

UNITED STATES
NUCLEAR REGULATORY COMMISSION

ORIGINAL

IN THE MATTER OF:

DOCKET NO:

50-413-OL
50-414-OL

DUKE POWER COMPANY, ET AL.

(Catawba Nuclear Station,
Units 1 and 2)

LOCATION: CHARLOTTE, NORTH CAROLINA

PAGES: 14,047 - 14,385

DATE: Friday, October 12, 1984

TR-01

o/i

ACE-FEDERAL REPORTERS, INC.

Official Reporters
444 North Capitol Street
Washington, D.C. 20001
(202) 347-3700

8410170259 841012
PDR ADOCK 05000413
T PDR

NATIONWIDE COVERAGE

SueT

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

UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

-----X
:

In the matter of: :

:

DUKE POWER COMPANY, et al. : Docket Nos. 50-413-OL

: 50-414-OL

(Catawba Nuclear Station, :

Units 1 and 2) :

:

-----X

BB&T Center
Fourth Floor, Carolina Room
200 South Tyron Street
Charlotte, North Carolina

Friday, October 12, 1984

Hearing in the above-entitled matter was convened
at 9:15 a.m., JAMES L. KELLEY, presiding.

BEFORE:

JAMES L. KELLEY, Chairman
Nuclear Regulatory Commission
Atomic Safety and Licensing Board

PAUL PURDOM, Member
Nuclear Regulatory Commission
Atomic Safety and Licensing Board

RICHARD FOSTER, Member
Nuclear Regulatory Commission
Atomic Safety and Licensing Board

SueT 1

APPEARANCES:

2

On behalf of Applicant, Duke Power:

3

ALBERT V. CARR, JR., Esquire
Duke Power Company
422 South Church Street
Charlotte, North Carolina

4

5

6

J. MICHAEL MC GARRY, Esquire,
MARK CALVERT, Esquire
Bishop, Lieberman, Cook, Purcell & Reynolds
1200 Seventeenth Street, N. W.
Washington, D. C. 20036

7

8

9

On behalf of Intervenors, Palmetto Alliance and
Carolina Environmental Group:

10

ROBERT GUILD, Esquire
P. O. Box 12097
Charleston, South Carolina

11

12

On behalf of NRC Staff:

13

GEORGE E. JOHNSON, Esquire
Office of Executive Legal Director
Nuclear Regulatory Commission
Washington, D. C. 20555

14

15

16

BRADLEY JONES, Esquire
Region II
Atlanta, Georgia

17

18

On behalf of the State of South Carolina:

19

RICHARD P. WILSON, Esquire
Assistant Attorney General
Office of the Attorney General
P. O. Box 11549
Columbia, South Carolina 29211

20

21

22

23

24

25

MM

1

I N D E X

2	<u>WITNESSES:</u>	<u>By:</u>	<u>DIRECT</u>	<u>VOIR DIRE</u>	<u>CROSS</u>	<u>BOARD</u>
3	C. J. Parker	Mr. Guild	14,073			
		Mr. Johnson		--	14,079	
4		Mr. McGarry			14,080	--
5	J. B. McCall	Mr. Guild	14,095	--		
		Mr. McGarry			14,139	
6		Mr. Johnson			14,144	
		Judge Foster				14,145
7		Judge Purdom				14,146
8	C. W. Braswell	Mr. Guild	14,150	--		
		Mr. McGarry			14,185	
9		Judge Purdom				14,189
		Judge Foster				14,191
10	W. M. Carpenter	Mr. Guild	14,194			
11	(Resumed)	Mr. McGarry		--	14,217	
		Mr. Johnson			14,224	
12		Mr. Wilson			14,230	
		Judge Purdom				14,231
13		Judge Foster				14,234
14	L. Davison	Mr. Guild	14,237	--	--	--
15	L. Davison					
	(Rebuttal)	Mr. McGarry	14,247			
16		Mr. Guild		--	14,247	
		Mr. Johnson			14,248	--
17	L. Bolin	Mr. McGarry	14,273	--		
18		Mr. Guild			14,274	--
19	J. Hunter	Mr. McGarry	14,278			
		Mr. Guild		14,283		
20		Mr. Guild			14,288	
		Mr. Johnson			14,349	
21		Judge Purdom				14,353
		Judge Foster				14,359
22		Judge Kelley				14,362
		Mr. Guild		Recross---	14,362	

23

24

25

MMmm

I N D E X (Continued)1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25EXHIBITS:IDENTIFICATIONEVIDENCE

Intervenors, Palmetto:

No. 148 - Memo 9/11/84	14,086	--
No. 149 - Item 26, Concern 15	14,086	--
No. 150 - Item 24, Concern 5	14,086	--
No. 151 - Memo 8/2/84	14,245	14,285

Applicants

No. 120 - Witness Hunter	14,280	14,280
Testimony, Resume and Vitae		

(Intervenor Palmetto Exhibits to be furnished to
Reporter at a future date)

P R O C E E D I N G S

1
2 JUDGE KELLEY: Good morning. A couple of things
3 before we get to the first witness.

4 We had argument last evening on whether we
5 ought to call either number 11 or number 12 on the list
6 -- any reason not to use these names?

7 MR. GUILD: Yes, sir. One is the source of
8 an affidavit.

9 JUDGE KELLEY: Well then let's just use numbers.

10 And we weren't clear, and I had just asked
11 Mr. Guild off the record this morning whether he had a
12 strong preference between the two in terms of priority
13 and he said, no, he had a mild preference in favor of
14 12 first and then 11.

15 The Board thinks that if there is debate on
16 whether these people ought to be called or not, it
17 ought to be resolved in favor of allowing them to be
18 called for such insight as they might have on the foreman
19 override problem and not, of course, on matters
20 previously litigated, subject, I think we all understand,
21 to today's time limits and our fixed intention to finish
22 the hearing along with some rebuttal time this evening
23 from the Applicant. So that is to say it depends on
24 the pace of today's proceeding, we may or may not get to
25 these particular people. But if we do, they can be

1 called.

2 The other thing that we had pending was a
3 motion to admit into evidence the depositions taken,
4 I guess, last week of two of the four Staff witnesses,
5 Mr. Uryc and Staff's consultant Mr. Czajkowski.

6 There were, we thought, some valid objections
7 made at least to just admitting these depositions in
8 their entirety; the two most important ones we thought
9 being the fact that the depositions were taken under a
10 stipulation whereby objections weren't stated and had
11 opposing counsel known that this material might come
12 in objections would have been stated; and the second
13 objection being in our mind maybe the more significant,
14 the fact that opposing counsel did not seek to elicit
15 additional information that might have given further
16 perspective from their standpoint, again not
17 anticipating that the depositions would come in.

18 We view this as a judgment call by the Board,
19 really a fairness question. We do think that fairness
20 requires that we deny the motion and just let these
21 depositions in at this point, both of the depositions,
22 but we are going to take what we regard as a narrow,
23 structured approach that will allow Palmetto, if they
24 desire to get in some limited further pieces of testimony
25 from the depositions, while not at the same time opening

1 a kind of floodgate effect that we think would be unfair.

2 And this is our order:

3 If Palmetto wants to get in designation portions
4 of these depositions -- let me name them once more, Uryc
5 and Czajkowski -- they are to make the designations by
6 page number and line number; e.g., page 28, lines three
7 through ten, that kind of thing and in addition to the
8 designation of the portion to give a brief statement,
9 written statement, in support of why this ought to be
10 brought in, what is the justification for it.

11 Beyond that, as I indicated, we see this as a
12 sort of way to clean up small areas, not a way to bring
13 in large chunks of what may be lengthy affidavits, so
14 that we are limiting this relief to an aggregate of
15 ten pages of deposition per witness, 20 pages all together.

16 By "aggregate," I mean a half a page and a
17 half a page means one page, if you follow me. I think you
18 do.

19 So these designations would, if Palmetto
20 wants to make them, would have to be served by next Tuesday
21 by an expedient method so that it is in the hands of at
22 least Staff and Applicant by Wednesday, but serve it in
23 writing, not just a phone call.

24 And then the Applicants and Staff in their
25 findings -- and we will be setting a date for findings

agb/agb4

1 later today -- if they wish to object to the designation
2 they may do so and if they don't they don't and the
3 designation is simply a part of the record.

4 But those objections would be served along
5 with the findings at the same time. You would have to
6 assume then, gentlemen -- the opposing counsel would have
7 to assume that we would let it in. You would be taking
8 the risk that your objection might not be upheld, so I
9 would consider that it might be and that is an extra
10 burden on you and we recognize that but we feel that
11 since it is limited to a rather small portion it is
12 not an undue burden under the circumstances.

13 So that is our ruling on that point. Is
14 that clear?

15 MR. GUILD: Could I just ask on the record if
16 the Applicants would be kind enough to reproduce those
17 depositions for us at our agreed-upon reimbursement rate
18 so that we can make those designations, we will do so.

19 MR. CARR: Those are the affidavits of Uryc
20 and Czajkowski?

21 MR. GUILD: Uryc and Czajkowski.

22 MR. CARR: Remind me.

23 MR. GUILD: Mr. Chairman, I have one other
24 thing, if I may.

25 We wish to ask that Applicants make available

1 one other person from the list -- recognizing that we
2 are going to be moving through people very quickly and
3 some people we may spend some more time with; we
4 understand our aggregate time limits -- but we would
5 like to add one other person to the list.

6 JUDGE KELLEY: Maybe on that point maybe I
7 could just give an indication. We thought about it
8 last night, Well should we state an hour, and we sort
9 of thought Well we are just getting started in this
10 process, we son't do that.

11 But we have thought about it somre more and
12 we are not going to take a precise hour now but some
13 time around suppertime your time for witness testimony
14 will expire; and then we are going to have some time
15 for rebuttal case which so far, as we understand it
16 now, is one witness at this point --

17 MR. MC GARRY: At this point, that is correct.

18 JUDGE KELLEY: At this point. It could be
19 more but right now it is one. So that sets the
20 parameter. Okay?

21 MR. GUILD: All right. And "supper" meaning
22 the midday meal or the evening meal?

23 JUDGE KELLEY: The evening meal.

24 MR. GUILD: We would ask that Applicants make
25 available witness number 7 from the long list and they

agb/agb6

1 could have him --

2 JUDGE KELLEY: I think if there was no
3 objection to that particular person, we could just put
4 him -- he would be the last in priority.

5 MR. GUILD: Well sir, if they could have him
6 available -- we may need to do some reshuffling as we go
7 through the day, but I understand that basically as to
8 folks who are likely to be at the appeal, they are
9 asking them to come in. And if he could just stand by --

10 MR. JOHNSON: What was the number, please?

11 MR. GUILD: Number 7 from the long list.

12 JUDGE KELLEY: I think some shuffling just
13 for convenience if nothing else may be in order but I
14 thought we had last night at least an indication or
15 a sort of rough order of priority, did we not?

16 MR. GUILD: Yes, we did. And we have tried
17 -- we have done some more calls, we have done some more
18 thinking and we are trying to do the best we can to
19 shuffle them around.

20 JUDGE KELLEY: I am not raising any real
21 question, I just want to get clear on your intention.

22 MR. GUILD: One other thing:

23 Applicants distributed at 8:00-something-or-
24 other last night a 20-odd-page resume for a witness that
25 appears to be contemplated as the rebuttal witness for

agb/agb7

1 Dr. Michalowski's testimony with regard to -- who knows
2 with regard to what because he hasn't said, but with regard
3 to Dr. Michalowski's testimony.

4 And I gather that they contemplate presenting
5 expert testimony from this gentleman, he doesn't seem
6 to be someone who worked at the plant and he doesn't
7 seem to be someone who was in Applicants' employ and
8 was involved in the investigation since we have not
9 seen his name before so I assume he is being contemplated
10 as an expert -- expert testimony to in some way rebut
11 Dr. Michalowski's methodological criticisms.

12 We think, without seeing anything from the
13 gentleman by way of prefiled testimony or otherwise, we
14 just think it is fundamentally unfair to be faced
15 with the prospect of having to try this case given the
16 parameters we understand of the case as comprising
17 from day one with suddenly the task of preparing to
18 rejoin and confront adverse expert evidence at this
19 incredibly late hour without any opportunity for
20 preparation. We don't have any prefile for him at
21 this point.

22 We called Dr. Michalowski last night when we
23 read the resume and said this obviously appears to be
24 Applicants' intent and Dr. Michalowski said that he had
25 a prior engagement this evening and he would not be

1 available to even be present, although he was going to
2 make a very strong effort to rearrange his schedule if
3 the Board's contemplation was to hear such rebuttal
4 testimony.

5 But it is surprise, it is unfair, it cannot
6 give us a fair opportunity to rejoin that testimony, to
7 confront it, regardless of its scope or detail.

8 And I would point out that as soon as we knew
9 that Dr. Michalowski was going to appear for us we told
10 Applicants and that was pursuant to the expedited
11 schedule, we told them what he would be talking about
12 and as soon as we had the document we had -- which I
13 think tracked very closely what the gentleman had to
14 say, though he expanded upon it; but it was an outline
15 and it was presented as an outline -- and made that
16 available to them on Monday. And if they contemplated
17 rebuttal -- Also they didn't cross-examine Dr. Michalowski
18 so they had an opportunity to confront his evidence,
19 to raise criticisms that they had of his evidence by
20 way of cross-examination which was a contemplative
21 process, and now we are forced to respond to an unknown
22 quantity and we just don't believe that fundamental
23 fairness should permit such a process.

24 Now it is certainly Applicants' prerogative
25 to present a rebuttal case, but that prerogative has to

1 be accomodated in a context of fairness to one's adversary
2 and that fairness requires some prior notice and some
3 prior opportunity to prepare.

4 Applicants knew they were going to have to
5 defend the methodology of their study, they knew that from
6 the first day they received our pleading in this matter.
7 If they contemplated offering an expert on the subject,
8 they should have identified him at the beginning and
9 should have provided his expert testimony.

10 JUDGE KELLEY: So really we are arguing
11 tonight's rebuttal or non-rebuttal --

12 MR. GUILD: I am just raising the point as
13 early as I can.

14 JUDGE KELLEY: I think it is desirable that
15 you do so and I appreciate it.

16 Mr. McGarry.

17 MR. MC GARRY: We didn't hear Dr. Michalowski's
18 testimony until 3:00 yesterday and went until about 5:30,
19 I don't think we could be expected to have any prefiled
20 testimony on-hand by 8:00.

21 We are endeavoring to have some prefiled
22 testimony to the Board and parties by noontime. That is
23 our objective. If we can't do that we will have an
24 outline similar to what Dr. Michalowski supplied.

25 JUDGE KELLEY: When did you first receive notice

agb/agbl0

1 -- I guess Mr. Guild gave it -- that Dr. Michalowski was
2 coming?

3 MR. MC GARRY: Last Friday afternoon at 5:00
4 he indicated Dr. Michalowski's name, and then of course I
5 guess at about 5-, 6:00 Monday we got the outline.

6 JUDGE KELLEY: It seems to me that the best
7 world that you could create would be to have Dr. Michalowski
8 back to help you on cross.

9 Now could you tell me a little bit more about
10 what his conflicts are?

11 MR. GUILD: I don't know, Judge, that would be
12 one sort of -- one very, very threshold tool to be
13 able to adequately join an expert rebuttal witness is
14 to have your expert available. But that doesn't begin
15 to cure the problem of trying to prepare for this
16 gentleman, for an expert that we haven't seen and we have
17 no prior notice of what the content of his testimony is.

18 As to his conflicts, Mr. Rutledge spoke
19 with him last night and I'm not sure that we have any
20 more information in specific about what it was, but he
21 is interested in supporting his professional opinion on
22 the subject and he wants to assist this Board but simply
23 is confronted with the problem of being able to do that
24 because of his commitment.

25 But I just think that professionally

1 Dr. Michalowski would like to have the gentleman's opinion
2 in advance to be able to consider.

3 JUDGE KELLEY: How about this? Suppose you do
4 have prefiled -- or an outline for him and Dr. Michalowski
5 turned to that this afternoon and be here this evening?

6 MR. GUILD: That is the problem, he has a
7 prior conflict this evening. Dr. Michalowski is not in
8 our employ, he is a volunteer witness. He took all of
9 his time to review this material and come down here and
10 prepare his testimony totally as a matter of his
11 contribution to this process and his interest in the
12 subject matter.

13 So we have imposed on him considerably already,
14 I don't mind trying to impose on him again because I think
15 it is important and worth the Board's time. I don't know
16 how else to approach it though. We don't have him on
17 a retainer and can't commit him for his time.

18 endAGB#1

JW#2flws

19

20

21

22

23

24

25

1 JUDGE PURDOM: Mr. Guild, would it be helpful
2 if, say, at 5:30 today we broke into whatever we were doing
3 and had the witness in? Would this accommodate your
4 expert's schedule a little better?

5 MR. GUILD: I think the point, Judge, is that
6 he is not available this afternoon, this evening.

7 JUDGE PURDOM: He is just not available today.

8 MR. GUILD: As far as we know, as of last night,
9 he said he had a conflict in the afternoon and the evening.
10 He very much wants to be here, and he wants to assist, but
11 I don't think it is a question of when this afternoon or
12 when today it happens, it is a question of whether it
13 happens today in terms of us being able to have Dr.
14 Michalowski's assistance.

15 Judge, it obviously is better to have something
16 to look at, and maybe it need not be debated at this time
17 and it just seems to be that we should preserve a point
18 for the record, and I find it troubling.

19 The Applicant could have at least told us they
20 had somebody that they were contemplating calling as an
21 expert, and it was in this area.

22 It is one thing to bring back another technical
23 person if it is a technical piece that needs to be handled.
24 We all know what the parameters of that are. It is another
25 thing to have an expert witness who is, in effect, retained

1 to join testimony from our side.

2 JUDGE KELLEY: I am a little troubled, Mr.
3 Guild, by the position we are in right now because we were
4 told Dr. Michalowski has other commitments and plans.

5 We have no idea what they are, how important
6 they are. I realize he doesn't work for you, and you
7 can't order him to do anything, but the fact remains that
8 Dr. Michalowski, and we appreciate his coming, decided he
9 would involve himself in this proceeding. It is a very
10 important matter.

11 Now, I used to be a Professor myself. I think
12 if I were in this case, I would cancel my class and come
13 to a hearing. I don't know what it is, a class or whatever
14 it may be. If he is planning to go out of town, who
15 knows; we don't know.

16 But we would have to have, in my mind, a pretty
17 good reason to just say, well, Dr. Michalowski is too
18 busy to come, so we will just have to not hear rebuttal
19 on this point. I am going to have to have a better reason
20 than that to take that position.

21 MR. GUILD: Mr. Chairman, frankly I don't know
22 why the Interveners are being chastised in this regard.
23 We were the ones who were only told at 8:30 last night
24 that they even contemplated a rebuttal witness on this
25 subject. They could have told us days ago if they knew

1 the man. He is obviously coming from Michigan; he is
2 coming from some great distance.

3 They had to make some prior arrangements. There
4 was no prior notice whatsoever.

5 JUDGE PURDOM: Mr. Guild, for the record, don't I
6 recall the Applicant saying earlier in the week that
7 they might have to have a rebuttal witness to your case?

8 MR. GUILD: He said the word, 'rebuttal,'
9 Judge. They said no more than the word, 'rebuttal.' That
10 didn't fairly apprise us of any intent. I frankly think
11 that with all due diligence, you can't put the blame on
12 the Interveners for anticipating or failing to anticipate
13 that Applicants were going to retain an expert witness to
14 bring in on a very technical subject.

15 If they are going to bring one of their engineers
16 back up to talk about arc strikes, that certainly is a
17 different matter altogether. We are not talking about
18 a technical issue, which involves construction at the
19 Catawba plant. We are talking about expert opinion evidence,
20 which obviously they sought out and retained somebody to
21 present.

22 It is a matter of fundamental fairness. If the
23 Board wants -- I think it is a critical issue. I am not
24 saying the Board should not hear rebuttal testimony. It is
25 Applicant's prerogative to do that. We are all operating

1 under the constraints of this process to accomplish the
2 task at hand. You have to do so consistently, providing
3 fairness to both sides. And in this instance, it requires
4 some opportunity --

5 JUDGE KELLEY: Mr. Guild, as far as I am concerned
6 I can't take this point seriously until you can come back and
7 tell me why Dr. Michalowski can't be here this afternoon
8 or this evening. Maybe he has a very good reason. If so,
9 then that is another thing. But if all I have now is the
10 man is busy, that is not enough for me.

11 MR. GUILD: We are in touch with Dr. Michalowski
12 and we will be in touch with him later this morning, but
13 frankly I think that if it is Dr. Michalowski's availability
14 that is dispositive, I would think the Board misses the
15 fundamental unfairness of not having the prior notice or
16 opportunity to prepare for the testimony.

17 His presence will be very useful to the Board and
18 to the parties, but it should not be dispositive of the
19 question of whether an expert rebuttal witness from the
20 Applicants on this subject should be sprung at this time,
21 without prefiled testimony in advance of more than the
22 luncheon recess.

23 JUDGE KELLEY: Knowing what I know and the
24 circumstances, certainly Dr. Michalowski can read the
25 prefiled this afternoon and be here this evening, I don't

1 think it is unfair. That is my view.

2 Mr. Johnson?

3 MR. JOHNSON: Well, it seems to me if it is in the
4 scope of the rebuttal witnesses, is in fact rebuttal of
5 Mr. Michalowski's testimony, that it isn't unreasonable
6 to have his testimony presented, given all of the circumstances
7 that are present.

8 We have the fact that Mr. McGarry did inform us
9 at some earlier point that he contemplated the possibility
10 of rebuttal. They had their witness here I believe yesterday
11 afternoon to listen to Dr. Michalowski. They determined that
12 it was desirable to rebut his testimony. His testimony should
13 be limited.

14 With their witness here, it seems to me that there
15 is no unfairness. Dr. Michalowski did not have prefiled
16 testimony either; he had an outline of what he was going to
17 say, it is true, and it seems to me that this fundamental
18 unfairness is pretty weakly regarded.

19 JUDGE KELLEY: Okay. I think we understand the
20 objection, and I would like to hear, when you can find out
21 what the situation is with Dr. Michalowski. For now, I
22 think we can move on. Does that bring us to calling
23 the next witness, Mr. Johnson?

24 MR. JOHNSON: I would like to raise one point
25 about the deposition. The depositions of Mr. Czajkowski

1 and Mr. Uryc.

2 JUDGE KELLEY: All right.

3 MR. JOHNSON: It seems to me that to adequately
4 cure the harm that we sought to prevent by not having those
5 documents admitted in whole or in part, would be to allow
6 the Staff, having seen if Palmetto desires to put in ten
7 pages from each deposition, allow the Staff to put some
8 other parts, limited if the Board so wishes, that we feel
9 would complete the facts, if necessary. If the facts were
10 so selective that we felt tha the evidence taken from
11 the depositions were not irrelevant or was not a fair
12 representation of the totality of the evidence from the
13 deposition, so we would like the opportunity after seeing
14 the pages that they may present to perhaps submit five
15 rebuttal pages for each ten pages, or ten pages, or
16 what have you, that they may present.

17 JUDGE KELLEY: I think we understand the point.
18 Any reaction to that Mr. Guild or Mr. McGarry?

19 MR. GUILD: I think that the -- we are operating
20 on time restraints. If we had unlimited time, we would
21 have more detailed examination of the witnesses, it would
22 be longer, and you would have a fuller record, and a fuller
23 record would be helpful and I think it is necessary. You
24 have got the opportunity to have more facts, evidence, which
25 is contained in these depositions. The point I offered was

1 that if you could take the depositions in whole, then they
2 reflect fully the questions and fully the answers. It is
3 not a question of being selective and thereby omitting
4 answers that may provide a more complete reflection of the
5 gentleman's position.

6 So, my preference was to put the entire document
7 in because it reflected fully what they had to say.
8 Recognizing the opportunity of the other parties to state
9 objections to portions of those documents, because they
10 reserved those objections. So, I don't have any problem
11 with the depositions being more complete by adding more
12 pages. I just think ten pages is inadequate, and that is
13 the Board's ruling, and we are forced to live with it.

14 It seems to me that there is no purpose in
15 saying Mr. Johnson can add five more pages. If you are
16 going to do that, you might as well allow the whole document
17 in, and I suggest you let the whole document in, subject
18 to objections.

19 JUDGE KELLEY: All right. Mr. McGarry?

20 MR. MCGARRY: I guess we feel a little bit handcuffed
21 here, Your Honor. We don't know what the ten pages are going
22 to be. It could very well be that we would have asked
23 follow up questions in that regard, so I think there should
24 be some flexibility in terms of what the Applicant and the
25 Staff's response would be in relationship to that. It may

1 have been if we asked questions, we might want to file an
2 affidavit. It may be that we would look at a couple of the
3 pages of the deposition. I think that might suffice.

4 I think if the Board just recognizes that we
5 should be -- at least we should not be precluded from making
6 an argument to you of why we should be able to take some
7 further action at that time.

8 JUDGE KELLEY: Okay. We can speak to this point.
9 We understand the arguments, and sometime today we will get
10 back to it.

11 Now, are we ready for the next witness.

12 MR. McGARRY: He is on the long list, Witness No. 5
13 from the long list.

14 JUDGE PURDOM: Do we need to go in-camera.

15 JUDGE KELLEY: I guess so, yes. I will make this
16 statement that we have to make here. I am going to try to
17 keep it kind of simple.

18 Okay, we can bring him in.

19 (In-Camera session follows)

20

21

22

23

24

25

#7-1-SueT 1

JUDGE KELLEY: Okay. We can go on the record.

2 Mr. Parker, right?

3 MR. PARKER: Yes, sir.

4 JUDGE KELLEY: Good morning, or good noon.

5 Would you raise your right hand, please?

6 (The witness is sworn by Judge Kelley.)

7 Whereupon,

8 CHARLIE J. PARKER

9 is called as a witness by and on behalf of the Intervenor,

10 Palmetto Alliance, and having first been duly sworn, was

INDEXXXXX 11

examined and testified as follows:

12 JUDGE KELLEY: We have just had some press people

13 come in and go back out. And the first thing we determine

14 here is, counsel has indicated to me that -- correct me if

15 I'm wrong -- you would rather not have your picture on

16 television but apart from that you don't mind if it's an

17 open hearing --

18 WITNESS PARKER: That's right. I don't mind.

19 JUDGE KELLEY: -- and people would be walking in

20 and out, and then there would be press here and they would

21 get your name, but if it's no picture that would be --

22 WITNESS PARKER: That's fine. I don't want to

23 be on television.

24 JUDGE KELLEY: And with that understanding, I

25 believe counsel has talked to them; is that correct?

#7-2-Suef 1

WITNESS PARKER: I beg your pardon?

2

JUDGE KELLEY: I said the television camera people understand that, don't they?

3

4

MR. GUILD: They do, yes.

5

JUDGE KELLEY: Okay. We can reconfirm it when they come in, but why don't we go ahead and open the door and let them come in.

6

7

Mr. Guild here of Palmetto Alliance will be asking you some questions first and then we will just progress around the room with a series of questions.

8

9

You have given an affidavit before, isn't that right?

10

11

WITNESS PARKER: Yes, sir.

12

JUDGE KELLEY: You have been sworn, and the door being open I think we are ready to start.

13

14

Mr. Guild.

15

MR. MC GARRY: Your Honor, with respect to Mr. Parker, your ruling was a threshold showing. We maintain that his testimony in this related to Class G work. We should have that inquiry made first.

16

17

JUDGE KELLEY: Mr. McGarry was just reminding me, Mr. Parker, we have a list of people coming in today as witnesses, and you are one of them. It wasn't clear from your affidavit whether you had been working on safety-related work at the site. By safety-related, how would I

18

19

20

21

22

23

24

25

#7-3-SueT

1 define it exactly?

2 JUDGE PURDOM: It would be material systems
3 that had to meet NRC specifications because the safety of
4 the plant operation depends on it.

5 JUDGE KELLEY: Class A, B or C pipe?

6 MR. GUILD: Only if it's pipe, Judge.

7 JUDGE KELLEY: Pardon?

8 MR. GUILD: Only if it's pipe. This would not
9 apply to Mr. Parker.

10 JUDGE KELLEY: Would not apply to what?

11 MR. GUILD: Mr. Parker. Only if it's pipe.

12 JUDGE KELLEY: Maybe Mr. Parker could give us
13 an indication of the kind of work he was doing out there.

14 WITNESS PARKER: The work that I talked about
15 in the affidavits, part of it was done in the turbine
16 building and as far as I know there wasn't but one system
17 that I worked on that was nuclear safety-related.

18 But all the other work was non-safety and the
19 concerns I raised in the affidavit.

20 JUDGE KELLEY: What was the one system that you
21 are referring to?

22 WITNESS PARKER: If I'm not mistaken, it was WZ,
23 ground water sump system. Some welding on stand pipes not
24 complete in the weld.

25 JUDGE KELLEY: Was that in the turbine building,

#7-4-SueT

1 too?

2 WITNESS PARKER: No, sir. It was on the side,
3 the auxiliary building.

4 MR. GUILD: Mr. Chairman, may I inquire on this
5 subject?

6 JUDGE KELLEY: Just a minute.

7 (The Board members are conferring.)

8 JUDGE KELLEY: Do I understand your concerns
9 related to the Class G pipe or to some other pipe or just
10 one system that you said was safety-related? Were any of
11 your concerns related to that system?

12 WITNESS PARKER: Yes, sir.

13 JUDGE KELLEY: Mr. Guild, did you have a point
14 you wanted to make?

15 MR. GUILD: Yes, sir.

16 DIRECT EXAMINATION

17 BY MR. GUILD:

INDEXXXX

18 Q Mr. Parker, what craft are you in, sir?

19 A Instrument craft.

20 Q All right. And you have worked for whom sir?
21 Who was your foreman?

22 A Since I been with Duke Power?

23 Q Well, how about -- who is the foreman you speak
24 of in your affidavit when you expressed your concern?

25 A His name?

#7-5-SueT 1

Q Yes, please.

2

A A. K. Dodd.

3

Q Okay. Ken Dodd?

4

A Yes, sir.

5

Q Did your crew work in safety-related and non-

6

safety related work at the plant?

7

A At the time I was working for them, we didn't

8

work in -- very little safety-related.

9

Q Any safety-related?

10

A That ground water sump.

11

Q Okay. Any others that you can recall?

12

A Not at the time I worked for him, no.

13

JUDGE KELLEY: Are you working with him now?

14

WITNESS PARKER: Yes, sir.

15

JUDGE KELLEY: Are you working for Duke now?

16

WITNESS PARKER: Yes, sir.

17

WITNESS PARKER: This is at the time you worked

18

for that particular foreman you are talking about?

19

WITNESS PARKER: Yes, sir. I don't work for him

20

any more.

21

JUDGE KELLEY: Okay.

22

BY MR. GUILD: (Continuing)

23

Q And is Mr. Dodd that foreman, has he worked crews

24

on other safety-related systems besides that particular one

25

you mentioned?

#7-6-SueT

1 A Not when I worked for him. He is working on
2 safety-related systems now. He is in Unit 1.

3 Q Unit 1. And what is his crew doing there, if
4 you know?

5 MR. MC GARRY: I am going to object right now.
6 I thought these were preliminary questions.

7 JUDGE KELLEY: They are, Mr. McGarry. We are
8 trying to get a little more information.

9 MR. MC GARRY: Now we are getting into this
10 foreman in the Unit 1 building and Mr. Parker doesn't work
11 for this foreman now, so it's irrelevant.

12 JUDGE KELLEY: We understand that. And we aren't
13 going to go on in this very long. We are just trying to
14 get a little more information before we decide whether to
15 proceed.

16 MR. GUILD: If I may, Mr. Chairman.

17 BY MR. GUILD: (Continuing)

18 Q Mr. Dodd's crew is doing what kind of work now
19 in Unit 1, if you know?

20 A They doing all the work that needs to be done
21 in Unit 1 as far as I know. They are the only crew over
22 there.

23 Q Okay. And that's instrumentation work?

24 A Yeah.

25 Q Okay. Now, is it true, Mr. Parker, that you have

#7-7-SueT 1

2 concerns about Mr. Dodd's commitment to quality and that
3 the way he drives his crews may sacrifice quality in the
4 face of the desire to get the job done quick?

5 Is that a fair summation?

6 A That was one of my main concerns I raised. Yes.

7 MR. GUILD: All right, sir. Mr. Chairman, I
8 could go further but I submit to you that Mr. Parker has
9 particular experience, including experience in safety-related
10 systems, that bear on Mr. Dodd's conduct and leadership and
11 foreman override practices.

12 Some are directly within his knowledge. Some are
13 by information and belief. And that Mr. Dodd, in fact,
14 continues at the site in a supervisory capacity, supervising
15 persons who are performing safety-related and non-safety
16 related work.

17 Mr. Parker's documentation reflects an outstand-
18 ing concern about the appropriateness of the Company's
19 response regarding Mr. Dodd. And I can provide you more
20 submission, either In-Camera, or show you documentation, but
21 the focus is on a foreman in non-welding craft who in our
22 judgment is responsible for foreman override and who in-
23 appropriately is allowed to work on safety-related systems
24 at the plant at this time.

25 JUDGE KELLEY: It would appear that we would at
least be interested in the witness' concerns about the

#7-8-SueT

1 safety-related system. Do I hear you say that we are only
2 concerned with Mr. Parker's work with Mr. Dodd?

3 MR. GUILD: That's the thrust of my --

4 JUDGE KELLEY: What area do you want to go into
5 other than the work on a safety-related system Mr. Parker
6 referred to?

7 MR. GUILD: The Company -- please bear with us,
8 Mr. Parker. The Company, in its tabulation of concerns, in
9 its August 3 report has a set of concerns which it
10 characterizes as other safety, Attachment B.

11 JUDGE KELLEY: Right.

12 MR. GUILD: And under Attachment B, there is
13 Roman VIII. It's called "Advanced Distribution of Tests."

14 JUDGE KELLEY: All right.

15 MR. GUILD: Advanced distribution of tests has
16 to do with Mr. Dodd's practice of providing advance copies
17 to his crew of expansion anchor certification tests. Okay.

18 JUDGE KELLEY: What has that got to do with
19 foreman override?

20 MR. GUILD: What it has to do with foreman over-
21 ride, Mr. Chairman, is it has to do with a foreman who
22 shortcircuits the quality assurance requirements for training
23 and testing of his people to perform a safety-related function
24 in the facility, which is installation of anchor bolts.

25 All right, sir.

#7-9-SueT

1 Now, it's not the substance of the test issue that
2 is important. What is important is the course of conduct of
3 Mr. Dodd involving safety-related work. It's admitted by
4 the Company to be a safety-related issue that they don't
5 characterize as foreman override, which we believe is part
6 of a set of facts, a set of circumstances, that goes to the
7 appropriateness of the -- the appropriateness first of Mr.
8 Dodd's conduct as representing foreman override outside of
9 Arlon Moore's crew, outside of the welding craft, and the
10 appropriateness of the Company's corrective action which is
11 to allow Mr. Dodd to continue performing his function on
12 safety-related work.

13 JUDGE KELLEY: Is there anything else that you
14 wish to go over in addition to this testing matter?

15 MR. GUILD: As far as I know now, the testing
16 matter -- the system that Mr. Parker identified, whether
17 it was a weld concern, the process by which the Company
18 interviewed, investigated and resolved those concerns of
19 Mr. Parker and his general concern about Mr. Dodd's capability
20 to effectively supervise safety-related work in the plant.

21 So, to the extent that it bears on specific
22 pieces of work within the direct knowledge of Mr. Parker,
23 all I know from what documents I have available to me, are
24 those two subjects.

25 Now, I think Mr. Parker should be free to speak

#7-10-SueT1

1 for himself. And I'm not trying to speak for him, because
2 I can't. Those are two I know of.

3 JUDGE KELLEY: What we are trying to get a handle
4 on how many topics you want to talk about, Mr. Parker. It's
5 kind of clumsy but we will be done here in a few minutes.

6 Okay. Mr. Johnson?

7 MR. JOHNSON: Two things. First, with respect
8 to the recirculation of a test, it seems to me that that
9 has been an area which the Board has specifically excluded
10 evidence on last Fall and it's not an appropriate area for
11 examination even under the broader area which has been
12 decided, much less on foreman override.

13 Secondly, if I may, I would like to ask Mr.
14 Parker a couple of questions with regard to his ground sump
15 water system to which he referred.

16 JUDGE KELLEY: All right.

17 CROSS EXAMINATION

18 BY MR. JOHNSON:

19 Q Are you aware of the fact that at the time you
20 worked on this ground water sump system that it was not
21 considered a safety-related system?

22 A Yes, sir.

23 Q That's correct. After you worked on the system,
24 are you aware that system was reevaluated, torn out and
25 then redone as a safety-related system?

INDEXXXX

#7-11-SueT

1 A It was changed to a safety-related system and
2 then later it was torn out and redone.

3 MR. JOHNSON: Thank you. I think based on that
4 we could consider that the work he was performing was not
5 safety-related at the time he performed it.

6 JUDGE KELLEY: Maybe my colleagues understand.
7 Are you clear on this?

8 MR. MC GARRY: Your Honor, that was the point I
9 wanted to make with the one that Mr. Parker mentioned. It
10 is now a safety-related system. When he worked on it,
11 the concern he has regarding that system, it was non-safety.

12 JUDGE KELLEY: It was categorized as non-safety?

13 MR. MC GARRY: Non-safety. So, he was working
14 on a non-safety system when this arose. It was subsequently
15 changed. And I believe the write-up reflects the work had
16 been -- the work that he had worked on has been taken out
17 and upgraded to a safety season.

18 Is that right?

19 WITNESS PARKER: I'm sorry, I didn't hear you.
20 I can't hear out of this ear very good.

21 CROSS EXAMINATION

22 BY MR. MC GARRY:

23 Q I'm sorry. The -- it says in the affidavit that
24 the WS system, but it should be WZ.

25 A WF, WZ, I can't remember, there's so many of them.

INDEXXXXX

#7-12-SueT1

And I don't remember exactly.

2 Q At the time you did the work it was a non-safety
3 system?

4 A That's right.

5 Q Thereafter it became a safety --

6 A That's when I became concerned about it, when
7 it changed to safety-related.

8 Q And they tore that work out?

9 A Later they tore it out and redone it, because
10 the plates that were mounted on the side of the wall were
11 not large enough to carry the safety-related part of it.

12 JUDGE KELLEY: Let the Board consider this a
13 moment.

14 (The Board members are conferring.)

15 The Board's ruling is that we are going to excuse
16 Mr. Parker. There has been no relationship between Mr.
17 Parker's work and safety systems. As just stated, the one
18 system the one time he worked on it was not a safety system.

19 The distribution of tests is something we ruled
20 out of this case a year ago when the case was much broader
21 than it is now. It has nothing to do directly with foreman
22 override, so we think it's beyond the scope of this hearing.

23 Mr. Parker --

24 MR. GUILD: Mr. Chairman, before you do that
25 may I just show you some documents, please?

#7-13-SueT1

JUDGE KELLEY: Just a minute. Do you want to reargue the point now?

MR. GUILD: No, sir. I want to emphasize to you that Mr. Parker has concerns this Board should consider, because they bear on Mr. Dodd's competence to perform safety-related work outside the welding area.

They are reflected in a document, sir, which I would like to hand to the Board reflecting the Company's resolution of his concerns. They certainly consider it an issue that bears on safety.

JUDGE KELLEY: I believe, Mr. Guild, a few minutes ago you stated the areas you wanted to discuss, one of which was the way in which his concerns were addressed.

MR. GUILD: Yes, sir.

JUDGE KELLEY: And we've heard that, Mr. Guild.

MR. GUILD: You didn't see the documents, Mr. Chairman. I would like to show you the documents.

JUDGE KELLEY: Mr. Guild, we are not going to argue this matter any further. It has been argued, the Board is ruling.

We are going to excuse this witness because he hasn't worked on safety systems.

MR. GUILD: Mr. Parker, I apologize to you very much for your time and for you having to be called under these circumstances. I'm sorry.

#7-14-Suet¹

JUDGE KELLEY: And the Board, I think we all are.
2 The problem, Mr. Parker, is the way the hearing was
3 structured in this particular case. We usually know more
4 in advance and we don't ourselves in the situation where we
5 call somebody in and we decide that we will excuse them.

6 And we do apologize. We regret it very much. You
7 are excused.

8 (The witness was excused.)

9 MR. GUILD: Mr. Chairman, by way of an offer of
10 proof, I would like to have three documents identified,
11 please, to be included in the transcript. We think the
12 Board is in serious error in this matter. If it's interested
13 in a pattern of foreman override, it has to hear beyond Mr.
14 Moore's crew.

15 And we submit Mr. Parker would have provided
16 testimony with regard to the practices by one Ken Dodd who
17 was among the thirteen individual supervisors who were
18 counselled by Duke Power Company.

19 Mr. Parker refused to sign-off on his concerns,
20 because he believed that the action against Mr. Dodd was
21 inappropriate and ineffective to deal with the fact that
22 Mr. Dodd continued to supervise safety-related work in
23 the instrumentation area.

24 I have three documents I would like to have
25 identified.

#7-15-SueT 1

JUDGE KELLEY: You may make an offer of proof,
2 yes, and would you identify them for that purpose?

3 MR. GUILD: First, a memo, dated 9/11/84,
4 September 11, 1984, signed J. Lewis, reflecting Mr. Dodd's
5 August 8th, 1984 -- excuse me, reflecting an interview of
6 August 8th, 1984 with Mr. C. J. Parker by Joey Lewis and
7 Tom Robertson where they discussed seven concerns of his.

8 The appropriate point is: Parker replied that
9 Dodd should not be working any crew, especially in Unit 1,
10 that Dodd told the crew to violate procedure on numerous
11 occasions and that he, Parker, did not trust Dodd's abilities
12 as a supervisor. Parker continued by saying that even though
13 most of the work had been corrected, it was done wrong
14 initially because of Dodd. Parker said he was not satisfied
15 even though he knew that an investigation had been conducted
16 into his concerns. Lewis then told Parker that she would
17 set up an appointment with the NRC or that he could go
18 directly if he, Parker, had problems with the follow-up
19 information. Parker reiterated that Dodd would not be
20 trusted -- could not be trusted and that he would not sign-
21 off because of that. Parker then began talking about Dodd
22 taking tools off the job --

23 JUDGE KELLEY: Mr. Dodd, are you going to put in
24 the whole document?

25 MR. GUILD: Yes, sir.

#7-16-SueT 1

JUDGE KELLEY: There is no need to read it. Can we just identify it and move on?

2

3

MR. GUILD: That's identified, Mr. Chairman.

4

And I submit that Mr. Parker asked to appear before this Board so that he could express that concern to you which I just summarized.

5

6

7

A document entitled "Item 26, Concern 15." It appears to be Pages 198. It has got the name W. N. Coble on it. C. J. Parker, Power House Mechanic Instrumentation has a concern about foreman giving a copy of the red head test to employees with the answers before the crew took the test.

10

11

12

13

That's the second document I would like to identify. Could we mark these in sequence as the next hearing exhibits as an offer of proof, please?

14

15

16

JUDGE KELLEY: I think that would be appropriate.

17

18

MR. GUILD: 148 for that first document, please. 149 for the second.

19

20

And third, Item 24, Concern 5, Coble document, Concern C. J. Parker, Power House Mechanic Instrumentation, had a concern about violating QA procedures in stand pipes on ground water sumps. And that's a document of four pages.

21

22

23

24

And that should be marked for identification as Hearing Exhibit 150 as an offer of proof, Mr. Chairman.

25

#7-17-SueT

1 JUDGE KELLEY: Fine.

2 (The documents referred to
3 are marked as Intervenor
4 Exhibits 148, 149 and 150
5 for identification.)

INDEXXXXXX

6 MR. GUILD: The Board has previously received in
7 evidence memos regarding and reflecting the counselling of
8 Mr. Ken Dodd for his conduct in this incident.

9 JUDGE KELLEY: Okay.

10 MR. MC GARRY: Your Honor, the next witness
11 isn't here yet so this may be an appropriate place to break.

12 JUDGE KELLEY: Is anybody other than -- how
13 about the one after that? Is anybody else on tap?

14 MR. MC GARRY: I don't know. I'm sure they will
15 be on tap.

16 JUDGE KELLEY: Have we got -- let me ask Mr.
17 Guild, I've got 10, 1, 16, 11, 12. Is that what you've
18 got? Have we changed the order?

19 MR. GUILD: I'm sorry. I missed the last point.
20 Number 10 is not available, Judge, is that what I heard?

21 JUDGE KELLEY: Would he be your next one?

22 MR. GUILD: Yes, sir.

23 MR. MC GARRY: He will be here shortly. He is
24 not here yet.

25 MR. GUILD: I go from Number 10 to Number 4,

#7-18-SueT 1

but I'm not prepared to take them out of order. If Number 10
is going to be available shortly I would suggest we take
a short break and come back.

4

MR. MC GARRY: Number 10 and then Number 1,
isn't that right?

6

MR. GUILD: Yes.

7

JUDGE KELLEY: And then 16?

8

MR. GUILD: 10, 1 and then 16. Yes, sir.

9

JUDGE KELLEY: And they will be here or are
on their way? We have to take lunch sometimes. Do you
want to do it now, Mr. Guild?

11

12

MR. GUILD: Yes, we might as well.

13

JUDGE KELLEY: What, about 1:30? Shall we say
1:30?

14

15

MR. GUILD: Yes, sir.

16

JUDGE KELLEY: All right, 1:30.

17

(Whereupon, the hearing is recessed at 12:30 p.m.,
to reconvene at 1:35 p.m., this same day.)

end #7 18

Mimie flws 19

20

21

22

23

24

25

T8 MM1

AFTERNOON SESSION

1:35 p.m.

JUDGE KELLEY: Let's go back on the record. There are two things. First, the procedural issue argued earlier.

We ruled that limited portions of the Uryc and Czajakowski Depositions could be introduced, and I won't restate that ruling because that ruling is in, it stands, we are not changing that. We are going to make a minor addition to it.

Mr. Johnson and Mr. McGarry sought an opportunity to present rebuttal material, perhaps by affidavits and some other form. But the idea was to bring in rebuttal material if they thought that was called for.

We are going to grant that they have a right to put in other parts of the deposition for the sake of context, up to an equal amount sought to be put in by Palmetto. But we are going to deny any right to put in additional material whether by affidavit or otherwise. Obviously, unless we have more pleadings, Palmetto has had no chance to object to that material.

There was at the deposition an opportunity to ask questions and get in other things. We realize that counsel may not have anticipated what was going to happen at this deposition, and we don't see this as a perfectly fair arrangement. But, we think it is fair enough, and that is

mm2

1 the way we are going to strike it.

2 So, you can add for context is what it comes down
3 to by bringing in other pieces of the deposition.

4 MR. JOHNSON: Thank you, Mr. Chairman.

5 To clarify, however, we weren't seeking to put other
6 rebuttal information, other than contents of the affidavit.

7 JUDGE KELLEY: Maybe I was lumping you with --
8 Mr. McGarry spoke of maybe an affidavit.

9 MR. MC GARRY: I did, yes.

10 JUDGE KELLEY: All right. But in any event, that
11 is the way we are going to rule.

12 You were just asking for contextual rights, is that
13 what you might call it?

14 MR. JOHNSON: Or, if there was other information
15 that would serve to complete the subject matter.

16 JUDGE KELLEY: All right, that is what I mean.

17 Now, on the separate issue of rebuttal asked by
18 the Applicants: First of all, the Applicants spoke of having
19 prepared testimony. Where does that stand, Mr. McGarry?

20 MR. MC GARRY: Almost ready.

21 JUDGE KELLEY: You expect to have it shortly?

22 MR. MC GARRY: Shortly. I would say within the
23 hour.

24 JUDGE KELLEY: You were going to see whether
25 Dr. Michalowski would be available?

mm3

1 MR. GUILD: Yes, sir. We have communicated with
2 Dr. Michalowski. He has a professional engagement this after-
3 noon and this evening. He is under retainer to an official or
4 candidate for public office and is performing services as an
5 opinion researcher and has an obligation to perform those
6 services this afternoon and this evening.

7 That is our information. He will not be available.

8 JUDGE KELLEY: Okay.

9 Well, under all the circumstances; we had an objection
10 from Palmetto to allowing rebuttal, and we heard argument on
11 it. And we think that under the circumstances, it is reasonable
12 to allow rebuttal and we propose to do so.

13 Basically, we see the following points as important.
14 After all, rebuttal is only limited to direct. We are not
15 going to go off on other points. He is only going to come in
16 here and answer what Dr. Michalowski said.

17 As far as timing goes, the timeliness of the desire
18 of Applicants to have rebuttal. They had an outline of testimony
19 I believe on Monday, but they didn't really know what the
20 substance was until yesterday afternoon when Dr. Michalowski
21 testified. The bulk of his testimony was elicited on oral
22 question and answer form.

23 Now, promptly after that they are stating their
24 desire to rebut. This, it seems to us is the kind of testimony
25 where the desire to rebut might reasonably be anticipated.

mm

1 It isn't bringing somebody else on foreman override. This is
2 a narrow, specific, technical area in which we have heard from
3 one side and not the other. And we think it is only fair to
4 allow it.

5 Palmetto would be in better shape, perhaps, if they had
6 Dr. Michalowski here to testify -- not testify -- if they
7 had Dr. Michalowski here to help them out on cross examination.
8 That would be an advantage to them. It is regrettable that
9 he is not available this afternoon to read testimony, or
10 this evening. We don't think it is essential.

11 But, beyond that, we would say again when a witness,
12 even a volunteer witness, decides to volunteer services and
13 step into a case like this, he should be aware that he may
14 be needed on another day. And this is the day when his
15 presence might be useful, and he has got another commitment.
16 We regret that, but we are going to go ahead.

17 MR. GUILD: We would ask an opportunity to present
18 surrebuttal. We want to note our objection to not having
19 the assistance of our expert in the untimely rebuttal
20 testimony of Applicants.

21 We note that we still haven't received the promised
22 prefiled testimony. Even if our expert was available, he
23 couldn't review it.

24 JUDGE KELLEY: I am assuming it will be here
25 shortly.

mm 1 MR. GUILD: It is now after the luncheon recess,
2 the time is 1:45 and we are all engaged in active litigation
3 and I am sure we will be through the rest of the day.

4 JUDGE KELLEY: Correct.

5 MR. GUILD: We would ask the opportunity to present
6 surrebuttal to the anticipated testimony of the gentleman,
7 Dr. Hunter --

8 JUDGE KELLEY: Let me suggest this.

9 We ruled we are going to hear from Mr. McGarry's
10 witness. Why don't -- it would be maybe more efficient to
11 either make the argument after we have heard from him and
12 you can do all your points at once.

13 MR. GUILD: Just so I am not faulted for lack of
14 timeliness, as I suspect I might otherwise be, I wanted to
15 note for the record that we have a desire to offer
16 surrebuttal, and I want that position reflected.

17 JUDGE KELLEY: This is certainly timely in that
18 regard. We can hear it more fully this evening.

19 MR. GUILD: That is fine, your Honor.

20 If I may, one other point. I had asked earlier
21 that documents identified in the course of my examination
22 of Applicant's panel which had been circulated to all the
23 Parties and Members of the Board, that I be permitted to
24 submit the record copy of those documents. I am talking
25 about the documents that we identified during the course of

mm6

1 cross examination of Applicants.

2 They hadn't had numbers assigned to them. Before
3 we adjourn, I will get numbers assigned to them. But they
4 are all Applicant's discovery materials, and I believe
5 Applicant's counsel was courteous and said they would have
6 no problem with authenticity.

7 So, not having that difficulty, I would intend to
8 offer those documents before we adjourn, and had sought
9 formally permission to submit the record copy after we close
10 the record, after we close the hearings.

11 I want that position reflected on the record.

12 MR. JOHNSON: On the same subject, during the
13 luncheon break, I supplied Members of the Board and the
14 reporter and the Parties, copies of Staff Exhibits 28, 29
15 and 30.

16 JUDGE KELLEY: Thank you.

17 MR. MC GARRY: Could I just pick up Mr. Guild's
18 point. We can probably handle this all off the record, but
19 we didn't oppose their being authentic, and I don't know if
20 we would even oppose their admission into evidence. But, I
21 would just like to know what they are, so that we can go
22 over them.

23 JUDGE KELLEY: Why don't you talk it over when you
24 get a chance?

25 MR. GUILD: We will do that, Judge.

mm7 1 JUDGE KELLEY: The next in order is number 10.

2 MR. MC GARRY: I believe that is correct.

3 Number 10, yes, sir.

4 MR. GUILD: Yes, sir.

5 JUDGE KELLEY: Can I ask whether there is any
6 counsel intelligence about desires of the witness for privacy?
7 Do you know one way or the other?

8 MR. GUILD: I don't know one way or the other.

9 MR. MC GARRY: I don't think he minds going public.

10 JUDGE KELLEY: Good afternoon, Mr. McCall.

11 Please take a seat.

12 I am Judge Kelley. I am Chairman of the NRC
13 Licensing Board. Dr. Purdom on my right, Dr. Foster on my
14 left.

15 As a sort of a first step in your appearance
16 this afternoon, we would like to ask you -- I know when you
17 were first talking to the Duke investigating people they
18 gave you a promise of confidentiality. And now we are at a
19 stage where we are holding what is normally a public hearing.
20 We can keep it closed with the door closed and the press out,
21 if that is your desire and if you have a good reason for
22 wanting to do that.

23 We, frankly, would prefer having it open to the
24 public.

25 We, first of all want to ask you if you have

mm8 1 thought about that and whether you are willing to testify in
2 public?

3 MR. MC CALL: That is fine with me. I don't care
4 to have my picture taken.

5 JUDGE KELLEY: Fine. We have got another one or
6 two witnesses who basically had the same feeling. They are
7 willing to testify in public, but they don't particularly
8 want to be on TV. That has been something that we can
9 arrange without any problem.

10 So, on that basis we can open the door. The TV
11 people are sort of in and out; here sometimes and not others.
12 If they come in we can make it clear to them that you don't
13 want to be on television, at least your face, and they have
14 been willing to go with that understanding.

15 (Doors to hearing room opened.)

16 Are you the only channel here, as far as you know?

17 TV CAMERAMAN: Yes.

18 JUDGE KELLEY: The present witness is willing to
19 testify in public, but he does not want to have his face on
20 television.

21 I think we have had a similar understanding with
22 some other people. Do you understand that? Okay?

23 TV CAMERAMAN: Yes.

24 JUDGE KELLEY: Fine.

25 We can proceed.

mm9

1 Whereupon,

2 JAMES BOYD MC CALL

3 was called as a witness on behalf of the Intervenor, Palmetto
4 Alliance, and having been first duly sworn, was examined
5 and testified as follows:

6 MR. GUILD: Mr. McCall, my name is Bob Guild. I am
7 a lawyer with the Palmetto Alliance. I want to ask you some
8 questions.

9 I gather that you know the company lawyers,
10 Mr. McGarry and Mr. Hollins sitting next to him?

11 THE WITNESS: Yes, sir.

12 MR. GUILD: This is Mr. Johnson here with the NRC
13 Staff, Mr. Brad Jones, also a lawyer with the NRC. Mr. Van Dorn.

14 Sitting with me is Mr. Rutledge with Carolina
15 Environmental Study Group; Michael Lowe, Palmetto Alliance;
16 and Sam Nunn, who used to work in Arlon Moore's crew in second
17 shift for a while.

18 And, these are the Judges.

19 MR. MC GARRY: May I just add Mr. Wilson from the
20 great State of South Carolina.

21 MR. GUILD: This is Rich Wilson, a lawyer with the
22 State of South Carolina.

23 DIRECT EXAMINATION

24 BY MR. GUILD:

25 Q I appreciate your coming. I wanted to ask you some

XXX

mm10

1 questions about your knowledge of circumstances that were
2 investigated by the NRC and Duke Power, involving instances
3 where, because of production pressure, foremen took actions
4 that resulted in bending or breaking quality assurance
5 procedures at the site.

6 Now, what craft do you work in, Mr. McCall?

7 A Presently I work in hangers.

8 Q You are in hangers. Okay.

9 Are you a powerhouse mechanic? Is that --

10 A That 's part of it, yes. Hangers is part of
11 powerhouse mechanics.

12 Q Hangers is part of the craft that includes power-
13 house mechanics, or powerhouse mechanics includes hangers,
14 right?

15 A Right.

16 Q Gotcha!

17 Now, for a time you worked on Jim Johnson's crew
18 as a powerhouse mechanic?

19 A Yes, sir.

20 Q And what kind of work were you doing when you worked
21 for Mr. Johnson?

22 A Pipework.

23 Q Were you doing safety work as well as nonsafety?

24 A Yes, sir.

25 Q And what parts of the plant were you working in?

mml 1 A Auxiliary building.

2 Q All right. Mr. Johnson has a crew of pipefitters,
3 right?

4 A Yes, sir.

5 Q And he works for a general foreman. And, who is
6 the general foreman Mr. Johnson works for, or did at the time
7 you were on his crew?

8 A At the time I was on the crew, he worked for
9 Henry Ellenberg and Jack Holland,

10 Q First Henry Ellenberg and then Jack Holland?

11 We are not real familiar with the powerhouse
12 mechanics craft. Over Mr. Holland or Mr. Ellenberg is who?

13 A It was Ken Webber.

14 Q Ken Webber. And is that who Mr. Holland worked for
15 when he supervised Jim Johnson's crew?

16 A Yes, sir.

17 Q I wanted to ask you about some concerns that you
18 expressed to the interviewers for Duke in the spring last
19 year.

20 If I could ask somebody to hand this over to you,
21 this is a copy of your affidavit. The only thing missing
22 from it is your name. That is because they blanked it out
23 when they made copies of it for the Parties in this case.
24 Where that blank is at the top left would be your name,
25 Mr. McCall.

mml2

1 Have you seen that before, that affidavit?

2 A Yes.

3 Q And that is an affidavit that has a date on it of
4 April -- it looks like the 6th. I can't quite make it out.

5 Does that appear to be the 6th when that notary
6 signed it?

7 A I can't make it out here.

8 Q Sometime in April, right?

9 A Uh, huh.

10 Q Then behind that there is another affidavit, and
11 it is dated the 20th of September, correct?

12 A Correct.

13 Q Now, let's look at the first one. I wanted to ask
14 you some questions about it.

15 You talk about observing some situations where, in
16 order to make a fit, a pipe had to be cold sprung to come into
17 proper alignment. Correct?

18 A Could you repeat that?

19 Q Cold spring of pipe. You observed some instances
20 where a pipe has been cold sprung to make a fit?

21 A I wouldn't say observed. I was in on part of it.

22 Q Okay. Hands on, shall we say?

23 A Hands on.

24 Q That is what I am planning to talk about.

25 Now, you tell me, but my understanding from what

mm13

1 little I know about it is, the understanding of the procedure
2 in place was, that in order to make a fit of a pipe, you
3 were allowed to use a come-along, or a change at to suspend
4 the pipe, hold it up off the floor, move it in place,
5 perhaps, but in order to make a fit you were supposed to use
6 only moderate hand pressure to close a pipe with a flange
7 or a piece of pipe with another piece of pipe.

8 Is that a correct understanding?

9 A Okay. According to the construction procedure
10 483, you can use come-alongs to put a piece of pipe into
11 place.

12 Q That construction procedure requires you to do
13 certain things if you are going to use any kind of pressure
14 other than moderate hand pressure, right?

15 A Correct.

16 Q And that procedure that would you allow you to use
17 other than moderate hand pressure, requires somebody to
18 make a judgment that the pressure you put on that pipe is
19 not going to do any harm to the fit. It is not going to put
20 any undue stress in the piping system, right?

21 A Correct.

22 Q And as I understand it, that would require you to
23 get somebody, a QC inspector, to check it. You would have to
24 get paperwork issued for it, and you would have to have a
25 dynamometer so you could measure, an instrument that would

mml4 1 measure just how much pressure you are putting in that pipe to
2 make the fit, correct?

3 A Correct.

4 Q So, while cold springing might be permissible if
5 you get the proper signoff and basically tech support or
6 engineering approval, and you use an instrument to measure
7 the amount of spring, it is a violation of procedure to cold
8 spring without following those procedures, right?

9 A Correct.

T8 end 10

AB fls 11

12

13

14

15

16

17

18

19

20

21

22

23

24

Ace-Federal Reporters, Inc.

25

agb/agb1

1 Q And you observed some cold springing that was
2 performed without observing those procedures, right?

3 A Well I had hands-on --

4 Q You had hands-on experience. Okay.

5 Tell me about it. Now look at this affidavit
6 and maybe you can help me follow this to make sure I
7 am talking about the same one.

8 I am looking at the -- just after the line that
9 says "I am a powerhouse mechanic fitter on Jim Johnson's
10 crew." It starts down and says:

11 "I made the fit on Weld 2RN-114/4 at
12 560 elevation in the auxiliary building.
13 Welded all the 12-inch carbon steel pipe
14 riser to a 90-degree fitting."

15 All right. Explain that, would you, Mr. McCall?
16 What happened exactly in that situation?

17 A When I made the fit -- first, I was given the
18 paperwork to make the fit.

19 Q And who was along with you?

20 A It was just me and a welder at that time.

21 Q Okay. And who was the welder, do you remember?

22 A Brad Byers.

23 Q Mr. Byers. Okay.

24 A Okay. I went around and looked at what I had
25 to do, you know, as far as what it was going to take and

1 I seen that the line was mismatched.

2 So I went back to my foreman and said, you know,
3 we need to look at this and discuss it and decide what to
4 do.

5 Q That is Mr. Johnson then?

6 A Right.

7 Q All right.

8 How much mismatch was there?

9 A An inch and a half.

10 Q This is a big piece of pipe, right, it is a
11 12-inch carbon pipe.

12 Is it a vertical or a horizontal fit?

13 A It's vertical.

14 Q Okay. So that the piece that you were --

15 A The riser was vertical, it was --

16 Q Why don't you describe it for me? I don't know
17 what a riser is, so we understand it.

18 A That is just a piece of pipe that runs up
19 and down.

20 Q Okay.

21 A The weld would actually have been horizontal,
22 across.

23 Q Okay. And so there's two pieces of pipe and
24 they are an inch, an inch and how much off?

25 A An inch and a half.

agb/agb3

1 Q An inch and a half off.

2 And are both pieces of pipe rigidly connected
3 to some kind of a hanger or a fitting of some sort?

4 A. No, one end was swinging free.

5 Q One end was swinging free.

6 A. Just in a loose hanger.

7 Q In a loose hanger.

8 A. Temporary hangers.

9 Q And that was the one that was coming down?

10 A. Right.

11 Q Okay. And did you try to use moderate hand
12 pressure to make the fit? Did you try to push it?

13 A. We did.

14 Q You did.

15 And it didn't work.

16 A. No, sir.

17 Q Even by leaning on it -- you are a pretty
18 large person, it looks like you could have put on what
19 was a lot of hand pressure by comparison to me and it
20 didn't fit?

21 A. No.

22 Q So you got Mr. Johnson, your foreman, and
23 did he come look at it?

24 A. Yes, sir.

25 Q And what did Mr. Johnson have to say?

1 A. Okay. Mr. Johnson said for me to go ahead and
2 pull it over. Okay. At that time I said I'm not so sure
3 about this so I went down and checked with the inspectors.
4 And the inspector, he went down and talked to his supervisor
5 and come back to me and said Okay you can do it.

6 Q How did he want you to pull it over? You had
7 already tried leaning on it, that didn't work --

8 A. With the use of a come-along.

9 Q Was there a come-along already on the pipe
10 when he came over and look at it?

11 A. No.

12 Q So he wanted you to rig a come-along on it and
13 cold spring it into place, right?

14 A. (Witness nodding affirmatively.)

15 Q And what was the come-along mounted to?

16 A. The shell wall on the reactor building, the
17 outside wall.

18 Q Is there some kind of fitting or something that
19 you attach the come-along to?

20 A. You use a welding lug.

21 Q A welding lug?

22 A. Yes. You use red heads to attach it to the wall
23 and hook the come-along to it.

24 Q Is there a special -- you had to make a special
25 mount to hook the come-along to?

1 A. To the wall.

2 Q. There wasn't anything there to begin with, right?

3 A. Right.

4 Q. So tell me how you do it -- how you did it.

5 A. We get a lifting lug or whatever, it was just
6 a flat plate with a loop on it.

7 Q. Okay.

8 A. -- with two holes and you put red heads in the
9 wall.

10 Q. So you mount a bracket that you would fix the
11 come-along to --

12 A. Right.

13 Q. -- with red heads into the concrete wall.

14 A. Right.

15 Q. Then you run the come-along horizontally to
16 the pipe?

17 A. Correct.

18 Q. Now who was the inspector that you went to
19 see about it?

20 A. Ronald Kirkland.

21 Q. Okay. And Mr. Kirkland went to his supervisor,
22 and who was his supervisor.

23 A. I think at the time it was Bill Deaton.

24 Q. Bill Deaton.

25 And did Mr. Deaton come down and look at the

1 pipe?

2 A. I don't think so.

3 Q. You are not aware of it if he did.

4 A. No.

5 Q. So Mr. Kirkland went off, check with his
6 supervisor and came back and he said it was okay?

7 A. Yes.

8 Q. So now who was there, you, Mr. Kirland, who
9 else?

10 A. The welder.

11 Q. The welder, Mr. Byers?

12 A. And the foreman.

13 Q. And Mr. Johnson.

14 A. Right.

15 Q. And then what happened?

16 A. We pulled it into place and made it fit. You
17 know, we took and put the come-along on, pulled it over
18 and left everything there until the weld was completed.

19 Q. Now I want to read to you from an affidavit
20 -- I can't use the name here now, but here is what it says:

21 "One time on 560 a fitter was
22 cold springing a fit for me, five come-alongs
23 and one chain fall were attached to either
24 an 18- or a 24-inch carbon pipe to make
25 the fit. The fitter was scared to get near

1 it and so was I."

2 Does that sound familiar?

3 A. Not really.

4 Q "Both of our foremen told us to
5 make the fit. I pointed out if necessary
6 the weld right beside this one had to be
7 cut out. I feel there was pressure to do
8 this. I do not know if the fit was done
9 to relieve the pressure or not. I worked
10 for Gladden and Boyd McCall worked for
11 Jimmy Johnson. I have asked since that if
12 cold springing was a violation. I have not
13 received a straightforward answer."

14 This was around 1980 or '81. When was the one
15 that you were thinking about, Mr. McCall?

16 A. That was in 1981.

17 (Counsel conferring.)

18 Q Was there more than one come-along used in this
19 case?

20 A. There were I think it was three chain falls.

21 Q Three chain falls.

22 Just explain, if you would, so I can understand
23 and maybe the record will reflect, what is the difference
24 between a come-along and a chain fall?

25 A. A come-along works on the one chain system;

agb/agb8

1 in other words, it just runs through the body of it and
2 you pull it and it has got a ratchet action which actually
3 pulls the chain through.

4 And a chain fall usually is used for lifting.
5 And it has got a ratchet action which actually pulls the
6 chain through. And a chain fall usually is used for
7 lifting. And you've got a long chain on it and then
8 you've got another loop chain that works on the same
9 principle but one is made for up and down and one is made
10 for across.

11 Q Does the instance that you are talking about
12 now sound like a different instance from the one that I
13 just told you about --

14 A You said something about five or six chain
15 falls or come-alongs or something --

16 Q I think that's what it says.

17 It says five come-alongs and one chain fall.
18 It may have been one or two less than that.

19 Otherwise do you recognize -- is it another
20 instance that you are aware of that is described in that
21 other instance?

22 A No, I don't know of any instance like that, no.

23 Q Is it a fair description that you and the
24 welder were afraid to get near this one?

25 A I wasn't really afraid to get near it. I mean,

agb/agb9

1 I was comfortable with what I had on it, knowing it
2 wasn't going anywhere.

3 Q How much pressure do you think it required to
4 make that fit?

5 A I don't have any idea.

6 Q Do you have any idea what size -- reading from
7 yours now, Mr. McCall, look down at the first affidavit
8 there, it says:

9 "In order to make the fit, we had to
10 use two or three 1-1/2 ton chain falls to pull
11 the joint about one and a half inches." Okay?

12 A That is correct.

13 Q Now the 1-1/2 ton, is that sort of an estimate
14 of -- is that what the capacity of the chain falls are,
15 is that how much pressure you think it took or what?

16 A No, that is the capacity of the chain fall.

17 Q The capacity of the chain fall.

18 "We had to use a 1-ton come-along
19 to pull the joint together."

20 So it was come-alongs and chain falls.

21 Why did Mr. Johnson have you do that, do you
22 have any idea?

23 A I really don't know.

24 Q What would have been the proper way to have
25 done that, made that fit -- what would you have had to

agb/agbl0

1 do to make the fit with the alignment proper?

2 A. You're talking about now or --

3 Q. No, at the time --

4 A. After I talked to the inspector and all that,
5 I thought that that was the way we were supposed to do it
6 or able to do it.

7 Q. What I mean to say is you explained that
8 the procedure called for -- or allowed for doing that if
9 you got somebody to come in and get the paperwork and
10 test to make sure how much pressure was put using a
11 dynamometer on it, right?

12 A. According to 483.

13 Q. According to 483.

14 And was that the procedure in place at the
15 time?

16 A. No, the procedure that they were going by
17 was M4.

18 Q. Okay. And what does M4 have to say about
19 cold springing, anything?

20 A. It don't really address cold springing as such,
21 it says you can use jacks, jigs, fixtures and stuff to
22 align a fit.

23 Q. And does that have to do with suspending a
24 pipe or does that have to do using more than moderate
25 hand pressure to force a fix?

agb/agb11

1 A. What, the jacks and jigs --

2 Q. Yes.

3 A. More or less just to hold it in place.

4 Q. The jacks and jigs are not designed to move
5 something -- to force a fit, to cold spring a pipe, they
6 are designed to hold it in place while you make a fit,
7 right?

8 A. Yes, to do the final adjustment on it.

9 Q. So what about the procedure that allows the
10 cold springing, was there such a procedure at the time?

11 A. I really don't know.

12 Q. But you do know that you didn't get any paperwork
13 issued and you didn't use a dynamometer to make the
14 fit, right?

15 A. No, sir.

16 Q. Okay.

17 Well if you've got two pieces of pipe and they
18 are an inch-plus out of alignment, right, and if you
19 aren't going to cold spring them into place by using
20 come-alongs and chain jacks, how else are you going to
21 make a proper fit? What other alternative would you
22 have, to cut the pipe?

23 A. Yes.

24 Q. To cut the pipe and remake the welds before the
25 fit, right?

1 A. Correct.

2 Q -- to get it lined up properly.

3 And that would be the way that you would do
4 it that would not put any stress on the line, correct?

5 A. That's correct.

6 Q And that would take time and require additional
7 paperwork, additional process control, additional fitting,
8 additional welding, correct?

9 A. Correct.

10 Q Now you say that the A&I knew about it.

11 How did you know that?

12 A. How did I know that?

13 Q Yes.

14 A. From what Mr. Byers had told me. He said that
15 he had talked to the A&I inspector.

16 Q Was this an A&I hold point?

17 A. No.

18 Q No.

19 Mr. Byers, how did he come to talk to the A&I
20 man about it, did he say?

21 A. He just caught him in the hall or --

22 Q He asked him about it before he made the fit,
23 is that what Byers told you?

24 A. I wouldn't know if it was before we made the fit,
25 during or right after. It was just some time in the same

1 time frame.

2 Q All right.

3 And what did you understand from what Mr. Byers
4 told you about the A&I man's opinion of the situation?

5 A At the time I don't think the A&I inspector
6 actually had a picture of the full load that was put on
7 the line. He said out in the middle of the line like
8 that we could move them without putting a whole lot of
9 pressure on it.

10 As I say, I don't think he understands exactly
11 what Mr. Byers was trying to get across.

12 Q You had to put a lot of pressure on this one?

13 A Quite a bit of pressure on it, yes.

14 Q And as far as you know, the A&I man wasn't
15 there and didn't observe the fit. He wasn't there to
16 your knowledge, was he?

17 A No.

18 MR. GUILD: Excuse me for a second, Mr. McCall,
19 Mr. Chairman.

20 (Counsel conferring.)

21 BY MR. GUILD:

22 Q I talked with Mr. Johnson, I think they
23 talked to him about this particular incident and I am
24 looking at an interview with Mr. Johnson and in some notes
25 of an interview it says:

1 "When asked why the pipe was cold
2 sprung for fit up, Johnson replied that he
3 thought it was acceptable to do so. He felt
4 that M4" -- QA P M4 -- "allowed him to do so.
5 He stated that all parties involved were in
6 agreement that this was an acceptable
7 practice."

8 Did that include you, Mr. McCall?

9 A. Could you repeat that, please?

10 Q Sure. He says all parties involved agreed that
11 it was an acceptable practice and I am asking whether --
12 did you think it was acceptable, did Mr. Byers think it
13 was acceptable?

14 A. I don't know about Mr. Byers.

15 Now me, myself, at that time, yes, I thought
16 it was acceptable.

17 Q Have you since questioned it, that it was
18 proper?

19 A. No. I have since then found out that it was
20 not proper.

21 Q That's what I meant to say. All right.

22 Asked -- This is again Mr. Jimmy Johnson, the
23 foreman, when questioned:

24 "When asked whether he was aware
25 of CP483 procedure for determining allowable

1 cold spring loads on the pipe" -- that is the name of
2 the procedure, I guess -- "he stated that he was
3 not aware at the time that it was for pipe
4 fitting, that it may be for equipment and
5 flanges, et cetera. He also stated that
6 others must have been aware since they all
7 agreed that the method used was acceptable."

8 Were you aware of CP483 at the time?

9 A. Not at that time, no.

10 Q. Jim Johnson then stated that "the
11 foremen just had too much to remember with
12 CP's, FWDS', ASME, et cetera. He just
13 couldn't remember them. He said he would
14 like to have a period of time to sit down and
15 study the codes and procedures but he hadn't
16 had the time, production didn't allow him to
17 do so."

18 Did Mr. Johnson ever express that opinion to you
19 or communicate to you the fact that he just didn't have
20 time to come to understand the procedures and follow
21 the procedures to get the job done?

22 A. He never said that to me, no.

23 Q. In your affidavit you state that:

24 "Since then they cut this pipe and
25 it gets sprung," right?

agb/agb16

1 A. Correct.

2 Q And they issued an NCR for it and cut into the
3 line and remade the fits in a proper fashion presumably,
4 right? They fixed it?

5 A. Correct.

6 Q And you see in your affidavit, it is about
7 two-thirds of the way down the page, it says:

8 "I have not seen any big cold
9 springing operations lately."

10 Now does that mean, Mr. McCall, that in recent
11 time they have cleaned up their act, so to speak, and
12 stopped using this practice?

13 A. I really don't know, as far as that goes. The
14 only ones I have actually seen is the ones I have had
15 hands on. You know, you hear rumors....

16 Q And what are the other ones that you have had
17 hands-on experience with, besides the one we just talked
18 about?

19 A. One quarter-inch line under a tank.

20 Q Okay.

21 And is that described in this affidavit, do
22 you know?

23 A. I think it is mentioned.

24 Q Help me find it. Do you see where it is?

25 (Pause.)

agb/agb17

- 1 Q Is it the quarter-inch line?
- 2 A The quarter-inch line.
- 3 Q Is that right?
- 4 Do you see where it says:
- 5 "I have not seen any big cold
- 6 springing operations lately. I can recall
- 7 once when I was NCR'd for springing a
- 8 pipe a quarter inch."
- 9 A That is a quarter-inch, right.
- 10 Q Is that the one you are talking about?
- 11 A Right.
- 12 Q Tell me what happened in that instance.
- 13 A In that instance we were off about a quarter
- 14 of an inch tying into the volume control tank.
- 15 Q The volume control tank.
- 16 A Right. It was off about a quarter of an inch
- 17 and a took a Porta-power and eased it over.
- 18 Q Okay.
- 19 What size piping was this?
- 20 A Four inch.
- 21 Q Stainless, carbon --
- 22 A Stainless.
- 23 Q Was this a Class A, B, C system, do you remember?
- 24 A Class B I think.
- 25 Q B. And it is safety-related, right?

1 A. Yes.

2 Q. And it was mismatched -- you couldn't fit it
3 using moderate hand pressure, right?

4 A. No.

5 Q. And you used a -- what is a Porta-power?

6 A. A hydraulic jack.

7 Q. How did you mount the jack to it?

8 A. Just wedged it between it and the leg of the
9 tank.

10 Q. And the edge of the tank?

11 A. And the leg of the tank.

12 Q. I'm sorry, the leg of the tank. Okay.
13 And cranked it over into place.

14 A. Correct.

15 Q. Okay. And how did you get caught?

16 A. The jack was still there and the inspector
17 showed up.

18 Q. Say again?

19 A. The jack was still in place and the inspectors
20 came in.

21 Q. Were they just wandering around or did they
22 come to check the fit or --

23 A. Check the fit.

24 Q. And did you know that you were violating
25 procedure when you used the jack to make the fit?

agb/agbl9

1 A. No, sir, not at that time. That was right
2 after the first one, the 12-inch line.

3 Q. Okay.

4 So as far as you knew to get the job done it
5 was proper to use the jack to make that fit?

6 A. Correct.

7 Q. And did Jimmy Johnson know that you were making
8 that fit with a jack?

9 A. I can't say that he did. I can't say that he
10 didn't, but I can't say that he did. I didn't discuss
11 it with him.

12 Q. All right.

13 As far as you were concerned at the time,
14 Mr. Johnson would have approved us of a jack to make it
15 fit?

16 A. I can't answer that.

17 Q. He hadn't told you you couldn't, right?

18 A. No, not directly.

19 Q. And who was the inspector that caught that
20 one?

21 A. Charlie Farrell.

22 Q. And Mr. Farrell wrote you up?

23 A. That is correct.

24 Q. Okay -- NCR'd the fit of the pipe.

25 And what did they do to resolve the NCR, do you

agb/agb20

1 know?

2 A. They cut the pipe back out.

3 Q. Okay. Cut it out and made it again right.

4 A. Right.

5 Q. And that happened back in -- was that '81?

6 A. It was the late part of '81 or the first of
7 '82.

8 Q. Now at that time cold springing was not uncommon,
9 was it?

10 A. It wasn't common.

11 That was the reason I had so many questions
12 about the first one because it was something that I
13 hadn't ever seen actually going on.

14 Q. Okay.

15 And you did it the second time and they told
16 you -- and you got caught.

17 A. Correct.

18 Q. The NCR was how you learned that it wasn't
19 supposed to be done that way.

20 A. Correct.

21 Q. It wasn't Mr. Johnson who told you?

22 A. What, after that?

23 Q. No, I mean -- you learned through getting a
24 red tag on it, not your foreman telling you that it was
25 not right.

1 A. That's correct.

2 Q. All right.

3 Now let's look a little bit further then on
4 your affidavit, Mr. McCall. You talk about -- this
5 affidavit was taken after you were interviewed, right,
6 by the Duke people?

7 A. That's correct.

8 Q. And who was it that was interviewing you?

9 A. I'm sorry, I have a hard time with names.

10 Q. Somebody in employee relations?

11 A. I think it was one of the engineers.

12 Q. Would you recognize him?

13 I think there are a bunch of them sitting in
14 the courtroom behind you. Look around and see if you
15 can tell me one of the men. Maybe we can help figure
16 it out.

17 (Pause.)

18 Not a one?

19 A. I am really not sure.

20 Q. Okay. Not sure?

21 A. Not sure.

22 Q. And they asked you a bunch of questions and
23 this affidavit reflects the information you gave them,
24 right?

25 A. Yes, sir.

1 Q Moving on down, in the second to the last
2 paragraph it says:

3 "I don't know of any specific
4 violations of interpass temperatures. I
5 have seen a four-inch Schedule 40 joint
6 welded and capped out in 1-1/2 to 2
7 hours. That doesn't give it much chance
8 to cool down."

9 Now in order to make that weld in that amount
10 of time your opinion was when you communicated this to
11 the interviewers that you would have to weld too fast
12 to let the weld cool between passes, that is what you
13 are trying to say there, right?

14 A. It seemed to me that it was a bit quick.

15 Q A bit quick. Okay.

16 And can you remember where that particular weld
17 was?

18 A. It was in the auxiliary building in the
19 penetration room.

20 Q The penetration room.

21 Was that stainless or carbon?

22 A. Stainless.

23 Q And are there safety-related systems in that
24 part of the plant?

25 A. I don't -- yes, there are.

1 Nuclear safety -- I thought you were going to
2 ask if I knew whether that particular line was nuclear
3 safety.

4 Q Okay.

5 It could be or it couldn't be but it is in
6 a part of the plant where they do have nuclear safety
7 related systems, right?

8 A That's correct.

9 Q Was it a socket weld or a butt weld?

10 A A butt weld, a four-inch butt weld.

11 Q Can you remember who the welder was?

12 A No, sir. It's been quite a few years back.

13 Q Okay.

14 How did you happen to notice that it got done
15 in that particular period of time -- particular amount of
16 time? What made you take note of that?

17 A Due to the fact that usually on a weld like
18 that a welder would write it for as long as he could, you
19 know. He would more or less take his time and make it
20 last longer.

21 Q Okay. It would be a day's worth of work,
22 in other words?

23 A Close to it.

24 Q And this was 1-1/2 to 2 hours?

25 A Right.

1 Q All right.

2 Do you have any idea who the crew was or who
3 the foreman was?

4 A No.

5 Q Any idea who the foreman was who was working
6 that part of the plant?

7 A There were several working that part of the
8 plant.

9 Q Who would that be?

10 A John Clyde had some people in there.
11 Jerry Burgess I think had some....

12 Q Clyde and Burgess.

13 A That's about all I can recall.

14 Q Fine.

15 Did the interviewers ask you about this
16 particular joint?

17 A Did they ask me --

18 Q Did they ask you to help locate where it was
19 in the plant?

20 A Could you --

21 Q Sure.

22 I mean did anybody go to this particular part
23 of your affidavit and say Mr. McCall, we want to find
24 where that weld was made. We want to try to determine
25 what foreman did it, what welder worked on it, whether it

1
2 was done right or not?

3 A. They said something about it but I couldn't
4 tell you exactly which fit it was.

5 Q. Okay.

6 Did you go to the plant and try to show them
7 where it was?

8 A. I went back into the plant and looked for it
9 but, like I say, you know, that was several years back
10 and there had been a lot of pipe put in since.

11 Q. Did you do that on your own or did you do that
12 with Duke -- the investigators?

13 A. I done it at the request of the investigators.

14 Q. And could you come close to where it was?

15 A. I could get you in the close vicinity, but
16 that would be about it.

17 Q. Could you find the line?

18 A. No, there was no way that i could recognize
19 it. I wasn't working on it, I was the next line over
20 from it.

21 Q. All right.

22 Was that just an example that came to mind?

23 A. That was just something that stuck out in my
24 mind.

25 Q. When they asked you about the subject of interpass
temperatures?

1 A. Correct.

2 Q. And that would be the way that someone would
3 notice, you know, who wasn't actually doing the work would
4 be if a particular weld was done particularly quick, it
5 made you wonder about whether they had met the interpass
6 temperature requirements, right?

7 A. It would me, yes, sir.

8 Q. You think -- and that is common knowledge,
9 that is the way people would question whether interpass
10 was observed is the time it took to make a weld?

11 A. Yes or be right there in the vicinity and
12 watch the welding going on.

13 Q. And see how hot it looked?

14 A. Right.

15 Q. The last paragraph on the first page of your
16 affidavit says:

17 "I have seen many arc strikes outside
18 of the welds that have been removed without
19 paperwork. The arc strikes I am talking about
20 usually occurred when a welder was dragging his
21 rig from place to place."

22 Do you see that, Mr. McCall, down at the
23 bottom there?

24 A. Yes, sir.

25 Q. Okay.

1 "The strikes would normally just be
2 filed off. I haven't seen this lately. The
3 welders are taking great care and preventing
4 this problem."

5 Now what period of time are you talking about
6 when you would see arc strikes outside the welds that
7 were repaired without paperwork?

8 A. Probably from the time I went in the plant
9 to six, eight months, a year after.

10 Q Okay.

11 When would that have been, what year?

12 A. I transferred to the plant in December of '78.

13 Q So '78 through when, you figure?

14 A. Part of '79.

15 Q And what happened that you know of to stop
16 the practice of making undocumented arc strike repairs
17 outside of weldments?

18 A. Could you repeat that, please?

19 Q Sure.

20 What brought that practice to a close? Do
21 you have any idea why they stopped doing it?

22 A. I don't really know what caused them to stop
23 doing it, as far as how it come down, through management
24 or whatever, but I know generally that they started
25 leaving the tungsten completely out of the rigs and things

1 of this nature, leaving those exposed ends away from
2 the pipe.

3 Q Okay. So you think that it happened more in
4 the past because the welders, when they were moving their
5 rigs around, had the tungsten electrodes in place so if
6 it accidentally hit up against a pipe it would make an
7 arc strike, is that right?

8 I am not real conversant with the terms but
9 that is what you are saying?

10 A That's correct.

11 Q Okay.

12 And so a common cause of these accidental
13 arc strikes was in welders moving their equipment around
14 and bumping up against the pipe?

15 A Yes.

16 Q Okay.

17 And how would you come to see these things,
18 how would you know about it?

19 A How would I know about it?

20 Q Yes.

21 A You can see it, just working in the area with
22 a welder or whatever. In pipe we work pretty close to
23 the welders.

24 Q And you would see when the arc strike got made?

25 A Yes, sir.

1 Q I mean, it would make a noise or a flash of
2 light, spark, right?

3 A Usually there was a small flash of light.

4 Q And isn't it also so that if a welder wanted
5 to make sure that he wasn't making these accidental arc
6 strikes, he should have gone back and cut his machine off
7 before he moved it around?

8 A Not so much that because you could remove the
9 tungsten and as long as the cup is in place it would --

10 Q Either you could take the tungsten out or you
11 could go back and turn your machine off, either of those
12 ways would keep you from making these accidental arc
13 strikes, right?

14 A Well the way the welding machines down there
15 are set up they are running off of a grid, you can't
16 really turn them off.

17 Q Unplug them.

18 A Unplug them.

19 Q Yes.

20 That would do the same thing, right?

21 A Right.

22 Q And either way it takes more time to do that,
23 go back and unplug or take the tungsten out, right?

24 A Correct.

25 Q Have you ever seen a welder or anybody else

1 make one of these arc strikes and then do the repair work
2 themselves without getting the paperwork:

3 A. What do you mean by "repair work?"

4 Q. Grind, file --

5 A. I have seen them take and file them off, the
6 superficial arc marks or whatever. just certain ones with
7 -- more or less it just makes a discoloration in black
8 where there is no harm done.

9 Q. Well you don't know whether there is any harm
10 done or not, do you?

11 A. Not from a technical standpoint, no.

12 Q. And that's why, if you have an arc strike like
13 this, you are supposed to get proper process control to
14 write it up so that someone can evaluate if it requires
15 some kind of further effort, right?

16 A. That's the way we do them now, yes.

17 Q. On a serious arc strike, you might have to put
18 filler material in, put weld metal in and you might have
19 to grind it out?

20 A. On a serious one, yes.

21 Q. Right.

22 And for those serious ones you would have to
23 get process control documents, quality control people
24 being called, you would have to get inspectors to look
25 at it, correct?

1 A. Yes, sir.

2 Q. All those things take time and cost money, it
3 is easier just to fix it?

4 A. On all the serious ones I've ever seen, that's
5 the way they went.

6 Q. All right.

7 The ones that you saw were supposed to
8 have been fixed with paperwork and they weren't though,
9 were they?

10 A. I really don't know. The only ones I ever
11 seen was like I say just surface arc marks. You could
12 have took a wire brush and run over them and you couldn't
13 hardly see them.

14 Q. Well what you say here is:

15 "I have seen many arc strikes
16 outside of the welds that have been removed
17 without paperwork."

18 A. That's correct, see because arc strikes, you
19 know, what do you consider a serious one? I mean, if
20 something just went straight across, like just dragging
21 a file or something across a piece of pipe, you know,
22 you can see that it is there but would it really cut
23 into it or do any damage to it?

24 Q. What was your understanding of what the procedure
25 was at the time you were seeing these things? They were

1 supposed to get approval to make the repairs outside of
2 the welds, aren't they?

3 A I really don't know.

4 Q All right.

5 Did the interviewers ask you about your knowledge
6 of arc strike removal? Did they ask you for more
7 information about this subject?

8 A Would you repeat that?

9 Q Sure.

10 Did the interviewers, the Duke people who
11 talked to you about your concerns, did the technical
12 interviewers or the employee relations interviewers ask you
13 for more information about your arc strike concerns?

14 A At the time of this interview?

15 Q Yes.

16 A Yes.

17 Q Okay. And did you tell them any more information?

18 A No, they asked me if I had ever seen one.

19 Q Okay.

20 Is there anything more that you told them that
21 is not included in this paragraph here? Did you tell them
22 when it happened, did you tell them --

23 A That's something, you know, I couldn't pin
24 down, you know as far as when it happened.

25 Q Did they ask you?

1 What I am driving at is they --

2 A. They asked, yes.

3 Q. Okay.

4 A. But I couldn't....

5 Q. Did they ask you at the time you wrote this
6 affidavit whether these were just minor arc strikes or
7 were they major ones, too?

8 A. That was minor arc strikes.

9 Q. Yes, but did they ask you that?

10 A. Yes, sir.

11 Q. They --

12 A. They asked me whether it was minor, major,
13 if I thought it was serious, you know, a large arc strike....

14 Q. They just don't have anything in your affidavit
15 about it one way or the other, whether they are minor
16 or major or anything else.

17 You told them --

18 A. I told them that I had seen arc strikes and
19 they asked me, you know, whether I thought they were
20 serious, deep gouged arc strikes.

21 Q. And what did you tell them?

22 A. They were superficial, you know, just dragging
23 a rig across.

24 Q. So you told them everything that is included in
25 this affidavit right now on that subject, right, Mr. McCall?

1 A. Right.

2 Q. On the second page you say:

3 "I feel pretty comfortable with the
4 plant quality lately. Inspectors are getting
5 tighter. It should have been like this all
6 through plant construction."

7 Now when did they start getting tougher, Mr.
8 McCall, when did the inspectors start tightening up?

9 A. It has been several years probably.

10 Q. Okay. The last couple of years?

11 A. Three or four.

12

13

14

15

16

17

18

19

20

21

22

23

24

25

endAGB#10
JW#11flws

11-1-Wal

1 Q Ken Johnson, my foreman, still has problems
2 understanding you can't cold spring pipe. Even after it
3 has been explained to him that you have to use this construction
4 procedure that requires documentation and use of the dynameter
5 to test the amount of force. Mr. Johnson has been doing
6 cold springing without following procedures.

7 A Not that I know of.

8 REPORTER: Please keep your voice up, Mr. McCall.
9 I can hardly hear you.

10 A Would you repeat the question?

11 Q Sure. What made you say to the interviewers here
12 that Mr. Johnson, your foreman, still had problem understanding
13 that he can't cold spring pipe.

14 A Okay. In my impression, he had more problems
15 dealing with the conflict in procedures, where M-4 says
16 you could use jacks, jigs, and then 483 saying that you
17 couldn't.

18 Q He still hasn't quite been retrained enough
19 and you are saying that 483 said you couldn't.

20 A Could you repeat that?

21 Q Sure. It has been pointed out to him, it has
22 been pointed out to you that 483 requires you to go through
23 a certain procedure, and he still was of the mind that
24 M-4 would allow him to cold spring, without following
25 that procedure?

1 A No, that was my impression. But I never seen him
2 do it, or have anybody do it.

3 Q Why did you have that impression?

4 A Just the way he talked.

5 Q Okay. Mr. McCall, you met with the interviewers
6 and they took down your statement, they prepared the
7 affidavit and you signed it, right?

8 A Correct.

9 Q Now, did you meet with anybody else to discuss
10 your concerns, after your first interview?

11 A Did I meet with anybody else?

12 Q Yes.

13 A Mike Sandborn.

14 Q And who is Mr. Sandborn?

15 A He is one of the engineers.

16 Q Okay. And he talked about cold spring issue with
17 you?

18 A That is correct. In one of the affidavits here.
19 On 12 inch line.

20 Q And what did he have to say about the investigation/
21 resolution?

22 A Okay. I was just giving him more or less the same
23 information that is in my affidavit. I met with Brian Kruse
24 and Tommy Mills and Mike Sutton, and they explained what they
25 had done as far as the investigation.

1 Q Okay. That says on September 20, 1984, I am looking
2 at the second affidavit, on September 20, 1984, I met with
3 Tommy Milis, Brian Kruse, and Mike Sutton.

4 Had they met with you before that date to explain
5 what they had done to investigate and resolve your concerns?

6 A Not before that date, no.

7 Q Okay. Have you met with the Duke lawyers to discuss
8 your concerns?

9 A Yes, I have talked to some Duke lawyers.

10 Q Mr. McGarry, the one sitting here, you met with him?

11 A Yes, sir.

12 Q More than once?

13 A Counting today, twice.

14 Q Okay. And Mr. Calvert sitting two over, Mr. --
15 did you meet with Mr. Calvert?

16 A Which one is Mr. Calvert?

17 Q Two over from Mr. McGarry.

18 A No, I don't think I ever met him.

19 Q How about the -- any of the other Duke lawyers;
20 have you met with them?

21 A Yeah, I talked to Mr. Hollins --

22 Q Don't say nasty things like that --

23 (Laughter)

24 A Okay, he is not a lawyer, but I have talked to him,
25 and -- I don't see --

1 Q How about Mr. Carr?

2 A Who is Mr. Carr?

3 Q How about Malcomb Philips?

4 A Yes.

5 Q You met with him?

6 A Yes.

7 Q Mr. McCall, I appreciate your answering your
8 questions and coming in today. I know some of the other
9 people are going to have questions for you, but thank you.

10 JUDGE KELLEY: Let's take a short stretch on
11 the order of three minures. It might be helpful. Let's
12 do that.

13 (Short recess taken)

14 JUDGE KELLEY: We will go back on the record.
15 We now have the questioning in succession, Mr. McCall by
16 Mr. McGarry, Mr. Johnson, and the Board. We wanted to
17 say before, and let me just say now, on the testimony
18 in witness phase we want to complete by 7:00, so that we
19 can take an hour break for supper and then we can come back
20 and do the rebuttal that we talked about earlier.

21 So, with that in mind, if the Staff and the
22 Applicants and the Board can point to clear, germane questions,
23 that would be good.

24 Mr. McGarry?

25 CROSS EXAMINATION

BY MR. MCGARRY:

11-5-Wal

1 Q I will follow my normal practice. I guess last
2 things first, Mr. McCall. Just so the record is clear,
3 you spoke with me, and you spoke with some of the other
4 lawyers for Duke. Did we in any way intimidate you or
5 tell you what to say?

6 A No, sir.

7 Q I would like to focus on the cold spring. I am
8 just a little bit unclear, and I read several other
9 accounts of this incident in other affidavits, and indeed
10 Mr. Guild read it to you from one of the other affidavits.
11 Can you tell me if I am wrong in my view of this incident,
12 because you were there and I was not; I am just reading
13 documents.

14 As I understood it, you were fitting this pipe,
15 and you were uncertain of how the pipe should be fit. You
16 talked to your foreman. Your foreman said he was unsure,
17 he went and talked to QA, and QA was unsure. Then an ANI
18 person happened to be around, they brought him into it,
19 and they all huddled and he was unsure. And then as a result
20 of these gurus talking, they concluded that it was all right
21 to fit the pipe up.

22 A Okay. The only difference is that I am the one
23 who brought the QA inspector.

24 Q You brought the QA inspector?

25 A Me and the welder.

11-6-Wal

1 Q And then they all got together, and they determined
2 it was all right to fit the pipe?

3 A That is correct.

4 Q This case involved foreman override, and foreman
5 override has been defined by the Board of a foreman either
6 directly or indirectly, implicitly or explicitly telling
7 a member of the craft to do work that would violate
8 procedures.

9 Now, in this instance, as I understand it, these
10 people got together, made a decision. Could have been a
11 wrong decision. Ended up it was. But there was a basis
12 for that decision when they were all together thinking it
13 out. Do you view this cold spring as foreman override as
14 I have defined it?

15 A I don't. Like I said, all the heads got together
16 and said yes, it is okay to do it.

17 Q Now, another thing. This happened in 1981 in
18 Unit 2, correct?

19 A That is correct.

20 Q There has been a lot of discussion in this hearing
21 about production. Am I correct in surmising that if production
22 pressure existed, it would be less in the Unit 2 building in
23 1981, than in the Unit 1 building?

24 MR. GUILD: Objection, Mr. Chairman. We have been
25 foreclosed from delving into the whole schedule issue.

1 We sought discovery on scheduling material. We
2 sought to try to relate to instances of what we believe
3 are indicative of foreman pressure, resulted in procedure
4 violations, and it seems to me that some interest in fairness
5 would suggest that Applicants should not be permitted to --

6 MR. MCGARRY: Withdraw the question.

7 JUDGE KELLEY: The question is withdrawn.

8 MR. GUILD: All right.

9 BY MR. MCGARRY: (Continuing)

10 Q Discussion of interpass temperature. So the record
11 is clear, you are not a welder, is that correct?

12 A That is correct.

13 Q Am I safe in assuming then that as a fact you
14 don't know if interpass temperature was violated or not,
15 is that correct?

16 A That is a fact, no. I couldn't say one way or the
17 other.

18 Q Now, the arc strikes. Discussion of arc strikes.
19 As I read your affidavit, what comes across to me -- you
20 were there, you tell me if I am wrong -- you saw welders
21 create these arc strikes in the circumstances you describe,
22 but there is no mention of any foreman telling them, a welder
23 to file off his arc strike, or make this arc strike, is
24 that correct?

25 A That is correct.

11-8-Wal

1 Q I was interested in one area, and that had to do
2 with QA. You said inspectors getting tighter.

3 When you say, 'getting tighter,' do you mean
4 to imply they weren't doing their job in the past, or are
5 they doing their job more diligently now?

6 A More diligently now. They have always done their
7 job. They are just around a whole lot more. At one time,
8 they were there, you know, for fit-up inspections if you
9 wanted them. You go sign up, and they would come back there.
10 Now, they are just wandering through the building.

11 Q You have been at the plant for how many years?

12 A Six years.

13 Q Six years. And you have worked for how many
14 foremen?

15 A Give me some time to count them. About 5. Maybe 6.

16 Q And during these six years, I bet you have done a
17 lot of work, is that right?

18 A I feel like I have done a good bit.

19 Q Out of all the work that you have done over the
20 years you have been at the plant, the foremen that you worked
21 for, the only concerns you had are expressed in this
22 affidavit, is that correct?

23 A That is correct.

24 Q During the interviews, did you feel free to bring
25 up any concern that you had on your mind?

11-9-Wal

1 A Sure.

2 Q Did you feel intimidated?

3 A No.

4 Q If I could just have one second, Your Honor.

5 Just one last question. That concerns the other concerns
6 you raised in your affidavit. You talked about cold
7 springs, you talked about arc strikes, and you raised
8 several other matters.

9 Am I correct in saying that none of these other
10 matters, or indeed, none of the matters in your affidavit,
11 would support a foreman override contention?

12 MR. GUILD: Objection. It calls for a conclusion
13 that the lawyers haven't figured out.

14 BY MR. McGARRY: (Continuing)

15 Q Then to speed things along, you heard my definition
16 of foreman override, correct?

17 A Yes, sir.

18 Q I will repeat it again. It is where a foreman is
19 telling a number of craft to either directly or indirectly,
20 implicitly or explicitly, to violate QA procedures. Do any
21 of the incidents you raise in your affidavit fall in that
22 category?

23 A No, sir.

24 MR. McGARRY: No further questions.

25 JUDGE KELLEY: Mr. Johnson?

XX INDEX

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

CROSS EXAMINATION

BY MR. JOHNSON:

Q Mr. McCall, I have basically just one question. Are you aware that as part of the inspection process, under the M-4 procedure, that there are walk down inspections of the piping system in which the principle object of the inspection is to look for construction damage on pipes, including arc strikes?

A Could you repeat that?

Q Are you aware that as part of the inspection process for piping, there is a thing called the walk down inspection, under procedure M-4?

A Yes, sir.

Q And is part of that inspection process, looking for construction damage that might have been caused on the piping after it was inspected, including the possibility that accidental arc strikes may have been made on the piping?

A Yes, sir.

Q To your knowledge, have those inspections been made?

A To my knowledge, yes.

Q Do you have any knowledge that those inspections were not made, or any arc strikes that should have been caught, or any other construction marks on the piping that

1 should have been the source of non-conformance or documentation
2 under the M-4-I Form that should have been made, that were
3 not made?

4 A (Pause)

5 Q Did I make that too complicated for me.

6 A Yes. Could you repeat that one for me.

7 MR. MCGARRY: You made it too complicated for
8 me.

9 MR. JOHNSON: I withdraw the question.

10 JUDGE KELLEY: All right.

11 BOARD EXAMINATION

12 BY JUDGE FOSTER:

13 Q Mr. McCall, you told us about this occasion on
14 cold springing where you talked to your foreman, Jim
15 Johnson, beforehand, and then in addition to that in your
16 affidavit you have the comment that Jim Johnson, my foreman,
17 still has problems understanding that we can't cold spring
18 pipe.

19 Is it your impression that that cold springing
20 as approved by Johnson is carried out because Mr. Johnson
21 wants to cut corners, or that he just doesn't understand
22 the procedures?

23 A He would never want to cut corners. He never
24 wanted to cut corners.

25 Q He never wanted to cut corners. So, you don't think

XXX INDEX

1 there is any corner cutting on his part that is involved in
2 any of these situations?

3 A No, sir.

4 Q Okay. Now, you have worked for other foremen
5 besides Mr. Johnson. In your reaction to working for these
6 various foremen, do you feel that they all have about the
7 same amount of concern for quality, or was Mr. Johnson,
8 perhaps, less quality conscious than the other foremen that
9 you have worked for?

10 A I would say they were all about the same.

11 JUDGE FOSTER: That is all I have.

XX INDEX

12 BOARD EXAMINATION

13 BY JUDGE PURDOM:

14 Q Mr. McCall, are you a little tense meeting with
15 a group here today. You seem kind of cool. I was just
16 wondering if you are up tight a little bit about this kind
17 of a meeting.

18 A Just a little; not much.

19 Q I thought I noticed your hands there. Maybe you
20 are a little more nervous than you appear to be. Does this
21 kind of meeting intimidate you?

22 A Not really. I just didn't know what to expect.

23 Q You were working with the Company, last year, 1983?

24 A Yes, sir.

25 Q Were you aware that this Board was having hearings

1 on the plant license request at that time, when we were
2 down in Rock Hill?

3 A Yes, sir.

4 Q Were you also aware we offered to here any employees
5 in confidence if they had something that needed to be said
6 to the Board?

7 A Yes, sir.

8 Q You and anumber of other employees have filled out
9 these affidavits at the request of the Company; given various
10 things that you were aware of, why didn't those employees
11 tell us about it at the time. Do you have any ideas on that,
12 yourself and the others?

13 A No, sir, I don't have any ideas.

14 Q Were they intimidated at the thought of coming
15 to the Board. Did they think they would get reprised? Any
16 idea -- why didn't you come before us then?

17 A I really didn't think that much about it at the time.
18 I said in my affidavit, this an attachment to another man
19 that brought up his concern, at the time, the only major
20 concern I has was on the cold spring, and when this was brought
21 up, the line had already been cut up and re-worked.

22 Q So, are you saying that you didn't have any real
23 serious problems at the time?

24 A That is correct.

25 JUDGE PERDOM: I have no further questions.

1 JUDGE KELLEY: I guess we aren't as awe inspiring
2 as we thought. I don't have any questions.

3 MR. GUILD: Nothing. Thank you.

4 JUDGE KELLEY: Mr. McCall, that takes us through
5 the process. We want to thank you very much for coming in
6 and sharing your information and responding to questions.
7 Appreciate your time and attention. Thank you very much,
8 you are excused.

9 WITNESS: Can I just leave this laying here?

10 JUDGE KELLEY: That is the affidavit?

11 WITNESS: Yes, sir.

12 MR. GUILD: Just hand it over to me.

13 WITNESS STANDS ASIDE.

14 JUDGE KELLEY: Good afternoon Mr. Braswell,
15 correct?

16 WITNESS BRASWELL: Yes.

17 JUDGE KELLEY: My name is Judge Kelley, and I am
18 Chairman of the NRC's Licensing Board. This is Dr. Purdom
19 on my right, and Dr. Foster on my left, and the various
20 lawyers here you will meet in just a minute. I wanted to
21 ask you first, I know when you were first interviewed by the
22 Company about your concerns, you were told it would be kept
23 confidential and we had an arrangement here whereby we can
24 stay in closed session and it would be confidential, and the
25 public and the press would not be in. We have a preferance

1 for public session, and if it were okay with you, we would
2 actually prefer to have it open to the public. I might
3 just add sort of a compromise point that you might want
4 to be aware of. Two or three of the witnesses have said that
5 it is okay with them if the door was open and the public was
6 allowed in, but they don't want to have their face on television,
7 and the TV people understand that and don't take front pictures,
8 and we go that way.

9 Among those options, which would you prefer?

10 WITNESS BRASWELL: Open, but I would rather not
11 be on television.

12 JUDGE KELLEY: Fine. The television people know
13 that, and they have been good about honoring that as far as
14 I know, and I think that will work. So let's open up the
15 door again and we will make sure they understand that.

16 Gentlemen from the television station, we are
17 under the same understanding, the witness prefers not to have
18 his face on TV.

19 I will turn you over to Mr. Guild -- I should
20 swear you first, I am sorry. Would you raise your right
21 hand, please.

22 Whereupon,

23 CHARLES W. BRASWELL,

24 a witness called on behalf of the Interveners, takes the stand
25 and testifies as follows:

1 MR. McGARRY: Your Honor, again this is a witness
2 we have to make a prompt preliminary determination like the
3 previous witness.

4 JUDGE KELLEY: I have to cover one other point
5 first. As in the case of one of our prior witnesses, when
6 we read your affidavit, it wasn't clear to us one way or the
7 other whether you had been working at least in connection with
8 the concerns you talked about, whether you had been working
9 with safety-related systems, or non-safety-related systems.

10 Could you tell us about that?

11 WITNESS: I have worked on safety and non-safety.

12 JUDGE KELLEY: You worked on both?

13 WITNESS: Yes, sir.

14 JUDGE KELLEY: As to the concerns that you speak
15 to in your affidavit, do they relate at least in part to
16 safety-related systems?

17 WITNESS: Part of them safety-related.

18 JUDGE KELLEY: Just a minutes.

19 (Board confers)

20 JUDGE KELLEY: Okay. I think that establishes the
21 point sufficiently for us. Mr. Guild?

22 DIRECT EXAMINATION

23 BY MR. GUILD:

24 Q I am Mr. Guild, Counsel for Palmetto Alliance. Let
25 me introduce the other people. This is Philip Rutledge, with

1 Carolina Environment Study Group, Michael Lowe, with Palmetto
2 Alliance from Columbia. Sam Nunn, who used to work at the
3 plant as a welder, Rick Wilson, a lawyer from the State
4 of South Carolina.

5 Brad Jones and George Johnson, lawyers for the
6 NRC, and I think you know Mr. McGarry, from the Company.
7 You have met him before.

8 A Yes.

9 Q And Mark Calvert and Mr. Hollins, who is not a
10 lawyer, and these are the Judges.

11 I have had a chance to read your affidavit and to
12 look at some of the paperwork, Mr. Braswell, about some of
13 the concerns that you raised to the Company regarding the
14 work you do in the Company.

15 I want to give you a copy of the affidavit and
16 ask you to sort of follow along with some of the points with
17 me. It is just as you signed it, I believe, except your
18 name has been deleted, and the number is there. That was
19 so the name wasn't disclosed until you came in here today
20 and said you wanted to have it public.

21 Mr. Braswell, what kind of work do you do?

22 A Powerhouse mechanics instrumentation.

23 Q When did you start at Catawba?

24 A June of '78.

25 Q Can you tell me the foremen you have worked under

1 since you have been at the plant?

2 A Started out with Buddy Scott. Was transferred to
3 Ken Dodds crew.

4 Q How long did you work on Mr. Dodds crew?

5 A Four years.

6 Q What period of time? From when to when?

7 A About '79 to some time in '83.

8 Q How about after Ken Dodds?

9 A Worked for Bill Quin and Bob Halterman.

10 Q I am sorry. The last one?

11 A Bob Halterman.

12 Q Is that who you are under now?

13 A Yes.

14 Q Okay. Now, Mr. Dodd was and is a foreman for the
15 powerhouse mechanics in the instrumentation area, right?

16 A Right.

17 Q And Mr. Dodd reports to a general foreman. Do you
18 know -- who did he report to when you were under Ken Dodd.

19 A Miles Moss.

20 Q He was a general foreman?

21 A Yes.

22 Q And do you know who Mr. Moss was under?

23 A Oscar Hongiesto.

24 Q And Mr. Hongiesto, was he the Superintendent.

25 A Yes.

1 Q Do you know what area they would call it; super-
2 ontendent over what?

3 A Millwright instrumentation.

4 Q All right. I am particularly interested in
5 concerns about Mr. Dodd, and his practices as a foreman.
6 I have seen some criticism of Mr. Dodd, and it sort of goes
7 along the line that he was a hard foreman to work under.
8 He put a lot of heat on people, and sometimes the work
9 suffered because of the way he came down and ran his crews.

10 Looking at your affidavit, Mr. Braswell, it is
11 one of the ones in that package in front of you. It is
12 the second one on the list, it is the June 13th affidavit,
13 and will you hunt through there and see if you can find
14 that. Do you see the affidavit that I am talking about?

15 A Yes, sir.

16 Q Look at the second page, and it is a paragraph
17 that starts out that reads: I do not feel Dodd should be
18 foreman; and then you relate some reasons. Now, I am going
19 to skip over the reasons for a minute.

20 At the bottom of that paragraph it says and I am
21 quoting now: Dodd has often said ain't no son of a bitch
22 going to run me off this job.

23 And I take that to mean, Mr. Braswell, that there
24 was a sense among people on the crew, at least you had, that
25 if you raised criticisms about Mr. Dodd that you did so fearing

1 what he might do as a result.

2 He wasn't going to have anybody run him off the
3 job, and that that meant you best keep your mouth shut about
4 what he did or didn't do. Is that a fair understanding of
5 what the paragraph means, or what your opinion was?

6 A To me it was kind of just like he had the attitude:
7 I am the boss. You do what I say.

8 Q My way, or the highway.

9 MR. McGARRY: If I could jump in here. Mr. Braswell
10 has indicated safety or non-safety, but I have gone through
11 this affidavit again. There is only one area that potentially
12 involves foreman override issue and involves safety issue,
13 and I believe that is the torque wrenching incident, which
14 is addressed in Attachment A, and that involved foreman
15 Halterman.

16 With respect to Mr. Dodd, all of that work with
17 -- is non-safety, so I would object to any line of inquiry.

18 JUDGE KELLEY: Just stay with the point. What
19 page are you looking at?

20 MR. McGARRY: I am looking at the technical
21 interview, the second from the bottom in my batch.

22 JUDGE KELLEY: What is the date on it?

23 MR. McGARRY: It is April 6. It is a one page
24 document. And it also appears on page 1-- there are two
25 April 6th affidavits.

JUDGE KELLY: Yes, I see that. Now, where is the

1 incident you referred to?

2 MR. MCGARRY: It is the longer of the two April 6th's.
3 The big middle paragraph, and in the shorter, it is the
4 second paragraph.

End 11.

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

#12-1-SueT

1 MR. MC GARRY: And that one we addressed in our
2 Attachment A, and it's fair game.

3 JUDGE KELLEY: What's the paragraph?

4 MR. MC GARRY: I have no knowledge of a QA
5 procedure. It's the second one, technical interview. It
6 begins with: The problem with a torque wrench.

7 JUDGE KELLEY: And you would concede that the
8 paragraph beginning "The problem with torque wrenches..." is
9 fair game --

10 MR. MC GARRY: Fair game.

11 JUDGE KELLEY: Do you say that's safety or non-
12 safety?

13 MR. MC GARRY: That would be safety.

14 JUDGE KELLEY: That is safety. So we have
15 established that much, that you would agree -- Mr. Guild,
16 in terms of incidents what would you want to ask questions
17 about?

18 MR. GUILD: Mr. Chairman, on the face of Duke's
19 treatment of the other issues they treat them as non-
20 safety. And I don't have a specific basis for disputing
21 that although I would sure like to be in position to ask
22 Mr. Braswell, since he is the one who can offer evidence
23 and I'm not, I'm just saying that that's how Duke treats
24 them.

25 Now, the incident Mr. McGarry points to was

#12-2-SueT

2 something I do want to speak to. They analyze it as a
3 safety issue.

4 JUDGE KELLEY: Right. Okay. That's agreed to.

5 MR. GUILD: That's agreed to.

6 MR. MC GARRY: Can I mention one other thing in
7 terms of safety. The painting incident which is included
8 in both April 6th affidavits, it's included in the longer
9 April 6th affidavit, the bottom half of that major para-
10 graph, and the technical interview, the third paragraph.

11 That's also a safety area. We would say it's
12 not foreman override because it didn't involve a foreman.
13 It was just observation by a member of a craft doing
14 something. There is no foreman override indication at all.
15 But those two are both safety.

16 The Ken Dodd allegations are all non-safety,
17 not Class G, turbine building.

18 JUDGE KELLEY: Mr. Guild, are you interested in
19 pursuing the paint matter?

20 MR. GUILD: Not in detail, Judge. I would like
21 to ask the witness a couple of questions about it.

22 JUDGE KELLEY: Now, your general point about the
23 Ken Dodd --

24 MR. GUILD: My general point is --

25 MR. MC GARRY: I think the Judge was addressing
me, Mr. Guild.

#12-3-SueT

1 JUDGE KELLEY: Let me just ask Mr. McGarry and
2 then we will come back to you.

3 MR. MC GARRY: Similar to another witness that
4 we have spoken with. I think this witness will tell you
5 that with respect to all these concerns about Ken Dodd raised
6 in these affidavits, they involve turbine building work,
7 Class G pipe, non-safety matters.

8 JUDGE KELLEY: Mr. Guild.

9 MR. GUILD: Mr. Chairman, in public session, Mr.
10 C. J. Parker appeared and Mr. Parker expressed concerns
11 about Ken Dodd's competence and the appropriateness of his
12 leadership style, given his practice of pressuring his crews,
13 for Mr. Dodd to work crews in the instrumentation area now
14 in Unit 1 involving safety-related work.

15 We are attempting to demonstrate that Duke's
16 investigation of the facts of foreman override is inadequate.
17 They haven't asked enough people , they haven't gone into enough
18 detail, their methodology and approach is flawed to determine
19 how pervasive foreman override is. Notwithstanding that,
20 the limited sample that they made of power house mechanics,
21 and given the questions which were not structured to elicit
22 information about any issue other than in the welding
23 field, we believe in the face of these affidavits there is
24 a demonstrated pattern of foreman override evidence reflect-
25 ing adversely on, among other supervisors, Ken Dodd.

#12-4-SueTl

2 Mr. Dodd is one of the thirteen or twelve, de-
3 pending on how you count it, supervisors for which Duke
4 took personnel action and which were told by the NRC --
5 was the basis for the NRC findings of violation with respect
6 to Criterion 2 of 10 CFR, Appendix B.

7 It is our position that the only way we can
8 demonstrate pattern is by using the evidence available to
9 us. The evidence available to us includes the affidavits
10 of this gentleman, Mr. Parker and a number of other people
11 who have mentioned Mr. Dodd. Because Applicants didn't
12 happen to put on a piece of paper something that they
13 quality as safety-related doesn't seem to me to insulate
14 Mr. Dodd's course of conduct and the fact that he does do
15 safety-related instrumentation work in Unit 1 right now
16 from being out of the reach of this Board and these parties.

17 So, we believe that the Board should hear this
18 gentleman, Mr. Braswell, on the evidence with regard to
19 his experience under Ken Dodd as well as the conceded safety-
20 related concerns that he has that relate to other circumstances
21 and perhaps other foremen.

22 We will try to demonstrate a pattern with regard
23 to a foreman named Ken Dodd who is in a craft other than
24 welding.

25 JUDGE KELLEY: Mr. Johnson?

MR. JOHNSON: After reviewing the affidavits, it

#12-5-SueT

2 seems to me that the specific incidents that are enumerated
3 here, I have some question as to whether they have relation-
4 ships specifically to safety systems. On the other hand,
5 I think it might not be inappropriate for Mr. Guild to
6 be able to ask this gentleman about Mr. Ken Dodd with
7 respect to the question whether he was indeed engaged in
8 something which we could determine was foreman override
9 in the safety systems.

10 JUDGE KELLEY: In a safety system, your last
11 phrase --

12 MR. JOHNSON: I didn't see any direct evidence
13 in the affidavit, but it doesn't seem to me that it's
14 inappropriate to ask those questions.

15 JUDGE KELLEY: Oh, okay. I understand your
16 position.

17 Excuse us a moment.

18 (The Board members are conferring.)

19 Okay. Gentlemen, back on the record. This seems
20 to us to be kind of knotty because of the different
21 categories that come up.

22 Now, this is the way we come out. It is
23 conceded by all counsel that Mr. Guild can get into this
24 one incident involving the second paragraph of the technical
25 interview. That's established, right?

Beyond that, Mr. Johnson points out it's certainly

#12-6-SueT 1

2 fair to elicit information about other incidents of a
3 safety nature that may not be in the affidavit.

4 Did I understand you right, Mr. Johnson?

5 MR. JOHNSON: Yes, sir.

6 JUDGE KELLEY: That certainly seems fair, Mr.
7 Guild. Thirdly, Mr. McGarry has said that he believes the
8 witness will testify that these other described incidents
9 are non-safety. He may be right, but he may not be right.
10 There may be some misunderstanding.

11 In any event, you can certainly determine whether
12 that's the case. If it turns out that some of the incidents
13 already described are safety incidents, then they are open
14 as well as the first one we referred to.

15 The last point is should we be questioning about
16 non-safety incidents involving foreman override or arguably
17 foreman override on the theory that the foreman is now
18 involved in safety work, may be demonstrated proclivity
19 and is relevant. Now, earlier in the case of Mr. Parker
20 on that point we said no and excused the witness. And if
21 we were going to be consistent throughout we would say no
22 again.

23 We are inclined to concede that the point is
24 debatable. And so we have a second witness here. If you
25 want to go off in that direction with questioning, without
getting into the details of some incident conceivably

#12-7-SueT

1 non-safety but pursue your broader point, we will allow
2 that subject to seeing where it leads us in some reasonable
3 time frame.

4 FURTHER DIRECT EXAMINATION

5 BY MR. GUILD:

INDEXXXX

6 Q Mr. Braswell, with that let me see if I can ask
7 you some questions.

8 On the second page of your affidavit on June the
9 13th, I guess that will make it the -- well, it's the top
10 one in my stack. It's probably not the top in yours. But
11 June 13th.

12 Did you find it?

13 A Yes.

14 Q Again, the quote is, "I do not feel Dodd should
15 be a foreman." And, in Mr. Parker's testimony -- and as
16 the Judge just related, Mr. Parker came forward and appeared
17 and was excused earlier, Mr. Parker states, "I believe
18 Dodd's attitude and his way of working his men effected
19 quality."

20 What is it about Ken Dodd that caused you to
21 have the opinion that you have and perhaps Mr. Parker and
22 others on his crew to feel the way they do about his style
23 of leadership, his conduct and his effect on your work?

24 Could you explain, please?

25 A Could you repeat all of that for me?

#12-8-SueT 1

(Laughter.)

2

Q Probably not, t I will try to say it again.

3

What was it about Mr. Dodà's behavior as a foreman that

4

effected you and other people who worked for him, the way

5

you did your work?

6

What did you like about him, not like about him?

7

I presume from what you said here that there is something

8

you didn't like about him.

9

A (Pause.)

10

One thing to me was just his favoritism, where

11

he showed favoritism to different people on the crew.

12

Q What if you were somebody that was not on his

13

side, was not one of his favorites?

14

How did he treat somebody different?

15

A (Pause.)

16

Just maybe not to do with the work but just

17

things like, you know, he would let other people get away

18

with different things like maybe this fellow, you know, go

19

to the canteen a little bit earlier than somebody, you

20

know. He wouldn't say anything about it. Stuff like that.

21

Q Looking at your first page of your affidavit,

22

the June 13th affidavit, about the middle of the page,

23

"I went to Buddy all the time."

24

Who is Buddy?

25

A Buddy Scott.

#12-9-SueT1

Q And who is Mr. Scott, another foreman?

2 A Yeah.

3 Q Also over power house mechanics in instrumenta-
4 tion?

5 A Yeah. "I went to Buddy all the time because I
6 had no respect for Dodd's abilities as a foreman. He always
7 had the attitude of, what I say goes. He treated most of
8 the crew this way."

9 Q Could you tell me what you meant by that state-
10 ment?

11 A Buddy Scott was over the reactor building at
12 that time, and we were loaned out to him, me and another
13 fellow on the crew. And we were doing rework, going in
14 and removing tubing for, say, a hanger had to be erected.
15 And so Buddy was over the area, so we just went to him
16 'cause he knew more about it.

17 Q Okay. Is that safety-related work?

18 A In reactor, it was.

19 Q Instrumentation work?

20 A Yeah, most of it was. Some of it was unsafety-
21 related.

22 Q Okay. And you were still on Ken Dodd's crew but
23 you were on loan to Buddy?

24 A Yeah.

25 Q And why did you pick going to Buddy as opposed

#12-10-Sue†

to going to Mr. Dodd if you had problems?

2 A Buddy knew more about the reactor and more
3 about the systems, what we were working on.

4 Q Okay. He was better informed than Mr. Dodd
5 about the work?

6 A In the reactor building, he was.

7 Q Well, what is it about his attitude, you say,
8 "He always had the attitude of what I say goes." Is that
9 attitude part of the reason why you went to Buddy instead
10 of Ken Dodd?

11 A (Pause.)

12 I'm not sure I understand you.

13 Q Okay. "I went to Buddy Scott for direction most
14 of the time instead of Dodd. I feel the instrumentation
15 work in the auxiliary building/reactor building was good
16 and inspected."

17 Okay. That's when you were under Buddy Scott.
18 Buddy Scott was over that work, right?

19 A He was over the reactor, right.

20 Q Okay. But Ken Dodd is in the reactor now,
21 isn't he?

22 A Yeah.

23 Q Over instrumentation work?

24 A Yeah.

25 Q Well, what do you think about that? What --

#12-11-SueT¹

2 you expressed this opinion about Mr. Dodd and his abilities
3 as a foreman, you expressed concerns about Mr. Dodd and
4 the way he treats the crew. Mr. Dodd is in the reactor now
5 doing safety-related instrumentation work.

6 Do you agree with Mr. Parker's observations that
7 Ken Dodd's attitude and his way of working is bound to
8 effect the quality?

9 A (Pause.)

10 I don't know if it effected quality or not.

11 Q Okay. What was his way of working people?

12 Tell me what you know about it.

13 A (Pause.)

14 I'm not really sure what you want out of that.

15 Q Well, I really want you just to tell me -- and
16 I appreciate the difficulties of the situation, but I'm
17 trying to avoid frankly getting the Judges unhappy with
18 me by talking about the examples that you have that aren't
19 examples -- well, strike that. I will start again.

20 Using the examples of conduct that you observed
21 on the part of Mr. Dodd, let's talk about those and see if
22 these can be illustrative. I'm looking at your June 13th
23 affidavit, and there it states, "I have a concern with
24 expansion coils in the turbine building. They were supposed
25 to be three feet from the root valve. Dodd told me not
to install the coils because they had enough expansion."

#12-12-SueT

2 Could you describe under those circumstances,
3 please?

4 A Well, he -- Dodd said, you know, for to run a
5 pipe that we had enough expansion in it. We had --

6 Q Tell me what expansion coils are, Mr. Braswell.
7 We will start with that.

8 A They are --

9 MR. MC GARRY: Your Honor, I'm going to object.
10 I think now, by way of illusration, I think the Board has
11 said Mr. Guild could go into this topic, but now to start
12 talking about expansion coils in turbine, that's Class 2.

13 JUDGE KELLEY: I think what we indicated, or
14 intended to indicate was we don't want to go into an
15 elaborate and detailed discussion of Class 2 work but as
16 a vehicle for asking the questions I think you have to have
17 a vehicle.

18 A few questions of this nature for context,
19 Mr. Guild. Well, try it anyway.

20 MR. GUILD: I'm going to try to.

21 BY MR. GUILD: (Continuing)

22 Q Could you explain -- I've got to start from the
23 beginning a little bit, Mr. Braswell, and I hope this is
24 a little easier to go on. But you have got to tell me
25 what an expansion coil is so I can understand what your
 concern was here.

#12-13-SueT

2 A It's a loop in the pipe, like when the pipe moves
your tubing won't -- the pipe won't break or bend.

3 Q Okay. And it's a coil piece of pipe?

4 A Yeah.

5 Q And it's on an instrumentation line?

6 A Yeah.

7 Q Right.

8 A Yeah.

9 Q And do I understand that the drawings called for
10 having an expansion loop in this particular line?

11 A Yes, sir.

12 Q And how do you know that?

13 A I looked at the drawings.

14 Q That was work you were doing?

15 A Yeah.

16 Q All right. Did you start to install an expansion
17 loop, then?

18 A We were told didn't need it, that there was
19 enough expansion in the pipe.

20 Q Okay. And who told you that?

21 A Dodd.

22 Q Okay. How did he come -- how did it come to
23 his attention?

24 A I don't know.

25 Q Okay. You don't recall. Do you know who raised

#12-14-SueT¹

2 the question to him? Or, did he come tell you to forget
3 that expansion coil?

4 How did it go?

5 A He just told us we didn't need the expansion coil
6 in it.

7 Q Okay. And did he explain why?

8 A Not other than just it h you know, enough
9 expansion there in the pipe itself.

10 Q Okay. Now, did anybody ask him about why he
11 was leaving this expansion coil out, given the fact it was
12 very clearly specified in the drawing?

13 A Not that I know. Just he told us to do it. He's
14 the foreman.

15 Q Okay. No one asked?

16 A Not that I know of, no.

17 Q You did it, because you are used to doing it and
18 he told you to do it, right?

19 A (The witness nodded in the affirmative.)

20 Q And how did you find out later that they took
21 corrective action that dealt with that problem?

22 How did you learn that?

23 A We had to go back and do rework on it.

24 Q Okay. Who found the problem? Do you know? Do
25 you know how it was found?

A I'm not sure, no.

#12-15-SueT1

2 Q Okay. How did you find out that you had to go
back and do it over again?

3 A Dodd came back and told us we had to rework it.

4 Q Okay. All right. It says here on the affidavit,
5 "Dodd's explanation about the coils in the turbine building
6 was that we were upgrading the system and not to worry
7 about it. More than half the crew questioned Ken about
8 this."

9 Okay. Do you see that? It's about halfway down
10 the first page of the June 13 affidavit.

11 A What's the question again?

12 Q Did you find that part of the affidavit?

13 A Yeah.

14 Q Is that what happened? Did many of the people
15 on the crew ask him why he left out the expansion coil?

16 A Seems like it was brought up. I can't --

17 Q Okay. What did you understand Mr. Dodd to be
18 saying when he said they were upgrading the system and not
19 to worry about it?

20 A We have standards that we've got to use a certain
21 material and then we can go up to a higher class material.

22 Q Okay. So, what was he saying, that they were
23 going to tear it all out and redo it anyhow so don't worry
24 about it?

25 A No. We were using the higher class material.

#12-16-SueTl

Q Oh, I see. You are saying that even though the specs called for an expansion coil, you were using a better grade of material and so you shouldn't worry about it? Is that what that meant?

A (Pause.)

Yeah.

Q Okay. I'm looking at an April 6th affidavit, Mr. Braswell. The first page of that one, it's the first long paragraph. Okay. Reading from it, "When I worked for Ken Dodd in January of '79, May of '83, I was pushed by him. Although the quality of the work was okay I don't think it looked good."

Then, you give that example again. Can you tell me what you mean when you say that you were pushed by him and that the work didn't look good?

A Would you ask the question again?

Q Sure. What do you mean by the words that he pushed you, when you said, "I was pushed by him," Ken Dodd?

Pushed you to make production, keep the work up?

A (Pause.) Pushed to make production I guess.

Q And then you go on to use this expansion coil example. That's an example of a situation where because he was pushing to make production, Mr. Dodd had you do work that wasn't according to specification, correct?

#12-17-Sue

T.

2 He just said we were upgrading material.

3 Q Well, what you said to your interviewers back in
4 April, Mr. Braswell, was, "I was pushed by him," Ken Dodd.
5 Okay. "For example..." I left out one sentence. "For
6 example, in the turbine building we were running one-half
7 inch pipe from root valve instruments. Details called for
8 expansion coil tubing. Dodd said since we were upgrading
9 the class of pipe we didn't have to worry about it. The
10 work was changed twice since then."

11 You used that as an example when you told the
12 interviewers about Ken Dodd, an example of an instance
13 where you were pushed by Ken Dodd, the quality of the work
14 was okay but you didn't think it looked good.

15 Right?

16 A Yes, sir.

17 Q Okay. Now, this is what the Company wrote up
18 about the concern Mr. Parker expressed about Ken Dodd's
19 conduct as a foreman. All right. "When asked if he had
20 any questions about his technical concerns, Parker said
21 no except he wondered why Dodd told the crew to violate
22 procedure. And how did he, Dodd, continue to get by with
23 it. Lewis then told Parker..." -- Ms. Lewis is one of
24 the interviewers -- "...that his employee relations concerns
25 had all been investigated and appropriate action had been

#12-18-SueT 1 taken where necessary. Lewis told Parker that she could not
2 give specifics."

3 Next paragraph, "Parker replied that Dodd should
4 not be working a crew, especially in Unit 1. That Dodd
5 told the crew to violate procedure on numerous occasions
6 and that he, Parker, did not trust Dodd's abilities as a
7 supervisor. Parker continued by saying that even though
8 most of the work had been corrected it was done wrong
9 initially because of Dodd. Parker said he was not satisfied
10 even though he knew that an investigation had been conducted
11 of this concern."

12 All right. Now, is that statement by Mr. Parker,
13 assuming that that's a correct statement of his opinion,
14 is that a fair statement about Ken Dodd's abilities?

15 Do you agree with that?

16 A I can't say I've ever been told he came right
17 out and said to violate procedure to do something.

18 Q Okay. Well, whether he came right out and told
19 you to violate procedures, do you agree with Mr. Parker's
20 opinion that Mr. Dodd shouldn't be working a crew, especially
21 in Unit 1 doing instrumentation work?

22 A At the time I worked for him I didn't think he
23 was a good foreman. I don't know how he is now. I haven't
24 worked for him.

25 Q Okay. Let's talk about a couple of other concerns.

#12-19-Suet¹

2 And I'm almost through. You had a concern, Mr. Braswell,
3 about the incident that you describe on your April 6th
4 memo, it has to do with torquing redheads.

5 Could you tell us what a redhead is?

6 A It's an expansion hanger.

7 Q Okay. It goes into the concrete?

8 A Yeah.

9 Q Okay. And it had a sleeve and it's some kind
10 of a bolt that goes into a sleeve?

11 A Yeah.

12 Q Is that how it works?

13 A Yeah.

14 Q And why do they call it redheads?

15 A That's the Company that makes them I believe.

16 Q Okay. And what do they do with the redheads?

17 A Install hangers.

18 Q Okay. When you put it in the wall, what's
19 sticking out of the wall? What's that?

20 A You have a threaded bolt with a nut and washer
21 on the end.

22 Q Okay. Now, they are not safety-related equipment
23 on redheads?

24 A Yeah.

25 Q Pipe hangers?

A Yeah.

#12-20-SueT

Q Okay. Cable trays?

2 A Yes, sir.

3 Q On that affidavit, you are saying here, "I have
4 no knowledge of a QA procedure being violated and corrective
5 action not taken, however, on March, 1983 I installed red-
6 heads in Number 1 reactor loop..." And you have got a
7 number. "Today I found out QA is just trying to resolve
8 an R-2-A against the torque wrench. It seems funny that
9 they wait one year to check into it."

10 Okay. Then, you go on and you talk about Mr.
11 Halterman. "Bob Halterman told me just to go point some
12 redheads out to the inspectors. I don't know if he was
13 kidding or not. I couldn't remember which ones. They
14 seem to be in a hurry to complete the work."

15 All right. Now, how did that happen? Tell me
16 what you learned about that? How did you learn that they
17 are trying to resolve -- that they are starting to resolve
18 this R-2-A?

19 A Buddy came down and got me and said they needed
20 for me to go point out the redheads that I torqued with
21 the torque wrench, and I told him I couldn't remember which
22 ones it was. Couldn't remember at that time where the
23 loop was.

24 Q Okay.

25 A It had been a while since I worked on it.

#12-21-SueT1

Q Okay.

2 A So, then I went back up there and I went with the
3 inspector and they got one other fellow who was working in
4 the area at the time to go down there and show me where it
5 was. And I looked at the loop and I couldn't remember what
6 I had done to it.

7 But I pointed out the loop and the inspector,
8 he checked the redheads that were on it.

9 Q All right. You've got here, you said, "Bob
10 Halterman told me just to go point out some redheads."
11 Strike that.

12 "Bob Halterman told me just to go point out some
13 redheads to the inspectors." Did he say that?

14 A He said that, yes, sir.

15 Q Okay. And you don't know whether he was kidding
16 or not? That's what you say?

17 A Yeah.

18 Q But he said it?

19 A Yes.

20 Q And did he say it after you told him that you
21 didn't remember which ones it was that you had torqued?

22 A I can't remember if he said it before or after
23 we checked it.

24 Q Okay.

25 A I'm not sure.

#12-22-SueT 1

2 Q Okay. Now, what do you mean when you say, "They
3 seem to be in a hurry to complete the work?" You said you
4 couldn't remember which ones, they seemed to be in a hurry
5 to complete the work.

6 Do you mean in a hurry to go back and re-torque
7 the redheads?

8 A They were. Yes.

9 Q Now, did this have to do with the fact that
10 there was some problem with the calibration of the torque
11 wrench that was used originally?

12 A Yeah.

13 Q Okay. They went back and checked the calibration
14 and it hadn't been checked in a while or it was out of
15 calibration?

16 A It was out of calibration.

17 Q Okay. And that means that the redheads that had to
18 be torque wrenched into the expansion anchors might not have
19 been in tight enough?

20 Is that basically the idea?

21 A Yes.

22 Q Okay. They weren't in tight enough -- if they
23 weren't in tight enough the tray or the pipe hanger or
24 whatever might fall off the wall?

25 Be loose, vibrate, what have you?

A It's possible, yes.

#2-23-SueT 1

Q Now, another example you have here, you say,
2 "Also Unit Number 1 there have been many hangers that did
3 not meet the one one-thousandths of an inch gap. I have
4 seen Bob Russell get a painter to put a good layer of paint
5 on the base plate. By doing this, the distance can't be
6 gauged. I have heard others talk about doing this. I
7 think this occurred in the accumulator room. There is no
8 telling where else we did this."

9 Okay. Now, talking -- you are talking about
10 pipe hangers now, right?

11 A Tubing hangers.

12 Q Tubing hangers? Carry instrumentation tubes?

13 A Yes, sir, half-inch tubing.

14 MR. MC GARRY: Excuse me. Is Bob Russell a
15 foreman?

16 WITNESS BRASWELL: He's a craft person, mechanic.

17 BY MR. GUILD: (Continuing)

18 Q He's a mechanic? Okay.

19 MR. MC GARRY: Your Honor, we would say this
20 subject is not proper for -- it's on the first page, that
21 major paragraph at the bottom half.

22 JUDGE KELLEY: How does this tie in with foreman
23 override?

24 MR. GUILD: Well, I didn't know who Mr. Russell
25 was. But I would like to ask the question to see -- I

#2-24-Sue†

think Mr. McGarry's point is well taken, there is no
supervisory involved in this but I would like to establish
that independently.

JUDGE KELLEY: Can we do that now? Let's just
do that.

MR. GUILD: Fine.

end #22
Mimie flws

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

T13 MM/mm

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

BY MR. GUILD:

Q You were talking about this paint in the baseplates, Mr. Braswell. I gather what you are talking about here is if there is a specification that says you are supposed to have one-one thousandths of an inch gap, is that the gap between the baseplate, the wall, the floor --

A Yes.

Q -- the concrete.

A Yes.

Q And you are supposed to measure that one-one thousandths of an inch, but if you put a lot of paint on it before you put the baseplate on, it makes it tough or impossible -- it hides the gap, right?

A Right, fills the gap in.

Q Fills the gap, right. So it might have more than one-one thousandths of an inch gap between the plate and the wall, but it is clogged up with paint. Is that basically what happens?

A Yes.

Q Now you are using this as an example of being in a hurry to complete the work. Now Mr. Russell is a fastener. Who does Mr. Russell work for?

A He works for Buddy Scott.

Q Okay. And Mr. Scott was the foreman to whom you were loaned out to do the work on instrumentation at the

mm2 1 time, right?

2 A Yes.

3 Q Does Mr. Scott know about the paint on the baseplates?

4 A I don't believe so.

5 Q You don't have any idea whether Mr. Scott saw the
6 painters trying to fill the gap with paint?

7 A No.

8 Q Do you have any idea of quality assurance people
9 knowing about this? Did the inspectors catch it?

10 A Not that I know of.

11 Q Why would you do this?

12 A It is such a small gap that some places you can't
13 get a big hanger up. It is easier to get that hanger in.

14 Q Okay. To do it right you have to take it down and
15 do it all over again.

16 A You might, the hanger, yes.

17 Q All right. Let's move to the bottom of that
18 affidavit. You talk about incidents where you saw a
19 welding inspector put a weld on a piece of stainless. Now
20 it says here "Another inspector stood watch for him."

21 MR. MC GARRY: Your Honor, again I will just make
22 the same observation. This is a non-foreman override issue.
23 It is the last major paragraph on the April 6th affidavit.

24 MR. GUILD: I don't dispute that. I am just
25 closing on something else altogether, Mr. Chairman.

mm3

1 JUDGE KELLEY: What is that?

2 MR. GUILD: If I can ask the next question I think
3 it will help.

4 BY MR. GUILD:

5 Q Mr. Braswell what I am interested in here is the
6 practice you observed in the second half of that. That is,
7 while this inspector was doing welding, he had someone else,
8 another inspector look out for him.

9 You were asked in your interview about that
10 practice -- or were you asked during the interview about that
11 practice, about having inspectors stand watch. Did anybody
12 ask you about that?

13 A About this incident, yes.

14 Q No, I am not talking about this particular incident.
15 What I am interested in is, are you aware of
16 foremen or other people, supervision either by their instruc-
17 tions or in their knowledge, having members of their crew
18 standing watch for inspectors?

19 Are you aware of that ever happening, that kind of
20 thing happening in the plant while they are doing something
21 like painting these baseplates or cutting corners in one
22 way or another? Where procedures are not being complied with,
23 having someone looking out to see whether or not an
24 inspector is somewhere around where he might catch them?

25 A Not that I know of.

mm4

1 Q Okay. Have you ever heard tell of that experience,
2 ever heard rumors or any information that suggests that that
3 has happened?

4 A Nothing I can think about.

5 Q Okay. Do you have any idea whether or not Mr. Moss
6 -- Mr. Moss was the general foreman over Ken Dodd, right?

7 A Yes.

8 Q Were he and Mr. Dodd close?

9 Did you ever observe whether they appeared to have
10 a close acquaintanceship, spend time together?

11 A Moss, he went around to all his foremen. I don't
12 know if it would be any more than what he talked to any other
13 foremen at the site.

14 Q How about Mr. Hungisto? Did Mr. Hungisto seem to
15 have familiarity with Mr. Dodd?

16 Did he know Mr. Dodd?

17 A I guess he knowed him.

18 Q Do you know whether they are close, or acquaintances,
19 whether they speak only from a distance? Do they seem to
20 know each other well or not, do you know?

21 A I don't know.

22 Q Okay. Were you ever at a safety meeting that
23 happened -- I don't know how to date it. But, were you aware
24 of this crane accident?

25 Do you know what I am talking about, about the

mm5

1 crane accident?

2 A Yes.

3 Q That was last year, sometime?

4 A Two years, I guess.

5 Q Two years. Okay.

6 Were you at a safety meeting where Mr. Hungisto and
7 Mr. Moss spoke to folks, the powerhouse mechanics -- maybe he
8 spoke to a lot of people, I'm not sure -- safety meeting
9 where those two gentlemen were in attendance?

10 A I can't recall one.

11 Q You don't recall a safety meeting after that
12 incident?

13 A We have safety meetings every Tuesday morning, now.

14 Q Let me ask you directly. Do you ever recall being
15 at a meeting at a point in time -- and to place it, it is
16 after this crane accident where Mr. Hungisto or Mr. Moss or
17 both of them said that the people shouldn't go to the NRC,
18 said something about going to the NRC?

19 A No.

20 Q It doesn't sound familiar?

21 A (Shaking head negatively)

22 Q Sometime thereafter, somebody else came and said,
23 "No, no, that is not a right policy. It is okay to go to the
24 NRC."

25 Does that sound familiar?

mm6

1 A I can't recall a meeting. We have been told we can
2 go the NRC whenever we feel like it.

3 Q You can recall that, but you don't recall being
4 told otherwise by Mr. Moss and Mr. Hungisto?

5 A Not that I can recall.

6 Q Okay.

7 MR. GUILD: Mr. Braswell, I appreciate your patience
8 in answering these questions. I am sure some of these other
9 gentlemen have some questions for you.

10 Thank you.

11 JUDGE KELLEY: We will have some questions. Let's
12 take about a five-minute stretch break.

13 (Recess)

14 JUDGE KELLEY: We will go back on the record.

15 You are back on, Mr. Braswell.

16 Mr. McGarry is going to have some questions, I assume?

17 MR. MC GARRY: Yes, sir. Not too many

xxx

18 CROSS-EXAMINATION

19 BY MR. MC GARRY:

20 Q These are nice easy ones.

21 A Good.

22 Q We have been discussing at this hearing a subject
23 called foreman override. And foreman override has been
24 defined by the Board as a situation where a foreman, either
25 directly or indirectly, implicitly or explicitly tells a

mm7

1 craft member to violate procedures.

2 Now I have read your affidavit. Am I correct in
3 saying that your affidavit doesn't indicate any instances of
4 foreman override?

5 A As far as I see.

6 Q You mentioned -- you talk about Ken Dodd. You said
7 as far as you see, it doesn't, is that right?

8 A (Nodding affirmatively)

9 Q You mentioned Ken Dodd and you said he wasn't a good
10 foreman. I just want to make sure the record is clear. The
11 quality of work was okay, isn't that correct?

12 A Yes.

13 Q And with respect to the Bob Halterman situation --
14 that was the redheads -- you weren't sure if he was kidding
15 or not, you stated, is that right?

16 A Right.

17 Q Aside from this incident, did Mr. Halterman ever
18 tell you to violate procedures?

19 A No.

20 Q Did he tell you to violate procedures in this
21 incident?

22 A Unless what he said about just pointing some out,
23 and I said there I didn't know if he was joking or not.

24 Q There was some question concerning, hurry up, let's
25 get the job done, hurry, hurry. There are a lot of things

mm8

1 done at the plant on an expedited basis, aren't there?

2 A (Nodding affirmatively)

3 Q Does that mean they are done without quality? Does
4 that mean they are done in an unsafe manner?

5 A No.

6 Q Talking about the paint and Mr. Scott. Did you
7 ever hear Mr. Scott tell any of the people working for him to
8 violate procedures?

9 A No.

10 JUDGE PURDOM: Could you speak up a little louder
11 when you answer. We are having a little trouble hearing you.

12 THE WITNESS: Okay.

13 MR. MC GARRY: He had said no to that last
14 question.

15 BY MR. MC GARRY:

16 Q With respect to the quality assurance folks, you
17 have seen quality assurance inspectors out on the site,
18 haven't you?

19 A Yes, sir.

20 Q In your opinion, you have been out at the site
21 now for five and a half years, do you feel the quality
22 assurance folks do their job?

23 A Yes, sir.

24 Q During these interviews, did you feel free to
25 bring up any concern you might have -- let me ask you that.

mm9

1 Did you feel free to bring up any concern you might have?

2 A Yes, sir.

3 Q And all those concerns are set forth in these
4 affidavits, is that correct?

5 A That's right.

6 Q Did you feel intimidated in those interview
7 sessions?

8 A No, sir.

9 Q You met with me, didn't you?

10 A Yes.

11 Q Did I intimidate you or tell you what you had
12 to say?

13 A No.

14 Q You met with Mr. Philips and Mr. Carr, isn't that
15 right?

16 A I'm not sure I remember Mr. Philips.

17 Q Well, any other lawyer you may have met, do you
18 feel that they intimidated you or told you what you have
19 to say?

20 A No.

21 Q I have asked this of other people, but I would
22 just like to ask this of you.

23 You have worked at the site for five and a half
24 years; you have worked for how many foremen? I think you
25 told us. Four, five foremen? I think four.

1 A Four.

2 Q Four foremen.

3 And during that five and a half years of working
4 for those foremen, you have done a lot of work, haven't you,
5 at the plant?

6 A (Nodding affirmatively)

7 Q And out of all the work that you have done at the
8 plant, the concerns that you have are set forth in these
9 affidavits, isn't that correct?

10 A That's right.

11 MR. MC GARRY: Thank you.

12 JUDGE KELLEY: Mr. Johnson?

13 MR. JOHNSON: No questions.

XXX

14 EXAMINATION BY THE BOARD

15 BY JUDGE PURDOM:

16 Q Mr. Braswell, this is more intimidating than
17 meeting with the company people, isn't it?

18 A Yes.

19 Q Is that what makes you a little bit quiet when
20 you answer questions?

21 A I guess.

22 Q Does that kind of restrict your answers? Does it
23 make your answers stiff?

24 A I feel like my answers are right. I reckon I'm
25 nervous.

mm11

1 Q You related an incident where you wondered whether
2 the procedure was right or not and you asked, and everybody
3 got together and decided they could go ahead and do
4 something.

5 And then you had another incident where it turned
6 out you got marked up for doing what you might have thought
7 was the same thing.

8 Is that right?

9 MR. MC GARRY: No, Dr. Purdom, I think the first
10 example doesn't apply to this witness.

11 JUDGE PURDOM: It doesn't apply. Okay.

12 BY JUDGE PURDOM:

13 Q The incidents that you have in mind, if you thought
14 that you were being told to do something improper, would you
15 have gone to the quality inspector of the NRC or something,
16 if you thought it affected plant safety?

17 A If it had to do with safety, I feel like I would
18 have gone to somebody.

19 Q Does that mean that you didn't think these
20 seriously affected safety, as far as you knew?

21 MR. JOHNSON: Judge Purdom, could you clarify the
22 question so that he is clear on what kind of safety you
23 are talking about?

24 BY JUDGE PURDOM:

25 Q Safety as far as the functioning of the plant is

mm12

1 concerned, not safety as far as falling off of a ladder, or
2 anything like that.

3 A I'm not sure I understand you, really.

4 Q What I am trying to get at is, how serious did you
5 think these events were?

6 Are they serious enough to have been brought to
7 the attention of anyone other than your foreman or yourself?
8 Are there circumstances where you felt like you or somebody
9 else was pressured to do something that wasn't according to
10 procedures that you felt so strongly about that someone
11 should have been notified?

12 A I'm kind of lost in what all you said now.

13 BY JUDGE FOSTER:

14 Q Mr. Braswell, one kind of a little clarifying
15 question for me. It relates to these redheads and the torque
16 wrench.

17 If I understood what was going on there, it was
18 back in March of '73, you were installing the redheads, and
19 you used the torque wrench on these. Am I right?

20 A Yes, sir.

21 Q Then later on, like quite a bit later, like a year
22 or so, you found out the calibration on that torque wrench
23 was wrong. Is that right?

24 A Yes, sir.

25 Q Was there a foreman that was involved in that

mml3

1 situation in any way, like one of your foremen didn't tell
2 you which wrench to use, it was just a wrench that you checked
3 out from a regular tool bin or something of that sort.

4 Is that right?

5 A Yes, sir.

6 Q So your foreman didn't know that the wrench was
7 faulty either, did he?

8 A No, sir.

9 Q And it was written up in an R2A, I guess, which
10 is in here.

11 Do I understand correctly that your concern about
12 this was that it took so long to find that the wrench wasn't
13 properly calibrated? Is that the main part of your concern?
14 Or, was there something different?

15 A The main part, it took me about a year to resolve
16 the R2A. The torque wrenches -- they are calibrated
17 every month, or every so often.

18 Q Okay. Then presumably they did find that the wrench
19 was out of calibration.

20 Was that when, maybe when the R2A was written?

21 A The R2A would be written then.

22 Q As a result of the wrench being so far out of
23 calibration?

24 A Yes, sir.

25 Q Then it took a long time to follow up, getting the

mm 1 right torque on those bolts, if they ever did following that.

2 That's all I have.

3 JUDGE KELLEY: Mr. Guild?

4 MR. GUILD: I have nothing further. Thank you very
5 much, Mr. Braswell.

6 JUDGE KELLEY: Mr. Braswell, we do appreciate your
7 coming. We appreciate your attention and your interest.

8 You are excused.

9 (Witness excused)

10 JUDGE KELLEY: Can we call Mr. Carpenter to the
11 bench.

12 MR. GUILD: Mr. Carpenter, if you would come
13 forward to the bench, we will finish up with you, sir.

14 JUDGE KELLEY: Mr. Wilson, I didn't get to call you.
15 I hope you don't have unanswered questions --

16 MR. WILSON: Actually you did save me the rather
17 personal embarrassment of saying "No Questions," the first
18 round. The last one, the only one that I had was really
19 something that looked like a typo, and that was about it.
20 I had just wanted to clarify that.

21 JUDGE KELLEY: With anything like that, you can
22 break in, if you have to.

23 MR. WILSON: If there had been a material problem,
24 I would have hollered.

25 JUDGE KELLEY: Mr. Carpenter, good afternoon.

mml5

1 Thank you for coming back.

2 We spent about an hour or so last night. I appreciate
3 your returning, because we didn't finish the process. I
4 hope you haven't waited too long.

5 Whereupon,

6 WILLIAM M. CARPENTER

7 resumed the stand as a witness on behalf of Intervenors,
8 Palmetto Alliance, and having been previously duly sworn,
9 was further examined and testified as follows:

10 JUDGE KELLEY: I think, Mr. Guild, you hadn't
11 finished. You got far along, but you had some more questions.

12 MR. GUILD: That's true.

13 DIRECT EXAMINATION (Resumed)

14 BY MR. GUILD:

15 Q Mr. Carpenter, let's see if we can pick up someplace
16 close to where we were last night.

17 You worked for Mr. Moore on the second shift?

18 A Yes, sir.

19 Q When you were on the second shift, pretty much
20 all of the QC that got done got done by Bill Burr? He was
21 the second shift inspector, right?

22 A Yes, sir.

23 Q And who did Mr. Burr work for?

24 A I think Bob Harris is who he answered to.

25 Q And was Bob Harris on second shift?

mm16

1 A No, sir. He was on the first. He come on the
2 second for about, like two, three weeks. That's when they
3 brought more inspectors on because they started bringing
4 more crews and all on, so they had to bring a few more
5 inspectors to cover the area.

6 Q Okay. Do you recall an instance where you went
7 and talked to Mr. Burr's boss, Bob Harris, about some of the
8 weld work that you had questions about?

9 A The only reason we talked to him was, we couldn't
10 get an inspector down there to sign welds off. We had to
11 leave them for first shift and get them to sign them off,
12 and they wouldn't get them signed off. So, it was pushed
13 back to us to get them signed off.

14 Q Okay. Do you remember an instance going to talk to
15 Mr. Harris and asking him for some help of that sort, and him
16 just saying, "Go ahead and do it, don't worry about it"?

17 A We asked for a few more inspectors on the site, and
18 he says, don't worry about it. They have been talking about
19 this situation and if they feel like they need another
20 inspector they will bring him on.

21 Q Did he say something like, you know, "Nobody cares
22 about it, anyway. Nobody gives a damn about it, anyway"?

23 A He said nobody really cares, so we just got one
24 inspector on the site, so we will just stick with the one
25 we've got. If we need any more, maybe if people start

mm17

1 complaining and all, maybe they will get some more.

2 As far as he was concerned right now, there was
3 nothing he could do, so he didn't really care.

4 Q Okay.

5 Did he give you reason to believe that he checked
6 with his supervision and had passed on your request, but
7 that he got the words coming from them that they weren't
8 going to do anything about it?

9 A I don't know. He acted like he talked to somebody
10 but they felt like he just couldn't get nothing done.

11 Q So basically it was down to Bill Burr. If Bill
12 Burr didn't catch something that was going wrong in the
13 second, then nobody else was going to catch it because
14 there wasn't any other inspectors on the job.

15 Is that fair?

16 A That's right.

17 Q I gather one man on the whole site pretty much
18 couldn't catch everything that went on.

19 Is that fair?

20 A Like I say, people on the second worked the whole
21 job site. And he may be up at one end of the plant, and
22 we are on the other end. So we had to beep him to get him
23 to come down. If he was tied up, he couldn't come down to
24 check us, so the work would end up being left for first.

25 And they wouldn't really know what was going on.

mml8

1 Then it would be passed back to us so we could get it signed
2 off.

3 Q How about random inspections. If Mr. Burr was the
4 only one out there on the job and he was supposed to get
5 out there and check when you called him -- you know you
6 beeped him, he came for his final visual -- was he out
7 wandering around the plant doing random inspections of the
8 weld work that was being done?

9 A No, he wasn't.

10 Q Was there anybody that was doing random inspections
11 on the second shift?

12 A No.

13 Q Well, who was there on the job then to find the
14 things that an inspector is supposed to find through random
15 inspection, who was going to see whether or not anybody was
16 observing proper interpass temperature controls, for example?

17 A People that was actually doing the work. There
18 was, like I said, only one inspector, and usually a fitter
19 foreman and a welding foreman.

20 Q So on your crew, it would be the welders who were
21 doing the work that was supposed to make sure that they
22 didn't violate interpass temperature?

23 A Yes.

24 Q And then it would be your boss -- of course that
25 is Mr. Moore, and he was't check too much to see whether you

ml9

1 were observing interpass temperature, was he?

2 A No, sir, he just wanted you to hurry and get the
3 job done so you could get to another job.

4 Q Okay. And how about the -- any other supervision
5 checking such things as interpass temperature?

6 A No, sir.

7 Q Now if Mr. Burr, if he had seen welds being welded
8 without the proper interpass temperature, if he had been
9 there to check your interpass temperature either visually,
10 see the welds being made, know how long it was taking, to
11 observe its color, or to actually check it with a temp
12 stick on a random basis, and he found that you were welding
13 too hot, you were welding over the 350-degree standard, he
14 would have written you up, wouldn't he?

15 A Yes, sir, he would have written a workup.

16 Q He would have written an NCI?

17 A Either an NCI or an R2A.

18 Q Or an R2A. But in any event, it would have been
19 identified as a deficiency and would have gotten some
20 paperwork, and it would have been written up, right?

21 A Right.

22 Q Do you know anybody that was written up on the
23 second for violating interpass temperature?

24 A No, sir.

25 Q Were you ever written up for it?

mm20

1 A No, sir.

2 Q Okay. Tell me about you going to talk to Bill Burr.

3 Did you ever seek out Mr. Burr to have him -- ask
4 him questions about the work or ask him to take a look at
5 things, or whether things were being done right?

6 A If we had a question, we didn't know the procedure,
7 we would go to him and ask him to explain it to us.

8 If we had a problem we would go to him because
9 he was the only one that knew procedures real good. Our foreman,
10 he didn't know procedures that good, so we'd have to go there
11 to ask Bill to explain procedures to us and to help us if
12 we need help on it.

13 Q Can you recall any examples of doing that? Situations
14 where you couldn't get help from Mr. Moore and you would go to
15 Mr. Burr and ask questions?

16 A One situation was they were tacking up a half coupling
17 on the side of a pipe, and the foreman changed the number on
18 the paperwork. We brought it to Bill's attention and he got
19 to checking in on it and found out that the man had done it
20 illegally.

21 Q Who was that foreman?

22 A That was Wade Hall.

23 Q Is he a welder foreman?

24 A Fitter foreman.

25 Q A fitter foreman. And that was an M4A. What kind

nm21

1 of paperwork was he talking about?

2 A M51, I think.

3 Q Was that for structural work or hangers, or --

4 A No, it was for a coupling on the side of a pipe.

5 Q Oh, a coupling on the side of a pipe.

6 Is that safety related?

7 A No.

8 Q It is not?

9 A Class G.

10 Q Class G. It required -- it was a situation where
11 an inspector changed the number of a weld?

12 A No.

13 Q What was it?

14 A The ISO number has one number and the drawing
15 number is supposed to correspond with the same number. It
16 was faded out and he couldn't read it, so he just wrote it
17 in.

18 Q Okay.

19 A And brought the paperwork back, said it was
20 ready, go ahead and tack it up and all.

21 He wasn't gone long enough to go up the hill and
22 get anything done.

23 Q I see. So he couldn't actually have gone up to the
24 QA office and gotten the right number put on there. He
25 just put a number on.

mm22

1 A So we asked Bill about it, he checked it out, found
2 out that it was wrong and all, so he wrote an NCI on it and
3 stopped work then. And the foreman got removed from service.

4 Q Hall got removed because it was something --

5 A It was falsifying documents.

6 Q Because it was something that you brought to the
7 attention of Bill Burr?

8 A Uh, huh.

9 Q If you hadn't brought it to Burr's attention, would
10 it have been found?

11 A I doubt it.

12 Q Do you remember a situation where Stan Watts was
13 directed by Mr. Moore to do some work?

14 A It was on that 14-inch carbon steel class G.

15 Q And what did Mr. Moore want Mr. Watts to do?

16 A He wanted him to weld it up and the bevel wasn't
17 right.

18 MR. MC GARRY: I will just make a point I have
19 made several other times. I think we are getting into an
20 incident now that is Class G, nonsafety.

21 MR. GUILD: I am focusing on Mr. Moore and the
22 foremen, and not the piece of work. We are taking by example,
23 that indicative of the practice.

24 JUDGE KELLEY: The objection is nonsafety, and
25 this involved Mr. Moore.

mm23

1 (Board conferring.)

2 We will sustain the objection. We regard this as
3 cumulative and repetitive. We allowed this kind of questioning
4 earlier on a prior witness. We are concerned where there
5 were foremen implicated, but we don't think --

6 MR. GUILD: That is fine, Mr. Chairman, I am ready
7 to go forward.

8 BY MR. GUILD:

9 Q Mr. Carpenter, I want you to look at your April 17th
10 affidavit. Do you have a copy of that?

11 A (Shaking head negatively)

12 Q Let me see if I can get you one.

13 We have got one coming your way

14 (Document handed to witness)

15 Now, if you find the one that is dated April 17th.

16 A Yes.

17 Q I guess there are two of them with that same date
18 on it. This is the second one. It is just a one-page, dated
19 April 17th.

20 I am looking at the third paragraph down, Mr. Carpenter.
21 Let me read this. It says here:

22 "I have another problem to mention that I didn't
23 in the first interview. On an eight-inch RT weld in
24 the auxiliary building, I was making repairs on two
25 areas rejected by RT. While I was looking at the root

mm24

1 of this weld, I saw an area of excess penetration.
2 I pointed this out to my foreman, Lloyd Leatherwood.
3 Lloyd asked me if the excess penetration showed up
4 on the film. I told him no. Lloyd told me not to
5 worry about it and go on and make the repairs. I
6 didn't feel right about doing this, so I asked my
7 general foreman, J. T. Hamrick, what to do. He said
8 the same thing as Lloyd did. I made the repair
9 leaving the excess penetratin. The ANI had a hold
10 point -- "

11 -- that's Authorized Nuclear Inspector, right?

12 A We never made the repair.

13 Q You didn't?

14 A It had a hold point on it. The ANI man come and
15 looked at it and he said, cut the weld out, and then they
16 made the repairs.

17 Q Okay. So the ANI man came because there happened
18 to be an ANI hold point on this weld?

19 A If there hadn't been an ANI hold point, it would
20 have been welded up.

21 Q Okay. In this case the ANI man had a hold point on
22 it because he puts a hold point on welds at random, right?
23 Just doing part of his job checking things, right?

24 A Yes, sir.

25 Q In this particular case if it hadn't, just by

mm25

1 chance had an ANI hold point, they never would have caught this
2 excess penetration?

3 A No.

4 Q Okay. Can you tell me how you saw the excess
5 penetration, sir?

6 A We took the film and we laid it on the areas that
7 were bad. We had to cut all the way through --

8 Q This was repair work?

9 A Yes. We had to cut all the way through the pipe
10 in two places. When we cut into it and was looking inside
11 to see how the root looked, was there excess penetration,
12 we seen the glob hanging through at about 2 o'clock.

13 Q Okay.

14 A But the film didn't have it on there. Just the
15 two places that we cut out did the film show bad places.

16 Q Okay. And there was another bad place is what you
17 are saying, right?

18 A Yes.

19 Q That is where the excess penetration was. Now
20 that excess penetration, was it a rejectable condition?

21 A Yes, sir.

22 Q And this was an RT weld. It must have been a
23 safety-related system, wasn't it?

24 A Yes, sir, it was class C work.

25 Q Do you know where this weld was, what system it

mm26

1 was on?

2 A I don't know the system, but it was on 577 going
3 into number one penetration room auxiliary building.

4 Q Okay. How did you bring it to Mr. Leatherwood's
5 attention?

6 A Well, me and this other guy named Bruce McCarter
7 were working on that system. It was a bunch of welds that
8 Dean Bernethhad made that were bad. We had to go back and
9 do repairs on them.

10 Q Dean Berneth had gotten his stencil pulled because
11 he had done a bunch of bad welding, is that right?

12 A Yes.

13 Q He had been a welder?

14 A Yes.

15 Q You were assigned to do repair work on him?

16 A We were assigned overtime doing repair work on them.
17 We looked inside and seen it and all. We asked Lloyd about
18 it, do we need to cut it out before the ANI man came here?

19 And he said, if it didn't pick up on the film
20 don't worry about it.

21 So, the ANI man came, looked at it and said, "That's
22 got to be removed."

23 So, they removed it and repaired it back up and
24 got signed off and shut.

25 Q How did the ANI man happen to notice it?

mm7

1 A We pointed it out to him.

2 Q You showed it to him?

3 A Right.

4 Q If he just looked at the film he wouldn't have seen
5 it either, would he?

6 A He has to look inside to make sure the root is
7 good, and evaluate it.

8 Q And you told him in advance that there was --

9 A We told him that there was a bad spot on it, to
10 look at it careful.

11 Q He agreed with you?

12 A Yes, sir.

13 Q Now you told Mr. Leatherwood to look at it and he
14 said, don't worry about it.

15 Did he look at it, did he come look at it?

16 A No, sir, he never got up on the scaffold to look
17 at it.

18 Q Did he look at the film?

19 A Well, he gave us the weld package and all, and I
20 take it that he did look at the film.

21 He didn't get up there and put the film on the
22 pipe.

23 Q Okay. So he didn't examine the actual excess
24 penetration himself?

25 A No, sir.

mm28

1 Q You went and saw the general foreman about this, too?

2 A Yes.

3 Q He was down in our work area.

4 Q Who was that?

5 A J. T. Hamrick.

6 Q Mr. Hamrick. He just happened to be there? You
7 went and sought him out? How did that happen?

8 A He was just down in the work area to see how many
9 welds we got completed for that day and all.

10 Q Okay. What did you say to Mr. Hamrick?

11 A I asked him -- told him that we had a bad spot in
12 there. He asked me, what did Lloyd say?

13 I said, well Lloyd said if it wasn't on the film,
14 not to worry about it.

15 And he said, well, if it ain't on the film, don't
16 worry about it.

17 Q That doesn't mean it wasn't there, it just meant
18 that it didn't show up on the film?

19 A It didn't show up on the film.

20 Q Did Mr. Hamrick come over and look at the welds?

21 A No, sir.

22 Q Did he look at the film?

23 A No, sir.

24 Q He just said if it is okay by Lloyd, it is okay
25 by me?

mm29

1 A Yes.

2 Q And that is when you pointed it out to the ANI?

3 A The ANI man had come up there and looked at it.

4 Then we pointed it out when he climbed up there.

5 Q It got cut out and reworked?

6 A That section got cut out.

7 Q Now when you were interviewed by the company back
8 in the spring and they heard you express this concern, did
9 they tell you that they did anything about it?

10 A Well the welds was already reworked and done by the
11 time they interviewed me.

12 Q Right. Okay. How about anything -- not about the
13 welds, but about what Mr. Leatherwood, the foreman and
14 Mr. Hamrick, the general foreman, had to say and do about it?

15 A As far as what they done to him, I don't know.

16 Q Did they ever tell you that they investigated
17 whether Mr. Leatherwood -- Mr. Hamrick acted properly?

18 A No, sir.

19 Q That same document, Mr. Carpenter, you said:

20 "I have heard of welders using lookouts for
21 inspectors. I have never seen it, and rumor has
22 it that Earl Brown is a lookout. That's all I know
23 about it, just what I heard."

24 A Yes.

25 Q Mr. Brown, he was Arlon Moore's lead man, correct?

mm30 1 A Yes, sir.

2 Q And you had heard that Arlon had had Earl standing
3 watch to make sure that Mr. Burr or another inspector didn't
4 see him?

5 A That's what I heard other people talk. That was
6 just hearsay.

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

end T13

agb/agb1

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

Q Now when was this when you were working for Mr. Leatherwood?

A It was on a Saturday. I was looking for some overtime and I volunteered to work overtime for him because he was short.

Q Normally though you were still working for Mr. Moore at that time?

A Yes.

MR. GUILD: If I could have just a second.

(Counsel conferring.)

BY MR. GUILD:

Q Mr. Carpenter, let me ask a question now:

I have got an affidavit here, I can't tell you whose it is because it is still in confidence, but let me read to you some of what it says and ask you your opinion about it.

MR. MC GARRY: What number is it, Mr. Guild, so we can follow it?

MR. GUILD: It is 196. That is the code.

You got a code too, Mr. Carpenter. They let them get ahold of it.

BY MR. GUILD:

Q The statement says as follows:

"The crew felt that if they didn't keep up the production the way that Arlon

1 wanted, he would eventually find a way to
2 retaliate. There was not a person on the
3 crew who did not feel this way. The ones
4 who felt strongly against this and didn't
5 go along with Arlon left the crew at one
6 time or another.

7 "Arlon had certain people on the
8 crew who he would put on to do a job where
9 no one else would or could do that. When he
10 pulled a welder off of a job for not doing
11 a job quick enough or who wouldn't be
12 intimidated by Arlon, he had certain welders
13 that he put on jobs.

14 "Bill Carpenter and Mike McKelvey
15 were used a lot to do this. Mike McKelvey
16 and Earl Brown did the rush work. Arlon,
17 Earl Brown and Mike McKelvey would get
18 together at the beginning of the shift and
19 decide who was going to work on which jobs."

20 Now did Mr. Moore oftentimes get you to do this
21 kind of work that he wanted to make sure it got done by
22 the end of the job; did you get picked on a lot to do
23 that?

24 A. He picked me by my certification, because some
25 of us were certified on things that other ones wasn't.

1 Like a friend of mine was certified on stainless stick and
2 I wasn't, so he pulled me off of one job and put the other
3 guy on the job because he was certified on stainless stick
4 and then he put me over there on tig, maybe he wasn't
5 certified on stainless tig work.

6 And as far as pulling them off and putting them
7 on another job because he was slow and all, I wouldn't
8 say that, he moved them by certifications.

9 Q Okay.

10 On the same statement:

11 "I was assigned by Arlon to go
12 with Bill Carpenter to Henline's fab shop.
13 Bill had some welds out there" -- You go by Marion,
14 but they called you Bill on the job, right?

15 A Yes.

16 Q "Bill had some welds out there.
17 There was more work than he could get done in
18 one night. I helped him get set up. He had
19 to get a fit up signed off on a couple of
20 these welds. The inspector, Bill Burr, came
21 out and signed off on fit-up. Someone asked
22 Bill Carpenter if he had all the welds
23 completed. Bill said yes, but he did not get
24 them signed off because Bill Burr would know
25 he finished too quick, there was more work

1 than could be done inside the data sheets.
2 These were two-inch stainless steel socket
3 welds. I do not know where they were to be
4 installed.

5 "Later I questioned Bill Carpenter
6 why he would do this kind of thing. He made
7 the statement Why do you think I get all
8 these fab welds? I felt that he meant he
9 was doing these things to please Arlon."

10 Does that ring a bell? Does that statement sound --

11 A. We were working on Class E stainless steel
12 socket welds and we had set them up -- I put a root on
13 one, I set it to the side and put a root on another one and
14 set it to the side. I would get the root and all on 'em
15 and then come back and put the cap on them and work down
16 the line that way.

17 Q. Okay.

18 A. Most of them on the crew would work with just
19 that one piece: they would put a root around it, set
20 around and wait 'till it cools and then finish and then
21 grab another one.

22 But we would set it up where I would put a root
23 in this one (indicating) and maybe the other side, set
24 it to the side and grab another piece and do it. And then
25 after we got the roots and all, then we would come back

1 and started capping them off.

2 And as far as violating procedures on it, I
3 would say no. We had it set up to where it was like an
4 assembly line.

5 Q Okay. Do you remember who it was that helped
6 you set this up?

7 A Yes, Paul Irby.

8 Q And is it something that you did quick enough
9 that you might have had to rush the job to get it done
10 in time; is that an accurate description and under-
11 standing?

12 A We had a good many welds that had to be done
13 and all so they could put in the hole. We were more or
14 less fabbing them up on the table so they could put
15 them into the hole. I think it went to a sprinkler
16 system.

17 Q Do you remember make the statement or words
18 to the effect that, as you were quoted as saying -- Let
19 me read it again.

20 It says: "Later I questioned Bill
21 Carpenter why he would do this kind of thing.
22 He made the statement Why do you think I get
23 all these fab welds? I felt he meant he
24 was doing these things to please Arlon."

25 A I was doing them to keep the work caught up.

1 Q Okay.

2 A As far as pleasing him, I don't think you could
3 please him.

4 (Laughter.)

5 Q Mr. Carpenter, you worked a little bit under
6 Lloyd Leatherwood and you worked a bunch on second shift
7 under Arlon Moore. Did you work under any other foremen
8 on the job?

9 A I worked under Larry Rudisill, John Gladden,
10 Billy Smith and Tim Hollinsworth. I got loaned out to
11 several other foremen and all but I wasn't actually on
12 their time.

13 Q There has been testimony that Mr. Moore
14 responded the way he did particularly when he was under
15 Billy Smith when Mr. Smith was a general foreman; that,
16 you know, sometimes when he was under someone like
17 J.R. Wilson he was a different guy, you know, not really
18 as hard on people.

19 Did you ever make that observation?

20 A Yes, sir.

21 Q You think it had a lot to do with Billy Smith
22 being over him?

23 A Yes, sir.

24 Q What about other foremen who were under Billy
25 Smith --

1 A. There was another one, Tim Hollingsworth,
2 he was all the time running around like he was scared because
3 of Billy Smith all the time riding him. You could tell by
4 as nervous as he was he would pull you off one job and put
5 you on another one because he just didn't know what to do
6 to please Billy.

7 Q And so Hollingsworth sort of responded the same
8 way that Arlon Moore did under Billy?

9 A. Yes.

10 Q How about the rest of them that worked for
11 Smith?

12 A. I don't know, I haven't worked for the other
13 ones, just them two.

14 Q Mr. Carpenter, I appreciate very much you
15 coming back a second night and that is all I have for you.
16 These other gentlemen may have some questions for you
17 but that is all I have.

18 JUDGE KELLEY: Mr. McGarry?

19 MR. GUILD: Excuse me, before Mr. McGarry begins,
20 I am not clear whether a document is in and let me just see
21 if I can establish whether it is or not.

22 Do you know whether or not, Counsel, whether --
23 there is an October 5 memo to file reflecting the
24 resolution or non-resolution of Mr. Carpenter's concerns
25 and I just want to make sure that was in with the packet

agb/agb8

1 of affidavits.

2 MR. MC GARRY: The answer is yes.

3 MR. GUILD: It is.

4 Thank you very much.

INDEXXX

5 CROSS-EXAMINATION

6 BY MR. MC GARRY:

7 Q Mr. Carpenter, I don't know where to start.

8 We've got yesterday and today and I am trying to get my
9 notes together. We will do the best we can.

10 Let's talk about today since that is the
11 freshest in my mind. We talked about Bill Burr; you
12 know Bill Burr?

13 A Yes, sir.

14 Q You think he is a good quality assurance
15 inspector?

16 A Yes, sir.

17 Q You talked about random investigation,

18 And do you have any idea what "random" means
19 in terms of investigation -- inspection?

20 A It means they wander around and check to find
21 out if your -- what you are working on and all and
22 check you priori, check it every once in a while.

23 Q Do you think Mr. Burr could have been doing
24 random inspections without your knowledge?

25 A No, sir, because he was pretty well busy

1 trying to cover everybody.

2 Q With regard to the sugaring incident, I believe
3 we talked about that yesterday.

4 Was there an oxygen analyzer to determine --

5 JUDGE KELLEY: Excuse me, just a minute.

6 (Discussion off the record.)

7 JUDGE KELLEY: Go ahead.

8 BY MR. MC GARRY:

9 Q With respect to the sugaring incident, was
10 there an oxygen analyzer to determine if there was
11 sufficient argon?

12 A Yes, sir.

13 Q And did the reading on the analyzer register
14 zero?

15 A Yes, sir.

16 Q What does that mean?

17 A It means there is no oxygen in that and that
18 is pure argon in it.

19 Q On Class C welds in the incident we are talking
20 about was there a fit up inspection?

21 A Yes, sir.

22 Q And did the QC inspector note the condition
23 you mentioned?

24 A The tags were dark and all, he said they were
25 acceptable.

1 Q He said they were acceptable?

2 A That there wasn't no sign of sugar on them.
3 They was just dark, I mean black.

4 Q So that was the QC inspector who stated that
5 the blackened condition was okay on a Class C weld?

6 A Yes, sir.

7 Q And Mr. Moore knew what the QC inspector said,
8 did he follow that direction?

9 A Yes, sir.

10 Q Your affidavit reflects that the majority of
11 the work that you did -- I am looking at the April 17th
12 affidavit. You said about 10 percent of the time your
13 work was class work and the remainder of it was not class
14 work, is that correct?

15 A Yes, sir.

16 Q Wade Hall, you mentioned Wade Hall.

17 Is he on the job?

18 A Now?

19 Q Yes.

20 A No, sir.

21 Q Do you know what happened to him because of the
22 incident you mentioned?

23 A Yes, sir, he got removed from service because
24 of falsifying documents I think about two weeks after
25 they wrote it up.

1 Q You were talking about Billy Smith right at
2 the end and Tim Hollingsworth.

3 Did Tim Hollingsworth ever tell you to do any
4 unsafe work? Did Tim Hollingsworth ever tell you to
5 violate procedures?

6 A No, sir.

7 Q I want to review this incident with the A&I
8 inspector and Lloyd Leatherwood and J.T. Hamrick. As I
9 understand it, and you correct me if I am wrong, that
10 in that incident both J.T. and Lloyd told you it was
11 all right to weld and their basis was that the area
12 had been RT'd and there was no defect, is that correct?

13 A He said Don't worry about the excess penetration,
14 that we had to go through the hold point. He didn't
15 tell me go ahead and weld it, he just told me go ahead
16 and follow the rest of the hold points.

17 Q I see.

18 And the basis for his instruction -- or both of
19 their instruction was that the RT was acceptable?

20 A Yes, sir.

21 Q So it could have been wrong -- that decision
22 could have been wrong and in fact the A&I inspector thought
23 it was wrong --

24 A Yes, sir.

25 Q -- but at least it was a basis for them to do --

1 at least there was a basis for them to tell you to continue
2 to file the paperwork, wouldn't you say?

3 A. Yes, sir.

4 Q. This hearing has focused on the issue of
5 foreman override. And I would define foreman overried
6 for you pursuant to the Board's definition, and that is
7 that it is a situation where foremen, either directly or
8 indirectly, implicitly or explicitly, tells a member of
9 the craft to violate procedure.

10 Now I have looked at your affidavits, and would
11 you saw there are any incidents in your affidavit that
12 fall within that definition?

13 A. The two-inch socket welds.

14 Q. And that is the incident you say is foreman
15 override, correct?

16 A. Yes, sir.

17 Q. Now you have worked on the site for six years,
18 you have worked for five foremen.

19 A. Yes, sir.

20 Q. You have done a lot of work.

21 A. Yes, sir.

22 Q. In fact, other people who have testified said
23 you are a heck of a good welder, and I think that is
24 evidenced by the fact -- and I will get your opinion on
25 this -- by the last incident you talked about when you

1 were in the fab shop and you lined it up and you do a good,
2 quick job, wouldn't you agree with that?

3 A. Yes, sir.

4 Q. Now it is hard to rate yourself in comparison
5 to other people on the site, but don't you feel that you
6 were one of the better welders when you were on the site?

7 A. I tried to be.

8 Q. And the work you did was good and safe work?

9 A. I tried to make it safe and follow procedures.

10 Q. Now given your six years on the site, would
11 you say you did hundreds, thousands of activities?

12 A. Yes, sir.

13 Q. And of all of those activities and for all the
14 foremen that you have worked for, your testimony is the
15 incident of foreman override is the one you just described,
16 is that correct?

17 A. Yes, sir.

18 Q. There was some question you raised yesterday
19 about the fact that you raised some concerns in your
20 first affidavit and then you raised some additional concerns,
21 and I just want to make sure the record is clear on this.

22 That was the first time you met with
23 Ms. Lewis, is that correct?

24 A. Yes, sir.

25 Q. Did you feel intimidated when you met with her?

1 A. No, sir.

2 Q. Have you ever felt intimidated in any of those
3 interviews? Have you felt intimidated in your discussions
4 with me? Have I ever told you what to say?

5 A. You never told me what to say. You more or less
6 explained to me what was going on and why you were there.

7 Q. I'm sure you found that very helpful, didn't
8 you?

9 A. Yes.

10 (Laughter.)

11 MR. MC GARRY: Your Honor, if I could just have
12 one moment.

13 (Counsel conferring.)

14 BY MR. MC GARRY:

15 Q. I guess just one last topic and that -- as a
16 sort of follow up on giving your concerns.

17 Do you feel that Duke has been responsive
18 when you have raised a concern? Do you feel like they
19 have tried to go out and get an answer and come back to
20 you and explain to you as best they can what your
21 concern was and what the resolution was?

22 A. They have got back with me and told me my
23 concerns and all. It took them a while but they eventually
24 got back and told me.

25 Q. Like the mail, sooner or later it gets there.

1 A. -- it gets there.

2 Q I think that's it, Mr. Carpenter. Thank you.

3 I think Mr. Johnson and the Board --

4 MR. JOHNSON: One second, your Honor.

5 (Pause.)

INDEXXX

6 BY MR. JOHNSON:

7 Q Mr. Carpenter, last evening you were talking
8 about an incident that happened fairly recently, it was
9 in September of this year. ~~It involves your welding some~~
10 Class C pipe and in which you were talking about the
11 blackened condition of -- is it six welds or eight welds?

12 A. Eight welds.

13 Q -- that you performed and you saw sugaring
14 in the root pass?

15 A. It was black and dark with flakes, and that
16 concerned me, I thought that it was sugar.

17 Q I am a little foggy, I don't recollect exactly
18 what the circumstances were at this point. This occurred
19 on the second shift?

20 A. Yes.

21 Q Could you describe again what the sequence of
22 events were?

23 A. How we made the weld, is that what you are
24 saying?

25 Q What were the circumstances? You were on the

1 second shift --

2 A Working on the second and they come up and
3 said We've got this work over here outside of the reactor.
4 It is shutdown work, we've got to have it finished before
5 we go home.

6 So we went over and set up -- me and Aubrey
7 set up, run the lead and all over there and the fitters
8 went ahead and beveled the pipe and got everything
9 ready and fit it in position. We put the tacks on it,
10 the tacks come out black and nasty looking. We grind
11 the tacks back out and done it again -- we purged it
12 first and then checked it with the analyzer and then we
13 put the tacks in and it looked black and we cut it out
14 and done it again and they were still black-looking.

15 So we went and got the foreman and got him
16 to look at it --

17 Q And that was?

18 A Arlon Moore.

19 And he come to look at it and -- I take it from
20 looking at the Class C where it was dark and all, he
21 figured these were the same way because it had all been
22 hydro'd and flushed and all, so he said go ahead and weld
23 it up.

24 So we went ahead and put the root in it and
25 left about a half-inch or so at the top so we could look

1 in. We called him back to get him to look at it and it
2 was still -- I still had questions on it because it was
3 still nasty-looking. He looked in it and said it was tied
4 all together and all, go ahead and seal it up and finish
5 it.

6 So we welded out and got Bill Burr to tell
7 him to look at the final version.

8 Q At the point that you got your foreman,
9 Mr. Moore, to look at -- were these the peepholes to
10 look at the interior?

11 A To look at the root pass.

12 Q Did you feel that he was making a judgment
13 as an experienced welder as to whether this was an
14 acceptable condition?

15 A I don't really know. I think he was just
16 using that one and saying Well if that Class C was okay
17 then this one here is the same, then it's okay.

18 Q He observed the same condition in --

19 A We got him to look at a Class C one, too.

20 Q What class was this one?

21 A This was the Class G. That was outside of the
22 reactor, it goes into the WL holding tank.

23 Q And the Class C weld had been approved by
24 the QC inspector?

25 A Yes, sir.

1 Q And he observed this interior condition?

2 A He looked at the tacks and all, but as far as
3 looking at the whole root, no.

4 Q Now this Class C weld that you were referring
5 to, did you feel that you were under any particular pressure
6 from Arlon Moore to do any defective work?

7 A I felt like that we had to get it done that
8 night or we would have had to stay until first shift and
9 got 'em in.

10 As far as him coming in and saying Go ahead
11 and violate procedures and get it done, he never said
12 that. He just come up and said the work has got to be
13 done tonight, we've got to stay until it's finished.

14 Q You called him over and he observed this
15 situation that you were uncomfortable about. He said Go
16 ahead, it's okay?

17 A Yes, sir.

18 Q In your April 17th affidavit there is the
19 discussion about making repairs on some bad welds and
20 that they had been rejected by RT.

21 A Yes.

22 Q Why were they rejectable, do you know?

23 A Some of them were just butted up together and
24 welded out, some of them were -- some of them didn't
25 have enough metal in, suckback in them, some of them

1 had too much metal and some of them looked like to where
2 he had run a good root on half but the other half closed
3 up and it just looked like he never took the time to
4 take it out and re-open it and fix it.

5 Q Now an RT is an inspection -- a radiographic
6 inspection that is designed in part to detect excessive
7 penetration, is that correct?

8 A I don't know, I think it just picks up porosity
9 and slag and stuff like that that's in there.

10 Q Well in any case the weld had not -- the RT
11 inspection did not reveal any excess penetration?

12 A No.

13 Q The situation involved there was the first
14 look at -- it wasn't looked at but you went to Lloyd
15 Leatherwood and he determined that if it was passed by
16 RT that it was okay to go ahead and continue --

17 A Continue going down the steps.

18 Q Did you feel that you were under any pressure
19 at that point from Lloyd Leatherwood?

20 A No, sir.

21 Q And then when you went to Mr. Hamrick, did you
22 feel that he was exerting production pressure when he
23 made his decision to go ahead?

24 A No, sir.

25 Q Did you feel free to approach Mr. Leatherwood

1 and Mr. Hamrick regarding your concern?

2 A I felt like -- I wasn't nervous or nothing when
3 I went and approached them about it, I just walked up and
4 told them about the situation and he said just go ahead --
5 if it didn't pick up on the RT go ahead and continue
6 going down the steps on the paperwork.

7 Q And the end product was a quality weld?

8 A That bad section was cut out and then it was
9 rewelded and the X-ray showed 100 percent.

10 Q Earlier on today you made a reference about
11 the difficulty of getting inspectors -- or the inspector,
12 in this case you referenced Mr. Burr, to come and inspect
13 your welds when they were finished, is that correct?

14 A Yes, sir.

15 Q However in your affidavit of June 26th you
16 mentioned that Ranson Sims, who I believe was an inspector,
17 was a person you signed up for because he came quickly
18 to do the inspections, is that correct?

19 A He was in our area down there. We had called
20 and asked Bill to come and he was tied up at the metal
21 fab and the intake and he couldn't come to get it so
22 Arlon told us to go get another inspector and we went
23 down and signed up for the other inspector and he come
24 right then, and then we started to using him.

25 Q So Bill Burr wasn't the only inspector, welding

1 QC inspector on this one, was he?

2 A They brought the other inspectors in because
3 they brought three or four more welding crews and four
4 steel rigger crews in the reactors putting in rupture
5 strength. But our inspector was mainly Bill Burr. And
6 the other inspector was called up so they told us to use
7 him. But normally we would have never used the other
8 inspector.

9 MR. JOHNSON: May we have one more second,
10 your Honor?

11 (Pause.)

12 MR. JOHNSON: Thank you very much, that's all
13 I have.

14 MR. WILSON: I just have one question,
15 Mr. Chairman.

16 BY MR. WILSON:

17 Q Mr. Carpenter, as far as a foreman ordering
18 craft to do work that may be in violation of your procedures,
19 do you know of any such work on safety related systems
20 that was not caught and repaired?

21 A No, sir.

22 Q Thank you.

23 JUDGE KELLEY: I don't think I introduced
24 Mr. Wilson. Mr. Wilson represents the State of South
25 Carolina.

1 **JUDGE PURDOM:** Does Mr. Carpenter have a copy
2 of his affidavit there?

3 **THE WITNESS:** Yes, sir.

4 EXAMINATION BY THE BOARD

5 **JUDGE PURDOM:**

INDEXXXX 6 **Q** I just want to clear up something for the record;
7 it may be a minor point, it may not be:

8 I believe, if I remember rightly -- and I may
9 have misheard something yesterday that might be
10 inconsistent with your affidavit.

11 Would you look at the third paragraph at
12 the bottom and read that to yourself there a moment?

13 **MR. GUILD:** Judge, which date was that, sir?

14 **JUDGE PURDOM:** That is his -- I guess that's
15 his principal --

16 **MR. GUILD:** There are a couple of them, just
17 to be clear.

18 **JUDGE PURDOM:** It is the 17th of April, two
19 page affidavit and this is the first page.

20 **BY JUDGE PURDOM:**

21 **Q** What I am looking at is really in the middle
22 of the paragraph and it starts off: "I think it
23 could have cooled but I'm not really sure..." and
24 then it says "...I could touch the weld with my
25 finger." Is that a correct statement?

agb/agb23

1 It's on the first page.

2 A. "I could touch it but I couldn't keep my
3 hand on it."

4 Q I was thinking in response to a question by
5 Mr. Guild yesterday you said it was too hot to put your
6 hand on it.

7 So you say you could touch it with your finger
8 but you couldn't --

9 A. You couldn't hold your hand on it. You
10 could touch it and tell it was hot but you couldn't
11 grab it and hold on to it because it was too hot.

12 Q Too hot to keep your hand on.

13 A. The way they told us, if you can grab it and
14 hold on to it for a couple of seconds then you can
15 go ahead and start welding on it. But if you touch
16 it and you've got to move back real quick, then it is
17 too hot to mess with.

18 Q So there is no inconsistency between this
19 affidavit and what you said yesterday in response to
20 Mr. Guild's questioning?

21 A. No, sir.

22 Q I just wanted to clear that point up.

23 You were working at Duke last fall -- that
24 is, the fall of 1983?

25 A. Yes, sir.

1 Q Were you aware that the Licensing Board was
2 holding hearings down in Rock Hill about the Catawba
3 plant?

4 A Yes, sir.

5 Q Did you know that the Licensing Board
6 invited employees with concerns to come before it and
7 tell what they knew?

8 A No, sir.

9 Q -- and that they could do that in secret if
10 they wanted to?

11 A No, sir.

12 Q As a matter of fact, we did have notices
13 published around the plant where employees could have
14 asked us to come in secret and tell us anything of
15 concern.

16 Had you known that, would you have come to us?

17 A I don't think so.

18 Q So the only way that we get this information
19 out of you is that somebody had to ask you directly
20 what you knew, is that right?

21 A Yes, sir.

22 Q And that is what the Duke Company did?

23 A Yes, sir.

24 Q And comparatively, who is more intimidating,
25 us or the company?

1 A. Being in here.

2 (Laughter.)

3 JUDGE PURDOM: I have no further questions.

4 BY JUDGE FOSTER:

5 Q Mr. Carpenter, we have heard all the people
6 that have told us that they felt that Billy Smith really
7 acted like a bird dog sometimes when he went around the
8 work area kind of stalking the situation and that some
9 of the craftspeople perhaps barked like a dog or
10 howled when he was in the vicinity.

11 Do you know what I am talking about?

12 A. Yes, sir.

13 Q What was your reaction when you would hear
14 these alert sounds?

15 A. I knew who was coming when I heard the noise.

16 Q Okay.

17 Would you start doing something different?

18 A. We would usually stop what we were doing just
19 to see what he was doing down there.

20 (Laughter.)

21 Q Were you concerned that he might be coming
22 around and looking at your work?

23 A. Usually when he would come around he would
24 come around to complain, he never come around to compliment
25 anybody. He just wanted to complain about something.

XXXXXXXXXX

1 Q He was mainly complaining about something
2 rather than looking over your shoulder on how you were
3 working?

4 A Yes, sir.

5 Q Okay. You didn't have a feeling that he was
6 there pressuring you or to see that you were doing a
7 good job or anything like that?

8 A I felt nervous when he come around. But as
9 far as him coming around saying I want you to do that
10 now and I am going to sit here and watch you until you
11 get it done, no.

12 JUDGE FCSTER: That's all the questions I
13 have.

14 JUDGE KELLEY: I don't have any questions.
15 Mr. Guild, do you have any more?

16 MR. GUILD: No.

17 Mr. Carpenter, thank you very much for coming
18 back. I appreciate your second trip.

19 JUDGE KELLEY: Mr. Carpenter, thank you very
20 much. We do appreciate your coming, coming twice in
21 your case. You have been a very straightforward witness
22 I feel and we really appreciate it very much. You are
23 excused.

24 (Witness excused.)

25 JUDGE KELLEY: Off the record.

1 (Discussion off the record.)

AGB#15

2 JUDGE KELLEY: Back on the record.

3 Let me just ask counsel: is the next gentleman
4 ready?

5 MR. GUILD: Yes, we can send for him.

6 JUDGE KELLEY: I wonder if we shouldn't explain
7 and clear the room first.

8 MR. GUILD: Yes.

9 JUDGE KELLEY: Ladies and gentlemen, this
10 gets a little bit awkward but we have a procedure whereby
11 the employee witnesses can have a choice between being
12 public or being in camera as we call it, so since they
13 were initially promised that treatment, until otherwise
14 told, we start out with a closed door. And I am going

15 And I am going to have to ask those in the back
16 who have not signed affidavits of confidentiality -- which
17 I think is probably most of you or several of you -- to
18 go back out in the hall. We are just going to have them
19 close the door until we find out what the next witness
20 wants to do. So if you wouldn't mind.

endAGB#15

IT#16flws

21

22

23

24

25

Evening
T18 MM/mm

1 JUDGE KELLEY: Are you ready, Mr. Guild?
2 MR. GUILD: Yes. Mr. Davison is next.
3 JUDGE KELLEY: I think you know the folks around
4 the table.
5 Whereupon,

6 LARRY DAVISON

7 was recalled as a witness on behalf of the Intervenors,
8 Palmetto Alliance, and having been previously duly sworn,
9 was further examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MR. GUILD:

12 Q First of all, you are the Quality Assurance
13 Manager for the Catawba facility, aren't you?

14 A I am the Project Quality Assurance Manager at
15 Catawba, yes.

16 Q I think the record previously reflects that you
17 have been in that position for some years now and prior to
18 that you were Project QA Engineer at Catawba, principally
19 responsible for the QC inspection function?

20 A Yes. I have had varying positions at Catawba for
21 a long period of time. I was the Senior Quality Control
22 Engineer there. I did leave the plant for about a year
23 and a half to take a position of Projects QA Manager
24 in Charlotte.

25 Then I returned to Catawba in 1982, I believe, as

XXX

mm2

1 Project Quality Assurance Manager.

2 Q And you have been in that position until today?

3 A That's correct.

4 Q Now are you familiar with the results of the
5 investigation conducted by DukePower Company into concerns
6 identified by the Nuclear Regulatory Commission? I am
7 paraphrasing. It is an August 3rd, 1984 document,
8 essentially reflecting an investigation of concerns raised
9 by Welder B and associated issues, including foreman override?

10 A Yes, sir, I am.

11 Q Have you read that report?

12 A Yes, I have.

13 Q Are you familiar with the associated inspection
14 reports and review by the Region II office of the Nuclear
15 Regulatory Commission regarding that investigation?

16 A Yes, I am.

17 Q And the associated Notice of Violation reflecting
18 a violation of Criterion 2, Appendix B to Part 50 10 CFR?

19 A Yes, sir.

20 Q That violation, to paraphrase, Mr. Davison, is
21 in evidence. It reflects that the Quality Assurance Program
22 at Catawba had failed to adequately provide for the review
23 of its adequacy required in Criterion 2, in that the practices
24 reflected in the investigation of the foreman override
25 concerns, practice involving some 12 or 13 supervisors,

mm3

1 including the welding superintendent, the welding general
2 foreman, the welding foreman and another -- a number of other
3 supervisors and other crews and crafts had not been effectively
4 detected and been the subject of corrective action.

5 Are you aware generally of that conclusion by the
6 NRC?

7 MR. MC GARRY: Object to that question.

8 I don't think that question is reflective of the
9 facts in this proceeding.

10 MR. GUILD: I think it is a fair statement, but I
11 will be happy to rephrase the question. I want to move along.

12 BY MR. GUILD:

13 Q Mr. Davison, the testimony of the NRC reflects that
14 they issued a Notice of Violation.

15 Have you read that Notice of Violation?

16 A Yes, I have read the Notice of Violation.

17 Q Your program at Catawba failed to detect those
18 problems, problems associated with 12 or 13 supervisors who
19 were involved in permitting an atmosphere to develop where
20 craftsmen perceived that they were expected to sacrifice
21 quality, quality assurance procedures to make production
22 schedules.

23 My question to you, Mr. Davison, as the Site
24 Quality Assurance Manager, the person responsible for seeing
25 that those kinds of things are identified in a timely fashion

mm4

1 and corrected -- my question for you is, how did that happen,
2 Mr. Davison?

3 What was wrong with the Quality Assurance system
4 at Catawba that allowed those violations to develop?

5 A If you look at the Notice of Violation, I believe
6 it talks about the management review of the processes that
7 are going on. As a matter of fact, I would like to see a
8 copy of the Violation.

9 Q I would be happy to show you one.

10 MR. MC GARRY: I have got one.

11 (Document handed to witness.)

12 BY MR. GUILD:

13 Q Do you have that in front of you now?

14 A Yes, I do.

15 It states in part that the Applicant shall
16 regularly review the status and adequacy of the Quality
17 Assurance Program. And that management of other organizations
18 participating in the Quality Assurance Program shall
19 regularly review the status and adequacy of part of the
20 Quality Assurance Program which they are executing.

21 Now I understand that Violation to mean, of course,
22 the Construction Department at the Catawba site is part of
23 the Quality Assurance Program. The workers at the Catawba
24 site are part of that, and their management and their
25 supervision are part of that. And to have a situation where

mm 5

1 some workers could have felt or perceived pressure from
2 their foremen to violate procedures is the basis of the
3 violation. And that the department responsible for
4 supervision of those workers is the part of the Quality
5 Assurance Program that is involved in this Violation.

6 Q Does that complete your answer?

7 A Yes.

8 Q I want to show you a document, Mr. Davison. I
9 believe you are the author of the document. It is August 2,
10 1984 Memo to File.

11 (Documented shown to witness.)

12 It is some two pages.

13 Can you identify that, sir?

14 A Yes, I can.

15 Q All right. I will share it with you since it is
16 probably the only copy we can get within the next half hour.

17 Now the principal violation -- the principal
18 factual condition that is the base for the NRC Violation
19 involved a welding crew under a foreman named Arlon Moore,
20 who reported to a general foreman named Billy Smith in the
21 Welding Department.

22 Do you understand that?

23 A I understand that to be the case, yes.

24 Q Mr. Moore's crew during the time in question
25 principally worked on the second or back shift, the night

mm6

1 shift at the plant, correct?

2 A I don't have any direct knowledge of that. I
3 understand from what I have heard, that is the case.

4 Q Well, the back shift, as the evidence reflects, is
5 where Mr. Moore's crew worked. And on that shift, principally,
6 there was one quality control inspector who was responsible
7 for performing the entire quality control function on that
8 back shift, Mr. Bill Burr.

9 Mr. Burr was required to perform visual inspections
10 on call, fitup and final visual. And also be required to be
11 the sole inspector who performed all of the random inspections
12 that were to be done on that shift, including inspections to
13 detect violations of, for example, interpass temperature
14 controls.

15 Is that correct?

16 A That's a very long question.

17 No, it is not correct. Mr. Burr was assigned to
18 the second shift, and has been assigned to the second shift
19 for some period of time. There are other inspectors that
20 are periodically assigned to the second shift.

21 To characterize him as the sole inspector on the
22 second shift would not be an accurate statement at all, in
23 my opinion.

24 JUDGE KELLEY: Mr. Guild, I wanted to note that
25 you asked for five minutes. Seven have expired.

mm7

1 We said we would adhere strictly to the initial
2 allegation.

3 MR. GUILD: That's correct.

4 JUDGE KELLEY: Go ahead.

5 BY MR. GUILD:

6 Q Does this memo reflect your view after the results
7 of the investigation were over and your conclusion that there
8 was no necessity for adding any additional QC inspection
9 staff in order to remedy the problems that had gone undetected
10 on the second shift?

11 A I don't agree with the way you phrased the question.
12 Let me give you my answer and see if that answers it.

13 Q Please.

14 A This memo, along with the attached memo which I
15 referenced in my notes --

16 Q Mr. Goodman's memo?

17 A Mr. Goodman's memo.

18 -- represent the work that I did based on
19 Mr. Burr's affidavit and discussions with him, and his
20 discussion about the manning level of inspectors in his time
21 on the second shift. And part of that, of course -- in
22 Mr. Goodman's memo, I asked him to look into that situation,
23 to look into all the factors to see if anything needs to be
24 changed in that area, is there anything that we needed to do.

25 And I believe he describes that in his memo. He

mm8

1 describes what our past practice has been and what currently
2 it is now.

3 Q You made no change in the staffing of the second
4 shift, did you?

5 A Not as a direct result of this Violation or this
6 investigation.

7 Now we did increase some emphasis to the people who
8 were on the second shift about their need to be aware of
9 the performance of what we call random inspections.

10 It is really a situation where we allow the
11 inspector -- and we tell them we want to do this -- to
12 selectively monitor work in any area that he may be involved
13 in. He can do that as he is doing a regular inspection;
14 he maybe can do that on the way to an inspection, on the way
15 back from an inspection. If he has free time, then that
16 certainly is an appropriate way to spend that free time.

17 It is up to his judgment to determine where he may
18 need to do that more. As a matter of fact, the purpose of
19 that inspection is to allow him to establish confidence that
20 the procedures are being carried out and are followed, those
21 points that we may not have 100 percent inspection on.

22 So what we did as a result to this is to emphasize
23 to the people on second shift that that is something they
24 need to consciously think about, be aware of, be satisfied
25 with what they are doing.

mm9

1 JUDGE KELLEY: Thank you. Mr. Guild's time is up./

2 We are going to see if anybody else has questions.

3 MR. GUILD: We ask that this document be identified.

4 It's 2 pages, Mr. Davison has identified the first -- excuse
5 me, it is 3 pages. He identified the first two. The third
6 page is the attachment, Mr. Goodman's memo.

7 We will submit a copy for the record.

8 JUDGE KELLEY: Are you introducing it in evidence?

9 MR. GUILD: Yes, sir.

10 JUDGE KELLEY: Do you have a number?

11 MR. GUILD: Let's assign it a number.

12 JUDGE KELLEY: All right, 151.

13 MR. GUILD: We can makr it as Palmetto 151 and ask
14 that it be received.

15 (The document was marked Palmetto
16 Exhibit No. 151 for identifica-
17 tion.)

18 JUDGE KELLEY: Any objection?

19 (No response)

20 JUDGE KELLEY: It will be marked and received.

21 (Palmetto Exhibit No. 151 was
22 received in evidence.)

23 JUDGE KELLEY: Mr. McGarry, any questions?

24 MR. MC GARRY: One second, your Honor, please.

25 (Counsel for Applicant conferring.)

xxx

xxx

mm10

1 MR. MC GARRY: Your Honor, I guess what is before
2 the house now is whether or not we have any questions for
3 Mr. Davison.

4 JUDGE KELLEY: Yes.

5 MR. MC GARRY: We would like to reserve on the
6 document, because we would like to read it. We don't think
7 we will have any objection to it, whatsoever.

8 JUDGE KELLEY: All right.

9 MR. MC GARRY: I would say this. We have no cross-
10 examination questions for Mr. Davison. We have one rebuttal
11 question, and we can wait until the end. But since he is on
12 it would be very helpful to a question that you asked about
13 five minutes ago, ten minutes ago.

14 JUDGE KELLEY: It would just be out of order, is
15 that the point?

16 MR. MC GARRY: That's right.

17 JUDGE KELLEY: Is there something you wish to do now?
18 Do you have any problem with that?

19 MR. GUILD: I don't have any problem doing that,
20 as long as I have an opportunity to conduct a rebuttal
21 examination of the witness as well.

22 JUDGE KELLEY: On that question, if it relates to
23 the same point, is that what you mean?

24 MR. GUILD: Yes.

25 JUDGE KELLEY: Do you want to do it now, Mr. McGarry?

mm11

MR. MC GARRY: Yes.

2

REBUTTAL DIRECT EXAMINATION

XXX

3

BY MR. MC GARRY:

4

Q Mr. Davison, a previous witness mentioned the following factual situation:

5

6

7

8

9

10

He was a welder and his foreman came up to him with what appeared to be an NCI resolution package and told him to go to an out-of-the-way location for a weld which had a red tag on it, where it was located, and told him to remove the red tag.

11

Was there anything improper with that action?

12

13

14

A Not necessarily. The NCI form has a place to indicate who's assigned that action. If he'd been assigned that action, that's a proper thing for him to do.

15

16

Q In other words, the NCI has a provision that craft could remove a red tag?

17

A Yes, that's not an uncommon situation.

18

MR. MC GARRY: Thank you.

19

JUDGE KELLEY: Anything, Mr. Guild, further on that?

20

REBUTTAL CROSS-EXAMINATION

XXX

21

BY MR. GUILD:

22

23

24

25

Q If that craftsman were not the designated person who was responsible for clearing the NCI and his foreman told him to clear the NCI, to remove the red tag and put it in his pocket, that would be a violation of the QA procedure,

mm12

1 wouldn't it, Mr. Davison?

2 A If the action had not been assigned to that area or
3 that crew, yes it could be improper. But, if it has been
4 assigned to that area or that crew, that general foreman,
5 that foreman, then that would not be improper.

6 Q Are you saying that it has to be assigned to that
7 general foreman and anybody under -- 100 welders under that
8 general foreman --

9 A For example, it may say for the craft, that action
10 be assigned assigned to the craft. Then in that it wouldn't
11 necessarily be improper for any craftsman to remove it.

12 It may be assigned to a particular crew or a
13 particular craft to remove it, in which case then that craft
14 is the party that should do it.

15 MR. GUILD: Okay.

16 MR. JOHNSON: I have one followup question on that.

XXX

17 BY MR. JOHNSON:

18 Q Before the NCI form, the question would go back to
19 the vault, the QA vault, would it be reviewed in a final manner,
20 some kind of final QA checkoff or approval subsequent to
21 the time that it would be signed by the person who is
22 removing the red tag?

23 A Yes, it would.

24 MR. JOHNSON: Thank you.

25 JUDGE KELLEY: Do you have any cross apart from

mm13

1 rebuttal?

2 MR. JOHNSON: No cross examination, thank you.

3 JUDGE PURDOM: No questions.

4 JUDGE FOSTER: No questions.

5 JUDGE KELLEY: Mr. Davison, thank you very much
6 for coming back.

7 (Witness excused.)

8 JUDGE KELLEY: Any objection to that exhibit?

9 MR. CARR: No, sir.

10 Was it both memos?

11 MR. GUILD: Yes.

12 JUDGE KELLEY: Fine.

13 MR. GUILD: Mr. Chairman, now is the time?

14 JUDGE KELLEY: Yes.

15 MR. GUILD: We call Howard Samuel Nunn to the stand,
16 please.17 MR. MC GARRY: Your Honor, we would object to the
18 calling of Mr. Nunn for several reasons.

19 JUDGE KELLEY: Mr. McGarry has an objection. Okay

20 MR. MC GARRY: Yes. On three grounds.

21 The most important ground is, Mr. Nunn appeared
22 before in this case. He was given an opportunity to share all
23 his concerns. Last November when we took his testimony in
24 the special procedure that the Board had set up, I specifically
25 asked him the question: We wanted to make sure we have all

mml4

1 of your concerns -- this was on page 208, I believe, of the
2 in-camera transcript.

3 And it was indicated then that we had all of
4 Mr. Nunn's concerns except for an affidavit that Ms. Garde
5 was working on. Then we got into a big discussion about
6 when that affidavit would come in. It eventually came in.
7 So, all of Mr. Nunn's concerns were given to this Board in that
8 transcript, in that affidavit.

9 We subsequently closely scrutinized each one of
10 those concerns, made arguments whether they should be in or
11 out, and this Board took the appropriate action.

12 We have heard from Mr. Nunn. We addressed numerous
13 concerns of Mr. Nunn's.

14 Therefore, we think it is inappropriate for this
15 gentleman to retake the stand to now share further concerns.

16 A related point. This Board has already ruled that
17 -- made a ruling at one point in time, that two QA inspectors
18 need not come to this proceeding because you had heard from
19 them, and why do we have to further prolong the process and
20 further burden the record.

21 Lastly, if we look at Mr. Nunn's proposed testimony,
22 what I suspect it would be, it is the affidavit that was
23 submitted in this proceeding several weeks ago.

24 What Mr. Nunn has done is said, he has just made
25 up an index, a laundry list of the concerns that were raised

mm15

1 in that report and the affidavits and said, "me too, me too,
2 me too." If that isn't classic cumulative testimony, I don't
3 know what it is.

4 The hour is late, I think the Board should say,
5 "Thank you, Mr. Nunn, we don't need to hear from you,"
6 adjourn and come back for rebuttal.

7 JUDGE KELLEY: Mr. Johnson?

8 MR. JOHNSON: One second, please.

9 (Staff counsel conferring.)

10 I think we would join the Applicant in their
11 position about the testimony of Mr. Nunn, based on the
12 affidavit that was submitted that he signed, that had been
13 submitted on September 17th by Palmetto Alliance regarding
14 further proceeding in this case, in that Mr. Nunn's affidavit
15 does not contain anything new, specifically concerning foreman
16 override.

17 Secondly, as everybody knows, he was the originator
18 of the foreman override issue way back last fall, and he
19 gave his concerns, as Mr. McGarry said. He stated, we
20 think fairly clearly, that he gave us all his concerns. And
21 I think we don't have to hear from him.

22 JUDGE KELLEY: Mr. Guild?

23 MR. GUILD: Mr. Chairman, I rather astounded, to tell
24 you the truth. We have heard from many people on many
25 different subjects. I would think that the licensing process

mm16

1 would roll out the red carpet for Howard Samuel Nunn. At this
2 point, even Duke Power Company would be a little bit ashamed
3 of the prospect of, after the last months' worth of work on
4 an issue, that their own Quality Assurance Program didn't
5 identify, it had to be brought to their attention by their
6 own former employee, that they wouldn't at least have the
7 courtesy to hear Mr. Nunn on this subject at this time.

8 It seems to me that the notion that it is inappropriate
9 because he has previously testified has no basis in law or
10 logic. If a man has relevant evidence to offer, the fact
11 that he has been a previous witness is no bar to that. The
12 panel of 15 that was sitting across the room the other day
13 included a large number of people we had already heard from
14 on a variety of subjects that obviously relate to the issue at
15 hand; that is the safe operation of the Catawba facility,
16 specifically foreman override.

17 We think that the canard that any facts that support
18 our concerns about the extensiveness of foreman override would
19 be cumulative and therefore not properly considered, simply
20 turns the burden that has been cast in front of us on its
21 head. The burden in our lap is to show that the pattern is
22 pervasive and to show that Duke's and the Staff's conclusion
23 to the contrary are unsupported. That their view that it is
24 a narrow and isolated incident just doesn't square with
25 reality.

mm17 1

2 Mr. Nunn's knowledge and testimony is offered to
3 support our position that the Applicant and Staff investigations
4 are inadequate, and don't stand for the proposition advanced.

5 As to the last point I heard Mr. McGarry make, and
6 that was that his concerns ticked off a laundry list, he,
7 indeed in his affidavit, states his basis for -- on the face
8 of the August 3rd report -- finding serious question with his
9 validity.

10 I think the record right now reflects that his
11 judgment, based on reading that reading that report, squaring
12 with his personal knowledge, is very well founded. That report
13 certainly is judgmental, that report certainly fails to
14 square with even the evidence that it discloses.

15 Our time is short, the scope of his examination
16 has already been limited to ten minutes. In that period of
17 time, this party is charged with focusing Mr. Nunn's testimony
18 as best we can. So it is hardly a threat that Mr. Nunn is
19 going to go ranging over the landscape in a way that
20 burdens the record.

21 I think the Board should, with all due respect, be
22 anxious to hear what Sam Nunn has to say on the subject.

23 JUDGE KELLEY: I think you answered the objection
24 that Mr. Nunn was asked to point out all his concerns in full,
25 and said he did.

MR. GUILD: He raised a concern about foreman

mml8

1 override.

2 JUDGE KELLEY: Yes, he did.

3 MR. GUILD: The Staff ignored it.

4 MR. JOHNSON: I take exception to that statement.
5 We certainly didn't ignore.

6 MR. GUILD: The Staff ignored it. Staff waved its
7 hands on the issue.

8 JUDGE KELLEY: How about my question, Mr. Guild.
9 The man said last fall, that's all I've got, folks. Now you
10 are back here and he's got some new stuff.

11 MR. GUILD: No, sir.

12 JUDGE KELLEY: I hope it is new.

13 MR. GUILD: Facts, Judge. It is facts.

14 JUDGE KELLEY: Why weren't the facts put out on
15 the table last fall when we asked about them?

16 MR. GUILD: Judge, why weren't the facts put out
17 on the table by Mr. Grier last fall? Why weren't the facts
18 put out on the table by Llewellyn, last fall?

19 JUDGE KELLEY: Please answer my question, Mr. Guild.
20 Have you got an answer for us?

21 MR. GUILD: Yes. The man has facts -- he
22 answered questions --

23 JUDGE KELLEY: They are new concerns.

24 MR. GUILD: No, they are not concerns, Judge, they
25 are facts. They are facts that bear on the decision that you

mml9

1 are to reach on the basis of foreman override at Catawba.
2 Those facts are reflected in the form that they are now before
3 the house in an affidavit. You know what they are, it is
4 in front of you, it was in front of McGarry, it was in front
5 of Mr. Johnson. They know what it says.

6 In addition, there is a specific focus, a narrow
7 question that we put to -- based on questioning of the NRC
8 Staff, it focuses on the adequacy or inadequacy of the NRC
9 Staff's investigation of this matter. Those are facts that
10 postdate his testimony from last fall, since they bear on
11 whether the Staff did an adequate job of following the leads
12 and using Mr. Nunn's information.

13 JUDGE KELLEY: Okay, we will consider this.

14 (Board conferring)

15 The Board thinks there is some merit to some of
16 the objections that have been made. Nevertheless, we do
17 appreciate Mr. Nunn's coming forward in the first place.
18 He has been helpful to us. We did say we would allot ten
19 minutes for this purpose, and that is what we are going to
20 do.

21 So, we will proceed on that basis.

22 We are expecting, however, for you to keep it to
23 ten minutes. If you have more after that it is going to be
24 after eight when we get out to eat supper as it is.

25 MR. GUILD: Yes, sir, I understand that.

mm20

1 Whereupon,

2 HOWARD SAMUEL NUNN, JR.

3 was recalled as a witness on behalf of the Intervenors,
4 Palmetto Alliance, and having been previously duly sworn,
5 was further examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MR. GUILD:

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

10 A Howard Samuel Nunn, Jr.

11 MR. GUILD: Mr. Nunn has been previously sworn,
12 Mr. Chairman.

13 JUDGE KELLEY: Correct.

14 BY MR. GUILD:

15 Q Mr. Nunn, you were formely employed as a welder at
16 the Catawba Nuclear Station?

17 A That's correct.

18 Q And what do you do now for work, sir?

19 A I am a nuclear power welder.

20 Q All right, sir.

21 Now you have been present during the testimony, almost
22 all of it during the last several days since the Board has
23 conducted these reopened hearings, have you not?

24 A I have.

25 Q And you have, I believe, reviewed the Duke Power

nm21

1 Company August 3, 1984 report of their investigation of the
2 issue of foreman override, have you not?

3 A Yes, sir, I have.

4 Q And as a signatory to an Affidavit of Confidentiality
5 under the protective order, you have reviewed the affidavits
6 of some 217-plus Catawba employees who were interviewed as a
7 result of the Duke investigation, haven't you?

8 A I have.

9 Q All right, sir.

10 Now I want to ask in a moment for you to express
11 an opinion on that basis, but ask a narrower fact question
12 first.

13 Do you know a man named Mike McKelvey?

14 A Yes, sir, I do.

15 Q Could you identify Mr. McKelvey for us, please?

16 A Mr. McKelvey was a welder on Arlon Moore's crew,
17 when I was also a welder on Arlon Moore's crew.

18 Q Have you had occasion to have a conversation with
19 Mr. McKelvey on your present job?

20 A Yes, sir, I have.

21 Q And what did Mr. McKelvey have to say to you?

22 A Mr. Guild, there were actually three conversations.
23 Do you want me to --

24 Q Why don't you -- I want you to relate the conversations
25 that bear on the subject that this Board has under consideration,

mm22

1 please.

2 A Mr. McKelvey approached me in my second week --

3 MR. MC GARRY: I guess we will note an objection.
4 Hearsay is the basis for our objection.

5 I know that the administrative process recognizes
6 some forms of hearsay, but this is clearly, I think, the type
7 of hearsay that the administrative process doesn't recognize.
8 So, we object to it on that grounds.

9 JUDGE KELLEY: Mr. Guild?

10 MR. GUILD: Mr. Chairman, we think first the facts
11 that are communicated are communicated recognizing that they
12 are, in fact, hearsay as defined. They come from a person
13 who is not physically present, offering testimony. They are
14 what someone else has heard.

15 They are important because they bear on the facts
16 that are at issue in the foreman override investigation as
17 substantive evidence.

18 The Board should weigh the probative value of
19 that evidence given the source and the chain of its
20 transmission. I think the Board is capable of doing that.

21 But in addition, the evidence is offered beyond
22 the purpose of proving the truthfulness of its content,
23 because the subsequent question will focus on Mr. Nunn's
24 communication of that information to the Nuclear Regulatory
25 Commission.

mm23

1 So, I would submit that both as substantive
2 evidence, even in light of even considering its source,
3 but also for purposes of evidence to show the scope of
4 information in the possessions of the Nuclear Regulatory
5 Commission, and thereby the inadequacy of the NRC Staff's
6 investigation of the issue.

7 It is appropriate to be considered.

8 (Board conferring)

9 JUDGE KELLEY: We are going to overrule the hearsay
10 objection.

11 It is hearsay, as Mr. Guild pointed out, but for
12 the purpose of who said what, other than the truth of the
13 matter, it gets before us. Beyond that, as we said, we have
14 a great big stack of affidavits in this case. They are all
15 hearsay. They are all in the case to prove the facts asserted
16 therein. We let them in in part because we are concerned about
17 whether or not there is a pattern or widespread pattern in
18 this case of so-called foreman override.

19 Any one single incident is not all that crucial is
20 the way we see it. Therefore, we are going to allow it.

21 Go ahead.

22 BY MR. GUILD:

23 Q The question that was pending, Mr. Nunn was, had
24 you had a conversation?

25 You said you had.

mm24

1 I asked you to relate the conversation as it bears
2 on the issue of foreman override.

3 A Yes, sir.

4 Mr. McKelvey approached me on either March 2nd or
5 March 9th, which was a Friday -- both these days were Fridays.
6 I was in the test shop at my new job location. Mr. McKelvey
7 told me that he had been subpoenaed to the NRC Office -- his
8 word was subpoenaed -- there on the job site by Mr. Bruno Uryc.

9 I asked him to disclose to me what had gone on, or
10 what had been said, what had been asked of him. This had
11 to do with the Welder B issue. Mr. McKelvey confessed to me
12 that he had been the person on Arlon Moore's crew who had
13 made more illegal repairs than anyone else. I think
14 Mr. McKelvey's name has been referred to today several times
15 by other witnesses in their affidavits.

16 What was very interesting to me was that he brought
17 up an offer of cash money out of pocket from Mr. Billy Smith
18 to make a particular repair one night, which he said he passed
19 this information along to Mr. Uryc. In fact, all of this
20 information that I am giving you, he told me he told Mr. Uryc.

21 He said that his brother in law and individual
22 number 167 that we have had, painted Mr. Bill Rogers --
23 who is the welding superintendent's -- car. And the favoritism
24 that was given to him for doing this was not to put him on
25 night shift when his turn came around.

m25

1 There were just many incidents there of illegal
2 repairs being made, that supposedly Mr. McKelvey reported to
3 Mr. Uryc.

4 Q Mr. Nunn, what is an illegal repair? How do you
5 understand that term? Help the Board by telling them what it
6 is.

7 A Mr. McKelvey told me of so many different kinds, I
8 just can't pin it down. As best I could gather, this would
9 be a weld that noticeably would not shoot, and that anybody
10 with knowledge of welds would note that this weld would not
11 shoot, even though a welder had maybe finished it on the
12 day shift.

13 So, Mr. McKelvey was encroached upon by Mr. Smith
14 and by Mr. Moore to, that night, without anyone's knowledge,
15 to go ahead and examine this weld, cut out parts of it,
16 redo them before the X-ray Department got to them, without
17 putting his stencil number on it, without entering any filler
18 material.

19 This is all very illegal.

20 Q Mr. McKelvey related to you that he had met with
21 Mr. Uryc of the NRC Staff and that he had communicated this
22 information to Mr. Uryc, correct?

23 A Yes, sir, that's right.

24 Q Did he relate that he met with Mr. Uryc on more
25 than one occasion?

mm29

1 A Yes, sir. He came back to me -- I am going to put
2 it in the timeframe of mid to late April. At this time I had
3 already passed my test down there and was in the pipe fab
4 shop. He walked up to me, started smiling. I said, Mike,
5 have you seen our friend lately?

6 He said, yes, as a matter of fact, I am supposed to
7 meet with him tonight.

8 I said, just you and he?

9 He said, no, he, another NRC official and some --
10 I believe he said five to seven members of Duke Power
11 officialdom.

end T18 12

13

14

15

16

17

18

19

20

21

22

23

24

25

agb/agbl

1 I inquired as to what the meeting was
2 to be about. He said Duke wants to rehire me as a
3 welding engineer. I said To do what? He said To
4 write some procedures to cover the illegal repairs
5 that I made when I was on Arlon Moore's crew. I
6 found this pretty incredible to believe.

7 Q Mr. Nunn, did you communicate that information
8 to Mr. Uryc?

9 A Yes, sir, I did.

10 This was addressed in my affidavit on page
11 nine: "On or about June 24th I called Bruno Uryc..., "
12 et cetera, et cetera.

13 Q And what did you say to Mr. Uryc?

14 A I said Bruno, I know about the interview
15 with McKelvey, I am going to lay all the cards on the
16 table and I don't want to play any more games. And
17 when I mentioned here that Mr. Uryc would not give me
18 a straight answer, he would neither deny or confirm
19 that he had talked to Mr. McKelvey.

20 Q All right.

21 Let's turn from that subject -- Your time is
22 limited, Mr. Nunn, so we are going to have to move to
23 the bottom line.

24 You have reviewed the documents that have
25 been made available to Palmetto Alliance by Duke Power

1 Company and NRC Staff, and the record reflects that you
2 for a time worked for Arlon Moore, correct?

3 A. Yes, I did.

4 Q. And I think the record reflects that you have
5 expressed the opinion that you thought Arlon Moore was
6 a good supervisor during the time that you were under
7 him, correct?

8 A. Yes, sir, I did.

9 Q. And that time was a time when he was not
10 supervised himself by Billy Smith, the general foreman?

11 A. Right when I first came on his crew, which
12 was about Christmas, Mr. Smith would still have been his
13 supervisor, but shortly thereafter in January Mr. J.R.
14 Wilson became his supervisor.

15 Q. Now you had an opportunity to work for other
16 foremen under Billy Smith?

17 A. Yes, I did.

18 Q. And which foremen were those, please? Would
19 you identify them?

20 A. Larry Rudisill was under Mr. Smith, Bobby
21 Hoyle was under Mr. Smith, Henry Best was under
22 Mr. Smith, of course Arlon Moore and -- I can cut it
23 off there.

24 Q. And did you observe those other foreman
25 influenced by pressure on the part of Billy Smith?

1 A. Yes, I certainly did.

2 Q. Now Duke Power Company and the NRC Staff
3 reached a conclusion, Mr. Nunn, and I will paraphrase
4 it this way:

5 Their conclusion, as a result of the investi-
6 gation they conducted was that foreman override -- or
7 the practices we have come to understand as foreman
8 override, were limited to a single welding crew under
9 Arlon Moore and a single general foreman under Billy
10 Smith.

11 Now have you had an opportunity based on
12 the information available to you, from your knowledge,
13 having worked for those two individuals, to form an
14 opinion as to whether or not that conclusion is a
15 valid one?

16 A. I would say it is invalid.

17 Q. Would you please provide the Board and the
18 parties an explanation of the basis for that conclusion,
19 please?

20 A. I think much of this has already been covered,
21 your Honors, in testimony -- not mine -- that has been
22 given this week:

23 The barking and howling that went on with
24 Mr. Smith; this didn't happen on night shift, this
25 happened on day shift.

1 I may or may not have testified to this before
2 but there was a complete sit-down one morning by all of
3 Mr. Smith's crews and their members because Mr. Smith
4 had demanded that we have rods and be at our work area
5 by the time that the whistle blew. And it just boiled
6 down to a point of a complete sit-down one morning.

7 Now I can't resolve the connection between
8 Mr. W.E. Rogers, the welding superintendent, and Mr. Smith
9 saying that Mr. Rogers did not know what was going on
10 because Mr. Rogers himself was out there that morning
11 pacing up and down just like Mr. Smith was, like they
12 would just love to fire us but really there was nothing
13 they could do until 7:30, until 7:30 that was our time.

14 It seemed to me that almost all of the crews
15 under Billy Smith, there was some sort of pressure
16 applied to the foremen that would cause the foremen
17 perhaps to turn around and apply pressure to all the
18 workers to complete schedules ahead of time and to cut
19 corners --

20 JUDGE KELLEY: Maybe I could just ask you,
21 Mr. Nunn: Can you relate a specific instance of foreman
22 override -- we have heard some in the course of testimony
23 and you have been here I think all along -- involving a
24 foreman other than Arlon Moore?

25 THE WITNESS: One that you have already ruled

1 did not have any significance --

2 JUDGE KELLEY: I mean something new, something
3 we haven't heard?

4 THE WITNESS: No, I really haven't heard of
5 anything new, any specific incident, no, sir. I'm sorry.

6 BY MR. GUILD:

7 Q Is it your opinion, Mr. Nunn, based on the
8 evidence that you have seen that foreman override, as
9 you have experienced it under I believe Larry Rudisill
10 -- that was your testimony earlier, correct?

11 A That's right.

12 Q -- and other foreman that you have worked
13 for as well?

14 A Henry Best.

15 Q -- and Henry Best and the evidence we have
16 seen of Mr. Moore, of course; on that basis, is it your
17 opinion that foreman override extended beyond Mr. Moore's
18 crew to other welding crews and beyond other welding
19 crews into other crafts at the Catawba site?

20 A In answer to "beyond Mr. Moore's welding crew,"
21 absolutely. I would say that any crew that has ever
22 worked under Billy Smith was subjected to some sort of
23 pressure.

24 Now some foremen would not succumb to this
25 pressure. There were some foremen that could not be bent --

1 and I call these the good guys; there were very few of
2 those.

3 The others that I observed did in fact apply
4 pressure -- it was mentioned earlier today by one of our
5 witnesses that a particular foreman just seemed to run
6 'round and 'round when Mr. Smith would get on his back.

7 This happened to be -- I believe I can mention
8 his name -- Mr. Tim Hollingsworth. He happened to be the
9 foreman who forced Mr. Buck Henry to -- as it was related
10 to me -- to use the wrong size welding rod. And of course
11 that is already part of your partial initial decision.

12 JUDGE KELLEY: Thank you, Mr. Nunn. The
13 time has expired, Mr. Guild.

14 BY MR. GUILD:

15 Q Mr. Nunn --

16 JUDGE KELLEY: The time has expired, Mr. Guild.

17 Let's move on to the rest of the questions. We said we
18 would stick to the limit and we intend to.

19 Mr. McGarry?

20 MR. MC GARRY: No questions.

21 JUDGE KELLEY: Mr. Johnson?

22 MR. JOHNSON: No questions.

23 JUDGE KELLEY: Judge Purdom?

24 JUDGE PURDOM: No questions.

25 JUDGE KELLEY: Judge Foster?

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

JUDGE FOSTER: No questions.

JUDGE KELLEY: Thank you, Mr. Nunn.

THE WITNESS: Thank you very much.

(The witness excused.)

JUDGE KELLEY: We will now take a break until
9:00, I guess. It is five of 8:00.

(Whereupon, at 7:55 p.m., the hearing in the
above-entitled matter was recessed, to reconvene at 9:00
p.m., this same day.)

endAGB#19

agb/agbl

1 EVENING SESSION

2 (9:12 p.m.)

3 JUDGE KELLEY: We will go back on the record.

4 We are back now for this evening session. The
5 hour obviously is late, I think all the participants are
6 tired and the reporters have had much worse hours than we
7 have in the past few days, they are all extremely tired,
8 they are ready to go to sleep. They haven't had enough
9 people here, which is unfortunate, but they have stuck
10 with us.

11 This is all to say we would like to get to the
12 business at hand and finish it up as soon as we can. The
13 Board is aware of one rebuttal witness put forward by
14 the Applicants. We are not aware of other rebuttal
15 cases.

16 Mr. McGarry?

17 MR. MC GARRY: Yes, your Honor. We have two
18 rebuttal witnesses: the first rebuttal witness would be
19 Mr. Leroy Bolin, who was have one question for, and,
20 Dr, John Hunter.

21 JUDGE KELLEY: Does Staff have rebuttal?

22 MR. JOHNSON: No, sir.

23 JUDGE KELLEY: Mr. Guild?

24 MR. GUILD: We object to the testimony of
25 Dr. Hunter; I don't know what Mr. Bolin's rebuttal

1 testimony consists of.

2 But we object to the testimony of Dr. Hunter.
3 We have been given it some time late this afternoon. I
4 have only had the dinner hour to wolf down a meal and
5 briefly skim Dr. Hunter's testimony. It is fundamentally
6 unfair to put this party to the task of dealing with a
7 witness whose testimony is presented in such a late
8 fashion.

9 We would note -- You have already heard our
10 argument with respect to the tardiness of the identification
11 of the testimony and the record should reflect that this
12 counsel has been engaged in an actual hearing up until
13 the dinner recess and had only the dinner recess to
14 review the testimony.

15 As previously noted, our expert, Dr. Michalowski
16 had a prior professional engagement that prevented his
17 attendance. We are unable to fairly join the testimony
18 that is proposed to be presented.

19 Again, we ask that we be given sufficient
20 opportunity to prepare and have an expert available to
21 assist in examination of the proposed expert testimony
22 of the Applicants and, further, that we be given an
23 opportunity to present surrebuttal testimony from
24 Dr. Michalowski or another expert with respect to this
25 subject.

agb/agb3

1 JUDGE KELLEY: Mr. Johnson, any further comment?

2 MR. JOHNSON: I think I expressed myself earlier.

3 JUDGE KELLEY: All right.

4 MR. JOHNSON: I have only one thing and that is
5 in the ordinary course of events rebuttal testimony is
6 ordinarily I think not prepared in advance and the fact
7 that it is true, obviously, Mr. Guild got it with a
8 minimal time to prepare; however, he has an advantage of
9 some sort, it seems to me, to know in advance what the
10 rebuttal testimony would be. But I would concede that
11 he is operating under some disadvantage.

12 MR. GUILD: Mr. Chairman, the NRC would scream
13 if they were forced to put up a response to expert
14 testimony -- or any testimony from another party, as
15 they have in the past in this proceeding. It is
16 totally unfair that the Intervenors are only burdened
17 by such a practice.

18 JUDGE KELLEY: We did have argument on the
19 table on this point to some extent. I think I suggested
20 we might defer -- this is a recollection but I am
21 trying to remember it, and my recollection is that I
22 could envision an objection perhaps if the witness went
23 outside the scope of what Dr. Michalowski covered. But
24 of course we don't know that until he takes the stand or
25 until at least we have gone over the testimony. So that

agb/agb4

1 was what I had in mind in terms of deferral.

2 In terms of the kind of notice that you had,
3 the general arguments we have already heard, I think we
4 heard this morning, and we did rule that we would
5 hear it over your objection. So I think at this point
6 we should proceed.

7 MR. MC GARRY: Thank you.

8 We would call Mr. Bolin for the one question
9 first.

10 JUDGE KELLEY: All right.

11 MR. MC GARRY: Mr. Bolin has previously been
12 sworn, he was on the first Applicants' panel.

13 JUDGE KELLEY: Right.

14 Whereupon,

15 LEROY BOLIN

16 was recalled as a witness and, having been previously duly
17 sworn, was examined and testified further as follows.

INDEXXX

18 DIRECT EXAMINATION

19 BY MR. MC GARRY:

20 Q Mr. Bolin, you were in the room, were you not,
21 when (NAME DELETED; Individual 31) testified?

22 A Yes, sir.

23 Q Did you hear (NAME DELETED; Individual 31) say
24 that when you interviewed him you told him that you
25 didn't want to hear anything about harassment?

1 A. Yes, sir.

2 Q. Is that a true statement?

3 A. No, sir.

4 MR. MC GARRY: No further questions.

5 JUDGE KELLEY: Questions, Mr. Guild?

6 CROSS-EXAMINATION

7 BY MR. GUILD:

8 Q. Mr. Bolin, what was said by you --

9 (Counsel conferring.)

10 MR. GUILD: I have been informed that the name
11 of the individual that was put to the witness was
12 inappropriately the subject of an open session of the
13 hearing. Counsel for the Applicant revealed a confidence
14 on the open record.

15 JUDGE KELLEY: Are you saying we need to close?

16 MR. GUILD: I am saying you need to close the
17 record and --

18 MR. MC GARRY: I would like the record to be
19 expunged, that portion, and put a number.

20 JUDGE KELLEY: If we substitute a number, can
21 we --

22 MR. MC GARRY: I apologize to the record and
23 to the Board.

24 It would be Individual 31.

25 BY MR. GUILD:

1 Q Mr. Bolin, did the gentleman in question -- in
2 the interview you conducted with this individual, did the
3 subject of harassment arise?

4 A No, sir, it did not.

5 Q By a word or by words to that effect?

6 A No, sir.

7 Q You didn't raise the subject?

8 A No, sir.

9 Q Did you make the comment attributed to you
10 about Duke Power Company -- the hour is late, Mr. Bolin,
11 you heard the testimony -- the characterization of the
12 company --

13 MR. MC GARRY: I will object to the question as
14 beyond the scope.

15 JUDGE KELLEY: It appears to be. Mr. Guild.

16 MR. GUILD: Mr. Chairman, I simply don't
17 think I should be forced to take the witness' first
18 statement at face value. It seems to me I should have
19 some opportunity to probe the witness' testimony.

20 JUDGE KELLEY: Just sort of in general or --
21 Mr. McGarry asked a rather specific point.

22 MR. GUILD: Yes and I am trying to reach that
23 point.

24 JUDGE KELLEY: Why don't you stick to the
25 point?

1 MR. GUILD: Generally speaking, a hostile
2 witness is the subject of some level of questions that
3 are not simply conclusory in nature --

4 JUDGE KELLEY: I am sustaining the objection
5 because it has got nothing to do with Mr. McGarry's
6 questioning before the house on rebuttal.

7 BY MR. GUILD:

8 Q Were there any concerns or statements made by
9 the individual in question, Mr. Bolin, that are not
10 included in your version of this affidavit?

11 A The concerns that he expressed is included in
12 the affidavit.

13 Q That is not my question, sir.

14 Were there any statements made by the individual
15 that are not included in this affidavit?

16 A No, sir.

17 Q You have everything he said to you stated in
18 that affidavit?

19 A Yes, sir.

20 Q Did he communicate to you that he had things
21 he wanted you to hear that you were not listening to?

22 A No, sir, he did not.

23 MR. GUILD: That's all.

24 JUDGE KELLY: Thank you.

25 Mr. Johnson?

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

MR. JOHNSON: No questions.

JUDGE KELLEY: Okay.

You are excused, sir. Thank you.

(The witness excused.)

MR. CARR: Your Honor, at this time I call

to the stand Dr. Johnny Hunter and ask that he be sworn.

endAGB#20
MM#21flws

T21 MM/mm 1

JUDGE KELLEY: Dr. Hunter, good evening.

2 Whereupon,

3 DR. JOHN E. HUNTER

4 was called as a witness on behalf of Applicnts, and having
5 been first duly sworn, was examined and testified as follows:6 MR. CARR: Your Honor, Dr. Hunter's testimony
7 was distributed earlier today. Last night we distributed his
8 Vitae, which is a document of 41 pages. And this evening,
9 before we went to dinner, I put on the desk of the Parties,
10 just the three-page resume which goes to the other document.11 And I have given three copies of all those documents
12 to the reporter.

13 DIRECT EXAMINATION

XXX

14 BY MR. CARR:

15 Q Dr. Hunter, let me ask you, sir, do you have a
16 document before you entitled "Testimony of Dr. John E. Hunter,"
17 which is ten pages in length, with Exhibit 1 attached to it?

18 A Yes.

19 Q And do you have a document three pages in length
20 entitled, "Resume of John E. Hunter," also?

21 A Yes.

22 Q And Vitae, 41 pages in length with your name in the
23 upper left-hand corner?

24 A Yes.

25 Q Dr. Hunter, were those documents prepared by you

mm2

1 or under your supervision?

2 A Yes.

3 Q Do you have any additions or corrections you would
4 like to make to your testimony at this time?

5 A Are those typographical errors supposed to be
6 corrected now?

7 Q Yes.

8 JUDGE KELLEY: I think the obvious typos we can
9 pass. If it is really confusing, go ahead.

10 MR. CARR: There is one deletion and one addition.

11 BY MR. CARR:

12 Q Turn to page 3 and give us that correction there,
13 please.

14 A In the middle of the page, the answer that starts,
15 "No, there are hundreds." On the fourth line down, after the
16 word "specific," "multiple" should not have appeared.

17 And the next line, the word "no" should have had
18 quotes on it.

19 Q All right. So strike "multiple" from that sentence,
20 is that correct? Strike the word "multiple"?

21 A Right.

22 And then page 4, right in the top answer, the
23 fourth line that starts "and investigation." Immediately
24 after "and investigation" I would like to insert the words,
25 "as Duke did."

mm3

1 JUDGE FOSTER: I'm sorry, what page is this?

2 THE WITNESS: Page 4.

3 JUDGE FOSTER: And where?

4 THE WITNESS: The answer at the top of the page,
5 fourth line down. The line starts "and investigation." And
6 I would like to insert the words "as Duke did."

7 BY MR. CARR:

8 Q And Dr. Hunter, if you look on page 2, the second
9 answer from the bottom includes the handwritten sentence,
10 "the essential questions asked were all clear."

11 That is part of your testimony?

12 A That's correct. That was in the original. The
13 typist missed it.

14 Q Does this document reflect your true and correct
15 testimony?

16 A Yes.

17 Q And do you adopt that testimony as your testimony
18 in this proceeding?

19 A Yes.

20 MR CARR: Your Honor, at this time I would ask that
21 the documents referenced, the testimony, the resume and
22 the vitae be marked as Applicant's Exhibit No. 120 and
23 received into evidence.

24 (The document was marked
25 Applicant's Exhibit No. 120
for identification.)

mm4

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

MR. GUILD: Your Honor, we have the first voir dire we would like to put to the witness.

JUDGE KELLEY: Let's mark it and have a number on it, then we can go to voir dire.

MR. CARR: I have a couple of questions which may eliminate the voir dire, but if you want to do it first, let's go ahead.

MR. GUILD: If Mr. Carr has some, I will defer to him.

JUDGE KELLEY: Okay.

BY MR. CARR:

Q Dr. Hunter, would you please explain to the Board your basic background and qualifications to present the testimony that we are discussing here this evening, both educational and professional background.

A Yes. I am a mathematical psychologist, and my major in graduate school was measurement, which included designing all sorts of psychological instruments and in subsequent years I have not only designed hundreds of other kind of instruments, but I have been involved in perhaps a dozen instruments of the kind that were used in this case.

Also, with respect to statistics, I was a math major as an undergraduate with a very strong math-- strong enough math minor in graduate school that I was an adjunct professor in mathematics at Michigan State University for

mm5

1 many years.

2 And have published in a number of statistics
3 journals.

4 Q You used the term "instrument." Could you explain
5 that to the Board, please?

6 A Instrument is a kind of general term to cover things
7 like tests, questionnaires, as well as things like job sample
8 tests and all various different kinds of procedures there are
9 for making measurements in a psychological context.

10 Q And what particular discipline did you apply to
11 review the Duke Report and Dr. Michalowski's testimony in
12 this proceeding?

13 A Well, the single discipline closest would be
14 psychometrics.

15 Q Could you just outline for us briefly, Dr. Hunter,
16 the materials that you reviewed both to assess the Duke
17 Report and Dr. Michalowski's testimony?

18 A Yes. I read a letter dated March 16, 1984 from
19 Warren Owens to R. L. Dick.

20 I read a note entitled, -- by A. R. Hans, entitled
21 "Approach to Investigating the NRC Production Versus Quality
22 Concerns" dated March 18, 1984, which had four attachments.

23 The overview of the investigators' approach, the
24 Interview Guide, Essential Questions and Technical Terms for
25 Interviews.

mm6

1 I read the report by A. R. Hollins dated August 3rd,
2 1984.

3 I read the report of Dr. Michalowski, which had
4 the formate of a letter to Mr. Robert Guild.

5 I read about half of the affidavits in the case,
6 and I looked briefly today at Dr. Michalowski's transcript.

7 Q Were you present in the room yesterday when
8 Dr. Michalowski testified?

9 A Yes.

10 Q Finally, Dr. Hunter, were you asked in your review
11 to draw any conclusions with respect to the engineering
12 judgments expressed in the report?

13 A No.

14 MR. CARR: Your Honor, at this time Dr. Michalowski
15 is tendered for cross examination.

16 JUDGE KELLEY: Thank you.

17 Any voir dire, Mr. Guild?

18 MR. GUILD: Yes, sir.

19 VOIR DIRE

XXX

20 BY MR.GUILD:

21 Q Dr. Hunter, when were you first retained to perform
22 services for Duke Power Company?

23 A Tuesday afternoon.

24 Q Tuesday of this week?

25 A Correct.

mm7

1 Q What were you asked to do, sir?

2 A At that time it was said that -- it was couched in
3 very vague language, that there had been an interview and
4 someone had criticized the interview, and would I be willing
5 to take a look at the interview and the criticism and
6 comment on it.

7 Q What kind of interview was described to you?

8 A Over the initial phonecall?

9 Q Yes.

10 A I'm not sure it was.

11 Q What was said to you?

12 A Not a whole lot more than the fact that it was
13 Duke Power, and the interview -- I can't remember exactly.
14 The comments wouldn't have had very much to do with the
15 nature of the interview. It just had to do with -- as I say,
16 it was very sketchy.

17 I then received a package of documents sent by ZAP
18 mail to look over.

19 Q What were you asked to do?

20 A I was asked to look over them and to evaluate the
21 interview research that was carried out and to evaluate what
22 I now know to be Dr. Michalowski's critique.

23 Q Evaluate for what purpose?

24 A To see if he was right or not.

25 Q Were you informed that you would be asked to present

mm8
1 testimony before the Nuclear Regulatory Commission Atomic
2 Safety and Licensing Board in the operating license proceedings
3 of the nuclear power plant at Catawba?

4 A Yes.

5 Q When were you told that?

6 A I think in the initial conversation it was made
7 clear that if I had anything to say that they would be -- that
8 is essentially the idea was that I was to look over things.
9 And then give my evaluation over the phone. And then they
10 decided that they wanted me to testify.

11 Q You were told in the first conversation that your
12 testimony was being sought in this proceeding?

13 A No. At that time I was simply told that that would
14 be a followup.

15 Q You were informed that you were likely to be
16 called as a witness?

17 A Right.

18 Q And then you arrived on the scene and have been
19 with us for some time.

20 When did you get here?

21 A I came about 1 o'clock Wednesday afternoon.

22 MR. GUILD: Mr. Chairman, at this point we would
23 note our objection to Dr. Hunter's testimony being received.
24 Dr. Hunter was clearly here. The intention of the Applicants
25 to call him as a witness was known either Tuesday afternoon,

mm9
1 or at the latest, Wednesday afternoon when he arrived, and has
2 been present in the hearing room.

3 I saw him in the hearing room. Counsel for
4 Applicants clearly have identified him to us and given us some
5 forewarning that they had an expert in this field who was
6 to be present to review and examine Dr. Michalowski's testimony,
7 who had already been retained to review the adequacy of their
8 report. And they did not do any of those things.

9 They clearly had the opportunity to do that
10 without even making a commitment to offering him as a rebuttal
11 witness. They knew they had the opportunity to communicate
12 with this party to minimize the harm, the prejudice to this
13 party in not being able to prepare. We were only given his
14 testimony again late this afternoon.

15 We do not have an expert present. They clearly could
16 have told us at the time, and it would have allowed us to make
17 arrangements to have assistance for this testimony.

18 On the basis of this part of the voir dire, we
19 ask that the Applicant's proffer of Dr. Hunter's testimony
20 be rejected.

21 JUDGE KELLEY: Mr. Carr?

22 MR. CARR: Your Honor, this is rebuttal testimony.
23 We received a page and a half outline of Dr. Michalowski
24 late Monday afternoon. He took the stand yesterday afternoon
25 and testified for over an hour on the record.

mml0

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

It wasn't until he had finished testifying and we were able to assess the state of the record, that we determined that we would put a rebuttal case on.

You heard what Dr. Hunter is going to testify to. He was notified Tuesday afternoon of a potential need for his services. He arrived at 1 o'clock Wednesday afternoon and was engaged in his review.

48 hours after that we provided testimony and he was here in the hearing room yesterday afternoon.

Dr. Michalowski didn't leave the stand until after 6 o'clock yesterday. We handed out the vitae last night. As I said again, it is rebuttal testimony, it is limited to what Dr. Michalowski said on the stand yesterday, and what was in his report.

In our view, clearly rebuttal testimony and we would be entitled to put him on and ask him the questions that were in his testimony and let him testify orally. We didn't do that. Therefore, I don't think Mr. Guild's objection has any merit. Let's just move on through the process.

JUDGE KELLEY: Mr. Johnson?

MR. JOHNSON: Two things.

One is the questions, were Applicants required to notify the parties and the Board at the time they entered into this relationship with Dr. Hunter?

And I think my answer to that would be no, if they

mml1

1 weren't sure that they were going to need him as a rebuttal
2 witness. I think that is one factor to consider.

3 What they seem to be saying tonight is that they
4 weren't sure they were going to call him until they heard what
5 Dr. Michalowski had to say, which is a reasonable position
6 to take. And given the nature of rebuttal testimony, a
7 reasonable approach, notwithstanding the fact that they had
8 entered into some sort of a relationship with him previously
9 and asked him to look at the documents.

10 Secondly, I am not altogether clear on what the
11 prejudice is to the Intervenors in not having been informed
12 on Tuesday afternoon or on Wednesday afternoon specifically
13 that Dr. Hunter might testify.

14 JUDGE KELLEY: Thank you.

15 (Board conferring)

16 The Board has listened carefully to the comments
17 of all three counsel. The Board sees no point in repeating
18 everything that was said. We find no merit in Mr. Guild's
19 position. We agree essentially with Mr. Carr and Mr. Johnson.

20 The objection is overruled.

21 CROSS-EXAMINATION

22 BY MR. GUILD:

23 Q Dr. Hunter, are you being paid a fee for your
24 services by Duke Power Company?

25 A Yes.

mm12

1 Q At what rate, sir?

2 A \$1000 a day.

3 Q And when did you begin to accrue that fee?

4 MR. CARR: Objection, your Honor. That has no
5 relevance. The question of fee and the amount might have some
6 marginal relevance, but it makes no difference when it began
7 to accrue. Although, Mr. Guild ought to be able to figure
8 it out for himself, since he just found out when the
9 relationship started.

10 MR. GUILD: Then it is simple enough to answer,
11 Mr. Chairman, we are wasting time this way.

12 JUDGE KELLEY: I sustain the objection.

13 The exact dollar amounts are not relevant.

14 MR. GUILD: I submit that the degree of interest
15 of an expert witness is material. I would ask that the
16 record reflect --

17 JUDGE KELLEY: You have adequate facts to determine
18 that. Let's move on. I sustained the objection.

19 BY MR. GUILD:

20 Q So the request made of you by Applicants, your
21 task, Dr. Hunter, was to evaluate the materials that were
22 made available to you by the company and to rebut the testimony
23 of Dr. Michalowski.

24 Is that correct?

25 A I wasn't told initially to rebut. I was merely told
to examine materials.

1 Q At what point were you retained to rebut Dr.
2 Michaelowski's testimony?

3 A Well, I am not sure quite what the question means.
4 I came on Wednesday, and at that juncture really had not
5 finished evaluating, and we were still looking at the
6 process. There was no point where people said you are not
7 retained to rebut.

8 Q Have you any experience in performing investigations?

9 A Which kind of investigations?

10 Q As you employ the term when you use it with regard
11 to the description of what Duke did.

12 A What I meant by that term at that time was
13 investigatory instruments, are interests where the primary
14 purpose is to --

15 Q No, sir, let me interrupt you. I don't mean the
16 instruments. Let me direct your attention specifically to
17 a portion of your testimony where you use the term, page 7,
18 sir, the last question, your answer: Duke's review of the
19 foreman override concerns was an investigation, not a survey,
20 as you use the term there.

21 What is your experience in conducting investigations
22 of that sort, sir?

23 A That is different -- I am using the word in a
24 different sense there. In that particular sentence. I was
25 using it in the sense of investigation, as police investigation

1 or a similar matter.

2 Q All right, sir. Let's use it in that sense then.
3 What is your experience in conducting police investigations,
4 or investigations of that sort?

5 A None.

6 Q Mr. Hunter, do you consider yourself a scientist?

7 A Yes.

8 Q I direct your attention to your testimony, beginning
9 on page 1. The second question. You state there, Dr.
10 Michalowski has stated in his testimony that the validity of
11 the conclusions presented in Duke's foreman override report
12 is compromised by the failure of the investigation to, 'specify
13 the exact parameters of the dependent variables.'

14 How do you define dependent variable?

15 A Dependent variable is defined, what I took it to
16 mean in his report by the following sentences that he wrote,
17 was the fact that --

18 Q Dr. Michalowski's report you are speaking of?

19 A Yes, Dr. Michalowski's report. He followed a
20 statement by then listing a variety of questions that they
21 might look at, and I formed the impression then, and that was
22 corroborated by what I heard him say yesterday, it seemed to
23 me like what he was saying is that it seemed to be the case
24 that the Duke Power Report was investigating a number of
25 different issues, and hadn't focused clearly on one single

1 outcome variable.

2 Q As a scientist, how do you define that term?

3 A A dependent variable is a variable whose values
4 are being looked at as a function of something else.

5 Q How many dependent variables were looked at in the
6 Duke investigation?

7 A There -- that really can't be defined in this
8 kind of an investigation, because it was investigative
9 rather than a survey.

10 That is, it's intent was to locate all sorts of
11 different problems, and since a very wide amount of
12 information was obtained, the analysis of the report could
13 have looked at hundreds of different dependent variables.

14 Q So, you don't know the answer to the question?

15 A What I would say is that I would say potentially,
16 like this, depending upon what order you chose to code --
17 for example, the affidavits -- it would be possible to define.
18 Perhaps a hundred dependent variables.

19 Q How many did Duke Study investigate?

20 A Well, it would have been at least three. They
21 certainly looked at foreman overrides. They looked at the
22 extent of interpersonal problems --

23 Q The number of what problems?

24 A Inerpersonal problems between foremen and the men
25 on their crews. They looked at allegations.

1 Q The number of allegations?

2 A Right.

3 Q Did you read it?

4 A Yes.

5 Q How many instances of foreman override did the
6 Duke investigation identify?

7 A As I understand it, there were ten specific
8 allegations that were safety related.

9 Q How many total.

10 A How many total what?

11 Q Total instances of of foreman override?

12 A That, as far as I know, is a matter of dispute.

13 Q How many did you identify in your review of Duke's
14 work?

15 MR. CARR: Your Honor, I didn't object to that
16 particular question. We stated at the outset, and Dr. Hunter
17 testified, he wasn't retained to draw conclusions with
18 respect to the engineering validity of the matter. He
19 assessed the report to see that the method of proceeding
20 was proper, and he prepared rebuttal to Dr. Michalowski's
21 testimony.

22 JUDGE KELLEY: Could you repeat the question, please?

23 BY MR. GUILD : (Continuing)

24 Q The witness identified the dependent variables,
25 which in his view were the subject of Duke's investigation.

1 He identified them as three, he set them out explicitly.
2 I am now asking him based on his review of the investigation,
3 his review which was the basis for his expert testimony,
4 how many instances of foreman override did the investigation
5 identify?

6 MR. CARR: That is irrelevant to his testimony.
7 In the first place, the three you listed are just examples.
8 He said he didn't count them.

9 JUDGE KELLEY: This is a technical issue. Excuse
10 me. Let me ask a clarifying question here just for the
11 record. This started out -- you described it as a voir
12 dire, Mr. Guild. You -- do you still consider that you are
13 in a voir dire mode?

14 MR. GUILD: Let's just call this substantive cross
15 examination. The distinction is artificial.

16 JUDGE KELLEY: It seemed to me it was getting
17 artificial. I wanted to get clear on that.

18 MR. GUILD: As long as our position for the record
19 is preserved that we object to the gentleman's testimony
20 on the basis that I previously stated.

21 MR. CARR: The voir dier is completed, and we move
22 the document into evidence.

23 MR. GUILD: We oppose its admission for the reason
24 previously stated.

25 JUDGE KELLEY: Okay. We don't believe that the

1 testimony should be excluded, so we are admitting it.

2 Does it --anybody have the number?

3 MR. CARR: 120.

4 JUDGE KELLEY: There is a pending question, and
5 I was conferring with my colleagues, and just wanted to
6 straighten out where we were, and now we know where we
7 are, so let's go back into session here a minute. It
8 is sort of a scope question. Will you excuse us a minute.

9 (Board confers in chambers)

10 JUDGE PURDOM: The Board would like to ask
11 Dr. Hunter one or more questions before ruling. Dr. Hunter,
12 in your testimony, anywhere in there, do you make decisions
13 as to how many cases of this or that occurred, such as how
14 many cases of foreman override there were?

15 WITNESS: Other than having read the number in
16 the report, I made no attempt to determine for myself whether
17 or not there were allegations, nor who made them, nor the
18 value of any of them.

19 JUDGE PURDOM: Does your report postulate how
20 many cases there were? In other words, do you anywhere--

21 WITNESS: I talk about cases in the sense of
22 number of workers, but I don't believe I mention anywhere
23 in here the number of allegations, nor the number that
24 anyone has asserted to be substantiated.

25 JUDGE PURDOM: So you mention the number of workers

1 from the sense of what the data base was?

2 WITNESS: Right.

3 JUDGE PURDOM: I don't see in your Exhibit 1
4 anything that classifies that data as to whether it was
5 foreman override, such as that, is that correct?

6 WITNESS: That is correct.

7 JUDGE PURDOM: Is the thrust of your testimony
8 with respect to the kind of questions that Mr. Guild was
9 asking as to whether or not this study could be the basis
10 for making such conclusions, not what your conclusion was
11 about whether it could be or not, but is your study in the
12 testimony based to that end?

13 WITNESS: Well, to me they are two separate
14 questions. There is the question of assessing allegations,
15 which was done by the people who were doing the investigation,
16 and which I really don't know anything about; and there
17 was the question of drawing inferences from the data as
18 it was coded in terms of, for example, certain kind of
19 counts were made. Would it be reasonable to draw certain
20 kind of conclusions.

21 So, what I was looking at was that I was looking
22 at the methodology of inferences that were drawn, rather
23 than trying to evaluate the quality of the data coding itself.

24 JUDGE PURDOM: So you are saying whether or not
25 the data base was a proper one for making projections or

12-8-Wal

1 evaluations, is that right?

2 WITNESS: Well, there are two sides. The thing
3 I did think about was the question of would the kinds of
4 questions that were asked on the questionnaire elicit
5 the kinds of allegations that Duke Power was interested
6 in. As I looked at the questions and said: Do the questions
7 look like they would elicit the kinds of information from
8 workers that Duke Power was concerned with.

9 Now, the question of what to do, in particularly
10 at the level of what to do with the affidavits, and whether
11 to code an allegation as having been made or not, or whether
12 to determine whether an allegation was true or not, that
13 I did not look at.

14 JUDGE PURDOM: So yours is a methodology. Design
15 methodology thrust?

16 WITNESS: Right.

17 End 12
18 Sue fols

18

19

20

21

22

23

24

25

EVENING SESS.

10:00 p.m.

#23-1-SueT

1 Mk. CARR: How many incidents of foreman override
2 could you identify I believe is the question.

3 MR. GUILD: Did the study identify.

4 JUDGE KELLEY: That's different.

5 MR. GUILD: No, sir, it's not. The question I
6 asked the witness is, the first question is, what were the
7 dependent variables which were employed in the Duke investiga-
8 tion study. He identified three number of foreman override
9 incidents, number of interpersonal problems, paraphrasing,
10 number of allegations.

11 My next question was, how many instances of foreman
12 override did the Duke investigation identify. He said ten
13 specific safety. And my next question was how many total
14 incidents of foreman override. That was the pending question
15 the best I can remember it, Judge.

16 JUDGE PURDOM: As we view the testimony, it does
17 not reach the question that Mr. Guild has asked. And unless
18 you can point out --

19 MR. GUILD: Yes, sir, let me try. If you will
20 look at Page 7 of Dr. Hunter's testimony, there the answer
21 to the first question he states: "The key parameter is the
22 number of instances of foreman override."

23 And then you look at the last question on Page 10,
24 the last question in the testimony, and he says, "In ordinary
25 English, foreman override is a rare event at the Cat. oa plant."

#23-2-SueT 1

2 That clearly reflects a judgment on the witness'
3 part. First, that the number of instances of foreman over-
4 ride is the key parameter. And then that he expresses a
5 judgment as to the significance of foreman override in terms
6 of, if that key parameter number, and he uses the characteriza-
7 tion "rare" it seems to me it makes it only fair within the
8 scope of cross-examination, having identified a number of
9 instances of foreman override as first a key parameter and
10 second as one of the three dependent variables which he sees
11 employed in the Duke study, how many were identified.

12 MR. CARR: The sentence that Mr. Guild referred
13 to on Page 7 is -- I think he is taking it out of context.
14 A key parameter is the number of instances of foreman over-
15 ride. The following sentence is a conclusory sentence, and
16 it says that the information about foreman override was
17 elicited by several good questions.

18 That's what that particular sentence stands for.
19 The question on Page 10 is: "What conclusion do you believe
20 to be supported by the data."

21 JUDGE KELLEY: Can I muddy the water even a little
22 further by asking Dr. Hunter something. I see a difference
23 in the two questions. Maybe I'm wrong.

24 You were speaking of the fact that you did not
25 attempt to evaluate the quality of the data code, right?

WITNESS HUNTER: True.

#23-3-SueT

1 JUDGE KELLEY: I take that to mean that you did
2 not sit down and read through a big stack of affidavits
3 and try to figure out yourself how you would categorize
4 things such as foreman override or some other category of
5 problem?

6 WITNESS HUNTER: That's right.

7 JUDGE KELLEY: You were just told your given data
8 and you accepted that as given to you?

9 WITNESS HUNTER: Right.

10 JUDGE KELLEY: E.g., there are three, seven,
11 thirteen incidents of foreman override. You didn't second-
12 guess that or analyze it; you took it?

13 WITNESS HUNTER: Correct.

14 JUDGE KELLEY: Okay. So to ask you how many
15 instances of foreman override are there in the Duke study,
16 if you read it and you know the number you can answer that,
17 can't you?

18 WITNESS HUNTER: He asked two questions, the first
19 one which I could answer. He said: How many were mentioned
20 in the report, and my recollection is that the report said
21 there were ten allegations. And my recollection is that the
22 Duke Power people believe that none of those allegations are
23 actually substantiated.

24 He then asked me how many allegations I had
25 determined.

#23-4-SueT 1

JUDGE KELLEY: That's a different question.

2

WITNESS HUNTER: And I tried to say that my interpretation of what do you mean by "I determined" would be if I went to the raw data and tried to decide for myself how many allegations there were, and I did not do that.

6

JUDGE KELLEY: You did not do that?

7

WITNESS HUNTER: No.

8

JUDGE KELLEY: I understand. Okay.

9

MR. GUILD: Mr. Chairman, the question put to the witness was, first, how many were identified in the study. He answered and he answered by either quoting or paraphrasing from the report's principle conclusion, and that was as to specific instances involving safety-related something or other. There were ten. And he stated that number.

16

I then asked how many total instances of foreman override, without the limiting terms, specific and safety-related, were identified. And that's what got us into this mess.

20

And either he knows or doesn't know. If the answer is that he doesn't know, which seems to be suggested by the Bench's inquiry of the witness, then I would ask that the record simply reflect that the answer is that he doesn't know.

24

25

JUDGE KELLEY: This may seem like a tempest in a

#23-5-SueT 1 tea pot, but to us it's a scope question and it could have a
2 lot to do with where we go tonight. So we are trying to
3 get a better fix on what Dr. Hunter did or did not do.

4 MR. GUILD: And my point, Judge, is the bottom
5 line conclusion of the witness. He employs a term which
6 has to be understood, since he defines the key parameter
7 as number of instances, as a measure of the number of
8 instances. And that is the term "rare." He says, "In
9 ordinary English, foreman override is a rare event at the
10 Catawba plant." That's his conclusion.

11 Now, if that is what his testimony is to support
12 we have to be able to ask him if he can quantify his use of
13 that key parameter.

14 JUDGE KELLEY: By the way, the Reporters have
15 obliged us with the text of the pending question way back
16 when, and it is this: How many instances of foreman override
17 did the investigation identify.

18 MR. GUILD: That's what I tried to pose.

19 JUDGE KELLEY: I overrule the objection.

20 BY MR. GUILD: (Continuing)

21 Q Dr. Hunter, would you answer the question?

22 A The only number that I remember at the moment
23 is the number ten, referring to the number of specific
24 allegations of safety-related.

25 Q The answer is that you don't know the total number

#23-6-SueT 1

of instances of foreman override?

2

A If that number is different from ten, then I don't know.

3

4

Q All right. Now, how do you define the term "rare" as you employ it on Page 10 in your concluding question and answer?

5

6

7

A Anything that would be less than one in a thousand.

8

9

Q So, this was ten. And ten is greater than one.

10

11

A Yes, but that's ten instances. And then before you can express that as a proportion you have to count the number of potential opportunities for foreman override that would have occurred.

12

13

14

Q Did you do that?

15

A Yes.

16

Q How many instances? Potential instances?

17

A The estimate that I came up with -- there would be two different estimates that I came up with, depending upon which part of the data that you used.

18

19

20

Because if you use the full set of data, including both the random and non-random samples, since you start from 196 workers, then I would estimate that the number of instances would be 784,000.

21

22

23

24

If you use as the basis the -- only the subjects who were in the stratified random samples, which would be 68

25

#23-7-SueTl

1 subjects, then I would estimate the number of potential
2 instances as being about 272,000.

3 Q Now, how did you do that, Dr. Hunter?

4 A Well --

5 Q Let's start with your stratified random sample
6 of 68, how on earth did you come up with 272,000 possible
7 instances of foreman override?

8 A Oh, okay. Well, as I see it, there is a potential
9 for foreman override on essentially any task that the foreman
10 directs the worker to carry out. Now, the typical worker
11 had been there over four years, so if we take four years
12 as a starting point, I estimated 200 working days in each
13 year -- although they tell me there is considerable over-
14 time -- and on each day I estimated that there would be a
15 minimum of five tasks.

16 This means then that the number of --

17 Q Let me stop you right there if I may just to get
18 this clear.

19 What kind of tasks are tasks as you use the
20 term here?

21 A That would vary from craftsman to craftsman.
22 For example, in the case of a welder I would assume that it
23 would be something where the foreman says: Make such and such
24 a weld.

25 Q How about for an electrician?

#23-8-SueT 1

2 A I assume it would be something like, put in such
and such a socket. I'm not an expert on --

3 Q Is that what you did assume when you made these
4 counts?

5 A When I estimated there would be a minimum of
6 five tasks a day, that was the kind of thing I had in
7 mind, yes.

8 Q How did you get your five?

9 A More or less --

10 Q Seat of the pants?

11 A Yeah. I actually figured it would be something
12 like probably at least one an hour and then I took a lower
13 number like five which was easy to multiply.

14 I figured that would be conservative enough that
15 no one would disagree with it.

16 Q Arbitrary enough that no one would disagree with
17 it perhaps.

18 A I tried to keep it small enough that it seemed
19 to be completely uncontroversial.

20 Q Safety-related tasks? Carrying buckets of water,
21 is that a task? Is that a task that you considered?

22 A No. Well, I don't know that any of the craftsmen
23 would do that.

24 Q What kind of tasks?

25 A I actually only thought about -- welders were the

#23-9-SueT 1

ones I thought about.

2

Q All right. That was not what the entire population -- there are other crafts on the job, are there not?

3

4

A Right.

5

Q What other crafts were the subject of the study whose validity you --

6

7

A The other one I thought about briefly was electricians but it didn't seem to me it would be any different.

8

9

10

Q What kind of things do electricians do?

11

MR. CARR: Objection, Your Honor. Dr. Hunter has already the question. Mr. Guild asked what the task was. The task was the normal duty carried out by the employee in the course of their employment on directions by the supervisor.

12

13

14

15

16

MR. GUILD: That's not the answer of the witness, and I submit that I should be allowed to examine the witness as to his definition of the term, and how on earth he came up with a quantification that is employed as --

17

18

19

20

MR. CARR: That's what he was doing when you stopped him.

21

22

MR. GUILD: And that's why I had a question pending, sir.

23

24

JUDGE KELLEY: You are entitled to probe the written text, Mr. Guild, but I think the witness' understanding

25

#23-10-SueT 1 of what electricians do is beyond the reasonable field of
2 cross.

3 I will sustain that objection to that question.

4 BY MR. GUILD: (Continuing)

5 Q Let's take welders. You seem to have looked at
6 them. How many tasks are involved in performing welds on
7 performing welds on two-inch stainless steel sockets,
8 Schedule 160?

9 A I don't know.

10 Q Does it matter?

11 A I took the number five that I determined and I
12 asked John Hurst and possibly others if it seemed reasonable,
13 and they said that they thought it was conservative as I
14 had estimated.

15 Other than that, the number was as I said,
16 arbitrary, although it seemed to me just in terms of watching
17 people when they work that people -- I've never seen any-
18 body do fewer than five tasks in a day.

19 Q All right, sir. So you used an arbitrary number
20 as a foundation for testing your conclusion, or the conclu-
21 sion of the Duke study, which is that foreman override is
22 a rare event at the Catawba plant?

23 A That's right.

24 Q All right, sir. As a scientist, Dr. Hunter, how
25 do you define the term "operationalize" as it is employed in

#23-11-SueT

your question on Page 2, the second question?

2

A (The witness is looking at a document.)

3

4

I would think operationalize there would be basically the same as measure which is the process of,

5

how do you try to make an empirical determination of what

6

that number is.

7

Q Is that how you define the term, sir?

8

A Yes.

end #23

Anne flws

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

Ace-Federal Reporters, Inc.

25

agb/agbl

1 Q Now which of the list of essential questions
2 employed in the Duke investigation operationalizes
3 foreman override?

4 A I doubt that it was -- well, first of all, the
5 questions were to elicit allegations that would then be
6 the basis for such a determination. In some cases, they
7 might have determined simply from the answer itself,
8 but there would have been questions such as -- I don't
9 have the list of essential questions, is it okay if I
10 paraphrase?

11 Q No, please get a list. And maybe counsel
12 can supply it for you so you can be very specific about
13 this.

14 (Document handed to the witness.)

15 A Quite a number of the questions would elicit
16 information that would lead to a determination of
17 foreman override if it occurred.

18 Q All right, sir.

19 A For example:

20 "Tell me about any case you or
21 anyone you know of ever was directed to
22 violate a welding procedure."

23 That is the kind of question where a person
24 could report an allegation of a foreman override.

25 Now I think the determination of a foreman

1 override was based on more than just the answer to a
2 question; it is also my understanding that there would
3 have been probing or prompting questions that would have
4 been made in response to the subject's initial response
5 if it seemed to be unclear.

6 Q All right.

7 Your answer though on page two, the second
8 answer again states:

9 "I think the key variables of foreman
10 override and pressure were well-defined by
11 the questions" -- meaning the essential questions.

12 Which questions, sir?

13 A It would take me a while to go through.

14 Q Please do. Please take whatever time is
15 necessary to specify.

16 A I think the second question:

17 "Tell me about any time you felt
18 that you had been under production pressure
19 to the extent that acceptable quality was
20 not achieved..." actually would have produced informa-
21 tion on either one of those.

22 "What do you know about any
23 deliberate attempts to violate a QA
24 procedure." That might have elicited information
25 about possible foreman override.

1 "What do you know about any
2 deliberate attempts to violate a
3 welding procedure."

4 Q Those operationalize the term "foreman override?"

5 A I said -- As I pointed out, the questions are
6 to elicit initial information. The information that they
7 elicit is then looked at by the investigator and a
8 complicated decision is made as to whether what the
9 subject says corresponds to foreman override or not.

10 Q All right, sir.

11 The question that you answered though -- again
12 the second question on page two states:

13 "Dr. Michalowski has asserted that
14 that the validity of the conclusion in Duke's
15 foreman override report is compromised by
16 the alleged failure to operationalize key
17 variables and concepts. Do you agree, if not,
18 what is the basis for your disagreement?"

19 And you state that you do not agree, correct?

20 A That's right.

21 The first step in operationalization is
22 to make sure that you have the observations that will
23 enable you to determine whether a given phenomenon did
24 or did not occur.

25 Now I feel that the questions listed under

1 essential questions would have elicited the information
2 that the investigators needed in order to determine
3 whether or not an instance that is sometimes referred for
4 investigation but at least would enable them to determine
5 whether an allegation of foreman override had or had not
6 been stated.

7 Q Do you understand what foreman override is,
8 Dr. Hunter?

9 A Yes.

10 Q What is it?

11 A Foreman override is where a foreman asks a
12 worker to do something which is in violation of a quality
13 assurance procedure standard.

14 Q Is it it? Is that the definition employed in
15 the survey -- study?

16 A That is my understanding of it, sir.

17 Q How does that definition square with the question
18 which you have identified as operationalizing foreman
19 override?

20 Let me point you to the question first:

21 "Tell me about any cases you or
22 anyone you know of ever was directed to
23 violate a quality procedure requirement?"

24 He I didn't say that that question operationalized
25 the concept, it doesn't. That question elicits information

1 from subjects which can then be looked at by the
2 investigators to see whether that subject is or is not
3 alledging an instance of foreman override.

4 The operationalization process is the total
5 process which consists, first, of eliciting the information
6 and, second, evaluating and coding the information.

7 Q Well sir, I thought I understood your answer
8 to say that the questions clearly defined the term
9 "foreman override?"

10 A My answer said that I think that -- well, all
11 right.

12 The word "define" there is probably poorly
13 chosen.

14 Q What should the word be then? What is a better
15 word, more accurate and consistent with your intention?

16 A I think I would go back to the phrase that was
17 used before which is that the questions elicited the
18 information necessary to determine whether an allegation
19 of foreman override was or was not being made in a
20 given instance.

21 Q All right, sir.

22 But if I am to understand that answer correctly
23 and you don't want to use the term "define" by the questions,
24 what term would you use?

25 A As I said, I was wanting to change more than

1 just one word.

2 Q So you would strike that answer?

3 A No, I don't strike the answer, what I was doing
4 was I was just giving you an alternate phrasing; that
5 is what I am saying is in terms of the operationalization
6 of the concepts, that the first step in operationalization
7 is to make sure that you get the information necessary to
8 determine whether or not the phenomenon occurred.

9 I believe that the questions asked do draw out
10 the information necessary for investigators to know whether
11 or not the worker believes he has observed an instance
12 of foreman override.

13 Q How does Duke operationalize the term "foreman
14 override," Doctor?

15 MR. CARR: Objection, your Honor.

16 THE WITNESS: I gave you what I believed
17 their definition to be.

18 MR. CARR: Objection, your Honor.

19 If you are asking for Duke's definition, I
20 would point out that is Dr. Michalowski's term, not Duke's.

21 MR. GUILD: I'm sorry, I just don't understand
22 Mr. Carr's point. I don't think that speaks to my question
23 at all.

24 The question was how did Duke operationalize
25 the term "foreman override."

1 JUDGE KELLEY: Didn't we just have the witness
2 comment on what "operationalize" means?

3 MR. GUILD: Perhaps so but that doesn't answer
4 the question.

5 JUDGE KELLEY: I understand that. I understand
6 you are on that wavelength and that the question is how
7 does Duke --

8 MR. GUILD: How does Duke operationalize --

9 JUDGE KELLEY: I will overrule it.

10 THE WITNESS: In terms of operationalize,
11 what they did was they asked questions that they thought
12 would elicit -- and which I think would elicit --
13 instances where the worker would have thought that he
14 was asked to do something that was improper, that is
15 something that was in violation of quality assurance codes.

16 They then looked at what workers said and,
17 by sometimes with the aid of probing questions and
18 sometimes on the basis of the technical follow-up
19 questions that were asked later, they then determined
20 whether what the subject had said was or was not an
21 instance of foreman override.

22 And they defined foreman override for purposes
23 of coding the information that they got from these
24 questions -- or at least it is my belief that they
25 defined that -- as an instance where the foreman ordered

1 or directed a worker to do something that was in violation
2 of a quality assurance code.

3 BY MR. GUILD:

4 Q All right, sir.

5 Well in fact, sir, in the report which you
6 claimed to have read, on page two they state the Board
7 in this proceeding has defined foreman override as
8 actions by supervision that "resulted in defective
9 work or violation of QA procedures."

10 Which definition did Duke employ, if you know,
11 sir, in their study of the subject?

12 A I presume the definition that you read there.

13 As I recall, they also did include cases where,
14 if the foreman put pressure on -- or gave instructions
15 such that the instruction could not be carried out
16 without violating the QA instructions, that was taken as
17 essentially equivalent to instructing the subject to
18 violate the QA assurance per se.

19 Q Well sir, the question that you have described
20 as clearly defining the term on the essential questions
21 used in the Duke investigation states as follows:

22 "Tell me about any case you
23 or anyone you know of was ever directed
24 to violate a QA procedure requirement."

25 A I gave this as an indication of one of the

1 questions that would elicit the information -- Mr. Guild,
2 it seems to me that part of the problem here is that you
3 are using the word "operationalize" as a word that is
4 often used with survey instruments.

5 For example, on survey instruments if you
6 say How did you operationalize intent to vote; the
7 answer is I operationalized intent to vote by giving a
8 structured question such as Do you plan to vote for
9 Mr. Mondale or Mr. Reagan. And in a simple closed-ended
10 procedure of that sort, that ends the operationalization
11 procedure because the subject's answer is directly counted
12 as yes or no and that is taken as a definition of whether
13 he does or does not have intent.

14 Now when you have open-ended questionnaires,
15 the operationalization procedure is more complicated.
16 It is not the immediate, instantaneous response which
17 defines the coded variable. Instead, a more complicated
18 judgment is made about what the subject said as to what
19 it means.

20 Q Well isn't operationalizing intended to clarify
21 the terms that are being used?

22 A No, the phrase "operationalize" is essentially
23 the equivalent of measure. What it means is you start
24 with an objective: what you want to know is how many
25 instances of foreman override were observed by a given

agb/agbl0

1 set of workers. You then set up questions that you think
2 will elicit information from them which you can use to
3 determine whether they did or did not observe such a
4 phenomenon.

5 Q Let's look at your second dependent variable
6 that you say you used in the Duke investigation: how
7 many instances of interpersonal problems were identified
8 in the Duke investigation, Dr. Hunter?

9 MR. CARR: Your Honor --

10 THE WITNESS: It would have been -- judging
11 on the basis of what I saw in the affidavits, there were
12 a great many interpersonal comments made.

13 BY MR. GUILD:

14 Q How many?

15 A I have no idea. I did not count.

16 Q Did anybody count?

17 MR. CARR: Your Honor, I object. That is
18 irrelevant to this testimony.

19 JUDGE KELLEY: I am not sure what an interpersonal
20 comment is.

21 Can you give me an example?

22 THE WITNESS: Such things as He plays favorites,
23 such things as an indication that the foreman was
24 impolite in how he did things, such things as The
25 foreman failed to take my feelings into account. That

1 sort of thing.

2 JUDGE KELLEY: I don't see the relevance,
3 Mr. Guild.

4 BY MR. GUILD:

5 Q How about such things as I'll cut your goddam
6 guts out if you threaten my job?

7 A That would be an interpersonal comment.

8 endAGB#24
9 ST#25f1ws

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

10:25 p.m.
EVENING SESS.

#25-1-SueT 1

Q You saw that one, didn't you?

2

A No.

3

Q Well, that was in an instance of foreman

4

override, Doctor. You didn't notice that one?

5

MR. CARR: Objection, Your Honor, the --

6

WITNESS HUNTER: I didn't read that particular

7

affidavit.

8

MR. CARR: Excuse me, Doctor --

9

JUDGE KELLEY: When an objection is made, we

10

just have to pause and look into it.

11

WITNESS HUNTER: I'm sorry.

12

MR. CARR: That may be Mr. Guild's characteriza-

13

tion of the situation. Dr. Hunter has already testified

14

that he drew no conclusions with respect to whether an

15

allegation or incident was or was not foreman override.

16

JUDGE KELLEY: Well, that backed up with the

17

fact that interpersonal -- what are we calling it?

18

WITNESS HUNTER: Interpersonal comment.

19

JUDGE KELLEY: Is in and of itself not relevant.

20

I sustain the objection.

21

MR. GUILD: All right, sir. My point, Judge,

22

is if the witness doesn't know how they operationalize the

23

term "foreman override" but says that the study seeks to

24

measure the number of instances, so someone counted -- they

25

had to count the foreman override instances from some larger

#25-2-SueT¹

2 number of phenomena. I submit to you the witness himself
3 identified the second dependent variable which he sees the
4 study seeking to identify and measure as the number of
interpersonal problems. That was his term, not mine.

5 JUDGE KELLEY: Where is that?

6 MR. GUILD: This is in response to an earlier
7 question, Judge.

8 JUDGE KELLEY: It's not in the testimony?

9 MR. GUILD: No. It's responsive to my question.

10 MR. CARR: That particular point, if Mr. Guild
11 wanted to find the answer to that, he had fifteen people
12 sitting here that could have given him that answer. He
13 had them on the stand for two days.

14 Dr. Hunter has said he did not draw judgments.
15 He is here to testify as to the data base, not the judgments
16 drawn from that data.

17 MR. GUILD: I'm not asking him to draw judgments.
18 He expresses an expert opinion as to the validity of the
19 conclusion that foreman override is a rare occurrence.

20 JUDGE KELLEY: I understand that. But how do we
21 get these interpersonal transactions into the picture?
22 What has that got to do with it?

23 MR. GUILD: Sir, he identifies that, not I. He
24 says they have three dependent variables they are seeking
25 to measure. One is the number of instances of foreman override.

#25-3-SueTj

JUDGE KELLEY: Right.

2 MR. GUILD: He is slippery on the definition of
3 foreman override on how --

4 MR. CARR: I object to that characterization,
5 Your Honor.

6 MR. GUILD: He is less than informed on how the
7 Company counted the instances of foreman override. But
8 he states that they also counted the number of instances
9 of interpersonal problems and the number of allegations.

10 Now, I presume that having counted only those
11 three things -- that's what he identified -- that the number
12 of instances of foreman override is some subpart of the
13 universe of other dependent variables identified in the
14 study.

15 Now I'm asking him to tell me how many they found
16 of the other two classes that he claims the study identified
17 so that we can at least know where, if he didn't do it, the
18 Duke people began in selecting the items that they claim to
19 be instances of foreman override.

20 MR. CARR: I have a response if you want to hear
21 it.

22 (The Board members are conferring.)

23 JUDGE KELLEY: The Board thinks the inquiry into
24 the witness' account of interpersonal -- what do they call it?
25 Transactions, relations is irrelevant. So we are going to

#25-4-SueTl

1 sustain the objection. It is now 10:30 in the evening, and
2 it's our custom to break briefly at about this interval.

3 Let me ask, Mr. Guild, where do you estimate you
4 are in terms of time on your cross?

5 MR. GUILD: It's going to take a while, Judge.

6 JUDGE KELLEY: I need an estimate.

7 MR. GUILD: I can't give you one. I'm sorry.

8 JUDGE KELLEY: Mr. Guild, if you don't give us
9 one we are going to make one.

10 MR. GUILD: Sir, he has been resisting answering
11 questions and the questions have been objected to.

12 JUDGE KELLEY: Mr. Guild, if you don't want to
13 give an estimate we --

14 MR. GUILD: Two hours, sir.

15 JUDGE KELLEY: Two hours. Thank you. Mr.
16 Johnson, under the circumstances and given the nature of
17 the testimony, what do you think is a reasonable time for
18 cross by Palmetto?

19 MR. JOHNSON: Additional time?

20 JUDGE KELLEY: Yes.

21 MR. JOHNSON: I would say another 20 minutes.

22 JUDGE KELLEY: Mr. McGarry? Wait. Could you
23 elaborate a little bit? What leads you to that conclusion?

24 MR. JOHNSON: I'm trying to be practical about
25 this. The hour is very late. And I don't know how much more

#25-5-SueT 1

productive cross-examination we are all capable of. But --

2

JUDGE KELLEY: Let's bear in mind that we intend to finish tonight. We could come back in the morning but we are not going to do that.

3

4

MR. JOHNSON: Let me revise my estimate. I would say approximately half an hour. He has already had close to an hour.

5

6

JUDGE KELLEY: Approximately.

7

MR. JOHNSON: And an hour and a half to cross-examine a rebuttal witness it seems to me is sufficient.

8

9

JUDGE KELLEY: Mr. Carr?

10

MR. CARR: I would say another ten minutes. He has already had an hour with the witness. Dr. Michalowski testified on direct orally for an hour and the cross-examination of him, including the Board's questions, was concluded in thirty minutes.

11

12

13

14

I think an hour and ten minutes for a rebuttal witness is certainly ample.

15

16

MR. GUILD: Judge, frankly, this gentleman's testimony just doesn't hold water. All right. Now, we have done the best we can given the absolute limits that have been put on us and tried to structure a series of questions to do so. I don't have access to my expert but I've got the best doggone road map that I can find.

17

18

19

20

21

I'm on Page 2 of ten pages of testimony. And I

#25-6-SueTl

2 intend, if I can and if I'm giving the opportunity to do
3 so, to go question by question through the balance of
4 the gentleman's testimony, because it won't hold up. It
5 just flat won't hold up to the proposition that is being
6 advanced.

7 And if this Board is going to rely on testimony
8 that says foreman override is a rare occurrence at Catawba
9 from Dr. Hunter, then this party should have a full opportu-
10 nity to challenge that under the circumstances. And we will
11 do it. And we will do it tonight, but it's going to take
12 us some time.

13 JUDGE KELLEY: If it's as deficient as you
14 suggest, why can't you point those things out fairly
15 briefly?

16 MR. GUILD: We have begun, Judge. And I would
17 think that at this point you would already be at the point
18 where you would dismiss Dr. Hunter's testimony on its face
19 right now and say we are all wasting our time, because I
20 think that's the case.

21 JUDGE KELLEY: Why don't we take ten minutes.

22 (Recess.)

23 end #25
24 Mimie flws

MM/agbl

1 JUDGE KELLEY: We are back on the record.

2 The pending question was how we should allocate
3 time for the remainder of an evening which is now at
4 the hour of 10:40. That is not, I might add, determined
5 by me.

6 The main point is whether reasonable
7 opportunities are being afforded for all parties for
8 cross and presenting testimony. The fact is, it is
9 rebuttal, I am not going to recite all the facts, we
10 recited them before the break.

11 The fact is we decided we will allot an
12 additional 20 minutes to Mr. Guild for Palmetto and
13 we will have short periods for the other two parties.
14 Following the conclusion of Palmetto's cross, the Board
15 may have some questions.

16 Go ahead.

17 MR. GUILD: Please note our exception to
18 that. It is grossly inadequate to allow us an opportunity
19 to meet this testimony.

20 JUDGE KELLEY: We note your disagreement.

21 BY MR. GUILD:

22 Q Let's speak on the issue of clarity some more,
23 Dr. Hunter.

24 Now page two of your remarks, again the second
25 question you -- I take it back, it is the third question:

1 "What are the critical requirements
2 for wording of questions?"

3 You say clarity. All right.

4 The following: "Did you assess the
5 Duke Power questions for clarity?"

6 You did, yes, "the essential questions
7 asked were all clear." All right, sir.

8 Now what is meant by the term "directed to
9 violate" as employed in this essential question?

10 A. My "directed to violate" means that the person
11 was asked, that is ordered by -- presumably by a foreman --

12 Q. Is ordered or asked and ordered, sir? I'm
13 sorry.

14 A. Well the term "directed" would mean ordered.
15 although it is given -- the foreman frequently asks
16 Would you please do such-and-such, it is still an order.

17 Q. All right.

18 So it is asked and ordered?

19 A. When a foreman asks, it is the same thing as
20 ordered or directed. I see those in that context as
21 being synonymous.

22 Q. All right.

23 Is the term "directed" subjective or objective,
24 sir?

25 A. Objective.

1 Q All right.

2 Its meaning is therefore explicit, in your
3 view?

4 A Yes.

5 Q If you have been -- Let's say you are a
6 craftsman at Catawba then. If you have been told to
7 finish your work in too little time, not enough time
8 allowed to do the work that has been assigned to you,
9 have you been directed to violate procedures if violation
10 of procedures would be necessary in order to accomplish
11 that work in a given time?

12 A Well the problem -- the question is it
13 presupposes that -- that is, you have essentially said
14 suppose the foreman told you I want you to do this in
15 too little time -- which a foreman never does. A foreman
16 says I would like you to get this done before tomorrow.

17 Q That's your answer?

18 A Would you like to restate the question?

19 As I said, the question as it stands -- I
20 don't think any foreman would ever say I want you to do
21 this in too little time.

22 Q Okay. Let's stop right there. My time is
23 limited, so please bear with me.

24 You are a craftsman at Catawba. You are one
25 of the persons being sampled in this investigation or

1 survey. Posit this situation:

2 You are being told you have to accomplish a task
3 but in order to accomplish that task you have too little
4 time to do so and not violate procedures. Your foreman
5 begs, asks, directs, instructs -- you are given the task,
6 assigned the task by a foreman. All right, sir?

7 Now the question then is having been so told,
8 does that represent being directed to violate a procedure?

9 A. No.

10 Q. All right, sir.

11 So that set of circumstances would not be
12 elicited by the essential questions that were posed in
13 the Duke investigation, correct?

14 A. Yes, it would be elicited by something like
15 "Tell me about any time that you felt you had been under
16 production pressure to the extent that acceptable quality
17 was not achieved."

18 Q. That is the question that would elicit that
19 circumstance?

20 A. Yes. There are other questions that might also
21 elicit --

22 Q. Which other one?

23 A. Most -- many of these would be elicited by
24 more than one question.

25 Q. Well take the circumstances I posited, and you

MM/agb5

1 are trying to measure the rate of occurrence of that
2 circumstance. Now tell me which of these questions would
3 elicit a response that would identify that circumstance
4 please?

5 A. It could also happen in response to the question:

6 "What cases can you think of where
7 anyone has knowingly violated the interpass
8 temperature while making a weld?"

9 Q. How is "knowingly" defined there, sir?

10 A. For example, suppose that in an effort to meet
11 a deadline you knowingly violated the interpass temperature
12 rule. Then you would say -- Then when they said Can you
13 think of where anyone has knowingly violated, you would
14 say Well there was an instance where I did and I think
15 it was because I was trying to meet the deadline that
16 the foreman gave me which I couldn't do without violating
17 the interpass temperature.

18 Q. Right.

19 How is "knowingly" defined?

20 A. "Knowingly" means did you know that you were
21 violating the procedure at the time that you did it.

22 Q. All right.

23 A. I think the same thing would be true about:

24 "Tell me what you know about any
25 removal of arc strikes off of the piping

MM/agb6

1 systems without proper" -- no, that probably would not
2 be elicited in terms of being given too little time.

3 Q All right.

4 How is the term "acceptable" to be understood
5 in the second question?

6 A "Acceptable" means meeting the standards of
7 the particular code in question.

8 Q As judged by whom?

9 A Well most of these codes state specific things,
10 state specific requirements that are made. For example,
11 that -- I believe for example in the case of interpass
12 temperature, I believe the temperature of the weld must
13 drop to below, I believe it is, 350 degrees before a
14 second weld is made. I understand most of the codes
15 are of that sort, that they specify exactly what standard
16 is to be met in a given action.

17 Q So the terms employed in the essential questions
18 as follows: "feelings, pressure, acceptable, deliberate,
19 directed," for example, meet your standard of clarity
20 as you employ the term on page two of your testimony?

21 A Yes.

22 Q And do all of the respondents understand those
23 terms of the same way?

24 A That is not necessary.

25 For example, the word "pressure," as it is used

MM/agb7

1 here, it would not be necessary that all respondents have
2 exactly the same definition, since pressure is an internal
3 state and a subjective state there would, in fact, be
4 wide differences as to when a person would feel that he
5 is being pressured.

6 A person, for example, who is relatively paranoid
7 might feel pressured by what another person would regard
8 as an incidental remark.

9 Q All right, sir. That's fine.

10 Page four of your testimony, the third question,
11 sir, you state that the information requested by Duke's
12 investigation is not high-risk information, correct? Yes
13 or not?

14 A Well I don't think think that is exactly what
15 I said. High-risk information to be given in response
16 to some of those questions.

17 What I said was that I think that the important
18 information would not be held back because of high risk.

19 Q So you think it does seek to elicit high-risk
20 information?

21 A I said it could.

22 Q Does it seek to?

23 A For example --

24 Q Does it, yes or no, Doctor, then please explain.

25 Time is short.

1 Does the study seek to elicit high-risk
2 information?

3 MR. CARR: Excuse me, he already answered that.
4 Asked and answered --

5 JUDGE KELLEY: Let's take it one at a time,
6 please.

7 MR. CARR: Mr. Guild asked him that question and
8 he answered it could.

9 MR. GUILD: Then I asked him whether it
10 does or doesn't.

11 THE WITNESS: May I answer the question could
12 it elicit high-risk information?

13 BY MR. GUILD:

14 Q Please answer the question yes or no, Doctor,
15 then proceed. My time is short. I would really like a
16 precise answer.

17 JUDGE KELLEY: I think we are getting rather
18 confused, though, by this three-way conversation.

19 Can you restate your pending question, Mr. Guild?

20 MR. GUILD: I will try, Judge.

21 BY MR. GUILD:

22 Q Does the Duke study seek to elicit high-risk
23 information, yes or no, Doctor?

24 A Well I am not sure in terms of "seek." One of
25 the questions, for example, the question:

MM/agb9

1 "Can you think of cases where anyone
2 has knowingly violated an interpass temperature
3 while making a weld."

4 What I am saying is if a person had knowingly
5 and for his own reasons -- for example, if he had done
6 this so as to be able to go to the john and smoke a
7 cigarette or something -- if he said yes to that and made
8 that admission, it would certainly be admitting -- it
9 would certainly be stating high-risk information.

10 Q All right, sir.

11 Your answer to that question, page four, is this:

12 "An instance of foreman override
13 would be derogatory to the foreman rather
14 than the craftsman reporting the incident.
15 The craftsman would merely have been following
16 orders. In fact, had there been an override,
17 the investigation would have provided a chance
18 for the worker to get it off his chest."

19 Now do you really believe that, sir?

20 A. Yes.

21 Q And do you believe that that suggests that
22 the Duke study was not seeking to elicit high-risk information?
23 That is consistent with your understanding of what Duke
24 sought?

25 A. Part of the problem is the word "seek." The

MM/agbl0

1 questions elicited -- the questions asked various kinds of
2 things.

3 My comment had to do with the particular issue
4 of foreman override. The questions, however, were much
5 wider than merely foreman override.

6 Q All right, sir, let's pose this situation:

7 An individual craftsman has been pressured by
8 their foreman to violate interpass temperature. That
9 foreman, sir has -- in circumstances where that pressure
10 has existed -- communicated to that craftsman as follows,
11 and I read you from one of the affidavits -- I hope you
12 have read it:

13 "Arlon said to him that if he
14 caused anything to happen to cause him to
15 lose his job that he, Arlon, would 'blow
16 his brains out.'"

17 Now Arlon is the foreman. Now are you seriously
18 saying to us, Dr. Hunter, that in seeking to elicit events
19 such as that Duke's study does not seek to elicit high-
20 risk information?

21 MR. CARR: Your Honor --

22 BY MR. GUILD:

23 Q Please answer the question, sir.

24 MR. CARR: Your Honor, I have an objection. This
25 is page four, the third question. The question reads:

1 "Dr. Michalowski also states that
2 the reliability of these conclusions is
3 adversely affected by the fact that the
4 interviewees were asked to reveal 'high-
5 risk information.' Do you agree?"

6 And then Dr. Hunter gives the answer.

7 MR. GUILD: That is not responsive to the
8 question asked, Judge, it is simply wasting my limited
9 time.

10 MR. CARR: The question asked is irrelevant
11 with the answer as given.

12 JUDGE KELLEY: We will overrule the objection.
13 It seems to me it does fairly go to the witness'
14 testimony about what constitutes high-risk and whether
15 that is true in foreman override type of conduct.

16 THE WITNESS: Well part of the problem of
17 the question, as I said, was the word "seek."

18 The question was -- as I interpret the question,
19 the question was Was it the intent of Duke Power to
20 elicit high-risk information?

21 And my understanding of the intention of Duke
22 Power was that what they sought to elicit was information
23 that would pertain to whether or not instances of foreman
24 override occurred. I don't think what they were looking
25 for was high-risk information, per se.

MM/Agbl2

1 As I said, it is certainly true some of these
2 questions could elicit -- and as I said some of these
3 questions could elicit high-risk information.

4 BY MR. GUILD:

5 Q Dr. Hunter, your position is that that
6 information that I posited to you, the disclosure of a
7 circumstance that I read you from this affidavit, that
8 is not high-risk information, is that your view?

9 A I did not say that.

10 Q Well is it high-risk information, yes or no?

11 A Yes. If a person has been threatened and
12 they then tell the person if they were threatened -- if
13 you tell somebody I am going to shoot you and then you
14 tell that person, you are taking a high risk.

15 Q Page seven, question:

16 "With regard to the sample use in
17 the investigation, Dr. Michalowski has
18 questioned the adequacy of the sample
19 scheme. Do you think the sampling scheme
20 for this investigation is adequate?"

21 Your answer: "Yes."

22 What is the sampling scheme employed adequate
23 for, Dr. Hunter?

24 A Well first of all by the "sampling scheme,"
25 what I mean is the sampling scheme as listed in Exhibit 1.

1 And as I see it, there were basically a number
2 of different objectives implicit in this sampling scheme:
3 one of which was to run down initial allegations made,
4 I believe by Welder B. That I think was one of the main
5 purposes in looking at the 60 workers who worked under
6 foremen, who is Named Individual 142.

7 The other thing that they wanted to do was to
8 gain more information about various allegations, so when
9 people were named in connection with those allegations
10 they then asked the people who named in those allegations.
11 And that, I believe, is the objective that was met by
12 the 68 other craftsmen who were questioned in the
13 follow-up rounds.

14 Finally what they wanted to do was to get a
15 general idea of whether or not these problems would emerge
16 in randomly-chosen groups of workers, and so they asked
17 35 randomly-chosen welders, stratified by crew, and 33
18 randomly-chosen craftsmen from other areas, stratified
19 by crew.

20 Q By "general idea," do you mean they wanted to
21 be able to make generalizations from the samples they
22 employed?

23 A Yes.

24 Q Can you make generalizations from an
25 investigation?

1 A. Yes.

2 Q. On what basis?

3 A. That depends -- You can make generalizations if
4 the data provide justification for them.

5 Q. How about with regard to this investigation?

6 A. Yes, I think the data generated by this
7 investigation provide the basis for generalizations.

JW#27flws

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

endMM#26

1 Q Page 8, question 2, you state Dukes conclusions
2 were justified by the data. Which conclusions were those,
3 sir?

4 A The conclusion I had in mind was the one I stated
5 at the end, which is that it seemed to me that the data
6 they generated justified their drawing the inference on
7 the basis of their data that the instance of foreman override
8 is a rate event.

9 Q And which data support their conclusion about the
10 scope the instances of foreman override?

11 A I think that will be supported by either of two
12 sets of data, either by the entire set of data, looking at
13 both random and non-random samples, and I believe the
14 conclusion would also be justified given only the data from
15 the random samples along.

16 Q Can you make valid generalizations from non-random
17 sample?

18 A That would depend upon looking at the data itself
19 to see if you had homogeneity between the results as found.

20 Q Did you do that?

21 A No.

22 Q Then you can't make any generalizations with
23 regard to that data, can you?

24 A I didn't fully carry it out. It is my opinion that
25 if an analysis is made, it would show homogeneity between

1 the data from the non-random samples, the data from the
2 random samples, which would then result in making it valid
3 to pool the data and then look at the total picture.

4 Q If you didn't do it, how can you make that
5 assumption, sir.

6 A I thought it through fairly far.

7 Q Let's put it in a nutshell now. Dr. Hunter, these
8 gentlemen are going to license a nuclear power plant, based
9 on your expert opinion evidence that the incidents of foremen
10 override, instances where foremen at the threat of blowing
11 the brains of craftsmen, direct craftsmen or force craftsmen
12 or pressure craftsmen, to violate quality standards in the
13 construction of this plant.

14 And do you seriously expect these gentlemen to
15 rely on your expert opinion that the instances of that
16 occurrence are sufficiently rare, using your term, that they
17 should feel comfortable with the safety of that plant?

18 A I think that what they should look at, is they
19 should look at the report, and the data generated by the
20 report. I am merely saying that I think that valid inferences
21 were drawn that given the data that Duke Power generated, I
22 think the inference they drew from that data is justified.

23 Q You didn't evaluate that data, though, did you?

24 A I did not evaluate the process of coding what
25 respondent said into allegations, that is right.

1 Q You simply accepted Duke's coding of that data,
2 their characterization of that data.

3 A What I looked at was the process of given such and
4 such data, what conclusion would be drawn from that data.

5 And what I testified to was that I believe that
6 their inference process was correct.

7 JUDGE KELLEY: Mr. Guild, your time has expired.

8 MR. GUILD: Let me have a moment, Mr. Chairman,
9 to wrap up.

10 JUDGE KELLEY: I would like to just check with
11 Mr. Riley. Were you planning on putting any questions
12 to the witness, Mr. Riley? We hadn't asked you earlier.

13 MR. RILEY: No, sir.

14 JUDGE KELLEY: No, sir.

15 BY MR. GUILD: (Continuing)

16 Q Dr. Hunter, Duke randomly sampled only thirty-three
17 craftsmen from the non-welding areas. What would be the
18 confidence and error levels of asuch a sampling?

19 A Confidence in error levels for what? You don't
20 have confidence levels associated with samples. You have
21 confidence levels associated with statistics.

22 Q And with the conclusion that you draw from those
23 statistics. You made a generalization. You said instances
24 were rare of foreman override, and I assume you applied
25 that to the sample they conducted of craftsmen --

1 REPORTER: Only one at a time, please. I can't
2 take two of you talking at once.

3 JUDGE KELLEY: It only works when we have one
4 at a time.

5 BY MR. GUILD: (Continuing)

6 Q What is your confidence level that you attribute
7 to your conclusion that incidents of foreman override is
8 rare outside of welding craft?

9 A I gave you the exact calculations which I used
10 to define -- if we take the maximum number of instances
11 of foreman override and safety-related incidents that
12 might have occurred to be the number of allegations, which
13 is ten, and we divide that by the number of instances where
14 foreman override might have occurred, then we get a maximum
15 observed probability of something like one in 272,000.

16 Now, the fact of the matter is that in my opinion
17 even if the allegations were understated by factor of ten,
18 that would still leave you something like one in 27,000, which
19 would still be rare.

20 Therefore --

21 Q No, sir. That is not my question. My question sir
22 is you, Dr. Hunter, who reached this conclusion of rare,
23 on the basis of the sample of 33 craftsmen in a non-welding
24 area, what confidence and error level do you associate with
25 that conclusion, sir?

1 MR. CARR: Your Honor, I am going to object.
2 Dr. Hunter has explained what that conclusion means, --
3 explained the fact that that conclusion means in his view
4 the inference could be -- or the conclusion could be reached
5 by Duke when it completed its report.

6 JUDGE KELLEY: I am not sure I understand, Mr. Carr.

7 MR. CARR: As he has been all evening, he is
8 attempting again to get Dr. Hunter to say that Dr. Hunter
9 evaluated the data to determine which of th data resulted
10 from an override.

11 JUDGE KELLEY: I didn't think that was the question.
12 Maybe I am wrong.

13 MR. GUILD: No, sir, I think he is going off on
14 some fantasy trip to explain again --

15 MR. CARR: I object to that characterization. There
16 is no call for that.

17 MR. GUILD: The hour is late, and we want to get
18 to the bottom of this.

19 JUDGE KELLEY: I want to interject here and see
20 if I don't understand the question that Mr. Guild has,
21 and it is the one I think I would ask anyway eventually, so
22 I will ask it now.

23 You say that instances are rare. If Duke is right
24 in categorizing these incidents of foreman override, then
25 incidents are rare, given your calculations of five a day,

1 ... so on.

2 WITNESS: That is right.

3 JUDGE KELLEY: How confident are you of that
4 conclusion. Don't statisticians talk of standard deviations
5 and things of that sort? Is that what you are after, Mr.
6 Guild?

7 MR. GUILD: Yes, sir, it is.

8 WITNESS: I didn't do a formal calculation because
9 if you took that as an observed proportion based on 272,000
10 cases, the standard error would be so small that it would
11 make only minimal difference.

12 For example, it would not be very likely on
13 purely statistical grounds that there could be an error
14 by as much as a factor of ten. What I noted was that even
15 if you expanded it by ten, it would still be -- we would
16 still be talking about well less than one in a thousand
17 times.

18 As I said, the number is so small I didn't calculate
19 the formal confidence.

20 BY MR. GUILD: (Continuing)

21 Q The last question, Judge. Thirty-three is a sample
22 of non-welding craftsmen. That is all they talked to. And
23 you don't know how many instances of foreman override they
24 identified among those three-three non-welders they sampled.
25 You have already told me that.

1 A I said -- I told you the number that I used, which
2 I believe --

3 Q That is from the entire --

4 JUDGE KELLEY: We are going to let this question
5 get answered. It may take a minute or two, but let him
6 finish and you can say something.

7 BY MR. GUILD: (Continuing)

8 Q I am trying to get your answer. I am really
9 trying to be clear about what my question is.

10 JUDGE KELLEY: You want to restate the question?

11 BY MR. GUILD: (Continuing)

12 Q You sampled only 33 people outside the welding
13 craft. I think you told me that you didn't know how instances
14 of foreman override there were. You said you thought there
15 were ten reported in the Duke document.

16 That is for the whole size of people interviewed.

17 A Right.

18 Q So you don't know how many are there among the
19 thirty-three?

20 A Among the sample -- there could be at most ten.
21 You recall when I stated the number. I said that there were
22 at most ten allegations for the whole sample, therefore, if
23 we take the sub-sample, the number of allegations would be
24 less, it would be ten or less.

25 Q We have ten instances of foreman overriede among

1 the 33 craftsmen who were outside the welding sample.

2 You still reach the same conclusion that foreman
3 override was rare at Catawba.

4 A Yes, because that is -- again, there are 272,000
5 -- the 272,000 are based on sixty-eight, not on thirty-three.
6 Had there been ten instances among those thirty-three, then
7 the number, although it would be not one in 27,000, it would
8 still be something like one in 9,000.

9 Q It would be rare in your opinion?

10 A Yes.

11 Q If one third of the craftsmen in the non-welding
12 area reported instances of foreman override, foreman override
13 at Catawba would be rare, Dr. Hunter?

14 A First of all, that is not what the ten would
15 necessary mean, and my comment was, the question is, how
16 often does foreman override occur, and what I said was you
17 have to take the normal procedure in talking about a percentage,
18 is how often did something occur relative to the number of
19 opportunities for that to occur.

20 The number of opportunities for that to occur was
21 not 33. The number of opportunities for that to occur would
22 be approximately 33 times 4,000.

23 Q And this Board should be comfortable with that
24 conclusion. That foreman override is rare, and thereby
25 rely on a Duke study that states that is not a significant

1 problem at Catawba?

2 A That is not the same thing.

3 JUDGE KELLEY: I would like, gentlemen, I would
4 like both of you to try to get to the point here so we can
5 stop, okay? We will go into some other questions. Please
6 try to state your response.

7 BY MR. GUILD: (Continuing)

8 Q You don't mean to endorse the conclusion that foreman
9 override is not a significant problem at Catawba?

10 A I have no basis for knowing -- that is, to say
11 that something is rare, is not necessarily to say that it
12 is insignificant.

13 I don't know, personally, the importance of this
14 event. I mean, there could be an event that occurs only
15 one in a thousand times, but that could be a critical
16 event, and you could therefore say that if it occurs with
17 that frequency, some remedial action must be taken. I am
18 not qualified to assess the importance of a foreman override.

19 All I was characterizing was the frequency of it.

20 JUDGE KELLEY: Mr. Guild, you want one last one.

21 MR. GUILD: Yes, sir.

22 JUDGE KELLEY: This is it.

23 BY MR. GUILD: (Continuing)

24 Q The fact that there are ten instances of foreman
25 override among non-welding craftsmen, if that were so, rare

1 by your definition as you use the term, but not representing
2 judgement on your part that those occurrences are insignifi-
3 cent, correct?

4 A That is correct.

5 MR. GUILD: Thank you.

6 JUDGE KELLEY: Guess it is your turn, Mr. Johnson.

7 CROSS EXAMINATION

8 BY MR. JOHNSON:

9 Q I was going to ask some questions similar to the
10 question that Judge Kelley asked, and that was in your
11 ultimate conclusion, where you say in the last question --
12 your last question: What conclusion do you believe
13 to be supported by the data? Answer: In ordinary english,
14 foreman override is a rare event at the Catawba plant, I
15 originally thought what you were saying was that you were
16 drawing the conclusion that foreman override is a rare
17 event at the Catawba plant.

18 But what I understand your answer now to be is
19 that assuming that Duke appropriately categorized the
20 data concerning the operational variables, dependent
21 variables, that is, instances of foreman override, that
22 they had enough information at their disposal, the data
23 base that they were working from is sufficient in order
24 to draw an inference of that sort.

25 A What I was saying was if, for example, that number

XX INDEX

27-11-Wal

1 is the correct count of number of allegations, and hence
2 an upper bound for the number of instances, then given the
3 number of opportunities that would occur, that they were
4 correct in drawing the conclusion that it was rare.

5 Q That is the other part that bothered me a little.
6 And that was your definition of the opportunities. That
7 is the universe possibilities of having this event occur.
8 Since you used ten, and you said it was defined as being
9 instances of foreman override related to safety, I didn't
10 hear you state in your denominator, that is the opportunities
11 that were available, which you said were five per day per
12 individual, times working days for the year, that there
13 was a safety aspect considered.

14 In other words, all I heard you say was there
15 were a number of interactions between a foreman and a crafts-
16 person, and there are many craft personnel. We heard from
17 some of them who said they only did safety related work
18 ten percent of the time. It didn't seem to me that you
19 considered the proportion of all the work interactions that
20 deal with safety related equipment or safety-related tasks,
21 did you?

22 A I suspect that the percentage might be that low.
23 You are right, I did not consider it. I assumed that the
24 percentage that was safety related was so high that I didn't
25 even consider the possibility that that percentage might be

1 very low, if that were generally true.

2 For example, if it were the case that typically
3 only ten percent of tasks were safety-related, that would
4 affect my figure by a factor of ten.

5 Q Okay. I think that is a conservative way to do
6 it. I don't think that that is an appropriate average, but
7 let's say assuming it is ten percent, how would that affect
8 your number, your conclusion?

9 A That would reduce, in the case of the sample of
10 sixty-eight, that would reduce the number of opportunities
11 from 272,000 to 27,200.

12 Q It is ten over twenty-seven thousand, two hundred.

13 A Correct.

14 Q And you still feel that was sufficient data base?

15 A Well, that is still about one in three thousand.
16 I would still call that rare.

17 Q Is that the only basis on which you would draw
18 a conclusion that Duke could draw a conclusion that foreman
19 override was not a pervasive problem at the Catawa plant?
20 Is that the sole primary finding on what you base the
21 finding that they could find it from the data?

22 A There are basically two parts. First, there would
23 be evaluation of the questionnaire information as to whether
24 I thought it would elicit the information necessary for
25 the investigators to determine whether a worker had or had

1 not seen an ance.

2 So, it seems to me on the basis of the questionnaire
3 that had workers observed it, they would have reported it
4 in response to those questions. Plus it seems to me that
5 there would not be an enormous -- it seemed to me that
6 most allegations would be caught.

7 It also -- I also assumed it was probably not that
8 difficult, so I did not -- I was in no position to know that
9 that is true, but I also operated under the assumption --
10 in terms of my formal inference, I simply took their count
11 of number of allegations as being correct, although I had
12 also had no reason to believe that it is difficult to
13 determine an allegation.

14 It seems to me it would be difficult to determine
15 whether the allegation was substantiated or not, but I had
16 no reason to suppose it would be difficult to count allegations.

17 Q Okay. Would you consider that to be a conservative
18 way to go about trying to determine pervasiveness of foreman
19 override?

20 A Yes.

21 MR. JOHNSON: Thank you. That is all I have.

22 JUDGE KELLEY: Mr. McGarry.

23 JUDGE PURDOM: If the parties will bear with me,
24 I want to ask a curiosity question. It has to do with the
25 long form on your Vita, Dr. Hunter, on page 4, Item 16.

#27-14-Wal 1

BOARD EXAMINATION

2

BY JUDGE PURDOM:

3

Q There is a paper referenced there entitled,

4

Cumulating Results Across Studies: A Critique of Factor

5

Analysis, Canonical Correlation, MANOVA, and Statistical

6

Significance Testing.

7

I am not a statistician. What does this

8

"canonical correlation" mean? And what does MANOVA mean?

9

A MANOVA is multi-variant analysis of variance.

10

Q And canonical correlation?

11

A Canonical correlation, if you have two sets

12

of variables and you consider all linear combinations of

13

one set, and all linear correlations that maximize the

14

correlation between the two linear combinations, that

15

correlation is called the canonical correlation between

16

the two sets of variables.

17

Q I was just curious whether this particular paper

18

had any application to the kind of problems we were having

19

here.

20

A The paper has to do with what are the problems

21

in taking data that goes across studies, and trying to

22

combine it so as to draw conclusions based on the set

23

of studies, rather than on single studies. I don't think

24

it has any immediate application.

25

Q How is that pertinent?

#27-15-SueT 1

A In this case, we are dealing with data from a
single study.

2

3

4

end #27

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

EVENING SESS.
11:20 p.m.
#28-1-SueTl

Q I wanted to ask you something else in the way
2 of clarification. In your direct testimony on Page 7,
3 there is a question, "Would it have been more appropriate
4 for Duke to have interviewed a simple random sample?"
5 And there is an answer on that.

6 But, elsewhere in here, and in particular in
7 Exhibit 1, you use the expression "randomly chosen welders."
8 Do those terms, as used in this testimony, are they a
9 different use of the words?

10 I'm trying to get a grasp of the meaning of the
11 words? Are they different in those two instances, or are
12 they the same?

13 A I think they are the same, because I think in
14 this question when I said a simple random sample, I would
15 have been including a stratified random sample, and so I
16 think they were the same.

17 Q Now, I think one criticism I would infer from
18 the testimony the other day is that the study that was
19 made by Duke results in some numbers, whatever they might
20 be, and that because of the size of the sample those
21 numbers can't be extended to represent a condition in the
22 total population.

23 And you may have answered this question in other
24 forms tonight, but my question is, in regard to that
25 particular criticism is that a valid criticism or not?

#28-2-Sub
Tr

2 A It's in part valid. If you look at the data for
3 the whole and treat it as if it were a random sample. And
4 that was done in some parts of the report. There would be
5 the possibility of sample bias.

6 If you -- now, there are conditions under which
7 you could sometimes pool nonrandom data in the random data.
8 That analysis was not done as a part of the report, which
9 was why I said that if you wanted to focus on only that
10 subportion of the data -- and this I think was the point
11 that Dr. Michalowski missed, was that there is a portion of
12 the data which is a random sample and from which you can
13 look at most statistics in the usual manner. That is to say
14 that usually if you say something like fifty percent of
15 the people who -- fifty percent of the people sampled said
16 that they would vote for Mondale, the usual assumption
17 there is that you are working from a simple random sample
18 and you are making inference to the population.

19 Now, in that sense the total sample of 196
20 craftsmen is not a simple random sample, because it contains
21 sub-samples that were not randomly selected.

22 Q And the sub-samples would be in your exhibit,
23 one in four would not be random; is that right?

24 A That's right.

25 Q And your testimony previously says that they
would be biased or a greater than normal of events possibly?

#28-3-SueE

Is that the thrust of your testimony?

2 A That's what I would think, yes.

3 Q Would you say then that combining that with the
4 random data is conservative or nonconservative?

5 A I would say that if that assumption is correct,
6 it would be conservative.

7 Q Is there any reason to think it's not correct?

8 A I have no reason to think that it's not
9 correct.

10 Q You are employed, as I understood it, by Duke
11 and you have had a limited opportunity to examine the
12 study that they made. In your statistical knowledge, if
13 you were designing this study from scratch, what would you
14 do to make us have more confidence in the study?

15 A Well, the first thing is that I would have
16 instructed people to document everything in much more detail
17 from the beginning. For example, document such things as
18 how the non-random sample was drawn.

19 I would have instructed them to do analyses
20 breaking the data down separately for, say, non-random and
21 random samples to see how they do compare to each other, as
22 I think there are a number of things that could be done that
23 would improve the study as it has been done.

24 I have not thought in terms of possibility of
25 whether, say, certain -- I simply have not thought about

#28-4-SueT1

2 whether questions might have been asked, nor have I questioned
3 them as to the coding procedures to see how that might --
4 how those might have been improved or made straightforward,
5 though if I were acting as a consultant those would be some
6 of the directions that I would push.

7 Q Well, the simple answer that I was wondering if
8 you would make that you have alluded to is whether or not
9 you would have doubled the sample size, tripled it, made
10 it ten times greater?

11 A Well, part of the question has to do with
12 feasibility. That is, it's always the case in any
13 statistical investigation the more data you have the better.
14 And so, therefore, it is, of course, always preferable to
15 have more data rather than less.

16 Now, the question is in terms of feasibility
17 how much, you know, time, manpower and time constraints
18 were allotted. It may or may not have been possible. I
19 can't tell on the basis of what I read, without much more
20 questioning.

21 It might have been possible, for example, that
22 if this represents sort of the total feasible number of
23 people who could be interviewed within the constraints they
24 were operating under, it might have been possible that,
25 for example, I might have recommended that fewer of the
workers who worked under Foreman 142 be interviewed and that

#28-5-SueT

1 they allot more to the other samples. I'm not sure.

2 That would be in part a question of the
3 investigatory needs. But, as I said, you know, a person --
4 you can only blanketly ask people to have a greater sample
5 size and if there is a greater sample size you always get
6 better statistical estimation.

7 However, there is always an upper bound set
8 on the maximum sample size by feasibility conditions. I
9 did not -- you know, I did not know -- I have no idea
10 what the feasibility conditions were that set the upper
11 bound that they set for this study. So I don't know
12 whether they were in a position to modify that or not.

13 JUDGE PURDOM: Thank you, Doctor. That's all.

14 BOARD EXAMINATION

15 BY JUDGE FOSTER:

16 Q Dr. Hunter, one of the questions that some of
17 us have in our minds is whether the investigation as carried
18 out actually found among the people sampled all of the real
19 cases of foreman override.

20 We have -- out of this group, we have been talking
21 about allegations like ten. These were elicited by Duke Power
22 Company employees who were trained interrogators asking
23 questions that you have there of Duke's own employees.

24 I know one of the things that Dr. Michalowski had
25 mentioned was that sometimes it would be desirable for an

#28-6-SueT 1

outside group of people to perhaps be doing the interrogating.

2

My question to you, sir, is in your expert

3

opinion how far under might the allegations be from the

4

true number if it had been done by some other means or, let's

5

say, from the true number?

6

A Well --

7

Q Do you think there is a possibility there would

8

have been twice as many or half as many again or --

9

A I think that the extent to which information is

10

going to be elicited is largely a function of the amount of

11

rapport and also to a considerable extent the function of

12

the extent to which the people see it as important.

13

My own guess is that having the superintendent

14

come in and tell them, you know, we want to know what is

15

going on in our department, and having people from within

16

the Company be the people who are taking information would

17

actually increase the number of reports. Though, it is

18

also my understanding that the NRC investigators carried

19

out -- and again they would not have used a random sample

20

but certainly they interviewed -- and this is just from

21

listening to -- I believe it was Mr. Uryc, or the person

22

who was sitting right here yesterday afternoon, that they

23

conducted a number of interviews and found substantially the

24

same results.

25

So, I do not think that -- I will not agree with

#28-7-SueT

1 Dr. Michalowski that there would be any great advantage to
2 having the study done by outsiders rather than by the person-
3 nel people that Duke used.

4 Q By the same token, you don't think that the ten
5 allegations that came out substantially understate the true
6 number, then?

7 A Let me say first that I have no basis, since I
8 did not do any kind of independent assessment of the extent
9 to which they correctly coded what people said into allega-
10 tions, although it is my opinion that I do not think that
11 they would miss that many.

12 It doesn't seem to me like it would be a task
13 where a great number of errors would be made; however, you
14 know, I could be wrong.

15 JUDGE FOSTER: That's it.

16 BOARD EXAMINATION

17 BY JUDGE KELLEY:

18 Q Dr. Hunter, you said you used a number of trans-
19 actions per worker of five, I think?

20 A Per day.

21 Q Per day. And I believe you referred to someone,
22 apparently a Duke Power person, who, as I recall, suggested
23 that that would be a conservative number; is that right?

24 A Yes.

25 Q Who did you speak with?

#28-8-SueT

1 A John Hurst.

2 Q And he is with Duke?

3 A That's my understanding. That's what I was told
4 when I came Wednesday morning.

5 Q What does Mr. Hurst do? Do you know?

6 A He is an industrial engineer at the Catawba
7 plant.8 JUDGE KELLEY: Thank you. Mr. Guild, do you have
9 any recross questions?

10 MR. GUILD: Yes, sir.

11 JUDGE KELLEY: Approximately how much time do you
12 think that will take?

13 MR. GUILD: Ten minutes.

14 JUDGE KELLEY: All right. Ten.

15 RECROSS EXAMINATION

16 BY MR. GUILD:

INDEXXX

17 Q The purpose of survey research is frequently to
18 make valid generalizations. Certain empirical criteria are
19 used to establish the reliability and validity of the data
20 study. Standard, for example, to set your acceptable confi-
21 dence level and your acceptable error level in advance before
22 actually doing the sample. Standard is usually, for example,
23 to set the error level at five percent. You will be correct
24 ninety-five percent of the time in your generalizations. With
25 a sample of a hundred, this error level increases to ten percent.

#28-9-SueT

1 What is the error level for a sample of thirty-
2 three?

3 MR. CARR: Your Honor, this is not proper re-
4 direct. This was not brought up on cross by Mr. Johnson,
5 Dr. Purdom or Dr. Foster or yourself.

6 This is simply a continuation of Mr. Guild's
7 cross examination. These were the last questions that he
8 asked.

9 JUDGE KELLEY: How was it brought up, Mr. Guild?

10 MR. GUILD: Exactly the subject that Dr. Purdom
11 was inquiring. The confidence level of the sample size.

12 JUDGE KELLEY: Judge Purdom.

13 JUDGE PURDOM: Well, I think my question went
14 more to what would he do to have more confidence in the
15 sample. And he gave a lot of discussion. I don't know that
16 I asked for the precise confidence level that he would have,
17 the level that Duke had or the level that he would achieve.

18 JUDGE KELLEY: I sustain the objection.

19 MR. GUILD: Mr. Chairman, it seems to me that
20 you can't approach one without the other. You can't answer
21 the question of whether you need to increase the sample size
22 until you establish whether or not you have achieved a given
23 level of confidence, level of error, sample size -- in the
24 sample size employed.

25 And I'm trying to approach that same point. And it's --

#28-10-SueT

1 that's -- this is the bottom line of the question. I mean,
2 if --

3 JUDGE KELLEY: You are trying to approach it,
4 I believe, on further cross, Mr. Guild. I'm sustaining the
5 objection on the ground that the point you are raising is
6 not the same as the point Dr. Purdom raised.

7 We are down to a very fine point on the rules. And
8 we can finish this up.

9 MR. GUILD: The fine point of the rule --

10 JUDGE KELLEY: The objection is sustained, Mr.
11 Guild. Kindly move on.

12 BY MR. GUILD: (Continuing)

13 Q How sure can you be with a sample of thirty-
14 three, Dr. Hunter?

15 A That question, as you know, first of all, if you
16 are going to ask about confidence levels you have to inquire
17 as to a statistic, not as to a sample.

18 Q So you can't answer the question?

19 A The question is, you -- can you have confidence
20 in a sample of thirty-three simply has no numerical answer.

21 Q How sure can you be with a random sample of
22 thirty-three?

23 A The question is how sure can you be of what?
24 You have to specify a specific number that is being computed,
25 how it is being --

#28-11-Sue

1 Q Yes, sir. Yes, sir. How sure of the conclusion
2 that you reach, that conclusion stated at Page 10, foreman
3 override is a rare event at Catawba, with a random sample
4 of thirty-three?

5 A I did not -- as I said in response to exactly that
6 same question before, I did not compute a confidence interval.

7 Q You don't --

8 A However, if you used a binomial to compute the
9 count confidence interval with an N of 272,000 it would be
10 relatively small.

11 Q N is thirty-three.

12 A I'm sorry. The N is not thirty-three.

13 Q Assume it is. Assume N is thirty-three. What
14 is your confidence level?

15 A For what statistic?

16 Q The override, the instances of override?

17 A Well, it's just mathematically not correct to
18 say that the N is thirty-three when the N is 272,000. And
19 so, therefore, I don't know what statistic, you know.

20 Q Why is it more correct to come up with the
21 arbitrary number that you employ?

22 A The question is, for a given number that is
23 computed in statistics, if you apply a given formula there
24 are meanings assigned to the terms in those formulas.

25 MR. GUILD: Mr. Chairman, I would like an answer

#28-12-Sue

1 to the question. I'm not trying to play games with the
2 witness. I really want to go home as much as anybody else
3 does.

4 It's a very simple question, and that is, for a
5 sample size of thirty-three what level of confidence does he
6 have of his conclusion, which is that foreman override is
7 rare at Catawba.

8 I don't know how to break it down any simpler
9 than that.

10 JUDGE KELLEY: I've been impressed with the
11 witness trying to answer the questions candidly. He has
12 been objecting that you are asking him a meaningless question.
13 I think you may not agree with that.

14 You go ahead and put your question to him again
15 and see if it gets us anywhere. So far, it hasn't.

16 BY MR. GUILD: (Continuing)

17 Q There were thirty-three, a sample size of non-
18 welders, persons in other crafts. Thirty-three. That is
19 what your exhibit reflects, does it not?

20 A Right.

21 Q Okay. And you generalize to thousands of
22 transactions.

23 A But transactions are not the same as persons.

24 Q Right. You generalize to thousands of trans-
25 actions among thousands of people at the Catawba site on the

#28-13-SueT 1

basis of that sample size, correct?

2

Would a scientist do that, Dr. Hunter?

3

A The count of the number of transactions was

4

not based on the sample size. I gave you how I estimated

5

the number of transactions.

6

I estimated the number of working days from the

7

conventional 50 weeks times -- or, 40 weeks times five. I

8

took 200 working days --

9

Q That's all right. You don't need to say it

10

again, Doctor. That's it.

11

A That's how I estimated number of transactions.

12

MR. GUILD: That's all I have.

13

JUDGE KELLEY: Is that it, Mr. Guild?

14

MR. GUILD: That is it, Judge.

15

JUDGE KELLEY: Okay.

16

MR. RILEY: Judge Kelley, may I have a recross

17

question?

18

MR. CARR: Mr. Riley didn't cross-examine, Your

19

Honor.

20

MR. GUILD: Then, I would like to have Mr. Riley

21

have my time. Let's have a little courtesty, a little

22

minimum courtesy, at this point, please.

23

JUDGE KELLEY: Mr. Riley, I asked you a little

24

while ago if you had any questions of this witness and you

25

said no.

#28-14-SueT¹

MR. RILEY: I didn't have on cross, but I do have
on recross.

JUDGE KELLEY: No, thanks.

MR. GUILD: Please, Judge Kelley.

JUDGE KELLEY: Request denied, Mr. Guild. I think
the request is outrageous.

MR. GUILD: Judge, please. I didn't use the
time I had. I'm having a very difficult time. You have
not given me any expert assistance. I am trying to get to
the crux of this.

JUDGE KELLEY: No, we are through. This witness
is excused.

Mr. Hunter, thank you very much for coming. We
appreciate your answers and your attention.

Do we have any redirect? I forgot, frankly.

MR. CARR: No.

JUDGE KELLEY: Thank you. You are excused.

(The witness stood aside.)

end #28
Mimie flws

T29 MMmm

1 JUDGE KELLEY: Counsel, let us turn immediately
2 to the question of the filing proposed findings of fact.

3 Mr. Guild earlier expressed a desire to file
4 findings. I dare say since this transcript is a little longer
5 than the one we thought would be generated, we would like to
6 have findings.

7 That really leaves two points to talk about. We
8 did say -- let me go back into history a little bit. We
9 addressed the point in the September 21st telephone
10 conference at transcript 12,848, where I said in this regard,
11 10/17 -- meaning October 17th, simultaneous filing of
12 proposed findings and conclusions by all parties subject to
13 a Board page limit to be determined.

14 There is the question of the date. I might add,
15 nobody ever raised any objection to those propositions.

16 MR. GUILD: I have a continuing objection as
17 to the time limits imposed. I just ask that that be
18 reflected.

19 JUDGE KELLEY: Your continuing objection didn't
20 begin until the hearing started here, Mr. Guild. I am
21 talking about the time we set this we explicitly called
22 for comment and we received no objection from you for
23 that specific date.

24 MR. GUILD: Mr. Chairman, that is not the case.

25 JUDGE KELLEY: It is the case, Mr. Guild. If you

mm2

1 want to point out to me later, after I have finished what
2 I wanted to say, someplace in the transcript where you made
3 such an objection, I would be happy to see it.

4 I would think we would change the date to the 17th.
5 The hearing has gone on longer than we thought.

6 Then ~~there~~ is the question of what we change it to.
7 There is also the matter of page limits which the Board
8 continues to think is appropriate. Long, rambling findings
9 are not going to do us any good. This is a narrow subject,
10 even though the transcript is fairly long.

11 We continue to desire fairly short, pointed proposed
12 findings.

13 We can put to you a proposition. Let's take a
14 short recess, then we will come back and talk about it. I
15 might add the Board hasn't really talked about it much. This
16 is out on the table, it is the point to talk about it. It is
17 not anything very firm. And it would be, serve findings by
18 EXpress Mail by Monday, the 22nd, a week from next Monday.

19 I might add, Mr. Guild, you will have a copy of the
20 transcript. I will loan you mine, if that is going to be
21 a problem. I propose for your consideration, a 30-page,
22 double space, 8 1/2 by 11 page limit on findings.

23 Let's take a short break. We will come back and talk
24 about it.

25 (Recess)

mm 3

1 MR. JOHNSON: DURING the break I proposed to
2 Mr. McGarry that in light of the schedule that the Applicant
3 is currently under, that we allow the parties two weeks
4 from today to file their findings, abiding by the 30-page
5 suggestion by the Board, which would then give the Board
6 approximately two weeks to make its decision.

7 JUDGE KELLEY: I don't understand the arithmetic.
8 Maybe that is right.

9 MR. JOHNSON: Today is the 12th. Two weeks would be
10 the 26th.

11 JUDGE KELLEY: All right, so then what?

12 MR. JOHNSON: Then the date that the Staff understands
13 to be in the current schedule for need to go critical, is
14 November 8th. That is one day short of two weeks in
15 addition.

16 JUDGE KELLEY: What does Mr. McGarry say?

17 MR. MC GARRY: It gets tight for us, because once
18 we get a decision from you, if it is favorable, it takes us
19 time to go through the staff. Right now our schedule calls
20 that week of the 8th -- the schedules change. But I understand
21 it is that date.

22 I think we would agree to that date.

23 JUDGE KELLEY: Mr. Guild?

24 MR. GUILD: Sir, my problem with any time limit
25 that is of this order of magnitude, is that I have virtually

mm4

1 no support assistance for doing this. So, aside from the
2 compositional problem which is one I can manage with the
3 resources I have, it is a question of getting something typed
4 and put into a written document. That has always been diffi-
5 cult for me. I don't have any secretarial assistance
6 available to me.

7 And what I had sort of put on the table to
8 Applicants was the notion of, when the rules contemplate
9 proposed findings, they also contemplate -- 2.755 -- oral
10 argument on the record.

11 I don't propose oral argument in addition to findings,
12 but what I had contemplated is the notion of a transcribed
13 argument, essentially based on record references from the
14 transcript. That is the same way that a brief would be,
15 except that it would be in a format that would make it easy
16 for its compilation, if you will. I don't have to get a
17 secretary to sit and type something up.

18 What had occurred to me was, under that provision
19 of the rule, the Chair has --

20 JUDGE KELLEY: Let me see that?

21 MR. GUILD: 2.755.

22 MR. JOHNSON: Could you read it out loud?

23 MR. GUILD: It says:

24 "When, in the opinion of the presiding officer,
25 time permits and the nature of the proceeding and the

mm5

1 public interest warrant, he may allow and fix a
2 time for the presentation of oral argument. He
3 will impose appropriate limits of time on the
4 argument. The transcript of the argument shall be
5 a part of the record."

6 JUDGE KELLEY: Can I see the context?

7 MR. GUILD: It follows the section on findings.

8 (Document handed to Board)

9 What I had in mind, Judge, sort of one presents
10 oral argument, it is confined to the record, it is documentation
11 in an oral form, but essentially it is the same kind of thing
12 that you would put in a brief or proposed findings as the
13 Commission tends to style that document.

14 Transcribing of an oral argument would alleviate
15 the single most difficult burden I have, and that is simply
16 the burden of having something typed and bound and
17 reproduced and mailed.

18 So, I put that on the table.

19 JUDGE KELLEY: Would this be in lieu of legal
20 findings?

21 MR. GUILD: Yes, that's what I had in mind.

22 JUDGE KELLEY: The thought is that counsel would
23 then get the record and exhibits and study it, stake out what
24 his position is and essentially present findings orally in
25 this fashion?

mm6

1 MR. GUILD: Yes, sir.

2 I gather from just informal discussion, that
3 Applicants, given their access to the resources I don't have,
4 would prefer to have it in writing and do the traditional
5 proposed findings. So, I wouldn't limit them. There is no
6 reason to force them to adopt something that perhaps would
7 be more convenient to me.

8 But it does seem to me that the 30-page page limit
9 is inappropriate and what you are really doing is -- except
10 you are providing transcript -- on oral presentation.

11 JUDGE KELLEY: Let me see if we can get some
12 reaction.

13 Mr. McGarry?

14 MR. MC GARRY: I would think that whatever page limit
15 we are bound to, I think all parties should be bound to it,
16 whether they be on a typewritten 8 1/2 by 11 or a transcript
17 which would actually be about the same amount of pages, I
18 would think.

19 JUDGE KELLEY: So, these are sort of computational
20 problems on the phone.

21 The reporter tells me it is roughly 250 words to
22 a page.

23 MR. JOHNSON: Is going to do that, he would have
24 to have it transcribed, and the transcription would be then
25 the page number. However, I didn't read that rule, but I

mm7

1 didn't understand that to be in lieu of findings.

2 JUDGE KELLEY: He is suggesting that.

3 MR. JOHNSON: But the rule itself contemplates that
4 as being in addition to written findings.

5 MR. GUILD: Not necessarily. It contemplates it
6 being --

7 MR. MC GARRY: We don't oppose Mr. Guild's
8 suggestion. I think what the Board wants is the theory of
9 the party's case with citations to the record, and wants
10 it clearly and concisely; to get some page limit. If it is
11 30 pages, I would acknowledge it would seem to me a transcript
12 page probably isn't as voluminous as one typewritten page.
13 So maybe that goes up to 40 pages or so. I don't have a
14 feel for that. But there could be a little bit of a leeway.

15 What I would be fearful of is all of a sudden a
16 transcript came up with 100 pages or 75, and we are limited to
17 30 pages.

18 JUDGE KELLEY: We can't be that precise. There would
19 have to be some leeway.

20 You have no objection to the concept?

21 MR. MC GARRY: The concept, as long as it is not
22 abused.

23 JUDGE KELLEY: Mr. McGarry, what were you thinking
24 of -- and/or Mr. Guild --we will set some date, whatever the
25 date is. Would you file and then Mr. Guild would call on the

mm8

1 phone on the same day. Is that how it works?

2 MR. MC GARRY: I think we would all file the same
3 day. The Staff would file written, we would file written,
4 and either the day before or whenever Mr. Guild chooses, he
5 will have his court reporter, or however he is going to
6 handle it and send you a transcript. That is what he will do,
7 all on the same day.

8 MR. GUILD: Frankly, what I had contemplated was
9 having the Commission take responsibility for having this
10 document put together. That would be within the authority
11 of the Chair since under the rules it is within your authority
12 to have oral argument.

13 JUDGE KELLEY: We will have a conference call?

14 MR. MC GARRY: With one party and a court reporter.

15 (Laughter)

16 JUDGE KELLEY: But seriously, it wouldn't be argument
17 and interchange, it would just be you would talk.

18 MR. GUILD: That's right.

19 JUDGE KELLEY: You would have your notes there, you
20 would just talk to get around the mechanical problem of
21 typing and whatnot.

22 MR. GUILD: Exactly.

23 JUDGE KELLEY: What do you think, Mr. Johnson?

24 MR. JOHNSON: I wouldn't mind listening to him
25 talk on the record for the equivalent of 40 transcript pages

mm9

1 after my filing date has past. In other words, I wouldn't
2 want it to interfere with the time that I have available to
3 write findings.

4 MR. GUILD: Mr. Johnson assumes he has to listen
5 to me now.

6 MR. JOHNSON: That's correct. Maybe on the date
7 our findings are due you may give oral presentation.

8 MR. MC GARRY: Right.

9 JUDGE KELLEY: If we are coming towards consensus,
10 maybe we can talk about that next.

11 The Applicants agree with the concept, at least,
12 subject to the details maybe?

13 MR. MC GARRY: Sure.

14 JUDGE KELLEY: Mr. Johnson, would you say subject
15 to your getting yours like the day after or something like
16 that?

17 MR. JOHNSON: What I last said is probably reasonable.
18 On the last day for the other two parties filing their
19 findings, that the oral findings be filed, too, or the oral
20 findings be recorded.

21 JUDGE KELLEY: Be recorded. If the NRC does it,
22 that would mean Mr. Guild calling me up, there would be a
23 court reporter there, have a conference call.

24 MR. JOHNSON: Presumably you would get all the
25 findings in written form on approximately the same date.

mm10

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

JUDGE KELLEY: Maybe the Board ought to see --

JUDGE PURDOM: May I make a comment?

JUDGE KELLEY: Yes.

JUDGE PURDOM: In reading the transcripts of telephone conferences and presentations for the purpose of organizing the material that might be useful in making a decision, I find that there tends to be less organization of the material presented in a telephone conversation. And it is more difficult for the reader to identify specific points that are being made.

Now I don't know whether Mr. Guild, in making this proposal anticipates that he would be better organized to present the material so that his position would be better reflected for the reason than if presented in writing.

I just wanted to make that as an observation, a caution, and perhaps elicit comment.

MR. GUILD: I think that is well taken, and I think it tends to point out the fact that conference calls are, generally speaking, spontaneous, they are conversational and more or less the kind of thing you hear in exchange on the record and on the face to face hearings.

I certainly contemplate, if I do this -- and perhaps all I should ask for right now is the option to do this, with the alternative being the same be specified for the Staff and the Applicant.

mml1

1 But, I would anticipate that if I chose the option,
2 to be mindful of what you say, Judge Purdom. I will make sure
3 that I take into account the tendency for transcribed arguments
4 to be less focused.

5 JUDGE KELLEY: Dick?

6 JUDGE FOSTER: I am a little concerned about time
7 of receipt.

8 If Mr. Guild doesn't dictate this until the day --
9 we get it when the other parties file, it is going to be
10 at least one day more, and more apt to be like two or three
11 days.

12 JUDGE KELLEY: Three or four. We have to get the
13 transcript back, we have to mail it. There is a lag there.

14 MR. JOHNSON: I thought what Mr. Guild had in mind --
15 I don't know if we can do it, that is for you to decide, I
16 suppose -- is to have the NRC hire the recorder. That is
17 what I heard.

18 JUDGE KELLEY: That is right, you are right.

19 But even so, even so, you don't get the transcripts
20 for a day or two, then you mail it. If you are simply
21 mailing also, maybe it isn't greatly different. You are
22 right there in town.

23 MR. MC GARRY: True.

24 MR. JOHNSON: You could get mine the same day.

25 JUDGE KELLEY: But that is sort of a fine point, too.

mm12

1 what exact day it is done.

2 JUDGE FOSTER: I have the same comment that Judge
3 Purdom does. It would be helpful if you had major heading
4 and subheadings and this sort of thing.

5 Beyond that, no, I have nothing further.

6 (Board conferring)

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 JUDGE KELLEY: We feel that if the concept is
2 acceptable to the parties, the concept is acceptable to
3 us. We should have it pretty well nailed down before
4 we walk out of here, so there aren't further mechanical
5 questions.

6 The reporters tell me, and they are the experts,
7 that one minute verbal per transcript page is the standard
8 translation, or the standard format that they go by .

9 That would mean about half an hour of being
10 on the phone I guess would likely produce about thirty
11 pages, or something like that.

12 If it went over a little bit, I suppose that is
13 okay.

14 I think the understanding ought to be that it
15 would be about half an hour call. When you are putting
16 your notes and stuff together, you ought to run through
17 it once and see how long it takes, and chop it back if
18 it is way too long, and add some if you have plenty of time.

19 MR. GUILD: Judge, I think the observation Mr.
20 McGarry sounded perfect to me, and that was that you fit
21 a few more words on the page of a typewritten text than you
22 can on a transcript page.

23 JUDGE KELLEY: That is true.

24 MR. GUILD: Perhaps we can talk about forty minutes,
25 roughly equivalent to what would be forty pages, at the

1 rate that the reporters estimate.

2 JUDGE KELLEY: Not over thirty-five to forty, say.
3 Now, you gentlemen, want to have that same day?

4 MR. McGARRY: Yes, sir.

5 JUDGE KELLEY: You are going to be mailing it
6 to these gentlemen anyway, and I will get a quick turnaround
7 if I can. I will mail the transcript. It won't matter that
8 much. So it is the same day. What day did we agree on
9 again?

10 MR. McGARRY: Friday, the 26th.

11 JUDGE KELLEY: Friday the 26th. I just might
12 mention right now, Mr. Guild, it is unlikely I will be in
13 that day, but I will make the arrangements and have the
14 reporter there. It is just the matter of getting it reported
15 anyway, and then my secretary will know about it and you can
16 talk to her if there is any logistical points to go over.

17 So, --

18 MR. GUILD: There would be an option to do it that
19 way, or as the Applicant's and Staff --

20 JUDGE KELLEY: It is an option. I would think the
21 option ought to be exercise, so we know to set it up and
22 call the reporter and what not by, oh, the preceding Monday.
23 I would like to be in on Monday -- what is that, the 21st.
24 If you want to make the phone call, and do it that way, call
25 on the 22nd and tell us that is what you want to do, otherwise,

1 we will assume you are just going to file.

2 Could you all file by express mail to parties
3 if you use the phone, Mr. Guild, that you file regular
4 express mail.

5 JUDGE FOSTER: Federal Express for me.

6 MR. JOHNSON: 7, Stag Lane.

7 JUDGE KELLEY: Can I confirm an impression of
8 mine, knowing what we heard from Mr. McGarry about schedule.
9 My impression, my understanding is that the Commission does
10 not have to do a so-called effectiveness review for a
11 low power license, correct?

12 MR. McGARRY: Correct.

13 JUDGE KELLEY: So that we don't have to sit here
14 and say, gee, we have to get this done a little sooner, so
15 that we will have time to do the effectiveness review. We
16 don't have to do that for low power. And there is time beyond
17 that if the decision is favorable to you, et cetera.

18 That in my mind covers the question of post-findings,
19 times, and length. Are there other things?

20 MR. McGARRY: We request that the Board close the
21 record.

22 JUDGE KELLEY: Subject to that deposition designation
23 business --

24 MR. GUILD: That and the documentary exhibit that
25 we are going to reproduce.

1 JUDGE KELLEY: As previously agreed upon, certain
2 exhibits are going to be supplied.

3 MR. GUILD: We need to indicate what those are.

4 MR. McGARRY: I think we actually preserved an
5 objection. These are company documents I handed over in
6 discovery, and I don't think we are going to object to them,
7 but I think I would at least preserve that position until
8 I see what they all are.

9 JUDGE KELLEY: That is fair enough. That is
10 loca.able in the transcript exactly what we are talking
11 about, so we don't need any discussion now.

12 MR. JOHNSON: It would be nice if we could get
13 very expeditious transmittal of the exhibits, since we
14 have so little time to do the findings. To have the exhibits
15 in hand.

16 MR. GUILD: If I can contact applicants, go over
17 a little list that I can read you over the phone, give you
18 a clean copy of the whole set of the documents and get those
19 distributed to the parties real quick.

20 MR. McGARRY: That would be very good.

21 JUDGE KELLEY: I think there was a motion to close
22 the record?

23 MR. McGARRY: Yes.

24 JUDGE KELLEY: I hear no objections. Subject to the
25 understanding we just discussed about exhibits and designations

1 of depositions, that motion is granted.

2 JUDGE FCSTER: What day are you going to refer
3 to that the record be closed.

4 JUDGE KELLEY: Only a technical judge would think
5 of that. What time is it exactly.

6 JUDGE FOSTER: 12:19, Saturday morning.

7 JUDGE KELLEY: Is there anything else we have
8 to take up? It has been a long week.

9 (NOTE: No response)

10 JUDGE KELLEY: Thank you all very much. We are
11 adjourned.

12 (Whereupon, at 12:20 a.m., Saturday, October 13,
13 1984, the hearing was concluded.)

14 * * * * *

15

16

17

18

19

20

21

22

23

24

25

CERTIFICATE OF OFFICIAL REPORTER

This is to certify that the attached proceedings before the
UNITED STATES NUCLEAR REGULATORY COMMISSION in the matter of:

NAME OF PROCEEDING: CATAWBA NUCLEAR STATION

DOCKET NO.: 50-413-OL & 50-414-OL

PLACE: CHARLOTTE, NC

DATE:

were held as herein appears, and that this is the original
transcript thereof for the file of the United States Nuclear
Regulatory Commission.

(Sigt)

Garrett J. Walsh, Jr.
(TYPED) GARRETT J. WALSH, JR.

Official Reporter

Reporter's Affiliation

Ace Federal Court Reporters

Myrtle H. Traylor
MYRTLE H. TRAYLOR

Official Reporter

Ace-Federal Court Reporters

Mimie Meltzer
MIMIE MELTZER

Official Reporter

Ace-Federal Court Reporters

Anne Bloom
ANNE BLOOM, Official Reporter
Ace-Federal Court Reporters