

ORIGINAL
UNITED STATES
NUCLEAR REGULATORY COMMISSION

IN THE MATTER OF:

SHEARON HARRIS NUCLEAR

POWER PLANT

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UNITED STATES OF AMERICA

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NUCLEAR REGULATORY COMMISSION

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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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In the matter of:

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CAROLINA POWER AND LIGHT COMPANY
and NORTH CAROLINA EASTERN MUNICIPAL
POWER AGENCY

:
:
:
:Docket Nos. 50-400 OL
50-401

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Shearon Harris Nuclear Power Plant
Units 1 & 2

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Raleigh Civic Center,
500 Fayetteville Street Mall,
Raleigh, North Carolina.

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Thursday, 6 September 1984.

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The hearing in the above-entitled matter was
reconvened, pursuant to adjournment, at 9:00 a.m.

15

16

BEFORE:

17

JAMES L. KELLEY, Esq., Chairman,
Atomic Safety and Licensing Board.

18

DR. JAMES H. CARPENTER, Member.

19

DR. GLENN O. BRIGHT, Member.

20

APPEARANCES:

21

(As heretofore noted.)

22

23

24

25

eb

C O N T E N T S

2	Witnesses	Direct	Cross	
3	E. E. Utley)			
	M. A. McDuffie)			
4	Thomas S. Elleman)		2624	
	Harold R. Banks)			
5	Exhibits			Iden. Received
6	App. 1	Sections 13.0 to 13.1.3.2, and		
7		13.4.1 - 13.5.2.2 of FSAR	2638	2638
8	JI-12	Document: "Abnormal Occurrences"		
9		etc.	2625	2749
10	JI-4			2749
11	JI-9			2763
12	JI-10			2770
13	JI-11			2778
14	JI-14			2811

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P R O C E E D I N G S

JUDGE KELLEY: Good morning.

We are back on the record.

Whereupon,

E. E. UTLEY,

M. A. MC DUFFIE,

THOMAS S. ELLEMAN,

and

HAROLD R. BANKS

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

JUDGE KELLEY: The Board has a ruling on a procedural issue that was argued yesterday.

Let me first acknowledge that Mrs. Janice Moore has joined us, counsel with the NRC Staff. We are happy to have her with us.

And let me say Mr. Robert Guild is also with us today, not here in an official appearance capacity, but he came up and said Hello to the Board. He is going to be sitting with Mr. Runkle today, as I understood him to say.

Yesterday there was a discussion of an issue about the filing of exhibits, and the issue essentially was whether all exhibits should have been filed on August 9th, the same day as the day direct testimony was due in the case.

Mr. Runkle, the lead counsel for the Joint Intervenors on

WRB/eb2

1 Joint Contention 1, has argued that exhibits were not required
2 to be filed for the hearing. And counsel for the Staff and
3 for the Applicants argued that August 9th was the deadline
4 for the filing of exhibits. And we heard a rather extensive
5 discussion of the point.

6 What emerged was that there wasn't any completely
7 clear-cut answer to the question.

8 We have considered the background of the matter
9 and also the equities, one way or the other, and we have
10 reached a ruling which we will announce in a minute.

11 Let me first go through some of the background on
12 the point.

13 The subject of filing exhibits was discussed at
14 the May 2nd prehearing conference and at that time, the Board
15 determined that exhibits should be filed at the same time as
16 direct testimony. The Board at that time intended that to be
17 the general rule for hearings in the case. We say that in
18 retrospect and what we think we meant at the time. We didn't
19 say so in so many words. It doesn't say that in the
20 transcript so far as we've been able to find. There wasn't
21 any separate discussion of the point in the record, again
22 insofar as we have been able to find, following the
23 environmental hearing and prior to this hearing.

24 It is clear that the other parties understood
25 that they were required to file exhibits on August 9th. We

WRB/eb3

1 think it is significant that Mr. Eddleman, one of the
2 co-sponsors of the management contention with Mr. Runkle,
3 apparently thought his exhibits were due on other contentions
4 on August 9th because he filed them on that date.

5 And we also note that Mr. Runkle did participate
6 personally in the May 2nd conference where this issue was
7 discussed.

8 In these circumstances, the Board think that
9 Mr. Runkle for CCNC was at least under a duty to make a
10 timely inquiry whether exhibits were due on August 9th.
11 Nevertheless we cannot point to a transcript page or an order
12 where this filing obligation was made completely clear. And
13 if there is confusion, as there obviously is on this point,
14 the Board is at least partly responsible for it.

15 We think therefore that to completely rule out any
16 exhibits by the Joint Intervenors on this contention on
17 lateness grounds would be unduly harsh, and therefore our
18 ruling is as follows:

19 First of all, copies of any exhibits the Joint
20 Intervenors intend to offer today or tomorrow that are not
21 already provided to us should be provided by the end of
22 today's session.

23 Secondly, a list of all remaining exhibits,
24 including titles, dates and other necessary identifying data,
25 shall be served on the parties and the Board at the

WRB/eb4

1 beginning of the Monday session.

2 Thirdly, the necessary number of copies of those
3 remaining exhibits shall be served on the Board and the parties
4 by the beginning of next Wednesday's session.

5 The Board considered and rejected the concept of
6 a numerical limit on the Joint Intervenors' exhibits because
7 we do think they are partly responsible for this problem,
8 for example, on 40, but we did not adopt that approach on
9 purpose. However, we are leaving open the possibility of
10 limiting the total number of exhibits after we see the Monday
11 list, see how long it is, and see how extensive the documents
12 are, and so forth. So that remains a possibility.

13 In addition, we will entertain any claims of
14 undue burden from the other parties as to individual exhibits.
15 And what we had in mind here, and we don't know what is
16 coming, if there is some particularly long, voluminous exhibit
17 that is unfamiliar to people, then getting it at this date
18 may be an undue burden, and we don't know whether that will
19 be true of any exhibit.

20 We think that this ruling strikes a fair balance
21 under the circumstances. It requires the Intervenors to
22 make final decisions on exhibits before next Monday.
23 Mr. Runkle indicates yesterday that they had not yet reached
24 that point. The Board thinks that they should have reached
25 that point before this time, so that it is reasonable to

WRB/eb5

1 require them to fish or cut bait by next Monday on exhibits.

2 We acknowledge that this may impose an unexpected
3 burden on the other parties, but we think there are some
4 mitigating factors.

5 First of all, apparently most of these documents
6 came out of discovery so that they should not, in the main,
7 be unfamiliar to the parties.

8 Secondly, elaborating a bit on a notion on a
9 notion of case-by-case relief as to a particular document, as
10 an example of one thing, the parties could ask that
11 questioning on a particular document be postponed until some
12 other day because if you haven't had time to absorb it and
13 be prepared to speak to it.

14 We don't invite those kinds of requests but simply
15 point out that that kind of a request might be made in an
16 appropriate circumstance.

17 A couple of corollary points.

18 We have spoken without differentiation to exhibits.
19 By that we mean all exhibits that that party proposed to
20 introduce into evidence, period; no qualifications. We are
21 not going to distinguish between -- quote -- "direct case
22 exhibits" -- quote -- exhibits labeled "cross-examination
23 exhibits" or exhibits that impeach, exhibits that support.
24 We are talking about all exhibits.

25 We understand that distinction and it may be a

WRB/eb6 1 perfectly valid distinction from a theoretical standpoint. It
2 seems to us, though, that if we are going to into the business
3 of distinguishing cross-examination exhibits from direct-case
4 exhibits, we will have a system that we really can't
5 administer.

6 It seems to us that this is a situation where,
7 in a sense, it is more important to be clear than it is to
8 be right, and we think what we are saying here is clear. If
9 everybody understands that, the system ought to work.

10 In that regard the Joint Intervenors-- Mr. Runkle,
11 you're labeling yours Joint Intervenors' Cross. Can you in
12 the future just label yours Joint Intervenors whatever number
13 it is going to be?

14 MR. RUNKLE: JI and the number?

15 JUDGE KELLEY: Right, JI-17, or whatever.

16 But it suggests there is a Joint Intervenors Direct
17 someplace, and we would rather not have that suggestion. It
18 is just your exhibit, that number.

19 There may be one qualification that is appropriate.
20 We said that all exhibits should have been filed by the 9th
21 or now, with regard to the Intervenors, are to be filed by
22 at least next week. There is the possibility that something
23 will develop in the case that you had not expected and you
24 may want to put in an exhibit you never thought about before.
25 You can do that on a "cause" basis.

WRB/eb7

1 If it wasn't reasonable to have expected you to put
2 that forward prior to that time, we can listen to that, case
3 by case. But apart from that-- Other parties may oppose
4 it. They may say there is no good cause, and the Board would
5 rule. Apart from that we expect them all to be in in
6 advance.

7 Apart from that point we want to take pains to be
8 clear that documents may be used in cross-examination as a
9 basis for questioning and not be introduced as an exhibit. If
10 it is relevant and otherwise not objectionable, that's a
11 common practice in NRC hearings, and it is expected that will
12 happen, and that's okay. You don't need in that case the
13 total number of copies; you don't need any copies for the
14 Court Reporter because it is not an exhibit.

15 What you do need to do is to bring in an adequate
16 number of copies so you can distribute one to counsel for
17 the other parties, one each for the Board, one for the
18 witness so the witness knows what you are reading from.
19 Typically if you had a total of six copies, you could go ahead
20 on that basis.

21 Again, this is a piece of paper used to refresh
22 recollection, test memory, test knowledge, whatever it may
23 be, but it is not going to go into the record as an exhibit.
24 And in that case you should bring your copies of those
25 documents on the day you propose to use it, or earlier and

WRB/eb8

1 hand them out. But that is sufficient advance distribution
2 as far as we are concerned.

3 Now is the point I just made clear to everybody?
4 Do you know what I'm talking about?

5 (No response.)

6 JUDGE KELLEY: Okay.

7 Let me just say a word about the future.

8 We have got, as you know, another safety hearing
9 coming up starting the 10th of October, and at some later date
10 in February or thereabouts, we expect to have a hearing on
11 the emergency planning. And let us just say now that this
12 Board means that when it sets a due date for direct testimony,
13 we also mean all exhibits in the sense we defined this
14 morning, so that will be the rule through the rest of the
15 case, not just for today but for the rest of the case.

16 That raises a question with regard to the October
17 10th hearing because the August 9th date for filing direct
18 on that hearing has already passed. Now I know Mr. Eddleman
19 filed a fair number of exhibits. He is not here today. I
20 don't know whether he filed all his exhibits. We can ask him
21 the first of the week, but I think it is just something we
22 should explain.

23 Are there contentions in that October 10th and
24 thereafter hearing other than Eddleman contentions?

25 MR. BAXTER: Yes, there are two Joint Contentions

WRB/eb9

1 in October, Joint VII(4) on steam generator tube rupture
2 analyses, and Joint IV on TLDs of the Eddleman contentions.

3 The schedule for that hearing where testimony was
4 due on August 9th, he filed exhibits on all of those.
5 Eddleman IX was due this past August 31st, and I don't know
6 whether he filed exhibits or not.

7 JUDGE KELLEY: I think we had better check the
8 first of the week.

9 MR. BAXTER: I think the area of uncertainty is
10 just beyond those two exhibits.

11 JUDGE KELLEY: Can you speak to that now,
12 Mr. Runkle, or would you have to check?

13 MR. RUNKLE: I would have to check.

14 JUDGE KELLEY: Could you check? I mean here we
15 are at whatever it is, September 6th or 7th, and that hearing
16 is a month-plus away. But if there are exhibits that haven't
17 been filed yet, they ought to be filed pretty quick.

18 Could you check as to the Joints? Mr. Eddleman
19 presumably will be here on Monday and we can clarify that.
20 If the answer is they are all filed, there's no problem. And
21 if the answer is that they're not, they we will figure
22 something out.

23 MR. FUNKLE: I would have to wait to hear from
24 Mr. Eddleman on Monday.

25 JUDGE KELLEY: All right. The two of you can

WRB/eb10

1 confer on it on Monday and let us know.

2 That is our ruling and our comments pertaining to
3 the ruling. Do we have any questions on any aspects of the
4 exhibit-filing ruling that we just made?

5 MRS. FLYNN: Could the Applicants have a moment to
6 confer among themselves?

7 JUDGE KELLEY: Surely.

8 (Pause.)

9 End WRB 1
10 WRB 2 fls.

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WRB/pp 1

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1 MRS. FLYNN: Mr. Chairman, Applicants would like
2 the Board to reconsider the Monday deadline for the filing
3 of the list of the meeting exhibits. Our reasons are the
4 following: One, a point that was not made clear apparently
5 yesterday is that -- by me -- is that the Intervenors didn't
6 get any documents on discovery as the Board members,
7 we had that phone conversation about discovery documents
8 and we pointed out there that they had not sought any other
9 documents we had offered. What they have on discovery is
10 our answers to interrogatories and then they could have
11 identified perhaps documents and we might have referred
12 to in those interrogatories.

13 They did not obtain documents from us on discovery.
14 The second and most important is that we don't have a list
15 until Monday. We will have no opportunity -- what we will
16 have to do now is to work over the weekend. If we can get
17 the list on Friday at least we would have the weekend to
18 look at the material and understand what it is. If we
19 don't get it until Monday we are going to be rushing around
20 scrambling on Monday to try to understand what could be a
21 very voluminous list of documents.

22 Even if not voluminous they are still documents that
23 merit careful attention by our witnesses.

24 Furthermore, I have reviewed the documents that they
25 propose to offer as exhibits so far. And many of these are

WRB/pp2

1 objectionable. These are -- some of these are NRC documents
2 which are not going to be offered through an author. Some
3 are incomplete documents. Their reliability is in question.
4 There's no one for us to cross examine with respect to those
5 documents. There is a serious question about their
6 admissibility. We have to have an opportunity to inspect
7 all of these -- the remaining documents that they intend
8 to offer to determine whether or not they are objectionable.

9 Some of those reasons we expect it would be equitable
10 for the Intervenors to give us their list on Friday.
11 Certainly -- they have known about this problem since at
12 least yesterday and certainly they ought to have their
13 material put together well enough by now so that they know
14 what they intend to do in their case.

15 MR. BARTH: Your Honor, from the Staff's point
16 of view we subscribe to the comments by Mrs. Flynn.

17 JUDGE KELLEY: Let me ask a question of both of
18 you. To the extent that you think some of these documents
19 are inadmissible why doesn't that lighten your burden.
20 I mean if you're pretty sure you're right? They'll never
21 get that in.

22 MRS. FLYNN: First of all, we have to have an
23 opportunity to look at them and study them to determine
24 whether they are or not. And I don't like doing that on the
25 weekend but I would much rather do that on the weekend than

1 take hearing time on Monday to look at them. I think it
2 would be much more efficient.

WRB7pp3

3 Second, whatever they are, whether they are admissible
4 or not, a list would be helpful to enable us to have the
5 witnesses examined and so that there is not an undue delay.

6 I believe, you know, if these had been filed on
7 August 9th, the witnesses and we would have had an
8 appropriate amount of time to carefully study them.

9 JUDGE KELLEY: We're still trying to make it a
10 reasonable process.

11 MRS. FLYNN: Exactly. And I think that it's
12 entirely reasonable for the intervenors to know what their
13 case is by September 6.

14 JUDGE KELLEY: Let me ask Mr. Runkle to respond.

15 MR. RUNKLE: I don't know what I quite understand
16 the point. Whether the rest of our case is, you know,
17 coherent enough to have all the exhibits we may or may not
18 want to put in. I don't think it's really open for
19 discussion at this point. However, we know where our case
20 is going. We have it outlined. Though, I'm not quite sure
21 right now what exhibits need to come in at that time. It's
22 going to take me from now until Monday morning to be able to
23 put the list. I could move up the dates, you know, the
24 documents from Wednesday to Tuesday, I don't see having a
25 list or supplying extra documents really doesn't make any

WRB/pp 4¹ difference.

2 JUDGE KELLEY: I didn't understand the reference
3 to Tuesday.

4 MR. RUNKLE: You wanted copies of all documents
5 in by next Wednesday.

6 JUDGE KELLEY: We did that for this simple
7 reason. We can see you are working as you have time to now.
8 And that over the weekend and unless Sunday afternoon you
9 get done with your list, the copy center is closed. I
10 don't know if you own a Xerox machine. That can come a little
11 later but we want to know where the documents are by
12 Monday morning. That's the reasoning behind it.

13 MR. RUNKLE: It's going to take me from now until
14 then to get that list.

15 MRS. FLYNN: Now until when?

16 MR. RUNKLE: Monday morning.

17 JUDGE KELLEY: How much do you think you would
18 have done of the list by Saturday noon?

19 MR. RUNKLE: I probably could do the next panel.
20 We won't be getting into the next panel until Monday. I
21 could have the list done Friday afternoon.

22 JUDGE KELLEY: On the next panel?

23 MR. RUNKLE: Yes.

24 MR. BARTH: Your Honor, I would like to make one
25 observation on behalf of the Staff. It does comport with

WRB/pp 5

1 Mrs. Flynn's comments. If you will look your Honor, at
2 Joint Exhibit 6, this is an inspection report by the agency.
3 It has a cover sheet and the next sheet is page 11. It is
4 so truncated from our point of view a list without the document
5 is meaningless. Someone's going to have to go out on our
6 behalf and dig up the pages 2 through 10. And these are
7 truncated documents. And as pointed out by my colleague it
8 goes on considerably past this. The list is one thing if
9 the entire document is going to be in but these are truncated.

10 JUDGE KELLEY: I think your point would cause us
11 to add one further point. We talked about -- if I may be
12 precise -- the list of all remaining documents including
13 titles, dates, and other necessary identifying data. Now,
14 under that last kind of cloudy term, if you're only going
15 to introduce page 9, the list ought to say so. Identify
16 some inspection report and say what you're interested in
17 is page 9 or page 13 or whatever it may be. So they know
18 that too. And it is no burden on you. It helps them.

19 As to truncation, obviously, you may want to introduce
20 part, and that may be okay with everybody. And some other
21 party may say we want the context, here's the rest of it.
22 You may put the rest of it in for context. But we'll cross
23 that bridge when we come to it.

24 MRS. FLYNN: Did Mr. Runkle offer to have the list
25 available for the next panel by Friday?

WRB/pp 6

1 JUDGE KELLEY: That would help.

2 MRS. FLYNN: I think that would be helpful.

3 JUDGE KELLEY: By the close of business Friday,
4 can you have the list of the next panel?

5 MR. RUNKLE: Yes, we can do that. I can have
6 it of the next panel and Monday we can have the remaining
7 CP&L panel and the Staff panel.

8 JUDGE KELLEY: That's it, isn't it?

9 MR. RUNKLE: We are really having a problem here
10 about the subpoenas now. That this is going to talk about
11 the witnesses --

12 JUDGE KELLEY: Okay. Putting that to one side.
13 But as to the CP&L panels and the Staff panels and the
14 exhibits you intend to use with reference to them, you
15 can have that list Monday and you can have the next panel
16 by COB Friday, right?

17 MR. RUNKLE: And I should have most of the
18 documents by Monday also.

19 JUDGE KELLEY: Fine, the more you've got the
20 better.

21 MR. RUNKLE: At least the originals so if there's
22 one that they're not familiar with and they want to run off
23 a copy before I can make my 10 or 12 copies, I'd have them
24 available also.

25 JUDGE KELLEY: Is that satisfactory?

1 MRS. FLYNN: Yes. Can we make clear that the
WRB/pp 7 2 next panel will consist of the Brunswick and Robinson
3 witnesses.

4 JUDGE KELLEY: What are the names?

5 MRS. FLYNN: Those are Mr. Pat Howe, Mr. Charles
6 Dietz, Mr. Ron Beatty, and Mr. Richard Moore.

7 JUDGE KELLEY: Is that your understanding?

8 MR. RUNKLE: Yes.

9 JUDGE KELLEY: Okay.

10 Well, with that modification then, with the Intervenor
11 Mr. Runkle producing at the end of the hearing date Friday
12 a list of exhibits that he proposes to introduce on the next
13 panel the names of whom were just recited and with the
14 rest of the exhibits in list form by Monday, does that
15 satisfy your needs? I realize you're not delighted, but
16 does that satisfy your needs?

17 MRS. FLYNN: It is helpful.

18 JUDGE KELLEY: Okay.

19 Mr. Barth, do you think that will be helpful?

20 MR. BARTH: Yes, your Honor.

21 JUDGE KELLEY: Well, so ordered. We will do it
22 that way.

23 We have a couple more comments by the other matter
24 we had indicated we would rule on. We're going to wait one
25 more day. And that was the witnesses on Number 65. And the

WRB/pp 8 1 reason we just want to be able to look at the transcript.
2 And we just now got it. There is certain information in
3 there that bears on it. We don't remember it all and we
4 want to look at that tonight.

5 And I expect, though, tomorrow we would be able to
6 make those rulings.

7 MR. BARTH: Your Honor, in view of your earlier
8 comment, I would direct your attention to page 2460, where
9 Mr. Eddleman stated that pre-filed documents on 41 "is not
10 all the stuff that may be used for cross examination. It's
11 the stuff I wanted to put in the record." And that
12 clarifies Mr. Eddleman's viewpoint.

13 JUDGE KELLEY: I think maybe we could talk about
14 this the first thing Monday and get it straightened out.
15 Whatever the situation is, I appreciate the reference. That
16 suggests to me that he may have in mind other documents
17 he's going to introduce. That's what it sounds like to me.

18 MR. BAXTER: It sounds to me like he's going
19 to have other documents on cross examination.

20 MR. BARTH: That's what he states, your Honor.

21 MR. BAXTER: But that he -- what he wanted to
22 put in the record he filed.

23 JUDGE KELLEY: Well, maybe that's just fine.
24 But let's talk about it anyway just to make sure.

25 We want to make just a comment about a matter that

WRB/pp 9 1 arose yesterday and it had to do with the -- it had to do
2 with, to use the acronym -- SALP report -- and it arose in
3 the context that Mr. Runkle -- I think first Mr. Barth
4 indicated that they had their pre-filed and they were going
5 to offer as exhibit the most recent SALPs but not prior
6 SALPs, and Mr. Runkle indicated his interest in having prior
7 SALPs in. It's a sort of an indication or a preliminary
8 ruling by the Board about our attitude on that. We don't have
9 the copies yet. And the Board -- myself speaking for the
10 Board reacted negatively to that sort of procedural approach
11 to the issue.

12 I -- well, the Board does not want my comments
13 about the procedural approach to be construed as throwing
14 cold water on the SALP reports in any way or on their
15 importance or significance. We're not familiar with the
16 terms of those particular SALP reports as it may bear on
17 this case. We're generally familiar with SALP reports and
18 what they're all about.

19 We were a little -- we had not focused on the fact that
20 the Staff was not intending to offer all three or all four
21 SALPs, as the case may be. There was some question yesterday
22 how many there had been.

23 Now that we have been advised of their intention to offer
24 only the most recent one, we don't want to indicate any lack
25 of hospitality to the other SALP reports.

WRB/pp 10

1 Mr. Runkle, I may point out, if you wanted to offer them,
2 you would have to have copies to pass around. You would
3 not have to have copies for the reporter because of your
4 motion to get them in loses, you wouldn't need any. But
5 you're free to pursue that approach if you wish.

6 It doesn't rule out the possibility of the Board putting
7 it in. The Staff is certainly welcome to -- now that they
8 hear the Board reaction -- if they wish to have the SALP
9 reports, the Board would be agreeable to that. We're not
10 making a ruling now. We are stating a feeling that there
11 may be some pertinence in those reports, some interest.

12 That's all we have by way of a preliminary
13 matter.

14 Are there other preliminary matters before we get back
15 to cross examination?

16 One more. We had some questioning yesterday from
17 Mr. Runkle of Mr. Utley about this ACRS letter that is marked
18 as Joint Exhibit No. 3. And then in the course of it,
19 Mr. Barth pointed out that there was an attachment. The
20 letter itself is an attachment to the SER so again, in that
21 sense, I made some observations about the non-admissibility
22 of ACRS reports on substantive issues. And I was sort of
23 left up in the air.

24 My suggestion would be, Mr. Runkle, that you withdraw
25 it as an exhibit because it is already in on the case and

WRB/pp 11

1 it's there for you to cite and use within the limits that
2 apply to ACRS letters. I don't think it would add anything
3 to put it in as a separate exhibit.

4 MR. RUNKLE: At this time I would like to have
5 it in as a substantitive exhibit. In this sort of hazy way
6 the SER was already admitted. I would like to see specifically
7 this letter in as a substantive exhibit. And I would so move
8 that.

9 JUDGE KELLEY: How do you respond to the
10 precedence in the NRC reports that say that the letters --
11 strike that.

12 Is there any objection?

13 MRS. FLYNN: There is, your Honor.

14 JUDGE KELLEY: And the grounds.

15 MRS. FLYNN: The Appeal Board upheld that the
16 letter is not admissible as substantive evidence but merely
17 for the fact that it has some issues.

18 JUDGE KELLEY: And the Staff's position?

19 MR. BARTH: Our position is identical, your Honor.

20 You'll recall your Honor, when I offered Staff Exhibit 5
21 into evidence it was merely for the purpose of complying with
22 the regulations and not for the substantive content.

23 JUDGE KELLEY: That's correct. I was indicating
24 perhaps somewhat prematurely yesterday, there are commission
25 decisions going back into the early 70's on these documents

B-3

WRB/pp 12

1 to the effect that they are not admissible as substantive
2 evidence and the theory once more is the fact that the ACRS
3 is a collegial body of 15-odd people -- not odd, but very
4 learned in fact.

End C-2

fls.

5 (Laughter.)

6 Of approximately 15 people who go to sites and
7 have meetings and come up with these letters. They are not
8 available in hearings, they are not available for cross
9 examination.

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2 They typically write letters in very conclusory
3 fashion really without spelling things out very much. For that
4 reason they are not considered to be admissible evidence in
5 our proceedings.

6 I know in the Midland case, for one, and I think
7 there are others. You may not be familiar with those particular
8 cases, but there they are.

9 Any further comment?

10 MR. RUNKLE: I will inform the Board why I wanted to
11 admit it. The second paragraph on page 2 talks about the
12 restructuring.

13 JUDGE KELLEY: Right.

14 Go ahead.

15 MR. RUNKLE: And in previous testimony in other
16 proceedings some CP&L witnesses have been confused on actually
17 how upper management will be restructured. I asked Mr. Utley
18 about this, and he answered, I think, to his benefit. I was
19 trying to impeach him, and it did not work. I mean, he answered
20 the questions I asked him and explained the applicants'
21 position.

22 MRS. FLYNN: Mr. Chairman, we are not asking that
23 the cross-examination be stricken.

24 JUDGE KELLEY: I understand. You're talking about
25 the letter.

MRS. FLYNN: Right. And the fact that Mr. Runkle

WRBwb2

1 may want it to be admitted, or would like it to be admitted,
2 cannot go against the clear case law that says that it shall
3 not be admitted for substantive evidence.

4 JUDGE KELLEY: Well, as I hear you, Mr. Runkle, you
5 are putting it in for-- There are a lot of statements, in
6 fact, on page 2 by the ACRS about what the company plans to
7 do; correct?

8 MR. RUNKLE: Yes.

9 JUDGE KELLEY: If that goes in -- if you offer
10 this as evidence without restriction, let me just state
11 another general principle we operate under. If you offer a
12 piece of evidence, and it's admitted, it's in for any purpose
13 for which it can be used. It is only when you offer it and
14 it is brought in for some very narrow purposes that it is
15 restricted to that purpose. If you're offering this without
16 restriction, it's in there for the opinion of the ACRS that
17 certain management rules ought to be made. And that, I think
18 it is pretty clear, is not admissible under the NRC precedents.

19 Now, it's useful for you to state why you want it
20 in, what you're using it for. If the Board rules against you
21 on the letter, you have got your position in, and you can take
22 it up. But apart from the bare fact that the ACRS did, in
23 fact, write a letter of this nature, as we read the cases that's
24 as far as we can go with one of these documents.

25 So we are going to reject it as substantive

WRBwb3

1 evidence. We will leave it in as an offer of proof accompanied
2 by your explanation.

3 Now, are there other preliminary type things to
4 raise before we get to the cross-examination?

5 MR. RUNKLE: No, your Honor.

6 JUDGE KELLEY: Mr. Barth?

7 MR. BARTH: None, your Honor.

8 MRS. FLYNN: Nothing.

9 JUDGE KELLEY: Do you want to start or do you want
10 to stretch?

11 WITNESS UTLEY: We're with you, your Honor.

12 (Laughter.)

13 JUDGE KELLEY: Mr. Runkle, do you want to resume?

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14 CROSS-EXAMINATION (Continued)

15 BY MR. RUNKLE:

16 Q Mr. Utley, about, oh, a quarter after five yesterday
17 afternoon I asked you, or I read you a sentence from a document,
18 and then asked you if you agreed to it. Since that time I
19 have supplied copies of that document to you and all the
20 other parties. That document is captioned "Joint Intervenor" --
21 and it will now be "Joint Intervenor 12," we will take off
22 the "cross-examination."

23 Do you have that document before you, sir?

24 A (Witness Utley) Yes, I do.

25 Q Can you turn to the first page of that document?

WRBwb4

1 Can you read the title of what this document is?

2 A "Abnormal Occurrence: Blockage of Coolant Flow to
3 Safety Related Systems and Components."

4 MR. BARTH: Your Honor, a procedural matter. I
5 don't think that the Reporter has marked this for identifica-
6 tion.

7 JUDGE KELLEY: I thought Mr. Runkle referred to it
8 as his proposed Exhibit 12. It's not an exhibit yet. It can
9 be numbered 12 for cross purposes.

10 (Whereupon the document referred to
11 was marked Joint Intervenor 12 for
12 identification.)

13 BY MR. RUNKLE:

14 Q Mr. Utley, is Carolina Power and Light or any of
15 their reactors discussed in this document?

16 A (Witness Utley) Yes.

17 Q Which one of the reactors is discussed?

18 A The Brunswick units.

19 Q And what specific abnormal occurrence does this
20 document discuss?

21 A It discusses blockage of coolant flow to heat
22 exchangers.

23 Q Has CP&L had this problem at the Brunswick reactor?

24 A There has been a situation at Brunswick where the
25 flow has been retarded in the RHR heat exchangers. This

wrb/wb5 1 blockage was caused by accumulation of oyster shells.

2 Q For the record can you briefly describe what an
3 RHR is?

4 A That's a heat exchanger that removes heat from the
5 reactor system. That heat is transferred to the cooling water
6 system and is released to the discharge from the plant.

7 Q And, for the record, what does the acronym stand
8 for?

9 A That's the residual heat removal system.

10 Q Does the blocking of this RHR heat exchanger ever
11 lead to any possible damage, or loss of coolant, or some other
12 accident to a reactor?

13 MR. BARTH: Your Honor, as a point of clarification.
14 Is he referring to, Has this ever in the past to a reactor
15 that he knows about, or in the design could it? I think the
16 question is ambiguous, and on that basis I object, your Honor.

17 JUDGE KELLEY: Can you clarify it?

18 BY MR. RUNKLE:

19 Q Has it ever in the past, or could it in the future
20 lead to any accident.

21 MR. BARTH: Those are two questions, a compound
22 question, your Honor. I object to the compound question.

23 JUDGE KELLEY: Well, it sort of goes to comprehensi-
24 bility.

25 I think you can go ahead and answer.

RB?wb6

1 WITNESS UTLEY: Of course, all nuclear plants are
2 designed with a number of redundant systems. And, of course,
3 any time you interfere with a redundant system this reduces
4 the number of systems that are available for the operation
5 of the plant.

6 BY MR. RUNKLE:

7 Q I'm going to read to you a sentence on page 2 of
8 this document. It's the last sentence of the first paragraph.
9 It's the same sentence I read to you yesterday. I will read
10 it to you and you can tell me whether you agree with it or
11 not.

12 "Failure to provide adequate cooling could
13 result in severe damage to the safety related components
14 or systems designed to safely shut down the plant to
15 mitigate the consequences of a major occurrence (such
16 as loss of coolant accident, LOCA)."

17 Do you agree with that statement, sir?

18 A. (Witness Utley) If you fail to provide adequate
19 cooling certainly it could result in damage; the key point
20 there being adequate cooling.

21 Q Sir, when did CP&L find out about this problem?

22 A. As I recall, it was in the spring of 1980. Either
23 '80 or '81, I'm not positive.

24 Q How did this come to your attention?

25 A. Well, it came to my attention in a number of ways,

WRB/wb7

1 as any matter of significance at a nuclear plant does. One,
2 it was reported to me by the people who had the responsibility
3 for the operation of facilities; two, it also was discussed
4 with me by our vice president for corporate nuclear safety,
5 who also follows events of this type that relate to safety.
6 And I'm sure there were other sources of information and
7 discussion in regard to this situation by staff personnel
8 aside from the line management and the corporate nuclear
9 safety organization.

10 Q And who was the vice president for corporate nuclear
11 safety at that time?

12 A Dr. Elleman.

13 Q And he's on the panel?

14 A Yes, sir.

15 Q Dr. Elleman, when did you first become aware of
16 this problem?

17 A (Witness Elleman) As I recall, my first contact
18 with it was when I received a telephone call from an individual
19 associated with the plant. And in that conversation we
20 discussed the back-up cooling arrangements that had been
21 prepared, and confirmed that temperatures were being maintained
22 and that there did not appear to be any severe continuing
23 problem.

24 Q To your knowledge, when did the Nuclear Regulatory
25 Commission staff become aware of this problem at the Brunswick

WRB/wb8

1 reactor?

2 A. I would presume they were notified quite soon, when
3 the events associated with the plant were identified. I
4 don't have any direct knowledge as to when that notification
5 occurred.

6 Q. And what were the events at the plant?

7 A. The events associated with the RHR system failure?

8 Q. Yes.

9 A. As I recall the events, it was the -- the unit
10 was shut down, Unit No. 1 at Brunswick; that pluggage was
11 detected in one of the RHR heat exchanger units. The other
12 unit was out for mainteaance at the time. And the reason for
13 that maintenance removal was corrected, and that unit was put
14 on line to provide heat removal.

15 When a pump, a second pump was started up on that
16 second unit, it resulted in -- as a result of fouling in that
17 unit it resulted in a pressure buildup that caused some failure
18 in the heat removal characteristics of the second unit. At
19 that time provisions were made for backup cooling. And, as I
20 recall, this was using the core spray system. It also
21 involved using a cross-coupling of cooling to the spent fuel
22 storage pool.

23 At a later time, other provisions for cooling were
24 made, and the units were, over a period of time, repaired and
25 were returned to service.

WRB/eb1
fls wrb8

1 Q Would it be fair to categorize this scenario as
2 a precursor to a possible common-cause failure?

3 A Yes. A precursor is any event which can be an
4 event in a chain of other sequences leading to an accident
5 of some severity, and so in that sense yes, it could be
6 characterized as a precursor.

7 Q And in this document, JI-12, it is described as an
8 abnormal occurrence. What is your definition of an abnormal
9 occurrence?

10 A An abnormal occurrence is an occurrence which
11 involves a failure or a malfunction which is separate from
12 or distinct from the normal operations and the normal
13 procedures at the plant.

14 Q So this was something that was unexpected by--

15 A That's correct. It was unexpected.

16 Q And the first time that you became aware of it was
17 when you were starting up the Unit 2 in this period?

18 A I don't recall that that was the sequence. I
19 recall that we became aware of it as a result of perception of
20 lowered flow through the heat exchanger into one RHR unit
21 that was providing cooling.

22 Q Do you have a better idea of when actually CP&L
23 found out about this problem then, Mr. Utley?

24 MR. BARTH: Objection, your Honor. The question
25 has been asked and answered. He first became aware of it by

WRB,eb2

1 a telephone call from the site. The question has been asked
2 and answered.

3 MR. RUNKLE: Mr. Utley responded that it was either
4 in the spring of 1980 or '81.

5 MR. BARTH: Still, your Honor, he asked Mr. Elleman
6 "When did you first learn of it?" He said, "A personal
7 telephone call."

8 JUDGE KELLEY: One of the problems with
9 asked-and-answered objections is that they take longer to rule
10 on than to get the answer. I think this early in the day if
11 a lawyer gets involved in a lot of obviously redundant
12 questioning, at some point you have to say, "Hey, cut it out."
13 I certainly haven't heard that from Mr. Runkle.

14 You may be right, but I think it is simpler just
15 to let him go ahead, so I will overrule the objection.

16 MR. RUNKLE: Let me rephrase the question to be
17 more precise in what I'm asking.

18 BY MR. RUNKLE:

19 Q Dr. Elleman, do you have a date when Carolina
20 Power and Light first became aware of the RHR problem?

21 A (Witness Elleman) I notice the date on the
22 document you submitted is April 25, 1981. Now I'm not sure
23 whether that date logs the reporting of the event or logs
24 the initial discovery of the flow blockage, or what, but it
25 is clearly in that time frame that the problem developed.

WRB/eb8

1 Q So it would be in the spring of 1981?

2 A That's correct, yes.

3 A (Witness Utley) It was reported timely to the
4 parties that needed to know the information, and it was acted
5 on promptly.

6 Q What actions did Carolina Power and Light take
7 promptly?

8 A (Witness Elleman) The prompt actions were related
9 to ensuring that there was adequate backup cooling to the
10 reactor, that the activities were initiated relating to the
11 repair of the RHR system, the chlorination problems which had
12 prevented the addition of chlorine that caused the event were
13 addressed and were resolved.

14 There were a series of later actions that we took,
15 some of which are still being completed. For example, we
16 participated as the host utility in a study through the
17 Nuclear Safety and Analysis Center to evaluate the reliability
18 and the safety implications of RHR system failures. Since
19 this has been an industry problem and since it occurred in a
20 number of places, NSAC regarded this as an important question
21 to approach from an industry perspective.

22 JUDGE KELLEY: What was the acronym, Doctor?

23 WITNESS ELLEMAN: NSAC is the Nuclear Safety
24 Analysis Center. This is a group within EPRI, the Electric
25 Power Research Institute, that focuses on safety-related

RB/eb9

1 questions in the nuclear power industry.

2 JUDGE KELLEY: Thank you.

3 BY MR. RUNKLE:

4 Q Dr. Elleman, what caused the blockage of the RHR
5 heat exchangers?

6 A (Witness Elleman) The review of the event
7 supported that the blockage was caused by shellfish,
8 principally osyster shells, that broke off within the system
9 and plugged the tubes on the RHR heat exchangers.

10 Q Do you have any knowledge of how those shellfish,
11 oysters, got into the system?

12 A They were a consequence of the absence of
13 chlorination in the system over a preceding time period, and
14 they developed in the service water system.

15 Q How long does it take for an oyster to become
16 large enough to block the system?

17 A This is a subject that I am not knowledgeable on.
18 I would comment that the plant personnel were aware that
19 this was a potential problem. They periodically inspected
20 a related heat exchanger to verify that shellfish or algae
21 growth was not becoming excessive, and so they were attempting
22 to monitor this problem prior to it occurring.

23 Q What did the personnel at the plant do if the
24 growth of shellfish was excessive?

25 A You mean what would be the normal procedure?

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Q Yes, what was the normal procedure?

A The normal procedure is a program of chlorination would be maintained that would prevent shellfish growth from occurring.

Q And how long was the system not being chlorinated?

A It was a matter of some months from the time the chlorination system was first voluntarily removed from service because of some necessity associated with the modification that was underway until it was returned to service after the event itself.

MR. RUNKLE: At this time I would like to move that
JI-12 be introduced into evidence.

End 3
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WRB4/eb1

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JUDGE KELLEY: Any objections?

MR. BARTH: May I have just a moment, your Honor?

(Pause.)

Your Honor, we object to the motion to move this into evidence. It has been used for a very, very limited purpose, consisting of one paragraph on page 1, Table 1, and for six lines in the first column on page 2. That testimony is in; the purpose has been served. There is no reason to put this piece of paper into evidence, which would then put every other part of this document into evidence, for whatever purpose I do not know.

From Mr. Runkle's viewpoint, as I see it, he has made his point. He cited an abnormal occurrence. Carolina Power and Light had that abnormal occurrence as they explained, and I think the record at this point is clear. To put this in for other purposes, what would happen if it were accepted in evidence, it is going to clutter this record with matters about Arkansas Nuclear 1, Pilgrim 1, San Onofre Unit 1, Rancho Seco 1, Arkansas 1, which are irrelevant issues.

All matters in this document are irrelevant except the portions which were referred to Mr. Utley and to Mr. Elleman. Therefore, we object to the rest of the document as irrelevant. There is no foundation for its admission.

JUDGE KELLEY: I thought there was testimony that this was an industry problem that occurred in a number of

WRB/eb2

1 other plants. Isn't that right?

2 MR. BARTH: I think, your Honor, that the
3 contention before us is that the Applicants have not
4 demonstrated the adequacy of their management.

5 JUDGE KELLEY: I'm talking about the witness'
6 testimony. The witness said it was an industry problem at
7 a number of other plants. He certainly says it is found at
8 a number of other plants.

9 MR. BARTH: That's beyond the purview-- I don't
10 care what he testified. It's beyond the purview of the
11 contention.

12 JUDGE KELLEY: I care a great deal what he
13 testified.

14 MR. BARTH: He has mentioned many things which do
15 not relate to the management competency and the technical
16 competency of Carolina Power and Light to operate the Shearon
17 Harris plant. That's the matter which we are now hearing.
18 We are not hearing whether Arkansas and other plants have the
19 general competence. That does not relate to the competence
20 of the present Applicants before this Board for a license
21 for the Shearon Harris Power Plant. We are not concerned
22 with what happens to the rest of the industry.

23 JUDGE KELLEY: The thrust of the objection now is
24 this would burden the record with extraneous material. Is
25 that correct?

WRB/eb4

1 MR. BARTH: This is irrelevant to the contention
2 and irrelevant, your Honor, to the technically--

3 JUDGE KELLEY: It is also three and a half pages
4 long.

5 Well, any objection from the Applicant?

6 MRS. FLYNN: We have no objection to this particular
7 document. We want to make clear that we are not waiving any
8 right to object to any other NRC documents which may be
9 offered by Mr. Runkle.

10 JUDGE KELLEY: I don't think anybody is estopped
11 as the case progresses.

12 Objection overruled. It is admitted in evidence
13 as Joint Intervenors' Exhibit 12.

14 (Whereupon, JI-12, having
15 been previously marked
16 for identification, was
17 received in evidence.)

18 JUDGE KELLEY: Do you want a cup of coffee at this
19 point?

20 Let us take ten minutes.

21 (Recess.)

22 End C-4 WRB
23 AGF fls.

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JUDGE KELLEY: Back on the record.

MRS. FLYNN: Before cross-examination begins, I have one administrative detail. Applicants had prefiled an exhibit with the testimony of this panel which has not yet been marked and put into evidence and I would like to do that now if I might.

This is Sections 13.0 to 13.1.3.2 and Sections 13.4.1 through 13.5.2.2 in the Shearon Harris Final Safety Report.

JUDGE KELLEY: What do those sections pertain to?

MRS. FLYNN: These are on the organization of -- the CP&L organization and the Harris plant.

JUDGE KELLEY: Okay. That's numbered and you're offering it now, Mrs. Flynn?

MRS. FLYNN: We're offering it as Applicant's Exhibit 1.

JUDGE KELLEY: Any objection?

MR. RUNKLE: None at all.

MR. BARTH: There's no objection, your Honor.

JUDGE KELLEY: It is numbered and admitted.

(Whereupon, the document previously referred to was marked for identification as Applicant's Exhibit 1 and received in evidence.)

AGB/agb3

1 way I would represent the event.

2 Q And who would make the characterization that it
3 later would be untimely?

4 A I think the appearance of the problem is what
5 tells you that it was untimely.

6 Q Would you characterize this then as a design
7 problem with the RHR heat exchangers?

8 A No, sir, I would not characterize it that way.

9 Q A maintenance problem?

10 A A maintenance problem in the sense that it
11 applies to the chlorination and the maintenance of the
12 chlorination system, yes.

13 Q Would it be fair to characterize this as a
14 management problem?

15 A I think that management has a responsibility in
16 all events of this kind to make sure that there is a
17 timely return of services and facilities that are
18 required for plant operation.

19 So in that sense, yes, I would characterize it
20 as a management problem.

21 Q And when was this problem remedied?

22 A It was remedied shortly after the discovery of
23 the plugging. It was remedied through the repair of the
24 RHR systems and the return of the chlorination system.
25 I do not know the dates at which these specific things

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JUDGE KELLEY: Okay. Mr. Runkle?

MR. RUNKLE: There were two other exhibits.
Were you going to --

MRS. FLYNN: Those are with the later panels' testimony. I propose to introduce those later.

May I also add that on page seven of this panel's testimony there is a blank where this exhibit is referenced. We can now make that Applicant's Exhibit 1.

JUDGE KELLEY: Right.

MRS. FLYNN: Thank you.

JUDGE KELLEY: Okay.

Mr. Runkle, I guess you can resume.

CROSS-EXAMINATION (Continued)

BY MR. RUNKLE:

Q Dr. Elleman, in looking at this abnormal resulting around the RHR heat exchangers, would you characterize this as a monitoring problem?

A (Witness Elleman) A monitoring problem?

I'm not sure I understand, sir, the question.

Q Is it not true that over time these shellfish accumulated to such an extent that it became a problem; is that not true?

A I would characterize it as a failure to return the chlorination system to full service in a time period which was subsequently found to be timely. That's the

AGB/agb4

1 occurred.

2 Q That would be some time after the spring of 1981?

3 A It would be shortly after the plugging was
4 discovered, yes.

5 Q Since the time in the spring of 1981, has the
6 Brunswick reactor had any problem with the RHR heat
7 exchangers?

8 A They have not had problems of this character.
9 As with any system, there are various maintenance
10 problems that can arise from time to time. I presume that
11 we have had some of these. I cannot specifically recall
12 the instances, however.

13 Q Have any other clams or shellfish gotten into
14 the cooling system?

15 A Not to my knowledge.

16 Q I'd like to ask a question to Mr. Banks:

17 On this same problem, the abnormal occurrence
18 with the RHR heat exchangers, when did QA become aware of
19 this?

20 A (Witness Banks) I became aware of it at the approxi-
21 mate time that it happened. I was made aware of the situation
22 at the plant through the QA organization that the condition
23 existed.

24 Q So how did QA initially become aware of the
25 problem?

agb/agb5

1 A. The QA organization on-site was made aware
2 at the plant by some people that they had a problem and
3 what was happening and they provided inspection services
4 necessary to do whatever action was necessary and I was
5 then informed through my management.

6 Q. Was that a line worker that notified QA or a
7 supervisor or plant manager? Can you tell us what level?

8 A. I couldn't tell you right offhand, it has been
9 so long back. But I would suspect it was probably through
10 the management change. I would suspect that the super-
11 visor or director at the site got the word from the
12 supervision in that area. That's normally what takes
13 place.

14 Q. Excuse me, Mr. Utley.

15 A. (Witness Utley) Yes, sir.

16 Q. I have asked both Dr. Elleman and Mr. Banks how
17 they became first aware of the problem of the RHR heat
18 exchangers.

19 When did you first become aware of the problem?

20 A. I believe I have testified to that and that was
21 I was informed by telephone by line management.

22 Q. And that was the plant manager?

23 A. No, no, it would not have been the plant manager
24 that informed me necessarily. That was, as I recall, the
25 man at that time that was filling the position of manager

AGB/agb6

1 of nuclear generation.

2 Q And who was that then?

3 A That would have been Mr. Furr.

4 Q And that's Benny Furr?

5 A Yes, sir.

6 Q And is he -- At that time was he in the corporate
7 office?

8 A Yes, he was.

9 Q How did he first become aware of the problem?

10 A I'm sure it was the normal way that management
11 stays current on things that are taking place in respect
12 to problems of this type; it would have been through the
13 line management chain.

14 Q So it came up through the line management in
15 the normal course of your operations?

16 A It would be my thought that that's the way it
17 happened.

18 Q Dr. Elleman, I have a series of questions to you
19 about your department, so I will be asking you questions
20 for a while, okay?

21 A (Witness Elleman) All right.

22 Q Dr. Elleman, when did you first come to work
23 for Carolina Power and Light?

24 A I joined Carolina Power and Light in the summer
25 of 1979.

AGB/agb7

1 Q Before that you were at North Carolina State
2 University?

3 A Yes, sir, that's correct.

4 Q And your educational and professional experience
5 -- well your professional experience would be in the
6 nuclear, would it not?

7 A My educational experience was in chemistry and
8 my advanced degree is in physical chemistry. My early
9 work experience was in the nuclear-power related aspects
10 of the industry.

11 Q Have you taken any courses on management,
12 personnel, human factors or anything like that?

13 A I have taken some courses of this kind, yes.

14 Q A lot, a little --

15 A I would say a little.

16 I have, however, participated in management
17 functions in most of the positions that I've held prior
18 to joining CP&L.

19 Q Now is one of the duties of your department
20 to review the LER's that arise for the plants?

21 A Yes, sir.

22 Q Can you describe the range of LER's that your
23 department may investigate?

24 A LER's are reports that are generated when
25 deviations from tech spec requirements occur at a plant.

AGB/agb8

1 They can represent fairly inconsequential events such as
2 an instrument being out of calibration or a particular
3 reading exceeding for a short period an allowed reading
4 or, alternatively, they can represent events of some
5 significance like a pump that has failed or a valve that
6 has malfunctioned. So they can encompass a range of
7 problems.

8 Now the NRC has recognized this, they recognized
9 that they haven't been in the past useful as a screening
10 device for safety problems, so in December of last year
11 the LER reporting system was revised to limit the number
12 of events that were reported as LER's and so there's been
13 a change in this year in the kinds of events that are
14 being reported.

15 Q Do you have any estimation at this time what
16 percentage of LER's -- what difference there might be in
17 the percent of LER's between this year and last year?

18 A There is a dramatic reduction in the amount of
19 LER's from both plants.

20 Q Can you quantify that at all?

21 A As I recall the last time I saw data that we
22 had I believe one from one plant and five from the other
23 facility. And this is drawing strictly on my memory now.

24 Q Is that primarily attributable to the reporting
25 change?

AGB/agb9

1 A. No, I believe it's attributable to several
2 factors. I think the reporting change is a part of it.
3 I think improvements in management control, the improvement
4 in knowledge of people at the plants is a part of the
5 improvement.

6 Q. Would you expect to see more LER's for a plant
7 in operation or a plant that was in outage?

8 A. Typically I would expect to see more that are
9 occurring when changes are underway: when power level is
10 being changed, when you are shutting down, when you're
11 starting up. It's these kinds of configurations that tend
12 to produce LER's.

13 Q. So at startup/shutdown you would expect to see
14 more LER's than normal operation?

15 A. In the past a number of the LER's occurred
16 during the surveillance program on instruments. If the
17 instruments were found during the checks to be out of
18 spec, this could yield an LER.

19 Q. And that would be such things as condensation in
20 th/2 instruments --

21 A. There can be a variety of causes. That's a
22 potential cause, yes, sir.

23 Q. Who decides when an occurrence becomes -- an
24 occurrence that needs to be reported becomes an LER?

25 A. Well it is not really a judgment call. There

agb/agbl0

1 are carefully prescribed requirements for reporting and when
2 an LER should be reported, so the sytem is triggered
3 automacically.

4 Whenever an event occurs that requires an LER,
5 this then undergoes an evaluation at the plant site, the
6 remedial actions that are to be carried out are presented
7 by the plant personnel and this becomes a part of the
8 reported LER.

9 Q Carolina Power and Light, in their nuclear
10 -- operation of their nuclear plants and the construction
11 of Shearon Harris also have reports called deficiency
12 disposition reports, do they not?

13 A Yes, sir.

14 Q And what are those?

15 A We do not deal with those reports. I'm not
16 the appropriate person to discuss the specifics of those.

17 Q And who is the --

18 A I believe Mr. Banks' organization becomes
19 involved with those.

20 Q And you do not review these deficiency
21 disposition reports?

22 A We are primarily oriented in our activities to
23 operation-related reports and events.

24 Q Carolina Power and Light also generates internally
25 things that are called Non-conformance Reports, do they not?

agb/agb11

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A. Yes, sir, they do.

Q. And what are those?

A. Those are reports that are again generated by the QA organization related to deficiencies which they have identified.

Q. And some of these deficiencies may be LER's and may not be?

A. That's correct, yes.

Q. And you do not review these Non-conformance Reports, do you?

A. We do not on a regular basis. Now we can become involved under special circumstances. For example, if there appears to be a pattern that requires evaluation, the QA organization may solicit our assistance in reviewing and understanding whether a pattern is there. So we can in special instances become involved.

Q. Certain of these LER's could be categorized as abnormal occurrences, could they not?

A. Yes, sir.

Q. And would you spend more time looking at those that would be abnormal occurrences?

A. What we attempt to do in our activities is to look for events that have potential safety significance. We look at a variety of sources of which LER's are just one. We attempt to focus on any of them that appear to

agb/agbl2

1 have future safety implications.

2 So I would hate to generalize one class of
3 input as being more significant than another.

4 Q In your opinion, does the corporate nuclear
5 safety conduct an independent review from QA's?

6 A Yes, sir. We have some overlapping functions
7 but we are basically independent in the things that we
8 are doing.

9 Now this is not to say that we do not
10 coordinate our activities, that we are not aware of what each
11 organization is involved in, we do this.

12 Q Can I draw your attention to what has been
13 admitted as Applicant's Exhibit 1? Do you have a copy
14 of that in front of you?

15 A I'm not sure.

endAGB5

AGB6flws

1 Specifically, page 13.4.2-1.

AGB/pp1

2 A Would you say the page again, please?

#6

3 Q 13.4.2-1.

4 MR. BARTH: Your Honor, may we ask the Counsel
5 to repeat the page citation. We missed it.

6 MR. RUNKLE: Okay, that would be Applicant's
7 Exhibit 1, which is from the final Safety Analysis Report,
8 the Shearon Harris Nuclear Power Plant, page 13.4.2-1.
9 And the copy that was presented to us this morning is under
10 Amendment number 13.

11 BY MR. RUNKLE:

12 Q Do you have that in front of you, Dr. Elleman?

13 A (Witness Elleman) Yes.

14 Q Could you give the title of Section 13.4.3 for
15 us, please?

16 A The title is Independent Review.

17 Q And that is one of the functions of the Corporate
18 Nuclear Safety Unit, is it not?

19 A Yes, sir.

20 Q And is that unit under your authorization?

21 A The support of our department, yes.

22 Q -- under your authority.

23 And that would be to conduct an off-site independent
24 review program conforming to criteria ANSI N18.7-1976, is
25 it not?

AGB/pp 2

1 A Yes.

2 Q Did you conduct an off-site independent review?

3 A Yes, sir.

4 Q And further down on this page it talks about
5 other things that the Corporate Nuclear Safety Unit reviews,
6 does it not?

7 A Yes.

8 Q And specifically in the third paragraph it lists
9 several specific things such as plant procedure changes,
10 does it not?

11 A Yes.

12 Q Now, further on down that list it says "Conformance
13 to regulatory requirements and any item deemed appropriate
14 for review relative to safe operation"?

15 A Yes.

16 Q Does the Corporate Nuclear Safety Unit conduct
17 these reviews?

18 A Yes, sir.

19 Q Would it not be fair to say that the non-conformance
20 reports were specifically oriented towards addressing the
21 conformance through regulatory requirements?

22 A Yes, they are.

23 Q And additionally would not the deficiency disposition
24 reports also look at either regulatory requirements or safe
25 operation of the plant?

AGB/pp3

1 A I think the wording in the text isn't intended
2 to suggest that our group is the only organization monitoring
3 regulatory requirements. There are other organizations
4 participating in this and the QA organization shares this
5 responsibility with ourselves.

6 Q How do you determine that all these possible
7 occurrences get reviews if you are doing some of them and
8 quality assurance is doing others then?

9 A We have procedures within our department that
10 define our responsibilities, that define who's to carry out
11 what actions. As a part of our management overview myself
12 and Dr Jeff Jeffries, who is the Manager of Corporate
13 Nuclear Safety will periodically check the timeliness of
14 these, review our records to substantiate that these things
15 are being done.

16 Q You normally would review the LERS?

17 A That's correct, sir.

18 Q The other two, the deficiency disposition reports
19 and the non-conformance reports if you were requested to
20 by some other department?

21 A That can happen, yes.

22 Q Sir, when was the Department of Corporate Nuclear
23 Safety first formed?

24 A The department was created in the summer of 1979.

25 So the elements in the department had been pre-existing.

AGB/pp4

1 however there were significant changes that occurred over
2 the following years that developed some of the activities to
3 the present responsibilities.

4 Q And so that -- in forming the Corporate Nuclear
5 Safety and Research Department that would be either 1979
6 restructuring organization?

7 A It occurred in that approximate time frame, yes.

8 Q And that would be part of the total reorganization
9 of the CP&L management at that time?

10 A Yes.

11 Q Has the department undergone any other major
12 organizations in that time?

13 A We originally had the corporate quality assurance
14 function as a part of our organization as Mr. Utley testified
15 yesterday at the time the corporate QA department was formed,
16 that responsibility shifted to QA. We have had changes in
17 emphasis that have occurred within our programs as we have
18 developed. For example, one of the requirements that was
19 recommended by the Rogovin and Kennedy commission studies
20 following TMI related to the creation of on-site independent
21 safety review groups to be formed at plants. And we added
22 that to our responsibilities as a part of our activity.

23 Another activity that was added was the systematic
24 evaluation of events at other plants. And so the independent
25 review of events at other plants is also a part of our

AGB/pp5

1 activity that was added.

2 Q How long did you department also have the QA
3 function?

4 A Part of the department, at the same time the QA
5 department was created -- and I'm sure Harold would know
6 better the specific timing of that than I would.

7 A (Witness Banks) March of 1981 is when we
8 went to the department and we had the quality assurance
9 audit functions in his department prior to that time. Prior
10 to that time the QA organization was in many different
11 departments.

12 Q So actually between when Corporate Nuclear Safety
13 was started in 1979 until March of '81, there was just the
14 QA auditing function?

15 A In our department, yes sir.

16 Q And then when the total QA department was formed
17 and all of the QA functions went into that one department?

18 A (Witness Utley) I think there needs to be
19 some clarification in regard to those comments such that there
20 is no mistake. There was a quality assurance program that
21 goes back to the point in time that we really started our
22 first nuclear plant. The points to be made are that we
23 had quality assurance under the operations department and
24 we had quality assurance under the construction and
25 engineering departments. And we had a corporate audit review

AGB/pp6

1 that looked over the total QA program. Another important
2 aspect that I think we need to get on the record here in
3 regard to Dr. Elleman's program, and I look at it as being
4 very important to the program, and that is Dr. Elleman has
5 the freedom to visit -- not only the freedom but a requirement
6 to visit the plants and talk to individual employees as he
7 sees fit throughout our organization. In regard to anything
8 that they see that is being done that is not, in their view,
9 being carried out in a safe way.

10 This is very important information because it is
11 unedited by any line management function. And Dr. Elleman,
12 being the type of individual that he is, people feel free
13 to talk with him and tell him just how they feel about the
14 situation.

15 In addition to that, he also reports to the Board of
16 Directors, annually, and more frequently if the need arises.
17 And this report is an unedited report by Dr. Elleman to
18 the Board of Directors. Not even the President and Chief
19 Executive Officer edits these reports. And I think that
20 tends to set forth an independent review in its true sense
21 as it relates to the management responsibilities.

22 Q And this independent review would be in part
23 due to the Kennedy study?

24 A (Witness Elleman) What was a study carried out
25 on Three Mile Island accident. That is one of the major

AGB/pp 7

1 studies with recommendations for changes. And part of that
2 was the creation of onsite independent safety groups at
3 new plants. Now I would add that we do not have a specific
4 regulatory requirement that that be done at all of our plants.
5 It's required for the Harris unit but we voluntarily elected
6 to institute it at all three of our sites.

7 Q Dr. Elleman, when your department began reviewing
8 LERs -- strike that please -- when did your department first
9 begin reviewing the LERs?

10 A The LERs have been reviewed within the company
11 for the period of time that it was a part of the tech specs
12 and a regulatory requirement. That precedes the department
13 creation in 1979. So I really do not know how far back
14 historically it goes. It was a process that was underway
15 at the time the department was formed.

16 Q But since 1979 does your department systematically
17 review the LERs?

18 A Yes, sir, we have.

19 Q Did you review the LERs that started at that time
20 and have proceeded over the years or are there ones before
21 that time?

22 A As I say, I do not know back historically how
23 far back it goes, so I really can't address that question.
24 Now I know since I have been with the company we have
25 reviewed the LERs at some time period after they have been

AGB/pp8

1 prepared and submitted to us. And that's a fairly short time.
2 It's a timely review of the LERs.

3 Q And those LERs have only been since March of '81
4 in your department?

5 A Since summer of '79.

6 Q Excuse me. Since summer of 1979. Are you caught
7 up with your reivew of LERs?

8 A I believe us to be so, ves sir.

9 Q And with the change in reporting requirements
10 so far this year you will have your LERs to review?

11 A That's correct.

12 Q Have you always been caught up in your review
13 of LERs?

14 A Of LERs?

15 Q Yes

16 A Occasionally there are reasons for holding back
17 on the review to establish the completion of certain plant
18 activities or to resolve items that for one reason or another
19 are kept open. And so there can be a variable time period
20 for the review. Some may be within a month after the
21 submission of the report. Some for good reason can drag on
22 longer. And so there is some fluctuation in the completion
23 of our review. But I've always believed us to be current and
24 in the context of your question, yes, caught up on the reviews.

25 Q Sir, do you ever report directly to Sherwood Smith?

AGB/pp9

1 A Yes, sir. Mr. Utley commented just a few minutes
2 ago on that, I do.

3 Q His comment went to --

4 A You're correct, that's right.

5 Q -- the Board of Directors. Do you report
6 directly to Mr. Smith?

7 A I report to Mr. Smith at least twice a year on
8 matters related to nuclear safety, yes.

9 Q If you or your department did observe something
10 that had major problems and that you thought it was expedient
11 to have -- take any range of action including having the
12 plant shut down, how would you go about implementing that?

13 A You use word major problems. I assume you are
14 implying something that has significant safety implications
15 associated with the event?

16 Q Yes.

17 A The first step to be taken would be to discuss
18 this with the plant operating staff, the management at that
19 site, to share with them the perspectives they have on the
20 issue. If they have properly understood the circumstances
21 then I would expect that would be sufficient. The plant staff
22 would take the needed actions.

23 A (Witness Utley) I'd like to add to that,
24 Dr. Elleman reports to me. And I have the authority of the
25 total operation of all the nuclear facilities. And he

AGB/pp10

1 certainly understands that that type of information would,
2 if not properly acted on by the plant as he describes, steps
3 would indeed be taken to see that it was properly acted upon.

4 Q Has he ever brought any of these things to your
5 attention?

6 A We have never experienced a situation that I
7 interpreted your question to mean. Problems of that
8 significance we certainly talk about a number of things,
9 about the plant operations, and its relationship to safety
10 day in, day out. Let me go back to the LER because I'm not
11 sure the record's clear here even though we mentioned it
12 yesterday. In respect to LERs, I'd like for you to realize
13 that we have carefully evaluated and assessed LERs since
14 there has been such a thing present at CP&L. In fact there
15 was a special task force set up back in the 70's to take a
16 particular look at the LER situation at our Brunswick plant.
17 And that group was chaired by me personally.

18 Q And when was this task force set up at Brunswick
19 to look at --

20 A I don't recall the exact date. It was back in
21 the 70's. It was at a time that we were concerned that the
22 numbers of LERs were low and we thought were appropriate.

23 Q Did the reporting requirements for LERs change
24 from that time until just recently?

25 A I would not say the philosophy that was followed

AGB/pp11

1 by the management in regard to careful review of LERs changed.
2 Of course, with change of organization and change of
3 responsibilities, it naturally changed who had what
4 responsibilities. But the responsibility was always there
5 that management review, and pay particular attention to LERs
6 in regard to the importance as well as the number as well as
7 a dedicated effort reduce the number of LERs.

8 And I think that effort has been successful as
9 Dr. Elleman describes the conditions that prevail. Although
10 we are still working to try to even have further improvements
11 on them.

12 Q Dr. Elleman, in your department of Corporate
13 Nuclear Safety and Research do you receive clear and in-depth
14 operational reports on the failure histories of different
15 components and systems in the nuclear power plants?

16 A There is an industry system called NPRDS which
17 is managed by the Institute for Nuclear Power operations,
18 whose function is to report this kind of information for all
19 plants. And we have had training in the use of NPRDS and I've
20 had access to that system as needed.

21 Q What does that acronym stand for?

22 A It is a computer program for maintaining an
23 inventory on components and parts that have failed. I would
24 have to guess a little bit as to the acronym. I've used it
25 as NPRDS for so long, I don't recall what it specifically

AGB/pp12

1 stands for.

2 A (Witness McDuffie) Nuclear Plant Reliability
3 Data System.

4 Q Thank you. And that would be for similar
5 components and systems across the nuclear industry?

6 A (Witness Elleman) Yes, sir. Including those
7 at our own plants.

8 Q Do you receive any additional information of
9 those components and systems within the CP&L plants?

10 A Well, we have a variety of ways for looking for
11 looking for insight into similar industry problems or
12 similar industry failures. Let's say an event occurs at our
13 plant that we want to properly understand the significance
14 of. We have access to NRC data bases on similar failures
15 that have occurred at other plants. We have access to
16 INPO that maintains data on their understanding and their
17 interpretation of the significance of these events.

18 We are acquiring access to a document which is called
19 Nuclear Power Experience, which is a summary of events at
20 all plants. And it's indexed by component on failures that
21 have occurred. Failure both using and trying to further
22 develop our ability to learn from experience at other plants
23 as well as at our own.

24 Q And INPO would be the Institute for Nuclear
25 Power Operations?

AGB/pp13

1 A That's correct, yes.

End #6

2 Q When you say that when an event occurs at the
3 plant, what do you mean by an event. Would that be an LER?

AGB fls.

4 A It could be an LER. It could be something that
5 was reported upon in the management meetings at the plant
6 that was an unusual event of some sort. We will also look
7 at events at other plants and then try to look at the
8 potential for those applying to our facilities.

9 Q In similar plants you would look at especially
10 those components similar to those in use by CP&L?

11 A Yes, sir.

12 Q Do you also stay abreast of different nuclear
13 plant components and system events at nuclear power plants
14 abroad?

15 A Not very much. There is some U.S. manufactured
16 components used in overseas reactors. It's difficult enough
17 keeping up just with U. S. experience. I think as an
18 industry we're improving our understanding of foreign
19 operations and the significance of events, but there really
20 are not good formal processes for doing this at the present.

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AGB/wbl
#7

1 A (Witness Utley) I might add to that that the man who
2 heads up our training program has made a tour of Europe and
3 visited the plants in Europe and really made a study of their
4 operation. And, of course, he has brought back the programs
5 and information on the ways they are doing business, for the
6 benefit of not only Carolina Power and Light Company but for
7 the benefit of the industry, in that he has made formal
8 presentations to the Institute on his operations on this
9 visit.

10 Q Dr. Elleman, on the NPRDS, is that data base
11 primarily on-- Was that established after events, or is that
12 sort of a baseline on all components and systems?

13 A (Witness Elleman) It is a failure data base that
14 when the plant maintenance organization experiences a failure
15 of a pump or a component they file a report on that failure
16 which goes into NPRDS.

17 Q How does Carolina Power and Light keep track of
18 those components and systems that much qualified environmentally?

19 MR. BARTH: Objection, your Honor, to the line of
20 questioning, in view of the fact that, in our view, it is not
21 relevant to the contention which is now before the Board. It
22 has been going on for well over an hour. Questions on foreign
23 reactors, on LERs, have not a demonstrable self-evident
24 relationship to the contention, and I object to the line of
25 questions. It's irrelevant, your Honor.

AGB/wb2

1 JUDGE KELLEY: Let me make sure I understand the scope
2 of the objection. It is beyond the pending question; is that
3 correct?

4 MR. BARTH: It is beyond the scope of the contention
5 that is at issue.

6 JUDGE KELLEY: The question that was just asked was
7 how you keep track of environmentally qualified components,
8 or something like that.

9 MR. BARTH: It's not just to that question, it's to
10 the line of questioning, your Honor.

11 JUDGE KELLEY: The line of questioning. How would
12 you characterize the line?

13 MR. BARTH: The line of questioning is to define
14 and describe LERs, what an LER is, what the various types of
15 violations are, what data and information is contained on
16 foreign reactors, what data and information is contained in the
17 industry's assessment of the LERs that is going on. The line
18 of questioning has been to describe what types of data are
19 collected. It is unrelated, in our view, to the technical
20 competence of Carolina Power and Light safely to operate the
21 Shearon Harris facility within the confines of regulations with
22 ue regard to the public health and safety, which is the issue
23 before us.

24 JUDGE KELLEY: I'm still not entirely clear on the
25 scope of the objection. Now, there were several topics here:

AGB/wb3

1 LERs, LER data, foreign reactors. What is the common thread
2 that you see in those topics that you find objectionable?

3 MR. BARTH: They are merely discussions of data
4 bases. There has been no connection as to the technical
5 competency of Carolina Power and Light to manage.

6 The definition of an LER, your Honor, is unrelated
7 to whether or not these people can technically manage.

8 This whole line of questions has been to define
9 various kinds of data bases and various kinds of information
10 collected.

11 JUDGE KELLEY: Let me see what Mr. Runkle has to
12 say in response.

13 MR. RUNKLE: Sir, it seems to me that the information
14 that they collect and the analyses they perform of that informa-
15 tion is highly relevant to their review of their nuclear power
16 plants and changes that they have to make in the management of
17 those plants. I don't think I'm dwelling too excessively on
18 this; I'm just trying to cover the basis on how they make their
19 decisions, what they base their decisions on. If it's review
20 of LERs or foreign reactors, I think that's highly relevant.

21 JUDGE KELLEY: Do the applicants care to comment
22 on the objection?

23 MRS. FLYNN: No, your Honor.

24 JUDGE KELLEY: None?

25 (The Board conferring.)

FlwsAGB/wrb3

AGB/agbl

1 JUDGE KELLEY: The Board is going to -- and does
2 -- overrule the objection. It seems to us as a general
3 proposition what management knows about what happens at
4 other plants is certainly relevant to how they are doing
5 their job, how they're applying possibly generically-
6 applicable information to the plant.

7 The objection was cast in very broad terms.
8 It really came to saying that that acquisition doesn't
9 have anything to do with management and we just don't
10 agree with that.

11 So we're overruling the objection.. We would
12 add a sort of general observation that this is a difficult
13 contention to deal with as contrasted with the contention
14 about whether a pipe is going to break or whatever;
15 I think it is inherently rather amorphous.

16 But we do think it would be desirable, as we
17 get into the topic now, as we are now beginning to do
18 that Intervenors and other questioners later attempt as
19 best they can to relate their questions as directly as
20 possible to the ultimate issue of management competence
21 that is at stake here.

22 So I think it amounts to a Board observation and
23 caution to attempt if you can to be a little more focused
24 in some of your questioning toward the management
25 competence issue.

AGB/agb2

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But at the same time we think the stated questions are viable.

Why don't we take about a three-minute stretch and come back and go until noon and go to lunch? But please do not go away and we'll try to pick up again in about three minutes --

MRS. FLYNN: Excuse me, I believe there is a pending question. Would you like that answer before --

JUDGE KELLY: That's a good point

MR. RUNKLE: I have some follow-up to that one, I'll just reask --

JUDGE KELLEY: Let's save it until after the stretch.

(Brief recess.)

endAGB#7

WRB#8 flws

NRB8/eb1
fls AGB7

1 JUDGE KELLEY: Back on the record.

2 Go ahead, Mr. Runkle.

3 MR. RUNKLE: Thank you, your Honor.

4 BY MR. RUNKLE:

5 Q Dr. Elleman, before the break I asked you a
6 question about the environmental qualification of nuclear
7 plants' components and systems.

8 How does CP&L monitor the environmental
9 qualification of their equipment?

10 A (Witness Elleman) Now when you say "monitor,"
11 is this a purchasing question, that when we purchase a
12 replacement part how do we assure that it has proper
13 environmental qualification, or is it related another way?

14 Q Briefly, let's start there.

15 In purchasing equipment, how does CP&L determine
16 whether the equipment is environmentally qualified or not?

17 MS. FLYNN: I am going to object. There is a
18 contention in this proceeding on equipment qualification, and
19 it seems from the direction Mr. Runkle is going that that
20 is the proper forum in which to take up issues such as that.

21 JUDGE KELLEY: Is it a Joint Contention or an
22 Eddleman Contention?

23 MRS. FLYNN: That is Eddleman Contention 9.

24 MR. RUNKLE: I was only going to ask three or four
25 questions on that; I wasn't going to spend the day on it.

WRB/eb2

1 JUDGE KELLEY: Is there any real need to spend
2 any time on it at all in view of the fact that we have a
3 contention on that?

4 MR. RUNKLE: How the management determines this
5 information and what they do when they find out if
6 equipment is not qualified--

7 MRS. FLYNN: He didn't ask that question. He
8 asked how they purchased equipment to assure that it is
9 environmentally qualified. He didn't ask about any review
10 functions or management.

11 JUDGE KELLEY: Can you rephrase the question to
12 focus on management duties so far as environmental
13 qualification is concerned?

14 BY MR. RUNKLE:

15 Q Dr. Elleman, how does management review the
16 environmental qualification of nuclear plant components and
17 systems?

18 A (Witness Elleman) Well, there is a defined set
19 of systems at the nuclear plants that are safety-related
20 systems. There are requirements for performance specified
21 for these systems. When a part has to be or a component
22 has to be replaced in these systems, it is purchased to a
23 set of specifications that reflect that safety requirement.

24 If for some reason the part is not available with
25 those safety specifications prescribed for it, then an

WRB /eb3

1 analysis is carried out by Engineering. The results of that
2 analysis is reviewed by Mr. Banks' organization to verify
3 that they concur with the results, and a set of specifications
4 for the purchase of that part is identified.

5 Q In your opinion are there other components and
6 systems outside the list of designated systems that need
7 to be environmentally qualified?

8 A I do not think that that-- That's an opinion
9 question. I think it is not something that I would want to
10 speak to.

11 MRS. FLYNN: Your Honor, I would object. I think
12 that is beyond the scope of the contention.

13 JUDGE KELLEY: Let me ask a question,
14 Mr. Elleman, if I may.

15 The concept of environmental qualification of
16 equipment, does that pose any special problems to management
17 or people at the management level not presented by any other
18 kind of problem you may deal with in running a nuclear power
19 plant?

20 WITNESS UTLEY: Your Honor, let me say it is
21 important that the equipment be qualified in the respects
22 for which these systems are designed. Environmental
23 qualification is certainly an area in this category.

24 I would like to say that I think the-- Well,
25 from a management prospective, we follow all the rules and

WRB/eb4

1 regulations as related to environmentally qualified
2 equipment, and under our Nuclear Engineering Licensing
3 Department we perform the analysis and in some cases
4 contract for these analyses to assure that all equipment
5 does qualify to these specifications.

6 And we are in a program at the present time to
7 bring this equipment up to date in accordance with the NRC
8 regulations. And I think that regulation is 7901(b), as I
9 remember.

10 And again going back, this will be covered in
11 complete detail, not only from a management standpoint as
12 well as a technical standpoint as it is reviewed in regard
13 to the contention that has been mentioned.

14 JUDGE KELLEY: Well, what I'm trying to get at is
15 this. When you say "environmentally qualification," as I
16 understand it that means that certain parts have to be able
17 to withstand an environment of fire perhaps, an environment
18 of water perhaps, and you have to qualify certain equipment
19 to meet those standards.

20 WITNESS UTLEY: Yes, sir.

21 JUDGE KELLEY: Similarly I suppose you have to
22 qualify your snubbers to meet certain seismic standards, or
23 your cooling system or your pipes to meet certain other
24 standards.

25 Is there something special about environmental

WRB/eb5

1 qualification that makes it different from a seismic
2 standard or some other safety standard as far as you're
3 concerned?

4 WITNESS UTLEY: Not at all, in my understanding
5 of the context in which you are discussing it.

6 JUDGE KELLEY: I don't really see the point of
7 pursuing the separate issue of environmental qualification
8 due to the fact that you have a separate contention on it.
9 I don't think it is going to add anything.

10 MR. RUNKLE: My question to Dr. Elleman,
11 though, was did he have an opinion, were there systems that
12 were not in the designated set of systems that needed to be
13 environmentally qualified and that should be environmentally
14 qualified.

15 JUDGE KELLEY: And it was objected to, and I am
16 sustaining the objection, and we're asking you to move on
17 from environmental qualification to your next subject for
18 the reason just stated.

19 BY MR. RUNKLE:

20 Q In your opinion, Dr. Elleman, are there certain--
21 Strike that.

22 Dr. Elleman, do you perform operational event
23 analysis on those events that CP&L reports to INPO?

24 A (Witness Elleman) When you say "analysis," could
25 you clarify what you're referring to in the word "analysis"?

WRB/eb6 1

Q A review, perhaps a study, assigning a team to review all of the aspects of that event or failure?

3 A Yes.

4 Q And you would be doing that under each of the events reportable to INPO?

6 A There are no events that are -- to my knowledge that are reportable to INPO. INPO has a voluntary system to allow utilities to share information with each other, and we can put events on a computer network that they operate to pass information back and forth.

11 Some of these would be appropriate for looking at closely for safety significance. Others would have no safety implications whatsoever.

14 Q Do you have procedures established for the information that needs to be recorded for your analysis on abnormal events, LERs and things of that sort?

17 A Could you elaborate on the question? I'm not quite sure what you mean by "information."

19 Q Is there a reporting form or some kind of procedure for reports that you need to be able to conduct your analysis of abnormal occurrences or LERs or whatever?

22 A Well, there is a form and a prescribed format for the LER. If the event appears to be one that requires close scrutiny on our behalf, then we go well beyond the form. We would go in and talk with the people that were

WRB/eb7

1 involved with the event. We would secure information over and
2 above that that is formally reported. And that is done as
3 perceived as needed by the individuals in my organization
4 making that analysis.

5 Q And they would be reviewing other recorded data
6 coming from other departments either through the plant or
7 QA or whatever information they had--

8 A Yes, sir. We feel free to pursue any event or
9 any aspect of operation that we feel potentially has safety
10 implications, or could benefit from review and evaluation.

11 For example, I have not mentioned this, that we
12 will go in and analyze the performance history of systems in
13 our plants, looking for failure rates, looking for weaknesses
14 in those systems that might in future cause us potential
15 problems.

16 We generate reports and evaluations from these
17 system assessments.

18 Q So you would try to look into the future on what
19 might be a problem in the future?

20 A Yes, sir.

21 That's a problem with LERs. LERs are after the
22 event reports, and you like to have the ability to perceive
23 events prior to their occurring.

24 Q When you say you would like to-- Is this in your
25 analysis of the LERs? Why do you-- What is the basis for

WRB/eb8

1 your.... Let me rephrase this.

2 When you begin your analysis, do you analyze the
3 LERs? What other information do you analyze to try to stay
4 ahead?

5 Is that question at all clear to you?

6 A I'll try to respond to it, and I guess you can
7 decide.

8 We look for several things when we review the
9 LERs. We look for whether the plant response has been
10 correct, whether it has been sufficient, whether it appears
11 that the actions to be taken will prevent a recurrence of the
12 event.

13 Over and above that, though, we try to learn what
14 basic lessons can be gained from the LER. Does it tell us
15 something about potential future problems that may arise
16 that need to require some action or some evaluation?

17 So we use it as a learning experience as well as
18 just evaluating the corrective actions that were developed.

19 Q Do you have a classification system of LERs?
20 Some would be safety significance, others not so important,
21 that would determine the amount of time that you spend on
22 the analysis of them?

23 A There is a classification or a categorization
24 system that defines whether human error was involved or
25 defines whether component failure was involved. That is not

WRB/eb9

1 the basis, though, that we would use to decide how much time
2 to put in on it.

3 Our basis would be what is the real safety
4 significance that we can perceive in the event?

5 Q How would you make that determination on the real
6 safety significance of a problem?

7 A I think that all of us would recognize it. That
8 is an activity that requires perception; it requires
9 experience of the individual; it requires insight to try
10 and perceive the safety significance. And that's one of the
11 reasons we placed a very high priority on getting in
12 experienced people to just hopefully have that insight that
13 will let them identify safety significance.

14 We also utilize extensively the insights and
15 experience from INPO, from NSAC, from the NRC, from the
16 other organizations that are also trying to gain the same
17 perceptions and insights.

18 Q Do you in your analysis of LERs and other events
19 or occurrences that you might analyze, do you look at trends
20 and patterns?

21 A Yes, sir.

22 Q What kind of trend analysis would you look at on
23 breakdowns and failures at nuclear plants?

24 A We do several things in the trending areas. We
25 put together bimonthly reports that review the LERs and

WRB/eb10 1 identify the sources or the causes, and we try to categorize
2 LERs that appear to have similar roots or similar
3 occurrences.

4 We also, as an LER occurs, try to go back
5 historically in our data base and evaluate whether other,
6 similar events have occurred to see whether there is a
7 pattern existing.

8 We try in some instances to use the NRC data base
9 which looks at other plants, and look for events elsewhere
10 in the industry that will give us insight into this event.

11 So, depending on circumstances, we would use
12 combinations or all of these activities.

13 Q In, say, 1983, did you perform this kind of trend
14 analysis on some or all of the LERs?

15 A On some, yes; certainly not on all. Many of the
16 LERs are obvious in their implications and don't require
17 detailed analysis.

18 Q Which ones in the last year had safety
19 significance?

20 A I don't have that information with me today. I
21 would not use the term "safety --" Well, perhaps we could
22 establish which ones involved the more extensive review
23 from our department and the reasons for this, but this is
24 not information that is assembled now.

25 Q Can you remember any in the past year that did

WRB/eb11

1 have safety significance or had an increased amount of review?

2 A In the past year?

3 Q Yes.

4 A Yes, sir.

5 Q Tell us about them.

6 A Well, all right.

7 You just asked for any event that had safety
8 significance. Okay.

9 There was an event in our Robinson plant in which
10 an individual received an administrative overexposure. Now
11 that is an exposure that does not exceed regulations or
12 requirements but exceeds the limit we impose upon the
13 individual. It involved the individual failing to follow
14 certain prescribed regulations and procedures.

15 We became involved in evaluating in that case the
16 reasons for the event. We prepared a report that analyzed
17 the circumstances for it. We became involved in interviewing
18 other members of the plant organization to establish their
19 understanding of the regulations and requirements related
20 to the event to confirm that they knew how to perform in
21 a similar circumstance.

22 We are at present following on in reviewing the
23 plant actions that occur to follow up on this event.

24 That would be an example.

25 Q Did you perform this trend analysis on the

WRB/eb12

1 problems of the RHR heat exchanger at Brunswick?

2 A We performed an evaluation of RHR heat exchanger
3 events, yes, sir. And as I believe I indicated, and perhaps
4 should speak to more specifically, we have been engaged in
5 a very detailed evaluation with the Nuclear Safety Analysis
6 Center on the importance of RHR systems and on the safety
7 significance of failures in those systems at our Brunswick
8 plants.

9 Q Did you do any kind of-- Did you do this kind of
10 analysis on the containment leak rate tests at Brunswick,
11 say before 1982?

12 A If that event produced an LER then yes, sir, we
13 would have carried out a review of the event. If it did not,
14 I do not specifically recall whether we looked into that.

15 Q Since the department was set up in 1979, have
16 you done this kind of trend analysis on the LERs?

17 A Yes.

18 Q Sir, in your--

19 A Let me make sure I answered accurately on that
20 question.

21 When you say "this kind of trend analysis," I
22 cannot recall whether our reports and that breakdown and
23 analyzed LERs actually go back to 1979. They may have been
24 started at some time subsequent to that. They are an
25 activity that we have been carrying out for some time.

WRB/eb13

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Q Thank you.

In your opinion, sir, is the change in the LER reporting -- will that lead to better management?

A It will lead to better identification of events that potentially are safety significant, yes, sir. It will have that advantage.

Now a disadvantage is it tends to delete certain kinds of information that we had formerly relied on LERs to provide us, and so we are developing other processes for finding and following that missing information.

End WRB8
C 9 fls.

WRB/pp 1

#9

1 Q Have you analyzed the number of LERs in 1983 that
2 were not reported, that would have been reportable under the
3 present requirements?

4 A Let me make sure I understand the question. Did
5 we, in 1983, analyze the events that are not presently
6 reportable as LERs?

7 Q Let me explain. In 1983 there is a certain amount
8 of LERs?

9 A Yes, sir.

10 Q Have you reviewed that number of LERs to determine
11 which ones of those would not be reportable under the new
12 requirements?

13 A No, we have not made an evaluation of that nature
14 to my knowledge.

15 Q Do you have any estimate or opinion how many
16 of those would not be now reportable?

17 MR. BARTH: Objection, your Honor. He has asked
18 the question and it has been answered. He has not made an
19 analysis. If he hasn't made an analysis he can't give a number.

20 JUDGE KELLEY: Why is that information important?

21 MR. RUNKLE: He can have an opinion or estimate
22 without having done a study. There's a difference there
23 between quantitative and qualitative analysis.

24 JUDGE KELLEY: Do you have an estimate?

25 MR. ELLEMAN: It would be strictly speculation, sir.

1 I have no basis to provide it.

WRB/pp2

2 JUDGE KELLEY: Let's go ahead. He doesn't have
3 an analysis.

4 MR. RUNKLE: Oh, all right.

5 BY MR. RUNKLE:

6 Q Since 1979, when you initially came to work
7 with Carolina Light and Power, in your opinion has there ever
8 been any operational problems and other occurrences, events
9 that have led to, in any way, endangering public health
10 and safety?

11 A (Witness Elleman) There have been events that I
12 would regard as serious from a management perspective because
13 we do not desire for failures or problems to develop. I am
14 not aware of any events that presented an imminent threat
15 to health and safety of the public in any way.

16 Q Thank you.

17 I'd like to ask questions at this time of Mr. Banks on
18 QA.

19 Mr. Banks, I have to ask you this question. Do you
20 make more than \$50,000 a year from Carolina Power and Light?

21 MRS. FLYNN: Objection. Irrelevant.

22 JUDGE KELLEY: Do you think it is relevant?
23 He must think it is relevant or you wouldn't ask it. Why
24 do think it is relevant.

25 MR. RUNKLE: For the same reason that JI 2 was

WRB/pp 4

1 relevant, listing those officers and directors that made over
2 \$50,000. Mr. Banks was not on that list. There was some
3 kind of discussion why or why not, why he was or was not on
4 it. I think it is relevant.

5 MRS. FLYNN: Applicant never agreed that that
6 document was relevant. We agreed to its admission, to its
7 admissibility. We didn't know why Mr. Runkle wanted to
8 admit it but we thought it was a harmless piece of paper.
9 We do not think that the financial -- the salaries have
10 any relevance at all to management capability.

11 JUDGE KELLEY: I might add this particular
12 question calls for a yes or no answer. It's a really
13 different question than saying how much do you make? There
14 are personal elements there that really aren't anybody's
15 business. But this is yes or no, so it's a little bit
16 different. I don't think it is strongly relevant but it is
17 marginally relevant. I think it is kind of a harmless question.
18 So I'll overrule the objection.

19 Yes or no?

20 A (Witness Banks) Yes.

21 A (Witness Utley) May I add that in regard to our
22 salary administration for all of our managers and all of our
23 employees, there are careful studies made by outside
24 consulting firms as well as by inhouse organizations, that
25 not only looks at salaries, they look at salaries throughout

WRB/pp 5

1 the country. And it is a company policy to pay salaries that
2 are comparative and compare with the conditions that prevail
3 in the industry as well as in surrounding areas. So our
4 salary base is a fixed base looking at management capabilities
5 as they relate to the industry as well as surrounding areas.

6 JUDGE KELLEY: Go ahead Mr. Runkle.

7 BY MR. RUNKLE:

8 Q Mr. Barks, how important would
9 you say quality assurance is to CP&L management?

10 A (Witness Banks) Quality assurance is just as
11 important as nuclear safety. It's just as important as
12 operating a power plant.

13 Q Is there quality assurance at the fossil plants?

14 A I provide non-destructive testing to the fossil
15 plants when they need it.

16 Q Has quality assurance always been important to
17 CP&L management?

18 A (Witness Utley) I'll answer that. From a
19 management standpoint, yes. And of course, quality is
20 really a management function directed where quality is built
21 in to the product as well as maintenance programs and so forth.
22 To maintain that quality throughout the life of the plants.
23 And that has been a policy and practice of Carolina Power &
24 Light Company since I came with the company in 1951 and
25 I'm sure it goes back further than that.

WRB/pp 6

1 Q Mr. Banks, has CP&L always considered nuclear
2 quality assurance to be of special importance?

3 A (Witness Banks) To my knowledge, yes.

4 Q And this was also when the Brunswick nuclear
5 power plant was being constructed?

6 A Yes. It was also when the Robinson plant was
7 being constructed. Appendix B was not even issued until 1970.
8 It became very effective in 1971. I was hired in 1968 at
9 the Robinson plant, assigned into the Robinson plant as a
10 resident engineer. But also responsible for the quality at
11 that time. So they were performing it prior to any
12 regulatory requirement from Appendix B.

13 Q And that would be Appendix B to 10 CFR --

14 A 10 CFR, Appendix B.

15 Q How does the CP&L management convey the
16 importance of QA to the QA, QC personnel?

17 A First we have a policy statement in our corporate
18 quality assurance manual which is then transmitted down through
19 the organization which is signed by Mr. Smith, stating the
20 company policy of our quality assurance program. We have
21 indoctrinations at our plants where not only QA personnel
22 but all people that come on sight, as part of their
23 indoctrination they receive the company's commitment to QA
24 and the requirements to follow QA requirements.

25 Q And who is responsible for contractor QA?

WRB/pp 7

1 A Contractor's QA that we have as a part of the
2 organization are my responsibilities.

3 Q How much of this responsibility do you delegate
4 to, say, the Daniel Construction Company at Shearon Harris?

5 A Daniel Construction Company is only a contractor
6 that provides me personnel the same as any other contractor
7 that are qualified. We supervise and manage all the personnel
8 in the quality assurance, quality control area.

9 Q Is your current practice of conveying the importance
10 of QA, has this always been the same?

11 A Yes, it has always been the same. The method
12 of doing it and the improvements you make over time I think
13 has improved. Back in the early 70's we didn't have the
14 capability of media tapes. We now have video tapes we use.
15 These types of things.

16 A (Witness McDuffie) The construction emphasis
17 has increased. At Harris on the Brunswick project the
18 contractor had a QA organization and we had an overview or
19 monitoring further level of assurance.

20 At Harris, since the beginning of the job QA has been
21 the responsibility of CP&L and we have had a training program
22 for all Daniel employees. The videotape has given every
23 employee as he comes onsite in quality and safety and factors
24 of this sort are made clear to each employee, goes through
25 the program, signs a statement that he has had the training.

WRB/pp 8 1 Q And these QA personnel at Harris would be CP&L
2 employees?

3 A (Witness Banks) The QA, QC personnel at Harris
4 are a mixture as I gave you yesterday, of contract people
5 and CP&L people. But the responsibility and the supervision
6 is CP&L's responsibility.

7 Q Is there any difference in the management of the
8 CP&L personnel and the contract personnel?

9 A Will you explain what you're asking there? As
10 far as managing to do the job, no. But they are Daniel's
11 people and there are always some differences.

12 Q So the QA inspector would be the bottom person?

13 A QA inspector.

14 Q Okay. And then if it was a CP&L employee, they
15 would have a CP&L supervisor?

16 At what level does the management of the two become one
17 person in the end?

18 A (Witness McDuffie) Let me try to give you one
19 difference in the contracting.

20 Most of our contracts are written on the basis that
21 that a company will perform a defined scope of work. The QA
22 contract that Harold writes is that the company will furnish
23 him people. And then Harold and his QA organization furnish
24 the supervision for the contract QA inspectors, and in some
25 cases, engineers.

WRB/pp 9 1

2 Q At what level is it that a CP&L employee has
charge of both QA for CP&L employees and QA for a contract?

3 A (Witness Banks) That's a varying level. And
4 depending on what jobs are going on, what expertise is needed
5 and where is the best place to take it from. And I make
6 those decisions all the time on where we do it. It's variable.

7 Q So some may be a plant manager --

8 A The manager on site and the people reporting
9 directly to him are CP&L. From that point on down it can
10 be any mixture that is necessary that would best perform the
11 job.

12 Q Can you give an example of that now at the
13 Shearon Harris plant? What is the job, how is that broken
14 down?

15 A I need you to better define what you're asking.
16 What do you mean by a job? The whole thing is a job.

17 Q You said that there were differences, depending
18 on the job, that some of these may have different mixes of
19 CP&L employees and other contract employees?

20 A That's right. And it may be different tomorrow
21 than it is today.

22 We have a commitment to perform some of these surveillances.
23 We have to have certain qualifications. We have to have a
24 certain amount of manpower. If the manpower is not available,
25 and I have to go to the contractor to get whatever expertise

WRB/pp 10 1 I need and then define that expertise, it comes in and we
2 put it in where it is needed.

3 Q Okay.

4 You would to contract with Daniels to do your pipe
5 hanging, would you not?

6 A That's a construction function, to do pipe
7 hanging.

8 Q Does QA look at quality assurance in pipe hanging?

9 A Yes.

10 Q Okay.

11 Are they presently doing it at the Shearon Harris plant?

12 A Yes.

13 Q Okay.

14 How is the QA established to look at pipe hanging at
15 the Shearon Harris plant?

16 A We have set out the quality assurance, quality
17 control procedures that are required to be looked at for any
18 particular function, whether it is pipe hanging or anything
19 else. The personnel are qualified to do that type of
20 inspection and then he is assigned to do that inspection at
21 the site.

22 Q Okay.

23 Now, who does the surveillances of the pipe hangers
24 at the Shearon Harris site? Is it Daniel Construction workers
25 or is it CP&L employees?

WRB/pp 11

1 A It is quality assurance, quality control personnel
2 that work in my organization and they can either be CP&L
3 employees, they can be contractors, and some of the contract
4 people that I have, they are not all Daniels.

5 Q Sir, what I'm trying to get you to explain,
6 actually how it is set up. How many people are contract,
7 how many people are CP&L?

8 A I gave you the numbers yesterday. I can repeat
9 them if you want me to.

10 Q I'm trying to pick one job, pipe hangers,

11 A I would have to call out there and talk to
12 the supervision for that particular area and ask him today,
13 how many of his people are with contractors and how many with
14 CP&L, because today is one thing and tomorrow might be
15 something else.

16 A (Witness Utley) Let me comment on that and see
17 if I can clarify your concern.

18 There is a QA, QC organization under the direction of
19 Mr. Banks. In order to meet our peak loads at the site
20 at a particular time, there are CP&L employees and there are
21 contract employees. The contract being brought in under the
22 direction of Mr. Banks to carry out these functions being
23 qualified for whatever activities they might be doing.

24 And they are assigned by Carolina Power and Light
25 Company depending on each individual job. It may be five and

WRB, pp 12

1 five today, it may be all CP&L today on this project. It may
2 be three-fourths contract tomorrow. That varies.

3 And this is a continuing situation. And it goes on day
4 in and day out as you carry out the project.

5 Q What kind of management control does CP&L have over
6 the contract?

7 A Inspectors.

8 A (Witness McDuffie) We have Daniels at the site
9 as the prime contractor on the power house.

10 Now, they don't take Daniel construction workers and
11 just send them over to QA to fill another job. There are
12 several branches of the Daniel organization back in the home
13 office that hire construction workers with prior construction
14 experience or else they use them as helpers. To the same
15 extent they refer QA people to our organization either by
16 reason of past training or as a trainee that we will conduct
17 the training program.

18 Once these people are assigned to CP&L, only if we
19 approve each one are they assigned. And then we verify that
20 they have had the proper training or have been given the
21 proper training and we have the right to fire them.

22 Q And you would have the right to do other
23 disciplinary actions besides fire them?

24 A Absolutely. They are assigned to the QA
25 organization and are managed and supervised by CP&L QA. It

WRB/pp 13

End #9

AGB Fls.

is just to supplement the organization to take care of peaks.

2 We have the same situation at Brunswick and Robinson during

3 the major outages. We need increased QA personnel. And we

4 get them from contractors. Not always Daniels. It just

5 happens that Daniel is doing some work for us at Harris.

B10

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WRB10/eb1

1 Q Do the QA personnel have access to you if they
2 have problems to report?

3 A My door is open to any of them that need to come
4 to me.

5 Q Does a QA inspector often come to you with
6 problems that he needs to report?

7 A Not often. But I am also available at the site,
8 and normally as I visit the sites I do tour out where they
9 are working.

10 Q Where do you receive most of the reports of
11 problems? From whom?

12 A Through management.

13 Q And that would be-- What do you mean by
14 "management"?

15 A Through the QA management.

16 Q And that would be the QA--

17 A -- manager for the Harris. I have a manager for
18 the Harris quality assurance/quality control that is located
19 onsite. He reports to me.

20 For Robinson and Brunswick, I have a manager for
21 the Robinson and Brunswick which is located in the office.
22 He has a director at each of the sites that reports to him,
23 and that comes to me.

24 Other functions are located in the general office,
25 and I have a manager there that handles those functions,

WRB/eb2

1 and he reports to me.

2 Q How do you report QA problems to upper
3 management?

4 A I make a monthly report. I meet with Mr. Utley
5 on a basis as I deem necessary, if I have something that
6 needs to get to him.

7 If he has heard of something he will call me and
8 I'll be up there discussing it.

9 With Mr. McDuffie, I normally meet with his staff
10 on Monday mornings and attend a staff meeting and make my
11 report to him at that time of any quality problems, or if
12 his people have any, they make them to me.

13 Q Do you ever report directly to Mr. Smith or the
14 board of directors?

15 A I have not, but I have the responsibility that if
16 I have something that I cannot get solved that I am to take
17 it to them.

18 Q But you have never--

19 A I have never had to use that.

20 Q Is there anyone who could prevent the QA/QC
21 personnel from access to you?

22 A Not in accordance with policies or anything else
23 but, like anything else, that is subject to other elements
24 that I may not be aware of.

25 Q Like....

WRB/eb3

1 A I don't know of any way. If I did I would
2 eliminate it.

3 JUDGE KELLEY: We are just coming up about at
4 lunchtime. Let me know when you get to an appropriate
5 stopping place.

6 MR. RUNKLE: Let me ask about a question and a
7 half.

8 JUDGE KELLEY: All right.

9 BY MR. RUNKLE:

10 Q Do you know of any persons that have-- Do you
11 know of any person or persons that have ever prevented
12 QA/QC personnel from contacting you with a problem?

13 A (Witness Banks) I know of no case.

14 Q Thank you.

15 MR. RUNKLE: This would be a good time.

16 JUDGE KELLEY: We will come back at one o'clock.

17 (Whereupon, at 12:04 p.m., the hearing in the
18 above-entitled matter was recessed to reconvene at
19 1:00 p.m. the same day.)

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End WRB 10
WRB fls Q

WRB#11

WRB/agbl

AFTERNOON SESSION

(1:22 p.m.)

JUDGE KELLEY: We can go back on the record.

Whereupon,

E. E. UTLEY,

M. A. MC DUFFIE,

THOMAS S. ELLEMAN

and

HAROLD R. BANKS

were recalled as witnesses and, having been previously duly sworn, testified further as follows.

JUDGE KELLEY: Mr. Runkle, you were in the process of cross and you can resume.

CROSS-EXAMINATION (Continued)

BY MR. RUNKLE:

Q. Mr. Banks, if you had heard of some QA or QC concern that was not being brought to you, what procedure would you follow?

A. (Witness Banks) I would determine what was happening, find out the cause and take whatever appropriate action is necessary to assure that that didn't happen again.

Q. Do you have the authority to do that within the QA/QC Department?

A. Yes, I have.

Q. Has anyone ever brought to you a QC/QA problem

WRB/agb2

1 outside the normal chain of reporting?

2 A. Yes.

3 Q. Is this a common occurrence?

4 A. Well I would not want to say it's a common
5 occurrence. It happens on several occasions and there are
6 several different sources that they do come from.

7 Q. Could you name some of those sources?

8 A. Well one of the sources could be Tom Elleman, Tom
9 Elleman himself through his people. I get it through line
10 management. People that -- maybe a craftman that I ran
11 into on-site and they make a comment and I look into. So
12 those are a couple of sources.

13 Q. And do you have any-- Can you give us a specific
14 example of one of these problems that were brought to your
15 attention outside the normal chain of command?

16 A. Most of these that I have had, in going back to
17 look at, it turns out what it is, someone would tell me that
18 felt an inspection wasn't done completely. In other words,
19 they didn't really understand.

20 I've gone back to look at it and what we have
21 usually found to be the case is that the individual had a
22 limited knowledge of what was going on in that area, and his
23 supervision either had not communicated back to him to give
24 him the full picture or-- In most cases there was never a
25 requirement to but I feel it would have been wise to have

WRB/eb1
fls agb2

1 done that.

2 Q And that would be the line worker who brought
3 something to your attention?

4 A That's right. We have an inspector or a
5 technician that feels that things are not getting the complete
6 result that he felt we should be getting, due to his limited
7 knowledge of what-all was taking place; he feels very
8 uncomfortable. When this comes to light -- and I usually
9 work through management, to make sure that we have better
10 communication so that the inspector or technician does have
11 an opportunity to get feedback so he is comfortable with
12 what is taking place.

13 Q In the last year, how many times has this
14 happened that a line worker has come to you, or outside the
15 normal chain of reporting?

16 A I would have to give you a ballpark guess. I
17 have not kept track of all of them.

18 Q Does it occur once a month, once a week? Can you
19 give us a rough estimate?

20 A I would say I probably hear a couple a month.

21 Q And that would be at each of the different power
22 plants?

23 A No, that's total in the department.

24 Q No, I mean those would arise from each of the
25 different power plants?

WRB/eb2

1 A That's what I said. When I say in the total
2 department, I'm getting them anywhere in my department,
3 from where I have the responsibility.

4 Q Mr. Utley, do you ever have a worker bring a
5 QA/QC concern to your attention outside the normal chain of
6 reporting?

7 A (Witness Utley) I don't off-hand recall a direct
8 report on QA/QC in the context in which you asked the question.
9 There is nothing about our policy and practice that would
10 prevent it. It encourages people to make those reports if
11 they so feel it is necessary.

12 Q Have you ever had any other line worker, craft
13 workers that are not part of QA/QC bring any kind of quality
14 concerns?

15 A Not in the quality area, that I recall. I have had
16 numerous reports from craft people about problems, but
17 normally they are human relations problems not related to
18 quality.

19 Q This would be personnel type problems?

20 A Yes.

21 Q Yesterday you said that the CP&L had a system
22 where a line worker, a craft person could make a report and
23 not have his name involved. Could you talk a little more
24 about that?

25 A (Witness Banks) I will address that.

WRB/eb3

1 We have at the Harris facility set up what we call
2 a quality check program. The individual that heads that up
3 does report directly to me. He is separate from the rest of
4 the quality assurance/quality control people onsite. He has
5 no site responsibility.

6 There are forms that are located throughout the
7 site, and people have an opportunity-- If they have a
8 concern they can fill out those forms and drop them in
9 boxes which are picked up on a daily basis. They can do one
10 of two things. They can identify themselves, or they can
11 take a number off the form. If they do not want to identify
12 themselves there's a phone number. They can call in,
13 identify their number, and say "I want to know about this
14 concern that I put in." And they will have the response
15 they need, and it will be investigated. If they want a
16 report back, they just call that number and a report will be
17 given to them of what the investigation of their concern
18 was.

19 Q And there is one of these quality check points
20 at each one of the nuclear sites?

21 A Only at the Harris site.

22 Q Who is the manager of that program at the Harris
23 site?

24 A Murray Johnson.

25 Q How often is this system used?

WRB/eb4

1 A It has been in effect about three months, and if
2 you will give me a minute I will tell you how many we have
3 had up until about a week ago.

4 (Pause.)

5 A This is the report Number 11 from Murray Johnson
6 to me. I can say this has been in effect a little over
7 three months. To date we have received 157 concerns.

8 Q And what action have you taken on those 157
9 concerns?

10 A The investigator investigated every one of them
11 to find out what substance there was to them, and and have
12 taken whatever action was necessary.

13 Q What sorts of actions did you take?

14 A In most cases it was just a matter of setting up
15 some good communications with the person, that his concern
16 was not a safety concern or that he didn't have all the
17 facts, and we got the facts back to him.

18 Each one is investigated to find out if there is
19 any safety problem in what the man said, if there is any
20 action needed. In a couple of cases there has been
21 corrective action required. There were NCRs written to go
22 take whatever action was necessary. There were none of them
23 that I would have considered a significant problem.

24 Q And what do you refer to when you say NCRs?

25 A Non-conformance report. If he does identify a

1 problem it is then out back into the normal QA system to be
2 tracked and handled.

3 Q Out of those 157 reports, in how many did people
4 identify themselves?

5 A I don't have that number, but the last time I
6 discussed it with Mr. Johnson I would say it would probably
7 run in the neighborhood of 95 or a better percentage.

8 Q So almost everyone identifies himself?

9 A That's correct.

10 Q Why did you set up this quality check program
11 three months ago?

12 A We had observed what had been going on in industry
13 and we also had our own people feel that they had concerns.
14 We did a look within our own group prior to that, about 10
15 or 11 months ago. We had in-house under Dr. Elleman some of
16 his people and other ones from other groups to go out and
17 talk to our inspectors and to see if there was concerns out
18 there.

19 And after he had talked to them we found out we
20 were having some communications problems between people, and
21 we decided this was a good method to give them an opportunity
22 to communicate with management.

23 Q And when you were talking about problems with
24 communications, would that be between the line worker and
25 his supervisor, or a line worker with the quality assurance

WRB/eb6 1

personnel?

2 A Both.

3 Q And you set up this system to take care of both of
4 those problems?

5 A The system will take care of either one of them.

6 Q Why wasn't the normal operation of the QA/QC
7 picking up these problems?8 A Well, in the amount of time we've been there we
9 have identified just five problems that in most cases came
10 really from craft people. Inspection is not a 100 percent
11 proof item. With the total amount o. work, I consider that
12 a reasonable number to appear.13 Q Did you say that five of these reports -- five
14 of these concerns resulted in NCRs?15 A I'm saying five required corrective action. I
16 don't think they all required NCRs because some of the
17 action was able to be completed without an NCR.18 It might have been a field change request that
19 had to be corrected.

20 Q Okay.

21 What is a field change request?

22 A Exactly what it says. It's a field requesting a
23 change to something. Engineering evaluates it and tells
24 them what changes they can make to something.

25 Q And that would be in a procedure already in place?

WRB/eb7

1 A That's correct.

2 Q Or a normal working practice?

3 A It is a procedure. It is all done by procedure,
4 and in many cases the document was not clear enough to the
5 man in the field and he thought there was something wrong.
6 And we were then required to go back and reclarify that
7 particular field change request, or it may have even
8 required some additional work.

9 Q And how many times-- How often are field request
10 changes made?

11 A I don't have that number. It's a large number.

12 A (Witness McDuffie) The number for the Harris
13 project is in the thousands. If there is any interference
14 on a design drawing, it takes a field change request to
15 move it, or if any equipment comes in that is not as
16 specified, it takes a field change request to correct the
17 situation.

18 Q So this would be a common construction--

19 A It is a tracking method to assure that the plant
20 is built like the specs and the drawings or else engineering
21 review is made to approve the change.

22 Q Mr. Banks, on these five concerns that you took
23 action on in the quality check program, do you recall what
24 those actions were?

25 MRS. FLYNN: Objection, Mr. Chairman. It seems

RB/eb8

1 this line of questioning is straying afield from the issue
2 in this case which is the management capability to operate
3 the Harris plant.

4 JUDGE KELLEY: Well, that's true, that's the
5 issue.

6 Will you spell out a little more how you believe
7 it is straying?

8 MRS. FLYNN: I believe this line of questioning
9 has gone on for a while. There has been a discussion of
10 the mechanisms that are in place for management to become
11 aware of concerns. That I think is relevant.

12 Now we're getting into the precise details of
13 particular NCRs and particular issues, and that is not
14 related or relevant to the contention.

15 JUDGE KELLEY: Mr. Runkle?

16 MR. RUNKLE: This quality check program is a new
17 development at the plant. It has only been in operation for
18 three months, and we have to question this in a little more
19 detail than we would otherwise if we had had the opportunity
20 to have discovery on it.

21 We're just trying to find out the range and scope
22 of what this program was, what actions and corrective actions
23 they made. I'm trying to determine if these should have
24 fallen under normal QA procedures or elsewhere.

25 MRS. FLYNN: The particular corrective actions I

WRB/eb9

1 believe are not relevant to this. He has asked questions and
2 has gotten quite thorough answers on the scope of the
3 program, its purpose, why it was set up. I think there has
4 been enough that is relevant to this contention. He is now
5 getting into specifics.

6 JUDGE KELLEY: I understand.

7 The pending question is what were the nature of
8 these five particular matters. Is that right?

9 MR. RUNKLE: Yes, sir.

10 JUDGE KELLEY: All right.

11 (The Board conferring.)

12 The Board thinks it is a fairly debatable point.
13 We are going to sustain the objection. It seems to us that
14 we are here to find out about management and management
15 effectiveness, and the particular instance that might have
16 given rise to a non-conforming report of some action or the
17 particular five incidents seems to us to descend to a level
18 of detail that is not warranted, so the objection is
19 sustained.

20 MR. RUNKLE: May I address that, your Honor?

21 JUDGE KELLEY: You mean you want to reargue it?

22 MR. RUNKLE: Yes.

23 JUDGE KELLEY: No, Mr. Runkle. You have had your
24 turn and you took it, and the Board considered and the Board
25 ruled. We are not going to reopen these matters ad nauseam.

WRB/eb10 1 We are going to hear it once and we're going to rule. And we
2 have ruled.

3 Objection sustained.

4 BY MR. RUNKLE:

5 Q Mr. BANKS, in your evaluation that occurred 10 to
6 11 months ago on communication problems that were occurring
7 at the Harris plant, what led up to this investigation?

8 A (Witness Banks) It came about because we were
9 getting more than what I would consider a normal concern
10 coming to me from the people in the field, that they had
11 concerns out there, so we started an investigation to find
12 out if there was any substance to it.

13 Q And who do you refer to when you say people in the
14 field?

15 A I'm talking about the inspectors.

16 Q Your QA inspectors?

17 A Right.

18 Q And they said that the present system was not
19 working?

20 A No, they didn't say the present system wasn't
21 working. I was getting additional concerns from them that
22 they did not feel that the organization was always
23 functioning as they thought it should. That's the type of
24 concerns I was getting. It was a communication type concern.

25 And that's when I went looking into it to find out

WRB/eb11

1 what the problem was. It was not technical concerns.

2 Q If a line worker brings a quality concern to
3 either the QA inspector or his own supervisor, what actions
4 do you take to correct that?

5 A If anyone brings a concern, whether it's a craft
6 worker, an inspector, management is expected to look into it
7 to find out if there is any substance to what his concern
8 is, and to address to him the response of either there was
9 no substance, why there was no substance, or if there is
10 substance, to take whatever action is necessary to correct
11 the situation.

12 A (Witness Utley) I think one of the problems that
13 was involved here was the situation where the inspector
14 would have what he felt was a problem. It would be
15 evaluated by the engineer, and the engineer would resolve the
16 problem. There wasn't proper feedback to the person asking the
17 question as to the details of the engineering evaluation.

18 Consequently the man did not really think his
19 problem had been spoken to when it really had. So this is a
20 communications problem that we talk about, one aspect of it.
21 It wasn't a breakdown of the program per se; it was just the
22 fact we weren't carrying through with good management
23 communications feedback that kept everybody current and
24 up to date on everything transpiring.

25 Q Mr. Banks, are you familiar with the NRC rule

WRB/eb12

1 which forbids retaliation against persons raising concerns
2 with the--

3 A (Witness Banks) Yes. The rule, yes. I should
4 have let you finish. I am familiar with the rule.

5 Q What do you know about this rule?

6 A I know that anyone that desires to communicate
7 with NRC is free to do so, and as a company, we will take no
8 action against that individual for that type of communication.

9 Q And is this a written policy?

10 A It is a written policy. All my QA/QC people have
11 had it given to them at meetings that I have held with them,
12 with their management, and we distributed that information
13 to them in writing. And we also have it posted at all of
14 our facilities.

15 Q And that would be retaliation with people that
16 would be raising concerns either to CP&L or to the NRC?

17 A We would treat it the same way, but the regulation
18 is NRC.

19 Q And your policy is to treat anybody that brought
20 a concern the same way?

21 A That's correct.

22 A (Witness Utley) I think that is further
23 demonstrated in the program that we put into effect this
24 year, that everybody has the opportunity to communicate, even
25 if they did not want to be identified.

WRB/eb13

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Q And that would be the quality check program you
are referring to?

A That's correct.

End WRB 11

WRB 12 fls

#12 WRB/wbl 1

2 A (Witness Banks) Before you go to the next question,
3 let me add something here.

4 When I gave you the program I left off what I think
5 is an important piece of it. Every employee at that site that
6 has a function that we consider working, or could be working
7 within the safety areas -- and the people I am eliminating
8 are the contract people who might be out doing landscape work
9 or road work or something like that -- they would fall into
10 this category. But every employee that leaves that site, for
11 whatever reason, we have a schedule for him to come through
12 this group and be interviewed.

13 We also randomly select people on site and interview
14 them to see if they have concerns.

15 So this list of 150-some concerns is not just
16 coming from the forms; these also are coming from people that
17 could be construction people that were fired for not performing.
18 But if it was a concern we'd treat that the same way as we
19 would if it came through the box.

20 Q So every employee who is terminated is interviewed?

21 A Every employee that is terminated is interviewed,
22 if possible. There are many construction people who go home
23 on Friday with their paycheck and never come back again. We
24 make an effort to reach them, but if we can't reach them then
25 we cannot interview them.

Q And this interviewing group, as you call it, is part

WRB/wb2

1 of the quality check program?

2 A. It's part of the quality check program.

3 Q. What is this group made up of?

4 A. This group is made up of quality assurance
5 specialists and quality assurance engineers.6 Q. And they would randomly approach workers and
7 interview them if there was any concern?8 A. I have given Mr. Johnson the requirement to work
9 to the position and maintain approximately, at all times, on
10 site at least 15 percent of the people on site have been
11 interviewed. And we're not to the 15 percent yet. We're
12 working toward it, we're well on our way.13 Q. And so out of this 157 concerns, that would be
14 including the concerns of these people who were being
15 interviewed?

16 A. That's correct.

17 The biggest number of concerns come from people
18 being terminated.

19 Q. And those, no doubt, are a broad range of concerns?

20 A. Very broad. And the biggest number of them are,
21 they complain about their management: my foreman made me work.22 Q. Would these concerns also be raised on reprisals,
23 firing, harassment, intimidation?24 A. If those were the type we would investigate and
25 look at them, yes.

WR /wb3 1

Q As a managerial philosophy, would you agree with
2 the statement that actions speak louder than words?

3 A I'd say it a little differently. I think you need
4 to lead, not push.

5 Q Is it the CP&L policy to fully comply with all
6 NRC rules and regulations in nuclear construction?

7 A That is correct.

8 Q And in nuclear plant operations?

9 A That is correct.

10 Q Nuclear management?

11 A That is correct.

12 Q And other nuclear related areas?

13 A That is correct.

14 Q Has CP&L ever taken any action inconsistent with
15 that policy?

16 A Not to my knowledge; never on any intentional
17 basis.

18 Q Has CP&L ever omitted to take actions required by
19 NRC rules or regulations?

20 A I don't understand the question.

21 Q NRC rules and regulations sometimes require that
22 CP&L take certain actions. Have any of these actions ever
23 been omitted, not done?

24 MR. BARTH: Objection, your Honor. The generality
25 of the question does not set forth what violation — what NRC

WRB/wb4 1

2 requirement is at stake. If he will specify which is at
3 stake we will understand the answer and have a more adequate
4 question.

5 JUDGE KELLEY: Mr. Runkle?

6 MR. RUNKLE: I have no argument?

7 JUDGE KFLLEY: So you withdraw the question?

8 MR. RUNKLE: No, I will not withdraw the question.
9 I'd like you to rule on it.

10 JUDGE KELLEY: Well, the ruling is, it is too
11 broad and general. Everybody knows that every nuclear power
12 plant in the country has a rather long list of civil penalties
13 in the last five years. It's perfectly obvious that CP&L,
14 like anybody else, has violated NRC regulations at one time
15 or another.

16 It doesn't particular advance the football to ask
17 him the question in the first place. If you could get to
18 how many and how they bear on management, I think that might
19 be useful. But the objection is well taken and is sustained.

20 BY MR. RUNKLE:

21 Q Sir, as the head of QA/AC, in your opinion, if an
22 employee at a CP&L nuclear power plant had been harrassed
23 after bringing up a QA/QC concern, would that tend to make
24 other employees less likely to bring up other concerns?

25 A (Witness Banks) It would, if nothing had happened
about it. But I would say that I'm not aware of any situation.

WRB/wb5

1 But if I was, I would then take care of the harrassment side
2 of it, so that the rest of the employees knew that that would
3 not happen again.

4 Q Is there a difference in this between CP&L employees
5 and contract employees?

6 A No difference.

7 Q Daniel Construction Company is the biggest contractor
8 at the Harris plant. Do they follow the same policy and
9 guidelines toward retaliation and harrassment?

10 A They have the same instructions and guidance that
11 we have.

12 Q To your knowledge, do they operate in the sa-e manner
13 as you do?

14 A As I stated earlier, if I had knowledge otherwise
15 I would view it as my management responsibility to take some
16 action.

17 A (Witness McDuffie) This is certainly an area in
18 which we have discussions with Daniel management and Daniel
19 supervision. And there is no doubt in my mind but that
20 Daniel understands our position on QA and working with the
21 QA organization, and not harrassing the inspectors.

22 We have monthly reviews that involve Daniel
23 personnel, supervision, and QA activities is always a subject
24 at that meeting, and our support of the QA program, and our
25 expectations of Daniel.

WRB.ebkebi 1 Q What steps would CP&L take if an employee had been
fls wrb5 2 intimidated, harassed, fired without cause?

3 A (Witness Banks) I don't think I could answer
4 that without a little more detail. It depends on degree, what,
5 who.

6 Q Do you have a written policy or procedure in
7 regard to this?

8 A We have our employee guides that we use for all
9 our employees. And as far as harassment of any employee,
10 that would not be any different in the nuclear area than
11 anywhere else.

12 Q In your employee guide, how is harassment defined?

13 A I don't think harassment as such is defined. I
14 would have to go back and pull out the handbooks and look at
15 them, but in my mind from remembering what is in those books,
16 I have never felt, in the almost 17 years, that I ever had
17 the authority to harass anybody.

18 Q Do you think that you would know if an employee
19 of CP&L, or one of the contractors or subcontractors had
20 been harassed?

21 MRS. FLYNN: May I object again, Mr. Chairman?
22 I think once again we are straying now from the issue,
23 this company's capability to safely manage the Harris plant
24 based upon past operating experiences, at its other nuclear
25 power plants.

WRB/eb2

1 There is no evidence in the record to suggest
2 that there is evidence of harassment at CP&L's plants and,
3 under the circumstances, this is going far afield.

4 JUDGE KELLEY: Excuse me a moment.

5 (Pause.)

6 Could you give me a repeat of the question,
7 Mr. Runkle?

8 MR. RUNKLE: "Do you think that you would know
9 about it if an employee of CP&L, or one of the contractors
10 or subcontractors had been harassed?"

11 JUDGE KELLEY: Okay.

12 Could you respond to the objection first of all?

13 MR. RUNKLE: Well, the question goes to
14 Mr. Banks through his QA/QC Department to investigate those
15 effects or occurrences that may have safety significance.
16 It goes directly to the ability of management on that kind
17 of information which upper management bases their decisions
18 on.

19 MRS. FLYNN: Once again Mr. Banks has answered
20 several questions about management's sensitivity to these
21 kinds of concerns, and to the extent he could without an
22 actual incident, discussed what he would do were he aware
23 of an incident of harassment. I think he has answered those
24 questions.

25 JUDGE KELLEY: Well, as I heard your objection

WRB/eb3

1 in the first instance it was to this effect: There is no
2 evidence of harassment in CP&L operation of other facilities.
3 Under this contention that's is what we're litigating,
4 and lacking such a record basis, the question is improper.

5 Did I hear that correctly or not?

6 MRS. FLYNN: You heard that correctly.

7 I would like to add that we did not object to the
8 initial questions because arguably the way in which
9 management -- Management's attitude toward the issue of
10 harassment arguably is relevant.

11 But Mr. BANKS has answered questions about our
12 attitude toward such activities and what he would do were he
13 aware of such an activity. Therefore the line of questioning
14 I think has not elicited any relevant information that is
15 proffered and now the questions are becoming far afield and
16 do relate to matters as to which there is no evidence in the
17 record.

18 JUDGE KELLEY: What do you mean by evidence in
19 the record? Do you mean evidence in this record, or you
20 mean evidence in some Brunswick record, or where?

21 MRS. FLYNN: I mean evidence in the current
22 record of any incident of harassment at any of CP&L's
23 operating plants.

24 JUDGE KELLEY: Is there any evidence in the
25 present record about anything in the other CP&L plants?

WRB/eb4

1 I'm concerned about how we are going to administer this
2 contention. If you say, "Hey, there is nothing in the record
3 about harassment," well, what is there in the record?

4 MRS.FLYNN: If he wanted-- At this moment he is
5 using hypotheticals. He has not laid a foundation for any
6 questions about harassment. He if has a specific incident
7 in mind he ought to identify it so there could be a meaningful
8 question and answer.

9 I am also not aware of any incident on any
10 record that has anything to do with the subject. But that
11 is not really important.

12 JUDGE KELLEY: Well, but I wanted to tie down
13 your objection. I'm not sure what record I am supposed to
14 look at.

15 Can I get straight on one thing as long as we're
16 talking about harassment? I think the word needs to be
17 sharpened a little bit so that we know what we're talking
18 about.

19 I think I know what you mean, but let me try this
20 with you, Mr. Runkle.

21 I take it when you say harassment, somebody could
22 be harassed on the job because he was a green kid, or he was
23 obnoxious, or whatever, so they gave him a hard time; they
24 throw away his lunch pail, who knows what.

25 I gather you are not talking about that kind of

WRB/eb5

1 thing but, rather, I understand you to be talking about a
2 situation where an inspector let's say, to give you an
3 example, is a conscientious inspector and he is careful to
4 find any flaws, and he becomes known as sort of a
5 straightlaced, hard-nosed kind of a guy. And there are
6 certain craft people who don't like him because of that, and
7 they give him a hard time because he is raising safety
8 concerns.

9 Is that what you mean by harassment?

10 MR. RUNKLE: That is part of it. That is not
11 the example I would have given.

12 JUDGE KELLEY: What's yours? Why don't you give
13 one?

14 MR. RUNKLE: Well, harassment I would say would
15 be going toward a line of intimidation. If a line worker
16 would bring a quality concern to either QA or to the line
17 supervisor, would that line worker be harassed, intimidated,
18 fired, major actions that go to his employment?

19 JUDGE KELLEY: But there is a nexus between what
20 the employee does and a safety concern, raising something
21 with the NRC. That's what you're after, not because somebody
22 is a young kid or obnoxious or red-headed or whatever? It
23 has to do with safety concerns. Is that right?

24 MR. RUNKLE: Yes, either to the NRC or to--

25 JUDGE KELLEY: To the NRC or through the QA

WRB/eb6 1 program, either one. But it is perhaps discriminating
2 against somebody, firing them, demoting them, because of
3 that kind of activity? Is that a fair enough statement?

4 MR. RUNKLE: Yes, sir.

5 JUDGE KELLEY: And then the question, if we can
6 reach back to that, was do you think that instances of
7 harassment would come to your attention under the present
8 system? Was that basically it?

9 MR. RUNKLE: Would you know about it if an
10 employee had been harassed or intimidated?

11 WITNESS UTLEY: Let me speak to that question.

12 JUDGE KELLEY: I'm going to allow the question.
13 We had an objection. I am going to allow the question.
14 Go ahead.

15 WITNESS UTLEY: It gets to the management
16 philosophy, and I think it is important that we understand
17 this.

18 Certainly it is possible for people to be
19 harassed and management not to be able to get ahold of the
20 information. Now there could be a situation like that. But
21 we have strived in every way to set up every type program
22 that's possible to give people an opportunity to communicate
23 that problem to management and not even be identified.

24 And I can't visualize how we could have any more --
25 a better program or do anything from a management standpoint

WRB/eb7

1 that would help us better identify harassment. And it is the
2 company's policy that if harassment does take place, then
3 the proper disciplinary action will take place, based on the
4 conditions of whatever the case might be.

5 And I think our past history would show that we've
6 been quite responsible in our management and direction of
7 people, whether it be from a harassment standpoint or some
8 other problem.

9 BY MR. RUNKLE:

10 Q So I take it that the direct answer to the
11 question about would you know it if an employee or contractor
12 or subcontractor employee had been harassed was No, but we're
13 making every effort to determine that.

14 Would that be a fair summary?

15 A If the individual wanted us to know it, there are
16 means for him to communicate that in a way he would not be --
17 any action would be forthcoming on him because of making that
18 known.

19 Q Has CP&L ever taken any disciplinary action
20 against any employee of CP&L, any employee of a contractor
21 or subcontractor for harassing somebody else?

22 MR. BARTH: Objection, your Honor. This is a
23 question based upon facts which are not in the record.
24 There is no foundation. No foundation has been laid that any
25 harassment has occurred. In the absence of such a foundation,

WRB/eb8

1 the question is improper.

2 JUDGE KELLEY: Why don't you ask first whether
3 there has ever been an instance of harassment?

4 BY MR. RUNKLE:

5 Q Has there ever been an incident of harassment of
6 CP&L employees?

7 A (Witness Utley) To my knowledge, I don't recall
8 one right off the top of my head. There could have been one
9 that I am not recalling.

10 Q And would that also include employees of contractors
11 or subcontractors?

12 A That would include anybody under our direct
13 responsibility.

14 Q And the employees of the contractors and
15 subcontractors, would they be under your direct responsibility?

16 Q There are various types of contracts under which
17 these people work on nuclear plants that would not be
18 tolerated under our management philosophy.

19 End WRB 12

20 AGB fls

AGB#13

AGB/agbl

1 Q Mr. Banks, and the rest of the panel, do you
2 know of any incidence of harassment of CP&L employees or
3 employees of contractors and subcontractors?
4

5 A Not to my knowledge, as I recall.

6 A (Witness Utley) I don't recall any specifically.

7 JUDGE KELLEY: I'd just like to again make sure
8 when you ask about harassment, are we talking about
9 harassment in the sense of adverse action against some
10 employee who raised safety concerns in some fashion.

11 MR. RUNKLE: That's what we're talking about,
12 your Honor.

13 WITNESS BANKS: That's what I'm answering to, yes.

14 JUDGE KELLEY: All right.

15 BY MR. RUNKLE:

16 Q Not a personal grudge --

17 A (Witness Banks) Exactly.

18 Q Through your quality check program or any other
19 systems you have for reporting concerns, have there been
20 allegations of harassment?

21 A The answer to that is no, based on what we have
22 decided -- made a determination of what we are calling
23 harassment. I have had people who put harassment down,
24 but it fell into other categories.

25 Q In your post-termination interviews, are there
allegations arising from that of harassment?

AGB/agb2

1 A With the definition we are using for harassment,
2 no.

3 Q Just a last question on that area:

4 Is there a related term that CP&L uses besides
5 harassment that might cover this? Is there a semantics
6 problem here, you might call it intimidation and not
7 harassment or --

8 A (Witness Utley) Not to my knowledge.

9 A (Witness Banks) Nor mine.

10 A (Witness Utley) However you might interpret it,
11 it's an action that we would not tolerate, however you would
12 describe it.

13 Q And that would include -- Strike that, please.

14 Mr. Banks, can you turn to page 27 of the
15 Utley et al. testimony?

16 A (Witness Banks) I'm at page 27.

17 Q Yes, sir.

18 On page 27 and the couple of pages that follow,
19 you describe the retention of the Management Analysis
20 Company, known as MAC, in August of 1982, do you not?

21 A That's correct.

22 Q Briefly what charge did CP&L give MAC in doing
23 its analysis?

24 A They were given the charge to come in, to look at
25 the total quality assurance program of CP&L, identify any

agb/agb3

1 violations of regulations that we may have by the type of
2 program we have, identify any areas that we're not complying
3 with them, identify any areas that we could improve our
4 program and make it a better program.

5 Q And it is true, is it not, that MAC made 167
6 recommendations to you on improvements that quality
7 assurance could make?

8 A That's what it states in the testimony.

9 Q What were the range of these recommendations?

10 A Organizational changes, procedure controls,
11 training.

12 Q And it states that you adopted 164 of these
13 recommendations, did it not?

14 A That's correct.

15 Q And you have gone ahead and implemented all of
16 those recommendations except for six?

17 A Six of them are in the process of being completed,
18 they're not completed yet.

19 Q What are those six recommendations?

20 A You'll have to give me a minute.

21 (Pause.)

22 The six items that are still being worked are
23 all at the Brunswick facility.

24 We have a -- We were reviewing system engineering
25 functions to provide a more effective system engineering and

agb/agb4

1 we're considering organizational structure to provide more
2 centralized control of engineering.

3 This was a recommendation on how the engineering
4 functions at the Brunswick plant were functioning and some
5 recommendations they thought that would improve the method
6 of it and it is being looked at and evaluated by the plant
7 and they'll take what actions they think are appropriate.

8 Next was a centralized drawing control and
9 drawing -- and control system. And this once again is
10 also being looked at. These have an expected completion
11 date of 1986.

12 What we have in place -- there is nothing wrong
13 with what we have in place, these are recommendations to
14 improve our operations.

15 A centralized document control and record
16 management system. A site procedure for document control
17 and record management. A centralized plant modification
18 document filing and provide better document control
19 procedures.

20 So the total scope of those six really falls into
21 drawing and document control for a total site and the
22 engineering organization that they have on-site and how
23 better to make them function -- that they felt would
24 improve our operations.

25 Q And is that the QA system engineering or is that

agb/agb5 1 the overall plant --

2 A. That's the overall plant engineering.

3 There was no restriction -- these people looked
4 at our total operation as a quality operation.

5 Q. Who made the decision to retain the Management
6 Analysis Company?

7 A. Mr. Utley and I.

8 Q. Why did you decide to retain MAC?

9 A. We retained MAC based on the results that we
10 have seen in industry on their ability to do this type of
11 function, and they had qualified people that we felt, by
12 looking at their resumes, that could give us the best job.

13 A. (Witness Utley) Some further comments on
14 Management Analysis:

15 They are looked at in the industry really as
16 being one of the stronger consultant firms in the field of
17 quality assurance.

18 In fact, John Jackson, who is one of the principals
19 in the organization, his background is quality assurance.
20 He's looked on -- if there is such a thing as an expert
21 in quality assurance, he would be considered one of those.

22 A. (Witness Banks) And we selected Jack Norris to
23 be our project manager for it--which works for them, and
24 Jack has been in the quality assurance business and is
25 well-known throughout the industry. I think he's been in

agb/agb6

1 it for about 50 years.

2 Q In your opinion, what were the most significant
3 recommendations made by MAC?

4 A Management organizational changes that I made in
5 the corporate quality assurance department.

6 Q And what were those changes?

7 A They recommended that I put quality assurance
8 engineers at each location. Prior to that I only had a
9 quality assurance engineering group that worked out of
10 the corporate office to provide support to the field. They
11 felt that I could improve my operation by doing that. We
12 did that, and today I concur with that recommendation as
13 being one of the best.

14 Q Did you implement fully all of the recommendations
15 made by MAC, except for the six?

16 A We did not implement three.

17 Q Which three were those?

18 (Pause.)

19 A They had a recommendation that quality
20 assurance should be involved in design review to assure
21 inspectability, suitable and acceptable criterias and
22 avoidance of quality problem potential inherent in a
23 design.

24 We did not do it because organizationally
25 CP&L has assigned the primary responsibility for assuring

AGB/agb7

1 inspectability, developing acceptance criterias, avoidance
2 of quality problems inherent in design to the cognizant
3 engineering department.

4 Quality assurance provides an overview of this
5 effect through review of design specifications, monitoring
6 correspondence, participating in design meetings when
7 necessary and through audits of the engineering efforts.
8 It is considered that this approach is satisfactory to
9 meet the stated goal.

10 The next one was a recommendation that quality
11 assurance in this review may properly question the
12 appropriateness of Q classifications. When this is done,
13 reference should be directed to cognizant engineer and not
14 the warehousemen. The engineer is the proper authority
15 to establish the designation of quality or non-Q and this
16 recommendation should be followed.

17 Q AP-2203, which was the procedure, should be
18 revised to provide for the interface between the QA reviewer
19 and the cognizant engineer. An alternate to the QA referring
20 the inquiry direct to the engineering plan to be added to
21 the QA staff for this investigation and engineering.

22 The response: when a document is re-ordered,
23 issued by the warehousemen, that document is returned to the
24 warehousemen. If resolution of QA comment is required,
25 the warehouseman identifies the cognizant engineer and

agb/agb8

1 directs contact to be made between the QA and the
2 engineer. And then I identified at Robinson where this
3 was identified. And the procedure required it and they
4 did not interpret the procedure correctly.

5 The next one: promptly remove from open file
6 and establish control over masters of procedures currently
7 being used as working reference documents; provide
8 reproductions to be used as working files. This was
9 listed as R-6.17.2, which said it was a Robinson item also.

10 The answer was: the master or the original
11 plant operating manual procedures are maintained as
12 working procedures to insure the user has access to the
13 more current procedures and to allow for reproduction
14 of current procedures at all times. Masters are
15 controlled by a formal checkout process. Duplicated
16 revisions of all current procedures are maintained in
17 the plant vault and, in most cases, on mag card in the
18 office files. Providing a fourth set is not considered
19 necessary and is not planned at this time.

20 Q. Thank you.

21 Of the 164 recommendations that you adopted,
22 did you adopt fully the MAC recommendations?

23 A. What I did, after we took all of the recommenda-
24 tions and decided on what the corrective actions would
25 be, I had Mr. Jack Norris of MAC come back in, review all

agb/agb9

1 of our corrective actions to be sure that those actions
2 met the intent of what he was identifying. And I have
3 his concurrence that we have accomplished that.

4 Q What were the specific reasons why CP&L, you
5 and Mr. Utley specifically, retained an outside consultant
6 to review your QA program?

7 A If you recall, the department was set up in
8 March of 1981, became fully functional and portions of it
9 became active in July of '81 and in '82 this was an ideal
10 time to take a look at where we were to see if we had a
11 good organization and we were performing the functions
12 the way they should be and that nothing fell through
13 the crack in making the changeover.

14 Q And that was in March of '81 when the
15 consolidated QA program was established?

16 A That is correct.

17 Q In reviewing MAC qualifications, did you review
18 any of the work that they did at the Catawba Nuclear Power
19 Plant?

20 A No, I did not.

21 Q Did you review the work that they did at the
22 Midland Nuclear Power Plant?

23 A I discussed some of that with them. I did not
24 review their work.

25 I also reviewed what they were doing for Boston Ed.

AGB/eb1
fls agb9

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Q Mr. BAAnks, can you turn to page 28 of your
testimony?

AGB/pp 1

#14

1 A (Witness Banks) Let me take a minute here. It
2 just dawned on me, that I want to be sure that the Board
3 understands our organization because of the way I present
4 it. When I talk quality assurance, quality control and I'm
5 talking about the Harris plant all being under my function,
6 all the quality assurance is there, We also do have construction
7 inspectors at the site which are separate from the quality
8 assurance. quality control organization.

9 They are handled and controlled under CP&L management,
10 of the construction management, the same as mine, but there
11 are other inspectors at the site. And I don't want to get
12 people thinking there are no other inspectors out there.

13 They are under QA surveillance. All the activities
14 are looked at by us.

15 JUDGE KELLEY: Do you mean like standards people?

16 ANSI standards people? I'm not sure what
17 you are referring to.

18 A They are qualified to ANSI standards to do
19 inspections. They do construction inspections and they report
20 to the construction force, such things as pulling cables.
21 The actual inspection is done by construction inspection on
22 the cable pull. We have surveillance over those activities.
23 To be sure that they're following procedures and doing all
24 their necessary inspections.

25 That is identified in our FSAR, PSAR, we've been this way

AGB/pp 2

1 all along. But as I sit here and we've talked back and forth
2 about contractors and different things, I want to be sure that
3 we all are together on what I'm saying.

4 JUDGE KELLEY: I'm not sure that I am with you.
5 There's an employee or a group of employees, for example,
6 who work for construction, not for QA but for construction,
7 who inspect cable and determine that it's properly pulled?

8 A That's correct.

9 Q And you say you exercise surveillance over their
10 activities. What exactly does that mean?

11 A That means that we have the QA responsibility
12 to insure that they have procedures in place, that they're
13 following procedures, and it's done on a surveillance basis,
14 not a continual inspection basis.

15 In that procedure for the craft to work, there's also
16 a procedure for the CI, construction inspector, to do his
17 inspection. We look to see that he's doing that. We look
18 to see that his documents are correct. And we then have
19 him send his inspection documents to us to review to be
20 sure they are satisfactory.

21 JUDGE KELLEY: Is there a comparable dichotomy
22 with regard to operating activities?

23 A No.

24 JUDGE KELLEY: They all work for you?

25 A They all work for me at the operating plant.

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JUDGE KELLEY: Okay.

MR. MC DUFFIE: Let me be sure about one point. These inspectors don't work for the contractor. They are part of the CP&L management organization. Within our organization we have what we call construction or field engineering and we have some inspectors in that group. But we also have the QC, QA department which looks over everything they're doing. And these two functions come together in our organization at Mr. Utley. They're not part of any contractor organization. They're purely CP&L. But it is two branches of the same organization.

BY MR. RUNKLE:

Q Mr. Banks, did the MAC report make any recommendations in the relationship to 10 CFR Part 50, Appendix B, numbers 15 and 16. Number 15 is nonconforming material, parts or components?

A (Witness Banks) At this moment I would have to go back and look at all 167 of them to answer that.

Q Do you recall any significant recommendations in relationship to nonconforming materials, parts, or components?

A I don't recall any significant ones, no.

Q In number 16, corrective actions, did MAC make any recommendations specifically on the change procedure to take corrective actions?

AGB/pp 4

1 A If they did it was not significant. When I told
2 you what I thought were significant things, the rest of them
3 were just our method of controlling things to get us better
4 improvement of how we did it and as I showed the ones that
5 we're continuing on, many of these are quality activities.
6 And quality activities are done by people outside of the
7 quality assurance, quality control organization.

8 We verified that they have done the quality --

9 JUDGE KELLEY: We're coming up on a coffee break
10 so at a convenient point.

11 MR. RUNKLE: This would probably be as good as any.

12 JUDGE KELLEY: Okay, let's quit for 15 minutes.

13 Let me add though, could I add a word. I don't mean
14 to discriminate against this particular group of people in the
15 room today. Every NRC hearing I've ever been in, everybody
16 loves breaks. They like to make them a lot longer than they're
17 supposed to be. If we say 15, that's pretty long break. But
18 we're serious about that. It's 2.30 now. Quarter to 3, we
19 will start again. Soon as we get the witnesses and the
20 lawyers and the quorum, we'll just begin. Thank you.

21 (Recess.)

22 JUDGE KELLEY: We're back on the record,
23 Mr. Runkle, can you resume?

24 CROSS EXAMINATION (continued)

25 BY MR. RUNKLE:

AGB/pp 5

1 Q Mr. Banks, do deficiency disposition reports
2 arise from QA surveillance?

3 A Yes. Let me clarify one thing. Back in
4 November-December time period of last year, and this is one
5 of the things that came out of the MAC report, we now have
6 what we call nonconformance reports. And when you talk about
7 those, since you have looked at the documents at Harris,
8 you see a DDR or a DR, they now all are referred to as
9 nonconforming reports under one reporting system. We've
10 done away with the multiple reporting systems.

11 Q So those would be nonconformance reports?

12 A That's what they would now be classified as?

13 Q And you refer to those as NCRs?

14 A That's correct.

15 MRS. FLYNN: Excuse me. Mr. Chairman, I just
16 noticed that there is another attorney at Intervenor's
17 Counsel table, and I wonder if we might have an identification
18 and affiliation.

19 MR. RUNKLE: This is somebody taking notes, it's
20 not an attorney. They can sit down in the back.

21 JUDGE KELLEY: Did you have them identified as
22 well?

23 MR. RUNKLE: Tetsy Levitas.

24 MRS. FLYNN: Thank you.

25 JUDGE KELLEY: Thank you.

1 BY MR. RUNKLE;

2 Q Mr. Banks, how did these nonconformance reports
3 arise?

4 A (Witness Banks) Nonconformance reports are
5 written by either a surveillance inspector or by a OC
6 inspector. And they find any condition that they feel is
7 nonconformance to a procedure or a requirement. They would
8 then write up a nonconformance report, get a number assigned
9 to it, and turn it over to the supervisor and have it put
10 into a system to be tracked and have appropriate action taken
11 on it.

12 Q And what action do you take when the nonconformance
13 reports arise?

14 A It's the supervisor's responsibility to review
15 every nonconformance to determine if it is a nonconformance
16 or if it is not. If it is determined that it is not a
17 nonconformance, that is identified on that particular one.
18 It is cancelled but the numbers still exist. It then goes
19 to the file as not being one as determined by supervision or
20 whatever expertise he needs to make that decision.

21 If it is a nonconformance and it is issued against
22 the organization that created the nonconformance, then they
23 are responsible then for taking appropriate corrective action
24 reporting back their corrective action which is then reviewed
25 to determine if their corrective action took care of the

AGB/pp 7 1 identified nonconformance condition.

2 Q And that would be a QA supervisor that makes that
3 determination?

4 A The QA supervisor makes the original determination
5 if it was or was not a nonconformance.

6 Q How are you made aware of these nonconformance
7 reports.

8 A I normally see a monthly report from the Harris
9 facility that provides me a list of all of the nonconformances
10 that are outstanding at that site.

11 Q Are nonconformance reports filed for the Brunswick
12 and Robinson reactors?

13 A Yes, but the number is much smaller and I do not
14 always get copies of every report. I get a summary report.

15 Q And in your monthly report of the Harris
16 nonconformance report, do they also describe those that
17 the QA supervisor describes as not being a nonconformance item?

18 A No.

19 Q Is -- how is the QA supervisor -- who monitors
20 the action of the QA supervisor regarding this determination?

21 A His onsite management.

22 Q That would be the onsite QA management?

23 A That's correct.

24 Q And as of December of last year you changed your
25 reporting nomenclature in response to a recommendation by the

AGB/pp 8

1 MAC report?

2 A That's correct. Now we have one form that
3 handles all situations and is much easier to control and
4 keep better -- management informed of what we have. And
5 when you talk nonconformance now, you're talking total site.
6 Before you could possibly have been talking nonconformance,
7 you could have been talking DDR, you could have been talking
8 DR, if you weren't knowledgeable, you wouldn't have the total
9 picture.

10 Q Would you say that these nonconformance reports
11 relate to numbers 15 and 16 of Appendix B?

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AGB follows

#15 AGB/wbl

1 A Yes, it addresses those two criteria.

2 Q Sir, could you get in front of you what has been
3 marked JI-4?

4 A I have JI cross-4.

5 Q For identification purposes let's identify that as
6 JI-4. It's no longer JI cross, but JI-4.

7 Have you had an opportunity to review this document?

8 A Yes, I reviewed the document.

9 Q Can you briefly describe what this document is?

10 A This is the Harris project response to Region 2 of
11 the United States Nuclear Regulatory Commission from the
12 project manager in response to violations that were reported
13 in their inspection report 50-400/83-22-02.

14 Q Does the project general manager normally respond
15 to this type of NRC report?

16 A We have a procedure set up in our company that
17 identifies how we control, and who has what responsibilities
18 for responding to all regulatory items coming into the
19 company from the Nuclear Regulatory Commission. We have
20 designated who has signature responsibility. The procedure
21 also identifies who has the responsibility to review it,
22 and who has the responsibilities to prepare the responses.

23 These responses are prepared by an appropriate
24 group, whether it is QA/QC, Engineering or Construction. But
25 they all go out over the project manager's signature.

AGB/wb2

1 Q Does this NRC report describe violations of the
2 QA program at Harris?

3 A As stated, they say

4 "This violated Criteria 5 of Appendix B of
5 10 CFR 50."

6 Q Did you have any input into the response to this
7 reported violation?

8 A In all probability. I don't remember this one
9 specifically, but in all probability I reviewed it before it
10 went out. I do recall when I read it that it was familiar
11 to me, but due to the number of documents I review, I could
12 not say definitely. I could always go back to the file and
13 verify that I have.

14 It would have been prepared by the site quality
15 assurance/quality control and construction inspection group
16 because it pertains to those areas.

17 Q What violation does this document reference?

18 A It reveals that non-conformance reports are not
19 being documented and processed in accordance with procedures.

20 Q And in what time period did this violation occur?

21 A June 29th, 1983.

22 Q Were the NCRs or DDRs at this time reported to the
23 NRC?

24 A They are not reported to the NRC; they are available
25 on-site, and they come in and review our package on an on-going

AGB/wb3

1 basis, the resident engineer, as well as specialized
2 inspectors when they are on-site.

3 Q And do they review those NCRs or DDRs that have
4 been determined not to be properly an NCR?

5 A I think that question could be better asked of
6 them. than me.

7 Q Since this violation, has CP&L taken steps to
8 review all DDRs or NCRs to see if they are signed by authorized
9 individuals?

10 A Would you like me to read the corrective action
11 taken? Because it does identify what actions we took.

12 Q If you will just refer to it I think we can all
13 read that. If you'd like to read it, that's fine.

14 JUDGE KELLEY: I don't think it's necessary.

15 Are you going to offer this in evidence?

16 MR. RUNKLE: Yes, sir.

17 BY MR. RUNKLE:

18 Q On what page of this document would you find the cor-
19 rective steps taken?

20 A (Witness Banks) On page 2, and extending on over
21 to page 3. Also on page 3, Corrective Actions Taken to
22 Prevent further -- Steps taken to prevent the corrective
23 action being repeated in other areas, and in general the first
24 item was, the technician was signing the non-conformance
25 report. He thought, he was under the impression that he had

AGB/wb4

1 the authority because he had the authority to act for the
2 specialist or the foreman in his absence. He did not have
3 the authority to sign the non-conformance report as saying
4 it was a non-conformance.

5 We have since re-issued those instructions to the
6 technician. If his foreman is not present when he has to do
7 this, he then ups it to the next line of supervision to
8 evaluate it and make sure that it is a non-conformance.

9 Q Had QA reviewed all these reports before they were
10 submitted?

11 A Who do you mean by QA reviewing the report? What
12 report?

13 Q Let me draw your attention to the first page of
14 the attachment, which is the second page of the document,
15 near the bottom, No. 2, which is an admission and reason for
16 the violation.

17 It states that,

18 "QA personnel have reviewed DRs for report-
19 ability and disposition acceptability," --does it not?

20 A That is correct.

21 Q Does this imply that QA had reviewed all of these
22 reports?

23 A It states that QA had reviewed all the DRs that
24 were written. DRs at that time were written by the construc-
25 tion inspections. There were documents to show these had been

AGB/wb5

1 reviewed and transmitted to the vault. The individual who
2 reviewed the document did not initial the specific document,
3 and that is what the violation was. The procedure required
4 him to initial that specific document.

5 Q And when you refer to "the vault," what do you
6 mean by that?

7 A That's the record vault where we maintain all of
8 the quality records.

9 Q How many DDRs or NCRs at this time are generated
10 each week?

11 A I would not want to be held to the number, but I
12 would say in a week probably in the neighborhood of two
13 hundred. You're talking about thousands of activities going
14 on in that period of time.

15 JUDGE KELLEY: Is that just at Harris?

16 WITNESS BANKS: That's just at Harris.

17 BY MR. RUNKLE:

18 Q How many QA personnel on-site are there at Harris?

19 A (Witness Banks) I gave you those numbers yesterday.
20 Do you want them again?

21 Q If you have them handy.

22 Subject to check, you told us yesterday there were
23 154 inspectors at Harris plus another 200 contract inspectors;
24 is that right?

25 A There are 154 CP&L quality assurance/quality control

AGB/eb1
fls wb5

1 personnel at the site. That's professionals and inspectors.

2 There are approximately 200 contract personnel
3 there.

4 Q And how many of these would be reviewing the
5 NCRs?

6 A What do you mean by reviewing the NCRs? NCRs
7 are reviewed by the supervision that writes them. In the
8 particular case you're talking here, you are talking about
9 DRs that were written by the construction inspection group,
10 and those are reviewed by the QA group and that number would
11 be some partial number of the total written out there.

12 And I don't know how many people actually worked
13 there, but whatever it is. We change that number of people
14 depending on what's necessary to keep them moving at a
15 reasonable rate.

16 A (Witness McDuffie) Maybe it would help you.

17 The QA people process the NCR, but generally the
18 NCR refers to a situation that involves either construction
19 or engineering, and people in those activities take the NCR
20 and come up with some resolution.

21 That in turn is reviewed by QA to see if it does
22 solve the problem finally.

23 Q So what is the difference between an NCR and a
24 CDR, a construction deficiency report?

25 A I'm not familiar with the construction deficiency
report.

WRB/pp 1

#16

1 Q Is any of the panel familiar with the term
2 construction deficiency report?

3 A (Witness McDuffie) I'm not aware of that kind
4 of report of the site.

5 Q Okay. It's an NRC term that is used in the
6 systematic assessment of licensee performance?

7 A (Witness Banks) At the present time without
8 having that in front of me to see where they used it, I'm
9 not familiar with the term as such. I think that would be
10 better answered by them.

11 Q All right.

12 MR. RUNKLE: At this time I would like to move
13 JI 4 into evidence.

14 JUDGE KELLEY: Any objection.

15 MRS. FLYNN: No objection.

16 JUDGE KELLEY: My only concern -- I'm perfectly
17 to admit this -- but do we need to understand it to give it
18 the context to the NRC report to which it relates. And I
19 don't know. I raise the question. If the parties think
20 it stands by itself, we'll just put it in by itself.

21 Very well, we will admit it, JI 4.

22 (Whereupon, Exhibit JI 4, having
23 been previously marked for
24 identification, was received into
25 evidence.)

WRB/pp 2

1 BY MR. RUNKLE:

2 Q Sir, can you get in front of you JI 5, which
3 has been handed to you yesterday.

4 A (Witness Banks) I have JI 5.

5 Q And what is this document?

6 A Well, this is a response to Mr. O'Reilly, United
7 States Nuclear Regulatory Commission, Region 2, from
8 Mr. Parsons, the project's General Manager at Harris in
9 response to inspection report 50-400/83-26-01.

10 Q Have you had the opportunity to review this
11 document?

12 A I have reviewed this document.

13 Q Is this a similar document to JI 4?

14 A It is a similar document.

15 MRS. FLYNN: I beg the Board's indulgence, but
16 could I request Mr. Runkle to explain his direction in this
17 line of questioning. The relevance of instruction inspection
18 reports to the issue of keeping those management capabilities
19 to operate the Harris plant based upon the operated
20 experience of the southern facilities.

21 JUDGE KELLEY: Well, we had a line of questioning
22 on JI 4 which related to Harris activities. To put this in
23 the appropriate context, I interpret your question to be an
24 objection to a similar line about this report, absent some
25 explanation of where we're going. Is that right?

1 MRS. FLYNN: My objection is -- my concern is
2 that JI 4 proposed JI 5 and several of the other proposed
3 exhibits are all the same type of document. They are all
4 apparently responsive to violations relating to
5 construction activities at their plant. And since Mr. Runkle
6 does apparently intend to go forward on each of these,
7 Applicant would request that he show the relevance of
8 these documents and his line of questioning. The purpose of
9 his questioning in relation to.

10 JUDGE KELLEY: I think it's a reasonable point,
11 Mr. Runkle. What do you intend to demonstrate by this --
12 by continuing this line of questioning.

13 MR. RUNKLE: Well, this series of exhibits are
14 primarily responses to violations and notification of
15 violations of QA problems.

16 JUDGE KELLEY: Can we be clear when you say
17 this series, are we talking about 4, 5, 6, 7; 6, 7, and 8;
18 7, 8, 9; just what exactly does this refer to?

19 MR. RUNKLE: Up to JI 11.

20 JUDGE KELLEY: Up to and including or up to?

21 MR. RUNKLE: Including JI 11.

22 JUDGE KELLEY: Okay, go ahead.

23 MR. RUNKLE: And each of these addresses
24 specific QA problems in the construction of Shearon Harris.
25 And that relates very much so to management. We have just

WRB/pp 4

1 earlier today gone through the velocity of CP&L management
2 toward QA. But we have specific breakdowns in their QA
3 program. And that results in management problems of the QA
4 program.

5 JUDGE KELLEY: And you're saying that this line
6 of questioning will shed light on management problems in
7 the QA program?

8 MR. RUNKLE: Yes, sir.

9 JUDGE KELLEY: Does the Staff wish to comment?

10 MR. BARTH: In our view, your Honor, these are
11 cumulative and repetitive instances of violations. I think
12 your Honor, that these documents are cumulative and
13 repetitive. They are evidence of individual violations and
14 most of them are in the QA program. I think that to burden
15 the record with this repetitive pieces of paper and discussion
16 of each violation, goes very close to your earlier ruling
17 that the details of the level of detail which we are now
18 concerned with does not go that far. I think that certainly
19 the company will admit there have been violations, these are
20 matters of public record. But I do not think that this
21 hearing will benefit in a material way from the re-recitation
22 of each violation for which the company's ever been cited.

23 I think it's objectionable on the basis of it's
24 repetitive and cumulative. It adds nothing material to
25 anybody's case to have these in, your Honor.

1 JUDGE KELLEY: Have we reached the point of
2 repetition and cumulation. We've had questions on one
3 exhibit. Mr. Runkle has in mind going through seven or eight
4 more. Should we stop now or consider some more but not all?

5 MR. BARTH: I think that in the absence of a
6 showing that the further violations are unique or different
7 and exhibit different defect or problem in management, they
8 are all cumulative and repetitive, your Honor, and should be
9 stricken -- denied.

10 JUDGE KELLEY: Perhaps you could clarify something
11 now or attempt to, something that's troubled me somewhat on
12 the contention itself. The contention itself as it's worded,
13 seems to emphasize past performance at other nuclear power
14 facilities. The first sentence, at least literally, has
15 nothing to do with Shearon Harris, as I read it.

16 The second one's a little more opaque. And this is
17 a negotiated contention and it has its own background. I
18 know that. But do the Applicant's contend that we're
19 restricted here to things that have happened at Brunswick
20 and Robinson?

21 We've heard a fair amount about Shearon Harris in the
22 last day and a half without any objection.

23 MRS. FLYNN: It's Applicant's understanding of
24 the contention that in reference to their other nuclear
25 power facilities refers to the Brunswick and Robinson

WRB/pp 6 1 facilities. And does not, therefore, their operating
2 facilities.

3 JUDGE KELLEY: Are you saying -- I just want to
4 get clear what your position is -- after all this is sort
5 of a Magna Carte of this whole hearing of this contention,
6 are you saying that anything related to Harris, per se, is
7 objectionable, irrelevant, outside the scope of the
8 contention is the way you put it?

9 MRS. FLYNN: At the construction permit phase the
10 construction permit was granted and it was determined that
11 CP&L had the management capability to construct the Harris
12 plant. As we have always understood this contention, it
13 is a question with respect to CP&L's capability to manage
14 the operation of the Harris plant. In view of the operating
15 experience at its other plants.

16 The -- conceivably, because this is an
17 amorphous contention, it's very difficult to say that --
18 categorically, that any activity relating to the construction
19 of the Harris plant is absolutely irrelevant. I think there
20 is a point however, at which some -- most of the activities
21 with respect to the construction of the Harris plant are
22 at best marginally relevant.

23 JUDGE KELLEY: Mr. Runkle, how do you read the
24 contention in this regard. I gather -- I assume you would
25 argue, after all you're offering these exhibits, that you

WRB/pp 7

1 could go into Harris construction experience as bearing on
2 the right or the wrong of the contention, would that be
3 correct?

4 MR. RUNKLE: I do not think these go so much to
5 the Harris construction experience. As much more to the
6 ability of the quality assurance program to find
7 deficiencies. And I think that's the distinction. We're not
8 certainly saying that these are all the problems that ever
9 happened to the QA program, but these are some evidence that
10 specifically after a certain time period that there were
11 still problems with the QA program.

12 JUDGE KELLEY: But it's an undeniable fact that
13 these particular documents arose out of the construction of
14 the Shearon Harris, correct?

15 MR. RUNKLE: Yes.

16 JUDGE KELLEY: Okay. But your argument, I take
17 it, that they are relevant to a broader management -- a
18 broader perspective on management. Is that what the point
19 is to understand?

20 MR. RUNKLE: A broader perspective on QA which
21 is definitely an integral part of management.

22 JUDGE KELLEY: So I take it you would not agree
23 with the Applicant's that this material is excludable
24 because Mrs. Flynn didn't say that just because it relates
25 to Harris it's automatically out. But her position, I take

WRB/pp 8

1 it is, and correct me if I'm wrong, it's a matter of
2 emphasis and degree, it's not totally out of the picture but
3 it's marginal, and therefore, ought to be kept within pretty
4 reasonable bounds?

5 MRS. FLYNN: That's correct.

6 JUDGE KELLEY: And you think the bounds have been
7 passed and therefore we should not go through eight more of
8 these exhibits?

9 MRS. FLYNN: Yes, sir.

10 JUDGE KELLEY: Okay. And I gather then, that
11 you don't agree with that?

12 MR. RUNKLE: No.

13 JUDGE KELLEY: Does the Staff have a position
14 on this question of whether we should be looking at Harris
15 oriented material. Material that grows out of a construction
16 experience at Harris?

17 MR. BARTH: Your Honor, I think that it is our
18 position that the construction experience at Harris is
19 relevant to the contention insofar as it can be related to
20 the ability to operate the plant safely, which is the issue
21 before the Board. The statutory terms are technically
22 competent to operate the facility. And insofar as
23 Mr. Runkle is about to show quality assurance problems in
24 the construction of Harris which would appertain to its
25 operation, I think it is relevant. I do not exclude the

WRB/pp 9

1 Harris construction totally from the contention. But I do
2 think there must be a nexus between a construction shown
3 problem and the nexus to what we are licensing which is the
4 operation of a plant. We've long past giving them the
5 construction permit.

6 JUDGE KELLEY: It's useful to the Board.
7 Nobody is arguing that Harris material and data is ipso facto
8 out of a case. There are differences in degree, I think,
9 between the parties.

10 MR. BARTH: I would like to reply to Mr. Runkle's
11 earlier comment, your Honor, in which you said that the
12 purpose of these documents is to show that there are
13 problems in the ability of the Harris QA to pick up problems.
14 That's not the contention. That's the basis for these
15 documents. They're self-defeating, because that's not at
16 issue here, sir.

17 JUDGE KELLEY: Well, not in and of itself, but
18 I'm not even talking about this utility. But I suppose
19 I could be in a case where the contention is the QA program
20 is so deficient that it reflects deficient management.

21 MR. BARTH: It could be, your Honor, you're
22 right. I'm glad we're not in that position here.

23 JUDGE KELLEY: Excuse us a minute.

24 (Board conferring.)

25 JUDGE KELLEY: We see the question posed in its

WRB/pp 10

1 broadest terms as kind of sticky, frankly. What we're going
2 to do is make, what we will call an interim ruling for this
3 afternoon and then we will have a further ruling tomorrow.
4 And this evening we can give more thought to this whole
5 question of Shearon Harris evidence, and QA and the kinds of
6 things we have been talking about. So that's what we intend
7 to do.

8 Our ruling this afternoon for right now, since we
9 have to move forward, is this. Mr. Runkle, you've got about
10 eight more exhibits here starting with the one that's before
11 us, which is what number 5?

12 MR. RUNKLE: Yes, sir.

13 JUDGE KELLEY: Okay, 5, 6, 7, 8, 9, 10, 11, is
14 seven more. Would you take a couple of minutes and decide
15 for this afternoon which three of those you would most like
16 to get some questions in on and proceed to do that subject
17 to whatever objections there may be about particular
18 questions. And we will then make a ruling as to questionings
19 on the remainder tomorrow morning.

20 But in any event those three and the questions
21 appertaining thereto, we'll go ahead on this afternoon.

22 And we don't chose to make any broader pronouncement
23 than that, until we've had more of a chance to think about it.

24 We'll take a minute break. Please don't leave the room.
25 Two minutes. Mr. Runkle can decide just how he wants to

WRB/pp 11 1 proceed.

2 (Brief recess.)

3 JUDGE KELLEY: Okay, back on the record.

4 Of the exhibits listed, the 5 through 11, Mr. Runkle is
5 going to pick out three he considered most important to him
6 in his case and that's what we'll do on those this afternoon,
7 and then we'll abide tomorrow's ruling as to the rest.

8 You can go ahead.

9 MR. RUNKLE: It's difficult to assess
10 which ones are the most important to our case when they
11 are all exemplary of the management of the QA program.
12 But I will go ahead with 9, 10, and 11.

13 JUDGE KELLEY: Okay.

14 BY MR. RUNKLE:

15 Q Mr. Banks, do you have what has
16 been marked as JI 9 in front of you?

17 A (Witness Banks) If it is the one on March 16,
18 1984, yes, the 9 on here is not too definitive.

19 Q Yes, that would be JI 9, March 16, 1984.
20 Can you describe this document, please?

21 A This is a document where a transmittal was made
22 to Mr. O'Reilly, United States Nuclear Regulatory Commission,
23 Region II, from Mr. Parsons, Project General Manager for
24 the Harris project. It pertains to a WPA 50-400/84-02.

25 And it is a response to a violation identified in that

WRB/pp 12 1 report.

End #16 2 Q And what was the violation in this report?

3 A It's a violation of criteria 10 of Appendix B
4 and the PSAR. It states that contrary to the above TP-28
5 Rev 1 and the inspection performed were inadequate.
6 TP-28 Rev 1 did not require verification of proper
7 installation and tightening of anchor bolts. Part B on
8 August 25, 1983, one anchor bolt nut was not installed
9 and one anchor bolt could not be turned by hand.--One nut
10 could be turned by hand at the 145 1/4 azimuth
11 reactor vessel nozzle support into the severity level four.

12 Q In your opinion, is this an item of safety
13 significance?

B-17 14 A This is an item that if not corrected could have
15 been of safety significance as stated. And as it was found at
16 the appropriate time, it was not. As responded to as
17 corrective action as I recall. This particular item -- the
18 procedure that they had at the time had not addressed the
19 grouting and the tightening of these flanges. The work
20 procedure and inspection procedure for construction
21 inspection which has been since completed.

22 That does not say that this would not have been found
23 by other methods as you went through the construction program.

24

25

WRB/Eb17

1 Q Is this something that the QA Department discovered?

2 A This was picked up by an inspection team from
3 Region 2.

4 Q In your opinion, should QA have discovered this?

5 A As stated before, inspection is not a 100 percent
6 item. I would expect QA always to find things, but I also
7 do recognize that they are not always -- that you don't get
8 every one of them.

9 Q In the second section down on the second page in
10 this document where it states denial and admission and
11 reason for the violation, does CP&L admit to inadvertently
12 failing to address post-grouting activities in this
13 instance?

14 A As stated, process control for complete
15 installation and inspection of the reactor vessel support
16 was incomplete. The procedure WP-119, reactor vessel
17 setting, and TP-28-- WP are the work instructions for the
18 craft people. TPs are the instructions for the construction
19 inspection people that do the inspection.

20 TP-28, inspection of equipment for setting and
21 grouting, inadvertently failed to address post-grouting
22 activities and final bolting and bolting inspection.

23 Q So it was the actual procedures, the actually
24 established procedures that failed to address the
25 post-grouting activities. Is that correct?

WRB/eb2

1 A That is correct.

2 Q And in the second to the bottom section,
3 corrective steps taken to avoid further non-compliance, it
4 states that these procedures, WP-105 and TP-28, through
5 long usage and seasoning have stabilized the equipment
6 installation program, does it not?

7 A That's correct.

8 Q Did these procedures address this problem?

9 A The procedures now address the problem.

10 Q Did they address the problem before this time?

11 A I just read up above that it did not.

12 Q What does this refer to when it says "long usage
13 and seasoning" of these procedures?

14 A Construction procedures and inspection procedures
15 are improved as you use them. As any procedure you write
16 to the best of your knowledge, but when you actually get
17 into the field and you start to work, you find working
18 conditions are different and you have to change your working
19 procedures.

20 You find inspection conditions are such that to
21 get the result that you need, which are looked at by both
22 inspectors and by QA engineers, you change those inspection
23 requirements so that you get the final quality product that
24 you're looking for.

25 Q In corrective steps taken to avoid further

WRB/eb3

1 non-compliance, nothing is indicated that there will be any
2 inspection to check other work done using the old procedures,
3 does it not?

4 A Not having that procedure in front of me, I would
5 suspect that that particular work procedure was written just
6 for setting the reactor vessel, and I don't know where else
7 you would use it. That would be my assumption from reading
8 this.

9 MR. RUNKLE: No other questions.

10 I would like to move JI-9 into evidence.

11 MRS. FLYNN: No objection.

12 JUDGE KELLEY: Ladies and gentlemen, whoever is
13 offering, I will just turn to you. If I don't hear
14 anything fairly quickly, it is going to be admitted.

15 Admitted.

16 (Whereupon, Exhibit JI-9,
17 having been previously
18 marked for identification,
19 was received in evidence.)

xzxzx

20 MR. RUNKLE: I had a mixup on the numbering.

21 JI-9 is the March 16, 1984 letter.

22 BY MR. RUNKLE:

23 Q Mr. Banks, can you place before you JI-10?

24 A (Witness Banks) I have it before me.

25 Q Can you describe that document?

WRB/eb4 1

2 A It is another letter to Mr. O'Reilly, United
3 States Nuclear Regulatory Commission, Region II, from
4 Mr. Parsons, Project General Manager of the Harris Nuclear
5 Project. It pertains to report 50-400/83-3702. It pertains
6 to violations from that report.

7 Q And what was the reported violation in this
8 report?

9 A This is a violation of the CP&L quality
10 assurance program.

11 "Contrary to the above, C)&L failed
12 to require that QA operational surveillance
13 records be reviewed and filed in accordance with
14 procedural requirements. On January 9, 1984, a
15 review of these records showed that four of 37
16 QA surveillance for operations had not been
17 reviewed by the Operations QA/QC Supervisor and
18 forwarded to the QA vault for safekeeping. This
19 is a repeat violation.

20 "This is a Severity Level V Violation."

21 I would like to note as I have sat here and gone
22 through these, I have reviewed them, that these all pertain
23 to Level IV and Level V Violations, and I think if you look
24 at the Severity Level of what a Level IV and Level V are,
25 these are normal, common things that happen in major
activities going on. They are not a program breakdown.

WRB/eb5

1 They are individual icems. And I don't think we are heading
2 to a program problem.

3 JUDGE KELLEY: Could we just add-- I think I
4 understand your reference. This is the NRC's list of
5 categories I through VI which you're talking about?

6 WITNESS BANKS: It is I through V now. They have
7 done away with VI. And I would be happy to read the
8 Severity Level IV and V for you. I have them in front of me.

9 JUDGE KELLEY: I think if we just know what
10 we're referring to. You are referring to the NRC's
11 categories--

12 WITNESS BANKS: The NRC's criteria which are
13 referenced in each of these reports.

14 Also I would like to add that these reports are
15 the ones that NRC used to do their evaluation for the SALP
16 report.

17 WITNESS UTLEY: Furthermore, it is my recollection
18 that there has never been a violation above a Level IV at
19 the Harris project since it was started, since construction
20 started back in 1978.

21 WITNESS BANKS: In 1979 we had six. In 1980, as
22 activities increased, we had 26. At that time they were
23 IVs and VIs.

24 In 1981, we had 16 that were Vs and VI.

25 In 1982, we had 19 that were IVs, Vs, and VI.

WRB/eb6

1 Of course in early '86 is when VIs were deleted.

2 And then in '83 we had 32, which was IVs and Vs.

3 JUDGE KELLEY: Okay.

4 Mr. Runkle.

5 BY MR. RUNKLE:

6 Q To put this in context, what was the maximum fine
7 ever given CP&L by the NRC?

8 A (Witness Banks) We have never had a fine on
9 Harris.

10 MR. BARTH: The question was in the plural, fines.
11 Does he mean total fines or an individual fine? If he will
12 define the fining we will have a little better record, your
13 Honor.

14 MRS. FLYNN: If he wants this in context, I think
15 it should be with respect to the Harris plant since that's
16 what we're discussing now.

17 JUDGE KELLEY: We're a long way from Joint Exhibit
18 10.

19 Your question was what is the largest single
20 civil penalty? Is that what you're after?

21 MR. RUNKLE: Yes, sir.

22 JUDGE KELLEY: At Harris?

23 MR. RUNKLE: No, that CP&L ever had, just to put
24 this scale into perspective.

25 MR. KELLEY: Well, then, we're going to have to

eb7/WRB

1 tie it into what that was.

2 There is an objection. We will overrule it.

3 Will you just answer the question?

4 WITNESS BANKS: The largest fine that I recall
5 was a \$600,000 fine at the Brunswick project.

6 WITNESS UTLEY: But in addition to that, I think
7 the record should show there has not been a civil fine
8 assessed against the Harris project.

9 BY MR. RUNKLE:

10 Q And what was the Severity Level of the \$600,000
11 fine at the Brunswick project?

12 JUDGE KELLEY: Let me just ask-- It's a
13 legitimate question at some point, but aren't we going to
14 get this record kind of out of whack if we go off after that
15 now? Is there something you want to pursue at some point?
16 I assume you do.

17 MR. RUNKLE: Yes, I will pursue it tomorrow.

18 JUDGE KELLEY: It just seems to me we are in the
19 middle of Joint Exhibit 10. Why don't we stay there, and
20 you can pick it up tomorrow, and then we can get into that
21 more in depth.

22 BY MR. RUNKLE:

23 Q Mr. Banks, does the NRC confirm that QA has in
24 face inspected items of safety significance?

25 A (Witness Banks) I don't think I know quite what

WRB/eb8

1 you're asking there.

2 Q Does the Nuclear Regulatory Commission or the NRC
3 Staff or NRC Staff Inspectors monitor QA inspection of those
4 items that might have safety significance?

5 A Yes, they do.

6 Q How do they confirm that you have in fact
7 inspected items of safety significance?

8 A I think that question needs to be addressed to
9 them. I'm not sure of all the methods they use, and how they
10 do it.

11 Q Isn't it a fact that a substantial portion of
12 this NRC oversight of QA is in fact based on the paper and
13 reports and QA files?

14 A I think NRC needs to answer that question. I'm
15 not sure what they base their evaluations on.

16 Q Does NRC look at your reports that have been filed
17 by QA?

18 A They do look at the reports filed by QA on a
19 monitoring basis.

20 Q In order for them to do this, would it be fair
21 to say that these records must be properly maintained and
22 processed?

23 A For them to do it, for my own people to do it, and
24 if they are not, they are then identified and we take
25 corrective action.

WRB/eb9

1 Q And in this document before you, CP&L admits,
2 does it not, that these records were not reviewed due to an
3 administrative oversight?

4 A That is correct. There were 37 documents, four
5 of them that a clerk forgot to forward on to the man. She
6 forwarded them directly to the vault instead of to the man
7 that was required to review them.

8 Q How would QA, you specifically, know if these
9 documents had not been reviewed for some other reason?

10 A We also have an auditing function within our
11 group and we could possibly have picked it up on an auditing
12 function. It could have been that the document control
13 people could have picked it up when they were trying to put
14 it into the final files.

15 Q Does the Operations QA supervisor have final
16 authority for approving these reports?

17 A He had the responsibility to review the reports
18 that took place so he would know what the findings were and
19 what the surveillance people determined in this area. He
20 was not approving the reports. The reports were done by
21 the surveillance group, and they were reporting a condition
22 and he would be informed of conditions, and his signing
23 showed that he knew those conditions.

24 MR. RUNKLE: At this time I would like to offer
25 JI-10 into evidence.

WRB/eb10

1 MR. BARTH: Your Honor, we object. It is
2 cumulative and repetitive.

3 JUDGE KELLEY: Well, for the record, okay. That's
4 the one that it seems to me we argued about before, and we
5 already said we would allow Mr. Runkle three. That's two,
6 and there is going to be one more this afternoon.

7 Received.

8 (Whereupon, JI Exhibit 10,
9 having been previously
10 marked for identification,
11 was received in evidence.)

XZXZXZX

12 BY MR. RUNKLE:

13 Q Mr. BANKS, can you get in front of you what has
14 been identified as JI-11?

15 A (Witness Banks) I have JI-11 in front of me.

16 Q Did you have a chance to review this document?

17 A I reread this document.

18 Q Can you describe this document to us?

19 A Yes. It is a letter to Mr. O'Reilly, United
20 States Nuclear Regulatory Commission, Region II. It is
21 from Mr. Parsons, Project General Manager of the Harris
22 Project. It is in response to violations in their report
23 50-400/84-06.

24 Q What was the nature of the violation in this
25 report?

WRB/eb11

1 A It was a violation of Appendix B, Criterion 7,
2 as implemented by the PSAR, Section 1.8.5.7.

3 "Contrary to the above, adequate measures
4 were not established to assure that purchased
5 equipment conformed to procurement documents in
6 that examples were identified where purchased
7 equipment was installed but did not conform to
8 procurement documents requirements. Examples
9 included structural steel welds that were missing,
10 that did not conform to joint design, that failed
11 to satisfy the visual inspection requirements of
12 AWS D1.1 and Addendum A to Ebasco Specification
13 CAR-SH-BE-31 and CAR-SH-BE-08, that did not meet
14 the liquid penetrant inspection acceptance
15 standards; fasteners which were the wrong material,
16 and missing fasteners.

17 "This is a Severity Level IV violation."

18 Q Sir, is it important that safety-related
19 equipment meet contract requirements?

20 A Yes, it is important.

21 Q And these contracts are written to conform to the
22 NRC requirements?

23 A These contracts are written to meet the
24 specifications that we build the equipment to.

25 Q If equipment does not meet the contract

BB/eeb12

1 requirements, shouldn't it be replaced, corrected?

2 A If the equipment does not meet the specifications,
3 there are many things that can be done. One is it can be
4 put into a condition to meet the specification. It can be
5 rejected and replaced with another piece of equipment, or an
6 engineering evaluation can be made on the final piece of
7 equipment to determine if it will perform the design
8 functions that it was required to perform.

9 Q When did CP&L establish a vendor quality
10 assurance program?

11 A The vendor quality assurance program was
12 initiated back when we originally started our QA program.
13 It has been in effect at the Harris program since the start.

14 Q Has CP&L made any plans to recheck other
15 equipment that was installed before this violation?

16 A CP&L had already rechecked other equipment prior
17 to this violation.

18 Q Doesn't Ebasco also have a QA program?

19 A Ebasco has a QA program which is identified in our
20 SAR. They are a part of our program and they operate under
21 us, and we audit their program for their compliance.

22 Q So essentially there are three QA programs,
23 checking the deliveries of this equipment, are there not?

24 A No.

25 Q How many QA programs are there, checking

WRB/eb13

1 equipment such as this?

2 A This particular equipment was purchased, and
3 there was a requirement for the vendor to have the inspection
4 responsibility for fabricating his equipment. Ebasco was
5 responsible to do a monitoring of that, and to issue a
6 quality release.

7 Upon a quality release, our program allowed
8 the material, if the documentation is correct and there was
9 no shipping damage for that material, to be released at the
10 site for construction.

11 Q Is each piece of equipment checked before
12 installation?

13 A No.

14 Q Are the problems identified in this violation
15 report related solely to the advance in air handling
16 equipment?

17 A This is dealing with the air handling equipment
18 that we provided on a couple of different contracts, but it
19 all came from Ronson, and the engineering evaluation found
20 that all of this equipment would perform the function, but
21 to assure that we had some additional safety margins that
22 we originally designed in, we did make some repairs on some
23 of the struts. But that was the only repair that was made.

24 This was poor workmanship, not a real quality
25 problem.

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Q When did CP&L begin performing 100 percent inspection of units at the receipt inspection?

A I don't remember the exact time that we got into it. Back in '81 I believe we started to find that we had some vendor problems. We started to do additional random inspections of vendor material coming onsite. We found that there was more problems with it than what we had expected.

We then increased it to 100 percent, and as we then could prove that a vendor was satisfactory we took him from out of that group of inspection.

End 17
AGB fls

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2 Q There are still vendors though that are having
100 percent inspection, is there not?

3 A Yes.

4 Q Does CP&L feel that 100 percent vendor QA will
5 resolve all the deficiencies?

6 MR. BARTH: Objection, your Honor, "deficiencies"
7 has a meaning as used in the trade and I'm not certain that
8 the question is clear. It's ambiguous. What deficiency
9 are we talking about? Deficiencies which are cited by NRC?
10 Deficiencies in equipment? Deficiencies in procedures?

11 JUDGE KELLEY: When you say "deficiencies,"
12 Mr. Runkle, do you mean problems in a sort of general sense?

13 MR. RUNKLE: Well not meeting the requirements,
14 contract requirements or specifications.

15 JUDGE KELLEY: That's pretty clear, isn't it?

16 MR. BARTH: Yes, your Honor, thank you.

17 WITNESS BANKS: 100 percent inspection we would
18 hope will identify any significant problems with any of the
19 material but we do 100 percent inspection and those will be
20 corrected if they are required to be corrected.

21 BY MR. RUNKLE:

22 Q Is it possible that you will be missing some of
23 the deficiencies?

24 A (Witness Banks) As stated several times already,
25 inspection is not 100 percent proven. That's why we have

agb/agb2

1 redundant systems.

2 Q In the first paragraph of the corrective steps
3 taken and the results achieved it indicates that an
4 increasing degree of inspections indicates a response to
5 the vendor QA problems, is that not correct?

6 A That is correct.

7 We also worked with Ebasco to insure that Ebasco
8 was increasing their vendor inspection program in the areas
9 we identified problems.

10 Q And this will suffice to cover future orders,
11 will it not?

12 A It's done on a case-by-case basis. We evaluate
13 the equipment, what type of inspection required and what
14 degree of inspection will be done by Ebasco and what
15 will be done by the site.

16 Q What steps, if any, has CP&L taken to insure
17 that past QA problems have not resulted in installation of
18 defective equipment?

19 A Where we have evaluated that there was equipment
20 that could possibly be a safety problem, we were going out
21 and looked at the equipment that had already been released
22 to determine the condition of that equipment.

23 And on that check, which is a statistical
24 check, we will decide how much inspection will be done
25 based on what we found.

AGB/agb3

1 Q At the next to the last page of the document
2 where it states -- NRC report paragraph 5.B, it states that:

3 "CP&L indicates that all accessible
4 critical welds have been inspected."

5 Does it not?

6 A That's correct.

7 Q What does "accessible" mean in this context?

8 A It meant that we didn't have to cut the unit
9 apart. As long as we could get to it without cutting
10 the unit apart.

11 Q And what does "critical" mean in this context?

12 A That was an engineering evaluation of the weld
13 that we could not get to to determine if it was a
14 critical weld from the seismic requirement for that
15 piece of equipment.

16 Q Is it possible that some critical welds would
17 also be inaccessible?

18 A It is possible but engineering would have had
19 to evaluate that piece of equipment with the assumption
20 that that weld was not there and determine if that weld
21 needed to be looked at.

22 Q How would you inspect those critical welds
23 that may be inaccessible?

24 A If it was required, after all of the
25 evaluation, that they still needed to be inspected, then

agb/agb4

1 we would have taken it apart and we would have inspected it.

2 Q Do you propose to do any more inspection of
3 these welds?

4 A We have completed all of our inspections of
5 all of the air handling equipment and, as a result of
6 that inspection and what we have done, there was no items
7 reportable to the NRC under 10 CFR 5055(e), so there was
8 no case of a safety significance in any of this.

9 Q Would you recite that regulation again for me?

10 A 5055(e). It's a reportability requirement
11 for construction.

12 MR. RUNKLE: At this time I would like to
13 introduce JI 11 into evidence.

14 JUDGE KELLEY: Admitted.

15 (Whereupon, the document
16 previously marked for
17 identification as JI
18 Exhibit 11 was received
19 in evidence.)

20 JUDGE KELLEY: Fine.

21 It looks like it's about time for a break
22 also.

23 It's four after, we will resume at 19 after.

24 (Laughter.)

25 (Recess.)

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JUDGE KELLEY: We're back on the record.

As I indicated previously, we will go to 5:30 or thereabouts and quit for today.

Mr. Runkle.

CROSS-EXAMINATION (Continued)

BY MR. RUNKLE:

Q Mr. Utley, on page 33 of your testimony, the bottom paragraph, you refer to a management audit of CP&L commissioned by the North Carolina Utilities Commission by the firm of Cresap, McCormick and Paget, which we will refer to as Presap.

Did they in fact make a study of CP&L's management capabilities?

A (Witness Utley) They had a team that worked in CP&L to determine the management capabilities for a period of about eight months.

Q Did they issue a report on this?

A Yes, they did.

Q Are you familiar with the report?

A Yes, I'm generally familiar with the report.

Q When did they publish their report?

A They are still in the process of following up on some aspects of that audit and their recommendations.

Let me clarify what I'm saying:

Cresap and McCormick did issue a report. In

agb/agbc

1 that report were recommendations. Part of those
2 recommendations they have continued to follow up to insure
3 closeout of those.

4 Q But they did issue a preliminary report making
5 recommendations, did they not?

6 A Yes, they did.

7 Q When was the Cresap audit initially ordered
8 by the North Carolina Utilities Commission?

9 A I cannot remember the exact date, that's a
10 matter of record. But I don't remember just offhand.

11 Q Could you categorize it as early in 1982?

12 A It very well could have been.

13 Q In what time period did Cresap audit CP&L
14 management?

15 A Would you ask that question again?

16 Q For what time period did Cresap audit CP&L's
17 management?

18 A As I recall it covered a period of approximately
19 eight months.

20 Q And that would be in 1982?

21 A That's my recollection, yes.

22 Q And did they issue this preliminary report with
23 recommendations in December, 1982?

24 A That, as I recall, sounds close to correct.

25 Q And why did the North Carolina Utilities

agb/agb7

1 Commission order an audit of CP&L's management capabilities?

2 A. The last audit that was performed was back in
3 1977, as I recall. And as I remember there are statutes
4 that permit an audit by the Commission on a basis that
5 would have meant that we would have gotten an audit in
6 1982 if the Commission so felt an audit was in order.

7 And to tell you specifically all of the
8 reasons that they required this audit at this time, I'm
9 not in a position to do that.

10 Q. Can you tell us some of the reasons why the
11 North Carolina Utilities Commission so ordered an audit?

12 A. Well I'm sure one of the reasons was from
13 the standpoint of an outside review of Carolina Power
14 and Light Company to assure that it was managing and
15 directing its activities in a competent manner.

16 Q. In an audit such as that performed by Cresap,
17 did you have regular contact with the auditors?

18 A. Cresap, they did interview me, yes.

19 Q. Did they interview other members of CP&L
20 management?

21 A. Yes, they interviewed a number of key managers
22 in North Carolina Power and Light Company.

23 Q. Did they interview people at all levels of
24 CP&L?

25 A. When you say "all levels," I'm not sure I know

agb/agb8 1 what you mean. They did not interview all levels, they
2 interviewed a sufficient number of management people
3 to determine the competency of the management of
4 Carolina Power and Light Company.

5 Q Did they interview line workers at the
6 nuclear power plants?

7 A Did they interview people that were not in
8 management?

9 Q Yes, sir.

10 A I'm not aware that they interviewed people that
11 were not in management.

#19 12 Q Did you discuss their findings with them before
13 they issued their report in December 1982?

14 A Their findings were reviewed, yes.

15 Q And CP&L reviewed those before the report
16 was issued?

17 A To what degree the findings were reviewed,
18 yes, prior to the official report being issued.

19 Q Were you aware of what the investigators were
20 auditing?

21 A When you say "investigators" --

22 Q That the Cresap auditors were looking at what
23 parts --

24 A Yes, we at the company knew what they were
25 auditing, sure.

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Q And what areas were they looking into?

A They looked into practically all areas of the company.

Q Were you aware of the draft report before its official presentation to the Utilities Commission?

MR. BARTH: Objection, your Honor. He asked that question moments ago and he answered yes.

JUDGE KELLEY: I guess I wasn't real clear on the answer myself.

WITNESS UTLEY: I did not review the draft report.

JUDGE KELLEY: I believe a few minutes ago Mr. Runkle asked about CP&L people or yourself reviewing the findings before they were finalized or released.

Paraphrased.

MR. RUNKLE: Yes, sir.

JUDGE KELLEY: And I wasn't sure what the answer was, Mr. Utley.

WITNESS UTLEY: My answer was that there was a review of the findings in a draft form prior to the official release of the official report as I recall it. That is subject to check.

JUDGE KELLEY: What do you mean by "official release?" By whom, by Cresap, or by the Utilities Commission?

agb/agb10

1 WITNESS UTLEY: That would have been a report
2 that was put out by Cresap for the Commission. These
3 were -- this was a audit that was made by Cresap where
4 they went in and reviewed all the activities -- for example,
5 under my management -- and they did identify findings
6 and they made these findings known as I recall.

7 JUDGE KELLEY: Prior to their reporting to
8 the Utility Commission so you had a chance to comment
9 on the draft findings, was that the case?

10 WITNESS UTLEY: It wasn't necessarily a
11 situation where we had a chance to comment, per se. It
12 was a situation where they made known the findings that
13 would be submitted.

14 JUDGE KELLEY: Just for your information?

15 WITNESS UTLEY: Right.

16 JUDGE KELLEY: Okay.

17 I know in the Federal Government I think
18 it's pretty routine, agencies get reviewed by the
19 comptrollers' people and they make various draft
20 findings and they then give it to the agency and say
21 what do you think of that? And then they comment and
22 they are revised perhaps.

23 So I'm not necessarily asking a question
24 that in my own head anyway implies there's something
25 sinful about seeing somebody's draft findings, but I

agb/agb11 1 just want to know how it was done.

2 WITNESS UTLEY: As I recall that is the
3 procedure that is followed. I did not have responsibility
4 in the company for handling this audit.

5 Mr. Davis, who handled this for the company
6 at the time the audit was made, is much more familiar
7 in detail with this report than I am from that standpoint
8 as it relates to the company.

9 JUDGE KELLEY: Okay.

10 Go ahead, Mr. Runkle.

11 BY MR. RUNKLE:

12 Q Would that be a Mr. James Davis in charge of
13 operation support?

14 A (Witness Utley) That's correct.

15 Q Was CP&L management already aware of the
16 problems identified by Cresap?

17 A Let me say I'm sure that there were some findings
18 made by Cresap that were not identified by Carolina Power
19 and Light in total.

20 But let me point out here that this was an
21 audit made by a very competent management auditing
22 concern who had audited a number of utilities throughout
23 the United States.

24 In this audit, as I remember, there were about
25 53 distinct strengths that were identified in Carolina

agb/agbl2

1 Power and Light Company versus maybe 55 findings. And
2 these strengths were significant.

3 I would like to read from the letter to the
4 Commissioners, the part that makes reference to these
5 strengths, "...CP&L strengths and accomplish-
6 ments that we have judged to reflect
7 excellence or innovation. In all, this
8 report identifies 53 distinct CP&L strengths
9 or accomplishments that offer evidence of
10 commendable performance."

11 In addition, as I recall the 55 findings that
12 were identified, of the 15 companies or thereabouts that
13 they had audited, the 55 was either the lowest or the
14 next to the lowest number of findings that they had
15 uncovered in any company, which says that they found CP&L
16 to be a well-managed company.

17 Well, to give you their comment:

18 "In many respects, CP&L is one of
19 the best-managed utilities that we have
20 audited in the past several years."

21 Q And where did you read that from?

22 A That's the letter to the Commissioners dated
23 December 15th, 1982.

24 Q And that is by Cresap, McCormick and Paget,
25 Incorporated?

agb/agbl3

1 A That's signed by Cresap, McCormick and Paget,
2 Incorporated.

3 Q You stated that Cresap, in your opinion, was a
4 very competent auditor in the area of management, did you
5 not?

6 A That is correct. I would say they are
7 recognized nation-wide.

8 Q Did they not also audit Public Service
9 Commission of New Hampshire -- Public Services of New
10 Hampshire?

11 A I can't answer that specifically. I don't have
12 a list of everybody they have audited.

13 To give you a further flavor for the report,
14 in looking at some of the more notable -- it says:

15 "Some of the more notable ones
16 are a well-organized top management team
17 including" -- this is the strengths --
18 "the committee structure of the Board of
19 Directors; participative management with a
20 commitment to excellence and innovative
21 change, beginning at the top and flowing
22 downward to lower levels; well-developed
23 management succession program; a solid
24 and innovative finance and accounting
25 organization; a sound management approach

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to the Harris Nuclear Project, which incorporates lessons learned from previous generation projects as well as industry experience and competent personnel from a variety of sources; commendable cost and schedule performance of the recently completed coal-fired Mayo Project; more-than-acceptable operating performance of the larger coal-fired base-load generating station and the Robinson nuclear generating station, which has produced significant cost benefits to the ratepayers; a consistently superior personnel safety record throughout the company; and finally, extensive and innovative formal management systems that compare very favorably with those of other utilities we have reviewed recently. These management systems are found in areas such as procedures and controls, management-by-objectives, work force management and fuels management and procurement."

agb/agb15

1 Q Would you care to continue reading on that
2 page where it talks about "Opportunities for Improvement?"

3 A I'll be glad to.

4 JUDGE KELLEY: Let me just suggest that since
5 we're going into this particular letter in such detail
6 that you put a copy of the whole letter in evidence.
7 If nobody wants to offer it, the Board can do it.

8 Go ahead, read what you want to read.

9 WITNESS UTLEY: "In contrast to the
10 strengths, it is our approach to identify
11 as many opportunities for improvement as
12 possible that will increase the efficiency
13 and effectiveness of the company studied,
14 both in the near and the long term. The
15 review of CP&L resulted in 55 such
16 observations, about half of which we would
17 categorize as management process improve-
18 ment opportunities. The remainder
19 addressed mainly issues related to
20 organizational efficiency, productivity
21 effectiveness, or cost containment and
22 control. A few opportunities related
23 directly to revenue enhancement or cost
24 savings.

25 "We have judged two areas to

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the most attention by CP&L management.
First, improved operating performance
at Brunswick Nuclear Project is needed."

Which we recognize.

"The Brunswick situation is
complex and, in our opinion, goes back
several years. The plant requires, as
all nuclear plants do, design modifica-
tions or enhancements soon after
commercial operation. Superimposed
upon this workload was a flood of design
changes generated by Three Mile Island
and mandated by the NRC in the past
several years. CP&L attempted to react
properly to this drastically increased
workload, but did not achieve the
required results. During our eight-
month review, we observed an expanded
and vigorous dedication by the Company
to resolve technical and management
process problems remaining at Brunswick.
To its credit, the company initiated
many of these actions on its own, and
we believe that it is now properly
postured to return the plant to an

AGB/agbl7

1 acceptable operating performance."

2 And I can refer to the most recent SALP
3 report which in turn tends to support that finding.

4 MRS. FLYNN: Mr. Chairman, Applicants will
5 offer that letter into evidence.

6 JUDGE KELLEY: Fine.

7 MR. RUNKLE: I would like to move to strike
8 that editorial comment in his reading of that -- the
9 second paragraph where he said and we recognize this.

10 JUDGE KELLEY: If we're going to put in the
11 whole letter now, it might be useful to just fold it in
12 at this point where we're having quotations from it.
13 With the actual text there, the record will show what
14 the letter actually does say and then striking other
15 comments won't be necessary, it seems to me.

16 MR. RUNKLE: All right. Thank you.

17 MRS. FLYNN: Mr. Chairman, can I obtain a
18 copy of that letter and introduce it tomorrow morning?

19 JUDGE KELLEY: That's fine.

20 MRS. FLYNN: Thank you.

21 MR. BARTH: That will be Applicant's Exhibit
22 Number 2 in evidence?

23 JUDGE KELLEY: If we fold it into the transcript
24 it doesn't need a number, does it?

25 MRS. FLYNN: No, that's right, it doesn't.

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MR. BARTH: Thank you, your Honor, for the clarification.

MRS. FLYNN: I can get a copy of it made this afternoon.

JUDGE KELLEY: If you could, the Reporter could put it in then.

Does any party contemplate offering the Cresap report, preliminary report if you want to call it that? That's not in anybody's agenda?

MRS. FLYNN: No, sir.

MR. RUNKLE: No, sir.

(The 12/15/82 Cresap letter to the North Carolina Utilities Commission follows:)

Cresap, McCormick and Paget Inc
Management Consultants

30 NORTH LASALLE STREET • CHICAGO, ILLINOIS 60602 • Telephone (312) 263-7125 • Telex Number 254151

Chicago • New York • Washington • San Francisco
London • Melbourne • São Paulo

December 15, 1982

The Commissioners
North Carolina Utilities Commission
Dobbs Building
Raleigh, North Carolina 27602

Dear Commissioners:

We take pleasure in submitting herewith our report titled Management Audit Of Carolina Power & Light Company conducted on behalf of the North Carolina Utilities Commission (NCUC). The report culminates eight months of intensive and comprehensive fact-finding and analysis of the management and operations of Carolina Power and Light Company (CP&L). In addition to the fact-finding conducted within CP&L, we interviewed persons and reviewed documents from a variety of external sources, such as the Nuclear Regulatory Commission (NRC), the NCUC and its staff, the Public Staff, intervenors in past CP&L rate cases, and the electronic and print media in CP&L's service area. Collection of information from all of these sources was completed on September 19, 1982 and the information was incorporated into the ensuing analyses.

The knowledge and perspective gained from the 15 management audits we completed for utility regulatory bodies in the past five years was also brought to bear on all phases of this study. As you know, the consultants assigned to this review participated in most of our previous mandated management audits. In fact, our CP&L study team was made up of professionals who have general and specific knowledge of electric utility management and operations, and included several of the most senior consultants in our Electric Utility Practice.

STRENGTHS AND ACCOMPLISHMENTS

We believe that it is particularly important to present a fair and accurate picture of the companies we review for regulatory commissions. Nevertheless, we are very selective in our discussion of strengths or accomplishments because effective and efficient management is, in our way of thinking, a requirement all management should meet. Consequently, we cite in this report only those CP&L strengths and accomplishments that we have judged to reflect excellence or innovation. In all, this report identifies 53 distinct CP&L strengths or accomplishments that offer evidence of commendable performance.

Some of the more notable ones are a well-organized top management team including the committee structure of the Board of Directors; participative management with a commitment to excellence and innovative change, beginning at the top and flowing downward to lower levels; well developed management succession program; a solid and innovative finance and accounting organization; a sound management approach to the Harris Nuclear Project, which incorporates lessons learned from previous generation projects as well as industry experience and competent personnel from a variety of sources; commendable cost and schedule performance of the recently completed coal-fired Mayo Project; more-than-acceptable operating performance of the larger coal-fired base-load generating stations and the Robinson nuclear generating station, which has produced significant cost benefits to ratepayers; a consistently superior personnel safety record throughout the Company; and finally, extensive and innovative formal management systems that compare very favorably with those of other utilities we have reviewed recently. These management systems are found in areas such as procedures and controls, management-by-objectives, work force management, and fuels management and procurement.

OPPORTUNITIES FOR IMPROVEMENT

In contrast to strengths, it is our approach to identify as many opportunities for improvement as possible that will increase the efficiency and effectiveness of the company studied, both in the near and the long term. The review of CP&L resulted in 55 such observations, about half of which we would categorize as management process improvement opportunities. The remainder addressed mainly issues related to organizational efficiency, productivity effectiveness, or cost containment and control. A few opportunities related directly to revenue enhancement or cost savings.

We have judged two areas to warrant the most attention by CP&L management. First, improved operating performance of the Brunswick Nuclear Project is needed. The Brunswick situation is complex and, in our opinion, goes back several years. The Plant required, as all nuclear plants do, design modifications or enhancements soon after commercial operation. Superimposed upon this workload was a flood of design changes generated by Three Mile Island and mandated by the NRC in the past several years. CP&L attempted to react properly to this drastically increased workload, but did not achieve the required results. During our eight-month review, we observed an expanded and vigorous dedication by the Company to resolve technical and management process problems remaining at Brunswick. To its credit, the Company initiated many of these actions on its own, and we believe that it is now properly postured to return the plant to acceptable operating performance.

It is important to recognize that although the improvement programs and structure set forth by CP&L are sound, the improvement process cannot be compressed in time and is likely to take two or three years to complete. Further, during this period, Robinson will have to undergo a long shutdown for required steam generator replacements. Finally, the controversy that has surrounded Brunswick stems squarely from a lower-than-desired capacity factor, which results in a foregone opportunity for the relatively inexpensive power a nuclear plant can provide. As discussed in Chapter II (The Setting), the Brunswick Plant will undergo extensive modifications from now through 1985, which will necessitate long outages and reduce achievable capacity factors.

The second most important area warranting CP&L management attention is the Company's image with external parties such as the public, press, and the NCUC. We found CP&L's public and regulatory relations processes to be sound, but not the results it has been achieving. The Company has accepted this criticism and has embarked on new directions to bring about improvement. These steps have included senior management visits to various field locations to gain a better understanding of the concerns of CP&L's critics. We hope that such steps continue and expand because we believe that all parties are sincere in their views and efforts, but need more direct and open communication with one another.

Other important findings discussed in the report deal with the size and location of line and service crews; compensation practices for senior management; the Company's captive coal mines; inventory control methods; certain aspects of project estimating and budgeting methods; and power plant maintenance and outage planning, scheduling, and control.

RECOMMENDATIONS AND STATUS

This report contains 55 recommendations for CP&L and one for the NCUC to consider and adopt in an appropriate manner. The Plan of Action set forth at the end of Chapter III (Executive Summary) indicates the priority and time period for implementation. Fourteen recommendations have been highlighted in the Plan of Action as most important and warranting immediate management attention.

We have reason to believe that CP&L management will act decisively to achieve the benefits possible from our recommendations. CP&L was vigorous and responsible in responding to the recommendations made in the 1977 management audit. We have been advised by the Company that, after reviewing our draft report, it is likely to adopt at least a majority of our recommendations and has already begun implementing some of them. We recommend that the Company's decisions to adopt or reject the recommendations in this report be formally communicated to the Commission.

OVERALL ASSESSMENT OF CP&L

In many respects, CP&L is one of the best-managed utilities that we have audited in the past several years. This is not to say that it is without opportunities for improvement, and we have attempted to address the most significant of these as completely as possible in this report. Nonetheless, we have uncovered procedures, processes, and approaches that in our judgment place CP&L among the industry leaders in many areas.

OTHER IMPORTANT
OBSERVATIONS

While outside the scope of our contracted work we have reached some conclusions that we believe to be as important to the North Carolina ratepayers as any made in this report. Specifically, there is a pronounced need to establish regular and structured communication between CP&L and the Commission. In the past, communication has been principally, if not almost exclusively, in legal proceedings such as rate or fuel adjustment hearings. If adversarial hearings are the sole or principal means for providing information on the Company's operations, such communications can tend to be limited in their scope and comprehensiveness.

In our judgment, other forms of communication are becoming increasingly important to enable the Commission to continue to carry out its responsibilities effectively. Recent legislation covering fuel adjustment and construction work in progress (CWIP) decisions has increased the Commission's authorities. We strongly believe that the Commission needs to be continually informed of CP&L developments in both of these areas. We would suggest adding ongoing oversight of the Brunswick Improvement Plan to the list because of its importance to ratepayers.

* * * * *

It was a pleasure and privilege to conduct this assignment. We found all parties to be most professional, cooperative, and constructive in their dealings with us. In particular, we appreciate the excellent liaison assistance provided by the Commission and the NCUC Staff as well as by CP&L.

Please call us if you have any questions about our report.

Very sincerely,

Cresap, M. McCormick and Paget Inc.

CRESAP, MCCORMICK and PAGET, Inc.

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BY MR. RUNKLE:

1
2 Q Mr. Utley, did the North Carolina Utilities
3 Commission review the Cresap report?

4 A (Witness Utley) I did not understand that
5 question.

6 Q Did the North Carolina Utilities Commission
7 review the Cresap report?

8 A As far as I know they did.

9 Q Was there a public hearing in which it was
10 presented to them?

11 A These are questions I think would be more
12 appropriate to go to Mr. Davis. Whether it was a public
13 hearing or not, I do not know.

14 Q Has CP&L submitted some annual reports
15 following up on the Cresap reports?

16 A We have complied with the requirements of the
17 report and we have maintained a record of compliance.

18 Q Can you get in front of you JI Exhibit 14?
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1 A. I have JI-14.

2 Q. Have you had the opportunity to review this
3 document?

4 A. I am familiar that it is the status of the
5 recommendations from Cresap.

6 Q. And is this not a letter from CP&L President Sherwood
7 Smith to the North Carolina Utilities Commission?

8 A. It is.

9 Q. Have you had an opportunity to review the rest of
10 the document?

11 A. I'm generally familiar with it.

12 Q. Could you briefly state what the rest of this
13 document is?

14 A. It's the status of the recommendations from Cresap,
15 McCormick and Paget's management audit showing the recommenda-
16 tions, the originally expected completion date, the current
17 expected date to be completed, and the status as of May '81.

18 Q. Is it not a list of the fifty-five recommendations
19 in the Cresap report for management changes?

20 A. It is a listing of the fifty-five recommendations,
21 yes.

22 Q. It's a brief summary of those recommendaqtions?

23 A. That's correct.

24 Q. And, in your opinion, do these summaries of the
25 different recommendations fairly present what the recommendations

AGB/wb2

1 were from Cresap to the North Carolina Utilities Commission?

2 A Yes, it's my view they do.

3 Q When it states "original expected completion date,"
4 does that mean that from December 1982 to whatever time period
5 is in that expected completion date, is that how long CP&L
6 worked on resolving that issue?

7 A I wouldn't necessarily say it's how long we worked
8 on it; it's the date that was looked at as being reasonable
9 to complete these items at the time the dates were established.

10 Q Could you briefly describe some of the functions
11 of the CP&L board of directors?

12 A Well, the board of directors really has the
13 responsibility to review and stay abreast of the overall
14 company operations, being responsible to the stockholders
15 to assure that the company is operated and managed properly.

16 Q Would it be fair to say that the board of directors
17 has a good deal of responsibility for directing company
18 affairs?

19 A Well, when you say "directing company affairs,"
20 that's getting a little bit specific, I think.

21 The chairman and chief executive officer is
22 responsible to the board of directors for carrying out the
23 management of the company, and the board is responsible to know
24 that that takes place.

25 Q Is it important that members of the CP&L board of

AGB/wb3

1 directors are well versed in nuclear management?

2 A I would not say that the board of directors per se
3 is specifically and technically versed in the nuclear power
4 field; I will say that with the -- from the standpoint that
5 I am a member of the board, and so is Mr. Smith, and we have
6 under our control and direction as well qualified an organiza-
7 tion as probably exists in the country, and these people are
8 available to guide and support and provide technical informa-
9 tion to us as board members in regard to the overall function
10 of the board.

11 In addition, these people on occasion make presenta-
12 tions to the board in respect to the situation. As I mentioned
13 this morning, Dr. Elleman reports to the board annually with
14 regard to the overall safety of our operation.

15 Q Was the management of CP&L aware that there might
16 be a problem in not having outside directors on its board that
17 are experienced or knowledgeable about nuclear utility
18 operations?

19 A Would you ask that question again, please?

20 Q In the first recommendation on the listing of
21 recommendations from Cresap, it states that,

22 "The company should consider adding one
23 or more outside directors to its board who are
24 experienced in, or knowledgeable about, nuclear
25 utility operation."

AGB/wb4

1 A. That was a recommendation by Cresap. And, of course,
2 that was made on the basis of adding additional nuclear
3 experience in respect to the board. I would say that the
4 company has reacted to that recommendation in a way that it
5 is looked at as being a way of satisfying that recommendation;
6 that is, we have -- as a consultant we have working for us the
7 chairman and chief executive officer, recently retired, of
8 Northeast Utilities, Lee Sillin, who is also the chairman
9 of the board of the Institute of Operations, Nuclear Operations,
10 in Atlanta. And, of course, he has had long-time experience
11 with a utility that managed and directed a successful program.

12 Q. Is he currently on the board of directors of CP&L?

13 A. He is not on the board of directors, he's a
14 consultant to CP&L.

15 Q. Since Cresap made its recommendations in December
16 of 1982, has CP&L added outside directors with nuclear
17 experience to its board of directors?

18 A. There has not been anyone added to the board of
19 directors of CP&L since that recommendation.

20 JUDGE KELLEY: Excuse me; why does it say that
21 the action is completed, then?

22 WITNESS UTLEY: It says the action is completed
23 because the management of Carolina Power and Light Company
24 principally Mr. Smith, placed on retainer Lee Sillin to func-
25 tion as a consultant to him as well as to the board in

AGB/wb5

1 regard to satisfying any lack of knowledge that might prevail
2 as it relates to this recommendation. And that was considered
3 to satisfy this recommendation.

4 JUDGE KELLEY: I read that to mean that you had
5 done what the recommendation literally said you ought to do.
6 So, frankly, I find that misleading.

7 WITNESS UTLEY: Well, I would like to say that the
8 recommendation was that the company should consider adding
9 one or more outside directors to its--

10 JUDGE KELLEY: So you finished considering it, so
11 it's completed, in that sense?

12 It still seems to me that if I were--

13 WITNESS UTLEY: I think the view on it should be,
14 the intent of the recommendation was fulfilled, in that a
15 very competent individual is available to the board to provide
16 whatever technical information or overall management direction
17 as it relates to nuclear might require.

18 JUDGE KELLEY: Well, I don't question Mr. Sillin's
19 competence, I'm just saying if I were sitting up at the
20 North Carolina Utilities Commission, if I were reading this
21 report and I didn't know anything more than that, my reaction
22 would be, Well, that's good: there is now a new outside
23 directors on the board who knows about nuclear. That's the
24 way I'd read it. And that's not the case really.

25 So I would be misled in that sense.

AGB/wb6

1 BY MR. RUNKLE:

2 Q. Mr. Utley, why do you think Cresap made this
3 recommendaqtion to CP&L?

4 A. (Witness Utley) I think there were a number of
5 reasons why they made this recommendation. I mean, if you look
6 at the importance of nuclear operations to the utility, and
7 you look at everything that has transpired throughout the
8 industry over the past several years, as much know-how as can
9 be made available to the board is beneficial to the overall
10 operation of our company. And, of course, I would think that
11 had a bearing on the basis on which they made the recommenda-
12 tion.

13 Q. Doesn't this recommendation indicate that Cresap
14 did not believe internal board members would be adequate to
15 provide this proper guidance?

16 A. I don't think that at all. I think just what I
17 got through saying; that added technical know-how in regard
18 to the overall management of nuclear -- of a utility operating
19 nuclear plants would be beneficial. And I don't take
20 exception to that at all, because any time we can get more
21 know-how, more input from people that have demonstrated
22 competence in the nuclear industry it's a benefit to us as a
23 company, and I'm sure we would welcome it and utilize it to
24 our best benefit.

25 Q. How many directors are there on the CP&L board of

AGB/wb7

1 directors?

2 A That's sort of like the number of fossil plants
3 that we have operating.

4 Subject to check I'm going to say fourteen.

5 Q And how many of these are outside directors, and how
6 many of these would be inside directors?

7 A I believe we have Mr. Smith and the three executive
8 vice presidents on the board, so there would be four internal.

9 Q And besides you and Mr. Smith, does anybody
10 else on the board of directors have experience in, or is
11 knowledgeable about nuclear utility operation?

12 A Well, when you say "knowledgeable about nuclear
13 utilities," that covers a broad scope. Certainly our financial
14 officer is familiar to nuclear plants as it relates to his
15 area of responsibility. The same thing would be the case with
16 Mr. Graham who heads up the area of responsibility for
17 customer services and public relations and rates and regulations.

18 Q As relating to the second recommendation, it
19 recommends -- the Cresap report recommends that the information
20 management department should develop and implement an office
21 automation plan, does it not?

22 A That is recommended.

23 Q And you originally expected to complete that in
24 1984, and you currently are expecting to complete that in 1984,
25 do you not?

AGB/wb8

1 A. That's what this report indicates.

2 Q. Is this on schedule? Do you expect to complete it
3 in 1984?

4 A. That's not under my scope of responsibility. I
5 do know there have been studies made by consultants in regard
6 to the office automation and just what would be most
7 appropriate for our company, and I would have to go by what
8 is shown on the report, that it will be closed out in 1984.
9 Just what the means in respect to office automation plan,
10 that hasn't been determined, as far as I know.

11 Q. So information management departments would be
12 office automation, would it not? And that would be internal
13 corporate word processing, secretarial support, that kind of
14 thing?

15 A. Well, that is looked at as office automation, yes,
16 part of it.

17 Q. Does that include any automation of the reporting
18 systems of any of the nuclear plants, the different reports,
19 and that kind of thing?

20 A. Well, I would-- It would be my judgment that this
21 would include all activities that take place in respect to
22 the operation of our offices. And to the extent that reports
23 and so forth are developed that relate to nuclear programs,
24 then data that's fed into the offices from the field that is
25 handled by this equipment, would be covered in that category.

AGB/wb9

1 I would also say information being made available
2 to management very well would not change from what the
3 situation is at the present time; it's just a matter of the
4 way the information would be handled.

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WRB/pp 1

#21

1 Q Would information get to the management more
2 rapidly?

3 A I would rather use the word more efficiently
4 rather than rapidly necessarily. I think that would be the
5 principal basis on which the automation would be considered,
6 that is it would make for a more efficient operation of our
7 offices.

8 Q Wouldn't automation speed up the office response
9 to what? To any paperwork demands. Our response to any
10 paperwork demands.

11 A I'm not sure I'm clear on that question.

12 Q Would management respond faster to the paperwork
13 demands, by implementing an automation system?

14 A Do you mean by that question would we get the
15 results faster than under the existing program?

16 Q Yes, sir.

17 A There may be situations where that could be the
18 case. But I again point out the need for information is
19 prioritized at the present time to provide the information
20 in a timely way so that appropriate decisions be made in
21 regard to whatever might be at hand.

22 Q Why hasn't CP&L implemented this recommendation
23 sooner than sometime in 1984?

24 A I would -- it's my view that the need for this
25 system has not been recognized at this time to provide

WRB/pp 2

1 the improvements that would make it a system that would be
2 cost effective and provide results that would make it proper
3 to make this type purchase, to make these changes.

4 Q I'd like to refer you to recommendation number 17,
5 which states "the performance review and audit services
6 department should adopt its draft method for evaluating
7 relative engagement odd risk and develop objective standards
8 for evaluating risk variables." Is that what it states?

9 A Let me read that.

10 (Witness reading.)

11 Yes, that's what it states.

12 Q And that was expected to be completed in 1984
13 but has not been completed to date, has it?

14 A That's what the report shows and of course the
15 report is as of May 1, '84.

16 Q Is it not true that the department, the Performance
17 Review and Audit Services Department, has recently shifted
18 its focus from financial auditing to operations in construction
19 audits?

20 A I'm not sure I would agree with that statement.

21 We've had financial audits since I've been with the
22 company, which is 33 years. And there have been audits of
23 our construction program by numerous people, numerous
24 organizations. Such as NRC, INPOL, on more than one
25 occasion, and others.

WRB/pp 2

1 JUDGE KELLEY: Mr. Runkle, could we before
2 pursuing this number 17 further, can we establish some
3 nexus between this proposal and nuclear health and safety.
4 It's not apparent to me from reading perhaps there is one.

5 MR. RUNKLE: Well, it certainly goes to the
6 management if there was a draft plan to evaluate risk
7 variables some time prior to December, 1982, and it has
8 not been implemented yet. --

9 JUDGE KELLEY: Does risk there mean safety risk
10 or some other kind of risk. Maybe that's what I'm really
11 asking. I don't know.

12 MR. RUNKLE: It refers to. and I understand it.
13 audit risk. And I would like to find out what that means.

14 JUDGE KELLEY: Let's go there next. So far I
15 don't know what this has to do with safety. Maybe it does
16 have a lot to do with safety but it is not apparent to me
17 as yet.

18 BY MR. RUNKLE:

19 Q Sir, does the performance review and audit
20 services department audit operations and construction.

21 MR. BARTH: Your Honor, could we object until
22 we have the point clarified which your Honor raised as to
23 what risks they are talking about? What is a risk variable?
24 I think until your Honor's point is clarified, the Staff and
25 Counsel here have no idea what this or what these words mean.

WRB/pp3 ;

1 It's jargon. I do see that Mr. Runkle has a copy of the
2 report. Maybe the report would make this clear.

3 We have no idea what this one paragraph means, what
4 the risk variables are in it.

5 JUDGE KELLEY: I do think that the next step
6 ought to be to establish whether the risk that's referred
7 to here means safety risk, health and safety or whether it
8 means something else, financial risk for example.

9 If it had to do with losing money, I don't see why
10 we care one way or the other.

11 MR. MC DUFFIE: This performance review and
12 audit department and the hearing budget makes financial
13 audits, and industrial engineer-type audits, such as, work
14 sampling and productivity.

15 JUDGE KELLEY: Can you explain a little bit --
16 productivity, can you expand on this a bit?

17 MR. MC DUFFIE: Yes. Well, they audit the project
18 to assure that we have financial control over the contractors.
19 That we do have a procedure and a control for purchasing, that
20 we do have a system set up to check the people on and off the
21 job, to assure that a man gets paid for a day that he was
22 there that day. They audit the way we pay contr-actors for
23 materials, and/or labor. And then they engage in industrial
24 engineering activities at the request of the project which
25 is directed towards the productivity of the crafts people.

WRB/pp 4

1 The audit is not in the sense that we've talked about QA
2 today or nuclear safety. It's almost totally under the guise
3 of a financial office.

4 JUDGE KELLEY: Having to do with the prudent
5 expenditure of your money?

6 MR. MC DUFFIE: That's true.

7 JUDGE KELLEY: I don't know, Mr. Runkle, so far
8 I don't hear any relationship between this recommendation
9 and nuclear safety.

10 MR. RUNKLE: Okay. I would like to read one
11 of the sections in the Cresap report which describes some
12 of the functions of this department at the Harris plant.
13 I mean that's a -- the management study of Carolina Power
14 and Light Company by Cresap, McCormick and Padgett. December 15,
15 1982, on page VII-14. The paragraph starts about halfway down.

16 "The Company should accelerate preparations for the
17 expanded operational audits of the Harris project.

18 "Efforts to acquaint existing audit staff members with
19 construction planning and scheduling, cost control and
20 productivity control functions should begin as soon as
21 possible before these audits."

22 JUDGE KELLEY: That sounds to me consistent with
23 what Mr. McDuffie just said. I still don't see a safety
24 relationship in any direct sense between this recommendation
25 and --

WRB/pp 5

1 I think without that link, we just have to pass on.
2 If you want to ask about another one, go ahead.

3 MR. RUNKLE: We'll just pass on it. I come to the
4 The Cresap report also indicates that significant
5 vacancies have existed at Brunswick for a number of years,
6 does it not?

7 MR. BARTH: Could he identify the recommendation,
8 your Honor, so that we can follow it?

9 JUDGE KELLEY: Which number is that?

10 MR. RUNKLE: I have a misnumbering on this. I will
11 have to look that up and bring that back tomorrow.

12 JUDGE KELLEY: Okay.

13 MR. RUNKLE: All right.

14 BY MR. RUNKLE:

15 Q Let me draw your attention to recommendation
16 number 39 if I may, which states that a formal predictive
17 maintenance program should be developed and implemented, does
18 it not?

19 A (Witness Utley) Yes. That's what the report says.

20 Q And would that in any way impact on the performance
21 of or be in any way related to the nuclear power plants?

22 A Yes, it would be related to the nuclear power plants.

23 Q So that would be maintenance at the power plants,
24 would it not?

25 A Well, it would not be maintenance at the power

WRB/pp 6

1 plants. What we're looking at here is a way of improving on
2 what is now being accomplished. And as I mentioned in my
3 testimony that we are working on improvements over and beyond
4 things that's already been put in place. And certainly this
5 is a part of a program that we would be developing.

6 Q And would that be a part of this development --
7 would be the use of the NPRDS, which we discussed this morning?

8 A NPRDS could be a part of this, yes.

9 Q Why hasn't CP&L completed this recommendation?

10 A Well, primarily it's a situation where you've
11 got programs in place that is doing the job. And you're
12 looking for ways of improving and doing a better job and
13 it's a continuing process of upgrading the way you maintain
14 your power plant. And it just happens we're in that period
15 of improvement at the present and it has not been -- this
16 particular aspect hasn't been closed down. That's in no
17 way to say that the program that's in place is not doing
18 the job. It's a level of which the job is being accomplished
19 and we're continuing to try to improve in regard to this --
20 that not only in maintenance, it's in a lot of other areas.

21 Q Were you aware of this before the Cresap
22 report brought it to your attention?

23 A Well, I don't think it's a matter of being aware
24 of it or not aware of it. I think we're talking more to
25 a degree by which we refine our programs more than it is not

WRB/pp 7 1

having it or having it. As I just mentioned, we do have

End #21

2 a program in place that is doing the job. We are always

3 looking for better ways of doing business and this is an

4 area that we are continuing to improve in.

B-22

5 Q What are the deficiencies in the current system?

6 A When you say what are the deficiencies in the
7 present system, again I go back to the answer that I gave.

8 We've got a program in place that's doing the job. And we

9 are in the process of upgrading that program to give us

10 better results.

11 To be somewhat more specific, as we improve on this
12 program we will be in a position to better protect maintenance
13 of certain equipment.

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WRB22/eb1

1 MR. RUNKLE: At this time I would like to offer
2 JI Exhibit 14 into evidence.

3 MRS. FLYNN: No objection.

4 JUDGE KELLEY: Admitted.

5 (Whereupon, JI Exhibit 14,
6 having been previously
7 marked for identification,
8 was received in evidence.)

9 MR. BARTH: Your Honor, I assume your
10 acceptance is for the limited purposes for which it was used
11 by Mr. Runkle with the witnesses.

12 JUDGE KELLEY: I'm not sure I understand your
13 point.

14 MR. BARTH: It covers 55 recommendations. I think
15 three of them were discussed by the witness and Mr. Runkle.
16 Those are the only matters which any kind of evidence has
17 been adduced upon.

18 I assume you are not admitting the document for
19 those matters which were not discussed, those recommendations.

20 JUDGE KELLEY: Well, I don't know. The document
21 was offered for its contents. Nobody objected to it. As
22 a practical matter it would seem to me that the attention
23 it would get in findings would focus on the things that were
24 discussed. But technically the document was offered in its
25 entirety and admitted in its entirety.

XZXZXZ

WRB/eb2

1 MR. BARTH: In that case, your Honor, I ask you
2 to reconsider your ruling.

3 JUDGE KELLEY: Okay. Do you want to make an
4 argument about that?

5 MR. BARTH: Yes, your Honor.

6 The document was discussed by Mr. Runkle in
7 regard to Recommendation Number 2, Recommendation Number 17,
8 Recommendation Number 1, and 39.

9 JUDGE KELLEY: Well, that's true, but let me ask
10 you a question.

11 Lots and lots of documents get admitted in these
12 proceedings. Insofar as I'm aware, the great bulk of them
13 are admitted without any particular qualification. They are
14 just admitted.

15 I am not aware of any principle of NRC law which
16 says you only admit those parts that happen to get
17 discussed. If the document comes in, it comes in, it's my
18 understanding.

19 MR. BARTH: I think, your Honor, that the
20 Federal Rules of Evidence provide that documents which are
21 used may be admitted for those purposes for which they are
22 used, not for all purposes.

23 JUDGE KELLEY: Well, let me take a look at that.
24 Have you got the text of the rule?

25 MR. BARTH: Yes, your Honor.

WRB/eb3

1 JUDGE KELLEY: I might add we're not bound by that
2 rule anyway, but we look to it as a source of wisdom on this
3 subject. If we find it persuasive we may follow it.

4 MR. BARTH: Rather than to continue to delay,
5 your Honor, I will offer to cite the section tomorrow.

6 JUDGE KELLEY: Well, we are interested in the
7 Federal Rule of Evidence that supports your position.

8 MR. BARTH: It is Rule 105, your Honor.

9 JUDGE KELLEY: Just a moment.

10 (Pause.)

11 MR. BARTH: It is one of the provisions that
12 attaches.

13 JUDGE KELLEY: Well, I have a March 1971 version
14 of those rules, and that says "Summing up and comment by the
15 Judge." It has the advisory notes that are often helpful.
16 That is not the parent text.

17 Have you got the text of 105 as enacted?

18 MR. BARTH: Yes. That's the wrong citation,
19 your Honor.

20 JUDGE KELLEY: Let me ask whether other counsel--
21 Do the Applicants support this position?

22 MRS. FLYNN: I don't fully understand the
23 position, your Honor.

24 JUDGE KELLEY: Mr. Runkle, I understood you to
25 be offering the exhibit into evidence without any

WRB/eb4 1 restrictions.

2 MR. RUNKLE: Yes, sir.

3 JUDGE KELLEY: That was your intent?

4 MR. RUNKLE: Yes, sir.

5 MR. BARTH: Your Honor, no foundation has been
6 laid to put this document into evidence for estimating and
7 budgeting for major projects should be enhanced, which is
8 Recommendation 30. This was not discussed. This is not
9 relevant. This is immaterial to the matters we are
10 considering. No evidence was adduced on that.

11 There is no showing that this was good, bad, or
12 has anything to do with nuclear safety or the contention.

13 JUDGE KELLEY: Which rule-- I thought you were
14 going to be referring me to a rule, a Federal Rule of
15 Evidence.

16 MR. BARTH: That's why I'm saying, your Honor,
17 that for all 55 of these recommendations, this document
18 should not be admitted.

19 JUDGE KELLEY: Well, do you have a rule? Let
20 me just get clear. Is there a Federal Rule of Evidence
21 that you're invoking in support of your position?

22 MR. BARTH: There are two.

23 JUDGE KELLEY: What are they?

24 MR. BARTH: I'll give you an example. Number
25 30 says the estimation and budgeting for major projects

WRB/eb5

1 should be enhanced. Recommendation 30 is not relevant.

2 JUDGE KELLEY: I'm not getting to you.

3 Mr. Barth, what I really want, a minute ago you
4 said you knew about a Federal Rule of Evidence that
5 supported the argument you're making, and I said I would like
6 to hear about it. I would like to know what the rule is.

7 Now do you have such a rule, or should we wait
8 until tomorrow morning and look at it?

9 MR. BARTH: I would appreciate your waiting until
10 tomorrow morning, your Honor.

11 JUDGE KELLEY: Okay. We can wait on that.

12 For the moment we have pending a request for
13 reconsideration of the Chair's ruling admitting the document
14 without any qualification, and we can hear some argument
15 about that the first thing tomorrow morning when we will have
16 had a chance to look at the Federal Rules of Evidence.

17 For now, why don't we go ahead?

18 MR. RUNKLE: I did find the recommendation number
19 on the one I started to and then withdrew.

20 JUDGE KELLEY: Okay.

21 BY MR. RUNKLE:

22 Q Mr. Utley, could you look at Recommendation Number
23 50?

24 That states, does it not,-- The recommendation is
25 eliminating the shortages of operating personnel at the

WRB/eb6

1 Brunswick plant should continue to be a senior management
2 priority.

3 A (Witness Utley) I would say yes, that it was
4 a senior management priority. And I would say we have six
5 full shifts of operators. I would say that we have
6 assisted other plants in the country with SRO operators.

7 For example, we have sent a man to Long Island
8 Lighting, and he has trained on say Shoreham for the
9 purpose of providing or participating in that advisory
10 capacity at such time they can get their problems straightened
11 out and obtain their low power license. That man is now
12 back at our site, working.

13 We have also providing assistance in the operating
14 area to other companies in the country, and we are very
15 proud of what we have been able to accomplish in regard to
16 fully staffing our operating organization.

17 I must say that this type situation tends to
18 change, week in week out, but at the present time we are in
19 good shape.

20 Q Is it not true, though, that in the timer period
21 from 1979 to 1982, there were persistent vacancies of
22 certain key personnel at the Brunswick reactor?

23 A Well, now, are we talking about Recommendation
24 Number 50 in the context you asked the question?

25 Q Yes, sir.

WRB/eb7

1 A I would say that we have always been able to man
2 our shifts with qualified people and for the most part,
3 I would say we have been in a better position to do this than
4 some other companies.

5 We have not always had six full shifts. There are
6 probably more companies that don't have six full shifts than
7 there is that do have six full shifts. And again, it is a
8 part of the program that I described to you yesterday in
9 regard to management position to improve the overall
10 operation of the Brunswick facility, and this has been one
11 of the accomplishments.

12 Q When you referred earlier to SROs, what did you--

13 A Senior reactor operators. These are licensed by
14 NRC.

15 Q Wasn't staffing at Brunswick a major point of
16 debate at the 1979 construction remand hearings?

17 A The staffing was discussed in that hearing.
18 I would point out that we increased-- As I recall, we
19 practically doubled our staff from 1968 to 1979, which I
20 think demonstrates an aggressive effort by management to
21 provide sufficient personnel.

22 That was tied with considerable demands brought
23 on the utility by the change in regulations, the efforts
24 by Carolina Power and Light Company to better staff the
25 plants in respect to providing shift foremen over each unit

WRB/eb8

1 with an operating supervisor over the plant on all shifts.

2 And in accomplishing all of that improvement,
3 certainly there were periods when we authorized additional
4 positions. That had to be done before they were filled,
5 and of course that did provide a period of time in regard to
6 recruiting, training and qualifying people to fill these
7 positions. So there have been vacancies that prevailed
8 throughout the period going back to '79 and coming up to
9 date.

10 We have fewer vacancies today than has ever
11 prevailed in the past, percent-wise certainly, in that the
12 organization is significantly larger now than it was back in
13 1979.

14 Q Did you not state at the '79 remand hearings,
15 in relationship to the operation of Brunswick -- quote:

16 "It is still not where we want it but
17 it will be where we want it."

18 MR. BARTH: Your Honor, could we have a
19 citation to where he is reading from?

20 JUDGE KELLEY: Have you got a cite, a transcript
21 cite or something?

22 MR. RUNKLE: It's a transcript before the U. S.
23 NRC, 8 March 1979, at page 3535.

24 JUDGE KELLEY: Is this in the CP or the remand or
25 when?

WRB/eb9

1 MR. RUNKLE: It's the remand hearings on the CP.

2 JUDGE KELLEY: On management?

3 MR. RUNKLE: Yes.

4 MR. BARTH: Your Honor, we would object to any
5 questions regarding testimony before the remand. That
6 matter was resolved in 10 NRC 37 in the Licensing Board
7 decision which was LBD 79-19. That decision merges the
8 entire record. It is definitive and dispositive of the
9 matters there considered.

10 I submit that any discussion at this time or
11 other times as to individual testimony preceding the
12 initial decision by the Licensing Board is not appropriate.

13 JUDGE KELLEY: So if I understand the objection,
14 it is at the conclusion of that proceeding, whatever may
15 have happened, there is a wall that seals it off from this
16 case?

17 MR. BARTH: Yes, your Honor. And that wall is
18 that the decision is dispositive of all that occurred
19 therein.

20 JUDGE KELLEY: Applicants?

21 MRS. FLYNN: Mr. Chairman, Applicants believe
22 that the transcript of that hearing might be used in
23 cross-examination. We do believe that if it is to be so
24 used that the witness ought to be shown the quotation in
25 context so that he has an opportunity to see it in

RB/eb10

1 the total perspective in which it was said.

2 JUDGE KELLEY: Okay.

3 Conveniently, it is exactly 5:30. I think what
4 we might do is we have a couple of legal points before us
5 now, one just mentioned about whether the prior '79 hearing
6 is not properly referred to or whether it is, and the other
7 point about the extent to which Exhibit 14 was admitted or
8 ought to be admitted.

9 Mr. Runkle, is this as good a place as any to
10 call it a day?

11 MR. RUNKLE: I have one other point to make.

12 JUDGE KELLEY: On 14?

13 MR. RUNKLE: It was on one of the exhibit rulings
14 this morning.

15 JUDGE KELLEY: Could you refresh me on that?

16 MR. RUNKLE: I was under an obligation to supply
17 Staff and Applicants with certain documents which will be
18 used tomorrow, and over lunchtime I presented them with a
19 list of those documents, that they were available to both
20 Staff and Applicants, and I will bring copies for everybody
21 tomorrow morning.

22 JUDGE KELLEY: Okay. I think you mentioned this
23 to me earlier. That seems satisfactory.

24 MRS. FLYNN: I want to be sure that is all the
25 exhibits that you intend to use for this panel. Is that

WRB/eb11

1 correct?

2 MR. RUNKLE: Yes.

3 MRS. FLYNN: I wonder, could Mr. Runkle give us
4 an idea of about what time he thinks he will conclude with
5 this panel, and whether he thinks he will be ready for the
6 second panel tomorrow?

7 JUDGE KELLEY: Where are we? Can you give us
8 sort of a ballpark estimate?

9 MR. RUNKLE: It's hard to tell. I could probably
10 go the whole day tomorrow on this panel, and hopefully can
11 finish them up. But I would hate to think that I got
12 finished about 4:30 and would have to start the other panel
13 then.

14 JUDGE KELLEY: Let's be reasonable. If we get
15 out at 4:30 tomorrow afternoon and you're done, we are not
16 going to start off with a new panel at 4:30 on Friday
17 afternoon. If we get done at 1:30, I suppose we would go
18 to the next panel.

19 Mr. Runkle indicates that he may take all day.
20 Now wcn't we know better by noon? I would assume so.

21 MR. RUNKLE: Will that give you enough time?

22 MRS. FLYNN: It is helpful for scheduling the
23 people's activities if we have some idea of the duration of
24 the remainder of your cross-examination of this panel.

25 MR. RUNKLE: I will surely go to noon.

WRB/eb12

1 JUDGE KELLEY: Why don't you indicate to your
2 people that they may be called tomorrow afternoon? And you
3 will just have to let them know as soon as it becomes more
4 certain than it is now.

5 MRS. FLYNN: Very well, your Honor.

6 MR. RUNKLE: One thing--

7 JUDGE KELLEY: Can we go off the record for this
8 kind of discussion?

9 MR. BARTH: I want one thing on the record, your
10 Honor.

11 JUDGE KELLEY: Go ahead.

12 MR. BARTH: My reference to Rule 105 was the
13 correct reference. I have a copy of the rule for your Honor
14 for consideration this evening, and I would like your
15 indulgence for no more than four minutes to argue the point
16 tomorrow. I can win or lose in four minutes.

17 JUDGE KELLEY: Okay, fine.

18 I think we may have a few more housekeeping things
19 to talk about, but we can go off the record at this point.

20 (Witness panel temporarily excused.)

21 (Whereupon, at 5:37 p.m., the hearing in the
22 above-entitled matter was recessed to reconvene at
23 9:00 a.m. the following day.)

24

25

This is to certify that the attached proceedings before the
 UNITED STATES NUCLEAR REGULATORY COMMISSION in the matter of:

NAME OF PROCEEDING:

Carolina Power and Light Company
 and North Carolina Eastern Municipal
 Power Agency

(Shearon Harris Nuclear Power Plant
 Units 1 and 2)

DOCKET NO.: 50-400 OL
 50-401

PLACE: Raleigh Civic-Center
 Raleigh, North Carolina

DATE: 6 September 1984

were held as herein appears, and that this is the original
 transcript thereof for the file of the United States Nuclear
 Regulatory Commission.

(Sigt) William R. Bloom & Anne Bloom
 (TYPED) William R. Bloom & Anne Bloom

Official Reporter

Reporter's Affiliation

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