

ORIGINAL  
UNITED STATES  
NUCLEAR REGULATORY COMMISSION

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IN THE MATTER OF:

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

TEXAS UTILITIES GENERATING COMPANY,  
et al.

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

DEPOSITION OF H. BROOKS GRIFFIN

LOCATION: WASHINGTON, D. C.

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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In the Matter of:	:
TEXAS UTILITIES GENERATING COMPANY,	:
et al.	:
(Comanche Peak Steam Electric	:
Station, Units 1 and 2)	:
-----x	

Docket Nos. 50-445-OL2  
50-446-OL2

DEPOSITION OF H. BROOKS GRIFFIN

Washington, D. C.  
Monday, December 17, 1984

Deposition of H. BROOKS GRIFFIN, called for examination pursuant to agreement by counsel, at the law offices of Bishop, Liberman, Cook, Purcell & Reynolds, 1200 Seventeenth Street, N.W., Seventh Floor, at 9:00 a.m. before JOEL BREITNER, a Notary Public within and for the District of Columbia, when were present on behalf of the respective parties:

JUDGE PETER BLOCH, Chairman  
JUDGE HERBERT GROSSMAN, Member  
Atomic Safety and Licensing Board  
U. S. Nuclear Regulatory Commission  
Washington, D. C.

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1                                   P R O C E E D I N G S

2                   JUDGE BLOCH: Good morning. My name is Peter  
3 Bloch and I'm chair of the licensing proceeding for an  
4 operating license for Comanche Peak and this portion of  
5 the proceeding deals with intimidation and harassment  
6 issues. With me this morning is Judge Grossman.

7           We are presiding over a special deposition of  
8 Mr. Brooks Griffin related to the credibility of the  
9 witness Mr. Joseph Lipinsky. To begin this morning,  
10 Mr. Griffin, I would like to advise you of your  
11 obligations. The testimony you are about to give will be  
12 related to issues of health and safety, and the economy of  
13 the local area where the nuclear plant is located. You  
14 are to tell the truth, the whole truth, and nothing but  
15 the truth. This obligation is supported by possible  
16 penalty for perjury.

17           Do you understand and accept the warning I have just  
18 given.

19

20 Whereupon,

21                                   H. BROOKS GRIFFIN

22 was called as a witness and, having been first duly sworn,  
23 was examined and testified as follows:

24                   JUDGE BLOCH: Let's proceed. Mr. Gallo?

25                   MR. WATKINS: Was the witness sworn?

1 MR. GALLO: That's what he just did.

2 EXAMINATION

3 BY MR. GALLO:

4 Q Mr. Griffin, would you state your full name and  
5 business record for the record, please?

6 A Harold Brooks Griffin, Jr. and I'm investigator  
7 for the U.S.Nuclear Regulatory Commission.

8 Q And your business address is?

9 A 611 Ryan Plaza Drive, Suite 815, Arlington,  
10 Texas, 76011.

11 Q Mr. Griffin, I show you one page of a document  
12 entitled "Professional Qualifications of H. Brooks Griffin"  
13 and ask if that is an accurate statement of your  
14 professional qualifications and prior work history?

15 A Yes, prior to my being employed by the NRC.

16 MR. WATKINS: Mr. Gallo, excuse me, as long as  
17 the witness is reviewing documents, can we know if  
18 Mr. Griffin brought any documents with him in response to  
19 the request for production?

20 THE WITNESS: No.

21 JUDGE BLOCH: Mr. Aloit informed the chair that  
22 there are some documents coming with Mr. Hayes and he's  
23 expected shortly.

24 MR. ALOIT: "A" document.

25 MR. GALLO: Judge Bloch, I guess I would propose

1 that we continue with the preliminary questions and,  
2 hopefully, by that time Mr. Hayes will arrive with the  
3 document.

4 This statement of professional qualifications was  
5 kindly furnished to me by counsel for Mr. Griffin, in  
6 order to avoid a number of questions. I would propose  
7 that it be bound into the transcript as Griffin Deposition  
8 Exhibit 1.

9 CHAIRMAN BLOCH: It may be received into  
10 evidence and bound into the transcript.

11 MR. GALLO: Received as a part of the deposition.

12 JUDGE BLOCH: I will say "into evidence" as a  
13 shorthand way of what I hope may ultimately happen.

14 (The document follows:)

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## PROFESSIONAL QUALIFICATIONS

OF

H. BROOKS GRIFFIN

UNITED STATES NUCLEAR REGULATORY COMMISSION  
OFFICE OF INVESTIGATIONS FIELD OFFICE  
REGION IV

H. Brooks Griffin is an Investigator for the Office of Investigations Field Office, Region IV, located in Arlington, Texas. He is responsible for conducting investigations concerning alleged or suspected violations of NRC regulations and/or Federal laws which relate to NRC licensed facilities and activities that are under Region IV jurisdiction. Mr. Griffin's entry-on-duty with the NRC was September 1982 as a GG13.

Mr. Griffin received his Bachelor of Science degree in Sociology from Stephen F. Austin, State University in 1970.

Prior Work History

While working in a Masters program in Criminology at East Texas State University, Mr. Griffin was hired on May 17, 1971, as a Special Agent with the Internal Revenue Service - Alcohol, Tobacco and Firearms (BATF) until he began his duties with the NRC. During his service with BATF, Mr. Griffin investigated violations of the firearms, explosives, alcohol, tobacco, arson and wagering laws. His duties involved the development of sources of information, the investigation of potential violations and the participation in the subsequent prosecution of persons in violation of Federal laws. Mr. Griffin attended numerous schools covering criminal investigation techniques and investigative theory. During election years, Mr. Griffin participated in numerous Secret Service protective details for presidential candidates and foreign dignitaries. During Mr. Griffin's 11½ years of service with the Treasury Department, he was posted in Albuquerque, New Mexico and Dallas, Texas. Mr. Griffin's date of birth is January 1, 1949.



1 BY MR. GALLO:

2 Q Mr. Griffin, I have some preliminary questions,  
3 the purpose of which are to obtain an understanding of the  
4 type of investigations that you conduct.

5 For example, a QA inspector might conduct an audit, or  
6 he might conduct something different called a surveillance.  
7 I'm wondering if, within your organization, do you conduct  
8 differing types of investigations?

9 A Yes.

10 Q Could you describe what they are? First of all,  
11 could you identify what they are?

12 A Could you be more specific?

13 Q Well, you just said that -- in answer to my  
14 question as to whether or not there were differing types  
15 of investigations, you said "yes," there were.

16 A I conduct investigations, yes.

17 Q But you agreed with me that there were differing  
18 types.

19 JUDGE BLOCH: We do have a problem since we have  
20 no mike. If you would speak up.

21 THE WITNESS: I do have a soft voice. I'll  
22 endeavor to speak more loudly. I do conduct different  
23 types of investigations.

24 BY MR. GALLO:

25 Q Can you describe for me the different types of

1 investigations?

2 A There is no set limit as to what those types are.  
3 They are whatever serves the needs of the Commission,  
4 going to many areas, all involving, hopefully, the health  
5 and safety of the public.

6 Q By "differing types of investigations," are you  
7 thinking of subject matter? Is that what you -- is that  
8 what you mean by different types of investigations?  
9 Different subject matter?

10 A That's way thought you meant.

11 Q No. What I was driving at is, is there a formal  
12 investigation or a, as compared to an informal type of  
13 investigation?

14 A Okay. I understand your question.

15 We have what we call actual investigations in which we  
16 -- normally we receive an allegation which involves a rule  
17 or regulation violation or potential violation. And we  
18 would investigate it to determine whether the allegation  
19 had merit or was true or we would attempt to refute the  
20 allegation.

21 The Office of Investigation generally handles  
22 violations of the rules and regulations that come under --  
23 what we would call "wrongdoing."

24 Examples of wrongdoing might be harassment,  
25 intimidation, falsification, and many other things.

1           Q           Now, is the investigation of an allegation  
2 different? Is the methodology used to investigate an  
3 allegation different than, say, a suggestion of wrongdoing?

4           A           Is the method different than wrongdoing?

5                        JUDGE BLOCH: I think I had a problem  
6 understanding the question too.

7                        MR. GALLO: Let me try it again.

8                        BY MR. GALLO:

9           Q           I thought you agreed with me that -- and perhaps  
10 you didn't -- you recall that I mentioned whether or not  
11 you conducted an informal investigation as compared to a  
12 formal investigation?

13           A           Yes, we -- we do have two other methods, or  
14 presently one other method of reporting information to the  
15 other parts of the Commission. It's something we call a  
16 "inquiry."

17                        It's a less formal report; normally used as a vehicle  
18 to report technical problems or technical allegations to  
19 other divisions of the NRC.

20                        In the past, we also had another vehicle which we no  
21 longer use called an AIRS, A-I-R-S; it's an assist to an  
22 inspection. In which the Office of Investigation was able  
23 to provide some type of assistance in helping inspectors,  
24 NRC inspectors gather their information; or take  
25 allegations from individuals who had information they

1 wished to give to the Commission.

2 Q What is the investigation called that is more  
3 formal than the inquiry?

4 A We just call it an investigation.

5 Q I see. In order to get an idea as to the amount  
6 of experience you had in conducting investigations or  
7 inquiries, since you have been with the NRC, can you give  
8 me an estimate of how many you've conducted?

9 A Well, it would have to be a guess but I would  
10 say that three or four formal investigations in a given  
11 year and maybe five or six inquiries. But that would vary  
12 greatly, determined by the length of any one investigation.

13 A great deal of my time is invested in taking  
14 allegations. And if there are great volumes of  
15 allegations, then the actual field work on an individual  
16 investigation a lot of times is delayed or suspended until  
17 all outstanding allegations are received and logged.

18 JUDGE BLOCH: When you said three or four  
19 allegations, is that groups of allegations or single  
20 allegations?

21 THE WITNESS: It could be both.

22 We attempt to turn out a professional product. If at  
23 the end of an investigation, if the report is eight inches  
24 deep and I had to dictate or type all of it, it takes a  
25 long time. Plus it could involve interviews of 50 or 100

1 people. So, sometimes the sheer volume of information  
2 contained in one allegation and taking it through the  
3 review process limits the amount of work that is actually  
4 generated by any individual investigator in a given year.  
5 Although in the allegation taking phase, we may handle  
6 hundreds of pieces of information in a given year,  
7 although they are not subject to formal investigation.

8 BY MR. GALLO:

9 Q Now, who do you report to? Who is your  
10 immediate supervisor at Region 4?

11 A Richard K. Herr, H-e-r-r.

12 Q And what is Mr. Herr's position?

13 A He is the director, office director for the  
14 Region 4 field office of the Office of Investigations.

15 Q Do you know who he reports to?

16 A His immediate superior is Roger Fortuna, who is  
17 the deputy director of the Office of Investigations.

18 Q And Mr. Fortuna's office is here in Washington?

19 A Yes.

20 Q What is your business relationship with  
21 Mr. Driskill?

22 A He is the senior investigator in my office, and  
23 the only other investigator at the moment.

24 Q Does he -- I assume from your prior answers he  
25 has no supervisory responsibility with respect to your

1 work; is that correct?

2 A That's correct.

3 Q Do you and Mr. Driskill work together on  
4 investigations? I'm sorry.

5 A In the past there have been occasions we have  
6 done. So normally we operate separately because of the  
7 volume of work.

8 MR. GALLO: Judge Bloch, at this point I'm going  
9 to begin to get into some pointed questions. I think I  
10 would like to wait until we have an opportunity to see  
11 Mr. Hayes' document.

12 JUDGE BLOCH: Could we learn what the document  
13 is?

14 MR. ALOOT: Why don't we have Mr. Griffin  
15 describe the document, because I do not believe that  
16 there's going to be any need to wait for this particular  
17 document.

18 Mr. Griffin, why don't you describe the document that  
19 Ben is attempting to courier down here.

20 THE WITNESS: Okay, recently in the last two  
21 weeks when the interest in my potential testimony before  
22 the board became known to the director, Mr. Hayes, I  
23 furnished him with a brief note. I believe it listed  
24 three items that I thought I would be able to -- three  
25 general areas of testimony that I would be able to provide

1 this board related to my brief conversation with  
2 Mr. Lipinsky. And this was just to be able to inform him  
3 in one-liners of my testimony, potential testimony, if I  
4 was called.

5 BY MR. GALLO:

6 Q What were the three items?

7 A Well, I have not seen the note since I scribbled  
8 it quickly and gave it to him, but I think it involved the --  
9 a general description of Mr. Lipinsky's -- impressions I  
10 had from Mr. Lipinsky's statements regarding the  
11 deposition he gave to the utility on that same day,  
12 November 10, 1983; his concern about his future in the  
13 nuclear industry; his -- I think the third thing was the  
14 means by which his trip report was put together initially.  
15 I think that document will be coming, but I believe those  
16 are the three areas that I listed to Mr. Hayes in this  
17 note.

18 Q The means by which the trip report was written;  
19 is that what you mean? The third item?

20 A Yes, the source -- the source material for the  
21 trip report.

22 Q When did you say you wrote this note?

23 A I didn't say. And it was within the last two  
24 weeks. I may have dated the note that I gave to him --  
25 hopefully.

1 MR. GALLO: Well, on the basis of the witness'  
2 testimony, I would propose to proceed.

3 BY MR. GALLO:

4 Q Are you aware that Mr. Driskill had conducted a  
5 telephone interview with Mr. Lipinsky on October 14, 1983?

6 A No.

7 Q You are not aware of that?

8 A No.

9 Q Are you aware of any investigation by  
10 Mr. Driskill with respect to Mr. Lipinsky?

11 A Yes.

12 C Can you tell me what the nature of that  
13 investigation is?

14 A I believe Mr. Driskill prepared what I described  
15 earlier as a report of inquiry on -- related to the memo  
16 that Mr. Lipinsky had prepared.

17 Q I have a Xerox copy of what I believe to be that  
18 report of inquiry. Why don't you take a look at it. I  
19 believe the second or third paragraph refers to a  
20 telephone interview with Mr. Lipinsky on October 14, 1983.

21 A The third paragraph says "a telephonic interview  
22 by Driskill."

23 Q You have to keep your voice up.

24 A Okay. Yes, the third paragraph does reference a  
25 telephone interview by Driskill.



1 Q So, when you answered my question in the  
2 negative as to whether or not you were aware of a  
3 telephone interview with Mr. Lipinsky on the 14th, you  
4 just simply couldn't remember?

5 A I'm not Mr. Driskill and I didn't --

6 Q No, but I asked you if you were aware of  
7 Mr. Driskill --

8 A I'm not aware of it.

9 Q Now that you've seen this inquiry does that make  
10 you aware of it?

11 A The information contained in that indicates to  
12 me that Mr. Driskill did hold an interview with a  
13 Mr. Lipinsky on October the 14, 1983.

14 Q Did you and Mr. Driskill discuss that interview  
15 in any way?

16 A I don't recall us discussing it.

17 JUDGE BLOCH: Do you recall when the first time  
18 is that you ever saw this report of inquiry?

19 THE WITNESS: Well, I can't be sure, judge. But  
20 I do not review Mr. Driskill's work. If I saw it, it  
21 would have been in the office, possibly lying on his desk.  
22 I have not reviewed Mr. Driskill's reports prior to coming  
23 to this hearing and I'm not aware of what the report says.

24 JUDGE BLOCH: You didn't have any occasion to  
25 assist him with respect to verifying the accuracy of any

1 portion of this report?

2 THE WITNESS: No, not that I'm aware of. If I  
3 did, I have no recollection of it.

4 BY MR. GALLO:

5 Q I believe you answered my question as to whether  
6 or not you were aware that Mr. Driskill was conducting an  
7 investigation involving Mr. Lipinsky, I believe you  
8 answered that question in the affirmative?

9 A That's correct.

10 Q What was the nature of that investigation?

11 A From statements made in the office I was aware  
12 that Mr. Lipinsky had written an internal memo that had  
13 since become public, and the memo was critical of the  
14 coatings program at Comanche Peak and that this memo had  
15 somehow become known to the parties to the hearing here  
16 and had become an issue.

17 Q Again, it was your understanding that your  
18 organization was investigating this matter?

19 A I think my understanding came to me, prior to  
20 the writing of this document -- prior to Mr. Driskill  
21 making his final report, that the source of Mr. Lipinsky's  
22 -- what I believe is termed, or called -- I have heard  
23 called the trip report, was based on testimony of one  
24 individual rather than inspections or document review and --  
25 conducted by Lipinsky on-site.

1           Therefore, rather than being escalated to one of our  
2 investigations into coatings, potential coatings  
3 allegations, the fact that the source was merely hearsay  
4 and did not involve any real knowledge on the part of  
5 Lipinsky, it was -- the efforts to date were record in the  
6 form of an inquiry and referred to the region.

7           Q           When you say the source was based on hearsay,  
8 what do you mean by that?

9           A           It's my understanding -- and you've got to  
10 recall -- remember that I was not involved in this -- I  
11 was told that Mr. Lipinsky's report was not the result of  
12 any inspections that he had conducted but, rather, that  
13 some individual had told him what they believed were the  
14 conditions of the site. The Office of Investigation and  
15 other parts of the NRC were already deeply involved in  
16 reviewing coatings allegations and apparently Mr. Driskill  
17 gave no extra weight -- I'm making a presumption here --  
18 to the contents of this trip report, and chose to close  
19 this inquiry -- this out as an inquiry, which is the more  
20 informal system; referring the information to the  
21 technical side of the house for whatever action they  
22 deemed appropriate.

23           Q           Now, who told you this information?

24                       MR. ALOOT: Excuse me, I'm having a little  
25 difficult time understanding the relevancy or materiality

1 of this line of questioning. The purpose for which we  
2 have made Mr. Griffin available.

3 It's my understanding that Mr. Griffin is to testify on  
4 his conversation with Mr. Lipinsky on November 10, any  
5 conversations he had with Mr. Lipinsky prior, or after  
6 that date, and the documents generated by Mr. Griffin in  
7 connection with that conversation.

8 I have heard very few questions on that. What I have  
9 heard is some inquiry into an OI report apparently  
10 designated Q483, 026.

11 Mr. Griffin didn't participate in that report. And if  
12 you want discovery as against the report, which I think  
13 stands for itself, I don't think Mr. Griffin is the proper  
14 person. And we'll ask for --

15 MR. GALLO: Well, Judge Bloch, first of all,  
16 this is a discovery deposition and the question of  
17 materiality and relevance do not apply to the same degree  
18 and extent as they do in an evidentiary hearing process.  
19 The test is whether or not the questions are calculated to  
20 elude information which might be relevant and material.

21 In any event, I believe that these questions are  
22 relevant and material to the inquiry report as part of the  
23 evidentiary record. The circumstances surrounding the  
24 October 14 meeting with a telephone interview between  
25 Driskill and Lipinsky are a matter of record in this case.

1 And I'm very interested in this witness' understandings  
2 and perceptions as to those matters which led to his --  
3 which may have led to his meeting with Lipinsky on  
4 November 10, 983.

5 MR. ALOOT: May I respond? I'm not quite sure --  
6 again, I want to reemphasize that Mr. Griffin was not made  
7 available for a normal discovery deposition. Mr. Gallo  
8 asked -- requested discovery for the purpose of  
9 determining the baseline information to decide whether he  
10 could continue to represent O.B. Cannon and Mr. Lipinsky.

11 I believe one could find one or two questions, and we  
12 could get at Mr. Griffin's initial involvement with  
13 Mr. Lipinsky. To conduct sort of a -- ended inquiry on  
14 how OI conducts investigations in Region 4 is not going to  
15 provide any information on Mr. Griffin's -- the facts of  
16 Mr. Griffin's conversation with Mr. Lipinsky, which I  
17 think is what interests this board.

18 JUDGE GROSSMAN: I think Mr. Gallo is probably  
19 through with that background inquiry anyway. Is that the  
20 case, Mr. Gallo?

21 MR. GALLO: Well, I still have the question on  
22 the floor, or on the table that's been objected to, which  
23 was: Who told Mr. Griffin the substance of the  
24 information he just described in his prior answer?

25 JUDGE BLOCH: Basically -- I hope we don't go

1 into it too much longer because I think it is just setting  
2 the stage and it is relevant to what the stage was when  
3 Mr. Griffin spoke to Mr. Lipinsky.

4 For that purpose, if it's a limited amount of further  
5 inquiry, why don't we proceed.

6 THE WITNESS: The answer to your question is:  
7 Somebody in my office. There's only three of us, the  
8 secretary, the director, and Mr. Driskill. My source  
9 would have had to be one of those three people.

10 BY MR. GALLO:

11 Q Do you remember which one of those three?

12 A No, I don't.

13 Q You do not?

14 A No.

15 JUDGE BLOCH: On procedure here, I think it  
16 would help if the witness waited until the question was  
17 completed. That helps the reporter.

18 THE WITNESS: The question I was responding to,  
19 judge, was the one he asked three or four minutes ago.

20 BY MR. GALLO:

21 Q And I then asked you if you remembered which one  
22 of the three possible sources in your office that gave you  
23 this information, and your answer was?

24 A No.

25 Q Do you know whether or not Mr. Driskill

1 investigated how the trip report was released at the  
2 Comanche Peak site and provided to the Staff?

3 A I don't know.

4 JUDGE BLOCH: Do you know whether or not the  
5 Applicants investigated that question?

6 THE WITNESS: I don't know, I'm sorry.

7 BY MR. GALLO:

8 Q This information that you provided with respect  
9 to the nature of the Driskill investigation, can you  
10 remember the timeframe when you might have been told that  
11 information? Month and year?

12 A I don't know. I don't -- I presume it was while  
13 it was being -- while it was occurring. That's only a  
14 presumption.

15 JUDGE BLOCH: Can you fix it before or after  
16 November 10th?

17 THE WITNESS: It would have to be before.

18 BY MR. GALLO:

19 Q And this is November 10, 1983?

20 A Yes.

21 JUDGE BLOCH: You just said 1983, Mr. Gallo?

22 MR. GALLO: Yes.

23 JUDGE BLOCH: Okay. Good.

24 BY MR. GALLO:

25 Q When did you first talk to Mr. Lipinsky about

1 his trip report -- strike that. When did you first talk  
2 to Mr. Lipinsky, period?

3 A I don't recall the specific date, but I  
4 telephoned Mr. Lipinsky prior to November 10, 1983, to  
5 arrange to meet him. And I don't know -- it was how many  
6 days in advance of his trip to Glenrose, but I do recall  
7 that there was -- that I did arrange it in advance.

8 Q Did you call him at his office in Philadelphia?

9 A I don't remember where I contacted him.

10 Q Why did you call him?

11 A For the sole purpose of discussing  
12 confidentiality; and the granting of confidentiality.

13 Q Do you recall calling him on November 9 at his  
14 motel in Glenrose, Texas, to set up that meeting?

15 A I don't recall it.

16 Q Were you aware, at the time of the phone call,  
17 that Mr. Lipinsky and other Cannon representatives were to  
18 meet with Texas Utility people at the site to discuss the  
19 trip report?

20 A I do not recall that. I recall that  
21 Mr. Lipinsky said he himself was going to be in town. I  
22 don't have any recollection of him telling me what -- what  
23 business he had in town.

24 Q Can you remember anything else that was  
25 discussed during this initial telephone conversation?



1           A           I don't recall the conversation, except that I  
2 recall the fact that I established a meeting point, or  
3 meeting -- time to meet with him.

4           Q           And what was Lipinsky's reaction to your request?

5           A           He agreed.

6           Q           When was the meeting scheduled for?

7           A           I don't remember the exact time of day, but I  
8 believe it was to be in the latter part of the morning of  
9 the 10th of November, 1983.

10          Q           Did you meet with Lipinsky on November 10, 1983?

11          A           Yes.

12          Q           Generally, do you remember what time --

13                    JUDGE BLOCH: Was it in the latter part of the  
14 morning?

15                    THE WITNESS: No, it wasn't. I agreed to meet  
16 with Mr. Lipinsky at the Glenrose Motor Inn sometime in  
17 the morning. I went to the motor inn and he was not there.

18                    BY MR. GALLO:

19          Q           Do you remember when the meeting took place,  
20 approximately?

21          A           No, I don't.

22          Q           Well, was it after 6:00 p.m.?

23          A           I think it was after lunch, but I don't remember  
24 the time. It was after my lunch, because that's what I  
25 did when he wasn't there: I went and got lunch.

1           Q           Did you meet immediately after you returned from  
2 lunch?

3           A           I believe he was there on the first time I went.

4           Q           So the meeting must have occurred sometime in  
5 the early afternoon, then?

6           A           That's probably a good guess.

7           MR. GALLO:   May I suggest a short recess is in  
8 order.

9           JUDGE BLOCH:  Let's go off the record for a  
10 second.

11                   (Discussion off the record.)

12           JUDGE BLOCH:  Back on the record.

13           MR. ALOOT:  If I may make a statement, Mr. Hayes,  
14 director of OI, and Roger Fortuna, deputy director, have  
15 come into the room.

16           The document that had been previously identified simply  
17 as a note from Brooks Griffin to Van Hayes regarding  
18 Mr. Griffin's possible testimony before the board did not  
19 arrive with Mr. Hayes.  With leave of the board, we will  
20 endeavor to discover it at the earliest possible  
21 opportunity and have it served on the parties.

22           JUDGE BLOCH:  I just note that Mr. Aloom used  
23 the word "identified" in the colloquial sense.  We have  
24 not identified it for the record.

25           MR. ALOOT:  Yes.

1 JUDGE BLOCH: Let's continue.

2 MR. GALLO: Judge Bloch, based on the witness'  
3 description of the document it does not appear that it  
4 will be necessary to recall the witness upon production of  
5 the document. But surely if the document does indicate  
6 some need to recall Mr. Griffin, I would reserve that  
7 right upon seeing the document.

8 JUDGE BLOCH: Please continue.

9 MR. GALLO: Could I have the last question and  
10 answer back?

11 (The reporter read the record as requested.)

12 BY MR. GALLO:

13 Q Is that your guess, Mr. Griffin?

14 A It was your guess.

15 Q Well, I am not interested in guesses?

16 A I already told you I do not know.

17 Q Well, we know that it didn't occur before your  
18 lunch; is that right?

19 A It occurred after my lunch, as I have already  
20 testified.

21 Q Did it occur after 6:00 p.m.?

22 A I do not -- I believe it was earlier in the day.

23 Q It was earlier in the day. After lunch what did  
24 you next do?

25 A After lunch I went back to the Glenrose Motor

1 Inn and met with Mr. Lipinsky.

2 Q How long was your lunchtime?

3 A I would say 25 to 30 minutes.

4 Q And when did you normally take lunch?

5 A I normally take lunch at -- I'd say 11:45, on  
6 the average day during the week. On weekends I would say  
7 noon.

8 Q When did you take lunch on the day of the 10th?

9 A After I made the initial visit to the Glenrose  
10 Motor Inn to meet with Mr. Lipinsky.

11 Q And what time was that?

12 A I do not recall.

13 Q Now, based on this line of questioning, do you  
14 have a judgment as to when this meeting might have taken  
15 place?

16 A No.

17 Q Not at all?

18 A Other than what I have described after lunch.  
19 And I don't have any -- any documents that would -- that I  
20 could refer to, to refresh my memory.

21 Q The circumstances --

22 JUDGE BLOCH: Is the problem you think maybe you  
23 ate a very late lunch that day?

24 THE WITNESS: No, I think maybe I ate a very  
25 early lunch, in that with Mr. Lipinsky not showing I

1 wanted to make use of my time. And I think I went and ate  
2 early.

3 JUDGE BLOCH: The uncertainty in your mind is  
4 primarily whether it was before noon, not whether it was  
5 late in the afternoon; is that right?

6 THE WITNESS: Right. I think it's very possible  
7 it was either late morning or early afternoon. I just  
8 don't recall. If I did, I would certainly tell this board  
9 to get past this point.

10 BY MR. GALLO:

11 Q The facts that we have elicited don't suggest to  
12 you that in fact was the case, based on your conduct and  
13 normal habits for eating lunch?

14 JUDGE BLOCH: I think --

15 MR. GALLO: I'll strike the question. I would  
16 just like to observe that if Mr. Griffin is going to  
17 continue to dance around on those kind of questions we are  
18 going to be here a long time.

19 JUDGE BLOCH: Mr. Gallo, you don't have to make  
20 extra observations. He did his best, as far as I can tell.

21 MR. GALLO: That's a matter of opinion, Judge  
22 Bloch.

23 MR. ROISMAN: I think it's clear we are going to  
24 break for lunch at 11:45.

25 MR. WATKINS: Will that be a 25-minute lunch?

1 BY MR. GALLO:

2 Q You did take notes during the course of your  
3 meeting on the 10th with Lipinsky?

4 A No, I did not.

5 Q You didn't take any notes whatsoever?

6 JUDGE GROSSMAN: He shook his head.

7 BY MR. GALLO:

8 Q Now, if I understand your prior answer to one of  
9 my questions, you indicated that the purpose of this  
10 meeting was to discuss confidentiality; is that correct?

11 A More precisely, to discuss Mr. Lipinsky's  
12 potential waiving of confidentiality.

13 Q Now, was this -- how would you describe this  
14 meeting? Was this a follow-up on Driskill's inquiry? How  
15 would you describe that?

16 A Well, if you'll allow me a little room to inform  
17 you, I was dispatched by my supervisor to contact  
18 Mr. Lipinsky for the purpose of obtaining a waiver of  
19 confidentiality, the reason being that the facts  
20 surrounding his trip report and his internal memo had  
21 become public knowledge.

22 It was unnecessary -- it unnecessarily encumbered the  
23 NRC to continue to protect Mr. Lipinsky's identity with  
24 the knowledge that we had that all parties to the hearing  
25 were already aware of the memo.



1 Mr. Driskill on this case and I'm sure his report  
2 faithfully demonstrates or documents what efforts he made.  
3 But I was not involved in the writing or the actual  
4 investigation and I have not reviewed this report, so I'm  
5 not familiar with the day-to-day activities that  
6 Mr. Driskill may have had with Mr. Lipinsky prior to my  
7 conversation with Lipinsky on the 10th.

8 JUDGE BLOCH: Do you know whether or not that's  
9 the only report Mr. Driskill wrote about matters involving  
10 Mr. Lipinsky?

11 THE WITNESS: It's my understanding that there  
12 was a supplemental to this inquiry report. And I believe  
13 that the subject of the supplemental report was the  
14 document or the deposition taken from Mr. Lipinsky by the  
15 Utility.

16 JUDGE BLOCH: By the Utility?

17 THE WITNESS: I believe that's who took the  
18 deposition.

19 JUDGE BLOCH: Mr. Aloom, we don't have that  
20 deposition for our record. I think we'd like it if it  
21 could be obtained?

22 MR. TREBY: Oh, I disagree.

23 JUDGE BLOCH: That's the one we have?

24 MR. TREBY: It is a copy of that November 10th,  
25 and perhaps 11th, meeting; when we provided it to the



1 board and parties we provided both the October 18 report  
2 and the supplemental memorandum.

3 JUDGE BLOCH: That's the one you meant?

4 THE WITNESS: That's the one I referred to,  
5 Judge.

6 JUDGE BLOCH: Forgive me, I didn't understand it  
7 to be a deposition. You are referring to the meeting  
8 itself?

9 THE WITNESS: I had not seen it. That's the  
10 description I was given.

11 JUDGE GROSSMAN: You understood it was  
12 transcribed and assumed it was a deposition; is that it?

13 THE WITNESS: That was -- based on my  
14 recollection of Lipinsky's comments, he had been  
15 cross-examined and it had been recorded in some planner.  
16 And I'm referring to it as a deposition. Maybe  
17 "transcription" would be more accurate.

18 BY MR. GALLO:

19 Q So the purpose of this meeting was to conduct  
20 this errand for your supervisor and get this waiver of  
21 confidentiality; is that correct?

22 A If -- yes. If Mr. Lipinsky agreed to waive it.

23 Q So you were not pursuing an inquiry or  
24 investigation at this time; is that correct?

25 A That's correct.

1 Q Now I'm going to ask you some questions as to  
2 what was discussed with Mr. Lipinsky at this November 10  
3 meeting.

4 First, let me ask you these questions: Have you read  
5 the direct testimony that was filed in this case by  
6 Mr. Lipinsky?

7 A No.

8 Q Have you read the -- Mr. Lipinsky's testimony  
9 elicited on cross-examination that was elicited before  
10 this licensing board?

11 A No.

12 Q Have you read any of the transcripts of the  
13 testimony in this case?

14 A No.

15 Q Have you read Mr. Lipinsky's diary notes?

16 A No.

17 Q At no time?

18 A At no time.

19 JUDGE BLOCH: When you said you haven't read the  
20 transcripts of this case, do you mean any of the  
21 transcripts?

22 THE WITNESS: My only involvement in this case  
23 is what I'm here to testify about today. I have not  
24 involved myself in this case before or since.

25 JUDGE BLOCH: When you say "this case," are you

1 referring to the Comanche Peak licensing case?

2 THE WITNESS: No, the Lipinsky matter.

3 JUDGE BLOCH: Okay. So you haven't read  
4 transcripts about the Lipinsky matter?

5 THE WITNESS: Right. I have read transcripts  
6 about other issues before the board.

7 MR. GALLO: If I understand the state of the  
8 record, he has not read any of the transcripts with  
9 respect to the Lipinsky matter.

10 JUDGE BLOCH: Correct.

11 MR. GALLO: All right.

12 BY MR. GALLO:

13 Q Now, when you met with Mr. Lipinsky on the 10th,  
14 sometime after lunch, what was his demeanor at the meeting?

15 A I believe I arrived at the -- based on what I  
16 recall of Mr. Lipinsky's statements, he had arrived just  
17 moments before I returned to the Glenrose Motor Inn. He  
18 invited me into his room and we sat and talked.

19 Q How did he appear to you? Was he distracted?  
20 Tranquil? Bored? Happy? Nervous? What was he?

21 A I would say in my opinion he was somewhat  
22 agitated.

23 Q Did you inquire as to --

24 JUDGE BLOCH: Could you tell me what that means  
25 to you? What were the signs that he was somewhat agitated,

1 if you can remember?

2 THE WITNESS: I would say excessive activity:  
3 pacing, rapid speech, appeared to be somewhat nervous.

4 BY MR. GALLO:

5 Q Did you inquire as to why he was agitated, as  
6 you perceived it?

7 A I don't believe I did.

8 Q Do you remember what the first topic was that  
9 was discussed during the meeting on the 10th?

10 A I don't recall the order of items that  
11 Mr. Lipinsky told me. But I think one of the first things  
12 he would have discussed with me, or that I recollect that  
13 he discussed with me, was the fact that he had just gone  
14 through a -- the process of giving a statement to the  
15 utility.

16 Q Now, let's -- fine. This was your meeting,  
17 right? Is that correct? It was your meeting? You had  
18 called the meeting with Lipinsky; is that correct?

19 A Yes.

20 Q The purpose was to discuss waiver of  
21 confidentiality?

22 A Yes.

23 Q And did you start the meeting or did Lipinsky  
24 just blurt out about the meeting with the Utility?

25 A When I walked into the room, I'm sure I

1 introduced myself and I think he may have made some  
2 statement about why he was late, which led us into him  
3 explaining that he had just given a deposition.

4 Q Did you show him your identification before the  
5 meeting started?

6 A I believe I did.

7 Q What do you recall of his statement with respect  
8 to the meeting with the Utility?

9 A I do not remember specifically what Mr. Lipinsky  
10 said. But my recollection is that he said he had been  
11 called to Comanche Peak for some purpose other than to  
12 give a deposition and that he had been pulled into a room  
13 and made to give a deposition by the Utility, about his  
14 trip report.

15 Q Did he convey to you his impressions of the  
16 results of the meeting?

17 A Yes. He said that the meeting largely consisted  
18 of -- I think he identified Mr. Tolson as the person  
19 asking most of the questions. He said Mr. Tolson was  
20 going through his trip report sentence by sentence, and  
21 then Mr. Tolson would -- having read the sentence, would  
22 give a five- or 10-minute explanation as to why the  
23 sentence was incorrect. And that -- and Lipinsky  
24 indicated to me that his responses were brief and  
25 generally of the nature: Well, if what you are telling me --

1 and I'm quoting Mr. Lipinsky: "If what you are telling me  
2 is true, maybe it's not a problem."

3 Q Do you recall asking Lipinsky as to whether or  
4 not he agreed with everything said at the meeting in order  
5 to get out of the meeting? Do you recall asking him that  
6 question?

7 A No.

8 JUDGE GROSSMAN: Excuse me, could you read the  
9 question and answer again?

10 (The reporter read the record as requested.)

11 JUDGE BLOCH: Do you recall if he said anything  
12 about agreeing or disagreeing with what went on at the  
13 meeting?

14 THE WITNESS: No. He didn't offer one way or  
15 the other. He was -- my recollection of his concern was  
16 just the fact that he had not understood that he was being  
17 called to the site to give a deposition and he felt like  
18 something had taken place that he was not prepared for.

19 BY MR. GALLO:

20 Q He was upset because it appeared that signals  
21 had been changed on him? Was that your perception?

22 A My recollection is that he thought he had been  
23 called on-site for purposes other than to give a  
24 deposition. More precisely, having something to do with a  
25 potential contract or whatever business relationship he

1 had already established with the Utility.

2 Q Did he mention the conduct of an audit?

3 A No.

4 Q No, he didn't mention it? Or you don't recall  
5 him mentioning it?

6 A I don't recall.

7 JUDGE BLOCH: Does that mean to you you don't  
8 know whether or not he mentioned it?

9 THE WITNESS: That means I don't recall whether  
10 he mentioned it.

11 JUDGE BLOCH: Okay. Thank you.

12 THE WITNESS: There may be -- just to let you  
13 understand -- I really have no recollection of any  
14 specific statements of Mr. Lipinsky -- Mr. Lipinsky made.  
15 I don't have any documentation where I -- that I have  
16 available, that would allow me to recall particular  
17 statements he made.

18 I do have recollect specific issues and the  
19 general idea that he told me about his concerns  
20 on these. That's the only thing I'm able to give the board  
21 here today.

22 JUDGE BLOCH: Mr. Gallo, have a feeling it  
23 might be best to ask him what he remembers, unless you  
24 insist on going the other way? Maybe we could -- I'll let  
25 you proceed as you want, Mr. Gallo.

1 BY MR. GALLO:

2 Q Given your last explanation, in response to one  
3 of my prior questions you did quote Mr. Lipinsky in terms  
4 of characterizing the meeting results; is that correct?

5 A If I did or if you perceived it that way it  
6 would be incorrect.

7 Q It would be incorrect?

8 A I have recollections of ideas that Mr. Lipinsky  
9 gave me. I do not recall specific statements. And if now  
10 or in the future during this I said "Mr. Lipinsky said,"  
11 that would be incorrect. I do not recall any particular  
12 statements. But he did make explanations to me, the gist  
13 of which I recall.

14 Q All right. So that the record is clear,  
15 concentrating solely on the Lipinsky meeting with  
16 Mr. Tolson, what do you recall Mr. Lipinsky told you with  
17 respect to that meeting?

18 A Well, to repeat what I have already testified to,  
19 he said he was called to the site for some other purpose;  
20 that he was taken into a room or a place, and was made to  
21 give a deposition. And that the questioners -- I recall  
22 Tolson was one -- apparently read his internal memo line  
23 by line and then proceeded to give a lengthy explanation  
24 of why the particular sentence that he had just read was  
25 incorrect. And I recall that Mr. Lipinsky explained



1 something to the effect that his responses to the  
2 questions put to him during this deposition were brief,  
3 and most of them were something to the point of: If what  
4 you are telling me is correct, or true, then maybe it's  
5 not what you are telling me -- or what I wrote is not a  
6 problem.

7 Q Do you recall whether or not he characterized  
8 the meeting with Tolson as an "ambush"?

9 A Those are not my words, although I have read  
10 them in the paper. I think that such a description might  
11 convey his feelings based on the perceptions I had, in  
12 that he did not expect to be giving a deposition that day.

13 Q You don't recall him using that word?

14 A Oh, absolutely not.

15 Q You have just hit on a point that I neglected.  
16 I take it from what you have just testified to that you've  
17 read the Texas newspapers of the Lipinsky testimony; is  
18 that correct?

19 A I read -- I think I read some of the newspaper  
20 articles about the Lipinsky matter as the hearings  
21 proceeded. I think the word "ambush" was used by a member  
22 of GAP, who was supposedly quoted in the newspaper as  
23 having attributed the word "ambush" to me.

24 Q So you read newspaper articles about the  
25 discussion before the licensing board involving your

1 testimony; is that correct?

2 A When I'm in town, and when I buy a paper, I  
3 often look to see if there is -- are any articles on the  
4 nuclear industry. When the hearings are in session it's  
5 common for there to be almost daily news reports about  
6 whatever is the most provocative thing to come out of the  
7 hearings that day. And I sometimes read those out of  
8 curiosity.

9 I do not rely on the newspaper accounts for information.  
10 Nor do I base actions or investigative efforts on the  
11 information I see reported in the newspaper.

12 (Recess.)

13 JUDGE BLOCH: The deposition will come to order.

14 BY MR. GALLO:

15 Q Just to be clear, did you read the news accounts  
16 about your possible appearance before this board as a  
17 witness?

18 A I think I read one article in which Ms. Garde,  
19 the representative from GAP, was attributing certain  
20 quotes to me in the newspaper. I read that one. I don't  
21 know if I read any others.

22 Q The reason I asked that question is in  
23 testifying here today as to what you recall, if you can I  
24 would appreciate it if you could filter out what might  
25 have been contained in the newspaper articles?

1 A Oh, I will.

2 Q And not mix it with your recollections?

3 A I will. I can assure you that will be the case.

4 Q Thank you.

5 JUDGE BLOCH: Your answer suggests it hasn't  
6 filtered in.

7 THE WITNESS: Possibly.

8 BY MR. GALLO:

9 Q Now, this meeting on the 10th of November, did  
10 you give Lipinsky a copy of the Driskill inquiry to review?

11 A I recall taking some document that Driskill had  
12 prepared for Lipinsky to review. I presume, though I do  
13 not recall, it was what we call a "report of interview,"  
14 which was -- it's a form that we use in that, if we  
15 interview somebody and choose not to take a statement or a  
16 transcription, we conduct interview, take notes, and then  
17 later report -- the investigator records his -- the  
18 interviewees' comments based on his notes.

19 If I recall correctly, the document or documents that I  
20 showed Lipinsky on that day were probably his report of  
21 interview for the purpose of ascertaining the accuracy of  
22 Mr. Driskill's recollection of the statements that  
23 Lipinsky had made.

24 Q The document that you showed Lipinsky, was it in  
25 the form of this "report of inquiry" or was it in some

1 different form; do you know?

2 A I'm afraid I do not know, Mr. Gallo.

3 JUDGE BLOCH: I think you said you thought it  
4 was in the form of a "report of interview"?

5 THE WITNESS: I think so. If you show me a  
6 document -- I do not --

7 BY MR. GALLO:

8 Q The only document I can show you is the report  
9 of inquiry. It's the only one I have.

10 A I do not recall if that's what I showed  
11 Mr. Lipinsky.

12 Q Do you recall whether the document you showed  
13 Lipinsky concerned Driskill's telephone interview on  
14 November 14, 1983?

15 A I have no such recollection.

16 Q Do you recall what Lipinsky's reactions were to  
17 the document you showed him?

18 A As I recall, Lipinsky indicated that the  
19 statements contained in whatever document I showed him  
20 were accurate.

21 Q Did he make any corrections at all?

22 A If he did, I do not recall.

23 Q Did you talk to Lipinsky at the meeting on  
24 November 10 about the confidentiality matter?

25 A Yes, I did.

1 Q Would you tell me what you recall of that  
2 subject?

3 A I explained to Mr. Lipinsky that the -- most of  
4 the parties at the hearing were aware of his internal memo  
5 and that I, or the NRC, expected the issue to be fully  
6 aired at some point in the future, and that it would be  
7 much simpler and easier on the NRC if they could speak  
8 about the matter and use his name openly, rather than to  
9 have to continue to protect his identity. And also,  
10 Mr. Lipinsky, subsequent to these -- to my request, chose  
11 to waive confidentiality and agreed to provide the NRC  
12 with a written waiver, at my request.

13 JUDGE BLOCH: You said "subsequently." Was that  
14 during this meeting or some later time?

15 THE WITNESS: No -- after I made the request he  
16 agreed, during this meeting.

17 BY MR. GALLO:

18 Q Now, I have some confusion as to what the waiver  
19 of confidentiality addressed. Were you keeping  
20 confidential the fact that he had authored the August 8th  
21 trip report?

22 A No. The grant of confidentiality would relate  
23 to any documents generated by the NRC; in that his name or  
24 any identifiers would be sanitized out of any report  
25 released to the public, thereby protecting his identity.

1 Q A report like the "report of inquiry" written by  
2 Mr. Driskill on October 18, 1983?

3 A That would be an example of a document which, if  
4 it were a copy to be released to the public, would be  
5 sanitized to protect the witness' identity.

6 Q What other matters can you recall were discussed  
7 at the November 10 meeting with Lipinsky?

8 A Lipinsky -- I recall that Lipinsky discussed the  
9 fact that the contents of the internal memo that had been  
10 released was based on information he had received from one  
11 individual; and that it was not based on any substantial  
12 inspection or review of documents and that he intended the  
13 memo to be for the eyes of his superiors only and it was  
14 not something that he intended for others to see.

15 Q Can you recall anything else that was discussed  
16 during that meeting with Mr. Lipinsky?

17 A On that same subject, Lipinsky also indicated  
18 that the -- that the contents, because of the nature of  
19 the contents of his statements contained in this report,  
20 he did not consider that the conclusions he had made in  
21 his -- in the internal memo were supported by facts that  
22 he himself had gathered, but was based solely on this  
23 other person's testimony.

24 JUDGE BLOCH: I take it you remember quite  
25 clearly that he said one person?

1           THE WITNESS: I -- it occurs to me that he said  
2 his source was one individual. That's my recollection.

3           BY MR. GALLO:

4           Q       Did he name the individual?

5           A       No, he did not.

6           Q       Do you remember any other subject that might  
7 have been discussed at this meeting on the 10th?

8           A       Part of his concern was his future with O.B.  
9 Cannon, and he feared that if this subject -- if this  
10 incident received too much publicity or became too well  
11 known, that it could jeopardize his future in the nuclear  
12 industry, in that people would not be willing to let  
13 contracts to him individually or potentially to his  
14 employer, because of this type of incident.

15          Q       Now, what is your understanding of what he meant  
16 by referring to "the incident"?

17          A       The notoriety that was being gained from the  
18 fact that his internal memo had gone public, or been made  
19 public. And he -- I gathered from his statements that he  
20 was concerned that his company would -- would feel that he  
21 had unnecessarily put them in a difficult position.

22          Q       Did he indicate to you that he was worried about  
23 being fired as a result of this incident?

24          A       I don't recall him indicating he was afraid of  
25 termination. He may have made some reference to that, but

1 I have no recollection of it.

2 Q Do you recall whether or not he indicated to you  
3 that he was afraid he might have been -- might be  
4 blackballed in the nuclear industry as a result of this  
5 incident?

6 A I don't recall that particular language, but he  
7 did express some concern about his future employment in  
8 the industry because of the notoriety surrounding this  
9 case.

10 Q Did he seek your advice as to what he should do  
11 in the circumstances?

12 A No.

13 JUDGE BLOCH: Do you remember whether his fears  
14 were solely for himself and his company? Was he afraid  
15 about anyone else also?

16 THE WITNESS: I don't recall him expressing any  
17 concerns for anything other than himself and his company.

18 JUDGE BLOCH: So, more specifically you don't  
19 remember any specific concerns about the one individual  
20 who gave him the information?

21 THE WITNESS: No.

22 MR. GALLO: Could I have a moment, Judge Bloch?

23 (Discussion off the record.)

24 BY MR. GALLO:

25 Q Do you recall whether or not he indicated to you



1 that he was convinced that his career was finished as a  
2 result of this incident?

3 A No. I have no such recollection.

4 Q Now, I think we've covered as subjects during  
5 the November 10 meeting, we talked about the  
6 confidentiality question; the concern about his job status;  
7 the meeting with Tolson; the review of a document for  
8 accuracy. Do you recall whether or not there were any  
9 other matters that were discussed at the November 10  
10 meeting?

11 A There may have been. But I don't -- at this  
12 moment I don't recall other subjects. You have had access  
13 to Mr. Lipinsky's testimony. If you'll jog my memory I'll  
14 be as cooperative as possible.

15 JUDGE BLOCH: Before we do that, you said he  
16 talked to you about the means by which his report was put  
17 together. Have you already testified fully about that?

18 THE WITNESS: The means by which his internal --  
19 yes, he made statements about the basis for his internal  
20 memo.

21 MR. GALLO: I think the witness has testified to  
22 that, is my recollection.

23 JUDGE BLOCH: I want to know if he said  
24 everything about that.

25 MR. GALLO: No problem.

1 THE WITNESS: As far as I know, Judge.

2 JUDGE BLOCH: So all you know is it came  
3 primarily from one individual?

4 THE WITNESS: And, therefore, was discounted.  
5 BY MR. GALLO.

6 Q How did you conclude the meeting -- strike that.  
7 How was the meeting concluded with Mr. Lipinsky?

8 A I think it was concluded with him agreeing to  
9 send the NRC Office of Investigations a written waiver,  
10 which he chose to prepare himself or -- separate -- he  
11 didn't wish to do it at that time. He wanted to do it on  
12 his own and mail it to the NRC.

13 Q Do you have a recollection as to how long the  
14 meeting lasted on the 10th?

15 A I would guess 15 to 20 minutes.

16 Q When did you next talk to Mr. Lipinsky, if  
17 indeed you did?

18 A I don't believe I had any other contacts with  
19 Mr. Lipinsky. If I did, I do not recall them.

20 JUDGE BLOCH: Did you have any further contacts  
21 with anyone from O.B. Cannon?

22 THE WITNESS: No, don't believe I did.

23 BY MR. GALLO:

24 Q Do you, perhaps, recall a telephone conversation  
25 with Mr. Lipinsky some four days later, after the 10th, to

1 discuss the waiver of confidentiality?

2 A I don't have any recollection of such a  
3 conversation.

4 Q Do you recall a joint conversation with yourself,  
5 Lipinsky, and Driskill, on about the -- October --  
6 November 14, I'm sorry, 1983?

7 A I don't have any such recollection.

8 Q Have you discussed the -- your meeting of  
9 November 10 with Mr. Lipinsky recently with Ms. Garde, of  
10 GAP?

11 A Yes. I had occasion where I was -- received a  
12 call from my operations officer, Mr. Gilbert, who stated  
13 that he wanted to ask me some questions about the Lipinsky  
14 matter. Ms. Garde was present.

15 JUDGE BLOCH: What's an operations officer?

16 THE WITNESS: Desk officer; staff to Mr. Hayes  
17 and Mr. Fortuna. He is the link between my office  
18 director and the director and deputy director in  
19 headquarters.

20 That may not be his exact title, but that's what I  
21 referred to.

22 BY MR. GALLO:

23 Q And do I understand that you attended a meeting  
24 with Mr. Gilbert and Ms. Garde?

25 A No, I was sitting in my office. My phone rank,

1 Mr. Gilbert calling.

2 Q Where was Mr. Gilbert at that time?

3 A I presume at his office in Washington.

4 Q I see. Was there anybody else in Mr. Gilbert's  
5 office with him that you are aware of?

6 A Mr. Gilbert said that he wanted to ask me a few  
7 questions, and that Ms. Garde was present and he was going  
8 to put it on the speaker box; and he did.

9 Q Do you remember about when this conversation  
10 took place?

11 A I do not have that date available. But it was  
12 within the past two, 2-1/2 weeks, I believe.

13 Q You're on the speaker phone --

14 A I am on my telephone. They are apparently on  
15 the speaker phone.

16 Q Who asked you questions?

17 A Both Gilbert and Garde.

18 Q And what was the subject matter of the questions?

19 A My recollections of the November 10th meeting  
20 with Lipinsky.

21 JUDGE BLOCH: Did you take notes?

22 THE WITNESS: No, sir.

23 JUDGE BLOCH: Do you know whether or not

24 Mr. Gilbert took notes?

25 THE WITNESS: He may have. I believe he did.

1 BY MR. GALLO:

2 Q Did either Mr. Gilbert or Ms. Garde explain to  
3 you what the purpose of the questions was?

4 A No. No, there was no preamble.

5 Q Mr. Gilbert just said: "I want to talk to you  
6 about your meeting with Lipinsky on November 10, 1983"?

7 A That's correct.

8 Q No explanation as to what might be done with the  
9 information?

10 A None.

11 Q During this conversation with Gilbert and  
12 Ms. Garde, did you describe Lipinsky's demeanor at the  
13 November 10 meeting as extremely agitated?

14 A I described it just as I did here today: that I  
15 believed he was agitated. The use of any other adjectives  
16 or adverbs to add to my testimony already would not be my  
17 testimony but possibly some other person's, such as  
18 Ms. Garde.

19 Q Did you tell either Gilbert or Ms. Garde -- well --  
20 strike that.

21 Did you tell Gilbert and Garde that during the  
22 conversation that Lipinsky had expressed a feeling during  
23 the November 10 meeting -- that he was convinced his  
24 career was finished?

25 A Absolutely not.

1 Q Did you tell Ms. Garde and Gilbert during that  
2 phone conversation that Lipinsky had indicated to you  
3 during the meeting on the 10th of November, 1983, that he  
4 didn't have any reason to believe Tolson, from what he had  
5 seen himself during his site visit?

6 A No such conversation. I said nothing like that.  
7 Nothing like that was said during that conversation to my  
8 recollection.

9 Q Did you tell them that Lipinsky had indicated to  
10 you during the meeting on November 10 that he thought the  
11 meeting with Tolson was an ambush?

12 A I read that particular quote in the paper. That  
13 was not my -- my statements during that particular  
14 telephone call.

15 I think I probably said something like: "was brought  
16 to the site under false pretenses."

17 Q Did you ever indicate during that meeting --  
18 strike that.

19 Did you ever indicate during that telephone  
20 conversation with Mr. Gilbert and Ms. Garde, that you felt  
21 Lipinsky had perjured himself in testimony given before  
22 this licensing board?

23 A I made no such statements. And as I have  
24 already told the board, I'm not aware of the testimony  
25 anyway. So --

1                   JUDGE BLOCH: In the course of your conversation  
2 with Mr. Lipinsky, did he mention at all whether he had  
3 confidence in the truth of what his informer had told him?

4                   THE WITNESS: I believe I -- I do believe I have  
5 a recollection of that. In that, during my conversation  
6 with him on the 10th, he indicated that the person that  
7 had provided him with the information was somebody that he  
8 had faith in their -- in their abilities and their  
9 knowledge of coatings.

10                  BY MR. GALLO:

11                  Q        Have you had any other conversations with  
12 Ms. Garde or Mr. Gilbert with respect to this O.B. Cannon  
13 witness matter? That's a double question. Let's take it  
14 in pieces first, with Ms. Garde?

15                  A        No. I had no further conversations with her  
16 since that telephone call.

17                  Q        Have you had any -- ever had any conversations  
18 with Mr. Roisman in this matter, with respect -- "the  
19 matter" meaning the Lipinsky matter?

20                  A        I have never met Mr. Roisman, nor have I ever  
21 talked to him, to my knowledge.

22                  JUDGE BLOCH: This     Mr. Roisman.

23                  MR. GALLO: Let me introduce you to Mr. Roisman.

24                  MR. ROISMAN: Nice to meet you.

25

1 BY MR. GALLO:

2 Q Have you ever discussed the matter with any  
3 other representative of GAP or CASE?

4 A No.

5 MR. GALLO: That's all the questions I have.

6 JUDGE BLOCH: Should Mr. Watkins be next? Why  
7 don't we proceed with Mr. Watkins?

8 MR. WATKINS: Sure, could we take a five-minute --

9 JUDGE BLOCH: Sure. Five-minute break. 10:37  
10 on my watch. It's 10:32 now.

11 (Recess.)

12 JUDGE BLOCH: The deposition will come to order.

13 EXAMINATION

14 BY MR. WATKINS:

15 Q Is there an ongoing Office of Investigations  
16 matter with respect to the Lipinsky memo?

17 A Not to my knowledge. If I recall, the fact that  
18 Mr. Lipinsky's --

19 JUDGE BLOCH: I'm sorry. Judge Grossman isn't  
20 here --

21 JUDGE GROSSMAN: Yes, I am.

22 JUDGE BLOCH: Sorry about that.

23 (Discussion off the record.)

24 THE WITNESS: It's my understanding that the  
25 understanding that the Office of Investigations has, based



1 on the fact that his internal memo is qualified only that  
2 it was hearsay information, was more or less the  
3 conclusion of the Office of Investigations' interest in  
4 this matter.

5 As I said earlier, we pursued investigations in  
6 coatings and some of these reports have been issued. But  
7 once we learned the source of his concerns, we did not  
8 pursue his information any further.

9 We put it -- we wrote it in the report of inquiry and  
10 it was referred to the technical Staff for whatever action  
11 they deemed appropriate.

12 BY MR. WATKINS:

13 Q Did you discuss your appearance here today with  
14 Mr. Driskill, prior to coming up here?

15 A Mr. Driskill was aware that I was coming. I  
16 think I may have mentioned it to him. But I think he  
17 found out by other sources.

18 Q Did he indicate to you that he was continuing to  
19 look into the Lipinsky matter?

20 A We didn't discuss that.

21 Q Does the Office of Investigations have a policy  
22 regarding discussing ongoing investigations with persons  
23 outside of the Office of Investigations?

24 A Well, since my director and deputy are in here,  
25 I better get this one right.

1 (Laughter.)

2 It is a policy. I don't know if it's written, but, yes,  
3 we do have a policy. We do not discuss ongoing  
4 investigations with anyone.

5 Q When Mr. Gilbert called you --

6 JUDGE BLOCH: Just to clarify that, does that  
7 mean if you had information from Mr. Driskill that you  
8 would not have admitted it?

9 THE WITNESS: No. That's not what I mean at all.  
10 I'm here prepared to tell -- help this board in any manner.  
11 Anything that is the truth I'm prepared to repeat.

12 MR. ALOOT: That's consistent with what  
13 Mr. Griffin is being offered to testify to.

14 BY MR. WATKINS:

15 Q When Mr. Griffin called you with Ms. Garde, was  
16 that policy discussed? Did it come into play?

17 A As I've testified, my phone rang, Mr. Gilbert  
18 indicated that he wanted to ask me some questions.  
19 Ms. Garde was present with him. There was no policy  
20 discussion. That was the extent of the -- of my  
21 conversation with him prior to the questioning about the  
22 Lipinsky matter.

23 Q Did Ms. Garde indicate, during that phone  
24 conversation, who she was representing for purposes of  
25 that conversation?

1           A           I don't believe -- I have no recollection of her  
2    stating such.

3           Q           Did Mr. Gilbert identify her as representing anyone?

4           A           I don't believe he did. I know who Ms. Garde  
5    represents.

6           Q           Who does she represent?

7           A           The Government Accountability Project.

8           Q           Does Ms. Garde represent, to your knowledge, anyone  
9    in this licensing proceeding?

10          A           If the papers are correct, I think she sometimes  
11   is counsel to the intervenor case.

12          Q           Is that knowledge based solely on what you've  
13   read in the newspapers?

14          A           I probably have been told that by some NRC  
15   member at some time in the past.

16          Q           During your conversation with Ms. Gilbert --  
17   with Mr. Gilbert and Ms. Garde, did you discuss appearing  
18   in this proceeding?

19          A           No.

20          Q           Did you discuss either Mr. Gilbert or Ms. Garde's  
21   making representations to this board, based on what you  
22   had told them?

23          A           There was no such conversation to my knowledge.

24          Q           During that conversation, did you consent to the  
25   use of your statements by Ms. Garde before this board?

1 A My consent was not solicited or given.

2 Q Was it solicited after that phone conversation?

3 A No.

4 Q The purpose of your November 11 meeting was to --

5 A November 10?

6 Q November 10. Excuse me. November 10 of 1983.

7 Was to attempt to get Mr. Lipinsky's waiver of

8 confidentiality?

9 A Yes.

10 Q And you indicated that he did consent to waive

11 confidentiality during that meeting?

12 A Yes, he did.

13 Q Was that agreement put in writing during that

14 meeting?

15 A Mr. Lipinsky chose to -- I requested a written

16 waiver. Mr. Lipinsky chose to write that waiver himself --

17 or at some later date. And agreed to mail the waiver to

18 the NRC. It's my understanding that he did.

19 Q Did he mail it to you?

20 A I don't believe it came to me personally.

21 Q You don't believe it did?

22 A I don't believe it did. If it did, it came into

23 the office and was probably opened by the secretary.

24 Q Does the NRC have a standard form for waiver of

25 confidentiality?

1           A           I do -- I don't believe we do. The waivers I  
2 have taken in the past, I just write out on a piece of  
3 paper.

4           In this case, like I say, Mr. Lipinsky wrote his own.

5           Q           Did you suggest to him the form of the waiver?

6           A           No.

7           Q           Did he ask you what it should look like?

8           A           If he did, I don't have a recollection of it.

9           Q           Do you know whether Mr. Lipinsky solicited legal  
10 advice in connection with his waiver?

11          A           I don't know.

12          Q           Do you know whether an attorney wrote his waiver  
13 of confidentiality?

14          A           No, I don't.

15          Q           Was Mr. Gilbert's call to you unusual or routine?

16          A           It's not unusual for Mr. Gilbert to call me.

17          Q           With regard to ongoing investigations?

18          A           Well, let me qualify your question. This was  
19 not an ongoing investigation. And it is not unusual at  
20 all for Mr. Gilbert to call and request information about  
21 ongoing investigations.

22          Q           Was it unusual for Mr. Gilbert to call you in  
23 the presence of Ms. Garde?

24          A           I would say it's unusual in that I don't believe  
25 it has ever happened before.

1 Q Does Ms. Garde contact you alone?

2 A Ms. Garde on occasion in the past year and a  
3 half has telephoned me at my office.

4 Q How many times?

5 A I would have to guess, but I would say there  
6 have been two or three occasions over the years.

7 Q Did you know during those earlier conversations  
8 that she is or was associated with the intervenor in this  
9 case?

10 A Yes, I did.

11 Q How does that influence you?

12 A Well, I didn't tell her anything except my name  
13 and what the name and number of the public affairs officer  
14 was.

15 Q Regarding the OI policies of communicating with  
16 people outside of OI, or outside of the NRC, did I ask you  
17 whether those were written or unwritten?

18 MR. ALOOT: Yes, you did.

19 BY MR. WATKINS:

20 Q What was your answer? I don't remember. Excuse  
21 me.

22 A I believe -- it is our policy not to discuss  
23 ongoing cases outside of the NRC.

24 Q Is that a written policy?

25 A I suspect that it is.

1 Q You don't know?

2 A We have policies in that area. I am not certain  
3 whether it's stated that way or if that particular,  
4 precise statement is contained in our policies. But that  
5 is our policy.

6 MR. WATKINS: Mr. Aloom, do you know whether  
7 these are written policies?

8 MR. ALOOT: I do not know. We can make -- what  
9 policies OI have that are written -- I understand, I  
10 believe they are available.

11 MR. WATKINS: Are they public?

12 MR. TREBY: I would like to indicate for the  
13 record that I believe that there was a filing that the  
14 Staff made in this proceeding about three or four months  
15 ago, dealing with OI; and attached to that was the  
16 policies. So it's somewhere in the record.

17 MR. REYNOLDS: In HITS or in the other docket?

18 MR. TREBY: I really don't recall. I just  
19 recall that it was a filing and we attached it.

20 MR. ALOOT: I would say all the policies except  
21 for one are publicly available.

22 MR. WATKINS: Which policies are public?

23 JUDGE GROSSMAN: I don't know how much we want  
24 to get into OI policies if it's relevant --

25 MR. WATKINS: I just want to know whether it's

1 relevant to this matter.

2 MR. ALOOT: The policy that is not publicly  
3 available is a policy on developing and determining  
4 willfulness.

5 JUDGE BLOCH: It's a policy on determining  
6 willfulness?

7 MR. ALOOT: Willfulness.

8 BY MR. WATKINS:

9 Q Do you normally take notes of your interviews in  
10 connection with your work?

11 A Yes, I do.

12 Q Why did you not take notes of this meeting?

13 A In this instance I was asked to perform an  
14 errand. I was not involved in the case. I did not know  
15 the background on the case. I had one single purpose in  
16 going to talk to Mr. Lipinsky, in that I was successful in  
17 my purpose, and I -- if I recall, I believe that the  
18 matter concerning Mr. Lipinsky was a dead issue at that  
19 time, as far as the Office of Investigations was concerned.  
20 I made no notes nor formal report.

21 When the waiver that we had requested was received, it  
22 is my understanding it was included with the Lipinsky file.  
23 That was essentially following my conclusion with -- my  
24 conversation with Lipinsky, and my reporting the substance  
25 of it to my supervisor, I believe that was the end of my



1 involvement in this matter.

2 Q Did you represent to Mr. Gilbert during the  
3 conversation, your phone conversation with him and  
4 Ms. Garde, that you had had notes at one time?

5 A No, I think I said just the opposite.

6 Q Who communicated to you the fact that you would  
7 be called as a board witness? Or not as a board witness,  
8 as a person to be deposed in this proceeding?

9 A I think Mr. Aloom may have been the one that  
10 first officially notified me.

11 Q When was that?

12 A I don't recall the date. I think it was last  
13 week. Maybe last Monday.

14 Q Did he communicate to you that you were to  
15 search for documents?

16 A Yes. I told him at that time that I had not  
17 taken any notes nor had I filed any reports, or written  
18 any reports on the matter. I was aware of this because as  
19 soon as I was aware that Mr. Lipinsky's testimony had  
20 revealed the fact of my conversation with him, I  
21 anticipated that I might be called as a witness; and I  
22 went in and I looked in our file, the office file on this  
23 inquiry, just to make sure I had made no notes, made no  
24 record.

25 Q What documents did Mr. Aloom describe for you,

1 that you should bring today?

2 A Any -- any documents that I had created related  
3 to this matter.

4 Q But just that you had created?

5 A Yes.

6 Q Not that were in the possession, for example, of  
7 your office in Arlington?

8 A Any -- nobody has requested that I bring  
9 Mr. Driskill's reports or notes or anybody else's in this  
10 matter. I think it was related only to anything I may  
11 have written.

12 Q What was in the file that you reviewed in  
13 Arlington regarding Mr. Lipinsky?

14 A I believe there was the inquiry report that  
15 Mr. Gallo showed me.

16 Q That is the October 18, 1983 report of inquiry?

17 A Would you mind passing that to me? Correct.  
18 And then I believe there was a supplemental report also.

19 JUDGE BLOCH: Did you read the supplemental so  
20 you could tell us what it's about, what the subject matter  
21 is?

22 THE WITNESS: No, I didn't.

23 BY MR. WATKINS:

24 Q Can you identify the document that I'm showing  
25 you as the supplemental report?

1           A           I recognize Mr. Driskill's signature and I  
2 believe that this was the supplemental report contained in  
3 our office file.

4           Q           Can you identify the attachment to that?

5           A           It is my understanding that this attachment is  
6 the testimony taken from Mr. Lipinsky by Tolson and other  
7 members of the utility on November the 10th.

8           Q           Did you review that?

9           A           No, I did not.

10           MR. WATKINS: For the record, the two documents  
11 that I have just had the witness look at are "Report of  
12 Inquiry, Supplemental," dated February 7, 1984, subject  
13 "Comanche Peak electric station, receipt of information  
14 concerning deficiencies in CPSES coatings program." It's  
15 report number Q4-83-02f.

16           And the attachment is the transcript of the Lipinsky  
17 memo meeting on November 10 and 11, 1983, although I can't  
18 tell which edition of that transcript this is.

19           BY MR. WATKINS:

20           Q           Were there any other documents in the file?

21           A           Not that I recall, although there may be.

22           Q           Were there any handwritten notes?

23           A           I don't recall any, but there very well may be.

24           Q           You don't know? You can't remember what's in  
25 the file, is what you are telling us?

1       A       Beyond those two. I do recall seeing the  
2       initial inquiry and the supplemental. And that's all I  
3       recall.

4       Q       When an investigator -- well, strike that.  
5       When you take notes of an interview, do those notes go  
6       into the file?

7       A       Yes, they do.

8       Q       If Mr. Driskill had taken notes of any of his  
9       meetings with Mr. Lipinsky, would they be in that file?

10       MR. ALOOT: Excuse me, I'm going to object here.  
11       I'm at a loss to explain what direction this is taking us.

12       MR. WATKINS: It's taking the direction of a  
13       request for discovery of the documents in the file.

14       MR. ALOOT: Wait a minute. Mr. Driskill has  
15       made available -- again, I repeat, to discuss -- to give  
16       evidence on his conversations with Mr. Lipinsky to the  
17       extent it is relevant to this proceeding, and any  
18       documents that he generated in connection with those  
19       discussions.

20       What we have now, we are beginning to get into areas  
21       where we are asking perhaps how Mr. Driskill conducts  
22       investigations, about what's in investigative files. You  
23       think that the OI investigations stand on their own feet.  
24       However, if you want a general discussion into OI's  
25       investigations and its procedures, perhaps we should go

1 through the standard route of formal discovery requests,  
2 so that OI and our office can evaluate whether it is  
3 relevant and material to this proceeding.

4 MR. WATKINS: Mr. Chairman, that's exactly why  
5 I'm asking the witness these questions. Under Rule 26(b)(1),  
6 it is not ground for objection in a deposition that the  
7 information sought is inadmissible at trial if it appears  
8 that the information sought appears reasonably calculated  
9 to lead to discoverable evidence.

10 JUDGE BLOCH: It is Mr. Aloom's position that  
11 this is a special deposition leading of Mr. Lipinsky.

12 MR. WATKINS: But if it leads to information --

13 MR. ALOOT: You asked if it relates to the work  
14 habits and filing habits of Mr. Driskill.

15 JUDGE BLOCH: The objection to that specific  
16 question is sustained. That's not the thrust of what you  
17 are trying to do but did you that.

18 MR. WATKINS: If the normal practice of OI is to  
19 insert handwritten notes into the file and Mr. Griffin  
20 looked at file --

21 JUDGE GROSSMAN: We are governed now by the NRC  
22 rules, not the federal rules of practice, and discovery  
23 against the Staff is specifically provided for in the  
24 Commission rules.

25 MR. WATKINS: I'm not asking for those documents

1 now. I understand. I'm trying to find out if they exist.

2 MR. ALOOT: The basis for my concern is that I  
3 get the uneasy feeling that we are drifting from the  
4 purpose for which we are offering Mr. Griffin. It is now  
5 2 minutes of 11:00. We started approximately 9:00. So we  
6 have two hours of deposition on a 15-minute meeting.

7 MR. WATKINS: Have you reviewed the transcript  
8 of last Wednesday's conference call?

9 MR. ALOOT: Yes, I have.

10 MR. WATKINS: I have a copy here. If you can  
11 show me where the limited basis that Mr. Griffin is  
12 testifying to --

13 JUDGE BLOCH: I would like to know the reason  
14 you limited the contents of the file you brought.

15 THE WITNESS: I was asked to bring what I record.

16 JUDGE BLOCH: So the other contents --

17 THE WITNESS: They were generated by  
18 Mr. Driskill and others. As far as I know, only  
19 Mr. Driskill.

20 JUDGE BLOCH: I think that serves Mr. Watkins'  
21 purpose. He just wanted to know what else was in the file,  
22 I think.

23 BY MR. WATKINS:

24 Q And we have established that there were two  
25 documents that you think were in the file, and you can't

1 remember if there was anything else there?

2 JUDGE BLOCH: No. He thinks there were others  
3 and they weren't from him.

4 MR. WATKINS: But you can't identify them?

5 THE WITNESS: That's correct.

6 BY MR. WATKINS:

7 Q Do you keep time sheets?

8 A Would you define --

9 Q Do you record your daily activities?

10 A We fill -- complete a weekly activity report,  
11 which demonstrates -- or details -- not details, it shows  
12 what amount of hours we log against a particular  
13 investigation, which are assigned investigative numbers.  
14 And our reporting system records what hours we spend on  
15 what case, and how many cases we worked on in a given  
16 weekly period.

17 Q Did you review your logs for the week of  
18 November 0 in preparation for this appearance?

19 A No. And they are not descriptive enough to tell  
20 me anything other than what case number I would have been  
21 working on.

22 Q Do they record telephone conversations?

23 A No.

24 Q You had not met Mr. Lipinsky prior to November

25 10?

1           A           Not to my knowledge.

2           Q           And you have not met him since November 10 of  
3 1983?

4           A           No.

5           Q           Other than the fact that during your meeting on  
6 November 10 Mr. Lipinsky paced, and appeared to you  
7 nervous, do you have any other statement for your  
8 statement that he was agitated?

9           A           No.

10           JUDGE BLOCH: Do you have any basis for knowing  
11 the cause of his agitation?

12           THE WITNESS: I got the impression from the  
13 statements he made that it was the result of the  
14 deposition or transcript that he had just given to the  
15 Utility.

16           JUDGE BLOCH: Do you have any reason to know  
17 that it wasn't caused, instead, by having been shown an  
18 official batch and being asked questions by you?

19           THE WITNESS: He didn't have any -- I could not  
20 say what Mr. Lipinsky was definitely feeling at that point,  
21 but I formed the impression it was based on what he had  
22 been through with the Utility.

23           BY MR. WATKINS:

24           Q           You stated that you read some newspaper articles  
25 regarding your statements as described by other people.



1 How many articles do you recall reading?

2 A I believe I saw just one article.

3 Q What was your reaction to that article?

4 A In what sense?

5 Q Well, were you happy at reading about it? Were  
6 you distressed?

7 A I was unhappy.

8 Q What in particular made you unhappy?

9 A I believe that the superlatives and the  
10 adjectives used, that were attributed to me through  
11 Ms. Garde, were not characterizing the -- my testimony,  
12 which is the same, I hope, as it is here today. I thought  
13 it mischaracterized it.

14 Q You disagreed with the substance of what had  
15 been attributed to you?

16 A The essential statements were basically correct,  
17 or in the same area of our conversation. The wording was,  
18 to me, seemed an exaggeration of my testimony.

19 JUDGE GROSSMAN: Excuse me, Mr. Griffin, you  
20 don't know whether that was Ms. Garde or the newspaper  
21 reporter, do you?

22 THE WITNESS: I do not, sir. Although it was in  
23 quotes.

24 JUDGE GROSSMAN: Pardon?

25 THE WITNESS: Although the statements were in

1 quotes and attributed to Ms. Garde. But no, I do not know.

2 BY MR. WATKINS:

3 Q Regarding Mr. Lipinsky's concern about the  
4 effect of the trip report on O.B. Cannon that you  
5 perceived in the November 10 meeting, was that because of  
6 the fact that the report had become public?

7 A I think that was his main concern, that a  
8 document that he had written -- this is my impression, you  
9 understand -- that the document that he had written for  
10 the eyes of his -- his own people, had become public. And  
11 I got the impression he perceived it as an embarrassment  
12 for him personally and for his company.

13 MR. WATKINS: Mr. Chairman, that's all we have.

14 JUDGE BLOCH: Thank you. Mr. Roisman?

15 EXAMINATION

16 BY MR. ROISMAN:

17 Q Mr. Griffin, with whom did you discuss the  
18 substance of what your testimony would be today before you  
19 got here and after you knew that you were going to be  
20 appearing at this deposition?

21 A Mr. Aloom.

22 Q And he's the only one?

23 A I spoke to Mr. Hayes -- I wouldn't say, I didn't  
24 speak to him -- I provided him with a briefly-written note  
25 as to what I thought my testimony would be, or the

1 subjects covered by my testimony.

2 MR. ALOOT: At this point I would like to  
3 clarify, perhaps, a mischaracterization of this note.

4 MR. WATKINS: Which note?

5 MR. ALOOT: The note between Mr. Griffin and Ben  
6 Hayes. I described it earlier --

7 JUDGE BLOCH: I'm sorry, are you now going to  
8 testify differently from Mr. Griffin?

9 MR. ALOOT: No. No. I described it.

10 JUDGE BLOCH: I thought Mr. Griffin described it.

11 MR. GALLO: That's right.

12 MR. ALOOT: No. I guess I'm going to have to  
13 stand my ground here. I described what this document was.  
14 I characterized it.

15 JUDGE BLOCH: Okay. But I think the witness did,  
16 also. He said that there were -- I think he did and told  
17 us there were three matters in it.

18 MR. ALOOT: My characterization, however, was  
19 its purpose. In my statement I had indicated that the  
20 document which we will attempt to -- which we will obtain  
21 and provide to the parties was to advise Mr. Hayes as to --  
22 I believe I said the substance of the conversation between  
23 himself and Mr. Lipinsky.

24 I have subsequently learned that actually it was to  
25 describe to Mr. Hayes what Mr. Griffin had told the Staff,

1 to prepare Mr. Hayes for a Staff meeting on that same  
2 subject.

3 THE WITNESS: Maybe I can --

4 JUDGE BLOCH: I think this is confusing. Let's  
5 have Mr. Griffin's testimony.

6 THE WITNESS: I wrote a brief memo which  
7 detailed what I believed would be my testimony before this  
8 board. I provided this to Mr. Hayes, which I believe he  
9 intended to use in his Staff meeting.

10 JUDGE BLOCH: And that's what you said before  
11 and that's what I understood.

12 THE WITNESS: Except about the Staff meeting  
13 part. I think there may have been some confusion as to  
14 what the purpose of the note was to Mr. Hayes.

15 JUDGE BLOCH: I don't think you mentioned the  
16 purpose.

17 MR. ALOOT: I apologize for adding to the undue  
18 length of the meeting.

19 BY MR. ROISMAN:

20 Q You sent that to Mr. Hayes, Mr. Griffin. Was  
21 that at your doing or someone's request?

22 A I didn't send it to him. I was at the office,  
23 the Office of Investigations headquarters here. I do not  
24 recall whether he requested it or whether I volunteered it.  
25 But I scribbled it on one of our note pads and gave it to

1 him. It may have been at his request.

2 Q And your testimony is that there wasn't any  
3 conversation about what you would say in this deposition,  
4 just a single request from Mr. Hayes, and that was the end  
5 of the matter?

6 A I don't recall us discussing the issue of the  
7 telephone call with Mr. Gilbert and Ms. Garde, or my  
8 testimony, beyond a sentence or two. And I don't even  
9 recall what we may have -- it was noted that I was going  
10 to be testifying. Beyond that I have no recollection of  
11 any discussions with Mr. Hayes.

12 Q You are an experienced investigator, as I  
13 understand from your resume, are you not, Mr. Griffin?

14 A I would say so.

15 Q And I take it, as an experienced investigator,  
16 it is your habit to make sure that you remember things  
17 that you hear that might have any bearing on your work; is  
18 that true?

19 A My memory is my memory. And I -- what I  
20 remember, I am able to recall and repeat. Things that I  
21 do not remember or recall, when I'm placed in a position  
22 to testify about it, I try to be scrupulously honest on  
23 the subject. I am not going to report something I in fact  
24 do not recall, and at the same time I am not going to  
25 withhold even one small piece of information from this

1 board, while under oath, in my attempt to help this board  
2 proceed with whatever it is pursuing here.

3 Q My point is that, doing your job, memory -- is --

4 A An asset.

5 Q And it's an important piece of doing it well?

6 A The better memory you have, the better memory I  
7 think -- I think it would serve you as a great asset as an  
8 investigator. In absence of good memory, I find that good  
9 note-taking is a reasonable substitute.

10 Q And you have made no notes of any of the matters  
11 about Mr. Lipinsky, either of the meetings or phone  
12 conversations you had with him, or of any of the  
13 conversations that you have had with people subsequent to  
14 those meetings or conversations, with the exception of the  
15 one memo you told us about to Mr. Hayes; is that correct?

16 A That's correct.

17 Q Now, before you went to the meeting on November  
18 10th, you indicated that it was a single-purpose meeting  
19 and that that single purpose was to discuss with him the  
20 possible waiving by him of his confidentiality -- earlier  
21 confidentiality agreement. Is that correct?

22 A Yes.

23 Q And that conversation, I believe you said, you  
24 had, you think, with your superior at your own office,  
25 Mr. Herr; is that correct?

1           A           If my recollection is accurate, Mr. Herr was the  
2 one that directed me to solicit this waiver from  
3 Mr. Lipinsky.

4           Q           And that was the sole conversation that you had,  
5 prior to your -- with people in your office -- prior to  
6 going to the meeting with Mr. Lipinsky on the 10th; is  
7 that correct?

8           A           The sole -- would you repeat that.

9           Q           That was the sole conversation that you had  
10 about this meeting with Mr. Lipinsky before you went to it  
11 on the 10th, was the one about getting the confidentiality  
12 waived?

13          A           That's essentially true. In that I work in the  
14 same office with Mr. Driskill, who was checking into the  
15 Lipinsky matter, I'm certain that I had heard Lipinsky's  
16 name and was somewhat aware of the circumstances of the  
17 Office of Investigations' inquiry into the matter.

18          Q           But I meant in terms of the meeting specifically.  
19 In other words, in going to that meeting the only  
20 conversation that you had with respect to going to that  
21 meeting was the one that you think was with Mr. Herr, in  
22 which he told you, "I want you to go and see if you can  
23 get him to waive the confidentiality agreement"; is that  
24 correct?

25          A           That's my recollection.

1           Q           How did you happen to have the Driskill  
2           investigative report with you, then?

3           A           I don't recall specifically. But I presume that  
4           Mr. Driskill may have requested that I take the report to  
5           confirm that his rendering of Mr. Lipinsky's testimony to  
6           him was accurate.

7           I don't have a particular -- I don't have a  
8           recollection of that conversation, but I presume that  
9           either Mr. Driskill or Mr. Herr requested that I do that.

10          Q           But for somebody else requesting it, I take it  
11          you couldn't have done it on your own, could you?

12          A           I would not have done it on my own because I was  
13          not familiar with the inquiry or the investigation.

14          Q           So the meeting really had two purposes? One was  
15          the confidentiality agreement and one was to have the --  
16          Mr. Lipinsky look over Mr. Driskill's report and indicate  
17          whether it was accurate or not; is that correct?

18          A           I suppose you could, if you want to count --  
19          that could have a dual purpose meeting. My recollection  
20          of the primary purpose and the reason I was involved, the  
21          reason I went to Glenrose to talk to Mr. Lipinsky, was the  
22          purpose -- for the purpose of confidentiality.

23          Whatever statements were made to me about having  
24          Mr. Lipinsky review whatever report that I took with me  
25          for him to review was a side issue and was a matter of, I



1 suppose, convenience.

2 Q Was it a standard practice in the office at that  
3 time, that if a report of investigation or a report of  
4 inquiry or a report of an interview was being prepared,  
5 that the person who was the source of the information  
6 discussed would be provided an opportunity to take a look  
7 at it and indicate whether there were any corrections they  
8 had to make?

9 A No.

10 Q What about if the source was solely from that  
11 one person? In other words, if the entire body of the  
12 report encompassed a recollection of what that person had  
13 told an investigator, would that -- was it the office  
14 policy that in that case the person --

15 MR. ALOOT: I think for the same reasons that I  
16 expressed to Mr. Gallo and Mr. Watkins, I find this line  
17 of questions again to be somewhat off the beaten track  
18 with respect to OI's policies and practices. The issue  
19 before this table right now, Mr. Griffin, is --

20 JUDGE BLOCH: I think I'll overrule, because it  
21 bears on the question whether this was an ordinary  
22 practice or something unusual at that time to have him  
23 review this particular report. That's the reason. We  
24 would like an answer on that.

25 MR. FORTUNA: Let me state the objection a

1 little more succinctly. You are -- the point that's being  
2 made is what policy is routine or nonroutine regarding the  
3 way an individual interviewee or any other member of the  
4 public reviews, takes a look at, or addresses itself to an  
5 NRC OI investigative report certainly has no relevance to  
6 the limited issue at bar in this case, which is Mr.  
7 Griffin's recollection of a meeting in a conversation he  
8 had with an individual some months ago.

9 MR. WATKINS: Mr. Chairman, could the speaker  
10 identify himself for the record? I don't believe he has.

11 JUDGE BLOCH: That's Roger Fortuna.

12 The motion for reconsideration of the board's ruling is  
13 also denied. Answer the question.

14 THE WITNESS: Could you repeat the question,  
15 please?

16 JUDGE BLOCH: Let me try. The question is  
17 whether it was standard practice to allow witnesses to  
18 review statements that they have made: If this report was  
19 basically the statement of a particular witness, would it  
20 have been unusual to go back and ask them to check it out?  
21 Or is that the standard practice?

22 THE WITNESS: No, it's not a standard practice.  
23 Yes, it's unusual.

24 BY MR. ROISMAN:

25 Q And when you were asked to do it, do you

1 remember expressing any surprise?

2 A No.

3 Q Now that we have discussed it a little, can you  
4 think back and see if you have any more recollection of  
5 how you were asked to do that? What was said to you?

6 A As I have stated before, I really have no  
7 recollection of it. I have to make the presumption that  
8 there was some conversation or it would not have occurred.

9 Q Did you read the report of inquiry before you  
10 showed it to Mr. Lipinsky?

11 A I do not recall if I did or not. I do not  
12 believe I did.

13 Q When you showed it to him, what did you tell him  
14 he should do with regard to it?

15 A I don't recall.

16 Q Would you have asked him to read it?

17 A Would I have?

18 Q Would that have been the logical thing for you  
19 to do?

20 A I suppose that would be logical.

21 Q Did he read it?

22 A I believe he did.

23 Q Do you remember how long he spent looking at it?

24 A I think a very brief period of time -- a minute.

25 Q A minute. And did he ask you if he could have a

1 copy of it?

2 A I don't have any such recollection of that.

3 Q Did you offer him a copy of it?

4 A I don't have any recollection of that.

5 Q Did you ask him to signify in any way to you  
6 whether he thought there were any discrepancies in it?

7 A I don't recall that.

8 Q Would it be reasonable to assume that you must  
9 have at least told him, "If you see any discrepancies,  
10 tell me"? Or something to that effect?

11 A Would it be reasonable?

12 Q Yes.

13 A I suppose it would be reasonable.

14 Q And I assume you are a reasonable man?

15 A I'm very reasonable.

16 Q Good. You mentioned that you had a phone  
17 conversation --

18 JUDGE BLOCH: Just one more question on this.  
19 Do you recall at what point in the interview with  
20 Mr. Lipinsky you showed him the memo?

21 THE WITNESS: I think near the end of our  
22 conversation, if -- it was a side issue; as you can tell  
23 from my testimony, something I have only a vague  
24 recollection of. But it seems like it was towards the end  
25 of it.

1                   JUDGE BLOCH: Do you recall whether or not he  
2 was still agitated at that point in your meeting?

3                   THE WITNESS: I do not believe he was. I think  
4 Mr. Lipinsky was looking for a sympathetic ear and  
5 perceived me to be such a person. He did most of the  
6 talking. That was the basis for the formulation of ideas,  
7 or the remembrances, I have expressed to the board here  
8 today.

9                   JUDGE BLOCH: Do you recall whether or not he  
10 had any particular reaction to reading this memo?

11                   THE WITNESS: I think he responded in the  
12 affirmative, in that it was basically what he had said.

13                   JUDGE BLOCH: No particular emotional reaction  
14 you saw?

15                   THE WITNESS: No. I don't recall any such  
16 reaction.

17                   BY MR. ROISMAN:

18           Q        You mentioned that before you had the meeting on  
19 the 10th, that you had a phone conversation with  
20 Mr. Lipinsky for the purpose of arranging the meeting; is  
21 that correct?

22           A        I don't have a clear recollection of the phone  
23 conversation, but I presume I did, because I did have -- I  
24 had a prior arranged meeting with him. And I would have  
25 not have discussed the -- discussed the matter with

1 anybody but Lipinsky, in that at that time he had  
2 confidentiality. I don't have a clear recollection of the  
3 phone call, as to when or exactly what was said. But  
4 there was an agreement made to meet at the Glenrose Motor  
5 Inn at a certain time in the a.m. on that date.

6 Q And when you had the conversation with  
7 Mr. Lipinsky to arrange the meeting, did you indicate to  
8 him that the sole purpose of the meeting was this, the  
9 discussion of the confidentiality matter?

10 A I do not recall.

11 Q And I believe you testified that in explaining  
12 why you understood that your boss wanted you to seek  
13 Mr. Lipinsky's agreement to waive the confidentiality,  
14 that the reason was that the report was now -- that is his  
15 trip report -- was now generally out and that, thus, his  
16 confidentiality essentially didn't exist any more? Am I  
17 remembering that correctly?

18 A Well, the point being that all parties, all --  
19 it was public knowledge that the report -- it was public  
20 knowledge that the report existed. The NRC is still bound  
21 by a grant of confidentiality. It places us in a very  
22 difficult situation, sometimes, when we have to refuse to  
23 identify a person that everybody else is already aware is  
24 the source of some question before the board or before  
25 some other hearing being pursued by the NRC.

1           Nevertheless, once granted, a person must waive it for  
2 the NRC to be in a position to waive it. Or, if they  
3 violate the terms of it, NRC may choose to exercise an  
4 option whereby we demonstrate, or are able to demonstrate  
5 that they have waived it by their action in that they  
6 violated the terms.

7           Q           In that case you don't then need them to sign  
8 something?

9           A           It's not necessary if we can demonstrate it.  
10 It's a difficult thing to demonstrate, though.

11          Q           Do you have a recollection of any conversation,  
12 either with Mr. Driskill or Mr. Herr or anybody else in OI  
13 regarding the anticipated introduction of the trip report  
14 into the record of the hearing as being one of the  
15 motivations for wanting to get the waiver of  
16 confidentiality signed?

17          A           I have no such recollection. I don't believe  
18 there was any such conversation or intent or need for it.

19          Q           In terms of what you are aware of?

20          A           Correct.

21          Q           All right. Now --

22                    JUDGE BLOCH: At that time was there any  
23 discussion of the need for further testimony?

24                    THE WITNESS: By Mr. Lipinsky?

25                    JUDGE BLOCH: Yes.

1 THE WITNESS: No. Not to my knowledge. It was  
2 Mr. Driskill's case. Had he chosen to pursue it for some  
3 reason or another, unknown to me, once having completed  
4 this chore, that was the end of my involvement.

5 BY MR. ROISMAN:

6 Q You said it was Mr. Driskill and CASE?

7 A No, it was his case; his investigation.

8 Q Mr. Lipinsky, I take it, agreed to the meeting  
9 as a result of your phone conversation with him; is that  
10 correct?

11 A Yes, he did.

12 Q Can you recollect whether he agreed to it  
13 reluctantly, enthusiastically, no discernible way?

14 A I don't recall any characterizations or  
15 impressions that I received. He seemed willing to meet  
16 with me.

17 Q You indicated that you took no notes during the  
18 course of the meeting that you had with Mr. Lipinsky.

19 A I believe that's correct.

20 Q Subsequent to the meeting did you have occasion  
21 to write down anything with regard to the meeting in the  
22 form of any report, internally, within OI?

23 A About two weeks ago, when I wrote this note for  
24 Mr. Hayes for his Staff meeting.

25 Q Other than that?



1           A           No. I have no recollection of writing any --  
2 any documents.

3           Q           With whom did you communicate the results of the  
4 meeting when you returned to your office?

5           A           I believe that was my director, Mr. Herr.

6           Q           And do you have any recollection of what you  
7 told Mr. Herr at that time?

8           A           I believe I told him that Mr. Lipinsky agreed to  
9 confidentiality and would be sending a copy of the waiver  
10 to us, signed.

11           I think I also mentioned to Mr. Herr that Mr. Lipinsky  
12 felt that he had been brought into the interview in which  
13 this deposition was taken by the Utility, under false  
14 pretenses; and that I think I described to Mr. Herr the  
15 nature or the -- the nature of the testimony, in that  
16 Mr. Tolson did most of the talking and Mr. Lipinsky's  
17 response was: If what the Utility was telling him was  
18 correct, then maybe there was no problems as identified in  
19 his trip report.

20           Q           And can you recollect anything else of your  
21 conversation with Mr. Herr?

22           A           Not -- there may have been other things that I  
23 stated to him about the meeting with Lipinsky, but I do  
24 not recall.

25           Q           Did you notice whether Mr. Herr took notes of

1 that meeting between you and he?

2 A I don't recall, but I do not believe he did.

3 Q Did you have occasion to discuss the meeting  
4 with Mr. Lipinsky, with Mr. Driskill, around this -- the  
5 time?

6 A I have no specific recollection of doing so.  
7 But I think there is a very good chance that I did, since  
8 he was the case agent and would have had an interest in  
9 that information.

10 Q You mean the information which you have just  
11 indicated you had communicated to Mr. Herr?

12 A Yes.

13 Q Can you remember, what did you do about  
14 communicating Mr. Lipinsky's agreement that the report of  
15 inquiry was accurate?

16 A I don't remember how I transmitted that  
17 information back to either Herr or Driskill, but I presume  
18 I did to either one or both.

19 Q And did you think that the information that  
20 Mr. Lipinsky had given you regarding his reactions to the  
21 meeting that he had just come from at the plant site was  
22 relevant information that OI would have an interest in?

23 A You mean in the fact that he had been deposed or  
24 had given this testimony?

25 Q Had given the testimony, as well as how he

1 expressed to you or how you read his reaction to having  
2 done so?

3 A Given my limited knowledge of the case, combined  
4 with Mr. Lipinsky's explanation that his initial trip  
5 report was based on hearsay testimony from a third party,  
6 I had no reason to believe that there would be interest by  
7 OI beyond that point.

8 Q Why did you bother to report about it at all?

9 A Because I had been sent to get this -- to  
10 discuss waiver with Mr. Lipinsky. I had need to transmit  
11 the results back. And then the fact that the -- that he  
12 had been brought in and made to give a deposition, so to  
13 speak, I thought that was topical. And I transmitted that  
14 to my director.

15 Q I'm sorry, I'm not sure I understand what you  
16 mean by that it was "topical."

17 A It was information that would make a person  
18 curious.

19 Q In what way?

20 A In that it was an event out of the norm, I would  
21 say.

22 Q Out of the norm that the company would ask a --  
23 one of its contractors to explain something to them?

24 A Not that I know the norm; but it was an unusual  
25 event. It was unusual to Mr. Lipinsky. Mr. Lipinsky was

1 the subject -- had previously been subject of an OI  
2 inquiry. And I informed Mr. Herr, so that he would be  
3 aware what was going on.

4 Q And was it also "topical," to use your word, how  
5 Mr. Lipinsky's demeanor appeared to you when you met with  
6 him?

7 A No.

8 Q Why did you communicate that, then?

9 A I didn't.

10 Q I'm sorry. I thought you had said that you had  
11 shared that with Mr. --

12 A No, I don't believe I did. I believe that I  
13 expressed that he was -- unless you -- I'll qualify my  
14 answer, then. He was concerned about the fact that he had  
15 been brought into the situation under what I call false  
16 pretenses, and had felt that he had been put in a  
17 difficult position. I did transmit that information to  
18 Mr. Herr.

19 Q Not that he seemed agitated?

20 A I don't believe that -- I don't have a  
21 recollection of Mr. Herr discussing the demeanor of  
22 Mr. Lipinsky during my conversation with him.

23 Q No, my question was your discussing the demeanor  
24 of Mr. Lipinsky with Mr. Herr, during your conversation?

25 A That's what I'm talking about, too.

1 Q Okay. Go ahead.

2 A I don't believe we had any such discussions  
3 about his demeanor.

4 Q Is that equally true, as best as you can  
5 recollect, of your conversation with Mr. Driskill?

6 A As I testified, I don't recall a specific  
7 conversation with Mr. Driskill, although one may have  
8 occurred. I have no recollection, in addition, to  
9 speaking about Mr. Lipinsky's demeanor to Mr. Driskill.

10 Q I believe in your testimony you indicated that  
11 by the end of the meeting it seemed to you that  
12 Mr. Lipinsky was not as agitated as he was when -- or  
13 wasn't agitated at all, although he had been when the  
14 meeting started. Is that correct?

15 A That's my recollection.

16 Q And can you remember whether any particular  
17 thing happened in the meeting at which time his demeanor  
18 appeared to change?

19 A No.

20 Q In discussing what happened with the -- the  
21 discussion with Mr. Tolson, you indicated, I believe in an  
22 answer to a question that the board asked, that  
23 Mr. Lipinsky had indicated that he thought that the  
24 hearsay information that he had about the plant site was  
25 from a person who was -- in whom he placed some real

1 confidence; is that correct?

2 A You are going to have to reask that question.  
3 What he told Mr. Tolson in relation to what the latter  
4 part of your question was, is not something I'm aware of.

5 Q All right. Okay. Did Mr. Lipinsky discuss with  
6 you whether he had any confidence in the opinions of the  
7 person who gave him the original information that formed  
8 the basis for his trip report?

9 A Yes.

10 Q And what did he say about that?

11 A I don't recall. But I am left with a  
12 recollection that he believed -- that he trusted the  
13 person that had given him the information which he put  
14 into his trip -- into his trip report.

15 Q Do you have any impression about whether he  
16 contrasted that in any way? Or -- with regard to how he  
17 felt about the information that he had just gotten from  
18 Mr. Tolson?

19 A I have no recollection of any expression on  
20 Lipinsky's part about that.

21 Q Did you have any impression about that?

22 A No.

23 JUDGE BLOCH: Do you recall if he happened to  
24 suggest that the NRC talk to that person?

25 THE WITNESS: No. I don't believe he did, Judge.

1                   JUDGE BLOCH: Your recollection is that he  
2 didn't say that?

3                   THE WITNESS: I have no recollection of him  
4 suggesting that.

5                   BY MR. ROISMAN:

6           Q        Do you have any recollection of him saying  
7 anything regarding the weight or credibility that he  
8 attached to the statements made by Mr. Tolson at the  
9 meeting?

10          A        No. I don't have any recollections of that.

11          Q        You indicated that Mr. Lipinsky expressed some  
12 concern over his future with O.B. Cannon, and also with  
13 future employment in the nuclear industry in the course of  
14 this meeting; is that correct?

15          A        Not exactly. He expressed concern about the  
16 incident as it would affect his company and his future.  
17 Not whether he would be able to continue his career, but  
18 just he expressed concern about how it would affect his  
19 company and his ability to participate in future contracts  
20 in the industry.

21          Q        And I assume he wasn't expressing a concern that  
22 he might now get a lot more telephone calls to do work?  
23 The concern went the other way?

24          A        I got the impression that his concern was the  
25 other way.

1 Q And you indicated, and I just want to be real  
2 clear about this, that his concern was about the report  
3 getting out? That that was the origin of the concern; is  
4 that correct? The trip report getting out?

5 A I believe he did express some concern about the  
6 fact that it was public. I do not recall if he expressed  
7 any concerns about how it got public and I was not aware  
8 of the back -- the details, or the background on this case.  
9 But the fact that it was out gave him concern.

10 Q And can you recollect whether the concern was  
11 the fact that it got out, or the fact that what was in it  
12 got out? Do you understand the difference?

13 A The fact that it got out seemed to be his  
14 concern.

15 Q So that your impression would be that, if the  
16 report had been very favorable to the company but was  
17 still never intended to be public, that the concern would  
18 have been the same? It was the "getting out" that  
19 bothered him; is that correct?

20 A I don't have an opinion on that. I didn't form  
21 an impression.

22 JUDGE BLOCH: You smiled, though.

23 THE WITNESS: Am I smiling?

24 JUDGE BLOCH: You did on that response.

25 THE WITNESS: I don't know, my lips are chapped,



1 I guess.

2 JUDGE BLOCH: I thought maybe you reached the  
3 conclusion that if it was a favorable report he wouldn't  
4 have been too upset about it?

5 THE WITNESS: I was impressed by Mr. Roisman's --  
6 the extent and length of his question. I cannot respond  
7 to his -- to the gist of what he's trying to say, in that  
8 I have no recollection of it.

9 BY MR. ROISMAN:

10 Q Do you remember how Mr. Lipinsky communicated to  
11 you this concern about the trip report getting out?

12 A He spoke.

13 Q Did he speak at length? Or did he just make a  
14 brief statement?

15 A I think it was relatively brief. I got the  
16 impression that Mr. Lipinsky believed, like this panel,  
17 that I was aware of many of the details of this case;  
18 whereas I had just driven down and was really unknowledgeable  
19 about what were the concerns and what had gone forth.

20 Q So the impression you got was that he thought  
21 you were a knowledgeable confidant?

22 A I don't know if Mr. Lipinsky considered me a  
23 confidant. I don't really know from his actions whether  
24 he necessarily considered me knowledgeable.

25 He gave me the impression that he thought I knew

1 something about the subject or his situation.

2 Q You indicated in answer to Mr. Gallo's question  
3 that he did not seek any advice from you about what he  
4 should do, if anything, about these concerns. Is that  
5 correct?

6 A That's my recollection.

7 Q Did you offer him any advice?

8 A Not that I recall.

9 Q Did you give him any general information about  
10 rights that he might have, without being specific about  
11 what he should do in this particular case?

12 A I do have a recollection of telling Mr. Lipinsky  
13 that he had in fact been granted confidentiality and that  
14 he had a right to continue -- that right continued. And  
15 that our request for him to waive confidentiality was more  
16 for the convenience of the NRC, but that his rights were  
17 intact.

18 Q Did you discuss anything with him about his  
19 rights, vis-a-vis his employment or continued employment  
20 in the nuclear industry? Any rights he might have in that  
21 respect?

22 A I have no recollection of any such discussion.

23 Q Do you remember whether, in the conversations on  
24 confidentiality, Mr. Lipinsky -- with Mr. Lipinsky, he  
25 communicated to you any information regarding his

1 conversations about the communications with the NRC with  
2 other people?

3 A If I understand your question correctly, I was  
4 not the one that granted confidentiality to Mr. Lipinsky.  
5 The conduct of the conversation was only on the subject of  
6 his potential waiver of that grant of confidentiality.

7 Q That's right. I understand that. But my  
8 question related to when you had your conversation with  
9 him on the 10th, did you or he discuss whether he had  
10 already taken some actions, he himself, which constituted  
11 a waiver of the confidentiality agreement?

12 A I have no recollection of any such discussions.

13 Q Did you advise him that it was the OI policy  
14 that if he had communicated with other people about his  
15 contacts with the NRC, that OI treats that as a waiver of  
16 the confidentiality?

17 A It is possible that I may have mentioned that to  
18 him, but I have no recollection of doing so.

19 Q Do you have any recollection of indicating that  
20 you would attempt to get some ruling or determination by OI,  
21 whether anything that he had done constituted a de facto  
22 waiver?

23 A I have no such recollection at all.

24 Q And do you have any recollection of seeking an  
25 opinion on his behalf regarding his job status relative to

1 the release of the trip report? That is, how his job  
2 status might be endangered or protected as a result of the  
3 release of the trip report?

4 A I don't have any recollection of any such  
5 conversation.

6 Q Do you have any recollection of Mr. Lipinsky  
7 indicating to you that he would call you back -- call you  
8 personally back at some subsequent time after the meeting  
9 on any matter at all?

10 A No. The only agreement that I recall is that  
11 Mr. Lipinsky did agree to provide a written waiver of  
12 confidentiality.

13 Q Do you remember giving Mr. Lipinsky any  
14 assurances or even discussing with him whether the NRC  
15 would or would not seek to find out how the trip report  
16 got public?

17 A No.

18 Q Do you remember having any discussions on that  
19 subject of how the trip report got public with  
20 Mr. Lipinsky?

21 A No.

22 Q Do you remember indicating to him whether the  
23 scope of the NRC investigations into the matters involved  
24 with Lipinsky was limited, at least at that point, to the  
25 technical issues which the trip report raised?

1           A           I don't remember having any such discussions  
2 with him.

3           Q           Do you have any recollection of a subsequent  
4 conversation after this meeting with him, at which you  
5 offered to extend -- on behalf of the NRC -- to extend or  
6 continue the confidentiality agreement, if he insisted on  
7 it?

8           A           I think as I have already testified, I had no  
9 subsequent contact with Mr. Lipinsky.

10          Q           That you had none or that you remembered none?

11          A           Either/or. I don't believe there were any, and  
12 I have no recollection, therefore.

13          Q           Well, there is, admittedly, a small distinction --  
14 maybe to an investigator like yourself it's not so small --  
15 between whether you know that you never did, or you  
16 presume that you never did because you can't remember that  
17 you did. Which is it?

18          A           I have no recollection of any subsequent  
19 meetings with Mr. Lipinsky.

20          Q           Do you have any recollection of ever seeing  
21 Mr. Lipinsky's signed confidentiality waiver agreement?

22          A           Yes, I did.

23          Q           Can you recollect how that happened and when it  
24 happened?

25          A           I believe it happened approximately two weeks

1 ago at the same time, whenever that was, that I was  
2 reviewing the files to see what documentation existed on  
3 the Lipinsky matter. The same time that I viewed the  
4 inquiry report by Mr. Driskill.

5 Q And do you have any recollection of having seen  
6 it before then?

7 A I don't have a recollection of it. It's  
8 possible that I could have, in that I believe it was sent  
9 to our office.

10 Q But I assume that you would have expected that  
11 it would have ended up with Mr. Driskill rather than with  
12 you; is that correct?

13 A It very possibly could have come across my desk.

14 Q Do you have any recollection of discussing the  
15 waiver agreement with Mr. Driskill, around the time that  
16 it came to the CI office?

17 A I don't have a particular remembrance of any  
18 such discussion. But it is very possible that I informed  
19 Driskill personally of the waiver and of the sum and  
20 substance of my conversation with Lipinsky.

21 Q But that's -- that is presumably before you  
22 would have gotten the waiver in the office; is that  
23 correct?

24 A That's not my presumption. I really don't know,  
25 since I have no recollection.

1           Q           Do you recollect any conversation with  
2 Mr. Lipinsky, that either you or anybody else had, that  
3 you were a part of, in which Mr. Lipinsky was advised to  
4 keep a diary or a log of his activities for subsequent  
5 reference on his part?

6           A           I don't have any recollection of participating  
7 in any discussions with Lipinsky after the 10th; nor do I  
8 have any recollections of being present when anybody else  
9 advised Mr. Lipinsky anything, either by telephone or in  
10 person or any other manner.

11          Q           So you have no recollection, not only of your  
12 having a conversation with him, but no recollection of  
13 your being present when somebody else had a conversation  
14 with him; is that correct?

15          A           That's correct.

16          Q           At the time of your phone conversation with  
17 Mr. Gilbert and Ms. Garde, do you remember, in that phone  
18 conversation, any discussion about the existence of notes  
19 by anyone of the substance of the meeting between yourself  
20 and Mr. Lipinsky on the 10th?

21          A           I believe Ms. Garde made reference, or made a  
22 request to me as to whether I had created or made notes of  
23 that meeting -- either back at the time that the meeting  
24 occurred, or since. I think my response to her was: No,  
25 that I had not.

1           Q           Do you remember if there was any discussion of  
2 whether you had any knowledge of Mr. Driskill or anyone  
3 else making notes of conversations with you, in which you  
4 recounted the contents of those meetings -- that meeting,  
5 excuse me?

6           A           I don't recall any such discussion.

7           JUDGE BLOCH: Do you recall seeing such notes in  
8 the file when you were reviewing it?

9           THE WITNESS: No, Judge, I don't. I know there  
10 were other documents in the file because I know what  
11 standard documents appear in our file. I don't have a --  
12 I presume they are there. I did not examine them nor do I  
13 have a clear recollection they are there, but I have faith  
14 that they are.

15          JUDGE BLOCH: Was your review thorough to know  
16 whether or not handwritten notes of your recollections of  
17 that meeting were in the file?

18          THE WITNESS: Yes, it was that; had there been  
19 anything there, it would be important for me to know that  
20 I had generated such notes following the meeting in 1983.

21          JUDGE BLOCH: No, you or someone else in the  
22 office, it could have been someone else that you spoke to  
23 in the office?

24          THE WITNESS: As I say, I presume Driskill did.  
25 I have no recollection of seeing Driskill's notes in there.



1 There could very well be notes of Driskill in this case  
2 report.

3 JUDGE BLOCH: In the case file?

4 THE WITNESS: Yes.

5 JUDGE BLOCH: About your conversation?

6 THE WITNESS: No. About his conversations. He  
7 was the investigator. To my knowledge there are no notes  
8 generated by me at any time other than the one I gave to  
9 Mr. Hayes. If anybody knows of anything --

10 JUDGE BLOCH: That's not the problem. The  
11 problem is that if Mr. Driskill was the investigator, and  
12 you had a discussion with him about your conversation with  
13 Mr. Lipinsky, you would expect, I would think, that he  
14 might have made notes and put them in the file.

15 What we want to know is whether or not you know that  
16 his notes about your discussion with Mr. Lipinsky is now  
17 in that file?

18 THE WITNESS: I know of no such notes regarding  
19 my conversation, if I had a conversation, with  
20 Mr. Driskill, that are contained in the file.

21 JUDGE BLOCH: And was your review of the file  
22 thorough enough so that you would know whether those notes  
23 were there?

24 THE WITNESS: No.

25

1 BY MR. ROISMAN:

2 Q Did you even ask Mr. Driskill if he had made  
3 such notes?

4 A No.

5 Q Or Mr. Herr?

6 A No.

7 Q And was that decision not to ask them whether  
8 they made such notes a decision you made solely on your  
9 own?

10 A No. I think one point that might help the board  
11 here is that many of the Comanche Peak files, many of the  
12 things that we have worked on -- many of the files that  
13 have been closed for a lengthy period of time have been  
14 transferred to our headquarters office. So, a review of  
15 files on some matters causes us to have to either come to  
16 the headquarters office or solicit that information from  
17 our representatives at the headquarters office.

18 Q Was the Lipinsky file one of those files that  
19 was in Washington?

20 A I believe it was.

21 Q Did you come here to look at it?

22 A I think I had Mr. Gilbert review it. I relied  
23 on his saying -- his statements to me that he saw no such  
24 notes in the file.

25 Q No such notes by you?

1 A Yes.

2 Q Do you recollect whether that happened before or  
3 after the conversation that you, Mr. Gilbert, and  
4 Ms. Garde had?

5 A I believe it was after.

6 Q You indicated that you, or I believe that you  
7 said that you -- from the file -- remembered seeing the  
8 report of inquiry and also the supplement to it.

9 A I believe that's correct.

10 Q But that must have been at some other time that  
11 you looked at the file?

12 A Some recent time.

13 Q That you personally looked at the file?

14 A Yes, in headquarters.

15 Q And that was before or after the conversation  
16 with Ms. Garde and Mr. Gilbert?

17 A After.

18 Q So, after the conversation with Ms. Garde and  
19 Mr. Gilbert, your understanding is Mr. Gilbert looked in  
20 the file for your notes and you also looked in the file?

21 A Yes. Subsequent to Mr. Gilbert looking and  
22 reporting to me that he saw no such report or notes by me,  
23 I had occasion to be in our headquarters office and I  
24 believe the file was on Mr. Gilbert's desk. And I  
25 reviewed it just to make sure for myself, to my own

1 knowledge, that in fact I had not made any notes or any  
2 written report in this matter.

3 Q And to go back to my question before we started  
4 on this little detour, my question was: Was it your  
5 decision alone to not ask Mr. Driskill or Mr. Herr if they  
6 had any notes reflecting a conversation between you and  
7 them regarding Lipinsky?

8 A I think my testimony was that I had no such  
9 conversations. I don't even remember having any thoughts  
10 as to whether I wanted to ask them those questions.

11 Q I'm sorry, I believe that you did remember that  
12 you had the conversation with Mr. Herr. It was  
13 Mr. Driskill that you couldn't remember?

14 A My conversation with Mr. Herr was to inform him  
15 of certain aspects of what Lipinsky had told me. I  
16 testified I also may have informed Mr. Driskill of some of  
17 these facts, even though I have no clear recollection of  
18 it.

19 Q But my question was, as to either one --

20 A Did they take notes?

21 Q No. The question was was it your decision to  
22 not -- your decision alone, to not ask either of them  
23 whether they had taken any notes?

24 A I did not make a decision in that case. I made  
25 no such decision.

1           JUDGE BLOCH: I think the timeframe of your  
2 question may be confusing. I think he means in the  
3 current timeframe.

4           THE WITNESS: I have not made any conscious  
5 decision to ask that question to either Herr or Driskill,  
6 if I understand your question correctly.

7           MR. ROISMAN: I think you do.

8           JUDGE BLOCH: Is there some reason you are not  
9 asking for those notes if they exist?

10          MR. ROISMAN: Yes. I think that Mr. Aloom's  
11 position is very clear, and Mr. Griffin's presentation is  
12 here -- I agree with Mr. Aloom's objections for the most  
13 part, except the one to my question, which I thought was  
14 pertinent. But I think his point was if we want anything  
15 other than what we indicated on the telephone, the way to  
16 do it is to follow the procedure, and I will do that.

17          JUDGE BLOCH: Well, I think that's unnecessarily  
18 cumbersome. We have a witness testifying about a meeting.  
19 If there's better evidence in the form of an investigative  
20 memo in that file than this witness' memory, then we  
21 should have those notes.

22          MR. ALOOT: Again, we understood the request by  
23 the board and the parties to provide Mr. Griffin to  
24 testify as to his recollections about what transpired  
25 between himself and Mr. Lipinsky, and any documentation

1 generated by Mr. Griffin.

2 JUDGE BLOCH: I'm not being critical --

3 MR. ALOOT: No, I understand.

4 JUDGE BLOCH: I can't see how we can possibly go  
5 ahead on the basis of what Mr. Griffin told us, if there  
6 is a contemporaneous note of what he said to an official  
7 investigator that gives us better evidence.

8 MR. WATKINS: Mr. Chairman, notes written by  
9 Mr. Herr or Mr. Driskill would constitute hearsay within  
10 hearsay.

11 JUDGE BLOCH: Except that they are business  
12 records also.

13 MR. WATKINS: I'm not claiming they are not.  
14 I'm saying they are hearsay within hearsay. We have the  
15 testimony of the live witness.

16 MR. ROISMAN: I don't understand what side  
17 Mr. Watkins is on. He justified the whole questioning of  
18 the witness in order to get access to those notes. Is he  
19 now arguing that if they exist they are not discoverable  
20 even if we were not dealing with a specialized agency?

21 MR. WATKINS: I was asking the questions to  
22 ascertain what is in the file.

23 MR. ROISMAN: The purpose of such questions you  
24 state by quoting from Rule 26 was in order to find  
25 information that could be used -- sought in discovery.

1 Are you now arguing that that request that you would have  
2 made would have been impossible?

3 JUDGE BLOCH: Let's not argue about that. At  
4 the very least they are discoverable for the purpose of  
5 refreshing this witness' recollection.

6 MR. WATKINS: I'll disagree that they are  
7 available for that purpose. If he had written notes,  
8 those notes would be available to refresh his recollection.  
9 Notes taken by somebody else would not be admissible -- or  
10 usable for that purpose.

11 MR. BERRY: The Staff would disagree with that.  
12 As I understand it, any writing can be used to refresh a  
13 witness' recollection. As far as introduction into  
14 evidence, that's a whole different matter. But you can  
15 refresh a witness' recollection with anything, so long as  
16 it will help the witness refresh his recollection.

17 JUDGE BLOCH: Is it the agency's position they  
18 don't want to give us that document?

19 MR. ALOOT: No. For fear of making another  
20 appearance by Mr. Griffin necessary, we will undertake or  
21 we will accept the responsibility for reviewing the  
22 relevant files to discover once and for all whether there  
23 are notes or documents generated by persons other than  
24 Mr. Griffin, regarding his November 10, 1983 meeting with  
25 Mr. Lipinsky.

1           JUDGE BLOCH: In the timeframe -- that's 9th  
2 through the 14th.

3           THE WITNESS: I would just volunteer to the  
4 board that I don't believe any such notes exist, but  
5 certainly I wouldn't expect you all to rely necessarily on  
6 my recollection in that matter.

7           JUDGE BLOCH: We had tried to ask you if you  
8 knew that they didn't exist from your review of the file;  
9 and you weren't willing to say that at that point, so I  
10 thought we'd have someone else look at the file. Why  
11 don't we just continue.

12          Mr. Roisman?

13           BY MR. ROISMAN:

14          Q        During the meeting on the 10th with Mr. Lipinsky,  
15 can you remember what you felt was -- what was expressed  
16 by Mr. Lipinsky as to the reason why the going over the  
17 report by Mr. Tolson, line by line, was something worth  
18 noting? Something worth telling you about?

19          A        My recollection was that Mr. Lipinsky felt that  
20 the purpose of the deposition was to gain his concurrence  
21 that the contents of his report were -- or its conclusions --  
22 were not valid.

23          Q        So going over it line by line was, in effect,  
24 making sure that he would, if you will, recant each  
25 individual sentence based on the statements that



1 Mr. Tolson would make about the sentence; is that correct?

2 A Could you repeat that, please?

3 Q Yes. Your understanding is that what he was  
4 telling you was that the purpose of going over the trip  
5 report line by line was in order to have Mr. Lipinsky  
6 recant, based upon what Mr. Tolson said, each individual  
7 sentence of the report?

8 MR. ALOOT: I don't know if Mr. Griffin can  
9 testify as to the purpose Mr. Tolson or the Utility had  
10 going over it line by line.

11 MR. ROISMAN: I only asked him what his  
12 understanding was for the purpose of the question.

13 JUDGE BLOCH: Counsel advised you that you may  
14 not have direct information, but if you do, you think you  
15 know something about that --

16 THE WITNESS: Judge, I don't believe I have  
17 direct information on this and I don't have any  
18 recollection of him stating it in that manner.

19 He relayed to me that that is the manner in which the  
20 inquiry by Mr. Tolson was conducted.

21 MR. ROISMAN: But I do think it's fair. The  
22 testimony here has already elicited a great deal of  
23 Mr. Griffin's impressions of what he observed about  
24 Mr. Lipinsky. I think that's pertinent. And this  
25 question had to do with, based upon what he observed, did

1 he have an opinion as to what it was about Mr. Lipinsky's  
2 reference to the line-by-line -- what that meant? Did he  
3 appear to --

4 JUDGE BLOCH: That's a fair enough question.  
5 Based on what you observed did you have such an opinion?

6 THE WITNESS: I didn't form any such opinion.

7 BY MR. ROISMAN:

8 Q Do you have any recollection of Mr. Lipinsky  
9 indicating to you that he had information that based upon  
10 his own visual observations, which would either confirm or  
11 refute what Mr. Tolson had told him?

12 A The impression that I'm left with, as I've  
13 stated several times already, was that Mr. Lipinsky's  
14 knowledge of the coatings program or the condition of that  
15 program or the history of it, was based on the testimony  
16 of -- or the statements made to him of a sole individual,  
17 unidentified -- to me, anyway. And that I am not aware,  
18 nor did he convey to me, any additional information that  
19 he had available to him that allowed him to formulate the  
20 contents of his trip report.

21 Q I'm talking now about the comments made by  
22 Mr. Tolson. Can you recollect anything that he said to  
23 you or any impression that he got from things that he said  
24 to you, regarding whether he had any basis to either  
25 accept or reject what Mr. Tolson had told him?

1           A           I didn't form an impression as to his  
2 conclusions of the validity of the contents of his trip  
3 report based on his recollection of statements made by  
4 Tolson during the deposition.

5           Q           Did he say anything to you about it, short of  
6 your having an impression on it?

7           A           Other than to describe the method and the  
8 direction that had been employed in taking his deposition,  
9 I don't have any recollection.

10          Q           What do you mean "the direction that was  
11 employed"?

12          A           The fact that they went through his trip report  
13 line by line and that the testimony that he told me was  
14 contained in the deposition was largely explanations by  
15 Tolson as to why everything was okay. And the fact that  
16 his testimony was largely limited to single sentence  
17 answers like, as I've stated before: "If what you are  
18 saying is correct there may not be a problem." Or, "it  
19 may be okay."

20          Q           So let me be clear on this. As I understand,  
21 what you are telling me is that Mr. Lipinsky communicated  
22 to you that day that he had a trip report which he  
23 prepared based upon oral representations made to him by  
24 someone in whom he had some confidence, and he had a  
25 subsequent meeting with the Applicant in which oral

1 representations were made to him by Mr. Tolson which  
2 essentially contradicted what he had previously heard?

3 A What he had previously written in his report.

4 Q Right. What he had previously written in his  
5 report. And that at no time in that meeting, as you  
6 recollect, did he give you any reaction to whether he  
7 thought one of those sources was more or less reliable  
8 than the other?

9 A He indicated, or the impression that I was left  
10 with, is that because of the fact that he was relying on  
11 hearsay information of one witness who he had faith in --  
12 that was -- since that was his sole source, he was not in  
13 a position as a professional in that area, coatings, to  
14 rely on Mr. Tolson's representations or not necessarily --  
15 or necessarily those of whoever his source was. And that  
16 he felt like he was being put in a very difficult position  
17 in that what was meant for the eyes of his internal people,  
18 his own people, had become public, and he viewed it merely  
19 as a difficult situation that was going to adversely --  
20 could adversely affect his future in the industry.

21 JUDGE BLOCH: Mr. Griffin, as I think about the  
22 testimony in this case it seems to me that some of what we  
23 know from testimony is a little different from what  
24 Mr. Lipinsky told --

25 THE WITNESS: I have --

1           JUDGE BLOCH: I just want to ask you whether you  
2 learned things in the course of speaking to Mr. Lipinsky  
3 that would help us to understand these differences.

4           THE WITNESS: I am, to some degree, aware of the  
5 general thrust and direction that the board has gone. I  
6 am not aware of the alleged discrepancies in Mr. Lipinsky's  
7 testimony. My testimony here today is a factual, direct  
8 recollection. I cannot remember more than what I remember.

9           JUDGE BLOCH: No, as a premise, let me just  
10 explain what I mean. Some of the testimony suggests that  
11 a portion of the conclusions in that report were  
12 Mr. Lipinsky's own eyewitness observations, and also that  
13 there was more than one person he spoke to on-site -- that  
14 he spoke to at least six people. Can you think of  
15 anything in that meeting with Mr. Lipinsky that would help  
16 you to understand why it is that he told you that he  
17 relied on only one person?

18          THE WITNESS: Well, since I do not specifically  
19 remember his exact statements, I was left with the  
20 impression that the basis for his report was a single  
21 individual. I am not representing that as facts.

22          JUDGE BLOCH: No, I'm just asking if you have  
23 any further recollection that would help us.

24          THE WITNESS: I really don't. If I did I would  
25 have already offered it early on in these proceedings.

1 MR. ROISMAN: Will you read me the last question  
2 and answer that I asked the witness?

3 (The reporter read the record as requested.)

4 JUDGE BLOCH: Did you want an answer?

5 THE WITNESS: I think that was my answer.

6 MR. ROISMAN: That was his answer. That's fine.

7 (Discussion off the record.)

8 BY MR. ROISMAN:

9 Q Mr. Griffin, in the answer that the reporter  
10 just read back you referred once to a "difficult position."

11 A That's my characterization.

12 Q Yes. That's right. And later to "a difficult  
13 situation."

14 Was it your understanding that what was difficult about  
15 it was that Mr. Lipinsky was being asked to have a  
16 definitive opinion which he did not feel he had a factual  
17 basis to make, on certain aspects of the paint coatings  
18 program? And that's what made him feel he was in a  
19 difficult position?

20 A No.

21 Q What was it?

22 A The fact that his internal memo had been made  
23 public.

24 Q You indicate that you had had --

25 JUDGE BLOCH: One second. But that had happened

1     sometime before. I thought part of what made it a  
2     difficult position was that it just happened that morning.  
3     That's not the case?

4             THE WITNESS: If I understand Mr. Roisman's  
5     question, the question was pointed at what he considered a  
6     difficult situation.

7     If I recall my own lengthy answer, the point, his main  
8     concern -- the reason for -- or the origins of  
9     Mr. Lipinsky's concerns had to do with the release of his  
10    internal memo.

11            JUDGE BLOCH: But didn't the meeting also have  
12    something to do with those concerns?

13            THE WITNESS: He, Mr. Lipinsky, as I have  
14    testified, expressed concerns about the meeting and its  
15    impact on his career.

16            BY MR. ROISMAN:

17        Q     You just said, "concerns about the meeting and  
18    its impact on his career"?

19        A     His meeting with Tolson.

20        Q     A concern that something had happened in the  
21    meeting that might have an impact on his career?

22        A     No.

23        Q     Two separate items?

24        A     There are two separate items here.

25        Q     You said a meeting, and its impact on his career.

1 What did the "its" refer to?

2 A "Its" being the release of his memo, which was  
3 critical of the TUGCO coatings, protective coatings system.

4 Q You indicated that you had read, you think, one  
5 newspaper article in that newspaper about statements  
6 quoted to have been made by Ms. Garde regarding statements  
7 made by you. Can you remember which newspaper it was?

8 MR. GALLO: Point -- I'm sorry.

9 THE WITNESS: I believe it was the Star Telegram.

10 MR. GALLO: It appears to me the witness is  
11 getting a little tired. He might like a five-minute break.

12 MR. ROISMAN: Mr. Chairman, I don't have any  
13 more questions, I don't think. But I would like to take a  
14 moment to decide. Without a five-minute break.

15 JUDGE BLOCH: You want a five-minute break?

16 MR. ROISMAN: No, I do not want a five-minute  
17 break.

18 (Recess.)

19 MR. ROISMAN: I just have one last question for  
20 the witness.

21 BY MR. ROISMAN:

22 Q Mr. Griffin, how would you describe Mr. Lipinsky's  
23 demeanor and his attitude with regard to these concerns  
24 that he had of being in a difficult position, or a  
25 difficult situation?



1 A His demeanor during my meeting with him?

2 Q When he discussed those particular items. That  
3 is --

4 A Okay. I formed two opinions of his demeanor.  
5 One, as I already testified, he was initially agitated.

6 Two, I think he viewed me as a sympathetic ear. I  
7 believe that his statements to me, although unfortunately  
8 are vague in my recollection, the impressions that he left  
9 I felt were sincere.

10 Q You mean that he had a sincere concern about his  
11 career future?

12 A No, I mean what he was telling me was truthful  
13 and he was sincere in what he was saying, in general.  
14 During the course of the conversations.

15 Q When he talked to you about the particular item  
16 of his concern about his career as a result of the release  
17 of the trip report, did he seem agitated?

18 A I formed the impression his agitation was based  
19 on his recent -- on the recent deposition, in that he  
20 indicated to me he had just left the site and he felt like  
21 he had been put under a great deal of pressure during the  
22 course of this deposition. And my description of his  
23 demeanor as "agitated," I formed the opinion it was based  
24 on the deposing process that he had just been through.

25 Q I'm trying to get a sense of the feelings that

1 he was expressing to you about the concern over losing the  
2 job.

3 I don't know which words to choose, because you, having  
4 been through this process a lot, you are always choosing  
5 words and listening very carefully for them. I'm not  
6 going to give you any more words. I just want to tell you  
7 what I want you to tell me about.

8 I want to know how deeply did he express this concern  
9 about his job and his career, when he talked about that  
10 issue and the release of the trip report, to you?

11 A At the start of your question you said he had lost  
12 this job. I am not aware of any job loss.

13 I attempted to convey to the board here today my  
14 impressions of Mr. Lipinsky's demeanor during this meeting.  
15 I think his concern about the way that this memo having  
16 been made public would adversely -- could potentially  
17 adversely affect his company and his own standing in the  
18 industry was sincere. He was concerned. He felt that if  
19 this issue were blown out of proportion or misrepresented  
20 by parties, that there could actually be adverse facts.

21 He had spent his career learning to do what he did;  
22 considered himself a professional; and he felt like the  
23 way the events were unfolding, that it was going to cast a  
24 shadow on his professional career, and his concerns were  
25 real.

1 Q Was he nervous about this? Would you use that  
2 word?

3 A Initially, when he came in and I met him, I  
4 would say he was nervous.

5 Q No, about this, when he talked about this career  
6 issue.

7 JUDGE BLOCH: Let me try something, Mr. Roisman.  
8 What Mr. Roisman is trying to do is see if he can refresh  
9 your recollection about that specific portion of the  
10 interview.

11 The real question is can you at all picture or imagine  
12 Mr. Lipinsky at the time he was talking just about the  
13 career thing. Can you?

14 THE WITNESS: Yes, I can.

15 JUDGE BLOCH: Okay. At that particular point  
16 can you describe either the language he was using or  
17 something about his demeanor at that point?

18 THE WITNESS: I think he was extremely concerned  
19 and sincere in his unhappiness at his situation.

20 BY MR. ROISMAN:

21 Q Earlier, just a moment ago in answering the  
22 question, you used the phrase "a great deal of pressure,"  
23 to describe what -- something about the meeting that  
24 Mr. Lipinsky had just come out of. Do you have a  
25 recollection of what -- what was the pressure?

1           A           Those were my words, not Lipinsky's.

2           Q           I understand they were your words.

3           A           I used those words to describe the situation  
4           that he found himself in when he was brought to the site  
5           for what he believed to be other purposes, and was pulled  
6           into a room and made to give a deposition. And the manner  
7           in which it was done, the -- the unfortunate, from his  
8           point of view, position that he was put in, caused him  
9           anxiety.

10                    JUDGE BLOCH: Did you have the impression that  
11           he felt he had to go into that meeting?

12                    THE WITNESS: Yes. Because he represented O.B.  
13           Cannon and, as a consulting firm that had business -- I  
14           understand had business dealings with the Utility, he did  
15           feel compelled to go through with the deposition.

16           I did have a clear impression of that.

17                    BY MR. ROISMAN:

18           Q           And at any time during the course of your  
19           meeting with him, as best you can recollect, did he  
20           indicate to you that by the time the meeting with the  
21           Utility people was over, that any of his anxieties or  
22           concerns about having that meeting had dissipated?

23           A           I have no recollection of him informing me  
24           whether his anxieties were dissipating during the end of  
25           the deposition-taking process.

1 MR. ROISMAN: I have nothing further.

2 JUDGE BLOCH: Judge Grossman?

3 JUDGE GROSSMAN: I have just a couple of quick  
4 questions.

5 EXAMINATION

6 BY JUDGE GROSSMAN:

7 Q When Mr. Lipinsky discussed with you the fact  
8 that one individual -- or what he alleged, that one  
9 individual had supplied the information from which he drew  
10 his conclusions in the trip report, did you get the  
11 impression that he was trying to minimize the importance  
12 of the trip report?

13 A I'm not certain that I formed an opinion that  
14 that was exactly what he was -- that he was trying to  
15 accomplish by mentioning the fact. But I think he was  
16 qualifying the -- my impression was he was trying to  
17 qualify the contents of his statement.

18 Q Well, did it seem to you, though, that he was  
19 minimizing his report, as indicating that it was not that  
20 important?

21 A I think he was attempting to minimize it in that  
22 he was informing me that he had not had access or any  
23 great access to records, personnel, or to the coatings  
24 themselves, and that as a professional he would have  
25 wanted -- he would have rather done a more thorough

1 examination before any kind of report would have been  
2 officially issued by Cannon. I formed that opinion.

3 Q Okay. Now, forgetting the concerns that  
4 Mr. Lipinsky expressed to you with regard to his work or  
5 O.B. Cannon's work with the future work with the nuclear  
6 industry, and concentrating just on his agitation over the  
7 November 10th meeting, did you get any indication that  
8 part of his agitation was due to his being asked to give  
9 definitive answers to those subject areas on the basis of  
10 Mr. Tolson's remarks?

11 A My recollection is that -- that he viewed the  
12 whole deposition, not so much as him responding or  
13 defending his document, but rather was a forum created for  
14 Tolson to provide an answer to other parties in future  
15 discussions, hearings, or whatever. That was the  
16 impression he left with me.

17 They weren't soliciting anything from him, unless he  
18 close to attempt to defend the document or the internal  
19 memo. His brief answers to Tolson's -- what he described  
20 as lengthy testimony -- as to why everything was okay, was  
21 an attempt on his part to give some answer, but to not  
22 qualify one way or the other whether he agreed with or  
23 disagreed with Tolson's explanations of why everything was  
24 okay.

25 Q I get the impression that you are saying now

1 that he was perhaps indicating that he was being used in  
2 the deposition, rather than being relied upon to supply  
3 substantive answers to them. Is that the sense of what  
4 you are saying?

5 A Yes, it is.

6 Q Did he ever indicate to you why he answered  
7 Mr. Tolson the way he did?

8 A Yes, he did. He indicated that his responses  
9 were based on, one, his lack of information as to the  
10 coatings program; and, two, that he as a professional in  
11 the area realized and understood that it would require an  
12 exhaustive review of documents and other things to arrive  
13 at a valid report on the coatings program. And he  
14 conveyed a sense to me of his appreciation of the fact  
15 that this internal memo was not consistent with the  
16 professional product that his company put out.

17 JUDGE GROSSMAN: I don't have any more questions.

18 JUDGE BLOCH: Off the record.

19 (Discussion off the record.)

20 JUDGE BLOCH: Let's take a five-minute break --  
21 no, seven.

22 (Recess.)

23 JUDGE BLOCH: The hearing will come to order.

24 Mr. Treby, you have a statement?

25 MR. TREBY: Yes. First, the Staff has no

1 questions for Mr. Griffin. My statement is that I believe  
2 Mr. Griffin was asked at one point whether he had  
3 discussed his meeting or recollection of that meeting with  
4 anybody at the NRC. And I would just advise the board and  
5 parties that I did have a brief discussion with  
6 Mr. Griffin approximately two weeks before the hearing  
7 began, in which I asked him what his recollection of the  
8 meeting was. And I guess I also asked him some questions  
9 about Q82-026, since I had only seen a sanitized version  
10 of it up to that point and I was interested in getting an  
11 unsanitized version.

12 THE WITNESS: I might add I told Mr. Treby about  
13 what I thought would be the substance of any testimony I  
14 would be willing to provide, in brief form.

15 MR. ROISMAN: Can we just get a time on that?  
16 Mr. Treby said "two weeks before the hearing," but I don't  
17 know which hearings: the one that started in Fort Worth  
18 in September or the Lipinsky-related hearings?

19 MR. TREBY: No, this was fairly recently.

20 THE WITNESS: Two or three weeks ago.

21 MR. TREBY: Or maybe three or four. I'm not  
22 quite sure. I didn't take any notes --

23 MR. ROISMAN: Just for the record.

24 (Laughter.)

25 But before Mr. Lipinsky went on the witness stand. It



1 was before Mr. Lipinsky went on the stand?

2 MR. TREBY: It may have been between sessions.

3 THE WITNESS: That's right. I believe it had  
4 already started, the hearings.

5 MR. TREBY: All of the time was taken up with  
6 Mr. Roisman's examination. Because my recollection is  
7 that I tried to diligently follow up, once I discovered  
8 that the inquiry report related to the Lipinsky matter, to  
9 see whether we could get copies of that. And I think that  
10 within three or four days of having identified the  
11 appropriate inquiry report and having made the appropriate  
12 arrangements to view it at OI's offices and making sure  
13 that they had the written confidentiality waiver, that we  
14 then got a copy of it and provided it to all the parties.

15 THE WITNESS: I think I also recall that my name  
16 had already come up in the hearings. I was told this by --  
17 I don't know who, but my name had appeared in the hearings  
18 as Lipinsky testifying that he had met me after the  
19 deposition with the Utility. That's the timing. If that  
20 can help you pin the time down any closer.

21 MR. WATKINS: It doesn't.

22 MR. TREBY: I think maybe Mr. Lipinsky did  
23 testify to that during his original presentment by  
24 Mr. Gallo, in cross-examination by Mr. Roisman.

25 JUDGE BLOCH: Mr. Aloom?

1 MR. ALOOT: I have no questions.

2 JUDGE BLOCH: Mr. Gallo?

3 EXAMINATION

4 BY MR. GALLO:

5 Q Mr. Griffin, is your testimony here today any  
6 different than what you conveyed to Mr. Treby during the  
7 meeting he referred to?

8 A No. It's exactly the same. Not the same words,  
9 but exactly the same testimony.

10 Q You used the words "under false pretenses" to  
11 characterize the Lipinsky belief with respect to his  
12 attendance of the Tolson meeting on November 10. You used  
13 that term to -- I believe you used that term in describing  
14 the November 10 meeting, to Mr. Herr; is that correct?

15 A Did I use those words when I talked to Mr. Herr?

16 Q Yes. I believe --

17 A I don't recall what words I used. I'm sure I  
18 conveyed to him in some terms the fact that I was left  
19 with the impression, following my conversation with  
20 Lipinsky, that he had been called to the Comanche Peak  
21 site for some purpose other than to give a deposition.

22 Q Do you recall telling Mr. -- using those words  
23 in your conversation with Mr. Herr, namely "under false  
24 pretenses"?

25 A I don't recall specifically using those words.

1 Q Do you recall whether Lipinsky used those words  
2 during the meeting you had with him on the 10th of  
3 November?

4 A I don't specifically recall, but I am inclined  
5 to say: No, those were not the words he used. I think  
6 those are my words.

7 Q Now, you have been asked a lot of questions  
8 about your impression of Mr. Lipinsky's thoughts with  
9 respect to the meeting with Tolson on November 10. Is it  
10 still your testimony that he conveyed to you that, if the  
11 information told to him by Tolson was correct, that maybe  
12 his concerns would not be valid?

13 A No. That's not necessarily my impression. I --

14 Q Tell me what your impression is?

15 A That was his response.

16 Q That was his response?

17 A I did not -- I was not able to divine  
18 Mr. Lipinsky's feelings on this, other than to believe  
19 that it would take an inspection effort on his part to  
20 evaluate the coatings program at Comanche Peak, and that  
21 he had not had an opportunity to do such a thorough  
22 inspection.

23 Q I apologize, a poorly framed question. My  
24 characterization then was his response to a question that  
25 you might have asked during the meeting on November 10.

1 My characterization -- strike that statement again. I see  
2 I've got you puzzled even more.

3 Did he, during the meeting that you had with him,  
4 convey to you the idea that, if everything Mr. Tolson had  
5 said during that meeting was accurate, that maybe his  
6 concerns were not valid?

7 A I don't have any recollection of any such  
8 thought imparted to me.

9 Q You don't recall --

10 A By Lipinsky.

11 Q Do you have any recollection of that being said  
12 at all in any way?

13 A No. Other than he said that was the -- what he --  
14 that was his testimony. That was his -- the nature of his  
15 responses to the various questions that Tolson put to him.

16 Q All right. You do recall that that's what he  
17 conveyed to you as the nature of his responses during the  
18 meeting with Tolson; is that correct?

19 A He said, so to speak, if I looked at the  
20 transcript -- this is not his words, but this is the  
21 impression I got -- if I looked at the transcript, his  
22 responses to Tolson's lengthy explanation as to why  
23 everything was okay would be brief and something to the  
24 effect: "If what you are telling me is right, then maybe  
25 there's no problem." Or, "Maybe everything is okay."

1           Q           You testified in response to someone's questions  
2 that you had received in the past two or three phone calls  
3 from Ms. Garde with respect to the Comanche Peak case  
4 generally, and that you had essentially referred her to  
5 the public affairs officer and really hadn't talked to her  
6 very much about any substance. Is that a correct  
7 statement?

8           A           No. It's not.

9           Q           All right.

10          A           There have been occasions when Ms. Garde has  
11 represented witnesses that have been the subject or  
12 provided information to the Office of Investigation.

13           There have been occasions when I have been present when  
14 I've taken depositions, statements, or transcriptions from  
15 witnesses represented by GAP, and Ms. Garde has been  
16 present at any number of those.

17           I wouldn't even have a count.

18          Q           I'm talking about phone calls that she made to  
19 you?

20          A           I'm sure that -- I recall other phone calls. I  
21 remember the first time she ever called me and I didn't  
22 even know who the organization was. But there have not  
23 been very many phone calls that I have received from her.

24          Q           Did you discuss what I characterized as  
25 substantive matters during these calls with her?



1 testimony elicited subsequent to the time of Mr. Watkins'  
2 initial examination on the subject he's now inquiring on.

3 MR. WATKINS: Mr. Roisman inquired in some  
4 detail as to the circumstances under which the document  
5 was given to Mr. Lipinsky, shown to him, did he make  
6 corrections and so on. I'm just trying to find out -- it  
7 wasn't clear from the questions and answers --

8 JUDGE BLOCH: The question is allowed.

9 THE WITNESS: I would have already shared with  
10 this board an exact description of that if I could recall.  
11 I presume it contained testimony recorded by Driskill or  
12 reported by Driskill about Lipinsky's testimony, for some  
13 purpose or other.

14 I do have a recollection of furnishing Lipinsky with  
15 something to read. I recall vaguely that his statements  
16 regarding whatever was contained on this document,  
17 attributed to him, were in fact -- did represent what he  
18 had told Driskill in the past.

19 BY MR. WATKINS:

20 Q Okay. When you say "Lipinsky testimony," that  
21 could also refer to an interview with Mr. Driskill; is  
22 that right?

23 A Yes.

24 JUDGE BLOCH: And before, I think, your best  
25 recollection was that it was a report of interview?

1 THE WITNESS: That was my -- I don't want to  
2 represent, I don't want the board to go looking for a  
3 report of interview. I don't know one exists.

4 It could have been in the form we have already seen  
5 here in the report of a Q, or it could have been a report  
6 of interview which was a rendering of Mr. Driskill of  
7 Mr. Lipinsky's statements.

8 JUDGE BLOCH: Is that a form you use? A form of  
9 interview?

10 THE WITNESS: No, it's just a piece of paper  
11 that's headed "report of interview" and normally starts  
12 out by giving the date and the person interviewed and who  
13 did the interviewing and the location and the description  
14 or identity of the person and then it goes ahead to relate  
15 the testimony. It is not signed by anyone and is used as  
16 a vehicle within the Office of Investigation to report  
17 information that is not included in transcripts or  
18 statements.

19 BY MR. WATKINS:

20 Q The answer to your question, then, is, yes, it  
21 is a form; is that right?

22 A It is a piece of paper.

23 Q Preprinted?

24 A No.

25 JUDGE BLOCH: But it is a procedure, because we



1 have a number of them attached to OI reports.

2 THE WITNESS: Yes.

3 MR. ROISMAN: Am I correct in assuming that the  
4 request the board made that Mr. Aloom has responded to  
5 regarding the production of any notes will include -- if  
6 there is some other version of this leading note, this  
7 report of inquiry, that it would include that as well?

8 MR. ALOOT: I didn't understand the question  
9 clearly.

10 JUDGE BLOCH: It didn't, but it ought to.

11 We have testimony from Mr. Lipinsky that he doesn't  
12 quite agree with the present Q, and that may be because he  
13 agreed with the draft. And it seems to me that for the  
14 adequacy of the record we ought to see -- if there is this  
15 telephone note and it is in the files, we ought to see it  
16 also.

17 MR. ALOOT: Are you asking for, then -- let me  
18 understand so we don't have to keep coming back -- for  
19 checking the record of -- are the file -- file of inquiry  
20 to determine whether there is any draft of Mr. Lipinsky's  
21 statement? Or are you asking for us to produce the entire  
22 file itself?

23 JUDGE BLOCH: No, no. We asked for one item  
24 before. We are now asking for a different item, which is  
25 an item that could fit Mr. Griffin's recollection; there

1 may have been something called a "report of interview"  
2 that had to do with the conversation between Mr. Driskill  
3 and Mr. Lipinsky.

4 MR. ALOOT: Okay.

5 MR. ROISMAN: Mr. Chairman, it seems to me that  
6 from the testimony of the witness, the item that might  
7 have been shown to Mr. Lipinsky on that day could have  
8 been an earlier version of report number Q483-026. It  
9 could have been a report of investigation, which is the  
10 standard thing that we've seen attached to reports. It  
11 might have been handwritten or typed. It might have said  
12 "draft" or "not draft" on it.

13 And it seems to me if we are to find out whether  
14 there's any possibility that the witness saw something  
15 other than what we have here, that all of those have to be  
16 produced in some way.

17 JUDGE BLOCH: Mr. Gallo, do you agree with that?

18 MR. GALLO: Do I agree with it? I have no  
19 objection to them being produced.

20 JUDGE BLOCH: Mr. Aloom, does that create  
21 problems?

22 MR. ALOOT: We are prepared to look through the  
23 file and provide copies of any document that has been  
24 reviewed by Mr. Lipinsky. We would have some problems  
25 with, at least without some further thought, turning over

1 the entire investigative file.

2 JUDGE BLOCH: No, we are not asking for that.  
3 It would be an easier draft of this particular Q that  
4 might have been reviewed by Mr. Lipinsky.

5 MR. ALOOT: To that extent that would fit into  
6 my first description of what we are willing to offer.

7 MR. ROISMAN: All right.

8 JUDGE BLOCH: Mr. Watkins?

9 BY MR. WATKINS:

10 Q Several times today you have referred to  
11 Mr. Lipinsky's meeting with the Utility on November 10 as  
12 a "deposition." Is that your characterization?

13 A Yes.

14 Q Did he say "deposition"?

15 A I don't have any recollection of how he  
16 characterized the meeting. He may have mentioned -- like  
17 "stenographer" or something like that comes to mind -- but  
18 I'm not sure.

19 Q Judge Grossman asked you whether Mr. Lipinsky's  
20 comments about the source for the statements he made in  
21 his trip report were intended to diminish or take away  
22 from the importance of the report.

23 Did Mr. Lipinsky give you the impression that what  
24 concerned him was that it was unprofessional to base the  
25 kinds of conclusions expressed in the trip report on

1 hearsay of a single individual, rather than a detailed,  
2 hands-on look at the coatings program?

3 A I think that was a portion of his concern. I  
4 don't think it would be fair to characterize that as his  
5 sole concern.

6 Q It was your impression that that was his concern?

7 A Yes, sir.

8 Q Did he say so?

9 A I don't recall if he did or not; but since I was  
10 left with that impression, I presume he made some  
11 statement to that effect.

12 Q You are now sure that you made no notes of the  
13 November 10 meeting with Mr. Lipinsky?

14 A I have no recollection of making any notes. I  
15 have researched our files. I have searched everywhere I  
16 can, in that I normally do make notes of my contacts or  
17 things that could conceivably be involved in a case.

18 I am content that no notes exist, either in reports  
19 authored by me or anybody else which reference my meeting  
20 with Lipinsky.

21 MR. WATKINS: Nothing further.

22 JUDGE BLOCH: Mr. Roisman?

23 MR. ROISMAN: Nothing further.

24 JUDGE BLOCH: Mr. Treby?

25 MR. TREBY: Nothing further.

1 PRESIDING JUDGE: Mr. Aloom?

2 MR. ALOOT: Nothing.

3 JUDGE BLOCH: I assume we have rested, Mr. Gallo?

4 THE WITNESS: I have a closing statement.

5 JUDGE BLOCH: Mr. Aloom, do you have any  
6 objection?

7 MR. ALOOT: I have one question.

8 EXAMINATION

9 BY MR. ALOOT:

10 Q Mr. Griffin, do you have anything additional to  
11 add?

12 A During a forum like this, giving the reach that  
13 we go back into '83, I think there may always be doubt in  
14 somebody's mind as to whether they have heard all the  
15 evidence that's available. I want to inform the board  
16 that to the best of my knowledge, through the questioning,  
17 you have available to you all the information to the best  
18 of my recollection to what transpired that day. I realize  
19 that Mr. Lipinsky has his own recollection; there may be  
20 other things that bear on it. But I have provided this  
21 board with the best of my knowledge and it is truthful.

22 JUDGE BLOCH: I assume there's no further  
23 questioning based on the statement?

24 MR. GALLO: Yes. I have one follow-up question.

25

EXAMINATION

BY MR. GALLO:

Q I assume, based on your statement, Mr. Griffin, that if there's a variance between your recollection of the November 10 meeting and Mr. Lipinsky's recollection of the November 10 meeting with you, your recollection is not necessarily the correct one; is that your judgment?

A I think in that we have spent a lot of time discussing Mr. Lipinsky's feelings, opinions, and impressions, there is a wide -- there's a lot of room for a difference of perceptions as to what the contents or recollections of that meeting are.

I'm sure Mr. Lipinsky's remembrances and impressions would not be exactly what mine were, in that I was not able to perceive his feelings or intent.

Q So, it's possible in your judgment that the recollection of that meeting could differ in your recollection versus Mr. Lipinsky's recollection?

A Absolutely.

Q And that would be a reasonable difference of the two recollections, in your judgment?

MR. ROISMAN: Objection. That's for the board to decide, Mr. Gallo.

JUDGE BLOCH: I think we can judge that.

MR. GALLO: I'll stop at this point. No further

1 questions.

2 JUDGE BLOCH: Mr. Watkins?

3 MR. WATKINS: I have just one based on that  
4 colloquy.

5 EXAMINATION

6 BY MR. WATKINS:

7 Q Are you aware of any inconsistencies between  
8 your testimony here and that given by Mr. Lipinsky?

9 A No.

10 JUDGE BLOCH: Mr. Roisman?

11 MR. ROISMAN: That, needless to say, produces  
12 two questions.

13 EXAMINATION

14 BY MR. ROISMAN:

15 Q First, have you said anything here today that  
16 was based upon your recollection, that you want to qualify  
17 any more than you qualified it when you said it in terms  
18 of how confident you are that your recollection was  
19 correct or not correct?

20 A No. I was -- my only purpose in having a  
21 closing statement is just to inform the board that I think  
22 we have all the testimony. I think they have all the  
23 facts. I don't -- to my knowledge, I have nothing further  
24 to add and nothing that needs qualifying. I'm not bashful.  
25 If something needed qualifying or was misstated or

1 misunderstood and I perceived that, I would have already  
2 spoken.

3 Q And in answering Mr. Watkins' question, were you  
4 aware of any inconsistencies between anything you have  
5 said and Mr. Lipinsky, I take it that is based in part  
6 upon the fact that you don't know what Mr. Lipinsky said?

7 A That's exactly right.

8 MR. ROISMAN: Thank you.

9 JUDGE BLOCH: Mr. Treby?

10 MR. TREBY: No, I really meant it when I said I  
11 had no further questions.

12 JUDGE BLOCH: Mr. Aloom?

13 MR. ALOOT: Ditto. Well -- --

14 JUDGE BLOCH: You could ask him if he has  
15 another closing statement?

16 MR. ALOOT: The round stops here?

17 MR. WATKINS: Depends on what you say.

18 JUDGE BLOCH: No, it stops with Mr. Gallo.

19 JUDGE GROSSMAN: If you don't say anything  
20 further it ends; yes.

21 MR. ALOOT: Well, there was some question as to  
22 whether Mr. Griffin would be asked to -- whether this  
23 deposition could be offered in lieu of live testimony,  
24 subject to any -- anything that related to the additional  
25 documents we are going to provide.



1 Does the board have a feeling as to whether  
2 Mr. Driskill will be asked to come back?

3 MR. WATKINS: Mr. Griffin?

4 MR. ALOOT: Excuse me. Mr. Griffin will be  
5 asked to come back?

6 JUDGE BLOCH: Do you have any objection to our  
7 using this deposition as testimony? There being none, the  
8 answer is he probably will not be called back unless the  
9 documents you provide us call for that.

10 MR. TREBY: On this subject.

11 JUDGE BLOCH: Mr. Gallo?

12 MR. GALLO: I have no questions.

13 JUDGE BLOCH: Mr. Watkins, based on Mr. Roisman?

14 MR. WATKINS: No, sir.

15 JUDGE BLOCH: Thank you very much for helping us  
16 out today. The hearing is adjourned.

17 (Whereupon, at 1:00 p.m., the deposition was  
18 concluded.)

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CERTIFICATE OF OFFICIAL REPORTER

This is to certify that the attached proceedings before the UNITED STATES NUCLEAR REGULATORY COMMISSION in the matter of:

NAME OF PROCEEDING: TEXAS UTILITIES GENERATING COMPANY, et al.  
(Comanche Peak Steam Electric Station,  
Units 1 and 2)

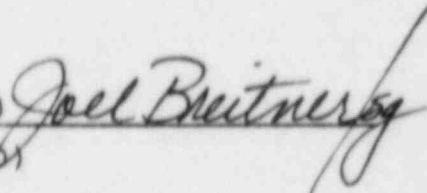
DEPOSITION OF H. BROOKS GRIFFIN

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

PLACE: WASHINGTON, D. C.

DATE: MONDAY, DECEMBER 17, 1984

were held as herein appears, and that this is the original transcript thereof for the file of the United States Nuclear Regulatory Commission.

(sig) 

(TYPED)

JOEL BREITNER  
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