

ORIGINAL

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the matter of:

TEXAS UTILITIES ELECTRIC
COMPANY, et al

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

Docket No. 50-445
50-446

Deposition of: Billy Ray Clements

Location: Glen Rose, Texas

Pages: 40,000-40,192

Date: Tuesday, July 10, 1984

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TAYLOE ASSOCIATES

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

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1 UNITED STATES OF AMERICA
2 NUCLEAR REGULATORY COMMISSION

3 BEFORE THE ATOMIC SAFETY & LICENSING BOARD
4

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 6 In the matter of: :
 7 :
 8 TEXAS UTILITIES ELECTRIC :
 9 COMPANY, et al. : Docket Nos. 50-445
 : 50-446
 (Comanche Peak Steam Electric :
 Station, Units 1 and 2) :
 10 -----x

11 Glen Rose Motor Inn
12 Glen Rose, Texas

13 July 10, 1984

14 Deposition of: Billy Ray Clements
 15
 16 called by examination by counsel for Intervenors
 17 taken before Marilyn Nations, Court Reporter,
 18 beginning at 9:05 a.m., pursuant to agreement.
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APPEARANCES:

On behalf of the Applicant:

LEONARD W. BELTER, Esquire
Bishop, Liberman, Cook, Purcell & Reynolds
1200 Seventeenth Street, N.W.
Washington, D. C. 20036

On behalf of the Intervenor:

CHARLES J. SOSNICK, Esquire
Cotchett & Illston
California First Bank Building
4 West Fourth Avenue, Suite 500
San Manteo, California 94402

On behalf of the Staff:

ELAINE I. CHAN, Esquire
Office of the Executive Legal Director
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

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C O N T E N T SDEPOSITION OF:EXAMINATION

BILLY RAY CLEMENTS

By Mr. Sosnick
By Ms. Chan
By Mr. Belter40,003
40,184
40,185FURTHER EXAMINATION

By Mr. Sosnick

40,189

EXHIBITSNUMBERMARKED FOR IDENTIFICATION

| | |
|----------|--------|
| No. 38-1 | 40,041 |
| No. 38-2 | 40,048 |
| No. 38-3 | 40,067 |
| No. 38-4 | 40,104 |
| No. 38-5 | 40,115 |
| No. 38-6 | 40,139 |
| No. 38-7 | 40,162 |

P R O C E E D I N G S

(9:05)

Whereupon,

BILLY RAY CLEMENTS,

being first duly sworn, was examined as follows:

EXAMINATION

MR. SOSNICK: On the record. I will start out by saying that I am not going to introduce an introductory statement. At this time, we will expressly reserve and will preserve any rights we have to make such a statement at a later time. If someone else has an introductory statement, please proceed.

MR. BELTER: Yes. I am Leonard Belter of the law firm of Bishop, Liberman, Cook, Purcell & Reynolds, Counsel for Texas Utilities Electric Company, the Applicant. I appear here today in that capacity and as attorney for Billy R. Clements, a TUGCO employee. I wish to point out that Mr. Clements is appearing voluntarily and not under subpoena, and Applicant expressly reserves all of the objections that it made in the deposition that were conducted yesterday. I'm not going to repeat them today.

MR. SOSNICK: Ms. Chan, would you like to introduce yourself?

MS. CHAN: My name is Elaine Chan. I'm with

1 the Office of the Executive Legal Directory, US NRC. I'm
2 representing the NRC Staff in this proceeding. I have a
3 question for Applicant's Counsel. Are you representing
4 both TUGCO and Mr. Clements individually?

5 MR. BELTER: Yes, I am. I understand you
6 have an objection to this?

7 MS. CHAN: Yes, I do.

8 MR. BELTER: Noted.

9 MS. CHAN: Thank you.

10 MR. SOSNICK: As a preliminary statement,
11 not for purposes of introductory statement, we, of
12 course, take issue with any attempts by Applicant's Counsel
13 to limit the proper scope of interrogation, as was
14 demonstrated in earlier and prior depositions, through
15 statements contained in their introductory remarks.

16 BY MR. SOSNICK:

17 Q. Mr. Clements, my name is Charles Sosnick. I'm
18 Counsel for the Intervenors. Just as some preliminaries,
19 I'd like to know, have you ever had your deposition taken
20 before?

21 A. Yes.

22 Q. All right. Let me just set out some ground
23 rules so there is no confusion today. As you know, all
24 testimony taken today appears on a written record.
25 Therefore, it's a little bit different than you and I

1 sitting down at a table and conversing between the two
2 of us. It's necessary that you understand my question
3 fully before you respond and then for that reason, I
4 must ask you to wait until I finish my question before
5 you respond. Do you understand that?

6 A. Yes.

7 Q. All right. Also, since this is a written
8 record, please answer audibly. A shake or a nod of
9 the head is not picked up by our court reporter because
10 this is a written transcript. Also, I don't want
11 anyone to guess here today. If you don't understand
12 my question fully, please ask me to repeat it or
13 rephrase it. I'll be happy to do so, or we can have
14 Madam Court Reporter repeat the question. And I think
15 that's about it. Do you understand all those
16 instructions?

17 A. Yes.

18 Q. Mr. Clements, are you under any medication
19 or under doctor's care at this time?

20 MR. BELTER: Objection; relevance. Go ahead
21 and answer the question.

22 THE WITNESS: I take a 45-milligrams of
23 aldoril for blood pressure; I have hypertension every
24 morning.

25 BY MR. SOSNICK:

1 Q. All right. Have you reviewed any documents
2 in preparation for this deposition?

3 A. Yes.

4 Q. What are those?

5 A. I reviewed the so-called eight-point program
6 for our quality assurance program. I reviewed the
7 investigation done by my office personnel and people
8 in my office of an alleged or a thought to be
9 intimidation that was done in 1983. I looked over the
10 testimony that I had given in the operations quality
11 assurance ASME hearings a couple years ago. Specifically,
12 I think that's the only documents I looked over.

13 Q. And when did you review these?

14 A. Within the past two weeks.

15 Q. Prior to your deposition today, have you spoken
16 to anyone today about the previous depositions taken in
17 these hearings?

18 A. Yes.

19 Q. Who have you spoken to?

20 A. I spoke to Mr. Belter and Mr. Chapman.

21 You did say previous, didn't you Counselor?

22 Q. That's correct.

23 Previous to today's appearance here.

24 A. Yes.

25 Q. When did you speak to Mr. Chapman?

1 A. Last night.

2 Q. Did you speak to him personally?

3 A. Yes.

4 Q. Where was this conversation?

5 A. In my room at the motel.

6 Q. When did you speak with Mr. Belter?

7 A. Last night, and again this morning.

8 Q. Did you speak to him personally or on the
9 telephone?

10 A. Personally.

11 Q. Tell me what you discussed with Mr. Chapman.

12 A. I basically asked Mr. Chapman what type of
13 questions he was asked. Were the attorneys antagonistic,
14 just sort of prepared myself mentally and emotionally for
15 the deposition this morning.

16 Q. Those are items of procedures. Did you ask
17 him what areas were covered?

18 A. Yes.

19 Q. What did he tell you?

20 A. He mentioned the so-called T-shirt incident
21 that was covered. I think he mentioned the eight-point
22 program, but I'm not certain and he mentioned the
23 QA, the investigation of the QA organization that again
24 was done by my organization last year. I can't think of
25 anything else at this time.

1 Q. Did he refer to any documents?

2 A. If he did, it was only in connection with
3 these incidents this year. He did mention the review
4 of the QA group that he did, his office did back in 1979.
5 I can't think of anything else.

6 Q. What specific documents in relation to those
7 that you related to me and I will repeat them. T-shirt
8 incident, eight-point program and investigation of QA
9 by your office. Let's take the T-shirt incident first.
10 This is off the record.

11 (Discussion off the record.)

12
13 A. I can't remember if he mentioned any specific
14 documents with the T-shirt incident or whether we just
15 discussed the T-shirt incident. In retrospect, I'm not
16 sure if he mentioned any particular document with the
17 T-shirt incident or not.

18 Q. What did he discuss with you about the T-shirt
19 incident?

20 A. Just basically what we had discussed previously,
21 the management reaction and what came out of that; the
22 results of it and so forth.

23 Q. What was the management reaction as you
24 discussed with him yesterday?

25 A. The management reaction to it, I thought, was

1 inappropriate. In hindsight, we certainly would have
2 handled it differently. At the time it was happening,
3 I believe it was a Wednesday or a Thursday, I didn't
4 realize when it was reported to me that these people,
5 a large group had worn the T-shirts earlier in the
6 week. And quite frankly, I feel like if we hadn't done
7 anything, it would have gone away. It never would have
8 happened. The biggest worry I had being in Dallas, on
9 the T-shirt incident was I didn't know what the attitude
10 was between the construction workers and the QC people.
11 So therefore, my goal in the whole thing was to make sure
12 that there was no verbal or physical violence that took
13 place between the inspector and the craft hands.

14 Q. Mr. Clements, is this what you discussed with
15 Mr. Chapman yesterday?

16 A. About the T-shirt incident?

17 Q. That was my question.

18 A. I'm sorry. I beg your pardon. No, he just
19 mentioned to me last night -- All he mentioned to me
20 last night was the fact that it had been discussed with
21 him and he told it like it was. And they asked him
22 some questions about the replacement of Mr. Tolson
23 after the T-shirt incident; we discussed that.

24 Q. What documents did Mr. Chapman refer to when
25 you and he discussed the eight-point program?

1 A. Just the list of the eight points. I had
2 a copy of the eight-point program in my room, and we
3 discussed that document. Just the eight points listed.

4 Q. You went over each point?

5 A. No. Just talked about it in general.

6 Q. What did you talk about?

7 A. It was such a general conversation, I'm having
8 a hard time remembering. One thing we discussed was the
9 meeting that we had, I think it's Point 7 or Point 6, on
10 the program, the meeting that we had concerning how to
11 conduct ourselves with labor law and at the same time,
12 Atomic Energy Act. Just sort of a general conversation,
13 nothing specific.

14 Q. And what documents did you refer to when you
15 were talking about the eight-point list program?

16 A. Just a listing. I told you.

17 Q. What documents did he talk to you about?

18 A. The investigation report and the follow-up
19 report parts, and the report of the final meeting that
20 we had.

21 Q. What are the dates of those reports, do
22 you recall?

23 A. I sure don't. It was sometime around July,
24 August, September of '83, as I recall it.

25 Q. And what did you discuss with Mr. Chapman in

1 regards to the investigation of QA by your office last
2 night in your discussion?

3 A. Basically, the outcome of the investigation.
4 We had met on this previously in my office and we just
5 wanted to make sure that I still recalled the things I
6 said at the final meeting, as the way they happened.

7 Q. What did he tell you about the questions that
8 were asked regarding your investigation of QA? The
9 questions that were asked of him.

10 A. He didn't discuss any specific questions, he
11 just discussed in general detail what was discussed. He
12 basically said that we discussed that, but he didn't
13 tell me what the specific questions were.

14 Q. What did Mr. Chapman tell you of Counsel that
15 interrogated him yesterday?

16 A. What did he tell me about him?

17 Q. Yes. What did he tell you?

18 A. It was a private conversation and I don't see
19 that it has anything to do with this.

20 MR. BELTER: Is your question, what did he
21 say about his personal opinion of the Counsel? Personal
22 opinion of the Counsel, his ability, his manner of
23 questioning, I don't understand your question. You'll
24 have to make it more specific.

25 MR. SOSNICK: Mr. Clements told me in the

1 beginning of this deposition that he discussed with Mr.
2 Chapman one of the purposes of his discussion with Mr.
3 Chapman was to prepare for this deposition and
4 particularly, to see if Counsel was antagonistic and
5 I would like to follow up on that. So what did you
6 discuss with Mr. Chapman in regard to Intervenor's
7 Counsel?

8 MR. BELTER: Was your question, was Counsel
9 antagonistic?

10 MR. SOSNICK: No, I would like to know the
11 subject.

12 MR. BELTER: Can you answer the question?

13 THE WITNESS: Do you want me to say everything
14 he told me about the guy?

15 MR. SOSNICK: We will do it in steps.

16 BY MR. SOSNICK:

17 Q. Did you discuss Intervenor's Counsel?

18 A. Yes.

19 Q. Did you discuss the manner of the interrogation?

20 A. Yes.

21 Q. What did he relate to you about the manner of
22 the interrogation?

23 A. He thought it was unnecessarily drawn out.

24 If he'd gotten to the point and got to the answers instead
25 of dancing around the mulberry bush, we could have gone

1 around and gotten out of it a lot earlier.

2 Q. Chapman too?

3 A. What Chapman thought it was?

4 Q. Yes. Did Mr. Chapman relate to you the
5 demeanor of Intervenor's Counsel?

6 A. Not really.

7 Q. Did you ask about the demeanor?

8 A. Yes, I did.

9 Q. What did he respond?

10 A. He said he just wasn't antagonistic, he wasn't
11 abusive.

12 Q. Mr. Clements, are you aware of the allegations
13 regarding intimidation and harassment at Comanche Peak
14 Nuclear Power Plant?

15 A. Yes.

16 Q. Tell us for the record, what is your formal
17 job description with regards to Comanche Peak?

18 A. I am the Vice President of Nuclear Operations
19 for Texas Utilities Generating Company which is a
20 subsidiary of Texas Utilities Electric Company.

21 MR. BELTER: Charlie, if it would assist, we
22 have a resume here.

23 MR. SOSNICK: That's all right. I'm just going
24 to go over it very quickly here.

25 BY MR. SOSNICK:

1 Q. Who was your immediate supervisor at TUGCO?

2 A. Michael D. Spence, President of TUGCO.

3 Q. Do you have any other superiors?

4 A. I'm not sure what you mean. Other people
5 higher than Mike in the company?

6 Q. Are there other people that you have to
7 account to in the company?

8 A. No.

9 Q. Just Michael Spence?

10 A. Just Michael Spence.

11 Q. Who are your immediate subordinates, and
12 I'll explain that to you. Who are those that implement
13 your policies?

14 A. David N. Chapman, Quality Manager, Quality
15 Assurance; James C. Kuykendall, Manager of Nuclear
16 Operations;
17 J. D. Edwards, Supervisor of Health Physics; Richard
18 Kahler, Supervisor of Engineering and Administrative
19 Services; John Merritt, Assistant Project General
20 Manager; and he reports to me in the area of start-up.

21 Q. Of those individuals, which were involved
22 with the QA/QC program?

23 A. David Chapman.

24 Q. Have any of the other individuals ever been
25 involved in the QA/QC program?

1 A. We're all involved in the QA/QC program at
2 Comanche Peak, so yes, they're all involved.

3 Q. Which of these besides Chapman have had
4 substantial administrative control with regard to QA/QC?

5 A. Would you define what you mean by substantial?

6 Q. Has anyone ever been in charge of any
7 particular program with regard to QA/QC?

8
9 A. You've got to understand that every program
10 out there is covered by QA/QC, so John Merritt has.

11
12 We have a QA start-up program, so Merritt has administration,
13 but not over the QA/QC program, himself. He has to do
14 his job according to the QA/QC program, but he doesn't
15 have, as you say, administrative control of the QA/QC program,
16 do you understand what I mean?

17 Q. I appreciate your attempt to define for me, but
18 let me clarify a little more, and we'll both be a little
19 clearer. Of these individuals, Chapman, Kuykendall, Kahler,
20 Edwards, Merritt, which of these have been involved in
21 the investigation of intimidation and harassment at
22 Comanche Peak?

23 A. Chapman and Kahler. That's K-a-h-l-e-r.

24 Q. What have Mr. Chapman's responsibilities
25 been with regard to investigation of intimidation and

1 harassment?

2 A. As the manager of quality assurance, Mr.
3 Chapman would be the man who would be most directly
4 responsible to me to making sure that harassment and
5 intimidation did not occur, or if it did occur, that
6 it would be corrected. So his is primary over the
7 whole program. Mr. Kahler was directed by me to do
8 the investigation we referred to earlier, late summer
9 or early fall of '83, into the alleged intimidation
10 or cover-up, as the report said, on quality assurance
11 to Corporate Quality Assurance group in Dallas.

12 Q. Who are Mr. Chapman's assistants, in regard
13 to the investigation of intimidation and harassment?

14 A. Well, again, all of his assistants would
15 be involved in that because of the primary responsibility
16 he has. His assistants are --

17 MR. SOSNICK: Let's go off the record for
18 a moment.

19 (Discussion off the record.)

20 MR. SOSNICK: Back on the record. I will repeat
21 the question.

22 BY MR. SOSNICK:

23 Q. His assistants --

24 A. Antonio Vega, who is the manager of quality
25 assurance, site quality assurance, Robert Spangler,

1 I've forgotten exactly what Robert's title is; Albert
2 Boren reports to Chapman and he could be involved in
3 an investigation or something like this if Chapman
4 assigned him to it. And I believe that's all.

5 Q. Who assists Mr. Kahler with regards to
6 investigation of intimidation and harassment?

7 A. Gil Keeley and back when that particular
8 investigation was done, Spangler also reported to
9 Kahler. It's the same Spangler that now reports to
10 Chapman.

11 Q. How long have you been with -- Strike that.
12 How long have you been involved with Comanche Peak?

13 A. Ten years.

14 Q. When did construction begin on Comanche Peak
15 Nuclear Power Plant?

16 A. Earth work started, I believe it was October
17 of '74, we actually got a construction permit December 19th
18 of '74.

19 Q. Were you involved with Comanche Peak at its
20 conception?

21 A. Well, conception. I wasn't here when it was
22 planned, I was here when construction started. But I
23 wasn't here when it was planned.

24 Q. What was your position when you first became
25 involved with Comanche Peak?

1 A. I was Executive Assistant to the President of
2 Texas Utilities Services, Incorporated.

3 Q. That was your first position with Comanche
4 Peak, was Executive Assistant to the -- I didn't get
5 the rest of it.

6 A. I was not assigned at Comanche Peak. I was
7 assigned as a Executive Assistant to the President of
8 Texas Utilities Services, Incorporated.

9 Q. What was your first assignment to Comanche
10 Peak; what was your position?

11 A. I was the, let's see, in September, 1975, I
12 was appointed Manager of Nuclear Operations.

13 Q. And following that, quickly up to the present?

14 A. Let's see, June 1978, I was elected Vice-
15 President of Texas Utilities Generating Company; and
16 August of '80, my title was changed to Vice-President
17 of Nuclear; January the 1st, 1984, my title was changed
18 to Vice-President of Nuclear Operations and that's
19 current.

20 Q. And that's current, all right.

21 What was the first position you held that you were
22 involved with -- strike that.

23 What was the first position you held with regard
24 to Comanche Peak that involved the administration of
25 QA program?

1 A. When I was Vice-President, Nuclear, August the
2 1st of 1980, QA was then assigned to report to me

3 Q. And prior to that, whose responsibility was
4 that?

5 A. Mr. Robert Gary, Executive Vice-President of
6 TUGCO.

7 Q. And what is Mr. Gary's position now?

8 A. He's Executive Vice-President of TUGCO.

9 Q. And does he have any further involvement with
10 QA program?

11 A. Not at this time.

12 Q. Your testimony is that Comanche Peak, inception
13 of Comanche Peak, began approximately ten years ago?

14 A. That's correct.

15 Q. Roughly how many people work at Comanche Peak?

16 A. Four thousand, forty-five hundred.

17 Q. How many of those are involved in the QA
18 program, or assigned to the QA program?

19 A. Approximately three hundred, and it is varied
20 from time to time, but I'd say it's approximately three
21 hundred right now.

22 Q. That is current?

23 A. I think so.

24 Q. At the inception of Comanche Peak, how many
25 people were involved with the QA program?

1 A. I don't know.

2 Q. In August, 1980, when you were Vice-President
3 of Nuclear, how many people were involved in QA program?

4 A. Between four and five hundred.

5 Q. And the present level is, approximately?

6 A. Three hundred.

7 Q. In August 1980, when you first became involved
8 with the QA program at Comanche Peak Nuclear Power Plant,
9 what were the programs with regard to Appendix B?

10 MR. BELTER: Are you asking --

11 MR. SOSNICK: I haven't finished the question.

12 MR. BELTER: The problem, I think is that we've
13 had quite a bit of testimony on this already in the record.
14 We could be here for a week on that subject, but I think
15 you want to lay a foundation, just go into a little bit
16 and then go on, to which I don't object, but I don't
17 want to spend the next couple hours, which we could easily.

18 MR. SOSNICK: I don't intend to beat anything
19 to death that we've gone over already so I'm just setting
20 out a few things as preliminary foundation. If you have
21 a problem and you think we're --

22 MR. BELTER: I just want to alert you that
23 that whole subject is covered in detail.

24 MR. SOSNICK: I understand that.

25 BY MR. SOSNICK:

1 Q. What was the QA implementation program when
2 you were Vice-President of Nuclear, when you first came
3 to that position at Comanche Peak in regards to
4 Appendix B?

5 MR. BELTER: Do you understand the
6 question?

7 THE WITNESS: No. We have reams of reams.
8 We have a QA program outlined in our QA manual, and
9 then we had off-shoots of that QA manual for specific
10 organizations like Operations. We have QA procedures,
11 QA instructions, we have construction procedures, I
12 mean, there's volumes or documents that implement the
13 QA procedure.

14 (Short break.)
15
16
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1 (Discussion off record.)

2 MR. SOSNICK: Back on the record.

3 BY MR. SOSNICK:

4 Q August 1980 is when you became vice president
5 of Lear, is that correct?

6 A Yes.

7 Q And that was when you first became involved
8 with the QA program at Comanche Peak, is that correct?

9 A When I became directly responsible for it.

10 Q At that time, what was your program to deal
11 with, claims of harassment, intimidation at the work
12 place at Comanche Peak?

13 A At that time, I don't think we received
14 any.

15 Q You didn't receive any what?

16 A Any claims of harassment or intimidation.
17 I have not known of any at that time.

18 Q Who would be the individual that would
19 receive claims of intimidation and harassment in
20 August 1980?

21 A (Pause.)

22 Q Who would receive those claims?

23 A I understood you. It would be various
24 people at the site. All the supervision at the --
25 QA/QC supervision at the plant site should be the

1 ones to receive them.

2 Q At that time, what was the procedure
3 should a claim of intimidation and harassment be
4 received? What would those supervisors do with that
5 report?

6 A Investigate them to see if there's any
7 truth to it and take the proper action after the
8 investigation -- whatever the investigation showed.

9 Q What guidelines did the supervisors have
10 to investigate these claims?

11 A I'm not sure.

12 Q Who would be charged and who would have
13 responsibility to draft such guidelines to investigate
14 claims of intimidation and harassment during the time
15 period we're discussing, 1980?

16 A Manager of quality assurance.

17 Q And who would that be?

18 A Mr. Chapman.

19 Q What's the first occasion that you heard
20 of claims of intimidation and harassment?

21 A There's also the Atchison case, came to
22 my attention, obviously, and that was the first time
23 I'd heard, to my recollection, of harassment and
24 intimidation allegations.

25 Q And when was that?

1 A I really can't remember specifically
2 because the Atchison case is kind of spread over
3 several months and several years, and I really don't
4 know the exact -- exactly when the first time I heard
5 of the Atchison case.

6 Q What year?

7 A I'd be guessing, but I'd say '82.

8 Q Do you remember what month?

9 A No, I don't.

10 Q Beginning part of the year?

11 A I don't remember.

12 Q The end part of the year?

13 A I don't remember.

14 Q You've testified that Mr. Chapman would be
15 the individual responsible for drafting guidelines
16 for investigation of claims of intimidation and
17 harassment, is that correct?

18 A That's right.

19 Q Would anyone else be so charged with
20 drafting any guidelines?

21 A Mr. Chapman could pass that responsibility
22 on to someone who reported to him, such as the site
23 QA supervisor or site QA manager.

24 Q And who would that be in August 1980?

25 A Mr. Ron Tolson.

1 Q And who is that presently?

2 A Mr. Antonio Vega.

3 Q What is Mr. Tolson's position at present?

4 A Mr. Tolson is assistant to the vice president
5 of engineering construction and the assistant project
6 general manager -- the project general manager, I'm not
7 sure of his exact title.

8 Q After the particular supervisor would
9 receive a claim of intimidation and harassment, would
10 he report up the ladder, and I mean by that, would he
11 report to his supervisors?

12 MR. BELTER: I'm going to object. Is your
13 question a hypothetical?

14 MR. SOSNICK: No, it's a matter of proce-
15 dure. I'd like to know after receiving those claims.

16 MR. BELTER: There has been no substantia-
17 tion that any claims were received. That's why I want
18 to know if your question is, if a claim was received.

19 MR. SOSNICK: For the last five minutes
20 Mr. Clements has testified that a claim would be
21 investigated by a supervisor.

22 MR. BELTER: If received. He's been
23 testifying hypothetically. You put the factual
24 predicate in there, was received. I just want to
25 make clear if the question is if received.

1 MR. SOSNICK: All right.

2 BY MR. SOSNICK:

3 Q If received by a supervisor, in addition
4 to his investigation of the claim, who would he
5 report that particular claim to? This is in August
6 1980.

7 A Reported anything that has to do with the
8 quality assurance, quality control program should be
9 reported up the chain of command. I presume if it
10 came to a, if an inspector felt that he had been
11 harassed or intimidated, that he would report that
12 to his supervisor, who would then report it up the
13 chain until it came to the office of Mr. Tolson.

14 Q Would it stop at the office of Mr. Tolson?

15 A Depending on -- it would depend on what
16 his investigation showed. As I say, at that time
17 we didn't, in August 1980, we hadn't -- none that
18 I recall, had come forth to us.

19 Q Is it your testimony that Mr. Tolson would
20 conduct an additional investigation?

21 A Since there hadn't been any investigation,
22 I don't understand the term additional.

23 Q Let me clarify. You testified that a
24 supervisor would investigate a claim, is that
25 correct?

1 A No. He would -- the supervisor would
2 receive it from the man. And then he would look at
3 the situation. He wouldn't do an in-depth investiga-
4 tion. He would look at the situation and then report
5 it up, regardless of whether or not, how he felt
6 about it personally, he would be required to report
7 it up the line till it got to Tolson.

8 Q Are you familiar with Appendix B? Are you
9 familiar with that term?

10 A Appendix B?

11 Q Yes.

12 A I'm familiar with the term Appendix B.

13 Q Do certain portions of Appendix B, as far
14 as you understand, deal with QA/QC people, individuals?

15 A I'm not -- I don't know of any particular
16 of the 18 points that, 18 criteria that deal just
17 with people. It may be a fact, but I'm not sure of
18 any particular of one of the 18 criteria that deal
19 just with people.

20 Q Are you familiar with references in
21 Appendix B to individuals performing quality assurance
22 functions at a nuclear plant?

23 A Yes.

24 Q Are there any special requirements of
25 Appendix B as to those individuals?

1 A They are to be, and I can't quote the
2 criteria, but they're to be basically given a free
3 area in which to do their work that pertains to the
4 quality assurance, quality assurance program.

5 Q When you first became charged, in 1980,
6 with responsibility of the QA program, what guide-
7 lines, as written by Mr. Chapman and/or Mr. Tolson
8 as you've testified, were in place to insure that
9 particular freedom you've just referred to?

10 A Our quality assurance program, which is
11 outlined, as I mentioned before, in several documents,
12 pledges -- or that's not the word I'm looking for --
13 commits the company to the 18 criteria. Now, the
14 specific document that takes care of each criteria
15 I'm not sure of.

16 Q And who were these documents authored by?

17 A I don't know.

18 Q Were they authored by Mr. Chapman?

19 A I doubt it. Mr. Chapman was not -- when
20 these were authored, Mr. Chapman was not involved in
21 the quality assurance program.

22 Q Do you recall any reference in any of
23 these guidelines you refer to to a procedure to
24 handle claims of harassment and intimidation at
25 Comanche Peak?

1 A No, I don't.

2 Q Do you have a program in place now to deal
3 with claims of harassment and intimidation?

4 A Yes.

5 Q When was that implemented?

6 A The --

7 Q When did the program begin?

8 A Yeah. The -- as soon as we heard about,
9 started hearing about harassment and intimidation
10 allegations, I met with the quality assurance, quality
11 control supervisors, the senior supervisors, and told
12 them that, how we had to handle intimidation and
13 harassment claims, that there would not be any of
14 the claims just, well, the claims would be investigated
15 thoroughly and that the results of those investigations
16 would be passed on to Mr. Chapman and therefore on to
17 me, and that regardless of how thorough -- excuse me --
18 regardless of how vague the claim had been, I wanted
19 it investigated.

20 And this happened right after the, like I
21 said before, when I first heard about the harassment
22 and intimidation claims of Mr. Atchison is when I --
23 this is the first time I'd heard of it on the project,
24 obviously, so that's when I met with the folks and
25 told them that I wanted that done.

1 Q That was approximately 1982?

2 A I really don't know the date. That was
3 probably so, right after the Atchison case became
4 celebrated.

5 Q Prior to 1982, you had not heard of
6 claims of intimidation and harassment, is that
7 correct?

8 A I've testified that Atchison is the first
9 one I'd heard of, yeah.

10 Q To the best of your knowledge, had Mr.
11 Chapman or Mr. Tolson heard of claims of intima-
12 tion and harassment?

13 A If they would have heard of any, I'm sure
14 they would have told me about them.

15 Q How severe would these claims have to be
16 for them to report up to you?

17 A I think that the -- it's not the severity
18 involved, it's whether or not they are substantiated.
19 Any substantiated claim of harassment and intimidation
20 would have been reported to me, and in any gross --
21 well, that's severity again. If it were a real gross
22 situation, that would probably come to me just as a
23 matter of conversation and also official reporting.
24 But if it's substantiated, it would certainly be
25 reported to me.

1 Q So the Atchison affair was the first
2 substantiated incident of claims --

3 A No.

4 MR. BELTER: Objection.

5 MR. SOSNICK: What is your objection?

6 MR. BELTER: The objection is that you've
7 got in the question that the Atchison claim was
8 substantiated. You're setting a predicate in this
9 question. We're not trying to set trick questions
10 here, Charlie. My objection is that there's a
11 predicate in there that has not been established.
12 I'm asking you to rephrase the question.

13 MR. SOSNICK: I will establish the
14 predicate and I will restate his testimony and if
15 you doubt it, you can ask the Court Reporter to
16 repeat it. My question to Mr. Clements was, how
17 severe would the claim of intimidation and harass-
18 ment have to be? Mr. Clements qualified that, said
19 it's not a case of severity. It would be reported
20 to me if it was substantiated. He's also testified
21 that the first claim of intimidation and harassment
22 he's heard was that of the Atchison affair. I've
23 asked him, is that the first substantiated claim that
24 he's heard?

25 THE WITNESS: I testified that the Atchison

1 case became celebrated, is when I heard about it.
2 It was not reported to me as a case of harassment
3 and intimidation.

4 MR. SOSNICK: I think the record speaks for
5 itself.

6 THE WITNESS: I do, too.

7 MR. BELTER: Let me finish my point.

8 It is clear to me that the leap of logic
9 you made is that any claim reported to him is
10 substantiated, and that's just not the fact. And
11 that's not what he testified to. And that's what you
12 tried to get him to say. Go on.

13 MR. SOSNICK: Well, I'm not trying to
14 trick you, Mr. Clements, I'm certainly not. Mr.
15 Belter is not here to testify for you either.

16 THE WITNESS: Let me clarify. You asked
17 me a question. Let me clarify it. You asked me
18 a question about the substantiation of the Atchison
19 case. You want to repeat the question and let me
20 answer it?

21 (The reporter read back the previous
22 question.)

23 THE WITNESS: It was not my testimony that
24 the Atchison claim had been substantiated. I said
25 that I first heard about harassment-intimidation at

1 Comanche Peak because of the Atchison case, became
2 celebrated.

3 BY MR. SOSNICK:

4 Q All right. Thank you for that clarification.
5 Now tell me of the first substantial change
6 after you heard of the Atchison affair?

7 A I just told you about them. When harass-
8 ment-intimidation became an issue, I started meeting
9 with the chairman and his supervisors concerning
10 harassment-intimidation.

11 Q Did you have a specific program?

12 A Did we have it in writing?

13 Q Yes.

14 A No.

15 Q Do you have it in writing at this time?

16 A Yes.

17 Q What is it called or what do you refer to
18 it as?

19 A We refer to it as the 8-Point Program.

20 Q And who authored that program?

21 A It was authored by a group of folks. I was
22 responsible for having it authored.

23 Q Tell me about the group of folks. Who were
24 they?

25 A I had two young engineers that -- one

1 working in Chapman's office and one working in my
2 office that did a lot of the leg work and a lot of
3 the reviewing of it.

4 Q What were their names, sir?

5 A Lisa Bielfeldt and David Pendleton.

6 Q Pendleton?

7 A Yeah, Pendleton.

8 Q Okay.

9 A And we took a look at the Detroit Edison
10 SubSafe Program. We sent Gil Keeley up to Detroit to
11 look at their -- not SubSafe, that's a -- Safe Team
12 Program to see how it was working and so forth. Then
13 when we came back, we, Bielfeldt, Pendleton and I
14 and Keeley and Ray Yockey from Brown & Root, at
15 different times were all together to lay out what
16 we wanted to do to advertise our program.

17 Q Was Mr. Chapman involved?

18 A Oh, yes.

19 Q Was Mr. Tolson involved?

20 A Yes.

21 Q Was Mr. Vega involved?

22 A Yes, I'm sure he was. I don't recall any
23 specific instance where Tony Vega sat in in a meeting,
24 but he certainly was in a position to look over the
25 program as it proceeded, so I'm sure he was involved.

1 Q When did the 8-Point Program take
2 effect?

3 A I believe it was September '83, was when
4 it was published. It was sometime in the fall of '83,
5 I'm not sure.

6 Q Has that program changed at all from its
7 inception to the present?

8 A No.

9 Q Have you made any additions to it?

10 A We've done some things, but it was still
11 under the basic eight points. For instance, we've
12 done the check stuffers another time, we've made
13 bigger signs, we've added some streamer signs and so
14 forth for the publicity part of it. But basically
15 it's the same program.

16 Q Prior to the inception of the 8-Point
17 Program, if a QA/QC person had felt intimidated or
18 harassed at the work place, what was his remedy?

19 A His remedy was to come to his supervisors
20 and/or to go to the NRC.

21 Q Has that changed?

22 A No.

23 Q These individuals have a choice of either
24 going to the supervisor or the NRC, is that what
25 you're telling me?

1 A That's right.

2 Q Now how would their remedy change, let's
3 say, if they went to the NRC instead of going to their
4 supervisor? What would happen after they went to the
5 NRC?

6 MR. BELTER: I object to the form. You're
7 asking him to speculate about the NRC.

8 MR. SOSNICK: I am interested in the proce-
9 dure.

10 THE WITNESS: I have no idea, because it's
11 an NRC procedure.

12 BY MR. SOSNICK:

13 Q So as far as you know, it may be a completely
14 different procedure?

15 A From what?

16 Q If that particular individual reported to
17 his supervisor?

18 A I'm sure it would be a different procedure.

19 Q Since the inception of the 8-Point Program,
20 how many claims of intimidation and harassment have
21 you received?

22 A I do not know.

23 Q Who would know?

24 A I don't think anyone would know the answer
25 to that question because the -- they're handled --

1 all of them are not handled under the 8-Point Program
2 per se. Some of them are handled by referring them
3 directly to Mr. Boyce Grier, who is the ombudsman we
4 appointed under the 8-Point Program. And some of them
5 are -- come in through the Hot-Line, some of them are
6 reported through supervision, we get some of them
7 through the exit interviews of construction folks
8 and QA/QC folks, so I don't think anybody would have
9 a complete list that's in one place and be able to
10 tell you exactly how many in one spot.

11 Q Do you have any estimate?

12 A No, I don't.

13 Q How many do you personally know of?

14 A It would be a guess, but I'd say -- well,
15 I'm trying to remember how many of the allegations
16 that we received from the NRC were intimidation-
17 harassment. I really don't know.

18 Q Can you name me one individual that you
19 know of of your personal knowledge?

20 A William Dunham.

21 Q What specifically were Mr. Dunham's
22 complaints regarding intimidation and harassment?

23 A I don't know.

24 Q Who would know?

25 A David -- excuse me -- Ron Tolson, Gordon

1 Purdy would know.

2 Q Anyone else?

3 A There were several people in the plant
4 involved in the Dunham case. I presume they would
5 know. Offhand, I can't recall who they were.

6 Q Were Mr. Dunham's claims substantiated?

7 A No.

8 Q Of your personal knowledge, do you know
9 of anything that would support Mr. Dunham's claims
10 of intimidation and harassment?

11 A No.

12 Q Did Mr. Dunham complain of anything else
13 besides intimidation and harassment?

14 A He complained about changing the inspection
15 instructions in which -- under which he was working.

16 Q What instructions were those?

17 A The inspection instructions.

18 Q What was he inspecting?

19 A I believe he was a paint inspector.

20 Q And what were his complaints as to the paint?

21 A That the instructions had been modified
22 not to his liking.

23 Q Did he have any particular complaints about
24 the paint itself?

25 A I don't know.

1 Q Do you know of any other complaints about
2 the paint at the plant?

3 A Yes.

4 Q Whose complaint?

5 A We've had numerous complaints from the
6 paint inspectors concerning the paint.

7 Q Are these the same complaints as those of
8 Mr. Dunham?

9 A Some of them are.

10 Q What particular complaints did Mr. Dunham
11 have of the paint?

12 A I just told you, I don't remember what his
13 complaints were about the paint. His biggest complaint
14 that I understood was that he was complaining because
15 the paint inspection instructions were being modified.
16 That was to my understanding.

17 Q Now you've testified that Mr. Dunham's
18 complaints were not substantiated, is that correct?

19 A That's right.

20 Q Now, let's talk about Mr. Dunham's complaints
21 as to the paint itself. Did it have any bearing on his
22 claims of intimidation and harassment?

23 A I've told you twice I didn't know what his
24 complaints were about the paint.

25 Q Who is Mr. R. G. Gary?

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(The document referred
to was marked for identi-
fication as Exhibit 38-1.)

MR. SOSNICK: We have marked this exhibit
38-1 for identification purposes to this deposition.

BY SOSNICK:

Q Mr. Clements, have you ever seen this
letter?

A Yes.

Q When was the first time you saw this letter?

A I presume right after Mr. Gary would receive
it. In fact, I'm noted for a copy here, so I received
it directly, so I probably got it between Christmas
and New Year's of '83.

Q And by looking at this letter, do you recall
what the letter refers to?

A Yes. It refers to the allegation that there
had been intimidation of paint inspectors at Comanche
Peak. It does not say paint inspectors but I know what
the case is about.

Q It involves QC paint inspectors, paint QC
people?

A That's right.

Q Was Mr. Dunham a paint QC individual?

A Yes.

1 Q Does this letter relate to Mr. Dunham?

2 A I don't know. Uh, hang on.

3 Specifically, I don't know if it does or not.
4 I think it pertains to the whole area of paint inspec-
5 tors.

6 Q Then would he be included, sir?

7 A I presume so.

8 Q And when you received this letter, did you
9 seek to find out what individuals this concerned?

10 A No.

11 Q Why was that?

12 A We're not supposed to know who they concern.
13 The NRC keeps those people -- if they want to be kept
14 confidential, they're kept confidential.

15 Q Did Mr. Chapman know what individuals this
16 letter referred to?

17 A Well, we know who the paint inspectors are.
18 We know that we had some allegations against -- when
19 you read these things, you know which inspector, which
20 supervisor's involved, so you know who he works for, so
21 you know it's, you know, it's somebody in the organiza-
22 tion, but specifically who that one person or persons
23 are, he didn't know, to my knowledge.

24 Q Attached to this letter is a Report of
25 Investigation, and that's what you've referred to.

1 A That's right.

2 Q Does this Report of Investigation substan-
3 tiate any claims of intimidation and harassment at
4 the work place?

5 A No.

6 Q I will read to you from the second page of
7 the Report of Investigation which is attached to the
8 December 22 letter. The Report of Investigation is
9 dated August 24, '83.

10 MR. BELTER: Counsel, do you have a complete
11 copy of that letter, is that a complete copy?

12 MR. SOSNICK: I believe so.

13 MR. BELTER: You believe so? I just note
14 that the top of it says summary. I don't know whether
15 you've got a complete copy of the report there or not.

16 MR. SOSNICK: Oh, I believe this is a
17 complete copy of the summary.

18 MR. BELTER: Of the summary?

19 MR. SOSNICK. Of the summary.

20 BY MR. SOSNICK:

21 Q This is the second paragraph, sir. Twenty-
22 six QC personnel were interviewed, 11 of whom were present
23 during the above meetings and corroborated the allega-
24 tion. One QC inspector admitted that as a result of
25 the comments made by the supervisor at these meetings,

1 he did not report defects he identified for fear of
2 reprisals such as termination.

3 Now, in your opinion, sir, that reference
4 does not substantiate any claims of intimidation and
5 harassment?

6 A No, it doesn't.

7 Q Mr. Clements, do you know of any further
8 complaints regarding the paint or sometimes it's
9 referred to, protective coating, at Comanche Peak?

10 A Yes, I've previously said that I knew of
11 several complaints about the paint.

12 Q All right. I'm sorry for asking you that
13 again.

14 Who were these complaints -- where did
15 these complaints originate from?

16 A From the paint inspectors.

17 Q Which paint inspectors?

18 A Well, I don't know them by name. Numerous
19 paint inspectors have had complaints from time to
20 time about protective coverings, coatings.

21 Q These are Comanche Peak QA/QC personnel?

22 A QC personnel.

23 Q Excuse me, QC personnel?

24 A Yes.

25 Q Anyone else?

1 A There is a -- there's been a report from
2 a man from A. B. Cannon that made a report called
3 the Lipinsky Memorandum, now, and there is a report
4 from Brookhaven National Laboratory, who sent some
5 people in, who sent a man in to do an investigation.
6 That was done under the auspices of Region IV, NRC.

7 Q Now these are outside individuals, I mean
8 outside of Comanche Peak?

9 A Lipinsky and Brookhaven, yes.

10 Q Now, would such complaints be severe
11 enough that they would be reported to you individually?

12 A The individual complaint from an inspector,
13 no.

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1 Q. Mr. Clements, who would determine whether
2 the particular complaint would be severe enough that
3 it would have to be reported to you?

4 A. You're talking now about quality of the
5 complaint itself?

6 Q. Let's talk right now about claims of
7 intimidation and harassment.

8 A. Well, we covered that awhile ago. You want
9 to cover it again?

10 Q. No. My question is: Who would determine
11 whether the complaint was severe enough or had some
12 substantiation that it would be reported to you?

13 A. Today?

14 Q. Today.

15 A. Any complain of intimidation or harassment
16 is reported to me today by the QC inspector.

17 Q. Was that also the case one year ago today?

18 A. Probably, but I can't pick a specific time
19 when I said I wanted them all reported to me regardless
20 of whether settled. If a QC inspector comes to his
21 supervisor, and the QC supervisor goes and talks to
22 the person doing the harassment, intimidation or the
23 alleged harassment and intimidation and then they
24 get it squared away, then, you know, if the QC inspector is
25 satisfied that it was not harassment and intimidation, it

1 was just something taken out of the context or if he under-
2 stands what his supervisor's done about it, then it's
3 probably not reported to me. It may be.

4 Q. Is it your testimony that are many levels
5 in the chain of command where that reporting could be
6 cut off based on an individual's determination?

7 A. No, no. I'm just saying that whether or
8 not the QC inspector, himself, is satisfied with the
9 action taken by management, then I may not hear about
10 it. If he's not satisfied, then it'd be sent on up the
11 chain of command.

12 Q. Now, was there ever a time where you would not
13 receive that information personally? You said today you
14 would. But was there ever a time where you would not?

15 A. Not the -- Yes, there was a time when I would
16 receive each individual's specific case.

17 Q. Now, what prompted this change of policy?
18 Today you receive those complaints, individually and
19 there was a time where you did not. What was the
20 catalyst there?

21 A. It was the publicity and the emphasis being
22 placed on harassment, intimidation by all parties
23 involved in this plant. What had earlier probably
24 been investigated by lower level supervisors and try
25 to satisfy the inspector is now being brought to the

1 highest levels of the company to make sure that we've
2 satisfied the inspector or that we take the proper
3 action.

4 Q. Now, how severe -- Let's talk about paint
5 again. How severe would a complaint about the paint
6 have to be so that it would have to be reported to you
7 individually?

8 A. They do not report problems with paint to
9 vice-presidents. That's the fourth time I've answered
10 that one.

11 Q. I'm going to show you a document, sir, you
12 referred to it before. It's from a Mr., I believe it's
13 J. J. Lipinsky. The memo is directed to R. V. Roth
14 with copy to J. J. Norris. It's dated August 8, 1983.
15 I'll show that to you and your Counsel, and if you
16 could please pass that on to Ms. Chan and then I will
17 show you. The court reporter will mark it for identification.

18 MR. BELTER: Why don't we not mark it until he's
19 seen it before?

20 THE WITNESS: I have seen it, sure.
21 I'm not going to take time to read it. I have seen it
22 before.

23 MR. SOSNICK: All right.

24 (Deposition Exhibit No. 38-2
25 was marked for identification.)

1 MR. BELTER: Counsel, we have looked at the
2 document. I'm going to object on the grounds of
3 relevance. We cannot see anything in there relating
4 to anything that this deposition relates to harassment
5 or intimidation.

6 MR. SOSNICK: I will admit that. Now, we'll
7 tie it up.

8 MR. BELTER: Are you in good faith showing
9 th this is not discovery designed to lead to
10 something, or are you in good faith, sir, that you
11 think this document is relevant on the subject of
12 harassment and intimidation?

13 MR. SOSNICK: I think in good faith it is
14 relevant to harassment and intimidation.

15 BY MR. SOSNICK:

16 Q. Mr. Clements, have you seen this document
17 before?

18 A. Yes.

19 Q. Do you know the individual who authored this
20 document?

21 A. No.

22 Q. Have you ever met him?

23 A. No.

24 Q. Who had this report commissioned, Mr. Clements?

25 A. I have no idea. I don't believe it's a report.

1 I believe it's a memorandum.

2 Q. Have you ever read this memorandum?

3 A. Yes.

4 Q. And what does this memorandum relate to?

5 What is the subject matter?

6 A. Paint at Comanche Peak.

7 Q. Does it deal with anything else?

8 A. Not to my knowledge.

9 Q. I'm referring to Page 3 of this memorandum.

10 The topic that the author is writing under.

11 MR. BELTER: Could you let him look at
12 what you're referring to?

13 BY MR. SOSNICK:

14 Q. This section here, observations and opinions,
15 you authorize in Paragraph A, the last sentence:

16 "The fact that management attempts to
17 squash any efforts to point out quality
18 problems (no NCR's, QC according to
19 production, etc.) to some extent confirms
20 the above and has led to a morale
21 problem with the inspection staff."

22 Now, after you have read this report, excuse me,
23 memorandum, was there a specific investigation
24 undertaken?

25 A. A specific investigation of what?

1 Q. The morale problems with the inspection staff.

2 A. Well, so that paragraph you read is so full
3 of inaccuracies and incorrect statements, that no
4 investigation could be done. It talks about QC
5 reporting to production, QC reports to me. I'm in
6 operations, and we have another vice-president for
7 production. We really couldn't do an investigation.
8 We tried to find out where this author got that
9 information because it was so false. And I think our
10 folks -- No, I don't think, I know our folks had some
11 meetings with him and his company to try to correct those
12 inaccuracies and false statements and as he said, he
13 said his opinions. He just didn't spend enough time
14 looking at the paint situation to get the correct
15 opinions.

16 MR. BELTER: Counsel, before you go on,
17 you haven't offered either of these documents into
18 evidence, and of course, I object to them on the
19 grounds of hearsay and this document in particular
20 establishes our position as to why hearsay is not
21 competent evidence in this case. Because you're
22 putting in documents, you're putting in incomplete
23 documents, you're not offering the author of the
24 documents to testify as to these matters, and you're
25 reading sentences out of them that are totally

1 unreliable and incompetent evidence. Mr. Clements'
2 answer to your last question demonstrates why that's
3 the case.

4 MR. SOSNICK: We are introducing these --
5 These are introduced as exhibits to these
6 depositions.

7 MR. BELTER: They have been marked for
8 identification, they are not being admitted into
9 evidence. I note my objection to anything that you
10 claim that these documents are being introduced into
11 evidence. They've been marked for identification, but
12 these are evidentiary depositions. I want it clear
13 that that's something the Board will rule on whether
14 these items come in.

15 MS. CHAN: Counselor, are you planning to
16 move all these into evidence at the end, depending
17 on their, on your use of them, or --

18 MR. SOSNICK: That may be likely. For right
19 now, let's consider them exhibits to this deposition.

20 MR. BELTER: Can we take a break?

21 MR. SOSNICK: Sure.

22 (Short recess.)

23 MR. BELTER: Back on the record.

24 As I indicated earlier this morning, Mr. Clements
25 had been scheduled for half a day and has a committment

1 and has to leave at approximately 1:00 to catch a plane.
2 I understand we may not be able to finish him. We will
3 just have to work that out after we see how far we
4 get.

5 MR. SOSNICK: That was a little bit of a
6 surprise to me. I thought Mr. Clements was here for
7 the afternoon session. We felt we'd be able to finish
8 him up today. I understand his predicament, and so we
9 will have to make some kind of other arrangements. Why
10 don't we get back to the questioning? I was going to
11 respond, Counsel, to your objection. I think that is
12 where we left off; is that right?

13 MR. BELTER: Fine.

14 MR. SOSNICK: As I said in the record, these
15 are exhibits to the deposition. Your hearsay objection
16 I do not think is a valid one. We're dealing here with
17 course of conduct. Mr. Clements has testified that he
18 has read this report and was testifying as to the
19 actions taken in response to this report, and thus goes
20 to his state of mind.

21 BY MR. SOSNICK:

22 Q. Now, you've testified, Mr. Clements, that it
23 was difficult to substantiate these things because of
24 inconsistencies, is that your testimony? Why don't you
25 refresh me --

1 A. I said that there's so many inaccuracies
2 and false statements in that paragraph you read to me,
3 Counselor, that it was impossible to investigate it.
4 We did look into portions of the memorandum that we
5 could look into.

6 Q. So was there an investigation?

7 A. On the Lipinsky memorandum, no, not to my
8 knowledge.

9 Q. And who made the decision not to investigate
10 the matters raised in the Lipinsky memorandum?

11 MR. BELTER: I'm going to object because
12 the ambiguity in the word investigate. He has
13 indicated to you that he has looked into it. I don't under-
14 stand what you mean by investigation. I'm concerned that
15 you and he do not have the same understanding of what
16 you and he mean by investigate.

17 MR. SOSNICK: All right.

18 BY MR. SOSNICK:

19 Q. Was there some action taken after this
20 memorandum was read or received by you?

21 A. Yes.

22 Q. What was that action?

23 A. We took it paragraph by paragraph, line by line,
24 to see if there were problems pointed out by the
25 memorandum, or if there was false statements and inaccuracies

1 we just discarded them as such. Then we met again --
2 I didn't meet, but the people at the plant site met with
3 the management from O. B. Cannon to get further information
4 so that they could further look at the problems that this
5 thing pointed out.

6 Q. Who is the "we" that you referred to? Who
7 looked into it, specifically?

8 A. I don't know. Oh, Tolson would be involved
9 in that, I think John Merritt was involved in it, I'm
10 not sure who else was in the meeting.

11 Q. Did you look into it, sir, personally?

12 A. What does look into it mean?

13 Q. Did you take the same action as anyone else
14 did? You went through this with other people, you
15 testified?

16 A. I read the report, and I met with our folks,
17 and asked them what they knew about it, how it came about.
18 They said, at that time, they were going to have these
19 meetings to find out more about it. But I didn't take
20 the same action everybody else took.

21 Q. Did they have these meetings?

22 A. Yes.

23 Q. And who did they meet with?

24 A. They met with a vice-president from O. B. Cannon,
25 I think Mr. Lipinsky was in one or two of the meetings.

1 Q. Did they meet with anyone at Comanche Peak?

2 A. Okay. Now, you confused me with who is they
3 in Comanche Peak or --

4 Q. I'm sorry.

5 A. The people at Comanche Peak were doing the meeting.

6 Q. Let me clarify.

7 You had a meeting with Tolson and Merritt with regard
8 to this memo?

9 A. Not a meeting, per se, it would be -- When something
10 likes this comes in, Merritt from the construction
11 engineering side and Tolson from the QA/QC side would get it
12 and start looking at it, and they would get together and
13 have a meeting and then they would decide whether or not they
14 needed to call in vice-presidents, other managers and so
15 forth. How I came to read this, or any meetings I had with
16 them are not fresh in my memory right now.

17 Q. Based on your personal knowledge, who at Comanche
18 Peak took action with regard to this in addition to yourself?

19 A. John Merritt and Ron Tolson.

20 Q. Did John Merritt or Ron Tolson talk to any
21 personnel at Comanche Peak with regard to the Lipinsky
22 memorandum?

23 A. Oh, I'm sure that they had to.

24 Q. Do you know of any?

25 A. Not specifically.

1 Q. Do you know for a fact that they did?

2 Did they tell you?

3 A. No.

4 Q. Did you talk to any individuals at Comanche
5 Peak with regard to the Lipinsky memorandum in addition
6 to Mr. Tolson and Mr. Merritt?

7 A. I don't remember.

8 Q. Now, were the actions taken with regard to
9 the Lipinsky memorandum according to any set procedure
10 that you have when you receive complaints such as those
11 contained in here?

12 A. You understand that's not a document that was
13 sent to Comanche Peak? And there's no complaints in
14 there made to us about anything?

15 Q. It's in reference to Comanche Peak, is it not?

16 A. There's an internal document for the O. B.
17 Cannon Company.

18 Q. And you read it?

19 A. And we read it.

20 Q. And did it concern you?

21 A. It concerned us, yes.

22 Q. Have you ever received documents containing
23 similar information from internal sources at Comanche
24 Peak?

25 MR. BELTER: I'm sorry. From internal sources

1 at Comanche Peak?

2 MR. SOSNICK: This is a document prepared by
3 an outside source.

4 A. I get all of the quality assurance inspections,
5 both operations and engineering constructions so
6 certainly I've seen QA reports all the time concerning
7 these matters.

8 BY MR. SOSNICK:

9 Q. Now, you've testified that you really didn't
10 have a formal meeting with Mr. Tolson and Mr. Merritt with
11 regard to this memorandum, it was more of sort of a
12 discussion; is that correct?

13 A. That's right.

14 Q. During this discussion, did anyone comment on
15 the Dunham incident?

16 A. Not to my recollection.

17 Q. As far as you are concerned, sir, does
18 anything in the Lipinsky memorandum have to do with
19 the Dunham incident or relate to the same sort of incident?

20 A. I haven't read it recently. You should have
21 known awhile ago that I didn't read it, because I told you.
22 I would have to read it again to make sure whether I see
23 anything that resembles the Dunham situation.

24 Q. Right now, you don't recall, though, that you
25 had discussed Dunham in that conversation with Tolson and

1 Merritt after you read the Lipinsky memo?

2 A. I do not recall.

3 Q. And as far as you can recall, no one raised that?

4 A. That's right.

5 Q. You testified that you have an eight-point program
6 which took effect sometime in the fall of 1983?

7 A. That's right.

8 Q. Was there any parallel program prior to Fall, 1983,
9 that dealt with the same concerns?

10 A. As I indicated earlier, there was nothing in
11 writing, per se. There was -- I had just met with the
12 quality assurance, quality control managers, supervisors at
13 Comanche Peak and in Dallas, and laid out the company
14 policy to them concerning harassment, intimidation, but
15 I did not put out a document at that time.

16 Q. Did you incorporate any NRC guidelines into the
17 eight-point program?

18 A. Would you be more specific about guidelines?
19 What do you mean by guidelines?

20 Q. Let's refer to Appendix B. Did you incorporate,
21 or did you refer to Appendix B in drafting your eight-point
22 program?

23 A. No, I did not.

24 Q. Has the program changed at all since its inception
25 in Fall, 1983?

1 A. As I said before, there has been some additional
2 information put out but they're all falling under the
3 eight points. So, no, it has not been modified.

4 Q. I do not want to burden you with repetitious
5 and I know you're concerned at you had testified as that
6 earlier, but I'll just remind you that my initial question
7 asked did not ask you for changes; it was something that
8 you offered. So I'm just doing this for the thought process.

9 A. I'm sorry.

10 Q. That's all right. Now, let's talk about the
11 eight-point program in detail at this time. Why don't you
12 describe to me the elements of the eight-point program?

13 A. Well, okay. The first element was a new audio-visual
14 program that outlined quality assurance reasons for, and the
15 quality assurance/quality control program at Comanche Peak.
16 Conduct of meetings with QA/QC supervision to outline and
17 discuss with them how strongly TUGCO management felt about
18 the quality assurance program at Comanche Peak and to make
19 certain that they all understood how we felt about the
20 subject of harassment and intimidation. And three, to outline
21 having our supervision meet with the QC inspectors, themselves,
22 and outline to them the ways that if they felt that the work
23 wasn't being done properly or that if the inspection
24 instructions weren't correct, they were harassed or
25 intimidated, the steps that they could go through to make

1 sure that supervision knew this, including of course, as a last
2 resort, they could go to the NRC. Not only was it their
3 right, but it was their duty to do so.

4 We established a hot-line phone, 24-hour-a-day coverage
5 in Dallas in the corporate security office to accept any
6 anonymous, confidential or otherwise phone calls concerning
7 status of work at Comanche Peak. We put out signs with the
8 hot-line number on it and with the slogan, "Quality -- It's
9 your job, Quality is my job." Hardhat stickers, put check
10 stuffers in the checks to give them a piece of paper that
11 they could send back to the corporate director in corporate
12 security and inform them about things they want to talk
13 about. We also established a formal program of where each
14 QA/QC personnel who was disassociating himself at the site
15 would be interviewed that any safety quality problems they
16 had would be told to us, and we would investigate them and
17 get back with them and let them know what was done. Eight,
18 we had a series of sessions with QA/QC supervision and
19 attorneys to stress the ways that you have to go about
20 to so that you're obeying both Atomic Energy law and DOL
21 laws and regulations. The first meeting was held with
22 some of our senior corporate executives and the three senior
23 managers of QA/QC at the plant, and then later on, all the
24 QC supervision was stepped through that program.

25 Q. What is your personal assessment of this program?

1 Was it successful?

2 A. I think it is.

3 Q. And how is it successful?

4 A. Well, how do you define successful?

5 Q. Well, you tell me. If you had a problem before
6 you had an eight-point program, now what has changed?

7 A. I'm still lacking your definition. I'm not
8 sure what you mean by "successful."

9 Q. Do you feel you have a better mechanism now
10 to deal with claims of harassment and intimidation at
11 Comanche Peak with the eight-point program in effect?

12 A. Yes.

13 Q. And what deficiencies did that correct, the
14 eight-point program?

15 A. Mainly a deficiency of advertising. Our people
16 on the site knew that there was a way for all these things
17 to be done. The supervisors and the inspectors knew that
18 they could get their problems to management if they wanted
19 to, but we perceive that our program -- I hate to use the
20 term gaudy, because that's not what I'm talking about -- but
21 it wasn't perceived outside of our organization that we
22 were stressing these items highly enough, so I guess you'd
23 say we went public with it, and started doing more
24 obvious things rather than just having the word put out.
25 Our people knew that they could get their desires and their

1 problems to management.

2 Q. Who was this advertising that you described
3 directed at?

4 A. It was directed at our construction workers and
5 our construction foreman and our QC people and our QC
6 supervision. In fact, it was directed to everyone
7 involved in the project including the operations folks.
8 Because establishing a state of mind. Also addressed
9 to our executives so that they would all understand that
10 we were stressing these items.

11 Q. Now, when you were planning the eight-point
12 program, it was noted as the cause of this lack of
13 knowledge --

14 MR. BELTER: I am sorry, Counselor. Again,
15 you have assumed a fact that I think we dispute. Could
16 you rephrase it, please?

17 MR. SOSNICK: Fine.

18 BY MR. SOSNICK:

19 Q. Was there an evaluation done prior to the
20 drafting and implementation of your eight-point program
21 as to the attitudes of those the eight-point program was
22 designed to advertise to?

23 A. That's still a big question, because the eight-
24 point program I just described -- You mean, was there an
25 attitude survey done of all of the people at the plant site?

1 Q. How did you determine that you needed an
2 advertising campaign as you've described?

3 A. Well, as I said before, I felt that the program
4 was known to the people in the QA/QC business. I wanted
5 to make sure that the QA/QC folks knew that they had the
6 backing of corporate management so that everybody at the
7 plant would understand it. So the whole -- everybody at the
8 plant at that time was put through the audio-visual program
9 so that each construction worker would understand how we
10 in management felt about those QA/QC supervisors, inspectors.

11 Q. What made you feel, or what led you to believe
12 that those construction workers or other individuals outside
13 the QA/QC program were not aware?

14 A. I didn't say I didn't think they were aware. I
15 just wanted to make sure that they were aware if they had
16 any doubts in their minds, then they would become aware.

17 Q. What led you to believe they may have doubts
18 in their minds?

19 A. Nothing.

20 Q. Did anyone express to you that they may have
21 doubts in their minds?

22 A. No.

23 Q. Did you assume they had doubts in their minds?

24 A. No.

25 Q. I'd like to show you a TUGCO office memorandum

1 to Mr. Farrington and to Mr. Spence dated December 19,
2 1983, three pages long. David Andrews, Director of
3 Corporate Security is the author. There is an attachment
4 which is a graph of sorts entitled "Investigative
5 Sequency of QA/QC Concerns Received by Corporate
6 Security" and Mr. Gary and yourself were copied with
7 this letter and the attachment. I'll show it to you
8 and your Counsel.

9 (Document proffered.)
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1 Q Mr. Sosnick, I notice that this document
2 is stamped "Confidential" and I certainly do not have
3 any problem with the relevance of it and using it. But
4 I want to confer with Mr. Clements about whether he
5 feels that there is any impact that the release of this,
6 making it public, may have on the hot line program.

7 It appears to me to not give any information
8 that might impact the program, but I want to confer that
9 with him and we may have to discuss the necessity of a
10 protective order on it.

11 MR. SOSNICK: This was a document that
12 you produced.

13 MR. BELTER: I understand that I saw it
14 myself when I produced it.

15 MR. SOSNICK: Now you have an objection
16 to it being used?

17 MR. BELTER: No. I am not objecting to it
18 being used. I may want to have some kind of protective
19 order if this thing is going to have an impact on the hot
20 line program.

21 My only concern and I think it is a valid
22 concern and I am sure you share it. I think we have no
23 problem.

24 THE WITNESS: There are no names involved.
25 I don't even know who the names are.

1 MR. BELTER: All right.
2 (Exhibit 38-3 was marked
3 for identification.)
4 (Discussion off the record.)
5 MR. SOSNICK: Back on the record.
6 BY MR. SOSNICK:
7 Q Mr. Clements, prior to this deposition had
8 you ever seen this document?
9 A Yes.
10 Q Approximately when did you see it?
11 A It is dated December 19, so I would
12 presume I saw it within three or four ays after it was
13 dated.
14 Q What is the subject matter?
15 A It is a status report on the hot line
16 program for the month 11/15/83-12/15/83.
17 Q And did you see this graph attachment when
18 you reviewed that office memorandum?
19 A I have seen this graph attachment so I
20 presume I saw it at that time.
21 Q I would like you to look at that graph and
22 describe to me, indicate where claims of intimidation
23 and harassment fall into that flow chart.
24 A Up here where it says written concern or
25 hot line concern is one place.

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1 Q You have indicated that is where the
2 graph begins where the flow chart begins?

3 A Yes.

4 Q In other words, this particular flow chart
5 it has to come into the appropriate security office,
6 so it is either a written concern, a hot line concern.

7 A There are other ways to get them in but
8 they would be either written or hot line.

9 Q I might have neglected to state that this
10 was Exhibig 38-3.

11 Now, under the categories written concerns
12 and hot line concerns which flow into initial processing
13 after the initial processing where are these claims of
14 intimidation and harassment dealt with in this
15 organizational chart?

16 A You will have to talk to Mr. Andrews about
17 that.

18 Q Mr. Andrews is who?

19 A Corporate security for Texas Utilities
20 Company.

21 Q Is Mr. Andrews in charge of the hot line
22 program?

23 A Yes.

24 Q Are there any other individuals in charge of
25 the program3

1 A When you say in charge, there is only one
2 person in charge.

3 Q Who assists Mr. Andrews in implementing
4 the hot line program?

5 A His secretary.

6 Q Does Mr. Andrews report to you?

7 A No.

8 Q Who does he report to?

9 A Hereports to the person in Texas Utilities
10 Company who is also the chairman of the board of Texas
11 Utilities Electric Company.

12 Q Do you receive any information regarding
13 the hot line program?

14 A Yes, I do. I receive copies of this report
15 like the one you have shown me here. And I also receive
16 requests for help from Mr Andrews if a problem comes up
17 and he needs technical support he asks me where he should
18 get that technical support. And I tried to, then -- not
19 try to, but I offer him the technical support from an
20 area that is not involved in the allegation.

21 For example, if it is in Chapman's
22 organization that has the allegation made against it then
23 I will get operations QA to look into it. If it is
24 constructionn an allegation about construction,
25 intimidating or whatever, I will get somebody else to help

1 Mr. Andrews out.

2 Q Just so that I am clear, by technical
3 assistance you request such assistance if an investigation
4 was done?

5 A Yes.

6 Q Whenever there is an investigation undertaken
7 with regard to the hot line program would Mr. Andrews seek
8 you out and ask for assistance?

9 A Of the investigation itself?

10 Q Yes.

11 A No. It is done by professional
12 investigators.

13 Q Would Mr. Andrews inform you that an
14 investigation was in progress?

15 A Not unless he wanted some help on it from
16 a technical help to understand -- when I say technical
17 help what I am talking about is so that he and his
18 investigators can understand the allegation itself.

19 Q And who would Mr. Andrews report to when --
20 strike that.

21 Does Mr. Andrew report to any individual
22 when an investigation is undertaken to notify them that an
23 investigation is under way?

24 A You will have to ask Mr. Andrews about that.

25 Q Is it your testimony, then, that investigations

1 may be undertaken without your knowledge?

2 A Certainly.

3 Q Who must Mr. Andrew account to?

4 With regard to this program.

5 A To the president of Texas Utilities.

6 Q If there were a problem with the
7 implementation of this program would he so report that?

8 MR. BELTER: Let me see if I understand.
9 That if he gets an allegation about the hot line program
10 itself; is that your question?

11 MR. SOSNICK: No, it is not my question.

12 BY MR. SOSNICK:

13 Q Mr. Andrews encounters a problem with the
14 program. Who would he report that to?

15 A Would you define a problem with a program?
16 I'm not sure I know what you mean.

17 Q Let's say he is having difficulty in
18 an investigation, who would he report that to?

19 A What sort of difficulty? I am not trying to
20 be vague to avoid your question. I just don't understand
21 what you are asking me.

22 Q Let's say in any instance he runs into a
23 brick wall, he can't get any information.

24 A He would -- again you have to ask Mr. Andrews
25 but I would presume he would notify Mr. Frankin, who is

1 the chairman of the board of Texas Utilities Electric
2 Company; also probably notify Mike Spence, president of
3 TUGCO. He would also tell me if he was running up against
4 this hypothetical brick wall you are talking about.

5 Q How is the success of the program measured
6 or gauged?

7 A Well, it is measured by the fact that it
8 gives the people a chance to speak up about this -- at the
9 highest levels of the company and to make sure that the
10 people up there understand him.

11 We have talked about the success before
12 and I am not sure how this differs.

13 Q Do you ever sit down or do you ever have a
14 meeting to assess the success of this program?

15 A We have -- I have talked to people about
16 it, but a meeting per se, no.

17 Q What statistics or information would you
18 look at to determine the success of this program?

19 A I look at the general attitude of the
20 people out there, the QC inspectors, QC supervisors, the
21 number of allegations of sloppy work we are getting, just
22 the whole panorama of things I look at.

23 Q Tell me about the panorama. What else do
24 you look at?

25 A Well, I described them. I just look at what

1 is going on. When you walk around and talk to folks --
2 I was in the Navy for 25 years and I used to walk through
3 a ship, I could tell whether the morale was high or low.
4 I can tell generally even in a construction job whether
5 morale is high or low.

6 You walk into a meeting of QC inspectors
7 and you can feel whether or not it is a receptive group,
8 whether their morale is good, whether it is not good;
9 not always, but generally.

10 Q Now, has the number of allegations that
11 you would look at regarding sloppy work, as you referred
12 to it, has that increase or decreased since the
13 implementation of the program?

14 A I don't have the numbers with me, but I
15 think decreased.

16 Q Who has the numbers?

17 A Well, we could go through the QA/QC office
18 in Comanche Peak and get them.

19 Q And who would we ask there to get them?

20 A Well, I would ask Tony Vega. I don't know
21 who he would ask.

22 Q Now, prior to the inception of the program,
23 w'o gets a record of the number of allegations of sloppy
24 work?

25 A That is not exactly the way I put it. We

1 have inspection reports. We have NCRs, and those tell
2 you whether the work is being done properly or not.

3 Q Would Mr. Vega also keep a file on the
4 number of allegations regarding intimidation and harassment?

5 A Probably.

6 Q Who else might keep such records?

7 A It would be in Vega's office if there is
8 a record of them.

9 Q Do you know of your own knowledge, personal,
10 that there is a record of them?

11 A I do not.

12 Q Prior to the implementation of the eight
13 point program do you know if a record was kept as to the
14 number of allegations of intimidation or harassment at
15 Comanche Peak?

16 A No, I don't.

17 Q Prior to the implementation of the eight
18 point program who in your opinion might keep such records
19 of allegations of intimidation or harassment?

20 A I just testified that I don't know if
21 there were any records kept or not.

22 Q That was as to when this program was
23 implemented, fall of 1983 to the present. Now we are just
24 talking about prior to that.

25 A I understand and, as I say, I don't know who

1 would be keeping records of that.

2 Q Was one of the purposes of the eight point
3 program to document allegations of intimidation or
4 harassment?

5 A It was not one of the eight points that I
6 recall. It wasn't one of the specific eight points.

7 Q Not a point, but a purpose in the design
8 and implementation of the program?

9 A Yes. We wanted to keep better records that
10 make sure that show that again our folks knew where they
11 could go for their information.

12 Q What were the efficiencies or problems in
13 your recordkeeping prior to that that made you implement
14 sch a program?

15 A As I said before, I felt that we had a good
16 program but we did not have it, as I recall, documented.
17 And it did not get the information out to other folks
18 other than those of us who were involved in the program.
19 The inspectors themselves, the supervision, the
20 executives, the management. So I want to make sure that
21 everyone around the program, peripherally around the
22 program understood how the company felt about QC/QA.

23 Q Now, to your knowledge, sir, how often was
24 this hot line system used?

25 in other words, what is the frequency of

1 harassment and intimidation that has come over the
2 hot line program?

3 A I don't know.

4 Q Do you know of any communications with the
5 hot line program regarding allegations of intimidation
6 and harassment?

7 A I read the June 25 report just recently and
8 I don't recall specifically one on harassment and
9 intimidation.

10 We do have another program that is involved.
11 The Ombudsman Program that is involved down there that --
12 I won't say short circuits, but that would cause most of
13 the allegations such as those to be forwarded to a man
14 by the name of Boyce Grier and inspectors and the -- well
15 everybody down there knows he is there now and so he gets
16 most of those intimidation and harassment or any other kind
17 of allegations along those lines. He gets most of those
18 directly himself.

19 Q Do you know of any allegations that have been
20 received on any subject matter whatsoever through the Hot
21 Line Program?

22 A Are you saying do I know any?

23 Q Do you know of any?

24 A Yes.

25 Q What did they concern?

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1 A Well, one of them -- we have had some
2 congratulatory. We have had some that were -- one that
3 turned out to be a safety problem, but an industrial
4 safety problem. We have had reports of faulty
5 construction. I just very candidly don't recall what
6 any particular one of them was harassment or intimidation.

7 Q Have any serious allegations been received
8 to the Hot Line Program?

9 A Yes. We have received some serious
10 allegations but they have not been substantiated.

11 Q When were those received?

12 A I don't know. You can look on the report.
13 You have a copy of the reports.

14 Q Let's talk a little bit about the ombudsman
15 program. Who is the ombudsman?

16 A Mr. Boyce Grier.

17 Q How long has he been with Comanche Peak?

18 A About eight months.

19 Q What was his first position at Comanche Peak?

20 A Ombudsman.

21 Q He was hired for that specific purpose?

22 A That's right.

23 Q When was Mr. Grier employed -- or what was
24 his occupation prior to Comanche Peak?

25

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1 A Mr. Grier retired from the Nuclear
2 Regulatory Commission within the year before he went to
3 work for us, and for 10 years then, his last 10 years
4 with the Nuclear Regulatory Commission he was a regional
5 administrator at Region 1 and Region 3 for those 10 years.
6 And he then retired from the Nuclear Regulatory Commission
7 and he went to work for Gilbert Commonwealth or
8 Commonwealth Gilbert, I have forgotten which. And we heard
9 about him -- well, I heard about him through Gil Keeley
10 who works for me and told me what kind of a person he was
11 and so we called to see if he was available and hired him
12 as an ombudsman.

13 Q Was it your idea to seek Mr. Grier out?

14 A I really -- it was one of those ideas that
15 comes and I am not sure it was my idea or somebody talked
16 to me about it.

17 Q Describe his function as ombudsman.

18 A He is available to any and everyone on the
19 site for any complaints they have about anything. But
20 specifically we want him there so that the QC inspectors
21 know they have a place they can go and get immediate
22 attention on a case of improper work or if they don't like
23 the procedures that are being changed, the instructions are
24 being changed, or anything you want to talk about, harassment,
25 intimidation.

jon

1 Q Does Mr. Grier document communications he
2 has with Comanche Peak employees when they come to him
3 with a problem?

4 A You will have to ask him whether he documents
5 all of them or not. But I -- I get reports from him
6 concerning allegations, yes.

7 Q What allegations -- what reports have you
8 received from him? What allegation of those concerns?

9 A Well, over a period of time I have received
10 several. Usually it is an harassment-intimidation type
11 allegation. Occasionally it will be one that somebody doesn't
12 think the work is being done in a proper manner.

13 Especially the ones that he gets from the exit interviews of
14 the construction hands and the QC/QA folks. Usually a
15 product problem. But the ones that we get from people who
16 are still working there, usually harassment and intimidation.

17 Q Now, when Mr. Grier receives a -- strike
18 that.

19 Whose idea or concept was the ombudsman
20 program?

21 A Well, like I said a while ago, several of
22 us talked about it and whether or not it was my idea or
23 somebody working for me or someone for whom I work I don't
24 recall offhand.

25 It was an idea that seemed like it was a good

1 one.

2 Q How does Mr. Grier act on allegations he
3 receives? Take me through the steps.

4 A He reports it to Mr. Vega. In other words,
5 a guy comes in, a guy or gal comes in and makes an
6 allegation to him. He reports the allegation.

7 Now, the person can have anonymity, he
8 can have confidentiality or if they say they don't care if
9 their name is used, however way they want to do it.

10 The -- he reports -- I think he reports
11 the allegation right away to Tony Vega, that he has had
12 an allegation. Then he makes an investigation of it. And
13 he sends the copy of the investigation report to Vega,
14 Chapman and myself. Or if it looks to him like it is a
15 widespread, big investigation that he is not capable of --
16 when I say an investigation, counselor, I mean he just
17 calls in the people who are intimately involved listed by
18 the allegor, and he calls those folks in and tries to get
19 their story. He doesn't not do an investigative type
20 investigation.

21 If that's the case, if it looks like it is
22 going to require that, then I think that a couple of them
23 have come in from Boyce to what you call the Hot Line
24 Program. It wouldn't be through the hot line. That Boyce
25 would refer something like that to Andrews so that he would

1 get a professional investigator on it and investigate it.
2 And it would be taken out of Boyce's hands then. The
3 reports then would come through the Hot Line Program
4 as you see there.

5 This is not the only kind of report we
6 get. If it warrants we get individual reports.

7 Q Now, would Mr. Grier report to you as to
8 investigations that are ongoing?

9 A Not -- no. He reports administratively to
10 me but he reports to Tony Vega to support Tony Vega.

11 Q Has Mr. Vega ever pointed out to you,
12 asked you ongoing investigations from the ombudsman?

13 A I don't recall.

14 Q Let me --

15 A What would happen I think is that Tony Vega
16 would be told by Grier that he had an allegation against
17 Joe Dokes and I am sure if it were a real gross allegation
18 that Tony Vega would call Chapman and Chapman would call me
19 right away. If it is one that is not real -- we don't
20 take immediate action on at a higher level but I would hear
21 about it probably, but not -- he wouldn't pick up the phone
22 right away and call me.

23 Q Now, if it was a severe, gross problem
24 Mr. Vega would report to Mr. Chapman?

25 A Yes.

jon

1 Q And now it would be Mr. Vega's determination
2 whether to report it to Mr. Chapman?

3 A That's right. A management decision on his
4 part.

5 Q And similarly, would Mr. Chapman make the
6 same kind of management decision as to severity and report
7 it up to you?

8 A Yes, but Chapman and I live so close
9 together -- work so close together in Dallas that during
10 conversations somehow -- I am sure I'd hear most of it.
11 Also he calls me at night at home.

12 (Recess.)

13

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1 AFTERNOON SESSION

2 (1:35 p.m.)

3
4 MR. BELTER: Back on the record.5 I just wanted to very briefly, Charlie,
6 indicate where we are procedurally.7 Mr. Clements' deposition was scheduled
8 for half a day and it is obvious we can't finish it in
9 half a day.10 Mr. Clements has voluntarily cancelled a
11 1:40 appointment and a plane reservation for this
12 afternoon in order to be here today the rest of the day.13 Ms. Chan has to finish Mr. Clements and
14 she is leaving tomorrow.15 Mr. Fikar, who is our witness for this
16 afternoon is at my direction on call and available any
17 time for the rest of the week, and my understanding is
18 that we are going to go ahead and finish Mr. Clements
19 today. At all costs. And we are prepared to go as long
20 as necessary in order to do that.21 I think that is an accurate summary of our
22 discussion. I appreciate Mr. Clements efforts to make
23 himself available. And we will certainly do our best to
24 wrap it up as soon as we can.

25 Why don't we get on with it.

jon2

1 Whereupon,

2 BILLY RAY CLEMENTS

3 resumed the chair, was further deposed, and testified as
4 follows:

5 EXAMINATION

6 BY MR. SOSNICK:

7 Q Mr. Clements, we have been talking about
8 the ombudsman program; do you recall that, before we took
9 our lunch break?

10 A Yes.

11 Q I will ask you now for your assessment of
12 that program. What is that, sir?

13 A I feel like it is working well as shown by
14 the fact that inspectors do feel free to come in and talk
15 to Mr. Grier. We have made it known that he is there and
16 when he can, when he is not involved in something else in
17 the area inspecting, to make himself available. I feel
18 like it is successful.

19 Q Have other opinins been expressed to you
20 as to the success or failure of the ombudsman program?

21 A Not to me, no.

22 Q To go back to something you mentioned early
23 on this morning. It had to do with a t-shirt incident.
24 Do you know what I am referring to?

25 A Yes.

1 Q Why don't you just give us a time frame.
2 When did that occur? Let's just start with the year.

3 A This year.

4 Q Okay. And was it in the early part of the
5 year?

6 A As best I can remember, Mr. Sosnick, it was
7 about four or five months ago; three or four or five
8 months ago, somewhere like that.

9 Q Do you believe it might have been in March
10 of this year?

11 A Could have been.

12 Q Now, why don't you tell us how you became
13 aware of an incident that involved t-shirts. I just
14 want to know how you became aware of it.

15 A Either Tolson or Chapman called me. I
16 believe it was Tolson.

17 Q And what did he tell you when he called you?

18 A He told me that we had six or seven
19 inspectors, QC inspectors wearing T-shirts that had something
20 to do with nit-picking, letters, signs on them saying something
21 that had to do with nit-picking. And I told him to get back
22 with me and let me know what was going on and what was
23 responsible for it and so forth.

24 Q Okay. And what are we talking about when you
25 refer to the term nit-picking?

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1 A I assumed that they were talking, had to do
2 with the Harry Williams incidence talking about nit-picking
3 and inspectors.

4 Q Okay. Who is Harry Williams?

5 A Harry Williams is a QC supervisor some time
6 ago at the plant.

7 Q Is Mr. Williams still a supervisor at the
8 plant?

9 A No, he isn't.

10 Q When did he leave the plant?

11 A It was either early this year or late last
12 year. I'm not sure exactly when.

13 Q What were the circumstances under which
14 Mr. Williams left the plant? Did he leave on his own or
15 was he terminated?

16 A He was made available back to his -- the
17 company that sent him here and they reassigned him.

18 Q Now, what were the comments that Mr. Williams
19 made and to whom did he make them?

20 A At what time, Mr. Sosnick?

21 Q Referring to the nit-picking.

22 A He was talking to a group of -- now,
23 understand, this is hearsay evidence. Hearsay on my part.
24 I wasn't there, but I understand that he made the comment
25 to some inspectors that something to do with nit-picking in

1 their inspections. Had to do with the fact that while
2 they were nit-picking and picking out little things that
3 really were not problems with the paint -- they were
4 missing some items that they should have been picking up.
5 So he wanted them to quit the nit-picking and get on with
6 the items of inspection that were important.

7 Q Okay. So far as you know from your own
8 knowledge, were those things that they were picking out,
9 were those valid complaints? Were valid things they should
10 have picked up?

11 A Of my own knowledge I do not know.

12 Q Have you heard any information -- have you
13 seen any information or are you aware of any information
14 which would suggest that those items they saw, which
15 Mr. Williams complained about, were not valid items to be
16 reported?

17 A Would you restate that again? There's a
18 double negative in there and I'm confused.

19 Q I apologize if I confused you.

20 Have you seen any document which would
21 suggest -- any documentation whatsoever 00 that what these
22 particular inspectors reported and what Mr. Williams
23 referred to as nit-picked items -- I'll just use that term --
24 that they were not valid items to be reported? Is that
25 documented anywhere?

jon6

1 A It may be, but to my knowledge, I don't
2 remember -- I don't remember seeing it.

3 Q It is possible it may be documented?

4 A It may be. Maybe I've seen it, but I
5 have seen so many of these reports that I couldn't tell
6 you one from the other.

7 Q What kind of report would that be in?

8 A If it was valid information it would be in
9 an inspection report or in a nonconformance report.

10 Q Now, are Mr. Williams' statements contained
11 in any document that you know of?

12 A Weren't they in that report you showed me
13 earlier from Region IV, from Harry Johnson?

14 Q Do you recall any document?

15 A I think that they might be in that summary
16 sheet you had.

17 Q For the record, you are referring to
18 Exhibit 38-1 for identification?

19 A I think so.

20 Q There is the word nit picking right there.

21 A You have indicated the first paragraph of
22 the summary of 38 -- whatever you said, 38-1 or -2?

23 Q 38-1.

24 Do you know of any other documents that
25 would reflect what Mr. Williams said regarding nit-picking?

jon7

1 A There could be several of them. There was
2 a lot of comment about this nit-picking incident, so there
3 could be several. And I have seen that document and so
4 forth, so I am just not sure which one -- but I have seen
5 it written down.

6 Q You have seen it in other documents?

7 A I think so, yes.

8 Q What other document?

9 A I'm not sure.

10 Q Were there many?

11 A Some. But I'm not sure. I wouldn't
12 remember whether it was two or three or four or five.

13 Q Can you identify one?

14 A No, I can't; not right now.

15 Q Can you identify the source of any such
16 document which would refer to Mr. Williams' comments about
17 nit-picking?

18 A I'd be speculating. I don't remember who
19 originated them.

20 MS. CHAN: I would like to interject at this
21 point that the document you are reading from now is only
22 the first few pages of a rather substantial sized document
23 and I just wanted to request for the record that this be
24 appended in its entirety if you are planning to use it.
25

1 MR. SOSNICK: We will make it all an
2 exhibit.

3 MS. CHAN: That's fine. Thank you.

4 MR. BELTER: Do you have enough copies?

5 MR. SOSICK: Let's go on.

6 Ms. Chan has handed to me what appears to
7 be the next and completing section of Exhibit 38-1, the
8 first section of Exhibit 38-1 which has been marked for
9 identification is a letter dated December 22. There is an
10 appendix attached to that dated August 24. Attached to that
11 is a summary. And appended to that will be Exhibit 38-1A
12 which the detail -- it is marked Detail. That is the
13 section name.

14 The parties have stipulated that we have
15 a complete document.

16 MR. BELTER: I have not stipulated that yet.
17 We need to take a look at it just to make sure that it is.
18 I have the same hearsay objection to the nature of it.

19
20 You have handed me Exhibit Number 38-1,
21 Charlie, with I guess Exhibit 38-1A appended to it.

22 MR. SOSNICK: That's right.

23 MR. BELTER Do I understand, Charlie, that
24 you have no problem with the hearsay nature of this
25 document, these reports, as they are coming in here?

jon10

1 MR. SOSNICK: No, I have no problem with
2 them.

3 MR. BELTER: Will that happen to all
4 similar OI reports?

5 MR. SOSNICK: All similar OI reports?

6 MR. BELTER: Yes.

7 MR. SOSNICK: It would depend on what
8 happened after the OI report was received.

9 MR. BELTER: But they are competent evidence
10 to show what happened after they were received for that
11 purpose?

12 MR. SOSNICK: You are asking for a judicial
13 determination.

14 MR. BELTER: Well, I am just asking if this
15 one is competent for that purpose there are a few others
16 which I think are competent for the same purpose. It
17 might serve my purpose as well as yours.

18 MR. SOSNICK: Are you asking me to make some
19 sort of determination?

20 MR. BELTER: I am saying that I objected to
21 this on the grounds of hearsay and you indicated all right,
22 you think it is competent evidence. I am just asking you
23 whether your view, and I think you have indicated it is,
24 that these type of reports, in your response to my hearsay
25 objection, are relevant for the purposes of showing

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1 management reaction.

2 MR. SOSNICK: No. I think you have just --

3 MR. BELTER: Well, what is your good faith
4 assertion now, that you believe this constitutes competent
5 evidence as opposed to strictly discovery.

6 MR. SOSNICK: I just answered that. I
7 just answered that. I'm not going to make any kind of
8 determination of things that you are talking about that
9 I haven't seen. But I'm not introducing things here that
10 I don't think we cannot use. So let's go on.

11 BY MR. SOSNICK:

12 Q Now, Mr. Clements, when did the -- we have
13 talked about when the t-shirt incident occurred, when did
14 the nit-picking statement come about? Mr. Williams'
15 nit-picking statement?

16 A When he made that statement?

17 Q Yeah.

18 A I don't know.

19 Q Was it in 1984?

20 A I don't think so. No, I am sure it wasn't
21 in '84.

22 Q In 1983?

23 A Could have been.

24 Q You are not certain whether it was --

25 A I'm not certain, no. I don't know when it

- 1 was made.
- 2 Q Could it have been in 1982?
- 3 A Could have been.
- 4 Q How many people were -- how many people
5 did Mr. Williams make this statement to about nit-picking?
- 6 A I don't know.
- 7 Q The QC paint inspectors?
- 8 A To my knowledge they were; I mean to the
9 best of my knowledge they were, yes.
- 10 Q Now, Mr. Clements, to your knowledge were
11 these the same QC paint inspectors who were involved in
12 the t-shirt incident?
- 13 A I do not know.
- 14 Q How many QC inspectors -- paint inspectors
15 were involved in the t-shirt incident?
- 16 A I believe there were eight. I said a few
17 moments ago six or seven or eight. I'm not sure, but I
18 think it was eight.
- 19 Q Is there a dress code at Comanche Peak
20 Nuclear Power Plant?
- 21 A No.
- 22 Q Now, when you first heard Mr. Williams'
23 statement, what was your reaction?
- 24 A I don't recall.
- 25 Q You don't recall what your reaction was?

jon13

1 A No.

2 Q Would it concern you that he made such a
3 statement?

4 A I don't recall whether I was concerned at
5 that time or not. I don't remember.

6 Q Did any other individuals express to you
7 concern over that statement?

8 A I don't remember.

9 Q Do you know of any individuals who were
10 concened about that statement?

11 A In retrospect?

12 Q At that time.

13 A No, I don't.

14 Q In retrospect?

15 A I think that their concern about the
16 incident, the way it was discolored, yes, I think they are
17 worried about that.

18 Q They were concerned about Mr. Williams
19 making that statement?

20 A NO. They were worried about the way it
21 was taken out of context and used, so-called nit-picking
22 incident.

23 Q Let's talk about the t-shirt incident for a
24 moment.

25 A Okay.

1 Q We call it the t-shirt incident because --
2 well, why don't you -- did some individuals were certain
3 t-shirts into Comanche?

4 A YEs. There were six to eight QC inspectors
5 wearing t-shirts that had something written on them
6 concerning nit-picking.

7 Q Do you recall the exact language?

8 A No, sir, I don't.

9 Q Now, who informed you that there were six
10 or eight individuals wearing t-shirts that said something
11 about nit-picking?

12 A As I said before, it was Ron Tolson or
13 David Chapman. I believe it was Ron Tolson.

14 Q Did they inform you of this on the day that
15 it occurred?

16 A Yes.

17 Q What time of the day did they inform you of
18 it?

19 A I can't be sure. I think it was around
20 9 or 10 o'clock in the morning.

21 Q Do you remember where you heard it?

22 A In my office in Dallas.

23 Q Was there anyone with you?

24 A I don't recall.

25 Q Did you tell anybody else about this?

1 A I called the -- well, I called Mr. Spence,
2 my boss, and I called Mr. Paul Check at the Nuclear
3 Regulatory Commission, Region IV, and told them about it.

4 Q Now let's walk through the t-shirt incident.

5 A Okay.

6 Q These individuals came into the plant with
7 t-shirts which said something about nit-picking, as far as
8 you recall?

9 A That's what I was told.

10 Q And what happened when they went into the
11 plant; did they go to their job locations?

12 A I don't know.

13 MR. BELTER: Just to be sure, again,
14 counselor, that all of this is not establishing by
15 competent evidence that any of these events occurred.
16 Because it is all hearsay. But I understand you are to
17 be questioning Mr. Chapman because these things were
18 reported to him.

19 MR. SOSNICK: I certainly think that if he
20 knows of his personal knowledge that it is very competent
21 evidence.

22 MR. BELTER: It is reported to him. It is
23 not competent evidence establishing that these events
24 occurred. That's my whole point.

25 This evidence you are putting on here today

1 does not establish that these events occurred. That is
2 hearsay and the Judge has so ruled and I object to it on
3 that ground.

4 I understand you are going ahead because it
5 is competent evidence to establish his reaction to the
6 fact that it was reported to him.

7 BY MR. SOSNICK:

8 Q Did you have any doubt from the time that
9 you received this that this event did not occur?

10 A No.

11 Q Were you certain that it did occur?

12 A I'm positive it occurred.

13 Q All right. You were so positive it occurred
14 you called the president of TUGCO, Mr. Spence?

15 A That's right.

16 Q And you were so certain that it occurred
17 that you called the Nuclear Regulatory Commission?

18 A That's right.

19 Q It concerned you very much; that's why you
20 called these people?

21 A That's right.

22 Q Now let's go back to my last question.
23 When these people entered the plant, as far as you know,
24 did they go to their job, job site locations?

25 A I have answered I don't know.

1 Q What happened to these people on that
2 certain date who wore these t-shirts into the plant; do
3 you know?

4 A Yes. Well, as you say, on that day, I can
5 tell you what I do know about it.

6 Q Tell me what you knew on that date first.

7 A That's what I am going to tell you.

8 Q Okay, fine.

9 A They were collected, I guess -- they were
10 asked to go -- to come off of the -- out of the
11 containment building and they were gathered in a room at
12 the site for a couple of reasons. One, when Mr. Tolson
13 or Mr. Chapman -- let's just say it was Tolson and stick
14 with that so I son't keep flapping back and forth -- called
15 me. I asked him where the people were at the time and at
16 this time they had asked them to come into this room and
17 stay there isolated from the folks at the plant. And I
18 understand that they had done this without any animosity.

19 I told Tolson to make sure that those people
20 were protected. As I mentioned here earlier this morning,
21 I didn't know what the situation was as far as animosity
22 between the craft folks and the inspectors. And I certainly
23 didn't want any hysical violence or any verbal abuse going
24 back and forth either way. So I concurred in the fact that
25 they had isolated those paint inspectors from the rest of

1 the population at the site at that period of time.

2 Q Okay. Let me just throw something in.

3 A All right.

4 Q Mr. Tolson called you and told you that he
5 was collecting these people?

6 A I'n not sure whether he called and told me
7 that, whether he had already done it the first time he
8 called me or whether I told him to do it and he said he
9 had already done it, I don't know what -- but we both
10 agreed that we wanted them separated from the population of
11 the rest of the plant.

12 Q So, in other words --

13 A It may even have been Chapman who called me
14 the second time. I don't know.

15 Q In other words, you are telling me that
16 either you, Mr. Tolson, or Mr. Chapman or all three of
17 you together made that decision to gather these people?

18 A That's right.

19 Q Now, how were these people gathered? Were
20 they paged in the plant and asked to report to a certain
21 room?

22 A I don't know.

23 Q Were they escorted to a certain room in the
24 plant?

25 A I do not know.

1 Q Were the security guards used to escort
2 these people to a particular room in the plant?

3 A I do not know. I understand it was a
4 security guard outside the room they were gathered in.

5 Q Outside the door?

6 A That's what I understand.

7 Q Was the door closed?

8 A I do not know.

9 Q Was the door locked?

10 A I do not know.

11 Q How long were these people kept in the room?

12 A I do not know.

13 Q Were they kept there all morning?

14 A I believe they were there until after lunch
15 because Boyce Grier interviewed each one of them sometime
16 that day, the best that I can remember.

17 Q So they were kept there for a number of hours
18 at least?

19 A I presume so. I know they were sent home
20 before the working day was over. With pay.

21 MR. BELTER: I reiterate, counselor, that
22 the answers to these questions can be established with
23 competent evidence from other witnesses. Mr. Chapman
24 is giving you 100 percent hearsay and it is not competent
25 evidence, for example, to establish -- Mr. Clements, I'm

jon20

1 sorry -- all of these intimate details.

2 MS. CHAN: Excuse me, Mr. Sosnick. I
3 believe Mr. Chapman and Mr. Tolson are being deposed
4 separately, and since they are knowledgeable on the
5 subject and all the information Mr. Clements received
6 he has already said he received through Tolson and
7 Chapman.

8 If we are going to continue this line of
9 questioning maybe you could tell us what you are going to
10 use it for. Are you intending to use it for state of
11 mind?

12 MR. BELTER: How is this relevant?

13 MS. CHAN: How is this relevant? Otherwise
14 this is beyond the scope.

15 MR. SOSNICK: Because Mr. Clements took this
16 information, digested it and acted on it. All right? AND
17 I think that goes to state of mind.

18 MR. BELTER: Right. You are only getting
19 what information he got. But now you are asking him a
20 series of questions about the details of it, most of which
21 he doesn't know the answer to.

22 MR. SOSNICK; He has answered quite a few.

23 MR. BELTER: Yes, and he has answered quite
24 a few in the negative, that he doesn't know. He's not sure
25 how long. He is operating for all we know on second, third,

1 and fourth-hand hearsay. You are not establishing the
2 facts of the events through this witness, and that is my
3 only point.

4 MR. SOSNICK: I'll try to tie it all up.

5 BY MR. SOSNICK:

6 Q So many of the individuals who were
7 involved in the t-shirt incident still work at Comanche
8 Peak?

9 A I don't know.

10 Q Do you know of any who do not work there
11 anymore?

12 A I have heard that two of -- the last time
13 I heard it was two that had left, but that was a couple
14 of months ago or so.

15 Q Let's talk about your discussion with
16 Mr. Check, I believe it is, of the NRC?

17 A YES. Deputy Administrator.

18 Q Okay. You called him on the day of the
19 incident?

20 A Yes. Several times.

21 Q I will show you a memorandum from Mr. Check
22 written after he talked to you on the telephone. I'll
23 pass that to you and all counsel.

24 MR. BELTER: I am going to object to your
25 even marking this. It is completely improper. There is no

1 way that this witness could begin to authenticate that
2 document, and you know it.

3 It appears to be notes from some unknown
4 person. It is not Mr. Clements. There is no way that
5 he could authenticate the document.

6 You can ask him questions based on the
7 knowledge you have from that document, but you can't
8 authenticate this document through this witness and you
9 can't ask him anything about the document itself other
10 than has he seen it and does he know what it is.

11 MS. CHAN: Staff joins in the objection.

12 MR. BELTER: I don't know where it came
13 from and I certainly am not going to stipulate to its
14 authenticity.

15 MR. SOSNICK: I am going to attach it as
16 an exhibit.

17 MR. BELTER: It is worthless as an exhibit.
18 You can ask questions about the subject matter of it because
19 you know that and you know whether it is authentic or not.
20 The document itself is worthless and I object.

21 You can have it attached.

22 (The document referred to was
23 marked Exhibit 38-4 for
24 identification.)
25

XXXXXXXX

jon23

1 BY MR. SOSNICK:

2 Q Mr. Clements, when you made your
3 telephone call to Mr. Check, did you inform him why
4 certain people were being kept in a room, why these
5 certain people with the 5-shirts were being kept in a room;
6 did you tell him why they were in the room?

7 A I think I did. I think that I did.

8 Q Okay. Do you remember what you said to him
9 what the reason was?

10 A Yes, sir.

11 Q Why don't you tell us what that is.

12 A I said that I didn't know what the
13 relationship was between the workers and the construction
14 hands and the inspectors and I sure as hell didn't want
15 any violence out there, physical or verbal.

16 Q Did you mention anything to Mr. Check that
17 these QC inspectors were wearing t-shirts with some
18 reference to nit-picking had been doing something called
19 destructive inspection?

20 A I told him that it had been reported to me
21 that this was taking place. I didn't have any first-hand
22 knowledge of it.

23 Q Who reported it to you?

24 A Either Tolson or Chapman.

25 Q And when did they report that to you?

1 A The day that the t-shirt incident.

2 Q Have you ever seen any documentation that
3 would suggest that these individuals had done some sort of
4 destructive inspection?

5 A What kind of document would you expect me to
6 see.

7 Q I'm asking you, sir. Had you seen anything
8 which documented an instance of destructive inspection as
9 to any of these individuals who wore a t-shirt with some
10 reference to nit-picking?

11 A No. If there was an inspection report come
12 down with a fault on it it wouldn't say how it got there,
13 it wouldn't say destructive testing.

14 Q What is destructive inspection; can you
15 explain that to us, please?

16 A Sure. If I go up to a panel that has been
17 previously tested and I want to either cast a shadow of
18 a doubt on another inspector or the work or the program
19 itself is when I reach in to test them to see if they are
20 tight and I pull them like this, I pull them loose and
21 report them as being faulty after being inspected. That
22 would be one way you could do it.

23 Q Have you ever seen any documentation of
24 destructive inspection at Comanche Peak?

25 A As I explained to you a while ago it would

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1 not come down as destructive testing; it would come down
2 as a fault on an inspection report or a deficiency report;
3 it wouldn't say destructive testing because there is no
4 way you could prove that.

5 MR. BELTER: Counsel, would you show him
6 the document so we could have an indication of whether he
7 has ever seen it before?

8 BY MR. SOSNICK:

9 Q Have you ever seen the document?

10 A Not before today.

11 Q Or anything that appears in this document
12 that you did not discuss with Mr. Chapman?

13 A Yes, there is.

14 Q All right. Why don't you tell us what that
15 is.

16 A It is the names of the people involved.

17 MR. BELTER: Counsel, I am going to ask you
18 to consider again in good faith whether this document that
19 you have marked as an attachment to this evidentiary
20 deposition is good faith competent evidence in this proceeding
21 And I ask you to reconsider that in view of the obvious
22 conclusion now that this document was not compiled entirely
23 as a result of notes of a phone conversation with
24 Mr. Clements. His answer to your last question makes that
25 clear.

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1 I don't know how it came about, but even
2 assuming it is authentic and you can authenticate it from
3 someone else, it is obvious that the author may have put
4 it together from sources consisting in part of Mr. Clements
5 or consisiting of things in addition to him.

6 For that document to be competent in any
7 fashion you should bring in another witness, particularly
8 the author of the document, or somebody who can identify
9 it and recognize it.

10 MR. SOSNICK: I have attached it as an
11 exhibit. It has not been introduced into evidence.

12 MR. BELTER: This is an evidentiary
13 deposition, counsel.

14 MR. SOSNICK; Are you finished?

15 MR. BELTER: I have finished now. Go ahead.

16 MR. SOSNICK: I have attached this as an
17 exhibit. I have asked questions to it as I have seen it.
18 I have asked Mr. Clements questions as to his conversation
19 with Mr. Check. He is certainly competent to relate those
20 to me.

21 MR. BELTER: Mr. Sosnick, you were present
22 yesterday when Judge Block made his ruling on our
23 objections. I object to this on the grounds that it is not
24 competent evidence. It is not authentic.

25 MR. SOSNICK: Your objection should be made

1 to him.

2 MR. BELTER: That is not the ground rules
3 here. The groundrules are that you are to reconsider
4 whether in good faith you think this is competent evidence
5 to be attached to an evidentiary deposition.

6 We are in hearing here, in effect. We are
7 before the Board right now in hearing. You are offering
8 this thing as evidence in this hearing and you are being
9 asked to rule on the basis of your professional judgment
10 about whether this document constitutes competent evidence
11 and I am asking you in good faith to concede that that
12 document, so far at least, is not admissible because you
13 have not authenticated it.

14 Your questions based on the knowledge you
15 got from that document are acceptable. But that document
16 is going to go into the Public Document Room attached to
17 an evidentiary deposition; it is going to go up before the
18 Board.

19 MR. SOSNICK: It has not as yet been
20 introduced in evidence, has it, counsel?

21 MR. BELTER: You are not offering it as
22 evidence then?

23 MR. SOSNICK: I am offering it as an exhibit
24 to the deposition.

25 MR. BELTER: It should not be bound with

1 this deposition.

2 MS. CHAN: If it is attached it will be
3 part of the evidentiary deposition.

4 MR. BELTER: You are indicating in good
5 faith now and with an understanding of the groundrules
6 yesterday that you think this is competent evidence,
7 that is what you can do, Charlie, when you say that you
8 want these things attached to this deposition.

9 MR. SOSNICK: Let's keep this marked.
10 You and I may discuss this today.

11 MR. BELTER: Fine.

12 MR. SOSNICK: I think that we will just make
13 better use of our time if we don't squabble over it on
14 the record and you and I can iron it out and we will
15 certainly reach an agreement and I will, in my
16 professional opinion, and in good faith, will make a
17 determination. Is that agreeable?

18 MR. BELTER: Fine. I think our confusion
19 here is that you are operating under a groundrule that
20 you think these things don't become evidence. In my
21 understanding of the groundrules you are supposed to decide
22 right now whether it constitutes competent evidence. And
23 that is something we can both discuss later. Correct.

24 MR. SOSNICK: Correct.

25 BY MR. SOSNICK: (Resuming)

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#6

1 Q Mr. Clements, during the earlier part of
2 the day you made reference to a letter by a
3 Mr. Eisenhut. Do you recall that?

4 A No, I don't.

5 Q I will show you a letter from a Darrell
6 Eisenhut dated April 24, 1984. I will present that to
7 you and your counsel.

8 MR. BELTER: You are showing him something
9 you have not provided to us previously.

10 MR. SOSNICK: I believe it came from you.

11 MR. BELTER: It may have, but you are
12 showing us a document that we have not been provided with
13 today.

14 MR. SOSNICK: Didn't you get a copy of the --
15 let's get off the record.

16 (Discussion off the record.)

17 BY MR. SOSNICK:

18 Q Mr. Clements, are you familiar with a
19 letter from a Darrell Eisenhut, Director, Division of
20 Licensing, Office of Nuclear Reactor Regulations, Nuclear
21 Regulatory Commission? ARE you familiar with a letter from
22 him to TUGCO?

23 A I am familiar with a lot of letters from him
24 to TUGCO.

25 Q Do you recall responding to a letter from

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1 Mr. Eisenhower that you typed up?

2 A I responded to a lot of letters from
3 Mr. Eisenhower.

4 Q You have been furnished with a copy of a
5 response that you made to a letter from Mr. Eisenhower. Do
6 you have it in front of you?

7 A YES.

8 Q Do you recognize that as your letter?

9 A Yes.

10 Q What was that letter in response to?

11 A It was a response to Mr. Eisenhower's letter
12 of April 24, 1984.

13 Q Okay. And why don't you just tell us in
14 summary fashion what that letter from Mr. Eisenhower dealt
15 with.

16 A Well, it's stated in the first paragraph of
17 my letter to Mr. Eisenhower. In part it says containing
18 a list of allegations about certain practices at Comanche
19 Peak Steam Electric Station. Mr. Eisenhower's letter
20 contained those allegations.

21 Q Okay. And where did Mr. Eisenhower receive
22 such allegations?

23 A I have no idea.

24 Q Now, do you recall how many allegations
25 Mr. Eisenhower related to you in his letter?

1 A Twenty-four, I believe.

2 Q And did he request of you any special
3 response?

4 A He asked that we -- well, we have got his
5 letter there. Let's take a look at it.

6 (Discussion off the record.)

7 Q In your response to Mr. Eisenhut's letter
8 did you make any evaluation as to the validity of the
9 issues he identified in his letter?

10 A The allegations?

11 Q Yes.

12 A In some cases we did.

13 Q Okay. Did you state the basis for these
14 conclusions in your response?

15 A Yes.

16 Q Did you also recite any safety significance
17 as to each of these issues?

18 A Where safety significance was a question,
19 we did, I am sure.

20 Q And did you relate any generic implications
21 on other systems at Comanche Peak or other contractors for
22 any of the things raised in his letter that were of merit?

23 A Yes. On each individual allegation we did
24 that.

25 Q Now you have stated to me that there were 24

1 allegations related to you by Mr. Eisenhut?

2 A That's right.

3 Q Excuse me. Related to TUGCO?

4 A Yes.

5 Q And do you recall who in TUGCO that letter
6 was directed to?

7 A I believe it was addressed to Michael Spence,
8 the president.

9 Q And how was it, sir, that you responded to
10 that letter?

11 A I am the corporate officer -- all of our
12 correspondence from the NRC is addressed to Mr. Spence as
13 a representative of the licensee. I get most of it as a
14 carbon copy from either Region IV or NRR, Bethesda.
15 It is my job to respond to the quality assurance and the
16 operations portions of those letters that Mr. Spence gets.

17 Q Okay. Now, in front of you you have a copy
18 of your response; is that correct, sir?

19 A Yes.

20 Q And please refer to it through this line of
21 questioning, and I believe all counsel has a copy. I would
22 like to mark it with an exhibit number.

23 MR. BELTER: Fine.

24 MR. SOSNICK: For purposes of identification
25 as an exhibit to the deposition we will mark this

CXXXXXX

1 as Exhibit 38-5.
2 (The document referred to was
3 marked Exhibit 38-5 for
4 identification.)
5 BY MR. SOSNICK:
6 Q Now, Mr. Clements, was TUGCO required to
7 respond to Mr. Eisenhut's letter which related those
8 allegations by a certain time?
9 A Yes.
10 Q What time was that? By when?
11 A It was normally 30 days. I don't see it
12 here on my response but it is normally 30 days from the
13 time is either sent out or the day we received it.
14 Q Was your response made under oath,
15 Mr. Clements?
16 A Yes.
17 Q And in fact, that citation of oath is
18 attached to your letter, is it not?
19 A That's correct.
20 Q And was that under penalty of perjury, sir?
21 A I presume so.
22 Q Now, what is the date of your response to
23 Mr. Eisenhut? What is the date of your letter, sir?
24 A 25 May 1984.
25 Q And when did you sign this letter to

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1 Mr. Eisenhut?

2 A I have to presume that I signed it on
3 the 25th.

4 Q And do you know of when you subscribed
5 under oath to the truth of the contents in this letter?

6 A I presume the same day.

7 Q I'll just point out to you that this
8 indicates June 1, 1984.

9 MR. BELTER: My copy indicates 25 May.

10 THE WITNESS: My copy says 25 May 1984.

11 MR. BELTER: Counsel, do you have any idea
12 how you got the wrong date on this?

13 MR. SOSNICK: That is strange. Let's go
14 off for a second.

15 (Discussion off the record.)

16 MR. SOSNICK: Let's go back on.

17 I apologize. I was looking at another
18 document when I referred to a June 1 date.

19 BY MR. SOSNICK:

20 Q Now, in your response to Mr. Eisenhut did you
21 provide any documentation in addition to your responses to
22 the particular allegations?

23 A I don't think so.

24 Q Mr. Clements, do you recall being requested
25 to submit any documentation in response?

1 A No, I don't.

2 Q Mr. Clements, do you remember offering to
3 Mr. Eisenhut documentation to substantiate your response?

4 A In my May 25 letter?

5 Q Yes, sir.

6 A Yes. First sentence, third paragraph on the
7 first page says where applicant has noted existing
8 documentation is available for your review in part it
9 says.

10 Q Now, then, sir, in responding to
11 Mr. Eisenhut what documentation did you refer to in
12 answering Allegation Number 24?

13 Why don't I just, for purposes of
14 clarity on the record I will just read what Allegation
15 Number 24 was.

16 "It has been alleged that there is constant
17 pressure, by craft and management, on QA/QC inspectors
18 not to wright nonconformance reports."

19 Do you recall seeing that?

20 A Yes.

21 Q In Mr. Eisenhut's letter?

22 A Yes.

23 Q Now I see here approximately a page and a
24 half response to that allegation; is that correct?

25 A That's right.

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1 Q Now, the first part of your response is an
2 evaluation of validity; is that correct?

3 A That's right.

4 Q And it is stated in your response that this
5 allegation is not valid. Is that what appears in your
6 response, sir?

7 A Tht's correct.

8 Q Now, on what did you base that? What
9 documentation did you look at to respond in such a way?

10 A You understand this is preapred for me by
11 my staff and I looked at no documentation whatsoever.
12 However, I do know that we have a series of procedures,
13 instructions to spell out when NCRs are to be written and
14 what the process for handling NCRs are, when IRS should
15 be -- better be written, and deficiency reports, all of
16 these are covered by documents at the plant. I couldn't
17 give you chapter and verse which ones they are, but they
18 are all in there, in documents in the plant.

19 Q Okay. Could you name what one of those
20 documents might be?

21 A No.

22 Q Any one? Do you recall?

23 A The number of it, or what?

24 Q Whatever you referred to it by.

25 A The NCR instruction procedure.

jon37

1 Q Any others?

2 A NO.

3 Q That is the only one you recall right now?

4 A I don't even really recall that one. I'm
5 just -- that is a generic term. It wouldn't necessarily
6 be listed as such.

7 Q If you personally wanted to check the
8 documentation what would you ask for?

9 A I would get this allegation and the answer
10 to it and I'd tell Chapman to prove to me that what he said
11 here was absolutely so.

12 Q You signed this response under oath; is
13 that correct?

14 A That's right.

15 Q And when you signed it under oath did you
16 ask anyone to prove to you that what was in there was true?

17 A Because I knew this to be true. I have known
18 all along, for instance, that writing of an NCR because of
19 a deficiency is not necessarily required. You can write
20 an unsat inspection report. If you need engineering to
21 settle the problem then you have to write an NCR because
22 that's where you get engineering involved.

23 If you write an unsat inspection report or
24 a deficiency report, that means that there is a recognized
25 engineered way to correct that problem. The inspector

1 knows that is in there and therefore he can write an
2 inspection report, unsatisfactory report.

3 Those are all -- I have known all that
4 stuff. The stuff that is in there. I didn't need to
5 pull the documents and reread them.

6 Q Did you look at any documents in responding
7 to Allegation Number 24?

8 A No.

9 Q Is it your testimony that this response
10 to Allegation Number 24 was submitted to you by one of
11 your staff people and you adopted it as your own and
12 subscribed to it under oath?

13 A That's right.

14 Q Now let's go on under the section Evaluation
15 of Validity.

16 You speak of procedures governing initiation
17 and processing of nonconformance reports. Do you see that
18 reference there, sir, in Evaluation of Validity?

19 A Okay.

20 Q Why don't you go ahead and read that
21 paragraph. We are going to be referring to it.

22 A "The procedures governing initiation" --

23 Q You can read it to yourself. That's okay.

24 A All right.

25 Q Now, you have stated in your response here

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1 that the procedures governing initiation -- I am reading
2 from your response -- and processing of nonconformance
3 reports have been established to preclude anyone
4 (including management or supervisors) from stopping an
5 inspector from issuing a nonconformance report if in his
6 judgment such a report is warranted.

7 Now, I would like to know, sir, what
8 procedures do you refer to where you relate that the
9 procedures governing initiation and processing?

10 A I have told you that I do not know exactly
11 the number or the name of the procedure, but we have one
12 that does just that.

13 Q Now, what document would you look at, sir,
14 if you wanted to confirm that those particular procedures
15 are always followed?

16 A What document?.

17 Q In other words, sir, --

18 A There is no document that confirms that a
19 procedure is always followed.

20 Q All right, sir. How would you learn,
21 sir, if a procedure such as you referred to here, would
22 be followed?

23 A I would have to get a report of it from
24 someone who knew that it wasn't followed or someone who
25 didn't follow it -- it is a very vague question.

1 Q Maybe I can clear it up for you. When
2 you wrote this response to Allegation Number 24 of
3 the Eisenhut letter you referred to procedures governing
4 initiation and processing of nonconformance reports.

5 A Yes.

6 Q And you have stated in your response that
7 these have been established to preclude anyone from
8 stopping an inspector from initiating a nonconformance
9 report if in his judgment -- and we are referring here
10 to the particular individual -- such a report is
11 warranted.

12 I would like to know, sir, how you would
13 verify that that particular procedure would be followed?

14 Does that clarify?

15 A Yes, and no. Procedures are written and
16 you expect that they be followed. There is nothing that
17 anyone can do to make sure that procedure is followed
18 100 percent of the time. That is why we have audits of
19 the QA program on different aspects of the program. But
20 you nor no one else can assume that they are going to be
21 followed 100 percent of the time.

22 All I have said in this is that they are
23 procedures to do these things if they are followed.

24 Q Now, sir, can you tell me how an inspector
25 would obtain a nonconformance report number?

1 (Discussion off the record.)

2 MR. SOSNICK: Let me go back and
3 restate the question.

4 BY MR. SOSNICK:

5 Q Can you tell me how an inspector would
6 obtain a nonconformance report number?

7 A The inspector can either call the NCR office
8 to obtain a number or can go in person to obtain the number.
9 The numbers are handed out in consecutive order.

10 O Now, when a number is requested -- we are
11 referring here to the nonconformance report number and I
12 will refer to it as the NCR number. When a particular
13 inspector requests an NCR number, what sort of
14 justification information does he have to give to obtain
15 that number?

16 A To my knowledge all he has to do is obtain
17 an NCR number he has to say he wants an NCR number and he
18 gets one issued.

19 Q Now, let's go down -- we are still under
20 your topic Evaluation of Validity and we are talking about
21 the response to Allegation Number 24 of the Eisenhut letter.

22 Now, if you go down to the third paragraph
23 under Evaluation of Validity you discuss there OI
24 investigations. So the record is clear, why don't you
25 explain to us what an OI investigation is.

1 A It is an Office of Investigations
2 investigation, NRC Office of Investigations.

3 Q Now, sir, how familiar are you with these?
4 What is the procedure followed in an OI investigation?

5 A Well, NRC Office of Investigations makes
6 an investigation and then when they have their report
7 ready they send it to the applicant -- I'm not sure
8 whether it is a copy that goes to the applicant or whether
9 it is a report that goes directly to the applicant with a
10 copy to the region and other people in the Regulatory
11 Commission. Anyway, we get a copy of an OI investigation.

12 Q What would be in that OI investigation,
13 a list of allegations?

14 A It would be a list of allegations or an
15 allegation, depending on what that particular one was.

16 Q And the procedure, as far as you know, is
17 that there is an investigation taken and then you would
18 receive the allegation or allegations in the plural
19 after that investigation was performed?

20 A That's correct.

21 Q Tell me why, sir, you received a list of
22 allegations prior to the July investigation and your
23 response to the Eisenhut letter?

24 A Of course I can't tell you that. I have no
25 idea.

1 Q Is that normal procedure as far as you
2 know?

3 A Normal -- I don't know what you mean by
4 normal procedure. It has been done both ways. In order
5 to close out the investigations that certain intervenor
6 groups pile upon a licensee at the very end of their
7 licensing process the NRC has in several cases, I believe
8 including Diablo Canyon and I think Waterford, and I'm
9 not sure about Grand Gulf -- have started to send these
10 out to be answered, the ones that could be.

11 The ones that aren't -- I believe
12 Mr. Eisenhut put it, allegations of willful wrongdoing,
13 that they send those out and have you to investigate them
14 because it overwhelms the staff. So when you say normal,
15 hell, what's normal?

16 Q Do you recall any other instance where you
17 would receive a list of allegations from the NRC prior to
18 an investigation done by the Office of Investigations?

19 A Yes.

20 Q On how many occasions, sir, can you recall
21 that occurring.

22 A e received some 60 allegations recently
23 and have taken the same tack we took on these, to
24 investigate them and return the investigations to the
25 Regulatory Commission. I presume we will receive more.

1 Q As far as you know, sir, were there any
2 OI investigations undertaken as to the 24 allegations
3 which you have responded to in this letter?

4 A We have not received any reports of them.

5 Q As far as you know, sir, was there an
6 investigation undertaken with regard to the 24 allegations,
7 the response to which you have in front of you?

8 A The only way I would know that is to
9 receive an investigation report and I grant you we have
10 not received investigation reports.

11 Q On any particular incident has an OI
12 investigation been undertaken at Comanche Peak
13 Nuclear Power Plant?

14 A Yes.

15 Q All right. And on how many occasions?

16 A I do not know.

17 Q More than one?

18 A I am sure more than one.

19 Q More than five?

20 A I do not know.

21 Q And when did these occur?

22 A I do not know.

23 Q If an OI investigation was undertaken at
24 the Comanche Peak Nuclear Power Plant and a report was
25 submitted, who would receive a copy of that report?

1 A That's very vague. You mean who received
2 a copy of that report --

3 Q At Comanche Peak.

4 A Texas Utilities?

5 Q And Texas Utilities.

6 A Well, it would come to Michael Spence. I
7 would receive a copy. There is a service list on
8 Eisenhut's letter we talked about a while ago and I
9 figured he can give you better information than I can give
10 you.

11 Once we got it in house we would make fairly
12 wide distribution of it. Depending what the allegation
13 was, whether it was a construction allegation or a quality
14 assurance allegation.

15 In other words, for different problems or
16 different action we need to take, different subject matter,
17 the folks who received those copies from the Nuclear
18 Regulatory Commission has a different distribution list.

19 Q Now, then, sir, have you ever seen an OI
20 investigation report from the NRC which dealt with
21 Comanche Peak Nuclear Power Plant?

22 A Yes.

23 Q On how many occasions did you see a
24 report from OI investigations of the NRC?
25

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1 A I do not remember.

2 Q Have you seen more than one?

3 A I believe I have.

4 Q Would you tell me about one of them
5 right now?

6 A To the best of my recollection OI made a
7 investigation of the Atchison affair. That might have
8 been I&E. We have I&E doing investigations. Inspection
9 and Enforcement. And we have OI. So that is why I am
10 confused, Mr. Sosnick. I am not trying to be vague. I
11 just don't remember who did -- whether it was I&E or OI.

12 Q Let me interrupt you. So the record is
13 clear. You explained to us what I&E was?

14 A I&E was the Inspection and Enforcement
15 branch of the Nuclear Regulatory Commission, of which
16 Region IV has a good NRC office in Arlington, Texas.
17 That is the regional office to whom we report.

18 Q Please continue.

19 A So I am not being vague about it. I just
20 don't remember which ones were I&E, which ones were OI.
21 When I said awhile ago I have seen at least one OI, even
22 that could have been an I&E investigation, come to think
23 of it.

24 Q You are not certain whether any OI
25 investigations have been done at Comanche Peak, then?

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1 A I'm not certain.

2 Q All right. Who would have such records
3 at Comanche Peak?

4 A It would be in our files inthe QA office
5 in Dallas.

6 Q That would be your office, sir?

7 A No. That would be Chapman's office.
8 I don't repeat any files that are kept by a subordinate.

9 Q Now, an OI investigation is rather a
10 serious thing; would you consider it so?

11 A Yes.

12 Q Would it be serious enough for Mr. Chapman
13 to report to you that a report stemming from an OI
14 investigation was submitted to TUGCO?
15
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1 A Would you say that again?

2 Q Is it something of enough importance that
3 Mr. Chapman would inform you of it?

4 I felt -- I'm confused. I thought you had
5 established that they come in to Spence.

6 A I was just going to say, Mr. Chapman
7 wouldn't inform me of it. I'd get a copy before Mr.
8 Chapman would. You got it reversed.

9 Q Fine. You're right. You're right.

10 Now, Mr. Clements, you have made a statement
11 in your reponse to the Eisenhut letter, and if you would,
12 I think that you may be able to explain it.

13 In the fourth paragraph, under "Evaluation
14 of Validity," this is under your response to Allegation No.
15 44.

16 A Uh-huh.

17 Q The last full sentence on the page reads --
18 have you found the place?

19 A Uh-huh.

20 Q I'll read it for the record.

21 "Nonconforming conditions may be reported
22 and documented on nonconformance reports, inspection
23 reports, and delinquency reports."

24 A Deficiency reports.

25 Q Pardon me, deficiency reports.

1 Now, under what circumstances would a
2 nonconforming condition be routed to either of these
3 three types of reports?

4 MR. BELTER: Counsel, I am going to
5 interpose an objection, and then let him answer. The
6 objection is that this subject has been, to my understanding
7 the subject of voluminous testimony on this record, and
8 you are creating a cumulative record here.

9 Go ahead.

10 MR. SOSNICK: May I just comment on that?

11 MR. BELTER: We had that same question a
12 while ago.

13 THE WITNESS: I told you --

14 BY MR. SOSNICK:

15 Q Under what conditions, under what
16 circumstances?

17 A I explained that in detail.

18 MR. SOSNICK: You claiming asked and answered.

19 MR. BELTER: Yes. I'm also suggesting to
20 you there's no need to go into this subject in detail,
21 because it is my understanding there has been volumes of
22 testimony on it.

23 MR. SOSNICK: I don't believe there are
24 volumes of testimony as to Mr. Clements on this issue.
25 I will narrow it down. Let's do that.

1 THE WITNESS: Well, I can answer it like
2 that, but that's what I told you a while ago.

3 BY MR. SOSNICK:

4 Q Well, if you can answer it like that, why
5 don't you go ahead.

6 A As I said a while ago, if there is a non-
7 conforming condition in which the solution must bring in
8 engineering, an NCR -- we agreed to call it that -- an NRC
9 must be written, if engineering must be brought in.

10 If there are inspection instructions in
11 which the way to correct the deficiency or the non-
12 conforming condition has already been laid out by
13 engineering -- for instance, let's take a brush hair in
14 some hair. You don't need engineering to go back and tell
15 you what to do with that, so you write a deficiency report
16 or an inspection -- on-site inspection report.

17 So the difference is whether or not you
18 need engineering in the cycle to correct the problem.

19 Q Now let's go to the next page in your
20 continuing response to Allegation No. 24, the Eisenhut
21 letter.

22 A Uh-huh.

23 end MN 6
24
25

1 Q If you would look at the first full paragraph,
2 you stated relative to alleged Craft pressure -- have you found
3 the place where I am?

4 A Yes.

5 Q QC inspectors are totally independent of the
6 Construction Craft organization. Could you explain that to
7 us, please? How are they totally independent?

8 A The Craft people report up through the Brown
9 & Root organization to our -- to their -- excuse me,
10 construction manager, to our construction manager, to the
11 Vice President and Project General Manger, TUGCO Vice President,
12 Project General Manager.

13 The QC Inspectors report, as I previously testi-
14 fied, up through the QC supervision to Mr. Vega and/or to
15 Mr. Purdy, Vega to Chapman and Chapman to me. So it's two
16 completely different independent organizations.

17 Q Now, under those circumstances, is it accurate
18 to say that absolutely no pressure can be provided on these
19 QC inspectors?

20 A I believe it is, yes, that's correct.

21 Q And you base that solely on the chain of command
22 and division you've just explained to me?

23 A Yes.

24 Q Now let's talk about to what you refer to as
25 exchanges of feelings between Craft and QC, Quality Control.

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1 What specific incidents were you referring to when you
2 referenced exchanges of feelings in your response to
3 Allegation 24 of the Eisenhut letter?

4 A Well, there are I don't know how many thousands
5 of inspections made weekly at Comanche Peak. And each time
6 one of these inspections is made, the inspector is inspecting
7 the work of someone else and it gives us those thousands
8 and thousands of time when there could be a difference of
9 opinion. And people being people, you can get some heated
10 exchanges, even among attorneys, if you will recall a few
11 moments ago. So it's not strange that you have exchanges
12 of feelings from time to time between an inspector and someone's
13 work he's inspecting because a man is proud of his work.
14 And then if a guy comes along and says it doesn't meet the
15 requirements, you're bound to get heated exchanges from time
16 to time, and that's what we're talking about.

17 Q Were you ever requested to supplement your
18 response to Allegation number 24 of the Eisenhut letter?

19 A I don't know. Not to my knowledge.

20 Q Were you ever requested, by the Nuclear Regulatory
21 Commission, to provide documentation substantiating your
22 response to Allegation number 24?

23 A No.

24 Q Did you have such documentation available to
25 submit to the Nuclear Regulatory Commission, should they have

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1 requested that you substantiate your response?

2 MR. BELTER: Objection. I don't know what you
3 mean by available. Do you mean pulled into his office or
4 could he have gone out and gotten it?

5 MR. SOSNICK: I will qualify.

6 BY MR. SOSNICK:

7 Q Did you have, compiled and ready for reference,
8 documentation supporting your response to Allegation number
9 24 of the Eisenhut letter?

10 A No.

11 Q Did any of your staff have such documentation
12 referenced and ready to submit upon request to substantiate
13 your response to Allegation number 24 of the Eisenhut letter?

14 A If we had gotten request for documentation, they
15 would have given us 20 to 30 days, 15 days, and yes we could
16 have compiled it and forwarded it during that period of time.

17 Q As far as you know, sir, was such documentation
18 compiled?

19 A It was not compiled.

20 MR. SOSNICK: Let's go off just one second.

21 (Discussion off the record.)

22 (Recess.)

23 MR. SOSNICK: We're back on the record now.

24 BY MR. SOSNICK:

25 Q Now we've just finished discussion your May 25,

mn71b4

1 1984 response to the Eisenhut letter. We talked at some
2 length about your response to Allegation 24 and we've marked
3 that Exhibit 38.

4 Now as a result of your receipt and response,
5 regarding these various allegations, in what ways, if any,
6 did you change TUGCO procedures regarding claims of
7 harassment and intimidation?

8 A Regarding 24, Allegation number 24?

9 Q Regarding your response to that letter, take
10 it in total.

11 A We're talking Allegation 24?

12 Q Your entire response to the 24 allegations.

13 MR. BELTER: I'm sure that's going to require
14 a good hour to study. Those are complicated responses.

15 MR. SOSNICK: Okay, let's take it this way.
16 Maybe we can avoid that.

17 BY MR. SOSNICK:

18 Q You responded to that letter in May of 1984, is
19 that correct? And do you recall approximately when you
20 received the letter from Mr. Eisenhut with the 24 allegations?
21 Was it in April 1984?

22 A Yes, late April 1984.

23 Q Subsequent to April 1984, have you in any way
24 changed TUGCO procedures, specifically procedures to respond
25 to claims of harassment and intimidation at Comanche Peak

mn71b5

1 nuclear power plant?

2 A No, we have not.

3 Q At any time, during 1984, have you changed TUGCO
4 procedures, specifically procedures in response to allegations
5 of harassment and intimidation at Comanche Peak nuclear
6 power plant?

7 MR. BELTER: Is the year in reference to Mr.
8 Clements or TUGCO? Have "you" changed?

9 MR. SOSNICK: Why don't we just refer to your QA
10 department.

11 THE WITNESS: I don't know of any specific
12 changes. We're all, from time, it may not mean a change
13 in procedure, but from time to time we may call up somebody
14 and say when you send out that report send a copy to so and
15 so, or send two copies to my office for distribution. But as
16 far as our basic approach to investigation and trying to bring
17 about the reporting of these allegations, no, we haven't
18 made any substantial changes in our procedures, that I recall.

19 BY MR. SOSNICK:

20 Q Of course, based on your personal knowledge, and
21 based on what you recall, when was the last change to TUGCO
22 procedures, specifically procedures in response to allegations
23 of intimidation and harassment at Comanche Peak nuclear
24 power plant? To aid you, we've already eliminated 1984.

25 A I really couldn't recall -- I see so many

mn71b6

1 documents coming and going and just to be that specific
2 about a change in a procedure, I just wouldn't be able to
3 recall it.

4 Q I see your testimony that the last major change
5 was the implementation of the eight point program?

6 A No, that's not my testimony. We may have made
7 some changes since then. The last major overhaul of it would
8 have been then, but there may have been some changes since
9 then, Mr. Sosnick. I don't remember.

10 Q Minor changes, as to the eight point program.

11 A Or other things that are not -- the ombudsman
12 program, as I mentioned before, is not part of the eight point
13 program, but we might again have him send copies of his
14 investigations or do this or do that.

15 Q I'm going to show you another document at this
16 time.

17 A All right.

18 Q I'm reading from the face sheet of this document.
19 It is entitled Report on Allegations of Cover up and
20 Intimidation by TUGCO Dallas Quality Assurance. Underneath
21 it says by, and there are signatures, G.S. Keeley, R.G.
22 Spangler, approved R.E. Kahler. It's dated August 19, 1983.

23 I'll present it to you and all counsel.

24 (Document handed to witness and counsel.)

25 A I am familiar with it.

mn71b7

1 MR. SOSNICK: Off the record.

2 (Discussion off the record.)

3 MR. SOSNICK: Back on the record.

4 I'm going to mark this as an exhibit to this
5 deposition and it will be marked Exhibit 38-6. I'm going to
6 hand this to Madame Court Reporter for identification.

7 BY MR. SOSNICK:

8 Q Before I do that, are you familiar with this
9 document?

10 A Yes.

11 Q You have seen it and read it before?

12 A Yes.

13 (The document referred to
14 was marked as Deposition Exhibit
15 No. 38-6 for identification.)

16 MR. SOSNICK: It has come to Intervenor's
17 counsel attention that an addendum or an addition to this
18 particular document may be appended at a later time. Counsel
19 has stipulated that should such a document exist and be
20 properly admissible, then it will be added to this particular
21 exhibit marked 38-6.

22 MR. BELTER: Let me state what it is, I think I
23 can solve your problem. The copy you've provided has
24 certain areas expurgated. I think it was provided earlier on
25 in the discovery phase. It is my understanding that the

mn71b8

1 question of getting a less expurgated copy into the record
2 is the subject of another deposition and I believe we've
3 probably reached an agreement, in that other deposition, to
4 do that. And since we're talking about copies of the same
5 document, I don't mind this copy going in here and the other
6 copy going in the other one.

7 And it will be clear enough, I think, from the
8 records of both depositions, that it's the same document.

9 Off the record.

10 (Discussion off the record.)

11 BY MR. SOSNICK:

12 Q Once again, Mr. Clements, you're familiar with
13 this report that I have in front of me, marked Exhibit 38-6?

14 A Yes.

15 Q Can you tell me the circumstances under which
16 this report was commissioned?

17 A The -- I was at the plant one day when one of the
18 personnel people at the plant notified Mr. Kuykendall that
19 he had something to tell him. So Mr. Kuykendall said please
20 come up and I'll get Clements and we'll talk to you.

21 Well, what this guy had to say was that he was
22 dealing with a personnel placement company and the guy said
23 to him, hey, off the record, you have some QA folks -- some
24 folks in your QA department that's got paper on the street,
25 looking for jobs. And they're really putting the badmouth on

1 the QA program at Comanche Peak. And so I got a hold of
2 Chapman, and Chapman was at the plant site, and he came down
3 and Kuykendall, Mr. Chapman, and I discussed it and we passed
4 on to Mr. Chapman the word that we'd been told from this
5 personnel person.

6 And I said, David, do you have any idea of what
7 it's all about, and so forth. And he made some --

8 Q Pardon me, Mr. Clements, David refers to who?

9 A Chapman, excuse me, I'm sorry.

10 Q That's all right.

11 A David Chapman.

12 He said no, but that he'd heard himself some
13 unrest and so forth that he was about to report to me anyway.
14 And I said what's it all about, and he said he thinks it came
15 out of one particular QA audit of construction on the
16 Radwaste System.

17 I asked him a few questions about it and he told
18 me that at least two of the people involved in the audit were
19 not happy with the way the audit report came down finally.
20 And I said in that case I am going to order an investigation
21 of the whole thing, to get it all out in the open and we're
22 going to take a look at it.

23 Q Now, what specifically were these complaints
24 related to?

25 A The complaints were related to the fact that the

mn71b10

1 tube inspectors in question, I was told -- they never either
2 one told me this -- well, there's a reason for that -- that
3 the report, as they saw it, had been "watered down" and not
4 put forth the way in which they thought it should be.

5 Q And did you hear why such a report would be
6 watered down? What the reasons were for that?

7 A Are you asking for the results of the investiga-
8 tion now? Is that what you're talking about?

9 Q No, we're still talking about the things leading
10 up to the report being commissioned.

11 A No, because I -- at that stage of the game, I
12 didn't do any more personal investigation but I appointed
13 Dick Kahler, whom as we heard earlier this morning, reports
14 directly to me. He had two of his people, Mr. Robert Spangler
15 and Bill Keeley to conduct a thorough investigation, interview
16 everyone in the Dallas corporate office, the QA, vendor
17 surveillance, auditors, engineers, and report back to me the
18 results of their investigation, not only from this audit
19 report, but of any other unrest or disillusionment or anything
20 else they felt was wrong with the QA/QC program at
21 Comanche Peak.

22 Q Now, the problem with the audit report you
23 referred to. Was there an allegation that something was
24 covered in that?

25 A No, I never did get an allegation. There was

mn71b11

1 just some under the surface mumbling, according to Chapman,
2 that people were saying this about it, and the two people that
3 were most involved never came forth and made any complaints
4 or anything. But because they didn't, there might have been
5 talk over coffee that they didn't like the way that the
6 report was modified, and so that's why I decided to -- since
7 it was just an undercurrent there and no real allegations,
8 that I would open it up and I would make the allegation, if
9 you will. And we'd open it up and by gosh take a look at it.

10 Q And, Mr. Clements, this document is entitled
11 Report on Allegations. Are you testifying that the allega-
12 tions noted here are your own?

13 A I'm sorry?

14 Q This is a report --

15 A I didn't hear what you said.

16 Q The document is entitled Report on Allegations of
17 Cover up and Intimidation.

18 A I think that's a misstatement of what it really
19 was, yes.

20 Q All right. Why don't you give me your opinion
21 as to what would be a more correct statement.

22 A Give me some time to think about it.

23 Q Of course.

24 (Pause.)

25

dncg7

mgc 8-1

1 A I would really not like to retitl e that
2 right now. I would like to give it some more thought,
3 but I really think it is a misnomer.

4 Q You do not think this is particularly
5 accurate?

6 A The title itself, no.

7 Q Now the undercurrents you referred were,
8 so i may be clear, rumors or something like that.

9 A Well, it would be like, let's say you and
10 I work in the same office and we're having coffee together,
11 and you're grumbling because somebody else got a promotion
12 that you thought you was going to get or at least is
13 going to be promoted at the same time, so I sit around
14 and I hear you make some comments. I don't have all the
15 facts, but I'm saying, going off and saying, "Hey, Old
16 Charles Sosnick is really hot because he didn't get that
17 promotion," and, you know, a few things like this.

18 Well, that was the kind of thing that
19 David Chapman was hearing. No one had made an allegation
20 that there was a cover-up. No one made an allegation that
21 the report was wqtered down, but friends of theirs were --
22 as it says in the report there, at least one place, where
23 one of the people who were involved in the report, in
24 the audit report itself, says that those people were
25 talking out of school and didn't know what the hell they

mgc 8-2

1 were talking about.

2 Q Now, then, sir, how did these rumors filter
3 out to you?

4 A From Chapman. Chapman heard them.

5 Q Did anyone else tell you of these rumors?

6 A Well, I mentioned the fact about the
7 personnel manager at the --

8 Q Any others?

9 A No, not that I know of.

10 Q Who was the Personnel Manager?

11 A I'm sorry. I didn't mean Personnel Manager,
12 personnel person.

13 Q Oh.

14 A I said it; not you. made the mistake.
15 Terry Heil.

16 Q Do you know the spelling of that, sir?

17 A H E I L (spelling).

18 MR. BELTER: I object to the question and
19 the answer. It's discovery. This illustrates to me,
20 and I know you asked the question in good faith without
21 thinking about the distinction. But the problem with
22 ruling we had the other day and the representation we
23 got from Mr. Roisman, that the purposes of this
24 deposition were evidentiary and not discover, and I
25 think you would agree with me that that question and

mgc 8-3

1 answer is proper discovery, but it's not evidentiary.

2 I just make the point; that's all. I guess
3 the point is that you should pay for that question and
4 answer at the end of this proceeding.

5 MR. SOSNICK: Well, I disagree with that.
6 I don't think it's -- I think it falls within the realm
7 of evidentiary, and I think we could take that up later.

8 BY MR. SOSNICK:

9 Q Now, Mr. Clements, after you heard of these
10 undercurrents or rumors, what action did you take immediately
11 after you heard these?

12 A Well, as I said before, I told Chapman that
13 I intended to order an investigation on my own, and I would
14 appoint -- I appointed Dick Kahler to be a head of the
15 investigation and for him to use two guys in his office,
16 Robert Spangler and Gil Keeley, to do -- to assist him in
17 the investigation.

18 Q In fact, then, did you choose all three
19 individuals who did the investigation?

20 A I guess you'd say I did, yes. I chose the --
21 Kahler is the supervisor, and I chose the other two men
22 who had the most experience in quality assurance and this
23 type of work.

24 Q Now after you informed Mr. Chapman that
25 you had these three individuals initiate an investigation

mgc 8-4

1 for your, did you contact these three gentlemen?

2 A Yes, I did.

3 Q And what did you do? Did you send them
4 some sort of memorandum, or did you meet with them?
5 Tell us about that.

6 A I did both. I had a meeting with these
7 three gents, Chapman and his supervisors, his Dallas
8 corporate supervisors, and told them what I intended to do
9 and why I intended to do it.

10 Q Was there anyone else present at the meeting
11 when you talked to Keeley, Spangler and Kahler?

12 A I just mentioned I brought in -- I brought
13 in Chapman and his supervisors. I just got through saying
14 that.

15 Q Oh, I understood something different.
16 I apologize.

17 A No, I had these three guys, and I had Chapman
18 and his Dallas corporate supervisors and myself in the
19 room, and I told them all what I intended to do and how
20 I wanted them to go about it. And then later on I had
21 another -- after those -- after the Dallas QA folks left,
22 if I remember, I kept Keeley and Kahler and Spangler in
23 and had further discussions with them about it.

24 Q Now what was the mode of investigation that
25 the three individuals undertook in this report?

mgc 8-5

1 A Mode of investigation?

2 Q How did they investigate?

3 A They interviewed everyone in the Audit

4 Group, the Engineering Group and the Vendor Surveillance

5 Group personally, one or the other or both of them. They

6 interviewed everybody.

7 Q And did they write any particular reports

8 or summaries of these individual interviews?

9 A I think they did. I'm not sure if it's

10 in that report or not.

11 Q Would you like a chance?

12 A Yes, I would.

13 (The witness examines the document.)

14 Q I will restate my question for you.

15 Mr. Clements, are you aware of any summaries

16 or individual reports that these individuals took, based

17 on their investigation of these particular individuals?

18 A I was not shown any individuals' reports.

19 Just the main report.

20 Q And is this, sir, the complete main report

21 that you were shown?

22 A As far as I can tell.

23 MR. BELTER: The document you have there,

24 Counsel, has the main report and a number of attachments

25 that are memos prior to and post.

mgc 8-6

1 THE WITNESS: It has been expurgated where
2 I can't -- but I think it basically represents the full
3 report.

4 BY MR. SOSNICK:

5 Q Now, Mr. Clements, in particular, what was
6 the particular rumor or undercurrent that concern your
7 most that prompted you to commission this report and
8 investigation?

9 A That the -- some of the QA auditors thought
10 that management wanted reports watered down, that they
11 didn't want to -- they were not allowed to call them as
12 they see them. That bothered me.

13 Q And which management personnel were referred
14 to?

15 A Referring to the QA audit management.

16 Q Which individuals by name?

17 A I think that would be Deborah Anderson and
18 Tony Vega.

19 Q Anyone else?

20 A Not that I recall, no. That's what it was.

21 Q As you recall, sir, what in particular did
22 these two individuals do to, let's call it water down the
23 report?

24 A Well, they didn't do anything to water them
25 down. What they did was, they went -- well, the report

mgc 8-7

1 speaks for itself. This particular audit, there was a lot
2 of personality conflicts between the two auditors in
3 question and two of the management, two of the people in
4 management positions at Comanche Peak, and so Tony Vega
5 had come down from Dallas and told both sides to cool it,
6 that we were here to do a job and not to butt heads over
7 the Quality Assurance program. Then when the report came
8 out, it was obvious to Mr. Vega and Mrs. Anderson that there
9 was a lot of inflammatory remarks in it that were really
10 not professional and not part of a normal QA audit, and
11 that these two auditors had let a lot of their personal
12 animosity and their own personality show up in the report.

13 So he and Mrs. Anderson rewrote the report
14 and showed it -- well, Mrs. -- well, the lady had gone.
15 The lady auditor had gone by that time, and the male
16 auditor that was involved was still there, and so he was
17 shown the report to see if he -- well, I think she was
18 shown the report before she left, but it hadn't been signed
19 yet by Chapman, and he asked him if he had any problems
20 with it, and I don't know what the answers were to Chapman.

21 So that's why they thought it was watered
22 down. But the water -- the pages that they had originally
23 submitted are still part of our files, so that if somebody
24 wanted to come in and see the changes that were made,
25 they could see what kind of changes were made. They

mgc 8-8

1 haven't been destroyed.

2 Q In what file is that located?

3 A In the corporate audit file in Dallas.

4 Q Who would have access to that file?

5 A Chapman, Spangler would now, and let me
6 explain it. Spangler has changed jobs. He's now working
7 over in the Audit Group since the T-shirt incident and
8 we changed management around. Spangler is now working
9 in QA. And so Spangler or Mrs. Anderson or Mr. Chapman
10 would have access to those files.

11 MR. BELTER: Counsel, for your information,
12 I don't know whether you've made copies of it or not,
13 but CASE, Mrs. Ellis, has access to all of the TCP files
14 as well, doesn't she?

15 THE WITNESS: Well, yes, I'm sure she does.

16 BY MR. SOSNICK:

17 Q Now those concerns you noted to me before,
18 the ones that you stated prompted the commission of this
19 report, were those met by this report?

20 A I think so. I was satisfied; not only
21 satisfied, but I was -- I wanted to get everybody in the
22 QA/QC -- the QA and the QC Vendor Surveillance business
23 in Dallas a chance to get anything off their chest that
24 was bothering them about -- well, about anything like
25 this, as well as some personnel and expense report items

mgc 8-9

1 we were having, so we kind of rolled it all into one.
2 The expense report stuff doesn't show up here, but as
3 they surfaced, Spangler and Keeley would make note of
4 them, and I'd put those up with Chapman. I think in our
5 final wrap-up there, it talks about some of those items.

6 So I just wanted to give everybody a chance
7 to voice any complaints they had about the corporate
8 QA program from the corporate level, so we could get them
9 out and take a look at them and see whether there was
10 any fire where that smoke was coming from.

11 Q All right. And as you understand it, this
12 report concluded that there were no instances of
13 intimidation?

14 A That's the way I read it.

15 (Pause.)

16 Q I would like to show you a portion of this
17 report, and I will refer to page 10 of 12, paragraph No. 8.
18 It's under the section, "Allegation of Intimidation,"
19 which begins on page 8 of 12, and I am referring here,
20 of course, to Exhibit 38-6, which I've shown to you. I
21 will pass it to you and your counsel, if you would like
22 to look at paragraph 8 (handing document to witness).

23 (The witness examines the document.)

24 Now paragraph 8 indicates an interview of
25 five people in the QA Group; is that correct?

mgc 8-10

1 A That's right.

2 Q And paragraph 8 states that two of the
3 people in the QA Group related to the investigator that
4 remarks were made in an intimidating manner. Did you
5 read that?

6 A And three said they weren't.

7 Q That's correct. And three said they weren't.
8 Now what was the follow-up investigation as
9 to the intimidating remarks referred to by the two people
10 in the QA Group?

11 A Spangler and Keeley went ahead and -- well,
12 if you read the rest of the paragraph, I think it tells
13 you what happened.

14 Do you want me to read it into the record?

15 Q That's fine.

16 A One of them said that he felt that he --
17 MR. BELTER: You're just paraphrasing this
18 answer.

19 THE WITNESS: Yes. One of them stated that
20 he felt the intimidated manner of the person would not
21 cause him, cause him not to go that -- would cause him not
22 to go to that person, except as a last resort, and he would
23 make sure that all of his ducks were in line before he went
24 to that person.

25 The other person said that although the

mgc 8-11

1 remarks were made in an intimidating manner, but he had
2 his job to do, he'd do it, notwithstanding that person.

3 We went further then, and I asked -- there's
4 some -- may I see this again?

5 Q Of course you may.

6 (The witness continues to examined the document.)

7 Your memo?

8 A Yes.

9 Q It's in the back.

10 A The memorandum on the 9th of September 1983
11 to Mr. Chapman, and I asked him specific questions about
12 that incident that I wanted answered in my own mind to
13 determine whether or not I was satisfied. One of the things
14 that bothered me was the fact that the quality assurance
15 supervision had not gone to the person who had made these
16 remarks that one of the five people thought was
17 intimidating -- it said two out of five, but really it was
18 one out of five when you come down to it. One of those
19 five people thought it was intimidating, and I wanted to
20 know why they hadn't gone back to the person who made those
21 remarks and told him to keep the hell away from those
22 inspectors, that they -- if he wanted to talk to anybody in
23 the QC business -- excuse me -- the auditing business, that
24 he would come to audit supervision and make his comments
25 know to the supervision.

mgc 8-12

1 Q And what was his response to your request?

2 A Well, I'm not finished yet.

3 Q I'm sorry.

4 A They said that they had done that, that
Mrs. Anderson and Mr. Vega had gone to this person who
6 supposedly made these remarks and told him in no uncertain
7 terms just this. The mistake they made, which they later
8 corrected, was not going back to their personnel and
9 telling them that they had done this. If they had done
10 that, then the intimidation of that one person who felt
11 intimidated would have gone away. And when you have four
12 out of five who weren't intimidated and one who was, it's
13 a matter of personality, I think, rather than what was
14 said or done.

15 Q Now was --

16 A Do you want this back (returning document
17 to counsel)?

18 Q Thank you. Now this particular report was
19 commissioned immediately before your 8-point program; is
20 that correct?

21 A Yes. August and September.

22 Q August and September is when the Eight --

23 A I think the 8-point program was in
24 September. Didn't we decide that this morning?

25 Q I think that you told us fall.

mgc 8-13

1 A Okay.

2 Q So it was subsequent to this report.

3 A The 8-point program came out? Yes.

4 Q What impact did the rumors or undercurrents
5 which led to the commission of this report have on the
6 8-point program?

7 A It was just one of the many factors that
8 caused me to realize that we needed to expand the depth
9 of our -- I hate to use the term "advertising," but
10 internal advertising to our folks about what we wanted them
11 to do about these kind of problems. It was just one of
12 the pieces of information I had to add it up.

13 Q And were any procedures followed in writing
14 this report -- and I'm referring to the August 19th report
15 on allegations -- were any of the procedures utilized
16 by Mssrs. Keeley, Spangler or Kahler incorporated into
17 your 8-point program?

18 A I'm really not sure, Mr. Sosnick, what you're
19 asking me.

20 MR. BELTER: What procedures are you
21 referring to?

22 THE WITNESS: Yes. What procedures that they
23 used are you referring to?

24 BY MR. SOSNICK:

25 Q I would like to know if any manner of

mgc 8-14

1 investigation that they used is now incorporated into your
2 8-point program.

3 A Not directly. Mr. Grier has his modus
4 operandi, as does the corporate security people. So no.

5 Q Who instructed Mssrs Keeley, Spangler,
6 and Kahler as to the particular procedure they were to
7 follow in the investigation?

8 A I told them that I wanted everyone in the
9 corporate QA office, including the vendor surveillance
10 people and the engineers, as well as the auditors -- excuse
11 me -- interviewed, and I left it to their own discretion.
12 Mr. Spangler is a long-time person -- well, he's not that
13 old, but he's been in the business a long time, as has
14 Mr. Keeley, and they've both done these kind of things
15 before, so I left it to their own discretion of how they
16 did it. I did not want to be too prescriptive about how
17 they went about their work.

End 8

mn91b1

1 Q Mr. Clements, do you remember an incident
2 regarding an alleged forged signature on an audit report?

3 A Yes, sir.

4 Q Approximately did that occur?

5 A Well, I don't know exactly when it occurred, but
6 it came up as part of this investigation.

7 Q All right. And when you heard of this alleged
8 forged signature incident, did you personally investigate
9 the matter?

10 A I was told that the -- I'm not sure now whether
11 the same individual is involved. I'm not sure whether this
12 is the one where he wanted to talk to the investigators and
13 wanted to talk to me, or I called him in on this one.

14 But anyway, either I asked him to come in and see
15 me or he said he would want to talk to me about it, and we
16 got together. And I asked him about the alleged forgery
17 and he said that whoever said that was talking out of school
18 and didn't know what they were talking about and if he had
19 had any forged reports he sure would have known it because
20 he would have had to sign it as the audit team leader, and
21 it just didn't happen.

22 Q How did you learn of the incident?

23 A It came to me through Keeley and Spangler, that
24 somebody had mentioned to them in one of their discussions
25 with one of the other personnel that they thought that a

1 document had been forged with this young fellow's name
2 on it.

3 Q And you're not sure whether this individual
4 contacted you or you requested to see him?

5 A I think it said in the report -- like I say, he
6 was the one that was also the team leader in the intimidation
7 portion of this report and he either asked to see me personally
8 on that one or on this one. But anyway, we got together on
9 both of them, so I'm not sure which was which right now.

10 I can tell you if I can see the report.

11 Q All right, why don't you take a look through that
12 report.

13 A The report refreshes my memory. For the
14 allegation of intimidation, this young man said he'd rather
15 come to me. When I heard about the other, he did. I asked
16 him to come to my office and he did. When I'd heard from
17 the investigators about the supposed forgery, I gave this
18 young man a call and asked him would he come up and talk about
19 it and he said sure.

20 Does that make it clear?

21 Q That makes it clear. And is it your testimony
22 that the extent of the investigation, as to that particular
23 matter, involved your discussion with that particular
24 individual?

25 A That's right.

mn91b3

1 Q Now Messers. Keeley and Spangler, who are their
2 immediate superiors, or who is their immediate superior, if
3 it is one person?

4 A At present?

5 Q At present.

6 A Kahler -- excuse me, Keeley reports to Richard
7 Kahler and Spangler has been transferred to Corporate QA
8 and reports to Chapman.

9 Q Now at the time that this report was commissioned,
10 what was the chain of command with regards to Keeley,
11 Spangler, and Kahler?

12 A Keeley and Spangler reported to Kahler, and
13 Kahler reports to me.

14 Q Did you say now, what was then?

15 Now, Mr. Clements, you and your counsel and
16 counsel for NRC have been provided with copies of reports,
17 SIS reports from the Hartford Steam Boiler Inspection &
18 Insurance Company. Do you have those in front of you?

19 A Yes, sir.

20 MR. BELTER: Yes, a series of seven? Is that
21 correct?

22 MR. SOSNICK: Let's count them.

23 MR. BELTER: I have seven stapled, with a cover
24 page of each, SIS.

25 MR. SOSNICK: I have seven, also.

mn91b4

1 MS. CHAN: Mr. Sosnick, for the record, I
2 would like to request that copies of all these documents
3 be provide at some time. I understand they are going to
4 be attached to the transcript?

5 MR. SOSNICK: For clarification, did you receive
6 copy of this SIS report? I thought you did. Let's go off
7 the record for a second.

8 (Discussion off the record.)

9 (Recess.)

10 BY MR. SOSNICK:

11 Q Mr. Clements, before we took our break, we had
12 begun a discussion -- actually just an introduction, as to
13 some documents which are SIS reports from the Hartford Steam
14 Boiler Inspection & Insurance Company. And it is my
15 understanding that these have been introduced into evidence
16 in other depositions.

17 It was also my understanding that as a discovery
18 document produced by Applicant, that its authenticity is
19 stipulated?

20 MR. BELTER: Counsel, it is my understanding that
21 they have been produced in the rate case and an agreement
22 reached that you can use them here if you establish
23 relevance. Based on your representation that they've
24 been introduced in another deposition, I am not going to
25 interpose the usual -- I do interpose the usual objection here,

mn91b5

1 but I don't think we need to get into the problem of
2 arguing over it, and you may go ahead and have it marked
3 and proceed with questions.

4 MR. SOSNICK: Okay, Ms. Chan, do you have any
5 objection?

6 MS. CHAN: No objection.

7 MR. SOSNICK: All right.

8 Why don't we mark these 38-7.

9 MR. BELTER: Do you want to do it by date, all
10 seven of them at once?

11 MR. SOSNICK: I was thinking we could do them
12 all chronologically, make them all 38-7 and put a letter
13 after the number, or we can just number them consecutively.

14 MR. BELTER: If you mark them 38-7, and then
15 as you refer to each one, you just refer to them by dates,
16 isn't that sufficient identification? You'll have one
17 exhibit with seven -- well, with a number of pieces to it,
18 but the portions of the exhibit are clearly identified as
19 to what you're referring to. As long as we use dates.

20 MR. SOSNICK: Sure, I'll offer this. Why
21 don't we mark it 38-7, and as -- oh, that's fine. And
22 then we'll just identify each particular stapled set by
23 date, okay?

24 (The documents referred to were
25 marked as Deposition Exhibit
No. 38-7 for identification.)

mn91b6

1 BY MR. SOSNICK:

2 Q Now, Mr. Clements, the Hartford Steam Boiler
3 Inspection and Insurance Company, do they have any cause
4 to come into Comanche Peak and do any sort of inspection there?

5 A Yes.

6 Q And what would the nature of their inspection
7 be, sir?

8 A Brown & Root has reached, has an agreement with
9 them, a contract with them to provide authorized nuclear
10 inspectors, which is part of the ASME program.

11 Q All right, now who in the Comanche Peak
12 organization, specifically TUGCO, would receive these
13 reports?

14 A Well, not specifically TUGCO, specifically
15 Brown & Root. Gordon Purdy.

16 Q My mistake, I'm sorry.

17 A He's the Manager of Quality Assurance at
18 Comanche Peak for Brown & Root, Gordon Purdy.

19 Q Now in the organizational change, what is your
20 relationship with Mr. Gordon Purdy?

21 A It hasn't changed. Mr. Purdy is the Brown &
22 Root Quality Assurance Manager at Comanche Peak. And as such,
23 is solely responsible for the ASME program at Comanche Peak.

24 Q All right. And who is Mr. Purdy accountable to?

25 A Mr. Purdy is accountable to Mr. Ray Verpilat,

spelling?

1 the Manger of Quality Assurance in the Houston Office of
2 Brown & Root.

3 Q All right. Now in any Quality Assurance matter
4 at Comanche Peak, if there is -- strike that.

5 Are you familiar with those items, under
6 Mr. Purdy's jurisdiction as QA Manager?

7 A Yes.

8 MR. BELTER: What items, if I might interpose.
9 How did you interpret his question?

10 THE WITNESS: What his job was at Comanche Peak?
11 Are we agreeing on that? Is that my guess?

12 BY MR. SOSNICK:

13 Q It was fine, okay.

14 Now have you ever seen an SIS report from
15 Hartford Steam Boiler Inspection and Insurance Company?

16 A Yes.

17 Q Under what circumstances have you seen such a
18 report?

19 A A week ago Monday, Mr. Fikar gave me a copy of
20 one because this was a record that the Intervenor in the
21 rate case now pending in Austin and the same Intervenors
22 that you represent here. And he was showing us what an SIS
23 report looked like.

24 Q All right. And what particular SIS report did he
25 show you? Do you recall?

mn91b8

1 A I do not recall.

2 Q Was it one of the particular SIS reports that
3 was involved in the rate case?

4 A That was involved in the rate case? I think
5 it was. He didn't so designate it, but I'm pretty sure it
6 was.

7 Q All right.

8 Now in your discussions concerning the SIS
9 report, when you were introduced to them, is it your
10 understanding that the inspectors from Hartford Steam Boiler
11 Inspection and Insurance Company do similar inspections as
12 personnel at Comanche Peak who might be charged with the
13 same areas of inspection?

14 A Essentially yes. The ANI would be the final
15 inspection. The Brown & Root QC inspectors would do
16 inspections and then the authorized nuclear inspector from
17 Hartford Steam Boiler Inspection and Insurance Company would
18 do the final inspection, would allow us to put an N-stamp
19 on a particular ASME system.

20 Q Do you have any opinion, as to the reputation
21 of these inspectors?

22 A Of the individual inspectors, or the company?

23 Q Why don't we talk about the individual inspectors?

24 A None.

25 Q As a company?

mn91b9

1 A The company has a high reputation, across the
2 board, really.

3 Q The exhibit marked 38-7 for identification, all
4 seven packets are the SIS reports we've referred to, you have
5 a set of those in front of you?

6 A Yes.

7 Q Now then, Mr. Clements, as far as you know, how
8 is the information cited in any of these SIS reports acted
9 upon, in Comanche Peak?

10 A I have no firsthand knowledge of how these are --
11 no knowledge of how they are -- all I know is that these are
12 turned in, as it says here, to Mr. Gordon Purdy, and
13 Mr. Purdy has to take whatever action is required to have them
14 remonitored and found that the unsatisfactory conditions have
15 been found satisfactory before he can proceed with his work.

16 Q Mr. Clements, would Mr. Gordon Purdy ever have
17 occasion to implement an investigation as to allegations of
18 intimidation and harassment, without your knowledge?

19 A Without my knowledge?

20 Q Yes.

21 A I wouldn't think he would.

22 Q All right. Now, is it a fact, Mr. Clements, that
23 the Hartford Steam Boiler Inspection & Insurance Company is
24 not the sole -- for lack of a better description -- outside
25 QC inspector organization? Did you understand my question?

mn91b10

1 A I think I do, Mr. Sosnick. The answer to that
2 is organization, yes they are. We have outside folks that are
3 job shopping, and so there is not another organization
4 represented, but there is people from that organization.
5 Does that make sense?

6 Q That makes sense. Let me just -- maybe I'll
7 ask one more question and we'll clear it up. Quality
8 Control exists beyond those employees of Comanche Peak. In
9 fact, it is done by other sources also, as to certain elements
10 or components, what have you?

11 A Oh yes, the components we buy have already been
12 QC'd and QA'd, if they're an ASME bid or if they're safety
13 related equipment. If that's what you're driving at, the
14 answer is yes.

15 Q Now then, is your testimony, Mr. Clements, that
16 Mr. Purdy would not undertake an investigation as to
17 allegations of intimidation and harassment without you? That
18 would not be proper?

19 MR. BELTER: I don't believe he indicated it would
20 not be proper, counsel.

21 MR. SOSNICK: All right, I'll take out the --

22 MR. BELTER: He normally wouldn't do it without
23 telling him.

24 MR. SOSNICK: All right.

25 THE WITNESS: With that change, yes, that's right.

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BY MR. SOSNICK:

Q Is it a fact then, Mr. Clements, that when allegations of intimidation and harassment surface, that they would somehow be investigated through the overall program we've talked at length about today?

A They should be.

end9

1 Q I will refer to SIS Report Exhibit 38-7.
2 It is dated 6-29-83.

3 A I've got it.

4 Q Do you have it in front of you?

5 A Uh-huh.

6 Q Okay.

7 It's directed to Gordon Purdy. Can your
8 counsel see it also?

9 A Uh-huh.

10 Q It's from Jerry Little, ANI.

11 A (Witness reading document.)

12 Q Take a moment, and you can review that,

13 A (Witness reading document.)

14 Q And then we will take a pause.

15 (Pause.)

16 Thank you.

17 MR. BELTER: Counsel, we have finished
18 reading it, and I might note it has taken us five or six
19 minutes in reading it, but in order to assist me in
20 determining whether I want to object, I would like to ask
21 Mr. Clements if he has ever seen this document before this
22 afternoon.

23 THE WITNESS: Never.

24 MR. BELTER: You may go ahead.
25

1 Q As your counsel stated, Mr. Clements, you
2 have just reviewed this document?

3 A I have had a very small amount of time to
4 glance over it. I wouldn't say I have reviewed it.

5 Q It is your testimony that this is the
6 first time you have seen this particular document?

7 A That's right.

8 Q Let's go to page 2 of 3 of this exhibit,
9 38-7, dated 6-29-83.

10 A Okay.

11 Q Did you read this page?

12 A Yes, I read it hurriedly.

13 Q All right.

14 Now, off the bottom of page 2 and leading
15 on to the top of page 3, the author of this report relates --
16 and I will read from the document and beginning the last
17 sentence on page 2 of 3 --

18 "If this is to be continuing situation,
19 perhaps it would be best not to explain reasons for our
20 actions, since this is not the first time that an ANI
21 has taken harsh verbal abuse from engineering people."

22 Now, then, in your opinion, Mr. Clements,
23 I mean I know this is the first time you have seen this
24 document, does this relate to you an incident of possible
25 intimidation? Or harassment?

1 A No. As I mentioned before, there are
2 thousands of times when these kinds of confrontations
3 come head and head, and if every time somebody has
4 harsh verbal abuse for somebody else, that's considered
5 intimidation, there is millions of cases of intimidation
6 out there over the period of 10 years, but I've never
7 known anybody, any reasonable man, to feel like that
8 harsh verbal abuse -- and even that is a term that is
9 just all in the eyes of the beholder.

10 So, no, I don't think that's intimidation.
11 It looks to me like this is an excellent case where the
12 QA program is working properly.

13 Q Now, then, Mr. Clements, do you recall, are
14 you aware of any investigation regarding the particular
15 incident noted in this SIS report, of your personal
16 knowledge, of course?

17 A None that I know of.

18 MR. BELTER: Counsel, am I to understand it's
19 your position that it's your position that an incident of
20 alleged intimidation of an ANI person by a quality engineering
21 person is relevant to this proceeding?

22 MR. SOSNICK: Yes, it is.

23 MR. BELTER: Well, I object on the grounds
24 of relevance and ask you to consider the ruling of the
25 Board as to what is relevant here, which is allegations of

1 intimidation of QC inspectors. That's a --

2 MR. SOSNICK: I would just offer that I
3 think it's incredibly probative to the issue at hand
4 of allegations of intimidation. And harassment of
5 inspectors.

6 MR. BELTER: QC inspectors?

7 MR. SOSNICK: QC inspectors.

8 BY MR. SOSNICK:

9 Q Now then let's continue on in the same
10 document, Exhibit 38-7, dated 6-29, and I will go to
11 the section marked "speed letter." Have you found that
12 in the document, sir?

13 A Uh-huh.

14 Q Now, I see speed letter, I see a communication
15 from a pipe support engineer. He has signed in his hand
16 George M. Chamberlain. Do you see that at the top of the
17 page?

18 A Yes. Yes.

19 Q And do you note that it is directed to
20 ANI?

21 A Uh-huh.

22 Q And there is a notation there to Jerry?

23 A Jerry W.?

24 Q Yes.

25 A Yes.

1 Q Now, then, I will read part of that, the
2 message portion, which is dated June 28, '83. Do you see
3 that portion?

4 A Uh-huh. Yes.

5 Q All right. I'm reading one, two, three,
6 four lines, the last four lines. At the very end of the
7 document is another signature by Mr. Chamberlain. There
8 is a notation NA-3355 is not relevant in this case. How
9 clear should a drawing be? Clear enough for a poet? Or
10 clear enough for people involved in the industry?

11 Now, in your opinion, Mr. Clements, does
12 this go somewhat beyond verbal abuse?

13 A I don't even consider it verbal abuse at
14 all. It's the opinions of a frustrated man who is wanting
15 to get on with the job. It's uncalled for, but if that's
16 verbal abuse -- I've just never seen anybody sensitive
17 enough to call that verbal abuse. That's ridiculous.

18 MR. BELTER: Mr. Sosnick, it is my
19 understanding that you have been authorized to use these
20 documents obtained in the rate case in this proceeding if
21 you establish the relevance of the documents.

22 Am I to understand that it is CASE's
23 position that the language that was just quoted constitutes
24 an allegation of intimidation or harassment?

25 MR. SOSNICK: Counselor, I am asking for

1 Mr. Clements' opinion as to a specific incident.

2 MR. BELTER: You have an obligation here to
3 tell me why you think this document is relevant. Is it
4 this portion of the document you think is relevant to this
5 proceeding?

6 MR. SOSNICK: Haven't we gone through this
7 already? I think we have.

8 MR. BELTER: I don't think we have. You
9 have an obligation --

10 MR. SOSNICK: I have noted course and conduct
11 here, I have noted that it's probative to the issue of
12 how allegations of intimidation and harassment are handled.
13 Mr. Clements is head of QA there, and he is certainly the
14 person who can answer such questions, and he is intimately
15 involved in the investigation process.

16 We've talked about that for a great deal
17 of today. Now I've noted your objection. I've tried to
18 explain how I think it is relevant, and I think we are
19 just going to banty it back and forth. The objection is
20 preserved and I'd just like to get through the deposition.

21 MR. BELTER: I want to make one thing clear,
22 that you are representing to me right now that you think
23 this document establishes either an allegation or an
24 incident of intimidation. Is that what you are telling me?
25 You think -- CASE represents that this document establishes?

1 Because that's the only way it's relevant here. And if
2 you are not willing to establish that, I'm going to
3 object on the grounds of relevancy, because you will
4 be conceding to me that it is not relevant.

5 MR. SOSNICK: Counsel, what you are stating
6 to me now is your understanding of my line of questioning.
7 Your objection was relevance. I have stated my reasons.
8 Your objection is preserved. My reasons are stated for
9 the record. Your understanding is what is irrelevant here,
10 so let's proceed with this questioning.

11 (Discussion off the record.)

12 BY MR. SOSNICK:

13 Q Mr. Clements, we will refer to another
14 document in the series marked for identification
15 Exhibit 38-7. The date of this particular report is
16 dated November 18, 1983. Have you located that document?

17 A Yes.

18 Q And you have it before you?

19 A Yes.

20 Q Would you like to review it at this time?

21 A (Witness reading document.)

22 MR. BELTER: We have reviewed it, Mr.
23 Sosnick, and to be brief, I will interpose the same
24 objection. I can't see anything in it that is relevant.

25 MR. SOSNICK: For convenience's sake, you

1 want to pose a standing objection to the line of questioning?

2 MR. BELTER: To the line of questioning,
3 you know. And just to confirm, Mr. Clements, you have
4 never seen any of these, any of the pieces of this exhibit
5 before today, have you?

6 THE WITNESS: No, I have never seen it.

7 MR. BELTER: All right. But my particular
8 objection to this one is I can't see anything in it that
9 is relevant.

10 BY MR. SOSNICK:

11 Q Mr. Clements, you have reviewed the
12 document marked for identification Exhibit 38-7 that's
13 dated November 18, 1983?

14 A Yes.

15 Q You have reviewed that with your counsel;
16 is that correct?

17 A I have given it a hurried reading.

18 Q All right.

19 Let's turn to page 2 of 3, and I am
20 referring to the first paragraph, sir. There is reference
21 there to animosity and facetiousness with regards to
22 the inspectors from Hartford Steam Boiler Inspection
23 Insurance Company, and they note in quotes that the
24 references were "personal assumptions, misconceptions and
25 blind-siding."

1 Is it your opinion, Mr. Clements, that
2 that cannot be construed as an incident of intimidation
3 or harassment?

4 MR. BELTER: That what cannot be construed?
5 That this letter, or that the references in the letter
6 were true? I don't understand your question.

7 BY MR. SOSNICK:

8 Q Do you understand the question?

9 A No.

10 MS. CHAN: Mr. Sosnick, if I may interrupt
11 for a moment, are you using these in the form of
12 parentheticals to get Mr. Clements' opinion as to what is
13 or is not intimidation or are these specific incidents
14 supposed to be representative of some specific intimidation
15 that you are trying to show?

16 MR. SOSNICK: As reported in this SIS
17 report, I would like Mr. Clements' opinion as head of QA
18 whether incidents like this would be considered
19 intimidating or harassing to an inspector.

20 BY MR. SOSNICK:

21 Q What is your opinion on that, sir?

22 MR. BELTER: He doesn't have one. He
23 doesn't know what the incident is you are talking about here.

24 THE WITNESS: I cannot comprehend the
25 animosity and facetiousness. The facetious response that

1 makes reference to the inspectors is not a full sentence.
2 It's hard to -- I really can't -- it's so vague that I
3 have no opinion on it.

4 MR. SOSNICK: All right.

5 MR. BELTER: Counsel, I must say, I think
6 that I am going to consider requesting that you and CASE
7 be required to pay for this portion of the deposition, if
8 you are going to go through every one of these in the
9 same fashion.

10 There is no relevance here whatsoever to
11 any of this stuff.

12 MR. SOSNICK: Objection noted. We are not
13 going to go through each and every one.

14 MR. BELTER: Okay.

15 MR. SOSNICK: In fact, we will conclude
16 shortly.

17 MR. BELTER: You understand why you're
18 not paying for this portion of the deposition --

19 MR. SOSNICK: Let's go off the record.

20 (Discussion off the record.)

21 BY MR. SOSNICK:

22 Q Mr. Clements, we have just reviewed a
23 document marked for identification Exhibit 38-7, it's
24 dated November 18, 1983. Do you concur that this is an
25 official document submitted to Gordon Purdy?

1 MR. BELTER: He has no way of knowing that
2 and I'm going to object to him testifying. He's already
3 said he's never seen it before.

4 MR. SOSNICK: Well, we have stipulated
5 to authenticity.

6 MR. BELTER: We have, and that was my
7 decision.

8 MR. SOSNICK: Okay.

9 BY MR. SOSNICK:

10 Q Now we have reviewed the first paragraph,
11 part of the first paragraph. Actually you have reviewed
12 the document. You have stated to me that you have not
13 reviewed it in depth and that is the first time you have
14 seen it. Is that correct, sir?

15 A That's right.

16 Q We note in the document references of
17 facetious remarks directed to inspectors. Did you see
18 those in the first paragraph? Did you see that reference?

19 A I see where these remarks are classified
20 by the writer of this report as facetious remarks.

21 Q All right. Now, then, for the sake of
22 example, sir, if you encountered facetious remarks in an
23 official document relating to an inspection at Comanche Peak
24 Nuclear Power Plant, facetious remarks, would that warrant
25 concern on your part, if they went to inspectors?

1 MR. BELTER: Objection. We will never be
2 able to define what you mean by facetious.

3 MR. SOSNICK: I asked what he meant, what
4 he considered it. That was my question.

5 MR. BELTER: I don't understand what you
6 mean by facetious. If the witness has an understanding,
7 he can go ahead and give it.

8 BY MR. SOSNICK:

9 Q Do you have an understanding of what I said?

10 A I think that you asked me if I see a
11 facetious remark in an official report, does that bother me.

12 Q If it's directed to an inspector.

13 A Oh, I didn't understand you directed it to
14 an inspector.

15 Q Yes.

16 A It depends on who the inspector is, really,
17 and what is a facetious remark to that inspector. We have
18 to go back, Mr. Sosnick, to what I guess everybody calls
19 the "reasonable man rule." You know, there's some people
20 whose feelings are sticking out on their sleeve and any
21 kind of remark is facetious to them.

22 There's other guys, like you and me, hard-
23 shelled, and we don't get excited and mad. So you take a
24 group of 10 people and you make the same statement to them,
25 and eight of them won't think anything about it, and one
will think a little bit and another guy may really think

1 it's a facetious statement. You can't -- it's a hard
2 question to answer with a yes or a no. I have seen
3 facetious statements in reports, that I thought were
4 uncalled for, but I sure didn't think there was any
5 intimidation or harassment involved in the report.

6 Q It's a subjective standard?

7 A That's exactly right.

8 Q Perhaps similar to those undercurrents
9 of rumors that you heard that prompted you to commission
10 the report done by Mr. Kahler and Mr. Keeley and Mr.
11 Spangler?

12 A I'm afraid I don't see the connection.
13 Will you tie it for me?

14 Q Concerns were raised in your mind; is that
15 true, sir?

16 A Concerns were raised in my mind, that's
17 right.

18 Q Things which you considered were severe
19 enough to prompt that particular report I just referred you
20 to?

21 A That's correct. But if I saw something
22 in an inspection report talking about a personal assumption
23 of an inspector, that wouldn't bother me, because I think
24 we have a lot of differences of opinion, and they are
25 personal assumptions.

ar10-14

1 Q If you did not know the inspector to whom
2 such remarks were directed, would you investigate further?

3 A Probably not on that personal assumption
4 comment. I would have the -- if I were told about it, I
5 would have the supervisor look into it and see what the
6 conditions were and so forth, if it came to my attention.
7 But --

8 Q If it came to your attention you might take
9 some action on it?

10 A I -- not on somebody talking about it's
11 a personal assumption, because people are always saying,
12 "Hey, that's your opinion and my opinion." Well, fortunately
13 for the QA program, the inspectors' personal opinion is
14 prevalent. So -- I don't mean prevalent, I mean it's the
15 one that governs.

16 But I can still, as a construction hand or
17 as an engineer or something, think that it's his own
18 personal opinion. But as far as the QA/QC program goes,
19 his personal opinion is what we have to put to bed to make
20 sure that he's satisfied.

21 Q You agree, then, sir, that intimidation
22 can depend on the individual and it may occur at
23 different levels, depending on that person?

24 A I think that's right.

25 Q Of your own personal knowledge, Mr. Clements,

1 do you know of any investigation which is any way
2 connected with this particular report we have just
3 reviewed, the 38-7 dated November 18th, 1983?

4 A I do not know of any.

end of 10 MN

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COPY ON CONTENT

1 (Discussion off the record.)

2 MR. SOSNICK: Back on the record.

3 I have no further questions right now.

4 EXAMINATION BY STAFF

5 BY MS. CHAN:

6 Q Mr. Clements, if I could refer you back to some
7 testimony earlier about nit-picking items. I'd like to know,
8 to the best of your knowledge, if the items that were so-called
9 nit-picked were unsafe at the time they had been pointed out
10 and whether or not they have been subsequently corrected?

11 A Ms. Chan, to the best of my knowledge, the reason
12 that the supervisor made the comment about nit-picking was
13 the fact that these people had taken an undue period of time
14 to inspect a deck space, a floor space, of ten feet square and
15 had pointed out a lot of items that could not be classified
16 as safety related, or would not be classified as safety related.

17 While in the same room, there were items that
18 should have been corrected. Now that's the best of my
19 knowledge. I have no firsthand knowledge of this. This
20 was hearsay evidence that I have determined. So he was
21 saying to these guys, quit your nit-picking and get on with
22 your inspecting.

23 It was taken out of context, the nit-picking
24 comment.

25 Q The nit-picking was not -- the alleged nit-picking

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1 incident did not refer to safety related material? Is that
2 correct, or it did?

3 A The area was a safety related area. There were
4 some areas that these guys, these inspectors, spent an
5 undue period of time inspecting the deck in this area. And
6 they pointed out every little pinhole in the deck. Now this
7 is, again, this is hearsay.

8 And what the man told them was look, you're
9 spending an undue amount of time nit-picking on those little
10 things like a pinhole in the deck when there are other items
11 in there you should be pointing out and we need to get
12 corrected.

13 Q You mentioned spending an undue amount of time
14 doing inspections. Is there any time pressure on QC/QA
15 inspectors for doing their inspections?

16 A No.

17 MS. CHAN: Thank you, I have no further questions.

18 MR. BELTER: Let me take a couple of minutes
19 and cut this down to about zero.

20 (Discussion off the record.)

21 (Recess.)

22 MR. BELTER: Back on the record.

23 EXAMINATION BY APPLICANT

24 BY MR. BELTER:

25 Q Mr. Clements, Messers. Keeley, Kahler, and

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1 Spangler, who did the report that you discussed earlier.
2 Are these gentlemen, when the report was done, were they
3 independent from the QA department?

4 A That's right. Mr. Kahler reported to me and
5 the other two gentlemen reported to Mr. Kahler directly.

6 Q You were asked a number of questions about
7 reports that had been dealt with by Mr. Grier. And in
8 several of the questions, you were asked to distinguish between
9 serious and not serious complaints. Do you have an example
10 of a complaint that you feel was not serious?

11 A Mr. Grier reported to me, within the last two
12 or three weeks, of an incident that happened in the bathroom
13 at Comanche Peak that while an inspector was there, someone
14 asked him hey, are you sure you have enough hangers today
15 to rate being here in the bathroom? And he took it to be
16 harassment or intimidation, whichever one is which. And
17 he went down and reported to Mr. Grier and Mr. Grier
18 investigated and came up with the notion that it was done
19 in jest.

20 But it also made me feel that we'd gotten our
21 point across to the people, that if they feel that they've
22 been harassed or intimidated that they need to get to Mr. Grier
23 and so I was sort of glad to have the report.

24 Q You were asked a number of questions this morning
25 about a conversation you had with Mr. Chapman last night,

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1 at the conclusion of his deposition. Do you see anything
2 wrong with your conversing with Mr. Chapman about that?

3 A No. Chapman works for me. I talk to
4 Chapman several times a day, every day, so no, I don't see
5 anything wrong with that.

6 Q Had anyone warned you not to discuss the
7 substance of Chapman's testimony with him?

8 A No.

9 Q Mr. Clements, I realize you have a constitutional
10 right to talk to anyone you want to, but if I were to ask you
11 now not to talk to any other witness in this case, about
12 the substance of your testimony here this afternoon, would
13 you go along with my request?

14 A For how long?

15 Q Until the conclusion of the hearings. Until
16 that witness has testified himself.

17 A Until that witness has testified himself, yes,
18 I would.

19 Q Thank you.

20 You indicated that an NCR number is issued by
21 a clerk. Do I understand, from your answer, that the clerk
22 who issues the number exercises no discretion whatsoever
23 in issuing the number?

24 A Of course, we wouldn't let a clerk decide whether
25 or not the inspector needed a number or not.

mn111b5

1 Q During the course of questioning about the
2 investigation conducted in 1983 by Messers. Keeley, Kahler,
3 and Spangler, reference was made to a concern over a
4 potentially forged document. Could you explain why it is
5 that you felt satisfied after you had interviewed the
6 individual that you interviewed about that incident?

7 A The investigators Spangler and Keeley, had
8 gotten word from a third person, if you will, that they had
9 heard that an audit report, final report, had been forged with
10 a given individual's name. So I asked that individual if he
11 would come to my office. As I said before to Mr. Sosnick,
12 it was the same person who was involved a leader in the
13 intimidation thing.

14 He came to my office and I said had he heard
15 anything about this and he said yes, he had heard that rumor
16 in the group, too. But since it was his signature that was
17 supposed to have been forged and he knew it had not been
18 forged because he had signed all of the audit reports that
19 he had made, so he knew it was a false allegation.

20 Q In other words, the person you interviewed was
21 the person whose name was allegedly forged?

22 A You were asked some questions about SIS reports
23 that were directed to Mr. Purdy. Are you willing, on the
24 basis of your five or six minute reviews of those documents,
25 to give any opinion as to what action you would take if you

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1 were in Mr. Purdy's position in response to those SIS
2 reports?

3 A No, I would have to study the situation and
4 the personalities involved before I could make any correct
5 management decisions on those.

6 MR. BELTER: That's all I have.

7 MR. SOSNICK: I just have a few questions for
8 you, Mr. Clements, on reexamination, and then we will conclude
9 today's deposition.

10 EXAMINATION BY INTERVENOR

11 BY MR. SOSNICK:

12 Q Now you've testified that Messers. Kahler,
13 Keeley, and Spangler are independent of QA, is that right?

14 A Were independnet of QA, yes.

15 Q I'll qualify, were independent of QA at the time
16 that the subject report we discussed earlier was performed,
17 is that correct?

18 A Yes, sir.

19 Q Who chose the individual to head up that
20 report?

21 MR. BELTER: That's been asked and answered,
22 counsel. Do you really need to have him put it on again?

23 MR. SOSNICK: I am just going on your examination.

24 THE WITNESS: I picked Kahler because, as I said
25 before in earlier testimony, he reported to me and I wanted

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1 to have someone that reported to me that was a nuclear-type
2 person, who knew what the nuclear business is all about, but
3 who was independent of Chapman's organization.

4 Q Now then, just a few moments ago, your counsel
5 asked you to describe -- strike that.

6 A few moments ago, your counsel referred to your
7 testimony earlier in the day having to do with Mr. Grier.
8 And he asked you to present a situation where there would
9 be a non-serious remark. And you related one to us, is that
10 correct?

11 A Yes.

12 Q Is your testimony that you were pleased that that
13 non-serious remark was looked at by Mr. Grier, even though it
14 turned out to be non-serious?

15 A No, my testimony is that if the inspector felt
16 the need to go to Mr. Grier, that he had knowledge of Mr.
17 Grier's presence, that Mr. Grier would investigate it and
18 look into it. That was what I was pleased at, that the
19 inspector himself, if he felt that he was intimidated or
20 harassed, would bring the subject up.

21 Mr. Grier, by the way, has been directed to
22 investigate anything that comes to him.

23 Q Now as to the incident relating to, which was
24 also referenced in the report commissioned by Mr. Kahler, forged
25 signature incident, the discussion that you and that certain

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1 person had? Did any investigation continue after that
2 discussion you had with that individual?

3 A Now when he told me that he had signed every
4 audit report himself, that he was supposed to sign, and
5 that anybody that said that his signature had been forged was,
6 I believe he said talking through his hat, or something like
7 that. No, I didn't carry it any further because the man whose
8 signature was supposed to be forged said it wasn't.

9 Q Now then, as to the SIS reports that we've
10 attached as exhibits to this deposition, some of which you've
11 reviewed -- not studied, but you've reviewed for the first
12 time here today. Is it your testimony that before you would
13 take action you would study them further?

14 A Yes.

15 Q And in your opinion, would that be the reasonable
16 action to take, upon reading such a report?

17 MR. BELTER: Objection. That's ambiguous, and let
18 me explain. Do you mean a reasonable person in the position
19 of Mr. Clements, who doesn't know anything about them and
20 is sitting here this afternoon being hit with them for the
21 first time? Or are you talking about someone, perhaps in
22 Mr. Purdy's position, who on getting them might know a lot
23 more about them? Do you see my point?

24 MR. SOSNICK: I see your point, and the question
25 is presented in the context of someone who has responsibility

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1 for Quality Assurance?

2 THE WITNESS: I think it's safe to say that
3 any situation like this, where you have interpersonal
4 relationships, that you sit and think about them and try to
5 look at them in the context and give it management attention,
6 cause that's why they make people supervisors and managers,
7 is to look at them in that light --

8 MR. SOSNICK: Okay. I'm sorry, did I cut you
9 off?

10 THE WITNESS: Yes, you did. And so therefore,
11 when something like this comes to my attention, I sit and I
12 look at it and in some cases you'll take one action and I'll
13 take another.

14 BY MR. SOSNICK:

15 Q You would give it some thought and perhaps delve
16 into the context in which these things transpired?

17 A Yes.

18 MR. SOSNICK: I have no further questions.

19 MR. BELTER: Nothing further.

20 MR. SOSNICK: Ms. Chan?

21 MS. CHAN: Nothing further from the Staff.

22 (Whereupon, at 6:00 p.m., the taking of the
23 deposition was concluded.)

24

25

Billy Ray Clements

CERTIFICATE OF PROCEEDINGS

This is to certify that the attached proceedings before the
NRC COMMISSION

In the matter of: Texas Utilities Electric Company, et al

Date of Proceeding: Tuesday, July 10, 1984

Place of Proceeding: Glen Rose, Texas

were held as herein appears, and that this is the original
transcript for the file of the Commission.

Marilynn Nations

Official Reporter - Typed

Marilynn Nations
Official Reporter - Signature