

ORIGINAL
UNITED STATES
NUCLEAR REGULATORY COMMISSION

IN THE MATTER OF:

DOCKET NO:

TEXAS UTILITIES GENERATING
COMPANY, ET AL

50-445-OL2
50-446-OL2

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

LOCATION: FORT WORTH, TEXAS

PAGES: 17741 - 18158

DATE: Thursday, September 20, 1984

TR-01

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1 UNITED STATES OF AMERICA

2 NUCLEAR REGULATORY COMMISSION

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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
(Comanche Peak Steam Electric) X
7 Station, Units 1 and 2 X

8
9 Goodnight Room
Ramada Inn
I-30 and Beach Streets
10 Fort Worth, Texas

11 Thursday, September 20, 1984

12 The hearing in the above-entitled matter
13 was reconvened, pursuant to adjournment, at 8:30 a.m.
14

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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C O N T E N T S

	<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>BOARD</u>	<u>EXAM</u>
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4	By Mr. Roisman		17746				
	By Judge Grossman						17921
5	By Judge Bloch						17922
	By Judge Jordan						17926
6	By Judge Bloch						17930
7	GORDON PURDY (Recalled)						
8	By Mr. Roisman		17940				
9	GREG BENNETZEN (Resumed)						
10	By Mr. Treby		17954				
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DESCRIPTION

APPEARS

Post-Construction Deficiency Lists,
Elevation 773

17813

P R O C E E D I N G S

1/1 1
2 JUDGE BLOCH: Good morning.

3 I would like to acknowledge every-
4 one's promptness this morning, which is incredible after
5 an 11:00 o'clock ending time.

6 Mr. Downey, would you like to call
7 your first witness?

8 MR. DOWNEY: Yes, Applicant has today
9 Greg Bennetzen for cross-examination.

10 JUDGE BLOCH: Mr. Bennetzen, welcome to
11 the hearing.

12 Whereupon,

13 GREG BENNETZEN

14 was called as a witness and, having been previously
15 duly sworn to testify the truth, the whole truth and
16 nothing but the truth, testified on his oath as
17 follows:

18 JUDGE BLOCH: Mr. Bennetzen was sworn for
19 a deposition; that's correct, sir?

20 THE WITNESS: Yes, sir.

21 JUDGE BLOCH: Okay. You remain sworn for
22 this proceeding and your testimony is therefore subject
23 to possible penalty for perjury. Welcome this morning
24 and I think counsel probably has a couple of questions
25 to start. Do you?

/2 1 MR. DOWNEY: No. We prefiled Mr. Bennetzen's
2 testimony.

3 JUDGE BLOCH: Okay. Last night you had
4 a different practice.

5 Mr. Roisman.

6 CROSS-EXAMINATION

7 BY MR. ROISMAN:

8 Q Mr. Bennetzen, when did you first assume
9 your position as supervisor of the Electrical QC
10 Inspectors at the Safeguards Building?

11 MR. DOWNEY: Objection. That's a
12 question that's leading to subject matter outside the
13 scope of Mr. Bennetzen's direct examination.

14 MR. ROISMAN: We already have a Board
15 ruling on the availability of Bennetzen for that
16 purpose.

17 JUDGE BLOCH: The Board ruled that we
18 were interested in the Safeguards Task Force, and that
19 we would accept questioning on that line.

20 MR. DOWNEY: If the Board wishes to call
21 Mr. Bennetzen on that subject, I would think the Board
22 should conduct the examination.

23 JUDGE BLOCH: Well, the Board wishes to
24 have Mr. Roisman conduct it, since he knows more about
25 what happened then and we can get more information from

/3
1 Mr. Roisman conducting the examination.

2 BY MR. ROISMAN:

3 Q Do you have my question in mind?

4 A Could you repeat it, please?

5 Q Sure. When did you first become the
6 supervisor of the QC Electrical Inspectors in the
7 Safeguards Building?

8 A It was in late October of '83.

9 Q And can you tell me, as you understand
10 it, what was the reason that you were given that
11 position?

12 A I don't know if there was any specific
13 reason, other than upper management wanted me to be the
14 supervisor over the Task Force. I was previously the
15 supervisor in the ASME Safeguard Building Task Force
16 and they were looking for a supervisor for the non-ASME
17 section of the Safeguard Task Force, and asked if I
18 would take the job.

19 JUDGE BLOCH: Mr. Bennetzen, would you
20 when you answer please speak directly into the mic.o-
21 phone.

22 THE WITNESS: I'm sorry.

23 JUDGE BLOCH: That's okay.

24 BY MR. ROISMAN:

25 Q Were you the first person to hold that

1/4
1 position?

2 A Yes, sir.

3 Q And what did you understand was the
4 responsibility of the group that you were in charge
5 of?

6 A To, as a supervisor over the non-ASME
7 Task Force I was to coordinate the QC activities with
8 the upper management, construction and engineering, for
9 the completion of the Safeguard Buildings.

10 Q Was this a routine in-process inspection
11 that was going on, or was it a different type of
12 inspection?

13 A We were doing in-process inspections, as
14 well as final inspections, sir.

15 Q All right. And can you tell me at some
16 time while you were in that position did -- we there an
17 effort made to develop procedures for post-construction
18 verification inspections by QC Inspectors?

19 A The procedures that already existed for
20 post-construction verification.

21 Q And were those procedures at any time
22 amended after you took your position there?

23 A That particular procedure while I was
24 out there was in revision toward the last month that I
25 was there.

/5

1 Q The last month being?

2 A Late February.

3 Q '84.

4 A '84.

5 Q And prior to that time it had remained

6 essentially the same from --

7 A Same revision, yes, sir.

8 Q Do you remember what revision those

9 procedures were in during the initial phase of your

10 responsibilities as supervisor of the QC Electrical

11 Inspectors in the Safeguards Building?

12 A No, sir, I couldn't tell you what

13 revision number it was.

14 Q Now at the time that you were in charge

15 of this non-ASME inspection effort do you know of any

16 independent or separate effort that was made by TUGCO

17 to do a inspection near the end of December or early

18 part of January dealing with electrical termination,

19 something separate from what your people were doing?

20 A Yes, sir.

21 Q Can you tell me about it, please?

22 A Mr. Tolson and I had a discussion on

23 post-construction verification procedure, and he had

24 quoted to me that they were, that upper management was

25 going to develop a program to come in after we had left

1 the building to do the lighting terminations and
2 equipment terminations.

3 Q And when did you have that dicussion
4 with Mr. Tolson, roughly?

5 A Probably sometime early February, or
6 something like this.

7 MR. DOWNEY: Excuse me, Mr. Roisman.
8 I've just gotten a phone message and I need to consult
9 with Ms. Garde on it, in different matters, and return
10 this call. I think it's in both the Intervenor's
11 interest and ours.

12 JUDGE BLOCH: We'll take a recess for five
13 minutes.

14 MR. DOWNEY: Thank you. I think it'll
15 take less than that. Just in place for a minute, if
16 I can speak with her.

17 JUDGE BLOCH: Fine.

18 (Discussion off the record.)

19 JUDGE BLOCH: Back on the record.

20 Mr. Roisman.

21 BY MR. ROISMAN:

22 Q Mr. Bennetzen, we were discussing the
23 post-construction verification procedures and you had
24 indicated that you had met with Mr. Tolson I think you
25 said around February.

1 A Yes, sir.

2 Q And prior to that time had there been
3 any other electrical inspections that were going on in
4 the Safeguards Building other than the ones that were
5 under your direct supervision?

6 A Yes, sir.

7 Q And can you tell me who was conducting
8 those electrical inspections?

9 A I misunderstood your question. All of
10 the electrical inspection was done by my QC inspection
11 group.

12 Q From the time that you took over as the
13 supervisor.

14 A Yes, sir.

15 Q Okay. At the time that the post-
16 construction verification procedures were being
17 developed did your inspectors and you participate in
18 the development of those procedures?

19 A Yes, sir.

20 Q How did you participate; what was the
21 mechanism by which you were involved in that?

22 A We would have meetings with the Quality
23 Engineering people that were developing the procedure
24 and give our comments to the procedure, what we thought
25 should be in the procedures, and this and that.

1 Q And when did these meetings start?

2 A Towards the end of February is when we
3 all started getting together and revising 11.3-40
4 procedures.

5 Q And prior to that time the development
6 of the procedures was being done, as far as you know,
7 just by Quality Engineering?

8 A Prior to that time the procedure was
9 already on the street and no one was in revising it,
10 to my knowledge.

11 Q And had your people already been per-
12 forming post-construction verification work using those
13 procedures?

14 A Yes, sir.

15 Q What was it, if you know, that was the
16 cause of the decision to begin to rework the procedures?

17 A To my knowledge, I believe it was the
18 terminations of the lighting.

19 Q Could you explain that a little bit,
20 please.

21 A Where in your junction boxes for your
22 lighting in the ceiling the terminations where the two
23 wires come together to wire the light up itself.

24 Q And what was it about those terminations
25 that you think was the cause of the revisions being

/9
1 done to the procedures?

2 A. Could you repeat that question, please.

3 Q. You said that, when I had asked you why
4 the procedures were being revised, you said it was the
5 lighting termination. Now I'm asking you what was it
6 about the lighting terminations that made it necessary
7 or desirable to revise the procedures?

8 A. To my knowledge, engineering and upper
9 management felt that the inspection of lighting
10 terminations was really not intended to be in 11.3-40
11 procedure.

12 Q. And had there been some difficulty
13 experienced up until that time with doing inspections
14 of lighting terminations?

15 A. No difficulties as such. We were finding
16 some deficiencies in lighting terminations.

17 Q. And was anybody objecting to your
18 finding those deficiencies?

19 A. Not objecting. There was concerns of the
20 deficiencies that we were finding.

21 Q. Concerned because deficient conditions
22 existed?

23 A. Yes, sir.

24 Q. Or concerns because they were being
25 found?

/10 1 MR. DOWNEY: Objection. He just testi-
2 fied it was the former.

3 JUDGE BLOCH: I think this is permissible
4 cross.

5 BY MR. ROISMAN:

6 Q Was there also concerns because they
7 were being found?

8 A (Pause.) I believe so. They were con-
9 cerned that we were finding deficiencies in the lighting,
10 yes.

11 Q And can you give me any sense of the
12 magnitude of the deficiencies that were being found?
13 In other words, in the course of a day's inspections
14 how many lighting termination problems were showing
15 up?

16 MR. DOWNEY: Objection. I don't think
17 there's any foundation that he knows.

18 JUDGE BLOCH: Of course, Mr. Bennetzen,
19 any time there is a question asked that you don't know
20 the answer, just say you don't know the answer.

21 THE WITNESS: Yes, sir.

22 I would say -- I wouldn't really
23 know how to answer that question, because there was all
24 types of inspections going on in the building, and in
25 a room turnover we'd go in on finals and write up the

1 complete room, any deficiencies found.

2 I don't know what the average would
3 be, sir.

4 BY MR. ROISMAN:

5 Q In your experience with QC work would you
6 say that you were finding a lot of problems in these
7 inspections that were taking place in January and
8 February?

9 A I would say that we were finding more
10 than usual lighting termination problems, yes, sir.

11 Q Now how did the concern about the --

12 JUDGE BLOCH: Mr. Bennetzen, I'd like I
13 think a little bit more detail.

14 THE WITNESS: Yes, sir.

15 JUDGE BLOCH: What was the nature of the
16 deficiencies you were finding?

17 THE WITNESS: The wiring terminations in
18 the lighting junction boxes, sir.

19 JUDGE BLOCH: What about those wiring
20 terminations?

21 THE WITNESS: They did not meet the
22 procedures, sir.

23 JUDGE BLOCH: In what way?

24 THE WITNESS: They were not terminated
25 properly.

/12 1 JUDGE BLOCH: Okay. And what was the
2 nature of the deficiency in the terminations?

3 THE WITNESS: Loose wiring termination;
4 two wires come together, twisted with a wire cap on
5 the end of it. Those were loose, sir.

6 BY MR. ROISMAN:

7 Q Now you indicated that there was some
8 concern. How did you become aware of the existence of
9 a concern from people other than Inspectors being
10 concerned about the problems themselves?

11 MR. DOWNEY: What kind of concern?

12 MR. ROISMAN: Concern about the existence
13 of the deficiencies in the lighting terminations.

14 THE WITNESS: We had meetings with
15 building management, construction and QC when we started
16 finding the termination problems, and in trying to --

17 We were still in the developing
18 stages of our Task Force at that time when we started
19 doing the turnovers and finding that we were having
20 some problems with the lighting terminations.

21 BY MR. ROISMAN:

22 Q And when you say "we" who are the "we"?
23 In other words, when you had these meetings who was in
24 attendance?

25 A Area management, building management,

/13 1 QC supervision, engineering, and construction, sir.

2 Q And in the QC supervision, was that
3 yourself?

4 A Yes, sir.

5 Q And what about your Leads, were they
6 there, or was it just yourself usually?

7 A Usually just myself, sir.

8 JUDGE BLOCH: And how about your manage-
9 ment?

10 THE WITNESS: Only if I felt a need for
11 my upper management to get involved I notified them and
12 would ask them to be at the meeting.

13 BY MR. ROISMAN:

14 Q And did you do that?

15 A (No response.)

16 Q At any time did you ask your upper
17 management to come?

18 A Yes, sir.

19 Q And who came?

20 A Mr. Tolson.

21 Q And what about from the building manage-
22 ment side, who was usually in attendance?

23 A Mr. Crane and Mr. Smith, Nelson Smith.

24 Q And how about from construction?

25 A The Construction Superintendent over that

/14
1 building was Mr. Turner.

2 Q And do you remember when the first such
3 meeting took place?

4 A We had meetings daily, sir.

5 Q Okay.

6 A Starting over our Task Force.

7 Q Starting about when?

8 A The conception of the Task Force.

9 Q Which was?

10 A Early November or late October, some-
11 where in there, when we first developed the Task Force.

12 Q Let me get clear on something: When you
13 are talking about the Task Force, is that the title
14 that you are giving to all the QC Electrical Inspectors
15 who worked under your supervision; are you calling all
16 of yourselves the Task Force?

17 A Yes, sir.

18 MR. DOWNEY: Objection. I also --

19 May I ask a clarifying question?

20 JUDGE BLOCH: Yes.

21 MR. DOWNEY: Is it broader than just the
22 Electrical Inspectors, the Task Force?

23 THE WITNESS: Yes, sir.

24 BY MR. ROISMAN:

25 Q Was there any sub-group within your

/15
1 electrical group, QC Inspector Electrical Group that
2 did electrical inspections, a group of people who were
3 identifiable as a sub-group within that group?

4 A No.

5 JUDGE JORDAN: That means that all of
6 your people were qualified to do all types of
7 inspections?

8 THE WITNESS: I had several groups, sir.
9 I had an Electrical QC Group that made inspections on
10 electrical items.

11 I had an Electrical Mechanical
12 Inspection Group that made inspections on conduit
13 supports.

14 I had a Structural Inspection
15 Group that made inspections on structural welding and
16 installation of structural items.

17 As well as a Thermal-lag Group,
18 who inspected the thermal-lagging on the conduits and
19 raceways.

20 BY MR. ROISMAN:

21 Q Did you at any time have a Post-
22 Construction Inspection Group?

23 A Yes, sir.

24 Q And when that come into existence?

25 A That is the same as my Electrical QC

/16
1 Group. Later in, let's see, late January we formed in
2 the Electrical QC Group a specific group of individuals
3 to go out and do the final post-verification inspections
4 in the Safeguard Building.

5 Q And who were the participants in that
6 group?

7 A There was four to five Inspectors. I
8 don't know if I can recall all of their names.

9 Wayne Whitehead.

10 Q Was he the Lead?

11 A No, sir.

12 Q Okay. Go ahead.

13 A Scott Chamblin. (Pause.)

14 That's all I recall right now.

15 Q Was Eddie Snyder one of them?

16 A I believe so.

17 Q How about Mr. Barfield?

18 A Could have been, yes, sir.

19 Q How about MR. Jones, Ron Jones?

20 JUDGE BLOCH: Just a moment. Do you know
21 whether or not Mr. Barfield was a member of the group?

22 THE WITNESS: I'm not for sure. I had
23 over sixty some QC Inspectors at that time, and I'm
24 really not sure which ones were in that particular
25 group by name, sir.

/17 1 JUDGE BLOCH: Okay. Well, when he asks,
2 try to indicate whether you know.

3 JUDGE GROSSMAN: Do you believe he was, or
4 do you have no opinion at all?

5 THE WITNESS: I would have to say I'm not
6 for sure, really do not have a definite --

7 ///

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1 BY MR. ROISMAN:

2 Q Ron Jones, was he in that group?

3 A I don't even remember a Ron Jones.

4 Q Would you have any reason to feel that
5 if Mr. Whitehead had a list of people who he felt
6 was in that group that he wouldn't know who was in
7 the group?

8 MR. DOWNEY: Objection. Mr. Whitehead's
9 testimony is his testimony. I don't think we need
10 Mr. Benetzen's opinion about it. He's testified
11 about what he knows, not about what Mr. Whitehead
12 knows.

13 MR. ROISMAN: I'll withdraw it.

14 BY MR. ROISMAN:

15 Q Let's go back now to these meetings.
16 You indicated that you were having them almost daily.

17 I'm interested primarily in the
18 meetings in which the subject was the procedures.

19 A Yes, sir.

20 Q And I want to know if you can remember,
21 I don't even want you to necessarily give me a date,
22 I just want to know can you remember that there was
23 a first meeting, so that we could talk a little bit
24 about the first meeting that you had in which that
25 was the subject.

2-2 1 A Yes, sir.

2 Q All right. And how did that first
3 meeting come about? Who called it? Who assembled
4 the meeting?

5 A I believe building management.

6 Q And were you told why you were having
7 the meeting?

8 A Yes, sir.

9 Q What was the reason?

10 A Getting some coordination in the post-
11 verification and final separation walk-downs.

12 Q Okay. What does that mean to you,
13 getting some coordination?

14 A What I mean by that is that first when
15 we were developing the program and QC was asked to
16 go into a room to do finals, construction was really
17 not prepared for QC to come in and make a final
18 inspection of that area.

19 Q So that it was a problem that your
20 people were experiencing when they would go in to
21 do an inspection and they would find that it was
22 not -- that the room wasn't ready to be inspected?

23 A Yes, sir.

24 Q Why didn't you initiate the meeting
25 then, if it was your people who weren't able to do

2-3 1 their work, why did building management initiate it?

2 A Well, I had talked to building manage-
3 ment.

4 Q And what had you told them?

5 A Just what I was saying, that we were
6 getting called for final inspections when in fact
7 construction was not ready for a final inspection
8 in that area.

9 Q What would happen, or what did you
10 understand was happening when your people would
11 come to a room to do a final inspection and con-
12 struction wasn't ready for it? What action was
13 transpiring in the room?

14 A Well, we would go into the room and
15 do our final inspection and were finding deficiencies
16 that were -- we should have not been finding in a
17 final inspection.

18 Q And how did construction or building
19 management respond to the finding of those at the
20 time that they were being found. if they did?

21 A Well, they were concerned.

22 Q Would they speak to your inspectors
23 about it?

24 A No, sir.

25 Q Did they speak to you about it?

2-4

1 A Yes, sir.

2 Q What would they tell you?

3 A Well, they came to me saying we were
4 having some problems here on the amount of
5 deficiencies that we were having and we called a
6 meeting and all sat down and worked out what our
7 problems were.

8 Q All right. And at that meeting, do
9 you remember who was in attendance representing QC
10 other than yourself?

11 A I believe one of my leads was there,
12 Stan Vore, in that first meeting.

13 Q And other than that?

14 A And me.

15 Q And what transpired? How did the
16 meeting get started?

17 A We discussed the final inspections on
18 the room turnovers and the problems that we were
19 finding and what actions should be taken to prevent
20 this in the future.

21 Q Did you have one view of what the
22 problem was when you went into the room, one position
23 that you were taking?

24 A Yes, sir.

25 Q And what was your position?

2-5 1 A That things were moving a little bit
2 too quick and craft was asking for a final inspection
3 before they were sending people in assuring that
4 all their work was complete.

5 Q And were there representatives of craft
6 at the meeting?

7 A Yes, sir.

8 Q What was their response to your
9 statement to that effect?

10 A They believed that I was right.

11 Q And what was the resolution as to that
12 one matter at the meeting, how was that resolved?

13 A Construction developed a group of
14 individuals that would go into the room with the
15 11.3-40 procedure and perform a -- their inspection
16 of that room to assure that all the items had been
17 taken care of and it was ready for final inspection.

18 Q This is sort of like a preliminary
19 inspection by the craft itself?

20 A Yes, sir.

21 Q And was that, in your judgment, a
22 satisfactory resolution of the difficulty?

23 A Yes, sir.

24 Q Was there any other difficulty that
25 was discussed at that first meeting?

2-6 1 A Not that I can recall.

2 Q So at that meeting there was no
3 discussion of in any way changing written procedures
4 regarding the conduct of these inspections?

5 A No, sir.

6 Q And now I will ask if you can remember
7 roughly when that meeting took place?

8 A Which meeting is that?

9 Q The one we've just been discussing,
10 the meeting in which you and craft worked out this
11 resolution of the problem of finding lots of
12 deficiencies.

13 MR. DOWNEY: Objection. I don't think
14 that's what problem was being resolved. I think
15 that's a mischaracterization by Mr. Roisman.

16 JUDGE BLOCH: I think it's under-
17 standable, what it means in the context of the
18 discussion.

19 JUDGE GROSSMAN: Mr. Roisman's state-
20 ment is in evidence. He's just trying to describe
21 the meeting.

22 THE WITNESS: I believe it was sometime
23 late in December or early January, sir.

24 BY MR. ROISMAN:

25 Q Okay. Now, what happened -- if I

2-7 1 understand what the resolution was, it was that
2 there should be some time delay before your people
3 started going in and looking these rooms to allow
4 the craft to take the procedures that your people
5 were using and themselves check out the room before
6 they called your people in. Is that right?

7 A I wouldn't say no time delay, sir.
8 It's common practice for construction to have their
9 supervision assure that their craft personnel have
10 completed their job.

11 Q But I gather that before you had the
12 meeting that apparently hadn't been occurring in the
13 safeguards building.

14 A I don't believe it was.

15 Q So that now a room that would have
16 otherwise been called for you to inspect the next day
17 would now have to wait some time for the craft super-
18 vision to go in and do this check before they called
19 you in to look at it; isn't that true?

20 A I don't -- no, I couldn't say that.

21 Q Well, how were they going to do their
22 preliminary look at the room and not consume some
23 time in doing it?

24 A They just develop a separate crew that
25 goes ahead of the other construction personnel and

2-8 1 take care of that particular duty.

2 Q Do you have any knowledge as to whether
3 or not that crew was finding the same kind of
4 problems that your people had been finding when
5 they were doing their inspection?

6 A Sure they were.

7 Q And when did the -- I don't want to
8 use the word procedure, because I think that's got
9 a special meaning, but when did this program that
10 you and craft worked out at the first meeting,
11 when did it actually go into effect? When was it
12 in place?

13 A The day after the meeting they started.
14 We formed a -- they had formed their group and
15 started going into the rooms and making their
16 inspections.

17 Q So that would be sometime around the
18 end of December or beginning of January?

19 A Yes, sir.

20 Q And how did things change after that
21 in terms of the kinds of deficiencies that your
22 inspectors were finding?

23 A The rooms looked much better when we
24 were going into them.

25 Q Now, these inspections that were taking

2-9 1 place at this time in December, beginning of January,
2 were these post-construction verification inspections?

3 A. Yes, sir.

4 Q. And was your group of QC inspectors,
5 which I believe you earlier testified that
6 Mr. Whitehead was one of those that was sort of
7 specializing in post-construction verification
8 inspection, were they already in existence by that
9 time, by the end of December, beginning of January?

10 A. The meeting that we had in Late December
11 is what formed the construction group as well as the
12 QC group.

13 Q. I see. So both groups in effect came
14 into existence at that time?

15 A. Yes.

16 Q. Did that take care of the problems in
17 terms of difficulties that you were having, your
18 people were having with building management and
19 craft?

20 MR. DOWNEY: Objection. I don't
21 believe he's testified they were having such problems.

22 MR. ROISMAN: He did. That's why
23 they had the meeting.

24 MR. DOWNEY: I don't recall it.

25 JUDGE BLOCH: The question is allowed.

2-10 1 This is cross.

2 THE WITNESS: Could you repeat that,
3 please, sir?

4 BY MR. ROISMAN:

5 Q Did this resolve all of the diffi-
6 culties or concerns that you and -- your people and
7 the building management and craft people had about
8 the inspections in safeguards building.

9 A Yes, sir.

10 Q So from that time until you left your
11 position, there were no problems between the craft
12 and building management on the one hand and the QC
13 inspectors on the other?

14 A No, I can't say that.

15 Q Well, what kind of problems or
16 difficulties were there?

17 A The meeting that we had in December
18 was for -- was developing the program, coordinating
19 our efforts.

20 We had several meetings after that on
21 the concerns of the lighting deficiencies that we
22 were finding in the terminations.

23 Q You mean even after you had had imple-
24 mented this program for craft to, if you will, double-
25 check their work, you were still finding lighting --

2-11

1 your inspectors were still finding lighting
2 deficiencies?

3 A Yes, sir.

4 Q And were you still finding them at a
5 number that was higher than what you would have
6 expected?

7 A No, sir.

8 Q Were you finding them at what you
9 would consider to be a normal rate or below normal?

10 A I would say a normal.

11 Q And as a result of finding those
12 deficiencies at a normal rate, what happened in
13 terms of what building management or craft said?

14 A Well, building management, as well as
15 engineering and craft, were concerned with the
16 procedure on having to inspect terminations in
17 lighting boxes in the post-verification procedure,
18 post-construction verification procedure.

19 Q At your first meeting in December,
20 early January, was there any mention made of whether
21 it was appropriate to have the lighting terminations
22 being inspected in the way in which they were being
23 inspected?

24 A Yes, sir.

25 Q But that issue was not resolved at

2-12

1 that time?

2 A No, sir.

3 Q Do you remember why it wasn't resolved?

4 A I believe the engineering had to get
5 up with the design engineering group to see if
6 lighting terminations should be inspected.

7 Q So that was sort of an open item that
8 was left over?

9 A Yes, sir.

10 Q And the next meeting that was held,
11 did this matter between the craft and engineering,
12 building management and QC inspectors, did they
13 raise again the question of whether the lighting
14 terminations should be inspected?

15 A I don't know if it was in the next
16 meeting. Like I said, I was having daily meetings
17 about the task force.

18 Q Would you say that it happened, that
19 it was raised at least within the first two weeks
20 after the first meeting?

21 A No, sir.

22 Q Within the first month after the first
23 meeting?

24 A The best I can recollect, I believe the
25 next time we really all sat down and discussed it was

2-13 1 sometime early February.

2 Q What was your understanding of the
3 position that the building management and craft
4 took as to what the procedures were supposed to
5 mean regarding lighting terminations and the
6 inspection thereof?

7 A Could you repeat that, please?

8 Q What did you understand that building
9 management and craft's position was on the meaning
10 of the procedures regarding the inspection of lighting
11 terminations?

12 A On their meaning of the procedures?

13 Q Uh-huh. What did they think the
14 procedure meant?

15 JUDGE BLOCH: Did they have a position
16 on that? Did they ever tell you what they thought
17 that the --

18 THE WITNESS: Well, the procedure was,
19 you know, was very cut and dried and black and white
20 what was to be done. The concern was whether lighting
21 should have been in the Class 1E raceway inspection.

22 JUDGE BLOCH: So there was no dispute
23 about the meaning of the procedure, it was just a
24 question about whether the procedure should be
25 changed?

2-14 1 THE WITNESS: Yes, sir.

2 JUDGE JORDAN: Or whether the procedure
3 should be applied at all to lighting?

4 THE WITNESS: Whether lighting should
5 have been classified in the 1E raceway final
6 inspection, sir.

7 JUDGE JORDAN: Yes. Do you know how
8 that -- whose job it was to decide whether it was
9 in the Class 1E? Was that engineering's job?

10 THE WITNESS: Engineering and design
11 engineering, yes, sir.

12 JUDGE JORDAN: I see. And so it was
13 your understanding that engineering decided it was
14 not Class 1E, was not safety related?

15 THE WITNESS: I don't know. I had
16 transferred out of the group prior to them revising
17 the procedure.

18 JUDGE GROSSMAN: Excuse me. Was there
19 any position on the part of craft that the inspectors
20 themselves could determine not to apply the procedures
21 to the lighting terminations?

22 THE WITNESS: Can you ask that again?
23 I got lost.

24 JUDGE GROSSMAN: Was there any position
25 expressed by craft that the QC inspectors themselves

2-15 1 could determine not to apply those procedures to
2 the lighting terminations which the craft did not
3 want to have applied to the lighting terminations?

4 THE WITNESS: Not that I know of, sir.

5 JUDGE GROSSMAN: In other words, they
6 recognized that it was only up to engineering to
7 determine whether or not the lighting should be
8 covered by the procedures and not up to the inspectors
9 themselves?

10 THE WITNESS: Yes, sir. All of the
11 craft is aware that QC works directly to the
12 procedures there.

13 JUDGE GROSSMAN: And what I'm asking
14 you, thought, is notwithstanding what they under-
15 stand to be the requirements, whether they in fact
16 were attempting to have the QC inspectors ignore
17 the lighting terminations in applying their pcoedures?

18 THE WITNESS: Attempting to have the
19 QC ignore it?

20 JUDGE GROSSMAN: Yes.

21 THE WITNESS: I don't know how they
22 would do that, sir.

23 BY MR. ROISMAN:

24 Q So if I understand your testimony, then,
25 it is that from the time of that first meeting in

2-16 1 late December or early January until sometime near
2 the end of February, there was really no disagree-
3 ment between craft and building management, on the
4 one hand, and the QC inspectors and yourself on the
5 other as to what QI-QP 11.3-40 said regarding the
6 need to inspect these lighting terminations?

7 A You'll have to repeat that.

8 Q From the time of the first meeting
9 until sometime near the end of February, there was
10 really no disagreement between craft and building
11 management, on the one hand, and QC people on the
12 other, as to the meaning of 11.3-40 regarding whether
13 inspections should be done of lighting terminations,
14 is that correct?

15 A There was no disagreement that -- like
16 I said in the first meeting the question came up
17 whether lighting should be in the Class 1E inspection
18 of lighting terminations.

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1 Q But that was a question, as I under-
2 stand your testimony, about whether the procedure
3 should be changed, not about what the procedure
4 meant.

5 A No, the procedure was very clear as to
6 what it said to inspect.

7 Q And it said to inspect these lighting
8 terminations?

9 A Class 1E lighting terminations, yes,
10 sir.

11 Q So that during that period of time
12 you're not aware of any arguments or disputes that
13 may have taken place between your inspectors and
14 any persons from building management over the
15 inspectors looking at lighting terminations?

16 A No, sir.

17 Q By no, sir, you mean that no such
18 disputes took place as far as you know?

19 A As far as I know, no.

20 Q Now, during this time period -- again
21 let's just limit it to the period near the end of
22 December up until the near the end of February, were
23 the QC electrical inspectors finding other deficiencies
24 in any significant number in their inspections?

25 A Yes, sir.

3-2 1 Q What kind of deficiencies were being
2 identified?

3 A Loose bolting and cleanliness of the
4 raceways.

5 Q Loose bolting of what to what?

6 A The raceway itself.

7 Q Would that be what you earlier called
8 QC mechanical or electrical-mechanical?

9 A That would be in the final post-
10 verification procedure.

11 Q But this is not the bolting of some
12 electrical wire or something, is that correct?

13 A No, sir, it's the bolting of the raceway
14 itself.

15 Q And what other kinds of problems were
16 being found during that period, the December through
17 February period?

18 A Well, like I said, just odds and ends,
19 sash chain missing off of a junction box, conduit
20 color coding improper, cleanliness of the raceway.

21 JUDGE BLOCH: Were there any conduits
22 that were found turned and loose, unscrewed, sort of?

23 THE WITNESS: Flex conduit, sir.

24 JUDGE BLOCH: And were any of those
25 found loose?

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THE WITNESS: Yes, sir.

BY MR. ROISMAN:

Q But your testimony is that that was an occasional problem?

A Flex conduit, finding broken flex conduit is -- we find it quite often, people are climbing up to get on something and accidentally step on a flex and pull it out of the coupling.

Q Now, during the period of time that you were -- that we've been talking about, this December to the end of February period, do you remember at any time an issue arising regarding any destructive inspection or improper inspection that resulted in damage to electrical equipment by your inspectors?

A Yes, sir.

Q Can you tell me, how did that first come to your attention?

A Building management had contacted me and Mr. Tolson that in a particular area, I believe it was 773 elevation, the RH&CT pump room, that we had inspected the weekend before, and I think this was on a Monday and we had a crew of four inspectors down there that Saturday performing final post and separation in that particular room, and craft brought --

3-4 1 had come to us stating that they felt there was some
2 destructive testing taking place, and we all went
3 down to that room, that particular room and looked
4 over the deficiencies that QC had written up.

5 Q And when, roughly, did this take place?

6 A Say mid-February or somewhere in there.

7 Q And when you said "we all went down,"
8 who went down?

9 A Mr. Tolson, I went down with him, I
10 believe Charlie Townsend, the electrical quality
11 engineer, Gene Crane, building management, Mr.
12 Turner, construction, as well as his general foreman
13 and foreman in that area.

14 Q Who was the foreman?

15 A I don't know his name.

16 Q Who called in Mr. Tolson to the meeting?

17 A I believe it was building management.

18 Q And did you and Mr. Tolson discuss the
19 subject of the meeting before you got to the meeting?

20 A Yes, sir.

21 Q And what transpired in that discussion?

22 A He had told me that craft had said
23 that he felt that -- that they had felt that some of
24 the QC hands were doing destructive testing in that
25 area.

3-5 1 Q Did he tell you anything in particular
2 about what it was that was alleged to have happened?

3 A No, sir.

4 Q Did the craft tell you directly what
5 they felt had happened prior to the time that you all
6 met in the room in question?

7 A I don't recall. They just said that
8 they wanted us to go out and look at the room, I
9 believe.

10 Q Before you went to the meeting, did
11 you contact your inspectors who had been in the room
12 that prior weekend?

13 A I had gone over and gotten with Stan
14 Vore and Wayne and asked for the deficiency lists
15 that were written that weekend.

16 Q And did you have that deficiency list
17 when you went to the meeting?

18 A When I went down to the room to see
19 what was going on, yes, sir.

20 JUDGE BLOCH: When Mr. Tolson said this
21 to you about the destrutive inspection practices, did
22 you say anything to him at that time?

23 THE WITNESS: I don't recall. I believe
24 I said I think we need to go out there and look at it
25 and see what they're talking about.

3-6 1 JUDGE BLOCH: Were you surprised?

2 THE WITNESS: Yes, sir.

3 BY MR. ROISMAN:

4 Q Did you feel that it was a serious
5 charge that was being made against your people?

6 A Not until I went out and looked at the
7 situation, I didn't want to come to any rash con-
8 clusions as to what craft was saying was happening
9 out there.

10 Q So would you say that you had a certain
11 amount of skepticism about whether craft was
12 describing what had occurred accurately?

13 A Yes, sir.

14 Q Had you had occasion prior to that to
15 have craft make allegations about things that your
16 inspectors were doing that turned out to be
17 exaggerated, in your judgment?

18 A Not really. It was just that as a QC
19 supervisor, when someone says they're having a problem
20 with your QC on a particular item out in the field,
21 before you make any -- come to any conclusions you
22 usually go out and see what they're saying is the
23 problem.

24 Q But it was unusual for the problem to be
25 not merely, I think your guys are calling these

3-7
1 inspections wrong, but rather to say, I think your
2 people are being destructive in the way they're doing
3 their examination; that is a more serious thing to
4 say, isn't it?

5 A. Yes, sir.

6 Q. And you didn't -- at that point it
7 didn't give you any particular reason for concern
8 that such a serious thing was being alleged by the
9 craft?

10 A. Well, naturally it would, if in fact
11 that there was destructive testing taking place it
12 would be serious, yes, sir.

13 Q. But before you went to the meeting
14 you did not yourself try to talk to the inspectors
15 to find out what if anything they could tell you
16 about what had happened personally?

17 I'm talking about the inspectors that
18 did that inspection.

19 A. I didn't really have that much time to
20 do that, sir.

21 Q. So this all happened fairly fast between
22 the time the crafts made the allegation and the time
23 that you and Mr. Tolson and the others gathered in
24 the room?

25 A. Yes, sir.

3-8 1 Q It was the same day?

2 A Yes, sir.

3 Q In the same part of the day, that is,
4 in the morning?

5 A I found out about it in the morning
6 and in 15 minutes we were down in the room.

7 JUDGE BLOCH: How early in the morning?

8 THE WITNESS: I'm not for sure, sometime
9 in the morning.

10 JUDGE BLOCH: Was it the first thing
11 you did that day?

12 THE WITNESS: One of the first things,
13 yes, sir.

14 BY MR. ROISMAN:

15 Q Now, tell me what happened in the room
16 as best as you can remember it. Who spoke first,
17 what they said, what you said, what you heard other
18 people say and what you saw.

19 A Well, the craft foreman over that
20 particular area had the deficiency list as well and
21 was taking us more or less on an item-by-item tour
22 of the area on what QC had written up.

23 Q Okay.

24 A He took us to a flex conduit coming off
25 of a -- I believe it was a valve actuator, and had

3-9 1 stated that QC had, when he inspected that, went up
2 to the flex conduit and pulled on it and jiggled on
3 it and pulled it out of the coupling, and he felt
4 that was destructive testing.

5 Q And did he indicate to you that he had
6 actually seen that happen?

7 A He did not say he saw it happen. He
8 said that the QC had did it. He didn't say I
9 personally saw it, that I can recall.

10 Q Did he suggest that anybody had
11 actually personally seen it happen?

12 A He just said QC had came up to it.
13 He didn't say anybody's name or if somebody witnessed
14 it or whatever, that I can recall.

15 Q And did you observe that in fact the
16 conduit, the flex conduit was loose, I mean the
17 physical condition that caused the deficiency to be
18 written did in fact exist?

19 A Yes, sir.

20 Q Did anybody at the meeting, when that
21 statement was made, attempt to find out how the
22 crafts person -- how the foreman knew that the QC
23 inspector in fact had done what he claimed he had
24 done?

25 A I later talked to the QC hands in that

3-10

1 area.

2 Q No, I just meant right then at the
3 meeting, the craftsman makes the statement and he
4 says, look at this, the QC hand did what you just
5 described what he did.

6 Did anybody say to him, as I've just
7 said to you, how do you know that?

8 A Not that I can recall.

9 JUDGE BLOCH: In the past, had craft
10 been reluctant to give you the names of particular
11 inspectors who caused them problems?

12 THE WITNESS: No, sir.

13 BY MR. ROISMAN:

14 Q And this time they did not tell you?
15 He didn't mention the name of the person?

16 A No.

17 Q Did you ask?

18 A I believe the question was asked.

19 Q And did he give an answer?

20 A I think the way the man answered was
21 he gave us all three of the inspectors, of four
22 inspectors that were in that area.

23 Q And do you remember who they were?

24 A No, sir.

25 Q What else did you see on the tour of

3-11 1 the room?

2 A Oh, he also showed us a lighting
3 termination box that had the wire cap pulled off of
4 the termination, and also stated he felt that was
5 destructive test examination or testing.

6 Q Did he again make the statement that
7 the craft hand had done a certain thing or did he
8 just say this looks to me like it's destructive
9 testing?

10 A He stated that a QC hand walked up to
11 the box during an inspection and grabbed the wiring
12 termination and jiggled it and pulled the cap off.

13 Q And what else did he show you?

14 A He showed us several other deficiencies
15 that were written up in that area.

16 Q Did he say that they involved
17 destructive --

18 A No, those were the only two items that
19 were ever brought to my attention that they were
20 concerned with saying that there was destructive
21 testing taking place.

22 Q Why did he show you the other
23 deficiencies? What was his point in showing you
24 the other deficiencies?

25 A He also felt that there was a little bit

3-12 1 of over-inspection taking place in that room.

2 Q And what did he show you and how did he
3 explain to you why he thought it represented over-
4 inspection?

5 A Some of the deficiencies were written up
6 in that area were over and above the acceptance
7 criteria of the procedure.

8 Q Can you give me some specifics of
9 things that he actually pointed to?

10 A Yes, sir. On the ceiling a junction box,
11 the cover of the box is supposed to be marked with the
12 raceway number painted on the cover, and from the
13 floor looking up at it there was -- they spray paint
14 it with a black spray paint, the numbers on it, and
15 one portion of it you could see the galvanizing of
16 the box underneath the letter but you could still
17 read the letter, the lettering on the box, and the
18 QC hands had written that up as a deficiency saying
19 that it was illegible.

20 Q And did you agree that it was illegible
21 or did you think it was legible?

22 A I believed it was legible, sir.

23 Q And what else did you see in there?

24 A Color coding of the conduit itself --

25 JUDGE BLOCH: That's c-o-d-i-n-g, coding?

3-13 1 THE WITNESS: Color coding.

2 JUDGE BLOCH: C-o-d-i-n-g.

3 MR. ROISMAN: He's trying to distinguish
4 between coating and coding.

5 THE WITNESS: No, coding.

6 BY MR. ROISMAN:

7 Q All right. What was the deficiency
8 that was written up with respect to that?

9 A One that I can remember in particular
10 was a junction box on the ceiling with the conduit
11 coming out of it and it was around three to four
12 inches from the wall in a corner, and the conduit ran
13 through the wall in a sleeve.

14 And by procedure, each one of the
15 conduits coming out of a junction box is supposed to
16 be marked. This particular piece of conduit had a
17 tie-wrap on it with a tag hanging on with the
18 markings of that particular run, but it did not have
19 the color coding tape on it.

20 And by procedure, you are allowed to
21 use the tie-wrap with the alternative marking, and
22 that's what we had in that -- on that particular
23 application, but QC had written it up for not having
24 the color coding on it.

25 Q Now, were there other deficiencies that

3-14 1 you can remember that the craft foreman pointed out
2 in the room that he felt were over-inspections?

3 A Not that I can recall, sir.

4 Q So basically, there were four items
5 that he identified to the group that he thought
6 something improper had been done on?

7 A Yes, sir.

8 Q And how many items were there on the
9 deficiency list?

10 A I don't recall.

11 Q Was it a lot more than four?

12 A Yes, sir.

13 Q Twenty?

14 A There was a four- or five-page
15 deficiency list. I don't know how many there was,
16 sir.

17 Q I'm sorry. You have the advantage on
18 me. I don't think I know exactly what a deficiency
19 list looks like.

20 Would you expect to find ten deficiencies
21 on a page?

22 A I believe that particular deficiency
23 list had lines for around six to eight deficiencies
24 per sheet, the best I can recall.

25 Q Okay. That's good enough. All right.

3-15 1 Now, in the course of the meeting, as the foreman
2 went through -- and let's go back now just to the
3 two destructive inspection allegations --

4 JUDGE BLOCH: Before we do that, what
5 was the approach that they had to these four over-
6 inspection incidents? What kind of attitude did
7 they have about this?

8 THE WITNESS: Who is that, sir?

9 JUDGE BLOCH: The crafts who were
10 making this complaint.

11 THE WITNESS: Well, they got us down
12 there to show us that they felt there was some
13 destructive examination taking place and over-
14 inspection. They were concerned.

15 JUDGE BLOCH: Irritated?

16 THE WITNESS: No, not irritated, but I
17 just feel that they were concerned with what took
18 place in that room.

19 JUDGE BLOCH: Calm, businesslike dis-
20 cussion?

21 THE WITNESS: Yes, sir.

22 JUDGE BLOCH: No raised voices?

23 THE WITNESS: No, sir.

24 BY MR. ROISMAN:

25 Q Now, when they raised these issues --

3-16 1 let's start with the loose flex conduit. Was there
2 any discussion after the craft foreman pointed that
3 out, did anybody in the group say anything?

4 A Not that I recall. We were just
5 seeing what all they had to say.

6 Q And was that true with regard to the
7 other three items that you looked at, everybody just
8 sort of listened and the craft foreman did essentially
9 all the talking?

10 A Yes, sir.

11 Q And how long were you down there in
12 the room?

13 A Possibly 15 minutes.

14 Q And then what did you do?

15 A Mr. Tolson went back to his office and
16 said that he'd get in contact with me, and I went
17 back to my office and got with my QC hands about
18 the inspections that were taking place there.

19 Q You and Mr. Tolson didn't have a
20 discussion that dealt with the substance of what
21 you had just seen immediately after you left the
22 room?

23 A Not immediately after, that I can
24 remember.

25 Q Tell me about your discussion with your

3-17 1 QC people. Did you go to see the specific inspectors
2 who had been doing the inspections?

3 A No, sir. I went to the lead.

4 Q And that was who?

5 A Stan Vore.

6 Q And what transpired?

7 A Oh, I got with Stan and we sat down
8 with the deficiency sheets and I pointed out to him
9 some of the deficiencies that were written up that
10 were over and above the procedure acceptance
11 criteria or requirements.

12 Q And what else did you discuss?

13 A I also discussed with him the concern
14 of construction on saying that we were performing
15 destructive examination.

16 Q What precisely did you say to Mr. Vore
17 about that?

18 A I asked him if he felt that the QC
19 hands were performing destructive examinations.

20 Q And what did he tell you?

21 A He felt, as well as I did, that there
22 was not destructive examination taking place.

23 Q Did you feel that way even after you
24 had seen the example that the foreman had pointed out
25 while you were on the tour?

3-18 1 A Yes, sir.

2 Q What was it about what you saw that
3 made you feel it was not destructive examination?

4 A Well, for one thing, there's no way to
5 check a flex conduit that it is tight in the coupling
6 without grabbing it and jiggling it. It could just
7 be sitting in the coupling.

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1 BY MR. ROISMAN:

2 Q So, in other words, the conduct that the
3 Craft Foreman was claiming your inspector had done,
4 which was to grab and jiggle it, was the only way he
5 could have done the inspection in any event.

6 A That's the way I feel, yes, sir.

7 Q And what about the termination that had
8 been pulled out?

9 A I felt the same way about that. There
10 is no way to just stand there and visually look at a
11 wiring termination with a cap on it to see if it is
12 terminated properly.

13 You still have to reach in and grab the
14 cap and see if it's not just sitting on the wires.

15 Q Do you feel that the Craft Foreman may
16 have been saying that while he knew that you had to
17 touch these things in order to do the inspection that
18 your Inspectors had been touching them in an excessive
19 manner, shaking, for instance, the flex conduit to the
20 point that the shaking itself made it come loose?

21 A I felt that the craftsmen felt that way,
22 yes, sir.

23 Q Would it have been possible for that to
24 happen; that is, could you in fact shake the conduit
25 to the point that you'd get it loose?

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1 A I imagine if a person wanted to
2 physically separate that flex conduit from the coupling
3 if you pulled hard enough, and this and that, you could
4 pull it out, yes, sir.

5 Q But you think that would take a rather
6 substantial effort.

7 A If it was properly terminated, yes,
8 sir.

9 Q All right. Now after you and Mr. --

10 JUDGE GROSSMAN: Excuse me. And the
11 same thing with loosening the wire from the wire nut;
12 is that so?

13 THE WITNESS: Yes, sir.

14 BY MR. ROISMAN:

15 Q Now after you and Mr. Vore discussed
16 this, did you have occasion to go on and discuss this
17 with any other person?

18 A Not that I can recall, no, sir.

19 Q You didn't have occasion at any future
20 time to discuss it with Mr. Tolson?

21 A I don't remember discussing the
22 destructive testing. We later got together in
23 Mr. Tolson's office, and I don't really recall discussing
24 the destructive testing with him. We discussed sending
25 Charlie Townsend, the Electrical Quality Engineer person,

/3

1 out to my group to assist in QC's concerns, and this
2 and that, over the procedure and help in dispositioning
3 of the deficiencies that we were finding.

4 Q Can you remember roughly how soon after
5 this particular day, this Monday that we are talking
6 about, relatively how soon after that did you transfer
7 out of your position? Was it that week?

8 A I believe it was the week after that.

9 Q Like maybe two weeks later?

10 A A week to two weeks, somewhere in that
11 vicinity.

12 Q On the Monday following the weekend that
13 these events took place, do you have any recollection
14 of any of your Inspectors wearing a T-shirt that had
15 language on it about nit-pickers?

16 A I'd seen two to three Inspectors wear
17 the T-shirts prior to that.

18 Q Prior to the Monday that you were having
19 this discussion about the destructive testing?

20 A Yes, sir.

21 Q And how about on that Monday, do you
22 remember whether any substantial number of Inspectors
23 may have worn the T-shirts on that day?

24 A I don't recall any of them wearing them
25 on that day, no, sir.

/4
1 Q If as many as 15 or 20 were to have
2 worn them I take it it would have probably stick in
3 your mind, wouldn't it?

4 A Yes, sir.

5 Q Now why didn't you do anything further
6 to follow up on either laying to rest or resolving this
7 allegation about destructive examination by your QC
8 Inspectors once you became convinced that it was not
9 a legitimate allegation?

10 A Well, I did have a discussion with
11 Mr. Turner after that saying that there's no way for
12 QC to inspect a wiring termination without physically
13 touching the cap and jiggling it, or physically grabbing
14 the flex conduit and giving it a shake to see if it's
15 in the coupling, and dropped it, and left it at that.

16 Q Had Mr. Turner raised that with you, or
17 did you volunteer that comment to him?

18 A I volunteered that comment to him after
19 we came out of the building.

20 Q That was immediately following the
21 meeting in the room where the destructive testing had
22 allegedly occurred; is that right?

23 A Yes, sir. We both walked back to our
24 offices together.

25 Q That was even before you had talked to

1 Stan Vore?

2 A Yes, sir.

3 Q And as a Supervisor it didn't bother you
4 that at that point at least the Craft believed, and the
5 people who were in that room, with the exception of
6 Mr. Turner, had heard an unanswered allegation that your
7 people had conducted a destructive examination; that
8 didn't trouble you at all?

9 A I felt that the Construction Foreman
10 was a little bit upset about his area or his room
11 having so many deficiencies and he was going a little
12 bit overboard himself as to his concerns.

13 Q So that you think he overreacted and it
14 was expressed in this meeting, which you felt was just
15 too much.

16 A I didn't feel it was too much, but I
17 felt that the craftsman was a little bit overconcerned
18 with what the actual problem was.

19 Q Did you ever speak to your QC Inspectors
20 who had been charged with this and assure them that you
21 were convinced that they had not done anything improper
22 related to destructive testing?

23 A To my knowledge, none of the QC hands
24 were told that they were performing destructive testing
25 by the Craft, or any of my upper management.

/6 1 Q You didn't think it was likely that the
2 existence of the meeting with that many supervisory
3 personnel in it and the purpose of the meeting would
4 drift back to your people through one way or another?

5 A I didn't ever think of it.

6 JUDGE BLOCH: Were those two items on
7 the deficiency list?

8 THE WITNESS: Pardon me, sir?

9 JUDGE BLOCH: Were the two items of
10 alleged destructive testing, or destructive inspection
11 on the deficiency list?

12 THE WITNESS: Yes, sir.

13 JUDGE BLOCH: And do you know whether the
14 deficiency write-up included the allegation that this
15 had been done?

16 THE WITNESS: No, sir. The QC hand is
17 the one that writes the deficiency list, not Craft.

18 JUDGE BLOCH: Craft could write a
19 deficiency, couldn't they, if they --

20 THE WITNESS: Yes, sir, anyone can bring
21 to the attention a deficiency that they see, or a non-
22 conforming condition that they see in the field.

23 JUDGE BLOCH: Do you know whether or not
24 there ever was a deficiency written up that these QC
25 hands had done something wrong?

4/7 1 THE WITNESS: No, sir.

2 JUDGE BLOCH: You don't know, or --

3 THE WITNESS: I don't know of any such.

4 JUDGE BLOCH: Do you think you would know
5 if there was such a thing?

6 THE WITNESS: I think I would have found
7 out real quick.

8 BY MR. ROISMAN:

9 Q Were there other occasions that you can
10 remember during the January/February time period when
11 the Craft reacted to inspection conducted by your
12 Inspectors by being a little upset that so many
13 deficiencies were found?

14 A Well, when we first got started in the
15 Post-Construction Verification finals, like I said,
16 stated before, Area Management and Construction was
17 concerned with the amount of deficiencies that we were
18 noting when we went into the room.

19 Q But that was, as I understood your
20 testimony, that preceded that first meeting, and you
21 felt that that problem had been laid to rest by the
22 resolution that came out of the first meeting.

23 A Yes, sir.

24 Q Now I'm asking you about subsequent to
25 the first meeting, were there other occasions when the

1 Craft or the Building Management had gotten upset in
2 any way about the amount of deficiencies that your
3 Inspectors were finding in work that they thought had
4 been completed?

5 A Yes, sir. That was the one we just
6 finished discussing on 773 Elevation where we went
7 down and had the meeting.

8 Q And other than that?

9 A Not that I can recall.

10 Q Were there any complaints made to you
11 by either your Leads or your QC Inspectors that they
12 were getting a lot of static from the Craft or from
13 Building Management about deficiencies that they were
14 finding?

15 A No, sir.

16 (Counsel Conference.)

17 JUDGE BLOCH: Mr. Roisman, when you come
18 to a natural breaking point we'll take a break.

19 MR. ROISMAN: Okay. We can do that here,
20 Judge Bloch.

21 JUDGE BLOCH: Five-minute recess.

22 (A short recess was taken.)

23 JUDGE BLOCH: The hearing will come to
24 order.

25 Mr. Roisman.

1 BY MR. ROISMAN:

2 Q Mr. Bennetzen, I know you told me the
3 elevation and room description of the room where this
4 alleged destructive testing took place. Do you remember
5 the room number?

6 A No, sir. I had over sixty some rooms
7 in that building.

8 Q But you did remember that it was
9 Elevation 773?

10 A Elevation 773, the RH&CT Pump Room.

11 Q Mr. Bennetzen, I'm going to ask you to
12 take a look at what appears to be a Post-Construction
13 Deficiency List for a room at Elevation 7 3.

14 We do not have an Inspection Report
15 attached to it, so I cannot give you a date.

16 I just want to ask you if you recognize
17 it, whether this was the Post-Construction Deficiency
18 List that you took with you to the meeting that day?

19 MR. DOWNEY: May I see that, please?

20 MR. ROISMAN: Do you want to see it while
21 the witness is looking at it?

22 MR. DOWNEY: Certainly. We'll do it
23 efficiently, if we can.

24 (Document handed to witness.)

25 MR. JORDAN: Mr. Bennetzen, when everyone

/10
1 else is finished looking at the list, you may take the
2 time that you need to familiarize yourself with it.

3 JUDGE BLOCH: Mr. Bennetzen, I'd also
4 like to state that you've noticed that the Board likes
5 to ask questions from time to time. We urge you to
6 treat our questions just as suspiciously as any lawyer,
7 and answer fully and truthfully, and tell us if you
8 don't understand anything we asked.

9 THE WITNESS: Yes, sir.

10 JUDGE BLOCH: Thank you.

11 (Pause in record while counsel and
12 witness study documents.)

13 MR. DOWNEY: I trust you'll put those
14 back in order.

15 MR. TREBY: Yes.

16 JUDGE GROSSMAN: Yes, I think they are.

17 BY MR. ROISMAN:

18 Q Okay. Now, Mr. Bennetzen, my question
19 was: Can you tell us whether this was the Post-
20 Construction Deficiency List which you took with you
21 to the room at Elevation 773 on the day of the meeting
22 about the destructive examination?

23 A I'm not absolutely positive that this
24 is the particular documents, but it looks like they
25 are.

4/11

1 MR. ROISMAN: Okay. It does look like
2 it is.

3 Mr. Chairman, I'd like to have
4 that received in evidence and marked, please.

5 MR. DOWNEY: Received in evidence as
6 what?

7 MR. ROISMAN: As a Post-Construction
8 Deficiency List for Room 53, Elevation 773, Safeguards
9 Unit 1.

10 MR. DOWNEY: I don't believe the witness,
11 I believe his testimony was he doesn't recall. He thinks
12 that might be the list. He's not certain that he can
13 identify it.

14 MR. ROISMAN: I want to offer it as what
15 it is on its face. I understand what his testimony is
16 with reference to it. You and I will make our legal
17 arguments about whether that's the same one.

18 MR. DOWNEY: We would object.

19 MR. ROISMAN: It's a document prepared
20 in the normal course of the business of Comanche Peak.
21 It seems to me it's an appropriate document to receive.

22 JUDGE BLOCH: I didn't hear whether you
23 objected, or didn't you?

24 MR. DOWNEY: We do object. I don't
25 believe that Mr. Roisman can authenticate that as a

4/12 1 document prepared in the normal course of business at
2 Comanche Peak. It's certainly not a document that we
3 have produced in discovery in this case.

4 MR. ROISMAN: No. It's a document that
5 was produced by the Nuclear Regulatory Commission
6 Staff, and it represents one of the documents that
7 was seized by the Applicants on the day of the T-shirt
8 incident from the files of the QC Inspectors. And then
9 the Staff made copies of whatever they made copies of,
10 and then through discovery we were allowed to make copies
11 of that.

12 JUDGE BLOCH: Mr. Treby, your comments?

13 MR. TREBY: I believe that it certainly
14 can be marked for identification and bound into the
15 record so that we all know what document it is that we
16 are talking about.

17 As far as being received into
18 evidence, I guess I'm not quite sure what the purpose
19 is for receiving it into evidence.

20 If it's going to be offered just
21 as a document showing a list of deficiencies, or here's
22 what it purports to be, I guess that's an appropriate
23 matter.

24 But I don't know if it could be
25 offered for the truth of the fact that those in fact

/13
1 were deficiencies found or not. There's been no
2 evidence that would indicate that those were in fact
3 matters found.

4 In sum, I guess the Staff's view
5 is that it certainly can be marked for identification,
6 bound into the record here so that we know what is
7 being discussed in the record at this point, but I don't
8 think that it can be received in evidence for the truth
9 of the matters listed on the document.

10 MR. ROISMAN: Mr. Chairman, in light of
11 the question about the authenticity, I'll ask the
12 witness some questions about the document.

13 JUDGE BLOCH: Yes. Proceed.

14 MR. ROISMAN: All right.

15 BY MR. ROISMAN:

16 Q Mr. Bennetzen, is that Post-Deficiency
17 List one that was prepared by persons whose signatures
18 are on the document?

19 A I imagine so.

20 Q And do you recognize those signatures?

21 A. (Pause.) Yes, sir.

22 Q Are those people who worked under your
23 supervision?

24 A. Yes, sir.

25 Q And is that the form that they used when

/14

1 they made out Post-Construction Deficiency lists?

2 A Yes, sir, this is the form that's in
3 the procedure to us during Post-Construction Verification.

4 Q And is it your testimony that that is
5 a Post-Construction Deficiency List that was prepared
6 by persons under your supervision, even though you are
7 not absolutely certain that it's the one that you took
8 to the building that day?

9 A Yes, sir.

10 MR. ROISMAN: I move its admission.

11 JUDGE GROSSMAN: If I may ask one or two
12 further questions.

13 How many Post-Construction
14 inspections would you have of a particular room in that
15 building?

16 THE WITNESS: You could have several.
17 If you had deficiencies noted during the initial
18 inspection, upon the construction clearing the
19 deficiencies you would have re-inspection and during
20 that re-inspection you could possibly find additional
21 deficiencies and write an additional deficiency list.

22 JUDGE GROSSMAN: On the number of
23 deficiencies found on that list could you come to any
24 conclusion as to whether that was the initial Post-
25 Construction inspection, or a re-inspection?

4/15

1 THE WITNESS: With the amount of items
2 on this particular document, I would say it would be
3 an initial inspection, final inspection.

4 JUDGE GROSSMAN: And so if that were the
5 initial inspection in that room would that resolve any
6 doubts in your mind as to whether or not that was the
7 actual deficiency list that you brought?

8 THE WITNESS: There's six rooms on
9 773 Elevation, and this is for Room 53, which I'm not
10 for sure if that is the particular room.

11 JUDGE GROSSMAN: So that's about the only
12 reason why you would have any doubts as to whether that
13 was the deficiency list that you brought then?

14 THE WITNESS: Yes, sir.

15 MR. FOISMAN: I take it, by the way,
16 that that's a matter that's relatively easily found
17 out. I mean all we need to do is to have somebody tell
18 us what is the name -- The witness knows the name of
19 the room he went to. He doesn't know the number. We
20 have a document with a number on it; we don't know what
21 the name is that goes with it.

22 JUDGE BLOCH: Is that true, you know the
23 number of the room you went to?

24 THE WITNESS: Yes, sir, it was the Safety
25 and FH Pump Rooms

4/16

1 JUDGE BLOCH: Okay. If the Applicants
2 would find out the number of the CP&RH Pump Rooms,
3 we'd appreciate that, counsel.

4 JUDGE GROSSMAN: And stipulate with other
5 counsel whether it is or not, if you can reach a
6 stipulation.

7 MR. DOWNEY: Candidly, I think if
8 Mr. Roisman wanted this deficiency list and wanted to
9 pursue this matter it should have been conducted in
10 discovery long before this.

11 I mean I feel that we are repeatedly
12 burdened to conduct discovery for the Intervenor and
13 produce their proof during this case.

14 I mean if we are ordered by the
15 Board to take, to identify this is the room, we'll do
16 that. I don't think it's fair. I don't think it's
17 required.

18 JUDGE BLOCH: We'll do that. We'll take
19 it as an exhibit at this point and admit it into
20 evidence.

21 We don't know at this time whether
22 it is the room that's involved.

23 MR. ROISMAN: Does anyone know what the
24 last exhibit number was in Mr. Bennetzen's pre-filed
25 and we'll make this the next exhibit number.

4/17 1 JUDGE BLOCH: Well, if we are going to
2 bind it in right here so it will have a transcript page
3 you don't need an exhibit number.

4 MR. ROISMAN: All right.

5 (Whereupon, the documents
6 above-referred to were
7 numbered and bound into the
8 transcript as follows:)

9 MR. ROISMAN: The document is 11 pages.
10 And can we get this back after you make the appropriate
11 number of copies, please.

12 THE REPORTER: Yes. Certainly.

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14 ///

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POST CONSTRUCTION DEFICIENCY LIST

EF. IR #: PCV-1-0025932

ROOM #: 53

ELEV.: 773'

AREA: 5.6.1

ITEM	DESCRIPTION	CRAFT	GC REINSPECTION	REMARKS
1.	J.B. For ES61-10, 41 Has TERMINATIONS SKIPPING MORE THAN 1/4" CONDUCTOR ID BARETEL OF Lug. Location: N.W. Corner of Room, EL. 783'	KOA 2-22-84	PC 2/22/84	SAT
2.	LIGHTING Fixture on ES61-41 HAS SHORT IN MOUNTING BOX. REPLACE Lug. Location: 4' W. OF WALL ON N. WALL, EL. 881'	KOA 2-22-84	PC 2/22/84	SAT
3.	PRINT ON CABLES IN ES61-41, 10, Location: N.W. CORNER OF Room, EL. 783'	NH 2-22-84	PC 2/22/84	SAT
4.	PRINT ON CABLES IN ES61-10, 41 J.P. Location: E. WALL AT 5. CORNER, EL. 883'	KOA 2-22-84	PC 2/22/84	SAT

POST CONSTRUCTION DEFICIENCY LIST

EF. IR #: PCV-1-0025932

ELEV.: 773'

ROOM #: 53

AREA: S.G.I

ITEM	DESCRIPTION	CRAFT	QC REINSPECTION	REMARKS
5.	LIGHTING RESTRAINT CLAMP BAD. LOCATION: 4' W. OF EAST WALL ON N. WALL. EL. 881'		2-22-84 MDC [Signature] CRIMP RECRAMPED	NCR # E84-00604
6.	LIGHTING RESTRAINT CLAMP BAD, 2' OFF W. WALL ON S. WALL. EL. 881'		NCR STILL OPEN MDC [Signature] CRIMP RECRAMPED	NCR # E84-00604
7.	ELECT. SHORT IN LIGHTING FIXTURE HEAD. LOCATION: 4' WEST OF E. WALL ON N. WALL. EL. 783'	KDA 2-22-84	RD Jones 2/22/84	SAT
8.	ESB1-10 J.B. HAS BAD CLAMP ON CONDUCTOR, EL. 783' LOCATION: 9 1/2' E. OF C.S. ABOVE DOOR	KDA 2-22-84	RD Jones 2/22/84	SAT
9.	ESB1-10 FLEX HAS PAINT ON ROCKWALL. EL. 793'. LOCATION: 9 1/2' E. OF C-S ABOVE DOOR.	KDA 2-22-84	RD Jones 2/22/84	SAT

POST CONSTRUCTION DEFICIENCY LIST

EF. IR #: PCV-1-0025932
 ROOM #: 53

ELEV.: 773'
 AREA: SG1

ITEM	DESCRIPTION	CRAFT	GC REINSPECTION	REMARKS
10	EQUIPMENT # TBX-RHAPRH-01 BOLT CROSS THREADED + LOCKWASHER MISSING.			NCR # E84-0066605
11	GROUND NOT SECURED ON EQUIPMENT # CPI-VAHUSE-01			
12	NCR # E-84-006265 EQUIPMENT # TBX-RAAPRH-01 AIR VENT SIDE COVERS REMOVED, NO PROTECTION PROVIDED FOR EXPOSED COMPONENTS		Multichecked 2-27-84	SAT, steel tag removed.
13.	NCR TRASH IN MOTOR MOUNTING PLATFORM		Multichecked 2-27-84	SAT

POST CONSTRUCTION DEFICIENCY LIST

EF. IR #: PKV-1-0025932

ELEV.: 773'

ROOM #: 53

AREA: 5671

ITEM	DESCRIPTION	CRAFT	QC REINSPECTION	REMARKS
14	ESB10-41 HAS BAD CRIMP WESTWALL ABOVE DOOR ENTRY EL. 785' (JB.) 6" SOUTH OF 6-5	ELECT.	MUDC <i>Richard</i> 2-29-84	SAT.
15	ESB10-41 HAS STRIPPED OUT SCREWS FOR ATTACHMENT OF COVER / LOCATION - EASTWALL EL. 785' - 14' SOUTH OF 6-5	ELECT.	MUDC <i>Richard</i> 3-1-84	SAT
16	ESB10-41 CONDUIT NEEDS TO BE REIDENTIFIED / LOCATION - EL. 785' WESTWALL, 14' S OF 6-5	ELECT.	MUDC <i>Richard</i> 2-29-84	SAT
17	ESB1-10 FLEX CONNECTOR LOOSE AT ESB1-10-41 LOCATION - EL. 785 - WESTWALL 14' ^{W 2-29-84} S OF 6-5	ELECT.	MUDC <i>Richard</i> 2-29-84	SAT
18	ESB1-10 - CONDUIT COMING INTO BACKSIDE OF JB NEEDS ID	ELECT	MUDC <i>Richard</i> 2-29-84	SAT CONTINUED P. 2 OF

POST CONSTRUCTION DEFICIENCY LIST

EF. IR #: PCU-1-0025932

ELEV.: 773

ROOM #: 53

AREA: SGA1

ITEM	DESCRIPTION	CRAFT	QC REINSPECTION	REMARKS
22.	Screw loose in J Box cover ESB1-10,41, west wall, eku 788 4' north of south wall		Mitko C. P. S. S. S. S. 2-29-84	SAT
23	ESB1-10,41 bad color code & ID Southwest corner at eku 788 2-29-84		Mitko C. P. S. S. S. 2-29-84	SAT
23	ESB1-10,41 bad color code & ID Southwest corner at eku 784		Mitko C. P. S. S. S. 2-29-84	SAT
24.	ESB1-41 needs re-ID in two places on conduit on east wall at eku 781, along wall.		Mitko C. P. S. S. S. 3-1-84	SAT

POST CONSTRUCTION DEFICIENCY LIST

17819

EF. IR #: PCU-100259320 ELEV.: 773

ROOM #: 53 AREA: SGA/1

ITEM	DESCRIPTION	CRAFT	QC REINSPECTION	REMARKS
25	C1105385 has "5" digit missing on Flex, elev 785, 4' north of south wall, 6' west of east wall.		Mittler, R. Bedford 2-29-84	SAT
26	Flex Connector loose, C1105385 2' north of south wall, elev 785, 6' west of east wall		Mittler, R. Bedford 2-29-84	SAT
27	JB15650 plus base in end of J. Box, ceiling elev, 4' west of east wall, 5' north of south wall.		Mittler, R. Bedford 2-29-84	SAT
28	C13013169 IO covered with galvanized 1' north of south wall, elev 785, 2' west of east wall		Mittler, R. Bedford 2-29-84	SAT

POST CONSTRUCTION DEFICIENCY LIST

EF. IR #: PCU-1-0025932

ELEV. i: 723

ROOM #: 53

AREA: 561

ITEM	DESCRIPTION	CRAFT	QC REINSPECTION	REMARKS
29	JBIS 580, gasket not a complete seal, ceiling elev, 2' west of east wall, 4' north of south wall		Eddie Smyke 3-1-84	SAT
30	CIED-520, loose coupling on dead leg 5' west of east wall, 4' north of south wall		Milton C. Buehler 2-29-84	SAT
31	Pecker steel cover loose on motor 1Y882543A35XD, 2' west of east wall, 6' north of south wall, 2' below ceiling		Milton C. Buehler 2-29-84	SAT
32	JBIS 650 2 bushings in J. box bad, ceiling elev, 4' west of east wall, 5' north of south wall			

POST CONSTRUCTION DEFICIENCY LIST

EF. IR #: PCU-1-0025932

ELEV.: 773

ROOM #: 53

AREA: SG1

ITEM	DESCRIPTION	CRAFT	QC REINSPECTION	REMARKS
33	Fire detector #06825, both termination crimps bad, not properly lugged. 5' east of west wall, 5' north of south wall, ceiling elev.			
34	ESB-1-10, 41 Trash in JB, 1 loose termination clamp on ground wires, 1 insert for cover installed with glue. East wall, 1' north of south wall, 4' below ceiling			
35	ESB-1-10 light has loose plug in dead leg, east wall, 2' north of south wall, 5' below ceiling		Muller, C. Regal SAT 2-29-84	

POST CONSTRUCTION DEFICIENCY LIST

EF. IR #: FCU-1-0025932

ELEV.: 773

ROOM #: 53

AREA: SG 1

ITEM	DESCRIPTION	CRAFT	REINSPECTION <small>QC</small>	REMARKS
36.	C1130/14166 Flex heads new ID 3' east of east wall, 5' north of south wall, elev 785		Mitro C. Byfield 2-29-84	SAT
37	ALL lighting restraints in room have T.E. wraps on restraint cable		Mitro C. Byfield 2-29-84	SAT
38	C1FD-52D needs gasket at LB, ceiling elev, 5' west of east wall, 6' north of south wall.		Mitro C. Byfield 3-1-84	SAT
39.	Penetration's missing PRACTICE ID'S 4001, 4002, 4003, 4004 south west corner at elev 784'		Eddie Snyder 3-1-84	Items transferred to Bureau for evaluation

POST CONSTRUCTION DEFICIENCY LIST

EF. IR #: PCV-0025932

ELEV.: 773

ROOM #: 53

AREA: SG1

ITEM	DESCRIPTION	CRAFT	QC REINSPECTION	REMARKS
40	ESB1-10 needs new terminal block for light, needs new gasket for shade ceiling, entrance to room.		Mitro C England 3-1-84	SAT
41	ESB1-10 JB loose bushing near ceiling in entrance to room.		Mitro C England 2-29-84	SAT
42	6SB1-41 Conduit has NLR 684-0070'S East wall, 7' south of 6's, at elev 780			
43	Wrong ID on Flex from JBS-580, should be C2003412 per drawing E1-0600-01 Rev 16, 3' west of east wall, 5' north of south wall, ceiling elev.			

/18
1 BY MR. ROISMAN:

2 Q Now, Mr. Bennetzen, you mentioned that
3 you had a follow-up meeting with Mr. Tolson sometime
4 subsequent to the tour that you took of this room.

5 Do you remember how soon after you had
6 this meeting with Mr. Tolson?

7 A Oh, I believe it was a few hours later.

8 Q And what was the subject of -- Well,
9 did he call you to his office for that meeting?

10 A Yes, sir.

11 Q All right. And what was the subject of
12 the meeting?

13 A Mr. Tolson, we had gotten together, and
14 he believed that giving us a Quality Engineer directly
15 in our building, and this Quality Engineer and my Leads
16 and I sitting down and helping revise the procedure.

17 And also that Quality Engineer helping
18 to disposition deficiencies or questions on the
19 procedure from QC and Construction, that this would help
20 us out in that in our building.

21 Q Did you think you needed any help?

22 A I believe we needed help in the
23 procedure.

24 ///

25 ///

5-1
he

1 BY MR. ROISMAN:

2 Q Which procedure?

3 A 11.3-40.

4 Q Which portion of it?

5 A Concerning the terminations, lighting
6 terminations.

7 Q As I understood your earlier testimony,
8 the question about that lighting termination was a
9 fairly straightforward one.

10 A Yes, sir.

11 Q Now, at this time, and I mean the time
12 that you and Mr. Tolson were meeting, in your judgment
13 the procedure clearly said do the inspection?

14 A Yes, sir.

15 Q And the only question was whether in
16 engineering's view you should not do the inspection
17 or you should do less of the inspections; isn't
18 that correct?

19 A Yes, sir.

20 Q I'm having a hard time understanding
21 what was your reason for thinking that there was a
22 need to have much discussion about that.

23 Was this an engineering decision to make?

24 A In engineering as well as quality
25 engineering.

5-2

1 Q But you were neither of those, correct?

2 A Correct.

3 Q So why were you in the loop? Why was
4 Mr. Tolson even discussing it with you?

5 A Because at that point in time I believe
6 engineering had come to the decision that there was
7 not a need for inspecting the lighting terminations
8 in the Class 1E inspection.

9 Q Then why didn't engineering just amend
10 the procedures and have them given to your inspectors
11 and that would be the end of it?

12 A Because it's a much -- I don't know how
13 I want to say it -- when revising a procedure, it is
14 most appropriate to have your QC personnel and leads
15 comment to that procedure prior to putting it on the
16 street and then later having to make a revision that
17 quality engineering possibly didn't realize was
18 needed out in the field.

19 Q And at the time of your meeting that
20 afternoon, or that day with Mr. Tolson, your second
21 meeting with Mr. Tolson, was there a draft procedure
22 that you had to look at?

23 A No, not until quality engineering came
24 out into the field with us and we sat down and
25 started making revisions to the procedure, and

5-3 1 clarifications.

2 Q Now, at the time of this meeting with
3 Mr. Tolson, was the only problem that the QE
4 engineer was coming to your group to deal with was
5 just this question of whether lighting terminations
6 should be inspected, and if they shouldn't be, what
7 the nature of the change should be to the procedures?

8 MR. DOWNEY: Objection. He's testified
9 to the contrary. He testified that among the reasons
10 he was sent there was to help in the disposition of
11 unsatisfactory items, to work on the procedures and
12 to give a hand. That's not a fair characterization
13 of the witness' testimony.

14 BY MR. ROISMAN:

15 Q Do you agree with what your counsel
16 said?

17 A Sure do.

18 Q Okay. Tell me what it was about the
19 procedures, other than this item, that the QE was
20 going to help work out.

21 A I really don't recall.

22 Q Do you remember whether there was
23 definitely some other procedural item?

24 A When you revise a procedure you go
25 through the complete procedure to make sure that

5-4 1 during that revision you pick up any of the areas
2 that possibly need clarification in the procedure
3 itself.

4 Q And how --

5 JUDGE JORDAN: Could I ask one question.

6 At the time you met with Mr. Tolson in
7 his office, had the engineering department already
8 decided that the lighting should not be Class 1E or
9 were you just expecting that they might make such a
10 determination and were revising procedures to get
11 prepared for it?

12 THE WITNESS: It was my understanding
13 that engineering had made a decision that the
14 terminations in the lighting junction boxes were not
15 need to be inspected during final post-verification,
16 sir.

17 JUDGE BLOCH: To clarify, because of
18 the last question, was there a discussion of whether
19 or not they were 1E?

20 THE WITNESS: I believe that's -- that,
21 to me, is something that needs to be asked by
22 engineering. I don't know how they came to the
23 decision that they did.

24 JUDGE JORDAN: I see. I thought I
25 heard you say earlier that you thought that would be

1 the main reason if inspections were -- but neverthe-
2 less, you can't say that you're the one to know that?

3 THE WITNESS: Yes, sir.

4 JUDGE JORDAN: All right.

5 MR. DOWNEY: If I may, just a word of
6 background on Mr. Bennetzen, and it's in his pre-
7 filed testimony, he's not an electrical inspector,
8 his background is in the ASME discipline.

9 JUDGE JORDAN: Yes, we understand.

10 BY MR. ROISMAN:

11 Q Now, Mr. Bennetzen, what else did you
12 and MR. Tolson discuss at the meeting other than the
13 QE coming to the field?

14 A I believe that's all I can recall.

15 Q What was it about the dispositioning of
16 nonconforming conditions that the QE was going to help
17 you with?

18 A He could expedite them.

19 Q How could he do that?

20 A By being right there in the building,
21 instead of having to transmit the NCR's or deficiency
22 lists from my building over to the other side of the
23 jobsite where quality engineering was located.

24 Q Was it a requirement that with respect
25 to deficiency lists that all items on the deficiency

5-6

1 lists had to be dispositioned only after QE had
2 reviewed the proposed disposition?

3 A. I don't quite understand your question.

4 Q. I'm trying to understand what role
5 quality engineering would normally play in dis-
6 positioning an item on the post-construction
7 deficiency list.

8 A. Okay. During post-construction
9 verification, on your deficiency list you can have
10 specific items that you note that are nonconforming
11 conditions.

12 You write a nonconformance report,
13 a number is issued to that particular document and
14 it's recorded on the deficiency list.

15 Normal routing of a nonconformance
16 report is that it goes from QC to the package flow
17 group, from the package flow group NCR coordinator
18 to engineering, the engineering discipline that's
19 over that particular area of the nonconformance.

20 They establish a disposition and then
21 it is routed to quality engineering for their
22 approval of the disposition, sir.

23 Q. So the only items that the quality
24 engineering group would get involved with would be
25 those that would -- on which a nonconformance report

5-7 1 would have been written.

2 A Not all the time.

3 Q You mean not on all nonconformance
4 reports but even on other things?

5 A Well, the problem we were having, as
6 I've already stated, is some over-inspection taking
7 place, is what I also found on 773 elevation. I
8 wanted a quality engineer out there for aid in
9 explaining to my QC hands the over-inspection over
10 and above the acceptance criteria in the procedures.

11 Q I see. So that wasn't so much dis-
12 positioning as it was explaining what would be a
13 legitimate deficiency and that should be reported
14 as opposed to one that should not be reported?

15 A Yes, sir.

16 Q And was there just one QE who was --
17 who Mr. Tolson was going to have assigned --

18 A Yes, sir.

19 Q -- to assist you in this?

20 And had you asked Mr. Tolson for that
21 particular assistance?

22 A No, sir. I believe it was Mr. Tolson's
23 idea.

24 Q Were there other instances of allegations
25 of over-inspection by your inspectors, other than the

5-8 1 two that the craft foreman made in that meeting
2 earlier that day?

3 A. No, sir, not that I can recall.

4 JUDGE BLOCH: Is two the right number
5 there?

6 JUDGE JORDAN: Yes.

7 THE WITNESS: The two is for the
8 destructive examination taking place. There was
9 other deficiencies pointed out by that craftsman
10 that he felt was over-inspection.

11 JUDGE JORDAN: You did mention two
12 over-inspections?

13 THE WITNESS: Yes, sir.

14 MR. DOWNEY: I believe his testimony
15 was he could recall two specific instances.

16 THE WITNESS: Yes.

17 BY MR. ROISMAN:

18 Q. So your understanding when you were
19 meeting with Mr. Tolson was that as a result of,
20 solely of the allegations that had been made in the
21 morning meeting about over-inspection, he was pro-
22 posing that you have a QE assigned to work with
23 your people to reduce the over-inspections, is that
24 correct?

25 MR. DOWNEY: Objection. That is not

5-9 1 his testimony. Time and time again Mr. Roisman mis-
2 characterized the testimony in the last five minutes.

3 JUDGE BLOCH: Okay. Let's correct the
4 lawyer if he's wrong. The question is allowed.

5 THE WITNESS: Could you please repeat it?

6 MR. ROISMAN: Yes.

7 BY MR. ROISMAN:

8 Q I'll even do one better than that, I'll
9 do what your counsel would like. I will ask you to
10 tell me what was your understanding of the basis upon
11 which Mr. Tolson based his conclusion that one of the
12 functions that the QE should perform when assigned
13 to your group was to help explain to your inspectors
14 what was the proper inspection so that they would
15 not over-inspect?

16 A I feel that that was one of the reasons
17 that quality engineering was sent out there, yes, sir.

18 Q And what do you think was Mr. Tolson's
19 basis for that, for believing that you needed that
20 kind of help?

21 A I guess do to what we had just come
22 from looking at, which had happened on 773 elevation.

23 Q He didn't mention to you any other
24 instances of which he was aware in which allegations
25 had been made about over-inspection?

5-10 1 A No, sir.

2 Q Were you surprised that he was
3 assigning the QE to you for that -- in part for
4 that reason, based solely on that meeting?

5 A No, sir. I more than welcomed a
6 quality engineer right there in my building to
7 expedite my deficiencies and nonconformances.

8 Q And also to help your inspectors not
9 over-inspect?

10 A I felt that a quality engineer could
11 help me discuss matters with my QC hands, yes, sir.

12 Q Had you at some time prior to this
13 meeting with Mr. Tolson had a meeting with Mr. Purdy
14 in which you expressed any concerns involving your
15 position, problems that you were having in that job?

16 A Yes, sir.

17 Q When was that, do you remember?

18 A I believe I had a meeting with Mr. Purdy
19 early in February, I believe it was.

20 Q And what did you discuss with Mr. Purdy?

21 A The use of a micrometer versus a
22 go/no-go gauge.

23 Q And why did you discuss that with him?

24 A We had had a problem that we had found
25 out in the field on our go/no-go gauges that were

5-11 1 made out of a very malleable metal, which after
2 repeated use of that particular gauge they would
3 get worn and we were having -- one inspector would
4 go out on an in-process inspection and his gauge
5 would show that those particular crimps were satis-
6 factory, and during a -- say a week or two later
7 during a final inspection we were having QC hands
8 go out and they were getting readings on their go/no-go
9 gauges of UNSAT.

10 We researched it and found that the
11 gauges were wearing on us and we wrote nonconformance
12 reports as such.

13 We were more or less stopped in our
14 final inspection on looking at the lighting
15 restraints which that particular go/no-go gauge is
16 used in the crimping of the lighting restraints,
17 the inspection of the crimp.

18 I wanted to keep my inspections going
19 on by having my QC hands go to the calibration lab
20 and check out Vernier calipers because I knew the
21 exact reading, measurements that the crimp was
22 supposed to be, which was a far superior instrument,
23 or better instrument to use than a go/no-go gauge.

24 My QC hands were most concerned because
25 the procedures stated a go/no-go gauge was to be used

5-12 1 and they did not want to go check out a micrometer
2 and use it, or Vernier calipers.

3 Q So why did you go to Mr. Purdy about
4 that?

5 A I went to Mr. Purdy for -- wanted to
6 consult him, whether he felt there was a problem with
7 the QC hands using Verier calipers during the
8 inspection.

9 Q And why did you go to Mr. Purdy at this
10 point, he was not your immediate superior, was he?

11 A Because I had already discussed it with
12 quality engineering and they felt that we should use
13 only the go/no-go gauge.

14 Q Why didn't you discuss it with
15 Mr. Tolson?

16 A I don't believe Mr. Tolson was on site.
17 I believe he was in the hearings.

18 Q So Mr. Purdy was your second choice?

19 A Yes, sir.

20 Q And were you looking for someone to
21 exercise authority over quality engineering to
22 resolve the difficulty?

23 A I went to Mr. Purdy for advice as to
24 what I should do about my problem, sir.

25 Q And what advice did you get?

5-13

1 A. I believe that what we finally came up
2 with is that unless the procedure was revised to
3 state a go/no-go gauge or equivalent, we should just
4 stick with the go/no-go gauge.

5 Q. What had you done at that point with
6 regard to the prior inspections that had been carried
7 out using the go/no-go gauges?

8 A. We back-fit.

9 Q. What does that mean?

10 A. We went back and reinspected upon
11 receiving new go/no-go gauges.

12 Q. How many were involved in that, roughly,
13 how many inspections?

14 A. A few hundred restraints.

15 Q. Was that all of the seismic restraints
16 in the safeguards building?

17 A. No, sir.

18 Q. Was that all the seismic restraints
19 that you had inspected up until that time, for
20 lighting I mean?

21 A. No, sir.

22 Q. How did you know which ones you didn't
23 have to go back and check?

24 A. Because we had only done so many room
25 finals, sir, and we went back to those particular

5-14 1 rooms that we had done previous finals in and re-
2 inspected.

3 Q Okay. So I guess I wasn't clear with
4 my question. So you went back and reinspected for
5 all of those that you had previously done a final
6 inspection on using the go/no-go gauges?

7 A Yes, sir.

8 Q Now, do I understand that you got new
9 go/no-go gauges?

10 A Yes, sir.

11 Q And were they designed differently so
12 that they didn't have this same problem that you had
13 been experiencing with the old ones?

14 MR. DOWNEY: Objection. This is not
15 relevant to the issue here.

16 JUDGE BLOCH: Well, do you know whether
17 or not the new go/no-go gauges were properly
18 calibrated?

19 THE WITNESS: They were brand new gauges,
20 they weren't worn.

21 JUDGE BLOCH: Was there a requirement
22 for calibration before they were used?

23 THE WITNESS: We had the QC hands daily
24 go by the Cal lab and have the instrument gauged.

25 JUDGE BLOCH: Well, if they did that,

5-15 1 what was the problem with the old ones? I mean, if
2 they were gauged every day, why were --

3 THE WITNESS: Up to that point they
4 were not.

5 BY MR. ROISMAN:

6 Q Was that solution to the problem one
7 that required an engineering approval?

8 MR. DOWNEY: Objection, not relevant.

9 MR. ROISMAN: I believe this was part
10 of what we have had from other witnesses, not so much
11 from this one, admittedly, is testimony that there
12 were a number of areas in which the inspectors were
13 being criticized by the craft and building management
14 for doing too much, too much inspection, and went
15 all the way to allegations of destructive inspection.

16 I'm trying to identify this is one
17 area in which there was a substantial amount of re-
18 inspection being done, trying to find out whether or
19 not we have a lot of areas in which there were
20 problems being found in these buildings.

21 JUDGE BLOCH: The question had some-
22 thing to do with QE engineers? I don't understand.

23 MR. ROISMAN: I just wanted to find out
24 how the matter got resolved. There is an NCR that
25 was written on this on February 22nd, 1984, by

5-16 1 Whitehead and Snyder, and I want to find out from
2 the witness how the matter got resolved.

3 JUDGE BLOCH: The NCR doesn't tell you?

4 MR. ROISMAN: No. The one we have,
5 which is a deposition exhibit to Mr. Whitehead's
6 deposition does not have any disposition on it.

7 JUDGE BLOCH: Mr. Downey.

8 MR. DOWNEY: I just fail to see the
9 relevance of this, Your Honor. Mr. Bennetzen was
10 asked about what the problem was. He discussed it
11 with Mr. Purdy. He said what it was. He discussed
12 the disposition, what they did. Now we're getting
13 into the question of whether -- basically a technical
14 question of whether the go/no-go gauge was the proper
15 instrument, what the engineering said, I mean I think
16 it's far beyond the bounds of this proceeding.

17 JUDGE BLOCH: I think it's weakly
18 related to what the controversy was between craft
19 and QC. If it's only this one question, I think we
20 can do it, but let's try to stick to the controversy,
21 alleged controversy.

22 MR. ROISMAN: Yes, Mr. Chairman, I was
23 not intending to go on indefinitely on it at all.

24 BY MR. ROISMAN:

25 Q The question was whether or not you

5-17 1 needed to go to engineering in order to get an
2 approval for the program that you just described,
3 which was to start with new gauges and then calibrate
4 them every day.

5 A. Naturally it required a quality
6 engineering disposition on the NCR.

7 Q. Okay. And as far as you know, that
8 did occur?

9 A. Yes, sir.

10 Q. Going back now to your meeting with
11 Mr. Purdy, was this the only problem that came up
12 at the meeting, the only item that you and he
13 discussed?

14 A. Yes, sir.

15 Q. And were you satisfied with the
16 resolution that you got from him when you came out
17 of the meeting?

18 A. Yes, sir.

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e
1 BY MR. ROISMAN:

2 Q Did you have occasion to speak to
3 Mr. Purdy any other time before you had this meeting
4 with Mr. Tolson on the day of the alleged destructive
5 examination about any difficulties that you were
6 having in your position?

7 A I believe I had one other meeting with
8 Gordon discussing some communication problems that
9 we were having.

10 Q Tell me about that, would you? First,
11 when did that meeting occur?

12 A I think it was early on in the
13 beginning of the task force.

14 Q That would be like late December,
15 early January?

16 A It would be early December sometime,
17 I believe.

18 Q What was the problem that you were
19 experiencing with communication?

20 A We were still in the development stage
21 of the task force, and I felt that we were having some
22 communication problems. I was having some
23 communication problems with building management over
24 the approaches that we were going to take in
25 developing how we were going to go in and do the

1 finals, and this and that.

2 Q What were the problems you were having?

3 MR. DOWNEY: Objection. It's not
4 relevant, Your Honor.

5 JUDGE BLOCH: Communication problems,
6 yes, are relevant.

7 MR. DOWNEY: This is four or five
8 months in advance of the T-shirt incident; several
9 months in advance of the first post-construction
10 verification inspection; completely unrelated to the
11 T-shirt incident that occurred in March of 1984.

12 I just fail to see the relevance of
13 this constant inquiry into things that are not in
14 issue in this case.

15 MR. ROISMAN: Well, perhaps Mr. Downy
16 wasn't here when Mr. Tolson testified about all of
17 this the other day, and doesn't realize that
18 Mr. Tolson made a number of statements regarding
19 what information he had, what he understood was
20 Mr. Bennetzen's situation and meetings he had with
21 Mr. Purdy about it.

22 JUDGE BLOCH: And the Chair ruled that
23 it was relevant. We don't know how strongly probative
24 it is, but we think it's better that we not argue
25 about how relevant it is at this point.

-3
1 BY MR. ROISMAN:

2 Q Okay. I wanted you to tell me what was
3 the communication problem. Describe it to me.

4 A Well, Like I said just previously, it
5 was on the development of the program. I felt that
6 some of the ways that we were trying to set the program
7 up wasn't going to work out, but I couldn't get it
8 through the area management, make them understand that
9 I felt that way.

10 Q Were you all having disagreements?

11 A Yes, sir.

12 Q What were you disagreeing about in
13 particular?

14 A I just said that.

15 Q Well, you said it was about --

16 A Over developing of the program itself
17 and how we were going to approach the final inspections
18 and the room turnovers.

19 Q Was it the same kind of item that
20 ultimately got resolved in the first meeting that you
21 all had together?

22 A Yes, sir.

23 Q So it was this question of whether they
24 would have completed enough of the work on the room
25 so that it was really ready for your inspection group

1 to come in?

2 A Not actually. What it was was we had so
3 many elevations and so many rooms that we were to
4 work.

5 I was also handling the ASME piping and
6 component supports; and by the way that they were
7 going to attack their room turnover, I could not fit
8 in my piping and component supports as well as N-5
9 certification into their program.

10 It wasn't really the non-ASME portion
11 of it. It was just actual completion of the
12 Safeguard Building.

13 Q And what resolution did you come to
14 with Mr. Purdy as a result of those discussions?

15 A He had talks with upper management I
16 believe.

17 JUDGE BLOCH: I don't understand the
18 nature of the problem. Was it too few inspectors?

19 THE WITNESS: No, sir. When we first
20 started that task force, we had, like I said before,
21 so many elevations within the building, so many rooms
22 on each elevation.

23 I had a non-ASME group as well as an
24 ASME group effort in completing the Safeguard Building.

25 The way that area management or building

-5 1 management was going to approach the non-ASME portion
2 of closing out their rooms and coming out of their
3 rooms was not fitting in to the way that I could work
4 my ASME piping and component supports, because an
5 isometric drawing might run through six rooms. Okay?

6 It's kind of hard to say that I am
7 complete with four foot of pipe in room such-and-such,
8 instead of attacking it by a complete iso.

9 JUDGE BLOCH: So it was the basic
10 approach of the building management program that was
11 causing the problem; is that right?

12 THE WITNESS: Yes, sir.

13 BY MR. ROISMAN:

14 Q And that communication problem that
15 you talked to Mr. Purdy about related exclusively to
16 the ASME portion of your responsibilities?

17 A As well as I can recall, yes, sir.

18 JUDGE BLOCH: That particular problem
19 never went away, did it?

20 THE WITNESS: Yes, sir. We finally came
21 up with an amiable fix on that.

22 JUDGE BLOCH: How did you do that?

23 THE WITNESS: We went ahead and attacked
24 it by complete subsystems and systems.
25

6
1 BY MR. ROISMAN:

2 Q Now, by the middle of February of 1984,
3 were all the communications problems resolved in your
4 mind and you felt there were not any at that point?

5 A Yes, sir.

6 Q Did you have any information that your
7 inspectors were having communication problems with
8 craft or building management at that time?

9 A There in the latter part of February we
10 were having problems in the post-verification
11 procedure and the actual application of the procedure
12 in the room turnover.

13 Q What kind of problems were you having?

14 A We have already discussed that, such as
15 Elevation 773.

16 Q The part of Elevation 773 that was the
17 problem that related to procedures was the allegation
18 about the over-inspection?

19 A Yes, sir, and also, whether the lighting
20 should have been dropped for inspection.

21 Q Were there any problems --

22 JUDGE BLOCH: I don't understand how
23 that was a problem between QC and craft at all. Why
24 was that a problem between QC and craft?

25 MR. DOWNEY: Why was what a problem,

-7
1 Your Honor?

2 JUDGE BLOCH: Dropping of the lighting
3 inspection. Wasn't that solely up to engineering?

4 THE WITNESS: Yes, sir.

5 JUDGE BLOCH: But you think of that as
6 a problem between QC and craft. Was there something
7 that made you think of that as a problem between QC
8 and craft?

9 THE WITNESS: Well, I believe that word
10 had already gotten out that engineering had made a
11 decision that we needed to revise the procedures, and
12 that the terminations did not need to be checked during
13 the final inspection -- during the Class I-E
14 inspection.

15 JUDGE GROSSMAN: Excuse me. I have one
16 or two questions on this problem. My recollection is
17 that you indicated the only procedural problem that
18 you recall had to do with the junction boxes on the
19 lighting terminations; is that correct?

20 THE WITNESS: Yes, sir.

21 MR. DOWNEY: Objection.

22 JUDGE GROSSMAN: Well, he has already
23 answered the question.

24 MR. DOWNEY: I don't think junction
25 boxes -- I think it's going to be confusing,

1 Judge Grossman.

2 JUDGE GROSSMAN: I am not confused at
3 all on that answer. If you have something on rebuttal,
4 you may certainly ask the question and clarify it.

5 Now, had there been any inspection of
6 those junction boxes prior to this post-construction
7 inspection that examined the lighting connection
8 itself; that is, the junction box after the lighting
9 had already been connected?

10 THE WITNESS: There was a procedure for
11 random inspection of the lighting.

12 JUDGE GROSSMAN: But not an inspection
13 of every junction box?

14 THE WITNESS: No, sir.

15 JUDGE GROSSMAN: After the lighting was
16 connected -- well, let me strike that.

17 The method of connecting the lighting,
18 I assume, and you tell me if I am wrong, was to remove
19 the wire nut on at least the switch lead in the box,
20 and connect the lighting lead to that; isn't that
21 correct?

22 THE WITNESS: Well, the wire nut is
23 not put on until the termination is made. You wouldn't
24 be removing the cap on it and then terminating two
25 wires. You put the cap on it after terminating the

-9
1 two wires.

2 JUDGE GROSSMAN: So in other words,
3 then, you never even had an initial examination of
4 the wire nut until after the lighting was connected?

5 TBE WITNESS: Until after it was --
6 There was a random -- There was a procedure. I do
7 not recall the procedure number, sir, that called for
8 a random inspection during the installation of the
9 lighting. That was --

10 JUDGE GROSSMAN: I'm sorry. Let me
11 make it clear.

12 Other than those junction boxes that
13 were randomly selected, there would not have been an
14 inspection of that particular connection until that
15 post-construction inspection?

16 THE WITNESS: Yes, sir.

17 JUDGE GROSSMAN: And was it seriously
18 suggested that those lighting connections never be
19 subjected to inspection under a changed procedure?

20 THE WITNESS: That, again, is an
21 engineering question, sir, that I couldn't answer.

22 JUDGE GROSSMAN: Well, now, are you
23 aware of the changes that were made in the procedure
24 that --

25 THE WITNESS: Yes. My understanding of

-10
1 it is that if you have an inspection procedure
2 initially that's just a random inspection of the
3 lighting, engineering as well as upper management was
4 concerned that why are you then going back and doing
5 a hundred percent inspection on it on a final.

6 JUDGE GROSSMAN: Well, sir, you did
7 indicate that you are aware of the change that was
8 made in the procedure?

9 THE WITNESS: No. I stated that I had
10 already transferred out of there before the procedure
11 was revised, sir.

12 JUDGE GROSSMAN: I may be wrong, but
13 my recollection -- and if my recollection is correct,
14 that you -- my recollection being that the change in
15 procedure dealt not with the junction box for the
16 termination of lighting, but with the lighting
17 fixture itself.

18 Assuming that assumption is correct,
19 would you believe that that change addressed the
20 problem that you were discussing here?

21 JUDGE BLOCH: Discuss it as fully as
22 you need to to explain.

23 THE WITNESS: The problem concerned
24 the lighting terminations inside the junction boxes
25 on the light fixtures.

-11 1 JUDGE GROSSMAN: Well, I understand,
2 sir, that there are two ends to the lighting --

3 THE WITNESS: Yes, sir.

4 JUDGE GROSSMAN: And that one end is
5 in the junction box and that the other end is
6 connected to the lighting fixture itself.

7 THE WITNESS: Both wires run into the
8 lighting junction box. From the lighting junction
9 box they run through the fixture into the light
10 itself.

11 JUDGE GROSSMAN: And there is one lead
12 in the light itself and one lead in that junction box?

13 THE WITNESS: There are two lead, sir.

14 JUDGE GROSSMAN: Of course, there are
15 two wires, but -- I'm sorry, let's clarify that.

16 On each wire there is one lead in the
17 junction box and one lead connected to the lighting
18 fixture itself.

19 THE WITNESS: Yes, sir.

20 JUDGE GROSSMAN: The lead that's
21 connected to the lighting fixture itself is crimped
22 on to some sort of lug; is that correct?

23 THE WITNESS: It is twisted with a wire
24 cap on it.

25 JUDGE GROSSMAN: That is the lead in

12 1 the fixture itself?

2 THE WITNESS: Yes, sir.

3 JUDGE GROSSMAN: And the other lead on
4 that particular wire is connected to the junction box,
5 or is connected in the junction box to another lead
6 also with a wire nut; is that correct?

7 THE WITNESS: The other wire is
8 terminated just like the first initial wire we were
9 talking about, both with wire caps on them, sir,
10 both inside of the junction box itself.

11 JUDGE GROSSMAN: Okay. Now, is there
12 any kind of crimping connection made with regard to
13 this particular item that you are aware of?

14 THE WITNESS: No, sir.

15 JUDGE GROSSMAN: As long as we are
16 on this subject, I might as well ask one or two more
17 questions.

18 Is there anything within the junction
19 box that you would consider as a lug? Do you have
20 any understanding of what a lug is?

21 THE WITNESS: Sure do.

22 JUDGE GROSSMAN: And what is your
23 understanding of a lug?

24 THE WITNESS: A lug is where you have
25 a cable or a wire running through a collar with a

-13
1 screwed connection squeezing it down and keeping it
2 in that connection.

3 JUDGE GROSSMAN: Is there anything
4 like that that you know of in these kinds of junction
5 boxes?

6 THE WITNESS: Not in lighting junction
7 boxes that I'm aware of, other than maybe the main
8 breaker box.

9 JUDGE GROSSMAN: In this particular
10 Safeguards Building, would you find any electrical
11 boxes other than a junction box on lighting six or
12 seven feet overhead?

13 THE WITNESS: Yes, sir.

14 JUDGE GROSSMAN: What kind of boxes
15 would you find there?

16 THE WITNESS: You could have boxes,
17 termination boxes on the walls with flex conduit
18 coming out of them running to equipment, sir.

19 JUDGE GROSSMAN: And how would the
20 connections be made in those particular boxes?

21 THE WITNESS: It would depend on the
22 type of wiring that was being run.

23 JUDGE GROSSMAN: Did you discuss any
24 of these other kinds of boxes with Mr. Tolson, that
25 is, any boxes other than a junction box for wiring?

1 THE WITNESS: Yes, sir.

2 JUDGE GROSSMAN: And when did you
3 discuss these with Mr. Tolson?

4 THE WITNESS: I believe towards -- it
5 was after we initially discussed about the lighting.

6 I don't recall when it was, but it
7 was concerning going into the peckerheads on the
8 motor terminations.

9 JUDGE GROSSMAN: At this particular
10 meeting with Mr. Tolson, the same meeting?

11 THE WITNESS: No, sir, not that I can
12 recall. I believe it was a separate occasion.

13 JUDGE GROSSMAN: Was this after that
14 meeting?

15 THE WITNESS: It was after we discussed
16 the lighting.

17 JUDGE GROSSMAN: Did you ever go to
18 one of those boxes with Mr. Tolson and explore the
19 box with him?

20 THE WITNESS: I don't recall going to
21 any peckerhead terminations, no, sir.

22 JUDGE GROSSMAN: Did he just ask you
23 about the kinds of connections there, or what is
24 your recollection of what was discussed?

25 THE WITNESS: What his concern was, one,

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1 is going into a peckerhead termination that has been
2 previously bought off and prerequisite testing
3 performed on it, as well as the safety of the QC
4 hands themselves, because of the high voltage that
5 is in those areas, terminations, and the equipment
6 being energized at the time of inspection.

7 JUDGE GROSSMAN: He was concerned about
8 the safety of personnel who were touching those
9 boxes?

10 THE WITNESS: As well as the need for
11 the inspection during the post-verification, yes, sir.

12 JUDGE GROSSMAN: Did you discuss with
13 him any irregularities within those particular boxes?

14 THE WITNESS: Not that I can recall,
15 no, sir.

16 JUDGE GROSSMAN: Anything like loose
17 connections?

18 THE WITNESS: I don't recall discussing
19 it.

20 JUDGE GROSSMAN: Did Mr. Tolson seem
21 knowledgeable about that kind of box, electrical box?

22 THE WITNESS: Yes, sir.

23 (Bench conference.)

24 JUDGE GROSSMAN: Did he ever indicate to
25 you that there had been any concerns about destructive

16 1 examinations of those particular kinds of boxes?

2 THE WITNESS: No. The only ones that
3 I'm aware of is, like I stated, the two that I
4 mentioned on 773 elevation.

5 JUDGE BLOCH: The place that he showed
6 it to you was a lighting box; is that right?

7 THE WITNESS: Yes, sir. It was not a
8 high-voltage peckerhead termination, no, sir.

9 BY MR. ROISMAN:

10 Q At the time that the procedures were
11 on the verge of being changed to address this issue
12 of the inspection of the lighting fixtures, did you
13 have any knowledge of how your inspectors felt about
14 the proposed change?

15 A A few of them had made comments to me,
16 yes, sir.

17 Q What sort of comments?

18 A They were concerned why the procedure
19 was going to be revised to remove the inspection of
20 the lighting terminations and peckerhead termination.

21 Q Did they tell you why they were concerned
22 about that?

23 A Yes, sir.

24 Q What did they say? What was their
25 concern?

1 A That they were writing up deficiencies
2 on that particular problem, and the procedure was going
3 to be revised to remove it; that was their concern.

4 Q So as you understood it, they were
5 concerned that deficiencies would then not be detected
6 because the procedure would now not allow anybody to
7 do the inspection?

8 A Yes, sir.

9 Q Did you agree with them?

10 A No, sir. I explained to them that what
11 upper management had discussed with me and building
12 management and this and that, is that they were going
13 to develop a program to come out and check those
14 particular areas after we were out of the building;
15 and that was upper management's prerogative to do
16 that.

17 Q And were your inspectors satisfied with
18 that explanation? Did they express satisfaction?

19 A They did not express satisfaction, no.

20 Q Did they express dissatisfaction?

21 A Just didn't -- I told them and no one
22 had any comments.

23 JUDGE BLOCH: You were told that
24 management would ultimately get an inspection done,
25 of what, a hundred percent of the lighting?

5-18 1 THE WITNESS: What Mr. Tolson and

2 I had discussed with building management was whether
3 the lighting connections should be inspected, as well
4 as the peckerhead terminations during the post-
5 verification finals, and --

6 JUDGE BLOCH: What was the advantage --
7 I'm sorry, you were still talking.

8 THE WITNESS: -- and what I understood
9 was their decision is that -- in other words, they
10 did not feel that that should be within that scope
11 of that procedure, and upper management had decided
12 that they would come up with a -- they were going to
13 develop a different program to come in after we came
14 out of a room to take care of those particular
15 situations.

16 JUDGE BLOCH: Did anyone explain why
17 they thought there was an advantage to doing this
18 later, rather than during the post-construction
19 verification?

20 THE WITNESS: I understood it as it
21 would not slow us down on working with the deficiencies
22 that we were finding on lighting, when they could come
23 in with a small group of people later and do it much
24 faster and more efficiently, instead of using up our --

25 JUDGE BLOCH: If I understand, you

-19 1 were given conflicting explanations of why things
2 were being taken away from your group.

3 In the lighting terminations case, you
4 were told that it was randomly inspected, so there was
5 no reason to do a hundred percent.

6 THE WITNESS: Yes, sir.

7 JUDGE BLOCH: And in the pecker
8 terminations --

9 THE WITNESS: Peckerhead terminations.

10 JUDGE BLOCH: -- peckerhead terminations,
11 you were told that they were already a hundred
12 percent inspected, and so you didn't have to do it
13 now.

14 Did that make sense to you that they
15 were explaining opposite things like that to you?

16 THE WITNESS: Yes, sir.

17 JUDGE BLOCH: How did you square those
18 two things in your mind, or didn't you?

19 THE WITNESS: Well, I knew that the
20 procedure called for a hundred percent inspection on
21 the terminations of the peckerheads, and I also knew
22 that there was a procedure that showed for just
23 random inspection of the lighting.

24 JUDGE BLOCH: Yes, but those were
25 previous things that were done in the plant, right?

1 I thought they said to you that
2 because we randomly inspected the lighting previously,
3 it doesn't make any sense to do a hundred percent now;
4 is that what they said?

5 THE WITNESS: That's what I said I
6 understood it as.

7 JUDGE BLOCH: Okay, but did you also
8 understand that they were saying to you that with
9 the peckerhead terminations they had done a hundred
10 percent and, therefore, it didn't make any sense to
11 do it now?

12 THE WITNESS: Yes, sir, as well as
13 prerequisite testing, running of the particular
14 component in this and that.

15 JUDGE BLOCH: Okay. So the plan that
16 you understood was going to be implemented was to
17 pass by the final inspection as part of this
18 walk-down procedure and substitute for it the testing
19 procedures; is that what you understood?

20 THE WITNESS: No, sir. I understood
21 that we were going to revise the procedure to remove
22 those requirements from the post-verification
23 procedure, and I understood upper management was going
24 to do something other than -- another procedure or
25 another group after we got out of the building is

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1 what I perceived.

2 Or have engineering just flat say the
3 lighting terminations did not need inspection. I
4 wasn't actually for sure exactly what the end product
5 was, because I left prior to them making the decision.

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1 JUDGE GROSSMAN: Excuse me. Was there
2 another group of QC electrical inspectors other than
3 the one that you had under --

4 THE WITNESS: No, sir.

5 JUDGE GROSSMAN: So any other group
6 that would do the inspection would not then be the
7 QC inspectors?

8 THE WITNESS: It would have been an
9 outside group, out of my group, I guess.

10 JUDGE GROSSMAN: Perhaps even a craft
11 group?

12 THE WITNESS: No. It would have had
13 to have been quality. There's more QC hands on the
14 jobsite than just what was in my group, sir.

15 JUDGE GROSSMAN: And you're assuming
16 now that there would be some other kind of inspection
17 then?

18 THE WITNESS: That's what I understood,
19 yes, sir.

20 JUDGE JORDAN: Well, if they had decided
21 to take the lighting off the 1E list, then there would
22 never be any requirement at all for QC to come in and
23 inspect any time, isn't that correct?

24 THE WITNESS: Yes, unless they would
25 have developed a different procedure to state that.

7-2
1 JUDGE JORDAN: So therefore if lighting
2 were removed from the 1E list, the crafts themselves,
3 quality engineering, would do whatever they needed to
4 to assure themselves that it was wired correctly and
5 that's all, you would not -- QC would not be involved?

6 THE WITNESS: Yes, sir.

7 JUDGE JORDAN: All right.

8 JUDGE GROSSMAN: Are we dealing now
9 with only surface boxes and -- I'm sorry, with
10 surface wiring that is going through conduit that's
11 accessible on a wall?

12 THE WITNESS: I don't understand what
13 you're talking about, surface wiring, sir.

14 JUDGE GROSSMAN: Well, now, are we
15 dealing with wiring that would be behind walls after
16 the walls were finally put up, or are we dealing with
17 only wiring that's on the wall that would always be
18 visible?

19 THE WITNESS: We're dealing with wiring,
20 all wiring on the lighting is inside of a conduit, sir.

21 JUDGE GROSSMAN: And where is the
22 conduit?

23 THE WITNESS: Running on the walls and
24 ceilings.

25 JUDGE GROSSMAN: On the walls?

7-3 1 THE WITNESS: Yes, sir.

2 JUDGE GROSSMAN: That's my question.

3 BY MR. ROISMAN:

4 Q Now, Mr. Bennetzen, did the inspectors
5 who expressed their concern about the proposed change
6 in the procedure to you, did they request that the
7 management position be put in some kind of a letter
8 or communication to them to document what it was that
9 management's view was as you were expressing it?

10 A I believe Mr. Tolson wrote a memo.

11 Q No, my question was did your inspectors
12 ask that something be put in writing when you had the
13 conversation with them that you've been testifying
14 about.

15 A Not that I recall, other than the
16 procedures being stated as such.

17 Q Do you remember who the inspectors were
18 who had raised these concerns with you?

19 MR. DOWNEY: What concerns?

20 MR. ROISMAN: The concerns about the
21 proposed change in the procedures.

22 THE WITNESS: Not for sure, no, sir.

23 BY MR. ROISMAN:

24 Q Were they all from the post-construction
25 verification -- I don't know whether subgroup is the

7-4 1 right word, but that group whose names we have been
2 trying to remember.

3 A I believe so, yes.

4 Q And did they come to you as a group
5 or did they come to you individually over some period
6 of time?

7 A Only one or two of them came to me,
8 and it wasn't all together, it was at different times.

9 Q Now, the time when this took place,
10 can you place it for us in -- was it in the month
11 of February or the month of March when the QC
12 inspectors came to you and expressed concerns about
13 proposed changes in the procedures?

14 A I believe it was in February.

15 Q Do you know if it occurred before or
16 after or on the same day as Mr. Tolson's memorandum
17 on the subject?

18 A I don't recall the exact date of
19 Mr. Tolson's memo.

20 Q I'm going to show you a copy of a
21 memorandum that was bound in the record in Mr. Tolson's
22 testimony last Monday, which the -- the subject of
23 which is post-construction inspection of electrical
24 equipment and raceways, and on the distribution
25 one of the names is yours. I'd like you to look at it

7-5 1 and see if that refreshes your memory.

2 JUDGE BLOCH: Off the record.

3 (Discussion off the record.)

4 JUDGE BLOCH: Back on the record.

5 THE WITNESS: This is the memo, yes,
6 sir.

7 BY MR. ROISMAN:

8 Q That is the memo, and the date?

9 A February 28th, sir.

10 Q Okay. And unless that was a leap year,
11 I guess we could agree that that would have been the
12 last day of February.

13 A Yes, sir.

14 MR. DOWNEY: Let the record reflect it
15 was a leap year.

16 THE WITNESS: It was leap year.

17 BY MR. ROISMAN:

18 Q All right. So --

19 MR. DOWNEY: We'd ask the Board to take
20 judicial notice of that fact.

21 MR. ROISMAN: I think this Board has
22 to take official notice.

23 JUDGE BLOCH: We'll take both.

24 BY MR. ROISMAN:

25 Q Does it help you place the time of the

7-6 1 meeting that you had with your inspectors as to
2 whether it was before or after the meeting in which
3 they expressed concerns about proposed amendmerts to
4 the procedures?

5 A Yes, sir, it does help. It would be
6 after this -- I believe it was after this memo.

7 Q And did they have that memorandum in
8 their possession at the time they came to see you,
9 do you know?

10 A I don't believe they did.

11 Q Had you already communicated to your
12 people the substance of what that memorandum said
13 regarding what was going to be happening with the
14 items discussed there?

15 A Yes, sir.

16 Q So they knew about what the plans
17 then were for making changes in the procedures to
18 the extent that they're discussed in the memorandum?

19 A Yes, sir.

20 Q And were they coming to you to express
21 their disagreement with those particular plans, is
22 that what the source of the discussion was?

23 A Yes, I believe so.

24 Q And did you ever have occasion to
25 indicate to anyone else that these inspectors had

7-7
1 come to you and had expressed those concerns about
2 the proposed changes in the procedures?

3 A. Could you repeat that, please?

4 Q. Yes. Let me narrow it down for you.

5 Between the time that they did come
6 and talk to you and the time that you left that
7 position, did you have occasion to discuss with any-
8 one at the plant that they did come to you and did
9 express dissatisfaction or concern about the proposed
10 changes in the procedures?

11 A. I believe I talked to Mr. Tolson about
12 it.

13 Q. You did. And do you remember roughly
14 when that happened?

15 A. It was sometime after February 28th.

16 Q. Well, I'm trying to find out whether
17 you -- was it just before you left that position and
18 moved to your new position or --

19 A. I believe it was, because I believe I
20 left out of the task force sometime in the first week
21 of March, I think.

22 MR. ROISMAN: We can break here, if
23 you wish.

24 MR. DOWNEY: May I ask Mr. Roisman
25 how much more he has for Mr. Bennetzen?

7-8 1 MR. ROISMAN: We ought to finish before
2 lunch, or by lunch.

3 MR. DOWNEY: I just wanted to schedule
4 my people.

5 JUDGE BLOCH: Seven-minute recess.

6 (A short recess was taken.)

7 JUDGE BLOCH: The hearing will come
8 to order.

9 Mr. Roisman.

10 MR. DOWNEY: May I interrupt one more
11 time on scheduling of witnesses, to see if what I
12 have tried to orchestrate meets the Board's approval
13 and the parties' approval.

14 JUDGE BLOCH: You want this on the
15 record, I take it.

16 MR. DOWNEY: It would be just as well.

17 JUDGE BLOCH: Okay.

18 MR. DOWNEY: It will just be brief.

19 If we could move along a schedule that
20 would have Mr. Bennetzen finish, then Mr. Chapman,
21 then Mr. Duncan finish, then Mr. Methaney. That
22 would accommodate Mr. Jordan's schedule to leave.

23 We would just take Mr. Purdy the week
24 after next, and tomorrow we would proceed with the
25 schedule of the two in-camera witnesses, Mr. Hunnicutt

7-9 1 and Mr. Norris, the Board's witness, if that's
2 agreeable with the Board and the parties. I don't
3 want to be caught in a situation where we un-
4 expectedly finished a earlier witness and we didn't
5 have one or we had to scramble for an hour or two.
6 I don't want too few witnesses, I don't want to have
7 too many.

8 JUDGE BLOCH: Mr. Roisman, could you
9 estimate roughly the length of time on Methaney?

10 MR. ROISMAN: One or two hours maybe.

11 JUDGE BLOCH: There's a chance that --
12 "one or two hours maybe."

13 MR. ROISMAN: It's hard to know a
14 witness who you've never had on the witness stand,
15 and that's the problem. I just have no idea. I
16 would say we have maybe -- I guess another 30 to 45
17 minutes with Mr. Duncan.

18 JUDGE BLOCH: What I'm trying to figure
19 out is whether we can comfortably think we can
20 conclude Duncan and Methaney in the evening session,
21 in which case it's possible that we could have more
22 this afternoon.

23 MR. ROISMAN: I have no idea of saying
24 what other parties are going to do, but I would
25 expect that we would certainly be able to finish

7-10 1 Duncan and Methaney in the evening session tonight
2 in the time frames that we've previously discussed,
3 7:00 to 10:00, roughly.

4 JUDGE BLOCH: How do you feel about
5 that, Mr. Downey?

6 MR. DOWNEY: As we said, we're agreeable
7 to an evening session. It may also be possible that
8 Mr. Norris could get -- I mean, I understand he's
9 coming at some point today.

10 JUDGE BLOCH: Okay. And then -- but
11 the problem is that Mr. Purdy couldn't be taken
12 tomorrow.

13 MR. DOWNEY: Mr. Jordan has a previous
14 commitment, which he can change. Mr. Purdy also
15 tells me that he has fairly urgent business at the
16 site that he needs to take care of tomorrow, and
17 that being so, I would just as soon operate on the
18 hypothesis of taking Mr. Purdy the week after next.

19 JUDGE BLOCH: Can we get a good fix
20 on whether the three days for the week after next
21 will be enough if the Staff doesn't have its motion
22 granted on its experts?

23 MR. DOWNEY: Then so far as I know, we
24 have Mr. Brandt's testimony. We would have Mr. Purdy.
25 There are one or two other minor document requests

7-11 1 that may require some very short testimony, perhaps
2 none at all, just the production of the documents
3 themselves.

4 Mr. Roisman has a request that he may
5 drop for some additional witnesses on the Neumeyer
6 NCR, whose testimony we've prefiled, he has informed
7 us and I think the Board that he may drop that
8 request at the conclusion of the examinations of
9 Messrs. Methaney and Duncan.

10 So far as I know, other than the
11 Staff's -- what we have, Dr. Goldstein. Other than
12 that, I believe all the witnesses are accounted for
13 in the schedule I've proposed.

14 JUDGE BLOCH: It's possible we should
15 attempt to finish Dr. Goldstein in Washington during
16 the week we're taking off.

17 Is that going to be easier for him?

18 MR. ROISMAN: Certainly it would be
19 easier for him to have it done in Washington. It was
20 my understanding that it would be done in Washington.

21 Whether the week that we're taking off
22 is the one -- is the right one to do it in, is a
23 different matter.

24 MR. DOWNEY: That's very difficult for
25 me because of the other trial commitment that I have

7-12 1 the first of the week and the obligation to prepare
2 prefile for Mr. Brandt, for filing --

3 JUDGE BLOCH: Okay. But I think we
4 ought to try to get Dr. Goldstein done in Washington.
5 I think it's going to be very brief, and I think
6 making him come to Texas is questionable for what
7 I expect would be pretty brief --

8 MR. ROISMAN: That's certainly my
9 expectation, Mr. Chairman.

10 Just one item --

11 JUDGE BLOCH: It sounds to me like
12 things look good for finishing in the three days of
13 the extra week, and that therefore the idea of
14 holding over Mr. Purdy seems to work.

15 MR. ROISMAN: I think that's true,
16 depending upon two items, number one, our position
17 would be that if the Staff is offering -- is going
18 to offer its document which we all got last Monday,
19 we would not be ready to go to hearing on it in the
20 third week at all, even if we had all the days
21 available and it was the only item.

22 JUDGE BLOCH: I was assuming that that
23 would be the case.

24 MR. ROISMAN: And secondly, we still
25 have the outstanding question of Witness Y, which was

7-13
1 not on Mr. Downey's list, and none of us know who
2 the witness is, whether it will be a witness and
3 what it will entail, so that's a very uncertain
4 factor.

5 JUDGE BLOCH: Well, can you help us
6 on knowing when we're going to reach a decision on
7 Witness Y, Mr. Treby?

8 MR. TREBY: I'm attempting to get some
9 information. I was unable to do anything about it
10 last night since I was involved in the hearing, and
11 I have been in the hearing since 8:30 this morning.

12 I attempted to make a telephone call
13 during the brief break on another matter and did not
14 have time to make any telephone call here, and as a
15 result I'm somewhat at a loss as to what we're all
16 talking about now.

17 JUDGE BLOCH: Okay. We were just
18 trying to figure out the rest of the schedule, and
19 basically Mr. Downey's proposal is that we take
20 Mr. Bennetzen, followed by Mr. Chapman and Mr. Duncan
21 and Mr. Methaney also today, including possibly the
22 night session, and then Mr. Purdy would be held over.
23 Mr. Hunnicutt and Mr. Norris would be tomorrow.

24 MR. DOWNEY: And the two in-camera
25 witnesses.

7-14 1 JUDGE BLOCH: And the two in-camera
2 witnesses would be scheduled for tomorrow also. And
3 then if we didn't have any -- if some of those
4 people weren't finished, we'd hold that over for
5 the three extra days, and then we also have Mr. Purdy
6 and Mr. Brandt for that time.

7 MR. DOWNEY: And Your Honor, maybe it's
8 premature to comment, but I would urge that we hear
9 any Staff witnesses permitted through their motion
10 in that three-day week.

11 I would observe that that would give
12 at least as much preparation to the Intervenor as we
13 had for Mr. Goldstein.

14 JUDGE BLOCH: I'm certainly not going
15 to schedule something before I've decided what is
16 going to happen.

17 MR. TREBY: All right. Now that I
18 have some indication of what the subject is on the
19 floor, the Staff believes that the schedule for today
20 and tomorrow appears to be reasonable and we think
21 that we can accommodate it in the sense that we can
22 have Mr. Hunnicutt here tomorrow.

23 The Staff does intend to make a motion
24 later today --

25 JUDGE BLOCH: I have a feeling that

7-15 1 motion might be better heard in a recorded telephone
2 conference call next week because it would conserve
3 our time during the hearing.

4 MR. TREBY: All right.

5 JUDGE GROSSMAN: What's the nature of
6 the motion?

7 JUDGE BLOCH: The motion has to do with
8 the Staff's study of intimidation.

9 MR. TREBY: The Board was provided by
10 the Staff -- the Board and parties were provided by
11 the Staff with a copy of the Board modification of a
12 study done by EG&G Idaho under a contract arranged
13 for by Mr. Ippolito.

14 JUDGE BLOCH: Okay. Why don't we have
15 a schedule -- an on-the-record conference at 10:00
16 a.m. on Monday -- no, you're going to be tied up.

17 Is there someone else who can handle
18 those conferences?

19 MR. DOWNEY: I'd prefer to do that
20 myself, Your Honor, and I would urge that if at all
21 possible we -- we've already got a night session
22 scheduled today, perhaps we could hear argument on
23 that motion this afternoon.

24 JUDGE BLOCH: All right. Let's see
25 how it goes. Let's see how the witnesses go this

7-16 1 afternoon. Maybe we can take argument on that --
2 well, except the rest of the Board may want to hear
3 that argument.

4 JUDGE GROSSMAN: Did you say afternoon
5 or evening?

6 MR. DOWNEY: Afternoon, and then if we
7 carry on with the witnesses scheduled for the
8 evening session, so be it.

9 JUDGE BLOCH: Okay. I think we have a
10 tentative arrangement at this point, and that seems
11 to me to be a good way to go forward, Mr. Roisman,
12 with the witness.

13 MR. ROISMAN: Yes.

14 BY MR. ROISMAN:

15 Q Mr. Bennetzen, when we broke we were
16 discussing a meeting that you had with Mr. Tolson
17 in which you communicated to him concerns, or the
18 existence of concerns by members of the post-
19 construction verification task force about the
20 proposed changes to be made in the 11.3-40 procedures.

21 I'm just asking you that so we get back
22 to the point where we were.

23 A Yes, sir.

24 Q All right. At that meeting did you
25 raise the point with Mr. Tolson or did he ask you

7-17
1 had you had any concerns expressed, how did it
2 come up?

3 A. No, I raised it, raised the issue.

4 Q. And what did you say to him?

5 A. I believe what I told him is that we
6 would keep on inspecting to the procedure until it
7 was revised.

8 Q. And what did you say to him about any
9 concerns about the proposed amendments that had been
10 expressed to you by your inspectors?

11 A. I expressed to him that I felt that
12 some of the QC hands felt that -- or did not under-
13 stand that upper management had the prerogative to
14 come up with a different manner of handling the
15 problem and due to their possible inexperience and
16 this and that in there, in QC.

17 JUDGE BLOCH: I'm sorry. Could you
18 explain what you meant by inspect to the procedures
19 until they were revised in that meeting?

20 THE WITNESS: Yes, sir. Due to the
21 memo that was issued, it said that -- I believe it
22 stated that the intent of the procedure wasn't to
23 inspect the terminations on the lighting and until
24 the procedure -- I told him until the procedure was
25 revised we would stick to the procedure. In other

7-18

1 words, I do not work off of a memo.

2 JUDGE BLOCH: How did Mr. Tolson
3 react to that?

4 THE WITNESS: Nothing unusual at all.

5 JUDGE BLOCH: He accepts readily when
6 you defy his memorandum?

7 THE WITNESS: I don't believe Mr. Tolson
8 meant for QC to work out a procedure from that memo
9 whatsoever.

10 I believe that some of the QC hands,
11 due to their inexperience, thought that.

12 JUDGE BLOCH: So when you said you were
13 going to work to procedure, did that mean you were
14 going to follow the memo?

15 THE WITNESS: The memo is not a
16 procedure, sir.

17 JUDGE BLOCH: Did you consider that the
18 procedure conflicted with the -- the procedures
19 conflicted with the memo?

20 THE WITNESS: Until revised, yes, sir.

21 JUDGE BLOCH: So you were telling him
22 you weren't going to follow his memo?

23 THE WITNESS: Until the procedures
24 were revised, just like the memo states.

25 JUDGE BLOCH: I thought that the memo

-19 1 intended to reschedule the work until the procedure
2 was revised.

3 MR. ROISMAN: I'm going to give the
4 witness -- I had taken back from him the copy of --

5 JUDGE BLOCH: You may take your time --
6 take your time to look at the memo.

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(Witness perusing documents.)

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2 MR. TREBY: I might mention for the
3 record that that memo is at Transcript Page 15497
4 during the hearing session of September 14, 1984.

5 JUDGE BLOCH: Thank you.

6 Mr. Roisman, you may resume
7 questioning.

8 JUDGE BLOCH: The question I asked you
9 was whether Mr. Tolson didn't expect that something
10 would be done immediately before the procedure was
11 changed.

12 THE WITNESS: I don't believe that he
13 expected anything to happen until the procedure was
14 revised.

15 BY MR. ROISMAN:

16 Q Mr. Bennetzen, I'd like to direct your
17 attention to the last sentence of the paragraph numbered
18 one on the memorandum that we've been discussing.

19 A Uh-huh.

20 Q And what is your understanding of what
21 that sentence meant?

22 A The specific sentence: "These efforts
23 may be discontinued at this time at the opinion of
24 Building Managers"?

25 Q Yes.

1 A. That statement?

2 Q. Yes. I think it says "...at the option
3 of..."

4 A. At the "option." I'm sorry.

5 Q. Yes, that's the one.

6 A. Okay.

7 Q. What did you think "these efforts"
8 referred to?

9 A. Not opening up the lighting boxes for
10 inspection.

11 Q. And was it your understanding that
12 Mr. Tolson was saying that if building management said
13 "Don't open the boxes" that that was to mean that the
14 boxes were not to be opened?

15 A. I don't believe I understand your
16 question, sir.

17 Q. Is it your understanding of that
18 sentence that what it says is that if the Building
19 Manager decides that the boxes shall not be opened --

20 A. Uh-huh.

21 Q. -- at this time, meaning as of February
22 28th, then the boxes shall not be opened.

23 A. Yes, sir.

24 Q. And that's, if the Building Manager did
25 that, that would be contrary to written procedure that

1 existed as of February 28th; isn't that true?

2 A That's right.

3 Q And you told Mr. Tolson that you were
4 not going to disobey that written procedure, and you
5 would follow it until it was amended; isn't that true?

6 A That's right.

7 Q All right. And did Mr. Tolson react in
8 any way to you telling him that you were going to
9 disregard any instruction that you got from the
10 Building Manager if the Building Manager told you to
11 discontinue, or told your Inspectors to discontinue
12 opening the boxes?

13 A What I told Mr. Tolson, as well as
14 building management and my QC Inspectors is: If
15 building management and construction refuse to open up
16 the termination boxes for inspection to 11.3-40, that
17 would UNSAT the Deficiency List as such, and state
18 that the boxes were not opened for inspection.

19 Q And with the exception of your QC
20 Inspectors what kind of reaction did you get to that
21 statement by Mr. Tolson, first; how did he react to
22 that?

23 A No special reaction whatsoever.

24 Q Did he say "Good for you, Greg"?

25 A No.

1 Q Did he say "You'd better watch out"?

2 A No. Mr. Tolson, I believe, is well aware,
3 as well as all QC and Craft that you work directly to
4 the procedures.

5 Q Well, then how can you explain why he
6 would have written that sentence in his memorandum?
7 Or Can you explain it?

8 A I can't explain what Mr. Tolson writes,
9 no, sir.

10 Q What about building management, how did
11 they react when you told them that?

12 A No special reaction. I told them that
13 we'd still state of our deficiency list that boxes were
14 not open for inspection; thus, it's an indeterminant
15 or UNSAT condition, and that later when the procedures
16 were revised and whatever type of action was taken
17 there that they could come back at that time and clear
18 those deficiencies.

19 Q As an indeterminant item you would have
20 had to write an NCR on it, wouldn't you?

21 A Not in all cases. If I state directly
22 on the Deficiency List that the boxes were not opened
23 for inspection and then show UNSAT, it's kind of self-
24 explanatory they were never inspected. So, thus, they'd
25 have to be either inspected or some other type of

1 action taken against that particular item to clear it.

2 Q And when did you have the communication
3 with the building management about how you intended to
4 implement the February 28th memorandum?

5 A Oh, it was one or two days after the
6 memo.

7 Q Did you have a large meeting and call
8 them into your office, or how did you go about
9 communicating with them?

10 A I believe it was in a meeting Mr. Tolson
11 was there earlier in the meeting and then later left.
12 I don't recall the exact day. I think it was either the
13 day after the memo or the next day, one of the two.

14 Q And what was the purpose of the meeting?

15 A The revising of the procedure and
16 discussing of the memo.

17 Q And was Mr. Tolson there when you made
18 this statement to building management, or was it your
19 testimony just now that he had gone by that time?

20 A I believe the discussion with Mr. Tolson
21 on the QC's concerns and this and that was after the
22 meeting.

23 And my decision also with QC as to how
24 we were going to take it was also after the letter
25 sometime. It was either before the meeting or after

/6
1 the meeting. I'm not for sure.

2 Q I'm sorry. You said "after the letter."

3 A After the initial writing of the letter,
4 I can't remember if it was one --

5 Q Are you referring to this memorandum as
6 a letter?

7 A Yes.

8 Q I'm sorry.

9 A This memo, the letter, whatever you want
10 to call it.

11 Q Okay. So that your recollection is that
12 Mr. Tolson had already left the meeting when you made
13 the statement to building management as to what you
14 would do if the boxes were not opened for inspection,
15 pending amendment of the procedures.

16 A As well as I recollect, yes, sir.

17 Q And you had no adverse reaction that
18 you detected from building management to your making
19 that statement?

20 A No, sir.

21 Q And was it immediately after the
22 conclusion of that meeting that you went to see
23 Mr. Tolson to discuss this same item?

24 A I believe I had been to see Mr. Tolson
25 prior to this meeting.

1 Q So that he knew your position on this
2 before the meeting?

3 A Yes, I think so.

4 Q Did he in the course of the meeting, did
5 he explain his February 28th memorandum to the people
6 who were in the meeting?

7 A Yes, sir, the best I recollect.

8 Q Do you remember him explaining what was
9 to be done about opening the boxes?

10 A I don't recall.

11 Q Would you expect that if he was explain-
12 ing the memorandum that he would have discussed that
13 part of the memorandum which was of such concern to
14 so many people?

15 MR. DOWNEY: Objection. What he would
16 expect Mr. Tolson to discuss is speculative, and the
17 latter part of such concern to so many people, that's
18 argument, not a question.

19 JUDGE BLOCH: Try a different question.

20 BY MR. ROISMAN:

21 Q Is it your testimony that he did not
22 discuss whether the boxes should be opened, or that
23 you simply can't remember?

24 A I really don't recall, sir.

25 Q I take it that if he had discussed

1 opening the boxes and had said something contrary to
2 the position that you had communicated to him in your
3 meeting with him before; namely, that you weren't going
4 to approve the items unless the boxes were open, that
5 you'd probably remember that, wouldn't you?

6 A I believe so.

7 Q Subsequent to the meeting did it ever
8 come to your attention that any disagreements arose
9 between the building supervisors and any of your QC
10 Inspectors over opening or not opening the lighting
11 fixtures?

12 A What do you mean by "building supervisors,"
13 sir?

14 Q Well, for instance Mr. Barkum, wasn't
15 he one of the Craft Supervisors in that building, Post-
16 Construction Craft?

17 A The name's familiar; I believe so.

18 Q All right. Well, let's take Mr. Barkum,
19 the position that he held was a Post-Construction Craft
20 Supervisor; correct?

21 A I believe.

22 Q Okay. Do you remember any reports to
23 you of disagreements that arose between Mr. Barkum or
24 any other Post-Construction Craft Supervisor and any of
25 your QC Inspectors after February 28th involving the

8/9
1 issue of whether to open or not open lighting termination
2 boxes?

3 A No, sir. I believe that was the Foreman's
4 name down on 773 Elevation that we had previously
5 discussed. That's the only thing I can recall, as far
6 as that particular Foreman.

7 Q He was the Foreman who had sort of led
8 that tour through the building --

9 A I believe that was the man's name.

10 Q Okay. What about any other -- I'm not
11 that familiar. Were there several Post-Construction
12 Craft Supervisors in the Safeguards Buildings, or was
13 there just one?

14 MR. DOWNEY: Maybe we could ask the
15 witness whether there was any Construction Supervisor
16 designated as a Post-Construction Supervisor.

17 THE WITNESS: As far as I can recall, I
18 believe there was just one Foreman and a General
19 Foreman.

20 BY MR. ROISMAN:

21 Q Okay. And your recollection is that
22 Mr. Barkum was which, the Foreman?

23 A The Foreman.

24 Q The Foreman, okay. All right. Well, let
25 me ask it differently.

1 Do you have any recollection after the
2 28th of February of any disagreements arising between
3 any Craft or building management people, on the one
4 hand, and, any of your QC Inspectors, on the other, on
5 the issue of opening lighting boxes for inspections?

6 A I believe as I've already stated, I
7 had gotten with my QC hands, and I believe it was due
8 to some concerns of theirs of Craft not opening up the
9 boxes. And all that I told them is that UNSAT your
10 Deficiency List and state that it was not opened for
11 inspection.

12 And that's all I can recall ever dis-
13 cussing with my QC hands.

14 JUDGE GROSSMAN: I think the witness
15 misspoke and said "Craft not opening the boxes." Did
16 you mean to say QC opening the boxes?

17 MR. ROISMAN: No. No.

18 THE WITNESS: Craft does the actual work.
19 We do the inspection, sir.

20 BY MR. ROISMAN:

21 Q Let's just get that clarified. My
22 understanding, and correct me if I'm wrong, is that the
23 box must be opened by the Craft. Your Inspector then
24 conducts the inspection. Craft then closes it back
25 up.

/11 1 A Yes, sir.

2 Q Okay. So if Craft refused to open the
3 box the Inspector couldn't do the inspection; right?

4 A Yes, sir.

5 JUDGE BLOCH: Is that also true of the
6 procedure with respect to the box in which the alleged
7 Destructive Examination took place, that it would have
8 been opened by Craft?

9 THE WITNESS: Yes, sir. QC does not
10 carry any tools and do actually disassembly or whatever
11 out there.

12 JUDGE BLOCH: And there actually were
13 supposed to be three people total there while that
14 box was opened; is that correct, both an Engineer and
15 a Craft person, as well as a QC person?

16 THE WITNESS: On your high energized,
17 your peckerhead terminations --

18 JUDGE BLOCH: But not on lighting boxes.

19 THE WITNESS: No, sir.

20 JUDGE BLOCH: Just Craft and QC?

21 THE WITNESS: Yes, sir.

22 JUDGE BLOCH: So that if a Destructive
23 Evaluation had taken place there would have been a
24 Craft person watching it done?

25 THE WITNESS: Unless the craftsman

/12
1 opened up the box and walked on to the next, I don't
2 know if they --

3 JUDGE BLOCH: He's not required to stay
4 there while the Inspector is doing the work and then
5 close it back up when he's done?

6 THE WITNESS: I don't believe so.

7 JUDGE BLOCH: Is that the practice?

8 THE WITNESS: Usually, when they said
9 a room was ready for inspection, they had their people
10 come in there and open up the boxes for us.

11 JUDGE BLOCH: Okay. Thank you.

12 BY MR. ROISMAN:

13 Q It's my understanding that you testified
14 that your Inspectors came to you about this concern
15 prior to the date of the February 28th memo. Am I
16 misremembering that?

17 A I believe it was after the memo.

18 Q After. I'm sorry. Okay.

19 So it was after the memorandum. And was
20 it after you had had your meeting with building
21 management in which you had told them that we are not
22 going to inspect unless you open the boxes, and we're
23 going to UNSAT if you don't open the boxes?

24 A My discussion with -- Could you repeat
25 your question.

8/13

1 Q Yes. I'm trying to sequence the events.
2 Sometime after the 28th of February your Inspectors
3 came to you and said, "We're having a problem. Craft
4 wont't open the boxes."

5 A Yes, sir.

6 Q All right. And also sometime after the
7 28th of February you had a meeting with building manage-
8 ment and Craft, Mr. Tolson was also there, where you
9 made clear the QC position, which was until the
10 procedure changed we are not going to sign off on these
11 items unless the boxes are opened for us to inspect.

12 A Yes, sir.

13 Q Now, which came first, the meeting with
14 your QC Inspectors or the meeting with building
15 management, Craft and Mr. Tolson.

16 A The memorandum came out. QC had seen
17 it. Building management had seen it. I believe a couple
18 of Inspectors came over and talked to me about it.

19 I told the Inspectors what my plans were
20 and how they were to follow the procedure until it was
21 revised.

22 I believe then there was a meeting with
23 building management, Mr. Tolson, and then after that
24 there was also a couple of QC hands that talked to me
25 about it.

8/14

1 Q After the meeting?

2 A Yes, sir.

3 Q Is it your understanding that subsequent
4 to the meeting there were instances in which Craft
5 continued to refuse to open the boxes?

6 A I don't think it really mattered. We
7 put our UNSAT on our Deficiency List. There was no
8 way they could have moved any farther than that. They
9 had an UNSAT condition.

10 Q No, but I'm trying to understand whether
11 there continued to be a point of irritation or disagree-
12 ment between the Craft and your QC Inspectors. So it
13 is relevant for me to know if you remember whether
14 subsequent to the meeting Craft continued to refuse to
15 open the lighting termination boxes.

16 A I believe subsequent to the meeting they
17 were not opening up the boxes, sir.

18 Q And do you remember whether you had any
19 information regarding whether words were exchanged
20 between the Craft person and your QC Inspector when
21 it was requested that the box be opened and the Craft
22 refused?

23 A (Pause.) (No response.)

24 MR. DOWNEY: Assuming that there were such
25 requests. I don't think there's any evidence to support

/15 1 that. He might know whether there was such requests.

2 THE WITNESS: As I stated, my QC hands
3 came to me with the problem of Craft not opening up the
4 boxes on the memo, and this and that, and I guess it
5 was due to Craft not opening up a box, but I cannot
6 remember any specific craftsman's name being mentioned,
7 or anything, or the QC hand.

8 BY MR. ROISMAN:

9 Q Did your people say whether a dispute
10 had arisen, or whether it was just a perfectly calm
11 event that took place when these events occurred.

12 A I don't remember a dispute.

13 Q Do you remember calling Dan Hicks for
14 guidance about what to do after you learned that the
15 building management was not opening -- I'm sorry, that
16 Craft was not opening the lighting inspection boxes, and
17 you'd already had your meeting with Craft and building
18 management?

19 A I don't recall talking to him, no, sir.

20 Q Now going back to our discussion about
21 the meeting that you had with Mr. Tolson, where you
22 indicated to him about the concerns that had been
23 expressed to you by your QC people regarding the
24 proposed change in the procedures. Did he ask you at
25 that time to name the individuals who had been causing

/16
1 that problem?

2 A Not that I can recall, no, sir.

3 Q Do you remember at any time giving
4 Mr. Tolson a list of any names of your QC Inspectors
5 who you thought were raising concerns?

6 A No, sir.

7 Q Did Mr. Tolson ever ask you to give him
8 a list of any names of your QC Inspectors to be trans-
9 ferred to another position or another building in the
10 plant?

11 A No, sir, not that I can recall.

12 Q Did Mr. Tolson ever discuss with you
13 any plans for transferring any individuals from, who
14 were under your supervision to another place in the
15 plant?

16 A Yes, sir.

17 Q Can you recollect when that occurred?

18 A No, sir. but I can recollect what the
19 conversation was. And that was for all the area
20 supervisors or building supervisors to come up with a
21 man-loading chart as to when we were completing certain
22 elevations, and this and that, on how many men we still
23 needed at that point in time; come up with a schedule,
24 more or less.

25 Q And did you come up with such a schedule?

8/17

1 A Yes, sir.

2 Q And did you give that to Mr. Tolson?

3 A Yes, sir.

4 Q Do you remember whether the schedule had
5 on it any designation by you as to whether certain
6 people would not be needed, and certain people would be
7 needed to remain in the building?

8 A All it was was a graph on how many men
9 I had, what work was left, and it was numbers only, sir.

10 Q So you didn't identify particular men
11 as being -- Let me try it again.

12 You didn't put on the chart a particular
13 person and say "This person's work is about to run
14 out."

15 A No, sir.

16 Q You treated your people as a group. You
17 just said "We have this much work left, and we have
18 this many people left."

19 A Yes, sir.

20 Q Do you know whether any one of your Leads
21 made any effort to take from that list that you did and
22 identify particular individuals who should be transferred?

23 A Not to my knowledge.

24 Q Do you know whether any list was ever
25 given to Mr. Tolson of individuals under your supervision

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1 who it was suggested should be transferred?

2 A. No, sir.

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BY MR. ROISMAN:

Q How did it happen -- Let me step back a second.

A We have discussed a problem or a concern that your QC inspectors had at one time with this issue of whether you would inspect all of the lighting terminations; do you remember that discussion?

A Yes.

Q Then we also discussed something about opening junction termination boxes. Is that the same issue and I have just been using different words of it, or is it two issues?

A Same issue, I believe.

Q So in other words, the junction termination boxes whose opening was in dispute was junction termination boxes for the lighting fixtures?

A Yes, sir.

Q And the dispute had to do -- or the disagreement had to do with whether or not the boxes would be opened and thus allow an inspection of all these lighting terminations; is that what it was about?

A Could you ask that again, please?

Q The disagreement was or the misunderstanding or the dispute was over whether or not the

-2
1 junction boxes should be opened, which was the
2 prerequisite to having an inspection of the lighting
3 terminations?

4 MR. DOWNEY: If I may interject, I think
5 the use of the words "junction box" is what is causing
6 the witness some confusion.

7 JUDGE BLOCH: If the word "junction
8 box" is confusing you, just explain.

9 THE WITNESS: Well, the question
10 confused me. It's not actually the junction box.

11 I don't actually understand what
12 he's getting -- which -- what concern is what I'm
13 having a problem with.

14 MR. ROISMAN: Okay.

15 BY MR. ROISMAN:

16 Q We discussed today a concern over
17 whether all lighting fixtures were to be inspected or
18 only some.

19 A Yes, sir.

20 Q What that a separate concern from the
21 issue of -- even assuming all lighting fixtures were
22 to be terminated, whether you had to open the junction
23 termination boxes to do those inspections?

24 A It's the same.

25 Q Well, for instance, was there anybody

-3
1 who suggested, as you can remember, that the proper
2 way to inspect the lighting terminations was simply
3 to turn on the switch and see if the light went on;
4 turn it off and see if it went off; and thus, never
5 have to open the junction termination box?

6 A. Not that I can recall, sir.

7 Q. So as you understood it, the disagreement
8 about lighting fixture inspections included the
9 whole thing, whether all of them should be inspected,
10 and that, obviously, if they were all going to be
11 inspected, they had to have the junction termination
12 box covers removed so they could be inspected?

13 A. My procedures stated that all terminations
14 in lighting junction boxes would be inspected, sir.

15 Q. And your understanding of that procedure
16 was that the only way to do that was to take the
17 cover off?

18 A. Yes, sir.

19 Q. Okay. Now, can you tell me what
20 events led up to your transfer from the Safeguards
21 Unit 1 to the position that you held with the QES N-5
22 Review Group?

23 A. I believe the reason Gordon wanted me
24 back in an ASME group was to take over the N-5
25 Program in ASME, which would require all of my time,

-4
1 sir.

2 Q Did you request a transfer back to
3 a position in the ASME Group?

4 A No, sir, not until Gordon -- Gordon came
5 to me about it.

6 Q Were you in any way unhappy with your
7 job in the Safeguards Building as the supervisor of
8 the QC electrical inspectors there?

9 A Not really unhappy. It was becoming a
10 little bit of a problem and requiring quite a bit more
11 of my time, and I still had the ASME piping and
12 component supports as well as N-5's in the Safeguards
13 Building.

14 Q What was it about it that was becoming
15 a little bit of a problem?

16 A That's what we've been discussing.

17 Q You mean, the issue of whether or not to
18 inspect all of the lighting terminations?

19 A Yes, sir.

20 Q Did anybody, other than Mr. Purdy,
21 indicate to you that they thought you ought to
22 transfer back to the full-time ASME functions?

23 A No, sir.

24 MR. DOWNEY: Objection.

25 JUDGE BLOCH: Objection on what? I don't

9-5 1 think there's a valid objection to that question.

2 What could you be about to say?

3 MR. DOWNEY: I don't think that's a
4 fair characterization of his testimony. He said
5 that did oneone other than Mr. Purdy suggest that
6 he ought to transfer back. That's not what his
7 testimony was.

8 JUDGE BLOCH: Well, did anyone -- It's
9 an obviously understood question, thought. Whether
10 Mr. Purdy said it or not, the question is understandable.

11 MR. DOWNEY: But the answer is
12 misleading.

13 BY MR. ROISMAN:

14 Q Did anybody suggest to you that you
15 ought to transfer back to the ASME program?

16 A No, sir.

17 Q Did you discuss your transfer back with
18 Mr. Tolson?

19 A Yes, sir.

20 Q Was that at his request or your
21 request?

22 A After I talked with Gordon about it
23 and made my decision that I would come back to the
24 ASME Group and take over the N-5 program, Gordon and
25 I then went down to Mr. Tolson's office and informed

1 Mr. Tolson of what I was planning to do.

2 Q As I understood your testimony a moment
3 ago, you had some ASME functions that you were
4 performing in addition to the non-ASME QC electrical
5 functions that you were performing; is that right?

6 A Yes, sir.

7 Q Was this N-5 function going to be in
8 addition to your other ASME functions?

9 A No, sir. What we were going to do is
10 I was going to transfer completely out of a building
11 concept and take over doing all the N-5's for Unit 1
12 in common.

13 Q Had you been doing some of the N-5's
14 for Unit 1 prior to this time?

15 A For the Safeguards Building, sir.

16 Q I see. All right.

17 So the N-5 work that you were doing in
18 the Safeguards Building was now going to be expanded
19 to include the N-5 work for all the buildings?

20 A Yes, sir.

21 Q Did you have reason to believe that
22 the amount of work that you would be doing in the new
23 position would be less than the total amount of work
24 you were now having to do prior to the transfer?

25 A No. It involves quite a bit more of

1 my time.

2 Q Then I'm having trouble understanding.
3 I thought you told me that one of the reasons why
4 the transfer was appealing to you was that you were
5 finding that you didn't have time to do all of your
6 work, both the non-ASME and the ASME work?

7 A I didn't say that I didn't have time
8 to do all my work. I said more of my time was being
9 spent in the non-ASME group.

10 Q Well, why was that a problem?

11 A Because I had two groups to take care
12 of, sir.

13 Q Well, if more of your time was with
14 one group than the other, that's only a problem if
15 you weren't getting enough time with the group that
16 was getting less of your time; isn't that true?

17 A I don't really understand your question.

18 Q Well, if you only needed -- if you
19 were working a 12-hour day and you only needed to
20 spend four of them on the ASME work and eight of them
21 was being spent on the non-ASME work, it would be a
22 true statement that you were spending more time on
23 non-ASME than ASME.

24 A Yes, sir.

25 Q But it would not be a true statement that

-8
1 automatically that meant that you didn't have enough
2 time to do your ASME work.

3 A. True.

4 Q. Are you testifying that while you were
5 doing the non-ASME work you didn't have enough time
6 to do your ASME work?

7 A. No, sir.

8 Q. Then I don't understand what the
9 problem was. Why did you care --

10 A. If I was going to take over all of the
11 N-5 program in Unit 1 in common, I would not be able
12 to keep my duties in the non-ASME group.

13 Q. But why did you decide that you would
14 rather do that than continue with your present position
15 of doing the non-ASME and the ASME work?

16 A. That is where all my experience is,
17 for one, and where I worked for se seven years is in
18 the ASME program, sir.

19 Q. In your discussion with Mr. Tolson and
20 Mr. Purdy about this proposed transfer, did you say
21 anything about having communications problems in
22 your work at the supervisor of the QC inspectors?

23 A. Communication problem with the QC?

24 Q. No, communication problem with building
25 management or craft.

-9
1 A I had already stated that I had discussed
2 with him that there was a communication problem.

3 Q I believe you told me that you had
4 that discussion with Mr. Purdy in early December. You
5 may remember --

6 A Yes.

7 Q -- your Counsel said it had nothing
8 to do with these later events.

9 A Yes, sir.

10 Q I am talking about at the time that you
11 had met in, I take it, it was late February or early
12 March, with Mr. Tolson and Mr. Purdy about the proposed
13 transfer.

14 At that time did you indicate that you
15 were having any communication problems?

16 A I don't recall.

17 Q Did you indicate at that meeting that
18 you were having any particular problem in your
19 present job that would make you want to transfer?

20 A The only thing I can remember about it
21 is when Gordon offered me the position as taking over
22 all the N-5's in Unit 1 in common, and I made my
23 decision to take that position, is going to Mr. Tolson's
24 office and informing him of that; and that was it.

25 Q But you did not need to get his permission

-10 1 to do that?

2 A No, sir.

3 Q Did he express regret that you were
4 making that decision or that you wished to make the
5 transfer?

6 A No, sir, not that I can recall.

7 Q Did he say anything to say, "Gee, I
8 think that's the best thing for you," or anything
9 like that?

10 A I don't recall him saying anything
11 like that.

12 Q How long was that meeting that you and
13 Mr. Purdy and Mr. Tolson had?

14 A Every bit of five minutes.

15 Q And was that the only time that you and
16 Mr. Tolson discussed the question of your transferring
17 from your QC electrical inspector supervisory
18 position?

19 MR. DOWNEY: Excuse me. He was not a
20 QC electrical supervisor.

21 JUDGE BLOCH: Sustained.

22 BY MR. ROISMAN:

23 Q From your position in the Safeguards
24 Building on non-ASME --

25 A That's the only time I can ever recall

1 talking to Mr. Tolson about leaving the Safeguards
2 Task Force, yes, sir.

3 Q Are you aware of an event that has
4 been referred to as the T-shirt incident?

5 A Yes, sir.

6 Q Do you remember what day of the week
7 that event took place?

8 A I don't remember the day of the week.
9 I know it was the day after I transferred from the
10 non-ASME task force.

11 Q Would it refresh your memory if I
12 indicated to you that in other testimony the day of
13 it was Thursday?

14 Does that help you remember whether
15 you were transferred on a Wednesday from your
16 prior position?

17 MR. DOWNEY: We will stipulate that
18 that was the true date, and he may assume that it
19 was on Thursday for his testimony.

20 MR. ROISMAN: All right.

21 BY MR. ROISMAN:

22 Q I would like to take you, if you will,
23 to the Monday of that week.

24 MR. ROISMAN: As long as we are
25 stipulating, I believe the record will show that date

-12 1 was the 5th of March, a Monday.

2 BY MR. ROISMAN:

3 Q Do you remember whether on that day
4 any of your electrical inspectors wore a T-shirt with
5 this nitpicker language on it?

6 A I recall on two to three separate
7 occasions one to two, maybe possibly three, QC
8 electrical inspectors wearing that particular T-shirt.

9 Q And you can't remember whether or not
10 one of those days was that Monday of that week?

11 A No, sir.

12 Q When they wore them, did you say
13 anything to them about it?

14 A One of them walked through my office
15 with a T-shirt on, and I noticed it and called him
16 over to my desk and asked him what it was.

17 He said, "Oh, it's a joke that we
18 came up with," and I told him I thought it was a little
19 bit much.

20 Q That was the extent of your conversation
21 with him?

22 A Yes.

23 Q Did he say anything to you when you
24 said that?

25 A No, sir.

1 Q Do you remember who that inspector was?

2 A I believe it was Mr. Davis.

3 Q And was that at the first time that you
4 had seen these T-shirts or any of the T-shirts?

5 A I believe so, yes, sir.

6 Q Did you say anything to anyone when you
7 saw them subsequently?

8 A No. I didn't ever -- it never did hit
9 me that serious or anything. I just noticed it that
10 one time up close being able to read the whole
11 T-shirt and told him -- asked him what it was and told
12 him I thought it was a little bit much as a joke
13 T-shirt.

14 Q Did anybody else ever say anything to
15 you about those T-shirts before you transferred?

16 A No, sir.

17 Q Was it not unusual for your QC
18 inspectors to do that kind of joking around in a
19 variety of different ways?

20 A I can't ever remember QC hands wearing
21 T-shirts before or anything, but it's not uncommon
22 for QC hands to joke around, like any other people.

23 Q Like, did they have signs up over their
24 work areas that -- joking-type signs?

25 A Sometimes, yes.

-14 1 Q And were those signs in the same vein
2 as the nitpicker T-shirt? Were they job-related?

3 A Sometimes, yes, sir.

4 Q And were they sometimes either
5 uncomplimentary about themselves or uncomplimentary
6 about some other group at the plant, in a joking way?

7 A I guess you could say in a joking way.

8 Q And did you ever say anything to them
9 about signs that they had up?

10 A Yes, sir.

11 Q What did you say?

12 A I believe there -- I can't remember the
13 particular sign, or one or two signs or whatever, in
14 the QC trailer, and I asked Wayne, I told him I
15 thought that wasn't in good taste and to get them
16 off the wall. It wasn't in good taste, I didn't feel.

17 Q And were they removed?

18 A Immediately, yes, sir.

19 JUDGE JORDAN: You mentioned Wayne?

20 THE WITNESS: Wayne Whitehead.

21 JUDGE JORDAN: All right.

22 BY MR. ROISMAN:

23 Q Did Mr. Whitehead or Mr. Vore ever meet
24 with you and discuss with you concerns that the QC
25 inspectors were having with implementation of

-15
1 procedures or changes in procedures or carrying out
2 their functions in the Safeguards Building?

3 A They have met with me on revising of
4 11.3-40.

5 Q You mean "they," Mr. Whitehead and/or
6 Mr. Vore?

7 A I believe both of them.

8 Q And did they at that time communicate
9 to you any concerns that had been communicated to them
10 by the QC inspectors about these proposed procedure
11 changes?

12 A I believe that was the context of the
13 meeting is discussions that, "We are out there and we
14 are doing this specific function, and I believe we need
15 clarification in the procedure.

16 Q Mr. Bennetzen, can you -- looking at
17 the time frame of, let's say, January 1984, until
18 the time that you transferred, how would you describe
19 the over-all morale of your organization in doing its
20 work in the Safeguards Building?

21 By that, I mean would you consider that
22 they had good morale and felt pretty good about how
23 your group was doing, or not?

24 A I would say it would be an average
25 morale.

-16 1 Q And in your opinion, during that period
2 of time did you think that there were any unusual or
3 exceptional number of problems that they were having
4 with the implementation of inspection procedure?

5 A Just the 11.3-40 procedure that I can
6 recall that we were having the discussions with and
7 the problems on the finals in the rooms on 11.3-40.

8 Q And with the exception of that, you
9 didn't feel that there were any what you would
10 consider unusual problems that your crews were having
11 with the turning out of their job functions?

12 A Not really, since we were new in the
13 program and developing the program itself, I don't
14 think it was any more unusual than -- you know, when
15 you are just starting a new concept, everybody is in
16 a learning stage and a development stage of it.

17 Q Did you feel that there was any more
18 tension or -- well, let's try -- any more tension
19 existing between the craft and building management
20 on the one hand, and your QC inspectors on the other,
21 than what you would consider normal?

22 A At one point in time I think there was.

23 Q When was that?

24 A When the 773 elevation problem came up
25 and when -- after the memo when they quit dropping the

-17 1 lighting fixtures for inspection.

2 Q As I understand it, the procedural
3 change which is announced as "coming" in that February
4 28th memorandum never actually occurred until after
5 you had transferred; isn't that correct?

6 A I guess so. I don't even know if it
7 ever did occur, because I never went back to the
8 procedure to look.

9 Q And thus would it be fair to say that
10 in the last days of your being in the position in the
11 Safeguards Building on these non-ASME items, that
12 there was a more than normal amount of tension
13 between craft and building management on the one hand,
14 and the QC inspectors on the other?

15 A I guess you could say that.

16 Q Did you at any time indicate to your QC
17 inspectors that Mr. Tolson was putting a lot of
18 pressure on you about their inspection and finding
19 problems and that they had better be right if they
20 found those problems or reported those problems?

21 A I never recall ever making a statement
22 out like that, sir.

23 Q Was Mr. Tolson putting any pressure on
24 you because your inspectors were finding a lot of
25 problems in the Safeguards Building?

1 A. I don't feel so, that he was.

2 MR. ROISMAN: We have no further
3 questions for Mr. Bennetzen at this time.

4 I wonder if I just might -- Since it
5 always seems to be a matter of discussion, Mr. Jordan
6 decided on several occasions to mention my law clerk's
7 scheduling, that I had indicated I thought we would
8 be done before lunch. It is 12:16.

9 MR. DOWNEY: We compliment Mr. Roisman
10 for his accurate estimate of time.

11 MR. ROISMAN: Thank you, Mr. Downey. I
12 accept that in the spirit in which it was offered.

13 MR. DOWNEY: It was offered as a
14 compliment.

15 JUDGE BLOCH: That's enough.

16 MR. JORDAN: Mr. Chairman, may I make
17 one point for the record, also.

18 I have no reason to believe that
19 Mr. Roisman has intentionally done it, but both during
20 this witness' testimony and Mr. Purdy's testimony of
21 the other day, there were several references to
22 "their Counsel," referring, I think, to Counsel for
23 the Applicants.

24 I think the record should be clear that,
25 to my knowledge at least, Counsel for the Applicants

-19 1 is not representing any employee of Brown & Root who
2 testifies in these proceedings.

3 JUDGE BLOCH: Thank you.

4 MR. DOWNEY: That is correct.

5 JUDGE GROSSMAN: Mr. Bennetzen, you
6 have referred to Procedure 11.3-40. Is that the
7 procedure dealing with the lighting terminations?

8 THE WITNESS: Yes, sir.

9 JUDGE GROSSMAN: And I believe you've
10 identified as the problem with regard to the procedures
11 as opening of the junction boxes for the termination
12 lighting; is that correct?

13 THE WITNESS: Yes, sir.

14 JUDGE GROSSMAN: I believe we have
15 also heard mention of two possible instances of
16 destructive examination, one of which dealt with
17 some loose flex conduit.

18 THE WITNESS: Yes, sir.

19 JUDGE GROSSMAN: Could you tell me what
20 you mean by flex conduit, or is that a generally
21 understood term?

22 THE WITNESS: I'll try to explain it
23 to you. It's not like one solid piece of pipe. It's
24 spiraled and flexes similar to like, say, a vacuum
25 cleaner hose, say, okay?

1 JUDGE GROSSMAN: I think I understand.
2 Is this sometimes referred to as armor -- in referring
3 to armored cable?

4 THE WITNESS: I'm not for sure, sir,
5 it's referred to that.

6 JUDGE GROSSMAN: Are you familiar with
7 what's referred to in the trade as BX cable?

8 THE WITNESS: No, sir.

9 JUDGE GROSSMAN: Sir, is there any
10 flex conduit used on these lighting circuits that we
11 are discussing now?

12 THE WITNESS: Not that I'm aware of,
13 sir.

14 JUDGE GROSSMAN: And so that loose
15 connection on flex conduit really had no relationship
16 to the problem of the post-construction lighting
17 inspections?

18 THE WITNESS: Yes, sir.

19 JUDGE GROSSMAN: Yes, meaning that
20 it had no relationship?

21 THE WITNESS: Yes, sir.

22 JUDGE GROSSMAN: There are problems that
23 can occur or could be present with regard to junction
24 box connections, even if the lighting itself works;
25 isn't that correct, sir?

1 THE WITNESS: Yes, sir.

2 JUDGE GROSSMAN: Could I go through a
3 few that I think might be a problem, and see if you
4 agree that that could be a problem even though the
5 light shines or goes on?

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BOARD EXAMINATION

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he
1 BY JUDGE GROSSMAN:

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3 Q Of course, there's the problem, I think,
4 that was already mentioned, in which there could be
5 a loose connection, isn't that correct, sir?

6 A Yes, sir.

7 Q And that could result in a circuit box,
8 in the circuit shorting out, is that a possibility?

9 A I would like to reflect that I am not
10 an electrical Level 2 inspector or have that much
11 knowledge in electrical application, sir.

12 Q Well, you certainly have general
13 knowledge.

14 A Just general, sir.

15 Q And you would expect anyone basically
16 in the construction trade to have general knowledge
17 of electrical wiring, wouldn't you?

18 A I guess you could make that assumption.

19 Q Well, now if a connection was loose
20 and a bare lead touched the box, let's say a hot lead,
21 that would short the circuit out, wouldn't it?

22 A I believe so.

23 Q Now, is it possible that you could have
24 a connection with a neutral lead connected to a
25 ground rather than another neutral lead and still

10-2 1 have the lighting work?

2 A I don't know. I couldn't answer that.

3 Q Is it possible that a ground connection
4 could come loose from the box itself and the circuit
5 operate when the switch is turned on, the light
6 operate?

7 A I still -- I don't know. I don't have
8 that much electrical knowledge to know if the ground
9 was loose whether it would work or not.

10 Q Do you know what the purpose of having
11 the ground connected to the box is?

12 A To ground the box, I believe, I guess.

13 Q And what would be the reason for that,
14 do you know that?

15 A I guess to complete the circuit.

16 (Bench conference.)

17 BOARD EXAMINATION

18 BY JUDGE BLOCH:

19 Q Mr. Bennetzen, in discussing your
20 position on enforcing procedures until they're
21 changed with respect to the lighting boxes, did you
22 get the impression that your hands respected you for
23 taking that position?

24 A Yes, sir.

25 Q Did you get the feeling that they really

10-3 1 appreciated your backing them up?

2 A Yes, sir, I believe I was even told
3 that by several of them.

4 Q When the QE engineer was first assigned
5 to your group, did you explain to the hands what his
6 purpose was in being with you all the time?

7 A I don't believe I called a total
8 meeting with all of the QC, I believe I had the
9 discussion with Stan Vore, my lead.

10 Q Did you ask Mr. Vore to explain to the
11 hands what the engineer was going to be there for?

12 A I believe so, yes, sir.

13 Q And what did you tell him?

14 A I told him that exactly what he was
15 there for was to help us in an expedient disposition-
16 ing of the nonconformances and in problems that were
17 coming up with the intents of the procedures and
18 this and that.

19 Q Was the decision about whether or not
20 to go to the engineer entirely up to each hand, or
21 was there some guideline as to when they would go to
22 the engineer?

23 A I believe I left it up to the lead and
24 the QC and I didn't state anything in particular
25 about it.

10-4

1 Q Did you know whether he was going to
2 check UNSAT's to see whether they were proper?

3 A Yes. The deficiency lists were going
4 to be shown to me.

5 Q Was that an unusual procedure?

6 A No.

7 Q I thought the engineers generally only
8 reviewed those deficiencies that couldn't be corrected
9 by craft.

10 A Quality engineering reviews all the
11 deficiencies for trend analysis, sir.

12 Q Was that the reason he was looking at
13 the deficiencies, for trend analysis?

14 A Not in this particular instance, I
15 don't believe.

16 Q So was this purpose for looking at
17 the deficiencies different than had been done
18 previously?

19 A Yes, sir.

20 Q And was any explanation of that
21 difference made to your hands by Mr. Vore at your
22 direction?

23 A Not that I'm aware of.

24 JUDGE BLOCH: Does someone have
25 available the list of names that Mr. Check made?

10-5
1 I'd like it to be shown to the witness. I think it
2 got bound in.

3 MR. DOWNEY: I believe it was Friday's
4 session.

5 MR. ROISMAN: We don't have complete
6 transcripts.

7 MR. DOWNEY: I don't have anything
8 except yesterday's transcript and Mr. Purdy's pre-
9 filed testimony.

10 JUDGE BLOCH: Mr. Berry has come up
11 with the list.

12 I'm showing the witness Transcript
13 Page 15489.

14 BY JUDGE BLOCH:

15 Q There's a list of names on this page,
16 Mr. Bennetzen. Could you tell me if that list of
17 names rings a bell in any way with you?

18 A It looks like the post-verification
19 inspection group.

20 Q Do you have any questions as to whether
21 that's the whole post-verification group or just
22 some of them?

23 A I believe that's all of them.

24 JUDGE BLOCH: Thank you.

25 Dr. Jordan, do you have some questions?

BOARD EXAMINATION

10-6 1
2 BY JUDGE JORDAN:

3 Q Just a matter of clarification, and
4 you may not know the answers, but if you do, fine.

5 And I'm trying to get at what the job of
6 the quality engineer is, and how he was able to help
7 you.

8 Now, if you have an UNSAT on an IR,
9 you say the normal procedure is that to go through
10 you and then up through your management, back down
11 through engineering, and it's up to engineering then
12 to propose a way of removing the UNSAT. Is that
13 correct?

14 A Yes, sir.

15 Q Now, in that chain there's the quality
16 engineer, who holds a position such as the one that
17 you had in your building, does he have the power to
18 remove the UNSAT, to propose an answer that will
19 remove the UNSAT?

20 A Is this in the context such as an NCR?

21 Q No. I was thinking first of all in
22 connection with an IR, with an UNSAT on an IR.

23 A Yes, sir, I believe a quality engineer
24 could show on the inspection report itself what the
25 procedural requirements are, clarify what the

10-7

1 procedural requirements are and state that the IR is
2 not actually an UNSAT and sign and date it.

3 Q And, for example, if he had an UNSAT
4 on a junction box cover that was not removed, would
5 he be able to remove that UNSAT?

6 A With proper justification, I believe
7 so, sir,

8 Q Well, one way of removing would be to
9 direct the craft to remove the cover.

10 A Yes, sir.

11 Q And are there other ways that he could
12 remove the UNSAT? This is prior to the change in
13 procedures.

14 A All I could state is if he had the
15 proper justification, in other words, saying that
16 it was really not in the procedure, or whatever.

17 Q I see. So far as your understanding,
18 is that he does have the ability to interpret
19 procedures and if he does then that's the end of it,
20 there's no reason for unhappiness on anybody's part
21 that he's done it.

22 A As long as he justifies himself on the
23 document, sir.

24 Q Yes. Okay. All right.

25 Now, can he do the same for an NCR?

1 A. Yes, sir.

2 Q. And so therefore that's why having him
3 there, the man that would be doing it in the shade
4 anyhow, would short-circuit this loop?

5 A. Yes, sir.

6 JUDGE JORDAN: Okay. Thank you.

7 JUDGE BLOCH: The Chairman seeks the
8 assistance of the parties in being informed about
9 whether Mr. Bennetzen has already testified about
10 what happened at the meeting he apparently was at
11 in the Stanford incident.

12 Has his testimony covered that?

13 MR. ROISMAN: I don't think so,
14 Mr. Chairman.

15 MR. DOWNEY: I do not believe that was
16 part of Mr. Bennetzen's prefiled testimony, which
17 is the only testimony given before today.

18 JUDGE BLOCH: It's my inclination to
19 believe that that would be helpful to the record.

20 If the parties -- if the Intervenors
21 tell me that that's not at all necessary, I wouldn't
22 do it.

23 MR. ROISMAN: We did not know that
24 Mr. Bennetzen was at the meeting until the testimony
25 last night.

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JUDGE BLOCH: That was the first that

I was --

MR. ROISMAN: That was our first knowledge of it.

JUDGE BLOCH: Would you like to conduct that examination?

MR. DOWNEY: We would object to such an examination.

JUDGE BLOCH: There is a conflict as to what happened in that incident and the credibility of several people is at stake.

Mr. Bennetzen was there and it seems to me we should get his version of what happened.

MR. ROISMAN: I think to reduce any danger of Mr. Downey's conflict that if the Board would ask the question I think that would clearly remove any question.

JUDGE BLOCH: Mr. Bennetzen, do you remember being present at a meeting --

MR. DOWNEY: Your Honor, I would at least object until I've had -- both his personal counsel and counsel for the Applicants have had time to discuss with Mr. Bennetzen his recollection, to put this in context.

It comes completely out of the blue.

10-10 1 It was not a subject matter about which he testified.
2 It was not a subject matter identified by the Board
3 when it called Mr. Bennetzen for the purpose of
4 inquiring about the T-shirt incident.

5 I think it's perfectly appropriate and
6 we request an opportunity to consult with him about
7 the matter.

8 JUDGE BLOCH: I'm just asking his
9 recollections as an eyewitness of what he saw.

10 And if you have any questions about
11 whether you remember it clearly, we'd expect you to
12 tell us that and just to tell us the truth.

13 BOARD EXAMINATION

14 BY JUDGE BLOCH:

15 Q Do you remember being present at an
16 incident in which there was some discussion made
17 about whether Jack Stanford had properly lined through
18 a date on an inspection report?

19 A Yes, sir.

20 Q Could you tell me what it is you
21 recollect about that meeting; first of all, who was
22 present?

23 A The people in attendance at the meeting
24 was Terry Methaney, Bob Sievers, me, and Robbie
25 Duncan.

10-11 1 Q And who ran the meeting? Was there
2 one person running it?

3 A Bob Sievers, sir.

4 Q And did he also start the meeting?

5 A Yes, sir.

6 Q What was it that he asked the meeting
7 to consider?

8 A I got in on the tail end of it. I was
9 out in the task force and came back up the hill and
10 Terry had gotten with me, my lead, and stated that
11 Jack had some type of problem on a buy-off on a weld
12 to a valve out on the AF system out in the field and
13 that I needed to go to the office with him -- to
14 Bob's office with him because we were going to
15 discuss it.

16 Q Okay. So when you walked in, what did
17 you see happening?

18 A All I can recollect is they had the
19 NCR in hand and Bob was asking Terry what all he had
20 researched out about the particular incident.

21 Q Okay. And what was the incident Terry
22 gave?

23 A I don't recall.

24 Q Do you recall whether it was a long
25 response or a short response?

10-12 1 A All I can recall is the answer that
2 Terry gave him brought Mr. Duncan into the meeting
3 at that time.

4 Q Do you recall what happened when
5 Mr. Duncan arrived?

6 A Bob asked Mr. Duncan whether Jack was
7 telling the truth, that he did perform the inspection
8 on this specific day, and Robbie said yes, that's
9 when we did the inspection.

10 Q Any other questions asked of Mr. Duncan
11 that you remember?

12 A Not that I recall, sir.

13 Q So, as you recall, the only subject was
14 the day of the inspection?

15 A Yes, sir.

16 Q Do you recall whether there was anything
17 said about Mr. Duncan overhearing a statement made
18 by Mr. Stanford?

19 A Not that I recall.

20 Q Do you think your recollection of that
21 is dim or good?

22 A Very dim.

23 Q Do you know why you were called into
24 the meeting?

25 A Like I said, I was kind of at the tail

10-13
1 end of it. I had just come from out in the field and
2 was all of a sudden in Bob Siever's office on it.

3 Q Was Methaney someone working for you?

4 A Terry Methaney is my lead, sir, for
5 ASME.

6 Q Did you ever have an occasion, other
7 than that meeting, to discuss with Mr. Methaney what
8 was going on?

9 A Later Terry discussed with me that --
10 about it.

11 Q And what do you recall of that
12 conversation?

13 A That the NCR was written by
14 Mrs. Neumeyer on conflicts of dates on the weld data
15 card itself when -- I believe it was when the actual
16 PT was done on it, or something like that.

17 Q And did he tell you anything about how
18 he had resolved it?

19 A No, sir.

20 Q Did he tell you anything about his
21 opinion of Miss Neumeyer?

22 A No.

23 Q He didn't sound upset that she had
24 done that?

25 A Not that I recall.

10-14 1 Q Did he express any opinions about
2 whether he was happy about what Jack Stanford had
3 done?

4 A Not that I recall.

5 Q Do you have any other knowledge of the
6 incident involving Jack Stanford and the date on that
7 weld data card?

8 A No, sir.

9 JUDGE BLOCH: I have no further
10 questions.

11 Shall we take a break for lunch?

12 MR. DOWNEY: How much examination does
13 Mr. Treby have?

14 MR. TREBY: It's always very difficult
15 to predict these things. I have relatively few
16 questions, but if I were to say 15, 20 minutes, and
17 it stretched out, I wouldn't want to be held
18 accountable for just going on and on.

19 JUDGE BLOCH: We'll get back at about
20 1:40 and find out the answer to --

21 MR. ROISMAN: As the world turns.

22 MR. DOWNEY: I only asked because
23 Mr. Bennetzen is scheduled to go on vacation at the
24 conclusion of his testimony and Mr. Jordan is
25 scheduled to go back to Houston.

10-15 1 MR. TREBY: Well, maybe the more
2 appropriate question is how much redirect Applicants
3 have. If Applicants have very, very little, then it
4 may be that everything can be done --

5 MR. DOWNEY: One question..

6 JUDGE BLOCH: All right. May I ask if
7 this is very important to the witness and to his
8 counsel that we continue now and wait for lunch?

9 MR. JORDAN: No.

10 JUDGE BLOCH: All right. Then let's
11 recess.

12 (Whereupon, at 12:40 p.m. a recess was
13 taken until 1:40 p.m., the same day.)

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AFTERNOON SESSION

1:40 P.M.

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3 JUDGE BLOCH: The hearing will come to
4 order.

5 Mr. Roisman, cross, recross.

6 MR. ROISMAN: Mr. Chairman, before we
7 get that, I have a very --

8 JUDGE BLOCH: I'm sorry, you wouldn't
9 be next though. I called on you wrong.

10 MR. ROISMAN: No, but before we do any
11 of that, I have a rather grave matter I've like to
12 raise with the Board.

13 Sitting behind me are two gentlemen
14 who we asked to come here today to help us so we would
15 better understand the Post-Construction Verification
16 Task Force incident. One is Mr. Ronald Jones, and he's
17 the gentleman in the blue shirt, and the other one is
18 Mr. Gerald Pryor.

19 Just before the lunch break at
20 about 12:14 Mr. Purdy handed a piece of paper to
21 Ms. Dobie Hadley, this is the piece of paper, and said
22 to her something to the effect that "Mr. Jones dropped
23 this."

24 Ms. Hadley held on to it. The
25 hearing broke. She gave it to Mr. Jones. He opened it,

1/2 1 and what the piece of paper is is a portion of a
2 transcript of his high school attendance at a high
3 school.

4 At the time that Mr. Jones was
5 employed at this company there was a question raised
6 about whether he in fact had a high school diploma,
7 and we have through discovery from the Applicant
8 on various people who might be involved with allegations
9 of intimidation, the record of what the Applicant gave us,
10 and included in it is a copy of that same document,
11 although not a legible copy.

12 This appears to be an original of
13 the ordered transcript, although itself is not an
14 original of the transcript.

15 I believe that there is very little
16 question but that this document was brought into this
17 room by a representative of the Applicant for the sole
18 purpose of having it given to Mr. Jones as a way of
19 telling him that if he should decide to go on the
20 witness stand that this issue involving his attendance
21 in high school or whether he had made a misstatement
22 on his application to the company would be raised.
23 There is no other explanation for it.

24 And I believe that this is a
25 blatant attempt to intimidate this individual from

1/3
1 deciding to be a witness. I have no idea who the
2 persons were who may have instigated this. I know only
3 what I have told you, that Mr. Purdy gave it to
4 Ms. Hadley and said that Mr. Jones dropped it.

5 Incidentally, Mr. Jones, of course,
6 indicated he didn't bring it, nor would he have had any
7 reason to bring with him a partial transcript.

8 This transcript, by the way, was
9 ordered, according to the date on it, on 5/3/84.

10 I would like to propose that the
11 Board at this point temporarily adjourn this hearing,
12 and call to the witness stand and put under oath the
13 people involved to see if in fact these events have
14 transpired and how it happened that this document was
15 given through Ms. Hadley by Mr. Purdy to Mr. Jones.

16 MR. DOWNEY: I consider those charges
17 outrageous.

18 MR. ROISMAN: Oh, I do, too.

19 MR. DOWNEY: Mr. Purdy -- I consider
20 Mr. Roisman's speculation and characterization on some-
21 thing outrageous.

22 JUDGE BLOCH: Okay. Then let's clear it
23 up. We'll call Mr. Purdy as a witness.

24 MR. DOWNEY: That's fine with me.

25 JUDGE BLOCH: Mr. Bennetzen, you are

1/4

1 temporarily excused. We are not adjourning the hearing,
2 however. We are just changing the witnesses.

3 (The witness was temporarily
4 excused.)

5 JUDGE BLOCH: Mr. Purdy, welcome back.
6 Mr. Purdy, you were here and heard the allegations, I'm
7 sure.

8 MR. PURDY: Thank you, I think.

9 MR. JORDAN: Judge Bloch.

10 JUDGE BLOCH: Yes.

11 MR. JORDAN: I'm sorry to interrupt,
12 but as Mr. Purdy's personal counsel, before he submits
13 to any examination I would like to assure myself that
14 he has no matter that he wishes to discuss with me
15 before that time. May I have just a moment with him,
16 please.

17 JUDGE BLOCH: Mr. Roisman, how do you
18 feel about that?

19 MR. ROISMAN: I think that's perfectly
20 appropriate.

21 MR. JORDAN: Okay. Thank you.

22 JUDGE BLOCH: We will take a brief
23 recess.

24 (A short recess was taken.)

25 JUDGE BLOCH: Back on the record.

1/5

1 MR. JORDAN: Mr. Chairman, Mr. Purdy has
2 no objection to appearing at this time and is ready to
3 proceed. Thank you for the moment.

4 JUDGE BLOCH: Mr. Purdy, I advise you
5 that you continue to be under oath.

6 Mr. Roisman, would you like to
7 begin?

8 MR. ROISMAN: Certainly.

9 Whereupon,

10 GORDON PURDY

11 resumed the stand as a witness and, having been
12 previously duly sworn to tell the truth, the whole
13 truth, and nothing but the truth, testified upon his
14 oath further as follows:

15 CROSS-EXAMINATION

16 BY MR. ROISMAN:

17 Q Mr. Purdy, I'm going to ask you to take
18 a look at a document that has a seal on it, on the
19 exterior, Fort Worth Independent School District
20 Official Transcript, Ralph Waller by M. C., and dated
21 5/03/84.

22 And inside appears to be a rather poor
23 reproduction of something entitled "Permanent High
24 School Record, Fort Worth Public Schools."

25 Have you ever seen that document before?

11/6

(Document handed to witness.)

- 1
- 2 A Yes, sir, I have.
- 3 Q Had you ever seen it before today?
- 4 A No, sir, I have not.
- 5 Q Can you tell me how you happened to see
6 it today?
- 7 A I was sitting on the back row of the
8 hearing room. I turned around. I saw the document
9 laying on the floor with what appeared to be an
10 official seal. I did not even read the seal. I read
11 the name. And also that Mr. Ralph Waller had signed it.
12 I opened it up, saw it was a transcript.
13 Did not even know whose it was. Handed it to Mr. Mark
14 Davidson. I said, "Who is it for?" Mr. Mark Davidson
15 told me that it was for Mr. Ron Jones.
- 16 He folded it up, handed it back to me.
17 I went up, sat behind Ms. Hadley, since I had noticed
18 Mr. Jones was sitting behind the Intervenor's table,
19 and said, "I think maybe Ron dropped this."
- 20 Q What did Mr. Davidson say to you that
21 made you think that Mr. Jones had dropped it?
- 22 A He didn't say anything other than
23 indicated to me that the name was Ron Jones. I looked
24 over and it was for Ron Jones.
- 25 Q Roughly, when did you notice it on the

1/7
1 floor?

2 A It couldn't have been much more than a
3 couple of minutes before I handed it to Ms. Hadley.

4 MR. ROISMAN: That's all I have.

5 JUDGE BLOCH: And based on that should
6 we continue?

7 MR. ROISMAN: I'd like to get Mr.
8 Davidson on.

9 MR. DOWNEY: Absolutely not. Not without
10 a subpoena, and I'll appeal.

11 MR. ROISMAN: I'd like to know how it
12 was that Mr. Davidson seemed to know, without a
13 moment's hesitation, who it was.

14 Mr. Chairman, I don't think there
15 is any question that this document was ordered on the
16 3rd of May 1984, and I have here a copy of what was
17 produced in discovery from the Applicant of their
18 records, personal records on people who had a harassment
19 and intimidation allegations, and included within that
20 is the identical document, except a xerox copy thereof.

21 Obviously, -- All right. Ms. Garde
22 says she can find it from the file. Obviously, we did
23 not have access to the Applicant's personnel records to
24 take this original out. So it was brought into this
25 room. It was brought into this room by somebody from

1/8

1 the Applicant.

2 Now, I notice that Mr. Methaney
3 and Mr. Duncan arrived here shortly before noon, and
4 that some hour to an hour and a half after Mr. Jones
5 arrived in the room. I have no idea of whether the
6 Applicant at that point, or some person from the
7 Applicant, or some person related to the Applicant,
8 called back to the site and said, "Let's get the Ron
9 Jones file up here," or whatever it was.

10 But, in any event, here it is.
11 And, by the way, Mr. Chairman, I'd like to show the
12 Board, this is the copy which was produced to us in
13 discovery of the document Mr. Purdy has just identified.
14 There's a seal on the outside.

15 MR. JORDAN: Mr. Chairman, may Mr. Purdy
16 be excused?

17 JUDGE BLOCH: He can wait for just a
18 second. I don't think he's inconvenienced by sitting
19 there rather than elsewhere.

20 MR. ROISMAN: And that's the one that was
21 handed to Ms. Hadley.

22 JUDGE BLOCH: What's the point of
23 looking at these two copies?

24 MR. ROISMAN: To indicate that it is
25 clear that the origin of this document, in other words,

1/9

1 where one would find the original of this ordered
2 transcript must be in the Applicant's file since that
3 is a xerox of what the Applicant gave to us in discovery
4 back in probably June.

5 JUDGE BLOCH: I guess my problem is that
6 the most I could conceive of doing for you would be to
7 authorize further discovery on this matter. It seems
8 to me to use the hearing to find out what happened is
9 not usually what we would try to do.

10 MR. ROISMAN: My concern is that I
11 believe this represents, given the history of what
12 Mr. - Excuse me. Given the history of what Mr. Jones'
13 personnel record discloses that the occurrence that
14 this document should show up in the hearing room this
15 morning, some hour and a half after Mr. Jones walks in
16 the room and sits down behind Intervenor's table is
17 more than mere coincidence, and there is a need to have
18 an inquiry into how it got into the room.

19 JUDGE BLOCH: Let's see the original
20 again, because I can't read the copy.

21 MR. DOWNEY: I want to respond to
22 Mr. Roisman's charges. I think what he has done here
23 today is outrageous grandstand, of no substance whatso-
24 ever. And to inquire into this is wholly inappropriate.

25 There is no indication that Mr.

1/10

1 Jones or some other person didn't bring this document
2 into the room. Mr. Purdy says how he produced it. And
3 to speculate about the matter as Mr. Roisman put forth
4 is an outrageous assault on the Applicant and its
5 counsel.

6 JUDGE GROSSMAN: Well, I think you ought
7 to be a little more precise, Mr. Downey. Mr. Roisman
8 has made a showing of why Applicant or Applicant's
9 counsel might be involved in this, in that he indicates
10 that it is obviously, to him anyway, the original of a
11 document that Applicant produced for Intervenor. And so
12 he has made at least a prima facie showing that this
13 was a document that was in the possession of Applicant
14 or Applicant's counsel.

15 Now, if you have something further
16 to illuminate us with with regard to how the document
17 came to be here in the hearing room, we would certainly
18 welcome it.

19 MR. DOWNEY: I have no idea. And the
20 fact is neither does Mr. Roisman. And he's made a
21 series of allegations based on some speculation how he
22 thinks it got here and why it was brought.

23 JUDGE BLOCH: Is there anyone --

24 MR. DOWNEY: And I can say as counsel for
25 Applicant, no one from our litigation team had any

1/11
1 knowledge that Mr. Jones would be here. In fact, I
2 wrote Mr. Tolson a note right before the lunch break
3 to ask who these gentlemen were. No one here even knew
4 who they were.

5 JUDGE GROSSMAN: I don't think Mr.
6 Roisman indicated that anyone knew that Mr. Jones would
7 be here.

8 I believe what he said was that
9 after Mr. Jones had been here for an hour and a half
10 that these, this chain of events began occurring. So
11 why don't we be precise in our language here as to what
12 is being stated.

13 MR. DOWNEY: Yes, I am being precise,
14 I think, Judge Grossman. I'm absolutely incensed by
15 what Mr. Roisman has accused the Applicant and his
16 counsel of doing, based on the fact that some document
17 was handed to Billie Hadley by Gordon Purdy, who has
18 testified that he found it on the floor.

19 JUDGE BLOCH: Is there anyone in the
20 room with knowledge of how this document got into the
21 room?

22 (No response.)

23 JUDGE BLOCH: No one indicated a knowledge
24 in response to the Chairman's question.

25 MR. ROISMAN: Mr. Chairman, maybe the

1 question should be: Was anybody who came into the room
2 asked to bring any files from the site this morning?

3 JUDGE BLOCH: Did anyone in the room
4 bring in files from the site this morning?

5 MR. DOWNEY: To my knowledge, no one in
6 the room was at the site this morning.

7 (No response.)

8 JUDGE BLOCH: I see no indication that
9 anyone brought files from the site this morning, either.

10 I don't know how to pursue it any
11 further. I understand the extent of your irritation,
12 but it seems to me that the only explanation we have on
13 the record is Mr. Purdy's, which is a possible
14 explanation. I don't know where the document came from.
15 If you have specific discovery requests to file about
16 this, we could imagine granting discovery requests.

17 MR. ROISMAN: Fine. We would like leave
18 to do that, and we will do it as soon as we return to
19 Washington next Monday.

20 JUDGE BLOCH: Mr. Purdy, you may be
21 excused.

22 (The witness was excused.)

23 MR. DOWNEY: I want the record to reflect
24 that we will oppose any discovery on this matter. I
25 think it's -- Again, I want to repeat, I think it's

1/13

1 outrageous speculation and a personal attack leveled
2 by Mr. Roisman at counsel for the Applicant, and the
3 Applicants' witnesses, and I resent it very deeply.

4 JUDGE BLOCH: Well, we will not grant
5 the motion until you have a chance to respond. And the
6 Staff, as well.

7 JUDGE GROSSMAN: Does the Staff have a
8 position on this at the moment?

9 MR. TREBY: The only facts that the
10 Staff has are those that have just been put forth before
11 the Board now.

12 We have drawn no conclusions from
13 those facts.

14 JUDGE BLOCH: And if Applicants' counsel
15 does learn how this material got apparently from their
16 files to the floor of the room, we would appreciate a
17 representation of counsel about that.

18 MR. DOWNEY: I'll be glad to provide that,
19 Judge Bloch, but I think there is an assumption implicitly
20 in your question that is not justified by the facts, and
21 that is that this document came from our files.

22 The fact that we may also have a
23 copy of it is absolutely no indication that this piece
24 of paper came from our file. I don't even know that
25 we have a copy of it.

(Bench Conference.)

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JUDGE BLOCH: Mr. Bennetzen, we'd appreciate you rejoining us.

MR. ROISMAN: Mr. Chairman, just one last thing. If it will assist in the ultimate resolution of this matter, which I have no question it's going to be ultimately resolved, I would have Mr. Jones to get on the witness stand to answer the one question, "Did he bring this document in the room," while he's physically here put him under oath, and he'll tell you what he has to say about that.

JUDGE GROSSMAN: Before we go any further, where is the document that was the subject of this -- not the copy of Intervenor's, but the original document?

MR. ROISMAN: This is the original. Would you like to put it in the possession of the Board?

JUDGE GROSSMAN: Perhaps --

MR. ROISMAN: I don't know how the reporter can bind it, because she can only one copy can have the original, but I'm perfectly willing to have the original put in some safe place.

MR. DOWNEY: I think it should be turned over to the Board.

MR. ROISMAN: All right.

JUDGE BLOCH: We'll accept custody of the

1/15 1 document.

2 MR. ROISMAN: Let the record reflect
3 that I'm giving the Chairman a copy of the document
4 which Mr. Purdy previously identified while he was
5 briefly on the witness stand.

6 (Counsel hands document to
7 the Board.)

8 MR. DOWNEY: I also would like to have,
9 if I could request, that Mr. Roisman state with
10 precision what his objection was. What was upsetting
11 about this document?

12 JUDGE BLOCH: I'm sorry. I think that
13 would be diminuous at this point. I understand what
14 his statement was. I understand you are all upset about
15 why this statement was made, but he is concerned that
16 it was an attempt to intimidate a possible witness.

17 MR. DOWNEY: Somebody who has not been
18 called as a witness by any party?

19 JUDGE BLOCH: That was his stated concern.

20 JUDGE GROSSMAN: Mr. Downey, I wouldn't
21 take this quite as personally as you appear to, because
22 I don't believe Mr. Roisman has fixed any blame as to
23 whether his charges went to counsel or to anyone working
24 for Applicant.

25 As a matter of fact, I believe the

1/16 1 main thrust of what he said had to do with employees of
2 Applicant, and so I think it would be again imprecise
3 to feel as though the charges were directed against you
4 personally, or your fellow, or your colleagues.

5 MR. DOWNEY: Or my client. I take it
6 equally personally when it is leveled at my client.
7 And if I may now ask leave of the Board to say why I am
8 so upset about this, I'll cite one and only one example
9 of many that I could cite to the Board.

10 It happens to be because it was
11 the subject matter of the telephone calls and conferences
12 I've had with Ms. Garde today.

13 Early in this proceeding, before
14 I ever made an appearance before this Board, Mr. Roisman
15 appeared at a pre-hearing conference and leveled an
16 allegation at me personally for improperly conducting
17 a settlement negotiations in the 210 case involving
18 Billie Orr. I didn't respond to that allegation then,
19 because I gave Mr. Roisman the benefit of the doubt.
20 He didn't know me. He wasn't at the settlement
21 discussion, and I assumed that it was an honest mistake.

22 And to refresh the Board's
23 recollection he said that during that settlement
24 discussion I attempted to intimidate Ms. Orr. The facts
25 of the matter, Your Honor, is that settlement discussion

1/17
1 was conducted outside Ms. Orr's hearing, with her
2 personal counsel, in an effort to avoid bringing before
3 the Department of Labor and ultimately this Board the
4 fact that she had used, unlawfully used narcotics, and
5 that was the basis for her termination.

6 I didn't seek to embarrass her. I
7 sought to protect that fact from the record. I conducted
8 that settlement discussion in private, and ultimately
9 withdrew the charge, the 210 charge. Notwithstanding
10 the fact that we went at great lengths to keep it out
11 of the public record, Mr. Roisman felt compelled to
12 come before this Board the next day, based on repre-
13 sentation of someone of a meeting where he wasn't
14 present and level charges against me personally. I was
15 outraged by that. And I'm mad now. I'm still mad
16 about it.

17 And this is the second instance,
18 and I could cite you ten or fifteen more in the last
19 six months.

20 JUDGE BLOCH: I guess my observation is
21 that when counsel get mad we have to have other counsel
22 speak, and we wind up not conducting the hearing very
23 well.

24 Mr. Roisman, do you want to respond
25 to that?

1/18

1 MR. ROISMAN: I see no benefit to doing
2 that, Mr. Chairman. I just want to renew my offer to
3 have Mr. Jones answer that one question while he is
4 here, under oath, as to whether he brought this document
5 into the room today, or whether he has seen it before,
6 even.

7 JUDGE BLOCH: I guess I don't see a basis
8 at this point for taking that testimony, since we have
9 no reason to believe the way the document got into the
10 room at this point was something that was the responsi-
11 bility of Applicants or their employees. We just don't
12 know how that document got in the room right now. So
13 that calling your witness would not establish much.

14 Now, if we subsequently learn
15 something about how it got in the room, and there's
16 something to do, then the testimony won't take very
17 long.

18 It's Staff's cross-examination
19 of Mr. Benetzen.

20 ///

21 ///

22

23

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12-1
he
1 Whereupon,

2 GREG BENNETZEN

3 was recalled as a witness and, having been previously
4 duly sworn, was examined and testified further as
5 follows:

6 CROSS-EXAMINATION

7 BY MR. TREBY:

8 Q Mr. Bennetzen, you indicated that you
9 were a part of the safeguards building task force.

10 A Yes, sir.

11 Q Could you tell us what constitutes
12 that task force? Is it all the people who are
13 working in that building, or is it a subgroup of all
14 the people working that building?

15 A It's all the people working in the
16 building, construction, engineer, as well as QA/QC.

17 Q And is that the --

18 JUDGE BLOCH: Is something bad happening
19 in the room to make people leave the room?

20 (Laughter.)

21 MR. DOWNEY: I'd like for Mr. Treby to
22 repeat that last question.

23 MR. TREBY: I don't think I had stated
24 the question.

25 BY MR. TREBY:

12-2 1 Q And does that indicate that that is the
2 only place that they are working if they're on that
3 task force?

4 A Yes, sir, in each building.

5 Q And is that a process that the Applicant
6 is now using for completion of its buildings, setting
7 up a task force for each building?

8 A Yes, sir.

9 Q Does this task force have a head of it,
10 someone who is in charge of the task force?

11 A Building management is -- were the
12 main coordinators in each particular building. There
13 was building management for the safeguard building,
14 as well as containment and auxiliary buildings.

15 Q We've had discussion during your
16 testimony of a procedure which were used by the QC
17 electrical inspectors for conducting their inspection
18 of electrical equipment.

19 A Yes, sir.

20 Q Is the correct designation of that
21 procedure QI-QP-11.3-40?

22 A Yes, sir.

23 Q And so every time that you testified
24 as to Procedure 11.3-40, that was the procedure that
25 you were talking about?

12-3 1 A Yes, sir.

2 Q And does that procedure set forth
3 instructions as to how the QC inspector is to do his
4 inspection?

5 A For post-verification inspection, yes,
6 sir.

7 Q And to what detail does it go in giving
8 him guidance as to how to do his inspection?

9 A It gives him the acceptance criteria,
10 or inspection criteria for the particular components,
11 the raceways and cabinets and this and that for the
12 final inspection.

13 Q And by criteria, it tells him what he
14 should look for, such as free of debris, or something
15 to that effect?

16 A Yes, sir.

17 Q Does it tell him how to do -- how to
18 look at that raceway to see whether it's free of
19 debris, or just what he's to look for?

20 A What he is to look for, sir.

21 Q And with regard to looking at the
22 termination of lighting fixtures, would it provide
23 any guidance as to how the QC inspector should look
24 at those terminations or just what he's to look for?

25 MR. JORDAN: Mr. Chairman, may I remind

12-4 1 the witness that if he feels the need to review the
2 document he may request a copy.

3 JUDGE BLOCH: Certainly, Counsel.

4 THE WITNESS: I would like to request
5 a copy of it to be able to answer you correctly.

6 MR. TREBY: I have the transcript of
7 Septemger 14th, 1984, and at Transcript Page 16499
8 there is a copy of this procedure bound in.

9 It is designated as Revision 15, with
10 an issue date of February 13th, 1984, and I'll
11 provide a copy of that to the witness.

12 MR. ROISMAN: With leave of his counsel
13 I'll give him our copy of that transcript.

14 MR. DOWNEY: That's fine.

15 (Long pause.)

16 MR. JORDAN: Mr. Bennetzen, are you
17 ready to answer?

18 THE WITNESS: Yes, sir.

19 JUDGE BLOCH: Well, first, do you know
20 if you have the right revision?

21 THE WITNESS: I don't know what the
22 current revision is as of today.

23 JUDGE BLOCH: Is this the one that's
24 applicable to the period of your questioning,
25 Mr. Treby? Issued February 13th, 1984.

12-5 1 MR. TREBY: I believe that is the one
2 that would be applicable.

3 I believe following this one in the
4 transcript is one that was issued sometime in March,
5 which would have been after the period that
6 Mr. Bennetzen was at the site, or at that particular
7 position.

8 JUDGE BLOCH: Would you proceed. The
9 witness says he's ready.

10 MR. TREBY: All right.

11 BY MR. TREBY:

12 Q Can you identify which section you
13 think would be applicable to the lighting terminals?

14 A Raceway inspections, in 3.1.1 of the
15 procedure.

16 Q And does that section provide guidance
17 as to what is to be looked for?

18 A Yes, sir, in that paragraph.

19 Q Does it provide any guidance as to how
20 the inspection itself should be done?

21 A No, sir. I believe that's received in
22 the training of the QC inspector.

23 Q And do you know whether in that training
24 is there any instructions given as to how one does
25 look at lighting terminals?

12-6 1 A I wouldn't know. I'm not a Level 2
2 or a Level 1 electrical inspector, sir, and never
3 been through their training.

4 Q You testified earlier this morning
5 that in order to inspect whether a lighting terminal
6 was loose or not one might have to jiggle it to
7 determine whether it was secure or not.

8 A Yes, sir.

9 Q Do you know if there's any acceptable
10 way or standard as to how one goes about doing that
11 jiggling?

12 A No, sir.

13 Q That's just left to the experience of
14 the QC inspector?

15 A I guess so, unless they receive that
16 in their training, which I'm not aware of.

17 Q But you're not aware of any instruction
18 that one should give it a slight pull or a hard pull
19 or anything like that?

20 A No, sir.

21 JUDGE BLOCH: When you're done with the
22 procedure, I do have a question.

23 MR. TREBY: I think I am finished with
24 the procedure.

25 JUDGE BLOCH: Mr. Bennetzen, I noticed

12-7
1 in Section 3.0 of the procedure it calls for a craft
2 to accompany post-construction inspection walk-down.

3 Does this in any way affect the dis-
4 cussion we had earlier about whether about whether a
5 craft might take the cover off of some electrical
6 equipment and leave and have the QC inspector look
7 at it without anyone else being there?

8 THE WITNESS: No, sir.

9 JUDGE BLOCH: Why is that?

10 THE WITNESS: It says to have a craft
11 accompany post-construction inspection walk-down.

12 As I stated earlier, the craft would
13 be in there and open up a box. You're in a room that,
14 say, has 20 junction boxes. They would open up a box
15 for QC. QC would be inspecting that and, say, the man
16 walked over to the next box while QC was inspecting
17 that and was opening up another box.

18 JUDGE BLOCH: Okay. So you do not
19 interpret this to require that the craft stays with,
20 that is, accompanies the inspector at all times?

21 THE WITNESS: No, sir.

22 BY MR. TREBY:

23 Q But it is possible that a craft person
24 would be there at the same time that the QC inspector
25 was looking at that particular junction box, is that

12-8

1 correct?

2 A. To my knowledge, I believe there was
3 always a craftsman in the area of the inspection
4 while it was taking place.

5 Q. And he would be able to observe how
6 the QC inspector was looking at that particular
7 termination and whether he was pulling on the wire
8 or not?

9 A. I believe so, yes, sir.

10 Q. Are you aware of any comments made to
11 you through the craft management where they were
12 saying that they had observed some QC inspector
13 pulling on these wires improperly?

14 A. The only time was down on 773 elevation,
15 the two that the craft foreman showed me and
16 Mr. Tolson and quality engineering.

17 Q. But as I understood it, that was a --
18 some examples he showed of loose wires.

19 A. Those were some examples that he showed
20 saying that there was destructive testing taking
21 place, sir.

22 Q. By the way, you used the term destructive
23 testing. Is that -- what do you mean by destructive
24 testing?

25 A. Well, destructive testing, my definition

12-9

1 would be actual deformation of the particular item
2 that you are inspecting.

3 Q Are you aware of the fact that the
4 term destructive testing may be a term of art of QC
5 inspectors?

6 A I don't quite understand you, sir.

7 Q Well, let me ask you a leading question.
8 Have you ever heard of a term destructive testing to
9 mean testing something until it fails so that you
10 could determine at what point it is that the piece
11 of equipment does fail at? Intentionally testing it
12 until you do determine the --

13 A Yes, sir, such as tensile testing is a
14 destructive test on materials.

15 Q All right. And that is -- and that
16 term destructive testing has that special meaning?

17 A Yes, sir.

18 Q That's not the kind of destructive
19 testing that we are talking about in this proceeding?

20 A I don't think so, no, sir.

21 Q There's no instructions that you know
22 of to pull on lighting terminals until they fail?

23 A No, sir.

24 JUDGE BLOCH: There was a question
25 Mr. Treby asked him, which he said -- he asked whether

12-10

1 you had been shown loose wires, plural, as I under-
2 stand your testimony you were shown a loose wire as
3 a destructive evaluation even, am I right, it was
4 only one wire?

5 THE WITNESS: It was two wires. A
6 termination is two wires together, sir.

7 JUDGE BLOCH: Oh, I see. And the two
8 wires were separate from one another and they should
9 have been together?

10 THE WITNESS: Yes, sir.

11 BY MR. TREBY:

12 Q I recall your testimony about what you
13 were shown at that elevation.

14 My question went to, did you ever have
15 any craft foreman come over to you and indicate that
16 he had some dispute between a craft person and a QC
17 person as to how firmly the QC person was jiggling
18 wires?

19 A Not until that day on 773, sir.

20 Q Any other instances after that date?

21 A No, sir.

22 MR. TREBY: I have no further questions.

23 JUDGE GROSSMAN: I'm not sure, I believe
24 you've answered this on a number of occasions, but
25 now that we've reopened this, am I correct in recalling

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1 that your testimony as to the controversy between
2 craft and the QC inspectors was with regard to
3 whether the box ought to be opened for inspection
4 and that was what the problem with the procedure was
5 and not as to how the tests were being conducted?

6 THE WITNESS: No, sir, that's two
7 different, separate issues altogether.

8 JUDGE GROSSMAN: But with regard to the
9 procedure itself --

10 THE WITNESS: Yes, sir.

11 JUDGE GROSSMAN: -- there was nothing
12 in controversy about how the inspection was being --
13 the inspections were being conducted, was there,
14 other than whether the boxes ought to be inspected?

15 THE WITNESS: I don't quite understand
16 you.

17 JUDGE GROSSMAN: Well, okay, let me
18 rephrase it, then.

19 You did indicate, did you not, that
20 there was some controversy as to the existing
21 procedure.

22 THE WITNESS: Yes, sir.

23 JUDGE GROSSMAN: And that controversy,
24 as I understood it, and maybe I'm wrong, was whether
25 QC inspectors should be inspecting the boxes, that is,

12-12 1 removing -- having the covers removed and inspecting
2 all of the junction boxes for the wiring.

3 THE WITNESS: No, what the problem was,
4 was whether QC should be inspecting inside those
5 boxes the Class 1E lighting terminations, sir.

6 JUDGE GROSSMAN: Right. The point I'm
7 trying to get at now was -- is, was the controversy
8 only restricted to whether the inspection ought to
9 be performed or was there any controversy as to how
10 the inspection was being performed, in other words,
11 pulling wires loose or anything else?

12 THE WITNESS: Well, there's two issues.
13 One was whether they should have been inspected and
14 the other time was on 773 elevation the way they were
15 being inspected.

16 JUDGE GROSSMAN: Okay. That's fine.
17 I'm accepting that, but that is the one instance in
18 which you have a controversy as to how the inspection
19 was being performed, that 773 elevation?

20 THE WITNESS: Yes, sir.

21 JUDGE GROSSMAN: But every other
22 controversy, or the other existing controversy was
23 only with regard to whether that inspection need be
24 performed at all?

25 THE WITNESS: Yes, sir.

12-13 1 JUDGE GROSSMAN: And that particular
2 matter is squarely covered in the existing procedure,
3 is that correct?

4 THE WITNESS: Yes, sir.

5 (Bench conference.)

6 JUDGE BLOCH: Mr. Downey.

7 MR. DOWNEY: Two questions.

8 JUDGE BLOCH: Really?

9 MR. DOWNEY: I promise.

10 REDIRECT EXAMINATION

11 BY MR. DOWNEY:

12 Q Mr. Bennetzen, does the quality engineer
13 work for the engineering department or the quality
14 assurance department?

15 A Quality assurance department.

16 Q At any time while you were employed in
17 the safeguards building did you see more than two
18 inspectors on any given day wearing the nit-picking
19 T-shirts?

20 A No more than two to three, no, sir.

21 MR. DOWNEY: Three questions.

22 BY MR. DOWNEY:

23 Q Mr. Bennetzen, had more than two or
24 three inspectors -- or had a large number of
25 inspectors wore them on a particular day, would you

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have known that?

A. Yes, sir, I would.

MR. DOWNEY: No more questions.

(Bench conference.)

- - - -

3-1 1 JUDGE BLOCH: Mr. Roisman, redirect
2 based on new matters -- I mean recross?

3 MR. ROISMAN: No, Mr. Chairman.

4 JUDGE BLOCH: I infer that the witness
5 may be excused.

6 Mr. Bennetzen, thank you very much
7 for being with us.

8 THE WITNESS: Thank you.

9 (The witness was excused.)

10 JUDGE BLOCH: Mr. Davidson, the next
11 witness. I'm sorry, Mr. Downey.

12 I was pleased by the sign that Counsel
13 could still cooperate besides harsh matters between
14 them, and I hope that will continue.

15 MR. DOWNEY: Applicant is presenting
16 David Chapman at the request of the Board.
17 Whereupon,

18 DAVID CHAPMAN

19 was recalled as a witness and, having been previously
20 duly sworn to testify the truth, the whole truth and
21 nothing but the truth, testified on his oath as
22 follows:

23 JUDGE BLOCH: Mr. Chapman, welcome.

24 THE WITNESS: Thank you.

25 JUDGE BLOCH: You have given evidence

3-2 1 under oath, as I understand it, in this proceeding
2 already. You were sworn by a reporter.

3 THE WITNESS: Yes, sir.

4 JUDGE BLOCH: You continue to be under
5 oath and your testimony is subject to possible penalty
6 for perjury.

7 Welcome. We are happy to have you with
8 us.

9 BOARD EXAMINATION

10 BY JUDGE BLOCH:

11 Q Mr. Chapman, do you recall having a
12 conversation with Mr. Tolson and attorneys for the
13 company on the Wednesday just before what has come
14 to be known at the T-shirt incident in this proceeding?

15 A Judge Bloch, are you referring to the
16 day of the T-shirt incident or --

17 Q No, the day before, in late afternoon.

18 A I may have. I don't recall any specific
19 conversation having taken place at that time, but I
20 may have.

21 Q Would it help you to recall it if I
22 state that Mr. Tolson said he had called the lawyers
23 first himself that afternoon, and then arranged to
24 have you in on the call?

25 MR. DOWNEY: Your Honor, I don't believe

3-3 1 that's a correct characterization of Mr. Tolson's
2 testimony.

3 JUDGE BLOCH: Could you clarify that for
4 my mind.

5 MR. DOWNEY: If I may consult with
6 Mr. Tolson just one moment, please.

7 (Pause in proceedings.)

8 JUDGE BLOCH: Well, first, I would like
9 to know from the witness if that spurs anything in
10 his memory, that Mr. Tolson called you with lawyers
11 already on the telephone?

12 THE WITNESS: We had so many conversations,
13 Judge Bloch, during that time frame, as well as any
14 other time frame that Mr. Tolson was working for me.

15 We had had some discussions, he and I
16 had, relative to what's been referred to as the
17 desctructive examination matter that came up; and,
18 of course. we had conversations the next day relative
19 to the T-shirt incident. With a little --

20 BY JUDGE BLOCH:

21 Q This matter -- I'm sorry. Please
22 continue.

23 A With a little more refreshing, I perhaps
24 could recall the conversation, but I don't recall a
25 specific one right now.

3-4 1 Q This matter may have related to
2 destructive evaluation in your mind.

3 As I recall Mr. Tolson's testimony --

4 (Interruption in proceedings
5 due to sounding of smoke alarm.)

6 JUDGE BLOCH: Mr. Tolson, it's your fault.
7 I think you are smoking too close to the fire alarm.

8 MR. DOWNEY: I would observe the whole
9 back row seems to be smoking.

10 JUDGE BLOCH: That's correct. It's not
11 just Mr. Tolson.

12 MR. ROISMAN: Smouldering, maybe.

13 MR. DOWNEY: That's the front row,
14 Mr. Roisman.

15 BY JUDGE BLOCH:

16 Q Mr. Chapman.

17 A Yes, sir.

18 Q The conversation may have had to do
19 with destructive evaluation and possible transfers
20 in personnel with respect to destructive evaluation?

21 A I don't recall any conversation about
22 transferring individuals in connection with the
23 destructive evaluations.

24 I recall some conversations during that
25 time frame that I had with Mr. Tolson because the work

1 was winding down. We were going to have to transfer
2 some people out of Unit 1 into Unit 2.

3 Q Was there any discussion on that
4 afternoon with Mr. Tolson about how the transferred
5 personnel were going to be selected?

6 A I don't recall any specific conversations
7 about how individuals were going to be selected.

8 Q Okay, and that went beyond that just
9 that afternoon. You don't recall any discussion
10 about how people would be selected?

11 A No, sir.

12 Q Do you recall ever getting angry at
13 Mr. Tolson for having lawyers on the phone before he
14 called you?

15 A I don't think "angry" would be the
16 way to characterize it.

17 I naturally prefer that he contact me
18 first and then we get in touch with the lawyers, but
19 I can understand if he couldn't contact me at the
20 time.

21 I may have said something to him about
22 it. I don't recall it as having been a very big
23 issue.

24 Q Do you recall the content of a call
25 in which that happened; that is, that you made it

3-6 1 clear that you preferred to be called first before
2 lawyers were called?

3 A. I don't recall specifically.

4 Q. Do you recall any discussion with
5 Mr. Tolson about whether or not he should transmit
6 names to Mr. Clements?

7 A. Names in what context?

8 Q. The context of possible job transfers.

9 A. I'm sorry. I'm just drawing a blank as
10 far as names of individuals in relation to the
11 transfer.

12 I remember talking to Mr. Tolson about
13 transferring people.

14 I don't recall ever having been given
15 any names.

16 Q. It's my recollection of his testimony
17 that he said at the end of his call --

18 (Interruption of proceedings
19 due to sounding of smoke alarm.)

20 JUDGE BLOCH: I would appreciate it if
21 people would stop smoking in this room.

22 MR. ROISMAN: I think at that moment
23 nobody was smoking.

24 JUDGE BLOCH: Let's take a brief recess
25 and find out what's happening.

(Recess taken.)

BY JUDGE BLOCH:

Q. Mr. Chapman, did the fire alarm jog your memory?

A. What was the question?

(Laughter.)

Q. Let me ask it again and we'll find out if the fire alarm or a new question jogs your memory.

On Page 16,491 of the transcript, Mr. Tolson states that, "The discussion with Mr. Chapman was late Wednesday evening, memory tells me plus or minus an hour of 5:00 o'clock, and I can't recall which. It was fairly late and I seem to remember it being somewhat after 5:00. I had not been able to get a hold of Mr. Chapman prior to that time, and at that time I asked him to check with Mr. Clements to arrange a time when I could provide him a list of people that Mr. Bennetzen and Mr. Vore and myself had decided to temporarily transfer to another assignment."

A. I seem to have a rather hazy recollection of that, Judge Bloch. I guess part of my problem is over the course of the last year, year and a half, I have had routinely so many conversations, three and four-way conversations in which lawyers are involved,

3-8
1 it's hard for me to remember one from other, whether
2 that was one of those conversations involving
3 Mr. Tolson and the attorneys and me.

4 But again, I seem to -- I don't know.
5 It's quite possible that I had that conversation, but
6 I'm pretty sure that I never discussed those names
7 with Mr. Tolson.

8 Q Do you have any direct knowledge of the
9 decision-making process of the company on the day of
10 the T-shirt incident?

11 A Yes.

12 Q What was the first time on that Thursday
13 morning that you learned anything that had to do with
14 the T-shirt incident?

15 A I believe it was mid-morning to late
16 morning, about as close as I could get.

17 Q How did you get your knowledge?

18 A A telephone conversation with -- well,
19 let's see.

20 I think the first time I heard something
21 about it was from Mr. Clements because I was out of
22 pocket somewhere and Mr. Tolson couldn't get in touch
23 with me, and Mr. Clements, I believe, was the first
24 to get the word.

25 Q And was your recollection correct that

3-9 1 the time that you learned from Mr. Clements was
2 mid-morning to late morning?

3 A I think that's right, yes.

4 Q Can you recall what Mr. Clements told
5 you?

6 A I don't know whether it was the first
7 conversation. We had more or less continuing
8 conversation for most of that day, but it may have
9 been the first conversation what the status was.

10 The inspectors had been pulled in from
11 the field as a measure of conservatism, at least until
12 we found out more, and they were in a separate room.

13 Q Did he tell you what was being done to
14 find out more?

15 A I believe that they had already made
16 the decision, which I would have made had I been
17 involved in it from the start, to have Mr. Grier talk
18 with them to see if they had any specific concerns
19 that could be tied to the wearing of these T-shirts.

20 As I recall, right after that I did
21 contact Mr. Tolson on the phone and talk with him
22 personally about it.

23 Q And at the time of the first contact
24 with Mr. Clements, was there anything else that you
25 thought was being done to find out more?

3-10

1 A I don't recall anything else being
2 done. I felt like that was more or less my job to
3 find out what was being done and what he was doing,
4 and perhaps join in the decision making.

5 Q Did Mr. Clements ask you to take charge
6 in any way at that time?

7 A I don't recall whether he asked me. He
8 could have. He could have told me or I could have
9 just assumed that that was my job.

10 Q But you did assume one way or another
11 that that was your job?

12 A Yes.

13 (Interruption in proceedings
14 due to sounding of smoke alarm.)

15 BY JUDGE BLOCH:

16 Q And then you contacted Mr. Tolson?

17 A Yes, sir.

18 Q That means you initiated the contact?

19 A I believe so.

20 Q Did you have any difficulty reaching
21 him?

22 A I just don't recall. It was later on,
23 I guess around probably close to noon by that time.
24 I just don't know.

25 Q Well, was there something important that

3-11

1 happened with respect to the T-shirt incident between
2 the time that you spoke to Mr. Clements in mid-morning
3 to late morning and the time that you contacted
4 Mr. Tolson?

5 A I really couldn't say, Judge Bloch,
6 because my recollection of the sequence of events
7 that day, I'm not sure I ever knew what the exact
8 sequence of events was down there.

9 Q No, I mean with respect to you, not
10 with respect to what was happening on the site.

11 Did you do anything or learn anything
12 important between the time you spoke to Mr. Clements
13 and the time you contacted Mr. Tolson?

14 A No, sir, not that I recall.

15 Q When you called Mr. Tolson around noon,
16 could you tell me what the conversation was about, how
17 it went?

18 A I believe it was at that one that he
19 mentioned that in addition to interviewing the
20 inspectors, he had asked that a search be conducted to
21 ascertain whether any company's documents were in their
22 possession, and we discussed that a minute.

23 His reasoning was that there had been
24 reported to him recently that on occasion some of the
25 inspectors involved had been requesting an inordinate

3-12

1 amount of Xeroxing of documents that they really had
2 no need for.

3 Q Was there any other exchange of
4 information in that conversation?

5 A Well, it was either that conversation or
6 one immediately thereafter that -- I think this was
7 one where he and one of our attorneys and I were
8 involved in a discussion as to what, if anything, to
9 do in the way of discipline if discipline was
10 warranted.

11 Q Okay, but aside from that, did you ask
12 Mr. Tolson anything about the significance of this
13 incident?

14 A I asked him some questions about -- He
15 had mentioned that he took it quite personally, the
16 wearing of the T-shirts, and he told me what was on
17 the shirts, and we talked about that.

18 I think I recall asking him why he
19 felt it was a personal slap in the face.

20 Q Was his answer satisfactory?

21 A Well, I don't recall what it was, except
22 that it really did not satisfy me to the point where I
23 could conclude in my mind that they had made a personal
24 slap at him.

25 He said he felt that they had been --

1 He related an incident where one of them came in with
2 a smirk on his face and stuck, I believe he said, a
3 paper bag out and asked if he could record the
4 meeting.

5 He talked about that a while. I added
6 all of the information up that I got. I guess that was
7 in the first conversation.

8 Then in consultation with our attorney
9 and my own management judgment, got back on the phone
10 with Mr. Tolson to develop a plan of what to do.

11 Q And how did that conversation go,
12 without divulging any legal advice you may have
13 received in the course of that conversation?

14 A I believe the bottom line, really, was
15 that I was not prepared to approve any sort of
16 discipline, and the maximum that I would approve as
17 the manager was to send them home with pay, with
18 instructions to come back to work the next day without
19 wearing the T-shirts.

20 Q Was any further information about the
21 incident discussed during this telephone conversation?

22 A I don't recall there being any. There
23 could have, but I don't recall.

24 Q Did you do anything to obtain information
25 from Mr. Grier?

2-14 1 A As I recall, he was still in the process
2 of talking with them.

3 Q Did you communicate with Mr. Grier at
4 all about a need for speedy information?

5 A No, I didn't, and it didn't occur to me
6 to do so. I felt it was more important for him to
7 do a thorough job of his investigations of these
8 people, because I felt as though sending them home
9 with pay would buy the time we needed to do the job
10 right.

11 If in fact, as Mr. Tolson believed,
12 there was potential for the craft to become incensed
13 at the message that these shirts had on them, then
14 getting them off site would be the prudent thing to do.

15 Q That's the first time you've mentioned
16 the craft becoming incensed.

17 Can you recall which conversation it
18 was in which you first learned about that view of
19 Mr. Tolson?

20 A Well, I guess it was in an earlier
21 conversation. I guess it would have had to have been
22 when I learned that he had pulled them out of the
23 field and brought them and put them in a separate room.

24 Q Was that the first conversation? The
25 one around noon you said was the first conversation?

1 A No. I think when I learned that --
2 Looking back on it, Judge Bloch, I think when the
3 subject of what could possibly happen because of the
4 message on those shirts came up would have been pretty
5 early in the day, because that was the reason that
6 they were brought in from the field, to preclude
7 anything like that from happening.

8 Q About what time of day do you think
9 that probably took place?

10 A I would guess about mid-morning, earlier
11 in the day.

12 Q And you believe that one was with
13 Mr. Tolson or with someone else?

14 A I think I said earlier that that could
15 have been in my conversation with Mr. Clements when
16 I first heard about it, because I believe one of the
17 first things they did was to bring the inspectors
18 in from the field.

19 Q And at that time were you aware of
20 plans that were made to see that the people either
21 stayed in the room or were followed when they left
22 the room?

23 A I don't having discussed that detail.
24 I just recall having the knowledge that they were in
25 a room by themselves and somebody was there with them

3-16
1 just to make sure nothing happened.

2 Q Was there a time during the day that you
3 learned what had been taken from the inspectors during
4 the search of their papers?

5 A Yes. Later on in the afternoon I
6 talked with Mr. Tolson. Again, I don't know when it
7 was; very likely mid-afternoon.

8 He related to me the fact that they
9 had found some documents that shouldn't have been
10 there in their personal possessions that were, and
11 he had also received a call from the NRC that -- and
12 they requested the documents to be given to them that
13 we had gotten out of the inspectors' desks, except
14 for their personal effects, which he told me had been
15 given back to them.

16 Q How did he describe the documents that
17 shouldn't have been there?

18 A I believe there were some inspection
19 reports, original copies that shouldn't have been
20 there.

21 I'm trying to recall now. I haven't --
22 There was some question as to whether they could have
23 performed an inspection that morning or not, I believe
24 is the way he described it to me. As early as the
25 incident happened, it appeared that they might have had
the inspection reports in their desks over night, which
is not per procedure.

1 BY JUDGE BLOCH:

2 Q Did he suggest any further disciplinary
3 action as a result of finding those documents?

4 A I don't recall any disciplinary action
5 specific to the documents that he found.

6 Q Did he at any time during the day suggest
7 more harsh disciplinary action than sending home with
8 pay?

9 A Yes, he did. I'm trying to recall what it
10 was. I believe he was in favor of some time off without
11 pay or ...

12 Q And was that -- I guess -- either in your
13 first conversation with Mr. Tolson or the one with the
14 lawyer?

15 A It was -- Yes, it was in one of those
16 two. I think it was before I talked to the layer, but I
17 was not inclined to do it then and wasn't later on.

18 Q Was there any contact with the site at all
19 between the conversation with the lawyer and Mr. Tolson
20 and that midafternoon discussion with Mr. Tolson where you
21 learned about the document?

22 A I'm sorry. I didn't understand your
23 question.

24 Q Was there any contact with anyone on the
25 site about the T-shirt incident between the time you

14-2
1 talked with the lawyer and Mr. Tolson, on the one hand,
2 and the later conversation with Mr. Tolson, which you said
3 was about midafternoon about documents?

4 A. I don't recall anything other than those two
5 conversations.

6 Q. And were there conversations in Dallas in
7 that time period that you were at?

8 A. There well could have been. I don't recall
9 any specific conversation.

10 Again, that was about all we talked about
11 that day. There were quite a few conversations. I just
12 can't sort them all out.

13 Q. Well, was there anything that you learned that
14 you thought was significant that day, in addition to what
15 you've already related to us?

16 A. I think that the most significant thing that
17 I learned that day was the fact that Mr. Tolson was
18 obviously taking his thing very personally and had --
19 actually the thing I learned was that -- I believe he was
20 just more or less burned out -- I guess is the bottom
21 line.

22 Q. And when you concluded that he was about
23 burned out, what happened then?

24 A. Well, I think that was when he said that he
25 wanted to be relieved immediately. As I think the testimony

14-3

1 has been here, we talked for some months about that --
2 had quite a few conversations, not only Mr. Tolson and I,
3 but Mr. Clements and I -- on what sort of -- what we would
4 do for a replacement.

5 Q. I'm sorry?

6 A. I said we had been -- over the previous
7 several months we had been actively pursuing a solution
8 to that. I recall having kind of a session with myself
9 there -- and really realized at that point in time that I
10 had really done Mr. Tolson a disservice by leaving him in
11 that job that long. There was too much pressure. It's not
12 a seven-year job.

13 Q. Were there prior incidents that stuck out in
14 your mind as indicating that the pressure had become too
15 great for Mr. Tolson?

16 A. Well, there were quite a few prior conversa-
17 tions that I had with Mr. Tolson that indicated to me that
18 I ought to get him some relief. I don't know whether
19 pressure is a proper characterization.

20 Maybe I can elaborate a little bit on it.

21 I guess over the course of seven years he
22 and I have had numerous conversations about the job and
23 about how he perceived it.

24 One of the things that he spent a lot of
25 time describing to me about that had caused him a lot of

1 personal problem -- and caused him to get uptight about
2 the situation that happened was -- I think -- relates to --
3 It seems like the bottom line would always come out
4 related to his concept of what he felt professionalism
5 was.

6 He had been a professional all of his life.
7 He told me this on many occasions, that being a professional
8 engineer is a whole lot like being an attorney or a doctor.
9 They have a high ethical standard to live up to, and he
10 felt he always had.

11 In his job in particular, it seemed as
12 though he was always having to prove that he wasn't
13 dishonest, unethical or what have you, whether it would
14 bein the media, the hearings or whatever.

15 We had some conversations about taking a lot
16 of things personally. It always got down to a question
17 of ethics.

18 Before he came to work for the company, he
19 was in business for himself. This code of ethics was --
20 it was like blood; you have to have it.

21 He felt that he was being questioned entirely
22 too much. Frankly, I had to agree with him.

23 So it didn't surprise me that mo. ing to
24 see that if things like that had been bothering him through
25 the years, coupled with the normal pressures of a site

14-5

1 QA manager's job, that the time had come that he should
2 get some relief.

3 But it was . . .

4 Q Was this problem the way people reacted to
5 him in his job, or was there some more basic conflict
6 between professionalism and his job?

7 A I don't know. I think it was a long series
8 of things that -- not any one of which could be called
9 bottom line except that basically he felt that -- instead
10 of being given what he considered the right to the
11 presumption of innocence, it was just the opposite.

12 I guess this T-shirt incident at that point
13 in time he took personally was just more or less the last
14 straw. Had it not been that, it might have been something
15 else.

16 But I blame myself for not taking him out
17 sooner.

18 Q Were there times before the T-shirt incident
19 where your confidence in Mr. Tolson had been somewhat
20 affected by things that had happened?

21 A No, sir, not in his competence to implement
22 the quality assurance plan at the site, no; no way.

23 Q How about his competence to handle personnel
24 matters?

25 A No. I could see it was wearing on him,

14-6
1 and that sooner or later something would happen that he
2 just -- as he said, throw in the towel.

3 And again, I was actively pursuing with
4 my boss alternatives of people we could replace him
5 with at the time.

6 Q Well, did there come a time when you
7 participated in the decision to restrict Mr. Tolson's
8 ability to take disciplinary action against personnel on
9 the site?

10 A There was a time when management made a --
11 more or less a joint decision relative to on-the-spot
12 discipline. I don't think I would characterize it as
13 specifically aimed at Mr. Tolson.

14 I think we had -- some senior management
15 got together with the site management and worked out a
16 plan. This was roughly a year ago -- I guess -- from
17 today.

18 We got together and worked out a plan whereby
19 there would be basically no on-the-spot adverse personnel
20 action any more severe than sending the individual home
21 with pay.

22 Q You say that applied equally to the site.
23 Did it apply to Mr. Merritt also?

24 A No. It applied to all of the QA/QC. And,
25 of course, by saying it did not apply just to Mr. Tolson --

14-7

1 I'm talking about Mr. Purdy and Mr. Brandt also. We all
2 agreed that this three-day cooling off period -- if you
3 will -- would be prudent management to avoid overreaction
4 to any situation that might occur in what, frankly, is a
5 pressure-filled atmosphere. It is on any nuclear site, not
6 just ours.

7 Q Why didn't you feel it was equally pressure
8 filled for Mr. Merritt?

9 A Well, Mr. Merritt does not report to me.
10 What construction does, I really have no control over.

11 Q But do you know whether or not his firing
12 authority was restricted in any way?

13 A I don't know.

14 Q Do you know whether it was part of the same
15 decision that restricted QA/QC's firing authority?

16 A I don't know. The only people included were
17 the ones that are involved in QA/QC management.

18 Q On the day of the T-shirt incident, Mr. Tolson
19 testified that when he left after the bag was displayed,
20 he left his office.

21 The first time he communicated with anyone
22 on site about what had happened, he spoke to Mr. Merritt;
23 and then Mr. Merritt called Mr. Clements. Does that seem
24 to you to be anything out of the ordinary?

25 A Not really, Judge Bloch. Mr. Merritt reported

14-8
1 to Mr. Clements for start-up. That was the connection
2 there.

3 I had been out of the office for some amount
4 of time, and I'm aware that Mr. Tolson and Mr. Merritt have
5 worked together in a business relationship for quite a
6 number of years.

7 They commonly bounced ideas off of each
8 other, even though neither one reported to the other. What
9 one did usually affected the other one. It is not uncommon
10 for the two to get together and to jointly discuss the
11 problem.

12 It seemed on the surface to be a little bit
13 out of the ordinary at the time, but then when I kind of got
14 the lay of the land during the day and found out exactly
15 that Ron had just kind of said, "Well, I've had it."

16 Well, it didn't seem out of the ordinary at
17 all.

18 Q When was the first time that you learned
19 that Mr. Clements had been informed of the T-shirt incident
20 by Mr. Merritt?

21 A I don't recall. I don't recall whether he
22 told me that Merritt had talked -- that he had talked to
23 Merrit or not. He just talked to somebody at the site.
24 He got word that Ron did this, and this is what the status
25 of the inspectors is, and so forth.

1 Q Thank you.

2 EXAMINATION

3 BY JUDGE GROSSMAN:

4 Q Mr. Chapman, that T-shirt incident, that
5 was in controversy from the beginning, wasn't it?

6 A I don't understand what the question is.

7 Q Well, was there any period of time before
8 which that T-shirt incident became a great controversy in
9 your company?

10 A I still don't understand the question.

11 Q Well, you seem to be very hazy about your
12 recollection of events surrounding the T-shirt incident.

13 A Yes, I am.

14 Q It seems to me as though an incident in which
15 there was such great controversy from the beginning in which
16 you have gone over the details with the attorneys for so
17 long would still be so hazy in your mind. Is there any
18 reason why that's so?

19 You were never --

20 A Yes, I believe there is, Judge Grossman.
21 Our attorneys don't put words in our mouths. I truthfully
22 cannot remember the things that went on on my own
23 record.

24 At the time -- I presume, had I known that
25 the T-shirt incident was going to blossom -- if you will --

14-10

1 into this sort of an arena, I'm sure I would have taken due
2 note of every conversation I had and every time I had it and
3 who was on the phone with me at the time.

4 Frankly, at least until later in the day,
5 it didn't sound like a very big deal to me.

6 Q Well, later in that day it did become a great
7 deal, did it not?

8 MR. DOWNEY: Objection. I don't think he
9 said that.

10 JUDGE BLOCH: It's a fair question. He can
11 say no or yes.

12 THE WITNESS: I don't think it was a big
13 deal later in the day, or I would have been more likely to
14 have sent them home for three days, instead of the rest of
15 the day.

16 BY JUDGE GROSSMAN:

17 Q Well, now you mentioned -- I believe -- that
18 you were in the decision to search the desks of those
19 people involved in the T-shirt incident. Did you testify
20 to that?

21 A I don't believe I did.

22 Q Whose decision was that?

23 A Mr. Tolson, I believe, made the decision.
24 I was aware of it at the time.

25 As I recall, he explained his reasoning for

14-11
1 it as being that he had had reports that some of the
2 individuals involved had been getting an inordinate number
3 of copies of documents they normally wouldn't need to do
4 their job, and that he wanted to see if, in fact, that was
5 happening.

6 Q Did you approve of his decision -- did you
7 give your approval of his decision to have those desks
8 searched?

9 A I don't recall whether he told me before the
10 search was in progress, or whether it was already in
11 progress. I did not stop it at that point.

12 Q What was the connection that you drew in your
13 mind between wearing the T-shirts and the fact that there
14 might be unauthorized documents in the desks?

15 A I didn't draw a connection between those two
16 aspects of it in my mind. What I connected up was his
17 telling me that the individuals involved -- or some of them --
18 were the ones that had been asking for these documents.

19 That was the connection that I could see for
20 looking into their work areas and see if they were stockpil-
21 ing things that they shouldn't have.

22 Q In other words, now that they were
23 sequestered because of wearing the T-shirts, there was an
24 opportunity to look into the other matters that had come
25 to you independently -- or to Mr. Tolson; that is, the fact

14-12

1 that they were taking unauthorized documents?

2 MR. DOWNEY: Objection. That's argumentative,
3 Judge Grossman.

4 JUDGE BLOCH: He can answer yes or no.
5 You've made your point.

6 THE WITNESS: Well, I guess armed with
7 obvious 20/20 hindsight, that perhaps was a little over-
8 reaction to go through their desks -- all of them, that
9 is.

10 But, again, I have tried to wrestle with some
11 of the things that went on in my own mind since then. I
12 was not aware of the -- I had to rely on the people at the
13 site who were actually seeing the things.

14 BY JUDGE GROSSMAN:

15 Q Now, I believe you mentioned that it would
16 be inappropriate for an inspector to have an uncompleted
17 IR in his possession. You did testify to that, did you not?

18 A No, sir. I believe I said that if he had
19 an original Inspection Report, the first thing in the morning
20 in his desk, that he had not had time to do the inspection,
21 then he must have had it in there all night.

22 That is not proper.

23 Q Okay. Having it overnight, that's what
24 I was referring to that would be improper.

25 A Yes.

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Q Is there some procedure that indicates that an IR cannot be kept overnight?

A I presume so. Mr. Tolson said that that would indicate a violation of his procedures.

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1 BY JUDGE GROSSMAN:

2 Q Did he tell you the nature of the
3 restriction with regard to keeping an IR overnight?

4 A No, sir. As soon as I determined that
5 it was a violation of procedure, then in my mind a
6 violation of procedure is a violation of procedure
7 and I did not ask any further.

8 Q As soon as he told you it was a violation
9 you accepted his word that it was a violation?

10 A Yes, sir.

11 Q Is it possible that an inspector might
12 have to research what he believes to be a possible
13 violation?

14 A Well, if he -- as I understood it, he
15 had already filled out, checked off quite a few
16 attributes on the inspection report but hadn't signed
17 or dated it, as I recall.

18 Now, if that's the case, he should
19 have -- and he did it the previous day, it should
20 have been signed and dated the previous day.

21 Q Well, isn't it possible there may be
22 other attributes that he believed should be added
23 to the report but wishes to research further?

24 A I don't recall whether all the
25 attributes were filled out or not, Judge Grossman,

15-2
1 but the real issue is at thd time the attribute is
2 checked off is the time that it should have been
3 signed and dated.

4 Again, I'm going on six months memory
5 and I was basing it on Mr. Tolson's statement that
6 it was -- that it appeared to be a procedural
7 violation on the part of the inspector.

8 Q Did Mr. Tolson indicate to you that
9 anyone had verified to him that any large amount of
10 documents had indeed been taken by these inspectors?

11 A I'm not sure I understand the large
12 amount of document.

13 Q I believe you mentioned in your testimony
14 just now that Mr. Tolson had informed you that some
15 of these individuals were alleged to have taken a
16 large number of documents from the company files.

17 A Yes. That's correct.

18 Q Did Mr. Tolson indicate to you who had
19 told him that?

20 A I think he told me that the -- one of
21 the supervisors in the vault had mentioned that there
22 was a -- some of them were requesting an inordinate
23 amount of Xerox copies.

24 Q Did he tell you that he had asked those
25 supervisors in the vault to determine whether they had,

15-3 1 whether these inspectors had taken a large number of
2 documents?

3 A I believe the supervisors in the vault
4 were the ones that told Mr. Tolson that they had.

5 Q Well, in preparing for this case,
6 Mr. Chapman, for your testimony this morning, did
7 you review a memorandum submitted to Mr. Tolson from
8 those supervisors in the vault concerning these
9 documents?

10 A No, sir.

11 Q Were you informed that there was such --
12 that there is such a memo?

13 A I believe so, yes. I believe I knew
14 there was a memo that documented what the vault
15 supervisors had told Mr. Tolson previously.

16 Q And what did you understand and what
17 do you understand to be what the vault supervisors
18 had told Mr. Tolson?

19 A My understanding was that they told
20 Mr. Tolson that some inspectors had been having an
21 inordinately large amount of Xerox copies of documents
22 made.

23 Q Were you in the hearing room a few days
24 ago in which Mr. Tolson testified with regard to that
25 memorandum?

15-4

1 A I believe I was.

2 Q Do you recall that the memorandum
3 itself did not contain any allegation that the
4 individuals had indeed taken large amounts of
5 documentation but only specified one particular
6 document that had been taken?

7 MR. DOWNEY: Objection. That is not
8 what the document says, Judge Grossman. That's not
9 what the testimony is and what the document says.

10 MR. ROISMAN: Mr. Chairman, the docu-
11 ment is at Page 16554. I think a look at it will
12 demonstrate that what Judge Grossman has just
13 characterized is precisely what it says.

14 JUDGE BLOCH: Why don't we show the
15 document to the witness.

16 JUDGE GROSSMAN: No, what I wish to
17 determine now is what the witness understood from
18 that discussion in the hearing room a few days ago.

19 Was it your impression from that
20 discussion that there had been a substantiation of
21 a large number of documents taken?

22 THE WITNESS: No, sir, Judge Grossman.
23 When I said I was here in the courtroom when that
24 conversation took place, that's all I meant to imply.
25 I did not mean to leave the impression that I picked

15-5 1 up on every bit of that conversation.

2 I don't really recall that testimony
3 very much at all. Frankly, I wasn't paying a whole
4 lot of attention at that particular point in time
5 because I don't remember.

6 BY JUDGE GROSSMAN:

7 Q Well, you paid enough attention to know
8 that there was some controversy as to whether -- as
9 to the details of the allegations concerning the large
10 number of documents, were you that cognizant of what
11 was going on in the hearing room?

12 MR. DOWNEY: Objection. I don't
13 believe there is a controversy about this, Judge
14 Grossman. I think these questions are argumentative
15 and unfair to the witness.

16 JUDGE BLOCH: I think the witness can
17 answer it.

18 THE WITNESS: Well, that's exactly what
19 I was going to say, I was not aware of any controversy.
20 If I was, I probably would have picked up on it and
21 paid more attention.

22 I recall that the memo was discussed
23 when Mr. Tolson was on the stand. I don't recall
24 any controversy.

25 (Bench conference.)

1 BY JUDGE GROSSMAN:

2 Q And so definitely you didn't refresh
3 your recollection in regard to the details of --

4 A That's correct. That's correct.

5 BY JUDGE BLOCH:

6 Q At any time during the day of the
7 T-shirt incident did Mr. Clements mention to you
8 that he had a list of personnel that he had obtained
9 from Mr. Tolson?

10 A I don't recall any list being mentioned
11 by Mr. Clements.

12 Q At any time during the day of the
13 T-shirt incident did anyone link the T-shirt wearing
14 to destructive examination?

15 A By link -- let me try -- in my mind
16 the link was never made. I think in Mr. Tolson's
17 mind it was one of a series of events that led him
18 to reach the conclusions that he did. In my mind
19 I don't think destructive examinations and the
20 T-shirts were ever connected.

21 Q What made you think that Mr. Tolson had
22 made that connection?

23 A Well, he talked about destructive
24 examination with me, as I said, over several
25 conversations about that period of time, and I think

15-7 1 that was -- the document copying with his frame of
2 mind, if you will, I think he put all those things
3 together and connected them all up.

4 Q Did he also connect up over-inspection?

5 A I don't recall the subject of over-
6 inspection in the context we've talked about it today,
7 I presume is what you mean, I don't recall over-
8 inspection having been a topic on the day of the
9 T-shirt incident.

10 But looking back at it later, I presume
11 that's just another one of the building blocks that
12 he used to reach his conclusion.

13 Q On Monday or Tuesday of that week did
14 he call you and relate to you what he'd seen about
15 destructive evaluation and over-evaluation?

16 A Yes, sir. The one that I remember
17 mostly was the destructive evaluation, the
18 destructive examination.

19 Q And what did he say was his knowledge
20 at that time of whether or not it had occurred at all?

21 A I believe he told me that he had not
22 reached a conclusion at that time, that -- and I
23 asked him several questions about what the extent of
24 it was and he mentioned the two instances and he said
25 he hadn't reached a conclusion that time, as I recall.

15-8

1 Q Was this a matter of some importance
2 to you?

3 A Yes, it was. But not so much as it
4 would be if it later proved to be some sort of
5 willful damage. It seemed to me that it very likely
6 could have been something other than willful damage.

7 Q Did you expect that something would be
8 done to find out whether it was or was not willful
9 damage?

10 A Well, at that time I remember thinking
11 about it and asking myself what could be done based
12 on two incidents out of the thousands and thousands
13 of connections that are out there.

14 What I felt like was, our inspectors
15 are going to continue per their procedure. Now, if
16 this issue recurs and more evidence comes in, then
17 it will become more and more important to me to
18 become personally involved.

19 If it does not recur, then it would
20 confirm what I suspected might be from the start,
21 and that is a bad connection that came loose when
22 an inspector inspected it.

23 Q Were any names of people at the plant
24 ever connected to this destructive evaluation or
25 over-inspection by Mr. Tolson?

15-9

1 A. No, not to my knowledge.

2 Q. No names at all?

3 A. None, not that I recall.

4 Q. Not Mr. Bennetzen?

5 A. No. I knew that Mr. Bennetzen was
6 supervising the inspectors in that building, but not
7 in connection with the over-inspection.

8 Q. Did he ever express to you any
9 impatience about Mr. Bennetzen?

10 A. No, sir. The only thing that we talked
11 about was the fact that along about that time was that
12 really the ASME group was Mr. Bennetzen's forte and
13 not the electrical area.

14 Q. Did that come up in a conversation in
15 which other matters were discussed that you can
16 recall?

17 A. I think it was in more or less a sidebar
18 conversation when we talked about the need to transfer
19 inspectors out of that area, and I think he mentioned
20 that Mr. Bennetzen was very likely going to go back
21 to ASME and that was his background anyway.

22 Q. Can you place that sometime during the
23 week, either early, like Monday, Tuesday or --

24 A. I would guess it was about a Tuesday,
25 and it might have even been as early as Monday because

15-10 1 we talked about his replacement, Mr. Bennetzen's
2 replacement.

3 Q Did he indicate at that time that he'd
4 spoken to Mr. Bennetzen about it?

5 A I don't know that that subject came up.
6 I don't recall having discussed it.

7 Q Did he mention to you anything about
8 inspections of lighting fixtures?

9 A I think that all came up basically in
10 the same conversation with the destructive --
11 possible destructive evaluations.

12 Q Was it his opinion that that was
13 contrary to procedures or following procedures?

14 A I think he indicated to me that it was --
15 there was some question that -- whether or not it
16 was the intent to inspect all those fixtures or not,
17 since there was -- apparently engineering was -- had
18 under study the whole matter of, as far as lighting
19 goes, what is Class 1E and what is not.

20 And as I understood it, they were --
21 they had it under -- engineering had it under
22 evaluation at that time. So somewhere between the
23 light bulb, which is not 1E, and the electrical
24 supply, which may be, there has to be a line and I
25 think, as I understood it at the time that was the

1 issue.

2 Q Did you receive a copy of his memorandum
3 having to do with the changes in schedule with which
4 lighting fixtures would be inspected?

5 A I don't recall having seen it, Judge
6 Bloch.

7 Q Do you remember if he discussed it
8 with you?

9 A I believe I do.

10 Q Do you remember whether you formed an
11 opinion about whether it was appropriate to issue a
12 memorandum like that, that would change activities
13 pursuant to a written procedure?

14 A I don't recall ever having addressed
15 in my mind Mr. Tolson attempting to issue a memo
16 which directed a procedural violation.

17 If my memory is correct, and I do
18 remember a conversation, then my presumption was
19 that the memo did not in fact direct procedural
20 violation, it -- in writing the memo he assumed that
21 the procedure would be adjusted to do whatever this
22 memo said he wanted to do.

23 Q In your opinion, is it permissible to
24 do that before the new procedure becomes effective?

25 A I don't know whether permissible would --

15-12

1 let me answer it a little different way and see if
2 this makes it any clearer.

3 I think probably the -- if he were
4 going to do what I assumed he was trying to do, in
5 the memo he should have mentioned the fact that the
6 procedure needed to be changed before they did it.

7 I feel that he had assumed that every-
8 body knew that, and I think, as Mr. Bennetzen
9 testified, he didn't think it was any big deal because
10 he knew good and and well they weren't going to
11 violate the procedure just because of the memo.

12 I really don't -- what I'm trying to
13 say is I don't think the memo was inconsistent. I
14 think there's a gap that maybe should have been
15 explained in the memo that wasn't.

16 But if you explain the gap, it would
17 have don't change doing anything until there's a new
18 procedure, in which case there's no reason to issue
19 the memo, is there?

20 A. Well, there might have been, and I
21 think there was probably because there was some --
22 there's been quite a bit of discussion about what
23 are we going to do.

24 Obviously, there was a -- some sort of
25 controversy there because of whether or not they're

15-13

1 going to open the terminal boxes and in my mind it
2 would be logical if it's going to take you a while
3 to change the procedures and if you think someone
4 is concerned about what your inspectors are doing
5 or not doing now, in order to communicate with every-
6 body, that yes, we're going to change the procedures,
7 we're going to do what everybody thinks is right,
8 then you should put a memo out.

9 Q So it's okay, right?

10 A Yes, provided -- and I think what would
11 have been appropriate in that memo was to point out
12 what was obvious to Mr. Bennetzen that you got to
13 do this but you're not going to do it until it's
14 per procedure.

15 Q But then why issue the memo?

16 A Well, to inform people that their
17 concerns are going to be met but it's going to take
18 maybe a few days or whatever, so they don't get all
19 heated up about it.

20 Q So it's intended really for the craft's
21 consumption, not for QC's consumption?

22 A It would be -- I think it would be
23 intended for everyone's consumption so that they --
24 you know, if people have a problem and they know it's
25 going to be solved but it'll take a few days, then

15-14 1 they normally settle down and get back to work, and
2 that's -- in my opinion, that's what the memo was for,
3 if -- well, just to let everybody involved know what
4 was going to happen.

5 Q Were you concerned after the T-shirt
6 incident that there might have been some impressions
7 left on people at the site that might need correcting?

8 A Yes, sir, and that's why I asked
9 Mr. Veba to do a -- undertake a thorough investi-
10 gation of the whole affair.

11 Q And what were the measures that were
12 taken to correct impressions that might have been
13 formed during the T-shirt incident?

14 A Well, first of all, I think we had to
15 find out what concerns, if any, the inspectors had,
16 and that was, I think, the number one priority of
17 Mr. Vega's investigation, find out what message, if
18 any, they felt they were giving by wearing the
19 T-shirts, what was their motive, what concerns they
20 had, if in fact this was a message that they were
21 trying to give, what concerns they had which would
22 cause them to want to give a message in this fashion
23 and ask all the right questions. And he did a very
24 thorough examination and I'm sure you've read the
25 report.

15-15 1 MR. DOWNEY: Judge Bloch, is this a
2 good time for a break, or would you --

3 JUDGE BLOCH: I think probably I'll be
4 done in ten or fifteen minutes.

5 BY JUDGE BLOCH:

6 Q I wasn't talking about the impressions
7 that might have been left on the inspectors themselves,
8 I mean impressions that might have been left on people
9 who knew about the T-shirt incident at the plant.

10 Were you concerned about correcting
11 those impressions?

12 A Well, Judge Bloch, I really didn't
13 know whether any impressions had been left on them
14 before -- at the time.

15 I thought the most important thing was
16 to get to the bottom of the individual's concerns
17 that were directly involved in it if in fact they
18 had -- there was some subversive aspect, if you will,
19 to what they were doing, correct that.

20 If in fact it was something that they
21 just did on a lark, then we would address it from
22 that standpoint. At any rate, if there was anybody
23 offended by it, whether it be management or inspectors,
24 we -- to my mind, the bottom line is resolve the issue
25 to the satisfaction of the offended party, and that's

15-16 1 basically the approach I thought we ought to take.

2 But at the point in time that -- on the
3 day of the T-shirt incident I didn't know if there
4 were any impressions at all being left out in the
5 craft.

6 Q Well, thinking now about what happened
7 on that day, can you understand why there might be
8 some concern that impressions would have been left
9 on craft or QC people?

10 A Crafts, no, sor. QC, yes.

11 I think if there were any impressions
12 left on craft, I think they would be -- would not be
13 negative because bear in mind the original concern,
14 the cause for bringing them in out of the field
15 originally was to -- was a conservative measure to
16 conclude anything -- any chance that the message
17 would anger somebody in the craft.

18 As far as QC, the message there goes,
19 yes, looking back on it I think there was an over-
20 reaction, just like Mr. Vega's report stated. And
21 I think his discussions with the inspectors involved,
22 satisfying them that they had no more problems, and
23 when those individuals go back out into the field
24 I think that is a -- that itself is the best way to
25 correct any image, adverse image that may have been

15-17 1 created by management's actions.

2 Q Of course, the actions that occurred
3 may not have been linked in your mind, but as I see
4 it, one of the things that happened was the day before
5 the incident Mr. Bennetzen was transferred.

6 Soon after the incident six people
7 from the construction task force were transferred.
8 During the incident people were held in the office
9 for a period of time and told that they'd be followed
10 if they left, and in addition, their belongings were
11 searched, and all this out of an incident that
12 Mr. Vega concluded basically was a joke.

13 Now, would this instill confidence in
14 management in the people on the site?

15 A No, sir.

16 Q And do you think corrective action
17 should be taken, or should have been taken?

18 A Well, I think it's obvious that we've
19 discussed Mr. Tolson's situation at length and I
20 think transferring him, putting somebody new and
21 fresh in there, is a -- the primary corrective action,
22 if you want to look at it as such.

23 At the time I didn't know all the
24 details. I didn't know that they were told they were
25 being followed if they left the room or that someone

15-18 1 was writing down everything they said. I did not
2 know this.

3 Looking back, as I said, several times,
4 there were things -- and I think Mr. Tolson testified
5 that there were things he'd do differently.

6 JUDGE BLOCH: Why don't we take the
7 five-minute recess you suggested. I have just short
8 questions after that.

9 (A short recess was taken.)

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JUDGE BLOCH: The hearing will come to

order.

Welcome back, Mr. Chapman.

THE WITNESS: Thank you.

BY JUDGE BLOCH:

Q On the occasion that Mr. Tolson told you that he thought that QC inspectors should be protected by being kept in a room, did you have any opinion about whether the QC inspectors were in any danger?

A I didn't know one way or the other.

Q Were there any events that happened on site that would lead you to believe that craft people might do bodily harm to the QC inspectors?

A No.

Q Were you concerned about protecting people without asking them whether they wanted protection?

A No. I guess I felt that -- at least for the near term that it should be primarily a management judgment as to what -- whether separation of those individuals involved from the craft was the thing to do.

It could be that -- there's any sort of scenario that you could draw in your own mind. It could be that if someone was out to incite someone else, that would be a reason why they would not want to be put in a room by themselves.

16-2

1 But in the partial vacuum that I was operat-
2 ing in, I didn't see a need for me to find out myself from
3 the individuals whether they wanted protection or not.
4 I felt like the prudent thing to do for the time being
5 until I found out something more specific was to just leave
6 them in the room.

7 Q Was there any discussion about whether the
8 individuals in the group might have a right to leave the
9 site?

10 A I don't think -- I'm not aware that any of
11 them asked to leave the site; and I don't think the subject
12 came up.

13 Q Did you at any time during that day receive
14 information concerning the prior incident in which inspectors
15 had worn T-shirts?

16 A No, sir. I did not know at that time that
17 any of the inspectors had ever worn those T-shirts before.

18 BY JUDGE JORDAN:

19 Q Mine is perhaps a matter of clarification
20 and understanding of the system.

21 The controversy as to whether -- over-
22 inspection of the lighting fixtures was testified to by
23 Mr. Bennetzen and others.

24 Apparently craft came out with a fairly quick
25 and easy solution to that. That's to say, that they were not

1 part of the LE system; and, therefore, no inspection by
2 QA/QC was required. Is that your understanding of the way it
3 was?

4 A That's my understanding of how it was left,
5 yes.

6 Q Now, a decision like this, would QA/QC be
7 involved at all in making such a decision that the lighting
8 was not part of the LE system? Would they be consulted,
9 or is this a matter entirely of engineering?

10 A Engineering sets the classification of the
11 components at the plant, which ultimately determines the
12 inspection level, or whether or not inspection is required.

13 Q So it's not up to you to question even
14 whether the lightings were connected into the safety process
15 or not?

16 A We certainly have the right to question. If
17 we felt very strongly about it, we could question at the
18 senior management level, if we felt strongly about it --
19 and would.

20 Q And would?

21 A Yes, sir.

22 Q There have been occasions when you have done
23 such?

24 A I'm sure there have been. I'm trying right
25 now to think of a time. Maybe I will in a minute, but I

16-4

1 don't right now.

2 Q Well, do you know whether the lights are
3 connected to the 1E system?

4 A I'm not sure which lights we're talking
5 about.

6 Q The lighting --

7 JUDGE BLOCH: In the Safeguards Building.

8 THE WITNESS: In the Safeguards Building

9 of which --

10 BY JUDGE JORDAN:

11 Q -- the craft claims was being overinspected.

12 MR. DOWNEY: Objection. I don't believe
13 that there was any testimony that the craft believed the
14 lighting was being overinspected.

15 Mr. Bennetzen's testimony on overinspection
16 related to other points, as I recall it.

17 JUDGE BLOCH: Let's let the question read,
18 "The lighting in the Safeguards Building."

19 THE WITNESS: Could you repeat the question?

20 BY JUDGE JORDAN:

21 Q Was the lighting in the -- which was being
22 inspected by the QC inspectors -- was that lighting connected
23 to the 1E system; do you know?

24 A This is the lighting that has been discussed
25 in this -- I do not know.

16-5

1 Q All right.

2 BY JUDGE BLOCH:

3 Q Do you know if it since has ever been
4 reclassified so it's not 1E?

5 A No, sir.

6 Q And at the time that the discussion was
7 being had about whether to exclude it from the final walkdown
8 inspections that were being done in the Safeguards Building
9 at the time, do you know what alternative plans were being
10 discussed as to whether other inspections might be done
11 there?

12 A Discussions -- you mean among engineering
13 as to how to disposition this question or --

14 Q Well, there was a discussion about somehow
15 taking the lighting out of the postconstruction task force
16 work at that time. Was the idea at that time to just never
17 inspect it, or was the idea at that time that sometime later
18 at plant construction, there would be an inspection?

19 A Oh, I think that would depend on the
20 classification that the engineering put the equipment under.
21 If engineering determined that it did not have to be
22 Class 1E, then it would not have to be inspected.

23 If engineering determined that it did have to
24 be Class 1E, then at some point in time it would have to be
25 inspected.

16-6

1 Q Was there a discussion about the fact that
2 if it was 1E, that they would still inspect it later rather
3 than as part of the postconstruction task force work?

4 A I don't know that that subject came up. I
5 would think that that would just be assumed, that it would
6 be inspected. As Mr. Bennetzen testified, they could UNSAT
7 the thing and go on, if they didn't take the cover off so
8 they could inspect it. I don't think it was ever a question
9 of if it was finally determined to be 1E, whether or not
10 it was inspected.

11 It would be then before it was finally
12 accepted.

13 Q I think I may have asked the reverse part of
14 the question. Was there ever a plan if it was 1E to
15 temporarily not inspect it anyway on the plan that it would
16 be later inspected?

17 A I don't know. I wasn't a party to those
18 discussions, except just as Mr. Tolson was keeping me
19 informed of the results.

20 JUDGE JORDAN: It just seems -- I don't
21 have any more questions to ask. Just an observation: It's
22 a little bit surprising that you can take the writing which
23 was formerly on 1E, removed from 1E, by a paper shuffle
24 without making some actual wiring changes. We've heard of
25 no wiring changes.

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I have --

JUDGE BLOCH: Do you want to comment on that?

THE WITNESS: I believe it's not an issue of whether you wave a magic wand, so to speak, and create a change in the hardware.

I think the question is: What sort of physical characteristics does the lighting have to exhibit. And --

JUDGE JORDAN: Yes. The things you related.

THE WITNESS: Right. And I think engineering rightly is the organization to make that evaluation and that judgment.

So if it is -- Not only lighting but any other item, if it's classified at some safety level at one point in time, engineering later on down the line -- for whatever reason -- determines that it didn't need to be that highly classified, if you will, then they can make that determination.

Of course, they must be able to justify it. But they can remove the requirement.

JUDGE JORDAN: Yes. There have been some allegations that some systems have been changed from safety-related to nonsafety-related in order to reduce the inspections.

16-8

1 This, as far as I know, has not been one
2 of the systems in which such a claim has been made. Neverthe-
3 less, the lighting either is safety-related or it isn't.

4 I'm just -- as I say -- a little puzzled as
5 to how you were able to make that change so quickly on
6 paper without any change in wiring.

7 That's all.

8 BY JUDGE BLOCH:

9 Q Do you know whether or not a change from safety
10 grade to nonsafety grade would also require review by the
11 architect engineer?

12 A I believe I can answer that in general; and
13 that is, per the design change criteria in Appendix B, any
14 change in safety-related design must be approved by the
15 same individual -- the same organization, if you will -- that
16 made the original design.

17 I would think that would certainly fall under
18 that requirement.

19 Q If that's true, then Tolson didn't have the
20 ability to change that classification by himself?

21 A That's correct.

22 JUDGE BLOCH: Mr. Roisman.

23 MR. ROISMAN: I have no questions.

24 JUDGE BLOCH: Mr. Treby.

25 MR. TREBY: I believe the Staff has a few

16-9

1 questions which will be asked by Mr. Berry.

2 CROSS-EXAMINATION

3 BY MR. BERRY:

4 Q Mr. Chapman, you were the one that made the
5 decision to send the inspectors home on the day of the T-shirt
6 incident; is that correct?

7 A I was the one who made the decision that that
8 was the maximum that would be done.

9 Q Were you also the one that transmitted
10 that directly to the site?

11 A Yes, to Mr. Tolson.

12 Q You testified earlier that the maximum
13 discipline that would be administered on the site was
14 send someone home with pay; correct?

15 A For three days.

16 Q When the QC inspectors were sent home, were
17 they being disciplined?

18 A It would probably depend upon who you talked
19 to. I think you could conclude that that was some sort of
20 discipline.

21 Q In your mind, as the person responsible --
22 or as the responsible official for making this decision --
23 in your mind were you disciplining the QC inspectors?

24 A I didn't even really consider whether I
25 considered that discipline or not. My main concern was to

1 resolve the incident of the T-shirt and then get to the
2 bottom of what underlying currents there were in it.

3 I guess you could say that I considered it
4 a form of discipline. I did not consider it a serious
5 discipline.

6 If you will, let me make a statement relative
7 to your reference to the three days off as being the maximum.
8 I want to clarify something, if I've left the wrong
9 impression.

10 The three days off with pay is not the
11 maximum disciplinary action that can be levied at the site.
12 It's the maximum that can be done without senior management
13 involvement.

14 In any normal management situation -- that is,
15 if there's some sort of serious violence that might take
16 place, then obviously the disciplinary action is going to
17 eventually fit the misdeed, whatever that is.

18 But the maximum that can be meted out on site
19 is three days off without pay -- without senior management
20 involvement.

21 Q Would you tell us what, if anything, QC
22 inspectors were being disciplined for?

23 In other words, had they committed some
24 violation of company procedure or rule? I wonder if you
25 could explain that for us.

16-11

1 A. Well, I don't think there was a company rule
2 that said you can't wear a T-shirt with a message on it.
3 I think that -- management at the site has testified that
4 told them -- not just Mr. Tolson, Mr. Brandt also -- that --
5 and also Mr. Bennetzen -- that they thought the T-shirts
6 were a little bit much or unprofessional, or however each one
7 chose to characterize it.

8 They felt as though if they had something to
9 say, they needed to say it in a professional manner. I
10 guess if you must come to a specific disciplinary action --
11 if you have to call it that -- then I'd say it was for poor
12 judgment.

13 I really don't see that there's much
14 discipline involved, if you get paid for sitting in a room
15 all afternoon and going home early.

16 MR. BERRY: Nothing further.

17 BY JUDGE BLOCH:

18 Q Mr. Chapman, I was just reflecting a bit on
19 the answer you gave me while ago about the corrective
20 action being Mr. Tolson's transfer -- corrective action
21 for the impression -- I correct in believing that
22 the first time that any company official has suggested that
23 the transfer of Mr. Tolson had anything to do with corrective
24 action was when you just made that comment?

25 A. No. I didn't intend to leave that impression

16-12

1 that that was the cause of it.

2 I'm saying that in our discussions here I've
3 tried to convey that the perceptions that were going on in
4 Mr. Tolson's mind and the fact that I consider that many of
5 the things that management did that day was overreaction.

6 I'm trying to come to grips with -- you're
7 asking me to address impressions in the minds of people
8 whom I have not met and which impressions I don't know the
9 details of.

10 I'm trying to address a speculative problem
11 at best that might be on their minds, and I'm saying,
12 "Well, here is an event that took place. Management reacted
13 thus and so. We have a new manager in there now."

14 I don't think you have to tie all those things
15 together. I think what matters is there has been a change.
16 Let's make sure the inspectors are happy.

17 I think that's the best I can address a
18 quite speculative set of questions.

19 JUDGE BLOCH: Mr. Downey.

20 MR. DOWNEY: Just a couple or three questions.

21 REDIRECT EXAMINATION

22 BY MR. DOWNEY:

23 Q Mr. Chapman, do you know what led to the
24 change in policy regarding the imposition of discipline on
25 inspectors at the site?

1 A. Yes, sir, I believe it was several things
2 coming together at once, with the -- I guess -- I don't
3 know quite how to say it.

4 The volatile situation with regard to meeting
5 all applicable regulatory and legal requirements that relate
6 to the management of quality assurance/quality control
7 people at a nuclear plant, management looked at personnel
8 actions as quite sensitive.

9 We take any adverse action very seriously.
10 Obviously, we must do everything we can to assure that we
11 meet our regulatory requirements from a safety standpoint.
12 We've got to manage our people.

13 We've got to -- We have to do that.

14 On the other side of the coin we have an
15 obligation to make sure that individual rights are reserved.
16 There's quite a delicate balance there, and the consequences
17 of improper action would be quite serious to a project of
18 this size.

19 We have -- in this organization I think we've
20 testified -- we've got several different companies. In a
21 matrix organization, some people working for other companies
22 their supervisors are from other companies.

23 The senior management of our company was
24 simply wanting to make sure that all of the managers and
25 supervisors involved at Comanche Peak had the benefit of

1 as much input before they took some final action, as we
2 felt they needed.

3 The purpose of limiting any instant decision
4 to three days off with pay was simply to make sure that
5 some supervisor -- some manager in the field did not act
6 rashly; instead -- who had several days to think over
7 what he would do about something that was done that he
8 thought needed disciplinary action.

9 Q Did that include consultation with counsel?

10 A Yes, sir, it did, counsel both with
11 backgrounds in labor law and with backgrounds in atomic
12 energy law.

13 JUDGE BLOCH: That seems like a fair
14 characterization.

15 BY MR. DOWNEY:

16 Q Mr. Chapman, you testified that you had
17 discussions with Mr. Tolson concerning some matters that
18 offended his sense of professionalism. Could you give
19 us some examples of what you had in mind?

20 A Yes, I believe we can. He was particularly
21 annoyed at some newspaper articles that had been generated
22 which questioned his -- the heart of his professional
23 ethics -- his honesty, his attention to quality.

24 It was totally unfounded. That has been
25 several years ago -- in fact, the first one was five years

6-15

1 ago. I remember when it happened. It was terribly
2 unfair. Since then there have been others.

3 There have been some accusations that would
4 make anybody mad. I can understand it myself in Mr. Tolson
5 because I happen to know him -- I have for eight or nine
6 years now.

7 The last thing he would do is anything
8 unethical. I guess there is so much some people can take.
9 They just listen to it long enough.

10 But he has had instances of people who work
11 for him claiming harassment and intimidation when I happen
12 to know it's not happening.

13 I can see that to a professional -- and he has
14 been one for twenty-something years -- and all he ever
15 hears is second guessing and accusations -- people tape-
16 recording his meetings when he doesn't know about it.

17 To a man that's used to telling the truth all
18 his life, he would begin to have problems with that.

19 MR. DOWNEY: No further questions.

20 JUDGE BLOCH: Mr. Roisman.

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RE-CROSS-EXAMINATION

7/1
1 BY MR. ROISMAN:

2 Q Mr. Chapman, in response to the question
3 that Mr. Downey asked you a moment ago you went into
4 some detail of discussing the development of the
5 changed policy of the company regarding where authority
6 would lie to fire or discipline QC Inspectors at the
7 site.

8 A Yes.

9 Q When that change was made how were the
10 employees advised of this change?

11 MR. DOWNEY: May I ask a clarifying
12 question? Do you mean the rank-and-file employees or
13 the supervisor, Mr. Roisman?

14 MR. ROISMAN: No, I mean the QC rank-and-
15 file. I don't mean how it was Mr. Tolson and Mr. Brandt,
16 and Mr. Purdy, but the people who work for them on all
17 the way down.

18 THE WITNESS: My understanding was that
19 after we had the meetings at the management level that
20 the site management had meetings with the supervisors
21 and on down through the Leads, and passed the word as
22 to how incidents requiring some sort of discipline, or
23 which might require some sort of management discipline
24 would be handled.

25 As far as individual Inspectors, I

17/2

1 don't know that that was ever given to each individual
2 first-line Inspector, nor do I see any need that it
3 should have, so long as the policy was practiced
4 informally.

5 Q Was it written down and transferred to
6 the supervisory and Lead level in some written, or was
7 this all communicated orally to them?

8 A I believe down to the supervisors and
9 Leads. I wasn't at most of those sessions, but I
10 believe that was explained to them verbally. I don't
11 recall having seen anything written.

12 Q And did you get anything in writing to
13 you confirming that those briefings had occurred?

14 A No, but I made it a point to call Mr.
15 Tolson and get his assurance that they had occurred.

16 Q And did you learn from him in any level
17 of detail precisely what was said at any of those
18 briefly sessions?

19 A Not precisely what was said, no.

20 MR. ROISMAN: I have no further questions.

21 MR. BERRY: The Staff has no further
22 questions.

23 JUDGE BLOCH: Thank you very much, Mr.
24 Chapman. You may be excused.

25 (The witness was excused.)

7/3
1 MR. TREBY: Mr. Chairman, if now would
2 be an appropriate time, the Staff would like to make a
3 motion regarding the report prepared by EG&G Idaho, Inc.
4 which was the subject of a Board notification.

5 JUDGE BLOCH: Before we do that, I still
6 don't have the documents having to do with O. B. Cannon.

7 MR. DOWNEY: You will have them within
8 the hour.

9 JUDGE BLOCH: I have the impression that
10 you intend to give discovery requests rapidly, but we
11 always seem to get them just before we need them to ask
12 questions.

13 MR. DOWNEY: I apologize, Your Honor.

14 JUDGE BLOCH: Mr. Treby, your motion.

15 MR. TREBY: May I have two minutes to
16 collect all my papers?

17 JUDGE BLOCH: Yes.

18 (A brief in-place recess was
19 taken.)

20 JUDGE BLOCH: The hearing will come to
21 order. Mr. Treby, you may proceed.

22 MR. TREBY: The NRC Staff moves for
23 leave to late file as its pre-filed testimony on the
24 intimidation issue a report entitled "Comanche Peak
25 Steam Electric Station, Alleged Climate Of Intimidation"

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1 prepared under the direction of EG&G Idaho, Inc.

2 By notice dated September 17, 1984,
3 the NRC Staff, through the Director Division of
4 Licensing, Office of Nuclear Reactor Regulation,
5 transmitted to the Board and parties Board Notification
6 84-157. Copies of this Board notification have been
7 provided to the Board and parties here at the hearing
8 by Staff counsel.

9 The Board notification transmits
10 a report entitled "Comanche Peak Steam Electric Station,
11 Alleged Climate of Intimidation," dated September 1984.
12 The report was produced by a team of professionals in
13 various disciplines under the direction of EG&G Idaho,
14 Inc., whom the NRC contracted with to investigate the
15 work climate at Comanche Peak Steam Electric Station
16 and to develop an independent expert opinion as to
17 whether or not a climate of intimidation was created
18 among QA/QC personnel by CPSES Management such that the
19 safety of the plant might be compromised.

20 I was informed last evening and
21 this noon that the various officers of the Commission
22 under the Director of Operations, and in addition the
23 Office of Investigation, have had an opportunity to
24 review copies of that report. None of those officers
25 disagrees with the conclusions of the report, and I have

7/5
1 been advised at the current time it represents the
2 position of the Division Of Licensing and the office
3 of NRR.

4 JUDGE BLOCH: And could you clarify the
5 extent to which the EG&G contractors are going to
6 become more current with respect to more recent develop-
7 ments in the case, such as testimony at this hearing,
8 possibly work that has been done by Mr. Ippolito,
9 possibly investigative reports that may be released
10 prior to a time that they might testify?

11 MR. TREBY: The team of professionals are
12 provided copies of all transcripts as soon as they are
13 reproduced back in Washington.

14 With regard to reports that are
15 made public by the Office of Investigation, those are
16 also provided to the team as soon as they are released,
17 and to the extent that any further ones will be released
18 as a result of the Board's Order those would immediately
19 be provided to the team.

20 Mr. Ippolito, who is the test
21 leader of a technical review team, is currently down at
22 the site, has not issued any report. There was a
23 meeting I believe on Tuesday at which time the company
24 was put on notice as to various questions that the Staff
25 had in the areas of electrical instrumentation, civil

n/c
1 structure, and test programs.

2 The technical review team is still
3 evaluating the areas of mechanical QA/QC and coatings.
4 In none of these areas has that technical review team
5 issued any report for any supplemental SERs, although
6 that I believe that is their intention upon completion
7 of their work.

8 JUDGE BLOCH: And is the --

9 MR. TREBY: However, let me just make
10 one last comment in that area. This meeting that
11 occurred on Tuesday I understand was transcribed. The
12 transcription of that meeting, together with a
13 September 18, 1984, letter addressed to Mr. Spence, a
14 copy of which I provided the Board and the parties this
15 afternoon will be a Board notification, and that Board
16 notification will be provided to the disciplinary team
17 of EG&G Idaho, Inc.

18 JUDGE BLOCH: And is the EG&G work the
19 only work that the Ippolito Task Force has undertaken
20 by itself or through others with respect to whether or
21 not there is intimidation at Comanche Peak?

22 MR. TREBY: That is my understanding.
23 The team is looking into the question of QA/QC. And to
24 the extent they get any information in that area, that
25 may be relevant to the issue, but I haven't seen any of

7/7
1 that information so I can't make any representations.

2 JUDGE BLOCH: What I am interested in is
3 if we are going to allow a Staff presentation I'd
4 prefer to have one Staff presentation rather than
5 sequential Staff presentations about new things. I
6 mean is it possible that the EG&G conclusions would be
7 affected by the QA/QC work of the Ippolito Task Force?

8 MR. TREBY: Everything is possible, but
9 I don't believe so. The EG&G team was the principal
10 mechanism that th Staff was addressing this question of
11 intimidation. Mr. Ippolito's charter, as I understand
12 it, and as set forth in this September 18th letter is
13 a technical review team responsible for evaluating the
14 technical issues at Comanche Peak, including allegations.

15 My understanding is that those are
16 allegations of hardware problems, and not allegations
17 of intimidation.

18 Now, of course, to the extent that
19 their review provides physical corroboration of matters
20 that have been raised in intimidation there may be some
21 relevancy, but their charter is to look at technical
22 matters.

23 The charter of EG&G Idaho was to
24 look into the issue of the people question, of what is
25 intimidation, harassment, threats.

17/8

1 MR. GROSSMAN: Is Mr. Ippolito planning
2 on farming out any of the other reports, as he did with
3 this harassment and intimidation report?

4 MR. TREBY: I'm not sure about that
5 characterization of "farming out." He has hired other
6 consultants who are expert in the area, for instance, of
7 coatings. Brookhaven National Laboratory had some
8 representatives who are looking at that.

9 In fact, I think Brookhaven also
10 has other employees who are expert in the area of
11 structural matters, who are looking at certain areas.
12 I believe also as part of his team, and in looking at
13 certain structural matters is Dr. Paul Chen, who has
14 testified in the other portion of this case, and he has
15 other people from Dr. Chen's organization, the name of
16 which escapes me at the moment, who are looking at it.

17 I think there are other consultants,
18 also.

19 JUDGE GROSSMAN: Do you notify all the
20 parties and the Board when a contract has been entered
21 into to produce an expert report on these areas?

22 MR. TREBY: No. It is not my understanding
23 that they are in the notifications. We did advise the
24 Board and parties that the technical review team was
25 conducting work on site and that it did include some

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1 consultants, but we did not provide any contracts.

2 JUDGE GROSSMAN: Well, you know, there
3 is a question of fairness here. Discovery has been over,
4 and no indication was given as far as I know of this
5 contract out for the harassment and intimidation, and
6 now you are coming in and asking to present expert
7 witnesses on this area.

8 I'm not making any conclusions as
9 to that, but you are a party, like any other party, and,
10 really, it's expected that you give the same kind of
11 information to the other parties as the other parties
12 are required to supply to you in this case. And that's
13 one consideration in our determining whether to accept
14 that expert testimony at this point that was never
15 suggested until two days ago or three days ago, and I
16 just wanted to point that out.

17 MR. TREBY: I understand the point Judge
18 Grossman is making, although I would point out that
19 during a conference call of August 27th I did identify
20 the fact that EG&G Idaho had been contracted for, and
21 that one of their subcontractors, Mr. Margulies, was
22 preparing a report in this area.

23 I believe also the parties were put
24 somewhat on notice because Mr. Margulies said, I guess
25 Dr. Stratton, I guess it's Dean Marulies and Dr. Stratton,

7/10

1 did attend some of the evidentiary depositions that were
2 taking place in Glen Rose and physically went down there
3 to see what the circumstances were of those depositions.

4 JUDGE BLOCH: Intimidating, weren't they.

5 MR. TREBY: The facilities could have
6 been better.

7 (Laughter.)

8 But, anyway, they did go into the,
9 into some of those depositions, admittedly not for a
10 very long period of time, but they were identified as
11 to who they were when they attended the deposition.

12 JUDGE GROSSMAN: Okay. Just to clarify
13 something you said earlier, NRR and the Division Of
14 Licensing endorses this report, is that correct, but
15 OI takes no position, other than that it does not oppose
16 it. Is that basically what you were saying?

17 MR. TREBY: That's right.

18 I would also like to put that in
19 the context, and my understanding is that OI has taken
20 another circumstances where they have indicated that
21 they will go out and develop facts, but that they don't
22 reach conclusions.

23 JUDGE BLOCH: A couple of other points of
24 clarification. First, who are you offering as witnesses?

25 MR. TREBY: We would offer as witnesses

17/11

1 the Office of Documents. I can read their names if you
2 would like.

3 JUDGE BLOCH: No, that's all right.

4 MR. TREBY: They are set forth on the
5 cover page. There are four of them.

6 There was also someone who reviewed
7 what is known as the White Survey, and the 1979 Survey,
8 a Dr. David Bowers, who is an expert in reviewing
9 surveys. And he can be made available, also.

10 JUDGE BLOCH: Okay.

11 JUDGE GROSSMAN: Did you finish your
12 statement, by the way?

13 MR. TREBY: No, although I think we have
14 covered some of the points we were going to make. Let
15 me just throw that out so I'm not repetitious.

16 JUDGE GROSSMAN: If you wish, you can
17 read the whole statement and cover those points again,
18 because I'm sure you worked over the wording.

19 Okay. I think if you prefer, that
20 you really should read the statement even if it repeats
21 some of the matters we have discussed here, because I'm
22 sure that you've gotten your language precise as to what
23 all the divisions of the NRC consider to be appropriate.

24 JUDGE BLOCH: So at least you have that
25 option.

///

8-1 1 MR. TREBY: I had included some
2 background and perhaps maybe it would be useful just
3 to read it as I have initially drafted it.

4 A series of prehearing and telephone
5 conferences have been held among the Board and parties
6 in June and early July of this year.

7 At that time the Board adopted a
8 schedule, which as modified by agreement of the
9 parties called by evidentiary depositions to be
10 conducted commencing on July 19, 1984.

11 Refiled and rebuttal testimony was to
12 be filed on August 20, 1984, and the hearings were
13 scheduled to commence on September 8th, 1984.

14 As early as June of this year, however,
15 the Staff informed the Board and parties that
16 Mr. Tom (Thomas) Ippolito, the Director of the
17 Comanche Peak Steam Electric Station Task Force for
18 NRR, had assembled a technical review team that was
19 conducted an in-depth, multi-disciplinary inspection
20 involving technical allegations at Comanche Peak.

21 Staff Counsel has on occasion advised
22 the Board and parties that the technical review team
23 at Comanche Peak was being provided with the
24 evidentiary and discovery depositions, exhibits and
25 discovery materials generated by this portion of this

8-2 1 proceeding and was looking into the technical
2 allegations underlying the various allegations of
3 intimidation.

4 The Staff had indicated at that time
5 that until these reviews were completed, the Staff
6 would not have a position on the issue of whether or
7 not there was a pervasive atmosphere of intimidation
8 among the QA/QC personnel at Comanche Peak, such that
9 the Applicants were not in compliance with 10 CFR
10 Part 50, Appendix B.

11 Staff Counsel informed the Board and
12 parties during the August 27th, 1984, conference call
13 that Mr. Ippolito's task force had contracted with
14 EG&G Idaho to conduct a multi-disciplinary study to
15 determine whether or not a climate of intimidation
16 among QA/QC personnel was created by the management at
17 Comanche Peak.

18 The data reviewed by the team of
19 individuals assumed by EG&G was quite extensive and
20 is listed in Appendix A of the report.

21 In brief, this included the July
22 depositions, the 1974 MRB Survey and the 1981 White
23 Paper Survey, several Office of Investigation reports,
24 and other material provided in discovery or identified
25 as exhibits in this portion of the proceeding.

8-3 1 The Staff submits that the findings
2 and conclusions of the EG&G Report are relevant and
3 material to the issues being litigated in this
4 proceeding; that the report represents the position
5 of the Staff on the issue of intimidation and
6 harassment.

7 The study reflects a comprehensive,
8 in-depth review of an extensive amount of material,
9 which was completed in a relatively brief period of
10 time.

11 There is little prejudice to the parties
12 if this report is admitted into evidence, since it
13 appears that additional hearing days must be scheduled
14 to continue the cross-examination and redirect of
15 several witnesses by both Applicants and Intervenor
16 CASE.

17 What prejudice is caused to the other
18 parties is outweighed, in the Staff's view, by the
19 assistance the report and supporting testimony could
20 contribute to the analysis of the complex issues in
21 this phase of the hearing.

22 The Staff would note that in another
23 proceeding Consumer Power Company, Big Rock Spent
24 Fuel Pool Amendment LBP-82-8, found at 15 NRC 299 in
25 1982, the Board found good cause for delay in a filing

8-4

1 by the Intervenor of affidavits because the delay did
2 not cause corresponding delays in the Board's work
3 and because the Intervenor showed that it could
4 contribute to the analysis of the complex issues in
5 that case.

6 JUDGE BLOCH: Could you refresh my mind
7 as to what the filing was that we allowed there?

8 If you can't, we can --

9 MR. TREBY: It was affidavits. I don't
10 have the case in front of me, nor the information that
11 was contained in the affidavits.

12 Accordingly, for good cause shown, the
13 Staff moves the Board to permit the late filing of
14 the EG&G Idaho report.

15 JUDGE BLOCH: The question I have in my
16 mind is the best order for proceeding here.

17 MR. ROISMAN: I assume if there is any
18 proponent of the order, the proponent should go. I'll
19 identify myself as an opponent of the motion.

20 MR. DOWNEY: I will identify the
21 Applicant as a proponent of the motion made by the
22 Staff.

23 JUDGE BLOCH: Would you speak in favor?

24 MR. DOWNEY: Yes, I would be pleased to,
25 Your Honor.

1 I believe the Staff has put forward a
2 piece of highly relevant evidence, backed by competent
3 professional analysis that the Board should review and
4 indeed, I think needs to review to adequately analyze
5 the very large evidentiary record that has been
6 developed by the parties.

7 I have observed in the short time that
8 I have practiced before the Board, I think, a thirst
9 for, and an understandable thirst for, evidence that
10 will fully develop the record of this case.

11 Nothing could be more relevant than
12 the expert testimony offered by the task force
13 assembled by Mr. Ippolito.

14 I would observe that clearly my view is
15 that the report favors the Applicants' position.
16 I think on its face it quite clearly does that, but
17 I would add that with respect to prejudice that may
18 be visited upon the Intervenor, that the opportunity
19 for them to depose, to analyze the -- depose its
20 authors and analyze the report is virtually the same
21 opportunity that we were provided, Applicants, in
22 reviewing the testimony of their expert, Dr. Goldstein,
23 in preparing to meet his testimony that's been
24 offered in this hearing.

25 So I would say that the issue of prejudice

8-6
1 is not one that can be adequately met by the
2 Intervenor in this case.

3 Beyond that, I have nothing further to
4 add at this time. I may have something in rebuttal
5 to whatever points Mr. Roisman makes as opponent to
6 the motion.

7 JUDGE GROSSMAN: Mr. Downey, do I
8 understand that you are dropping your objection to
9 Dr. Goldstein testifying with regard to matters that
10 he perused subsequent to the original filing of his
11 prefiled testimony?

12 Do you understand what my question is?

13 MR. DOWNEY: Yes. I think the materials
14 that form the basis of this report are clearly
15 identified in the appendix, and I think in that case
16 the Intervenor has a much better opportunity to
17 analyze this material than we were ever presented
18 with Dr. Goldstein, including his original testimony,
19 where the best that could be said was, "Here's a pile
20 of things that I may or may not have looked at. I
21 can't tell you which I looked at and which I used in
22 formulating my opinion."

23 Here I think we have a documented,
24 properly documented list of the materials considered
25 by the task force, that that can easily be produced

8-7 1 through discovery from the Staff.

2 I might add that my reading of the
3 report provides the Board with one outstanding request
4 that the Board has asked, and that was for an
5 independent analysis of the 1979 and 1983 questionnaires.

6 So in that sense, it only satisfies an
7 existing request by the Board to the parties.

8 JUDGE GROSSMAN: I'm not sure you
9 focused on my question. I believe you had an
10 objection to Dr. Goldstein's testifying with regard
11 to matters that he learned or to information that he
12 reviewed subsequent to the original filing on
13 grounds on timeliness, that the time for his
14 preparation and for the preparation of any expert
15 reports had already passed.

16 Now, just with respect to that aspect,
17 I understand this report is even less timely than
18 Dr. Goldstein's with regard to that; and I want to
19 know whether you still have an objection with regard
20 to the timeliness of his preparation for his expert
21 report, or whether you now are dropping that.

22 By the way, I am going to also ask
23 Staff, because I think Staff may have had an
24 objection to his testifying, and whether Staff also
25 drops that timeliness objection, if it had one. I'm

8-8 1 not sure. You will have to refresh my collection.

2 Mr. Downey, could you tell me that?

3 MR. DOWNEY: Yes, Your Honor. There are,
4 I think, several points to be sorted out in the
5 question.

6 The principal objection we made to
7 Dr. Goldstein's testimony and his reliance upon the
8 final version of Intervenor's proposed findings of
9 fact was that that was an advocacy document, not
10 appropriately considered by an expert, and cited to
11 the Court Judge Weinstein's treatise in support of
12 that position.

13 That was our first objection and it
14 was an objection that pre-existed his live testimony
15 and related all the way back to his prefiled
16 testimony.

17 Secondly, what we objected to was him
18 offering expert opinion at trial on the basis of
19 documents that he had reviewed that did not form the
20 basis of his original opinion.

21 Here, we quite clearly have identified
22 the opinion of these experts and the matters on which
23 they relied in reaching those judgments.

24 I don't think the same objection applies.

25 JUDGE BLOCH: They are still getting

1 documents, though? Do you have any objection to
2 that.

3 They are still going to read new parts
4 of the record and they are going to read new Staff
5 documents; is that a problem?

6 MR. DOWNEY: The point that I was making
7 is the basis for their opinion is clearly identified
8 in the report. I think that it would be appropriate
9 for the Intervenor, as it would have been appropriate
10 for me in the case of Dr. Goldstein to say, "Have you
11 looked at this volume and does this volume change your
12 mind?"

13 That's a different situation than
14 having the proponent of the evidence say, "Since you
15 deposed our expert, we have given him two more
16 cartons of materials and now he has read those (or
17 she has read those) and those now form part of the
18 opinion and support, independently support, the
19 original opinions."

20 I think those are entirely different
21 matters.

22 JUDGE BLOCH: We don't know now whether
23 it will support it or change it. Are you suggesting
24 that if they felt otherwise when they arrived at
25 trial, they would be barred from taking a new

8-10 1 position?

2 MR. DOWNEY: I certainly would think
3 that there would be permissible discovery if they
4 took a new position.

5 JUDGE GROSSMAN: In answer to --

6 MR. DOWNEY: We have here a clear
7 expert opinion. The basis for the opinion is
8 identified in the report. If there are any holes
9 in the appendix to the report identifying the
10 basis for the opinion, those can be cleared -- those
11 can be handled through discovery.

12 For example, if as of the time we
13 speak, or the time Mr. Roisman conducts his discovery,
14 these experts have relied upon the transcripts of these
15 live hearings and digested those and rely upon those,
16 that will be known in discovery and he will have a
17 full and fair opportunity to cross-examine on that
18 basis.

19 What I objected to in the case of
20 Dr. Goldstein was the shifting sand that had shifted
21 in the four days since the time we had taken his
22 deposition.

23 JUDGE GROSSMAN: Okay, but I am just
24 going to the timeliness aspect and my real question
25 is this: Assuming that Mr. Goldstein had been tied

8-11

1 down to what he based his expert opinion on as of
2 the time he testified last week, which was prior to
3 the Staff's proffering this expert report, assuming
4 that he had been tied down to the basis of his
5 testimony as of last week, are you now dropping any
6 timeliness objection to his testimony in view of the
7 fact that you are allowing the Staff at a later date
8 to come in with a proffer of expert testimony.

9 I am only going to that timeliness
10 aspect. If you have other objections on vagueness or
11 any other area, I don't care about that right now. I
12 just want to find out about that.

13 MR. DOWNEY: First, I don't think it's
14 fair to characterize our objection as one of
15 timeliness.

16 I think what the objection was in
17 addition to -- as I said, there are two parts. One,
18 he relied upon the advocacy documents, which are
19 impermissible and not the kinds of materials that
20 professionals in his discipline normally use in their
21 work.

22 That was our first objection. That
23 doesn't change.

24 Second, the objection was that he relied
25 upon materials in forming his opinion that were not

8-12

1 disclosed in discovery. That was the basis of the
2 objection.

3 Here, I don't see that that objection
4 applies. It may at some point apply, but it does not
5 at this time apply to the offer of proof.

6 JUDGE GROSSMAN: Of course, the Staff here
7 not only didn't disclose the basis for the testimony,
8 but never even disclosed how it was preparing
9 expert testimony.

10 Okay. I just want to point that out. I
11 don't want to argue with you on the point, but I
12 just want to point out that there may be similarities
13 between the proffer by Intervenors and the proffer
14 by Staff.

15 I think we ought to have consistent
16 arguments with regard to both proffers.

17 MR. DOWNEY: I don't see that my
18 arguments are inconsistent. I concede, Judge Grossman,
19 that it is possible that events between now and the
20 time that these witnesses testify could raise one of
21 the two kinds of objections that I made to
22 Dr. Goldstein's testimony.

23 I would observe that those objections
24 were overruled. In that sense, I would urge
25 consistency of decision making.

1 MR. TREBY: Judge Grossman, I'm not aware
2 of the Staff ever objecting to the timing of these issues
3 with regard to Dr. Goldstein.

4 The Staff at some prehearing conference
5 afforded the admission of Dr. Goldstein's testimony. We did
6 have some comments as to the weight that we thought it should
7 be given.

8 And at the hearing when he testified, I don't
9 think we raised any objection with regard to timeliness
10 matters.

11 MR. DOWNEY: Judge Grossman, with respect to
12 Dr. Goldstein's testimony, maybe I can illustrate my
13 objections. Maybe I didn't state it clearly --

14 JUDGE BLOCH: Did Mr. Treby just get
15 interrupted?

16 MR. DOWNEY: Yes. He did get interrupted.
17 I apologize, and I would urge him to continue.

18 JUDGE BLOCH: Do you want to finish?

19 MR. TREBY: Yes. The other point I wanted
20 to make is that the basis upon which this interdisciplinary
21 team from -- compiled by Idaho reached its decision is
22 set out in Appendix A and includes all of the evidentiary
23 depositions that were taken through -- I guess -- the
24 beginning of August.

25 When I indicated that we were providing them

1 with the transcripts of these proceedings, it was just to
2 keep them fully informed to the extent that there was any
3 information that may affect their decision, that they would
4 be aware of it, and they could inform the Board, if admitted
5 to -- or if permitted to testify.

6 But the basis for their determination is
7 set out in this document already. They have reached a
8 determination; they're not going to be using any of this
9 new information to reach a determination, although should
10 they see anything in the information that causes them to
11 modify their position or to supplement their position, I
12 would think the Board would want to know about that.

13 JUDGE BLOCH: I don't understand. Modify or
14 supplement? There's no possibility of change?

15 MR. TREBY: Well, modifying is change,
16 as I understand the use of that term.

17 JUDGE BLOCH: Mr. Downey, do you want to
18 finish, and then Mr. Roisman.

19 MR. DOWNEY: Yes. I want to perhaps try and
20 articulate for Judge Grossman the objection we raised to
21 Dr. Goldstein's testimony in a way that maybe I didn't make
22 clear last Wednesday or even earlier today, because I
23 think it answers the question you put to me directly.

24 JUDGE GROSSMAN: Relating to timeliness.

25 MR. DOWNEY: Yes.

19-3
1 My objection was -- to what I think you've
2 been calling the timeliness issue -- is that on Friday,
3 September 9, we deposed Dr. Goldstein and prepared to cross-
4 examine him on his prefiled testimony.

5 In the course of that deposition we were at
6 great pains to identify the specific materials upon which
7 he relied in forming his opinion. We had them all on the
8 table. Literally, there was a very substantial volume of
9 material.

10 What I objected to on Wednesday, the day of
11 the hearing, was what I perceived to be a switch in Dr.
12 Goldstein's position. That was, I no longer just rely on
13 this pile of materials here for my position, but now I also
14 rely on the two volumes now before me prepared by the
15 Intervenor.

16 We had not prepared to cross-examine Dr.
17 Goldstein on the basis of his forming opinions based on these
18 new materials.

19 Therefore, it was, in essence, an element of
20 surprise; and what I characterized and what you disagreed
21 about is a due process question.

22 We are prepared to deal with this challenge
23 presented by his testimony on one basis, and then four or
24 five days later it had switched to at least two bases -- if
25 not entirely to a separate basis for his opinion.

1 That was the crux of the objection -- what
2 I believe you were calling the timeliness issue. I don't
3 think that situation is posed here by the offer of proof
4 made by the Staff.

5 JUDGE BLOCH: Mr. Roisman.

6 MR. ROISMAN: Yes, Mr. Chairman.

7 Throughout this hearing, the Staff, pursuant
8 to Commission procedure, has been given a unique status
9 different than the Applicant or the Intervenor.

10 That unique status has been based upon an
11 historical reality in the Commission, which is that the
12 final position of the Staff on issues in contention is a
13 matter that is relevant and should be considered prior to
14 the time that a Board makes a decision about one of those
15 contested issues.

16 The Staff has told us on numerous occasions
17 that in this proceeding that final position was not yet
18 here; it was not yet here.

19 And even today they are telling us that this
20 document does not yet represent the final position of the
21 Staff.

22 Because of that, the Staff has been allowed
23 to not take positions on a variety of different issues and
24 items that have come up.

25 Again, that has been long-standing Commission

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1 policy.

2 The document which we have before us
3 represents an interim position of the Staff on this matter.
4 It represents an interim position quite clearly because,
5 number one, you've heard Mr. Treby tell you that the contract
6 between EG&G and the Regulatory Commission continues and
7 that apparently even to this date, as duplicating allows,
8 they are getting copies of transcripts, copies of documents
9 and getting additional information.

10 And on the basis of that, they may modify,
11 change or refine the positions which they have taken. It's
12 certainly clear from looking at the comprehensive list of
13 documents which they examine that the things that are
14 coming out in the course of this hearing are precisely the
15 kinds of things which they've already looked at.

16 So it would seem logical that they would be
17 looking at that.

18 So I think the first point that I want to
19 make is -- and really stress very strongly is: We're not
20 dealing with a final Staff position here.

21 If the Staff is to be able to have the benefit
22 of not having to disclose, discuss, take positions on these
23 items until it has a final position, then it should not be
24 allowed to have the additional benefit of being able to
25 choose to take positions when as the result of ongoing

1 investigations, it reaches a plateau which seems to coincide
2 with what the Staff would like to say.

3 Now, indicative of the fact that the Staff
4 is attempting to have both benefits is the document itself.
5 You will notice that Appendix C of the document consists
6 of a 1983 QA/QC questionnaire/survey analysis done by
7 David G. Bowers.

8 You will remember that the Staff attorneys
9 cross-examined Dr. Goldstein at some length on the question
10 of whether or not he had done such an analysis of the 1983
11 surveys and what his information could possibly mean, having
12 not done it.

13 If you look at Page C-3 you will see that
14 Dr. Bowers' analysis is dated August 2, 1984, a full month
15 prior to the time that the Staff conducted this cross-
16 examination.

17 The Staff did not divulge the existence of
18 Dr. Bowers' analysis. Yet, it purportedly was in their
19 possession.

20 That is, it was in the possession of their
21 contractor.

22 Now, Staff would tell us, "Well, that's an
23 ongoing report, and we weren't finished with it, so we did
24 not have to divulge it."

25 If they had, Dr. Goldstein's testimony, which

19-7 1 was prefiled on the 20th, would have had the benefit of
2 Dr. Bowers' analysis.

3 Secondly, if you look at the document, on
4 page 26 and page 29, in which the document discusses the
5 1979 survey, you will see that the status contractor also
6 prepared content analysis and a second approach described on
7 page 29 as involving the overall categorization of each
8 respondent based on answers to relevant questions.

9 Both of those also represent types of
10 analyses which the Staff probed Dr. Goldstein about. Now,
11 the document does not tell us precisely when those analyses
12 were completed.

13 But we do know from the face of the document
14 itself that the document was dated at least by August 28,
15 1984. So we can presume that -- giving a reasonable amount
16 of time -- it may well be that those, too, were available
17 prior to the time that Dr. Goldstein even filed his
18 testimony.

19 Now, here again, the Staff did not divulge
20 the existence of those analyses. Dr. Goldstein's failure to
21 have such analyses himself were probed in depth by the Staff,
22 and, of course, by the Applicant.

23 Now the Staff comes back and tells us, "Well,
24 we had the benefit of not giving you the kind of discovery
25 that you would have had to give us -- that the Applicant

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1 would have to give us or you, but, nonetheless, we now want
2 to put in this interim report out of time, just as though
3 it suddenly landed on our desk."

4 I don't think that's proper.

5 Nor do I think that it deals with the
6 underlying question of balancing the prejudice to the
7 parties and delay on the one hand with the benefits to the
8 hearing.

9 Of what benefit would it be were we to hold
10 a hearing now on the EG&G document which we now have in
11 front of us, which would be preceded, of course, by
12 appropriate discovery?

13 At the end of that, we would still not
14 know whether what we had just spent maybe days examining --
15 and certainly days going through discovery on -- represented
16 a final Staff position or not.

17 We still have OI investigations. OI
18 apparently was consulted. Mr. Treby represented on this
19 record that OI has made a statement to him or to some
20 person to whom he has contact that this document was not
21 in conflict with their documents.

22 We at this point don't even have access to
23 the documents to test the veracity of that point, much less
24 to have the documents in hand to test the veracity of the
25 EG&G study.

19-9 1 JUDGE BLOCH: EG&G didn't have the documents
2 in hand to test.

3 MR. ROISMAN: That's right. Apparently
4 they didn't either, but they certainly represent Staff
5 investigations. They make up part of the Staff data base,
6 if you will.

7 We have an ongoing investigation by Mr.
8 Ippolito at the site. I'm not clear from what Mr. Treby
9 said here -- and I'm certainly not clear from anything that
10 Mr. Treby or the Staff has represented on the record in this
11 proceeding that this document represents the sum total of
12 Mr. Ippolito's investigation into the harassment and
13 intimidation issue, an item which he identified as one of
14 the many items that he's going to investigate.

15 But on top of that, this document again on
16 its face suggests that it could not possibly represent the
17 final resolution of that issue, because if you look in the
18 document on page 4 under the definition of "Intimidation,"
19 the last paragraph, it says, "In the context of this
20 study then, intimidation is an incident, action or statement
21 that causes an employee to act contrary to, or refrain
22 from acting in compliance with written procedures."

23 Now, throughout this hearing there has been
24 an assumption -- certainly in the Applicants' case -- that
25 one way that you test the validity of the employees' claim

1 that they were harassed and intimidated is to look and see
2 whether there were any problems that didn't get uncovered
3 and didn't get dealt with.

4 Mr. Ippolito has just released -- and I
5 confess that I have not even had a chance to review --
6 another interim report. The September 18th letter --
7 that indicates that there may be some problems -- and I think
8 the parties and the Board are aware that a number of those
9 problems relate to the same kinds of issues in which the
10 Intervenor has alleged harassment and intimidation existed.

11 It does not take a subtle mind to figure out
12 that if we say that from -- let's say -- '79 until the
13 present, that coatings inspectors were being harassed and
14 intimidated to not report problems, and then an investigation
15 conducted in 1984 discovers a massive breakdown in the
16 coatings -- none of which were documented on QC reports --
17 that we probably are right, that something was going on that
18 was keeping these QC inspectors from finding these
19 problems, and that the problems weren't being detected.

20 And, of course, we can say the same thing
21 about welds or electrical connections or whatever other
22 item you might identify, so that as the Staff has -- it
23 seems to me consistently argued up until this moment -- we
24 don't know the full story about this harassment/intimidation
25 matter from the Staff's perspective until Mr. Ippolito

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1 has completed his report.

2 JUDGE BLOCH: Isn't the solution to that
3 problem to admit the EG&G report, but to defer to the time
4 that we will allow it to be introduced?

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1 Mr ROISMAN: Let me get to that
2 question. I think it would be very inappropriate,
3 and we do not take the position that this document
4 should never be received in evidence in this
5 proceeding.

6 To go to that issue would require
7 ultimately an analysis of it that we are not equipped
8 to do until we've had discovery with respect to it,
9 in which we'd have to argue that nothing in here is
10 relevant or that it is done in a way that is not
11 probative and all of those go beyond what we're
12 talking about here.

13 Whether it's received now, subject to
14 no examination being required with respect to it
15 until we've got the whole story, or whether it's
16 received in later, it seems to me is a precedural
17 distinction that it does not make a difference from
18 our perspective or a difference that does not make a
19 distinction.

20 So that is not the thrust of our
21 concern. We certainly would say that even if this
22 were the final statement by the Staff on this issue,
23 which I think Mr. Treby has made clear it's not, that
24 the hearing that's now scheduled for a week from now
25 is not the hearing in which it could possibly be

20-2 1 discussed.

2 You'll remember Mr. Downey indicated
3 that the amount of time available --

4 JUDGE BLOCH: I think that's moot.
5 I don't see any way we could get to them that week
6 anyway.

7 MR. ROISMAN: All right. Good, because
8 we certainly would not be prepared to do that.

9 The only other thing that I have to
10 say on this is that from the perspective of the
11 balancing question, whether it should come in,
12 whether he can file late, I believe that the Staff
13 in effect was given by -- by the Board if not in
14 effect by the parties a waiver of the lateness
15 argument, with the assumption that we'd get the whole
16 story from them.

17 Then we were -- I think the Board has
18 indicated that it didn't feel it could conclude this
19 record until we had seen the Ippolito report and we
20 knew what it was that he had to conclude on these
21 matters, and now we have an interim part of the
22 Ippolito report.

23 So we're not arguing that they're late,
24 although they're late. I think they should have
25 disclosed the existence of the Bowers and the 1979

20-3

1 survey analysis result as they came out. And I do
2 not understand why, if the document is dated the
3 28th of August, 1984, we had to wait two and a half
4 weeks for Mr. Eisenhut in a most unusual way to
5 produce this not as proposed Staff testimony but as
6 a Board notification.

7 I mean that seems a little extraordinary
8 and I find it puzzling. I'm not sure that it bears
9 on the argument but I can't help but note that there's
10 something odd going on here, and when my discovery
11 is completed I'll probably find out what's going on,
12 why is this document being treated in this somewhat
13 unusual way.

14 Our bottom line is this. Number one,
15 yes, the document should go into evidence for what-
16 ever value it is.

17 Two, it should not be the completed
18 presentation by the Staff until the Staff tells us
19 on the record that all of its investigations that
20 could have any legitimate bearing on this issue are
21 in fact concluded and we know that they're done.

22 Number three, that when that's
23 completed we should have a reasonable time to have
24 discovery with respect to it and to facilitate that
25 we will, in the very near future, give the Staff our

20-4 1 discovery request with regard to this document so
2 that we can start the ball rolling.

3 In that respect, I should like to
4 indicate on the day we received the document my
5 office was directed, and I believe that they sent,
6 on that day or the next day or the GAP office did
7 one or the other, a Freedom of Information Act
8 request to the Nuclear Regulatory Commission, which
9 was hand-delivered to expedite it, requesting all
10 the underlying documentation associated with this.

11 So we have no -- it's not our desire
12 to try to slow the thing down, but we think there's
13 some reasonable fairness required.

14 We would like to postpone any action
15 by us in the hearing itself until all of the Staff
16 information is in and reasonable time for discovery
17 has been completed.

18 As I understand it, there is no way
19 to know the answer to when Staff will be done.

20 JUDGE BLOCH: Are you seeking any remedy
21 for the other harm you said was done to you that you
22 had to present a witness when there was evidence
23 available that was kept from you?

24 MR. ROISMAN: If we still had flogging
25 I might suggest such a thing. I think that with

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1 respect to that we would of course reserve our
2 opportunity, which is in effect technically reserved
3 at this point, that Dr. Goldstein may be able to take
4 a look at that, our expert never -- you know, one of
5 the reasons why one goes through pretried discovery
6 and pretrial disclosure is so that each party's
7 experts know what the other experts are talking about
8 and are doing and they can address it.

9 Obviously, we all would like to know
10 what Dr. Goldstein would have to say about this
11 document, and whether or not it represents to him a
12 competent analysis of the type that he described to
13 us in testimony should be done.

14 We have not even had a chance to give
15 the document to Dr. Golstein. We don't know of his
16 availability to further testify with respect to it.

17 If that should occur, we of course would
18 make a motion and obviously the late receipt of this
19 document would be the basis for us arguing why
20 Dr. Goldstien should be able to address it.

21 But that seems premature at this point
22 and I'm merely trying to address the Staff motion.

23 JUDGE BLOCH: When the Staff responds,
24 I guess I'd like them also to consider whether there
25 can be any mechanism through which at least these

20-6 1 Idaho people can get the OI reports. There's no
2 reason I can think of for keeping the OI reports
3 from them.

4 The second thing is that this precedent
5 from the Three Mile Island proceeding of having a
6 meeting, informal meeting to discuss matters that
7 the parties might need briefing on so they can
8 understand the document better and that way the
9 discovery may proceed more efficiently.

10 MR. TREBY: A briefing by the authors
11 of the document.

12 JUDGE BLOCH: Briefing by the authors,
13 an opportunity to sit down and have the parties ask
14 questions, find out what's going on, do some
15 preliminary discovery about what it is they really
16 need.

17 Would that be helpful to you,
18 Mr. Roisman?

19 MR. ROISMAN: Yes, I think it would,
20 particularly if all the authors and persons who
21 prepared the report are included.

22 Mr. Treby's list listed the four people
23 whose names appear on the cover and Dr. Bowers, but
24 I notice just in looking through the resumes that
25 there was I think a Dr. Androgini -- I'm not sure if

1 I pronounced that correctly, whose name does not
2 appear as an author.

3 But yes, I think that would be helpful.

4 MR. DOWNEY: If the Applicant could
5 respond only to the Board's question about the
6 briefing, we would welcome such briefing and be
7 pleased to participate in it, and think it is an
8 appropriate action.

9 JUDGE BLOCH: Mr. Treby, do we have a
10 basis here for the Staff accepting the proposal and
11 going forward in harmony?

12 MR. TREBY: The Staff would have no
13 objection to the briefing.

14 These are independent experts. We've
15 had minimal contact with them. My only contact has
16 been to mail out transcripts as they have been
17 reproduced and we would have no difficulty with
18 people having a meeting.

19 Mr. Mizuno reminds me that we had --

20 MR. MIZUNO: One briefing session
21 ourselves.

22 JUDGE BLOCH: The Staff was present at
23 one briefing.

24 MR. TREBY: Well, it was a conference
25 call in which we asked some questions as to what they

20-8 1 were filing and made a suggestion with regard to
2 format.

3 JUDGE BLOCH: Okay. Now, what about
4 the problem of getting a final Staff position? Is
5 that something that the Staff can address in a
6 constructive way?

7 MR. TREBY: Well, first of all, let me
8 put some of this in context.

9 What the Staff's motion was, was leave
10 to late file this document. Now, if -- and the
11 reason -- and we did this as soon as the Staff was
12 advised that there was a position.

13 One of the problems that the Staff has
14 had in this proceeding, or at least Staff counsel has
15 had in this proceeding is that the Staff has not had
16 a position.

17 As I indicated, when I made the motion,
18 I was advised last evening and again this noon that
19 the Staff now did have a position, and their position
20 was the conclusion set forth in this report.

21 JUDGE BLOCH: Okay. I think that it's
22 clear that the Board --

23 MR. TREBY: And the Staff brought this
24 to the Board and parties attentions at the earliest
25 moment. The reason we are bringing this now is that

20-9 1 while the Staff indicated in its opening statement
2 on September 10th that we thought the record should
3 remain open, and I guess Mr. Roisman has made that
4 representation, that's not the representation of
5 the Applicants, and the Staff certainly is not going
6 to prejudge how the Board is going to decide that
7 question.

8 It's the Staff's current understanding
9 that the schedule for this phase of the hearing is
10 through tomorrow and then three days two weeks from
11 now, I guess it is, and was not aware that there
12 would be any more time.

13 So this was the earliest possible moment
14 that the Staff could bring to the Board's attention
15 that it had this information and it now was moving
16 that it be received as evidence.

17 JUDGE BLOCH: Okay. But what we're
18 going to want is the assurance from the Staff that
19 all of the important information that would be
20 considered in taking a position has been considered
21 and that the position that will be presented is a
22 final position.

23 I think the Board clearly wants to
24 accept the suggestion of all the parties that we
25 receive evidence, but what we don't want is to

20-10 1 receive an interim position and then subsequently
2 have to reopen the record to hear more evidence on
3 new information.

4 Mr. Downey, I take it you would support
5 not having to reopen the record later also?

6 MR. DOWNEY: Indeed I would, Your Honor.

7 I would like to respond briefly, if I
8 might, to Mr. Roisman's argument on whether it's an
9 interim position. That was not what I understood
10 Mr. Treby's remarks to state.

11 As I understood Mr. Treby, he said
12 that the retained experts had studied this very large
13 volume of materials and had reached a judgment on
14 the question, and that judgment was embodied in the
15 report.

16 What I think he said and what I think
17 is understandable is that it is conceivable that
18 their judgment might change, given something that
19 could happen.

20 I don't think that's the same as an
21 interim report. I think that's not a fair characteri-
22 zation of Mr. Treby's remarks.

23 And I would strenuously object to
24 Mr. Roisman's attempt to link the final report of
25 the EE&G group on the harassment and intimidation

20-11

1 issue to the need to see technical reports by the
2 Ippolito task force.

3 As I understood Mr. Treby, the
4 functions of the task force were parsed out, the
5 harassment and intimidation issue was assigned to
6 the EE&G group, just as the Board parsed out the
7 harassment and intimidation issue and assigned it
8 to this second Board for hearing.

9 I think Mr. Roisman's position, as it
10 proceeds along a base -- along a line of assumption
11 to an inference to a speculation and that is that
12 somewhere some technical report might come out, as
13 yet unidentified and yet unknown, that would, in his
14 mind, confirm that somewhere, at some point in time
15 in the last eight years some quality control inspector
16 might have been intimidated.

17 I think that's not a legitimate
18 inference, or even a speculation on which the Board
19 should act. Had the Intervenor believed that there
20 was some link between some perceived hardware
21 deficiency at the plant and this issue they could have
22 undertaken to offer proof on that, just as they
23 promised to at the outset of this proceeding.

24 They have not done so, and now it seems
25 to me an attempt to bootstrap the technical review of

20-12 1 the Ippolito team into the record as a result of
2 their failure to go forward with evidence on the
3 issue.

4 And I don't think that's appropriate,
5 and I don't think it's appropriate to hold the
6 record open awaiting some technical review by the
7 team.

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1 JUDGE BLOCH: Mr. Treby, do you think it
2 would be feasible -- before the Staff presents the
3 testimony -- to assure us that they have examined what is
4 ongoing, and that they're convinced that there is no
5 significant information in the hands of the Staff that would
6 affect the conclusions in a material way?

7 MR. TREBY: We would attempt to do that.

8 Let me first indicate that I agree with Mr.
9 Downey's remarks that this is not an interim report. This
10 is the final report of EG&G, based on what they had.

11 Now, as I indicated, we are providing them
12 with the transcripts of this proceeding, just so they have
13 all of the stuff before them so that in the event that
14 new information comes to light that might have caused them
15 to change their mind -- they're aware of it and can bring
16 that to the attention of the Board and parties.

17 But we don't expect that there will be a
18 change in their position. We think that this does constitute
19 their final position.

20 As to what is the final Staff position, that
21 is slightly harder for me to address because, as you know,
22 we are now in an operating proceeding, as opposed to a
23 construction proceeding.

24 The Staff considers matters right up to the
25 point to which it issues a license. To the extent that there

21-2
1 matters that are not before the Board that are contested
2 matters or litigated matters, those matters are left to the
3 Staff to decide.

4 The Staff does not issue an operating license
5 until it has decided all of the matters, even though they
6 may be uncontested.

7 JUDGE BLOCH: We will not want the Staff's
8 final licensing position, but we will want its final position
9 for this hearing, which requires some examination of what
10 the Staff has and whether what it has enables it to be
11 certain or sure -- not certain, nothing is ever certain --
12 to be sure that it has a final position based on what it
13 knows at the time it makes that representation to the
14 Board.

15 JUDGE GROSSMAN: Well, I'm not sure that you
16 can represent that the Staff ever -- and so I'm not sure
17 that I will join the Chairman in that.

18 I don't know what you can ever freeze the
19 Staff position -- you know. It's discussion that I don't
20 know is necessary.

21 I don't want to force you into taking a
22 position that way, so I just want to point that out.

23 MR. TREBY: I agree. We cannot freeze the
24 Staff's position, but we will do whatever we can to advise
25 the Board as to all of the information we have at the time

1 that the Board receives it.

2 At some point the Board has to receive
3 the information so that it can make a decision.

4 JUDGE BLOCH: You'll never freeze your
5 position, but you can represent to the Board, as of the time
6 you make the representation, you're convinced that the
7 information in the Staff's possession has been analyzed,
8 and that you're confident that this is a final position.

9 Now, that doesn't mean that you can't
10 learn something new after that, but we want the assurance
11 that at that time it's a final position based on everything,
12 not just based on the limited record that EG&G has seen at
13 that time, because I think otherwise we're going to get
14 into the position of litigating and relitigating.

15 We'll be doing it with our eyes closed also.
16 We'll be doing it with our eyes closed to things that
17 Staff already knows, and we can't assure ourselves of that
18 with respect to things Staff doesn't know.

19 MR. TREBY: Well, with regard -- I guess
20 I have some problems with this concept of limited record
21 that EG&G has.

22 EG&G, as I understand it, has a complete
23 record of everything that the Board has and the other
24 parties have on the subject of intimidation. I have no
25 way of assuring the Board that after the Staff completes its

21-4
1 testimony, there will not be another allegation by someone
2 or other that they have been intimidated, or that there won't
3 be some other information brought forward.

4 But at some point you have to say, "We're
5 going to make a decision based on information we have to that
6 point."

7 JUDGE GROSSMAN: I'm not sure we have any
8 controversy here. It seems to me as though Intervenor has
9 indicated that at some point in time that expert report
10 will be entered in the record, and that Intervenor merely
11 wants sufficient time to discover on that document and
12 prepare its further testimony or to rebut what is in the
13 report, if that's necessary.

14 And so it seems to me as though as a
15 practical matter, there isn't any disagreement here, unless
16 the Staff is saying that Intervenor can't have adequate
17 time to discover the document -- on the document; and I don't
18 believe that is Staff's position.

19 MR. TREBY: The Staff has no position as
20 to the timing of discovery or the taking of evidence, other
21 than it should be in accordance with -- you know -- due
22 consideration to all of the parties' positions and concerns.

23 JUDGE GROSSMAN: All I want to do is find out
24 if there's any disagreement that we have to rule on. If
25 there's agreement, we'll rule on that, but if there's any

21-5

1 disagreement.

2 MR. TREBY: I guess the one thing that I
3 should indicate fully for the record is that I'm not sure
4 exactly what are the Intervenor's discovery requests.

5 I'm not prepared at this point to waive
6 all objections to discovery requests. There are certain
7 regulations --

8 JUDGE BLOCH: That's not at stake.

9 MR. TREBY: All right.

10 MR. ROISMAN: Judge Grossman, I think there
11 are several points of disagreement.

12 Number one, I believe in the colloquy that
13 you and the Chairman were having on this issue, that we're
14 not dealing here with an issue as Mr. Downey incorrectly
15 characterizes it.

16 But the Intervenor is saying, "Something
17 always could change."

18 We're dealing here with a known fact. We
19 know that the Office of Investigations is investigating --
20 and, in fact, has investigated some harassment and
21 intimidation and continues to do so.

22 We do not know what the conclusion is. We
23 cannot play this play without at least acknowledging that
24 they are one of the actors in it.

25 They're gathering information pursuant to an

1 obligation imposed upon them under an act of Congress. That
2 data must be part of this record.

3 Now, the Chairman has issued an order which
4 attempts to develop a mechanism by which we can do that, but
5 we don't even know the answer to the question, "Are all the
6 OI investigations related to this matter closed?"

7 So we know, as the Appeal Board knew in the
8 Byrum case, that there's something else coming. It's not
9 that we can contemplate that there might be. We know.

10 Similarly, we know that Mr. Ippolito is
11 doing an investigation; and I still have not heard Staff
12 state on the record that this document represents the sum
13 total of Mr. Ippolito's investigations into harassment and
14 intimidation.

15 But on top of that, I believe the document
16 shows on its face and the position of Applicant and Staff
17 have been fairly consistent that the substantive concerns
18 where the QC harassment and intimidation is alleged are
19 a part of the whole picture.

20 And the picture that I believe this Board is
21 on record as stating is that we cannot close this record
22 until we see the final part of the Ippolito report.

23 So, number two, I'm not there again dealing
24 with a "What if we found a new allegation of harassment/
25 intimidation," as Mr. Treby suggested.

1 I'm dealing with the real world of
2 investigations.

3 JUDGE GROSSMAN: Let me ask you something. Do
4 you, nevertheless, seek discovery of this document -- whether
5 or not it is a final position --

6 MR. ROISMAN: Yes. I indicated that we would
7 go ahead with discovery on this document and that, in fact,
8 we had already started out by a Freedom of Information
9 Act request a couple of days ago; and we're willing to
10 proceed apace with that.

11 The concern is: When do we open a hearing
12 session in which this document and the remaining Staff
13 documents that are relevant to this issue are going to be
14 the subject of the hearing?

15 JUDGE GROSSMAN: Does Staff take the position
16 that we should at this moment admit the documents? Are you
17 insisting on that, or is that --

18 MR. TREBY: No, no. The Staff's motion was
19 permission to have it received as late filed prefiled
20 testimony.

21 JUDGE BLOCH: The Board rules that the Staff's
22 motion is granted because it has shown good cause for late
23 filing.

24 What we will not do at this time is to schedule
25 the testimony because we may want more assurances as to the

1 completeness of the Staff's conclusions before we schedule
2 the testimony.

3 JUDGE GROSSMAN: And I will say for the record
4 that I dissent from that particular ruling.

5 I would reserve a ruling on whether to
6 admit that document at this point, and I would allow
7 discovery to go ahead, and then appropriate objections could
8 be made on the basis of the discovery.

9 So I would not join with the Board on that
10 particular ruling.

11 JUDGE BLOCH: Mr. Roisman, your position was,
12 I thought, that it's appropriate to admit the document?

13 MR. ROISMAN: I think what my position was
14 is that the Staff's motion to make it prefiled testimony,
15 which is not -- I admit -- as a certain connotation to it
16 that I'm not prepared to say, "Yes, it will be admitted,"
17 but -- first of all, because I'm not sure that Mr. Treby
18 today can honestly represent that every one of the witnesses
19 who we believe would have to be called to sponsor the
20 document will, in fact, be produced.

21 The Staff has again a separate group of
22 rules that governs it, and/or that all of the discovery that
23 we would want relevant to it would be allowed, again because
24 of the special set of rules. Both of those things would
25 impact on whether I would allow it -- or would oppose or

21-9

1 support it being admitted into evidence.

2 To have it called prefiled testimony at
3 this time is not a concern that we have. As you phrased
4 what your ruling was, we would not oppose that.

5 But I do want to be very clear that the
6 kind of answer that Mr. Treby brings back to the question
7 that you're asking him to bring back can make a great deal
8 of difference as to what the position of CASE is.

9 If Mr. Treby comes back and says, "We have
10 made a management decision that we're going to call this our
11 final position," but in reality there's a lot of other
12 relevant information that's still to be developed, and they
13 just decided that managementwise they're going to call it a
14 final position, we would oppose. We would say no.

15 You are bound under Byron to make sure that
16 the record stays open to receive the remaining relevant
17 information.

18 So I think it's not just a matter of Mr.
19 Treby going back and talking to Mr. Cunningham; it's a matter
20 of finding out more precisely what it is that OI is still
21 doing; what it is that Mr. Ippolito is still doing; what it
22 is that OAI -- if they are -- are still doing; what it is
23 that Region IV is doing; and when the Staff is going to
24 complete investigations that it has already launched and
25 announced that it is going to be doing that bear on -- as

1 we define -- the relevant issues with regard to harassment
2 and intimidation.

3 Now, the Staff may -- after giving that
4 information -- say, "We don't think we should have to wait
5 for it." But if his answer doesn't give us the answer to
6 those questions, then it's not a satisfactory answer.

7 I will not accept his conclusionary determina-
8 tion, "We're calling it a Staff final position; you're
9 stuck with it."

10 JUDGE BLOCH: Okay. But now you're arguing
11 the scheduling of the hearing which we have not ruled
12 on.

13 MR. ROISMAN: No -- But I wanted to be
14 clear on the record, so that we didn't end up in a conference
15 call or something else in which Mr. Treby makes a representa-
16 tion with a lot of missing information, and we don't know
17 what it is.

18 I want to state now what I think it is he
19 must bring to the Board for that purpose. That's all.

20 JUDGE BLOCH: Just one moment, please.

21 (Pause.)

22 JUDGE BLOCH: We've had repetitious argument
23 by all of the parties -- maybe more than once.

24 Is there anything that's new that must be
25 said before we recess for dinner?

1 MR. DOWNEY: Your Honor, I have just two or
2 three points that I'd like to add that I don't believe are
3 repetitious.

4 First, I believe that there has been some
5 confusion in the argument to the Board on the difference
6 between a Staff position and the testimony of six experts
7 who've studied the record developed in this litigation.

8 What I --

9 JUDGE BLOCH: Wait a second. We've already
10 ruled.

11 You don't seem to be moving for reconsidera-
12 tion.

13 MR. DOWNEY: No. I want to state a position
14 and I want to -- because I think there is something very
15 significant that was presented to the Board that I want to
16 address, because it concerns me in a very fundamental
17 way.

18 That is, the argument that we have now heard
19 for the third time that I recall in public session from the
20 Intervenor that we must wait -- the Board must wait, the
21 Staff must wait -- until every single allegation of
22 intimidation ever raised by anybody is investigated by OI;
23 some final report is issued; and that information is
24 digested by the parties.

25 JUDGE BLOCH: We have never ruled to that

21-12 1 effect.

2 MR. DOWNEY: I understand that. But I want
3 to make clear that I think that our position is definitely
4 against that.

5 The question is pervasive climate here. And
6 to do that would allow the Intervenor to one at a time,
7 month after month, put the witnesses to the Office of
8 Investigation and never bring them before this tribunal in
9 this proceeding and delay the licensing of this plant.

10 I think that's fundamentally unfair. And the
11 way that I have heard the arguments advanced by Intervenor
12 suggests to me that that is at least the legal position of
13 the Intervenor.

14 I'm not suggesting -- I don't think we have
15 evidence, we have not taken any discovery to see if that
16 in fact is occurring -- but that the legal position is
17 consistent with that analysis; and that's very troubling to
18 me.

19 JUDGE BLOCH: The Staff, of course, must
20 continue to consider all complaints up to the time they
21 issue the license, but that is not the role of the Licensing
22 Board.

23 It does not mean -- And I don't think the
24 Intervenor argued that, frankly.

25 I think the Intervenor argued that it just

21-13

1 wants to get a final Staff position on the matters that it
2 already has knowledge of.

3 MR. ROISMAN: That is correct.

4 JUDGE BLOCH: And that was the Board's
5 position.

6 Mr. Roisman, please don't repeat it, unless
7 you have --

8 MR. ROISMAN: No, no, no, I'm not going to
9 repeat it.

10 I just want to make clear that if there are
11 people who are making allegations that are going to OI,
12 they're not going there with CASE, nor am I taking them
13 there.

14 MR. DOWNEY: Ms. Garde has represented before
15 this Board that she is arranging the appointments for Mr.
16 Ippolito --

17 JUDGE BLOCH: I don't see the relevance of
18 this at all.

19 MR. ROISMAN: There's some aspersion cast
20 there.

21 Ms. Garde is --

22 JUDGE BLOCH: There's no aspersion on anyone
23 sending people who know things about a nuclear plant to the
24 NRC.

25 MR. ROISMAN: No, but the Applicant is implying

21-14

1 that somehow or another it's a trial strategy. Ms. Garde
2 and I have had extensive discussions about establishing a
3 separation of relationships. She is an employee of the
4 Government Accountability Project.

5 When she carries out those functions, she
6 does not carry them out under my direction, supervision or
7 at my behest, or on behalf of CASE.

8 She carries them out while wearing a different
9 hat. I'm sure that the Applicants can understand that, having
10 a number of clients of their own.

11 JUDGE BLOCH: We'll recess until ten minutes
12 after 7:00 -- I'm sorry. Mr. Watkins.

13 MR. WATKINS: On a less dramatic note, we
14 have the purchase orders, O. B. Cannon - Texas Utilities
15 Generating Company.

16 One is five pages dated August 1, '83. The
17 second is a supplement dated June 25, 1984.

18 JUDGE BLOCH: The Board does want to see that,
19 but I bet the other parties do, too.

20 MR. WATKINS: We have copies for them.

21 JUDGE BLOCH: Now we're really in recess.

22 (Whereupon, at 5:55 p.m. the hearing was
23 recessed, to reconvene at 7:15 p.m. of the same day.)
24
25

EVENING SESSION

7:15 P.M.

1
2
3 JUDGE BLOCH: The hearing will come to
4 order.

5 Mr. Duncan, would you resume the
6 stand, please. I want to thank you for recommending
7 the mushroom cheeseburger.

8 You continue to be sworn.

9 MR. WATKINS: Your Honor, subject to
10 objection, Mr. Duncan would like to have the opportunity
11 to address a misstatement on his part, both in his
12 pre-filed testimony and we believe last night.

13 MR. ROISMAN: I certainly have no
14 problem with that. Do you want it to be done now?

15 MR. WATKINS: Yes.

16 Whereupon,

17 ROBERT DUNCAN

18 was recalled as a witness and, having been previously
19 duly sworn to testify the truth, the whole truth and
20 nothing but the truth, testified further on his oath
21 as follows:

22 THE WITNESS: I stated I believe last
23 night that the 170 hours PT time was toward your Level
24 2, and I was totally wrong. Your 170 hours are toward
25 your Level 1. When you get those you are allowed to take

2/2
1 the test. If you pass it, you work sixty days in that
2 discipline and that qualifies you for Level 2.

3 DIRECT EXAMINATION

4 BY MR. WATKINS:

5 Q Mr. Duncan, when did you learn of your
6 misstatement?

7 A Right after I went off the stand.

8 Q Does it in any way affect your testimony
9 as to the events of January 17, 1984?

10 A No, I just wanted to clarify it.

11 JUDGE BLOCH: We appreciate that.

12 THE WITNESS: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. ROISMAN:

15 Q Mr. Duncan, I would like to ask you just
16 a couple of questions about that, because I remember
17 there was some other discussion on that subject last
18 evening.19 Q Once you've had 175 hours, what are the
20 steps that you have to go through to be certified as a
21 Level 1?

22 A You have to take a three-part test.

23 Q To be a Level 1 or to be a Level 2?

24 A To be a Level 1.

25 Q And then there's yet another test that

1 you have to take to become a Level 2?

2 A No, sir, you just work in that discipline.

3 In other words, you still have to go with a Level 2 for
4 sixty days and work in that discipline, and after the
5 sixty days they certify you Level 2.

6 Q Okay. Wait. I'm not clear. Let's just
7 take the steps. The first thing you have to do is get
8 the 175 hours.

9 A The first thing you do is take ten hours
10 of classroom training.

11 Q Okay.

12 A Then you gather your 175 hours.

13 Q Okay.

14 A Then you test.

15 Q Okay.

16 A Pass your test. Work sixty days --

17 Q Wait. After you pass a test, do you get
18 a certification at that point?

19 A Yes, sir, Level 1.

20 Q Okay. All right. Then what happens?

21 A You work in the discipline under the
22 guidance of a Level 2 for sixty days, and you are
23 certified Level 2.

24 Q And those sixty days, that doesn't require
25 a certain number of actual hours doing the PT examination;

22/4

1 is that right?

2 A No, sir, it's just working in the
3 discipline under supervision under Level 2.

4 MR. ROISMAN: Okay. Thank you.

5 JUDGE BLOCH: To be clear, did you
6 continue working under direct supervision of Level 2
7 during those sixty days?

8 THE WITNESS: Yes, sir.

9 BY MR. ROISMAN:

10 Q Mr. Duncan, do you still have in front of
11 you the, I don't know if you had them for your own last
12 night or not, the call board sheets for the 17th of
13 January 1984?

14 A No, sir, I didn't.

15 Q I'd just like to show this to the witness.

16 (Document handed to witness.)

17 Do you remember last evening that you
18 testified regarding this first line of the document
19 that's dated 1/17/84 that's the call board sheet.

20 Well, first, do you remember that's what
21 you testified about?

22 A Yes, sir, I remember looking at this last
23 night.

24 Q All right. And this is the same document
25 that you looked at last night?

2/5 1 A Yes, sir.

2 Q Okay. Under the "Remarks" column do you
3 remember seeing when that statement was written on
4 there?

5 A No, sir.

6 JUDGE BLOCH: Mr. Roisman, will the
7 record be clear as to what exhibit the witness was
8 looking at just now?

9 MR. ROISMAN: Well, the exhibit is not
10 numbered, but I believe it's got a exhibit number with
11 the top line obscured due a xeroxing problem in another
12 deposition, but I don't have that copy.

13 MR. WATKINS: It's Exhibit 10 to Mr.
14 Simpson's testimony.

15 MR. ROISMAN: Thank you, Mr. Watkins.

16 MR. WATKINS: Could you quote the entry
17 to which you are referring?

18 MR. ROISMAN: Yes, sure. The entry under
19 the "Remarks" column says, or appears to say, "Waiting
20 on closure of NCR."

21 BY MR. ROISMAN:

22 Q Mr. Duncan, do you still have a copy of
23 the note that you and Mr. Stanford signed on 1/26/84?

24 A Yes, sir.

25 Q Okay. And I'd like to direct your

2/6
1 attention to the last two lines on the first page of
2 the note where it refers to "Upon further questioning
3 Mr. Stanford...."; remember that?

4 A I see it, yes, sir.

5 Q And I believe last night that your
6 testimony was that you had understood that that referred
7 to upon further questioning by Mr. Sievers, do I
8 remember your testimony correctly on that?

9 A I believe Mr. Sievers was involved.

10 Q Well, I guess maybe I should just ask
11 the question again so that we've got it clear. Who did
12 you understand was the person who was doing the
13 questioning that's referred to on the bottom of that
14 first page?

15 A Bob Sievers, and I believe it might have
16 been Ted Blixt.

17 JUDGE BLOCH: That name was B-l-i-x-t?

18 THE WITNESS: I'm not sure how he spells
19 it, Your Honor.

20 MR. ROISMAN: There is a Ted B-l-i-x-t
21 who is involved with this incident, so I think that's
22 a fair assumption.

23 JUDGE BLOCH: I don't know how the
24 reporter should spell it. Spell it the way he said it.

25 MR. ROISMAN: B-l-i-x-t is how Mr. Blixt

22/7
1 spells it.

2 MR. WATKINS: If I could just ask the
3 witness one question and make sure it's the right
4 person.

5 Is the individual to whom you are
6 referring, does he have an office next to Mr. Sievers?

7 THE WITNESS: Yes, he does.

8 BY MR. ROISMAN:

9 Q And the basis for your belief that that
10 is a correct statement at the bottom of Page 1 and the
11 top of Page 2, what is that basis?

12 A (Pause.) Just assumption.

13 Q When you first saw this document, the
14 two-page memorandum that's signed by you and Mr.
15 Stanford, did you just read it over and sign it, or
16 did you have a conversation about it?

17 JUDGE BLOCH: Well, first, did you read
18 it over?

19 THE WITNESS: Yes, Your Honor.

20 BY MR. ROISMAN:

21 Q And then did you sign it, or did you
22 ask questions or have a conversation about it?

23 A I don't believe there was much of a
24 conversation.

25 Q Mr. Duncan, I'm going to show you a

2/8
1 document, which it is my understanding based upon what
2 we're told by the Applicant it's the original document
3 with regard to the weld 40-C, and I want you to take a
4 look through here and see if you can tell me whether
5 it is in fact a complete copy of the documentation
6 with regard to Weld 40-C.

7 MR. WATKINS: If he knows.

8 JUDGE BLOCH: Why don't we leave the
9 witness alone while he does this, and come look over
10 his shoulder after he's finished.

11 MR. WATKINS: Thank you, Mr. Chairman.

12 JUDGE BLOCH: Take whatever time you need.

13 (Witness perusing document.)

14 MR. WATKINS: Mr. Chairman.

15 JUDGE BLOCH: Yes, sir.

16 MR. WATKINS: I'm going to object to the
17 question. As I understand it the question is: Is this
18 a complete package of documents. There is no indication
19 that Mr. Duncan is responsible for these documents once
20 they have left the field, once an inspection is
21 performed.

22 These are vault documents, and
23 there's no indication --

24 JUDGE BLOCH: Well, are they slightly
25 different?

2/9
1 MR. ROISMAN: Mr. Watkins, are you
2 willing to stipulate that this a complete package of
3 the documents that are in the vault with regard to
4 40-C.

5 MR. WATKINS: I'm willing to stipulate
6 that I asked for the complete package of documents
7 from the vault and that was what was given to me, so
8 yes.

9 MR. ROISMAN: All right. That's good
10 enough. Then I can withdraw the question.

11 JUDGE BLOCH: You could. It would be
12 interesting to know if he knows if there's anything
13 missing from the package.

14 MR. WATKINS: Well, perhaps some voir
15 dire, because it's not at all clear that he's ever
16 seen all of these documents.

17 JUDGE BLOCH: Well, if he hasn't seen it,
18 he can't tell us that he knows that something's missing,
19 but he has seen some parts of this at some point. He
20 might know if something is missing.

21 THE WITNESS: According to Attachment 1,
22 the cover sheet, everything appears, everything that's
23 listed here is with the document.

24 JUDGE BLOCH: Okay. So there is nothing
25 that you saw in that package at one point which is not

2/10

1 there, to the best of your recollection?

2 MR. WATKINS: No, that wasn't his
3 testimony.

4 What is the first page, Mr. Duncan,
5 of that package?

6 THE WITNESS: Attachment 1, the cover
7 sheet.

8 JUDGE BLOCH: Well, anyone could look at
9 the cover sheet and compare. The question is -- Well,
10 first of all, did you ever see this package or any
11 part of it?

12 THE WITNESS: I have seen part of it.

13 JUDGE BLOCH: Okay. Now just looking
14 at it, you may have difficulty remembering, is there
15 anything that you once saw that is not in there?

16 THE WITNESS: No, sir, there's not.

17 JUDGE BLOCH: Okay. Sometimes it's pretty
18 simple what we're asking.

19 BY MR. ROISMAN:

20 Q Mr. Duncan, I'd like to direct your
21 attention to the next to the last page, which is the
22 front of the last sheet of this pile, and could you
23 please describe for the record just in a general way,
24 what is this document that's in front of you?

25 A It's a Weld Data Card for field Weld

2/11 1 40-C.

2 Q And as best you can tell are the
3 signatures and marks that are on there original; does
4 this look like the original document to you?

5 MR. WATKINS: We will stipulate that it
6 is the original.

7 BY MR. ROISMAN:

8 Q All right. Now, Mr. Duncan, you
9 testified regarding the events that took place on the
10 17th while you were performing a PT test and Jack
11 Stanford was filling out a card. Is this the card
12 that Mr. Stanford was filling out?

13 A It's got Jack's signature on it. I
14 assume it's the one he was filling out. I'm sure
15 there's not two Weld Data Cards for field Weld 40-C.

16 Q Well, is it clear that he was filling
17 out any Weld Data Card at that time? On the basis of
18 your personal knowledge, do you know that he in fact
19 was filling out a Weld Data Card at that time?

20 A I believe I testified that I didn't
21 actually see it. I probably saw it close enough
22 maybe to tell it was a Weld Data Card, because it
23 doesn't have this cover sheet.

24 It's put together backwards. This is
25 usually your front sheet (indicating). They send it to

2/12 1 you in the field. This will be behind it. (Indicating)

2 Q Wait. When you say "this" and "this" the
3 record will not pick that up.

4 A Okay.

5 Q Maybe the document has some designation
6 on the top and you can refer to that. What is now on
7 the top when it's in the field, usually?

8 A The Weld Data Card is the last document.

9 Q Okay. And then what is directly under
10 that you were saying?

11 A You have your various RT reports, PT
12 reports, and the first page would be your last. This
13 is your weld filler material log for which you draw
14 rods on.

15 Q Okay. Now I want to make sure that we
16 understand your testimony. Are you testifying that
17 you do or do not know of your own personal knowledge
18 whether the document that Jack Stanford was signing
19 while you were up on the scaffold is in fact the
20 document that's there in front of you now called Weld
21 Data Card?

22 A I would be reasonably sure, yes, sir.
23 Like I say, there's not two Weld Data Cards for two
24 field Weld 40-Cs.

25 ///

23-1
e
1 BY MR. ROISMAN:

2 Q It's not possible that he was working
3 with a Xerox copy of the weld data card and then was
4 going to go back to his office and fill out the
5 original?

6 A No, I would highly doubt that.

7 Q Would that have been an improper
8 procedure if he were to have done that?

9 A Documenting his inspection?

10 Q First on a carbon or a Xerox copy of
11 the weld data card and then entering it on the real
12 weld data card back in his office at a later time.

13 A The inspection would never have been
14 performed. We wouldn't even have been down, Jack or
15 I, nobody would have been down on a Xerox copy of a
16 weld data card to do an inspection.

17 Q Okay. So the basis for your confidence
18 that he must have had that is that to have done
19 otherwise, he would have been down there with an
20 inadequate document and he would not have done the
21 inspection; is that correct?

22 A If they presented him with this, he
23 wouldn't even have been down there.

24 Q By "this," you mean if they presented him
25 a Xerox copy --

1 A A Xerox copy.

2 Q -- of that weld data card?

3 A Yes, sir.

4 Q Now, with respect to that document, did
5 you see Jack signing the document? Did you actually
6 physically see him penning his signature on it?

7 A No, sir, I can't say that I actually
8 saw Jack sign it, put his signature on this.

9 Q Did you actually see him cross out the
10 14th and write in the 17th?

11 A No, sir, not physically see him. No.

12 Q Did he say something to you that
13 indicated that he was actually the crossing out the
14 14th and writing in the 17th?

15 A Yes, sir. As I have said it before, I
16 heard him cuss, remark.

17 Q Cuss and remark that there was a wrong
18 date on there; is that correct?

19 A He implied that he wrote the wrong
20 date. He said, "Oh...today is not the 14th, is it?"

21 Q But -- I'm sorry. Go ahead.

22 A The whole incident is, "No, it's not the
23 14th, Jack. It's the 17th."

24 I heard him remark, saying, "Well, I
25 wrote the wrong date. I've got to change it."

3-3 1 I said, "Yeah, you do, Jack."

2 That's about the extent of it.

3 Q So when he said, "I've got to change
4 it," did you imply by that that that meant that he
5 had to do something to change the date at that
6 moment?

7 A I meant to imply that if he did write
8 the 14th, it was indeed the 17th, that he would have
9 to change it, yes, sir.

10 Q Would it have been possible, given what
11 you heard, and remembering it as best you can, that
12 the 14th had already been changed to the 17th, and he
13 was merely commenting on the fact that the 14th had
14 been written in error by him at some time and that
15 it needed to be the 17th, not that he was going to
16 physically do that?

17 A No, I can't say what was there. As I
18 said, I didn't see the document.

19 Q Well, I guess I'm trying to -- You
20 have testified based upon what you remember that he
21 said, and then using that, indicating to us what it
22 is that you believe that he did.

23 I'm trying to pin down whether you
24 feel that he told you something that formed a basis
25 for your belief that it was at the time that you were

3-4
1 there that he changed the date from the 14th to the
2 17th.

3 A What I believe happened is that
4 Mr. Stanford in signing this off SAT, putting his
5 signature, he looked up here at fit-up and preheat,
6 which was bought off on the 14th. He entered the
7 14th on final VT and PT.

8 That's when he made the remark about the
9 wrong date. He changed the date, initialed it and
10 dated it.

11 Q And did that all happen during the
12 time that you were completing the PT examination, the
13 final PT examination on Weld 40-C?

14 A As I was cleaning up the PT, yes, sir.

15 Q Okay. Now, you just said that that was
16 your belief. Now what I want you to do is to tell me
17 what things you heard or saw that formed the basis
18 for your belief that that's what happened --

19 MR. WATKINS: Objection. The witness
20 has testified --

21 MR. ROISEMAN: Can I finish the question?

22 BY MR. ROISEMAN:

23 Q -- rather than that what happened was
24 that the 14th had been written at some earlier time,
25 crossed off at some earlier time, and the 17th had

3-5 1 already been written down on there before Jack looked
2 at the card?

3 JUDGE BLOCH: Before you answer, would
4 you look at the document and examine it before you
5 answer?

6 MR. WATKINS: I'll repeat the objection,
7 Your Honor.

8 The witness has testified as to what
9 happened --

10 JUDGE BLOCH: I think the question
11 might be allowed on cross-examination. I just looked
12 at the document and I think there's a basis for it.

13 MR. WATKINS: Could we know that basis?

14 JUDGE BLOCH: No. After the witness has
15 testified and after Mr. Roisman is done with his
16 questions.

17 THE WITNESS: Mr. Roisman, could you
18 repeat the question?

19 MR. ROISMAN: Yes.

20 BY MR. ROISMAN:

21 Q I am asking you -- I am suggesting to you
22 two possible events.

23 A Okay, I understand that.

24 Q All right. One possible event is that
25 the 14th had been written at a date or at a time

3-6
1 before Jack had the weld data card in his hand at the
2 weld while you were cleaning up the PT, and that the
3 14th had been crossed off at an earlier time and the
4 17th written in at an earlier time.

5 That's one possibility.

6 A Okay.

7 Q The other possibility is that the 14th
8 was written at the time that you were up finishing
9 the PT.

10 It was crossed off at the time that you
11 were up finishing the PT, and the 17th was written
12 in at the time that you were up finishing off the PT.

13 I am asking you to tell me in what
14 you knew of your own personal knowledge, either what
15 you saw or what you heard at that time, what is your
16 basis for believing that it was one of those rather
17 than the other?

18 A I believe I would have to say later I
19 found out -- or are you talking about at the time?

20 Q That's right. I just want you to focus
21 on at that time, while you were up on the scaffolding.

22 A I guess just the fact that I personally
23 don't think that Jack would do anything like that.

24 Q I'm sorry, do anything like what?

25 A Change a date that was dated the 14th

3-7 1 and change it on the 17th.

2 JUDGE BLOCH: I don't think that was
3 the question, was it, Mr. Roisman?

4 MR. ROISMAN: No.

5 BY MR. ROISMAN:

6 Q I wasn't trying to bring in whether he
7 might have written the 14th down on there three minutes
8 before you got to the weld site or three days before
9 you got to the weld site; just that to consider the
10 option that he didn't do it while you were up
11 completing the PT examination, but that he did it at
12 some time before that, as compared to doing it right
13 while you were up there doing the PT.

14 A What makes me believe that?

15 Q What's your basis in what you heard or
16 saw?

17 A I guess just to trust Jack. I assumed
18 he was down there signing off, what he said he was
19 going down to do.

20 He made the exclamation and I just
21 assumed -- I believe that's what happened.

22 Q Not because of the words, but because of
23 the man?

24 A Because of both.

25 Q Okay. What were the -- what part of the

3-8 1 words or which words was it that made you feel that it
2 was at that time that he had signed the 14th and it
3 was at that time that he had crossed off the 14th,
4 and it was at that time that he wrote the 17th?

5 MR. WATKINS: Objection. The witness
6 can only testify as to the words he heard so many
7 times and he has already --

8 MR. ROISMAN: I'm asking him to tell me
9 which of the words convinced him that it was at
10 that time.

11 JUDGE BLOCH: Is it possible to ask
12 him by more specific reference to the document at this
13 point?

14 MR. ROISMAN: Sure.

15 BY MR. ROISMAN:

16 Q Mr. Duncan, I would like you to focus
17 on Line 5 and Line 6 of the weld data card that's in
18 front of you, and I want you to tell me just on the
19 basis of your own observation, do you notice any
20 difference between the mark that crosses off the 14th
21 and writes the 17th, the pen line, and the signature
22 line where Jack Stanford's name is signed on 5 and 6.

23 Is there anything about that that looks
24 different to you?

25 A Yes, sir.

3-9 1 MR. WATKINS: Your Honor, I'm going to
2 object to this line of questions.

3 JUDGE BLOCH: What's the objection here?
4 Don't tell the witness what to say, though.

5 MR. WATKINS: We are getting into a
6 highly technical area and there is another way to
7 prove this. I'm not sure the witness is qualified to
8 look at the weld data card and know.

9 JUDGE BLOCH: He already said, "Yes."

10 MR. ROISMAN: I'm not offering him as an
11 expert. I want his opinion --

12 JUDGE BLOCH: He asked him if there
13 was any reason to think that they were in different
14 hands, and I think he said, "Yes."

15 MR. WATKINS: In different hands?

16 JUDGE BLOCH: I don't --

17 MR. WATKINS: Different pens.

18 JUDGE BLOCH: You said "pens"?

19 MR. ROISMAN: No, I said "mark." I said,
20 "Did it look like a different mark?"

21 JUDGE BLOCH: Well, I would like to
22 call his attention to the apparent difference in the
23 way the seven is made.

24 Do you notice that the seven that is
25 written above the seventeen -- above the fourteen,

1 seems to be different than the seven on the line with
2 the initials?

3 MR. WATKINS: Your Honor, I believe
4 that the Chairman and Mr. Roisman, all Counsel, are
5 just as qualified to notice that as the witness, and
6 his saying so isn't going to make it any more meaningful.

7 JUDGE BLOCH: He is then going to be
8 asked a followup question about the meaning he attaches
9 to the words that he heard.

10 He has said that the words he heard
11 indicated that there was a date entered at that time
12 and then crossed off.

13 MR. WATKINS: That's correct, and he
14 did not see the weld data card at that time. If you
15 want to ask him what was it about the words that he
16 heard that made him believe what he believes, then
17 that's fine.

18 MR. ROISMAN: You just said I couldn't
19 do that, Mr. Watkins.

20 JUDGE BLOCH: I guess I would be
21 prepared to conclude that unless there's something
22 special about the words that he heard, there's no
23 way he could differentiate between the two scenarios
24 that Mr. Roisman is talking about.

25 From the words he has testified about,

3-11 ✓
1 I don't see any way that he could differentiate between
2 there having been a crossed-out number with a number
3 written above when Mr. Stanford saw the card and then
4 he wrote on a second line his initials and the date.

5 MR. WATKINS: That's right, and this
6 witness has testified three or four times about what
7 he heard.

8 If that's the point, it's an obvious
9 one, and it's already established.

10 JUDGE BLOCH: Okay. You don't need to
11 go through that with this witness any longer.

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he
1 BY MR. ROISMAN:

2 Q Mr. Duncan, I think I'll just leave
3 that in front of you, but I'm not going to ask you
4 specific questions about that.

5 You indicated that you thought that --

6 JUDGE BLOCH: Are we going to get this,
7 a copy of that document in the record or do we have
8 it already?

9 MR. WATKINS: There are numerous copies
10 of this.

11 MR. ROISMAN: Well, we do have a copy
12 of the weld data card. We had asked for the original
13 because it seemed important to us that it not merely
14 appear that the line was Xeroxed darker but that
15 there be an observation that it would appear to the
16 naked eye of a lay person like the Board or us that
17 it was actually a different pen.

18 Now, what I'm not clear about is how
19 he actually made that a part of the record because
20 that is unique to the original.

21 The Xerox shows some darkness but the
22 Xerox doesn't have the kind of resolution that would
23 guarantee that the darkness wasn't some anomaly on
24 the Xerox machine.

25 JUDGE BLOCH: We can arrange for the

24-2 1 parties somehow to stipulate to the accuracy of a
2 photo image of that. We did that quite well with
3 Mr. Steiner's book. That's one way to do it. Or
4 we could receive the original in evidence and also
5 have copies.

6 And can the parties discuss that after-
7 wards and decide? At the present time I take it
8 all we have is the Xerox copies.

9 MR. ROISMAN: You have Xerox copies.

10 MR. WATKINS: There is only one original.

11 MR. ROISMAN: And I do think that --

12 JUDGE BLOCH: The other way to do it
13 is to stipulate that it appears that they are in
14 different pens.

15 MR. WATKINS: No chance, Your Honor.

16 BY MR. ROISMAN:

17 Q Mr. Duncan, you testified just a moment
18 ago that you couldn't believe -- I think, you correct
19 me if I summarize incorrectly, but that you just
20 couldn't believe that Jack would do such a thing.

21 A Yes, sir, I did.

22 Q Okay. Let me ask you this. If --

23 JUDGE BLOCH: Do you think there's
24 still a point to this?

25 MR. ROISMAN: Yeah, I want to ask him --

1 JUDGE BLOCH: Okay.

2 BY MR. ROISMAN:

3 Q If -- just imagine this following
4 scenario. If Jack had signed his signature and the
5 SAT, and put the 1-14-84 date on that document on
6 the 14th by mistake, he had started signing off the
7 earlier hold points and had inadvertently signed off
8 the rest of it, and someone else with Jack's complete
9 knowledge at an earlier time had pointed out to him,
10 Jack, you couldn't have signed off for these
11 inspections Saturday because you didn't do them
12 Saturday, and Jack had said, you're right, and the
13 person had said, here, I'll cross it off for you,
14 when you do the final inspedtion make sure you make
15 some notation.

16 Jack shows up at the weld that day,
17 his memory of that event is jogged by looking at the
18 document and he indicates, signed in error, with an
19 asterisk by the 17th date and puts the weld data card
20 into the file.

21 Would he have done anything improper
22 in that case?

23 A. That would just be speculation on my
24 part.

25 Q Well, I mean, is it improper for an

24-4

1 inspector to acknowledge that he made a mistake and
2 signed a card in error, to change the date to
3 correct that, to asterisk and say signed in error
4 and put a signature or his initials to indicate that
5 he acknowledges that he signed in error?

6 A It would be proper procedure if you
7 put the wrong date, cross it out, initial it, date
8 it and enter the right date.

9 Q Okay. Mr. Duncan, on the 16th were
10 you and Mr. Stanford in the field doing the final
11 PT on Weld 39C and 34A?

12 Incidentally, it's not a trick question.
13 I think that's what you said in your testimony.

14 A Yes, sir. That's right.

15 Q Okay. And do you remember, is it
16 possible -- strike the possible -- do you remember
17 if you had in the field at the time that you were
18 signing off on those two welds the weld data card
19 for Weld 40C?

20 A Do I remember if I was signing it off?

21 Q No. Do you remember whether the
22 documentation was with you at the site of Welds 34A
23 and 39C when you also had with you at that time the
24 weld data card for Weld 40C on the 16th.

25 A If the weld data card and the proper

24-5

1 paperwork hadn't been there we would not have been
2 doing the inspections.

3 Q No, I'm sorry, I'm talking now about
4 the weld that you didn't expect on the 16th, Weld 40C,
5 and I'm asking you did you have the weld data card
6 for Weld 40C with you at the weld site while you were
7 doing your inspection for Welds 34A and 39C?

8 A I didn't have them, no, sir.

9 Q Did you notice whether Mr. Stanford
10 might have had them -- did have them?

11 A No, sir, I didn't notice.

12 MR. ROISMAN: Just one moment,
13 Mr. Chairman.

14 BY MR. ROISMAN:

15 Q Mr. Duncan, the notation that appears
16 on the call board for 1-17-84 that says waiting on
17 closure of NCR.

18 Did you know -- strike that.

19 Do you know what that means?

20 A Yes, sir, I know what waiting for
21 closure of an NCR is.

22 Q What does that mean? What has to
23 happen?

24 A Several things could have to happen
25 before. The disposition of the NCR probably stated

24-6 1 something that so and so had to happen before to close
2 this NCR.

3 Q And how do you as an inspector know
4 that closure has been completed? What is the
5 mechanism by which you are made aware of that?

6 A DCA's, dispo's to the NCR.

7 JUDGE BLOCH: Do you know how you would
8 find out whether the NCR was closed?

9 THE WITNESS: Yes, sir.

10 BY MR. ROISMAN:

11 Q I'm going to ask you to once again look
12 at this document which it has now been stipulated is
13 the response that Mr. Watkins received to his question,
14 please give me the original of the paperwork on
15 Weld 40C from the vault.

16 JUDGE BLOCH: I thought, Counselor, that
17 you were perhaps going to follow up on what I asked.

18 Is it routine to give the disposition
19 of an NCR back to an inspector?

20 THE WITNESS: No, sir, the NCR is
21 dispo'd before it comes to the field.

22 MR. WATKINS: Your Honor, your question
23 implies that --

24 JUDGE BLOCH: Could you straighten it
25 out so that I can understand? You could ask him

24-7 1 questions instead of doing it to me.

2 MR. WATKINS: Well, are you referring
3 to --

4 MR. ROISMAN: I think I was going to
5 get to that with this document.

6 JUDGE BLOCH: Oh, okay.

7 MR. ROISMAN: All right.

8 MR. WATKINS: I just want to make sure,
9 are you referring to the inspector that writes the
10 NCR being notified?

11 JUDGE BLOCH: Yes.

12 MR. WATKINS: I don't think that's
13 involved here.

14 MR. ROISMAN: Yes. Mr. Watkins is
15 correct. I believe this NCR was written by a
16 Miss Yates.

17 JUDGE BLOCH: I think I understand
18 my confusion already. Thank you.

19 BY MR. ROISMAN:

20 Q Mr. Duncan, would you look through this
21 document that I just described a moment ago and tell
22 me whether in this document there is something that
23 shows you that the NCR, that there was closure of the
24 NCR that was written by Miss Yates.

25 A. (No response.)

24-8

1 Q The question is, is there something in
2 there that shows you that there has been closure of
3 the NCR that was written by Miss Yates.

4 A Yes, sir.

5 Q And could you tell me what is it in
6 there that shows you that?

7 A DCA No. 19600.

8 Q And what is it on there that shows you
9 that it has been closed?

10 A Solution and use as is.

11 Q And when was that closure effectuated?
12 In other words, when was it closed? Can you tell
13 that from the DCA?

14 A No, sir.

15 Q And why -- what would you need to know
16 when it was closed?

17 A What would I need to know when the
18 NCR was closed?

19 Q Uh-huh. Not whether, but when.

20 A When the NCR was closed --

21 JUDGE BLOCH: You're now looking at
22 the NCR and you were pointing to something. Did
23 that mean something to you?

24 THE WITNESS: No, sir, not really.

25 BY MR. ROISMAN:

24-9

1 Q Can you look at that -- can you look
2 at the documentation, either the NCR itself, the DCA
3 or something else that's in this larger document
4 that you're looking at and tell me when was the NCR
5 closed?

6 A The NCR would be closed at completion
7 of the NDE?

8 Q I'm sorry, the completion of the?

9 A PT in this case, RT.

10 Q Why would that constitute the closure
11 of the NCR?

12 A Because of the Rev. 1 of the disposition
13 on the NCR.

14 Q And what does that say? Can you read it
15 into the record or the portion?

16 A Partial disposition, engineering
17 evaluation has determined that this situation does
18 not adversely affect this system, DCA No. 19600 to
19 be issued to allow use as is. Final inspection is not
20 to be performed until NCR is closed. Reference NCR
21 on process documentation.

22 Q All right. Now, that says that you
23 can't do the final inspection until the NCR is closed.
24 is that right?

25 A Yes, sir.

24-10

1 Q And what is the final inspection on
2 Weld 40C?

3 A Final PT.

4 Q And who signed off that final PT?

5 A Jack Stanford.

6 Q And is that the PT which you were doing
7 up on the scaffold?

8 A Yes, sir.

9 Q And was that signed off on the 17th?

10 A The 17th is there.

11 Q And is it your testimony then that
12 that PT could not have been completed until the NCR
13 was closed?

14 A Apparently.

15 Q So to go back to your earlier statement,
16 it couldn't be that the NCR is not closed until the
17 final test is done because you can't do the final
18 test until the NCR is closed, isn't that right?

19 A Yes, sir, apparently.

20 Q And so can you look again and tell me
21 when was the NCR closed?

22 Let me try it differently; let's look
23 at the DCA sheet.

24 Does the DCA sheet have an area on it
25 for approval signatures?

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A. Yes, sir.

Q. And is there an approval signature by originator?

A. Yes, sir.

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1 BY MR. ROISMAN:

2 Q And is it dated?

3 A Yes, sir.

4 Q And what is the date?

5 A 1-13-84.

6 Q Is there another line on there called
7 "Design Representative"?

8 MR. WATKINS: Your Honor, the document speaks
9 for itself.

10 JUDGE BLOCH: Yes, but he has to lay a basis
11 so he can ask the questions of the witness.

12 BY MR. ROISMAN:

13 Q Is there another line on there that says
14 "Design Representative"?

15 A Yes, sir.

16 Q And is it signed with something that looks
17 like something "A. Harrison"?

18 A Yes, sir.

19 Q Is it dated 1-13-84?

20 A Yes, sir.

21 Q Why isn't 1-13-84 the date of the
22 closure of the NCR?

23 A These are just approval signatures approving
24 the DCA.

25 Q So the DCA is not the document that shows us

25-2 1 whether the NCR has been closed; is that your testimony?

2 JUDGE BLOCH: I think I understand his
3 testimony enough to ask him a question which I think he will
4 be able to answer.

5 If the PT had been done on the 13th, would
6 the NCR have then been closed? Is that wrong --

7 THE WITNESS: Yes --

8 MR. ROISMAN: It's going to get into the
9 whole fact that you couldn't do the PT on the 13th; the
10 weld wasn't done.

11 BY MR. ROISMAN:

12 Q The completion of the DCA is not the
13 equivalent of the closure of the NCR, is it?

14 MR. JORDAN: Your Honor, may we remind the
15 witness that he need not speculate if he does not know the
16 answer to a question.

17 THE WITNESS: I had rather not speculate,
18 Your Honor.

19 BY MR. ROISMAN:

20 Q Mr. Duncan, you are now a level what PT?

21 A Two.

22 Q A level two inspector.

23 Is part of your level two inspector training
24 require you to know when you can sign off the final PT on a
25 weld?

25-3

1 A As far as the PT, sir, it's knowing when
2 you have a good test and when you don't.

3 Q Do you have to know when it is appropriate to
4 do the final PT?

5 JUDGE BLOCH: More specifically, do you have
6 to know when you've got the right documentation to permit
7 you to do the final PT?

8 THE WITNESS: Yes, sir.

9 BY MR. ROISMAN:

10 Q Does that include -- if there is an NCR
11 that's written against a weld -- having to be able to
12 determine whether the NCR has been closed or not closed?

13 A Yes, sir.

14 Q So you've been trained in being able to
15 answer that?

16 A Yes, sir.

17 Q All right. Now, I'm going to ask you again:
18 How do you know when this NCR that was written by Ms.
19 Yates on the 3rd of January 1984 is closed?

20 MR. WATKINS: Take your time with the
21 document, Mr. Duncan.

22 BY MR. ROISMAN:

23 Q Let me withdraw the question and try it a
24 different way.

25 Mr. Duncan, let me direct your attention to

25-4

1 the NCR itself. Am I right in assuming that the disposition
2 of the NCR -- not its closure, but the disposition of it is
3 "use as is"? Is that correct?

4 A. Yes, sir.

5 Q. And that "use as is" is based upon a
6 revision to the NCR; is that correct?

7 A. Yes, sir.

8 Q. And that revision is Revision 1 to the NCR;
9 is that correct?

10 A. Yes, sir.

11 Q. Now, looking at the bottom of the document,
12 does it indicate that engineer review/approval has been
13 signed off on for Revision 1 on 1-14-84?

14 A. Yes, sir.

15 Q. And does it indicate that QA review has been
16 signed off on for Revision 1 on 1-14-84?

17 A. Yes, sir.

18 Q. And does it indicate that ANI review/
19 concurrence has been signed off on on 1-14-84?

20 A. Yes, sir.

21 Q. Are there any more signatures that are
22 required for this NCR to be considered closed?

23 A. No, sir.

24 Q. Then isn't it true that this NCR was closed
25 on 1-14-84?

1 A Yes, sir.

2 JUDGE BLOCH: I have another question about
3 that. I see ANI review/concurrence on the 14th at the
4 bottom here, but over here it says ANI review/concurrence
5 and it seems to say the 13th.

6 Do you have any idea why that would be?

7 THE WITNESS: This was Rev. 0 probably,
8 Your Honor.

9 JUDGE BLOCH: The second revision -- just a
10 revision of it?

11 THE WITNESS: This is where we signed the
12 original approval. This is the revision to it.

13 BY MR. ROISMAN:

14 Q Mr. Duncan, when you're in training as a PT
15 inspector, in order to have the time that you spend doing
16 your PT tests be treated as legitimate training, do you have
17 to make the independent judgment of whether the weld is
18 ready for PT examination before you can go ahead and do the
19 PT examination?

20 Is that part of your showing that you know
21 what you're doing?

22 A Yes, sir.

23 Q On Weld 40C, on the morning of the 17th of
24 January 1984, did you make the judgment that Weld 40C was
25 ready for final PT?

1 A. No, sir.

2 Q. Who did?

3 A. Again, Jack had everything.

4 Q. Knowing Jack as you do, would he have told
5 you that the weld was ready for final PT if the NCR had
6 not been closed?

7 A. No, sir, I wouldn't think so.

8 JUDGE BLOCH: Mr. Duncan, I notice you
9 took a long time to answer the questions about that NCR
10 being closed.

11 THE WITNESS: Yes, sir.

12 JUDGE BLOCH: There were many questions about
13 it.

14 Could you give me some idea of why it took so
15 long? It looked pretty simple to me.

16 THE WITNESS: No, sir.

17 JUDGE BLOCH: Have you been asked before in the
18 field to say whether you think that the NCR has been closed
19 and is ready for PT?

20 THE WITNESS: Every PT does not have an NCR
21 like this.

22 JUDGE BLOCH: So you're just not familiar
23 with NCR's?

24 THE WITNESS: Not really of this type.

25 JUDGE BLOCH: What was unusual about this

25-7
1 type?

2 THE WITNESS: The dispo of the NCR saying
3 the NCR was to be closed before final PT.

4 MR. WATKINS: Your Honor, could counsel
5 approach the Bench?

6 JUDGE BLOCH: Sure.

7 Off the record or on the record?

8 MR. WATKINS: It makes no difference.

9 We can go off, and then we can put it on
10 the record if you'd like.

11 JUDGE BLOCH: All right. If we're going
12 to do that, I suggest we do it to this side away from the
13 witness.

14 We'll take a five-minute break of which this
15 conference will be a part.

16 (A short recess was taken.)

17 JUDGE BLOCH: Back on the record.

18 I think that the way we should proceed is for
19 Mr. Roisman to ask a couple of clarifying questions of the
20 witness, and then perhaps Mr. Watkins could state for the
21 record what he stated off the record.

22 MR. WATKINS: Certainly. I'll do it without
23 clarifying questions --

24 JUDGE BLOCH: Well, I want the clarifying
25 questions asked first, just so we can ascertain the possible

1 source of the witness' confusion.

25-8
2 BY MR. ROISMAN:

3 Q Okay. Mr. Duncan, I'm once again going to
4 show you a document that an individual weld data card on
5 it. We're now looking at a copy of the NCR.

6 You remember earlier we discussed the
7 signatures -- the three that are at the very bottom of the
8 page with the dates 1-14 alongside of them.

9 A Yes, sir.

10 Q All right. You'll notice that above those
11 three signatures there's one block with three blanks, and
12 there are no signatures and no dates in there. Is there any
13 significance to the fact that there are no signatures and no
14 dates in that little square?

15 A Yes, sir, there is.

16 Q What is that significance, Mr. Duncan?

17 A That's where you close an NCR.

18 Q And who closes it?

19 A QC, ANI, QA review.

20 Q And on the 17th of January 1984, what would
21 you have had to have had in your hand to know whether the
22 NCR had been closed or not?

23 A A copy of an NCR with the signatures right
24 there.

25 Q And would that normally be part of the

25-9

1 weld data card package that you would receive from the
2 craft?

3 A. No, sir, it's usually separate.

4 Q. Where -- Separate where?

5 A. Along with their iso. It might not be
6 stapled to the package. It might have -- the package, the
7 copy of the NCR they're working, CMC, DCA, iso.

8 Q. And would they all be given to the
9 inspector at the time that you would conduct the inspection?

10 A. Yes, sir.

11 JUDGE BLOCH: Loose documents like that, not
12 part of one approved set that came from document control?

13 THE WITNESS: Well, as weld field material,
14 all of your weld data cards, accept, rejects on RT, PT
15 reports.

16 Sometimes the NCR's -- they didn't have --
17 craft will have a copy of the NCR they're working.

18 JUDGE BLOCH: Okay. I was just checking to
19 see whether that was your testimony.

20 BY MR. ROISMAN:

21 Q. But as far as you know, there would have been
22 a copy of the NCR in the weld data card package; isn't that
23 correct?

24 MR. WATKINS: That is not his testimony.

25 THE WITNESS: It might not be part of the

1 package. It might be --

25-10
2 BY MR. ROISMAN:

3 Q I'm not talking about the one that shows
4 closure on it. I'm talking about the one when Laurel
5 Yates writes an NCR against this weld, back on January 3,
6 1984, what is done with a copy of that NCR with respect to
7 this weld data card package?

8 Isn't a copy attached to the weld data
9 card package?

10 A In this case, yes, sir, it probably was.

11 Q Wouldn't it always be done that way so that
12 a subsequent welder or inspector would know that there was
13 an NCR written against that particular weld?

14 A You would know that an NCR is written by
15 looking at the weld data card.

16 Q All right. What on that would tell you
17 that?

18 A It's usually noted. NCR, 12963.

19 Q How would you know whether the NCR had been
20 dispositioned or closed or anything by looking at the weld
21 data card?

22 A It would just tell me that there was an NCR
23 against it. If they didn't have a copy of it, they had better
24 go get one.

25 Q Is there any responsibility on them to have

25-11

1 an NCR that is current, or can they give you one that
2 it does not show the most current activity on it?

3 A. I don't quite understand.

4 Q. Well, you say that if the NCR is not actually
5 attached to the weld data card, then there is going to be
6 a responsibility on the craft to get it so that the inspector
7 will know what is the status of the NCR. Isn't that what
8 your testimony was?

9 A. Yes, sir.

10 Q. And I'm asking you: Is there a procedure
11 that requires that when the craft gives you that NCR, they
12 must give you one in its most current status?

13 A. I'm sure there is, but I can't think of it
14 right off.

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1 MR. WATKINS: Your Honor, I would like
2 to make the statement for the record to which you
3 earlier referred --

4 JUDGE BLOCH: I have one more question
5 before you do that.

6 You remember back to the time that you
7 were taking a long time to decide whether the NCR
8 was closed?

9 THE WITNESS: Yes, sir.

10 JUDGE BLOCH: Can you remember whether
11 any part of the reason you took that time was because
12 those three lines were blank?

13 THE WITNESS: I noticed it but I didn't
14 click on it.

15 JUDGE BLOCH: Okay.

16 Is it time for Mr. Watkins' statement,
17 Mr. Roisman, or is there something you need to do
18 before?

19 MR. ROISMAN: No, that's all right.

20 MR. WATKINS: Well, actually, the
21 witness has confirmed it. The copy of the NCR that's
22 included as part of the package from the vault does
23 not show closure.

24 That is the copy of the NCR about which
25 Mr. Duncan has been questioned.

6-2 1 MR. ROISMAN: Mr. Watkins, you were
2 going to look and see if any of the attached --

3 JUDGE BLOCH: Let me state for the
4 record that Mr. Watkins stated he was going to attempt
5 to obtain the closed NCR so that we could see it; is
6 that right?

7 MR. WATKINS: I do not have it. I
8 don't believe it's an exhibit to any of the depositions
9 that have been taken on this issue.

10 JUDGE BLOCH: Am I correct that -- I
11 thought you had stated you were going to try to
12 produce it so that we could see that it was closed.

13 MR. WATKINS: Well, I was going to go
14 look at the exhibits to all the other Stanford/
15 Neumeyer depositions.

16 JUDGE BLOCH: That's the easiest way,
17 but the other way is to get a copy of the closed file
18 at the site.

19 MR. WATKINS: I'm not going to be able
20 to do that right now.

21 JUDGE BLOCH: I understand that.

22 MR. WATKINS: Yes, I will do so.

23 JUDGE BLOCH: While we are on
24 discovery matters, the O. B. Cannon purchase order
25 that was produced doesn't have attachments.

25-3

1 MR. WATKINS: Yes, sir. I believe
2 O. B. Cannon has those.

3 JUDGE BLOCH: Okay.

4 MR. WATKINS: They are standard form
5 attachments. We don't have the attachments that
6 actually went out with the purchase order.

7 We have blanks. We have forms.

8 If Mr. Norris produces a complete
9 set, perhaps that will alleviate the need for our
10 producing it.

11 JUDGE BLOCH: Okay. Do you know
12 whether Mr. Norris is going to have with him a
13 record of disbursements under the contract?

14 MR. WATKINS: No, sir, I don't.

15 JUDGE BLOCH: Because I think that --

16 MR. WATKINS: What exactly do you mean
17 by disbursements, his invoices?

18 JUDGE BLOCH: The checks, receipts, some
19 kind of a ledger sheet that shows when the money was
20 received. I would just like to have some record
21 rather than testimony about how much was received and
22 when it was received.

23 MR. WATKINS: I don't know.

24 JUDGE BLOCH: Okay.

25

6-4

1 BY MR. ROISMAN:

2 Q Mr. Duncan, is there any place on the
3 weld data card for a signature by ANI?

4 A Yes, sir.

5 Q Do you see such a signature on this
6 weld data card?

7 A Yes, sir.

8 Q What does the signature by ANI on the
9 weld data card signify?

10 A One signifies, the first one on Line 3 --
11 the most important one is review, the first one you
12 look at. "Welding engineering review; ANI concurrence."

13 The second ANI --

14 Q And does that appear on this weld data
15 card?

16 A Yes, sir.

17 Q Could you tell us what the date is of
18 that first ANI review?

19 A 1-3-84.

20 Q Okay, and the next one?

21 A The next one was at fit-up. It had an
22 ANI hold point and it's signed by ANI.

23 Q And what's the date of that one?

24 A 1-14-84.

25 Q All right, and is there a third one?

26-5

1 A There's another review by ANI on
2 1-14-84.

3 Q Can you tell what do those reviews
4 signify?

5 MR. WATKINS: Excuse me. Are we
6 referring to the weld data card or to the --

7 MR. ROISMAN: Yes, we are referring to
8 the weld data card.

9 THE WITNESS: That they were reviewed
10 by ANI.

11 BY MR. ROISMAN:

12 Q But what is it that was reviewed?
13 On the 14th, what was reviewed by ANI?

14 A That the card was reviewed by ANI.

15 Q Are they signing off indicating that
16 the NCR has been closed out?

17 JUDGE BLOCH. The line that is being
18 referred to, apparently, is the last line in
19 handwriting on this original. It has an asterisk.

20 It appears to say, "R-E-something-O
21 dispo of NCR No. N-12,382, signed JS, 1-14-84."

22 MR. ROISMAN: No, Mr. Chairman. That,
23 I believe, is Mr. Stanford's signature, isn't that
24 right, Mr. -- or his initials, Mr. Duncan?

25 JUDGE BLOCH: Where is the ANI line?

6-6
1 MR. ROISMAN: The ANI line is the last
2 line that's in the main body of the card. If you
3 look at the numbered lines, after six there's a line
4 with no number; after seven there's a line with 2-A;
5 and after 2-A there's a line with Reviewed.

6 All the way over on the right-hand side
7 of that line that says Reviewed, there is under the
8 column ANI, two initials which appear to be BW, and
9 then 1-14-84.

10 The question I'm asking the witness is
11 doesn't that BW, 1-14-84, represent ANI's signoff on
12 the disposition and closure of the NCR?

13 MR. WATKINS: If the witness knows.

14 THE WITNESS: I don't know, Your Honor.

15 BY MR. ROISMAN:

16 Q You do not know what the significance
17 is of the ANI signature?

18 A Yes, sir. These were both review. I
19 would say on 1-3-84 the first review when the weld data
20 card was made. And --

21 Q And that one is --

22 MR. WATKINS: Did he have something to
23 add?

24 THE WITNESS: Cleanliness hold point was
25 UNSAT. The card then goes back to welding engineering.

6-7 1 On 1-14-84 it was re-reviewed.

2 BY MR. ROISMAN:

3 Q Re-reviewed for what reason? Does the
4 card tell you that? Why did ANI -- were they
5 re-reviewing the fit-up, which is a required ANI hold
6 point on this weld data card on the 14th?

7 A I don't know.

8 JUDGE BLOCH: Could you point out to
9 the witness more of --

10 BY MR. ROISMAN:

11 Q Isn't there a Line 3 here that's
12 marked "fit-up," and under the first column that
13 shows the ANI designation there's a checkmark and a
14 red circle, and then way over to the right-hand side
15 under the second column marked ANI, there appears
16 to be the initials, perhaps "JSH" and the date "1-14-84"?

17 A Yes, sir.

18 Q Isn't that signature there on 1-14-84
19 the ANI's signature that it has witnessed and approved
20 the hold point No. 3 for fit-up as required on the
21 weld data card?

22 A Yes, sir.

23 Q Now, there's another ANI signature on
24 this card on 1-14-84, isn't there?

25 A Yes, sir.

6-8 1 Q And I'm asking you, can you tell by
2 looking at this weld data card what that ANI signature
3 represents?

4 A No, sir.

5 JUDGE BLOCH: That's twice.

6 BY MR. ROISMAN:

7 Q Looking back at the NCR for one more
8 moment, the QC verification line on the NCR --

9 A Yes, sir.

10 Q Do you see that one, that doesn't have
11 a signature in it on the copy that we are looking at?

12 A Yes, sir.

13 Q Was Mr. Stanford authorized to sign
14 that QC verification? Did he have the qualifications
15 or did it require some other kind of QC verification?

16 A No, sir. Jack could sign it off.

17 Q He could?

18 A I suppose.

19 Q What about the line "QA review closure"?
20 What type of person must sign off that line; do you
21 know?

22 A QA review after completion of QC
23 verification and ANI concurrence.

24 Q Is QA review something that takes
25 place -- Are there site people who are QA reviewers

6-9 1 that can sign that or does that have to go to Dallas
2 or something?

3 A No, sir. It don't have to go to Dallas.

4 JUDGE BLOCH: I take it you think there
5 are site people who can sign that?

6 THE WITNESS: Yes, sir, I think so.

7 BY MR. ROISMAN:

8 Q Just one last question for you,
9 Mr. Duncan. In your conversation did you have any
10 conversation with the welders who were welding on
11 34-A, 39-C and 40-C, either on the 16th or the 17th?

12 A I'm sure I did.

13 Q Did they indicate to you that they were
14 anxious to get this Weld 40-C properly reviewed and
15 signed off on?

16 A I don't remember that.

17 Q Did they indicate anything to you about
18 whether they wanted to get the work completed sooner
19 rather than later?

20 A I know at the time that it was a hot
21 item to get the work done.

22 Q By "hot," you mean to get it done as
23 soon as possible, properly?

24 A Yes, sir.

25 MR. ROISMAN: Thank you.

6-10 1 No further questions for the witness.

2 JUDGE BLOCH: Staff.

3 MR. TREBY: Staff will be very brief.

4 CROSS-EXAMINATION

5 BY MR. TREBY:

6 Q Mr. Duncan, are you also known as
7 Robbie Duncan?

8 A Yes, sir.

9 Q So if we see references to Robbie Duncan
10 in the testimony, that would be you, sir?

11 A Everybody calls me Robbie Duncan. I
12 sign everything R. M. Duncan.

13 Q Okay. You had worked a number of times
14 before with Mr. Sanford; is that correct?

15 A Yes, sir.

16 Q Was there anything unusual about him
17 cursing? That is, had he cursed before when
18 something came to his attention or something
19 happened when you were on the job together?

20 A Yes, sir, I'm sure he has.

21 Q When he happened to curse on the 17th,
22 was that an unusual occasion?

23 A It wasn't unusual for him to cuss on any
24 days.

25 MR. TREBY: I have no further questions.

BOARD EXAMINATION

1
2 BY JUDGE BLOCH:

3 Q Did you work with him on the 16th,
4 also?

5 A Yes, sir.

6 Q How can you be so sure that you didn't
7 hear him cuss on the 16th that he put the wrong date
8 on that card?

9 A I don't remember him doing it.

10 Q But how can you remember so well that
11 it was the 17th, rather than the 16th?

12 A In reference to 40-C.

13 Q Yeah, but you assume that you were
14 working on 40-C on the 17th and then that's what he
15 changed.

16 Wasn't it possible that you were working
17 on a different weld and he happened to notice the
18 paper on 40-C on an earlier day?

19 A Well, I did -- I think I bought final
20 visual on both 39 -- the other two welds, and I
21 looked at the documentation, and I did not look at
22 40-C. I don't --

23 Q But you never said you looked at 40-C
24 on any day; is that right?

25 A No, sir, I don't think so.

6-12

1 Q So how do you know that Jack Stanford
2 didn't have it with him on the previous day and
3 exclaimed, "Oh, no, I put the 14th"?

4 A Well, I am sure it was the 17th,
5 Tuesday.

6 Q You are sure that he exclaimed that on
7 the 17th?

8 A Yes, sir.

9 Q I know you are sure you worked on the
10 weld on that day, but I'm not so sure I understand
11 how you can be sure that the exclamation didn't occur
12 one of the two previous days when he noticed the
13 package and it had the wrong date on it.

14 A Just -- It might be maybe I saw the
15 weld number.

16 Q You say "maybe I saw." Do you remember
17 seeing the weld number?

18 A No, sir.

19 Q There were a number of answers that
20 you gave where you said "possibly," "could have
21 been," or "maybe."

22 Were those memories that you had or
23 were you just sort of saying it could have been that
24 way?

25 There were several answers you gave

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✓

1 like that. Is that just your way of answering, or
2 do those "maybes" and "coulds" mean something to you?

3 A No, sir. I guess it's just my way of
4 answering.

5 JUDGE BLOCH: Mr. Watkins.

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REDIRECT EXAMINATION

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BY MR. WATKINS:

Q Mr. Duncan, how soon after Tuesday, the 17th, did Mr. Stanford come to you and ask you whether you remembered your inspection?

MR. ROISMAN: Asked and answered.

JUDGE BLOCH: I think he's trying to lay a foundation for questions that he wants to ask on redirect. Permissible.

MR. WATKINS: You may answer.

THE WITNESS: It seems like it was a week or two after.

BY MR. WATKINS:

Q Is that one reason that you now remember, because your memory was refreshed then?

MR. ROISMAN: A leading question, Mr. Chairman. Very much so.

I'd like the question -- and no answer given to it. Just strike it.

JUDGE BLOCH: Please do not ask leading questions even on redirect.

BY MR. WATKINS:

Q You've testified that Mr. Stanford came to you, that you didn't remember the first time -- but that he came back either later that day or the next day and

27-2
1 he did remember; is that correct?

2 A. Yes.

3 Q. Do you know to whom he spoke to refresh
4 his recollection?

5 JUDGE BLOCH: How would he know that?

6 MR. WATKINS: I asked him, "Did he know?"

7 MR. ROISMAN: I believe he testified that --
8 and he refers to them in his direct testimony.

9 THE WITNESS: Yes, sir. I said I believed
10 it was Ron McBee or Richard Simpson that Jack said he was
11 going to talk to.

12 BY MR. WATKINS:

13 Q. Regarding the call board sheets on which you
14 were examined -- I'll show you a copy of the call board sheet
15 for January 17. Is there any requirements that
16 instructors sign the call board sheet when they go to do
17 an inspection?

18 A. No, sir.

19 Q. So the call board sheet doesn't necessarily
20 reflect all of the inspections that you as an inspector might
21 do on a given day; is that correct?

22 JUDGE BLOCH: Well, isn't that leading?

23 MR. ROISMAN: I'm sorry. I was looking at
24 the document. Thank you, Your Honor.

25 JUDGE BLOCH: I know it's late, but I think

27-3
1 you can remember what a leading question is.

2 MR. WATKINS: I haven't heard an objection.

3 JUDGE BLOCH: I struck it. I don't want
4 any words put in the mouth of this witness.

5 BY MR. WATKINS:

6 Q Mr. Duncan, I'll show you a copy of the two-
7 page memorandum that you've testified that you signed on
8 January 26.

9 When you signed that memorandum, would you
10 tell us essentially what your signature represented?

11 A Essentially it represented to me that "Yes,
12 I did hear Jack swear -- verbally cuss himself, stating
13 'Today is not the 14th,'" and that I was present on the
14 17th and heard it.

15 Q Do you prepare weld data cards as part of your
16 job at Comanche Peak?

17 A No, sir, I don't.

18 MR. WATKINS: No further questions.

19 JUDGE BLOCH: Mr. Roisman.

20 MR. ROISMAN: Just one.

21 RE-CROSS-EXAMINATION

22 BY MR. ROISMAN:

23 Q In your testimony just now, you indicated
24 that Mr. -- it was either Mr. McBee or Mr. Simpson who
25 you think Jack Stanford had seen that helped him refresh

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1 his memory about this event; is that correct?

2 A. Yes, sir, I believe that's correct.

3 Q. And were they present at the time that you
4 were performing the PT test on Weld 40C on the 17th?

5 A. Yes, sir. I think Richard is the one
6 that signed up.

7 Q. But were they at the weld itself while you
8 were doing the PT test?

9 A. It seems like to me there was somebody else
10 there besides Jack and I. I can't pinpoint who it was.

11 Q. Can you remember where they were standing
12 in reference to where you were when you were on the scaffold
13 and where Jack was when he was signing the documentation?

14 A. I thought that was someone on the scaffold
15 with me.

16 Q. Can you remember for sure that there was
17 someone, but you can't remember who; or do you not remember
18 for sure whether there was someone at all?

19 A. I really can't remember for sure under oath
20 that there was somebody up there with me.

21 Q. Can you remember for sure whether there was
22 somebody with you and Jack, if not on the scaffold,
23 somewhere while you were doing the final part of the PT
24 test?

25 A. I think there was, but absolutely for certain,

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1 no, sir, I can't say for sure.

2 MR. ROISMAN: No further questions.

3 JUDGE BLOCH: Mr. Duncan, you said you don't
4 prepare weld data cards. Do you use them in your work?

5 THE WITNESS: Yes, sir.

6 EXAMINATION

7 BY JUDGE BLOCH:

8 Q Do you have to know how to interpret them?

9 A Yes, sir.

10 JUDGE BLOCH: Staff?

11 MR. TREBY: No questions.

12 JUDGE BLOCH: Mr. Watkins.

13 MR. WATKINS: Nothing, Your Honor.

14 JUDGE BLOCH: Mr. Duncan, thank you very
15 much. You're excused.

16 (Witness excused.)

17 JUDGE BLOCH: Would the parties like a
18 recess before we call Mr. Methaney, or shall we go right
19 on?

20 MR. WATKINS: I'd like about a two-minute
21 break.

22 JUDGE BLOCH: Let's take five.

23 (A short recess was taken.)

24 JUDGE BLOCH: Back on the record.

25 During the brief recess a discussion was had

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1 about scheduling. The parties agreed that Mr. Methaney's
2 testimony could be held over until the skipped week -- the
3 three-day week that has been scheduled for this proceeding.

4 Prior to that week we expect that Mr.
5 Methaney's testimony may be prefiled. It may address
6 questions that Mr. Roisman suggested he wants to cover, so
7 that we may be able to expedite this testimony during that
8 third week.

9 In addition, Mr. Roisman has a brief statement
10 for the record.

11 MR. ROISMAN: It just has to do, Your Honor,
12 with getting completed documents. There was identified in
13 the course of the examination of Mr. Duncan that apparently
14 what is attached to this document which Mr. Watkins requested
15 from the vault is not a copy of the final closed NCR.

16 We would like to have a copy. I would like
17 to stress legible because there is some very faint writing
18 on this one that was not legible on the xerox copies of
19 this same document that was attached to the prefiled
20 testimony.

21 But a legible copy of the final completed
22 NCR as it appears in the files of the Applicant. We're
23 not asking for an original of that.

24 MR. WATKINS: We agree that it's not a
25 closed -- a copy of the closed NCR; and we will provide a

27-7

1 copy for you.

2 MR. ROISMAN: Similarly, we would like to
3 get a completed copy of the DCA No. 19600, which does not
4 appear to be a completed copy, which is also part of this
5 package that Mr. Watkins had given me.

6 MR. WATKINS: We agree that it appears not
7 to be complete, and we will supply a completed one to
8 you.

9 MR. ROISMAN: I would like to request one,
10 just to complete the package. There is a reference in the
11 NCR to an earlier DCA 16171, Rev. 1.

12 We'd like to see the most completed -- I
13 don't know if that was ever completed -- but the most
14 completed version of that DCA.

15 MR. WATKINS: If it's agreeable with you,
16 Mr. Roisman, we'll have Mr. Methaney identify those in his
17 prefiled testimony.

18 MR. ROISMAN: That's great.

19 Mr. Chairman, we did not discuss the proper
20 disposition of the original weld data card and how to deal
21 with that.

22 MR. WATKINS: I have a suggestion.

23 JUDGE BLOCH: All right.

24 MR. WATKINS: I suggest we lodge it with the
25 Board.

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JUDGE BLOCH: I would rather you lodge it back with the Applicants and have them produce it next time.

MR. WATKINS: Well, that's --

JUDGE BLOCH: You already have copies of it, right?

MR. WATKINS: Yes, we do have copies of it. Well, we'll take it back.

JUDGE BLOCH: I guess I'm concerned that I'm going to have to carry it a long distance and would rather not have to worry about losing an original plant document.

MR. WATKINS: Mr. Chairman, I don't have it here with me --- Well, just a second. Maybe I do.

(Pause.)

JUDGE BLOCH: That's acceptable. Why --

MR. ROISMAN: Well, what I'm trying to do is to see -- I'd like to get some statement on the record that the -- attached as Exhibit 3 to the Zwahr affidavit -- excuse me -- the Zwahr prefiled testimony is a xerox of the weld data card that we've been talking about.

It's not a complete one. It has got the bottom line cut off it, and it has got some of the side.

JUDGE BLOCH: I'm sorry?

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MR. ROISMAN: No, no, no. I would like you to take possession of it, as long as the Applicant has no problem.

JUDGE BLOCH: Okay. We'll do that.

MR. ROISMAN: I don't have a real copy of the whole document in this file. The xerox copy was not as large as the original.

JUDGE BLOCH: I'll just hand it to my sergeant-at-arms.

MR. WATKINS: Mr. Chairman, one point.

We would like access to that document with the participation of Mr. Roisman if he likes to that package -- the documents in the package.

JUDGE BLOCH: Well, we will have it in Washington. Is that going to be adequate for your access?

MR. WATKINS: Yes.

MR. ROISMAN: We can look at it at their office?

MR. WATKINS: Yes.

JUDGE BLOCH: That's fine.

MR. WATKINS: One other point.

We produced to you, Mr. Roisman, a copy of Mr. Duncan's training records. Those are permanent plant records for the life of the plant. I wonder if we could have the originals back.

1 MR. ROISMAN: Yes.

2 Would you check and make sure that what
3 I've given you back are the originals.

4 And I would also like to give you at this
5 time back copies of the three PT reports initialed by Mr.
6 Duncan which you had produced. These are pinks.

7 MR. WATKINS: Thank you. And thank you
8 for returning the original Duncan logs..

9 JUDGE BLOCH: The hearing is adjourned.

10 (Whereupon, at 8:57 p.m. the hearing was
11 adjourned, to reconvene at 8:30 a.m., Friday, September 21,
12 1984, in the same place.)

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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-OL2 and 50-446-OL2
PLACE: FORT WORTH, TEXAS
DATE: THURSDAY, SEPTEMBER 20, 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) Irene G. Grubb
(TYPED)

Irene G. Grubb

Official Reporter

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