

ORIGINAL

UNITED STATES NUCLEAR REGULATORY COMMISSION

IN THE MATTER OF:

BRAIDWOOD STATION

UNITS 1 & 2

COMMONWEALTH EDISON COMPANY

DOCKET NO:

50-456/457-OL

(EVIDENTIARY HEARING)

LOCATION: JOLIET, ILLINOIS

PAGES: 9304 - 9485

DATE: WEDNESDAY, JULY 30, 1986

TR-01
01

ACE-FEDERAL REPORTERS, INC.

Official Reporters
444 North Capitol Street
Washington, D.C. 20001
(202) 347-3700

8608050198 860730
PDR ADOCK 05000456
T PDR

NATIONWIDE COVERAGE

1 UNITED STATES OF AMERICA
2 NUCLEAR REGULATORY COMMISSION
3 BEFORE THE ATOMIC SAFETY AND LICENSING BOARD
4

5 -----x
6 In the Matter of: :
7 COMMONWEALTH EDISON COMPANY : Docket No. 50-456
8 (Braidwood Station, Units 1 : 50-457
9 and 2) :
10 -----x

11 Page: 9304 - 9485

12 College of St. Francis
13 500 North Wilcox
14 Joliet, Illinois 60431

15 Wednesday, July 30, 1986

16 The hearing in the above-entitled matter convened
17 at 9:40 A. M.

18 BEFORE:

19 JUDGE HERBERT GROSSMAN, Chairman
20 Atomic Safety and Licensing Board
U. S. Nuclear Regulatory Commission
Washington, D. C.

21 JUDGE RICHARD F. COLE, Member,
22 Atomic Safety and Licensing Board
U. S. Nuclear Regulatory Commission
23 Washington, D. C.

24 JUDGE A. DIXON CALLIHAN, Member,
25 Atomic Safety and Licensing Board
U. S. Nuclear Regulatory Commission
Washington, D. C.

1 APPEARANCES:

2 On behalf of the Applicant:

3 MICHAEL I. MILLER, ESQ.
4 JOSEPH GALLO, ESQ.
5 ELENA Z. KEZELIS, ESQ.
Isham, Lincoln & Beale
Three First National Plaza
Chicago, Illinois 60602
67 On behalf of the Nuclear Regulatory
Commission Staff:8 GREGORY ALAN BERRY, ESQ.
9 U. S. Nuclear Regulatory Commission
7335 Old Georgetown Road
10 Bethesda, Maryland 20014

11 On behalf of the Intervenor:

12 ROBERT GUILD, ESQ.
13
14
15
16
17
18
19
20
21
22
23
24
25

TESTIMONY OF RICHARD L. MARTIN

CROSS EXAMINATION

(Continued.)

BY MR. GALLO:

9327

EXHIBITS

	Marked	Received
Applicant's Exhibit No. 103	9384	9396
Applicant's Exhibit No. 104	9404	
Intervenors' Exhibit No. 80		9469

1 JUDGE GROSSMAN: The hearing is reconvened.

2 This is the 46th day of hearing.

3 We'll begin with a preliminary matter.

4 Mr. Berry, having just served us with OI's
5 opposition to Board's Notice of Intent to Require
6 Disclosure under Protective Order, is going to report to
7 us with regard to conversations he's had in the last two
8 days with his superiors with regard to the subpoena
9 request that was made that's related to the OI
10 investigation.

11 Mr. Berry, could you enlighten us?

12 MR. BERRY: I'll try, your Honor.

13 As the Board knows, Staff has served on the parties
14 and the Board a copy of OI's response to the Board's
15 Notice of Intent to Require Disclosure.

16 Apparently this document was drafted, sent from the
17 headquarters to the Regional Office yesterday morning,
18 and prior to a further conversation between the Board
19 and the parties, in which the Board expressed their
20 views as to, you know, what matters they hoped the Staff
21 and OI would address in its response.

22 After I received this pleading, I reviewed it, and
23 it didn't strike me as fully addressing all of the
24 concerns that the Board expressed.

25 I undertook to contact members of the Office of

1 Investigations and my own supervisor, to convey to them
2 the further considerations that the Staff may want to
3 address in part of their pleading.

4 I'd ask the Board for additional time to serve the
5 document, in the event that Office of Investigations
6 wishes to supplement further their initial pleading.

7 I'm informed that the Office of Investigations does
8 not intend to further supplement this particular
9 response at this time.

10 I would note that, on Page 2 of the response, it
11 indicates that OI declares its intent to file a brief
12 detailing objections within 10 days.

13 I'm informed that OI would take the position in
14 that further brief before the Commission that the
15 issuance of the subpoena is inextricably intertwined
16 with the other matters before the Commission, and in
17 OI's view, that issuance of the subpoena be stayed
18 pending the Commission ruling on that.

19 I informed my superiors of the Board's contrary
20 view on this matter, and indicated to them that the
21 Board was inclined to issue the subpoena pending a
22 determination that it was generally relevant to the
23 subject matter, and that in the absence of direction
24 from the Commission or some guidance or a request for a
25 stay or some further action, that the Board more than

1 likely would probably issue the subpoena.

2 I was advised to report to the Board that OI,
3 again, after being so advised, still did not intend to
4 further supplement this response; that they will address
5 matters in their brief.

6 They are aware of the Board's inclination, the
7 Board's view, and with that knowledge, you know, they
8 rest on the pleading that has been served on the Board.

9 JUDGE GROSSMAN: Well, let me ask you:

10 Are you in contact with General Counsel's office?

11 I know ELD and General Counsel are in the process
12 of becoming one.

13 I don't know if you have already contacted --

14 MR. BERRY: Yes, we have.

15 I attempted to contact Miss Jordan, the attorney of
16 record on this matter, and apparently she's still ill,
17 and I was not able to reach her at her home, you know,
18 so I spoke with Mr. Treby, and he relayed that to the
19 Chief Hearing Counsel for ELD.

20 The information that I have is that it's the
21 position of OI, their lawyers, that they do not intend
22 to file a further supplement to this response; that they
23 will present any arguments that they have in their
24 Commission brief that they intend to file within the
25 next 10 days; and they, too, are aware of the Board's

1 position.

2 JUDGE GROSSMAN: Well, now, does that mean
3 that General Counsel is aware of the Board's position or
4 are we going to --

5 MR. BERRY: I'll say this, Mr. Chairman:

6 I spoke directly with my supervisor, Mr. Treby. He
7 spoke directly with his supervisor, Mr. Christianberry.
8 He is the Chief Hearing Counsel for the Office of
9 Executive Legal Director.

10 I've made it plain, in no uncertain terms, what the
11 Board's position is and what our alternatives are, and
12 the direction I have received through this chain of
13 command is that further testimony -- through the chain
14 of command is that I was directed to file this response,
15 and that is what I have done.

16 They are aware --

17 JUDGE GROSSMAN: Well, let me say:

18 I don't think that what we have is adequate to hold
19 off the issuance of a subpoena.

20 Considering the posture of this case, I think 10
21 days is too long, plus the fact that the question of the
22 subpoena is not addressed in this particular pleading.

23 Now, my feeling is that the ball is in the court of
24 General Counsel.

25 Now, I don't know what the arrangement is with ELD

1 and General Counsel as to the particulars of the
2 consolidation, but it certainly is incumbent upon Mr.
3 Christianberry or Mr. Treby to notify General Counsel.

4 Now, I tried. One thing I neglected to mention
5 yesterday was that I also attempted to contact General
6 Counsel -- that is, the Docket Attorney, Carolyn Jordan,
7 and she was not in her office. She's either on sick
8 leave or annual leave. I don't really know what it is.

9 MR. BERRY: I understand she's ill.

10 JUDGE GROSSMAN: Pardon?

11 MR. BERRY: I understand that she is ill.

12 JUDGE GROSSMAN: She's ill. Okay.

13 Well, I didn't have that much time, and I didn't
14 follow it up to anyone else, and I really don't think
15 that it was my obligation to do it.

16 As I've said before, I see absolutely no legal
17 basis in the regulations for me to deny the issuance of
18 a subpoena; and considering the press for an expeditious
19 hearing here, I think any further delay in issuing the
20 subpoena is only going to delay the hearing.

21 I think the parties are entitled to discovery on
22 the matter and then to present whatever they wish to the
23 Board at hearing, and we don't have any time.

24 Now, if someone came in and requested a few days'
25 delay because of a request for a stay, well, we would

1 certainly entertain that, but just to wait 10 days for a
2 brief that's going to go to the Commission and might not
3 even address the subpoena, because I don't know that the
4 subpoena is within the scope of what the Office of
5 Investigations really ought to be addressing -- so it's
6 really a matter for the Commission itself and the
7 Commission's representative, which is interested in the
8 matter -- and I think that's General Counsel -- to ask
9 for a stay, if it wishes one, and then to request some
10 extraordinary measure by the Commission, through perhaps
11 its office, to have a stay in this proceeding.

12 Mr. Berry?

13 MR. BERRY: Yes, Mr. Chairman.

14 I have made my supervisors, the Office of Executive
15 Legal Director, well aware of the Board's position and
16 the matters that we discussed yesterday.

17 There is no lack of knowledge in the Office of
18 Executive Legal Director.

19 I have not been in contact with the Office of
20 General Counsel.

21 I assume that others in the Office of Executive
22 Legal Director have been.

23 However, I will undertake this morning, at my
24 earliest convenience, to contact --

25 MR. GUILD: Excuse me.

1 I just can't hear you Mr. Berry. There is a noise
2 in the hall.

3 MR. BERRY: -- to contact the Office of
4 General Counsel, either the Docket Attorney or
5 supervisor, and reconvey to them, you know, the matters
6 that the Board has just mentioned and find out whether
7 they can take -- the ball's in their court -- whether
8 they intend to do anything with it. Barring that, the
9 Board would make its decision.

10 I would just point out again that I have made plain
11 to my supervisors what the Board's inclination is, the
12 Board's position.

13 I made plain to them, you know, what guidance or
14 recommendation -- what the Board was looking for from
15 the Office of General Counsel, and in this pleading, it
16 doesn't contain that.

17 I'm informed as of now that they don't intend to
18 supplement it further, other than briefs that they
19 intend to file.

20 As I said, I will undertake to contact them again
21 this morning to see if they want to seek a stay or
22 file --

23 JUDGE GROSSMAN: Okay. I would appreciate
24 that, because one thing we don't want to get back later
25 is the fact that there was a problem in communication

1 between the ELD function and the General Counsel
2 function, and that somehow the Board should have taken
3 that into account and not proceeded further.

4 I think we've made it plain on the record that we
5 want that link established, and so we will hold off now.

6 But meanwhile, let me suggest to the parties that
7 they get together and determine what type of protective
8 order they wish and what type of arrangements they wish
9 to make with regard to discovering what the witness has
10 that is relevant to the case, and then proceeding to
11 hearing with that material.

12 I don't want to let it go to the last minute. I
13 mean, we're late in the day right now; and we've
14 expressed our intention.

15 Again, let me say, I think what the Board's
16 procedure is is probably the best means we can think of
17 to protect the witness' public exposure, and we don't
18 see any basis for imposing a gag order on any of the
19 parties here with regard to what they already know, and
20 they are free to do whatever they wish on that score.

21 So I think the person who is involved is probably
22 best advised to agree to some cooperative means of
23 protecting him from further exposure, and so considering
24 that it's the best course that we can conceive of,
25 that's an added reason for just going ahead this way.

1 So let me suggest to counsel that they get together
2 and decide the mechanics of what we intend to do, but I
3 don't suggest that they couldn't go ahead on their own
4 and make application very quickly to the Commission, if
5 they desire, for anything else; but we're not going to
6 hold off 10 days.

7 MR. GALLO: Could I be heard on this
8 question?

9 JUDGE GROSSMAN: Sure.

10 MR. GALLO: Lest I be criticized again by Mr.
11 Guild, I want to make it clear that I really -- both
12 yesterday and what I'm about to say is really close to
13 acting as what I consider to be an officer of the Board
14 or an officer of the court.

15 I thought, as I had indicated yesterday, that the
16 Board might better have certified the question directly
17 to the Commission for their consideration.

18 After lengthy discussion, the Board's views became
19 clear. Mr. Berry undertook to convey that, and I'm sure
20 he effectively conveyed the Board's position to his
21 supervisors, and they, in turn, conveyed it to the
22 proper authorities.

23 They have now filed an -- OI, through the General
24 Counsel's office, has now filed this pleading.

25 They have not applied for a stay. I think they had

1 ample notice.

2 I think the Board should issue the subpoena and
3 without further ado, and if OI believes that they've
4 somehow been aggrieved, they can move to quash it if
5 they think that's appropriate.

6 I think the Board has provided ample opportunity
7 for OI's counsel to take effective action before this
8 Board to indicate just what their position ought to be,
9 and their failure to file a stay of the Board's
10 intentions, I think, is suppositive of the question.

11 I might add quickly that my views on the substance
12 of the matters are in accord with what Mr. Berry
13 attributes to OI -- that is, that the issuance of the
14 subpoena is inextricably linked to the other aspects --
15 but on the procedural question, I think the Board's made
16 its position clear.

17 The proper course was to come before this Board in
18 some fashion, ask for a stay of the order and indicate
19 intention of actions to be taken in the future.

20 Having failed to do that, I think the Board should
21 issue the subpoena and we should get on with it.

22 As far as a protective order goes, we have no
23 desire for a protective order on this side of the fence.

24 JUDGE GROSSMAN: Okay.

25 How about you, Mr. Guild:

1 Do you wish a protective order?

2 MR. GUILD: No, sir.

3 I think that the wishes of the potential witness
4 are obviously of interest to us.

5 They are somewhat indeterminate at the stage; but
6 no, sir, we, as a party, have no interest in having this
7 matter further hidden from view, protected.

8 I would just suggest that -- counsel for the
9 parties have scheduled already a morning of work, and
10 maybe a day of work, on Friday to try to resolve matters
11 such as this, and we should take this up and see if we
12 can reach an agreement as to the Chairman's suggestion.

13 JUDGE GROSSMAN: Okay. Now, the Board's
14 position is that we do wish to have this done, at least
15 in the early stages, under protective order.

16 No one is here to protect the person's interest,
17 other than the Board, and at least at the early stages,
18 where you are going to discover from the witness what he
19 has, I can't see any objection to having the first stage
20 under protective order; that is, discovery from that
21 person.

22 Thereafter, it may be contrary to parties'
23 interests to have at least that kind of protective order
24 continued in effect; and the kind of protective order
25 I'm talking about now is restriction to just trial

1 counsel of the subject matter; but it's easy to see how
2 the matters that can be brought up ought to be presented
3 further from counsel to client.

4 I don't wish to have the situation unfair to any of
5 the parties involved, so that we may have to at least
6 expand the area of the unprotected area, if you follow
7 me, from trial counsel to client or at least key
8 personnel in client; but right in the early stages, we
9 wish to have that kind of protective order.

10 Mr. Guild, do you have a problem with that?

11 MR. GUILD: I do, Judge.

12 I don't have any problem with -- I don't think a
13 protective order is, on the merits, justified from
14 anything I know.

15 Now, the Chairman is obviously in a position to
16 know better, having been briefed by OI, so I might be
17 missing something that I'm simply not aware of, and I
18 simply defer to the Chair's position, knowing what the
19 Board does know on the subject.

20 But, of course, Intervenor, if limited to
21 counsel -- or trial counsel only, would be severely
22 hampered in doing anything with the information obtained
23 in discovery.

24 I mean, disclosure to our clients of is no
25 particular use. They have no special technical

1 knowledge or familiarity with the facts here.

2 Disclosure to Applicant, on the other hand, of
3 course, would allow Applicant to prepare and to further
4 investigate.

5 So meaningful preparation, beyond the first stage
6 of inquiring of the potential witness, will require some
7 dissemination of this information for Intervenors'
8 purposes.

9 I can envision a need, for example, to reach former
10 employees of the employer, of the contractor here, who
11 may be spread to the four winds and not current
12 employees; in effect, public --

13 JUDGE GROSSMAN: Well, I mean, how would you
14 do this; take an ad in the New York Times?

15 MR. GUILD: No, sir; but we would do as we
16 have in the past. We have used whatever means we have
17 to investigate these facts, and that's getting on the
18 telephone, going to visit people. Indeed, on the basis
19 of what may be in the public domain as far as reported
20 in the press, rely on people who have read about this
21 case to come back to us and say, "Yes, I know
22 something."

23 That's happened before in this case, and likely it
24 will happen again.

25 I'm just anticipating, Judge.

1 I have no problem initially with, at the Board's
2 suggestion, restricting access, subject to us coming
3 back to the Board and saying, "Now we need to go
4 further."

5 So if it's as a first step restricting to counsel,
6 subject to the expectation that counsel will come before
7 the Board and say, "Now we must go further," I have no
8 problem with that, Judge.

9 JUDGE GROSSMAN: Okay. Well, that's fine.

10 Now, Mr. Berry, I understand that your office's
11 position is probably that we shouldn't issue that
12 subpoena; but considering that we are going to, I think
13 you ought to participate in the arrangements and the
14 drafting of the kind of protective order we have in
15 mind.

16 MR. BERRY: Yes, your Honor.

17 I would like the opportunity to consult with Office
18 of General Counsel.

19 JUDGE GROSSMAN: Oh, okay.

20 Taking into account the fact that you are going to
21 consult further, and maybe they will change their course
22 of action, and we're certainly amenable to hearing
23 further from them -- but to let it ride for 10 days for
24 the filing of a brief without an application to the
25 Commission for a stay is, I think, unreasonable; and I

1 can understand Mr. Gallo would not be happy with that
2 because it forbodes delay in this proceeding, and we
3 don't want to delay it any further.

4 Even if we could blame some other office for the
5 delay, I don't think it's proper to do it.

6 MR. BERRY: I understand the Board's
7 position.

8 JUDGE GROSSMAN: Off the record.

9 (There followed a discussion outside the
10 record.)

11 JUDGE GROSSMAN: Okay. We're back on the
12 record.

13 Why don't we take a 15-minute recess.

14 I don't see that the witness has shown up, anyway,
15 so we'll take that 15-minute recess and Mr. Berry can
16 contact his superiors.

17 (WHEREUPON, a recess was had, after which
18 the hearing was resumed as follows:)

19 JUDGE GROSSMAN: Okay. We're back on the
20 record.

21 Now, Mr. Berry, do you have anything to report to
22 us?

23 MR. BERRY: Yes.

24 First I would like to apologize for taking so long;
25 but I have been in contact with the Office of General

1 Counsel, Miss Jordan, the attorney of record on this
2 matter, and I apprised her of the events of this
3 morning.

4 Apparently the Office of General Counsel, as of
5 this time, is not in a position to say what they are
6 going to do.

7 I have notified them of the actions that have
8 already taken place, and they are considering their
9 options.

10 I'm informed that I would be able to represent to
11 the Board their plans -- what action, if any, they
12 intend to take on this matter -- over the luncheon
13 recess.

14 I would just respectfully request that the Board
15 delay issuing any subpoena until after lunch.

16 JUDGE GROSSMAN: Okay.

17 Now, let me state for the record what the
18 circumstances would be under which we would issue the
19 subpoena as has been discussed informally, and that
20 would be if nothing interferes with that, the subpoena
21 requested would be for August 11th, which we could not
22 hold a hearing on, anyway, because the room is not
23 available, for a deposition to be taken in Chicago.

24 That would be under protective order, in which
25 counsel for Applicant and Intervenors would be

1 restricted from disclosing what is disclosed during the
2 deposition to anyone but trial counsel and their
3 assistants.

4 The NRC would, of course, be able to communicate
5 the subjects discussed with anyone in NRC.

6 MR. BERRY: Just for clarification, Mr.
7 Chairman, when you say that disclosure is restricted to
8 trial counsel and assistants, are assistants legal
9 assistants or --

10 JUDGE GROSSMAN: Legal assistants, legal
11 assistants.

12 In particular, BPI -- excuse me.
13 Are there two P's in that these days?

14 MR. GUILD: Just one.

15 JUDGE GROSSMAN: Pardon?

16 MR. GUILD: Just one, Judge.

17 JUDGE GROSSMAN: I think there used to be
18 two.

19 Okay. Would have their legal assistant, who has
20 been here during the course of the hearing, have the
21 matter disclosed to him.

22 But there would be no restriction on anyone within
23 the NRC.

24 Now, is that correct, Mr. Guild?

25 MR. GUILD: Yes, sir.

1 JUDGE GROSSMAN: Mr. Gallo?

2 MR. GALLO: Yes, it is.

3 MR. GUILD: Again, Judge, that would be over
4 our objection to the issuance of a protective order, but
5 with the Chair's direction, we would endeavor to
6 negotiate the terms of an order acceptable to the other
7 parties.

8 JUDGE GROSSMAN: Okay.

9 And then after the 11th, we'll be at hearing the
10 next day, and the parties at that point could ask for
11 the deponent to be a witness and to remove whatever
12 parts of the protective order they feel would be
13 detrimental to their respective positions, at which time
14 we might remove, in part or in full, the terms of that
15 protective order.

16 Okay. But we will await the further communication
17 from you, Mr. Berry, until after lunch today.

18 Now we'll just proceed with the witness, who has
19 already been on, Mr. Martin, unless there's anything
20 further with regard to this, and I see not, so I'll just
21 call Mr. Martin in.

22 MR. GUILD: Oh, Mr. Chairman, before you call
23 Mr. Martin, I have another preliminary matter that's
24 related.

25 JUDGE GROSSMAN: Oh, okay.

1 MR. GUILD: The parties and Board were served
2 a letter from Applicant on the subject of the proposed
3 rebuttal case, a letter from counsel, Mr. Steptoe, dated
4 July 28, 1986.

5 I wanted to state generally that Applicant takes
6 some positions with respect to limitations on the
7 materials that will be made available for Intervenors
8 and other parties for preparation to join the rebuttal
9 testimony, and also takes a position with respect to the
10 admissibility of certain items they anticipate to offer
11 in rebuttal.

12 Intervenors will have a formal position on this.
13 We hope to bring the matters up with Applicant when we
14 negotiate on Friday; and failing agreement, we'll file
15 something with the Board the first part of next week.

16 Also within that document -- a separate matter
17 now -- if you recall during the examination of
18 Intervenors' witness, Mr. Hunter, the subject of cause
19 for his termination was discussed at some length, and
20 that was assertedly the inspection of welds through
21 paint.

22 At the conclusion of his examination, I asked the
23 Board to take notice of an NRC finding and an Applicant
24 response, certified affidavit, on the subject of
25 inspection of welds through paint.

1 The authorization of such inspection by
2 Commonwealth Edison Company QA apparently related to
3 weld inspections performed in the 1980 time frame.

4 I would note that the July 28th letter from counsel
5 to the Board -- or to the parties, at Page 3, makes
6 reference to such a practice extending up through June
7 of 1985, the authorization by Edison to PTL to inspect
8 welds through paint.

9 The statement simply is made by Applicant's counsel
10 that about 7 percent of the Comstock QC-accepted welds
11 overinspected by PTL were overinspected through paint.

12 I would simply ask counsel to stipulate to that
13 fact for the record.

14 I believe it's relevant to the testimony with
15 regard to Mr. Hunter.

16 If they will not, then I would seek to call a
17 witness to establish that fact; but it doesn't seem to
18 be a matter in dispute now.

19 JUDGE GROSSMAN: Do you agree to that, Mr.
20 Gallo?

21 MR. GALLO: No.

22 I would suggest that the matter is more
23 appropriately discussed with Mr. Steptoe; and perhaps
24 it, too, can be discussed at the Friday meeting and
25 reconciled in this fashion.

1 JUDGE GROSSMAN: Okay. That's fine.

2 You have no problem with that, Mr. Berry?

3 MR. BERRY: None.

4 JUDGE GROSSMAN: Okay. Is there anything
5 else before --

6 MR. GUILD: That's all, Mr. Chairman.

7 JUDGE GROSSMAN: Okay. We're continuing with
8 the examination of Mr. Martin.

9 Mr. Martin, you remain under oath.

10 THE WITNESS: Yes, sir.

11 JUDGE GROSSMAN: Okay. Mr. Gallo.

12 CROSS EXAMINATION

13 (Continued.)

14 BY MR. GALLO:

15 Q Mr. Martin, I think you had indicated, in response to
16 some questions from Mr. Guild, that you had some
17 experience as a welder prior to the time that you went
18 to work for Comstock; is that correct?

19 A Yes.

20 Q And that when you worked for this company, they
21 manufactured railroad cars?

22 A Yes.

23 Q Did you also have experience there in the inspection of
24 welds?

25 A Yes; but not an official position an an inspector.

1 I did perform the function, but it was -- I
2 wasn't -- I didn't have that title with the company.

3 (Indicating.)

4 I just supplemented for the actual Quality Control
5 Inspectors.

6 Q So you supplemented.

7 Well, did the company you worked for have Quality
8 Control Inspectors that inspected the welds that were
9 performed by the welders?

10 A Yes, sir.

11 Q And just what was your function in connection with that
12 activity?

13 A Well, I was a repair welder; and the -- the Quality
14 Control man would come through the railroad car and he'd
15 mark up the welds, and I would go behind him and repair
16 them, and then he would look at them and inspect them.

17 After a period of time, I would take it upon myself
18 to go through, look at the welds, repair what I thought
19 was necessary, and then he would come through, and many
20 times we'd be able to cut the process down a step.

21 He would be able to accept the whole car just in
22 one step instead of two steps.

23 (Indicating.)

24 Q What attributes did you look for when you were doing
25 this?

1 A Mainly undercut; cold roll; sufficient fusion; proper
2 weld size; and that's about it.

3 Q What kind of document, if any, did you inspect against?

4 A None.

5 Q How were you able to determine whether or not, for
6 example, weld size was adequate?

7 A Through the verbal instruction of the Quality Control
8 Inspector.

9 Q Okay.

10 Now, how long did you perform the duties you have
11 described where you were inspecting and repairing welds
12 and then having them subsequently reviewed by a QC
13 Inspector?

14 A Approximately six months.

15 Q Six months.

16 Do you know whether or not that welding was done
17 under the AWS Code or some other code?

18 A It was done to a railroad code, of which I'm not --
19 can't quote it to you right now, but there is a railroad
20 code that they have.

21 Q Okay.

22 You mentioned that, when you were hired by --
23 strike that.

24 Let me ask you:

25 What was your welding experience in the Air Force,

1 if any?

2 A None.

3 Q All right.

4 You mentioned, in answer to some questions from Mr.
5 Guild, that Mr. DeWald had participated extensively in
6 your training for the time that you were trying to get
7 your cert for welding.

8 Do you recall that?

9 A Yes.

10 Q And was this at the time when you were training to --
11 after you were hired on as a Level I?

12 A I was hired in as a trainee.

13 When I became certified after training, I became a
14 Level I.

15 (Indicating.)

16 Q All right.

17 And the training you received from Mr. DeWald, did
18 that occur during the time when you were hired on as a
19 trainee until you were certified as a Level I?

20 A Yes.

21 Q Do you recall whether you had any training, what I will
22 call classroom training, involving instruction in the
23 applicable procedures?

24 A I don't recall any.

25 Q Do you recall taking any kind of test on procedures?

1 A We were required to take a written test, and there were
2 requirements in the test that were covered in the
3 procedures and the AWS.

4 (Indicating.)

5 Q Well, did Mr. DeWald train you beyond on-the-job
6 training?

7 A I don't understand that question.

8 Q Yes. Let me rephrase it.

9 Could you describe for me whether or not DeWald
10 gave you training -- I thought -- let me strike that and
11 start again.

12 I thought you testified that DeWald had given you
13 on-the-job training.

14 A Yes, he -- he had.

15 Q Did that on-the-job training include training on
16 procedures?

17 A Yes, to a -- yes.

18 (Indicating.)

19 Q And was it based on that training, then, that you were
20 able to take the test that you referred to?

21 A Yes.

22 Q In conducting the training, did DeWald, to your
23 knowledge, conduct the training in accordance with the
24 training and inspection procedures that existed at
25 Comstock at that time?

1 A I don't believe there were such procedures.

2 Q Well, I thought it was your testimony that the test you
3 took asked questions about procedures.

4 Do I recall --

5 A Yes, weld inspection procedures; but as far as
6 guidelines for the actual training program, such
7 guidelines were not in force at this time.

8 Q I see.

9 So what your testimony is is that training
10 guidelines or training procedure weren't in effect at
11 the time?

12 A Yes, that's correct.

13 Q But there were procedures that dealt with weld
14 inspection, were there?

15 A Yes.

16 Q And did DeWald train you in accordance with those weld
17 procedures?

18 A Yes.

19 Q Now, I think you mentioned at one time that you had
20 never seen the DeWald checklist that had been the
21 subject of some discussion among the Inspectors
22 concerning the 1,000 welds?

23 A No, I have not.

24 Q Is my understanding correct that you assisted Mr. Mendez
25 of the NRC in attempting to find that checklist at one

1 point?

2 A Yes, I did.

3 Q Was that recently, in 1985?

4 Do you remember when that was?

5 A Yes, it was in 1985.

6 Q Can you describe for me just what the nature of your
7 assistance was?

8 A I went through areas in the vault where I knew there
9 were inspection areas that Irv DeWald performed in. I
10 looked for generic checklists of pretty good size.

11 They are very easy to find in the vault, because
12 during our doc review program, we took these PTL cover
13 sheets that had maybe a hundred hangers on them, and, of
14 course, the reinspection was probably 10, 15 pages
15 thick. They made a copy for every inspection.

16 So if you go into an area, you can -- you can very
17 easily pick up checklists that are of -- of good size.

18 (Indicating.)

19 And I looked through all the areas that Irv had
20 inspected in, and based upon that, and based upon, also,
21 my extensive work with these hanger files, I came to the
22 conclusion that there is no such document.

23 Q Did Mr. Mendez accompany you in the vault while you were
24 conducting this search?

25 A No.

1 Q How much time do you estimate did you devote to this
2 task?

3 A That's a very -- that's not as easy to answer as it
4 might seem to be.

5 At that point in time, I looked probably 45 minutes
6 to an hour; but also I've -- I've kept tabs on
7 checklists since I work quite extensively with that
8 area, and I've never seen such a checklist.

9 So based upon that, also, I don't -- you know, I've
10 looked at other times, too.

11 (Indicating.)

12 Q And you testified that you looked in the areas where you
13 knew that Mr. DeWald worked.

14 How did you -- or how were you able to determine
15 the areas where DeWald worked?

16 A Just from working with the documentation so long,
17 I've -- I just know the areas where he was at.

18 Also, knowing the production schedule at the time
19 and the areas in which production work was being done,
20 areas in the plant, I could relate them to the drawing
21 numbers and such and know -- pinpoint pretty accurately
22 exactly where the -- the heavy work was being done.

23 (Indicating.)

24 Q Do you recall where those areas were; what they were
25 called?

1 A Yes. There were -- there was an area -- areas in the
2 reactor they were installing quite a few hangers.

3 There were areas on -- the 439 cable spreading
4 areas.

5 Q Would that be the cable spreading room area?

6 A Yes, the lower cable spreading room and the upper cable
7 spreading room. The cable spreading room on the 463
8 elevation, work was done extensively in that area.

9 Also, in the 426 elevation, they were installing
10 cable tray hangers quite extensively.

11 Q In reviewing the documentation, would you have been able
12 to determine whether or not a document was missing from
13 the file?

14 A No -- well, excuse me.

15 If I had a cover -- cover list with 50 hangers on
16 the cover list and there was a copy made for each 1, and
17 1 was missing from the cover list, I could easily tell
18 you. You know, if I have 50 on here and I count
19 through, I only have 49, you know 1 is missing.

20 But as far as a checklist within itself, I would --
21 there would be no way -- like I say, if we had the stack
22 of 50 here again, if all 50 were lost, then it would be
23 difficult to trace that --

24 (Indicating.)

25 Q Okay.

1 A -- if you understand what I mean.

2 Q If the, I'll call it, alleged --

3 A Okay.

4 Q -- checklist --

5 A Good.

6 Q -- of Mr. DeWald with the 1,000 welds had been lost,
7 would you have uncovered it in your search? Would you
8 have noted in your search that such a document was
9 missing?

10 A No, I wouldn't. I would have no idea.

11 (Indicating.)

12 Q All right.

13 JUDGE GROSSMAN: Excuse me.

14 You didn't count, did you, or did you, to see
15 whether there were the same number of checklists there
16 as were hangers?

17 THE WITNESS: That function was performed by
18 doc review people, and they made all the corrections
19 that were necessary.

20 That was back in -- well, they redid -- excuse me.
21 They redid the program, I believe, in '84, so that --
22 that is accurate.

23 (Indicating.)

24 JUDGE GROSSMAN: That was prior to the search
25 that you conducted?

1 THE WITNESS: Yes.

2 BY MR. GALLO:

3 Q So it's your testimony that if a document had been
4 missing at the time of the document review reinspection
5 program, that it's likely it would have been discovered
6 at that time?

7 MR. GUILD: Objection. That's not his
8 testimony.

9 That's leading.

10 JUDGE GROSSMAN: No. Overruled.

11 I think --

12 MR. GUILD: His testimony was on a different
13 subject, Mr. Chairman.

14 He said he counted checklists to determine -- he
15 counted the hangers to determine that the total was 50,
16 if the checklist showed 50 hangers, but not the other
17 way around, not the total number of checklists equaled
18 5,000,000 or 10,000 or whatever.

19 MR. GALLO: I'm simply following up on the
20 Chairman's questions.

21 JUDGE GROSSMAN: Overruled.

22 Let's see if we can get the whole area clarified.

23 MR. GALLO: Do you have the question?

24 THE WITNESS: Could you repeat it, please?

25 MR. GALLO: Yes.

1 BY MR. GALLO:

2 Q In answer to the Chairman's question, it was -- and
3 correct me if I'm wrong -- I was trying to get an
4 understanding of your answer.

5 Is it your testimony that the -- that, if the
6 DeWald checklist had been missing at the time of the
7 document reinspection program, it is likely they would
8 have discovered it?

9 A No, no, they -- they have no way of knowing what is
10 missing in the vault; only that at some point in time,
11 we have some hangers out in the field that we don't have
12 inspection documentation for.

13 Q All right.

14 Would they have noted that there was a category of
15 hangers upon which there had been no -- they could find
16 no checklist for?

17 A It would have been so noted; but it would not have -- it
18 was something that they didn't look for. It was
19 something that they could have -- could not account for,
20 and it was -- they merely reviewed the documentation on
21 hand.

22 It was not to determine what was done or not done.

23 (Indicating.)

24 Q Do you know what the term "system turnover" means?

25 A Basic; I have a basic concept.

1 (Indicating.)

2 Q If a checklist for a large number of hangers is missing,
3 is it your understanding that during system turnover,
4 they would not be able to locate the checklist for those
5 hangers?

6 A Yes, that's true.

7 (Indicating.)

8 Q Well, then, what is there about the system turnover
9 process that would -- to your understanding, that would
10 catch that point?

11 A Well, specifically in our office, we -- we don't have a
12 systems turnover. We have a records turnover.

13 As such, they go through the current drawings and
14 they obtain a list of hangers in the drawings, and they
15 go through our vaulted documents to assure that each
16 item has a proper inspection, an acceptable inspection,
17 and at that point, if there is no acceptable inspection,
18 an Inspector is immediately assigned to go out and
19 inspect the item.

20 (Indicating.)

21 Q So if it was determined that there was no checklist for
22 a number of hangers, it would be uncovered in that
23 process; is that correct?

24 A Well, yes; and -- but we have quite a few reinspections,
25 so it's -- we -- it could not be determined that all --

1 it could not be determined that there was a checklist
2 missing unless we -- unless, say, there was a stamp on
3 the hanger.

4 You go out in the field -- there's no
5 documentation. You go out in the field to inspect the
6 item, and then there is a -- a Welding Inspector's stamp
7 on the hanger. Then you know at that point there was
8 documentation somewhere, but it now not available, and
9 it needs to be reinspected.

10 (Indicating.)

11 Q Well, just a review --

JUDGE GROSSMAN: What -- I'm sorry.

12
13 BY MR. GALLO:

14 Q Just a review of the documentation is not enough? You
15 would have to go out and actually look at the hanger
16 installation to see if there were any welder's stamps on
17 the hanger before you could conclude that there was
18 perhaps a checklist missing?

19 A Okay. I was trying to answer your question before.

20 Yes, that's correct, a field verification would
21 have to be performed to determine if there was, if any,
22 documentation on the hanger to begin with.

23 JUDGE GROSSMAN: And then you wouldn't know
24 how many documents would have been related to -- how
25 many checklists would be missing; isn't that the case?

1 You might find 100 hangers with the Welding
2 Inspector's stamp, but you couldn't tell whether the 100
3 hangers all had 1 checklist or had 100 checklists, would
4 you?

5 THE WITNESS: That's correct. You have no
6 way of determining how the documentation was turned in
7 or at what point in time.

8 BY MR. GALLO:

9 Q Returning to your training:

10 I understood, in answer to several questions from
11 Mr. Guild, that on or about September, 1982, your
12 certifications were suspended -- is that a fair
13 characterization -- in the weld inspection area?

14 A At that point in time, I was told to hold off, so --

15 Q All right.

16 A -- yes, I guess they were suspended.

17 Q Well, several of the documents -- or one or two of the
18 documents that have been identified and received as
19 exhibits for the Intervenors seem to indicate that they
20 were suspended, though that not might have been conveyed
21 to you at the time.

22 A Right, yes.

23 MR. GUILD: I think you missed the year, Mr.
24 Gallo.

25 THE WITNESS: No; he's right.

1 MR. GALLO: '82.

2 MR. GUILD: It is '82?

3 MR. GALLO: Yes.

4 MR. GUILD: I apologize.

5 BY MR. GALLO:

6 Q Now, the DeWald training, as I understand it, took place
7 in the May, June, July, 1981 time frame, perhaps right
8 into September of 1981; is that correct?

9 A Yes.

10 Q Okay.

11 And then you were certified in welding as a Level I
12 at the -- I believe at the end of September of 1981?

13 A Yes.

14 Q You conducted inspections through the rest of that year
15 and on into '82, until this suspension of the
16 certifications occurred in September of 1982 --

17 A Yes.

18 Q -- is that correct?

19 A Yes.

20 Q And then were you given retraining after September,
21 1982?

22 A Yes.

23 Q And who conducted that retraining?

24 A I'll have to -- I'll have to change that statement.

25 I -- I did not receive any training. I went out

1 with my supervisor and he looked at some of my prior
2 work.

3 At that point in time, he told me if -- he was
4 going to look at 10 hangers, and if he found 1 that was
5 rejectable, I was going to be fired.

6 We looked at some, they were all acceptable, and at
7 that point in time, I was just switched over to the
8 configuration discipline, and I performed configuration
9 inspections for the duration of my suspension, and at
10 which time when they decided to -- to give me my certs
11 back, I believe that I was just retested, and upon
12 successful completion of the test, I was recertified.

13 (Indicating.)

14 Q Well, let's examine that.

15 As I understand your testimony, you had your
16 certifications in weld inspection suspended in about
17 September of 1982, and then they were reinstated in
18 December of 1982 --

19 A Okay.

20 Q -- is that correct?

21 Well, is that right?

22 A Well, at that point my certs were actually pulled, and I
23 was --

24 JUDGE GROSSMAN: At what point; in December
25 of 1982 or September of 1982?

1 THE WITNESS: September.

2 JUDGE GROSSMAN: Okay.

3 A (Continuing.) I had to retest in order to recertify.
4 I was not reinstated. Okay.

5 That was -- that was back in '8 -- the -- in '84
6 that I was reinstated.

7 At this point, I recertified.

8 BY MR. GALLO:

9 Q Was that in December of 1982?

10 A I don't remember.

11 Q All right.

12 Now, who was your supervisor at the time?

13 You referred to some supervisor who wanted to look
14 at 10 hangers.

15 A Mike Kast.

16 Q Mike Kast.

17 And was he your welding supervisor?

18 A Yes.

19 Q And this was after September, 1982?

20 A Yes.

21 Q And during the time frame of September, 1982, forward,
22 did he give you any training with respect to welding
23 activities?

24 A None that I can recall.

25 Q And is it your testimony that he simply went out and

1 looked at 10 hangers you had inspected, and having found
2 no disagreement with your inspection results, had you
3 recertified?

4 A No. That was -- that was soon after that -- that was
5 soon after I was -- my certs were suspended.

6 I guess they got into some more of my inspections
7 from PTL, and which were unfavorable, and I'm referring
8 to the CS-type hanger that I inspected that have the
9 groove weld --

10 Q Yes.

11 A -- and I missed that, and these were coming through, and
12 an inspection in the Unit 1 wing wall area on 426
13 elevation, there were many inspections becoming
14 unfavorable. These were still coming in.

15 I guess my supervisor did not tell me exactly what
16 the situation was, but I suspected that the manager had
17 assigned him to go out in the field to do
18 other work that I performed to determine the
19 acceptability, at which point he came to me personally
20 and said, "Look. You know, this is what I got to do.
21 Show me some hangers that, you know, I can look at,
22 because I don't want to get you fired," so I showed him,
23 you know, some hangers that I was -- that I had looked
24 at previously in the area which I was doing
25 configuration work in, and he looked at them and they

1 were acceptable, so that's the story.

2 Q Now, let's sort this out.

3 If I understand your testimony, in September of '82
4 you were told to hold off on any further weld
5 inspections; is that correct?

6 A Yes.

7 Q And I take it after that -- immediately after that
8 notification, you didn't do any more weld inspections;
9 is that correct?

10 A No. I did have some hangers that I was working on in
11 areas that I wanted to finish up, so I turned -- I
12 turned in hangers for probably two -- two more weeks
13 after that here and there.

14 Q I thought that was your testimony with respect to the
15 subsequent pulling of your certs in '83, that that's
16 when you had done those inspections.

17 A No. That was with respect to '82 --

18 Q '82.

19 A -- because that was part of the finding in '83 that I
20 had turned in weld inspections at which time I was not
21 certified.

22 Q So after being notified that you should hold off on
23 conducting any more weld inspections, you continued to
24 clean up, finish, some of the inspections on some of the
25 hangers that you had in process; is that it?

1 A Yes.

2 Q Now, what was your understanding at that time as to just
3 what your status was in terms of being able to conduct
4 weld inspections?

5 A One supervisor -- Mike Kast, my supervisor, mentioned to
6 me that they wanted PTL to catch up on my work, and
7 to -- to be able to determine, you know, where I stand,
8 and as far as I knew, that was how I stood.

9 So I didn't want to do too much work, but yet I did
10 do a few things here and there.

11 Q Did you still have your welder's stamp at that time?

12 A Yes, I did.

13 Q Did you have any understanding at all that your
14 certifications had been suspended in any way?

15 A No, I did not.

16 Q All right.

17 Now, you finished up these additional inspections
18 after you were notified about holding off on conducting
19 further welds inspections.

20 And what was your work assignment that followed
21 after that point in time?

22 A Okay. In '82?

23 Q Yes.

24 A I was assigned to do configuration inspections only.

25 Q And did you subsequently become, let me use the word,

1 recertified to do weld inspections?

2 A Yes.

3 Q And when was that, to your best recollection?

4 A I -- I --

5 Q I believe the record will show it was December of '82.

6 Does that help in any way?

7 A Yes. I knew it was -- I thought it was in January of
8 '83, but if -- December of '82 is close.

9 Q All right. December, '82, January, '83.

10 Did you receive any retraining, during the interval
11 of September of '82 to, say, January of '83, on weld
12 inspection techniques?

13 A I don't recall any.

14 I recall reading procedures and reviewing AWS
15 requirements, but I do not recall any field -- extra
16 field training.

17 (Indicating.)

18 Q You read the existing -- the weld inspection
19 procedures --

20 A Yes.

21 Q -- and AWS requirements at that time?

22 A Yes.

23 Q Well, did you do that on your own initiative or were you
24 requested to do it by Mr. Kast?

25 A It was, I guess, mainly in part by my supervisor, but I

1 believe that I did seek out other materials on my own
2 initiative.

3 Q But it was due, in part, to advice from Mr. Kast?

4 A Yes.

5 Q Well, was that kind of training activity? Was that
6 your understanding was the purpose of reading these
7 procedures?

8 A Well, yes; definitely training, yes.

9 (Indicating.)

10 Q Did you take any test at that time of any sort?

11 A I don't believe so.

12 Q And you don't recall any on-the-job training per se?

13 A No, I do not.

14 If you will, one thing I do recall, I was
15 specifically taken and trained one on one with the
16 requirements of undercut, which I had a problem with,
17 and also we reviewed the detail, which I misinterpreted.

18 Q That's the groove weld?

19 A Yes.

20 We did review those two subjects.

21 Q All right.

22 I'm sorry. Did I interrupt you?

23 A No.

24 Q And who provided that training?

25 A Mike Kast.

- 1 Q Now, at some point during this time frame, Mike Kast
2 came to you and wanted to look at 10 of your hangers; is
3 that correct?
- 4 A Yes.
- 5 Q Do you remember:
6 Was that the latter part of December or January --
7 December, '82, January, '83?
- 8 A I would say that was in November of '82.
- 9 Q And what's your recollection of why he wanted to look at
10 10 hangers?
- 11 A He said that Bob Brown had sent him out to look at 10 of
12 my hangers, and if he found 1 hanger that was
13 rejectable, I was to be fired.
- 14 (Indicating.)
- 15 Q Kast told you this?
- 16 A Yes; and that he wanted me to locate some good hangers
17 for him so that he wouldn't have to fire me.
- 18 Q Did he explain -- did Kast explain to you why Brown had
19 this point of view?
- 20 A Yeah. He stated that I had gotten into a very high
21 rejection rate with PTL, and that there was no real --
22 there was no reason for it.
- 23 Q Now, did you identify 10 hangers for Kast?
- 24 A I led him to an area -- okay -- where I had inspected a
25 lot of welds, and then he picked out 10 hangers that he

1 wanted to look at.

2 Q And did he inspect those hangers?

3 A Yes, he did.

4 Q And what was the conclusion of his inspection results?

5 A All 10 were acceptable.

6 Q And did he report that to Mr. Brown?

7 A Yes, he did.

8 He recorded the hanger number and accept-reject --

9 Q And --

10 A -- the drawing number.

11 Q -- was it your understanding that it was the results of
12 this inspection activity that led to your -- again, I'll
13 use the word -- reinstatement of your certifications?

14 A I'm not sure. I -- I think that -- I think that merely
15 had to do with my remaining employed.

16 Q Well, do you know on what basis you were recertified,
17 then, in December, '82, or January, '83?

18 A All I can recollect is solely on -- upon the successful
19 completion of the written test.

20 (Indicating.)

21 Q What written test?

22 A The weld test.

23 Q When did you take that test?

24 A Oh, I expect shortly before I was recertified.

25 (Indicating.)

1 Q This would have been in either December of 1982 or
2 January of 1983?

3 A Yes.

4 Q Okay.

5 Now, let me make sure I understand.

6 Now, you did receive some training from Mr. Kast on
7 being able to recognize undercut, some training on the
8 problem associated with the groove weld, being able to
9 recognize that; is that correct?

10 A Yes.

11 Q And you did receive some advice to read weld inspection
12 procedures that were in force at the time?

13 A Yes.

14 Q You don't recall any on-the-job training per se?

15 A No, I do not.

16 Q But ultimately, then, you did take a test.

17 Was this a written test?

18 A Yes.

19 Q And did it deal with weld inspection activities?

20 A Yes.

21 Q Was it similar in format to the test you had taken
22 earlier at the time you were trained in 1981?

23 A Yes.

24 Q And did you pass that test?

25 A Yes.

1 Q And that led to your recertification; is that your
2 understanding?

3 A Yes.

4 JUDGE GROSSMAN: Excuse me.

5 Let's go off the record for a second.

6 (There followed a discussion outside the
7 record.)

8 JUDGE GROSSMAN: Let's go back on the record.

9 BY MR. GALLO:

10 Q And during all of this retraining exercise, was that
11 retraining conducted by Mr. Kast, all the things that we
12 have described previous to going off the record?

13 A Yes, yes.

14 Q All right.

15 Now, you mentioned in your testimony that your
16 certifications were pulled again in October, 1983; is
17 that correct?

18 A Yes.

19 Q That was based on the Commonwealth Edison audit that had
20 been completed prior to that time?

21 A Yes.

22 Q Did you undergo any retraining after your certifications
23 were pulled in October of 1983?

24 A Yes, I did.

25 Q Can you describe for me the retraining that you

1 experienced at that time?

2 A Well, I was assigned to one welder -- Weld Inspector,
3 Brian Baronowski, and at that point in time, he was
4 probably our best Weld Inspector, and he took me out and
5 evaluated me, and he felt favorable of my abilities.

6 On my own initiative -- we had just gotten in some
7 people from the Perry site that were in the Comstock
8 organization. They got transferred in, and they weren't
9 real familiar with the plant, and they would use me to
10 take them out and show them where the hangers were and
11 just assist them in --

12 Q You are describing now --

13 A -- inspections.

14 Q -- the training that you got?

15 A Well yeah, this was the training that I got on my own.

16 Q So you received some on-the-job training from Mr.
17 Baronowski; is that correct?

18 A Yes.

19 Q Did you get any training, in reading the procedures that
20 were in effect in 1983, at the time?

21 A Yes.

22 Q Any other particular classroom training that you might
23 recall?

24 Did you get any training on the use of a checklist?

25 A There was a meeting that Irv had, and he said, "From now

1 on, everybody's going to fill out a checklist at the
2 point of inspection," and at that time, also, they made
3 available to the Inspectors procedures.

4 So it was a general training meeting which I
5 attended.

6 (Indicating.)

7 Q All right.

8 And was it your understanding that the Inspectors
9 and yourself were instructed to take the checklist out
10 in the field for purposes of recording the results of
11 the inspections?

12 A Yes; they were instructed to take it out with them,
13 yeah.

14 Q Was the practice prior to that time to use the notebooks
15 that you had provided here?

16 A Yes.

17 Q And after that time, did you begin to take the checklist
18 out into the field to record any inspection results?

19 A Well, I wasn't certified then, so --

20 (Indicating.)

21 Q All right.

22 A -- you know, I wasn't --

23 Q You couldn't do that because you weren't certified --

24 A No.

25 Q -- at that time?

1 A Right.

2 Q Do you recall any instruction during that meeting about
3 the use of Xerox checklists or any of that sort of
4 thing?

5 A Yes.

6 Q What was that instruction?

7 A Just that every -- all information on the -- on the
8 checklist had to be original.

9 (Indicating.)

10 Q And Mr. DeWald, was he conducting this particular
11 training session, this meeting that you referred to?

12 A Yes.

13 Q And was he providing the instruction about not Xeroxing
14 the checklist?

15 A Yes.

16 Q Now, had DeWald previously, back in 1981, ever advised
17 you, during a training session, to use any Xerox
18 checklists or any portion of the checklists on a
19 Xeroxing basis?

20 A No, he never had any -- there was no reason to.

21 (Indicating.)

22 Q Do you recall any retraining during this time by an
23 Inspector by the name of Mr. Holley?

24 A No, I don't.

25 Q Did you take another written test after you had finished

1 this retraining?

2 A Okay. Now we're talking about --

3 Q We're talking about 1983.

4 A I took -- okay. Yes; I believe I did take a written
5 test, yes.

6 Q One that you ultimately passed?

7 A Yes.

8 Q And were you recertified then?

9 A No; because although I had completed the training
10 successfully, the CECO audit was still open, and they
11 could not recertify me or anything until this audit was
12 taken care of.

13 Q All right.

14 I think at this time it's appropriate to say that
15 your certifications were reinstated.

16 Now, did that occur in about February of 1984?

17 A Yeah, when the CECO audit was close to being closed, I
18 guess.

19 Q Do you recall, either in the '83 time frame or the '82
20 time frame, getting any training from an Inspector by
21 the name of Mr. Hunter?

22 A No, I did not receive any training from him.

23 Q Do you recall a time where Mr. DeWald had requested Mr.
24 Hunter to inspect some of your work?

25 A I'm not aware of that.

1 I know of -- there were a lot of people -- almost
2 everybody in the office was reinspecting my work, so
3 I --

4 Q Do you recall going out into the field with Mr. Hunter
5 and him doing some reinspecting of hangers that you had
6 inspected?

7 A No, I don't recall.

8 Q Do you recall him calling to your attention that some of
9 the welds were kind of rough?

10 A No.

11 Q Now --

12 A Kind of rough, huh?

13 Q We've now got you reinstated on February 13, 1984 --

14 MR. GALLO: And, your Honor, I would like to
15 finish this line before we recess for lunch.

16 JUDGE GROSSMAN: Yes, fine.

17 MR. GALLO: I'll do so fairly quickly.

18 BY MR. GALLO:

19 Q Did you have occasion, after February 13, 1984, to be
20 retrained under a new revision to the training and
21 certification procedure that was in force and used by
22 Comstock?

23 A Yes.

24 Q And when did that occur, to your recollection?

25 A From -- let me see. From March -- oh, excuse me.

1 Yeah. It started at March of '84, and it is not
2 completed.

3 Q You've experienced that training process, have you? Is
4 that correct?

5 A Yes; but it's not complete.

6 Q I understand.

7 Do you recall who some of the trainers were in this
8 activity?

9 A Yes; Brian Murphy was one trainer.

10 In fact, I believe he was the only trainer that I
11 can remember.

12 Q Did this training again involve the review of procedures
13 and AWS requirements?

14 A No. This training comprised almost completely of field
15 inspections. How can I say? It was just on-the-job
16 training.

17 Q On-the-job training.

18 A I would just look at the welds and then he would review
19 my decisions and we would discuss them, and it was very
20 in depth in this respect.

21 (Indicating.)

22 Q You would inspect some welds on a hanger and then he
23 would check --

24 A Yes --

25 Q -- them, and to the extent he disagreed with your calls,

1 you discussed it, and he explained to you why he thought
2 he was right and you were wrong?

3 A Yes.

4 MR. GALLO: I think that's all I have on this
5 line.

6 We can recess now.

7 JUDGE GROSSMAN: Okay, fine.

8 We'll recess until 1:15.

9 Okay. We're off the record now.

10 (WHEREUPON, the hearing was continued to
11 the hour of 1:15 o'clock P. M.)

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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

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

-----x	
In the Matter of:	:
COMMONWEALTH EDISON COMPANY	: Docket No. 50-456 OL
(Braidwood Station, Units 1	: 50-457 OL
and 2)	:
-----x	

Met pursuant to recess.

Wednesday, July 30, 1986.
1:15 P. M.

JUDGE GROSSMAN: Okay. We are back in session.

Mr. Berry has a report to make to us.

MR. BERRY: Thank you, Mr. Chairman.

Over the luncheon recess I communicated with the Office of General Counsel.

I am authorized to report even at this hour that the Office of General Counsel has not yet decided on what action, if any, they plan to take in connection with the matter we have discussed yesterday and this morning.

I informed the Office of General Counsel of the proposed protective provisions governing the issuance of

1 the subpoenas. I advised them the date, place, time,
2 the conditions and things and they are aware of that.

3 I was requested -- they requested that the Board
4 stay a decision on this pending communication from the
5 Commission.

6 I inquired into that to determine whether such
7 communication from the Commission would be forthcoming;
8 and I was informed only that the Office of General
9 Counsel are debating this, discussing this matter
10 internally, as to whether Commission action will be
11 requested or given.

12 So I have no assurance that any action from the
13 Commission would be forthcoming, whether a stay will be
14 sought, whether a motion to quash will be filed.

15 At this time I can only report that they are giving
16 the matter consideration. They have requested the Board
17 defer ruling until they hear further from them.

18 I relayed to them the Board's position regarding
19 the possible delay in this and I indicated to them that
20 I would relay that suggestion, that request, to the
21 Board but that I did not think that it would be
22 successful, you know, that it would be successful in
23 view of the discussion that we have had this morning
24 regarding the delay and the need to have a decision on
25 this matter one way or the other.

1 So there you have it, your Honor. Where it stands
2 is that the Office of General Counsel has not yet made a
3 decision, they are aware of the Board's concern, the
4 Board's position; and I guess now it is in the Board's
5 court.

6 JUDGE GROSSMAN: Okay. We will wait until
7 the end of tomorrow and then after the hearing session
8 tomorrow, if counsel have the appropriate subpoena, I
9 will take whatever action I indicated.

10 Of course, I suppose even if a subpoena is issued
11 and served, there is still some opportunity for General
12 Counsel and the Commission to take further action before
13 the return date of the subpoena, before the witness is
14 required to appear.

15 So there is an additional time period, I guess,
16 within which they can act; but to go beyond that would
17 require that we go into next week before the subpoena is
18 issued and would almost ensure that the witness would
19 not be available in the short time for the date that is
20 most convenient to the parties and the Board as far as
21 moving the case.

22 I don't see if we waited until next week that there
23 is much chance of meeting that August 11th date.

24 I just don't think we ought to delay it in the
25 absence of any positive action by General Counsel.

1 So that's where we stand now. If there is any
2 problem with that --

3 MR. GALLO: I would request that we move the
4 deadline up until noon tomorrow instead of the end of
5 the day.

6 This way actions could be taken still on Thursday
7 to see about getting the subpoena served and all of that
8 sort of thing.

9 JUDGE GROSSMAN: Yes. I think I am trying to
10 ensure that we can help achieve service this week rather
11 than next, because just cutting it to less than ten days
12 between service and the date of appearance is really a
13 hardship on the person being served and cuts room for
14 moving to quash and, perhaps, even communicating with
15 people in the NRC who might be able to take some
16 measures.

17 Okay. So we will defer until after lunch tomorrow
18 -- is that acceptable -- which is about 1:15, I would
19 expect?

20 MR. GUILD: Mr. Chairman, for the record, we
21 would oppose grant of any stay.

22 The rules of practice of the Commission clearly
23 require a showing of some sort, and we don't believe any
24 such showing is possible. It's not even been attempted
25 in this case.

1 If Intervenors were moving to stay the action of a
2 Licensing Board on this matter or some other matter, we
3 would be laughed at by the parties if we simply came
4 forward and said, "Give us a stay," without complying
5 with the rules.

6 JUDGE GROSSMAN: Well, I don't know that it's
7 a stay.

8 You don't have the papers prepared right now
9 because you haven't decided yet what you are going to do
10 on the SDT or whatever.

11 MR. GUILD: Yes, sir; but I don't want it to
12 be thought that we are delaying issuance of a subpoena.

13 I will hand you a handwritten document at this
14 point right now if the Board would issue it in that
15 form. It's certainly not a question of Intervenors'
16 delay in getting this compulsory process issued.

17 There are no grounds for a stay that have been even
18 asserted.

19 MR. BERRY: I would just like to be clear,
20 your Honor, that I am not requesting a stay.

21 I am just relaying a request, the request by the
22 Office of General Counsel.

23 JUDGE GROSSMAN: Okay. We will defer to that
24 request until 1:15 tomorrow afternoon and, hopefully, we
25 can speed the process up by signing what is appropriate

1 then.

2 Judge Callihan points out to me that that is 2:15
3 Washington time, so they have that extra hour over
4 there. It's not long before quitting time, anyway, so
5 they have that time to consider it.

6 Okay. Now, do we have anything else that is
7 preliminary to recalling Mr. Martin?

8 (No response.)

9 JUDGE GROSSMAN: So let's get him back here.
10 I do have one matter while he is getting his
11 microphone adjusted.

12 With regard to the testimony yesterday of Mr.
13 Kurtz, I would like to ask that Applicant's Exhibit 8,
14 which is a part of Amendment 48 to Specification L.2790
15 -- I have a one-page portion of that amendment and I
16 would like to get all of Amendment 48.

17 I believe what has been filed is only that one
18 page.

19 I would like to find out whether you do have that
20 specification revised through Amendment 48 similarly to
21 Exhibit 16, which was revised through a prior amendment;
22 and if you don't have it exactly through 48, if you have
23 it to some subsequent amendment, I believe that would
24 satisfy the request.

25 MR. MILLER: But it is through Amendment 48

1 that you wish?

2 JUDGE GROSSMAN: Yes, I do want it through
3 Amendment 48.

4 MR. MILLER: I am confident that we can get
5 you those materials.

6 JUDGE GROSSMAN: Now, Mr. Martin, you are
7 back on the stand and Mr. Gallo will continue with his
8 Cross Examination.

9 BY MR. GALLO:

10 Q Mr. Martin, did you approach me during the recess and
11 indicate that you had a matter that you wanted to
12 clarify?

13 A Yes.

14 After thinking about some of the -- thinking back
15 to some of the circumstances earlier, my memory was
16 refreshed in the fact that during the first period that
17 I was decertified, which was towards the end of that
18 period, at the beginning of '83, I believe, or the end
19 of '82, I did spend quite a bit of time with a Weld
20 Inspector Albert Gonzales; and we worked as a team.

21 He would do the weld inspections and then I would
22 do the configuration inspection on the hangers; and we
23 just went through areas in that manner.

24 And during that time I did receive a lot of welding
25 training.

1 Q How do you spell his last name?

2 A G-O-N-Z-A-L-E-S.

3 Q Was he a Level II QC Inspector?

4 A Yes, he was.

5 Q Is that the extent of the matter that you wanted to
6 clarify?

7 A Yes, it is.

8 Q All right. You had testified earlier about the question
9 of Xeroxing these checklists.

10 As I recall, you had at some point in 1982 -- and
11 correct me if I am wrong -- you had begun the practice
12 of Xeroxing some of the information on checklists that
13 you thought had generic application.

14 A Yes.

15 Q And you would write in the specific information as you
16 did your -- after you did your inspections; is that
17 correct?

18 A Yes.

19 Q For example, you would write in the hanger number, the
20 dates, your own signature, things like that?

21 A Yes.

22 Q What was the generic information?

23 A A drawing number and revision of the drawing that I
24 inspected on. It could have been the welder number.

25 If I inspected ten hangers that one welder had

1 installed, that would be part of the generic
2 information.

3 A --

4 Q Do you recall -- I am sorry. Go ahead.

5 A A request date that was required for PTL would be a
6 generic item.

7 Sometimes certain locations like a building,
8 whether it be the Auxiliary Building or Reactor 1,
9 Reactor 2, also the elevation would be generic
10 information.

11 And the specifics would be the exact location of
12 the hanger, the hanger number, the number of welds and
13 signature and date.

14 Q Do you recall when it was that you began doing this?

15 A It was at the point when we changed our weld inspection
16 procedure, that they began requiring one Form 19 for
17 every hanger.

18 This, of course, increased our paper workload
19 immensely, because at one point in time we could go out
20 and inspect, for example, 30 hangers, we would come in a
21 half hour towards the end of the day and just fill out
22 our PTL sheet, listing all the hangers on the PTL sheet
23 and then fill out one Form 19, with the total number of
24 welds, total number of hangers, write an accept for all
25 of those hangers.

1 It would be just two pieces of paper for the 25
2 hangers, so to say; and then when we had to write out a
3 separate 19 for each hanger, that really was a -- it was
4 a big change.

5 Q Did this occur some time in 1982?

6 A Yes, it did.

7 Q Do you remember whether it was in the early part or the
8 late part?

9 A Well, it began shortly before the precopied check marks.
10 That's when I can best give you the time for that.

11 I don't know. I can't give you as far as --

12 Q Now, how did it come to pass that you began to Xerox
13 these checklists, this checklist information?

14 I understand what the reasons were for doing it.

15 A Yes.

16 Q But did somebody suggest it to you or did you decide on
17 your own initiative?

18 A No; that was my own wonderful idea.

19 Q Now, I think you testified that at some point you
20 discussed this practice with Mr. Brown; is that true?

21 A Yes, I did.

22 Q And did you seek Mr. Brown? Did you ask Mr. Brown
23 whether or not it was an acceptable practice?

24 A Yes, I did. I went in with my paper work and I asked
25 Bob if he thought that this procedure would be

1 acceptable; and he just looked at it, said,
2 "Mbl-mbl-mbl," and signed them off.

3 JUDGE COLE: I am sorry.

4 He said what, sir?

5 THE WITNESS: He mumbled. It was not
6 comprehensible, really.

7 I just -- he signed them, so I figured it was
8 acceptable. I didn't --

9 BY MR. GALLO:

10 Q Do you recall him commenting one way or the other on the
11 practice?

12 A No, I do not.

13 Q But you had explained to him that you had Xeroxed part
14 of the information on the checklists?

15 A Yes.

16 Q And he understood that?

17 A Yes.

18 Q And you say he signed them off.

19 Was he signing these checklists as the Level II
20 reviewer?

21 A That's -- that's not for my interpretation.

22 I can just say he signed them. That's all I can
23 say.

24 Q Well, you are familiar that the checklist used by
25 Comstock had space on it for two signatures, aren't you,

1 one for the inspector and one for the reviewer?

2 A Yes.

3 Q Now, my question to you is: Was Mr. Brown signing these
4 checklists as a function of the reviewer?

5 A My own judgment, I disagree.

6 I felt that -- and I feel now -- that, as I
7 explained the procedure that I was using to him, his
8 signature on my forms was the okay to approve that
9 procedure and I interpreted it as a Level III decision.

10 Q Do you recall whether he signed in the space provided
11 for the reviewer's signature?

12 A Yes, he did sign it in that space.

13 Q But you interpreted that signature as not being limited
14 to the review for completeness but to also represent an
15 endorsement of your practice of Xeroxing the checklist
16 information?

17 A Yes, I do.

18 Q You used the term, "precopied check marks," and you used
19 that a number of times.

20 I take it that you intend that to mean something
21 different than just the practice of Xeroxing generic
22 information?

23 A Yes. I had -- I had Xeroxed the check marks and when --
24 I cannot recall the exact circumstances; but I know that
25 my supervisor, Mike Kast, told me not to precopy the

1 check marks anymore but the information would be
2 acceptable.

3 So at that point I made all the check marks in
4 original and I merely precopied the generic information.

5 Q The check marks that you are referring to, are those the
6 checks that would be included on the checklist after the
7 various attributes?

8 A Yes.

9 Q Whether accept or reject?

10 A Yes.

11 Q And then there would be a check mark in one or the
12 other?

13 A Yes.

14 Q Were you Xeroxing some of the check marks as part of the
15 generic information?

16 A Yes.

17 Q Under what circumstances would you consider check marks
18 of various weld inspection attributes to be generic?

19 A Well, I had performed my inspections, I had logged my
20 inspections in my notebook; and if I had 15 hangers I
21 accepted that day, it was generic information.

22 Q I see. Did you write out an original for the first
23 hanger?

24 A Yes.

25 Q And then Xerox that checklist and use the information,

1 the checks, from the first checklist for your subsequent
2 hangers?

3 A Yes.

4 Q All right. Now, you say that after -- at some point
5 after -- the CECO audit indicated disapproval of this
6 practice, then you were asked to stop doing that; is
7 that correct?

8 A At -- okay. I -- I only made precopied check marks for
9 a very short amount of time. I think there was just a
10 month that I used the precopied check marks. Okay?

11 Then they asked me to stop doing that but I
12 continued to precopy generic information -- okay? -- and
13 just use original check marks.

14 And that carried all the way up to the point where
15 -- at the point of the audit finding; and then at that
16 point it began to be a requirement that inspection
17 checklists would be filled out at the time of the
18 inspection.

19 Q I see. So correct me if I am wrong, but as I understand
20 it now, at some point you were precopying generic
21 information like hanger numbers, drawing numbers --
22 strike hanger numbers -- drawing numbers and other type
23 of information like that and also precopying these check
24 marks; and you were told at some point before the audit
25 from Edison to stop precopying the check marks?

- 1 A Yes.
- 2 Q Who told you that?
- 3 A Well, not Edison; but my supervisor, Mike Kast.
- 4 Q Then after the CECO audit and the results of that audit,
5 you were told to stop precopying everything; is that
6 correct?
- 7 A Yes.
- 8 Q And essentially write an original checklist for each
9 inspection?
- 10 A Yes.
- 11 Q Had Mr. Brown passed from the scene by this time?
- 12 A Yes.
- 13 Q He was the QC Manager at the time, where you brought him
14 these checklists and brought this practice to his
15 attention; is that correct?
- 16 A Yes.
- 17 Q Did he subsequently resign or get transferred, do you
18 know?
- 19 A He was transferred.
- 20 Bob -- you are talking about Bob Brown?
- 21 Q Bob Brown, yes.
- 22 A Yes, he was transferred.
- 23 Q At the time of the CECO audit when this matter was
24 brought to your attention, did you explain to the
25 Comstock managers at that time that you had sought the

1 or had obtained, in your judgment, the approval of Mr.
2 Brown to use this practice?

3 A No.

4 Q Can you explain why not?

5 A I didn't feel that the finger was going to be pointed at
6 me. Therefore, I didn't feel there was any real need to
7 try to justify myself by pointing the finger at somebody
8 else.

9 I didn't think at that time it was necessary.

10 Q You didn't interpret the finding as reflecting adversely
11 on your competence as an inspector?

12 A No, I did not.

13 Q Were there other inspectors who were also Xeroxing data
14 for their checklists?

15 A Yes.

16 Q Do you know how many indulged in this practice?

17 A How many?

18 Three or four other inspectors.

19 Q At the same time of the CECO audit, was a question
20 raised with respect to the reject rate of your
21 inspections by PTL?

22 A No, at that point.

23 Now, in the audits that were -- that came out of
24 this that subject was brought up; but at that particular
25 point my rejection rate had nothing to do with my --

1 pulling my certs, whatever you call it.

2 Q You mean the follow-up audits to the Commonwealth Edison
3 audit did raise questions with respect to the reject
4 rates --

5 A Yes.

6 Q -- that were uncovered by PTL?

7 A Yes.

8 Q What were the -- what do you recall that PTL's findings
9 were?

10 A I had the lowest reject rate of any inspector during the
11 period from when I got my cert back to the time where
12 Irv pulled it the second time.

13 Q At the time of the CECo audit, was any question raised
14 at all about your abilities to identify weld defects
15 similar to the 1982 episode involving the groove weld
16 and the undercut deficiencies?

17 A That's an interesting point. I never even thought of
18 that.

19 No, they didn't. They just -- their audit
20 addressed precopied check marks.

21 Q The PTL subsequent overview showed that your inspection
22 record was, apparently, pretty good, in your judgment;
23 is that correct?

24 A Yes, excellent.

25 JUDGE GROSSMAN: Excuse me. I hate to

1 interrupt you.

2 I will withdraw my request -- I am sorry -- for
3 Amendment 48, because Judge Cole points out to me that
4 Amendment 42 was the relevant one containing that new
5 provision; and we have a complete item. That was
6 Applicant's Exhibit 19.

7 I had forgotten that we had gotten different-dated
8 ones and I had specifically requested this one, so we
9 have it completed; but I do wish to have that revised
10 specification up through Amendment 42 then, if you have
11 that, unless that's already in the record and I have
12 forgotten it.

13 MR. MILLER: I believe, Judge Grossman, that
14 that is, in fact, Applicant's Exhibit 19; but let me
15 just think.

16 JUDGE GROSSMAN: In other words, 16, you
17 think, is 42?

18 JUDGE COLE: No, 19 only goes to 39.

19 JUDGE GROSSMAN: Yes, that is my
20 recollection.

21 MR. MILLER: Then I believe it's 17, 18 and
22 19 are --

23 JUDGE COLE: We have Amendments 40, 41 and
24 42.

25 MR. MILLER: But they are not complete --

1 JUDGE COLE: But Exhibit 16 only shows it up
2 to 39 but we have the other.

3 JUDGE GROSSMAN: What I am saying is if you
4 have something comparable to 16, Applicant's 16, through
5 the 42 amendment.

6 MR. MILLER: Okay.

7 JUDGE GROSSMAN: In other words, the
8 historical record, that's fine.

9 I am not asking you to compile it. If you do have
10 it, we would like it, because I don't believe you
11 compiled Exhibit 16. You just happened to have it.

12 MR. MILLER: Right. I will inquire. Thank
13 you.

14 JUDGE GROSSMAN: I am sorry, Mr. Gallo.

15 MR. GALLO: That's all right.

16 BY MR. GALLO:

17 Q Mr. Hunter, I think you testified that you once
18 inspected --

19 MR. MILLER: Mr. Martin.

20 MR. GALLO: What did I call him?

21 MR. MILLER: Hunter.

22 MR. GALLO: I stand corrected. Mr. Martin.

23 THE WITNESS: Okay.

24 BY MR. GALLO:

25 Q I think you testified that you once inspected one hanger

1 that had 500 welds and it took you two days to complete
2 the inspection.

3 Can you tell me -- and I believe -- strike that.

4 I believe you indicated that this inspection was
5 done some time in the late '81, early '82 time frame.

6 Is my recollection correct?

7 A I don't remember when I inspected that hanger. I --

8 Q You do remember inspecting it?

9 A Yes, I do.

10 Q Can you tell me, if you can recall, having to perform
11 any substantial amount of research in connection with
12 that inspection?

13 A No; there was very little research concerned.

14 It had -- as far as the welding is concerned, it
15 had -- four or five basic connections and it had about
16 30 what we called DB162 connections; and it was -- yes,
17 it was just four or five basic connections.

18 Q How was it you didn't have to conduct or you conducted
19 only very little research?

20 A The details involved with that hanger are dealt with on
21 a daily basis.

22 Therefore, my familiarity with the details had to
23 be refreshed only minimally.

24 Q Were there any NCR's or ICR's that had to be reviewed in
25 connection with the hanger?

1 A None that dealt with the welding.

2 Q As I recall, it was your testimony that this was -- this
3 particular hanger was -- fabricated out in the field?

4 A Yes, it was.

5 Q Would that mean that the welding was done out in the
6 field, too?

7 A Yes, all the welding was done in the field.

8 Therefore, like with many of the cable tray hangers
9 in that area, they were built by Systems Control, which
10 is under a completely different contract; and we merely
11 inspect the field welding.

12 With this hanger, it had been fabricated completely
13 in the building, so it was -- there were -- that's why
14 there were so many welds on that hanger.

15 Q So there were basically two types of welds, one to
16 connect the hanger to the structure and another type --
17 I can't remember the number that you indicated.

18 Can you repeat that?

19 A Number?

20 Q You identified --

21 A Connection detail number, you mean?

22 Q Yes.

23 A DB162.

24 Q Is that DB162?

25 A Yes.

1 Q Does that indicate or does that number characterize a
2 kind of weld?

3 A It characterizes a connection which has -- in the case
4 of a tube steel, it would have one, two -- six welds.

5 Q Do you recall what the size of those welds were?

6 A I -- yes, depending on the size of the steel, of course.

7 I believe the welds that were on those connections,
8 they were quarter-inch welds, welded all the way around
9 on the tube side, and there were two vertical welds
10 between the vertical leg of the hanger and the plate
11 itself; and those vertical welds were five-sixteenths
12 inches and they were single flare bevel groove welds.

13 Q Is it true then with respect to the various connections,
14 at least the DB162 connections, that the welds were as
15 you went connection to connection similar to the
16 previous connection?

17 A Yes, very similar.

18 Q Now, the welds that were used to attach the hanger to
19 the structure, what type of weld was that?

20 A The structure had five or six vertical members of
21 roughly 6 by 6 inch by half-inch tube steel; and they
22 were connected to auxiliary steel with the use of a
23 seismic plate, which is just a transition plate between
24 the vertical member and the auxiliary steel.

25 And all the vertical members were either a DV2 or a

1 DV5; and they are only differentiated from the position
2 of the flag plates in regard to the horizontals -- okay?
3 -- and as far as that is concerned, everything else is
4 identical.

5 That involved simply two welds on the plates to the
6 seismic plate -- okay? -- for an attachment and then the
7 plate itself was attached to the aux steel by two flare
8 bevel welds and then the aux steel was attached to the
9 webbing beams with the use of either detail DV84, 85 or
10 86.

11 Q How many of these connections did you say there were,
12 four or five?

13 A There were -- yes, there were four or five vertical
14 members.

15 Q Would I be correct that the majority of the welds that
16 you inspected on this hanger were involved with the
17 DB162 connections?

18 A Yes.

19 Q Now, some time last week you gave us the notebooks that
20 you recorded the results of your inspections in.

21 Would I be correct that this particular hanger, the
22 welding results, the inspection welding results for this
23 particular hanger, would be reflected in those notebooks
24 someplace?

25 A It should be.

1 MR. GALLO: I want to identify, your Honor,
2 as a group exhibit just the Xerox copies of Mr. Martin's
3 notebooks of the weld inspection results.

4 These were the Xerox copies that I made available
5 to Mr. Berry and Mr. Guild, I guess, on Monday or --
6 Tuesday, rather.

7 I do not intend to mark as an exhibit the hanger
8 information nor the two other pieces to the package that
9 are entitled, "Miscellaneous information."

10 MR. GUILD: Mr. Chairman, are these the small
11 notebooks that have been copied?

12 MR. GALLO: Yes, it is.

13 MR. GUILD: All right. I have no objection.

14 MR. GALLO: What is our next exhibit number?

15 JUDGE GROSSMAN: Excuse me. Did you say you
16 have an objection?

17 MR. GUILD: I have no objection.

18 JUDGE GROSSMAN: So we are going to have all
19 the notebooks marked as a group exhibit?

20 MR. GALLO: Yes, that is my intent.

21 JUDGE COLE: Seven books.

22 MR. GALLO: Yes.

23 MR. MILLER: 103, Joe.

24 (The document was thereupon marked

25 Applicant's Exhibit No. 103 for

1 identification as of July 30, 1986.)

2 MR. GALLO: The group exhibit consists of --

3 JUDGE GROSSMAN: Eight books.

4 MR. GALLO: -- eight books and each book was
5 marked Book Roman Numeral I through book Roman Numeral
6 VIII.

7 Each book also has the date that it was applicable
8 to; and I would ask that the Group Exhibit 103,
9 Applicant's Group Exhibit 103, be marked to represent
10 those eight books.

11 I have another set that I will furnish to the
12 reporter, if, perhaps, at a recess I could get everyone
13 a complete copy from the sets that I had made.

14 The Board, I take it, only has one or does the
15 Board --

16 JUDGE GROSSMAN: No. We have all of them.

17 MR. GALLO: What I have here is the copy for
18 the Reporter.

19 BY MR. GALLO:

20 Q Here, Mr. Martin, I will let you use my copy.

21 What this is, I will represent to you, is that each
22 little stapled package is a complete Xerox of each one
23 of your notebooks as marked.

24 You see, there is the first page, that's all that
25 was on the second page and it continues on.

1 (Indicating.)

2 A Yes.

3 Q Now, I am not going to take the Board's time to try to
4 find the 500 weld hanger that you testified to but I do
5 have some questions that I would like to ask that
6 further some of the questions asked by Mr. Guild during
7 voir dire.

8 I am looking now on Book III --

9 MR. GUILD: Mr. Chairman, before Mr. Gallo
10 goes forward, does counsel know whether or not that
11 hanger is, indeed, included in these notes?

12 MR. GALLO: I think I have identified it.

13 I am going to ask the witness if it is when I get
14 to it.

15 MR. GUILD: Okay, fine.

16 MR. GALLO: But I can't be sure because of
17 the uncertainty of the information.

18 MR. GUILD: All right, fine.

19 BY MR. GALLO:

20 Q I am showing the witness Book III, which covers a period
21 of December 14, 1981, to February 2, 1982, and the pages
22 are not marked.

23 It would be the 12th page on that particular book,
24 the 12th Xeroxed page on that particular book.

25 JUDGE CALLIHAN: Does it have a date, Mr.

1 Gallo?

2 MR. GALLO: Yes. I will refer the witness
3 and the Board to the 11th page; and it's dated January
4 5, 1982.

5 MR. GUILD: Does it come after December 31st?

6 MR. GALLO: Yes. There it is.

7 MR. GUILD: It's more than 11 pages in, I
8 guess.

9 MR. GALLO: The Judge is counting and
10 checking my arithmetic.

11 JUDGE COLE: I get the 15th page of the
12 document.

13 MR. GALLO: All right. I will accept that.

14 BY MR. GALLO:

15 Q It's the 15th page of the document and it indicates a
16 date of January 5, 1982.

17 Now, Mr. Martin, from your previous testimony I
18 understand the numbers on the -- I am focusing on the
19 sheet of the notebook that has at the top January 5,
20 1982.

21 From your previous testimony I understand that the
22 numbers and letters on the left-hand side of the page
23 indicates hanger numbers; is that correct?

24 A Yes.

25 Q And the numbers on the right side, again, of the same

1 sheet are the number of welds that you inspected; is
2 that correct?

3 A Yes, it is.

4 Q So if I wanted to see how many welds you inspected on
5 January 5th, I would total up the column on that sheet
6 as a part of your work efforts that day; is that true?

7 A Yes.

8 Q That would continue on to the next sheet on the same
9 page, that is on the right-hand side of this page now;
10 and there is a column of numbers, the first one being
11 No. 8 and the last one being No. 4.

12 I would also include those; is that correct?

13 A Yes.

14 Q Then if I turned the page and, again, looking at what we
15 have now identified as the count of the number of welds
16 on the sheet on the left side of the page, there are a
17 couple I don't read very well.

18 Under hanger, it looks like, CCCP-3, there is a
19 number 101.

20 Can you read that writing for me?

21 A That would be a 10. I put an 8 down, crossed it out and
22 then made it 10.

23 Q That's a 10?

24 A Yes.

25 Q And then at the bottom of that column, what is that

1 number?

2 A I believe that would be -- it looks like --

3 Q Could that be the total for --

4 A It looks like a total of something.

5 Q All right. But it doesn't represent the number of welds
6 for a particular hanger?

7 A It doesn't seem to.

8 JUDGE GROSSMAN: No. It is the total. It
9 comes out exactly to 115.

10 THE WITNESS: All right.

11 BY MR. GALLO:

12 Q Now, this sheet represents your work on January 5, 1982;
13 is that correct?

14 A Yes.

15 Q Then it continues on on the -- there is a sheet on the
16 right-hand side or a column of figures on the right-hand
17 side of this same page, which, again, has the number of
18 welds inspected on January 5, 1982?

19 A Yes.

20 Q Then I turn the page and I have another column on the
21 left side of the page of welds.

22 I note that in three instances there is the
23 designation 2 plus 4.

24 What does that mean?

25 A I believe that there were four welds total. Each hanger

1 was two welds and there are two hangers here.[^]

2 This is WCP1-2, WCP1-3. There were two separate
3 hangers, so I put down the two as representing two welds
4 for each hanger, and four as the total welds for that.

5 Q All right. Then there is the number at the bottom of
6 222.

7 Am I reading that correctly or is that --

8 A That could be a welder number.

9 If it adds up to that, I guess that would be a
10 total.

11 Q But you are not sure at the moment without checking?

12 A Uh-uh.

13 Q Then, again, the page on the right-hand side has a
14 column of figures which would represent the welds
15 inspected, again, on January 5th?

16 A Uh-huh.

17 Q And, finally, it's completed over on the next sheet and
18 all of those number of welds, whatever they total up to,
19 represent the number of welds that you inspected on
20 January 5, 1982; is that correct?

21 A Yes, that's recorded that way.

22 Q I am now into Book 6; and if the Board will bear with
23 me, I will try to count the sheets better.

24 It appears to be 18 pages into the document under
25 date of June 22, 1982.

1 Does everybody have it?

2 (No response.)

3 Looking at the sheet that is identified at June 22,
4 1982, again we have a column on the left side which are
5 hanger numbers; is that correct?

6 A Yes, it is.

7 Q Is the column on the right side a list of the number of
8 welds inspected?

9 A Yes, they are.

10 Q And I turn the page; and is that still reporting the
11 inspection results of June 22nd, can you tell me that?

12 A Yes, I believe it would be.

13 Yes.

14 Q Now, on one page on the left-hand side there is a column
15 of figures, which appear to represent the number of
16 welds inspected.

17 Is that as it appears to you, Mr. Martin?

18 A Yes, it is.

19 Q It looks like 2, 4, 6, 8, 10, 11, 15, 19 welds.

20 A Yes.

21 Q I notice on the next sheet there are none listed.

22 I represent to you that that is a faithful
23 reproduction of your notebook.

24 MR. GUILD: By next sheet, you mean the
25 right-hand page?

1 MR. GALLO: Yes, the right-hand page.

2 BY MR. GALLO:

3 Q Can you explain why there are no welds listed there?

4 A Certainly.

5 At one point in time we began to do a cable pan
6 walkdown program to enable the cable pulling crews to
7 begin to pull cable and we wanted to assure that all the
8 cable tray was welded down.

9 This was not only an inspection but it was a
10 walkdown in which not only was items inspected that had
11 not been inspected but I did show that I -- I verified
12 that items were stamped, so I do show items that had
13 been previously stamped and I recorded them, also.

14 So this is merely showing that. Like this note
15 here, "1362 tray, note M, see 1E," at the bottom of
16 here, it reflects that all of these attachment points
17 were inspected previously; and I come down here and then
18 we have an H53 under this tray note, which had not been
19 inspected; and I inspected it.

20 I just went through -- I physically just went
21 through -- and walked down each tray in that area and
22 recorded the hanger number and the inspection stamp.

23 And I did a walkdown for -- all through the reactor
24 areas.

25 Q What are these -- in looking at this sheet, what are

1 these -- little, I will call them, squiggles?

2 A That is my stamp.

3 Q That is the shape of your stamp?

4 A Yes, it is.

5 Q Then you reported the results of your walkdown on the
6 next sheet as well; is that correct?

7 A Yes, yes.

8 Q And then it appears on the following sheet that there
9 were some more results of your walkdown?

10 A Yes.

11 Q Then you began to do some weld inspections as well.

12 There appear to be ten welds on the right-hand
13 sheet; is that correct?

14 A Yes.

15 Q Then we turn the page and at the top of a page is the
16 title, "Tube steel, 426."

17 A 426, that's an elevation.

18 Q 426 is the elevation, and what is the other designation,
19 2-3053H?

20 Is that a hanger number?

21 A That is a drawing number.

22 Q A drawing number.

23 And the listing on the left-hand side of the sheet
24 are hanger numbers?

25 A On the right-hand side, no, they are --

1 Q No; on the left-hand side.

2 A Yes, they are hanger numbers.

3 Q Then there is a listing of numbers starting at 26 and
4 it's either 26 or 28 and the column ends with 26?

5 A Yes.

6 Q Are those the number of welds inspected?

7 A Yes, they are.

8 Q And this is still for work that you did on --

9 A January 22nd, no. I can verify that those tube steels
10 were not inspected on that day.

11 Q All right. The next sheets indicates January 24th.

12 JUDGE CALLIHAN: June 24th.

13 MR. GALLO: I am sorry, June 24th.

14 MR. GUILD: I believe the witness was
15 referring to June 22nd in his last answer as well.

16 THE WITNESS: Yes, that's June the 22nd is
17 what I thought I said.

18 BY MR. GALLO:

19 Q Yes. The items that I just ran you through was for June
20 22nd; is that correct?

21 A Yes, June 22, 1982.

22 Q The page that shows all of these welds inspected under
23 the heading of tube steel was on a date different than
24 January 22nd; is that correct?

25 A Yes, that is correct.

1 MR. GUILD: June 22nd.

2 MR. GALLO: Yes -- I am sorry -- June 22nd.

3 THE WITNESS: Excuse me.

4 BY MR. GALLO:

5 Q Do you know when it was by looking at the next sheet?

6 A It should be June 23rd.

7 Q All right, June 23rd.

8 Can you tell by looking at the sheet that is
9 entitled "tube steel" which has roughly 320 welds listed
10 on it and the sheets that represent your inspection
11 results on June 24th whether or not that was the hanger
12 that had the 500 welds?

13 A No, it was not.

14 Q It was not?

15 A No.

16 Q How can you remember that certain?

17 A The drawing number is incorrect, elevation is incorrect.

18 Q All right. Now, as I understand your previous
19 testimony, you faithfully kept these weld inspection
20 results and walked down the results during the course of
21 your inspections when you were in the field; is that
22 correct?

23 A Yes; but I am not saying they are flawless, by any
24 means.

25 Q No, I don't mean by my question to indicate that.

1 But as best you could keep your records, that's
2 what you did?

3 A Yes, I did.

4 Q And you used these notebook inspection results upon
5 which to fill out your Form 19's?

6 A Yes.

7 MR. GALLO: Your Honor, I don't have any
8 further questions on these particular pages, this group
9 exhibit.

10 I thought I had pinpointed the right hanger. It's
11 clear that I have not.

12 I am not going to take the Board's time to attempt
13 to find the right hanger or ask this witness to do so.

14 I think the documents speak for themselves.

15 JUDGE GROSSMAN: Okay. I don't recall
16 whether they were offered.

17 I heard no objection but I think you were just --

18 MR. GALLO: I offer them at this time.

19 JUDGE GROSSMAN: Okay. They are received
20 then as Group Exhibit 103 for Applicant.

21 (The document was thereupon received into
22 evidence as Applicant's Exhibit No. 103.)

23 MR. GUILD: Mr. Chairman, as long as it is
24 understood that the Applicant is simply trying to weigh
25 down the scales of justice here and simply ask the Board

1 not to decide this case on the basis of the weight of
2 paper.

3 JUDGE GROSSMAN: Fine. I take it you have no
4 objection, either, Mr. Berry?

5 MR. BERRY: No, your Honor.

6 JUDGE GROSSMAN: Okay, fine.

7 BY MR. GALLO:

8 Q To change the subject, Mr. Martin, you were shown
9 previously Intervenors' Exhibit 42-A.

10 This exhibit indicates or attributes, rather,
11 certain statements to you on Page 3?

12 A Yes, it does.

13 Q Could you review -- it's, essentially, three different
14 paragraphs.

15 Could you review those three paragraphs and tell me
16 whether or not, to the best of your recollection, those
17 statements properly characterize what you told the NRC
18 on March 29, 1985?

19 A Okay. In the first paragraph aside my name, "Constantly
20 intimidated by Saklak. Saklak tried to get me fired,"
21 that refers to when I --

22 Q No, no. I am asking you whether or not it's accurate.
23 At this point I am not asking you to explain what they
24 mean.

25 I just want to know if what is written there, what

1 you see --

2 A Okay.

3 Q -- that it's a summary written by an NRC employee.

4 A Yes.

5 Q And it purports to represent what you told the
6 inspectors on March 29th.

7 What I want to know is whether that, to the best of
8 your recollection, accurately reflects what you told
9 those inspectors on the 29th?

10 A I --

11 Q Take your time to look at it.

12 A Everything is accurate except for the wording "several."

13 It seemed like when I said "a couple" or "a few,"
14 they would compute in general. That was consistent
15 throughout the whole thing there.

16 Otherwise, it is accurate.

17 Q With that exception, it is accurate?

18 A Yes.

19 Q You are referring to the paragraph at the bottom of the
20 page that says, "For several months Martin was the only
21 welding inspector"?

22 A Yes.

23 And also "several witnesses." There were only two
24 witnesses.

25 Q All right. On the question of whether or not you were

1 the only Welding Inspector, as I understand your
2 testimony from yesterday, you were the only Welding
3 Inspector for approximately a month?

4 A Yes.

5 Q Is that correct?

6 A A month.

7 Q All right. Let's talk about Mr. Saklak.

8 Can you tell me, Mr. Martin, at the time when you
9 were the only Comstock Welding Inspector out in the
10 field, were there inspectors from PTL assigned to do
11 first line inspections at that time as well?

12 A I cannot recall. I do recall PTL definitely doing 100
13 percent for us.

14 At this particular time, I -- you know, I have no
15 knowledge.

16 Q Well, do you recall whether you were the only inspector
17 out in the field doing first line inspections on
18 electrical work or Pete Polleal also helping out?

19 A Again, they had helped us out. At the time that I was
20 the only inspector, they may have been; but it was not
21 to my knowledge.

22 I mean I couldn't say they weren't.

23 Q I am sorry. I didn't hear you.

24 A I am not going to say they weren't. Okay?

25 Q No. I understand your testimony.

1 I think you testified already and described in
2 answer to several questions the run-in you had with Mr.
3 Saklak over a tape measure.

4 Do you recall that testimony?

5 A Yes, I do.

6 Q And then I recall he asked you what you did with your
7 tape measure and you had lost it. You told him, in any
8 event, it was your own tape measure; and he got excited
9 and abusive about it.

10 Am I correct so far in stating your testimony?

11 A Well, I -- he was not aware that it was my tape measure
12 at that point in time.

13 Q When he asked you about where your tape measure was, you
14 didn't tell him that it was at the -- did you indicate
15 to him that it was lost?

16 A Yes; but I didn't tell him it was my own personally.

17 Q How did he know it was yours, in the first place?

18 A He just walked up and asked for one.

19 Q I see. Had there been a problem with lost tools and
20 items like tape measures previously, as you understood
21 it?

22 A No.

23 Q So when Saklak heard that you had lost your tape
24 measure, he then became loud and abusive; is that
25 correct?

1 A No. He asked me if I had my tape measure; and I said,
2 "No. I lost it in the field."

3 As he was turning around to leave, he called me
4 some vulgar names, just kind of under his breath; but me
5 and Bruce Brown heard what he said; and I just kind of
6 blew my mind.

7 So I excused myself from Bruce Brown, I walked over
8 to him and I said, "What is the problem?"

9 No. Excuse me. To quote me, I said, "Have you got
10 a problem?"

11 At that point he got loud and abusive.

12 Q Did you tell him then that it was your tape measure,
13 anyhow?

14 A No, I don't believe I did.

15 Q So he initially asked you about your tape measure and
16 then turned away muttering some unflattering
17 characterizations that you and Mr. Brown were able to
18 hear but he walked away; and then you excused yourself
19 from Mr. Brown and went over to Saklak and asked him if
20 he had a problem?

21 A Yes.

22 Q That's when he got loud and profane?

23 A Yes.

24 Q All right. Then you already -- you testified that at
25 some point during this encounter, after you had asked

1 him whether or not he had a problem, he told you to
2 report to the field; is that correct?

3 A He told me to get my f'g a out in the field.

4 Q As I recall your testimony, you stood your ground; you
5 didn't go out in the field?

6 A I wouldn't put it like that. I merely said -- I told
7 him that he was not going to talk to me like that.

8 I didn't refuse to go out in the field. I just
9 said he wasn't going to talk to me like that.

10 Q Did you tell him that and then go out in the field?

11 A It was too late. I was fired after that.

12 Q The sequence of events were, he told you to go out in
13 the field in the manner that you described.

14 You turned to him and said that he couldn't talk to
15 you like that and then did he immediately say you were
16 fired?

17 A Yes, I believe he did; but then at that point he just
18 walked away from me and began filling out termination
19 papers.

20 He wouldn't talk to me. He completely ignored me.

21 Q Then subsequent to that there were these series of
22 discussions with, I believe, Mr. Corcoran?

23 A Yes.

24 Q You thought you were about to be fired; is that correct?

25 A Yes.

1 Q And then you undertook to protect yourself in some
2 fashion, as I understand it; is that correct?

3 A Yes.

4 Q Is that when you wrote up the incident and obtained the
5 signatures of two fellow inspectors?

6 A Yes.

7 MR. GALLO: I know it's Deposition Exhibit
8 No. 2. Maybe counsel with help me.

9 Is it also an exhibit in the proceedings?

10 MR. GUILD: It was not.

11 BY MR. GALLO:

12 Q I am showing the witness what was marked in his
13 deposition as Deposition Exhibit No. 2. It's a one-page
14 sheet, handwritten.

15 At the bottom are three signatures, one from Mr.
16 Martin, one from -- is that Bruce Brown?

17 A Yes.

18 Q And one from Mr. Baronowski?

19 A Yes.

20 Q Is this the document that you drafted up during the time
21 of your confrontation with Mr. Saklak over the tape
22 measure?

23 A Yes, it is.

24 Q Is this your handwriting?

25 A Yes.

1 Q And you wrote this, and did you show it to Mr. Brown and
2 Mr. Baronowski?

3 A Yes.

4 Q Did they agree with your characterization of the
5 situation?

6 A Yes, they did.

7 Q And they signed it?

8 A Yes.

9 MR. GALLO: I would like to have this marked
10 as Applicant's Exhibit 104. I will get copies and make
11 them available.

12 (The document was thereupon marked
13 Applicant's Exhibit No. 104 for
14 identification on July 30, 1986.)

15 BY MR. GALLO:

16 Q As I understand it, you also asked Tonja Rolan to sign
17 what has been marked as 104, and she indicated to you
18 words to the effect that she didn't want to get
19 involved; is that true?

20 A Yes.

21 Q All right.

22 A Well, excuse me, no.

23 She said that she did not hear everything that went
24 on and she couldn't tell what went on, and she didn't
25 say anything about not getting involved or getting

1 involved.

2 It was merely a statement to the fact that she
3 wasn't sure exactly what went on. Therefore, she didn't
4 want to sign anything.

5 Q Now, as I understand it, there were also other witnesses
6 but you didn't have them sign this single sheet that you
7 had written; is that correct?

8 A I asked -- I went to a few people. I know there were a
9 few people that refused to sign it.

10 Besides Tonja, I don't recall who they were.

11 Q Then did you, armed with this memorandum -- let me call
12 it a memorandum.

13 A Okay. Have at it.

14 Q It's entitled, "Response to alleged accounts of remiss,
15 negligence and disrespect by R. L. Martin."

16 Did you take it then to Mr. Corcoran and show it to
17 him?

18 A Yes, I believe I did.

19 Q Do you believe as a result of this memorandum that that
20 had the effect of kind of staving off any termination
21 article -- any termination occurrence?

22 A Yes, I do, more indirectly than directly; but, yes.

23 Q Why do you say indirectly?

24 A Because the people that signed that, Bruce Brown and
25 Brian Baronowski, they got together with Tom Corcoran

1 and they had a kind of lengthy discussion about what
2 happened; and it -- they just -- they talked about it in
3 more of a quality aspect than a problem with remiss,
4 which is -- which was described by Mr. Corcoran.

5 Q In addition to signing the memorandum, Brown and
6 Baronowski also supported you in your position in the
7 meeting with Mr. Corcoran; is that correct?

8 A Yes.

9 Q The result was that you kept your job; is that correct?

10 A I -- yes, I had my job.

11 JUDGE GROSSMAN: By the way, Mr. Reporter,
12 that is Corcoran all the way through.

13 MR. GALLO: Yes. Am I saying it wrong?

14 JUDGE COLE: Every once in a while you say
15 "Cochran."

16 MR. GALLO: It's so difficult to pronounce
17 those Irish names.

18 (Laughter.)

19 BY MR. GALLO:

20 Q Now, what did that experience tell you, if anything,
21 with respect to Mr. Saklak's powers to hire and fire?

22 A That he had quite a bit of influence.

23 Q But you understood his position that he wanted you
24 terminated, filled out the termination papers; right?

25 Isn't that correct?

1 A Yes.

2 Q And in the meeting with Corcoran at one point he said --
3 he was adamant that you should be smoked, I think was
4 the term?

5 A Yes.

6 Q Is that correct?

7 A Yes.

8 Q But despite his strong position and persistence and
9 view, he didn't carry the day, did he?

10 A No, he did not.

11 Q What does that suggest to you about his powers and his
12 ability to fire and fire people?

13 A It -- I don't think it says anything.

14 Q All right. Now, this incident occurred some time in
15 early January, 1983; is that your recollection?

16 A I don't recall.

17 Q Now, I think you testified that Saklak had been hired in
18 about July, '82.

19 Was this the first time that you had a run-in with
20 him?

21 A To my recall, yes.

22 Q All right. Did you have further encounters with Mr.
23 Saklak over work-related matters after the tape measure
24 incident?

25 A Encounters?

1 Q Well, what I mean by that is confrontations of the type
2 like the tape measure incident.

3 A That started a smear campaign against me and any chance,
4 any time, he could get to slander me and talk bad about
5 me and intimidate me and push me around, he certainly
6 took advantage of that.

7 Q And I think you --

8 A Whether private or public.

9 Q And I think you indicated that, at one point, you and he
10 had gotten in an argument along with Mr. DeWald --
11 correct me if I am characterizing it wrong -- over going
12 to Sargent & Lundy?

13 A Yes.

14 Q Do you recall that?

15 A Yes.

16 Q Do you recall, also, a situation where you were assigned
17 to a detail that Mr. Saklak was in charge of and you got
18 in a disagreement with him over the use of checklists
19 from a procedure that wasn't being used for the
20 inspection activity involved; do you recall that?

21 A Yes.

22 Q Do you also recall an incident where he asked you to
23 inspect cable trays for debris and paper?

24 A Yes.

25 Q Now, can you think for a minute: Which one of those

1 three incidents happened after the tape measure
2 incident?

3 Can we put them in some order of perspective?

4 A Okay.

5 Q You had the incident of going to S & L, the disagreement
6 on --

7 A They all happened -- okay.

8 All those three incidents happened after the tape
9 measure incident and they all occurred during the period
10 of time where my certs were lapsed or in question or
11 something.

12 Q This would be in 1982, 1983 some time?

13 A No, it should have been '83 -- late '82 or early '83 --
14 no, excuse me. It was at the end, so it would be late
15 '83, early '84.

16 Q It would be some time after October 5, 1983?

17 A Yes.

18 Q So is it fair to say that no major incident occurred
19 between you and Sakiak between the tape measure incident
20 until after your certs were pulled in October of '83?

21 A Yes.

22 Q He wasn't your Supervisor then at this time, was he?

23 A Right. He was over the -- he was over the electrical
24 side and I was on the welding configuration side.

25 Q You were doing inspections in the field at the time?

1 A Yes.

2 Q Now, after October of '83 -- I won't tax your memory to
3 ask you which occurred first but let's take the argument
4 -- I am going to use that word -- between you and DeWald
5 and Saklak over going to Sargent & Lundy.

6 As I understand your testimony, you were inspecting
7 welds in the field at the time; is that correct?

8 A I was assisting an inspector in the field.

9 I was not certified.

10 Q That's right. You couldn't do any inspection yourself
11 because your certs had been pulled?

12 A Yes.

13 Q You were assisting an individual out in the field.

14 Who was that individual?

15 A Tom Dunbar.

16 Q Mr. Dunbar. During the course of the inspection was
17 there some question about a Sargent & Lundy drawing that
18 arose?

19 A Yes.

20 JUDGE GROSSMAN: Excuse me, Mr. Gallo.

21 Just to get the testimony repeated isn't
22 worthwhile. If you are going to follow it up with some
23 more, you know, it's not objectionable to refresh the
24 witness's and your recollection about the incident with
25 a few questions; but we expect you are going to go some

1 where else or else there is no point to repeating it.

2 MR. GALLO: Yes, I understand.

3 BY MR. GALLO:

4 Q The question was: Was there a question with respect to
5 interpretation of a Sargent & Lundy drawing?

6 A Yes.

7 Q It's my understanding that -- did you seek to get an
8 answer to your question from anyone within Comstock
9 before you went to Sargent & Lundy?

10 A No.

11 Q You just went to Sargent & Lundy Engineering offices on
12 the Braidwood site; is that correct?

13 A Yes.

14 Q Were you successful in getting an explanation to your
15 question?

16 A No.

17 Q Can you explain why not?

18 A I would really have to do a lot of speculation to
19 remember what even the problem was.

20 I believe it had to do with base metal reduction on
21 galvanized welds and we wanted an interpretation on
22 that.

23 We had previously in other circumstances sought
24 interpretation through our management personnel, but we
25 had not been able to obtain that.

1 Also, at this point it had not been known to myself
2 that we were not to go over to S & L.

3 So I suggested to the Weld Inspector that we just
4 step on over there, and I felt that a quick question
5 would not be a harmful thing.

6 So we went over to S & L.

7 Q Did you seek out some individual or did you just go over
8 there --

9 A No.

10 Q -- and ask the questions?

11 A I ended up at the wrong desk, is what I did.

12 I went to the head man and I didn't realize where I
13 was at, so that's where the problem came up.

14 Q Did he, that person, later complain to Comstock
15 management?

16 A Evidently, he did.

17 Q Did that lead to the confrontation or the argument, as I
18 used the term, between you and Saklak and DeWald over
19 whether that was proper?

20 A I wouldn't call it an argument. It was a chewing out.
21 I never said nothing.

22 I figured they wanted to blow it up -- you know,
23 they wanted to blow up and make their little display, so
24 I let them act whatever way they wanted.

25 By that time I was getting pretty used to ignoring

1 them and realizing just what type of people they were
2 and just coping with that.

3 So they blew up, they cursed at me and swore and I
4 just kept quiet and --

5 Q Did you -- I am sorry. Go ahead.

6 A The other inspector didn't know any better, so he tried
7 to make an excuse; and I just walked out.

8 And they jumped all over him. Saklak went bananas
9 on him.

10 Q The other inspector tried to make some excuse for going
11 and --

12 A Yes. He said, "We just wanted to find this out."

13 Saklak said, "You, you" -- he got upset all the
14 time.

15 He stood up and started shaking his finger at him
16 and yelling at him.

17 Q Did you disagree that the action that you and Dunbar
18 took was improper?

19 A Oh, it can be looked at both ways.

20 Q How do you look at it?

21 A We needed interpretation, we could not get the answers
22 through our management and we were seeking other
23 channels. We --

24 Q You did indicate that on this particular instance you
25 didn't seek advice of your own people; right?

1 A In this particular instance, no; but in very similar
2 cases we had sought management decision on it and they
3 were unable to come to a decision.

4 Q It was your understanding that Comstock has an
5 Engineering Department just for that kind of purpose?

6 A Not for that type of interpretation on welding.

7 Certainly, if I had to -- if I felt that we could
8 have went to Comstock Engineering, I would have went
9 there. That's no problem.

10 Q You don't believe that Comstock Engineering maybe should
11 have been given the first opportunity to answer your
12 question?

13 A No. They are -- they really are not able to interpret
14 or not necessarily interpret but a step higher than
15 that, give meaning to what S & L has written.

16 I mean, it's S and L's doctrine, for lack of better
17 words, so they are the ones that have the authority to
18 interpret it the way they want to.

19 Q Come now, Mr. Martin.

20 Isn't it Comstock Engineering's job to take the S &
21 L drawings and specifications and develop procedures and
22 installation records for use by the craft?

23 A Sure. If we had it in writing, it was no problem. I
24 can work to a procedure.

25 But if there is nothing in writing giving a -- we

1 have got a design problem, a flaw. If an engineer
2 wanted to write me out a memo and say, "Accept all these
3 welds," if my manager signed it, too, I didn't have no
4 problem.

5 Q But it's fair to expect that Comstock Engineering would
6 have an understanding of the Sargent & Lundy drawings
7 applicable in the electrical area, wouldn't it?

8 A We have no welding engineers in the Comstock
9 organization.

10 Q We are talking about an understanding of the S & L
11 drawings now.

12 MR. GUILD: Is that a question?

13 MR. GALLO: Yes.

14 MR. GUILD: What is the question?

15 JUDGE GROSSMAN: Could you rephrase it so we
16 have a complete question?

17 MR. GALLO: Yes.

18 BY MR. GALLO:

19 Q The question was: It's fair to say that Comstock
20 Engineering had an understanding of Sargent & Lundy
21 drawings applicable to the electrical work, including
22 the one that you asked the question about?

23 A I would say definitely not.

24 JUDGE GROSSMAN: Excuse me. By the way --
25 off the record.

1 (There followed a discussion outside the
2 record.)

3 JUDGE GROSSMAN: Back on the record.

4 BY MR. GALLO:

5 Q Now, Saklak and DeWald chewed you out about going over
6 to Sargent & Lundy.

7 Did they tell you not to do it anymore?

8 A Yes.

9 Q Was that the end of the matter?

10 A Yes.

11 Q What did you believe to be intimidating about the
12 experience?

13 Was it the -- well, you tell me: What was
14 intimidating about the experience?

15 A I don't know that I ever really testified that as a
16 point of intimidation.

17 I used it as an example of the very poor management
18 practices of Rick Saklak and Irv DeWald.

19 This particular instance was rather amusing to
20 myself.

21 Q I see. So you didn't interpret it as an example of
22 harassment or intimidation, just an example of bad
23 management --

24 A Yes.

25 Q -- by DeWald and Saklak?

1 A Yes.

2 Q How did you view the tape measure incident?

3 Was that another bad Saklak management practice or
4 did you view that as an example of intimidation?

5 A Well, since he did try to fire me, it -- I -- I am not
6 willing to classify it.

7 I -- you know, it -- I can't say he was trying to
8 intimidate me to as far as quality aspect, I mean; but,
9 yet, that he definitely was intimidating me and he
10 definitely did, you know -- was -- he was being
11 ignorant; but, I mean, I -- I guess if I felt it really
12 was a point of harassment that would affect the quality
13 of the plant, I would have been to the NRC; but if --

14 Q Well, did you go to the NRC?

15 A No.

16 Q I didn't mean to cut you off. You kind of -- I kind of
17 think that you are going through a self-analysis of
18 whether it was intimidation or not intimidation or you
19 don't know.

20 I am not sure you finished your answer.

21 A I don't know if it was or not. I just --

22 (Indicating.)

23 Q Let's turn to the matter of inspecting trays for paper
24 and other debris.

25 Do you recall that incident?

1 A Yes.

2 Q Again, as I recall your testimony, Saklak came up to you
3 and asked you to go out and inspect these trays for
4 paper and debris and he did this by taking a piece of
5 paper and crumpling it up in his hand and said, "See
6 this. This is paper. I want you to go out and inspect
7 these trays for it."

8 Is this about an accurate reflection?

9 A Yes, yes.

10 MR. GUILD: The testimony that counsel is
11 referring to is not on the record but is in a
12 deposition.

13 JUDGE GROSSMAN: It seemed to me that we
14 hadn't -- is it in a deposition?

15 MR. BERRY: Yes, it is, your Honor.

16 MR. GALLO: Maybe I have confused this.

17 Let me go about it in a different way.

18 MR. GUILD: I have no objection to counsel
19 inquiring into it, but the reference is to the
20 deposition.

21 JUDGE GROSSMAN: That's understood, Mr.
22 Guild.

23 MR. GALLO: Let me start this one again.

24 BY MR. GALLO:

25 Q I would like for you instead of accepting my

1 characterization of the circumstance to explain it.

2 Let's take it from the point when Mr. Saklak first
3 came up to you and asked you to do some inspections for
4 him.

5 What happened at that point?

6 A He just -- he just said that he had some inspection work
7 for me that he wanted me to do for him.

8 He took a piece of paper, crumpled it up, threw it
9 on my desk and he said, "You see that?" He says,
10 "That's a piece of paper." He said, "I want you to go
11 out there and if you see anything like this" -- he
12 pointed to the paper -- "you take it and throw it out."
13 He said, "That's all there is to it. I just want you to
14 check the trays for debris."

15 And then he gave me a form. He had a form there.
16 He said, "I want you to fill this out," he said, "I want
17 you to" -- "if it's acceptable, I want you to accept it
18 and I want you to N/A all the others."

19 And I was working to an LKC procedure and I said,
20 "Fine, okay. I will do this." But I said, "First I
21 would like to review the procedure before I go out"; and
22 he said, "Fine. Review it."

23 So I read through the procedure; and at that point
24 I found out that per the procedure you are supposed to
25 check the cable radiuses, you are supposed to check for

1 damage in the tray, cable damage, you are supposed to
2 check for labels and this and that and verify things
3 that I had no training in; and I felt that the
4 inspection work was not applicable to my area of
5 training.

6 I went to Mr. Seese about it. Now I have got to
7 put my thinking cap on here.

8 Q You may be mixing that incident with another one.

9 A No. I did go to see Mr. Seese on this and asked him
10 about it.

11 As I was asking about it, Rick Saklak came into the
12 office and said, "Forget it. I don't need you to do
13 this," and that was about the end of it. That was the
14 end of it.

15 Q So he had asked you, it's my understanding, to just
16 limit your inspection to actually looking for debris?

17 A Yes.

18 Q And did he ask you to inspect for the other attributes
19 that you found in the procedure?

20 A He told me to just mark them N/A.

21 Q He wasn't asking you to inspect for those?

22 A Right.

23 Q Now, how do you consider this incident?

24 Do you consider this incident to be a matter of
25 intimidation or harassment or is this another bad

1 management practice by Saklak?

2 A Yes, I would have to definitely call it definitely a
3 very, very poor management.

4 JUDGE GROSSMAN: Excuse me. Let's understand
5 what you mean and what the witness means by harassment
6 or intimidation.

7 I understand from the answers that the witness is
8 giving that he tacks onto harassment and intimidation
9 some phrase like, "with regard to quality control or
10 quality work."

11 Is that what you have been answering so far?

12 THE WITNESS: Yes, that's my interpretation
13 of his line of questioning, whether or not the problems
14 that -- the confrontations that we were having were
15 quality related or poor-management related.

16 JUDGE GROSSMAN: Because my understanding on
17 the answer to the last series of questions with regard
18 to the other incident was that Mr. Saklak was
19 intimidating to him but it did not relate to quality
20 work.

21 Is that a correct understanding?

22 THE WITNESS: Yes, that's what I was
23 testifying to.

24 JUDGE GROSSMAN: Okay. Well, as long as you
25 understand that, I think, you ought to phrase the

1 questions accordingly, so we know exactly what everyone
2 is talking about.

3 BY MR. GALLO:

4 Q Is the incident that you are referring to in the answer
5 to the Judge's question the tape measure incident?

6 A Oh, was it quality --

7 Q No. That Saklak was intimidating you but it was not
8 quality-work related.

9 A Yes, he was intimidating me but not in a quality manner.

10 Q And that was the tape measure incident?

11 A Yes.

12 Q Let me ask you again: When I asked you about -- when I
13 use the phrase, "intimidation or harassment," you should
14 answer it in the context that you understand the term to
15 mean, not what you think I mean.

16 You understand that?

17 JUDGE GROSSMAN: Well, I think you ought to
18 define terms; but I believe the witness also answered
19 that way with regard to the incident that he and Mr.
20 Dunbar had gone to S & L over.

21 That you considered Mr. DeWald's and Mr. Saklak's
22 response to you intimidating but not in a quality sense;
23 is that right?

24 THE WITNESS: Yes, that is correct.

25 BY MR. GALLO:

1 Q What was -- and I guess my recollection is a little
2 different on that point.

3 What was intimidating to you about the encounter
4 with DeWald and Saklak when they chewed you out about
5 going to S & L?

6 A There was -- I already testified that that was an
7 example that I gave of poor management practices.

8 It was not an example I had given of being
9 intimidated, harassed.

10 Q All right. I understand. I understood that answer last
11 time.

12 I am asking you: As you understand the term
13 intimidated and harassed, did you feel you were
14 intimidated or harassed as a result of this S & L
15 incident?

16 JUDGE GROSSMAN: I am not sure we understand.
17 Do you mean in a quality sense or in just --

18 MR. GALLO: I asked him if he understands the
19 terms and -- let me start again.

20 BY MR. GALLO:

21 Q What is your understanding of the word "harassment"?

22 A Okay. I guess in respect with this, the whole context
23 of what we are here for, I consider it in a quality
24 aspect.

25 Q In a quality aspect?

1 A Yes.

2 Q What do you mean by that, in a quality aspect?

3 A That would affect the safety of the plant, that would
4 affect the quality of inspections.

5 Q Quality of inspections performed by yourself?

6 A Yes, or other inspectors.

7 Q All right.

8 JUDGE GROSSMAN: Okay. I just want to say,
9 Mr. Gallo -- and I don't want to belabor this -- we have
10 to read the transcript, so I would like you to make
11 clear in the question what you are asking.

12 You can either phrase it in a quality sense or just
13 generally intimidating.

14 BY MR. GALLO:

15 Q What is your understanding of what the term
16 "intimidation" means?

17 A In the context of our meaning here, I would think that
18 it would mean that you were coerced to accept something
19 that would be unacceptable, to do something that would
20 be not acceptable per a written procedure.

21 Q All right -- I am sorry.

22 Are you finished? Did you finish that explanation?

23 A Yes.

24 Q Now, returning to the tape measure incident, it's your
25 testimony -- and correct me if I am wrong -- that you

1 were not harassed or intimidated in a quality sense but
2 that you experienced some harassment and intimidation
3 nonetheless in your encounter with Saklak?

4 A Yes.

5 Q Now, let's turn to the chewing out incident involving
6 your trip with Mr. Dunbar to S & L.

7 Is it again your testimony that you experienced no
8 harassment or intimidation in the quality sense but that
9 you did experience intimidation and harassment,
10 nonetheless?

11 A Yes, that's it.

12 Q Now, my question is: Again focusing on the incident
13 when Saklak and DeWald chewed you out about going to S &
14 L, what was there about that encounter that you found
15 intimidating at all?

16 A Well, they -- they called me -- they actually -- Irv
17 actually called me vulgar names and I just -- to me that
18 is -- it's ridiculous.

19 Q It was insulting?

20 A Very.

21 Q Debasing?

22 A Pardon me?

23 Q Debasing?

24 A Yes, very debasing.

25 Q It made you mad?

1 A No, it didn't make me mad. Just --

2 Q Disgusted?

3 A Yes. It made me feel like I was about two inches tall,
4 like I was less than dirt.

5 Q Well, you felt degraded by the experience?

6 A Yes.

7 Q And that's what you meant by -- is that what you meant
8 by harassment and intimidation in that context?

9 A Yes, it is, yes.

10 Q All right. When you testified earlier that you were
11 harassed and intimidated by Saklak over the tape
12 measure, not in a quality sense now, but harassed, you
13 meant that you felt degraded and belittled; is that
14 correct?

15 A Yes.

16 JUDGE GROSSMAN: Mr. Gallo, can we take a
17 recess now without interrupting your --

18 MR. GALLO: Yes, we can; yes, we can.

19 JUDGE GROSSMAN: All right, fine.

20 (WHEREUPON, a recess was had, after which
21 the hearing was resumed as follows:)

22 JUDGE GROSSMAN: Okay. We're back on the
23 record.

24 Does anyone have any preliminary matters now?

25 MR. BERRY: Yes, Mr. Chairman.

1 During the recess, I contacted the Office of
2 General Counsel and relayed to them the matters we
3 discussed earlier and informed them that they have until
4 1:00 o'clock eastern time to take any action, if any
5 they're going to take; otherwise, the subpoena will be
6 issued.

7 You're informed they're advised of that and they'll
8 proceed accordingly.

9 JUDGE COLE: I thought it was 1:00 o'clock
10 Chicago time.

11 (Laughter.)

12 JUDGE GROSSMAN: That's all right. Tomorrow
13 maybe they'll have an extra hour. They probably won't
14 make it by 1:00 o'clock eastern time. They'll be
15 thankful to get another hour.

16 (Laughter.)

17 MR. BERRY: Miss Chan will be back next week,
18 and hopefully we won't have these kinds of delays.

19 MR. GALLO: Judge Grossman, during the
20 recess, I handed out and served on the parties a motion
21 for reconsideration of admission of the issue of R. D.
22 Hunter's termination.

23 I just wanted to note that for the record.

24 JUDGE GROSSMAN: Okay.

25 Let me say that I think Mr. Guild should take this

1 motion seriously.

2 At the time you proposed Mr. Hunter, under the
3 circumstances, it was not possible to take discovery;
4 and a lot of what we heard might have been in the nature
5 of discovery.

6 I certainly hope so, because we spent a lot of time
7 on not very much -- I don't mean Mr. Guild; I mean
8 everyone -- a lot too much time for what it was worth.

9 I don't think we want to spend unnecessary time
10 rebutting what may not be there.

11 I suppose in a court setting we'd be discussing the
12 burden of coming forward with evidence, even though
13 Applicant has the burden of proof, but I don't think we
14 have to get that technical in an administrative hearing.

15 But I certainly think that when you respond to
16 that, you ought to refer us to something that we can tie
17 together in the record as supporting your position.

18 MR. GUILD: Mr. Chairman, it really seems to
19 me that the entire position of Applicant hinges on what
20 I think is a silly characterization of a word or so by
21 the witness.

22 Now, the witness obviously is not in a position to
23 presume what is the motive of someone who takes an
24 action against him.

25 This is a very serious matter. A man has lost his

1 job as a result of what are a series of events that I
2 think fairly support the inference of retaliatory
3 motive.

4 Now, I can brief this issue thoroughly; but if I am
5 to brief this issue thoroughly, I also am not going to
6 be trying this case.

7 I believe there's a lot of law on motive, a lot of
8 law on what a trier of fact should draw from the
9 existence of multiple motives.

10 And yet the existence of the principle of "but for"
11 in the face of such multiple motives -- I really don't
12 think that Applicant has the privilege of coming in in
13 the middle of a trial and putting to the Intervenor the
14 burden of having to file interlocutory findings of fact
15 and conclusions of law.

16 If that is the Chairman's desire and ruling, I will
17 do so; but I can't do that and also prepare for other
18 witnesses.

19 I really would respectfully request that the Board
20 consider allowing this issue, as other issues would be,
21 the subject of proposed findings.

22 I know of no NRC precedent that allows an
23 Applicant, now that the record has been made, to suggest
24 that a contention was improvidently admitted.

25 If that is the Chairman's position, I will take the

1 time to do so. I really think that is unsupported.

2 JUDGE GROSSMAN: I think that I can agree
3 with your position that a witness' characterization or
4 understanding of the circumstances is not controlling,
5 even though he may be a victim of whatever happened, and
6 I already discounted that when I read the pleading -- or
7 the motion.

8 But what I'm looking for is something that we can
9 tie in, some indication in the record that there is some
10 substance to your position that there's some connection
11 between that firing and some retaliatory motive.

12 MR. GUILD: Mr. Chairman, it seems to me,
13 first of all, that Applicant has the burden of
14 demonstrating that there was good cause for the
15 assertedly legitimate reason for taking the termination
16 action.

17 JUDGE GROSSMAN: Okay. Mr. Guild, you know
18 that Applicant is going to bring in -- you can
19 anticipate --

20 MR. GUILD: I've heard their case, Judge.

21 Does the Chairman seriously suggest that they have
22 made out a case to substantiate the cause for
23 terminating Mr. Hunter? I mean seriously --

24 JUDGE GROSSMAN: If they've made it yet?

25 Well, you know that they're going to bring in Mr.

1 Simile and that they're going to rely on his
2 observations as represented in the photograph, which
3 he's going to indicate represents the observed
4 conditions, and there's going to be other support. You
5 can anticipate that.

6 The question is: After all that comes in, what are
7 we going to have in the record that goes the other way?

8 MR. GUILD: Judge, I think you have a very
9 strong showing that you've got an outspoken man who has
10 exercised his rights and engaged in protected conduct
11 over a lengthy period of time, including being a witness
12 in this proceeding.

13 If this Board allows on this record a witness who
14 has come forward in this case and given testimony at
15 some risk to not have his day in court and be able to
16 have a decision of this Board as to whether or not
17 Applicant has shown a legitimate ground for terminating
18 him excluded on the "but for" principle, that the
19 impermissible ground, retaliation for exercising
20 protected rights under the employee protection statute,
21 then I think that you have to really seriously consider
22 what kind of message you're sending to the employees who
23 are asked to take risks in coming before you.

24 I really think it's improper that Mr. Gallo can put
25 together a three-page piece of paper and force

1 Intervenor to engage in this kind of exercise, Mr.
2 Chairman.

3 MR. GALLO: Well, that's just the practice of
4 law.

5 MR. GUILD: No, it isn't the practice of law.

6 MR. GALLO: Yes, it is, your Honor.

7 He's arguing the point. The motion has been
8 properly filed. If he has a basis for objection, let
9 him put it in his answer.

10 You went a little further to point out what you
11 thought was helpful advice. He has obviously not read
12 the motion. It's not based on anything involved in
13 retaliatory law.

14 MR. GUILD: It took me 30 seconds to read it.

15 MR. GALLO: It's based on a very elementary
16 precept of 2.714 of the Commission's rules of practice,
17 which requires reconsideration of what we're seeking,
18 which requires that basis.

19 JUDGE GROSSMAN: Okay. Let's end it.

20 I wanted to save some time and help direct the
21 response, but we'll just wait in due course for the time
22 of reply and we'll get the response to it and then we'll
23 make our evaluation.

24 MR. GUILD: I take it that the Board is going
25 to require a written response to this.

1 Intervenor to engage in this kind of exercise, Mr.
2 Chairman.

3 MR. GALLO: Well, that's just the practice of
4 law.

5 MR. GUILD: No, it isn't the practice of law.

6 MR. GALLO: Yes, it is, your Honor.

7 He's arguing the point. The motion has been
8 properly filed. If he has a basis for objection, let
9 him put it in his answer.

10 You went a little further to point out what you
11 thought was helpful advice. He has obviously not read
12 the motion. It's not based on anything involved in
13 retaliatory law.

14 MR. GUILD: It took me 30 seconds to read it.

15 MR. GALLO: It's based on a very elementary
16 precept of 2.714 of the Commission's rules of practice,
17 which requires reconsideration of what we're seeking,
18 which requires that basis.

19 JUDGE GROSSMAN: Okay. Let's end it.

20 I wanted to save some time and help direct the
21 response, but we'll just wait in due course for the time
22 of reply and we'll get the response to it and then we'll
23 make our evaluation.

24 MR. GUILD: I take it that the Board is going
25 to require a written response to this.

1 Is that the position I'm hearing from the Chairman?

2 If so, I'll be happy to do it, but I'm going to
3 require some time to do so and it's going to require
4 more than the three pages that Mr. Gallo took to trot
5 the issue out.

6 I think that's outrageous, Judge.

7 JUDGE GROSSMAN: That's a duly-proffered
8 motion, and you have --

9 MR. GALLO: 10 days.

10 MR. GUILD: With one reference in it and no
11 case authority; and I'm being told that I have to stop
12 litigating this case in the middle of my direct case and
13 respond in writing?

14 JUDGE GROSSMAN: Well, the time limits aren't
15 that stringent on replying to motions, so whatever you
16 want to reply to -- whatever you want to say in reply,
17 you can say in reply, including the matters you've
18 brought up now.

19 But there is a motion before us, and we --
20 actually, I can't even say we have to consider it,
21 because it is a motion for consideration --

22 MR. GUILD: It is indeed, it is indeed.

23 JUDGE GROSSMAN: -- and I'd have to check the
24 rules on that.

25 But nevertheless, I think we do want a reply on

1 that.

2 MR. GUILD: Then I would respectfully ask
3 that I would be given some time when I'm not going to be
4 in hearing and when I'm not going to be preparing for
5 Applicant's rebuttal case so that if the Applicant wants
6 to have this decided as an interlocutory matter,
7 Intervenor will have a fair opportunity to find
8 preliminary findings of fact in a manner that --

9 MR. GALLO: I take extreme exception to that
10 characterization of the situation. I'd like to know who
11 is running this proceeding.

12 We filed a motion, and we're entitled to a proper
13 response in accordance with the rules of practice. They
14 provide for 10 days in reply to motions.

15 With respect to consideration, the Board can decide
16 the issue without requiring a reply, if it so wishes, or
17 it can ask for a reply from the parties, if it wishes.
18 That's my recollection of the rules, which I was looking
19 up.

20 There is no basis that this is a request for
21 findings of fact and conclusions of law or any other
22 outrageous comments made by Mr. Guild.

23 MR. GUILD: I oppose Applicant's motion for
24 reconsideration. I rest on that.

25 If the Chair and Board requires that we file record

1 references, argument, authorities and findings of fact
2 on this interlocutory filing, we will do so.

3 Other than that, I simply rest on the record that
4 we oppose Applicant's motion for reconsideration. It's
5 unsupported by any authority and merely asks that the
6 Board make an interlocutory determination in a matter
7 that's properly been admitted for litigation.

8 It would be burdensome and unfair to require
9 intervenors to respond in greater detail at this time.

10 JUDGE GROSSMAN: Well, I can't put my finger
11 right now on the Commission's rules with regard to
12 motions for reconsideration.

13 My recollection is that it's different than an
14 initial motion, as to what the prescribed procedures are
15 on that; and we'll have to decide on what course of
16 action we ought to take, if that's the case, perhaps
17 tomorrow.

18 But just to clarify, I didn't expect you to use
19 actual record citations, but at least some reference to
20 what is in the record, Mr. Guild, as far as connecting
21 up what we heard last week with what we have in the
22 case.

23 Perhaps you don't have to file a written response,
24 but I think at some time we would like to have your
25 statement to us.

1 We're willing to accept an oral response during the
2 course of the hearing and afford you some time to think
3 it over and to point out to us what it is you think
4 supports your case and what we heard last week.

5 So we'll leave it at that right now and then we'll
6 discuss it further at another time, but I don't want to
7 delay the examination of the witness.

8 Does Mr. Berry have anything to say on this?

9 MR. BERRY: Staff doesn't have anything on
10 that.

11 JUDGE GROSSMAN: Fine. I appreciate your not
12 saying anything if there's nothing that would be added
13 to the discussion so far.

14 Okay. So why don't we continue with Mr. Martin's
15 examination?

16 BY MR. GALLO:

17 Q Mr. Martin, let's talk about what we've identified as I
18 think the fourth matter between you and Mr. Saklak.

19 We talked about the tape measure, the trip to
20 S & L --

21 JUDGE GROSSMAN: Excuse me. I'm sorry again.
22 You have a call; is that it?

23 MR. BERRY: That's what I understand.

24 JUDGE GROSSMAN: I really don't want to go
25 without having Staff attorney present, even though he's

1 somewhat agreeable.

2 MR. GALLO: I understand, I understand.

3 (WHEREUPON, a recess was had, after which
4 the proceedings were resumed as follows:)

5 JUDGE GROSSMAN: Okay. We're back on the
6 record.

7 Mr. Berry has received his phone call, and I think
8 he has another announcement to make here.

9 MR. BERRY: Thank you, Mr. Chairman.

10 I just received a telephone call from a Mr. Bloom,
11 who is an attorney in the Office of General Counsel.

12 He informs me that the Commission has issued an
13 order to the Board directing that the Board certify the
14 issue -- the question of the issuance of the subpoena to
15 it.

16 I understand there will be a written order coming
17 out tomorrow to that effect. In the meantime, I
18 understand that the Commission has issued an oral order
19 to the Board to stay the issuance of the subpoena.

20 I guess that's it.

21 So I informed them to send a facsimile copy of the
22 order through Region III tomorrow morning, and I'll make
23 arrangements for that order to be transmitted down to
24 the hearing room and make it available to the Board and
25 the parties.

1 JUDGE GROSSMAN: Well, fine. We'll be
2 governed by whatever the Commission directs.

3 So we won't issue the subpoena until we see the
4 order and then probably not until after we've read the
5 order. So that's the way the situation is.

6 Let's call Mr. Martin back in.

7 We're back in Mr. Martin's cross examination by Mr.
8 Gallo. We interrupted your question.

9 Do you want the part read back to you or do you
10 want to rephrase it?

11 MR. GALLO: I'll restate it.

12 BY MR. GALLO:

13 Q Mr. Martin, I was directing your attention, prior to
14 recess, to the fourth item involving Mr. Saklak that we
15 had identified previously.

16 One was the tape-measure matter, the other was the
17 trip to S & L, and the third was the question of
18 inspecting cable trays for debris.

19 Then I believe the final matter involved a
20 situation where you were assigned to a project with Mr.
21 Saklak to do some inspections that involved the use of a
22 procedure for another purpose.

23 Do you recall that item?

24 A Yes.

25 Q Could you, first of all, tell me just what the activity

1 was that was proposed for inspection?

2 A We had to -- well, to start at the beginning, CECO had
3 done an audit on our drawing revisions, and they found
4 that a great percentage of these drawings had been
5 voided and that the craft was working to voided drawings
6 and inspectors had been inspecting to voided drawings.

7 So they got a team together, which was -- consisted
8 of LKC Quality Control Inspectors and accompanied by an
9 S & L person.

10 We -- Mr. Saklak was in charge of that. He took
11 our doc review procedure, which I had been working with
12 and was familiar with, and he was going to apply that
13 towards this review we were doing.

14 He was using the form, but in essence of the
15 procedure and the content thereof, he was going to void
16 and say, "We're not going to do it this way. We're
17 going to take this form out of this procedure, and we're
18 going to use it in a different manner than what it was
19 intended for."

20 Well, I suggested that that would be a bad practice
21 without trying to cover your footsteps, and I tried to
22 bring this to his attention, at which point he began
23 making a fool out of me in front of some thirty-odd
24 S & L people in our Quality Control Department.

25 He asked me what I would do if I found a drawing

1 with a wrong rev, and he just kept asking me over and
2 over again, "What are you going to do? What are you
3 going to do?"

4 I interpreted it merely as an attempt at shutting
5 me up and keeping me quiet, so I just kind of backed
6 down.

7 When we came in from lunch, I noted to Mr. Seese
8 that it would be --

9 Q Can I stop you at this point?

10 I'd like to ask you some questions with respect to
11 the front end of your explanation. I'll write down "Mr.
12 Seese," and we'll pick it up at that point.

13 The form that Saklak wanted to use from the
14 document review procedure -- was that the checklist that
15 was used in connection with the document review
16 procedure?

17 A Yes.

18 Q He wanted to use that checklist in connection with this
19 inspection you described with the QC Inspector and the
20 S & L engineer?

21 A Yes.

22 Q What was it that the two were going to go out and look
23 for?

24 A They were going to check the drawings to make sure that
25 they were current to the S & L printouts that they had.

- 1 Q And were there some of the attributes on the checklist
2 from the document review procedure that were applicable
3 to what it was what you were about to inspect with the
4 S & L engineer?
- 5 A I don't think so.
- 6 Q Well, what was there -- what was your understanding as
7 to what there was about this checklist that would make
8 it useful for your inspection purposes?
- 9 A Nothing.
- 10 Q Was there a procedure in place to conduct the inspection
11 with the S & L engineer to go out and look at the
12 drawings?
- 13 A No.
- 14 Q Was there a checklist for that purpose?
- 15 A No.
- 16 Q So do I understand that this inspection was going to be
17 at the vault and not in the field, this document check?
- 18 A It was going to be out in the field, yes, at the various
19 print stations that the foremen had --
- 20 Q I see.
- 21 A -- and QC, also.
- 22 Q So these were print stations out in the field where
23 blueprints and installation drawings and that sort of
24 thing were maintained?
- 25 A Yes.

1 Q And you were going to go out there and check to see that
2 they were all current?

3 A Yes.

4 Q I see.

5 And that information had to be recorded on some
6 sort of document; is that correct?

7 A No.

8 Q That is --

9 A It didn't have to be.

10 Q Well --

11 A It could -- it was a surveillance.

12 It would have been much more appropriate to
13 document it on our general inspection form rather than
14 take a document that's used for a procedure and take it
15 and use it for something that is totally out of line.

16 Q So Saklak believed the checklist from the document
17 review procedure was useful, and you disagreed; is that
18 essentially it?

19 A That was not the point of my concern.

20 The point of my concern was that a procedure was
21 being violated.

22 Q Well, can you explain that to me?

23 You had indicated that in connection with the
24 document review that was going to be undertaken in
25 conjunction with the S & L engineer -- that there was no

1 procedure.

2 A That's correct.

3 Q So you couldn't violate a procedure there in connection
4 with that inspection; isn't that correct?

5 A But he can violate the doc review inspection program.

6 Q Was it your understanding that Saklak intended to apply
7 that procedure to the activity involving the S & L
8 engineer?

9 A Yes.

10 Q Or was he, in the alternative, simply going to borrow
11 the checklist and adopt it or adapt it for purposes of
12 recording data for the checklist -- or for the activity
13 that you were asked to inspect with the S & L engineer?

14 A That statement -- sure, he was going to adapt it, but
15 how does that qualify it as being an acceptable
16 practice?

17 It is definitely an unacceptable practice. That's
18 what we write procedures for: to follow. We don't
19 write procedures to say, "Okay. Now, here is a guy" --
20 "Here is something that we can work around."

21 It's something that we have to work to.

22 Q Mr. Hunter, was it unacceptable practice in your
23 judgment or do you believe that, in fact, somehow this
24 Saklak approach violated the document review procedure?

25 A Yes, I felt that it violated the doc review procedure.

1 Q Even though the procedure itself was not being applied
2 to the S & L QC Inspector activity?

3 A That -- that statement is -- is up to argument.

4 I feel that if you take a -- if you take a form
5 from a procedure, then you are in essence using the
6 procedure.

7 Q I see.

8 So if you -- if Saklak, in going to this procedure,
9 let me use the phrase "borrowed this procedure" -- or
10 this checklist to adapt for use in the activity you
11 described, you believe that essentially when you do
12 that, you're also buying the procedure along with it and
13 you'd better apply the procedure as well?

14 A Yes.

15 Q And it was in that way that you believe Saklak was
16 violating the procedure?

17 A Yes.

18 JUDGE GROSSMAN: Excuse me.

19 Did this form have a reference to a procedure on
20 it?

21 THE WITNESS: Yes, it did.

22 BY MR. GALLO:

23 Q Can you -- to your recollection, can you explain your
24 understanding of how Saklak would have revised the
25 checklist, if at all?

1 MR. GUILD: Objection. The question is vague
2 and calls for speculation on the part of the witness.

3 JUDGE GROSSMAN: Overruled. We'll allow an
4 answer on that.

5 A He was basically using the top portion of the checklist
6 as -- for a heading block, basically, and --

7 BY MR. GALLO:

8 Q What do you mean by "heading block"?

9 A There was a heading block on the top, which -- that's as
10 specific as I can get; and it had more basic
11 information, which is what he wanted to use.

12 Then as far as the checkpoints on the checklist, he
13 wanted to void that out, and he wanted to use the
14 remarks column for certain things.

15 Then the main body of the information was going to
16 be on plain pieces of paper, attachments to that form.

17 Q And in this manner he proposed to document the results
18 of the inspections?

19 A Yes.

20 Q And what was -- did you suggest to him your suggested
21 way that you thought it might be done?

22 A I did not have an alternative suggestion.

23 I merely suggested that if we document our actions,
24 when we get audited on it, at least we'll be able to
25 say, "This is what we did and why we did it."

1 I mean, I wasn't trying to condemn the man. I was
2 just saying that, you know, a year from now somebody is
3 going to look at that and say, "What are you doing," you
4 know?

5 And we ran into that so much at that time. That's
6 all I was trying to --

7 Q Did Saklak reject your criticism?

8 A I don't even know if he heard it.

9 Q Well, maybe I misunderstood your testimony.

10 A Okay. He ignored me. What I'm saying -- I'm sorry.

11 I suggested it, and he just ignored me. There was
12 no answer, so yes, he rejected it. I'm sorry.

13 Q Did you then take your case to Mr. Seese?

14 A Yes, I did.

15 Q And what did you tell Mr. Seese?

16 A I simply told him that if we're going to use a form that
17 was written to a procedure and we're going to take it
18 and use it for something other than what the procedure
19 spelled the form out for, we should at least cover our
20 steps at the -- at the minimum.

21 Q And how did Mr. Seese react to your suggestion?

22 A He commended me for my judgment and said that he felt
23 that a note of that nature was -- was in need.

24 Q Now, you mentioned "a note of that nature."

25 A Well, just some statement covering our actions.

1 Q And did he undertake to discuss the matter with Mr.
2 Saklak?

3 A Not at that point.

4 I believe he took it upon himself to write up a
5 letter.

6 Q A letter?

7 A A note, a statement saying that -- what we were doing
8 and why we were doing it.

9 Q What did he do with that document?

10 A After he got it typed up, he -- I guess he showed it to
11 Irv and then he showed it to Rick Saklak.

12 Q And did it contain any direction in this area to Mr.
13 Saklak?

14 A No, no, it didn't.

15 Q Well, what was the gist of the memorandum?

16 A I believe it just said that, "For the purposes of the
17 S & L walkdown program, we are using this form
18 such-and-such" -- it had a number -- "to facilitate the
19 walkdown inspection by the S & L people," and that was
20 the gist of it.

21 Q So the memorandum was in the nature of a documentation
22 of how this particular checklist from this document
23 review procedure was being used in this unique
24 circumstance?

25 A Yes.

1 Q And providing the basis for its origination in its
2 revised form for the purposes of this walkdown?

3 A Yes.

4 Q Did Mr. Saklak receive a copy of this memorandum?

5 A I don't know.

6 Q Are you aware of whether or not he found out that you
7 had discussed the matter with Seese and had been
8 instrumental in having Seese generate this memorandum?

9 A Yes, he found out.

10 Q And how did he react?

11 A He began -- well, after lunch he took me off the
12 project, and I was upstairs in one office. They were
13 standing outside Irv's office, and Larry walked up --

14 Q Excuse me.

15 Who is "they"?

16 A Larry Seese and Rick Saklak, and Irv was inside his
17 office.

18 Larry Seese mentioned that I had suggested that a
19 memo be written up explaining why we were using this
20 form and, you know, the whole circumstance around it.

21 At that point Rick Saklak just blew up. He -- he
22 started screaming and yelling. He said that I was the
23 whole problem with this office and that --

24 Q Was he screaming and yelling at Seese?

25 A Yes.

- 1 Q All right. Go ahead. I'm sorry.
- 2 A I'm not -- I don't know -- I think -- I'm sure Rick
3 Saklak knew I was there, but Larry Seese I believe
4 didn't know I was in the other room, and --
- 5 Q I interrupted you.
- 6 You were saying that Saklak was saying that you
7 were the whole problem.
- 8 A Yes. He said I was the whole problem in this office and
9 I needed to be terminated and get rid of me, this and
10 that, and I -- and this and that.
- 11 Larry Seese told Rick Saklak that he was the
12 problem of the -- in the office.
- 13 Q That Saklak was the problem?
- 14 A Yeah.
- 15 Q Did you overhear Saklak's rejoinder to that?
- 16 A There was just some -- a few more words; nothing of
17 any --
- 18 Q You were taken off the project, the walkdown project?
- 19 A Yes.
- 20 Q Was that the end of the matter?
- 21 A It was the end of that particular battle.
- 22 Q Did you believe at the time that you were being harassed
23 or intimidated in a quality sense?
- 24 A Well, no, I guess not.
- 25 Q Did you believe you were being harassed or intimidated

1 in the sense of being belittled or degraded by Saklak?

2 A Yes. It was very traumatic for me.

3 MR. BERRY: "Dramatic" or "traumatic"?

4 THE WITNESS: "Traumatic," with a T.

5 That was a question there. He didn't --

6 MR. GALLO: He didn't hear it?

7 THE WITNESS: Yes.

8 BY MR. GALLO:

9 Q Your testimony was that it was a traumatic experience?

10 A Yes.

11 Q Now, when you -- I guess this was a second instance when
12 Saklak suggested that you should be terminated, that you
13 were at least aware of, and again it didn't happen;
14 isn't that correct?

15 A Yes, that is correct.

16 Q Did this incident plus the tape-measure incident tell
17 you anything with respect to Saklak's ability to fire
18 people?

19 A It tells me that he probably didn't have the power to
20 fire me, but he had the power to wish I was fired.

21 (Laughter.)

22 Q Now, I showed you -- at the beginning of the questioning
23 on this subject of Saklak, I showed you Intervenors'
24 42-A and asked you to verify whether the language that
25 was shown at the bottom of Page 3 was accurate, and you

1 said it was except for the use of "several."

2 Do you recall that?

3 A Yes.

4 Q I guess it would facilitate it if I showed you the
5 language again.

6 (Indicating.)

7 It says "constantly intimidated by Saklak."

8 Now, did you mean, when you told that to the NRC
9 inspectors, "intimidated" in the quality sense or
10 "intimidated" in the sense of being -- feeling degraded
11 and belittled?

12 A The latter, being degraded and belittled.

13 Q And when you said that Saklak "uses forms contrary to
14 procedures," were you referring to the S & L walkdown
15 matter we just went through?

16 A Yes.

17 Q That was the use of the checklist from the document
18 review procedure that you had in mind?

19 A Yes.

20 Q When you said, "Saklak lied to get Martin fired," did
21 you have reference to the tape-measure incident and the
22 discussions that you've testified to between Saklak and
23 Cochran with yourself being present?

24 A Yes, it was involved with that incident.

25 Q Where Mr. Saklak indicated that you were loud and

1 abusive or indicated --

2 A Yes.

3 Q -- conduct that was contrary to certainly your
4 recollection?

5 A Yes.

6 Q Let's talk a little bit about Mr. Seese.

7 . You had indicated, in answer to a number of
8 questions from Mr. Guild, that Mr. Seese's attitude had
9 changed over time towards you.

10 A Yes.

11 Q You just testified that at the time of the S & L
12 walkdown matter, he supported your position in
13 opposition to that of Mr. Saklak?

14 A Yes.

15 Q Now, do you have -- counsel might furnish the witness --
16 Intervenors' No. 77?

17 MR. BERRY: (Indicating.)

18 MR. GALLO: Thank you.

19 THE WITNESS: Thank you.

20 BY MR. GALLO:

21 Q This is a two-page document that I believe we corrected
22 on the record so that the October dates are supposed to
23 reflect November.

24 This was a document that you had prepared and kept
25 in your personal papers; is that correct?

1 A Yes.

2 Q Now, does this write-up accurately reflect your
3 recollection of the matter that you discussed with Mr.
4 Seese on November 29, 1984?

5 A Yes.

6 Q Now, if I understand your previous testimony, Seese
7 wanted you to finish your report on a review of the
8 rework status; is that correct?

9 A Yes.

10 Q You didn't have it finished yet?

11 A No.

12 Q Now, did -- was Mr. Seese -- do you have the
13 understanding that Mr. Seese was aware that there was a
14 backlog in the rework area?

15 A I believe he was aware of a -- of a backlog, but I -- I
16 don't think he ever thought it was that bad.

17 Q He essentially, did he not, gave you the job of coming
18 up with an assessment so he could find out how bad it
19 was?

20 A Yes, he did.

21 Q And you say in the memo that sometime in mid morning on
22 November 29th, Seese asked you to compile a list of
23 reworks.

24 I take it you undertook to do it, but there were
25 some intervening occurrences that kept you from

1 finishing it that day.

2 What was your understanding of the schedule by
3 which Seese wanted this report finished?

4 A Well, he said he -- he said he had something for me to
5 do and that -- I can only testify that he was not
6 specific in the time schedule that he wanted me to start
7 the project.

8 Q In any event, when you came to work on November 30th, he
9 asked you where the list was; is that correct?

10 A Yes.

11 Q And you told him you didn't have it ready.

12 What was involved in compiling this list?

13 How did you go about doing it?

14 A I had to review each rework to evaluate the work being
15 done and what it would take to make sure that Quality
16 Control would -- or all the inspections that would --
17 Quality Control would have to do for each particular
18 rework.

19 Q What was the form of the documentation for the rework?

20 I have the sense that the word "rework" is a
21 shorthand term to describe something that I may not
22 understand.

23 Are we talking about a rework on a hanger or an
24 installation and then this a reinspection of that
25 activity?

1 A Yes.

2 Q It's a situation where the craft had reworked the hanger
3 or connection, but it had not yet been reinspected; is
4 that correct?

5 A Yes.

6 In some cases, the item was torn down. At that
7 point we needed a base metal inspection, and then we had
8 them reinstalled, which -- we would have to have a -- an
9 inspection on the new installation.

10 We had cases where an installation was altered, at
11 which point we had to assure that the altered item was
12 inspected.

13 In some cases we had to loosen bolts that were
14 torqued, so we would have to make sure that we had a
15 proper inspection, which included the bolts being
16 torqued.

17 Q So all these rework activities were completed by the
18 craft, and then there were requests for inspections that
19 were stockpiling or backlogging; is that it?

20 A Yes.

21 Q And Seese had asked you to come up with an assessment of
22 the extent of the backlog by writing this report?

23 A Yes.

24 Q When did you finish the report?

25 A I believe I finished it either late that same day or

1 early the next day; on the 31st or the 1st of December,
2 whichever it would be.

3 Q That would be the 1st of December.

4 A Okay.

5 Q And did you give it to -- the report to Seese at that
6 time?

7 A Yes.

8 Q And how did he react?

9 A He was very gruff.

10 Q Did he explain to you why it was that the one day made
11 any difference, the one-day delay?

12 A He said that he wanted it for a meeting.

13 Q And had the meeting been held and it was over with by
14 the time you had finished the list?

15 A Yes.

16 Q So he was frustrated that he didn't have the information
17 for this meeting?

18 A Yes.

19 Q Now, is it your testimony that from this one incident,
20 Seese's attitude towards you changed from being very
21 supportive to being hostile and distant?

22 A Yes, very hostile at that point.

23 Q Did you attempt to explain to him the circumstances that
24 you have spelled out in Intervenor's 77 as to why you
25 couldn't finish the list?

1 A Yes, I did.

2 Q I take it he wasn't very receptive to those excuses?

3 A No, he was not.

4 Q Now, this incident occurred in November of 1984, and
5 you've already testified to a problem involving the --
6 your transfer from one work location to another at the
7 vault.

8 Do you recall that testimony?

9 A Yes, I do.

10 Q Do you recall when that was?

11 A That took place the day before all the inspectors went
12 to the NRC about Rick Saklak, and I was moved into the
13 vault that same morning that everybody went over there.

14 Q So that would be prior to March 29, 1985?

15 A Okay, yes.

16 Q March 29th was the day that the inspectors went over to
17 the NRC.

18 A Correct. That's the day I was moved into the inner
19 corral.

20 Q Now, I believe that you testified that just prior to
21 that, to the time you were moved -- that is, your work
22 location was moved -- NRC Inspector Schulz came by and
23 engaged you in some conversation and asked you some
24 questions.

25 A Yes.

1 Q Can you tell me whether it was just happenstance that he
2 talked to you or was he seeking you out to ask you
3 questions?

4 A I believe he -- at the time that he sat down next to me,
5 all the seats were taken in the vault except for that
6 seat.

7 So I feel that it was just -- just a chance
8 circumstance that if somebody else would have been
9 sitting down where I was, he would have asked them the
10 same questions that he was asking me.

11 Q I see. So it was just a chance -- a chance encounter.

12 Now, what were you doing at the time that you were
13 at this work assignment?

14 A I was statusing Form 19's and Form 7's for loading into
15 the computer.

16 Q And when Seese moved your work location from where it
17 was to an area I guess more interior in the vault --
18 would that be a way of putting it?

19 A Yes.

20 Q -- did he explain to you why he was taking that action?

21 A Yes. He said that he was afraid some -- somebody would
22 steal some forms, and he didn't want any forms to be
23 stolen, so --

24 Q Did he explain to you the basis for that -- for his
25 belief that there was a problem -- a possibility of some

1 forms being stolen?

2 A Well, we're always missing documentation in the vault,
3 so he'd have a very good basis, I guess.

4 Q I'm sorry. He had what?

5 A I guess he would have a very good basis for saying that,
6 considering the amount of documents that have been lost
7 in the vault.

8 Q Now, I take it when you were working in the outer area
9 of the vault, you were working with others.

10 I mean, there were others sitting in the work areas
11 doing vault -- work connected with the vault; is that
12 correct?

13 A Yes. There were various groups of people down there.

14 There were -- usually a CECO auditor would be there
15 -- one or two of them. There would be Comstock
16 inspectors reviewing items, various people going in and
17 out.

18 Q So was this kind of what I would characterize as a
19 "transient" work activity, as opposed to yourself, where
20 you were just working all the time at that one location?

21 A Yes.

22 Q Now, did you find the constant flow in and out of people
23 distracting?

24 A I guess, at times.

25 Q Did it -- did conversations interrupt your train of

1 thought as you were trying to status this information?

2 A Yes, on occasion. I mean --

3 Q Did it also cause you on occasion to join in on the
4 conversation because you were just right there?

5 A Yes.

6 Q Do you ever recall on these occasions indulging in
7 debates with your fellow inspectors over your religious
8 beliefs?

9 A I don't remember any specific incidents.

10 Q But you do recall engaging in conversations from time to
11 time; not necessarily ones that you started, but
12 conversations nonetheless?

13 A I -- I can remember that subject coming up, but there
14 was -- I can't remember any arguments or anything.

15 I -- I was never prone to take up company time
16 discussing religious matters.

17 Q But you do remember the subject coming up, you say?

18 A I -- I had a -- some literature on the pro-life
19 movement, and I think it was -- it was very descriptive.
20 Some of the people would come by and ask me about it, so
21 that's probably the item there that --

22 Q Did this just happen on one occasion or did it happen
23 from time to time?

24 A I'd say a couple of occasions, two or three.

25 Q Do you know whether or not -- did Mr. Seese ever say

1 anything to you about this particular -- about your --
2 the situation where you were situated at your work
3 station --

4 A No.

5 Q -- and that it was a matter that might be distracting?

6 A No.

7 Q Did he ever suggest that you were wasting time engaging
8 in these conversations?

9 A At this particular time, he accused me of everything, so
10 -- but it was -- I didn't relate any of the criticism to
11 my working area.

12 Q But he was aware of your -- I mean, he observed you as
13 you were working in the outer area from time to time?

14 A Yeah, and he had other people observing me, too.

15 Q So he was aware -- on the occasions where you conducted
16 these conversations with the other inspectors on
17 pro-life matters or whatever, it's your belief that he
18 was aware of those activities?

19 A Yes.

20 MR. GALLO: May I have a moment?

21 JUDGE GROSSMAN: Sure.

22 MR. GALLO: May I suggest about five minutes?

23 JUDGE GROSSMAN: A five-minute recess.

24 (WHEREUPON, a recess was had, after which
25 the proceedings were resumed as follows:)

1 JUDGE GROSSMAN: We're back in session.

2 Mr. Gallo?

3 BY MR. GALLO:

4 Q Mr. Martin, I want to show you Intervenors' 58.

5 JUDGE COLE: Which exhibit is that, Mr.
6 Gallo?

7 MR. GALLO: 58.

8 It's four pages, and it shows Mr. Martin's salary
9 history up through April of 1984.

10 BY MR. GALLO:

11 Q Is that correct, Mr. Martin?

12 A The yearly salaries I cannot, you know -- I'd have to
13 get me a calculator and everything to figure them out,
14 but I can recall making \$9.45 an hour at the times -- at
15 this time listed.

16 MR. GUILD: Is counsel trying to verify the
17 numbers?

18 We've been through this all once before.

19 MR. GALLO: No.

20 MR. GUILD: I think he acknowledges what the
21 document is.

22 MR. GALLO: Yes.

23 BY MR. GALLO:

24 Q I'm just asking if it reflects your salary history from
25 the inception up through April of '84.

- 1 A Yes, it does.
- 2 Q Do you recall that you were making \$24,960 as of April
3 1, 1984?
- 4 A I was making \$12 per hour, yeah, if that's what that
5 adds up to.
- 6 Q Did you -- have you received any raises since that time?
- 7 A No.
- 8 Q Let's see. We'd --
- 9 A Oh, you mean --
- 10 Q Salary increases.
- 11 A Do you mean strictly with Comstock or as far as
12 personally myself?
- 13 Q Well, let me clarify that by asking you some questions.
14 As of April, 1984, you've worked for Comstock; is
15 that correct?
- 16 A Yes.
- 17 Q Did you receive any salary increases between April,
18 1984, and the time BESTCO took over, which was July,
19 1985?
- 20 A No, I did not.
- 21 Q Did you have any salary reviews during that interval,
22 that you can recall?
- 23 A Yes, I believe I did have one -- wait.
- 24 Q Take your time.
- 25 A No, I did not.

1 Q You did not get any salary reviews or evaluations during
2 that approximately one-year interval?

3 Actually, it was 14 months.

4 A No, not from --

5 Q L. K. Comstock.

6 A -- 4/20 -- 4/30/84 up to when BESTCO took over, no, I
7 had not.

8 Q What was the practice, though -- your understanding of
9 the practice for salary reviews at Comstock?

10 Were they done periodically?

11 A Well, at this point they adopted a cert program, so the
12 evaluation did not so much affect the pay scale. It --
13 it was just an evaluation.

14 Pays -- the pay at this time was reflected -- was
15 reflected by how many certifications an inspector had.

16 Q So the base pay was \$12 an hour --

17 A That's right.

18 Q -- and you got 50 cents more per certification?

19 A Yeah.

20 Q At the time in April, did you have -- do you recall how
21 many certifications you had?

22 A In April --

23 Q Of '84.

24 A -- I had recently received my welding and config cert
25 since I was reinstated; and I had completed all of my

1 CEA training, which I did not get credit for.

2 It was sitting on Larry Seese's desk for quite some
3 time. All he had to do was put his signature on it, and
4 I would have 50 percent -- 50 cents more per hour.

5 Q So the CEA certification meant 50 cents more an hour?

6 A Yes, it did.

7 Q Did -- when BESTCO took over in July of '85, did you
8 receive a salary increase?

9 A Yes, I did.

10 Q Can you -- how much was that?

11 A It was \$4.66.

12 Q I'm sorry. Four dollars and how much?

13 A 66 cents, as far as my take-home pay.

14 That does not include benefits.

15 Q So your hourly wage was increased \$4.66?

16 A Yes.

17 Q Now, there are a series of exhibits that have been
18 admitted into evidence which are signed by Mr. Seese; in
19 one instance, Mr. Kast,.

20 For example, Exhibit 72 involves the altercation
21 you had with Mr. Rolan. Exhibit 73 is a warning.
22 Exhibit 74 is another warning. Exhibit 75 is a -- is a
23 matter involving two other inspectors referred to by Mr.
24 DeWald; I guess a Mr. Joe Hii and a Mr. Klatchko.

25 Do you recall that incident?

1 A Yes, and there's attachments to that.

2 THE WITNESS: I'd certainly like to know what
3 that was all about. It references attachments, which I
4 have not seen.

5 Am I allowed to --

6 MR. GALLO: Well, the exhibit was submitted
7 by Mr. Guild, and I'll be glad to, after we've recessed
8 -- to undertake to find them for you.

9 Exhibit 76 --

10 MR. GUILD: I'd be happy to have whatever
11 attachments are received with it.

12 I put it in in the form I got it from Commonwealth
13 Edison Company's lawyers.

14 BY MR. GALLO:

15 Q The Intervenors' 76 is a document from Mr. -- a Read and
16 Reply from Mr. Seese, talking about ICR's and the NCR
17 logs were left in your work area on Saturday, instead of
18 being returned to the vault.

19 Do you recall that one?

20 A Uh-huh.

21 Q 78 is another Read and Reply that represents a Seese
22 investigation at the request of DeWald about why you
23 were talking to Bossong.

24 Do you recall that one?

25 A Yes.

1 Q And then 79 deals with the time that you and Mr.
2 Williams were looking at your college books.

3 A Yes.

4 Q And 81 deals with the time you were observed talking to
5 Mr. Nameth -- that's N-A-M-E-T-H -- and so on.

6 My question is: Do you believe that any of these
7 incidents being referred to here in these exhibits in
8 any way interfered with any salary increases that you
9 were entitled to?

10 A No, I don't believe they did.

11 I wasn't anticipating that.

12 MR. GALLO: Counsel has refreshed my memory,
13 your Honor. You'll recall Intervenors' No. 80.

14 JUDGE GROSSMAN: Is that the one that we are
15 missing the attachments --

16 MR. GALLO: Yes.

17 JUDGE GROSSMAN: -- and you were going to
18 supply all of the missing documents?

19 MR. GALLO: Yes.

20 I have now had a Xerox copy made of the copy I had
21 here in the courtroom yesterday.

22 Some of the pages are still not legible. We've not
23 had the opportunity to go back to the originals and
24 determine just what pages -- or whether or not what is
25 blocked out in the Xeroxed copies is legible in the

1 originals.

2 But the very documents that the witness has
3 referred to are included in these --

4 JUDGE GROSSMAN: The very missing documents
5 from the two inspectors that are mentioned in --

6 MR. GALLO: Yes.

7 JUDGE GROSSMAN: -- Intervenors' Exhibit
8 75 --

9 MR. GALLO: Yes.

10 JUDGE GROSSMAN: -- are included there and
11 they are legible and you'd like to allow the witness to
12 look at those two documents?

13 MR. GALLO: No.

14 I would just take the opportunity, I guess, to
15 circulate the copies, and the witness can read his
16 copies on his own time. I don't have any questions with
17 respect to them.

18 JUDGE GROSSMAN: Oh, okay.

19 MR. GUILD: This has already been marked as
20 Intervenors' 80.

21 MR. GUILD: I don't remember what happened
22 yesterday. It doesn't matter to me one way or the
23 other. I wondered if you wanted it remarked as an
24 Applicant's exhibit.

25 MR. GALLO: Here is the Court Reporter's

1 exhibit marker, Intervenors' 80.

2 (Indicating.)

3 MR. GUILD: Thanks.

4 MR. GALLO: I propose to give the Reporter
5 back that very copy.

6 JUDGE GROSSMAN: Okay.

7 When Mr. Guild has a chance to review that, we'll
8 then know whether we're going to have it offered.

9 I believe we haven't had it offered, isn't that
10 right, pending a review of the document?

11 MR. GUILD: I'll let it in sight unseen. I
12 have no objection.

13 JUDGE COLE: Are you offering it?

14 JUDGE GROSSMAN: I don't know if --

15 MR. GALLO: I'll offer it.

16 MR. GUILD: I thought it was Mr. Gallo's
17 offer.

18 JUDGE GROSSMAN: Okay. Mr. Gallo is offering
19 Intervenors' Exhibit 80.

20 Do you have any objection, Mr. Berry?

21 MR. BERRY: Sight unseen, no, your Honor.

22 JUDGE GROSSMAN: Okay. Then that's received.

23 (Intervenors' Exhibit No. 80 for
24 identification was thereupon received in
25 evidence as Intervenors' Exhibit No. 80

1 in evidence.)

2 MR. GALLO: What else can we get in the
3 record this afternoon?

4 (Laughter.)

5 Let's talk about Mr. Krone.

6 Here. I'll give you a copy. You can read these.

7 (Indicating.)

8 THE WITNESS: Good. I'm just curious. I
9 don't recall that incident at all.

10 MR. GALLO: Please don't take the time to do
11 it now.

12 THE WITNESS: Okay.

13 BY MR. GALLO:

14 Q Now, I understand your testimony with respect to Mr.
15 Krone -- and I won't rehearse it, because I can recall
16 that testimony.

17 Did you think that Mr. Krone was a Nazi?

18 A No.

19 Q Can you just say "yes" or "no" and explain?

20 MR. GUILD: I think he said "no."

21 THE WITNESS: No. I didn't answer.

22 MR. GUILD: Oh, I'm sorry.

23 A No, I did not believe -- honestly believe that he was a
24 Nazi.

25 BY MR. GALLO:

1 Q Did you at one time consider that thought?

2 A I think in a manner of thinking out loudly, I believe I
3 did.

4 Q And what led you to think out loudly in that manner?

5 A Mr. Krone was in the QC office. I was sitting at my
6 desk, and he began relating that his uncle was a -- had
7 been a storm trooper, and he was very, very well versed
8 on World War II and all matters pertaining to Hitler and
9 this and that.

10 It was very interesting listening to him, but he
11 made some very curious statements. He said that the
12 Jews at such-and-such city or something in a sector of
13 Poland deserved to be burned because they were -- they
14 were -- I don't know what he said; they were ignorant or
15 something.

16 Q He said something derogatory about them?

17 A Yeah.

18 And I just, you know -- I took it as -- in a
19 philosophical point of view that, you know -- I just
20 looked at it kind of philosophical, not just in the
21 sense of a worker mouthing off. I just looked at it as,
22 you know, man's inhumanity to man.

23 After he left, I believe Norm Kimball, who sits
24 right beside me -- I just -- I believe I mentioned to
25 him that, you know, "I could honestly believe that man

1 could be a Nazi."

2 But it wasn't like, you know -- I was sitting at my
3 desk and he sits next to me at his desk. It wasn't like
4 I went throughout the plant and said, "Hey," you know,
5 "this guy is a Nazi."

6 I just, you know -- I just made that comment in
7 passing. I wasn't trying to beat the drum or anything.

8 Q You were generally aware that Mr. Krone was proud of his
9 German heritage?

10 A Oh, yes, yes. He was very proud.

11 Q His uncle, Mr. Zimmerman, was a member of the Wehrmacht?

12 A If that's what he told you.

13 Q No, that's not what he told me. I'm just asking you
14 that.

15 A No.

16 Q Are you aware that on occasion he made the Nazi salute
17 on the job in conversation with others?

18 A He always did that, and it was like he was trying to
19 bring ridicule --

20 MR. GUILD: Mr. Chairman, could I ask him
21 what the point of this examination is?

22 MR. GALLO: I'm going to tie it up.

23 JUDGE GROSSMAN: You will, okay.

24 MR. GUILD: Perhaps we're entitled to a
25 little more, Mr. Chairman.

1 JUDGE GROSSMAN: I recall something that says
2 if something walks like a duck and quacks like a duck --
3 but nevertheless, if you can tie it up, Mr. Gallo, go
4 right ahead.

5 BY MR. GALLO:

6 Q You were interrupted.

7 You said he made the Nazi salute all the time?

8 A Yes. Wherever he'd go, for a period of time, he was --
9 he was doing this Nazi salute. He wasn't being real
10 obnoxious about it, but he was just doing it as a part
11 of the type of person he is.

12 But yet I don't think he saw that he was bringing
13 ridicule upon himself, and it -- he interpreted -- I
14 guess he interpreted the source of this ridicule as me.

15 Somehow he just linked the two up, and -- and had
16 in his mind that I had made a personal attack on him and
17 that I was -- had a campaign against him or something.

18 Q Because he thought you had called him a Nazi?

19 A Yes.

20 Q And he objected to that label, did he?

21 A Yeah.

22 That's what really made me curious, because I felt
23 that, you know, it really wouldn't offend him, you know,
24 because he -- he talked of his uncle and -- being a
25 Nazi, and he seemed very proud of it.

1 When I reflected that he might be a Nazi, it was
2 kind of a -- from my standpoint, I was kind of believing
3 myself that this guy might be a Nazi, and it wasn't
4 ridicule. It was -- I was kind of amazed, you know,
5 that --

6 Q I'm sorry. Are you finished?

7 A That was it.

8 Q Did Mr. Krone explain to you that his uncle was in the
9 regular German army and not a member of the Nazi party?

10 A I don't know. Maybe I misunderstood him.

11 Q In any event, you did convey to Mr. Kimball your thought
12 -- your thinking out loud that he might have been a
13 Nazi?

14 JUDGE GROSSMAN: Excuse me.

15 Mr. Gallo, was that supposed to be evidence, too?

16 MR. GALLO: What is?

17 JUDGE GROSSMAN: That he professed that his
18 uncle was a member of the regular German army and not a
19 storm trooper?

20 MR. GALLO: I asked the question, "Didn't Mr.
21 Krone tell you that," and I believe his answer was, "I
22 may have misunderstood him."

23 JUDGE GROSSMAN: Well, did he tell you that?

24 THE WITNESS: Pardon me?

25 JUDGE GROSSMAN: Did Mr. Krone tell you that

1 his uncle was a member of the regular German army and
2 not a storm trooper?

3 MR. GALLO: Not a member of the Nazi party.

4 JUDGE GROSSMAN: Not a member of the Nazi
5 party?

6 THE WITNESS: I understood that he said that
7 his uncle was an SS trooper. That's what I understood.

8 MR. GUILD: Mr. Chairman, I object to this
9 whole line of questioning.

10 Mr. Gallo at least has the obligation, as he wants
11 to impose on us, that there's something relevant here.
12 He hasn't done that, and I ask that the Board --

13 JUDGE GROSSMAN: Well, he didn't --

14 MR. GUILD: He may have said that, Mr.
15 Chairman. I'm making showings as well, and I'm held to
16 a much higher standard.

17 This is completely collateral, and it borders on
18 the offensive. It's appropriate to require Applicant to
19 make a showing that there's a relevant issue here.

20 MR. GALLO: Lest we wind him up as tight as
21 we did 30 minutes ago --

22 MR. GUILD: No, sir, no, sir. It's
23 offensive.

24 MR. GALLO: May we excuse the witness?

25 JUDGE GROSSMAN: Let's excuse the witness.

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

(Witness excused.)

MR. GALLO: I intend to show that the confrontation between Krone and Mr. Martin was simply a flare-up as a result of this very misunderstanding between the two.

Krone thought he called him a Nazi, and that's what generated the hostility -- and nothing else -- and that the action between the two was simply a personal matter between the two and had nothing to do with any other aspect of the operation at Comstock.

JUDGE GROSSMAN: Well, refresh my recollection as to what the status of the record is now with regard to that, Mr. Gallo.

MR. GALLO: I think that the status of the record is simply that for reasons unexplained, Mr. Krone became very upset at Martin and cursed him out and, in addition, had taken this Xeroxed copy of the newspaper and circulated it throughout the plant to ridicule Mr. Martin for unexplained reasons and that when Martin sought to have that activity stopped, it led to a situation where Krone came up to the area where the inspectors were located and ultimately pushed Krone -- pushed Martin in the chest, which then led later on to Martin's -- to Krone's termination.

Now, what is in the record is -- what is not in the

1 record is any explanation of why this happened. Why was
2 Mr. Krone passing out this Xeroxed newspaper article
3 ridiculing -- holding Mr. Martin up to ridicule?

4 JUDGE GROSSMAN: Okay. We'll allow some more
5 questioning on that.

6 MR. GUILD: Mr. Chairman, is there a
7 sufficient factual nexus between those facts for the
8 Board to entertain further testimony on this subject?

9 JUDGE GROSSMAN: Well, I don't know that the
10 testimony -- first of all, I don't see that big an
11 objection to having the witness testify.

12 I don't see any interest of his that's really being
13 trampled on here in having a few more questions on that
14 matter, since it has been brought up on direct. This is
15 the underlying basis, according to Mr. Gallo, of that
16 whole episode.

17 But I would hope, Mr. Gallo, also that you don't
18 keep bringing in implications in the record for which
19 we're not -- we don't have any evidentiary basis.

20 You can certainly ask the questions, but to put it
21 as though there are some established facts -- okay.

22 I think we all understand each other. We'll call
23 Mr. Martin back, and we'll have just a little more
24 exploration of that area.

25 MR. GALLO: Can you give me the last

1 question?

2 (The record was thereupon read by the
3 Reporter.)

4 BY MR. GALLO:

5 Q Were you -- did you have this understanding about his
6 uncle being an SS trooper and this understanding that he
7 went around making the Nazi salute at the time you
8 wondered out loud to Mr. Kimball whether or not he was,
9 in fact, a Nazi?

10 A Yes.

11 Q Do you know whether or not Mr. Kimball told others of
12 this conversation and your wondering out loud?

13 A According to a memo that Jerry Krone wrote, him and Norm
14 Kimball were at a bar and Norm Kimball mentioned to
15 Jerry Krone that I called him a Nazi.

16 Q So Mr. Krone became aware of your conversation with Mr.
17 Kimball?

18 A It was not a conversation I had with Mr. Kimball. He
19 never said a word to me about it. I just merely
20 pondered verbally what I had just heard.

21 Q Mr. Krone became aware of your verbal ponderings?

22 A Yes.

23 Q Okay.

24 And thereafter -- do you know approximately when
25 this happened, this bar incident that you referred to in

1 your testimony?

2 A Oh, approximately in February.

3 Q In February of 1986?

4 A Yes.

5 Q And in May of '86, Mr. Krone had taken the occasion to
6 Xerox this newspaper article and pass it around.

7 Did you have an understanding that he --

8 MR. GUILD: Was that a question?

9 MR. GALLO: The witness said "yes."

10 Did you catch that?

11 THE NOTARY: No.

12 MR. GALLO: Let me --

13 BY MR. GALLO:

14 Q In May of 1986, Mr. Krone took the occasion to Xerox the
15 newspaper article that he passed around to other
16 co-workers to belittle you; isn't that correct?

17 A Yes.

18 Q Did you have an occasion to understand from Mr. Krone or
19 others that he essentially was retaliating because of
20 his belief that you called him a Nazi?

21 A Yeah, I guess that was his motivation.

22 Q Would you agree with me that the altercation between you
23 and Krone was really a matter of a personality clash or
24 personal disagreement between you and Krone?

25 A Which altercation?

1 Q The one which ultimately led to his firing, where he
2 came up to your area and pushed you on the chest and
3 threatened you.

4 A Oh, I see.

5 Well, there was definitely a personality problem.
6 I mean -- but there were other factors involved.

7 I think the fact that I was a Quality Control
8 Inspector had quite a bit to do with it, the fact that I
9 had to make sure that he did his work correct and the
10 minute he got ahold of something to, you know, say that
11 -- that I was less than perfect, of course, he would
12 take advantage of it.

13 Q Well, were you doing inspections in Krone's area in '86?

14 A No.

15 Q What's the basis for your belief that Krone had -- had
16 it in for you, if I could use that choice of words,
17 because of your Quality Control assignments?

18 A I had -- when I first came on nights, I had to do some
19 work with his crew, and there were some conflicts.

20 I mean -- when I say "conflicts," I mean just
21 differences of opinion; no -- normal, everyday-type
22 things.

23 Q What were you doing when you came on nights, what work
24 activity?

25 A Cable pulling inspector, cable installation inspector.

1 Q Were Krone's people doing cable pulling?

2 A Yes.

3 Q And were you inspecting their work?

4 A Yes.

5 Q And what was the nature of the disagreements?

6 A Oh, I'd ask them to clean a portion of tray out, and
7 they would not clean it out or they wouldn't get it
8 clean enough.

9 One time one of their guys pulled a cable without
10 any QC witnesses, and then he came and got me and asked
11 me to look at it to see if I approved.

12 Q I take it you didn't?

13 A No, I didn't.

14 Q Did Krone intervene on behalf of that craft worker?

15 A Yes.

16 Q What did he say?

17 A He had a portion of the procedure that he was taking out
18 of context to say that he could -- he could pull a cable
19 through a flexible conduit close to an end if the -- if
20 the flexible conduit was not in the middle of the run,
21 okay, which occurs quite often.

22 But the terminators are allowed to pull the cable
23 through the flex conduit, whereas the cable pulling
24 inspectors are not allowed simply because it would
25 definitely get out of hand.

1 Q So he had an interpretation of the -- of the procedure
2 that you differed with?

3 A Yes.

4 Q And he understood that you didn't agree with his
5 interpretation?

6 A Yes.

7 Q Did he get belligerent with you at that time?

8 A No.

9 Q So these -- would you characterize these differences as
10 the kind of differences that a QC Inspector would
11 encounter in the field on a usual basis?

12 A Yes.

13 I would like to rephrase my answer.

14 The main question you asked me, "Do you think that
15 the conflict was mainly personal" -- yes, I do believe
16 it was mainly personal.

17 There was a personality conflict, and, you know,
18 I'm not going to -- certainly I feel there's quality
19 involved there, especially if I had to go out and do
20 inspections under the circumstances that were after our
21 conflict but which never did occur.

22 Do you understand what I'm saying?

23 Q I think you're -- well, I don't want to put words in
24 your mouth or be accused of putting words in your mouth.

25 Are you essentially changing your prior testimony

1 as to what you believe the reason for the confrontation
2 with Krone was?

3 MR. GUILD: His testimony will speak for
4 itself, and I think it really is improper for counsel
5 to, in fact, put words in his mouth.

6 He's added to his testimony. I don't hear anything
7 that's inconsistent with his past answer.

8 MR. GALLO: Well, let me ask the witness.

9 BY MR. GALLO:

10 Q Are you changing your past answer in this regard?

11 A Well, in my idea, yes.

12 I tried to state that yes, there was -- the way I
13 interpreted your question, you said that the reason
14 Jerry Krone intimidated me and pushed me and put his
15 finger on me was solely on -- was a personality
16 conflict, and I tried to say, well, it was quality.

17 But I -- I think the fair assessment is that it was
18 almost totally a personal problem.

19 Q It had to do with his understanding of your
20 characterization of him as a Nazi?

21 A Yes.

22 MR. GALLO: I don't have any further
23 questions.

24 JUDGE GROSSMAN: Mr. Berry?

25 MR. BERRY: It's 5:00 o'clock, your Honor.

1 JUDGE GROSSMAN: Okay.

2 I take it, Mr. Guild, you're going to have some
3 redirect?

4 MR. GUILD: Yes.

5 JUDGE GROSSMAN: And I suppose you're going
6 to read Exhibit 80, which you haven't read yet.

7 Is that so?

8 MR. GUILD: Among other things, Mr. Chairman.

9 JUDGE GROSSMAN: Okay. So we're going to
10 have some time.

11 Now, the witness still has that arrangement by
12 which he cannot return here until 10:00 o'clock tomorrow
13 morning, so we won't -- unless we're going to have
14 preliminary matters, we'll adjourn until 10:00.

15 MR. GALLO: Is it possible to go to 6:00 or
16 would Mr. Berry rather start tomorrow?

17 MR. BERRY: I'd prefer to start tomorrow.

18 JUDGE GROSSMAN: Okay. That's fine.

19 MR. BERRY: If we can have a recess, sure,
20 I'll --

21 JUDGE GROSSMAN: Well, we're not going to go
22 to 6:00 anyway if you were prepared to go on now.

23 But you've been pretty busy this afternoon, running
24 to the phone, so I don't think that you could be
25 expected to be prepared right now.

1 MR. BERRY: I would appreciate having
2 overnight, your Honor.

3 JUDGE GROSSMAN: Okay, fine.

4 So we'll adjourn until -- are there going to be
5 preliminary matters in the morning that anyone knows of
6 now?

7 MR. GALLO: No.

8 JUDGE GROSSMAN: So we'll adjourn until 10:00
9 o'clock tomorrow morning.

10 So we'll expect you at 10:00 --

11 THE WITNESS: Yes, sir.

12 JUDGE GROSSMAN: -- and since we're not going
13 to have preliminary matters, promptly at 10:00.

14 THE WITNESS: Okay. Will do.

15 (WHEREUPON, at the hour of 5:00 P. M., the
16 hearing of the above-entitled matter was
17 continued to the 31st day of July, at the
18 hour of 10:00 o'clock A. M.)

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: BRAIDWOOD STATION
UNITS 1 & 2
COMMONWEALTH EDISON COMPANY
(EVIDENTIARY HEARING)

DOCKET NO.: 50-456/457-OL

PLACE: JOLIET, ILLINOIS

DATE: WEDNESDAY, JULY 30, 1986

were held as herein appears, and that this is the original transcript thereof for the file of the United States Nuclear Regulatory Commission.

(sig) Nancy J Hopp

(TYPED)

Nancy J. Hopp

Official Reporter

Reporter's Affiliation