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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the matter of:

COMMONWEALTH EDISON COMPANY

(Byron Nuclear Power Station,
Units 1 and 2)

Docket No. 50-454 OL
50-455 OL

Location: Rockford, Illinois

Pages: 9439 - 9674

Date: Monday, July 30, 1984

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE ATOMIC SAFETY & LICENSING BOARD

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: In the Matter of: :
: COMMONWEALTH EDISON COMPANY : Docket Nos. 50-454 OL
: : 50-455 OL
: (Byron Nuclear Power Station, :
: Units 1 and 2) :
: :
: :
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Magistrate's Courtroom
Federal Building
211 South Court Street
Rockford, Illinois

Monday, July 30, 1984

The hearing in the above-entitled matter was reconvened, pursuant to recess, at 10:00 a.m.

BEFORE:

- IVAN W. SMITH, Chairman
Atomic Safety & Licensing Board
- A. DIXON CALLIHAN, Member
Atomic Safety & Licensing Board
- RICHARD F. COLE, Member
Atomic Safety & Licensing Board

APPEARANCES:

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I N D E X

<u>WITNESSES:</u>	<u>BY:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>BOARD</u>	<u>REDIRECT</u>
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	Mr. Cassel		9458		
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	Mr. Bielawski				9479

Kavin D. Ward) Mr. Lewis	9485			
James Muffett) Mr. Learner		9543		
William Little)				
Ray Love)				
)				
(Resumed))				
Kevin Connaughton)					

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P R O C E E D I N G S

2 JUDGE SMITH: Good morning. Is there any
3 preliminary business?

4 MR. LEWIS: Yes.

5 Mr. Chairman, I distributed to the Board and
6 Parties today, a copy of the Office of Investigations'
7 Report on Allegations that were given to the Office of
8 Investigations for their handling, and these were the items
9 that were identified during the In-Camera Session last
10 August as being under investigation by OI.

11 We have now provided to the Board and Parties
12 a copy of that report which has completed investigation, now
13 closed investigation. And it does have deletions that have
14 been made by the Office of Investigations in order to protect
15 the names and identities and indicators of identity of persons
16 who had requested confidentiality, and matters of that
17 nature.

18 We will be providing to the Board and Parties
19 later this week, a copy of the In-Camera Sessions held last
20 August with the Office of Investigations with similar appro-
21 priate deletions.

22 JUDGE SMITH: Do you plan to make a copy of the
23 report without deletions available for Intervenors and the
24 Utility, Applicant?

25 MR. LEWIS: No.

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JUDGE SMITH: Any other business?

2

MR. MILLER: Judge Smith, I just have one --

3

MR. CASSEL: Is that a different matter, Mike?

4

MR. MILLER: Yes.

5

MR. CASSEL: Before we leave this matter -- I understand Mike has one and I have a couple of separate ones.

7

On this one, Judge, we just, as Mr. Lewis indicated, received this report this morning when I walked into the hearing room. It is about an inch thick or thereabouts. We haven't look through it, of course.

11

I would presume, that if it has any relevance to this proceeding, it probably relates to the NRC Staff panel on allegations, which would be the panel of Mr. Hayes and Mr. Connaughton.

15

Obviously, we would like an opportunity to review this OI Report prior to the cross-examination of that panel. I also have at least some question of whether it might also relate to the first NRC Staff panel. But, I would be happy to try to resolve that issue without delaying the commencement of that first Staff panel. Mr. Learner will be cross-examining them and I could be looking at the OI Report while he is doing that, if need be.

23

For the record, Intervenors will object to the Staff's withholding any information in the report concerning the In-Camera Session of last August from Intervenors. I

25

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1 don't propose to resolve that or get into legal argument
2 now, but I think I probably better record an objection for
3 the record on that.

4 JUDGE SMITH: Well, an objection without seeking
5 relief is pointless.

6 MR. CASSEL: I can't specify the point of
7 relief Judge, until I have had an opportunity to review
8 the OI Report. I will address it further once I have read
9 the report. But I didn't want the record to be unclear that
10 we were just agreeing without even having read it, that some
11 of it -- to the notion that some of it could be withheld from
12 us.

13 MR. MILLER: Judge Smith, I may have spoken too
14 soon when I said I didn't have anything else on this OI
15 Report.

16 Just thumbing through the pages I see that there
17 are indications that paragraphs have been deleted from the copy
18 that was turned over to us. Is there any explanation that
19 can be offered as to what information is contained in those
20 deleted paragraphs?

21 MR. LEWIS: Well, what I can do is, I can go
22 through the report and try to draw together some characteri-
23 zation of the nature of things that were withheld. I would
24 suggest, your Honor -- I recognize that I just did provide
25 this to everybody for the first time. I would request that

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1 the Parties review it with a view to determining whether the
2 things that are excluded are necessary to address the issues
3 that are in adjudication in this proceeding. And I certainly
4 did not intend to ask Mr. Cassel to take any sort of a
5 position. I didn't take any sort of position on it this
6 morning.

7 But, I believe that a review of that document may
8 well demonstrate that whatever information is not included
9 is not necessary to determination of the matters pending before
10 this Board.

11 MR. MILLER: That may be.

12 Secondly, we can tell from the contest in which
13 certain things are blacked out on the copy that we have, what
14 the information is that was deleted, and make a judgment as
15 to its necessity or not.

16 But with respect to a notation of paragraphs
17 deleted, that is very tough to tell.

18 JUDGE SMITH: That's true.

19 There is another aspect, however. And that is
20 although this report was in my possession beginning July 10th
21 until the Friday before we came up here, and I did look at it,
22 I did not read it. And I don't believe that the deleted
23 information has been functionally imparted to the Board.
24 That might enter into your need to see the whole report.

25 The other two members of the Board have not seen

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1 it at all. And my review of the document, the sole summary --
2 I don't regard myself as being charged with the information
3 that had originally been in here. So, you can defer any
4 request for relief on the document until you have had a
5 chance to read it.

6 Any other preliminary business?

7 MR. CASSEL: Mr. Miller had one, and I think I
8 had two after that.

9 MR. MILLER: Yes.

10 Judge Smith, on reviewing Mr. George Marcus'
11 prepared testimony, we discovered an inordinate number of
12 typographical errors. And what we have done is simply redo
13 the testimony from scratch. It should be here within the
14 next 15 minutes. I will pass it out at a break.

15 I apologize for any inconvenience that the earlier
16 version may have caused. There is no change in substance to
17 Mr. Marcus' testimony. I just wanted to alert the Board
18 and the Parties to that.

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1 JUDGE SMITH: Anything further?

2 MR. CASSEL: Yes, Judge. Two matters.

3 First, on Friday, Mr. Gallo had represented
4 that Edison would attempt to make some statement today
5 this morning about when it can provide accurate answers
6 to the Intervenors' interrogatories, which Mr. Gallo
7 indicated last Thursday may have been incorrectly answered
8 by Edison concerning the number of inspectors who actually
9 conducted inspections with regard to certain attributes
10 for Hatfield, Hunter and PTL.

11 I simply want to inquire of Edison on the record
12 if we know when that information will be available, because
13 we need it in order to prepare Professor Ericksen's testimony.

14 MR. MILLER: I hope that if our support facilities
15 are up to the task, I hope that we will have answers,
16 amended answers, to you by the end of the day.

17 MR. CASSEL: Fine.

18 The second matter, Judge, is a scheduling issue.
19 It was my understanding of the Board's response last Monday
20 when I presented the motion for leave to include evidence
21 relating to the allegor whose identity has not been made
22 public, but before the Board could really come to grips with
23 it, you needed additional specific information, a memorandum
24 in support of Intervenors' motion, which sets for the
25 additional specific information that I think you would need

mgc2-2

1 and copies various documents that provide details concerning
2 the undisclosed allegor's allegations is being typed at
3 this moment, and I expect it probably to be available by
4 the end of the cross-examination of Mr. Somsag.

5 We would then be prepared to present it to the
6 Board, if you want to take it up at that time, or whatever
7 your pleasure might be in terms of when you want to
8 address the motion.

9 We have treated portions of it at this time as
10 submitted to the Board in camera, because we have not yet,
11 I think, received a firm statement, a clear statement of
12 position from the Staff as to whether the information might
13 compromise the ongoing investigation. We are prepared to
14 have it dealt with by the Board in camera, if that is how
15 you rule following your discussion with the Staff as to
16 what they think should be done. Or we are prepared to treat
17 it in public session, if that is how the Board rules. We
18 simply want that decision to be the Board's decision and
19 not ours. So I am raising a scheduling question, whether
20 you want to take that up after Mr. Somsag or at some other
21 time.

22 It will entail probably a three-page memorandum
23 from us and ten pages of attached documentation.

24 JUDGE SMITH: Again, have you had an opportunity
25 to form a Staff position on that, Mr. Lewis?

mgc2-3

1 MR. LEWIS: Yes. We will not object to the
2 public presentation of this issue.

3 Let me say, we are not at this time stating a
4 view as to the relevance to this proceeding of the issue,
5 and we will take that position at the appropriate time.
6 I would say, in light of that, we would simply want to
7 receive the materials Mr. Cassel refers to. Of course, as
8 he is not prepared to address the OI report today, we would
9 not be prepared to substantively address what he has in
10 motion until perhaps tomorrow.

11 JUDGE SMITH: Okay. Thank you.

12 If Staff is not seeking in camera treatment,
13 the Board certainly will not receive it in camera.

14 Anything further before we begin?

15 (No response.)

16 JUDGE SMITH: You know that you are still
17 under oath from your previous appearance.
18 Whereupon,

19 MALCOLM L. SOMSAG

20 resumed the stand and, having been previously duly sworn,
21 was examined and testified further as follows:

22 DIRECT EXAMINATION

23 BY MR. BIELAWSKI:

24 Q Please state your name for the record.

25 A Malcolm Leo Somsag.

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1 Q Where are you employed?

2 A Hunter Corporation.

3 Q In what capacity?

4 A Site Quality Assurance Supervisor for the Byron
5 Station.

6 Q Do you have before you a document entitled
7 "Testimony of Malcolm L. Somsag," which consists of
8 questions and answers, nine pages of questions and answers?

9 A Yes, I do.

10 Q Is that document true and accurate?

11 A To the best of my belief and knowledge, yes.

12 MR. BIELAWSKI: Your Honor, at this point, I
13 move for the admission of Mr. Somsag's testimony into the
14 record as if read.

15 JUDGE SMITH: Are there objections?

16 (No response.)

17 JUDGE SMITH: The testimony is received --

18 MR. CASSEL: Judge, I'm sorry. I was distracted
19 for a moment.

20 Can I confer with Mr. Wright on that question?

21 JUDGE SMITH: Sure. I was too fast there.

22 (Intervenors' counsel confer.)

23 MR. CASSEL: Judge, we do have an objection to
24 those portions of Mr. Somsag's testimony which essentially
25 try to relitigate the Board's findings in January. His

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1 testimony really addresses two general areas: one, the
2 response of the Hunter Corporation to the Board's
3 findings, but secondly, he apparently takes issue with
4 some of the findings made by the Board.

5 It was not our understanding that the purpose
6 of this proceeding was to go back and relitigate those
7 findings. If the Board rules in accordance with that
8 proposal by us, we would be prepared, of course, to specify
9 the particular answers and portions of answers that would
10 be covered.

11 JUDGE SMITH: What aspects of his testimony
12 do you believe are an inappropriate attempt to relitigate
13 the settled issues?

14 MR. CASSEL: We are referring to the summary
15 of his testimony, Judge, paragraph 2, in the eighth line
16 of paragraph 2 of the summary, it states: "Mr. Somsag
17 also addresses Mr. Smith's tabling allegation, inasmuch as
18 that allegation gave rise to the above-mentioned Board
19 concern. Finally, Mr. Somsag addresses the statement made
20 by the Board with respect to Commonwealth Edison's Quality
21 Assurance Department finding regarding the manner in which
22 Hunter initially documented rejected characteristics during
23 the 1983 reinspection program."

24 Certainly, that portion of the testimony would
25 appear to be simply an effort to relitigate issues that

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1 Edison had a full and fair opportunity to litigate last
2 year, as to which this Board made findings in its initial
3 decision, which are not within the scope of this further
4 proceeding.

5 There are additional --

6 JUDGE SMITH: I can save a lot of difficulty.
7 Just looking at the conclusion of the Hunter Corporation
8 on our Findings D-169 and D-170 on the issue of tabling
9 and the other portion of that paragraph, were underlying
10 concerns to our conclusion that an effective reinspection
11 program was essential for verification of the adequacy of
12 Hunter's QA program. That's not a relitigation. I think
13 they can approach it two ways -- three ways.

14 They can approach it on our initial concerns, which
15 we said might depend upon an effective reinspection
16 program, were unfounded; therefore the reinspection program
17 was of less importance. Or they could have the alternative
18 where the reinspection program takes care of our concerns
19 or a combination, and they've elected a combination. It's
20 relevant.

21 Not only that, but I think the whole thing was
22 argued in the prehearing conference, or most of it, and
23 settled at that point. So you are overruled.

24 MR. CASSEL: I stand and sit overruled, Judge.

25 (The prepared testimony of Mr. Malcolm L. Somsag
26 follows.)

Date: July 2, 1984

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
COMMONWEALTH EDISON COMPANY) Docket Nos. 50-454 OL
) 50-455 OL
(Byron Nuclear Power Station,)
Units 1 & 2)

SUMMARY OF TESTIMONY OF
MALCOLM L. SOMSAG

- I. Mr. Somsag is the Site Quality Assurance Supervisor for Hunter Corporation at the Byron Station. Mr. Somsag testified previously in this proceeding primarily to respond to Mr. Smith's allegations regarding Hunter Corporation. (See ff. Tr. 2883 and Tr. 3950-3959.) Mr. Somsag's earlier testimony describes Hunter Corporation's Quality Assurance Department at Byron and his responsibilities in that Department.
- II. Mr. Somsag's testimony describes the measures taken by Hunter Corporation which respond to the Licensing Board's concerns set forth in its Initial Decision regarding Hunter's program for assuring that missing component supports and documentation regarding supports are properly addressed. (See Initial Decision ¶¶D-137-145 and D-169.) Mr. Somsag also addresses Mr. Smith's tabling allegation, inasmuch as that allegation gave rise to the above-mentioned Board concern. Finally, Mr. Somsag addresses the statement made by the Board with respect to Commonwealth Edison's Quality Assurance Department Finding regarding the manner in which Hunter initially documented rejected characteristics during the 1983 Reinspection Program.
- III. With respect to Hunter Corporation's program for assuring that missing supports and documentation are properly addressed, Mr. Somsag describes the inspection programs implemented by Hunter which are designed to assure that 100% of the component

supports installed by Hunter are inspected during installation, following completion of the work and, again, prior to turning over a system to the Station. (pp. 2-4.) To demonstrate the effectiveness of these inspection programs, Mr. Somsag testifies that during the course of the 1983 Reinspection Program, which included a review of supports, there was not one instance in which documentation for safety-related component supports was missing or one instance where documentation existed but the associated component support was not installed.

IV. Mr. Somsag explains why he did not consider Mr. Smith's allegations concerning tabling to be significant, but that given the significance of the issue to the Board he attempted to recall whether the events described by Mr. Smith could have occurred and determine their significance. (p. 6.) He concludes that during the course of audit 059-3 Mr. Smith initially selected some supports which were non-safety-related and accordingly instructed Mr. Smith to remove these supports from those to be reviewed for the audit. These are the supports which Mr. Somsag believes Mr. Smith alleges were tabled. (p. 7.) Since the non-safety-related supports were not subject to quality assurance review, Mr. Somsag concludes that there is no safety significance attributable to their omission from the audit. (p. 8.) Moreover, Mr. Somsag testifies that had the practice of tabling existed, evidence of the practice would have surfaced during subsequent inspections. The fact that no such evidence was uncovered leads Mr. Somsag to conclude that there is no safety significance to Mr. Smith's tabling allegations. (p. 8.)

V. Mr. Somsag explains that during an early period of the Reinspection Program Hunter inspectors noted rejected characteristics in their inspection reports. At the time, it was intended that the nonconformances identified in the reports would be made the subject of discrepancy or nonconformance reports following completion of the Reinspection Program. (pp. 8-9.) However, Hunter changed its practice and began noting rejected characteristics on appropriate QA documentation and continued to follow this practice throughout the course of the Reinspection Program.

Date: July 2, 1984

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
COMMONWEALTH EDISON COMPANY) Docket Nos. 50-454 OL
(Byron Nuclear Power Station,) 50-455 OL
Units 1 & 2)

TESTIMONY OF
MALCOLM LEO SOMSAG

Q1: Please state your name.

A1: Malcolm L. Somsag.

Q2: Did you previously provide testimony in this proceeding in the spring of 1983?

A2: Yes.

Q3: At that time, you stated that you were the Hunter Corporation Quality Assurance Supervisor for the Byron project. Do you still hold that position?

A3: Yes. The descriptions of Hunter Corporation, my background and my responsibilities as Quality Assurance Supervisor set forth in my prefiled testimony submitted in the spring of 1983 are still accurate.

Q4: What is the scope your testimony?

A4: My testimony describes the steps taken by Hunter Corporation, including evaluation of the Quality Control Inspector Reinspection Program, which respond to the Licensing Board's concerns set forth in its Initial Decision.

Those concerns focus on Hunter's program for assuring that missing component supports and documentation regarding supports are properly addressed. Mr. Smith's allegations regarding "tabling" were also deemed by the Licensing Board to relate to this issue.

Q5: Mr. Somsag, what assurance do you have that component supports which are required to be installed at the Byron plant are installed, have been inspected, are acceptable and that these matters are properly documented?

A5: Three separate inspection programs which have been or are being implemented by Hunter Corporation provide such assurance. First, as discussed in my 1983 prefiled testimony, in response to NRC inspection 80-05 Hunter conducted an inspection of 100% of the supports installed prior to March 1, 1980. This program included a physical inspection of each support and a review of the associated documentation to assure among other things that the hangers were properly installed in accordance with construction specifications and as-built documentation. Nonconforming supports were identified, the nonconformances were documented and reinspected following any additional work necessary to cure the nonconformances.

Second, in 1980 Hunter Corporation formally established an expanded inspection program. The program consists of four broad inspection types to which all safety-related work, including the installation of safety-related supports, is subjected. Type 1 inspections are conducted

during initial installation activities to assure the existence and adequacy of required documentation relative to the work being performed. Type 2 inspections are also conducted during installation activities and are designed to assure that the hardware meets design requirements and that the documentation continues to reflect the status of construction and inspection. Once the work and Type 1 and 2 inspections associated with the work on a construction drawing are completed, Type 3 inspections are conducted to verify the overall adequacy of the work. Type 3 inspections consist of a detailed review of documentation generated during construction to assure that all required inspections have been conducted, are documented and that the hardware conforms to the requirements of the construction drawing and associated as-built documentation. Type 4 inspections occur before turning over systems to the Station to assure that the previously inspected hardware is still in place, intact and undamaged. Hangers installed prior to March 1, 1980 were also subject to Type 3 and Type 4 inspections. During each of these inspections, a document is generated for each category and item of hardware inspected, and identifies whether it is acceptable or unacceptable. If unacceptable, the noncomplying condition is corrected and reinspected in accordance with Hunter's quality assurance procedures. The requirements for the Type 1 through 4 inspection program are set forth in Hunter Corporation Site Implementation Procedure

4.201.

Finally, the 1983 Reinspection Program conducted to review selected inspections performed by Hunter quality control inspectors included a review of component supports installed by Hunter Corporation. The Reinspection Program did not identify one instance in which documentation for safety-related component supports required by the design was missing or an instance where documentation existed but the associated component support was not installed. This further confirms the adequacy of the system devised for assuring that supports have been and are being installed and inspected, and that the inspections are properly documented.

Q6: In its Initial Decision, the Licensing Board expressed concern regarding the possibility that hangers which had been installed and inspected would subsequently be removed during construction, with no followup inspection. Does Hunter have procedural controls to address this type of situation?

A6: Yes. The Type 4 inspection program described in my previous answer was specifically developed in part to deal with such a concern. The program requires a scheduled follow-up physical inspection of 100% of the safety-related hardware installed by Hunter to assure that the installations have remained in place, intact and undamaged. If design documents require the existence of an item, and that item were not in place, this condition would be identified,

documented and corrected.

If, following completion of Type 3 or 4 inspections, hardware is removed or altered other than as would be required by a design change, the program requires that a Hardware Removal/Alteration Report be utilized to report the change of status of the hardware. The report is routed to the Quality Assurance Department and triggers reinspection to assure the hardware has been reinstalled and is acceptable. If hardware is removed or altered as a result of a design change Type 1 through 4 inspections would be conducted with regard to this work.

Q7: Mr. Somsag, are you familiar with Mr. Smith's testimony regarding the practice of "tabling" which he alleges occurred at Byron?

A7: Yes.

Q8: Please describe your understanding of Mr. Smith's testimony concerning this alleged practice.

A8: As I understand it, Mr. Smith alleged in broad terms that there was a practice within Hunter Corporation of setting aside issues relating to the adequacy of component supports, with no assurance that later inspections would be conducted to verify the adequacy of the work. In support of this allegation, Mr. Smith stated that during the course of the 059-3 audit he discovered that there were pipe hangers with no associated documentation and documents with no

associated hangers and was instructed not to include these matters in the audit report.

Q9: Have you given further thought to Mr. Smith's allegations since you last testified in 1983?

A9: Yes. Quite frankly, at the time I heard and reviewed Mr. Smith's testimony during the 1983 hearings, I did not attribute much significance to Mr. Smith's allegations regarding tabling. Mr. Smith left Hunter in early 1980. At that time very few hangers had been permanently installed and I knew that the 1980 inspection following NRC inspection report 80-05 and the expanded inspection program discussed above would have uncovered any concerns such as addressed by Mr. Smith. However, following my review of the Licensing Board's Initial Decision and in light of the significance which the Board placed upon Mr. Smith's allegations regarding tabling, I attempted to recall whether the events described by Mr. Smith may have occurred and determine the significance of these events.

Q10: What is your recollection of the events described by Mr. Smith?

A10: As I recall, during the initial phases of the 059-3 audit Mr. Smith was directed to gather a data base of hangers in the plant. I was informed that there appeared to be a significant number of hangers which were installed without QC inspections and accompanying documentation and in other cases hangers appeared to have some amount of documentation yet the installation could not be physically

located. I reviewed the data base Mr. Smith had gathered in the plant and discovered that the system designations for some of the supports were systems where one would not expect to find safety-related hardware. The data base collected by Mr. Smith was reviewed to ensure that it included only safety-related hangers, because the audit was only intended to evaluate safety-related work, and it was determined that there were indeed some hangers in the data base that were non-safety-related. I then instructed that the non-safety-related hangers be excluded from the audit and ordered that Mr. Smith gather an additional data base comprised of safety-related hangers, to replace the non-safety-related hangers he had previously selected. I believe that the non safety-related hangers which I instructed be excluded from the audit were the hangers which Mr. Smith alleges were tabled.

Q11: What assurance did you have that the incompleated non safety-related hangers initially selected by Mr. Smith would be completed?

All: I knew that the production department would most likely use the hanger field problem system or, in any event, utilize the final walkdown to identify and resolve any incompleated non-safety-related work.

Q12: In your opinion, does the specific instance raised by Mr. Smith support his general allegation regarding tabling by Hunter Corporation?

A12: No, since the supports which Mr. Smith identified initially were non safety-related supports their omission from the 059-3 audit cannot be viewed as an attempt to disregard, or set aside, a safety concern related to the work performed by Hunter.

Q13: Have subsequent programs implemented by Hunter verified that the practice of tabling of safety-related issues did not occur?

A13: Yes, I believe that if the practice of tabling issues related to safety-related supports had occurred, the inspection programs described in Answer 5 above, would have uncovered evidence of such a practice. The fact that no such evidence was uncovered leads me to conclude that there is no safety significance to Mr. Smith's allegations concerning tabling.

Q14: In its Initial Decision, the Board characterized Finding 1, Part A of Commonwealth Edison Company's Audit Report 6-83-66 of the Reinspection Program as reflecting a continuing failure on Hunter's part to take appropriate steps to issue documentation on nonconforming conditions. In your view, should the finding in Audit Report 6-83-66 be interpreted in this manner?

A14: No. The finding reflects the fact that during an early period of the Reinspection Program rejected characteristics were not documented on discrepancy reports and nonconformance reports but rather were documented on the

QC inspector's inspection reports. This system was adequate to track the quality of previous inspectors' work which was the primary goal of the Reinspection Program. During this time Hunter intended to utilize the inspection reports to issue discrepancy or nonconformance reports following completion of the Reinspection Program to assure that the nonconforming condition was addressed. Therefore, we believed that this system was adequate to document nonconforming conditions identified during the Reinspection Program. Nonetheless, Hunter implemented the practice of noting rejected characteristics on appropriate quality assurance documentation and continued to follow this practice throughout the course of the Reinspection Program.

1 MR. BIELAWSKI: Your Honor, I have a few
2 questions by way of supplemental direct that I'd like to
3 ask Mr. Somsag, if I may at this time. And one arose out
4 of the conversation I had with Mr. Somsag relating to his
5 testimony on page 5.

6 BY MR. BIELAWSKI:

7 Q Mr. Somsag, I'd like a further explanation of
8 the types of inspections that were performed following any
9 redesign which follows a Type 4 inspection. Would you offer
10 that explanation at this point, Mr. Somsag?

11 A Yes. In the last paragraph of answer 6 on
12 page 5 where the sentence ends, "...if hardware is removed
13 or altered as a result of a design change, Type 1 through 4
14 inspections will be conducted with regard to this work."

15 When hardware is going to be turned back to the
16 station in a very short period of time, say several days,
17 the Type 3 inspection accomplishes the intent of the Type 4
18 inspection, and that's because the Type 3 inspection is
19 conducted in more detail to verify in place, intact,
20 undamaged.

21 JUDGE SMITH: Would you explain again the
22 relevance of time?

23 THE WITNESS: We're talking of hardware being
24 turned back to the station in a period of several days. AND
25 the possibility is that the hardware is not going to be

1 affected detrimentally in that short timeframe.

2 JUDGE SMITH: Type 4 inspection normally would
3 follow a Type 3 by a substantial lapse in time.

4 THE WITNESS: That's true.

5 JUDGE SMITH: And this is saying since there is
6 no such lapse, it's not necessary.

7 THE WITNESS: That's true.

8 JUDGE COLE: So in effect, a Type 3 is the
9 equivalent of a 4 at that time?

10 THE WITNESS: Yes, it is.

11 MR. BIELAWSKI: I have a few other questions which
12 arise out of the exhibit -- I believe it's Intervenor's
13 Exhibit R-2. It's a letter from Mr. Somsag of the Common-
14 wealth Edison Company to Mr. Tuetken's attention. It was
15 the subject of Mr. Tuetken's cross examination last week.
16 I just hope everybody still has a copy.

17 (Counsel distributing document.)

18 BY MR. BIELAWSKI:

19 Q Mr. Somsag, did you write the exhibit or letter,
20 which is Intervenor's Exhibit R-2?

21 A Yes, I did. It is not identified with an exhibit
22 number on here.

23 Q On the bottom lower righthand --

24 A I still can't read it very well.

25 JUDGE SMITH: Well, that is Exhibit R-2.

1 THE WITNESS: It's letter numbered HCQA319, and
2 I did write it, yes.

3 BY MR. BIELAWSKI:

4 Q Under what circumstances did you receive
5 Attachment 1 to the letter?

6 A I believe I was provided with Attachment 1 at
7 the meeting of the Commonwealth Edison Company.

8 Q Did that meeting take place on February 7, 1983,
9 which is a meeting date identified on the first page of your
10 letter?

11 A Yes. I believe so.

12 Q On that first page of your letter, you referred
13 to a proposal from Hunter Corporation to Commonwealth Edison
14 Company. What did you mean by the use of the word "proposal"
15 in that context?

16 A My intent, with the preparation of the letter,
17 was to propose, if you would, what my understanding of the
18 direction from Commonwealth Edison was, as it related to how
19 we were going to implement the Reinspection Program.

20 Q Were you ever requested or did you ever give any
21 advice or opinions with regard to the design of the Reinspection
22 Program?

23 A No.

24 Q Now, turning to Attachment 2, can you describe
25 how the individuals on the roster were selected?

SYmgc3-1

1 A They were listed chronologically by date of
2 certification, which I believe was a directive of
3 Commonwealth Edison Company for the listing of the inspectors.

4 Q If two individuals were certified on the same
5 date, do you have a procedure for listing those individuals?

6 A We would list them alphabetically.

7 Q Who made the determination to list them
8 alphabetically?

9 A I believe I did.

10 Q And was that determination made before a roster
11 was developed?

12 A No. The decision would have been made during
13 the time the roster was developed.

14 Q Did you have a list before you at the time that
15 you made the determination to list the individuals certified
16 on the same date alphabetically?

17 MR. CASSEL: Objection. Asked and answered.

18 MR. BIELAWSKI: Your Honor, I don't believe
19 that question was asked and answered.

20 JUDGE SMITH: Overruled.

21 THE WITNESS: Could you repeat the question,
22 please?

23 BY MR. BIELAWSKI:

24 Q Did you have a list before you at the time you
25 made the determination to list the individuals who were

mgc3-2

1 certified on the same date alphabetically?

2 A I don't believe so, no.

3 MR. BIELAWSKI: I have no further questions.

4 Mr. Somsag is available for cross-examination.

5 End 3

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SYmgc4-1

1 MR. CASSEL: Judge, Mr. Wright had prepared
2 cross-examination of Mr. Somsag on his direct testimony.
3 He had not prepared cross on the letter that Mr. Bielawski
4 just brought up. As you know, I handled that matter
5 earlier. I do have just one or two questions on that,
6 if I may, before Mr. Wright begins.

7 CROSS-EXAMINATION

8 BY MR. CASSEL:

9 Q Mr. Somsag, on Attachment 1 to that letter, the
10 names of the Hunter inspectors who were selected for
11 reinspection were underlined; is that correct?

12 MR. BIELAWSKI: I believe that is Attachment 2.

13 MR. CASSEL: I'm sorry. Attachment 2.

14 THE WITNESS: Yes, they are underlined.

15 BY MR. CASSEL:

16 Q The first name underlined there happens to be
17 the fifth name on the list; is that correct?

18 A Yes, that's correct.

19 Q Who made the decision to begin with the fifth
20 name on the list?

21 A That decision was made early on by Commonwealth
22 Edison Company. It was subsequently revised to include
23 the first inspector also.

24 MR. CASSEL: I have no further questions, Judge.
25

mgc4-2

CROSS-EXAMINATION (CONTINUED)

BY MR. WRIGHT:

Q Mr. Somsag, what is your position at Hunter?

A I am the Site Quality Assurance Supervisor.

Q And what are your responsibilities in that position?

A Basically to oversee and to verify the implementation of the program.

Q Is that the total Hunter quality assurance program?

A As it would relate to the Byron site, yes.

Q How many people do you supervise?

A I directly supervise four people. I indirectly supervise approximately 120.

Q Is that at the Byron site?

A Yes, it is.

Q Are these 120 within the Quality Assurance Department?

A They are within the entire department, yes. There are three branches.

Q And what are those three branches?

A Quality Control, Quality Assurance Administration, and Materials Control.

Q What aspects of work are you responsible for at the Byron plant.

A Major mechanical piping system installation.

mcc4-3

- 1 Q Piping system installation?
- 2 A Yes.
- 3 Q Does that include piping supports?
- 4 A Yes, it does.
- 5 Q Does that include snubbers?
- 6 A Yes, it does.
- 7 Q And what percentage of your work is safety-
- 8 related?
- 9 A Total scope -- and this is just an estimate --
- 10 I would say 40 percent.
- 11 Q About 40 percent. And within that 40 percent
- 12 of your work that's safety related, could you break that
- 13 down in terms of the aspects of work that have been done
- 14 by Hunter?
- 15 A You mean in quantities?
- 16 Q Types.
- 17 A Basic types would be component support
- 18 installation, including snubbers, piping installation,
- 19 mechanical equipment installation. Those would be the
- 20 three general categories.
- 21 I'm sorry. You could also count pipe whip
- 22 restraints as a separate category, too. Programmatically
- 23 we handle them along with piping, but for the record, it
- 24 would probably be better to establish four categories.
- 25 Q And as a quality assurance auditor, are your

mgc4-4

1 responsibilities for safety-related work at Byron?

2 A Yes, they are.

3 Q Was Mr. Smith a quality assurance auditor at
4 the Byron plant?

5 A Yes, he was.

6 Q In your direct testimony, in your reply to
7 Question 10, your answer to Question 10, at the end you
8 stated that you believe that "non-safety-related hangers" --
9 you believe that Mr. Smith was including non-safety-related
10 hangers in his audit?

11 A Yes, I do.

12 Q And you feel that the inadequacies that Mr. Smith
13 found were only related to non-safety-related matters?

14 A I think the audit speaks for itself on that matter.
15 The inadequacies of Mr. Smith -- that Mr. Smith identified
16 that related to safety-related work were embraced and stated
17 in the audit report.

18 Q Were there instances in which Mr. Smith found
19 inadequacies in safety-related work?

20 A As stated in the audit report, yes.

21 Q A Mr. Yin of the NRC Region III also uncovered
22 inadequacies in safety-related hardware procedures; is that
23 correct?

24 A At what point in time?

25 Q During the summer of '79 in the audit that was

mgc4-5

1 performed by Mr. Yin.

2 A I believe Mr. Yin was on-site in 1980.

3 MR. LEWIS: Excuse me. I think we're going to
4 have to be much more specific, if there is some finding
5 of an NRC inspector that's being relied upon. I personally
6 would like to see what the document is that's being
7 referred to.

8 MR. WRIGHT: I don't have a copy of the document
9 in which the report was referred to, but it is in the
10 testimony, and it is in the decision, and --

11 JUDGE SMITH: I was looking for that in the
12 decision myself, and without success so far.

13 MR. WRIGHT: There is reference in the decision.

14 JUDGE SMITH: Would you help us find it.

15 MR. WRIGHT: Sure.

16 (Pause.)

17 End4
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1 JUDGE SMITH: You may be referring to D-141.

2 MR. WRIGHT: Your Honor, here it is listed as
3 Inspection Report 80-05, I believe, in Finding D-164 at
4 page 186 of the initial decision.

5 MR. BIELAWSKI: Your Honor, if we are referring
6 to tabling and Mr. Somsag, I don't think this inspection
7 report has anything to do with that issue. I would object
8 to any questions relating to it.

9 MR. LEWIS: Judge Smith, the problem I'm having
10 is that I don't see how, through this witness, there's
11 going to be able to be much reliable evidence deduced as
12 to a Region III inspection. At most, it would seem to me,
13 that all the witness could do is comment upon it. But
14 it would seem to me that now we are dealing with an
15 inspection report, the author of which was a witness in the
16 earlier stage of the proceeding, and it would seem to me
17 that that is the reliable testimony on that subject. I
18 don't see how cross-examination on the subject of this
19 witness is going to produce equally reliable evidence
20 on that matter.

21 JUDGE SMITH: Unless the cross-examination,
22 notwithstanding its basis, refreshes the witness' memory
23 or changes his conclusions.

24 I'm just reading the section that you referred
25 to. If the Inspection Report 80-05, 81-09, related to the

mgc5-2

1 tabling practice alleged by Mr. Smith and found by us to
2 exist, it is not evident from our finding here and my memory
3 of the exhibit -- there was an exhibit. It was part of
4 an attachment to the testimony -- is that there was no
5 relationship. I don't remember a relationship from the
6 testimony.

7 I think that you misunderstood the initial
8 decision.

9 MR. WRIGHT: Your Honor, what I'm saying is that
10 in the witness' direct testimony he states that there was
11 no evidence that was uncovered that would lead him to
12 conclude -- and that would lead him to conclude that there
13 was no safety significance to Mr. Smith's allegations. If
14 the witness knew of the report of the NRC and he also knew
15 of certain instances where Mr. Smith testified with respect
16 to unsafe -- excuse me -- strike me that.

17 That he testified to inadequacies in the program,
18 then I would want to question him on the basis of that
19 statement in his testimony.

20 JUDGE SMITH: Well, the question objected to, as
21 I recall, was a premise that Mr. Yin of Region III had
22 himself corroborated Mr. Smith's allegation of the tabling
23 practice.

24 MR. WRIGHT: Right, Your Honor.

25 JUDGE SMITH: And now your basis for that premise

mgc5-3

1 is being questioned, and you have not come up with a basis
2 for that.

3 MR. WRIGHT: I have asked the witness if that
4 is what he knew Mr. Yin's report to be.

5 JUDGE SMITH: Well, all right. Let's find out.

6 BY MR. WRIGHT:

7 Q Mr. Somsag, in Mr. Yin's inspection report, 80-05,
8 did that raise inadequacies related to safety hardware in
9 the plant?

10 MR. BIELAWSKI: Your Honor, there's no focus
11 at all to the question. I don't know what inadequacies we're
12 talking about.

13 JUDGE SMITH: Sustained.

14 BY MR. WRIGHT:

15 Q Mr. Somsag, in your answer to Question 13 of
16 your direct testimony, is it your testimony that the practice
17 of tabling related to safety-related -- was related to
18 safety-related supports?

19 MR. BIELAWSKI: Objection, Your Honor. Mr. Somsag
20 doesn't state that there was a practice of tabling at all,
21 much less that it related to safety-related components.
22 The testimony simply says that if it occurred, it would be
23 uncovered by the inspections that he identifies in his
24 testimony.

25 JUDGE SMITH: He said that there was a practice

mgc5-4

1 or there was a circumstance which could have led Mr. Smith
2 to believe that there was a tabling situation, and I assume
3 it is that circumstance to which Mr. Wright refers in his
4 question.

5 MR. WRIGHT: Yes, Your Honor.

6 THE WITNESS: Could you reask the question,
7 please?

8 BY MR. WRIGHT:

9 Q Is it your testimony that the practice of tabling
10 related to safety-related supports?

11 JUDGE SMITH: And the practice of tabling -- his
12 direct written testimony is 180 degrees to the opposite.
13 Now you are asking him to change his mind?

14 MR. WRIGHT: No, I'm not, Your Honor. I'm asking
15 him, the tabling that he discusses and that he says might
16 have been present, could it have been related to safety-
17 related supports?

18 JUDGE SMITH: All right. Do you understand where
19 you are now?

20 THE WITNESS: I believe so.

21 In the context of Mr. Smith's allegation, the
22 issue of tabling seemed to be an allegation in relation to
23 a general activity, not solely limited to safety-related
24 supports.
25

mgc5-5

1 BY MR. WRIGHT:

2 Q. Now you state that in the reinspection program
3 that -- well, actually before the reinspection program, prior
4 to March 1980 -- that 100 percent of the supports installed
5 were reinspected; is that correct?

6 A They were retro-inspected.

7 Q They were retro-inspected? What does retro-inspected
8 mean?

9 A For the purpose of retro-inspection and reinspection,
10 the retro-inspection was those inspections which had been
11 conducted previously, plus additional inspections.

12 Q Is that a physical inspection?

13 A Yes, it is.

14 Q Is that also a document inspection?

15 A Yes, it is.

16 Q Are there any other areas in which you conducted
17 100 percent reinspection or retro-inspection, as you use the
18 term?

19 A As I recall, Commonwealth Edison instructed us to
20 do a retro-inspection of concrete expansion anchors, the
21 timeframe or details of which I really don't recall at this
22 time.

23 JUDGE SMITH: Mr. Somsag, is that term,
24 "retro-inspection," is that a well-understood term, as
25 compared to "reinspection" and "overinspection"? We have

mgc5-6

1 wrestled with several -- I mean several terms now. This
2 is the first time after all the phases of hearings that
3 we've had on this that I've heard that term, "retro-inspection."

4 THE WITNESS: It's a term that is commonly
5 interchanged with reinspection.

6 JUDGE COLE: Are you using it in the same way?
7 Could you substitute the word "reinspection," and it wouldn't
8 change anything?

9 THE WITNESS: I believe so.

10 JUDGE SMITH: Except that you say that it adds
11 additional inspections over the inspections being
12 reinspected.

13 THE WITNESS: It's possible that it could,
14 depending on the circumstances surrounding doing the
15 retro-inspection or the reinspection, however you want to
16 term them.

17 JUDGE SMITH: All right.

18 BY MR. WRIGHT:

19 Q And you spoke about a concrete expansion
20 reinspection. Was that a 100 percent reinspection of all
21 the concrete expansion anchors installed by Hunter in the
22 Byron plant?

23 A Yes, I believe it was. It was in response to
24 an NRC IEE, but I can't recall which one it was. I think
25 it may be mentioned in some of Mr. Yin's testimony.

mgc5-¹8

1 Q Isn't it a fact, the 1983 reinspection program
2 found other discrepant conditions that were not found by
3 the regional inspectors?

4 MR. BIELAWSKI: Objection. Which 1983 inspection
5 program?

6 MR. WRIGHT: The reinspection program that you
7 talked about in your testimony.

8 MR. BIELAWSKI: Are we talking about the quality
9 control reinspection program?

10 MR. WRIGHT: Yes, I am.

11 JUDGE SMITH: I am still troubled by a question,
12 because you used the word "other" in there.

13 Would you ask the question again, please?

14 BY MR. WRIGHT:

15 Q My question is, did the 1983 reinspection program --
16 isn't it a fact that you found discrepant conditions that
17 were not found by the original inspectors?

18 A In order to provide a yes-or-no response, I would
19 have to make the assumption that absolutely nothing had
20 happened to that hardware from the time that it was
21 initially inspected, because a considerable timeframe had
22 expired in many cases, and therefore the hardware is exposed
23 to possible damage from sources after it was originally
24 inspected. I really can't make a firm answer.

25 Q So without altering what the reinspector would

mgc5-7

1 see versus what the original inspector saw?

2 A Of course.

3 Q Because of time?

4 A Yes.

5 Q Are there any other reasons that the attributes
6 would be audited?

7 MR. LEWIS: I'm going to have to -- the attributes
8 would be altered? I'm not sure --

9 BY MR. WRIGHT:

10 Q The original inspector looked at certain things
11 with respect to that equipment; is that correct -- certain
12 attributes?

13 A Yes.

14 Q Now my question goes to whether there is anything
15 other time that would affect those attributes that the
16 original inspector inspected?

17 A Well, it wouldn't be solely time. But time would
18 certainly figure into it. But there would be also an
19 effect by the population of workers in the area.

20 Q How would that have an effect on it?

21 A When the work force is more congested, there's
22 a possibility for more damage than when there is less
23 congestion.

24 MR. WRIGHT: I have no further questions.

25 MR. LEWIS: Staff has no cross-examination.

mgc5-8

1 BOARD EXAMINATION

2 BY JUDGE COLE:

3 Q Mr. Somsag, on page 6, Question 10 of your
4 testimony, to the best of your recollection, are the events
5 described by Mr. Smith on the third line of your response,
6 you state, "I was informed that there appeared to be a
7 significant number of hangers which were installed without
8 QC inspections."

9 By whom were you informed of that, sir?

10 A I was informed of it by virtue of review of the
11 notes that the auditors had compiled and by virtue of
12 conversations with Mr. Zeise.

13 Q Okay. So it wasn't one person; it was part of
14 a study made by you and information from Mr. Zeise?

15 A Yes.

16 Q On page 7, the sentence that begins on the fourth
17 line of page 7, "The data base collected by Mr. Smith was
18 reviewed to ensure that it included only safety-related
19 hangers."

20 By whom was that reviewed, sir?

21 A Mr. Zeise.

22 Q And also further down, "Because the audit was
23 only intended to evaluate safety-related work, and it was
24 determined that there were indeed some hangers in the data
25 base that were non-safety-related."

mgc5-9

1 By whom was that determination, sir?

2 A That would be by Mr. Zeise, to some extent in
3 concert with myself, because I had observed some in the
4 data base, too.

5 Q In that sentence you indicate that there were,
6 indeed, some hangers in the data base that were non-safety-
7 related.

8 Do you know, sir, with respect to Mr. Smith's
9 allegation concerning the disposition of the hangers,
10 whether there were any safety-related hangers in the category
11 that he described?

12 A Not as it would relate to tabling, because
13 certainly any of the safety-related hangers that were
14 identified as deficient were included in the audit report.

15 Q You then instructed that the non-safety-related
16 hangers be excluded from the audit in order that Mr. Smith
17 gather an additional data base comprised of safety-related
18 hangers.

19 Do you know how many non-safety-related hangers
20 were originally included and then excluded by virtue of
21 their being non-safety-related?

22 A I have no direct link to that intelligence by
23 virtue of the fact that I could not produce the notes or
24 the rough draft of the audit reports in the initial hearings.

25 The only thing that I could offer is that possibly

mgc5-10

1 offer is that possibly the numbers that Mr. Smith had
2 included in his testimony were the numbers of non-safety-
3 related hangers that were omitted.

4 JUDGE COLE: All right. Thank you.

5 BY JUDGE SMITH:

6 Q Was the term "tabling" itself used at Hunter
7 during the period that Mr. Smith was employed there?

8 A I heard the term used by Mr. Zeise on several
9 occasions.

10 Q To what does it refer?

11 A As I recall, to the best of my recollection, the
12 first time I heard the term from Mr. Zeise, "was tabling,"
13 and I said, "What does tabling mean?" And he replied to
14 the extent of, "Well, it's not a problem, so we will just
15 set it aside."

16 Q Set it aside until later, or set it aside, you
17 know, or set it aside forever?

18 A I guess the best way to view it is as it would
19 relate to the non-safety-related reports for the purpose
20 of conducting Audit 0593. These non-safety-related hangers
21 that were included into the data base were not a concern
22 and, therefore, not a problem. They were outside the scope
23 of the program and outside the scope of the audit.

24 BY JUDGE COLE:

25 Q So when they were then excised from the audit,

mgc5-12

1 would this be considered tabling? Is this what your
2 understanding of the "tabling" that Mr. Smith referred to
3 was?

4 A That's my understanding of how he would view
5 the situation.

6 BY JUDGE SMITH:

7 Q I am interested in the use of the word, the word
8 itself, the word "tabling."

9 Have you used the word at Hunter?

10 A No.

11 Q It does not have relevance to any practice that
12 you supervise at Hunter?

13 A No.

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Q So you heard Zeise use it. And did you hear Mr. Smith use it?

A I never heard Mr. Smith use the term.

Q But Zeise you heard use it?

Have you heard anybody else use it?

A Not since Mr. Zeise left our employment.

BY JUDGE CALLIHAN:

XX

Q Since you used the word in your testimony, like for instance on page 2, the word must have some meaning to you. In what context did you use the word, and what did you mean to convey by the word?

A The use of the word, as far as my testimony is concerned, is only to address the term as the word was used at the site by Mr. Zeise. I can only refer back to his definition to me as I recall it, as to what he meant by use of that term.

Q Perhaps I'm incorrect, but I heard you say in that context, that his replies to your inquiry for a definition was, well, sort of a brushoff. We are not bothered with it, quote/unquote.

That is what I heard you say. Maybe I misheard.

A I don't understand under what circumstances Mr. Zeise became impressed with the term "talking."

The only thing I know from conversation with him that I can recall was that he used the term to describe

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1 that which didn't require any additional investigation or
2 followup.

3 Q Would you review for us very, very briefly, the
4 types of inspections that you note, Type 1, Type 2, 3 and 4,
5 and if necessary relate their performance to the qualifica-
6 tions of inspectors, or relate them to time of instruction
7 and acceptance. Just generally, what are Type 1, 2, 3 and
8 4 inspections.

9 A I guess I would have to, in order to maintain
10 any semblance of briefness, I would have to preface the
11 explanation with the assumptions that, all things being
12 equal, everything else in the program was adequate; such
13 as drawing control, design control -- along the line with
14 the rest of the 18 criteria.

15 For Type 1 inspection -- all inspections are
16 directed by documentation. The documentation that we
17 employ would call for the inspections to be performed. Once
18 the inspector is contacted to do the physical hardware
19 inspection, he will additionally verify the adequacy and
20 the processing of the documentation to the point that he has
21 performed that inspection.

22 So really, the Type 1 inspection is performed
23 at the same time the Type 2 inspection is performed. To
24 go on, and staying with the concept of one construction
25 drawing for, say, one component support, you can have a

mm3 1 number of Type 2 and Type 1 inspections prior to the
2 completion of that given component support.

3 Once the entire support has been installed and
4 its been inspected and is deemed to be acceptable, that
5 entire package is then reviewed to ensure that all inspec-
6 tions have been conducted and the documentation comports
7 with the program requirements.

8 So, it is an overview inspection at that point
9 to see that all the Type 1s and Type 2s have occurred as
10 required and the results were satisfactory.

11 In going into a Type 4 inspection for a hanger
12 that was installed and subjected to a Type 1, 2, 3
13 inspection say in 1982, a period of time will elapse before
14 that hanger for component support is turned over to the
15 station or the operating people. We will then go back and
16 do a Type 4 inspection. In the case of this hanger, it
17 will be included in subsystems. So we would have that
18 hanger and all other hangers in that subsystem.

19 We will go out and do a followup inspection with
20 copies of the documentation that was generated from Type 1,
21 2 and 3 and verify that that hanger is still in place,
22 intact and undamaged during the timeframe that has elapsed
23 since the previous inspection prior to turnover.

24 Q In a normal procedure, is each of these
25 inspections usually done by, say, a Hunter inspector?

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1 A Definitely. Hunter qualified inspectors.

2 Q Internal in your organization.

3 Is there a difference in grade or level among
4 the inspectors who might do 1, 2, 3, 4 type, necessarily?

5 Does the Type 4 inspection demand an inspector
6 with more qualifications than, say, a Type 1, necessarily?

7 A No. We would use Level II inspectors for the
8 entire activity for the Type 1, 2, 3, 4. Level II inspectors
9 certified to that discipline.

10 Q I want to assure you that my next inquiry is a
11 very honest inquiry. I also recognize that for various
12 reasons you may not wish to answer, or maybe can't answer.

13 Also, I recognize that you might answer it in
14 the name of your company, or you might answer it in your
15 own right as an expert on the subject.

16 My question is: What has been accomplished by
17 the reinspection program? Do you feel just as an example
18 now -- do you feel that Byron is a "better" plant? Has
19 the reinspection given you a better feeling about it,
20 more confidence?

21 I would be grateful if you care to make any
22 comment along that line.

23 A The reinspection program in and of itself
24 definitely served to demonstrate to those of us who passed
25 the reinspection criteria, that our previous qualification

mgc6=1

1 program produced qualified, proficient inspectors from
2 the standpoint of a safe plant. Obviously any deficiency
3 that's found and corrected makes it a better plant.

4 Q So you'd put it someplace on the plus side?

5 A I would say so, yes.

6 JUDGE CALLIHAN: Thank you. That's all I have.

7 JUDGE SMITH: Any questions on the Board's
8 questions?

9 (No response.)

10 JUDGE SMITH: Mr. Bielawski?

11 REDIRECT EXAMINATION

12 BY MR. BIELAWSKI:

13 Q When, if ever, did Mr. Zeise use the term
14 "tabling" to address a situation where a noncompliance
15 related to safety was identified but not documented, because
16 it was felt that the noncompliance would be caught later?

17 A None that I can specifically recall.

18 MR. BIELAWKI: I have no further questions.

19 JUDGE SMITH: That was a very complicated
20 question. What is there about that question that enables
21 you to give an unequivocal no? Is it limited to safety-
22 related? Is that what it is? Is it true for all aspects
23 of it?

24 THE WITNESS: In conversations --

25 JUDGE SMITH: That question would have been

mgc6-2

1 objected to, if it had been on cross-examination, I guess.
2 It has too many components, Mr. Bielawski.

3 MR. BIELAWSKI: I can break it down, if you'd
4 like, Your Honor.

5 BY MR. BIELAWKI:

6 Q During the questioning by the Board, Mr. Somsag,
7 you mentioned that Mr. Zeise had used the term "tabling"
8 while at Byron.

9 A Yes, I did.

10 Q And you stated that he used in conjunction with
11 a matter which didn't require any further investigation;
12 is that right?

13 A Yes, that's true.

14 Q Did you ever hear him use the term to address
15 a situation where a noncompliance was identified but not
16 documented because it was felt that it would be addressed
17 at some later point in the process?

18 A No. Not in conversations that Mr. Zeise had
19 with me.

20 JUDGE SMITH: And I think perhaps on further
21 consideration, I think the original question was probably
22 all right, too.

23 MR. CASSEL: I'm glad to hear that, Judge, because
24 it means we didn't miss an objection there.

25 JUDGE SMITH: Anything further of Mr. Somsag?

mgc 6-3

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(No response.)

JUDGE SMITH: Thank you.

(Witness excused.)

MR. LEWIS: Can we take a moment to get the
Staff panel situated up here?

JUDGE SMITH: Certainly.

End6-MM

MMmgc7-1

1 Whereupon,

2 KAVIN D. WARD

3 JAMES MUFFETT

4 WILLIAM LITTLE

5 RAY LOVE

6 were called as witnesses on behalf of the NRC Staff and,
7 having been first duly sworn, were examined and testified
8 as follows:

9 Whereupon,

10 KEVIN CONNAUGHTON

11 resumed the stand and, having been previously duly sworn,
12 was examined and testified further as follows:

13 MR. LEWIS: Mr. Chairman, for the benefit of
14 those who are not familiar with who the individuals on
15 the panel are, starting nearest to the Board, we have
16 Mr. Ward, Mr. Muffett, Mr. Little, Mr. Love, and
17 Mr. Connaughton.

18 Since this is a collective piece of testimony,
19 I will go through the questions of each witness one at a
20 time, and I will address them to address those portions
21 of the testimony, to which they are his.

22 Your Honor, you had asked that we also supply a
23 brief oral summary of the testimony. Shall I do that at
24 this time?

25 JUDGE SMITH: I think that the testimony

mgc7-2

1 indicates on the fact of it who is responsible for what
2 portions.

3 MR. LEWIS: Yes, it does.

4 Mr. Chairman, the testimony of the NRC Staff on
5 the remanded issues with respect to the reinspection program
6 focuses on Hatfield Electric Company, Hunter Corporation
7 and Pittsburgh Testing Laboratory, and addresses the success
8 of the reinspection program in resolving the Staff's item
9 of noncompliance identified as 8205-19. It makes the
10 following principal points:

11 Because of the size and conservative biases of
12 the sample, the reinspection program is adequate to
13 determine if, from the beginning of construction through
14 September 1982, Hatfield, Hunter and PTL QC inspectors were
15 overlooking significant discrepancies.

16 Two, the Applicant's acceptance criteria for
17 evaluating the degree of agreement between the reinspection
18 results and the original inspection results and the
19 Applicant's criteria for determining which work was
20 reinspectable were acceptable.

21 Three, the Staff monitored the implementation of
22 the reinspection program and found it satisfactory.

23 Four, the Staff found no improper documentation
24 practices of buddy-systems that would call into question
25 the validity of the results of the reinspection program.

mgc7-3

1 Five, discrepancies uncovered during the
2 reinspection program were analyzed by Sargent & Lundy and
3 determined not to have safety significance. The Staff
4 reviewed a sample of the Sargent & Lundy analyses and found
5 them acceptable.

6 Six, the results of the reinspection program
7 indicate that from the beginning of construction through
8 September 1982, Hatfield, Hunter and PTL QC inspectors were
9 not overlooking significant discrepancies.

10 Seven, no inference adverse to Hatfield can be
11 drawn from the fact that all Hatfield's QC inspectors
12 employed as of September 30, 1982, needed recertification to
13 meet the Applicant's newly-established minimum requirements
14 at the inception of the reinspection program.

15 Eight, although some Hatfield cables were found
16 to be overstresses and shortcomings were found in the
17 Hatfield cable installation procedure, resolution of both
18 of these problems was satisfactory.

19 And finally, although two matters preliminarily
20 reported under 10 CFR Section 50.55(e) must be closed prior
21 to fuel load, the Staff has not identified any pattern of
22 nonconformances by Hatfield that would indicate widespread
23 or significant problems with Hatfield's work.

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mgc7-4

1 DIRECT EXAMINATION

2 BY MR. LEWIS:

3 Q Turning first to Mr. Little, Mr. Little, would
4 you please state your name and position with the NRC?5 A (Witness Little) William Little. I am
6 Engineering Branch Chief, Division of Reactor Safety,
7 Region III.8 Q Do you have in front of you a document entitled
9 "Testimony of NRC Staff on Remanded Issues with Respect
10 to the Reinspection Program"?

11 A Yes.

12 Q And in that testimony, are there answers there
13 identified as being answers which you have provided?

14 A Yes.

15 Q Did you prepare those answers?

16 A Yes, with the advice of counsel.

17 Q And are those answers true and accurate, to the
18 best of your knowledge and belief?

19 A Yes.

20 Q Attached to the testimony is a document entitled
21 "Professional Qualifications, William S. Little, U.S. Nuclear
22 Regulatory Commission." Did you prepare that document?

23 A Yes.

24 Q Is that a true and accurate statement of your
25 professional qualifications?

mgc7-5

1 A Yes.

2 Q Do you have any corrections to your testimony
3 at this time?

4 A Yes, I do.

5 Q Could you please read them slowly, identifying
6 the page and the answer by number?

7 A On page 1, Question 1, the answer should be
8 A.1 rather than A.2.

9 Then in the third line of that answer, it should
10 read "for Region III's inspection of the implementation"
11 rather than "on."

12 Q Please proceed.

13 A The next change is on page 5, the third line in
14 the first full paragraph on that page. The third line
15 starts, "By date of certification..." The next phrase I
16 would like to modify to read as follows: "and the first and
17 fifth inspectors and every fifth inspector thereafter."

18 Then on the fifth line of that same paragraph,
19 before "if a Hatfield or Hunter inspector," I would like
20 to insert the word "generally," so that it would read,
21 "Generally, if a Hatfield or Hunter inspector had not
22 performed..."

23 Q Mr. Little, before you go to the next correction,
24 could you just briefly state the reason for that last
25 change.

mgc7-6

1 A There were cases where they did not have the
2 precise minimum number of inspections.

3 Q Thank you.

4 A Then in the last paragraph on that page, the
5 fourth line from the top, I think it should read, "If this
6 was true," rather than "if this were true."

7 The next change is on page 8, the last word on
8 the first paragraph on that page should read "paragraph"
9 singular, rather than "paragraphs."

10 The next paragraph, which starts, "The reinspection
11 program established," Item 1, I would like to change on
12 the second line of Item 1, I would like for that to read,
13 "With the original inspections at least 90 percent of the
14 time..."

15 Q Rather than "greater than"?

16 A Right. And the same change made on Item 2, the
17 second line, "With the original inspections at least 90
18 percent of the time" rather than "greater than 90 percent of
19 the time."

20 The next change is on page 14, in Answer 11, under
21 Item 1, the third and fourth line in Item 1, I would like
22 to change that second phrase which starts out "and to
23 ensure," I would like to modify that to read as follows:
24 "and to ensure that the reinspectors did not know the
25 original inspection findings..."

mgc7-7

1 Q Go slowly.

2 A "and to ensure that the reinspectors did not
3 know the original inspection findings for attributes in
4 which as-built measurements were reinspected."

5 JUDGE SMITH: Slow down.

6 JUDGE CALLIHAN: What preceded "attributes,"
7 please?

8 MR. GALLO: Do you want to run that by us again?

9 WITNESS LITTLE: Yes, I'll read it again: "and
10 to ensure that the reinspectors did not know the original
11 inspection findings for attributes in which as-built
12 measurements were reinspected."

13 BY MR. LEWIS:

14 Q The word you used was "for" attributes; is that
15 correct?

16 A (Witness Little) For, F O R (spelling).

17 MR. GALLO: Judge Smith, when the witness read
18 back that answer or that correction the second time, did
19 he start from the beginning?

20 WITNESS LITTLE: No. I started at the beginning
21 of the second phrase in that sentence.

22 JUDGE COLE: And delete the rest of the sentence?

23 MR. GALLO: You didn't start from the beginning;
24 therefore, I didn't get your correction.

25 JUDGE COLE: And delete the words "either who

mgc7-8

1 performed the original inspection or what the original
2 inspection findings were"?

3 WITNESS LITTLE: Right.

4 BY MR. LEWIS:

5 Q Does that complete your corrections, Mr. Little?

6 A (Witness Little) Yes.

7 JUDGE SMITH: Why did you make that change?

8 WITNESS LITTLE: Because I had -- I was mistaken.
9 I thought they had taken steps to assure that the
10 reinspectors did not know who performed the original
11 inspections, and I have subsequently found that that was
12 in error.

13 JUDGE SMITH: Right. But what I meant was,
14 I really was referring to the end of the sentence, or what
15 the original findings were.

16 What is that a reference to, the assumption
17 that the findings were satisfactory or --

18 WITNESS LITTLE: I kept -- they took steps to
19 make sure that they did not know what the original
20 inspection findings were for inspections -- for reinspections
21 where they were looking again at as-built measurements. They
22 did not make those original as-built measurements available
23 to the reinspectors.

24 JUDGE SMITH: I see. I've got it.

25

mgc7-9

1 BY MR. LEWIS:

2 Q Mr. Little, let me ask you, having altered this
3 sentence on page 14 as you have, does that in any way alter
4 the conclusions stated in your testimony?

5 A (Witness Little) No.

6 MR. LEARNER: Excuse me for one moment. After
7 "findings" in your rewritten sentence, is the next word
8 "for"?

9 WITNESS LITTLE: "For attributes."

10 MR. LEARNER: "For"?

11 WITNESS LITTLE: "For." F O R (spelling).

12 BY MR. LEWIS:

13 Q Mr. Ward, would you please state your name and
14 position with the NRC?

15 A (Witness Ward) Kavin Dennis Ward, Reactor
16 Inspector for Region III.

17 Q Do you have in front of you a document entitled
18 "Testimony of NRC Staff on Remanded Issues with Respect to
19 the Reinspection Program"?

20 A Yes, sir.

21 Q Do certain of the answers in that testimony bear
22 your name?

23 A Yes, sir.

24 Q Did you prepare those answers?

25 A Yes, sir.

mgc7-10

1 Q And are those answers true and accurate to the
2 best of your knowledge and belief?

3 A Yes, sir.

4 Q Attached to the testimony is a statement of
5 your professional qualifications. Did you prepare that
6 document?

7 A Yes, sir.

8 Q And does that accurately and fully reflect your
9 professional qualifications?

10 A Yes, sir.

11 Q Now, Mr. Ward, do you have any corrections to
12 your testimony which you wish to make?

13 A Yes, I do.

14 Q Please proceed.

15 A On page 10, the third paragraph --

16 Q Is this the answer to Question No. 8?

17 A Yes, sir. In the last sentence, the word
18 "enclosure," I would like to make it "enclosures," add an S.

19 Q Please proceed.

20 A On page 11, second paragraph, in the second
21 sentence after the word "code," I would like to add the
22 letter D, making it "Code D1.1."

23 Q Rather than reading "Code 1," it should read
24 "Code D1.1"?

25 A Yes, sir.

mgc7-11

1 Q Thank you. And with regard to your professional
2 qualifications statement, do you have a correction?

3 A Yes, sir. On the very top where it says
4 "Professional Qualification," I would like to add an S,
5 "Qualifications."

6 Q Please proceed.

7 A And the second paragraph where it says -- I
8 would like to add "registered" in front of the word
9 "professional," making the sentence, "I am also a Registered
10 Professional Engineer."

11 JUDGE SMITH: All of these changes are in the
12 specimen given the reporter?

13 MR. LEWIS: Yes.

14 BY MR. LEWIS:

15 Q Please proceed.

16 A (Witness Ward) Third paragraph, last line,
17 I would like to add "I" in front of "participate."

18 Q Is that all of the corrections?

19 A Yes, sir.

20 Q As corrected, are your statements in the
21 testimony and your professional qualifications true and
22 accurate to the best of your knowledge and belief?

23 A Yes.

24 End7-MM

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2 Q Mr. Muffett, do you have in front of you a copy
3 of the testimony of the NRC Staff on Remanded Issues with
4 Respect to the Reinspection Program?

5 A (Witness Muffett) Yes.

6 Q Do certain of the answers in that testimony bear
7 your name?

8 A Yes.

9 Q Did you prepare those?

10 A Yes.

11 Q Do you also have in front of you, attached,
12 Statement of Professional Qualifications which is attached
13 to the testimony?

14 A Yes.

15 Q And does that fully and accurately reflect your
16 professional qualifications?

17 A Yes.

18 Q Do you have any corrections to offer to either
19 your testimony or your Professional Qualifications statement?

20 A Just one.

21 Page 24, the second paragraph of answer 20,
22 "There has been no indication of. . ." I would like to
23 insert "a pattern of significant problems with those types
24 of inspections."

25 Q Thank you.

As corrected, is your testimony and your

mm2 1 Statement of Professional Qualifications true and
2 accurate to the best of your knowledge and belief?

3 A Yes.

4 Q Mr. Love, do you have in front of you a copy
5 of Testimony of NRC Staff on Remanded Issues with respect
6 to the Reinspection Program?

7 A (Witness Love) Yes, sir.

8 Q Does that testimony conclude certain answers
9 which bear your name?

10 A Yes, sir.

11 Q Did you prepare those answers?

12 A Yes, sir.

13 Q Does the testimony also have as an attachment
14 a statement of your Professional Qualifications?

15 A Yes, sir, it does.

16 Q Is that Statement of Professional Qualifications
17 a true and complete statement of your Professional
18 Qualifications?

19 A Yes, sir.

20 Q Do you have any corrections to make to your
21 testimony or your Professional Qualifications as stated?

22 A Just to the Professional Qualifications.

23 Q Please proceed.

24 A Line 1, delete "inspection and inspect," and
25 insert "inspector."

mm3

1 Fourth paragraph, line 4, preface the word "also"
2 with "I."

3 Q Does that complete your corrections?

4 A Yes, sir.

5 Q Are the statements in your testimony and in your
6 professional qualifications true and accurate to the best
7 of your knowledge and belief?

8 A Yes, sir, they are.

9 Q Mr. Connaughton?

10 A (Witness Connaughton) Yes.

11 Q Do you have in front of you a copy of the
12 testimony of NRC Staff on Remanded Issues with Respect to
13 the Reinspection Program?

14 A Yes.

15 Q Does that testimony include certain answers which
16 bear your name?

17 A Yes, it does.

18 Q Did you prepare those answers?

19 A Yes.

20 Q Do you also have in front of you a copy of the
21 document attached to the testimony stating your Professional
22 Qualifications?

23 A No, I don't have that in front of me. Just a
24 moment.

25 (Document handed to witness.)

mm4

1 Now I do.

2 Q Does that completely and accurately reflect
3 your professional qualifications?

4 A Yes.

5 I would add though, under education, the end of
6 that line, "June 1980."

7 Q Thank you.

8 Do you have any corrections to your answers in
9 the testimony?

10 A Yes, I do.

11 Q Please proceed.

12 A Top of page 21, second line which begins, "By the
13 NRC. . ." I would like to insert the words "as having
14 occurred."

15 MR. CALLIHAN: Where is the insertion?

16 WITNESS CONNAUGHTON: It says, top of that page,
17 it starts out "of inspections and corrective actions by
18 Hunter had been identified by the NRC."

19 I would like to insert, following that "NRC",
20 "as having occurred during and subsequent to the employment."

21 MR. CALLIHAN: Thank you.

end T822
of MM

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1 BY MR. LEWIS:

2 Q With that correction, are the answers which you
3 have prepared in this testimony and your statement of
4 professional qualifications true and accurate to the best of
5 your knowledge and belief?

6 A (Witness Connaughton) Yes, they are.

7 MR. LEWIS: Mr. Chairman, I would now move the
8 admission of the Testimony of NPC Staff on Remanded Issues
9 With Respect to the Reinspection Program and ask that it be
10 bound into the transcript as if read. The copies I have
11 provided to the reporter do have the corrections noted, and
12 attached to that testimony also is Enclosures 1 through 5,
13 which I would also ask be bound into the transcript.

14 JUDGE SMITH: Are there objections?

15 MR. LEARNER: Yes, sir, Judge Smith. At a
16 number of points in the testimony, I will direct your
17 attention to Question 8, page 10 of the transcript --

18 JUDGE SMITH: Where?

19 MR. LEARNER: Question 8 at pages 10 and 11 of
20 the testimony. There's a reference to another staff
21 inspector. It's in the first line of the answer numbered 8,
22 and then in the third paragraph on page 11.

23 We would move to strike the testimony with respect
24 to another inspector unless the gentlemen on this panel are
25 able to fully testify as to what that inspector found.

1 MR. LEWIS: Mr. Chairman, the other inspector is
2 a member of the panel; it is Mr. Muffett.

3 MR. LEARNER: Fine, we'll withdraw the objection.

4 MR. LEWIS: Well, wait a minute. There are
5 two different statements here. I think I may have
6 misspoken. Let me look at the statement for a moment.

7 (Pause.)

8 I believe I misspoke on that. The other inspector
9 I believe was an inspector who accompanied -- may I ask a
10 question of Mr. Ward to perhaps clarify the matter, Your Honor?

11 JUDGE SMITH: Yes, sir.

12 MR. LEWIS: Mr. Ward, who is the other inspector
13 referred to in the two points in answer 8 referred to
14 by Mr. Learner?

15 WITNESS WARD: Ray Cilimberg.

16 BY MR. LEWIS:

17 Q Did Mr. Cilimberg accompany you on certain
18 inspections regarding welding?

19 A (Witness Ward) Yes, sir, he looked into components.
20 Therefore, in one of my reports his inspection as well as
21 mine is in there, and that's why I say the other inspector,
22 because he looked into the components.

23 Q Are you familiar with his inspection report and
24 any findings that he made?

25 A Most of them, yes, sir. It depends on what the

1 questions are.

2 MR. LEWIS: I suggest we proceed, Your Honor, and
3 if there is any point at which the witnesses on this panel
4 are unable to answer Mr. Learner's questions, we will face
5 that if it comes up.

6 JUDGE SMITH: Do you persist in your objection?

7 MR. LEARNER: Yes, Judge, I would. It's clear
8 that Mr. Ward is not totally familiar with the results
9 obtained by Mr. Cilimberg.

10 If the NRC wishes to present testimony from
11 Mr. Cilimberg, they should do so, but that should not come
12 in through another witness.

13 If I could also add, there's a reference on
14 page 20, again of Mr. Ward's testimony, at the end of the
15 second paragraph, to another inspector who reviewed components.
16 I assume that is the same "other inspector", Mr. Cilimberg.

17 MR. LEWIS: Perhaps we should ask Mr. Ward just
18 for clarification. Is that correct, Mr. Ward?

19 WITNESS WARD: Yes, it is. In the prior
20 question before you asked if he had any findings -- I mean,
21 he didn't have any findings.

22 BY MR. LEWIS:

23 Q I said any findings he might have had.

24 A (Witness Ward) He did not have any findings.

25 JUDGE SMITH: Mr. Ward, is it an ordinary

1 practice for you to accompany other inspectors on inspections?

2 WITNESS WARD: Yes, sir.

3 JUDGE SMITH: Is it ordinary practice for you
4 to consult with another inspector as a result of your
5 inspections?

6 WITNESS WARD: Yes, sir.

7 JUDGE SMITH: Is it ordinary practice in Region III
8 and in the NRC to compare the report, as a result of your
9 inspections, with another inspector?

10 WITNESS WARD: Yes, sir.

11 JUDGE SMITH: Are the reports alluded to those
12 that were produced as a result of that ordinary practice?

13 WITNESS WARD: Yes, sir.

14 JUDGE SMITH: Objection overruled.

15 MR. LEARNER: I have no further objections. I
16 do have one preliminary matter I would like to ask about.

17 MR. LEWIS: Well, I have some further supplemental
18 direct --

19 MR. GALLO: I have some objections.

20 MR. LEARNER: I will hold off on my matter.

21 JUDGE SMITH: Wait a minute. You have no more
22 objections as to the testimony?

23 MR. LEARNER: Correct.

24 JUDGE SMITH: Okay. What was your other remark?
25 You have supplemental --

1 MR. LEARNER: The preliminary matter I would
2 like to inquire into is that throughout the testimony
3 there's reference to the Staff's pending evaluation of
4 Edison's June 1984 Supplemental Inspection Program. I'd
5 like to inquire whether that evaluation has been completed
6 or not.

7 MR. LEWIS: I will ask a question on supplemental
8 direct.

9 JUDGE SMITH: All right. Mr. Gallo?

10 MR. GALLO: I have two objections, Your Honor.
11 The first objection I think is merely a housekeeping matter.
12 It goes to Enclosure 1. And in particular, pages 26 and 27
13 of Enclosure 1.

14 JUDGE SMITH: Is Enclosure 1 a designation
15 given for purpose of the testimony, or for the purpose of
16 the original document?

17 MR. LEWIS: For the purpose of testimony. It is
18 an excerpt.

19 JUDGE SMITH: What's the difference between that
20 and an attachment?

21 MR. LEWIS: Where are you referring to when you
22 say attachment?

23 JUDGE SMITH: Well, somewhere in the transmission--
24 what is attached to the testimony of this panel?

25 MR. LEWIS: Five documents which are excerpts

1 from inspection reports, each of which bears an enclosure
2 number.

3 JUDGE SMITH: Your other panel has attachments.

4 MR. LEWIS: Well, I apologize for the lack of
5 uniformity, but they are used to mean the same thing.

6 JUDGE SMITH: The only reason I have difficulty
7 is that the enclosures got attached to the wrong testimony
8 in my copy. So we will have five enclosures.

9 MR. LEWIS: So that you won't be confused, Your
10 Honor, the substantive testimony, which I take to refer to
11 the testimony on allegations, has attachments which are
12 Attachments A, B, C and D -- if that will help you.

13 JUDGE SMITH: All right. All right, Mr. Gallo.

14 MR. GALLO: Your Honor, on page 26 of
15 Enclosure 1, in approximately the middle of the page there's
16 a Section 3 that's entitled, Nuclear Installation Service
17 Company, and that section runs to the top of page 27.

18 And since this particular contractor, which was
19 subject to the Reinspection Program, is not part of the
20 remanded proceeding, this Section 3 should not be admitted
21 into evidence along with the balance of Enclosure 1, and
22 I object to it on that ground. It's irrelevant and
23 immaterial.

24 MR. LEWIS: I don't think, Your Honor, -- it is
25 simply in there because it appears on the same pages which

1 bear information on Hunter Corporation and on Pittsburgh
2 Testing Laboratory. The testimony of the witness does not
3 deal with Nuclear Installation Service Company.

4 JUDGE SMITH: What do you say to that, Mr. Gallo?

5 MR. GALLO: Well, if counsel is willing to
6 stipulate that this section is not intended to come into
7 evidence, I will accept that.

8 MR. LEWIS: We will so stipulate.

9 JUDGE SMITH: Section 3, then, is not intended
10 to be admitted.

11 Any other objections?

12 MR. GALLO: My second objection refers to page 27
13 of the testimony, in question and answer 23. The question
14 asks, "Is there a pattern of non-conformances by Hatfield
15 which is significant in terms of assurance of the quality
16 of Hatfield's work?" And the answer then follows and
17 essentially indicates an opinion that there is not, but
18 indicates two open matters.

19 I believe that the entire question and answer
20 is irrelevant and immaterial because patterns of non-
21 conformances, as the question asks, really goes to the
22 question of the QA competency of Hatfield, rather than the
23 quality of the work. And that is not an issue before us in
24 this remanded proceeding.

25 JUDGE SMITH: The quality of the work is not?

1 MR. GALLO: No, no. The pattern of non-
2 conformances does not relate to the issue of the quality of
3 Hatfield's work since, as I understand the term "pattern of
4 non-conformances," it's a question of whether or not there
5 had been a total or complete QA breakdown within the meaning
6 of NRC case law. And it really goes to the adequacy of the
7 quality assurance question. Or I'm sorry, the adequacy of
8 the quality assurance program at Hatfield, which has already
9 been litigated.

10 Clearly, the quality of Hatfield work is an
11 issue, but not to be really delved into through the question
12 of pattern of non-conformances of Hatfield's QA program.

13 I think my point is amplified if you look at the
14 two examples that are given by the witness, Mr. Love, as
15 additional matters that are open. One deals with improper
16 installation of electrical cable grips. The other deals
17 with electrical conductor butt splices.

18 Neither of these two issues is before the Board,
19 and the witness indicates that they remain open as of this
20 testimony and identifies them as if they were issues that
21 were to be litigated before this Board.

22 So for both of those reasons, really as one, I
23 object to this question and answer on the grounds that it's
24 immaterial and irrelevant to the remanded proceeding.

25 MR. LEWIS: Mr. Chairman, I believe there is

1 included in the testimony of the Applicant in this proceeding
2 a discussion of trending. I can't cite you to a specific
3 portion of the transcript, but there has been discussion of
4 the issue of trending of discrepancies to see whether or not
5 there was any pattern of discrepancies in the Reinspection
6 Program.

7 Now, that admittedly was in the Reinspection
8 Program, but the Staff looked upon this as an item that
9 addressed what we perceived to be a Board concern identified
10 in the Initial Decision regarding the adequacy of Hatfield's
11 performance in the quality assurance area.

12 And we thought it would be helpful in that
13 connection to advise the Board and parties as to what our
14 overall view is as to whether or not there is any pattern
15 in Hatfield's performance in the quality assurance area
16 which is of concern to us as a staff, and that is what the
17 question and answer are offered for.

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1 JUDGE SMITH: I don't understand how you
2 perceive your client to be injured by this.

3 MR. GALLO: I will come directly to the point.
4 Butt splices -- the issue of butt splices was specifically
5 not adopted by the Board as an issue in this proceeding.
6 The issue of electrical cable grips never arose as an
7 issue through the Intervenors. The Staff, through this
8 mechanism is attempting to make these two matters issues in
9 this proceeding.

10 And what is particularly troublesome is that the
11 testimony indicates that the issues are still open as far
12 as the Staff is concerned, and both of these matters will
13 be tracked by the NRC, says Mr. Love, at the bottom of
14 page 27, and must be closed prior to fuel load.

15 Now, if this testimony goes in without objection,
16 then I assume that the Board is taking jurisdiction over
17 these two matters and we have another question of when
18 we close the record, do we have to keep it open until these
19 matters are closed out by the Staff?

20 I think that while, as Mr. Lewis says, it may
21 be interesting -- and I agree, he was probably trying to
22 be helpful -- I think the proper rule here is materiality
23 and relevance, and this particular answer is objectionable
24 on that ground.

25 MR. CASSEL: Judge, may I comment on that?

1 MR. LEWIS: Well, let me respond first, and then
2 perhaps counsel for Intervenors can respond.

3 I think what I said was that we did consider
4 this answer to be addressed to a concern of the Board in
5 the Initial Decision regarding the performance of Hatfield
6 in the quality assurance area, and that's what we believe
7 we were responding to.

8 We recognize that as it finally turned out, the
9 Board did not require any testimony on the butt splice issue,
10 and we are not seeking to open up that issue for substantive
11 inquiry. We looked upon this answer as a full disclosure
12 type of answer that indicated that we had not identified
13 any pattern of non-conformances by Hatfield, but noted that
14 there were, as of the time of this preparation of that
15 response, two potential 50.55(e) matters that we were
16 tracking.

17 We did not mean to suggest that we believe the
18 resolution of those issues by Region III is a matter which
19 this Board needs to await for its decision. We simply
20 indicated that as of the time of giving our testimony, there
21 was no such pattern of non-conformances, and we wanted to
22 note for the record that there were two 50.55(e) matters
23 that we were pursuing.

24 JUDGE SMITH: You object to all of answer A23?

25 MR. GALLO: Given counsel's argument, I would

1 limit my objection from at the end of the first sentence --
2 from the second sentence on; I would object to the remainder
3 of the answer.

4 JUDGE SMITH: Well, Mr. Love, would you be --
5 would you regard answer A23 as being a complete answer if
6 the second sentence and everything after that were eliminated,
7 noting that you used the word "however" in the second sentence.

8 WITNESS LOVE: Yes, sir, the statement would
9 still be true that we did not identify any pattern of non-
10 conformances that indicates a widespread or significant
11 problem with Hatfield.

12 As Mr. Lewis pointed out, the reference to the
13 two 50.55(e)'s, or potential 50.55(e)'s, was, I guess,
14 clarification for the Board, would be the best way to
15 describe it.

16 JUDGE SMITH: You would feel that even without
17 that sentence, you feel you're making a responsible,
18 complete testimony, in any event, even without those two
19 examples?

20 WITNESS LOVE: Yes, sir.

21 JUDGE SMITH: Okay. Mr. Cassel?

22 MR. CASSEL: Judge, it seems to me there are
23 at least two reasons why this testimony is relevant, and
24 ought not to be stricken, but do not necessarily get the
25 Board in the position depicted by Mr. Gallo.

1 The first reason is that Edison, through
2 Mr. Shewski, has already put in testimony about matters
3 since August of 1983, other than the Reinspection Program,
4 in which they cite numerous instances of specific audits,
5 specific inspections; in particular, hardware questions that
6 came up, all of which add up to a bottom line in Mr. Shewski's
7 view that there are no problems out there that would
8 interfere with the licensing of the plant.

9 It seems to me, having put that kind of testimony
10 in, Edison is now not in any position to argue that evidence
11 that there are a couple of questions out there that are
12 unresolved is irrelevant or not germane.

13 Secondly, and as an independent reason why this
14 evidence ought to remain in the record -- and frankly, we
15 have plans for cross examination on the issue -- is if this
16 Reinspection Program was conducted and numerous witnesses
17 both from Edison and the NRC Staff are testifying that
18 because there was such a widespread reinspection of so many
19 items out at Byron that they are confident there are no
20 hardware problems out there, then how did these two slip
21 through the cracks?

22 Well, there are reasons for that. But I think
23 we're entitled to elicit testimony from the witnesses as
24 to how that happened.

25 JUDGE SMITH: The Board will discuss it over

1 the lunch break and rule after lunch.

2 Do you have anything else you want to add,
3 Mr. Gallo?

4 MR. GALLO: Just in reply to Mr. Cassel that
5 of course, he can cross examine on these points regardless
6 of whether this material is admitted into evidence.

7 Second, the reference to Mr. Shewski's testimony
8 was that he reviewed various quality assurance reports that
9 he had prepared, or had his people prepare, in connection
10 with the oversight responsibility of the Edison Quality
11 Assurance program.

12 So I don't believe that any of Mr. Cassel's
13 points really go to the admissibility or argue for the
14 admissibility of this testimony.

15 JUDGE SMITH: We will discuss it during lunch.
16 Are these two items still open?

17 WITNESS LOVE: Yes, sir.

18 MR. LEWIS: I believe I have my request to have
19 this testimony admitted and bound into the transcript
20 pending before you.

21 JUDGE SMITH: All right. The testimony is
22 received with the exception of the disputed -- . The
23 testimony is received, and we will rule on whether the
24 disputed language is included after lunch.

25 (The Testimony of NRC Staff on Remanded Issues,
etc. follows:)