

ORIGINAL

UNITED STATES  
NUCLEAR REGULATORY COMMISSION

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IN THE MATTER OF:

COMANCHE PEAK ELECTRIC

STATION, UNITS 1 & 2

DOCKET NO:

50-445-OL2

50-446-OL2

LOCATION: FORT WORTH, TEXAS

PAGES: 14772 - 15171

DATE: September 10, 1984

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*TR. 01011*  
*Orig to E. Pleasant, 1149-H*  
~~*Add 2 cpy to ASLBP, E/W 439*~~

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## 1 UNITED STATES OF AMERICA

## 2 NUCLEAR REGULATORY COMMISSION

3

4 In the Matter of X  
X  
5 TEXAS UTILITIES GENERATING X  
COMPANY, et al. X Docket Nos. 50-445-OL2  
6 X 50-446-OL2  
7 (Comanche Peak Steam Electric X  
Station, Units 1 and 2) X

8

9 Crystal Ballroom  
Hyatt Regency Hotel  
10 815 Main Street  
Fort Worth, Texas

11 Monday, September 10, 1984

12

13 The hearing in the above-entitled matter  
14 was reconvened, pursuant to adjournment, at 8:35 a.m.

15

16 BEFORE:

17 JUDGE PETER BLOCH  
18 Chairman, Atomic Safety and Licensing Board

19 JUDGE HERBERT GROSSMAN  
20 Member, Atomic Safety and Licensing Board

21 JUDGE WALTER JORDAN  
22 Member, Atomic Safety and Licensing Board

23

24

25

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P R O C E E D I N G S

1  
2 JUDGE BLOCH: Good morning. I'm Peter  
3 Bloch, Chairman of the Comanche Peak Operating  
4 License case.

5 Will the parties please identify themselves  
6 for the record, starting to my right.

7 ROISMAN: My name is Anthony J. Roisman  
8 and with me is Ms. Billie Garde. We are Trial Lawyers  
9 for Public Justice and we are Counsel for Case on this  
10 phase of the hearing.

11 MR. REYNOLDS: My name is Nicholas  
12 Reynolds. With me is my partner Bruce Downey. We are  
13 from Washington, D.C. Also appearing on behalf of  
14 Applicants is Robert A. Wooldridge from Dallas, Texas.

15 MR. TREBY: For the NRC Staff, Stuart A.  
16 Treby, Assistant Chief Hearing Counsel. Also appearing  
17 as Staff Counsel, Gary Mizuno and Gregory A. Berry.

18 MR. HICKS: For the State of Texas, I am  
19 Renea Hicks of the Texas State Attorney General's  
20 Office and with me is Thomas A. Edmunds, who is an  
21 engineer with the Texas Public Utility Commission.

22 JUDGE BLOCH: With me this morning as the  
23 rest of the licensing board for the Comanche Peak  
24 Operating License case, on my left, Judge Herbert  
25 Grossman and on my right, Judge and Dr. Walter Jordan.

1                   This morning our concern is a subpoena  
2 which the Board issued on its own motion to Jack  
3 Norris of O.B. Cannon and Company, a subpoena duces  
4 tecum. The motion has been objected to -- excuse me.

5                   The issuance of the subpoena has been  
6 objected to by the Applicants and the argument has  
7 been docketed for now.

8                   Last evening as I was finishing the  
9 reading of all of the findings of all of the parties,  
10 I noticed that the Lipinsky memorandum meeting and  
11 the name of Mr. Lipinsky ~~are~~ not mentioned at all in  
12 the findings of either the Staff or the Applicants  
13 and maybe in explaining your motion, you might explain  
14 why it is that those events which I thought were in  
15 the record have not been commented on.

16                   MR. DOWNEY: Yes, Your Honor. We will be  
17 happy to respond, first, to your inquiry.

18                   Items concerning Mr. Lipinsky and the  
19 Lipinsky Memorandum aren't in our findings because  
20 there is no evidence in the record about those events.  
21 That's the long and short of the reason it was not  
22 briefed by the Applicant.

23                   JUDGE BLOCH: Is that the position of the  
24 other parties as well, or just your position?

25                   MR. DOWNEY: I don't --

1-3

1 MR. TREBY: It is the position of the  
2 Staff there is no evidence in this record about Mr.  
3 Lipinsky. My recollection is that the only thing that  
4 occurred with regard to that is that a Board  
5 notification was sent by the Staff to the Board and  
6 the other parties, containing a memorandum that Mr.  
7 Lipinsky wrote, which I guess was in the form of a  
8 trip report to his superiors but there have -- Mr.  
9 Lipinsky has never appeared in this proceeding, nor  
10 has anybody else appeared in the proceeding to offer  
11 into evidence that trip report.

12 JUDGE BLOCH: Mr. Roisman, is that the  
13 status?

14 MR. ROISMAN: Case has offered into  
15 evidence both the so-called Lipinsky Memorandum and  
16 the minutes of the meeting -- I'm sorry -- the  
17 transcript of the meeting between representatives of  
18 the Applicant and representatives of the O. B. Cannon  
19 and we believe that that represents part of this  
20 record.

21 Now, the Board has not ruled on that  
22 offer but we have offered them and we consider that  
23 they are part of it.

24 Also, like with Witness X, there was an  
25 O.I. interview done of Mr. Lipinsky. We have not

1 offered that but it is available to the parties  
2 in this proceeding. That was conducted by Mr. Hawkins.

3 JUDGE BLOCH: Some of Mr. Hawkins testimony  
4 deals with Mr. Lipinsky, as I recall.

5 MR. ROISMAN: Yes. That's correct.

6 JUDGE BLOCH: It is the position of the  
7 Applicants that the offer should not be received into  
8 evidence; is that correct?

9 MR. DOWNEY: That's correct, Your Honor.  
10 Those documents are clearly hearsay. They have no  
11 sponsor. They have not been authenticated by -- at  
12 least the Lipinsky Memorandum has not been  
13 authenticated.

14 At more substantial question, though, is  
15 it is hearsay and it should be excluded under the  
16 Board's prior rulings on hearsay and there is  
17 absolutely no reason to accept this as evidence.

18 JUDGE BLOCH: With respect to the  
19 meeting of November 10 and 11, it is my understanding  
20 that those were minutes made by the Applicants of that  
21 meeting; is that incorrect?

22 MR. DOWNEY: No. That's correct.

23 But that doesn't change the fact that it  
24 is hearsay, that none of the participants testified  
25 in this proceeding.



1-5

1 JUDGE BLOCH: And who is the person who  
2 made those minutes?

3 MR. DOWNEY: Candidly, I don't even know,  
4 Your Honor. I would add that the Applicant is  
5 preparing a summary disposition motion that will  
6 address many of the issues encompassed in the Lipinsky  
7 Memorandum, for filing in the other part of this case,  
8 including an affidavit of Mr. Lipinsky.

9 And I would add again, Your Honor, that  
10 Mr. Lipinsky was on the witness list of the Intervenors  
11 and they declined to call him.

12 JUDGE GROSSMAN: Mr. Downey, are you  
13 saying that the comments made by Mr. Tolson and other  
14 company officials at that meeting are hearsay and not  
15 admissible here?

16 MR. DOWNEY: Yes, Your Honor, I am.

17 JUDGE GROSSMAN: We are dealing with the  
18 hearsay issue now. Don't you recognize that those  
19 admissions are outside the scope of hearsay?

20 MR. DOWNEY: I don't believe there's  
21 anything in that memorandum that qualifies it as  
22 an admission, Your Honor.

23 JUDGE GROSSMAN: Well, Mr. Roisman, are  
24 you offering any of the memorandum of the meeting  
25 as admissions as a party opponent?

1 MR. ROISMAN: Yes, we are, Judge Grossman  
2 and particularly we've cited statements made by Mr.  
3 Tolson which are not only admissions, but in our  
4 judgment, admissions against interest expressing his  
5 attitude on QA-QC matters in a rather blunt manner,  
6 which we think is relevant to the issues in the  
7 proceeding.

8 We would also note that according to the  
9 transcript of the meeting, it appears that the  
10 transcript was prepared with some review by the parties  
11 and that it has the character, if not in fact it is,  
12 a business record prepared by the Applicants and that  
13 they made an effort to have it reviewed by the O.B.  
14 Cannon Company representatives who were there.

15 Now, it is noted at the very end of the  
16 transcript -- if you will give me just a moment --

17 (Short pause.)

18 JUDGE BLOCH: R. Trallo says, "I'd also  
19 like to get a copy of the transcript to Jack in  
20 Houston." That's on the last page, Page 75. R.  
21 Trallo says, "I'd also like to get a copy of the  
22 transcript to Jack in Houston."

23 MR. ROISMAN: Yes. And I think before  
24 that Norris -- it says, "We'd like to review the  
25 transcript before it becomes an official document."

1-7

1 And then, "Mary surely should have that out the  
2 first part of the week. I'll express it on Tuesday,  
3 is that right, Ralph?"

4 And then Trallo says yes et cetera.

5 JUDGE GROSSMAN: I believe Staff is  
6 anxious to make some comments. Mr. Treby.

7 MR. TREBY: I guess we'll make some  
8 comments with regard to -- first of all, with regard  
9 to the Lipinsky memo.

10 Mr. Lipinsky was an official of the O.B.  
11 Cannon who came and made a short trip, I believe it  
12 was of two or three days duration, to the site and he  
13 wrote down certain impressions in this memorandum.  
14 I don't think anybody is alleging that Mr. Lipinsky  
15 himself was intimidated or anything else. There are  
16 just statements he makes in that memorandum as to what  
17 other people told him and his impressions of the  
18 site.

19 So with regard to the subject of  
20 intimidation, whatever Mr. Lipinsky has to say would  
21 seem to me is hearsay.

22 With regard to Mr. Tolson's attitudes  
23 towards that business which may be contained in some  
24 transcript of the meeting, that, I think, is probably  
25 fair game for the Board to hear because Mr. Tolson is

1 an officer of the company and there's been lots of  
2 testimony by Mr. Tolson and about Mr. Tolson.

3 JUDGE GROSSMAN: Assuming then, the  
4 probitive value of the transcript of the meeting is  
5 primarily the reflection of Mr. Tolson's attitude,  
6 I take it Staff is agreeing that those are admissions  
7 and admissable in the proceeding; assuming that we  
8 don't have any authentication problems.

9 MR. TREBY: Well, I'm not sure I represent  
10 them as admissions but I think that they are something  
11 that can be made part of this record.

12 I'm not sure that I would -- they are his  
13 views and I'm not sure whether they are his views in  
14 favor of, you know, asserting that he was intimidated  
15 or not.

16 I don't want to characterize his views  
17 but they certainly represent his views.

18 JUDGE GROSSMAN: Well, was he acting within  
19 the scope of his employment? Were his views outside  
20 of that area?

21 MR. TREBY: No. He was acting within the  
22 scope of his employment in making those comments at  
23 the meeting.

24 MR. DOWNEY: Your Honor, if I may address  
25 the point.

1                   The admissions rule or the admissions  
2 exception to the hearsay rule is applicable when the  
3 declarant is unavailable to testify and in this case,  
4 Mr. Tolson is available to testify and in addition,  
5 Your Honor, I don't believe there is anything that  
6 would qualify as an admission within the exception to  
7 the hearsay rule 804(a) -- that's (b)(3).

8                   JUDGE GROSSMAN: Mr. Downey, let's not  
9 confuse declarations against interest with  
10 admissions and I'm very disturbed to see all that  
11 paper and time wasted in the evidentiary depositions  
12 on objection on the grounds of hearsay. There were  
13 a number of statements that, first, reflected direct  
14 knowledge of conversations and, secondly, statements  
15 made by company employees in the scope of their  
16 employment, as being hearsay.

17                   Now, neither those statements of that type  
18 are hearsay. They are not an exception to the hearsay  
19 rule. Admissions are not within the hearsay rule.

20                   Statements with regard to direct  
21 conversations where the probative value is the  
22 conversation itself, which has perhaps an alleged  
23 instance of intimidation, doesn't fall within the  
24 hearsay rule. It is not hearsay and I recall seeing  
25 some objections to the fact that the person hearing the

1 conversation was not competent to testify about it.  
2 Only the person who made the statement and, you know,  
3 it is just not accurate.

4 Anyone who heard the statement, the  
5 probitive value is the statement itself, and can  
6 testify to that.

7 Now, I'm not going to go into a full  
8 discourse on the hearsay rule now. It's just that, do  
9 you have anything in particular that you object to as  
10 far as Mr. Tolson's statements? Mr. Tolson's  
11 statements being admissable as far as admissions.

12 MR. DOWNEY: I certainly do, Your Honor.  
13 I don't think they amount to an admission. Second,  
14 Mr. Tolson is available to testify about that  
15 meeting. If his testimony is in any way inconsistent  
16 with the trasncript, then that transcript is  
17 available for impeachment purposes. That, I think, is  
18 a proper scope of examination on this issue of Mr.  
19 Tolson.

20 JUDGE BLOCH: Then you're saying it  
21 doesn't fall within 801.D.2. ?

22 MR. DOWNEY: That's just a definitional  
23 provision, Your Honor.

24 JUDGE BLOCH: Yes, except admissions are  
25 not hearsay. That's part of the definition, admissions

1 are not hearsay, they are not exceptions to the  
2 hearsay rule.

3 MR. DOWNEY: It's not an admission, YOur  
4 Honor.

5 JUDGE BLOCH: I'm asking if it falls within  
6 801.D.2, if it is within that, it's an admission.  
7 If it's not within that, it's not an admission.

8 MR. DOWNEY: It is not within that  
9 definition, Your Honor. I don't believe any statement  
10 made by Mr. Tolson qualifies under any of the  
11 criteria set forth in that rule.

12 JUDGE BLOCH: He didn't make statements  
13 in which he manifested his adoption or belief in  
14 the truth?

15 MR. DOWNEY: Being offered for what  
16 purpose, Your Honor? There is no statement there that  
17 indicates --

18 JUDGE BLOCH: He has statements in that  
19 meeting about his attitudes towards Welitz and the  
20 discovery of nonconformances by audits.

21 MR. DOWNEY: I'd have to review the  
22 particular statement.

23 JUDGE GROSSMAN: I believe that's covered  
24 on 801.D.2.d, a statement by his agent concerning  
25 matters within the scope of his agency or employment,

1 made during the existence of the relationship.

2 Now, I don't think we're going to have to  
3 go back and convince you that admissions are admissible  
4 even if the declarant is available to testify. That's  
5 a rule that's been in existence for scores of years.

6 JUDGE BLOCH: I think providing there is  
7 no problem on authentication, the Board does plan to  
8 admit that document into evidence.

9 MR. DOWNEY: We don't challenge that  
10 authentication, Your Honor. but we do continue to  
11 object to the admission of this transcript.

12 JUDGE BLOCH: Okay.

13 MR. DOWNEY: We particularly continue to  
14 object to the admission of the Lipinsky memorandum.  
15 The memorandum itself.

16 JUDGE BLOCH: Well, the memorandum itself  
17 is important for a different reason because in the  
18 transcript of the meeting, there is testimony about  
19 Mr. Tolson, that he wasn't sure whether he heard what  
20 Mr. Lipinsky said. Mr. Lipinsky says that he said  
21 certain things in the meeting with Mr. Tolson. Mr.  
22 Tolson's statement in that meeting is that he didn't  
23 even hear the statement about deficiency.

24 Mr. Lipinsky then goes back. He writes  
25 an internal memorandum which leaks out and then, for



1 some reason, the people are all called to the site  
2 and in a transcribed meeting and take back everything  
3 that they said.

4 We have to find out what happened. Why  
5 it was that people who had found deficiencies were  
6 called back to a transcribed meeting, rather than  
7 just following up on the things they told the company.

8 MR. DOWNEY: But that doesn't make the  
9 memorandum admissable in evidence, Your Honor.

10 JUDGE GROSSMAN: Well, I believe Judge  
11 Bloch is suggesting that the Lipinsky memorandum may  
12 not be admissable for the truth of the matters stated  
13 by Mr. Lipinsky but it is important, in order to  
14 lay the foundation for the company's reaction to  
15 statements made.

16 Now, if there is a problem authenticating  
17 the memorandum so that we don't know that the company  
18 was aware of what was said, that's another story.  
19 I don't believe we have that problem here.

20 Is that memorandum authentic?

21 MR. DOWNEY: We don't challenge it's  
22 authenticity, Your Honor.

23 JUDGE BLOCH: Mr. Hicks, I haven't been  
24 calling on you. If you need to be called on on any  
25 issue, just signal the Board and we'll be more than

1-14

1 happy to.

2 MR. HICKS: I think that's the best  
3 approach. Just let me break in.

4 I did want to state I do think the  
5 Tolson statements and the transcript clearly fall  
6 within that rule.

7 MR. MIZUNO: The Staff agrees with the  
8 Board that Mr. Tolson's statements in the transcript  
9 are admissions by a party opponent and I believe any  
10 other statements by a Texas Utility employee are also  
11 similarly admissable but the entire transcript by  
12 itself is not admissable under 801.D, because there  
13 were statements made by people who weren't party  
14 opponents and the Staff would also point out that  
15 the 801.D.2 argument involving admissions, does not  
16 apply to the Lipinsky memorandum.

17 I think we need to address those  
18 separately.

19 JUDGE BLOCH: I think that's correct. For  
20 the facts asserted by the people that were not  
21 employees of the company, I don't think Mr. Roisman  
22 challenges that. That's not admissable evidence.

23 MR. ROISMAN: Mr. Chairman, there remains  
24 at these hearings a curious and at least in my  
25 knowledge, an unresolved question of what is the

1 status of contractors of the Applicant and, of course,  
2 O.B. Cannon was a contractor.

3 I don't think there will be any issues  
4 that if the statement had been made by Mr. Purdy, who  
5 is a Brown & Root employee, that we would have it as  
6 an admission and the fact that it is made by another  
7 contractor of Applicant, it doesn't seem to me should  
8 change that rule.

9 Now, having said that, I want to make  
10 clear that in our findings, we have not cited the  
11 Board to nor made reliance upon statements made by  
12 persons other than Mr. Tolson. That was the portion  
13 of the meeting transcript which we found most telling.  
14 And we cited the Board to the appropriate pages for  
15 that purpose.

16 JUDGE BLOCH: I think we could reserve  
17 ruling on that because I don't think he proves that  
18 they were a contractor at the time of the second  
19 meeting, at the time of the -- I'm sorry --

20 MR. ROISMAN: I had thought that Mr. Downey  
21 at another meeting had made the representation when  
22 you yourself raised the question are they or are they  
23 not or weren't they -- they used to be contractors,  
24 I believe he said they still are and they have  
25 remained contractors.

-1  
e  
1 JUDGE BLOCH: I wasn't aware of that. I  
2 didn't know it was in the record, either, on November  
3 10 and 11, as far as I know.

4 I don't know whether they were contractors  
5 or not. I have no idea what the relationship was.

6 Mr. Downey, have you said what Mr. Roisman  
7 represented you said?

8 MR. DOWNEY: I don't know if they were or  
9 were not on November 10 and 11.

10 MR. GROSSMAN: Mr. Mizuno, do you have a  
11 position as to whether Mr. Lipinsky was acting within  
12 the scope of that employment at the time he wrote that  
13 memorandum?

14 MR. MIZUNO: The Staff doesn't have enough  
15 information to know whether it was a contractor or had  
16 some other kind of relationship between the Applicants.

17 So we cannot take a position at this time.

18 But to go a little bit further with that,  
19 assuming that we do find that there was some kind of  
20 contractual relationship, I believe that under D.2.  
21 the statement has to be made within the scope of the  
22 agency or employment.

23 So, for instance, if Mr. Lipinsky makes  
24 a statement about something for which he was not  
25 contracting with the utility, I don't believe that that

-1/ 1 would constitute an admission, and that's because of  
2 the underlying policy in the law in admissions.

3 JUDGE BLOCH: Okay. This is background.  
4 Let's go on to argue the question of the subpoena of  
5 Jack Norris.

6 MR. DOWNEY: Your Honor, our argument is  
7 very similar to the argument we made with respect to the  
8 appearance of Mr. Allen, and we renew our motion to  
9 exclude him as a witness in this case, as well as  
10 Mr. Norris.

11 As the Board knows, there are well over 100  
12 witnesses that have testified in this proceeding.

13 The Applicants and the Intervenors set  
14 out to develop a full and complete record. We think  
15 we have done so.

16 We don't believe additional witnesses  
17 are required.

18 I believe in the argument that we  
19 presented on adding evidence with respect to  
20 Mr. Hamilton the Board said that the evidence need  
21 be outcome determinative to be admitted.

22 Here there is all the testimony that's  
23 been offered on this issue, the issue being framed  
24 as a pervasive climate of intimidation at Comanche  
25 Peak.

-3  
1           The minimal value of what one or two  
2 additional witnesses may testify about does not in  
3 any way justify the extraordinary step of having the  
4 Board subpoena witnesses sua sponte and sponsor their  
5 testimony.

6           JUDGE BLOCH: Since you haven't stated any  
7 new grounds, we consider this in the nature of  
8 possibly a motion for reconsideration of our last  
9 decision.

10           Since our reasons were explained on the  
11 record, the motion for reconsideration is denied for  
12 reasons already stated.

13           If there's another party that has new  
14 reasons, we would be willing to hear those.

15           MR. TREBY: Well, I think the Staff  
16 maintains the same position it did the last time.

17           As we understand the summer decision, the  
18 Board does have the authority to call expert witnesses,  
19 but it must exercise that power reasonably; and in  
20 doing so, it must make a showing why it can't reach  
21 an informed decision without calling these independent  
22 witnesses on its own, and it has to give the other  
23 parties every opportunity to clarify and supplement  
24 prior testimony.

25           JUDGE BLOCH: First, last time, I don't

-4  
1 think you took the position that we were calling an  
2 expert witness, and we don't think we are this time,  
3 either.

4           You did say we should explain our reasons  
5 for calling the witness. I think that point was well  
6 taken.

7           Mr. Jack Norris is an official of the  
8 O. B. Cannon Company. He should know what the scope  
9 of employment was between Texas Utilities Electric  
10 Company or TUGCO and O. B. Cannon.

11           The scope of employment between those two  
12 companies would help us interpret the meaning of the  
13 fact that after Mr. Lipinsky may have spoken to  
14 Mr. Tolson and stated that there were some things  
15 that were wrong with the plant, that there was no  
16 further relationship of consulting between O. B. Cannon  
17 and Texas Utilities.

18           He also may have information concerning  
19 the circumstances leading up to the calling of the  
20 meeting of November 10 and November 11, since he was  
21 the principal person conducting business for  
22 O. B. Cannon with the Applicants; and we would point  
23 out that we did request over a week ago the purchase  
24 memorandum that Texas Utilities entered into in order  
25 to obtain the services of O. B. Cannon. We still have

5  
1 nothing on that.

2 We have also requested from the Applicants  
3 any memoranda or documents they have that would shed  
4 light on the relationship between O. B. Cannon and  
5 Texas Utilities Electric Company, and on the reasons  
6 for calling the meeting of November 10 and 11, called  
7 the Lipinsky memo meeting.

8 So we want to have information about the  
9 circumstances under which a company which had made  
10 adverse findings about the quality of coatings, had  
11 tried to communicate orally with Mr. Tolson according  
12 to the transcript of this meeting, the circumstances  
13 under which they were called back for a meeting which  
14 was transcribed and in which they happened to rescind  
15 almost all of their findings as a result of  
16 information obtained in the course of that transcribed  
17 meeting.

18 That's our reasons for calling  
19 Mr. Jack Norris.

20 MR. REYNOLDS: Mr. Chairman, may I make a  
21 comment?

22 JUDGE BLOCH: Please, sir.

23 MR. REYNOLDS: I think there's another  
24 issue before the Board with regard to this matter that  
25 really rises above the question of Mr. Norris or any



1 other witness, and that is the Board involvement in  
2 the finding of issues in the case and in the, in  
3 effect, litigation of the case.

4 I'm sure the Board would agree that as  
5 the tryer of fact it must be very careful that it  
6 does not inject itself into the merits of the case  
7 so that it in effect becomes a litigant in the case.

8 We have here experienced trial counsel on  
9 all sides. We spent over a month in Glen Rose  
10 compiling thousands of pages of testimony from over  
11 a hundred witnesses. Everyone called who they cared to  
12 call.

13 Mr. Lipinsky was on the witness list for  
14 the Intervenor. For reasons unknown to me, they chose  
15 not to call him.

16 Now the Board is calling Mr. Norris to  
17 testify on matters bearing on what Mr. Lipinsky would  
18 have testified to.

19 My concern is that by doing so the Board  
20 is in effect picking up the banner where the Intervenor  
21 left it and carrying it forward.

22 I think it's important and I think you  
23 would agree that the Board shouldn't be involved in  
24 the framing of the issues or litigation of the case on  
25 behalf of any party; but as the tryer of fact, should

1 sit there and, since experienced trial counsel is in  
2 charge of the case for both sides, hear what Counsel  
3 presents to the Board and make its decision on the  
4 basis of that evidence.

5 JUDGE BLOCH: Mr. Reynolds, I do disagree.  
6 I do not consider that this is a jousting match  
7 between parties.

8 There are many reasons why two parties  
9 would decide not to call a particular individual,  
10 because from their own narrow perspective in terms of  
11 the strategy of litigation it wouldn't be appropriate  
12 to call that person.

13 That's the reason that in the federal  
14 courts judges may call witnesses.

15 In the NRC we have a special obligation  
16 not to just call balls and strikes, but to see to an  
17 adequate record; and that's because we are not just  
18 involved with a jousting match between parties, but we  
19 must find out the truth about the safety of this plant.

20 We think it's necessary to obtain evidence  
21 about the real world, not just the world that occurs  
22 in the litigation between the parties.

23 We have done that rather sparingly. We  
24 have called two witnesses and there were ninety-nine  
25 called by the parties.

1 we think it's necessary to have an  
2 adequate record concerning these matters before us,  
3 to understand what the world is like.

4 Are there any other comments on this  
5 matter by any other parties?

6 (No response.)

7 JUDGE BLOCH: There being none, the first  
8 witness?

9 MR. ROISMAN: Mr. Chairman, are you going  
10 to allow or have opening statements, or not?

11 JUDGE BLOCH: We had said that we would  
12 allow for brief opening statements; that's correct,  
13 Mr. Roisman.

14 Should the Applicants be first on this  
15 matter?

16 MR. ROISMAN: We had indicated a willingness  
17 to be first, but we don't care. We have no preference.

18 JUDGE BLOCH: It may be better. Would it  
19 be better for the Intervenors to be first?

20 MR. DOWNEY: I think it would be more  
21 appropriate for the Intervenors to be first.

22 JUDGE BLOCH: Mr. Roisman, please.

23 MR. ROISMAN: May I stand?

24 JUDGE BLOCH: You may stand or sit.

25 MR. ROISMAN: Thank you.

1 JUDGE BLOCH: I guess the problem will be  
2 whether or not you are picked up by the microphones,  
3 so we may have to reconsider that.

4 MR. ROISMAN: All right. I'll wait first.  
5 most impor. atly, for the reporter's nod. If she can't  
6 hear me, then I'll have to sit.

7 Mr. Chairman, Judge Grossman, Dr. Jordan,  
8 this issue which is before the Licensing Board today  
9 represents a not unique, but increasingly important  
10 issue, that's facing nuclear power plants around the  
11 country.

12 The issue is whether or not the operation  
13 of the Applicants' QA/QC program is inhibited to the  
14 point of making it impossible for the Applicant to  
15 establish that it functions properly.

16 The source of that inhibition, which we  
17 have euphamistically called harassment and intimidation  
18 and really encompasses a substantially broader range  
19 of activities, as this record demonstrates.

20 Number one, it encompasses actual acts of  
21 harassment and intimidation, which at various times  
22 witnesses have testified might include physical  
23 threats, verbal abuse, threatening of job positions;  
24 and, of course, actual firing, and in one instance  
25 that was identified by one of the witnesses and by

1 studies done by the Applicant, physical laying on of  
2 hands by a craft person to a QC person.

3           What we showed in the course of these  
4 proceedings today is that a substantial number of  
5 people, we believe, have come forward at enormous  
6 risk to themselves to tell this Board what it is that  
7 they think is wrong at the Comanche Peak plant.

8           Some of them like Chuck Atchison, Bill Dunham,  
9 did this at an earlier date through various other  
10 channels that were available. They not longer work  
11 for this company.

12           Others did it more recently in the course  
13 of these proceedings, having left the company but not  
14 previously having spoken out.

15           But the combination of that testimony  
16 represents not merely one or two or three or ten or  
17 fifteen individuals.

18           As the Board itself acknowledged when it  
19 ruled on the harassment and intimidation and ultimate  
20 termination of Bob Hamilton, the one person that comes  
21 forward is a unique person, probably less likely to  
22 have been harassed or intimidated by the very act of  
23 being willing to stand up in a hearing and say with  
24 regard to an enormous company and probably with regard  
25 to their whole future career, "I was wronged and this

-11  
1 company wronged me, and I am now stepping forward and  
2 risking my future in the nuclear industry to tell it  
3 like it is."

4           These individuals can be likened more to  
5 canaries in a coal mine. As they have died in their  
6 careers, they send a signal to this Board and should  
7 have sent a signal to this Applicant that there is a  
8 deeper and much more serious problem.

9           For every Susie Neumeyer who spoke up,  
10 for every Manny Gregory who spoke up, there are  
11 probably tens (maybe even hundreds) who were afraid to  
12 say anything, who just took it.

13           Now there is evidence that that is so.  
14 There was a study, a not particularly sophisticated  
15 one, but nonetheless a study, a survey done in 1979  
16 by the utility.

17           Through that survey they asked the QC  
18 work force at the plant as of 1979 a number of questions.

19           What emerged from that was a substantially  
20 larger number than the number of people who have  
21 shown up in this hearing as witnesses for CASE, who  
22 indicated to the questioner that they believed that  
23 there was something wrong, that management didn't  
24 give them adequate support; that they felt that they  
25 were being pressured by craft and that no one was

-12  
1 defending them; that they were upset over a variety  
2 of different incidents that had occurred.

3 In 1983 a probably even less sophisticated  
4 survey was done by Mr. Brandt, known as the White Paper  
5 Report, just of the QC inspectors who worked for him.

6 Interestingly enough, many of the same themes  
7 that appeared in the 1979 survey reappeared in the 1983  
8 survey.

9 What we saw then was not only specific  
10 incidents, but also more generic information regarding  
11 the presence of an atmosphere at this plant which  
12 discouraged the QA/QC work force from doing its job.

13 Probably the most dramatic evidence on all  
14 of that is that the one person most pivotal in QC work  
15 at the plant site during the critical years, Mr. Ron  
16 Tolson, has revealed himself in the course of taped  
17 meetings as having a decidedly negative attitude  
18 towards the job that he had the responsibility to  
19 carry out.

20 Mr. Tolson's attitude is not just the  
21 attitude of a single person with a single job. His  
22 was the attitude of the QC manager for this plant site,  
23 the man in charge; and his superiors in deposition after  
24 deposition gave their kiss of approval to the Tolson  
25 method of operation.

13 1           When Mr. Tolson was the subject of an audit  
2 report run by Mr. Vega's office in which it was  
3 determined that he had in fact a harassing and  
4 intimidating attitude, that that was apparent to those  
5 people who interviewed him, Mr. Tolson was not  
6 counseled.

7           In fact, Mr. Tolson could not remember the  
8 audit report that was done on his conduct that was  
9 directed to him.

10           Our expert, Dr. Goldstein, has indicated  
11 that the kinds of events which we have identified in  
12 this transcript are the kinds of events that make a  
13 work force learn what is acceptable and unacceptable  
14 conduct on the plant site; that these kinds of learning  
15 experiences, the firing of an Atchison, the firing of  
16 a Hamilton, the firing of a Dunham, the harassing of  
17 a Susie Neumeyer, that those events send out signals  
18 to the work force; and that this work force that those  
19 events occurred was getting those kinds of signals.

20           What was the response of the company to  
21 this? It is instructive to look at not only what they  
22 did there but what they have done here, because what  
23 you have seen in this hearing is like a dramatic  
24 example of what the Applicants have done at the work  
25 site when the very allegations that CASE raises here



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1 were raised.

2           What they have done is they have begun,  
3 number one, they deny. It didn't happen. There was  
4 no harassment and intimidation.

5           We have come up with more euphamisms for  
6 harassment and intimidation in the course of these  
7 depositions than one could have imagined.

8           Communication problems, that's one.  
9 Honest misunderstand'ing. Jokes; we had a lot of  
10 people who were harassed and intimidated by someone  
11 who was just joking around.

12           What we get at the plant site and what  
13 we've got from the hearing are the same thing. It  
14 didn't happen.

15           The next thing that we get is, "Well, the  
16 person deserved it." We categorically reject that  
17 premise.

18           No one deserves to be harassed or  
19 intimidated in their employment.

20           If they are obnoxious, if they act in an  
21 irresponsible manner at the plant site, they should  
22 be disciplined, not harassed and intimidated.

23           But at this company, there were no  
24 procedures for doing that. Time after time we were  
25 told by witnesses that when someone acted out of line

-15  
1 we dealt with it on a case-by-case basis; and the case-  
2 by-case basis was that the person was harassed or  
3 intimidated. They were threatened. They were shouted  
4 at. They were yelled at, and something called  
5 counseling would occur when management thought that  
6 the shouter shouldn't have shouted.

7           Significantly, the counseling -- the  
8 substance of that counseling doesn't appear to be in  
9 this record anywhere, the actual statements made; nor,  
10 mind you, did anybody else at the plant site learn  
11 about the counseling, because at this plant they had  
12 a policy.

13           Their policy was they never publicized  
14 punishment. They only publicized rewards.

15           I ask you to look at this record. Just  
16 on the harassment and intimidation question, which  
17 reward did you find that the Applicants testified to  
18 that anyone received for doing their job?

19           I can't find it in this record. I find  
20 that we had a man who was discharged reported that  
21 he had seen -- that he was a QC inspector; that he  
22 had seen someone try to hide an electrical problem.  
23 It was investigated.

24           In fact, they found the guy did attempt to  
25 hide the electrical problem. What happened to the man

16  
1 who brought that up and who had been ROF from the job?  
2 He doesn't work at the plant site. He hasn't got his  
3 job back.

4                   Where are all the people who found the  
5 problems and their problems were ultimately confirmed  
6 to be correct, and the problem was subsequently  
7 changed?

8                   Have they been promoted? Have they been  
9 given new status in the plant? No. Who has moved up?

10                   It is interesting to look at who has  
11 moved up.

12                   Mr. Powers on two incidents in this case,  
13 we are told, was counseled for having, once, got into  
14 what the Applicants describe as a shouting match with  
15 an STE engineer.

16                   Secondly, he got into a similar dispute  
17 with a QC inspector. Both times, about six months  
18 apart, Mr. Powers is charged by the individuals with  
19 having told them that it was more important to get  
20 this plant produced than it was to deal with  
21 quality.

22                   Shortly after the first event, Mr. Powers  
23 moved from a job of supervising a small number of  
24 employees, through promotion, to supervising all the  
25 employees in a particular building.

-17  
1                    Shortly after the second event, Mr. Powers  
2 was moved to be the building manager for the entire  
3 Unit 1 of the plant with 700 employees under him.

4                    Dr. Goldstein's concern, the message is  
5 very clear: Those who harass and intimidate QC  
6 inspectors move up the chain, and those who are  
7 harassed and intimidated end out on the street, like  
8 Atchison.

9                    ///

10                    ///

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1 In this proceeding we seek the following  
2 relief:

3 Number one: We request the Board deny the  
4 license to the Applicant at the conclusion of these  
5 hearings, on the basis that they have failed to  
6 establish that they have an adequate QA-QC program.  
7 That that be the end of the matter.

8 Number two: Should the Board not be  
9 willing to do that, we request that the Board order  
10 that there be at least four vertical slice  
11 resinspections of major safety systems at the plant  
12 site along the lines of those ordered in the Midland  
13 licensing proceeding. Top to bottom, from the  
14 original design drawing to the end. Every single  
15 inspection redone. Every single component rechecked.  
16 Every single test rerun, in order to determine  
17 whether or not this atmosphere, in fact, had the  
18 effect which we contend it did have.

19 If you are unwilling to go with the first  
20 argument.

21 Third: Should the Board not feel that  
22 the record justifies that, then at a minimum, the  
23 Board should order the Applicant to undertake the  
24 study that Dr. Goldstein has said is needed in order  
25 to fully comprehend the full range of the QA-QC

3-2  
1  
2 harrassment-intimidation problem at this plant site  
3 and in order to be able to devise the appropriate  
4 remedy.

5           Lastly, there is one relief which we  
6 request the Board not grant. Under no circumstances  
7 should the Board reopen the record and take more  
8 evidence when this proceeding is done.

9           No party suffers more from such a  
10 reopening than the impecunious Intervenor. You have  
11 heard, I think very eloquently, today Applicant's  
12 Counsel argue. We have all taken our shot.

13           I agree with the Board that the Board  
14 itself must be convinced during these hearings that  
15 the record is complete, but we do not want a tie.  
16 There must be a winner and there must be a loser when  
17 this hearing is over.

18           The Board must decide either the QA-QC  
19 program has been established by the Applicant to be  
20 adequate or it has not and if they have not, they have  
21 had their day in Court and they should be denied  
22 their license as required by the Commission's  
23 regulations.

24           Thank you.  
25

1 JUDGE BLOCH: Mr. Roisman, just on the  
2 last point, I have a problem about the status of  
3 the case because there are at least fifteen named  
4 investigations that O.I. is doing that we don't have  
5 access to.

6 Should we really close the record before  
7 we find out whether there's substantial corroborative  
8 evidence about the quality of the QA program or  
9 substantial evidence the other way?

10 MR. ROISMAN: No, not at all.

11 Our position has been all along and I  
12 think we have stated the on the record on a number  
13 of occasions, that we believe the record cannot be  
14 closed until you have received all that information.

15 That is, you cannot make the decision. What we  
16 are saying is that, when all the evidence that we  
17 believe should be in this record, which has now been  
18 identified in one way or another, including those  
19 reports, are in, the Board should look at that record  
20 and make a decision and it should not be that it  
21 looks at the record and says, "Well, maybe the  
22 Applicant could disprove this particular proposition.  
23 Let's order a reopening and let them come in and do  
24 that. "

25 But rather, it should take that record

1 as it finds it and make its decision based on it.

2 JUDGE BLOCH: I guess the problem is  
3 that the O.I. reports themselves may not be dispositive.  
4 They could contain within them a genuine issue of  
5 fact.

6 MR. ROISMAN: And I'm not quarreling with  
7 Board's power and responsibility if that should  
8 occur, to order that that be addressed.

9 I believe that the O.I. reports and the  
10 Ippolito report and any other ongoing studies, as the  
11 Byron Appeal Board Decision makes clear, must come  
12 in and I believe that the rights of the parties  
13 require that if the Board takes those into evidence,  
14 that the parties must be given an opportunity to  
15 present whatever they feel is appropriate that's  
16 counter, unless the Board in effect says this is a  
17 summary judgment matter or this is a matter that  
18 you are ruling that no further evidence need be  
19 received on.

20 So I don't want to be misunderstood. I'm not  
21 saying that when we finish here this week, you should  
22 take this record and go home. We have consistently  
23 argued all along that we still have pieces of this  
24 record which are being prepared by people other than  
25 us or the Applicant and in some instances, other than



1  
2 the Regulatory Staff itself, which should be in this  
3 record. The O.I. reports are one of those. The  
4 Ippolito Report is the second of those.

5 JUDGE BLOCH: Thank you, Mr. Roisman.

6 Mr. Downey?

7 MR. DOWNEY: Yes, Your Honor.

8 I would ask the Board to consider the  
9 question, why are we here on this issue. The issue  
10 is framed by the Board as to whether there was a  
11 pervasive climate of harrassment and intimidation of  
12 QC inspectors at Comanche Peak.

13 The Intervenor has presented a half  
14 dozen or so witnesses on that issue and in virtually  
15 every case, their testimony has proven to be wrong  
16 and demonstrable wrong to the rebuttal evidence we  
17 have put on.

18 Mr. Roisman's argument that he gave this  
19 morning doesn't rely on evidence. It relies on  
20 inference about people who didn't testify, about what  
21 he thinks the effects of perceptions of events that  
22 didn't occur were when people were at the plant.

23 The most telling failure in Mr. Roisman's  
24 case and the Intervenor's case, is the lack of any  
25 evidence that any QC inspector or any QA monitor failed  
to do their job because of any action taken by

1 management, either in the QC area or in the craft.

2 That failure alone compels this issue  
3 to be determined in our favor.

4 Now, I would like to give an example or  
5 two, Your Honor, of the kind of evidence as opposed  
6 to the kind of argument that's in the record.

7 Darlin Steiner was a QC inspector and  
8 she has testified before this Board several times.  
9 In this proceeding she testified that she was  
10 harassed and discouraged because her supervisors  
11 voided NCR. In fact, that NCR was written on a  
12 non quality item and that fact was explained to her.  
13 Her position simply is, I am harrassed and intimidated  
14 unless my view is accepted.

15 If that's the standard applied by the  
16 Board, there are 400 standards of inspection at  
17 Comanche Peak. One for each individual inspector.

18 That kind of discontinuity, that kind of  
19 individual choice is not what Appendix B requires.  
20 Indeed, it requires the opposite. It requires a  
21 single program, a single inspection standard and that's  
22 the guarantee that the plant is built properly.

23 Another instance given by Ms. Steiner.  
24 She says she was harassed and intimated because she  
25 was reassigned from the field to the fab shop and her

1 office moved to that location.

2 In fact, Your Honor, she was reassigned  
3 after she brought doctor's note to her boss saying  
4 that she could no longer climb because of her  
5 pregnancy. She was immediately reassigned to the  
6 cushiest job in the entire organization. That of  
7 inspecting the fab shop, involving no climbing,  
8 not involving going out in the field and her office  
9 was moved fifty feet from the fab shop.

10 I think it's quite telling that the  
11 testimony of the current occupant of that shop and  
12 that office said that in his view it was the cushiest  
13 and the best office of any QC inspector in the  
14 organization.

15 I think that's quite telling about her  
16 testimony.

17 Ms. Neumeyer, whom Mr. Roisman mentioned  
18 in his opening argument, claims that she was somehow  
19 discouraged or harassed because she wrote an NCR.  
20 In fact, her supervisor directed her to write the  
21 NCR and she admitted that.

22 She was invited to the meeting where  
23 that NCR was dispositioned.

24 JUDGE BLOCH: To be clear, the first  
25 incident you talked about was the liner plate and

1 now you're talking about the Stanford Neumeyer  
2 incident?

3 MR. DOWNEY: With respect to Ms.  
4 Neumeyer I am addressing in this case , the incident  
5 of Mr. Stanford.

6 What happened to her, she simply couldn't  
7 accept the disposition. Your Honor, that's not  
8 harassment or intimidation. She's entitled to her  
9 view. The disposition was explained to her. She was  
10 instructed to write the NCR about the fact that she  
11 disagrees is not harassment. Not harassment at all.

12 And that's the kind of evidence that the  
13 intervenors have put forward.

14 I can give you fifty other examples or  
15 forty other examples, 12 or 15 of them from the  
16 Steiner testimony, that it was the kind of evidence  
17 upon which they rely.

18 Instead of evidence, you heard this  
19 morning a great deal of argument. Mr. Roisman had  
20 said that the 79 surveys tell us everything is all  
21 wrong and, in fact, that's not evidence on the question  
22 of what was harassment or intimidation.

23 What it does show is that management,  
24 fearing that there was a morale problem, initiated  
25 this study to identify problems and the record was

1 quite clear that it took aggressive action to correct  
2 the principal problem as identified by the inspectors.

3 Mr. Roisman says there was no  
4 disciplinary policy. That no one did anything when  
5 people were harassed. The evidence is to the  
6 contrary, Your Honor.

7 The evidence shows that on one occasion  
8 a craftsman did threaten a QC inspector. He was out  
9 the gate by the close of business that day. In fact,  
10 he was out the gate before the matter had even been  
11 reported to a QC supervisor. His own craft foreman  
12 fired him on the spot. No questions asked.

13 On other occasions, Your Honor, there have  
14 been shouting matches. The difference between Mr.  
15 Roisman's position and mine is that he calls  
16 everything harassment.

17 He says communication problems were  
18 harassment. Shouting matches were harassment. The  
19 failure to fully explain NCR dispositions were  
20 harassment. The failure to allow QC inspectors to use  
21 the bathroom in the administrative building, that's  
22 harassment.

23 In fact, Your Honor, that isn't  
24 harassment at all. That is personnel practices at the  
25 site and in any other organization.

1                   There are shouting matches in my office.  
2                   There may be shouting matches among the  
3                   administrative law judges in this case or in others  
4                   when they disagree. That is not harassment.

5                   But what the management did do, when  
6                   those shouting matches involved QC inspectors and  
7                   craftsmen, and they did occur, they brought the  
8                   parties in, they sat them down, cooled them off and  
9                   told them that kind of conduct would not be  
10                  accepted. The reason was, they didn't want it to get  
11                  out of hand. That's the critical finding on what  
12                  management did in response to problems at the site.

13                  I point again, Your Honor, to the fact  
14                  that the Intervenor's case is built on speculation,  
15                  not on evidence. I think a good example of that  
16                  is the audit report of the alleged cover up of TCP  
17                  66, The audit report or the audit itself was  
18                  undertaken because Mr. Clements, Vice President -  
19                  Nuclear of Texas Utilities, heard through a head  
20                  hunter that one of his auditors had applied for a job  
21                  and was dissatisfied with the position that he had at  
22                  Texas Utilities.

23                  What did Mr. Clements do? He immediately  
24                  directs that an investigation be conducted. He brought  
25                  in three people from outside the organization to  
                  conduct the investigation.

1                   They interviewed everybody in the  
2 department. They identified two issues. They  
3 investigated them fully and they concluded that the  
4 concerns were unfounded.

5                   That's not evidence, really, of what the  
6 events were. That's the hearsay report of these three  
7 auditors, their findings. We think it was a proper  
8 and extraordinary management reponse to a perceived  
9 problem.

10                   What did Mr. Roisman say about that  
11 audit? He said they didn't really reach the right  
12 answer and there really was cover up of the audit  
13 findings. There really was intimidation by Mr.  
14 Tolson.

15                   Where are the witnesses to testify to that  
16 fact, Your Honor? Where are they? They weren't  
17 produced by the intervenors. Their testimony is not  
18 in the record of this case and I think it is reasonable  
19 to draw inferences from people who don't testify.

20                   Litigants present their case to win and  
21 Mr. Roisman has asked for no license. If there's no  
22 license, reinspections. . If there's no reinspection,  
23 a study by Dr. Goldstein or one prescribed by.

24                   All judges in every tribunal of which  
25 I'm aware, assume litigants put forward the evidence

1 which supports their case and if it's not in the  
2 record, they are entitled to no presumptions because  
3 of their failure to present evidence, but to the  
4 contrary.

5 If the evidence is not there, you lose.

6 In Mr. Roisman's case and the Intervenors'  
7 case, it is built on inference, not evidence.

8 I point to another example, Your Honor,  
9 besides the audit report.

10 I point to the T-shirt incident.  
11 Ballyhooed by the Intervenors, talked about at  
12 length in deposition after deposition but two  
13 depositions on that issue are critical. Those are  
14 the depositions of the two gentlemen who wore the  
15 T-shirts.

16 Did they say they were harassed and  
17 intimidated? No. They said they wore them as a joke.  
18 One of them said it was unprofessional. In retro-  
19 spect he wouldn't have done it.

20 They said they did their job before and  
21 after. They said it was unrelated to any safety  
22 concern they had at the plant.

23 That's their testimony, Your Honor.  
24 Those are the people involved in the incident. It's  
25 their testimony on which you must rely. Not some



1 inference or some cloud that the Intervenor would  
2 cast because of what they thought should have been  
3 the testimony but that's the case. It's what did Mr.  
4 Pitts say, what did Mr. Whitehead say? They wore  
5 the T-shirts, they say they weren't harassed. They  
6 say they did their job.

7 The only finding the Board can reach on  
8 that issue is in favor of the Applicant.

9 One other example, Your Honor.

10 Dr. Goldstein. I think his testimony is  
11 revealing. Dr. Goldstein took their case as fed  
12 to them by the lawyers for the Intervenor. They gave  
13 him their side of the story on Susie Neumeyer, not  
14 ours. Their side of the story on the T-shirt  
15 incident, not ours. Their side of the story on Mr.  
16 Dunham, not ours. And having fed Mr. Goldstein their  
17 side of the story on every issue, he concludes he  
18 can't decide if there is a climate of harassment and  
19 intimidation at Comanche Peak. That, Your Honor, is  
20 the standard for summary disposition of the case.

21 JUDGE BLOCH: But which way? The burden  
22 of proof is on the Applicant.

23 MR. DOWNEY: The burden of proof -- the  
24 burden of going forward with the evidence is theirs.

25 Looking at all of their evidence and none

1 of ours, Dr. Goldstein, in essence, says they haven't  
2 met their burden of going forward. The burden of  
3 going forward requires sufficient proof that if  
4 un rebutted the Board will be justified in entering a  
5 finding of a pervasive climate of intimidation.

6 Taking all of their proof, Dr. Goldstein  
7 couldn't reach such a conclusion. I think that's  
8 quite telling, Your Honor.

9 And finally, I would ask the Board to  
10 look at the context in which the half dozen or eight  
11 quality inspectors testified for the Intervenor.

12 The context is a project in which  
13 thousands and thousands of employees have been  
14 employed over many, many years. Well over a thousand  
15 QC inspectors, 400 or 500 at a time over many years,  
16 working long hours, hard days and this is the amount  
17 of evidence they have been able to produce.

18 In the context of the size of this  
19 project, this evidence is a drop in the ocean. It's  
20 nothing that could establish a climate of harassment  
21 and intimidation among this work force. It just  
22 simply is not there.

23 As we said, there have been differences of  
24 opinion. That's to be expected. There have been heated  
25 words. That's to be expected. But in each case,

1 the Applicant's management has dealt with those  
2 issues.

3 And finally, I'd like to point to another  
4 example or two of affirmative evidence of what the  
5 Applicant's have done.

6 I'll take the example of Linda Barnes,  
7 a witness of theirs and I think her story is quite  
8 telling. Ms. Barnes resigns her position, doesn't  
9 -- well, actually she doesn't. She just doesn't come  
10 to work for a few days. Mr. Purdy, concerned about  
11 her, tracks her down. Asks to talk to her.

12 No, she won't come to his office to talk.  
13 No, she won't talk with him on the telephone but she  
14 would like to speak with Mr. Purdy, how about you  
15 Mr. Purdy, site QA manager for Brown & Root, coming  
16 to the Granbury town square and talking to me in  
17 secret.

18 Mr. Purdy says, "Well, if that's what you  
19 want, Ms. Barnes, I'll do it."

20 He drives to Granbury, a half hour away,  
21 meets her at 1:30 and listens to her concerns. She  
22 gives him three.

23 "I don't think I'm being paid enough." Ms.  
24 Barnes says. "I don't think the training in our  
25 organization is quite up to snuff.", and three, "I

1 think I was intimidated because somebody took some  
2 books out of my office while I was on vacation."  
3 Those are her complaints. What does Mr. Purdy do?

4 Mr. Purdy goes back to the site on  
5 Friday. He sits down and he's aware that there's  
6 been a pay problem in this area. He sit s down and  
7 he designs a training program to increase the level  
8 of certification of Ms. Barnes and all of her  
9 colleagues. With increased certification comes  
10 increased pay.

11 He puts that program in effect, training  
12 beginning the next Wednesday. Ms. Barnes calls him  
13 back. He tells her about this. He invites her to  
14 come to the first training session if she wants to  
15 continue her employment.

16 He also tells her that the books taken  
17 from her office were books of construction specifica-  
18 tions which were being placed in the QA library fifty  
19 feet from her office. She's perfectly free to use  
20 them whenever she wants and she says she'll think it  
21 over.

22 She doesn't come to the first class. He  
23 still doesn't fire her. A week later he lets her  
24 voluntarily resign.

25 The key point, Your Honor, is, here is

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1 Mr. Purdy, a very high level management person, takes  
2 this extraordinary action to address complaints raised  
3 by Ms. Barnes. Extraordinary and I think the record  
4 is full of examples of the kind of individual  
5 attention that management at the site give their  
6 employees. The kind of individual attention to  
7 reinforce them in their work and to have them do their  
8 job and, Your Honor, based on this evidence, there is  
9 no conceivable way that this Board, in my judgment,  
10 can conclude that there was a pervasive climate of  
11 harassment and intimidation at Comanche Peak.

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1 JUDGE BLOCH: Thank you, Mr. Downey.

2 Mr. Hicks?

3 MR. HICKS: The State will be brief  
4 because there is very little to add, of course,  
5 beyond the obvious.

6 I think the State of Texas views this  
7 as probably the most important and most difficult  
8 to assess issue before the Board.

9 The record developed thus far and the  
10 depositions taken at Glen Rose raise very serious  
11 concerns about the QA/QC program, which, of course,  
12 raises concerns about the safety of the plant of it  
13 is allowed to operate.

14 The State is interested in the record  
15 being developed and the Applicants being required to  
16 show its burden of proof and persuading the Board it  
17 does have and has had an adequate QA/QC program at  
18 the plant.

19 That's all I have to say, Your Honor.

20 JUDGE BLOCH: Mr. Hicks, does the State  
21 wish to file a brief on the outcome of this case?  
22 It did not file a proposed findings as set for the  
23 other parties?

24 MR. HICKS: I do not think we will be  
25 filing a brief. Will it be appropriate if I think

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1 about it just a little bit more and then notify the  
2 Board sometime during the day today?

3 JUDGE BLOCH: I think certainly by the  
4 end of this week we ought to know so we can decide  
5 whether an adequate procedure can be arranged to  
6 protect the rights of the other parties as well.

7 MR. HICKS: I anticipate the State will  
8 not be filing a brief, but I need to think about it  
9 just briefly.

10 JUDGE BLOCH: Mr. Treby or Mr. Mizuno.

11 MR. TREBY: The Staff agrees that the  
12 issue which has been framed for this proceeding is  
13 whether or not there is a pervasive atmosphere of  
14 intimidation at the site such that QA workers were  
15 unable to perform their function causing a breakdown  
16 in the Applicants' QA/QC program.

17 At an earlier point in this proceeding,  
18 the prehearing conference of June 14th, the various  
19 parties set forth what they believed the definition  
20 of intimidation should be, and there was a difference  
21 between the parties.

22 The Staff's view was that intimidation  
23 was defined by some act or incident by the company  
24 which caused its QA people not to conform to the  
25 written procedures in its QA/QC program, and thus there

1 was a failure to follow through on that QA/QC program  
2 as required by Appendix B to 10 CFR Part 50.

3 JUDGE BLOCH: Could we clarify? You just  
4 said "an act or incident."

5 Does the act or incident have to be by  
6 the company or could it be by an employee and then --

7 MR. TREBY: That's correct.

8 Unfortunately at this point the Staff is  
9 still engaging in various activities to determine  
10 what information it can find at the site.

11 As the Board is aware, there is a  
12 technical review team under the direction of Mr.  
13 Ippolito which numbers over 50 Staff employees and  
14 consultants who are looking into every allegation  
15 that has been brought to the attention to see whether  
16 there is any physical corroboration that there was  
17 some breakdown in the QA/QC program in the sense that  
18 it can be physically corroborated by looking at the  
19 hardware.

20 The Commission's Office of Investigation  
21 has ongoing investigations into various matters which  
22 have been brought to its attention.

23 Until these matters are resolved or at  
24 least further along, the Staff has not been able to  
25 reach an independent judgment as to whether or not it



1 has a position on whether or not intimidation, as it  
2 has defined it, has occurred at this site; and we have  
3 indicated that in our proposed findings and at a  
4 number of prehearing conferences.

5 Therefore, we find ourselves in the  
6 position where we are unable to take a position one  
7 way or the other at this point.

8 JUDGE BLOCH: I take it, though, that you  
9 have a position about whether or not we can close the  
10 record without waiting for the Staff?

11 MR. TREBY: Yes. We believe that these  
12 ongoing activities, particularly those of Mr. Ippolito,  
13 are necessary matters for the Board.

14 JUDGE BLOCH: Of course, you wouldn't know  
15 about the OI activities, because they don't share it  
16 with you, either.

17 MR. TREBY: That is correct.

18 JUDGE BLOCH: Thank you very much,  
19 Mr. Treby.

20 Let us take a five-minute recess.

21 (Recess taken.)

22 JUDGE BLOCH: Mr. Downey?

23 MR. DOWNEY: Yes, Your Honor.

24 I would like to add, if I could, something  
25 to the colloquy that was immediately preceding the

4-5 1 break.

2 JUDGE BLOCH: Which part of it? I am  
3 worried about reopening argument.

4 MR. DOWNEY: I did not address, by  
5 inadvertence, the question of whether the record  
6 should remain open.

7 JUDGE BLOCH: Please do, because I asked  
8 Mr. Roisman about that.

9 MR. DOWNEY: Your Honor, on the issue  
10 of closing the record, I believe the specific question  
11 put to the Staff and to the Intervenor was whether  
12 the Board should keep the record of this part of the  
13 proceeding open pending reports from the Staff or  
14 from OI on investigations they are currently  
15 conducting.

16 We don't believe that's necessary, Your  
17 Honor, for two reasons.

18 First, the parties themselves and the  
19 Board, through calling witnesses, are developing what  
20 could only be called a very full record on this issue.

21 Second, there is an indication of what the  
22 Staff and OI have found on this issue at Comanche Peak  
23 and that's a very full report rendered to all the  
24 parties and the Board where 72 or 73 QC inspectors were  
25 interviewed and all but one indicated no problem with

4-6 1 harassment and intimidation at Comanche Peak.

2 Absent something, that, I think, speaks  
3 eloquently for whether the Board should keep the  
4 record open pending still more information from the  
5 Staff and OI.

6 We think it's not necessary and it should  
7 not be done.

8 JUDGE BLOCH: Thank you, Mr. Downey.

9 I ask everyone's cooperation in meeting  
10 in the middle of this. We have some static coming  
11 from the next room.

12 Let's just try to concentrate on this room  
13 and see if we can proceed despite the possible  
14 distraction.

15 Mr. Downey.

16 MR. DOWNEY: Yes, Your Honor.

17 The Applicant is prepared to call  
18 Michael Spence, President of Texas Utilities Generating  
19 Company.

20 Mr. Spence is being called as the request  
21 of the Board.

22 JUDGE BLOCH: Mr. Spence, you have been  
23 previously sworn, as I understand, before a court  
24 reporter.

25 You may be seated.

-7  
1 Whereupon,

2 MICHAEL SPENCE

3 was called as a witness and, having been previously  
4 duly sworn to tell the truth, the whole truth and  
5 nothing but the truth, testified on his oath as  
6 follows:

7 JUDGE BLOCH: I would remind you that  
8 the oath that you took before that reporter is still  
9 applicable at today's proceedings, and I would like  
10 to welcome you as a witness.

11 THE WITNESS: Thank you, sir.

12 MR. DOWNEY: During our telephone  
13 conversation, when you requested Mr. Spence be  
14 brought forward, you indicated an interest in  
15 examining Mr. Spence on his views about the operation  
16 of the QA/QC Department at Comanche Peak.

17 If you would like, I'm prepared to  
18 conduct a short direct examination of Mr. Spence on  
19 that subject, which might move things along.

20 MR. ROISMAN: I object to that, Mr. Chairman.

21 The witness has been available for  
22 direct by the Applicant. I believe he is here for  
23 examination by the Board.

24 I think the Board should ask its  
25 questions.

1 JUDGE BLOCH: How did you phrase that,  
2 the subject that you would go into at this point?

3 MR. DOWNEY: I framed it in a way that  
4 I understood the Board's concern.

5 The Board's question was Mr. Spence's  
6 judgment about the operation -- his knowledge and  
7 judgment about the operation of the QA/QC Department  
8 at Comanche Peak, and about the people who were  
9 responsible for that program.

10 JUDGE BLOCH: The direct testimony you  
11 filed went into that from Applicants' perspective  
12 already, didn't it?

13 I have read that carefully.

14 MR. DOWNEY: We did not prefile testimony  
15 of Mr. Spence.

16 JUDGE BLOCH: No, the deposition, the  
17 cross-examination of Mr. Spence.

18 MR. DOWNEY: My only point was, Your Honor,  
19 I have prepared a very short direct examination,  
20 which I believe was responsive to the Board's  
21 request.

22 It's the Board's option.

23 JUDGE BLOCH: I think what you ought to  
24 do is to keep that as possible redirect in case the  
25 Board asks things in a way that's different from the

1 one that you might pursue.

2 I think under the circumstances since  
3 the Board called the witness, we would like to  
4 explain a little bit about our present notion of  
5 why we have done that. I think the witness is owed  
6 that.

7 There are a couple of reasons. One is  
8 that we consider Mr. Spence to be a management expert,  
9 and there are issues about evaluating events at  
10 the plant which we think he may be able to help us  
11 with.

12 The second is that we are interested in  
13 the extent of his personal knowledge and involvement  
14 in specific events that may have influenced the  
15 quality of the quality control/quality assurance  
16 program at Comanche Peak.

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## BOARD EXAMINATION

1  
2 BY JUDGE BLOCH:

3 Q. Mr. Spence, would you conceive of --

4 JUDGE BLOCH: I am sorry. I want to  
5 state, I have asked Counsel for the company to advise  
6 Mr. Spence of the type of questions I might ask.

7 I'm sure they have done that, but let  
8 me do it publicly again.

9 First of all, if I ask objectionable  
10 questions, Counsel are encouraged to object. The  
11 Board does not mind objections to our questions which are  
12 based on legal standards that are applicable to  
13 anyone else's questions.

14 Second, we will ask leading questions, and  
15 I'm sure, Mr. Spence, that you will not be tricked  
16 by anything that we ask, that you will answer only  
17 when you fully understand the question and that you  
18 will not agree with us just because we are the  
19 Licensing Board.

20 I wouldn't expect that that would happen  
21 from you anyway, but I am sure that you will not do  
22 that.

23 If there is anything that we ask that you  
24 are unsure about, you can ask us to clarify it, and  
25 if we are misconceiving something or not understanding

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1 something, we would appreciate your clarification of  
2 that.

3 BY JUDGE BLOCH:

4 Q Mr. Spence, as I think about the job of  
5 a QC inspector in the plant, it occurs to me that his  
6 job is to assure rigorous compliance with the  
7 procedures that govern his work. Is that your view,  
8 also, of the way that a QC inspector should go about  
9 his inspection duties?

10 A Yes, sir, that would be consistent with  
11 my views of his responsibilities.

12 Q And I assume, also, that it's the nature of  
13 any person doing a job that his knowledge of those  
14 procedures in some areas will be less than 100 percent,  
15 that he will have some areas of the procedure that  
16 he is not completely sure about?

17 Is that your understanding of the nature  
18 of a QC inspector's job?

19 A It's my understanding that we have  
20 comprehensive training programs to try to insure that  
21 an inspector understands the full scope of his  
22 assignments and responsibilities, which would include  
23 the details of the procedures by which he is  
24 expected to carry out his inspection.

25 Q Sure, but when he --



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1           A       Human nature being what it is, I can  
2 anticipate that from time to time there will be  
3 misunderstandings as to what the intent of the  
4 procedure was, or maybe a misinterpretation.

5           Q       Then I assume as well that when you test  
6 people at the end of training, they don't all get  
7 a hundred percent on the test, that their knowledge  
8 is not a hundred percent of the procedures?

9           A       That would be a fair assumption, although  
10 I don't know what the results of the tests are, per  
11 se.

12           MR. DOWNEY: Your Honor, could we send  
13 someone next door to see what the disturbance is?

14           JUDGE BLOCH: I will appreciate that.

15           Yes. Our clerk will go next door. I  
16 think that's the best way to do that.

17           Off the record.

18           (Discussion off the record.)

19 BY JUDGE BLOCH:

20           Q       Mr. Spence, I have been trying to search  
21 my mind for analogies that would help me to understand  
22 the way things are in the plant, and I'm going to  
23 suggest one to you that you may find totally useless  
24 or you may find somewhat useful, and I would like you  
25 to comment on it.

1 I thought about the possibility of a  
2 baseball game being played in which one team never  
3 complained to the umpire and the other team complained  
4 vociferously whenever they lost a call.

5 My question is under those circumstances,  
6 regardless of whether there was any particular  
7 threat to the umpire and regardless of whether he  
8 really felt physically intimidated or thought he  
9 might lose his job, would you anticipate that the  
10 team that was doing the threatening that would  
11 constantly object would have some advantage over the  
12 team that made no objections at all?

13 A. (No response.)

14 Q. If this isn't applicable, you might just  
15 think about it and tell me why you think it's not  
16 applicable to the QC program.

17 A. Well, let me pause a moment and think  
18 through the analogy as I heard it.

19 Q. Please don't answer until you have  
20 thought it through.

21 A. Your question is from the point of view  
22 of the umpire; is that correct?

23 Q. Yes.

24 A. And would or would he not be influenced  
25 by the fact that one team argued frequently with his

1 decisions and another team acquiesced to all the  
2 decisions with no further argument; and would one  
3 versus the other weigh more heavily on his decision-  
4 making process?

5 MR. REYNOLDS: Mr. Spence, also, does  
6 the analogy even apply would be the first question.

7 BY JUDGE BLOCH:

8 Q Yes, and I did ask you whether you thought  
9 that analogy --

10 A Well, before I address that in my mind,  
11 I wanted to make sure I understand what the analogy  
12 was.

13 Candidly, Your Honor, I am having a  
14 hard time applying your baseball umpire analogy to  
15 the way things are managed in the plant.

16 Q Let me explain a little more before you  
17 decide.

18 I know that there are strong feelings in  
19 the plant between craft and QC. Some of it is the  
20 pride of the craft people in their work and their  
21 knowledge that they tried to do their job right; and  
22 yet it is the QC person's job to enforce the  
23 procedures and to indicate deficiencies, either on an  
24 inspection list or on a nonconformance report.

25 I would understand under those circumstances

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1 that from time to time words would be exchanged.  
2 Not really physical intimidation, there's no threat  
3 of anyone losing a job, and yet those words would be  
4 exchanged.

5 I was wondering whether after a while those  
6 QC inspectors might wonder about the calls that were  
7 close, the ones where they are really not perfectly  
8 sure about what the procedure says or possibly  
9 there's a vague area of the procedure.

10 I just wonder over a period of time if  
11 that kind of talking at the QC inspectors is allowed  
12 and there's no repercussion for angry words or, you  
13 know, just a comment defending the man's work, whether  
14 over a period of time that would influence the course  
15 of the QC work at the plant?

16 A. I think I could agree with your premise  
17 that because of the nature of the craft/inspector  
18 relationship on a nuclear project, that of having all  
19 the crafts' work inspected and, in effect, signed off  
20 on by an independent party, creates the potential for  
21 words and differences of opinion on the quality of  
22 that work and the quality of that inspection.

23 From my point of view, to the best of my  
24 knowledge, because our QC management is mindful of that  
25 potential, adequate and proper management steps have

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1 been and are taken by our site QC management people  
2 to insure that that potential interplay between craft  
3 and QC does not deter the inspector from applying his  
4 procedures on inspections as he understands them.

5           Going back to your previous point, if in  
6 fact it is determined that that inspector did not have  
7 a clear understanding of the nature of the procedure,  
8 of the scope of the procedure from a technical point  
9 of view, then site management has needs and provisions  
10 to clear up those -- to clarify those misunderstandings.

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1           Q       Hypothesizing, they wouldn't know he was  
2 unclear. They would say, "this man is about to yell  
3 at me if I report a deficiency. He's standing right  
4 there, so I just won't do it because I really am not  
5 sure about it."

6           A       My answer was intended to convey, from  
7 my perspective as President of the company, that given  
8 the potential of that scenario and you are presenting  
9 it hypothetically, I presume, and the recognition of  
10 that potential, our management structure on the site  
11 steps are taken to insure that those inspectors,  
12 regardless of the nature of interface they may have  
13 with crafts from time to time whose work they are  
14 inspecting, we will write up the results of their  
15 inspections in accordance with the procedures as they  
16 understand them.

17           Q       And the ordinary way for doing that is  
18 just the ordinary supervision in the field; is that  
19 the principal way of doing that?

20           A       Well, supervision, training, a commitment,  
21 if you will, on the part of the entire QC organization  
22 to our quality program and an understanding of the  
23 scope of responsibility of each of the employees that  
24 has a part in that program.

25           Q       Do you know of any instances on site where

1 someone was chastised for not finding deficiencies?  
2 Where a QC inspector was retrained or chastised for  
3 missing things he shouldn't have missed?

4 A I can't site you any specific examples.  
5 Instances of that nature would not normally come to  
6 my office but it would not surprise me if, from time  
7 to time, that has not occurred.

8 Q Do you know of instances where someone  
9 has been openly and publicly acknowledged because he  
10 was very conscientious in reporting deficiencies or  
11 because he found a problem that was serious and that  
12 management was happy with the fact that he uncovered  
13 that problem?

14 A Openly and publicly acknowledged in the  
15 way of --

16 Q Some employers have awards ceremonies.  
17 Others could announce that someone is promoted because  
18 of extraordinary service to the company in finding  
19 deficiencies or a particular deficiency which really  
20 avoided a big problem for the company?

21 Did that happen at all?

22 A From time to time I hear of instances  
23 where potential problems are uncovered through our  
24 QC program in time to take corrective measures before  
25 the problem expanded to a larger problem.

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1 Q Okay, but what about the man who found  
2 it? Was it that the QC supervisor -- either the  
3 supervisor or the inspector himself, was he somehow  
4 especially rewarded for having found the problem and  
5 surfaced it so the company could cure them?

6 A It might be but I'm not aware of any  
7 particular effort to have an award ceremony or  
8 something of that nature. That doesn't mean that the  
9 proper recognition on site from that particular  
10 employee's supervision, did not take place.

11 The significance of my answer is that if,  
12 in fact, it happens, it is not brought to the  
13 attention of my office, which is not extraordinary  
14 when you consider our organizational structure.

15 Q Is there a policy or program to reward  
16 or acknowledge people who have done things of this  
17 nature?

18 A It's our corporate philosophy, if not  
19 policy, to reward superior performance in all aspects  
20 of our work.

21 Q I know one individual, because we have  
22 testimony about it, who found a problem with a Ferro  
23 Resonant Transformer and having found it, he reported  
24 it but then he did something extraordinary. He  
25 actually checked the data base and called some other



1 plants and found out that the problem wasn't just at  
2 Comanche Peak. It was a generic problem that affected  
3 Ferro Resonant Transformers so you not only had a bad  
4 product, you had one that wasn't going to easily be  
5 cleared up and he found that just by extra diligence.

6 I noticed that on his performance report  
7 that wasn't mentioned. Would you think that when  
8 someone goes out of his way, as I am representing this  
9 person did for the record, that there ought to be  
10 some mention on the performance report of what he did?

11 A Before I could answer that I would have  
12 to understand what performance report per se you're  
13 talking about. I'm not familiar with it.

14 Q But generally, the principle ought to be,  
15 shouldn't it, that someone who is extra conscientious  
16 in uncovering a problem for the company, that he  
17 should be acknowledged for that; is that correct?

18 A Yes, I think that there are should be  
19 processes and avenues, if you will, for measuring, to  
20 recognize extraordinary performance by its employees.

21 Whatever that performance might be.

22 In essence, though, in the ultimate, I  
23 think the ultimate reward for a conscientious employee  
24 is the knowledge and self-gratification of knowing  
25 that one did do the best one could do under the

1 circumstances and did perform extraordinarily within  
2 his scope of responsibility.

3 Q And that can be a tremendous internal  
4 reward, I agree with that, but do you think the company  
5 ought to somehow contribute to that recognition; don't  
6 you?

7 A When appropriate.

8 Q As I read Mr Tolson's testimony and I  
9 asked you read it before you testified today, have  
10 you done that -- have you reviewed Mr. Tolson's  
11 testimony?

12 A No, sir, I was not aware that you intended  
13 to ask me about Mr. Tolson's testimony.

14 JUDGE BLOCH: Was I mistaken about what  
15 I just asked?

16 MR. DOWNEY: I believe so, Your Honor.  
17 I don't recall you making that request.

18 MR. ROISMAN: I have that recollection, Mr.  
19 Chairman, that you did.

20 JUDGE BLOCH: Well, let me state, that as I  
21 read Mr. Tolson's testimony, he applies an objective  
22 test of whether or not someone ought to be intimidated.  
23 So, going back to our analogy of a while back about  
24 the shouting match between -- or disagreement between  
25 crafts and QC he would say that unless he felt that

1 objectively the QC person was justified in feeling  
2 intimidated, that there would be no response taken  
3 to this exchange of words between craft and QC.

4 BY JUDGE BLOCH:

5 Q If I stated it right, and let's assume  
6 I have because it is irrelevant as to whether it really  
7 was Mr. Tolson's policy for your response, would you  
8 approve of a policy of that kind which said I will  
9 only step in if the man reasonably felt intimidated  
10 by this exchange of words?

11 A I'm afraid I've lost the train of the  
12 first part of the question. I hate to belabor it  
13 but --

14 Q That's okay. Let me try it again.  
15 You've done exactly what I wanted you to do. If you  
16 don't understand the question or you've lost it, don't  
17 answer it.

18 I'm assuming that a craftsman that is  
19 upset because a QC inspector has found something  
20 wrong and that there then are words exchanged, in which  
21 he expresses his upset at having been told he was  
22 wrong when he thought he was right.

23 Now, as I understand what Mr. Tolson said,  
24 he comes to him and says, "Hey, this shouldn't have  
25 happened. After all, I'm like an umpire in a baseball

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1 game and I shouldn't be yelled at."

2 Mr. Tolson would think about whether he  
3 was reasonable or justified in feeling intimidated and  
4 if Mr. Tolson felt that it shouldn't matter to him,  
5 he should be tougher than that, then there would be  
6 no action taken.

7 Is that the right kind of standard for  
8 Mr. Tolson to apply?

9 A Due to human nature in person perceptions,  
10 they are automatically a part of any alleged  
11 instance of intimidation. I think it's quite easy  
12 to assume a situation where a craft person in  
13 conveying his concern over what he believes to be an  
14 error by an inspector inspecting his work, could from  
15 his point of view be communicating a technical fact,  
16 while from the point of view of the inspector, given  
17 his personality and human nature, et cetera, could  
18 take that to be an act to intimidate him and make  
19 him afraid to continue his work.

20 Q Now, the way you've phrased it, it's  
21 obviously right. If it was just an exchange of  
22 information, the man has quietly said to the QC  
23 inspector, "You know, I'm allowed to make a weak weld  
24 up to 4/4 wire diameters?" You certainly don't have  
25 any intimidation.

1                   If the man felt intimidated, you'd  
2 say, "Well, now, get out of here." but if it was done  
3 in a very loud voice before four or five other  
4 people, would you also necessarily come down the  
5 same way?

6                   A        The point I was fixing to make was that  
7 in my analogy or the description I was weaving here,  
8 the craft man could have said it in a reasonable  
9 tone but the inspector, perhaps if he was unsure of  
10 his confidence in his interpretation of the  
11 procedure that he was applying, could be intimidated  
12 if somebody whose knowledge he respected or recognized  
13 on that same procedure, told him, "No, you're wrong  
14 or you read it wrong or you interpreted it wrong.  
15 I'm right." That in itself could intimidate a fellow  
16 who didn't have the requisite confidence in what he  
17 was doing.

18                   It wouldn't necessarily be a function of  
19 or in relation to the tone of voice that was used.

20                   Q        Sure. but I take it that we agree that if  
21 it really was just an exchange of information, that's  
22 probably a good thing for the plant and you wouldn't  
23 want to call that intimidation and have a policy against  
24 it.  
25

1           A           Even if the inspector felt intimidated,  
2 I think it would probably, on further analysis, be  
3 a healthy interchange between craft and QC to --

4           Q           Okay, but what if it was done in a very  
5 loud tone of voice and there were five people who  
6 overheard this and they saw the QC inspector kind of  
7 wince, because he didn't like being yelled at?

8                       Do we now have something where you would  
9 like your supervisor to inquire further and maybe  
10 take something to rectify the situation?

11          A           If it -- if the incident clearly had the  
12 potential of impacting the attitude of those around  
13 it, concerning management's commitment to quality and  
14 safety, I think it would require some further input  
15 from management.

16          Q           Now, Mr. Roisman argued before that even  
17 when management concludes that there was intimidation,  
18 the intimidation is a public incident and it involves  
19 the people standing around, as you just acknowledged,  
20 but that the counseling that's done is private.

21                       Do you think that's a right response to a  
22 public incident?

23                       MR. DOWNEY: Objection, Your Honor.  
24 I think the testimony doesn't reflect your  
25 characterization. I believe the testimony reflects that

5-10

1 the c ounseling is commensurately congruent with the  
2 scope of the offense, so if four or five people were  
3 involved in whatever incident precipitated counseling,  
4 the four or five people would be informed of the  
5 disposition of the matter.

6 It's not just that there's some public  
7 event and one person is -- that it's done privately.  
8 Rather the counselling and the knowledge of counselling  
9 is congruent with the knowledge of the matter that  
10 led to it.

11 BY JUDGE BLOCH:

12 Q Okay. I'll ask a hypothetical because  
13 I don't understand the testimony quite the way Mr.  
14 Downey just stated it, either.

15 If the counselling were done privately  
16 and the only person who was informed of the result  
17 was the QC inspector himself, would that be an  
18 adequate remedy for a public incident in which the QC  
19 inspector was in a loud argument with craft?

20 A Would you help me understand where we are  
21 on the question? From your point, tell me who is being  
22 counselled. The QC inspector or the craft?

23 A The counselling is to the right person.  
24 It is to the person who did the intimidating. It is  
25 the craft person and then the management has concluded

5-11

1 that he did intimidate, so they want to counsel him.

2 A Excuse me.. It's a hypothetical given in  
3 the example?

4 Q That's right. It's a hypothetical.

5 A I had missed that point earlier.

6 Q And the craft supervisor calls the craft  
7 person in and counsels him and then the QC supervisor  
8 calls in the inspector and he advises him that the  
9 craft person was counselled. He may even say, "Are  
10 you satisfied?"

11 The question is, is that adequate, given  
12 the fact that other people may have seen the  
13 incident?

14 A My hesitation, I guess, stems from my  
15 belief that a cookbook answer to a wide range of  
16 perceptions and circumstances is hard to give.

17 Under certain circumstances in the plant,  
18 in the field, at the time, taking into account the  
19 nature of the encounter and the personalities involved,  
20 perhaps craft supervision going to the one craft  
21 person who engaged in the discussion with the  
22 inspector, may be adequate.

23 If there is reason to believe that it  
24 had had a profound effect on the two or three others  
25 standing around who also heard it, as to their



1 perception, then under given circumstances, I could  
2 agree that it would be perhaps appropriate and proper  
3 to counsel with those that were bystanders, as well.

4 Am I being responsive?

5 Q Yes.

6 A I'm not sure I've answered the question  
7 you asked.

8 Q You certainly were answering -- you said  
9 a profound effect on the nearby people.

10 I mean, the cost of telling them the  
11 result of management's action might be someone walking  
12 up and telling them, you know, "We counselled that  
13 guy. You shouldn't think that craft can intimidate  
14 QC." I mean, "You saw an incident.", so the cost is  
15 very low.

16 Why do you require that the effect on  
17 those people standing by should be profound?

18 A Your Honor, I'm not stating a requirement.  
19 I'm just trying to answer the question as I understand  
20 the scenario we painted.

21 Q I was just trying to understand your  
22 answer. You used the words "profound effect" on the  
23 people. You didn't mean it exactly that way? It was  
24 just a rough description?

25 A Well, perhaps now, in light of your

1 reaction to the use of that adjective, it may be an  
2 inappropriate adjective to have used there.

3 But I was, in my mind, contrasting the  
4 scenario I painted of a craft person just explaining  
5 to an inspector, "You're misinterpreting this  
6 procedure. I'm right. You're wrong." That type of  
7 interplay.

8 Q Well, I think we all agree that in that  
9 situation, we don't need any remedy, really.

10 I wouldn't feel embarrassed about other  
11 people in the plant hearing that. You ought to be  
12 able to disagree with the inspector but when you start  
13 getting loud and potentially abusive and embarrassing --

14 A Being abusive, obnoxious, in a threatening  
15 manner, and there were others around that heard it,  
16 that it potentially could have had -- been impacted  
17 by the encounter, then I think under those  
18 circumstances it would be appropriate for the craft  
19 supervision to counsel all those who might have been  
20 in contact with him and I have every reason to believe  
21 that when those situations come up on site, that  
22 proper type of counselling does take place.

23 Q We had testimony in this proceeding about  
24 a T-shirt incident, in which inspectors wore a shirt  
25 that talked about nitpicking.

1                   Could you tell me what's wrong with  
2 nitpicking? Is there something wrong about  
3 nitpicking?

4                   A        I would define -- defining nitpicking  
5 the same way --

6                   Q        Well, define it and tell us if there is  
7 something wrong about it.

8                   A        Well, one could argue that the role of  
9 the inspector is to nitpick, in effect.

10                  Q        That's my problem. We agreed before that  
11 there is a violation of procedures, he is supposed to  
12 report it, period. Regardless of how important it  
13 is. That's his job.

14                  A        That's right.

15                  Q        Isn't that his job, to nitpick?

16                  A        His job is to report deficiencies, and if  
17 that includes nitpicking, then one could conclude  
18 that that's his job.

19                  Q        Now, if it isn't a deficiency, then that's  
20 not even nitpicking. That's just being wrong and you  
21 would expect the supervisor to correct him and say,  
22 "Don't do that. It's not a deficiency."

23                  A        His job clearly is to report deficiencies.

24                  Q        So if you heard that supervisor held a  
25 meeting and he told people not to nitpick, would you

1 be worried about the implications for the QC program  
2 of that meeting?

3 A. Well, I would -- for my answer to be  
4 complete, I would have to know what that supervisor  
5 -- what definition of nitpicking that supervisor was  
6 speaking from at the time.

7 Q. And you would also want to make sure he  
8 communicated it, because even if he had the right  
9 definition, isn't it possible that the people who  
10 heard him would have a different definition; is that  
11 right?

12 A. That's possible.

13 Q. Why would it be a cause for alarm in the  
14 plant if an inspector comes in with a T-shirt on that  
15 advertises that he picks nits? If that is his job.

16 A. Well, at the very least it could be  
17 perceived as an unprofessional attitude.

18 Q. Well, is there a policy about other kinds  
19 of T-shirts at the plant?

20 A. As far as I know, we do not have a dress  
21 code at the site. If we do --

22 Q. So a fellow could come in wearing a  
23 beer ad; is that all right?

24 A. To my knowledge, we do not have a dress  
25 code at the plant. I think people will be properly

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1 attired for construction work.

2 Q So why is it a violation of the non dress  
3 code to wear a T-shirt that says "Nitpicking"?

4 A I don't know that that was my testimony,  
5 Your Honor.

6 Q Okay. Would you clarify what you said  
7 about it's unprofessional to wear that particular  
8 T-shirt?

9 A I believe my testimony was that it could  
10 be perceived as being unprofessional.

11 Q It could. It could also be perceived as  
12 an advertisement that these people really cared about  
13 doing what they're supposed to do. How do you  
14 decide whether that's a good thing and you ought to  
15 applaud it or whether you treat it as being  
16 unprofessional?

17 A I believe it could go either way, quite  
18 frankly.

19 Q Well, what factors would you look at to  
20 decide which way to go?

21 A Well, we're talking about the specific  
22 T-shirt incident, I presume, and --

23 Q You were master of that situation and the  
24 other people weren't having anything to do with it.  
25 What factors would you have looked at to decide what

5-17

1 to do in that situation?

2 A The intent and motives of those wearing  
3 the shirts with message, if any, and my view, if I  
4 were the site manager that had to make a decision on  
5 whether or not the shirts were appropriate.

6 As to what impact if any those shirts may  
7 have had on the rest of the work force.

8 Q You say you might, for example, look to  
9 see what the rest of the work force did or felt about  
10 those shirts? Is that something you'd look at?

11 A I dont know that I would -- it would be  
12 a dynamic situation, just as it was in the case of  
13 the T-shirt incident.

14 Q I had a brief conversation with Mr.  
15 Reynolds on the phone after this incident occurred and  
16 I'm afraid I said something to him about the merits  
17 of this matter and I would like to disclose it and see  
18 what your reaction is.

19 I told him that I thought maybe it might  
20 have avoided a lot of trouble for the company if when  
21 these people wore the shirts, the management took it  
22 as a big joke and called the press and held a press  
23 conference and boasted about how much the QC people  
24 cared about the quality of the plant.

25 Would that have been a reasonable approach

1 to this situation?

2 A Judge Bloch, in retrospect, with perfect  
3 hindsight, I'll have to say from my point of view  
4 that some of the management actions in connection with  
5 that incident were inappropriate.

6 Q Which ones did you find inappropriate?

7 A The overall reaction to the potential  
8 impact of the shirts and the misreading, if you will,  
9 of the message that the shirts were perceived to  
10 convey.

11 Q Did the action of the individuals who made  
12 those decisions concern you enough to do something  
13 about it?

14 A By do something about it -- I was  
15 informed of the situation after it developed.

16 Q Well, did you worry that people who had  
17 made that decision were saying something about  
18 themselves and how it related to the plants programs?

19 A Well, let me complete the answer that I  
20 started a moment ago.

21 In retrospect, I would have to say that  
22 some of the actions were inappropriate. However,  
23 that retrospect does have the benefit of 20/20  
24 hindsight. When one considers the facts that site  
25 management had to deal with it at the time, in a real

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1 time situation as it developed on that day and the  
2 perspective of the incidents that had preceded it  
3 in the safeguard of the QC inspection ranks, I  
4 believe that our site management taking the action at  
5 the time believed, based on facts as they were  
6 perceived, that the action was both prudent and  
7 probably conservative.

8 Q So sometimes the quarterback loses the  
9 games but he's done the right thing, so your  
10 conclusion is that what they did was okay, even though  
11 in hindsight it would be wrong?

12 A My testimony is that based on the facts  
13 that were available to site management at the specific  
14 instant that that situation began to evolve, the  
15 appearance of the T-shirts, --

16 Q So weren't all the facts available if they  
17 looked for them before they decided?

18 MR. DOWNEY: Your Honor, I'm not sure Mr.  
19 Spence had finished his --

20 JUDGE BLOCH: If I interrupt you, Mr. Spence,  
21 please raise your hand or something. I don't want to  
22 interrupt you.

23 BY JUDGE BLOCH:

24 Q Please continue.

25 A I forgot where I was.



1 JUDGE BLOCH: Mr. Downey, perhaps you can  
2 help Mr. Spence to remember.

3 MR. DOWNEY: Could the Reporter read it  
4 back? I believe he was saying based on the facts at  
5 that time, is about where he was.

6 JUDGE BLOCH: If you pick up at a  
7 different place, that doesn't matter.

8 THE WITNESS: Site QA management on the  
9 morning of the T-shirt incident, when it developed,  
10 had certain facts in their minds, concerns within the  
11 safeguards of electrical inspection workforce.

12 These are on this record. I'm not well-  
13 versed in the facts but concerns about destructive  
14 examinations -- destructive testing and examination.

15 The appearance of the T-shirts and the  
16 message on the T-shirts, they caused site QA management  
17 to put, if you will, two and two together and perceive  
18 that they had a potential volatile situation here.  
19 And under the circumstances at the time, based on  
20 the facts and information they had at the time, acted  
21 in what they believed to be a prudent and probably  
22 conservative manner.

23 BY JUDGE BLOCH:

24 Q They believed that?

25 A They believed that.

5-21

1 Q Do you also?

2 A In retrospect, I've said that --

3 Q No. Prospectively, if you had those  
4 facts, would you have done the same thing? Do you  
5 think it's right to have done the same thing?

6 A I don't know that I can give you credible  
7 testimony on what I would have done because I did not  
8 know all the facts and I --

9 Q Do you think if you had their facts, what  
10 they knew about this alleged destructive evaluation  
11 and the reasons they concluded there was a volatile  
12 situation, do you think they made a reasonable  
13 conclusion?

14 MR. DOWNEY: Objection, Your Honor.  
15 I don't think it's possible to impart to Mr. Spence  
16 all the knowledge that was available to the people  
17 on the site as the events unfolded and I think it's --

18 JUDGE BLOCH: Okay.

19 ///

20 ///

21

22

23

24

25

6-1  
bm  
1 JUDGE BLOCH: Okay.

2 MR. DOWNEY: I think his answer was he  
3 could not respond to that question, and I think that's  
4 a fair response.

5 JUDGE BLOCH: I guess I'd like to know as  
6 fully as possible what facts you believe that they had,  
7 and whether you think you believe that they acted  
8 correctly with those facts.

9 THE WITNESS: As I've tried to state  
10 previously, I'm certain that I don't have all of those  
11 facts. I believe through this deposition process --  
12 during the Glen Rose hearings -- that was well discussed,  
13 so they're probably in this record.

14 But I'm not well enough acquainted with them  
15 to discuss them in any kind of intelligent manner here  
16 with you.

17 My view is that site QA management -- based  
18 on whatever facts they had, and whatever perceptions  
19 those facts gave them at that particular moment in  
20 time -- believed that they were acting prudently,  
21 responsibly and conservatively.

22 My further testimony this morning is that  
23 in retrospect it's clear that some of the actions were  
24 inappropriate.

25 JUDGE BLOCH: Is someone responsible for the

1 program -- for the integrity of the QC program, if an  
2 action of that kind was public and visible is in your  
3 view wrong, do you have a responsibility to find out  
4 the facts on which the people acted to make a judgment  
5 as to whether they acted properly?

6 THE WITNESS: Yes, sir, and that was done.

7 BY JUDGE BLOCH:

8 Q But you're only telling me that they acted  
9 in good faith, that they believed they were acting  
10 properly. I want to know what you know about what they  
11 knew that persuades that what they did was right at  
12 the time.

13 It could have been right, even though they  
14 were wrong in hindsight. But I want to know what facts  
15 you obtained to persuade you that what they did at the  
16 time was right.

17 A I think -- I may be drawing a fine  
18 distinction here. I do not intend to convey to you that  
19 I here today believe that what they did at that time  
20 was right.

21 What I'm conveying is that the action taken  
22 by site QA management, based on the facts and perception  
23 they had at the time, convinced them that they were  
24 right -- an appropriate action.

25 Q Were their facts and perception appropriate

1 at the time? Had they done the right amount of  
2 investigation to obtain those facts? Was their  
3 perception of those facts appropriate?

4 Or don't you know? If you don't know, just  
5 tell me that.

6 A My testimony would have to be that I don't  
7 know then.

8 Q There is testimony that the company has  
9 an open door policy; is that correct? That all of the  
10 executives are to be available for complaints that the  
11 workers might have.

12 A Yes, sir, I'm aware of that testimony.

13 Q That's true also, isn't it?

14 A True that it's a policy?

15 Q Yes.

16 A Yes, sir. I would characterize it from my  
17 point of view as president -- as much as a corporate  
18 philosophy and style of management as I would a  
19 policy.

20 Q Now, in implementing a policy of that kind,  
21 is it difficult to make people perceive that the door  
22 really stays open?

23 A Well, one -- the actions of management would  
24 clearly indicate the effectiveness of such a policy. I,  
25 for example, know firsthand from the chairman of the

1 board on down that that is the attitude and the  
2 philosophy of our top management. That tends to  
3 permeate the attitudes of all of our management team.

4 Our chairman of the board would be perfectly  
5 receptive to any employee walking into his office with a  
6 problem that he hadn't been able to get solved somewhere  
7 else in the organization, or that he didn't feel free  
8 to talk about in the rest of the organization.

9 Q I take it, though, that it's kind of natural  
10 for people to be worried about going over their boss'  
11 head, when you are working at a lower level of the  
12 company. I take it there is a natural reluctance to do  
13 that, isn't there?

14 A Well, there would be a reluctance, and there  
15 would also be a -- I think -- a compelling feeling on  
16 the part of the subordinate to attempt to work out  
17 his personnel -- his problem, whatever his problem  
18 might be -- with his supervisor before going around his  
19 supervisor to another level of management.

20 Q If he felt that the supervisor just didn't  
21 listen too well to him, would he be wrong to bypass  
22 the supervisor without talking to him at all?

23 A Well, once again it would be hard to apply  
24 a blanket yes or no to such a wide range of possibilities  
25 framed within your question, but if the supervisor

1 in fact was part of the problem that the employee was  
2 concerned about, then it's not unreasonable that he  
3 might skip that next step on the chain of command and  
4 go to that supervisor's supervisor.

5 Q Let's assume he was unreasonable in bypass-  
6 ing his supervisor. Would there be any repercussions  
7 to him for having bypassed his supervisor?

8 A Well, I'll give you -- from my point of  
9 view. I have employees -- within the organization I'm  
10 responsible for -- approximately 5000 employees. And  
11 from time to time I have employees come to me who don't  
12 report to me who are concerned about various activities  
13 within Texas Utilities Generating Company that they're  
14 worried about or that they feel some action needs to be  
15 taken on.

16 Q So you personally follow up and make sure  
17 that they learn what you've done; is that correct?

18 A I listen to their problem. One of the first  
19 questions I ask them: Have you talked to your  
20 supervisor about this?

21 If they say no, then I try to determine  
22 why. If there's a valid reason why the problem should  
23 have been brought to me instead of some lower level of  
24 management -- you know, then I take that into account.

25 But depending on the circumstances, I will

1 listen; I will respond; I will react; and I will also  
2 in a great many cases -- depending on the circumstances --  
3 encourage that employee to go back to his immediate  
4 supervisor with that problem, if the circumstances make  
5 that determination appropriate.

6 Q If you're going to follow up on it, I take  
7 it you take the responsibility for telling him what  
8 you've done?

9 A Yes, sir.

10 Q If you're busy at the time that the person  
11 comes in, do you have provision for notifying him when  
12 to come back so you can hear him out?

13 A Well, my application of the open door  
14 policy in my office is that I make every attempt during --  
15 at the moment at hand -- if I have an employee sitting  
16 outside my office who says, "I need to see the  
17 president," I try to work it in to where he can see  
18 me.

19 Q We have a statement in our record from a  
20 transcription of a meeting between O. B. Cannon and  
21 Texas Utilities officials in which Mr. Lipinsky states  
22 that he can to speak to Mr. Tolson after two and a half  
23 days of doing an audit for the company on coatings,  
24 and Mr. Tolson says that at the time he didn't listen  
25 very well because he was very busy.



6-7

1           Would you expect an official of your  
2 company receiving information on deficiencies in the  
3 coatings program to at least tell someone that they're  
4 busy and arrange a time to listen?

5           A       That would not be an unreasonable expecta-  
6 tion. But I believe in the day-to-day hustle and  
7 bustle of running a company or carrying on a job, we  
8 all are probably guilty sometimes of not listening as  
9 carefully as maybe we should have because we were  
10 distracted by other matters.

11           I know I'm guilty of that. I would not be  
12 so presumptuous to assume that you've been guilty of  
13 it, but it's part of human nature.

14           Q       I'm sure I have been. But I'm not sure I  
15 have on a two-and-a-half day consultant study. That  
16 seems a little extreme to me.

17           I would think Joe Blow from the plant walk-  
18 ing in might occasionally find an harassed supervisor  
19 who just overlooked him.

20           A       Well, there are probably numerous occasions  
21 where anyone of us would think at the time we're listen-  
22 ing carefully. And in retrospect, when the subject  
23 comes up again, we realize, "Well, maybe I was  
24 distracted and didn't absorb as much of that discussion  
25 or that report as I thought I did at the time."

1 Q In my experience when you don't hear it,  
2 though, there's a motivation not to hear it. But  
3 sometimes we listen to certain people because we care  
4 about what they're going to tell us, and in other  
5 situations we don't listen because we don't care.

6 Is there any relationship between hearing  
7 and your motivation about what you're hearing? Do you  
8 see that?

9 A That could be a factor sometimes. But  
10 just as logically and just as likely and probably just  
11 as frequently, one could think one was listening and  
12 realize after the fact that one was listening but not  
13 hearing -- not concentrating, not absorbing, not  
14 understanding whatever the factor might be.

15 Q We have been going for some time now. I  
16 want to make it clear that if you need a break, you may  
17 always ask for one. You don't seem to need a break,  
18 but if you wanted one, you could ask for one.

19 A Thank you.

20 Q Mr. Goldstein, who is an expert -- or Dr.  
21 Goldstein, who is an expert for the Intervenors, has  
22 testified that -- and I'm sure we will clarify his  
23 position with less leading questions this week -- he  
24 testified that what management does is sometimes more  
25 important than what it says.

6-9

1           That's a sound management proposition, isn't  
2 it? You wouldn't disagree with that, would you?

3           A       No, I think there's a lot of logic to  
4 the pretext that actions speak louder than words.

5           Q       I did some thinking about the Atchison  
6 incident. I'm sure you have done a lot of thinking  
7 about the Atchison incident also; am I correct?

8           A       Yes, sir.

9           Q       One aspect of it that bothered me the most  
10 is the pow-wow note. Are you familiar with Mr. Tolson's  
11 testimony about the pow-wow note?

12           MR. DOWNEY: Objection, Your Honor.  
13 Testimony in the Atchison Department of Labor record?

14           JUDGE BLOCH: Yes, there are findings on  
15 the pow-wow note from the Department of Labor hearing.

16           And I have to interpret its meaning in this  
17 hearing.

18           BY JUDGE BLOCH:

19           Q       Are you familiar at all with Mr. Tolson's  
20 testimony about the pow-wow note?

21           A       Not in any detail. I recognize the term  
22 "pow-wow" from the briefings I have received on the  
23 Atchison matter. His specific testimony, I can't say  
24 that I'm familiar with that.

25           Q       Mr. Tolson's testimony is basically -- as

1 I'm going to state it -- he had received a request  
2 to promote Mr. Atchison from Mr. Atchison's supervisor.

3 He also found in his in box at about the  
4 same time an NCR written by Mr. Atchison about the non-  
5 qualification of certain personnel who were doing  
6 liquid penetrant testing.

7 That may have been a valid NCR or an invalid  
8 NCR -- I'm not even sure. But his testimony was that  
9 he felt, seeing those two notes together -- and they  
10 came from different people, but he saw them together --  
11 that he felt there was a blackmail attempt, that the  
12 NCR had a cover note on it that said, "I'd like to talk  
13 to you about this."

14 He felt that that was an attempt to black-  
15 mail him and that maybe Atchison would withdraw the  
16 NCR if favorable action was taken on the promotion.  
17 That's the sense of the blackmail allegation, as far  
18 as I can hear it.

19 Does that statement by Mr. Tolson -- if I'm  
20 correct in stating it, and I'm sure counsel will correct  
21 me if I'm wrong -- but those are binding findings  
22 from the Department of Labor -- does that statement by  
23 Mr. Tolson trouble you?

24 MR. DOWNEY: Objection, Your Honor.  
25 Mr. Tolson wasn't even a witness in the Department of

6-11 1 Labor proceeding in the Atchison matter.

2 It's Mr. Brandt, Mr. Chairman; in Intervenor  
3 Finding 372 on page 135 of our findings, we quote from  
4 the Department of Labor -- Secretary of Labor's  
5 finding on this.

6 If you want, I'd be happy to show that to  
7 the witness.

8 JUDGE BLOCH: Well, with the correction --  
9 and my statement that it's Mr. Brandt, is the question  
10 now adequately reflecting what the record states?

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1 MR. DOWNEY: Your Honor, I didn't try the  
2 Atchison case. I'm not --

3 JUDGE BLOCH: Well, let's try it with the  
4 understanding that if it's not Mr. Brandt, then the  
5 hypothetical is wrong; the answer means nothing.

6 But if Mr. Brandt concluded that there was  
7 blackmail in this incident, would you find any problem  
8 with his conclusion?

9 MR. DOWNEY: Your Honor, I'd have to  
10 object. There's no indication -- I know in the record  
11 of the Department of Labor proceeding that that was  
12 the only factor that influenced Mr. Brandt --

13 JUDGE BLOCH: No, I didn't say --

14 MR. DOWNEY: -- that day. He testified  
15 at great lengths about the things -- the context in  
16 which this arose.

17 JUDGE BLOCH: Well, would you like to  
18 elaborate a little more on the context so we get the  
19 full question?

20 I will permit you to do that.

21 MR. DOWNEY: Your Honor, I would, and I  
22 think Mr. Brandt could elaborate on that when he  
23 testifies in this proceeding.

24 JUDGE BLOCH: No. I want to ask a  
25 hypothetical question. I've just stated the facts as

1 I understand them.

2 You say there's something important I'm  
3 missing. If there's something important I'm missing,  
4 I'd like to add it to the hypothetical.

5 MR. DOWNEY: Yes. I believe that among  
6 other things the Department of Labor record reveals  
7 that prior to this time Mr. Brandt had difficulty -- or  
8 he had reached a judgment that Mr. Atchison's technical  
9 competence was not up to snuff.

10 He had reached a judgment that Mr. Atchison  
11 did not apply himself to his assigned duties in the way  
12 that he should.

13 He had reached a judgment that Mr. Atchison  
14 was not properly performing various kinds of tests.  
15 He had reached a judgment that there were many  
16 deficiencies of Mr. Atchison and that he was --

17 JUDGE BLOCH: Okay. Let's assume that  
18 there were serious problems that Mr. Brandt had with  
19 Mr. Atchison prior to this incident.

20 Still, would he -- Serious problems  
21 about the adequacy of his professional competence --

22 MR. DOWNEY: Your Honor, the last part is  
23 that the NCR was patently wrong, and that it should have  
24 been obvious to Mr. Atchison and others -- although  
25 patently wrong, if true, it would have had broad

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significance.

So I think those are all factors that --

JUDGE BLOCH: Okay. Let's also assume that the NCR is patently wrong. So we change the hypothetical a little bit.

Mr. Brandt had serious prior problems with Mr. Atchsion, about his competence and perhaps about his conscientiousness.

Incidentally, I know the Intervenors don't agree with this hypothetical either, but let's go ahead and ask it that way at this point. Maybe we'll give them a chance to correct the hypothetical a second time.

BY JUDGE BLOCH:

Q He had problems with Mr. Atchison previously, and he thought that the NCR that was placed on his desk with the pow-wow note -- request for a conference -- was patently wrong; and it was a request for promotion at the same time.

Do you find under those circumstances that the conclusion that there was blackmail in this incident was troubling?

A. Was troubling to Mr. Brandt?

Q. No. Do you find his conclusion that this was a blackmail situation is troubling to you? Does it



6Q15

1     bother you that he concluded that he was in a blackmail  
2     situation?

3             A       Based on the hypothetical scenario you  
4     just painted, I can see where Mr. Brandt could have come  
5     to that conclusion.

6             Q       Could you explain that to me? What was  
7     the blackmail?

8             A       Well, I don't know what previous employment  
9     problems you had in mind when you were describing your  
10    scenario.

11            Q       It had to be related to this NCR. The  
12    only blackmail was that an NCR was on Mr. Brandt's desk  
13    with a cover note, plus the promotion request.

14                    If there was blackmail -- regardless of the  
15    prior relationship -- the blackmail consisted of  
16    threatening to file this NCR, didn't it?

17                   MR. DOWNEY: Your Honor, I think the key  
18    point is that Mr. Brandt had a long prior experience  
19    with this employee that led him to perceive this  
20    particular event on this particular day in that way.

21                   I don't think that that's implicit or  
22    explicit in the questions you're asking Mr. Spence.

23                   JUDGE BLOCH: I've already stated that as  
24    part of the question.

25                   What has it got to do with it? The

1 blackmail is the filing of this NCR, isn't it? How  
2 could the filing of an NCR be blackmail?

3 THE WITNESS: Your premise was that Mr.  
4 Brandt recognized that the NCR was patently wrong?

5 JUDGE BLOCH: Yes.

6 BY JUDGE BLOCH:

7 Q How long would it take to void a patently  
8 wrong NCR?

9 A I don't know. I don't know what the  
10 procedures are.

11 Q You don't know the procedures for voiding  
12 an NCR?

13 A No, sir, I do not know the procedure. I  
14 know there are procedures, but I cannot cite them to  
15 you.

16 Q If I told you that Mr. Brandt could write  
17 on it, "Void because of such-and-such," and sign it,  
18 and it would be void, would you think there was black-  
19 mail involved?

20 That is, assuming that he was right that it  
21 was a patently wrong NCR, and he could explain why it  
22 was patently wrong.

23 A You're telling me that is the procedure.

24 Q I can be corrected if I'm wrong --

25 A -- if that were the procedure?

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1 MR. DOWNEY: Your Honor, I think there's  
2 one other fact -- Again, I'm not fully familiar  
3 with the Department of Labor records, but there's one  
4 significant fact that has occurred to me that is not  
5 implicit in any of these questions; and that is,  
6 the programmatic requirements were to issue NCR's, not  
7 to negotiate them.

8 That is one of the key facts, as I recall  
9 Mr. Brandt's testimony, that he was concerned because  
10 when the NCR was left with him with the -- what is  
11 now known as the pow-wow note, it did not have an  
12 NCR number and had not been issued, and it was less  
13 discussed, as opposed to programmatic requirements  
14 which were issued the NCR's.

15 JUDGE BLOCH: Is that appropriate, that  
16 he'd be worried -- The real problem was the man didn't  
17 file the NCR before he talked to Mr. Tolson -- Mr.  
18 Brandt, excuse me.

19 Is that a reasonable thing to be upset  
20 about, that he didn't file about it before he talked  
21 to Mr. Tolson?

22 THE WITNESS: Mr. Tolson or Mr. Brandt?

23 JUDGE BLOCH: Mr. Brandt. I'm very  
24 sorry.

25 THE WITNESS: I'm getting confused here.

JUDGE BLOCH: It's Mr. Brandt.

6-18

1  
2 BY JUDGE BLOCH:

3 Q Is it reasonable to be upset -- that he  
4 should have filed it first before he talked to Mr.  
5 Brandt?

6 A It would seem to me -- and I am not an  
7 expert on NCR procedures -- that that would be a  
8 reasonable expectation, that if an inspector finds a  
9 nonconforming condition, such that it requires the  
10 writing of an NCR to bring that to management's  
11 attention for resolution, that the immediate follow-on  
12 step for that NCR would be to file it.

13 Q So the remedy for that is simple: Mr.  
14 Brandt obtains a number and files it. Why is that  
15 blackmail?

16 A The perception is that here comes an  
17 unfiled NCR accompanied with a note, "Let's talk about  
18 this," that appears at the same time -- as I understand  
19 your hypothetical situation --

20 Q Yes.

21 A -- as a request for promotion.

22 Q You send it back and say, "File the NCR."  
23 What's the blackmail?

24 Unless you don't want the NCR filed. Then  
25 it's blackmail, isn't it, if you don't want the NCR

6-19

1 filed?

2 A If I as Brandt don't want the NCK filed.

3 Q Then you might see it as blackmail. If  
4 you want it filed, you just make a filing.5 A Well, I feel certain that Mr. Brandt in his  
6 supervisory role in our QC management expects all  
7 nonconformance conditions that result in an NCR to be  
8 filed.9 Q Did you think about whether the testimony  
10 about the blackmail incident -- part of this Atchison  
11 testimony -- reflected adversely on Mr. Brandt? Have  
12 you ever considered that possibility?13 MR. DOWNEY: Objection, Your Honor. He has  
14 testified that he hasn't read the testimony.15 JUDGE BLOCH: He said he was very familiar  
16 with the Atchison case. Did he not say that?

17 BY JUDGE BLOCH:

18 Q Did you say that you had thought a lot about  
19 the Atchison case?20 A Yes. I did not say I had read the  
21 testimony.22 Q Okay. Did you look into it enough to  
23 decide whether it reflected adversely on your officials?24 A I was briefed on the events leading up to  
25 the Atchison firing and the subsequent Department of

6-20

1 Labor filing, by members of my staff who have the  
2 corporate responsibility for carrying out our QA  
3 program on site.

4 Q Did they report to you in a way that made  
5 you think they had thoroughly investigated whether  
6 this reflected adversely on the company?

7 A Yes, sir. Through the discussions we had,  
8 the questions I asked them about the nature of the  
9 issue and the degree to which it had been investigated --  
10 management's reaction, I satisfied myself that the  
11 matter had been fully investigated.

12 Q Was any of that in a written report to  
13 you?

14 A No, sir, it was not.

15 Q Was there a meeting at which this evalua-  
16 tion took place, where you sat down with people and  
17 said, "What should I think about this Atchison matter  
18 now"?

19 A I was just describing a meeting where senior  
20 members of my staff, who had the responsibility for  
21 administering and managing our QA program briefed me on  
22 the Atchison matter.

23 Q Can you recall how long the briefing took?

24 A No, sir. It has been -- I guess -- a couple  
25 of years ago. I don't remember the details.

6-21

1 Q Can you recall whether it got into details  
2 about whether particular officials may have acted  
3 improperly -- by name?

4 A As I recall, the briefing was very detailed  
5 both on the presentation and in response to the  
6 questions that I asked.

7 Q Did you actually actively consider whether  
8 or not, for example, Mr. Brandt acted properly in the  
9 Atchison case?

10 A I'm sure I did. My conclusion was based on  
11 the information that came as a result of my staff  
12 briefing me and their responses to my questions. It  
13 enabled me to conclude that Mr. Atchison was not  
14 wrongfully fired, and that the actions taken by site  
15 management were proper and appropriate.

16 Q Did you ever read the opinion of the  
17 Administrative Judge?

18 A Yes, sir, I did. It has been quite some  
19 time, but I read it when it was current.

20 Q I'm not going to quiz you on it.

21 Did you read the opinion of the Secretary  
22 of the Department of Labor?

23 A Yes, sir, I did. And my position is that  
24 I disagree with their conclusions. Brown & Root has  
25 that decision on appeal to the Fifth Circuit. I believe

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1 that Brown & Root will prevail on that appeal.

2 Q Now, I assume that one important event for  
3 top management in this plant with respect to the QA  
4 program was the time in which they learned that Brown &  
5 Root had been fired at the South Texas Project -- am I  
6 correct that that was an event that was of some  
7 significance to the management of this project?

8 A Well, we were obviously aware of the  
9 developments involving Brown & Root at the South Texas  
10 Project.

11 You have to understand -- and I presume  
12 you do -- but for the record, the role that Brown &  
13 Root was playing for the owners of the South Texas  
14 Project was different from that role that Brown & Root  
15 plays for Texas Utilities on the Comanche Peak  
16 Project.

17 Q Different and the same. It was both  
18 architect/engineer and construction manager; is that  
19 right?

20 A At South Texas. Whereas for us they're  
21 involving construction only.

22 As I understand the South Texas matter,  
23 they were terminated from that project in their role as  
24 architect/engineer not as constructor.

25 ///



1 Q Do they have problems very similar to the  
2 problems that are alleged here about intimidation,  
3 in the South Texas project?

4 A I am not at all familiar with the details  
5 of the South Texas roject nor the circumstances that  
6 led to the lawsuit or what Brown & Root's role had  
7 been. I quite frankly have a hard enough time staying  
8 on top of my own nuclear project, to keep up with all  
9 the details of others.

10 Q So you just did not inquire in depth into  
11 what happened between Brown & Root and that other  
12 company?

13 MR. DOWNEY: Objection, Your Honor. I  
14 don't think these questions about Brown & Root and  
15 South Texas are really relevant to this proceeding.  
16 Beyond that, I think Mr. Spence indicated he doesn't  
17 have any knowledge about those matters.

18 JUDGE BLOCH: I just want to find out if  
19 he looked into it for the possible applicability to  
20 what Brown & Root was doing fo r him?

21 If he didn't, he didn't.

22 THE WITNESS: I'll be glad to share with  
23 you my understanding of --

24 BY JUDGE BLOCH:

25 Q No, I just really want to know much more

1 about the depth to which you inquired about that  
2 possibility, than I do what your conclusions were.

3 A Well, as I understand the facts  
4 surrounding the Brown & Root-South Texas matter,  
5 situation, the owners of the South Texas project  
6 chose to disengage themselves from Brown & Root as  
7 architect engineer because engineering productivity  
8 was not keeping up with craft.

9 Further to that, my understanding is  
10 that the owners of the South Texas project, even in  
11 light of their disengagement with Brown & Root as A.E.,  
12 preferred to retain Brown & Root as constructor but  
13 because of the interrelationships of the two contracts,  
14 for whatever reason, that was not able to take place.

15 Q Do I infer then, that because you see that  
16 as the cause of the problem, you didn't inquire in  
17 depth into whether there was anything else for you  
18 to learn from that relationship?

19 A Right. I inquired no further and it was  
20 involved in litigation. I talked to people from South  
21 Texas from time to time but since it's in litigation,  
22 there's not a lot of information .

23 Q Do you have any knowledge of your  
24 company's relationship to O.B. Cannon as a consultant  
25 on coatings?

1           A.       Very limited. Only to the extent that I  
2 know O.B. Cannon is a paint contractor.

3           Q        I assume that you didn't play any role  
4 in bringing him in?

5           A.       No, sir. That was a decision made by the  
6 site construction management personnel.

7           Q        And similarly, I assume you had no  
8 knowledge about the November 10, November 11 meeting  
9 about anything about why it was called or whether it  
10 was called?

11          A.       No, sir, I have no knowledge about that.

12          Q        Do you have any knowledge about the  
13 possible breakdown in the coatings problems that led  
14 to a back fit program for coatings inspection?

15          A.       I'm generally aware that there were some  
16 missing TC documentations for some paint that was  
17 applied early in the Unit 1 reactor building and that  
18 there was a back fit program to requalify.

19          Q        Do you know what percentage of the  
20 painting had been done when the back fit program was  
21 implemented?

22          A.       No, sir, I don't know. My construction  
23 management people know but I don't have it.

24          Q        Did you inquire into why that deficiency  
25 occurred that required a backfit program?

1           A.       It was discussed. I don't recall all the  
2 details as to what the estimations were but at the  
3 time it came to my attention, it was discussed with  
4 our construction and QA-QC management.

5           Q.       Did you conclude any management officials  
6 were responsible and should be disciplined because of  
7 the breakdown?

8           A.       No, sir, that was not the conclusion.

9           Q.       It's a long time and you didn't have a  
10 chance to review on this but do you recall why you  
11 reached the conclusion that management people were not  
12 responsible for the breakdown?

13          A.       No, sir, I don't recall.

14          Q.       Do you have any opinion about the  
15 performance of Harry Williams in the plant?

16          A.       I do not know Harry Williams personally.

17          Q.       Do you have any knowledge through official  
18 channels about whether his performance was  
19 satisfactory in the construction of the plant?

20          A.       My only contact with the name Harry  
21 Williams and his employment at the plant, is in  
22 connection with the proposed civil penalty that was  
23 issued by the NRC staff to TUGCO in late 1983  
24 concerning Mr. Williams' supervision.

25          Q.       Did you look into the possibility that

1 that prior activities might have been a problem?

2 Well, first of all, that's too fast.

3 Did you conclude that he had any  
4 responsibility for the violation served on the company?

5 A. Our company's position is fairly well  
6 stated in our response to the Notice of Violation  
7 and I read that recently. I read it thoroughly at  
8 the time we filed it and concurred with it and  
9 essentially our position is that the events cited  
10 in the proposed civil penalty, in our opinion was not  
11 worthy of the penalty.

12 Q. So, logically, if you thought there was  
13 no fault, you couldn't have found that Harry Williams  
14 was at fault?

15 A. Right.

16 Q. And that is, in fact, what you concluded?

17 A. Yes, sir, in that particular instance;  
18 that's correct.

19 Q. Has there ever come a time in which you  
20 considered Ronald Tolson was the appropriate head of  
21 the QA site program? Before he left that post,  
22 of course.

23 A. I had no reason to question Mr. Tolson'  
24 competency or his experience or his dedication to doing  
25 the job right.

7-6

1           You realize that Mr. Tolson, when he was  
2 in the position of site QA manager, was I believe  
3 four levels of hierarchy down from my office. I relied  
4 on Mr. Clements and Mr. Gary to assess his performance  
5 and to evaluate his performance.

6           Nothing that was ever brought to my  
7 attention, for me by those gentlemen would cause me  
8 to believe that Mr. Tolson was anything other than  
9 acceptable and doing an adequate job for us.

10           Now, in recent months, -- I might continue  
11 to expound on that answer -- I was also aware that  
12 in addition to his site QA management responsibilities,  
13 we were putting an increasing additional burden of  
14 work on Mr. Tolson in connection with his role in  
15 preparing matters to be presented to this Atomic  
16 Safety and Licensing Board here, where he had  
17 particular expertise on the issue being reviewed and  
18 that role was continuing to grow and added a burden  
19 of additional workload and pressure to him.

20           Q       I assume that in addition to the people  
21 working below you, that there was no information  
22 through your open-door policy about Mr. Tolson?

23                   That would cause you to consider whether  
24 he was doing the job properly.

25           A       In my deposition I cite the means and

1 the steps that I go through to keep myself involved  
2 in the project and up to speed on the current  
3 activities and status of various activities and  
4 programs at the project.

5 Weekly staff meetings --

6 Q That's the first non-responsive answer you've  
7 given me.

8 A Well, I'm getting to an answer. I'm  
9 trying to get to the answer to the question you asked  
10 me.

11 In those meetings and in other contacts  
12 I have with senior members of my staff, who report  
13 directly to me, who have responsibility for the QA  
14 program, nothing came to my attention to indicate that  
15 Mr. Tolson was doing anything other than a highly  
16 competent job of managing our site QA program and  
17 getting the results that were required in accordance  
18 to our commitments in Appendix B.

19 Q Now, you have the eight-point program  
20 and reports about intimidation come in in various  
21 different places, what do you do to inform yourself  
22 about the overall pattern of what's happening at  
23 the plant, as to whether there is a problem at the  
24 plant involving particular lower-level supervisors or  
25 particular middle-level supervisors under the eight-

1 point program?

2 A Well, I review the Corporate Director  
3 of Security reports of hot line activity periodically.  
4 Monthly. I believe the reports come to me monthly.

5 I am on the site personally at least once  
6 a week for staff briefings, which include site QA  
7 management and other site QA personnel.

8 I have weekly senior management briefings  
9 in my office in Dallas, which include Mr. Clements and  
10 Mr. Chapman who have the direct day-to-day  
11 responsibility for carrying out our QA program.

12 Q And one of those gentlemen would hear  
13 from the ombudsman; is that correct?

14 A I'm sorry. I didn't hear you.

15 Q Would one of those gentlemen at that  
16 senior meeting hear as well from Mr. Greer, who is  
17 the site ombudsman?

18 A Yes. Mr. Greer has input, literally to  
19 all levels of management in our company but primarily  
20 to our site QA manager and, I guess to a lesser  
21 extent, to our manager of quality assurance.

22 Q So indirectly you also hear from Mr. Greer?

23 A Yes. I hear of Mr. Greer's activities  
24 through these gentlemen.

25 Q What kind of report do you get about



1 Mr. Greer's activities?

2 A. When there is a specific issue that he  
3 has been asked to investigate. For example, a call  
4 that comes in over the hot line, he may be called  
5 upon by the corporate director of security to involve  
6 himself in that investigation.

7 Q. It's my understanding that when he  
8 resolves things fairly quickly, he doesn't even keep  
9 a record of that, so does he somehow keep a tally so  
10 you will know whether there is an influx of reports  
11 that he has disposed of successfully?

12 A. I don't know what kind of reports or  
13 procedures Mr. Greer follows. He reports his findings,  
14 generally, as I understand the process, directly to  
15 our site QA manager, who is Mr. Vega.

16 Q. We, as a Board, have a problem because  
17 the NRC Staff Office of Investigations has done  
18 fifteen studies that neither you have seen nor I have  
19 seen, because there are fifteen inspectors on site  
20 also looking into this issue of intimidation.

21 I'd like to know how confident you feel  
22 now that you know that the situation at the plant is  
23 such that there is no pattern of intimidation?

24 A. My degree of confidence?

25 Well, I have convinced myself that there is

1 no pattern of pervasive harassment and  
2 intimidation at the site.

3 Q Do we now know through our record of all  
4 the important ways that you have informed yourself  
5 about that? Are there any studies or investigations  
6 that you commissioned that we don't know about?

7 A As far as I know, the record would  
8 accurately reflect all the things that we are doing  
9 and have done.

10 JUDGE BLOCH: Mr. Spence, the Chairman  
11 has no further questions. You have been a very  
12 cooperative witness.

13 It has been our usual practice to allow  
14 follow-up questions by parties. In this instance,  
15 I feel quite comfortable that I have gotten complete  
16 answers to my concerns.

17 I'd be interested to hear if any of the  
18 parties -- there will obviously be an opportunity  
19 for redirect by the Applicants but before we get to  
20 that, I would like to know if there are any parties  
21 that desire a limited opportunity to ask further  
22 questions on areas on which the Chairman inquired?

23 First, Judge Grossman has been granted  
24 his motion.

## BOARD EXAMINATION

1  
2 BY JUDGE GROSSMAN:

3 Q Did I understand correctly, Mr. Spence, the  
4 testimony that the only reason that you transferred  
5 or the company transferred Mr. Tolson to another  
6 position was because of his added duties in the  
7 license proceeding?

8 A I did not intend that to be my testimony.  
9 Are you talking about the discussion that we just had  
10 or what I gave in my deposition?

11 Q No, the discussion we just had.

12 A My response was intended to be to the  
13 question I thought I heard of what input did I have  
14 concerning the performance of Mr. Tolson.

15 I don't believe we were talking about  
16 the decision to reassign him.

17 Q Well, were you totally satisfied with  
18 Mr. Tolson's performance as the site QC manager?

19 A Yes, sir. I believe my testimony is that  
20 I had had no input from my staff or any personal  
21 observations to cause me to think that he was performing  
22 in anything less than a competent manner and was  
23 achieving our corporate objectives and carrying out  
24 commitments.

25 JUDGE GROSSMAN: I have no further questions.

1 JUDGE BLOCH: Are there motions for  
2 limited cross-examination of this witness?

3 MR. ROISMAN: Mr. Chairman, may we have  
4 have a moment?

5 JUDGE BLOCH: Let's take five-minute  
6 recess.

7 (Short recess.)

8 JUDGE BLOCH: On the record.

9 Judge Grossman has just a couple more  
10 questions then we will hear motions on a limited  
11 cross-examination.

12 BY JUDGE GROSSMAN:

13 Q Mr. Spence, have you read the transcript  
14 prepared by the company of the meeting between Mr.  
15 Tolson and Ms. Lipinsky and Mr. Norris and a number  
16 of others?

17 It's the meeting entitled Lipinsky memo  
18 meeting of November 10, 1983, November 11, 1983.

19 A No, sir, I have not read the transcript.

20 JUDGE GROSSMAN: I have no other questions.

21 JUDGE BLOCH: Mr. Roisman?

22 MR. ROISMAN: Yes, Mr. Chairman. I have  
23 two clarifying questions, that is, places where I  
24 didn't think the witness' answer to your question  
25 meshed in a way that it is clear and I would just like

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1 to have the witness, just so it's clear on the  
2 record what he is saying with reference to those  
3 two questions.

4 JUDGE BLOCH: Did you just leaf through  
5 three pages of yellow pad?

6 MR. ROISMAN: Yes, I just looked through  
7 the pages of my notes on the testimony to see where  
8 on the cross-examination side I had written anything.

9 JUDGE BLOCH: Okay. That's not the  
10 questions that you're going to ask now?

11 MR. ROISMAN: No. That's my total notes  
12 of the examination this morning.

13 JUDGE BLOCH: Please proceed.

14 EXAMINATION

15 BY MR. ROISMAN:

16 Q Mr. Spence, I believe that the Board had  
17 asked you a question regarding the -- what your  
18 position was on the issue of judging harassment and  
19 intimidation based upon objective fact or based upon  
20 what the person who claimed to be harassed and  
21 intimidated said and I would just like you to clarify  
22 and state for me at one time here, what, in your view,  
23 is the proper policy for the company to have in the  
24 event that an inspector complains that they have been  
25 harassed and intimidated by a craft person?

1                   Should the company take that at face  
2 value by the inspector and proceed to act accordingly?

3                   MR. DOWNEY: Objection. I think that's  
4 two questions.

5                   JUDGE BLOCH: Well, Mr. Spence, if you  
6 don't understand it, don't answer. If you think you  
7 understand the parts of it, you can answer them  
8 sequentially.

9                   THE WITNESS: I thought I heard two  
10 questions. Could you perhaps break in two, sir, so --

11                   MR. ROISMAN: Surely.

12 BY MR. ROISMAN:

13                   Q       When a QC inspector goes to management  
14 and says, "I have had the following event take place."  
15 and describes an instance in which a craft person  
16 has yelled at the inspector and the inspector says,  
17 "I felt harassed and intimidated.", what is the  
18 company's position -- what is your position as to what  
19 is the proper thing to do with respect to that claim  
20 by the QC inspector?

21                   A       In such an event, I would expect the QC  
22 supervisor to whom the inspector goes with his  
23 complaint to listen to the complaint, satisfy himself  
24 that he has all the facts and if -- and talk it  
25 through with the inspector. I think that would be

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1 a reasonable approach.

2 If, as a result of the full discussion,  
3 the inspector is as convinced as he was before the  
4 meetin, that there had been an attempt to harass or  
5 intimidate him b y the craft, I think that the QC  
6 manager should call it to the attention of the  
7 appropriate craft management for resolution.

8 Q And if the craft management disagrees  
9 with the position of the QC inspector, should the  
10 supervisor insist on the craft management counselling  
11 at a minimum at least the craft person involved?

12 A Well, I think that would be part of the  
13 give and take of the management of a large complex  
14 construction project, between two different  
15 disciplines' management.

16 Q I don't understand your answer.

17 What should -- who has the upper hand  
18 there?

19 Let's say that what you just described  
20 happens. A QC inspector goes to a supervisor to  
21 talk it out. When they're done, the QC inspector says,  
22 "I'm still convinced I was harassed and intimidated."  
23 The next that happens, the QC supervisor --

24 A Well, let me get at it another way.

25 Q All right.

1           A       Our corporate commitment to an  
2 effective quality assurance program is well  
3 communicated to all of our QC management as well as to  
4 all our craft management, and part of that  
5 commitment is that the company will not tolerate  
6 any harassment or intimidation or threats on our QC  
7 inspectors as they carry out their assigned  
8 inspections.

9                     If QC management becomes convinced that  
10 such an event has occurred, then QC management has  
11 the obligation and the authority to take the steps  
12 necessary to see that that event is rectified and  
13 resolved.

14           Q       So to go to my question now, the QC  
15 supervisor has the authority to compel the craft  
16 supervisor to take some action with respect to the  
17 craft person who has been charged with harassment and  
18 intimidation?

19           A       He has the responsibility to go back  
20 through construction management with his concern.

21           Q       And what --

22           A       And see that it is properly addressed and  
23 resolved.

24           Q       But what's the -- I'm interested in the  
25 difference between responsibility and authority.



1                   What if construction management disagree  
2 with the QC? How is that resolved? Does QC -- is  
3 QC always right and someone will eventually tell that  
4 construction management person, "You must take the  
5 disciplinary action?"

6           A       That goes back to my comment on the give  
7 and take of management. There are -- what's the word  
8 I'm looking for -- progressive levels of management  
9 with the construction organization available to site  
10 QA management, to insure himself that the issue with  
11 which he is concerned, involving his inspector in a  
12 confrontation with a construction craft person is  
13 properly addressed and resolved.

14           Q       I'm trying to get you to tell me what  
15 happens when craft management and QC management are  
16 in disagreement. Craft management disagrees that there  
17 was anything improper and QC management says, "Our  
18 inspector says that he believes he was harassed and  
19 intimidated."

20                   I want to know who resolves that disagree-  
21 ment.

22           A       I think what I'm trying to convey to you  
23 is, that from my perspective as President of the  
24 company, I can't sit here and tell you each step  
25 along the way that QC management and construction

1 management go through to resolve the hypothetical  
2 situation that you have asked me about.

3 I do know that we have procedures in  
4 place and commitments to see that those kind of issues  
5 are resolved and that, in fact, they are being worked  
6 out at the plant.

7 Q Is it possible that in the plant with the  
8 policy you've just described, that a QC inspector  
9 could continue to believe that they had been  
10 harassed and intimidated by the conduct of a craft  
11 person and no action would be taken against the craft  
12 person and that would be in compliance with policy?

13 MR. DOWNEY: Objection, Your Honor.  
14 This line of question is not follow-up questioning  
15 as presented by the Board and, second, with respect  
16 to these specific question , I don't think that it is  
17 understandable.

18 Mr. Spence testified that he doesn't have  
19 direct knowledge of how specific things are worked  
20 out at the plant but he has testified extensively  
21 in response to Mr. Roisman about the policies for  
22 working those things out.

23 JUDGE BLOCH: Well, as I understand the  
24 answers, they're going to be worked out through a  
25 chain of command, so anything is possible.

1 I don't the question adds much. I really  
2 think I fully understand the response at this point.

3 MR. ROISMAN: Okay.

4 BY MR. ROISMAN:

5 Q I believe the last or nearly last question  
6 that you were asked by Chairman Bloch was whether  
7 you were convinced as to whether there is or is not  
8 a pattern of harassment and intimidation at the site  
9 and I believe you indicated that you are convinced  
10 there was not and I believe he then asked you whether  
11 the record here adequately reflects all the bases upon  
12 which you would be able to form a judgment on that  
13 question and there was confusion, I felt, in your  
14 answer.

15 I believe he was asking you whether you  
16 have today testified as to all the different  
17 mechanisms available to you --

18 JUDGE BLOCH: No. That's a confusion as  
19 to your interpretation. I was asking whether the  
20 record as a whole contains all of the sources of  
21 information on which the company has made a judgment.  
22 All the important ones. That there were no important  
23 outside studies or commissioned investigations either  
24 under way or completed that we should know about.

25 THE WITNESS: And it was to that question

1 that I directed my answer.

2 JUDGE BLOCH: That's right.

3 MR. ROISMAN: There's no doubt that he  
4 answered that question. May I ask him the other  
5 questions?

6 The other question is whether or not what  
7 he stated to you today, in answer to questions,  
8 represents the mechanisms that he has available for  
9 forming his own opinion on that. Not the company's  
10 opinion but his opinion on that question.

11 JUDGE BLOCH: You may ask it. I think I  
12 know the answer.

13 MR. ROISMAN: Okay.

14 BY MR. ROISMAN:

15 Q Is the question clearly in mind for you?

16 A No, sir. I'm sorry.

17 Q That's all right.

18 You have indicated that you have an  
19 opinion on this question of whether there is or is  
20 not pervasive harassment, intimidation at the site.

21 Have you testified today on all different  
22 mechanisms available to you that form the basis for  
23 that opinion? The mechanism for receiving information  
24 that would enable you to have that opinion?

25 Not whether you've given us all the

1 information but just whether you testified about  
2 all the mechanisms by which you would receive the  
3 information that forms the basis for that opinion?

4 MR. DOWNEY: Objection.

5 JUDGE BLOCH: I do think it is unfair.  
6 If he did, it would have been an accident but I asked  
7 him all the questions about that. I didn't attempt  
8 to do that.

9 MR. ROISMAN: I'm sorry.

10 JUDGE BLOCH: I didn't attempt to elicit  
11 his full basis for his conclusions about the safety  
12 of the plant, so if it happens that he testified  
13 about all of it, it would have been coincidence and  
14 I think it would be hard for him to go back for the  
15 hour and a half or so of questioning and remember  
16 whether he actually addressed all the important ways  
17 he has assured himself.

18 MR. DOWNEY: Well, I object on different  
19 grounds, Your Honor.

20 MR. ROISMAN: I withdraw the question  
21 I have no further questions.

22 JUDGE BLOCH: does the Staff have any  
23 limited cross-examination?

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1 MR. TREBY: Yes. The Staff has just a few  
2 questions.

3 JUDGE BLOCH: Okay. On that promise let's  
4 go forward.

## EXAMINATION

BY MR. TREBY:

6 Q Mr. Spence, you've previously testified in  
7 this proceeding about the various weekly meetings that  
8 you hold at which matters are brought to your attention.  
9 Could you tell us what type of QA/QC matters are  
10 brought to your attention at those meetings?  
11

12 A The meetings to which I referred, Mr. Treby --  
13 and I believe I recall my testimony -- mentioned  
14 Saturday morning meetings at the site and Monday morning  
15 meetings --

16 Q That's correct.

17 A -- in our corporate offices in Dallas.

18 The Saturday morning meetings are project  
19 status report type of meetings that involve a number of  
20 levels of site management in engineering, construction,  
21 start-up, operations and QA, as well as senior members  
22 of my staff -- Vice President/Nuclear, Executive Vice  
23 President/Engineering and Construction and the Vice  
24 President and Project General Manager for Comanche  
25 Peak.

1 To generally describe the matters discussed  
2 at those Saturday morning meetings, we're talking about  
3 the activities of the prior week on site, the conduct  
4 of the various programs, the interfacing of the various  
5 disciplines on site between start-up and construction,  
6 engineering and operation, QA and the other related  
7 activities.

8 In that regard the nature of the QA  
9 discussions would be along the lines of any problems  
10 encountered during the week in terms of resource  
11 allocation -- for example. That's not intended to be  
12 all inclusive, but as an example.

13 The work that's scheduled for the coming  
14 week, milestones that must be met, et cetera.

15 The staff meetings that are conducted each  
16 Monday in our corporate offices are a little bit higher  
17 level of management. They also include -- in addition  
18 to myself -- the three Vice Presidents that I have  
19 previously cited, plus the Manager of Quality  
20 Assurance and those key staff members that are involved  
21 in our licensing efforts and various activities ongoing  
22 with both staff and ASLB matters, comparing information  
23 required for licensing.

24 Q I guess my inquiry is directed as to the  
25 level of seriousness -- I guess -- of the QA problems

1 that might be brought to your attention. For instance,  
2 I would assume that the perspective of the president  
3 of the company might be different than the perspective  
4 of the middle-level manager involved in QA/QC. I  
5 guess I was trying to develop for the record just how  
6 much detail into the QA/QC matters are brought to your  
7 attention.

8 A. Of course it would depend on the matter.  
9 An example would be if there were a -- if we had an  
10 inspection report from the region -- for example --  
11 that had found a deficiency in some of our QC  
12 procedures or QA procedures or audit procedures.

13 The manager of QA may very well bring that  
14 to the attention of the group gathered for the meeting  
15 as an issue that he and his personnel were working  
16 on, or if he has got a response to a similar inspection  
17 report that maybe had a deficiency, that is proposed to  
18 be offered to the NRC -- we might discuss that.

19 That's just an example, once again, and not  
20 intended to be all inclusive of the deep -- the type  
21 of detail we might discuss.

22 You must understand that these meetings  
23 cover the breadth and scope of the entire Comanche  
24 Peak project, not just quality assurance. Quality  
25 assurance obviously and the safety aspects of our nuclear



1 program are a vital ingredient to all of our staff  
2 meetings, but obviously those are not the only issues  
3 that we discuss.

4 Q Using the example you've just given us, if  
5 something like that is brought to your attention, are  
6 there any criteria as to how you would go about  
7 dispositioning that matter that's brought to your  
8 attention? Is it something that you personally look  
9 into, or do you delegate that to the people who are in  
10 that area who report to you, or how would --

11 A Well, as you -- I'm sure -- are aware, I  
12 personally am the addressee on all NRC correspondence --  
13 on the service list. I took that step quite some time  
14 ago as a management tool to keep myself fully informed  
15 on all issues between us and the NRC, whether it's  
16 ASLB or Staff -- to insure that that kind of information  
17 came across my desk.

18 By and large, the response -- the  
19 responsibility of developing our position on -- in my  
20 example, a response to inspection reports from the  
21 Region generally is delegated down into my nuclear  
22 organization to either Mr. Clements or to Mr. Fikar,  
23 depending on the nature of the issue.

24 Q Okay. And just one final line of  
25 questions, and that is, you've indicated what would

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1 happen in that kind of an example. Was the T-shirt  
2 incident, for example, brought to your attention?

3 A Yes, sir, it was, essentially after the  
4 fact. I did have telephone conversation with Mr.  
5 Clements the day the T-shirt incident occurred.

6 Q All right. Could we use that as an example  
7 to have you indicate when something like that is  
8 brought to your attention what did you then do with  
9 it as far as following up or dispositioning it?

10 A Well, I had subsequent reports from my  
11 staff on the matter and its ultimate resolution. Those  
12 reports may or may not have come in a regular Monday  
13 morning meeting.

14 I suspect -- although I don't recall for  
15 sure -- that they were specific reports whereby Mr.  
16 Clements may have come directly to my office during the  
17 week to tell me of the progress of the issue.

18 JUDGE BLOCH: Mr. Spence, on that particular  
19 issue you mentioned that there was only an oral report  
20 to you. Do you have a policy on when you decide that  
21 things should be considered and documented, as opposed  
22 to orally?

23 THE WITNESS: Judge Bloch, perhaps my prior  
24 testimony might need some clarification, if that's the  
25 impression I left.

Ultimately I got a full written report.

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JUDGE BLOCH: On the T-shirt incident?

THE WITNESS: On the T-shirt incident, when all of the facts were in. In fact, I believe a copy of it was provided to the Board.

JUDGE BLOCH: Is it in our records?

MR. DOWNEY: It was certainly provided to the Intervenor.

THE WITNESS: The report took the form of a number of memoranda within my -- within our QA organization on steps taken, how to --

JUDGE BLOCH: I think that would be very helpful to the Board to understand the process. I don't think we do have that in our record. Is it in the record?

MS. GARDE: My recollection is that it was a Board notification which submitted Mr. Vega's final report on the T-shirt incident. It doesn't contain all of the memorandum later produced in discovery involved with this incident, but I believe it was a Board notification.

MR. DOWNEY: I believe that's correct, Your Honor.

And I believe at least Mr. Vega's memorandum and some substantial number of other documents related to this incident are exhibits to various depositions

1 that were taken.

2 I don't know that there's a compilation  
3 in one spot that says, "Here is the pile of paper  
4 relating to the T-shirt incident."

5 JUDGE BLOCH: It would be helpful to see  
6 that. When I see a Board notice related to the case,  
7 I tend to read it lightly because I don't want to be  
8 influenced if it's not in the record.

9 I would read it not to decide whether  
10 we're going to inquire into it further. I was confident  
11 that if there was a Board notice about the T-shirt  
12 incident that we'd see the document.

13 It looks like I wasn't right. I would like  
14 to see the documents in one place. I think it would  
15 help to see the detailed response that the Applicants  
16 did make to it.

17 MR. DOWNEY: We'll assemble this for you in  
18 one place, Your Honor.

19 BY MR. TREBY:

20 Q With regard to the report that was produced  
21 with regard to the T-shirt incident that you received  
22 from Mr. Vega, would you characterize that as a typical  
23 report or a nontypical-type report?

24 A Perhaps you can help me distinguish from  
25 your perspective, typical versus nontypical. But it

1 was --

2 JUDGE BLOCH: Let's make it more specific.

3 MR. TREBY: All right.

4 JUDGE BLOCH: I find that the witness'  
5 objections are often more telling than the lawyers'  
6 objections.

7 BY MR. TREBY:

8 Q Is it your testimony that when a matter  
9 is deemed appropriate to bring to your attention that  
10 a -- and it is determined that it needs to be followed  
11 up that a report is produced?

12 A My style of management generally is such  
13 that I don't depend a lot on written reports. I'm in  
14 my office a great deal of the time, as opposed to  
15 being on the road available to my staff.

16 I find from my own point of view it's much  
17 more effective and much more timely to give verbal  
18 reports of evolving matters as they occur, rather than  
19 wait for the development of a written report.

20 In the case of the T-shirt incident, as I  
21 recall the nature of that report, in the first  
22 instance I don't believe I asked for it. In the second  
23 instance, I don't believe that it is one single document.

24 I believe -- if I recall -- and it has  
25 been several months since I looked at it -- it was a

1 series of memoranda that addressed the general issue  
2 of the T-shirt incident and follow-on actions that  
3 were taken at various steps by various parties in  
4 connection therewith.

5 Whether it was typical or nontypical for  
6 me to see it, I don't have a perspective because I --  
7 in the course of carrying out my responsibilities I  
8 get numerous written reports that I ask for.

9 I get numerous written reports that I didn't  
10 ask for, and I get a lot of verbal reports.

11 JUDGE BLOCH: Some of which you don't ask  
12 for.

13 THE WITNESS: Some of which I don't ask  
14 for.

15 BY MR. TREBY:

16 Q Is it just your testimony that your  
17 preference is as these things are developing, you  
18 get all of the reports?

19 A Yes. My management style would prefer  
20 that, and that's the way I operate my office generally.

21 Certain information doesn't lend itself  
22 well to verbal reports. Statistical information, for  
23 example.

24 Q Is there any management policy or  
25 instruction that there be documented any investigation

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1 into QA matters which may reach the level of importance  
2 to be brought to your attention?

3 MR. DOWNEY: Objection, Your Honor. At  
4 least the counsel doesn't understand the question. I  
5 also believe that there was some testimony in Mr.  
6 Spence's examination from the Board and his prior  
7 testimony that he receives written reports on the hot-  
8 line and some of the other matters.

9 I don't know -- I guess I don't understand  
10 Mr. Treby's question.

11 JUDGE BLOCH: As I understand, the  
12 question is -- As I understand the premise, Mr.  
13 Treby understands that important matters affecting the  
14 QA program and the QC programs may take place in your  
15 meetings.

16 I understand his question to be whether  
17 there's a policy that when those things are discussed  
18 and decisions are made, that they're always documented  
19 so that there's a complete record of actions taken  
20 that affect the QA/QC program. Is that a fair statement?

21 MR. TREBY: Yes.

22 THE WITNESS: I don't document the results  
23 of my staff meetings. There's no agenda published, and  
24 there's no minutes kept.

25 Now, if one of my key staff members leaves

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1 there with specific instructions or with an agreed-upon  
2 course of action on a matter that was discussed in the  
3 meetings, that manager may very well go back to his  
4 organization and convey written instructions to his  
5 staff to address the matter, whatever it may happen to  
6 be.

7 I have no instruction for him to do that,  
8 nor do I have any knowledge whether or not, or to what  
9 extent that may be done.

10 MR. TREBY: I have no further instructions.

11 JUDGE BLOCH: Mr. Hicks.

12 MR. HICKS: The State has no questions.

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1 JUDGE BLOCH: I hesitate to call it redirect,  
2 but questions by the Applicants.

3 MR. DOWNEY: There has been no direct  
4 examination either at the deposition or until now  
5 today.

6 But now I do have a very few questions.

7 EXAMINATION

8 BY MR. DOWNEY:

9 Q Mr. Spence, have you personally received  
10 input from line inspectors about the state of the  
11 QA/QC program at Comanche Peak?

12 A I'm sorry, I cannot hear your question.

13 Q My question, Mr. Spence, is: Have you  
14 personally sought out the views of line inspectors --  
15 field inspectors -- at Comanche Peak about the program --

16 A Are you referring specifically to QC  
17 inspectors in the field at the plant?

18 Q Yes, Mr. Spence.

19 A Yes, I have. On more than one occasion.

20 Q What were those occasions when you did so?

21 A Well, within the past few months -- primarily  
22 during the month of April, I took it upon myself to  
23 visit the site and have our site QA manager arrange  
24 for me to meet with groups of QC inspectors.

25 As I recall, we had four or five such

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1 meetings, probably encompassing or contacting -- I'm  
2 going to say -- 75 or 80 QC personnel. No logs were  
3 taken; no roster taken, so I don't know the exact  
4 number of those present.

5 I named these meetings open season on the  
6 president of the Texas Utilities Generating Company.  
7 The purpose of the meetings was to give me a first-hand  
8 contact with our QC inspectors and the opportunity,  
9 face to face, to express to them my company's commitment  
10 to the safe construction and the safe operation of  
11 Comanche Peak, to express my appreciation to them for  
12 the excellent job they were doing and to talk to them  
13 about what I expect of my managers on site in the way  
14 of open communications and insuring that they have the  
15 tools and the resources, the training, et cetera,  
16 required to do their work and to give them the chance  
17 to hear from me first-hand my view on the importance  
18 of their job, and my view on the intoleration -- if you  
19 will -- on the part of my company of any obstructions  
20 or obstacles to their being able to freely report any  
21 unsafe conditions that they may be aware of.

22 Then I talked about other matters, and then  
23 we'd throw the meetings open to questions and  
24 answers.

25 Q And were questions put to you?

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1           A.       Yes. I was gratified at the open response  
2 in these meetings.

3           JUDGE BLOCH:   Could you tell us how you  
4 formed an opinion of whether or not the people who  
5 spoke to you were being candid? Is there anything in  
6 the way they spoke to you or what they said that made  
7 you know that they were able to be candid in your  
8 presence?

9           THE WITNESS:   Well, in my opening remarks  
10 in each meeting, I attempted to put them at ease. I  
11 realized that the presence of the president of the  
12 owner company could have a tendency -- if you'll allow  
13 me to use the word -- to intimidate such an audience;  
14 and I wanted to put them at ease.

15           I told them I wasn't there to make a  
16 speech; I was there to share some views. And, quite  
17 frankly, I told them that one of the primary motivations  
18 in my being there was my concern of the impact on them  
19 and their attitudes of recent negative publicity that  
20 had come out of the hearing process and had come out  
21 of the allegations of intimidation and harassment that  
22 resulted from the two proposed civil penalties that  
23 were fairly recent at that time -- casting a cloud over  
24 the really fine work that was being carried on -- carried  
25 out by literally thousands of construction workers and

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1 hundreds of inspection workers on the site, and wanted  
2 them to know from me first-hand that I appreciated the  
3 good work that they were doing, and I wanted to share  
4 with them my views and hear their views of any concerns  
5 they might have on the process.

6 So I think special efforts were taken to put  
7 them at ease. I -- you know, in a group like that --  
8 twenty or so, more people are going to talk than  
9 others. Some won't have anything to say.

10 But I did not detect any lack of candor or  
11 any reason to think that if they had something on their  
12 mind, they didn't feel free to express it.

13 We had some very interesting discussions.

14 JUDGE BLOCH: For example, in a meeting on  
15 the construction site, did the language get real  
16 colorful?

17 THE WITNESS: In my meetings? No, it was  
18 rather polite.

19 JUDGE BLOCH: I was looking for the  
20 possibility that it wasn't because it would have meant  
21 that they relaxed with you.

22 Was there anything about the way they said  
23 things that indicated to you that they really were  
24 relaxed? Were there things that they said, or the way  
25 they said it that made you think you had succeeded in

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1 making them relax, as opposed to trying to make them  
2 relax?

3 THE WITNESS: My perception at the time --  
4 and I recall it well because it was important to me in  
5 setting up those meetings and carrying them out that  
6 there be a two-way communication.

7 I would not have accomplished my purpose if  
8 I just went down and did the talking and had no  
9 response and just left. My perception at the time was  
10 that there was an air of open, unrestricted communica-  
11 tion.

12 JUDGE BLOCH: Was there something that  
13 someone described that seemed spontaneous and important  
14 to you -- something you can tell us struck you as an  
15 experience he had that he really opened up to you  
16 about?

17 THE WITNESS: There were concerns expressed.  
18 One that I recall particularly was a concern -- and I  
19 believe it was an electrical inspector.

20 I believe it came from a meeting of electri-  
21 cal inspectors in the safeguards building. We met by  
22 work groups since that was the easiest way to get them  
23 together during the work day was by work group.

24 Expressed a concern over what he perceived  
25 to be an obstacle in getting inspection reports -- as I

1 recall -- out of the permanent plant records vault  
2 that he might need to complete another inspection.

3 He felt like the procedures were somewhat  
4 restrictive and didn't understand why it had to be that  
5 way. He didn't understand why he couldn't just walk  
6 into the permanent plant records vault and get what he  
7 needed and leave and bring it back when he was through  
8 with it.

9 Mr. Vega was in that meeting with me and  
10 was able to explain the process and the reason for the  
11 process and the steps -- even up to the fact that Mr.  
12 Vega's office is directly across the hall from the  
13 permanent plant records vault, and that if that  
14 inspector or any other inspector couldn't find his  
15 supervisor to get the necessary sign-off to get the  
16 document out, feel free to come right into Mr. Vega's  
17 office, and he'll sign it off.

18 So ...

19 JUDGE BLOCH: Were there examples of things  
20 for which there was no ready answer right there where  
21 you had to tell them, "You know, that sounds important.  
22 Thank you for telling me, and I'll really follow up on  
23 that one"?

24 THE WITNESS: Yes, sir. I can think of two  
25 examples because I followed up on them myself

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1 personally.

2 One, there was a -- in at least one group  
3 there was a concern expressed by an individual and then  
4 shared by a joining in of the discussion with others,  
5 that maybe Texas Utilities Generating Company wasn't  
6 doing enough to educate the public about nuclear  
7 power, and that that might be a source -- problem --  
8 a source of concern and a source of perhaps unfavorable  
9 publicity because the people -- the public did not  
10 understand the technology of nuclear power.

11 He suggested to me a citizen review board  
12 approach. I took that suggestion back to our public  
13 information people in our corporate offices, relayed  
14 to them the discussion, asked them to analyze the pluses  
15 and minuses.

16 I wrote this particular inspector back a  
17 letter and told him what I had done and told him that  
18 the process -- that we were reviewing his suggestion  
19 and thanked him very much for his input.

20 Another example of things that required  
21 follow-up -- or there was no ready answer -- was along  
22 that same line. Another inspector was concerned about  
23 he didn't see enough tangible evidence that Texas  
24 Utilities Generating Company was doing enough to  
25 influence the general attitudes in our service area

1 about the need for nuclear power as an alternate fuel  
2 source, and that because of that his perception was  
3 there was a very -- combined with the negative publicity  
4 coming out of our hearings process and the allegations,  
5 that there was a -- from his perspective a declining  
6 public support of nuclear power, and what were we  
7 doing about it.

8 I took the liberty, when I returned to my  
9 office, to send him a xeroxed copy of the most recent  
10 customer opinion survey that we had conducted throughout  
11 our service area, that portion of it that related to  
12 nuclear power and Comanche Peak.

13 I wrote him a personal note on it and put  
14 it in the mail to -- I think to Mr. Vega to hand deliver  
15 to him.

16 JUDGE BLOCH: Thank you. I hope I didn't  
17 make that a lot longer than it was going to be.

18 MR. DOWNEY: No, Your Honor.

19 BY MR. DOWNEY:

20 Q Mr. Spence, did any of the remarks of the  
21 inspectors at these meetings lead you to believe that  
22 they didn't perceive a problem with harassment and  
23 intimidation at the site?

24 A Well, the opportunity was there to express  
25 a concern. In fact, in my remarks, I made reference



1 to the recent allegations of harassment and intimidati-  
2 tion, to, in effect, set the stage for any discussion  
3 that there was anything on their minds along those  
4 lines.

5 In my further remarks, I made it clear  
6 that my policy and my philosophy -- and what I expected  
7 in my site managers -- was to take whatever steps  
8 necessary to insure that nothing was done to deter  
9 the new inspectors from reporting nonconforming  
10 conditions.

11 So no one in the four or five meetings  
12 expressed to me a concern along those lines, that it  
13 was other than what I expected.

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1 Q Mr. Spence, did you involve yourself  
2 personally in the follow-up to the T-shirt incident?

3 A Yes, I did. I took part in a meeting with  
4 six of those inspectors involved in the T-shirt incident  
5 on site, and had about a two-hour discussion with those  
6 inspectors about that matter and any other matter that  
7 they chose to bring up in the discussion.

8 JUDGE BLOCH: Thank you for reminding us  
9 of that. That is in the record already, isn't it?

10 MR. DOWNEY: I believe it is.

11 JUDGE BLOCH: So maybe we can skip the  
12 details this time.

13 MR. DOWNEY: I just want it to be clear that  
14 Mr. Spence's involvement in the matter didn't end when he  
15 received the memorandum from --

16 JUDGE BLOCH: That's why I thanked you for  
17 reminding us of it.

18 MR. DOWNEY: No further questions, Your Honor.

19 JUDGE BLOCH: Thank you very much, Mr. Spence.

20 MR. ROISMAN: Mr. Chairman --

21 JUDGE BLOCH: Oh, yes, Mr. Roisman, you have  
22 recross on the redirect?

23 MR. ROISMAN: Yes, I do.

24 REDIRECT EXAMINATION

25 BY MR. ROISMAN:

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1           Q       Mr. Spence, can you just clarify for me,  
2 did you indicate that you met with all the QC inspectors  
3 during the time of these visits, or that you met with  
4 some subgroup of all of them? I know you had several  
5 meetings, but did it eventually cover all of them?

6           A       No, I think in total, counting the T-shirt  
7 incident, I met with something just short of a hundred  
8 inspectors. They were all day shift. I did not have any  
9 night shift meetings.

10                    My testimony was not that I had met with  
11 all QC inspectors. My testimony is that I have met with  
12 somewhere in the neighborhood of eighty in the five or  
13 six meetings.

14           Q       Was there any particular reason why you  
15 did not meet with all of them?

16           A       Well, logistics.

17           Q       Do you know how they were selected, who it  
18 was that you would meet with?

19           A       I didn't know until I walked into the  
20 meeting room who it was.

21           Q       No, but do you know how they were selected,  
22 not who you would be meeting with, but did -- had you  
23 given some instruction or had someone said to you, I've  
24 got some I want you to meet with? Do you know how they  
25 were selected is the question?

9-3 1 A No, I don't. I recall my perception at the  
2 time, I don't know if I was told this or if I just assumed  
3 it. Our construction management organization for the  
4 Unit 1 side at Comanche Peak is organized around the four  
5 buildings involved, safeguards building, the auxiliary  
6 building, the control building and the reactor building.

7 And I believe that I met with the day shift  
8 QC inspectors who are assigned to work with each of those  
9 building management organizations a group at a time. I  
10 met with the safeguards building inspectors, I believe,  
11 and then another occasion I met with the coatings inspectors  
12 in the reactor building.

13 Q Was this group of meetings the first such  
14 meetings that you had had with QC inspectors?

15 A Of that nature, it was, yes, sir. Of course,  
16 as I've already testified, I meet with both site QA manage-  
17 ment and general corporate QA management regularly.

18 Q Yes, but I was talking now just about  
19 inspectors themselves.

20 Who else, other than the inspectors and  
21 yourself, attended each of the meetings?

22 A I can't be certain that some of the group  
23 to whom I was talking were not QC leads or QC supervisors,  
24 since no logs or rosters were taken. It was the QC  
25 organization for that particular building or discipline.

9-4 1 Is that what you're asking me?

2 Q That's right. But you did mention, I think,  
3 in answer to an earlier question at one point that Mr. Vega  
4 was there.

5 A Yeah, oh, okay.

6 Q So I want to know what other people, other  
7 than the QC people.

8 A Mr. Vega arranged all the meetings for me,  
9 and he attended all of them, he and I together. He would  
10 introduce me and then it would become open season on the  
11 president.

12 I believe one of the coatings inspector  
13 meetings took place while Mr. Clements was on site, and in  
14 addition to Mr. Vega I believe Mr. Clements also attended  
15 that meeting with me.

16 Q And were there any other people who you can  
17 remember who attended the meeting, or any of the meetings?

18 A What do you mean by any other?

19 Q Well, you've indicated that you met with QC  
20 people who may have included some leads and supervisors  
21 as well as the QC. But you and Mr. Vega were present at  
22 each meeting, that maybe Mr. Clements was present at one  
23 of the meetings.

24 A He was present in at least one, I remember  
25 one and I only remember one.

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1 Q And were there any other people present that  
2 you can remember?

3 A None other than within that specific QC  
4 organization.

5 Q Was the meeting recorded? Was the meeting  
6 tape recorded, to your knowledge?

7 A Not to my knowledge. Not to my knowledge.

8 Q And was any memorandum made of the -- of what  
9 was said at the meetings by either you or anyone else, to  
10 your knowledge?

11 A Not to my knowledge. By memorandum, perhaps  
12 before we go on, to make sure my answer is totally  
13 responsive, you mean did somebody take minutes of the  
14 meeting and memorialize or summarize the subject content  
15 of that particular meeting?

16 Q Yes. That's correct.

17 A No, they did not. Mr. Vega did write a  
18 memo, which was -- which summarized my meetings.

19 Q You mean summarized the fact that they  
20 happened or summarized what transpired at them?

21 A Just in a general sense, a memoranda to file,  
22 I suppose, that said that over this period of time the  
23 president of the company conducted meetings, four or five  
24 meetings with this many inspectors, and this was the general  
25 topics that were discussed.

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1 Q Would that memo indicate what, if any,  
2 problems had been raised by the inspectors in the meetings  
3 that you held, or was it too general for that?

4 A I don't remember. It was a very general  
5 memo. I don't remember exactly what was in it.

6 Q Did you say that these meetings all took  
7 place in a single day or over several days?

8 A Over several days, and as I recall, during  
9 the month of April.

10 Q Can you remember roughly how long the  
11 meetings lasted?

12 A Some longer than others, as you can well  
13 appreciate, depending on the degree of discussion that  
14 was generated, but I'd say none less than twenty minutes  
15 and probably none more than an hour.

16 Q Okay. When I asked you earlier questions  
17 about people who attended the meetings with the QC  
18 inspectors, were your answers intended to also answer with  
19 regard to the six T-shirt individuals, or were you treating  
20 that as a separate meeting?

21 A No, I'm treating that separate.

22 Q Who attended that meeting, other than the  
23 six T-shirt individuals?

24 A Other than the six T-shirt individuals and  
25 myself, the meeting included Darrel Eisenhoot, Director of

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1 Licensing, NRC, Bethesda, Ben Hayes, Director of OI, and  
2 John Collins, the Region IV Administrator.

3 Q. And was Mr. Vega at that meeting or not?

4 A. No, he was not.

5 JUDGE BLOCH: Was that the total list?

6 THE WITNESS: Yes, Your Honor.

7 MR. ROISMAN: I have nothing further,  
8 Mr. Chairman.

9 MR. DOWNEY: No questions, Your Honor.

10 MR. TREBY: No questions.

11 MR. HICKS: No questions.

12 JUDGE BLOCH: Thank you very much, Mr. Spence.

13 (Witness excused.)

14 JUDGE BLOCH: With respect to Witness X,  
15 do we have any further word? That's one question, and  
16 the second question is, do we know whether he is going to  
17 insist on being a confidential witness?

18 MR. DOWNEY: It's my understanding, Your  
19 Honor, that he waived any claim of confidentiality in the  
20 portion of his deposition that was completed last Wednesday.

21 JUDGE BLOCH: Okay. We'll just make sure  
22 that he doesn't revoke the waiver when he goes back --

23 MR. ROISMAN: Mr. Chairman, as I understand  
24 it, that waiver occurred when he was not -- there was no  
25 counsel there representing him.



9-8 1 JUDGE BLOCH: Well, my understanding when I  
2 spoke to him last was that he was going to proceed without  
3 counsel, that he had decided he would go ahead even though  
4 he was not getting counsel.

5 MR. ROISMAN: I understand that, but given  
6 the importance of confidentiality and the greater importance  
7 of the waiver thereof, it seems to me that the better  
8 course to follow is to continue to treat him that way until  
9 you and he and the Board see each other face to face and  
10 then you can ask him yourself and you can be sure that he's  
11 been fully explained the options available, that he has  
12 the choices and that he makes an informed decision.

13 JUDGE BLOCH: I have fully informed him of  
14 the choices, he just did not make the choice to me.

15 MR. ROISMAN: I would think he should, if he  
16 originally told you that, I'm not comfortable with the  
17 proposition that he decided not to do that when he was in  
18 the law offices of Vinson and Elkins in a deposition  
19 conducted by the Applicant's attorneys.

20 JUDGE BLOCH: Just because of the logistics,  
21 I would prefer that some arrangement be made where he'd  
22 meet with either Miss Garde or Mr. Roisman and ascertain  
23 whether it was a knowing waiver, because otherwise we have  
24 to arrange to be somewhere to meet him secretly and it  
25 just gets very difficult.

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1 MR. DOWNEY: I don't believe they're  
2 representing him in this proceeding, Your Honor.

3 JUDGE BLOCH: I understand, but they are  
4 lawyers and they can find out whether it was a voluntary  
5 waiver.

6 MR. DOWNEY: I would prefer that that be  
7 conducted with the NRC staff.

8 JUDGE BLOCH: That's also acceptable. Would  
9 the staff like to undertake that effort, to determine  
10 whether it's a voluntary waiver?

11 MR. TREBY: Yes, if we can get some  
12 information as to where he's located.

13 JUDGE BLOCH: Okay. I think the Applicants  
14 will share that, but we have no further word as to  
15 depositions for the witness?

16 MR. TREBY: We do have one bit of information.  
17 I do know that at an earlier point, when the depositions  
18 that were taken at Glen Rose were just beginning, we  
19 received a representation from Billie Garde that at least  
20 with regard to a deposition that he had taken with Hawkins  
21 he had waived any confidentiality.

22 MR. DOWNEY: And as the Board knows, he was  
23 indicated among those witnesses who did not appear --

24 JUDGE BLOCH: Okay. Just check it out.

25 MR. DOWNEY: -- who was on the witness list

9-10 1 by name.

2 JUDGE BLOCH: Shall we recess for lunch?  
3 Is this a good place to break?

4 Let's take one hour. That means we'll be  
5 back at 1:15.

6 MR. DOWNEY: Your Honor, if I may, I have  
7 some documents that have been requested by the Board over  
8 the past week, and I'd like to make service on the Board  
9 and the parties of that.

10 JUDGE BLOCH: Thank you. We'll accept that.

11 Recess.

12 (Whereupon, a recess was taken at 12:13 p.m.,  
13 to reconvene at 1:15 p.m., the same day.)

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AFTERNOON SESSION

1:15 p.m.

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3 JUDGE BLOCH: The hearing will come to  
4 order.

5 Mr. Downey, your next witness, please.

6 MR. DOWNEY: Yes, Your Honor, our next  
7 witness is Antonio Vega.

8 Mr. Vega is being produced at the request  
9 of the Intervenors for cross-examination on his  
10 prefiled testimony.

11 JUDGE BLOCH: Mr. Vega, you have been  
12 sworn and worn so many times I'm sure you could do it  
13 to me, so we won't do it again. You continue to be  
14 sworn.

15 Whereupon,

16 ANTONIO VEGA

17 was recalled as a witness and, having been previously  
18 sworn to testify the truth, the whole truth and nothing  
19 but the truth, testified on his oath as follows:

20 MR. DOWNEY: Your Honor, if I may, I have  
21 two things I would like to bring to the Board's  
22 attention.

23 First, during the luncheon recess, in  
24 consultation with Mr. Roisman, but not yet in  
25 consultation with Mr. Treby and Mr. Hicks, at least

1 Mr. Roisman and I have agreed that the Applicant will  
2 undertake its best efforts to see that the record  
3 contains complete QAI files. Those are files of  
4 investigations undertaken by the ombudsman, Mr. Greer.

5 Because many of those are ongoing, papers  
6 keep getting added to them.

7 Mr. Roisman has indicated, and we concur  
8 that those files and their contents are admissible for  
9 the purposes of showing what complaints were brought to  
10 management's attention and what action the company  
11 took in response to those complaints, but not  
12 admissible for the purpose of showing either specific  
13 allegations were true, or whether either side of the  
14 story was true. It is simply for the fact of the  
15 complaint and the action, and we will undertake to  
16 supplement those as new documents appropriate to the  
17 particular files are generated through the normal  
18 course of business.

19 JUDGE BLOCH: That may be done.

20 MR. DOWNEY: If that is agreed with the  
21 Board and with the parties with whom we have not  
22 consulted.

23 MR. TREBY: I don't see any problem with  
24 what has been proposed.

25 JUDGE BLOCH: Then the Board does approve.

0-3 1 MR. HICKS: It is agreeable.

2 MR. DOWNEY: The second matter, Your  
3 Honor, as you recall, you had requested from the  
4 Applicant evidence or documents concerning Audit  
5 TCP-66.

6 As the Board and the parties will recall,  
7 that audit was the subject of the investigation into  
8 allegations of coverup, the audit conducted by Mr. Kahler  
9 and his colleagues.

10 Right before the luncheon recess, I  
11 produced copies of three documents related to that  
12 TCP audit, TCP-66 audit, and if the Board would like  
13 I can ask Mr. Vega a few questions about those  
14 documents and the audit that might help clarify the  
15 production that was made.

16 JUDGE BLOCH: I would appreciate that.

17 Before we begin, though, it's obvious to  
18 the Board that the witness list will not be finished  
19 this week.

20 We could be wrong, but it looks like it  
21 will not finish this week, based on progress so far.

22 We were informed that Applicants might be  
23 helpful to us in obtaining continued accommodations in  
24 this hotel.

25 If we were able to get that, we would like

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1 it because otherwise we move to the Ramada Inn next  
2 week.

3 MR. DOWNEY: Your Honor, I can make my  
4 personal commitment to do what we can to keep the  
5 accommodations in this hotel.

6 So I will undertake at the next recess to  
7 have someone check into that possibility.

8 JUDGE BLOCH: I appreciate that.

9 Mr. Downey, would you proceed?

10 MR. DOWNEY: Yes, Your Honor.

11 DIRECT EXAMINATION

12 BY MR. DOWNEY:

13 Q Mr. Vega, are you familiar with the  
14 Audit TCP-66?

15 A Yes, I am.

16 Q And Mr. Vega, what was the subject of that  
17 audit?

18 A The subject of the audit was to assess  
19 the compliance of the Rad Waste System with a branch  
20 technical position.

21 Q And that branch technical position is an  
22 NRC position?

23 A That is correct.

24 Q And is it your understanding that that  
25 technical position is denominated ETSB 11-1, Rev. 1?

10-5 1 A Yes, it is.

2 Q Mr. Vega, has Comanche Peak always been  
3 committed to complying with that branch technical  
4 position?

5 MR. ROISMAN: Mr. Chairman, excuse me, but  
6 I am unclear. What is going on here? We seem to be  
7 into rather late-filed direct testimony.

8 If these documents are being offered and  
9 they want to authenticate them, that's fine.

10 If we are going to have testimony on it,  
11 I'd like to know what they are doing now at this  
12 time with the Applicant doing it.

13 JUDGE BLOCH: The Board asked for these  
14 documents, and the reason it asked for them is that  
15 apparently there was a complaint by the auditors  
16 involved and then there was an investigation done; and  
17 the investigation mostly proceeded by talking to  
18 people about what had happened.

19 The Chairman believed that it was more  
20 useful to see how the report may actually have been  
21 changed in the review process, actually compare the  
22 report that was originally done to the final one.

23 I think we do need testimony to clarify  
24 the nature of the changes and the context in which it  
25 took place.



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1           So yes, this is in response to a Board  
2 question, and there is somewhat expanded testimony as  
3 a result of that.

4           MR. ROISMANN: It sounds like the Applicant  
5 is going well beyond that. I mean, what you just  
6 stated was simply to have Mr. Vega -- it sounded like  
7 what you wanted done is Mr. Vega to explain how he  
8 went from the draft to the final.

9           I would like to have the questions limited  
10 to that, because he has been examined on this  
11 question and I don't feel that this is an opportunity  
12 to reopen on that, on the merits of it.

13           MR. DOWNEY: Your Honor, I was simply  
14 trying to put the testimony about what changes he  
15 made in context by having brief testimony about the  
16 subject of the audit, who conducted it, when it was  
17 conducted, and how he received the draft report,  
18 very simple type of foundational questions.

19           JUDGE BLOCH: I think the only context  
20 we need is the substantive context with which to  
21 understand any changes that were made so that if  
22 there was a change from one wording to another set  
23 of wording, you might want to have some background on  
24 what the change entailed; but I don't think we do  
25 need the background on how the audit was conducted and

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1 the time period and that stuff.

2 MR. ROISMAN: Mr. Chairman, let me just  
3 state for the record that I have no problem with the  
4 document coming into evidence and speaking for itself,  
5 but I believe the time to have the witness try to  
6 explain or justify the changes that he made in the  
7 draft to the final is long passed.

8 Applicant had that opportunity. We  
9 explored this issue. We identified -- In fact,  
10 there's a whole audit report which is in evidence  
11 that talks about the fact that the item was changed.

12 The Applicant didn't previously produce  
13 this document. The Board asked for it. That's fine,  
14 but I don't understand why we are now giving the  
15 witness the opportunity to discuss or justify his  
16 conduct, having been on the witness stand before,  
17 having had prefiled testimony; and neither time did  
18 the Applicant deem it appropriate to have any further  
19 explanation.

20 I think the document shows and speaks  
21 for itself.

22 JUDGE BLOCH: Well, my view of the record  
23 was that the litigation on the changes in this  
24 document took place in the absence of the document.

25 It's very hard to understand what changes

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1 were actually made.

2 So I have asked that the record be open  
3 for the purpose of understanding that. It seems to  
4 me that neither of the parties had direct testimony  
5 on what specific changes were made and what they  
6 meant, and that would help the Board a lot to understand  
7 what happened.

8 Therefore, we asked for this in the  
9 interest of the adequacy of the record, and while it  
10 may change the balance in a way that is adverse to  
11 CASE here, it seems to me it's only fair. We would  
12 do it the other way, too.

13 MR. ROISMAN: I'm not concerned with  
14 changing the balance one way or the other.

15 I have no idea what Mr. Vega is going to  
16 say.

17 But I am concerned, if the Board wants to  
18 know that, it seems to me it's more appropriate for the  
19 Board to ask it.

20 When we give it to the Applicant to do  
21 it, if you had recalled one of our witnesses and gave  
22 it to us to do, we would be into the problem that we  
23 are naturally going to put those questions in a way  
24 that tends to elicit the maximum amount of favorable  
25 testimony.

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1           You have a particular concern and with  
2 all due respect, I feel the appropriate thing to do  
3 is to have the Board ask the witness the questions and  
4 let the witness answer, as was done with Mr. Spence.

5           It seems to me Mr. Vega is being called  
6 by the Board on this narrow question and called by us  
7 on a different group of questions.

8           JUDGE BLOCH: Mr. Downey, how do you feel  
9 about that?

10          MR. DOWNEY: I take issue with Mr. Roisman  
11 on several points.

12          First, I think I should make the  
13 Applicants' position clear. We don't believe there's  
14 any admissible evidence on this issue at all, that  
15 there was any auditor who somehow felt intimidated by  
16 Mr. Vega's editorial change.

17          That's the first point.

18          Second, we are responding to a specific  
19 request by the Board. As I understand that request,  
20 any legitimate inquiry into what Mr. Vega did would  
21 elicit a right on my part to ask this very limited  
22 examination that I wrote up when the documents were  
23 produced.

24          It is orderly. It is succinct. I think  
25 it would help elucidate the issue and it would

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1 expedite the procedure.

2 JUDGE BLOCH: I think it would help,  
3 because you know what the changes are, if you asked  
4 the questions.

5 Limit it, though, to the changes, and just  
6 enough to explain the substance, what the difference  
7 is.

8 MR. DOWNEY: That will be fine, Your Honor.

9 JUDGE BLOCH: Please proceed and we  
10 will see if that works.

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1 MR. DOWNEY: Your Honor, I would like to  
2 have three exhibits marked by the court reporter.

3 I would like the reporter to mark for  
4 identification as Vega Testimonial Exhibit 1 draft  
5 audit report, dated only April 1983, addressed to  
6 R. G. Tolson.

7 (Vega Testimony Exhibit  
8 No. 1 was marked for  
9 identification.)

10 MR. DOWNEY: I would ask the reporter  
11 to mark for identification as Vega Testimonial  
12 Exhibit 2 an audit report dated May 3, 1983, addressed  
13 to R. G. Tolson.

14 (Vega Testimony Exhibit  
15 No. 2 was marked for  
16 identification.)

17 MR. DOWNEY: And I would ask the reporter  
18 to mark for identification as Vega Testimonial Exhibit  
19 3 a memorandum to the file, dated April 29, 1983,  
20 signed by Al'An Kesler.

21 (Vega Testimony Exhibit  
22 No. 3 was marked for  
23 identification.)

24 MR. DOWNEY: Having done that, I would  
25 like to hand these exhibits to the witness and ask him

0-12

1 some questions.

2 JUDGE BLOCH: Just as a matter of  
3 understanding the form of the documents, Mr. Vega,  
4 could you explain the letters and numbers in the  
5 upper left-hand corner of the front page of each of  
6 these documents?

7 THE WITNESS: Yes, Mr. Chairman. That is  
8 the logging numbers that were assigned to the piece  
9 of correspondence itself, the letter of transmittal.

10 The audit report itself is identified by  
11 the designation TCP-66.

12 JUDGE BLOCH: And in the files, where  
13 would the QXX-1404 report, which I believe has just  
14 been marked as the third exhibit, where would that  
15 be found in the file?

16 THE WITNESS: Okay, Mr. Chairman. The  
17 number on the upper right-hand -- I'm sorry -- upper  
18 left-hand corner is the log number.

19 All that does is on the log there is a  
20 designation that that particular number has been  
21 styled Audit TCP-66 Radioactive Waste Management  
22 System.

23 The letter itself would be found in the  
24 file for Audit TCP-66.

25 JUDGE BLOCH: What does QXX mean?

10-13

1 THE WITNESS: It is a prefix, arbitrary.  
2 There is no reason why the letters "QXX" were  
3 selected, other than it is probably -- QXX, I believe,  
4 is internal correspondence, as opposed to QTQ, which  
5 would be quality assurance to the quality assurance  
6 organization on the site.

7 BY MR. DOWNEY:

8 Q Are those letters, Mr. Vega, filing  
9 codes that describe generally the kind of document  
10 that is being filed under that designation?

11 For example, QXX, is that a code that  
12 represents the type of document that this piece of  
13 paper is?

14 A Yes, it represents the type of letter that  
15 it is, and that is an internal piece of correspondence.

16 Q Mr. Vega, did there come a time when you  
17 received a draft audit report for Audit TCP-66?

18 A Yes.

19 Q Can you identify Vega Testimonial Exhibit 1  
20 as the draft report you received?

21 A It is not marked as Exhibit 1, but I would  
22 suppose it is the one that has the handwritten markings  
23 that I made.

24 Q Mr. Vega, would you refer to the back of  
25 the last sheet.



10-14

1 A Oh, okay. Yes.

2 Q To be clear, Vega Testimony Exhibit 1 is  
3 the typewritten draft with handwritten interlineations;  
4 is that right?

5 A That is correct.

6 Q Do you recognize the handwriting appearing  
7 on that document?

8 A Yes, I do. It is my own.

9 Q Mr. Vega, did you make changes in this  
10 draft audit report?

11 A Yes, I did.

12 Q Why did you make those changes?

13 A In order to answer that question, I must  
14 go back to Appendix B, which is the source of my  
15 duties and responsibilities.

16 JUDGE BLOCH: Mr. Vega, I would like to  
17 interrupt.

18 That goes beyond the scope of what we  
19 are talking about.

20 We want to know what each change was and  
21 the meaning of the change, not his motivation.

22 MR. DOWNEY: Your Honor, I believe that  
23 this is a short -- he can state succinctly why he made  
24 all the changes in response to my question.

25 What the changes were aren't clear unless

10-15

1 you understand what it was he was doing, because there  
2 was one consistent theme for all these changes, which  
3 he can explain very clearly.

4 JUDGE BLOCH: Do you have any objection,  
5 Mr. Roisman?

6 MR. ROISMAN: I do. I feel that that  
7 was his opportunity in prefiled direct.

8 There's no doubt that the issue of whether  
9 this report was changed improperly was the subject of  
10 Keely, Kahler, Spangler subsequent audit report.

11 Statements are made in there. Mr. Vega's  
12 statements are referred to in there. He, in effect,  
13 has testimony twice in the proceeding, and I don't  
14 think that -- You didn't ask him to talk to that and  
15 we don't want him to talk to that, and we think that  
16 the -- I mean, as I understand what you want, you just  
17 want him to show the changes and what was changed.

18 JUDGE BLOCH: I think he has testified as  
19 to his reasons for changing it.

20 MR. DOWNEY: No, he has not, Your Honor.

21 If I may, I don't recall Mr. Vega being  
22 asked about these changes during the cross-examination  
23 conducted of him by the Intervenor.

24 I don't recall this being identified as  
25 an issue which Intervenor planned to press in their

10-16

1 prehearing filings where they identified what they  
2 believe to be alleged instances of harassment and  
3 intimidation.

4 As of the time we are speaking now, there  
5 is no admissible evidence on that point, and notwith-  
6 standing that fact, there are several pages of proposed  
7 findings based on speculation and innuendo in the  
8 Intervenor's proposed findings of fact in which they  
9 ask this Board to conclude on the basis of no evidence  
10 that there was intimidation of auditors.

11 I think it's entirely fair --

12 JUDGE BLOCH: I'll take note that  
13 Mr. Roisman wouldn't agree with that characterization.

14 MR. DOWNEY: He may not, but that's  
15 certainly my position and I think it's well founded.

16 As you will recall, one of the criteria  
17 set by this Board for presenting testimony at this  
18 hearing was whether there was surprise in the  
19 testimonial part of the deposition proceeding.

20 Not only were we not surprised there, we  
21 were not surprised until we received on August 23rd  
22 and 24th, their proposed findings of fact.

23 We had no indication that this was an  
24 issue from their prehearing filings, and I think it's  
25 only fair if those findings are going to be left in,

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1 that we have an opportunity to present our side of  
2 the case.

3 JUDGE GROSSMAN: Are you claiming you were  
4 surprised by Intervenor not asking questions on cross-  
5 examination?

6 MR. DOWNEY: I am saying I was surprised  
7 by their failure -- their inclusion of this issue in  
8 proposed findings of fact, having failed to identify  
9 it as an issue in the filing of June 27th, at which  
10 time they were supposed to identify by time, date,  
11 person involved, every instance of harassment and  
12 intimidation they were claiming in this proceeding.

13 Beyond that, Your Honor, this document  
14 which is being presented at the Board's request,  
15 presumably to be offered in evidence, and we have no  
16 objection to doing that; but we have a right to  
17 examine witnesses on documents that are introduced  
18 in evidence. And particularly, where the author of  
19 the document is on the witness stand.

20 JUDGE BLOCH: I must say that given the  
21 attention that was given to that Kahler report, it's  
22 a little surprising that the witness wasn't asked why  
23 he changed it; but it seems to me we should perhaps let  
24 it go ahead briefly on that subject.

25 Do you have an objection, Mr. Treby?

10-18

1 MR. TREBY: No. As a matter of fact, I  
2 would tend to support the Applicants, because it was  
3 my understanding, as the Board recalls, we had a  
4 somewhat unusual order in the depositions where a  
5 number of the Applicants' witnesses went on before we  
6 had heard from the Intervenor witnesses.

7 One of the basic for that was that we  
8 were going to have full disclosure in the documents  
9 that were filed on June 27th before the depositions.

10 To the extent that things were not  
11 disclosed in that document, it's my recollection that  
12 parties were given the opportunity to either take up  
13 those matters at subsequent direct testimony or at  
14 the hearing.

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1 MR. ROISMAN: Mr. Chairman --

2 MR. TREBY: And I would also note that  
3 the depositions that were taken at Glen Rose were  
4 six or seven -- or at least started off seven  
5 simultaneously.

6 They were not all being done by the same  
7 Counsel, and it is possible that those Counsel that  
8 were involved with the Keely, Kahler, Spangler  
9 depositions were not the ones who were involved in  
10 Mr. Vega's deposition.

11 MS. GARDE: Yes. Chairman Bloch, I think  
12 this is a gross misrepresentation as to the amount of  
13 information which was available to Intervenors in  
14 order to deal with this issue.

15 First of all, the redacted version of this  
16 audit report, which had all names removed and the  
17 numbers of the audit and the area that the audit  
18 involved was produced to Intervenor, if not  
19 immediately after June 27th, then certainly before  
20 June 27th prior to a time when it could be  
21 incorporated into our June 27th filing.

22 Second, during the first week of the  
23 depositions when Mr. Keely, Kahler and Spangler were  
24 deposed, this particular deposition which had been  
25 scheduled to last a day, ended up lasting, I think,

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1 two or three days, because of Applicants' failure to  
2 identify the names of the individuals involved, and  
3 then it became an in-camera deposition and we had to  
4 wait until the protective order was agreed upon. And  
5 then even after the protective order was agreed upon,  
6 we still didn't get the names of the auditors involved  
7 or the area of the audit report until the last part  
8 of, I believe, the third day that this deposition  
9 was going on.

10 We didn't have the facts on this until  
11 during the deposition themselves. The unredacted  
12 version, which I don't have with me -- or the  
13 redacted version of it, just doesn't contain enough  
14 details that you can make heads or tails what this  
15 was about, because there's whole paragraphs and names  
16 and areas involved that were removed from that audit.

17 MR. DOWNEY: Your Honor, we are not  
18 complaining that they -- We did not object to their  
19 aducing testimony about this audit report, and I  
20 believe the record will reflect a substantial majority  
21 of that testimony was on the other issue in the audit  
22 report.

23 All I'm saying is we couldn't identify it  
24 before June 27th and I'm hearing them say they couldn't  
25 identify it before that time.

10-21

1           It's clear now that it's a matter that is  
2 a question in the Board's mind about this issue. I  
3 think the appropriate way to address the problem is to  
4 have all the witnesses testify, and so far we have  
5 offered one and only one witness who could testify  
6 about these changes.

7           I think Mr. Vega is the appropriate person.

8           MR. ROISMAN: Mr. Chairman, I just want to  
9 make clear what our position is.

10           Our position is as follows: When we got  
11 the document, Mr. Vega's name was not contained in it.

12           So we did not know that Mr. Vega had done  
13 it. So when we did our examination of Mr. Vega we did  
14 not have the information necessary to go into this in  
15 any detail.

16           It was during the first week of the Glen  
17 Rose hearings that that happened.

18           We are not complaining about that, though.  
19 We are not saying bring him back and have him answer  
20 this; but we did spend a lot of time during the hearing  
21 going into the audit report which was written on these  
22 audit reports.

23           You understand, we are talking about two  
24 different -- we are talking about the second audit  
25 report.



10-22

1                   We went into it. We examined it. Our  
2 purpose was to determine whether or not an allegation  
3 of harassment and intimidation on the one hand, and  
4 one of coverup on the other, had been properly  
5 investigated.

6                   That is still our point. That is still  
7 what our findings are directed at.

8                   Now, the Applicant was made aware through  
9 that of our intense interest in this entire  
10 procedure.

11                   On the 20th of August when they filed  
12 their prefiled testimony of which this document is  
13 Mr. Vega's, they didn't choose to address that  
14 question.

15                   What I'm objecting to now is allowing them  
16 to address it now. Their time came and went.

17                   I think that if the Board wants to know  
18 the questions that the Board has asked here, that's  
19 fine. We can't argue with the Board over timeliness.

20                   But I don't think the Applicant has the  
21 right to use that as an opportunity to expand now  
22 what it already knew Intervenors were concerned  
23 with through, as Ms. Garde has said, a couple of days  
24 of depositions that focus very much on these aspects  
25 of the second audit.

10-23

1 JUDGE BLOCH: Mr. Roisman, if this were  
2 strictly an adversary matter, I believe you would  
3 probably be correct, but the Board doesn't think of  
4 it as strictly an adversary matter.

5 It seems to me that to understand the  
6 changes, some questions of the author would be  
7 helpful to the Board, and if there's a matter of  
8 surprise as a result of that, the remedy should be  
9 not to exclude the explanation, but to make some  
10 accommodation, if it's necessary to CASE, to deal  
11 with surprise as to specifically what the changes were  
12 and what the explanation is.

13 My guess is that once we see the  
14 specific changes, the explanation either will wash or  
15 it won't wash, and that we really won't be hurt by  
16 hearing the author's explanation of what he did.

17 So let's go ahead and hear the author's  
18 explanation.

19 My apology, Mr. Vega. I interrupted so  
20 we wouldn't inadvertently get beyond the point where  
21 we could make a decision.

22 THE WITNESS: That's fine, Mr. Chairman.

23 Before I answer your question, I would like  
24 to make a comment on how you referred to this audit  
25 report.

10-24

1           You referred to it as a Q report. I want  
2 to make clear that this is not a Q system, as such;  
3 therefore, this is not a report that was prepared on  
4 the basis of 10 CFR 50, Appendix B; rather, it is  
5 in accordance with the Branch Technical Position,  
6 which is a limited scope document.

7           In answer to your question, Mr. Chairman --

8           JUDGE BLOCH: Mr. Vega, what Branch  
9 Technical Position? I don't know what you are  
10 referring to.

11          MR. DOWNEY: I believe --

12          JUDGE BLOCH: You are talking about it  
13 was an answer?

14          THE WITNESS: The Branch Technical  
15 Position styled ETSB No. 11-1, Revision 1.

16          In other words, Mr. Chairman, this is not  
17 a Q item, but the NRC Staff maintains that certain  
18 actions should be done to assure that we have an  
19 adequate level of confidence that this system will  
20 function properly in service.

21          That position is documented in Branch  
22 Technical Position ESTB No. 11-1, Revision 1.

23          JUDGE BLOCH: So if I understand what you  
24 said, it is part of the quality program of the plant,  
25 but it is not a required quality control activity?

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THE WITNESS: It is not a Q item.  
It is not subject to 10 CFR 50, Appendix

B.

JUDGE BLOCH: Thank you.

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-1 bm 1 JUDGE BLOCH: Thank you.

2 THE WITNESS: Mr. Chairman, I can go into  
3 whatever detail you want to, but in summary -- in  
4 answer to your question -- I changed the items because  
5 the items were incorrect; they were inaccurate; they  
6 were wrong; and it is my responsibility to assure that  
7 before I approve of any report it is correct and it is  
8 factual.

9 That is why I changed it.

10 BY MR. DOWNEY:

11 Q Mr. Vega, turning to Deficiency No. 1,  
12 which is several pages into the document --

13 JUDGE BLOCH: Are we looking at the April  
14 version?

15 MR. DOWNEY: The April version, yes.

16 BY MR. DOWNEY:

17 Q If I'm correctly characterizing what you've  
18 done there, it was change Finding No. 1 to Requirement  
19 No. 2, delete Finding No. 2 and change Finding No. 3  
20 to Finding No. 1.

21 Would you describe the substance of those  
22 changes, please, Mr. Vega?

23 A Yes. NCB-31.1 requires that when a weld  
24 is made, the identification symbol shall be used to  
25 identify the work performed by the welder or welding

11-2

1 operator; and after completing a welded joint, he shall  
2 identify it as his work by applying his assigned symbol  
3 for permanent record in a manner specified by his  
4 employer.

5 The last few words are very critical, "in a  
6 manner specified by his employer."

7 If I may ask the Board to go back to that  
8 same document, but the previous page, there are two  
9 paragraphs that are indented. You will note that it is  
10 basically the same --

11 JUDGE BLOCH: Mr. Vega, it's two pages  
12 back.

13 THE WITNESS: I'm sorry. Two pages back.  
14 I'm sorry.

15 If the Board will note, the first indented  
16 paragraph is the exact same requirement as I just read  
17 in regard to Deficiency No. 1, but the phrase, "in a  
18 manner specified by his employer," was left out.

19 That, Mr. Chairman, was the crux of the  
20 whole discussion that follows.

21 The auditors interpreted this as requiring  
22 a physical application on the pipe itself. In other  
23 words, the auditor was specifying for the employer the  
24 method by which that identification was to be made.

25 That is not so. Brown & Root in their

11-3

1 procedure, CP -- -CPM-6.9b -- very clearly defines the  
2 method that the welder shall identify his symbol for  
3 the permanent record.

4 That method is the weld filler material  
5 log. In essence, what the auditor was doing, he was  
6 specifying how that application should be. That is not  
7 within the authority of the auditor.

8 That was an incorrect interpretation of  
9 the requirement, and as such, I changed it to correct  
10 the situation.

11 JUDGE BLOCH: So you interpreted "used to  
12 identify the work for permanent records" as permitting  
13 the symbol to be affixed to the weld filler material  
14 log?

15 THE WITNESS: Yes, sir, that is correct.  
16 That is the method by which Brown & Root complies with  
17 that requirement.

18 JUDGE BLOCH: Does that identify the work,  
19 or does it identify in the records something? I mean  
20 it sounds like "identify the work" requires the symbol  
21 to be on the work.

22 THE WITNESS: Mr. Chairman, if we take  
23 Appendix B -- Appendix B, which is even a more stringent  
24 record -- a more stringent document -- keeping in mind  
25 that this is a limited quality assurance program

11-4

1 application -- provides for the identification to be  
2 made either on the item or on records traceable to the  
3 item.

4 JUDGE BLOCH: Well, we're arguing about  
5 some other document we don't have in front of us. I  
6 had rather not do that.

7 BY MR. DOWNEY:

8 Q Mr. Vega, let me ask a clarifying  
9 question. Is the Brown & Root requirement that the weld  
10 filler material log contain weld symbols the mechanism  
11 through which the welder can be traced to the weld?

12 A Yes.

13 Q And that's how Brown & Root chose to meet  
14 this particular requirement of the technical -- the  
15 branch technical position?

16 A Yes.

17 Q Was your change in Deficiency No. 1 -- the  
18 draft Deficiency No. 1 to describe the way in which  
19 Brown & Root has chosen to meet that requirement?

20 A Yes. I have, in essence, defined the  
21 method by which Brown & Root is fulfilling this require-  
22 ment as a subrequirement on the first finding.

23 Q And do the other deficiencies -- the other  
24 editorial changes that you made in this document revolve  
25 around this particular issue?



11-5

1 A Yes, it does.

2 Q Mr. Vega, did you discuss this issue with  
3 the auditors?

4 A Yes, I did.

5 Q And what was the substance of your discus-  
6 sion?

7 A Well, I discussed it with them and explained  
8 to them what my position was on this matter. And it  
9 wasn't something that they weren't aware of because  
10 this explanation had been provided during the course  
11 of the audit.

12 And so it was something that they under-  
13 stood, but our auditors are encouraged to identify  
14 problems as they see it.

15 And that's what I told them. I said,  
16 "Hey, write it exactly as you feel it should be. That's  
17 your responsibility, and you have all the freedom to do  
18 that. However, this document must be approved by me,  
19 and then you do your job, then I will do my job and  
20 revise it as I believe it should be."

21 Q And, Mr. Vega, did you inform the auditors  
22 of their option to file a dissenting opinion?

23 A Oh, absolutely, yes.

24 Q Did one or more of the auditors involved in  
25 this audit do so?

11-6

1 A Yes.

2 Q Is the dissenting opinion the document that  
3 has been marked for identification as Vega Testimonial  
4 Exhibit 3?

5 A Yes, it is.

6 Q Mr. Vega, did you discuss the revisions  
7 in the audit with your superior, Mr. Chapman?

8 A Yes, I did.

9 Q What was the substance of your conversation  
10 with Mr. Chapman on this matter?

11 A We reviewed the branch technical position.  
12 We reviewed the standard, NCB-31.1. He may have talked  
13 to several people on the site to get an independent  
14 assessment as to whether my interpretation was correct.

15 I advised him of the people that I had  
16 talked to. And I also advised him of what the auditor's  
17 position was, having heard my position, the auditor's  
18 position and whatever independent verification he had  
19 on this, he agreed with me and directed that the changes  
20 be made.

21 MR. ROISMAN: Mr. Chairman, I move to  
22 strike the portions of the answer that purport to tell  
23 us Mr. Chapman's position other than for the limited  
24 purpose of what it is that Mr. Vega heard; otherwise,  
25 it's hearsay as to its truth.

11-7

1 MR. DOWNEY: We have no objection to that,  
2 Your Honor.

3 I was just trying to clarify what the  
4 process was of these editorial changes.

5 JUDGE BLOCH: Sustained.

6 BY MR. DOWNEY:

7 Q Mr. Vega, was the audit report subsequently  
8 issued in the form of your editorial changes?

9 A Yes, it was.

10 Q Is that final report the document that has  
11 been marked for identification as Vega Testimonial  
12 Exhibit 2?

13 A Yes, it is.

14 Q Mr. Vega, did you retain in the audit file  
15 the draft audit report with your editorial changes?

16 A Yes, I did. I believed that that was very  
17 important.

18 JUDGE BLOCH: This is all redundant and has  
19 nothing to do with the new documents.

20 MR. DOWNEY: I'm just asking what he kept  
21 in the file. That's all.

22 JUDGE BLOCH: That's already in the record.  
23 That was a finding of Keeler and the other two people.  
24 That was all in the record.

25 MR. DOWNEY: My point is, Your Honor, that

11-8

1 is not in evidence.

2 JUDGE BLOCH: That deposition is not an  
3 evidentiary deposition?

4 MR. DOWNEY: I don't recall if they testi-  
5 fied to that fact. I know they reported that fact,  
6 but that report is not in evidence.

7 JUDGE BLOCH: Is that report not in  
8 evidence?

9 MR. ROISMAN: No, I believe that it is in  
10 evidence, and it is a part of their deposition.

11 MR. DOWNEY: It has not been offered. It  
12 was identified at the deposition.

13 MR. ROISMAN: We offered it with our  
14 findings.

15 MR. DOWNEY: We have not responded to those  
16 findings. We plan to respond with substantial evidentiary  
17 objections to many of the materials submitted by the  
18 intervenors.

19 JUDGE BLOCH: Are you going to object to  
20 that report?

21 MR. DOWNEY: Not if we have an opportunity  
22 to clarify the record with respect to what's in it.

23 JUDGE BLOCH: You're not clarifying the  
24 record by explaining that all of those things are in the  
25 file. The report says that.

-9  
1 I'm just trying to save some time because  
2 I happen to know that from reading the record.

3 MR. DOWNEY: I will withdraw the question  
4 about whether -- since it's clear to the Board that this  
5 document was in the file -- retained for the audit  
6 file, and will not belabor that point.

7 I don't think it's clear, but I would like  
8 to make clear with a question to Mr. Vega something  
9 about Vega Testimonial Exhibit 3.

10 JUDGE BLOCH: Could I first ask: Was the  
11 dissent transmitted to Mr. Tolson?

12 THE WITNESS: No.

13 JUDGE BLOCH: Does Mr. Tolson usually come  
14 down and look through the file?

15 THE WITNESS: Mr. Tolson? No, those are  
16 our files. Those are not Mr. Tolson's files.

17 JUDGE BLOCH: How would it help to make  
18 decisions about the plant that you stuck the dissent  
19 in the file?

20 THE WITNESS: Mr. Chairman, this was a  
21 nonvalid finding. I don't see why Mr. Tolson should  
22 be involved in something that is not relevant and not  
23 correct.

24 BY MR. DOWNEY:

25 Q Mr. Vega, was the dissent -- the document

11-10

1 that has been marked for identification as Vega  
2 Testimonial Exhibit 3, was that retained in the audit  
3 file?

4 A Yes, it is.

5 MR. DOWNEY: Your Honor, the Applicant  
6 would move that Vega Testimonial Exhibits 1, 2 and 3  
7 be received in evidence for the purposes of showing  
8 what the draft report was, what Mr. Vega's changes were,  
9 what the final report was and what the dissenting  
10 report was.

11 JUDGE BLOCH: Is there some restriction  
12 implied by that list?

13 MR. DOWNEY: Yes, Your Honor.

14 The restriction is I think it's quite  
15 clear that the merits of many of the technical issues  
16 described on this document is beyond the scope of this  
17 proceeding.

18 I would like the record to be complete on  
19 the purpose for which we're offering it. I realize we  
20 don't always prevail when we get off what we think the  
21 track is, but I don't like to derail the train  
22 myself.

23 MR. ROISMAN: I just want to be clear that  
24 what has been identified as Vega Testimonial Exhibit 3  
25 is being offered to show what the acting team leader

11-11

1 wrote as the dissenting opinion, not that that  
2 necessarily represents the entire dissent, or the basis  
3 for the dissent, but that it is what it purports to  
4 be -- a written statement prepared by that person and  
5 signed by that person.

6 I'm not questioning its authenticity.

7 MR. DOWNEY: We offer it for no more than  
8 that purpose -- showing what it is and what she said.

9 MR. TREBY: No objection.

10 JUDGE BLOCH: Okay. The evidence is  
11 received.

12 (The documents marked for  
13 identification as Vega Testi-  
14 monial Exhibits Nos. 1, 2 and 3  
15 were received in evidence  
16 and were made a part of the  
17 record.)  
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## OFFICE MEMORANDUM

To R.G. Tolson Dallas, Texas April 1983

Subject COMANCHE PEAK TEAM ELECTRIC STATION  
TUGCO QA AUDIT REPORT TCP-66  
RADIOACTIVE WASTE MANAGEMENT SYSTEMS  
QA AUDIT FILE: TCP-66

Attached is TUGCO QA Audit Report TCP-66 which describes the results of our audit of Radioactive Waste Management Systems performed February 7 - March 22, 1983. The audit team was composed of A.E. Kesler (Acting Team Leader), and R.F. Cote'.

Attachment A contains an audit summary including attendees of the pre-audit and post-audit meetings, and persons contacted during the audit.

Attachment B contains <sup>SIX (6)</sup> ~~eight (8)~~ deficiencies, <sup>and TWO (2)</sup> ~~one (1)~~ concerns, and auditors comments.

Deficiencies identify conditions which violate quality assurance program requirements and require immediate corrective action. Concerns identify those conditions, which left unattended, could result in program violations in the future. Comments address observations by the auditors which may improve the efficiency of the program but do not constitute a potential breakdown of the quality assurance program.

Please respond by May 1983 to each deficiency and concern identified. In your response, please provide the following information for each deficiency:

1. Describe what corrective action has been, or will be taken for each deficiency.
2. Describe your action to prevent recurrence of the deficiency.
3. Indicate the date that your corrective action, as described in item 1 above, will be implemented.

Your response to concerns should identify actions taken to prevent these conditions from escalating to deficiency status.

Should you have any questions, please contact A.E. Kesler at 214/653-4009.

D.N. Chapman  
 Manager, Quality Assurance

DNC/brd

Attachment

cc: B.R. Clements  
 J.B. George  
 M.R. McBay  
 G.R. Purdy



TCP-66

Audit Summary

Audit Summary:

TCP-66 was conducted primarily to evaluate the adequacy of the QC inspections of Radioactive Waste Management Systems (RWMS) required by Branch Technical Position ETSB No. 11-1, Rev. 1 as committed to in the FSAR Table 17-A-1.

RWMS Piping was fabricated under the requirements of ANSI B31.1-1973, American National Standard Power Piping, as is all Balance of Plant Piping, per the requirements of Specification 2323-MS-100. ~~One requirement within the ANSI B31.1 Standard is that welders shall apply their assigned symbol upon completing a weld in a manner specified by his employer (pg. 62, para 127.6). During the audit it was determined that this requirement had never been incorporated into the procedures governing welding (see Generic Deficiency No. 1). The requirement to check and record these symbols on the inspection report was, however, incorporated into the Inspection Procedure CP-QP-11.12.~~

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4 page  
insert  
detail  
⊕

~~Most of the deficiencies identified during TCP-66 evolve from the lack of weld symbols on welds, improper recording of these symbols on inspection reports, and the inability to correlate weld symbols on pipes with symbols identified on the weld filler material logs (WFML's) and inspection reports (IR's).~~

The lack of weld symbols on RWMS piping was identified on NCR M-81-01680, Rev. 1 dated 1/27/82. The NCR attributed the lack of these symbols to the fact that symbols were vibro etched many years prior to the inspection which through time and corrosion caused them to vanish.

The NCR disposition <sup>of the matter</sup> stated to "use as is" because "WFML's which have been retained by welding engineering for the referenced systems ~~do~~ specify specific line numbers and contain the symbol of the welders that performed the welding." ~~This statement was found to be incorrect during the audit (see Generic Deficiency No. 3). During the first week of the audit the inaccuracy of this disposition was brought to the attention of responsible personnel, who attempted to correct this situation by issuing an additional NCR and leaving it open. This, however, once again did not address the real problem.~~

inconsistencies with

inconsistencies were noted

During the audit, auditors observed extensive use of this NCR to accept the lack of welder's symbols on RWMS Piping. The NCR number was printed on inspection reports so that by the use of an asterisk beside a weld number an inspector could identify the lack of a weld symbol as satisfactory per the disposition of this NCR. ~~Auditors picked a sample of 34 welds from the inspection reports identified in the scope and performed field verification: Six of these welds had been documented as having no weld symbols and as being satisfactory per this NCR. For 100% of this sample, auditors found weld symbols on the welds which had been cited on the inspection report as having no weld symbol (see Generic Deficiency No. 2).~~

*Instances were noted where welding activities conducted subsequent to the issuance of the NCR were also accepted on the basis of the NCR.*

*Please keep this original writeup as part of the file. AV 4/22/82*

The inspection of the installation of RWH S is performed piping is specified in DWCO Procedure CP-4P-11.12.

The inspection procedure requires a visual inspection and hydrostatic testing. The procedure requires the documentation of the visual inspection and on an Inspection Report (IR). The inspection procedure further requires the inspector to record the welders identification symbol on the IR. It requires two witnesses.

The procedure inspection procedure further requires that the hydrostatic testing be inspected by AC. It requires the AC inspection of all joints, high stress areas, and exposed accessible pressurized surfaces be <sup>examined during hydro and</sup> inspected in accordance with referenced acceptance criteria.

Except as noted in ~~difficulties~~ the difficulties, the visual inspection of welds and hydrostatic testing appears to be adequately implemented.

Because of the ~~test~~ wall thickness of

ANSI B 31.1-1973 requires that welders apply their assigned symbol upon completing a weld in a manner specified by his employer. (pg 62, para 127.6). Accordingly, Brown & Root procedure CP-CPT 6.9B Section 3.3 note 3 requires any craftsman welding on a pipe joint enter his welded symbol in the space provided ~~for~~ on the weld.

Welder Material Log (WFML).

~~This constitutes compliance with ANSI B 31.1-1973.~~

Although the WFML is the primary means of providing traceability between ~~welds~~ and pipe joint welds and the welder(s), the welders are encouraged to provide physical stamps ~~with~~ a portion of ~~the~~ their symbol their identification symbol when practicable.

RWMS piping, a ~~vibro-etched~~  
Stamping of welder identification was  
not acceptable. Rather, a ~~vibro-~~  
~~etched~~ the welder's identification was  
~~the~~ vibro-etched. The vibro  
etching has vanished over the  
years on a large number of welds.  
The lack of welder identification symbols  
and associated improper recording of  
symbols on inspection reports and dis-  
crepancies between these and the  
WFMC constitute the majority of  
the audit findings. This is  
further complicated by the fact that  
small bore RWMS piping was field-  
run~~ned~~ and did not have joint  
numbers designated prior to welding  
activities. This resulted in ~~the~~ welding  
materials <sup>having been</sup> ~~the~~ checked out on the WFMC  
against a specific line or composite.

P The ~~the~~ lack of weld symbols was

identified on NCR M-81-E1680, Rev. 1  
dated 1/27/82.

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## Audit Summary

In addition, for thirteen (13) of the remaining sample (twenty-eight welds) field verification identified that weld symbols were inaccurately recorded on the inspection report or all the symbols on the weld had not been recorded on the inspection report. For eight (8) of the nine (9) IR's involved in the field verification, one or more of these type of errors was determined. This is of concern for two reasons: (1) for RWMS the inspection report is the only quality record, and (2) with this percentage of error (56%) it brings the quality of the inspection into question (see Deficiency No. 4).

Auditors' main objective during TCP-66 became an attempt to determine the cause of the welding symbol inconsistencies between the inspection reports, the Weld Filler Material Logs and actual conditions. This involved an extensive and time consuming effort. Auditors would like to thank Welding Engineering for their indispensable support throughout this effort.

In summation, it appears the problem began with the failure to incorporate the following requirements procedurally:

"ANSI B31.1-1973, American National Standard Power Piping, pg. 62, para 127.6 ... The identification symbol shall be used to identify the work performed by the welder or welding operator, and after completing a joint, he shall identify it as his work by applying his assigned symbol for permanent record ..."

"Gibbs & Hill Specification 2323-MS-100, Rev. 6, pg. 4 para 4.24.5 ... The contractor shall maintain sufficient weld data documentation to provide a traceable trail of effort for any specific weld that will satisfy the requirements of the ASME, ANSI or AWS Codes as applicable and the regulatory agencies."

Radioactive Waste Management System (RWMS) Piping was fabricated as Balance of Plant (BOP) piping. The majority of the small bore pipe was fabricated in field run fashion which allowed welding material to be checked out on the Weld Filler Material Log against a composite which can represent thousands of welds. With this method, specific welder and welding material traceability to a weld, or even a specific line is lost. When this is added to the lack of procedures requiring welders to apply their identification symbol adjacent to the weld, a "traceable trail" becomes even more remote.

*30P and  
hand  
some  
of this*

~~It is recognized that the~~  
The second part of the problem became established when the RWMS piping was fabricated affected by the commitment to meet Branch Technical Position ETSB No. 11-1, Rev. 1. Per these requirements an inspection effort was begun on RWMS welding and piping. Early in the inspection effort the lack of weld symbols was identified and dispositioned by NCR M-81-01680. This, however, only served to compound the problem because of the indiscriminate use of an NCR which had been inaccurately dispositioned. *allowed the problem to practice to continue.*

- Ditto - *AV 4/22/83*

TCP-66

Audit Summary

cause for

The deficiencies in Attachment B ~~specifically identified as generic~~ are <sup>The underlying</sup> ~~considered part of the problem defined in the summary.~~ Deficiencies considered to be isolated incidents are ~~in turn~~ so noted.

A.E. Kesler *AK*  
A.E. Kesler  
Acting Team Leader

*Review on shown*

*AV 4/25/8*

TCP-66

Generic Deficiency No. 1

Requirement No. 1

ANSI B31.1-1973, American National Standard Power Piping, pg. 62, para 127.6, Qualification Records, states, in part, "... The identification symbol shall be used to identify the work performed by the welder or welding operator, and after completing a welded joint, he shall identify it as his work by applying his assigned symbol for permanent record in a manner specified by his employer."

Finding No. 1: Requirement No. 2

*CP-CPM 6.9 B applicable*  
~~Contrary to the above requirement, a review of weld procedures associated to the RWMS and/or Balance of Plant Piping, does not delineate the requirements for the welder or welding operator after completing a weld joint to identify it as his work by applying his assigned symbol in the space provided on the Weld Filler Material log.~~

*craftsman*

~~It should be noted that as a matter of general policy, the B&R welding engineering group has implemented to the extent possible, the above requirement for welders to apply their weld symbol after completing a welding activity. This is largely attributed to the caliber of the technical personnel who were aware of this lack of procedural requirement for welders to apply their symbols, but were also aware of the aforementioned requirement.~~

*encourages*

*NOTE: For small bore RWMS, stamping of welder symbols was not allowed RFC because of wall thickness consideration. Rather, the use of Vibro-etching was encouraged. The vibro-etching process however is not permanent and in many cases has disappeared.*

Finding No. 2:

Contrary to the above requirement, auditors determined during field verification of small and large bore pipe and review of the repair process sheets, that welders are not applying their identification symbol to welds on which they perform repair work. Eighty-nine percent (89%) of the sample, 8 out of 9 repaired welds, did not have the identification symbol of the welder performing the repair, applied on the pipe.

AEK/RFC

Finding No. 3:

Contrary to the above requirement, field verification review performed by the auditors identified the following weld symbols (CFS) and (ARK) were applied adjacent to W-14 on BRP-SB-XAB-22. The applicable inspection report recorded (CFS) as the actual welder. Auditors reviewed the associated weld filler material log (WFML) and found that welder (ARK) performed the actual welding. Further review found that welder (CFS) applied his symbol to the proposed weld joint prior to welding rather than after welding the joint, then due to shift change, welder (CFS) returned his assigned weld rods to the rod control issuance facility. Based on the sample reviewed, this appears to be an isolated incident.

RFC/AEK

*Review Chemist 11/4*



TCP-66

Generic Deficiency No. 2Requirement No. 1:

ANSI N45.2-1971, Quality Assurance Requirements for Nuclear Power Plants, Section 8, Quality Assurance Records, states, "... Sufficient records shall be prepared as work is performed to furnish documentary evidence of the quality of items and of activities affecting quality. Records shall be consistent with applicable codes, standards, specifications, and contracts and shall be adequate for use in management of the program."

Requirement No. 2:

CP-QP-11-12, Rev. 10, Inspection of Installation of Radioactive Waste Management Systems (RWMS), para 3.1.2, Welders Qualification, states, "The inspector shall record the welder's identification symbol on the Inspection Report (IR)."

Finding:

Auditors performed field verification of welders' symbols on a sample of 34 welds chosen from nine inspection reports. Fifty-six percent (56%) of the sample field verified by auditors was not accurately reflected in the applicable inspection reports, specifically:

- A. For 6 of the 34 welds, the inspection report identified "no symbol SAT per NCR M-81-01680 Rev. 1." Auditors determined that weld symbols in all six cases (100%) were on the pipe.
- B. For 13 of the 34 welds (38%) the inspection report either reflected an inaccurate weld symbol or did not reflect all of the symbols on the pipe.

AEK/RFC

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Generic Deficiency No. 3Requirements:

Gibbs & Hill Specification 2323-MS-100, pg. 4, para 4.24.5, states, in part, "The Contractor shall maintain sufficient weld data documentation to provide a traceable trail of effort for any specific weld that will satisfy the requirements of the ASME, ANSI or AWS codes as applicable and the regulatory agencies."

NCR M-81-01680 R.1, Disposition, dated 1/27/82 states, in part, "... The WFML's which have been retained by Welding Engineering for the referenced systems do specify the specific line number and contain the symbol of the welders that performed the welding."

NCR-M-83-00433, Approval, Dated 3/4/83 states, in part, "... The WFML's which have been retained by Welding Engineering for the referenced systems do specify the specific line number and contain the symbol of the welders that performed the welding."

Finding:

Contrary to the above requirements, 50% of the small bore weld joint welders' symbols, field verified by auditors could not be traced as stated above:

- A. Twenty-five percent (25%) could not be traced to a line number, only to the applicable composite
- B. Twenty-five percent (25%) could not be traced to a line number or the applicable composite

RFC/AEK

*... il - 11/4/25/83*

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Deficiency No. 4Requirements:

CP-QP-11.12, Rev. 11, Inspection of Installation of Radioactive Waste Management Systems (RWMS), pg. 2 of 11, para 3.3.1, Visual Inspection of Welds, states, "All welds on piping shall be visually inspected to verify the following:

- 1.) Welds shall be free of paint and other deleterious material
- 2.) Arc strikes

Para 3.2.2, Quality Control Pretest Inspection, states, in part, "Prior to commencement of testing, the Quality Control Inspector shall verify:

- c.) All surfaces are free of arc strikes.

Finding:

Contrary to the above requirement, during field verification auditors and Welding Engineering identified that field weld 12 on line RWM-GH-XAB-019 which had been inspected and accepted per IR-MP-0566 and hydrostatic tested per XGH-016, 12/7/82, had arc strikes and tungsten inclusion in the weld. Furthermore, weld symbol (BUP) was visible where the IR stated no weld symbol SAT per NCR-M-83-00433. Follow thru review was performed in order to verify when welder (BUP) had performed the above welding. No WFML applicable to the activity performed could be located. However, auditors did determine that welder BUP no longer worked on site at the time of inspection, precluding the possibility of this welding being done after the inspection was performed.

It should be noted that after identification of this condition, Welding Engineering initiated immediate corrective action in accordance with site procedures. Auditors felt that the above welded condition appeared to be an isolated incident. This was based on the number of welds auditors reviewed that appeared acceptable. However, the inaccuracy of the weld symbol notation on the Inspection Report is felt to support auditors' concerns, ~~as stated in the summary~~, regarding the adequacy of the inspection effort.

RFC/AEK

weld symbol  
 RW  
 4/22/83

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Deficiency No. 5Requirement:

10CFR50 Appendix B, Criterion XVII, Quality Assurance Records, states, in part, "Sufficient records shall be maintained to furnish evidence of activities affecting quality. The records shall include at least the following ... closely-related data such as qualifications of personnel ..."

Finding:

Contrary to the above requirement, no objective evidence could be provided of the qualifications of (RWMS) Inspector S. Stogdill. Based on the sample reviewed, this appears to be an isolated incident.

AEK/RFC

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Deficiency No. 6Requirement:

Procedure CP-QP-11.12, Inspection of Installation of Radioactive Waste Management Systems, Rev. 10, dated 11/15/82, Section 3.1.4 states, in part, "Prior to completion of this inspection, the inspector shall attach As-Built Tags (Attachment 5) to the line. These tags shall be placed at strategic locations along the line to prevent oversight by other plant personnel. Prior to performance of any work on a tagged line or its components, QC shall be notified."

Finding:

Contrary to the above requirement, welding was performed in RWM-SB-X-AB-031 by welder BHH in April of 1982. These lines had been inspected and As-Built verified in February 1982. QC was not notified as required, therefore no additional inspection was performed. Based on the sample reviewed, this appears to be an isolated incident.

Note: This condition was reported by auditors to Welding Engineering and QC, and steps were initiated to correct this problem during the audit.

AEK

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Concern No. 1  
Deficiency No. 5

Requirement:

FP

CP-QP-11.12, Rev. 10, Inspection of Installation of Radioactive Waste Management Systems (RWMS), para 3.1.1 D states, in part, "All socket welds shall have at least two passes."

FP

Finding:

~~Contrary to the above requirement,~~ QC performs a final inspection and not an inprocess inspection. The verification of a two pass socket weld cannot be adequately performed without witnessing the two pass requirement. This condition resulted in a review of socket welds that were ground smooth, thus removing the physical characteristics of the two weld pass. However, the above socket welds did meet the required fillet size thickness.

RFC

*This requirement does not state an inspection is required after each pass - this finding is subjective and language should be deleted. A 4/22/83*

*Changed to  
concern*

*4/25/83*

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Concern No. 2

Inspection Report MP-0421 reflects the use of CMC-75281, Rev. 0 which eliminated weld 16A. The lack of this weld had been identified as UNSAT during the original inspection on 6/9/82 and then shown to be SAT on 6/23/82 per CMC-75281, Rev. 0. However, on 6/22/82 Revision 1 of CMC-75281 was issued which re-instated weld 16A and eliminated weld 17. This did not change the condition in the field, only the weld number. It does, however, make IR-0421 incorrectly reflect that W-16A exists and W-17 does not exist. No additional IR was ever generated and this line has undergone hydrotesting.

AEK

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Deficiency No. 6

Requirement:

Branch Technical Position ETSB No. 11-1, Rev. 1, Section VI, Quality Assurance for Radioactive Waste Management Systems, states, in part:

- B. Control of purchased material, equipment and services -- Measures should be established to assure that purchased material, equipment and construction services conform to the procurement documents ..."

Finding:

Contrary to the above, vendor weld 19-1 documented on IR MP-1057 cannot be traced to the procurement documents nor is there a weld symbol visible. Without being able to trace this weld to the supplier who manufactured it, auditors are unable to verify if the weld was manufactured in compliance with the procurement document as required. Based on the sample reviewed, this is considered to be an isolated incident.

RFC

*The cited requirement does not require on site traceability between welded & weld. Therefore this finding should be deleted. AV 4/25/83*

*Deleted  
AV 4/25/83*



TCP-66

Comment

*no requit to do this. therefore delete*

Auditors feel that the requirement for welders to apply their weld symbol to the joint welded is not only intended to provide assurance that the welder was qualified as stated in MCR M-81-01680 Rev. 1 but also provides the client with a method of tracing welders to specific welds or lines in the event conditions exist where either the welders work was in question or the weld rod used by a particular welder(s) should become in question. A review of the IR and/or WFML can be utilized to assess this type of condition.

RFC

*Deleted  
4/21/83*

TCP-66

Deficiency No. 3Requirements:

Gibbs & Hill Specification 2323-MS-100, pg. 4, para 4.24.5, states, in part, "The Contractor shall maintain sufficient weld data documentation to provide a traceable trail of effort for any specific weld that will satisfy the requirements of the ASME, ANSI or AWS codes as applicable and the regulatory agencies."

NCR M-81-01680 R.1, Disposition, dated 1/27/82 states, in part, "... The WFML's which have been retained by Welding Engineering for the referenced systems do specify the specific line number and contain the symbol of the welders that performed the welding."

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Finding:

Contrary to the above requirements, 50% of the small bore weld joint welders' symbols, field verified by auditors could not be traced as stated above:

- A. Twenty-five percent (25%) could not be traced to a line number, only to the applicable composite *drawing*
- B. Twenty-five percent (25%) could not be traced to a line number or the applicable composite *drawing*

RFC/AEK

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Deficiency No. 2Requirement No. 1:

ANSI N45.2-1971, Quality Assurance Requirements for Nuclear Power Plants, Section 8, Quality Assurance Records, states, "... Sufficient records shall be prepared as work is performed to furnish documentary evidence of the quality of items and of activities affecting quality. Records shall be consistent with applicable codes, standards, specifications, and contracts and shall be adequate for use in management of the program."

Requirement No. 2:

CP-QP-11.12, Rev. 10, Inspection of Installation of Radioactive Waste Management Systems (RWMS), para 3.1.2, Welders Qualification, states, "The inspector shall record the welder's identification symbol on the Inspection Report (IR)."

Finding:

Auditors performed field verification of welders' symbols on a sample of 34 welds chosen from nine inspection reports. Fifty-six percent (56%) of the sample field verified by auditors was not accurately reflected in the applicable inspection reports, specifically:

- A. For 6 of the 34 welds, the inspection report identified "no symbol SAT per NCR M-81-01680 Rev. 1." Auditors determined that weld symbols in all six cases (100%) were on the pipe.
- B. For 13 of the 34 welds (38%) the inspection report either reflected an inaccurate weld symbol or did not reflect all of the symbols on the pipe.

AEK/RFC

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Deficiency No. 1Requirement No. 1:

ANSI B31.1-1973, American National Standard Power Piping, pg. 62, para 127.6, Qualification Records, states, in part, "... The identification symbol shall be used to identify the work performed by the welder or welding operator, and after completing a welded joint, he shall identify it as his work by applying his assigned symbol for permanent record in a manner specified by his employer."

Requirement No. 2:

Weld Procedure CP-CPM 6.9B applicable to the RWMS and/or Balance of Plant Piping, requires the craftsman welding on a joint to enter his assigned symbol in the space provided on the Weld Filler Material Log.

As a matter of general policy, the B&R welding engineering group encourages welders to the extent possible, to apply their weld symbol after completing a welding activity. *to the weld*

Note: For small bore RWMS, <sup>to</sup> stamping of welder symbols was not allowed because of wall thickness consideration. Rather, the use of vibro-etching was encouraged. The vibro-etching process however, is not permanent and in many cases has disappeared.

Finding:

Contrary to the above <sup>that</sup> requirements, field verification review performed by the auditors identified the following weld symbols (CFS) and (ARK) were applied adjacent to W-14 on BRP-SB-XAB-22. The applicable inspection report recorded (CFS) as the actual welder. Auditors reviewed the associated weld filler material log (WFML) and found that welder (ARK) performed the actual welding. Further review found that welder (CFS) applied his symbol to the proposed weld joint prior to welding rather than after welding the joint, then due to shift change, welder (CFS) returned his assigned weld rods to the rod control issuance facility. Based on the sample reviewed, this appears to be an isolated incident.

RFC/AEK

## TCP-66

## Audit Summary

Audit Summary:

TCP-66 was conducted primarily to evaluate the adequacy of the QC inspections of Radioactive Waste Management Systems (RWMS) required by Branch Technical Position ETSB No. 11-1, Rev. 1 as committed to in the FSAR Table 17-A-1.

RWMS Piping was fabricated under the requirements of ANSI B31.1-1973, American National Standard Power Piping, as is all Balance of Plant Piping, per the requirements of Specification 2323-MS-100. The inspection of the RWMS piping is specified in TUGCO Procedure CP-QP-11.12. The inspection procedure requires a visual inspection and hydrostatic testing. The procedure requires the documentation of the visual inspection on an Inspection Report (IR). The inspection procedure further requires the inspection to record the welders identification symbol on the IR. The inspection procedure further requires that the hydrostatic testing be inspected by QC. It requires that all joints, high stress areas, and exposed accessible pressurized surfaces be examined during hydro and inspected in accordance with referenced acceptance criteria. Except as noted in the deficiencies, the visual inspection of welds and hydrostatic testing appears to be adequately implemented.

ANSI B31.1-1973 requires that welders apply their assigned symbol upon completing a weld in a manner specified by his employer (pg. 62, para 127.6). Accordingly, Brown & Root Procedure CP-CPM 6.9B, Section 3.3, Note 3 requires any craftsman welding on a pipe joint enter his welder symbol in the space provided on the Weld Filler Material Log (WFML). Although the WFML is the primary means of providing traceability between pipe joint welds and the welder(s), the welders are encouraged to stamp their identification symbol when practicable. Because of the wall thickness of the RWMS piping, stamping of welder identification was not acceptable. Rather, the welder's identification was vibro-etched. The vibro-etching has vanished over the years on a large number of welds. The lack of welder symbols and associated improper recording of symbols on inspection reports and discrepancies between these and the WFML constitute the majority of the audit findings. This is further complicated by the fact that small bore RWMS piping was field-run and did not have joint numbers designated prior to welding activities. This resulted in welding materials having been checked out on the WFML against a specific line or composite.

The lack of weld symbols on RWMS piping was identified on NCR M-81-01680, Rev. 1 dated 1/27/82. The NCR attributed the lack of these symbols to the fact that symbols were vibro-etched many years prior to the inspection which through time and corrosion caused them to vanish.

The NCR dispositioned the matter "use as is" because "WFML's which have been retained by welding engineering for the referenced systems specify specific line numbers and contain the symbol of the welders that performed the welding." During the audit the inconsistencies with this disposition were noted and brought to the attention of responsible personnel.

## OFFICE MEMORANDUM

To R.G. Tolson Dallas, Texas May 3, 1983Subject COMANCHE PEAK STEAM ELECTRIC STATION  
TUGCO QA AUDIT REPORT TCP-66  
RADIOACTIVE WASTE MANAGEMENT SYSTEMS  
QA AUDIT FILE: TCP-66

Attached is TUGCO QA Audit Report TCP-66 which describes the results of our audit of Radioactive Waste Management Systems performed February 7 - March 22, 1983. The audit team was composed of A.E. Kesler (Acting Team Leader), and R.F. Cote'.

Attachment A contains an audit summary including attendees of the pre-audit and post-audit meetings, and persons contacted during the audit.

Attachment B contains six (6) deficiencies and two (2) concerns.

Deficiencies identify conditions which violate quality assurance program requirements and require immediate corrective action. Concerns identify those conditions, which left unattended, could result in program violations in the future. Comments address observations by the auditors which may improve the efficiency of the program but do not constitute a potential breakdown of the quality assurance program.

Please respond by June 6, 1983 to each deficiency and concern identified. In your response, please provide the following information for each deficiency:

1. Describe what corrective action has been, or will be taken for each deficiency.
2. Describe your action to prevent recurrence of the deficiency.
3. Indicate the date that your corrective action, as described in item 1 above, will be implemented.

Your response to concerns should identify actions taken to prevent these conditions from escalating to deficiency status.

Should you have any questions, please contact A.Vega at 214/653-4895.

*D.N. Chapman*  
D.N. Chapman  
Manager, Quality Assurance

DNC/brd

Attachment

cc: B.R. Clements  
J.B. George  
M.R. McBay  
G.R. Purdy

ATTACHMENT A  
AUDIT SUMMARY  
TCP-66

Attendance - Pre Audit Meeting

QA Audit No. TCP-66

Date 2/7/83

Name	Title	Name	Title
<u>W. J. Kessler</u>	<u>TUGCO QA</u>		
<u>R. J. Cate</u>	<u>TUGCO QA</u>		
<u>W. C. Scott</u>	<u>TUGCO QA</u>		

Attendance - Post Audit Meeting

Date 3/22/83

Name	Title	Name	Title
<u>W. J. Kessler</u>	<u>TUGCO QA</u>		
<u>Earl W. Doyle</u>	<u>D.O.P. COO</u>		
<u>R. J. Cate</u>	<u>TUGCO QA</u>		
<u>A. J. Sweeney</u>	<u>BOP Records</u>		
<u>G. W. Parry</u>	<u>TUGCO QA</u>		



TCP-66

## Audit Summary

Audit Team:

A.E. Kesler - Acting Team Leader  
R.F. Cote'

Personnel Contacted:

R. Tolson	S. Key
T. Brandt	K. Fann
T. Vega	B. Doyle
D. Anderson	A. Smithey
C. Laurence	B. Scott
B. Reed	L. Stolliker
R. Baker	R. Harrill
B. Baker	

Audit Scope:

Audit TCP-66 was conducted to verify adequate implementation of the applicable requirements for construction and quality control of the Radioactive Waste Management Systems (RWMS) at CPSES.

The following documentation was utilized by auditors during the audit:

Branch Technical Position ETSB No. 11-1, Rev. 1  
ANSI B31.1-1973, "American National Standard Power Piping"  
Specification 2323-MS-100  
CPSES - Final Safety Analysis Report  
CP-QP 11.12, Rev. 10 & 11, "Inspection of Installation of Radioactive Waste Management Systems"  
CP-CPM-6.9, Rev. 2, "General Piping Procedure"

Field Verification Sample consisted of the welds documented on the following inspection reports:

IR-1057	-	7 welds
0687		4 welds
0154		6 welds
1202		4 welds
1080		3 welds
1204		1 weld
1078		4 welds
0480		4 welds
0566		1 weld

## TCP-66

## Audit Summary

Audit Summary:

TCP-66 was conducted primarily to evaluate the adequacy of the QC inspections of Radioactive Waste Management Systems (RWMS) required by Branch Technical Position ETSB No. 11-1, Rev. 1 as committed to in the FSAR Table 17-A-1.

RWMS Piping was fabricated under the requirements of ANSI B31.1-1973, American National Standard Power Piping, as is all Balance of Plant Piping, per the requirements of Specification 2323-MS-100. The inspection of the RWMS piping is specified in TUGCO Procedure CP-QP-11.12. The inspection procedure requires a visual inspection and hydrostatic testing. The procedure requires the documentation of the visual inspection on an Inspection Report (IR). The inspection procedure further requires the inspector to record the welders identification symbol on the IR. The inspection procedure further requires that the hydrostatic testing be inspected by QC. It requires that all joints, high stress areas, and exposed accessible pressurized surfaces be examined during hydro and inspected in accordance with referenced acceptance criteria. Except as noted in the deficiencies, the visual inspection of welds and hydrostatic testing appears to be adequately implemented.

ANSI B31.1-1973 requires that welders apply their assigned symbol upon completing a weld in a manner specified by his employer (pg. 62, para 127.6). Accordingly, Brown & Root Procedure CP-CPM 6.9B, Section 3.3, Note 3 requires any craftsman welding on a pipe joint enter his welder symbol in the space provided on the Weld Filler Material Log (WFML). Although the WFML is the primary means of providing traceability between pipe joint welds and the welder(s), the welders are encouraged to stamp their identification symbol when practicable. Because of the wall thickness of the small bore RWMS piping, stamping of welder identification was not acceptable. Rather, the welder's identification was vibro-etched. The vibro-etching has vanished over the years on a large number of welds. The lack of welder symbols and associated improper recording of symbols on inspection reports and discrepancies between these and the WFML constitute the majority of the audit findings. This is further complicated by the fact that small bore RWMS piping was field-run and did not have joint numbers designated prior to welding activities. This resulted in welding materials having been checked out on the WFML against a specific line or composite.

The lack of weld symbols on RWMS piping was identified on NCR M-81-01680, Rev. 1 dated 1/27/82. The NCR attributed the lack of these symbols to the fact that symbols were vibro-etched many years prior to the inspection which through time and corrosion caused them to vanish.

The NCR dispositioned the matter "use as is" because "WFML's which have been retained by welding engineering for the referenced systems specify specific line numbers and contain the symbol of the welders that performed the welding." During the audit the inconsistencies with this disposition were noted and brought to the attention of responsible personnel.

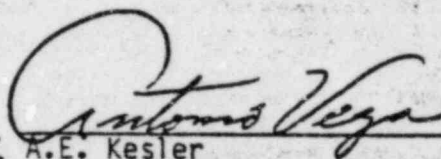
TCP-66

## Audit Summary

During the audit, auditors observed extensive use of this NCR to accept the lack of welder's symbols on RWMS Piping. The NCR number was printed on inspection reports so that by the use of an asterisk beside a weld number an inspector could identify the lack of a weld symbol as satisfactory per the disposition of this NCR. Instances were noted where welding activities conducted subsequent to the issuance of the NCR were also accepted on the basis of the NCR.

It is recognized the RWMS piping was fabricated BOP and then became subject to Branch Technical Position ETSB No. 11-1, Rev. 1.

The deficiencies in Attachment B are the underlying causes for the problem defined in the summary. Deficiencies considered to be isolated incidents are so noted.

  
FOR Antonio Vega  
A.E. Kesler  
Acting Team Leader

ATTACHMENT B  
DEFICIENCIES, CONCERNS AND COMMENTS  
TCP-66

TCP-66

Deficiency No. 1Requirement No. 1:

ANSI B31.1-1973, American National Standard Power Piping, pg. 62, para 127.6, Qualification Records, states, in part, "... The identification symbol shall be used to identify the work performed by the welder or welding operator, and after completing a welded joint, he shall identify it as his work by applying his assigned symbol for permanent record in a manner specified by his employer."

Requirement No. 2:

Weld Procedure CP-CPM 6.9B applicable to the RWMS and/or Balance of Plant Piping, requires the craftsman welding on a joint to enter his assigned symbol in the space provided on the Weld Filler Material Log.

As a matter of general policy, the B&R welding engineering group encourages welders to the extent possible, to apply their weld symbol to the weld after completing a welding activity.

Note: For small bore RWMS, stamping of welder symbols was not allowed because of wall thickness consideration. Rather, the use of vibro-etching was encouraged. The vibro-etching process however, is not permanent and in many cases has disappeared.

Finding:

Contrary to the above requirements, field verification review performed by the auditors identified that the following weld symbols (CFS) and (ARK) were applied adjacent to W-14 on BRP-SB-XAB-22. The applicable inspection report recorded (CFS) as the actual welder. Auditors reviewed the associated weld filler material log (WFML) and found that welder (ARK) performed the actual welding. Further review found that welder (CFS) applied his symbol to the proposed weld joint prior to welding rather than after welding the joint, then due to shift change, welder (CFS) returned his assigned weld rods to the rod control issuance facility. Based on the sample reviewed, this appears to be an isolated incident.

RFC/AEK

TCP-66

Deficiency No. 2Requirement No. 1:

ANSI N45.2-1971, Quality Assurance Requirements for Nuclear Power Plants, Section 8, Quality Assurance Records, states, "... Sufficient records shall be prepared as work is performed to furnish documentary evidence of the quality of items and of activities affecting quality. Records shall be consistent with applicable codes, standards, specifications, and contracts and shall be adequate for use in management of the program."

Requirement No. 2:

CP-QP-11.12, Rev. 10, Inspection of Installation of Radioactive Waste Management Systems (RWMS), para 3.1.2. Welders Qualification, states, "The inspector shall record the welder's identification symbol on the Inspection Report (IR)."

Finding:

Auditors performed field verification of welders' symbols on a sample of 34 welds chosen from nine inspection reports. Fifty-six percent (56%) of the sample field verified by auditors was not accurately reflected in the applicable inspection reports, specifically:

- A. For 6 of the 34 welds, the inspection report identified "no symbol SAT per NCR M-81-01680 Rev. 1." Auditors determined that weld symbols in all six cases (100%) were on the pipe.
- B. For 13 of the 34 welds (38%) the inspection report either reflected an inaccurate weld symbol or did not reflect all of the symbols on the pipe.

AEK/RFC

TCP-66

Deficiency No. 3Requirements:

Gibbs & Hill Specification 2323-MS-100, pg. 4, para 4.24.5, states, in part, "The Contractor shall maintain sufficient weld data documentation to provide a traceable trail of effort for any specific weld that will satisfy the requirements of the ASME, ANSI or AWS codes as applicable and the regulatory agencies."

NCR M-81-01680 R.1, Disposition, dated 1/27/82 states, in part, "... The WFML's which have been retained by Welding Engineering for the referenced systems do specify the specific line number and contain the symbol of the welders that performed the welding."

NCR-M-83-00433, Approval, Dated 3/4/83 states, in part, "... The WFML's which have been retained by Welding Engineering for the referenced systems do specify the specific line number and contain the symbol of the welders that performed the welding."

Finding:

Contrary to the above requirements, 50% of the small bore weld joint welders' symbols, field verified by auditors could not be traced as stated above:

- A. Twenty-five percent (25%) could not be traced to a line number, only to the applicable composite drawing
- B. Twenty-five percent (25%) could not be traced to a line number or the applicable composite drawing

RFC/AEK

TCP-66

Deficiency No. 4Requirements:

CP-QP-11.12, Rev. 11, Inspection of Installation of Radioactive Waste Management Systems (RWMS), pg. 2 of 11, para 3.3.1, Visual Inspection of Welds, states, "All welds on piping shall be visually inspected to verify the following:

- 1.) Welds shall be free of paint and other deleterious material
- 2.) Arc strikes

Para 3.2.2, Quality Control Pretest Inspection, states, in part, "Prior to commencement of testing, the Quality Control Inspector shall verify:

- c.) All surfaces are free of arc strikes.

Finding:

Contrary to the above requirements, during field verification auditors and Welding Engineering identified that field weld 12 on line RWM-GH-XAB-019 which had been inspected and accepted per IR-MP-0566 and hydrostatic tested per XGH-016, 12/7/82, had arc strikes and tungsten inclusion in the weld. Furthermore, weld symbol (BUP) was visible where the IR stated no weld symbol SAT per NCR-M-83-00433. Follow thru review was performed in order to verify when welder (BUP) had performed the above welding. No WFML applicable to the activity performed could be located. However, auditors did determine that welder BUP no longer worked on site at the time of inspection, precluding the possibility of this welding being done after the inspection was performed.

It should be noted that after identification of this condition, Welding Engineering initiated immediate corrective action in accordance with site procedures. Auditors felt that the above welded condition appeared to be an isolated incident. This was based on the number of welds auditors reviewed that appeared acceptable. However, the inaccuracy of the weld symbol notation on the Inspection Report is felt to support auditors' concerns regarding the adequacy of the weld symbol inspection effort.

RFC/AEK



TCP-66

Deficiency No. 5Requirement:

10CFR50 Appendix B, Criterion XVII, Quality Assurance Records, states, in part, "Sufficient records shall be maintained to furnish evidence of activities affecting quality. The records shall include at least the following ... closely-related data such as qualifications of personnel ..."

Finding:

Contrary to the above requirement, no objective evidence could be provided of the qualifications of (RWMS) Inspector S. Stogdill. Based on the sample reviewed, this appears to be an isolated incident.

AEK/RFC

TCP-66

Deficiency No. 6Requirement:

Procedure CP-QP-11.12, Inspection of Installation of Radioactive Waste Management Systems, Rev. 10, dated 11/15/82, Section 3.1.4 states, in part, "Prior to completion of this inspection, the inspector shall attach As-Built Tags (Attachment 5) to the line. These tags shall be placed at strategic locations along the line to prevent oversight by other plant personnel. Prior to performance of any work on a tagged line or its components, QC shall be notified."

Finding:

Contrary to the above requirement, welding was performed in RWM-SB-X-AB-031 by welder BHH in April of 1982. These lines had been inspected and As-Built verified in February 1982. QC was not notified as required, therefore no additional inspection was performed. Based on the sample reviewed, this appears to be an isolated incident.

Note: This condition was reported by auditors to Welding Engineering and QC, and steps were initiated to correct this problem during the audit.

AEK

TCP-66

Concern No. 1

CP-QP-11.12, Rev. 10, Inspection of Installation of Radioactive Waste Management Systems (RWMS), para 3.1.1 D states, in part, "All socket welds shall have at least two passes."

QC performs a final inspection and not an inprocess inspection. The verification of a two pass socket weld cannot be adequately performed without witnessing the two pass requirement. This condition resulted in a review of socket welds that were ground smooth, thus removing the physical characteristics of the two weld pass. However, the above socket welds did meet the required fillet size thickness.

RFC

TCP-66

Concern No. 2

Inspection Report MP-0421 reflects the use of CMC-75281, Rev. 0 which eliminated weld 16A. The lack of this weld had been identified as UNSAT during the original inspection on 6/9/82 and then shown to be SAT on 6/23/82 per CMC-75281, Rev. 0. However, on 6/22/82 Revision 1 of CMC-75281 was issued which re-instated weld 16A and eliminated weld 17. This did not change the condition in the field, only the weld number. It does, however, make IR-0421 incorrectly reflect that W-16A exists and W-17 does not exist. No additional IR was ever generated and this line has undergone hydrotesting.

AEK

QXX-1404

TEXAS UTILITIES GENERATING COMPANY

OFFICE MEMORANDUM

To File Dallas, Texas April 29, 1983
Subject AUDIT TCP-66. RADIOACTIVE WASTE MANAGEMENT SYSTEMS

I have just reviewed a copy of audit report TCP-66 as revised by A. Vega. The changes reflected in this audit report are major revisions and constitute a very different representation of the Rad Waste Management System than that presented in my original report. The revised edition indicates that except for items identified in the deficiencies, the visual inspection of welds and hydrostatic testing appears to be adequately implemented. Based on the deficiencies as identified during the audit and in the original report, the indication was that the QC visual inspection of Radwaste Welding is questionable. The validity of the IR's documenting this activity were also found to be questionable.

The revised report has reduced generic findings to those of isolated incidents resulting in a much different representation of what was found during the audit. I do not agree with these changes and feel that overall, the revised report does not reflect conditions observed.

Handwritten signature of Al An Kesler

Al An Kesler
Acting Team Leader
Audit TCP-66

AEK/brd

cc: D.N. Chapman
A. Vega
D.L. Anderson
R.F. Cote'

NUCLEAR REGULATORY COMMISSION
Docket No. 50-445-012 / 50-446-012 Official Ex. No. Vega 3
In the matter of Comanche Peak
Staff IDENTIFIED
Applicant RECEIVED
Intervenor REJECTED
Contractor DATE 9-10-84
Other Vega Testimony Witness Vega
Reporter mt

Handwritten note: Vega Ex-3 9-10-84 mt

11-12

1 JUDGE BLOCH: Is that all you're going to  
2 have on this matter because I think I'd like to have it  
3 as a separate part of the transcript?

4 MR. DOWNEY: Your Honor, that really  
5 concludes my examination on this issue.

6 JUDGE BLOCH: Mr. Roisman, would you like  
7 cross on this issue?

8 MR. ROISMAN: Yes, but not now.

9 JUDGE BLOCH: Sometime later in the week?

10 MR. ROISMAN: Maybe later in the day.

11 JUDGE BLOCH: Okay. Let us then defer  
12 the remainder of this issue and go on to the rest.

13 MR. DOWNEY: I have only one more question  
14 for Mr. Vega, which is a question I believe you want  
15 clarified as a consequence of yesterday's in camera  
16 hearing.

17 Mr. Vega, as you know, is available to  
18 testify on that portion of the proceeding.

19 The question -- If there are no objections  
20 from the parties, I'll ask Mr. Vega to distinguish  
21 among the QC inspection activities and the QA surveil-  
22 lance activity and the quality engineering activities.

23 JUDGE BLOCH: Mr. Vega, please.

24 THE WITNESS: Mr. Chairman, basically the  
25 QC inspector is primarily involved in verifying physical

11-13

1 attributes; that is, compliance to a particular  
2 instruction, a particular drawing, a particular  
3 configuration.

4 The quality engineer is a person that  
5 takes a design specification, a design drawing, and  
6 formulates the inspection program.

7 He determines what inspections have to be  
8 made to assure that if implemented, the component  
9 inspected will indeed meet the requirements of the  
10 spec -- of the drawing -- the design basis document.

11 The quality engineer is usually knowledge-  
12 able in statistical methods, does trending activities  
13 and serves to answer questions on procedures that  
14 relate to the inspection function.

15 These are his primary responsibilities. He  
16 is involved in other things.

17 The third item I believe was a QA technician.  
18 This person is not an inspector, and as used at Comanche  
19 Peak is a management organization in that we are not  
20 committed to surveillance.

21 The quality assurance surveillance is  
22 there because management believes in it, because we  
23 want somebody to give us a separate and another redundant  
24 level of competence that the activities are being done  
25 correctly.

11-14

1           Their job is to oversee some of the day-  
2 to-day activities, take selected activities and verify  
3 their compliance with requirements.

4           These surveillance people are the eyes and  
5 ears of our organization from the standpoint that they  
6 would even look at how -- whether the inspectors are  
7 properly documenting their inspections, whether the  
8 people testing are properly documenting their test  
9 activities, document control.

10           They look at many activities on the site.

11           In regard to start-up -- start-up testing --

12           (Noise coming from outside the hearing  
13 room.)

14           MR. ROISMAN: I think we now know where  
15 Mr. Tolson is.

16           MR. DOWNEY: I move to strike that remark.

17           MR. REYNOLDS: It's obnoxious and --

18           MR. ROISMAN: I don't understand why we  
19 can have jokes made about whether that's harassment  
20 and intimidation, and I cannot make a comparable one  
21 back.

22           If they want to quit joking about it --

23           MR. REYNOLDS: It's obnoxious and  
24 unprofessional, Mr. Chairman, but it does not surprise  
25 me that it came from Mr. Roisman.



1 JUDGE BLOCH: Mr. Reynolds, that was a  
2 direct personal attack on another lawyer in this case;  
3 and we don't allow that.

4 MR. REYNOLDS: Mr. Chairman, we have  
5 weighty matters of evidence before you. And trying to  
6 influence you with jokes about one of the key witnesses  
7 in this case is grossly unprofessional.

8 JUDGE BLOCH: Do you think there was a  
9 chance that he would be able to influence us by that  
10 joke?

11 MR. REYNOLDS: I don't know.

12 JUDGE BLOCH: It was a joke. Your comment  
13 was not a joke.

14 Let's continue with the witness.

15 THE WITNESS: Mr. Chairman, in regard to  
16 the start-up organization, the regulatory guides would  
17 allow a member of the start-up organization, other than  
18 the person who is doing the test, to witness certain  
19 activities.

20 We have elected to have those activities  
21 that are deemed as hold points to be witnessed by QA  
22 technicians.

23 JUDGE BLOCH: I take it those activities  
24 have to be witnessed. The choice was whether to do it  
25 by QA technician or someone else.

1 THE WITNESS: That is correct, Mr.

11-16 2 Chairman.

3 But these people are technically oriented.  
4 They review test procedures --

5 JUDGE BLOCH: It's actually more complex  
6 than looking at a finished weld, for example.

7 THE WITNESS: Yes, it requires the ability  
8 to -- Well, it requires technical knowledge back-  
9 ground, some knowledge of testing.

10 It's a broader scope type of activity  
11 and receives less of a day-to-day guidance on  
12 specifically what to look at.

13 JUDGE JORDAN: This is the QA technician?

14 THE WITNESS: Yes, Dr. Jordan.

15 JUDGE JORDAN: But he is part of the QA  
16 organization -- on-site organization?

17 THE WITNESS: Yes, sir, they report to  
18 me.

19 JUDGE JORDAN: And the same goes for the  
20 quality engineer?

21 THE WITNESS: No, Dr. Jordan, the quality  
22 engineering organization used to report to the site QC  
23 supervisor. Quality engineering reports to Dallas  
24 now.

25 JUDGE JORDAN: I see. But it still -- in

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reporting to Dallas -- which was your former job; is that correct?

THE WITNESS: Not exactly, Dr. Jordan. It is still in the quality assurance organization.

JUDGE JORDAN: It's still quality assurance?

THE WITNESS: Yes. It reports to Mr. Chapman.

JUDGE JORDAN: Does this mean that the organization has more than Appendix B duties, more than making sure that there is compliance with Appendix B?

THE WITNESS: In this particular case, yes.

This is a management tool. Again, we not only meet the requirements, but we go beyond. This is one instance where we do have to have a surveillance organization, but we believe that it is in our best interest and have done so.

JUDGE JORDAN: I'm a little confused. Both the quality engineer and the technician are a part of the surveillance organization?

THE WITNESS: No. The QA technician is in my organization part of the start-up surveillance organization. They work in the start-up surveillance organization -- start-up construction surveillance

11-18

1 organization.

2 JUDGE JORDAN: Is this Appendix B  
3 activity?

4 THE WITNESS: It is not required by  
5 Appendix B.

6 JUDGE JORDAN: I see.

7 THE WITNESS: We could completely forego  
8 that activity, and we would still be in full compliance  
9 with all regulatory requirements.

10 JUDGE BLOCH: I thought that was the  
11 opposite of what you told me. I thought you said  
12 that --

13 THE WITNESS: No. Excuse me for interrupt-  
14 ing you, Mr. Chairman.

15 What I stated was in regard to the rad  
16 waste system, that it was not an Appendix B item.  
17 When I am talking about QE/QA technicians and QC  
18 inspectors, I am now talking about our program that  
19 addresses Appendix B for all safety-related activities  
20 at Comanche Peak.

21 JUDGE BLOCH: Now, with respect to reactor  
22 protection systems, some surveillance of the testing  
23 was necessary; is that correct?

24 THE WITNESS: Yes, that is correct.

25 JUDGE BLOCH: And is there a requirement

11-19

1 that you have to have audits of the surveillance of  
2 the reactor protection system?

3 THE WITNESS: There is a requirement to  
4 audit the implementation and the fact that there is  
5 independent verification.

6 Whoever does the independent verification  
7 is optional. We do audit the start-up program to make  
8 sure that the testing is done and that the independent  
9 verification is also done in accordance with the  
10 program.

11 JUDGE BLOCH: Is there or is there not a  
12 problem with the fact that the surveillance is being  
13 done by your group, and if you did an audit, you'd also  
14 be doing it within your group, too?

15 THE WITNESS: Mr. Chairman, the audit  
16 group does not report to me in my current position. I  
17 used to be responsible for the audit function.

18 JUDGE BLOCH: In the old position -- the QA  
19 group, I take it, does have these QA technicians in  
20 it; and it also has the responsibility for doing audits;  
21 is that correct?

22 THE WITNESS: No, we have two separate  
23 organizations. They were both within my organization,  
24 but they had separate supervisors, separate procedures,  
25 separate locations.

11-20

1 JUDGE BLOCH: So you could do an audit of  
2 your own people because of the internal separation  
3 between those two groups?

4 THE WITNESS: Yes, sir, that is correct.

5 MR. DOWNEY: My purpose in asking Mr. Vega  
6 the question that prompted the interchange between the  
7 Bench and Mr. Vega was your request for a clarifica-  
8 tion. I have no further questions, if the Board is  
9 satisfied.

10 JUDGE BLOCH: I think we should maybe just  
11 proceed -- You have no further questions for Mr. Vega  
12 at all?

13 MR. DOWNEY: I have two items in the form  
14 of a direct exam, one to respond to the Board's  
15 inquiry about TCP-66. We've covered that.

16 The second was to respond to the Board's  
17 inquiry about the distinction among these three different  
18 people. That was the purpose of my examination.

19 JUDGE BLOCH: Do we have cross?

20 MR. ROISMAN: Yes, Mr. Chairman.

21 EXAMINATION

22 BY MR. ROISMAN:

23 Q Mr. Vega, do you have a copy of your  
24 August 17, 1984 prefiled testimony in front of you?

25 MR. DOWNEY: Excuse me. Mr. Roisman, may

11-21

1 I interrupt one moment?

2 I'm not sure of the procedure, Your Honor.  
3 I assume that the prefiled testimony -- because it was  
4 sworn, taken before a court reporter as testimony -- has  
5 been received in evidence.

6 If there's some ambiguity, I want it clear  
7 that we're moving his direct exam and the exhibits be  
8 received in evidence.

9 JUDGE BLOCH: I agree with that. And since  
10 they were done under oath, is there a problem, Mr.  
11 Roisman?

12 MR. ROISMAN: No. We'll file -- at the  
13 time we file our findings after the hearing -- any  
14 objections to portions of this that the Applicant  
15 chooses to rely upon.

16 But, I mean, it fits the procedural  
17 requirements for being in evidence; and we have no  
18 problem with that.

19 JUDGE BLOCH: No objection, Mr. Treby?

20 MR. TREBY: No objection.

21 JUDGE BLOCH: Then it is in evidence,  
22 subject to the provision --

23 MR. DOWNEY: I understand. It was just a  
24 matter of form.

25 I know that this was done differently than

11-22

1 the way prefiled testimony has been done.

2 JUDGE BLOCH: I agree with your asking  
3 the question. You're right.

4 Mr. Roisman.

5 BY MR. ROISMAN:

6 Q Mr. Vega, I asked you if you had a copy  
7 of the prefiled testimony dated August 17, 1984 in  
8 front of you.

9 A Yes, I do.

10 Q All right. I'm going to direct you to  
11 certain pages in the document and then ask you questions  
12 from those pages.

13 Would you look at pages 36,700 and 36,702.

14 JUDGE BLOCH: Off the record.

15 (Discussion off the record.)

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1 JUDGE BLOCH: Back on the record.

2 BY MR. ROISMAN:

3 Q Mr. Vega, does your copy have the page  
4 numbers on it?

5 A Yes, it does.

6 Q All right. On Page 36,700 and 36,702 you  
7 refer to two documents, one a memo that you sent to  
8 Mr. Merritt, and the other is a letter that you sent to  
9 the QA/QC -- to every QA/QC person on site.

10 Do you have copies of those documents?  
11 They're not marked as exhibits.

12 A Not here.

13 Q Do they exist?

14 A Yes, they do.

15 Q Do you know why they were not included with  
16 your testimony?

17 A No, I don't.

18 MR. ROISMAN: I'd like to have them produced.  
19 I don't know that I have any questions to ask the witness,  
20 but he talks about them and I think it would be useful to  
21 see them.

22 MR. DOWNEY: We have no objection to pro-  
23 ducing them, Your Honor. I can explain why we didn't put  
24 them in, it's just that his testimony covered the points  
25 that were necessary.

12-2

1 JUDGE BLOCH: There is a standing request  
2 from CASE, of which I am well aware, for the basis of all  
3 testimony that's filed as a discovery matter, and I think  
4 it should have been provided, out of courtesy. Usually  
5 when you file testimony, you do want to provide it as  
6 discovery matter, not as evidence.

7 Okay. So that will be provided to  
8 Mr. Roisman.

9 BY MR. ROISMAN:

10 Q Mr. Vega, I'd like to direct your attention  
11 to Page 36,704, which for those of you who found the other,  
12 it's two pages past that.

13 Mr. Vega, and also I'd like you to take a  
14 look at QAI0016. Now, let me see if it is attached.

15 MR. DOWNEY: It is not.

16 MR. ROISMAN: Okay. Just a moment. There  
17 is a QAI016.

18 MR. DOWNEY: I apologize, that one may be in  
19 some part of it. We tried to supplement to some extent  
20 those documents that have come in from the time Mr. Vega's  
21 first deposition to the time of his second.

22 JUDGE BLOCH: QAI016 is Vega 4.

23 MR. ROISMAN: Just a moment, Mr. Chairman.

24 BY MR. ROISMAN:

25 Q Let me try it a different way, Mr. Vega.

12-3 1 Are you familiar with the incident that was reported in  
2 QAI016 involving a QC inspector by the name of Eddie  
3 Neidecken or Neidecken?

4 A Yes, I am.

5 Q Do you remember what was the disposition of  
6 that complaint by Mr. Neidecken?

7 MR. DOWNEY: I'd object on the grounds it's  
8 been asked and answered.

9 JUDGE BLOCH: Mr. Roisman.

10 MR. ROISMAN: I'm trying to -- I don't have  
11 the document -- I thought I had the document, and we even  
12 show it as being an exhibit to our exhibits, and I cannot  
13 physically locate it. All I'm doing is trying to get the  
14 witness -- if his recollection is the same as mine, then  
15 I will ask him my one question. If it's not, we'll have  
16 to wait until I can get a copy of the QAI to show him.

17 MR. DOWNEY: Your Honor, I sent for a copy  
18 of that file. We should have it momentarily.

19 JUDGE BLOCH: Oh, all right.

20 MR. ROISMAN: Mr. Chairman, I think that the  
21 problem is that we got a copy of the note and we never  
22 actually got a copy of the entire QAI, that is, we have  
23 the notes of the interview with Mr. Neidecken and Uehline  
24 and Bob Murray.

25 JUDGE BLOCH: Okay. So you're going to send

12-4 1 for it, Mr. Downey?

2 MR. DOWNEY: Yes, Your Honor, we are.

3 JUDGE BLOCH: Can we pass on to something  
4 else?

5 MR. ROISMAN: Yes, let's do.

6 BY MR. ROISMAN:

7 Q Looking at transcript Page 36,704, you stated,  
8 at Line 2, in answer to a question, "No, not to the best  
9 of my knowledge, there are no other instances reflected  
10 in other -- any other QAI's."

11 My question to you is, are you aware of any  
12 other allegations of harassment and intimidation that are  
13 not reflected in QAI's since the -- excuse me, since June  
14 of 1984?

15 A No, I am not.

16 Q And are you aware of any other QAI's that  
17 have been generated by allegations of harassment and  
18 intimidation since the date that you prepared this  
19 testimony and today?

20 MR. DOWN: I object on the grounds this is  
21 outside the scope. The Board has established a cut-off  
22 date which, absent extraordinary circumstances, would  
23 preclude this line of inquiry.

24 JUDGE BLOCH: Mr. Downey is correct,  
25 Mr. Roisman.

12-5 1 MR. ROISMAN: I don't think it's inappropriate  
2 to fine out if he's aware of any, or these QAI files, one  
3 of the issues here is whether or not the person who's in  
4 charge of QA management at the site, which is now Mr. Vega's  
5 job, is keeping up to date.

6 JUDGE BLOCH: We won't be looking into  
7 specific incidents but you want to --

8 MR. ROISMAN: I just want to know if there  
9 were any.

10 JUDGE BLOCH: The question may be allowed.

11 THE WITNESS: Would you repeat your question  
12 again, please?

13 MR. ROISMAN: Yes.

14 BY MR. ROISMAN:

15 Q Are there any allegations of harassment or  
16 intimidation contained in any QAI documents that you are  
17 aware of -- that you became aware of subsequent to  
18 August 17th, 1984, when you gave the testimony, and up  
19 through today?

20 A No, not to the best of my knowledge. If  
21 something was filed Friday or today, this morning, obviously  
22 I wouldn't know about it. But no, not to the best of my  
23 memory.

24 Q Would you look at Page 714. You indicate  
25 on Lines 5 through 12 that you look at a disciplinary action

12-6

1 on an individual basis and determine whether the disciplinary  
2 action adequately addresses the incident that occurred,  
3 and I believe you're referring to disciplinary action  
4 taken by people not under your jurisdiction but with  
5 regard to complaints made by people under your juris-  
6 diction; is that correct?

7 A Yes, I believe this was made in the context  
8 of whether I got involved in disciplinary actions of craft  
9 people, and I said no, unless the craft person was involved  
10 in an incident with a quality assurance person.

11 Q All right.

12 A And then I would.

13 Q Okay. My question to you is what do you  
14 look for in a given case when you examine the disciplinary  
15 action taken against the craft person with respect to an  
16 allegation made by one of your people?

17 A I have to make sure that whatever may have  
18 been caused by that particular action, I have to make sure  
19 it's corrected. But more important, if there is any  
20 perception that that particular incident may somehow  
21 compromise the authority of the quality assurance organi-  
22 zation, the integrity of our independence, I make dog-gone  
23 sure that that point is addressed and that I am totally  
24 satisfied that that has been addressed.

25 Q But what constitutes, from your perspective,

12-7

1 addressing it and how you make dog-gone sure that it's  
2 been totally addressed?

3 A Well, we have to talk specifics. I can't  
4 tell you how I would react or evaluate something unless --  
5 as I said, I evaluate it on a case basis.

6 Q Well, all right, let's see if we can put it  
7 into a hypothetical situation. One of your people  
8 complains that they were harassed by a craft person while  
9 attempting to do a QC inspection, and that the craft person  
10 did this in front of a number of other people and that  
11 your person felt harassed and intimidated by that.

12 And let's assume that in your investigation  
13 of the matter you conclude that yes, you think your person  
14 had a basis to believe that they were harassed and  
15 intimidated and you go to the craft and you say, I'd like  
16 you to do something about this.

17 Now, when that happens, what is it that you  
18 expect they're going to do?

19 A Addressing the hypothetical situation, if a  
20 person felt that he had been treated in such a manner that  
21 his inspection was not appropriate, I would go back and  
22 make sure that that inspection had been done.

23 If the matter in any way raised the question  
24 in the inspector's mind, what his duties, what his responsi-  
25 bilities, and more important, what his authority and what

12-8

1 management backing he has, I would make very sure that he  
2 understood and had a very clear understanding on each one  
3 of those items, namely, he is responsible for satisfying  
4 himself --

5 Q Excuse me. I don't want to interrupt you,  
6 Mr. Vega, but I'm interested in the actions taken with  
7 regard to the craft person as opposed to your person.

8 A Well, the action that would be taken on the  
9 craft person would, by necessity, involve what effect it  
10 had on the quality assurance organization and the quality  
11 assurance inspector.

12 I'm concerned about the quality assurance  
13 program, and I'm wanting to address anything that may have  
14 been compromised, if any. And so my assessment of the  
15 corrective action that had been taken by construction  
16 management in regard to any specific action involving an  
17 inspector would, by necessity, have to involve an  
18 evaluation or an assessment as to what effect it had had on  
19 the quality assurance program and organization.

20 Q Well, do you mean that if you determine that  
21 it had not had any adverse impact on the quality assurance  
22 organization and that your inspector, while he did feel  
23 intimidated or harassed by the conduct, is now clear that  
24 the conduct was not to prevent him from doing his work and  
25 that he understood that and he was going to go out and he



12-9

1 was going to do his job right, but then the disciplinary  
2 action to be taken against the craft could mean nothing  
3 and that would be satisfactory?

4 A No, I didn't say that.

5 Q Okay. Good. That's what I want you to focus  
6 on. What is it -- does a disciplinary action have to be  
7 more severe against a craft person to satisfy if your  
8 person is not able to go back and do their job effectively  
9 because of the harassment and intimidation than if they  
10 feel they can go back and do it effectively?

11 A Certainly. One is a worse case than the  
12 other. Accordingly, the corrective action would have to  
13 be more thorough.

14 Q And what is the minimum corrective action  
15 that would be adequate in the situation that we've just --  
16 from the hypothetical we've just been discussing?

17 A Minimum, would depend on what the minimum  
18 effect on the inspector had been. If it was something  
19 that may have been said in jest but the inspector felt  
20 uncomfortable, a discussion with the inspector, a discussion  
21 with the craft by his management on the inappropriateness  
22 of what was said, would probably be deemed adequate.

23 Q If there were other persons who had observed  
24 the event, taking what you've just outlined as the event,  
25 would it be necessary, in your judgment, that they also be

12-10

1 advised of the disposition?

2 A Yes. And there are several ways of doing  
3 that. It could be done either specifically through the  
4 individual that was being counseled from the craft, or by  
5 construction management subsequently --

6 JUDGE BLOCH: Mr. Vega, you mean asking him  
7 to talk to the QC person and make amends?

8 THE WITNESS: No, Mr. Chairman, I'm assuming  
9 that what the -- the hypothetical situation that Mr. Roisman  
10 is talking about is that an inspector, something was said  
11 in his presence that made him feel uncomfortable in the  
12 presence of other craft persons.

13 JUDGE BLOCH: Okay. But you said you were  
14 going to what, it could be done through the craft person.  
15 I just want to know what you meant by that.

16 THE WITNESS: Okay. What I meant was, was  
17 if this craft person was a peer of the other construction  
18 people, I wouldn't expect this person to go and tell his  
19 peers, hey, I've been reprimanded and what I did was wrong.

20 I would expect that person's supervisor in  
21 craft to say, an incident took place this afternoon, so and  
22 so has been reprimanded, you all be aware that that is not  
23 acceptable conduct, that it will not be tolerated, and  
24 advise the rest of the peers as to what had transpired and  
25 what management policy is.

12-11 1 JUDGE BLOCH: The peers being both  
2 construction and QC?

3 THE WITNESS: In the particular hypothetical  
4 situation that I was discussing, Mr. Chairman, I was  
5 assuming that it was one inspector and several craft  
6 people.

7 BY MR. ROISMAN:

8 Q And if it had been several inspectors and  
9 one craft person?

10 A Then I would have taken the situation -- I  
11 would have made sure that the inspectors were notified and  
12 I would deem what would be the best way to do that.

13 Q And if the craft person was not counseled  
14 and you thought that they should be counseled, what would  
15 your recourse be?

16 A That is really inconceivable to me.

17 Q You mean in every instance in which you think  
18 that craft should have some disciplinary action taken  
19 against them, the disciplinary action that is taken is  
20 what you want?

21 A There is always taken disciplinary action  
22 when some incident occurs, and construction management and  
23 QA management has a good working relationship, and there  
24 are discussions to the effect, what do you think needs to  
25 be done in some cases. In some cases this is what I've done,

12-12

1 is that -- do I need to do anything else. And in come  
2 cases I have said no, that is adequate. In other cases  
3 I have said, I think we need to address this, I need to  
4 address it, whatever the case may be.

5 But as far as your hypothetical situation  
6 where nothing was done, I just can't even conceive of that.

7 Q Are there ever -- have there ever been any  
8 instances in which you have felt more disciplinary action  
9 should be taken by craft with regard to some conduct of a  
10 craft person as it relates to some action involving a QC  
11 person than what the craft supervisors had initially  
12 proposed to take?

13 A No, I -- there's been instances where there  
14 have been discussions that were a continuation of a  
15 disciplinary action, but it was not a situation where  
16 construction management said, hey, this is what we feel  
17 needs to be done and we're not going to do anything else.  
18 That has never arisen on site. In --

19 Q So that -- I'm sorry.

20 A In all cases, construction management has  
21 been most anxious to make sure that the situation was  
22 addressed, not only because of their own policy, but from  
23 our perspective, hey, is there anything else that we need  
24 to do.

25 Q Now, your knowledge on this, does it relate

12-13

1 back to the time when you became the QA site manager? Is  
2 that what you're testifying to?

3 A I can only testify to the hypothetical  
4 situation that you're discussing, and I can testify to  
5 what has occurred, you know, first-hand since I've been  
6 there, but obviously the hypothetical situation, I think,  
7 is independent of time.

8 Q No, that's all right. I'm just trying to  
9 pin down since you've been there, we are both talking about  
10 since you became the QA site manager.

11 JUDGE GORSSMAN: I think the witness nodded  
12 yes, and let the court reporter reflect that.

13 THE WITNESS: My answer to the hypothetical  
14 situation is based on my experience at the site.

15 BY MR. ROISMAN:

16 Q Mr. Vega, do you know what the policy is  
17 at the plant as to the action to be taken, if any, against  
18 a craft person who gets into a discussion, not an argument,  
19 just a discussion with a QC person as to whether the QC  
20 person is right or wrong and the craft person persists in  
21 taking a position which the QC person disagrees with and  
22 ultimately the craft person is proven to have been in  
23 error, do you know, is there any company policy on what,  
24 if any, action is taken against the craft person who  
25 continued to press the point and ultimately was proven wrong?

12-14

1 MR. DOWNEY: I object to that question on  
2 the ground of relevance. I also object to the question,  
3 whether this witness has personal knowledge. I just don't  
4 think it's relevant.

5 JUDGE BLOCH: Do you know if there's a policy  
6 on that, Mr. Vega?

7 THE WITNESS: Specifically in the instance  
8 where there has been discussion and people persist that  
9 they are right?

10 BY MR. ROISMAN:

11 Q Yes, and the person who's doing the persisting  
12 is a craft person, and ultimately they're proven to be  
13 wrong and that the QC person, the QC inspector is proven  
14 to be right, do you know of any --

15 A Mr. Roisman, I think every one of us has a  
16 right to stand by our convictions.

17 Q I'm sorry, Mr. Vega, I'm not asking for  
18 anything more than just do you know if the company has a  
19 policy with regard to any action to be taken with respect  
20 to the craft person who persists in a position vis-a-vis  
21 a QC inspector and is ultimately proven to be wrong.

22 It's a "yes" or "no" question.

23 A We don't have a policy that defines what is  
24 to be done with a person that disagrees with a QC inspector  
25 and persists that he is right.

12-15

1 Q Do you know of any instances in which a  
2 person has persisted in disagreeing with a QC inspector  
3 and has ultimately been proven to be wrong and any  
4 disciplinary action taken against the craft person as a  
5 result of that?

6 A Mr. Roisman, the -- any action that would  
7 be taken would be taken because that persistence was not  
8 in a professional manner, not because he persisted that  
9 he was right.

10 If a person believes that he is right, there  
11 are avenues to resolve that matter, and that is to kick it  
12 up to a higher level of supervision. That is what the  
13 craft is told to do. That is what inspectors are told to  
14 do. We don't condone arguments at a specific location.  
15 They are instructed to kick it up to their supervision  
16 for discussion.

17 Now, that doesn't mean that at that point  
18 either the craft or the inspector is going to stop  
19 believing that they are right, but there is a method to  
20 resolve those items and there is a method in place to do  
21 that, and I believe it's working very well.

22 JUDGE BLOCH: Mr. Vega, you mention only  
23 kicking it up to another level of inspection. Is there  
24 another way to report that kind of a problem about a safety  
25 area in the plant?

12-16

1 THE WITNESS: Well, I'm of course assuming  
2 and stating right off the bat that the inspector feels  
3 it's wrong, first he identifies it as nonconforming.

4 JUDGE BLOCH: No, the craft person thinks  
5 it's wrong, he could also write a report showing the non-  
6 conformance also, couldn't he?

7 THE WITNESS: Yes, a craft could initiate it.

8 JUDGE BLOCH: Is that true? I've led you  
9 into it. Is that definitely true?

10 THE WITNESS: Well, Mr. Chairman, I don't  
11 believe that this is the way that it would be handled  
12 because as long as it is in the craft side of the house  
13 the obvious thing is to rework it and make it right before  
14 you present it to inspection, for inspection.

15 JUDGE BLOCH: What if it's in start-up?

16 THE WITNESS: S r?

17 JUDGE BLOCH: What if it's in start-up?

18 THE WITNESS: Could you give me an example  
19 of what you're thinking about, Mr. Chairman?

20 JUDGE BLOCH: A separation violation where he  
21 has one interpretation of the procedures and his super-  
22 visors have another.

23 MR. DOWNEY: Mr. Chairman, for my clarifi-  
24 cation, that is, what is the start-up person to do about  
25 this question, how they get it resolved?



12-17 1 JUDGE BLOCH: In particular, can he write up  
2 some kind of a deficiency as a start-up person. Is there  
3 paper available to him if he wants to write up the fact  
4 that he has one interpretation of the procedure and under  
5 that interpretation there is a deficiency but his supervisor  
6 thinks he's wrong?

7 THE WITNESS: The person in start-up, is  
8 this -- that you're talking about, is he a test person or  
9 is he a surveillance person?

10 JUDGE BLOCH: He's a start-up test engineer,  
11 craft.

12 THE WITNESS: I believe that one method that  
13 he has available for his use is either to write an NCR or  
14 to write what's referred to as a test deficiency report.

15 JUDGE BLOCH: And both of those are numbered  
16 documents?

17 THE WITNESS: Yes, they are both positively  
18 accounted for.

19 JUDGE BLOCH: Does he know where to request  
20 such a document? Would the craft know how to get such a  
21 document?

22 THE WITNESS: Well, now, Mr. Chairman, you  
23 said he was a start-up test engineer. Now you're talking  
24 about the craft.

25 JUDGE BLOCH: Okay. I thought STE was craft.

12-18

1 THE WITNESS: No, sir.

2 JUDGE BLOCH: Okay. Would an STE know where  
3 to get a nonconformance document?

4 THE WITNESS: Yes, sir, they work with them  
5 day in and day out.

6 JUDGE BLOCH: If they request it, they've got  
7 the right to get it?

8 THE WITNESS: They have access to them.

9 JUDGE BLOCH: Okay. If he's not craft and  
10 he's not quality control, what is he?

11 THE WITNESS: I think of craft as a person  
12 that assembles something, fabricates something, that  
13 installs something.

14 A test person, on the other hand, is  
15 verifying the operability of either a component or a  
16 system in accordance with established procedures to  
17 specific criteria.

18 JUDGE BLOCH: But in your opinion that can be  
19 outside the aegis of your quality control organization?

20 THE WITNESS: I don't understand that question.

21 JUDGE BLOCH: Well, you said it wasn't a  
22 craft function. If he's checking up on things -- under  
23 Appendix B, does the fact that he's checking up on things  
24 means that he should be in the quality control organization?

25 THE WITNESS: Are you talking about the test

12-19  
1 surveillance person or are you still talking about the  
2 start-up test engineer?

3 JUDGE BLOCH: The start-up test engineer,  
4 should he be in the quality control organization because  
5 he is checking on the quality of something?

6 THE WITNESS: No, sir. He is verifying the  
7 operability, by test, of an item. He is looking to see  
8 that it's properly wired, that it as a unit is working  
9 properly, and when placed together into a system that as  
10 a system, considering the interfaces, everything is working  
11 together as a system.

12 JUDGE JORDAN: This gentleman, then, this  
13 engineer in the start-up organization is not a part, in  
14 any way, of your organization, isn't that --

15 THE WITNESS: No, he is not, Dr. Jordan.

16 JUDGE BLOCH: Mr. Roisman, sorry for the  
17 long interruption. We wanted to clarify that.

18 MR. ROISMAN: That's quite all right,  
19 Mr. Chairman.

20 BY MR. ROISMAN:

21 Q Mr. Vega, I'd like to direct your attention  
22 to Vega Exhibit 6, which is attached to this deposition.

23 MR. DOWNEY: Mr. Roisman, could you identify  
24 that further, please, for my -- I don't have the exhibit  
25 with me, but I can recall it if I just know what it is.

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MR. ROISMAN: It's a memorandum to J. D. Hicks from Mark Welch, dealing with the transfer of certain --

MR. DOWNEY: That's fine. Thank you.

MR. ROISMAN: -- QC inspectors.

THE WITNESS: Mr. Chairman, is your earlier offer also available to me on breaks?

JUDGE BLOCH: Yes. Give-minute recess.

THE WITNESS: Thank you, sir.

(A short recess was taken.)

- - -

13-1

1 Q Mr. Vega, I believe I was directing your  
2 attention to Deposition Exhibit 6.

3 A Yes. I have it before me.

4 Q And I believe your testimony which  
5 appears on Page --

6 JUDGE BLOCH: I would like to state that  
7 Vega 6 -- is this the exhibit you're talking about?

8 MR. ROISMAN: Yes.

9 JUDGE BLOCH: Only the first page of our  
10 exhibit is legible, so if anything beyond the first  
11 page matters --

12 MR. ROISMAN: Yeah, I was going to try to  
13 get to that. Mine is also not legible.

14 The second page is totally illegible.

15 JUDGE BLOCH: I might be able to make some  
16 of the third page out.

17 MR. ROISMAN: The third page is close and  
18 the fourth page is okay.

19 JUDGE BLOCH: Yes. The fourth page is fine.

20 BY MR. ROISMAN:

21 Q Mr. Vega, this document, you testify on  
22 Page 721 -- you were asked the question:

23 "Did he submit to you a  
24 memorandum explaining the  
25 basis for selections."

x-13-2

1 "Yes."

2 "And is that the memorandum  
3 marked as Vega Exhibit 6?"  
4 and you say, "Yes."

5 I can't find any indication on there that  
6 it was sent to you. It looks like it was sent to --  
7 addressed to Mr. Hicks with a copy to Messrs. Tolson,  
8 Crane and Cormeans.

9 Had you at this time replaced Mr. Tolson?  
10 Is that how it came into your possession?

11 A No. That was dated March 15th. That was  
12 the day before I assumed that responsibility.

13 Mr. Hicks reported to Mr. Tolson. Mr.  
14 Hicks is Mr. Welch's supervisor.

15 Q I was just trying to clarify your  
16 testimony.

17 The question was, and did he submit to  
18 you a memorandum explaining the basis for his selections?

19 "Answer: Yes."

20 Is that statement correct?

21 A The memorandum that I am testifying to  
22 was in response, I believe, to a three-part memo.  
23 You will notice that the title of that March 15th  
24 letter reads: Attached TUGCO office memorandum.

25 Q Yes. Okay.

13-3

1           A.       I believe what triggered this document  
2 -- is Vega 7 the attachment?

3           Q.       No.

4           A.       Okay. I don't know what the TUGCO office  
5 memorandum dated March 15th of '84 is. I reported  
6 to the site on the 16th.

7                    Subsequent to the 16th I found out that  
8 the -- you see, this transfer was not effective until  
9 March the 19th, and I was briefed on the status of  
10 the QA organization. I took an organization chart,  
11 I visited with every supervisor wanting to know how  
12 many people they had, is this correct, what are these  
13 people assigned to doing.

14                   I really wanted to get a good understanding  
15 of who was working for who, doing what and it was in  
16 this context that the statement was made that these  
17 gentlemen were being transferred effective March 19th,  
18 1984.

19                   At that particular time, I had not seen  
20 this documentation. This memo was then produced by  
21 Mr. Welch's having been prepared for Mr. Tolson.

22                   That's how I got it -- received the thing.

23           Q.       When did you receive it?

24           A.       I received it, probably -- I received the  
25 physical letter probably two days after I was there,

1 allowing for mail time but all correspondence  
2 addressed to Tolson was being sent to me.

3 The secretaries were scratching out  
4 Tolson and putting Vega.

5 Q And as of when were they doing that?  
6 Starting when?

7 A On the 16th.

8 Now, this is obviously a copy of the one  
9 that was in file as opposed to the one that was sent  
10 to me. Tolson was copied but there was a copy that  
11 went to Crane, Cromeans and Hicks. So apparently,  
12 the one that I received was the one that was marked  
13 -- that had, you know, had Tolson scratched out and  
14 mine entered.

15 Q Okay. So then your testimony, just so  
16 we're clear on it, is you did receive the memorandum.  
17 You did receive it within a couple of days of the date  
18 that it was written.

19 A I believe so. Yes. My memory isn't  
20 quite clear on that. I believe it was within that  
21 time frame.

22 Q All right.

23 MR. ROISMAN: Just for the record, I would  
24 formally request that we get legible copies of these.  
25 The second and third pages of Vega 6. It's just not



13-5  
1 possible to read it.

2 MR. DOWNEY: We'll certainly endeavor to  
3 do that. It's a chart prepared by Mr. Welch; is that  
4 correct?

5 MR. ROISMAN: Yes. Well, I can't tell  
6 -- I don't know enough about it.

7 MR. DOWNEY: It may be we will have to  
8 resort to using only the original at this time because  
9 the document itself is not dark enough to copy well.  
10 In this case, I believe the xerox machines have failed  
11 us and we'll have to use the original.

12 MR. ROISMAN: Try to copy darker switch.

13 MR. DOWNEY: I think we tried that.

14 Although when it comes to office machines, it's not  
15 the thing I do best.

16 BY MR. ROISMAN:

17 Q Now, Mr. Vega, you indicate -- still  
18 looking at Page 721 -- that in answer to the question,  
19 "Do you know what criteria Mr. Welch applied?", you  
20 say, "Yes, I do."

21 How did you know that?

22 A Based on discussions with Mr. Mark Welch.  
23 When I found out that these gentlemen were being  
24 transferred, I recognized Mr. Whitehead, Mr.  
25 Barfield and I remember saying, "How did we select  
these people?"

1 At that time, Mr. Welch went through and  
2 he said, "Well, we have a --

3 Q I'm not asking you what were the  
4 criteria. I'm asking you how did you know what they  
5 were and is it your testimony Mr. Welch told you?

6 MR. DOWNEY: Excuse me. I think the witness  
7 was answering the question. Let him finish.

8 Had he been permitted to finish, he would  
9 have said he sat down and reviewed his document.

10 THE WITNESS: Mr. Welch was recounting to  
11 me what had been done and I said, "And where was  
12 this evaluation done?"

13 He said, "Well, I prepared something for  
14 Mr. Tolson."

15 I said, "Let me see it. I want to look  
16 at it." I looked at it.

17 He stated that he had gone on  
18 certifications and absenteeism.

19 I said, "Why are you using those as a  
20 basis?"

21 He said, "Because I want to be able to  
22 have the most qualified people.", and he said,  
23 "Since I'm sending some of the people over to Unit 2,  
24 my --

25 MR. ROISMAN: Mr. Chairman, this is not my

13-7

1 question. I just want to know how he knew it.

2 I don't want him to tell me again the hearsay he's  
3 already told me in the record.

4 JUDGE BLOCH: Okay. I think he was trying  
5 to be responsive but he went beyond the question.

6 THE WITNESS: That's how I knew. I asked  
7 the gentleman --

8 BY MR. ROISMAN:

9 Q And he told you?

10 A He told me.

11 Q And is the memorandum that he refers to  
12 in the first page of Vega 6, is it in its totality  
13 the next three pages of Vega 6?

14 Is that the TUGCO office memorandum  
15 dated March 15th, 1984?

16 A Yes.

17 JUDGE BLOCH: I'm sorry. I did not  
18 understand that answer.

19 What is the TUGCO office memorandum dated  
20 March 15th? The whole exhibit itself?

21 MR. ROISMAN: The last pages, 2, 3 and 4  
22 of Vega 6 is what he just testified it is.

23 JUDGE BLOCH: That is the attached TUGCO  
24 office memorandum?

25 Is that what you said, Mr. Vega?

1 THE WITNESS: No, Mr. Chairman. He asked  
2 me whether the memo and the three following pages  
3 were the total for Vega 6. I said, "Yes, it is."

4 JUDGE BLOCH: Okay.

5 He wants to know and I want to know whether  
6 the attached TUGCO office memorandum is one of those  
7 four pages or whether that is another document.

8 THE WITNESS: Mr. Chairman, I can't answer  
9 that.

10 JUDGE BLOCH: Why can't you answer that?  
11 Did you receive it?

12 THE WITNESS: Because you're asking me  
13 whether there is an attached TUGCO memorandum dated  
14 March 15th, 1984.

15 JUDGE BLOCH: When you received this --  
16 it says on the Subject: Attached TUGCO office  
17 memorandum dated March 15, 1984.

18 That suggest to me that there was an  
19 attachment, another attached memorandum. Do you  
20 recall receiving another attached memorandum?

21 THE WITNESS: I don't recall seeing another  
22 memorandum on this subject.

23 MR. ROISMAN: Mr Chairman, I'm just  
24 trying to pin down here and it doesn't seem that I'm  
25 having any great success -- I want all the documents

1 about which this witness is testifying on Page 721  
2 and 722.

3 It appears from the witness' testimony  
4 that Vega Exhibit 6 is an incomplete copy of the  
5 Mark Welch document and maybe the three attachments  
6 to it were never attached to the Mark Welch document,  
7 so that we've got a confused state here.

8 I'm just trying to find out --

9 JUDGE BLOCH: Well, let's ask Mr. Vega --  
10 were these three pages attached when you received it?

11 MR. DOWNEY: Well, first, do you recall  
12 if they were attached?

13 THE WITNESS: To the best of my  
14 recollection, Mr. Chairman, they were exactly as  
15 they are here.

16 JUDGE BLOCH:

17 Now, you have said, as I heard you, that  
18 you don't know of any other TUGCO office memorandum  
19 dated March 15th, 1984; is that correct?

20 THE WITNESS: On this subject.

21 JUDGE BLOCH: Yes, that was attached to  
22 this?

23 THE WITNESS: Not to my knowledge, Mr.  
24 Chairman. Frankly, I hadn't noticed that there was  
25 a reference to it. It's confusing, I must admit.

1 JUDGE BLOCH: Because the document  
2 references it, I think it's fair to ask that the  
3 Applicant search to see if they can find such a  
4 document.

5 MR. DOWNEY: Yes, Your Honor. We'll do  
6 that.

7 JUDGE GROSSMAN: Excuse me. Is it  
8 possible that these three pages were part of that  
9 TUGCO office memorandum and we only got part of it  
10 attached here?

11 THE WITNESS: Mr. Grossman, I believe  
12 that might be a possibility, but to the best of my  
13 recollection, when I saw this first letter, it had the  
14 three pages attached to it.

15 I don't recall seeing any other memo  
16 attached to it.

17 JUDGE GROSSMAN: Okay. The fact that the  
18 Subject: Attached TUGCO office memorandum has TUGCO  
19 Office Memorandum in bold face would suggest that  
20 that was a title appearing on it this memorandum and  
21 we don't have any title on these three attached pages.  
22 So I just want to point that out to you in your  
23 search.

24 JUDGE BLOCH: I guess one thing you do  
25

13-11

1 in the search is to talk to Mark Welch and see if  
2 he remembers.

3 THE WITNESS: Mr. Grossman, you will  
4 notice that the letter itself has TUGCO office  
5 memorandum as a heading.

6 JUDGE BLOCH: It could just be a  
7 confusion of terms in describing his own memorandum  
8 but I can't tell. We ought to ask him.

9 JUDGE GROSSMAN: That is well taken, Mr.  
10 Vega.

11 MR. ROISMAN: But for the record, if I  
12 understand correctly, the witness' statement as to  
13 what were the actual reasons for the transfer is  
14 hearsay. Which we object to.

15 The witness' identification of what were  
16 Mr. Welch's memoranda dealing with it, is objected  
17 to on the basis that the witness has already testified  
18 that he cannot adequately identify what is attached to  
19 Vega exhibit 6 for us to know whether that is Mr.  
20 Welch's statement.

21 I therefore do not feel that at this point  
22 there is in the record a legitimate piece of evidence  
23 that identifies what the real reasons were in the  
24 mind of the company or the person primarily responsible  
25 for the transfer.

1           That is not to say that the office  
2 memorandum that is referred to by Mr. Welch in Vega  
3 6 is produced or that we get some clarification as  
4 what these three pages are that are attached to the  
5 document, the document may not be satisfactory if  
6 Mr. Welch was the author and I'm not objecting on  
7 authenticity but right now, I don't think we have a  
8 basis for authenticity.

9           MR. DOWNEY: In fact, Your Honor, this  
10 memorandum was requested by the Intervenor and it  
11 was put in through Mr. Vega's testimony, in part at  
12 their request. To get the document in the record.

13           JUDGE GROSSMAN: I think at this point  
14 the point is that we don't have any competent  
15 evidence as to what the reasons were and, to me,  
16 that seems as though that point is well taken but I'm  
17 not ruling for the Chair on that.

18           THE WITNESS: Mr. Grossman, if I may add  
19 -- when I came to --

20           JUDGE BLOCH: One thing I want to clarify.  
21 Are you saying there was a stipulation?

22           MR. DOWNEY: No. There was a request for  
23 this document at Mr. Welch's deposition. He  
24 subsequently produced it. I believe that, in fact,  
25 to the extent Mr. Roisman is objecting to Mr. Vega's



1 testimony about Mr. Welch's reasons, in part that  
2 is hearsay. I think the document ought to be  
3 authenticated and in a legible form and that would  
4 establish the reasons and I would be happy to ask  
5 Mr. Vega some questions which I believe will establish  
6 he had independent knowledge of the reasons for the  
7 transfer, based on his review of these documents.

8 Apart from Mr. Welch's stating this.

9 JUDGE BLOCH: I think until we know this  
10 is the whole document, I'm not sure Mr. Vega is sure  
11 it was and his review of this document may not have  
12 been a review of all the reasons.

13 It may or may not have been. I think the  
14 thing to do is to call Mr. Welch for a brief  
15 appearance.

16 MR. DOWNEY: If we can't reach this by  
17 stipulation, Your Honor, I suppose that's possible.

18 MR. ROISMAN: I'm open to doing it by  
19 stipulation but I just don't -- we did ask for the  
20 document. I just don't think anybody is able to  
21 testify that this is the document. That's the problem.

22 JUDGE BLOCH: Okay. Let's straighten  
23 it out between Counsel. If you can't, we'll get back  
24 into it.

25 Mr. Vega, were you answering a question?

1 THE WITNESS: Well, Mr. Chairman, I was  
2 saying that I inquired into the reasons before the  
3 transfer became effective. I allowed it to happen  
4 on the basis of these two pages that are attached and  
5 if I could not have been satisfied that the reasons  
6 were valid, I would have prohibited the transfer.

7 And, as Mr. Roisman said, he didn't know  
8 who was responsible for the transfer. I was  
9 responsible for the transfer. I am responsible for  
10 all QA activities on site.

11 JUDGE BLOCH: It seems to be a direct legal  
12 point, if he acted is the reasons he had the important  
13 thing?

14 MR. ROISMAN: Mr. Chairman, with this  
15 caveat, and that is that there is testimony in the  
16 record from Mr. Welch as to the reasons for the  
17 transfers --

18 JUDGE BLOCH: Okay, but Mr. Welch was  
19 not the final authority --

20 MR. ROISMAN: No, but at least as to why  
21 Mr. Welch put these six names down on here. He has  
22 testified about that.

23 JUDGE BLOCH: Okay. So that's also --  
24 then I guess Mr. Vega's testimony about what he  
25 understood and why he approved it, is evidence, too.

13-15

1 MR. ROISMAN: At this point, the record  
2 does not reflect what his criteria were. Rather,  
3 it reflects only what he believes Mr. Welch's  
4 criteria were.

5 JUDGE BLOCH: But that's because you didn't  
6 let him tell you what he learned from Mr. Welch, so  
7 that he could explain why he approved of the transfer.

8 MR. ROISMAN: Well, with all due respect,  
9 I was just trying to keep the hearsay out.

10 JUDGE BLOCH: I know but it now appears  
11 not to be hearsay.

12 MR. ROISMAN: I don't understand.  
13 As I understand it, the Applicant wanted us to have  
14 that piece of information. Why did they ask the  
15 witness to testify to hearsay, instead of just asking  
16 the questions which have now been elicited. I mean,  
17 this shouldn't be some kind of game here but I --

18 I mean, I'm not trying to get this  
19 information from the witness. I'm trying to keep out  
20 hearsay.

21 JUDGE BLOCH: Well, to the extent that he  
22 acted on it and it was the basis for his decision,  
23 it is not hearsay. Is that right?

24 MR. ROISMAN: That is right.

25 JUDGE BLOCH: Is there any reason -- is the

1 record now short on Mr. Vega's reasons because we  
2 sustained a hearsay objection improperly before?

3 MR. ROISMAN: I don't think he explained  
4 it. The question was, "Do you know what -- in looking  
5 at Page 721, do you know what criteria Mr. Welch  
6 applied?"

7 "yes."

8 "What did he apply?"

9 "Did he commit it to paper?"

10 "Yes."

11 "Is there a chart setting out  
12 the attendance?"

13 "Yes."

14 JUDGE BLOCH: That should be struck. That is  
15 not relevant.

16 MR. ROISMAN: That is right.

17 And there is no testimony offered in Mr.  
18 Vega's deposition to indicate that he is the one  
19 who had to make the transfer and he had some reasons  
20 and that those reasons either were exactly the same  
21 as Mr. Welch's or some other reasons.

22 JUDGE BLOCH: Okay. Now, you have him on  
23 cross, or do you want to pass that?

24 MR. ROISMAN: I don't want to ask him.

25 MR. DOWNEY: We might tidy that up, Your

1 Honor.

2 BY MR. ROISMAN:

3 Q Mr. Vega, still sticking, if you will,  
4 with the safeguard task force people, I believe that  
5 you met with the safeguard task force T-shirt people  
6 on March the 9th of 1984 and that's while you were  
7 still in your QC position in Dallas; is that correct?

8 A That is correct.

9 Q Did you have that meeting in your role  
10 as QC in Dallas or in your expected role as QA  
11 manager at the site?

12 A No. It was as a role out of Dallas.

13 Q Was that meeting at your request or at  
14 the request of some other person or persons?

15 A It was at the request of the inspectors  
16 who, I believe, asked to talk to, I believe, Mark  
17 Welch and I believe Mr. Tolson.

18 Mr. Tolson asked me to represent him.  
19 Several things I think were occurring at the same  
20 time, concurrent with Tolson's request. I believe  
21 Mr. Chapman, Mr. Clements, wanted to, you know, some  
22 someone to look into what was going on and talk to  
23 people, find out.

24 So it was for more than one reason that I  
25 looked into it but certainly it was not acting in any

1 way related to my present position.

2 Q How, then were you able to be Mr. Tolson's  
3 representative, which I think you just testified to,  
4 at the meeting?

5 A Tolson's words were something to the  
6 effect they would like to talk to me or somebody and  
7 I would rather it be you. He said, "You haven't been  
8 involved in it. You know, you probably would handle  
9 it more objectively.", or something to that effect.

10 Q Did he tell you why he thought it was  
11 preferable for you to handle it?

12 A No, other than any time that there is an  
13 interaction of this type, I think it's -- I believe,  
14 good, to have a third party look into it.

15 Q What were his words to you, as best you  
16 can remember them?

17 A He said, "I have met with them and I  
18 think it would be better if you talked with them."  
19 Said, you know, "You haven't been involved in this  
20 thing. You could get on it cold." or something to  
21 that effect, you know.

22 Q Did you ask him for any further  
23 explanation?

24 A No, I did not.

25 JUDGE BLOCH: Did he mention anything

1 specific that had happened before you left the  
2 meeting?

3 THE WITNESS: No, Mr. Chairman.

4 JUDGE BLOCH: Did he mention a tape  
5 recorder?

6 THE WITNESS: No, sir.

7 JUDGE BLOCH: We are talking about the  
8 meeting with the T-shirt inspectors; aren't we?

9 MR. DOWNEY: Your Honor, there were two  
10 meetings, I think, that you are confusing.

11 The meeting in which they met with Mr.  
12 Tolson the day of the event and Mr. Vega is now being  
13 asked questions about a meeting that took place two  
14 or three or some number of days later.

15 JUDGE BLOCH: Thank you for the  
16 clarification.

17 MR. ROISMAN: It was the next day.

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BY MR. ROISMAN:

1  
2 Q Did Mr. Tolson at any time indicate to  
3 you that he wanted certain QC inspectors who were in  
4 the safeguards task force transferred as a result of  
5 allegations of destructive examination taking place in  
6 the safeguards building?

7 A No.

8 Q Did anyone ever communicate such informa-  
9 tion to you?

10 A No.

11 Q Are you aware that anyone wanted any  
12 inspectors transferred because of allegations relating  
13 to destructive examinations in the safeguards building?

14 A No, I'm not.

15 JUDGE BLOCH: Mr. Vega, are you aware of  
16 any allegations of destructive examination in the  
17 safeguards building?

18 THE WITNESS: No, Mr. Chairman, I first  
19 heard about that particular allegation very, very  
20 recently.

21 JUDGE BLOCH: Are you aware of any  
22 deficiency paper alleging that there are such  
23 deficiencies?

24 THE WITNESS: Destructive examination?  
25 No, Mr. Chairman.



14-2

1 JUDGE BLOCH: Was there ever an investiga-  
2 tion of destructive examination that you know of?

3 THE WITNESS: I have heard mention, but  
4 I'm not aware of any.

5 BY MR. ROISMAN:

6 Q Mr. Vega, let's go back, if you would, to  
7 page 718. Does your testimony -- beginning at --  
8 actually back on 717, at line 17, and going on through  
9 page 718 at line 21 -- does that recount the total  
10 matters that transpired in your meeting with the  
11 safeguards inspectors -- the so-called T-shirt  
12 people on the 9th of March?

13 A Starting on line 17, 717 and over to line  
14 21 of 718?

15 Q Yes.

16 A Yes. It does appear they're quite upset  
17 at the fellow inspector that they felt had called the  
18 media. They were quite upset at him.

19 All of the inspectors stated that they felt  
20 that he had used them, and they said something to the  
21 effect, "Frankly, we thought about giving him a blanket  
22 party."

23 I said, "What's that?"

24 He said, "Well, you know, he used us."

25 And I said, "What do you mean a blanket

1 party?"

2 He said, "You've never heard of a blanket  
3 party," and they explained to me what a blanket party  
4 was.

5 I said, "My God, please don't do anything."

6 That is the only thing that I don't believe  
7 is reflected here.

8 Q At the time of the meeting with the  
9 individuals who wore the T-shirts, did you also seek to  
10 meet with the other QC inspectors dealing with  
11 electrical matters in the safeguards building?

12 A On that same day?

13 Q On that same day?

14 A No.

15 Q At any time subsequent to that in  
16 connection with the T-shirt incident.

17 A Not immediately after that. When I came  
18 on board on March 16, I talked to Mr. Grier about  
19 this. He informed me that he had already talked to  
20 the other people in safeguards.

21 He told me that there was a report forth-  
22 coming on the interviews with all of the inspectors in  
23 safeguards, and so rather than me talking to them  
24 again, I waited for Mr. Grier to file his report on  
25 those discussions.

14-4

1 Q At page 36,719 and 720 you testify about  
2 a stop work order that was issued during March with  
3 regard to the safeguards building of Unit 1. Did you  
4 see a copy of that stop work order?

5 A Yes, I believe I did.

6 Q Do you remember who issued it?

7 A Mr. Merritt.

8 Q Do you remember -- did it explain why a  
9 stop work order was being issued?

10 A I believe there was a mention made to a  
11 confusion on the post-construction inspection procedure.

12 MR. ROISMAN: I think we'd like, Mr.  
13 Downey, to have a copy of the stop work order.

14 MR. DOWNEY: I think that can be arranged.

15 MR. ROISMAN: Thank you.

16 MR. DOWNEY: We don't object, Mr.  
17 Roisman.

18 JUDGE BLOCH: There would be a copy for  
19 the record, I would assume.

20 MR. DOWNEY: Yes.

21 I would hope that some of these documents  
22 we could reach a stipulation about their admissibility  
23 and their purpose.

24 MR. ROISMAN: Yes. We've done that pretty  
25 much throughout.

14-5

1 BY MR. ROISMAN:

2 Q All right. Looking at page 36,684 --  
3 I'm sorry -- -667 --

4 MR. ROISMAN: Mr. Chairman, my notes here  
5 indicate that these fall within pages that we had  
6 previously identified as impermissible further direct  
7 examination of the witness.

8 Am I correct that the Board has not  
9 granted that motion, that we should consider that this  
10 material is in evidence?

11 JUDGE BLOCH: We denied the motion,  
12 yes.

13 MR. ROISMAN: All right.

14 BY MR. ROISMAN:

15 Q Mr. Vega, I believe that the testimony that  
16 you're discussing there relates to meetings that you  
17 had with QA/QC personnel shortly after you came to the  
18 site as the QA manager.

19 Now, I just want to be clear that that  
20 meeting -- or those meetings are different than the  
21 meetings that Mr. Spence testified about this morning,  
22 that you also attended and that he attended?

23 This is two sets of meetings?

24 A No. These are the same group of meetings.  
25 I was meeting with every QC inspection group on site

14-6

1 and had an organization site where I was keeping  
2 track of who I had talked to at what time.

3 I remember discussing this with my manage-  
4 ment. It was then that I believe Mr. Spence indicated  
5 that he would like to have an open season on the TUGCO  
6 president.

7 We talked about having separate meetings.  
8 We talked about the difficulty of getting all of the  
9 inspectors together at one time because we do have the  
10 job ongoing and how convenient it would be to both  
11 me meet with the inspectors for my purposes and a thing  
12 that I wanted to do, as well as what Mr. Spence wanted  
13 to do.

14 So I advised Mr. Spence of the schedule,  
15 as I was setting up these meetings; and Mr. Spence then  
16 attended these meetings.

17 Q All right. I just want to -- Were you  
18 here this morning when Mr. Spence testified to this  
19 matter?

20 A Yes.

21 Q Do you remember his testimony was that he  
22 met with about 75 or 80 inspectors, and that he thought  
23 that he had met with the inspectors who were assigned  
24 to the building task forces of Unit 1?

25 A Yes.

14-7

1 Q Is that inconsistent with what you are  
2 saying, or is there an explanation that you can give  
3 me on page 36,666 of your testimony where Mr. Downey  
4 says, "Mr. Vega, you testified that you met with all  
5 site QA/QC personnel; is that correct?"

6 "Answer: That is correct."

7 A Yes, there were some meetings that Mr.  
8 Spence could not make, as he testified, because of  
9 logistics.

10 So I did meet with all of the inspectors.

11 Q Was it your intent that he should meet with  
12 all of the inspectors if his schedule had permitted  
13 it?

14 A Mr. Roisman, that was Mr. Spence's  
15 initiative. I don't question his intent as far as who  
16 he wants to meet with. He stated that he wanted to  
17 meet with the inspectors as his schedule allowed -- and  
18 to the full extent that his schedule allowed.

19 I advised him of the schedules that I had  
20 set up, and he made the ones that he could make.

21 Q Is it your recollection that the only ones  
22 that he met with were the Unit 1 building task force QC  
23 inspectors?

24 A He met with the safeguard building  
25 inspectors. He met with the control building inspectors.

14-8

1 He met with the reactor building inspectors.

2 That would constitute probably all of Unit  
3 1 day shift inspectors.

4 Q Okay. Is it just coincidence that he was  
5 not able to meet with any of the Unit 2 inspectors?

6 A I don't know. There was certainly no  
7 intent to exclude that. There was no intent to exclude  
8 those inspectors.

9 Q But it is true that by this time the six  
10 inspectors who Mr. Welch and you had decided should be  
11 transferred to Unit 2 had, in fact, been transferred;  
12 and, thus, they were not in any of the meetings with Mr.  
13 Spence; is that correct?

14 A I believe that is correct.

15 JUDGE BLOCH: All six weren't actually  
16 working in Unit 2, were they? Some of them had left  
17 by that time?

18 MR. DOWNEY: Your Honor, just a point of  
19 clarification: Those six transferred were both people  
20 who did and did not wear the T-shirts. I think the  
21 record is clear on that.

22 THE WITNESS: Yes, that's correct. The T-  
23 shirt incident had nothing to do with the transfer.

24 JUDGE BLOCH: Were there any T-shirt people  
25 left in Unit 1?

1 THE WITNESS: Oh, yes, sir. And there were  
2 some people that had nothing to do with the T-shirt  
3 incident that were transferred.

4 JUDGE BLOCH: Did any of the T-shirt people  
5 in Unit 1 meet with Mr. Spence?

6 THE WITNESS: Yes, sir.

7 MR. ROISMAN: By "T-shirt people," I  
8 assume the Chairman means the T-shirt people who were  
9 involved in the T-shirt incident.

10 JUDGE BLOCH: The people who actually  
11 wore the T-shirts.

12 THE WITNESS: It's self-explanatory, yes.

13 MR. ROISMAN: I'm sorry?

14 THE WITNESS: Yes. He defined it as the  
15 people who wore the T-shirts.

16 MR. ROISMAN: Right. The only confusion  
17 in the record is I think the record shows that there  
18 were maybe 22 people who wore the T-shirts on Monday  
19 of the week of the T-shirt incident.

20 You're talking about the ones who wore them  
21 on the Thursday --

22 THE WITNESS: That's correct.

23 BY MR. ROISMAN:

24 Q -- that forms the basis for the so-called  
25 T-shirt incident?



14-10

1 A That's correct.

2 Q Let me direct you to -689 of your testimony.  
3 You are discussing QAI file 0007 on that page. I  
4 believe at line 8 you answered a question -- The  
5 question is asked whether the technical allegations  
6 made therein have been addressed; and you say yes.

7 And then later on on the page, at 22  
8 you're asked, "The harassment allegation, has that  
9 been closed out?"

10 "No, that particular item has not been  
11 closed out. The investigation has not been done."

12 And then going on to the next page --  
13 I'm sorry -- "The investigation has been done, but I  
14 have not seen the final report on that issue."

15 Do you see that?

16 A Yes, I do.

17 Q Do you know how it happened that the  
18 technical matter was resolved sooner than the  
19 harassment/intimidation matter?

20 A Let me refresh my memory. What QAI was  
21 this?

22 Q 0007. Your testimony on that begins on  
23 the page -688 at line 19.

24 Apparently you do not know who the person  
25 is.

14-11

1 A Okay. I remember that.

2 The reason why those were closed out at  
3 different times is that technical allegations were  
4 investigated by Mr. Boyce Grier.

5 The other allegations were investigated by  
6 Mr. Dave Andrews out of corporate security.

7 Q Is it your understanding that Mr. Andrews  
8 is less prompt in responding to these, or is there some  
9 other explanation for why they were not concluded at  
10 the same time?

11 MR. DOWNEY: I object to the form of that  
12 question. I don't think the question -- There's  
13 an assumption in the question that he's less prompt.  
14 I think the more proper question is why is the  
15 difference in the time of closing them out.

16 JUDGE BLOCH: Is the corporate security  
17 officer less prompt than Mr. Grier?

18 THE WITNESS: No. I believe that if you  
19 investigate any two investigations -- or any two  
20 allegations, I wouldn't expect those two to be  
21 completed and reports written on the same day,  
22 especially when they're carried out by different  
23 people -- different organizations.

24 JUDGE BLOCH: There is a foundation  
25 question: Do you have any basis for knowing whether or

14-12

1 not Mr. Andrews, the corporate security officer, is  
2 slower than Mr. Grier?

3 THE WITNESS: I don't have any basis for  
4 saying that.

5 JUDGE BLOCH: You don't ordinarily see the  
6 corporate security officer's reports, do you?

7 THE WITNESS: Yes, I do.

8 JUDGE BLOCH: You do?

9 THE WITNESS: Yes.

10 It may be that Mr. Grier conducts them and  
11 writes the reports usually within three or four weeks.  
12 Mr. Andrews might take a little longer. He, I'm sure,  
13 has got other investigations going.

14 I guess it would depend on workload. I have  
15 no firsthand knowledge as to why that is.

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1 JUDGE BLOCH: Go ahead.

2 BY MR. ROISMAN:

3 Q Mr. Vega, are you aware that the initial  
4 interview that triggered this event was conducted on  
5 March 22, 1984? That is, I'm talking about 0007, the  
6 initial interview was done -- I'm sorry, the original  
7 complaint was made to Mr. Grier on March 22, 1984.

8 A I have no reason for doubting.

9 Q Well, here let me show you. I'm going to  
10 show the witness what has been previously marked as  
11 CASE Harassment/Intimidation, CHI, Exhibit 10, which  
12 is the portions of 0007 which we had in our possession.

13 I'm showing the witness the first page  
14 thereof, and then directing him to look at the second --  
15 the third page, which is an office memorandum dated  
16 April 10, 1984, to him from Mr. Grier that begins with  
17 the statement, "On March 22, 1984, I was visited by an  
18 employee."

19 A Okay.

20 Q Does that help to refresh your memory as  
21 to when Mr. Grier states that the original complaint was  
22 made by the employee?

23 A Yes. I agree that the original complaint --  
24 or at least the complaint that Mr. Grier is referring to  
25 in this memo is related to March 22, 1984.

14-14

1 Q All right. Would you look at the bottom  
2 of that page. Does that refresh your memory -- if you  
3 needed it refreshed -- about whether corporate security  
4 got involved; and if so, when and by whom?

5 A Yes. I believe to a certain extent there  
6 was a sequential action here. Mr. Grier looked at the  
7 entire picture. He felt that he could do part of that  
8 investigation on site.

9 He concluded that he needed Mr. Andrews'  
10 resources to do the other portion, and then he  
11 suggested that that be the case.

12 So Mr. Andrews started his investigation  
13 perhaps quite a bit later than Mr. Grier.

14 Q By "quite a bit later," what is your  
15 understanding, given that this memo was addressed to  
16 you on April 10 --

17 A Uh-huh.

18 Q Do you have any understanding, or does this  
19 document give you any clue or refresh your recollection  
20 as to when the matter was referred to corporate  
21 security?

22 A No. But I'm sure it's documented.

23 Here's the request for assistance to  
24 investigate allegations. "Boyce Grier can supply the  
25 name of the individual, address and telephone number."

1 "Anonymous. Confidentiality requested.  
2 4-11-84," from myself to Mr. Andrews.

3 JUDGE BLOCH: Would you identify what the  
4 witness is pointing to for the record?

5 MR. ROISMAN: Yes.

6 For the record the witness is pointing to  
7 what is the second page of CHI Exhibit 10, which is a  
8 memorandum to Distribution from A. Vega dated 4-11-84.  
9 He has read essentially all the relevant information  
10 that is on that.

11 THE WITNESS: Yes.

12 BY MR. ROISMAN:

13 Q I'd like you to look at what is the first  
14 page of CHI Exhibit 10. It is a memorandum from you  
15 to Mr. Merritt dated April 27, '84.

16 Does this memorandum represent the resolution  
17 of the technical matter that had been raised by the  
18 employee?

19 A The letter to Mr. Merritt is an action  
20 resulting from Item 3 only.

21 Q Identify the document -- of Item 3.

22 A Okay. Of the April 10, 1984 letter.

23 Q To you from Mr. Grier?

24 A That is correct.

25 In turn I have taken that item and have

1 transmitted it to Mr. Merritt for his action.

2 Q Is it your understanding from looking at  
3 this documentation that the technical matters were  
4 resolved as of April 22, '84 -- at least by that date  
5 that all of the technical matters that had been  
6 raised had been resolved by that date?

7 A Yes, that is my understanding.

8 JUDGE BLOCH: I thought I saw a passage  
9 that suggested it wasn't. Which is the document --

10 THE WITNESS: With the exception of the  
11 items that were transmitted.

12 JUDGE BLOCH: There were some problems  
13 transmitted to engineering for resolution?

14 THE WITNESS: Yes. And I guess when I said  
15 resolution, that's what I meant. I meant there was  
16 action started on those items.

17 JUDGE BLOCH: But it wasn't fully closed  
18 out, though?

19 THE WITNESS: No. We still had the second  
20 part of the allegation. We still had the recommenda-  
21 tions to be implemented.

22 BY MR. ROISMAN:

23 Q And do you know, has the harassment/  
24 intimidation been closed out yet?

25 A I believe that it has. I believe that that

14-17

1 was closed out -- I guess fairly recently. It might be  
2 within the last two weeks.

3 Q Do you have any concern over the length of  
4 time that transpired between when corporate security  
5 received your referral of the harassment/intimidation  
6 matter and when the matter was finally closed out? Is  
7 that a matter of any concern to you at all?

8 A My main objective is to make sure, of  
9 course, that the investigation is done in a thorough  
10 manner.

11 I believe that that is a much more  
12 important factor than to get it back within a certain  
13 period of time.

14 JUDGE BLOCH: Before you continue, if  
15 anyone is finding that the lighting is distracting --  
16 including the witness -- we would ask that the lighting  
17 be discontinued from the TV cameras.

18 If there's no objection, they will be  
19 allowed to continue.

20 MR. ROISMAN: I didn't know it was on.

21 BY MR. ROISMAN:

22 Q Mr. Vega, do you know if the resolution of  
23 this matter included -- the harassment/intimidation  
24 matter now -- included advising the person who made the  
25 initial complaint of its resolution?



14-18

1 A I believe it does, but that would be  
2 handled out of Dallas in this particular instance.

3 Q You mean because of the request for  
4 anonymity?

5 A Yes. It is our procedure that that be  
6 safeguarded, and I would believe that Mr. Andrews  
7 would take the necessary measures to provide the feed-  
8 back consistent with a request for confidentiality.

9 MR. ROISMAN: Your Honor, to clarify the  
10 record, this is one of the files that we agreed to  
11 supplement right after the luncheon recess. It's  
12 quite thick; the secretary is copying it now.

13 BY MR. ROISMAN:

14 Q Mr. Vega, looking at page 36,690 of your  
15 testimony, you begin to discuss QA AI File 00012.

16 A Yes.

17 Q And on page 36,691 you indicate that in  
18 answer to the question down at line 15, "In your judgment  
19 is this a serious problem that was raised by Mr.  
20 Winkle?"

21 "Answer: I don't believe that there is a  
22 serious problem involved here. If corrective action  
23 had not been taken, it is the kind of situation that  
24 could conceivably get out of hand."

25 Do you see that testimony?

1 It's around lines 17 through 20.

2 A. Yes.

3 Q. Okay. Would you explain in some more detail,  
4 what did you mean by that?

5 A. I believe here is a situation where you  
6 have an inspector making a decision on interpreting a  
7 procedure. I believe the discussion underlying this  
8 particular incident was whether or not a separate  
9 inspection was required on the work activities that were  
10 being done.

11 The craft person in this particular case  
12 was citing to the inspector what he believed the  
13 requirements were from a QA program standpoint.

14 There was some confusion. Part of the  
15 corrective action to this thing, we had to go back and  
16 clarify the procedure so that that would not occur  
17 again.

18 But the important thing is that we again  
19 make sure that our people understand that they don't have  
20 the burden to stand there and convince anybody that  
21 they are right.

22 If they feel that -- hey, it's getting to  
23 a point where additional discussion is not going to  
24 convince anybody, walk away from it. Just walk away  
25 from it. You don't have to get involved in any

14-20

1 discussions. Bring it to your supervisor's attention,  
2 of course. File your NCR; file your IR and walk away  
3 from it.

4 That's only part of the action. We then  
5 have to go to the craft and say, "Hey, this is not  
6 acceptable. You also have a procedure to follow. If  
7 you believe that the inspector is calling for an  
8 inspection that is not required, go to your supervision  
9 who will go to QA/QC management supervision and come  
10 to an agreement -- perhaps with quality engineering  
11 involvement, if necessary, or with engineering involve-  
12 ment, if necessary -- and make a determination as to  
13 what the procedure really requires."

14 That was really what the discussion was  
15 about.

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1 Q How would the situation get out of hand,  
2 or you said could conceivably get out of hand if the  
3 corrective action had not been taken.

4 What did you mean by "could conceivably  
5 get out of hand"?

6 A If we did not have a procedure in place  
7 by which we could resolve differences of opinion, if we  
8 did not have an inspector with a clear understanding  
9 that he doesn't have to stand there and defend what  
10 he's doing. He can walk away from it.

11 If we don't have a craft person that  
12 understands that the correct way to resolve a  
13 difference of opinion is to go to his supervision and  
14 not to sit there and discuss it with the inspector,  
15 it could get out of hand.

16 Q What do you mean "out of hand"? What do  
17 you have in mind would happen?

18 A Well, the situation could deteriorate.

19 Q I'm sorry. I'm just not doing real  
20 well with the elliptical. Could you just tell me  
21 specifically what do you think might happen?

22 A It could lead to a more heated discussion.  
23 It could lead to a non-productive discussion.

24 Q Why would that be serious in your mind,  
25 if that were to happen?

5-2 1 A Well, it would, amongst other things, be  
2 a detriment to a good working relationship, and I  
3 believe that's extremely important, and that would be  
4 serious.

5 JUDGE BLOCH: Does that mean someone might  
6 be reluctant to report a deficiency in the future?

7 THE WITNESS: No, I don't believe so,  
8 Mr. Chairman, because one of the things that we  
9 emphasize to our people is that they have that  
10 responsibility, and they have that authority and they  
11 have management's support to do that.

12 I see it pretty much as a policeman. If  
13 you sit there and argue with a policeman, if he  
14 wasn't going to give you a ticket, he might just give  
15 you one.

16 That might not be productive.

17 What I want is I want to make sure that my  
18 people understand that they have all the authority and  
19 all the backing to implement that program.

20 I don't believe that an adversary  
21 relationship contributes in any way to the implementation  
22 of the quality assurance program.

23 I don't want an adversary relationship  
24 unless that's a necessity to demonstrate our  
25 independence and our authority; but if I can get away

15-3

1 from it, I would like that to be the case.

2 BY MR. ROISMAN:

3 Q In your judgment, just again dealing here  
4 specifically with Mr. Winkle and, I believe, the craft  
5 person was Wayland Daniels, in that particular  
6 instance, did you think that the event had stopped  
7 before it had gotten to what you call the deteriorated  
8 stage?

9 A Oh, yes.

10 Q And was your concern that if you did not  
11 take the corrective steps that are documented in the  
12 Report 0012, that the next time these two had a  
13 confrontation that it would be more likely to get  
14 out of hand, or deteriorate, in your words?

15 A You are asking for speculation on my  
16 part.

17 Q No, I'm sorry. I'm only asking to try  
18 and understand your words, "It is the kind of situation  
19 that could conceivably get out of hand if the  
20 corrective action had not been taken."

21 I'm trying to understand that phrase in  
22 the context of the very event that you were discussing.

23 A The context that I was using that phrase  
24 in was that I believe that the corrective action  
25 would preclude any adverse situation from developing.

1                   What I am saying is that it is my  
2 conclusion that the action that was taken is  
3 sufficient to preclude a problem.

4           Q        I'm trying to understand. Is the problem  
5 that you were trying to preclude the problem that  
6       Misters Daniel and Winkle would once again meet and  
7       have a further confrontation either over that or some  
8       other technical matter. Is that the further problem?

9           A        That -- Certainly those two people were  
10 in mind, but the solutions that we are talking about  
11 are generic and across the board.

12                   They include more than those two people,  
13 obviously.

14           Q        So that if the corrective action had not  
15 been taken, this statement, "It is the kind of  
16 situation that could conceivably get out of hand,"  
17 is also intended to indicate that with regard to  
18 other inspectors and other craft people the wrong  
19 message would be sent about how they should deal with  
20 each other?

21           A        The wrong message would be sent --

22           Q        Yes.

23           A        -- as to how they would deal with each  
24 other?

25           Q        That's right. If they saw that

1 Mr. Daniels and Mr. Winkle got into a dispute and the  
2 dispute reached the state that Mr. Daniels and  
3 Mr. Winkle reached and no corrective action was  
4 taken, was it your concern that if that were to have  
5 occurred instead of the corrective action being taken,  
6 that other craft and other QC would get the wrong  
7 message about how craft and QC are supposed to deal  
8 with each other?

9 A Well, in retrospect perhaps -- I'm not  
10 really taking credit for the training that has been  
11 given to these people.

12 In other words, it didn't go to a bad  
13 situation. The inspector knew that he should walk  
14 away from it and did so.

15 What I am talking about here are  
16 corrective actions not only in the future, but  
17 corrective actions that are in place.

18 We did not tell the inspectors, "Walk  
19 away from it," only after this incident. This is  
20 something that has been told to inspectors starting  
21 with their basic training.

22 We didn't tell the craft, "This is not  
23 a proper interface." That has been told to them as  
24 part of their basic indoctrination when they come on  
25 site.



15-6

1 This statement doesn't reflect that and  
2 perhaps it should.

3 Q Let's go back and start at the beginning  
4 of the event again, at -- I'm talking about the 0012.

5 A Okay.

6 Q Mr. Winkle and Mr. Daniels had a  
7 discussion.

8 A That's correct.

9 Q And Mr. Winkle indicated that he felt he  
10 was being harassed by craft; is that correct?

11 MR. DOWNEY: I object to that, Your Honor.  
12 His statement of what he thought is in the file in  
13 his own words. I'm not sure that's a correct  
14 characterization.

15 MR. ROISMAN: Well, I'm looking at the  
16 interview with Mr. Randall by Mr. Greer, which is the  
17 CASE Exhibit, CHI Exhibit 12, first, second, third,  
18 fourth, fifth, sixth, seven, eighth, ninth page.

19 It says, "Randall stated that about an  
20 hour later Winkle came to him quite upset. Winkle  
21 said that he had been harassed by craft during  
22 inspection, that he wanted to file a complaint."

23 Now, I'm asking the witness based upon  
24 that statement.

25 MR. DOWNEY: Your Honor, I would say that

1 there's a better statement of Mr. Winkle's position  
2 in the file and that's his own statement, rather  
3 than Randall's characterization of what he told him  
4 at some other time.

5 I think that reference to Mr. Winkle's  
6 statement rather than Mr. Randall's when attributing  
7 Mr. Winkle's thoughts would be more appropriate.

8 This is all hearsay, of course. The  
9 question is, what did Mr. Winkle report. That's  
10 the purpose, the relevance of this thing; and  
11 Mr. Winkle's interview, his own words, I think, would  
12 be the most appropriate source of that information.

13 JUDGE GROSSMAN: What's your objection,  
14 Mr. Downey?

15 MR. DOWNEY: Well, my objection is that  
16 he has asked the witness the question that assumes  
17 that Mr. Winkle complained of harassment and  
18 intimidation based on the words used by Mr. Randall in  
19 an interview with Mr. Greer, rather than referring the  
20 witness directly to Mr. Winkle's statement about the  
21 event.

22 MR. FOISMAN: All right. Mr. Winkle's  
23 statement, which appears on the preceding page in the  
24 last paragraph says that in the interview with  
25 John Winkle by Mr. Greer, "Winkle stated he was not

1 threatened in any way with physical harm, but that  
2 he felt that Daniels swearing at him was harassment,  
3 and he decided to file a complaint."

4 I do not understand what Mr. Downey is  
5 doing but maybe giving the witness breathing room.

6 JUDGE GROSSMAN: I understood you were  
7 objecting it had already been in evidence; is that  
8 correct? Or are you objecting to the contents of  
9 what Mr. Roisman is saying?

10 MR. DOWNEY: Yes. The content of the  
11 question that was based not on Mr. Winkle's words,  
12 but Mr. Randall's, and attributing them to Mr. Winkle.

13 JUDGE BLOCH: But now we find that  
14 Mr. Winkle's words were like Mr. Randall's words  
15 about Mr. Winkle.

16 MR. DOWNEY: They are slightly different,  
17 Your Honor. I think he ought to refer to those --

18 JUDGE BLOCH: But the original question,  
19 which was harassment seems to be a fair characterization  
20 of both pieces of testimony, that Mr. Winkle said he  
21 was harassed?

22 I mean, you are allowed to make a mistake,  
23 but it does look like both piece of testimony  
24 substantiated the hypothetical question.

25 MR. DOWNEY: I just asked that he refer to

1 Mr. Winkle's statement and attribute it to Mr. Winkle.

2 JUDGE BLOCH: He started out not  
3 referring to either statement. He just had a  
4 predicate that Mr. Winkle was harassed. That was  
5 correct.

6 Let's proceed on that basis.

7 BY MR. ROISMAN:

8 Q Mr. Vega, having heard all this, I take  
9 it it is your understanding that Mr. Winkle indicated  
10 that he believed he was harassed?

11 A From what you are reading, that's what he  
12 told Mr. Greer.

13 Q Okay, that's correct. All right.

14 Now, my question to you is in looking at  
15 this particular event, what was the corrective action  
16 that was taken with regard to Mr. Winkle's concern  
17 that he had been harassed by what Mr. Daniels said  
18 to him?

19 A The corrective action was a reprimand to  
20 the craft person.

21 Q Now, do you believe that if that reprimand  
22 had not occurred, that something would have perhaps  
23 or possibly occurred that would have made the  
24 situation worse?

25 A No, because it didn't get worse when it

15-10

1 first happened and he hadn't been reprimanded.

2 What we have here is a situation where  
3 we are re-emphasizing the existence of certain  
4 procedures that preclude differences of opinion from  
5 becoming heated.

6 We don't want that, but we recognize  
7 that things like this, differences of opinion are  
8 going to occur, and we put in place procedures to  
9 resolve these differences.

10 Q Is your testimony that Mr. Daniels as a  
11 craft person already knew before this event --

12 A Yes.

13 Q -- that he was not to do what he in fact  
14 did do with Mr. Winkle; is that correct?

15 A It is my testimony that when craft come  
16 to the site, they are advised as to what correct  
17 procedures are for resolving differences.

18 Now, whether the craftsman forgot those  
19 instructions when it happened, obviously that is why  
20 the flareup occurred; but he was reprimanded and  
21 again reminded what the proper procedure is.

22 JUDGE BLOCH: Mr. Vega, you don't know  
23 he had forgotten, do you?

24 THE WITNESS: No, sir, I'm just --

25 JUDGE BLOCH: What you know is that he

1 didn't follow the procedure.

2 THE WITNESS: He didn't follow the  
3 procedure, and so a re-emphasis as to what was  
4 needed was appropriate.

5 JUDGE BLOCH: Because if you didn't  
6 re-emphasize it, people would begin to believe that  
7 you don't mean what you say, right?

8 THE WITNESS: That's correct, Mr. Chairman,  
9 but one of the things that I think we were concerned  
10 about from our standpoint is that here is a situation  
11 where the craft did feel that he was correct.

12 The inspector felt that he was correct.  
13 What we don't want is two people trying to convince  
14 each other that they are both correct, or that one  
15 of them is correct, and thereby create an atmosphere  
16 that could deteriorate.

17 We wanted to re-emphasize to both  
18 organizations that there is a correct way of doing  
19 it.

20 JUDGE BLOCH: I think Mr. Roisman was  
21 trying to make a very narrow point and I think he's  
22 finished with it now. That's my guess.

23 MR. ROISMAN: Well, the only part of it  
24 that I am still just a little unclear on, does it  
25 matter to you whether Mr. Daniels had forgotten that

1 he was not to engage in this kind of conduct, or that  
2 the reason was something else? Does that have, in  
3 your judgment, any impact on what action should have  
4 been taken, corrective action with regard to  
5 Mr. Daniels?

6 THE WITNESS: There are several questions  
7 there.

8 Mr. Daniels was admonished and warned not  
9 to do what he did. He was reminded of the proper  
10 procedure.

11 That, to me, addresses both the incident  
12 that occurred and provides for avoiding this situation  
13 in the future, at least as this one individual is  
14 concerned.

15 I believe the action taken was appropriate  
16 and the measures that are in place preclude a situation  
17 such as this from becoming an undesirable situation.

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1 JUDGE BLOCH: Mr. Vega, in your answer  
2 you have not referred to whether or not it was done  
3 because the craft person forgot about the rule or  
4 because he willfully violated it.

5 I infer that you don't care. It's just  
6 that he violated the rule and he's got to be punished;  
7 is that right?

8 THE WITNESS: That's right, Mr. Chairman.  
9 I don't care whether he forgot or whether he  
10 disregarded it.

11 Something happened. He didn't follow  
12 procedure and that's what I'm trying to address.

13 BY MR. ROISMAN:

14 Q And do you know exactly what was said  
15 to him, or even the general substance of what was  
16 said to him?

17 A I know the general substance of what was  
18 said to him.

19 Q How did you learn that?

20 A I talked to Mr. Merritt. I believe after  
21 this incident took place, he came and said, "Tony, this  
22 is what we are doing. Are you satisfied?"

23 We discussed what was said and I said,  
24 "Yes, that satisfies us."

25 Q Was the counseling done by Mr. Merritt?



1 A No, it was done by the person's supervisor.

2 Q So Mr. Merritt was telling you what he  
3 had been told by somebody else had happened:

4 A They ultimately report -- well, not  
5 ultimately, but Mr. Merritt and I are the working  
6 levels at which QA/QC organizations communicate  
7 probably -- the highest levels at which QA and QC and  
8 construction communicate, mostly on a day-to-day  
9 basis.

10 I do have interfaces with some of  
11 Mr. Merritt's management, but things like this are  
12 discussed at Mr. Merritt's level and at my level.

13 Q So the normal course of things, to use a  
14 phrase that I suspect you are now familiar with, having  
15 heard it so much in these proceedings, your only  
16 knowledge of the exact nature of the words spoken to  
17 Mr. Daniels is hearsay; you did not speak to the person  
18 who said those words?

19 A No, I didn't speak to the person who  
20 said those words. I wasn't present at his counseling  
21 session.

22 Q What do you believe, based upon talking  
23 to Mr. Merritt, were the words that were said to  
24 Mr. Daniels, or the substance of those words?

25 A He was advised that there was a proper

1 procedure for doing this, and that failure to follow  
2 that procedure would result in further disciplinary  
3 action, or something to that effect, I believe, is  
4 what was recounted to me.

5 Q Did you have an opinion or did you believe  
6 you knew what that further disciplinary action could  
7 or would be?

8 A I know what it would be if it involved  
9 that individual again.

10 Q What is your basis for that knowledge?

11 A The basis that I have the authority to  
12 stop work on site, and if I disagree with Mr. Merritt  
13 on the adequacy of a corrective action, I have no  
14 reservations about stopping work in the area that  
15 the infraction occurs.

16 I don't have to have anybody's concurrence  
17 on that. I have been given that authority and I have no  
18 reservations to use it.

19 Q So that you are saying that the disciplinary  
20 action that would be taken should Mr. Daniels repeat  
21 the type incident again, you feel certain you know  
22 what it would have to be at a minimum because you are  
23 in a position, in effect, to dictate it?

24 A That is correct.

25 Q And what would that action be, if the same

1 event were to occur again? Let's assume it's not  
2 Mr. Winkle, but another QC inspector, but Mr. Daniels  
3 simply repeated what he had done here with Mr. Winkle.

4 A I would expect a written reprimand,  
5 perhaps some punitive action, perhaps probation,  
6 perhaps a furlough without pay.

7 It would depend on exactly what had  
8 transpired.

9 Q What is -- I am unclear about what  
10 probation means.

11 A A person can be placed on probation for  
12 a period of time, exactly what it means. It could  
13 lead to termination.

14 Q But in criminal context that usually  
15 means that some sentence is suspended, but you are  
16 on probation, and if you don't follow the proper  
17 conduct during your probation period, the sentence  
18 might be reinstated.

19 I don't know what context you are using  
20 it in for Comanche Peak.

21 MR. DOWNEY: I don't think that's a  
22 question. I object to the statement if it calls for  
23 a response.

24 JUDGE BLOCH: If you violate probation,  
25 what happens.

5-16 1 THE WITNESS: Well, it depends on what  
2 conditions were set as part of the probation, Your  
3 Honor.

4 I would expect the person to understand  
5 what the consequences would be of committing that  
6 infraction again, and what exactly that would be  
7 would depend on the seriousness of the infraction and  
8 the effects that I believe it had on the quality  
9 assurance program and/or the quality assurance  
10 inspectors involved.

11 JUDGE BLOCH: So even after a next  
12 offense when you are put on probation, you can't  
13 tell me if there is another violation of the same  
14 kind by the same person what would happen after he  
15 is on probation?

16 THE WITNESS: Well, I'm not saying he  
17 would be placed on probation.

18 MR. DOWNEY: He answered the question,  
19 I believe. He said the consequences of violating  
20 whatever probation was imposed would depend on the  
21 conditions of that probation that were imposed, which  
22 would depend on the offense that caused the probationary  
23 period.

24 I think that's the substance of his  
25 testimony.

1 JUDGE BLOCH: And do you know what a  
2 violation of probation would be? That would also be  
3 in the conditions attached to the probation?

4 THE WITNESS: I would expect it to be.

5 BY MR. ROISMAN:

6 Q Is the probation procedure a written  
7 procedure, or is it a practice at the plant, or what  
8 is it?

9 A Probation is one of the measures that  
10 are available to supervisory people.

11 Q How long, to your knowledge, has it been  
12 an option available to supervisory people at the plant  
13 site?

14 A I can only speak from firsthand experience  
15 since I've been there, and it has been since when I  
16 arrived.

17 Q It was in place when you got there or  
18 you instituted it?

19 A No, it was in place.

20 Q The stop-work authority that you  
21 testified to, do you know when that authority was  
22 possessed by the QA manager?

23 A Probably back in '71, '72, whenever the  
24 first QA manager was hired.

25 Q So your understanding is it has always

5-18

1 existed?

2 A. It's always existed.

3 Q. Looking now at Page 693 and in particular  
4 the discussion of QAI File 0015 and the complaints of  
5 Mr. Perry, and looking in particular at Page 695  
6 of your testimony, do I understand correctly that it  
7 was your position that Mr. Powers had acted in an  
8 improper manner to some extent in this event?

9 A. I believe Mr. Powers could have used  
10 better language in describing his feeling about the  
11 requirement on the drawing.

12 Mr. Powers was not talking about the  
13 inspector. Mr. Powers was talking about the  
14 requirement on the drawing when he made his statement.

15 Q. Did you know at the time that Mr. Powers  
16 had been previously counseled for having had some  
17 kind of a disagreement with an STE on the site at the  
18 time that you counseled him with regard to the Perry  
19 matter?

20 A. In regard to the -- In answer to your  
21 question, no, I don't believe I was aware of that.

22 But going back to the Perry matter, I don't  
23 believe that Mr. Powers' statement was aimed at the  
24 inspector, and I don't believe that that can be  
25 described as an action against an inspector.

T-16  
he-1

1 Q Would it affect your judgment as to what the  
2 proper action would be to take with regard to Mr. Powers  
3 if you had known of the earlier event?

4 A No, because I believe the incident that is  
5 recounted here was a statement that was made in regard to  
6 a drawing, not to an inspector. The inspector did not like  
7 the language that was used. I don't believe that that in  
8 any way reflected adversely on the inspector, the program.  
9 It certainly didn't affect the way he conducted his business.

10 On the contrary, he stuck by -- he stood by  
11 his conviction. He waited until the drawing was changed,  
12 and it was changed, and Mr. Perry was complimented for the  
13 way that he stood by his conviction and identified the item  
14 as nonconforming until the drawing was changed.

15 Q Are you aware that the Boyce Grier summary  
16 of the interview with Mr. Stan Perry states, and I quote,  
17 "He stated that Powers has made statements that schedule  
18 and job completion are more important than quality, Perry  
19 stated that if there's another effort to intimidate him  
20 he will go to the NRC"?

21 MR. DOWNEY: Could I have a point of clarifi-  
22 cation. Is Mr. Roisman's question whether he knows that's  
23 what is in the file?

24 MR. ROISMAN: Yes.

25 BY MR. ROISMAN:

1 Q Did you know --

2 MR. DOWNEY: Now, or knew at the time?

3 BY MR. ROISMAN:

4 Q No. Did you know then that that was what  
5 Mr. Grier wrote in his typed version of the interview with  
6 Stan Perry?

7 A Yes, I am aware of what was in that document.

8 Q Do you know what was done to deal with that  
9 part of the allegations made by Mr. Perry as it related to  
10 Mr. Powers?

11 A Mr. Powers was counseled on the entire thing.

12 Q Well, then, isn't it true that Mr. Powers  
13 did more than simply speak in a way that confused or, in  
14 your mind, his upset with the procedure so that it appeared  
15 to be an upset with the inspector? Wasn't there something  
16 else that he also did that was of concern?

17 A The item that was of most concern in that  
18 item was the phrase of the use -- the phrase of the word  
19 assinine.

20 As far as the statements that Mr. Powers is  
21 reported to have made, I talked to Mr. Powers. I advised  
22 him that he was not to communicate with the inspectors in  
23 this particular manner.

24 He reassured me that his intent was not in  
25 any way to pressure an inspector or in any way influence an



1 inspector. I believe Mr. Powers was pretty much surprised  
2 that that is what the inspector had perceived.

3 Q Are you through with your answer?

4 A Yes.

5 Q Do you feel, is it your statement, your  
6 testimony that the more serious allegation was that the  
7 building manager had told the QC inspector, or the QC  
8 inspector believed that he had been told that he himself  
9 was being assinine, that that was more serious than the  
10 charge that the building manager had made statements that  
11 schedule and job completion are more important than  
12 quality?

13 A I believe that that was what was perceived  
14 by the inspector when this -- when the incident first  
15 occurred, the thing that the inspector was most upset about  
16 was the use of the word assinine.

17 Q Mr. Vega, I'm going to show you two pages  
18 of CASE Exhibit CHI 14, which apparently also is Exhibit  
19 43-7. I believe that was earlier attached to your  
20 deposition. And I'll show it to Mr. Downey.

21 I'm going to show the witness the typed  
22 interview with Stan Perry that was done by Mr. Grier and  
23 what purport to be the handwritten notes of Mr. Grier of  
24 his interview with Mr. Perry.

25 And I'd like you to look at both of these and

16-4 1 point out to me in either or both where Mr. Grier indicates  
2 that Mr. Perry mentions the word assinine.

3 (Document handed to the witness.)

4 A Mr. Roisman, may I see the complete file on  
5 this?

6 Q Yes, to the extent that I have it you may  
7 have it.

8 A I have a complete file.

9 Q All right. If you want to see whether any-  
10 body said that the word assinine was said, I can save you  
11 the trouble of telling you yes, both Mr. Powers and  
12 Mr. Warner said it.

13 A I know that, Mr. Roisman, but I understood  
14 from what you said that Mr. Powers had made statements to  
15 Mr. Perry, and that is not so.

16 Q No, I read you what it said. He stated,  
17 looking at the last paragraph of the typed interview with  
18 Perry, he stated that Powers has made statements that  
19 schedule and job completion are more important than  
20 quality.

21 A Those, I don't believe, were made to Mr. Perry.

22 Q I never suggested that I thought that they  
23 necessarily were.

24 A Well, you were talking about the interface  
25 between Mr. Powers and Mr. Perry.

16-5

1 Q All I asked you was to look at those two  
2 pages. I'll be happy to give you the whole file. I just  
3 wanted you to tell me whether in either the interview notes  
4 by Mr. Grier or the typed notes by Mr. Grier, Mr. Grier  
5 indicates that Mr. Perry said the word assinine was used.  
6 That's my question.

7 Can you tell me, did you find that on those  
8 pages?

9 A Would you let me review the rest of the file  
10 before I --

11 Q Yes, I will.

12 MR. ROISMAN: All right. Mr. Downey is  
13 providing the witness with the file, and if the witness  
14 does not object, and Mr. Downey doesn't, I'll just look  
15 over and see if his file and my file are the same file.

16 MR. DOWNEY: I have no objection.

17 JUDGE BLOCH: Is the question solely with  
18 respect to an interview with Stan Perry?

19 MR. ROISMAN: I'm sorry. My question was  
20 solely with reference -- but the witness has asked to look  
21 at the whole file.

22 JUDGE BLOCH: But I'm prepared to take  
23 official notice that the word assinine does not appear in  
24 the interview with Stan Perry. Is there any other inter-  
25 view in the file with Stan Perry?

1 MR. ROISMAN: Not in my file, but I don't  
2 know that there isn't one in the one that the witness is  
3 looking at or that he doesn't believe that there's one.

4 MR. DOWNEY: I would ask the Court to take  
5 judicial notice that there's no reference in the interview  
6 notes that Mr. Perry complained about Mr. Powers being too  
7 concerned about -- or not being concerned about quality,  
8 it's the opposite, the interview notes suggest that he was.

9 JUDGE BLOCH: I'm sorry. I don't know about  
10 the interview notes, but first of all, he's doing the cross  
11 now. What you state, it seems to be wrong from what I've  
12 just read, so let's wait until it's your turn and let's let  
13 Mr. Roisman proceed.

14 MR. ROISMAN: Mr. Chairman, while we are  
15 waiting, the copy of this file which the witness is looking  
16 at is more complete than the one which has previously been  
17 given to us or that we have in our possession. One of the  
18 memoranda that I noticed there was a Merritt-Vega memorandum  
19 that we had not previously seen.

20 JUDGE BLOCH: Mr. Downey, is there some  
21 reason why your file is more complete than the Intervenor's  
22 file?

23 MR. DOWNEY: None that I can think of,  
24 Your Honor. We produced the files for copying. I don't  
25 recall the date.

16-7 1 MR. ROISMAN: I'm not trying to say that  
2 they sandbagged us. I have no reason to believe we didn't  
3 lose it. I'm just saying that he's now looking at more  
4 than what I had.

5 MR. DOWNEY: Mr. Chairman, I think my  
6 colleague, Mr. Belter, might be able to answer the question.

7 JUDGE BLOCH: Well, it sounds like  
8 Mr. Roisman doesn't care, so I don't care.

9 MR. ROISMAN: As long as I got the whole  
10 thing eventually.

11 JUDGE BLOCH: Are you sure you have gotten  
12 everything?

13 MR. ROISMAN: No. One of the things I'm  
14 going to ask the witness is if he knows of anything else.

15 JUDGE GROSSMAN: Could Mr. Roisman look at  
16 that sufficiently to identify what it is that he thinks is  
17 missing?

18 JUDGE BLOCH: Let me hear from Mr. Belter.

19 MR. BELTER: By all means, Your Honor, these  
20 are ongoing files. The problem is that various things  
21 have happened over the course of the summer, as Mr. Vega  
22 indicated, within the last week or two, to complete the  
23 files and we've been Xeroxing this morning from files that --

24 JUDGE BLOCH: New documents.

25 MR. BELTER: Continuing production of

16-8  
1 ongoing documents that arise in these files. And we've  
2 got copies of all of them for you.

3 MR. ROISMAN: If it's ongoing and it wasn't  
4 supplemented, I want to note my objection. If it was  
5 always and originally in there, and that it appears that  
6 we don't have it, there's so many explanations for that  
7 that I couldn't possibly object to that.

8 But if we've got something that came out in  
9 July and we had had the document produced to us in May and  
10 it was not supplemented to us in July, then that's  
11 objectionable.

12 JUDGE GROSSMAN: Is there a date on the  
13 document that you've just --

14 MR. ROISMAN: I haven't had a chance to look  
15 at it carefully enough. It's in the witness' hands.

16 JUDGE BLOCH: Let's attempt to find out what  
17 the problems are before we discuss what might be  
18 objectionable.

19 MR. DOWNEY: If we can take a short recess,  
20 I think we can make a document production to Mr. Roisman  
21 that might solve this problem.

22 JUDGE BLOCH: Five-minute recess.

23 (A short recess was taken.)

24 THE WITNESS: Okay. I'm prepared to  
25 answer.

1 In regard to the investigation of the  
2 incident that we're talking about, which occurred on  
3 May 23rd, 1984, the interview deals with the particular  
4 drawing and the interpretation of that drawing.

5 In closing, there is a statement that states  
6 that he stated that Powers had made statements the schedule  
7 and job completions are more important than quality.

8 Now, those were not made during this  
9 particular incident. It appears that what was said here  
10 was at some time in the past Powers made such statements.

11 However, Mr. Grier thoroughly investigated  
12 this item and his report is dated May 25th, 1984. It  
13 states that Mr. Boyce Grier states that Perry stated he  
14 had been involved in a meeting the previous afternoon  
15 which he alleges was an effort to brow-beat him into  
16 accepting one-hole conduit clamp installations which do  
17 not meet acceptable standards.

18 Based on my review of this matter, I have  
19 concluded that the meeting was not for the purpose of  
20 intimidating the inspector but rather to resolve the issue  
21 of acceptance standards for one-hole conduit clamps. There  
22 are indications the meeting was not conducted in a  
23 completely professional manner and that remarks were made  
24 which apparently were perceived by the inspector as  
25 intimidating. Building manager acknowledged that he

1 described the inspector's position on acceptance criteria  
2 as assinine.

3                   Consequently, to the meeting -- subsequent  
4 to the meeting agreement was reached between the QC lead  
5 inspector and the engineer on the wording of a note which  
6 would be added to the drawing to clarify the installation  
7 requirements for one-hole conduit clamps.

8                   Mr. Grier has concluded that there was no  
9 intent to brow-beat or in any way pressure the inspector.  
10 It was a discussion wherein the technical issue was  
11 discussed. There was a disagreement.

12                   The inspector maintained that the item was  
13 unacceptable. He maintained that it was unacceptable until  
14 the drawing was changed.

15                   I don't believe that that is indicative of  
16 in any way pressuring the inspector.

17                   JUDGE BLOCH: Mr. Vega, should the building  
18 manager have under any circumstances spoken directly to  
19 a QC inspector?

20                   THE WITNESS: Mr. Chairman, it's something  
21 that we have worked on. No, it isn't proper. I don't  
22 consider that consistent with the procedure that we've  
23 established.

24                   JUDGE BLOCH: And when the building -- I'm  
25 sorry. Finish, please.



16-11

1 THE WITNESS: But I think that we need to  
2 also note that that discussion took place in the lead  
3 of the QC building manager, who is J. B. Leutwyler, and  
4 Scott Warner, who is quality engineering. So the matter  
5 was escalated properly.

6 However, perhaps in retrospect we should  
7 have excluded Mr. Perry from that discussion if that  
8 indeed was intimidating or made him feel uncomfortable.  
9 But the discussion did take place and I believe -- hold on  
10 just a minute.

11 Yes, it was also discussed with Dale Thompson,  
12 who is the engineer on that particular activity. So we  
13 see here the procedure in place. We see the disagreement  
14 occurring. We see the building QC supervisor being brought  
15 in. We see the building manager being brought in. We see  
16 the engineer being brought in in quality engineering.

17 JUDGE BLOCH: Was there any way to say  
18 properly that a QC inspector who carried out what was on  
19 the drawing just the way it was on the drawing doing any-  
20 thing wrong?

21 THE WITNESS: Absolutely not, Mr. Chairman,  
22 and again I repeat, we complimented this inspector for the  
23 way he handled this item.

24 JUDGE BLOCH: But Mr. Leutwyler said it might  
25 have been too rigorous, didn't he?

16-12

1 THE WITNESS: Mr. Chairman, I believe the  
2 drawing, if my memory serves me correctly, has a serrated  
3 clamp and the drawing shows every tooth of that clamp to  
4 be in contact with the conduit.

5 The only way that can be is if the two  
6 radiuses coincide at the tangential point.

7 JUDGE BLOCH: So you're arguing that the  
8 drawing was wrong?

9 THE WITNESS: The drawing was wrong.

10 JUDGE BLOCH: Okay.

11 THE WITNESS: There should have been a note  
12 saying that, hey, we don't require every tooth on the  
13 inside of this clamp must be in contact with the conduit.

14 JUDGE BLOCH: But Mr. Leutwyler didn't say  
15 to Mr. Grier that the drawing was wrong. He said Perry  
16 may have been too rigorous.

17 So long as the drawing is that way, isn't  
18 Mr. Perry supposed to be rigorous?

19 THE WITNESS: Yes.

20 JUDGE BLOCH: So Mr. Powers, who's the  
21 building inspector, was talking to your inspector in front  
22 of Mr. Leutwyler, who was the supervisor, and he was  
23 complaining that the drawing -- that this was assinine,  
24 and Mr. Leutwyler seems to think that part of the fault was  
25 with Perry.

16-13

1 THE WITNESS: I believe that in this  
2 particular case Mr. Leutwyler acted improperly from the  
3 standpoint that strictly speaking every tooth on that  
4 serration should have been in contact with the conduit.  
5 That's what the drawing showed.

6 Now, if you apply this same drawing to  
7 different sizes of conduit, you could, technically,  
8 conclude that the engineer did not mean this.

9 Perhaps what Mr. Leutwyler is saying, that  
10 unless there is a different shaped clamp for every different  
11 size conduit, that's a technical impossibility and that  
12 therefore there should be some interpretation.

13 JUDGE BLOCH: So your QC inspector was  
14 supposed to take the drawing and interpret it to be  
15 impossible and therefore apply it differently than the  
16 drawing said?

17 THE WITNESS: That is where I maintain that  
18 the inspector acted correctly, and I directed that the  
19 inspector be complimented for sticking with his -- by his --  
20 sticking to his guns on this particular incident, and he  
21 was complimented.

22 JUDGE BLOCH: Finally he was complimented,  
23 but before that he was called into a big meeting with  
24 everybody, all the big bosses.

25 THE WITNESS: Well, I don't believe that -- I

16-14 1 don't think that this indicates that he was called into a  
2 meeting. I believe that he was present there. Whether  
3 the discussion was such that the inspector was there, he  
4 summoned his lead, who summoned his supervisor, who  
5 summoned the building supervisor, and then summoned  
6 building management, engineering and QE, and it may have  
7 just evolved into a meeting where the inspector was  
8 present.

9 JUDGE BLOCH: Aren't you worried when an  
10 inspector writes a report, and that whatever happens, he  
11 winds up in this big meeting about a report he's written  
12 properly, that that's sending the wrong signal to him?

13 THE WITNESS: In retrospect, Mr. Chairman,  
14 perhaps it would be appropriate to exclude the inspectors  
15 from such meetings. But there was, I don't believe a  
16 conscious decision to involve him in this. The people that  
17 were -- who were capable of making a decision on this  
18 point, and that is engineering, the building management,  
19 quality engineering and QC supervision were all present.  
20 The inspector's presence was not required.

21 He obviously was not brow-beat. Mr. Leutwyler  
22 says that there was no intent to talk him out of it. That  
23 may have been Mr. Leutwyler's statement but he never made it.

24 JUDGE BLOCH: Is it your conclusion, after  
25 reading this file, Mr. Grier was right and that there was

15-15 1 no need for counseling Mr. Powers about this incident?

2 THE WITNESS: No, sir, I didn't say that.  
3 Mr. Powers was counseled, and that counseling is documented  
4 on Mr. Merritt's letter dated June 7th, 1984.

5 JUDGE BLOCH: All right. That's where? I  
6 guess I don't have that one.

7 MR. ROISMAN: That's correct.

8 JUDGE BLOCH: Is that the one you don't have  
9 either, Mr. Roisman?

10 MR. ROISMAN: That was the one, when I made  
11 the comment that I had already noticed -- I've not looked  
12 through the whole file, but that is the memorandum to  
13 Mr. Vega from Mr. Merritt dated June 7th.

14 MR. DOWNEY: Perhaps this would be a  
15 reasonable time for us to make service of these extra  
16 documents from this file. There's also a document dated  
17 July that's the engineering response to the -- that Perry  
18 put to them.

19 JUDGE BLOCH: Yes.

20 THE WITNESS: Mr. Chairman, would it be  
21 appropriate to take a five-minute break?

22 MR. ROISMAN: Mr. Chairman, I'd like to  
23 request not, if possible.

24 JUDGE BLOCH: Mr. Roisman, is it important  
25 to you that the witness not talk to his counsel during the

16-16

1 break? Is that your problem?

2 THE WITNESS: I don't need to talk to my  
3 counsel. I just need to go to the rest room.

4 JUDGE BLOCH: There's no rule; you can do  
5 whatever you want during a break.

6 (A short recess was taken.)

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1 JUDGE BLOCH: The hearing will please come  
2 to order.

3 BY MR. ROISMAN:

4 Q Mr. Vega, I would you to look again at the  
5 interview notes of Mr. Stan Perry, the typed interview  
6 that was done by Mr. Grier, and is it not true that at the  
7 beginning of that Mr. Grier write, "I met in my office  
8 with Stan Perry to discuss matters he wanted to bring to  
9 my attention." Is that correct? Is that what he says?

10 A That is correct.

11 Q And is it not true that in the course of  
12 that statement he indicates that the meeting that took  
13 place on May 22nd was only one of the things that he was  
14 concerned about?

15 Directing your attention to the last para-  
16 graph in the interview with Stan Perry, aren't there other  
17 items that Mr. Perry indicated he was concerned about?

18 JUDGE BLOCH: Well, also to the third para-  
19 graph.

20 MR. ROISMAN: Yes. Right.

21 THE WITNESS: Yes.

22 BY MR. ROISMAN:

23 Q And what investigation was undertaken by  
24 Mr. Grier, from your knowledge, of those other concerns  
25 expressed by Mr. Perry in his meeting on May the 23rd?

17-2 1 By the other concerns I mean the ones expressed in the  
2 last paragraph of the typed notes by Mr. Grier.

3 JUDGE BLOCH: Well, I'll take official  
4 notice that the report by Grier does not mention schedule  
5 and job completion being more important than quality. It  
6 doesn't mention it in any way.

7 Is that correct, Mr. Vega?

8 THE WITNESS: That is correct, Mr. Chairman.  
9 It is a report on what transpired on May 22nd, 1984, and  
10 does not address the statement that was attributed to  
11 Powers.

12 BY MR. ROISMAN:

13 Q. In your judgment, is it your -- withdraw that.

14 Is it your testimony that QAI0015 is now a  
15 closed file, that all investigation that the company  
16 intends to make with respect to the allegations made are  
17 now concluded?

18 And I direct your attention, in answering  
19 that question, to the memorandum dated July 20, 1984, from  
20 Mr. Walker to distribution, one of whom is yourself, and  
21 entitled "Resolution of QAI0015."

22 A. Yes, the item is closed, but we will reopen  
23 it again to address the last item. It appears to be an  
24 item that has not been reflected or investigated. I don't  
25 know whether Mr. Grier specifically looked into that



17-3  
1 statement. I agree that it is not adequately reflected in  
2 the memorandums that he issued on May 25th, 1984, and I  
3 will get that -- I will get that going.

4 JUDGE BLOCH: Mr. Vega, if you reopen it,  
5 I take it the first sentence in that last paragraph is  
6 also important to you, isn't it, that Fred Powers gets  
7 too involved in QC's business and attempts to influence  
8 decisions?

9 That seems like a more general charge than  
10 just the one incident.

11 THE WITNESS: Yes, although to a certain  
12 extent, Mr. Chairman, I believe that the first sentence  
13 in that last paragraph would include what is included in  
14 Mr. Grier's report because it talks about brow-beating,  
15 and the first sentence in the last paragraph talks about  
16 influencing decisions.

17 JUDGE BLOCH: It would include that, but the  
18 inference is that it may go beyond that also, that it may  
19 have been more than this one incident? "He gets too  
20 involved" may not relate just to this one incident, when  
21 it's in that last paragraph it goes together with other  
22 general statements? I don't know, it may only be that one  
23 incident, but the sentence is at least ambiguous as to what  
24 Mr. Perry meant.

25 THE WITNESS: We certainly will look into it

17-4  
1 and find out exactly what he meant and find out some more  
2 specific information as to when that statement was made.

3 I will add, Mr. Chairman, that I have visited  
4 with Mr. Powers on numerous occasions, and Mr. Powers is  
5 a strong supporter of the quality assurance program. I  
6 think at time he might be perceived as very energetic,  
7 perhaps --

8 JUDGE BLOCH: Does he kind of get frustrated  
9 when his work gets lower than he'd like it to be?

10 THE WITNESS: Well, he's a very goals-oriented  
11 person.

12 JUDGE BLOCH: So he really wants to accomplish  
13 his construction goals and sometimes he may get frustrate'?

14 THE WITNESS: He sometimes might get a little  
15 eager when it comes to getting inspections done, but I --  
16 like I told, I visited with him, he came in and he wanted me  
17 to understand that the statements that he had made were not  
18 meant to reflect adversely on the inspector and that he  
19 wanted to assure me that, you know, he wants it done right,  
20 he wants to work with QA/QC.

21 JUDGE BLOCH: But I take it, more important  
22 than what he says to you is what he does in the plant.

23 THE WITNESS: That is correct, and he, again,  
24 is a very strong supporter to QA/QC, has an excellent  
25 working relationship with Mr. Leutwyler, and I can assure

17-5  
1 this Board that Mr. Powers is very conscientious about the  
2 work that goes on in his organization.

3 MR. ROISMAN: Mr. Chairman, I assume that  
4 that represents nothing more than Mr. Vega's opinion.  
5 Mr. Powers has been a witness here. His commitment to  
6 this cause is documented in his own statement and in his  
7 own conduct, as documented by the two incident in which  
8 he was counseled.

9 MR. DOWNEY: I think Mr. Vega is competent  
10 to render a judgment on Mr. Powers' commitment to the  
11 quality of the plant by virtue of his position and by  
12 virtue of the contacts he's had with Mr. Powers, and I  
13 think his opinion is admissible on that question and I  
14 think it should stand.

15 MR. ROISMAN: Fair enough. Let it in and  
16 I'll test the opinion.

17 BY MR. ROISMAN:

18 Q Mr. Vega, did you testify earlier that you  
19 were not aware if Mr. Powers had been previously counseled  
20 for being involved in a dispute with an STE? Is that  
21 correct?

22 A That is correct.

23 Q So that your opinion of Mr. Powers and his  
24 commitment to the QA/QC function at the site doesn't factor  
25 that event in because you're no familiar with it; is that

17-6  
1 correct?

2 A Mr. Roisman, as I testified earlier, the STE  
3 is not part of the quality assurance organization.  
4 Dr. Jordan asked that question and I believe I made that  
5 very clear.

6 Q So that no matter what Mr. Powers might have  
7 done with regard to an STE, it wouldn't change your opinion  
8 of his commitment to QA/QC matters?

9 A Mr. Roisman, I testified that I was not aware  
10 of what transpired there. I would have to review the file  
11 on what transpired before I could agree with you that any  
12 way that reflects adversely, if it does, on Mr. Powers'  
13 attitude towards the quality assurance program at Comanche  
14 Peak.

15 Q That's all I wanted to know, was that that  
16 might influence your opinion, then, if you had the full  
17 knowledge of that event.

18 A Again, Mr. Powers was not dealing with  
19 quality assurance. If he has a disagreement with  
20 procurement or engineering, I don't believe that that in  
21 any way reflects adversely on the program.

22 Q Then I'll go to my question again, it doesn't  
23 matter what that event shows was Mr. Powers' relationship  
24 with the STE in question, no matter what it shows it  
25 doesn't affect your judgment as to his commitment to QA/QC

17 7 1 at the plant, is that your testimony?

2 A My testimony is that my conclusion in  
3 relation to Mr. Powers is based on first-hand information,  
4 first-hand contacts with Mr. Powers on a day-in-day-out  
5 basis, and what Mr. Powers may have or may have not done  
6 in relation to an STE certainly isn't used as a basis for  
7 my statement.

8 Q And it couldn't affect your opinion, or it  
9 could affect it.

10 JUDGE BLOCH: I would take notice that if  
11 he doesn't know about it, it couldn't affect his opinion.

12 MR. ROISMAN: No, I'm sorry, if he knew about  
13 it, could it affect his opinion or is his testimony --

14 MR. DOWNEY: He's asked and answered that  
15 question. He said he'd have to review the file before he  
16 could form any judgment about that incident.

17 JUDGE BLOCH: He said the right thing, which  
18 is that if he doesn't know what it is he doesn't know how  
19 it could affect it.

20 MR. ROISMAN: I'm sorry, his testimony also  
21 says that there's nothing that could be done with regard  
22 to an STE that would affect his opinion because the STE is  
23 not in QA/QC.

24 MR. DOWNEY: That's not his testimony.

25 MR. ROISMAN: Mr. Downey, I don't seem to be

17-8 1 getting a consistent answer, and I'm trying to get one,  
2 that's all.

3 JUDGE BLOCH: Mr. Vega, is that last state-  
4 ment your testimony, that regardless of what was done to  
5 the STE that would not affect your opinion?

6 THE WITNESS: Absolutely not, Mr. Chairman.  
7 What I said was --

8 JUDGE BLOCH: Okay. That's enough, I think.  
9 If you want him to continue, you may, Mr. Roisman.

10 MR. ROISMAN: No, I suspect the record will  
11 reflect it.

12 BY MR. ROISMAN:

13 Q Mr. Vega, could your opinion be affected by  
14 the outcome of the investigation which you've now indicated  
15 will be re-begun into the allegations that are contained in  
16 the last paragraph of the interview with Stan Perry  
17 conducted -- the typed notes of the interview with Stan  
18 Perry conducted by Boyce Grier? Could that change your  
19 opinion?

20 A Certainly it could.

21 Q Do you consider that it is a serious matter  
22 if Mr. Powers does get involved in QC's business and  
23 attempts to influence decisions?

24 A I believe that in the future, having been  
25 admonished, that that is not appropriate, I would consider

17-9 1 it serious.

2 Q Would it be serious, in your opinion, if  
3 it's established that he did in the past attempt to get  
4 involved in QC's business and attempt to influence their  
5 decisions?

6 A I would have to find out the specifics  
7 before I answer that question. I would have to also wait  
8 on -- if it were to happen in the future again, find out  
9 the nature of the item.

10 Q I'm looking only at the past for a moment,  
11 things that Mr. Powers has done in the past that might or  
12 might not influence your present view of this commitment  
13 to QA and QC. Now, one of the things that's alleged that  
14 he did in the past was that he got too involved in QC's  
15 business and attempted to influence decisions.

16 A Mr. Roisman, I would want to find out  
17 specifically what is the underlying basis for that statement.

18 Q What about if Mr. Powers has said, and I'll  
19 put quotation marks around it, that schedule and job  
20 completion are more important than quality; if he has said  
21 that, how, if at all, would that change your opinion of his  
22 commitment to quality control and quality assurance at the  
23 plant site?

24 A It would change it very drastically.

25 - - -

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ge  
1 BY MR. ROISMAN:

2 Q Were you aware that Mr. Powers was promoted  
3 to be the building manager for the entire Unit 1  
4 task force on or about July 1, 1984, from his  
5 prior position?

6 A Let me clarify that. As we finish up  
7 Unit 1 there is less and less activity that is done in  
8 each of the buildings to the extent that it is  
9 uneconomical to continue to have five different  
10 organizations with a very limited number of people  
11 doing a very limited amount of work in each building.

12 It makes sense to combine the work forces  
13 under one person, and Mr. Powers is that person.

14 Q Do you believe that he was promoted to  
15 that position? Is that a promotion?

16 A I don't believe it's a promotion.

17 Q Would you be surprised to hear that he  
18 thinks it's a promotion?

19 A No, I really don't have an opinion one  
20 way or another, but I see it, rather, as combining  
21 work.

22 Based on my interface with him, I certainly  
23 don't feel that he has done anything that would be,  
24 at least reflected in Mr. Grier's investigation, that  
25 leads me to believe that he is not a strong supporter



1 of the QA program. On the contrary, my discussions  
2 with him have been one of he assuring me that he  
3 wants to work with quality assurance, supports the  
4 effort and one that is entirely consistent with his  
5 own management's views.

6 Q Were you aware that prior to the time  
7 that he was promoted -- strike that -- that he changed  
8 his job, that he had only approximately 300 people  
9 under his supervision, and that after July 1 he had  
10 700 people under his supervision?

11 A I don't keep track of how many people  
12 Mr. Powers has.

13 Q Would it make it appear to be more like a  
14 promotion if he is being given the supervision of  
15 twice as many people as he had had before?

16 A I don't know. I know that as we continue  
17 to finish our activities and we implement our ROF's  
18 I have less and less number of people reporting to me.

19 I don't believe I have been demoted  
20 because I now have 50 people less than I had three  
21 months ago.

22 Conversely, I don't see it as a promotion  
23 the other way.

24 Now, what any other person might perceive,  
25 I can't address that.

8-3 1 Q Do you have any problem with the concept  
2 that if what has happened to Mr. Powers is in fact  
3 deemed by company management to be a promotion, that  
4 it occurred shortly after this Stan Perry event  
5 occurred?

6 If they view it as a promotion, does  
7 that trouble you as the QA manager at the plant site.

8 MR. DOWNEY: Objection. That is two  
9 questions and a lot of argument.

10 MR. ROISMAN: I think I'm entitled to  
11 argue with this witness. He is not mine.

12 MR. DOWNEY: You are only entitled to ask  
13 one question at a time.

14 MR. ROISMAN: Okay.

15 BY MR. ROISMAN:

16 Q If the company deems this to be a  
17 promotion to being the building manager for the entire  
18 Unit 1 task force, does it give you any problem as  
19 QA manager that that occurred shortly after the  
20 Stan Perry event?

21 A I don't believe what Mr. Powers did in  
22 regard to QAI-0015, what is reflected in the report,  
23 which is what was transmitted to Mr. Merritt, in any  
24 way transmits that Mr. Powers is anything less than a  
25 strong supporter of quality assurance.

18-4 1 With that in mind, no, I have no problem.

2 JUDGE BLOCH: Mr. Vega, do you believe  
3 that Stan Perry is a strong supporter of quality  
4 assurance?

5 THE WITNESS: Yes, he is.

6 JUDGE BLOCH: When he says the things  
7 that were reported to have been said in the last  
8 paragraph of this document, how do you choose between  
9 the likelihood that he is telling the truth or the  
10 likelihood that in fact Mr. Powers is not -- is a  
11 strong supporter? It seems they are inconsistent.

12 MR. DOWNEY: I object to that question,  
13 the Chair's question. I have two objections.

14 One, you attribute the comments in the  
15 last paragraph of the interview notes of Mr. Grier  
16 to Perry having heard them. I don't think that's  
17 clear from the interview.

18 It could be that Mr. Perry related to  
19 Mr. Grier that he had heard that Mr. Powers had  
20 said something like that.

21 Second, I don't think there's anything  
22 at all inconsistent with both Mr. Perry and Mr. Powers  
23 having a strong commitment to the QA program.

24 I don't think anything -- I think that's  
25 Mr. Vega's testimony.

1 JUDGE BLOCH: Mr. Vega, until you  
2 investigate those matters in the last paragraph, can  
3 you know whether your judgments about Mr. Powers from  
4 the past are still valid?

5 THE WITNESS: That is correct, Mr. Chairman,  
6 and that's what I was going to say.

7 I was going to say in answer to your  
8 question as to whether I saw an inconsistency in the  
9 statements made by two people, how would I address it?  
10 I would ask an independent third party to look into  
11 it and I would rely on the results of the investigation  
12 to form my opinion until then.

13 BY MR. ROISMAN:

14 Q Looking back at the interview notes with  
15 Stan Perry -- now, again, talking about the typed  
16 version done by Mr. Grier, at the end of the second  
17 paragraph, the statement appears, "Perry stated that  
18 there was much loud talking and remarks were made  
19 blaming QC for delaying work completion."

20 Do you see that?

21 Do you still have it?

22 A That's what I have here.

23 Q Okay.

24 A I was just puzzled because you keep  
25 referring to the "typed." Obviously, there must be --

8-6

1 Q Look on the back of the loose one that I  
2 gave you and you'll see -- this purports to be  
3 handwritten notes, which I believe prior testimony  
4 has indicated that these handwritten notes are  
5 Mr. Grier's notes of his interviews, and then there's  
6 a typed one.

7 A I see. I was wondering what you meant by  
8 that.

9 JUDGE BLOCH: The Board doesn't have the  
10 handwritten notes. We are looking only at the typed  
11 ones. Do you have a copy?

12 MR. ROISMAN: It is in the exhibit volume  
13 we prepared with our proposed findings.

14 BY MR. ROISMAN:

15 Q I would like you to look, if you would,  
16 at the typed version. That statement there, what is  
17 it that has been done that you know of in the  
18 Boyce Grier investigation that addressed the concern  
19 about blaming QC for delaying work completion? Are  
20 you aware of anything that the Boyce Grier investigation  
21 has done to deal with that, to investigate it or  
22 resolve it or anything?

23 A Where are you reading that?

24 Q At the end of the second paragraph of the  
25 typed interview: "Perry stated that there was...."

1 Do you see it?

2 A Yes.

3 Q Okay.

4 JUDGE BLOCH: Madame Reporter, while the  
5 witness is thinking, I'd like to direct that the  
6 Vega Exhibits 1, 2 and 3 be bound into this volume.

7 BY MR. ROISMAN:

8 Q Mr. Vega.

9 A Yes.

10 Q Are you ready to answer that question?

11 A Are you asking me what was done about it?

12 Q I'm asking is there anything that  
13 indicates that Mr. Grier investigated that part of  
14 Mr. Perry's allegations?

15 A I don't see what should be investigated.  
16 If they want to blame QC for delaying work, I don't  
17 care.

18 Q That doesn't bother you?

19 A No, it doesn't. I'm independent from  
20 cost. I'm independent from schedule.

21 If it takes twice as much as what the  
22 building manager feels that it takes to do an  
23 inspection, I couldn't care less.

24 Q Mr. Vega, have you had occasion to  
25 indicate the policy on your part to Mr. Merritt

8-8

1 regarding the generic question of building managers  
2 and craft people having direct communications with  
3 your inspectors over matters in dispute?

4 A Have I communicated with Mr. Merritt?

5 Q On that subject.

6 A Yes.

7 JUDGE GROSSMAN: Mr. Roisman, I believe  
8 there was a problem in communication on that last  
9 question. The witness didn't answer the question you  
10 posed.

11 Perhaps I heard the question and answer  
12 differently, but I believe you were asking him about  
13 whether there was a problem with regard to that  
14 last sentence in that there was loud talking and the  
15 blaming of the QC inspector.

16 I believe he interpreted your question  
17 as to whether there was a problem with QC delaying  
18 work, and I'm not sure.

19 MR. ROISMAN: I had thought that he  
20 focused at least on the whole question, namely that  
21 remarks were made blaming QC for delaying work.

22 I thought he was answering that and he  
23 said it didn't matter.

24 JUDGE GROSSMAN: Okay.

25

1 BY MR. ROISMAN:

2 Q Mr. Vega, you are here, and let's not --

3 A Yes, and I was really also including  
4 "much loud talking and blaming." Hey, that doesn't  
5 influence me.

6 Q Okay. Now --

7 JUDGE BLOCH: Does that depend in any  
8 way on talking to Mr. Perry about it?

9 THE WITNESS: I don't understand your  
10 question, Mr. Chairman.

11 JUDGE BLOCH: Suppose he was very upset  
12 about this loud talking and telling him, "You are  
13 holding up out work," would it bother you that that  
14 had happened?

15 THE WITNESS: I would tell Mr. Perry to  
16 tell him, "Yes, that is correct, and I will not  
17 approve it until it's done right, and you had better  
18 believe we are holding it up."

19 BY MR. ROISMAN:

20 Q Mr. Vega, I believe I had asked whether  
21 you communicated with Mr. Merritt on this subject.  
22 Had you answered my question?

23 A Yes, I had answered it and I said, "Yes."

24 Q I'm going to show you now what is a  
25 document dated July 23rd, 1984, to J. T. Merritt from



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1 you, subject QAI-016, 018 and 019; and ask you to  
2 take a look at that and tell me if that's the  
3 communication that you had in mind when you answered  
4 the question.

5 A No, I also had in mind the memo that is  
6 referenced in the first paragraph.

7 Q Which is the June 18th, 1984, memo?

8 A That is correct.

9 Q I believe if you turn forward, I think --  
10 there it is.

11 Just for the record, will you identify  
12 that by saying who it's to, who it's from and what  
13 its subject and date it?

14 A Okay. It is a memo logged CQA-003, dated  
15 June 18th, 1984.

16 The subject is "Report on Allegation  
17 QAI-016. It is addressed to John Merritt. It is  
18 signed by myself.

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1 Q Looking now at the second memo, the  
2 July 23rd memo --

3 JUDGE BLOCH: I guess there is a problem  
4 about the status of these exhibits, too. They were  
5 served but they have not been bound in or  
6 incorporated.

7 MR. ROISMAN: No, no. This is going to  
8 be part of the stipulation that hopefully Mr. Downey  
9 and I are going to reach, that you can get a complete  
10 copy of these QAI files up to date, and put into  
11 evidence, which is why I'm not going to offer them  
12 here.

13 Hopefully, I will have complete copies of  
14 all of them and we will put them in. They will be  
15 adequately identified here in the record, I think,  
16 and there will be no confusion on what the document  
17 is but it will be a lot simpler than binding in a  
18 piece of what is really an entire QAI file here in  
19 the transcript but if Mr. Downey objects to doing so,  
20 then --

21 MR. DOWNEY: I don't see any problem with  
22 having a redundancy because the document in the  
23 transcript would help explain the transcript as one  
24 reads it.

25 I do agree with Mr. Roisman, we have as

1 an objective the complete files bound in .

2 MR. ROISMAN: And I have only today a  
3 copy of these given to me by the Applicant.

4 MR. DOWNEY: We have an extra one.

5 MR. REYNOLDS: Mr. Chairman, during this  
6 pause, may we allow Mr. Liford and Mr. Calicutt  
7 to leave for today?

8 JUDGE BLOCH: Yes. As far as I'm concerned.

9 MR. REYNOLDS: We will continue with Mr.  
10 Vega until we close this evening?

11 JUDGE BLOCH: Yes. I don't have any doubt  
12 about that.

13 MR. REYNOLDS: Thank you.

14 MR. ROISMAN: If you've got an extra copy,  
15 I'll give this to the Reporter to mark.

16 JUDGE BLOCH: You don't have to mark  
17 them. We'll just put them in the back of the  
18 transcript.

19 MR. ROISMAN: All right.

20 I have given the Reporter the June 18 and  
21 the July 23rd volume about which the witness has  
22 testified.

23 JUDGE BLOCH: I don't have those two.

24 MR. ROISMAN: I'm only going to talk to  
25 him for a moment about the July 23rd .

1 BY MR. ROISMAN:

2 Q Mr. Vega, looking at Page 2 of that  
3 document, the statement appears about two-thirds of  
4 the way down the paragraph, "Concerns, comments or  
5 observations on inspection activities shall not be  
6 communicated to the inspectors, directly or indirectly,  
7 by talking to a craft person in the inspector's  
8 presence."

9 Is the conduct that was the subject of  
10 Mr. Grier investigation related to Mr. Perry or  
11 Mr. Powers? Does it fall within that prohibition?

12 Now, let me make sure so there is no  
13 confusion. I realize that the document you are now  
14 looking at was written after the Powers event. I'm  
15 just trying to understand the meaning of that in the  
16 light of the Perry-Powers event.

17 A I certainly did not exclude any incident.  
18 It appeared to me that what we were looking at was  
19 concept, a building management concept that we  
20 believed was a good one but that needed additional  
21 emphasis on the independence and the method by which  
22 people were to communicate under this organization  
23 and that's what I'm trying to address here.

24 Q So that if the events that involved Mr.  
25 Perry and Mr. Powers, which Mr. Grier did investigate,

1 were to have occurred last week, in your judgment,  
2 would that have constituted a violation of that  
3 prohibition that you were writing about there in  
4 paragraph 2 of the July 23rd memo to Mr. Merritt?

5 A. Again, I just testified that the meeting  
6 that took place was done in accordance with proper  
7 procedure. We had the building QC supervisor. We had  
8 engineering. We had QE, supervisory people. That was  
9 not done at variance with procedure. The only thing  
10 that in retrospect we might change, is exclude the  
11 inspector from that meeting.

12 Q. So your testimony then is that the Powers-  
13 Perry meeting was in compliance with the statement  
14 that you quoted or identified in Paragraph No. 2 of  
15 the July 23rd memorandum; is that correct?

16 A. No. I'm saying that the meeting between  
17 Powers, Tomlin, Kapolawitz, Thompson, Leutwyler and  
18 Scott Warner were in compliance with the established  
19 procedure.

20 The problem here was that we had an  
21 inspector that was present that may have felt  
22 uncomfortable with this matter being discussed in his  
23 presence.

24 In retrospect, perhaps we should have  
25 omitted this person or asked that this person not be

1 present during that meeting but this incident is not  
2 a violation of what I am conveying to Mr. Merritt.

3 Q. Nor a violation with the inspector there?

4 A. The inspector being there was the result  
5 of our side of the house. Perhaps Leutwyler should  
6 have asked him or excused him or continued this  
7 discussion in another location.

8 JUDGE BLOCH: Mr. Vega, if I understand  
9 your testimony correctly, you say that this July 23rd  
10 memo was for a different kind of problem than  
11 something that happened in the field?

12 THE WITNESS: Well, Mr. Chairman, I believe  
13 the question that Mr. Roisman is asking me, is whether  
14 the incident that occurred on May 22nd, had that  
15 occurred subsequent to this meeting, would I have  
16 considered that to be a violation of this memo to  
17 Merritt?

18 My answer is no.

19 JUDGE BLOCH; Isn't it because your July  
20 23rd memo appears to deal with field problems, not  
21 with supervisory meetings?

22 THE WITNESS: Not only that, Mr. Chairman,  
23 the July 23rd meeting defines an acceptable method  
24 of communication and that is, have building  
25 management communicate with QA/QC supervisors.

Mr. Powers did that. Mr. Leutwyler was

1 in that meeting.

2 JUDGE BLOCH: At any rate, there was sort  
3 of a courtesy of allowing the QC inspector to be there?

4 THE WITNESS: That's right but in  
5 retrospect maybe that wasn't a good idea. Maybe  
6 we should have excluded the inspector from that  
7 meeting.

8 In answer to your question, no, I would  
9 not have seen that as a violation of my letter to  
10 Mr. Merritt.

11 BY MR. ROISMAN:

12 Q Looking at Page 36, 693 of your testimony  
13 you indicate at line 22, "Mr. Perry was complimented  
14 for the way he conducted his examination and strict  
15 compliance to the drawing."

16 Who complimented him?

17 A Mr. -- I believe Leutwyler and I  
18 believe Mr. Hicks.

19 Q And how do you know that?

20 A Because I told them to do it and then I  
21 asked them whether it had been done.

22 Q And do you know what the compliment  
23 consisted of? Do you know what they said or --

24 A That he was in the right for having  
25 refused to accept the item on the basis of the drawing

1 as it then existed and complimented him upon it and  
2 stated that in the future that is the way that it  
3 should have been done or that's the way it should be  
4 done in the future.

5 Q Did you say anything to Mr. Leutwyler, as  
6 one of the participants in that complimentary meeting,  
7 as to whether he should say anything to Mr. Perry  
8 about his allegations that Perry was maybe too  
9 rigorous in his inspection of one whole plant  
10 installation?

11 MR. DOWNEY: Objection. There is no  
12 indication that Mr. Leutwyler made that comment  
13 to Mr. Perry.

14 MR. ROISMAN: Absolutely. It's in the  
15 interview of Mr. Leutwyler as recorded by Mr. Grier  
16 and contained in the exhibits.

17 MR. DOWNEY: It's in his interview with  
18 Grier outside the presence of Mr. Perry, at which time  
19 Mr. Leutwyler was expressing to Mr. Grier not to Mr.  
20 Perry, his views.

21 JUDGE BLOCH: I think Mr. Downey is correct.  
22 He was talking about Mr. Grier and he didn't say he  
23 said that at the meeting.

24 MR. ROISMAN: I'm sorry. I didn't mean to  
25 indicate that. Let me preface it.



1 BY MR. ROISMAN:

2 Q Mr. Vega, are these files open to Mr.  
3 Perry? Can Mr. Perry see this QAI file?

4 A Sir?

5 Q Could he be --

6 JUDGE BLOCH: He can now.

7 MR. ROISMAN: Could he before he showed  
8 up here?

9 THE WITNESS: No. The files that I have  
10 here that would include notes of anybody else that  
11 may have been interviewed in this process are kept  
12 in my office.

13 What Mr. Grier would have gotten with Mr.  
14 Perry on in letting him know what had transpired,  
15 would be a copy of Mr. Merritt's letter and, in some  
16 cases, Mr. Merritt meets not only with Mr. Grier but  
17 myself and he would have conveyed to him the substance  
18 of the discussion, as well as any written documents  
19 that resulted from that.

20 Q Did you say anything to Mr. Leutwyler?

21 To him about his comment to Mr. Grier on maybe  
22 Mr. Perry was being too rigorous?

23 A Not specifically in regard to that  
24 comment. I didn't say, "J.D., in regard to that  
25 statement--", but I did talk to Mr. Leutwyler in the  
presence of Mr. Hicks and stated that I supported

1 Mr. Perry, that he had done the right thing and I  
2 directed then Mr. Hicks to compliment Mr. Perry on  
3 having handled it in that manner.

4 Mr. Leutwyler has absolutely no doubt  
5 what my position is on this.

6 Q Looking again at the July 23rd memorandum  
7 from yourself to Mr. Merritt, if I understand what  
8 it says here correctly, you were advising Mr. Merritt  
9 that should the events, or events like them that  
10 occurred in QAI 6 018 and 019 occur, that you will  
11 issue an immediate stop order.

12 Have I correctly understood the message  
13 you were sending?

14 A I believe you have.

15 Q Is the violation of that prohibition that  
16 you have laid down in Paragraph 2, in your judgment,  
17 an extremely serious matter? Moderately serious matter  
18 or not so serious matter and if you would, compare it  
19 to any one of the harassment-intimidation events  
20 that we've been discussin here today that --

21 MR. DOWNEY: Objection.

22 JUDGE BLOCH: Too long a question, too  
23 long and too compound.

24 Clarify what you consider very serious,  
25 moderately serious or not so serious.

1 MR. DOWNEY: Ask him how he views him.  
2 It's not a multiple choice test.

3 MR. ROISMAN: Do you want my question or  
4 his question?

5 JUDGE BLOCH: If you can answer Mr.  
6 Roisman's question, please do. If you say that those  
7 answers are not satisfactory to express your views,  
8 then don't use it.

9 THE WITNESS: I lost track of the question  
10 but let me answer what my feeling is on violations  
11 of my letter.

12 JUDGE BLOCH: Is the question about  
13 violations of his letter?

14 MR. ROISMAN: Yes.

15 JUDGE BLOCH: Okay.

16 BY MR. ROISMAN:

17 Q Mr. Vega, in paragraph 2 you set forth  
18 certain things that could be done and you indicated  
19 that if they are not done, a stop-work order will  
20 occur and I'm trying to understand --

21 JUDGE BLOCH: How serious would those  
22 violations be?

23 THE WITNESS: I would consider them  
24 very seriously in that I stated that I will stop work.  
25 That is a very significant action. I don't take that

1 lightly but I am committed to taking it and I will  
2 take it.

3 BY MR. ROISMAN:

4 Q Would you consider a recurrence of the  
5 event that transpired between Mr. Powers and Mr.  
6 Perry, not by those individuals but by other individuals,  
7 to be similarly serious?

8 MR. DOWNEY: Objection. He's testified  
9 that that's a different kind of event. He's asked  
10 that question three times and gotten the same answer.

11 MR. ROISMAN: I'm asking him to compare  
12 the seriousness of it. I'm not asking him to tell  
13 me whether they are the same event. I'm not asking  
14 him whether it's covered by Paragraph 2.

15 I want to know if that is as serious a  
16 matter as what he's identified in Paragraph 2?

17 JUDGE BLOCH: I will allow the question.

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1 THE WITNESS: Mr. Roisman, I have answered  
2 that the incident that occurred between Mr. Perry and  
3 Mr. Powers was in the presence of other people, that I do  
4 not consider that -- I do not consider that a violation of  
5 my -- of the instruction that is set forth in the July 23rd,  
6 '84, memo.

7 If that was to reoccur again, I would not  
8 consider it a problem.

9 JUDGE BLOCH: Now, this specific other person,  
10 if you really care about it, is Mr. Leutwyler, isn't it,  
11 except there's a QC supervisor present? If he weren't  
12 present, the other people being present wouldn't matter to  
13 you at all, would it?

14 THE WITNESS: I don't understand your question,  
15 Mr. Chairman.

16 MR. ROISMAN: Mr. Chairman, with all due  
17 respect, neither you nor the witness are understanding my  
18 question, so I'm going to try it again.

19 BY MR. ROISMAN:

20 Q. Mr. Vega, what I want to know is I want you  
21 to compare for me how serious you consider the event to be  
22 that occurred between Mr. Perry and Mr. Powers, not whether  
23 it's the same kind of event but whether it's as serious as  
24 that and thus a stop work order, should that kind of event  
25 reoccur, would also be an appropriate action for you to take,

20-2 1 not because of what you said in that paragraph but based  
2 upon seriousness.

3 And let me -- I have to put seriousness in  
4 context in which this discussion occurred. Mr. Powers had  
5 communicated with Mr. Leutwyler, that is the right way to  
6 do it.

7 Perhaps in retrospect we shouldn't have had  
8 Mr. Perry present in that meeting. Mr. Powers communicated  
9 consistent with what is described in the July 23rd, 1984,  
10 meeting, and let me read from that memo.

11 "Accordingly, please emphasize to your  
12 managers, Powers, that any request for QA/QC support shall  
13 be communicated to the supervisory level, Leutwyler."

14 Q Okay. What about our earlier discussion  
15 involving Waylan Daniels and John Winkle, do you remember  
16 that one? That's QAI0012.

17 A Daniels is not a building supervisor or in  
18 the building management organization, so that is who I'm  
19 talking about here.

20 Q Is that conduct that Waylan Daniels engaged in  
21 as serious, in your judgment, as serious a piece of conduct  
22 as is the conduct of a building manager communicating  
23 directly with a QC inspector, as you've discussed in the  
24 July 23rd memo?

25 A No, I don't consider it as seriously. It's

20-3  
1 two people that interface day-in-day-out, and there is  
2 nothing that I would consider improper for them to talk  
3 and discuss.

4 What I'm talking about is when there is a  
5 disagreement on what is acceptable and what isn't, that  
6 this procedure is to take place. I would consider it  
7 improper if, in such a form, the craft person was to  
8 summon the building manager and the building manager was to  
9 talk to the inspector, that I would consider improper.

10 Q So that what makes it so serious in your  
11 judgment is that it is upper level QC -- excuse me, upper  
12 level craft persons who are communicating directly with  
13 essentially a line level QC inspector.

14 A That is right. I want for that communication  
15 to take place between supervisory people.

16 Q And what is the danger that you see in it  
17 happening between a supervisory person on the craft side  
18 and the line person on the QC side?

19 A Well, it may not entirely be a danger. It may  
20 be a perception problem. It may be that the inspector  
21 might feel uncomfortable with a craft supervisor, manager,  
22 talking to him on the subject of an inspection. That is  
23 why I want craft supervision talking to QC supervision.

24 Q Do you feel that when it is craft super-  
25 vision talking to the QC inspector directly that there's a

20-4  
1 greater chance that the QC inspector will feel intimidated  
2 by that?

3 MR. DOWNEY: Objection, Your Honor. We've  
4 covered this ground now for well over an hour.

5 JUDGE BLOCH: Mr. Roisman, I do have a  
6 feeling we're getting redundant and not getting anywhere.

7 MR. ROISMAN: I don't agree, Mr. Chairman.  
8 I think the question to the witness is -- I mean, I'm not  
9 even talking about the Perry-Powers event. I'm trying to  
10 understand what it is about the July 23rd activities that  
11 make the witness believe they're so serious that he would  
12 issue a stop work order.

13 I'm trying to find out whether or not it is --  
14 that it's the presence of the supervisory personnel making  
15 these statements to a QC inspector without any supervisory  
16 QC people there, and I think the record will reflect that  
17 that has occurred on a number of occasions before.

18 JUDGE BLOCH: And has he not answered that  
19 yet?

20 MR. ROISMAN: I did not feel that he had.  
21 And if he has, I --

22 JUDGE BLOCH: Let's try one more time.

23 Mr. Vega, is that -- well, you better ask it,  
24 Mr. Roisman, one clear question.

25 THE WITNESS: Mr. Chairman, I understand the



20-5  
1 question.

2 JUDGE BLOCH: Okay, Mr. Vega, answer it.

3 THE WITNESS: The answer is yes, Mr. Chairman,  
4 I do feel that it would not be a desirable situation,  
5 otherwise I wouldn't have gone to the trouble of documenting  
6 it in a memo and put so much emphasis, and in essence  
7 included a threat here that I would stop work.

8 BY MR. ROISMAN:

9 Q Mr. Vega, in looking into the allegations  
10 that were made by the QC inspectors who were part of the  
11 safeguards building task force, were post-construction task  
12 force, were you advised that they had been told by building  
13 managers directly that they were holding up completion of  
14 work, in other words, that there was a direct communication  
15 between building managers and QC inspectors?

16 A I visited with those inspectors myself, and  
17 first of all, let me address either a misconception or a  
18 misunderstanding. You talk about the post-construction  
19 group. That is not a group. We have between 15 and 20  
20 inspectors, probably all of which are certified for post-  
21 construction inspection. All of them work on post-  
22 construction on a day-in-day-out basis as assigned.

23 We don't have six people, period, that do  
24 post-construction only. So let me clarify that point first.

25 Q Okay.

20-6 1 A. Secondly, I spoke to those inspectors myself,  
2 personally. They told me that they had heard that building  
3 management had gone to Mr. Merritt and complained about  
4 unnecessary delays, but they had not been present. It was  
5 a rumor that they had heard.

6 Q So based on your conversations with them  
7 you did not learn anything to indicate that they themselves  
8 had been directly approached by building management or that  
9 other of the QC inspectors in the safeguards building had  
10 been approached by building management on the issue of  
11 slowing up production?

12 A. That is correct.

13 JUDGE BLOCH: Mr. Roisman, could you make a  
14 rough estimate of the time you think you'll take?

15 MR. ROISMAN: Yes, ten or fifteen minutes is  
16 what I would guess.

17 JUDGE BLOCH: Please continue.

18 BY MR. ROISMAN:

19 Q Mr. Vega, would you look at Page 709 of  
20 your testimony, and if you look back at 708 you'll see  
21 that the QAI file being discussed is 0021, that involved a  
22 Mr. Scruggs. Now, did you consider it to be a problem that  
23 needed investigation that Mr. Scruggs was reluctant to  
24 report the concerns which are the subject of the 0021 QAI,  
25 both during the time that he was employed at Comanche Peak

20-7 1 and even at the time of the exit interview?

2 MR. DOWNEY: Objection. That was asked and  
3 answered and inquired about for a good 20 minutes in  
4 Mr. Vega's evidentiary deposition.

5 MR. ROISMAN: It will strike the direct, as  
6 I ask to be done, then we don't have to have the questions,  
7 but the direct is here, the Applicant chose to re-talk  
8 about the incident. I believe I'm entitled to ask the  
9 question.

10 JUDGE BLOCH: Do you agree to strike the  
11 direct?

12 MR. DOWNEY: I will not agree to strike the  
13 direct and I think my objection stands. This does not  
14 address the -- this particular subject matter which  
15 Mr. Roisman is launching.

16 MR. ROISMAN: If you look at Page 36709 of  
17 the testimony, at Line 5 the witness says, Mr. Scruggs  
18 stated in his exit interview that he had brought -- well,  
19 initially Mr. Scruggs did not want to discuss concerns.

20 JUDGE BLOCH: It's relevant. You may  
21 continue.

22 MR. DOWNEY: Your Honor, my objection was  
23 it was asked and answered. They asked Mr. Vega for 20  
24 minutes at least in his first deposition about why it was,  
25 or whether it was a concern to him that Mr. Scruggs

20-8 1 wouldn't discuss this in his exit interview.

2 JUDGE BLOCH: Put it in again and it's  
3 subject to cross. If you don't want to put it in again  
4 it's not subject to cross.

5 MR. DOWNEY: Cross-examination on this issue  
6 has been conducted. This was rebuttal. He is recrossing  
7 on the same question.

8 MR. ROISMAN: This is cross on exactly what  
9 it is that the witness is stating here. He's opened the  
10 door and I'm entitled to walk through it.

11 MR. DOWNEY: He's not entitled to walk through  
12 it, having already been through the door and in the room  
13 for 20 minutes at the deposition.

14 MR. ROISMAN: Fine. Let's strike the pages  
15 and I've got no problems. Start at Line 19 on Page 36708  
16 and continue through --

17 JUDGE BLOCH: Just a moment, please.

18 I stick by my ruling. Continue, Mr. Roisman.

19 BY MR. ROISMAN:

20 Q Mr. Vega, is the fact that Mr. Scruggs  
21 expressed reluctance to either express his concerns while  
22 he was at the plant and initially at the time of the exit  
23 interview a matter of concern to you?

24 A Not in the context that it occurred.

25 - - -

1 BY MR. ROISMAN:

2 Q Do you want to tell me why it's not a  
3 matter of concern?

4 A Yes, because two weeks before the ROF  
5 took place Mr. Scruggs came by on the subject of his  
6 security clearance having been denied.

7 I referred him to Mr. Andrews. He said,  
8 "Well, I've already talked to Mr. Andrews. Is there a  
9 higher appeal?"

10 I said, "No. If there is, he would have  
11 to refer you to it."

12 He said, "I'm very satisfied here working  
13 at Comanche Peak. My father retired from this  
14 project. I like the area and I would like to  
15 continue working here."

16 When the ROF occurred and the was  
17 interviewed by Mr. Grier as part of the Eight-Point  
18 Program, as I understand, he -- from what I understand,  
19 he was upset that his security had brought about an  
20 ROF -- no, I'm sorry.

21 He was upset that he was being ROF'd. Even  
22 though the matter was still not resolved in regard to  
23 his security, he was given credit for that particular  
24 item; and it was surprising to me that having talked  
25 to me in a very, very informal discussion in my office --

1 I guess we talked 20 minutes in my office on how he  
2 wanted to stay in the area and how happy he was on  
3 the project. It was surprising to me that he  
4 didn't bring those concerns to me had he had them.

5 It appeared to me that at that time he  
6 was reacting to the notice that he was being ROF'd.

7 He stated that he was going to be in  
8 contact, or had been in contact with NRC.

9 To me, that's fine. If anybody wants to  
10 go to NRC, we encourage them to do so.

11 We would hope that we can resolve their  
12 concerns, but if not, we certainly don't see going  
13 to NRC as a threat. We would encourage it, and I  
14 certainly have no concerns because of that.

15 Q Did you or Mr. Grier communicate to  
16 Mr. Scruggs that you concluded that it was not a  
17 problem that he had been reluctant to come forward  
18 before?

19 A No, sir, because there are other people  
20 who don't want to be interviewed. They just want their  
21 check and they want to go.

22 This is a voluntary thing. We want them  
23 to give us feedback, but you can't force people to do  
24 it.

25 Q Was his technical concern, did it turn out

1-3 1 to be a real concern or not?

2 A No, it did not.

3 JUDGE BLOCH: Mr. Vega, the fact that he  
4 came to you when he was worried about leaving and he  
5 told you only nice things about the job and did not  
6 raise these other concerns raises the possible  
7 inference that he thought to keep his job he would  
8 have to say nice things. Does it raise that  
9 inference in your mind?

10 THE WITNESS: No, sir. At that time  
11 there was no discussion of ROF's.

12 JUDGE BLOCH: I see. I thought he came  
13 to you to discuss his fears about being ROF'd.

14 THE WITNESS: No, sir. What he said  
15 was that he came to discuss the denial of his  
16 security access and he wanted to know who it is that  
17 he could talk to to find out the reasons for that  
18 denial.

19 I referred him to security. He said  
20 he would get in touch with security. I gave him a  
21 number.

22 JUDGE BLOCH: Okay. I thought it had  
23 something to do with the ROF.

24 THE WITNESS: No, sir. The ROF took  
25 place two weeks, approximately two weeks after my

1-4 1 discussion with Mr. Scruggs.

2 JUDGE BLOCH: And you did not talk to him  
3 at that time?

4 THE WITNESS: When he was ROF'd? No, sir,  
5 I didn't.

6 BY MR. ROISMAN:

7 Q But Mr. Vega, it's true that at that time  
8 the company had implemented a policy that if ROF's  
9 were done, persons without security clearance would  
10 be at the top of the ROF list; isn't that true?

11 A The statement is very clear, and that is  
12 security has been denied. In this particular case,  
13 Mr. Scruggs had not had the opportunity to talk to  
14 Mr. Andrews.

15 Since he had not had the opportunity to  
16 talk to Mr. Andrews, we did not penalize him on that  
17 particular item on that particular entry because of  
18 that, and we told him that.

19 Q You told him that when?

20 A When he was advised of his ROF.

21 Q But at the time that he came to see you,  
22 he had in fact been denied his security clearance, had  
23 he not?

24 A He had been denied a security clearance,  
25 yes.



1-5

1 Q And are you saying it's not a reasonable  
2 inference that he feared that because he had been  
3 denied the security clearance, that he was vulnerable  
4 to ROF, substantially more so than if he had gotten  
5 a security clearnace?

6 A I hate to speculate on that, but at that  
7 particular time the ROF instruments were highly  
8 confidential documents.

9 You are asking me to speculate, but my  
10 answer is that no, I don't believe that he at that time  
11 knew that security was one of the criterion that is  
12 used in determining ROF priorities.

13 Q And roughly when was this, the time frame?

14 A You probably have a better --

15 Q No, as it happens, I don't. I didn't  
16 know whether you had a recollection of when 0021 was  
17 written.

18 A I would rather look at the file before  
19 I answer that. I really don't know.

20 MR. ROISMAN: Does Applicant have 0021?

21 MR. DOWNEY: We will be prepared to  
22 stipulate that his interview with Mr. Grier was --  
23 it's not clear whether it was the 25th of June --  
24 excuse me. It was signed the 19th of June, 1984.

25 I would permit Counsel and the Court to

1-6 1 review this document, and the Staff.

2 The exit interview and Mr. Scruggs'  
3 signature appears to be June 19, 1984.

4 MR. ROISMAN: That's fine.

5 BY MR. ROISMAN:

6 Q Now, is it your testimony, Mr. Vega, that  
7 as of June 19th, 1984, you do not believe that the  
8 work force was aware that the absence of a security  
9 clearance was a major, if not determinative, factor  
10 in determining who would be ROF'd at Comanche Peak?

11 A I really can't say that.

12 Q But that it was not intended by the company  
13 to be known; is that correct?

14 A I don't know at what time these documents  
15 were made public.

16 Q Which documents do you mean?

17 A The ROF instruments that were made public  
18 during the depositions that took place. I don't know  
19 what time frame -- how those two time frames run into  
20 one another.

21 Q I can tell you that it was at least in  
22 July 1984.

23 JUDGE BLOCH: I understand by ROF  
24 instruments, the guidelines by which ROF's were made;  
25 is that right?

1 THE WITNESS: Yes, Mr. Chairman.

2 MR. DOWNEY: Those were served on the  
3 parties in this proceeding sometime in the last part  
4 of July; as I recall, the week of July 23rd.

5 I can't say the precise date, although it  
6 was after I returned to Glen Rose, which was on the  
7 24th, the night of the 24th.

8 JUDGE BLOCH: And the testimony is until  
9 then they also were not available at the plant?

10 THE WITNESS: They were available,  
11 Mr. Chairman, but they were highly confidential.

12 JUDGE BLOCH: So they were not generally  
13 available to the QC inspectors?

14 THE WITNESS: That's correct.

15 JUDGE BLOCH: At that date you began  
16 making them available?

17 THE WITNESS: No, sir, we don't make them  
18 available.

19 JUDGE BLOCH: They could get them if they  
20 struggled to get their records.

21 THE WITNESS: It is conceivable that when  
22 they were made public, that one way or another they  
23 could have ended up with the inspectors.

24 ///

25 ///

6:00 P.M.

1 Q When individuals were ROF'd, were they  
2 advised of the existence of an ROF policy and what the  
3 criteria were and why they did or didn't meet them, or not?

4 A Yes.

5 Q So then what if a person had been ROF'd  
6 after the policy was in place, then at least that person  
7 would know what the role was of security, certifications  
8 and absenteeism in evaluating whether they should or  
9 shouldn't be ROF'd?

10 A That probably was a -- I don't remember  
11 whether this particular ROF was the first ROF or the second  
12 ROF. I think we've only had two or three of them.

13 Q You don't mean two or three individuals, you  
14 mean two or three incidents in which a group of people were  
15 ROF'd?

16 A That's correct.

17 Q Now, Mr. Vega, looking at Page 736 -- 735 and  
18 736 of your testimony, and you're here discussing the 1979  
19 interviews.

20 A Yes.

21 Q And in answer to a question you indicate at  
22 the bottom of the page, we did come across one incident  
23 where a lady inspector had been picked up by the collar by  
24 a craft foreman. I remember that that came up during one  
25 of the interviews. Do you see that reference?

22-2  
1 A Yes, I do.

2 Q Now, as I understand it, your testimony is  
3 that subsequent to that there was some discussion with the  
4 QC inspector involved who had made that statement. Is that  
5 correct?

6 A That is correct.

7 Q And who were the people who had that discussion  
8 with her?

9 A I believe it was Mr. Chapman and myself.  
10 The initial discussion was between Susan Spencer, myself  
11 and the inspector. I believe one or both of us talked to  
12 Mr. Chapman. He came down to the jobsite, and I believe  
13 it was the inspector, Mr. Chapman, Mr. Purdy may have been  
14 there, I don't remember exactly who was there. In essence  
15 Mr. Chapman was doing the talking.

16 Q Why did you decide to meet with her?

17 A What do you mean, meet with her?

18 Q Why did you have this meeting with her?

19 A Well, because we felt that this was a  
20 significant occurrence that should be looked in further.  
21 When we talked to her she had indicated that this was  
22 something that happened and, you know, as I've seen this  
23 documentation, bits and pieces come back to memory, but  
24 I remember that she attributed this incident primarily to --

25 Q Excuse me, Mr. Vega, I don't want to

22-3  
1 interrupt you, but I just want to be clear. I believe  
2 that she was spoken to twice, once at the '79 interview  
3 time and then a second time.

4 Can you just be clearer in your answer which  
5 of the two times she was spoken to are you now testifying  
6 about?

7 A She was spoken to more than twice.

8 Q All right.

9 A She was spoken to by myself and Susan  
10 Spencer during the initial investigation. The same day  
11 we got in touch with Mr. Chapman. Mr. Chapman came down  
12 the next day. That was the second meeting. And then  
13 I believe Mr. Chapman and myself talked to her sometime  
14 during the follow-up activity some time later.

15 Q Okay. Which of those meetings are you now  
16 testifying about, the first --

17 A The second one.

18 Q The second one. All right.

19 A Where Mr. Chapman was finishing out -- no, I'm  
20 sorry, I was talking about the first time that this thing  
21 came up.

22 Q In the interview?

23 A Yeah, in the interview.

24 Q All right. Fine. Thank you.

25 A In that, you know, obviously we were extremely

22-4

1 interested in this. She stated that she felt -- she felt  
2 that the person that had done this primarily resented his  
3 work being evaluated by a woman, and that he pretty well  
4 immediately after it happened realized what he had done.  
5 And she emphasized that since that had happened he had  
6 been very polite, there had been absolutely no problem, and  
7 at that time indicated that she did not want him terminated,  
8 that it would serve no purpose.

9 I certainly didn't feel comfortable dropping  
10 it at that point, and so this was communicated to Mr. Chapman,  
11 who came down and visited with her the next day. She was  
12 again very emphatic that she did not want this person fired.

13 I think Chapman's come-back was you're going  
14 to have to satisfy me, you're going to have to convince me  
15 that you don't want this person fired. Mr. Chapman agreed  
16 that he would talk to construction management and make sure  
17 that the person understood that the only reason he was still  
18 going to be around was because she didn't want him to be  
19 fired.

20 That was done, although I was not present in  
21 the meeting between Mr. Chapman and QA management, but he  
22 and I discussed it later on.

23 Q QA management or crafts management?

24 A I'm sorry. Craft management.

25 Subsequent to that time, and I believe that

22-5  
1 this was done in the time frame of the second follow-up  
2 audit or the follow-up audit, Mr. Chapman got in touch  
3 with her to see if things were still going fine. That,  
4 to the best of my recollection, is what transpired.

5 Q Do you know whether in fact the craft person  
6 involved was ever communicated to by anyone regarding this  
7 event, anyone in the supervisory chain?

8 A I was not present in that meeting, but  
9 certainly understanding the seriousness with which this  
10 incident was viewed by all of corporate management, not  
11 only TUGCO but Brown & Root, I have absolutely no doubt  
12 that it was communicated.

13 Q You don't know what was said?

14 A I was not present at the meeting.

15 Q But no one reported to you what was said?

16 A No.

17 Q Looking at the next page, 737, you indicate  
18 that, I remember we suggested that perhaps it might be  
19 beneficial if we were to get the inspectors and the craft  
20 in a common classroom so that they both could listen as to  
21 what the craft had to have before he offered his work for  
22 inspection, and so that the craft person, et cetera, do  
23 you see that?

24 A Yes.

25 Q Was that a one-time meeting of all the craft



22-6 1 and all the inspectors at the site?

2 A. No.

3 Q. What was it?

4 A. One of the problems that we found was that  
5 some of the procedures on site --

6 MR. ROISMAN: Excuse me.

7 Mr. Chairman, it's just going on a lot longer  
8 because the witness wants to give me the background, and  
9 I just want to know how many meetings there were and how  
10 many people attended them and how long they lasted, and  
11 I'm not interested in a'll the other.

12 JUDGE BLOCH: If you'll try to cooperate  
13 and do that, we'll get out faster.

14 THE WITNESS: I forgot what the question was.

15 BY MR. ROISMAN:

16 Q. I wanted to know -- I had asked you the  
17 question whether or not this had happened in one classroom  
18 at one time and you had said no, and then I wanted to know  
19 how did it happen, and by that I meant what was the  
20 mechanics, were there two classrooms, five classrooms, how  
21 did you accomplish this getting the inspectors and the craft  
22 in a common classroom so that they could both listen, et  
23 cetera?

24 A. It relates to more than one incident.

25 Q. How many?

22-7 1 A More than one training session.

2 Q All right. How many training sessions were  
3 there, do you remember?

4 A Several.

5 Q And how many people were in each training  
6 session?

7 A All the inspectors that would have worked  
8 under the procedures that were revised.

9 Q Were all in a single training session?

10 A No.

11 Q My question was in each session how many  
12 people were in the classroom?

13 A It varied.

14 Q Are we talking 25, 50 or 100 to 200, do you  
15 know?

16 A Probably 20 to 50, 25 to 50.

17 Q And did each training session include both  
18 craft and QC inspectors?

19 A Yes.

20 Q And was every QC inspector who operated under  
21 that procedure in one, at least one of the classroom  
22 training sessions?

23 A Yes.

24 Q And was every craft person whose work was  
25 inspected by the QC inspector using those procedures in at

22-8

1 least one of the training sessions?

2 A. Yes.

3 Q. And how long did the training sessions last,  
4 each one?

5 A. I think they varied.

6 Q. Roughly?

7 A. Most of the indoctrination on the procedure  
8 is done over a period of one day, if it's a revision. If  
9 it's a significant revision, it varies, depending on how  
10 long the procedure is.

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1 Q Can you remember with regard to this  
2 particular one?

3 A Which one?

4 Q How many different procedures were you  
5 instructing or giving training sessions on?

6 A I was not instructing or giving  
7 instruction on anything.

8 Q How many -- by you, I meant the company.  
9 How many was the company giving instructions with  
10 respect to --

11 MR. DOWNEY: If he knows.

12 THE WITNESS: I don't have a count.

13 BY MR. ROISMAN:

14 Q Mr. Vega, in preparing for the testimony  
15 you submitted on August 17, 1984, how were you  
16 advised of the subjects that would be discussed?

17 A When we sat down with the Court Reporter.

18 Q That was your first knowledge of what  
19 you were going to be asked about?

20 A I believe so.

21 Q How did you know which, if any, documents  
22 to bring with you?

23 A I didn't bring them with me.

24 Q In answering the questions that were put  
25 to you that day, is it your testimony that the

1 documentation that you reviewed is the documentation  
2 which is attached to your testimony as Vega  
3 Exhibits -- I believe the numbers are 1 to 10?

4 A. The same documents?

5 Q. Not whether it's the same copy but whether  
6 or not it's any other documents, whether an original  
7 or a copy thereof. Or just these 10?

8 A. I believe when Mr. Downey asked those  
9 questions, I asked to see several files. I believe  
10 primarily with the QAI's. The way we're working here.  
11 If I needed to see a QAI to refresh my memory, I would  
12 ask for it. I would read it and I would answer the  
13 question.

14 Q. And in preparing for today's examination,  
15 did you examine any other documents than the ones  
16 which you had examined in answering the questions that  
17 were asked you on August 17th?

18 A. Yes.

19 Q. And what were those; if you remember?

20 A. I read this --

21 Q. I'm sorry. The Reporter can't tell what  
22 that is.

23 JUDGE BLOCH: That's a transcript of your  
44 testimony.

24 THE WITNESS: I read the transcript.

23-3  
1 I read the TCP -66 yesterday afternoon. I had started  
2 reading, as a separate effort, cases of proposed  
3 findings of fact, which I won't comment on.

4 JUDGE BLOCH: Whose proposed findings cases?

5 THE WITNESS: Yes, sir. I identified  
6 numerous misstatements --

7 JUDGE BLOCH: He just asked you what  
8 you read.

9 THE WITNESS: He asked me what I read.  
10 I reviewed another document this morning and I'm  
11 trying to remember what it was.

12 I believe that it was the investigation  
13 on protective coatings. I don't know whether I  
14 looked at that last night or this morning. I believe  
15 I looked at that this morning; yes.

16 I read the Applicant's proposed findings  
17 of fact. That was yesterday or day before yesterday.

18 To the best of my recollection, that's it.

19 MR. ROISMAN: Thank you, Mr. Vega. I have  
20 no further questions.

21 JUDGE BLOCH: If there are no objections,  
22 we will adjourn until 8:30 in the morning.

23 (Whereupon, the hearing in the above-entitled  
24 matter was adjourned at 6:20 p.m.)  
25

## OFFICE MEMORANDUM

To J. T. Merritt Glen Rose, Texas June 18, 1984  
Subject Report on Allegation  
QAI-0016

CONFIDENTIAL

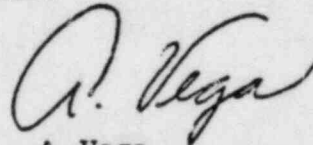
I am transmitting the subject report. Last week, Messrs. B. R. Clements, J. B. George, B. J. Murray and myself had several meetings to discuss this and two other complaints filed by QC Inspectors against Mr. Murray. The other two incidents involve Messrs. D. Finn and D. Hundley. I will forward the investigation reports on the two latter incidents as they become available.

Mr. George has advised Mr. Murray that he is not to communicate his concerns or observations directly with the Inspectors; that such communication on inspection activities should be directed to the QC Leads, the Building QC Supervisor, Mr. Hicks or myself.

Please be advised that we are examining our practice of assigning QC personnel to the building task forces. While we believe this organizational concept has served our objectives well in the past, we will not hesitate to discontinue the practice if deemed necessary to avoid any appearance that construction is directing inspection activities. We will not compromise our independence.

We will review our policies to assure adequate supervisory coverage in the field and will work on improving communication between Building and QC management.

Please advise if you have any questions on this matter.



A. Vega  
TUGCO Site QA Manager

AV/bll

cc: B. R. Clements  
J. B. George  
~~D. N. Chapman~~  
B. H. Grier

## OFFICE MEMORANDUM

To J.T. Merritt Glen Rose, Texas July 23, 1984  
Subject QAI's 016, 018 & 019

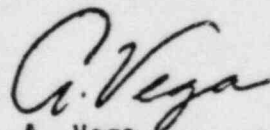
RECEIVED  
JUL 25 1984

My memo logged CQA-003 dated June 18, 1984 advised you that we were examining our practice of assigning QC personnel to the building task forces.

We have concluded the following:

1. We believe the building task force concept is a solid one that has contributed to an effective and efficient QA program at Comanche Peak Steam Electric Station. However, it requires personnel with demonstrated ability to interface positively, in a spirit of cooperation.
2. We do not believe the task force concept in any way compromises our independence. We will continue to emphasize to all QA/QC personnel that they do not report to the building manager or any other person in his organization. We will, continue to emphasize that assignments of QA/QC personnel to the buildings are totally within the responsibility of the QA/QC Organization. This will also be re-emphasized in regard to work schedules and priorities. Accordingly, please emphasize to your managers that any requests for QA/QC support shall be communicated at the supervisory level. Concerns, comments or observations on inspection activities shall not be communicated to the inspector, either directly, or indirectly by talking to a craft person in the inspector's presence. Please be advised that recurrence of an incident described in the subject QAI's and contrary to the above will result in an immediate stop work. We will remove the QC inspectors from the building until corrective action has been implemented.

We sincerely hope to continue working with you in a spirit of cooperation to the benefit of a safe and reliable plant in full compliance with all requirements.



A. Vega  
TUGCO Site QA Manager

AV/lj

cc: B.R. Clements  
J.B. George  
D.N. Chapman  
Boyce Grier



This is to certify that the attached proceedings before the  
UNITED STATES NUCLEAR REGULATORY COMMISSION in the matter of:

NAME OF PROCEEDING: TEXAS UTILITIES GENERATING COMPANY ET AL

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

DOCKET NO.: 50-445  
50-446

PLACE: Fort Worth, Texas

DATE: September 10, 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) Mary L. Bagby  
(TYPED) Mary L. Bagby

Official Reporter

Reporter's Affiliation

Century Reporters, Inc.