

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

NUCLEAR REGULATORY COMMISSION
Contention 5 Panel Meeting With CASE

8502260497 850221
PDR ADOCK 05000445
T PDR

Taken by: Carmen Gooden, CSR, RPR

February 7, 1985

Carmen Gooden
2727 BUFFALO DRIVE
ARLINGTON, TEXAS 76013
265-3481

LEWIS & CLARK CO. BAYONNE, N.J. 07002 FORM 404

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
CONTENTION 5 PANEL

CONTENTION 5 PANEL MEETING WITH CASE

Thursday, February 7, 1985
Arlington, Texas

This meeting was commenced at 8:30 a.m.

PRESENT:

EDWARD L. JORDAN
Director, Division of Emergency Preparedness
and Engineering Response
IE

RICHARD VOLLMER
Deputy Director, IE

ALAN HERDT
Chief, Engineering Branch
Division of Reactor Safety
Region II

ROBERT WARNICK
Chief, Projects Branch No. 1
Division of Reactor Projects
Region III

JAMES SNIEZEK
Director
Regional Operations and Generic Requirements Staff
Executive Director's Office

ASHOK THADANI
Chief, Reliability and Risk Assessment Branch
Division of Safety Technology, NRR

BOB MARTIN
Director
Region IV Office

VINCE NOONAN
Director of the Comanche Peak Project

STEVE TREBY
Office of the Executive Legal Director

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

JOE SCINTO
Office of Executive Legal Director

CLYDE WISNER
Public Affairs, Region IV

MS. JUANITA ELLIS
Citizens Association for Sound Energy

MR. JERRY ELLIS
Citizens Association for Sound Energy

MS. BILLIE GARDE
Government Accountability Project/
Citizens Association for Sound Energy

MS. DOBIE HATLEY
Gap/CASE/Whistleblower

THOMAS HENDERSON, JR.
Government Accountability Project

PROCEEDINGS

1
2 MR. JORDAN: The purpose of this meeting is to obtain
3 information from the Citizens Association for Sound Energy
4 related to Contention 5 by the Hearing Board. A similar
5 meeting will be held with Texas Utilities Generating
6 Company this afternoon. This information will be combined
7 with other information collected by the panel to form the
8 basis for the NRC staff determination regarding Contention
9 5. The text of Contention 5 from the Board Order is as
10 follows, and I will read into the record:

11 "Contention 5: The Applicants' failure to adhere to
12 quality assurance/quality control provisions required
13 by the construction permits for Comanche Peak, Units
14 1 and 2, and the requirements of Appendix B of 10 CFR
15 Part 50, and the construction practices employed,
16 specifically in regard to concrete work, mortar
17 blocks, steel, fracture toughness testing, expansion
18 joints, placement of the reactor vessel for Unit 2,
19 welding, inspection and testing, materials used,
20 craft labor qualifications and working conditions (as
21 they may affect QA/QC), and training and organization
22 of QA/QC personnel, have raised substantial questions
23 as to the adequacy of the construction of the
24 facility. As a result, the Commission cannot make
25 the findings required by 10 CFR 50.57(a) necessary

1 for issuance of an operating license for Comanche
2 Peak." And then there is a reference to the
3 material.

4 A panel of senior NRC managers was established by the
5 NRC Executive Director's Office on December 24, 1984, to
6 evaluate Contention 5. The membership of the panel was
7 revised January 16, 1985. The membership is comprised of
8 the following persons drawn from various NRC Offices:

9
10 Myself, Edward L. Jordan; I'm the Chairperson;
11 I'm the Director of the Division of Emergency
12 Preparedness and Engineering Response

13
14 Dick Vollmer, Deputy Director, IE

15
16 And if you will nod or something when you're
17 introduced so everybody will recognize you.

18
19 Alan Herdt, Chief of the Engineering Branch,
20 Division of Reactor Safety, Region II

21
22 Robert Warnick, Chief, Projects Branch No. 1,
23 Division of Reactor Projects, Region III

24
25 Jim Sniezek, Director of the Regional Operations

1 and Generic Requirements Staff, Executive
2 Director's Office

3
4 Ashok Thadani, Chief, Reliability and Risk
5 Assessment Branch, Division of Safety
6 Technology, NRR

7
8 I would also like to introduce the other NRC repre-
9 sentatives present today. On the extreme right, Bob
10 Martin, who is the Director of Region IV Office. On the
11 far left is Vince Noonan. He is the Director of the
12 Comanche Peak Project; and Steve Treby, the Office of the
13 Executive Legal Director; and Joe Scinto, Office of
14 Executive Legal Director. And I would like to introduce
15 Clyde Wisner of Public Affairs for Region IV. So I'll
16 refer public affairs-type questions to Clyde. I should
17 introduce our Court Reporter, Carmen Gooden, and then
18 advise you of the workings of the panel.

19 We are working closely with and we report our
20 findings to Vince Noonan, Director of the Comanche Peak
21 Project. We draw support and assistance from the NRC
22 staff who are responsible for conducting reviews,
23 inspections, and investigations on this matter.

24 The purpose of this panel is to evaluate, in an
25 integrated manner, the information developed by the staff

1 which bears upon quality assurance, quality control, and
2 overall plant quality; and in doing this, we will make a
3 staff determination regarding 10 CFR 50.57(a) as related
4 to Contention 5. We will provide panel testimony before
5 the Comanche Peak Atomic Safety and Licensing Board, if
6 required.

7 The panel is considering findings from past and
8 current NRC staff activities and applicant action,
9 including results from the following reviews:

- 10 1. Region IV inspections
- 11 2. The Construction Assessment Team inspections
- 12 3. Office of Investigation reports
- 13 4. Technical Review Team inspections
- 14 5. Enforcement actions
- 15 6. Special Review Team inspections
- 16 7. The Systematic Assessment of License C reports
- 17 8. Staff evaluation or analysis of the CYGNA Report
- 18 9. Staff summary of the Hearing Record

19 The panel is reviewing material prepared by staff
20 reviews, compiled data, discussions with staff reviewers,
21 the applicant and CASE and a site review. The panel is
22 reviewing the results of work by others rather than
23 performing direct reviews.

24 As discussed earlier in my telephone call with Ms.
25 Ellis, the panel requested this meeting with CASE to

1 receive information that should be considered in the panel
2 determinations. The panel will ask questions of CASE
3 representatives to clarify the members' understanding.
4 This meeting is scheduled from 8:30 until 11:00. CASE
5 will also be afforded an opportunity to make a brief
6 comment at the end of the meeting with the applicant this
7 afternoon. In order to use the time effectively, I would
8 like to ask Ms. Ellis to moderate CASE discussion within
9 the meeting time restraints.

10 I remind the participants that the panel is
11 endeavoring to cover the very large volume of information
12 directly relevant to Contention 5. We request specifics
13 rather than general comments. A separate panel is
14 reviewing the intimidation issue and will provide a staff
15 determination regarding the existence and materiality of
16 intimidation to the Contention 5 Panel.

17 Any new information should be separately directed to
18 Mr. Vince Noonan, Director of the Comanche Peak Project.

19 And we have an attendance list -- this is for the
20 participants -- we'd like to get your names on it so the
21 Court Reporter will be able to maintain the record
22 accurately.

23 This meeting is being transcribed and copies will be
24 provided to the parties in the hearing and to the Public
25 Document Room. Additional copies can be obtained from the

1 Public Document Room, and that telephone number is
2 1-800-638-8081. To help establish a clear record, each
3 speaker should identify his or her self and speak loudly.
4 There is a microphone at the podium, but there are no
5 microphones at the table. We plan to run until 11:00 with
6 a break about 10:00. With your indulgence, the panel will
7 interrupt discussion to clarify a discussion point.
8 Otherwise, we let the discussion run. I would like to
9 reserve a few minutes at the end of the discussion for
10 panel questions, and that will be from any one who has a
11 question.

12 With that, Ms. Ellis, I would like to turn it over to
13 your organization.

14 MS. ELLIS: I'm Juanita Ellis. I'm President of
15 CASE, Citizens Association for Sound Energy, and we are
16 the only remaining intervener in the operating licensing
17 hearing for Comanche Peak. With me is Billie Garde, who
18 is the Citizens Clinic Director of Government
19 Accountability Project, GAP. Ms. Garde has been assisting
20 Tony Roisman of Trial Lawyers for Public Justice in the
21 other part of our hearing, the intimidation portion of the
22 hearing. We had hoped that we would have two of our board
23 members here as well, but unfortunately one of them came
24 up ill and the other one decided to stay at home and not
25 give everybody the same thing.

1 My husband also is in the audience, and to my right
2 is Dobie Hatley, who is representing whistleblowers at the
3 meeting; and she will have a few comments as we go along
4 regarding some of the things that we'll be dicussing. I
5 believe also in the audience is Tom Henderson with GAP,
6 and we would have liked very much to have more CASE
7 members here today as well, but most of our membership
8 does work and it's very difficult for them to get away to
9 meet with us.

10 We thought that we would make a very -- rather brief
11 presentation and give you a little idea of who we are and
12 where we're coming from, and following that we would like
13 to also make a presentation which sort of summarizes
14 CASE's position, and we'll be discussing some specific
15 things. These positions will be discussed in a little
16 more detail later by the three of us up here.

17 The first thing is regarding design questions, which
18 we consider very important, and we consider that the
19 design questions need to be resolved first before the
20 construction aspects are looked at. The second thing is
21 that audit which was done by CYGNA Engineering Services
22 has not answered the questions on design. Third is that
23 the Technical Review Team has now confirmed that there are
24 wide-ranging QA/QC problems which workers have told us and
25 which we had passed along to the NRC for many, many years.

1 However, it must be recognized that the TRT findings have
2 been a non-random sort of sample, and primarily concern
3 construction and hardware, though they did get into some
4 other areas as well, and can't really be prudently
5 assessed as being really comprehensive. So it is one
6 phase of a series of things that you must look at.

7 I might add this point, too, that we are very
8 appreciative of the Technical Review Team's efforts. It
9 is very obvious that they have done a lot of digging, and
10 we realize that it hasn't been easy, and we do appreciate
11 their efforts. One of the things that we know has been a
12 handicap is the fact that many of the people that they
13 needed to talk to to confirm some of the things are no
14 longer at the plant, and many of the things which they
15 might have looked at had been covered by other things, so
16 it has been a very difficult effort and we understand that
17 and appreciate that.

18 The fourth thing is the only solution at this point
19 regarding construction and hardware is, we believe, to
20 either abandon the plant or to redesign and rebuild it.
21 The fifth is that the only basis on which the NRC staff
22 can make a decision regarding the construction and
23 hardware is to institute a 100 percent properly done
24 reinspection by a truly independent organization to
25 determine how many problems there are and how much it's

1 going to cost to fix them. Then we would like to give you
2 an idea of what we view as your options.

3 Then we'll have a few questions for the panel and
4 also we'll have a listing of some things that we think
5 that you should be very sure to look at, and then
6 hopefully some general discussions about the different
7 things as we go through here, when we get to the end of
8 each item, if there are any questions.

9 I'd like to give first of all a little bit of
10 background about CASE. CASE is a non-profit, public
11 interest group which was organized in 1974. We are -- we
12 don't have any paid members or paid workers. As a general
13 rule, all of our members are volunteers. From time to
14 time we have been able to raise sufficient funds to enlist
15 the aid of attorneys or people, not on a continuing basis
16 but sort of as a real emergency arose, and we've had
17 several of those along.

18 We were very fortunate in 1983 to have been able to
19 get assistance from the Government Accountability Project
20 and Ms. Garde with whistleblowers, more specifically with
21 helping to protect whistleblowers and their rights,
22 because we're not normally represented by an attorney.
23 I'm not an attorney, and we don't normally have that sort
24 of assistance. We've felt that we needed that very badly,
25 and GAP did step in and help us out with that and has been

1 assisting since then.

2 We also were very fortunate in 1984 to have been able
3 to obtain the assistance of Tony Roisman with Trial
4 Lawyers for Public Justice, and he has, as I mentioned
5 earlier, been representing CASE with Ms. Garde acting as
6 his law clerk in the intimidation portion of the
7 proceedings. Had we not had that sort of help, I really
8 am not sure what would have happened in the intimidation
9 portion of the hearing because I would have been very
10 reluctant, having gone through some of the proceedings
11 myself, to have had witnesses on the stand without having
12 legal counsel with them.

13 We started out in 1974. One of our primary concerns
14 has always been the Comanche Peak Nuclear Plant. We
15 started out as a handful of people who had some general
16 concerns about the plant, who did not think this was
17 needed in this area in that time frame. We had some
18 general concerns about nuclear power. We were far from
19 being experts, and one of the things that developed was a
20 real understanding of the need for an organization such as
21 ours. Through the years we have intervened in all the
22 Dallas Power and Light rate hearings and recently have
23 been consolidated into the Texas Utility Electric Company;
24 and we have intervened in all the rate hearings since
25 1974.

1 We also in 1979 were accepted as an intervener in the
2 operating license hearings, and we are the only remaining
3 interveners out of the three initial interveners, and we
4 have been very active, as you may be aware. We have been
5 very fortunate in another regard. We have had some
6 witnesses and whistleblowers who have come forward to help
7 bring us the truth about the way the plant has been built,
8 many of them at great risk and great personal sacrifice.
9 One of the most disturbing things, I think to me
10 personally and to CASE as an organization, has been the
11 realization that many of these whistleblowers literally
12 have had their lives changed forever in bringing forth the
13 truth about the way the plant has been built. Something
14 is drastically wrong with the system when that has to
15 occur.

16 These are just a few of the things about that, about
17 our group. There is one other thing that you should know
18 about CASE that is a little different from perhaps most
19 groups that you have dealt with or some of the groups you
20 have dealt with. CASE is not anti-nuclear, per se. We
21 are anti-sloppy workmanship, anti-cover up, anti-excessive
22 electricity costs, and in this case that means we're anti-
23 Comanche Peak, because Comanche Peak fits all those
24 descriptions.

25 We do a little differently from most organizations.

1 We always work within the established system. We don't do
2 marches; we don't climb fences. We do things like we're
3 doing today. We end up in hearing rooms doing the many,
4 many drab, dull sort of things that go along with
5 proceedings like this. Many of our members -- and I think
6 it's very important that you realize this -- many of our
7 members, although we do have some who are admittedly anti-
8 nuclear, a vast majority of our members, I will say are
9 pro-nuclear, many of them very strongly pro-nuclear. It's
10 important to realize this because the connotation which is
11 given to groups like ours which intervene at hearings like
12 this is that you're anti-nuclear. It's a very easy cop-
13 out for the Utility or for pro-nuclear forces who are
14 trying to push getting plants on line. It's very
15 difficult for them to deal with the fact that there are
16 many, many people in this country who are very concerned
17 about nuclear power, who want to see it developed as a
18 viable energy source in this country, who believe very
19 strongly that it simply has to be done right; and these
20 people believe that it is not organizations like ours who
21 are at fault in slowing or stopping nuclear power at the
22 power source. It is, rather, the type of workmanship, the
23 type of management which allows problems to develop and
24 does not address them as they arise. We think that's one
25 of the main things that you should remember when we're

1 talking about all of this.

2 Another thing that should be noted is that you hear
3 very often that groups like ours are concerned about
4 nuclear power because we don't know the facts. That
5 simply is not true. The reason we're concerned about
6 Comanche Peak is because we do have facts, most of them
7 from the Utilities' own records, from the NRC records,
8 from the records that you will be looking at, and that we
9 will help, hopefully, to guide you to so that you can see
10 some of the things which have disturbed us so very much
11 over a period of years. There are so many things that you
12 need to look at. When I get to that list, it will be
13 pretty staggering, but I think it's important that you
14 look at much of the raw data yourselves, and I'd like you
15 to be thinking about that, particularly in regard to the
16 engineering aspects. There simply is no substitute for
17 looking at a drawing if you're an engineer, looking at
18 calculations to see for yourself what's been done, and not
19 summaries of them. We'll be getting into that more a
20 little bit later.

21 That's just a little bit about the background of
22 CASE, and I think Ms. Garde -- I'd like for her to say
23 something to you about GAP.

24 MS. GARDE: Very briefly, because I know most of the
25 people on the panel have worked with the Government

1 Accountability Project before, but for those of you who
2 have not, GAP is a public interest group. It also started
3 around mid-1970. It was formed and is still primarily an
4 organization that serves the needs of federal workers who
5 have exposed problems within the government and have
6 either lost their jobs or in some way been penalized for
7 federal whistleblowing.

8 In mid-1980 or early 1980, GAP was approached by a
9 whistleblower from Zimmer, Mr. Thomas Applegate, and we
10 got involved in our first, shall we say, nuclear case. In
11 that case and the ones that followed, we began
12 investigations of a number of plants and how the NRC was
13 handling investigations into those concerns raised by
14 workers. In those early days of our investigations, and I
15 think of the NRC's, dealing with whistleblower
16 allegations, it was a real trial and error on how to deal
17 with them. I think that both organizations made a lot of
18 strides forward in Region III and a lot of advancements,
19 although we spent a lot of time at tables like these. We
20 are not, like CASE, an anti-nuclear organization. We have
21 no position on nuclear power at all. We are a public
22 interest law firm; that is, we represent the concerns of
23 our clients. Our clients are by and large 100 percent
24 pro-nuclear workers, engineers, welders, documentation
25 clerks, from all strata of plants. Now, some of those

1 people, after becoming completely disgusted with the
2 process, become convinced that nuclear power is not viable
3 in this country because it cannot be accomplished
4 according to the rules and regulations that make it safe.

5 As Ms. Ellis described, our position on the steady
6 drumbeat of the anti-nuclear charge is that it's a smoke
7 screen for the Utility Company, it's a smoke screen
8 largely adhered to by all of the members of the Atomic
9 Industrial Forum and heavily used, but it diverts
10 attention from the prime questions that GAP and the
11 whistleblowers are asking, which is why did something
12 happen. I do not think that the NRC has really ever
13 bought that line. I know that Mr. Keppler and Mr. Warnick
14 never did. We've dealt with the concerns that if we
15 brought them in a professional manner -- Mr. Vollmer, I
16 think you spent a lot of time in Diablo Canyon -- I don't
17 think that the people at this table believe that, but I
18 think that it's very important, particularly,
19 Mr. Martin, because your PR department is also espousing
20 that, and that's incorrect, and I think that that needs to
21 be corrected on the public record now. GAP is not anti-
22 nuclear; it never has been, never will be. The concern is
23 that the plants being built in this country are being
24 built right, where workers come to GAP and say there's
25 something wrong at this plant. We don't go out looking

1 for plants to investigate. We don't call up citizens'
2 organizations and say, "Can we come help you?" We've got
3 more than enough to do, and we've got many, many requests
4 from groups and plants that we can't honor because we just
5 don't have enough manpower.

6 I got involved in this case about a year ago and have
7 been spending the majority of my time attending harassment
8 intimidation hearings and the GAP investigation,
9 approximately about 80 percent of my job for the last
10 year.

11 So I'm glad you're here. I think we need to get down
12 to business. We've got a lot to talk about.

13 MS. ELLIS: I think the first item that should be
14 discussed is that we'll be talking in a moment, and
15 Ms. Garde will cover this in more detail, about the
16 documents that have been handed out to you this morning.
17 Does everybody have a copy, by the way? This was a
18 pleading which was filed this week by CASE in the
19 intimidation portion of the hearings, and asks for a 100
20 percent reinspection of the construction and hardware at
21 the plant. I want to take just a moment to tell you
22 CASE's position regarding something else, and that is the
23 design issues which have been raised in these proceedings.
24 Our position is that it makes absolutely no sense at all
25 and it is totally irrational and imprudent to even

1 consider going out and doing any kind of reinspection of
2 the hardware until the design issues are taken care of.
3 It doesn't make any economic sense, it doesn't make any
4 sense as far as the amount of time spent, to go out and
5 look at the plant when you know there is a very good
6 likelihood that there are problems in design which will
7 necessitate having to go out later and tear out supports
8 or whatever needs to be done and redesign things and then
9 go back later and look at the hardware. It makes no sense
10 to find out whether or not a support is built to a drawing
11 if that drawing is wrong, if the design is wrong. This is
12 our basic position, that the prudent course would really
13 be for the applicants to say right now, "All right. We
14 realize we have some problems with design. We want to go
15 out and take a look at those. We want to get those
16 settled, then we'll go back and look at the hardware." I
17 can assure you the applicants are not going to tell you
18 that this afternoon. I would be totally amazed if they
19 did. We think that that is the only prudent way. In the
20 real world, however, it appears that that decision has
21 already been made to a certain extent. It appears that
22 there will be some sort of a reinspection allowed by the
23 NRC with the Utility doing it. Our concern is that this
24 should be done correctly. We don't want any half-way
25 measures taken. We don't want this looked at by the

1 Utility who is, after all, the one that created the
2 problem to begin with. It should be looked at thoroughly,
3 it should be looked at by confident people under the
4 proper guidelines and so forth, and Ms. Garde can talk
5 about that in some detail later.

6 We fully believe that these applicants will insist on
7 doing the imprudent thing in our estimation, that they
8 will go ahead and want to look at whatever the NRC makes
9 them look at at this point in time. We believe at this
10 point in time that their primary goal is to get a license
11 for the plant. We also believe that this is primarily
12 motivated at this point in time, not by safety aspects,
13 but by economic factors. It's far less expensive for them
14 to spend two or three billion dollars a year litigating
15 this case than it would be for them to have to go out and
16 tear out supports, redesign them, reanalyze them, do
17 inspections and so forth. I think that the key factor
18 when you're talking to them that you need to keep strongly
19 in mind because even though the NRC supposedly is not
20 supposed to be considering the economic impact, in the
21 real world we all know that's not true. In fact, in the
22 design decision, following motions for reconsideration,
23 the Licensing Board stated that in many ways it was not
24 fair to CASE to have to go back and relitigate things on
25 design issues because the applicants had not met their

1 burden of proof, they had not proved the design was
2 satisfactory; and yet they made us relitigate this, and
3 the basis for that was it didn't make any sense to have
4 this multi-billion dollar plant sitting down there idle
5 without giving the applicants another chance to prove
6 their case.

7 So, we are in a situation where the design has to be
8 considered, has to be looked at, and we think it should be
9 done first. To do that, we think the Licensing Board has
10 to complete its consideration of the design issues. If
11 the design proves inadequate or questionable or if the
12 applicants again fail to prove their case, which we think
13 they have done already -- they have not proved their case
14 -- the Licensing Board, we believe, should deny the
15 license at that time. However, in the real world, that
16 may not happen, even if the Board decides that they have
17 failed again to prove their case. If that does not happen
18 or if the design is found to be indeterminate or deficient
19 but the Licensing Board does not deny the license, at that
20 time there should be 100 percent reinspection of the
21 design, again, done properly and, we believe, under the
22 auspices of the Licensing Board. We believe that this
23 should be open to public scrutiny, it should be with
24 proper discovery so that we have access to all the
25 documents necessary to analyze and see what has gone on,

1 and to see the adequacy of whatever review is done. After
2 whatever has taken place about the design that needs to be
3 done, redesigning, reconstructing, whatever is necessary,
4 then a 100 percent reinspection of the hardware would
5 still be necessary because of the things that have already
6 been found and are already in the record or will be soon.

7 This is the way CASE believes it should be done, and
8 as we stated, we think it's imprudent and illogical to do
9 it in the other order, but in the real world we don't
10 think that's what's going to happen. Therefore, we think
11 it's very important that this be done right, that a 100
12 percent reinspection of the hardware be done if there's
13 going to be any kind of reinspection done, and that that
14 be taken care of right now. And Ms. Garde will get into
15 detail about that in a few minutes.

16 The second thing is that the CYGNA audit has not
17 answered the questions on design. First of all, CYGNA has
18 lost any semblance of independence that it had. There
19 have been questions raised before about the independence
20 of CYGNA, but there are some recent developments which
21 also clearly indicate a loss of independence. One is that
22 CYGNA is relying upon affidavits attached to the
23 applicant's Motions for Summary Disposition on some of the
24 design issues to answer some of CYGNA's questions to the
25 applicant, but according to what CYGNA has said recently

1 in a meeting with the NRC, without CYGNA's having been
2 supplied with CASE's answers to those Motions for Summary
3 Disposition. So CYGNA is, to coin a phrase, "not playing
4 with a full deck," because they don't have all the
5 information that they really need to have to look at these
6 things adequately. But their independence has been
7 damaged because of the fact they are relying on the
8 applicant's answers to these particular items.

9 The second thing is that CYGNA's discussions with the
10 NRC staff in recent meetings that they have had have, we
11 feel, alerted CYGNA to some areas which CYGNA had not
12 identified or adequately considered independently. CYGNA
13 should have found those things themselves without anyone
14 having to alert them to it. This also, we feel, has
15 damaged their independence.

16 The third thing is that in a recent filing, CYGNA
17 indicated that they are relying on the NRC staff's
18 investigation into certain problems, and they will not be
19 conducting their own independent evaluation.

20 And a fourth category is that there are some problems
21 which CYGNA considers to be potential problems, which they
22 have identified as potential problems, but which the
23 applicants have not authorized CYGNA to pursue. We think
24 this also damages their independence.

25 Another aspect regarding the CYGNA audit is that the

1 applicants have not done what they told the Licensing
2 Board they would do with regard to what is called the
3 Walsh-Doyle allegations. These are issues on the design
4 which were raised by two engineers who worked at the
5 plant, Jack Doyle and Mark Walsh, and there are several
6 instances of this. One thing is that in February of 1984,
7 the applicants told the Licensing Board that they would
8 provide CYGNA with all of the documents that were in the
9 public records regarding the Walsh-Doyle allegations.
10 According to what CYGNA said recently in a meeting with
11 the NRC, they did not do this. CYGNA has not had access
12 to the documents regarding the Walsh-Doyle allegations
13 that they need to have in order to be able to adequately
14 address those issues.

15 In addition, it's noteworthy that CYGNA in most cases
16 has not identified those issues themselves. Another thing
17 is that the applicants were requested by the Licensing
18 Board to include the Walsh-Doyle allegations in CYGNA's
19 checklist. They did not do this, and apparently the
20 applicants did not ask them to do this. So the CYGNA
21 audit in many ways has not been as helpful to the
22 Licensing Board as everyone expected it to be. CYGNA has
23 addressed a few aspects of a few of the Walsh-Doyle
24 allegations in a piecemeal fashion so that's it's very
25 difficult, if not impossible, to be able to really know

1 what they have covered as far as the Walsh-Doyle
2 allegations go.

3 Another thing which has happened recently is that
4 CYGNA is now backtracking on its earlier conclusions with
5 the result that no one, apparently even CYGNA, at this
6 point can be certain what CYGNA's position is going to
7 finally end up being. One of the things that comes to
8 mind immediately -- let's see if I have a copy here -- the
9 January 25, 1985 letter from CYGNA to Mr. Noonan attached
10 a listing of several items. I'll read just one of them
11 here to give you an idea of some of the things that are
12 beginning to happen. CYGNA initially did Phase 1 and
13 Phase 2 reports together. It was filed jointly. In that
14 report their basic conclusion was that everything was fine
15 at the plant. Had anybody relied on that report and only
16 on that report without reading the transcripts of the
17 meetings, without reading the transcripts of the hearings,
18 and without seeing further discussions and pleadings that
19 went back and forth regarding the Walsh-Doyle allegations
20 and other things, they would have a totally deficient view
21 of what the true situation is about the plant.

22 You can't rely on that, and CYGNA as much as admits
23 that in this one statement which I'll read. This is on
24 Attachment B, Sheet 2 of 6, Item 3, the cable tray conduit
25 supports, which CYGNA looked at in Phase 2 and Phase 4

1 which are still undergoing right now. "CYGNA reviewed
2 cable tray support designs as part of the Phase 2
3 workscope and is currently reviewing both cable tray and
4 conduit support designs as part of the Phase 4 workscope.
5 As a result of the Phase 4 reviews, CYGNA is withdrawing
6 all Phase 2 conclusions for both technical adequacy and
7 design quality assurance of cable tray support design."

8 It's now obvious from reading the document I was just
9 reading from that it will be absolutely essential for
10 CYGNA to complete its Phase 4 review before hearings can
11 be held on the CYGNA reports, before we can continue
12 hearings. Their current projection on that is early May,
13 and knowing the way these things go, it probably will take
14 longer than that. So we're looking at some time down the
15 road before further litigation on CYGNA reports will be
16 possible or feasible.

17 This leaves a big question mark about CYGNA. Where
18 do we go from here about CYGNA? It must be obvious to
19 everyone now who has really looked at the report that the
20 CYGNA audit has proven to be basically worthless as far as
21 resolving the concerns about the design and construction
22 of Comanche Peak. The first option that comes to mind is
23 trash the report. CASE doesn't support this option,
24 however. We believe that the CYGNA reports are
25 instructive in many ways and should be utilized to the

1 extent possible, but with certain important caveats which
2 have to be included. It first must be recognized that, as
3 mentioned before, had anyone relied on the initial CYGNA
4 report, they would have thought there were no real
5 problems with the design and construction, but it's now
6 obvious from CYGNA's own recent findings that there are
7 many open items yet to be resolved. Even without CYGNA's
8 having independently identified the problems, there are
9 still many which they have identified, and without their
10 having been supplied with sufficient information regarding
11 the Walsh-Doyle concerns.

12 Further, CYGNA has recently raised questions and
13 concerns with the applicant, even without having seen some
14 of the Walsh-Doyle concerns, which supports some of the
15 things that we also have raised regarding the Walsh-Doyle
16 issues; and we think it's important that this information
17 be included in the record and that it be noted as being
18 independent verification of some of the things that CASE
19 has raised.

20 In addition, the CYGNA audit is important because it
21 clearly demonstrates the sheer folly of the NRC allowing
22 any applicant for an operating license to select their own
23 independent auditor and set up the terms and conditions of
24 the audit, including limitations as to what and how much
25 is to be looked at. It also calls into question any and

1 all other similar kinds of audits which the NRC has
2 allowed applicants to use at other plants. CASE's
3 position, which we are just in the midst of formulating
4 and we don't really have this firmed up, but we will be
5 filing something shortly with the Licensing Board, which
6 will go into more detail and have further references. Our
7 current thinking is that the Licensing Board should
8 continue with hearings on the CYGNA reports when CYGNA
9 completes its Phase 4 report on those items which CYGNA
10 has identified as being potential problems, and that such
11 potential problems should be pursued and adequately
12 addressed and resolved in the hearing process. However,
13 any conclusions which CYGNA might reach on any particular
14 item, especially where they have reached a decision that
15 something is not a problem, cannot be relied upon because
16 they do not have all the necessary data and facts to come
17 to a conclusion like that.

18 So these are some of the things about the CYGNA audit
19 that we think it's important for you to realize, and we
20 will, of course, be sending you copies of our more
21 thorough analysis of it as soon as we get it done.

22 MR. VOLLMER: Are you planning on summarizing what
23 you feel are the principal design issues? We're certainly
24 aware of a number of them and we're aware of the CYGNA
25 work, but it would be helpful if you could point out the

1 principal design issues that you think we should reflect
2 on.

3 MS. ELLIS: That's a rather difficult question. To
4 do that and for you to do a thorough job -- and this is
5 something we're very concerned about because we realize
6 you are under time limitations and so forth and that you
7 do plan in many instances to look at some of these -- you
8 would have to look at the boxes of documents that Paul
9 Chen carries around with him all the time, and there's an
10 awesome amount of paper work, but we think it's definitely
11 necessary if you're to come to a proper conclusion about
12 this plant.

13 MR. VOLLMER: We talked to Mr. Chen, as you are
14 aware.

15 MS. ELLIS: In addition, I guess our basic document
16 on it would be, I guess, the August 22, 1983 Walsh-Doyle
17 findings, proposed findings in the CASE file. Most of you
18 probably have seen that. I think it was, like, 447 pages
19 or something. That would be the basic summary of the
20 Walsh-Doyle concerns except that there are hearings which
21 have gone on. For instance, some of the hearings with
22 CYGNA which have gone on since that time on which findings
23 have not yet been prepared, and at this point in time,
24 until that is done, in order for you to get a full view of
25 what's gone on, you would just about have to review those

1 transcripts for yourself. Right now there's just no other
2 way. In addition, the Motions for Summary Disposition
3 must be looked at and all the pleadings that have gone
4 back and forth; there were many, many affidavits that were
5 filed back and forth about the Walsh-Doyle allegations.
6 There's been sort of hearings by mail about the Walsh-
7 Doyle allegations, including Motions for Summary
8 Disposition in all these affidavits. All of those things
9 must be looked at as far as the Walsh-Doyle issues go.

10 MR. SNIEZEK: Ms. Ellis, I had a couple of questions.
11 You mentioned that loss of independence on the part of
12 CYGNA and the fact that they were relying on affidavits
13 attached to applicant's summary disposition and CASE's
14 response to those. Is that --

15 MS. ELLIS: Excuse me, not our responses. It's our
16 understanding, at least from the meetings they've had with
17 the staff recently, that CYGNA was not provided our
18 answers.

19 MR. SNIEZEK: Is it clear which issues they were
20 relying on the applicant's affidavits? Is that clear from
21 the records some place?

22 MS. ELLIS: I don't know if it's really all that
23 clear. In some instances they have filed things where
24 they have referred to specific affidavits. It's our
25 understanding from our reading of the transcript of the

1 meetings that they have, where CYGNA has identified a
2 problem that is included as a Walsh-Doyle allegation as
3 well, the applicants have supplied them with their
4 affidavits and said, "Here's our answer to your question."
5 That's our understanding of what's transpired about that.
6 It's not necessarily all the affidavits. We don't really
7 know exactly which they are.

8 MR. SNIEZEK: The other question that was somewhat
9 related: You mentioned that CYGNA has not been authorized
10 by the applicant to follow up on some areas. Is that
11 documented some place or do you have any specifics that
12 you can give us?

13 MS. ELLIS: Yes, it is. I brought a copy for Billie
14 of this. I'll give you a copy of it here. It was sent
15 recently to the Licensing Board as well. I don't have the
16 cover letter for that.

17 MR. SCINTO: What's the date of that letter, Ms.
18 Ellis, for the record?

19 MS. ELLIS: January 25th.

20 MR. THADANI: We have copies of that. I think it's a
21 letter from CYGNA to Vince Noonan.

22 MS. ELLIS: Also, Billie has reminded me that also
23 confirmation of this is in the transcript of some of the
24 recent meetings with CYGNA and the NRC, so that also would
25 be in the transcript of those hearings, of those meetings.

1 I think that that is something else that you should be
2 sure and look at, by the way, from the transcript of the
3 recent meetings that have occurred since findings were
4 done in the Walsh-Doyle issues.

5 MR. SNIEZEK: Let me back up to the first issue you
6 raised, if you don't mind. You mentioned that you believe
7 any design inspection or reinspection should be under the
8 auspices of the Hearing Board. Why do you specifically
9 state the Hearing Board?

10 MS. ELLIS: One of the problems is that CASE as an
11 organization is committed to getting things in the public
12 domain so that people will know what's going on. We're
13 very much concerned and opposed to closed-door meetings
14 and so forth, or closed-door reviews in which we have no
15 hand, where we cannot get discovery on the documents
16 reviewed, this sort of thing. We think it has to be
17 public so that we can adequately review it. That's our
18 primary concern.

19 MR. SNIEZEK: I understand.

20 MS. ELLIS: I believe I have covered the points I
21 wanted to make on that. Next, Dobie Hatley will discuss
22 the Technical Review Team findings.

23 MS. HATLEY: I was only told yesterday that I would
24 be doing this, so forgive me for not being prepared better
25 than I am. All I have to say to you is what happened as

1 far as whistleblowers are concerned. My name is Dobie
2 Hatley. I worked at Comanche Peak for five years in
3 supervision in the document control area until one year
4 ago today when I was terminated.

5 The work force at Comanche Peak and the workers,
6 without a doubt in my mind, are some of the best that
7 there is anywhere. I think they're conscientious. I
8 think they wanted to do the best job that they know how.
9 They have given their whole lives to it because we worked
10 long hours and that's all you had to do. So I was
11 disappointed when I found out that management's
12 inattention to the problems that did exist was
13 intentional. They don't want to know what the problems
14 are when the workers come to them and tell them. In fact,
15 they discredit the workers and in many cases have ruined
16 their lives. So my biggest concern is the fact that they
17 have been successful in doing this.

18 None of us, when you're on the inside, knows what a
19 whistleblower is. That's a word you learn when you come
20 out. None of us knew what GAP was. None of us knew what
21 CASE was, any of those things. This is the people that
22 have come out in the last year since I have, approximately
23 50 people doing allegations. We all only know that things
24 at Comanche Peak are not right. We worked there and we
25 know that.

1 We were very fortunate whenever the Nuclear
2 Regulatory Commission decided that we had some valid
3 complaints to look at, and Mr. Ippolito come down and did
4 a preliminary study to see what he thought. And it kind
5 of broke down in July; like, we kind of felt like we'd
6 been a little bit betrayed because we didn't think the
7 issue had been looked at properly, but they didn't have
8 enough time or the expertise to do it and we had not
9 worked with the NRC -- I'm talking about the
10 whistleblowers now -- and so it was just about as much our
11 fault as it was theirs that they hadn't worked, because we
12 weren't cooperating either, so we decided as a group that
13 if this thing was going to work, this was the way it would
14 have to work. And the people -- I guess you people in
15 Washington -- sent down the teams to start investigating,
16 and we worked with them for hours and hours and hours.
17 Fortunately, we have transcripts of those. If you
18 reviewed those, it would be helpful to you. And the
19 inspectors would go and look at the issues and if they
20 were unable to determine, we were able to work together,
21 and I think that they acted extremely professional dealing
22 with us who were not used to anything but being
23 construction workers. They were very tolerant.

24 Nobody really knew what was happening until the TRT
25 report was issued, and I think probably y'all reviewed

1 that. And I will say that we are satisfied as a group
2 that they looked at all the issues that we gave them, but
3 our concern is what about the rest of it? Who's going to
4 look at it? We were only a few people telling a few areas
5 that we knew what was going on in those areas. Who's
6 going to look at the rest of it? We have people coming
7 out every day, even as late as last night, to say that new
8 things have happened, and those things need to be
9 addressed also. What's important for y'all to know about
10 the whistleblowers as a group, too, is not one of us is
11 anti-nuclear. We've all worked at at least one nuclear
12 plant, maybe more. I'm a resident of Glen Rose, have
13 lived there 30 years, that's where my home is. I was on
14 the committee that studied bringing Comanche Peak to Glen
15 Rose, Texas. I think nuclear power is just as safe as
16 anything we can have, and I didn't mind it being in my
17 backyard. I was convinced that the people that were going
18 to build it were going to be sure it was going to be safe
19 for us, and I was convinced that you people were going to
20 see to it that they did. And something happened with our
21 Region. It broke down and it was like we couldn't -- one
22 thing I did know when I was inside was don't talk to
23 Region IV. We all knew what happens when you talk to
24 Region IV. I'm real happy to tell you I think that's all
25 changed. I don't think anybody is afraid to go to Region

1 IV any more. And those people have now worked with us
2 real good.

3 The other thing that I've done in the past year is
4 sit in Licensing Board hearings, almost all of them, and I
5 think that we could probably tell you that if Judge Bloch
6 brings the gavel down and says fire it up, we'll say he
7 did right, because he's not going to do that until he
8 knows it is. Judge Grossman is not either. Neither is
9 Judge Jordan. These people care and they're looking at it
10 thoroughly, and when they do say it's ready, we're going
11 to know it's ready. I think I speak for most of the
12 whistleblowers whenever I say that.

13 Not knowing what's going to happen, GAP has decided
14 that it's important to put an office in Glen Rose now, and
15 even though I can't live there anymore, there are still
16 people who can. I think today the phone is being hooked
17 up. We intend to, whatever decision they'll make, we're
18 not going to go and leave it alone. It has to be right
19 because management's inattention to this has got us to
20 where we are today.

21 I want Comanche Peak operational, and the only thing
22 that management has had to say about my opinion is that I
23 was disgruntled and self-serving and so forth. So I think
24 it's important for you to take a real good look. Don't
25 just -- don't accept CYGNA's information. CYGNA provided

1 me personally -- not me -- provided my boss with personal
2 prenotification whenever it comes to audits, before they
3 did them. I'm speaking first person there. I know what
4 happened. If they did it for me, they'd do it for
5 anybody. Juanita said she wanted part of this stuff to be
6 used. I'm not sure that I do. I'm sure there's quite a
7 lot of things that I'd like to say that I haven't, but
8 basically that's where we're coming from.

9 MR. VOLLMER: You said that the workers were the best
10 anywhere, in your words, worked long hours and were very
11 conscientious. Could you give me a feeling for where you
12 think the process broke down, where the good work, good
13 attitudes and so on somehow resulted in some of the things
14 that -- apparent findings by you and others of poor
15 workmanship?

16 MS. HATLEY: Because we were under such pressure to
17 meet deadlines. I think welders who would not ordinarily
18 have done any kind of a bad weld were required to do that
19 if you wanted to work there. I think this is true in all
20 the crafts, whether -- I think the pipe hanger people
21 didn't want to have to jack pipes together. That's not
22 the way you do it. They're supposed to fit according to
23 design. You don't take out-of-round pipe and butter it up
24 to make it fit just in the interest of time. They didn't
25 want to cut those corners, but they were able to do it,

1 and if you don't do it I will assure you you don't have a
2 job. And the people coming out today, the people that
3 call us and say, "What do you think we should do about
4 this? We know a problem exists." We say the very thing
5 you should do is be aware of the fact that if you say
6 anything to me you're going to suffer, so before you make
7 any personal things, don't you tell me nothing about
8 what's wrong with Comanche Peak. Don't tell me your name
9 or how I can get in touch with you because I don't want to
10 know because I don't want any more people losing their
11 jobs. And that is the reaction that we get from
12 management, that you do lose your job. Now, the break
13 down comes because the people in supervision have not --
14 let me say -- I'm saying supervision from Dallas; I'm not
15 saying -- it's true on plant site, too, but those are the
16 people who are pushing. Those are the people who are
17 compromising and that's where it breaks down. It's not
18 because the workers are not good. There's not anybody out
19 there -- well, I'm sure there are a few out there, as
20 there is in any industry, that are not all that great, but
21 I think we had the best there was at Comanche Peak.

22 MR. SNIEZEK: I have a question. This process at
23 Comanche Peak, this Safe Team, is that working now or is
24 that not working?

25 MS. HATLEY: I just got back to town yesterday, and

1 so I have some friends still that work at Comanche Peak so
2 I was talking to some of them and they were telling me
3 about the Safe Team and they said, "If you thought the hot
4 line was a joke," which I did, "you'd be really amused by
5 the Safe Team; same song, second verse." They give you a
6 number. You go in and you say I have an allegation. They
7 give you a number, and supposedly nobody knows anything
8 from that point on. But I don't think it's working;
9 that's just my opinion. I think throughout the years --
10 well, not the years, but the last couple of years --
11 whenever there has been some effort to shut up the
12 whistleblowers, is what I think it's been rather than to
13 address the needs of the people on the plant site, they
14 have come up with these little things where, "Tell all
15 there is to know about what you find wrong and we're going
16 to take care of it." I'm sure there are some out there
17 that have probably gone to them with their problems and
18 are still there, but most of the ones I know of are not
19 there anymore and the problems still are. I think there's
20 -- what we were also told is that there's supposed to be
21 an upper level management shake-up that's supposed to make
22 us feel good. Somebody losing their job doesn't make us
23 feel good because we've been out of a job for a long time,
24 and what we want to see is: We want it fixed, that's all,
25 just fix it and run it. Nobody wants it shut down. I

1 don't -- it's my opinion and I'll say: I don't think it
2 can't be fixed. I think it can. I think there's enough
3 left to salvage. Of course, I don't know all there is to
4 know about everything, but I think the best people, the
5 best craftsmen in the world, built it, and I think that
6 just a few places where we had to cut corners and push for
7 progress reports is where the dangerous areas are. And I
8 hope that when you're trying to make your decision on this
9 that you will keep in mind that the same people who -- I
10 have documents here when I made my allegations a year ago,
11 the same allegations that the TRT assessed and the Utility
12 took it under advisement, and they issued a report to the
13 Board and Internal Investigations and all this kind of
14 stuff, and they couldn't find any problems. All the
15 allegations that I made at that time were contained in my
16 allegations to the NRC and the TRT who confirmed them, but
17 the Utility was unable to find anything wrong with the
18 allegations that I made when they did their own
19 inspection. So if they couldn't find it and it took the
20 TRT team to come in find it -- and it's covered up,
21 gentlemen, it is covered up. I was instrumental in
22 covering it up.

23 MR. THADANI: In your clarification, can you tell me
24 when you were terminated?

25 MS. HATLEY: Yes, sir; one year ago today.

1 MR. THADANI: To the best of your knowledge and your
2 interactions, you're still hearing from people that
3 similar problems still exist?

4 MS. HATLEY: Yes, sir.

5 MR. THADANI: On a continuous basis.

6 MS. HATLEY: Not the exact same problems because I
7 think that there are different areas that are coming into
8 play now as we're getting into the hot functional testing
9 now. And, yes, we still get our phone calls. That's why
10 we have installed the GAP line in Glen Rose so that it
11 will be a little more accessible.

12 MR. WARNICK: Could you tell us what your allegations
13 were and what the cover-up was so that we'll understand
14 what the problems were that you were dealing with and
15 concerned with?

16 MS. HATLEY: On the day that I was terminated, there
17 were 14 specific things that I had. One was concerning
18 the cable trays that she is talking about that are still
19 under investigation. The cable tray hangers have no
20 pedigree. There's no heat traceability. There's nothing
21 to show where that material came from or even if it's
22 installed correctly, if the document drawing documentation
23 that supports it is uncontrolled and does not match the
24 original design. That's just cable trays. We talked
25 about steel, the pillars that hold up the, that are in the

1 -- it's been a long time now and I can't think of where
2 it's at -- the pillars were made of laminated steel
3 instead of extruded steel, again no heat traceability, no
4 nothing on it.

5 Oh, yeah. I don't have my deposition with me. My
6 deposition -- the Utility, incidentally, kept me under
7 deposition for several weeks, and I have 56 hours of
8 depositions, so if you'd like answers to those questions,
9 you're welcome to read the transcript. It's five volumes
10 about this thick (Indicating). I felt like that was a
11 little harassing. It would have been bad if I had had a
12 job and wouldn't have been able to go to it.

13 I had a problem, a real problem, with the people who
14 worked under me in regard to drugs on site. That was a
15 problem they wouldn't address, and it was not addressed
16 until in April whenever, after the NRC came on site, when
17 my original allegation that's in my February the 10th
18 transcript, Mr. Paul Chek and Richard Denise from Region
19 IV, where I named the parties involved and asked for an
20 investigation on February the 10th and it was not
21 addressed until April the 27th. In fact, the person
22 involved replaced me when I left, and then was terminated
23 for drug involvement. I think it would probably take up a
24 lot more than 15 minutes telling you about all of this,
25 but it's something that needs to be looked at.

1 Of course, my major concern was documentation. The
2 documentation at Comanche Peak is so out of control and
3 has been that was necessary to instigate a cover up to
4 even get through audits, and that was my job was to get
5 through the audits. And so we had to have prenotification
6 and we had to cover up, and we did, until it became
7 apparent we were going to get a license and I didn't want
8 a license for a plant that didn't work and that one, I
9 didn't think, would work. But if you'd like, I'll go
10 ahead with those and get my transcripts out and I'll tell
11 you what they are. But I'm sure you'd rather go
12 on.

13 MR. JORDAN: You've led us through the reference,
14 and your personal views were helpful, I think, in
15 understanding the characterization.

16 MS. HATLEY: I will tell you that I do appreciate the
17 fact that you gentlemen are taking an interest and that
18 they will, that somebody will listen to us. It's more
19 than we've had in the past, so at least you allow us to
20 sit at your table and tell you what we think and we
21 appreciate that.

22 MR. JORDAN: It may be in your deposition, which I
23 have not fully read, but --

24 MS. HATLEY: I haven't either.

25 MR. JORDAN: -- but when you say documentation was a

1 problem, can you just, very briefly, just explain that.
2 Was it missing? Was it just changed? I'm not trying to
3 lead you in any way --

4 MS. HATLEY: I will tell you that it is there -- but
5 let me tell you because also in the -- and the quickest
6 reference to that would be to the interview with Paul Chek
7 and Richard Denise. They took me to the plant site, or
8 went with me to the plant site, on February the 10th,
9 three days after I was terminated, so I could show them
10 what I was talking about because it's very difficult to
11 explain. To explain to you briefly, a drawing, a
12 blueprint, is supposed to be how the thing is built. It
13 was not uncommon for there to be 300 design and part
14 changes attached to a single drawing, so it became where
15 the first design change got so far away from the last
16 design change and what the original intent was, and
17 according to the NRC they were to have incorporated all of
18 these changes into the design by 1983, October; and there
19 was not even a real good attempt being made at that point.
20 October '83 is when I started making the majority of my
21 complaints to management because they were going to get a
22 license and they weren't ready for one. The
23 documentatiion then, when they had these mounds of
24 documents, a package that a craft person had to take to
25 the field weighed approximately two to three pounds.

1 You'd have to sort through that much paper to get to where
2 he needed to be in whatever it was that he was doing.
3 I've been told by other people that that's not common
4 practice in building a nuclear plant.

5 So the reason was that your design was ineffective to
6 start with, and whenever they got out there and they
7 wanted to put up a pipe hanger and there was already
8 something there, and so they had to either cut it down, go
9 around it or do something, so there had to be all kinds of
10 changes. If the design had been adequate to begin with,
11 then it would not have been necessary for all the changes.
12 When I left, we had 93,000 DCA's, design change
13 authorizations, and that's not counting the revision.
14 Each DCA would have, like, as many as 27 revisions to a
15 design change. So the complicated mess that we had to
16 work with -- and that was my job, providing documentation
17 to the craft to work with, was -- it was just unreal, and
18 it's not the craft people's fault that they didn't have
19 what they needed to work with. It comes from the fact
20 that they were allowed to let those design changes keep on
21 coming past a certain -- there should be a rule that there
22 can't be more than four and then they have to be
23 incorporated, but it was not uncommon for there to be 300.
24 So that was my complaint with the design changes.

25 Mr. Chek and Mr. Denise went with me and that was

1 soon enough after I had left that the packages were still
2 intact, and we were able to look through them. At that
3 time they did verify that some of them were incomplete.
4 We don't know how accurate they are anymore because the
5 original logs have been destroyed and all the new stuff is
6 on the computer, which was to have been the system that
7 was going to really help us, and it really did as far as
8 time was concerned; but I don't know that they were able
9 to get all of the stuff on the computer. I know they'd
10 lose a lot of it because there was an NCR written against
11 Satellite 306 because there was a document missing from
12 the package that they knew should be in there, so QC wrote
13 an NCR on it. The computer had dropped it as not being
14 necessary, but they knew that it had to be in the package.
15 That was not an uncommon occurrence and we hoped that an
16 NCR might help but probably didn't. So the documentation
17 and design is, as Juanita said, if you don't look there
18 first and find the problems there, then what you're going
19 to have to do is make somebody go out there and if it's
20 all right in the field, if you say it's all right, I'll
21 say it's all right, too, because I don't know that much
22 about it. All the people we can count on is you. You say
23 it's all right -- somebody needs to draw us some new
24 plans, new drawings, to match what's out there to go in
25 the vault so if we do have something to break and you go

1 get the drawing to go fix it, that what you're fixing is
2 actually there. What we have now is not the case. You
3 may go to a valve -- we have a leak and you go get your
4 drawing to see where to shut off the water and you look at
5 the drawing and it says there's a little faucet right
6 here, and you go there and there's not one, or you go
7 there and it's back on this side of the leak where it
8 should be on this side. So until construction is
9 documented to meet what's out there or else they have to
10 change what's out there to meet the design, I don't think
11 it's going to be able to work that good, and I don't think
12 that's an insurmountable problem.

13 MR. SNIEZEK: You had mentioned a little earlier, I
14 believe you mentioned that CYGNA -- concern that CYGNA was
15 prenoticing their visits. What type -- when you got a
16 prenotice, what did you and your supervision do -- I mean,
17 what type of activity did you go through once you got a
18 prenotice?

19 MS. HATLEY: My supervisor gave me the notice at four
20 o'clock in the afternoon that CYGNA would be there the
21 next morning and this is the list of documents that they
22 would look at specifically, and so I told my staff we were
23 all working overtime, 23 of us, and we had to be sure that
24 everything was right when they got there.

25 MR. SNIEZEK: But what I'm getting at: Did you do

1 anything that you felt was improper to show that things
2 were right, or was what you showed them actual factual
3 information that you had?

4 MS. HATLEY: What was improper is the fact that if
5 they had looked in front or behind what the specific thing
6 they were looking at, if they had decided when they got
7 there, "We're not going to use this list, we will use
8 another list," we would have failed the audit. As it was,
9 we passed and they said we were perfect. Did we do
10 anything improper?

11 MR. SNIEZEK: It sounds to me like you're saying
12 CYGNA did not go far enough in what they were looking at.

13 MS. HATLEY: If they had not prenoticed us that they
14 were coming, we would have failed their audit, I will put
15 it that way.

16 MR. SNIEZEK: Because there wouldn't be a document
17 available right away? Could you have produced a document
18 in another 24 hours?

19 MS. HATLEY: Sometimes; not always, no. Not always.
20 There's --

21 MR. WARNICK: Was it a case of you were making up
22 documents to show that there was documentation there? In
23 other words, were you creating documents?

24 MS. HATLEY: There's two things that need to be said
25 with that. According to the CAT Team report of 1982, your

1 own report, things had to be a certain way by a certain
2 time. The time is now. And the Utility had hired CYGNA
3 to come out and see whether or not the things that you
4 said had to be done were done, and if we had not had
5 prenotification, you would not -- CYGNA would have come
6 back and said, "Hey, it's still a mess." They haven't got
7 the documentation straight yet.

8 MR. VOLLMER: So it would be a matter of
9 retrieval and getting things in order in a timely
10 fashion --

11 MR. WARNICK: -- rather than not having records, just
12 the availability of the records.

13 MS. HATLEY: Some of the records were not available
14 all the time. We would not -- it took twenty-three of us
15 until 9:30 or 10:00 that night to get the things ready,
16 and we're talking about less than a thousand for CYGNA to
17 look at the next day.

18 MR. WARNICK: My concern is that it's one problem if
19 it just is a matter of time to get the records, and it's
20 another problem if the records aren't there and they had
21 to be created.

22 MS. HATLEY: I would say that occurs quite often when
23 people are asking about this. What I am concerned with
24 and really whether you are or not, they prenotified me so
25 that my department would pass. Did they prenotify the

1 pipe hanger people? Did they know that these are the six
2 hangers we're going to look at tomorrow? Because if they
3 did, they'd go out and they'd shine those babies up and
4 they'd be ready when they got there, and if that's all
5 they looked at, then they'd say all the pipe hangers at
6 Comanche Peak are okay. Well, the document that they
7 came -- and they looked at the Document Distribution
8 Center where I was and said, "Everything is okay." It was
9 not okay. That's what I'm saying. Whether it could be or
10 whether it was or whatever, the point is, whenever you are
11 prenotified in any audit, I think it loses its
12 independence.

13 MS. GARDE: Let me interject something here. I think
14 there's a little bit of a communication gap. I understand
15 the question that you're asking, but I think Dobie is the
16 wrong person to ask that question. You're asking her
17 whether or not they created documents to put in the
18 package which had no relation in reality to hardware.
19 What Dobie did was documentation. She doesn't know
20 whether or not what she had in the package actually
21 matched what was in the field. For the packages that she
22 created, no documents were falsified that evening. What
23 she's saying, though, is that that was done, but not on
24 those twenty-three packages. What she's saying is -- and
25 this is a subtlety that should not be lost -- if it had

1 been a different list of twenty-three, she may not have
2 been able to find those documents because there's a lot of
3 documents that are unfindable, so to speak. Of those
4 twenty-three, they didn't have to falsify anything. Does
5 that answer your question? Whether or not that bears any
6 relation to what was actually in the field, she doesn't
7 know.

8 MR. JORDAN: Okay. Ms. Ellis, why don't you proceed?

9 MS. ELLIS: Before Billie starts her presentation,
10 it's time for a break.

11 MR. JORDAN: Let's have a fifteen minute break at
12 this point.

13 (A short break was taken.)

14 MR. JORDAN: We'd like to resume then, Ms. Ellis.

15 MS. ELLIS: The next item would be the solution at
16 this point regarding the construction of hardware.

17 MS. GARDE: We're running about fifteen minutes
18 behind our schedule. I was going to try to finish by
19 break time, so I'll move fairly quickly through mine, but
20 if we're running about fifteen minutes over --

21 MR. JORDAN: -- that will be okay.

22 MS. GARDE: What I want to address is what I
23 understand your assignment to be from Mr. Derks and give
24 you some input into where CASE and GAP and Trial Lawyers
25 for Public Justice believe that you have found yourself or

1 what you're endeavoring on which is a unique and a new
2 thing inside the agency. I'm not familiar with any other
3 plants or licensing proceeding that has this type of
4 approach or has taken this type of approach. So it's new
5 for you and it's definitely new for us. As I understand
6 it, in the best of all possible worlds, the Senior Review
7 Panel will at some point in the future be able to sit at a
8 licensing hearing and give the agency's reasonable
9 assurance to Judge Bloch that this plant was built in
10 compliance with 10 CFR Part 50, Appendix B, and if that is
11 impossible to say, that you would instead say that there
12 is reasonable assurance that in its current condition it
13 can operate in accordance with the principles of
14 regulation. I understand that that is ultimately what the
15 goal of this panel is to be and what the goal of Technical
16 Review Team is to be. In getting from where you are now
17 to where I believe the agency needs you to be are going to
18 have to be a number of things. We come to the table
19 having spent a great deal of time and of our lives
20 studying Comanche Peak, living with Comanche Peak, knowing
21 what is going on on site. Juanita has been an extremely
22 diligent intervener for ten years, and any of you who have
23 ever been at her house would realize that she's got more
24 documents in her home than the Public Document Room could
25 possibly ever have on this plant. You've heard Dobie

1 speak for herself, who's spent a year working on, shall we
2 say, the investigation of Comanche Peak, and speaks for
3 many, many of the whistleblowers that she knows
4 personally; but even though she doesn't speak for
5 directly, she represents the group of people who have
6 brought the problems to the NRC from this plant.

7 I come from a year's worth of work on this plant and
8 experience at plants in Region III, primarily Midland and
9 Zimmer. We come with the premise that this plant is the
10 victim of a quality assurance/quality control breakdown.
11 I've spent a great deal of time in the last six weeks
12 doing a fairly detailed line-by-line analysis of the
13 findings of the NRC's inspection efforts at Midland and
14 Zimmer which led to that conclusion about those plants and
15 the findings at this plant. As I said at the meeting in
16 January, taking into consideration they were smaller teams
17 and they were at the plant probably less, I guess you'd
18 call it man-hours, than this team has been there, although
19 both the Zimmer and the Midland investigation stretched
20 out over a length of time, I'm convinced beyond a shadow
21 of a doubt that this plant is in at least as bad of
22 condition as Zimmer, if not worse, but not as bad -- but
23 Midland was better than both Zimmer and Comanche Peak.
24 Now when I'm talking about Midland, I'm saying, I'm
25 referring to the balance of the plant as opposed to the

1 general questions of Midland which included the soil; but
2 on balance of plants and taking into consideration the
3 factory and the man-hours and the amount of hardware
4 looked at, the amount of cable trays looked at, the number
5 of electrical cables looked at, it appears that it's
6 coming in at least as bad as Zimmer and in some areas a
7 lot worse than Zimmer.

8 Now, my effort has obviously been as a non-technical
9 engineer and as an analytical effort, based on what you
10 looked at. I do not yet have the complete TRT finding. I
11 don't have the SSER's but I understand that they will
12 contain more data than is already available in the TRT.
13 If that's true, then the plant moves progressively below
14 the Zimmer category in which we do have all the basis for
15 opinions reached about Zimmer. We believe that any other
16 conclusion about this plant is fairly self-serving and
17 inappropriately naive. I would be glad at some future
18 time to sit down and share with you that analysis. I
19 share with you the conclusions of it because I want to
20 understand where we're coming from. Since we start with
21 the premise that that panel has not yet adopted, that is,
22 that there's been a quality assurance/quality control
23 breakdown of major proportions, I want to move on to
24 solutions.

25 Those solutions are based on the condition that I

1 have described. We see that if that is the case, the only
2 solution that the agency has is to come to a full
3 understanding of all of the problems on that site. The
4 QA/QC breakdown means that the program has produced an
5 indeterminate plant, and as Ms. Hatley said, it is not
6 enough to wait for the allegations of the whistleblowers
7 to determine the extent of the problems. I think one of
8 the quotes from a resident inspector at Midland, back when
9 Mr. Keppler was reassessing whether or not he could give
10 his reasonable assurance which he ultimately withdrew
11 about Midland, is particularly appropriate here. That
12 comment was that everything that Region III had at that
13 time period on Midland was still developed in a reactive
14 instead of a pro-active mold. That has been the life of
15 this project. What the NRC has done here and what they
16 have found is what they have been given. You can make
17 particular arguments that they were given so much that
18 they didn't have time to do anything pro-active, given the
19 limited amount of resources, or you can make the other
20 argument they didn't go look. Without reaching the answer
21 to that question, I do want to say that clearly what the
22 agency has looked at, other than the checklist that you
23 have to follow, the inspectors have to follow, to meet
24 certain requirements and milestones within the
25 construction project, has been reactive. Things have been

1 given to the agency by interveners, by allegers, by
2 newspaper reporters. They have investigated. They have
3 been either substantiated or not substantiated and closed
4 out or remain open. There has not been an effort to go
5 and look independently and see if it is everywhere else in
6 the plant. Unfortunately, TUGCO has not taken that effort
7 either. It's a little disturbing to me that they
8 apparently still do not see the handwriting on the wall
9 and have not picked up on all the hints that the NRC's
10 management has given them that say go do it yourself
11 before we have to tell you. I would have expected by this
12 time that they would have gone and done some type of
13 independent assessment of the other areas of the plant not
14 looked at by the TRT and been able to come back and tell
15 you at this point, yes, what you found is another basis
16 or, no, it is not. It's been long enough that they should
17 have done that. I don't think that they are doing that.
18 I don't know if they are.

19 Since they are not going to do that, the ball is back
20 in your agency's court. I don't see that you have any
21 choice but requiring at this point. They are not going to
22 do it themselves. They are not going to come to you and
23 say, "We have looked elsewhere and the QA/QC breakdown you
24 found in those areas is everywhere else in this plant."
25 And we have had a QA/QC breakdown. We're very concerned

1 about it and we want to get to the bottom of it. The
2 distinction is very important for you and that is that
3 what they've said is they're concerned about what you
4 found. They're not concerned about the condition of the
5 plant.

6 Now, I don't think for one minute that Mr. Spence is
7 not concerned with the safety of Comanche Peak. Only a
8 fool would want to turn out a plant that isn't safe. I do
9 think that they're coming to this entire problem being
10 dragged, kicking and screaming. Based on their public
11 posturing in the media, you would think that if Juanita
12 Ellis, Dobie Hatley, and myself never made it home to Glen
13 Rose tonight, that the problems would go away, and that
14 it's the interveners' fault, that it's the opponents'
15 fault, that it's the whistleblowers' fault, and
16 unfortunately, Mr. Martin, and I said this before, I'm
17 very concerned that your PR department equally espoused
18 that by claiming that there were five hundred late-filed
19 allegations. Nothing could be further from the truth.
20 Your region has had the majority of these allegations
21 since 1978, '79, up through, dribbling through the '80's.
22 If you read the south reports, the inspection reports,
23 your trend analyses, there's nothing new that GAP has
24 given you. You've had it all for a long time. Late-filed
25 allegations have not come at this plant. Mr. Vollmer

1 knows what late-filed allegations are. He gets them by
2 the bushel basket on the Diablo Canyon. He's not getting
3 them at this plant. We in good faith have provided to the
4 TRT, except for a few individuals which we're working on
5 that have not yet been contacted or allegations that have
6 not been contacted, everything that GAP has got. We're
7 continuing to get dribs and drabs of information,
8 certainly not at the rate of information we were getting
9 when we first got involved. That's normal. It's also
10 normal in a GAP investigation that when things start
11 shaking up, management shake-ups, changes in inspection
12 procedures, things all of a sudden come in and ought to be
13 done differently, that workers, QC inspectors or managers
14 start another round of allegations. That's normal in
15 these cases. And the reason that happens is because --
16 for example, you have an electrical QC inspector who's
17 been doing electrical inspections one way his whole entire
18 life at the project, and all of sudden someone comes in
19 and says, "You're doing it wrong. We're going to do it
20 this way now." He goes home and says, "My God, I've been
21 doing it the other way for six years." Then he starts to
22 get nervous and then those conscientious workers that are
23 prone to be whistleblowers try to find GAP. That's why
24 we've put in a line because I think there are changes
25 being made. And I think these changes, when they come,

1 are going to produce late-filed allegations. We intend to
2 turn them over to the TRT as we have in the past. It
3 might not happen. Our experience at other plants is that
4 when shake-ups come, that's when whistleblowers start
5 falling out of the woodwork. Again, in terms of
6 solutions, we're already at the point, and you'll see in
7 our Motion where we think the agency should require an
8 independent audit of this plant to determine the extent of
9 the problems. Before you determine the extent of the
10 problems, you cannot come up with a solution. It just
11 doesn't make any sense. At Zimmer, finding all the
12 problems, getting a price tag on repair, ultimately meant
13 the utility company made the decision that they couldn't
14 afford to fix the plant. They ran out of money. All of
15 us as individuals have to make those kinds of decisions
16 about very simple things every day. When are we going to
17 have our dishwasher not fixed one more time? When are we
18 going to have the second used car taken to the junk shop
19 and get another one? There's a cost benefit analysis
20 that's got to be made by TUGCO about this plant. They
21 cannot make that until they know all the problems. If
22 their management hasn't figured that out yet, then it is
23 your job to save this Utility from itself. You do have to
24 sit down with Mr. Spence and say, "I understand. This is
25 very unpleasant, but either you're going to have to do it

1 or we're going to make you do it." And if this Review
2 Panel is going to be able to sit in front of that
3 Licensing Board and say, "We now have reasonable assurance
4 that this plant is safe," you also have to be able to say,
5 "And we are reasonably assured that the management of this
6 company understands that it has a serious job to do and
7 it's got regulations it has to follow." You're talking
8 about a reform effort already, and if you can't get to the
9 point in that reform effort where you can honestly and
10 conscientiously sit in front of the Board and say that,
11 then this is going to drag out for a long time because I
12 can't see you in a month or six weeks, which I believe is
13 the schedule that ELD has got you on, reach a conclusion
14 about this plant that is anything other than it's
15 indeterminate and management hasn't taken the right steps.

16 The only thing I can see that -- the only option that
17 I see that you have is to ask for more time because if you
18 don't ask for more time, the conclusion that you want to
19 reach is unreachable. Now, if you do get to the point
20 where there's an independent audit that is required, and
21 we don't think that you're going to get there; we don't
22 think that Mr. Eisenhut and Mr. Derks are ever going to
23 allow another independent audit of a nuclear plant in this
24 country because they're so afraid of what happened at
25 Midland and Zimmer repeating itself. That's why we ask

1 the Board -- that's why we ask the Board to order it.
2 That's why we ask the Board to monitor it, because
3 everything we have seen on the handwriting on the wall and
4 how these problems have been dealt with means that we are
5 not going to do another Midland and Zimmer. I think that
6 Mr. Warnick will definitely agree with me that had there
7 been enough money to finish Zimmer and Midland, those
8 plants would have been finished ultimately more safe than
9 they were when Region III started their efforts; and that
10 the efforts that went into the construction completion
11 plan, the construction quality verification program, were
12 successful, that consumers and CQ&E were put on, if you
13 will, a short leash, and after a very short time period
14 they got the hang of it. And they were getting the hang
15 of it.

16 Now that doesn't mean that we didn't have major
17 battles over very minor points in each program and that we
18 agreed ultimately to the end on some things that
19 Region III allowed them to do. That's the nature of our
20 dispute. I think that that is possible for this company,
21 and I think it's possible because I personally believe
22 that Mr. Spence does care about the plant, but that he's
23 gotten bad advice from his top advisors for too long. It
24 is not enough to just change faces. You can't just bring
25 in a whole new group of people and go forward as if there

1 was no past. That should not be enough to satisfy you.
2 It certainly will not be enough to satisfy us. Again,
3 that is why we went to the Board. If you get to the
4 position of requiring the audit or if that audit is
5 imposed on you by the Board, we see that you have then two
6 choices: You can have it open or closed. If you have an
7 open process in which interveners are allowed to
8 participate in every step of the process, and by that I'm
9 suggesting public meetings, monthly meetings, that the
10 service list is utilized fully for all the documented
11 deficiencies and that tough questions are decided
12 together, when you get to the end of the process, you can
13 go in front of that Board and you can say, "We had tough
14 decisions to make. CASE has agreed on this one; we agreed
15 on this one, but we made them together, with our eyes
16 open." And at the end of that process, you can sit in
17 front of the Board and say that. If you choose the other
18 route, the closed process, then you and the Utility
19 Company are entering on an extremely, extremely dangerous
20 venture because if you shut or attempt to shut us out of
21 the process, we're going to fight tooth and nail to have
22 every piece of information we can get to analyze every one
23 of your decisions; and when you get in front of the Board,
24 that's what we're going to have to do. We're going to
25 have to redo, in front of the Board, a year to a year-and-

1 a-half to two-and-a-half years of work, of analysis, that
2 we were not allowed to participate in. None of us are
3 unreasonable. All of us realize that you've got a big
4 problem on your hands, and all of believe that the plant
5 could be finished safely, if the types of commitments that
6 need to be made are made. We haven't seen that type of
7 commitment from TUGCO, and we're not sure that that type
8 of commitment is coming from the NRC. I'm extremely
9 concerned on the fast track that you're put on; I'm
10 extremely concerned about the NTOL briefings that the
11 Commission has given. I believe Chairman Paladino, during
12 the last Commission meeting on the NTOL hearings, kept
13 asking Mr. Eisenhut why he couldn't ditch all the
14 allegations like Comanche Peak into the late-filed bushel
15 basket. He didn't seem to understand that there was a
16 Contention 5 that was on the table and the allegations
17 were properly brought in the hearing process and the judge
18 had to rule on them as a matter of law. There isn't a way
19 around this one. Things were brought to your attention
20 for years. These are not late-filed. They're properly on
21 the table in front of a Licensing Board, something we did
22 not have at either Midland or Zimmer, and the Board has to
23 make tough decisions on what you find. A staff effort
24 which excludes interveners is not going to work. You have
25 to decide how you're going to get there.

1 MR. JORDAN: Excuse me. You're beginning to lecture
2 us, and really what we were looking for was a presentation
3 on the findings, not the process we're going through. Our
4 process is already in motion, and at this point we --

5 MS. GARDE: But it's the process, sir --

6 MR. JORDAN: Wait. We don't really expect to change
7 the process that we have presently in motion. We do not
8 have an end-point schedule at this time. When the
9 hearings resume is when we have to have a finding, and
10 there's not yet a date for the hearings to resume, so
11 that's clear. We are having an open process. We're
12 having a meeting with you and with the Utility, and any
13 meetings with the Utility are open meetings. The meetings
14 of the Panel are closed meetings. They are staff
15 meetings, pre-decisional. That's the process we're on, so
16 I really would prefer not to be lectured about the process
17 not being open when that's why we're here.

18 MS GARDE: You're missing my point, sir. This is an
19 open meeting. You have to decide what you're going to do
20 based on what you review. In that decision you're going
21 to decide the process. You're going to decide where to go
22 from here.

23 MR. JORDAN: But this Panel is not going to decide
24 the process that the NRC will go through subsequently.
25 This Panel is going to provide a recommendation regarding

1 Contention 5 to the Project Manager, Mr. Noonan, who will
2 sponsor the testimony, and will be available, if requested
3 by the Hearing Board, to provide further testimony on
4 this --

5 MS. GARDE: Sir, your lawyers have said that that
6 decision was going to be based on the SSER's which are
7 going to come out very shortly.

8 MR. JORDAN: Yes, the reports of the TRT findings are
9 a part of the basis. They are not the basis, and I
10 explained in the introduction the material that this Panel
11 is going to be using to make its decision, and part of it
12 is the meetings with you, it's the Construction Assessment
13 Team findings, it's the Special Region I Review, the
14 Special Region II Review, it's the sum of the inspection
15 efforts to date; it's all the material that's been
16 assembled to form --

17 MS. GARDE: What is your understanding, Mr. Jordan,
18 of when you're going to reach that conclusion?

19 MR. JORDAN: I stated that a couple of moments ago.
20 That would be in time for whenever the hearing is resumed,
21 so it's upon request. If we were asked tomorrow, we'd
22 provide our position based on what we know right now. If
23 we're asked in two months, we'll provide the information
24 based on that schedule.

25 MS. GARDE: And that's going to be the agency's

1 position on Contention 5.

2 MR. JORDAN: That's correct.

3 MS. GARDE: And you don't feel an obligation to get
4 to the bottom of what the problems are at that plant?

5 MR. JORDAN: We will review all the material that we
6 can possibly get our hands on between now and the time we
7 make the finding, but we're not doing a unique review of
8 our own, a person to person review --

9 MS. GARDE: We understand that. It is not your
10 Panel's position to recommend to the Board whether or not
11 there is reasonable assurance about this plant?

12 MR. JORDAN: I think that is what Contention 5 is.

13 MS. GARDE: That's exactly what your position is.

14 MR. NOONAN: Maybe I could slightly speak to that.
15 The lecture that you just made would probably be better
16 directed to me because I think the decisions as to the
17 process will be made by myself, and I will recommend that
18 to my manager, who will be Mr. Eisenhut. This Panel will
19 sit with me and help me look at this whole thing. The TRT
20 is only a small part of all this. We have to look at all
21 the pieces. We have to put together the whole part of the
22 puzzle, so to speak. Whether we recommend to this Utility
23 a need for reinspection and so forth be made will be made
24 at my level on my recommendations to Mr. Eisenhut.

25 MS. GARDE: My part of this presentation is

1 solutions, and that's got to be part of what you and the
2 Senior Review Panel decide, and the solutions to this
3 problem are very important.

4 MR. NOONAN: I understand, but I think you're
5 misinterpreting the role of the Panel. The Panel --
6 whether the Panel testifies or not is not at this point in
7 time assured. We will decide that at a later date. The
8 Panel's end date is flexible. I think I'm already on the
9 record saying we are not going back to the hearing until
10 we have the staff's position finalized, and I'm going to
11 adhere to that.

12 MR. JORDAN: And your presentation assumes the Panel
13 makes the finding you describe and this is the corrective
14 action. We've got to collect information to make a
15 decision, and so we need a factual presentation on the
16 information that you have that would help us make the
17 decision.

18 MS. GARDE: Let me ask you then one more time,
19 because my understanding of what this Panel is going to do
20 and what you're saying are not consistent with what I have
21 been told, and my understanding comes from representations
22 made both to the Hearing Board, the documentation that you
23 have provided through the process, sent up to the Public
24 Documents Room, as well as discussions with Mr. Eisenhut
25 and Mr. Noonan. My understanding is that you have to sit

1 in front of this Board or at least recommend to whoever
2 sits in front of this Board whether or not there's
3 reasonable assurance that this plant can operate safely;
4 is that correct?

5 MR. JORDAN: That is entirely correct.

6 MS. GARDE: And you're going to make that decision
7 based on all the information available about this plant;
8 is that correct?

9 MR. JORDAN: Entirely correct.

10 MS. GARDE: Is what you're telling me that your
11 decision will not incorporate a conclusion that does not
12 include a solution? If you come to the conclusion that
13 there is not reasonable assurance based on the information
14 already available, which is the premise that I said we
15 started at, are you saying that you will not recommend a
16 solution?

17 MR. JORDAN: Our purpose is to come to a decision,
18 and then whatever the decision is determines any further
19 recommendation and that would be a staff and management
20 position on corrective action, if corrective action is
21 appropriate, or whatever the course is, so our fundamental
22 purpose is not to propose a solution but to identify very
23 clearly the problem, the magnitude and the scope of the
24 problem.

25 MS. GARDE: How long do you have to do that?

1 MR. SCINTO: As long as they need. The Licensing
2 Board in this case has been quite indulgent with the
3 staff, and I'm sure they will be. If the staff represents
4 that it needs more time to reach a thoroughly analyzed
5 staff conclusion, I'm sure the Licensing Board will
6 indulge us. And this Panel is fully informed of that
7 fact. We make schedules for the purpose of organizing
8 what we're going to do, but the end date is the date on
9 which we have finished our work. I want to say one more
10 thing. You have concluded that the staff presentation is
11 going to have a conclusion of reasonable assurance. That
12 reasonable assurance presentation to the Licensing Board
13 may very well be based on proposed condition precedent or
14 proposed condition subsequent.

15 MS. GARDE: But it's not this Panel that's going to
16 approve that.

17 MR. SCINTO: There will be information derived from
18 all sources in the staff which will be part of reaching
19 that recommendation, whatever it's a component of. If the
20 Panel, for example, comes to the conclusion that
21 everything in the plant is dandy, then there would be very
22 little more. If the Panel came to the conclusion that
23 there are some problems in the plant, then we go from
24 there to Mr. Noonan about what kind of problems are there.
25 Are they the kind of problems that required fix before,

1 fix after, or compensated measures. That would be looked
2 at. If you're wanting to isolate this Panel from that
3 process, let me assure you: Don't do that. This Panel is
4 composed of senior staff members. Their personal
5 opinions, their background, their experience, I am sure,
6 will be employed and utilized by the staff in reaching its
7 ultimate conclusion. We are not yet there, so we cannot
8 yet describe to you the process we will use, the
9 components that will make up that staff conclusion. The
10 Panel today is trying to determine what its position is
11 going to be, getting the information to determine its
12 position on the fundamental question: Is it dandy or does
13 it have things that need to be focused on by someone,
14 period? That's what they're trying to do now. You're
15 anticipating -- you started off the presentation, "We're
16 anticipating the results of that." This Panel isn't there
17 yet.

18 MS. GARDE: I said I started --

19 MR. SCINTO: This Panel isn't there yet. We're
20 really discussing places that neither the Panel nor the
21 staff are at yet.

22 MS. GARDE: Let me conclude my presentation, Mr.
23 Scinto, by saying my understanding of what this Panel is
24 going to do in concert and in combination with all your
25 other staff theses is to come up with a way to say that

1 there's reasonable assurance that Comanche Peak can be
2 finished or it is safe. Now, any delusion that you think
3 I'm under that it is other than that is wrong, because I
4 don't believe your Panel is going to say to Judge Bloch
5 there is not reasonable assurance this plant can operate
6 safely. It's going to be withdrawn only on certain
7 conditions which, as Mr. Noonan said, if you get there,
8 you'll talk about them. I'm addressing solutions, and I'm
9 telling you that if you get to where we already are,
10 because we've already looked at everything you say you're
11 going to look at, then you have to consider what is going
12 to be done and how it's going to be done. You haven't
13 told us you're going to come back and ask us our opinion
14 about what we think about that. We're telling you we
15 already have that. We're a step ahead of you. We're
16 taking this forum to tell you that. What we're telling
17 you is based on what you haven't look at yet. This plant
18 has been the subject of a major QA/QC breakdown, and it's
19 going to have to have a solution if you're ever going to
20 be able to say there's reasonable assurance. That
21 solution has to come in one of two options: a closed or
22 open independent reinspection. That is the purpose of
23 this memo. That is the purpose of my comments.

24 MR. SCINTO: We appreciate them, but I think all of
25 us are simply pointing out that we thought those comments

1 were directed to the whole of the NRC which is correct.
2 The Panel particularly is not necessarily the correct
3 organization in the NRC to address that to, but we are
4 accepting your pleading. You've filed it with the Board.
5 The staff as a whole is reading it. We're reading it and
6 the NRC staff as a whole is listening to what you have to
7 say. We're not going to disregard it because you've made
8 it to the Panel and the Panel may not be the -- the
9 decision may be made by someone else. We'll let everybody
10 in the agency know.

11 MR. SNIEZEK: I just have to say something and make
12 it very clear. It is not the job of this Panel to make a
13 finding that there's reasonable assurance. The job is to
14 make a finding. We may very well find there is not
15 reasonable assurance, period, or not reasonable assurance
16 unless something is done, or we may find there is
17 reasonable assurance provided something be done. So we
18 have not made up our mind.

19 MS. GARDE: I understand that. That's what I'm
20 saying. We have, and that's what we're telling you.

21 MR. JORDAN: I'm sorry to interrupt you. I think
22 we've clarified for both of our parts what our rule is,
23 why we're here, and what we were looking for from you.
24 Continue.

25 MS. GARDE: I don't think I have anything else. As I

1 said, we've given the allegations and will continue to do
2 so to the TRT. I expect you're going to look over the
3 TRT's data and all the allegations are important. I can't
4 disagree or agree with their conclusions because I haven't
5 seen the SSER, although I've seen some findings.

6 MS. ELLIS: Also, at some point in time I'd like to
7 feel secure, and I think I probably can feel secure,
8 having spoken with Mr. Noonan from time to time about
9 various things, that we will be afforded an opportunity
10 later when you get to that point to have further input
11 into possible solutions; is that right?

12 MR. NOONAN: Ms. Ellis, I'll talk to you about that.
13 As this Panel moves along, I'll be talking to you and I'll
14 talk to the Panel members about that point, yes.

15 MR. VOLLMER: Ms. Garde, are you through with your
16 presentation?

17 MS. GARDE: I'm done.

18 MR. VOLLMER: You made one point in the beginning of
19 your presentation about the majority of the problems at or
20 preceding 1978. Was there some particular significance to
21 that?

22 MS. GARDE: Refresh my memory with what --

23 MR. VOLLMER: You said something about the majority
24 of the allegations and the problems preceded 1978, I think
25 were your words, roughly.

1 MS. GARDE: I told Mr. Martin that his Region has had
2 the allegations, some of them even preceding '78. If you
3 go back through the inspection reports, and I don't know
4 if you intend to do that, but if you go back through the
5 inspection reports from the beginning of this project, you
6 will see a steady stream of allegations which match, by
7 and large, all the allegations that the TRT has given. In
8 some cases they're from the same individuals, and in some
9 cases they're from other individuals. Do you understand
10 what I'm saying?

11 MR. VOLLMER: Yes, I do, and I shouldn't draw any
12 inference that there's something that changed between now
13 and '78 then?

14 MS. GARDE: I think that there has been a series of
15 problems which you can categorize: Documentation
16 deficiencies, design changes out of control, liner plate
17 problems keep cropping up, electrical cable inspection
18 keeps cropping up. If you go back through all the
19 inspection reports, what I'm saying is that this is
20 nothing new, what the TRT has. It's been inappropriately
21 addressed, but it has been on the table of your agency
22 from the beginning of construction.

23 MR. THADANI: I understood you to make that point
24 because you were admonishing Region IV Public Affairs
25 people to get that straight.

1 MS. GARDE: That's right.

2 MS. ELLIS: I think it might be helpful at this point
3 to ask a few questions of the Panel to help clarify some
4 things. You have addressed, I think at least in part, one
5 of the questions which we had and that was: Would this
6 Panel, in fact, be able to make a finding if the evidence
7 was before it that Comanche Peak was not designed or
8 constructed properly? And I think you've answered that
9 already and --

10 MR. JORDAN: Yes, our finding is our own, and the
11 full spectrum of determinations is open to us.

12 MS. ELLIS: There is another thing that -- I'll give
13 you a list, as I said, shortly about some of the things we
14 think you should definitely look at, but there are some
15 things which we would like to know about the Panel, and
16 probably the easiest way and the fastest way would be if
17 maybe we could get some idea of some resumes or something
18 like this rather than have a big discussion now. We'd
19 like to know what you know about the engineering aspects,
20 what your background is to address these problems. Are
21 any of you welders? Do you know enough about welding to
22 know when you read something a welder has said about, yes,
23 he could have done it that way, this sort of thing; and I
24 think that that would be very helpful to us and I think
25 that could be covered in outside discussions right here.

1 MR. JORDAN: We can provide you with the same sort of
2 brief that's provided for hearing testimony, giving you
3 our background and --

4 MS. ELLIS: That would be fine.

5 MR. JORDAN: I'll be glad to do that.

6 MS. ELLIS: Another thing, in looking at all of this:
7 Will you be making a real effort to do some trending of
8 your own as far as things that you see in the record?
9 Will this be part of what you are going to do, the
10 trending where you see a problem like in '78 and see it
11 again in 1980 and again in 1983? Will there be an effort
12 on the part of your Panel to do that sort of thing?

13 MR. JORDAN: Yes. We're trying to understand what
14 the problems were, when they occurred, what organization
15 was associated with the problem, what part of the plant it
16 was in, what system it was on, in order to make
17 correlations so we can bound or understand the scope and
18 extent of the problems. That is specifically one of our
19 manners of attack.

20 MS. ELLIS: When you're doing that, then -- for
21 instance, if you're looking at an inspection report that's
22 been done by Region IV in the past, when you look at that,
23 will you be looking at it primarily from the aspect of the
24 conclusions that were drawn from that report or will you
25 be looking at more the raw data that led to that? In

1 other words, if an allegation came forward that a weld was
2 faulty, for instance, and you looked at that and the
3 resident inspector said there was no problem, would you be
4 trending what the resident inspector's conclusion was or
5 would you be trending the fact that there was this
6 allegation that the weld was faulty?

7 MR. JORDAN: The source of the information, whether
8 it's an allegation or a routine program, from our
9 viewpoint only affects the sample size or the bias that
10 was made in the sample that the reviewer had so, for
11 instance, if a reviewer was looking at installation of
12 anchors which were alleged to be faulty, then the sample
13 was biased in that regard, and his finding would be based
14 on what his population of potentially faulty rather than a
15 world-wide sample, a completely statistical random sample.
16 So we're trying to understand the sample that was
17 inspected, the amount of effort that was put into that
18 particular area of inspection, and then the finding with
19 respect to that population so we can make a judgment on
20 the adequacy of that particular activity based on that
21 sample. So it would be assembling, for instance, the TRT
22 findings in a given area, comparing them with the CAT Team
23 inspection findings of a similar area, and comparing that
24 with the routine inspection program findings of a similar
25 area. If there are disparities between the findings, then

1 we have to understand why. If the findings reinforce one
2 another, then we have a strong basis for a conclusion of
3 that particular area. So we're trying to have a basis for
4 decisions.

5 MS. ELLIS: That gets to the heart of our real
6 concern here: The CAT Team reports; we think they looked
7 and they found quite a few problems. They identified
8 them. We think that they did a good job. The Technical
9 Review Team report, they found a lot of problems. The
10 inspection reports from Region IV, until very recently, we
11 don't feel have been adequate at all, and we are very
12 concerned at any reliance that you place on those
13 inspection reports because these, in many instances, it's
14 been a case of looking and not seeing; looking at a
15 problem that was there and saying there is no problem.
16 This has been confirmed, in fact, by part of the things
17 the Technical Review Team has found because they have
18 looked at allegations, some of which were looked at by
19 Region IV previously, and found to be no problem. And the
20 Technical Review Team has found that there were problems.
21 And this is the heart of the concern that I'm talking
22 about here with the inspection reports specifically.

23 MR. JORDAN: We understand your concern, and we're
24 trying to look at the entire set of data, and we'll be
25 able to make some lucid presentation that, okay, based on

1 this information here's our findings, and judging
2 information and particularly where there are
3 inconsistencies in findings between different reviews. We
4 have to resolve those inconsistencies for ourselves.

5 MS. ELLIS: But that still leaves a big area of
6 things that still may have been missed by the inspections
7 which were done routinely which were not allegations also
8 of Region IV, where they weren't necessarily allegations
9 but where they looked at something and said there was no
10 problem when, in fact, there may have been. In other
11 words, our primary concern is that you do not rely on the
12 findings of those inspection reports. Until very
13 recently, as I said, they looked and did not see.

14 MR. JORDAN: I understand your concern, but I'm not
15 going to tell you I'm not going to use those reports.
16 We're going to review them and use them as we see fit.

17 MS. ELLIS: We'll be cross examining quite a few of
18 them I have a feeling, too.

19 Another aspect that we're concerned about: I believe
20 at one point it had been mentioned that you were looking
21 at, for instance, the SIT report. Now, the SIT report, if
22 you look at the SIT report and rely on the findings in the
23 SIT report, you don't have to look at the Walsh-Doyle
24 allegations because it's obvious they don't exist. The
25 SIT report took care of all of them. You cannot rely on

1 the SIT report to make your determination on any of the
2 design issues because in the hearings, lo and behold, a
3 lot of the things that were closed out got re-opened. So
4 we're concerned again about the extent of your reliance on
5 something that comes from somebody else, and the SIT
6 report I think is one of the most striking examples
7 probably of all, because had the SIT report been correct,
8 we wouldn't still be fooling with the Walsh-Doyle
9 allegations now. So this is again our concern, the amount
10 of reliance you place on these documents that you get from
11 other sources without you yourself going and looking at
12 the raw data; and I realize, having said that, that
13 there's no way you have time to do all that, but this is a
14 problem and it's going to be a problem that at some point
15 in time when testimony comes about, we're going to be
16 going back through, I'm afraid, some of the same ground
17 that has already been plowed in the hearings if you don't
18 go back and thoroughly review all this.

19 MR. JORDAN: Our attorneys won't let us get into that
20 situation, I'm sure.

21 MR. SCINTO: We're not interested in reploting.

22 MR. JORDAN: They're directing us in areas that have
23 been covered fully by testimony in those findings, so I
24 understand your concern and I hope we don't replot that
25 ground, too.

1 MS. ELLIS: Another thing that we would be interested
2 in knowing is: When you prepare your report, who's
3 actually going to prepare it? Who are you answerable to?
4 Who's going to be editing your report, this sort of thing?
5 We'd like to get an idea of this because --

6 MR. JORDAN: I can assure you there that the Panel is
7 going to prepare its own report, and it will provide it to
8 Mr. Noonan for his use and it will be then provided as a
9 basis for staff testimony. And the likelihood is that
10 some of us will be called to provide additional testimony
11 supporting that material, but it will be the Panel's
12 report to Mr. Noonan intact.

13 MR. SCINTO: I hope the Panel will be accepting some
14 assistance and counsel from time to time.

15 MR. JORDAN: Certainly we shall, but no one will edit
16 our report. That's the point I want to make. It is the
17 Panel's report, and I would even expect there would be
18 differences in view on the Panel. We're capable of that.

19 MS. ELLIS: I'm glad to hear it. Okay. Given the
20 time constraints that you're under, I'm also concerned
21 about how you will be able to come to an adequate and
22 correct conclusion about things such as the Motions for
23 Summary Disposition on the design issues since the
24 applicants haven't answered most of our answers to them,
25 and no one has answered our Motions for Summary

1 Dispositions which we have filed. And we're concerned
2 about how you are going to make an adequate judgment when
3 that hasn't been done yet. And the same way on the CYGNA
4 report: How are you going to be able to really analyze
5 the CYGNA report when they're changing it and they're not
6 expected to have Phase 4 out until May or so?

7 MR. JORDAN: First of all, we're not sure of our
8 schedule either, and so until the schedule is nailed
9 down --

10 MS. ELLIS: In other words, you would be waiting on
11 these things before you made your final assessment of
12 those issues.

13 MR. JORDAN: Yes. We hope to gather final findings
14 in each of the areas. The Technical Reviewers, for
15 instance, on some of the design issues, Summary
16 Disposition requests, are available for us to talk to
17 within the NRC obviously, so that we have their views and
18 can obtain them directly at this time.

19 MR. SCINTO: Let me -- I'm not quite sure I heard you
20 correctly, Ed --

21 MR. JORDAN: Maybe you'd like to restate what I said.

22 MR. SCINTO: No. I hadn't thought that you were
23 going to wait until everybody else's document was out
24 necessarily. You were going to make that judgment on
25 whether you felt you needed to wait until the document was

1 out or whether you knew enough about the subject.

2 MR. JORDAN: Yes.

3 MR. SCINTO: We want to make that sure. You
4 suggested that we were going to wait until the document is
5 out. These guys are talking that their resources of the
6 document may not find it necessary to wait till the
7 document is complete. They'll have to make that judgment
8 themselves.

9 MR. JORDAN: The process is awkward in terms of
10 schedule, and we need all of the information in terms of
11 technical reviews that we can obtain, but if the hearing
12 were to resume next month, then we will have to provide
13 testimony in response to the hearing date based on the
14 information that's available. If we have to make a
15 partial finding with further findings based on further
16 reviews, then that's the only way I can see that we can
17 approach it, but neither one of us knows the schedule.

18 MR. SNIEZEK: We will not make a finding in an area
19 until we are convinced we have sufficient information to
20 make a finding in an area, good or bad.

21 MR. JORDAN: That's right.

22 MR. THADANI: It would be indeterminate until you
23 have sufficient information to develop a basis for any
24 finding.

25 MS. ELLIS: Okay. And that then would be your

1 finding at that point?

2 MR. THADANI: It seems to me it could be.

3 MR. JORDAN: If you can departmentalize work activity
4 or areas, then there may be an activity for which we can't
5 make a finding at this time, but we make findings in other
6 areas and we say that we'll have to make a finding in this
7 area when some other action is completed.

8 MR. NOONAN: Ms. Ellis, may I speak to this point? I
9 think I said it before, but I want to make sure you
10 understand that the hearing is not going to drive our
11 decisions. They're not going to be driven by the
12 hearings. We make our decisions as we see necessary to
13 make them.

14 MR. SCINTO: Can I interject an example that may help
15 Ms. Ellis perhaps? You indicated that we have to wait for
16 CYGNA. For example, purely hypothetical, if the staff
17 felt, for example, that the CYGNA work was so insufficient
18 that it was inadequate for us to rely on it for any
19 purpose, if that were our conclusion, for example, and in
20 general within the staff, I don't think that they would
21 have to wait until we finished documenting and writing a
22 big, long SSER to support that. They would have to be
23 sure that that was in fact the staff conclusion for
24 whatever use they're going to make of it. They have to
25 know that's what their conclusion is, but I don't think

1 they have to wait until the pieces of paper are
2 documented. For example, the TRT, as you know, in order
3 to get some information out to the licensee so the
4 licensee could begin its work, puts out these preliminary
5 status reports, even though the SSER's are going to follow
6 by some months, you know, to document its support for the
7 various findings in those letters. I think our first one
8 is out or just about to get out now, even though the
9 letter looks like it was dated September 18. So what I'm
10 suggesting to you is that you put it in a very formal,
11 procedural step that everything else would have to be out
12 first. I want to indicate to you that that may not quite
13 work that way.

14 MS. ELLIS: You said that was hypothetical. The
15 staff has not reached a position like that at this point
16 in time.

17 MR. SCINTO: No one on this staff has told me that.

18 MR. JORDAN: Maybe the best comparison I could make
19 is that CASE has already come to a view based on the
20 incomplete record. You're asking us now not to come to a
21 view of the record until the record is complete. That
22 seems inconsistent. When the staff has enough information
23 to make its decision, then it will make it, but we don't
24 yet have a schedule for it. I think that's about all I
25 can say at this point.

1 MS. ELLIS: Well, there's one big difference
2 obviously. We're not asking -- in this pleading we're not
3 asking the Board to make a decision about the overall
4 plant. We're not asking them to make a decision on the
5 license in this. We're asking them to do a specific thing
6 which is a step in the whole process, so I think it's a
7 little bit different.

8 MR. JORDAN: Yes, I understand. It's seven minutes
9 after eleven. I think we ought to try to conclude in
10 about fifteen minutes.

11 MS. ELLIS: Perhaps you haven't decided this yet. If
12 you do know, will you be awaiting an answer from the staff
13 on our Motions for Summary Disposition or do you know at
14 this point?

15 MR. JORDAN: What is the legal --

16 MR. SCINTO: I'm not quite sure what our status is on
17 that.

18 MS. ELLIS: Our Motions that we filed.

19 MR. SCINTO: Yes, your Motions.

20 MR. JORDAN: I can't answer that.

21 MR. SCINTO: This is information that people involved
22 in Motions for Summary Dispositions have got to provide to
23 the Board and -- to the Panel rather -- and, as you know,
24 we have got to give you an update and status of the
25 various records. I don't think we've discussed this yet.

1 MS. ELLIS: Okay. I think we might get into --
2 there's one more question. To what extent, if any, will
3 your team be considering the basis for the way of handling
4 the plant? What I'm concerned about here is: As I
5 mentioned before, we believe that the actions of the
6 Utility right now are being governed not by safety but
7 because of economics. Will there be any kind of analysis
8 along that line from your organization?

9 MR. JORDAN: No.

10 MS. GARDE: Will you be doing any kind of management
11 analysis?

12 MR. JORDAN: Obviously management is a fundamental
13 element in quality control/quality assurance and quality
14 of the plant, so as it reflects on management, yes.

15 MS. GARDE: You are going to be reaching conclusions
16 on the causes for some of the problems that you
17 identified?

18 MR. JORDAN: Indeed.

19 MS. GARDE: Are you employing any experts in
20 management analysis?

21 MR. JORDAN: Outside of ourselves, no.

22 MS. ELLIS: As to the specifics of what you should
23 look at, basically you have to look at everything in the
24 record. There's no getting around it. If you're going to
25 come to a reasonable, firm conclusion that's based on

1 things, you have to look at the entire record. Having
2 said that, there are some things that I want to be sure
3 you don't overlook.

4 MR. JORDAN: Good.

5 MS. ELLIS: To begin with, in the Walsh-Doyle
6 allegations, the general basis would be the yellow folder,
7 sometimes referred to as the Yellow Bomb, which was
8 filed -- it was our August 22, 1983 proposed findings on
9 the Walsh-Doyle allegations. You also need to look at all
10 the affidavits and pleadings that have gone back and
11 forth, briefs that have gone back and forth, regarding the
12 Walsh-Doyle allegations, and there are a slew of them.
13 You will need to look also at the hearing transcripts
14 themselves of the CYGNA hearings regarding the Walsh-Doyle
15 matters and the CYGNA reports also which get into
16 engineering matters, not just Walsh-Doyle necessarily;
17 those hearings, everything that's gone on since
18 August 22nd when everybody filed their proposed findings.
19 You really need to look at all those things in order to
20 get the full picture on the Walsh-Doyle matter and on the
21 engineering matter.

22 As far as some of the other things that need to be
23 reviewed, you've mentioned some of them that you already
24 planned to. I'll try to skip over those. The filings
25 that have transpired since any findings have come out on

1 any particular issues, I think you have to look at those,
2 because you don't have the filings of the findings to
3 guide you to those instances. Also, you should be aware
4 that we have pending before the Board now a Motion for
5 Reconsideration regarding the findings on the welding
6 matters, and there may be more for you to look at there
7 before it's over. I have another question, too, for you.
8 In looking at the things that you're reviewing, will you
9 be adopting the Board's conclusions and their orders and
10 so forth? How will those be factored in?

11 MR. JORDAN: We're making technical determinations in
12 the various engineering areas, and so we will provide the
13 staff testimony on those technical issues. So we will
14 review the Board's findings, but it's going to be our own
15 determination and it's possible we may differ with those
16 findings.

17 MS. ELLIS: So you would not necessarily accept their
18 rulings as being your position.

19 MR. JORDAN: No.

20 MS. ELLIS: Okay. In the intimidation matter,
21 obviously anything which has transpired since the expected
22 findings were filed at the end of August of '84 need to be
23 looked at because you don't have the findings to guide you
24 on those. There are also some depositions, I am thinking
25 in particular of Edward Mouser's, and some of those which

1 were taken also since then. What is the interaction
2 between this Panel and the Harassment and Intimidation
3 Panel?

4 MR. JORDAN: This Panel is going to receive an input
5 from the Harassment and Intimidation Panel regarding the
6 materiality of the intimidation contention, so we will not
7 be reviewing all the intimidation material. We'll be
8 getting input from the Intimidation Panel which is going
9 to do that because of the relative magnitude of that
10 information.

11 MS. GARDE: How is the technical information going to
12 be called out of the Harassment and Intimidation hearing
13 and put in front of your Panel?

14 MR. JORDAN: The technical information, we
15 understand, is contained in the reviews that the TRT and
16 others have done of the technical areas.

17 MS. GARDE: But that doesn't include probing of the
18 issues at the hearing.

19 MR. JORDAN: The hearing record does, though.

20 MS. GARDE: Are you going to review the hearing
21 record?

22 MR. JORDAN: The hearing record will be summarized as
23 far as technical issues for us, we understand, so I don't
24 think we can read the entire hearing record. That would
25 be a mammoth undertaking.

1 MS. ELLIS: I think I mentioned already the Summary
2 Disposition Motions. There are several pleadings back and
3 forth regarding some of them, fourth and fifth rounds on
4 some of them, and all of those, I think, have to be
5 reviewed regarding the Summary Disposition Motions.

6 There are numerous documents which are in the record,
7 and I will try to help guide you through some of those,
8 but it will take a while to get that together. But there
9 are many documents which had been introduced into
10 evidence. There is especially one huge batch of them that
11 was accepted into evidence at one time, and you should
12 review CASE's October 18 of '82, I believe it is; I don't
13 recall the exact name -- and I didn't write it down -- of
14 the pleading. It's the one where we summarized for the
15 Board the documents that we wanted to get into evidence,
16 and as a result of that the Board accepted all except one
17 or two of them into evidence following that. But it
18 summarizes some of them and it may be helpful to you.

19 MR. VOLLMER: What kind of documents were they?

20 MS. ELLIS: A lot of them are internal audits.
21 There's an ASME inspection and resurvey that was done when
22 Brown and Root's end stamp was allowed to expire and then
23 given back to them, and nonconformance reports; you name
24 it. There is also a pleading of December 21, 1982, I
25 believe it is. It was CASE's answer and opposition to the

1 staff's Motion -- and I don't remember all of it -- but it
2 was before the appeal board and that should give you
3 sufficient information to find it.

4 One other question: Will there be any attempt during
5 your review to deal with things such as credibility of
6 witnesses, things such as possible material false
7 statements and this sort of thing, or will you rely on
8 findings such as the Office of Investigation or anything
9 like that?

10 MR. JORDAN: We'll rely on their findings.

11 MS. ELLIS: If they haven't found any, what then?

12 MR. JORDAN: Then the technical findings in that
13 particular area in terms of physically what exists and
14 subsequent reviews, TRT or whoever's review.

15 MS. ELLIS: That may be an item that you might want
16 to consider leaving open because I know there's at least
17 one specific thing I can think of the OI is investigating
18 in the way of a possible material false statement. And I
19 just wanted to let you know that that is something that
20 they do --

21 MR. JORDAN: And we are in communication with OI on
22 their findings, as well.

23 MS. ELLIS: There are some recent letters by CYGNA
24 which we will be sending to the Board shortly which
25 definitely you should review in regard to the Walsh-Doyle

1 issues. There are also some transcripts of some recent
2 meetings which we will be asking the Board to consider, as
3 well, and obviously when we ask for this we'll be sending
4 you copies of those, too. These are other issues that you
5 should take a look at.

6 MR. JORDAN: Transcript of meetings of what?

7 MS. ELLIS: Some of them are meetings between the
8 Technical Review Team and CYGNA, between the Technical
9 Review Team and the applicants, this sort of thing.

10 MR. JORDAN: I understand.

11 MS. ELLIS: I would assume you would automatically do
12 this but, of course, any Board order; whistleblowers'
13 affidavits and depositions. There were several affidavits
14 attached to CASE's -- I think it was August 3, 1983 --
15 letter to the Licensing Board regarding intimidation,
16 harassment and so forth, and technical issues, as well;
17 some of the technical issues were included in that. There
18 was a pleading dated November 9, 1983, which led to
19 hearings eventually on the Lipinsky memorandum which is
20 something I think should be reviewed.

21 MS. GARDE: One of the things I wanted to say here is
22 we're not sure of the full scope of the TRT effort, and so
23 we don't know if the TRT considered and did issue findings
24 or considered things and didn't find anything to write
25 findings on on all allegations. In other words, the TRT's

1 full report matched up with our understanding, if you
2 will, of all the allegations don't match what's on the
3 table now and what we have; and we don't know what the
4 TRT -- what's the totality of what you've looked at.

5 MR. JORDAN: I'll ask Vince to comment on that then.

6 MR. NOONAN: I believe all the allegations that we
7 now have in hand are being looked at. We're down to -- I
8 think we're down to around ten percent left to go. Each
9 SER that we put out addresses all the allegations and are
10 catagorized in each SER.

11 MS. GARDE: Are you sure you got all the allegations
12 from the record, not that we gave you directly?

13 MR. NOONAN: I understand. We instituted a review of
14 all the records back in late November. We now added about
15 two full months, over two full months. I expect that
16 review to be done sometime within a month probably.

17 MS. GARDE: And out of that effort is coming more
18 allegations that we've not previously looked at.

19 MR. NOONAN: We're going to make a comparison of all
20 those -- we're going to pull all those records and compare
21 to what we have on our allegation record.

22 MS. GARDE: I understand.

23 MS. ELLIS: Included in that would be a series of ANI
24 documents which should be looked at, and I think I gave a
25 copy of that to the Technical Review Team already.

1 MS. GARDE: Are you looking at internal audits that
2 were provided to CASE in discovery that were performed by
3 TUGCO QA?

4 MR. JORDAN: Not directly, no.

5 MS. GARDE: Vince, are you looking at these?

6 MR. NOONAN: The TRT looked at them, I believe.

7 MS. GARDE: So what they looked at from you it will
8 incorporate --

9 MR. NOONAN: That's right.

10 MS. ELLIS: Okay. I think we'll be in better shape
11 to know some of the specific things you need once we see
12 SSER's. I think that will help a lot.

13 There is one particular document that came to mind
14 that is an Exhibit and I will try to get the Exhibit
15 number on this. It's the Wildwood report which was a
16 study done of the --

17 MS. GARDE: -- QA/QC management. It's the only
18 management report that we know of that's ever been
19 performed.

20 MS. ELLIS: Then there are a series of documents,
21 1976 through 1979, NCR trending, which was done. Billie
22 says there in this pleading that we just provided you.
23 They're referenced in there.

24 There is also a particular portion of the transcript
25 which I'll try to find and pull out for you which talks at

1 some length about design problems which were caused by
2 "somewhat knowledgeable" engineers. This has to do with
3 problems that, for instance, where a field engineer did
4 something which normally would be considered design
5 without considering the proper authority and so forth to
6 do it and this is attributed by the applicant's witnesses,
7 somewhat knowledgeable engineers. I think Mr. Taylor with
8 Region IV referred to them as somewhat inexperienced
9 engineers. This is one of the things, by the way, that is
10 still a concern of ours. As far as we know, there has
11 been no indication that these same somewhat knowledgeable
12 engineers aren't still at the plant doing the same thing.

13 There was also some Board Notifications, I believe it
14 was, which were put out by OIA which should be looked at.
15 And there are various other Board Notifications, many of
16 which are probably already encompassed in some of the
17 other things we told you about, but the Board
18 Notifications will be something that you should also
19 review.

20 Also, 10 CFR Part 21 reports and 10 CFR 50.55(e)
21 reports. And there is also one particular Notice we want
22 to call to your attention. I think it was an IE
23 Information Notice. I think the number was 84-54, which
24 has to do with not having proper calculations and backup
25 data to support engineering conclusions and so on, and

1 design.

2 MR. JORDAN: I'm sure everybody reads it because I
3 signed it.

4 MS. ELLIS: You shouldn't have any trouble finding
5 that one.

6 I think that's the specific things that I have. I'd
7 like to make just one or two brief comments. I do want to
8 recognize the fact that the discussions that we're having
9 here and the discussions that the whistleblowers have had
10 with the Technical Review Team have been very positive and
11 long overdue, and in a general way I think this is one of
12 the biggest problems within the agency and within the
13 ability of the agency to regulate, is a lack of
14 communications, a lack of mutual respect between the
15 whistleblowers and the agency. Now, there's been good
16 reason for that, especially in our area, and I won't
17 belabor that point, but as we mentioned earlier, there
18 have been problems for years. And it got to the point
19 with me personally where I have gone personally with
20 whistleblowers to Region IV and have been absolutely
21 appalled at what I sat there and heard. I've heard
22 whistleblowers argued with; I've heard them demeaned,
23 belittled; I've heard them insulted; I've heard their
24 motives questioned. These are people who at great
25 sacrifice and personal risk have been concerned enough to

1 come to the agency to try to get something done about
2 legitimate concerns. I can't emphasize how much this
3 change in direction has been needed and how much it's
4 appreciated. At the same time, I have to express the
5 views of our entire group, and there are members within
6 our group who are -- now I have some little skepticism
7 myself, I'll have to admit -- but there are others within
8 our group who have much more skepticism, and there again
9 it's based on past history. It's not the fault of you
10 gentlemen, certainly, and we don't want to prejudge what
11 you may find or may not find, but I guess the best term to
12 use is that we are cautiously optimistic and eternally
13 vigilant.

14 I think that I need to reiterate CASE's overall
15 position in having looked at the total plant; having
16 looked -- or not actually the total plant -- the total of
17 what we know about the plant; having talked to
18 whistleblowers through the years, many of whom have long
19 since disappeared without ever testifying, without ever
20 going to the NRC; having done all these things over a
21 period of time, CASE believes that Comanche Peak has been
22 designed and instructed such that there is no way at this
23 late date that anyone can come in and find all the
24 problems, much less correct them.

25 I think that's it.

1 MR. JORDAN: Okay, Ms. Ellis, I'd like to give the
2 Panel an opportunity to ask any questions before I make a
3 closing statement. Does the Panel have any questions?
4 Then I would like to express my appreciation for the
5 presentation that you have given, the quality of it, the
6 thoroughness of your presentation. It has been very
7 helpful to the Panel, and I would expect that we would be
8 calling on you in the future to help us.

9 MS. ELLIS: Any way that we can help we would be glad
10 to.

11 MR. JORDAN: You've been very open and I hope that
12 you feel that we've been open and candid in our
13 disclosures. Thank you very much.

14 We'll resume the meeting with the licensees at one
15 o'clock.

16
17 (The meeting was adjourned at 11:30 a.m. for
18 lunch, to be resumed at 1:00 p.m. for the
19 meeting with the licensee.)
20
21
22
23
24
25

CERTIFICATE OF PROCEEDINGS

This is to certify that the attached proceedings
before the Nuclear Regulatory Commission

In the Matter of: Contention 5 Panel Meeting
With CASE

Date of Proceedings: February 7, 1985

Place of Proceedings: Arlington, Texas

were held as herein appears, and that this is the original
transcr' for the file of the Commission.

Carmen Gooden

Certified Shorthand Reporter

Carmen Gooden

Certified Shorthand Reporter