

# ORIGINAL

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

---

---

In the matter of:

TEXAS UTILITIES ELECTRIC  
COMPANY, et al

Docket No. 50-445  
50-446

(Comanche Peak Steam Electric  
Station, Units 1 & 2)

Deposition of: Richard E. Kahler

---

---

Location: Glen Rose, Texas

Pages: 36,000-36,127B

Date: Monday, July 9, 1984

*Original to E. Pleasant*

*H-1149*

*TR 01 0/1*

*1 copy to E. Johnson, Region IV*

**TAYLOE ASSOCIATES**

Court Reporters  
1625 I Street, N.W. Suite 1004  
Washington, D.C. 20006  
(202) 293-3950

8407170073 840709  
PDR ADDCK 05000445  
T PDR

NATIONS

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY & LICENSING BOARD

```

- - - - -x
In the matter of:           :
                             :
TEXAS UTILITIES ELECTRIC    :
COMPANY, et al.             : Docket Nos. 50-445
                             : 50-446
(Comanche Peak Steam Electric :
Station, Units 1 and 2)     :
- - - - -x

```

Glen Rose Motor Inn  
Glen Rose, Texas

July 9 , 1984

Deposition of: RICHARD E. KAHLER,  
called by examination by counsel for Intervenors  
taken before Marilyn Nations, Court Reporter,  
beginning at 9:55 a.m., pursuant to agreement.

## 1 APPEARANCES:

2  
3 FOR THE APPLICANT:

4 SANFORD L. HARTMAN, ESQ.  
5 Bishop, Liberman, Cook, Purcell & Reynolds  
6 1200 17th Street, N.W.  
7 Washington, D.C. 20036

## 8 FOR THE NRC STAFF:

9 ORESTE RUSS PIRFO, ESQ.  
10 Office of the Executive Legal Director  
11 U.S. Nuclear Regulatory Commission  
12 Washington, D.C. 20555

## 13 FOR THE INTERVENORS:

14 JANE N. SAGINAW, ESQ.  
15 Frederick M. Baron & Associates  
16 8333 Douglas Avenue  
17 Suite 1050  
18 Dallas, Texas 75225

## 19 ALSO PRESENT:

20 TOM CARPENTER  
21  
22  
23  
24  
25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

C O N T E N T S

WITNESS:                      EXAMINATION BY:                      PAGE:  
  
RICHARD E. KAHLER

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

1  
2 MR. HARTMAN: My name is Sanford Hartman.  
3 I am a member of the law firm of Bishop, Liberman,  
4 Cook, Purcell & Reynolds, counsel for Texas Utilities  
5 Company, Applicant this proceeding. I appear here  
6 today in that capacity as an attorney for R. E.  
7 Kahler and TECO employees.

8 Before proceeding further, I wish to  
9 point out that Mr. Kahler is appearing voluntarily  
10 and that he is not under subpoena.

11 Mr. Kahler's testimony has been requested  
12 from the Applicant by CASE Intervener in this case.  
13 The topic specified in CASE's letter to an Leonard  
14 W. Belter dated June 27, 1984, a copy of which has  
15 been marked for identification by the reporter and  
16 appended to the transcript, Mr. Vega's deposition  
17 as Exhibit A. The applicant has already noted its  
18 objection to the deposition procedure and schedule  
19 ordered by the Board, and it intends no waiver of  
20 those objections by Mr. Kahler's appearance today.

21 At this time I would like to summarize  
22 the guidelines established by the Board for this  
23 proceeding and the taking of this deposition.

24 Under the order issued by the Board on  
25 March 15 as modified by a series of subsequent

1 telephone conference rulings, the scope of this  
2 deposition is limited to the taking of evidence  
3 and the making of discovery on harassment, intimi-  
4 dation or threatening of quality assurance or quality  
5 control that is QA/QC personnel with one exception.  
6 Allegations regarding any claimed harassment or  
7 intimidation of craft personnel have been specifi-  
8 cally ruled by the Board to be beyond the scope of  
9 this examination in these proceedings.

10 The Board also has ruled that only  
11 evidence based on personal knowledge may be adduced,  
12 and that hearsay, rumor, inuendo and the like are  
13 not proper subjects of the evidentiary portion of  
14 this deposition.

15 Finally, the Board has instructed the  
16 parties to separate the evidentiary discovery portions  
17 of their examination of the witness to give effect to  
18 the rulings, as well as to assure expeditious comple-  
19 tion of this deposition.

20 We now offer Mr. Kahler as a witness for  
21 the evidentiary portion of his deposition. The issues  
22 for this portion of the deposition are defined by  
23 CASE's letter of June 27th, a copy of which has been  
24 marked as Exhibit A to Mr. Vega's deposition and which  
25 is incorporated herein by reference. At the conclusion  
of that evidentiary deposition, the evidentiary record

1 would be closed and with the opening of a new  
2 transcript to be separately bound, the discovery  
3 deposition of Mr. Kahler would commence.

4 Should CASE decide to conduct such a deposition,  
5 when the transcripts are available, the witness will  
6 sign the original of each of his depositions on the  
7 understanding that should the executed originals not  
8 be filed with the Board within seven days after the  
9 conclusion of the deposition, a copy of either of  
10 the transcripts may be used to the same extent and  
11 effect as the original.

12 That concludes my opening statement.

13 MS. SAGINAW: My name is Jane Saginaw and  
14 I represent the Interveners in this cause. I am  
15 noticing that the Applicant read a written statement  
16 into the record as a preliminary matter, and I would  
17 like an opportunity to look over that statement if  
18 I could.

19 MR. HARTMAN: That is just a statement  
20 prepared for me to read. What I read is reflected  
21 in the statement.

22 MS. SAGINAW: May I look at the statement,  
23 please.

24 MR. HARTMAN: May I ask the basis for  
25 that, please.

1 MS. SAGINAW: Because you're setting out  
2 the groundworks for this deposition, I'd like to  
3 review what those groundworks are and to see that I  
4 understand what your understanding is.

5 MR. HARTMAN: Why don't you simply ask me  
6 if you have any questions, what they are?

7 MS. SAGINAW: May I please see the state-  
8 ment? Are you refusing to allow me to see the  
9 statement that you just read?

10 MR. HARTMAN: I'm trying to understand  
11 your basis for it.

12 MS. SAGINAW: Because I'd like to review  
13 what you just read into the record.

14 MR. HARTMAN: Do you have any questions  
15 concerning --

16 MS. SAGINAW: Yes, I do.

17 MR. HARTMAN: Could you ask me those  
18 questions.

19 MS. SAGINAW: I had questions concerning  
20 evidence that might be adduced today concerning hear-  
21 say rumor evidence.

22 MR. HARTMAN: What is that question?

23 MS. SAGINAW: I would like to review what  
24 you read into this report this morning concerning  
25 evidence of hearsay and rumor.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

(Counsel complying.)

MS. SAGINAW: Thank you.

(Discussion off the record.)

MS. SAGINAW: I would like to take exception to the statement and the prepared opening statement that claims, "With one exception, allegations regarding any claimed harassment or intimidation of craft personnel have been specifically ruled by the Beard to be beyond the scope of this examination and these proceedings.

"The Board also has ruled that only evidence based on personal knowledge may be adduced, and that hearsay, rumor, inuendo, and the like are not proper subjects of the evidentiary portion of this deposition.

That is not my understanding as to the scope of the deposition today specifically concerning Mr. Kahler.

The purpose of this deposition today is to review with Mr. Kahler the report dated August 19, 1983, which specifically concerns allegations regarding claimed harassment and intimidation of craft personnel. It is also based on the report claims that some of the issues to be discussed today are based on rumor and inuendo, and I would like to

1 question Mr. Kahler regarding those reports.

2 MR. HARTMAN: I don't believe we have any  
3 objection to your questioning him. How do you intend  
4 to use the responses to those questions?

5 MS. SAGINAW: To bolster our contention  
6 regarding a pervasive scheme of harassment and  
7 intimidation at the Comanche Peak project.

8 MR. HARTMAN: Is your position, then, that  
9 you intend to rely on hearsay evidence for the matters  
10 you intend to prove?

11 MS. SAGINAW: No, I intend to question Mr.  
12 Kahler about what he personally knows about hearsay,  
13 rumor and inuendo, that he personally heard at the  
14 Comanche Peak.

15 MR. HARTMAN: Do you intend, then, to rely  
16 on his responses as fact?

17 MS. SAGINAW: We'll use the evidence as we  
18 see fit.

19 MR. HARTMAN: Including to discuss the  
20 factual basis to your claim?

21 MS. SAGINAW: We'll use Mr. Kahler's  
22 evidence as we see fit. It may indeed bolster factual --

23 MR. HARTMAN: It is my understanding that  
24 Mr. Roisman has represented to the Board that the case  
25 will not be relying on hearsay evidence.

1 MS. SAGINAW: I think you're splitting  
2 hairs on this matter. I'm not going to be asking  
3 Mr. Kahler for hearsay evidence. I only object to  
4 this statement in that I will be questioning him  
5 about what he personally has knowledge of which  
6 might indeed be hearsay evidence.

7 MR. HARTMAN: I know your position. I'd  
8 just like the record to be clear that it's our  
9 understanding that you will not be relying on hearsay  
10 evidence to establish specific factual claims, that  
11 the hearsay evidence will not be submitted for the  
12 truth of the matter stated therein.

13 MS. SAGINAW: I note that that is your  
14 understanding and we will use our evidence in  
15 accordance with all Board orders.

16 MR. HARTMAN: Thank you.  
17 Whereupon,

18 RICHARD E. KAHLER,  
19 was called as a witness by counsel for the Inter-  
20 venors and, having been first duly sworn, was examined  
21 and testified as follows:

22 EXAMINATION

23 BY MS. SAGINAW:

24 Q Mr. Kahler, I am Jane Saginaw and I represent  
25 the Intervenor in this matter. I would like to

1 introduce myself and I would like for you to state  
2 your full name for the record, please.

3 A I am Richard E. Kahler.

4 Q Where do you presently live?

5 A I live at 1092 Pebblewood Drive, Arlington,  
6 Texas 76011.

7 Q How long have you lived there?

8 A Approximately four years.

9 Q Where were you living before that time?

10 A I was in military service with the permanent  
11 assignment for duty in Paris, France.

12 Q How long were you in Paris?

13 A Approximately three years, and if I might  
14 clarify, I retired from the service at the port of  
15 debarkation, I spent approximately ninety days in  
16 Washington, D. C., in the process of looking for  
17 employment.

18 Q Okay. Where were you employed prior to  
19 your military service?

20 A I entered the military service in 1951, and  
21 I was on continuous active duty until the 30th of  
22 April, 1980.

23 Q Had you ever worked for a utility company  
24 before that time?

25 A No.

1 Q Or during your service time?

2 A No.

3 Q So this, your employment with -- well, let  
4 me ask you first where you're presently employed?

5 A I am supervisor of engineering administra-  
6 tive services, Texas Utilities Generating Company.

7 Q And how long have you worked for TEGO?

8 A Approximately four years.

9 Q Do you know the date you began there?

10 A August 17, 1980.

11 Q So when you returned from France, you went  
12 to Washington, D. C., and then you took this job in  
13 Arlington, Texas, with TEGO. Is that correct?

14 A Yes, ma'am.

15 Q And prior to 1980 you had never worked with  
16 the utility company?

17 A That's correct.

18 Q Mr. Kahler, did you bring a resume or CV  
19 with you today?

20 A No.

21 Q I would like to spend a little bit of time  
22 going over your educational background, if you will.

23 A All right.

24 Q Where did you go to high school?

25 A I graduated from high school in Anna-

1 Jonesboro Community High School, Anna, Illinois.

2 Q Did you go on to college?

3 A Yes, I did.

4 Q And where did you go?

5 A I attended the University of Illinois and  
6 Iowa State College from 1947 through 1951.

7 Q Did you graduate from high school in 1947?

8 A Yes, ma'am.

9 Q And did you graduate from Iowa State or the  
10 University of Illinois?

11 A No, ma'am.

12 Q What was your course of study?

13 A I was in forestry.

14 Q Did that require your taking a good bit of  
15 science courses?

16 A I'd like to continue to clarify the matter.  
17 While I was in service, I attended Kansas State  
18 University and graduated with a bachelor of science  
19 in nuclear engineering in 1963. 1967-1969 I attended  
20 the Air Force Institute of Technology and graduated  
21 with a master's degree in nuclear engineering.

22 Q Let's go back first to the University of  
23 Illinois and Iowa State just very briefly. You began  
24 at the University of Illinois, is that right?

25 A Yes, ma'am.

1 Q And how long were you there?

2 A About three semesters.

3 Q And at that time you were studying forestry?

4 A Yes, ma'am.

5 Q Did that involve a curriculum with a basis  
6 in science?

7 A To a degree. It included mathematics up  
8 through college algebra and basic science courses  
9 including chemistry, I think general physics was in  
10 the curriculum.

11 Q And then you transferred to Iowa State?

12 A Yes, ma'am.

13 Q And when you were at Iowa you continued in  
14 forestry?

15 A Yes, ma'am.

16 Q Was that a similar curriculum?

17 A Yes.

18 Q In 1951 you went into the military. Did  
19 you directly begin your studies at the Kansas State?

20 A No, ma'am.

21 Q What did you do when you first went into  
22 the military?

23 A I went into what was called Airman Basic.  
24 I enlisted as an airman.

25 Q And how long did you do that?

1           A       Six months later, I entered the aviation  
2 cadet program.

3           Q       And how long did that last?

4           A       That was approximately a twelve-month  
5 program.

6           Q       So that takes us to about 1953, is that  
7 right?

8           A       1952, it should be.

9           Q       And what did you do then?

10          A       I was commissioned a second lieutenant and  
11 was assigned to a training at Randolph Air Force Base  
12 and then subsequently to a bomb squadron, B-29 bomb  
13 squadron.

14          Q       This was all training and active service.  
15 It was not educational, is that right?

16          A       That's correct.

17          Q       In the formal sense.

18          A       That's correct.

19          Q       And how long were you involved in these two  
20 programs at Randolph Air Force Base and the B-29 bomb  
21 squadron?

22          A       Randolph Air Force Base was approximately  
23 ninety days.

24          Q       Just generally. I'm only trying to --

25          A       I was at Lake Charles until February of



1 1953, at which time I was assigned to Okinawa  
2 with another bomb squadron.

3 Q And you went to Okinawa?

4 A Yes, ma'am.

5 Q And you participated there in what kind of  
6 activity?

7 A Flying medium bombardment of the Korea War.

8 Q That was active combat service?

9 A Yes, ma'am.

10 Q And when did you return back to the States?

11 A September, 1953.

12 Q And you went where, sir?

13 A I was assigned to the Eighth Air Rescue Group,  
14 Stead Air Force Base, Nevada.

15 Q What did your duties involve at the Stead  
16 Air Force Base?

17 A I flew as a co-pilot on long-range rescue  
18 aircraft.

19 Q Until when?

20 A It must have been 1955.

21 Q At that time, what did you do?

22 A I then went to a transition school at West  
23 Palm Beach, Florida, for upgrading in the KC-97 program.

24 Q And what is the KC-97 program?

25 A It was a propeller-driven tanker within the

1 Strategic Air Command. Perhaps air refueling is a  
2 better word than tanker.

3 Q This was also training and not formal  
4 education?

5 A Yes, ma'am.

6 Q And how long did you stay in West Palm  
7 Beach?

8 A That was a matter of about six to eight  
9 weeks, at which time I was assigned to Dyess Air  
10 Force Base, Abilene, Texas.

11 Q You may want to go through this is more  
12 of a conversational manner. I'm just trying to get  
13 a general background and your history of working up  
14 until the point where you entered school.

15 A All right.

16 Q You want to just tell me, you went to Dyess  
17 Air Force Base?

18 A I was at Dyess Air Force Base until about,  
19 well, I got there in early 1956. I was there until  
20 1958. 1958 I was assigned to a KC-97 training wing  
21 at Randolph Air Force Base, Texas. I remained at  
22 Randolph Air Force Base until about 1961 and then  
23 I was assigned to Kansas State University for under-  
24 graduate training in the nuclear engineering program.

25 Q Okay. Now, I would like to ask you a few

1 questions about that, please.

2 Up until 1961 when you went to Kansas State,  
3 did you have any formal training in the military  
4 regarding nuclear devices?

5 A None.

6 Q None whatsoever. You say you were assigned  
7 in 1961 to Kansas State. How did that come about?

8 A I had applied for education under the Air  
9 Force Institute of Technology program.

10 Q And you accepted?

11 A I was accepted, yes.

12 Q And did you choose the areas of, precisely  
13 it's nuclear --

14 A Engineering.

15 Q -- engineering? Did you choose that or were  
16 you sent to go to that program?

17 A I had applied initially for a program in  
18 electrical engineering. At the discretion of the Air  
19 Force, they sent me to a nuclear engineering program.

20 Q They sent you to nuclear engineering. So  
21 in 1961 when the Air Force sent you to Kansas State  
22 to study nuclear engineering, up until that point you  
23 had no background in nuclear sciences whatsoever?

24 A That's right.

25 Q So you had to begin at square one at Kansas

1 State?

2 A Yes.

3 Q How long were you at Kansas State?

4 A Two years.

5 Q And at that time, what was your curriculum  
6 generally?

7 A Nuclear engineering.

8 Q You took --

9 A Mathematics to advanced calculus, nuclear  
10 physics, general dynamics, mechanics, I think various  
11 courses associated with an engineering degree.

12 Q And then in 1963 you transferred to --  
13 What did you do after two years at Kansas State?

14 A I was assigned to a training program at  
15 Fort Belvoir, Virginia, for officers in charge of  
16 nuclear power plants.

17 Q And at that time you were an officer in the  
18 Air Force?

19 A Yes, ma'am.

20 Q And what was your --

21 A I was a captain at that time.

22 Q Now after two years, you didn't have a degree?

23 A Yes, I had a bachelor of science.

24 Q You had a bachelor's in two years?

25 A Yes.

Nations/  
T2-1 bm

1 Q How long did you stay in Germantown,  
2 Maryland?

3 A I was there until 1972.

4 Q And at that time you went to Paris?

5 A No. I was then assigned to the Ames  
6 Research Center, Moffitt Field, California.

7 Q Let me ask you just briefly why you  
8 left the Atomic Energy Commission.

9 A I was in a position that was provided by  
10 the Air Force. At that time they were in the process  
11 of phasing it out. In addition, I was approaching  
12 the end of a normal three-year tour and was eligible  
13 for reassignment.

14 Q Okay. And what did you do at the Ames  
15 Research Center?

16 A I was the Air Force representative to the  
17 Ames Research Center, and I was primarily involved  
18 in technology transfer.

19 Q Was that an administrative type job?

20 A Yes.

21 Q Did you have any responsibility over health  
22 and safety projects at that time?

23 A No.

24 Q It was more of a research type facility;  
25 is that right?

2  
k-2  
1 A Ames is a research-type facility, yes.

2 Q And you were doing pure research?

3 A No.

4 MS. SAGINAW: Excuse me. His resume is  
5 not attached.

6 MR. HARTMAN: I understand that.

7 MS. SAGINAW: That's why I'm taking --  
8 I wouldn't take this time to go into your background  
9 had you brought your resume with you today.

10 THE WITNESS: The job was essentially one  
11 of insuring that various Air Force projects were  
12 entered into the Ames priority for accomplishment, at  
13 the same time seeing that technologies under development  
14 at NASA/Ames were brought to the attention of appropriate  
15 Air Force personnel.

16 BY MS. SAGINAW:

17 Q How long did you stay at that Center?

18 A I was there one year.

19 Q At that time where did you go?

20 A I was assigned to Andrews Air Force Base,  
21 Air Force Systems Command Headquarters.

22 Q And that is?

23 A Andrews Air Force Base, Washington.

24 Q And your title there?

25 A I was a Colonel. I was the Chief of the

2-3

1 Scientific and Technical Liaison Division.

2 Q Again, this was an administrative type  
3 position?

4 A Yes.

5 Q And did health and safety inspectors report  
6 to you or someone under you?

7 A No.

8 Q There was no health and safety aspect  
9 involved in that job?

10 A None.

11 Q How long were you at Andrews Air Force  
12 Base?

13 A I was in the -- I left Andrews Air  
14 Force Base in 1971.

15 Q And the whole time you were there, you  
16 remained in that one position?

17 A No. About halfway through that, I was  
18 assigned as Chief of the Programs Division.

19 Q Which was a higher administrative position;  
20 is that right?

21 A A different kind of a job. The former was  
22 associated with technology transfer. The Chief of  
23 the Programs Division was in financial management.

24 Q But again, no health and safety juris-  
25 diction?

1 A That's correct.

2 Q -- if I can use that word.

3 In 1977 --

4 A In 1977 I was assigned to the Advisory  
5 Group for Aerospace Research and Development.

6 Q And where is that?

7 A It's located in Paris, France.

8 Q And that is -- You went over there as part  
9 of the American Air Force?

10 A Yes.

11 Q And what was your position there?

12 A I was Chief of the Budget and Operations  
13 Division.

14 Q An administrative position?

15 A Administrative.

16 Q With no health and safety?

17 A No, none.

18 Q And you stayed there in that position  
19 until 1980 when you returned to this country?

20 A That's correct.

21 Q Okay. I'm sorry it took so long to go  
22 through your qualifications. Had you brought your  
23 resume, we could have done that a little bit quicker.

24 Now, in 1980 you ended in Washington --  
25 I believe you told me.



2-5

1                   You went directly to your present position  
2 in Arlington; is that correct?

3                   A       Yes.

4                   Q       Did you make arrangements for this while  
5 you were in Paris?

6                   A       No.

7                   Q       Did you retire from the military upon  
8 returning?

9                   A       Yes.

10                  Q       As a Colonel?

11                  A       Yes.

12                  Q       And you decided to come to Arlington, Texas,  
13 to work for TUGCO. And what was the position that you  
14 accepted there?

15                  A       Senior Engineer.

16                  Q       Were your responsibilities all in the area  
17 of nuclear; or were you involved in other areas as  
18 well?

19                  A       Only in nuclear.

20                  Q       Can you decide to me in resume-type style  
21 what your job description is?

22                  A       I report directly to the Vice-President/  
23 Nuclear. I'm responsible for -- as a Senior Engineer  
24 I was responsible for providing him technical support  
25 and also support to the operations group at Comanche

1 Peak.

2 Q You said "at that time." You came in as a  
3 Senior Engineer, and then your job title changed?

4 A Yes, ma'am.

5 Q And what did it change to?

6 A Supervisor.

7 Q Of?

8 A Engineering and Administrative Services.

9 Q When did that change?

10 A I think in the spring of 1980.

11 Q So pretty soon after you arrived there?

12 A Yes. I think it was about six or seven  
13 months.

14 Q At the time when you were Senior Engineer,  
15 did you actually do on-site inspection at the Comanche  
16 Peak facility?

17 A No, ma'am.

18 Q In what capacity did you work with Comanche  
19 Peak?

20 A Basically in management-type applications.  
21 I attended management meetings.

22 Q Did you manage the QA/QC program?

23 A No, ma'am.

24 Q Did you have any dealings with the QA/QC  
25 program?

1 A No.

2 Q Your primary -- Were your primary  
3 duties --

4 MR. HARTMAN: Could I object? Could you  
5 define the word "dealings"?

6 BY MS. SAGINAW:

7 Q Did the personnel of the CA/QC project  
8 report to you?

9 A No.

10 Q Did you have any -- I want to use the word  
11 "dealings." Did you have any meetings with CA/QC  
12 management or personnel for any reason?

13 A I would attend management meetings in  
14 which QA personnel might be present in the normal  
15 course of these management meetings.

16 MR. PIRFO: Ms. Saginaw, you used the  
17 word "CA/QC" a couple of times. Are you speaking of  
18 QA/QC? I'm not familiar with CA/QC.

19 MS. SAGINAW: Yes. QA/QC.

20 MR. PIRFO: You said it two or three times.  
21 I was getting confused.

22 MS. SAGINAW: I'm sorry. I'm referring  
23 only to QA/QC.

24 BY MS. SAGINAW:

25 Q So you would meet with other managers at

1 meetings while you were Senior Engineer, and there  
2 would be personnel from the QA/QC program.

3 A Present.

4 Q -- present. When you were Senior  
5 Engineer.

6 And then in the spring you became the  
7 Supervisor of Engineering and Administrative Services.  
8 At that time were you responsible for programs in this  
9 QA/QC area?

10 A No, ma'am.

11 Q Did you attend meetings with personnel  
12 from the QA/QC program?

13 A Yes, ma'am.

14 Q Was it the same type of general management  
15 meetings, where those people would be present?

16 A Yes.

17 Q Can you explain to me a little bit about  
18 what took place at those meetings, or what your  
19 communications would be with those personnel?

20 A I would be in attendance primarily as an  
21 observer.

22 Q To see that the meetings went smoothly?

23 A Just -- No. More just for my informa-  
24 tion and as an independent observer.

25 Q Okay. So you had no formal communications

1 with the quality assurance and quality control program?

2 MR. HARTMAN: Excuse me. I'd like to  
3 object to that. Could you define what you mean by  
4 "formal communications"?

5 MS. SAGINAW: I mean written correspondence  
6 and communications and meetings that were scheduled,  
7 other than meetings that you attended for your own  
8 personal reasons, because you wanted to be informed,  
9 where your job description required you to be there.

10 THE WITNESS: Upon occasion I would direct  
11 memos to the QA group regarding budget and other  
12 administrative activities as a matter of coordinating  
13 those activities -- say, in budget preparation.

14 BY MS. SAGINAW:

15 Q Okay. So again it would be purely from a  
16 managerial/administrative point of view?

17 A Administrative, yes.

18 Q Now, how long did you stay in this position?

19 A I'm currently in that position.

20 Q So we've covered pretty well what your  
21 resume would have told me up to this point?

22 A Yes.

23 Q Okay. So as of today, you are -- you have  
24 an administrative position that's titled Supervisor of  
25 Engineering and Administrative Services; and you do not

2-10

1 as part of your formal job description answer to or  
2 have quality assurance and quality control people  
3 answer to you?

4 A That is correct.

5 Q Mr. Kahler, I have a report in front of  
6 me entitled "Report on Allegations of Coverup and  
7 Intimidation by TUGCO, Dallas Quality Assurance,"  
8 dated August 19, 1983. Your signature is on the  
9 front page; is that correct?

10 A I recognize the signature, yes.

11 Q This is your signature, and this is a  
12 document that you're familiar with?

13 A May I look at the document?

14 Q Certainly. Did you bring a copy of it  
15 with you today?

16 A No, I do not have one.

17 Q Okay. I have a copy of it, which I will  
18 gladly furnish you with, because I want to review the  
19 document with you.

20 The first thing I'd like for you to do is  
21 just go over with me whether that is your signature  
22 on the front page of the document.

23 A Yes.

24 Q Can you tell me, sir, how you came to work  
25 on this project?

2-11

1           A       On or about the 4th of August 1983, the  
2 Vice-President/Nuclear Engineering called me into  
3 his office. He indicated that he had heard a rumor  
4 concerning alleged intimidation and coverup by the  
5 Dallas Quality Assurance Group, and indicated his  
6 intention to have an immediate independent investiga-  
7 tion into whether that rumor was factual.

8           Q       Did he tell you why he was speaking to you  
9 about this matter?

10           MR. HARTMAN: At this point I would like to  
11 object. That question is a hearsay question. I would  
12 like to go on record as objecting to all hearsay  
13 questions for the duration of this deposition.

14           MS. SAGINAW: I'm asking you about your  
15 personal knowledge, whether Mr. Clements -- whether you  
16 know why Mr. Clements chose you to work on this  
17 project.

18           THE WITNESS: No, I do not.

19           BY MS. SAGINAW:

20           Q       But up until this point that you were  
21 approached to work on this project, you had not dealt  
22 with the QA/QC program at Comanche Peak?

23           A       That is correct.

24           Q       But on August 4th you were approached by --  
25 Was it Bill Clements himself?

2-12

1 A Yes, ma'am.

2 Q According to page 1 of this document, you  
3 and Bob Spangler and Bill Keeley met with Mr.  
4 Clements; is that correct?

5 A Yes. Mr. Spangler and Mr. Keeley work  
6 for me.

7 Q The document names four other people  
8 that were in attendance at that meeting. Were there  
9 any people besides these four people identified in  
10 this -- the three of you and Mr. Clements at that  
11 meeting?

12 A Not to my knowledge.

13 Q Where was the meeting held?

14 A In Mr. Clements' office.

15 Q Can you identify for me, please, who  
16 Dave Chapman is?

17 A Dave Chapman is the Manager of  
18 Quality Assurance.

19 Q Tony Vega? Can you identify him for me?

20 A I don't recall Mr. Vega's exact title.  
21 I believe he was the Supervisor for Quality Assurance  
22 Services.

23 Q Al Boren?

24 A He's the Supervisor of Vendor Inspections.

25 Q And Deborah Anderson?



2-13

1           A       Deborah Anderson, I believe is the  
2 Supervisor of the Audit Group.

3           Q       Is that the Audit Group that was  
4 commissioned by Brown & Root?

5           A       No, ma'am.

6           MR. HARTMAN: Could I object to that  
7 question? I'm not sure I understand it.

8           MS. SAGINAW: I'm asking him whether  
9 Anderson worked for an Audit Group that was commis-  
10 sioned by Brown & Root; and he said no.

11          MR. HARTMAN: Fine.

12          BY MS. SAGINAW:

13          Q       Do you know which Audit Group she did work  
14 for?

15          A       I do not understand your question.

16          Q       Well, you told me that she was the  
17 Supervisor of an Audit Group.

18          A       Of the Audit Group.

19          Q       Do you know who employed her?

20          A       No, I do not.

21          Q       Had you ever met her prior to this meeting?

22          A       Yes, ma'am.

23          Q       In what capacity?

24          A       Purely typical day-to-day encounters in  
25 the course of doing business in the same office

2-14

1 building.

2 Q Okay. So she worked in Arlington at the  
3 TUGCO office; is that right?

4 A Correction. She worked in Dallas.

5 - - -

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 A. Yes.

2 Q. Was it again in an informal setting or was it  
3 more formalized?

4 A. It was an informal environment.

5 Q. Can you tell me, Mr. Kahler, in your own words,  
6 what your understanding of your duty was when Mr. Clements  
7 approached you on August 4th?

8 A. Mr. Clements indicated that he wanted a comprehensive  
9 independent investigation into the allegation that had been  
10 brought to his attention.

11 Q. And what was your understanding of what he meant  
12 by independent investigation?

13 MR. HARTMAN: I am going to object to that again  
14 because you're asking the witness to identify what  
15 Mr. Clements--

16 MR. SAGINAW: I am asking him his understanding  
17 of his job assignment was.

18 MR. HARTMAN: Fine. Thank you.

19 THE WITNESS: That my investigation was, as I  
20 indicated, a comprehensive that I was to take whatever  
21 time was necessary to insure--

22 BY SAGINAW:

23 Q. My question to you was what your understanding  
24 of an independent investigation was.

25 MR. PIRFO: I am going to have to object to that.

1 I think you should let the witness finish the answer.

2 THE WITNESS: Pardon me.

3 MR. SAGINAW: I was just trying to get you to the  
4 point. You may answer it however you like.

5 A. I think independent investigation was, in my  
6 interpretation, was that I was going to do this job with  
7 the resources available to me, and that I was going to  
8 pursue this investigation to whatever end might be indicated.

9 Q. I don't want to put words in your mouth, but I  
10 want to understand what you're telling me. So your under-  
11 standing for independent meant was your own independence of  
12 what you personally thought was required?

13 A. Yes. I think you will see in their report that  
14 he indicated that he wanted to be informed promptly if the  
15 investigation did indicate any significant problem.

16 Q. I understand that and that is what you felt when  
17 he told you to do an independent investigation, that's what  
18 you understood that to mean, that you were to do something  
19 as comprehensive as you possibly could and that you were to  
20 report to him everything that you saw or what you felt was  
21 significant?

22 A. I believe I indicated earlier my understanding.

23 Q. I just want to make sure that's your complete  
24 answer. Is that right? You have nothing more to say on what  
25 your understanding of independence was?

1 A. No.

2 Q. Okay. Did you author this report?

3 A. No. As the supervisor of Mr. Spangler and Mr.  
4 Keeley, I provided guidance, I was briefed periodically as  
5 to the progress of the investigation, I reviewed their draft  
6 report, and discussed it with them.

7 Q. But you wrote no part of this report, is that  
8 right?

9 A. That is correct.

10 Q. Did you review drafts of the report before it came  
11 out in this final form that I have before me?

12 A. Yes, I did.

13 Q. This is the final form of the report?

14 A. Yes, it is.

15 Q. Can you review with me some of the areas in which  
16 the drafts were changed before it was presented in this final  
17 report? Would you like me to be more specific?

18 A. Yes, if you would.

19 Q. Okay. In a minute, I want to go through with you  
20 page by page through the report. And when we get to the  
21 bottom of each page, I'd like for you to tell me, if you can  
22 recall, any specific area that may have been presented  
23 differently in a draft form. Do I have your understanding  
24 on that?

25 A. Yes.

1 MR. HARTMAN: Could you clarify the time sequence  
2 again that you're concerned about?

3 MS. SAGINAW: I am talking about between August 4th  
4 when Mr. Kahler was first contacted by Mr. Clements and  
5 August 19th when this final report, as I am told, was issued.

6 MR. HARTMAN: Thank you.

7 BY SAGINAW:

8 Q. Did Mr. Clements ever speak to you prior to  
9 August 4th about this project?

10 A. No. At best--and I did not have a calendar--might  
11 have come up on August 3rd or August 4th.

12 Q. But it was right in that area?

13 A. Yes.

14 Q. You had no idea anything about an investigation  
15 before that time?

16 A. No.

17 Q. Let me ask you another question, Mr. Kahler. Was  
18 this report given to the NRC, do you know?

19 A. I do not know.

20 Q. Do you know who the report was distributed to  
21 other than Mr. Clements?

22 A. I do not know.

23 Q. Do you know if it was distributed to other people--  
24 to people other than Mr. Clements?

25 A. I have no personal knowledge.

1 Q. After the report was signed on August 19th, did  
2 you hold meetings or did you participate in meetings where  
3 the report was discussed with people other than Mr. Clements?

4 A. Yes.

5 Q. When were those meetings?

6 A. May I look at the record? I believe there's a  
7 statement to that effect.

8 Q. Sure.

9 A. (Perusing documents.) That meeting was held on  
10 12 September.

11 MR. PIRFO: From where are you looking Mr. Kahler?

12 THE WITNESS: This has minutes of the meeting  
13 to attain B. R. Clements in quality assurance personnel,  
14 September 12, 1983.

15 MR. PIRFO: Thank you, sir.

16 BY SAGINAW:

17 Q. Is that the only meeting you attended after the  
18 assurance of that report?

19 A. To the best of my knowledge.

20 Q. Where the report was discussed, of course.

21 A. Yes.

22 Q. So you were contacted on August 4th and you  
23 oversaw the report, you signed it on or about August 19th  
24 and you attended one meeting and that is your entire involvement  
25 with the report?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

A. That is correct.

(Discussion off the record.)



(Short recess taken at reporter's request.)

BY MS. SAGINAW:

1 Q Mr. Kahler, before we took our break you  
2 were telling me that you were involved in this study  
3 dated August 15, 1983 in a supervisory power; is  
4 that correct?

5 A Yes.

6 Q And you told me that you provided guidance,  
7 were briefed on progress and reviewed drafts and discussed  
8 the information within them, report, with other people.

9 A Clarification. Only Mr. Keeley and  
10 Mr. Spangler, the two investigators.

11 Q These were the only two people you discussed  
12 the report with?

13 A Yes.

14 For clarification,, during the drafting  
15 phase.

16 Q You consulted no outside people and you  
17 didn't -- let me ask you, did you consult any outside  
18 people?

19 A No, we did not.

20 Q Did you meet with any of the people who  
21 were interviewed whose information provided the basis for  
22 this report?

23 A No, I did not.

24 Did you review the questionnaires that were  
25 filled out by the people who were interviewed for this

jon2

1 report?

2 A No, I did not.

3 Q So Spangler and Kelley would come to you  
4 and tell you the progress of the report and you would  
5 give them guidance from your perspective as an  
6 administrator; is that correct?

7 A Yes, this is correct.

8 Q And how do you see your expertise as an  
9 administrator on this project?

10 What type of guidance would you give them?  
11 Can you give me an example of the kind of thing that would  
12 come to you?

13 A I provided guidance as to what I thought the  
14 format of the report should look like as far as its  
15 structure, the types of material that should be addressed  
16 in the -- in preparing the explanation. And the guidance  
17 that we wanted this report to stand alone, that it was to  
18 be a complete package.

19 Q I am not sure I understand what you mean  
20 by a complete package. Does that mean that you did not  
21 feel that it was necessary to for instance attach  
22 completed questionnaires to the report? That was your  
23 decision?

24 A In our guidance from Mr. Clements we were  
25 instructed to provide assurance of confidentiality.

1 Q And from that you deduced that you did not want  
2 questionnaires attached?

3 A That is correct.

4 Q So was your -- let me do it again without  
5 wanting to put words into your mouth. I want your  
6 testimony. I want an understanding of your testimony  
7 today as to why questionnaires would not be attached.

8 Is it correct that it was your  
9 determinations that questionnaires should not be attached  
10 to the report because he wanted to protect the  
11 confidentiality of the interviewees?

12 Mr. HARTMAN: May I object to that. Why  
13 don't you just allow the witness to state in his own  
14 words.

15 BY MS. SAGINAW:

16 Q Would you like to describe in your own  
17 words why you did not want questionnaires to be attached  
18 to the report?

19 A I believe you see in the report that the  
20 people being interviewed were assured of confidentiality.  
21 In order to maintain that confidentiality we elected to  
22 not attach any copies of the interviews. Furthermore, to  
23 further assure that confidentiality and upon discussion  
24 with the two investigators those notes were discarded.

25 Q So the questionnaires are no longer in

jon4

1 existence?

2 A That is correct.

3 Q And when you say we elected I want to  
4 understand that was that Spangler and Keeley came to you  
5 with that question you gave them your guidance on that.

6 A On discussion I provided them guidance.

7 Q And it was your opinion that they should  
8 not be attached?

9 A That is correct.

10 Q Did you discuss the possibility of  
11 attaching the questionnaires with names deleted?

12 A No.

13 Q Why?

14 MR. HARTMAN: May I object to this line  
15 of questioning? You haven't established the existence  
16 of questionnaires.

17 MS. SAGINAW. The report refers to  
18 questionnaires that were administered.

19 THE WITNESS: The questioning was used as  
20 a guideline. There was no questionnaire.

21 MS. SAGINAW: I am referring to the  
22 questions that are attached to the report. It is not a  
23 numbered page but it is directly behind Attachment 4.  
24 The last question is hand written. Those are the questions  
25 that I am referring to.

1 BY MS. SAGINAW:

2 Q I take it that every interviewee was  
3 asked these questions.

4 A That's correct.

5 Q And that their answers were written down.

6 A I was not party to any of the interviews.

7 Q Can you tell me whether you know whether  
8 the answers to these questions were written down?

9 A Mr. Spangler and Mr. Keeley kept notes on  
10 each of the interviews.

11 Did you personally review the notes?

12 A No, I did not.

13 Q Did you have an occasion to see the notes?

14 A No, I did not.

15 Q How do you know that the notes existed?

16 A Only through discussion with Mr. Spangler  
17 and Mr. Keeley.

18 Q So previously when we were talking of  
19 questionnaires, are these the questions you were referring  
20 to?

21 A Yes.

22 Q Okay. Do you know whether the people that  
23 were contacted and interviewed heard these questions  
24 were ever recontacted and asked whether they wished to  
25 remain confidential? After the interview was completed?

jon6

1           A           The only knowledge that I have of that  
2           is that in the course of being informed about this  
3           particular activity there was a question and it is my  
4           understanding these people were contacted.

5           Q           Recontacted after the interview; is that  
6           right?

7           A           Not -- within the past several weeks they  
8           were contacted.

9           Q           Do you know whether that was pursuant to a  
10          court order or not?

11          A           I have no knowledge of that.

12          Q           Okay. Are you aware that there was a  
13          court order that was issued in June that required all  
14          witnesses be recontacted on the issue of confidentiality?

15          MR. HARTMAN. I would like to object to that.  
16          Can you lay a foundation as to what court order you are  
17          referring to?

18          BY MS. SAGINAW:

19          Q           I refer to the court order of June 14. It  
20          was issued at a prehearing conference.

21          MR. HARTMAN: I would like a clarification.  
22          Was that in an NRC proceeding you are referring to?

23          MS. SAGINAW: I would like to go off the  
24          record for a minute.

25          MR. HARTMAN. Fine.

1 (Discussion off the record.)

2 BY MS. SAGINAW:

3 Q Mr. Kahler, I would like to clarify for  
4 the record the order that I am referring to. It is  
5 my understanding that the Board ordered in this case that  
6 all -- on June 14 -- that all witnesses be recontacted and  
7 asked whether they wished to remain confidential,  
8 whether they wished their testimony or information to be  
9 kept confidential. Are you familiar with that order?  
10

11 A I was aware that something had occurred  
12 which precipitated the request for that information.

13 Q Okay. Can you tell me how you became aware  
14 of that? Who you spoke to?

15 A It was a Ms. Susan Spencer.

16 Q And can you tell me who she is, where she  
17 works?

18 A She is on the QA Dallas staff. I do not know  
19 her specific title.

20 Q Have you spoken to her prior to this  
21 conversation when she told you about this court order?

22 A Not on matters related to the investigation  
23 under discussion.

24 Q Can you tell me approximately when you spoke  
25 to her?

1 A Several weeks ago.

2 Q When you did speak to her what did you  
3 then do; did you contact Keeley and Spence or Spangler?

4 A Ms. Spencer contacted all three of us  
5 at approximately the same time and advised us of the  
6 requirement.

7 Q And what action did you take, personally?

8 A None. Our names were already mentioned in  
9 the report. There was no confidentiality.

10 Q She did not contact you with regard to  
11 soliciting an answer to witnesses or people who were  
12 interviewed for this report? In other words, she did not  
13 contact you in your role as supervisor of this project?

14 A At that point it appeared that Ms. Spencer  
15 had the names of those people that were discussed in the  
16 report and if there was any further discussion it was  
17 with Keeley and Spangler to confirm. But those were the  
18 names.

19 Q I am confused as to your role in that  
20 process, okay? What I want to know is whether when  
21 Ms. Spencer contacted you I understand that she asked you  
22 about your own personal feeling of remaining confidential.  
23 What I now want to know is whether she contacted you and  
24 asked you --

25 A I did not provide Ms. Spencer any names.



1 Q Okay. Did you ask Keeley and Spangler  
2 to go back and contact the people that they interviewed  
3 for the report?

4 A No, I did not.

5 Q Did you discussed with Keeely and  
6 Spangler the issue of contacting those people ?

7 A During a discussion of contacting these  
8 people it was determined that that would be handled by  
9 the lawyers involved in the proceeding.

10 Q So you took no action on your own accord to  
11 contact anyone or to see that anyone was coming?

12 A That is correct.

13 Q So you felt that your report, that that was  
14 not within your job duty as supervisor, this report; is  
15 that right? You were told that the lawyers would take  
16 care of this.

17 A yes.

18 Q Do you personally know who was contacted  
19 and interviewed for this report?

20 A I do not.

21 For clarification, perhaps. I did not know  
22 who was contacting, subject to the discretion of  
23 confidentiality for the --

24 Q You don't know who was recontacted but you  
25 do you know who was interviewed?

1           A           Only to the extent of the fact of the  
2 people that were discussed in the body of the report.

3           Q           In other words, you saw the report with  
4 the names in there and you would recognize the names of  
5 those people who were actually interviewed.

6           A           That is correct.

7           Q           Okay. Turn to page 1 of the document  
8 before you. It is entitled "Introduction." At the  
9 bottom of that page it refers to an issue you wrote  
10 to Chapman on August 9 requesting documents.

11          A           Yes.

12                       (Discussion off the record.)

13  
14                       BY MS. SAGINAW:

15          Q           A copy of that document is attachment 3.  
16 I would like you to review that memo and tell me if that  
17 represents --

18                       MR. HARTMAN. Could you identify the paper  
19 to which you are referring?

20                       MS. SAGINAW: I am referring to memo  
21 to D.N. Chapman signed by REK, dated August 9, 1983,  
22 subject: investigation of intimidation and cover-up  
23 on the part of the Dow QA management.

24                       There is a large space at the top of that  
25 memo. I am wondering if there was a paragraph in the

1 original or whether that is the way that the memo actually  
2 was issued.

3 A To the best of my knowledge that is the way  
4 the memo was actually issued.

5 Q This Xerox copy represents the entire  
6 memorandum that you sent Chapman?

7 A To the best of my knowledge.

8 Q Okay. Now, the report indicates that you  
9 had success in getting the documents that you requested;  
10 is that right? Do you agree with the report where it  
11 indicates that?

12 A Yes. Mr. Chapman called me and he indicated  
13 that any QA documents which we might want to review would  
14 be made available to us.

15 Q Did you actually receive documents from  
16 Chapman?

17 A There was no physical transfer of  
18 documents; however, Mr. Spangler and Mr. Keeley had  
19 access to whatever QA files they thought were necessary  
20 in the course of carrying out their investigation.

21 A The files were open to them for review; is  
22 that right?

23 A Yes, ma'am.

24 Q Did you review any of the files?  
25

jon12

1

A No, ma'am.

2

Q Did you have any documents sent to you for  
review?

3

4

A None.

5

Q You saw no documents from Mr. Chapman's  
office?

6

7

A That's correct.

8

Q You merely wrote the memo requesting them  
on behalf of Keeley and Spangler; is that correct?

9

10

A Correct.

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 MR. HARTMAN: Back on the record. We had  
2 taken recess, during which time, we added to the  
3 investigation report that the staff and the intervenor  
4 have the names of Anderson, Vega, Tolson and Kessler,  
5 which do not appear in the version of the report  
6 given the Intervenor. We also filled in the  
7 appropriate pronouns where necessary. Anderson and  
8 Kessler are she's; Vega and Tolson are he's. It's  
9 my understanding that the version of the report  
10 incorporating these changes was given to the  
11 Intervenors last week. There was not a copy of that  
12 version of the report available for the purposes of  
13 this deposition. That report will be provided, if in  
14 fact it has not already been received.

15 MS. SAGINAW: I would like to make the request  
16 that a corrected report be attached to the deposition  
17 at the conclusion of this deposition.

18 MR. HARTMAN: Could we put that in with the  
19 discovery deposition as opposed to the evidentiary  
20 deposition or else we're going to have to authenticate  
21 it.

22 MS. SAGINAW: Again, I thought there was an  
23 agreement as to authenticity of the report.

24 MR. HARTMAN: There was, but we're dealing with  
25 expurgated versions of it, that's the problem. We're

1 not entering in the record the report as it was written.

2 MR. PIRFO: I don't think you can authenticate  
3 an expurgated version.

4 MS. SAGINAW: When Mr. Kahler is deposed next  
5 week, is it going to be later on today?

6 MR. HARTMAN: Yes. I think to expedite this,  
7 we will just set up a separate discovery transcript  
8 as I indicated earlier. We will just simply put it  
9 in there. If we have a copy of it today to do.

10 MS. SAGINAW: That's fine. I just want to make  
11 sure the record reflects the entire report as we have  
12 it today.

13 MR. HARTMAN: Fine.

14 MR. PIRFO: Did you want to note your question  
15 with regard to the incident with regard to confidentiality?

16 MS. SAGINAW: Yes, I guess we better.

17 MR. PIRFO: Let me just state mine and see if you  
18 agree with it. A note for the record on Page 8 and 10  
19 of the report, there is apparently an incident, the  
20 description of which has been deleted, and I would just  
21 note that it is the staff position that you cannot use  
22 an incident occurrence to maintain the confidentiality  
23 of the interviewees.

24 MS. SAGINAW: I agree. I think that information  
25 is required and that the personal confidentiality doesn't

1 extend to events or incidents such as those deleted.

2 MR. HARTMAN: The Applicant wishes to state that  
3 the reason this provision isn't being provided at the  
4 present is because of continuing negotiations involving  
5 Lead Counsel for Intervenors and Lead Counsel for  
6 Applicant with respect to confidentiality. Applicants  
7 have declined to provide this information at this time  
8 for fear of jeopardizing the successful completion of  
9 those negotiations.

10 MS. SAGINAW: And we object to that to withholding  
11 that information.

12 MR. PIRFO: Just to clarify the Staff's position,  
13 we're not entering a formal objection at this point.  
14 But our silence is not acquiescence in the fact that they  
15 have been deleted .

16 MR. HARTMAN: Off the record.

17 (Discussion off the record.)

18

19 (Luncheon recess until 1:30)

20

21

22

23

24

25

Nations/  
bm  
6-1

AFTERNOON SESSION

(1:35 p.m.)

MS. SAGINAW: On the record.

BY MS. SAGINAW:

Q Mr. Kahler, before we broke for lunch, we were referring to page 2 of the report entitled "Conduct of the Investigation." We were at the last paragraph of that page.

We now know that Mr. Anderson, Mr. Vega and Mr. Tolson were subsequently interviewed to complete the investigation. My question to you is: The report states that the investigative routine determined that there were two areas of concern.

How were those two areas of concern determined by the investigative routine? What procedure did you follow in identifying those two areas?

A As a result of the questions that were posed to each individual being interviewed, it came to our attention that there were two areas of concern.

Q There were only two areas -- there were only two complaints in the entire information that you gathered?

A There were only two complaints that dealt with the subject of the investigation.

Q Meaning that in your view you found two



6-2

1 concerns that related to harassment or intimidation  
2 on the job?

3 A Yes.

4 Q Can you tell me the other kinds of concerns  
5 that were expressed through the questionnaire?

6 A Yes.

7 Q Would you do that for me, please?

8 A These were administrative in nature. They  
9 had to do with problems relating to ability to obtain  
10 company cars. They had to do with problems related to  
11 settlement of per diem claims, expense accounts. They  
12 were, as I indicated, more administrative in nature and  
13 not related to the issue under investigation.

14 Q Did you go beyond the questionnaire in  
15 determining that, or did you just rely solely on the  
16 answers to the questions that were administered?

17 A I can't answer that question. I did not  
18 participate in the individual interviews.

19 Q You were part of the team that determined  
20 the two areas of concern, were you not?

21 A Yes.

22 Q And I take it that Keely and Spangler came  
23 to you with information that they had gathered in the  
24 field by way of the questions; is that right?

25 A Yes.

6-3

1           Q       And my question to you is whether they  
2           relied solely on the information that they got from  
3           the questionnaires in reporting to you?

4           MR. HARTMAN: I'd like to object to that.  
5           I think the question is best addressed to those  
6           witnesses.

7           BY MS. SAGINAW:

8           Q       I'd like to know whether you felt it was  
9           necessary to rely on any information, other than that  
10          that your co-members brought to you? Does that make --

11          A       I did not.

12          Q       You felt that it was sufficient to rely  
13          solely on the information gained as a result of the  
14          questionnaire?

15          A       In my opinion, I felt that they had  
16          conducted an investigation in sufficient depth that I  
17          relied on their reports back to me.

18          Q       So if someone was not able to obtain a  
19          company car or had other administrative complaints, it  
20          didn't seem to matter to you that perhaps those types  
21          of complaints that they had would be a discouragement  
22          of them on the job -- discouraging their activity on the  
23          job?

24          A       No. Let me also clarify that these  
25          administrative problems were brought to Mr. Clements'

1 attention, who brought them then to Mr. Chapman's  
2 attention. They were taken care of through administra-  
3 tive channels.

4 Q Let me ask you a question. In determining  
5 these two areas of concern, did you look to any  
6 objective standard, or was it totally the subjective  
7 understanding of the three of you that identified the  
8 issues?

9 A It was a subjective decision by the three  
10 of us, recognizing that this -- that these were the  
11 items that were within our scope -- within our charter,  
12 that were involving either an allegation of intimidation  
13 or a cover-up.

14 Q But did you look to any code? Did you look  
15 to the CFR or any regulations or anything like that in  
16 determining what the standard for harassment and  
17 intimidation might be?

18 A Mr. Keely or Mr. Spangler may have discussed  
19 that point, but to the best of my knowledge we did not  
20 get deeply involved in setting up a specific standard.

21 Q So you yourself did not look to a code or  
22 regulation?

23 A No.

24 Q And you didn't order anyone on the team to  
25 look to a specific code or regulation?

6-5

1 A No.

2 Q You didn't feel it was necessary?

3 A The question did not come up.

4 Q When you met with Mr. Clements on the 4th  
5 of August, the memo indicates that he had heard rumors  
6 of complaints. What were those rumors that he had  
7 heard, or what did he tell you about the rumors that he  
8 had heard?

9 MR. HARTMAN: I would like to renew at this  
10 point my hearsay objection for the record.

11 BY MS. SAGINAW:

12 Q What is your understanding of the rumors  
13 that he heard?

14 A My understanding was that he had been  
15 informed by an outside source that there were rumors  
16 concerning possible cover-up and intimidation of  
17 quality assurance personnel.

18 Q Were any individuals identified to you?

19 A No, ma'am.

20 Q Were any specifics about the allegations  
21 identified to you?

22 A No.

23 Q What context they were made in --

24 A I was merely informed that he was setting  
25 up a -- wanted me to set up an investigative group to

1 look into those allegations.

2 Q So you're not in any way certain that the  
3 two concerns that you identified in this report were  
4 the concerns of Mr. Clements when he approached you on  
5 August 4th?

6 MR. HARTMAN: I'd like to object to that as  
7 well.

8 MS. SAGINAW: On what ground?

9 MR. HARTMAN: You're asking the witness  
10 to state what he believed was in Mr. Clements' mind.

11 MS. SAGINAW: I am not. I'm asking him  
12 to state what he understood on August 4th.

13 THE WITNESS: I don't know. We conducted  
14 the investigation.

15 BY MS. SAGINAW:

16 Q That's exactly what I'm asking you. You  
17 don't know whether what you investigated has anything  
18 to do with the matter for which you were first contacted?  
19 You just don't know that; is that correct?

20 A That's correct.

21 Q It might be -- if you happened to hit that  
22 complaint, and it might not be; is that correct?

23 A I would mention that we interviewed  
24 everyone.

25 Q Okay.

1           A       -- that was in a professional, nonsupervisory  
2           position.

3           Q       Okay. And the questionnaire -- the  
4           answers to the questions are not available today because  
5           they've been discarded by your team, so all we know are  
6           these two areas that you identified -- you and your  
7           team members identified? The questionnaires no  
8           longer exist; is that right?

9           A       The questionnaire no longer exists.

10          Q       Did you make any notes as to what the other  
11          concerns of the employees were?

12          A       No, I did not. And correct me -- I am  
13          assuming that you're discussing the administrative  
14          concerns.

15          Q       Yes. The other concerns.

16          A       No, there were no notes made to that.

17          Q       Okay. So a record no longer exists as to  
18          what those concerns might be, except what you personally  
19          remember?

20          A       That's right.

21          Q       Could you please tell me what some of the  
22          other administrative concerns were that you remember  
23          today? You mentioned the inability to obtain cars  
24          and issues regarding settlements of claims. Can you  
25          think of any others?



1 for the grounds stated earlier dealing with  
2 confidentiality.

3 MS. SAGINAW: That if the title of this  
4 is reported, it will somehow --

5 MR. HARTMAN: That's correct.

6 MS. SAGINAW: I'll rely on my earlier  
7 objection that personal confidentiality cannot be  
8 applied in that circumstance.

9 BY MS. SAGINAW:

10 Q The report indicates that a majority of the  
11 individuals interviewed used as an example of an area  
12 of concern an investigation of which Mrs. Kessler was the  
13 acting team leader.

14 What does the report mean when it says a  
15 majority? Can you give me an idea of the numbers  
16 involved in that?

17 A No, I cannot.

18 Q Is that because you didn't look over the  
19 information, or is that because you don't recall?

20 A No, I did not look over the information.  
21 I do not -- The investigative team -- I do not  
22 recall the investigative team making any specific  
23 numerical comparison.

24 Q But just that a majority of the people  
25 identified this example; is that right?



6-10

1 A Yes.

2 Q Do you ever have an opportunity to speak  
3 with Mrs. Kessler?

4 A Yes.

5 Q Can you tell me about that opportunity that  
6 you had?

7 A I knew who Mrs. Kessler was. I think that  
8 she had departed before Mr. Sprangler or Mr. Keeley  
9 came on board. I made the initial telephone call to  
10 Mrs. Kessler and established the contact between Mrs.  
11 Kessler and the investigative team.

12 Q So she quit sometime between the time that  
13 you were contacted by Mr. Chapman -- I'm sorry -- by  
14 Mr. Clements and the time that actual investigation  
15 of --

16 A No, ma'am.

17 Q No?

18 A She had quit prior to that time.

19 Q But you were able to contact her?

20 A Yes, ma'am.

21 Q Had you met her at TUGCO prior to her  
22 departure?

23 A Yes, I had.

24 Q What was that context?

25 A The informal context, the social context

6-11

1 of working in the same building.

2 Q What was her position -- her formal  
3 position --

4 A She was, I believe, an auditor working  
5 for Mrs. Anderson.

6 Q Was Mr. Vega in the same department?

7 A Yes. Mrs. Anderson reported to Mr. Vega.

8 Q What is your understanding of why Mrs.  
9 Kessler left?

10 A Mrs. Kessler had a degree in psychology.  
11 She changed jobs basically to be with her husband and  
12 take on a job which they could both be involved with,  
13 out of the nuclear area.

14 Q Do you know where she went to work?

15 A Yes, I do.

16 Q Where is that?

17 A She is working in Boys Town, Nebraska.  
18 At least at the time that we did this investigation.

19 Q Do you know how long she had been working  
20 as an auditor prior to that?

21 A No, I do not.

22 Q Is it common to have someone with a  
23 psychology background working as an auditor?

24 A I can't answer that question.

25 Q You don't know?

1 A No.

2 Q What do you know about the auditing aspect  
3 of nuclear investigation? Have you ever had any  
4 direct dealings with auditors, other than this report?

5 A I have been audited in one aspect of the  
6 engineering administrative services area, that area  
7 which deals with the Operations Support Committee.

8 Q Who were you --

9 A -- Operations Review Committee.

10 Q Who were you audited by?

11 A At that time I was audited by Ms. Spencer.

12 Q When was that?

13 A It would have been last year, but I'm  
14 unclear on the specific date.

15 Q What was the result of that audit?

16 A We made a -- We were asked to make a few  
17 minor procedural changes, which we took care of.

18 Q Briefly, can you tell me what those were?

19 A No, I can't.

20 Q You don't recall?

21 A No. There was no problem with identifying  
22 those. It's just that I don't recall.

23 Q It wasn't a substantive issue?

24 A No, they were not.

25 Q When you spoke to Mrs. Kessler regarding

6-13

1           this report -- in conjunction with this report, did you  
2           speak to her about any personality conflicts that she  
3           was having on the job?

4           A       No, I did not.

5           Q       What did you speak to her regarding?

6           A       I indicated to her very specifically that  
7           we were investigating a rumor and that I wanted to make  
8           her name available to Mr. Sprangler and Mr. Keeley,  
9           that they would get in touch with her. Basically the  
10          telephone call was to introduce those two individuals  
11          when they called as a later date.

12          Q       So you did not speak to her in any detail  
13          about the --

14          A       No, I did not.

15          Q       On the next page, page 5, the report  
16          indicates that this problem that Mrs. Kessler was  
17          concerned about with welder identification had been  
18          identified on January 27, 1982. Were you aware of  
19          that?

20          A       No, I was not.

21          Q       You really wouldn't have any reason to be  
22          because that wasn't an area in which you normally  
23          worked?

24          A       That is correct.

25          Q       Do you know whether Mrs. Kessler actually

6-14

1 signed the audit report that was eventually issued  
2 concerning this welding matter?

3 A No, I do not.

4 Q Is that again because you left that kind  
5 of questioning to Keeley and Sprangler?

6 A Yes, I did not personally see that report.

7 Q So you wouldn't know about the extensive  
8 changes that were made or anything dealing with that?

9 A No, I would not.

10 Q Was the conclusion of your team that there  
11 was no indication that QA management attempted to cover  
12 up any of the changes made in the draft report -- how  
13 did you base -- What did you base that conclusion on?

14 A Because when the team checked the files,  
15 they found -- Let's call it the draft report. They  
16 found the amended report with Mr. Vega's signature.  
17 They found the memorandum from Mrs. Kessler, and it  
18 was the opinion of the team that there was no cover-up  
19 at all, that everything had been handled in a straight-  
20 forward fashion.

21 Q And you were part of that team; right?

22 A Yes.

23 Q But you never reviewed any of the documents?

24 A I never looked at the documents.

25 Q You just felt that there was no indication

1 of a cover-up based on what you heard from Keeley and  
2 Sprangler?

3 A That's correct.

4 Q And you didn't feel it was necessary to do  
5 anything else?

6 A I did not.

7 Q Paragraph 2 of the investigative team  
8 findings states that "The report remains open, as OA  
9 management has not completed an evaluation of the  
10 corrective action submitted in response to the audit --"

11 A I'm sorry, but where are you reading from,  
12 please?

13 Q Paragraph 2 of the investigative team find-  
14 ings on page 6. The last sentence.

15 A Yes.

16 Q Are you aware if that evaluation has now  
17 been made?

18 A No, I am not.

19 Q You don't know the status of that today?

20 A I do not.

21 Q Is that because you have no continuing  
22 jurisdiction over this matter?

23 A That would be correct.

24 Q You're no longer involved in anything  
25 concerning QA/QC programs at Comanche Peak; is that

1 right?

2 MR. HARTMAN: I'd like to object to that  
3 question. It has never been shown that he is involved  
4 in QA/QC programs at Comanche Peak.

5 MS. SAGINAW: It has been shown that he's  
6 involved as a member of this investigative team, and  
7 that's what I'm referring to.

8 THE WITNESS: As a member of that team, my  
9 charter was limited to the investigation itself and not  
10 to any routine closeout action of a deficiency or  
11 corrective action.

12 BY MS. SAGINAW:

13 Q So now that the report is published, you have  
14 no continuing participation in any of it?

15 A That's correct.

16 Q Okay. Paragraph 5 on the same page refers  
17 to the audit team leaders. Now, before when we talked  
18 about the word "audit," it was used in this report to  
19 refer to the investigative team of which you were a  
20 member.

21 Does the audit report referred to in this  
22 paragraph also refer to reports by your team, or is that  
23 by an auditing team?

24 A The reference is to a report prepared by an  
25 audit team.

6-17

1 Q That is not the team that you participated  
2 in?

3 A That is not the investigative team.

4 Q Okay. One response that was quoted in your  
5 report is that one interviewee said that "Serious  
6 problems existed as they often" -- "they" referring to  
7 management -- "often changed the intent of the report  
8 from that of the auditor to that of management." Do you  
9 know who made that statement?

10 A I do not.

11 Q Did you investigate that statement? Did you  
12 attempt to find out who made that statement?

13 A I did not, no.

14 Q Did you order either Keeley or Sprangler to --

15 A That statement was made to one of them -- or  
16 both of them in the course of the investigation.

17 Q Did you feel that that signified anything  
18 of importance in your investigation?

19 A I think that was considered as one of the  
20 inputs by the investigative team.

21 Q How were your concerns as to a statement such  
22 as that placated -- if I can -- What made you less  
23 concerned about a statement such as that?

24 A Because there was a procedure set up which  
25 enabled the auditor involved to take exception with



6-18

1 management comments or alterations in a report.

2 Q What was that procedure?

3 A Basically at the time -- and I would have  
4 to look elsewhere -- but I think there was a procedure  
5 where they could prepare a memorandum that would go  
6 with the report to file -- if you like -- that would  
7 indicate that they disagreed with the report as finally  
8 submitted.

9 Q And you felt that by complying with that  
10 procedure, any concern that would be indicated by a  
11 comment such as this could be dealt with?

12 A Yes.

13 Q Did your team follow that procedure carefully  
14 to make sure that those concerns were dealt with?

15 A I have no knowledge of any other specifics,  
16 other than the Kessler process.

17 Q Would you say that you personally have a  
18 purist approach or a practical approach to problems  
19 such as harassment and intimidation on the job?

20 A I'm sorry?

21 Q The report on page 7 refers to QA -- says  
22 that QA management takes a practical approach to the  
23 application of quality criteria of Appendix B. And it  
24 says, "On the other hand, the purist philosophy of some  
25 audit team leaders is directly opposed to that of

6-19

1 management. Which of those schools -- the practical  
2 approach or the purist philosophy do you personally  
3 consider yourself to take?

4 A I'm answering the latter question.

5 Q I'm asking you -- Your report refers to  
6 those who take a practical approach and those who take  
7 a purist philosophy. I'm asking you how you view  
8 yourself. Which of those camps would you see yourself  
9 fitting into?

10 A I would see myself in the practical approach  
11 situation, with the realization that the discussion  
12 here between the practical approach and the purist  
13 philosophy -- the purist philosophy would tend to regard  
14 these things as black and white, whereas the so-called  
15 practical approach would admit to some varying shades  
16 of gray.

17 Q Can you give me an example of the gray  
18 area within the practical approach?

19 A No, I cannot. I cannot draw on a good  
20 example.

21 Q Well, the two instances that were made  
22 the basis of your team's investigation, those to you did  
23 not fall in a gray area; is that right?

24 A I would say that they fell in a gray area.

25 Q So those would be examples of a gray area

1 that the practical approach would --

2 A The initial one, the allegation on the --  
3 I think with the alteration of the report would be one  
4 which might fall in a gray area, and the difference  
5 between the auditor who prepared the report and the  
6 manager who subsequently reviewed the report.

7 Q And because you're a member of -- if I can  
8 be loose with this -- because those are the terms that  
9 are used in the report. But because you consider  
10 yourself as being in the practical approach camp  
11 rather than the purist philosophy area, that gray area  
12 dealing with the alleged cover-up in the audit report  
13 would not be significant?

14 A In this case we did not see that there was  
15 a particular gray area, in the sense that again there  
16 was an established practice followed, and that this  
17 process was done very open; and there was no cover-up  
18 of any of the information. It's all in the file and  
19 available.

20 Q So the fact that the proper procedure was  
21 filed convinced you that this was not a significant  
22 claim?

23 A Yes, that based upon our investigation, as  
24 outlined here.

25 Q Is it your view that those who fall into

1 what your report views as the purist philosophy are  
2 unnecessarily strict in their construction of what  
3 constitutes health or safety hazards -- or health or  
4 safety issues?

5 A No.

6 Q What is your view of the purist approach?  
7 You said that you felt that those people tend to see  
8 things in black and white. What do you mean by that?

9 A Basically you start with the process of  
10 looking in the FSAR. You also review various ANSI  
11 standards. You come up with a checklist that is to be  
12 used in this audit process.

13 A purist might look at this, and it may say,  
14 "Is there a procedure, and does that procedure say  
15 specifically certain words?"

16 A gray area might well be that the procedure  
17 existed. There were words in there that complied with  
18 the intent but weren't as specific as the purist might  
19 have expected.

20 MR. HARTMAN: Could we go off the record a  
21 minute.

22 (Short recess.)

jonl

7a

1 BY MS. SAGINAW:

2 Q Okay. Turning to page 8 of the report --  
3 this is the allegation of the intimidation -- you said  
4 earlier that you felt that one of the concerns being  
5 investigated by your team fell into a gray area, and  
6 I assume that was the area that we were just discussing  
7 about with Mrs. Kessier; is that right?

8 A (Witness nods affirmatively.)

9 Q To you, this second area of investigation  
10 did not fall into the gray area?

11 A I don't understand that question.

12 Q Mr. Taylor testified earlier that when we  
13 were talking about what constitutes a gray area in the  
14 practical approach to these problems.

15 A Going back to page 7 of 12, first of all  
16 the discussion was put in there, was put in to attempt  
17 to explain the reason that you might see a difference of  
18 opinion between an auditor and his management.

19 I am not in the QA business.

20 Q I understand that.

21 A And from the standpoint of trying to explain  
22 QA management's approach as opposed to the purist  
23 approach, I suggest that you would want to go to some other  
24 source for that.

25 Q Mr. Taylor, you were a member of a three-man

1 team that signed this report and it seems to me extremely  
2 important which school you might fall in in making  
3 decisions as to what constitutes a significant incident  
4 of harassment on a job and what does not.

5 MR. HARTMAN: I would like to object to this.  
6 The issue is whether there was an incident which involved  
7 a cover-up. It is easy to address that. One of the things  
8 you can look at is the paper trail. It doesn't require  
9 those individuals preparing this report to look at the  
10 underlying merits of the audit. And I think that is what  
11 you are asking this witness to do.

12 BY MS. SAGINAW:

13 Q You signed the report, reviewed the material  
14 and made a determination. Part of that determination  
15 discusses the two different schools of thought. That is  
16 what I am questioning about.

17 A And I believe I have answered that as to the  
18 fact that there is a difference between the two -- could  
19 be a difference between the two groups.

20 Q I understand. Turning to page 8, in your  
21 view on paper -- I am talking about your review as it was  
22 presented to you. Did you consider this to be of  
23 significance, this allegation of intimidation?

24 A The allegation of intimidation was  
25 sufficiently significant to warrant us reporting it to the

jon3

1 vice president, nuclear, for his consideration.

2 Q Did you ever speak personally to the  
3 person who was -- withdraw that -- speak personally to  
4 the person accused of making the intimidating statements  
5 that are the subject of this investigation?

6 A Not in the routine course of this  
7 investigation.

8 Q Had you spoken to him prior to this  
9 investigation?

10 A Yes.

11 Q And what were the circumstances surrounding  
12 that?

13 A Normal routine business, management business.  
14 Again, I attended meetings in which he was participating  
15 and at which I was an observer.

16 Q Did you ever have reason or did you ever talk  
17 to him about the specifics of this allegation?

18 A No, I had not.

19 Q Have you done that since the --

20 A No, I have not.

21 Q Can you tell me what his job title is?

22 A I don't have this. This is one of the --

23 Q I'm on page 8.

24 A Okay. Would you rephrase your question?

25 Q Yes. We are talking about the second issue

1 concerns a person accused of making intimidating statement<sup>s</sup>  
2 on the job. You say you have attended meetings with this  
3 person and I want to know what his job title is.

4 A All right. And I wish to back up a bit. I  
5 was thinking of a different individual. This individual  
6 I have is a QA auditor. I have very little contact with  
7 that individual.

8 Q You have not attended meetings with him?

9 No, I have not.

10 Q Do you consider him to be a gruff individual?

11 MR. HARTMAN: Could we have a clarification?

12 Are you now addressing the individual who allegedly  
13 intimidated someone?

14 MS. SAGINAW: Yes.

15 MR. HARTMAN: Okay. And you are talking about  
16 the second paragraph on page 8.

17 MS. SAGINAW: I'm not talking about any  
18 particular paragraph. I am asking him if he knows the  
19 person and what he thinks of that person.

20 THE WITNESS: I'm sorry. You had referred  
21 me to page 8 and I had interpreted your questions as  
22 addressing the top part of the page as opposed to the  
23 bottom.

24 Now, if you --

25 MS. SAGINAW: Well, there's no -- we are



jon5

1 talking -- there is one person whose name is not  
2 revealed in this report, so I have to refer to him as  
3 the person accused of making intimidating statements.  
4 This is a person you know and I am asking you, number  
5 one, what his job title is and you told me he was a QA  
6 auditor and I want to know what you think of that person  
7 and how he appears to you.

8 MR. HARTMAN: May I interrupt just one  
9 second to go a little bit further. I presume this is a  
10 person that you are not providing a name for, the person  
11 making the intimidation. As I understand the  
12 confidentiality, it doesn't run to people that  
13 ostensibly are the perpetrators of intimidation but only  
14 the people who are reporting the intimidations. So to  
15 that extent you quote unquote are protecting the  
16 confidentiality of somebody allegedly making statements.  
17 I would object to your not providing us with that name.

18 May we go off the record for a minute?

19 (Discussion off the record.)

20 THE WITNESS: It is my understanding that you  
21 are asking me to disclose the identity of the individual  
22 who has been granted confidentiality in connection with the  
23 allegation of intimidation referenced on page 8 of the  
24 report.

25 That individual has not waived confidentiality

1 and we are not willing to disclose his name.

2 At the present time, as I indicated  
3 earlier, we are in the process of trying to negotiate  
4 through legal counsel a protective agreement which would  
5 cover both individuals, both witnesses of GAP who  
6 requested confidentiality as well as witness of the  
7 applicant. And by disclosing that at this point it would  
8 make those investigations impossible.

9 MR. HARTMAN: The negotiations notwithstanding  
10 I would still state the Staff's position. The  
11 negotiations notwithstanding, he has all of the assurance  
12 of quote unquote confidentiality to the alleged  
13 intimidator is improper.

14 MS. SAGINAW: I would like to state my  
15 understanding as to this and as to the issue of the  
16 confidentiality extending to disclosure of events and  
17 instances that we discussed earlier in the deposition.  
18 It is my understanding that we should have a ruling on  
19 this sometime this afternoon and we would like to  
20 reserve the right to bring the witness back and to  
21 requestion him on those areas that we can't go into today  
22 because of these matters.

23 Mr. Kelley, you are going to have to bear  
24 with my long sentences. I am going to have to refer to this  
25 person as the one accused of making intimidating statements.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

BY MS. SAGINAW:

Q You were telling me about your meetings with this man. Can you continue? I was asking you mostly about his demeanor. There were -- complaints have been lodged that his demeanor itself was rather intimidating. I am wondering what your response to him is.

A I wonder -- I still am confused and wonder if there still does not exist a misunderstanding.

With reference to page 8 --

Q Yes.

A -- it is my understanding that the reference at the top of the page is a different individual than the one to which you are referring.

Q Okay. Why don't you explain that to me. What is your understanding of page 8 and the meeting of the --

A During the investigation, in response to questions 4 and 6, an individual indicated a preference of having to talk to Mr. Clements. That individual did so and made some comments as indicated in sub 1 and 2.

Based on those comments Mr. Clements expanded the charter of the investigative group and we then proceeded to investigate the allegation.

Q Well --

A That investigation then led us into the areas.

1 Q All right. The person here who met with  
2 Mr. Clements express his concern that there were threats  
3 that someone was going to be hurt physically or politically?  
4 As indicated by your report.

5 A That is correct.

6 Q Was that threat a political or physical  
7 harm made by the person who was then accused of making  
8 intimidating statements referred to at the bottom of the  
9 page?

10 A I'm sorry . I didn't understand your  
11 question. Try it again please.

12 Q Okay. The top part of page 4 refers to a  
13 person who met personally with Mr. Clements. In meeting  
14 with him he discussed the fact that people have been  
15 threatened with physical and political harm on the job.  
16 Is that right?

17 A Yes.

18 Q I am asking you whether that threat of  
19 physical and political harm was made by the person who was  
20 referred to on the bottom part of page 8?

21 A Yes.

22 Q Okay. So we are speaking about the same  
23 person.

24 A I think we are now.  
25

jon9

1 Q Okay. That's the person I have been  
2 referring to all along.

3 Now, that person that made the threats of  
4 physical or political harm, how would you describe him  
5 personally?

6 I think I asked you earlier: Do you consider  
7 him to be a gruff person.

8 MR. HARTMAN: I am not sure of the relevance  
9 of his opinion of the man.

10 MS. SAGINAW: Well, he has made a suggestion  
11 the determination that these allegations of political  
12 or physical harm are not significant. There have been  
13 numerous people who have said that he was - this person  
14 is intimidating in his manner, that -- I think an allegation  
15 that he threatened people politically or physically is an  
16 important one and I am asking him how that person appears to  
17 him.

18 MR. HARTMAN: Well, that's the problem we  
19 have, the last two words, "to him." I am not sure --

20 MS. SAGINAW: Well, he has had occasion to  
21 meet the man.

22 MR. HARTMAN: Right. I am not sure his opinion  
23 of his intimidation ability, intimidating ability or lack  
24 thereof is of any moment.

25 MS. SAGINAW: But he did make a determination

1 that this person's remarks are not significant or important  
2 enough to be referred to the NRC.

3 MR. HARTMAN: I think perhaps it might be  
4 advantageous if we tried to stay away from that area of  
5 inquiry until the question of confidentiality is sorted out.  
6 If we have a protective agreement worked out we can address  
7 the matter with a certain amount of specificity.

8 MS. SAGINAW: Well, my questions to him about  
9 how he finds the person --

10 MR. PIRFU: I have no problem with you  
11 asking him this. I have a problem if you ask him how he  
12 knows this person appears to others. But as to whether he  
13 intimidates him, I mean I use the analogy of the reputation  
14 in the neighborhood as the character of it. I mean how he  
15 appears to other people may be relevant. How he appears  
16 to Mr. Taylor is not important, in my view

17 MS. SAGINAW: I am just asking him for the  
18 description of him since he had this determination. In my  
19 view it is relevant and it is certainly admissible.

20 MR. PIRFU: I have stated my objection.

21 MR. HARTMAN: I would like to renew my  
22 relevancy objection.

23 MR. PIRFU: I have stated my objection.  
24 There is nothing more I can do.

25 MR. HARTMAN: I would like the witness not

1 to answer the question and I would prefer that we stay  
2 away from these lines of questions until the matter of  
3 confidentiality is worked out.

4 MS. SAGINAW: Well, I can't continue  
5 questioning on this matter without asking him a lot of  
6 questions about this person. Do you want to call off the  
7 deposition until tomorrow or until there is a determination?

8 MR. HARTMAN: No, I think you could ask certain  
9 other types of questions to determine if nothing else the  
10 methodology that he went through in reaching this  
11 conclusion.

12 MR. PIRFU: I am not prepared to tell you  
13 what to do.. I just have an objection to the question.

14 MS. SAGINAW: I am not asking you to tell me  
15 what to do. I was asking him if we should call off the  
16 deposition.

17 MR. PIRFU: That is between you two.  
18 All I was saying is my objection is a very narrow one  
19 and I want the record to reflect that.

20 MS. SAGINAW: That's fine.

21 MR. HARTMAN: I would like the record to show  
22 that I am not suggesting that the deposition be called off.

23 MS. SAGINAW: Okay. Then let's continue.

24 BY MS. SAGINAW:

25 Q A person who has not been identified went to

1 go to meet with Mr. Clements and talked about harassment  
2 on the job by a person who has also not been identified  
3 in the report. What do you know about this threat of  
4 physical or political harm that was reported by employees  
5 on site?

6 A No more than is indicated in the report in  
7 discussions which take place on page 9.

8 Q This report is your entire understanding of  
9 the incident, of the instance?

10 A That's right.

11 Q You did no outside investigation?

12 A Nothing other than what was documented in  
13 this report.

14 Q And you did not request that other people  
15 investigate the matter any further than what is documented  
16 in the report?

17 A That's correct.

18 Q The report indicates that this person who  
19 has been accused of making these intimidating statements  
20 stated very strongly that he did not want QA personnel telling  
21 craft people to initiate repairs.

22 Do you know how he made that statement very  
23 strongly?

24 A I believe that that is again described in the  
25 report.



1 Q I'm asking you specifically.

2 A Do I have specific knowledge?

3 Q Yes.

4 A No, I do not.

5 I did not interview any of the people that  
6 were involved in this allegation.

7 Q And in your discussion with your team  
8 members you did not ask them what the language "very  
9 strongly" meant?

10 A It was my impression that "very strongly"  
11 meant the way the individual entered the room and his state  
12 of concern.

13 Q Do you know whether obscenities were used?

14 A I do not.

15 Q Do you know whether he raised his voice?

16 A I believe that is indicated in the report  
17 that he was initially speaking in a loud voice.

18 Q The report also indicates that he had a  
19 sincere worry on page 9. What does your report mean when  
20 it reports a sincere worry about the physical wellbeing of  
21 QA personnel?

22 A His team felt that the QA auditors by going  
23 out of channels and speaking directly with the crafts about  
24 work which was none of their personal responsibility could  
25 come involved with the crafts and possibly suffer injury.

1 Q Was there a history of injury or political  
2 harm by workers at the plant?

3 A There are none that I know of.

4 Q Did you think it was important to look into  
5 that area?

6 A No, I did not. It was outside the scope of  
7 this investigation.

8 Q Any kind of systematic statements that would  
9 cause his sincere worry of physical harm you felt was outside  
10 the scope of your investigations?

11 A No. I think his statement of concern was  
12 within the scope of the investigation. It was made to the  
13 team and it was reported.

14 Q But you did not look into whether they had  
15 ever been made before?

16 A That is correct.

17 Q Why is that?

18 MR. HARTMAN: I would like to object to  
19 the question. The witness earlier stated that he interviewed  
20 a certain amount of people; he identified the class of people  
21 they interviewed, and stated that they followed up on all  
22 significant concerns.

23 MS. SAGINAW: And I am asking him why did he  
24 not consider it significant to look into other allegations  
25

jon15

1 of physical and political harm.

2 MR. HARTMAN: That presumes that there were  
3 other allegations than physical or political harm.

4 MS. SAGINAW: He told me there were.

5 MR. HARTMAN: Brought to his attention?

6 THE WITNESS: No, ma'am.

7 BY MS. SAGINAW:

8 Q There were not?

9 A No, ma'am.

10 Q You have no idea whether there is a history  
11 of this?

12 A No, ma'am. This is the only event of  
13 which I have knowledge.

nd7a

14

15

16

17

18

19

20

21

22

23

24

25

1 MS. SAGINAW: We're going back on the  
2 record after a discussion off the record.

3 MR. HARTMAN: The purpose of the last  
4 recess was to determine the status of whether, and  
5 if so, when, parties would be proceeding to the Board  
6 to get a ruling on the issue of confidentiality of  
7 certain witnesses.

8 It's my understanding that we will be  
9 negotiating and agreeing upon a protective agreement --  
10 either later on this afternoon or this evening. It is  
11 also my understanding that Mr. Roisman does not  
12 anticipate going to the Board with this issue, but  
13 rather that we will be working the matter out through  
14 this protective agreement.

15 In the interim, I suggest that we just  
16 continue to cross-examine, and the parties pass to the  
17 extent that they're unable to ask questions concerning  
18 specific matters.

19 MR. PIRFO: I have nothing to add to that.

20 MS. SAGINAW: We'll continue. I'll reserve  
21 the objections to the memo dated September 9th, consider-  
22 ing the confidentiality of those, the report of the  
23 forged signature and the person who allegedly forged --  
24 the signature was forged.

25 We will turn to the next page, which is a

1 memo signed by Clements to Chapman dated September 9,  
2 entitled "Request for Clarification/Action of QA  
3 Items."

4 BY MS. SAGINAW:

5 Q Mr. Kahler, was this memorandum from  
6 Clements routed through your office?

7 A We're discussing the August 29th?

8 Q No. September 9th. Directly after that  
9 memorandum of September 9th.

10 A I'm sorry. What's the subject?

11 Q "Request for Clarification/Action of QA  
12 Items."

13 MR. PIRFO: May I get a clarification? I  
14 see an October 5th date on there. Is that what you're  
15 speaking of?

16 MS. SAGINAW: No. Let's go off the record.

17 (Discussion off the record.)

18 MS. SAGINAW: Back on the record.

19 BY MS. SAGINAW:

20 Q Do you recall my question?

21 A Yes, I do.

22 At this time I do not recall having seen  
23 this memorandum.

24 Q It went from Clements to Chapman. Chapman  
25 did not himself -- To your knowledge, did Chapman

1 participate in this investigation personally?

2 A To the best of my knowledge, Mr. Chapman  
3 was not interviewed.

4 Q No, that wasn't my question. My question  
5 was: Did he participate in the matter, or would he have  
6 referred this to someone else?

7 MR. HARTMAN: Could you clarify the question,  
8 perhaps by asking who Mr. Chapman is? The witness is  
9 confused at this point.

10 BY MS. SAGINAW:

11 Q Do you know who Mr. Chapman is?

12 A Mr. Chapman is the Manager for Quality  
13 Assurance.

14 Q And this is a memorandum that is signed by  
15 Mr. Clements?

16 A Yes.

17 Q And it's to Mr. Chapman?

18 A Yes.

19 Q And my question to you is whether Mr.  
20 Chapman ever conferred with you about this memorandum,  
21 whether he referred the contents of it to you or what --  
22 if you had any dealings with the contents of this  
23 memorandum?

24 A No, I did not. I neither prepared the  
25 memorandum, nor was Mr. Chapman's response to this

1 memorandum discussed with me.

2 Q Okay. Are you aware of these concerns  
3 that were voiced by Mr. Clements?

4 A Yes, because I believe they can be seen  
5 in the -- to a large degree in the body of the report.

6 Q This memorandum was dated September 9th, and  
7 the report was dated August 19th. So these comments  
8 were made after your report, assumedly in response to  
9 your report.

10 A I'll have to go back to my earlier statement.  
11 This does not ring a bell at all.

12 Q That's fine.

13 The next attachment is dated October 5,  
14 1983. It is also from Mr. Chapman to Mr. Clements. It's  
15 in response to the memo of September 9. Did Mr. Clements  
16 ever speak to you about this document, or are you  
17 familiar with its contents?

18 A I'm familiar with its contents through  
19 having seen it as part of this package. I do not recall  
20 having seen it in the October 5th period.

21 Q Have you had an opportunity to speak to  
22 anyone about it?

23 A No, I have not.

24 MS. SAGINAW: I'm going to have to reserve  
25 the same reservations as to this document as I did

8-5

1 earlier, because there are so many words that are  
2 deleted. So we'll come back to that at a later time.

3 BY MS. SAGINAW:

4 Q I next have a letter from you dated  
5 August 23, 1983, to Mr. Clements. It's entitled  
6 "Report of Investigation on Intimidation and Cover-Up  
7 on the Part of Dallas QA Management." Why was this  
8 cover letter dated August 23rd and the actual report  
9 dated August 19th?

10 A I'm sorry. Where are we now?

11 Q It's a cover letter dated by you forwarding --

12 A It seems to me that August 19 followed by an  
13 August 23 submittal date is appropriate. Perhaps I  
14 misunderstood your question.

15 Q No, that's -- It took -- You did not  
16 submit the document the day you signed it?

17 A Apparently not.

18 Q Okay. You say that there was an extensive  
19 investigation, and that after this investigation it was  
20 found that there was no evidence that would support  
21 either an allegation of cover-up or intimidation.

22 Had you ever participated in another  
23 investigation of this type?

24 A I have done reports of survey while on active  
25 duty with the Air Force.



1 Q How did this compare in terms of the  
2 investigation work that went into it?

3 A In a degree very similar in that a report  
4 of investigation involves taking unsworn statements and  
5 using those statements as a basis for coming to a  
6 conclusion.

7 Q And it's your conclusion that this was  
8 extensive, even though it was based solely on questions  
9 to 23 people on site?

10 A I think the fact that --

11 MR. HARTMAN: I'd like to object to that.  
12 We haven't established the 23 people are in fact on  
13 site.

14 MS. SAGINAW: The 23 people.

15 THE WITNESS: I think that indicates to a  
16 degree the extensiveness of the investigation.

17 MS. SAGINAW: Okay.

18 BY MS. SAGINAW:

19 Q There is next a memo from Clements to you  
20 dated August 29th where he asks for clarification on four  
21 points. Do you have that in your package?

22 A Yes.

23 Q Is what follows in the next -- your  
24 September 26th memorandum that follows, is that your  
25 response to these questions?

8-7

1           A       The memorandum dated September 6th is in  
2 response to those questions.

3           MR. PIRFO: I'm sorry. We don't have a  
4 memo dated September 26th.

5           MS. SAGINAW: 6th.

6           BY MS. SAGINAW:

7           Q       It says, "By memo of August 23, 1983."  
8 And you say, "The team response to each point is  
9 attached." I do not have that attachment.

10           Okay. We have to skip over the next memoran-  
11 dum, the minutes of the meeting.

12           Is that your appropriate -- It -- After  
13 the minutes of the meeting is your response to Mr. --

14           A       Well, mine is loose, and it has been sorted  
15 out, so I have the response available.

16           MR. PIRFO: My copy is the same way. It  
17 goes on -- The response is right immediately following.

18           MS. SAGINAW: Mine is not in order.

19           MR. HARTMAN: Could we go off the record  
20 for a moment?

21           (Discussion off the record.)

22           MR. HARTMAN: We took a brief recess to  
23 confirm the completeness of the September 6th memorandum,  
24 as it was supplied to the Intervenors.

25           MS. SAGINAW: We have before us a memorandum

1 that in the copy supplied to me is after the minutes  
2 of the meeting held on September 12th. It's a six-page  
3 response, the first page beginning with response by  
4 the investigative team to B. R. Clements regarding  
5 the clarification of certain points; the second page,  
6 "Requested Clarification, Page 5, Item 4"; the third  
7 page, "Requested Clarification, Page 5, Item 6"; the  
8 fourth page, "Requested Clarification," page 6, the  
9 paragraph at the top of the page; page 7, "Requested  
10 Clarification, page 6, Item 5;" and 8, "General  
11 Comments."

12 I'm going to have reserve questioning on  
13 these responses for the same reason we discussed  
14 earlier, which is that there are so many deletions  
15 that really probative cross-examination cannot take  
16 place.

17 MR. HARTMAN: The Applicant would like to go  
18 on record referencing the requested clarification, page 6,  
19 Item 5. There are no deletions at all in that paragraph.  
20 Therefore, we would object to passing on cross-examination  
21 or examination as to it at this point.

22 MS. SAGINAW: If you'd like, I can question  
23 him on that one page, but we're going to have to go back  
24 to the report. We're going to have to go back to the  
25 other responses at a later time anyway.

1 MR. HARTMAN: I believe page 6, Item 5,  
2 references a section of the report where we filled in --  
3 I believe -- virtually all of those blanks.

4 MS. SAGINAW: What I'm saying is I can go  
5 ahead and question him on this one page, but --

6 MR. HARTMAN: Okay. Why don't you do that?

7 MS. SAGINAW: -- the other pages we'll have  
8 to reserve because --

9 MR. HARTMAN: I understand that.

10 (Pause.)

11 MS. SAGINAW: I think this clarification  
12 pretty well speaks for itself. I don't think I have  
13 any questions on that right now.

14 Let's go off the record a minute.

15 (Discussion off the record.)

16 MS. SAGINAW: Back on the record.

17 I am now looking at the minutes of the  
18 meeting between B. R. Clements and TUGCO Quality  
19 Assurance personnel dated September 12, 1983.

20 BY MS. SAGINAW:

21 Q I think you indicated earlier that you  
22 attended that meeting; is that right?

23 A That's correct.

24 Q There's also a deletion -- the top paragraph  
25 of the minutes. Your attorney has informed me that those

8-10

1 deletions will not be able to be filled in at this  
2 point. So I may come back at a later date and ask you  
3 questions concerning that top paragraph.

4 A I understand.

5 Q About how long did this meeting take? Do  
6 you recall?

7 A Oh, I'd estimate perhaps an hour.

8 Q And where was it held?

9 A In Mr. Clements' office.

10 Q In paragraph 4 of the minutes of the  
11 meeting, it states that "Mr. Clements stated he was now  
12 satisfied with the report and believes that no cover-up  
13 or intimidation took place."

14 The wording "now satisfied" tells me that he  
15 had not been previously satisfied. Was his area of  
16 dissatisfaction only those issues that he pointed out  
17 in his memorandum, or did he have other areas of  
18 concern?

19 A To the best of my understanding, it was  
20 these items that are identified in paragraph 3.

21 Q And those items that he identified in his  
22 memorandum to Mr. Chapman, I would suppose?

23 A That was a separate issue, as opposed to --

24 Q That was not what he was referring to here?

25 A No.

1 Q Paragraph 5 states that "It appeared that  
2 QA management had in several instances exercised poor  
3 management practices." Was he referring to practices  
4 that had been brought to his attention as a result of  
5 your report?

6 To your understanding, was he referring to --

7 A Yes.

8 Q It says, "For example, although QA management  
9 had discussed with someone, conduct with a group of  
10 auditors and informed him that it was inappropriate,  
11 the results of this conversation were not provided to the  
12 audit group."

13 Were the results of that conversation  
14 provided to your investigative group?

15 A I was not directly involved, but I believe  
16 that that information was provided to us through the  
17 interview process.

18 Q Do you think that Mr. Keeley or Mr.  
19 Sprangler might know about that?

20 A Yes.

21 Q On the last page of the minutes it states  
22 that "Mr. Clements indicated that there had been an  
23 additional allegation concerning falsification of a  
24 signature on an audit report."

25 Is it your understanding that he's

8-12

1 referring to the same falsification reports that we  
2 discussed very briefly earlier in this deposition?

3 A That's correct.

4 Q I'm going to reserve questioning on that  
5 as well.

6 I believe you testified earlier that this  
7 meeting of September 12th was the last participation you  
8 had with this -- the last time you participated in  
9 anything having to do with this report; is that  
10 right?

11 A I believe that's correct.

12 Q Are you aware of the fact that in November  
13 of '83, TUGCO came out with a new safety program on  
14 site?

15 A A new safety program?

16 Q Or a new program dealing with QA processes.

17 MR. HARTMAN: Could I object to that  
18 question? You have to identify which procedure or  
19 program you're talking about.

20 MS. SAGINAW: I'm talking about a procedure  
21 that was developed by TUGCO where they established  
22 an Ombudsman, and they established a hot line program.  
23 They started tracking incidents of harassment and  
24 intimidation. They hired a private investigator, and  
25 they started recording more thoroughly exit interviews.

8-13

1 Are you familiar with any of those procedures?

2 THE WITNESS: I'm aware of that program.

3 BY MS. SAGINAW:

4 Q How did you become aware of that program?

5 A Personnel on my staff were involved in  
6 laying the foundation for that program.

7 Q Which personnel --

8 MR. HARTMAN: Excuse me. I'm going to  
9 object on the grounds of relevance until you establish  
10 a relationship between this activity and the --

11 MS. SAGINAW: That's exactly what I'm trying  
12 to establish.

13 MR. HARTMAN: Fine.

14 BY MS. SAGINAW:

15 Q Which personnel on your staff?

16 A Mr. Keeley was involved and a Mr. Pendleton  
17 was involved.

18 Q Do you know whether these new procedures  
19 grew out of any findings of the report -- of this  
20 report dated August 19th?

21 A I do not.

22 Q Do you know of any relationship between  
23 the new procedures and the report?

24 A None was ever brought to my attention.

25 Q Are any of the procedures that have been



8-14

1 instigated since the time of your report -- Withdraw  
2 that.

3 Do you feel that any of these procedures  
4 that have been instigated since the time of your  
5 report address some of the issues that were raised in  
6 your report?

7 A Indirectly.

8 Q And how's that?

9 A I think indirectly in that they have  
10 provided an avenue for people to make known their  
11 concerns regarding the quality assurance program/  
12 quality control program in effect at Comanche Peak.

13 I do not feel that it is a direct result  
14 of the investigation.

15 Q Is it your opinion that had some of these  
16 programs been in effect at the time of your investigation  
17 that perhaps some of the incidents would not have  
18 occurred?

19 MR. HARTMAN: I'd like to object to that  
20 question. You're calling for a conclusion.

21 BY MS. SAGINAW:

22 Q Are you aware of what the private investiga-  
23 tor does under this new program?

24 MR. HARTMAN: I'd object to that on the  
25 grounds that you haven't established a relationship

8-15

1 between the investigator and the report.

2 BY MS. SAGINAW:

3 Q Who is Mr. Pendleton?

4 A Mr. Pendleton works for me in the  
5 administrative area.

6 Q In what capacity? What does he administrate?

7 MR. HARTMAN: Excuse me. I'd like to object  
8 to that until you show the relationship of Mr.  
9 Pendleton to the report.

10 MS. SAGINAW: Mr. Pendleton works with Mr.  
11 Keeley and reported to him these new safety procedures.

12 THE WITNESS: Not established by my  
13 testimony.

14 BY MS. SAGINAW:

15 Q Didn't you just tell me that Mr. Pendleton  
16 works with you -- works under you?

17 A Mr. Pendleton works under me.

18 Q And didn't you tell me that Mr. Pendleton and  
19 Mr. Keeley related to you the new safety program that  
20 has been instigated at Comanche Peak?

21 A Mr. Keeley had specific responsibilities in  
22 one area. Mr. Pendleton had other responsibilities.  
23 There was not necessarily a requirement for them to  
24 have interaction. I'm making that distinction.

25 Q Can you tell me what the areas that each

1 of them worked in are?

2 MR. HARTMAN: I'm going to object to this  
3 entire line of questioning. There has been no  
4 relationship drawn between this program to which  
5 you're referring and the report, which is supposed  
6 to be the subject of this gentleman's examination.

7 MS. SAGINAW: The subject of this gentleman's  
8 examination is investigation of harassment and  
9 intimidation at Comanche Peak. I'm trying to establish  
10 whether this program, which has been established since  
11 this report and is established by people on his staff,  
12 has any relationship to some of the problems that came  
13 up as a result of his investigation.

14 MR. HARTMAN: Then why don't you simply ask  
15 him that question?

16 BY MS. SAGINAW:

17 Q Would you answer that question, please?

18 A Okay. I thought I had. To the best of  
19 my knowledge, there is no relationship between this  
20 investigation, and the results of this investigation,  
21 and the establishment of the program to which you refer.

22 Q Who might have knowledge of whether there  
23 is such a relationship?

24 A Mr. Clements.

25 Q That's the only person that you know of

8-17

1 who might have knowledge of that?

2 A Yes.

3 Q And, of course, Mr. Keeley?

4 A Mr. Keeley had responsibilities for one  
5 small part of that.

6 Q Mr. Kahler, I was asking you earlier  
7 questions about this person who was accused of making  
8 threatening remarks of political and physical harm.  
9 I was asking you what you knew of him; and you told  
10 me that you had some knowledge of him.

11 At page 9 of your report -- well, actually  
12 it's page 10 and page 12 of your report. Let's go  
13 back to that.

14 How did the information that's contained  
15 in this report come to your attention?

16 A In the interview process, one of the  
17 individuals being interviewed brought up the subject --  
18 and I think if you'll refer to page 8 of 12, in that  
19 subparagraph 2, I believe that explains it.

20 Q This person met with Mr. Clements, as we  
21 discussed earlier?

22 A Yes.

23 Q I want to get your testimony today as to  
24 what you personally know about this. I now understand  
25 the procedure. I want your knowledge of this man and

1           what you learned through your investigation of this  
2           report as to his activity on the job.  Could you  
3           please tell me how you learned of his sincere worry  
4           about physical and political harm to people on the  
5           job site?

6           A           The report reflects the views of the two  
7           investigators.  I had no discussion with the individual  
8           concerned, so that I could assess the degree of  
9           sincerity or any other attribute of his remark.

10          Q           Do you recall when it was first drawn to  
11          your attention?

12          A           Yes.

13          Q           When was that?

14          A           I suspect during the course of the  
15          investigation.  I can't give you a specific date.  
16          It was after the incident had been brought to the  
17          attention of the investigators, after we had received  
18          an extension of our charter to look into that activity.

19          Q           Do you know when the incident occurred?

20          A           I don't recall that.

21          Q           Was it in the range of a year prior to the  
22          investigation?

23          A           I think it was more recent than that, but  
24          I do not recall.

25          Q           Are you aware of whether the other incident

1 that was reported was in any way related to this  
2 earlier incident of threat of political and physical  
3 harm?

4 A Which incident do you have reference to?

5 Q The one referred to on page 10, paragraph  
6 9.

7 A My impression is that they were not related.

8 Q They were two separate incidents?

9 A Yes.

10 Q Do you know -- Paragraph 8 of that page  
11 10 states that there were three people who indicated  
12 that the discussion had not impacted their activity.  
13 One of those three people is the one who recalls  
14 another incident of intimidation on the job. Do you  
15 know whether the other two people who said that this  
16 one incident of threat of physical and political harm  
17 did not affect their work activities, but do you know  
18 whether they were aware of any other incidents on the  
19 job?

20 A The investigative team brought no comment  
21 to my attention.

22 Q Did you ask anyone to look into that  
23 further?

24 A No.

25 Q Why not?

8-20

1           A       Again, it was outside of the scope of our  
2 particular activity.

3           Q       Well, this one response was solicited  
4 from one of those three people. I'm just trying to  
5 ascertain why one of them would have made that  
6 response and the other two, according to you, were  
7 not asked that question -- or somehow that response  
8 was not solicited from them. I'm just -- Was it  
9 a different procedure followed with the three people?

10          A       All of the group were asked the same set  
11 of questions. Only one individual apparently had  
12 knowledge of the activity described in paragraph 8.

13          Q       I'm sorry, you may have answered this and  
14 I'm sorry if I repeat myself. But do you know whether  
15 that incident was prior to the one?

16          A       I do not.

17          Q       You don't know. Were there any recommenda-  
18 tions made, either formally or informally, by your  
19 team that are not contained within this report?

20          A       No.

21          Q       Was there any kind of follow-up conducted  
22 by either you or one of the other team members?

23          A       No.

24          Q       Are there any other editors of the report  
25 beside you yourself?

8-21

1 A No.

2 Q Do you know if there were any formal  
3 actions taken by anyone else as a result of your  
4 report?

5 A I believe it is in the record that Mr.  
6 Chapman was requested to take appropriate action.

7 Q Are you referring to the minutes of the  
8 meeting?

9 A I believe the record reflects that Mr.  
10 Chapman received a list of questions from Mr.  
11 Clements and was asked to respond to those questions.

12 Q Other than that, are you familiar with  
13 any other events that took place as -- in response  
14 to your report?

15 A Not that I'm aware of.

16 Q Would you think that you would be made  
17 aware of those kinds of things in the normal course  
18 of your administrative duties?

19 A It might come to my attention if there were  
20 something written. However, Mr. Chapman reports  
21 directly to Mr. Clements and is entirely independent  
22 of my group. So verbally he could have had additional  
23 discussion.

24 Q But your understanding is really you were  
25 assigned to undertake a certain investigation. You



8-22

1 did that; you found no problem. And as far as you  
2 know, nothing formally has changed at the site as a  
3 result?

4 MR. HARTMAN: I'd like to object. That's  
5 an awfully broad question.

6 MS. SAGINAW: Well, I don't think it's  
7 really that broad. I'm just asking him to kind of  
8 summarize his understanding of the impact --

9 MR. HARTMAN: Well, for one thing, you're  
10 asking him about the site. I'm not sure the report  
11 addresses --

12 MS. SAGINAW: Complaints of harassment and  
13 intimidation at the site.

14 THE WITNESS: I can only refer back to Mr.  
15 Chapman's written comments as to what may have  
16 transpired.

17 MS. SAGINAW: Okay. I don't believe I have  
18 any other questions for you, other than those that  
19 we'll come back to when we get the information that  
20 will be provided.

21 Thank you.

22 MR. PIRFO: I just have a couple of  
23 questions.

24 BY MR. PIRFO:

25 Q Sir, did you have the opportunity in your

8-23

1 position to work with or be around quality control  
2 people or quality assurance personnel -- not working  
3 for them or with them, but did you see them in their  
4 daily activities?

5 A We were not -- in the previous location, in  
6 Bryan Tower -- not that closely co-located with the  
7 quality assurance group. They were on the 20th floor.  
8 We were on the 17th.

9 As a result, we had very little interface  
10 activities with them.

11 Q Did you ever personally observe or hear a  
12 threat made to a quality control or quality assurance  
13 person?

14 A I never have.

End 8

15 - - -

16  
17  
18  
19  
20  
21  
22  
23  
24  
25

jonl

9A

1 Q You were examined earlier with regard  
2 to recontacting the people as to their waiver of  
3 confidentiality. Do you recall that, those questions?

4 A Yes.

5 Q And you mentioned that you did not contact  
6 anyone specifically.

7 A That's correct.

8 Q Do you know if Mr. Spangler or Mr. Keeley  
9 did?

10 A They did not.

11 Q You know for a fact that they did not?

12 A Yes.

13 Q Without identifying the person subject to the  
14 ruling we are going to get later, I just want to reconfirm  
15 you do not know who the alleged intimidator was on page 10  
16 of the report, the person allegedly making the intimidating  
17 statements?

18 A Yes, I do.

19 Q So subject to getting a later ruling.

20 A I would like to maybe clarify one item.  
21 I replied very positively that Mr. Keeley and Mr. Spangler  
22 did not contact anybody. To the best of my knowledge at the  
23 last time I discussed the matter the contacts were to be made  
24 by the lawyers involved in the allegations. I have no  
25 other information than that.

1 Q Well, let me follow up by saying you have  
2 no other information after the initial decision not to  
3 contact them?

4 A Are you saying that the lawyers may have --  
5 I think that is why I was confused earlier. You do not  
6 know whether they --

7 A I do not know if the lawyers later came back  
8 and for some reason asked Keeley or Spangler to establish  
9 contact. My understanding is they did not.

10 Q Well, up to what point in time -- what time  
11 were you talking about then?

12 A Immediately after the discussion took place  
13 I believe the decision was made that the lawyers would  
14 establish the contact.

15 Q Okay. Can you help me out with a week or  
16 a day or a year?

17 A I think this is 14, 15, 16 June; something  
18 of that nature.

19 Q All right. Up until that point no contact  
20 was made, to your knowledge, but since then it might have  
21 been done at the behest of the lawyers in this case?

22 A That's correct.

23 MR. PIRFO: Thank you. That is all I have.

24 MR. HARTMAN: I have several follow-up  
25 questions.

1 BY MR. HARTMAN:

2 Q The first area concerns your experience.  
3 How many years of experience have you had in the nuclear  
4 industry?

5 A I have about 10 and one-half years.

6 Q And in what areas?

7 A I have about a year and a half in  
8 operations and about nine years in engineering support and  
9 various activities.

10 Q You testified earlier that you had nuclear  
11 power experience in connection with various military  
12 power reactors. Do those power reactors have safety  
13 standards involved?

14 A Yes, they did.

15 Q Were those standards designed to protect  
16 health and safety?

17 A They were.

18 Q Were you responsible for the implementation  
19 of those standards?

20 A At the PM-1 I was responsible for the  
21 implementation of those standards.

22 In the operations area, maintenance area,  
23 health physics and training.

24 Q In your present position, and I assume that  
25 was the position you held when you prepared this for court,

jon4

1 do you have any management control over construction QA/QC?

2 A None at all.

3 Q Does construction QA/QC exercise any  
4 management control over your department?

5 A None.

6 Q Are you a member of the construction QA/QC  
7 management?

8 A No.

9 Q When you were preparing your report were  
10 any limits placed on the resources you needed to carry out  
11 your charter?

12 A None.

13 Q Had you needed more personnel to complete  
14 the task do you believe you would have been given them?

15 A Yes.

16 Q How would you have gotten them?

17 A I would have gone to Mr. Clements. I would  
18 have indicated that the investigation was exceeding the  
19 resources that I had available and requested permission to  
20 take appropriate actions.

21 Q At one point was in fact the scope of the  
22 investigation expanded?

23 A It was expanded but it was not beyond the  
24 resources available to me.

25 Q Was it expanded because you became aware of

jon5

1 an allegation that you were not previously aware of?

2 A Yes.

3 Q How did you become aware of this new  
4 allegation?

5 A The new allegation was first brought to our  
6 attention through the process of one of the interviewers  
7 wished to have a personal discussion with Mr. Clements.  
8 Following that discussion we were advised of the results and  
9 the decision was made by Mr. Clements to expand our charter  
10 and follow up on the second allegation.

11 Q When you interviewed the individuals or when  
12 the individuals were interviewed by the investigative team  
13 were they told that if they had any concerns they could bring  
14 them to Mr. Clements or anyone else in TUGCO management?

15 A Yes, they were.

16 Q Were they told that they could do that  
17 rather than expressing them to the investigative team?

18 A Yes, they were.

19 Q Were they told that they could bring the  
20 matters to the attention of the Nuclear Regulatory  
21 Commission?

22 A I believe it was worded that if they had  
23 the knowledge of events which should be brought to the  
24 attention of the Nuclear Regulatory Commission then they had  
25 a responsibility to do so.

1 Q Were these interviewees given the  
2 telephone numbers of various TUGCO officials?

3 A Yes, they were.

4 Q You stated earlier that you discussed  
5 drafts of the report when it was being prepared.

6 A Yes.

7 Q With whom did you discuss this?

8 A With Mr. Keeley and Mr. Spangler.

9 Q Did you discuss the drafts with anyone  
10 else?

11 A No.

12 Q So that during the period in which you  
13 prepared your report until you signed the final draft you  
14 discussed the report only with members of the investigative  
15 team?

16 A That's correct.

17 Q Did you ever show any drafts of the report  
18 to any other individuals?

19 A No.

20 Q How many individuals work for you?

21 A Six.

22 Q Now, are these just professional individuals?

23 A These are all professionals. Just one  
24 secretary.

25 Q You assigned the various projects to



jon

1 complete; is that correct?

2 A Yes.

3 Q And Mr. Clements assigns you those  
4 projects initially?

5 A Yes, Mr. Clements will assign me special  
6 projects. I also have a number of routine projects such  
7 as budget preparation, items of that nature that come to  
8 us as a matter of course.

9 Q When the individuals who work for you have  
10 these projects to complete do you work directly with them?

11 A It depends upon the individual and the degree  
12 of experience of the individual. In the case of some of  
13 the individuals, they have sufficient experience within  
14 the project. I ask them to check back with me, keep me  
15 briefed on how it is going, come to see me if they have any  
16 problems, and pretty much allow them an option to pursue  
17 the matter at their own recognisance.

18 Q Is that pretty much how you dealt with  
19 Mr. Spangler and Mr. Keeley?

20 A Yes, it is.

21 Q Did you exercise perhaps greater control  
22 because of the sensitivity of this report in that you  
23 asked for dailly briefings?

24 A In this case I made an attempt to stay up to  
25 date on what was going on. From an information standpoint

1 as opposed to perhaps giving them specific direction.

2 Q When you assign individuals within your  
3 department to prepare a report, do you occasionally  
4 brief Mr. Clements on the results of that report?

5 A Yes.

6 Q Will those individuals that actually  
7 prepared the report go with you when you would brief  
8 Mr. Clements?

9 A If they are available, that is normally the  
10 case.

11 Q Will they make presentations to Mr. Clements?

12 A Yes.

13 Q We discussed earlier the standards that you  
14 used for identifying areas of concern. Could you tell me  
15 first of all who in the QA department you examined.

16 A I am sorry; I don't understand the question.

17 Q When you were doing this report you  
18 identified a group of people.

19 A We interviewed all of the professional  
20 nonsupervisory personnel in the initial interview process.

21 Q Now, these are QA auditors; is that correct?

22 A These would be QA auditors. They would also  
23 be vendor inspectors.

24 Q Out of the QA auditors and vendor inspectors,  
25 did you interview all of those individuals?

1           A        Yes, we did.

2           Q        After you interviewed those individuals  
3 did you then identify specific areas of concern?

4           A        Yes.

5           Q        And those two areas of concern, aside from  
6 the administrative areas, were limited to the areas  
7 addressed in your report?

8           A        That's right.

9           Q        You then went about investigating those  
10 two concerns? Is that correct?

11          A        Correct.

12          Q        I would next like to focus on the tasks you  
13 performed in doing that investigation.

14                   Was it necessary in the course of doing  
15 that investigation to review the audits that were  
16 completed as to their underlying substantive merits?

17          A        As a result of the comments made during the  
18 course of the investigation the investigative team was  
19 led to review at least a specific audit report.

20          Q        When you reviewed that audit report could you  
21 reach conclusions with respect to whether there had been  
22 an alleged cover-up by simply examining the contents of the  
23 files?

24                   In other words, if the file was complete  
25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

and all the documents that should have been there were in fact there?

A I think that would be a good indication of no cover-up.

Q Did you ask the individuals involved whether all of the documents they had written were in fact in the file?

A I don't know if that question was specifically asked.

MR. HARTMAN: At this point I have no further questions subject to your further examination.

MS. SAGINAW: Okay.

MR. HARTMAN: I have no further questions.

MR. PURFO: I just want to touch on one further area.

BY MR. PURFO

Q I see three objections coming to this question.

You stated earlier that you did not, with regard to your areas of concern with regard to -- strike that question.

In determining your areas of concern as to harassment or intimidation you stated earlier that you did not look to any code or regulations for a legal definition

XXXXXXXXXX

1 or standard of harassment or intimidation at the time you  
2 formulated these areas of concern.

3 Since that time have you done so?

4 A No, I have not.

5 Q So then your opinion -- strike that.

6 If the report were prepared today, let's  
7 say, your "legal standard" or the operating guidelines, if  
8 I can use that term, you would use would be the same today  
9 as it was at the time you prepared the report?

10 MR. HARTMAN: I object to that. It is  
11 awfully theoretical.

12 MS. SAGINAW: I understood it.

13 MR. PURFO: Well, I am just asking him if  
14 he -- the witness has said he did not have a legal standard  
15 in mind at the time he prepared the report. I asked him if  
16 he has since adopted a legal standard or -- I am not asking  
17 for the legal standard. I am just asking if he has a legal  
18 standard in mind.

19 I think he has already answered the question  
20 in the sense that he has not adopted a legal standard, and  
21 I am just following up to that.

22 I guess what I am saying is that the objection  
23 should have come to the question before that as opposed to  
24 this one.

25

1 BY MR. PURFO:

2 Q So that if you prepared the report today,  
3 or yesterday let's say, your legal standard or your  
4 operating guidelines as to harassment or intimidation would  
5 be the same as they were in August of 1983?

6 A No. I think that I would probably spend a  
7 little bit more time or ask the team to spend more time in  
8 coming up with a more specific set of criteria.

9 Q Why is that, sir?

10 A Because it would have allowed us to have  
11 better answered the question of what constituted  
12 significant.

13 Q So then is it fair to say I am hearing from  
14 you that maybe you would not have had to answer these  
15 many questions if you had this standard in mind or to  
16 some other influence or act if you will, impress upon you  
17 a need to define better, if you will, the legal standard  
18 with regard to harassment or intimidation?

19 A I think that it would have made a more  
20 complete report. I think the report stands as it is  
21 written. I accept the fact that it would not have changed  
22 the outcome but would have been a more complete report.

23 Q Well, why do you say it would be more  
24 complete?

25 A In that there would have been a definite

1 criteria which our findings could have been compared  
2 against.

3 Q y did you feel a need for this more definite  
4 criteria, as you put it?

5 A As a result of the discussions that have taken  
6 place today.

7 Mr. PURFO: All right. Fair enough.

8 MS. SAGINAW: I have one question.

9 BY MS. SAGINAW:

10 Q Mr. Taylor, you said that you would have --  
11 that you feel that your report would be more complete if  
12 you had had a more definite criteria as to what constitutes  
13 a significant act. How can you be certain today that the  
14 outcome of your report would not have changed with such  
15 criteria?

16 A Because we found nothing that would support  
17 an allegation of either a cover-up or intimidation.

18 Q Any under standard you feel?

19 A Under any standard.

20 MR. HARTMAN: I have a few follow-ups.

21 BY MR. HARTMAN:

22 Q Did you find any evidence in your report that  
23 anyone did not do their job as a result of any incident of  
24 harassment or intimidation?

25 A None.

XXXX

XXXX X

1           Q           A legalistic standard of intimidation,  
2 would that have changed the result of your ultimate  
3 conclusion?

4           MR. PURFO: Well, I'll object to that  
5 speculation.

6           MR. HARTMAN: All right. I'll withdraw the  
7 question. It is already in the record in any event.

8           BY MR. HARTMAN:

9           Q           Is your testimony -- and correct me if I am  
10 wrong -- that the reason why, in retrospect, you would  
11 have liked to have adopted a more legalistic definition --

12           MS. SAGINAW: I am going to object to that.  
13 He didn't say anything about a more legalistic. He just  
14 said quote unquote a definite criteria.

15           MR. HARTMAN: I believe the question  
16 referred to certain regulatory requirements.

17           MS. SAGINAW: Only he had read them.

18           MR. PURFO: Well, if I can put my two cents  
19 in, he said he had no standard at all in mind initially and  
20 I asked him if he since has established a standard or would  
21 have established a standard if he were to do it over again;  
22 let's put it that way. And he said no to the first question  
23 but yes to the latter.

24                        We haven't got into what the standard is,  
25 nor do I want to.



1 BY MR. HARTMAN:

2 Q Mr. Kahler, when you stated -- and I am  
3 going to have to review the transcript to make sure  
4 that this is correct -- you had no standard in mind. The  
5 very fact that you used the word intimidation, did that  
6 not connote a standard to you?

7 MS. SAGINAW: I am going to object to that.  
8 I don't understand the question.

9 MR. HARTMAN: The gentleman was asked to  
10 find out if there was an incident of intimidation. The  
11 word "intimidation" must have meant something.

12 MS. SAGINAW: It has a definition, but it  
13 is not a standard.

14 BY MR. HARTMAN:

15 Q Mr. Kahler, when you used the word  
16 "intimidation" in your report do you mean that in the normal  
17 sense of the word?

18 MR. PIRFO: I'll have to object to that.  
19 That's a little vague for me.

20 BY MR. HARTMAN:

21 Q When you used the word "intimidation" did you  
22 mean it in the dictionary sense of the term?

23 MR. PIRFO: Slightly less objectionable, but  
24 I think I'll let it go.

25 THE WITNESS: I don't know what the

1 dictionary sense of the word would be. We used the  
2 definition of intimidation very basically that said that  
3 anything occur which would have kept someone from carrying  
4 out his responsibilities in the quality assurance/quality  
5 control program.

6 BY MR. HARTMAN:

7 Q So the test you used was did anything occur  
8 which would have prevented an individual from carrying out  
9 his job in the QA/QC program? Is that correct?

10 A Would have prevented or did prevent.

11 Q That is the operative phrase that you used  
12 when you conducted your investigation?

13 MS. SAGINAW: I am going to object to that.  
14 That was not his testimony.

15 MR. PIRFO: I think I will havw to join in  
16 that objection.

17 MR. HARTMAN: I would like the record to  
18 reflect that the witness attempted to state what standard  
19 or what test they were applying in looking at the facts  
20 they discovered.

21 MS. SAGINAW: I don't understand.

22 MR. PIRFO: I have no objection to your  
23 inquiring to a farthewell as to what they had in mind when  
24 they started.

25 MS. SAGINAW: Just allow him to put it in his

1 own words.

2 BY MR. HARTMAN: (Resuming)

3 Q All right. Put it in your own words.

4 A Basically we were charged to look in the  
5 context of cover-up and intimidation.

6 We reviewed the information which resulted  
7 from the investigation and determined that there was no  
8 indication of cover-up and that there was no act of  
9 intimidation that had taken place.

10 Q What was your factual basis for concluding  
11 that no intimidation had taken place?

12 A It was based on the interviews with the  
13 employees concerned.

14 Q Those interviews suggested that no one  
15 had deviated from doing their job?

16 A That is correct.

17 Q And it was on that basis that you concluded  
18 that there was no intimidation?

19 A That is correct.

20 MR. HARTMAN: Thank you.

21 MS. SAGINAW: I have no more questions.

22 MR. PIRFO: I am not sure that I have a right  
23 to ask any more, but I will pass any way.

24 MR. HARTMAN: Thank you, sir.

25 MS. SAGINAW: We will see you tomorrow.

1 (Whereupon, the deposition in the above-  
2 entitled matter was recessed at 4:15 o'clock p.m., to  
3 reconvene at 9:00 o'clock a.m., Tuesday, July 10, 1984.)  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CERTIFICATE OF PROCEEDINGS

1  
2  
3 This is to certify that the attached proceedings before the  
4 NRC COMMISSION

5 In the matter of: Deposition of Richard E. Kahler

6 Date of Proceeding: Monday, July 9, 1984

7 Place of Proceeding: Glen Rose, Texas

8 were held as herein appears, and that this is the original  
9 transcript for the file of the Commission.

10  
11 Marilyn Nations

12 Official Reporter - Typed

13  
14 Marilyn Nations  
15 Official Reporter - Signature