

ORIGINAL
UNITED STATES
NUCLEAR REGULATORY COMMISSION

IN THE MATTER OF:

SHEARON HARRIS NUCLEAR
POWER PLANT

DOCKET NO:

50-400-0L
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LOCATION: APEX, NORTH CAROLINA

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UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

-----X
 In the Matter of: :
 :
 CAROLINA POWER AND LIGHT COMPANY : Docket Nos. 50-400-OL
 and NORTH CAROLINA EASTERN : 50-401-OL
 MUNICIPAL POWER AGENCY :
 :
 (Shearon Harris Nuclear Power :
 Plant, Units 1 and 2) :
 -----X

Ramada Inn, Interstate 55
 ECU Room
 Apex, North Carolina

Friday, October 26, 1984

The above-entitled matter reconvened, pursuant
 to notice, at 9:30 a.m.

BEFORE:

JAMES L. KELLEY, ESQ., Chairman
 Atomic Safety and Licensing Board
 Nuclear Regulatory Commission
 Washington, D. C. 20555

DR. JAMES H. CARPENTER, Member
 Atomic Safety and Licensing Board
 Nuclear Regulatory Commission
 Washington, D. C. 20555

DR. GLEN O. BRIGHT, Member
 Atomic Safety and Licensing Board
 Nuclear Regulatory Commission
 Washington, D. C. 20555

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1 APPEARANCES:

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20 Nuclear Regulatory Commission
21 Region II
22 101 Marrietta Street
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24 On Behalf of the Intervenors:

25 WELLS EDDLEMAN
718-A Iredell Street
Durham, North Carolina 27705
Appearing pro se

* * *

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C O N T E N T S

<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>BOARD</u>
George A. Kanakaris					
Roland M. Parsons			5864	5886	
Larry F. Garner (Resumed)					

I N D E X O F E X H I B I T S

<u>Exhibit No.</u>	<u>Identified</u>	<u>Received</u>
Eddleman Exhibit No. 11 - TP 15, Rev. 11.	5922	
Eddleman Exhibit No. 12 - CQC-13. (NOTE: Copy not provided Court Reporter)	5923	
Eddleman Exhibit No. 13 - QCI-13-1	5923	
Eddleman Exhibit No. 14 - Batch Plant Insp, QCI-13-2	5924	
Eddleman Exhibit No. 15 - Sieve Analysis - QCI-13-5	5924	
Eddleman Exhibit No. 16 - Work Procedure WP-4, Rev. 10.	5925	
Eddleman Exhibit No. 17 - Suppl Response to Eddleman Request for Production of Docs, dtd May 25, 1984.	5925	
Eddleman Exhibit No. 10 - EBASCO Spec Concrete CAR-SH-CH-6, Rev. 11		5943

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P R O C E E D I N G S

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(9:30 a.m.)

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JUDGE KELLEY: We are on the record this morning, 9:30. We are experiencing a delay in the start of today's hearing. Mr. Eddleman called shortly before 9 to inform the Board that he was sick, and some doubt about whether he would be able to appear today.

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And this is just to reflect briefly the fact that the Board Chairman had a discussion with him, and had a discussion with the other members of the Board and counsel, and then some further discussion with Mr. Eddleman. And the upshot of it all was that Mr. Eddleman will attempt to be here right around 11 with the expectation that we may get in about a half a day of hearing, say, from 11 to 3, something like that.

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And so we are now essentially waiting, and we may do a few things just in the interest of getting them done in the interim. But the hearing itself, in terms of questioning of the witnesses, will not begin in all likelihood until shortly after 11 or later, or conceivably may not occur.

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23

We regret this development. Of course, when the parties are sick, the parties are sick and there is just not a lot we can do about that.

24

25

One thing that we thought we might go ahead and do, it seems to us appropriate to use some of this otherwise dead

#1-2-SueT

1 time to take care of some things that we can do without Mr.
2 Eddleman and without any Intervenors actually present, they
3 don't involve input from all parties, they don't involve dis-
4 pute, it's just a matter of getting something on the record.

5 We, for example, have a ruling on a matter that
6 was argued yesterday. We will not be hearing further from
7 the parties. We are simply going to make the ruling. And it
8 will be in the transcript, and I will be loaning Mr. Eddleman
9 my transcript, and when he comes we can tell him in quick
10 summary what the result was. But, since that does take time
11 also we might just as well do it now.

12 Do any of the parties see any problem in proceed-
13 ing in that manner on this point?

14 MR. BAXTER: No, sir.

15 MR. BARTH: No, sir.

16 JUDGE KELLEY: Okay. We heard argument from the
17 parties yesterday on the question whether the time for filing
18 findings of fact on the management contention known as Joint
19 Contention 1 ought to be delayed essentially until after the
20 exhaustion of administrative appeals from a denial in part of
21 a Freedom of Information Act request by Mr. Eddleman, dated --
22 the denial is dated October 19, 1984, addressed to Mr.
23 Eddleman and signed by J. M. Felton of the NRC.

24 Strictly speaking, we don't have to decide this
25 question now. We could decide it when we set the time for

#1-3-SueT

1 finding filings. That's when the crunch comes on this point.
2 But we think that it's better for the parties to know our
3 intention now. So, we are going to go ahead and give our
4 ruling, and then the parties can plan accordingly to the extent
5 that our ruling may affect their plans and actions.

6 And our ruling is that we will not delay the due
7 date for findings pending the resolution of the administrative
8 appeal of the FOI ~~letter~~ I just referred to. We will set that
9 date in accordance with factors that we usually consider. But
10 that appeal will not be one of them.

11 On the other hand, if the Intervenors file a prompt
12 appeal and I believe -- what's the deadline in th letter,
13 30 days, file a timely appeal from that denial and send the
14 Board a copy of the appeal papers or a letter, the Board will
15 thereupon write a letter to the Executive Director of Operations
16 and request that he give that appeal expedited consideration
17 under the circumstances of this case. That is, to say it's an
18 appeal that could impact pending litigation, and would he please
19 move it to the front of the stack.

20 We think that the question presented was fairly
21 debatable. On the one hand, the Intervenors have an under-
22 standable interest in material underlying the SALP IV report.
23 We think the Board has discretion in the matter and that we
24 could, if we thought it was on balance the best thing to do,
25 delay our finding due dates until after the appeal was completed.

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1 But we think on balance it's not the advisable or
2 fair thing to do. It is true, as the Applicants point out,
3 that the FOI process is outside the litigation process, and
4 although we are not precluded from considering such factors
5 it is not a desirable posture in our mind to have the litigation
6 process held up by a parameter we can't control beyond a
7 request like the letter we were talking about.

8 There is, we think, a strong interest in moving this
9 case forward, getting the findings filed and while the hearing
10 is still relatively fresh in the minds of us who heard the
11 evidence. And we think that's true, notwithstanding the
12 recently announced delay in the fuel load date for Shearon
13 Harris.

14 Another factor which -- though certainly not
15 decisive, but it has some influence in our minds, is the fact
16 that it's like a stay request. In essence, it's a request
17 for delay. And we think that we are entitled to consider
18 the likelihood of success in the merits on this appeal. And
19 we think that the chances that an appeal from a denial of an
20 FOI request, based on draft material, assuming it's all
21 properly characterized as draft material, is rather small.

22 Again, assuming this is all material within
23 Exemption 5. We would expect the EDO would probably sustain
24 the denial in whole or in part. So, we don't think it's
25 going to produce very much.

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And beyond that, maybe most significantly in our minds, we don't believe that any substantial prejudice will flow to the Intervenors by our not pegging the due date for findings to the administrative appeal. And this is demonstrated best perhaps by looking at a calendar. We are going to be setting a date for findings some time next month at the conclusion of this safety hearing. And given the days in the applicable rule -- and when you add them all up -- come pretty close to two months. And quite apart from the rule, the Board has other -- the Board can sit other times.

But the fact of the matter is, we don't envision findings here before the first of the year at the earliest.

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1 And the Board's decision will be at some significant
2 period of time after that. So that if the appeal does get
3 decided sometime before Christmas, we don't see any reason
4 why the intervenors can't file a motion to reopen along the
5 lines that have been discussed and the applicants and the
6 staff can respond to it and it could be phased in with the
7 findings schedule we are quite likely to adopt.

8 And even if that doesn't happen, and if the adminis-
9 trative appeal gets decided right around the time of the
10 findings due date or shortly thereafter, the intervenors would
11 still be able to file a motion to reopen and that can be
12 responded to. If it is granted to some extent, there could
13 be some presumably brief supplemental findings that could
14 come in at that stage and be considered.

15 It is only on the supposition that this appeal won't
16 get decided until late winter that this carries with it the
17 prospect that we will decide the case before they can get their
18 FOIA appeals decided. And we just think that that prospect
19 is so unlikely that it is something that is not entitled to
20 any weight.

21 So our ruling I have stated and those are our
22 reasons, and we will then address the due date for findings
23 question at the conclusion of this set of hearings and set
24 it in accordance with the usual standards.

25 The telephone is ringing. Off the record.

Sim 2-2

1 (Discussion off the record.)

2 JUDGE KELLEY: Let's go back on the record.

3 We are going to have some discussion about witness
4 availability and logistical and timing questions coming up
5 in the next week or so.

6 Again, we think this is the kind of thing that we
7 can talk about properly under the circumstances in
8 Mr. Eddleman's absence, but he will have a resume at least
9 of what got said or whatever got decided when he comes today
10 or sometime today, and he will also have a full copy of the
11 transcript.

12 MR. BAXTER: I can give you my perspective on where
13 we stand at this point, Mr. Chairman.

14 Under the normal order of testimony presentation
15 that had been laid out after this panel, and I have no idea
16 how close we are to completing their testimony, we have the
17 five subpoenaed witnesses, then Mr. Eddleman's witness, Stokes,
18 and then the staff's panel. And we had all agreed that on
19 Thursday, November 1, we would interrupt to take up Joint
20 Contention 4.

21 I think it had been the hope of the Board and
22 parties that this contention, Eddleman 65, would be completed
23 by that time.

24 Mr. Eddleman has indicated to us that Mr. Stokes
25 will be here Tuesday and that he would like to complete his

2-3
1 that day. We are willing to accommodate that and have this
2 panel's testimony interrupted if we are still with this panel.

3 I would not expect our cross-examination will take
4 very long at all because the testimony of Mr. Stokes is
5 an affidavit that was filed in June during the summary
6 disposition process and we have completely responded to it
7 in the written testimony.

8 On the other hand, Mr. Eddleman has also indicated
9 that Mr. Stokes is going to bring with him on Tuesday written
10 rebuttal testimony which Mr. Eddleman would also like us to
11 examine that day.

12 I anticipate substantial argument, legal argument
13 against that whole proposition, and if for some reason the
14 rebuttal testimony was entertained, it may take a considerable
15 amount of time to prepare for that.

16 JUDGE KELLEY: Okay.

17 MR. BAXTER: That is my estimate as to where we
18 stand.

19 JUDGE KELLEY: Yes, that is helpful. I think, too,
20 that what you have just said, I think it is sort of a resume
21 of what has been said before.

22 Is there anything really new other than the fact
23 that we are knocked off schedule with regard to this panel
24 today, but the Stokes business and so on you said before,
25 did you not?

Sim 2-4

1 MR. BAXTER: Yes. I think this is just a consolida-
2 tion.

3 JUDGE KELLEY: Right. Fine.

4 Staff?

5 MR. BARTH: I have no differing views from those
6 expressed by Mr. Baxter, Your Honor. I do not contemplate
7 that the examination of Stokes by the staff on the substance
8 of his direct testimony will take more than an hour.

9 The voir dire may take less than an hour. I have
10 heard that Mr. Stokes will bring rebuttal testimony. There
11 is no question that we will want to look at that very closely
12 in terms of the legalities, that is, does it explain or
13 rebut something new and unexpected in the direct testimony
14 by the staff or the power company.

15 So we may have legal argument vigorously on that
16 aspect of it. I can't predict that kind of time, Your Honor.

17 JUDGE KELLEY: Okay. I guess I was expecting
18 certainly we would finish 65 before next Thursday, but for
19 today's development, and now it is sort of hard to tell.

20 MR. BAXTER: One other piece of information that
21 I think also has been put on the record, but what I didn't
22 mention is that Mr. Runkle for the Joint Intervenors will
23 be doing the cross-examination on Joint Contention 4, which
24 should relieve Mr. Eddleman toward the latter part of next
25 week. And it might be that we could push the hours on

Sim 2-5

1 Tuesday and Wednesday next week to finish this contention.
2 I know that would be pushing him, but then it would just
3 be two days and then he could recovery if necessary.

4 I think it would be very useful not to have the
5 full week and a half interruption that would come about from
6 the TLD contention and the week we are taking a recess and
7 then have to return to the concrete issue again.

8 MR. BARTH: We would make a suggestion that might
9 help along that line, Your Honor. In discussing this with
10 my co-counsel it appears to us that we might well reconvene
11 Monday morning at 9 o'clock in order to make up for this
12 lost day and that would somewhat alleviate the problem of
13 having lost most of today. It would give Mr. Eddleman time
14 to recover his ebullience.

15 JUDGE KELLEY: Do you favor that?

16 MR. BARTH: Yes.

17 MR. BAXTER: I certainly think we would, too.

18 JUDGE KELLEY: What about 11?

19 (Laughter.)

20 MR. BAXTER: We are always willing to compromise,
21 or almost always.

22 (Laughter.)

23 JUDGE KELLEY: Why don't we revisit that suggestion
24 after Mr. Eddleman is here. It is out on the table and it
25 has some support and see what the consensus is. There would

Sim 2-6

1 be the problem of finding ourselves a hall. I don't know
2 whether this is available or not.

3 (Board conferring.)

4 JUDGE KELLEY: I guess at least a quorum of the
5 Board is willing to come down. I shouldn't say that. Well,
6 anyway, maybe we should look for a room seriously. We can't
7 do it without a hall. After we stop here, and it is very
8 shortly that we are going to run out of things to do, and
9 we may have run out right now, we might make a few calls and
10 see what is available. I can call the Bankruptcy Court.

11 We are in the Bankruptcy Court Tuesday and Wednesday
12 anyway. I don't know. Could the applicants do a little
13 research and maybe the staff, too, and the Board and maybe
14 between the three of us we can find a good place to hold the
15 hearing. A phone call or two is all I mean.

16 Well, is there anything else that we should raise
17 at this point or should we just have coffee?

18 MR. BAXTER: I can't think of anything.

19 JUDGE KELLEY: Okay. We will just go off the
20 record until Mr. Eddleman arrives.

21 (Recess.)

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(11:40 a.m.)

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JUDGE KELLEY: Back on the record. We are starting late, about 11:30, because Mr. Eddleman is now well. He is with us now, and was not with us earlier, and is not feeling very well, and we will just have to see what we can get done, and take it as it goes.

I think it might be well to discuss for a moment where we have been so far as I understand it from this contention, and where we might hope to go next, and what we can reasonably expect to get to today.

We got started here yesterday afternoon on the concrete panel, and we had some questioning of a background nature. We had some questioning based on some discovery material, interrogatory material. This is just by way of sort of overview.

This is a rather unusual contention in that it is tied to some particular pieces of evidence, namely some particular pour packages that were turned over in discovery, and its first sentence says, in effect, these packages will disclose defects in these particular areas of the containment.

We allowed some questioning from the procedures -- not procedures -- we allowed some questioning from the interrogatories.

I should note that the Applicants testimony itself in its first number of pages, goes over some rather general

1 matters of how concrete is poured, and what the more important
2 procedures are and so forth, just as context.

3 The questioning was not particularly tied to that,
4 but rather to deposition material. We had an objection that
5 we were really outside the scope of the contention.

6 We had some discussion over whether, and to what
7 extent, QA problems would be revealed by the pour packages
8 themselves as opposed to other documents, and as I understand
9 it, the Board understands, we pretty well got through
10 that deposition material and quit last night.

11 Mr. Eddleman has distributed some materials which
12 he proposes to use in cross examination, and they are
13 essentially EBASCO procedures for concrete, described in the
14 most general terms I can think of, and indicated his interest
15 in my talking with him earlier, in asking some questions based
16 on that.

17 I guess I indicated one concern, that these pro-
18 cedures are extremely long and detailed. We do have some
19 general discussion of procedures in the testimony. As a matter
20 of a technical hearing procedure, the cross examiner is bound
21 by the scope of the direct testimony.

22 Now, there may relationships between the direct
23 and the procedures, I am not saying there aren't; but it is
24 sort of a matter of degree.

25 I guess on the face of these lengthy detailed

1 procedures, I would question whether very lengthy questioning
2 based on them is warranted. That is not a ruling. It is
3 just an indication of the Board's general approach.

4 Let me stop there and ask Mr. Eddleman what he
5 feels prepared to go forward with, and what he has in mind
6 with regard to these EBASCO procedures.

7 MR. EDDLEMAN: Unfortunately, just what I think you
8 said was on shakey ground.

9 JUDGE KELLEY: What do you have in mind as cross,
10 based on these exhibits.

11 MR. EDDLEMAN: If I can explain what I had set up
12 in my preparation last night. I was going to go through the
13 procedures first. It is my understanding of what a pour
14 package shows, that if it is out of specification or not
15 in compliance with the codes and procedures, that that is what
16 Mr. Stokes was talking about. That is where I was going with
17 that.

18 So, I started in on that, and basically just
19 couldn't stay awake, and tried to take a nap, and ended up
20 sleeping until about nine o'clock this morning, and waking
21 up with a sore throat, and associated cold and so on, it
22 appears.

23 I think I am able to go on here some, but when I
24 sat down to continue preparing, what I kept on doing was
25 working through those procedures.

1 I hadn't tried to do the pour package. I am not
2 sure that my brain function is up to doing that right. That
3 is the most important part. I would rather do the part that
4 is, should I say, a little less important, or a little more
5 mechanical, and that is what I tried to do.

6 JUDGE KELLEY: Well, we talked on the phone and
7 you indicated you would prefer not to get into the pour
8 package, at least in any depth, because of the way you felt,
9 and so that is not a surprise.

10 And I understand you also said you wanted to get
11 into these procedures. I am just saying that looking at
12 these procedures, the Board has some concern about where we
13 are going.

14 One first thinks it is pour packages that are in
15 this case, and the next thing we know we are into this, and
16 the case just goes off in all directions, unless it is
17 pretty tightly tied to the pour packages in some way.

18 I don't mean to anticipate. The Board doesn't
19 generally make objections, we rule on them. I am giving
20 you an expression of concern about the depth in which we
21 should go into these procedures. But it is up to the parties
22 to object, and we would like to see objections in context, and
23 not as an abstract matter at the beginning.

24 So I am not precluding any, at this point, any
25 questioning on the procedures. I am expressing a doubt as

1 to whether we can go through a line by line exercise on these
2 procedures when we don't think that is the most important
3 thing before the house.

4 There is another area that I will just mention to
5 you as a possibility. We talked a little bit about the pour
6 packages yesterday, and what is in them, what they show.
7 For example, this form at the back, QA 74 Rev. 2, we talked
8 about that a while.

9 MR. EDDLEMAN: Judge, do you mean QA 24?

10 JUDGE KELLEY: I guess I do. 24, Rev. 2, right.

11 It occurs to me if there are other aspects of the pour
12 package itself that you think are ambiguous or you don't know
13 what they mean, it is one thing I suppose to get into detailing
14 questioning of some particular reports, and another thing
15 to say what does this part of the form even mean.

16 And I would think if you have any need for clarifying
17 questions on what is in the package in terms of the forms,
18 that might be appropriate.

19 MR. EDDLEMAN: I can try to get into that some. I
20 haven't prepared it out, but I have some idea. I think I
21 can do that better off the top of my head in terms of things
22 that are unclear. I have had some review of these things
23 now, and I think I know the kinds of questions I want to ask
24 about that.

25 JUDGE KELLEY: That might a useful way to spend some

1 time.

2 MR. BAXTER: I would just point out also, Mr.
3 Chairman, that our direct testimony does discuss each of these
4 pour packages. You can cross examine to some extent from what
5 we said here, as well as what is in the package, and Mr.
6 Stokes testimony addresses them also.

7 JUDGE KELLEY: Yes. I think with that you can go
8 ahead, Mr. Eddleman, and we will see how it goes. But I
9 just thought the Board ought to make a couple of comments
10 about its slant on things at this point. That might be
11 helpful.

12 MR. EDDLEMAN: Okay. And I am just taking this
13 as it comes. I think my voice is functional as long as I
14 keep it lubricated.

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MR. BAXTER: If I might, I have one open question left over from yesterday that we have an answer for.

Whereupon,

GEORGE A. KANAKARIS,

ROLAND M. PARSONS

and

LARRY F. GARNER

resumed the witness stand as witnesses called by and on behalf of the Applicants, Carolina Power and Light Company and North Carolina Eastern Municipal Power Agency, and having previously been duly sworn, were further examined and testified as follows:

REDIRECT EXAMINATION

BY MR. BAXTER:

Q Mr. Eddleman asked, Mr. Parsons, other than the two basemat pours to select what other of the eleven pours represented instances of relatively heavy rebar congestion, and you were asked to give a look at the pours over the break and come back with an answer.

Do you have that now?

A (Witness Parsons) Yes, sir. Our Exhibit Number 11, that's Placement Number 1CBXW242001, was one of the difficult ones. It was around the escape lock.

Our Exhibit Number 12, 1CBXW256004, was a difficult one, around the personnel air lock.

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1 Our Exhibit Number 14, Number 1CBXW290001, was
2 another difficult one. And those are the only three that I
3 would characterize as being maybe more difficult than some of
4 the others.

5 Q Reviewing the transcript, there is some confusion
6 in the record, in my view, about -- a question about an
7 Interrogatory where the Interrogatory itself isn't there, and
8 the answer was about cover requirements. And I think we may
9 have gotten rebar spacing requirements and cover requirements
10 intermixed somewhat.

11 Mr. Kanakaris, could you go over again for us what
12 the rebar spacing requirements for the basemat are, and what
13 the cover tolerance and cover requirements are for exposed con-
14 crete?

15 A (Witness Kanakaris) Yes, I can. The minimum re-
16 bar spacing is four and a half inches. But that's a clearance.

17 In other words, from edge to edge of the rebar. And
18 the tolerance for that spacing is an inch and a half. The
19 minimum cover for the rebar and the mat is three inches, and
20 the tolerance on that is also an inch and a half, plus or
21 minus.

22 MR. BAXTER: Thank you.

23 JUDGE KELLEY: I don't want to get us off-track
24 but I just remembered I would like to mention a couple of
25 things that happened this morning you came, Mr. Eddleman, just

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1 so you know it now and it will be in the record. We went ahead
2 and we gave a ruling which is in the record -- and I will loan
3 you my transcript as soon as it's available --

4 MR. EDDLEMAN: Thank you.

5 JUDGE KELLEY: -- on this business of the appeal
6 of the FOIA and so on. And we decided that we would not hold
7 up the findings for that appeal, but that on the other hand
8 as soon as you have filed an appeal, you and Mr. Runkle I
9 mean, if you do that the Board will write a letter to the EDO
10 asking him to give it expedited consideration.

11 And I think as a practical matter you should get
12 your ruling in time so that if you get anything out of the
13 appeal you can make use of it.

14 MR. EDDLEMAN: I appreciate that, Judge. By the
15 way, for the Board's information I did check in with Mr.
16 Runkle. He still anticipates being here, but he tells me
17 that he, too, is ill and has a doctor's appointment at 2:30
18 this afternoon and will have to leave for that.

19 But we were planning, and as far as I know, unless
20 this knocks both of us out a lot longer than the normal sore
21 throat, we will have an appeal out some time next week or soon
22 thereafter.

23 JUDGE KELLEY: That's fine.

24 MR. EDDLEMAN: As far as we can. And we will let
25 the Board know when we do it. I am assuming I will remember,

#4-4-SueT 1

but I will make a note on my note thing here.

2

JUDGE KELLEY: We will put that in terms of a timely appeal, and under the NRC procedure it's thirty days after the denial.

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MR. EDDLEMAN: Right. We will be well within that I think.

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JUDGE KELLEY: Fine. We talked a little bit, Mr. Eddleman, about the expectations next week in terms of witness availability and so on. I don't know that there are any surprises in that discussion.

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Can you capsule that briefly, Mr. Baxter?

12

MR. BAXTER: Yes.

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JUDGE KELLEY: I should add, we are also talking about coming in on Monday which effects things. In view of losing a piece of today -- it depends on how much we get done today, I guess. But we can decide that before adjournment today, but we are leaning toward coming on on Monday, possibly with a late start, in order to make up time from today.

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MR. EDDLEMAN: Well, I don't guess I would have any specific objection to that. I had been set up to be somewhere Monday night which requires some travel, but I think that we could make the schedule. In other words, I think if we basically use half a day today, I could still be finished with 65 as far as we now know the schedule on

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Wednesday even if we didn't have an additional session on Monday

#4-6-SueT

1 he would be available on Monday also, but in terms of his
2 schedule he has got to be working on a couple of other things
3 simultaneously with what he is doing for this hearing. There-
4 fore, he said what he is going to try to do about written
5 rebuttal is get a handwritten copy or a typed copy, if possible,
6 to CP&L some time on Monday. And that's about as fast as he
7 could come out with that.

8 And I know we haven't argued about it or anything.
9 I'm just telling you what his schedule is. I'm not saying
10 this is approved or that we have even made a motion for it
11 yet. If he doesn't get it done, there won't be any motion.

12 That's the only thing I can see taking up more
13 time. What I would like to try to do here with our panel is,
14 you know, lay as much of the foundation as I can for what I
15 want to wrap up when I actually get into the details of the
16 packages, and I anticipate that no more than half a day of
17 that or probably less than that would be required when they
18 come back.

19 I don't know how much time Mr. Stokes will take,
20 but that would still give about, oh, half a day for the sub-
21 poenaed witnesses and half a day for the Staff.

22 JUDGE KELLEY: Do you envision taking these sub-
23 poenaed witnesses one at a time?

24 MR. EDDLEMAN: Mr. Baxter raised the possibility
25 that they might like to appear as a panel. And I told him I

#4-7-SueT 1 would think about that. My inclination is that maybe two
2 panels would be better from my point of view. But we haven't
3 worked that out.

4 MR. BAXTER: I would like to have them appear as a
5 panel. I think it would be more efficient. There is going
6 to be some cross-fertilization of information, and I think
7 some of the questions we have indicated on Mr. Eddleman's
8 list so far are misdirected but are more properly directed to
9 another person. And they are available to sit through it on
10 that basis, and I think it would be more efficient.

11 I don't see how it harms anyone to have them all
12 five there at once.

13 JUDGE KELLEY: I simply raised the question initially
14 from a time standpoint. In my own experience with back-to-back
15 individual witnesses, there is no way in the world you can hear
16 from five of them in half a day. It just, you know, won't
17 work.

18 If you had a panel, or even two, you might be able
19 to do that. So, are you willing to go with two, and then it's
20 a question of whether you have two or one, or are you still
21 interested in five individual appearances?

22 MR. EDDLEMAN: Well, let me put it this way. I
23 don't want to, you know, burden the time or mess these witnesses
24 up unnecessarily. I mean, they are here because basically I
25 asked them to be here. I'm not trying to cause them any, you

#4-8-SueT 1 know, unnecessary trouble. On the other hand, I think it
2 might be better to split the panels, say, from the inspection
3 standpoint and the preparation of the 24 item standpoint.

4 What I'm saying is, I don't want it to be a kind of
5 split-the-difference thing, where you split the difference be-
6 tween a position that is already bargaining back a little bit
7 from where I started off. I think it would be appropriate to
8 have them in two panels. I think that wouldn't take too much
9 time.

10 In fact, I could even set it up as saying if any
11 of these areas really should be asked to somebody else, just
12 tell me so right off the bat, and then I will only ask one
13 question along the line and they could say that should be
14 somebody else and I will note it down and I will ask them.
15 And these are approximate times. I don't want to -- how can I
16 say it -- be absolutely bound by them, but I think this
17 Wednesday evening finish, allowing that we might have to go
18 a little bit late, maybe an extra half hour or hour one of
19 the other days, is probably achievable. That's what I think.

20 JUDGE KELLEY: Well, that may be. I think I just
21 want to walk through it and understand what you are thinking
22 about, because what drives us -- I think we want to finish
23 this contention next week before we start the other. And if
24 we have to come down on Monday to do it, we will do that.

25 So, we will have to decide this Monday question

#4-9-SueT

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pretty soon.

MR. BAXTER: I have to say I guess I'm a little skeptical about the two-day schedule that Mr. Eddleman just outlined.

JUDGE KELLEY: We are not through with it yet, are we? Did you finish your schedule?

MR. EDDLEMAN: I finished the rough outline. I haven't thought it through.

JUDGE KELLEY: Maybe I'm the only one in the room that doesn't understand. You have got this panel on, this panel here. You are here Tuesday morning and you spend half a day on the packages, right?

MR. EDDLEMAN: No. I don't think it will take that long.

end #4
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Sim 5-1

1 JUDGE KELLEY: All right. Less than a half a day
2 with this panel on Tuesday?

3 MR. EDDLEMAN: That is what I am estimating, yes.

4 JUDGE KELLEY: Okay. Then Tuesday afternoon is
5 Stokes?

6 MR. EDDLEMAN: I think that will be compatible.

7 JUDGE KELLEY: Half a day for him?

8 MR. EDDLEMAN: That is up to the applicants.

9 JUDGE KELLEY: I know.

10 MR. EDDLEMAN: If he doesn't have much rebuttal,
11 I will only take about 30 minutes to put him up I think.

12 JUDGE KELLEY: So on Wednesday morning then you are
13 talking about the subpoenaed witnesses, right?

14 MR. EDDLEMAN: Yes, and we might even get to them
15 sometime on Tuesday afternoon, or get to the start of them.

16 JUDGE KELLEY: And then all that leaves is the
17 staff; is that right?

18 MR. EDDLEMAN: Right, and I would estimate about
19 a half a day for them.

20 JUDGE KELLEY: Okay. I understand then.

21 You had a comment?

22 MR. BAXTER: My only comment is to walk through
23 these 13 pour packages with essentially two different sets
24 of applicants' witnesses and with a staff panel. I am just
25 surprised it can be done that quickly. The staff's testimony

Sim 5-2

1 is 51 pages long, and there is a lot of analysis of these
2 pour packages in there. I mean Mr. Eddleman obviously should
3 know what he wants to do. I am just skeptical. And I would
4 also welcome deciding this matter of the subpoenaed witnesses'
5 presentation today while we have got more time than we will
6 next week.

7 Based on the knowledge that I have of the issues,
8 I still think it is going to be more efficient to have them
9 all five here. To talk about the QA 24 form and ask about the
10 individual numbers is going to require more than just the
11 tester. It is going to require some of the knowledge that the
12 CI people have as to what was done with those numbers.

13 And I can tell you we are going to end up having
14 inefficiency and disruption by doing it in two bites, and
15 I don't see what it harms Mr. Eddleman in any possible way
16 to have them all five sitting there at one time.

17 JUDGE KELLEY: Let me just ask the staff and we
18 will come back to this panel question.

19 Mr. Barth, what is your reaction to Mr. Eddleman's
20 expectation for 65 next week?

21 MR. BARTH: From our point of view, Your Honor,
22 we accept it. I see no problem if Mr. Eddleman is willing
23 to commit to finish by Wednesday night. I think it would be
24 ungracious of me not to accept his commitment to do so.

25 That gives us time to pad out or fill out more time

Sim 5-3

1 more time on Tuesday night if we run late and on Wednesday
2 night we might run late. But I certainly do accept his
3 commitment to finish by Wednesday night. It seems to me there
4 is no reason not to.

5 The argument as to the subpoenaed witnesses, as to
6 whether they go on in one's, two's or three's, I think this
7 is really none of the staff's business. I just have no opinion
8 on that. That is a detail which really doesn't concern us.

9 JUDGE KELLEY: Okay. Let me go back to Mr. Eddleman.

10 By the way, I wasn't sure whether you were making
11 a commitment in the sense of as far as you are concerned you
12 will be done Wednesday evening or whether this was just a
13 hope that you would be.

14 MR. EDDLEMAN: Well, it is between a hope and a
15 commitment, Judge.

16 (Laughter.)

17 JUDGE KELLEY: What is that?

18 (Laughter.)

19 MR. EDDLEMAN: I don't know its name. Let me
20 try to describe it.

21 JUDGE KELLEY: A cope.

22 MR. EDDLEMAN: A cope.

23 (Laughter.)

24 If I can cope, then that is a good description.

25 What I am saying is that I think any addition beyond

Sim 5-4

1 the sort of normal hearing time that we have been going for
2 two days, assuming that I hold up through about three this
3 afternoon with these witnesses and get in basically the
4 foundation I want about the documents that I have supplied
5 to them, or the one that they had was the concrete specifica-
6 tion, and go through the items about the pour package that
7 you suggested, and I think I will be able to do some of the
8 stuff. I have a new copy of Applicants' Exhibit 9 here,
9 which is as thick or thicker as the new one yesterday, and
10 I believe is therefore a more complete copy. It is not made
11 on this heavy paper.

12 Anyway, I am hoping to cover all that today. So
13 really what I would have left with these gentlemen was just
14 the packages.

15 You know, I don't want to be held to exactly a half
16 a day, but you were talking about flexibility. In other
17 words, if I ---

18 JUDGE KELLEY: I think if we were talking in terms
19 of getting done Wednesday night, and we all know what that
20 means, and if you want to spend more time on one part of it
21 than another time, as long as it leaves the other parties
22 their reasonable share, I don't think that is a problem.

23 MR. EDDLEMAN: The only assumption I am making
24 in this is that we don't eat up too much time on lawyer
25 argument. I mean I am actually thinking that most of the

Sim 5-5

1 time would be on cross.

2 I don't know what the Board's feeling is about
3 a possible evening session. I am thinking about a short one,
4 maybe an hour or hour and a half, or going late half an hour
5 one day or the other or an hour. But that is a possibility
6 when I say I am thinking of getting it done Wednesday. But
7 if it saves you coming down on Monday, it is more convenient
8 to me personally not to have a Monday session. I would
9 rather have more time later and that would also give me a
10 little more recovery time from this bug that I have got.

11 JUDGE KELLEY: Okay. I think I understand that.

12 Could we backtrack just a bit and we will get back
13 to the panel here in just a minute I think. We have about
14 covered this. But on the question of whether the five
15 subpoenaed witnesses should be in one panel or two or
16 individual, let me ask you how you feel that you are better
17 off with two panels?

18 I can see why the Board is better off with one,
19 just from the point of view of having the person sworn in
20 and sitting there and if he or she happens to know something
21 that the other person doesn't know, from the standpoint of
22 administrative convenience I have had panels up to 12 or 15
23 and it works reasonably well, depending on what you are
24 talking about.

25 I certainly don't see any problem with five in

Sim5-6

1 terms of numbers.

2 What is the basis for your preference to not have
3 them all on one panel?

4 MR. EDDLEMAN: Well, I think we are dealing with
5 kind of two different levels of folks. You are dealing
6 with some people who are up at the inspector or engineer
7 level and you are dealing with some folks who are more like
8 lab technicians or down actually on the job.

9 I would rather split them up that way for two
10 reasons. One is just kind of a logical connection that
11 if one ties into the other like the person who took the samples
12 and the person in the lab might write it up. That is the
13 way I was thinking about splitting it up.

14 Basically Mr. Breedlove, for whom I have the
15 biggest outline, and Mr. Sealey and Mr. French would be
16 the logical panel.

17 JUDGE KELLEY: And their jobs are, just so we
18 will recall? Breedlove, Sealey and French are what? What
19 do they do?

20 MR. EDDLEMAN: Breedlive and Sealey are construction
21 inspectors or construction inspector supervisors I think,
22 and Mr. French is an engineer on the concrete and was also
23 in welding in another context.

24 MR. BAXTER: Mr. French was in construction
25 inspection performing the same functions in a supervisory

Sim 5-7

1 role that the other CI people were doing. The fact that he
2 has an engineers ---

3 MR. EDDLEMAN: I will accept that.

4 JUDGE KELLEY: Okay.

5 MR. EDDLEMAN: And Ms. Woltz and Mr. Strictland:--
6 Ms. Woltz is in the lab and I believe Mr. Strictland is one
7 of the people who -- they are the ones who sign on these, or
8 signed on some of these QA 24's.

9 JUDGE KELLEY: You say the first person is in the
10 lab?

11 MR. EDDLEMAN: I think that is right.

12 JUDGE KELLEY: And the other person is where?

13 MR. EDDLEMAN: He is in the field but comes in and
14 signs the QA 24 report as to the stuff that is brought into
15 the lab is I think how it works.

16 MR. BAXTER: Not quite. Do you want to know?

17 JUDGE KELLEY: Yes, let's find out.

18 MR. BAXTER: All right. Mr. Strictland does the
19 field QC tests during the placements of air contents, slump and
20 temperature and makes up the compressive strength cylinders
21 which are then taken to the lab. Ms. Woltz does the com-
22 pressive strength tests on those cylinders at the E&E Center.

23 JUDGE KELLEY: There is no ---

24 MR. BAXTER: And they each sign these QA 24 forms
25 in various ---

Sim5-8

1 JUDGE KELLEY: It doesn't sound like there is a
2 supervisory/subordinate relationship between the two of them.

3 MR. BAXTER: That is right.

4 JUDGE KELLEY: Is there a supervisory/subordinate
5 relationship between either of those two and the first three?

6 MR. BAXTER: No. But, as I indicated during the
7 oral argument on these subpoena requests, and you can wait
8 to find out for yourselves if you would like, those two QC
9 employees do the tests and put the numbers down.

10 When Mr. Eddleman starts asking what happens then,
11 it is going to be the CI folks who are going to be able to
12 tell him what happens to that rejected or out-of-spec concrete
13 and not those two people. And that is why I think having
14 the five together is going to give him a better response
15 overall to his questions.

16 MR. EDDLEMAN: Well, I think it would be cleaner
17 to take the two testing people and the three supervising
18 people separately just from my point of view actually going
19 through the ---

20 JUDGE KELLEY: Do you think that they would affect
21 one another's answers somehow?

22 MR. EDDLEMAN: Well, they might. I mean if you put
23 a person in a bigger group, you know the bigger the group is,
24 the more people who are around to potentially contradict
25 them. I don't know what, you know, what the job relations

Sim 5-9

1 or personal relations of any of these folks are. I feel
2 like it might be better to separate out the two levels. That
3 is what I was partly getting at there. It is partly a logical
4 question-connection of you have got testers and you have
5 got supervisor inspectors. It is partly also that.

6 Now, as I say, I don't know what extent it is, but
7 I don't think there is any great harm in putting them into
8 two panels. If the tester people say, well, what happens
9 then is up to the inspectors, then, you know, if I take them
10 first, then I will ask the inspectors next. I think that
11 works.

12 By the way, let me note that I got back the letter
13 I sent to Mr. Mountcastle as unable to forward and I have
14 not yet heard from Mr. Troxtle, to my knowledge, although
15 there may be a letter waiting for me at home. But I will
16 certainly inform Mr. Baxter if I do hear anything from him,
17 but right now I am just talking about the five who were
18 known to be available.

19 JUDGE KELLEY: All right.

20 MR. BAXTER: We still, Mr. Chairman, have not heard
21 any harm to Mr. Eddleman of putting these five people on
22 together. We have heard a preference and his idea of what he
23 thinks works better. I have given you mine and I just simply
24 think the record is going to be more coherent, and these
25 people are cooperating voluntarily with the Board and

Sim, 5-10

1 Mr. Eddleman and I don't see why we should be afraid of
2 somebody contributing additional information to an answer.
3 I thought that was the whole reason they were being called
4 was because of Mr. Eddleman's assertion that this panel would
5 not be able to answer all of his questions.

6 MR. EDDLEMAN: Well, I think it was this panel's
7 direct experience, and I went through that yesterday, to
8 a good extent, but I don't know. See, it is hard for me to
9 say there is definite harm out there. I think if there
10 is a potential for harm and it doesn't make a lot of difference
11 to have the two different panels ---

12 JUDGE KELLEY: But what is the potential for harm?
13 Let's nail that down.

14 MR. EDDLEMAN: Well, I think that there could be
15 some inhibition of, you know, in the larger group of responses.

16 JUDGE KELLEY: Based on what though? I will give
17 you an example. I mean sometimes witnesses are sequestered
18 and that means that they are locked out of a room literally
19 because they have reason, say an employee is testifying
20 against his supervisor. You get the supervisor out of the
21 room so the man will speak up or feel more free to speak
22 up and that makes sense.

23 What have we got in this context that leads us to
24 be apprehensive that the employee may not say what is on his
25 or her mind?

Sim 5-11

1 MR. BAXTER: Let me be clear. I am sorry,
2 Mr. Chairman, for interrupting again. Maybe Mr. Eddleman
3 doesn't understand. Ms. Woltz and Mr. Strictland work in the
4 QC organization. They are not in any supervisory relationship
5 to the CI folks who are going to testify. The CI people, you
6 may consider them higher in some way you are speaking of, but
7 I don't understand that. They are in separate organizations.
8 Ms. Woltz and Mr. Strictland do not report to these people
9 in any conceivable way.

10 MR. EDDLEMAN: Well, as I say, without having
11 deposed any of these people, I can't point to a specific
12 identifiable harm. I do think, however, that just in general
13 in organizations, you know, people at lower levels sometimes
14 have a tendency to defer to the higher level people or shy
15 back from them. I also ---

16 JUDGE KELLEY: I thought these were more side levels
17 than lower and upper. They do different things.

18 MR. EDDLEMAN: Well, I guess so. But what I mean
19 is say if, oh, I am a socket welder and, you know, I am
20 in the welding organization, and, you know, Mr. "X", let's
21 say is an inspector in the concrete organization, he is still
22 a higher level person than me and he has got more clout.

23 If I am there with him and he has a different
24 view than my own, I might be a little shy about saying it.
25 I don't know. I mean this is kind of wearing me down right

/Sim 5-12 1

2 now and I am not sure my mind is together and so on on it.
3 So I guess, you know. I might just yeild for the purpose of
4 not being worn out, you know, because I don't know if I am
5 getting anywhere.

6 JUDGE KELLEY: Well, I think the issue has been
7 posed and I think we have heard from both sides. I think
8 we can decide it. If we don't want to decide it right now,
9 we will talk about it and come back at the end of the day
10 so we will know how to structure things.

11 Mr. Barth.

12 MR. BARTH: May I make a comment, Your Honor.

13 The idea of supervisor and subordinate has never
14 been interjected into this hearing before. We had Mr. Utley,
15 who is Executive Vice President, with vice presidents and
16 with people who are not vice presidents on the same panel.
17 We have had Mr. Bemis, who is a Supervisor in NRC, with
18 inspectors who report directly to him and whose performance
19 is directly related to how he grades him.

20 This kind of subordinate/supervisor issue just
21 has played no role, and it seems to me it is spurious, and
22 it seems to me we ought to do something to expedite this
23 and, as Mr. Eddleman suggested, knock off the lawyer argument
24 and get down to brass tacks and get the hearing going.

25 JUDGE KELLEY: Okay. I think we can rule on this
before we quit today so you will know what we want to do.

Sim 5-13

1 And I think then we can get back to the panel.

2 We didn't say anything explicit about lunch and
3 what we were going to be able to do today. I think I mentioned
4 trying for say 11 to 3. You wanted to get out a little early,
5 do you not, Mr. Eddleman?

6 MR. EDDLEMAN: Yes. My prime criterion that I am
7 working on here is basically that I retain enough energy to
8 drive myself over to the quick medical clinic and let them
9 look at me and do a strep test if it is necessary and get on
10 home and collapse, you know. I was prepared to spend a day
11 in bed this morning. It is sort of like I have gone into
12 trip condition and been asked to override and work in a
13 limiting condition. I am doing the best I can.

14 JUDGE KELLEY: I understand.

15 MR. EDDLEMAN: But I am not good for a full day
16 I don't believe.

17 JUDGE KELLEY: We are not proposing that. Why don't
18 we go for 45 minutes or so with this and then take a break
19 and maybe get a bite to eat. We are not going to take an
20 hour for lunch, but just a short break, and then go back
21 and go for a while and quit early certainly.

22 MR. EDDLEMAN: If I could, I am trying to maintain
23 my condition and I am wearing down a little bit here, if I
24 could just advise these gentlemen of what I am going to be
25 starting off into and then take about five minutes.

Sim 5-14 1

JUDGE KELLEY: All right. Go ahead.

REXCROSS-EXAMINATION

BY MR. EDDLEMAN:

IND XXXXX 4

Q Let me just ask you, gentlemen, there are a number of procedures referred to in your direct testimony. Is there a place where you refer to the Ebasco specification for concrete?

(Pause.)

(Board conferring.)

end Sim 10
end Take

(12:20 p.m.)

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MR. BARTH: Your Honor, is there a question pending?

MR. EDDLEMAN: I believe there is.

MR. GARNER: We do refer to EBASCO Specification CH-6, on page 15, lines 4 and 5.

BY MR. EDDLEMAN: (Continuing)

Q Okay. That is in respect to weather conditions, correct?

A (Witness Garner) It is in respect to the comments made on Exhibit 11.

Q I don't know if there is anything further. Mr. Parsons appears to be looking.

MR. BAXTER: I think the specification, Mr. Eddleman, is referenced throughout the discussion of these pour packages. Not always by the complete title, but again, the word specification --

MR. EDDLEMAN: I don't know if that is a stipulation.

WITNESS PARSONS: In the hierarchy of documents, the specifications govern the way that we write our procedures. They have to match this specification, so in essence all procedures relate back to the specifications.

BY MR. EDDLEMAN: (Continuing)

Q All right. And the specification here that governs a lot of these anyway is this CAR SH CH-6?

6-2-Wal

1 A (Witness Parsons) That is correct.

2 Q Okay. That is one of the things I want to into
3 with you gentlemen in a few minutes.

4 Is it true then that the placement and inspection
5 and the measures to deal with hot weather or cold weather
6 and other characteristics of these placements and pouring
7 methods as are covered in the exhibits 10 through 22, would
8 in general have to be in compliance with that specification
9 CH 6, if I can just refer to it by its last few letter
10 numbers.

11 A That is correct, unless modified by an FCR. If
12 they are not in compliance, it would be noted on a deficiency
13 report of one kind or another, and evaluated from that
14 standpoint.

15 Q Okay. The -- I have got a nice new copy of
16 Exhibit 9 here. Do you gentlemen also have Exhibit 9?

17 A We have, if you will give us a minute. Yes, we
18 have it.

19 Q Now, highly qualified accoustical engineers are
20 at work here, I take it. Gentlemen, I just want to refer
21 to that, because I want to make sure you had it. I might
22 be asking you some questions about that after I take a minute
23 to sort of rest my voice and brain.

24 I believe you all have in your notebooks there or
25 are available to you, copies of the specification, EBASCO

6-3-Wal

1 specification concrete, CAR SH CH-6, also, do you not?

2 A That is correct.

3 Q That is what I wanted to get set up. Those and
4 sort of the general nature of the pour package and some
5 specifics about that are what I would be wanting you to go
6 into in general next. It will probably take me more than
7 forty-five minutes to go through what I have prepared, but
8 that is where I would want to go, and I would like to get
9 my five minutes now, if I might.

10 JUDGE KELLEY: Oh, I am sorry. Fine.

11 (Short recess taken)

12 JUDGE KELLEY: You can resume.

13 BY MR. EDDLEMAN: (Continuing)

14 Q Now, I know I am tired, because when I lie down
15 I can feel the weight of my shoes, but I am doing the best
16 I can.

17 Gentlemen, the concrete in all the pours that are
18 in question here would need to be within the specification,
19 CAR SH CH 6, or some field change from it, I believe we
20 were saying before the break.

21 Just for reference, you have that specification
22 with you, I think.

23 A (Witness Kanakaris) Yes.

24 A (Witness Parsons) That is correct.

25 Q On the cover sheet -- I may often ask you gentlemen

1 to read for me, rather than reading something myself and
2 asking if it is correct. It is simply a way to rest my voice.

3 The various revisions and date begin with the
4 original on 8/21/73. I wonder if you could just read through
5 the dates of the various revisions there.

6 A All right.

7 MR. BAXTER: Excuse me, Mr. Eddleman. Have copies
8 of this been provided to the Court Reporter, this exhibit?

9 MR. EDDLEMAN: I didn't give one to the Court
10 Reporter. I have got an extra one here. I can.

11 MR. BAXTER: My only point was if we had sufficient
12 copies to mark it for identification as an exhibit, and then
13 we wouldn't have to read it.

14 JUDGE KELLEY: That sounds like a good idea.
15 Mark it just as an exhibit. You are basically using it for
16 cross, and we don't contemplate it as an evidenciary
17 document, but if we mark it then you could refer to a column
18 of letters and then the Reporter could simply put it in the
19 transcript and we would be home free on what it says.

20 MR. EDDLEMAN: Okay. That will save me some time,
21 too. I have a single spare copy here. I believe I provided
22 individual copies to all the Board members.

23 JUDGE KELLEY: Yes, that is enough. If you could
24 give -- we will give one of ours to the Reporter.

25 Do you have an extra, or just one that you are

1 using?

2 MR. EDDLEMAN: This is an extra. You just need
3 one?

4 JUDGE KELLEY: Yeah, we can get by with that, I
5 think. I will give them another one later.

6 BY MR. EDDLEMAN: (Continuing)

7 Q Okay, gentlemen. There are eleven revisions,
8 correct?

9 A That is correct.

10 Q And those appear on the front sheet, on three
11 more continuation sheets marked Cover Sheet page 1 of 4,
12 Continuation sheet, page 2 of 4, continuation sheet page 3
13 of 4, and continuation sheet page 4 of 4, at the front of
14 this specification, do they not?

15 A Yes.

16 End 6.
17 SueT fols.

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#7-1-SueT

Q And for each revision, an effective date is given;
2 is that correct?

3 A (Witness Kanakaris) That's correct.

4 Q Okay. Now, so a listing of the revisions and dates
5 can be pulled right off that by looking at the revisions and
6 the corresponding dates, correct?

7 A Correct.

8 MR. BARTH: I would object on a point of order,
9 Your Honor. I thought the Reporter was going to mark this
10 with an exhibit number. Heavens knows what we've got now,
11 except she is holding it in her hand.

12 JUDGE KELLEY: Why don't we do that as a mechanical
13 matter? This will be Eddleman Exhibit -- I don't know what
14 number it would be.

15 MR. EDDLEMAN: I think it would be 12.

16 JUDGE KELLEY: Okay.

17 MR. BAXTER: We only have 9 on our list.

18 MR. BARTH: The Staff has 9. That makes 18 between
19 us, Mr. Baxter.

20 (Laughter.)

21 JUDGE KELLEY: 10?

22 MR. EDDLEMAN: Let me think. Yeah, I believe they
23 are right. So, let's call it 10.

24 JUDGE KELLEY: This exhibit will be marked as
25 Eddleman Exhibit 10. It's not in the record as evidence, but

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1 just marked so we can look at it for convenience and see what
2 it says.

3 (The above-referred to package of
4 documents is marked as Eddleman
5 Exhibit Number 10 for identification.)

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6 MR. EDDLEMAN: And -- let me try to clarify this.
7 I do want the record to reflect some things that these gentle-
8 men see in this exhibit as they said it governed all of this
9 stuff. And I'm not sure how that works.

10 JUDGE KELLEY: Well, your questions and answers will
11 be in the --

12 MR. EDDLEMAN: Right. So --

13 JUDGE KELLEY: -- record.

14 MR. EDDLEMAN: -- let me just try to be clear about
15 this. When I ask a question like it shows the dates, and they
16 say yes --

17 JUDGE KELLEY: Yes.

18 MR. EDDLEMAN: -- then it's a convenience, you don't
19 have to go through and read all of the dates.

20 JUDGE KELLEY: Right.

21 MR. EDDLEMAN: But they are there. And I would, in
22 effect, have those dates in evidence because they said they
23 were there. Is that --

24 JUDGE KELLEY: In effect, you do if there is no
25 objection to the question. That's right.

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MR. EDDLEMAN: Okay. So that clears it up within
my --

JUDGE KELLEY: That's just to avoid quoting.

MR. EDDLEMAN: Yes, sir. I understand. I think
that will make this whole process a lot more efficient.

BY MR. EDDLEMAN: (Continuing)

Q Gentlemen, I would like to ask you one question
about Revision 4, which appears to have two dates. Were
there two pieces of it?

I don't really understand this. And you may not
know. I just want to ask you about how that worked.

A (Witness Kanakaris) I think the Revision 4 was
perhaps a series of revisions, or proposed revisions I should
say, and some correspondence and discussion with CP&L and
Ebasco. And the revision started as shown April 17th and there
is another date, September 21, both in 1978.

And you might say it's a continuation of revisions
that took place in that period of time. But it's all indicated
as Revision 4.

Q Okay. Now, the reason I wanted to inquire about
this, I think on each of these pour packages is a date of the
pour is shown of the thirteen packages we have in evidence;
is that right?

A (Witness Parsons) That's correct.

Q So we could look up the dates of the pours on the

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1 packages. I believe that those two base slab pours occurred
2 in about July or August of 1978 which is between these two
3 dates on Revision 4.

4 A (Witness Garner) That is correct.

5 Q Okay. Now, is it true that the specification
6 revisions in effect on the date of a pour would generally
7 govern that pour?

8 A (Witness Parsons) Yes, that is correct.

9 Q Okay. Well, this may not come up, but when I ask
10 you about other things in here, let me just do this as a
11 general thing, too, because I think it's written on the exhibit
12 in most cases.

13 There is a couple, or maybe more than a couple,
14 where mine shows a revision and the revision number is off the
15 side of the page. But, just -- the revisions in here are
16 marked by vertical bars and revision numbers as to the sections
17 that were revised on those dates, correct?

18 A (Witness Kanakaris) That's correct.

19 Q So, as to the particular provisions in effect on a
20 date, if you have a revision, say, Revision 7 -- I'm just
21 doing this as an example, but any revision number -- marked
22 beside a provision in this specification, that means it was
23 in effect from Revision 7 forward unless there are other
24 revisions also marked?

25 Is that how that works?

#7-5-Suet 1

A Yes, I believe that's the way it works.

2

Q We can get some examples here. If you find any

3

contradictions to that later on, please let me know.

4

The other thing I would like to refer you to, I believe up through Revision 6 there is no listing of FCRs incorporated in this, but for Revision 7 and following there would be a listing of FCRs incorporated.

8

Is that correct?

9

A (Witness Parsons) That's correct. But it might

10

not -- it's not necessarily significant. A specification can

11

be revised by what we call maintenance which is to incorporate

12

FCRs if we have them. Or it can also be revised by any other

13

initiative.

14

Q Now, by any other initiative, could you explain

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that a little, sir?

16

A If the designers felt it needed to be changed, or

17

if the field discussed it with the designers and convinced

18

them it needed to be changed, the field change request itself

19

is not necessary.

20

Q Well, now --

21

A A field change request is something over and above

22

the document which we use in the field to request changes.

23

But that's not the only way a change can happen.

24

Q Okay. Now, another way of making changes is these

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formal revisions that are reflected on this document, right?

#7-6-SueT 1

A Yes.

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Q Now, in addition to that and the FCRs, are there other ways of revising the specification?

3

4

A Those are the two main ways. I can't offhand think of another -- perhaps a design change notice where the initiative came from the designer and felt like he did not have time to go through a formal revision to the specification but felt that there was something important that needed to come out there could be a design change notice, which is very similar to a field change request except it gets initiated from the designer end rather than the construction end.

10

11

12

Q Okay. Now, would a design change notice have to be reflected on the blueprint for a pour?

13

14

A I can't recall any design change notices that would apply to this, and they would not necessarily have to be reflected on a blueprint.

15

16

17

Q Are you saying that in your review of the thirteen pour packages in evidence here, to your knowledge there are not design change notices applicable to them?

18

19

20

A Yes.

21

Q Okay. Now, if there were a design change notice applicable, would it normally be reflected in the pour package or noted there in some way?

22

23

24

A (Witness Garner) Yes. If it was used to verify any particular item in the pour, it would be referenced.

25

#7-7-SueT

1 Q All right. Gentlemen, Revision 11 is the current
2 revision to this document?

3 A (Witness Kanakaris) Yes, I believe so.

4 Q All right. Now, Page i which follows the cover
5 sheet simply describes what the titles of the three sections
6 are of this, and I don't want to make you read them but just
7 that is shown and also the title of Addendum A, is it not?

8 A Yes.

9 Q Let me, if I may, because I think this is a real
10 short line here, flip you back to Addendum A, which I believe
11 appears virtually all the way to the back of this thing, the
12 last few pages. There appears a Figure 1 in this Addendum A,
13 does there not?

14 A (Witness Parsons) Yes.

15 Q And it is a cross-section of the containment build-
16 ing, as I understand it?

17 A That's correct.

18 Q Okay. And --

19 MR. BAXTER: I'm sorry. The containment building
20 at Shearon Harris? Is that the question?

21 MR. EDDLEMAN: Well, there is only one containment,
22 right?

23 MR. BAXTER: I'm just asking for clarification as
24 to whether you are talking about the containment building at
25 Shearon Harris?

#7-8-SueT 1

MR. EDDLEMAN: I am.

2

MR. BAXTER: Okay. I'm sorry. Go ahead.

3

BY MR. EDDLEMAN: (Continuing)

4

Q Gentlemen, is this a cross-section of the Unit 1
containment at Harris?

5

6

A (Witness Kanakaris) Yes, it is.

7

8

Q And it shows on there the dimensions of the contain-
ment and the dimensions of the liner plate and shows the base-
mat, the containment walls and the dome, does it not?

9

10

A Yes, it does.

11

Q Okay. Now, there is also down in the lower left a
valve chamber there that drops through the basemat.

12

13

A That's correct.

14

Q Okay. I just wanted to get that in. I think it
is probably the best illustration of what it is that we are
talking about here that I found.

15

16

Now, the division boundaries for these codes and
so on that also appear back behind that Figure 1 in Addendum A,
are those for the steel work rather than the concrete?

17

18

A The containment building is constructed of both
steel and concrete. There are certain penetrations that go
through it which are constructed of steel. There are dif-
ferent sections and different codes that apply to different
parts of the containment.

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This picture that we have, this section view of

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#7-9-SueT 1

2 the containment and the description behind it attempts to
3 establish the boundaries so that we know which code we are
4 working to when we are working on the containment.

5 Q I see. Okay. I believe that's all I have concern-
6 ing Addendum A.

7 Now, we have pretty much an index of Section 1 then
8 following. I want to refer you to -- I think it's Page Roman
9 VII of that index, if I may.

10 JUDGE KELLEY: Could you give us a little guidance
11 as to how to get there, Mr. Eddleman?

12 WITNESS KANAKARIS: I don't think there are Roman
13 Numerals, are there?

14 MR. EDDLEMAN: I'm sorry. It's probably Page 1.
15 It appears after Roman VI, and on my copy there is no page
16 number down at the bottom.

17 MR. BAXTER: The next page is 2.

18 MR. EDDLEMAN: Right. It says before Page 2,
19 so it probably is Page 1. Even I can figure that out.

20 JUDGE KELLEY: Okay.

21 BY MR. EDDLEMAN: (Continuing)

22 Q Does everybody have it now?

23 A (Witness Parsons) Yes.

24 Q Okay. Gentlemen, the specifications and standards
25 there, could you just read -- I know we don't necessarily have
to read it, but I want to refer you to the short paragraph that

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appears under Item 2, specifications and standards. And it describes, does it not, what standards and American Concrete Institute Codes and other applicable standards apply for concrete work at the Harris plant, correct?

A (Witness Parsons) To the extent it is referenced herein. And by herein, I mean throughout the body of the specifications.

Q This whole specification document, CH6, right?

A Yes.

Q Okay. Now, it refers to the date of the purchase order there. This says unless otherwise noted the documents with addenda, amendments and revisions in effect on the date of the purchase order will apply.

Do you gentlemen know what the purchase order date is for the Harris plant?

A No, that's not the purchase order that we are talking about.

Q All right.

A Each one of these items represents something, or most of them represents something, that gets purchased. Aggregate, cement, containment liner plate. And on the date that we establish the purchase order for, let's say, cement, the date of the ASTM applying to cement was in effect.

Q Uh-huh. Now, as for tests, would you do the tests as to the version that was in effect as of the date of the

#7-11-SueT

1 test where some of these are test requirements, like C109?

2 A Yes. They get evaluated. But basically we stick
3 with the test and the testing methods that apply to the
4 purchase order. Otherwise, they would have no bearing upon
5 the cement that we were purchasing.

6 Q All right.

7 A You have to accept and reject based on what the
8 purchase order was which in turn incorporates the relevant
9 ASTM specification item.

10 Q Okay.

11 A And we do evaluate them. And sometimes if they
12 don't have any relevant change or that apply to ours we may,
13 for convenience, upgrade to another test.

14 Q All right. And that's what's referred to in the
15 last sentence there, later editions may be used by mutual
16 consent in writing between seller and owner?

17 A That's correct.

18 Q Now --

19 A Quite often, these ASTMs and the ACIs get modified.
20 The modifications are almost editorial in nature or maybe
21 don't even apply to the type of structure that we are build-
22 ing, so that the -- it would make no difference for us to go
23 ahead and use the newer test.

24 Q Okay. Just for clarity, the seller here is Ebasco
25 and the owner is CP&L?

#7-12-SueT

1 A No.

2 Q All right. Please clarify.

3 A The sellers are various sellers. The Ebasco
4 specification, of course, governs, tells us what are aggregate,
5 or our cement, or our liner plate has to be tested and
6 accepted and purchased.

7 Q Uh-huh.

8 A We then go out to separate suppliers. We obviously
9 go to a quarry, not to Ebasco, to get the aggregate; and, we
10 go to a cement supplier to get the cement. We take the
11 directions that we receive from the architect engineer through
12 these specifications and incorporate that relevant portion of
13 these specifications into the purchase order from the cement
14 supplier, for instance.

15 Q Yes, sir. Does that complete your answer?

16 A Yes.

17 Q Okay. As to specifications and standards for
18 pouring concrete, for inspecting concrete, for testing concrete
19 and so on, those are things that would be applied. I
20 mean, it doesn't make any difference who the owner and seller
21 are for purposes of the applicability of those things, does
22 it?

23 A That's correct. They would be applied by the
24 construction forces in the field to pour the concrete.

25 Q Okay. I want to --

#7-13-SueT 1

2 A I would like to call your attention to one part
3 of this specification. It's Section 1 which specifically
4 refers to concrete materials and mixes.

5 Q Uh-huh.

6 A And there is another section that refers to the
7 placing.

8 Q And I believe that's Section 2?

9 A Yes.

10 Q Okay. I will get to that pretty soon. Now, where
11 a date is shown for one of these items on this -- in this
12 specification, pardon me, that would be the date applicable
13 unless it was changed?

14 A If we are referring again back to the dates of
15 the revisions in the front of the specification, that's in-
16 correct.

17 Q No, I'm not -- what I'm saying is, suppose it says,
18 you know, ACI Number such and such, 450 or whatever, dated
19 1976, is that date as shown the one in effect unless it's
20 changed?

21 A Glancing through here hurriedly, I don't believe
22 any of them have dates on them.

23 Q Well, if they did have a date like that, would
24 that be so? That's all I'm getting at.

25 MR. BAXTER: Objection.

BY MR. EDDLEMAN: (Continuing)

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Q Let me refer you to Page 2, if you would look at ASME/ACI-359, does that have a date on it, sir?

A (Witness Parsons) Yes.

Q Okay. Would that date be applicable unless it were changed?

A That's correct.

Q All right. This includes --

A (Witness Kanakarlis) I would like to make a correction on that.

Q Yes, sir.

A If there is a date shown on these specifications, then that date, or that specification as dated, is the one that is applicable. And I would like to refer back to the previous page, the paragraph that precedes the listing of all the specifications, or understand it's in codes, and it says: Unless otherwise noted, the documents with addenda, amendments and so on in effect at the date will apply.

The ASME-359 code that's identified here has a date, and that's the one that's applicable.

Q All right, sir. Now --

A If that was changed later on, it would not necessarily be applicable.

Q Okay. The page that you read that from is Page 1, I take it?

A Yes, that's correct.

Sim 8-1

1 Q Would you know by something in a pour package
2 whether the applicable code had been changed or do you just
3 have to check the date?

4 A (Witness Parsons) You would basically have to check
5 the date.

6 Q All right, sir. May I refer you gentlemen toward
7 the bottom of page 3 there. I believe down toward the bottom
8 of that there are some standards for such things as evaluation
9 of compression test results, specification for structural
10 concrete for buildings, measuring, mixing and placing concrete,
11 hot weather concreting and cold weather concreting, consoli-
12 dation of concrete and reinforced concrete, are there not?

13 A Yes.

14 Q And some of those have revisions besides them. In
15 general, I am going to take it that if there are revisions
16 there and we can see the numbers, that, you know, we don't
17 have to go through them. But there are some revisions besides
18 some of those that I am referring to, are there not?

19 A Yes.

20 Q Now right below that there is a very short
21 paragraph of three lines. Would you read that if you will
22 spare my voice a little bit?

23 A "Any conflict between this specification and/or
24 the reference codes and standards shall be immediately brought
25 to the engineer's attention for written resolution."

Sim 8-2

1 Q Okay. Is the engineer there Ebasco or ---

2 A The engineer is Ebasco.

3 Q Okay. Now there are more standards I believe on
4 page 3A that follows page 3, and then on the next page, page
5 4 there are some definitions of terms used in the specifica-
6 tion. Now since there are different sections of it, let
7 me ask you if you know, do these definitions apply to the
8 whole specification or just this Section 1?

9 MR. BAXTER: Mr. Chairman, I am trying to be
10 patient, and I do recognize that some background information
11 about concrete placement is necessary for understanding what
12 is being litigated here, but I for the life of me can't
13 understand why we are exploring this design specification
14 page by page and how it is going to be tied into the pour
15 package when we get there.

16 JUDGE KELLEY: Well, having gotten into it a bit
17 maybe you could comment, Mr. Eddleman.

18 MR. EDDLEMAN: I think that much of Mr. Stokes'
19 criticism is that the packages show things that appear to
20 be out of specification or not in compliance with the code,
21 and he does state that he reviewed this specification among
22 the documents he reviewed.

23 What I am trying to do is establish, you know, for
24 purposes of the record what some of these specifications
25 are that are relevant. There are some things about

Sim 8-3

1 aggregate fitting in. There are things about placement and
2 consolidation, temperature and placement and so on.

3 JUDGE KELLEY: Let me ask you. We have been talking
4 about various codes and the fact that this long document is
5 in effect derived from these various codes. How are we going
6 to get to the codes themselves in this case? Are they in
7 evidence, and, if so, where?

8 MR. EDDLEMAN: I don't believe that the codes
9 themselves are in evidence.

10 JUDGE KELLEY: Okay. If they are not going to be
11 in evidence, if the contention is a certain concrete pour is
12 not consistent with some ASTM Code and we don't have the
13 codes in evidence where does that get us?

14 MR. EDDLEMAN: Well, for example, if Mr. Stokes
15 said in his affidavit, I referred to code such and such, and
16 this does not appear to be consistent with it, then I
17 presume if the applicants want to cross him about that, they
18 can pull out the code and ask him about it.

19 I just want to make sure we have nailed down what
20 the applicable codes are.

21 MR. BAXTER: I think what we are doing, Mr. Chairman,
22 by his ---

23 JUDGE KELLEY: I am not at all sure that you can
24 assume that a witness can come in here and start quoting
25 codes if we don't have the codes in the case. I don't know

Sim 8-4

1 that that follows.

2 MR. EDDLEMAN: Well, I don't know enough about
3 the law to tell you one way or another. We have had things
4 where witnesses refer to other documents, not necessarily
5 codes, where they didn't have to put them in evidence.

6 JUDGE KELLEY: Well, we had some of this in a
7 contention, was it last week, when we got into a code having
8 to do with fire protection and had a lot of argument back
9 and forth about whether pieces of a code was going to get
10 in or not and finally let it in.

11 But I look at these pages and pages of references
12 to codes and that is not the kind of thing that we take
13 official notice of, to my knowledge, and I would have thought
14 that if you were going to make it a part of your case that
15 the pours here where inconsistent with codes, that we would
16 have some codes in evidence.

17 I am giving you a reaction.

18 MR. EDDLEMAN: I understand.

19 JUDGE KELLEY: The contention says that the pour
20 packages are going to show that -- well, I don't want to
21 paraphrase it.

22 (Pause.)

23 The contention says "Inspection of pour packages
24 has shown numerous instances of improper concrete placement."

25 It is another thing, it seems to me, to have a

Sim 8-5

1 contention that says the concrete placements at Shearon
2 Harris were made under procedures that are inconsistent with
3 nationally accepted standards, and then we would be looking
4 at national codes and we would be seeing whether that is true
5 or not true.

6 There is not a word in there about being inconsistent
7 with codes.

8 MR. EDDLEMAN: Well, Judge, since the Board rewrote
9 the contention in this case and I didn't write it, I think
10 you may know more about what it means than I do.

11 JUDGE KELLEY: Well, it says what it says. It
12 started out saying that the Danial Construction Company
13 couldn't be trusted to make a containment. You never went
14 anywhere with that. That just disappeared. So we dropped
15 the Daniel Construction Company and there was a big dispute
16 over whether you got pour package or not. We gave you pour
17 packages and rewrote the contention to say what it says.

18 But originally it was going to be prove of the
19 incompetence of Danial from what they had done at various
20 other sites, but we never heard anything about that, and that
21 is why that went by the Board.

22 MR. EDDLEMAN: Well, I understand that, but ---

23 JUDGE KELLEY: I still see nothing in here about
24 codes.

25 MR. EDDLEMAN: All right.

Sim 8-6

1 JUDGE KELLEY: That isn't to say that some reference
2 to them may not be appropriate, but if the whole case now
3 is that there is an inconsistency between what was done and
4 what the codes say, then it is news to me, I must say,
5 speaking for myself.

6 MR. EDDLEMAN: Well, Judge, let me try to explain
7 what my understanding of it is. If you find a problem -- it
8 seems to me that when you make one of these pours, that if
9 it is properly done that it is in compliance with the appli-
10 cable specifications, procedures and codes.

11 I think I am basically done with asking about these
12 codes anyway, but I think if you say inspection of pour
13 packages and you limit it to just saying looking at the marks
14 on the paper and package itself without reference to the
15 requirements for what has to be done, that it is a thing that
16 is impossible to prove.

17 I mean unless the package says this is a mess,
18 and that is not what I thought Mr. Stokes' analysis was about.

19 JUDGE KELLEY: Well, the objection that started
20 all this discussion was Mr. Baxter saying that we shouldn't
21 be going line by line through this spec document and I think
22 the Board generally agrees with that.

23 I will tell you, speaking for myself, that if we
24 get into a thesis that says that this whole case really turns
25 on inconsistency between what was done here and national

Sim 8-7

1 Codes that aren't in evidence, that will give me a great deal
2 of difficulty. That bears on my own reaction to the last
3 20 minutes on this spec document where we were looking at
4 all these codes and I keep wondering where are they, and
5 as far as I know, they are not here, not in this case. Nobody
6 has tried to introduce them.

7 MR. BAXTER: May I call the Board's attention to
8 Mr. Eddleman's response to my objection was to state that he
9 was attempting to essentially some foundation and provide
10 more information in support of Mr. Stokes' testimony. I don't
11 think that is an appropriate purpose of cross-examination
12 of this panel. We are supposed to be cross-examining on the
13 evidence applications have advanced. If Mr. Stokes didn't do
14 a good job of putting in his testimony the explanation of
15 the bases for his criticism of these packages, that is his
16 problem, but it is not the appropriate point of cross-
17 examining these witnesses.

18 JUDGE KELLEY: Cross on these witnesses ought to
19 be on their testimony. That is what they are here to talk
20 about.

21 Now in light of these comments, of they have a
22 restrictive effect on your dealing with this spec document,
23 where would you propose to go with it?

24 MR. EDDLEMAN: I am not quite sure I know what you
25 mean by restrictive effect. I guess I could go back and

Sim 8-8

1 ask the panel did Mr. Stokes raise some questions about say
2 weather conditions and size of aggregate and things like this
3 and get answer to that and then try to come back to this
4 document and say well, doesn't it say something about those
5 things? That is where I think I should try to go then. But
6 they are saying basically that they have analyzed his results
7 and he is wrong. I think reference to these things might
8 establish whether they are right about that.

9 JUDGE KELLEY: We are going to have a short break
10 for lunch, not right now, necessarily, but our theory was
11 we would wait until after 1 o'clock and get served pretty
12 quick upstairs if people want to get something to eat.

13 Would you like to go ahead for another 15 or 20
14 minutes, or would you rather quit now for a break and take
15 20 minutes or half hour lunch break or what is your preference?

16 MR. EDDLEMAN: Judge, I am feeling a little bit
17 better now than I was at the time of the last break. So I
18 would rather go another 15 or 20 minutes and try to use me
19 while I am functional. I don't know how I will be after
20 lunch.

21 JUDGE KELLEY: It is 10 after 1. Why don't we
22 think about knocking off about 1:30 for a short break.

23 BY MR. EDDLEMAN:

24 Q Have all of you read Mr. Stokes' affidavit in
25 response to the summary disposition on Contention 65?

Sim 8-9

1 A (Witness Parsons) Yes, sir.

2 A (Witness Garner) Yes, sir.

3 A (Witness Kanakaris) Yes, sir.

4 Q All right. And basically your testimony responds

5 to some of his allegations about these 13 pour packages?

6 A (Witness Parsons) Yes.

7 A (Witness Garner) Yes.

8 A (Witness Kanakaris) Yes.

9 Q Does he not question, for example, temperature con-
10 ditions in certain pours, the vibration procedures in various
11 pours, the size of aggregate allowed in relation to some spacing
12 requirements on those basemat pours ---

13 MR. BARTH: Could we have a reference to where these
14 occur so we will have a record upon which we can write findings
15 upon?

16 JUDGE KELLEY: Off the record.

17 (Discussion off the record.)

18 JUDGE KELLEY: Go back on the record.

19 BY MR. EDDLEMAN:

20 Q I believe we established that your testimony is
21 basically responding to Mr. Stokes' affidavit.

22 MR. BAXTER: Objection. That is a mischaracterization
23 of their answer. It says they did respond to it. It doesn't
24 say their testimony in its entirety is just a response to it.

25 MR. EDDLEMAN: I will accept that.

Sim 8-10

1 JUDGE KELLEY: All right.

2 BY MR. EDDLEMAN:

3 Q Mr. Stokes on page 1 of his affidavit lists a
4 number of documents that he says he reviewed, correct?

5 (Pause.)

6 Do you gentlemen have Mr. Stokes' affidavit?

7 A (Witness Parsons) Yes, but I don't see a list of
8 documents that he reviewed.

9 Q Do you have page 1 where it has the title "Affidavit"
10 at the top? I think what you are looking at is my answer
11 to the motion, and Mr. Stokes' affidavit is attached behind
12 that.

13 A (Witness Kanakaris) Yes, I see that.

14 A (Witness Parsons) I think we are all together now.

15 Q All right. Now on that page 1 which is titled
16 "Affidavit" at the top, he begins there a list of documents
17 he reviewed, does he not?

18 A (Witness Garner) Yes.

19 Q Okay. And that includes the specification for
20 concrete that we have been talking about here, Revision No. 11,
21 does it not?

22 A (Witness Garner) Yes.

23 A (Witness Parsons) Yes.

24 Q I don't want to go through this. We are going to
25 put the affidavit in evidence later on, but it shows on that

Sim 8-11

1 page certain other procedures, Items 2 through 8 there, and
2 those I believe are procedures from the Harris plant, are
3 they not?

4 MR. BAXTER: Mr. Chairman, if we could just ask a
5 question rather than talk about what the paper says that is
6 already ---

7 JUDGE KELLEY: I think it would be useful. The
8 gentlemen I think are quite familiar with the affidavit. Just
9 ask the question.

10 MR. EDDLEMAN: All right.

11 MR. BY EDDLEMAN:

12 Q He refers in his affidavit, for example, on page
13 3, and this is about in the middle of the page, a little
14 below the middle I think, to the Ebasco concrete specification
15 section 13.5, does it not?

16 A (Witness Parsons) Yes.

17 Q And if I can ask you, up there at the paragraph
18 above that he is talking about a concrete test report form
19 that he says indicates that water was added but no corrected
20 slump is indicated, correct?

21 A (Witness Garner) Yes.

22 Q All right. If I may refer you gentlemen over to
23 page 4, he in the first paragraph there talks about vibration
24 of concrete and how fast the concrete is set up, correct?

25 MR. BARTH: Your Honor, I object to this line of

Sim 8-12

1 questioning. Mr. Baxter has objected and I have objected.
2 Usually the objection would be the document speaks for itself.
3 It is almost in evidence, and I will even get rid of the
4 "almost" if we can quit reading this document back and forth
5 to each other and ask a question about the contentions.

6 The applicants' witnesses addressed that pour package
7 on page 14 of their testimony, and somehow I think we ought
8 to relate these questions to the contention and the testimony,
9 Your Honor, rather than read this piece of paper we have had
10 for some time. I apologize for my exasperation, Your Honor.

11 JUDGE KELLEY: The point is well taken.

12 This document obviously is going to be in evidence,
13 and I think you can treat it for questioning purposes in that
14 fashion and just skip to the question. Otherwise, they don't
15 have to agree. For example, you can say the third sentence
16 says this and then must move on. They don't have to say
17 correct. It is correct by definition.

18 MR. EDDLEMAN: All right. Well, the reason I am
19 actually going through what this says on these various things
20 is you asked me before, Judge, you know, what I wanted to
21 go to next in the specification, and where I want to go is
22 the applicable specifications to things Mr. Stokes is talking
23 about. So that is why I wanted to go through those, but I
24 am perfectly willing to go back to this and say now as to
25 hot weather or as to exposed aggregate can we look at this

Sim 8-13

1 document and find a specification for it, and I will try
2 to show them where I think those things are.

3 JUDGE KELLEY: Well, haven't we established earlier
4 that the procedures followed by Ebasco at Shearon Harris
5 are written consistent with the spec document that we have
6 been talking about?

7 MR. EDDLEMAN: That is what I understand the
8 testimony of this panel to be.

9 JUDGE KELLEY: Unless there is some waiver or
10 exception granted. It is like this is the Constitution and
11 the procedures are the statutes promulgated pursuant to the
12 Constitution.

13 (The witnesses nodding affirmatively in agreement.)

14 JUDGE KELLEY: Unless there is some ad hoc waiver
15 for some good engineering reason. So we can stipulate to
16 that general proposition, can't we? I think that is clear.

17 MR. EDDLEMAN: All right. Let me make sure I
18 understand because we may have just gotten rid of this whole
19 line and not have to go through almost anything else.

20 As I understand it, if the general procedure is
21 the SHCH6, the Constitution as it was just referred to in
22 this little colloquy, if it applies in general to these pours
23 and the items that Mr. Stokes is talking about and they are
24 at least in part of their testimony answering or giving their
25 opinion of, and I can just cite back to this document when

Sim 8-14

I want to ask them about it, then I think I am done with this
line.

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1 MR. BAXTER: There is no question this is the
2 applicable specification. We talk about it in the testimony.
3 That need not be established from our standpoint.

4 JUDGE KELLEY: Mr. Barth, do you agree with that?

5 MR. BARTH: Yes, Your Honor.

6 MR. BAXTER: Mr. Chairman, I have been informed
7 by someone who checked with the dining room, while they are
8 open until two, they prefer that we come soon.

9 JUDGE KELLEY: Why don't we take a little break
10 here.

11 MR. EDDLEMAN: Let me ask, is it possible, for
12 my condition I need to eat in a smoke-free environment,
13 could I get somebody to help me out by going upstairs and
14 bringing me back a sandwich or something if I pay for it?

15 JUDGE KELLEY: I guess we could work that out,
16 yes.

17 It is twenty after. Shall we try to reconvene
18 at quarter to two, if they can serve us quickly?

19 MR. BARTH: Sounds good to the Staff, Your Honor.

20 JUDGE KELLEY: All right, fine.

21 (1:25 p.m.)

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AFTERNOON SESSION

(2:00 p.m.)

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Whereupon,

GEORGE A. KANAKARIS,

ROLAND M. PARSONS,

and

LARRY F. GARNER,

resumed the witness stand as witnesses called by and on behalf of the Applicants, Carolina Power and Light Company and North Carolina Eastern Municipal Power Agency, and having previously been duly sworn, were further examined and testified as follows:

JUDGE KELLEY: We are back on the record.

Mr. Eddleman, are you ready to resume?

MR. EDDLEMAN: Yes. If I might note, my condition is deteriorating a little, and I can probably go to around three. I am just guessing.

BY MR. EDDLEMAN: (Continuing)

Q I would like to try to get some mechanical-type stuff out of the way first because I can do it -- gentlemen, yesterday I believe Mr. Runkle and I distributed to you some other documents besides the EBASCO concrete specification we were talking about before lunch. I would just like to ask you if you have Technical Procedure TP-15, Revision 11?

A (Witness Parson) Yes.

Q I think it might be the most straight forward thing

1 if somebody else has a spare, to give one of these to the
2 Reporter and mark this for identification as Eddleman 11,
3 and I request it be so marked.

4 JUDGE KELLEY: Okay. I am still shuffling for
5 my copy. TP-71?

6 MR. EDDLEMAN: TP-15, Judge. It is 000581 at
7 the top. I guess it is about 25 pages.

8 JUDGE KELLEY: All right. We have it.

9 MR. EDDLEMAN: Wait a second until I look for a
10 spare for the Reporter.

11 JUDGE KELLEY: We will pass him one for the moment.

12 (Above referenced document
13 is marked Eddleman Exhibit 11,
14 for Identification.)

15 BY MR. EDDLEMAN: (Continuing)

16 Q Gentlemen, does this appear to be the same procedure
17 TP-15 that is referred to in your testimony?

18 A (Witness Garner) Yes, it is.

19

20 Q All right, sir. I request this be marked for
21 identificaton as Eddleman 11.

22 JUDGE KELLEY: Very well.

23 BY MR. EDDLEMAN: (Continuing)

24 Q Do you have also control document Carolina Power and
25 Light Corporate Quality Assurance Department, Engineering and

XX INDEX

9-4-Wa1

1 Construction Quality Assurance/Quality Control Section,
2 entitled: Concrete Control No. CQC-13?

3 A (Witness Parsons) Yes, we have a copy of that.

4 Q And I believe this is dated 16 March 1981, with
5 the Number CQC 13.

6 A The copy we have is dated as you stated.

7 Q And numbered also that way?

8 A It is numbered CQC-13.

9 MR. EDDLEMAN: I request this be marked for
10 identification as Eddleman No. 12.

11 JUDGE KELLEY: Okay.

XXX INDEX

12 (Above referenced document is
13 marked Eddleman Exhibit No. 12
14 for identification.)

15 BY MR. EDDLEMAN: (Continuing)

16 Q Do you have a document with a similar overall
17 heading, but entitled Concrete Compressive Strength Testing
18 No. QCI-13-1.

19 A (Witness Parsons) Yes, we do.

20 Q Also dated 16 March 1981?

21 A Yes.

22 MR. EDDLEMAN: I request this be marked for
23 identification as Eddleman 13.

24 JUDGE KELLEY: Very well.

(Above referenced document is
marked Eddleman Exhibit No. 13

9-15-Wal

XX INDEX

for Identification)

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MR. EDDLEMAN: A similar document, entitled:

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Batch Plant Inspection, QCI-13-2, issued March 16, 1981.

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A (Witness Parsons) Yes, we have that one also.

5

MR. EDDLEMAN: I request this be marked for

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identification as Eddleman 14.

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JUDGE KELLEY: Yes.

XX INDEX

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(Above referred to document

9

is marked Eddleman Exhibit 14

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for identification.)

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MR. EDDLEMAN: A controlled document, similar

12

cover, entitled Sieve Analysis of Fine and Coarse Aggregate

13

No. QCI-13-5, issue date 16 March 1981.

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A (Witness Parsons) Yes, we have that one also.

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MR. EDDLEMAN: I request this be marked for

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identification as Eddleman 15.

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JUDGE KELLEY: Yes.

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(Above referred to document

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is marked Eddleman Exhibit 15

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for Identification.)

21

MR. EDDLEMAN: Carolina Power and Light, Harris

22

Plant Work Procedure WP-4, Revision 10, entitled Concrete

23

Production and Delivery?

24

(Witness Parsons) We have that one also.

25

MR. EDDLEMAN: I request this be marked for

1 identification as Eddleman 16?

2 JUDGE KELLEY: Yes.

3 (Above referred to document is
4 marked Eddleman Exhibit 16 for
5 Identification.)

6 MR. EDDLEMAN: And finally, a document dated May 25,
7 1984, Before the Atomic Safety and Licensing Board,
8 Applicant Supplemental Response to Wells Eddleman's request
9 for production of documents, Contention 65. Do you have that?

10 A (Witness Parsons) Yes, dated May 25, 1984.

11 MR. EDDLEMAN: I request this be marked for
12 identification as Eddleman 17.

13 JUDGE KELLEY: Very well.

14 (Above referred to document is
15 marked Eddleman Exhibit 17 for
16 Identification.)

17 BY MR. EDDLEMAN: (Continuing)

18 Q I believe your testimony can speak for itself as
19 to the procedures that are referenced. I don't want to take
20 your time or my voice to go through that with you. But
21 I will just ask you, to your knowledge, do these appear to
22 be copies of the applicable documents, current revisions, for
23 the Harris plant, with the exception of Eddleman 17, the
24 response on production of documents?

25 A (Witness Garner) Yes, they are.

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1 Q Gentlemen, I would like now to refer you to first
2 Attachment 4, to your joint testimony, which I believe is the
3 sample concrete placement report form, do you have that?

4 A (Witness Parsons) Yes.

5 Q Now, I also would like to be referring you simultane-
6 ously to that same form -- this is the form that is in the
7 front of these concrete pour package documents typically,
8 is it not?

9 A That is correct.

10 Q So, I would like to refer you simultaneously if you
11 can set this up to the front pages entitled Concrete Placement
12 Report, from what I believe are Applicants Exhibits 10 and 11.
13 Number 10 is the pour number or placement No. 1CBXW219001,
14 and the next one I believe is No. 11, Placement No. 1CBXW242001,
15 Do you gentlemen have those?

16 A Yes.

17 Q All right. What I want to do is try to ask some
18 basic questions about these, just the way the forms are set
19 up and use the two forms from the actual placements that I
20 referred to as examples.

21 The Attachment 4 is Revision 9 of this form, is it
22 not?

23 A That is correct. That is the current revision.

24 Q Okay. And on the 219001, Exhibit 10 of Applicants,
25 that is Revision 1, and on 242001, Applicants 11, that is

1 Revision 4, is it not?

2 A That is correct.

3 Q Okay. Now, on all three of these, basically the
4 so-called top third is the pre-checkout data by placing
5 organization coming down from the top, indicated by an arrow,
6 or two arrows, with the pre-checkout date over on the left?

7 A That is correct. This form is intended to follow
8 a concrete placement clear through from the beginning through
9 the -- where they establish the pre-checkout data, through
10 the pre-placement checkout, and then post-placement afterwards.

11 Q All right. Now, the pre-checkout part is what we
12 have been calling the top third; that is, above the first
13 double line across the form?

14 A That is correct.

15 Q And that would be signed off, for example, on 219001,
16 Ken Ford signed off and dated that, correct?

17 A Yes. This just serves as a method of communicating
18 to the people in the field. Now, remember, this stays out
19 in the field, in or adjacent to the placement, until the
20 placement is completed.

21 The top third stays out in the field, and that
22 communicates to the construction people and everybody else
23 involved in the forms, what the basic parameters of that
24 placement are going to be. Which drawing applies. They
25 determine at that time what -- from the drawings and from the

1 specification what kind of finish, what kind of screening
2 is going to be required, and just place that out in the field
3 as the first step in setting up for a concrete placement.

4 Q Okay. So, sort of the basic data about what is
5 required for the placement and where it is located, and
6 specifications for transporting placing, vibration, finishing,
7 and curing, special weather conditions and so on, design
8 strength, are on this part of the form.

9 A Yes. That is anticipated special weather precautions
10 in the event we have some indications that the weather report
11 may bring about something that we have to plan especially
12 for.

13 Q Right. Now, those sort of things might be hot or
14 cold weather, for example?

15 A That is correct.

16 Q Okay. And the specifications about hot and cold
17 weather are contained in the EBASCO concrete specification
18 among other places, are they not?

19 A (Witness Garner) That is correct.

20 Q Okay. One little difference I notice here on the
21 forms for Exhibit 10 and 11, Applicants Exhibits 10 and 11,
22 it says anticipated special weather precautions; on the
23 Attachment 4, it says anticipated weather conditions.

24 And then it has another blick beside that. Would
25 the precautions go in there on a more current --

1 A The precautions would go under anticipated weather
2 conditions.

3 Q Okay. Now, though the difference I notice there
4 is to the right of the weather conditions block on Attachment
5 4, you have got service condition protection. I don't see
6 that kind of information requested on the two exhibits that
7 I am referring you to, the placement reports --

8 A (Witness Parsons) No. That is an enhancement to
9 the form. It is data that has always been available. We felt
10 that the form would be more useful to the field if we
11 incorporated it onto this revision so they would have it
12 available without having to dig into the drawings.

13 Q Okay. Now, also on the Attachment 4, you have a
14 rate of rise down under that next to the primary masonry
15 drawing number, and just for example, on No. 11, 242001,
16 rate of rise appears in the comment and clarification
17 section.

18 So, is this another enhancement to just put that
19 information on as a standard item?

20 A That is correct.

21 Q Rate of rise is also covered by the applicable
22 specifications and procedures , correct?

23 A (Witness Garner) No. The rate of rise is something
24 that is determined by the temperature of the concrete as
25 it is being placed. That determination is brought about by the

1 form engineer, the area engineer, in anticipation of what the
2 form will be able to take during placement based on the
3 temperature of the concrete as placed.

4 Q (Witness Parsons) You were partially correct, Mr.
5 Eddleman. The specifications tell you how to compute it, but
6 they don't tell you what it is. It is a function of the
7 temperature of the concrete, and it is also a function of how
8 strong you make the forms.

9 If you have form ties every foot, then you can place
10 concrete and rise within a wall forms much more rapidly than
11 if you had form ties, say, two feet apart.

12 So the specifications tell you how to calculate it,
13 but you can't calculate it until you see the conditions of the
14 placement.

15 End 9.
16 SueT fols.

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#10-1-SueT 1

2 Q Let me just ask you, Mr. Garner, as to the tempera-
3 ture of concrete, you are talking about the temperature of the
4 concrete itself, are you not, not the temperature of the air
5 around it?

6 A (Witness Garner) The temperature of the concrete
7 itself as it's placed.

8 Q The concrete that is being poured in?

9 A That's correct.

10 Q Okay. Let me just try to -- if you gentlemen will
11 bear with me a minute I wanted to check against some rate
12 of rise information that I believe was in the specification
13 which Mr. Parsons just mentioned.

14 (Mr. Eddleman is looking through documents.)

15 I don't seem to be able to find that readily.
16 Maybe I can come back to it when I find it. It may be
17 Tuesday.

18 The comments and clarifications of proposed methods
19 section, would that be where you would note, for example, not
20 just general comments but also differences from the applicable
21 procedures or specifications?

22 A (Witness Parsons) I don't believe you would
23 normally in a precheck-out data include that kind of thing.
24 If there was any differences from the governing specifications
25 or something, it would be much more formal than just an entry
in this.

#10-2-SueT

1 Q Okay. And by more formal, do you mean something
2 else that would be included in the pour package?

3 A It would be a field change request or something like
4 that. It's not -- it wouldn't necessarily be in the pour
5 package, but it would be something everybody would be aware of.

6 Q Okay.

7 A Just as we do not include drawings in the pour
8 package, for instance. And a field change request would be a
9 modification to a drawing or spec.

10 Q All right. Now, the middle section, that is between
11 the first double line and the second double line down the
12 Attachment 4, or these other concrete placement report sheets,
13 that's what is checked out on preplacement, correct?

14 MR. BARTH: I object to the question. We are doing
15 nothing except what we did this morning in reading this thing
16 down line by line. It says preplacement check-out. It's
17 Exhibit 4 to the Applicants' testimony which is already in
18 evidence.

19 JUDGE KELLEY: Is that introductory to a question,
20 Mr. Eddleman?

21 MR. EDDLEMAN: What I want to ask him about -- let
22 me -- I mean, I think it's self-evident from the form, and
23 the form is in evidence is the answer to that.

24 JUDGE KELLEY: All right.

25 MR. EDDLEMAN: But let me ask him the question I am

#10-3-SueT

1 trying to get to.

2 BY MR. EDDLEMAN: (Continuing)

3 Q We have some kind of lined out sections on that
4 part of Attachment 4. By lined out, I mean with kind of a
5 45 degree angle hatching in the spaces so it really isn't a
6 blank there, it's just hatching.

7 And that sort of setup does not appear on the place-
8 ment report from Exhibit 10, does it? Applicants' Exhibit 10,
9 I mean.

10 A (Witness Garner) That's correct.

11 Q Now, has there been a change that basically removes
12 QC or construction inspection or QA from looking at the areas
13 that are hatched out on this form, Attachment 4, I mean?

14 A Yes. These are characteristics about the placement
15 where the QA of a surveillance organization, are not required
16 to have sign-off on as they perform a surveillance activity.

17 As when the form was originally used, there was a
18 spot for the quality assurance sign-off. But after revision
19 of the form and revision of procedures and implementation of
20 the quality control program, they elected not to have a sign-
21 off this concrete placement report. And so those hatch lines
22 indicate the areas where they are not required to give signa-
23 tures.

24 Q Okay. Well, now you spoke as to QA. What about
25 QC, because they appear to be two different things on the

#10-4-SueT1

concrete placement report from Applicants' Exhibit 10?

2 A The QC still has responsibility for some sign-offs
3 in the placement. They have some quality control functions
4 where they actually perform the inspection such as the cadwelds,
5 such as the seismic welding. These are their inspection acti-
6 vities. So, they will have a sign-off slot on the card.

7 QA, as a surveillance activity, will not have a
8 sign-off on the card.

9 Q Uh-huh. Now, on the Attachment 4, you have
10 construction inspection sign-off which does not appear at least
11 on Exhibit 10, correct? Applicants' 10, that concrete place-
12 ment report.

13 A That is correct.

14 Q Okay. Now, does that mean this has been really
15 changed over from QA checking it to CI checking it? Is that
16 what has happened here?

17 A No. CI has always checked these activities. Origini-
18 nally, it was called a quality control function. But to de-
19 signate that these functions specifically belong to CI, as
20 being their part of the quality control inspection, we changed
21 the form to say construction inspection which designates the
22 construction inspection unit as the inspection.

23 Q So, is it then generally true that where the title
24 "Quality Control" on this preplacement check-out form on any
25 of these pour packages appears, that that's really construction

#10-5-SueT 1

inspection just appearing under the name of quality control?

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A That will be the case on the earlier cards and the one in question, on 219001. On the Revision 9 of the form, which is our Exhibit 4, the quality control is the QC organization and the construction inspection is the CI organization.

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Q Uh-huh. Okay. Now, during the time when the pours in question in these thirteen pour packages that we are dealing with under this contention were happening, was CI under the same organization as was responsible for engineering and pouring the concrete?

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A Early on in the program, the construction inspection group was responsible directly to the senior resident engineer who reported to the project general manager.

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Q That's Mr. Parsons, the general manager?

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A That used to be his title.

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Q Well, I mean during the period these pours went in, that was his title. Was it or wasn't it?

24

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Maybe Mr. Parsons could tell me.

A (Witness Parsons) Technically, it was site manager, but we are saying the same thing.

Q Okay. You are saying, Mr. Garner, that they reported up to the -- what is it, senior resident engineer who then reported to Mr. Parsons?

A (Witness Garner) That's correct.

Q Okay. And how long did that continue, Mr. Garner?

#10-6-SueT

1 When did that stop?

2 A I don't know the exact date. But we continued to
3 report to Mr. Parsons, being a construction inspection sub-
4 unit under his organization.

5 (Witness Parsons) The construction inspection unit
6 has reported to me from the beginning of the job up to now.
7 My title has changed somewhat.

8 Q Okay. Does that complete the answers?

9 A (Witness Garner) Yes, it does.

10 Q Okay. Gentlemen, on these check-out forms, would --
11 I mean, on the concrete placement report itself, the front
12 sheet, if an inspector found a problem would they note it
13 there or would they note it in something else that would appear
14 later on in the package?

15 A They would note it, if you are talking about con-
16 struction inspection, they would note it on the applicable
17 inspection report that they were using to document that in-
18 spection.

19 Q And that would be another report, not this sheet;
20 is that right?

21 A That's correct.

22 Q Okay. Now, are those other reports of their in-
23 spections required to be included in these pour packages?

24 A If they are reports that have to do with the
25 inspection of the embedded items that are contained within

#10-7-SueT1

2 this boundary of the pour area and required by procedures,
3 they should be as part of the pour package if that particular
4 inspection was required.

5 Q Uh-huh. Well, now on one of these forms is there
6 a way to tell which inspections are required and which are
7 not?

8 I mean, is it only the ones that are kind of cross-
9 hatched out that are not required, or does that vary?

10 A (Witness Parsons) It would vary. If you look at
11 Exhibit 4, or I mean Attachment 4, there is some down toward
12 the bottom, electrical, cadwelds, code welding. Some of those
13 things would only be included if the drawings, for instance,
14 indicated that there were cadwelds in that placement.

15 Q Uh-huh.

16 A If the drawings indicated there was a piece of
17 embedded pipe which was also code pipe, then it would be re-
18 quired that that be inspected.

19 Q And --

20 A So, this is meant to be a fairly comprehensive check-
21 list and a memory-jogger that would trigger an inspection of
22 any of those things were they in there. So, they have to make
23 a conscious decision by looking at the drawings that they are
24 not in there, in which case the inspectors and the engineers
25 write it non-applicable and do not have to make an inspection
obviously if there is nothing there.

#10-8-SueT 1

2 Q Okay. And that not-applicable appears on these
3 things as NA or N/A, just as a matter of clarification?

4 A That's correct.

5 Q Okay. In the -- if the inspection is required --
6 I just want to make sure I've got this right, if the inspection
7 is required then the applicable inspection form would be at-
8 tached as part of the pour package?

9 A (Witness Garner) No, that's not correct. The
10 construction inspection civil items would be attached as part
11 of the pour package. Some of the other items that require in-
12 spection by other groups would not necessarily be in the pour
13 package but would be sent to permanent records by means of
14 their procedures.

15 Q All right. Now, let me see if I can clarify this.
16 Are the civil items that you are talking about there, would
17 those include all of the concrete placement and testing pro-
18 cedures?

19 A Would those all be civil items, as you described
20 them?

21 A Yes.

22 Q All right, sir.

23 A (Witness Parsons) I may be able to add a little
24 bit more to that. Something like code welding or cadwelding
25 or electrical gets filed with the system that it's applicable
to, not necessarily the placement. It's more logical to keep

#10-9-SueT 1

2 the documentation and the inspection records associated with
3 the run of pipe that may pass through a placement in with the
4 rest of the documentation for that piece of pipe, because they
5 come together at hydro and do not necessarily have a real
6 relevant attachment to the placement itself.

7 We have this as a check on the concrete placement,
8 preplacement check-out to make sure that somebody doesn't
9 inadvertently cover up a piece of code piping prior to its
10 being inspected. So, the signature here would indicate that,
11 yes, it has been inspected but the documentation associated
12 with it would be over in the mechanical files.

13 Q All right. And to find out which pipes or rebars
14 or whatever went through one of these pours, you would have to
15 look back to the blueprints rather than what is in the package;
16 is that right?

17 A That's right.

18 Q All right, sir. If I might refer you gentlemen to
19 the QA-24 form that appears at the back of Applicants' Exhibit
20 10, that's the XW219001, to quote the last few digits of the
21 number, now this form indicates various data on the samples of
22 concrete taken from this pour, I take it? That's how this is
23 set up.

24 A (Witness Kanakaris) That's correct.

25 Q Okay. Now, the applicable procedures for all of
this would be explained in the concrete specification, would

E10-10-SueT 1

they not?

2

A (Witness Parsons) No. The concrete specification again, as we said earlier, might be compared to the constitution. The procedures that we write that show how we implement the requirements of the specification would detail the applicable testing frequencies and procedures, and they would be the working document at the site.

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Q Okay. Let me try to refer you -- unfortunately I haven't got this thing clear enough in my mind.

9

10

For example, if we could refer to, I think it's Page 21 of Section 1 of the CH6 concrete specification --

11

12

A I'm sorry. Could you repeat that, sir?

13

Q Sure. In Section 1, Page 21, as I've got it in my copy here, of the Ebasco Concrete Specification CARSHCH-6, which I believe is Eddleman Exhibit 10 --

14

15

16

A I've got it.

17

Q Okay. This refers to sampling and testing numbers of test cylinders, for example, in the middle of the page.

18

19

A That's correct.

20

Q Okay. And where it makes a specification like this, it is, as you said, it's the constitution and the procedures have to implement what it says or give a reason for varying from it?

21

22

23

24

A I would take it a little stronger than that. It has to implement what the specifications say and cannot be

25

#10-11-SueT

2 varied unless we have got special permission from the engineers
3 in the form of a field change request or revision to this
4 basic document.

5 Q Okay. Now, the engineer, does that mean just
6 Ebasco or does it also mean CP&L or Daniel's field engineers?

7 A That means Ebasco. The administrative details of
8 making the change also includes approval of CP&L. CP&L
9 engineers.

10 Q All right. Now, this QA-24 sheet, it also includes
11 the test cylinder strength data for the dates as specified
12 in this specification, does it not?

13 A The QA-24 shows the test results that were taken at
14 the frequency spelled out by the specification and the pro-
15 cedures, if that was the question.

16 Q Yes, sir. That's what I meant to ask you. You
17 have answered it.

18 Now, as to evaluation of strength tests, it
19 specifies down in Paragraph .5 at the bottom of that Page 21
20 of the Ebasco specification for concrete, Eddleman 10, two
21 standards for considering strength of concrete satisfactorily.

22 Let me ask you if you will spare my voice by read-
23 ing them. They are only two lines long each.

24 A No individual strength test should fall below more
25 than 500 psi below the required class strength at 28 days.

And the second test is that the average of all sets of

#10-12-SueT 1 preconsecutive strength test results equal or exceed the
2 required class strength at 28 days.

3 And by sets, where it refers to the average of
4 all sets that means the consecutive series of tests that we
5 take, not the individual cylinders within one set.

6 Q Okay. Now, a test result, is that a result on
7 two cylinders typically? Is that how that works?

8 A We break one --

9 Q It might clarify this if you would look over on the
10 top of Page 22.

11 MR. BAXTER: Page 10 of the direct testimony would
12 help, too.

13 MR. EDDLEMAN: I don't think what is laid out here
14 quite gets at what I am asking about, although it does
15 certainly relate to this part of the testimony.

16 BY MR. EDDLEMAN: (Continuing)

17 Q Mr. Parsons, were you going to make some further
18 answer there?

19 A Yes. We typically take four cylinders. We break
20 one at 7 days to get an early indication of the strength. We
21 break two at 28 days and reserve one for later investigation if
22 it has to be made.

23 Q All right, sir. Now, let me refer you to -- over
24 on Page 22, just following that same paragraph, 13.5 of the
25 Ebasco specification concrete for evaluation of strength tests,

#10-13-SueT

1 it says: Each 28 day strength test result will be the
2 average of two cylinders from the same sample.

3 Correct?

4 JUDGE KELLEY: Did we mark this particular one as
5 an exhibit?

6 MR. EDDLEMAN: I think it is already marked.

7 JUDGE KELLEY: Okay. Beyond that, let me just ask
8 a question. Does any party object to putting this particular
9 document into evidence?

10 MR. BAXTER: We have no objection.

11 JUDGE KELLEY: Staff?

12 MR. BARTH: No objection, Your Honor.

13 JUDGE KELLEY: Since it is being referred to from
14 time to time, and it has virtually been stipulated to, why
15 don't we put it in and then it will cut down on the quoting.

16 MR. EDDLEMAN: All right. This is Eddleman 10,
17 correct?

18 JUDGE KELLEY: Right. And it's admitted into
19 evidence. I assume you would rather have it in, right?

20 MR. EDDLEMAN: Yes, sir.

21 JUDGE KELLEY: Okay. So, it's in.

22 (The document previously marked
23 as Eddleman Exhibit Number 10 for
24 identification is received in
25 evidence.)

#10-14-SueT 1

BY MR. EDDLEMAN: (Continuing)

2 Q All right. Now, what I wanted to ask you about
3 that, Mr. Parsons, you are talking about all sets of three
4 consecutive test results as part of the evaluation criteria,
5 when you talk about a strength test result on the 28 day
6 samples, that's the average of two cylinders from the same
7 sample; is that correct?

8 A (Witness Garner) That's correct.

9 Q All right. Now, so then you take three consecutive
10 results, that is three consecutive sets of two cylinders, that
11 is what that average in Item B at the bottom of Page 21 under
12 evaluation of strength test is talking about?

13 A (Witness Parsons) I believe I -- I'm not sure I
14 totally follow you.

15 Say it one more time.

16 Q Okay. Let me -- what I think I caught on was that
17 a strength test result is the average of two of those cylinders
18 at the 28 day mark?

19 A Right.

20 Q Two of their strengths?

21 A Right.

22 Q Okay. Now --

23 A And they --

24 Q Go ahead, sir.

25 A (Witness Garner) And each individual 28 day test

#10-15-SueT

1 has to be within five percent of their average.

2 Q Now, by their average does it mean the average of
3 the two?

4 A That's correct.

5 Q All right, sir. Now, as to the average of three
6 consecutive sets of results, each set would be three sets of
7 those two? Two cylinders in a set, is that what that means?

8 A That's correct.

9 Q Okay. So, for example, if I'm on one of these QC --
10 I mean, QA-24 concrete test report forms that appear in these
11 pour packages, I can look at the test cylinder strength results
12 and there will be two of them on day 28 if you are meeting the
13 requirements, right?

14 A (Witness Parsons) That's correct.

15 end #10
16 Mary flws

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Sim 11-1

1 Q Okay. And then I would average those, and the
2 average of each set of two from the same set of samples is
3 a set of results. And then you just add up three consecutive
4 averages and that is what this set of three consecutive strength
5 test results in Item 13.5B in the specification is, is it not?

6 A (Witness Garner) No, I do not think that is
7 correct.

8 Q Will you please explain? I don't want to confuse
9 you and I don't want to get confused either.

10 A Take the two 28-day breaks and average those results.
11 The strength of each individual cylinder that is tested has
12 to be within five percent of that average.

13 Q Right.

14 A When we get to consecutive sets of a particular mix,
15 then we take the average of those cylinders of three consecu-
16 tive sets and the average of those must equal the 28-day
17 strength required by that design mix.

18 Q All right. Now the three consecutive sets, each
19 set is a set of two 28-day cylinders?

20 A That is correct.

21 Q And then all sets of three consecutive strength test
22 results must equal or exceed the required class strength of
23 28 days?

24 A . That is correct.

25 A (Witness Parsons) If you look at QA 24 that relates

Sim 11-2

1 to the placement that we were talking about ---

2 Q Yes, sir.

3 A --- 219001, there are three consecutive sets on
4 that for 28 days.

5 Q Right.

6 A The average strength of each of those three consecu-
7 tive sets when injected into a running average of those three
8 should not be less than the specified strength at 28 days.

9 Q And would that 28-day strength be the design strength
10 that is specified down on the bottom of that QA 24 form?

11 A That is correct.

12 Q Okay. Now also along there you have slump requirement,
13 air requirements and the identification of the design makes.
14 Those are the standard things on this form, correct?

15 A Yes.

16 Q Okay. And those would be the applicable slumps and
17 air standards and design strengths that the samples being
18 tested have to meet, correct?

19 A The slumps, we work within a range. They would be --
20 what is reflected here is the test result which if within
21 the range for slump, for instance -- it is okay if it is
22 within the range is what I am trying to say.

23 Q All right. And, for example, here on this 219001,
24 that is given as four plus or minus one inch?

25 A You really have to go to the specifications to make

Sim 11-3

1 the comparison and not off the corner of this form. The
2 concrete specification has a table which tells what the
3 slump range can be.

4 Q Okay. Now as to the air requirement it gives a
5 range, right, on the QA 24 form?

6 A Well, the QA 24 form, these two notations are just
7 for reference. The real governing criteria is within the
8 specification and that is what we compare it against and not
9 this entry here.

10 Q Well, but shouldn't the specifications as listed
11 on this form be the actual specifications required? I mean
12 if, for example, if the design strength really was 4000 psi,
13 it wouldn't make any sense to have it say 5000 on this form,
14 would it?

15 A No.

16 Q So they should be accurate, right?

17 A Yes, but the point I am trying to make is that the
18 bottom line comparison that we make out there, the comparison
19 upon which we base the final judgment of quality is a comparison
20 with the values in the specification.

21 Q Okay.

22 A This is say a secondary entry here and not the
23 primary criteria.

24 JUDGE KELLEY: In the normal case though is there
25 any reason to think that it is wrong?

Sim 11-4 1

WITNESS PARSONS: No, sir.

2

BY MR. EDDLEMAN:

3

Q Gentlemen, I just want to refer you one more time

4

to page 22 of Eddleman Exhibit 10, the Ebasco concrete

5

specification. Mr. Garner, I think, has gone over the varia-

6

tion between a strength test result on two cylinders being

7

limited to five percent.

8

The requirement there we can read of what happens

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if your variation is more than five percent what you have

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to do. I don't want to go through that, but I just want

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to ask your understanding of the next paragraph there con-

12

cerning the coefficient of variation for the tests on each

13

mix.

14

Now what is a coefficient of variation, if you

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gentlemen can define it for me?

16

A (Witness Parsons) It is a statistical term that

17

describes its relationship to the average and expected values.

18

I don't have it in front of me.

19

Q Well now, let me try to pin this down. For example,

20

if I had two tests and the difference between those two

21

specific strengths on the same mix was 15.5 percent, that is

22

greater than 15 percent between those two, would that be

23

a coefficient of variation greater than 15 percent?

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A It might help if we have a little bit of an

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expanded definition of coefficient of variation.

Sim 10-5

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The coefficient of variation is a standard means of measuring a degree of control which a concrete batching facility has over the compressive strength of the concrete which it produces.

The coefficient of variation is dependent upon two statistically computed values, the mean or the average, the 28-day compressive strength and the standard deviation.

The mean is the average strength of all concrete cylinders in the population, and standard deviation is a measure of concrete strength dispersion and is defined specifically as the root mean squared deviation of the concrete strength from their average.

The coefficient of variation is mathematically defined as a standard deviation divided by the mean and is expressed as a percentage.

A low coefficient of variation, which would be a tall and normal scatter plot of the strength values, implies good control, while a coefficient of variation having short and broad normal probability curves implies fair or poor control over concrete strengths.

This is all a little bit technical, but it basically sets forth a means where you plot the strength test results and get an indication of their scatter.

In simplest terms, if the concrete were all coming in with compressive strength test results very close to each

Sim 12-6

1 other, then you would say that your batch plant and your
2 testing was very good. And this is a consideration aside
3 from whether it meets the minimum strength requirements.

4 If you had a whole series of concrete compressive
5 strength test results which ranged rather broadly, let's say
6 from 5000 psi, being the specified value, up to 6000 to 7000,
7 and it was scattered randomly throughout that, it would give
8 you some indication that your concrete control program was
9 not as tight as it should be.

10 That is a trending device and it does not lead
11 to the conclusion to accept or reject the concrete or concrete
12 within the structure based on that. It gives you an indication
13 of how well your quality control program is working.

14 Q Okay. Then if you have a greater variation you have
15 to conduct a review and do something to try to reduce the
16 coefficient, correct?

17 A You have to conduct a review and determine if there
18 is a reason that needs correction, and, if so, it is a good
19 early warning of potentially your controls are not as tight
20 as they should be.

21 Q All right. Now let me just ask you another question
22 about the average strength business. If a particular pour is
23 below the required strength, it doesn't help if any for the
24 average of it and a whole bunch of nearby pours to be okay
25 as a whole, does it?

Sim 12-7

1 A It meets specification if it as you described it.
2 If a particular placement drops below this design strength,
3 but it is less than 500 psi beneath the design strength, and
4 the average is as the specifications require, then it meets
5 the specifications and is acceptable.

6 Q Right. But under those conditions that you just
7 mentioned, right?

8 A That is correct.

9 Q Okay. Now let me try to clarify that just one
10 little bit. It doesn't actually make the under strength pour
11 any stronger than the others ones around it are stronger than
12 average, does it?

13 A No. You still have to look at that under strength
14 pour and you have to evaluate it for acceptability and that
15 can be done by the engineers or possibly it can be done by
16 taking the strength test results of that fourth cylinder
17 we were talking about earlier. That fourth cylinder has at
18 times been broken at the end of 90 days, and if the strength
19 is up there at the end of 90 days, then that is something
20 that you take into consideration when you are evaluating it.

21 Q The fourth cylinder is the reserve cylinder, right?

22 A That is correct.

23 Q Okay. If we can look back at the QA 24 form on
24 pour 2190001. I believe that one reports four cylinders'
25 results. When you do a three-day break as well as a seven

Sim 12-8

1 and a 28-day -- a 7-day break and two 28-day breaks, are
2 you required to have a fifth cylinder as reserve?

3 Q This is a field prerogative. A 3-day break would
4 be an early indication that in some cases if the break were
5 high enough would allow us to do things in the field, and
6 I am speaking there of stripping the forms early or pouring --
7 getting out on the slab early or some construction considera-
8 tion would call for the 3-day break. Probably we wanted to
9 strip the forms early. So we would have made an additional
10 cylinder in a case like that.

11 Q You would still have a reserve cylinder?

12 A Yes.

13 Q Okay. Let me refer you gentlemen, if I might,
14 to your Attachment 5 and Revision 1 to it.

15 First, I would like to ask you about the original
16 Attachment 5 where the asterisks appear stating "Required
17 for biological shielding." Is biological shielding a
18 special function of containment concrete?

19 A (Witness Garner) It is for the internal concrete
20 for the containment building.

21 Q And what is that function about? I mean is it ---

22 MR. BAXTER: Objection, Mr. Chairman. This
23 contention is not about the internal concrete in the
24 containment, but about the 13 pour packages here from the
25 basemat exterior walls and dome.

Sim 12-9

1 MR. EDDLEMAN: Well, the original one says that is
2 required for biological shielding.

3 MR. BAXTER: That has been deleted.

4 MR. EDDLEMAN: All right. Well, that is what I am
5 trying to get at.

6 MR. BARTH: And we would object because biological
7 shielding is way beyond the parameters of the contention
8 which are the pours are no good because of slump and vibration
9 and compression and not biological shielding.

10 JUDGE KELLEY: Is it withdrawn?

11 MR. EDDLEMAN: I think so. Let me try to see just
12 so that I am not getting confused here.

13 (Board conferring.)

14 MR. EDDLEMAN: Biological shielding referring to
15 the physical integrity of the containment as a shield?

16 MR. BARTH: We object to the question, Your Honor,
17 on the same grounds we objected before. It is beyond the
18 parameters of the contention.

19 JUDGE KELLEY: Did I understand this was deleted?

20 MR. BAXTER: Yes.

21 JUDGE KELLEY: The footnote is not there any more?

22 MR. BAXTER: That is correct.

23 JUDGE KELLEY: Why does it appear on this version?

24 MR. EDDLEMAN: It was prefiled and then they put
25 in a revised one as a correction, as I understand it.

Sim 12-10

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MR. BAXTER: We distributed a revised attachment.

JUDGE KELLEY: All right. I understand.

I am going to sustain both objections. It was taken out of the case and we are not interested in biological shielding anyway.

BY MR. EDDLEMAN:

Q Gentlemen, the main function of the containment -- or isn't a main function of the containment to contain, to keep inside the radioactive materials?

MR. BARTH: Objection, Your Honor. The contention which is set forth at length on page 4 of the applicants' testimony states that these pour packages show something is wrong with the pour, and hopefully before Wednesday night we will get there.

MR. EDDLEMAN: Your Honor, I am just astounded at the degree of let's just look at the letters on the paper. It seems to me there is a reason why those defects mean something, and that reason is that the containment has to perform its function.

JUDGE KELLEY: Why don't we establish whether there are any defects and the we can worry about that. Perhaps you can file an amended contention saying now that you have found all of these defects, we should do other things to fix them. But the burdon is on the proponent of this contention to show that there is any substance in the

Sim 17-11

1 contention itself. Sustained.

2 MR. EDDLEMAN: Let me just note for the record
3 so that I am not too confused. I thought the burden of proof
4 was technically on the applicants. I am not objecting, but
5 I am just ---

6 JUDGE KELLEY: I think I was being a little bit
7 literary there. I will withdraw the phrase.

8 I think, Mr. Eddleman, since you are at bat, the
9 burden is upon you to focus your attention on the thrust
10 of this contention which is the alleged existence of defects
11 in this concrete.

12 BY MR. EDDLEMAN:

13 Q Gentlemen, are the allowable slump and air content
14 and design strength data on Attachment 4, Revision 1 taken
15 directly from these pour packages?

16 A (Witness Garner) It is not taken directly from
17 the pour packages, but it specifies the requirements for
18 the particular mixes that have been used.

19 Q Well, aren't those requirements also specified
20 fully in the pour packages?

21 A Yes, it is specified, but these requirements were
22 not taken from the pour packages.

23 Q Well, when we are talking about the pour packages,
24 wouldn't it be more straightforward to take the requirements
25 off of them?

Sim 14-12

1 MR. BAXTER: Objection ---

2 MR. BARTH: Objection, Your Honor. He is arguing
3 with the witness. He should let the witness answer the
4 question. I am trying to confine myself to less lawyer
5 argument, as Mr. Eddleman objected to before, but this has
6 nothing to do with it. This is arguing with this man. He
7 has answered the question.

8 JUDGE KELLEY: Sustained.

9 MR. EDDLEMAN: I don't know if this already comes
10 within the ruling, but let me inquire.

11 Can I ask him if there is a reason why they weren't
12 taken off the pour packages?

13 JUDGE KELLEY: Go back one step now. Is this
14 about the slump requirements, Mr. Eddleman?

15 MR. EDDLEMAN: I believe I asked about allowable
16 slump and reliable air content.

17 JUDGE KELLEY: Allowable slump. Now I thought
18 about 10 minutes ago we talked about the source of allowable
19 slump and we found out that the slump required in the lower-
20 left-hand corner was not the basic source of the requirement
21 but rather it came from another source which you checked
22 against. Is that right, Mr. Parsons?

23 WITNESS PARSONS: Yes, Mr. Chairman. The only
24 point I was trying to make there is that the specification
25 is always the governing specification, and rather than take

Sim 12-13

1 data from subsidiary documents out there, we tried to make
2 sure the source goes back to the real governing specification,
3 and in this case the allowable air content comes from the
4 governing specification, and they come by way of some other
5 subsidiary document on its way there, but that is where it
6 comes from.

7 JUDGE KELLEY: And the governing specification
8 comes from where?

9 WITNESS PARSONS: That comes from the design
10 engineer. That is the ---

11 JUDGE KELLEY: The blueprints?

12 WITNESS PARSONS: Yes.

13 JUDGE KELLEY: All right.

14 MR. EDDLEMAN: I will withdraw that past question.
15 Let me ask you about that.

16 BY MR. EDDLEMAN:

17 Q By governing specification, are you talking about
18 specification CARSHCH-6?

19 A (Witness Parsons) For concrete that is correct.

20 Q Okay. And that would apply to these pours as listed
21 in this table, or is attachment. Let me look at it.

22 MR. BAXTER: Asked and answered, Mr. Chairman.
23 We have established the applicability of the Ebasco
24 specification which has been admitted into evidence.

25 JUDGE KELLEY: That is correct.

Sim 12-14

1 MR. EDDLEMAN: All right.

2 BY MR. EDDLEMAN:

3 Q Mr. Parsons, when you talked about the congestion
4 of rebar in your, I don't know, further explanation or whatever
5 Mr. Baxter started off your appearance here today with, are
6 there sort of basic criteria that you use to determine when
7 a placement is likely to be difficult, as you described these?

8 A (Witness Parsons) I think I indicated yesterday
9 that it was an intuitive feeling based on my experience.

10 Q Well, what sort of things do you look for, if I
11 may ask?

12 A (Witness Garner) If I might interject here, we
13 as a construction inspection group, during the preplacement
14 inspections on that placement, we look at these placements
15 for their complexity in pouring and at that time we get with
16 the area engineer, we get with the people involved with the
17 construction of the placement itself, we look at drawings and
18 we talk about difficulty. And we use these drawings to let
19 us know when areas of rebar congestion exist and will exist
20 and also visual observation of the area itself.

21 And based on this it helps us determine when a
22 pour may be more difficult than others.

23 Q Mr. Parsons, are those the kind of things you are
24 talking about in forming your intuitive judgment?

25 A (Witness Parsons) Basically, yes.

Sim 11-15

1 Q Are there others?

2 A No. Just the results of my past experience on
3 other jobs where I have known that certain areas are difficult.
4 We had a model made of the reinforcing steel around the
5 containment, and by that I mean a scale model, which we can
6 look at, and it also aids in making a judgment.

7 MR. EDDLEMAN:

8 Judge, may I have a moment? I am sort of running
9 out of gas here. I want to see if there are some things
10 that I can wrap up.

11 JUDGE KELLEY: Go ahead.

12 (Pause.)

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1 Q May I refer you gentlemen to Applicants Exhibit No.
2 9, and this is a brand spanking new copy I have here. I
3 hope it matches yours.

4 I want to look at page 3.8.1-59 and 60. Three
5 point eight point 1 dash 59 is the first one.

6 A (Witness Parsons) Okay, we have caught up to you
7 on page numbers.

8 Q All right. Are these quality assurance standards
9 and explanations given in this section the ones that would
10 apply to the Harris containment?

11 In asking that, I am also intending to include
12 over on pages 60 and 61, and gosh, I am afraid it goes on
13 beyond there, but if you would look it over and say yes,
14 this part applies, or no, that part does not apply.

15 I would appreciate your just going through that.

16 MR. BAXTER: This whole exhibit is about the
17 Harris containment.

18 MR. EDDLEMAN: It does? Okay, that is what I
19 wanted to know. All right.

20 Gentleman, can I refer you back to the same QA
21 24 report from pour 219001 that we have been talking about
22 earlier?

23 A (Witness Parsons) We have it.

24 Q There is a column on there over next to the
25 test cylinders entitled Water Added. Does that mean water

1 was added at the lab, or out in the field, or what does that
2 mean?

3 A (Witness Garner) That means that water was added
4 in the field, at the placement site.

5 Q Okay. Now, when it says like plus seven there
6 in the first line, seven what? Seven percent, seven gallons?

7 A That would be measured in gallons.

8 Q Gallons. And isn't that gallons per truck load
9 as to how that works?

10 A Yes, that is correct. When you say truck load,
11 we would like to clarify that by saying depending on the
12 size of the batch it would be that many gallons per batch,
13 whatever the batch size is as specified on the batch ticket.

14 Q And that batch size and batch ticket would
15 typically be the truck yards and truck ticket listed over
16 toward the left side of that form?

17 A That is correct. In this case it was seven gallons
18 of water added to a five yard batch on Truck No. 29.

19 Q Right. And then the same truck it says came back
20 at eleven o'clock, had five yards in at that time too, and
21 nine gallons was added. Is that how that reads out?

22 A Yes.

23 Q Okay. And then the next batch was a different
24 truck. Had eight cubic yards and six gallons of water was
25 added to that.

1 MR. BAXTER: Objection, Mr. Chairman. We are just
2 reading the document into the record again.

3 MR. EDDLEMAN: I just want to make sure that I
4 know how to read it. I withdraw the question.

5 JUDGE KELLEY: If we can't assume that you can
6 read these documents, then I think you just withdraw the
7 contention and we will all stop.

8 MR. EDDLEMAN: I mean I want to make sure I am
9 reading it correctly, pardon me.

10 JUDGE KELLEY: That is what I meant. If you can't
11 read these documents correctly, then there is no point in
12 any of us being here.

13 MR. EDDLEMAN: Well, today I am not sure about my
14 abilities, but I have withdrawn the question.

15 JUDGE KELLEY: All right.

16 BY MR. EDDLEMAN: (Continuing)

17 Q The ambient temperature as shown on this form,
18 that is up in the upper right corner, is that air temperature
19 or concrete temperature?

20 A (Witness Garner) That is air temperature.

21 Q And the concrete temperature is listed in that
22 temperature column, as I think we have already established.

23 A That is correct. It is in the body of the form
24 under, 'temperature.'

25 Q All right. Now, is it standard in checking these

1 forms to make sure that the slump and air content are within
2 the specifications written on the form?

3 A It is standard ensuring that the slump and air
4 contents are within specification, not necessarily within
5 the numbers that are written on the form.

6 Again, we say that these requirements -- these
7 values are balanced against a specification, and not necessarily
8 the information that is at the bottom of the QA 34.

9 Q All right. But would that be something that is
10 checked by the people who sign this form, or would that be
11 checked by the person who accepts the entire package.

12 A That would be checked by the QA specialist that
13 signed this particular QA 24.

14 Q Would the person who signs on the concrete
15 placement report, the first sheet in the package, down at the
16 bottom, I think it says: Acceptance of placement methods
17 and completeness of above information.

18 Would that person check that, too?

19 A It may not necessarily be that particular person
20 who makes that check, but it is very possible that it could
21 it.

22 The batch tickets on which we record the results
23 as we are given them in the field by the QC tester, these
24 are reviewed and the inspector who was compiling the
25 information for the placement is the one who reviews these

1 batch tickets to ensure that results which were out of
2 specification are reported on a nonconformance report.

3 Q All right, sir. Let's see.

4 (Pause)

5 If we can go back to the direct prefiled testimony,
6 Mr. Garner when you are talking about attention to more
7 difficult areas of the placement, in this answer down on
8 lines 20 and 21, is that basically the same thing we have
9 been discussing earlier here about places where voids or
10 other problems could occur?

11 MR. BAXTER: What page, Mr. Eddleman?

12 MR. EDDLEMAN: Page 3. I thought I said that.

13 Pardon me.

14 A (Witness Garner) Yes, that is correct.

15 Q The inspection documentation I take it includes
16 beyond the pour packages, all the other documentation of
17 nonconformances or field changes?

18 MR. BARTH: Objection, Your Honor. Whether it
19 does or does not, this does not relate to whether the pour
20 packages themselves show something is wrong with the pour.
21 It is irrelevant.

22 JUDGE KELLEY: Could you tie me in on this page 3
23 now, exactly where you were.

24 MR. EDDLEMAN: I am down at the very bottom, Judge.
25 The last phrase in lines 23 and 24.

1 JUDGE KELLEY: 23?

2 MR. EDDLEMAN: Lines 23 and 24.

3 JUDGE KELLEY: All right. Page 3, lines 23 and 24.

4 All right, I am there. Repeat your question, please?

5 BY MR. EDDLEMAN: (Continuing)

6 Q The question is: Does the inspection documentation
7 include nonconformances in design changes and things that
8 aren't in the pour packages?

9 MR. BARTH: And the objection, Your Honor, was
10 that this is not relevant to whether the pour packages
11 themselves shows something is wrong with the pouring of
12 the concrete.

13 MR. EDDLEMAN: I think he is right. I withdraw
14 the question.

15 JUDGE KELLEY: All right.

16 BY MR. EDDLEMAN: (Continuing)

17 Q Let me see here. Mr. Garner, on page 7, when you
18 talk about consolidation of concrete, does that include
19 vibration?

20 A (Witness Garner) Vibration is a method by which
21 proper consolidation is achieved, and a consolidation is
22 the blending of the mix constituents together to the maximum
23 practical density, fitting tightly against all forms and
24 embedded items in the placement.

25 It is one of the aspects of the placement operations

1 that are involved in our inspections.

2 Q Okay. And were it not -- were it not properly
3 consolidated, that is where you could have voids or
4 honeycombing?

5 A If not properly consolidated, that is where you
6 could have voids or honeycombs, yes.

7 Q Thank you. On page 8, there is a discussion of
8 what happens when out of specification conditions are
9 found in either slump or air content. It says on lines
10 21 and 21 when that happens the placement is controlled
11 until further testing is conducted.

12 Does, 'controlled' there mean interrupted or
13 stopped?

14 A It could mean both. It could mean that we slow
15 the placement down, or that we completely stop the placement
16 until we do the testing on the next available truck, after
17 we have found that we have an out of spec condition in either
18 the air or slump, and then we will continue to test the
19 trucks until the concrete is brought back into compliance.

20 Q Now, by truck there, do you mean the truck loads
21 of concrete that are being delivered for the placement?

22 A Yes. The concrete -- the batches of concrete are
23 brought down on the concrete truck.

24 Q All right.

25 A (Witness Parsons) If we get an out of spec condition

12-3-Wal

1 on a load of concrete, the typical thing that we do is
2 reject that load of concrete, pull that truck out of line,
3 and back another one in.

4 So, the question you asked about whether we
5 stop the placement is a little difficult to answer. We
6 probably did not.

7 Q So, in other words, what you are saying is you
8 would typically just stop from using that truck load and
9 bring the next truck in, rather than stopping placing
10 concrete. You just wouldn't use the concrete that was
11 found to be out of specification.

12 A That is correct.

13 Q And would that normally show up then on these
14 concrete placement reports as the yards rejected?

15 A That is correct.

16 Q Okay. I think I am coming up against the edge
17 of my preparation, and also the edge of my ability to go
18 forward.

19 JUDGE KELLEY: Well, I understand. As we said
20 earlier, we would do what we could do, and maybe we have
21 about reached that point.

22 I want to make one further comment in regard to
23 the question of codes, national codes. I know earlier,
24 before lunch, Mr. Eddleman was asking some questions about
25 codes. It was reference to the front part of the EBASCO

1 concrete spec, and there came a time when I expressed my
2 doubt about whether we had that much occasion to get into
3 the codes, and I think what I reflected -- or hope I
4 reflected -- was my concern that we start getting a manageable
5 grip on this contention, and where we are going to go with
6 it.

7 It seems to me that we haven't just looked at
8 pour packages, because we all recognize we have to go
9 somewhere back of the packages as a matter of background
10 and the testimony of applicants, among other places, reflects
11 that, too.

12 So we spent some time asking questions. And
13 we ended up putting in the EBASCO concrete spec today
14 because that ties certain things together, and that seems
15 to make sense.

16 What was troubling me was whether we were going
17 to go a further step and start litigating whether what
18 was done here was consistent with various national codes.
19 It never occurred to me we would do that, and I don't
20 think the testimony addresses that really, in any direct
21 way.

22 I did look again at the Applicants testimony and
23 Mr. Stokes' affidavit, and the Applicants testimony, does
24 refer in various places to some code provisions, but not
25 with any particular specificity.

1 As I understand it, the intent is to say we
2 derived our procedures from national codes, in a general
3 way, but there isn't any text. There is no effort to
4 prove text of codes, and it doesn't seem to me that the
5 Applicants are putting at issue any detail litigation
6 of various ASTM code provisions.

7 Similarly, Mr. Stokes -- I looked over his
8 affidavit on a quick perusal -- and he doesn't refer to
9 any national codes that I could find. And I haven't looked
10 at the Staff's testimony from the same perspective, but
11 Mr. Barth, do you rely on the ASTM code text to any substantial
12 extent?

13 MR. BARTH: No, Your Honor.

14 JUDGE KELLEY: Okay. Well, that was my concern.
15 You know what we went through on the fire protection code
16 provision two weeks ago on a much narrower subject, and
17 I just thought if we had to had to, but it didn't seem to
18 me the contention itself put that at issue and that we
19 probably didn't have to get to that point.

20 MR. EDDLEMAN: Judge, not to be debating, but
21 just for information, I believe Mr. Stokes at the top of
22 page 7 of his affidavit does refer to a particular section,
23 4.3.5 of the American Concrete Institute 349 Code.

24 JUDGE KELLEY: Where is that?

25 MR. EDDLEMAN: Page 7 of Mr. Stokes affidavit.

1 JUDGE KELLEY: ACI 349, you are right. That is
2 one reference. Are there any others that you know of?

3 MR. EDDLEMAN: I just looked through it fast, too.
4 I don't want to be bound by what I can do today, but --

5 JUDGE KELLEY: I missed that one.

6 MR. BAXTER: And I also have to tell you that
7 at the bottom of 15, top of 16 of Applicants testimony,
8 we are taking issue with Mr. Stokes testifying that ACI
9 349 doesn't apply, rather it is ACI 359, and we do describe
10 in this one instance what a subsection of that code requires.

11 JUDGE KELLEY: Okay. In that kind of a case,
12 maybe it would be necessary to put the code text in and
13 have them in evidence so we can get that straight, but just
14 reflecting really a concern about taking these pour packages
15 and tracing them back to the ASTM codes from beginning to
16 end, and I just don't think that is doable, and I don't
17 think that is what this contention contemplates.

18 That was what I was referring to. This is all by
19 way of a general observation, but having said what I said
20 before, I wanted to indicate what my further review of
21 some of these materials seem to indicate.

22 I gather we have decided not to go forward with
23 the Monday hearing that we talked about for a while. That
24 seems to be the consensus?

25 MR. BAXTER: Well, we got left in limbo, Mr.

1 Chairman, in that Mr. Eddleman prefers not to have a hearing
2 on Monday because he has a better chance of getting well and
3 thinks he can prepare better, but he wouldn't commit to that
4 we would be done Wednesday evening either, is the way I
5 heard it.

End 12.
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1 MR. EDDLEMAN: What I said was, you know, as best
2 I can under the condition that you might have to go a little
3 bit later than your normal six o'clock on either Tuesday or
4 Wednesday perhaps, that I was going to do the best I could.

5 I just didn't want to make an absolute commitment
6 and in the condition I'm in I didn't want to say I guarantee
7 you a hundred percent, come hell or high water, that you will
8 be. I can guarantee you eighty-five percent.

9 JUDGE KELLEY: I understood that. I think the
10 Board is willing to go a little later than usual. We can go
11 until 7 instead of 6 if we need it to get something done.

12 We certainly do expect, in scrapping the Monday
13 project -- which I thought we had pretty much done although
14 we hadn't said it in so many words -- we expect to finish
15 this contention at the close of business on Wednesday,
16 whenever the close of business occurs.

17 Okay. Well, we would then plan to -- just a
18 minute. Hold on just a minute.

19 (The Board members are conferring.)

20 Well, the Board would like to set the 9:30 time to
21 start Tuesday morning with the expectation that we will go,
22 in any event, until 6:30 and if we need to go a little longer
23 out of lack of progress we can do that, too.

24 We have one ruling on a matter argued earlier in
25 the day, and that is whether the subpoenaed witnesses should

#13-2-SueT 1 be -- I think it was generally acknowledged that it would be
2 a panel set up. The question was whether it would be two
3 panels or one panel.

4 And we are going to rule that there should be one
5 panel of all five. It seems to us, from what we know of the
6 case and what we have heard, that there is good reason to
7 expect overlapping knowledge among these people. That's the
8 main reason to have a panel. It's more efficient. We will
9 go ahead and put them all on at once. We think we will get
10 a better record that way.

11 And we don't have any basis, any solid basis, for
12 creating two panels out of concern for candor or fullness of
13 testimony. One can speculate about how employees of a com-
14 pany react, whether they are more open in separated panels
15 along the line Mr. Eddleman suggested or just all at once.
16 But we don't think it's anything more than speculation.

17 And since we have a good reason on one side to have
18 one panel and nothing but speculation on the other, we are
19 deciding to have it done on the basis of one panel.

20 Is there anything else we should address this after-
21 noon before we stop? Mr. Eddleman.

22 MR. EDDLEMAN: Judge, if I could ask your indulgence,
23 and also to give you just a little extra insurance, there are
24 a couple of short question areas that occurred to me that I
25 would like to try to get through with these witnesses before

#13-3-SueT 1 they go out of my mind, and I think it will maybe take five
2 minutes or ten at the most.

3 JUDGE KELLEY: Yes, you can do that in just a
4 minute. Let me just finish checking around.

5 Anything else, Mr. Barth?

6 MS. MOORE: Yes, Mr. Chairman. The Staff has one
7 matter but it is unrelated to this contention.

8 JUDGE KELLEY: Okay.

9 MR. BAXTER: Mr. Chairman, I was going to propose --
10 I can do this after Mr. Eddleman has finished his examination
11 for the day -- if we have time this afternoon and without
12 asking for the Board's ruling in any sense, or necessarily
13 Mr. Eddleman's response, I would be willing to take the time
14 now to make my argument as to why I think rebuttal testimony
15 by Mr. Stokes on Tuesday would be inappropriate.

16 It could save some time.

17 JUDGE KELLEY: It sounds like a good idea. We have
18 been sitting here for an hour and a half. Can we take a five
19 minute break and then come back and finish this up, please?

20 MR. EDDLEMAN: Fine. I just wanted to make sure I
21 would be able to get hold of the transcript that gives Mr.
22 Baxter's argument that he makes now on Tuesday? Is that --

23 JUDGE KELLEY: We will have to talk to the reporters
24 and see what we can set up.

25 MR. EDDLEMAN: All right. That's the only concern

#13-4-SueT 1

I have. It's fine to have him go ahead.

2

JUDGE KELLEY: We will see what we can do.

3

MR. EDDLEMAN: All right.

4

JUDGE KELLEY: We will take a short break.

5

(Whereupon, the hearing is recessed at 3:30 p.m.,

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to reconvene at 3:40 p.m., this same day.)

7

JUDGE KELLEY: We can pick up here. Judge Carpenter will be right along. Why don't you go ahead, Mr. Eddleman?

9

MR. EDDLEMAN: All right.

10

BY MR. EDDLEMAN: (Continuing)

11

Q Gentlemen, when you -- your counsel I think made

12

reference to some comments of yours on Pages 15 and 16 about

13

Mr. Stokes' references to the ACI-349 concrete code.

14

I would like to refer you to Page 7 of his Affidavit.

15

Do you have that?

16

In the second line, he refers to Code Section 4.3.5 as providing guidance for accepting a pour, does he not?

18

A (Witness Kanakaris) Yes, he does.

19

Q And that's different than the sections that you

20

quote in your testimony, isn't it?

21

A That's correct.

22

Q All right. Now, if I could turn back to your

23

testimony, may we look at the top of Page 12 first? I apologize

24

for skipping around a little, but what I'm trying to do is

25

laundry list out a few things that are in my mind now so that

#13-5-SueT

I don't have to remember them over the week-end.

2 In the third line, reference is made to a workable
3 mix. Is there sort of a definition of workable mix in terms
4 of its properties like slump, for example, or consolidation?

5 A Well, the workable mix is whatever the construction
6 feels will be required to make the proper placement and obtain
7 the results that the specification requires to be obtained.

8 So, it's a matter of experience primarily and judg-
9 ment.

10 (Witness Parsons) If the question was directed
11 towards what a workable mix is, it's as George says. And I
12 tend to think of it as looking for something that has a, say,
13 higher slump or smaller aggregate or something else that would
14 provide a better probability that it can be consolidated and
15 worked through the reinforcing steel. Or, in the case of
16 what's in the testimony, could be properly consolidated up at
17 the dome, underneath the hub plate.

18 Q Okay. Down at the bottom of Answer 16 on that same
19 page, it refers to drilled core samples there. Were any
20 drilled core samples taken on any of the pour packages that
21 are in evidence on this contention, to your knowledge?

22 A Yes.

23 Q On which cores, do you recall?

24 A On the CB290001, which is Exhibit 10. Correction.
25 That's Exhibit 14.

#13-6-SueT

1 Q Exhibit 14? Is it the same pour number, 290001?

2 A Yes.

3 Q I noticed you gentlemen looking around. Are there
4 any others besides that to your knowledge?

5 A Not that I'm aware of.

6 Q True also, Mr. Garner?

7 A (Witness Garner) Not that I'm aware of.

8 Q Okay. Thank you. On Page 15, sort of the first
9 full paragraph after the indentation on Line 6, the reference
10 there to steel slick rods, what is a slick rod?

11 A This is a steel rod that is used to aid in consoli-
12 dation of the mix used in areas of dense rebar on the exterior
13 wall of the containment building. These rods were inserted
14 through the form work into the pour onto which form vibrators
15 were attached, and they were energized at periodic intervals
16 during the placement to aid in consolidation.

17 Q Okay. Now, what's a form vibrator?

18 A A form vibrator is another means of consolidating
19 concrete. It's a vibrator that is attached to the form and
20 it creates vibrations on the form itself.

21 (Witness Parsons) Now, they were not used by
22 attachment to the forms here. We need to make that understood.

23 Q All right. That's what I was trying to get at.

24 A The form vibrator is something that can be -- it
25 could be attached to anything, but it was manufactured to be

#13-7-SueT

1 attached to a form, and then when you turn it on it vibrates
2 the form. That's a rather risky thing, and we have never
3 used it in that situation, because you can turn the entire
4 placement liquid and then you greatly increase your pressure
5 and you might break your forms.

6 However, we did set up special placement techniques
7 out here which incorporated sticking what you would call
8 sacrificial steel rods through the forms back into the con-
9 crete in these areas of heavy reinforcement where you would
10 have a hard time getting a vibrator in. Those were left in
11 there. The concrete was placed, and as it rose up around
12 these forms, up around these slick rods, we would attach the
13 form vibrators and turn them on.

14 And this had the effect of vibrating that whole
15 rod back inside the placement. And we knew -- they had been
16 prepositioned so we knew we had something vibrating in the
17 areas that we felt it might be risky -- not risky but difficult
18 to get the conventional vibrator into it.

19 Q Okay. Now, if I understand it right the rod is
20 stuck through a hole where some kind of penetration of the
21 form into where the concrete is coming up.

22 A That's correct.

23 Q The form vibrator is on the outside and when the
24 concrete comes up, you turn it on, that shakes that rod.

25 A That's correct.

#13-8-SueT 1

Q Okay. You leave the rod in place in the concrete?

2 Is that how this happened?

3 A Yes. And it was intended to be left in there.

4 Q Uh-huh. Okay. And --

5 A After you leave it in place, of course, the
6 concrete sets up two or three or four days, you strip the
7 forms off. You have this rod sticking out. It's not part
8 of the design, it's not required. And, of course, it's an
9 eye sore and possibly a safety hazard if somebody would walk
10 by and bump their head on it.

11 We, therefore, cut it off just back from the sur-
12 face of the concrete and put a thin skin coat of patching
13 material over the visible portion of the rod so that it
14 wasn't visible.

15 Q So you kind of cut it off more to the surface and
16 patched over it; is that the idea?

17 A Yes. That's what we often call a cosmetic patch.

18 Q All right. Now, is the -- the vibration of this
19 rod, is it like back and forth along the rod or side to side,
20 or both?

21 A It's an oscillation. It would be up and down.
22 Sideways.

23 Q Up and down or sideways? In other words, if the
24 rods length is going, say, north/south, then the sideways would
25 be east/west?

#13-9-SueTj

A Yes.

2 Q Or up and down?

3 A Yes.

4 Q Okay. The reference to neat line there in Line 11,
5 just for clarity what is a neat line?6 A That's a term we use to describe the surface of
7 the concrete.8 Q So that would describe the edge of the top or the
9 side of the concrete?10 A Yes. That sentence could also read that these rods
11 were cut off below the surface of the concrete. And the
12 concrete was cosmetically patched.13 Q Okay. And that definition of neat line would apply
14 generally, though, it would be the surface?

15 A That's correct.

16 MR. EDDLEMAN: Let me see. I think I've covered
17 what I thought I could. But let me see.

18 Gentlemen, thank you. I believe that's all I have.

19 MR. BAXTER: Altogether, or for today?

20 MR. EDDLEMAN: No, no, no. For today. I'm sorry.
21 You see, I'm so out of it I almost gave the panel away.22 MR. BAXTER: When you say thank you, I usually
23 think that comes right with good-bye.

24 (Laughter.)

25 MR. EDDLEMAN: I can thank these gentlemen several

#13-10-SueT 1 times. I mean, I think they are worthy of it.

2 Let me just say also before I forget -- oh, goodness,
3 I looked at my note about Mr. Runkle and I see I have another
4 note about something else. I take it back, I've already asked
5 it. But Mr. Runkle didn't show up, and I gather that's be-
6 cause he is ill. And I will try to communicate to him what the
7 Board said earlier about the FOIA appeal. I will try to get
8 that information to him.

9 JUDGE KELLEY: Okay. And Mr. Baxter was going to
10 make his argument on a rebuttal point. Did you want to leave?

11 MR. EDDLEMAN: Yes. I asked off the record earlier
12 if I could be excused, because I'm not going to jump up and
13 down and scream during this argument anyway. And so I think
14 I could just as easily read it in the transcript and try to
15 respond to it.

16 MR. BAXTER: I'm hurt.

17 JUDGE KELLEY: You could lose some of the flavor.

18 (Laughter.)

19 MR. EDDLEMAN: I'm well aware of Mr. Baxter's
20 oratorical skills but right now I think I need medical atten-
21 tion instead of lawyers.

22 JUDGE KELLEY: Okay. Gentlemen of the panel, I
23 hope you have a nice week-end. We will excuse you for now
24 and expect to see you Tuesday morning. Thank you.

25 (The witness panel is excused.)

#13-11-SueT

1 MR. BAXTER: Mr. Chairman, Mr. Eddleman has indi-
2 cated this week that his witness, Mr. Stokes, is going to be
3 bringing with him to the hearing on Tuesday written rebuttal
4 testimony. So, obviously my argument now is without benefit
5 of having specifically reviewed that testimony, and there may
6 be even additional reasons why we think that procedure is in-
7 appropriate.

8 But right now I simply want to call the Board's
9 attention to a couple of principles and several facts. The
10 NRC's rules of practice do provide for submission of rebuttal
11 testimony, although in most adjudicatory forms rebuttal is
12 typically associated with the party which has the burden of
13 proof, which in this case is the Applicants. There is case
14 law within the NRC on --

15 JUDGE KELLEY: Where is the rule? Is there a
16 specific rule involved?

17 MR. BAXTER: 2.743(a). You will find it doesn't
18 give you a lot of guidance. It's simply --

19 JUDGE KELLEY: That's no surprise.

20 (Laughter.)

21 That's right out of the APA, that whole provision
22 I think. It's just lifted; it's very close. Go ahead.

23 MR. BAXTER: Case law in the Three Mile Island
24 Unit 1 restart proceeding has held that rebuttal should be
25 used only where material appears in the direct testimony of

#13-12-Sue

the other party that could not reasonably have been anticipated.

2 And we think that is the principle which the Board ought to
3 apply in this case.

4 The Applicants filed a motion for summary disposi-
5 tion of the previous version of the contention on --

6 JUDGE KELLEY: Do you have a citation of the re-
7 start?

8 MR. BAXTER: 14NRC1211 at 1560. It's a long
9 decision.

10 end #13
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1 JUDGE KELLEY: It is a long opinion.

2 MR. BAXTER: It is an initial decision of fact
3 findings.

4 JUDGE KELLEY: I interrupted you I think.

5 MR. BAXTER: The January 18, 1984 affidavit of
6 Mr. Parsons in support of our motion for summary disposition
7 has all of the information that is now contained in the
8 what I would call the first half or the general section of
9 our testimony which describes how concrete is placed, what
10 are the governing procedures, who designed it, what the basic
11 principles governing the containment design are and the
12 stance of honeycombing in the second basemat, which was
13 discovered and repaired according to site procedures.

14 Our filing of June 29, 1984 in response to proposed
15 Eddleman Contentions 65A and 65B, which included at that point
16 Mr. Stokes' affidavit, also contains a point-by-point rebuttal
17 to Mr. Stokes' affidavit and what he said about each of these
18 13 pour packages.

19 It is that Stokes' affidavit which is the direct
20 testimony Mr. Eddleman is presenting, and it is that point-
21 by-point analysis of June 29 which makes up the back half
22 of applicants' prefiled testimony.

23 So that our testimony on August 9, 1984, even
24 ignoring what we think Mr. Eddleman could have ascertained
25 and did ascertain through discovery, contains all the

Sinn 14-2

1 information that was in these previous two documents, and
2 we think there is absolutely no argument available to him
3 that we have presented information that is unforeseeable.

4 We are talking about a building that is built and
5 we are talking about documentation that pre-existing and
6 arguments that have been made back and forth on both sides.

7 Beyond that, of course, our separate objection
8 is simply to the lack of timeliness of filing this rebuttal.
9 This latest testimony of ours, which consolidates the
10 information in these two previous filings, was served on
11 Mr. Eddleman on August 9, 1984. That is by now two and a
12 half months ago.

13 Now that is unusual in NRC practice. The reason
14 that was filed so far in advance was to accommodate the fact
15 that we had a bifurcated management and safety hearing. So
16 all the testimony went in early. But certainly they have
17 had, he and his witness, Mr. Stokes, have had enormous
18 amounts of time if they felt rebuttal was necessary, to reduce
19 that writing and to provide it to the other parties. So that
20 maybe some effort could have been made to accommodate them
21 if that were desirable to do.

22 Now we have Mr. Stokes bringing to the hearing for
23 the first time some written testimony which is going to be
24 made available to us at that time, accompanied by a request
25 that we please accommodate him so that he can leave that day.

Sim 14-3

1 And without even seen it, these are the objections
2 we have to proceeding in that manner. I will probably have
3 more to say once we get a chance, if we do, to read that
4 testimony before or during the hearing on Tuesday.

5 JUDGE KELLEY: Just one comment which I would assume
6 anyway, but if you get it first thing Tuesday you will read
7 it over and then you can either confirm that there is nothing
8 new or you can address whatever is new at some later point,
9 right?

10 MR. BAXTER: I can have other people read it over.
11 I will find it difficult to read it while I am sitting at
12 counsel table.

13 JUDGE KELLEY: Not necessarily you personally,
14 I think the point that you make, if you did have these earlier
15 affidavits and if there is nothing in the rebuttal beyond
16 answering those affidavits, then we would have a problem
17 with it as rebuttal.

18 We hear your argument and we would just like to
19 hearing the further point once you have looked at it whether
20 you think that is the case or not.

21 MR. BAXTER: I will do that examination.

22 To sum up though, I think what we are talking about
23 here is an attempt to file direct testimony late and not
24 rebuttal testimony.

25 JUDGE KELLEY: Thank you.

Sim 14-4

1 Mr. Barth, do you have any comment at this point?

2 MR. BARTH: Not so elegant extempore. I would
3 prefer to address this after I see the testimony, Your Honor.

4 JUDGE KELLEY: Okay.

5 Well, hopefully -- not hopefully because this is
6 coming in Tuesday. We will have it first thing Tuesday
7 and then we will take some time to hear further rebuttal
8 maybe at mid-day or whenever we best can.

9 Does that cover that point then?

10 MR. BAXTER: Yes, thank you.

11 MR. BARTH: Yes.

12 JUDGE KELLEY: Anything else before we stop for
13 today?

14 Yes.

15 MS. MOORE: Yes, Your Honor. The staff had a
16 matter to raise with regard to pending motions for summary
17 disposition on Eddleman Contentions 144 and 154.

18 The staff's responses to those motions are due
19 on November 2nd. We would like to move the Board for an
20 extension of that date until November 8th.

21 I have spoken with Mr. Eddleman and with Mr. Baxter,
22 and they both have agreed to that extension. Mr. Eddleman
23 would like an equivalent extension for himself, and we had
24 no objection to that, of course.

25 JUDGE KELLEY: These are emergency planning points?

Sim 14-5

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MS. MOORE: Yes, Your Honor, the onsite emergency planning contentions

JUDGE KELLEY: Onsite?

MS. MOORE: Yes.

JUDGE KELLEY: Are they on a different track than the offsite things we were talking about before? I thought your motion which we gave the suspension on until, what, the 13th of November or something, does it not encompass what Ms. Moore is referring to?

MR. BAXTER: Those deadlines are last days for filing summary disposition motions. We have already filed two. We are agreeing to the extension.

JUDGE KELLEY: I understand.

MS. MOORE: Yes. These are responses to motions that have already been filed.

JUDGE KELLEY: Oh, okay, I understand. Granted.

MS. MOORE: Thank you.

JUDGE KELLEY: Anything else?

MS. MOORE: The staff has nothing further.

MR. BAXTER: Nothing from the applicants.

JUDGE KELLEY: 9:30, about, Tuesday morning.

Thank you.

(Whereupon, at 4:02 p.m., the hearing adjourned, to reconvene at 9:30 a.m., Tuesday, October 30, 1984, in the U.S. Bankruptcy Courtroom, Raleigh, North Carolina.)

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:

SHEARON HARRIS NUCLEAR POWER PLANT

DOCKET NO.: 50-400-CL & 50-401-OL

PLACE: APEX, NORTH CAROLINA

DATE: FRIDAY, OCTOBER 26, 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) Garrett J. Walsh, Jr.
(TYPED) GARRETT J. WALSH, JR.

Official Reporter

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