

U.S. NUCLEAR REGULATORY COMMISSION
Office of Inspector and Auditor

Date of transcription May 1, 1985

Report of Interview

Paul S. Check, Deputy Regional Administrator, Region IV, NRC, was interviewed concerning his knowledge of a March 8, 1984, incident at Comanche Peak Steam Electric Station (SES) when allegedly a Texas Utilities Generating Company (TUGCO) Quality Assurance (QA) Supervisor detained eight quality control (QC) inspectors in a room and then searched their desks and confiscated inspection reports documenting numerous deficiencies with electrical equipment. During the interview, Check provided the following information:

At about 9:00 a.m., March 8, 1984, Check received a telephone call from TUGCO Vice President for Nuclear Operations, Billy Ray Clements. Clements briefed Check on what Clements described as "provocative behavior" on the part of electrical QC inspectors at Comanche Peak SES. Reportedly some of the electric QC inspectors were wearing T-shirts with the message "I pick nits" printed on them. Additionally, the QC inspectors were finding numerous problems with electrical construction that were apparently discovered as a result of "destructive" inspections. Clements stated he was concerned for the safety of the QC inspectors because crafts workers might retaliate for what the QC inspectors were doing. For this reason, the QC inspectors had been sequestered in a room and were going to be interviewed by Boyce Grier, a consultant for TUGCO. Clements further stated TUGCO was deciding what the next step would be and he would keep Region IV informed. Check noted that he had no reason to doubt Clements' concern for the safety of the inspectors and that Region IV had in the past cautioned TUGCO management to exercise care in dealing with labor difficulties.

After the telephone conversation, Check documented Clements' report in a note to John Collins, the Region IV Administrator, and briefly discussed the situation with Richard P. Denise, Director, Division of Reactor Safety and Projects. It was agreed that Region IV would wait for further information from Clements before taking any action in this matter.

At about 11:00 a.m., March 8, 1984, Clements again telephoned Check to update him on the ongoing situation at Comanche Peak SES. Present with Check during the conference call with Clements were William Brown, the Regional Attorney, and Richard Denise. Clements reported that TUGCO had decided to send the QC inspectors home without pay and that they would be allowed to return when properly attired. Additionally Boyce Grier, a consultant to TUGCO, was going to interview the QC inspectors to assure both crafts and inspectors that they were appreciated by the company and that they could bring their concerns to company management. Clements also reported that there was no evidence that the QC inspectors were deliberately engaged in sabotage during their inspections. Check, Denise, and Brown agreed that TUGCO seemed to be handling the

Investigation on April 25, 1985 at Region IV File # 85-10
by George A. Mulley Jr., Investigator, OIA Date dictated May 1, 1985

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situation responsibly. Because there was no health and safety issue, Check did not see any need for immediate NRC involvement in what appeared to be a labor-management problem. Check noted that to interpose NRC in the situation would have been a misuse of NRC resources.

Soon after the second telephone call from Clements, a meeting was held to discuss the situation at Comanche Peak SES. In attendance were Check, Denise, Brown, and several other members of the Region IV staff who had an interest in Comanche Peak. The consensus of the participants at the meeting was there was no need for NRC involvement in the situation at Comanche Peak. Denise suggested that Region IV contact the NRC resident inspectors at Comanche Peak and have them observe and gather more information on what was happening. This suggestion was agreed to.

Check noted that as the situation at Comanche Peak developed, he kept the Regional Administrator, John Collins, informed about what was happening and what Region IV was doing in response to the reports from TUGCO. Although Collins was not importantly involved in this matter, he generally endorsed the actions taken by Region IV.

Although Check was unsure of the details, he recalled that sometime after the telephone calls from Clements on March 8, 1984, Region IV learned that TUGCO had seized records from the desks of the QC inspectors. Reportedly the reason the documents were seized by TUGCO was the records were company property and TUGCO was concerned that they might be carried off the site. In the event the documents might, at a later date, be evidence or of interest to the Atomic Safety and Licensing Board, Region IV immediately took action to confiscate all the documents from TUGCO and secure them in the NRC resident inspector's office for safekeeping.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY & LICENSING BOARD

-----x
 In the matter of: :
 :
 TEXAS UTILITIES ELECTRIC :
 COMPANY, et al. : Docket Nos. 50-445
 : 50-446
 (Comanche Peak Steam Electric :
 Station, Units 1 and 2) :
 -----x

Glen Rose Motor Inn
Glen Rose, Texas

July 10, 1984

Deposition of: Billy Ray Clements
 called by examination by counsel for Intervenor
 taken before Marilyn Nations, Court Reporter,
 beginning at 9:05 a.m., pursuant to agreement.

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1 A No.

2 Q Would it concern you that he made such a
3 statement?

4 A I don't recall whether I was concerned at
5 that time or not. I don't remember.

6 Q Did any other individuals express to you
7 concern over that statement?

8 A I don't remember.

9 Q Do you know of any individuals who were
10 concened about that statement?

11 A In retrospect?

12 Q At that time.

13 A No, I don't.

14 Q In retrospect?

15 A I think that their concern about the
16 incident, the way it was discolored, yes, I think they are
17 worried about that.

18 Q They were concerned about Mr. Williams
19 making that statement?

20 A NO. They were worried about the way it
21 was taken out of context and used, so-called nit-picking
22 incident.

23 Q Let's talk about the t-shirt incident for a
24 moment.

25 A Okay.

1 Q We call it the t-shirt incident because --
2 well, why don't you -- did some individuals wear certain
3 t-shirts into Comanche?

4 A YES. There were six to eight OC inspectors
5 wearing t-shirts that had something written on them
6 concerning nit-picking.

7 Q Do you recall the exact language?

8 A No, sir, I don't.

9 Q Now, who informed you that there were six
10 or eight individuals wearing t-shirts that said something
11 about nit-picking?

12 A As I said before, it was Ron Tolson or
13 David Chapman. I believe it was Ron Tolson.

14 Q Did they inform you of this on the day that
15 it occurred?

16 A Yes.

17 Q What time of the day did they inform you of
18 it?

19 A I can't be sure. I think it was around
20 9 or 10 o'clock in the morning.

21 Q Do you remember where you heard it?

22 A In my office in Dallas.

23 Q Was there anyone with you?

24 A I don't recall.

25 Q Did you tell anybody else about this?

1
2 A I called the -- well, I called Mr. Spence,
3 my boss, and I called Mr. Paul Check at the Nuclear
4 Regulatory Commission, Region IV, and told them about it.

5 Q Now let's walk through the t-shirt incident.

6 A Okay.

7 Q These individuals came into the plant with
8 t-shirts which said something about nit-picking, as far as
9 you recall?

10 A That's what I was told.

11 Q And what happened when they went into the
12 plant: did they go to their job locations?

13 A I don't know.

14 MR. BELIER: Just to be sure, again,
15 counselor, that all of this is not establishing by
16 competent evidence that any of these events occurred.
17 Because it is all hearsay. But I understand you are to
18 be questioning Mr. Chapman because these things were
19 reported to him.

20 MR. SOSNICK: I certainly think that if he
21 knows of his personal knowledge that it is very competent
22 evidence.

23 MR. BELIER: It is reported to him. It is
24 not competent evidence establishing that these events
25 occurred. That's my whole point.

This evidence you are putting on here today

1 does not establish that these events occurred. That is
2 hearsay and the Judge has so ruled and I object to it on
3 that ground.

4 I understand you are going ahead because it
5 is competent evidence to establish his reaction to the
6 fact that it was reported to him.

7 BY MR. SOSNICK:

8 Q Did you have any doubt from the time that
9 you received this that this event did not occur?

10 A No.

11 Q Were you certain that it did occur?

12 A I'm positive it occurred.

13 Q All right. You were so positive it occurred
14 you called the president of TUGCO, Mr. Spence?

15 A That's right.

16 Q And you were so certain that it occurred
17 that you called the Nuclear Regulatory Commission?

18 A That's right.

19 Q It concerned you very much; that's why you
20 called these people?

21 A That's right.

22 Q Now let's go back to my last question.
23 When these people entered the plant, as far as you know,
24 did they go to their job, job site locations?

25 A I have answered I don't know.

1 Q What happened to these people on that
2 certain date who wore these t-shirts into the plant;
3 you know?

4 A Yes. Well, as you say, on that day, I can
5 tell you what I do know about it.

6 Q Tell me what you knew on that date first.

7 A That's what I am going to tell you.

8 Q Okay, fine.

9 A They were collected, I guess -- they were
10 asked to go -- to come off of the -- out of the
11 containment building and they were gathered in a room at
12 the site for a couple of reasons. One, when Mr. Tolson
13 or Mr. Chapman -- let's just say it was Tolson and stick
14 with that so I son't keep flapping back and forth -- called
15 me. I asked him where the people were at the time and at
16 this time they had asked them to come into this room and
17 stay there isolated from the folks at the plant. And I
18 understand that they had done this without any animosity.

19 I told Tolson to make sure that those people
20 were protected. As I mentioned here earlier this morning,
21 I didn't know what the situation was as far as animosity
22 between the craft folks and the inspectors. And I certainly
23 didn't want any hysical violence or any verbal abuse going
24 back and forth either way. So I concurred in the fact that
25 they had isolated those paint inspectors from the rest of

1 the population at the site at that period of time.

2 Q Okay. Let me just throw something in.

3 A All right.

4 Q Mr. Tolson called you and told you that he
5 was collecting these people?

6 A I'm not sure whether he called and told me
7 that, whether he had already done it the first time he
8 called me or whether I told him to do it and he said he
9 had already done it, I don't know what -- but we both
10 agreed that we wanted them separated from the population of
11 the rest of the plant.

12 Q So, in other words --

13 A It may even have been Chapman who called me
14 the second time. I don't know.

15 Q In other words, you are telling me that
16 either you, Mr. Tolson, or Mr. Chapman or all three of
17 you together made that decision to gather these people?

18 A That's right.

19 Q Now, how were these people gathered? Were
20 they paged in the plant and asked to report to a certain
21 room?

22 A I don't know.

23 Q Were they escorted to a certain room in the
24 plant?

25 A I do not know.

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Q Were the security guards used to escort these people to a particular room in the plant?

A I do not know. I understand it was a security guard outside the room they were gathered in.

Q Outside the door?

A That's what I understand.

Q Was the door closed?

A I do not know.

Q Was the door locked?

A I do not know.

Q How long were these people kept in the room?

A I do not know.

Q Were they kept there all morning?

A I believe they were there until after lunch because Boyce Grier interviewed each one of them sometime that day, the best that I can remember.

Q So they were kept there for a number of hours at least?

A I presume so. I know they were sent home before the working day was over. With pay.

MR. BELTIER: I reiterate, counselor, that the answers to these questions can be established with competent evidence from other witnesses. Mr. Chapman is giving you 100 percent hearsay and it is not competent evidence, for example, to establish -- Mr. Clements, I'm

1 sorry -- all of these intimate details.

2 MS. CHAN: Excuse me, Mr. Sosnick. I
3 believe Mr. Chapman and Mr. Tolson are being deposed
4 separately, and since they are knowledgeable on the
5 subject and all the information Mr. Clements received
6 he has already said he received through Tolson and
7 Chapman.

8 If we are going to continue this line of
9 questioning maybe you could tell us what you are going to
10 use it for. Are you intending to use it for state of
11 mind?

12 MR. BELTER: How is this relevant?

13 MS. CHAN: HOW is this relevant? Otherwise
14 this is beyond the scope.

15 MR. SOSNICK: Because Mr. Clements took this
16 information, digested it and acted on it. All right? AND
17 I think that goes to state of mind.

18 MR. BELTER: Right. You are only getting
19 what information he got. But now you are asking him a
20 series of questions about the details of it, most of which
21 he doesn't know the answer to.

22 MR. SOSNICK: He has answered quite a few.

23 MR. BELTER: Yes, and he has answered quite
24 a few in the negative, that he doesn't know. He's not sure
25 how long. He is operating for all we know on second, third,

1 and fourth-hand hearsay. You are not establishing the
2 facts of the events through this witness, and that is my
3 only point.

4 MR. SOSNICK: I'll try to tie it all up.

5 BY MR. SOSNICK:

6 Q So many of the individuals who were
7 involved in the t-shirt incident still work at Comanche
8 Peak?

9 A I don't know.

10 Q Do you know of any who do not work there
11 anymore?

12 A I have heard that two of -- the last time
13 I heard it was two that had left, but that was a couple
14 of months ago or so.

15 Q Let's talk about your discussion with
16 Mr. Check, I believe it is, of the NRC?

17 A YES. Deputy Administrator.

18 Q Okay. You called him on the day of the
19 incident?

20 A Yes. Several times.

21 Q I will show you a memorandum from Mr. Check
22 written after he talked to you on the telephone. I'll
23 pass that to you and all counsel.

24 MR. BELTER: I am going to object to your
25 even marking this. It is completely improper. There is no

1 way that this witness could begin to authenticate that
2 document, and you know it.

3 It appears to be notes from some unknown
4 person. It is not Mr. Clements. There is no way that
5 he could authenticate the document.

6 You can ask him questions based on the
7 knowledge you have from that document, but you can't
8 authenticate this document through this witness and you
9 can't ask him anything about the document itself other
0 than has he seen it and does he know what it is.

1 MS. CHAN: Staff joins in the objection.

2 MR. BELTER: I don't know where it came
3 from and I certainly am not going to stipulate to its
4 authenticity.

5 MR. SOSNICK: I am going to attach it as
6 an exhibit.

7 MR. BELTER: It is worthless as an exhibit.
8 You can ask questions about the subject matter of it because
9 you know that and you know whether it is authentic or not.
0 The document itself is worthless and I object.

1 You can have it attached.

2 (The document referred to was
3 marked Exhibit 38-4 for
4 identification.)

BY MR. SOSNICK:

1
2 Q Mr. Clements, when you made your
3 telephone call to Mr. Check, did you inform him why
4 certain people were being kept in a room, why these
5 certain people with the 5-shirts were being kept in a room;
6 did you tell him why they were in the room?

7 A I think I did. I think that I did.

8 Q Okay. Do you remember what you said to him
9 what the reason was?

10 A Yes, sir.

11 Q Why don't you tell us what that is.

12 A I said that I didn't know what the
13 relationship was between the workers and the construction
14 hands and the inspectors and I sure as hell didn't want
15 any violence out there, physical or verbal.

16 Q Did you mention anything to Mr. Check that
17 these QC inspectors were wearing t-shirts with some
18 reference to nit-picking had been doing something called
19 destructive inspection?

20 A I told him that it had been reported to me
21 that this was taking place. I didn't have any first-hand
22 knowledge of it.

23 Q Who reported it to you?

24 A Either Tolson or Chapman.

25 Q And when did they report that to you?

1 A The day that the t-shirt incident.

2 Q Have you ever seen any documentation that
3 would suggest that these individuals had done some sort of
4 destructive inspection?

5 A What kind of document would you expect me to
6 see.

7 Q I'm asking you, sir. Had you seen anything
8 which documented an instance of destructive inspection as
9 to any of these individuals who wore a t-shirt with some
10 reference to nit-picking?

11 A No. If there was an inspection report come
12 down with a fault on it it wouldn't say how it got there,
13 it wouldn't say destructive testing.

14 Q What is destructive inspection; can you
15 explain that to us, please?

16 A Sure. If I go up to a panel that has been
17 previously tested and I want to either cast a shadow of
18 a doubt on another inspector or the work or the program
19 itself is when I reach in to test them to see if they are
20 tight and I pull them like this, I pull them loose and
21 report them as being faulty after being inspected. That
22 would be one way you could do it.

23 Q Have you ever seen any documentation of
24 destructive inspection at Comanche Peak?

25 A As I explained to you a while ago it would

1 UNITED STATES OF AMERICA
 2 NUCLEAR REGULATORY COMMISSION
 3

4 In the Matter of Y
 5 TEXAS UTILITIES GENERATING Y
 COMPANY, et al. Y Docket No. 50-445-OL2
 6 Y 50-446-OL2
 (Comanche Peak Steam Y
 7 Electric Station, Units 1 Y
 and 2) Y

8
 9 Crystal Ballroom
 Hyatt Regency Hotel
 815 Main Street
 10 Fort Worth, Texas

11 Tuesday, September 11, 1984

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

15 BEFORE:

16 JUDGE PETER BLOCH
 17 Chairman, Atomic Safety and Licensing Board

18 JUDGE HERBERT GROSSMAN
 19 Member, Atomic Safety and Licensing Board

20 JUDGE WALTER JORDAN
 21 Member, Atomic Safety and Licensing Board
 22
 23
 24
 25

~~50-445-OL2~~ 37pp

C O N T E N T SWITNESSESPAGE

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- - -

1 Q And it wasn't someone who stayed in the
2 QA/QC program?

3 A No, sir. They left the site.

4 Q I guess I infer that if it was the
5 manager of QA who was responsible, that it must have
6 been a failure to follow the procedures, rather than
7 an improper procedure; is that fair?

8 A Judge Bloch, as I said before, I'm not
9 sure whether the man had had a procedure changed that
10 didn't come to the attention of all of us, or whether
11 he just instructed people not to follow the procedure
12 involved.

13 But when Tolson found it, he reported
14 as I said before to Chapman and me and recommended a
15 get-well plan that -- had to go back and do a
16 reinspection on a statistical basis.

17 JUDGE BLOCH: No further questions. Is
18 there limited cross?

19 MR. ROISMAN: Yes, Mr. Chairman.

20 JUDGE BLOCH: Please.

21 CROSS-EXAMINATION

22 BY MR. ROISMAN:

23 Q Mr. Clements, I'd like to take you back
24 to the morning of the T-shirt incident. I believe
25 you've testified already today that your current

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recollection based upon -- I think you said -- talking to some others about it is that the phone call that you received -- the first phone call you received that day was from Mr. Merritt and that you think probably Mr. Tolson was in his office when the call was made; is that correct?

A Yes, sir.

Q Can you tell me, to whom did you talk that refreshed your memory about that?

JUDGE BLOCH: Just one moment. I want to see about the noise.

(Discussion off the record.)

JUDGE BLOCH: On the record.

THE WITNESS: Actually, I guess, just over the last few days I've been reading some of the depositions and I heard Mr. Vega's testimony this morning.

I realized then it was neither Tolson nor Chapman, but it was Merritt who had called me.

BY MR. ROISMAN:

Q Okay. It, in fact, refreshed your memory as to that event?

A Yes, sir.

Q Now, did you have a second phone call that day from persons at the site about the T-shirt

16-8

1 incident?

2 MR. DOWNEY: Objection. I believe he
3 testified that he placed a call, if I recall his
4 testimony correctly.

5 JUDGE BLOCH: I don't think the question
6 had to do with who placed the call. You just wanted
7 to know whether he had a call.

8 BY MR. ROISMAN:

9 Q Was there a second telephone call that
10 day?

11 A I was in contact with the plant off and
12 on most of the day. And whether I initiated the
13 telephone conversations or whether they were initiated
14 by the people at the plant site, I couldn't draw you
15 a chronological order and say, "I did this one, and
16 they did this one."

17 I was trying to keep my hand on what
18 was going on the whole day.

19 Q I wasn't interested in that. I just
20 wanted to find out if there was a second call at what
21 you discussed this matter with someone at the site,
22 regardless of who initiated it?

23 A Yes, there was.

24 Q Do you remember roughly how soon after
25 the first call?

1 A No, I don't.

I belie
2 Q Is it likely that it was still in the
recall
3 morning of that day?

4 A Since the first call, I think, was
nk the
5 around 9:00 -- and that's rough -- I would presume,
ou just
6 Mr. Roisman, that it was -- just as a matter of what
7 went on that day, it was probably in the morning.

8 JUDGE GROSSMAN: I'm sorry. I didn't
one cal
9 catch that.

10 Even though you're responding to Mr.
plant
11 Roisman, your answers are for all of us. So would
12 you please ...

13 THE WITNESS: Yes.

14 MR. ROISMAN: In fact, it's quite all
15 right -- you do not need to look at me, unless you
16 want to put the mike this way. Otherwise, we're
and on
17 going to miss your answers.

18 Okay.

19 BY MR. ROISMAN:

20 Q Mr. Clements, over the course of that
at the
21 day, did you learn a great deal more information
22 about the events that were going on -- excuse me --
23 the events that led up to the first telephone call
24 than what you had received at the time you got the
25 first telephone call?

1 A I'm trying to remember just when I
2 learned the different facts.

3 Your question, I believe, was did I
4 learn more about the event as it went on?

5 Q No. I'm trying to find out -- There
6 were some events -- At least there has been some
7 testimony about that relate to the T-shirt event,
8 arguably, that took place before the time that you
9 your phone call -- some things that happened that
10 morning, some things that may have happened on ear:
11 days.

12 You remember there was the statement
13 made by some witnesses that on Monday of that week,
14 the same T-shirt had been worn by other people with
15 incident.

16 My question to you is: After the first
17 phone call, did you get additional information about
18 events that you considered relevant to the T-shirt
19 incident that had occurred prior to the time of the
20 first phone call?

21 A I can't put them in the context of
22 learning more about it that day. But obviously I
23 learned later that T-shirts had been worn --

24 JUDGE BLOCH: Wait a second. I don't
25 think you want to know later, do you? Just that

1 THE WITNESS: He asked the question did
2 I learn something later. He didn't put any --

3 JUDGE BLOCH: You're still in that day.

4 JUDGE GROSSMAN: When you say "later,"
5 later than the first phone call, sometime.

6 MR. ROISMAN: Yes. But I had understood
7 that he was getting ready to tell me that he just
8 couldn't tell me for sure whether it would have been
9 later on that day or later many -- many, many days
10 later.

11 Is that right, Mr. Clements, is --

12 MR. DOWNEY: Why don't we let Mr.
13 Clements finish his answer?

14 JUDGE BLOCH: I was trying to make sure
15 that the answer was responsive. I want to make sure
16 that it is in that day that you're --

17 THE WITNESS: Well, as I understood the
18 question -- as Mr. Grossman, I believe, understood
19 it -- was later.

20 He asked the question did I learn some-
21 thing later, not in the context of that same day.

22 JUDGE BLOCH: Did I hear the question
23 wrong?

24 MR. ROISMAN: No, no. I had asked it
25 your way, and I was willing to accept -- I thought his

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1 answer was making clear that he was answering it the
2 way Mr. Grossman thought.

3 JUDGE BLOCH: Well, let's go ahead with
4 the answer. My apologies.

5 Go ahead and answer it your way.

6 THE WITNESS: Okay.

7 The events of that day are kind of merged
8 in my mind. But I'm sure that I did not learn that
9 the T-shirts had been worn the previous Monday during
10 that Thursday.

11 Naturally, I learned after the first
12 telephone call that our people had looked in the desks
13 of those people. Obviously I learned more about the
14 events as they went on.

15 But the events prior to the 9:00 phone
16 call, I was standing probably in the shoes of Ron
17 Tolson. I knew just about what Ron knew at that
18 time.

19 BY MR. ROISMAN:

20 Q Do you remember roughly what time that
21 day you made your first -- if there was only one --
22 if there was more than one -- your initial call to
23 the Nuclear Regulatory Commission, Region IV office?

24 A Using the time frame of getting my first
25 phone call from the plant site -- for the sake of

argument, I'd say 9:00.

I called Mr. Spence and informed him of what had been reported to me. I believe I called Mr. Gary, who is an Executive Vice President of our company who I used to work for to tell him that something was going on at the plant site.

Then I called Mr. Check.

So, Mr. Roisman, I'd say as a good guesstimate, 9:30.

Q So before -- To the best of your recollection, before you had had any second phone conversation with the plant site people?

A Yes, sir.

Q Did you make any other phone calls or receive any other phone calls from the Region IV office during that day about the T-shirt incident?

A I made at least one more myself. Somebody working for Mr. Check may have called me. I talked to the Region at least three or four times that day, yes, sir.

Q And when did the subsequent calls occur, whether you had initiated them or they had initiated them, if you can remember?

A I don't remember the time frames.

Q Do you think they occurred in the

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afternoon or still in the morning?

A I think one of them may have occurred later on in the afternoon and maybe one or two more in the morning.

I was trying to keep the Region as well informed about what was going on as I was in Dallas.

Q Have you previously seen a handwritten memorandum which purports to be a note to Mr. Collins from Mr. Check that purports to summarize information that he received from you over the telephone that day, that I believe is marked as Exhibit 39-4, dated 8 March?

I'm now going to show you a copy.

A No, sir, I've never seen that before.

JUDGE BLOCH: You may change your answer if you see it and it refreshes your recollection.

(Document handed to witness.)

THE WITNESS: It looks familiar, but I don't remember seeing it per se.

JUDGE BLOCH: Would you look at it again, if it looks familiar, to see whether there's something in there that jogs your memory about why it's familiar.

MR. DOWNEY: May I ask counsel for the Intervenor a question. To which deposition was this?

1 made an exhibit?

2 MR. ROISMAN: I believe to Mr. Clements'.

3 JUDGE BLOCH: Okay.

4 MR. ROISMAN: I have it attached to
5 that, and it's identified by the room number, so
6 I can't tell you which deposition --

7 THE WITNESS: My depositions were taken
8 in Room 39.

9 MR. DOWNEY: I believe the record will
10 reflect that there was a colloquy of counsel about
11 examining the witness on this document at his
12 deposition, and that -- I don't think much was
13 asked, but it was produced at the deposition, I'm
14 told.

15 MR. ROISMAN: My purpose is just to make
16 sure that he does or does not remember it.

17 THE WITNESS: I'm not trying to be
18 evasive. I just don't remember seeing it.

19 JUDGE BLOCH: That's fine. He just
20 wants you to read it now. Is that --

21 MR. ROISMAN: I think --

22 BY MR. ROISMAN:

23 Q Did you just read it, Mr. Clements?

24 A I scanned it, yes, sir.

25 Q I'd like you to look back at it again

1 and tell me what, if any, portions of it are in your
2 judgment incorrect, which are correct and which you
3 don't know about.

4 And by correct, incorrect and you don't
5 know about is what of that did you actually
6 communicate to Mr. Check?

7 A The only thing that I believe Mr. Check
8 misunderstood was the plan to send these people home
9 without pay.

10 Q All right. Would you correct that now
11 then, please?

12 A I'm not sure I understand what you're
13 asking.

14 Q Well, he has written down on the memoran-
15 dum -- There's a line and then there's the word
16 "Update," and then three little bullets. There are
17 three lines there.

18 One says "Plan to send home without
19 pay." Two, "Come back when properly attired." Three
20 "Resume work if job unfilled."

21 Now, are you saying that one of those
22 think that he misunderstood what you told him?

23 A I do not remember telling Mr. Check
24 that those people would resume their job -- would
25 their work if the job was unfilled. He may have got

1 that from his own people at the site.

2 I'm here to tell you that those people
3 were not in any danger of being fired because that
4 firing would have to have been approved by me when
5 this sort of incident comes up.

6 And they were not in any danger of
7 losing their jobs any time that day.

8 Q Do you have any reason to believe that
9 they may have thought that someone had told them that
10 they could come back the next morning if their jobs
11 had not been filled?

12 MR. DOWNEY: Objection. The question
13 was does he have any reason to believe that someone
14 else thought something.

15 That calls for speculation in the most
16 extreme form.

17 I don't think it's pertinent --

18 JUDGE BLOCH: Would you --

19 MR. DOWNEY: I would move to strike on
20 grounds of relevance. It does not meet the require-
21 ments of Rule 401 as relevant evidence on any issue.

22 JUDGE BLOCH: Well, so far I haven't
23 heard the question, so --

24 MR. ROISMAN: The question was: Did he
25 have reason to believe that any of the persons at the

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1 site had received information that they believe they
2 might -- that this instruction had been given; they
3 believed that they could resume work the next day if
4 the job had not been filled.

5 JUDGE BLOCH: Did anyone at the site
6 tell you that was their belief?

7 THE WITNESS: Not to my recollection.
8 BY MR. ROISMAN:

9 Q Why did you indicate in answer to my
10 earlier question that maybe the NRC at the site had
11 heard that? Did you have some reason to believe that
12 they might have heard that?

13 A No, sir. But I know that Mr. Jim
14 Cummings of the NRC -- the resident inspector for
15 construction was in touch with our folks.

16 And to the best of my knowledge, I was
17 not told about this "Resume work if job is unfilled."

18 JUDGE BLOCH: Is that memorandum in
19 evidence?

20 MR. DOWNEY: Your Honor, we would object
21 to further questioning on this exhibit. We would
22 further object to the admission of this document in
23 evidence.

24 There's no indication, as I read it,
25 the source from which all of this information was

1 obtained.

2 The only reference to Mr. Clements' phone
3 call occurs in the very first line of the very first
4 page.

5 I believe the record indicates quite
6 clearly that NRC officials -- Mr. Check and others --
7 were getting information both from Mr. Clements -- at
8 least by inference from the Intervenors -- from
9 someone -- an employee at the site, although there
10 has been no evidence to that effect, and also the
11 resident inspector acting on directions from his
12 people in Region IV had an interchange with some
13 site management.

14 So they had several sources of informa-
15 tion.

16 JUDGE BLOCH: Mr. Treby, would the
17 Staff agree to supply Mr. Collins for the sole
18 purpose of stating where this memorandum came from
19 and what the sources of information are?

20 MR. DOWNEY: I believe it's being
21 represented as the notes of Mr. Check and not from --

22 JUDGE BLOCH: Check.

23 MR. TREBY: I believe that that document
24 was one that was obtained by the Intervenors as a
25 result of the Freedom of Information Act request to

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1 the Agency.

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2 I would assume that if that's how they
3 got it, that is an accurate and official record. I
4 don't see any need to bring Mr. Check here.

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1 MR. ROISMAN: Well, Mr. Chairman, let me just
2 say if anything we're only arguing about the last three
3 lines. I believe the witness' testimony will show that he
4 has confirmed that it is accurate up to that point.

5 JUDGE BLOCH: Accurate with respect to what
6 you told Mr. Check?

7 MR. ROISMAN: What he told the NRC that day.

8 MR. DOWNEY: May I object, please. I think
9 it's appropriate to ask Mr. Clements, after having read this
10 document, if he recalls -- what he recalls having told
11 Mr. Check. I think that's a perfectly legitimate inquiry.

12 JUDGE BLOCH: That was the question that was
13 asked. Is that a different way? He asked him what of this
14 is accurate and what if it is inaccurate and he answered
15 that question.

16 JUDGE GROSSMAN: He also gave him the choice
17 of saying how much of this don't you know is accurate or
18 inaccurate, and so I believe the witness -- if he hasn't
19 completed his answer, he's about to complete his answer.

20 But now, while he's reviewing that document,
21 let me ask Mr. Treby whether it is a matter of record here
22 as to where the NRC acquired that information as contained
23 in that document, which I haven't seen yet.

24 MR. TREBY: I believe there is some testimony
25 in the depositions that Mr. Clements notified Mr. Check of

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what was going on and that there were a number of conversations back and forth during the course of the day, as Mr. Clements got additional information.

I believe the particular document that's in dispute at the moment was an exhibit during Mr. Clements' evidentiary deposition down at Glen Rose.

There is a slight problem in that at the time that deposition was taking place I don't think there were additional copies and so it wasn't attached to the transcript, and I'm not sure whether the exhibits ever caught up with the transcript.

JUDGE GROSSMAN: My concern right now isn't with what Mr. Clements contributed as to the document or to the understanding of the NRC but where the remainder of that information was derived by the NRC.

But I don't want to interject myself and make it even more difficult for Mr. Clements to get back to the original question and give his answer.

MR. TREBY: I believe also Mr. Hunnicutt made some brief reference to those conversations between Mr. Check and Mr. Clements since he was at Regional Headquarters at the time and was called in to Mr. Check's office when he received telephone calls from the site.

JUDGE BLOCH: Do you have further clarification of your answer with respect to this document?

1 THE WITNESS: No, sir. I very candidly don't
2 remember making those comments listed under update, and I
3 did have some names that I gave. Whether those are correct
4 names or not, I still don't know. But the other comments,
5 the first page and up to here, or up to the halfway mark
6 on this page is comments I made to -- while not exact,
7 they're comments I made in general to Mr. Check.

8 JUDGE BLOCH: In that case, let's have it
9 bound into the transcript as an exhibit at this point.

10 MR. ROISMAN: That's fine. I mean I consider
11 the witness' testimony to be better evidence than the
12 memorandum anyway, but the memorandum tells us what the
13 witness is talking about.

14 JUDGE BLOCH: Now, is that a copy we can put
15 in the transcript?

16 MR. REYNOLDS: This is our only copy.

17 JUDGE BLOCH: But it is not in evidence?

18 MR. REYNOLDS: That is correct.

19 JUDGE BLOCH: That is correct. But it is an
20 exhibit that will help us understand what the testimony is.
21 So do we have a copy somewhere that can be placed in the
22 transcript?

23 MR. REYNOLDS: We can make a copy.

24 JUDGE BLOCH: That would be very helpful.

25 (Memorandum follows.)

Note to J. Calton
From P. Cheek

To: J. Calton
7/1/15

15488

8 Mar

Bill Clements called to inform us of what appears to be an organized disruption on the part of the Electrical QC inspectors in the Safeguards Building.

Construction has been completed. Walkdowns have been accomplished. QC inspectors go in and find numerous ~~is~~ problems, some bogus some apparently the result of "destructive" inspection (e.g. pulling overhead on wires at junction boxes or on flexible tubing that serves as conduit through walls).

The inspectors are wearing tee-shirts with message "I pick nits".

TUGCO is concerned for safety of these men and has sequestered them. They are being spoken to/interviewed by Royce Greer this A.M.. Company mgt has met (with lawyers) and is weighing next step. We'll be kept informed.

The inspectors are:

Wayne Whitehead ✓
S. Shambelin
Eddy Snyder ✓
Wilton Barfield ✓
Ron Jones
G. Pryor ✓

Update

- Plan to send home without pay
- Come back when properly advised
- Resume work if job unfilled

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JUDGE GROSSMAN: Do I understand,

Mr. Chairman, that this is being received for the limited purpose of showing what was contained in the NRC memorandum of the information that was received that day from the company but not to prove the truth of any of the allegations contained in that document?

MR. ROISMAN: As a matter of fact --

JUDGE BLOCH: Actually, it's only -- my ruling was that it was received solely for the purpose of illustrating the transcript so that the testimony of this witness could be understood.

MR. ROISMAN: I think that it's being offered for precisely the opposite reason. I believe the Applicant objects that they do not know that this represents the genuine document prepared by the agency. The witness' testimony raises questions as to whether what comes below the line on the second page and has the word update, even purports to be what he said.

The witness has indicated that everything above the line, he believes he talked about all those things with the exception of his uncertainty about whether those were the names he gave, the rest of it is accurate.

I want it there so that we'll know what he says is accurate. I'm not trying to prove that Mr. Check took the notes. I'm not trying to prove anything other

1 what the witness has said about it.

2 JUDGE GROSSMAN: Thank you. I understand
3 fully now.

4 JUDGE BLOCH: As I understand, only one of
5 the three items below the line was challenged. Is that
6 correct?

7 THE WITNESS: I'm not sure if I gave any of
8 that information below the line, Judge Bloch. I'm not sure
9 if he received that information from me.

10 MR. ROISMAN: That's what I thought he had
11 testified to also. At least, as you remember when we got
12 into that things sort of exploded, the witness, when he got
13 back to it again, seemed to indicate that he was not sure
14 that any of it below the line was information that he had
15 communicated at all.

16 JUDGE BLOCH: Do we need to know from
17 Mr. Check where the below the line things came from?

18 MR. ROISMAN: We probably need to know that
19 answer because there appears to be some dispute in the
20 record at this point as to whether there was or was not
21 at one time an option that the workers would be sent home
22 with the understanding that they could come back if their
23 position had not been filled, which was -- I don't know what
24 you call that, it sounds like a variation on a termination.
25 So yes, I think that's pertinent.

1 JUDGE BLOCH: What would be the easiest way
2 for the Staff to -- just have Mr. Check inform us about
3 where that information came from?

4 MR. TREBY: Would you accept counsel's
5 representation, that is, I can call Mr. Check and ask him

6 JUDGE BLOCH: That depends on the Applicant's
7 response to that question.

8 MR. REYNOLDS: It depends on what the
9 representation of counsel is.

10 MR. TREBY: It will be whatever Mr. Check
11 tells me.

12 JUDGE BLOCH: Why don't we try it that way,
13 you will say what Mr. Check tells you, and if the Applicant
14 are unhappy about that, we will have to request that
15 Mr. Check appear.

16 MR. ROISMAN: That's acceptable to us. I am
17 not satisfied on my own, and I'm not trying to argue that
18 what's below the line represented a phone conversation with
19 this gentleman, with the current witness.

20 JUDGE BLOCH: It would be interesting and
21 possibly important to know where the information did come
22 from.

23 MR. ROISMAN: I think it's important to know
24 where it came from. I just want you to understand I'm not
25 arguing for the proposition that this witness is where it

1 came from.

2 JUDGE BLOCH: Well, let's just obtain a
3 representation of counsel, and then after that we'll see
4 where we go from there. But it's not immediately important
5 at this second, you could do it tomorrow if you want.

6 MR. MIZUNO: That's true, but we would like
7 to have a copy of that before the end of the day, obviously.

8 MR. ROISMAN: All right. Well, as soon as I
9 finish talking to the witness about it, the machines may
10 have it and it can be copied and --

11 MR. DOWNEY: May I make a suggestion? Could
12 we take an afternoon break here. I'll get copies of this
13 particular document for everyone and then we can --

14 JUDGE BLOCH: Break? I never heard of a
15 break.

16 MR. ROISMAN: I would just like to finish
17 on a very tiny part of this, and then I won't have anything
18 more for the witness and it will be easy to take it out.

19 JUDGE BLOCH: Let's finish the cross then,
20 in that case, on that representation.

21 BY MR. ROISMAN:

22 Q Mr. Clements, with reference to the portion
23 of the document that's now in front of you -- by the way,
24 could we have it -- are you binding them in or marking them,
25 Mr. Chairman?

1 JUDGE BLOCH: Binding it in, so we don't
2 need to mark them.

3 MR. ROISMAN: All right. Well, it is marked
4 already as Exhibit 38-4 and --

5 JUDGE BLOCH: The numbering system we've had
6 so far is almost worthless.

7 JUDGE GROSSMAN: At least it appears on the
8 document.

9 MR. TREBY: Well, for the record, what
10 that means is that it was the fourth exhibit in Mr. Clements
11 July 10th, 1984 evidentiary deposition.

12 JUDGE BLOCH: I know what that means. The
13 problem is that we have no consistent numbering system
14 so that anyone looking at the record can know if he's seen
15 all the exhibits.

16 JUDGE GROSSMAN: Well, Mr. Roisman is just
17 concerned with how we identify it in talking to the witness,
18 and that's fine.

19 BY MR. ROISMAN:

20 Q Mr. Clements, looking now just at the portion
21 of the memorandum which includes the six names on it, is
22 it your testimony that you have a recollection that you
23 mentioned names to Mr. Check?

24 A To the best of my knowledge, I did give him
25 a list of names. Whether these are the same names or not,

1 I'm not sure.

2 Q Do you have any information that would
3 indicate to you that those are not the names?

4 A No, sir.

5 Q Do you know, can you remember and testify to
6 where you received the information as to what those names
7 were?

8 A You mean who those names are?

9 Q Yeah, who they are.

10 A Obviously, I received them through one of the
11 phone calls from the plant site that day. As to which one
12 I do not know.

13 Q Do you remember which person gave you the
14 information?

15 A No, sir.

16 Q I take it from your earlier testimony you are
17 certain that it was not the first phone call.

18 A I'm pretty sure it was not the first phone
19 call, but I'm not even positive of that. The day -- like I
20 say, the day there were so many phone calls and so much
21 activity going on that I can't put the whole thing in
22 chronological order.

23 Q Do you feel that that summary that appears
24 there is an accurate summary of all the information that
25 you had that day that you thought was relevant to the

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1 T-shirt incident that day?

2 A You got a couple of alls in there. Would
3 you state that again?

4 Q Does the memorandum contain in it, to the
5 extent that you've testified that it's accurate, a summary
6 of all the information that you received that day about
7 the T-shirt incident that you believe was relevant as of
8 that day?

9 A I don't think you could take a piece of paper
10 and write down all the things that were relevant that day,
11 Mr. Roisman. Again, I'm not trying to be evasive, but you
12 just can't get the flavor for an activity that's going on by
13 a page and a half of notes scribbled on a piece of paper,
14 so I'm not trying to be evasive, I just don't understand
15 your total question.

16 Q All right. What major items of relevant
17 information that you knew that day are not included there?

18 A Well, for one thing, the connotation of the --
19 first of all, the message that I gave Mr. Check was some-
20 thing that they're wearing T-shirts with a message like
21 I pick nits, with the term nit-picking on it.

22 Second of all, there's the background on
23 this piece of paper of what the connotation of I pick nits
24 means at Comanche Peak. That's not on this piece of paper.
25 Is that responsive?

1 Q If it represents what you think the major
2 relevant information that's not included there is responsive.

3 A I can't think of anything other right now
4 that -- again, it's a very broad question.

5 MR. ROISMAN: Okay. I'm now finished with
6 that document, so whoever is making the offer to have it
7 copied --

8 JUDGE BLOCH: I have a couple more questions
9 before the break.

10 What did you know that day about the allegation
11 of destructive evaluation?

12 THE WITNESS: I had heard that we were looking,
13 the people at the plant site were looking into some
14 indications that over-exuberant testing, I wouldn't
15 necessarily call it destructive testing, but that there
16 was some though that maybe some of the electrical inspectors
17 were going in and when they'd yank on the connection to
18 make sure that the crimps were tight that they were yanking
19 them too hard and in the conversations to me prior to this
20 day, I don't recall anyone telling me they thought this was
21 a sabotage type thing, it was just over-aggressive
22 destructive testing, but just over-aggressive testing and
23 not a sabotage per se.

24 JUDGE BLOCH: So the meaning of destructive
25 was not that they were destroying things, they were just --

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1 THE WITNESS: No, sir, they were destroying
2 things but I don't -- I think that the -- we never -- we
3 were looking into what the intent was at that time.

4 JUDGE BLOCH: Do you know the procedure on
5 the inspection of those junction boxes?

6 THE WITNESS: No, sir.

7 JUDGE BLOCH: Was it in the junction boxes
8 that they were alleged to be doing this?

9 THE WITNESS: All I heard was it was
10 electrical equipment. I wouldn't be able to go out there
11 and lay my hands on the electrical equipment they're talking
12 about.

13 JUDGE BLOCH: So you don't know whether it
14 was junction boxes?

15 THE WITNESS: No, sir, I don't.

16 JUDGE BLOCH: Is there evidence on whether
17 was junction boxes, alleged to be junction boxes? I'm
18 asking counsel.

19 MR. DOWNEY: Yes, in Mr. Tolson's deposition
20 I believe he describes the items he personally looked at.

21 JUDGE BLOCH: And they were junction boxes?

22 MR. DOWNEY: I don't recall the --

23 MR. ROISMAN: My understanding is that the
24 answer is yes.

25 MR. DOWNEY: I think there were items in

1 mean testimony this morning -- I do remember that it
2 was not Chapman nor Tolson, but it was Merritt who
3 made the initial call.

4 MR. BERRY: I apologize. I remember now
5 that you did answer that.

6 BY MR. BERRY:

7 Q Mr. Clements, on the day -- on the
8 T-shirt incident, you testified earlier that Mr.
9 Tolson suggested -- that Mr. Tolson was the one that
10 suggested that the T-shirt inspectors be sent home
11 with pay.

12 A I said the word came to me from someone
13 at the power plant that they be sent home with pay.
14 I'm not sure if I testified it was Tolson.

15 If I did, it was a misstatement. I'm not
16 sure if it was Tolson or not -- who called me.

17 Q Are you familiar, Mr. Clements, when you
18 read Mr. Tolson's deposition that he testified that
19 this direction had come from Dallas? Do you remember
20 reading that in Mr. Tolson's deposition?

21 A No, I don't.

22 Like I said before, we were in constant
23 touch with each other and different people during the
24 day. I don't remember whose idea it was to send them
25 home with pay, but I'm sure that it came from the

1 plant site.

2 Q Do you recall if any other alternatives
3 were considered?

4 A Not that I recall.

5 Q Just one final question. You also
6 testified earlier that the reason you decided that
7 the T-shirt inspectors should be kept away from
8 craft was because you didn't know what the situation
9 was between the craft and the QC and you didn't want
10 to take any chances. Do you remember that?

11 A Yes, sir.

12 Q Then you later testified that you had
13 been advised by Mr. Chapman -- I guess sometime
14 earlier in the week -- that destructive examinations
15 had -- there were allegations of destructive
16 examinations having occurred.

17 The question is: Did that enter into
18 your decision in any way? Did you consider that
19 when you made your decision or you decided that the
20 quality control inspectors should be isolated from
21 the craft?

22 A Sir, I think every time a manager makes
23 a decision, he calls upon all of his experience and
24 managerial skill that he has learned over a period
25 of time.

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That was just one of the many items
that caused me to think that we should keep those
people isolated that day.

In retrospect, maybe not. But that day
I think I made a good decision.

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MR. BERRY: Nothing further.

JUDGE BLOCH: Mr. Downey.

MR. DOWNEY: Yes, I have just one or two questions, Your Honor.

REDIRECT EXAMINATION

BY MR. DOWNEY:

Q Mr. Clements, before you reviewed the handwritten notes represented to you to be the notes of Mr. Chapman, do you have any independent recollection of providing Mr. Check with the names of the inspectors involved in the T-shirt matter?

A Very candidly, Mr. Downey, I don't remember whether I did or did not provide him with names that day. I just don't remember.

Q You do recall, do you not, Mr. Clements, telling him about the other matters written on the first page of those two pages of notes?

A Yes.

MR. DOWNEY: I have no further questions.

JUDGE BLOCH: Okay. Subject to recall by the Board -- when we get the documents, the witness may be excused.

Thank you, sir.

JUDGE GROSSMAN: I --

1 MR. DOWNEY: If Judge rossman has some
2 questions, I had just as soon wrap this up now.
3 We'll go ahead with the documents. They're only one
4 floor away.

5 JUDGE GROSSMAN: Well, I'd like to see
6 the documents. I don't know if I have any questions.

7 MR. REYNOLDS: I would like to see Mr.
8 Clements finish today, if at all possible.

9 JUDGE BLOCH: Okay. We'll just take a
10 recess in place. I'd like to be able to start
11 whenever we get the documents.

12 (Pause.)

13 BOARD EXAMINATION

14 BY JUDGE GROSSMAN:

15 Q Mr. Clements, you originally testified
16 this afternoon that the information above the line
17 on page 2 --

18 MR. ROISMAN: Mr. Chairman, I'm going
19 to give the witness a copy of the exhibit --

20 BY JUDGE GROSSMAN:

21 Q -- of that document which has originally
22 been marked as Exhibit 38-4, including the information
23 on the first page was what you recall you had given
24 to the NRC; and that the information underneath that
25 line on page 2 was what you believe you had not given

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1 them; isn't that correct?

2 A I'm not sure about the names being the
3 correct names that I gave them.

4 Q Your not being sure about the names,
5 that was not what you indicated originally, is it?
6 It was only a clarification of your original testimony,
7 is that correct?

8 A Original? Today?

9 Q Yes.

10 A I don't recall.

11 JUDGE BLOCH: I think we'll see the
12 transcript. My recollection is that he did state that
13 he wasn't sure if those were the names that he
14 transmitted.

15 THE WITNESS: That's my testimony. I'm
16 not sure about those names.

17 JUDGE BLOCH: Mr. Treby, one more
18 question: When you call Mr. Check, would you ask him
19 where he got the names from?

20 MR. TREBY: Yes.

21 THE WITNESS: You understand I'm not
22 saying I didn't; I just don't recall.

23 JUDGE BLOCH: I understand that.

24 JUDGE GROSSMAN: I have no further
25 questions.