  
22 Mr. Olmstead and Mr. Thornburg both  
23 were consulted with regards to the substance of that  
24 letter?

A Yes.

Q And they both concurred with the statements  
1 therein?

2 A Yes.

3 MR. ZAMARIN: Off the record.

4 (WHEREUPON, discussion was had  
5 off the record.)

6 (WHEREUPON, a certain document was  
7 marked CPCo Deposition Exhibit No. 12,  
8 for identification, as of 1/16/81.)

9 BY MR. ZAMARIN:

10 Q Okay. I have here a January 11, 1979  
11 memorandum for W. A. Hansen from D. W. Hayes. The  
12 subject is "Review and Evaluation Material Submitted  
13 per ALAB 106 Condition 4."

14 It states here that:

15 "As I understand, the nonconformance  
16 reports and other materials submitted by  
17 Consumers Power Company in accordance with  
18 Condition 4 of ALAB Order 106 have not been  
19 formally reviewed and evaluated since  
20 August, 1976."

21 And it goes on to state that Mr. Hayes sees  
22 "little value, in terms of required effort, in trying  
23 to fully backfit these reviews."

24 Do you know what he means by "backfit these  
reviews"?

1           A     I think he means try to go back and review  
2 the ones that weren't done, but I have not read that  
3 memo, so --

4           Q     Okay.

5                     (WHEREUPON, there was a short  
6 interruption.)

7 BY MR. ZAMARIN:

8           Q     Okay. In here it is also stated that  
9 inspectors, NRC inspectors, "routinely review and  
10 evaluate audit findings and NCR's at the site for  
11 proper corrective action including trend analysis --"  
12 now, is that a trend analysis that is performed by  
13 the NRC inspectors to which he refers?

14                     (WHEREUPON, the document was  
15 tendered to the witness.)

16 BY THE WITNESS:

17           A     Yes. What he means by "trend analysis" is  
18 an analysis for any adverse trends performed by the  
19 licensees.

20 BY MR. ZAMARIN:

21           Q     So your understanding is --

22           A     That's the way I would read that memo, and  
23 that's my understanding of what we do.

24           Q     And that is also your understanding of what

1 you had done, say, between 1976 and 1979, the period  
2 covered in that memo?

3 A You are asking me if that's what this memo  
4 says?

5 Q No. If that is your understanding of what --

6 A I didn't have any understanding of what we  
7 were doing in terms of how much. I knew our program  
8 called for a periodic review of nonconformance reports  
9 and licensees' actions with respect to these reports,  
10 but you will recall you asked me in connection with the  
11 ALAB order as to how much we did on this and who was  
12 responsible for it, and that would have been handled  
13 by the branch, Mr. Fiorelli.

14 Q And, really, what I was asking here is with  
15 regard to doing this trend analysis, your understanding  
16 is that this trend analysis was done by Region 3,  
17 for example, from 1976 through 1979. I mean, this is  
18 not something new, is it? Trend analysis --

19 A No.

20 Q Is it a correct statement to say that there  
21 is a difference between a construction permit-type  
22 review and an operating license-type review from the  
23 viewpoint of the NRC?

24 A Yes.

1           Q       And the type of review that would be  
2 associated with the proposed fixes for the soils  
3 foundation problems at Midland would be a construction  
4 permit-type review in your opinion?

5           A       I don't know how I'd characterize it in terms  
6 of whether it would be a construction permit review  
7 or an operating license review. My feeling is that a  
8 problem of this nature that carries with it some  
9 design consideration is different from that which was  
10 proposed in the construction permit and which was  
11 reviewed by the staff as being a design consideration  
12 that was acceptable.

13                   My feeling is that that kind of difference  
14 or problem area should be resolved as early as  
15 possible. I don't know whether I'm dancing around the  
16 issue.

17           Q       I am not sure how that really fits into how  
18 that is more like a construction permit, again, or  
19 more like a --

20           A       I guess if I had to distinguish one way or  
21 the other, I think it should be handled as a  
22 construction permit review, yes.

23                   I think -- let me add that I think one of  
24 the purposes behind a two-stage licensing proceeding



1 such as the NRC has is so that if there are issues  
2 that are developed with a completed plant, that plant  
3 doesn't automatically go into operation with a  
4 potential safety problem or an unreviewed question  
5 existing.

6 (WHEREUPON, there was a short  
7 interruption.)

8 BY MR. ZAMARIN:

9 Q On Page 2 of the December 6th order, in the  
10 first complete paragraph on the page, is a statement  
11 that -- and this was with regard to the purported  
12 material false statement in the FSAR -- it says:

13 "This statement is material in that this  
14 portion of the FSAR would have been found  
15 unacceptable without further staff analysis  
16 and questions if the staff had known that  
17 Category I structures had been placed in fact  
18 on random fill rather than controlled compacted  
19 cohesive fill as stated in the FSAR."

20 Could you tell me the basis for the  
21 statement, if you know, that the staff would have  
22 asked further questions and it would have found  
23 unacceptable without those further questions --

24 A Which part are you reading from here?

1 Q I think it is the last -- here we go. It  
2 starts right there, somewhere (indicating).

3 A What is the question?

4 Q In general whether you are aware of what the  
5 basis of the statement that the staff would have  
6 asked further questions is.

7 A I assume the basis came from NRR, because  
8 they were the people that reviewed whether the  
9 statements in fact did involve a material false  
10 statement. So that finding was theirs.

11 Q Is it your understanding that that is from  
12 a technical viewpoint as opposed to a QA viewpoint,  
13 for example?

14 A Yes.

15 Q In your opinion is there any difference,  
16 from a QA viewpoint, between the ongoing construction  
17 activities at the Midland site and the construction  
18 activities that would be involved in implementing any  
19 fix with regard to the soils foundation once a fix is  
20 technically accepted?

21 A The only major difference that I can see is  
22 that there were clear problems with the quality  
23 assurance program as they related to the soils work  
24 initially and that I would want to make sure that

1 those deficiencies had been corrected so that further  
2 work in that area -- that I had assurance that it  
3 would receive proper management attention, quality  
4 assurance attention.

5 Q When you say "further work in that area,"  
6 are you referring to the soils placement area?

7 A Yes.

8 Q There is one thing I forgot to do.

9 (WHEREUPON, a certain document  
10 was marked CPCo Deposition  
11 Exhibit No. 13, for identification,  
12 as of January 16, 1981.)

13 BY MR. ZAMARIN:

14 Q I have here what I have marked as  
15 Exhibit 13 as of today's date, and I just want to show  
16 you that. And I believe that this is a copy of the  
17 biographical information that you provided to us, is  
18 that correct?

19 (WHEREUPON, the document was  
20 tendered to the witness.)

21 BY THE WITNESS:

22 A Yes, it is.

23 (WHEREUPON, there was a short  
24 interruption.)

1 BY MR. ZAMARIN:

2 Q On Page 3 of the December 6th order, in the  
3 third line from the bottom, it indicates that without  
4 resolution of certain issues, "the staff does not have  
5 reasonable assurance that the affected safety-related  
6 portions of the Midland facility will be constructed  
7 and operated without undue risk to the health and  
8 safety of the public."

9 Can you tell me what your understanding of  
10 the phrase "reasonable assurance" is?

11 (WHEREUPON, the document was  
12 tendered to the witness.)

13 BY THE WITNESS:

14 A "Reasonable assurance" as used in this  
15 particular sentence, I believe, is intended to convey  
16 the thought that the staff did not have sufficient  
17 information to make a conclusion that the actions  
18 proposed by Consumers Power Company with respect to  
19 the soils foundation problem were adequate to assure  
20 that further differential settlement problems may not  
21 exist, and on that basis that such settlement could  
22 conceivably affect both safety-related systems and  
23 structures, that they lacked confidence that a safety  
24 problem would not exist if the facility were

1 constructed that way.

2 BY MR. ZAMARIN:

3 Q We have touched, really, on what I am  
4 trying to learn, and that is, when you say "reasonable  
5 assurance" I take it that connotes something less than  
6 absolute certainty.

7 A Yes.

8 Q And what I am really trying to get to is  
9 where between having a mere suspicion and having  
10 absolute certainty that falls, and can you somehow  
11 help me on that?

12 A Obviously there is a subjective  
13 consideration involved. But I think the thought behind  
14 it is that people of a common technical background  
15 applying due conservatism to an issue would conclude  
16 that the risks are very small or unlikely to occur if  
17 the action were to allowed to go to completion.

18 Q Would that, then, in your opinion be the  
19 same as, I suppose, if an engineer were reviewing  
20 plans for the foundation of this building that we are  
21 sitting in, he needs to be reasonably assured that  
22 that foundation is going to be adequate, or does it  
23 indicate something more or something less than that?

24 A I think the intent is basically the same.

1 But, obviously, the safety concerns for a nuclear  
2 power plant dictate considerably more conservatism  
3 than, perhaps, the same concerns for this particular  
4 building.

5 Q I hope all of the tenants in here are aware  
6 of that.

7 A The basic intent is the same. But what may  
8 constitute reasonable assurance -- that really gets  
9 into the intended safety function that it has to  
10 perform. I think one looks at the combinations of  
11 the consequences plus the risk.

12 Q Okay.

13 A Or the probability and the risk.

14 Q It seems to me that what you are doing is  
15 you are going away somewhat from reasonable assurance.  
16 In other words, the reasonable assurance --

17 A Well, I think it all ties together to some  
18 degree.

19 Q Okay. Let me see if I have got it.

20 With regard to the reasonable assurance that  
21 a designer, a reviewer with regard to plans for a  
22 structure such as we are sitting in today would have,  
23 for example, are you saying that because of the safety  
24 considerations associated with a nuclear power plant,

1 that there would be more factors that would be  
2 considered with regard to which he would have to have  
3 reasonable assurance, or that reasonable assurance has  
4 to move closer to certainty, that there is more than  
5 just expertised good engineering judgment that is  
6 required when you are talking about a nuclear plant?

7 A I am saying more the former, that to obtain  
8 reasonable assurance for this building might be much  
9 less complicated than to obtain it --

10 Q But that is not to say that the reasonable  
11 assurance for that engineer is closer to certainty.  
12 It is just that he has other factors.

13 (WHEREUPON, there was a short  
14 interruption.)

15 MR. ZAMARIN: I do not have anything further.

16 MR. JONES: I guess by agreement of parties you  
17 will Xerox the exhibits and forward them to us.

18 I have no questions.

19 MR. ZAMARIN: Signature reserved.

20  
21 FURTHER DEPONENT SAITH NOT.

22  
23  
24

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

IN THE MATTER OF:	)	Docket Nos. 50-329-OL
	)	50-330-OL
CONSUMERS POWER	)	50-329-OM
COMPANY	)	50-330-OM
(Midland Plant,	)	
Units 1 & 2)	)	

I hereby certify that I have read the foregoing transcript of my deposition given at the time and place aforesaid, consisting of Pages 1 to 245, inclusive, and I do again subscribe and make oath that the same is a true, correct and complete transcript of my deposition so given as aforesaid, and includes changes, if any, so made by me.

---

JAMES GEORGE KEPPLER

SUBSCRIBED AND SWORN TO  
before me this \_\_\_\_ day  
of \_\_\_\_\_, A.D.1981.

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Notary Public





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IN WITNESS WHEREOF, I do hereunto set my  
hand and affix my seal of office at Chicago, Illinois,  
this 27th day of January, A.D. 1981.

*Antoinette M. Hayes*  
Notary Public, Cook County, Illinois

My commission expires March 12, 1984.

C.S.R. Certificate No. 84-2258.