

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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INTERVIEW OF )  
 )  
MARK R. WISENBURG )

Nuclear Support ~~System~~ <sup>Center</sup>  
South Texas Project  
Bay City, Texas  
Thursday, July 16, 1992

The above-entitled interview convened, pursuant to  
notice, in closed session at 2:30 p.m.

ON BEHALF OF NRC:  
VIRGINIA VAN CLEAVE, Investigator  
Arlington, Texas

ON BEHALF OF THE WITNESS:  
WILLIAM E. BAER, JR., ESQ.  
Newman & Holtzinger P.C.  
1615 L Street N. W.  
Washington, D. C.

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## P R O C E E D I N G S

1  
2 MS. VAN CLEAVE: For the record this is an  
3 interview of Mark R. Wisenburg, [REDACTED] 72  
4 [REDACTED], date of birth [REDACTED], who is  
5 employed by Houston Lighting and Power Co. [REDACTED] South Texas Project.

6 The date is July 16th 1992 and the time is 2:30  
7 p.m. Present at this interview are myself, Virginia Van  
8 Cleave, investigator for the NRC, Office of Investigations,  
9 and William Baer, an attorney with Newman and Holtzinger.

10 Mr. Wisenburg, if you would please stand and raise  
11 your right hand.

12 Whereupon,

13 MARK R. WISENBURG

14 was called as a witness and, having been first duly sworn,  
15 was examined and testified as follows:

16 MS. VAN CLEAVE: I have a few questions that I  
17 have been going through with everyone before we actually get  
18 into the substance of the interview.

19 Does your employer require you to have an attorney  
20 present when you talk to the NRC?

21 THE WITNESS: It does not.

22 MS. VAN CLEAVE: Is Mr. Baer acting as your  
23 personal representative?

24 THE WITNESS: Yes.

25 MS. VAN CLEAVE: Did you select him personally or

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*[Handwritten signature]*

1 did your company select him for you?

2 THE WITNESS: The company made him available and I  
3 chose to take advantage of that.

4 MS. VAN CLEAVE: And, Mr. Baer, who is your  
5 employer?

6 MR. BAER: Newman and Holtzinger.

7 MS. VAN CLEAVE: Are you acting as Mr. Wisenburg's  
8 personal representative?

9 MR. BAER: Yes, I am.

10 MS. VAN CLEAVE: Does your firm represent any  
11 other party associated with the South Texas Project?

12 MR. BAER: Yes, it does.

13 MS. VAN CLEAVE: Do you personally represent any  
14 other parties at the South Texas Project?

15 MR. BAER: Yes, I do. I represent Houston  
16 Lighting and Power Company and the other individuals who  
17 have been subpoenaed by OI in the course of this  
18 investigation.

19 MS. VAN CLEAVE: Do you also personally represent  
20 Houston Lighting and Power <sup>Co. Inc</sup> in respect to this interview?

21 MR. BAER: Yes, I do.

22 MS. VAN CLEAVE: Do you believe a potential  
23 conflict of interest could arise during the course of this  
24 interview?

25 MR. BAER: It is always possible that a conflict

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1 of interest may arise. However, at this time I do not  
2 foresee one.

3 MS. VAN CLEAVE: If a potential conflict of  
4 interest arises, what will you do?

5 MR. BAER: I will stop the interview, inform Mr.  
6 Wisenburg that a potential conflict has arisen and discuss  
7 it with him and determine what to do at that point.

8 MS. VAN CLEAVE: Mr. Wisenburg, do you realize  
9 that Mr. Baer represents other parties associated with the  
10 South Texas Project?

11 THE WITNESS: I do.

12 MS. VAN CLEAVE: What is your understanding of who  
13 will pay Mr. Baer's fee?

14 THE WITNESS: My understanding is that Mr. Baer's  
15 fee will be paid by Houston Lighting and Power Company.

16 MS. VAN CLEAVE: And with this understanding, do  
17 you still want Mr. Baer as your representative?

18 THE WITNESS: I do.

19 EXAMINATION

20 BY MS. VAN CLEAVE:

21 Q Mr. Wisenburg, what is your position here at the  
22 South Texas Project?

23 A My position currently is assistant to the <sup>Group</sup> vice  
24 president.

25 Q Is that Mr. Don Hall?

1 A That is Mr. Don Hall, yes.

2 Q And how long have you held that position?

3 A Approximately a month.

4 Q Prior to that time what position did you hold?

5 A Prior to that time I was plant manager of the  
6 South Texas Project.

7 Q And how long were you plant manager?

8 A Approximately two years.

9 Q How long have you been employed by Houston  
10 Lighting and Power?

11 A Ten years.

12 Q And have you been here onsite at the South Texas  
13 Project that entire time?

14 A No, I haven't. I began my employment at a period  
15 of time when South Texas was being constructed. I was the  
16 licensing manager for South Texas for a good portion of that  
17 ten years, the first part of that ten years.

18 I worked in the architect engineer's office in  
19 Houston for a period of time. I moved to offices onsite  
20 around the time of licensing, the completion of licensing of  
21 the first unit.

22 Q When was that -- in 1987?

23 A In 1987, yes.

24 Q So you became plant manager in approximately 1990?

25 A Yes.

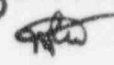
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1 Q What was your position between 1987 and 1990?

2 A I had a number of positions in that period,  
3 including plant superintendent of unit one, during which  
4 time I was responsible for the operation and maintenance  
5 through the power ascension and test program.

6 I was general manager of the nuclear safety review  
7 board for a time following the period I was plant  
8 superintendent.

9 I then picked up some additional responsibility in  
10 the area of our owners interface, strategic planning and  
11 performance assessment. 

12 Q As I'm sure you're aware, I'm here to look into  
13 the circumstances surrounding the revocation of access of an  
14 individual named Thomas Saporito.

15 I'm not too sure how much involvement you had with  
16 Mr. Saporito's case. When did you first become aware of Mr.  
17 Saporito?

18 A That's not a very straightforward question.

19 Q I know it isn't but I'm trying to avoid saying  
20 when did you first meet him. You might never have met him.

21 A I haven't.

22 Q Have you ever met him?

23 A I have never met him. Let me correct that. I  
24 would not know him by face and name. I could not put his  
25 name with a face. I may have met him, talked with him,

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1 observed him at work in the plant without knowing that that  
2 was him.

3 MR. BAER: Mr. Wisenburg, you have a very strong  
4 desire to be perfectly accurate.

5 BY MS. VAN CLEAVE:

6 Q Mr. Saporito filed a 2.206 petition here at the  
7 South Texas Project and of course this generated some  
8 interest. Were you involved in any way with the 2.206  
9 petition?

10 A Only in a very peripheral sense. It was sometime  
11 after we had received the petition and I had taken the  
12 action in this case that I did before I even read the  
13 petition. I was not involved in the response to any of the  
14 items in that petition.

15 Q What were your job duties as plant manager, just  
16 briefly?

17 A I was basically as plant manager responsible for  
18 the operation and maintenance of South Texas units one and  
19 two and Mr. Saporito was employed in the maintenance  
20 organization. In that respect, I was in his overall chain  
21 of command.

22 However, as I said, there are other folks who are  
23 involved more directly in responding to the events that  
24 we're talking about here today. That was not done in any  
25 way that's out of the ordinary.

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1           That's the way we're organized and set up to deal  
2 with various activities. There are other things that we  
3 handle that way. For instance, a response to an NRC notice  
4 of violation I may never see until it's drafted and ready to  
5 go out the door.

6           Q     So what is your usual involvement, if you had any  
7 involvement, in a 2.206 petition should one be filed?

8           A     In this case, my involvement was limited to a  
9 review of responses to the NRC, to ensure that based on my  
10 knowledge and background there was nothing in those  
11 responses that was not factual.

12          Q     When did you first become aware that a 2.206 was  
13 filed by Mr. Saporito?

14          A     Sometime during February 1992.

15          Q     Can you be a little more specific?

16          A     I became aware that a petition had been filed by  
17 information that was promulgated by one of the group vice  
18 president's regular Tuesday afternoon staff meetings and it  
19 was at one of those during February that I believe I became  
20 aware of it.

21          Q     So this was mentioned during a staff meeting.  
22 This was not brought specifically to your attention?

23          A     It was not brought specifically to my -- It was  
24 brought specifically to my attention following that  
25 announcement.

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1 Q And you don't recall -- I don't know what date  
2 would have been --

3 A I don't know the date. I could not recall the  
4 date.

5 Q Was Mr. Saporito's name mentioned in that staff  
6 meeting?

7 A Mr. Saporito's name was not mentioned at that  
8 staff meeting. I have also alluded to the fact that I also  
9 obtained a special briefing.

10 The gist of that briefing was that the person who  
11 had filed that petition was in one of my organizations and  
12 to inform me of that -- not his name but to ensure that I  
13 was paying particular attention to matters relating to  
14 fairness in treatment of employees, not looking for anything  
15 special but just wanting to make sure I was reminded to  
16 handle any case in accordance with procedure.

17 Q But you were not provided with his name at that  
18 time?

19 A I did not know his name at that time.

20 Q Do you remember when that briefing occurred?

21 A I believe-my recollection is that the first time I  
22 was aware of his name was when my procedure was challenged  
23 with acting on his access denial appeal.

24 MR. BAER: That wasn't the question. The question  
25 was when were you provided with the instruction that you

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1 were to handle cases fairly, or handle employee issues  
2 fairly or whatever.

3 THE WITNESS: I'm sorry. The reminder, to  
4 characterize it more accurately. At about the same time,  
5 shortly following the announcement at the staff meeting  
6 sometime in February. I'm sorry I can't be more precise  
7 than that.

8 BY MS. VAN CLEAVE:

9 Q Were you presented with a copy of the 2.206  
10 petition?

11 A No, ma'am, I was not.

12 Q So you had not seen it. Did you say earlier that  
13 you had not seen it prior to getting involved in this  
14 appeals process? Is that correct?

15 A That's correct.

16 Q And you said you had not met Mr. Saporito. You  
17 had not to your knowledge had any conversations with Mr.  
18 Saporito. If you had said hello to him, you didn't know who  
19 he was, is that correct?

20 A That's correct.

21 Q Have you received any communication from Mr.  
22 Saporito, directed to you?

23 A I have not.

24 Q Other than this letter here dated March 26th 1992  
25 that's purported to have your signature at the bottom of it,

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1 have you sent any correspondence to Mr. Saporito?

2 A I have not.

3 Q What is or was the involvement of the plant  
4 manager in a security action such as this?

5 There was apparently a possible discrepancy  
6 between some forms that Mr. Saporito had completed and some  
7 employment that he had.

8 Did you get involved in the adjudication at that  
9 time or get involved with the security department at that  
10 time?

11 MR. BAER: I'm sorry -- at what time?

12 MS. VAN CLEAVE: When the adjudication occurred.

13 MR. BAER: Okay, not the appeal?

14 MS. VAN CLEAVE: No, the adjudication. We'll  
15 start with the adjudication itself, which was February 20th.

16 THE WITNESS: No, ma'am, I was not.

17 BY MS. VAN CLEAVE:

18 Q You were not involved with the adjudication  
19 process?

20 A No, I was not.

21 Q Were you notified that there was an adjudication  
22 of Mr. Saporito or that there was an adjudication planned,  
23 or an interview planned if adjudication is not the right  
24 word, by security of Mr. Saporito?

25 A No, ma'am.

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1 Q What was the plant manager's usual involvement in  
2 something like that?

3 Maybe you could explain to me how did you get  
4 involved. Why did you sign on the denial of Mr. Saporito's  
5 appeal if you were not involved in the adjudication process?  
6 Is there some procedure that addresses that?

7 A Yes, there is.

8 Q That the plant manager gets involved in only  
9 appeals or could you perhaps explain that to me?

10 A I can try. The plant manager at that point in  
11 time, under the procedure that existed at that point in  
12 time, was responsible for acting on appeals.

13 At that point in time, our procedure allowed for  
14 any manager onsite to begin what I believe you're referring  
15 to when you say "adjudication" and that is to begin the  
16 process by which access could be denied. That left the  
17 plant manager as the next step or next recourse for an  
18 employee to make an appeal of that action.

19 In the case we're talking about, I was not  
20 involved in the initial actions leading to his denial of  
21 access.

22 Q Were you aware of those actions?

23 A After the fact.

24 Q How long after the fact?

25 A Within a week I would say.

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1 Q So your testimony is that when this action  
2 occurred -- prior to the action and up to perhaps as long as  
3 a week afterwards, you had not been notified by anyone about  
4 this action.

5 A That's correct.

6 Q And you had no knowledge of this action.

7 A And I had no knowledge of this action, that's  
8 correct.

9 Q So approximately a week after the action occurred,  
10 which was February 20th 1992, you were notified by someone  
11 that this -- that there had been an adjudication or how did  
12 that transpire?

13 A I became aware that access had been denied to --  
14 the way it was characterized was access had been denied to  
15 the gentleman who had filed the 2.206 petition, I believe at  
16 another of Mr. Hall's regularly scheduled staff meetings, to  
17 the best of my recollection.

18 Q So this was not a personal briefing?

19 A Not a personal briefing, no, ma'am.

20 Q Who usually attends Mr. Hall's regular staff  
21 meetings?

22 A Those people who are his direct reports plus the  
23 site's public affairs representative and the employees who  
24 work on our regularly published newspaper and his secretary,  
25 plus the plant manager.

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1 Q And you were not his direct report?

2 A I was not his direct report but I was included in  
3 those staff meetings.

4 Q Who were or are his direct reports?

5 A His direct reports are by name and title, Warren  
6 Kinsey who is the vice president of nuclear operations;  
7 Steven Rosen who is the vice president of nuclear  
8 engineering; Will Jump who is now general manager of  
9 licensing; Tom Jordan, general manager of nuclear assurance;  
10 Greg Jones, who is general manager of information systems;  
11 John Odom, human resource manager; Mark <sup>Ludwig</sup>~~Ludwig~~ who is  
12 acting planning and assessment manager, and now myself as  
13 assistant to the group vice president.

14 I believe that's the list from memory. I may have  
15 missed someone.

16 Q So during one of these meetings that occurred  
17 approximately the 27th of February -- Well, you said these  
18 meetings were held on Tuesday, is that correct?

19 A They're held -- usually held on Tuesdays at 1:00  
20 o'clock. They are from time to time moved around in the  
21 week depending upon other activities which Mr. Hall may be  
22 involved in that would call for him to be away from the  
23 site.

24 Q Do you know if anybody keeps any minutes of these  
25 meeting?

1           A     No minutes, no formal minutes of these meetings  
2 are taken.

3           Q     Did you or do you keep any notes of these  
4 meetings?

5           A     Yes.

6           Q     Do you have any notes of these meetings that refer  
7 to Mr. Saporito?

8           A     No.

9           Q     Did you at one time ever have any such notes?

10          A     I may have because I recall writing some notations  
11 down but since that time -- What I keep is a daytimer type  
12 of book that you put a month's worth of information and then  
13 you take it out when you're done with it.

14                   When I became the assistant to the group vice  
15 president as opposed to the plant manager, I purged my  
16 daytimer files back to the beginning of the year and that  
17 includes the months of January and February. I did find  
18 March when I looked at it but there is nothing in there in  
19 March. There may have been something in January and  
20 February but I discarded those files when I moved from one  
21 office to the other in the last month or last two months or  
22 so.

23          Q     Why did you do that?

24          A     I have kept those things for about the last five  
25 years when I really doubled my efforts to keep track of what

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1 I was doing in a daytimer. I never found any use for it up  
2 until that point in time.

3 Q So was that an independent action then, unrelated  
4 to Mr. Saporito's situation?

5 A Yes, ma'am.

6 Q So you were notified at the usual staff meeting  
7 that Mr. Saporito's access had been revoked. I guess Mr.  
8 Saporito's name might not have been -- Was his name  
9 mentioned?

10 A His name was not mentioned.

11 Q Just the 2.206 petitioner's access had been  
12 revoked.

13 A Yes.

14 Q What was your next involvement with the situation,  
15 or your next notification of the situation?

16 A The next notification of the situation was that we  
17 were in receipt of appeal of access denial and in accordance  
18 with the procedure I was required to take action on that  
19 appeal request and make a determination.

20 Q Who provided you with the appeal request?

21 A The security manager, Mr. Balcom.

22 Q Did he provide you with any additional  
23 documentation?

24 A In the course of acting upon this request, I had  
25 need to make reference to what's called the nuclear file,



1 which is a file which contained all of the documentation  
2 upon which to base a judgment relative to access. I made  
3 reference to that. Those were the only other documents that  
4 I had, that were included in that file.

5 Q So you had Mr. Saporito's nuclear file and then  
6 his appeal?

7 A Yes.

8 Q How familiar are you with the adjudication process  
9 in general and the actions that can be or are taken  
10 following adjudication?

11 A Generally familiar but not familiar enough that I  
12 would care to recite them from memory without making  
13 reference to the procedure, or without consulting with  
14 either Mr. Jump or Mr. Balcom, which I did in this case.

15 Q Do you get involved in the adjudications at all if  
16 they're not --

17 Let's say they're not appealed. Let's say  
18 somebody --

19 A From time to time as plant manager I did get  
20 involved in adjudications, yes, ma'am.

21 Q How frequently?

22 A I would say on the order of maybe one or two a  
23 month, that frequency.

24 Q What type of adjudication was brought to your  
25 attention?

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1           A     A number of different types, ranging from folks  
2 who had failed to take required action and reporting  
3 involvement with local law enforcement authorities when  
4 required to report within 72 hours.

5           Some of the actions which did involve people who  
6 didn't comply with that and the acts were egregious enough  
7 to cause an adjudication to take place.

8           Cases associated with the drug testing program.  
9 Other cases related to falsifications of employment  
10 applications.

11          Q     You named several categories. Do you always get  
12 involved with adjudications that involve those categories,  
13 or is there anything special about a particular case that  
14 might cause you to get involved in it?

15          A     General answer to your question, I don't know  
16 whether there is a particular threshold. I was involved in  
17 what I thought were the majority of them but, as I said  
18 before, I was not necessarily involved in all of them.

19          Q     What was the extent of your involvement? Were you  
20 just told the results of the interview? Did you have any  
21 input into the decision that was made following  
22 adjudication?

23          A     The normal course of action that was taken was the  
24 security manager who had the responsibility would consult  
25 with me, inform me of his recommendation or recommended

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1 action, and we would discuss it.

2 I would from time to time cause him to go back and  
3 review additional information or get him to think, about  
4 certain things more.

5 We would then reach a mutual agreement, inform the  
6 vice president of nuclear operations because he had  
7 expressed a desire, although it wasn't required by  
8 procedure, about what we were going to do and then we did  
9 it.

10 Q Was that Mr. Kinsey?

11 A Yes.

12 Q Knowing the facts in Mr. Saporito case, you've  
13 already stated that you were not notified about his  
14 adjudication.

15 A That's correct.

16 Q Would that be unusual considering you have stated  
17 that you were usually notified of adjudications and I think  
18 you included falsification or omission in employment  
19 applications.

20 A It was different from the practice that I would  
21 say was used more times than not. As I said, I was probably  
22 involved in more of these things that I was not involved in.


23 There were a number of changes which had taken  
24 place about that same time period. Mr. Balcom is a  
25 relatively new incumbent to the security manager's position.

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1 The routine that I had worked out with the previous security  
2 manager is the general practice that I'm talking about  
3 because we were doing things which were over and above the  
4 procedural requirements.

5 When Mr. Balcom became security manager, we felt  
6 we were probably more mature than we had been in the past  
7 and we could take some steps backward toward a more literal  
8 interpretation of the procedure requirements.

9 Mr. Balcom was responsible on his own for  
10 adjudications and could take actions unilaterally.

11 Q I understand he had the final responsibility for  
12 the decision.

13 A Yes.

14 Q Or any decision regarding adjudication, is that  
15 correct?

16 A Yes, ma'am.

17 Q And prior to him, I believe Mr. Randlett was the  
18 security manager.

19 A That's correct.

20 Q Do you recall when Mr Balcom assumed the position  
21 of security manager?

22 A I can't recall the exact date.

23 Q You said that Mr. Randlett and you had often  
24 consulted and I kind of got confused when you talked about  
25 the change to Mr. Balcom.

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1 Had you been consulted by Mr. Balcom in the past  
2 regarding adjudication?

3 A I don't <sup>recall of the</sup> any ~~same~~ type of sessions with Mr. Balcom  
4 that Mr. Randlett and I have had in the past.

5 Q So would I be correct if I said that you and Mr.  
6 Randlett usually consulted regarding adjudications but you  
7 and Mr. Balcom did not continue this practice?

8 A We did not continue the practice, no.

9 Q Then would you consider it unusual -- You stated  
10 you did consider it unusual but I'm trying to clarify.

11 Did you consider it or would you consider it  
12 unusual that you were not consulted by Mr. Balcom in this  
13 case, in Mr. Saporito's case?

14 A No, ma'am, I would not consider it unusual.

15 Q So when you received the appeal from Mr. Saporito  
16 that Mr. Balcom gave you and you got the nuclear file, were  
17 you at all familiar with the circumstances surrounding Mr.  
18 Saporito's access revocation?

19 A I had access to the documentation that was in the  
20 nuclear file. I also was briefed by and questioned Mr.  
21 ~~Hanson~~ <sup>Hinson</sup> who was involved in that adjudication, in some  
22 detail.

23 Q Let me be a little more specific. When you  
24 received -- this appeal by Mr. Saporito is dated March 12th  
25 1992. Mr. Balcom brought it to you. Do you happen to know

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1 the date?

2 A I do not know the date.

3 Q He brought it to you. Was this a surprise? I  
4 mean you had - Were you at all familiar with it prior to  
5 that time? Had you had any specific knowledge regarding Mr.  
6 Saporito's access revocation?

7 Do you understand my question? Did you have any  
8 specific knowledge that you had gleaned somewhere along the  
9 line about Mr. Saporito's case?

10 A In the course of the information that was  
11 promulgated relative to his revocation of access included  
12 the fact that that revocation was based on information that  
13 was -- well, a falsely filed application.

14 Q When did you get this information?

15 A At the same time. It was contemporaneous, one  
16 announcement. The gentleman's access had been denied  
17 because-- That's not a direct quote but words to that  
18 effect. *well*

19 Q So this is the same meeting, the general meeting  
20 with Mr. Hall.

21 A Yes, ma'am.

22 Q And he announced that the 2.206 petitioner's  
23 access had been revoked because --

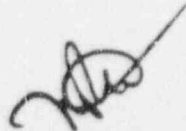
24 A Because of -- words to the effect that access had  
25 been denied because of false information in his application

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1 for employment.

2 Q Was any other mention made at that time about Mr.  
3 Saporito's access revocation?

4 A That was the sum of it.

5 Q Did you get any additional knowledge between that  
6 time which we don't know exactly when that was but it was  
7 approximately the 27th of February and the appeal was given  
8 to you, and again we don't know when that was but sometime  
9 between the 15th of March and the 25th of March?

10 A No, ma'am. To the best of my knowledge, I did  
11 not.

12 Q So to the best of your recollection, when Mr.  
13 Balcom brought you this appeal letter from Mr. Saporito, you  
14 were pretty much in the dark regarding his situation. You  
15 just had the general statement that he had supposedly  
16 provided false information on his employment application.  
17 Is that accurate?

18 A No. I had information that he had provided -- not  
19 supposedly.

20 Q Well, Mr. Hall said that was the basis of the  
21 decision.

22 A Yes.

23 Q Did you have any other information that you had  
24 been provided about Mr. Saporito?

25 A I did not.

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1 Q You did not have any specifics as to what  
2 information was omitted?

3 A No, ma'am.

4 Q What information -- what even the subject matter  
5 was or what category of information was omitted.

6 A I did not.

7 Q Mr. Balcom in giving the appeal to you was  
8 following standard procedure that the plant manager would  
9 make a determination in a revocation appeal, is that  
10 correct?

11 A That's correct.

12 Q In order to reach your decision, which based on  
13 this letter dated March 26th was to deny Mr. Saporito's  
14 appeal.

15 A I reviewed the documents which were in the nuclear  
16 file which did provide those specifics which you're talking  
17 about. I went over the specifics with Mr. <sup>Hinson</sup>~~Hanson~~, who had  
18 done the interview, consulted with Mr. Balcom and Mr. Jump  
19 and I did have some conversation with Mr. Baer at that point  
20 as <sup>legal</sup>~~general~~ representative of HL&P.

21 Q What was the purpose of your consulting with Mr.  
22 Balcom?

23 A To determine that I had all the relevant facts and  
24 that I was staying within and meeting all the requirements  
25 of our procedure.

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1 Q And what was the purpose of your consulting with  
2 Mr. ~~Hanson~~ <sup>Hinson</sup>?

3 A Primarily to ensure that I was aware of all of the  
4 information that was in his possession relative to this, the  
5 specifics and the facts.

6 Q And what about the purpose of your consulting with  
7 Mr. Jump?

8 A Primarily to ensure that we had all the  
9 requirements of the procedure met.

10 Q And the purpose of your consulting with Mr. Baer?

11 A Primarily related to procedure requirements and  
12 legal requirements that may apply to the case. It was not  
13 unusual to consult with licensee legal counsel on matters  
14 which were pending before the NRC, and this was.

15 Q How many appeals such as this did you --

16 A To my recollection, probably in a two-year period  
17 of time I could count them on ten fingers. I'm not sure of  
18 the exact number.

19 Q But you were charged with getting involved with  
20 all appeals, is that correct?

21 A Yes, ma'am. At that point it was required that  
22 the plant manager take the action.

23 Q So can we safely say that there were no more than  
24 approximately ten appeals?

25 A In two years.

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1 Q Did you take any notes of your meetings with Mr.  
2 Balcom, Mr. <sup>Hinson</sup>~~Hansen~~, Mr. Jump, Mr. Baer?

3 A I did not.

4 Q Did you ask for a recommendation from any of these  
5 individuals as to whether or not they believed that Mr.  
6 Saporito's appeal should be granted or denied?

7 A I asked for a recommendation from Mr. Balcom. He  
8 is the only one that I consulted.

9 Q What did Mr. Balcom tell you?

10 A He recommended that the appeal be denied.

11 Q What did Mr. Balcom base his recommendation on?

12 A On the fact that we had set precedent in the past  
13 on incomplete or false employment applications and I was  
14 aware of that because I had taken that action on some  
15 adjudications in the past.

16 We had discussed the course of action which was  
17 followed under Mr. Randlett. The normal course of action  
18 there was for him to consult with me and based on that I was  
19 familiar with the majority -- most of the other  
20 adjudications that had taken place.

21 Q And to your recollection, what types of actions  
22 have led to access revocation in the past?

23 A To my recollection, access was either denied or  
24 revoked based on past criminal record, a basis for belief  
25 that the person had established a pattern of false

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1 employment applications and fitness for duty violations.

2 Q Do you have any idea how many revocations or  
3 access denials there were during this time period that you  
4 were plant manager?

5 A I could only make a very, very rough guess. Over  
6 that two-year period of time, perhaps 25 to 30.

7 Q That includes both denials and revocations?

8 A I don't understand the difference.

9 Q Well, apparently they call a denial when someone  
10 has never had access and a revocation is where somebody has  
11 had access and gets it revoked.

12 Did you write this letter dated March 26th 1992 to  
13 Mr. Thomas Saporito and the bottom line is that Mr.  
14 Saporito's appeal of his access revocation is denied. Did  
15 you write this letter?

16 A I had some help but I did cause it to be written  
17 in the manner that it is.

18 Q Who helped you?

19 A I had help from Mr. Balcom and Mr. Baer.

20 Q You say here the reason for withdrawal of your  
21 unescorted access was the omission of material information  
22 from the forms submitted by you in support of your request  
23 for unescorted access and it continues on.

24 It says given the number in adverse nature of the  
25 omissions in your access authorization paperwork, you have

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1 provided no basis for modification of the decision.

2 Did you write this? Is this your wording here?

3 A No, it is not. The second paragraph is not mine.  
4 I did not make the initial draft of it.

5 Q What about the final draft, which I assume this is  
6 the final draft since it went to Mr. Saporito.

7 A What I'm searching for is the words were put down  
8 on paper and I reviewed them and caused some of them to be  
9 changed. The final paragraph is basically my paragraph, or  
10 the gist of it is my paragraph.

11 Q Who provided the information in the second  
12 paragraph?

13 A Mr. Balcom or Mr. Baer.

14 Q Who presented it to you?

15 A Mr. Balcom.

16 Q What did he tell you when he presented it to you?

17 A That this is what -- in general what we agreed.

18 Q Who is "we?"

19 A Between Mr. Balcom and myself.

20 Q Mr. Balcom, yourself and Mr. Baer?

21 A No, ma'am. Mr. Balcom and I discussed the action  
22 we would take. He's the only one I got a recommendation  
23 from.

24 Q But I thought I understood you to say that Mr.  
25 Baer had some input into preparing the letter.

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1 A He had input into drafting the letter, yes.

2 Q Is this standard practice that Mr. Balcom or Mr.  
3 Baer would provide language in a letter such as this one?

4 A Not to be flippant, but the plant manager really  
5 doesn't do anything.

6 Q Did you direct Mr. Balcom to --

7 A Yes, I did. I directed Mr. Balcom to prepare the  
8 letter. We had some discussion over whether or not he or I  
9 would sign it, as a matter of fact.

10 Q And who finally decided you would sign it?

11 A I'm not sure at this point. I don't recall.

12 Q Were you happy with the language in this letter?  
13 Did you feel like it was an accurate representation of the  
14 situation?

15 A Yes, ma'am.

16 Q So you didn't have any problem signing it.

17 A That's my signature.

18 Q And it didn't cause you any difficulty signing it?

19 A No.

20 Q What did you consider to be the adverse nature of  
21 the omissions in Mr. Saporito's access authorization  
22 paperwork?

23 A My facts may not be exactly on here because I'm  
24 stretching my memory. I have not had any reason to go back  
25 and review the details since the day I took this action.

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1 Q You did not review the facts or interview in  
2 preparation for --

3 A No, I did not. For example, the position I'm in  
4 now, I'm not really authorized access to the nuclear file  
5 anymore.

6 My recollection is that the basis of the original  
7 adjudication was omission from Mr. Saporito employment  
8 application of employment where he had been asked to leave  
9 under less than optimal circumstances. He hid that from us  
10 which in my mind establishes a pattern.

11 Q What kind of information do people omit from their  
12 employment applications that would bother you? I mean would  
13 it bother you if someone improperly showed education, let's  
14 say.

15 A Yes, ma'am, it would.

16 Q What about people who omit arrests?

17 A Yes, ma'am, it would.

18 Q Do you consider that type of thing to be on a par  
19 with this?

20 A Yes, I do.

21 I don't know whether I should volunteer much  
22 information here but I am aware of adjudications that Mr.  
23 Randlett and I discussed where both of those cases that you  
24 referenced came into play -- that is, education  
25 misrepresented on an employment applications and arrests.

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1           The majority of the ones we get that are  
2 adjudicated have to do with past criminal record that wasn't  
3 appropriately advertised.

4           A number of the ones we acted on were in this same  
5 category where people had not disclosed the fact of prior  
6 employment that didn't work out too well and they were asked  
7 to leave or were fired.

8           The distinction here is not the fact that that  
9 happened to them but that they hid it on their employment  
10 application.

11           Q     Did you and Mr. Randlett or you and Mr. Balcom  
12 have any set guidelines that you were using in order to  
13 determine whether or not someone would be granted access to  
14 the site?

15           The procedure is very vague. It states that  
16 omissions from the application may be used as an indication  
17 of whether access should be granted and it goes on to list  
18 eleven other things.

19           Did you have any other guidelines or specifics  
20 that you used in order to determine what type of omissions  
21 or what type of information on an application form would  
22 result in an access revocation or anything that would be  
23 more specific in that procedure?

24           A     No, we did not.

25           Q     How did you make your decisions?

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1           A     We used the general guidance provided by the  
2 procedure. Once again, the decisions ~~was~~ being the security  
3 managers. The practice I described to you where he  
4 consulted with me and I asked him sometimes to look at  
5 different facts differently or consider other things and  
6 then we made our recommendation known or action known.

7                     Each case being somewhat different over the period  
8 of time we had established what I believe to be fairly well  
9 established precedents and tried to stick with those and I  
10 believe we did pretty well.

11           Q     Another investigator in our office and I reviewed  
12 about 401 files, adjudication files, and I prepared an  
13 analysis, I suppose, of these files.

14                     Of those 401 files, only approximately nine  
15 resulted in unescorted access revocation and only two of  
16 those had anything to do with -- as well as I could tell --  
17 omission of information on application forms.

18                     However, during this review we noted 39 files  
19 where access was continued even though information of one  
20 sort or another apparently was omitted from the application  
21 form and as you've stated the vast majority related to  
22 arrests.

23                     Many of these have several arrests -- three  
24 arrests, five arrests.

25           A     Yes we do have some folks with past criminal

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1 records.

2 Q Well, I'm not so much saying that. I'm saying  
3 that the information was not provided on the employment  
4 application forms.

5 I guess what I'm saying is I can go on and list a  
6 number of them here -- the very first one in my analysis was  
7 three arrests. He had three arrests and they weren't listed  
8 on any of the forms and he claimed he forgot about them.

9 This individual named three arrests but he had  
10 approximately nine more that weren't listed and he said he  
11 couldn't remember all those dates. Several examples like  
12 that so I'm not speaking so much to the fact that someone  
13 may have been arrested.

14 Then there are a couple of instances where there  
15 was unfavorable employment history and access was still  
16 granted or continued. I can't understand --

17 To me it looks like it was a subjective kind of  
18 decision. Can you provide any clarification to me or any  
19 further amplification of the procedures used or the policies  
20 used in deciding whether or not information omitted is  
21 material and will result in access denial or revocation?

22 MR. BAER: I'd like to object at this point. That  
23 was a very long speech with a short question at the end of  
24 it and I'm not sure what the relevance of all the stuff in  
25 the introduction to the question is to the question.

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1           Mr. Wisenburg hasn't had the opportunity to do the  
2 review you have done. He hasn't had the opportunity to  
3 review in detail whether your review is consistent with what  
4 the files themselves are. He doesn't have any basis for  
5 knowing whether or not those facts you've described to him  
6 are true.

7           To the extent that you're asking him in that  
8 question to comment on the facts you just gave him, I  
9 believe you're asking him to make a number of assumptions  
10 that he has no personal knowledge of.

11           With that caveat, I have no objection to his  
12 answering the question.

13           MS. VAN CLEAVE: We probably can't remember at  
14 this point.

15           MR. BAER: I apologize for that long-winded  
16 interruption.

17           THE WITNESS: I generally remember the background  
18 that was your reason for --

19           MS. VAN CLEAVE: I want to kind of reduce this  
20 down. We reviewed the files and I did prepare this analysis  
21 and I did review files that appeared to be related to  
22 omissions of information.

23           The way I -- my review seemed to indicate that it  
24 was a subjective decision in many cases. Is there something  
25 that I don't quite understand?

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1           That's why I asked you earlier if there was a  
2 specific policy or specific guideline or in fact was the  
3 procedure somewhat subjective?

4           THE WITNESS: The procedure in my opinion was  
5 somewhat subjective.

6           BY MS. VAN CLEAVE:

7           Q    Have you -- meaning HL&P -- have they come out  
8 with more specific guidelines since this time? Do you know?

9           A    I am aware that we have come out with some  
10 guidelines and that the purpose of those guidelines was to  
11 take some subjectives out of the process. I'm not convinced  
12 that you can do that with the most detailed set of  
13 guidelines.

14          Q    What about the investigator who actually does  
15 these adjudications? Did you ever meet with him -- I guess  
16 it would be either Mr. <sup>Hinson</sup>~~Hanson~~ or I don't know who else might  
17 be involved.

18          A    I routinely did when I was involved in discussing  
19 adjudications with Mr. Randlett. I routinely met with the  
20 investigator or had a briefing from the investigator. I did  
21 in this case from Mr. <sup>Hinson</sup>~~Hanson~~.

22          Q    If I understood you, this was in connection with  
23 the appeal, was it not?

24          A    In this case in connection with the appeal, yes.

25          Q    The decisions that were made, did the investigator

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1 have any input into those decisions?

2 A The investigator oftentimes made recommendations,  
3 yes.

4 Q Were the recommendations of the investigator  
5 usually followed?

6 A I'm at a loss as to -- There may have been some  
7 times when they were not, but to say yes to that would  
8 probably mischaracterize the real circumstances.

9 MR. BAER: Were they often followed?

10 THE WITNESS: They were often followed. Let's put  
11 it this way. The final action often was consistent with the  
12 investigator's recommendation. That happened more times  
13 than not because, even though this is somewhat of a  
14 subjective thing, a consensus was reached that led to that  
15 action, not just because the investigator said do it this  
16 way.

17 BY MS. VAN CLEAVE:

18 Q Are you saying the investigator had to explain his  
19 reasoning?

20 A Yes, ma'am.

21 Q How about Mr. Kinsey? Was he ever involved in  
22 this decision making process? You said he was notified, but  
23 was he actually involved or have any input?

24 A He had expressed a desire to be informed prior to  
25 taking action on some of these things so that he could

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1 inject himself into the process should he decide he needed  
2 to do that. It is my recollection that he never did that.

3 Q So you just notified him. Have you reviewed any  
4 of these adjudication files in general since Mr. Saporito's  
5 appeal was denied?

6 A I had occasion to look at other -- I had occasion  
7 to look at a number of nuclear files because I did that in  
8 the course of granting initial access. There may have been  
9 one or two adjudications associated with those reviews.

10 I specifically recall going back and asking  
11 investigators, this was in the process of granting initial  
12 access, to find out more about certain individuals or  
13 expressed a reluctance based on the information that was  
14 presented in the nuclear file to grant access.

15 That was in the course of normal responsibilities  
16 of plant manager and granting initial access. We had made  
17 some procedure changes along about the same time this was  
18 going on that drew down the number of folks across the site  
19 who could grant initial access, to restrict that to some  
20 degree.

21 Heretofore, it had been relatively -- almost any  
22 manager could grant initial access.

23 Q Have you reviewed the files to see if is action  
24 taken regarding Mr. Saporito was consistent with actions  
25 taken in similar circumstances?

1           A     I made no special effort to do that. It is my  
2 recollection, however, based on participation and discussion  
3 with Mr. Randlett on a number of other adjudications that  
4 there was nothing extraordinary about this action.

5           Q     So you believed --

6           A     Whether they were adjudications or just initial  
7 access denials.

8           Q     You believed that when you made the decision to  
9 deny Mr. Saporito's appeal that you were acting consistently  
10 with the practice in the past in similar situations, is that  
11 correct?

12          A     Yes, ma'am.

13          Q     Do you still believe that?

14          A     Yes, ma'am, I most certainly do.

15          Q     Have you had any subsequent conversations  
16 regarding Mr. Saporito's access revocation or denial of his  
17 appeal or anything like that since the end of March?

18          A     Yes, ma'am.

19          Q     Have you been involved in meetings at which Mr.  
20 Saporito's access revocation and/or denial of his appeal  
21 and/or omission of information from his application was  
22 discussed?

23                    See, I'm trying to separate this issue from his  
24 2.206 issues. I don't know but you might have been involved  
25 in some of those 2.206 issues. I'm focusing on this one

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1 area.

2 A This is in response to your question relative to  
3 meetings held specifically to --

4 Q I didn't say they were held specifically. At  
5 which it was discussed. They could have been held for some  
6 other reason but at which this was discussed.

7 A I'm not aware of a formal meeting that that was  
8 discussed.

9 MR. BAER: I will say Mark and I have --

10 BY MS. VAN CLEAVE:

11 Q You have discussed this with Mr. Baer?

12 A I wouldn't call a one-on-one conversation a  
13 consultation.

14 Q Have you discussed it -- other than Mr. Baer,  
15 which I understand you would have discussed the situation  
16 with -- Have you discussed this particular aspect of Mr.  
17 Saporito's situation since you issued this letter?

18 A The only recollection I have since that time is  
19 general conversations in which the fact that I had taken the  
20 action which denied his appeal was mentioned. No details  
21 related to that.

22 Q Did anyone question you about why you took this  
23 action?

24 A To make sure that we've got all the bases covered  
25 here, after I took this action I made a report to my boss,

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1 Mr. Kinsey, and separately to Mr. Hall that I had acted on  
2 an appeal in accordance with our existing procedures and  
3 denied it.

4 I do not -- I only very generally covered the  
5 reasons for that denial and that was by way of an  
6 informational report, a verbal report to both of those  
7 gentlemen. That is the most detail that I've talked to  
8 anybody about it since then, other than Mr. Baer.

9 Those reports were made within a day or two after  
10 having signed that letter. I say a day or two because Mr.  
11 Hall I don't believe was onsite the day I did this.

12 Other than that, the only subsequent conversation  
13 I've had with anybody is a statement that this happened, no  
14 detailed information as to why, no questions as to why.

15 Q The briefings that you provided Mr. Kinsey and Mr.  
16 Hall, was that routine?

17 A Yes.

18 Q There was nothing special about Mr. Saporito's  
19 case in terms of your relating the events to Mr. Kinsey and  
20 Mr. Hall?

21 A I would normally report to Mr. Kinsey that I had  
22 taken action and denied an appeal. I may not normally have  
23 done that with Mr. Hall.

24 I did so in this case because at this point I knew  
25 that this was the guy who had filed the 2.206 and he was a

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1 little bit special and I wanted to ensure that Mr. Hall was  
2 aware of the action I had taken.

3 Q Neither of these individuals questioned you as to  
4 the basis for your recommendation?

5 A They accepted my report.

6 Q Did they question you or ask you for any  
7 additional information?

8 A No, ma'am.

9 Q What's your relationship with Mr. Jump?

10 A Mr. Jump had come to work for HL&P at a time when  
11 I was the superintendent of unit one. I had interviewed him  
12 in conjunction with his selection as manager of maintenance.

13  
14 In the capacity of maintenance manager, he  
15 reported to me when I was plant superintendent. I then left  
16 the plant superintendent job and went off and did something  
17 else and he remained maintenance manager. I came back as  
18 plant manager and he was still maintenance manager so he  
19 reported to me again.

20 I participated in the evaluation and decision to  
21 make a job rotation in which he was moved from maintenance  
22 manager position to licensing manager position.

23 Throughout that, I had been previous licensing  
24 manager, so the relationship was one of senior/subordinate  
25 mentor. I don't know how better to answer that question.

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1 Q Then while you were looking into Mr. Saporito's  
2 appeal on his access revocation, you said you spoke with Mr.  
3 Jump. Did Mr. Jump provide you with his opinion of Mr.  
4 Saporito's case?

5 A Mr. Jump did not. I did not inquire and Mr. Jump  
6 did not volunteer. He kept that consultation related to are  
7 we covering all the requirements of the procedure, is there  
8 something else we should do.

9 Q Is that standard to consult with him on whether or  
10 not the procedures are being followed?

11 A In this case, yes, because he had at that point  
12 taken the lead in making sure that this was handled  
13 correctly.

14 Q "He" meaning Mr. Jump?

15 A Yes.

16 Q So it's not standard procedure?

17 A That's a little bit of a mischaracterization. He  
18 was the guy that was the legitimate person to ask those  
19 questions. I may not in another case been so meticulous in  
20 ensuring that I had all the bases covered but I don't think  
21 it was extraordinary to do that in this case.

22 Q Because Mr. Saporito was at 2.206 petitioner?

23 A Yes, ma'am.

24 Q And were you aware that Mr. Jump was the project  
25 manager?

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1           A     Yes, I was.

2           Q     Did you receive any instructions or orders from  
3 anyone else regarding how you should proceed or what  
4 decision you should make in denying or granting Mr.  
5 Saporito's appeal on his access revocation?

6           A     No, ma'am, I did not.

7           Q     And did you make any notes or records of any sort  
8 in your review of the nuclear file or your discussions with  
9 the individuals?

10          A     No, I did not.

11               MR. BAER: Except for the letter.

12               MS. VAN CLEAVE: Personal notes. I have the  
13 letter but I mean personal notes.

14               THE WITNESS: No, I did not.

15               MS. VAN CLEAVE: Mr. Wisenburg, have I threatened  
16 you in any manner or offered you any rewards in return for  
17 this statement?

18               THE WITNESS: Not to my knowledge.

19               MS. VAN CLEAVE: Is there anything further you  
20 care to add for the record?

21               THE WITNESS: No, ma'am.

22               MS. VAN CLEAVE: This interview is concluded at  
23 approximately 3:45 p.m.

24               (Whereupon the matter concluded at 3:45 p.m.)

25

**ANN RILEY & ASSOCIATES, Ltd.**

Court Reporters

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REPORTER'S CERTIFICATE

This is to certify that the attached proceedings before the United States Nuclear Regulatory Commission

in the matter of:

NAME OF PROCEEDING: Mark Wisenburg

DOCKET NUMBER:

PLACE OF PROCEEDING: Bay City, Texas

were held as herein appears, and that this is the original transcript thereof for the file of the United States Nuclear Regulatory Commission taken by me and thereafter reduced to typewriting by me or under the direction of the court reporting company, and that the transcript is a true and accurate record of the foregoing proceedings.

Ann Whitcander

Official Reporter  
Ann Riley & Associates, Ltd.

I have read the foregoing transcript, made and initialed any necessary corrections, and have signed my initials at the bottom of each page. This transcript is the truth to the best of my knowledge and belief.

Mark R. Wisenburg  
9/17/92