

ORIGINAL  
UNITED STATES  
NUCLEAR REGULATORY COMMISSION

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IN THE MATTER OF:

DOCKET NO: 50-445-OL2  
50-446-OL2

COMANCHE PEAK STEAM ELECTRIC  
STATION, UNITS 1 AND 2

LOCATION: FORT WORTH, TEXAS

PAGES: 19029 - 19262

DATE: TUESDAY, OCTOBER 2, 1984

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NATIONWIDE COVERAGE

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  
 X Docket Nos. 50-445-OL2  
 6 COMPANY, ET AL. X  
 X 50-446-OL2  
 7 (Comanche Peak Steam Electric X  
 X  
 8 Station, Units 1 and 2) X

9  
 10 Goodnight Room  
 11 Ramada Inn Central  
 12 I-30 and Beach Streets  
 13 Fort Worth, Texas  
 14 Tuesday, October 2, 1984

15 The hearing in the above-entitled matter  
 16 was reconvened, pursuant to adjournment, at 8:30 a.m.  
 17

18 BEFORE:

19 JUDGE PETER BLOCH

20 Chairman, Atomic Safety and Licensing Board

21 JUDGE HERBERT GROSSMAN

22 Member, Atomic Safety and Licensing Board

23 JUDGE WALTER JORDAN

24 Member, Atomic Safety and Licensing Board  
 25



2  
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C O N T E N T S

				BOARD
	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>
			<u>RECROSS</u>	<u>EXAM</u>
1				
2				
3	JOHN J. NORRIS			
4				
5	By Mr. Roisman		19034	
6	By Judge Bloch			19065
7	By Judge Grossman			19101
8	By Judge Jordan			19106
9	By Judge Bloch			19111
10	By Mr. Treby	19123		
11	GORDON PURDY (Resumed)			
12	By Mr. Roisman	19140		
13	By Judge Bloch			19164
14	By Mr. Bachmann	19171		
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16	By Judge Bloch			19177
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18	By Mr. Bachmann		19202	
19	By Mr. Downey		19205	
20	By Mr. Roisman		19233	
21	By Judge Grossman			19247
22	By Mr. Bachmann		19248	
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C O N T E N T S (Continued)

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BOUND-IN DOCUMENTS

DESCRIPTION

APPEARS

Fee Schedule, O. B. Cannon

19043

P R O C E E D I N G S

8:30 a.m.

1  
2  
3 JUDGE BLOCH: The hearing will come to  
4 order.

5 Good morning, Mr. Norris. Welcome back.  
6 You continue under oath.  
7 Whereupon,

JOHN J. NORRIS

8  
9 being previously duly sworn, resumed the stand and  
10 testified further as follows:

JUDGE BLOCH: Mr. Roisman.

## RE-CROSS-EXAMINATION

BY MR. ROISMAN:

13  
14 Q Mr. Norris, I'd like to take a look at  
15 the, what have been marked and put into evidence,  
16 the accounting sheets that were marked 1 and 2, just  
17 to get some clarity on this, on the expenditures.

18 JUDGE BLOCH: I think we may need the  
19 transcript.

20 MR. ROISMAN: Yes. I don't know where  
21 it's bound in.

BY MR. ROISMAN:

22  
23 Q Let's take a look at No. 1.

24 MR. TREBY: For the ease of checking  
25 the transcript later, that is at Transcript Page 18825.



1 MR. ROISMAN: Thank you, Mr. Treby.

2 BY MR. ROISMAN:

3 Q Now, looking at the first horizontal  
4 line that has numbers on it, as I understand it, the  
5 first entry represents the contract price for those  
6 costs.

7 The second entry represents an actual  
8 dollar amount that was billed as of 12-11-83 of  
9 \$12,935.15.

10 A No, sir. If you look under the word  
11 "Contract" and go down vertically, the line item  
12 labeled "Reimbursable Cost" is what I would call a  
13 plug number to account for the reimbursable costs  
14 associated with the contract.

15 Q Yeah, that's what I meant to say, that's  
16 not a billed number, that's a -- it's what you wrote  
17 into the contract as what you thought those re-  
18 imburseable costs would be.

19 A As potential revenue sometime down the  
20 road.

21 Q All right. And then the next number,  
22 the 12,935.15, does that represent an amount that was  
23 billed on the date 12-11-83 or an amount that had  
24 already been billed and was outstanding as of 12-11-83?

25 A These particular numbers have nothing

1-3 1 to do with an invoice or a statement for services  
2 rendered.

3 Q Okay.

4 A It's an in-house document. In fact,  
5 they vary them. They usually do vary widely from  
6 what the actual invoice might be at the end of any  
7 given month.

8 Since we're on the percentage of  
9 completion method of accounting, this number is --  
10 eventually gets into our profit and loss statement  
11 at the end of the month.

12 So this is revenue earned based on  
13 whatever, you know, measure we've used to determine  
14 what revenue is as opposed to costs incurred during  
15 that period of time, which, in this particular  
16 instance we had revenue of about 78K versus costs  
17 of about 8K. The reason --

18 Q Wait. Can you tell me where, this  
19 78K and the 8K, where are you getting those numbers  
20 from?

21 A I'm getting them under 12-11 -- the  
22 week ending 12-11-83.

23 Q Okay. And which horizontal line?

24 A The horizontal lines would be 12,935.15 --  
25 I'm going down vertically.

1-4

1 Q Yeah, I meant which horizontal lines  
2 tell you what the income has been as of that time,  
3 that is actually received by Cannon as opposed to --

4 A Are you talking about cash receipts  
5 or are you talking about revenue on the books?

6 Q Cash received.

7 A This would not reflect cash receipts.

8 Q Okay. All right.

9 A This is strictly a percentage of  
10 completion method of accounting document that is a  
11 tool to a project manager. It's not a tool to  
12 somebody that's counting beans.

13 Q All right. I guess what I want to try  
14 to get an understanding of is, when we see the number  
15 12,935.15, does that indicate that as of 12-11-83  
16 that amount of reimbursable costs had been incurred  
17 by O. B. Cannon and recorded with your bookkeeper,  
18 and the bookkeeper then recorded it on these books.

19 A I believe that's correct. Just because  
20 the number is in cents, and it's a very specific  
21 number, I assume that's an invoice that's already  
22 been, or in the process or has been issued.

23 If the number had been, for example,  
24 on a cost-plus account, which this was, \$12,000 even,  
25 I would have guessed -- I would guess it would be a

1-5 1 plug number at that particular point in time.

2 Q All right. Now, looking back at the  
3 chart that's numbered two --

4 A Okay.

5 Q -- under the column marked 9-11, we also  
6 see the number 12,935.15.

7 Does that mean, or can we safely assume  
8 that all the costs that are represented by that  
9 number must have been incurred prior to 9-11-83?

10 A Yes. That's a fair assessment.

11 Q And would it be your understanding of  
12 the way your bookkeeping is done, that those costs,  
13 at least by 12-11-83, not only reflected the out-of-  
14 pocket costs like travel and the like, but also  
15 reflected the per day costs for various different  
16 personnel working on the contract?

17 A That's correct. To make your analysis  
18 easier, if you consider this information meaningful,  
19 I'll be glad to get the invoices and the invoice back-  
20 up Federal Express to you.

21 Q No. For my purposes, I just wanted to  
22 try to find out, in effect, the periods during which  
23 work was being done on the contract, and if I can  
24 interpret these sheets correctly, what this is telling  
25 us is that between September 11th and December 11th

1-6 1 there was basically no work being done on the contracts  
2 because we've continued to carry exactly the same item  
3 number for reimbursable costs.

4 A You're probably correct there, but I  
5 couldn't be absolutely certain, because we could be --  
6 for example, this reimbursable cost to us comes under  
7 the heading of -- if you'll look down on the cost  
8 part of the sheet, you'll see the item labeled  
9 miscellaneous.

10 Q Uh-huh.

11 A Now, fortunately, the way we're set up,  
12 as I mentioned yesterday, we're used to doing lump sum  
13 contracts, and these costs really can vary widely,  
14 depending upon inventory or something else, and the  
15 miscellaneous does not appear to -- miscellaneous in  
16 this instance is probably air line bills, expense  
17 accounts, and that type of thing.

18 Supervision is probably strictly motel  
19 expenses and, you know, reasonable out-of-pocket  
20 expenses that all of us incur on the road.

21 JUDGE BLOCH: To clarify the dialogue --  
22 I'm sorry, were you done?

23 THE WITNESS: I believe so.

24 JUDGE BLOCH: To clarify the dialogue,  
25 I notice on Sheet 1 that there's a 2,000 plug number,



1-7 1 which suggests to me that maybe work had just started  
2 up again.

3 It's just above the 77,935.15.

4 THE WITNESS: I think you're right, sir.

5 The only person that could really answer this is our  
6 comptroller, truthfully, but I would assume the same  
7 thing, and I'm used to seeing these week in and week  
8 out. It's just a plug number to keep up with revenue  
9 at that point in time.

10 JUDGE JORDAN: Who estimates the per-  
11 centage of completion?

12 THE WITNESS: Depending upon the  
13 magnitude of the contract, if it was meaningful or  
14 a P&L statement, I would estimate that number at  
15 the -- in that particular accounting period, if it's  
16 not petty cash, but if it's a smaller number in  
17 relation to the overall contract, the comptroller,  
18 with his assistants, would estimate the number.

19 JUDGE JORDAN: You don't remember  
20 whether in this case you were the one that did the  
21 estimate?

22 THE WITNESS: No, I wouldn't do it.  
23 It's in terms of a lump sum contract. It's not a  
24 meaningful number.

25 JUDGE JORDAN: Okay.

1-8 1 BY MR. ROISMAN:

2 Q Now, looking at Sheet 1, where on that  
3 sheet does it show you the dollar amount attributed  
4 to actual hours spent performing the contract? Which  
5 of the horizontal columns is --

6 A The horizontal line labeled reimbursable  
7 cost would give you a fair estimate of the hours  
8 spent.

9 Q Now, that's separate and apart from,  
10 then, these -- strike that.

11 So when you're using the terms re-  
12 imburseable cost, that encompasses only hours spent  
13 and not out-of-pocket costs?

14 A You'd have to go back to my July --  
15 I believe it was July 15th letter, Attachment A to  
16 that letter.

17 JUDGE BLOCH: Transcript 18768.

18 THE WITNESS: Okay. Referring to the  
19 exhibit we labeled with a one with a circle around it,  
20 if you look at the horizontal line entitled reimbursable  
21 cost, you see an entry of 12,935, and then it looks  
22 on January 2nd of '84 there was a line item of 27,237.

23 MR. ROISMAN: Right.

24 JUDGE BLOCH: Wait. Attachment A is  
25 missing from the exhibit that's in the transcript.

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So if we could have a page which has Attachment A we could insert it right now.

(Discussion off the record.)

JUDGE BLOCH: I'm handing you a copy of Exhibit A, fee schedule, which should have been attached to this letter. We'll have it bound in at this point.

(Exhibit A, Fee Schedule, follows.)

- - - -

EXHIBIT A  
FEE SCHEDULE

A.	Management Personnel	\$500/day + reasonable expenses
B.	Line Personnel	\$400/day + reasonable expenses
C.	Technical Personnel	
	1. Site	\$350/day + reasonable expenses
	2. Office	\$250/day
D.	Clerical Personnel	Cost
E.	To A, B, C & D above add 16% for overhead	
F.	FIXED FEE thru 9/15/83 (Negotiable after 9/15/83)	\$63,000
G.	Test Equipment (if necessary)	Per OBC List XIII(attached)
H.	Terms:	Net 30

1 BY MR. ROISMAN:

2 Q Okay. Go ahead, Mr. Norris, please.

3 I have that in front of me.

4 A Oh, okay. If you look at Exhibit A,  
5 the fee schedule, you'll see the alpha designators  
6 A through H.

7 The lines we previously referred to,  
8 12,935 and 27,237, would be the sum of A through F,  
9 period.

10 Q I'm sorry. A through F?

11 A A through E, period. I'm sorry.

12 Q Okay.

13 A And Item F, the fixed fee would be --  
14 the item is labeled simply fee, 63K.

15 Q All right. Then when we look on this --  
16 going back now to the table that's numbered one, down  
17 at the bottom next to the word supervision there's a --  
18 in the column for 12-11-83 there's an amount, looks  
19 like, on my copy, maybe 4,447, and then next to  
20 miscellaneous an amount of about 3,690.

21 Are those amounts in addition to the  
22 12,935.15 or do they make up part of the 12,935.15?

23 A They would make up part of the 12,935.15.

24 Q And which of those numbers represents  
25 only out-of-pocket costs, if either of them does, as



1-11 1 opposed to daily costs for personnel?

2 A. Both of them would resemble -- would  
3 represent out-of-pocket costs.

4 Q. So that by totaling those together  
5 they seem to be about 8,000 -- in fact, it looks like  
6 there is a little total there, 8,144.45 --

7 A. Uh-huh.

8 Q. -- and subtracting that from 12,935,  
9 that would be the amount that was expended on  
10 personnel at so many dollars per day?

11 A. Yes, while they were at the site, you'd  
12 be right at the number. Divide that number by 450  
13 and you'd probably have the man days, plus or minus  
14 a day.

15 Q. Now, when you say at the site, it would  
16 also include if they spent hours away from the site  
17 evaluating things that they had learned at the site,  
18 too, wouldn't it?

19 A. Except for Lipinsky, I'm not aware of  
20 anybody that would have charged time to the project,  
21 unless they were at the site.

22 Q. Okay. But all I meant to say by that  
23 was that they could have been charging time off site  
24 and that would -- you weren't making a distinction  
25 between on-site time and off-site time, except that

1-12

1 you thought that they didn't spend any time off site  
2 billing, is that right?

3 A I know there were a lot of hours spent  
4 off site. We normally wouldn't bill for time that  
5 wasn't spent exactly in the field. For example, if  
6 I'd spend a day traveling and was only there the next  
7 day, you know, that would only show up in the invoice  
8 for one day.

9 Q All right. Just so that I understand,  
10 then, in a very rough sense, in using your sort of  
11 rough calculation number, the 450 per day, we're  
12 talking about the ten to twelve days, person days of  
13 time that had been put into the contract through  
14 12-11-83?

15 A As a wag, that's a good number.

16 Q Okay.

17 A And the accounting documents would  
18 specify it exactly.

19 Q I understand. Okay. Now, still on  
20 No. 1, if we go over to the column 1-2-84, the \$27,000  
21 number, does that number represent a number that one  
22 would add to the 12,000 or is that a running total  
23 and it includes the 12,000 number in it?

24 A It's a running total and it includes  
25 the \$12,000.

1-13

1 Q Okay. And if we wanted to find out  
2 the person days spent in the period between 12-11-83  
3 and 1-2-84, roughly, the difference between the  
4 12,000 and the 27,000 would give us our gross number,  
5 and then the amount down at -- under the total line  
6 of 11,809, subtract 8,144.45, that would give us the  
7 dollar amount of expenses -- out-of-pocket expenses  
8 incurred in the interim, correct?

9 A Exactly.

10 Q And we would subtract that from the  
11 number difference between 12,000 and 27,000, and then  
12 the result of that subtraction would give us the  
13 dollar amount spent on personnel time only for the  
14 period between 12-11-83 and 1-2-84.

15 A Exactly.

16 Q And then if we took the 450 again as  
17 our sort of rough number, we could get a number of  
18 days spent?

19 A Exactly.

20 Q All right. Do you remember what those  
21 days were spent at, the days that took place in that  
22 roughly three-week period between December '83 and  
23 January '84?

24 A No, I don't. I remember making a trip  
25 to Washington, probably to Mr. Watkins' office, that

1-14 1 was probably in there. Mr. Lipinsky probably would  
2 have been charging some time to the job that I would  
3 not have been aware of until I, you know, looked at  
4 these numbers later on.

5 Q But based on your testimony yesterday,  
6 as far as the work on the original contract was  
7 concerned, it was basically done by the end of  
8 August.

9 A I think it's safe to say that, you know,  
10 let's say by the end of August all the work on the  
11 original scope of work had been completed.

12 After that, probably anything that was  
13 spent on the -- any time that was spent on the  
14 contract would have been because of the Lipinsky memo  
15 or clarifying or trying to find the answers and the  
16 reasons for the Lipinsky memo.

17 - - - -

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ja  
1 Q All right. And I can't find it on that, and  
2 maybe it's just how your billing was done, but it doesn't  
3 appear that any time was billed for time spent on the  
4 Lipinsky memo between the end of September and the end of  
5 the meeting on November 10 and 11. And the reason that  
6 I'm saying it appears that way is that the 12,935.15 number  
7 first appears on Chart No. 2 on 9-11-83, and then it  
8 reappears on 12-11-83 on Chart No. 1, suggesting that  
9 none of the intervening events produced any additional  
10 hours of billable time.

11 A I don't think that's correct just because  
12 of the existence of the change order of the contract.

13 As I stated yesterday, there was an  
14 additional roughly \$16,000 worth of invoices that were  
15 accumulated that showed up on the accounts receivable list.  
16 And as I stated to you sometime in May of this year with  
17 Mr. Graves in Dallas, he told me that, you know, we'd  
18 like to settle it, but we think you're wrong in this  
19 and we'll split it fifty cents on the dollar.

20 Q As I remember, and I'm not now finding  
21 the communication that contained that, but as I remember  
22 your billings were all for periods in '84. You reference  
23 a bill in April of '84 and one at a later time in '84,  
24 and it appears that you didn't choose to bill against  
25 the old contract or the change in the contract, the addendum



2-2 1 to the contract, the time that was spent during 1983 after  
2 September.

3 A Well, again, it's a darned shame we don't  
4 have the invoices here. We can get them easy enough.

5 I see a January invoice, April, and let's  
6 call it a 1 May -- or 4-30.

7 Q What are you looking at?

8 A I'm looking at the sort of supplement issued  
9 June 25 of '84 by Mr. Graves.

10 Q Okay. That's all right.

11 Now, you've got one dated 1-31-84 and then  
12 one 4-1-84, and one 4-30-84; is that what you're  
13 referring to on the supplement?

14 A Yes, basically what I'm looking at here,  
15 I would assume that Mr. Graves had three invoices in  
16 front of him with backup, three different dates. I  
17 would guess the 1-31-84 invoice would have taken care  
18 of expenses incurred since the last invoice was issued.

19 Q Now, would your normal practice be that  
20 if there were expenses being incurred, whether they'd  
21 been billed or not, that they would or would not show  
22 up on these sheets that we've numbered 1 and 2?

23 A The expenses incurred would always show --  
24 this is a routine clerical function that's handled by  
25 a couple of girls in the accounting department, and they

1 take costs that's posted against an account number and  
2 just automatically post it, whether it's right or wrong  
3 or indifferent, every week.

4 They compile the invoices and the charges  
5 and they enter them here on the cost portion of the  
6 cost analysis.

7 Q Now, those are only out-of-pocket costs  
8 you're talking about, or when you say costs you also  
9 mean the hours that you or Mr. Lipinsky or Mr. Roth spent?

10 A No, our time, Mr. Roth's time, the officers'  
11 time, management time, is all covered under our SD&A  
12 accounts. It would not be reflected in these cost figures.

13 Q Okay. And now when you say these cost  
14 figures, you don't mean the figures along the reimbursable  
15 cost line, do you?

16 A No, I'm talking about the cost out of pocket.

17 Q The bottom half? Okay.

18 And you routinely send in your hours  
19 accumulated on contracts that you're working on to  
20 accounting also so they can keep the top line, reimbursable  
21 costs, up to date, too, don't you?

22 A No, that's not correct. In that instance,  
23 well, you are correct. If my time was reimbursable,  
24 which it was in this particular instance, I would have  
25 made a note on my expense account when I finally caught

2-4 1 up with them, and they would make a note from that.

2 Q Would you expect to do it within a week or  
3 ten days of when you were incurring the time?

4 A It varies, sometimes I'm as much as two or  
5 three months behind in my expenses, so I'm not very good  
6 at keeping them.

7 Q And your hours, you mean, or your expenses?

8 A Expenses.

9 Q What about your hours?

10 A Hours plus or minus a couple of weeks.  
11 They're fairly well charged.

12 We don't have an account for charging  
13 individual management hours. We construct it from what we  
14 call a weekly itinerary, weekly travel report that I  
15 submit.

16 Q I guess, then, it still brings me back to  
17 the same point. There does not appear to have been  
18 any additional reimbursable costs related to hours spent  
19 that were added to these bookkeeping charts 1 and 2  
20 between the entry on 9-11-83 and the entry on 12-11-83.

21 A I agree with you.

22 JUDGE BLOCH: To clarify, is there possibly  
23 another sheet that deals with the supplement as opposed  
24 to the original contract?

25 THE WITNESS: No. Our problem right now in

1 getting to the bottom of Mr. Roisman's questions, is I  
2 do not have in front of me the individual invoices and  
3 the backup invoices, you know -- they speak for themselves.

4 JUDGE BLOCH: Do you think the supplement  
5 would go on this?

6 THE WITNESS: I'm sure in our accounting  
7 department and TUSSI's accounting department is backup  
8 that backs up this supplement here, and it will show in  
9 great detail the time and the hours and everything  
10 else that was charged.

11 BY MR. ROISMAN:

12 Q The way you use this accounting control  
13 sheet, would the supplement be wrong on that, or would  
14 there be a different person perhaps, or a different sheet  
15 governing the supplement as opposed to the original?

16 A No. The supplement would always be on the  
17 same sheet.

18 If you ask me why it isn't on this particular  
19 sheet, I can't answer that question.

20 Q Okay. Well, I guess probably what you're  
21 saying is that the definite answer to the questions I'm  
22 asking you is contained in the information that we're  
23 going to get subsequently to this in your actual invoice  
24 sheets; is that right?

25 A You'll be able to figure out who went where

2-6 1 and when on a day-by-day basis.

2 Q All right. Well, why don't we just move  
3 away from that then instead of just asking you to  
4 speculate.

5 MR. TREBY: May I interrupt at this point.  
6 I'd guess I'd like to have something clarified.

7 We just had a discussion here about getting  
8 some subsequent documents. I don't really recall  
9 any discussion about that.

10 JUDGE BLOCH: Yes, there's a large quantity  
11 of documents that were described yesterday that the Board  
12 will be getting. I guess the Staff wants them, too; is  
13 that what you're talking about?

14 MR. TREBY: Yes. And these documents  
15 include these various invoices that we've been discussing  
16 besides the notes that may -- and other materials that  
17 may reside in Philadelphia?

18 MR. GROSSMAN: I'm not sure that we  
19 covered invoices in what we covered yesterday. Maybe we  
20 should clarify.

21 THE WITNESS: My understanding when we had  
22 a break yesterday, I called Mr. Lipinsky and I told  
23 him the Board was interested in seeing all of his notes,  
24 rough logs, diaries, everything else. I did not  
25 emphasize the accounting documents. I'll make an additional



1 call today to get Mike Olsen to assemble all the accounting  
2 documents and associated backup so that we respond  
3 completely to your request.

4 JUDGE BLOCH: If there were other people  
5 on site with Mr. Lipinsky on QA, their notes also  
6 are O. B. Cannon notes.

7 THE WITNESS: I've got a little problem  
8 here because the only people -- let me list the people  
9 that I think have any notes at all associated with this  
10 particular endeavor.

11 There's myself, Bob Roth, Joe Lipinsky,  
12 Ralph Trallo, and Ray Posgay. And possibly Joe's assistant,  
13 Keith Michels.

14 I'm not aware of anybody else being involved,  
15 and I'll contact those people individually and tell them  
16 what you're interested in, and tell them that you want  
17 anything and everything. Hopefully they'll comply.

18 JUDGE BLOCH: I think we would like to have  
19 the invoices so we can straighten out the billing of them.

20 MR. ROISMAN: Okay.

21 THE WITNESS:

22 Now, to save time so we don't have to go  
23 through this again, I'm sure there is copies of those  
24 invoices right in downtown Dallas right now, unless  
25 Mr. Graves knows where they're at. I don't think that's any

1 big deal, if it's material.

2 JUDGE BLOCH: I think it's better to get it  
3 all together.

4 BY MR. ROISMAN:

5 Q What would have happened with the Lipinsky  
6 memo if it had not inadvertently or unintentionally  
7 become a public document? What was your normal procedure,  
8 what do you do with those trip reports?

9 A They go in the file. If there's some  
10 management action that has to be taken on them, of  
11 course, they sit on my desk until something is done with  
12 them.

13 In this particular instance, as I said  
14 yesterday, I thought Joe had a bad day and it was  
15 inappropriate, and, frankly, it had just gotten yellow  
16 around the edges in my files.

17 Q But isn't it true that part of what occurred  
18 after that was written is that this proposed scope of  
19 work for a QA audit was prepared? That is, the bottom line  
20 of the Lipinsky memorandum which was, "I need to do a  
21 further investigation to really answer these questions  
22 definitively," was acted upon?

23 A Well, as I remember it, we asked Joe, you  
24 know, where are you coming from; we really didn't see the  
25 same thing that you're talking about in your memo, Joe.

1 And Joe, in essence, on the individual  
2 points, said to Ralph and myself that "If I could do an  
3 audit, I'd be sure one way or another. I'm not sure of  
4 what I've written here."

5 Q Now, that conversation you're describing,  
6 you had that conversation after the memo became public;  
7 not after you first saw it?

8 A That's correct.

9 Q And roughly when did that conversation  
10 occur?

11 A Probably sometime in October.

12 Q And then this JJL & MKM Comanche Peak trip  
13 four-page document was prepared either by Mr. Lipinsky  
14 or under his direction by Keith Michels as a description  
15 of what would be done if they were to go and really  
16 follow up on the Lipinsky memo?

17 A In anticipation of following up on the memo,  
18 that's an audit entry checklist.

19 Q Other than that the Lipinsky memo became  
20 public, that as far as you know would never have occurred,  
21 this proposal for a follow-up audit would not have been  
22 generated in O. B. Cannon?

23 A It would not have been generated by me  
24 because of my site-specific experience. Now whether Joe  
25 would have done something -- you know, that would have

2-10

1 been for Joe to decide. If somebody else had done  
2 something, that would have been for them to decide.

3 Q When you started getting first the  
4 phone call from Mr. Merritt and then some meetings with  
5 Merritt and Tolson, and eventually the November 10th and  
6 11th meetings between the O. B. Cannon people and  
7 the plant people about the Lipinsky memo, did you feel  
8 defensive -- not you personally, but you on behalf of  
9 your company -- about these events as they were occurring?

10 A I was feeling embarrassed.

11 Q And did you feel that your future relationships  
12 with this company were in some way shaken, if not  
13 endangered as a result of the events?

14 A It's my opinion our relationship with  
15 TUSSI is terminal.

16 JUDGE BLOCH: I'm sorry -- is -- is that  
17 current?

18 THE WITNESS: That's current.

19 BY MR. ROISMAN:

20 Q And what do you perceive as the major  
21 gap, if you will? Is it that Mr. Lipinsky prepared this  
22 memorandum and wrote it up, or that the memorandum somehow  
23 or other got into the public domain?

24 A All of the above.

25 Q So, if he had written the trip report and



1 no one had seen it except TUSSE, and when you saw it <sup>1989</sup> on  
2 your desk and you had said, "John, I don't think this is  
3 worth anything, but I just want you to see what Lipinsky  
4 wrote to me or to the file after his trip," and you sent it  
5 down, do you think that the same kind of damage to the  
6 relationship between the company and TUSSE would have  
7 occurred?

8 A I don't know about that. You know, my  
9 relations with -- I usually trust my first instincts  
10 about people, and my thoughts about Mr. Merritt and  
11 Mr. Tolson was, number one, that they were eminently  
12 honest people. And I think if I had taken the memo down  
13 to them or discussed it with them, that both of them  
14 would have stopped what they were doing and tried to  
15 get the right answers.

16 In my dealings with the TUSSE people at the  
17 site, there was never any thought that, you know, we want  
18 answers, we want the right answers. It was always, we  
19 want to get to the bottom of the problem, whatever it is.

20 Q Well, then I don't understand your other  
21 answer that it was a combination of both the fact that  
22 Lipinsky wrote the memo and the fact that it became  
23 public that was the problem. If I understand your  
24 current story is that if Lipinsky had merely written  
25 the memo, even if it had gone to TUSSE in one way or



2-12 1 another, that you don't think would have caused any  
2 problem that Mr. Tolson or Mr. Merritt would have looked  
3 at it and said, "Gee, this guy thinks we've got a problem  
4 here. We better take a look at it."

5           You presume that they would have looked at  
6 it and decided that they didn't have a problem, but  
7 that it would have been sort of a no-big-thing event;  
8 is that true?

9           A.       Well, I don't know that it would have been  
10 a no-big-thing event. It's my feeling that if the memo  
11 had been transmitted to them in the proper way, they  
12 would have addressed it. That's my feeling.

13           I know if I had a call from a newspaper  
14 reporter some morning about a very damaging memo that  
15 had gotten out of a vendor's house, I would be very upset  
16 about it and I would want to know about it first.

17           Q.       Okay, but that's what I'm saying. Wasn't  
18 the real source of irritation that the memo got public  
19 and that since TUSSI didn't have it, they assumed it  
20 got public because of some mistake that was made at  
21 O. B. Cannon?

22           A.       I don't know what they assumed. You know,  
23 if an O. B. Cannon memo surfaced in the hands of the  
24 Intervenors and they hadn't seen a copy of it, obviously,  
25 you know, somebody at Cannon had to have had something to

2-13

1 do with it.

2 Q Now, when you went to these meetings, would  
3 you describe your intent while you were at those meetings  
4 to try to mollify your client, try to make them not  
5 have these very negative feelings about O. B. Cannon?

6 A No. Our intention after the Lipinsky  
7 memo surfaced was to get to the bottom of it. Joe had not  
8 certainly said anything like that to me, at least, he --

9 Q Like which to you, like what was in the memo?

10 A Yes.

11 Q Okay.

12 A If we had discussed it, it was in the terms  
13 of there could be a problem here, there could be a  
14 problem there, and as we all know there can be problems  
15 anyplace. And, you know, the only problems we can deal  
16 with are the ones that we know about.

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I don't -- to reiterate, I don't think that we thought anything other than, "Let's get to the bottom of it and let's find out what the truth is."

As far as saying, "Joe, you've irritated a client and you've got to change things around or modify them.", or something like that, that never happened, nor would it happen in our organization.

Q. No one said that to Lipinsky?

A. No one would dream of saying something like that. It's, you know, you're entitled to your opinion.

Q. At the meetings before the transcribed meeting, was there any focus at all on how did it happen that the document got out by TUSI?

MR. WATKINS: Would you identify the meeting or meetings to which you are referring?

MR. ROISMAN: Well, yesterday he testified about a meeting between himself, Mr. Tolson and Mr. Merritt that preceded the November 10th and 11th meetings but any meetings or phone conversations that you with representatives of TUSI before the transcribed meeting.

BY MR. ROISMAN:

Q. In any of those communications about the Lipinsky memorandum, was there any discussion of them

1 wanting you to find out how did this thing get out?

2 A Yeah. I believe that was discussed. I  
3 certainly didn't know how it got out. I asked Joe  
4 about it and I know McNeill Watkins asked Joe about  
5 it and, as near as we determined, Joe says the memo  
6 was surreptitiously -- and those are his words --  
7 removed from his briefcase while he was at the site,  
8 subsequent to his July 27th visit.

9 Q What was he doing at the site after that  
10 visit?

11 A It would have been a meeting at the site,  
12 I believe. I'm not sure exactly what days he was  
13 there or what days he is referring to. You would have  
14 to ask Joe about that.

15 Q I guess what I don't understand is, no  
16 recommendations were generated by Mr. Lipinsky and  
17 nothing was done in the QC area in the way of  
18 recommendations; is that correct?

19 A I believe that's correct; yes.

20 Q So why did Mr. Lipinsky have any occasion  
21 to return to the site at any time after his site visit?

22 A I don't remember specifically the reason  
23 Joe was -- he was at the site, I believe, two or three  
24 times and Joe's comments to me were that the second  
25 time or possibly the third time he was at the site,



1 somebody rifled his briefcase.

2 Q Do you know now when those site visits  
3 were by Mr. Lipinsky after the original site visit  
4 that's recounted in the memo?

5 A No. As I said yesterday, I'd have to  
6 sit down and make a little matrix of the days that  
7 everybody was there to jog my memory on exactly what  
8 happened.

9 Q Will we see that from the invoices?  
10 Will they show us days -- or the backup documents to  
11 the invoices, the days the particular people were  
12 actually at the site?

13 A You could reconstruct everything that  
14 happened from those documents; I'm sure.

15 Q You keep referring to -- you think that  
16 Mr. Lipinsky just had a bad day. I assume you're  
17 talking about the days he was at the site in July?  
18 Is that right?

19 A That's correct.

20 Q But his memo is dated the 8th of August  
21 of '83, which is quite a number of days subsequent to  
22 that.

23 A That's correct.

24 Q Did you mean to say that the bad day that  
25 he had that caused him to write the memo was the bad



1 day of the day he wrote the memo or a bad day that he  
2 had had several days before that still lingered with  
3 him when he got around to writing the memo?

4 A. I wish I knew the answer to that.

5 JUDGE BLOCH: I guess it had to be both  
6 days; didn't it?

7 MR. ROISMAN: You're right.

8 BY MR. ROISMAN:

9 Q. I take it he has not told you in those  
10 words that he had a bad day? That's your surmise?

11 A. Well, the memo's here for me to read  
12 and give you my impressions of what he said and why  
13 he said it.

14 Q. No, but I mean, you didn't have a  
15 conversation with him in which he said to you, "I just  
16 was having a really bad day and I guess I overstated  
17 everything."?

18 A. No, that conversation never occurred.

19 MR. ROISMAN: I have no further questions,  
20 at this time, subject to seeing all the other documents.

21 BOARD EXAMINATION

22 BY JUDGE BLOCH:

23 Mr. Norris, during your testimony, you  
24 just said that, "At one time we asked Joe, 'where are  
25 you coming from?'" Can you recall about when that

3-5

1 conversation took place?

2 THE WITNESS: There were probably -- I'm  
3 sure there were several conversations after Mr.  
4 Merritt gave me the call. Frankly, the conversations  
5 run together in my mind. I've formed some hard and  
6 fast conclusions and I just can't say exactly when the  
7 conversation occurred or when it didn't occur.

8 JUDGE BLOCH: Did any of them occur face to  
9 face?

10 THE WITNESS: No. We had an in-house  
11 meeting after we met down at Mr. McNeill's office in  
12 Washington, our conference room in Philadelphia.

13 Mr. Roth, Mr. Trallo, myself and Mr.  
14 Lipinsky were there and the purpose of the meeting was  
15 to brief Mr. Roth on exactly what had happened and  
16 where Joe was coming from and, as I remember the  
17 conversation, Bob asked questions and I gave him my  
18 thoughts and Joe gave him his thoughts.

19 JUDGE BLOCH: Bob is Roth?

20 THE WITNESS: Bob Roth; right.

21 JUDGE BLOCH: And what do you remember  
22 of the questions? What kinds of questions did he ask?

23 THE WITNESS: Bob just wanted to get to  
24 the bottom of the memo, you know, to find out what  
25 was going on and to find out what Joe had seen.

1                   Bob, first of all, he's used to problems  
2 between the quality function and the production  
3 function of the company. It's a typical workaday  
4 problem to him.

5                   And most of the time there is a little  
6 bit of truth on both sides and I think over the years  
7 he has learned to play referee and listen to the talk.  
8 As I remember it, that was the tenor of the meeting.

9                   JUDGE BLOCH: The tenor of his remarks were  
10 calm and, "Let's discuss this and figure out how to  
11 go."?

12                   THE WITNESS: Well, I don't think he said,  
13 "Let's figure out how to go." I think he was trying  
14 to figure out where the truth was, and --

15                   JUDGE BLOCH: Did he try to fix blame?

16                   THE WITNESS: No. That's not his style.  
17 You know, he didn't get his job by fixing blame. He  
18 solves problems.

19                   JUDGE BLOCH: Well, there was some reason  
20 you didn't want to say it was to try to figure out  
21 where to go? How would you characterize it other  
22 than figuring out where to go?

23                   THE WITNESS: I don't think I have any  
24 problem with you saying that. Just, you know, it  
25 wouldn't be my words.

1 JUDGE BLOCH: How about you? What did  
2 you have to say at that meeting about the trip  
3 report?

4 THE WITNESS: Well, I pretty much -- you  
5 know, the trip report was a trip report. I sat down  
6 in Mr. Watkins' offices for the better part of the  
7 day.

8 JUDGE BLOCH: The meeting with Mr.  
9 Watkins was before this meeting with Mr. Roth?

10 THE WITNESS: The day before -- it would  
11 have been the day before this meeting.

12 JUDGE BLOCH: Okay. Go on.

13 What did you say about the trip report at  
14 the meeting?

15 THE WITNESS: Well, I don't think I said  
16 anything about the trip report at that point in time.  
17 We were trying to assess, you know, exactly where Joe  
18 was coming from. I think that was what Mr. Watkins  
19 was trying to do and that's what we were trying to do.

20 JUDGE BLOCH: But did you share with anyone  
21 your feeling that Mr. Lipinsky must have had a bad  
22 day?

23 THE WITNESS: I don't think I said he had  
24 a bad day. I said it was the dumbest memo I have ever  
25 seen in my life.



1 JUDGE BLOCH: And you told why it was all  
2 wrong?

3 THE WITNESS: I told why I thought it was  
4 wrong.

5 JUDGE BLOCH: What did Mr. Lipinsky have  
6 to say about his memo being a dumb memo that was all  
7 wrong?

8 THE WITNESS: He said, "That's the way  
9 I saw it, that's the way I was told.", you know, and  
10 he pretty much stood by it at that point in time.

11 JUDGE BLOCH: Did he have his notes with  
12 him?

13 THE WITNESS: No. We don't work that way.

14 JUDGE BLOCH: Did he mention how many  
15 people had told him the things he was relying on?

16 THE WITNESS: Well, you know, you have to  
17 sit back from these problems -- you know, you read  
18 memos and get telephone calls.

19 When somebody says something's wrong, you  
20 have got to assume that there is a grain of truth in  
21 what they say and I've found that there's very few  
22 things in life that are black and white. They are  
23 always various shades of gray.

24 And, you know, beauty is in the eye of  
25 the beholder and this is what Joe saw.



1                   Unfortunately, it's the kind of thing  
2 that is intensely damaging if it's not correct and I  
3 think I was unhappy that an in-house document that was  
4 really unresearched had gotten out.

5                   As I said yesterday, if there were  
6 quotation marks around some of this stuff, I wouldn't  
7 have any problem with it.

8                   JUDGE BLOCH: But at that stage, Mr.  
9 Lipinsky said, you know, "This is basically right."?

10                  THE WITNESS: Yeah. I think he said,  
11 "This is basically what I was told."

12                  JUDGE BLOCH: Did he think his conclusions  
13 were hasty?

14                  THE WITNESS: Definitely. You're talking  
15 about millions and millions of dollars in retrofit,  
16 you know, and rework and paperwork and everything else  
17 and where I went to school, you don't put this kind of  
18 stuff down on paper unless you're darn sure you're  
19 one hundred per cent right.

20                  JUDGE BLOCH: So, what the problem is, his  
21 remarks were put on paper or that he was wrong?

22                  THE WITNESS: The problem is, is that  
23 the remarks were put on paper and they were circulated  
24 -- obviously they got to the news media without being  
25 researched.

1                   It's the difference between the National  
2 Enquirer and the New York Times.

3                   JUDGE BLOCH: Was there any discussion  
4 about Mr. Lipinsky, about the fact that he had had a  
5 talk with you on the site before he left the site and  
6 had told you that his opinion was they had to do an  
7 audit?

8                   THE WITNESS: Joe did mention that to me.  
9 He mentioned it at the site, at our meeting in  
10 Washington, again the meeting the day after in  
11 Philadelphia.

12                   He mentioned that his concerns would be  
13 confirmed or laid via an audit.

14                   JUDGE BLOCH: Did anything else happen at  
15 the Philadelphia meeting that was important?

16                   THE WITNESS: I can't recall anything of  
17 substance and I'm really trying to dig to answer your  
18 question.

19                   Nothing, I think, that's worthy of comment.

20                   JUDGE BLOCH: Had you conveyed any message  
21 from Mr. Watkins about what would be expected of O.B.  
22 Cannon?

23                   THE WITNESS: No. That's strictly --  
24 that's the work that had to be done, whatever had to  
25 be done to prove or disprove the memo. It was strictly

1 in Joe's province. It was out of my hands then.

2 JUDGE BLOCH: Was there any discussion of  
3 a November 11 meeting, or November 10 -- a November  
4 meeting?

5 THE WITNESS: I don't know exactly when  
6 that meeting came up. It seems to me it was probably  
7 a couple of weeks before the meeting, because I had to  
8 get so many people together again. I'd have to go back  
9 to the documents to determine the exact date.

10 JUDGE BLOCH: You don't recall whether that  
11 November meeting was discussed in the Philadelphia  
12 meeting that you are talking about now?

13 THE WITNESS: I don't know that the  
14 November 11th meeting was discussed. I do know that  
15 it was patently obvious that some meeting or some  
16 series of meetings had to be held to prove or disprove  
17 exactly what Joe was saying.

18 So, in that context, yes, the meeting was  
19 discussed. As far as it being on November 11th and  
20 already, you know, having an itinerary, I don't think  
21 that was the case.

22 JUDGE BLOCH: And the purpose of the  
23 follow-up meeting would be to prove or disprove what  
24 Mr. Lipinsky was saying?

25 THE WITNESS: Yes. That's a fair statement.

3-12

1 JUDGE BLOCH: So there was going to be  
2 some collection of information? Is that what you were  
3 looking forward to, further information to find out  
4 whether Mr. Lipinsky was right?

5 THE WITNESS: Well, as I stated earlier,  
6 there were several things in the memo that I knew on  
7 the surface, based on my site specific experience,  
8 that were totally incorrect.

9 If you say, for example, there is a  
10 problem with materials storage, I looked at it. It  
11 looked like a model for, you know, nuclear materials  
12 storage. I didn't see any problem with it.

13 If Joe did, it was a very easy thing to  
14 go to the site and, you know, run a check on the  
15 paperwork and make sure it was as I thought it was and  
16 not assuming that the FTCI was correct and saying  
17 things were all fouled up.

18 JUDGE BLOCH: So was there some plan to  
19 make some of those simple checks at the site?

20 THE WITNESS: No. Again, -- you have to  
21 remember that I was hired by TUSI to -- by John Merritt  
22 to answer -- to look at some things specifically for  
23 John Merrit and in that context, if John, in talking  
24 with the quality control function, felt like those  
25 bases were covered because of the ongoing audits and



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1 everything else, I really had no problem with it and  
2 I don't think anybody in my organization had a problem  
3 with it.

4 JUDGE BLOCH: I don't understand.

5 I'm asking you what happened at a meeting  
6 and you give me reasons why someone would or would not  
7 have said something.

8 I just want your recollection of what  
9 happened at the meeting. Not a rationalization about  
10 why it did or didn't happen at the meeting.

11 Just what happened.

12 THE WITNESS: I've given you my best  
13 recollection of the meeting and you're searching for  
14 something that wasn't in that meeting. It was, you  
15 know, "Let's get to the bottom of it and get it behind  
16 us."

17 JUDGE BLOCH: There was no discussion at  
18 that meeting, as you recall, about collecting further  
19 information about whether the Lipinsky memo was correct  
20 or incorrect?

21 THE WITNESS: It was a given -- in my  
22 opinion, it was a given when something like this is  
23 on the streets, some work has to be done to prove or  
24 disprove it.

25 I don't think it needs further conversation.



1                   It certainly didn't in our organization,  
2 as far as setting up a game plan for it.

3                   JUDGE BLOCH: I'm not asking whether it  
4 needed it or not. I just want to know whether it  
5 happened.

6                   Did it happen at that meeting that you  
7 talked about?

8                   THE WITNESS: Sir, as I said, it was a  
9 given that something had to be done about the memo.  
10 It didn't have to be discussed.

11                   I'm answering your question --

12                   JUDGE BLOCH: Was it discussed? Did you  
13 discuss collecting --

14                   THE WITNESS: I thought I just answered  
15 your question. I said, no, it wasn't discussed. It  
16 was a given that something had to be done.

17                   JUDGE BLOCH: Will you just tell me  
18 whether it was discussed. I don't care about why or  
19 anything like that. I just want to know what happened  
20 at that meeting.

21                   THE WITNESS: I'm trying to answer your  
22 questions as fully and as comprehensively as I can,  
23 sir.

24                   JUDGE BLOCH: Was there any discussion  
25 about where Joe was coming from?

1 THE WITNESS: Well, only in the context,  
2 "Joe, you have this observation. Why did you make the  
3 observation? Is it true or is it untrue?" You know.  
4 "Where do we go to find the information to back this  
5 up or put it to bed?"

6 JUDGE BLOCH: Why were you thinking about  
7 where do you go to get the information if there was  
8 no discussion of getting information?

9 THE WITNESS: Well, you're turning this  
10 meeting into something that just doesn't exist, sir,  
11 or it didn't exist.

12 As I said, we wouldn't have convened the  
13 meeting unless, you know, obviously something had to  
14 be done and there was no discussion about what had to  
15 be, something had to be done, period.

16 JUDGE BLOCH: You're rationalizing. I  
17 just want to know what happened at the meeting.

18 First you tell me that you didn't discuss  
19 going for information and then one question later, I  
20 asked you what you said about where Joe was coming  
21 from and, all of a sudden, you're talking about getting  
22 information.

23 I want to know what happened at the  
24 meeting.

25 THE WITNESS: I've told you to my best

1 recollection about that meeting, sir.

2 I know nothing else. You're digging for  
3 things that just aren't there.

4 My command of the English language isn't  
5 that good and what I'm trying to say is, the meeting  
6 was convened because of the memo. In my mind, it was  
7 a given that the memo had to be proved or disproved  
8 and that's as far as it went.

9 JUDGE BLOCH: Okay. I understand you  
10 went through with Joe Lipinsky to find out which  
11 sections of the report needed additional information  
12 and what sections had information already; is that  
13 correct?

14 THE WITNESS: No. That's not correct at  
15 all.

16 I stated earlier that I've got my feelings  
17 about the memo and I -- as far as I'm concerned, the  
18 memo was Joe's memo and Joe had to do something to  
19 back it up or not back it up.

20 I don't know that anything else occurred  
21 there.

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1 BY JUDGE BLOCH:

2 Q In answer to a question from Mr. Roisman,  
3 you said, "I asked Joe about how it got out."

4 Was that at the same meeting?

5 A I don't remember if -- no, it definitely  
6 was not at that meeting.

7 Q Do you remember where it was?

8 A No, it was in a telephone conversation  
9 sometime. I don't remember exactly when.

10 Q Was it just you and Mr. Lipinsky on that  
11 telephone conversation?

12 A Yes.

13 Q Mr. Roth wasn't on it?

14 A No.

15 That's not to say that Mr. Roth didn't ask  
16 Mr. Lipinsky himself. You've got to remember that I'm  
17 in Houston, Texas, and they're in Philadelphia, Pennsylvania.  
18 So I don't have minute-by-minute knowledge of what's  
19 going on.

20 Q I know, but they have extensions, and you  
21 could have had the three of you if you had wanted to.

22 A It's my practice not to have conference calls  
23 like that because the connection gets so bad you can't  
24 understand what's going on, so I very rarely get into them.

25 Q We sometimes have that in this case, too.



4-2 1 You have problems with connections with  
2 two extensions in your office?

3 A. I think we have a problem with one sometimes.

4 Q. What did Joe say about how it got out?

5 A. Well, as I said earlier, Joe said, you know,  
6 somebody, obviously surreptitiously removed it from my  
7 briefcase, or rifled my briefcase, or something like that.

8 Q. That was his first story, the first time  
9 he was asked about it?

10 A. You only have to tell me something once  
11 and, you know, I'm not going to ask you a second time  
12 about what you said. You know, if you need more information  
13 about that, you'd have to ask Joe. That's all I can  
14 tell you.

15 Q. I just want to know what he told you the  
16 first time.

17 A. He told me that somebody removed the memo  
18 from his briefcase surreptitiously, sir.

19 Q. And that was the first and only story he  
20 told you?

21 A. That's correct.

22 Q. When you asked him how did it get out,  
23 how long was that after you learned that it had gotten out?

24 A. It could have been an hour, it could have  
25 been a day. I don't know. Could have been a week.



-3  
1 Q After you learned that it had gotten out,  
2 who did you first call at the company to tell about that?

3 A Bob Roth.

4 Q And how soon after you got off the phone  
5 with Bob Roth did you call Mr. Lipinsky?

6 A I did not call Mr. Lipinsky then.

7 Q You can't remember if it was a day or  
8 a couple of weeks?

9 A I really don't remember. I remember just  
10 being totally irritated that a memo like that could get  
11 out on the street. I remember I had some pretty rough  
12 words with Mr. Roth about people being free and easy  
13 with this kind of information, and it being basically  
14 incorrect, as far as I was concerned.

15 Q Well, when Mr. Merritt called you, what was  
16 his feeling communicated on the phone?

17 A There was a -- he had heard that there was a  
18 memo on the street in the hands of the Intervenors, and  
19 he hadn't seen it, and he wanted the memo right away if  
20 it existed.

21 Q The feeling that generated to you on the  
22 phone -- was there any feeling content to that?

23 A He had a -- John Merritt's personality to me  
24 seems to be pretty consistent. I don't think he has ups  
25 or downs or highs or lows or anything. He's alwa

-4  
1 the same effervescent, you know, let's-get-on-with it  
2 type of person.

3 Q And the feeling you generated in the  
4 conversation with Mr. Merritt, what was that?

5 A I don't think I generated any feeling. I  
6 just said I'd check into it and get back with him as soon  
7 as possible.

8 Q So you didn't get angry about what your  
9 company had done in talking to with Mr. Merritt. You  
10 got angry in talking later to Mr. Lipinsky.

11 A I got angry in relating my feelings to my  
12 superior, Bob Roth.

13 Q Mr. Roth? How about the conversation with  
14 Mr. Lipinsky a couple weeks later?

15 A I'm not that dumb to get mad at Joe Lipinsky.

16 Q You would get mad at Mr. Roth about  
17 Mr. Lipinsky, but you wouldn't get mad at Mr. Lipinsky  
18 about Mr. Lipinsky?

19 A That is correct.

20 Q Why would it be dumb to be mad at  
21 Mr. Lipinsky?

22 A Because he has a protected job function, s.r.  
23 Mr. Fitzgerald is the C-5A programmer, if  
24 you remember.

25 Q What kind of protection does your company

1 give Mr. Lipinsky?

2 A Obviously an awful lot of protection.  
3 I thought -- you know, if it had been my decision, I would  
4 have really tried, I would have been vindictive, to be  
5 honest with you.

6 Q What is it, a long-term contract, is that  
7 the basic --

8 A No, he's just -- he's got his job to do.  
9 He's got his job description. He has a very important  
10 job for us. I think Joe made a mistake, I would guess --  
11 and this is just my feeling -- that Joe thinks he made a  
12 mistake.

13 In most companies, I don't think a person  
14 would have a second chance.

15 Q Before you went to talk to Mr. Watkins,  
16 what had you done to find out about things?

17 A Nothing. I was armed with I had seen at the  
18 site and I walked in the meeting, as I remember it -- I  
19 observed and kept my mouth shut. I don't think I said ten  
20 words all day.

21 Q Well, you spoke to Mr. Watkins and you don't  
22 think you said ten words?

23 A I don't think I spoke ten words.

24 Q Was he giving you legal advice?

25 A Negative.

1 Q What did he say?

2 A Well, they were asking Joe the details about  
3 the memo, as I remember it. I was an observer there.  
4 It's Joe's memo; you know, it's Joe's to defend, if he  
5 has to defend it, and prove it if he has to prove it.

6 Q Were they giving Joe legal advice?

7 A No, not to my knowledge. I think Joe  
8 as I remember it, mentioned just in passing that he felt  
9 like he was going to retain his own attorney. And to  
10 the best of my knowledge, I never discussed it with Joe,  
11 I think he probably retained somebody locally to give him  
12 legal advice.

13 Q Did he bring documents with him to the  
14 meeting?

15 A I'm sure he did, but I don't specifically  
16 recall what they were.

17 Q Was it a large stack?

18 A I don't remember, sir.

19 Q Do you remember if he had the notes of what  
20 he took on site?

21 A I don't remember.

22 Q What were the relations like between  
23 Mr. Lipinsky and the people who were asking him questions?

24 A Business-like.

25 Q Friendly?

1 A. They certainly were not friendly.

2 There was no perceived hostility, if that's what you're  
3 getting at.

4 Q. Was it sort of tense, like a hearing? Like  
5 maybe it is here right now?

6 A. Yeah. I don't know anybody that enjoys  
7 that sort of thing. I certainly don't. You know, there's  
8 just relative degrees of tenseness.

9 Q. Was there a court reporter or a stenographer  
10 there?

11 A. I believe there was a gal there. I don't  
12 know if she was taking shorthand or dictated, or what,  
13 but I think she was making some notes.

14 Q. A mask?

15 A. Not that I remember.

16 Q. A machine like is used to take stenographic  
17 notes?

18 A. I really don't remember that. I remember a  
19 gal being there. You know, she might have been taken  
20 Gregg shorthand or, you know, making rough notes, or  
21 figuring out who wanted what for lunch. I don't know.

22 Q. How long did the meeting last?

23 A. Four or five hours, maybe six hours.

24 Q. Over one day or two?

25 A. Over one day.



1 Q Was there any discussion at that meeting  
2 about what would happen next?

3 A No. You know, I think the tone of the  
4 meeting was, Joe, if you've got concerns, we want to  
5 address those concerns, and if we've got a problem,  
6 we've got a problem. If we don't have a problem, we  
7 want to, you know, prove to the world we don't have a  
8 problem.

9 Q Was Mr. Lipinsky taking notes?

10 A I really can't answer that. But knowing  
11 Joe, I'm sure he had a pad of paper and made little notes  
12 to himself. That's just the way he operates.

13 Q Was there any lawyer there in addition to  
14 Mr. Watkins?

15 MR. WATKINS: Your Honor?

16 JUDGE BLOCH: Yes, Mr. Watkins?

17 MR. WATKINS: Can I interject a few questions  
18 for clarification?

19 JUDGE BLOCH: Is it -- you think it will  
20 help rather than hinder at this point?

21 MR. WATKINS: Well, there's an assumption,  
22 perhaps unintentional, that's been lurking in all this.  
23 And that was that Mr. Watkins was at the meeting.

24 (Laughter)

25 JUDGE BLOCH: Oh, that was, I thought, the

1 testimony.

2 BY JUDGE BLOCH:

3 Q Was Mr. Watkins at the meeting?

4 A No, Mr. Nick Reynolds was there and the  
5 gentleman that was in here yesterday --

6 Q Mr. Downey?

7 A I believe Mr. Downey was there.

8 Q The gentleman with the beard?

9 A I believe it was Mr. Downey. I'm really not  
10 sure. I remember Mr. Reynolds, and I said Mr. Watkins --

11 MR. WATKINS: One question may clarify it.

12 JUDGE BLOCH: Okay.

13 MR. WATKINS: Do you recall there might have  
14 been a Mr. Walker?

15 THE WITNESS: That's right.

16 MR. WATKINS: Does Mr. Walker have a mustache  
17 do you recall?

18 THE WITNESS: I believe he does.

19 MR. ROISMAN: All lawyers look the same.

20 MR. WATKINS: Thank you, Mr. Chairman.

21 BY JUDGE BLOCH:

22 Q So it was Mr. Reynolds and Mr. Walker?

23 A That's correct, sir.

24 Q Were they both doing the questioning or one  
25 of them doing the questioning?

1           A.       You know, I was not sitting there paying  
2 attention to what was going on. As far as I was concerned,  
3 here was a memo; Joe wrote the memo; here is a legal  
4 counsel that wants answers.

5                    You know, Joe wrote it. I had nothing to  
6 say about it at that point in time. It was Joe's memo.  
7 Nobody asked for my advice. I certainly didn't give it,  
8 and I wasn't paying attention to the details that you  
9 obviously think I should have paid attention to.

10           Q.       You were there for six hours and you don't  
11 know if both of them were asking questions?

12           A.       Everybody was asking questions. Everybody  
13 was giving answers. You know, it's not my style to  
14 sit down there and write notes on a blow-by-blow account.  
15 If we want to do that, we can have a reporter in the room.

16           Q.       Who was everybody? Were there other  
17 people there too?

18           A.       Joe Lipinsky was there; Ralph Trallo was  
19 there; I was there. As I remember it, Ralph and Joe were  
20 doing most of the talking and Mr. Walker, I guess it is,  
21 and Mr. Reynolds were asking questions and talking.

22           Q.       So when you say everyone was asking  
23 questions, you mean Mr. Reynolds and Mr. Walker, or do you  
24 mean more than that?

25           A.       It was a free give-and-take thing, as I

4-11 1 remember it.

2 Q Well, were Lipinsky and Trallo asking  
3 questions of the lawyers?

4 A No, I think they were relaying questions  
5 to the lawyers, relaying questions to TUSSI through the  
6 lawyers. You know, we can put some of this stuff to bed,  
7 you know, if you'll let us take a look at the actual  
8 work records, make an audit, et cetera, et cetera.

9 Q So at that point they wanted to get further  
10 information to find out whether or not charges in the  
11 Lipinsky memo were correct?

12 A That's a very fair statement, yes.

13 Q And was Mr. Lipinsky admitting that he knew  
14 the charges were not well-documented?

15 A I believe Joe said everytime the conversation  
16 got to that point, you know, I can confirm it or deny  
17 it with an audit.

18 He didn't say exactly that. He said words  
19 to that effect, and he may have said the same thing 20  
20 different times 20 different ways.

21 Q Do you recall whether what he said at the beginning  
22 of the meeting was any different from what he said at  
23 the end of the meeting?

24 A No. No, I don't think he said anything  
25 different.



1 Q Was there any discussion at the meeting  
2 about who was going to pay for follow-up work?

3 A I don't remember any specific discussion.  
4 As far as I was concerned, it was a cross-reimbursable  
5 type arrangement until something else happened. I don't  
6 remember the subject being brought up.

7 Q And about how long after you learned from  
8 Mr. Merritt about the leak of the memo did the meeting  
9 with Mr. Reynolds and Mr. Walker take place?

10 A Within a few weeks.

11 Q That's more than one week?

12 A Yes.

13 Q And between the time that you heard from  
14 Mr. Merritt and the time that that meeting took place,  
15 did you have any other discussions that were relevant  
16 to the relationship with Comanche Peak?

17 A With whom?

18 Q Yes, with whom. Any other discussions.

19 A I'm sure I did, but I can't specifically  
20 recall the details.

21 Q Can you remember who they were?

22 A Joe, as is his habit, calls me periodically  
23 to advise me what's going on. And I think every time he had  
24 a conversation with, you know, Watkins, he called me.  
25 He had several conversations with the NRC --



1 Q Do you mean Watkins this time, or Mr. Walker?

2 A I believe I mean Watkins this time.

3 MR. WATKINS: Just call me Mr..

4 BY JUDGE BLOCH:

5 Q So he was calling you periodically?

6 A Once every couple of weeks.

7 Q But that would mean he called you once  
8 between the time you learned from Mr. Merritt and the time  
9 you had the meeting with Mr. Walker and Mr. Reynolds.

10 A I was making a general statement that  
11 from the time the Lipinsky memo surfaced until right now,  
12 it seems to me that every couple of weeks Joe gives me  
13 a call about a conversation he's had with the advocates'  
14 attorneys. He's had a couple meetings with the NRC;  
15 early on there was some meetings with the NRC, and Joe has  
16 kept me apprised of those in an information kind of way.

17 I don't remember any subsequent discussions  
18 about it. It was just, you know, one thing happened,  
19 another thing happened, and keeping us posted.

20 Q Was that just a friendship, or did Mr. Roth  
21 give you a special responsibility with respect to the  
22 Lipinsky memo leak?

23 A No, that's just, as far as I'm concerned,  
24 a common courtesy. If I heard something about anything --  
25 I'm not talking about just this incident -- we consider

4-14 1 it just common courtesy and good business to make sure that  
2 everybody gets the message.

3 Q During the week following the site visit while  
4 Mr. Lipinsky was working on his memo, did he make a call  
5 to you to check with you about anything that he was writing?

6 A I sure wish he had. He definitely did not.

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1 BY JUDGE BLOCH:

2 Q Had you communicated with him at all  
3 about anything you may have observed at the site  
4 about quality assurance?

5 A No. The only kind of specific conver-  
6 sation I remember about quality assurance was the  
7 conversation on the 27th or 28th of July, or whatever  
8 it was, where Joe said they -- the people that he had  
9 talked to were losers.

10 And as I said yesterday, I don't think  
11 it went any further than that. It was obvious that  
12 the people were tired. It's a given in that situation  
13 that there's going to be some frayed tempers and some  
14 bad words and you don't need to know any more than  
15 that.

16 Q Which people were tired?

17 A The quality control inspectors, the  
18 painters. As I said yesterday, you know, when people  
19 start working seven-tenths or seven-twelfths after a  
20 period of time they get less efficient, tempers get  
21 short and all sorts of funny things start happening.

22 Q Did you have any significant observations  
23 from your trip to the site about the quality of the  
24 quality assurance program?

25 A Based on the documents that I looked at,

5-2 1 at least on the surface, it seemed to be a well  
2 thought out program from a quality point of view.

3 They had taken the engineering documents  
4 and they had made up check-lists just like a pilot  
5 might use before take-off there to make sure that  
6 things were done in a proper way.

7 I've looked at a lot of programs. I've  
8 looked at a lot of specifications over the years and  
9 based on the AS-30 and the AS-31 specifications that  
10 we discussed yesterday, the quality control people  
11 were trying to live up to the letter of the law.

12 As I mentioned to you also yesterday,  
13 they realized that they had committed to ANSI 101.4  
14 and somehow it fell in a crack and they were just  
15 about to get into, or just had been through, a retro-  
16 fit program to confirm suspicions about, you know,  
17 bad stuff or prove that the stuff that was on the  
18 wall was good.

19 Q So you had a variety of observations  
20 from the site about the quality assurance program.

21 A I can assure -- you know, this would  
22 have to be the biggest con game since, you know,  
23 Barnum & Bailey started, for the program to have  
24 totally broken down the way, you know, Joe's memo  
25 would indicate that happened. There are just too many

5-3 1 people involved and too many serious people trying to  
2 do a good job for that to happen.

3 Q And did you know that it was  
4 Mr. Lipinsky's job to reach conclusions about the  
5 quality assurance program?

6 A I believe that's a given by his title  
7 and the fact that we called him in there to take a  
8 look at the quality control program.

9 I would go on to say that, you know, to --  
10 it's kind of like going into a penitentiary and asking  
11 the criminals if everything's okay, you know, it's  
12 kind of a -- you kind of know what the answers are  
13 going to be before you ask the questions.

14 In order to make sure you're getting  
15 the right answers, I think you have to ask some other  
16 people before you commit that kind of information to  
17 writing, at least present a balanced view rather than  
18 just recording these conversations, as Joe seemingly  
19 has done.

20 Q But you did know that it was Mr. Lipinsky's  
21 job to reach conclusions about the program?

22 A Yeah, in the context of what Mr. Merritt  
23 wanted us to do, that's a safe assumption. How far  
24 he went is a matter for the customer to decide.

25 Q But you didn't talk to Mr. Lipinsky



1 about your personal observations on the site about  
2 quality assurance?

3 A No. I had really nothing to do with  
4 the quality assurance aspect other than the informal,  
5 you know, looking over people's shoulders that I  
6 mentioned to you just a few seconds ago.

7 Q And he didn't ask you about what you'd  
8 seen, just out of friendship or camaraderie, because  
9 you're both professionals working for the same company?

10 A No. As I said, we compared notes about  
11 the -- the night I talked to Joe, Joe was still getting  
12 his feet on the ground as far as, you know, which way  
13 the containment building was, and I didn't feel like  
14 any --

15 Q Sorry. He knew that when he walked on  
16 site, didn't he?

17 A Well, you know, when I say that, I mean  
18 that, you know, elevations and azimuths and room  
19 numbers and who did what to whom, he just didn't have  
20 enough information even to be able to figure out what  
21 was going on.

22 So any specific conversation about what  
23 was right and what was wrong at that point in time  
24 would be entirely premature.

25 Q And he never mentioned to you that he

5-5  
1 discussed certain things about the plant with  
2 Mr. Tolson?

3 A I don't know if the -- the subject, the  
4 conversation with Mr. Tolson did not come up at that  
5 time.

6 Again, we probably mentioned several  
7 things. I was more concerned with the manual labor  
8 side of the problem right then and there. I may have  
9 tuned Joe out on some things that he was saying because  
10 I felt like he did have enough information to say  
11 what he was saying.

12 We were trying to get a handle on the  
13 production aspects of the project at that particular  
14 point in time.

15 Q Okay. Going back to the meeting with  
16 Mr. Walker and Mr. Reynolds, do you remember anything  
17 that Mr. Trallo said?

18 A Knowing Ralph, he probably said a lot.

19 Q No, I want to know what you remember.

20 A I don't remember him saying anything.  
21 They get into this re-inventing the wheel conversation,  
22 to be honest with you, I tune them out sometimes.

23 Q Were you getting kind of angry that you  
24 had to sit there for six hours and that you weren't  
25 listening to anything?

5-6 1 A I'm angry that I have to be sitting  
2 here for two days.

3 (Laughter.)

4 Q So you must have been really angry  
5 about sitting there for six hours and not even  
6 listening.

7 A That's right.

8 Q Did they ask you any questions?

9 A They -- I think they knew better than  
10 to ask me any questions.

11 Q How would they know better than to do  
12 that?

13 A Because I have a short temper when it  
14 comes to people that do dumb things when they know  
15 better.

16 Q Well, I mean, the lawyers didn't want  
17 to know your opinion about it being dumb things?

18 A I don't think they wanted -- you know,  
19 Joe wrote the memo. I think they were addressing  
20 most of their questions to Joe, and Ralph, being  
21 Ralph's -- or Joe's immediate supervisor, I think was  
22 trying to do all he could to kind of, you know,  
23 mitigate the incident.

24 Q So at that meeting you have no recol-  
25 lection of your saying anything about there being

5-7 1 dumb things being done by Mr. Lipinsky?

2 A The only time I can remember saying it  
3 was a dumb thing is after my conversation with  
4 Mr. Merritt to Mr. Roth, I kind of unloaded on him.

5 I should add that we've had problems in  
6 the past with QC inspectors and people in that depart-  
7 ment writing off-the-wall memos. It's not the first  
8 time it's happened. It's probably the first time it's  
9 happened with Joe, but it seems to be a never ending  
10 problem with that function in our company sometimes.

11 Q But you sat there for six hours listening  
12 to these things and never sticking up for the company,  
13 even though you thought they were being bad-mouthed?

14 A Nobody bad-mouthed the company. Nobody  
15 bad-mouthed Cannon at that meeting. It was strictly,  
16 you know, a fact finding mission on the Applicants'  
17 attorney's part.

18 Q No, I meant bad-mouthed Texas Utilities'  
19 program. There were things said that were adverse to  
20 the Texas Utilities Company's program, and you were  
21 sitting there, having seen a lot of things on site  
22 that made you think it was a terrific program and you  
23 never spoke up.

24 A You cannot, in the context of the nuclear  
25 power business, I don't think you can make those kinds

1 of statements unless you yourself go in and do an  
2 in-depth audit.

3 Q Which kind, that it was a good program  
4 or that it was a bad program?

5 A No, I don't think you're listening to me,  
6 sir. I said I don't think you can make any positive  
7 or negative statement about anything in one of these  
8 plants unless you do go in and make an in-depth audit.  
9 You're just talking to hear yourself talk.

10 Q So at that meeting you didn't feel that  
11 you could speak up to say positive things?

12 A No. No. You know, Joe said what he  
13 said, I had my opinions based on, you know, the little  
14 conversations that I had and the documents I'd seen.

15 If Joe had seen something that I hadn't  
16 seen, well, you know, let him go find it out and prove  
17 it, but again I was irritated because I didn't think  
18 he had enough information to write the memo.

19 Q But you did say that?

20 A You know, once it's in the public arena  
21 it's a brand new -- it has to be handled in a  
22 completely different way, you know, you've just got  
23 to go by rules of evidence and audits and all the  
24 other procedures in order to put the thing to bed.

25 Q And you said that if you haven't done an



1 in-depth audit, you really can't say positive or  
2 negative things about the plant, is that why you  
3 didn't speak up at that meeting?

4 A. No. What I'm saying is, based on what  
5 I saw at the site there, I think it would be an  
6 absolutely incredible event if that program had  
7 broken down or had the possibility of breaking down.

8 In my opinion, based on what I've seen  
9 over the years, it just couldn't have happened.

10 Q. But you have no problem about saying  
11 that in a public hearing now to the Licensing Board,  
12 but you didn't speak up and say that to Mr. Walker  
13 and Mr. Reynolds? Did you think they didn't want to  
14 hear that?

15 A. I don't think I thought anything about it  
16 one way or another. You know, keep in mind, this  
17 isn't my memo. This is Joe Lipinsky's memo. And I'm  
18 not in the business to defend or -- defend TUSI.  
19 That's not what I was there for and that's not what  
20 I'm here for today.

21 Q. But I thought you told me earlier that  
22 you were working very closely with Mr. Merritt and  
23 you got to feel like he was a very close client and  
24 you were a friend of his and you --

25 A. I don't think I ever said he was a very

1 close client. I think I said my initial impression,  
2 and I trust my initial impressions, that he was an  
3 honest person trying to do an honest job.

4 Q You even started -- you started using  
5 the word "we" to represent you and TUSI, as if you  
6 were part of their team. You felt like you were part  
7 of their team, didn't you?

8 A Well, as I said to you yesterday, and  
9 I think I said earlier, John said, you know, think  
10 of yourself as my assistant and get back with me, and  
11 that's what the client wanted, that's the way I tried  
12 to act.

13 BY JUDGE GROSSMAN:

14 Q At that meeting with Mr. Reynolds and  
15 Mr. Walker, wasn't Mr. Reynolds shouting at your  
16 company officials for their culpability in letting  
17 that memorandum surface?

18 MR. WALKER: Did you ask whether  
19 Mr. Reynolds was shouting?

20 JUDGE BLOCH: Yes, he did.

21 JUDGE GROSSMAN: Yes, I did.

22 JUDGE BLOCH: It's a leading question.

23 THE WITNESS: I don't remember anybody  
24 shouting, and I personally don't put up with it, so  
25 I wouldn't have been there if there was much shouting

1 going on.

2 BY JUDGE GROSSMAN:

3 Q So your recollection is that  
4 Mr. Reynolds wasn't shouting, he was mild mannered  
5 in his discussions with you?

6 A I have -- I've probably seen Nick  
7 Reynolds three or four times, two or three times  
8 since our initial meeting there, and I've never known  
9 him to shout. He seems like he's a good attorney,  
10 to me, just doing his job.

11 Q Now, you've referred to that memo on  
12 a number of occasions, the Lipinsky memo as being a  
13 dumb thing; isn't that correct?

14 A In my personal opinion, without  
15 corroboration, it's a dumb memo.

16 Q And you indicated when you talked to  
17 Mr. Roth about that memo you were angry about that  
18 memo surfacing.

19 A That's correct.

20 Q And you indicated that if you had been  
21 in Mr. Roth's shoes you would have been vindictive  
22 about that memorandum.

23 A That's correct.

24 Q And in general, you appear to be contrite,  
25 wouldn't you characterize it that way, about the memo

1. having been written and surfacing?

2. A. I wouldn't call it contrite.

3. Q. But you seem to indicate that your  
4. company has a large amount of culpability for having  
5. had this thing happen, wouldn't you agree with that?

6. A. No. I don't think my company's  
7. culpable at all. You know, this is the United States.  
8. If you want to write a memo to the file, you go ahead  
9. and write a memo to the file. If you want to send  
10. carbon copies to somebody in your own organization,  
11. that's fine.

12. The only reason I've got a problem with  
13. this memo is because I don't understand how the darn  
14. thing got out to the intervenors, just for openers,  
15. and that's really what I'm irritated about.

16. I just really would like to know how  
17. the heck the darn thing got out on the street.

18. Q. So that is your main problem, that is,  
19. the memorandum surfacing?

20. A. That's correct. You know, if you -- I  
21. don't think you can write something like this without  
22. corroboration and without more information than what  
23. Joe had.

24. As I said yesterday, when I got it I put  
25. it in the file and I was irritated when I saw it. That

5-13

1 was a dumb thing for me to just put it in the file  
2 and not take action on it.

3 And what I'm really, really irritated  
4 about is that something like this could get out.

5 Q But on the other hand, you seem adamant  
6 about your not wanting to make amends to the Comanche  
7 Peak people for all this happening, isn't that correct?

8 A I don't know what in the world I could  
9 do to make amends for something like this, sir.

10 Q But you think amends should be made for  
11 this having occurred?

12 A I wouldn't know to -- I wouldn't even  
13 know where to begin to ask how to make amends about  
14 something like this.

15 Q You mean it was so bad that you think  
16 it's impossible to completely make amends for it?

17 A Yeah, I just -- yeah, it's incredible  
18 that something like this would get out on the street.

19 Q Did anyone working for Comanche Peak  
20 or their representatives try to suggest to you how  
21 you could begin to make amends for this?

22 A No. No. I don't know what went on in  
23 their minds. I know what would have gone on in my  
24 mind.

25 Q Now, you indicated that Mr. Lipinsky had



1 told you that these QC inspectors were losers when he  
2 spoke to you after visiting the site and before he  
3 wrote his memorandum.

4 Did he also tell you that they were  
5 tired, or is that your interpretation or explanation?

6 A. Joe said they were working long hours  
7 then. I don't know if he said they were tired, but  
8 he indicated that they were working, you know,  
9 extended overtime.

10 Q. Well, wouldn't it appear to you that  
11 if he knew that they were losers and he knew that they  
12 were tired or working longer than perhaps they should,  
13 that he would have discounted these things when he  
14 wrote his memo?

15 A. You're saying the same thing I would  
16 have said to Joe if I asked him the question.

17 Q. So then it's possible that the memo  
18 already took into account these things that he was  
19 very clear to point out to you after he visited the  
20 site, wouldn't you agree with that?

21 A. That's a possibility.

22 (Bench conference.)

23 BY JUDGE BLOCH:

24 Q. Could you tell me about the meeting,  
25 going back now to the meeting in Philadelphia with

5-15

1 Mr. Roth, yourself and Mr. Lipinsky, Mr. Trallo,  
2 about how long that meeting lasted?

3 A I don't think the meeting was that long,  
4 30, 45 minutes, something like that.

5 Q During the course of that meeting did  
6 Mr. Roth ever make it clear that he thought it was  
7 a terrible thing that this had ever leaked out onto  
8 the street?

9 A No. He's not like that, you know, he  
10 just wanted to get to the bottom of it and let the  
11 chips fall where they may.

12 BY JUDGE JORDAN:

13 Q I just wanted to clear up things that  
14 perhaps is already in the record, but I may have  
15 forgotten.

16 Were there three people who went to the  
17 site who did most of the work in fulfillment of the  
18 contract?

19 I know that you and Lipinsky, and who  
20 is the third? Was that Michels?

21 A Raymond Posgay. Posgay, P-o-s-g-a-y, sir.

22 BY JUDGE BLOCH:

23 Q That was the whole team?

24 JUDGE JORDAN: Were you considered to be --

25 JUDGE BLOCH: I'm sorry. I didn't get

1 an answer.

2 Was that the whole team?

3 THE WITNESS: For the initial contract,  
4 I believe it was.

5 BY JUDGE JORDAN:

6 Q Was there a team leader who was  
7 presumably in charge of the contract? Were you that  
8 person?

9 A Up until the point the Lipinsky memo  
10 surfaced, I was the project manager/team leader.

11 When the Lipinsky memo surfaced, as the  
12 attorneys got involved, Ralph Trallo, who is Joe's  
13 immediate superior, was appointed team leader.

14 Q Fine. I was going to ask about Mr.  
15 Trallo's function.

16 Did you -- were you the one, then, that  
17 appointed Mr. Posgay and Mr. Trallo as the members of  
18 the team?

19 A No. I appointed Mr. Posgay and  
20 Mr. Lipinsky is the staff function, I can call on a  
21 staff function to perform services for me.

22 Mr. Trallo reports directly to Mr. Roth,  
23 as I do.

24 Q Well, you're saying that Mr. Lipinsky  
25 serves in the staff function.

5-17

1 A That's correct, sir.

2 Q But didn't you say that the staff is  
3 not charged directly in the contract? Aren't the  
4 staff considered as part of overhead?

5 A All staff salaries are included in our  
6 SG&A expense accounts.

7 Q So that therefore when Lipinsky went  
8 to the site, it will not show up as money spent from  
9 the contractor as direct money spent on the contract,  
10 is that correct?

11 A Yes, in this particular instance it  
12 would. In the context of the cost accounting  
13 documents that we were looking at earlier, he would  
14 not show up in those documents on the cost side. He  
15 would show up on the revenue side, if he had charged  
16 his time to the project.

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6-1  
1 JUDGE BLOCH: Which he did, didn't he?

2 THE WITNESS: To the best of my knowledge,  
3 yes.

4 BY JUDGE JORDAN:

5 Q When you say to the best of your knowledge,  
6 I guess I'm a little surprised that you don't seem to  
7 have, as a team leader, have kept close track of who  
8 was doing what and when.

9 A Well, in the initial phase of the contract,  
10 we all got to the site different days at different  
11 times and we just didn't have time to sit down and have  
12 a formal meeting and say, you know, "You're going to  
13 do this and I'm going to do that."

14 We had some telephone conversations and  
15 we just kind of dug into what Mr. Merritt asked us to  
16 do.

17 So, I think your problem is with, you  
18 know, where is the plan and the organization and how  
19 are you going to attack it and everything else. There  
20 just wasn't enough time to sit down and formalize that  
21 document and we had to pretty much wing it because of  
22 the time crunch they felt they were in.

23 Q But you were the one that did write the  
24 document that said what was going to be done, what  
25 areas were going to be covered; is that correct?



1 A. That's correct, sir.

2 Q. All right.

3 Now, you mentioned that during your  
4 meetings, which were presumably late in October in  
5 Philadelphia, it was Mr. Lipinsky's feeling that he  
6 needed to do some more work in order to verify or  
7 refute the memo, the statements he had made in the memo.  
8 I believe you said that; is that correct?

9 A. That's correct, sir.

10 Q. Now, in the November 10th and 11th meeting,  
11 my perusal would say that by that time Mr. Lipinsky  
12 was pretty much of the opinion that he was mistaken.

13 A. Subject to his own verification of other  
14 people's statements; yeah.

15 Q. Now, what happened then between the  
16 meeting that you mentioned, in which he said he needed  
17 to verify it, he'd like to do more work in order to  
18 decide whether it was correct or not -- what happened  
19 between that time and November 11th, when Mr. Lipinsky  
20 seems to have changed his mind. That he just admitted  
21 at the November 11th meeting that the memo was wrong.

22 A. I don't think Joe changed his mind between  
23 the two meetings. As I remember, the November 11th  
24 and November 12th meeting -- I am sure nothing had  
25 happened in Joe's mind to change his opinion and, as I

6 -3

1 remember, listening there at the meeting with everybody  
2 sitting around the table and listening to Joe, it  
3 seemed to read loud and clear that, you know -- to give  
4 me more information or let me take a look at this or  
5 let me take a look at that and I'll know or I won't  
6 know. I'll be right or I'll be wrong.

7 Q So would you say -- you can't say what Joe  
8 thinks, but is it likely that he would maintain to this  
9 day what he needs is to go back and do a good QA audit?

10 A Like any good QA man, he just feels  
11 better if he goes back and audits and, you know, that  
12 need that assurance and, I guess, you know, thank the  
13 good Lord that they do.

14 JUDGE JORDAN: That's all.

15 BY JUDGE BLOCH:

16 Q As team leader, did you have any  
17 debriefing after the site visit for Mr. Lipinsky?

18 A No. I wish I had, in retrospect.

19 Q As team leader, were you responsible for  
20 cost control?

21 A Yes.

22 Q And did you make any allocation of costs  
23 so that people would know what the maximum amount of  
24 time was that they could bill?

25 A No. It was a given, at least in my mind.

1 that if it took more time or took more money, the  
2 money would be appropriated and I, you know, it just  
3 wasn't that much money and I just wasn't that concerned  
4 with it.

5 Q Did you get any report from Mr. Lipinsky  
6 about whether he planned to go back to the site?

7 A No. You've seen everything I've seen  
8 from Mr. Lipinsky.

9 Q How about orally?

10 A No. Other than, you know, when they came  
11 to the site to do an audit and, you know, it was said,  
12 you know, "We don't need another audit."

13 That's all I remember. Bob Roth was  
14 involved in it at that point in time. He was talking  
15 with John Merritt and I was pretty much out of it.

16 Q What date are you referring to now when  
17 they came to the site to do an audit?

18 A The four-page undated pre-audit check list  
19 or whatever we called it yesterday.

20 Q They brought that to the site to do an  
21 audit? Are you talking about the November meeting or  
22 something before that?

23 A I believe it was something before that.  
24 There are memos in the file regarding that.

25 Q But they actually went to the site to start

1 an audit?

2 A Yes.

3 Q And they had a briefing with someone and  
4 they decided not to do it?

5 A No. As I remember it, I was getting to --  
6 I don't remember the exact date -- I had to meet, oh,  
7 one of my associates from our Lakeland office over in  
8 Dallas for breakfast and I was a little bit late  
9 getting to the site.

10 Joe and Keith had arrived at, let's say  
11 8:00 o'clock, for want of a better number, and I  
12 didn't show up until 9:00 or 9:30, for want of a better  
13 number, and, in the meantime, you know, it was decided  
14 by the site people that, you know -- evidently they  
15 didn't want another audit at that particular point in  
16 time.

17 They wanted to have a sit-down meeting  
18 and so they cancelled it for the time being.

19 Q What was your function on the site that  
20 day?

21 A Just to, you know, meet with Joe and the  
22 various site people to, hopefully, you know, put the  
23 whole thing to bed at that particular point in time.

24 Q Put what to bed?

25 A The reasons for the Lipinsky memo.

1 Q This was after the memo surfaced?

2 A Yes.

3 Q Was there an indication at the site that  
4 day no more work was to be done under the contract?

5 A No. I don't think that was said that day.  
6 I just think that, you know, they weren't in the mood  
7 for another audit that day.

8 Q In advance of that meeting, did you have  
9 any reason to believe that the company would be willing  
10 to have additional work done?

11 A I have no reason to disbelieve it.

12 Q Had you any reason to believe it?

13 A No.

14 Q Did you talk with Mr. Lipinsky about  
15 whether he had any reason to believe it?

16 A To believe what, sir?

17 Q That the company wished to have further  
18 audit work done?

19 A As I said earlier, when they arrived at  
20 the site, they were told, evidently, to wait outside.  
21 The company did not want another audit done -- I don't  
22 know exactly what happened.

23 I got the impression that he just wasn't  
24 welcome there that particular day.

25 Q So you mean he actually didn't get through



1 the gate?

2 A. I don't think he did at first; yeah.

3 Q. He ultimately did get through the gate  
4 that day?

5 A. I believe he did; yeah.

6 Q. Did you?

7 A. I got through the gate and I think we went  
8 back to Joe's hotel room, as I remember it.

9 Q. I'm sorry. Which way were you going  
10 through the gate to go to Joe's hotel room?

11 A. No. As I remember it, I had gotten into  
12 the plant that day. I don't know if Joe got back in  
13 later on or not and I think Joe and Keith had gone back  
14 to their motel room to await my arrival and I went back  
15 there and I believe I told them that they just weren't  
16 interested in another audit at this particular point  
17 in time.

18 Q. So they never got through the gate?

19 A. Yes, sir.

20 Q. But you did? And who did you speak to?

21 A. John Merritt.

22 Q. And what was that about?

23 A. You know, John, I just don't think was  
24 ready for another audit on that particular day and he  
25 said he just -- I don't know if he indicated that in

1 so many words but, you know, he just really didn't  
2 want Mr. Lipinsky on the site.

3 Q Just John Merritt at that meeting?

4 A I believe so, sir.

5 Q No Ron Tolson?

6 A I don't think Ron was around that day.

7 Q Did that surprise you?

8 A I don't think it did.

9 Q You're talking about an audit of paint  
10 quality with John Merritt without the QA person present?

11 A I don't remember Ron Tolson being there  
12 or not. You know, they just -- in my two or three or  
13 four times at the site, Ron was, you know, he bought  
14 into a busy schedule and would come and sit down and  
15 offer what he could and then he had to get back to  
16 business.

17 Q Were you aware at the time that the  
18 Lipinsky memo stated that there was some problem of  
19 independence of construction and QA?

20 A Yes. I knew what the memo had said.

21 Q It didn't bother you that on a QA matter  
22 that you were there talking to Mr. Merritt and Mr.  
23 Tolson wasn't there at all?

24 A No, I don't think it did. You know, I was  
25 working for Mr. Merritt. I wasn't there to audit the

1 function or, you know, figure out why they did things.

2 Q Now, was this meeting before or after the  
3 meeting with Mr. Reynolds and with Mr. Walker?

4 A I believe it was before, sir.

5 Now, if you're going to ask me this kind  
6 of information and you want the unvarnished truth  
7 rather than me having to guess about it, I am going to  
8 simply have to sit down and reconstruct all these  
9 names and dates and everything else and it's going to  
10 take me a good bit of time.

11 Q Well, why don't we look at the documents  
12 we're going to get before we decide whether that's  
13 going to be necessary.

14 A Okay.

15 I wish I had taken the time to do that.  
16 You know, as I sit here and think about them, I don't  
17 want to waste your time. By the same token, I don't  
18 want to sit here and make a jerk out of myself just  
19 because I haven't taken the time to -- anymore of a  
20 jerk out of myself -- because I didn't take the time to  
21 do that.

22 Q I don't know if you've made a jerk out of  
23 yourself. I do know that yesterday we asked general  
24 questions about whether you had any meetings and your  
25 memory was very dim. You didn't recall what seemed to

1 me to be significant meetings.

2 A Well, you know, I remember the meetings .  
3 I have a problem with chronology. Again, we absorbed  
4 an awful lot of information in a very short period of  
5 time.

6 It's not my style to write down notes to  
7 myself and all that good stuff about who did what to  
8 whom in preparation for testimony at some future time.

9 We can reconstruct it as best we can. We  
10 can give you some good, hard dates and facts as we  
11 remember it.

12 One the Lipinsky memo surfaced, I was  
13 pretty much out of it. I had done exactly what Mr.  
14 Merritt asked me to do and the memo was Joe's problem  
15 and Ralph's problem, at that point in time.

16 Q If, in thinking about your testimony or  
17 looking at the transcript, do you find that there are  
18 things you would like to correct? Or that you would  
19 like to go over with a lawyer -- your own lawyer -- and  
20 then correct it?

21 I think that's something you ought to  
22 think about because I think there has been a change in  
23 your testimony from the way we started yesterday to  
24 when we finished now.

25 THE WITNESS: In what way, sir? So I can



1 refresh my memory.

2 Q I think we asked questions about whether  
3 there had been any meetings related to this in certain  
4 time periods. I think if you look over the transcript  
5 you'll see that you didn't remember some of these  
6 meetings.

7 Like the meeting with the lawyer and the  
8 meeting with Mr. Merritt on the audit.

9 THE WITNESS: I don't remember you asking  
10 me about meetings with the lawyers or anything else.  
11 I will be more than glad to sit down and write down  
12 all these meetings.

13 We have nothing to hide, sir, and I,  
14 frankly, didn't expect to get cross-examined on all  
15 this stuff. I thought you wanted some documents and  
16 the last time I talked about it, you wanted a couple of  
17 hours of my time and that was it.

18 Q Could you tell me, before you came here,  
19 whether you met with the lawyers for the Applicants?

20 MR. WATKINS: Today or yesterday?

21 JUDGE BLOCH: I want to learn about it  
22 generally.

23 THE WITNESS: I did not meet with the  
24 Applicants lawyers yesterday. We had a brief casual  
25 conversation, I think, about the weather or something



1 else out there. I have not consulted with them in any  
2 way.

3 BY JUDGE BLOCH:

4 Q How about last week while you were here  
5 under subpoena, did you talk with them at that time?

6 A Yes.

7 Q How lengthy were the discussions?

8 A Mr. Watkins asked me a lot of questions  
9 that started out with the history of the company and  
10 just started writing down my answer to the questions.

11 Q Do you know about how long it took?

12 A Two or three hours.

13 Q Do you remember the circumstances  
14 surrounding your decision to leave the hearing because  
15 of a storm?

16 A No. It was my understanding -- I told  
17 Mr. Watkins that, you know, I would like to get back  
18 to Houston because there was a storm in Houston and, I  
19 believe around noon or 11:00 o'clock in the morning  
20 or something, there was -- somebody had dropped  
21 somebody's high school transcript on the carpet and all  
22 hell broke loose there for a while.

23 I got the impression that, you know, you  
24 were into other things at the time and I could leave.

25 If you're saying that, you know, we need

1 legal counsel every time we talk to you in good faith  
2 -- I didn't realize we were talking about rules in the  
3 courtroom here and everything else.

4 I thought you guys just wanted to get the  
5 facts in a workaday routine, like we're sitting around  
6 a conference table.

7 Q That's all we want, are the facts.

8 A Okay.

9 Q I'm just asking you when you left, what  
10 conversation you had with lawyers for the Applicants  
11 about why you were leaving.

12 Do you remember what you said to them?

13 A I told Mr. Watkins that I would like to  
14 get back to Houston because of the weather. They were  
15 predicting some five foot tides, which are pretty  
16 severe down there and he said, in effect, "Go on.  
17 I think I can probably take care of it.", you know,  
18 " -- with the Board there."

19 Q And did you have any discussions about  
20 what documents you had with you?

21 A I gave all my documents and told him to go  
22 through and he handed me the documents he felt were in  
23 accordance with your subpoena.

24 Q I take it he gave back the ones that were  
25 not in accordance with the subpoena; isn't that what

1 you mean?

2 A That's correct.

3 Q Did he ever suggest that maybe you could  
4 just check with the Chairman before you left?

5 A I don't remember that coming up. I assume  
6 after all these hearings, there's some kind of rapport  
7 here that allows that courtesy.

8 Q Well, usually, the courtesy is that they  
9 ask the Board before they excuse a witness. It was  
10 not your problem.

11 JUDGE BLOCH: No further questions from  
12 the Board at this point.

13 Staff?

14 If you need a recess, you may always ask  
15 for one. (Addressed to the Court Reporter.)

16 THE REPORTER: Yes, I sure do.

17 JUDGE BLOCH: We will take a seven-minute  
18 smoking recess.

19 (Short recess.)

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1 JUDGE BLOCH: The meeting will please come  
2 to order.

## 3 CROSS-EXAMINATION

4 BY MR. TREBY:

5 Q Mr. Norris, I believe you indicated that  
6 you acted as the team leader when the first agreement  
7 with Comanche Peak began approximately in July of '83?

8 A That's correct, sir.

9 Q I'd like to just get some rough outlines  
10 of when this started. I realize you don't have your invoices,  
11 et cetera, but I believe my recollection of your testimony  
12 was that you were contacted by the company sometime in  
13 July of '83?

14 A That's right.

15 Q And we received a letter dated July 15, 1983,  
16 into the record, which indicated that you apparently  
17 had had some sort of meeting on July 13th with  
18 representatives of the company to discuss their requirements?

19 A That's correct, sir.

20 Q And you set up some sort of a method of  
21 analyzing their problems which you set forth in that  
22 July 15th letter?

23 A Yes, sir.

24 Q And then you sent some recommendations to  
25 the company on July 25th, 1983?

7-2 1 A. That's correct, sir.

2 Q. And before you sent those recommendations  
3 had you received some materials from the company?

4 A. We were allowed -- invited to go and look  
5 at whatever we wanted to look at. In that period of time  
6 we probably served started recording documents, had  
7 documents transmitted to us; the file got very thick  
8 in a very short period of time.

9 I believe the answer to your question is  
10 yes, but if you ask me when I received the document, you  
11 know, today or yesterday, I wouldn't be able to tell you  
12 that.

13 Q. But in order to make recommendations, you  
14 needed to have looked at some documents or done some  
15 site visits?

16 A. That's correct.

17 I think it's safe to say between July 15th  
18 and July 25th, I received a lion's share of the  
19 documents and spent whatever time I was going to spend on  
20 the site.

21 Q. And when did you assemble the members of  
22 your team, which I guess have been identified as Mr.  
23 Lipinsky and Mr. Posgay?

24 A. Probably right around the same day I wrote  
25 the letter to Mr. Merritt, July 15th, plus or minus. I'd



7-3 1 have to look at the telephone logs and all the other  
2 stuff to give you the exact time.

3 Q. Were there any special considerations  
4 that went into selecting those particular people for your  
5 team?

6 A. Well, Mr. Posgay has extensive experience  
7 with the South Texas Project and some of the problems  
8 that occurred down there. He's a registered professional  
9 engineer in the State of Texas, and we thought we needed a  
10 PE aboard. That was the reason for selecting Mr. Posgay.

11 And Mr. Lipinsky is used to the ANSI 101.4  
12 documentation requirements, and that was the reason for  
13 having Mr. Lipinsky come down, and also he's familiar  
14 with quality assurance programs in general.

15 Q. Is Mr. Posgay located in the Houston office?

16 A. No, he's an independent consultant. He  
17 works out of Houston.

18 Q. Are there any quality assurance experts  
19 located in the Houston office?

20 A. No.

21 Q. Does O. B. Cannon have any offices besides  
22 Philadelphia or Houston?

23 A. There's an office in Lakeland, Florida, and  
24 there's one out in Richmond, Washington.

25 Q. But Philadelphia is the headquarters?

7-4  
1 A That is correct, sir.

2 Q And I guess to continue the sequence, there  
3 was a meeting on site that began July 26th and ran through  
4 July 28th of 1983; is that correct?

5 A If you say that's correct, that's correct.

6 Q Well, perhaps you can refer to the August  
7 8th, 1983, memo which --

8 A Based on that memo, I believe the memo is  
9 correct in that regard. Again, I'd have to go back  
10 and make up a matrix of all the dates and cast of  
11 characters.

12 Q Well, referring to page 2 of that memo --

13 A Are we talking about the August 8th memo?

14 Q That's correct. It indicates that on  
15 July 28th, 1983, Mr. Lipinsky met with you.

16 A I believe that's correct, sir.

17 Q Do you know whether that was the first day  
18 that you were on site during the course of that July visit?

19 A I had been there before that. And as I  
20 remember, Joe had independent of me been on the site by  
21 himself for a few days, and I met him on July 28th and we  
22 discussed what he had generally observed up to that point.

23 Q Do you recall what observations and  
24 potential problem areas he mentioned to you?

25 A No. As we've discussed several times before,

1 Joe told me that he "had some losers" on the QC force.  
2 We discussed a lot of things, a lot of little bits of  
3 information that we transmitted both ways.

4 I have no recollection of the details of  
5 the conversation other than just a broad overview of  
6 Comanche Peak, and where this was, and where that was,  
7 and, you know, how to find your way here and there, and  
8 how to figure which elevation you're at when you're inside  
9 the containment.

10 Q What was the purpose for him giving you  
11 his rundown on observations and potential problem areas?  
12 Was it in your capacity as the team leader?

13 A Yes, I think that's a fair assessment.

14 Q There's reference later on in this memo  
15 to some meetings with the company officials on the 28th.  
16 Were you going to be the spokesperson for the O. B. Cannon  
17 team at that meeting?

18 A As I remember it, I started the meeting  
19 and then I felt that Joe had some stuff to say because  
20 he had recently uncovered the fact that Comanche Peak  
21 was committed to 101.4. And up to that point, I don't think  
22 we had figured or had been told that Comanche Peak was  
23 committed to 101.4. I felt it necessary to go through  
24 what 101.4 entailed.

25 Subsequently it became obvious that Mr. Tolsor

7-6  
1 and Mr. Merritt were well-acquainted with 101.4 and what  
2 it was all about.

3 Q But my question really went to the fact  
4 that, were you the senior person from O. B. Cannon at the  
5 site that day?

6 A That's correct, sir.

7 Q And therefore, it would be natural that  
8 you would be the spokesperson for O. B. Cannon, or at least  
9 initiate the meeting?

10 A I believe that's what I did, sir, and I  
11 felt that since that was the first time we were aware that  
12 101.4 was the governing document, I felt that Joe was  
13 in a better position to discuss it than I was.

14 Q Right.

15 That would normally fall within your  
16 prerogative as a senior person to delegate one of your  
17 team members to discuss something that he would be more  
18 expert in or more intimately familiar with?

19 A I'm sure I believe that to be correct.

20 Q And this 101.4 matter that you were just  
21 discussing, that's the matter that is also listed  
22 there when he sets forth in his memorandum here that he  
23 advised JJN on a specification/FSAR commitments?

24 A Yes. That is my understanding of what he  
25 is trying to say there.

???



7-7 1 JUDGE BLOCH: What is your recollection  
2 about when Mr. Tolson told you that it was committed to  
3 101.4?

4 THE WITNESS: It had not come up in my  
5 recollection prior to July 28th. I don't remember if I  
6 specifically asked if 101.4 was the governing document.  
7 Certainly nobody offered it. Maybe they assumed. I don't  
8 know, I just can't comment on that, sir.

9 BY MR. TREBY:

10 Q Well, who was the one who first advised you  
11 that the Applicant was committed to 101.4?

12 A Joe Lipinsky.

13 Q And do you recall -- and that was on  
14 July 28th, 1983?

15 A Yes, sir.

16 Q Do you know what time of day it was,  
17 morning or --

18 A Sir, I have difficulty sometimes remembering  
19 where I was the day before yesterday. I'm on the road  
20 quite a bit, and, believe me, I just go from one airport  
21 to another, and my mind does not work that way.

22 For the last two days, people -- you're  
23 insisting on that kind of information -- I'm just going to  
24 have to stop -- if you want that kind of information, I'm  
25 going to have to stop and reconstruct and, you know, we're



1 just going to have to do it another way. Because I just  
2 did not come prepared to answer those kinds of questions.

3 Q I can appreciate that. And the only reason  
4 I was asking the questions was to determine -- was to  
5 see if we could clarify -- you indicated Mr. Lipinsky  
6 told you the Board had asked some questions about  
7 Mr. Tolson mentioning it, and I thought it might be  
8 helpful if we could, you know, determine what portions  
9 of the day that you spoke with Mr. Lipinsky and what  
10 portions you spoke with Mr. Tolson. So that we could,  
11 you know --

12 JUDGE BLOCH: Okay. We now just got a  
13 justification of why Mr. Norris couldn't remember, and then  
14 we got a justification of why counsel is asking.

15 If you don't remember something, the best you  
16 can do is testify about what you remember. And if you  
17 don't remember, just say it. It's no problem.

18 THE WITNESS: Well, I've tried to tell you  
19 that for two days now, and you're insisting that -- a  
20 few minutes ago you indicated that based on what I said  
21 yesterday and what I'm saying today -- you know, I don't  
22 know whether you're anticipating charges of perjury or  
23 some darned thing. I tell the truth and nothing but the  
24 truth, and I'll give you my best recollection.

25 I have nothing to hide; the company has

7-9 1 nothing to hide.

2 I didn't expect to come here and be asked  
3 these kinds of questions. If you want a good witness  
4 and you want everything tied up in a nice, neat ribbon,  
5 I'm going to have to stop and do some research and make  
6 up a matrix, and put everybody on the matrix and then  
7 and only then can I give you the unvarnished truth.

8 Otherwise, I thought this was relatively  
9 informal, and I thought that I could give you my  
10 impressions of what I thought transpired. If that's not  
11 the case, we'll stop, I'll go get counsel, and, you know,  
12 we'll do it the other way. But I'm trying to give you  
13 my feelings -- you've asked my feelings, you've asked for  
14 my thoughts, you've asked for my perceptions of where  
15 TUSSE was coming from; I have tried to do my level-headed  
16 best to give you those impressions.

17 There are no skeletons in the closet.  
18 Whatever you want, you can have. But I really kind of  
19 resent being asked what time of the day it occurred, when  
20 I wasn't expecting to be asked those kinds of questions.

21 JUDGE BLOCH: Just say you don't remember.  
22 If you don't remember, you don't remember.

23 THE WITNESS: You did not indicate that  
24 yesterday, sir, and I've been trying to give you my  
25 recollection of what happened.

-10 1 If I'm not sure, I'll qualify it and I'll  
2 try to give you my impression of what happened.

3 JUDGE BLOCH: Okay. If it's an impression  
4 and you're not sure of it, say that before you answer.

5 THE WITNESS: I'm trying to qualify  
6 everything. If I haven't been successful, I apologize.  
7 But if I know something, I'll tell you I know something;  
8 if I don't know something, I'll tell you I don't know.

9 JUDGE BLOCH: Mr. Treby.

10 MR. ROISMAN: Mr. Chairman?

11 JUDGE BLOCH: Yes.

12 MR. ROISMAN: I feel now that, in the role  
13 of an officer of the Board and not as an attorney for a  
14 party, because I don't think what I'm going to say is  
15 necessarily in my client's best interest, this witness  
16 just said that he was concerned about possible perjury,  
17 that he understood or he got the impression from a  
18 question or something that you had said before, he said  
19 something about that maybe what he should do is go get  
20 a lawyer, get the facts all straight and come back.

21 I'm very concerned about continuing his  
22 examination without him having a real independent counsel,  
23 and with all due respect to Mr. Watkins and his law firm,  
24 I don't think they can fulfill that role for Mr. Norris  
25 here.

1                   If a witness says on the witness stand  
2 that he thinks something was said that suggested maybe  
3 he may be being looked at for perjury, and in the same  
4 breath or shortly thereafter talks about going to get an  
5 independent lawyer, which up until this time really hadn't  
6 come up, I'm really concerned about continuing his  
7 examination.

8                   As I say, I think if I were looking only  
9 at my client's interest, I'd say let's continue with him  
10 and not have that happen. But I'm worried about that.

11                  MR. WATKINS: If we could comment, I don't  
12 necessarily disagree with Mr. Roisman. And we believe  
13 Mr. Norris has interpreted the Chairman's remarks  
14 earlier to mean an accusation that he was less than  
15 truthful yesterday. We certainly don't think that's true,  
16 but it has caused deep concern for Mr. Norris.

17                  JUDGE BLOCH: I would say that before  
18 I could draw that conclusion, I would have to examine  
19 the record further.

20                  There are some areas of the initial testimony  
21 that are disturbing to me. We went over extensively, for  
22 example, whether anyone was responsible for cost control  
23 and you said no. And now today you told us that you  
24 were the project manager and that you were responsible  
25 for cost control. That's a very simple fact within your

1 knowledge.

2 I can't even believe that you didn't remember  
3 it yesterday.

4 THE WITNESS: I can't believe you're  
5 saying what you're saying right now. The context of your  
6 question yesterday was who was responsible for cost  
7 control.

8 What I should have said is there wasn't  
9 enough money here on this time and material aspect  
10 of the contract to set up formal cost controls, and  
11 I tried to tell you in subsequent testimony that it was  
12 a given that if more money was necessary to complete  
13 our examination, more money would be funded, period.

14 There just wasn't enough money involved  
15 for me to be saying, don't spend \$32 a day for a rental  
16 car, I want you to spend \$19 a day.

17 Was that the context of your question, sir?

18 JUDGE BLOCH: You may be right about whether  
19 or not what you said yesterday was misleading. I gave  
20 that as an example that I have in my mind. I'm not  
21 completely convinced that what you just said now is  
22 responsive to my concern.

23 I do think it would be helpful if we would  
24 accept counsel's advice and you get independent counsel  
25 before we continue the examination.



7-13 1 Now, if you don't want independent counsel,  
2 then that avenue is not open. But I think it's possible  
3 that what you've indicated is that the facts are  
4 very complicated; there are a lot of dates that are  
5 swimming in your mind; that you want to review the  
6 memoranda and get things straight so that you'll tell  
7 the story the way it is, the real truth --

8 THE WITNESS: Sir, I can assure you that  
9 I do not lie.

10 MR. WATKINS: We object to that characterization.  
11 You're implying that he's been less than truthful.

12 He has been saying that without sitting  
13 down, going through memoranda, and refreshing his memory,  
14 he cannot be as precise as apparently you want him to be.

15 Those are completely different things.

16 JUDGE BLOCH: I'm saying that the facts  
17 are complicated and that it's difficult to testify  
18 accurately without refreshing your memory by the documents  
19 you have.

20 THE WITNESS: Sir, I want to cooperate  
21 with the Board 100 percent.

22 As I said before, we have nothing to hide.

23 Would it be more productive -- and could I  
24 answer your questions better if you submitted them to me  
25 in writing and I'll research it to the best of my knowledge

7-14 1 to make sure you get the maximum amount of information to  
2 help you in your endeavor?

3 JUDGE BLOCH: I think we're going to have  
4 oral questions asked. That's the format.

5 Something else you said was troubling to me  
6 was that you said you had the impression this was an  
7 informal hearing. It is not. There is a nuclear plant  
8 at stake here. I tried to say that when I advised you of  
9 your rights at the beginning.

10 There's a lot of money involved; there's  
11 public health and safety involved. This is not an informal  
12 hearing.

13 THE WITNESS: Informal in the sense that  
14 you just want to get the facts out on the table, and I  
15 feel like I've volunteered information, I'm trying to  
16 give examples and recollections, and everything I could  
17 to help you out. It was my impression that you wanted  
18 a little bit more than a simple yes or no.

19 JUDGE BLOCH: It's informal in the sense  
20 that all we want is the truth. And if you have a lack  
21 of memory, that's fine, and if I review the transcripts and  
22 saw all you were suffering was a lack of money, there's  
23 no problem. And it may well be that there were certain  
24 problems of memory that were not in any way dishonest on  
25 your part, and then there would be no question about any

7-15  
1 pursuing of things in the record.

2                   It's probable that that's the case. You  
3 were here; you're telling me you tried to be honest and  
4 without reviewing the transcript carefully, I have no  
5 reason to conclude that you were anything but fully  
6 honest with the Board.

7                   My recollection is that there were details  
8 that you began filling in that could have been provided  
9 to earlier questions. That was the area that concerns  
10 me. And it could be that that was just due to memory,  
11 but there's enough of an uncertainty in my mind that  
12 I would feel more comfortable if you had your own lawyer.

13                   THE WITNESS: Okay.

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-1  
1 JUDGE BLOCH: So why don't we discontinue  
2 with this witness at this time.

3 Mr. Norris, I am sorry that things have  
4 gotten more complicated and that this is the course  
5 we choose to take; but I think it may be helpful to  
6 you individually if we do discontinue now.

7 I want to thank you for being here and  
8 cooperating with us.

9 MR. ROISMAN: Mr. Chairman, I just want  
10 it to be clear on the record that my suggestion was not  
11 based on any presupposition on my part on the under-  
12 lying issue.

13 It was based exclusively on hearing what  
14 the witness said and his appearing to express some  
15 concern, and there was no lawyer who was his here to  
16 go up to him and say to him, "Maybe we ought to stop."

17 JUDGE GROSSMAN: Mr. Norris, I just want  
18 to point out that you were subpoenaed and the subpoena  
19 still holds.

20 We haven't set a further date for you  
21 to appear, but when we do set the date, it will be  
22 under that subpoena, which is still continuing.

23 I just want you to be able to point that  
24 out to your attorney. Do you understand what I'm  
25 saying?

1 THE WITNESS: Yes, I understand.

2 JUDGE BLOCH: I want to thank you very  
3 much for what you did. It was helpful to the Board and  
4 we want to be sensitive to the rights of the  
5 witnesses.

6 Mr. Treby, I hope we weren't insensitive  
7 to your rights to continue the cross-examination.

8 MR. TREBY: No, you were not insensitive  
9 and I agree fully. I think in view of the fact that  
10 the questioning was as detailed in the sense that there  
11 are many dates involved and we seem to need to get a  
12 clear chronology, that the best testimony would occur  
13 after the witness had all of the facts in front of him  
14 instead of trying to cause him to reach his recollection.

15 JUDGE BLOCH: Okay.

16 (The witness was  
17 temporarily excused.)

18 JUDGE BLOCH: Is Mr. Purdy here? Is he  
19 the next witness?

20 MR. WATKINS: Why don't we take a recess  
21 and check. I believe he is here.

22 JUDGE BLOCH: We'll take a five-minute  
23 recess.

24 (Recess taken.)

25 JUDGE BLOCH: The hearing will come to



1 order.

2 Whereupon,

3 GORDON PURDY

4 resumed the stand as a witness and, having been  
5 previously duly sworn to testify the truth, the whole  
6 truth and nothing but the truth, testified further  
7 on his oath as follows:

8 JUDGE BLOCH: Welcome back, Mr. Purdy.  
9 You have been sworn and continue under oath.

10 THE WITNESS: Yes, sir.

11 JUDGE BLOCH: You know that this is a  
12 formal proceeding.

13 Mr. Roisman.

14 CROSS-EXAMINATION

15 BY MR. ROISMAN:

16 Q Mr. Purdy --

17 MR. DOWNEY: Excuse me, Your Honor.

18 I believe Mr. Roisman indicated at  
19 the last hearing that he had concluded his examination  
20 of Mr. Purdy and passed the witness.

21 MR. ROISMAN: I believe what I did was  
22 I passed it to Ms. Garde who was going to ask him  
23 about the disk incident, which I am now going to do in  
24 Ms. Garde's absence.

25 MR. DOWNEY: I object to further

1 examination by the Intervenor.

2 JUDGE CROSSMAN: Had you begun any  
3 questioning yet, Mr. Downey?

4 MR. DOWNEY: I had not, but Mr. Roisman  
5 passed the witness.

6 MR. ROISMAN: I don't have the transcript  
7 reference here.

8 JUDGE BLOCH: Well, Mr. Roisman, in  
9 any event --

10 MR. ROISMAN: In any event, we intended  
11 to ask him about ten minutes worth of questions on  
12 the disk incident which were to be asked by Ms. Garde  
13 and not me, and I would like to ask those now.

14 JUDGE BLOCH: I would appreciate that,  
15 because if you hadn't, I would have.

16 BY MR. ROISMAN:

17 Q Mr. Purdy, the pages of your prefiled  
18 testimony that are the focus of this discussion begin  
19 at 41,331 through 41,336.

20 I see you have nothing in front of you.  
21 I'm not sure that any of my questions require you to  
22 have it there in front of you, but for the record I  
23 am identifying that and if you want to have it, that's  
24 fine.

25 A Yes, sir.

-5  
1 Q Mr. Purdy, my questions really are to  
2 try to clarify what it is that I think you were saying  
3 in this testimony.

4 First of all, do I understand that it is  
5 the case that disks in these valves must be traceable  
6 back to the original vendor of the disk; that is an  
7 essential feature for an ASME valve; is that right?

8 A Not really. The disk must be traceable  
9 back to the material melt from which it was  
10 fabricated.

11 Q Okay. I'm sorry. Which goes back even  
12 further than the vendor, in other words?

13 A It goes back further than the vendor's  
14 actual process, yes, sir.

15 Q I take it, then, that if something was  
16 happening with regard to documents related to those  
17 valves and the disks in particular, that on its  
18 surface indicated that there was a lack of match-up  
19 between the disk on the one hand and the valve on the  
20 other, at least to a person not familiar with all the  
21 things that you said on these pages, that would be a  
22 matter of some concern if you were a document  
23 reviewer; is that correct?

24 A Yes, I would expect him to question it.

25 Q All right, and do I understand correctly

-6  
1 that the work that Ms. Barnes was doing at the time  
2 that she raised questions about these disks was  
3 reviewing documents which were on their way to the  
4 vault for permanent storage; is that correct?

5 A. That's my understanding, yes, sir.

6 Q. Is it your testimony that those  
7 documents could properly go to the vault for  
8 permanent storage, although at that time all the  
9 documentation on the full traceability of the disk  
10 had not been prepared and completed?

11 A. The process that she was reviewing  
12 relative to the installation of the item could go to  
13 the vault; and based on the fact that a program had  
14 been established to go back and identify those, yes,  
15 I felt it was proper to send it to the vault.

16 Q. Is it your testimony, looking now in  
17 particular at Page 41,336, beginning at Line 8 and  
18 ending at Line 14, that this program which you were  
19 going to be implementing to get the traceability of  
20 the disk was not known to the group in which Ms. Barnes  
21 worked?

22 A. Yes, sir. I doubt very seriously, unless  
23 they had overheard or had been made aware through  
24 conversations of our plans to establish validity of  
25 code data report subsequent to installation, if she



8-7  
1 would have known that.

2 Q Do you know whether after Ms. Barnes  
3 raised her concerns, somebody sat her down and told her  
4 about this whole program that you described here in  
5 these pages?

6 A I don't know that. I'm not sure I knew  
7 it was a concern until the hearings, sir.

8 Q So as far as you -- You have no personal  
9 knowledge that Ms. Barnes then, or even now for that  
10 matter, knows about this program for assuring the  
11 traceability of the disks -- on the valves where the  
12 disks are interchanged from the original disk that  
13 came with the valve when it was supplied by the  
14 vendor?

15 A Ms. Barnes probably is not aware of it.  
16 The topic was discussed during the training session we  
17 held subsequent to Ms. Barnes leaving the project.

18 Q I was just focusing on her for the  
19 moment.

20 As I understand the QES Procedures 18.2,  
21 a QES reviewer, when they sign off on something, is  
22 indicating that there is acceptable traceability on  
23 components for which they are signing off.

24 Can you explain to me how that  
25 responsibility of the QES reviewer meshes with the fact



-8  
1 that at least as to disks and valves, when the QES  
2 reviewer does their work, the traceability of the disk  
3 is not always apparent.

4 MR. DOWNEY: Objection. I don't think  
5 that procedure or the QES review sheet was in force  
6 at the time this incident arose.

7 BY MR. ROISMAN:

8 Q Well, Mr. Purdy, was it?

9 A I don't recall the exact date, but we  
10 have used a form of the QES review sheet for quite  
11 some period of time.

12 I don't recall specifically when this  
13 question was raised, or when the question was raised  
14 by Ms. Barnes.

15 The procedure for reviewing the  
16 documentation has also been in place for quite some  
17 time.

18 The requirements of the Code require  
19 that we maintain traceability of Code pressure boundary  
20 parts.

21 The project had two options during the  
22 tenure of the project to maintain that traceability.

23 One of those was the traceability could  
24 have been maintained through normal construction  
25 process documents, which meant that in reviewing the

-9  
1 normal traveler, if the project had chosen to address  
2 it that way, and a valve disk had been replaced, or  
3 bolting material connecting the valve body to the  
4 valve bonnet had been replaced, we could have chosen  
5 to maintain the traceability by identifying the  
6 material requisitioned in the traveler, which the  
7 material requisition would remain part of that  
8 process package.

9           Therefore, we would have within the  
10 scope of the documentation maintained total  
11 traceability.

12           A couple of years ago it was decided that  
13 we would go ahead and implement a Section 11 program  
14 for items which had completed all the construction  
15 requirements and had been certified either by a  
16 vendor or by our organization on an appropriate Code  
17 data report and an N symbol stamp applied.

18           In doing so, we recognized that we would  
19 have a large process in going back and identifying  
20 through those material requisitions where we had  
21 replaced those parts.

22           I think that probably the confusion  
23 arose by not understanding that we did have material  
24 traceability. It was a question of how we were going  
25 to document that traceability within her group, sir.

8-10

1 Q And, also, when?

2 A And when, yes, sir.

3 Q And it's your testimony that the QES  
4 review sign-off that includes signing off on  
5 traceability, that it's okay to sign that off even  
6 though the traceability of a portion of the valve will  
7 actually not be documented until some subsequent time?

8 A The traceability of the valve was there.

9 Q I'm talking about the disk.

10 A The traceability of the disk was there.

11 The only way that the disk, a new replacement disk  
12 could have been obtained from the warehouse was for  
13 a material requisition to have been executed by the  
14 party that was going to perform the replacement,  
15 whether it was engineering or construction, that  
16 material requisition would have identified the  
17 valve, the type, the particular repair part that was  
18 required.

19 The material requisition would indicate  
20 at the bottom of it the intended purpose for the  
21 installation.

22 That material requisition becomes part  
23 of the package. So the fact that the valve disk that  
24 is now in the valve was different than that that was  
25 indicated on the Code data report really didn't make

8-11

1 any difference because an acceptable replacement was  
2 in the valve and was documented in the material  
3 requisition in that valve package.

4 We chose to further clarify that by  
5 initiating what we call an NIS-2 form subsequent to  
6 the point where it appeared to us that we would be  
7 changing out those parts frequently due to the  
8 testing program and to actually append those to the  
9 vendor's Code data report.

10 But from a constructibility, from a  
11 compliance standpoint with the Code, the traceability  
12 was there through the material requisition and the  
13 traveler installing the valve or the disk.

14 Q Let me see if I understand.

15 If a valve had come to the QES review --  
16 traveler packet on a valve had come to QES review,  
17 and the disk that had been installed by the vendor  
18 was still with it, the documentation that was then  
19 there would show that it was a vendor-supplied disk,  
20 that the valve itself, of course, was vendor-supplied;  
21 and presumably, therefore, through existing programs  
22 that the Applicant had in place to verify that the  
23 vendor supplied components for ASME use in the plant,  
24 that those components had their traceability all the  
25 way back to (I think you used the word) the pour of



1 the metal in it; is that correct?

2 A. Yes.

3 Q. All right, and so with respect to that  
4 kind of a valve there wouldn't be any question. You  
5 would know that it was the disk that came with it,  
6 and assuming that you had confidence in the program that  
7 was in place and known to everyone that vendor was  
8 itself subject to some, I believe, it's audit by the  
9 Applicant to make sure that they were complying with  
10 everything, that would meet the traceability requirements  
11 at that point, correct?

12 A. Yes, sir, that's correct.

13 Q. All right. Now, assume that the paper on  
14 a valve comes through from QES review, and in that  
15 particular case there's a new disk, a different disk  
16 than the vendor-supplied disk.

17 In that case the documentation, as I  
18 understand it, would show that the disk had been  
19 requisitioned and who had requisitioned it and how it  
20 had been requisitioned and the like; but there would be  
21 nothing in the packet that would tell you it had been  
22 requisitioned from either vendor-supplied disks or that  
23 the disks themselves had the same traceability all the  
24 way back to the pour that you could assume was true if  
25 it was the disk that came with the valve. Isn't that



-13 1 true?

2 A The package would show the material  
3 requisition, which would include the disk, which would  
4 include the part number, which would provide us the  
5 ability to go back and verify vendor and, in fact,  
6 material back to the melt, if that's what was  
7 required.

8 Q But to the reviewer looking at it, you  
9 wouldn't know just by looking at the requisition that  
10 in fact all that other traceability was there? There  
11 wasn't any -- Because no one knew, as I understand it,  
12 or you think that none of these reviewers probably  
13 knew about the availability of this program using the  
14 NIS-2 form to actually verify that traceability, that  
15 they wouldn't know as they would with a vendor-supplied  
16 disk that matched the original valve, that in fact  
17 all that other traceability was available, would they?

18 A The fact that the disk didn't match the  
19 original valve they wouldn't know unless they went  
20 down to the vault to take a look at the vendor-supplied  
21 Code data report, because the vendor Code data report  
22 is not part of the package. It is part of the vendor  
23 package.

24 What they do know is that the material  
25 requisition has specified by part number or replacement

-14 1 number provided by the vendor that the warehouse has  
2 issued that disk.

3 The fact that they have issued the proper  
4 disk is further attested to by receiving QC prior to  
5 issuing the safety-related material from the warehouse.

6 So the first check and balance is the  
7 receiving inspection personnel prior to releasing the  
8 disk would verify that what was being requisitioned  
9 was in fact acceptable from the warehouse parts.

10 The second thing that would have occurred  
11 is that the installation of that item would have been  
12 recorded on the traveler, at which point the field QC  
13 inspector would verify that what was released from the  
14 warehouse was what went into the valve.

15 That would be traceable through the  
16 package through both the traveler and the material  
17 requisition.

18 Therefore, unless there was a question of  
19 whether or not that replacement part which was supplied  
20 by the vendor was done in accordance with the vendor's  
21 program, there would be no reason to question the  
22 traceability of the item, because it was supplied by the  
23 vendor as a replacement part.

24 Q Is that apparent from the package itself  
25 or would you have to go somewhere else to find that

1 out, that it was in fact supplied by the vendor for  
2 use in that valve or valves exactly like that?

3 A The part number was specified; therefore,  
4 when you specify a specific part number, I believe  
5 it's fairly common knowledge that that's coming from  
6 the vendor's catalogue of replacement parts or  
7 repair parts items.

8 I believe the traceability generally is  
9 fairly well understood. This is the only time the  
10 question has actually come up, sir.

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1 Q Now, when the vendor supplies the valve,  
2 it already has a disc with it and the disc and the  
3 valve are matched up by the vendor at the time the  
4 vendor supplies it to the Applicant; is that right?

5 A Yes, sir, that's correct.

6 Q And what are the situations under which  
7 the disc is replace prior to the time that the plant  
8 goes into operation?

9 A Several things could cause that.

10 Valves quite frequently are disassembled  
11 under controlled disassembly program and flushing  
12 strainers put in. The purpose of which is to achieve  
13 ultimate verification and cleanliness of the system  
14 through the installation of flushing screens or what  
15 have you, which means the internal parts of the valve  
16 are physically removed while water in very high  
17 velocity and turbulence is sent through the to verify  
18 it is clean.

19 A disc may be lost, in which case we would  
20 replace it.

21 Another very common problem is that in  
22 the initial --

23 JUDGE BLOCH: When it's lost and you  
24 replace it, I take it at that point there is some  
25 deficiency paper?

1 THE WITNESS: We would initiate an NCR  
2 at that point; yes, sir.

3 A common problem in performing acceptance  
4 testing and pre-operational testing, where we are  
5 actually simulating operating conditions, is that  
6 until the system gets balanced, there's a large number  
7 of actual valve operations or equivalent operations  
8 that take place.

9 It's not uncommon to, for example, on a  
10 globe-type throttling valve, to be adjusting that  
11 valve continuously in order to establish the proper  
12 setting for the flow balance and heat balance that is  
13 required in the system.

14 In doing so, you change the flow and the,  
15 basically, hydraulic characteristics through the valve.  
16 Sometimes you cut the valve seat, the disc, in which  
17 case, we would go back in, we would clean up the disc  
18 or the seat -- pardon me -- and we would replace the  
19 disc and reverify that it was able to contain the  
20 system.

21 So, it's not abnormal to be replacing those  
22 parts. In fact, that's why the vendor makes them  
23 capable of being replaced, because they are actually  
24 the sacrificial item of the valve.  
25



1 BY MR. ROISMAN:

2 Q Can you just explain sort of in a step-by-  
3 step, the implementation of the use of the NIS 2 form?  
4 Take a package that has gone through a QES review,  
5 has been sent to the vault, that has in it a disc  
6 which was a replacement disc for it and now explain to  
7 me how this subsequent program operates on that, with  
8 respect to the paperwork.

9 What actually happens? Who does what?  
10 What papers do they pick up? That kind of thing.

11 A First of all, let me explain that an NIS 2  
12 form didn't come into existence until the 1980 ASME  
13 edition of the boiler pressure vessel code.

14 That was not a requirement by the  
15 construction organization because our commitment  
16 to edition of the code was the 1974 edition, Summer  
17 of '74, Addenda for Piping, Summer of '74, Addenda for  
18 Supports.

19 However, because the operations side of  
20 the organization was committed to the later edition of  
21 the code, we assessed basically what we would like to  
22 have if I were the owner, two years, three years, four  
23 years from now and the retraceability on that type of  
24 an item was established through the construction  
25 documentation up until we established a Section 11

1 program in April of 19 -- I believe I issued the first  
2 procedure in April of 1982.

3 Therefore, until recently an NIS 2 form  
4 over the last two years was never addressed on the  
5 project.

6 The NIS 2 form, when we decided to use it  
7 to try and present a very clear, concise package that  
8 would be readily explainable to everyone, without  
9 having to go through the back documentation, we  
10 recognized that we would have to go back on a vault  
11 search to determine those areas where we had either  
12 added filler material through a rolling process to  
13 vendor supplied, N-stamped component or where we had  
14 replaced parts that were identified as pressure  
15 boundary items by the Boiler Pressure Vessel Code.

16 We chose not to do that until we were  
17 sufficiently along in the construction and the testing  
18 process as to have iterative issues of an NIS 2 form,  
19 because we had maintained the documentation through the  
20 actual construction process control documents.

21 About, I would say 12 weeks ago, 12 or 14  
22 weeks ago, somewhere in that vicinity, quality  
23 engineering researched all operational travelers on  
24 equipment to identify where material requisitions had  
25 been used to replace parts that could be defined as part

1 of the pressure boundary by ASML.

2 We reviewed all of the permanent equipment  
3 transfer documentation where we would be taking a part  
4 that had originally been assigned to Unit 2 and  
5 permanently placing it in Unit 1 to identify where  
6 NIS 2's would be required.

7 We researched all the repair process  
8 sheets for welds that were conducted on the plant that  
9 were on N-stamped components, where we would be  
10 required under the 1980 edition of the code, to fill  
11 out the NIS 2 form for proper documentation of that  
12 repair activity and to provide engineering evaluation  
13 and reconciliation in the repair.

14 We went through all of the operations  
15 department documentation that they used for mechanical  
16 maintenance and for mechanical work that the owner  
17 on the operations organization performed to identify  
18 where we would be required to initiate NIS 2 forms  
19 under their commitment and, as a result of that, a  
20 total search of all of the documentation associated  
21 with repair activities or replacement activities to  
22 N-stamped components.

23 Completed about 400 NIS 2 forms, which  
24 were appended to the back of the original code data  
25 report prior to completing the final N-5

1 certification of Unit 1 in common, as we did last --  
2 two weeks ago Friday.

3 Q All right.

4 And after the NIS 2 forms were prepared,  
5 and that piece of work was completed, did the  
6 documentation return to the QES review group for their  
7 final review and the N-5 statusing group, or did it  
8 go directly to ANI for review?

9 A Yes, sir. That was done by the quality  
10 engineering group who prepared the documentation,  
11 since it was not technically within the program of  
12 installation of the component. It was under the  
13 Section 11 program, which I had assigned to the quality  
14 engineering group. Not the construction document  
15 review group in my organization -- the QA document  
16 review group and from there, it was transmitted to  
17 the owner.

18 Because the reconciliation of replacement  
19 parts in N-stamped components is the owner's  
20 responsibility under Section 11 and it went to the  
21 owner, to their -- their results or nuclear engineering  
22 organization where they evaluated all of those repairs  
23 or replacement for reconciliation with the final  
24 stress analysis.

25 And from their activities, it was

1 coordinated between the owner's quality assurance  
2 organization and an authorized nuclear in-service  
3 inspector, which is different than on normal  
4 construction ANI.

5 Q Now, is the review that's done by the  
6 authorized nuclear in-service inspector, is that a  
7 review that is as complete as the kind of review that  
8 the QES reviewers would do of that documentation at  
9 the earlier stage, at the stage when, say, Ms. Barnes  
10 would have been looking at the documentation or is it  
11 a different of review?

12 A Well, the review that is performed by the  
13 quality engineering group would not have been done  
14 under our CP-QAP.18 procedure at the time, because, of  
15 course, that was subsequently replaced by an overall  
16 document called CP-QAP 12.1.

17 Q Uh-huh.

18 A Which married the entire process together.  
19 The quality engineering group reviewed the  
20 Section 11 process documents to the requirements of  
21 CP-QAP 12.1, which were equal to or more in depth than  
22 previously identified under 18.2.

23 From that point, they were transmitted to  
24 the owner for their review and final disposition.

25 Q I understand what you're saying about the



1 quality engineering..

2 I was asking you about the ANI review.  
3 Was it of the same character as the ANI review that  
4 was done of the QES N-5 group review work?

5 Was it in the same depth and breadth as  
6 that kind of review or was it a different type of  
7 review?

8 A. No. It is a fairly equivalent review.

9 Q. So it wasn't a comprehensive, complete  
10 recheck? I believe you previously testified on that  
11 question, as to that ANI, when it reviews QES N-5  
12 review documents, does not go from end to end and do  
13 a complete recheck but it does something less thorough  
14 than that.

15 MR. DOWNEY: Objection. I don't believe  
16 that was Mr. Purdy's testimony.

17 JUDGE BLOCH: Okay. With both Counsel's  
18 comments, you may answer.

19 THE WITNESS: Again, I can't tell you  
20 precisely what the ANII reviewed. That was an interface  
21 that was conducted by the owner's quality assurance  
22 department.

23 I did, however, discuss that -- the review  
24 process, on several occasions with the authorized  
25 nuclear in-service inspector and because it was a new

9-9 1 program, because the process would be one that would  
2 be used by the Applicant, basically for the life of  
3 the project.

4 The review that was conducted right by  
5 the authorized nuclear in-service inspector, was  
6 exceptionally in-depth for this first 400 or so items  
7 that we had to address under Section 11.

8 Q Now, in your testimony on Page 41,336,  
9 at lines 15 through 22, you are asked questions about  
10 ANI.

11 Now, you're talking about ANIX. Is the  
12 testimony in error? For clarity's sake, should it  
13 be referring to something other than what we've  
14 routinely called ANI? Should it be ANII?

15 A Line 17, that would be ANII.

16 Q And then very leading question that begins  
17 at 19, should also say ANII?

18 A Yes, sir.

19 Q Okay.

20 I believe you said it was quality  
21 engineering group that did the NIS 2 review work; is  
22 that right?

23 A Yes, sir. They coordinated the Section 11  
24 part.

25 Q And they are under the general QA/QC

1 program in the plant; is that correct?

2 A Yes, sir. They report directly to my  
3 quality engineering manager.

4 Q Okay.

5 Can you give me the date or as close to  
6 possible, the date when a final decision was made at  
7 the plant site by the -- either your organization or  
8 TUSI, whoever had to make that decision -- that the  
9 NIS 2 procedure would be used with respect to  
10 traceability of the discs in the valves?

11 A We made the decision to implement the  
12 requirements of Section 11, 1980 edition. As I recall,  
13 in the very first part of 1982.

14 Q And why was it that that decision was  
15 not known outside of, I guess, supervisory level  
16 personnel until some time in 1984? I believe you  
17 said it was shortly after Ms. Barnes had left the  
18 site.

19 A The original procedure that addressed  
20 Section 11 repairs was a CP-QAP 2.4. It, at that time,  
21 and has since then been specifically assigned to a  
22 quality engineering group function.

23 She was not trained with the rest of the  
24 people because it wasn't their responsibility and  
25 nobody had ever asked the question before. I'd have

1 been happy to answer it.

2 Q Was it in early '82 that TUGCO assigned  
3 this responsibility to Brown & Root or did that occur  
4 at some subsequent time?

5 A In early 1982 the program that was  
6 developed required TUGCO operations to define to us  
7 what they wanted to do, because upon implementing that  
8 section of the code, the owner already had responsibility  
9 for N-stamped components.

10 During the initial portion of the  
11 activity, they maintained documentation and they,  
12 themselves, initiated the NIS 2 paper, that would be  
13 necessary to substantiate the work that either they  
14 did directly or that we were, in essence, subcontracted  
15 to do, based on the fact that that portion of the job  
16 was already complete, in the middle of '84, during  
17 the recent time frame.

18 The activity was undertaken by -- directly  
19 by my quality engineering organization because the  
20 responsibility for the plant had, in fact, until the  
21 Unit 1 N-3 had been signed, would remain with TUSI  
22 Construction and Engineering. So, we acted in their  
23 behalf in the latter part or the middle part of '84.

24 MR. ROISMAN: I have no further questions.

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## BOARD EXAMINATION

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BY JUDGE BLOCH:

Q Mr. Purdy, my concern is really much more basic and simple than what Mr. Roisman's was.

I want to try to figure out how it is that the package didn't contain the correct number for the disk, and I don't understand that from the testimony.

MR. DOWNEY: Objection. I don't believe that's what the testimony shows.

JUDGE BLOCH: Well, why don't we let Mr. Purdy try to --

MR. DOWNEY: Well, I think it -- Ms. Barnes didn't testify that it contained the incorrect number.

JUDGE GROSSMAN: Well, Mr. Downey, the witness can answer the question. If there's something wrong in the statement by the Chairman, the witness certainly can correct that. He doesn't need any prompting.

MR. DOWNEY: I'm not sure the witness has reviewed Ms. Barnes' testimony.

JUDGE BLOCH: Okay. Let's start out --

BY JUDGE BLOCH:

Q Was Ms. Barnes faced with the situation --



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1 do you know whether she was faced with the situation  
2 in which the document package had a different number  
3 on it for the disk than the disk that was in the valve?

4 A Your Honor, I'm not really sure what  
5 would have spurred her question on the disk number.

6 The only place the disk number would  
7 have been recorded would have been on the vendor's  
8 NPD-1 code data report.

9 What probably prompted the question was  
10 the operations traveler and the material requisition  
11 identified that they replaced the valve disk and gave  
12 a new number, and during this time frame people were  
13 becoming aware of what ASME code data reports had on  
14 them.

15 And the question probably was, I've got  
16 a new disk, as evidenced by the process control  
17 document, and it's not going to be the same as on  
18 the vendor code data report, is that acceptable.

19 And I assume that's really what her  
20 question was, Your Honor, because she would not have  
21 known that there were different numbers unless she  
22 identified the fact that the disk was replaced by  
23 the traveler.

24 Q So as you understand the problem, it is  
25 that a different number would be found in documentation

10-3

1 that was not in the package but you don't understand  
2 it to be a problem with the number matching the  
3 number on the disk?

4 A The number that was in the package that  
5 Ms. Barnes was reviewing wouldn't directly relate to  
6 what was in the valve. That's what was installed.

7 So between the material requisition  
8 going to the warehouse, identifying the part number,  
9 warehouse and receiving QC releasing that part number,  
10 verifying that that part was installed in the valve  
11 was all traceable.

12 Q In the package?

13 A In the package, including the number  
14 that -- whether it was a serial number or a heat  
15 number that was physically on the valve disk.

16 I believe the question probably arose  
17 because the N-5 group was involved in preparing code  
18 data reports at that time, became aware of what code  
19 data reports said and probably had a very logical  
20 question, what I have in the valve now doesn't meet  
21 the code data report, is that acceptable.

22 Q The material requisitions in the packet  
23 had a number that was on the disk, is that correct?

24 A Yes, sir.

25 Q These ASME code data reports were not

0-4  
1 in the packet?

2 A That's correct, Your Honor.

3 Q And how did they relate to the number  
4 that was in the packet?

5 A The code data report?

6 Q Yes.

7 A The code data report would not have  
8 related to the number that was in the packet.

9 Q And what number would it have?

10 A The number in the packet would have the  
11 number of the new disk that was being installed.

12 Q Would the new disk be installed sub-  
13 sequent to the material requisitions that were in the  
14 packet?

15 A The only way the disk could be obtained  
16 was through the issuance of the material requisition.

17 Q And wouldn't the last material requi-  
18 sition be in the packet?

19 A That material requisition should have  
20 been in the operations traveler packet, yes, sir.

21 Q Do you know if it was?

22 A I have no first-hand knowledge of that,  
23 Your Honor.

24 Q Could you explain a little bit about  
25 this final verification program that you were going

10-5

1 to do? What was the purpose of that?

2 A The purpose of the final verification  
3 program was to provide the owner with a stand-alone  
4 document.

5 Q That was the NIS-2 form?

6 A Yes, sir. It was sort of a Rolls Royce  
7 instead of a Cadillac.

8 By licensing requirements, by ASME  
9 requirements, traceability had been maintained in  
10 accordance with NA-4000 of the Code in Appendix B.  
11 It was in the process control documents that were  
12 approved in the program before the implementation of  
13 those requirements.

14 What that would have required, however,  
15 was that if someone asked a question on that disk  
16 four years from now when they had to replace it, and  
17 the operations branch of the Commission had said, gee,  
18 how did that get in there, the owner would have had  
19 to go back through all of the process documentation  
20 to come up with a historical chronology of that valve,  
21 a very common problem in the industry.

22 Having operated and maintained plants  
23 as long as I have built them, we chose to try and  
24 provide to the owner a very simple, clear document  
25 that could be used without unnecessary reference to

1 previous process control documents or construction  
2 paper, which three years from now they may not even  
3 have understood what we were doing.

4 Q Okay. And the NIS-2 was a more  
5 convenient summary document to do that?

6 A Most assuredly, sir.

7 Q Okay. You were very patient, you gave  
8 me the same story the second time that you had given  
9 the first time. I appreciate that.

10 As part of the final verification  
11 program, was that just a document program or was there  
12 a check against the physical valve?

13 A The check against the physical valve  
14 had been done in process. It had been inspected. So  
15 we knew what went into the valve, and we knew that it  
16 went in properly by the traveler that installed it.

17 What the final verification process was,  
18 in most instances, and I will not say in all instances,  
19 in most instances was a verification that the docu-  
20 mentation supported that activity and then summarizing  
21 it on the NIS-2.

22 There were some instances where we had  
23 to go back out and do some physical verification.

24 Q Why was that necessary?

25 A Because we may not have found the



1 document we were looking for, to be able to sub-  
2 stantiate the end product quality, and in that case  
3 we would initiate an NCR against the item and go back  
4 out and look at it.

5 Q So at that time, when the documentation  
6 was not adequate, the NCR would require that the valve  
7 be checked to see if it was the right disk, for  
8 example?

9 A Yes, sir. That's correct.

10 Q And as I understand it, the job of  
11 checking through that document trail was just not  
12 part of the N-5 document review because that wasn't  
13 required at that time, is that right?

14 A That's correct, Your Honor.

15 (Bench conference.)

16 JUDGE BLOCH: Staff.

17 MR. TREBY: The usual order has been  
18 for the Applicants to go and then for the Staff to go.

19 JUDGE BLOCH: That's correct.

20 JUDGE GROSSMAN: However, Applicants  
21 are on redirect, and you would be crossing first.

22 JUDGE BLOCH: That's right. The Staff  
23 already -- they submitted his testimony and then  
24 there's been cross. So you're the last cross.

25 MR. TREBY: I just was trying to make

1 sure we were in the right order, since we have --

2 MR. DOWNEY: We appreciate your  
3 attention to orderliness, Mr. Treby.

4 CROSS-EXAMINATION

5 BY MR. BACHMANN:

6 Q Mr. Purdy, this entire line of  
7 questioning concerning the valve disks arose from  
8 an allegation made by Linda Barnes, is that correct,  
9 to the best of your knowledge?

10 A To the best of my knowledge, yes, sir.

11 Q During the deposition, your deposition  
12 in Glen Rose last July, you were asked some questions  
13 about Linda Barnes, and primarily in the area of your  
14 discussions with her just prior to her resignation.  
15 Do you recall that?

16 A Yes, sir, I do.

17 Q At that time your testimony had been  
18 that you had met with her in Granbury Square and had  
19 discussed some of her concerns with her and she had  
20 told you all of her problems, is that correct?

21 A That's correct.

22 Q At any time during these discussions,  
23 whether in person or on the telephone, or however,  
24 did she ever mention this valve disconcern to you?

25 A No, sir, she did not.

10-9 1 MR. BACHMANN: I have no other questions.

2 BOARD EXAMINATION

3 BY JUDGE GROSSMAN:

4 Q I have a few short questions, Mr. Purdy,  
5 and before I start, let me say that I have been  
6 impressed by your candor as a witness and your  
7 reasonableness as a company official.

8 And there's one area that disturbs me,  
9 and because it appears to be somewhat out of character  
10 with what I perceive you to be, and that concerns the  
11 incident with William Dunham, which was the subject  
12 of a Department of Labor proceeding, and I do want  
13 to have your side of that particular story.

14 Now, as I understand --

15 MR. ROISMAN: Excuse me, Judge Grossman,  
16 I believe that the -- and I don't know whether -- the  
17 Board is not a party to this stipulation, but the  
18 parties have a stipulation that the Dunham event is  
19 to be covered by the DOL proceeding.

20 Now, I understand that doesn't limit the  
21 Board, but now I'm a little concerned you will now  
22 elicit some testimony from the witness and I'd like  
23 the Board to give some guidance as to what the  
24 implications of that are for the parties who stipu-  
25 lated that the record is limited to this.

10-10

1                   What I mean by that is, do we now each  
2 have our chance for cross or rebuttal testimony or  
3 whatever, or how do you want us to treat that?

4                   MR. DOWNEY: Let me respond to  
5 Mr. Roisman's point.

6                   I think Mr. Purdy testified fully at  
7 the Department of Labor proceeding and I am like you,  
8 Judge Grossman, I think his testimony there was  
9 perfectly consistent with the candor he's displayed  
10 in this proceeding.

11                   I have no objections to the Board asking  
12 follow-up questions on the Dunham matter, and I would  
13 point out that in Glen Rose the Intervenor elicited  
14 testimony from witnesses on the Dunham matter and I  
15 see no problem with the Board doing so.

16                   JUDGE GROSSMAN: Okay. Let me first  
17 clarify that it wasn't a candor aspect but the  
18 reasonableness as a company official that I thought  
19 was the problem, but --

20                   MR. DOWNEY: I would say that it was  
21 perfectly -- his actions were perfectly reasonable  
22 and that's our position.

23                   JUDGE GROSSMAN: Okay. That's fine.  
24 I am not going to open a Pandora's box here in view  
25 of the stipulation, I am not going to ask any further



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1 questions.

2 MR. DOWNEY: Well, wait a minute, I --  
3 let me --

4 MR. TREBY: Then the Staff would like  
5 to make one comment here, and that is that the  
6 stipulation was entered into by the parties towards  
7 the end of the first week.

8 Mr. Purdy was a witness, I believe,  
9 the second day while we were down there, and he was  
10 asked during his depositions a variety of questions,  
11 including some questions dealing with the termination  
12 of Mr. Dunham, so that the parties have already had  
13 an opportunity to ask Mr. Purdy questions about that  
14 subject.

15 And the stipulation was entered into  
16 following Mr. Purdy's original deposition in Glen  
17 Rose.

18 MR. DOWNEY: And I would invite the  
19 Board, if it has any questions about Mr. Purdy's  
20 reasonableness in this situation, to ask the questions.

21 MR. ROISMAN: Just to get into this  
22 round-robin, having started it, I was not suggesting  
23 the Board shouldn't ask the questions, only that I --  
24 I just wanted some guidance from the Board of what  
25 all the implications of that are.



1 We understood the terms of the stipu-  
2 lation to mean that, and I think we followed this in  
3 our findings, that our findings would be based upon  
4 what was said about the Dunham incident in the DOL  
5 proceeding, irrespective of the fact that there may  
6 have been something in this record that was said about  
7 the Dunham proceeding that we were all limiting our-  
8 selves to the, if you will, to the Dunham record.

9 I have to share Mr. Downey's point in  
10 this regard. I mean I don't think that our stipulation  
11 can stop the Board, if you have a question after  
12 that's over and you think you need to know the answer  
13 in order to resolve the Dunham issue, I'd be the last  
14 one to tell you don't ask the question.

15 I just want to know what the impli-  
16 cations are for what we can do in response to the  
17 answers that you get.

18 JUDGE GROSSMAN: Okay. I don't hold  
19 myself out to be the best attorney in the room, and  
20 in view of the fact that this is a highly adversary  
21 proceeding and everyone is satisfied to stick with  
22 the DOL records, as apparently they stipulated, I am  
23 not going to open a Pandora's box here.

24 MR. DOWNEY: Let me say again, the  
25 parties and the Court also agreed that we would be

10-13 1 bound by the record we developed in Glen Rose, and  
2 we've had three weeks of testimony, a two-week trial  
3 on the T-shirt incident, apparently in response to  
4 concerns by the Board, and if the Board has any  
5 questions about the Dunham matter, I urge them to  
6 ask those.

7 I mean, I feel that the rules of this  
8 game, the rules of this proceeding have changed  
9 dramatically since the Glen Rose trial.

10 JUDGE GROSSMAN: Well, I will not ask  
11 them now. If, on further Board deliberation, we  
12 decide to ask any further questions, we will of course  
13 feel free to do so, as all the parties have repre-  
14 sented we should feel free.

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## BOARD EXAMINATION

1  
2 BY JUDGE BLOCH:

3 Q Mr. Purdy, I have some questions on the  
4 T-shirt incident.

5 MR. DOWNEY: Your Honor, for the record  
6 I would like to object to this line of questions.  
7 We've had a two-plus week trial on the T-shirts incident.  
8 I think perhaps the parties and the Board have lost  
9 sight of the fact that some of the T-shirt wearers  
10 testified in this proceeding. They testified that  
11 they weren't harassed or intimidated.

12 That seems to me to close the record on the  
13 issue.

14 Mr. Purdy testified at length in Glen Rose  
15 on this subject. We have had witness after witness  
16 after witness testify on matters that are, in my  
17 judgment, irrelevant and cumulative.

18 I would object to this whole line of questions.

19 JUDGE GROSSMAN: Okay.

20 I do want to make one point, Mr. Downey,  
21 and that is that I have heard you on a number of  
22 occasions appear to accept the fact that some people may  
23 testify on a certain matter and therefore it is conclusive.

24 I don't accept that as far as the Board  
25 is concerned. No one's testimony has to be conclusive as

11-2 1 far as we're concerned. And so I think we ought to be  
2 free to inquire further, notwithstanding that the  
3 testimony may have been directly on point.

4 MR. DOWNEY: And all on one side.

5 BY JUDGE BLOCH:

6 Q Mr. Purdy, on March 8, which was a Thursday,  
7 the day of the T-shirt incident, did you personally have  
8 any knowledge that T-shirts had been worn on the site  
9 previous to that day?

10 A No, sir, not previous to that day.

11 Q Did you in the course of the day, March 8th,  
12 learn from anyone that T-shirts had been worn earlier  
13 in the week?

14 A I learned that T-shirts had been worn  
15 earlier in the week. I can't tell you who, where or how  
16 many.

17 Q Can you tell me about what time of day that  
18 was that you learned that?

19 A Probably about 12:30, 1:00 o'clock.

20 Q Now on the morning of the 8th, what was  
21 the earliest time that you learned that there were people  
22 on the site who had worn T-shirts?

23 A You mean on the day of the 8th, sir?

24 Q Yes, on the 8th.

25 A Probably 10:00, 10:30, somewhere in that



11-3

1 time frame.

2 Q And was that -- where were you at the time?

3 A I was in my office. I had been requested  
4 to come down to the administration building where I  
5 saw the people wearing the T-shirts.

6 Q And if I understand the record -- and I may  
7 be wrong -- you were present when the T-shirt wearers  
8 came into Mr. Tolson's office; is that correct?

9 A Yes, sir, that is correct.

10 Q Before they came in, who were the people in  
11 the room?

12 A Your Honor, I don't really recall.

13 I think Mr. Tolson and myself. I don't know  
14 if there was anybody else in the room or not.

15 Q How about Mr. Hicks?

16 A I don't recall, Your Honor.

17 Q And could you tell us to the best of your  
18 recollection what the discussion was like with Mr. Tolson  
19 before the T-shirt wearers arrived?

20 A To the best of my knowledge, the conversation  
21 was, prior to me leaving the office, was "I'd like you to  
22 come down and see something. I've got something I want you  
23 to see."

24 And after I arrived at the office, the  
25 only thing I recall was Mr. Tolson requesting someone -- and



11-4 1 again, I don't recall who that individual was -- to bring  
2 the people into the office. I don't recall having any  
3 conversations with Mr. Tolson prior to the arrival  
4 of the personnel with the T-shirts.

5 Q Was that a telephone call where Mr. Tolson  
6 said, "I've got something I want you to see"?

7 A Yes, sir, it was.

8 Q Was the language a little bit more  
9 colorful than that?

10 A No, sir, that was exactly what he said.

11 Q He seemed pretty well in control?

12 A Well, when the only phrase is "Come here,  
13 I've got something I want you to see," it's hard  
14 to assess whether someone's in control or not.

15 Q But you weren't aware of any reason to  
16 think he was burning mad?

17 A No, sir.

18 Q And when you arrived in his office was  
19 there anything to let you think that he was burning mad?

20 A He was very quiet, that's why I don't  
21 remember any conversations. I can construe from that --  
22 I don't know how made he was, but he wasn't very happy.

23 Q Was he doing something at the time?

24 A Not that I recall, Your Honor.

25 Q Just kind of sitting there waiting.

11-5

1 A. I don't recall whether he was sitting or  
2 standing.

3 Q. Do you recall if you exchanged hello's?  
4 Or was he so sullen that no one said anything?

5 A. I'm not even sure he was sullen.

6 Q. You just don't remember very well?

7 A. No, I seriously don't remember the sequence  
8 leading up to the time when the personnel came in with  
9 the T-shirts.

10 Mr. Tolson was unhappy. I could gather that  
11 just having worked with him for three years and looking at  
12 him that he was not happy, but I don't recall anything  
13 being said between Mr. Tolson and myself until the  
14 T-shirt wearers arrived.

15 Q. Okay. When they arrived, what do you recall  
16 about how they came in? Was there anything special or  
17 unusual about that?

18 A. They walked into the office -- I'm not  
19 sure I would say laughing, but obviously not taking the  
20 situation very seriously. Smirks on a couple of them, as  
21 a matter of fact.

22 Q. Is there a difference between a smirk and  
23 a smile?

24 A. When one of the guys has got an arm that's  
25 about as big around as my waist, it's a smirk, not a smile.

1 Q It felt more like a smirk?

2 A Yes, sir.

3 Q So they all filed in, and in what kind of  
4 way did they all sit down? There was all the chairs in  
5 front of the desk?

6 A I don't recall that they sat down. I  
7 recall that they came in -- I don't recall the exact words,  
8 something to the extent from Mr. Tolson, "What are you  
9 doing?"

10 And then I recall a gentleman asking if  
11 Mr. Tolson minded if he recorded the conversation. And  
12 that was really the end of the scenario.

13 Q Did you see anything that the person who  
14 asked the question had in his possession that might  
15 indicate that he could have recorded the scenario?

16 A No, sir, I didn't. I don't recall  
17 specifically looking.

18 Q When you say it was the end of the scenario,  
19 could you describe Mr. Tolson's reaction at that point?

20 A Mr. Tolson was very upset. He asked  
21 that arrangements be made for the individuals to talk  
22 with Mr. Boyce Grier, to try and take pictures, and  
23 he left.

24 Q He didn't make any comment about how he  
25 wouldn't be taped or anything like that?

11-7

1 A. Not that I recall, Your Honor.

2 Q. So now Mr. Tolson left; I assume you didn't  
3 see him at that point. He's out of the room; is that  
4 right?

5 A. Yes, sir, that is correct.

6 Q. What did you do?

7 A. I asked one of the supervisors to get a  
8 camera and to see if they could get some pictures of the  
9 T-shirts. He asked one of them to make sure Boyce Grier  
10 was in his office so that we could make arrangements  
11 for the personnel to talk to him. And then, as I recall,  
12 I asked the people to go over to the auditor's office  
13 instead of just milling around in the middle of the  
14 administration building while I tried to figure out what  
15 was going on.

16 Q. Well, to be milling about in the  
17 administration building -- did they leave Tolson's office  
18 after he left; is that what you're talking about?

19 A. There was a very large accumulation of  
20 people, Your Honor. I don't recall whether any of them  
21 were outside the door or whether they were still in the  
22 office, or I don't recall the seating arrangement.

23 I know that Mr. Tolson's office is fairly  
24 simply located in the administration building. A lot of  
25 clerical personnel right outside the door to the vault; a



1-8  
1 large number of people going back and forth into the  
2 permanent plant records vault for documentation review;  
3 and at that particular time I felt it was best to get  
4 them into a large area and out of the mainstream so that  
5 at least the normal work process could continue without  
6 disruption.

7 Q And so these were kind of mechanical things  
8 that you did.

9 Now, I infer from the testimony in the case  
10 that people working for you tended to like you and confide  
11 in you; is that -- am I incorrect in getting that feeling  
12 from the testimony in this case?

13 A I hope so. I hope they confided in me,  
14 not that you're incorrect.

15 (Laughter)

16 Q I have the feeling that in that group of  
17 inspectors there must have been some people who felt they  
18 could talk to Mr. Purdy about what was going on here,  
19 and that they must have been kind of confused and upset.  
20 Were there people in that group that came over to talk to  
21 you and find out -- you know, tell you what was happening  
22 and find out what your view was of this thing?

23 A After the personnel were in the office  
24 across the hall in the administration building, I walked  
25 down to see if I could locate Mr. Tolson and could not --



1-9 1 Q. What did you have in mind at that point  
2 when you were walking down to get Mr. Tolson?

3 A. I wanted to find out what more of the  
4 scenario was from Mr. Tolson. What he had perceived  
5 relative to the individuals wearing the T-shirts, this  
6 type of thing.

7 I could not locate him at the time, so I  
8 went back to the auditor's office and basically held a  
9 discussion with them, with the individuals, telling them --  
10 and basically I told them that I was trying to find out  
11 what the cause of the disturbance was, what they had  
12 anticipated doing, and that until I could figure out what  
13 the full scenario was, I'd appreciate it if they would  
14 stay in the room and out of the hall, out of the middle of  
15 the administration building, and talk to Mr. Grier if  
16 they had a problem.

17 Q. So you invited discussion with them at  
18 that point. I assume that that was a relief to some of  
19 them, since they hadn't gotten very far in talking  
20 with Mr. Tolson.

21 A. I'm not sure it was much of a relief  
22 because there wasn't much of a discourse between myself  
23 and them after it was over, or after I had offered to talk  
24 to them. So -- very honestly, I did not know the people  
25 personally, okay. They were not under my technical

1 organization; day to day they did not report to me. Day to  
2 day they would not have a routine interface with myself or  
3 any of my managers.

4 So I'm not sure -- although I would like to  
5 believe that -- that they feel the same candor talking  
6 to me as one of my ASME inspectors would.

7 Q So you didn't have any personal relationship  
8 with any of these people?

9 A No, sir. As a matter of fact, other than  
10 seeing them periodically, I didn't even know their names  
11 at the time.

12 Q In the milling around period, though, did  
13 anyone come up and talk to you or say anything about what  
14 was going on? I mean, did you overhear conversation  
15 about what people thought was going on?

16 A No, it happened very rapidly, Your Honor.  
17 It's a very -- by nature of the project, it's a dynamic  
18 project. People are doing things all the time. And  
19 there's business being conducted all the time.

20 I felt that the decision at the time would  
21 be to let's get them in an area where they do not disrupt  
22 the normal day-to-day activities, see if we can ferret  
23 it out, and I really don't recall overhearing or having  
24 any discussions with anybody until I returned to the room  
25 and asked them to stay in the room until I could figure

11-11

1 out what was going on, and to talk to Mr. Grier.

2 Q I can't imagine a bunch of construction  
3 people or QC people sitting in an office like that and  
4 have someone bolt out the door, and they didn't talk to  
5 each other and say things, maybe derogatory things about  
6 the person who walked out the door.

7 A I didn't say they didn't say anything,  
8 Your Honor. I said I don't remember if they did.

9 Let's face it -- you know, this was a very  
10 large group, and I wasn't paying a lot of attention  
11 other than trying to take care of the immediate concern  
12 at that particular time. And that was to calm things  
13 back down again.

14 Q You just have no recollection of  
15 spontaneous remarks that were made at that time?

16 A No, sir, I really don't. In fact, I don't  
17 think anybody said anything to me, but I can't swear to it.  
18 Or said anything to each other.

19 Q Did you have any feeling "What the heck  
20 did he call me into the office for?"

21 A I think I found out in a big hurry.

22 (Laughter)

23 Q But you didn't do anything. You were  
24 just sitting there watching.

25 A There were apparently -- there apparently

11-12

1 occurred a situation in which a disruption had occurred  
2 within the Task Group that individuals within the Task Group,  
3 whether it be craft QC, craft management QC, project  
4 management QC, it didn't make any difference; it was a  
5 disruption. And someone perceived it as a disruption.

6           The fact that they were Brown & Root  
7 employees didn't excite me a whole lot. They're the  
8 client, and if someone is concerned, I at least have an  
9 obligation to find out what that concern is, and to try  
10 and mediate the situation.

11           It didn't take long to figure out that  
12 those individuals had done something which rightly or  
13 wrongly would be viewed by someone, either in management  
14 or within the Task Group as being disrupting. And  
15 that was the perception I had, although I did not know  
16 the details at the time. Even through today, I'm not  
17 sure that I haven't got more of the details out of  
18 listening to the testimony over the last two weeks than  
19 I really received at that time.

20           But to the best of my recollection,  
21 there was not that kind of discussion among the members.  
22 It appeared to me -- and I said appeared to me because I  
23 don't know that for sure -- that they thought it was funny  
24 and a game which didn't make me happier to begin with,  
25 because that was putting me in a very precarious situation,



11-13

1 quite honestly. I have some of my people who have caused a  
2 disruption, even if it is a joke -- there are such things  
3 as jokes in poor taste and bad jokes -- and my immediate  
4 reaction, as I say, was to get them into a position where  
5 they could continue, or the personnel could continue the  
6 day-to-day activities, and see if I could find out  
7 what the story was.

8 Q When you invited comments from the group,  
9 and you say there wasn't much discussion, did you let  
10 them know anything about your feeling about the joke  
11 being in bad taste?

12 A I told them that I was a little disappointed  
13 that they wore that, that if it was a joke -- as one  
14 of the members did say, and that was about the only  
15 discourse that they had. Okay, so I have to assume that  
16 maybe that's what it is. It's all I really know. If it  
17 was a joke, I did indicate that I thought it was in poor  
18 taste, and that I was certainly a little disappointed  
19 that they chose that way to have fun, especially in a  
20 rather dynamic environment.

21 That, to the best of my recollection, is  
22 the only thing I ever said to them relative to my  
23 particular feelings on it.

24 Q Now, you know that the joke had a bad  
25 effect on Mr. Tolson; do you know that the joke had any bad



1 effect on construction workers or QC workers in the field?

2 A I know no personal, first-hand knowledge  
3 of whether it did, Your Honor.

4 Q That's all I'm asking for.

5 Was there any time later in the day when  
6 anyone consulted you about your feelings about what the  
7 T-shirt incident was about?

8 A The fact that I was unable to find Mr. Tolson  
9 at the time indicated to me that I would probably have  
10 to figure out what it was about and make a decision on  
11 that, which I did.

12 It was later in the day after lunch when  
13 I found out that personnel had in fact worn the  
14 T-shirts earlier in the week. I also found out that one  
15 of the QC managers in the other buildings had told a person --  
16 and a say a person, I don't know if it's one or two --  
17 that was wearing them in his building, to go home and  
18 change it.

19 At that particular point it became very  
20 obvious what the precedent was, and I went right down  
21 and told the people to go home and change their shirts,  
22 and please come back tomorrow and not wear them.

23 Q Okay. And when you did that, you hadn't  
24 had any communications with Mr. Tolson?

25 A The only communication subsequent to the

1-15 1 very limited communications in his office that I had  
2 with Mr. Tolson, as I recall, was Mr. Tolson came in  
3 and addressed myself, Tom Brandt and Bob Dethridge  
4 relative to what his superiors wanted to make sure that  
5 the people understood why they were being kept in the  
6 room, and that was in essence because of the disruption  
7 and the potential of interactions in the field that  
8 we wanted to stay in there until we could figure out  
9 what we were going to do.

10 Q And so were you the person that communicated  
11 that to the people?

12 A I communicated it to seven of the people.  
13 One of the employees --

14 Q To seven of them?

15 A Yes, sir. One of the employees was --

16 Q Mr. Pitts had left?

17 A EBASCO employee, yes, sir.

18 Q And was there any discussion at that time  
19 when you went in to communicate why they were being held?

20 A Well, the same individual that initially  
21 said it was a joke reiterated the fact that it was a joke.

22 I reiterated the fact that I thought it was  
23 in poor taste, if they had something to say there were  
24 certainly other ways to do it.

25 We felt there was no problem with construction,

1 that the construction in their own immediate peer group  
2 didn't have a problem. And you know, I guess I  
3 indicated to them, as I recall, the words were, well,  
4 it may not be a problem with construction, but it  
5 obviously has caused a problem on the project, and I  
6 would like you to stay in here and talk to Mr. Grier.  
7 And when you're through -- and I think it was later  
8 when I came back down and told them when they were through  
9 discussing it with Mr. Grier I'd like them to go ahead  
10 and go on home and change their shirts.

11 One of them asked if they could just change  
12 them and go back to work. And as I understand that  
13 had been done earlier in the week also. And I told  
14 them at that time that I felt it was best, that I was  
15 certainly going to pay them because I couldn't  
16 tell them what they could or could not wear, but I felt  
17 it was best if they go ahead and change, go home and  
18 change and come back the following day.

19 //

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12-1  
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1 Q I see. Some of them made changes at  
2 the site?

3 A I don't know that for sure. One of  
4 them asked if he could, so they may have had something  
5 there, Your Honor.

6 Q But this decision that you communicated  
7 was your decision?

8 A To go home?

9 Q To go home.

10 A To the best of my recollection, I  
11 discussed that with everybody, Mr. Dethridge,  
12 Tom Brandt; I talked to Mr. Merritt, told him I was  
13 going to send them home.

14 To the best of my knowledge -- I'm not  
15 trying to take credit where credit is not due, but  
16 to the best of my knowledge, as I recall, I made the  
17 decision to send them home.

18 Q And Mr. Tolson didn't mention that  
19 anyone in Dallas had already made that decision?

20 A I don't recall that, Your Honor.

21 Q At the meeting with Mr. Tolson, did you  
22 have an opportunity to tell him that you thought it  
23 was a joke?

24 A It was a very short meeting. We told  
25 what we wanted to say and there was actually no

2-2 1 additional discussion on it, Your Honor.

2 Q He really wasn't in the mood to  
3 communicate?

4 A He was not in the mood to communicate.

5 Q What time of day was this? This was  
6 about 1:00?

7 A As I recall, the communications on  
8 why we wanted them to stay in the room, and then  
9 talk to Mr. Grier, came a little bit before lunch.

10 The next get-together I had with the  
11 personnel was when I told them that what I would like  
12 them to do was to finish talking to Mr. Grier and go  
13 home and change and come on back to work the next day.

14 Q Did Mr. Vega ever talk to you about what  
15 you had observed during the T-shirt incident?

16 A I don't recall, Your Honor.

17 Q Did the NRC ever talk to you about what  
18 you had observed during the T-shirt incident?

19 A I think so.

20 Q Do you recall who it was at the NRC?

21 A I talked to a Mr. Brooks Griffin several  
22 times recently. He's the only one I really recall. It  
23 may have been Mr. Griffin.

24 Q Fairly recent?

25 A You mean my discussion with Mr. Griffin?



2-3 1 I don't know how recent they were. They were  
2 obviously after this scenario. It hasn't been within the  
3 last couple of months, that I recall.

4 Q Do you recall when the first contact  
5 with Mr. Griffin came?

6 A No, sir, I don't.

7 MR. DOWNEY: I'm sorry. I didn't  
8 understand. Did you say it was not in the last two  
9 months?

10 THE WITNESS: I don't think it's been in  
11 the last two months, no.

12 JUDGE BLOCH: Okay.

13 BY JUDGE BLOCH:

14 Q A different subject. Was there ever a  
15 time when there was a policy in your ASME Group to  
16 discourage the use of NCR's in favor of some other  
17 form of reporting deficiencies?

18 A There was never a policy. We have a  
19 procedure that permits the use of unsatisfactory  
20 inspection reports in lieu of an NCR, if the  
21 deficiency can be corrected in accordance with  
22 existing approved site procedures.

23 Q Was that procedure effectuated by a  
24 change in procedures or was it initially effectuated  
25 by a memorandum?

2-4

1           A.       No. Mine would have been a procedure  
2 change.

3           Q        I take it, then, that Mr. Tolson never  
4 issued any memorandum that had any effect within the  
5 ASME Group on the use of NCR's?

6           A.       No, I don't recall Mr. Tolson issuing  
7 any QA Program memoranda to me at all.

8           Q        Prior to the time -- This is another  
9 subject.

10                    Prior to the time that you set  
11 production goals for the document review group, were  
12 you involved in meetings with other personnel on the  
13 site to discuss the plans for completing the plant?

14           A.       Yes, several of them.

15           Q        And in th e meetings, without specifying  
16 which one, was there a suggestion that everybody ought  
17 to have goals so that the target of completing the  
18 plant on schedule could be met?

19           A.       No, I never remember that, Your Honor.

20           Q        So there was a suggestion that  
21 your group ought to have goals to facilitate the  
22 completion of the project?

23           A.       No, sir.

24           Q        Was there any discussion of how much  
25 document review was left to the document review group

2-5 1 to do before the site could be finished?

2 A The questions that were directed to me,  
3 and I would put them more in the form of questions,  
4 were generally, "When do you think you will be done,"  
5 or, "When can you be done?"

6 The ASME arena has a fairly well -- you  
7 know, has a very well defined set of requirements  
8 that are issued both by ASME and the supplementing  
9 standards on what has to be done.

10 So relative to some of the management  
11 meetings we had on the program, everyone was  
12 intimately aware of the fact that you could do what  
13 you could do, and that regardless of how long it  
14 took you, you had to go through each piece of paper  
15 and each process.

16 Therefore, it was not a question of  
17 anyone ever suggesting to me that, "Finish this date."  
18 It was always more in line of, "Can you give me an  
19 extrapolation of how long it's going to take you to  
20 actually finish the certification process?"

21 Q Did anyone tell you, "If you couldn't do  
22 it on a certain date, we'll get you help"?

23 A Only one question ever came up relative  
24 to help, and that's when we were going through the  
25 statusing of the documentation review process for the

2-6 1 final N-5's, on some of the harder systems, and  
2 that wasn't the answer, obviously. I didn't need more  
3 people.

4 Q Was the help suggestion that you got  
5 at that time the idea about job shoppers?

6 A Yes, sir. That's the only one that's  
7 ever been indicated to me.

8 Q Who was it that made that suggestion?

9 A I don't recall. It may have been -- It  
10 would have been in a discussion, I'm sure, with  
11 project management.

12 Whether it was Mr. Tolson or Mr. Merritt,  
13 I don't recall, but I can say it was an offer. That's  
14 all it was.

15 JUDGE BLOCH: How much time do the  
16 Applicants plan to take?

17 MR. DOWNEY: Probably 20 minutes or a  
18 half an hour, Your Honor.

19 JUDGE BLOCH: Would you be able to stop  
20 after 20 minutes and then we'll continue after lunch.

21 MR. DOWNEY: If it's convenient for the  
22 Board, I would just as soon break for lunch now.

23 JUDGE BLOCH: Granted. We will be back  
24 at 1:30.

25 MR. DOWNEY: Your Honor, I have one



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1 procedural matter to raise.

2 JUDGE BLOCH: Off the record.

3 (Discussion off the record.)

4 JUDGE BLOCH: In our off-the-record  
5 discussion Mr. Downey stated that there's a corporate  
6 security officer here who would like to have access to  
7 a document for handwriting analysis.

8 No?

9 MR. DOWNEY: He is not a corporate  
10 security officer. I requested the corporate security  
11 officer identify for us an independent handwriting  
12 expert and ask them to come down here today, and I have  
13 been informed by Mr. Watkins that the handwriting  
14 expert, who I understand to be Mr. Chaney, is here now  
15 and would like to have the document made available to  
16 him for his review.

17 MR. WATKINS: If I could amplify,  
18 Mr. Chairman, what Mr. Chaney would like to do would  
19 be to photograph the documents and then we could return  
20 them to the Board this afternoon.

21 MR. ROISMAN: I have no problem with that.

22 MR. WATKINS: Thank you.

23 JUDGE BLOCH: Granted. We are adjourned.

24 (Whereupon, at 12:25 p.m., the  
25 hearing was recessed, to reconvene at 1:30 p.m.)



AFTERNOON SESSION

1:30 p.m.

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JUDGE BLOCH: The hearing will come to order.

JUDGE GROSSMAN: I have a few questions. I am remembering Pope's admonition of fools rushing in. I'll tread very carefully here.

## BOARD EXAMINATION

BY JUDGE GROSSMAN:

Q Going back to that William Dunham incident which was the subject of a DOL proceeding, Mr. Purdy, were you asked at that proceeding whether you had told anyone about Mr. Dunham coming to you with the matters that he disclosed to you.

Let me make it a little more precise.

Did you tell anyone immediately after he had come to you with his complaints about Mr. Williams, that he had come to you and discussed that?

A You're referring to the first meeting I had with Mr. Dunham?

JUDGE GROSSMAN: Yes. And my question is, whether you were asked that question at the DOL proceeding.

JUDGE BLOCH: If you remember.

THE WITNESS: I don't really recall whether I was, Your Honor. Probably. I was asked a lot of

1 questions.

2 BY JUDGE GROSSMAN:

3 Q Well, let me just ask you.

4 Did you tell anyone about his coming to  
5 see you and voicing complaints about Mr. Williams?

6 A I contacted Mr. Tolson and informed him  
7 that one of the inspectors had a problem relative to  
8 what he perceived as some harrassment issues relative  
9 to Mr. Williams.

10 Q Did you tell Mr. Tolson who it was that  
11 came to you?

12 A Yes. When Mr. Tolson asked me, I informed  
13 him that it was one of his leads, Mr. Bill Dunham.

14 Q Had Mr. Dunham asked you to keep his  
15 name in confidence?

16 A As I testified at the DOL, Mr. Dunham  
17 asked about confidentiality when he was in my office  
18 with Mr. Ferris, and I told him at that time that,  
19 you know, I couldn't answer his questions. I don't  
20 even, you know, interface with the supervisors and  
21 that in order to have some of his technical concerns  
22 and his concerns about his supervision and construction  
23 supervision answered, I would have to go to somebody  
24 else.

25 What I did guarantee him was that he

13-3

1 certainly didn't have to worry about his job by  
2 coming to me with that.

3 And that's what I recall of the scenario,  
4 sir.

5 Q Did he acquiesce to your mentioning his  
6 name to anyone?

7 A There was no comment after I told him  
8 he certainly didn't have to worry about his job. So,  
9 I assumed from that he did not have a problem with me  
10 interfacing with Mr. Tolson and Mr. Brandt to come to  
11 the resolutions of the problems.

12 Q Did you become aware that same day that  
13 he had had a meeting with Mr. Tolson and Mr. Williams  
14 that same day, after his discussion with you?

15 A I don't recall of a meeting that he had  
16 with Mr. Tolson and Mr. Williams.

17 I know that Mr. Dunham had a meeting  
18 that same day with Mr. Tolson, Mr. Brandt and myself.

19 Q Did you discuss the nature of that meeting  
20 at the DOL proceeding?

21 A Yes, sir, as I recall.

22 JUDGE GROSSMAN: I have no more questions  
23 on that subject.

RE-CROSS-EXAMINATION

24 BY MR. BACHMANN:

25 Q Mr. Purdy, going back to the T-shirt  
incident, the afternoon when you told the personnel

1 wearing the T-shirts that they should go home and  
2 change and come back the next morning, you have  
3 testified, is it not so, that it was, to the best of  
4 your knowledge, your decision to send them home with  
5 pay; is that correct?

6 A Yes, sir, to the best of my recollection.

7 Q Was it -- and I assume that means that  
8 you had the authority to do that without consulting  
9 with, say, Mr. Tolson?

10 A I believe so. Yes, sir.

11 Q Since there seems to be, or at least I  
12 have become aware that there seems to be rather  
13 complicated chains of command, both administrative and  
14 functional at the site, I was wondering whether Mr.  
15 Tolson had the authority, without going through you,  
16 to have made the same decision and given the same  
17 order?

18 A To send them home with pay?

19 Q Yes. Without going through you. Could  
20 he have done that?

21 A Yes, sir. I see no reason why he couldn't.

22 Q I guess what I'm trying to get at is the,  
23 again, these lines of communication and chains of  
24 command at the plant are somewhat Byzantine but the  
25 as I understand it, seven of the eight people were



1 Brown & Root employees; is that correct?

2 A. Yes, sir, that's correct.

3 Q. And you have administrative responsibility  
4 for Brown & Root employees at the site; is that  
5 correct.

6 A. Yes, sir, that is correct.

7 Q. But Mr. Tolson in this case would have  
8 had functional authority over the eight inspectors;  
9 is that correct?

10 A. Yes, sir, that is correct.

11 Q. So either one of you could have made the  
12 decision and made it stick? In other words, made  
13 sure that these people -- could order them to go home  
14 and could also insure that they were paid for that  
15 afternoon?

16 A. Yes, sir, that is correct.

17 Q. Would there have been anyone else at  
18 approximately that level of authority that would have  
19 had also the authority to take that action, to send  
20 them home with pay?

21 A. The recommendation could have been made  
22 by several people but the ultimate authority would have  
23 rested either with myself, as basically the  
24 administrator for the Brown & Root QA responsibilities  
25 or Mr. Tolson as the owner's site QA supervisor.



1 Q Do you have any personal knowledge as  
2 to who had the authority to send Mr. Pitts home with  
3 pay, since he was an Ebasco employee?

4 A Mr. Brandt.

5 Q And to your personal knowledge, did Mr.  
6 Brandt tell Mr. Pitts he could go home with pay?

7 A I don't recall if I have personal  
8 knowledge of it. I wasn't there when Mr. Brandt was  
9 talking to Mr. Pitts.

10 Q Did Mr. Brandt indicate to you that he  
11 had sent Mr. Pitts home with pay, as you had done with  
12 the other seven?

13 A Mr. Brandt, or someone during the day.

14 MR. BACHMANN: I have no further  
15 questions.

16 RE-CROSS-EXAMINATION

17 BY MR. DOWNEY:

18 Q Mr. Purdy, do you recall testifying that  
19 site policy is such that when there are disputes between  
20 QA/QC inspectors and craftsmen, that those disagreements  
21 are at a certain point to be elevated in the chain of  
22 command?

23 A Yes, sir, I recall.

24 Q With respect to that policy, how does  
25 that affect the inspectors' ability to make judgments

1 on inspections or make calls on inspections?

2 A It doesn't affect it. He elevates the  
3 dispute, not the finding.

4 Q And does an inspector needs supervisory  
5 approval in any way to make a call when a craft  
6 disagrees with his inspection?

7 A No, sir, not at all.

8 Q Mr. Purdy, you testified on cross-  
9 examination on questions put to you by Mr. Roisman,  
10 that you had had some personal experience working in  
11 an environment which you considered intimidating and  
12 as I recall, you referenced a tour of duty you had  
13 on a submarine tender.

14 Do you recall that testimony?

15 A Yes, sir.

16 Q Mr. Purdy, would you compare the  
17 atmosphere that you experienced working on the  
18 submarine tender with the environment you found at  
19 Comanche Peak?

20 A It's much akin to night and day but I'd  
21 like to make sure that you understand. I'm not  
22 indicting my alma mater. That being the Navy.

23 It was a totally different environment.  
24 Totally different working environment.

25 The personnel on that large of a naval

1 facility, vessel, didn't have any choice about being  
2 there and didn't have any choice about what they did  
3 and, therefore, their frustrations were significantly  
4 different than I think we deal on a project like this.

5 Their day to day activities, they were  
6 never able to see an accomplishment, in most instances,  
7 in those activities. They were relatively mundane.  
8 You know, they would chip the same deck or paint the  
9 same boat and I believe that that would be a frustration  
10 factor.

11 The environment on a large project like  
12 this is more dynamic. I believe that people do have  
13 a choice. They have a choice of what they're doing  
14 and I believe that they are able to see the  
15 fulfillment of their efforts, so I think it creates  
16 a totally different environment.

17 Q Mr. Purdy, you testified in reference  
18 to this experience you had with the submarine tender  
19 some specific problems or alluded to problems with  
20 the master-at-arms force. Do you recall that testimony?

21 A I recall discussing the master-at-arms  
22 force; yes, sir.

23 A Did you have a personal experience that  
24 might -- with the master-at-arms force that might  
25 shed some light on what you meant by that testimony?

1 A. I only had one involvement the first week.

2 Q. Would you please describe that for the  
3 Board, please?

4 A. Coming from a submarine to a submarine  
5 tender is like going from building a department store  
6 or a nuclear power project. Very close, very small  
7 group of people.

8 The master-at-arms force wasn't  
9 particularly excited about the flamboyance of my  
10 mustache when I first went on board the ship but I  
11 -- nor my belt buckle, so I trimmed up my mustache  
12 and changed by belt buckle.

13 That's the only one I remember.

14 Q. Were your belt buckle and your mustache  
15 per regulations when you arrived at the submarine  
16 tender?

17 A. Yes. I had worn them for years in the  
18 submarine service.

19 Q. Mr. Purdy, you testified about establishing  
20 a goal for the document reviewers, 40 ISO's a week.

21 Did you have any feedback from the group  
22 about that goal?

23 A. Only feedback I had from the group as a  
24 group was in an instance when I asked all of them  
25 to come together and explained what we were going to

1 relative to the training program, ultimate  
2 certification, what that could mean relative to  
3 qualification and compensation.

4 At that time, brought up the 40-hour  
5 goal. I didn't --

6 Q Excuse me. 40 ISO?

7 A. 40 ISO. I'm sorry.

8 I didn't get any negative feedback.  
9 People seemed relatively positive.

10 One person, as I recall, felt that it  
11 was within the realm, providing the programs and some  
12 improvements that we had been implementing were there.

13 That was also where I discussed, I think,  
14 the question that came up relative to job-shoppers with  
15 the people.

16 Q What was the substance of your  
17 conversation with the employees about job-shoppers?

18 A They were concerned about bringing in  
19 people. Not only job-shoppers but also some of the  
20 inspectors to take their job.

21 And I tried to convey to them that that  
22 wasn't the purpose of it. The purpose of it was to  
23 supplement their effort during this particular period  
24 of the project and that in no way had I ever anticipated  
25 accepting project management's offer of job-shoppers  
to supplement the activity.



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1 BY MR. DOWNEY:

2 Q Mr. Purdy, approximately how many people  
3 worked in that document review group at the time?

4 A Only 20, 25 people.

5 Q Do you have relatively frequent contact  
6 with those people?7 A Yes, sir, they're in the same building  
8 that I'm in also.

9 Q You know them by name?

10 A Yes.

11 Q And of those 25 or so, how many ever  
12 came to you to complain about the 40 ISO a week goal?

13 A None.

14 Q And apart from Miss Gregory's negative  
15 comments about that goal which were revealed, what I  
16 think you testifying revealed to you for the first  
17 time in her testimony in this pceeding, did you  
18 receive any negative -- have you received any negative  
19 comments about your goal?

20 A No, sir.

21 Q Mr. Purdy, you testified on questions  
22 from Mr. Roisman on cross-examination about the  
23 lay-off that occurred on July 13th. Do you recall  
24 that testimony?

25 A Yes, sir.

1 Q Would you describe for the Board the  
2 peer group in which Miss Gregory was placed for  
3 purposes of the ROF consideration?

4 A Miss Gregory was in the QCI verifi-  
5 cation peer group.

6 Q And who all -- would you describe all  
7 the employees who were included in that group?

8 A Anyone who dealt with the review  
9 processing accepting of documentation, whether that  
10 be in-process documentation, the review of repair  
11 documentation, the N-5 group, hanger package review  
12 personnel, anybody that was involved in the verifi-  
13 cation documentation.

14 Q Let me be clear, Mr. Purdy. What was  
15 Miss Gregory's job function at this time?

16 A To the best of my recollection,  
17 Miss Gregory was involved in the receipt and trans-  
18 mittal of process control documentation between ANI  
19 and the review group or between the vault, the review  
20 group, some tracking of some of the Section 11  
21 process documents we were discussing earlier,  
22 travelers, this type of work.

23 Q Was she actively engaged in performing  
24 reviews for the N-5 statusing project?

25 A Not to the best of my knowledge. I can't

14-3  
1 say for sure. I don't recall Miss Gregory's name  
2 coming up relative to the N-5 statusing.

3 Q You've described her activities or the  
4 work that she did, documentation moving from your  
5 group to ANI, et cetera. Is that a messenger type  
6 function?

7 A Assuming that my recollection is correct,  
8 I think it would be a rather responsible processing  
9 function, maybe necessary but responsible.

10 Q Mr. Purdy, I'd like you to review the  
11 document that was marked for identification at your  
12 deposition, which became your prefiled testimony, and  
13 moved into evidence by the Applicant, that document  
14 having been marked as Purdy Exhibit 12.

15 (Document handed to witness.)

16 Mr. Purdy, do you recognize the Exhibit  
17 12 as the evaluations of those persons in the document  
18 review, performing document functions to your ROF on  
19 July 15th, 1984?

20 JUDGE BLOCH: I think I can testify  
21 Mr. Purdy is doing a thorough document review.

22 THE WITNESS: Yes, sir, they would have  
23 all been placed in that category.

24 BY MR. DOWNEY:

25 Q Mr. Purdy, you testified that the ROF

14-4 1 rank was the -- determined the first cuts in the ROF,  
2 is that right?

3 A Yes, sir. That's correct.

4 Q The higher the ROF rank number, the  
5 more likely that someone would be ROF'd?

6 A Yes, sir. That's correct.

7 Q Mr. Purdy, what is the rank of the first  
8 person in this packet, Douglas K.

9 A Seventh.

10 Q And do you recall the rank of Miss  
11 Gregory? Could you refer to the documents and  
12 identify her ROF rank?

13 A Five.

14 Q Now, Mr. Purdy, were all persons with  
15 ROF Rank 7 ROF'd?

16 A Yes, sir.

17 Q Were all persons with ROF Rank 6 let go  
18 on June 13th?

19 A Yes, sir.

20 Q And were all the persons in the group  
21 of ROF Rank 5 let go at that time?

22 A Yes, sir.

23 Q Were any employees of ROF Rank 4  
24 let go?

25 A One.

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1 Q And do you recall who that person was?

2 A Ralph Darby -- pardon me, not Ralph

3 Darby. May Weisman.

4 Q Miss Weisman?

5 A Yes.

6 Q And so the ROF category rank to which  
7 the tie-breaker was applied was ROF Category 4, is  
8 that right?

9 A Yes, sir.

10 Q You testified on cross-examination,  
11 Mr. Purdy, that from the total number of hours of  
12 absenteeism you deducted hours spent in the hospital,  
13 do you recall that?

14 A Yes, sir.

15 Q Do you now recall when that first arose,  
16 that question first arose?

17 A Yes, sir.

18 Q When did it arise?

19 A When I was conducting the first  
20 evaluation or collection of data for the first ROF  
21 I was processing, my administrative assistant asked me  
22 if I wanted to include hospitalization and I said no.

23 Q Do you recall when that first review  
24 was conducted?

25 A Probably four -- I began collecting the



1 data four to six weeks before the actual ROF.

2 Q Is that before the ROF in July?

3 A Yes, sir.

4 Q Now, that first time you collected data,  
5 did the planned ROF take place?

6 A No, sir.

7 Q Why not?

8 A The first ROF that had been planned --

9 Q Now, this is the one that didn't take  
10 place?

11 A Yes. Let me make sure that we're clear  
12 on this. Okay. An ROF was planned around the first  
13 part of the year, which never took place, and that  
14 did not take place because we were able to place all  
15 of the personnel who would have been ROF'd, you know,  
16 their positions on the job, with the exception of one  
17 person who had requested an ROF.

18 Q Mr. Purdy, at the time of that first  
19 planned ROF, did you plan to ROF anyone performing a  
20 document review function?

21 A You're talking about the one different  
22 than the one that didn't take place.

23 JUDGE BLOCH: It sounds like you ought  
24 to clarify it.

25 THE WITNESS: Let me clarify it, yeah.

1           The first ROF that we planned was in  
2 the first part of the year, and that was primarily  
3 in the documentation arena. Those personnel did not  
4 have to be ROF'd because we found other positions for  
5 them on the project.

6           Okay. The second ROF that was planned,  
7 or that I had anticipated planning, I had started  
8 collecting data so that we could do the ROF policy  
9 and that was predominantly because of an excess in  
10 field instruction personnel.

11 BY MR. DOWNEY:

12           Q       Now, that's the one that was six or so  
13 weeks before the actual ROF?

14           A       That's correct.

15           Q       And it was in connection with collecting  
16 the data for that anticipated ROF that you established  
17 the rule that you would deduct hospital time from  
18 absenteeism?

19           A       That is correct.

20           JUDGE BLOCH: Mr. Downey, you would have  
21 gotten the same answer, but you gave the testimony.

22           MR. DOWNEY: I was just trying to clear  
23 up what I thought was a non-controversial point.

24           JUDGE BLOCH: You did a very good job  
25 until then.

1 MR. DOWNEY: If the Board would like to  
2 cross-examine about that point, we'd be happy to have  
3 it done.

4 BY MR. DOWNEY:

5 Q Now, at the time of this anticipated  
6 ROF six weeks or so before the actual ROF, did you  
7 anticipate reducing the number of document reviewers?

8 A Not at that time.

9 Q Now, Mr. Purdy, I'd like you to review  
10 the document that's been marked for identification as  
11 Purdy Exhibit 10, and which has been moved into  
12 evidence by the Applicant.

13 (Document handed to witness.)

14 Do you recall Exhibit 10 as being a list  
15 of the people who were subject to the ROF in July?

16 A Yes, sir.

17 Q Would you please review that list and  
18 identify those persons from personal knowledge you  
19 know were hospitalized and that their time in the  
20 hospital was deducted from their time absent from  
21 the job?

22 A Mr. Brown.

23 Q Is that Mr. Brown?

24 A Yeah.

25 Q Was Mr. Brown -- he was someone whose

14-9 1 absentee time was reduced by hospital time, is that  
2 right?

3 A That's correct.

4 Q Was he ROF'd in July?

5 A Yes, sir.

6 MR. TREBY: I'm sorry. Before we leave  
7 that, could you identify which Mr. Brown? There are  
8 two listed.

9 THE WITNESS: Yes. Cliff. I'm sorry.

10 MR. DOWNEY: Thank you, Mr. Treby.

11 THE WITNESS: Ralph Darby.

12 BY MR. DOWNEY.

13 Q And was Mr. Darby ROF'd?

14 A No, sir. Brenda Gavin.

15 Q Was Miss Gavin ROF'd?

16 A No, sir. Glen Grossnickel.

17 Q Was Mr. Grossnickel ROF'd?

18 A No, sir. Beatrice Hamm.

19 Q Was Miss Hamm ROF'd?

20 A Miss Hamm ended up not being ROF'd.

21 She found a job in the construction, but she would  
22 have been ROF'd for our organization had she not found  
23 that job. Mike Ivey.

24 Q Was Mr. Ivey ROF'd?

25 A Yes, sir. As I recall, Mr. John Reed

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1 also had some hospital time.

2 Q Was he ROF'd?

3 A Yes, sir.

4 JUDGE BLOCH: I'm sorry. You said you  
5 recalled that. Does that mean because you can't find  
6 it in the record?

7 THE WITNESS: It's just my recollection.  
8 Mr. Reed had been sick quite a bit, but had also had  
9 some hospital time, as I recall.

10 I'm not sure I recall anyone else off  
11 of this.

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1 BY MR. DOWNEY:

2 Q Mr. Purdy, was this hospitalization rule  
3 uniformly applied among the inspectors and the document  
4 reviewers?

5 A Yes, sir.

6 Q Mr. Purdy, are you familiar with the training  
7 requirements for inspectors who wish to obtain  
8 certification to do PT examinations?

9 A Yes, sir.

10 Q Could you describe those, please?

11 A The qualification and certification  
12 requirements for nondestructive examination inspectors  
13 is contained in a document issued by the American Society  
14 of nondestructive testing. The document has a numerical  
15 designation of SNT-TC-1A. That particular document is  
16 required to be implemented by the ASME Board of  
17 Pressure Vessel Code and is referenced in Reg. Guide 1.58  
18 as a qualification and certification standard.

19 Q Must inspectors undergo classroom training  
20 to qualify to do PT exams?

21 A All personnel who are seeking qualification  
22 in nondestructive examination must have a certain amount  
23 of classroom training and a certain amount of work time  
24 experience. The classroom training number of hours depends  
25 upon the educational level that they achieved.

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1 For example, SNT-TC-1A recognizes that you  
2 can qualify someone in a nondestructive examination method  
3 with as little as grammar school education. But in  
4 doing so, as I recall, requires some 16 to 20 hours of  
5 classroom training, for example, in PT; whereas, someone  
6 with a high school education would require 12. Just as  
7 an example of how that bounces off.

8 SNT-TC-1A again dictates the amount of  
9 work time experience which we relate to on-the-job  
10 training which must be obtained for a given method  
11 and requires the examination of the personnel in that  
12 particular method through three types of examinations.  
13 A general examination which is designed to test the  
14 individual's general comprehension of the method and  
15 the theory of the method; a specific section which  
16 deals specifically with project and/or technique  
17 criteria; and a practice portion of the examination which  
18 is intended to have the individual demonstrate proficiency  
19 in performing the task.

20 Q According to that on-the-job training,  
21 Mr. Purdy, do you know how many hours are required to  
22 qualify to do penetrant tests.

23 MR. ROISMAN: Objection.

24 I assume this is being offered as some  
25 kind of rebuttal testimony. I don't remember any direct

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1 from Mr. Purdy. I also assume that what he is being  
2 asked to do is to tell us what a document contains.

3 I think the best evidence is the document.  
4 Let's just put it in.

5 MR. DOWNEY: The Board and Mr. Roisman  
6 asked last evening and two weeks ago numerous questions  
7 of Mr. Matheny and Mr. Duncan about this training and  
8 about the requirements.

9 Mr. Purdy is responsible for administering  
10 those at the site; he's the best source of that evidence;  
11 and I'd like to have him testify to that.

12 MR. ROISMAN: No, he's the second best  
13 source. The document is the best source. And I'm just  
14 saying, put the document in and let Mr. Purdy go home.

15 I'm really not interested in his  
16 interpretation of what the document says; I'm interested  
17 in what the document says.

18 MR. DOWNEY: He was quite curious about  
19 Mr. Matheny and Mr. Duncan's recollection of those facts  
20 and I'd like to have Mr. Purdy explain it to the Board.

21 JUDGE BLOCH: My understanding is that  
22 Mr. Purdy -- excuse me, that Mr. Matheny's and Mr. Duncan's  
23 understanding of those facts is relevant to their  
24 understanding of what was happening and how their hours  
25 were being totaled.

15-4 1 Mr. Purdy's recollection of that is not  
2 in the same type of contest.

3 I've always ruled when asked for a document  
4 instead of testimony that we have the document.

5 MR. DOWNEY: I would like Mr. Purdy to  
6 explain how the hours are calculated for that purpose.

7 I have not reviewed the document and we  
8 don't have a copy before us. I don't think it's a matter  
9 in controversy, I'd just like to have his testimony  
10 on the subject.

11 I think it's perfectly permissible.

12 JUDGE BLOCH: Well, I'll tell you, if you  
13 want to, in the findings you can have him write the  
14 section and put a footnote in and credit him for it,  
15 but I don't understand why his interpretation of the  
16 document -- unless there's an ambiguity in the document.

17 If there's an ambiguity in the document  
18 that you want to clarify, he could testify.

19 MR. DOWNEY: I haven't seen the document,  
20 Your Honor, but I know that the Board and Mr. Roisman  
21 have asked numerous questions on this subject.

22 Mr. Purdy is very knowledgeable about this  
23 matter, and I think it's appropriate to let him testify  
24 about it.

25 MR. ROISMAN: If Mr. Downey's interest in

1 answering the Board's and my curiosity on this was  
2 really the motivation for what's happening here, I  
3 assume he would have called the site about the document,  
4 delivered it to all of us and said, don't have to  
5 ask my witnesses anymore, here is the document.

6 MR. DOWNEY: As I recall, the testimony  
7 concluded at 10:00 p.m. last night.

8 MR. ROISMAN: Mr. Duncan's testimony  
9 concluded about two weeks ago, I think you just said.

10 JUDGE BLOCH: Mr. Downey, to the extent  
11 that the testimony of the other individuals was not  
12 related to their perception of what was going on,  
13 you could have made an objection based on the best  
14 evidence rule and then have presented the documents  
15 you have under your control, but that objection has  
16 been made now and it is sustained.

17 MR. DOWNEY: I'd like to make an offer  
18 of proof with Mr. Purdy's testimony on this point.

19 JUDGE BLOCH: Well, you may do that in  
20 writing. You can also put it in your findings,  
21 interpreting the regulations, which will allow you  
22 put it in.

23 MR. DOWNEY: Your Honor, you can't  
24 support findings without evidence, and Mr. Purdy's  
25 testimony would be evidence.



1 JUDGE BLOCH: We treat the regulations  
2 at the site as regulations that are binding and that  
3 you can always refer to. You've just got to clearly  
4 refer to it. You don't need evidence about that.  
5 You're going to interpret it as a lawyer, and if  
6 there's an ambiguity you could call a witness on the  
7 ambiguity.

8 MR. ROISMAN: And I will now state for  
9 the record that if Mr. Downey offers it in evidence,  
10 as long as he offers it in time for us to have it  
11 for purposes of findings, then I waive any require-  
12 ment that a witness be brought to sponsor anything  
13 like that, and its authenticity is stipulated as far  
14 as I'm concerned.

15 JUDGE BLOCH: Please continue.

16 MR. DOWNEY: I'd like the record to  
17 note that we will make an offer of proof with  
18 Mr. Purdy's testimony and the document if we deem  
19 it appropriate.

20 JUDGE GROSSMAN: Excuse me. Mr. Downey,  
21 no one has ruled out your offering the document into  
22 evidence, so I don't think that your offer of proof  
23 on that is appropriate.

24 If you have a document, offer it now  
25 and we'll take it.

1 MR. DOWNEY: I don't have it now.

2 JUDGE BLOCH: Well, we will also allow  
3 you to offer it later, according to Mr. Roisman's  
4 stipulation and Staff's silence.

5 MR. TREBY: We would have no objection  
6 to receiving that; although the Board did say some-  
7 thing that I find I need clarification on.

8 Did you say that the Board would always  
9 treat as evidence a procedure and that reference can  
10 always be made to that in findings, even though the  
11 other parties aren't aware of what that procedure is  
12 until it suddenly appears in the findings?

13 JUDGE BLOCH: No. There is a fair  
14 notice problem, but that's all. Those are regulations  
15 at the site

16 BY MR. DOWNEY:

17 Q Mr. Purdy, was James Cole terminated  
18 from his position as an inspector at Comanche Peak?

19 A Pardon me?

20 Q Was James Cole terminated from his  
21 position as a quality control inspector at Comanche  
22 Peak?

23 A Yes, sir, he was.

24 JUDGE GROSSMAN: Excuse me for a second.  
25 On that matter that Mr. Treby brought up, I don't

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1 believe the Board has fully discussed that matter  
2 and it appears as though there would be a timeliness  
3 problem that would have to be resolved, also, and  
4 I'm talking in general now, not on that particular  
5 document, as to whether one side, when it's writing  
6 its findings, just pluck out an applicable procedure  
7 and offer it at that time.

8           So I just want to say that it's not  
9 finally resolved as far as I understand it. If  
10 anyone wants to do that, I think they ought to have  
11 good reason for offering something at a later time  
12 than the hearing.

13           JUDGE BLOCH: The Chairman agrees with  
14 Judge Grossman.

15           Mr. Downey, you've just asked -- do you  
16 want to follow up?

17 BY MR. DOWNEY:

18           Q       Mr. Purdy, was Mr. Cole terminated for  
19 falsifying documents?

20           JUDGE BLOCH: Why did you ask it in  
21 that form?

22           MR. DOWNEY: Because there's been a  
23 direct allegation that he was.

24           JUDGE BLOCH: Well, you could have asked  
25 for what was he terminated.

15-9  
1 MR. DOWNEY: That will be my next  
2 question. This is a foundational question, Your  
3 Honor, which may be leading.

4 THE WITNESS: No, sir, he was not  
5 terminated for falsification of records.

6 BY MR. DOWNEY:

7 Q Mr. Purdy, would you describe the  
8 circumstances that led to Mr. Cole's termination?

9 A Mr. Cole had been having some  
10 professional problems, performance problems. His  
11 identification of deficiencies were most frequently  
12 not complete, not evident, required a great deal of  
13 effort by personnel reviewing and/or trying to  
14 disposition the deficiencies and going out and  
15 ascertaining the extent of the deficiency, that had  
16 been brought to the attention of my QC manager prior  
17 to that and was a matter of concern internally.

18 One evening on the back shift Mr. Cole  
19 was found sleeping on the job and was terminated  
20 from the project.

21 JUDGE BLOCH: The back shift is the  
22 night shift?

23 THE WITNESS: Yes, sir.

24 BY MR. DOWNEY:

25 Q Mr. Purdy, in response to questions



15-10  
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1 put to you by the Board this morning you testified  
2 that the procedures in the ASME area permitted IR's  
3 under certain circumstances and NCR's under others.

4 Would you describe, please, the  
5 distinction made in the procedures about when each  
6 of these documents was appropriate?

7 A By our procedure for the control of non-  
8 conforming conditions, an unsatisfactory inspection  
9 report may be initiated at any time prior to final  
10 acceptance of the activity by QC.

11 And by final acceptance I mean the  
12 acceptance on our overall inspection report for a  
13 component support or the completion of a hydrostatic  
14 test relative to pressure boundary activities or  
15 materials.

16 It can be initiated when the deficiency  
17 can be corrected by existing approved site procedures,  
18 and only then, and basically the UNSAT IR is the  
19 identification of an error in fabrication or instal-  
20 lation by construction, and the identification of  
21 which does not require engineering evaluation, it  
22 merely requires construction to go fix what they  
23 didn't put in properly.

24 JUDGE BLOCH: I'm sorry. Did you say  
25 identification by construction?



15-11  
h7

1 THE WITNESS: No. I'm sorry. Identi-  
2 fication by QC of a problem that arises from  
3 construction just not installing the item in  
4 accordance with the requirements.

5 JUDGE BLOCH: We are aware that this is  
6 the same type of testimony, but we haven't objected  
7 and Mr. Roisman hasn't; it's testimony about a  
8 procedure.

9 MR. DOWNEY: It's really a follow-up  
10 to questions put to the witness by the Board.

11 JUDGE BLOCH: I believe we probably  
12 have this procedure somewhere in the record.

13 MR. DOWNEY: I can't answer that,  
14 Your Honor.

15 BY MR. DOWNEY:

16 Q When are NCR's appropriate under these  
17 procedures?

18 A NCR's, as I said, will be issued any  
19 time there's a deficiency identified against an  
20 already in-stamped component.

21 An NCR must be used whenever we have  
22 completed final coat acceptance of a pressure boundary  
23 to the pressure test.

24 An NCR must be used whenever the final  
25 process has been accepted by QC, and by definition

15-12  
h8

1 an NCR is going to have to be used as the document  
2 where there's a possibility of a repair or a use-as-is  
3 disposition that requires engineering evaluation.

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1 MR. DOWNEY: No further questions.

2 JUDGE BLOCH: On that last one, if there  
3 is a pipe that has been final QC inspected but not  
4 hydrostatically tested and the QC person in walking by  
5 notices what he thinks is a weld deficiency, what  
6 kind of deficiency form would he fill out?

7 THE WITNESS: I'm sorry, Your Honor.  
8 Could you give me the scenario one more time.

9 JUDGE BLOCH: You have a pipe that has  
10 had final QC acceptance but no hydrostatic testing  
11 and the QC inspector notices what he thinks is a weld  
12 deficiency; what does he do?

13 THE WITNESS: A weld deficiency?

14 JUDGE BLOCH: Weld.

15 THE WITNESS: A weld deficiency, you  
16 will write an NCR. It has been final accepted by the  
17 NDE process.

18 If he walks by and finds, for example,  
19 an arc strike, then there's no problem with him  
20 identifying that on an UNSAT/IR, because that is one  
21 of the items that is finally accepted during the  
22 pressure test requirements, to assure none of those  
23 items are there and that the system is totally in  
24 compliance with the code prior to the test.

25 JUDGE BLOCH: So the pressure test is not

1 for all aspects of the pipe? It's only for certain  
2 aspects that are being verified through the pressure  
3 test?

4 THE WITNESS: Through the pressure test;  
5 yes, sir.

6 JUDGE BLOCH: Further recross?

7 MR. ROISMAN: A little bit.

8 FURTHER RECROSS EXAMINATION

9 BY MR. ROISMAN:

10 Q Mr. Purdy, when you indicated that your  
11 assistant some four to six weeks before the ROF in  
12 the summer of '84 occurred, had in conjunction with  
13 an earlier proposed but never fulfilled ROF, asked you  
14 if you wanted to include hospital time in the  
15 absenteeism calculation; do you remember that?

16 A Yes, sir.

17 Q First, who was the assistant?

18 A Paulette Wilson.

19 Q And do you know why Ms. Wilson raised that  
20 particular question with you, in that way?

21 A Certainly. She knew that she was  
22 collecting data for me to start the screening process  
23 for the ROF.

24 Q But why did she ask about hospitalization  
25 as, say, opposed to a doctor excused absence or other



1 kinds of medical absences?

2 A I think that she was rarely addressing  
3 long term incarceration or something of that nature.

4 It didn't seem abnormal to me at the time.

5 Q Was she a friend of Bill Darby's?  
6 To your knowledge?

7 A Not to the best of my knowledge.  
8 She knew Mr. Darby.

9 Q I believe you testified -- not today  
10 but earlier -- that the criteria for the ROF policy  
11 were not widely known by the employees at this time.  
12 That is, at this four to six weeks before the summer  
13 of '84 ROF.

14 Do I remember that testimony correctly?

15 A Yes, sir, that is correct.

16 Q Among the people who, given their  
17 position, would have been likely to know the ROF policy,  
18 was Mr. Darby one of those?

19 A Not to the best of my knowledge.

20 Q Was any question ever raised to you about  
21 excluding from the ROF calculations, doctor excused  
22 absences? As well as hospitalization.

23 A No, sir, they were not.

24 Q You indicated that Mr. Cole had not  
25 been terminated for falsification of documents but for



1 -- and then you described various things.

2 Was the reason for his termination  
3 documented in the company records?

4 A Yes, sir, it was.

5 Q Have you seen that documentation?

6 A I have but it's been a long time ago.  
7 He was terminated about two years ago.

8 Q So that your testimony this morning is  
9 based solely on your recollection of the events of  
10 two years ago?

11 A Yes, sir, it is.

12 Q You didn't discuss with anybody to  
13 refresh your memory recently?

14 A I called my QC manager to discuss it;  
15 yes, sir.

16 Q Do you know if he went to look at the  
17 documentation?

18 A I would assume -- I assume he contacted  
19 somebody. That documentation probably would not be  
20 in our office anymore.

21 Q So I take it it is possible the  
22 documenation might be different than what you  
23 testified to? You don't know for sure; right?

24 A It is possible there would be something  
25 else on the documentation, Mr. Roisman, but I'm not

16-5

1 sure what that would be, but yes, it is.

2 Q Okay, and I want to be clear that the  
3 basis for your testimony in answer to the questions  
4 that Mr. Downey asked you was, what you could recollect  
5 of the event two years ago and whatever additional  
6 information you got from talking to your -- I think  
7 you said QC supervisor?

8 A Yes, sir.

9 Q And do you know what, if anything, the  
10 QC supervisor did to try to find out the answer to  
11 the question you were putting to the supervisor?

12 A No. I know that the original phone call,  
13 the individual that I talked to, Mr. Blixt, didn't  
14 remember.

15 Mr Siever was there and I talked to Mr.  
16 Siever and he refreshed my memory, so to the best of  
17 my knowledge it's recollection on the scenario for  
18 all of us at this time.

19 MR. ROISMAN: Mr. Chairman, in light of the  
20 fact that there seems to be some controversy among  
21 the parties here, I would like to request that the  
22 termination papers for Mr. Cole be presented. I  
23 think the witness' testimony just now indicates that  
24 the basis for his testimony was not based upon a  
25 review of the documentation. At least, as far as he

1 knows it was not, it doesn't appear to have been and  
2 so we don't know whether we're getting an accurate  
3 summary of what that documentation actually says.

4 So, I would like to request that Applicants  
5 produce -- and, as far as I'm concerned, unless it  
6 shows something -- some ambiguity, I don't think it  
7 requires any further testimony -- but simply to  
8 produce the portion of the records of the company  
9 which describe the reasons for Mr. Cole's termination.

10 MR. DOWNEY: We would object.

11 This is an example of CASE where an  
12 unfounded allegation, no evidence but Ms. Garde's  
13 or Mr. Roisman's brief to the Court alleged Mr. Cole  
14 was fired for falsification of documents. Absolutely  
15 no evidentiary support.

16 We put in the testimony of someone who  
17 was familiar with the events that led to Mr. Cole's  
18 termination and it's quite clear. Mr. Purdy has no  
19 ambiguity about why Mr. Cole was fired.

20 Here is another example of discovery  
21 having run out months and months ago, an unfounded  
22 allegation by the Intervenor an effort on our part  
23 to adduce proof to meet an allegation on which there  
24 is no evidentiary support and having done that, now  
25 we are starting another fishing expedition.

16-7

1 I don't think that's appropriate. I don't  
2 think there is any showing that that is required.  
3 Discovery having run out, I object to this kind of  
4 discovery.

5 JUDGE BLOCH: Mr. Roisman, is the  
6 allegation based on testimony or is it based on  
7 assertion of Counsel?

8 MR. ROISMAN: It's based on neither. It's  
9 based on contacts with people who we have that have  
10 been employed at the site advise us, and I personally  
11 inquired of several of them on several occasions, do  
12 you know why Mr. Cole was terminated and I was told  
13 in each instance, for falsification of documentation.

14 It doesn't represent, you know, Counsel's  
15 wish that that be the case but Mr. Cole and the  
16 reason for his termination became relevant when we  
17 saw the liners which were produced, of course, during  
18 the course of this three weeks' hearing and Mr. Cole's  
19 name appeared as a signatory on the line where Mrs.  
20 Neumeyer's appeared on the ones that she had signed.

21 So that's what raised the question for  
22 us. Frankly, my anticipation was that Mr. Brandt  
23 would be on the witness stand. That he was familiar  
24 with the lines and that we would put the question to  
25 him, in order to get it clarified.



1                   But I also expected that if there was  
2 something contrary that it would be in the documents  
3 and that would be apparent.

4                   Our information is that it is  
5 falsification of documents.

6                   (BENCH CONFERENCE)

7                   JUDGE BLOCH: Mr. Purdy, do you know  
8 the date of termination of Mr. Cole?

9                   THE WITNESS: No, Your Honor, I don't  
10 recall at all.

11                   JUDGE BLOCH: Do you know whether or not  
12 it was in close proximity to work he performed on the  
13 liners?

14                   THE WITNESS: It would have been a couple  
15 of years ago but I don't think there would be that  
16 close a period between his work on the liner and his  
17 termination.

18                   If for no other reason, the fact that  
19 the ASME and non-ASME arenas had been separated for  
20 nine months to a year and the work on fuel pool liner  
21 was a non-ASME function.

22                   JUDGE BLOCH: Mr. Roisman, what do we know  
23 about the date of the fuel pool liner and the date  
24 of the termination?

25                   MR. ROISMAN: I was just looking at a



1 document that stated August 13, 1982 to William  
2 Rice, Group Vice President, Brown & Root, from H.C.  
3 Dodd, Vice President, Brown & Root Power Division,  
4 dealing with allegations by Avril Dillingham.

5 I believe this document came into our  
6 possession only within the last week. It was  
7 apparently in the possession of Mr. Dillingham's  
8 attorney, as a result either of some litigation Mr.  
9 Dillingham had or contemplated having.

10 In any event, on Page 21 of the document  
11 this statement appears under the general heading  
12 INVESTIGATION RESULTS.

13 "Mr. Cole has had responsibility  
14 for fuel pool travelers since  
15 late 1981 and has worked with  
16 fuel pool travelers since  
17 January 1980. He told us  
18 flatly -- "

19 and then it goes on regarding Cole's statements  
20 about falsification of travelers and the like.

21 And this is in August of '82, so it would  
22 appear that, at least up until this time, that Mr.  
23 Cole had been involved with fuel pool travelers and/or  
24 fuel pool -- well, fuel pool travelers for at least  
25 a two-year period between '80 and '82.

16-10

1 I don't know anything subsequent to that  
2 date unless I went back and looked at the travelers  
3 to see if his signature appears on any of them after  
4 this time in '82.

5 JUDGE BLOCH: On the first point, which is  
6 basically a motion to strike because it is not best  
7 evidence. It seems to me that Mr. Roisman is right.

8 On whether or not there's any need to  
9 produce and therefore, the testimony with respect to  
10 the termination of Mr. Cole should be struck and is  
11 struck.

12 MR. DOWNEY: Then I would move to strike  
13 the portion of their brief which, without even  
14 testimonial support, asserts that Mr. Cole was fired  
15 for falsification of documents.

16 If they strike that part of their brief --

17 JUDGE BLOCH: Anything in a brief that  
18 is not based on the record is null anyway.

19 Now, the question, therefore, is, Mr.  
20 Roisman, whether you have grounds for discovery based  
21 on new information you've obtained; is that basically  
22 what you are arguing?

23 MR. ROISMAN: I would say that that is  
24 the posture which we are now in and I would say, yes,  
25 I think we do.

1 MR. DOWNEY: And I think the answer is  
2 no, and I also would point out, I don't believe there  
3 was a motion to strike the testimony.

4 I don't believe striking the testimony is  
5 proper. The fact that whatever the termination form  
6 shows is not the -- not necessarily the best evidence  
7 and it's quite clear that supervisors in literally  
8 dozen of labor cases in which I've been involved,  
9 have been called upon to testify about the basis for  
10 someone's termination.

11 Now, that is no different than what we've  
12 asked Mr. Purdy here. I don't think it's appropriate --

13 JUDGE GROSSMAN: Well, Mr. Downey, I  
14 understood that you were saying that you have a witness  
15 who indicated that he is familiar with that and  
16 therefore the testimony ought to stand.

17 My recollection is that ten minutes ago  
18 the witness said he was not familiar with it but he  
19 called someone who apparently called someone else to  
20 review the documents and that's why he's testifying the  
21 way he is.

22 Now isn't that basically what you said;  
23 Mr. Purdy?

24 MR. ROISMAN: I don't even think he said  
25 that anybody reviewed the documents.

1 JUDGE CROSSMAN: Okay. Then you called  
2 someone who was familiar or knew something about it;  
3 is that correct?

4 THE WITNESS: I believe my statement, Your  
5 Honor, was that I recalled something about the  
6 scenario dealing with Mr. Cole's termination.

7 I called the QC manager to see if I could  
8 corroborate my recollection but that I couldn't say  
9 that I had looked physically at the paper, nor do I  
10 know if he did, that documented that termination.

11 JUDGE GROSSMAN: And that you couldn't be  
12 sure that that was the only reason or the reason  
13 that's on the documentation for his being terminated?

14 Isn't that what you said?

15 THE WITNESS: That's right. I don't  
16 recall reading it. There may be something else.

17 JUDGE BLOCH: Were you directly involved  
18 in the termination?

19 THE WITNESS: No, sir. I recalled the  
20 scenario because it's not very frequently that we  
21 terminate people for reasons -- Mr. Siever actually  
22 signed the termination and --

23 JUDGE BLOCH: And you were not directly  
24 involved?

25 THE WITNESS: No, sir.



1 JUDGE BLOCH: Then there's no basis for  
2 accepting this testimony, and it will be struck.

3 Now --

4 MR. DOWNEY: I now move to strike the  
5 portion of the memorandum filed by CASE on September  
6 27th that characterizes the bases for Mr. Cole's  
7 termination.

8 JUDGE BLOCH: Is it Proposed Findings?

9 MR. DOWNEY: No. It's a memorandum.

10 The problem we continually face in this  
11 proceeding is, we don't know -- time and again, when  
12 there are glitches in the record or when the Board  
13 perceives glitches in the record, with evidence that  
14 doesn't contradict allegations, unsubstantiated  
15 allegations, we pay the penalty.

16 We trying to address every single  
17 contention that the Intervenor puts forth or to answer  
18 the inquiries of the Board. I feel that in a typical  
19 lawsuit, I would have disregarded what CASE said in  
20 that pleading because there's no evidence to support  
21 it, so there is no basis for a finding, pro or con.

22 JUDGE BLOCH: There must be evidence to  
23 support a finding and there's no -- will you tell us  
24 again what this pleading is that you want struck?

25 MR. DOWNEY: It's the pleading that



1 addresses their contentions, again, without evidentiary  
2 support about the liner plate travelers.

3 JUDGE BLOCH: Well, this is the most  
4 recent one?

5 MR. ROISMAN: We filed that at Mr.  
6 Downey's insistence that we file the document. We  
7 didn't even characterize it as a finding. We simply  
8 told him what our contention was. It's in the nature  
9 of a contention filed in advance of litigation.

10 The contention arose because we got the  
11 traveler documents in dribs and drabs. Once this  
12 hearing started, we took them -- after some difficulty,  
13 we finally got access to them to get them copied. We  
14 had them copied. We had people review them.

15 One of the things that popped up was  
16 that Mr. Cole appeared to a major actor in all of  
17 this. The people who we were working with told us,  
18 said, "He was discharged for falsifying documents."

19 JUDGE BLOCH: The allegation in that  
20 filing is not evidence.

21 MR. ROISMAN: Nor did we purport that it  
22 was evidence.

23 JUDGE BLOCH: So it doesn't have to be  
24 struck.

25 Now, the next question is whether there

1 is good cause for reopening discovery on this issue  
2 and you say it's based on the liner plate, plus this  
3 new document from Mr. Dillingham.

4 I think given the circumstances, it would  
5 be easier to resolve that and more accurate to resolve  
6 it on a written motion.

7 MR. ROISMAN: I'll be happy to do that,  
8 Your Honor. I'll make a formal document request and  
9 I will append the documents and necessary affidavits  
10 regarding when we learned what we learned and why we  
11 think we need discovery.

12 JUDGE BLOCH: Mr. Roisman, would you  
13 continue?

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1 MR. ROISMAN: That's it.

2 JUDGE BLOCH: Mr. Purdy, did you have  
3 any knowledge on the day of the T-shirt incident of  
4 the searching of the documents of the inspectors?

5 THE WITNESS: Not that it was going to  
6 be done. I did have knowledge of it after it was  
7 done.

8 BOARD EXAMINATION

9 BY JUDGE GROSSMAN:

10 Q Sir, with regard to that first proposed  
11 ROF, that is, on the first part of that year where  
12 the persons were transferred or found positions other  
13 than where they were, would they have been included in  
14 that group that were ROF'd in July of that year, had  
15 they still been working in that unit?

16 A Yes, sir, they probably would. They  
17 would be evaluated with that group.

18 Q And wasn't it basically your testimony  
19 that those were persons that would be higher in number  
20 on your evaluation sheet than the persons that were  
21 actually ROF'd in that July ROF?

22 A That's true at the time, probably true,  
23 because they did not have the same qualifications as  
24 the individuals who were subsequently ROF'd on July  
25 the 13th, sir.

7-2  
1 Q I hate to get back into Mr. Cole, but  
2 to your knowledge, had Mr. Cole been under notice of  
3 work deficiencies for any period of time before he  
4 was actually terminated? I'm asking from your personal  
5 knowledge.

6 A From my recollection, I don't know the  
7 answer to that, Your Honor.

8 JUDGE BLOCH: Staff?

9 MR. BACHMANN: I have just one question.

10 FURTHER RECROSS-EXAMINATION

11 BY MR. BACHMANN:

12 Q Mr. Purdy, you may or may not have  
13 answered this specific question before, but I think  
14 I'd like to just get it in front of everyone on the  
15 record at this point.

16 In the instance of the ROF, whose  
17 authority, whose final specific determination was it  
18 who goes, who stays?

19 After you had gone through the  
20 evaluation process, who signed off and said, "They go;  
21 they stay"?

22 A It's actually a multi-tiered process.  
23 I would have reviewed the ROF forms in the rating,  
24 made the recommendation to Applicant, who would then  
25 review to validate our numbers and our findings and



7-3 1 the uniform implementation of the program through  
2 both the site QA supervisor and the Applicant's QA  
3 manager.

4 Q Then after this validation has been done,  
5 then what would be the next step?

6 A The next step would be the ROF, sir.

7 Q Would be the what?

8 A Would be the ROF.

9 Q And who would actually set that final  
10 ROF into motion? Would it be you?

11 A Yes, that's correct.

12 MR. BACHMANN: No further questions.

13 JUDGE BLOCH: Mr. Roisman, do you have  
14 any further recross?

15 MR. ROISMAN: No, sir.

16 MR. DOWNEY: Your Honor, I would like to  
17 address some of the scheduling points that we  
18 discussed informally prior to the resumption of the  
19 formal session this afternoon.

20 JUDGE BLOCH: Let me dismiss Mr. Purdy  
21 first.

22 I would like to thank you very much and  
23 you are excused from the witness stand. Thank you.

24 THE WITNESS: Thank you.

25 (The witness was excused.)



7-4 1 JUDGE BLOCH: We have another matter that  
2 we would like to take up, too.

3 Applicants will be filing a brief with  
4 respect to the O. B. Cannon discovery. We would like  
5 them to cover in their brief the secretary's notes that  
6 Mr. Norris said were taken in the course of the  
7 interview with Mr. Walker and Mr. Reynolds.

8 MR. DOWNEY: Could you give me, Your  
9 Honor, so I could take this down -- I wasn't present  
10 during that session.

11 JUDGE BLOCH: Our understanding is from  
12 Mr. Norris' testimony that there was a meeting with  
13 Mr. Walker and Mr. Reynolds in which he was present  
14 and a Mr. Lipinsky was present, and a third person --  
15 we believe Trallo.

16 The question is whether or not that  
17 was covered by privilege of Counsel and whether or  
18 not the notes can be made available.

19 MR. DOWNEY: Do you know whose notes they  
20 were?

21 JUDGE BLOCH: He stated that there was  
22 a girl there.

23 MR. DOWNEY: Do you know where the meeting  
24 was held?

25 JUDGE BLOCH: I'm sure Mr. Reynolds will

7-5 1 remember the meeting.

2 MR. REYNOLDS: Mr. Chairman, if my  
3 recollection of that meeting serves me correctly, the  
4 purpose of having a secretary there was to dictate  
5 questions and answers leading to the preparation of  
6 testimony or an affidavit.

7 JUDGE BLOCH: Okay, so it will be easy  
8 to cover, if it in fact is covered, but if they  
9 were not -- we are not even sure if these people were  
10 at that time consultants to the Applicants. They may  
11 have discontinued their work on the contract at that  
12 time and, therefore, they were not consultants or  
13 contractors.

14 They may have been contractors, and we  
15 don't know who was providing legal counsel to whom. So  
16 I think that ought to be covered in the brief.

17 JUDGE GROSSMAN: Is it your point that  
18 notes weren't taken of what transpired there; is that  
19 it?

20 MR. REYNOLDS: I heard the Chairman say  
21 that a secretary was in the room ostensibly taking  
22 notes.

23 My recollection is that the secretary  
24 was there taking dictation from people in the room who  
25 were preparing testimony or affidavits.

7-6 1 JUDGE BLOCH: If that's what it was and  
2 you think it's clearly covered by client/counsel  
3 privilege or by your privilege as counsel preparing  
4 for trial, just mention it.

5 MR. REYNOLDS: I can almost assure you  
6 that whatever notes that she took no longer exist.  
7 They were probably typed into the form of testimony  
8 or an affidavit. It's something I'll have to check.

9 I'll check with Mr. Walker. I wasn't  
10 here that you ordered that a memorandum be filed.  
11 What is the nature of the memorandum? Just that?

12 JUDGE BLOCH: I'm sure you can review  
13 it with Mr. Watkins. It is two phases.

14 First, it would identify -- First, we  
15 asked that documents that are not covered by privilege  
16 relating to O. B. Cannon be turned over, and then we  
17 asked that those that are arguably covered by  
18 privilege be segregated and retained.

19 Now I'm trying to remember what the two  
20 phases were. Phase one covered whether or not the  
21 Board should examine the documents prior to ruling  
22 on whether they are covered by Counsel's privilege;  
23 and phase two was whether or not Counsel's privilege  
24 prevented Counsel's documents from being considered in  
25 evidence and used in the case.

7-7 1 MR. REYNOLDS: These are documents in  
2 Applicants' Counsel's possession?

3 JUDGE BLOCH: For the most part, they  
4 are in O. B. Cannon's possession.

5 The only document that we've added to  
6 that is this particular meeting in which Mr. Norris'  
7 testimony was that he was there and he was not receiving  
8 advice of Counsel.

9 If you are saying it's preparation of  
10 testimony, then that would be part of your brief.

11 JUDGE GROSSMAN: Mr. Reynolds, just to  
12 make it clear. If the secretary took notes and then  
13 typed up something and destroyed the notes, we are  
14 interested in what she typed up in place of the notes.

15 JUDGE BLOCH: Again, it may be the sam  
16 thing, and if it is, it would be covered by privilege,  
17 which we will --

18 JUDGE GROSSMAN: Yes. Certainly, we are  
19 not demanding that it be produced. We are saying  
20 that either --

21 JUDGE BLOCH: An explanation.

22 JUDGE GROSSMAN: -- or covered in a  
23 memorandum and tell us why not.

24 MR. REYNOLDS: Since I wasn't here when  
25 the Board instructed that we prepare this memorandum, it



1 would be helpful to me if I understood the thrust of  
2 what the Board is getting to.

3 JUDGE BLOCH: It's all in the transcript.

4 MR. REYNOLDS: Oh, it is?

5 JUDGE BLOCH: Yes.

6 Mr. Downey, you have another matter, which  
7 is the scheduling?

8 MR. DOWNEY: Yes, Your Honor.

9 I would also like to inquire or ask the  
10 Board to inquire of the other parties, the Staff and  
11 the Intervenor, the status of the Intervenor's  
12 discovery request with respect to the EGG Report.

13 We are quite eager to get this case  
14 submitted, and we understand, and rightfully so, that  
15 discovery on this matter would take place and that the  
16 evidentiary session would be scheduled or depositions  
17 be taken for submission to the Board.

18 JUDGE BLOCH: Actually, as far as the  
19 whole case goes, it would be helpful if we could get  
20 as complete a status report as possible from the Staff  
21 on their status and targets.

22 I think we could expect a status report  
23 within a week on everything pending within the Staff  
24 that's going to control the proceeding.

25 MR. REYNOLDS: Which the Board will then



7-9 1 adopt as the Board's schedule for Staff's completion  
2 of issues, I trust.

3 JUDGE BLOCH: The availability of the  
4 schedule will be helpful to us, but as you know, we  
5 lack the authority to order that the schedule be kept.

6 MR. TREBY: Staff will try to -- Staff  
7 Counsel will try to provide the Board within one week  
8 of a schedule.

9 We will talk to our client, which is the  
10 technical staff, and relate to you the information  
11 that they provide us.

12 We have no control over the technical  
13 staff in the sense of telling them that if they don't  
14 meet the schedule, that we will take some sort of  
15 action against them.

16 JUDGE BLOCH: I guess an interesting  
17 part of that schedule ought to be whatever you can  
18 ascertain about a wise response to our demand for  
19 documents.

20 MR. TREBY: I will relay your request  
21 about OI's response to your motion to either Mr. Hays  
22 or to the Office of General Counsel, who is their  
23 legal counsel.

24 As I have mentioned on numerous occasions,  
25 Staff Counsel in the Office of the Executive Legal

1 Director does not have any legal representation with  
2 regard to the Office of Investigation.

3 They are an office that reports to the  
4 Commissioners. They do not report to the Executive  
5 Director of Operations. Therefore, they are not part  
6 of the staff that the Office of the Executive Legal  
7 Director represents.

8 JUDGE BLOCH: I guess it would be helpful  
9 to us if the schedule stated the efforts you have made  
10 to ascertain what their schedule is, because we can't  
11 even make sure that the General Counsel will appear  
12 before us to explain the schedule.

13 So if the Staff would explain their  
14 difficulties and just state what they have done to try  
15 to get an answer for us, it would be helpful to us in  
16 the scheduling memo.

17 MR. ROISMAN: Mr. Chairman, I assume  
18 that your request also includes if OI chooses to  
19 answer the question, their completion status on any  
20 open investigations that are pertinent to this issue.

21 JUDGE BLOCH: We haven't requested that  
22 yet. Let's jump a hurdle at a time.

23 We have not requested that at this point,  
24 but we may have to get to that.

25 Why don't we see what they finish before

7-11

1 we get to what they haven't finished.

2 MR. DOWNEY: Your Honor, I would request  
3 that the Board admonish the parties to try and  
4 complete the EGG discovery so that we could hear  
5 evidence from the EGG consultants during the week of  
6 the 22nd, which is the next scheduled hearing.

7 As things stand now, I think the only  
8 agenda items for that week are Mr. Brandt's cross,  
9 the possibility of the handwriting expert called by  
10 Applicant and Dr. Goldstein -- the potential agenda  
11 items.

12 JUDGE BLOCH: Recall of Mr. Norris.

13 MR. DOWNEY: And Mr. Norris. Excuse me.

14 JUDGE BLOCH: And the Board doesn't  
15 know, but there seems some likelihood that there may  
16 be other O. B. Cannon witnesses.

17 MR. DOWNEY: It would be our hope that we  
18 could start the 26th and do the open matters that the  
19 Board has enumerated and continue straightforwardly to  
20 the EGG witnesses, even if it carries over to the week  
21 following the week of the 22nd.

22 JUDGE BLOCH: I think it's clear that we  
23 should do everything we can to try to get the EGG  
24 witnesses ready, but there has to be a course of  
25 orderly discovery, and we are going to have to see how

1 that goes before we would decide whether to schedule  
2 that at that point.

3 JUDGE ROISMAN: Just to answer  
4 Mr. Downey's request, we filed an addition to the  
5 Freedom of Information Act request, which was actually  
6 sent out by the Government Accountability Project, not  
7 by Intervenor here, but we have access to the  
8 information.

9 We filed last Wednesday with the Staff  
10 our discovery requests, and so at this point the ball  
11 is in their court, and we don't know. I believe  
12 Mr. Treby said that he had not seen it before he left  
13 his office to come down here.

14 And frankly, the purpose of the Board not  
15 having responsibility for ordering the Staff what to  
16 do is that they now have a lot of balls in the air on  
17 this case, and if we were to order them to favor one  
18 over another, we might not be producing the most  
19 efficient way to the end of the case.

20 So I would rather request the schedule and  
21 some efficient plan for concluding matters, rather  
22 than direct that a particular matter be done  
23 immediately.

24 MR. DOWNEY: All I would observe is when  
25 the Intervenor called an expert in this case, we were



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1 - compelled to depose him on Friday before the hearing  
2 started on Monday, and conduct cross-examination of  
3 him on the following Wednesday.

4 That was a fairly short time turn-around.

5 JUDGE BLOCH: We are aware that the  
6 Staff always has more time than the Intervenors.

7 MR. DOWNEY: In this case, the Intervenor  
8 having more time than the Applicant.

9 MR. ROISMAN: I don't know what  
10 Mr. Downey is talking about.

11 I must say I'm getting a little fed up  
12 with the cheap shots that are coming from him that  
13 I have not responded to.

14 I'm not the one who holds documents until  
15 the last minute, which is now documented on this  
16 record, and then produces them during examination of  
17 my witnesses, and I have not asked for any time from  
18 the time that I get the documents until we are ready  
19 to go to EG&G.

20 All I have said is, "Let me see the  
21 documents and I'll tell you what we will do."

22 Mr. Downey is first creating these straw  
23 persons and then knocking them down, and I don't  
24 think that there's any basis in this record for any  
25 allegation that CASE in any way is being dilatory or



1 slow or the process is slowing down.

2 In fact, I think any objective examina-  
3 tion of the record will suggest precisely the  
4 opposite.

5 We are the ones who have been trying to  
6 move things along and not in any way trying to do the  
7 opposite.

8 I really resent it. If Mr. Downey is  
9 frustrated, I suggest that he get himself a bouncing  
10 ball and not use CASE as the outlet for his frustrations.

11 JUDGE BLOCH: There will be no more  
12 discussion between Counsel on these points. It's not  
13 relevant to the progress of this proceeding.

14 We are tentatively scheduling a hearing  
15 October 15 through 19 in Washington, D.C. It will  
16 be a public hearing.

17 MR. ROISMAN: I'm sorry. I thought it  
18 was 22nd through 26th.

19 JUDGE BLOCH: I'm sorry. October 22nd  
20 through 26th in Washington, D.C. It will be a public  
21 hearing.

22 It is tentative because we have not yet  
23 heard finally from Mr. Roisman about his schedule.

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he

1 MR. DOWNEY: Your Honor, when does the  
2 Board anticipate giving us notice or giving some  
3 indication of whether additional O. B. Cannon witnesses  
4 would be requested by the Board?

5 JUDGE BLOCH: As soon as we've had a  
6 chance to review the documentation from O. B. Cannon.

7 MR. TREBY: Can I get some clarifi-  
8 cation as to the scope of the status report that the  
9 Board is asking?

10 So far I've heard something dealing  
11 with how is the Office of Investigation doing in  
12 response to the Board's motion and what is the status  
13 of the Staff's discovery with regard to Mr. Roisman,  
14 or I guess CASE's discovery requests on EG&G Idaho,  
15 are there any other matters that need to be covered  
16 in this?

17 JUDGE BLOCH: The responses to each of  
18 the summary disposition motions that are now pending?

19 MR. REYNOLDS: The DeLaValle response  
20 from the Staff.

21 JUDGE BLOCH: The analysis of the  
22 DeLaValle response, and then the answer to the motion  
23 on pre-critical testing.

24 I think those are the principal ones.  
25 I think the remainder of the task force matters

18-2 1 we won't ask for right now. We assume that the Staff  
2 is doing that as expeditiously as they can.

3 MR. REYNOLDS: And the Staff response  
4 to the low power motion would include a response to  
5 the Board's memorandum issued yesterday.

6 JUDGE BLOCH: That's our understanding.

7 Now, there is one other matter, there  
8 are the CAT team matters which are open in this case  
9 but I assume from Staff's previous representations  
10 that that's tied in with the finishing of the task  
11 force activity. So that doesn't have to be covered.

12 MR. TREBY: All right. And can the  
13 response date of this be Wednesday, October the 11th,  
14 since there is no assurance I'm going to get back to  
15 my office until --

16 JUDGE BLOCH: Granted.

17 There being no further matters for  
18 immediate attention, I'd like to thank all the parties  
19 for their cooperation.

20 The hearing is adjourned.

21 (Whereupon, at 2:55 p.m., the hearing  
22 in the above-entitled matter was adjourned.)

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CERTIFICATE OF OFFICIAL REPORTER

This is to certify that the attached proceedings before the  
UNITED STATES NUCLEAR REGULATORY COMMISSION in the matter of:

NAME OF PROCEEDING: COMANCHE PEAK STEAM ELECTRIC CO.

DOCKET NO.: 50-445-OL  
50-446-OL  
PLACE: FORT WORTH, TEXAS

DATE: TUESDAY, OCTOBER 2, 1984

were held as herein appears, and that this is the original  
transcript thereof for the file of the United States Nuclear  
Regulatory Commission.

(Sigt) Mary L. Bagby  
(TYPED) Mary L. Bagby

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