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Whereupon,

RONALD N. GARDNER,

called as a witness by Counsel for the Regulatory Staff,  
having first been duly sworn by the Chairman, was  
examined and testified as follows:

DIRECT EXAMINATION

BY MR. WILCOVE:

Q Mr. Gardner, could you tell us your name and  
position with the NRC for the record?

A My name is Ronald N. Gardner. I am reactor  
inspector in the electrical area in the plant systems  
section, Region III, NRC.

Q Are you familiar with a memorandum from an  
investigator from the NRC, Mr. James Foster, in which  
Mr. Foster discusses allegations regarding the quali-  
fication of personnel employed by Comstock?

A Yes, I am.

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1 Q Could you please describe those allegations for  
2 me?

3 A Yes. An anonymous gentleman contacted Mr.  
4 Foster at the Region III NRC office expressing several  
5 items of concern. One concern dealt with Comstock QC  
6 inspectors.

7 Mr. Foster, as stated, is an NRC inspector.  
8 Mr. Foster requested the gentleman to provide some examples  
9 of deficient equipment or improper QC. The gentleman  
10 was unable to provide specifics. Mr. Foster asked the  
11 gentleman to consider any specifics he might know of  
12 or could find out about and that Mr. Foster would call  
13 him back at a subsequent time to try to get that infor-  
14 mation.

15 Approximately a week later Mr. Foster contacted  
16 the gentleman again and requested from that gentleman if  
17 he had, in fact, identified or could identify any specifics.  
18 The gentleman indicated that he could not identify any  
19 specific locations or lines, et cetera, which contained  
20 deficient installations. However, he did express a  
21 concern with Comstock QC personnel. He identified two  
22 personnel by name, stating that he did not believe they  
23 were qualified.

24 Q And what actions had you taken to pursue those  
25 concerns?

1           A       I have examined the certification records for  
2 the two gentlemen mentioned by the anonymous gentleman.  
3 I have noted that they are qualified in two or more areas  
4 of inspection. One of the two gentlemen was not qualified  
5 in an electrical area, although he was qualified in pipe  
6 supports and concrete anchor -- expansion anchor  
7 installation. The other gentleman was qualified in  
8 both of those and also in conduit installation and  
9 supports.

10                   However, there were no specifications on which  
11 to go by to determine which area to pursue. Therefore,  
12 in examining the records and observing that the two  
13 gentlemen were, in fact, qualified -- or, excuse me,  
14 certified, that is as far as we can pursue this at this  
15 time, unless, of course, specific data is given in the  
16 future.

17           Q       So at this time the NRC does not intend to  
18 pursue these allegations further?

19           A       No.

20                   MR. WILCOVE: Mr. Chairman, that is the end  
21 of the Comstock matter, so at this point we are ready  
22 to proceed with its proposed testimony.

23                   CHAIRMAN BECHHOEFER: Fine.

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1 BY MR. WILCOVE:

2 Q Mr. Gardner, do you have in your hands the  
3 testimony, a copy of a document called "The Testimony of  
4 Ronald N. Gardner Concerning the Qualifications of Bechtel  
5 QC Personnel"?

6 A Yes.

7 Q Do you have any additions, deletions or  
8 corrections to that testimony?

9 A Yes, I do.

10 Q Could you please tell us what those corrections  
11 are.

12 A The corrections will occur on Page 4, specific-  
13 ally the corrections pertaining to the final answer on  
14 that sheet.

15 That answer should be removed. In lieu of that  
16 answer, I would like to substitute the following:

17 "As stated in my testimony, Consumers Power  
18 QA personnel had identified instances in which Bechtel  
19 QC inspectors had not identified non-conforming conditions.  
20 The QA personnel documented these non-conforming conditions  
21 on non-conformance reports, NCRs. The licensee determined  
22 that 9 QC inspectors had NCRs written against them.  
23 The licensee also determined the number of inspections  
24 which each of the nine inspectors had performed from the  
25 time of initial certification to the point at which the

1 NCR was written and remedial training given.

2 "We requested the licensee to perform over  
3 inspections of those QC inspections. Subsequently the  
4 licensee reported that 100 percent over-inspections would  
5 be performed on eight of the nine inspectors. However,  
6 they would stop after performing over-inspections of  
7 250 of the 1147 inspections completed by the remaining  
8 inspector, Mr. Urbany.. They reported that at least one  
9 misrouted cable had been identified within the 250 over-  
10 inspections pertaining to Mr. Urbany.

11 "The NRC requested the licensee to complete another  
12 250 over-inspections of Mr. Urbany's inspections. The  
13 licensee has completed this task and has identified  
14 29 additional misrouted cables pertaining to Mr. Urbany.  
15 Based on the increase in detected errors, that is from  
16 3 to 29, NRC Region III has requested as of yesterday that  
17 the licensee complete 100 percent over-inspections of  
18 Mr. Urbany's inspections. In addition, we have requested  
19 that the licensee make a full report of the results of the  
20 over-inspections once completed to NRC Region III for our  
21 review."

22 Q And had the licensee agreed to continue the  
23 over-inspection of Mr. Urbany's work?

24 A Not at this time.

25 Q Is your prepared testimony with the changes you

1 have just made true and complete?

2 A Yes.

3 MR. WILCOVE: Mr. Chairman, I offer Mr. Gardner's  
4 prepared testimony into the record as if read, into  
5 evidence.

6 CHAIRMAN BECHHOEFER: Any objection?

7 MR. ZAMARIN: No objection.

8 CHAIRMAN BECHHOEFER: The testimony will be  
9 admitted into evidence, bound into the record as if read,  
10 together with the supplemental statement which was  
11 delivered today.

12 (Prepared testimony and supple-  
13 mental statement of Ronald N.  
14 Gardner follows:)  
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01/22/82

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of                     )  
  )  
CONSUMERS POWER COMPANY           )  
  )  
(Midland Plant, Units 1 and 2)     )

Docket Nos. 50-329 OM & OL  
              50-330 OM & OL

TESTIMONY OF RONALD N. GARDNER CONCERNING  
THE QUALIFICATIONS OF BECHTEL QC PERSONNEL

Q. Please state your name and position with the NRC.

A. My name is Ronald N. Gardner. I am a Reactor Inspector  
(Electrical), Plant System Sections, Region III.

Q. Is a statement of your professional qualifications attached to  
your testimony?

A. Yes.

Q. What is the purpose of this testimony?

A. This testimony discusses an item from the May 1981 inspection  
which still remains open. (Inspection Report No. 81-12--Staff  
Exhibit I). CPC QA engineers had been performing "overinspections" of  
items which Bechtel QC personnel had been inspecting. In the May 1981  
inspection, the Region III inspectors observed that the QA engineers had  
been identifying numerous occasions in which QC inspectors were accepting  
nonconforming conditions. The QA engineers documented these instances  
in nonconformance reports. (NCR's). The construction activities

primarily responsible for generating NCR's were cable pulling and cable terminations.

The Region III inspectors at the May 1981 inspection observed two potential deficiencies with the experience and training of the QC inspectors. First, they had little or no prior QC experience. Second, they were certified as cable pulling and cable termination inspectors within three weeks of their reporting date.

From October 6 to October 9, 1981, the NRC Staff conducted another inspection of the Midland site. (Inspection Report No. 81-20). They determined that the item still remained open.

Q. Please state your involvement with the inspection of this matter.

A. As a member of the Region III inspection team, I was personally involved in the May 1981 inspection. I was also a co-author of Section IV of Inspection Report 81-12, which addressed this matter.

Q. As a result of the Region III inspectors' concerns with respect to the qualifications of QC personnel, what action did they take?

A. We required CPC to (1) determine if previous inspections performed by the aforementioned QC inspectors were acceptable and (2) verify the adequacy of the training, qualifications and examination of Bechtel QC personnel.

Q. What action has CPC taken to meet the above requirements?

A. The licensee has conducted two audits of the Bechtel QC Department. Audit No. H-01-24-1 was conducted from June 2 to July 3, 1981 and Audit No. M-01-72-1 was conducted from November 2 to November 6,



1981. These audits evaluated the adequacy of the Bechtel QC training and certification program. As a result of the audits, the following improvements have been made in the area of QC training; (1) Bechtel is now documenting on the job training as part of its certification/training process for QC inspectors and (2) MPQAD site personnel are overseeing Bechtel's training/certification program to assure that the certification of inspectors meets Midland Project requirements.

Q. What has the Staff done to assure itself that Bechtel's QC training and certification program is now acceptable?

A. I selected three QC inspectors to be questioned concerning two Quality Control Instructions (QCI's) for which they had previously been certified. Both QCI's involved cable pulling and cable termination, the construction activities in which the greatest number of NCR's occurred. The selected QC inspectors were each hired in 1981, had no prior QC experience and were certified within approximately three months of their reporting date. In answering my questions, the QC inspectors demonstrated acceptable knowledge in the two areas.

Q. Do you believe that there is a need at the Midland site to require higher standards than are set forth in Regulatory Guide 1.58 which incorporates ANSI standard N45.2.6?

A. No. Although problems have arisen due to the vagueness of the regulatory guide, I do not believe the licensee has abused these provisions. Since Bechtel is now documenting on-the-job training as part of its certification/training program and MPQAD site personnel are overseeing the program, prior problems should now be alleviated. These

changes should also enable the NRC to conduct a better audit of CPC's use of these provisions.

Q. Are you satisfied that certification of OC inspectors meets Midland Project requirements and NRC requirements?

A. Yes.

Q. What is the status of CPC's commitment to "overinspect" the inspections performed by OC personnel against whom NCR's had been initiated?

A. We are waiting for the results of the overinspection so they may be evaluated. I expect to make that evaluation prior to testifying in the first week of February 1982.

Dated at Bethesda, Maryland  
this 22nd day of January, 1982

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

CONSUMERS POWER COMPANY

(Midland Plant, Units 1 and 2)

}  
Docket Nos. 50-329 OM & OL  
50-330 OM & OL

CERTIFICATE OF SERVICE

I hereby certify that copies of "TESTIMONY OF RONALD N. GARDNER CONCERNING THE QUALIFICATIONS OF BECHTEL QC PERSONNEL" and "PROFESSIONAL QUALIFICATIONS OF RONALD N. GARDNER" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class or as indicated by an asterisk by deposit in the Nuclear Regulatory Commission internal mail system, this 22nd day of January, 1982:

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Michael N. Wilcove  
Counsel for NRC Staff

1 BY MR. WILCOVE:

2 Q On Page 4 of your prepared testimony, you were  
3 asked the question: "Are you satisfied that the certi-  
4 fication of QC inspectors meets Midland Project require-  
5 ments and NRC requirements?"

6 You answered that question, "Yes."

7 Does any information which you have received  
8 about the over-inspections change that answer?

9 A For those QC inspectors that will be certified  
10 under the program in which the changes have been made,  
11 and those changes are the documentation of all on-the-  
12 job training and the QA overview of the certification  
13 process, I believe are satisfactory.

14 For those that predate those changes, I cannot  
15 at this time determine satisfactory compliance or not.

16 Q Mr. Gardner, is there anything in the testimony  
17 which you have given which you do not feel comfortable  
18 with?

19 A No.

20 MR. WILCOVE: I have no further questions.

21 CHAIRMAN BECHHOEFER: Ms. Stamiris.

22 CROSS EXAMINATION

23 BY MS. STAMIRIS:

24 Q Mr. Gardner, you were a member of the inspection  
25 team that identified the need for these audits on Bechtel

1 QC inspectors in May of 1981, weren't you?

2 A Yes, that's true.

3 Q Were you a member of the inspection team that  
4 conducted -- well, no, I will back up.

5 As a result of your inspection in May of 1981,  
6 what commitment did Consumers make regarding auditing  
7 Bechtel QC?

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QC?

1           A       The licensee, as I stated, has made two changes  
 2 in regards to Bechtel QC. One is that they are documenting  
 3 100 percent of the on-the-job training and the second is  
 4 that QA is over-viewing QC inspector certifications.

5           Q       I need to back up and sort of as background  
 6 before I get to that ask you didn't Consumers commit to  
 7 perform an audit in, was it July, by July of 1981, to  
 8 resolve this concern of the NRC's?

9           A       Yes, they did.

10          Q       Okay. They in October of 1981, were you a member  
 11 of the inspection team that wrote inspection report 81-20?

12          A       No, I was not.

13          Q       And do you know what the inspectors' report  
 14 81-20 had in mind when they said in Item J essentially  
 15 that the results of the July audit were -- I think the  
 16 word was indeterminate or inconclusive?

17          A       The word was inconclusive and, yes, I do have  
 18 in mind what they meant.

19          Q       Would you please tell me.

20          A       Yes, I can. I don't know if you have a copy of  
 21 the audit in front of you or not.

22          Q       I do. Is this the June 2nd through July 3,  
 23 1981 audit by Consumers Power Company?

24          A       Yes. Unresolved Item No. 3 states in part:  
 25 "It is not clear that successfully completing

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1 the certification process is a satisfactory substitute  
2 for education and experience."

3 Since our request was that the licensee establish  
4 the adequacy of the certification process, with a statement  
5 such as this being unresolved, we could only determine  
6 that in fact the audit was inconclusive.

7 Q Okay, to go in chronological order, there are  
8 some questions I meant to ask before I got to this  
9 October, which I want to go back to.

10 On Page 2 of your prepared testimony, in the  
11 first full paragraph near the top of the page, is the  
12 sentence that:

13 "Region III inspectors at the May '81  
14 inspection observed two potential deficiencies with  
15 the experience and training of the QC inspectors.  
16 First they had little or no prior QC experience; second,  
17 they were certified as cable pulling and cable termination  
18 inspectors within three weeks of their reporting date."

19 Do you consider these to be potential deficiencies  
20 or do you think it might be more correct to identify  
21 them as deficiencies in the training and experience of  
22 QA inspectors?

23 A I think potential deficiencies was the best.

24 Q Would you explain why?

25 A Yes. The basis for our determination that there



1 existed potential deficiencies was the fact that the  
2 licensee was not documenting on-the-job training. That  
3 coupled with the relatively short time in which an  
4 inspector was certified caused us to feel there were  
5 potential deficiencies and that in fact resulted in our  
6 requesting the audit.

7 Q And with regard to the lack of documentation  
8 of on-the-job -- did you say of on-the-job training?

9 A Yes.

10 Q I can understand how that could be a potential  
11 deficiency. In other words, if the training actually  
12 was there and it just wasn't documented. But with regard  
13 to the three weeks, putting these inspectors out within  
14 three weeks of their reporting date, does that in itself  
15 connote to you an actual deficiency in their experience?

16 A Not if they could successfully demonstrate  
17 knowledge necessary to perform an adequate inspection.

18 Q Okay, just a minute.

19 In response to the question, the next-to-the-last  
20 question and answer on that page when it says, "As a result  
21 of Region III inspectors' concern with respect to the  
22 qualifications of QC personnel, what action did they take,"  
23 and you made the answer that you did, did this response  
24 of the NRC take place after Report 81-12 or after Report  
25 81-20?

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A That would be a part of 81-12.

Q On Page 3 of your testimony, keeping in mind the determination by the NRC that the results, that in October at the 81-20 inspection it was determined that the results of the July audit were inconclusive and you explained the basis for that as being in particular the last sentence in unresolved Item 3, were there other bases for the determination that this July audit was inconclusive?

A Could you please rephrase that?

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1 Q Were there bases beyond the one that you mentioned  
2 regarding unresolved Item 3 for the determination that  
3 that audit was inconclusive?

4 A I believe an unresolved Item 3 was substantially  
5 the reason for requesting the additional audit be performed.

6 Q Now, you said on Page 3 of your testimony that  
7 these audits, being the Consumers audits, evaluated the  
8 adequacy of the Bechtel training and certification program  
9 and, as a result, the following improvements had been made,  
10 and to shorten them they were on-the-job training and the  
11 over-view of the certification process, is that correct?

12 A That's correct.

13 Q When you came to this conclusion, am I correct  
14 in assuming that you had thoroughly acquainted yourself  
15 with the body of the June and July audits report regarding  
16 these commitments?

17 A Yes.

18 Q I would like to start with the second one first,  
19 that being that MPQAD site personnel are overseeing  
20 Bechtel's training certification program to assure that  
21 the certification of inspectors meets Midland Project  
22 requirements.

23 You concluded in this paragraph that that over-  
24 view of the training and certification program was adequate  
25 didn't you?

1 A Would you please repeat that?

2 Q Does this testimony conclude that MPQAD site  
3 personnel over-view of the training and certification  
4 program was adequate?

5 A This indicates that that has been initiated.

6 Q Yes, okay.

7 A And time will tell whether that will be adequate  
8 or not, but it is in my opinion an improvement.

9 Q Okay. Well, how did you come to the conclusion  
10 that you were satisfied with the certification of QC  
11 inspectors, that it meets the Midland Project requirements  
12 and NRC requirements if it wasn't finished yet?

13 A Again I think I broke that up into two parts:  
14 One part that deals with from now on and one part which  
15 I can say is satisfactory, and the other part which,  
16 before the improvements, which I cannot say is satisfactory.

17 Q Okay, what I want to know is do you understand  
18 Consumers' second audit report from November of 1981,  
19 which is Consumers' Exhibit 22 in this proceeding, did  
20 you understand that audit to be a follow-up to the June  
21 and July Audit report we have been discussing?

22 A I understand that this is the audit that they  
23 performed as a result of our request that they perform  
24 an additional audit.

25 Q What is your evaluation, bearing in mind the

1 scope and objective of this audit, what is your evaluation  
2 of the adequacy of this second audit?

3 A The audit included the examination of records,  
4 witnessing of oral performance demonstration examinations  
5 and witnessing actual inspections by recently certified  
6 inspectors. It also included an evaluation of the Level 2  
7 examiner administering the certification process. The  
8 results of the audit indicated that that process was  
9 satisfactory.

10 Q Were you satisfied with their satisfactory  
11 evaluation?

12 A Also in my testimony I believe you will see that  
13 I selected three additional QC inspectors who met the same  
14 criteria as those inspectors that were identified in the  
15 81-12 report and I gave those inspectors an oral examination  
16 to determine if in fact there was a basis for concern as  
17 to the adequacy of their knowledge. As indicated in  
18 testimony, they satisfactorily responded to the questions.

19 Q Do you think that Consumers' November audit  
20 report adequately addressed the concern of unresolved  
21 Item 3, specifically regarding the fact that there was no  
22 documented evidence of credit taking for previous experi-  
23 ence or certification -- no, that is not right.

24 When you turn to near the end of the July audit  
25 report, and it would be I believe four pages from the end,

1 an October 1981 letter from Mr. Turnbull regarding some  
2 of the findings and things from this audit, and at the  
3 bottom is the statement -- well, that whole paragraph at  
4 the bottom of the first page, but particularly the statement  
5 that says: "At present all we have is a certificate that  
6 in the opinion of the certifier, based on unknown criteria,  
7 the person is competent."

8 Do you understand the concern expressed by Mr.  
9 Turnbull here to be the subjectivity that is involved in  
10 the certification process?

11 A Would you explain to me by subjectivity?

12 Q Well, the fact that when he says that in the  
13 opinion of the certifier, based on unknown criteria, the  
14 person is competent. In other words, it sounds to be a  
15 subjective judgment, would you agree to that, on the  
16 person's competency?

17 A As stated, I agree.

18 Q Do you think that is a valid concern of quality  
19 assurance personnel?

20 A Yes, I do.

21 Q Do you think that concern was addressed at  
22 all in the process that was followed in the audit, the  
23 November audit by Consumers when they looked at the  
24 certification process?

25 A Are you saying do I consider the November audit

1 to be acceptable or to be an answer to the unresolved  
2 item?

3 Q I am saying do you consider that the November  
4 audit report even addressed that concern?

5 A I asked Mr. Turnbull how he in fact closed  
6 unresolved Item No. 3 as a result of my concerns with  
7 unresolved Item No. 3. Mr. Turnbull informed me that  
8 closure of unresolved Item No. 3 was based in fact on the  
9 results of Audit No. 2 or the November audit and on the  
10 fact that QA is now overviewing the certifications, and  
11 at that time he did not express the concerns that were  
12 identified on this paper.

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1 Q Well, since Mr. Turnbull is no longer in  
2 the position that he was in at that time, do you see  
3 any evidence or do you know of any information in this  
4 second audit report which indicates that that concern  
5 was addressed?

6 A I see some, yes.

7 Q Please go on.

8 A I believe the problem -- or the question Mr.  
9 Turnbull was getting to, does a QC inspector, when he  
10 is in fact trained during the certification process,  
11 have sufficient evidence or -- or, excuse me, sufficient  
12 knowledge to satisfactorily complete inspections and  
13 perform inspections adequately after certification.  
14 The November audit evaluated the certification process  
15 to, in fact, determine whether the oral exam and the  
16 proficiency exam sufficiently demonstrated such knowl-  
17 edge.

18 Q That is not the concern that comes through to  
19 me and the concern that I believe is expressed here, so  
20 I want to ask you whether you think that aside or in  
21 addition to the concern that you expressed, which was  
22 addressed in the second audit report, do you think that  
23 there is a concern here. And throughout a lot of -- you  
24 know, there are many letters and things that record  
25 what transpired back and forth as a result of the first



1 audit. Do you think that this sentence on that subject  
2 shows that there was something wrong with the process;  
3 in other words, that the criteria were not set down  
4 in concrete enough fashion so that the people would know  
5 what the criterion clearly were?

6 MR. ZAMARIN: I object to the form of the  
7 question.

8 MS. STAMIRIS: I will try and rephrase it.

9 THE WITNESS: Sure.

10 BY MS. STAMIRIS:

11 Q Do you believe that Mr. Turnbull was expecting  
12 a concern that there were not clearly expressed criteria  
13 on which to base an evaluation of competency for evalua-  
14 tion of QC personnel?

15 THE WITNESS: Could you read that back to me?

16 (Question read.)

17 THE WITNESS: Yes.

18 BY MS. STAMIRIS:

19 Q Do you see anything in this second November  
20 audit report that addresses this lack of clarity in  
21 the criteria that Mr. Turnbull addressed in the first  
22 audit report?

23 A Let me say first that Mr. Turnbull there  
24 expressed that concern and subsequently I did interview  
25 Mr. Turnbull and asked him about that concern, and he

1 had, in fact, been satisfied that that concern no longer  
2 existed. I cannot speculate as to why Mr. Turnbull  
3 changed his mind.

4 Q So you don't know how that concern was resolved?

5 A No, I don't.

6 Q Do you think it's a significant concern?

7 I mean is it a significant concern to you in evaluating  
8 the adequacy of the QC qualifications?

9 A Would you repeat the concern again?

10 Q The concern that -- I will say it this time,  
11 a lack of objective criteria to evaluate QC qualifica-  
12 tions.

13 A My understanding of the method that the  
14 licensee uses is that a prospective QC employee when  
15 hired receives on-the-job training, formal training,  
16 as required for him to satisfactorily demonstrate  
17 adequate knowledge of the area that he will be inspect-  
18 ing. At the time that it appears that he is ready to  
19 demonstrate such knowledge, he is given, in fact, a  
20 test. If he passes that test, he is certified. I do  
21 not have a problem with that method.

22 Q Do you have a very clear idea, through dis-  
23 cussions with Mr. Turnbull or any other way, what his  
24 concern was with the lack of clear criteria?

25 A I did not pursue it to that extent, no.

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Q Do you think that this on-the-job training was given and then a person evaluated the person who had received that training and said that he believed this person was not qualified, that that could be an error or -- do you think that the person who is evaluating the person who has just received training does not have objective criteria by which he can demonstrate the results of that training, that the documentation of the qualification could be in question?

MS. BLOOM: I object to the form of that question.

22-2

1 JUDGE DECKER: Did the witness understand the  
2 question?

3 THE WITNESS: I can answer to what I understood.

4 MS. BLOOM: If he can tell us.

5 MR. ZAMARIN: The record is going to show two  
6 questions, so you are going to have a worthless section  
7 of the record I suspect.

8 CHAIRMAN BECHHOEFER: When you answer try to  
9 express what questioning you are answering.

10 THE WITNESS: I believe you are asking what  
11 criteria an examiner would use in administering an oral  
12 exam and a proficiency test to insure that the examinee  
13 would demonstrate satisfactory information or knowledge.  
14 Is that correct?

15 MS. STAMIRIS: Well, you had the subject right  
16 but the question I have in mind with that is whether the  
17 examiner, if he is lacking objective criteria with which  
18 he can express the competency or lack of competency of  
19 the person who has been trained, that that is a deficiency  
20 that you are concerned with.

21 THE WITNESS: I am not sure what you mean.

22 MS. STAMIRIS: Let me try and get at the thing  
23 a completely different way. It's because when I asked  
24 you in essence --

25 MR. ZAMARIN: This is improper and I object.

1 MS. STAMIRIS: I think it will help him. The  
2 question I am trying to ask -- I am going to try to  
3 explain what I asked and what he answered before that  
4 led me to have this concern

5 MR. ZAMARIN: I object.

6 CHAIRMAN BECHHOEFER: Pardon?

7 MR. ZAMARIN: I object.

8 CHAIRMAN BECHHOEFER: Is there any way for you  
9 to explain without going to the full question and answer?

10 MS. STAMIRIS: I wasn't going to go into detail,  
11 but I think it would be much more efficient to mention  
12 the question and the answer in my explanation. I mean I  
13 would really be struggling around it to avoid mentioning  
14 the question and answer that led to it.

15 MR. WILCOVE: Perhaps you could have the question  
16 and answer read back.

17 MR. ZAMARIN: My objection is I don't mind  
18 referring the witness to the question and answer. I  
19 don't think it's proper for an interrogator to express  
20 their concern. That is how she started out with  
21 what she was going to do.

22 MS. STAMIRIS: I won't do that, I hope.

23 BY MS. STAMIRIS:

24 Q When I asked you whether the subjectivity in  
25 the criterion was a concern to you, then you answered

1 in terms of on-the-job training; and to me that answer  
2 was not responsive to the question I had in mind.

3 The question I had in mind is not -- you are  
4 not really zeroing in on it.

5 MR. WILCOVE: I must object to this. If Ms.  
6 Stamiris would like to reask the question, fine; but to  
7 critique the witness on exams --

8 MS. STAMIRIS: I didn't mean to but --  
9 I mean doesn't an examiner need to have objective criteria  
10 set forth to just be able to say subjectively, yes, he  
11 is now qualified in order to have some assurance as to  
12 what has been done?

13 THE WITNESS: I would not like an examiner to  
14 use subjective knowledge or subjective inferences as  
15 to whether a prospective candidate is, in fact, qualified.  
16 I would rather force him to ask concrete questions and  
17 demand adequate answers to those questions and not  
18 have subjective interplay at all.

19 BY MS. STAMIRIS:

20 Q But doesn't there need to be a system by which  
21 those concrete answers and objective criteria are set forth  
22 ahead of time so that it's standardized throughout this  
23 process?

24 A I don't see the need for standardization  
25 based on the fact that each individual will perform at

1 his own unique ability and, therefore, some individuals  
 2 will, in fact, be more readily able to quickly pass an  
 3 examination and some may not.

4 Now, the basis that -- of the certification is  
 5 that at least two questions in several areas of that  
 6 particular certification he answered. So there is some  
 7 basis for the examiner to use in performing the  
 8 certification.

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1           Q     You mean there are two set questions that  
2 every examiner uses?

3           A     No, what I mean is that he is required to  
4 ask a minimum of two questions and I believe it is at  
5 least six areas. As part of the second audit, I questioned  
6 the auditors as to the number of questions that were being  
7 administered, and their reply was that they are asking  
8 beyond the minimal requirements of two per area and are  
9 asking more than that.

10          Q     Well, if you have a good examiner who is asking  
11 good questions, then you end up with a qualified -- or  
12 a person whose qualifications can give you some assurance  
13 by this process which you describe. But what assurance is  
14 there that the examiners are asking good questions if  
15 there is no quantification or objective to the system  
16 of questions that are being asked?

17          A     I believe the overview that QA is performing  
18 will remedy that possibility.

19          Q     Well, moving down to the bottom question and  
20 answer on page 3 of your testimony, when asked whether  
21 you believed that there was a need at Midland to  
22 require higher standards than those in Reg. Guide 1.58  
23 which incorporates ANSI Standard N.45,2.6, your answer was  
24 "No."

25                   I wonder if you're familiar with some



1 statements in the first July audit to the effect that it  
2 was questionable as to whether Reg. Guide 1.58 was even  
3 being met.

4 A Could you tell me exactly which page?

5 Q I have on page 4 in the next to the last full  
6 paragraph on that page a discussion. Are you familiar  
7 with the discussion in that paragraph?

8 A Are you talking about the paragraph that begins  
9 "The present Bechtel quality control," et cetera?

10 Q Yes.

11 A Yes, I am.

12 Q Would you like to tell me what your understand-  
13 ing of this paragraph?

14 A Yes, I would. On May the 4th, 1981 the NRC  
15 and that part of the NRC known as NRR issued generic  
16 letter 8101 to all licensees of operating and construction  
17 plants. The subject was qualification of inspection  
18 examination and testing and audit personnel.

19 In that letter they reference ANSI N.45.2.6, 1978  
20 and Reg. Guide 1.58, Revision 1, as does the audit you  
21 mentioned. They required the licensee in that generic  
22 letter to respond to their method of complying with the  
23 Reg. Guide 1.58, Reg. 1 requirements.

24 The licensee was either to commit to compliance  
25 with Reg. Guide 1.58.1 or to submit an alternative method

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of compliance.

Q What did Consumers -- I am sorry, I thought you were finished.

A On November 2nd, 1981 Consumers Power responded to that generic letter. In the generic letter they presented an alternative letter of compliance.

Q Can you please explain what that alternative was?

A I can read from their response if you would like.

"Position on C.6."

That is in reference to a paragraph in the Reg. Guide 1.58, Reg. 1.

"Our position is that the education and experience recommendations given in ANSI N.45,2.6, Sec. 3.3 will be treated as such: Since our qualification and certification program is based upon these recommendations, and more significantly, upon satisfactory completion of capability testing prior to certification, it is our position that a candidate should not be required to be a high school graduate or have earned the G.E.D. equivalent for the above reasons:

asons

1           Their response on position C.10 was: "Our  
2 position is that we will maintain documented objective  
3 evidence that demonstrates that an individual does have  
4 comparable or equivalent competence to that which would  
5 be gained from having the required education and experience.  
6 However, this may take the form of documentation other  
7 than procedures and records of one test such as document-  
8 ation of oral test and on-the-job performance demonstrations."

9           They sent this to NRR on November the 2nd.

10          Q     And is it NRR's responsibility to accept or  
11 reject that response of Consumers?

12          A     Yes.

13          Q     Did they accept it?

14          A     I do not have full information -- sufficient  
15 information to make a statement that they have, in fact,  
16 accepted it.

17          Q     Do you have an opinion as to whether you find  
18 that acceptable?

19          A     My opinion is that it depicts the present method  
20 that Bechtel quality control personnel are being certified  
21 by, and I have already stated that I have no problem with  
22 the adjusted certification process.

23          Q     The sentence that is a part of this answer on  
24 the bottom of Page 3 --

25               MS. BLOOM: What answer, please. I am not sure

1 what you are referring to.

2 MS. STAMIRIS: It is the bottom answer that we  
3 have been referring to before. They are not numbered.

4 MS. BLOOM: The testimony?

5 MS. STAMIRIS: Yes, Page 3.

6 MS. BLOOM: Oh, the testimony. That is all I  
7 wanted to know.

8 BY MS. STAMIRIS:

9 Q The sentence that indicates that Bechtel is now  
10 documenting on-the-job training as part of its certification  
11 training program, just focusing on that part alone, I  
12 believe from what you have said before that this was a  
13 factor in your judgment of adequacy, wasn't it?

14 A Yes.

15 Q Are you aware of the circumstances that are  
16 portrayed in these communications that were sent back and  
17 forth on this subject in the first audit report from  
18 July under which Bechtel agreed to do on-the-job training,  
19 although their continued and final position throughout  
20 was that it wasn't really necessary or that they disagreed  
21 with it but they would do it anyway?

22 MS. BLOOM: I am going to object to that character-  
23 ization of Bechtel's response only because the question was  
24 not whether they were doing on-the-job training. The  
25 question was whether they were documenting it adequately.

1 MS. STAMIRIS: Right.

2 MS. BLOOM: And this is not what Ms. Stamiris  
3 said.

4 BY MS. STAMIRIS:

5 Q Well, I meant to ask him whether in his statement  
6 that Bechtel is now -- and I think this is what I asked --  
7 in his statement that Bechtel is now documenting on-the-  
8 job training, that I asked him if he was aware of the  
9 circumstances which he described surrounding their agreement  
10 to document on-the-job training.

11 A Yes.

12 Q Okay. Do you believe that this is a fair  
13 characterization of the circumstances under which Bechtel--

14 A I can't speculate on all the circumstances.  
15 I am aware that Bechtel had a different opinion concerning  
16 the need for documentation. I am not aware of all the  
17 letters that went back and forth and I cannot conclude  
18 anything from them other than the end result that, in  
19 fact, they are documenting on-the-job training.

20 Q Then are you saying to me that the fact that  
21 they are now documenting on-the-job training is efficient  
22 to the point that it is of no concern to you that if --  
23 I put this as a hypothetical:

24 If they were doing it grudgingly, if they were  
25 doing it though they didn't believe it was necessary, the

1 fact that they were doing it is enough to satisfy you?

2 MS.BLOOM: I --

3 MS. STAMIRIS: I am asking and I --

4 MS. BLOOM: There is no evidence in the record  
5 to characterize Bechtel's position as such. I can speculate  
6 about what Bechtel's position was and I don't think it is  
7 fair for us to do so.

8 If she wishes -- if Ms. Stamiris wishes to ask  
9 Mr. Gardner to characterize it, that's fine. But I don't  
10 think that -- there are many characterizations and many  
11 interpretations that can be made, and I don't think there  
12 is any evidence on which we can base those.

those 1 MS. STAMIRIS: I think I attempted -- at least  
2 I had hoped to attempt to elicit such a characterization  
3 from Mr. Gardner. And I believe his response that he was  
4 not familiar enough with all of the letters and all of the  
5 transmittals that I was referring to to make firm conclusions  
6 about that. But he had some awareness of the situation  
7 I describe.

8 MS. BLOOM: Yes.

9 MS. STAMIRIS: So in lieu of going through -- and  
10 I will be happy to do that -- and bring forth the details  
11 to get me to that point, I asked a hypothetical question  
12 that if Bechtel was doing it, even though they didn't  
13 believe it was necessary; if the fact that they were doing  
14 it was enough to satisfy Mr. Gardner as an investigator.

15 MS. BLOOM: I still object to the form.

16 MR. WILCOVE: I think that without any evidence  
17 that Bechtel was documenting the training grudgingly, it can  
18 almost be characterized as irrelevant if they were doing  
19 so.

20 MS. STAMIRIS: Well, Mr. Gardner expressed some  
21 awareness of what I was talking about, so I was just trying  
22 to shortcut it.

23 MS. BLOOM: In addition, I disagree with her  
24 characterization.

25 CHAIRMAN BECHHOEFER: Can you find any particular

1 examples that show that? You don't have to look for all  
2 of them but can you find any?

3 BY MS. STAMIRIS:

4 Q In the first audit finding report under "Correct-  
5 ive action commitment" is a statement that "Bechtel  
6 Quality Control did not concur that this item" regarding  
7 on-the-job training -- "constitute a finding, a formal  
8 response detailing the Bechtel QC positions requested  
9 within 30 days of this report."

10 Then in the notes that are in the box labeled  
11 "Method of Verification" is the statement that "Bechtel  
12 provides the commitment to document OJT, even though  
13 Bechtel does not agree that this ANSI Code requires such  
14 documentation."

15 I think really to show that what I have drawn is  
16 not an unfair characterization, the letters and the trans-  
17 mittals that were sent back and forth between Consumers  
18 and Bechtel on this point need to be considered.

19 MR. ZAMARIN: Mr. Chairman, may I make a  
20 suggestion? Maybe when she is going through it and our  
21 objection to characterization -- maybe we are talking about  
22 two different things.

23 What those records do demonstrate was Bechtel  
24 was of a differing opinion as to the requirements; and  
25 if that's the way she's characterized it -- I don't think



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1 she did. She talked about whether it would be begrudging  
2 to do it.

3 MS. STAMIRIS: That is when I said "If," because  
4 I kind of wanted to set an extreme hypothetical example.

5 MR. ZAMARIN: You did.

6 MS. STAMIRIS: To elicit the process that he was  
7 involved in. I want to know the process the inspectors  
8 use. Are they concerned only that they see on-the-job  
9 training taking place or are they concerned with the whole  
10 picture of how it's taking place, why it's taking place and  
11 the circumstances surrounding it?

12 MR. WILCOVE: I might suggest that she just  
13 ask that question.

14 MS. BLOOM: That is a good question.

15 THE WITNESS: Would you ask that question?

16 (Question read.)

17 THE WITNESS: I can only answer that in my opinion  
18 there was a difference of opinion between Bechtel Quality  
19 Control and Consumer's Power QA. QA won the argument or  
20 the difference of opinion.

21 The end result is that the documentation is  
22 being performed. I do not believe that Bechtel is doing  
23 a lesser job of doing the documentation than they would  
24 have if they agreed with the interpretation of ANSI.

25

ANSI

- 1 Q On what did you base that belief?
- 2 A On the lack of evidence that's -- to the contrary.
- 3 Q Do you believe it would be accurate to say that
- 4 this resolution of the on-the-job training issue did not
- 5 come about until after the NRC October 6 inspection?
- 6 A I can't answer that.
- 7 Q Well, I will ask you, do you think that the
- 8 resolution of this on-the-job training difference of
- 9 opinion came about in response to the NRC 3126 inspection?
- 10 A I have to speculate. I don't know if the facts
- 11 are enough to answer that.
- 12 Q In Mr. Turnbull's October 29 letter, which is
- 13 I believe the second page from the end of this July audit
- 14 report, I wanted to ask you some questions: In the second
- 15 to the last paragraph of this letter dated October 29,
- 16 1981 from Mr. Turnbull, which I would like -- this letter
- 17 being a follow-up on some of the unresolved issues or
- 18 difference of opinion regarding findings from the July
- 19 audit.
- 20 In the second to the last paragraph of this
- 21 letter is the statement that "MPQAD will conduct its own
- 22 evaluation of the certification process of the candidates
- 23 on an on-going basis as described in his letter rather
- 24 than depending on programmatic and documentary changes
- 25 in the Bechtel system."

1           Do you believe that Mr. Turnbull was expressing  
2 a fact that at the end of this exchange -- well, do you  
3 believe that Mr. Turnbull's expressing a feeling that  
4 Consumers -- or that -- well, I will just withdraw that  
5 question.

6           In the statement that you added at the end  
7 of your testimony a short time ago, I believe that you said  
8 that in view of errors found in Mr. Urbany's record that  
9 this 100 percent reinspection was being performed. Is  
10 Mr. Urbany the only inspector whose records are being  
11 over-viewed 100 percent?

12           A     No. Let me correct what you are -- the conclusion  
13 you are coming to. As I stated, there were nine inspectors  
14 involved with non-conformance reports written by MPQAD  
15 during their over-inspections.

16           For inspectors, let's categorize them as 2  
17 through 9. 100 percent of those inspections were over-  
18 viewed for Inspector No. 1, Mr. Urbany. At this time 500  
19 of his inspection have been over-viewed and that is  
20 approximately 500 that could be coupled plus or minus.

## 1 EVENING SESSION

2 6:00 P.M.

3 Q I was having trouble taking notes and I am  
4 not sure that I understand exactly what it referred to,  
5 but did you make a statement that Consumers at this  
6 point had not agreed to this over-inspection?

7 A As I stated, we requested, as a result of this  
8 second 250 size lot of over-inspections or Mr. Urbany's  
9 inspections, that the licensee perform 100 percent of  
10 the remainder of Mr. Urbany's inspections, and I did  
11 state that the licensee has not at this time agreed to  
12 do this.

13 Q Is it not a requirement?

14 A It may end up being a requirement. I have  
15 requested the licensee to do this. I will convey my  
16 request to my supervision and it will be handled at  
17 that level.

18 Q Well, did you have a discussion with some  
19 Consumers people regarding this?

20 A I did.

21 Q Did you notice any reluctance on the part of  
22 Consumers to do this?

23 A As I've stated, they have not agreed to do it.

24 Q Well, that is what I am trying -- I mean, do  
25 you know why? Did this come up in your discussion?

1           A       They are still looking at the data and if in  
2 fact they have a reason that they want to present, then  
3 we will review it.   It will not change my position  
4 unless it involves evidence which I have not seen thus  
5 far.

6           MS. STAMIRIS:   I don't have anymore questions  
7 of Mr. Gardner at this time.

8           CHAIRMAN BECHHOEFER:   Okay, Ms. Bloom?

9           MS BLOOM:   Can I have about a minute before I  
10 start mine?

11          CHAIRMAN BECHHOEFER:   Yes.   We can take a five  
12 minute break.

13   (Brief recess.)

14          MR. ZAMARIN:   I would like to add a little  
15 confusion to what I just said.   Apparently I was a little  
16 premature.   Apparently there is still some consideration  
17 on the proposed supplemental finding, but there is one  
18 other matter that I want to raise now in view of the joy,  
19 at the conclusion of this it might get overlooked, and  
20 that is the question about whether the probable maximum  
21 flood and some associated possibility of overlapping  
22 the dike and, rather than keeping water out, the water  
23 somehow came in.   There was a matter before this hearing.  
24 I provided the transcript citations to the Board.

25   I think it is pretty clear that no one, none

1 of the witnesses believe that it is related to the soils  
2 foundation properties and that it is properly a matter  
3 to be addressed at the OL stage once there is some resolu-  
4 tion of what the probable maximum flood is.

5 MR. PATON: Mr. Chairman, I agree with that.  
6 My only request is I think the record would be a little  
7 cleaner -- if everybody is agreed with that, that's fine.  
8 I thought there was just some light confusion about that  
9 in the record.

10 I agree with the Applicant's position that that  
11 could be taken care of at the OL proceeding.

12 MS. STAMIRIS: Well, I have a concern. If I  
13 can find in the transcript pages where it was. Let me  
14 look for just a minute. If it is not here, I will come  
15 back with it later.

16 Okay, here it is. All right, when Mr. Paton  
17 and Mr. Zamarin were discussing whether or not the prob-  
18 able maximum flood should be an issue for this Board or  
19 in the OL proceeding, on page 3521 -- well, I found part  
20 of it, but I didn't find the response here. Why don't  
21 I wait until I have the quotes.

22 But the concern is that Mr. Paton said some-  
23 place that the Applicant at first had said that -- that  
24 is the part I did find.

25 MR. ZAMARIN: Oh, I know what she is referring

1 to.

2 MS. STAMIRIS: That the dike wasn't in the  
3 proceeding and now he is taking a complete change. Oh,  
4 here it was here. It says, this is Mr. Paton talking,  
5 and he says:

6 "Now the Applicant began with the theory that  
7 the dike wasn't in this proceeding at all and now  
8 he has taken a complete change and now he wants  
9 to get approval of the entire dike, the fill and  
10 the till. I frankly don't object strongly to  
11 that, but anyway, Judge Bechhoefer, that is the  
12 reason I made that statement."

13 So what I want to know is if we are to postpone  
14 that until the OL, the question I have in mind is whether  
15 stability of the dike, as I believe Mr. Kane said some-  
16 place, Mr. Zamarin, you probably know all of this fairly  
17 well that Mr. Kane said that --

18 MR. ZAMARIN: I do.

19 MS. STAMIRIS: Mr. Kane answered your question  
20 one way and then he said, but if you are regarding  
21 stability, that he did consider I think that that was  
22 a valid --

23 MR. ZAMARIN: Okay, what he said was, and it  
24 is 3651, he said:

25 "That's correct, but you say the shear strength,

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and I would agree with that, but the ultimate question of stability, it does affect that."

And then my question was:

"What I am talking about is the matter of probable maximum flood doesn't have anything to do at this point with questions of the soil properties of the dike which might be related to improper compaction or sand or something of that nature, is that correct?"

And then after some colloquy among counsel and the Board, the Witness Kane:

"My answer is that is correct."

I note particularly at 4136, I asked him, he said:

"I don't have a time schedule because the issue has to be first resolved, is resolving the PMF and the necessary freeboard above that. This is a hydrological consideration. It seems to me these issues are rightly OL issues, but they are not connected with plant fill problems."

The response was:

"You just answered the question. . It is not related to the soil problems specifically. It is a new problem that is probably the operating license."



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"WITNESS KANE: That is correct."

When Kane earlier used stability, I think he used it in the sense, properly so, that once the probable maximum flood is resolved, if it is at a point where overlapping might present a problem and water might get into the plant, then that affects stability, but it does not affect stability in the sense that we have addressed it here and that is with regard to the properties of the dike.

23-]

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1 MR. PATON: The cause of the instability if any  
2 would not be related to the soils.

3 MR. ZAMARIN: That is exactly right.

4 MR. PATON: That is what I understood from  
5 Mr. Kane and that is why I am satisfied at least that  
6 this issue can be postponed.

7 MS. STAMIRIS: Okay, my concern is that I want  
8 to make sure I understand if this Board is to rule on the  
9 stability of the dike per se, I would not like to see  
10 the Board rule that the dike is stable without having  
11 considered the probable maximum flood. In other words,  
12 you are not going to give some overall ruling of stability.

13 CHAIRMAN BECHHOEFER: Our ruling will not be on  
14 matters that we have not taken up yet.

15 MR. ZAMARIN: That is right.

16 CHAIRMAN BECHHOEFER: Anything that has to do  
17 with stability will be only insofar as what has already  
18 had to do with soil.

19 MR. PATON: I think you have stated exactly  
20 what the Board intends to do. They do not intend to make  
21 a ruling on --

22 MS. STAMIRIS: Overall stability of the dikes?

23 MR. ZAMARIN: We would not ask them to do that.

24 CHAIRMAN BECHHOEFER: Not at this point.

25 MR. ZAMARIN: Again, I would suspect that it

1 would be, our submitted finding would be more precisely  
2 worded than that rather than stability, because that is  
3 a rather broad -- in any event, our position is that  
4 it is not in this hearing and it should not be and we  
5 would ask that the Board agree with us.

6 CHAIRMAN BECHHOEFER: Okay. I might add that  
7 at the operating license stage, although Miss Stamiris  
8 is not a party, formal party to that proceeding, you  
9 certainly, to the extent we have consolidated these  
10 matters we will consider that one as something you can  
11 participate in, maybe many others if you ask.

12 But we haven't decided that. You haven't requested  
13 that. But certainly for that purpose you would be  
14 permitted to participate.

15 MS. STAMIRIS: Okay.

16 CHAIRMAN BECHHOEFER: So I take it you would have  
17 no objection to that, to the extent that it is considered  
18 at a hearing, you would have no objection to Ms. Stamiris  
19 participating at least in that aspect?

20 MR. ZAMARIN: You mean consider the probable  
21 maximum flood as it relates to the dike?

22 CHAIRMAN BECHHOEFER: Yes.

23 MR. ZAMARIN: Frankly, Mr. Chairman, I haven't  
24 considered that. I am not prepared to respond to that.  
25 I could let you know, but simply sitting here right now,

1 I don't know. I honestly don't recall how it works  
2 with the consolidation. I am going to have to take a  
3 look at that. I don't know whether it would in any event,  
4 but I am sorry I cannot tell you now.

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CHAIRMAN BECHHOEFER: All right. Well, my real problem would be that I would not want to rule that we postpone it and then cutoff Ms. Stamiris from participating in this.

MR. ZAMARIN: That is right, and I do not think we are asking you to rule to postpone it. I think what we are doing is taking the position that it is not in this hearing at all because it does not relate at all to the properties of the dike, the soil, the fill and till properties of the dike. It is not really a matter of asking that it be postponed; it is arguing that it is not here in the first place, that it is outside of the scope of this proceeding. It is obviously something that we are going to have to address before the license.

CHAIRMAN BECHHOEFER: I might say, we will be willing to rule that it is part of the operating license proceeding, but as to this one where Ms. Stamiris has expressed concern about it, I think we would want to make sure that she could participate in that one at least, and I do not want to rule that way until I have heard your position on that. If you would want us to rule now, I will say we will do that, but that Ms. Stamiris will, at least to that issue, if she wishes, she would be allowed to participate.

MR. ZAMARIN: Unfortunately, quite frankly I

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1 do not have a position on that because I just do not recall  
2 well enough what the consolidation was all about, and I  
3 certainly have to consult with my client.

4 MR. PATON: Mr. Chairman, I think I support the  
5 applicant in that. I think that is a very, very important  
6 issue to the extent which Mrs. Stamiris participates in  
7 the OL proceeding, and I think it would involve going back  
8 to your orders on the consolidation. For example, it is  
9 not really immediately obvious to me that she would have  
10 the right to litigate the probable maximum flood. She  
11 has no contention about it just because she happened to  
12 be involved when we get near the issue -- you know, I would  
13 just urge the board to wait until the parties have had a  
14 real opportunity to consider all the aspects of that.

15 MR. ZAMARIN: Why don't I let you know what our  
16 position is on that?

17 CHAIRMAN BECHHOEFER: I am not asking for a  
18 general position, by the way, because there will be many  
19 more issues that are much farther afield from this.

20 MR. ZAMARIN: Right, and if we do take the  
21 position that she ought not to be participating in the  
22 operating license proceeding, then we will take that matter  
23 up and you can do it on a briefing schedule.

24 CHAIRMAN BECHHOEFER: On that particular issue.

25 MR. ZAMARIN: Right.

1           CHAIRMAN BECHHOEFER: But I want to know, and I  
2 do not really want to hear about it on other issues at  
3 the moment because Ms. Stamiris so far has not expressed  
4 a desire or an interest in the operating license issues.

5           MR. ZAMARIN: I will let everybody know what  
6 our position is as soon as I find out what it is, sir.

7           CHAIRMAN BECHHOEFER: Okay. Well, as soon as  
8 we find out and maybe five days -- would five days after  
9 you tell us, maybe the Staff will tell us what it's  
10 position is. But you do not need to go into a broad  
11 discussion of other issues.

12          MR. ZAMARIN: Thank you.

13          CHAIRMAN BECHHOEFER: Because that may come up  
14 later. But I don't really want to have to rule on it  
15 at this moment.

16          MR. ZAMARIN: We also have a proposed schedule  
17 for the supplemental findings submission proposing that on  
18 March 15 the Applicant file proposed supplemental findings,  
19 on March 26 the Staff files its and on March 30th Mrs.  
20 Stamiris files hers.

21          MR. PATON: Yes.

1 MR. PATON: Mr. Chairman, Ms. Stamiris indicated  
2 that she had to step out for a minute to make a phone call,  
3 but she indicated that we had her permission to say that  
4 she would like to file her finding on the 30th and that  
5 this would also give her an opportunity to hand the  
6 findings out, so that --

7 MR. ZAMARIN: Oh, at the hearing?

8 MR. PATON: So it would save her some mailing  
9 costs. And the Applicant, Mr. Chairman, has agreed to  
10 get their findings to the Staff as quickly as possible.

11 MR. ZAMARIN: You mean method of delivery?

12 MR. PATON: Yes.

13 MR. ZAMARIN: Obviously. Sure.

14 JUDGE DECKER: The grand reply?

15 MR. ZAMARIN: Is that something that will be  
16 done simultaneously?

17 MS. BLOOM: No, we just have a chance to  
18 reply.

19 CHAIRMAN BECHHOEFER: That is the way the rules  
20 work. You didn't reply to the other.

21 MR. PATON: You have the burden of proof, so  
22 you get two chances.

23 CHAIRMAN BECHHOEFER: We'll keep you busy.

24 MR. ZAMARIN: I would say that assuming there  
25 is a possibility we may go into that first week of April,



1 first full week of April, the 23rd of April. That is a  
2 Friday. What I am looking at is the possibility of us  
3 receiving that at the hearing on the 30th and that  
4 hearing running over into the next week and that would  
5 give us just two weeks just to prepare it.

6 MS. BLOOM: The week after is Easter, too, so  
7 it's better the 26th.

8 MR. ZAMARIN: It's not a problem for me but it's  
9 a problem for some of the associates in our firm.

10 CHAIRMAN BECHHOEFER: Does the Staff have any  
11 problem with filing supplemental findings prior to Ms.  
12 Stamiris?

13 MR. PATON: No, Mr. Chairman, we wanted to file  
14 at the same time, at approximately the same time, and we  
15 prefer to file on the day.

16 MR. ZAMARIN: They prefer to move theirs up.

17 MR. PATON : Since the issues are limited,  
18 Mr. Chairman, we would like to file them at that time.  
19 If it were a full hearing, we might want to go after  
20 Ms. Stamiris. But unless the Board instructs us other-  
21 wise, we would just as soon file them.

22 CHAIRMAN BECHHOEFER: We won't. It's usually  
23 the Staff's preference and the rules contemplate you get  
24 a couple extra days.

25 MR. PATON : Considering the issues involved,

1 we would prefer to file on the 26th.

2 CHAIRMAN BECHHOEFER: I might add the supple-  
3 mental findings are not on the corrective action.

4 MS. BLOOM: 77-32, MPQAD and SALP.

5 MR. PATON: That is correct.

6 CHAIRMAN BECHHOEFER: I guess to the extent  
7 they raise management issues, if any party thinks they  
8 do, you can include that, but nothing of the technical  
9 aspects of it. To the extent they reflect management  
10 issues or QA issues.

11 MS. STAMIRIS: I was going to say that I said  
12 I was done and I forgot to ask two questions on this  
13 Comstock that are very brief.

14 CHAIRMAN BECHHOEFER: Why don't you do that and  
15 then the Applicant.

16 BY MS. STAMIRIS:

17 Q Mr. Gardner, did you say that the Comstock  
18 employee was a former Comstock employee?

19 A Excuse me, which employee are we talking about?

20 Q The anonymous one.

21 A I didn't say.

22 Q Is he a former employee of Comstock?

23 MR. ZAMARIN: I think the problem may be  
24 because of the anonymity.

25 MS. BLOOM: He can't say.

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MR. PATON: May we have just one -- I don't see that as a problem. Could we have one minute, Mr. Chairman?

(Brief interruption.)

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chairman

1 MR. PATON: Mr. Chairman, could we ask the  
2 witness if answering that question could possibly lead  
3 to information that might reveal his identity?

4 CHAIRMAN BECHHOEFER: Right.

5 MR. PATON: May I ask him that question.

6 Mr. Gardner, do you think that answering that  
7 question might have some danger of revealing his identity?

8 THE WITNESS: There's a possibility.

9 MR. PATON: We would prefer --

10 MS. STAMIRIS: I am not going to ask that.

11 MR. PATON: We would ask that she not ask that  
12 question unless she has some strong reason to do so.

13 MS. STAMIRIS: Well, the question about who  
14 he is -- I mean I want to know if he is a former employee.

15 MR. PATON: That is the answer he gave, answering  
16 that question might lead to information.

17 MS. STAMIRIS: How about if I promise never to  
18 ask?

19 MR. PATON: There are a lot of people, it's not  
20 just your knowledge.

21 MS. STAMIRIS: The reason I want to know is because  
22 I wonder if he is a former employee, if that is part of  
23 the reason he is unable to provide specifications at this  
24 time.

25 THE WITNESS: I can only speculate as to why, and

1 I think the fact is that he cannot or he will not or he  
2 has not given specifications at this time.

3 BY MS. STAMIRIS:

4 Q Well, what about if he wanted to but he could not?

5 MR. WILCOVE: I must object to that. This is  
6 pure speculation.

7 MS. STAMIRIS: I know it is.

8 MR. WILCOVE: The NRC asked the anonymous  
9 gentleman to provide the answers to those questions and  
10 he did not do so. We don't know why. We cannot say why.

11 BY MS. STAMIRIS:

12 Q You said that regarding the lack of specificity  
13 of the allegations from this person that you did not  
14 believe there was -- you did not believe that the NRC  
15 could pursue any further the allegations regarding the  
16 two unqualified quality assurance workers any further  
17 than what you did already.

18 A That's correct.

19 MR. WILCOVE: I'm -- go ahead.

20 BY MS. STAMIRIS:

21 Q I wondered if you ever considered the possibility  
22 of looking into the records of the work performed by these  
23 two people.

24 MR. WILCOVE: I believe that Mr. Gardner said,  
25 in his cross examination, that he did do so. Correct me

1 if I'm wrong.

2 MS. STAMIRIS: That he looked in the records if  
3 there were --

4 MR. WILCOVE: I'm sorry. I apologize.

5 BY MS. STAMIRIS:

6 Q Did the NRC ever consider that they could look at  
7 the records of the work performed by those two named  
8 quality control individuals?

9 A That is always a possibility, but again, we do  
10 not have any area in which to look at whether mechanical  
11 or electrical, nor do we have any specific area to look  
12 in regards to. In looking at records is not in my opinion --  
13 not a very good indication -- or, excuse me, will not provide  
14 very good illumination of a hidden hardware problem.

15 MS. STAMIRIS: Okay. I don't have any other  
16 questions.

17 CHAIRMAN BECHHOEFER: Ms. Bloom?

18 MS. BLOOM: Thank you.

19 CROSS EXAMINATION

20 BY MS. BLOOM:

21 Q Mr. Gardner, when the certification process has  
22 been discussed so far, it's been discussed in terms of  
23 oral examination. It's true, isn't it, that the certification  
24 process of a quality control inspector also involves  
25 training and an applicant must perform -- do a performance

1 test in the actual narrow area of inspection to which the  
2 individual is being certified?

3 A That's correct.

4 MS. BLOOM: No further questions.

5 EXAMINATION BY THE BOARD

6 BY JUDGE DECKER:

7 Q Mr. Gardner, why were these nine people selected  
8 for reinspection?

9 A These nine inspectors were the inspectors that  
10 MPQAD wrote non-compliances or non-conformance reports  
11 against as a result of over-inspections.

12 Q Now, it strikes me a little odd for eight of  
13 them they were going to do 100 percent and for one of them  
14 on 25. Can you explain that?

15 A Right. As I stated, they originally informed  
16 us that they had done 250 out of the 1,147. We asked them  
17 for the results of that inspection and they said they  
18 had found one error in that.

19 We told them that that was not satisfactory to  
20 stop at that point, that we did not consider 250 to be  
21 satisfactory. And we told them they would have to do  
22 at least another 250 and we will review the total results  
23 in context and make a determination based on the results  
24 of that.

25

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that

1 Q How about the other eight, are non-conformances  
2 being found there?

3 A Yes, sir.

4 Q What total number of non-conformances have been  
5 found so far?

6 A I can categorize the non-conformances as cables  
7 involved as far as the cable pulling over-inspections are  
8 concerned. Thus far, out of 1,084 cables over-inspected,  
9 61 cables have been identified as being misrouted for a  
10 5.6 percent error factor.

11 Q Is that a satisfactory error factor in your  
12 opinion?

13 A What I have done is requested the licensee to  
14 continue with Mr. Urbany's inspections and to prepare a  
15 report on the results of all of the over-inspection and to  
16 provide us with a basis of their acceptability of the  
17 findings. We will take their results and their report  
18 and we will determine, or attempt to determine, a level  
19 of acceptability, whether that be zero, or whatever it  
20 comes out to be. But that will be done when we receive  
21 their report.

22 Q Well, while all this over-inspection and reinspect-  
23 ion are going on, are these nine people still at work in  
24 the areas making inspections in the areas that are now  
25 being inspected?

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1           A       Some of them are. As I stated, the period that  
2 we request a licensee to look was from the period at  
3 which the inspector was certified to a period at which a  
4 non-conformance report was written and he was given  
5 remedial training and recertified.

6           JUDGE DECKER: I think that's all.

7           BY CHAIRMAN BECHHOEFER:

8           Q       Did that 5.6 percent -- is that applied to all  
9 nine inspectors or is that just for Mr. Urbany?

10          A       That applies to all nine.

11          Q       Were any significantly higher or lower as the  
12 case may be, but particularly, were any significantly higher  
13 than that?

14          A       You mean on an individual basis?

15          Q       Yes.

16          A       Mr. Urbany was 6.3 percent.

17          Q       Was that the highest individual?

18          A       We did not calculate -- or I did not calculate  
19 each inspector. I was interested specifically in Mr.  
20 Urbany since there are approximately 700 cables that are  
21 indeterminate as far as their acceptability, and I want  
22 to get data specifically relating to him and, of course,  
23 the total. And I did not calculate for each individual  
24 inspector.

25          Q       Have you determined whether the 61 misrouted

1 cables were the result of lack of experience or lack of  
2 training, or have you attributed it to any particular  
3 cause?

4 A I have not but I can tell you some observations  
5 that I have made.

6 Q I would appreciate that.

7 A As indicated in our inspection report 3112, three  
8 of the nine inspectors had only three weeks of training  
9 prior to certification. Therefore, one would expect  
10 that they would have a predominantly higher number of  
11 misses. However, the facts are leading to the conclusion  
12 that experience -- or there is no correlation between  
13 experience and education.

14 And I give as an example of my belief in that  
15 Mr. Urbany had the following education and experience  
16 background as reported by the licensee at our request:  
17 Four years of high school from which he graduated, three  
18 and one half years of college, 33 years of electrical  
19 experience, 15 of which was inspection and testing.  
20 He also had a master electrician ID from the State of  
21 Michigan. Mr. Urbany has at this time the highest percent  
22 of errors. That is why I stated I don't see a correlation  
23 between the percentage of errors and education and  
24 experience. That is another reason why we asked the  
25 licensee to make a report on this and to provide us with

1 their complete findings.

2 Q Now, do any of those nine inspectors -- were  
 3 they qualified through use of what at least some other  
 4 witnesses in this proceeding have termed a waiver procedure  
 5 whereby education and training requirements of ANSI are  
 6 not met but qualify experience of some other sort is  
 7 used? Do you know what I am referring to?

8 A I believe I do but I believe the only inspectors  
 9 for which we made that determination are Mr. Urbany and  
 10 the three identified in inspection report 8112.

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Q Now, did the three -- I assume Mr. Urbany had the education and experience required by the ANSI from what you have described; is that correct?

A That's correct.

Q What about those other three, the ones that had essentially three weeks on-the-job training? Did they have sufficient education to qualify them?

A You mean do I think they had sufficient education to qualify them or did they need the licensee's interpretation of ANSI requirements?

Q Well, did they make the strict requirements of ANSI without resorting to equivalent experience or equivalent training?

A No, they did not.

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1           Q       Have you found in your inspections that there  
 2 have been more difficulties, more non-conformances with  
 3 inspectors who did not meet the formal ANSI requirements  
 4 than those who did?

5           A       I'm afraid I never actually made a study of that  
 6 and, therefore, I cannot give a completely satisfactory  
 7 answer to that.

8           Q       Are you familiar with the recommendation of  
 9 Mr. Gallagher in this proceeding that the Applicant be  
 10 precluded from using any of the provisions which permit  
 11 waiver of education or experience requirements? Are  
 12 you familiar with that particular recommendation?

13          A       Yes, I am.

14          Q       Do you either agree with it or not agree with  
 15 it, and if so, why, either way?

16          A       I believe the waiver agreement as we have  
 17 characterized it, which in my interpretation of what that  
 18 means is the statement in ANSI which states that the  
 19 education and experience factors are not absolute and  
 20 can be substituted for with proficiency or testing of  
 21 proficiency type or oral type, is acceptable. The reason  
 22 I say that is that I don't believe that each inspection  
 23 activity requires the same level of expertise, that is  
 24 experience and education. I believe there is a requirement  
 25 for flexibility.

1 But on the other hand, I believe there have  
2 to be checks and balances on that. I believe that there  
3 has to be some kind of check to make sure that this is  
4 not abused and that a person is not sent through the  
5 qualification process, certification process so quickly  
6 that he will in fact not have time to receive enough  
7 knowledge to do an adequate job.

8 Q Well, would you have any recommendations for  
9 any sort of standards to define what that is?

10 A One way of preventing that is to have a QA  
11 overview. That pertains to Midland site. There are  
12 other ways to preclude the possibility of sending an  
13 inspector through too quickly and I could give some  
14 information for my opinion on that, but they would not  
15 be site specific at all.

16 Q Well, that is okay. I assume they would not  
17 be site inapplicable either? I mean, I assume it wouldn't  
18 be inapplicable necessarily to this site?

19 A Well, I think that when ANSI was considered,  
20 that they could have made a better job in defining some  
21 criteria for allowing a waiver, let's say. They could  
22 have specified that QA should overview certifications  
23 of those people for which the waiver will apply, for  
24 one, or they, as an alternative to that, they could have  
25 stated that they recommend that QA certify QC inspectors.

1 Q Do you think that such a requirement would be --  
2 wall, either of those would be useful at Midland?

3 A Yes, I believe the former for which they are  
4 now committed to as of my talk with Mr. Marguglio, that  
5 the former, which is the overinspection by QA or over-  
6 view, excuse me, by QA of the certification process, is  
7 acceptable.

8 Q You understand they will continue to do that?

9 A That is my understanding of his commitment,  
10 yes.

11 Q Does this apply to civil AC inspectors as well  
12 as electrical QC?

13 A I informed Mr. Marguglio of my concern that  
14 it might not apply to civil, mechanical, and that while  
15 I am primarily concerned with electrical, I would in  
16 fact inform the Board if I did not feel that this practice  
17 would be across the board. His commitment to me was that  
18 he would make it an across the board requirement.

19 Now, my understanding of what the licensee  
20 will do is that for those inspectors which do not meet  
21 the full recommended or required education and experience  
22 factors, they will overview those inspectors, not neces-  
23 sarily those inspectors which have or exceed the education  
24 and experience factors.

1 Q Are there adequate requirements for detailing  
2 the basis for which a waiver or an exception is made so  
3 that an over-viewing organization can determine whether the  
4 waiver or exception was warranted?

5 A Quality assurance, and I'm speaking for electrical  
6 in regards to that particular question, since that is  
7 what I have the most knowledge about, has informed me that  
8 when an inspector is going to be certified, that QC will  
9 notify them of that and they will make the determination  
10 at that time whether or not he meets the recommended or  
11 required education and experience and then, of course, that  
12 will either state that they have to make the overview or  
13 they may or may not make the overview.

14 Q Well, what I was really getting at is if they  
15 do make the overview, will they have enough information  
16 for the overview to be effective? Will they be getting  
17 enough information so that they can determine in their  
18 overview that this waiver or exception or hiring of  
19 this individual is warranted or is in compliance with  
20 the requirements of the job?

21 A My understanding is that when they participate  
22 in the overview, they will know the inspector's background,  
23 that is his previous education and experience, and that part  
24 of that overview will insure that he demonstrates sufficient  
25 knowledge to be acceptably certified.



1 Q Will there be a paper record? In other words,  
2 will all this information be adequately documented?

3 A You mean will the QA document in some form or  
4 another that they have inspected or overviewed a certain  
5 inspector's qualifications?

6 Q Yes.

7 A I'm not sure if I could say that is the fact.

8 Q Would the staff like to see documentation of  
9 this type exist?

10 A Yes. In fact, I would suggest that it be a  
11 part of the inspector's certification records, since that  
12 would be audited.

13 CHAIRMAN BECHHOEFER: That is all the questions  
14 the Board has.

15 Mr. Wilcove?

16 MR. WILCOVE: I have one question on redirect.

17 REDIRECT EXAMINATION

18 BY MR. WILCOVE:

19 Q Mr. Gardner, is Mr. Urbany, is he still employed  
20 by Bechtel?

21 A No, he is not.

22 MR. WILCOVE: Thank you.

23 CHAIRMAN BECHHOEFER: Ms. Stamiris?

24 MS. STAMIRIS: I don't have any questions.

25 CHAIRMAN BECHHOEFER: Ms. Bloom?

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MS. BLOOM: I don't have any questions.

CHAIRMAN BECHHOEFER: I think Mr. Gardner may  
be excused.

(Witness excused.)

CHAIRMAN BECHHOEFER: Let the record reflect that  
we approve the supplemental findings schedule. I am  
not sure we said so before.

MR. ZAMARIN: Thank you.

CHAIRMAN BECHHOEFER: I believe we are  
adjourned until 9:00 o'clock March 30, 1982.

(Whereupon, at 7:00 p.m. the  
hearing was adjourned to  
March 30, 1982 at 9:00 a.m.)

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