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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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In the Matter of:

TEXAS UTILITIES GENERATING COMPANY

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

Location: Bethesda, Maryland

Pages: 14,181 - 14,270

Date: Wednesday, September 5, 1984

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UNITED STATES OF AMERICA
NUCLEAR REGULATOR COMMISSION

BEFORE THE ATOMIC SAFETY & LICENSING BOARD

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In the matter of:	:	
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TEXAS UTILITIES GENERATING	:	Docket Nos.
COMPANY, et. al.	:	50-445
	:	50-446
(Comanche Peak Steam Electric	:	
Station, Units 1 & 2)	:	
	:	
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Conference Call
4th Floor
4350 East West Highway
Bethesda, Maryland

Wednesday, September 5, 1984

Hearing in the above-entitled matter
convened at 10:00 a.m., pursuant to adjournment.

BEFORE:

JUDGE PETER BLOCH, ESQ.
Chairman, Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

JUDGE WALTER JORDAN, ESQ.

JUDGE MALCOLM PHILLIPS, ESQ.

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P R O C E E D I N G S

1
2 JUDGE BLOCH: Good morning. I'm Peter Bloch,
3 I'm Chairman of the licensing Board for Texas Utility
4 Generating Company, et. al., application for an
5 operating license for the Comanche Peak Steam Electric
6 Station, Units 1 & 2, docket numbers 50-445, and
7 50-446. Today's telephone conference call is with
8 respect to CASE's motions regarding ANI documents filed
9 on August 14, 1984. These documents relate to previous
10 telephone conference discussions of the board, in which
11 we set forth an initial ruling that the ANI documents
12 were not responsive to a discovery request, and at
13 which we set forth the standards for relevance, that we
14 would expect to be shown in any motion with respect to
15 these documents. Among those standards for relevance,
16 was a statement that CASE could set forth further
17 explanations of why the documents are responsive to the
18 previous discovery request, but CASE has not done that,
19 and has defaulted on that showing, so we are
20 considering special grounds for allowing these
21 documents in evidence.

22 Mrs. Ellis, I have read your document
23 carefully, would you like to state briefly any special
24 considerations you would like the board to take into
25 account?

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1 MS. ELLIS: Yes. I think we have covered
2 pretty well most of the information in our filing.
3 There are a couple of matters, specifically, that I do
4 want to call the board's attention to. One we covered
5 pretty well in our motions, beginning at the bottom of
6 page 2, and going, I believe to the top of page 6. This
7 has to do with the A & I report, where the welders did
8 not know the thickness of the inbed plate, and he
9 didn't check the interpass temperature.

10 We went into quite a bit of detail, so I
11 think that one was pretty well self-explanatory. That
12 is one which we believe should be submitted into
13 evidence, as we should be allowed to use in the welding
14 finding matter. The other one has to do with a similar
15 matter. It is number, Case Exhibit No. 1,035. This is
16 ANI report 932G-044. This has to do with a statement
17 made by the Applicant in their motions for summary
18 disposition.

19 There motion for summary disposition on the
20 AWS ASME welding issue. Item No. 22 of that, we believe
21 gives an erroneous impression. They state, in Item No.
22 22, CASE's apparent concern regarding this issue is
23 that some silate welds in the plant were found to be
24 approximately 1/16 inch below the minimum size
25 specified in the ASME code. These welds were

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1 subsequently corrected. And, they go into more detail
2 beginning on page 20 of the affidavit which accompanied
3 their motion.

4 I think that this information gives the
5 erroneous impression that there were not very many
6 involved, and that the problem was taken care of and so
7 of. There is a document, this ANI document, which
8 strongly caused that into question, indicates that...

9 JUDGE BLOCH: Okay, which ANI document?

10 MS. ELLIS: This is Exhibit No. 1,035.

11 JUDGE BLOCH: And where in your motion do you
12 discuss that one?

13 MS. ELLIS: I don't think I really went into
14 details in the motion. It is concluded with the welding
15 items, I believe, that I wanted to call to the Board's
16 attention in this particular context.

17 JUDGE BLOCH: What in particular do you
18 believe that the report shows?

19 MS. ELLIS: I think that it shows that the
20 problem was not a small problem, and in addition, the
21 time frame...

22 JUDGE BLOCH: Okay, what is the language that
23 lets you know it is not a small problem?

24 MS. ELLIS: Alright, the ANI stated, "QA has
25 recognized generic deficiencies in support fabrication

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1 and subsequent inspection, for instance, e.g.,
2 undersize fillet welds)". Then, he goes into a more
3 detail into the report itself. But, I think it is very
4 clear from the statement in the report, and from that
5 statement in particular that there has been a severe
6 problem with this, with the undersize fillet welds. In
7 addition, the time frame during which this took place
8 was May 26, 1983, and the Applicant, there is another
9 pinion document which goes along with it somewhat. It
10 just states that at 1,024, which was July 2, 1983.

11 JUDGE BLOCH: Is there any direct testimony in
12 the case or affidavit stating that there had been no
13 such problems?

14 MS. ELLIS: I think the wording is more
15 misleading rather than being a statement that this was
16 not a problem. Specifically, on page 20 of the
17 Applicants affidavit that accompanies this, it talks
18 about what our concern apparently was, and it says
19 these welds were subsequently corrected by following
20 appropriate welding procedures that consisted of, among
21 other things, cleaning the welds, assuring pre-heat
22 requirements were being met.

23 JUDGE BLOCH: Why is that misleading. It
24 sounds to me, consistent.

25 MS. ELLIS: It sounds to me from the wording

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1 of the language that this problem was corrected some
2 time before all of this, and that it was not of the
3 magnitude that is indicated here. I think that...

4 JUDGE BLOCH: The statement is correct, that
5 the problem was corrected, and there is no date
6 attached to it?

7 MS. ELLIS: Yes.

8 JUDGE BLOCH: Then there is no safety
9 significance, is that right?

10 MS. ELLIS: I beg your pardon?

11 JUDGE BLOCH: If the problem was corrected in
12 an appropriate manner, and there is no date attached to
13 the statements, so it is not misleading by giving a
14 wrong date, then there is no safety significance to it,
15 is there?

16 MS. ELLIS: I think that the significant is
17 that this problem, for instance, there is no indication
18 as to how and why this was corrected.

19 JUDGE BLOCH: Okay. I thought you read a part
20 that said that?

21 MS. ELLIS: Okay. It says that, let me get the
22 whole document out, just a moment.

23 Okay, part of what it says in the document,
24 which was dated initially May 26, 1983, is the quote
25 that I have already read about generic deficiencies,

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1 and so forth regarding undersize fillet wells. If
2 corrective action has been implemented procedurally,
3 which dictate the final walk-down of each support by QC
4 to verify configuration weld size pipe and air
5 clearance, etc. Finally I had their package reviewed by
6 QES and ANI predicated on this document of
7 reinspection. This final inspection has resulted in
8 thousands of NCR's, which causes duplication of lock
9 downs and a loss of perspective in NCR processing.

10 JUDGE BLOCH: Okay, you present this ANI
11 report as evidence, basically that there was a
12 breakdown in the routine process of inspection, and
13 that a final inspection was necessary to make up for
14 that?

15 MS. ELLIS: Yes.

16 JUDGE BLOCH: Okay, I understand.

17 MS. ELLIS: That is another one which we think
18 has to do with the welding per se, which should be
19 included...I don't know if it should be included in the
20 welding findings, or if it would be more appropriate to
21 be included as far as this particular motion for
22 summary disposition goes. But, I think certainly it
23 belongs in our record in some fashion, who is nothing
24 more than the overall issues involved. The other one...

25 JUDGE BLOCH: I'm sorry. You just prefaced

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1 that paragraph by saying the other one. Were you
2 talking about the one we were just discussing?

3 MS. ELLIS: Yes.

4 JUDGE BLOCH: Okay.

5 MS. ELLIS: Those two in particular have to do
6 with welding. There is another one. Initially, it has
7 to do with the fuel load, and I wanted to call the
8 board's attention to that one. This is one which was
9 discussed in our August 14, letter to Mr. Mizuno of the
10 staff, where we had raised a question during one of the
11 conference calls about some Class 2 supports that were
12 upgraded to Class 1 by use of NCR's which was in the
13 ANI report, and identified in the ANI report. As we
14 mentioned in that letter, it wasn't clear whether or
15 not these were pipe supports. In discussing this
16 further, submit to log. Apparently, these were not pipe
17 supports. They were instead, the wording, they were
18 instead ITS in-core instrument supports.

19 So, it appears from this that this particular
20 document is Case Exhibit 1,056.

21 JUDGE BLOCH: Where do you discuss this
22 document in your motion?

23 MS. ELLIS: This one, I believe. Just a
24 moment...This one was included in several issues.
25 Prompt identification and correction of nonconformances

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1 was included in the design in the document itself, and
2 included in the training.

3 It now appears th. t this does not have to do
4 with the pipe supports, which was our initial concern.
5 But, it does have to do, apparently, with the in-core
6 instrument support, and we believe this is one of the
7 things that the applicant should address in request to
8 the board's concerns regarding our request for more
9 information regarding fuel loading matters.

10 It appears that these supports were upgraded
11 from Class 2 to Class 1, by use of non-conformance
12 reports, and in addition, as I said, it goes to other
13 issues as well. The overall...documentation, prompt
14 identification, correction of nonconformances and so
15 on.

16 JUDGE BLOCH: I'm sorry. The problem with the
17 upgrading from Class 2 by Class 1, by nonconformance
18 report must be that the engineer who dispositioned the
19 report made a mistake, is that the allegation?

20 MS. ELLIS: I don't think it is really clear
21 from the report itself.

22 MR. HORIN: I think the use of the NCR was
23 simply a mechanism to assure engineering review of
24 them.

25 JUDGE BLOCH: That was the thrust of the

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1 Board's question. If it was disposed of on an NCR by an
2 engineer, then the problem seems to me to exist only if
3 the engineer was wrong.

4 MS. ELLIS: Apparently there was a problem
5 stated in the, this is the last page of the document
6 Exhibit 1,056, which is a letter from R. Caesar, he's
7 the group supervisor to W. Walker.

8 MR. HORIN: Is that number 1066?

9 MS. ELLIS: 1056. It's the last page of the
10 document. It state the Quality Assurance Department has
11 evaluated the method used by welding engineering to map
12 the welds on the RTC in-core instrument supports. We
13 have remapped all welds, and identified welds that do
14 not have welder traceability on an inspection report.
15 Process documentation has been generated to remove all
16 of those welds, and have them rewelded if those have
17 not been established.

18 The NCR's referenced on the above SIS have
19 been revised to reflect the above action. NCR
20 coordinators and QC leads will be reinstructed, and
21 the requirement for reviewing, closing and revising
22 NCR's.

23 JUDGE BLOCH: I don't understand the problem.

24 MS. ELLIS: I think that the problem is the,
25 for one thing, the timing on this. The initial report

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1 was dated February 6, 1984. His answer was March 13,
2 1984. If there was a problem with the documentation,
3 traceability, welder traceability and so forth, and it
4 was not identified by the regular QA/QC program, but
5 was identified instead by the ANI, I think that this is
6 something which needs to be considered, and which needs
7 to be addressed.

8 JUDGE BLOCH: The NCR was written at the
9 direction of the ANI? I guess I still don't understand
10 what the ANI's concern was.

11 MS. ELLIS: Okay, in the report itself,
12 beginning on page 2 of the report, the second full
13 paragraph. There are several things specifically
14 mentioned. For instance, on the first one, NCR M79,
15 9723 was written from Class 2 to Class 1. There is
16 nothing indicating that the list of welders was made
17 from the welders symbols stamped on each joint. There
18 are specific things throughout here regarding this.
19 This is one of the continuing ones that there is no
20 indication indicating that the list of welders was made
21 from the welders symbols had.

22 JUDGE BLOCH: So, he has concluded that the
23 documentation for the upgrading was inadequate?

24 MS. ELLIS: That appears to be correct.

25 MR. HORIN: Mr. Chairman, I think the point of

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1 the ANI's report was in the last paragraph of his SIS
2 report, where he says that basically he believed that
3 these were examples of NCR's in which he felt the
4 disposition wasn't fully explained. He said that there
5 was a need to reinstruct personnel to prepare, and to
6 prepare a review inclusive of NCR's, to make sure that
7 NCR's are clear, and that the disposition is complete,
8 and the completion is intelligible. I think it is a
9 question of whether there was a full explanation on the
10 face of the NCR as to the disposition.

11 JUDGE BLOCH: It is a question of completeness
12 of explanation?

13 MR. HORIN: That's my reading of it. He closed
14 that out, and the ANI closed out this issue by
15 reviewing and accepting the disposition proposed by Mr.
16 Sever (phonetic), and the memorandum which Mrs. Ellis
17 read part of.

18 JUDGE BLOCH: Okay. Mrs. Ellis, would you like
19 to continue. Are we going to have to go through every
20 one of the ANI documents for your argument?

21 MS. ELLIS: No. These are some specific ones
22 that I wanted to call the Board's attention to. I think
23 they all are still applicable with regard to the
24 specific things that we have already included them in
25 as well, but I wanted to call these specific ones to

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1 the board's attention.

2 Also, there are two others regarding the
3 welding issues which we want to call to the board's
4 attention that had to do with impact testing. The board
5 will recall that there was quite an issue made of
6 whether or not Henry Steiner had welded on Sharpy
7 impact tested materials, and that was something which
8 was a very important issues.

9 JUDGE BLOCH: I recall that.

10 MS. ELLIS: On page 7 of the ANI report,
11 Section, where we have itemized things, the welding
12 portion. Page 7, about the middle of the page, there is
13 a section on Impact testing. It states the supports are
14 found which have welded attachments which require
15 impact testing, but the detailed sketch did not
16 specify this as a requirement. This was dated February
17 10, 1984.

18 JUDGE BLOCH: That was dispositioned by the
19 ANI.

20 MS. ELLIS: According to the answer received
21 on February 17, 1984, subsequent revision of Design
22 specification mandates that material meet impact
23 requirements. Deficiencies were not Id'd until
24 completion, or near-completion of fabrication. Some are
25 being recertified. In addition, there is another one

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1 which ties in with this...

2 JUDGE BLOCH: Alright. The direct relevance
3 here, is the possibility that things have been
4 reclassified as requiring Sharpy impact testing that
5 Mr. Steiner worked on. Is that what you are arguing?

6 MS. ELLIS: Exactly. There is another one
7 that...

8 JUDGE BLOCH: Wait. Let's not go any further.
9 Mr. Horin, is there any way that we can know whether or
10 not that is true?

11 MR. HORIN: Let me give you what the specific
12 ANI finding was, and as I understand the question with
13 respect to Sharpy, that the ANI found that there were
14 certain welded attachments, and that two certain
15 pipelines.

16 JUDGE BLOCH: Okay, as I understand it, the
17 only relevance I see to this, is what I was asking
18 about. That is, the possibility that your records would
19 now disclose that things that have been reclassified as
20 requiring Sharpy testing?

21 MR. HORIN: I'll address it.

22 JUDGE BLOCH: Okay, sorry about that. Please
23 continue.

24 MR. HORIN: The ANI found that certain welded
25 attachments to certain pipelines required Sharpy impact

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1 testing. I understand the Sharpy impact question issue,
2 the question or whether or not welded attachments.

3 MS. ELLIS: Excuse me just a minute. Can you
4 hold just a moment. Someone is at the door...I'm sorry,
5 I'm back.

6 JUDGE BLOCH: Okay, Mr. Horin. Welded
7 attachments. Mr. Horin, are you there?

8 MR. HORIN: I'm still here. The welded
9 attachments may require Sharpy impact testing is
10 determined by whether or not the line on which the
11 attachments are welded required Sharpy impact. I think
12 that the Applicants, when they responded to whether or
13 not Mr. Steiner had welded on any items that required
14 Sharpy impact, we did that by checking the particular
15 pipelines to see if those lines and attachments to
16 those lines. The bottom line is whether or not those
17 lines required Sharpy impact testing. The ANI's finding
18 does not say whether there were particular pipelines
19 that were correctly categorized. It is just that some
20 of the attachments, they may not have specifically,
21 recognize that that line, that those attachments had to
22 be Sharpy impact testing, because they were on line the
23 required.

24 JUDGE BLOCH: This is deficiency of design
25 documents for supports that were on lines that required

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1 Sharpy impact testing. That is, the deficiency was that
2 the didn't specific Sharpy impact testing for that
3 particular attachment. Is that what you are saying?

4 MR. HORIN: I don't know whether it is design
5 documents, but it is for that particular attachments,
6 and not for the line itself.

7 JUDGE BLOCH: The data base you used did not
8 have that defect?

9 MR. HORIN: As I understand it, the data base
10 was whether or not the particular lines required
11 Sharpy.

12 JUDGE BLOCH: Okay, Mrs. Ellis, do you want to
13 continue?

14 MS. ELLIS: Alright. There is another one
15 that also has to do with that. 1,060, which talks about
16 welded attachments to large main steam and feedwater
17 pipes. It says due to the repeated non-compliance with
18 design specification requirements were notched up
19 materials to be used in above application. Request
20 that all packages on these systems be represented to
21 the ANI for establishment of hold point.

22 JUDGE BLOCH: What is the date of that?

23 MS. ELLIS: This one was dated April 18, 1984.

24 MR. HORIN: How was it dispositioned?

25 MS. ELLIS: Apparently, pipe welding engineer

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1 agreed to wrap the subject packages to the ANI for
2 establishment of hold point. All of these had to be
3 represented to the ANI for the establishment of hold
4 point. The answer was dated May 8, 1984.

5 JUDGE BLOCH: These are on lines that were
6 still to be constructed?

7 MS. ELLIS: Well, it says they were welded
8 attachments to large or main steam and feedwater
9 piping.

10 JUDGE BLOCH: So, it was attachments still to
11 be put on the lines?

12 MS. ELLIS: Yes.

13 JUDGE BLOCH: Mr. Horin, would you like to
14 comment on that one?

15 MR. HORIN: I'm reading over the...in response
16 to...

17 JUDGE BLOCH: Those were hold points to
18 determine material testing at Sharpey impact testing,
19 Mrs. Ellis?

20 MS. ELLIS: Apparently so, apparently so.

21 MR. HORIN: Some of the documentation which
22 Mrs. Ellis has provided, it certainly looks as though
23 attachments are what she was discussing earlier.
24 Certain welded attachments, there had not been a
25 sufficient check to assure that they were, that they

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1 met the notch toughness material requirement. The ANI
2 found that there had been repeated identification. We
3 have no ideas of what that means. But, to assure that
4 all lines on these, this is on the main steam and
5 feedwater piping, to assure that all of the
6 requirements he simply asked to rereview the document,
7 or review the packages.

8 It sounds like a measure to assure that for
9 those packages that they had already reviewed, an item
10 that they found subsequently also listed in the
11 previous packages, and they are just taking whatever
12 measures are appropriate to assure that there are no,
13 at the final analysis, there are no instances where
14 this occurs.

15 JUDGE BLOCH: Mrs. Ellis, would you continue.

16 MS. ELLIS: Alright. I believe that those are
17 the only specific ones toher than what we had covered
18 in our motion. I think we had covered it pretty well in
19 our motion other than those specific things that I
20 wanted to bring to the Board's attention. So, I guess
21 as far as, unless the board wants me to recap bad, I
22 think I will let the Applicants and the staff address
23 it, and then we might have some rebuttal on some of the
24 things. Other than that, I think that is it.

25 JUDGE BLOCH: Mr. Horin, first, is there any

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1 part of this material that the Applicants would like to
2 have in the record?

3 MR. HORIN: If any of the material. We don't
4 think any of it is relevant or significant, but if any
5 of it goes into the record, we would also like all of
6 the dispositions. In many instances, the dispositions
7 are attached here, but we would like to show that the
8 dispositions are also included in the record.

9 JUDGE BLOCH: Okay, that wasn't quite the
10 question I asked, but...

11 MR. HORIN: I know, but I was going for the
12 second question also.

13 JUDGE BLOCH: I was hoping we could bypass
14 some problems by some stipulations but we can't.

15 MR. HORIN: We had already agreed with Mrs.
16 Ellis, that the documents with respect to intimidation
17 could be used, but those have been used.

18 JUDGE BLOCH: Okay, would you tell us what
19 your position is on these others, perhaps by arguing
20 concerning individual categories of documents, or
21 perhaps you have some overall arguments at first.

22 MR. HORIN: I have some general points I would
23 like to make first. The Board pointed out at the
24 beginning of the conference call, the standard that the
25 board has established for Mrs. Ellis to demonstrate

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1 that these documents should be received. Just to
2 reiterate, the board stated that they had determined in
3 our earlier conference call, that he needed to
4 demonstrate that they were relevant issues, such as the
5 summary disposition issues, and that they were material
6 to those issues. In other words, they were not of
7 sufficient importance whether it would matter whether
8 or not they were included in the record.

9 With respect to those items for which the
10 record had already been closed, and the Board
11 specifically mentioned welding, Mrs. Ellis was required
12 to meet the standards for reopening. I would add that
13 another criteria, which I think we should apply is
14 whether or not the disposition of these documents as
15 reflected in the materials that Mrs. Ellis provided was
16 in any way inadequate, and why that disposition
17 suggests that the problem wasn't adequately addressed
18 in the first instance.

19 Now, with respect to Mrs. Ellis's specific,
20 or her general point, in her motion before I get into
21 the individual category. She argues in the first
22 instance that these documents are important, or they
23 have some kind of significance, simply because they are
24 generated by an independent inspector. I would, in
25 response to that I would point out that these, the ANI,

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1 to the extent that he is an independent inspector, that
2 presents us with no different situations than the NRC
3 inspectors, and any findings that they may make in
4 their inspection reports, and that there are no greater
5 significance, in my opinion, that they were simply
6 generated by the ANI.

7 The key, I think, is whether there is some
8 safety significance to any of these items. Instructive
9 on this point, is the testimony of Mr. Coates, which
10 was was presented in the -2 phase of the proceeding.
11 Mr. Coates is the lead authorized inspector at Comanche
12 Peak. I would like to read to the Board parties, two
13 paragraphs from Mr. Coates testimony. The place in
14 context, the overall significance of these type of
15 documents in these findings. Mr. Coates was asked in
16 his testimony to describe whether or not the ANI
17 document of non-conformance of their deficiencies. If
18 so, how was that accomplished. If I could just go
19 through and read this for the parties. Mr. Coats states
20 that the ANI does document all significant
21 deficiencies, and nonconformances. The document is sent
22 to the ASME construction QA manager for disposition.
23 These reports can relate to instruction matters, QA
24 inspectin process, or to QA documentation. He states
25 that the most serious nonconformances observed by ANI

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1 are reported, usually in a QA monitoring record. He
2 equates this type of report to the QC non conformance
3 report, and the attached testimony is a sample of that.
4

5 The ANI also utilizes a sub-tier report for
6 less substantial deficiencies. This is the SIS report,
7 and he also attached a form, sample form of that. He
8 goes on to state that it is important to know that the
9 deficiencies and non-conformances reported by the ANI
10 to ASME construction QA are part of the independent
11 review process. They are not of themselves, indictive
12 of QA program breakdown. Also, ANI reports must be
13 responded to by the ASME QA manager. And, it is finally
14 determined to be necessary by the ANI, corrective
15 action must be taken. The ANI will not sign off on the
16 final NI data report, unless outstanding matters have
17 different results.

18 They exchange the report between ANI and
19 ASME, and essential aspect of ANI overview for the QA
20 program. I think that the importance of Mr. Coates's
21 testimony is that these reports, which Mrs. Ellis has
22 provided are simply part of the routine process. They
23 are in his own words, equivalent to NCR's, and with
24 respect to the SIS report, of even less significance,
25 and that simply because they have been generated by the

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1 ANI does not give them any more significance than any
2 NCR that we might have out at the plant, and if the
3 board knows just the bare fact that an NCR is written,
4 does not indicate that there is a significant safety
5 issue.

6 Now, Mrs. Ellis also makes a point that it is
7 neither significant or important because the matters
8 were already accepted by Quality Assurance. I don't
9 believe that is always the case, that the ANI will
10 independently review documentation he sees fit. In some
11 instances, they were, they may have already gone
12 through some portion of a QC review. But, again, this
13 fact does not, in itself significant. Mrs. Ellis must
14 demonstrate independently whether there is some
15 important safety question raised, and we don't believe
16 that she has.

17 With respect to the general question of
18 relevance, Mrs. Ellis, in my opinion, has addressed the
19 relevance question correctly in very few instances.
20 Generally, she has claimed that there is a discussion
21 of, that these matters involve some item that is
22 relevant to the general QA issue. That again, in
23 itself, is not the standard by which the board should
24 determine that these documents should be admitted into
25 the record. Because these, by definition, involve the

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1 QA process, they will, of course, be relevant to a QA
2 question. But, the issue that we need to address here
3 is whether they are relevant to the specific issues
4 within the scope of the proceeding, and not QA in
5 general.

6 Finally, Mrs. Ellis has not addressed at all
7 why the disposition of any of these documents are
8 inadequate, and why the board should find that the
9 process is not working.

10 Now, would the board like that I go into the
11 specific categories now, or should we address those,
12 the points that I have made?

13 JUDGE BLOCH: No. I think that is fine. Why
14 don't we, as I understand it, the first welding ANI
15 report that Mrs. Ellis discussed in the call, related
16 to only one welder, is that correct, Mr. Horin?

17 MR. HORIN: Yes. It related to only one
18 welder.

19 JUDGE BLOCH: Alright. Let's go on to the
20 second one then.

21 MR. HORIN: Okay.

22 JUDGE BLOCH: The one about, where Mrs. Ellis
23 alleged that Brown & Root acknowledged generic
24 deficiencies concerning undersized fillet welds, and had
25 to do final walk-down inspections to make up for, what

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1 looks like from the report the way she interpreted it
2 to be a generic breakdown and inspection of those
3 welds.

4 MR. HORIN: With respect to that item, I think
5 that falls within the scope of the Board's statement in
6 the previous conference call that Mrs. Ellis needed to
7 show why this matter would satisfy the standards for
8 reopening the record on the welding issues.

9 JUDGE BLOCH: Well, I guess I would say that
10 that one says, if it really is a breakdown in the
11 welding inspection program, it sounds to be of
12 sufficient importance that the board ought to consider
13 it, both with respect to the welding issues, and with
14 respect to a possible breakdown in a QC program that
15 could be relevant to the other branch of the case.

16 MR. HORIN: I don't see that it is relevant to
17 a breakdown in the QC inspection process.

18 JUDGE BLOCH: Alright. How did it happen that
19 all of these fillet welds had to be reinspected, what
20 is your understanding of the documents.

21 MR. HORIN: Mrs. Ellis, is that 1,024?

22 MS. ELLIS: This was the...

23 MR. MIZUNO: I believe it is 1,025.

24 MS. ELLIS: Yes. I think that was the second
25 one. Yes.

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1 MR. HORIN: Let me just grab that again here.

2 (Off the record discussion.)

3 MR. HORIN: The specific ANI report, CASE
4 Exhibit 1035, states on the first page that it was
5 Brown and Root QA that recognized deficiencies and the
6 support fabrication subsequent inspections. Therefore,
7 in my opinion, it shows that the QA process worked.
8 Brown Root, QA itself recognized that there was some
9 lack of adequate fabrication or inspection activities,
10 and took corrective action in accordance with
11 established procedures. The report itself...

12 JUDGE BLOCH: Do you know the date on which
13 Brown and Root did that, and the period of time in
14 which the procedures were defective?

15 MS. ELLIS: Judge Bloch.

16 MR. HORIN: I do not know. It does not state
17 in the document itself what that period of time is. It
18 was...this may simply be the matter that we have
19 addressed previously, with respect to the undersize
20 fillet welds that we addressed in our design QA motion.

21 MS. ELLIS: Judge Bloch, this is Mrs. Ellis. I
22 think I can help clarify that on page one of that
23 Exhibit. The subject is listed as component supports,
24 meeting 5/24/83, B. Baker, G. Perney, M. Coates, D.
25 Walker (phonetic). At the referenced meeting, we

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1 discussed several ANI concerns about the present
2 methods and place to identify problems with support and
3 subsequent rework are prepared to resolve those
4 problems. Per request, I am documenting those concerns
5 and you have proposed remedil action, as I understand
6 it.

7 It sounded as though at that meeting the ANI
8 discussed their concern, and Brown and Root, in
9 response to that, now had recognized that there are
10 these generic deficiencies.

11 MR. HORIN: No, Mrs. Ellis, that's not the
12 case at all. The ANI's concerns documented in this
13 Exhibit are with respect to the manner in which the
14 reinspection had been documented, and the fact that the
15 way we had undertaken that reinspection resulted in a
16 thousands of NCR's, and therefore, there was some lack
17 of clarity according to the ANI with respect to those
18 reinspections. It was not that the ANI recognized the
19 need for reinspection, Brown and Root QA recognized
20 that need, and had undertaken a program. The ANI had
21 suggestions, means to improve on that program.

22 JUDGE BLOCH: The problem apparently was the
23 deficient procedures on the inspection of those welds,
24 and it was then discovered, Mr. Horin, according to
25 your understanding of these documents by Brown & Root

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1 QA.

2 MR. HORIN: Correct.

3 JUDGE BLOCH: The problem was that procedural
4 deficiency, not a lack of conscientiousness in
5 enforcing the procedures?

6 MR. HORIN: I'm just reading through to see if
7 I can see anything that...

8 JUDGE BLOCH: Mrs. Ellis, do you know?

9 MS. ELLIS: No, I don't.

10 MR. HORIN: It does not state on the face
11 whether it was procedural deficiency or not. It
12 appeared as though that since they do not address
13 retraining or anything along those lines that suggest
14 that it was a procedural question.

15 JUDGE BLOCH: Could the staff comment on this
16 particular NCR, and its importance as it sees it?

17 MR. MIZUNO: I believe, this is Mr. Mizuno. I
18 believe this wasn't an NCR. You mean an SIS?

19 JUDGE BLOCH: The particular SIS. My apology.

20 MR. MIZUNO: Quite frankly, after reading the
21 body of the report, it appears that the ANI concern was
22 not with the fact that there were undersize fillet
23 welds, but rather with the process that Brown and Root
24 was addressing the news of correcting the problem. I
25 think that, his concerns are more expressed on page 2

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1 of the SIS. I don't think that this is the final
2 close-out of this item, because if you notice on page
3 2, the second full paragraph there, it says your
4 proposed action of the above is as follows. And, Mr.
5 Coates sets forth three different items, and then his
6 final sentence is your assistance in resolving the
7 above is appreciated. I don't think that this document
8 shows the complete resolution of this item, if it was,
9 in fact, resolved as of this date.

10 My, based upon what I see here, I think that
11 the problem is more, is not anything concerning the
12 technical adequacy of the welds, I think that, we had
13 already identified the problems, and that it was
14 resolved in one way, rather with the processing which
15 the problem which was being addressed, which was the
16 concern of the ANI. I don't see that necessarily as
17 being a issue in the case, although I will admit that
18 there may be some connections to document control. But,
19 I don't see that, necessarily yet. And, certainly, Mrs.
20 Ellis has not made that connection at all.

21 MS. ELLIS: I think I can clarify this
22 further. There is another document, Case Exhibit 1,042,
23 which was issued July 2, 1983. One of the references in
24 this is it discusses being unsatisfactory, inspection
25 procedures and instructions, and it references among

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1 others, Case Exhibit 1,035, which we have been
2 discussing. On page 2 of that document, the ANI states
3 that it is apparent that there is a severe breakdown of
4 communication between QA, upper management QC, and the
5 QC inspectors in the field involving all BCD,
6 involved...

7 JUDGE BLOCH: Mrs. Ellis, are you alright?
8 I will have to call and get her reinstated. Who else is
9 there, is Mr. Horin there? Mr. Mizuno?

10 (End of tape.)
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1 MR. HORIN: You said that the other document
2 you are citing which is another A&I document, right?

3 MS. ELLIS: Yes.

4 MR. HORIN: Said there was a breakdown in
5 communication?

6 MS. ELLIS: Between QA, upper management and
7 QC and the QC inspectors in the field involved in BCD
8 walkdown. For this reason and the hangers listed in this
9 939 of Class I BCD walkdown are indeterminate. I am also
10 requesting that all QC inspectors and their leads receive
11 documented training into the criteria of inspecting Class
12 I support which may have full - wells included in the
13 hangers.

14 MR. HORIN: Now, if we would turn simply to the
15 next page to the response to that finding, we will see
16 that Mr. Seaver responded to Mr. Hare's finding, if you
17 can call it that, and by saying among other things that
18 it appears that Mr. Hare had been talking to the wrong
19 people, been misinformed in regard to communications
20 between QA upper management, QC inspectors, all QC
21 inspectors and the leads receive training and at this time
22 -- does not feel any additional training is required for
23 Class I supports or full - well inspection.

24 On the basis of that memo, and I only read a portion
25 of that, this finding was closed out by simply stating

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1 that no Class I hanger packages had been presented to the
2 A&I for final acceptance, and when they are, at that time
3 they will be walked down by the A&I to establish a
4 confidence level that examination requirements were met.
5 If discrepancies were found at that time the SIS report
6 for the monitoring record will be reopened.

7 So, in affect, there was a disagreement or a
8 misunderstanding between the A&I and the QA personnel.
9 It does not appear that he retained that same concern.
10 He simply recognized that hanger packages had not been
11 presented to the A&I for final acceptance and therefore
12 he will hold any questions until he has a chance to review
13 those packages.

14 JUDGE BLOCH: I guess there is nothing in the
15 document that states the basis for the A&I's initial
16 conclusion that there was a breakdown in communications?

17 MR. HORIN: The basis appears to be that he
18 looked at a few hangers which there had been -
19 uncertified during walkdown.

20 MS. ELLIS: This is Ms. Ellis. Apparently,
21 it also came about because of his conversations with
22 QC inspectors and it states at one point that QC inspectors
23 knew nothing about a requirement for PT or - wells. He
24 states that these were very knowledgeable inspectors and
25 lists 3 of them and an additional one that the preceding

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paragraph.

MR. HORIN: Then, after you return to the response it says that he addresses the particular findings on those items. He points out that the only area requiring re-examination of the PT was the repaired area so there appears to be some misunderstanding as to exactly what the PT was performed on and that there was no reason to require the additional work of removing the paint re-examination of the existing welt (phonetic) had not been repaired.

It goes on to point out that PT examinations of full fulet wells (phonetic) are done during in-process inspection. And, at the time of final hanger walkdown, and full fulet wells that have not been PT or NT examined will be documented on an unsat IR and it will be evaluated by Weldman Engineering.

It appears that all around there was a misunderstanding and that the process finding was based on a misunderstanding as to exactly what the PT was being performed on and also with respect to at what stage in the process that particular examination was to be performed.

- the A&I closed this out be recognizing that there were other items yet to be done and that he would review the packages when the entire process had been completed.

JUDGE BLOCH: Which exhibit is this?

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1 MS. ELLIS: 1042.

2 MR. JORDAN: Yes, I think that's right. This
3 is Walter Jordan. But it is still an open item. When
4 the Class I hanger package is presented then they will
5 look at it.

6 MS. ELLIS: Yes, this is Ms. Ellis. I don't
7 think there is any indication on this document that the
8 A&I's concerns have necessarily been resolved.

9 MR. HORIN: Yes, but the fact he closed this
10 out by not retaining his concerns and recommendations for
11 retraining and additional documented training of these
12 people suggests that he no longer has that concern and
13 that if he does he will have to make that determination
14 based on the final packages and he doesn't have that
15 concern at this point.

16 MR. JORDAN: This is Walter Jordan. I'm not
17 sure that that is the case. He is saying now apparently
18 the Class I hanger package that he looked at had not been
19 finally accepted. Apparently he found a number of things
20 or items he was concerned about in the package that he
21 looked at but now he admits that he looked at them too
22 soon and so he reserves judgment on all those items until
23 he sees the final.

24 MR. HORIN: Fine. My point was that he doesn't
25 appear to have the concern at this time that there was

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LAR 4

1 that breakdown that he characterized initially.

2 MR. JORDAN: I don't think it is obvious what
3 his concerns are at the moment. He just says, well, we
4 will wait until we see the final.

5 MR. HORIN: That is speculating, that if he
6 still thought it was a concern he would have retained
7 that recommendation as opposed to simply saying, okay, okay,
8 I'll wait until it is all done because I can't make my
9 finding.

10 JUDGE BLOCH: Okay, Ms. Ellis, I don't see that
11 it relates to the kind of communications breakdown that
12 were present, argueably present in the other side of the
13 case, and I guess I don't see that there is a remaining
14 technical problem based on this document. The final
15 document packages are going to be looked at by the AMI.
16 I don't see any reason that, from this status, to believe
17 that there is a technical problem that is not being
18 approached properly. Am I wrong on that Mrs. Ellis?

19 MS. ELLIS: I don't think you can really tell
20 from this particular document that the AMI's concern has
21 been resolved and I don't think it is clear from this
22 document that he doesn't still think there is a lack of
23 training of all these QC inspector or that they need to
24 be retrained.

25 JUDGE BLOCH: But what he did do was to raise

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1 the concern in a formal document so that the applicants
 2 would know about it and I take it that you and I are both
 3 pleased with that. And he then says that he was going to
 4 look at the final packages and at that time I assume that
 5 that the write-ups on these PT exams would be able to be
 6 examined in the final package. Say, if the man was willing
 7 to surface the problem in the first instance we have no
 8 serious reason to believe he is not going to look at the
 9 package in the final instance. So, let's continue. Mr.
 10 Horin?

11 MR. HORIN: You wish to continue through the
 12 specific items Mrs. Ellis raised?

13 JUDGE BLOCH: Only to the extent that you feel
 14 it is necessary to fairly present your argument.

15 MS. ELLIS: There are some things regarding
 16 what Mr. Horin has said previously that I would like to
 17 address. Would you rather I hold those until the end?

18 JUDGE BLOCH: Well, most of what he said was
 19 easily anticipated argument. I don't understand what
 20 rebuttal is necessary. If it was new material you may
 21 rebut it.

22 MS. ELLIS: Alright. One of the things which
 23 I think he stated goes to one of the problems that we see
 24 with the proceeding in general and with the applicant's
 25 approach to them. This is ignoring the fact that some of

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1 these things happen to begin with and how they happen and
2 why they happen. And, ignoring the overall global issues
3 involved.

4 In regard to something that Mr. Horin said-

5 JUDGE BLOCH: Where? Mrs. Ellis, there are
6 going to be errors even after QC goes through and that's
7 one reason you have an ANI and that's one reason you have
8 an NRC. It is also the reason you have QA as well as QC.
9 What overall global issues do these ANI show are being
10 ignored?

11 MS. ELLIS: I think that the - brought more
12 concern to us perhaps than anything else.

13 JUDGE: BLOCH: Now how can we have any
14 sensible basis for knowing whether the cumulative affect
15 indicates a good consciencious ANI or indicates a serious
16 deficiency on the part of the applicant? Have you talked
17 to anyone who is an expert on that kind of question, or
18 how are we to evaluate those two different world views of
19 these documents?

20 MS. ELLIS: I don't know the answer to that

21 MR. HORIN: I suspect the answer comes from
22 a point that Mrs. Ellis has raised herself which I have
23 said does not give rise to a finding that these are a
24 significant in and of themselves. And that is that the
25 ANI is an independent process and that not only their

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1 identification of issues but their disposition of those
2 issues, must be to their own satisfaction. And think
3 these documents fully demonstrate that the ANI is willing
4 to raise issues that he sees and that he is willing to
5 listen to applicants and then retain or dispose of issues
6 based on those responses. But, that it is a complete
7 process that only by if there was some demonstration that
8 the disposition by ANI were inadequate could we find that
9 there was some significant question raised here. And it
10 is clear that the ANI addresses both programatic and
11 specific technical questions.

12 I simply don't see that these documents on their
13 face raise significant question.

14 JUDGE BLOCH: Mr. Mizono or Mr. Treby, could
15 you tell me the extent to which these documents will be
16 part of the review being made by the staff at the present
17 time?

18 MR. MIZONO: This is Mr. Mizono. When I
19 received the motion and the attached documents from Mrs.
20 Ellis I sent a complete set of them to Mr. Eperito (phonetic)
21 directly together with a note saying that this has been
22 submitted by Mrs. Ellis and that it presents documents
23 that discuss certain technical allegations or technical
24 concerns and that these things I would ask that you review
25 them and that you assign them to various members of your

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1 technical review team. So, Mr. Eperito (phonetic) is aware
2 of them and I have not been able to talk to him about the
3 documents as to what he has done with them, but I can
4 represent to the Board now that he is aware of them and he
5 has them.

6 JUDGE BLOCH: I guess one problem with what you
7 said is that just by dividing it up among the members of
8 the review team it is possible that no overall judgment
9 would be drawn of the nature that Mrs. Ellis is interested
10 in?

11 MR. MIZONO: My response to that?

12 JUDGE BLOCH: Yeah.

13 MR. MIZONO: This is Mr. Mizono again. I feel
14 there,- well maybe you don't know. There are quite a
15 number of people who are a part of the technical review
16 team. I believe there are upwards to 50 people on site.

17 JUDGE BLOCH: How many?

18 MR. MIZONO: Sixty, 60 and various people
19 have different professional competences in different
20 areas so different disciplines have been set up. Some
21 people are looking into piping and other people are
22 looking into weld design, other people are looking into
23 electrical matters, other people are looking into
24 structural and concrete matters.

25 MR. HORIN: Are there some of them looking into

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LAI. 3

1 the adequacy of the - QC program?

2 MR. MIZONO: Yes they are. They are specifically
3 in conjunction with the - pipe support design QA process.
4 There is a small group that has in fact looked at that.
5 In addition I understand that there are people who are
6 looking at this document control aspect of Comanche Peak
7 to include the items that have been called the Dobie
8 Hot Leaf Allegation (phonetic) but that's not all they
9 are looking at. I think they are making a very large
10 spectrum look at - can be considered to be document control
11 items.

12 For instance, I know that I gave to Mr. Epileto and
13 his assistants the applicant's filing on computerization
14 of - conformances and all the - that have been submitted
15 by the applicant on that subject and even those things
16 which were not brought up by Dobi Hot Leaf, that Epileto
17 was given those documents quite early in our review in
18 his process of putting up technical review teams and I
19 understand that those things are being looked at by that
20 portion of his technical review team which is responsible
21 for document control.

22 So, I would say that there are specific people who
23 are assigned to look at the different areas based upon
24 their discipline, and some of these areas do involve,
25 I guess what you might call an overall QA/QC look at things.

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1 In addition, I believe that Mr. Epileto is going to
 2 have to make an overall conclusion regarding the individual
 3 findings which are within each discipline. In other words,
 4 it is not sufficient to have a conclusion with regard to
 5 say, welding, with regards to electrical matters without
 6 some overall - conclusion. I believe that is what Mr.
 7 Epileto expects to come out with.

8 JUDGE BLOCH: I would just like to request that
 9 he attempt to reach a global conclusion with respect to
 10 whether or not the ANI documents indicate an adequate
 11 level of performance of the QA/QC program that he was
 12 following up on.

13 MR. MIZONO: Okay.

14 JUDGE BLOCH: And Mrs. Ellis, you were in the
 15 middle of rebuttal.

16 MRS. ELLIS: Yes. I think that one of our
 17 overall concerns here is pretty well voiced by the ANI
 18 inspector in case exhibit 1053. In that documents, it
 19 refers back to the previous ANI report which was case
 20 Exhibit 1052, and then 1053 the ANI states that they
 21 are,- he indicates that he is concerned that the non-
 22 conformance is corrected, but that the cause is not
 23 addressed. The reason that it happened to begin with.
 24 And that is on page 2 of the document. And he makes a
 25 statement in here, for instance, which states: " It is

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1 difficult to understand how 1727 identified welding
2 discrepancies are not being significant enough to warrant
3 corrective action to preclude repetition."

4 JUDGE BLOCH: What page is that?

5 MRS. ELLIS: It talks about . . .

6 JUDGE BLOCH: I'm sorry Mrs. Ellis, what page
7 is this of this report? Is it at 1053?

8 MRS. ELLIS: That particular statement was on
9 page 3 at the very bottom, the very last item.

10 MR. HORIN: I see it.

11 MRS. ELLIS: And also he states . . .

12 JUDGE BLOCH: Mr. Mizono, this particular
13 item certainly has to be considered in the staff's review
14 of the adequacy of the IR's. That is, it relate to the
15 manner in which IR's were being trended. Is there a
16 disposition of this Mrs. Ellis?

17 MRS. ELLIS: They . . .

18 MR. MIZONO: Yes there is.

19 JUDGE BLOCH: And where is that?

20 MR. MIZONO: And the last two pages of the
21 document are response from Mr. Pertie and on the base of
22 1053 the disposition is from Mr. Pertie, his memorandum,
23 Mr. Cote says, "Attached response has been found acceptable"
24 and he has signed off on this document.

25 MR. JORDAN: I can't find Cote's statement.

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1 Where is that?

2 MR. MIZONO: On the bottom of the very first
3 page. The disposition is in the last two, or last few
4 blocks there. He has checked satisfactory and then states,
5 and he writes at the bottom that the attached response
6 has been found acceptable.

7 MR. JORDAN: I see. So, he has accepted
8 Pertie's response?

9 MR. MIZONO: Yes.

10 MR. JORDAN: And that is dated 1-2-84 and
11 the original was November 18. I see.

12 MR. MIZONO: Mr. Pertie's response is . . .

13 JUDGE BLOCH: In particular, paragraph 3A of
14 the response appears to deal with the circumstances under
15 which re-causes are documented.

16 MR. JORDAN: This is 1-6-84.

17 MR. MIZON: 1-6-84 is the disposition of
18 the memorandum from Mr. Pertie is dated December 27, 1983.

19 JUDGE BLOCH: So, Mrs. Ellis, we interrupted
20 you. What was the point you were making?

21 MRS. ELLIS: I think that, as I mentioned, I
22 think that the ANI has voiced the same concerns that
23 - has been concerned with which is, is the addressing of
24 the real causes of many of these things ever happening
25 to begin with.

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1 JUDGE BLOCH: I guess the problem is that when
2 you take a document that has in it an acceptance of a
3 response and you only listen to the problem and not the
4 response it is hard to see what that is important enough
5 for us to reopen the record.

6 The ANI said, first he had a problem and he saw a
7 response and then he accepted it.

8 MR. HORIN: Yes, but one of the responses is
9 that a proposed revision of this QA manual be submitted to
10 the ANI for review.

11 JUDGE BLOCH: Okay, but as I understand it,
12 the problem of a QA manual is a separate problem from
13 whether the procedures were adequate. That is part of
14 Mr. Perty's testimony in the intimidation matters. He
15 came in to improve the manual by including in it procedures
16 and other things that were in practice at the plant but
17 weren't in the manual.

18 MR. HORIN: I would like to point out that
19 Mr. Perty also addresses in his memorandum the route cause
20 comment by Mr. Cotes, pointing out that the items that
21 were rejected which Mr. Cotes identified, were pre 1982
22 fabrication and installation for the most part and were
23 not subjected to the current acceptance criteria. He
24 points out that the rejection rate for pre 1982 work was
25 50 percent, whereas post 1982 work was less than 10 percent.

1 And, in Mr. Perty's opinion, and as apparently
2 accepted by Mr. Cotes, that this rate increase in the
3 acceptability of these welds demonstrates that the program
4 had been, had appropriately worked to preclude re-occurrence
5 of the problems with the pre '82 work.

6 JUDGE BLOCH: You see, I'm not sure Mrs. Ellis
7 what that was rebutting. This is rebuttal of new matters
8 raised by Mr. Horin.

9 MRS. ELLIS: I think that that was one of the
10 things that he had mentioned. I had this written, - I don't
11 remember exactly what he said, but I wrote this in response
12 to the comment in my notes here. . .

13 JUDGE BLOCH: Okay, as long as you understand
14 that this is rebuttal of new matters. Let's continue.

15 MRS. ELLIS: There is one other matter which
16 he mentioned. He read a portion of Mr. Cotes' comment
17 and I don't have that document and I have in any event
18 have not had a chance to read anything from the intimidation
19 hearing.

20 However, it sounded as though he was saying that
21 there are other documents besides this where more . . .
22 that this is where the non-conformances are recorded.
23 Is that correct Mr. Horin?

24 MR. HORIN: No, that's not correct. Mr. Cotes
25 was pointing out that there are two principal documents.

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1 One of those is the QMR . . train record (phonetic) and
2 the other is the SIS record and that the QA monitoring
3 record is the document which is equivalent to a QC MCR
4 and the SIS is a document which identifies less significant
5 items.

6 JUDGE BLOCH: It seems to me that you did say
7 what Mrs. Ellis said. That she has the less significant
8 items.

9 MR. HORIN: She has both. If you look, she has
10 both QA monitoring records and she has SIS reports.

11 MRS. ELLIS: Well, for instance, Case Exhibit
12 #1053 and 1052 would be the more significant.

13 JUDGE BLOCH: That's correct.

14 MR. HORIN: No, I don't believe that is
15 correct.

16 JUDGE BLOCH: Well, they both say SIS record
17 for monitoring QA/AC programs.

18 MR. HORIN: That is the one that is equivalent
19 to the MCR.

20 JUDGE BLOCH: And the one that is more important
21 is the SIS report?

22 MR. HORIN: No.

23 JUDGE BLOCH: That is less important?

24 MR. HORIN: That is the less important
25 document which simply says at the top, SIS report. It is

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1 the less significant.

2 JUDGE BLOCH: Okay.

3 MR. HORIN: The one that is equivalent to the
4 MCR is the SIS record for monitoring QA/QC programs.

5 JUDGE BLOCH: But you have them both Mrs. Ellis.

6 MRS. ELLIS: Okay, okay. I don't believe I
7 have any further in regard to any new matters.

8 JUDGE BLOCH: Is there, - what are you going
9 to talk about Mr. Horin?

10 MR. HORIN: I was just going to go through
11 the categories that Mrs. Ellis has identified as means
12 of identifying the relevance or significance, or different
13 groups, ANI report . . . etc, etc,.

14 JUDGE BLOCH: I take it Mr. Horin that in none
15 of the instances of any of these things has the ANI
16 expressed, has the ANI still got an open concern?
17 Does he have open concerns with respect to any of these
18 matters, do you know?

19 MR. HORIN: I don't know. I imagine . . .

20 JUDGE BLOCH: Mrs. Ellis, do you know?

21 MRS. ELLIS: I haven't really broken them down
22 like that, no.

23 MR. HORIN: Well, from the one that we looked
24 at just a moment ago in detail, stated that there was,
25 that they will review this again when the final package is,

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1 you know, that sort of item.

2 JUDGE BLOCH: Right. But at the point he wrote
3 the report he wasn't still finding a serious non-resolved
4 deficiency.

5 MR. HORIN: Well, he hadn't found them because
6 he says he is going to wait.

7 JUDGE BLOCH: I see.

8 MRS. ELLIS: Judge Bloch, excuse me just a
9 moment. This is Mrs. Ellis. I misspoke. There is one
10 further thing that I do need to mention. One of our
11 concerns was expressed about Case Exhibit 1058 which is
12 the welder. We had not taken into account the interpass
13 temperature and soforth.

14 One of the concerns that we have is that on the last
15 page of that document which is the applicant's response
16 to it, dated March 9, 1984, it states: "Quality Control
17 shall monitor pre-heat and interpass temperatures at a
18 minimum of 2 days per week. . ." and then it goes on to
19 say that this activity shall be implimented by March 12,
20 1984.

21 One of our concerns there is what was happening
22 before March 12, 1984 and the fact that they are saying
23 here that quality control will monitor this 2 days a week
24 rather than on a routine basis as part of their normal
25 review process. At the date of it dated March 9, as to go

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1 into effect March 12 is also a concerns because this seems
2 to us to be counter, contrary, at least to the impression
3 that was given during the hearings.

4 MR. HORIN: Are you done Mrs. Ellis?

5 MRS. ELLIS: Yes.

6 JUDGE BLOCH: You want to comment now on just
7 that one point Mr. Horin?

8 MR. HORIN: Well, in the first instance I don't
9 see any inconsistancy. The segments of the transcript
10 which she cites concern pre-heat temperature. The finding
11 by the ANI concerns a single welder with, who evidently
12 had not followed the interpass temperature during welding
13 requirements. I think that the corrective action that
14 was taken to monitor both pre-heat and interpass temperatures
15 on a, evidently, more frequent basis that had been before
16 is quite a significant effort given the fact that it was
17 a single welder that the ANI identified have not evidently
18 followed the procedures.

19 My recollection of the record was that the welders
20 are monitored on a approximately, at least once every 2
21 weeks or something like that. I won't be able to point
22 my finger to that but I recall that that was the point
23 that these items had been monitored on a regular basis,
24 appears that the ANI had suggested that for the time being
25 because of this single welder, that would monitor on a more

1 frequent basis.

2 I don't see anything inconsistent at all with any
3 testimony that was given and I don't. . . also don't see
4 any particular significance given the fact that this was
5 obviously not a widespread failure of people to understand
6 the requirement. It was just a single welder.

7 JUDGE BLOCH: Well, I guess the problem is
8 that if he was monitored once every 14 days or so and it
9 wasn't found, I guess I have difficulty knowing whether
10 to draw the inference that they weren't monitoring,
11 whether he was checking interpass temperature.

12 MR. MIZONO: Judge Bloch, Mr. Mizono.

13 JUDGE BLOCH: Yes.

14 MR. MIZON: The fact is, I believe, that this
15 is probably the one SIS report which may be relevant to
16 the admitted issues in the proceeding, at least what
17 the one admitted issue. I'm not sure at this point whether
18 interpass temperature was struck as an issue from Mr.
19 Steiner's testimony or not, but assuming that it was not
20 and it is still an issue in the proceeding . . .

21 MR. HORIN: I don't think we should assume
22 that. I believe that the interpass temperature with
23 respect to the use of - was stricken and that the staff is
24 pursuing that independently.

25 MR. MIZONO: Okay, if . . .

1 JUDGE BLOCH: Okay, Mrs. Ellis, is that correct?

2 MRS. ELLIS: I believe that it was stricken
3 from his testimony but there was considerable testimony
4 in the record from the other welders regarding this matter.

5 MR. HORIN: Are those citations to the record
6 that you placed in your motion?

7 MRS. ELLIS: Let me check those, just a minute.
8 Pause- Yes, and I think there are others.

9 MR. HORIN: Those citations are to pre-heat,
10 is my understanding, not the interpass temperature.

11 MR. MIZONO: Judge Bloch, this is Mr. Mizono
12 again.

13 JUDGE BLOCH: Yes sir.

14 MR. MIZONO: I will not respond if this issue
15 is not, if interpass temperature is not an issue in the
16 proceeding because clearly the deciding issue in the
17 proceeding that Mrs. Ellis has to relevance in - in
18 the proceeding, however, assume that it is, I am waiting
19 to continue and provide some discussion on thatpoint.

20 JUDGE BLOCH: Well, let's find out first
21 whether it is.

22 MR. MIZONO: Okay

23 JUDGE BLOCH: Mrs. Ellis? Mr. Horin says
24 that your citations are all pre-heat and not interpass.

25 MR. ELLIS: I'm not sure that it was all pre-heat.

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I think part of it may have been, but I think that in general it was that they always check in the heat input which would also apply to interpass and to pre-heat. That's my recollection. Now I would have to check these specific citations to be certain.

MR. MIZONO: This is Mr. Mizono. We just pulled out our draft welding findings and it appears that Mr. Horin is correct, that the use of the temperature indicating - checked interpass temperatures not currently an issue in the proceedings but that the Board requested that the staff look into it. And that is at transcript 10,734.

JUDGE BLOCH: That's consistent with my recollection of the record as well. Let's continue Mr. Horin. Well, even assuming relevance here, I guess I don't understand that the information is important enough to meet the reopening standards.

MR. HORIN: That would be my second -

JUDGE BLOCH: Could you just refresh our memory on what the standard is for reopening Mr. Horin?

MR. HORIN: I believe the standard is that it must be a significant issue that had, and that there must be a demonstration of why it could not have been raised previously and that there must be a demonstration of, with respect to significance, why the items are likely to

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LAR 22

1 be one that could alter the Board's ultimate decision.

2 MR. MIZONO: This is Mr. Mizono. I would
3 concur in Mr. Horin's statement as to the standard for
4 reopening a record.

5 JUDGE BLOCH: Mrs. Ellis, do you have any
6 disagreement with that?

7 MRS. ELLIS: I think that my concern is that
8 the Board not rely on what the applicants have said on an
9 issue which we have been precluded from giving testimony
10 in.

11 JUDGE BLOCH: Wait a minute. What does that
12 mean?

13 MRS. ELLIS: There is information in the record
14 as I recollect it, about some of these issues which we
15 have mentioned here, if the Board relies on the record . . .

16 JUDGE BLOCH: Mrs. Ellis, we just want to know
17 if you disagree with the standard for reopening.

18 MRS. ELLIS: Well . . .

19 JUDGE BLOCH: And the standard had to do with
20 there being an important matter that you couldn't raise
21 previously and part of the question is, you know, what
22 is the wording of the importance of the matter Mr. Horin?
23 Do you have a quotation from one of the . . . I mean, if
24 the standard, it is a legal standard, it has been widely
25 cited. Do we know how they phrase that?

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1 MR. HORIN: I don't have it.

2 JUDGE BLOCH: It is a fairly rigorous text as
3 I recall.

4 MR. HORIN: Yes. And it involves a
5 demonstration of, a clear demonstration that the
6 information is likely to alter the outcome of the decision.

7 JUDGE BLOCH: In addition to just relevance
8 and materiality, he has to be so important that it might
9 affect the outcome?

10 MR. HORIN: Yes.

11 MR. MIZONO: Yes. This is Mr. Mizono again.
12 And I would recite the Board to both Gas and Electric
13 Company which is the Wolf Creek generating station, A LAB
14 462 7NRC 320, 338 and also the North Louisiana Public
15 Service Company - generating station ALAB 227 in - 416
16 and basically to decide to reopen the record at the
17 request of a party, it's must usually be established that
18 a different result would have been reached initially had
19 the materials being introduced by the reopening been
20 considered by the board.

21 JUDGE BLOCH: That is particularly difficult
22 to demonstrate before the Board to decide an issue of
23 course.

24 MR. JORDAN: Isn't there some difference between
25 re-opening after a decision has been written, however

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LAR 24

1 asking - before the decision has been made?

2 MR. HORIN: I don't believe so.

3 MR. JORDAN: You don't. You agree with the
4 standard correctly as I remember it, and this is Walter
5 Jordan, for a reopening after a decision was written
6 because I thought maybe it was a little different but I
7 am not sure about that, so never mind.

8 MRS. ELLIS: Judge Bloch, this is Mrs. Ellis.
9 It is difficult for me to see why, how you can reopen
10 something if it hasn't been closed.

11 JUDGE BLOCH: The evidentiary record on welding
12 was closed. You are correct, any time that an evidentiary
13 record is left open. Now, for example, is any of this
14 relevant to assembly disposition motion to which you have
15 yet to respond?

16 MRS. ELLIS: I have asked that Mr. - and Mr.
17 Welsh review those documents as I mentioned. They haven't
18 really gotten back with them though.

19 JUDGE BLOCH: Mr. Horin, unless I am incorrect,
20 there is no disbarment at all to the use of these
21 documents in answer to assembly disposition motion. Am
22 I correct?

23 MR. HORIN: I believe we had also asked that
24 Mrs. Ellis demonstrate, and I think the way this worked,
25 was at the time she responded to these, to our motion, that

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LAR 25

1 she demonstrate why these documents are relevant.

2 JUDGE BLOCH: Well, that's true for any answers
3 to a Summary Disposition Motion.

4 MR. HORIN: Well, if the documents are already
5 in the record then presumably the decision has already
6 been made as to relevancy, but at this point there must
7 be, she has to give us an opportunity to - respond as to
8 whether or not they are relevant.

9 In other words, we have to be given the same
10 opportunity at the time she files her answer as we would
11 have been at the time she attempted to place it in the
12 record during the proceeding.

13 JUDGE BLOCH: I don't understand what you are
14 saying at all Mr. Horin. We are talking about a Summary
15 Disposition Motion. The only question is the genuineness
16 of the document. You have turned them over to her,
17 there is no question of genuineness of documents, why
18 can't she attach them to an answer if they are relevant?
19 I don't know that they are.

20 MR. HORIN: If they are relevant she must make
21 some . . .

22 JUDGE BLOCH: Sure, any answer on summary
23 disposition must contain relevant evidence but you can
24 attach these Mrs. Ellis to an answer. Now, you have a
25 problem on not having attached them to answers you have

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1 already filed because you believed you couldn't do that,
2 I would suggest that if that is the problem that you
3 promptly remedy that and certainly remedy it before the
4 staff answers.

5 MS. ELLIS: Alright.

6 JUDGE BLOCH: I don't know that these are
7 applicable. And you do have the other problem of there
8 being possibly relevant in some cases but the disposition
9 in some cases takes care of the problem. So, it is the
10 whole document that has to be relevant. You have to show
11 when you cite it that you understand the whole document
12 in context. Yes, Mr. Mizono?

13 MR. MIZONO: Yes, my recollection of whether
14 the record is open or closed is not quite the same as the
15 applicant's or your own. My understanding was that there
16 were a few areas in which the staff said that the record
17 could not be closed because the staff was still looking
18 into the areas and I can cite three different things
19 right now, off the top of my head, in which the staff
20 specifically requested that the record remain open.

21 JUDGE BLOCH: And what are those three?

22 MR. MIZONO: One was plug welding and you will
23 recall that we had some supplementary testimony on that
24 issue which was the result of the inspections that occurred
25 just immediately prior to the beginning of the hearing on

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1 welding.

2 JUDGE BLOCH: Okay. None of this stuff is
3 relevant to plug welding.

4 MR. MIZONO: Okay. And the second thing was
5 on, I think it was something on downhill welding and there
6 was, and that I believe referred to just looking at a
7 particular pipe support which Mr. - said he had found
8 welding on. Furthermore, there was an issue relating to
9 welder symbols on classified -- which the staff did not
10 address at all in its testimony. And finally there were
11 some matters where we said we were going to talk to
12 various welders. That Mr. Steiner had testified he knew
13 or saw these various improper welding and with regard to
14 those matters I believe that the record is still open.

15 However, I will say that the record as far as anything
16 involving interpass temperature which I guess was raised
17 from the conscious of leaf welding, I believe that just
18 about everything in that area is closed or not an issue
19 in this case because the Board struck the testimony of
20 Mr. Steiner on those point.

21 JUDGE BLOCH: Mr. Horin, do you agree with
22 the staff statements of what is open?

23 MR. HORIN: Mr. Chairman, I have Mr. Phillips
24 in here and he can respond to those statements.

25 MR. PHILLIPS: Judge Bloch, Mr. Mizono, I

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1 would slightly disagree with the staff's characterization
2 of the record being open on those issues. On those
3 issues the staff had stated that they were going to request
4 the applicant provide them an additional bit of information
5 with regard to specific questions they would ask applicant
6 completely outside the hearing context. It would be
7 the applicant's position that on each of those issues. . .

8 JUDGE BLOCH: Mr. Phillips?

9 MR. PHILLIPS: Yes sir.

10 JUDGE BLOCH: There were some issues like that
11 and I think the ones Mr. Mizono was talking about were
12 not like that. In other words, for example, the inter-
13 pass temperature was like that, but not the ones, as I
14 recall, the ones that Mr. Mizono is talking about are
15 matters where there were loose threads you might say,
16 that were still open for the record. Is that what you
17 are saying Mr. Mizono?

18 MR. MIZONO: Yes. I think there were some
19 areas in which the Board said they were going to strike
20 on the testimony or rule at the hearing - was not an
21 issue anymore, but that the Board still wanted the staff
22 to look into the area and report back to the Board as to
23 whether it was in fact something of concern. And once
24 the staff reported back then the Board could reopen the
25 record on that.

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1 I am referring to those items now. I am referring
2 to items which your issues in the proceeding were not
3 struck by the Board and -, I mean, the staff believes
4 still remain open because the Board has to provide
5 additional information on that area.

6 MR. PHILLIPS: Let's take for example, and I
7 don't want to belabor the point, but let's take the
8 downhill welding issue. That is not, if you view it as
9 left open it is only because in the staff's testimony
10 they stated that they were unable to look at one specific
11 weld and they stated in their written testimony that they
12 would request the applicant provide them with a document
13 which basically says that the weld is okay as far as in
14 an engineering sense. There is substantial documentation
15 in the record from applicant and from others with regard
16 to that particular package, with regard to that particular
17 weld, and the issue of downhill welding in general.

18 JUDGE BLOCH: I think we need not resolve this
19 question right now. That is, at the time of the findings
20 on welding, I'm sure the parties will brief what may be
21 left open or not left open. And if it is open then Mrs.
22 Ellis would have the same benefit of the ruling that the
23 Board just made with respect to the Summary Disposition
24 Motions, but if it is closed, it would have to be
25 governed by the standards for reopening the record.

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1 Now, as I recall, Judge Jordan, in response to your
2 earlier question, I think there is a difference in
3 reopening prior to a Board decision because I think in
4 that instance you have to anticipate that the result would
5 be different if the Board decided the opposite way. It is
6 harder standard to apply but it is nevertheless intended
7 to be quite regulous.

8 MR. JORDAN: Okay.

9 JUDGE BLOCH: I don't think we need the rest
10 of Mr. Phillip's argument. I think Mr. Horin you were
11 up when this interruption came along?

12 MR. HORIN: Yes.

13 JUDGE BLOCH: Would you continue.

14 MR. HORIN: I would like to go through each
15 of the sections which Mrs. Ellis.

16 JUDGE BLOCH: Okay, let's not.

17 MR. HORIN: Okay.

18 JUDGE BLOCH: Dr. Jordan?

19 DR. JORDAN: Yes?

20 JUDGE BLOCH: It is my inclination to believe
21 that the Board should rule that there is nothing of
22 sufficient importance that we have been shown to sustain
23 the heavy burden of reopening the record but that it may
24 be used to the extent that the documents are relevant
25 to open issues.

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DR. JORDAN: Okay, I think that's fine. I agree 100 percent.

JUDGE BLOCH: Are there any particular documents in which you think that that decision is particular borderline so that I ought to look at them now before we make that ruling final?

MR. HORIN: Is that directed at anyone in particular?

JUDGE BLOCH: That was directed to Dr. Jordan.

DR. JORDAN: Oh, no, I don't recall any.

JUDGE BLOCH: Okay. I was looking as we went along and I don't think there are any either. We do expect an addition however, that the staff will follow up as it has indicated in the course of this call. Now, are there any motions for reconsideration on this matter?

MR. HORIN: We would ask that the Board request that in doing this that Mrs. Ellis set forth a separate discussion as to why she believe it is relevant, in whatever answer she files or the findings on welding so that it will be possible to determine why Mrs. Ellis thinks that it is relevant. Frankly, I have a difficult time determining some of the arguments in the motion based on the record as it exists.

JUDGE BLOCH: Okay. On the welding matters Mrs. Ellis, if you do cite one of these documents, you

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1 first have to show why you believe an issue is open and
2 then will have to show the relevance of these documents
3 to that open issue. Do you understand?

4 MRS. ELLIS: Yes. Could you repeat the wording
5 of the proposed order?

6 JUDGE BLOCH: You mean the ruling we are
7 making right now?

8 MRS. ELLIS: Yes. You said . . . that may be
9 used in open issues. .

10 JUDGE BLOCH: You may use these documents for
11 open issues such as the Summary Disposition Motions. Now,
12 I cautioned you that if it is with respect to Summary
13 Disposition on something you have already answered you
14 should try to promptly indicate what it is relevant to.
15 We do have sometimes problems in your answers on Summary
16 Disposition as you know, knowing why you think the fact
17 is material and why it is a genuine fact. But I know you
18 are trying to address that so I don't want to issue any
19 extra order as Mr. Horin has suggested because your
20 answer on Summary Disposition should always attempt to
21 show why something is relevant and important.

22 MRS. ELLIS: Yes, I am trying to work with
23 Mr. Welsh and Mr. - as much as possible to try to
24 understand the issue myself and get them to clarify it
25 as much as possible because I figure if I can understand it

1 anybody can.

2 JUDGE BLOCH: Well, that's my rule also. I
3 think that you are doing somewhat better on that in the
4 last answers and I appreciate that effort.

5 MR. ELLIS: It is quite an effort I might add.

6 JUDGE BLOCH: Right. So, are there motions
7 for reconsideration based on some misunderstanding the
8 Board may have or some particularly crucial document?

9 MR. MIZONO: This is Mr. Mizono. I want to be
10 quite clear about the Board's ruling again. Could you
11 repeat it in essence?

12 JUDGE BLOCH: Okay. The ruling is that we do
13 not see anything in these documents of sufficient importance
14 to meet the test for reopening the record and therefore
15 the documents cannot be used with respect to issues on
16 which the record has been closed. However, the documents
17 may be employed with respect to issues that are left open
18 to the extent that they are relevant and material.

19 MR. MIZONO: Okay. I have a question there
20 only with regard to the second portion.

21 JUDGE BLOCH: Okay.

22 MR. MIZONO: And my understanding was based
23 upon what the Board is saying, is that although Mrs.
24 Ellis could use the documents in issues, in supporting
25 issues which are not already closed, that the documents are

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1 not necessarily considered in evidence, admitted into
2 evidence until the Board rules that the documents are
3 relevant and material.

4 JUDGE BLOCH: Of course, with respect to
5 Summary Disposition Motions in which you attach evidence
6 to your answer, that's, as I understand it, always the
7 case.

8 MR. MIZONO: Right.

9 JUDGE BLOCH: Ah. . .

10 MR. HORIN: This is Mr. Horin. I have one
11 other point of clarification which I think you mentioned
12 originally and that was when Mrs. Ellis attaches these to
13 her answer to our motions that she also point out why the
14 disposition is inadequate.

15 JUDGE BLOCH: Yeah, I'm urging her to show
16 that she understands the whole document and she is not
17 just citing it out of context because we won't be able to
18 use a portion of a document out of context. But, I don't
19 think we fully responded to Mr. Mizono's comment.

20 MR. MIZONO: My main concern, well, I have
21 several concerns. One of them being Mrs. Ellis being
22 under . . .

23 JUDGE BLOCH: I do know my answer, I'm sorry.
24 Thank you for reminding me. The ordinary way for submitting
25 evidence on an open issue would be to submit it at an

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1 appropriate time and I think probably in your findings
2 Mrs. Ellis, what you should so is indicate the evidence
3 that you intend to submit at an appropriate time if there
4 is an open matter, but if the record is still open there
5 will be an opportunity to submit it. I guess I don't
6 want to rule now that just because you have attached it
7 it is in the record. I think that is your problem isn't
8 it Mr. Mizono?

9 MR. MIZONO: Yes, that is exactly my problem.

10 JUDGE BLOCH: So, what you would do in the
11 framing is to state that the particular issues was open
12 and that you will submit the ANI documents, that's just
13 to help other people understand the nature of the
14 continuing issue. It is a fair notice idea.

15 MR.S ELLIS: Alright. I would like to point
16 out one more thing. As was mentioned on page 7 of our
17 motion, initially all I wanted to be able to do was to
18 use the . . . any other document we had obtained on
19 discovery.

20 JUDGE BLOCH: Okay, and basically except for
21 closed issues we are permitting that. What we didn't do
22 was to - what was responsive to the previous discovery
23 request. I would like to elaborate a little bit and
24 that is, I did say in the course of some of the earlier
25 discussions, some of the reasons that I had for not

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1 declaring these documents necessary for the adequacy of
2 the record and the principle problem there is the ANI
3 activity as part of the Quality Assurance program of the
4 plant and the fact that problems are found there did not
5 necessarily indicate that there is a serious problem for
6 the Board to look into.

7 It may indicate as well that the program is working
8 properly and that's why we think it is more appropriate
9 to wait for the staff's assessment of whether the ANI
10 reports indicate serious problems before we would consider
11 any necessary evidence stemming from those reports. We
12 have at this time no reason to believe that the level of
13 ANI problems is extraordinary or that it indicates some
14 serious problems in the program.

15 In addition, for the most part these documents have
16 resolutions which indicate that the safety concerns of the
17 ANI have been addressed to the ANI satisfaction. We just
18 don't see that any particular document or a document as
19 a group call for our reopening the record.

20 MR. MIZONO: I'm sorry. Before you went into
21 that discussion on the ANI . . . QA program at Comanche
22 Peak, I wanted to suggest that possibly it might not be
23 useful to the staff or the applicant to have Mrs. Ellis
24 reference the documents that she wants to use in her
25 proposed findings of fact because that might be too late

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1 in the process for us to respond to her.

2 JUDGE BLOCH: Of course, you already know she
3 is worried about these ANI reports and you said you are
4 looking at them.

5 MR. MIZONO: That's right, but when Mrs. Ellis
6 tries to link them up to specific issues, okay, those
7 particular arguments will not be known to the staff until
8 the proposed findings are filed and I will mention
9 proposed findings are filed as in the intimidation
10 proceedings in advance of going to hearing so that we know
11 what the parties are going to be arguing at the hearing.

12 JUDGE BLOCH: Okay, I think you are now
13 confused. You straightened me out before but now I think
14 you are confused. And the reason I think you are
15 confused is that Mrs. Ellis is just going to indicate
16 with respect to open items, items she demonstrates to be
17 open on the record in welding. She is just going to
18 indicate at that point that she intends, in the future,
19 to submit in evidence ANI reports, particular ones.

20 MR. MIZONO: Okay. I thought that Mrs. Ellis
21 was saying that the ANI reports were all going to be used
22 in things other than welding. In other words, perhaps,
23 and I am just pulling these items out of the sky here,
she could very well use them in something, say, involving
24 electrical items or structural items and the SIS looks at
25

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LAR 38 25

1 many things. I don't know, I don't have the full set of
2 ANI documents that she available to her.

3 JUDGE BLOCH: Okay, but on the Summary
4 Disposition Motions, for example, yes she could do that.
5 But the Board is going to seek an adequate record on
6 those things and if it is necessary we will ask for
7 responses.

8 MR. MIZONO: Okay. That solves the fact
9 problem. With that clarification I have no problem.

10 JUDGE BLOCH: Okay. Are there any other
11 necessary matters for this conference?

12 MRS. ELLIS: I would like to, very briefly
13 discuss some of the motions for summary disposition.

14 JUDGE BLOCH: Why?

15 MRS. ELLIS: Because I want the Board to know
16 what is going on about them. I wanted in particular to
17 call the Board's attention to the representation, I
18 know you will be involved in hearings coming up on other
19 matters and I want to be sure it is clear in the Board's
20 mind the representations which have been made by
21 applicant regarding the significance of documents that
22 will be sent to the staff and so forth.

23 Also, I want to let the Board know that we have not
24 received any of the documents which the applicants are
25 going to send to the staff.

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1 MR. MIZONO: And that is because they have not
2 gone to the staff yet.

3 MR.S ELLIS: And in particular I wanted to
4 ask if in regard to the SA36 if the applicant had
5 completed their reanalysis of that which I understand
6 they are going to make?

7 MR. HORIN: I am not aware that we have
8 completed that and with respect to your general question
9 about sending documents to the staff, those have not yet
10 gone to the staff and they should be in the next couple of
11 days and you will get copies.

12 JUDGE BLOCH: It is my inference Mrs. Ellis
13 that you think that some of the documents to be submitted
14 contain substantial changes in the substance of the
15 matters involved. Is that what your problem is?

16 MRS. ELLIS: That's correct. These are based,-
17 I hate to say too much on it because this is based
18 strictly on the notes. We still do not have the
19 transcript of that August 23 meeting, but if the notes
20 are accurate, I have no reason to believe that they are
21 not, I do believe that the significance is far greater
22 than what the applicant had indicated and I wanted the
23 Board to have that clear in their mind what the
24 representation has been to date so when we do have that
25 information the Board will remember that.

1 JUDGE BLOCH: I know we have a record from
2 prior telephone conversations as to what applicant's
3 representations are and I believe the staff agreed with
4 them on the matters that you prviously raised. You have
5 no new information since our previous discussion do you?

6 MRS. ELLIS: Other than that, I have gone through
7 the notes more thoroughly with Mrs. Bow (phonetic) and I
8 do have more details regarding that.

9 JUDGE BLOCH: Okay. It is our understanding
10 based on assurances from the applicant that there will be
11 no important substantive changes, let's see, other than
12 on one particular issue Mr. Horin. I think you said there
13 was substantial change on one issue, is that correct?

14 MR. HORIN: I'm not aware of having said that
15 there would be a substantial change in any particular
16 issue. My recollection was that irrespective of the
17 parties different opinions as to significance of any of
18 these, the Board ask that Mrs. Ellis continue to prepare
19 and file responses on the schedule previously agreed to
20 and that if, upon receipt of the additional information,
21 - believe that there was something significant that
22 requires them to amend their response, they do so at that
23 time.

24 JUDGE BLOCH: Okay, but that was based on your
25 representations that there is no significant substantive

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LAR 41

1 change in what you are filing. If there were requiring
2 case to analyze the pre-existing filing would be to make
3 them waiste their resources.

4 MR. HORIN: I have no information pertaining
5 to our previously stated . .

6 JUDGE BLOCH: Okay, and that is applicant's
7 representation and you understanding that you are spending
8 your resources based on that representation Mrs. Ellis.

9 MRS. ELLIS: Yes, that is what I wanted the
10 Board to note and also I would like to state for the
11 record that it is our understanding on the Richmond
12 inserts only that the applicants are going to be providing
13 to the staff: One, details of A Richard inserts pattern
14 which the schedule was to have provided those to the staff
15 by the end of the week on the 30th of July; Two, -

16 JUDGE BLOCH: Suppose to be August, right?

17 MR. HORIN: And these are the documents,
18 Mrs. Ellis, that I told you would be going to the staff
19 shortly but have not yet gone.

20 MRS. ELLIS: Yes. Number two, to have information-

21 JUDGE BLOCH: Hold a second, we need a tape
22 change.

23 (End of tape)

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25 Tape 2
LAR 42

1 MS. ELLIS: Have to have information on the
2 validity of the finite stress bending analysis, why it
3 was necessary for them to do finite analysis, and where
4 the stresses are calculated.

5 JUDGE BLOCH: Mrs. Ellis, did we ask you to re-
6 spond on Richmonds already?

7 MS. ELLIS: That is due by the 10th.

8 JUDGE BLOCH: Okay, it is going to be due 20
9 days after the response by applicants.

10 MS. ELLIS: Alright.

11 MR. HORIN: Wait a second.

12 JUDGE BLOCH: After you receive it. I just
13 heard enough to know that their are substantive concerns
14 that the staff has about Richmonds?

15 MR. HORIN: The staff has raised many questions
16 whether or not they are significant to the point that
17 Mrs. Ellis had planned to raise, or whether they are
18 significant in of themselves, I have heard nothing from
19 Mrs. Ellis that suggests that. The staff has asked many
20 questions, just like Mrs. Ellis has asked many questions
21 on all of these motions. The staff has their own ques-
22 tions, Mrs. Ellis had her own questions.

23 JUDGE BLOCH: But, one...you are going to pro-
24 vide additional analytical information that is relevant
25 to whether the Richmonds are adequate; I don't see any

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1 reason to impose a burden on CASE of analyzing an in-
2 complete record. It seems to me what she has said start-
3 ed reading off as an indication that there is substantial
4 additional information that affects the validity of the
5 filing that ought to be incorporated in her answer.

6 MR. HORIN: Mr. Chairman, our position is, that
7 our filings as they went in were fully adequate, and that
8 the analyses and studies that we had performed were fully
9 adequate, that the staff believes, apparently in some
10 areas that they would like further clarification or in-
11 formation. Now, that does not change our opinion as to
12 whether or not our filings as they stand are fully ade-
13 quate. We would expect Mrs. Ellis to respond to that.

14 JUDGE BLOCH: But, the test we were applying was
15 not whether your filing was fully adequate, it was whether
16 there were going to be substantial changes in the filing.

17 MR. HORIN: And these are not changing our fil-
18 ings. They are simply supplemental information for the
19 staff to explain certain findings or conclusions that the
20 staff has additional questions on.

21 JUDGE BLOCH: Dr. Jordan?

22 JUDGE JORDAN: Yeah. I think I understand what
23 he is saying now, that the filings that we have in our
24 hands are their position, and that the CASE and Staff
25 replies should be based on exactly what we have in our
hands.

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1 JUDGE BLOCH: Well, the staff reply won't be
2 based on what we have in our hands.

3 JUDGE JORDAN: Alright.

4 JUDGE BLOCH: The question is, Dr. Jordan, whe-
5 ther there is a point in permitting CASE to wait for this
6 new information to make its answer. I thought what you
7 were saying previously, Mr. Horin, was that the changes
8 were rather minor, and the additional information was
9 rather minor.

10 MR. HORIN: In our opinion, none of the infor-
11 mation is necessary to reach a decision, are necessary
12 for the staff to file its response, that the staff wants
13 some clarification, and in some areas different people
14 from the staff may feel that they need additional infor-
15 mation to respond. But, that does not, and I don't think
16 the board should construe that to suggest that applicants
17 do not believe that their present filings are fully ade-
18 quate to respond, but to resolve the issues.

19 MS. ELLIS: Judge Bloch, this is Mrs. Ellis.

20 JUDGE BLOCH: Yes.

21 MS. ELLIS: I think that it is completely unfair
22 to have CASE work from a different data base than what
23 the staff is going to be complying. I don't think that
24 is correct for the record. I think the record will suf-
25 fer. I think the case will suffer, and we are strongly

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1 opposed to it. There are six specific items according
2 to Ms. Balt's (phonetic) notes, some of which are sig-
3 nificant, what we believe are significant. For instance,
4 well, I will go into all of them if you would like. I
5 would just as soon go ahead and state them for the re-
6 cord anyway.

7 JUDGE BLOCH: Thes are all on Richmonds Mrs.
8 Ellis?

9 MS. ELLIS: Yes sir.

10 MR. HORIN: These are all on the transcript of
11 that meeting, which, Mrs. Ellis, I don't have either.

12 JUDGE BLOCH: But, our experience with the ex-
13 pert witnesses for CASE is that they take the material
14 provided and they analyze it with some care, and I don't
15 see what the point is of having them analyze an incom-
16 plete record if the staff is going to analyze more. Dr.
17 Jordan, you seemed to thing there was a point in having
18 them go ahead with applicants filing before the modi-
19 fication, is that correct?

20 JUDGE JORDAN: Well, it seems to me that we are
21 not going to wait. The staff is going to wait until
22 CASE requires, and the staff will take that in, that CASE
23 requires part of their answer. So, that the Richmond
24 urgency in getting CASE to come in...

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1 MR. HORIN: Mr. Chairman, the staff and Mrs.
2 Ellis have both had opportunities over the last three
3 months to ask questions on those specific areas in our
4 motions that they feel that they require additional in-
5 formation. We have provided the information which CASE
6 has requested. They stated at the time was the informa-
7 tion that they felt was necessary for them to respond to
8 our motion. That the staff happens to have additional
9 questions that they have raised on their own, and which
10 CASE did not raise on their own while they had an oppor-
11 tunity to do so, should not be a reason to hold up CASE
12 in its filing.

13 In other words, they had a full opportunity to
14 ask questions, and we have responded to those questions,
15 and the staff's questions are a separate matter. If
16 something comes out of that information which CASE be-
17 lieves changes their responses, or CASE believes it is
18 significant when they receive it, such that it would
19 change their response, then they can, they can amend
20 their response at that time.

21 JUDGE BLOCH: Mr. Mizuno.

22 MR. MIZUNO: Yes.

23 JUDGE JORDAN: Judge Bloch.

24 JUDGE BLOCH: Yes, Dr. Jordan.

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1 JUDGE JORDAN: I misjudged a little bit on the
2 length of the conference. I am going to have to leave
3 now, but I am satisfied that the conference has been
4 productive, and what remains you can handle very well
5 indeed.

6 JUDGE BLOCH: Thank you. Mr. Mizuno.

7 MR. MIZUNO: Yes.

8 JUDGE BLOCH: I just want your comment on what
9 we should do on this.

10 MR. MIZUNO: Well, I am at a similar disadvan-
11 tage with everyone else, since I have not received a
12 copy of the transcript either of that meeting.

13 JUDGE BLOCH: Okay, let's help remedy that. Mrs.
14 Ellis, keep reading.

15 MR. MIZUNO: But it is my, well, let me con-
16 tinue.

17 JUDGE BLOCH: Are you sure? I thought maybe you
18 wanted to hear what the other points were.

19 MR. MIZUNO: I have a few things to say.

20 JUDGE BLOCH: Okay.

21 MR. MIZUNO: The first thing is that it is my
22 understanding that the applicants were going to be
23 submitting some significant information, to the staff
24 because they did have some concern in the Richmond in-
25 sert area. I don't know yet whether it is going to be

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1 something which is going to cause the staff to agree or
2 disagree with what the applicants are saying. But, it is
3 not just the minor clarification, okay.

4 The second point is that we would generally
5 agree with the applicants that what the staff is asking
6 is probably separate from what CASE's concerns are. Or,
7 they are not necessarily the same. But, we also agree
8 with the board that if the applicants are going to be
9 submitting new information which has significantly
10 changed their summary disposition motion, then it is
11 going to be the waste of CASE's time to analyze the old
12 summary disposition motion and that data, and then have
13 to redo their work.

14 I think that to the extent that there may be
15 some significant change, or in the possibility of before
16 that change that CASE should be afforded the opportunity
17 to await and see what the applicants are going to be
18 filing.

19 JUDGE BLOCH: Do you have any commitment as to
20 how long after the applicant's filing you will file?

21 MR. HOLLAND: Mr. Chairman, they don't. My
22 point is that the staff can question us to death, and we
23 can go on forever with the staff. Yet, CASE has already
24 had a full opportunity to review our motions, and ask
25 questions that they felt were necessary to respond. We

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1 h' /e provided that information. We stand on our, on my
2 previously stated position that our present motions are
3 adequate to resolve the issues.

4 JUDGE BLOCH: Mrs. Ellis. I guess I am not sure
5 why you think you can't respond fully without the addi-
6 tional information. Is that the problem, or is it some-
7 thing else?

8 MS. ELLIS: Well, that is the problem, primarily
9 on this. Another problem is that, if we are going to
10 answer this on the 10th, then the welding findings are
11 going to be cut proportionately, because I am going to
12 do the Richmonds as I stated before. Mr. Walsh has asked
13 me to prepare some information to assist him in that, and
14 I'm doing that. I will do the best I can, but I think it
15 is an unfair time crutch, given the fact that these are
16 significant changes, for instance...

17 JUDGE BLOCH: One second. Would Mr. Horin...I
18 think my setting of the 10th, was based on an understand-
19 ing of the change on the, that the information being
20 called on Richmonds was not going to be of great signifi-
21 cance. Do you recall that discussion at the time we
22 set the deadline?

23 MR. HORIN: I don't recall that.

24 JUDGE BLOCH: Do you, Mr. Mizuno?

25 MR. MIZUNO: I seem to recall that, yes, vaguely.

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1 I can't attest to that in full, but I think that that was
2 the substance.

3 JUDGE BLOCH: I think. Because, consistently,
4 when I ruled on other matters where there was important
5 information to be received that was she, that Mrs. Ellis
6 would have 20 days.

7 MR. HORIN: No. This was important information
8 to be received in response...

9 JUDGE BLOCH: To her request, you're right.

10 MR. HORIN: And we do not disagree with that.
11 We have made every effort to close out all of her ques-
12 tions last week, and I believe that is on the A500.

13 JUDGE BLOCH: Mrs. Ellis.

14 MS. ELLIS: Yes sir.

15 JUDGE BLOCH: We will give you an extra five
16 dyas so that you will have an opportunity to incorporate
17 in the new information. If that is inadequate, you can
18 make a separate filing on the new information within
19 20 days of the new information being received.

20 MS. ELLIS: I'm sorry, I didn't understand that
21 last.

22 JUDGE BLOCH: If you are unable to make you
23 full response with a 5-day extension, it is 5 days to
24 whatever the next business day is. Then, you may in-
25 stead make your response on the schedule time, but make

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1 a supplementary response 20 days after you receive the
2 new information.

3 MS. ELLIS: Alright. I frankly, at this point
4 without a doubt that Mr. Walsh and Mr. Doyle are going
5 to be interested in supplementing your answer. I think
6 that they have gone through a lot of time. They have
7 spent two years on this already, I think it is unfair
8 to ask them to do that, but we will do the best that we
9 can. Is this five business days from the 10th, or are
10 you talking about by the 15th, or 5 days from the time
11 we get the information.

12 JUDGE BLOCH: I am giving you a five day ex-
13 tension automatically, and if you want to take that, you
14 would incorporate in that finding the comments on the
15 new information the staff obtains. I am assuming now,
16 that Mr. Horin is correct, that that will be filed this
17 week, isn't that what you said, Mr. Horin?

18 MR. HORIN: That's what I said.

19 JUDGE BLOCH: Okay. Assuming that it is filed
20 this week. You will have till the 15th of September to
21 incorporate in your comments on that stuff. Now, if you
22 can't incorporate that in, file on the 10th, and then
23 file a supplement 20 days after you receive the new
24 information. So, you have a choice.

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1 MS. ELLIS: Okay, if we file on the 10th, we
2 can supplement it with the new information.

3 JUDGE BLOCH: Right, or if you will file on the
4 15th, that will be inclusive. Well, the 15th will go to
5 the next business day. I haven't looked at the calendar.
6 That is a Friday, so that is okay.

7 MR. HORIN: The 15th is a Saturday, so it would
8 be the 17th, which is a Monday.

9 JUDGE BLOCH: Okay, it would be the 17th.

10 MR. HORIN: That sounds like a very reasonable
11 date.

12 JUDGE BLOCH: Anything else that is necessary,
13 Mrs. Ellis?

14 MS. ELLIS: There is one further thing that I
15 would like to get on the record. We would like to re-
16 quest the CYGNA-applicants meeting on the sinched-up
17 U-bolts because of its importance, if at all possible be
18 held at Comanche Peak so that Dr. Balt (phonetic), Ms.
19 Balt can attend and at least take notes, because there is
20 no telling when we will have the transcript of that
21 meeting, and I think that would be the most expeditious
22 way to do it.

23 JUDGE BLOCH: Okay, Mr. Horin could we..

24 MR. HORIN: Mr. Chairman, I don't even know if
25 chat meeting is still scheduled. There is significant

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1 information, the material on which applicants would
2 need to refer. As I understand it, the meeting is in
3 New York, and that is what that material is. It would be
4 extremely burdensome for applicants to have to gather
5 all of that information and cart it down to Comanche
6 Peak and then cart it back. We have throughout the ex-
7 ercise with CYGNA met whatever information is located,
8 and it simply would be burdensome for Applicants to
9 have to do that.

10 JUDGE BLOCH: Okay, how about a ...

11 MR. HORIN: We will be meeting somebody at the
12 meeting, if indeed the meeting is still scheduled. I
13 don't know if it is.

14 JUDGE BLOCH: Well, if it is scheduled, can we
15 arrange a telephone hookup?

16 MR. HORIN: For a..

17 JUDGE BLOCH: Yeah, put a squawk box in the room
18 with the people and let CASE listen in.

19 MR. HORIN: It would certainly be possible. I
20 would still stand on the Board's previous ruling. I
21 thought that the meeting would be open, and that there
22 would be a full-written transcript of the meeting in
23 accordance with the protocol procedures, and that CASE
24 will have that available to them.

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1 MS. ELLIS: One of our problems is that the
2 transcripts have been so slow in coming, we did not
3 receive the transcripts of the August 6, August 8, and...

4 MR. HORIN: We are not talking about the tran-
5 scripts. We are talking about meeting someone, prepared
6 by CYGNA following the meeting.

7 JUDGE BLOCH: Will the staff be present at that
8 meeting, Mr. Mizuno?

9 MR. MIZUNO: I don't know. This is the first
10 time I heard about the meeting. I'm not...

11 JUDGE BLOCH: We mentioned the meeting in our
12 last call, and it was obvious to me, because it was on
13 the sinched-up U-bolts, which was a mature issue at the
14 least, that it was the kind of matter that should be
15 open. I hope that the staff will attend that meeting
16 if it is still on.

17 MR. MIZUNO: I didn't see any meeting notice, or
18 anything, and Mr. Horin obviously doesn't know whether
19 it is still on or not so...I don't know who is going to
20 be there.

21 MR. WADE: Mr. Horin, this is David Wade. I
22 think this meeting is scheduled for next Monday, tena-
23 tively subject to Ms. Williams at CYGNA getting with the
24 NRC staff, getting the notice published for that meeting.

25 JUDGE BLOCH: Thank you Mr. Wade. Well, Mrs.

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1 Ellis, I think the fact that it is open, and that there
2 will be a meeting summary, and that the staff will also
3 be there. No. I guess I would like Mrs. Ellis to be
4 able to have a telephone hookup into that room also, as
5 a way of making that open. This is, after all, an issue
6 in which we have already issued a decision. It is an
7 issue in which there were questions raised by CYGNA in
8 its first report. It is now subject to summary dispo-
9 sition, and it is an open matter in the CYGNA second
10 report. I want CASE to have a full opportunity to par-
11 ticipate by hearing the conversation as it is going on.

12 Anything else, Mrs. Ellis. I will give the
13 other parties a chance in a moment, but they usually
14 don't have anything else.

15 MS. ELLIS: Alright. Let us know just as soon
16 as possible, David, as to when that is going to be.

17 I would imagine that what we will do on the
18 Richmonds is to go ahead and file on the 10th. As I
19 said, I will do the best I can on the welding findings.

20 JUDGE BLOCH: Okay, you don't have to committ
21 yourself on that, but are there any new matters for us
22 to discuss?

23 MS. ELLIS: I think that is about it.

24 JUDGE BLOCH: Do any of the other parties have
25 new matters?

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1 MR. MIZUNO: Yes. There is one matter relating
2 to the welding findings, which is whether the parties, or
3 the staff at minimum will have a chance to file respon-
4 sive filings, since the welding findings, as I understand
5 they are simultaneous. The regulations normally provide
6 for staggered filings with the staff being able to
7 comment on both the Intervenors and the Applicants.

8 JUDGE BLOCH: Yeah. What I have requires
9 simultaneous findings in the past, I have provided for
10 an opportunity for a rebuttal filing as well for all
11 parties.

12 MR. MIZUNO: Will you set a time, could we dis-
13 cuss a time for...

14 JUDGE BLOCH: Yes. Propose a time.

15 MR. MIZUNO: My suggestion, since we are going
16 to be having the, rousing, I'm sorry, the hearings on
17 intimidation for at least one week, and possibly running
18 over to the next, that we don't have findings due until
19 the 28th.

20 JUDGE BLOCH: You mean, you want a change in
21 the date for filing the welding findings?

22 MR. MIZUNO: No. No. The responses.

23 JUDGE BLOCH: The responses? Okay.

24 MR. MIZUNO: I thought this should be...

25 JUDGE BLOCH: Mr. Horin, what do you think about
that?

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MR. HORIN: That's three weeks, that's fine.

JUDGE BLOCH: Mrs. Ellis, no objection?

MS. ELLIS: No objection.

JUDGE BLOCH: So, that is adopted. There will be responses permitted by the 28th.

MS. ELLIS: There is one further thing about answering the thing. The Applicants have indicated that they plan to respond to all of CASE's answers to motions for summary disposition, and I would like to know if there is any sort of time limit on that, or are they going to be given open-ended time on that?

JUDGE BLOCH: That is the staff?

MS. ELLIS: The Applicants.

JUDGE BLOCH: To respond to what?

MS. ELLIS: To respnd to our answers for their motions for summary disposition.

JUDGE BLOCH: Yeah. I was going to be promptly notified about whether you were going to do that, and have a time from you, Mr. Horin. At least, that is how I remember it.

MR. HORIN: We are having a meeting this afternoon to go over that, and attempt to come up with a schedule. As I said, in the last conference call, we of course responded to a couple, that with respect to the ones that we just received last week, we have no

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1 schedule yet established, and we will be discussing
2 that this afternoon.

3 JUDGE BLOCH: Is there a chance that you are
4 at least able to respond within the normal 20 day period
5 for responding to summary disposition motion?

6 MR. HORIN: There is a chance, certainly with
7 respect to some of those. When we receive 5 or 6 at a
8 time, it is difficult to do that. I think Mrs. Ellis
9 was given a full opportunity over three months to re-
10 spond to these, and so we will certainly attempt to
11 reply expeditiously.

12 JUDGE BLOCH: Mrs. Ellis, I would like to assure
13 you on these matters in which you had difficulty filing,
14 especially since you had once won on these matters we
15 do not intend to declare defaults. We will consider the
16 merits of these matters and not decide them as a matter
17 of default.

18 MS. ELLIS: That's good to know. I appreciate
19 that.

20 JUDGE BLOCH: Any other necessary matters for
21 this hearing? There being none, this pre-hearing con-
22 ference is adjourned.

23 (Whereupon, at 12:10 p.m. on Wednesday,
24 September 5, 1984 the hearing adjourned.)

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CERTIFICATE OF PROCEEDINGS

This is to certify that the attached proceedings before
the NRC COMMISSION

In the matter of: Texas Utilities Generating Co.
(Comanche Peak Steam
Electric Station, Units
1 & 2)

Date of Proceeding: Wednesday, Sept. 5, 1984

Place of Proceeding: Bethesda, MD

were held as herin appears, and that this is the original
transcript for the file of the Commission.

KIM SCHROEDER
Official Reporter

Kim Schroeder
KIM SCHROEDER
Official Reporter

Beverly Hook
Transcriber