

ORIGINAL

UNITED STATES NUCLEAR REGULATORY COMMISSION

IN THE MATTER OF:

DOCKET NO: 50-456 OL
50-457 OL

COMMONWEALTH EDISON COMPANY

(Braidwood Station, Units 1 and 2)

LOCATION: CHICAGO, ILLINOIS

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DATE: TUESDAY, NOVEMBER 25, 1986

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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 OL
8 (Braidwood Station, Units 1 : 50-457 OL
9 and 2) :
10 -----X

11 Page: 18,009 - 18,291

12 United States District Court House
13 Courtroom 1743
14 219 South Dearborn Street
15 Chicago, Illinois 60604

16 Tuesday, November 25, 1986.

17 The hearing in the above-entitled matter reconvened
18 at 9:00 A. M.

19 BEFORE:

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

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

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

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On behalf of the Intervenors:

ROBERT GUILD, ESQ.

1 TESTIMONY OF CHARLES LEE HULIN

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EXHIBIT INDEX

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1 JUDGE GROSSMAN: The hearing is reconvened.
2 This is the 97th --

3 JUDGE COLE: 96th.

4 JUDGE GROSSMAN: -- the 96th day of hearing.

5 Before we get to the witness, we mentioned that we
6 would impose a page limit on the briefing; and we have
7 decided that 200 pages for proposed findings for the
8 opening findings seems to be about what we would want to
9 read.

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

11 MR. MILLER: Well, your Honor, in the past,
12 although it hasn't necessarily been by Board order,
13 typically, the Applicant's findings contain a history of
14 the proceeding and a description of the witnesses and
15 usually is a more complete description, if you will, of
16 some of the procedural aspects of the case. That
17 typically is a part of the initial findings.

18 I would hate to have that count against our 200
19 page limit, since it seems to me that, given the size of
20 this record, we are going to have to be judicious in how
21 we deal with the facts in terms of the substantive
22 findings.

23 Therefore, I request that the -- what I would call
24 the procedural history and background section of the
25 findings -- proposed findings -- be excluded from the

1 page limit.

2 I would hope that whatever we do will not be
3 duplicated or even amended by the other parties; it
4 will, in fact, simply be a straightforward recital of
5 the history of this proceeding.

6 JUDGE GROSSMAN: Mr. Berry.

7 MR. BERRY: Yes. Thank you, Mr. Chairman.
8 Two points.

9 Ordinarily, the Staff's interest is probably
10 greater than all the other parties in shortening the
11 proposed findings of facts.

12 I have discussed this matter with my colleagues in
13 the office, Mr. Chairman, who are more experienced than
14 I in drafting proposed findings.

15 I understand our record now, Mr. Chairman, is in
16 excess of 18,000 pages; and I have not attempted to
17 count up the number of witnesses we have seen, but I am
18 confident that it's more than 50.

19 It appears to the Staff, Mr. Chairman, that 200
20 pages, I believe, would be running pretty tight.

21 Just to take a rough measure of that, that would be
22 four pages per witness, excluding all the procedural
23 history and other matters that are typically included in
24 findings of fact.

25 I would think, even from the Staff's point of view,

1 to be on the safe side, that you may -- that the Board
2 may -- want to consider expanding the page limit
3 slightly.

4 JUDGE COLE: 210?

5 (Laughter.)

6 MR. BERRY: By that I would say at least 50
7 to 75 pages, Mr. Chairman, not that the Staff will file
8 pleadings that long; but it may come to that.

9 If so, we prefer to have that option rather than to
10 have to come back to the Board and the parties seeking
11 leave from it.

12 The other alternative, Mr. Chairman, is that in the
13 event the Board were to adopt Applicant's suggestion
14 that the background, procedural history of the case be
15 Applicant's, I guess, ball of wax and not duplicated by
16 the other parties and not be modified or amended by the
17 other parties, I would think that in that event it would
18 only be fair that Applicant furnish that portion of the
19 findings to the other parties in advance.

20 I am reluctant to say that I would agree with
21 Applicant's framing of the case in the procedural
22 history without having seen it to agree to that in
23 advance.

24 I think one way we could save time and save some of
25 the length on the findings and preserve some of the

1 interest of all of the parties would be for Applicant to
2 just make that available to the other parties in advance
3 of the filing.

4 JUDGE GROSSMAN: Well, I haven't heard too
5 many witnesses that I thought ought to receive a
6 four-page treatment in the case. There are a few,
7 perhaps; but they were few and far between.

8 So as far as your first point goes, I don't really
9 see the necessity for expanding the pages.

10 As far as the procedural history, I don't see why
11 that ought to take more than about five or six pages.

12 I assume that you will want us to read that and we
13 will incorporate procedural history to a limited extent
14 in our initial decision; but to put in more than those
15 five or six pages in our decision I think would ensure
16 that almost no one would ever want to read it; and, as a
17 matter of professional pride, I don't think I would want
18 to put more than that in.

19 That's certainly not the right way to write an
20 opinion, any more than it is to offer a brief like that.

21 Now, I haven't spoken in terms of a brief. I would
22 expect that you might want to -- we have had discussion
23 of this having a brief in there, too. Now, the brief
24 would, basically, highlight what you have in the
25 proposed findings.

1 I am sure you are familiar with what Court of
2 Claims practice has been and other courts in which you
3 have proposed findings and briefs; and I would think
4 that something like a 75-page opening brief, which is
5 optional with the parties to get in, not the limit but
6 the question as to whether they would want to submit a
7 brief.

8 So it would seem to me that -- and let me also say
9 that it is rare in my experience that counsel have
10 drafted, even procedural matters, in such a neutral
11 manner that opposing counsel have adopted the procedural
12 submission, also.

13 So I would stick with the 200 and the 75 on the
14 brief; and if the parties feel some hardship when they
15 are finally getting it together, they can ask allowance
16 of the Board for further indulgence on that.

17 Mr. Guild, we haven't heard from you on that. Does
18 that sound acceptable to you?

19 MR. GUILD: It does, Mr. Chairman; and if I
20 understand the Chair correctly, it seems that having a
21 brief that was independent from findings would address
22 not only the size or the page problem but it would allow
23 for a document that was more argumentative and more of
24 an advocacy document than the findings, hopefully, will
25 be.

1 I think all counsel, at least, have agreed in
2 principle that the more neutral the findings are, the
3 more likelihood there will be absence of dispute on
4 nondisputed matters.

5 I personally am not familiar with the Court of
6 Claims practice and, perhaps, I could do some inquiring;
7 but if the Chair off the record could suggest some
8 sources of guidance, I would appreciate some reference.

9 JUDGE GROSSMAN: Well, basically, Court of
10 Claims proposed findings, you submit all the material
11 facts in the proposed findings and then you, basically,
12 hit the high points in your brief and give more of an
13 argumentative treatment in the brief; but you don't,
14 basically, repeat the particulars of the proposed
15 findings except, perhaps, for some important ones.

16 So you have a narrative that is easy to read in
17 your brief and then you can always -- and it refers to
18 the proposed findings as record citations. You don't
19 repeat your citations to the record in your brief. You
20 refer to your proposed findings, which, in turn, have
21 the reference to the record in the case.

22 So anyone reading your brief can then look back in
23 your proposed findings and see the details of what you
24 are referring to.

25 Now, we haven't covered your rebuttal, your reply

1 brief, Mr. Miller, or your reply findings. I am
2 thinking in terms of somewhere between 75 and 100.

3 MR. MILLER: Initially, that seems
4 reasonable, your Honor.

5 JUDGE GROSSMAN: Okay. Let's put it at about
6 85, which is right in between.

7 MR. MILLER: All right. Fair enough.

8 JUDGE GROSSMAN: Or somewhere there, 85 pages
9 on your reply.

10 JUDGE COLE: Maximum.

11 JUDGE GROSSMAN: Mr. Berry.

12 MR. BERRY: Yes, Mr. Chairman. Another point
13 of clarification.

14 I understand from the regulations that any party
15 that fails to submit proposed findings on a particular
16 issue is deemed to be in default of that issue; and I
17 would inquire of the Chair if the Chair intends to apply
18 that rule to these proceedings.

19 JUDGE GROSSMAN: We, basically, only have one
20 issue here; but as far as a default with regard to
21 material facts, if those material facts that are
22 proposed are not rebutted, I would expect that we would
23 be free to accept whichever party put forth those
24 material facts.

25 MR. BERRY: The reason I mentioned this, Mr.

1 Chairman, you may recall that there is, I believe, a
2 case, either Appeal Board or the Commission itself, in
3 Comanche Peak; and I believe the question was a party
4 failed to file proposed findings. The Applicant and the
5 Staff, they moved for, I guess, a default on those
6 issues, a dismissal of them.

7 I believe the disposition was that, since the
8 presiding officer didn't direct that findings of fact be
9 filed, that he didn't have the authority under the
10 regulations to declare a default.

11 Based on what I have heard so far, I believe we
12 have a direction to file findings and I don't think that
13 will be a problem. I just mention that to the Chair to
14 make sure that the Chair was aware of that.

15 JUDGE GROSSMAN: Well, yes; and I think my
16 recollection of Appeal Board cases is that the Appeal
17 Board always has said that once there is a failure to
18 submit proposed findings, the Board can, basically,
19 default that party on the findings and then the Appeal
20 Board goes further and decides everything on the merits.

21 We don't feel constrained to do that. If there is
22 a default -- if we think there is something important
23 that ought to be said, we would say it; but if we say
24 something on the one hand, I think we are going to
25 follow it. So we don't feel that we are obligated to go

1 beyond the default. We may decide that it's necessary
2 in a particular case but we are requesting and directing
3 that proposed findings be submitted, Mr. Berry, so there
4 is no problem with that.

5 I understand you want us to be on record on that
6 and we are on record.

7 MR. BERRY: Thank you, Mr. Chairman.

8 JUDGE GROSSMAN: Now, I don't foresee in this
9 particular case that Applicant is going to fail to
10 submit proposed findings nor Intervenor, for that
11 matter.

12 MR. BERRY: I don't think so, either.

13 JUDGE GROSSMAN: I think it's really
14 academic.

15 MR. BERRY: Thank you, Mr. Chairman.

16 JUDGE GROSSMAN: Are there any preliminary
17 matters before we return to Dr. Hulin?

18 (No response.)

19 JUDGE GROSSMAN: Fine. Why don't we
20 continue?

21 Dr. Hulin, you remain under oath.

22 THE WITNESS: Thank you.

23 MR. MILLER: Is your microphone on, Chuck?

24 THE WITNESS: Yes.

25 CROSS EXAMINATION

1 (Continued.)

2 BY MR. GUILD

3 Q Good morning, Dr. Hulin.

4 A Morning.

5 Q Now, the interviews that you conducted when you returned
6 to the Braidwood site on September 15th and September
7 16th were conducted, in essence, during the second shift
8 while these inspectors were on the job?

9 A No. They were taken off the job.

10 Q Yes.

11 I mean, you didn't conduct the interview while they
12 were conducting a cable pull, I appreciate that; but it
13 was Braidwood site, it was during the normal working
14 hours, which was the second shift?

15 A Yes.

16 Q All right, sir. And you procured their presence how?

17 A We sent the Union steward to collect them from wherever
18 they were working and bring them to the interview room.

19 Q All right, sir. And one at a time?

20 A Yes.

21 Q And did you provide the name to the steward and say,
22 "Bring Joe first," or did you provide the entire list
23 and leave it to the steward to select?

24 How did you do that?

25 A We provided the individual name.

1 Q All right, one at a time.

2 So the steward knew in advance what the order would
3 be of calling these people; is that --

4 A No.

5 Q Tell me how it worked.

6 A When it was time for us to interview somebody else, we
7 would make sure that the person was, indeed, working
8 that night and was not in the middle of a hot pull and
9 send the steward to get them.

10 Q How would you determine that he was not -- that he was,
11 indeed, working that night and that he was not in the
12 middle of a hot pull?

13 A Ask the lead, usually.

14 Q You would ask the lead?

15 A I believe so.

16 Q And did you communicate with the lead yourself, Dr.
17 Hulin?

18 A I communicated with the lead.

19 I did not talk to the lead on everyone that we sent
20 the steward for, no.

21 Q I see.

22 A Somebody did.

23 Q Somebody did. If not you personally, then someone else?

24 A Yes.

25 Q Would that someone else have been the others in

1 attendance at the interviews, Messrs. Thornton, Gallo,
2 Marcus?

3 A No. There was somebody who was in the outer office, who
4 was, essentially, working the second shift, to be there
5 in case we needed something, to roundup somebody, to go
6 out and get a sandwich or a cup of coffee or something.

7 Q Who was that?

8 A I don't know.

9 Q A Commonwealth Edison employee?

10 A I don't know.

11 Q All right, sir. Now, the lead that you had contact with
12 personally when you did, who was that lead?

13 A Don Schirmer.

14 Q That was Don Schirmer?

15 A Yes.

16 Q And Mr. Schirmer, of course, was one of the seven people
17 that you interviewed?

18 A Yes.

19 Q All right. Mr. Schirmer was the lead of the other six
20 people that you interviewed?

21 A Yes.

22 Q All right. And, of course, then Mr. Schirmer knew that
23 you were interviewing the other six?

24 A Yes.

25 Q All right. Now, the interviews were, as you stated,

1 conducted at the Braidwood site.

2 You didn't seek out these employees on their own
3 time at home; that's apparent, isn't it?

4 A Yes.

5 Q All right. And the interviews were conducted at the
6 lawyers' trailer on the site, the red trailer; is that
7 right?

8 A I realize I told you that it was conducted at the
9 lawyers' -- the red trailer. I never heard it referred
10 to as the lawyers' trailer but the red trailer on the
11 site when we talked on Monday.

12 In retrospect, I think it was conducted in the
13 first building toward the outer gate from the red
14 trailer, which was, I believe, called the conference
15 room.

16 Q Oh, I see.

17 So it wasn't in the red trailer at all?

18 A I don't believe it was, no.

19 Q You would remember the red trailer, I promise you, Dr.
20 Hulin, if it was. I spent several chilly days there
21 last winter doing depositions of inspectors.

22 So it was not a small room with a tin wall, I take
23 it --

24 A No.

25 Q -- and windows?

1 A I didn't really pay that much attention to the physical
2 surroundings.

3 Q Did it have wheels and a little set of stairs that led
4 up to the door?

5 A I don't believe it did. That's why I changed and said I
6 don't think that it was the red trailer.

7 I think it was the first building toward the gate
8 from the red trailer.

9 Q I see. And do you know what building that is,
10 conference room; but is it at the Project Construction
11 Department?

12 A I am not sure.

13 MR. GUILD: Can counsel give assistance?

14 Does counsel know whether this is the Project
15 Construction Department?

16 MR. MILLER: I am not sure which conference
17 room Dr. Hulin is referring to.

18 JUDGE GROSSMAN: You weren't there, Mr.
19 Miller; it was Mr. Gallo?

20 MR. MILLER: It was Mr. Gallo and Mr.
21 Thornton.

22 MR. GUILD: All right, sir.

23 BY MR. GUILD:

24 Q In any event, it was on the Braidwood site next to the
25 red trailer --

1 A Yes.

2 Q -- as you recall now.

3 All right, sir. Now, as you stated, the people who
4 were being interviewed, after being taken off the shift
5 with contact from the Union steward or the lead, Mr.
6 Schirmer, their lead, Mr. Schirmer, they were informed
7 that you were a consultant for Commonwealth Edison
8 Company, as you have testified; and they were informed
9 that --

10 A No, sir, they were not.

11 Q I am sorry?

12 A They were not.

13 Q You informed them of that, didn't you?

14 A I informed them I was a consultant for I. L. B.

15 Q I am sorry. The distinction escaped me.

16 You informed them that you were a consultant for
17 Isham, Lincoln & Beale, the law firm that represents
18 Commonwealth Edison Company?

19 A That is correct.

20 Q And you told them all that?

21 A I believe so.

22 Q All right. And, of course, Mr. Gallo and Mr. Thornton
23 introduced themselves as lawyers for Commonwealth Edison
24 Company?

25 A Yes.

1 Q And Mr. Marcus introduced himself as a -- I guess, if he
2 needed to introduce himself, as a -- Commonwealth Edison
3 manager in the Quality Assurance Department?

4 A Yes.

5 Q All right, sir.

6 Now, do you feel, Dr. Hulin, that you got, under
7 those circumstances, knowing who you were, knowing that
8 their supervision was aware of not only the fact they
9 were being interviewed but that they were being
10 interviewed by you, the interviews were conducted on the
11 site in the building next to the red trailer during
12 working hours and they were being transcribed by a Court
13 Reporter -- do you feel, sir, under the circumstances
14 under which the interviews were conducted that you got
15 completely forthcoming, honest and accurate answers to
16 your questions from these QC Inspectors?

17 A Yes.

18 I think it took a lot longer than it might have
19 been had we conducted the interviews one on one at Joe's
20 Bar after they got off shift; but I think eventually we
21 got forthright answers, candid answers.

22 Q All right, sir. That's helpful. Understood.

23 Do you feel that in any of the circumstances in
24 which these interviews were conducted, the circumstances
25 contributed to the interviewees, the QC Inspectors,

1 tending to tell you what they thought you wanted to
2 hear?

3 A Sir, that assumes they knew what I wanted to hear; and
4 unless they made a very good inference about what I
5 wanted to hear, then I don't know how they could do it.

6 Q Well, sir, how about answering the question directly? I
7 appreciate your skepticism, whether well-founded or not;
8 but would you answer the question directly; and I will
9 rephrase it, and that is:

10 Do you believe that any of the circumstances in
11 which the interviews were conducted, including the
12 identity of the questioners, the nature of the
13 questions, the setting in which the questions were asked
14 -- did any of those circumstances tend to influence the
15 interviewees to tell you what they thought you wanted to
16 hear -- yes or no -- in your opinion?

17 A There is always -- I -- there is always that worry with
18 any interview that you conduct, that you are getting a
19 lot of social desirability and you are getting a lot of
20 -- in the process that you are describing; and that's
21 why the interviews took an hour-and-a-half, some were 45
22 minutes, some of them.

23 I think, in substance, the best answer I can give
24 you is that by the end of the interview, I don't think
25 they were giving us answers that they might have thought

1 that I might have wanted to hear.

2 Q Well, that's a little more helpful.

3 You have told me that you, at least, acknowledge
4 that the phenomenon exists, that interviewees -- not
5 necessarily these in particular but interviewees --
6 might tend to provide answers that they believe are the
7 answers desired by the interviewer.

8 That is a phenomenon that happens on occasion,
9 isn't it?

10 A On occasion.

11 Q That is a phenomenon that you generally guard for or
12 anticipate -- and anticipate, is it not?

13 A It's a phenomenon you try to avoid, yes.

14 Q Well, you try to avoid it, do you not, by a process of
15 structuring the questions themselves in such a way as to
16 not elicit simply the answer that the interviewee
17 believes is desired.

18 You want to have a neutral question, don't you?

19 A Yes.

20 Q And you try to account for that phenomenon by
21 structuring the setting of the interview in such a
22 fashion, also, so that the identity of the interviewer
23 or the setting doesn't itself tend to suggest the
24 desired answers?

25 A Yes.

1 If you can't do that, you take other safeguards to
2 try to convince -- to try to assure yourself that you
3 are getting candid answers.

4 Q All right, sir.

5 Well, you will agree with me the fact that these
6 interviews were conducted during working time, on the
7 Braidwood shift, with the knowledge of the individual
8 supervision, that those facts tended to influence the
9 candor of the interviewees?

10 A No, sir, I will not.

11 Q I see.

12 JUDGE GROSSMAN: I am sorry. What was the
13 answer?

14 THE WITNESS: No, sir, I will not.

15 BY MR. GUILD:

16 Q Let's make it in a relative sense.

17 Wouldn't you at least agree, Dr. Hulin, that if you
18 conducted these interviews at, in your sort of shorthand
19 reference, Joe's Bar, some neutral site that was not
20 associated with their place of work, their homes, an
21 office someplace, some place other than the Braidwood
22 Nuclear Power Plant, that, relatively speaking, that
23 more neutral setting would tend to elicit more neutral
24 and forthright answers from the interviewees?

25 A I think it would make the job of the interviewer easier.

1 I think if you have had experience interviewing,
2 you can overcome those problems.

3 Q I trust that someone could overcome those problems, but
4 will you acknowledge that it is more of a problem where
5 one is not conducting the interview in the neutral
6 setting, as I suggested?

7 A Sir, approximately 95 -- that's off the top of my head
8 figure -- 95 percent of the interviews that I have ever
9 conducted of blue color and white collar workers have
10 been conducted at the site of work with the knowledge of
11 their supervisor.

12 You can't pull somebody off the job without their
13 supervisor knowing it; and these interviews have been
14 conducted for purposes ranging from finding out if the
15 supervisor is doing a good job to, "What do you think of
16 your pay?"

17 And it is -- as I said, it may take you a little
18 longer; but I don't think it's an impossible task.

19 Q Well, sir, that is not exactly responsive.

20 Your practice may be such more generally than in
21 the case of your work at Braidwood, but I am asking you
22 to focus on this particular setting.

23 In this particular setting, don't you acknowledge,
24 sir, that the problem of getting honest and forthright
25 and candid answers from these witnesses was greater

1 since you chose to conduct the interviews at the
2 Braidwood site than it would have been if you had done
3 the interviews in a more neutral setting?

4 It's really a pretty direct question.

5 A It's a direct question, and I think I have answered it.

6 I said it may make it more difficult but I don't
7 think it removes the possibility of getting candid
8 answers.

9 Q All right, sir. I will quit at that point.

10 Now, you had your identity known, your relationship
11 to Commonwealth Edison Company communicated to these
12 interviewees and you also had two advocates for
13 Commonwealth Edison Company in the NRC licensing
14 proceeding identifying themselves as such, Mr. Gallo and
15 Mr. Thornton, present and a representative of
16 Commonwealth Edison Company management.

17 Now, don't you acknowledge that the presence of all
18 those persons in these interviews would tend to inhibit
19 the candor and forthrightness of these interviewees when
20 asked questions that reflected on Commonwealth Edison
21 Company?

22 THE WITNESS: Was there a question in there?

23 MR. GUILD: There is, sir.

24 JUDGE GROSSMAN: Could you repeat the
25 question, Mr. Reporter?

1 (The question was thereupon read by the
2 Reporter.)

3 A Again, I think it would make the job of the interviewer
4 more difficult; and I think initially, with an
5 inexperienced interviewer, you might have that problem,
6 getting candor and candid answers.

7 I think by the end of the interview, I don't think
8 we did.

9 BY MR. GUILD:

10 Q Well, that's the same kind of answer you gave me last
11 time; and it's really not directly responsive.

12 Do you acknowledge, sir, that candor was more of a
13 problem here than if Messrs. Gallo and Thornton, Marcus
14 were not present and if you were not identified to these
15 individuals as a consultant indirectly through the law
16 firm for Commonwealth Edison Company?

17 A With the last, my identity, I can't comment on that,
18 because I have never interviewed people where they did
19 not know my identity.

20 With the presence of Thornton, Gallo and Marcus, as
21 I said, I think I worried very much initially about
22 getting candid answers; and by the end of the interviews
23 I was convinced that we were getting honest, open,
24 forthright answers.

25 Q All right, sir. Now, you made reference, when you

1 responded to the previous question, to skilled
2 interviewing technique; and I take it that -- I don't --
3 excuse me.

4 When you are speaking of skilled interview
5 technique, you are speaking of the technique that you
6 yourself employed in asking these questions?

7 A I like to think so.

8 Q All right, sir. But you are not speaking directly of --
9 I am not asking you to comment one way or the other; but
10 your reference is not to Mr. Gallo's questioning or Mr.
11 Marcus' or Mr. Thornton's to the extent they questioned.

12 You are really speaking of your own questioning
13 when you talk about a skilled interviewer being able to
14 get around these problems?

15 A Yes.

16 Q All right, sir. And I take it that, as you just
17 answered, by the end of these interviews, you believed
18 that you did get around these problems?

19 A Yes.

20 Q All right. Sir, Intervenors' 193 is the list of
21 questions.

22 Now, as to the questions, I take it, you generally
23 followed the order of the questions as they appear in
24 this outline; is that the case?

25 A I tried to.

1 I am not going to claim that I followed it in every
2 case. Sometimes it was better if -- I mean, the
3 interviewee would come in and would start talking; and
4 the best thing to do under those conditions is to let
5 them talk.

6 I think I elicited an answer to every one of these
7 questions. I tried to follow the order but I am not
8 going to say I followed the order every time.

9 Q Understood. But, generally, your approach was to use
10 this guide and to use it sequentially?

11 A Yes.

12 Q All right, sir. So if we have a process going on here
13 with problems of lack of candor, lack of forthrightness
14 caused by the setting and the nature of the -- the
15 identity of the questioners, plural, if that was cured
16 over time during the interviews, it was cured by the
17 time you got to the end.

18 Now, let's look at the end.

19 A I didn't say by the time we got to the end.

20 Q Towards the end of the interview is what you said?

21 A I think I said eventually we got over the problems and
22 we were getting good data.

23 Q Let's work from the back of the questions.

24 Now, the conclusion paragraph, Page 3, is the one
25 you abandoned. You didn't use the concerned disclosure

1 statements to document any concerns that these six or
2 seven interviewees might have had; true?

3 A That's correct.

4 Q All right. Now, aside from your own notes and the
5 verbatim transcript, are you aware whether or not any
6 documentation was made of concerns expressed by the
7 seven interviewees, since you didn't use the disclosure,
8 concerned disclosure statement?

9 A No, I am not.

10 Q You are not aware?

11 A I am not aware.

12 Q You don't know whether or not Mr. Gallo and Mr. Thornton
13 initiated investigations into any of these concerns or
14 directed the concerns to the Quality First organization?

15 A No, sir, I am not.

16 Q You don't know whether Mr. Marcus, who was the
17 representative of Commonwealth Edison quality assurance,
18 a manager in that department, whether Mr. Marcus
19 followed up on any of these concerns?

20 A No, sir.

21 Q Well, did you tell the interviewees -- now, I am looking
22 at the first part of the interview when, perhaps, you
23 hadn't yet overcome these problems -- did you tell them
24 that one of your purposes is, as the third bullet
25 states, to determine if any quality concerns exist?

1 A Yes.

2 Q Well, don't you expect that after you told them that you
3 were trying to determine if any quality concerns exist
4 and you got to the end of the interview without ever
5 documenting those concerns, that, perhaps, the
6 interviewees felt like you were not being particularly
7 forthright with them when you said you were trying to
8 identify concerns?

9 A I don't believe so.

10 MR. MILLER: I am going to object to the form
11 of the question.

12 I don't know how Dr. Hulin can speculate on
13 something when he has said he is not aware of what
14 others in the interview were or were not doing with
15 respect to documentation.

16 I don't think there is a foundation for the
17 question, and it asks for speculation from Dr. Hulin
18 that doesn't have an evidentiary basis in law.

19 MR. GUILD: Well, two points, Mr. Chairman.

20 First, he wasn't speculating at all. He told me
21 that he had no knowledge that there was any other
22 documentation of his concerns.

23 If there was, it's, obviously, never been
24 communicated to Dr. Hulin, the man who is supposed to be
25 forming an opinion about these witnesses', these

1 interviewees' attitudes about the job.

2 And, secondly, and more importantly, if they are
3 telling these interviewees that they are there to
4 identify concerns and they never do, what impact does
5 that have on the level of trust that the interviewees
6 have and the degree of honesty and forthrightness that
7 you are going to get out of them.

8 MR. MILLER: Excuse me. I --

9 MR. GUILD: That seems to call for an opinion
10 that he has to have some position on if he is going to
11 hold, also, the opinions that he got honest and
12 forthright answers.

13 MR. MILLER: The determination of --

14 JUDGE GROSSMAN: I think we have had enough
15 argumentation in front of the witness on this.

16 I don't see anything objectionable about the
17 question. The witness is an expert witness. He can
18 handle questions like that. If it misses a point, the
19 witness can say so.

20 I don't see that he is being led into any kind of
21 trap, especially not after the argumentation, so we will
22 allow the question.

23 Do you want that repeated, Mr. Guild, or can you
24 rephrase it?

25 MR. GUILD: I will rephrase it, Mr. Chairman.

1 BY MR. GUILD:

2 Q In short, Dr. Hulin, don't you believe you kind of
3 mislead these interviewees when you told them you wanted
4 to identify concerns and you never did?

5 A No.

6 Q All right, sir. Now --

7 A I would like to explain that.

8 Q The beginning of the interview --

9 A I would like to --

10 Q I am sorry.

11 A I would like to expand on that.

12 Because I was writing down the notes as I was --

13 Q Excuse me. That is not --

14 JUDGE GROSSMAN: Excuse me, excuse me, Dr.
15 Hulin.

16 Mr. Miller will ask you a question on that, if he
17 wishes, an elaboration.

18 Counsel is entitled to control his own examination.
19 That is a standard rule.

20 To rule otherwise would take away the examination
21 from him, and that wouldn't be proper.

22 BY MR. GUILD:

23 Q All right, sir. Now, you started out with a couple of
24 questions that I assume were pretty neutral and those
25 are to ask these people who they are and how long they

1 have been on the job and what their job classifications
2 are.

3 I assume that that is -- that one would generally
4 expect that you got honest answers to questions about
5 what your name is and how long you have been on this job
6 and what your positions are?

7 A I assume I got honest answers to what their name was
8 since it was consistent with what we had on the list.

9 As far as their experience and their experience at
10 other nukes, I could only take their word for it.

11 I didn't go to the personnel jacket and verify.

12 Q I understand that -- well, I guess I didn't understand
13 that; but I certainly find that reasonable.

14 My question, though, is: Given what they told you
15 and the fact that you didn't attempt to corroborate one
16 way or the other what they told you beyond their names,
17 wouldn't you agree with me that those questions are
18 neutral in the extreme and are likely to have elicited
19 candid answers?

20 A Yes.

21 Q All right, sir. But as soon as you get into -- as soon
22 as you get beyond that point, you get into questions
23 that are not exactly neutral, are they?

24 That is B, management, all the questions
25 thereunder, C, Quality First/NRC, D, production

1 pressure/QC inspection, those questions are not nearly
2 as neutral as how long you have been on the job, what is
3 your job, what is your name?

4 A No, sir, they are not as neutral.

5 On the other hand, the question B-1, "Do you feel
6 that you have adequate access to supervision," is --
7 it's certainly more neutral than threatening.

8 Q Oh, it is?

9 Don't you think the words, "adequate access" --
10 adequate calls for a judgment and don't you think that
11 when the questioners are representatives of supervision,
12 in this case Commonwealth Edison Company, that when you
13 ask a question that says, "Do you feel you have adequate
14 access to supervision," that any interviewee under the
15 circumstance of these Quality Control Inspectors would
16 understand that the desired answer is yes?

17 A No, I don't understand that.

18 Q You don't believe that's the case here?

19 A No.

20 Q All right, sir. Well, that's useful. I am glad to hear
21 your opinion that you think that's a neutral question
22 and doesn't suggest the answer.

23 That is your opinion, isn't it?

24 A Yes.

25 MR. MILLER: Excuse me.

1 The question is asked and counsel gets an answer
2 and he make a comment and re-asks the same question.

3 I believe that is improper examination.

4 MR. GUILD: May I proceed, Mr. Chairman?

5 JUDGE GROSSMAN: Yes, please.

6 BY MR. GUILD:

7 Q The second question, the punch line, is, "Do you feel
8 free to bring the questions or concerns to middle
9 management, i. e. Mr. DeWald, Mr. Seltmann or Mr.
10 Simile?" Isn't that a loaded question, too, Dr. Hulin?

11 Don't you expect that, given the identity of the
12 questioners, representatives of Commonwealth Edison
13 Company, the lawyers in the licensing case, that when
14 you ask the question, "Do you feel free," and you
15 mention Mr. DeWald, that the suggested answer is
16 inevitably going to be, "Certainly, I feel free, yes, I
17 do"?

18 A No, I don't.

19 Q No tendency to answer that question in the affirmative
20 rather than the negative given the circumstances and the
21 nature of the question; is that true?

22 A I think it would have been very easy for the people,
23 given the circumstances, to say, "Well, you know, in
24 general, it's -- they are just -- we are on the second
25 shift and they are on the first shift and we just don't

1 have access to them. It's not because they are bad
2 people; but, no, we just can't get to them. Here we are
3 on the second shift working 4:00 to midnight"; and they
4 could have had a long, reasonable colloquy there -- I am
5 sorry -- soliloquy so that it would have been easy for
6 them to say, "I don't have access."

7 Q All right, sir. That's helpful.

8 They didn't, did they?

9 A Oh, some of them said that they had communication
10 problems. Some of them said, "I haven't seen them very
11 often."

12 JUDGE GROSSMAN: Excuse me, Dr. Hulin.

13 But what if their opinion was that they were bad
14 people and it wasn't just a communication problem?

15 THE WITNESS: It's not --

16 JUDGE GROSSMAN: Do you think they would have
17 answered without any inhibitions if that was the case?

18 THE WITNESS: In the context of the question
19 I asked them, "Do you feel that you have adequate
20 access," I think if they had felt they had inadequate
21 access, for whatever reason, they might have said, "Yes.
22 Well, I don't get to see them very often."

23 JUDGE GROSSMAN: Yes. But what if their
24 answer or their opinion was that the reason they didn't
25 have access was not because they were on a different

1 shift but that the management didn't care to give them
2 access.

3 Do you feel under the circumstance that they would
4 have been inhibited from responding candidly?

5 THE WITNESS: I think they could have
6 responded candidly to the question, "Do you feel you
7 have adequate access to supervision," by saying no.

8 BY MR. GUILD:

9 Q You think they would have? It's your opinion they would
10 have responded candidly to that question, sir?

11 A Some of them did.

12 Q Yes, sir; but is it your opinion that they would have
13 responded candidly to that question?

14 A Yes.

15 Q All right, sir. Now, in fact, my shorthand suggests
16 that to question B-2, that is the question about feeling
17 free to bring your concerns to Mr. DeWald, et cetera,
18 the middle managers, that everybody told you yes, they
19 felt free to do that.

20 They all did, didn't they? They all said yes to
21 that question, did they not?

22 A Some of them said yes in varying degrees of enthusiasm.

23 Q But they all said yes, didn't they?

24 A Yes.

25 Q Now, if I were to tell you that the record in this

1 proceeding from Quality Control Inspector after Quality
2 Control Inspector after Quality Control Inspector, in a
3 formal setting where there is a record, where judges are
4 sitting on this bench, all of the kinds of circumstances
5 that exist here pro and con -- that inspector after
6 inspector said they felt that Mr. DeWald was isolated,
7 they thought that Mr. DeWald hid in his office, they
8 thought that Mr. DeWald was cold, aloof and withdrawn,
9 they thought that Mr. DeWald failed to even exchange
10 morning pleasantries, when people would say, "Good
11 morning, Mr. DeWald," he would ignore them and go close
12 his door and hide in his office. In short, they felt
13 that access to Mr. DeWald was terrible.

14 Now, if I ask you to suppose, sir, that the record
15 in this proceeding reflects those facts and yet, you
16 were told uniformly by all seven of your interviewees
17 that they felt, yes, they had free access to Mr. DeWald,
18 wouldn't that suggest, sir, that you were not getting
19 forthright and candid answers to that question?

20 A In the context of the interviews, I didn't ask them if
21 they had free access to Mr. DeWald.

22 I believe I asked them, "If you had quality
23 concerns, do you think -- for technical matters, do you
24 have access to your lead and your supervisors, middle
25 management, to get answers to your questions?"

1 Q The question specifically, sir, is:

2 "Do you feel free to bring the questions/concerns
3 to middle management, Mr. DeWald, Mr. Seltmann, Mr.
4 Simile?"

5 Now, that's your question as written on
6 Intervenors' Exhibit 193; and, sir --

7 A It may be the question written on Intervenors' Exhibit
8 93.

9 I will not testify that it was the question that I
10 asked every time, because I think I phrased -- this was
11 an outline. This was a guide to the content of the
12 interview as I wanted to conduct it.

13 The way I conducted it depended on the situation
14 and depended on the interviewee.

15 Q Yes, sir. Let's before --

16 A I very frequently would change the answers -- change the
17 questions a little bit to say, "Well, okay. You said
18 you have had access to Mr. Schirmer. If you have got a
19 technical problem, do you have access to the next step
20 up? Who is the next step up," and they would tell me.
21 "Do you have access to them?" "Yes."

22 Q All right, sir.

23 However you phrased the question, Dr. Hulin, in
24 specific terms, when you asked them whether they felt
25 they had -- they were free to access Mr. DeWald with

1 questions or problems, words to that effect, sir, and
2 you got universally affirmative answers, either saying
3 yes and stopping at that point, yes and elaborating, yes
4 and some kind of further discussion, my question to you,
5 sir, is very direct; and that is:

6 If the evidence in this proceeding is directly to
7 the contrary from inspector after inspector, wouldn't
8 that contrary evidence suggest to you, sir, that you
9 weren't getting candid and forthright answers to your
10 question in this interview?

11 A No, sir.

12 The way you have phrased the contrary evidence, I
13 don't find that a contradiction, because it's completely
14 consistent to say that somebody is aloof and yet say,
15 "But I have adequate access to supervision to get
16 answers to technical questions that I may have."

17 Q Well, sir, did anybody tell you -- well, let me be more
18 direct.

19 Of the six people who answered generally
20 affirmatively to the question B-2, however you actually
21 framed it, how many of those persons told you, in
22 substance, what I paraphrased from testimony in this
23 proceeding, and that is that Mr. DeWald was aloof,
24 withdrawn and inaccessible, in effect?

25 A Some of them gave me evidence that I would have

1 interpreted to mean that. "I very rarely see him
2 walking around the site."

3 Another one said, "I don't think I have exchanged
4 half a dozen words with him."

5 They gave me information like that that suggested
6 that these were not people who came out and sat down and
7 had a cup of coffee with them, sir.

8 Q Well, you didn't necessarily interpret an answer that
9 said, "I have only had a few words with Mr. DeWald," or
10 "I have not had more than a handful of hands with him,"
11 or, "I have had no words with him," as reflecting
12 anything about the freedom of access, did you?

13 A No.

14 Q It may just have meant they have only been on the job a
15 little while or that Mr. DeWald in the course of their
16 respective works didn't have much contact with these
17 people?

18 A Yes.

19 Q All right, sir. My question again:

20 Which of the seven told you that, gave any
21 condition, negative condition, on his response to the
22 question about access to Mr. DeWald?

23 Which of the seven gave you any condition aside
24 from an affirmative answer?

25 MR. MILLER: Your Honor, I believe the

1 question has been asked and and answered.

2 JUDGE GROSSMAN: No, Mr. Miller, I don't
3 think the question has been answered.

4 My recollection of what has been going on now is
5 that, while the witness will admit, to begin with, that
6 he did ask question B-2 to Mr. DeWald, every time he is
7 -- with regard to Mr. DeWald, every time he is -- asked
8 whether the answers that he got were consistent with the
9 way Mr. Guild paraphrases the question, the witness then
10 somewhat withdraws from having asked that question
11 directly with regard to Mr. DeWald; and this has been
12 going on.

13 Now, if he agrees that the question was asked with
14 regard to Mr. DeWald, I think he can answer as to
15 whether the answers he got with regard to Mr. DeWald
16 were consistent with the way Mr. Guild paraphrases the
17 testimony; and I haven't heard an answer to that
18 question yet.

19 MR. MILLER: Your Honor --

20 JUDGE GROSSMAN: What is your understanding
21 of what that answer is, Mr. Miller?

22 I haven't heard it.

23 MR. MILLER: I would be happy to state it,
24 although I don't want to be accused of --

25 JUDGE GROSSMAN: Okay. I am sorry.

1 I shouldn't be asking you that question; but the
2 objection is overruled, because I don't think that we
3 have gotten a responsive answer.

4 MR. GUILD: Let me rephrase the question, Mr.
5 Chairman.

6 BY MR. GUILD:

7 Q Dr. Hulin, the question right now is more precise than
8 the previous ones. It is this:

9 Who of the seven by name, sir, gave you any
10 condition on their answer to B-2, that is answered other
11 than an unequivocal affirmative, "Yes, I have adequate
12 or free access"?

13 A Sir, they told me --

14 Q Who, sir?

15 Names is what I am looking for right now. That's
16 the question.

17 A Certainly, Norm Kimble was one of the people who said
18 that he had exchanged maybe a half a dozen words with
19 these people.

20 He in no way indicated that he did not feel that he
21 had adequate access to supervision to get answers to
22 these technical questions.

23 Q That's Mr. Kimble, and there are six others.

24 Did anyone else condition their response other than
25 stating the response affirmatively?

1 A I did not say that Mr. Kimble conditioned his answer.

2 I said he told me he felt he had adequate access to
3 supervision to get answers to technical questions.

4 He also said there was not a lot of communication
5 from supervision down and he didn't see them out there
6 very often and he hadn't talked with them very much, but
7 that is hardly conditioning his answer.

8 Q Then I really don't understand what you are responding
9 to, because my question was:

10 Who of the seven, if any, conditioned their answer
11 to the affirmative statement that they have adequate or
12 free access to Mr. DeWald?

13 Did anybody, Dr. Hulin? Think about that now.
14 That's the question.

15 A Okay.

16 There were -- as I said, Norm Kimble, while he
17 answered the question affirmatively, indicated he had
18 not had much contact with them; but I believe that Chuck
19 Noble would be the other one who also answered
20 affirmatively but also said he had not had much contact
21 with them.

22 Q Okay. Now, neither statement by Mr. Noble nor Mr.
23 Kimble to the effect you have just related caused you to
24 change your testimony, did it?

25 A No.

1 Q Now, were there any questions on Intervenors' Exhibit
2 193 as to which, given the nature of the question, Dr.
3 Hulin, you believe you -- strike that.

4 As to the questions, sir, were any of the questions
5 in Intervenors' 193 less calculated to elicit a
6 forthright and candid answer?

7 A Were any of my questions less calculated to elicit a
8 candid answer?

9 Q Yes.

10 A No.

11 Q All right, sir. Were any of the questions by their
12 character less likely to elicit a candid and forthright
13 answer?

14 A Yes.

15 Q All right, sir. Which questions by their character were
16 less likely than others to elicit a candid and
17 forthright answer?

18 A C-4.

19 Q Okay.

20 A "Do you have any reluctance at all to bring concerns to
21 QF or NRC? If yes, why? Do you feel that you will be
22 terminated if you bring concerns to QF or NRC?"

23 Q Which one is that, C-6?

24 A Yes.

25 Q All right, C-4 and C-6.

1 A Now --

2 Q Are there others?

3 A D-1, "Have you at any time been unable to perform a
4 proper inspection because of production pressure?
5 Examples?"

6 Q That's D-1?

7 A Yes.

8 Q Okay.

9 A D-2, "Have you ever approved or accepted an inspection
10 that should not have been accepted?"

11 Q Okay.

12 A D-4, "Do you have any feelings that cost and/or schedule
13 override quality? If yes, give examples."

14 Q Okay.

15 A D-6, "Have you ever been instructed or discouraged from
16 documenting nonconforming conditions on the proper
17 forms?"

18 Q Okay. Does that complete your answer?

19 A Yes.

20 Q Let's turn to C-4, "Do you have any reluctance at all to
21 bring any concerns to Quality First or the NRC? If yes,
22 why?"

23 Would you agree, sir, that question would tend to
24 elicit a negative answer, "No, I have no reluctance," in
25 effect?

1 A I suppose it would depend on whether they had any
2 reluctance or not.

3 Q I am sure that's the case in part; but aside from the
4 fact of whether they do or do not have any reluctance,
5 given the circumstances of the interviews, the nature of
6 the subject matter, the identities of the interviewers
7 and interviewees, wouldn't you agree that that question
8 tends to elicit a denial, a no answer, "No, I have no
9 reluctance," in effect?

10 A I suppose if I only asked that question and stopped
11 there, it might; but there were always follow-up
12 questions that probed, that said, "Have you ever been
13 there? Would you have any reluctance even if you
14 weren't going to be anonymous," and so forth.

15 Q Let me just ask you directly:

16 Why, in your opinion, is C-4, the question I have
17 just read -- why is that a question that, because of the
18 character of the question, is less likely than others to
19 elicit a candid and forthright answer?

20 A It's a threatening area. It's like asking any question
21 that is getting at the heart of the work.

22 It's a question like asking somebody, "Hey, what do
23 you think of your supervisor?" That itself can be
24 threatening.

25 "What do you think of the people you work with?"

1 That can be threatening.

2 We interview people and ask them how they intend to
3 vote in the next N. L. R. B. union sanction election.
4 Those are extremely threatening questions, sir.

5 It's the nature of the content.

6 Q All right, sir. And how about for C-6, that is the
7 question, "Do you feel you will be terminated if you
8 bring concerns to Quality First and the NRC?"

9 Again, a threatening question?

10 A Could be, yes.

11 Q It could be interpreted that way?

12 A Yes.

13 Q Is that the reason why you would associate this question
14 as one, because of its character, that might tend to
15 elicit less than a forthright answer?

16 A Yes.

17 That's why, also, we had it toward the middle of
18 the interview rather than first.

19 Q All right, sir. D-1, "Have you ever been" -- "Have you
20 at any time been unable to perform a proper inspection
21 because of production pressure?"

22 That's also a threatening question for a Quality
23 Control Inspector, isn't it?

24 A It could be, yes.

25 Q It could be threatening, yes.

1 And because of that threatening character, is that
2 why you would identify that as one of the questions that
3 because of its character might tend to elicit less than
4 a forthright and candid answer?

5 A It's possible, yes.

6 Q Is that the same basis for D-2 being in that category,
7 "Have you ever approved or accepted an inspection," et
8 cetera?

9 A I am sorry. Yes.

10 Q D-4, that is, "Do you have any feelings that cost and/or
11 schedule override quality," that's also a threatening
12 question for a Quality Control Inspector in this
13 context?

14 A It could be.

15 Q D-6, "Have you ever been instructed or discouraged from
16 discussing" -- "from documenting," excuse me,
17 "nonconforming conditions on the proper forms," that
18 also could be a threatening question for a Quality
19 Control Inspector?

20 A It could be, yes.

21 Q And it's because of that character that it might tend to
22 elicit less than a candid answer?

23 A It's possible, yes.

24 Q Now,^s at the beginning of these interviews, you
25 introduced yourself, as you testified.

1 Mr. Gallo also made an introduction typically, did
2 he not?

3 A Yes.

4 Q And Mr. Gallo's introduction, unlike your own,
5 explicitly identified the -- specifically referred to
6 the fact that Gregory Archambeault had testified in this
7 proceeding the previous week.

8 Do you recall Mr. Gallo making specific reference
9 to Mr. Archambeault's testimony?

10 A Yes.

11 Q Do you also recall that Mr. Gallo then said, after
12 having introduced himself as an Edison lawyer, after
13 having referred to Archambeault's testimony, that
14 Archambeault had recounted that a number of other
15 inspectors on the second shift cable pull shared his
16 opinions about production pressure and work quality
17 issues and that a purpose for the interview included
18 determining whether, indeed, the interviewee shared
19 those opinions?

20 Didn't Mr. Gallo say that, in substance?

21 A I believe so, yes.

22 Q And then you took over and started your interviewing?

23 A Yes.

24 Q All right, sir. Now, having Mr. Gallo, an advocate for
25 Commonwealth Edison Company, set the stage by telling,

1 in effect, what he wanted to hear from these
2 interviewees, that is whether they agree with Gregory
3 Archambeault, who had just testified against the Company
4 in the licensing proceeding, in your opinion, did Mr.
5 Gallo's statements tend to inhibit the Inspectors
6 interviewed from providing candid and forthright answers
7 to your questions?

8 A Sir, I would not characterize that he told them what he
9 wanted to hear.

10 I think he told them what he was there to get
11 information about.

12 Q Indeed. I am not asking you to agree to my
13 characterization.

14 All I am suggesting, given whatever Mr. Gallo said
15 -- and the transcripts of those interviews will reflect
16 what he said in each case.

17 Given what Mr. Gallo said by way of introduction,
18 referring to Archambeault, referring to the matter of
19 checking to see whether the interviewee agreed with
20 Archambeault, do you believe, sir, in your professional
21 opinion, that that statement tended to inform the
22 witness as to the desired answers, in substance, on the
23 questions you were to ask?

24 A No.

25 Q Did it tend to influence the answers that they would

1 give to your questions, sir, in your opinion?

2 A Again, I don't know.

3 Q You don't know?

4 A It didn't make my job any easier; but I don't think it
5 made it impossible, either.

6 Q It did make your job harder; you will concede that, sir?

7 A Yes.

8 Q And that's because it had the tendency of suggesting
9 which side of the coin was the desired response on a
10 number of matters that were controversial?

11 A No.

12 Q Why did it, sir?

13 A Because it's an inhibiting factor of having additional
14 people in the room.

15 Q It didn't make any difference what he had to say or who
16 he was?

17 A That, but I think that was secondary.

18 Q All right, sir. Now, I wasn't asking you just about the
19 room being crowded. The focus on my last question was
20 Mr. Gallo's statement. Now, let's see if we can be
21 clear about that.

22 Is it your opinion, sir, that Mr. Gallo's
23 statement, that is referring to Archambeault and
24 referring to his purpose being to test whether or not
25 Archambeault was accurate in saying that others agreed

1 with him, did those statements by Mr. Gallo at the
2 introduction of the interview influence the answers that
3 were to come, in your opinion?

4 A I don't believe so.

5 Q Thank you.

6 Do you recall that on some occasions Mr. Gallo also
7 referred to the newspaper articles that had covered Mr.
8 Archambeault's testimony also in this introduction?

9 A I don't specifically recall him referring to the
10 newspaper articles in the introduction.

11 He may have.

12 Q Do you recall him referring to the newspaper articles at
13 any time?

14 A Yes.

15 Q All right, sir. And wouldn't you agree with me, sir,
16 that the general thrust of comments by Mr. Gallo and the
17 perceptions by the interviewees was that the newspaper
18 articles tended to exaggerate or misstate criticism
19 about Commonwealth Edison Company and the safety of the
20 Braidwood Nuclear Station?

21 A I think it was the thrust of the opinion of the seven
22 people that the newspaper articles exaggerated the
23 problems, if any, that existed at Braidwood.

24 I am not sure that Mr. Gallo suggested that to
25 them.

1 Q All right, sir. Do you think, in your opinion, Dr.
2 Hulin, that Mr. Gallo associating the newspaper
3 articles' treatment of Mr. Archambeault's testimony with
4 his questioning and your questioning had any tendency to
5 influence the answers that were given by the inspectors?

6 A No.

7 Q All right, sir. Do you have Intervenors' 194 with you,
8 Dr. Hulin? That's your notes of the interviews.

9 A Yes, I do.

10 MR. GILD: Excuse me a second, Doctor, and
11 Mr. Chairman.

12 BY MR. GILD:

13 Q All right, sir. First of all, can we agree that the
14 interviews occurred in the following order:

15 That at 3:59 P. M. on the 15th of September you
16 interviewed Mr. Bisky.

17 He was the first?

18 A If you are taking this off the transcript record --

19 Q Off the notes that you made.

20 A Okay. My notes say I interviewed Carl Bisky on 9/15
21 from 4:00 until 5:35, so that would make him the first
22 one.

23 Q Yes, they are from the transcript, I am informed. I
24 stand corrected.

25 All right, sir. Mr. Bisky at approximately 4:00

1 o'clock on the 15th of September?

2 A Yes.

3 Q All right, sir. And at 6:00 o'clock, 6:03 from the
4 transcript, you began your interview with the next
5 inspector, No. 2, Mr. Box?

6 A Yes.

7 Q Now, I take it that -- did you go continuously: Mr.
8 Bisky concluded, Mr. Box began?

9 A No. There was a break there.

10 Q Was there?

11 A I believe from 5:35 until 6:00 it shows on my notes.

12 Q You took a break, fine.

13 Now, the third inspector to be interviewed began at
14 7:47 and that was Mr. Norm Kimble, again on the 15th?

15 A I have Norm Kimble on the 15th, 7:45 to 9:45.

16 Q All right, sir.

17 Did you take a break before Mr. Kimble?

18 A I wouldn't characterize them so much as a break as we
19 had to wait until somebody went and got the next man.

20 Q How much time transpired before you began Kimble?

21 A Well, sir, I don't have the closing time on Mr. Box,
22 when we finished our interview with him. I have the
23 starting time but not the closing time.

24 MR. GUILD: May I have a moment, Mr.
25 Chairman?

1 JUDGE GROSSMAN: Certainly.

2 MR. GUILD: Mr. Chairman, may we take a brief
3 recess?

4 JUDGE GROSSMAN: Did you want a recess now?
5 I thought you wanted a few minutes just to look for
6 your notes.

7 MR. GUILD: Yes.

8 JUDGE GROSSMAN: Would you like a recess now?

9 MR. GUILD: That would be fine, Mr. Chairman.

10 JUDGE GROSSMAN: Fine. Why don't we take ten
11 minutes.

12 (WHEREUPON, a recess was had, after which
13 the hearing of the above-entitled was
14 resumed as follows:)

15 JUDGE GROSSMAN: Mr. Guild.

16 MR. GUILD: Thank you, Mr. Chairman.

17 BY MR. GUILD:

18 Q I was asking you about the order of the interviews, Dr.
19 Hulin, before the recess; and it appears from the
20 transcript, Mr. Box's interview was concluded at 7:33 P.
21 M. according to the transcript.

22 Do you accept that, sir?

23 A Yes, I will accept that.

24 Q All right, sir. Pardon me one more time.

25 Pardon me, Mr. Chairman. Let me hunt up a piece of

1 paper that appears to have disappeared in the last five
2 minutes.

3 JUDGE GROSSMAN: Take your time, Mr. Guild.
4 Off the record.

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

7 BY MR. GUILD:

8 Q Dr. Hulin, what I would like to do in a moment --

9 JUDGE GROSSMAN: We are on the record, yes.

10 BY MR. GUILD:

11 Q Dr. Hulin, in a moment I would simply like to reflect
12 when the order of examination of these witnesses took
13 place.

14 You did a couple on the 15th until late in the
15 evening and then you came back the next afternoon and
16 did the balance of the seven that you did?

17 A Yes.

18 Q As you have testified, you got done with two days of
19 this, you had others yet to go and you simply determined
20 that you had obtained enough information for your
21 purposes and simply passed on the balance of the
22 inspectors that you had not yet reached?

23 A That's correct.

24 Q I take it that those that you didn't interview were not
25 selected out for any particular reason; they just

1 happened to fall out for the reasons that you have
2 already testified?

3 A Yes.

4 MR. GUILD: Right below my nose.

5 I am sorry.

6 BY MR. GUILD:

7 Q All right, sir. We got through Mr. Box. 6:03 P. M.
8 until 7:00-something. We just stated the time.

9 Then Mr. Norm Kimble, as we stated, began at 7:47
10 P. M.; and you did yet another one that evening, Mr.
11 Thomas, who began at 10:23.

12 Agreed? That's the transcript time.

13 A That's consistent with my notes, yes.

14 Q All right, sir. You finished with Mr. Thomas and then
15 came back the next evening, where you did Mr. Noble,
16 beginning at 6:19; yes?

17 A Yes, that's correct.

18 Q Mr. Schirmer at 8:13 on the 16th of September?

19 A That's correct.

20 Q And, finally, the last gentleman, Mr. Schlichter, at
21 9:40, beginning at 9:40 P. M. on the 16th?

22 A Yes, that's correct.

23 Q Let's talk about Mr. Bisky. He was the first.

24 Now, Mr. Gallo was present for Mr. Bisky's
25 interview, was he not?

1 A Yes.

2 Q You don't indicate Mr. Gallo's questions or presence on
3 your notes, do you?

4 A No.

5 Q Mr. Gallo, after introducing himself, took up the cudgel
6 himself and began a series of questions that extended
7 from Page 42 of the transcript to its conclusion,
8 approximately Page, oh, 70-plus; correct?

9 A I don't have a copy of the transcript.

10 MS. CHAN: Staff will be glad to show you our
11 copy.

12 A (Continuing.) Okay. Mr. Gallo does, indeed, start
13 asking questions on Page 42.

14 BY MR. GUILD:

15 Q And the deposition -- rather, the interview concludes on
16 Page 75 and, essentially, Mr. Gallo asks the questions
17 from the time he begins at Page 42 through the balance
18 of the interview, a few questions interspersed, perhaps,
19 by others; agreed?

20 A That appears to be correct.

21 Q All right, sir.

22 MR. MILLER: I would just like the record to
23 reflect that Ms. Chan handed up a copy of the transcript
24 to the witness which he was referring to in answering
25 the preceding question.

1 MR. GUILD: Thank you.

2 Yes.

3 BY MR. GUILD:

4 Q Now, you don't include any notes of Mr. Gallo's
5 questioning of Mr. Bisky, the questioning that went on
6 for some 30 more pages out of a 75 page transcript, do
7 you?

8 A No.

9 Q It wasn't relevant for your purposes?

10 A I wouldn't say that.

11 Q Well, why don't you tell me in your own words why you
12 chose not to include any of the matters that Mr. Gallo
13 inquired into for more than 30 pages of Mr. Bisky in
14 your notes?

15 A I have never been comfortable taking notes of somebody
16 else interviewing another person, because they don't
17 always follow up the questions that I would have
18 followed up.

19 I thought I had a pretty good idea at the end of my
20 interview about Mr. Bisky's responses to the questions
21 that I had asked; and I sat there and listened,
22 obviously, to Mr. Gallo's questioning; but, no, I did
23 not take notes, simply because for the reasons I have
24 stated.

25 Q Uh-huh. Nothing that the witness said in response to

1 Mr. Gallo's questions, I take it, influenced you to
2 change your testimony in this proceeding in any way?

3 A No.

4 Q And, therefore, it wasn't relevant for your purpose,
5 which was to determine whether or not your testimony
6 required correction, modification or addition?

7 A That's correct.

8 Q All right, sir. Well, Mr. Bisky was interrogated at
9 length by Mr. Gallo on the question of whether he agreed
10 with a number of matters that Mr. Archambeault had
11 testified to; isn't that the case?

12 A Yes.

13 Q And Mr. Bisky stated that he was aware, as he believed
14 many others were, that there were nonconforming
15 conditions in the upper cable spreading room before Mr.
16 Archambeault procured the initiation of the
17 Nonconformance Report for those problems?

18 A That's correct.

19 Q Uh-huh. And he stated, Transcript 51, there were
20 approximately 60 to 70 cables in violation, safety
21 related cables in the upper cable spreading room that he
22 had observed prior to Archambeault's Nonconformance
23 Report?

24 A If you could show me where that is in the transcript.

25 JUDGE GROSSMAN: Page 51.

1 MR. GUILD: Page 51, Lines 14 through 19.

2 MR. MILLER: Your Honor, again, I understand
3 that the questions and the witness's responses are in
4 terms of cross examining him about the bases for his
5 opinion.

6 They do not go to the truth of the matters that are
7 recited in the question and are found in this
8 transcript.

9 MR. GUILD: They go to what, in this case,
10 Dr. Hulin was told.

11 MR. MILLER: As a basis for his opinion.

12 MR. GUILD: For all purposes, Mr. Chairman,
13 what Dr. Hulin was told.

14 JUDGE GROSSMAN: Mr. Miller is objecting to
15 this being any evidence.

16 Mr. Miller, why is this not an admission of a party
17 opponent, an employee of the party who is speaking of
18 matters within the scope of his employment?

19 MR. MILLER: Well, your Honor, these matters
20 were turned over in order to test Dr. Hulin's -- the
21 bases for Dr. Hulin's testimony.

22 If these are to be regarded as admissions -- and I
23 don't believe that statements by Quality Control
24 Inspectors employed by Comstock are, in fact, admissions
25 for these purposes -- then it seems to me what we have

1 is an expansion of the hearing to deal with Mr. Bisky's
2 concerns now.

3 I do not believe that such an expansion of the
4 hearing is warranted at this point in time.

5 JUDGE GROSSMAN: Well, Mr. Miller, to the
6 extent that they are not relevant, we will disregard
7 what was said; but as far as using them, Mr. Guild is
8 entitled to use these statements first for impeachment,
9 as he is doing; but, secondly, if they are relevant,
10 they would also be admissions against a party opponent.

11 I don't see how you could get out from that kind of
12 coverage; but if they are not relevant, certainly, we
13 will disregard these matters except to the extent that
14 they may be relevant as impeachment.

15 MR. GUILD: Mr. Chairman, we believe they --

16 JUDGE GROSSMAN: Excuse me.

17 I think Mr. Miller is conferring, and we will allow
18 him to say anything further, if he wishes.

19 MR. MILLER: Well, your Honor, you know,
20 perhaps I have really missed a bet in terms of my
21 objections here.

22 After all, the basis for my objection in turning
23 these over was that they, in part, represented work
24 product.

25 If these are, in fact, going to be admissions, then

1 if the Comstock employees are agents of Commonwealth
2 Edison Company for purposes of admissions, they may very
3 well be within the scope of the attorney-client
4 privilege as well and the fact that Mr. Gallo was
5 conducting this interrogation may very well be
6 privileged from disclosure.

7 JUDGE GROSSMAN: Well, Mr. Miller, we already
8 covered that.

9 Certainly, Mr. Miller, our ruling was -- and I
10 think it was a proper ruling -- that these are proper
11 foundation materials for impeaching the witness.

12 That was the basis on which the materials were
13 turned over, since this is an expert that you are using
14 at hearing.

15 Now, if they have a further purpose, once they are
16 used for that purpose, and the further purpose fits
17 within the evidentiary rules, then they can be used for
18 that other purpose. I don't see how we can get around
19 that.

20 We can't immunize these documents for some other
21 reason once they are turned over, so I don't see that we
22 have any choice --

23 MR. MILLER: Well, I believe --

24 JUDGE GROSSMAN: -- unless they are not
25 admissions; but I don't see how they would not fit under

1 that category.

2 MR. MILLER: Your Honor, I believe that this
3 is a true Catch 22 situation for the Applicant.

4 These individuals are regarded as agents of the
5 Applicant for purposes of the admissions.

6 The fact that the interrogation is conducted by an
7 attorney for Applicant in confidence, however, does not
8 serve to cloak these with the attorney-client privilege.

9 I see an inconsistency in the approach and I object
10 on that basis.

11 JUDGE GROSSMAN: Okay. We pointed out that
12 we are not in confidence and you had your choice of not
13 using the witness as an expert at hearing, in which case
14 we would have an entirely different question before us,
15 so we have already ruled on that.

16 Ms. Chan, did you wish to add something?

17 MS. CHAN: Yes.

18 The Staff wishes to maintain or reiterate its
19 position that the Archambeault matters were not relevant
20 to this proceeding and beyond the scope of the
21 proceeding; but to the extent that the Board has ruled
22 that some of the issues are relevant, we are not
23 conceding that the information brought out now is
24 relevant.

25 JUDGE GROSSMAN: Okay. And, again, let me

1 say, we are not making a determination now that the
2 questions being posed and the evidence being proffered
3 by Mr. Guild are relevant to anything but impeachment of
4 the witness.

5 To the extent they are, well, then they might be
6 used for other purposes; but we are not determining that
7 at this point.

8 We are only determining that, with regard to at
9 least that one aspect of impeachment, those documents,
10 that evidentiary material, is relevant and we are
11 proceeding along those lines.

12 So, Mr. Guild, we know there was a pending question
13 that has now been lost in the shuffle and I don't want
14 to make the Reporter go back all that way, unless you
15 think it's necessary.

16 MR. GUILD: I don't think it's necessary, Mr.
17 Chairman.

18 I only want to add one point; and that is I
19 understood Applicant to clearly state earlier in this
20 proceeding that they made no claim that any of the
21 Comstock inspectors sought or were retained or retained
22 counsel, that is counsel representing Applicant in this
23 case.

24 In other words, Mr. Gallo, as I understand it, did
25 not interrogate any of these individuals as their

1 lawyer.

2 That clearly then suggests that the Commission
3 decision in the Catawba case, where the Commission
4 squarely met the issue of whether or not Applicant's
5 counsel were entitled to cloak their contacts with
6 complaining Quality Control Inspectors who had not
7 retained them as counsel with an attorney-client
8 privilege was improper; and the Commission there
9 authorized this counsel for Intervenor in that
10 proceeding to have free access to those individuals.

11 In this case we are in exactly the same situation.
12 None of these inspectors are clients of Mr. Miller or
13 his firm or Mr. Gallo; and at this late date to suggest
14 that somehow, without informed requests or consent on
15 the part of these QC Inspectors, they suddenly have
16 become clients of Mr. Gallo and Mr. Miller I think is
17 overreaching significantly.

18 JUDGE GROSSMAN: Well, Mr. Guild, I can't
19 agree with you completely on that.

20 Mr. Miller is speaking in terms of those persons
21 being employees of Mr. Miller's client or, at least, the
22 alter ego of Mr. Miller's client in this case; and
23 that's the premise on which we would admit that evidence
24 as admissions of a party opponent.

25 You can't have it both ways --

1 MR. GUILD: Yes, sir; but --

2 JUDGE GROSSMAN: -- any more than Mr. Miller
3 can have it both ways.

4 MR. GUILD: I understand, Mr. Chairman; and I
5 think you are right.

6 But for purposes of Rule 801, these individuals
7 clearly are agents and they are acting within the scope
8 of their agency. That does not make them clients of Mr.
9 Miller. That just doesn't.

10 And there is a long line of authority that talks
11 about the control group test for who is or who is not a
12 client simply be virtue of their employment.

13 The Commission settled, I think, this very quarrel;
14 and it is squarely the issue of a Quality Control
15 Inspector who is an employee in the case of Duke Power,
16 who was an employee of Duke Power Company, whether that
17 Quality Control Inspector was a client.

18 The Commission said they were not, unless there was
19 a specific act to retain the Applicant's firm as their
20 lawyer.

21 In this case it's even one step further removed. I
22 don't think there is any inconsistency in applying the
23 rule on admissions and still saying that Mr. Miller
24 can't create these people as his clients or employees of
25 his client and shield this interview from disclosure

1 under the work product or attorney-client privilege.

2 JUDGE GROSSMAN: Okay, Mr. Guild. You have
3 made your argument and now we will continue.

4 MR. GUILD: Thank you, Mr. Chairman.

5 BY MR. GUILD:

6 Q Let's look at this. You have Mr. Bisky's interview
7 transcript before you, sir?

8 A Yes.

9 Q All right, sir. Page 43 --

10 JUDGE GROSSMAN: Excuse me, Mr. Guild.

11 I thought the question posed related to Page 51?

12 MR. GUILD: It did; and I am going to get
13 there, Mr. Chairman.

14 JUDGE GROSSMAN: Fine. I just didn't want it
15 to get lost in the argumentation here.

16 MR. GUILD: Understood. Thank you, sir.

17 BY MR. GUILD:

18 Q Do you have Page 43, Dr. Hulin?

19 A Yes.

20 Q All right, sir. Line 11:

21 "Q Did you become aware of the problem in
22 the upper cable spreading room before
23 Archambeault did or after Archambeault?"

24 Line 14, I quote, "A Everybody, I
25 believe, was aware of it. Greg pursued it,

1 followed through. He wanted -- he wanted --
2 would you call it an answer? He had been
3 wrote up. Nothing had been changed; and when
4 he checked upon it, evidently nothing had been
5 changed, so he just in a sense just followed
6 through.

7 "Q So as I understand it, this nonconforming
8 condition in the upper cable spreading room
9 was one that the inspectors generally were
10 aware of?

11 "A Yes."

12 That statement by Mr. Bisky did not cause you to
13 alter your testimony in this proceeding?

14 A The statement --

15 Q It's a simple question. Yes or no, sir.

16 It did not cause you to alter your testimony in
17 this proceeding, did it?

18 A The statement, as it occurred in the context of the
19 interview, with the other information given me by Mr.
20 Bisky and the other six interviews, did not cause me to
21 change my testimony.

22 Q All right, sir. Now, Page 51, if you would turn to Page
23 51 of the transcript of Mr. Bisky's interview, again
24 this is Mr. Gallo questioning.

25 Line 4, "A Correct, the exact same thing.

1 Greg wrote up a big separation problem down in
2 the lower aux. There is approximately 60 to
3 70 cables in violation. They are all safety
4 related cables. I would say how many QC
5 pulled through that same separation without
6 writing them up.

7 "Q Why do you think they didn't do that
8 either in the upper cable spreading room or in
9 the remote shut down panels?

10 "A I don't know. I wouldn't even
11 speculate. I'd hate to say."

12 That testimony or those statements by Mr. Bisky in
13 response to Mr. Gallo's questions did not cause you to
14 alter or add to your prefiled testimony, did it?

15 A That answer in the context of the complete interview and
16 the information I got from the other six did not cause
17 me to change my testimony.

18 Q All right. Page 53 of the Bisky interview, please.
19 Question by Mr. Marcus, Line 14:

20 "Q Writing it up would be like saying it's
21 daylight, isn't it, something like that?
22 Everybody knew about it. It wasn't like if
23 you were writing it up, you were writing up
24 any big surprise to inform somebody of a
25 problem. It was something that everybody knew

1 about?

2 "A Yes.

3 "Q You write it up, it is like belaboring
4 the obvious. It is not like the Comstock
5 people don't know about it or even the Edison
6 people. Everybody knew about it?

7 "A" -- Page 54 -- "Like I said, this is a
8 sister plant. The same violations has to be
9 elsewhere."

10 Those questions and answers by Mr. Bisky -- by Mr.
11 Marcus of Mr. Bisky -- did not cause you to alter your
12 testimony?

13 A Again, in the context of the interviews with seven QC
14 Inspectors, no.

15 Q All right, sir. At Page 59 Mr. Gallo asks the question,
16 Line 18:

17 "Q As you are probably aware, Archambeault
18 circulated some questionnaires. I am going to
19 ask this question; but if you don't want to
20 answer it, just say no.

21 "Did you fill out one of his
22 questionnaires?

23 "A No."

24 Page 259:

25 "Q Does that mean no, you did not, or, no,

1 you don't want to answer the question?

2 "A I'd just as soon not answer."

3 All right, sir. Now, did Mr. Bisky's reluctance to
4 answer that question suggest to you, sir, that the
5 circumstances of the interview, the nature of the
6 question, the identity of the questioner, the
7 questionnaire, influenced Mr. Bisky's answers given in
8 the interview?

9 A Mr. Guild, the nature of the people that were in the
10 room -- I mean if I happened to be a statuesque blond,
11 very attractive, wearing short skirts, that would
12 influence the nature of the answers I got.

13 Q You didn't have one of those, did you?

14 A I am not, I am not.

15 Therefore, the only way I can reasonably answer the
16 question is to say: Of course, the people in the room
17 influenced the answers.

18 Q All right, sir. I see why you didn't tell them you were
19 a psychologist when you started these interviews.
20 Everything influences everything; but what I am asking
21 you about, sir, is this particular answer.

22 Did the fact that Mr. Bisky said he declined to
23 answer this question suggest to you, sir, that the
24 circumstances of the questioning, the identities of the
25 questioners, the nature of the questions, plural,

1 influenced the answers given by Bisky?

2 A That's one reason we had that question -- I am sure
3 that's one reason Mr. Gallo had that question on Page 59
4 and not on Page 1.

5 Q You don't know why Mr. Gallo asked that question, do
6 you?

7 A No.

8 I know I was the one who got to ask the first
9 questions, sir; and if you will recall, I always gave
10 the people the option: "If I ever ask you a question
11 that you don't want to answer, you don't answer it."

12 Q I have a focus for --

13 A Let me answer that. I --

14 Q I have a focus to my question, I don't mean to unduly
15 interrupt you; but I am trying hard to get an answer to
16 a specific question that is different from the one you
17 have been, apparently, answering; and that is:

18 Did the answer given by Bisky, that is declining to
19 answer this question, suggest to you, sir, that he had
20 been at all less than candid, forthright or been
21 reluctant in answering any of your other questions?

22 A No.

23 Q Thank you.

24 Why do you think that -- why did you believe that
25 Bisky expressed reluctance and declined to answer this

1 particular question, sir?

2 A Because he didn't want to.

3 I have been interviewing people for 25 years and
4 inevitably, there will be some questions they don't want
5 to answer for very personal reasons. They are all very
6 valid reasons to them.

7 He didn't want to answer that question. That is
8 fine.

9 Q That is sort of circumstantially: He didn't answer the
10 question because he didn't want to.

11 I assume he freely declined not to answer the
12 question, not because you had a gun to his head on the
13 point; but that's not -- that's beyond the point of my
14 question, sir.

15 Do you have any opinion as to the reason why Bisky
16 declined to answer that question?

17 A No, sir, I don't.

18 Q Do you have any belief, Dr. Hulin, that it was the
19 nature of this particular question that caused Bisky not
20 to answer it?

21 A (No response.)

22 Q That is, "Did you fill out an Archambeault
23 questionnaire?"

24 A Well, sir, since he had answered all the rest of the
25 questions, I would assume it had something to do with

1 the nature of the question when he refused to answer it,
2 yes, when he declined to answer it, yes.

3 Q All right, sir. What about this question, in your
4 opinion, Dr. Hulin, influenced Mr. Bisky to decline to
5 answer this question?

6 A I wouldn't speculate on that.

7 Q Well, do you have an opinion, sir?

8 A No, sir.

9 Q You don't?

10 A No, sir.

11 Q Isn't it apparent, Dr. Hulin, from the nature of the
12 question that Mr. Bisky's answer might tend to get him
13 in trouble or incriminate him and he might worry about
14 that?

15 A Incriminate him?

16 Q Yes.

17 A No.

18 Q You don't think that when Commonwealth Edison Company's
19 lawyer asks in the context of this interview whether you
20 are one of the people who completed a questionnaire that
21 a controversial person had circulated at the site, that
22 the answer to that question might be understood by the
23 interviewee as potentially incriminating?

24 A No.

25 Q Thank you.

1 JUDGE GROSSMAN: Well, Mr. Guild, I think the
2 witness may be relying on the word "incriminate" as
3 suggesting a criminal act; and if you intend to have
4 broader scope to that, I would suggest you --

5 MP. GUILD: Yes, sir. That's a help. I
6 assume he didn't mean that.

7 BY MR. GUILD:

8 Q Dr. Hulin, did you understand that question in a broader
9 context?

10 A I was using a broader context.

11 Q Broader than simply criminal?

12 A Yes.

13 Q Reflecting adversely on this person?

14 A Yes.

15 Q And you answered in the context of understanding
16 incriminating in the broader sense?

17 A Yes.

18 Q All right, sir.

19 Now, finally, Mr. Bisky, at Page 66, again, Mr.
20 Gallo questioning, Line 18:

21 "Q Do you consider Greg, Mr. Archambeault,
22 to be a prima donna?

23 "A No. I consider Greg to be an excellent
24 inspector."

25 That question and answer didn't cause you to alter

1 or add to your prefiled testimony in this case, did it?

2 A Again, that answer in the context of all of the other
3 information I got from the interviews did not.

4 Q All right, sir. Now, you did note on your notes of the
5 Bisky interview in the box -- do you see the box you
6 have to the right th re?

7 A Yes.

8 Q All right, sir. The language that appears in the box
9 is, "Some inspectors are awfully vague."

10 A Yes.

11 Q And I asked you the other night whether that was a
12 comment made by Mr. Bisky, the interviewee, or whether
13 that was an interpretive comment that you made about him
14 or about others.

15 And, as I recall, you believed at the time it was
16 your interpretive comment?

17 A No, sir.

18 Okay. I may have believed it at the time. I have
19 reread Mr. Bisky's transcript; and that is, I believe, a
20 direct quote from Mr. Bisky.

21 Q Well, it is a direct quote. In fact, it appears about
22 Page -- one second here -- it appears at Page 73 of Mr.
23 Bisky's interview.

24 It's your question, Dr. Hulin. Mr. Gallo has been
25 questioning along. Mr. Gallo says, Line 4, "I have got

1 many more questions but I am going to quit"; and then
2 you jump back in, Line 7:

3 "Q Carl, you said that some inspectors are
4 awfully vague. What do you mean by that?"

5 Now, first of all, it doesn't appear previously in
6 the transcript that Mr. Bisky says any words to that
7 effect.

8 Did he say that to you off the record of the
9 interview?

10 A No. He said it -- if he said it, he said it on the
11 record.

12 Q All right, sir. I just may not have found it, Dr.
13 Hulin; but let's look.

14 The question, again, is: "Carl, you said that some
15 inspectors are awfully vague. What do you mean by
16 that?"

17 "A," beginning Line 9, quote, "Well, I made
18 the statement before that instead of writing
19 up an ICR over something simple that doesn't
20 involve a serious problem, let's say missing
21 tags or a grip improperly hung, I will check
22 the cable number and call up the office and
23 verify what inspector did it; and it's
24 developed to a point now where I have got one
25 particular inspector on five different

1 occasions. He is upset. He says it's none of
2 my business, which I guess would be true. I
3 am not a lead. I am not here to baby-sit him,
4 either. I am here to do my job. But on the
5 same behalf, rather than writing up all his
6 work, I feel that he should go back with his
7 crew and take care of the matter.

8 "Q," Line 21, "So when you say you think he is
9 vague, you think he is being a little sloppy
10 with his inspections?"

11 "A," Page 74, Line 1, "Yes, I feel that he is
12 not performing his job correctly."

13 Now, your note there, "Some inspectors are awfully
14 vague," doesn't exactly capture the substance of what
15 Mr. Bisky had to say on that point, does it?

16 A It may not to you.

17 Q No, it doesn't to me, I will stipulate to that.

18 Do you think it does to the reader?

19 A I took those notes for one reader only, sir, and that
20 was me; and it only had to capture the essence of the
21 comment for me.

22 Q All right, sir.

23 But at the time you were conducting the interview,
24 you thought it appropriate and appropriate enough to
25 clarify that vague characterization by asking the

1 question Page 73, Line 21, "So when you say you think he
2 is vague, you think he is being a little sloppy with his
3 inspections" and his answer was yes, that was exactly
4 what he meant?

5 A Yes.

6 And on Page 74 I ask him, "So you, essentially,
7 have to come along behind him and help?

8 "A Essentially, if I was to write it up, I
9 would have to come along behind him. I don't.
10 I call it to his attention.

11 "But then it is your understanding that he
12 corrects it?

13 "Yes."

14 So rather than bothering me, I guess that exchange
15 gave me a little comfort in the system.

16 Q I understand it. It didn't cause you -- that interview
17 didn't cause you -- to amend or correct your testimony
18 prefiled in this proceeding, did it?

19 A That exchange in the context of the interviews with the
20 seven did not.

21 Q Uh-huh. All right, sir.

22 Now, let's look at a couple of the other questions
23 you have up here. B-4, that's the question about the
24 existence of --

25 A Where are we, sir?

1 Q Layoff list. I am looking at your notes up above.

2 A Sorry.

3 Q Question B-4 reads, "Do you have any reason to believe
4 there is a layoff list? In your opinion, for what
5 reasons would an inspector be placed on such a list? Do
6 you know anyone who was terminated and why?" That's
7 your question.

8 And the answer that you write on 4 is, "No layoff
9 list." Correct? That's your note?

10 A That's my note.

11 Q All right, sir. Page 19, the answer that Mr. Bisky
12 actually gave is, Line 8, quote, "I don't know if there
13 is such a list or not. If there is, I believe there are
14 some that should go first before others, yes."

15 Your note doesn't -- your notes of that answer
16 don't exactly capture the substance of Mr. Bisky's
17 response, do they?

18 A The rest of them, I think -- again, they may not capture
19 it for you; but the rest of my comments said, "No layoff
20 list; but there are good reasons to be placed on list,"
21 which, I mean, interpreted is my short --

22 MR. MILLER: I -- excuse me. Go ahead.

23 A (Continuing.) -- is my shorthand note of saying: I
24 think there are good reasons to be placed on a list; and
25 then the reasons he gave me for people that might be

1 placed on a list were such things as violating
2 procedures and so forth.

3 MR. MILLER: Your Honor, I have refrained
4 from objecting to this interrogation, which, in effect,
5 takes bits and pieces out of these transcripts and asks
6 Dr. Hulin about them; but on this one I must.

7 On the preceding page, the direct question was
8 asked as to whether there was the issue of a layoff
9 list. "Do you have any reason to believe there is a
10 layoff list at Comstock?" "A No."

11 It really is simply not fair interrogation of this
12 witness to pick and choose bits and pieces out of this
13 transcript and then challenge him on his notes, which he
14 has testified, I believe, were the primary source of his
15 opinion.

16 And I think it is creating a misleading impression
17 on the record with respect to the basis for the
18 witness's opinion.

19 MR. GUILD: I think that is absolutely false,
20 Mr. Chairman. I stand by all of the references that I
21 have made to the interviews.

22 The fact of the matter is that the witness himself
23 acknowledges his notes are selective, and I don't
24 believe that note captures the substance of any portion
25 of the witness's testimony on that issue.

1 The fact that he said no in the first instance and
2 then amended his answer a page later to say he didn't
3 know there was such a list; but if there is, I believe
4 that there are some that should go first suggests the
5 unreliability of the first answer, if nothing else.

6 JUDGE GROSSMAN: Okay.

7 THE WITNESS: Sir, if we could --

8 MR. GUILD: Excuse me, Doctor. There is not
9 a pending question, sir.

10 JUDGE GROSSMAN: Now that we have heard
11 argument on it, you know, Mr. Miller, it is appropriate
12 for Mr. Guild to pick out what is favorable to him and
13 it is just as appropriate for you on Redirect to put it
14 in whatever you believe ought to be the full context and
15 bring in whatever is favorable to you; and that's just
16 the way the hearing operates and any trial operates.

17 Mr. Guild is not obligated to bring in matters that
18 are favorable to you, any more than you are obligated to
19 bring up matters that are favorable to him.

20 So we have heard the argument and we have our
21 comment here; but that's not an unusual interpretation
22 of how trials are conducted, Mr. Miller.

23 MR. MILLER: Well, that may very well be when
24 there is a Jury involved; but it seems to me when the
25 Board is sitting there with a 70 page transcript, that

1 there ought to be in everybody's question a fair
2 representation and a complete representation of what the
3 transcript contains, so that the witnesses isn't
4 blind-sided, nor the Board.

5 JUDGE GROSSMAN: Mr. Miller, if we were to
6 change the rules, we would be bogged down in
7 argumentation for the whole time that we are conducting
8 the hearing.

9 That's why Mr. Guild is entitled to bring out his
10 side and you are entitled to bring out your side and we
11 don't have to make any rulings on that.

12 BY MR. GUILD:

13 Q Now let's talk about Norm Kimble, Dr. Hulin.

14 You interviewed Mr. Kimble, did you not?

15 A Yes, sir.

16 Q Mr. Kimble expressed -- strike that.

17 First let's look at your notes of Mr. Kimble. Do
18 you have those, sir?

19 A Yes.

20 Q At the top of the page you have -- this, of course, is
21 the third interview that you conducted that evening.

22 By the name, "Norm Kimble, 7:45, 9:45," you have,
23 with emphasis added, I take it, by you, "Extreme
24 nervousness, rapid breathing, hyperventilation."

25 Was that your observation of Mr. Kimble at the

1 beginning of the interview?

2 A Yes.

3 Q Now, you didn't ask Mr. Kimble why he was exhibiting
4 extreme nervousness, rapid breathing and
5 hyperventilation, did you?

6 A No, because to bring it to his attention would simply,
7 if my interpretation was correct, that is, he was
8 nervous -- to bring it to his attention would just
9 heighten his nervousness. Like somebody is stuttering,
10 if you constantly point it out, they stutter more.

11 Q So you were helping him out by not bringing to that his
12 attention, facilitating him relaxing and addressing his
13 nervousness by not addressing it, in effect.

14 Is that what your testimony is?

15 A My testimony is that I did not bring it to his attention
16 because I didn't want to make it worse.

17 Q All right, sir; all right, sir.

18 But you believe, don't you, as you told me the
19 other night that you made it better over the course of
20 the interview and by the time you got into the swing of
21 things here, Mr. Kimble was relaxed?

22 A No, sir, I didn't say that.

23 I think it got better over the course of the
24 interview.

25 Q Oh, it did?

1 Did he still remain nervous, tense, exhibiting
2 rapid breathing and hyperventilation throughout the
3 course of the interview?

4 A No, sir.

5 Q When exactly did he stop exhibiting those pretty direct
6 signs of nervousness?

7 A I don't know.

8 Q Well, didn't you tell me after only a few minutes the
9 other night that he relaxed?

10 A That would be my impression, yes.

11 Q Is that your impression as you sit here today?

12 A Yes.

13 Q All right, sir. Now, did you employ any special
14 techniques to relax Mr. Kimble, to try to put him at
15 ease?

16 A In the way I asked the questions, you know, trying to be
17 a little oblique, yes.

18 Q Okay. Now, you did that by the way you asked the
19 questions, trying to be a little oblique.

20 Did you --

21 A Tone of voice, body language, that kind of stuff.

22 Q Did you say anything to him to try to address his
23 nervousness?

24 A I have already answered that question. I said no.

25 Q No. I know you said you didn't point it out; but I am

1 asking you:

2 Did you say anything to him, either directly or
3 indirectly, to try to alleviate his nervousness?

4 A Did I say anything?

5 Q Yes.

6 A Directly --

7 Q Yes.

8 Did you say anything to him?

9 A No, I didn't.

10 Q Or indirectly?

11 A If the way I worded and asked the questions and my body
12 language is indirectly, then yes, I did.

13 Q So the way you asked your questions would address in
14 part -- was designed to address in part -- Mr. Kimble's
15 nervousness?

16 A Yes.

17 Q All right, sir. Now, did you form an opinion over the
18 course of this interview that lasted two hours of the
19 basis or reason for Mr. Kimble's apparent anxiety,
20 nervousness?

21 A Not really, no.

22 Q No opinion at all?

23 A Again, sir, in the context that I have been doing
24 interviews with blue color employees for 25 years, many,
25 many of them are nervous when they first come into the

1 room. It's something that I expect and I look for. I
2 try to soft pedal things until they are relaxed.

3 So there are some -- probably as many different
4 reasons for being nervous as there are people that come
5 into the interview room.

6 Q I am sure of that for all of those jobs where you drove
7 a truck and worked on a construction site where people
8 would be nervous if a psychologist came in, Dr. Hulin;
9 but I am really focusing on Mr. Kimble.

10 You formed no opinion, that is your testimony, of
11 why Mr. Kimble was nervous?

12 A No.

13 Q All right, sir. You didn't write that down or words
14 similar to that for any of the other seven people -- the
15 other six people, to be precise?

16 A Contrary, sir. I did.

17 Q Well, tell me. That's my next question.

18 Who else did you identify as being nervous and
19 anxious?

20 A Nervous or anxious, none, sir.

21 Q You are going to volunteer something that --

22 A I was going to volunteer something that was on my notes.

23 Q Why don't you tell me what that is?

24 A I have a question mark, "Chuck Noble hostile, question
25 mark."

1 Q I see. What does that mean with regard to Mr. Noble?

2 A Initially, I thought he may have been hostile to the
3 purpose of the interview.

4 Q Hostile to who?

5 A Me. I was the one conducting the interview.

6 Q Hostile to the purpose of the interview?

7 A Or to me. It wasn't -- it wasn't evident; but my
8 interpretation of his comments and his body language was
9 that he was hostile, yes.

10 Q All right sir. And what was it about his comments and
11 his body language, Noble's now?

12 A Sir, that's why I take notes instead of trying to rely
13 on the memory of it.

14 I have to say something that he said or he did, the
15 demeanor with which he walked in the room or something
16 made me worry about his hostility.

17 Q Okay. And did you form any opinion during the course of
18 Noble's interview as to the basis or reason why he
19 appeared to you to be hostile?

20 A No. It's just that -- no, sir, I didn't.

21 Q Okay. So Kimble appeared nervous and anxious and Noble
22 appeared hostile?

23 A Initially they did, yes.

24 Q Uh-huh. All right, sir.

25 And you didn't identify nervousness or hostility

1 among the other people that you interviewed; or did you,
2 sir?

3 A I did not identify it to the point that I made a note of
4 it, no.

5 Q Do you recall nervousness or hostility among the others?

6 A Not really.

7 Q All right, sir. Now, one of the others, Mr. Schirmer,
8 the next one in the packet that is Intervenors' Exhibit
9 194, Don Schirmer was the lead and the immediate
10 supervisor of the others who had been interviewed;
11 correct?

12 A That's correct.

13 Q Mr. Schirmer, you wrote down initially, "Party line from
14 LKC," and then you crossed it out?

15 A Yes, sir.

16 Q And you believed, after hearing Mr. Schirmer's
17 interview, that Mr. Schirmer, despite the fact that he
18 was the lead and the supervisor of the second shift
19 cable pull inspectors, that his answers didn't represent
20 the Comstock party line?

21 A I believed, sir, that by the end of the interview I
22 thought he was giving me his opinions and his candid
23 answers.

24 Q Yes, sir; but do you believe those opinions and candid
25 answers were, in fact, the Comstock party line, the

1 Schirmer answers now?

2 A The Schirmer -- the answers that Mr. Schirmer gave may
3 have been consistent and pleasing to LKC; but I don't
4 think he was giving them to me because he thought LKC
5 wanted him to give them to me.

6 Q That is certainly speculating about what his motives
7 might be; but you don't dispute the notion that Mr.
8 Schirmer's answers, the man who you speculated might be
9 giving you the party line, were consistent with the
10 party line, the company's interest?

11 A Sir, I -- if I can expand, I crossed out that thing and
12 I wrote, "No. See later answers."

13 Q Uh-huh.

14 A Which is my note to myself that, "No, I was wrong. He
15 was not giving me the party line."

16 Q Well, sir, there is not much of substance noted on your
17 notes for Mr. Schirmer's interview.

18 Which particular later answers dissipated your fear
19 that Don Schirmer was just going to give you the party
20 line, since he was the lead of the others?

21 A The whole interview, sir.

22 Q Nothing in particular that you can point out right now?

23 A No, sir.

24 Q All right. Well, now, Dr. Hulin, let's think about this
25 a bit.

1 Don't you think that, perhaps, the character of the
2 answers that Messrs. Kimble and Noble gave you, answers
3 that were critical of the company, that raised concerns,
4 that were inconsistent with the party line, might be
5 related to the fact that they exhibited nervousness and
6 anxiety in the case of Kimble and hostility in the case
7 of Noble; by contrast Schirmer, who you expected to give
8 you the party line, because he was the lead, in fact,
9 gave you answers that were consistent with the party
10 line?

11 Isn't that a fair understanding of the results of
12 the interviews from Noble, Kimble and Schirmer?

13 A No, sir.

14 Q All right, sir. Let's look at the Kimble interview.

15 MR. GUILD: Mr. Chairman, I would ask that
16 this document that is apparently a transcription
17 verbatim of the September 15, 1986, interview conducted
18 by Applicant of Mr. Norman Kimble -- I ask that it be
19 marked as Intervenors' Exhibit No. 195.

20 (The document was thereupon marked
21 Intervenors' Exhibit No. 195 for
22 identification as of November 25, 1986.)

23 BY MR. GUILD:

24 Q Now, Dr. Hulin, Mr. Kimble told you, in substance, did
25 he not, that he believed that the absence of clear

1 policies at L. K. Comstock for such matters as
2 transfers, overtime, job assignments and terminations
3 gave room for arbitrary decision-making on the part of
4 management that might be motivated by a motive to
5 retaliate against those who made waves?

6 Didn't he tell you that?

7 A What he told me was there was an absence of policy; and
8 it is whenever you had an absence of policy, there was
9 always the potential for arbitrariness.

10 Q And he told you that he believed that Seeders was an
11 example of arbitrary treatment in his transfer to
12 engineering, that he was a good inspector before, that
13 he had a run-in with Saklak and that he was a good
14 inspector or a good worker in his new job after Saklak.
15 He, Seeders, had been a victim of arbitrary retaliatory
16 action.

17 That was his opinion, wasn't it?

18 A I would have to -- if I am -- are you asking me to
19 interpret my notes?

20 Q No.

21 I am asking you to tell me to the best of your
22 recollection -- you may use your notes, of course, to
23 refresh your recollection, if you choose -- but to tell
24 me whether or not that was the substance of what Mr.
25 Kimble told you?

1 A Then I would like to examine the transcript.

2 Q Take whatever time you like to examine the transcript,
3 Dr. Hulin, if that is necessary.

4 You don't recall at this time whether or not that
5 -- let me just ask you that question.

6 A I am examining the transcript.

7 Q Sir, it's --

8 A I am examining the transcript.

9 MR. GUILD: Mr. Chairman, let me redirect the
10 question.

11 BY MR. GUILD:

12 Q First, before you examine the transcript, unprompted by
13 the transcript, can you recall whether or not I fairly
14 summarized Mr. Kimble's testimony on the Seeders matter?

15 A I don't think you fairly summarized the entirety of the
16 interviewed.

17 Q No, sir. I am talking about the Seeders matter.

18 A I don't think you fairly characterized his
19 interpretations of that. I think he offered that as one
20 possible. Well, it's possible it's this, also. It's
21 also, you know. It's arbitrary and so forth. That was
22 one of many.

23 Q Sir, before you resort to the transcript, will you tell
24 me in what other matters, if any, you can recall which
25 my characterization of Kimble's statements on the

1 Seeders matter are not accurate?

2 A I just said that he identified that that was a
3 potential, a possibility, but he certainly didn't say,
4 "Well, that's why they got rid of him."

5 Q He said that was his belief, wasn't it?

6 A I believe if he had said it was his belief that Seeders
7 was being punished, I would have written that in my
8 notes, sir.

9 Q So you don't recall that, then.

10 If you would take a moment, please, and examine the
11 transcript to your satisfaction.

12 A "Q Do you think that there are any" --

13 Q Where are you, sir?

14 A Page 12, sir.

15 Q Okay.

16 A "Do you think there are people who are likely" -- "Why
17 do you think the people who are likely to be let go
18 first are at the top of the list?

19 "A Well, for some reason, that they either
20 made waves or, perhaps, they don't have a good
21 attendance record or perhaps -- there could be
22 all kinds of factors, some legitimate. I
23 would say my concern here is a lack of policy
24 and this seems to have been since I have been
25 with Comstock, just lack of policy. It seems

1 everything is done on a certain basis. If you
2 are a friend, you get this. If you are not,
3 you are an enemy," and so forth.

4 I think he is identifying that there are a number
5 of reasons that people could be at the top of the layoff
6 list, including attendance.

7 Q Let's talk about Seeders in particular.

8 Look at Page 15, Dr. Hulin.

9 A Okay. Keeping in mind the last answer, of course.

10 Q I am sorry. What, sir?

11 A Keeping in mind the last answer, we will look at Page
12 15.

13 Q Yes, I will keep that in mind.

14 Page 15, Line 8, "A I have seen in
15 inspectors that have gotten into it, like with
16 John Seeders got into it, and with Saklak and
17 he was removed from QC and put in engineering
18 and it seems to me that was unwarranted."

19 Do you recall that statement by Kimble?

20 A Yes. Sorry.

21 Q All right, sir. Page 16 --

22 A Sir, later on, Line 17, "Let me make myself clear.
23 I assume from your comment about Seeders, you
24 thought his transfer was unwarranted because
25 it was against his wishes.

1 "No, no, no, not at all. He wanted to go to
2 days."

3 Q That's your question; right?

4 A No. That was his answer.

5 Q Your question was, "Let me make myself clear," et
6 cetera; that was your question?

7 A I believe so, since it's -- yes, it was.

8 Q All right. Apparently Mr. Kimble was mishearing you.

9 "Q I am talking about Seeders," Line 21.

10 A Yes.

11 Q "Oh, Seeders, that was back with Comstock."

12 Page 16, "Q You said his transfer was
13 unwarranted?

14 "A Well, I felt so. I thought he was a good
15 inspector and was doing his job. Irv wanted
16 to get rid of him and that was that, but they
17 didn't want to fire him, so they transferred
18 him to engineering, where I understand he has
19 done a very good job."

20 That's what Kimble had to say about Seeders and his
21 belief that Seeders had been transferred in retaliatory
22 fashion by DeWald. He wanted to get rid of him and in
23 his opinion it was unwarranted.

24 Isn't that the substance of what he had to say
25 about Seeders?

1 A That's the opinion. That's the substance.

2 Q Now, that testimony or that statement by Kimble didn't
3 cause you to alter your prefiled testimony, did it?

4 A We have established that I didn't alter my prefiled
5 testimony after these seven interviews; but I will
6 answer the question:

7 No, it did not, again, in light of interviews with
8 the seven QC Inspectors.

9

10 Q Do you recall that Mr. Kimble expressed the opinion that
11 Simile had been discriminatory in the assignments of
12 overtime and that he, Kimble, had filed a grievance on
13 the subject?

14 A Could you tell me where in the transcript you are
15 referring?

16 Q I will be happy to.

17 But can you, without the transcript, recall that
18 Simile said that, sir?

19 A I believe it was Mr. Kimble who thought he had not
20 worked one Sunday since he had been there.

21 Q All right.

22 And he believed that Simile was being
23 discriminatory in the assignment of overtime and he
24 filed a grievance?

25 A I not sure that "discrimintory" is the term he used.

1 Q You probably don't; but did he file a grievance because
2 of the denial of overtime by Simile?

3 A I don't recall if grievances were involved.

4 Q Does that appear in your notes, sir, that statement by
5 Kimble?

6 A No.

7 Q Page 19 of the transcript?

8 MR. MILLER: Can we have identified in the
9 record which statement?

10 MR. GUILD: Which statement that --

11 MR. MILLER: You asked the question, "Does
12 that statement" --

13 MR. GUILD: The statement made by Kimble
14 regarding a grievance for the denial of overtime by
15 Simile does not appear in your notes,.

16 MR. MILLER: Thank you, sir.

17 MR. GUILD: But does not, at transcript Page
18 19, Line 3, I am reading:

19 "For example, I offered to work one Saturday,
20 this is some time ago, and I was put on the
21 list for Saturday, and I was removed from the
22 list to work overtime on Saturday on cable
23 pulling, and the Lead Inspector for welding
24 was put on in my place. Simile did this. I
25 filed a grievance with the union on it, but

1 they said, you know, 'You are leaving anyway,'
2 so that was it; but I didn't care so much for
3 myself, but I think it's quite a precedent
4 that management can pick and choose as they
5 desire who is going do work on a Saturday and
6 who is going to work on a Sunday, but
7 especially when the weld inspector probably
8 had never done an inspection on cable since he
9 got certified, probably, which really has
10 nothing to do with it, I am saying, that it's
11 an arbitrary selection."

12 A Yes, sir; and later I asked specifically -- I asked Mr.
13 Kimble if he regarded himself as a wave maker, because
14 he had said, you know, "If you make little waves, you're
15 in trouble. If you make big waves, you're not"; so I am
16 -- I was trying to find out the reasons that he might
17 have had for not working overtime. He is not -- "I
18 don't make waves," so it couldn't be they are punishing
19 him for making waves, and he never was really able to
20 figure out why he hadn't worked overtime.

21 Q But whatever his testimony was or statements about the
22 subject of being denied overtime, that didn't cause you
23 to alter your prefiled testimony, either?

24 A No, sir.

25 In fact, again, in light of all the other

1 information --

2 Q In light of everything that you brought to bear on the
3 matter?

4 A No.

5 In light of all the other information I got from
6 the other QC Inspectors.

7 Q Right, exactly.

8 Now, Kimble had an interesting theory about
9 wave-making, and you paraphrased it there a bit.

10 What he said, in fact, was, in substance, that if
11 you make little waves, you're in really big trouble, and
12 they are going to retaliate against us because there is
13 room for arbitrary action in the vague policies that
14 exist at the site.

15 Is that what he said?

16 A I don't believe he ever said, "If you make little waves
17 you are in really big trouble."

18 Q Well, but he said that if you are going to make waves,
19 that what you best do is make them in a very big and
20 public way, that if you make a wave, you better back it
21 up, you better be able to document it and better go to
22 NRC about it, because that -- in that way and only in
23 that way, will the company -- will you be protected from
24 retaliatory action, since the company would find it more
25 embarrassing to retaliate against you by firing you or

1 doing what else to you.

2 In that context, making big waves was more likely
3 to protect you than making little.

4 Isn't that the substance of what Kimble said?

5 A He seemed to be telling me that the system, the 20
6 safeguard people who complained regarding --

7 Q I see. You interpreted it as suggesting that the system
8 for safeguards worked.

9 Is that how you interpreted that statement?

10 JUDGE GROSSMAN: Excuse me.

11 In Mr. Guild's presentation of what Mr. Kimble was
12 saying or meaning: Was that correct?

13 THE WITNESS: No, sir, he didn't ask me if
14 that was correct, and I did not assume that it was
15 correct.

16 JUDGE GROSSMAN: I thought he said, "Isn't
17 that what Mr. Kimble was saying?"

18 THE WITNESS: And I said "No, sir."

19 JUDGE GROSSMAN: That's not what he was
20 saying?

21 THE WITNESS: No, sir.

22 MR. GUILD: The record will reflect what your
23 answer was, and I had heard you say yeah.

24 BY MR. GUILD:

25 Q Why don't you tell me, sir, how I didn't fairly

1 summarize Mr. Kimble's interview statements about the
2 subject of making big waves versus little waves?

3 A I believe what Mr. Kimble said was: "If you are going
4 to make waves, make big ones. If you make little waves,
5 there is always the possibility that" -- "the potential
6 for arbitrariness.

7 Q Didn't he say that, "If you are going to make waves, you
8 better make waves that are big enough that" -- "public
9 enough, to protect yourself, such as going to the NRC?"

10 Didn't he refer to going to the NRC when he said,
11 "Make big waves," or didn't that -- that statement stick
12 in your mind, sir?

13 MR. MILLER: Excuse me.

14 Your Honor, there are at least three questions that
15 were asked.

16 MR. GUILD: I apologize. I will be more
17 focused.

18 BY MR. GUILD:

19 Q Isn't in substance what Kimble said was that, "If you
20 are going to make waves, you better be able to support
21 what your position is and you better take it to the NRC,
22 otherwise you may be subject to arbitrary retaliation by
23 the company"?

24 A I don't think he said "arbitrary retaliation."

25 Q He didn't use those words, did he?

1 A I think he said that there are arbitrary -- that the
2 policies are not written and you may be subject to
3 arbitrary decisions.

4 Q Yes; and that's why you write down in your shorthand in
5 your notes, "Kimball: lack of policy not necessarily
6 harassment," and you underscore "necessarily."

7 That's what you mean by that, isn't it?

8 A Could you rephrase?

9 Are you asking me why I wrote that down?

10 Q What you mean by that note is, as Kimble stated in his
11 interview, that in the absence of a clear policy, one
12 could use the lack of policy in an arbitrary manner to
13 harass someone for making waves?

14 A What I wrote down was: "Lack of policy is not
15 necessarily harassment."

16 Because, you recall, Mr. Kimble had identified
17 other reasons for transferring people and so forth and
18 keeping them on when there was a cut-down in employment
19 and so forth; so we go through a long part of the
20 interview in which he's talking about people being
21 transferred and so forth; and his -- his main concern
22 was not that they were being harassed and intimidated
23 into accept poor-quality work, his concern was about
24 that there was a lack of policy, and that leads to the
25 potential for arbitrary decisions.

1 Q For harassment?

2 A More for arbitrary decisions.

3 Q But for -- for acts taken against persons who make
4 waves; that's what he said in substance, isn't it?

5 A I would not attest that that is a fair representation of
6 the content of the interview.

7 Q Have you declined to say because it's incorrect?

8 A I don't think it's consistent with the contents.

9 Q It's not in your opinion; right?

10 A Right.

11 Q All right, sir. Fine.

12 Mr. Kimble also suggested that the training program
13 at Comstock was woefully inadequate in his opinion; did
14 he not?

15 A Mr. Kimble had some problems with the training program.
16 I don't think he -- he may have characterized it as
17 "woefully inadequate," I am not sure.

18 Q That is not a term -- it's not necessarily Mr. Kimble's;
19 but he in substance said it was inadequate in the
20 extreme, in his opinion, not just minor problems here,
21 but inadequate in the extreme? Again, those are my
22 words.

23 MR. MILLER: Your Honor, I don't understand
24 the question.

25 The question is that Mr. Kimble said it's

1 inadequate in the extreme, and then Mr. Guild amended it
2 by saying, "Those are my words."

3 JUDGE GROSSMAN: Yes, Mr. Guild. I don't
4 think that's phrased properly.

5 MR. GUILD: It's certainly inartful, and I
6 appreciate Mr. Miller saying that to me.

7 BY MR. GUILD:

8 Q That's the substance of Mr. Kimble's statement that the
9 Comstock training program, in his opinion, was extremely
10 inadequate, my words, not his?

11 THE WITNESS: Are you asking me -- I am sorry.
12 Are you asking me --

13 JUDGE GROSSMAN: The question is whether that
14 is in substance what Mr. Kimble was saying.

15 A Mr. Kimble had some complaints about the training
16 program, he thought that it was inadequate, and I am not
17 sure that I would agree with the adjectives that Mr.
18 Guild used to modify "inadequate."

19 BY MR. GUILD:

20 Q That's because you don't believe they were adequate,
21 sir, and you simply decline to agree?

22 A It's because I don't recall that those were the
23 adjectives that he used. He may have, but I don't
24 recall it.

25 Q That's fine, sir.

1 Page 34, Line 1:

2 "I don't think the training program is
3 anything like what it should be. I think it's
4 completely inadequate."

5 He goes on in some length to describe "completely
6 inadequate" is his opinion.

7 That is exactly what he said.

8 MR. MILLER: Well, excuse me.

9 Again, that's a line taken out of context, in a
10 question and answer that -- well, I object.

11 I believe this is unfair examination, and when the
12 entire answer is considered, a very different impression
13 is left.

14 JUDGE GROSSMAN: Overruled.

15 BY MR. GUILD:

16 Q Do you -- Mr. Chairman, let's lay this canard to rest
17 once and for all.

18 I refer to Intervenors' 195 in evidence, the entire
19 interview with Mr. Kimble, so that Mr. Miller can find
20 where -- he would like to find whatever he would like to
21 find in that interview.

22 Let's have the complete context in the record, and
23 I offer it by way of an admission. It is an admission
24 of a party opponent. I offer it for not only impeaching
25 the basis for this witness' expressed opinion evidence,

1 but I offer it as substantive evidence of corroborating
2 the concerns by Mr. Archambeault, which are within the
3 scope of this proceeding.

4 THE WITNESS: Okay; and I will answer the
5 question.

6 MR. GUILD: No, sir, there is no question
7 pending.

8 MR. MILLER: No question pending.

9 JUDGE GROSSMAN: Mr. Miller, I don't like to
10 take things in wholesale like this.

11 MR. MILLER: Your Honor.

12 JUDGE GROSSMAN: But I do have a time
13 problem, also.

14 MR. MILLER: Well, that's correct.

15 I don't know, frankly, whether I have an objection
16 to the entire matter -- entire transcript coming in or
17 not. I would like to review it.

18 It is clear from my review of the transcripts, that
19 witnesses were not encouraged, for example, to restrict
20 their responses to their first-hand knowledge.

21 MR. GUILD: Excuse me, sir.

22 Could we exclude the witness? If Mr. Miller is
23 going to be characterizing further -- it will -- I am
24 afraid it may influence the course of the examination.

25 JUDGE GROSSMAN: Fine.

1 Mr. Hulin, would you please -- Dr. Hulin, please
2 step out into the hallway and someone will ask for your
3 return when it's appropriate.

4 (Witness excused.)

5 JUDGE GROSSMAN: Okay. We were discussing it.
6 You would like an opportunity to review this.
7 I think, basically, the only grounds for exclusion
8 are grounds of relevancy.

9 I don't know how profitable that would be at this
10 point -- at this stage in the proceeding.

11 Certainly we won't deny you that opportunity, but
12 it seems as though the arguments would be made on
13 proposed findings.

14 Now, the only other interest you might have is in
15 bringing in a further witness to rebut matters that are
16 relevant that you think ought to be rebutted, and we
17 won't deny you that right to do it. You are under as
18 much of a time constraint as anyone; but certainly it's
19 your choice to say that. I don't see that there is any
20 other possibility for us to rule on.

21 MR. MILLER: Your Honor, the examination that
22 was interrogation by Dr. Hulin and Joe Gallo and others
23 was not limited to questions concerning the Inspector's
24 personal knowledge. They were asked such things as
25 "Well, have you heard about this? What are the rumors

1 on the site?" because it was an effort to gather
2 information, not to preserve testimony for presentation
3 in this hearing; and to suggest that all of this comes
4 in for the truth of the matter stated, when, by the
5 context of both the questions and the qualifications
6 that are found in the answers, it is clear that these
7 are not based on factual knowledge of the individual
8 giving the response, seems to me put an unwarranted
9 burden on Applicant in its determination of whether or
10 not it has to consult additional witnesses or make a
11 further evidentiary presentation with respect to those
12 matters; and it is not matters that I wish to have an
13 opportunity to review to determine whether or not they
14 should be excluded.

15 JUDGE GROSSMAN: Well, to an extent, Mr.
16 Miller, that those answers reflect the climate, that
17 certainly would be admissible, though I understand that
18 you ought to have the opportunity to probe the specifics
19 and, perhaps, impeach the witness' understanding of
20 those matters, as was the case with regard to the
21 witnesses we heard for the first two months of this
22 hearing; and we couldn't deny you that opportunity; and
23 we certainly offer it to you.

24 But we understand that, because of time
25 constraints, you might make a reasonable decision not to

1 do that; and so if you do that, we are certainly not
2 taking it as an admission by you that everything the
3 witness says is correct; but you can make your
4 appropriate argument on findings, it's just that I don't
5 think that we have any alternative to basically allowing
6 this in and allowing you whatever remedy you choose to
7 ameliorate or mitigate the effects of this, to the
8 extent that it might be unfavorable to you.

9 I'm sorry. I haven't given Miss Chan a chance to
10 speak; and so you have it now.

11 MS. CHAN: The Staff does not object to the
12 admission of the transcript, generally; however, this
13 should not be interpreted as a waiver of its standing
14 objection to the Archambeault matter.

15 JUDGE GROSSMAN: Fine.

16 I take it there is no further argument on this; so
17 we will just make that ruling then and we will admit
18 Intervenors' 195 at this point.

19 (The documents marked Intervenors'
20 Exhibit 195 for identification were
21 thereupon received in evidence as
22 Intervenors' Exhibit 195.)

23 JUDGE GROSSMAN: By the way, my notes
24 indicate, and perhaps incorrectly, that we never were
25 offered -- we never admitted 194.

1 MR. GUILD: Yes, sir.

2 Those are the notes and, as I recall -- I am trying
3 to scratch my head about what the status was; but I
4 recall Mr. Miller had an objection to them being
5 received as substantive evidence beyond the use of
6 impeachment of the witness; and the Board was going to
7 reserve on this pending completion of my examination.

8 I intend to offer that, the notes, in evidence, for
9 all purposes.

10 I can do so at this time; but if I understood there
11 was any foundation issue, I wanted to await the
12 completion of my cross examination to --

13 JUDGE GROSSMAN: I was merely --

14 MR. GUILD: -- offer it.

15 JUDGE GROSSMAN: I was merely noting the fact
16 that it wasn't in; but, fine.

17 Why don't we continue the examination.

18 MR. GUILD: All right, sir.

19 JUDGE GROSSMAN: And you can renew your offer
20 at the conclusion.

21 Would someone please ask the witness to return?

22 BY MR. GUILD:

23 Q Dr. Hulin, do you recall Mr. Kimble stating in the
24 interview that he knew of instances where he knew of at
25 least an instance, singular, where another inspector had

1 been discouraged from writing too many NCR's or ICR's?

2 A Yes, I believe I recall that.

3 Q All right, sir.

4 Now, that's not noted in your notes of Mr. Kimble's
5 interview or is it noted in your notes of Mr. Kimble's
6 interview?

7 A Yes, it is.

8 Q Okay.

9 A D-6, brackets, "others have been told," brackets.

10 Q D-6.

11 Have you ever been instructed or discouraged from
12 documenting nonconforming conditions on the proper form
13 and you have bracketed a note there, "others have been
14 told that's indicative of Mr. Kimble" -- referring to
15 being aware that others had been discouraged?

16 A Yes.

17 Q All right, sir.

18 Now, the transcript of Kimble's interview, Page --
19 let's -- one second here -- Page 49, you asked the
20 question at Line 6, do you not, that's your question,
21 "Have you ever been instructed or discouraged from
22 documenting non-conforming conditions?"

23 A I don't know that it's my question; but -- yes, that's
24 my question.

25 Q All right.

1 And the answer given at Line 8 is:
2 "A No. I've heard other inspectors have.
3 "Q Can you give me any specifics on that?
4 "A Do you want names?
5 "Q I don't care about the names.
6 "A The inspector was told he was writing too
7 many ICR's.
8 "BY MR. GALLO:
9 "Q Who was that?
10 "A Is this going to involve other -- I would
11 rather have each inspector speak for himself.
12 "Q I guess it would be helpful. I don't
13 know if we are going to talk to this
14 inspector. It would be helpful to be prepared
15 to ask that question if he doesn't volunteer
16 it.
17 "A That's a tough question. I have never
18 personally been discouraged from writing or
19 calling attention to a non-conforming
20 condition. When you ask if I have heard
21 about somebody else, yes, I have.
22 "Q Are you reluctant to tell us about that?
23 "A The person was writing too many ICR's and
24 he was transferred into another department or
25 another area where he wouldn't have the

1 opportunity to write so many."

2 Now, that statement by Mr. Kimble didn't cause you
3 to alter or add to your pre-filed testimony, did it?

4 A No, sir.

5 Later on he says, "I'm reluctant to" -- this is
6 Page 50, Line 11 -- "I'm reluctant to speak for other
7 inspectors. There was a history in this particular case
8 of some bad relations, and perhaps that had something to
9 do with it."

10 The -- the whole feeling I got from that interview
11 and the others was that a lot of decisions have to be
12 made by inspectors that would fall in the -- in the
13 gray.

14 Q Can you keep your voice up?

15 A -- that would falling in the gray area; and where you
16 draw the cutting line is a management of training and
17 expertise on the job; and to say that somebody is
18 writing too many ICR's does not mean to me that he was
19 instructed to allow sloppy work to go through.

20 As Mr. Schirmer at a different point elaborated
21 that he would go out and he would say, "Well, look. I
22 am not going to tell you what you have got to do, nor am
23 I going to tell you you are writing too many; but let's
24 go out and look at what you are doing and maybe I can
25 coach you to actually where the cutting line should be."

1 Without Mr. Kimble being able to give us anymore
2 detail on that, it's one of those things you hear, it's
3 a rumor; but he himself had never been told that.

4 Q Well, he gives you a little more detail, does he not,
5 same page, Page 50, Mr. Marcus chimes in:

6 "It may not be just for writing too many
7 ICR's, maybe something else along with it?

8 "A Yes. This is possible. This is what the
9 particular inspector told me. I don't have
10 the background of what all the various
11 relationships are. It is very complex. You
12 are only getting a little piece of it here and
13 a little piece of it there. I would rather
14 speak to the things that I personally am
15 familiar with."

16 Next page, 51, by Mr. Gallo.

17 "Q Was it Mr. Snyder?

18 "A No. I heard that he had some difficulty."
19 He goes on.

20 "Q This nameless inspector, you think was
21 transferred in an area that did not involve the writing
22 of ICR's?

23 "A I believe he was trained for another area."

24 A To me, that does not sound like harassment and
25 intimidation, it sounds like the person may in fact have

1 not clearly understood the line between acceptable dust
2 and debris, and so they trained him and put him in
3 another area. That does not sound like harassment and
4 intimidation.

5 Q I see.

6 Well, I take it you reached no conclusions on that
7 point on the basis of the evidence available to you, did
8 you?

9 A I'm sorry?

10 Yes, I did, in my overall conclusion, which was
11 stated in my pre-filed testimony, was that there -- was
12 all the evidence -- none of the evidence pointed to a
13 history and a pattern of harassment and intimidation.

14 Q I see.

15 Did this point to an act of harassment --

16 A No, sir.

17 Q -- in your opinion?

18 A No, sir, not in my opinion.

19 Q All right, sir.

20 If I may have a moment, Mr. Chairman.

21 JUDGE GROSSMAN: Sure.

22 BY MR. GUILD:

23 Q Now, let's talk about Chuck Noble a moment.

24 Mr. Noble had been a Lead, had he not? He was a
25 former Lead Inspector?

1 A I believe that is correct.

2 And let me -- yes.

3 (Indicating.).

4 Q Mr. Noble was not a Lead any longer at the time that he
5 was interviewed?

6 A That's correct.

7 Q He had been removed from his Lead position?

8 A That would seem to follow, sir.

9 Q Well, he didn't quit his Lead position voluntarily, did
10 he?

11 A No, sir.

12 Q And, in fact, Mr. Noble believed that he had been
13 removed from his Lead position in a discriminatory
14 retaliatory manner?

15 A I don't recall him using those terms.

16 Q No, he didn't, those are my terms and I am using them;
17 but, in substance, didn't Mr. Noble state that his
18 belief was that his transfer off of the Lead position
19 was motivated improperly?

20 A I don't recall that.

21 He said he was transferred out of his Lead position
22 two weeks after he was instructed to talk to Mr. Daniels
23 about his interviewing process. You know, there may
24 have been a connection. I am not sure.

25 Q Yes.

1 He was told that Daniels was rejecting too much
2 work under Noble's supervision and that he, Noble, was
3 told to caution Daniels about this practice, and that
4 two weeks later he, Noble, was removed from his Lead
5 position?

6 A Well, sir, the events were a little more complex than
7 that.

8 Q Well, I am sure there were.

9 A He was asked to go out and talk to Mr. Daniels, and his
10 response was to say, "Look, I got no problem with what
11 you are doing. It's your job. You call them the way
12 you see them. I am not going to tell you you are
13 writing too many or not too many."

14 JUDGE GROSSMAN: Excuse me.

15 Who told him that?

16 A (Continuing.) That was -- Mr. Noble was talking to Mr.
17 Daniels. Mr. Daniels is a QC Inspector.

18 JUDGE GROSSMAN: Oh, I see.

19 A (Continuing.) And he told the QC Inspector, "Look, you
20 call them the way you want to. I am not going to tell
21 you you are calling them one way or the other. I have
22 got no problem with what way you are doing." This is a
23 paraphrase, sir.

24 And it was an issue of undercuts on welds; and the
25 issue, I believe, involved the distinction between 8

1 thousandths and 12 thousandths on the undercuts; and
2 instead of Mr. Noble essentially saying, "Let's go out
3 in the field and look at what you are doing," he
4 essentially said, "I am not going to talk to you about
5 it, I mean, I have gone through the motions of telling
6 you I had to bring it up."

7 He was -- two weeks later he was transferred from
8 his Lead position.

9 That incident, I believe, also led to a revision of
10 the procedures about the decisions on the 8 thousandths
11 versus 12 thousandths undercut.

12 Now, my interpretation of that chain of events was
13 that there was no harassment or intimidation, and, in
14 fact, the episode resulted in a change in the
15 procedures.

16 JUDGE GROSSMAN: Excuse me.

17 I thought the question related to a retaliatory
18 transfer.

19 Was it your opinion that this was not a retaliatory
20 transfer?

21 THE WITNESS: It is my opinion that he was --
22 he was transferred two weeks later. He wasn't sure if
23 it was a retaliatory transfer or not. He said, "Look,
24 it happened after I did this."

25 I was struck by the distinction -- by the

1 difference between what Mr. Noble did in terms of
2 talking to Mr. Daniels, and what Mr. Schirmer said he
3 did.

4 When he had a similar problem, he would say, "Look,
5 it's your decision in the end. Your signature is going
6 to be on. You have got to call them the way you want
7 to, but let's go out and look it at and maybe if I can
8 see what you are writing up, maybe we can arrive at a"
9 -- "I mean, maybe I can give you some coaching."

10 Mr. Noble didn't do that at all, and Mr. Schirmer
11 did; so one interpretation of that event -- episode,
12 that sequence of events would be that Mr. Noble was
13 transferred because he wasn't doing his job as Lead,
14 which was providing expertise to the QC Inspectors.

15 BY MR. GUILD:

16 Q That is the interpretation that you make of those
17 events, sir?

18 A Certainly that it is one possible interpretation.

19 Q I understand.

20 A I would not rule that out.

21 Q Well, sir, is that your interpretation?

22 A Sir, there are many possible interpretations of it and
23 that one is not ruled out.

24 Q Yes, sir.

25 That's not my question.

1 Do you remember interpreting those events in the
2 way you have just described and is that the basis for
3 your opinion that this is not an act of harassment, sir?

4 A Let me answer the question directly.

5 Q Doctor, stop, stop. I don't want you to answer in
6 detail.

7 A Sir, I am trying to answer the question directly.

8 Scientists --

9 Q Excuse me, sir.

10 Mr. Chairman, really, what I would like to know
11 right now is one very simple question, and that is:

12 Is the interpretation that you have just offered
13 your own, sir, and is that interpretation the basis for
14 your opinion that the Noble transfer off the Lead
15 position was not an act of harassment? It's a very
16 simple question.

17 A I am trying to answer the question.

18 And the way a scientist would normally approach
19 that would be to say that there are --

20 MR. GUILD: Excuse me, Mr. Chairman.

21 Dr. Hulin, hold on, please.

22 JUDGE GROSSMAN: Well, Mr. Guild, the witness
23 suggests here that he's going to answer your question.
24 I can't cut him off; but I agree that the question is
25 proper and he should answer it.

1 MR. GUILD: Mr. Chairman, my problem is this:
2 The witness is, I believe, unresponsive to my
3 questions on a more general basis.

4 Generally, I would have no problem with him
5 answering with an explanation first, if I were assured
6 his answer was going to be responsive.

7 Because he has not been responsive in the past, in
8 my judgment, I ask the Chair to direct the witness, if
9 he can now, and I don't preclude the possibility that he
10 couldn't, to answer the question either yes or no and
11 then explain his answer.

12 MR. MILLER: Your Honor, I believe the
13 witness has been responsive and, in fact, had been cut
14 off at least twice when he has tried to explain answers
15 in response to Mr. Guild's questions, and I understand
16 ground rules as expressed by the Chairman in his
17 rulings; but to suggest that he's unresponsive I don't
18 believe is correct, and I believe he should be allowed
19 to answer the question within the scope of his
20 expertise.

21 JUDGE GROSSMAN: That's fine.

22 The record will speak for itself as whether or not
23 he was or not responsive; but we will agree that he
24 ought to answer the question directly; and if you have
25 an explanation, then please give that along with your

1 answer.

2 A Okay.

3 For almost any event that occurs, there are a
4 number of possible explanations; and the way I normally
5 approach that is to eliminate those explanations that
6 don't seem reasonable. I am left with a very small set
7 of those that do seem reasonable, and among that small
8 set of explanations that do seem reasonable, is the one
9 that I have just offered.

10 JUDGE GROSSMAN: Okay. In answer to that, it
11 would be one of the others that the witness has
12 accepted, and you certainly can probe as to what the
13 others might be.

14 BY MR. GUILD:

15 Q Yes, sir.

16 Mr. Hulin, did you conclude that this was not an
17 act of harassment or retaliation against Mr. Noble,
18 based on your interview with Mr. Noble?

19 A Did I conclude that it was not an act of harassment?

20 Q You heard the question.

21 A No, sir.

22 Q You don't exclude that possibility, either, then?

23 A No.

24 Q Fine.

25 Let's take the Noble transcript then and let's see

1 what Mr. Noble has to say on this matter.

2 Did you get a copy?

3 MR. MILLER: Yes.

4 MR. GUILD: Did you get a copy.

5 MR. BERRY: Yes.

6 MR. GUILD: This is only an excerpt of Mr.
7 Noble's interview. I certainly have no objection to
8 having his entire interview, or any of these interviews,
9 for that matter, Mr. Chairman and Mr. Hulin; but this is
10 the interview on the point we have been discussing.

11 Mr. Chairman, I ask that this excerpt from the
12 Noble interview of September 16, 1986, conducted by
13 Applicant, be marked as Intervenors' Exhibit 196,
14 please.

15 I note this this includes a cover page, Pages 1 and
16 2, and then beginning at Page 17 of Mr. Noble's
17 interview, and concludes with Page 42. It is only an
18 excerpt.

19 (The document was thereupon marked
20 Intervenors' Exhibit No. 196 for
21 identification as of the 25th day of
22 November, 1986.)

23 BY MR. GUILD:

24 Q Dr. Hulin, if you would, sir, please, look at Page 17.

25 There you ask the question, do you not, Line 20:

1 "Q Now about the relationships between the
2 QC Inspectors and QC supervision? Is that
3 professional?

4 "A Professional up to a point."

5 Turn the page, please. Line 10,

6 "Q Have you have problems with it in the past?

7 "A I had one problem. I used to be Lead
8 here for welding and configurations. For not
9 reason" -- I at that that should be "for no
10 reason" -- do you recall him saying, "For no
11 reason"?

12 A I read it. When I re-read the transcript I thought it
13 was a typo, but --

14 Q All right, sir.

15 "I was never given a reason why I was taken out of
16 welding and configurations, never.

17 "BY MR. MARCUS:

18 "Q Did you ask?

19 "A Yes, I did ask.

20 "Q Who did you ask?

21 "A I asked Harry and I asked Tony."

22 You understand those to be Mr. Revels and Mr.
23 Simile, respectively?

24 A Yes, I do.

25 Q And then it continues:

1 "And all Tony told me was he said we're
2 bringing in a guy that knows the paperwork a
3 little better. And so I thought man, I'm
4 really messing up around here somewhere and I
5 don't know where. Nobody's ever pulled me
6 aside to talk to me, see where I'm making any
7 mistakes. Not one time."

8 It goes on.

9 That is where Mr. Noble responds by describing his
10 belief as to the circumstances of his -- strike that.

11 That's where Mr. Noble explains the circumstances
12 of his transfer and his belief as to the reasons for
13 that transfer; correct?

14 A I didn't see any expressed belief in there for the
15 transfer.

16 He said, "I was never given a reason." He -- I'm
17 sorry.

18 Yes. "I was never given a reason. They were
19 bringing in somebody that knows the paperwork better,"
20 yes.

21 Q This is the portion of the testimony where he recounts
22 that -- the circumstances that you alluded to, and that
23 is that he had previously been asked about the reject
24 rates of Mr. Daniels, and that two weeks later he was
25 removed from the Lead position?

1 A I believe so.

2 Q All right.

3 MR. GUILD: Mr. Chairman, I move Intervenors'
4 Exhibit 196, the Noble interview excerpt, into evidence
5 at this time.

6 JUDGE GROSSMAN: I assume there is the same
7 situation as before, Mr. Miller?

8 MR. MILLER: Correct.

9 JUDGE GROSSMAN: Okay.

10 Fine. So we will admit this.

11 MR. MILLER: Your Honor, I will say that, to
12 the extent that this is going to be -- a portion of this
13 is going to be admitted, seems to me that the entire
14 transcript of the interview ought to be admitted as
15 well.

16 MR. GUILD: I have no objection, Mr. Miller,
17 to Applicant offering it at their turn, or any of these
18 interviews, for that matter.

19 JUDGE GROSSMAN: Well, if there is not
20 objection, then you will be free to do that, Mr. Miller.
21 I assume Staff has no objection?

22 MS. CHAN: No objection from Staff.

23 (The documents marked Intervenors'
24 Exhibit 196 for identification were
25 thereupon received in evidence as

Intervenors' Exhibit 196.)

1
2 BY MR. GUILD:

3 Q Mr. Noble also raised a concern about laminations, plate
4 liminations, did he not?

5 A Yes.

6 Q Do you know whether any documentation was made of Mr.
7 Noble's lamination concern?

8 A It was a very -- that was an interview that Mr. -- Mr.
9 Noble came in and essentially took over the interview
10 without us asking him any questions, and it was a long,
11 rambling account of whether it was a plate lamination
12 problem or material defect problem, and he said --
13 excuse me -- a couple of times that he had talked to
14 people and said, "That's been taken care of. I believe
15 that's been written up."

16 Q I'm sorry.

17 The answer is what?

18 A He said he had talked to some people and they had told
19 him, "Well, you know, that's -- it's been transferred or
20 it's been accepted by CECO or it's been taken" -- I
21 don't know what the technical term is when you turn over
22 a completed piece of work to the general contractor, and
23 said he had no reason to disbelieve the man when he told
24 him that.

25 Q All right.

1 Well, aside from your characterizations of what
2 Noble said being his rambling or what have you --

3 A Well --

4 Q -- my question was related more narrowly, and that was:

5 Do you know whether or not -- whether Noble
6 expressed this concern about laminations, whether or not
7 you or Gallo or Thornton or Marcus took any action to
8 document those concerns, aside, of course, from the
9 transcript that reflects it?

10 A We may have a misunderstanding about the word
11 "document."

12 Somebody from Quality First was there, Mr. Marcus,
13 and he heard about the concern.

14 Now --

15 Q Wait a minute.

16 A It's not up to me to document it after he's heard about
17 it first-hand; so beyond that, I didn't do anything, no,
18 sir, and I am quite sure that Mr. Gallo didn't and I am
19 quite sure that Mr. Thornton didn't and the Court
20 Reporter didn't.

21 Q Fine.

22 A Now, Mr. Marcus may have.

23 Q Who was the Quality First man that you --

24 A Mr. Marcus.

25 Q Oh, I see.

1 You understood Mr. Marcus was there in the capacity
2 of a Quality First representative?

3 A Yes.

4 Q And documented or took whatever action was called for,
5 whether he documented or not, you don't know on these
6 concerns.

7 He heard them in any event?

8 A Yes, he heard them.

9 Q I see.

10 JUDGE GROSSMAN: Whenever you think it's
11 appropriate.

12 MR. GUILD: Yes , Mr. Chairman. This is a
13 good time. I have very little left; but with the number
14 of other reference -- but maybe it's best to wait until
15 after the lunch recess.

16 JUDGE GROSSMAN: Fine.

17 We will adjourn until 1:30.

18 MR. BERRY: Mr. Chairman, Staff is still
19 hopeful of getting Mr. Gardner on the stand; and --

20 JUDGE GROSSMAN: So are we; and if Mr. Guild
21 has very little, he may well get on the stand today; and
22 perhaps we could go a few minutes over, if necessary.

23 MR. BERRY: Fine.

24 JUDGE GROSSMAN: We certainly will make every
25 effort to complete it by tomorrow.

1 MR. BERRY: That's fine, Mr. Chairman.

2 JUDGE GROSSMAN: Within the allotted time.

3 MR. BERRY: I only brought it up that there
4 was a danger that we wouldn't get to him today. I
5 didn't want him to sit around all afternoon if we
6 weren't able to get to him.

7 (WHEREUPON, the hearing of the
8 above-entitled was continued to the
9 hour of 1:30 o'clock P.M.)

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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 OL
8 (Braidwood Station, Units 1 : 50-457 OL
9 and 2) :
10 -----x

11 Met pursuant to recess.

12 Tuesday, November 25, 1986.
13 1:30 o'clock P. M.

14 JUDGE GROSSMAN: Mr. Guild.

15 MR. GUILD: Yes, sir, Mr. Chairman.

16 Shall I proceed?

17 JUDGE GROSSMAN: Yes, please.

18 BY MR. GUILD:

19 Q Now, Dr. Hulin, let's turn to your notes of John Thomas,
20 the gentleman you interviewed last on the 15th, the
21 evening of the 15th.

22 Now, you made a point of putting a box around this
23 comment here, where you record Mr. Thomas'
24 characterizing Greg -- I take it to be Mr. Archambeault
25 -- as the laziest person he has ever ever seen in his
life.

That's not a fair summary of what Mr. Thomas had to

1 say in context, is it?

2 A Are you asking me if -- if that represents a fair
3 summary of Mr. Thomas' comments in the interview?

4 Q Yes. That's exactly what I asked you, Doctor.

5 A I believe it is.

6 Q Let's test that proposition, Dr. Hulin.

7 Page 22 of the Thomas interview.

8 "Q You indicated in answer to his question
9 that some of these inspectors weren't as
10 good"--

11 A I'm sorry.

12 Q -- "as they think they are."

13 Excuse me, sir.

14 JUDGE COLE: He doesn't have the Thomas.

15 MR. GUILD: I will be happy to share it with
16 you after you read it.

17 MR. BERRY: There should be a copy available.
18 We will do it.

19 MS. CHAN: What page are you referring to,
20 Mr. Guild?

21 MR. GUILD: It's Page 22.

22 MS. CHAN: (Indicating.)

23 THE WITNESS: Thank you.

24 MS. CHAN: You are welcome.

25 BY MR. GUILD:

1 Q You have the transcript before you now?

2 A Yes, I do.

3 Q Page 22, I am reading now.

4 "Q You indicated, in answer to his question,
5 that some of these inspectors weren't as good
6 as they think they are, as one reason for what
7 you described as carryings on. Are there
8 other reasons?

9 "A I am used to working with these people.
10 They don't care anything about working. They
11 just don't care. I see a lot of it and that's
12 one reason I couldn't be Lead out there
13 anymore, because I can't put up with them.
14 That's not good, but that's the way I feel
15 about some of the inspectors. Like Greg
16 himself. He's one of the laziest persons I
17 have ever seen in my life. I don't know if
18 you heard about the incidents where he got
19 caught inside of a locked room, did you?

20 "A I don't know," and he goes on.

21 Now, I mean, he refers to Greg, Mr. Archambeault,
22 as one of the laziest person he's ever seen, but he
23 seems to have a pretty low regard for all the rest of
24 Quality Control Inspectors as well, doesn't he? That's
25 the context in which he makes that remark?

1 A That's true; but within that context, he singles Greg
2 out as being the laziest person he has ever seen in his
3 life, yes.

4 Q Yes.

5 A And I believe that's fairly captured by the comments in
6 the box.

7 Q Oh, all right, sir.

8 But don't you think, perhaps, Mr. Thomas was
9 telling you and Mr. Gallo and Mr. Thornton and Mr.
10 Marcus what he thought you wanted to hear when Mr. Gallo
11 started the interview by saying that they were looking
12 in essence to hear whether or not Mr. Thomas and others
13 agreed with Mr. Archambeault?

14 A No, I don't think he was telling us what we wanted to
15 hear, because I am not sure that he knew what we wanted
16 to hear.

17 Q Don't you think that he volunteered this singling out of
18 Greg Archambeault because he thought it would be well
19 received and would elicit exactly the response it did,
20 you made a real big note on your record there and put a
21 box around it, "laziest ever seen."

22 Did you think that was in Mr. Thomas' mind when he
23 volunteered the characterization of Greg Archambeault
24 among all the rest of the inspectors in a fairly
25 unfavorable light?

1 MR. MILLER: Your Honor, the relevance of
2 this inquiry kind of -- I don't understand the relevance
3 of this specific inquiry, since Dr. Hulin does not
4 purport to express an opinion with respect to Mr.
5 Archambeault's work habits.

6 JUDGE GROSSMAN: Well, Mr. Miller, the whole
7 question goes to impeaching the witness' opinions and
8 conclusions, and what he based his opinions on.

9 This is certainly within that context.

10 Overruled.

11 BY MR. GUILD:

12 Q Don't you think that, having set the stage by telling
13 this interviewee and the rest, that you were looking, in
14 effect, for the goods on Mr. Archambeault, that he
15 simply told you what you wanted to hear?

16 MR. MILLER: Your Honor, I object to the
17 characterization of what was told to these individuals
18 in the interview.

19 JUDGE GROSSMAN: Well, Mr. -- overruled.

20 The witness can handle that question.

21 If he thinks that the question assumes something
22 that wasn't so, he can say so.

23 A The question assumes something that wasn't so.

24 (Laughter.)

25 MR. GUILD: Okay.

1 JUDGE GROSSMAN: Excuse me.

2 With specifics as to why, Dr. Hulin.

3 A (Continuing.) It was not characterized that we were
4 there to get the goods and Mr. Archambeault.

5 BY MR. GUILD:

6 Q You were, weren't you? That's what Mr. Gallo was there
7 for.

8 Don't you understand that to be the case?

9 A No, I don't.

10 Q He was trying, as an adversary, an advocate representing
11 Commonwealth Edison Company, to see whether or not he
12 could find evidence contrary to what Greg Archambeault
13 said on the witness stand.

14 Didn't you understand that to be Mr. Gallo's
15 purpose?

16 A No, sir, I did not.

17 Q Then perhaps you were not informed adequately.

18 Do you reflect on that, if you assume that that
19 was, indeed, Mr. Gallo's purpose?

20 MR. MILLER: I am going to object, your
21 Honor.

22 That's a totally improper question. He asked the
23 direct question and he got the answer and now he's
24 asking him to assume something else.

25 MR. GUILD: Yes, sir, I am, if indeed Mr.

1 Gallo was there as an adversary to gather evidence
2 adverse to Gregory Archambeault, and you didn't know
3 that, perhaps you were operating under a
4 misunderstanding about Mr. Gallo's purpose for attending
5 those interviews, sir?

6 MR. MILLER: Your Honor, I object.

7 JUDGE COLE: There is no question.

8 MR. MILLER: Pardon me?

9 JUDGE COLE: There is no question to the
10 witness, is there?

11 JUDGE GROSSMAN: Well, the question is:
12 "Were you?" But why don't you break it up,
13 step-by-step, Mr. Guild, and I think in two steps it
14 would probably be acceptable.

15 MR. GUILD: All right.

16 BY MR. GUILD:

17 Q You just testified that Mr. Gallo's motive was not to
18 get the goods on Mr. Archambeault?

19 A I'm sorry, sir. I did not testify to that.

20 Q Oh, I misunderstood you then.

21 Do you agree that Mr. Gallo's purpose for this
22 interview was to gather evidence adverse to Mr.
23 Archambeault, got the goods on him?

24 A No, I don't.

25 Q All right.

1 Now, Gallo's purpose was not to get the goods on
2 Mr. Archambeault or to gather adverse evidence about
3 him?

4 A I don't believe so.

5 Q All right, sir.

6 Now, if I tell you, sir, that -- ask you to assume
7 that Mr. Gallo's purpose, in whole or in part, was to do
8 just that, to gather evidence that is adverse to Gregory
9 Archambeault, and you didn't know that, wouldn't that
10 reflect that you have a misunderstanding of the purpose
11 for which he was conducting his interview?

12 MR. MILLER: Your Honor, again, I object.

13 JUDGE GROSSMAN: Well, overruled. I think
14 the question is clear; and perhaps an answer in the
15 affirmative wouldn't mean anything unless there is a
16 further development, Mr. Miller; but I don't see that
17 it's improper.

18 MR. MILLER: Well, but it assumes a fact not
19 in evidence, a fact that can only be elicited or
20 determined by putting Mr. Gallo on the stand and having
21 him violate the work product privilege.

22 JUDGE GROSSMAN: Well --

23 MR. MILLER: And I believe this is improper
24 examination.

25 MR. GUILD: Well, Mr. Chairman, here is the

1 point.

2 I think --

3 JUDGE GROSSMAN: Well --

4 MR. GUILD: It doesn't require Mr. Gallo's
5 testimony, nor does it survive Mr. Miller's discomfort
6 that --

7 JUDGE GROSSMAN: Well, Mr. Guild, are you
8 sure you want the witness here?

9 MR. GUILD: I don't have any problem with the
10 witness hearing this, Mr. Chairman, because I think
11 these facts are so apparent that the witness can't learn
12 anything. They aren't arguments that he doesn't already
13 know.

14 That is, that if counsel was present at this
15 interview for the purpose asserted on the record by Mr.
16 Miller, and that was performing an investigation as
17 lawyers in this case, that indeed a part of their
18 purpose was to gather evidence adverse to Mr.
19 Archambeault. That seems apparent.

20 JUDGE GROSSMAN: Well --

21 MR. GUILD: And doesn't seem to me --

22 JUDGE GROSSMAN: Well, Mr. Guild, maybe you
23 ought to ask him what he believes Mr. Gallo's purpose
24 was.

25 I don't want to suggest how you conduct your

1 inquiry, your examination.

2 I have already overruled Mr. Miller's objection;
3 and, so, the witness can answer the question; but
4 without having any further argumentation, do you want to
5 rephrase it?

6 MR. GUILD: I will do it again, Mr. Chairman.

7 BY MR. GUILD:

8 Q If indeed Mr. Gallo was trying to gather evidence
9 adverse to Mr. Archambeault, from these interviews, if
10 that was his purpose in conducting these interviews,
11 that is a purpose of which you were not informed; isn't
12 that so, Dr. Hulin?

13 A If that was his purpose, then that was a purpose of
14 which I was not informed.

15 Q All right, sir.

16 Now, sir, what do you believe Mr. Gallo's purpose
17 was in participating in these interviews with regard to
18 the Archambeault subject?

19 A Mr. Gallo and I had a very frank exchange of opinions
20 about the process that we were going through.

21 Q Yes.

22 A And I believed what he represented to me was that he was
23 a lawyer for Isham, Lincoln & Beale, representing CECO
24 in this hearing, and that he wanted to find out if the
25 charges made by Greg Archambeault were supported and

1 believed by the other inspectors on the second shift
2 cable pulling operation.

3 Q Or to the contrary, whether they weren't supported by
4 the second shift cable pulling inspectors?

5 A I don't think he would be concerned about that. He
6 wanted to find out if they were supported, because only
7 if they were supported that he would have a problem.

8 Q I see.

9 So he wasn't interested if it turned out that
10 indeed the inspectors said, "Greg Archambeault is the
11 laziest inspector I have ever seen," none of his charges
12 are supported.

13 That would not have been a piece of information
14 that, as you understand it, Mr. Gallo would have found
15 useful, given his purpose for the interview?

16 A I don't think he would have found it particularly
17 useful, because what -- he was looking for problems.

18 Q I see.

19 That's your belief, is it not?

20 A That's my belief.

21 Q Fine.

22 Now, Thomas expressed views as to the lack of -- I
23 am going to say this, this is not his word -- the lack
24 of zeal of the other inspectors, the laziness generally
25 among the inspectors: That didn't cause you to change

1 your testimony here in this proceeding, did it?

2 A No, sir.

3 Q Thomas testified that Mr. Dominique was chided for
4 having written too many ICR's; do you recall that?

5 A That's another box that I have on my notes, yes.

6 Q Yes.

7 And Thomas' statements about Dominique being the
8 subject of that criticism didn't cause you to change
9 your testimony, did it?

10 A Not in the context of the information I obtained in the
11 other six interviews, no.

12 Q Did you reach a conclusion as to whether or not Mr.
13 Dominique was the victim of harassment, intimidation or
14 production pressure in the instance of being criticized
15 for writing too many ICR's?

16 A I believe I did; and I believe that my impression was
17 that he was not the subject of intimidation.

18 Q Indeed.

19 Mr. Thomas also mentioned an inspector by the name
20 of Nelson being transferred to days?

21 A Yes. That's also one of these side comments, I believe,
22 I made.

23 Q Yes, it is.

24 Can I have a moment? Excuse me, your Honor.

25 Page 47 of the transcript of the Thomas interview:

1 "Q When did this happen. How long ago?

2 "A Right before the man got transferred to
3 day shift. I don't know.

4 "Q Which inspector was this?

5 "A Nelson.

6 "Q Didn't he get involved with some dispute
7 involving people walking on cable, too?

8 "A Right. That's what started it with the
9 fitters. I had to follow through with it so I
10 went and got the people involved. We got it
11 straightened out right there. We have never
12 had anything else from that, that I have
13 heard.

14 "Q Why did he get transferred to days?

15 "A Because he kept pursuing it enough that
16 they put him on days. I take that back. They
17 had an opening for two people to come back to
18 days. He fell into that. He was harping on
19 them a long time to put him back to days.

20 "Q Did they transfer him in order to
21 separate the craft people involved from
22 Nelson?

23 "A No. If you have a problem, fine, talk
24 about it, and see if you can straighten
25 it out, and as a last resort they will

1 transfer you. But other than that, at
2 that time Greg had an opportunity to go,
3 too, he refused. I see in the paper he has
4 gone back to days now. Because of the way I
5 read it, it is because of the hearings and
6 stuff. He wanted to stay on nights until
7 recently."

8 All right.

9 Did you change your testimony, pre-filed in this
10 proceeding, on the basis of Mr. Thomas' statements about
11 Nelson being transferred?

12 A No, sir.

13 My understanding of that was: Mr. Nelson was
14 transferred because of the conflict that he had had with
15 the craft people, and that did not represent an
16 indication of harassment and intimidation as this
17 general climate existed; in fact, he was transferred to
18 days at his own request, to separate him from the craft
19 people, and essentially the system was working, so if
20 you have got a problem there, let's protect the QC
21 Inspector, let's get it eliminated where he can do his
22 job. That was my understanding of that.

23 Q And I take it you found that a proper and appropriate
24 action to separate the QC Inspector and remove him from
25 a point of conflict with craft?

1 A If it was -- yes. I assume that it was getting in the
2 way of them doing their job, and it seemed reasonable to
3 put him on days, so -- where he was away from the people
4 who were not getting along with them.

5 Q I see.

6 Do you think that perhaps that might be perceived
7 by other inspectors and other craftsmen as rewarding the
8 craftsmen and punishing the inspector?

9 A I don't see how, sir, transferring him to day, which is
10 what he wanted in the first place -- I hardly see that
11 as a punishment.

12 Days is generally preferable to nights anyway.

13 Q All right, sir.

14 So your belief is that in a craft/QC Inspector
15 conflict, simply removing the QC Inspector would not be
16 perceived as rewarding the craft and punishing the
17 inspector; is that your testimony?

18 A In this instance, my interpretation of that is that he
19 was not being punished, yes, that's my interpretation.

20 Q Right.

21 And that that would be correctly perceived by the
22 craft and by the inspectors, that is, that he was not
23 being punished, he the inspector?

24 A It did not -- at least in the head of Mr. Nelson -- I'm
25 sorry, in the --

1 Q Thomas?

2 A Mr. Thomas.

3 It didn't seem that he was equating that with
4 punishment.

5 Q Do you know whether or not others did?

6 A No, sir.

7 Q Craft, for example?

8 A No, sir, I don't.

9 JUDGE GROSSMAN: Excuse me.

10 I am not sure we got an answer to the question
11 whether you perceived that, whether it's your opinion
12 that, in general, the craft and QC Inspector would
13 perceive that as being retaliation against the QC
14 Inspector.

15 THE WITNESS: And I said, at least it did not
16 exist in Mr. Thomas' head, and I didn't know about what
17 the other people would perceive it as.

18 BY MR. GUILD:

19 Q Thomas talking about Archambeault, Page 45.

20 "A I don't know. I honestly don't."

21 Read the question, Line 14.

22 "Q Had you been involved with any of the
23 concerns that he raised in terms of
24 witnessing them?

25 "A I don't know, I honestly don't. I think

1 a lot of times Greg and I never really saw eye
2 to eye or whatever, because I read the
3 procedures a lot different than he does. I
4 trained Greg. He even thought he had a
5 concern with me on coiling cables. He got
6 shot down on that. He has a problem."

7 You didn't record those comments by Mr. Thomas
8 about Mr. Archambeault on your notes, did you?

9 A No, sir.

10 Q Did you learn any additional information about what Mr.
11 Thomas' -- what Mr. Archambeault's concern regarding
12 Thomas involved?

13 A In the context of these interviews, it -- I believe it
14 -- that Greg had a problem with coiling cable during a
15 pull, you know, essentially pulling it partway, coiling
16 it, completing another section of the pull, coiling it,
17 and so forth, and Greg had a problem with that; and I
18 believe -- again, this is my belief from these
19 interviews -- that that was acceptable procedure
20 according to -- acceptable, according to the procedures
21 at Braidwood.

22 When he says he gets shot down, I interpreted him
23 as telling me that Greg was wrong on this and the
24 procedures permitted it.

25 Q I see.

1 Did the fact that Mr. Archambeault had previously
2 raised this concern about involving Mr. Thomas, that is,
3 the coiling of the cables and that Archambeault had been
4 shot down, as you say, did that, in your opinion, color
5 Mr. Thomas' attitudes about Mr. Archambeault?

6 A No, sir. Petty -- I am sorry, I didn't mean to say
7 "petty."

8 Conflicts like this occur every day on a work site,
9 and I don't think it's going to influence his opinion
10 unduly. He trained him. He knew a great deal about it.

11 Q That's your belief?

12 A That's my belief, yes.

13 Q So you credited him when you said, in his opinion,
14 Archambeault was the laziest person he had ever seen,
15 but you didn't credit the statement where he said, "Greg
16 and I never really saw eye to eye, and indicated that he
17 and Archambeault had had previous disputes where
18 Archambeault had raised safety or quality concerns about
19 Thomas?"

20 A I am not sure what you mean by "credit" him.

21 I believe both of those were his perceptions, his
22 beliefs as I saw them both.

23 Q I see.

24 You didn't discount Mr. Thomas' opinion statements
25 about Mr. Archambeault on the basis that Thomas may have

1 been the victim or the subject of a complaint by
2 Archambeault in the past, that is, the coiling of
3 cables?

4 A No. Mr. -- no, no, I did not.

5 Mr. Thomas' opinion of Mr. Archambeault played a
6 very small role, if any, in my opinion.

7 Q Understood.

8 In fact, Mr. Bisky, in response to a question by
9 Mr. Gallo, volunteered his opinion that Mr. Archambeault
10 was an excellent inspector?

11 A I don't have the transcript. I believe I recall that;
12 but --

13 Q Yes.

14 Can I have a moment?

15 JUDGE GROSSMAN: Sure.

16 BY MR. GUILD:

17 Q Did you reach any opinion as to whether or not Mr.
18 Archambeault was in fact an excellent inspector or the
19 laziest inspector in the world, pretty opposite?

20 A I think both of those are consistent statements.

21 Q Oh, you do?

22 A Yes.

23 Q I see.

24 A You can do excellent work on the inspections you do, but
25 just not do very many of them.

1 Q And interpreted them consistently?

2 A I said I believe those can be interpreted consistently.

3 Q I am sure they can, somebody could do that, as I am; but
4 did you interpret them as being consistent; that's your
5 opinion?

6 A Yes.

7 Q Now, let's talk about Mr. Schlichter, Doug Schlichter.

8 Excuse me a second.

9 THE WITNESS: Excuse me.

10 While we are waiting, does Staff want this back?

11 (Indicating.)

12 MR. BERRY: Yes. Thanks.

13 BY MR. GUILD:

14 Q Mr. Schlichter related an instance where Mr. -- that he
15 had been a witness to -- where he observed Mr. Martin
16 being the subject of abuse from craft foremen.

17 Do you recall that, sir?

18 A I don't have the transcript.

19 There is -- there is an instance in my notes that
20 would be consistent with that.

21 Q Well, that may or may not be, sir; but my question was:

22 Do you recall that, Mr. Schlichter saying that, in
23 the interview which you were present and taking notes?

24 A I don't recall that. I don't recall him saying that
25 specifically. I would have to see the interview.

1 Q All right, sir.

2 Schlichter transcript at Page 10.

3 A I don't have a copy of that.

4 MS. CHAN: Staff will provide a copy.

5 MR. GUILD: Thank you.

6 MS. CHAN: (Indicating.)

7 THE WITNESS: Thank you.

8 BY MR. GUILD:

9 Q Page 10. Let's go to Page 9, first.

10 Question, Line 10, Rich Martin -- this is a series
11 of questions about inspectors terminated, beginning at
12 Page 8 -- about John Seeders. The question at Line 8 of
13 Page 9 -- no, sir, Line 10. Rick Martin.

14 "A Yes, sir.

15 "Q Do you know where he's working?

16 "A He had a personal confrontation with a
17 craft foreman on the job, a personal
18 confrontation. It was not work related. It
19 shouldn't have happened. I was present. In
20 fact, there was 10 other inspectors present,
21 and we all saw Quality First, and the craft
22 forman in question was terminated from the
23 jobsite and Mr. Martin was removed from the
24 field.

25 "Q Is he the one that he referred to when you

1 said --

2 "A Yes, sir.

3 "Q Because of his own personal safety?"

4 Page 10.

5 "A I believe so, yes, sir.

6 "Q Do you think the foreman should have been
7 terminated?

8 "A Yes, sir, I do.

9 "Q Yes. He was out of line?

10 "A Yes, sir, totally.

11 "Q What was he trying to do?

12 "A Intimidate him. I don't really know.

13 There was always a -- as I heard when I was
14 training with Mr. Martin. He took me through
15 some of my OJT, and why there was a personal
16 confrontation I don't know. It goes beyond
17 me; but Mr. Krone came into the office, got
18 loud, physical, up in Mr. Martin's face.

19 Then, after several of us asked him to just go
20 away, forget it, you know, he returned with
21 some of the people that were assigned to his
22 crew, and started name-calling, pointing and
23 thumping of the chest, this kind of thing.
24 You know, I really don't know why there was a
25 personal confrontation."

1 Q Now, sir, that statement by Mr. Schlichter didn't cause
2 you to change your pre-filed testimony in this case, did
3 it?

4 A No, sir. I thought he was relating to me an incident in
5 which there was a personal confrontation and the result
6 was that they fired the craft foreman and they
7 transferred Mr. Martin to prevent further problems that
8 might get in the way of the QC inspectors' job.

9 Q I see.

10 And I take it you reached a conclusion that it was
11 a proper and appropriate thing to do in this case, to
12 transfer Mr. Martin off of the inspecting duties with
13 the craft that he was dealing with?

14 A In the context that they fired the craft foreman and
15 then to, you know, further reduce the problems,
16 transferred Mr. Martin, it seemed perfectly reasonable.

17 Q It seemed perfectly reasonable?

18 A Yes.

19 Q I take it that you didn't acquire any additional facts
20 about this particular incident aside from what Mr.
21 Schlichter told you --

22 A I have --

23 Q -- or did you?

24 A You mean did I go out and interview Mr. Krone or --

25 Q Did you do anything else, Dr. Hulin, in which you formed

1 your opinion on the propriety of the action taken
2 regarding Mr. Martin, the transfer of Mr. Martin?

3 A I believe this incident was mentioned in other
4 interviews; and, no, I did not go out and deliberately
5 seek other information.

6 Q All right, sir.

7 Now, I take it you concluded this -- this was not
8 an act of harassment against Mr. Martin, harassment,
9 intimidation or production pressure?

10 A This did not fall within the contention that there was a
11 climate of harassment, intimidation, to -- of the craft
12 -- I'm sorry -- of the QC personnel to accept sloppy
13 work and so forth, no. I interpreted it as a
14 confrontation between craft and QC.

15 Q Were you aware that Mr. Krone had displayed prominently
16 a newspaper article that referred to Mr. Martin in a
17 negative or pejorative light as having done 500
18 inspections or more in a day, weld inspections?

19 A Again, I believe that came up in some of the interviews,
20 yes.

21 Q So you were aware of that?

22 A Yes.

23 Q And you were aware of that fact when you formed your
24 opinion about this incident, I take it?

25 A Yes.

1 Q And were you aware that Mr. Krone, the craft foreman
2 with whom Mr. Martin worked, Krone was holding Martin up
3 to ridicule by displace -- by reproducing copies of this
4 newspaper article and posting them prominently around
5 the facility?

6 A Was I aware of that?

7 Q Yes.

8 A Again, it came up in -- in -- in -- in the context of
9 some of the interviews, and I was also aware that Mr.
10 Krone was fired.

11 Q You were aware of those facts that I have just posed for
12 you?

13 A I said I believe it came in the context of some of the
14 interviews and I was aware of it.

15 Q Were you aware that Mr. Martin had subsequently gone to
16 the Nuclear Regulatory Commission and complained of this
17 course of conduct and that thereafter, Mr. Krone was
18 fired?

19 A I was not -- not apprised of the exact sequence of
20 events, no.

21 Q That would be important to know, wouldn't it, to
22 consider the significance of firing Krone?

23 A An incident happened, and after the incident, Mr. Krone
24 was fired.

25 I don't think so.

1 Q You don't think it would be important?

2 A No.

3 Q Okay.

4 Do you think that the Quality Control Inspectors or
5 the craft might have perceived the management response
6 to this incident as punishing Mr. Martin by removing him
7 from the inspection work where he had been assigned at
8 the time of the run-in with Krone?

9 A That was not the impression I got, sir.

10 Q From, again, talking to Mr. Schlichter?

11 A From talking to the seven QC Inspectors.

12 Q Well, who else besides Schlichter did you talk with
13 about the Martin matter, if anyone?

14 A We gave all of them an opportunity to talk about
15 harassment and intimidation of them and pressure for
16 production, and so forth.

17 Q I assume you did.

18 A And none of them seemed to take the opportunity to
19 recall this as an example of the QC people being
20 punished.

21 Q Except Mr. Schlichter?

22 A I do not characterize Mr. Schlichter's statement that
23 way, sir.

24 Q I understand.

25 But he was the only one who volunteered information

1 about Martin in any context or were there others, I
2 mean, this particular incident with Mr. Martin -- I mean
3 the Krone incident?

4 A I believe he was the only one that went into a great
5 deal of detail in discussing this incident, yes.

6 Q Was there anything else that your interviewing of the
7 seven who mentioned the Krone incident in whatever
8 detail such to know what they were talking about?

9 A I would have to go back and re-read them all.

10 Q Do you recall any at this time, sir?

11 A Again, I said a few minutes ago, I believe I do recall.

12 Q Can you tell me which one you recall?

13 A No.

14 Q You recall generally there may have been another
15 reference, but you don't remember who or any other
16 detail?

17 A Yes.

18 Q Whatever it was, it was enough for you to form an
19 opinion on the matter, which you did?

20 A Is there a question there?

21 Q Yes.

22 Whatever information you had, whatever other
23 inspectors told you about anything about Krone and
24 Martin, if any others did, aside from Schlichter, was
25 enough for you to form an opinion on this matter which

1 you have stated?

2 A Yes.

3 Q Now, Dr. Hulin, did you notice that, when you asked
4 questions of these inspectors, many times you would ask
5 the question directly, and you would elicit a direct
6 answer that would be yes or no, and that you recorded
7 that yes or no in your notes; but that, subsequently,
8 Mr. Gallo would be engaging in questioning and he would
9 elicit information that was more elaborate and at some
10 points inconsistent with simply the yes-or-no answer to
11 the question you had asked?

12 That's a convoluted point; but do you follow me,
13 sir?

14 A I believe so.

15 Q Okay.

16 A Did I notice --

17 Q That that occurred, that that phenomenon occurred, that
18 Gallo elicited information -- that provided information
19 that elaborated on or conditioned what you recorded in
20 your notes as simply a yes-or-no answer to a number of
21 your questions?

22 A Yes, I did notice that Mr. Gallo followed up some of the
23 questions and got a lot more information, yes.

24 Q Yes; and at times Mr. Gallo -- you completed essentially
25 all of your questions and got short answers, yes or no,

1 and then Mr. Gallo, as in the case of the Bisky
2 interview, began questioning and would question
3 sometimes extensively, and elicited a lot of detail?

4 A I remember he did it specifically in the Bisky
5 interview. That was the first one we did.

6 Yes, I recall that.

7 Q All right, sir.

8 And he did it certainly in others to, perhaps, a
9 more limited extent, did he not?

10 A Yes.

11 Q The Bisky interview was the longest that you had, the
12 first and longest?

13 A I don't know. I haven't -- I don't have a count of
14 pages of interviews, sir.

15 Q Now, if, in fact, one looked at these transcripts and
16 found that indeed your answers -- your questions
17 elicited only direct responses, yes or no, such as, "You
18 have adequate access to your supervisor?" "Yes." "Do
19 you" -- "would you raise quality concerns?" "Yes." "Are
20 you reluctant to go the NRC or Quality First?" "No."

21 Those are examples -- and I am paraphrasing, of
22 course, questions you asked and answers that you got on
23 occasion.

24 Then Gallo would -- Mr. Gallo would ask questions
25 later and he would elicit statements from the witnesses

1 that would say, "Well, I have a very" -- "my management
2 is not informed about technical matters or is
3 inaccessible or is generally unresponsive, or one would
4 be reluctant to go to the NRC or quality first if one
5 knew that one's name would be known and one might be
6 subject to some response.

7 Now, I am just asking you to -- that's a
8 paraphrase.

9 But if Mr. Gallo elicited more detailed answers
10 that contradict the yes-or-no answers you recorded, does
11 that suggest, Dr. Hulin, that your interviewing
12 technique was not effective at all?

13 A If Mr. Gallo elicited additional details that
14 contradicted my -- the initial response I got, the first
15 thing I would do is certainly go back and change my
16 response; and the second thing I could do, if I have a
17 change, I would probably follow it up.

18 Q All right, sir.

19 Well, in the case of Mr. Bisky, whatever
20 information Mr. Gallo elicited, you didn't follow-up at
21 all, because once Mr. Gallo began his examination of Mr.
22 Bisky, essentially, Mr. Gallo continued until the
23 interview was concluded; isn't that true?

24 A There were questions by me throughout his questioning, I
25 believe; not many, but there were some.

1 Q I see.

2 Well, in the case -- I am looking at your Bisky
3 notes now -- you wrote down, "Some inspectors are
4 awfully vague," but if you recall Mr. Gallo at
5 Transcript 73 of the Bisky interview, with your
6 follow-up, indeed, elicited the information that what he
7 meant by "awfully vague," was that some inspectors were
8 performing sloppy work.

9 That didn't cause you to change your notes, though?

10 A I would have to see the transcript, sir.

11 Q You don't recall that being the exchange? I have
12 already examined you on the subject.

13 A Yes. I would like to see the transcript to refresh my
14 memory.

15 Q All right, sir.

16 Could I ask counsel to help me with the Bisky
17 transcript?

18 MS. CHAN: (Indicating.)

19 MR. GUILD: Thanks.

20 A Thank you. Page 73?

21 MR. GUILD: Yes. That's what my note says of
22 Bisky.

23 BY MR. GUILD:

24 Q You followed it up there, didn't you?

25 A Yes.

1 Q And, in fact, what Bisky told you was that he meant that
2 inspectors were a little sloppy in their inspection
3 work. That's what he meant when he said some are a
4 little vague or awfully vague?

5 A That was his opinion, yes.

6 But I also found that he would go and talk to them
7 and ask them if this was indeed correct, and if he
8 wanted to do any follow-up on this, which made me think
9 that the system was working.

10 Q You dropped your voice off a little bit.

11 A That his other comments there, "I am not there to
12 baby-sit him, so I will go back and talk to him. I
13 would call it to his attention," and so forth, made me
14 think that, you know, the QC Inspectors were doing their
15 job and were looking out for any mistakes that the other
16 QC Inspector may have been making.

17 Q I see.

18 That's the way you interpreted that?

19 A Yes.

20 Q All right, sir.

21 If Mr. Gallo hadn't been there and asked his
22 questions, though, the second half of the Bisky
23 interview wouldn't even exist?

24 All of Mr. Bisky's concerns that we discussed
25 earlier in this examination were not concerns that you

1 elicited through your questions, were they, Dr. Hulin?

2 A Well, to say that the second half of the interview would
3 not have existed if Mr. Gallo had not been there, I
4 don't know. The fact is he was there and he did ask
5 some questions.

6 I did not learn anything in the second half of the
7 interview that made me think that I needed to revise
8 anything I had said.

9 Q Indeed, indeed.

10 And you would not have felt the need to have asked
11 the questions that Mr. Gallo asked, since you didn't ask
12 them yourself, nor did you consider them relevant to
13 your purpose in the interview: That is your testimony,
14 I believe?

15 A As I said, this was the first interview we did, and Mr.
16 Gallo was a more active participant in this one
17 interview than he was in the other six.

18 Whether I did a particularly good job or not in the
19 case of Mr. Bisky, I don't know, since it was the first
20 one. I may have not been doing my job the way I should
21 have been. By the end of the seventh, I think I was
22 asking the right questions.

23 Q How about the Kimble interview, we have all of that in
24 the record.

25 Would you agree with me that had it not been for

1 Mr. Gallo asking the follow-up questions and the
2 questions that called for more detailed answers, had we
3 only had your questions with rather perfunctory
4 yes-or-no answers, Mr. Kimble's interview statement
5 would not be as complete and full as it is?

6 A Without Mr. Gallo's questions, it would not have been as
7 complete and full as it was, yes.

8 We were splitting up the interview, so to speak.

9 Q Doesn't that suggest, sir, that your questions,
10 interrogation, your interviewing technique was not
11 adequate?

12 A No.

13 MR. GUILD: Mr. Chairman, if I may have a
14 moment, please, I believe I am done.

15 JUDGE GROSSMAN: Sure.

16 MR. GUILD: Mr. Chairman, at this time I
17 would renew my request that Dr. Hulin's notes,
18 Intervenors' Exhibit 194 marked for identification, be
19 received in evidence.

20 MR. MILLER: Your Honor, since you have
21 already received the transcript of Mr. Kimble and a
22 partial transcript of Mr. Noble, while I do object to
23 the introduction of the document at this point I have
24 made my objection for the record and I would not repeat
25 it at this point in time.

1 I believe, frankly, that having introduced and
2 having had accepted into evidence those two portions of
3 the interviews, so that all of this is in context,
4 including the questioning that Mr. Guild did of Dr.
5 Hulin, the interview notes ought to be part of the
6 evidentiary record and all of the interviews complete,
7 at an appropriate time. Although I don't have copies, I
8 intend to offer them.

9 JUDGE GROSSMAN: Mr. Guild, that's up to you
10 as to whether you want to leave that in completely.

11 Do you want all those interviews in completely? I
12 think you said something to that effect.

13 MR. GUILD: I don't believe -- I'm sorry if
14 Applicant sort of passed by me like ships in the night.

15 Is he not objecting to the notes?

16 I want all the notes in, and I am not --

17 JUDGE GROSSMAN: I assume you are not
18 objecting. Yes, I believe he's not objecting to the
19 notes.

20 MR. GUILD: All right.

21 JUDGE GROSSMAN: Now, this isn't a package
22 deal, Mr. Miller, is it?

23 MR. MILLER: Well, your Honor, I think, we
24 can certainly reserve this argument, if there is going
25 to be one, until I offer the remaining portion of the

1 Noble interview and the other five interviews.

2 Excerpts from three or four of them have been used
3 in questioning Dr. Hulin, and I believe that it is
4 appropriate so that the record is completed, since they
5 are being admitted for all purposes, that all the
6 interviews be admitted into the record.

7 JUDGE GROSSMAN: I don't understand that
8 argument, Mr. Miller.

9 I don't understand what a complete record is.

10 You are certainly entitled, when Mr. Guild offers
11 something that is an admission of a party opponent, to
12 bring in other items in there that bear on the items
13 that Mr. Guild offered, and we don't deny that to you;
14 but that doesn't mean that you can then Carte Blanche
15 put in everything that has been said, whether it relates
16 to the context that Mr. Guild offered something or not.
17 That is clearly not the rule.

18 Now, I understand that you might need some time to
19 prepare those items for offering to the Board that
20 relate to the items that Mr. Guild offered, and we will
21 allow you that time, unless Mr. Guild is going to agree
22 to put everything in; and I don't know. I haven't
23 gotten an answer from him.

24 But assuming that he doesn't, we wouldn't admit
25 everything that way.

1 We would allow you to offer what relates to the
2 parts that he offered, so that it's not in the improper
3 context; but we are not even up to that yet, we are up
4 to the notes right now.

5 MR. MILLER: Yes.

6 JUDGE GROSSMAN: And so I take it you have no
7 objection to the notes, which is Intervenor's 194; and,
8 Miss Chan, do you have any objection to that?

9 MR. MILLER: Excuse me.

10 Just so the record is clear, based on the Board's
11 prior rulings --

12 JUDGE GROSSMAN: I'm sorry. I can't hear
13 that.

14 MR. MILLER: On the basis of the Board's
15 prior rulings with respect to the introduction of the
16 interview transcripts, I do not object to the
17 introduction.

18 JUDGE GROSSMAN: Okay. That's -- I
19 understand that you are saying that you weren't happy or
20 in full agreement with the Board's introducing the other
21 matters, but that since we did receive them, this would
22 put those other -- those transcripts in the proper
23 context and therefore you recede from your objection.

24 Now, Miss Chan, do you object to Intervenor's 194?

25 MS. CHAN: Staff renews its continuing

1 objection to items related to Mr. Archambeault; however,
2 to the extent that the Board has overruled the
3 objections, Staff has no objection to these notes.

4 JUDGE GROSSMAN: Just to clarify that.

5 You are not saying that even if there is another
6 purpose, such as a legitimate purpose such as
7 impeachment, that you do want these excluded; is that --

8 MS. CHAN: The Staff has no independent
9 objection to this document for use for impeachment.

10 JUDGE GROSSMAN: Okay. Fine.

11 So we are admitting 194.

12 (The documents marked Intervenors'
13 Exhibit 194 for identification were
14 thereupon received in evidence as
15 Intervenors' Exhibit 194.

16 JUDGE GROSSMAN: Now, as to the remainder of
17 the transcripts of those interviews, we haven't gotten
18 Mr. Guild's statement on that.

19 Do you want them in or out, Mr. Guild?

20 MR. GUILD: Mr. Chairman, I would like to
21 reserve on that point.

22 I know I made a remark earlier that I didn't have
23 any problem putting them all in context, and in
24 principle, I don't think I have a problem with that; but
25 I think I best be a little more prudent and ask that I

1 be able to recede on that point until I hear what
2 Applicant's further examination of their witness is.

3 I don't want to be heard to waive a point that I am
4 not aware of; so I would be asking that I be allowed --
5 I don't know that Mr. Miller is offering them at this
6 stage.

7 MR. MILLER: I am not.

8 MR. GUILD: I would ask that Applicant
9 conduct it's Redirect of the witness, if they have any,
10 and I will consider the question.

11 JUDGE GROSSMAN: Okay. Do I understand Mr.
12 Miller is offering them in toto at this point?

13 MR. MILLER: I need not do it at this point,
14 your Honor.

15 Frankly, if Mr. Guild wants, I will offer them at
16 the conclusion of my Redirect of Dr. Hulin, and, Mr.
17 Guild, I can make my position known at that point in
18 time, as far as I am concerned.

19 JUDGE GROSSMAN: Okay. That's fine.

20 And this concluded your examination, Mr. Guild?

21 MR. GUILD: It does, Mr. Chairman.

22 JUDGE GROSSMAN: Miss Chan.

23 MS. CHAN: Staff can proceed with Cross now,
24 unless the witness would like to take a break.

25 THE WITNESS: No need to.

1 JUDGE GROSSMAN: I'm sorry. I didn't get
2 your position, Miss Chan, on those transcripts.

3 Did you have a position?

4 MS. CHAN: Mr. Miller's suggestion was fine.

5 JUDGE GROSSMAN: Okay.

6 You had no objection?

7 MS. CHAN: No objection.

8 JUDGE GROSSMAN: Fine.

9 CROSS EXAMINATION

10 BY MS. CHAN:

11 Q Dr. Hulin, could you please describe for the record how
12 you received your assignment of what you were to do
13 regarding this Braidwood matter?

14 A The whole matter or the issue of the latter seven
15 interviews?

16 Q The -- what instructions or were you given prior to your
17 testimony today or when you were retained?

18 A I received a phone call from Mr. Miller in which he
19 described the hearings.

20 There were -- that had started I believe at the
21 time -- yes, they were started -- described the -- some
22 of the incidents, the visit of the 24 QC Inspectors to
23 NRC, described the Saklak and Snyder incident, and asked
24 me if I thought I would be competent to, as an
25 industrial psychologist, to offer an opinion as to the

1 affects of these incidents on the behavior of the QC
2 Inspectors; and I said I thought I would be competent,
3 but given no more detail than I had, I certainly
4 couldn't tell him if I would be helpful to him or not.

5 And so I entered into an agreement that I would at
6 least get enough information to where I thought I could
7 tell him what my position was going to be.

8 Q Were you given any materials to make this decision?

9 A Yes.

10 Q Could you describe what materials you were given?

11 A We were -- I was given memos concerning the 24 -- visit
12 of the 24 -- I was given -- geez -- I was shown some
13 depositions, some pre-filed testimony, and then I
14 conducted my own initial interviews at Braidwood.

15 Q Do you recall whose depositions you had been provided
16 with?

17 A I can't -- you know, I -- the distinction between
18 deposition and pre-filed testimony is one that I only
19 became aware of after I got into the -- into the matter,
20 and so if I use the term "deposition," I may be
21 referring to pre-filed testimony.

22 I read the material provided by Dr. McKirnan, by
23 Dan Elgin, by Rich Arvey: I looked initially at some
24 computer printouts of data of, you know, BCAP
25 overinspection, PTL reinspection. It was a mountain of

1 material that I had looked at. Not a mountain, but a
2 great deal.

3 Q Was your primary preparation for going to the site just
4 reviewing these documents or did someone sit down with
5 you and go through them?

6 A I sat down, I believe, with Becky -- Rebecca Lauer, and
7 so essentially she could give me a road map to help me
8 find my way through the morass of paper.

9 But the answer is yes, I did talk to Rebecca Lauer
10 about them.

11 Q How long did you meet with Miss Lauer on the
12 preparation?

13 A I met with her up here -- I'm sorry. I met with her in
14 the ILB offices, I met her at Braidwood and we talked
15 for awhile. Probably a total of two or three hours. I
16 talked to her on the phone.

17 Q Could you give us an idea of total time you spent either
18 on the telephone or meeting with Miss Lauer in
19 preparation for your visit to the site, or anyone else,
20 if you have met with someone besides Rebecca Lauer?

21 A Well, certainly more than three or four hours, you know,
22 it was probably less than 10.

23 Q You interviewed Mr. DeWald; is that correct?

24 A Yes.

25 Q Can you explain why you interviewed Mr. DeWald as

1 opposed to, let's say, Mr. Seltmann?

2 A I interviewed Mr. Seltmann, also.

3 Q Did you take any notes from Mr. Seltmann's interviews?

4 A No.

5 I also interviewed Mr. Seese.

6 Q What were you looking for in your discussions with Mr.
7 Seltmann?

8 A I was trying to get an impression of the structure of
9 the QC Department, how it operated on a day-to-day
10 basis, what the procedures would be for recommending
11 that somebody be terminated or transferred or something
12 like that. Basically it was one of those initial
13 interviews you do to find out what the ground rules are
14 in the organization.

15 Q Did you interview Mr. Simile?

16 A No.

17 Q Do you know who Mr. Simile is?

18 A Yes.

19 Q You had earlier stated that when you interviewed Mr.
20 DeWald, you were looking for problems.

21 Could you please tell us how you would go about
22 identifying the kind of problems that you were looking
23 for?

24 A At that time I was -- by "looking for problems," I was
25 looking for -- by that I meant -- I was looking for

1 information that would cause me to say, "I don't want to
2 have anything to do with this hearing," and, you know, I
3 was trying to find out the extent of the -- I was trying
4 to find the right word -- the power of the various
5 people in the QC Department had, how they could
6 translate their evaluations of personnel into personnel
7 actions.

8 Q Could you elaborate on the kind of information that
9 might have led you not to have anything to do with the
10 hearing?

11 A Yes.

12 If -- if one of them had told me that Saklak came
13 in and said, "Fire his ass," and I would do it, I would
14 say, "Hey, forget it. I don't want to have anything to
15 do with it, because the guy has got too much power to
16 translate his evaluations into personnel actions."

17 Something like that is what I was looking for.

18 Q What if Mr. DeWald had that power?

19 A I assume Mr. DeWald did have that power. That was an
20 assumption I made.

21 Q And why would you not want to be involved in the case if
22 Mr. Saklak had that power?

23 A Because my understanding of the events up until -- that
24 I had been briefed on up to that point was just how much
25 authority did Mr. Saklak have to translate his likes and

1 dislikes and evaluations into things that would affect
2 the QC Inspectors.

3 Q Are you aware that Mr. Saklak testified that, while he
4 did not have the power to hire, fire, he could make
5 recommendations and that they were seriously considered?

6 A Yes.

7 Q You were aware of that?

8 A Yes.

9 Q Did you question Mr. DeWald about his accepting
10 suggestions of Mr. Saklak?

11 A Yes.

12 Q What was his response?

13 A His response was that, if -- if -- his response was when
14 he got a -- you know, the paperwork done by Mr. Saklak
15 on one of these recommendations, that he would evaluate
16 or review the evidence that he could find, and that many
17 times he would call Saklak in and say, "Forget it. You
18 haven't got anything to stand on here," and in some
19 cases, when a QC Inspector was found sleeping on the
20 job, he terminated him; but the impression I got was
21 that DeWald did not rubber stamp Saklak's
22 recommendations.

23 Q Did DeWald tell you that he independently looked into
24 the underlying basis for Mr. Saklak's recommendations?

25 A Yes.

1 Well, independent of Mr. Saklak, yes.

2 Q Yes.

3 A Yes.

4 Q I would like to ask you about the basis of your
5 impressions that you have given about Mr. DeWald.

6 Are they based on your expert opinion as an
7 industrial psychologist or were they based on your
8 informal observations in the course of the interview?

9 A I can't separate the two. I -- I am -- I have 25 years
10 experience doing this, and that's what I formed my
11 opinion on.

12 Q Could you please give us the basis of your professional
13 opinion for believing that Mr. DeWald was quality
14 conscious or about the level of the management in
15 quality control?

16 MR. MILLER: I'm sorry.

17 May I have the question read?

18 I think there may have been two questions.

19 (The question was thereupon read by the
20 Reporter.)

21 MR. MILLER: I do object to the form of the
22 question.

23 MS. CHAN: I will rephrase the question and
24 just eliminate the last part about quality control and
25 just ask you about Mr. DeWald.

1 THE WITNESS: You are asking: What was the
2 basis for my opinion that Mr. DeWald was quality
3 conscious?

4 MS. CHAN: Yes, sir.

5 A Well, it was based in part on a lot of -- I guess --
6 negative information, I would characterize it as
7 negative information. I spent a lot of time asking Mr.
8 DeWald if there were -- contingencies is the technical
9 term. If there were relations between productive,
10 production, number of inspections done, and rewards or
11 punishment that the QC Inspectors got.

12 I asked him if there were quotas of the numbers of
13 inspections that the QC Inspectors were supposed to do
14 per shift; I asked him if there were staff meetings and
15 what of the content, and I think he referred to them as
16 the Monday morning meetings.

17 I asked him what the content of these Monday
18 morning meetings was. I was going through this process,
19 trying to find out if there were organizational rewards
20 that were associated with high performance, regardless
21 of quality, or if there were negative sanctions that
22 were associated with low performance, and the impression
23 I got was that there were no official organizational
24 rewards tied to sheer productivity. Pay was not tied to
25 productivity. There were no formal quotas and so forth.

1 Q Are you aware of an incident involving Franco Rolan, Jr.
2 and Mr. DeWald? It was Mr. Saklak and Franco Rolan, Jr.

3 A I am certainly aware that Mr. -- that Franco Rolan,
4 Jr.'s name has surfaced in these -- some of the
5 documents I have read.

6 Q Can you describe the incident?

7 A No, I can't, I'm sorry.

8 Q I'll relate the incident, and perhaps you can recall.

9 Franco Rolan, Jr., and Mr. Saklak had a
10 disagreement; and Franco Rolan, Jr., was preparing to
11 document this incident in writing. His father, Franco
12 Rolan, Sr., the Comstock Construction manager, found out
13 about it and went to Mr. DeWald, wanting Irv DeWald to
14 fire Saklak.

15 Do you recall the incident, based on my
16 description?

17 MR. MILLER: I have to object to the
18 question. I do not believe it's an accurate
19 characterization of the incident.

20 MS. CHAN: My statement is not evidence.
21 It's just trying to prompt the witness' memory as to the
22 incident.

23 JUDGE GROSSMAN: We'll allow it in that
24 context.

25 A My memory of it does not go much beyond what you -- some

1 approximation of what you just said.

2 BY MS. CHAN:

3 Q Do you recall associated with this incident that Mr.
4 DeWald counseled Mr. Saklak about the incident in order
5 to mollify Franco Rolan, Sr.? Does that refresh your
6 memory?

7 A No, ma'am. I'm sorry. It does not.

8 Q If you would assume that these circumstances I've
9 described are true, what would that say about Mr. DeWald
10 not buckling under to pressure?

11 A I'm sorry. I would like to be helpful here, but I just
12 don't have enough information here to really form an
13 opinion.

14 MR. GUILD: I can't hear you, Dr. Hulin.
15 Could you keep your voice up, please?

16 JUDGE GROSSMAN: The answer is that he does
17 not have enough information to form an opinion.

18 MR. GUILD: Thank you.

19 BY MS. CHAN:

20 Q You stated in your testimony that Mr. DeWald was running
21 the QC Department for the purposes for which it was
22 established.

23 Did anyone brief you on the purposes for which the
24 QC Department was established?

25 A No, ma'am. I assume -- again, I made an assumption

1 that, like all QC departments, it was established for
2 the purposes of ensuring Quality Control.

3 Q Did you have any more specific description of the
4 purpose, other than to assure Quality Control?

5 A No, ma'am.

6 Q You stated that you were aware of the incident in which
7 24 Quality Control Inspectors visited the NRC.

8 Why didn't you interview any of those inspectors?

9 A I really -- in terms of data that has a great deal of
10 information value to me, I didn't think that that --
11 that I would get more information from them one way or
12 the other than I got from the other people that I did
13 talk to.

14 It was a matter of chance, by the way, that I did
15 not talk to any of them.

16 I'm sorry. To be direct, I did not go out of my
17 way to interview the people who had visited the NRC,
18 because I think that I would not have gotten more
19 information from them than I did from the other people,
20 because my interpretation of the NRC event was that it
21 was -- basically it was a field demonstration of the
22 Asch conformity experiment.

23 Q Can you please describe your last answer or expand on
24 it?

25 A Yes. The Asch conformity experiment consists of putting

1 people in a room and asking them to judge which of two
2 lines is longer than the other one.

3 You put the critical subject about third in line.
4 The first two people look at the length of the lines,
5 and one of them is clearly longer than the other one --
6 well, Line A will be physically longer than Line B.

7 The first two stooges will say, "Line B is longer."
8 By the time you get to the third subject, the subject
9 says, "Well, it looks to me like Line B is longer."

10 Essentially you're finding that if enough people
11 precede you, you'll sort of go along with them. It's
12 not a very good way to get data.

13 JUDGE COLE: What was the name of that, sir?

14 THE WITNESS: The Asch, A-S-C-H, conformity
15 experiment. It was done a long time ago. It's repeated
16 frequently in social psychological demonstrations. It's
17 easy to demonstrate.

18 BY MS. CHAN:

19 Q Let me understand your testimony correctly.

20 Are you saying that if you had interviewed any of
21 the 24, you would not have known whether it was their
22 personal opinion or whether they were just following the
23 group?

24 A No.

25 I'm saying that at the time of the visit of the 24

1 to the NRC, I didn't think that was a particularly
2 informative event because what you may have been seeing
3 was a lot of conformity, rather than
4 independently-formed opinions.

5 Q Why would not an isolated member of that group, in an
6 interview with you, have furthered your information
7 base?

8 A It would have. I said it was a matter of chance that I
9 did not get anybody who had been to the NRC.

10 But neither did I go out of my way to get them.

11 Q But you knew that these 24 had gone to the NRC?

12 A Yes.

13 Q Did you know who they were?

14 A No.

15 Q Mr. Seeders was still on the site at the time that you
16 conducted your interviews.

17 Why didn't you interview Mr. Seeders?

18 A I guess because my purpose was to find out -- my initial
19 visits were to find out as generally as I could how the
20 QC Department ran without -- trying to find out how the
21 QC Department ran without interviewing people who might
22 have isolated but strong opinions about it.

23 I just wanted to find out what everybody thought.

24 Q As an industrial psychologist, how do you give specific
25 opinions based on a generalized approach like that where

1 you don't confront or even interview the specific person
2 that's the center of an incident?

3 How do you -- what is your methodology?

4 A You try to extract the common beliefs that exist in the
5 heads of the people, and what you find is that in most
6 organizations these beliefs are shared and they -- the
7 common beliefs tend to be the ones that are most
8 informative about the way the organization is run.

9 Q Based on your interviews with the QC Inspectors, do you
10 have a specific opinion as to whether or not Mr. Seeders
11 was harassed or intimidated?

12 A As I tried to explain to Mr. Guild in an answer that got
13 me into all sorts of objections, I think that that is
14 one interpretation.

15 I think there are other interpretations that are
16 also likely, and those other interpretations may be more
17 likely or less likely.

18 But I think that's only one of a number of
19 interpretations that can be made of that incident.

20 Q But do you personally have an opinion?

21 A As to whether that represented --

22 Q As to whether or not Mr. Seeders was harassed or
23 intimidated, based on your interviews.

24 A I can't tell you if he was intimidated or not.

25 As I said, the best I can tell you is that there

1 are probably a small number of logical explanations for
2 that. One of them is that he may have been harassed.

3 Q You're saying that Mr. Seeders could have been or he
4 could not have been, but you can't tell?

5 A I can't tell.

6 Q Did you try to corroborate any of the information that
7 was revealed in the interviews with the next
8 interviewee?

9 A In this -- yes, yes, in the sense that I would ask them
10 more questions about quotas and in every interview I had
11 a little more information. So I could, you know, refine
12 the questions a little bit more and follow them up. I
13 asked them, "Are there quotas? Do you get hassled or
14 harassed if you don't meet the quota?"

15 I think it was very informative that in the
16 interviews with the cable pulling QC Inspectors, they
17 talked freely about the apparent quotas that the craft
18 people had; but they said, "It didn't make any
19 difference to me. I'm out there to do my job, and I'm
20 not going to be influenced by that."

21 So yes, I attempted to corroborate the information
22 by, you know, refining my questions and asking more
23 direct questions.

24 Q You said you asked people about whether or not there
25 were quotas.

1 Are you aware of status reports?

2 A I guess you'd have to be more specific.

3 Q These are Comstock status reports about the prepared --

4 A About the backlog? I'm sorry.

5 Q QC Inspectors turn in reports of the inspections they've
6 done on a daily basis, and these are called "status
7 reports."

8 Were you aware of those?

9 A I don't really think so. They simply were not mentioned
10 by any of the people that I talked to.

11 If they existed, they certainly didn't form a very
12 large part of their belief system.

13 Q Did Miss Lauer or some other representative from ILB
14 tell you anything about the status reports in
15 preparation for your investigation?

16 A I don't believe so.

17 Q How about Mr. DeWald during the interview?

18 A He may have; but as I tried to indicate, they certainly
19 did not form a very significant part of the belief
20 system of the QC Inspectors themselves. They didn't
21 place any importance on them.

22 Q Have you ever heard of Herschel Stout?

23 A I've seen the name. I have no memory of what happened.

24 MR. GUILD: Mr. Chairman, the witness
25 responded a moment ago, "The inspectors placed no

1 importance on them." I take it that's understood as his
2 perception or his understanding of the interviews that
3 he performed.

4 I don't want to be -- I don't want to have to make
5 hearsay objections or ask clarifying questions where
6 they're unnecessary and they're obviously based on what
7 he learned from others.

8 MR. BERRY: That's obviously correct, Mr.
9 Chairman.

10 JUDGE GROSSMAN: I'm sorry. Obviously what,
11 Mr. Berry?

12 MR. BERRY: Obviously, Mr. Guild is correct.
13 The witness is only relating his understanding of what
14 he was told.

15 JUDGE GROSSMAN: Okay. We'll accept that as
16 his understanding.

17 BY MS. CHAN:

18 Q At the time you visited the site, you were aware,
19 weren't you, that your expert opinion would be elicited
20 for use in this proceeding?

21 A Yes.

22 Q And that the people you interviewed, whether formally or
23 informally -- that information would be used as a basis
24 for your expert opinion?

25 A Yes.

1 Q Can you explain why you didn't take any notes on your
2 informal interviews with the QC Inspectors?

3 A At the time, ma'am, I was just trying to get the
4 groundwork established; and I thought at that point that
5 it would be better for me to find out as much as I could
6 in a very easygoing, informal set of procedures. That's
7 one reason.

8 A reason I didn't take notes from the QC Inspectors
9 themselves was that it was, you know -- it's just very
10 difficult to take notes when you're interviewing
11 somebody out in the field, climbing around, looking at
12 welds and terminations and toolrooms and so forth.

13 Q Did you write anything down after you discussed it with
14 them so that you might remember it better?

15 A I had a list of their names that I used for keeping
16 track of my -- what I had done, but I did not
17 memorialize it.

18 Q Now, you've testified that you would, in these informal
19 discussions, ask gently questions regarding whether or
20 not an inspector had accepted discrepant work; is that
21 correct?

22 A Yes.

23 Q I want to repeat from the Transcript Page 17978 the way
24 that you phrased your question about how you asked this
25 question. You say, "Hey, did you ever know of anything

1 that ever sort of slipped by or was maybe marginal?"
2 That's Page 17978.

3 What assurance did you have that the QC Inspectors
4 that you were talking to understood what you were asking
5 for?

6 A You mean other than that they seemed to understand it?

7 I think by then I had enough information that I
8 could -- I could be a chameleon -- well, never
9 completely, but blend a little bit into the background
10 and put the question in language that they understood,
11 yes.

12 Q This question, as I recall, was the way you phrased it
13 when you were doing your informal --

14 A Right.

15 Q -- information-gathering, as you have put it --

16 A Yes.

17 Q -- phase of your investigation.

18 What assurances do you have that the inspectors
19 were being candid with you?

20 You were just following them around, looking at a
21 junction box or termination, as the case may be.

22 A In the sense that I gave them a number of opportunities
23 and ways to tell me, without incriminating themselves in
24 the broad sense of the word "incrimination."

25 It would have been fairly easy for them to say at

1 some point, "Well, yes, you know, because of all that
2 harassment and intimidation that's going on, sometimes,
3 you know, you get so rushed that you just sometimes --
4 you know, the hell with it."

5 They didn't say that. They could have blamed the
6 system without incriminating themselves. They could
7 have said that, you know, the pressure from supervision
8 was so intense. They could have said, "Well, you know,
9 Joe over there has got a family, and he just can't lose
10 his job. So I don't blame him for going along with it
11 or doing some marginal work."

12 I did not pick up comments like that.

13 Q You've testified in your prefiled testimony that the QC
14 Inspectors have pride in their work and that their work
15 performance is relatively consistent because of this
16 pride in workmanship.

17 I want to ask you if you considered whether or not
18 your questioning their integrity on the question of
19 overlooking defects or accepting unacceptable work could
20 be interpreted by them as harassment or intimidation.

21 Had you considered that?

22 A No.

23 MR. MILLER: Excuse me. Was the question --
24 I'd like to object to that. I think the question is
25 vague.

1 Is the question whether Dr. Hulin's questions to
2 these individuals could be considered harassment or
3 intimidation?

4 MS. CHAN: That's the question.

5 JUDGE GROSSMAN: Yes.

6 MR. MILLER: I object to the relevance. I
7 don't know what "harassment and intimidation" means in
8 this context.

9 MS. CHAN: The relevance --

10 JUDGE GROSSMAN: Well, I think the relevance
11 relates to the kind of answers that Dr. Hulin got. I'm
12 not sure that it's the most artful question, but we'll
13 overrule the objection.

14 You may answer that question, Dr. Hulin.

15 THE WITNESS: Did I think that they could
16 possibly interpret my questions as harassment and
17 intimidation of them?

18 JUDGE GROSSMAN: Yes.

19 A No, because of the way I asked the question. I asked
20 them questions that would give them an opportunity to
21 blame the system, to blame supervisors, to excuse the
22 behavior of other people.

23 They didn't do it. I was very -- all I can say is
24 I've been doing this for a long time, and I was very
25 oblique about some of these questions, the way I slid

1 into them.

2 I don't ever want to -- well, I've leave it at
3 that.

4 BY MS. CHAN:

5 Q In Intervenors' Exhibit 193, Section D, "Production
6 Pressure/QC Inspection," I believe you've testified that
7 those questions could be interpreted as being somewhat
8 threatening --

9 A Yes.

10 Q -- is that correct?

11 And that it would be difficult to ask these
12 questions without the interviewee feeling somewhat
13 threatened.

14 What did you do to overcome this pressure? What
15 did you do to counteract --

16 A In which set of interviews?

17 Q In the second set of interviews where you had your
18 formal questions.

19 A Okay.

20 In the second set of interviews, I attempted to
21 overcome that by initially telling them, "If you don't
22 want to be here, you don't have to be here. If you
23 don't want to answer any of my questions, you don't have
24 to answer them."

25 The fact that they observed themselves staying and

1 answering my questions is an indication that they -- the
2 technical term is they became behaviorally committed to
3 the interview process.

4 I didn't jump right in there and say, "If you
5 accepted sloppy work, isn't it true that last week you
6 approved some inspections you shouldn't have?" I didn't
7 do that.

8 That's all I can say.

9 Q I believe you stated that the shop steward went and
10 called the individuals into the room in which you were
11 meeting them --

12 A Yes.

13 Q -- and someone was sitting outside?

14 A No.

15 Q All right.

16 There's been a lot of testimony about who was
17 sitting in on various parts of your interviews, and I
18 believe in your informal interviews in the beginning,
19 Miss Lauer accompanied you around the site.

20 A That's correct.

21 Q Who suggested that she accompany you?

22 A I don't know.

23 I said, "I would like an opportunity to make, you
24 know, at least a couple of visits, maybe more, to
25 Braidwood." I don't know if Becky said, "I've been

1 working down there. I will meet you there," or whether
2 Mr. Miller suggested that she meet me there or Mr. Gallo
3 or who.

4 But it seemed reasonable that at least on my
5 initial visits I'd be accompanied by somebody who knew
6 what was going on.

7 Q Is it your common practice, if you're hired by a law
8 firm as in this case, to take one of the attorneys from
9 the law firm around with you when you do your interviews
10 or have them present?

11 A I really haven't been involved in a case like this ever
12 in my life.

13 Q Did you have any reason to believe that Miss Lauer's
14 presence might have some chilling effect on the
15 interviewees if they knew that she was representing the
16 law firm that represented the utility?

17 A Well, once again, I think that the presence of a third
18 party, particularly a third party who is representing
19 CECO, makes the job a little more difficult. But again
20 I don't think it was impossible.

21 We gave them -- I have to stress that I gave them
22 many opportunities to blame the system and to excuse the
23 behavior of their co-workers.

24 I don't think it's terribly incriminating for them
25 to say, "But" -- well, I've been through the answer:

1 "The system forces me to do it," "The pressure makes me
2 do it," and so forth.

3 Q At any time when you knew that either Miss Lauer, Mr.
4 Gallo, Mr. Thornton or Mr. Marcus was going to be
5 sitting in on your interviews, did you suggest that
6 maybe you might be more effective if they didn't sit in?

7 A Yes.

8 Q And what was the response?

9 A The response was, "Well, we understand your concerns."
10 When I referred to the frank exchange of views between
11 Mr. Gallo and myself, that's what it was about.

12 I said, "Okay. I will do it with the understanding
13 that if I think I'm getting a line of baloney, if I
14 think I'm getting the party line, I'm going to terminate
15 them, because I don't really enjoy spending from 4:00
16 until midnight up here at Braidwood. I've got other
17 things that I need to do."

18 So with the understanding that I could terminate
19 the interviews anytime I wanted to, we went ahead.

20 Q Since you did not terminate the interviews, can we
21 interpret that to mean that you don't think that their
22 presence had any effect on the truthfulness of the
23 interviewees?

24 A Well, "any effect" is a very sweeping statement, ma'am.

25 I think initially we had to go very slowly, and we

1 had to worry about a lot of things. I think in the end
2 we got -- the sum total of those seven interviews I
3 think represents a pretty close approximation of the
4 truth.

5 Q I'd like to refer to Intervenors' Exhibit 194, your
6 notes on the interviews and your comments about Mr.
7 Noble as being hostile and Mr. Kimble as displaying
8 extreme nervousness, rapid breathing and
9 hyperventilation.

10 Can you tell us your professional opinion of what
11 these symptoms usually represent? What does this
12 usually tell you about a witness -- or an interviewee?

13 A There is a distinction.

14 The nervousness is very common; and I think it
15 reflects, more than anything, an apprehension of the
16 unknown. I mean, they don't know what's going to
17 happen, so they're initially quite nervous.

18 Hostility is another thing that you encounter in
19 interviews, and essentially they'd rather not be there.
20 They'd rather be someplace else. Many of them thought
21 this was, you know, the one -- "I've never seen such
22 carryings-on in my life."

23 So I interpreted Mr. Noble as, you know --
24 initially I was afraid that he was hostile, and I put a
25 question mark by it. It just was a note to me to use

1 whatever interviewing skills I have to try to get around
2 it.

3 I do that by saying, "Look, if you don't want to be
4 here, you don't have to be here. If you don't want to
5 answer questions, you don't have to."

6 At the end of the interview, I gave him a business
7 card. I said, "Call me collect. If there's anything I
8 touched on that you want to comment on, call me up."

9 Q Did anyone call you?

10 A No.

11 Q You had said that one of your methods, your professional
12 methods, of assuaging some of the nervousness of the
13 interviewees was through your body language.

14 Could you describe how you would do this?

15 You have a QC Inspector who is very nervous for one
16 reason or another. Can you describe your body language?

17 A You sit back. You're relaxed. You offer them a cup of
18 coffee.

19 You don't pace around or get up in their face when
20 you ask questions of them. You try to set up a relaxed
21 atmosphere. Particularly you don't, as soon as they
22 answer something, jump up and write it down. You make a
23 surreptitious note.

24 (Laughter.)

25 There are many ways you can do it.

1 Q On your notes, Intervenors' Exhibit 194, for Doug
2 Schlichter, after the time, 9:35 to 10:35, you have
3 "Zonker Harris."

4 A Yes.

5 Q Could you please explain that notation?

6 A Because he reminded me of Zonker Harris, the character
7 in the Doonesbury comic strip. I put it down there to
8 -- when I reread the interview, it was a very good way
9 of me recalling Mr. Schlichter.

10 I still have a very good idea of him. He talked
11 very softly. He had quite long hair. He mumbled.

12 I can't quite tell you what he was wearing, but it
13 was just my way of reminding me of what he looked like.

14 Q This is just a physical characterization?

15 A Just a physical characteristic, yes. There is
16 absolutely nothing beyond that in terms of Zonker's
17 approach to life.

18 (Laughter.)

19 Q Toward the end of your examination by Mr. Guild, you
20 said that you and Mr. Gallo decided to split up the
21 interviews.

22 Can you explain when you decided?

23 A I don't think I said we decided to split up the
24 interviews.

25 What I tried to say is we effectively split up the

1 interviews. I took the first half of it. I was trying
2 to get the information that was crucial to my satisfying
3 myself that my prefiled testimony was accurate.

4 Then, you know, he is certainly a skilled cross
5 examiner; I'm not. He followed up using what I at times
6 thought were -- in the second half of the interview,
7 using techniques that I thought were kind of cross
8 examination techniques. He followed up leads that were
9 uncovered.

10 MR. GUILD: Could you repeat the last answer?

11 THE WITNESS: I said that Mr. Gallo was
12 certainly more skilled at the art of cross examination
13 than I was; and in the second half of the interview, he
14 sometimes followed up leads in a fashion using that
15 cross examination technique.

16 BY MS. CHAN:

17 Q So you're characterizing Mr. Gallo's follow-up on your
18 questions as "cross examination"?

19 A At times I thought it was, yes; but fortunately I had
20 conducted my part of the interview first, normally, and
21 I had the information I needed.

22 Q Can you tell us how the witnesses responded to this
23 cross examination?

24 For example, Mr. Kimble. Did he get more nervous
25 or was he relaxed?

1 A By that time in the interview, I guess he decided that
2 we were benign -- at least, we were not hostile and we
3 weren't going to do him -- I'm sorry. This is my
4 interpretation of him.

5 We weren't there to do him any harm, and they
6 seemed to be willing to joust and spar with Joe if
7 that's what they felt like doing, Joe Gallo, or answer
8 the questions. He was -- he did not seem to get more
9 nervous when Joe took over.

10 MS. CHAN: Thank you, Dr. Hulin. I have no
11 further questions at this time.

12 BOARD EXAMINATION

13 BY JUDGE GROSSMAN:

14 Q Dr. Hulin, I believe you indicated that you based your
15 opinion of Mr. DeWald's being quality conscious on your
16 interview with him?

17 A Yes.

18 Q Okay.

19 And you asked him questions concerning quotas and
20 whether productivity was rewarded positively and whether
21 there were negative rewards or the contrary of rewards;
22 is that correct, sir?

23 A Yes.

24 Q And I take it in all cases Mr. DeWald indicated that
25 there weren't quotas and that productivity didn't get

1 rewarded; is that correct?

2 A That's correct, yes.

3 Q Okay.

4 Were you aware of the fact that Mr. DeWald
5 testified in this proceeding at length --

6 A Yes.

7 Q -- and that he was intimately connected with the
8 proceeding as far as furnishing assistance to Applicant
9 in this case?

10 A I assumed that he would be a major figure in the
11 hearing.

12 Q Don't you think that it is somewhat naive to think that
13 Mr. DeWald wouldn't know which answers were favorable to
14 him and to Applicant with regard to the issue of
15 productivity?

16 A Yes. It's also true that most of the questions I asked
17 him were verifiable through company procedures. If he
18 told me that pay was not tied, for instance, to
19 productivity, that's a verifiable statement. If he told
20 me that there were no hard-and-fast quotas, that also
21 was verifiable.

22 And so in many ways I think -- I don't think he
23 could know the, quote, "right answer," unquote, to all
24 of the questions I asked. In many cases the questions I
25 asked were verifiable on the record in terms of

1 operative procedures.

2 I was not --

3 Q Well --

4 A I did not naively assume that I was going to get the
5 absolute truth from everyone.

6 Q I see.

7 Well, how did you verify Mr. DeWald's indication
8 that there weren't any quotas and that QC Inspectors
9 didn't get rewarded for productivity?

10 A I did not go to the records to verify it. I said that
11 he should assume that, since it was verifiable, that you
12 shouldn't tell a lie that you can get caught in.

13 That's a reasonable way of behaving in an
14 organization; and if he knew that my questions had
15 verifiable answers, it would say to him, you know, "If
16 there are quotas, I'd better tell him."

17 Q What if he assumed that his answers weren't verifiable,
18 that it was not possible to verify the correctness of
19 his answers?

20 Would your opinion be any different?

21 A To the extent that I got the same information from other
22 members of management and from the QC Inspectors, no.

23 I have seen nothing that really indicated that the
24 pay was tied to that. I've seen a lot of discussion
25 that it was tied to additional certifications. I have

1 not seen any evidence since then to convince me that
2 good, positive outcomes were tied to the sheer number of
3 inspections completed.

4 Q And you're satisfying that in the time that you spent on
5 this case with what you read, that you are able to make
6 that determination as to whether what Mr. DeWald said
7 was verifiable?

8 A Okay. I assume that if I asked a question about, "How
9 do you determine pay," and he gave me an answer, I
10 assumed that that answer was verifiable. I have to say
11 that.

12 Q Well, what would be verifiable if Mr. DeWald or anyone
13 else were to assign people to unwanted shifts because of
14 an opinion on their productivity?

15 Is that something that you conceive of being
16 verifiable?

17 A Verifiable to the extent -- if I found that a lot of the
18 QC Inspectors, in fact, said, "If you don't get your
19 quota out, you're going to get put on the graveyard
20 shift or the swing shift," my impression would have been
21 that I was not getting very good information from Mr.
22 DeWald.

23 Q Well, wasn't that the gist of at least one inspector's
24 comments to you: that people were shifted to unwanted
25 shifts because of retaliation by management?

1 A One of the inspectors raised that as a possibility. I
2 don't think he ever said, "Sam Smith got transferred to
3 nights, and he didn't want to be."

4 Most of the people that got transferred to days
5 were trying to get transferred to days. Mr. Noble got
6 transferred and got a raise. None of these sound like
7 punishments to me for not going along with what DeWald
8 wanted.

9 Q I thought you had indicated earlier that that was a
10 possibility in what they said; that there was a
11 retaliatory motive.

12 A I said -- I don't think I used the term "retaliatory
13 motive," sir.

14 Q Oh, I see, okay.

15 But now viewing what was said from this point on,
16 doesn't it seem as though that was a possibility from
17 what was said to you by that inspector?

18 A I believe I said that he raised this and I regarded it
19 as one of a set of other permissible interpretations.

20 Q Well, then, doesn't that make what Mr. DeWald told you
21 somewhat suspect?

22 A No, because I did not -- I mean, if I had gotten that
23 information from three or four or some significant
24 number of those QC Inspectors, I would have thought that
25 there was a problem.

1 I did not get that from -- the overwhelming
2 information I got from the interviews was it is not tied
3 to performance and is not tied to doing a lot of
4 inspections. It was not tied to overlooking sloppy
5 work.

6 Q Now, I believe you indicated that your interviews, the
7 ones in which you took some notes, were not conducted in
8 a wholly neutral atmosphere; that it was on the company
9 premises and that there were persons present who
10 certainly had a position in this proceeding, such as the
11 attorneys and the company officials, but that through
12 the format of your questions and your style, that you
13 were able to achieve some neutrality or neutrality in
14 the circumstance.

15 Is that a correct understanding of your testimony?

16 A Yes.

17 Q Are you satisfied that with regard to your format, that
18 you did receive responsive answers even -- and that is,
19 correct and accurate answers -- even in the case in
20 which the answer may have been adverse to the QC
21 Inspector who was being interviewed?

22 A Sir, as I tried to explain earlier, we gave them ample
23 opportunity. We gave them really golden opportunities
24 to blame the system, and none of them did.

25 Now, that, to me, says that they are not -- they

1 are not feeling harassed and intimidated.

2 Q And that their answers, then, were accurate answers?

3 A Yes, in the context of the other information we have,
4 yes.

5 Q Okay.

6 Let's look at some of these questions. Let's look
7 at Intervenors' Exhibit 193, Question D.J.: "Have you
8 at any time been unable to perform a proper inspection
9 because of production pressures?"

10 I take it that's one of the questions that you
11 posed to these interviewees in one form or another?

12 A Yes.

13 Q And you're satisfied that you got correct answers from
14 them?

15 A I am satisfied that the answers given by the seven
16 inspectors represented a pretty close approximation of
17 the truth, yes.

18 Q Okay.

19 Do you know what would have happened to any
20 inspector who said to you that he had been unable to
21 perform a proper inspection because of production
22 pressures?

23 A Sir, given again the opportunities we gave them to blame
24 the system and to blame the supervision and to excuse
25 their colleagues' behavior, if it were that, I think

1 they could have given us that information where there
2 would not have been the possibility -- I'm sorry;
3 strike "possibility" -- where there would not have been
4 a good chance of anything happening.

5 Do I know exactly what would have happened if they
6 said, "No. I can't do it because of the pressure I got
7 from Simile"? No, sir, I don't.

8 Q D.2., "Have you ever approved or accepted an inspection
9 that should not have been accepted?"

10 Is that the same answer there: that you don't know
11 what would have happened to the inspector if he told you
12 that he had approved or accepted such an inspection?

13 A No, I don't.

14 Q Well, let's assume that an affirmative answer to either
15 of these questions would have resulted in that inspector
16 being terminated.

17 Can you assume, sir, that if he had answered yes,
18 he had approved or accepted an inspection that should
19 not have been accepted, that he might have been
20 terminated and right there on the spot?

21 Can you assume that, sir?

22 A I cannot assume that his answer to that question would
23 have resulted in him being terminated, if that's what
24 you're asking me.

25 Q Well, let me ask you to assume that.

1 A Okay.

2 Q Do you think he would have given you a truthful answer
3 if the answer was that he had actually accepted or
4 approved an inspection which should not have been
5 accepted?

6 A Under the conditions that you're asking me to accept
7 that, then I suspect he might not have.

8 Q Well, how about D.3., in which you asked the inspectors
9 if they knew of any inspections that were improperly
10 accepted, not just -- apparently this is not by them but
11 by other people.

12 Do you know what would have happened if an
13 inspector had admitted that he knew that some inspection
14 was improperly accepted?

15 A I can think of many ways that the person could tell me
16 that, because of all these pressures, he thought some
17 people had been accepting them, where probably nothing
18 would have happened. That would be my impression of the
19 situation.

20 Q Well, can you accept the fact that if an inspector had
21 told you that he knew of an improperly accepted
22 inspection, that he had failed in his QC obligations and
23 that he, in turn, might be terminated for failure to
24 report that?

25 Can you accept that, sir?

1 A That's not the question. The question was, "Do you know
2 of any," not, "Did you accept any?"

3 Q No, no.

4 The question is: Can you accept the fact, just for
5 our discussion, that simply knowing of inspections that
6 were improperly accepted and not writing that up could
7 mean that that inspector himself viewing that had
8 breached his obligation to properly report such
9 dereliction and it could result in his being terminated?

10 Can you accept that now?

11 A I can accept the fact that if he thought he was going to
12 be fired if he gave a specific answer, then he might not
13 give me a specific answer, yes.

14 Q Now, did you ask -- I notice you have the word
15 "anonymous" circled in C.5.

16 I take it you didn't ask those inspectors about any
17 desire of anonymity, did you?

18 A Yes, I did. I essentially said, "Do you think you will
19 be anonymous if you go to QF or the NRC?" Most of them
20 said no.

21 I said, "Well, does it make any difference?" Most
22 of them said, "No, not if I have a serious problem.
23 It's not going to keep me from going."

24 I circled the word "anonymous" because I thought it
25 was misspelled. It's not misspelled.

1 (Laughter.)

2 Q Now, I believe in your interview of Mr. Kimble, he
3 suggested that people who make small waves might get in
4 trouble and those who make big waves, big enough so that
5 the public would get involved -- do you recall the
6 testimony with regard to that? Am I paraphrasing it
7 correctly?

8 A Yes.

9 Q Then you asked Mr. Kimble whether he made waves.
10 Do you recall that?

11 A Yes.

12 Q Now, in your experience as an industrial psychologist
13 and whatever else you have in your background, do you
14 believe that that is a neutral question, that when you
15 ask people whether they make waves, that they're
16 inclined, if they do, to say, "Yes, I do make waves," or
17 if they don't, well, they would honestly say that they
18 don't?

19 Has that been your experience, sir?

20 A It would be my expectation, given the context of these
21 questions, that I think he would say, "Yes, I make waves
22 because, damn it, sometimes there's work out there that
23 I don't like. So sometimes I make waves."

24 Yes, sir, I think that quite conceivably he would
25 give me that answer.

1 Q So you think that most people, if you put it to them
2 about making waves, would not think that there's
3 anything derogatory about making waves and it's
4 basically a neutral kind of question; is that so?

5 A In this context, I think it was a neutral kind of
6 question, yes, sir.

7 Q Now, I believe you also discussed a situation in which a
8 Lead -- well, there were two situations: One in which a
9 Lead had gone out in the field and instructed a QC
10 Inspector as to the Lead's own interpretation of the
11 inspection of what was acceptable and what was
12 rejectable, and another case in which a Lead failed to
13 do that; he just merely communicated to the QC Inspector
14 management's unhappiness with rejections but didn't take
15 the witness -- I'm sorry -- the QC Inspector out in the
16 field and instruct him personally as to what he, the
17 Lead, felt was acceptable or rejectable.

18 Do you recall that, sir?

19 A Yes, I do.

20 Q Is it your understanding that it is appropriate and
21 actually the desired practice for a Lead to go out into
22 the field and instruct a QC Inspector as to his
23 rejecting items that the Lead thinks that he would find
24 acceptable?

25 Is that your understanding?

1 A Sir, the way that it was phrased with -- Mr. Schirmer
2 was the Lead in question. He said, "I would coach him,
3 and I would say" -- he's prefaced all this by saying, "I
4 would tell him, 'It's your call. If you want to call it
5 that way, you can call it that way. But why don't we go
6 out and look at it. I'll show you what I would do.' I
7 would coach him. The line between dust and debris is
8 not always clear-cut."

9 I mean, I gained from Mr. Schirmer's comments that
10 he would say, "First of all, look, you're the inspector.
11 You've got to do the job. It's your signature. You're
12 responsible.

13 "But you seem to be stopping a lot of pulls to
14 vacuum out pans. Let's go look at it. Maybe I can give
15 you my impression."

16 He essentially was trying to provide -- I
17 interpreted it as trying to provide technical advice.
18 At no point was he going to tell him, "Don't write it
19 up."

20 Q Well, let me ask you: Don't you think it was
21 conceivable, in the case in which the Lead did not go
22 out into the field, that the Lead himself may not have
23 thought that the QC Inspector's practices were
24 objectionable and that, in fact, the items that were
25 being inspected were rejectable items?

1 A He didn't go out in the field, so I mean he really had
2 no opinion.

3 He just said, "Look, I've got no problems with what
4 you're doing. I'm going to tell you what they told me."
5 That's what he did, and that's it. So he didn't really
6 go out to find out if they were rejectable or not.

7 Q Well, do you know that he had no opinion as to whether
8 the QC Inspector's calls were rejectable or acceptable?

9 A I think he was telling me, sir, that he just -- he
10 wasn't going to get involved in it: "You call them the
11 way you want to. I'm going to stay out of it. This is
12 what I was told to tell you."

13 So I believe, given that answer, that he probably
14 did have no opinion as to whether he was calling them
15 correctly or incorrectly.

16 Q I believe there was some testimony with regard to Mr.
17 Gallo being present and I guess others being present for
18 those interviews.

19 I take it what you're saying is that your position
20 was that you would have preferred that they not be
21 present and that you conduct the interviews yourself; is
22 that correct?

23 A That's correct.

24 Q But I take it you didn't feel strongly enough about that
25 to condition your testifying on that point?

1 A I felt strongly enough about it at the time that I made
2 my -- I made my opinion very well-known to Mr. Gallo, to
3 Mr. Miller, and I said, "If I think I'm getting baloney
4 from these interviews, I'm going to stop. I don't need
5 to spend my nights doing this."

6 I didn't stop because I thought that we were able
7 to overcome the problems, if any existed, and we
8 continued.

9 Q Well, how do you know that the answers that you received
10 didn't reflect the fact that you were getting a lot of
11 baloney?

12 A Sir, we spent most of the day examining me on all of the
13 negative answers that we got. So I think that if we
14 hadn't been getting negative answers, there would have
15 been no basis for -- I mean, I think I was getting quite
16 a few negative answers, answers that were not
17 representing party line.

18 I satisfied myself that those -- they caused me
19 some concern. I satisfied myself that the concerns that
20 they caused me did not represent a pattern of harassment
21 and intimidation and pressure from production.

22 I satisfied myself that they seemed to represent
23 personality clashes or lack of communication or poor
24 managerial performance or style or something like that.

25 But, sir, we got a fair bit of negative information

1 in these interviews.

2 Q But I assume one of the reasons you reached your
3 conclusion about there not being that pattern of
4 harassment and intimidation is that these negative
5 answers were not -- or the answers were not consistently
6 negative; isn't that so?

7 A That's correct.

8 Q Well, how do you know that if Mr. Gallo had not been
9 present or the other company officials, that there would
10 have been a preponderance of negative answers rather
11 than just some sporadic or perhaps more than sporadic
12 but substantial but not predominant negative answers?

13 A Sir, all I can say is what I've said before in
14 testimony: that by the end of the interviews, I think
15 most of the people were accepting us for what we were
16 there for, which was to find out what was going on; and
17 I think most of them were reasonably relaxed and were
18 giving us candid answers.

19 Now, that's my opinion.

20 Q Now, I think one of the reasons why you thought you were
21 getting accurate answers was that, aside from your
22 style, that the format that you used led to getting
23 accurate answers; is that correct?

24 A It was the format that I -- that I have adopted that I
25 -- is frequently successful. But yes, I used all of the

1 skills that I have at my command to try to get answers
2 to the questions I had.

3 Q Okay.

4 I assume, then -- perhaps I was incorrect -- that
5 the format was something separate from the style; and
6 from your answer now, I take it, then, that's one and
7 the same: It's your method of presenting the questions?

8 A That would be a better way of characterizing it, yes,
9 sir.

10 Q Because the format itself -- that is, the progression of
11 questions and answers -- that was already established,
12 wasn't it?

13 That was the format that we see on Intervenors'
14 Exhibit 193?

15 A Yes, which I established, sir.

16 Q You did establish this?

17 A Yes.

18 Q Okay.

19 I was under the impression that this was some other
20 person's or some other group's format that you then
21 adopted for this.

22 A No, sir. Mr. Marcus and I wrote a draft, and then I
23 revised that draft. That included revising the order of
24 the questions.

25 Q I see.

1 So you and Mr. Marcus drafted this, and then you
2 subsequently revised the draft, too?

3 A Yes.

4 Q Is that revision of the draft reflected in the changes
5 that I see on Intervenor's 193?

6 A No, sir.

7 Q Oh, there were other changes that --

8 A Oh, yes, sir. It was -- the first draft -- well, it
9 certainly bears a relationship to this document that we
10 ended up with, but it was revised extensively by me.

11 That scratching I did on there is some minor
12 editorial stuff, which for that, you know --

13 Q Well, then, you had input into Subparagraph F, that
14 conclusion, which indicates that the person being
15 interviewed would complete a Concern Disclosure
16 Statement?

17 A As I said, I would have preferred not to put that in
18 there, and I made it very clear that I would prefer not
19 to have it in there.

20 That night before we started the interview, we
21 agreed that we would not do it, because I kept saying,
22 "I object to it. I don't really want it in there."

23 I left it in there for purposes of negotiating with
24 -- you know, I'm not going to be totally arbitrary, but
25 I said, "I would prefer not to have it in there," and I

1 prevailed.

2 We did not ask the question. I think that's the
3 important part of it.

4 Q Well, I don't understand the significance of this
5 Concern Disclosure Statement in the first place.

6 What did that consist of or was it to consist of?

7 A I'm not sure.

8 I believe Mr. Marcus wanted them to leave the
9 interview and go over to the Quality First trailer and
10 sign a Concern Disclosure Statement.

11 I kept saying, "Look, that's got nothing to do with
12 my purposes. It's coming at the end of the interview,
13 and it's not going to have much to do with what I get.
14 I'd just as soon not have them do it. It's got nothing
15 to do with what I want to do."

16 So I prevailed, and it didn't go in.

17 Q In other words, there was no purpose at all of this
18 Concern Disclosure Statement that related to your
19 purposes?

20 A That's correct.

21 Q And the title of this document, "Quality First Interview
22 of LKC QC Inspectors" -- what was the relation of that
23 title to your purposes in the interview?

24 A That relation of the title to my purposes is that there
25 is no relationship. It's just that I, when I was

1 editing it, focused my attention on the important stuff;
2 that is, the content of the questions.

3 I don't care what's up above the line. Nobody
4 could see it. That's boilerplate, as far as I'm
5 concerned. The interviewees couldn't see it. I ignored
6 it. I don't care what he calls it.

7 Q Well, that's the point that suggested itself to me,
8 also: that this does look like some boilerplate that
9 was used for Quality First.

10 Is it your understanding that that's not the case?

11 A Sir, what is above the line there has got absolutely
12 nothing to do with the content of the interview or the
13 order of the questions or the way they were asked.

14 I simply -- when I was editing this stuff and
15 pushing stuff around and rewriting questions, I didn't
16 pay any attention to what had been written up there.
17 It's irrelevant.

18 Q Okay, but the point of my question was: In the first
19 instance, perhaps you may have received a draft from Mr.
20 Marcus to begin with.

21 Do you recall whether or not you did?

22 A The two of us sat down and generated a draft, and then I
23 took it and revised it. I went back, and it was typed.

24 Q I see.

25 Mr. Marcus didn't have any document that he was

1 referencing at the time that the two of you sat down and
2 worked out this particular format?

3 A I don't believe so, no, sir.

4 Q And so it's your feeling that he didn't have any kind of
5 what might be referred to as a "boilerplate" --

6 A No, sir.

7 When I used the term "boilerplate," I meant the
8 stuff that was above the line. I don't care what they
9 put on there.

10 JUDGE GROSSMAN: Okay, fine. Why don't we
11 take a 10-minute recess -- oh, did you want to ask some
12 questions?

13 JUDGE COLE: Yes. I have a few questions.

14 BOARD EXAMINATION

15 BY JUDGE COLE:

16 Q I did have some questions about 193. Most of those have
17 been answered already.

18 But, sir, on the first page of Intervenors' Exhibit
19 193, there's a statement as to the purpose of the
20 interview, and there are three items there, sir.

21 Your interest was not in each of those three, was
22 it -- or was it?

23 A I was, you know -- to greater or lesser degrees, I was
24 certainly interested in all three of them. I mean, if I
25 consistently found out that they had some real quality

1 concerns, I was interested in that, yes.

2 Q A form of this type would have a lot of application on
3 the site even without your presence, would it not, sir?

4 If Quality First wanted to interview all of its QC
5 Inspectors, this is the kind of business they're in,
6 isn't it?

7 A Yes.

8 Q That's probably why the first thought was that this was
9 a form that they had used: because Quality First was in
10 the business of interviewing people?

11 A Okay. I understand that, and this was not a Quality
12 First interview format.

13 Q All right, sir.

14 A This is mine.

15 Q On Page 17 of your testimony, your prefiled testimony,
16 in the second paragraph on that page, you refer to the
17 "behavioral trace measures," and you characterize them
18 as "the best available behavioral trace measures."

19 I assume you're talking about the agreement rates;
20 is that not so, sir?

21 A Yes, sir.

22 Q Did you make your own evaluation of these agreement
23 rates as to their use as a behavioral trace measure?

24 A To the extent that I informed myself of the process by
25 which the QC Inspectors did the original inspections,

1 that's why I went out and followed them around.

2 I tried to inform myself of the conduct of the BCAP
3 and the PTL programs. I convinced myself that they were
4 representing inspections of -- I'm sorry -- independent
5 verifications of the initial work, yes.

6 To that extent, I did, sir.

7 Q All right, sir.

8 Well, I guess the reason why I asked you if you had
9 made your own evaluation is you have characterized them
10 in here as "the best available behavioral trace
11 measures," and I'm asking you your basis for making that
12 characterization of them.

13 A Well, I really tried to find out if there was other
14 stuff available that we could use that pertained more
15 directly to the hypothesis, and I did not find anything
16 that I thought addressed the hypothesis better.

17 Q All right, sir.

18 I believe you've already discussed, in response to
19 a question from Miss Chan, the Asch conformity effect.
20 On Page 38 of your testimony, you refer to the Asch and
21 Sheriff effects.

22 My question is: Is that two separate effects? If
23 so, what is the Sheriff effect?

24 A Okay. It's pronounced the "Sheriff" effect.

25 Q Sorry. Okay.

1 A The Sheriff effect is the autokinetic effect. This is
2 going to get pretty technical. It's the autokinetic
3 effect in which you're taken into a completely darkened
4 room and a single spot of light -- very, very small; the
5 size of a pinhead -- is in front of you.

6 You're asked, "How far does this light move per
7 unit of time," or, "How far does it move," or, "Trace
8 out the pattern of the movement of the light," when, in
9 fact, the light is stationary.

10 But our physiological system -- if we do not have a
11 good background, we see the light as sort of wandering
12 around erratically.

13 There are big individual differences in the extent
14 to which people perceive movement. Some people perceive
15 the light as moving very, very small distances. Some
16 see the light as moving big distances.

17 The Sheriff effect is to show the effects of other
18 people in the room when they report, "Yes, I think it
19 moved nine inches," and the person who has previously
20 seen the light as moving two feet or one inch very soon
21 adapts his or her report of light movement to the group
22 norms, if you wish.

23 And so it was an example again of conformity to
24 group norms. Both experiments are indicated as showing
25 effects of group influence on individual judgments.

1 JUDGE COLE: Thank you, sir. That's all I
2 have.

3 BOARD EXAMINATION

4 BY JUDGE CALLIHAN:

5 Q Dr. Hulin, I have one mundane matter just for
6 clarification.

7 If we may look at the first page of Intervenors'
8 Exhibit 194, which are your notes from your interviews,
9 opposite B.4. of Mr. Noble, there's a box, the
10 right-hand side of which was chopped off in reproduction
11 of the copy I have.

12 It says, "One who inspected" --

13 A "Through paint."

14 Q "Through paint."

15 And then what's the second line?

16 A "Arndt," A-R-N-D-T.

17 Q That's it completely?

18 A Yes.

19 Q I wondered if it was another issue. Thank you.

20 Coming back to Page 17 that Dr. Cole just alluded
21 to, there's an item there. You picked some time
22 intervals relating to Mr. Saklak and Mr. DeWald's tenure
23 here and there. You say, "Before and after August 1,
24 '83, the date Irving DeWald was hired."

25 Now, is that when he came in as a supervisor?

1 A Yes.

2 Q You're aware that he was there --

3 A Yes, sir.

4 Q -- as an inspector earlier?

5 A Yes, sir.

6 Q In two instances, one in your testimony again on Page 1
7 and Page 6, there are references to measures. On Page
8 1, carrying over to Page 2, you speak of "applied
9 measurement," and this is a measurement of differences
10 among individuals.

11 On Page 6 about mid page, under Answer 7, "I
12 combine interview, questionnaires, analyses of
13 behavioral trace measures."

14 If those can be addressed in a single answer by
15 you, I invite you to do so.

16 But to be specific, to start with, in your Page 1
17 reference, how do you measure -- what's the meaning of
18 the word "measure" in this context, "measurement of
19 differences among individuals"?

20 A The term "measurement" in that context would mean, for
21 instance, how do we measure intelligence? Probably a
22 better word, I guess, would be "assess." How do we
23 assess intelligence?

24 Basically it was not addressed to how do you
25 measure the height or weight of the people; but it was

1 addressed -- which is quite simple to do -- but how do
2 you address -- how do you assess these latent or
3 unobservable traits of people like intelligence, like
4 ambition, like job satisfaction and so forth.

5 I mean, that's -- I spend most of my time worrying
6 about measurement issues when I'm in my office.

7 Q These are very subjective matters, then, aren't they?

8 A Well, sir, they are inherently subjective, and so the
9 reason that we have a science -- a subspecialty called
10 "measurement" is because we are trying to find --
11 without getting jargony, we're trying to find
12 outcroppings or indications of their underlying
13 feelings.

14 How those multiple outcroppings relate to each
15 other is an indication of how well we're doing measuring
16 the trait.

17 To have a good measurement of a highly subjective
18 trait like job satisfaction, you would want to have a
19 number of these outcroppings and you would want to
20 require that they met certain mathematical models.

21 Q What sort of response would you expect to receive from
22 an individual on whom or about whom you are making,
23 quote, "measurements," unquote, as used in this context
24 of job satisfaction, just as an example?

25 A I'm glad you picked that one, sir. I know more about

1 that than probably anything.

2 I would ask them -- the job descriptive index is
3 the best known and most widely used measure of job
4 satisfaction in the United States. I was the co-author
5 of the book in which we developed and reported that.

6 We break up job satisfaction into five separate
7 areas: satisfaction with work, with the pay, with the
8 supervision, with the co-workers and with the
9 promotional opportunities.

10 We asked people, "Is your work fast? Is it slow?
11 Is it interesting? Is it dull? Is it necessary? Is
12 it" -- I'm sorry. I should be able to recall all 18 of
13 the items.

14 We started out with probably 150 items, many of
15 which were highly subjective like, "It's very
16 satisfying," "It's intriguing," and we boiled them down
17 to 18 adjectives that were much more descriptive like
18 "fast," "slow," "necessary" and so forth.

19 We find that across the board of blue-collar and
20 white-collar workers, that their responses to those
21 items hang together in the sense that they relate to
22 each other.

23 The responses satisfy the requirements of some
24 highly demanding mathematical models called "latent
25 trait theory" and that when we derive an estimate of job

1 satisfaction, it relates to other things that these
2 people do or say or believe.

3 I mean, job satisfaction is a very good predictor
4 of turnover. Six months, 12 months down the road,
5 people who are dissatisfied today are more likely to
6 quit than people who are satisfied today.

7 So we go through a process just like that of
8 specifying measurement models and then relating our
9 outcome to other behaviors.

10 Q Perhaps I made an error, so let me ask:

11 I understood you to say, at the beginning of this
12 small conversation between us, that you looked at job
13 traits, T-R-A-I-T-S; is that correct?

14 A I don't believe so, sir.

15 Q I misused the word.

16 Now we come to Page 6 of your testimony and the
17 second part of my question, where you refer to "analyses
18 of behavioral trace measures." So "trace" is the word
19 that has followed through this discussion, and I
20 misunderstood.

21 Your closing remarks or your most recent remarks on
22 attributes looked at in job satisfaction, in the example
23 you considered, are these trace measures that you've --

24 A No, sir. Behavioral trace measures are much easier to
25 deal with than assessments of latent traits.

1 Q Now I'm trying to make a connection between the Page 1
2 and the Page 6, and I believe that you are now saying
3 that they're -- the concept, at any rate, is different
4 in the two cases?

5 A The concept is the same.

6 It's an awful -- it's much, much easier dealing
7 with behavioral trace measures than it is dealing with
8 purely subjective feelings like satisfaction or purely
9 internal states like intelligence.

10 Now, when possible, we would like to see these
11 behavioral trace measures meet the same criteria of the
12 mathematical measurement models.

13 But it's like measuring somebody's height: You
14 have an awful lot more confidence that you know how tall
15 the person is when they back up to a mark on the wall
16 and you don't really need to repeat it 18 times. You
17 have a -- it's a much more objective measure.

18 Q Then if we return for a moment to your description of
19 what you look for in job satisfaction, where into that
20 picture do behavioral trace measures come?

21 A Behavioral trace measures would serve as external
22 criteria that we might use to validate our measure of
23 job satisfaction.

24 Q Looking at the attributes that you enumerated earlier?

25 A Yes.

1 JUDGE CALLIHAN: Thank you very much.

2 JUDGE GROSSMAN: We'll take a 10-minute
3 recess.

4 (WHEREUPON, a recess was had, after which
5 the proceedings were resumed as follows:)

6 JUDGE GROSSMAN: Mr. Miller?

7 REDIRECT EXAMINATION

8 BY MR. MILLER:

9 Q Dr. Hulin, Judge Grossman asked you a number of
10 questions that asked you to make certain assumptions
11 about the consequences of actions or failure to act on
12 the part of a QC Inspector.

13 I'd like to draw your attention to the specific
14 question that he asked you about an assumption that if a
15 QC Inspector failed to report or disclose inadequate
16 inspections performed by another QC Inspector, that that
17 might be grounds for termination.

18 Do you recall the question, sir?

19 A Yes.

20 Q Looking at Intervenors' Exhibit 194, your notes, and
21 calling your specific attention to the notes for the
22 interviews of Mr. Noble and Mr. Bisky, can you tell, Dr.
23 Hulin, whether or not, in fact, as opposed to any
24 assumption, the QC Inspectors declined to identify
25 inadequate inspections performed by other QC Inspectors?

1 A Mr. Noble certainly identified Mr. Arndt as one who
2 inspected through paint. He identified Mr. Daniels as
3 somebody who was inspecting -- rejecting too many.

4 He said, "I've never accepted one myself, but I
5 have been rushed." He said, "No, but some may be" --
6 and I have "questionable" there. I think that means
7 accepting questionable stuff.

8 Q That's a note that's identified as an answer to Question
9 D.3., is it not?

10 A Yes, sir.

11 Q And that's the question that asks, "Do you know of any
12 inspections that were improperly accepted?"

13 Do you recall, Dr. Hulin, whether Mr. Noble was
14 able to be any more specific with respect to the
15 questionable nature of accepting inspections by others?

16 A At this point these inspectors have kind of blended into
17 one.

18 I believe that he identified what he thought were
19 some questionable acceptances by some of the QC
20 Inspectors. I mean, I don't have it down here that he
21 identified them by name.

22 Q There's also a notation in a box there, "463"?

23 A Yes.

24 Q What does that refer to, sir?

25 A I believe that is the coordinates or the identification

1 of the upper cable spreading room, 463 foot elevation,
2 42 -- 425 NP. I believe that is the location of the
3 upper cable spreading room.

4 Q Now, do you recall whether Mr. Noble was asked as to how
5 these questionable inspections got accepted?

6 A I believe he was, yes.

7 Q Do you remember what the substance of his answer to that
8 question was?

9 A The substance was that he wasn't sure; they may have
10 been in conformance when they were accepted, but they
11 probably weren't now. He said, you know, "People knew
12 about this."

13 Q All right, sir.

14 Now, let's turn to Mr. Bisky's -- your notes of Mr.
15 Bisky's interview.

16 JUDGE GROSSMAN: Mr. Miller, you're dealing
17 now, aren't you, with matters that were reported, both
18 instances that you're referring to now in which there
19 were rejectable conditions which were already written
20 up, weren't they, one being the Archambeault write-up
21 and the other being someone who was already terminated
22 for these conditions?

23 MR. MILLER: Well, certainly that has to do
24 with Mr. Arndt.

25 I am not -- well, let me ask the question directly

1 of the witness.

2 BY MR. MILLER:

3 Q You identified Mr. Arndt.

4 Did you understand, when Mr. Noble identified other
5 inspections that had been accepted but should have been
6 rejected, that he was referring to situations which Mr.
7 Archambeault identified?

8 A In part, yes.

9 Q What was the other part?

10 A Arndt, I think.

11 Q Now, let's turn to Mr. Bisky.

12 Mr. Guild examined you at some length about the
13 statement, "Some inspectors are awfully vague," and I
14 believe -- do you have Mr. Bisky's interview in front of
15 you there?

16 A Yes, yes, I do.

17 Q First of all, I think, Dr. Hulin, Mr. Guild examined you
18 and called your attention to Page 73 of that transcript
19 to indicate you were following up on a question, "Some
20 inspectors were awfully vague."

21 Do you see that on Page 73?

22 A Yes.

23 Q Can we agree that on Page 71 of the transcript, the
24 words -- well, Mr. Bisky said "awful vague" -- appear in
25 an answer that he gave to a question from Mr. Gallo?

1 A Yes. It's on Line 10.

2 Q Now, then, looking at the transcript on Page 73, do you
3 believe that Mr. Bisky was identifying that page and
4 subsequent inspections by other inspectors that did not
5 meet all the inspection criteria?

6 A You could -- yes. He says on Page 71, "One inspector
7 might push it and go by the book, and the next inspector
8 will commonly overlook some things."

9 Yes, I assume that on Page 73 that's what he's
10 referring to.

11 Q Well, did you understand that these inspection
12 deficiencies were significant or insignificant
13 inspection deficiencies?

14 A Since he brought them up, I assume that they were
15 significant.

16 Q Now --

17 A At the bottom of the page, there's a question and answer
18 that directly address this, I think: Page 73, Line 21.

19 Q You mean the question that you asked about being a
20 little sloppy?

21 A "Yes, I feel he is not performing his job correctly,"
22 was the answer.

23 Q Now, Dr. Hulin, you were examined at some length about
24 your notes, Intervenors' Exhibit 194, and the fact that
25 some specific items in the transcript of these

1 interviews didn't make their way into the notes.

2 How did you select what you would write down in
3 your notes and what you wouldn't?

4 A As I -- as I said before, first of all, I tried to
5 record the answers to the direct questions that were
6 contained in the interview form.

7 Then I tried to record -- in the answers to the
8 follow-up questions, I tried to record things that
9 really indicated harassment, intimidation and so forth,
10 problem areas.

11 Q Why did you only record those items?

12 A I wasn't out there to try to find out that it was a
13 beautifully-run company and everybody loved it.

14 I was out there to try to find out if there were
15 problems, because it was only the existence of problems
16 that was going to cause me to document problems I didn't
17 know about before that was going to cause me to revise
18 my testimony.

19 Q Now, you sat through the interviews while Mr. Gallo, who
20 has now left us, conducted some further examination.

21 What was your impression of the nature of Mr.
22 Gallo's questions?

23 That is, was he trying to probe with the
24 expectation, in your impression, that he would receive
25 answers that were favorable to Comstock or Commonwealth

1 Edison Company? Was he doing the opposite or was he
2 neutral?

3 A I would say if he was not neutral, he was looking for
4 problems.

5 Q All right, sir.

6 Now, I think Mr. Guild asked you about a specific
7 instance in which Mr. Bisky was asked whether he had
8 ever filled out a questionnaire circulated by Mr.
9 Archambeault, and he declined to answer that question.

10 What, if anything -- what, if any, inference did
11 you draw about Mr. Bisky's candor and willingness to
12 freely participate in the interview process, as a result
13 of that refusal?

14 A To me, it indicated that he was willing to exercise his
15 right not to respond to the question.

16 The questions he did respond to -- you know, since
17 he had exercised this right, I assumed he was responding
18 reasonably candidly.

19 Q Now, during the course of Mr. Guild's examination with
20 respect to the interviews that you conducted of the
21 second shift cable pull inspectors, he asked you whether
22 specific sentences would cause you to change your
23 testimony, and I think in each instance you responded
24 no.

25 Without limiting you to the specifics of any bit of

1 testimony or evidence that you accumulated during these
2 interviews, could you describe for the Board and the
3 parties generally why, as a result of those interviews,
4 there was no change in your testimony?

5 A Because I evaluated the information I had from all seven
6 of the interviews; and taken in its entirety, taken in
7 the context of the interview, I found one inspector who
8 seemed pretty unhappy, who was sort of a self-appointed
9 expert on training methods and procedures.

10 Q Who was that, sir?

11 A That was Norm Kimble, Mr. Kimble.

12 I found another inspector who had been relieved of
13 his job as a Lead two weeks after he had talked to a Mr.
14 Daniels.

15 I found five of them reporting generally what I
16 thought were no harassment, no intimidation and no
17 threats, no reprisals.

18 Taken in total, I found it a very positive set of
19 interviews.

20 Q Now, turning again to Intervenors' Exhibit 193, which is
21 your questionnaire, Mr. Guild asked you about Subpart A
22 of the interview under "introduction," the third bullet
23 right there, which says that you explained one of your
24 purposes as being to determine if any quality concerns
25 exist.

1 Do you recall, Dr. Hulin: Did you explain that as
2 one of the purposes that you hoped to achieve through
3 these interviews with the QC Inspectors?

4 A I tried to -- I mean, I tried to explain that, yes.

5 Q Now, what, if anything, did you say to the inspectors
6 with respect to documentation of quality concerns that
7 they might identify?

8 A Nothing.

9 Q To your recollection, did any inspector say that he
10 wished to document --

11 A No.

12 Q -- his concerns?

13 Based on your experience as an industrial
14 organizational psychologist, do you have an opinion as
15 to whether or not these inspectors were misled in any
16 way because their concerns regarding quality, if any,
17 were not documented?

18 A I don't believe so. Since I was sitting there taking
19 notes and there was a Court Reporter present recording a
20 verbatim transcript of what they said, it struck me that
21 they would have assumed that what they were saying was
22 being documented.

23 Q I'd like to -- excuse me? I beg your pardon?

24 A That's an assumption, of course.

25 Q I'm now going to leave the second set of interviews and

1 turn to the first set of interviews that you conducted
2 at the site.

3 Yesterday Mr. Guild asked you about whether or not
4 you asked the six QC Inspectors that you interviewed the
5 first time you were at Braidwood about their opinion of
6 Mr. DeWald, and there were a number of questions about
7 that.

8 Did you inquire of the QC Inspectors regarding
9 their impressions of any other Comstock manager or
10 supervisor?

11 A Yes.

12 Q Which individual?

13 A Specifically, Mr. Saklak.

14 Q And did the inspectors respond to those questions?

15 A Yes.

16 Q Can you briefly describe for us what they told you about
17 Mr. Saklak?

18 MR. GUILD: Objection, Mr. Chairman.

19 It may be a nice question to have thought to have
20 asked that they should have asked him in direct
21 examination, but it certainly wasn't something that I
22 asked him about.

23 I don't think the springboard of asking about Mr.
24 DeWald gets us to asking for opinion evidence about Mr.
25 Saklak.

1 MR. MILLER: Your Honor --

2 JUDGE GROSSMAN: I have no recollection,
3 either, except I'll accept your word for it, Mr. Miller,
4 that that is the reason that you're asking the question.

5 I don't see that that's within the scope; but if
6 you have an argument on that, let's hear it.

7 MR. MILLER: Well, your Honor, I think that
8 Mr. Guild will acknowledge that he, in fact, asked the
9 questions of Dr. Hulin with respect to the interviews
10 that he conducted of the QC Inspectors and the questions
11 he asked about Mr. DeWald.

12 The clear thrust of most of Mr. Guild's questions
13 of Dr. Hulin has been that his interviewing techniques
14 were incomplete, inaccurate, biased and so forth.

15 I believe that having asked the question about
16 whether or not he inquired into Mr. DeWald as a manager
17 or supervisor, it is fair on redirect, so that the
18 record is full and complete as to what he did and did
19 not do in terms of interviews, to ask whether or not he
20 asked about Mr. Saklak and, if so, what kind of
21 information he received.

22 JUDGE GROSSMAN: And the fact that they may
23 have said something negative about Mr. Saklak, who was
24 fired, will have some inference about whether they were
25 candid about Mr. DeWald, who was their QC Manager at the

1 time? Is that basically --

2 MR. MILLER: Well, I'm not going to represent
3 necessarily what the witness' answer is going to be on
4 that.

5 JUDGE GROSSMAN: Okay. We'll allow the
6 question.

7 THE WITNESS: Did they say anything in
8 response to my question about Mr. Saklak?

9 MR. MILLER: Yes, sir.

10 A Yes, they did.

11 BY MR. MILLER:

12 Q Can you summarize what the substance of their
13 observations were?

14 A The substance of their observation was that he was a
15 physically large, profane, aggressive individual whose
16 interpersonal managerial style left a great deal to be
17 desired, who also seemed to be on top of the job and
18 getting things organized and shaped up.

19 Q All right, sir.

20 Now, Dr. Hulin, yesterday --

21 MR. GUILD: Excuse me, Mr. Miller.

22 I'd move to strike the last answer. On its
23 telling, it has no bearing whatsoever on the purported
24 point of the line of questioning, which was to somehow
25 reflect on the credit one should give to this witness'

1 opinion evidence about Mr. DeWald's character.

2 We really are going to be here all night if I now
3 have to test the accuracy of the basis for the opinion
4 evidence about Saklak, because Mr. Saklak has not been
5 the subject of his expert opinion until now.

6 I move to strike.

7 JUDGE GROSSMAN: Well, that is correct, Mr.
8 Miller. Perhaps that was my fault. I assumed too much.
9 I assumed that there was some connection, and I assumed
10 what the connection would be between your question and
11 Mr. DeWald.

12 But that answer, which certainly did not establish
13 that, established just the contrary: that there was no
14 connection.

15 If you want to get into the Saklak matter with this
16 witness -- we've already allowed the question -- we'll
17 just go into that on cross.

18 MR. MILLER: Your Honor, the reason for my
19 examination, the question, was really quite a limited
20 one. That was to indicate that Dr. Hulin in his
21 interviews did not limit himself to questions about Mr.
22 DeWald but inquired into other members of the Comstock
23 management as well, because, as I say, the thrust --

24 JUDGE GROSSMAN: Yes?

25 MR. MILLER: -- the thrust of Mr. Guild's

1 questions has been to suggest that somehow his
2 interviews were incomplete and did not cover all the
3 bases. That was the limited purpose for which I asked
4 the question.

5 JUDGE GROSSMAN: Well, then, we'll strike the
6 question and answer with regard to what they said about
7 Mr. Saklak, because we're not going to allow Mr. Guild
8 to get into that matter.

9 We'll accept the fact that the witness indicated
10 that he did ask about Mr. Saklak, but I don't think we
11 want extended cross examination on what they felt about
12 Mr. Saklak.

13 I don't think it would be fair to allow that answer
14 in without having that extended cross examination, so
15 that second question and answer are stricken.

16 BY MR. MILLER:

17 Q Now, Dr. Hulin, yesterday Mr. Guild asked you about your
18 statement of your ultimate opinion with respect to the
19 question of whether or not the alleged harassment and
20 intimidation affected the quality of the inspections of
21 the Comstock Quality Control Inspectors. That's the
22 general subject matter I'd like to get into.

23 Your opinion is stated in words that are somewhat
24 conditional. I think the exact words are that it "seems
25 highly unlikely."

1 Do you recall those words and that line of
2 examination?

3 A Yes.

4 Q Now, Dr. Hulin, Mr. Guild asked you whether there might
5 have been a misunderstanding, on your part, of the
6 evidence.

7 Do you recall that specific question?

8 I think you may have conceded that it was certainly
9 possible that you might have misunderstood the evidence.
10 Then you wanted to further explain your answer, and then
11 there was colloquy and we saved it for redirect.

12 Now is your opportunity, Dr. Hulin, to explain
13 further the significance of any possible
14 misunderstanding of the evidence that you amassed, if
15 you will, in the course of your investigation.

16 MR. GUILD: Mr. Chairman, I object.

17 Mr. Miller simply has to put a focused direct
18 question to the witness. It's just an improper
19 examination. It's vague and overbroad to simply say,
20 "Turn on and say anything you want to say that's in
21 addition."

22 I don't know whether to object, because I don't
23 know what the question seeks to elicit. I can't tell in
24 advance whether or not the questioner seeks to elicit
25 what would otherwise be objectionable information.

1 I would object on the grounds of vagueness. The
2 question should be much more focused and precise.

3 MR. MILLER: Give me 30 seconds --

4 JUDGE GROSSMAN: Sure.

5 MR. MILLER: -- and I'll see if I can find
6 the exact reference.

7 JUDGE GROSSMAN: If you can't find it,
8 perhaps the witness can tell us what the question and
9 answer were that he wishes to elaborate on now without
10 further elaborating on that.

11 But we'll give you a chance, Mr. Miller, to find it
12 in the first instance.

13 BY MR. MILLER:

14 Q Well, at Page 17967 of the transcript, Mr. Guild was
15 examining you about the bases for your opinion, and the
16 question is asked at Line 1 there:

17 "C And if the evidence that you did review
18 is misinterpreted, misunderstood or
19 misapplied, that, too, would affect the
20 conclusion which is made on the basis of
21 that evidence?"

22 "A Well, yes, and I would like to expand on
23 that if I could."

24 Mr. Guild then said, "'Yes' will do just fine for
25 now, Dr. Hulin." Dr. Grossman added that I could expand

1 on the answer in redirect.

2 My question to you, Dr. Hulin, is, first of all:
3 Do you believe that you misinterpreted, misunderstood or
4 misapplied the evidence that was presented to you or
5 that you reviewed in reaching your opinion?

6 A No.

7 Q Would you explain why you state that with some
8 confidence?

9 A Because in organizations, things just don't usually
10 happen in isolation. You find consistent patterns of
11 managerial behavior and of employee behavior that are a
12 product of the climate of the organization, the
13 contingencies that exist in the organization that are
14 communicated to the employees and so forth.

15 If one is presented with a batch of data, of
16 information, that is highly inconsistent, you know, the
17 possibility of misinterpreting it I think is much
18 greater than if one is presented with a batch of
19 information where the record seems consistent.

20 My expansion was I wanted to say that the
21 impression I have gained from all of my activities --
22 the interview, the BCAP data and so forth, the
23 interviews with the Quality Control Inspectors -- is
24 consistent. I think it is a reasonable approximation of
25 what's going on in the organization.

1 So yes, I may have been misled, misinterpreted the
2 information and so forth, but I don't believe so because
3 of the overwhelming consistency of the information.

4 Q Dr. Hulin, could you just state for the record
5 approximately how much time you spent in reviewing the
6 data, preparing your testimony and so forth?

7 A Approximately 200 hours.

8 MR. MILLER: I have no further questions.

9 JUDGE GROSSMAN: Mr. Guild?

10 MR. GUILD: Yes, sir.

11 RE CROSS EXAMINATION

12 BY MR. GUILD:

13 Q Dr. Hulin, you responded to Miss Chan a while back by
14 making reference to your option to choose not to testify
15 should certain contingencies present themselves to you.

16 Do you recall that testimony, sir?

17 A Yes.

18 Q In specific, I think you were talking about if the
19 interviews -- the setting for the interviews were not
20 adequate for you to gain reliable information, correct,
21 among other things?

22 A I believe the context was about my early visits to
23 Braidwood before I had formed any opinion at all about
24 what had gone on, and I was still trying to find out if
25 I was willing to testify or not.

1 Q Indeed.

2 So you at that point were -- I believe you're
3 right; I stand corrected -- you were saying you wanted
4 to find out if Mr. Saklak really had the power to
5 essentially reward and punish, to fire people; right?

6 A Yes, that's correct.

7 Q And that learning that he did have the power to fire
8 people would have caused you to hesitate to testify in
9 the case.

10 Do you recall that testimony?

11 A Yes.

12 Q All right, sir.

13 And then later you said if the terms of the
14 interviews you were to conduct -- those were the six or
15 the seven interviews after you had already prepared your
16 testimony -- if the circumstances of the interviews were
17 not acceptable, that, too, would have been a contingency
18 that would have caused you to condition your appearance
19 here.

20 Do you recall that testimony?

21 A What I believe I said was that if the conditions of the
22 interviews with the seven QC Inspectors were such that I
23 didn't think I was getting accurate information, then I
24 would stop the -- I mean, I would cease my involvement
25 in the process right there.

1 Q Exactly. All right, sir. That's right.

2 I'm trying to think of one other contingency I
3 believe you stated. Let me reflect a second.

4 Of course, you conditioned your testimony on
5 confirming, as you state you have, that the interviews
6 of the second shift cable pull inspectors would not
7 cause you to amend or correct or add to your testimony.

8 That also was a contingency?

9 A Yes.

10 Q All right, sir.

11 Now, you're not a volunteer in performing your
12 evaluation of the circumstances you found at Comstock,
13 are you?

14 A No.

15 Q In fact, you were retained by Commonwealth Edison to
16 perform these services?

17 A Yes.

18 Q All right, sir.

19 And you expect to be remunerated for your testimony
20 and the 200 hours that you have put into this work?

21 A Yes.

22 Q All right, sir.

23 And what do you expect to receive as a fee for your
24 services?

25 A I bill by the hour, and it's -- you know, it's -- I bill

1 by the hour: \$150 an hour for work I do away from my
2 own office, \$125 an hour for work I do at my office, and
3 \$62.50 an hour for time I spend traveling.

4 Q And you estimated to me the other night that you
5 expected to receive a fee of \$25,000 for your testimony?

6 A Yes, sir.

7 Q That was a contingency as well that, of course, you bore
8 in mind when you decided whether or not anything you
9 learned from the second shift cable pull inspectors was
10 going to cause you so much agony that you wouldn't
11 actually appear as a witness?

12 A No, sir.

13 Q You knew you were going to be paid as a witness, didn't
14 you?

15 A I knew I was going to be paid for my time.

16 Q Yes.

17 And you were going to be paid for your time
18 including the time that we've spent here today and
19 yesterday?

20 A Yes, sir.

21 Q Now, you stated in response to counsel's question that
22 you think that the inspectors you were interviewing,
23 when you told them the purpose included identifying
24 concerns, would have concluded that their concerns were
25 being documented, since you were taking notes and since

1 the interviews were transcribed.

2 A Yes.

3 Q That assumption would be false, would it not, since you
4 were not documenting their concerns nor was Mr. Marcus
5 nor was Mr. Gallo nor was Mr. Thornton?

6 The Court Reporter may have, but that was the only
7 documentation being made; true?

8 A Sir, I don't know what Mr. Thornton and Mr. Gallo were
9 documenting or memorializing. I do know that the Court
10 Reporter was making what was a true representation of
11 the events.

12 Now, to me, that represents documentation.

13 Q I see.

14 But when I asked you earlier, you said that as far
15 as you knew, neither Mr. Gallo nor Mr. Thornton nor Mr.
16 Marcus were documenting their concerns independently of
17 this transcript?

18 A I just said I assumed that. I don't know what they were
19 doing. I wasn't watching them. I was watching the
20 interviewee.

21 Q All right, sir.

22 You were somewhat pejorative, at least in the terms
23 I heard you using, when you referred to Mr. Kimble a few
24 moments ago. You called him "a self-appointed expert in
25 training."

1 Mr. Kimble certainly is an experienced Quality
2 Control Inspector.

3 Don't you acknowledge that, sir?

4 A Yes, I do.

5 Q He's certainly more experienced as a Quality Control
6 Inspector at a nuclear power plant electrical
7 installation than you are?

8 A Yes, sir.

9 Q All right, sir.

10 And when Mr. Kimble stated in some detail that he
11 believed the training program for Quality Control
12 Inspectors at the Braidwood Station, Comstock, was
13 inadequate, you certainly credited him as being informed
14 on that subject, didn't you -- or did you?

15 A Not really, no.

16 Q I see.

17 You're aware that Kimble had five years' experience
18 as a termination and cable pulling inspector?

19 It's in your notes.

20 A If you represent that it's in my notes, then I probably
21 believe it.

22 Q Mr. Kimble, in fact, told you that at one time he either
23 was going to be or was -- had been a schoolteacher, and
24 he raised a concern about the absence of test validation
25 for the training -- absence of validation for the

1 training that was given Quality Control Inspectors.

2 That is, I take it to mean, an effort to
3 empirically demonstrate that the training effectively
4 prepared inspectors to perform their jobs.

5 He raised that concern, didn't he?

6 A Yes, he did.

7 Q Now, does that sound like an uninformed opinion for a
8 five-year veteran Quality Control Inspector to express
9 about inadequacies in the training program to you, sir?

10 A I have a Ph.D. in industrial organizational psychology,
11 and included in that field is the field of training.

12 Q Yes.

13 A I teach general courses in which I teach about training,
14 and I do not regard myself as an expert on training.

15 So that's what I meant when I said that I didn't
16 think Mr. Kimble was an expert on training, either.

17 Q He knew more than you did about training of Quality
18 Control Inspectors, did he not?

19 A He certainly knew more about the content of the course
20 that he received. I don't know that he knew more about
21 training than I do.

22 Q It sounded to me from your characterization of Mr.
23 Kimble a moment ago, "a self-appointed expert," that
24 perhaps you discounted much of what Mr. Kimble had to
25 say because he sounded like he was a know-it-all.

1 A No, sir.

2 Q Did you do that?

3 A No, sir.

4 Q Just his training opinions, being a self-appointed
5 expert and all? You did discount those, did you not?

6 A Yes.

7 Q Mr. Noble also expressed concerns; namely, that he had
8 been transferred under circumstances that led him at
9 least to question whether there was a relationship
10 between the inspector working for him who had
11 productivity or work-related difficulties and his boss,
12 Simile, taking Noble off of that supervisor position,
13 the Lead position.

14 You were a little pejorative about Mr. Noble as
15 well. You viewed him, in essence, as a disgruntled
16 former Lead Inspector whose interview with you you
17 discounted for that reason, didn't you?

18 A No, sir, I did not regard him as a disgruntled former
19 Lead.

20 Q That's not the way we should have interpreted your
21 response to your lawyer here when you dismissed Mr.
22 Noble and Mr. Kimble?

23 A I don't recall dismissing Mr. Noble or Mr. Kimble.

24 Q Now, Mr. Bisky -- Mr. Miller suggested that Mr. Bisky's
25 declining to answer a question about his completion of

1 the questionnaire circulated by Mr. Archambeault -- what
2 inferences you drew from that.

3 I recall you saying that it showed he had judgment;
4 he could pick and choose, and that since he chose not to
5 answer this question, it suggests that he consented to
6 answer the others.

7 Do you recall that testimony?

8 A I recall the testimony. I'm not sure that's a fair
9 characterization of my answer.

10 Q Why don't you correct where I've been unfair to you,
11 sir, in that answer?

12 A I didn't say that it indicated that he had judgment.

13 I said it indicated that he felt free to exercise
14 his right not to answer some of the questions if he
15 didn't want to.

16 Q Yes, but then you added something else there, Dr. Hulin.

17 You said that you drew the inference, therefore,
18 where he chose to answer questions --

19 A Yes.

20 Q -- that those questions represented consensual responses
21 freely given.

22 A Yes.

23 Q Isn't that the substance of your answer?

24 A Yes.

25 Q Well, now, Mr. Bisky's answer at Transcript 59 to the

1 question that Mr. Miller referred you to -- that was
2 about the questionnaire -- was preceded by Mr. -- it
3 must be Mr. Gallo's question, Line 18, Page 58: "As you
4 are probably aware, Archambeault circulated some
5 questionnaires. I'm going to ask this question. But if
6 you don't want to answer it, just say 'no.' Did you
7 fill out one of his questionnaires?" "No."

8 Then we go on to this colloquy: "Did 'no' mean you
9 didn't or did 'no' mean you didn't want to answer?"

10 Now, you didn't precede all of your questions to
11 Mr. Bisky by explicitly counseling him that he didn't
12 have to answer any of those questions, did you?

13 A No.

14 Q While you made some general reference at the beginning
15 of the interview to it being voluntary or words to that
16 effect, don't you expect, Dr. Hulin, that Mr. Gallo
17 having explicitly told Bisky that he didn't have to
18 answer that question -- that is, about answering
19 Archambeault's questionnaire -- and that all he had to
20 do was say no, in fact, elicited the response, "No, I
21 decline to answer"?

22 A Since it was part of the question, it certainly was part
23 of the stimulus that Mr. Bisky was responding to.

24 Q If that same stimulus was not present for the rest of
25 the questions, Mr. Bisky may not have been so stimulated

1 when he answered the other things you asked him?

2 A I'm not sure part of the stimulus was not what he
3 responded to, because I tried to make it quite sure that
4 he didn't have to do it. He could get up and leave
5 anytime he wanted to. He didn't have to answer any of
6 the questions.

7 Q Did you repeat it other than in your introduction,
8 whatever you had to say about the voluntary character of
9 the answers?

10 A No, sir, I didn't.

11 Q Page 2, Bisky Transcript, Line 14, "I also will stress
12 that we are not here investigating you." This is you
13 talking now. "That is not our purpose. We want to find
14 out what is going on out there. We are asking you to
15 cooperate and give us your frank answers to the
16 questions that we have. You should feel free to leave
17 if you don't want to cooperate. Let me stress that at
18 the start."

19 Now, that's all you had to say on the subject of
20 declining to answer, isn't it?

21 A I believe so.

22 Q He didn't get up and leave at that point, Bisky?

23 A No, sir.

24 Q Now, you were informed on a number of matters in your
25 response to Mr. Miller that you were uninformed about

1 when I asked you Monday a week ago.

2 Do you recall me asking you what the notation on
3 Mr. Noble's notes, "463 425 NP," meant? You said you
4 didn't recall except that it was an elevation?

5 A Initially I said I didn't recall. We sat there, and I
6 believe by the time we were done with our little
7 colloquy on it, that I had said, "I believe that
8 represents the location of the upper cable spreading
9 room."

10 Q Gee, that's not in my notes, Dr. Hulin, and I don't
11 happen to have a verbatim transcript of what went on
12 that night.

13 MR. MILLER: It's my recollection, your
14 Honor.

15 MR. GUILD: It's not mine, Mr. Miller.

16 MR. MILLER: This kind of badgering of the
17 witness has no place in the hearing room.

18 JUDGE GROSSMAN: Mr. Miller, I don't think
19 it's proper for you to say that at this point.

20 What Mr. Guild says is not evidence, and you're
21 aware of that. He's entitled to question the witness on
22 that, and I don't want to go any further and prompt the
23 witness.

24 But I think that by arguing this in front of the
25 witness, you are, in effect, prompting the witness, and

1 I don't think that should be done.

2 MR. MILLER: Your Honor, my comment was made
3 only after an editorial comment by Mr. Guild after the
4 witness answered.

5 JUDGE GROSSMAN: Well, yes, and I'm saying
6 that, Mr. Miller, there's nothing improper about Mr.
7 Guild making that editorial comment and soliciting the
8 witness' answer.

9 I really don't think that we ought to argue that
10 any further in front of the witness.

11 BY MR. GUILD:

12 Q In any event, Dr. Hulin, between the time that you and I
13 spoke the other week -- in fact, between the time that
14 this Board required Commonwealth Edison to turn over
15 those verbatim transcripts of the interview, you have
16 reviewed those transcripts, have you not --

17 A Yes.

18 Q -- in preparation for your testimony?

19 A Yes.

20 Q And when did you do that, Dr. Hulin?

21 A What's today, sir; Tuesday?

22 Q Yes. Time flies.

23 A Bear with me. I'll get my answer.

24 I did most of it this past weekend.

25 Q All right, sir.

1 Now, you didn't review the transcripts when you --
2 before you took the stand -- strike that.

3 You didn't review the transcripts before you
4 reached the determination that your testimony should be
5 circulated in this proceeding unchanged from the form in
6 which you submitted it to the company; correct?

7 A I relied on my notes.

8 Q How about answering the question directly?

9 Did you review the transcripts before you reached
10 that determination, sir?

11 A Yes.

12 Q You did?

13 A Yes.

14 Q So you read the transcripts once after you had the
15 interview?

16 A Yes.

17 Q Then you didn't rely solely on your notes; you relied on
18 the transcripts as well as your notes?

19 A I guess it's a shade of meaning.

20 I read my notes. I was convinced that I did not
21 need to change my testimony. Since the transcript was
22 available, I said, "I'll spend the time and I'll read
23 it," and I did.

24 MR. GUILD: Mr. Chairman, I'd just simply ask
25 the record to note that that's inconsistent with the

1 representations counsel made when counsel insisted that
2 this witness relied only on his notes and not on the
3 transcripts in preparing his testimony.

4 BY MR. GUILD:

5 Q All right, sir.

6 Then you read them again last weekend?

7 A Yes.

8 Q Now, Dr. Callihan asked you some questions about the
9 issue of measurement, and you drew the distinction
10 between measurement of subjective or -- I'm looking for
11 the word you used, and frankly it doesn't come to mind
12 immediately -- those qualities which are not susceptible
13 of objective measurement, such as height.

14 I think you used that comparison. You compared
15 height to, say, job satisfaction.

16 A Yes.

17 Q An issue of a measurement of perception, in the case of
18 job satisfaction, as contrasted with one of objective
19 qualities that are subject to fairly well-defined units
20 of measure?

21 A Yes.

22 JUDGE GROSSMAN: I believe there was a word
23 of "assessment" in there. I don't know if that's the
24 word that you were looking for.

25 MR. GUILD: No.

1 BY MR. GUILD:

2 Q But you talked about -- you characterized I think job
3 satisfaction as a trait that was -- "subjective" is the
4 word I'm using, but that was not your own.

5 Did you have a word that characterized those
6 things, such as intelligence, job satisfaction?

7 A Those generally represent unobservable traits.

8 Q Thank you. That's what I was looking for.

9 Now, in the case of a behavioral trace, T-R-A-C-E,
10 measure, those are objective indicia of qualities that
11 themselves may not be externally observable, such as job
12 satisfaction, for example?

13 A They may be, yes.

14 Q Such as, for example, absenteeism.

15 Absenteeism as measured by whether people show up
16 for work or don't show up for work and at rates they
17 show up for work or don't show up for work -- that is a
18 behavioral trace that may be associated with job
19 satisfaction?

20 A Yes.

21 Q All right.

22 In the case of the CSR and PTL data, you used the
23 term "behavioral trace"; and that is a measure of work
24 performance, which may or may not effectively measure
25 the not-readily-observable trait of inspector accuracy?

1 A I tried to characterize that as a measure of the
2 accuracy of their work performance, yes.

3 Q All right, sir.

4 Well, it's not a direct measure, though, is it?

5 A Not in the way I would use "direct," no.

6 Q In fact, their work performance, as we agreed I think in
7 our first round of this discussion, involves a variety
8 of characteristics that may not all be captured by a
9 single measure; in this case, agreement rates?

10 MR. MILLER: Your Honor, I believe that this
11 examination is beyond the scope of any of the cross or
12 redirect or Board questions and indeed is getting into
13 the same area that Mr. Guild has just acknowledged he
14 discussed with Dr. Hulin on his original examination.

15 MR. GUILD: I'll be brief, Mr. Chairman, and
16 I don't intend to either -- I'm simply addressing this
17 question of measurement that I think was raised by Dr.
18 Callihan, but I don't intend to pursue it at length.

19 JUDGE GROSSMAN: I am somewhat reluctant to
20 rule that out. I'm not quite sure as to the scope of
21 Dr. Callihan's questions, so we'll allow one or two
22 brief questions in the area.

23 MR. GUILD: There was a pending question.
24 Let me see if I can try it again.

25 BY MR. GUILD:

1 Q You have not done any empirical study of the work
2 performance of Quality Control Inspectors so as to be
3 able to establish whether or not agreement rates are an
4 effective measure -- that is, a behavioral trace measure
5 -- of Quality Control Inspector work performance, have
6 you?

7 A Other than informing myself of the procedures, no.

8 Q All right, sir.

9 And it's in that sense that they are the best
10 available measure?

11 You hadn't determined whether they were an
12 effective measure; they're simply, in your opinion, the
13 best available measure.

14 True?

15 A That's correct.

16 Q All right, sir.

17 Now, you inquired into the existence of other
18 measures of Quality Control Inspector work performance.

19 Do you recall that testimony?

20 A Yes.

21 Q And what inquiries did you make on that score, sir?

22 A I was basically asking what else exists in the data bank
23 that we can use to make a determination of the care, the
24 accuracy, the quality of the work of the QC Inspectors.

25 Q Okay.

1 Did you suggest what you were looking for? Did you
2 ask if a certain thing -- a certain type of data
3 existed?

4 A Yes.

5 I asked, for instance, "Are the number of them
6 available," and I was -- a number of inspections -- "Are
7 they available?" I was told, "Well, we could probably
8 provide you with the number that were done per person."

9 On reflection, it didn't seem to be relevant to me.
10 I didn't pursue it any further.

11 Q Did they ever provide you with any productivity data,
12 measures of rates of production, inspections per unit of
13 time?

14 A No, sir, not by individual, no.

15 Q And you didn't pursue the matter?

16 A No, sir.

17 Q Did you suggest any other measures?

18 A I don't recall, sir.

19 JUDGE GROSSMAN: Excuse me, Mr. Guild. I
20 think you are going beyond the scope.

21 MR. GUILD: Yes, sir. That's all I have on
22 that subject.

23 BY MR. GUILD:

24 Q You testified that, in your opinion, since none of the
25 interviewees raised the question explicitly of the

1 Comstock inspector status reports, that you concluded
2 from that absence of information that inspectors placed
3 no importance on them, those status reports; true?

4 A I believe I said "no" or "very little" importance. I
5 may have modified it a little bit.

6 Q All right, sir.

7 That assumes, does it not, Dr. Hulin, that your
8 invitations to hold forth -- invitations to these
9 inspectors to hold forth on the subjects contained in
10 your questions would have effectively elicited
11 information that you did not ask directly about; isn't
12 that so?

13 A Yes, because we asked them -- I mean, I asked them about
14 production records and quotas and so forth, and at no
15 time did they avail themselves of the opportunity of
16 talking about -- even mentioning -- them.

17 So I assume it certainly wasn't uppermost in their
18 mind.

19 Q You assumed it wasn't uppermost in their mind on the
20 assumption that whatever questions you posed to them
21 would have elicited that information.

22 That's your assumption, is it not?

23 A Yes. Since they were perfectly willing to talk about
24 quotas that the craft had, which they said, it sure as
25 hell didn't bother me any. They were perfectly willing

1 to talk about that.

2 Q One or more inspectors said something about craft
3 quotas?

4 A One or more.

5 Q Right.

6 Well, you are aware, aren't you, that in Edison's
7 own case in this proceeding, their direct case, that
8 they present extensive evidence about what status
9 reports are and that when inspectors are asked direct
10 questions about status reports, they expressed concerns
11 about the misuse of those production records to, in
12 effect, set and enforce quotas for their work?

13 A No, I'm not.

14 Q You stated that you gave these inspectors every
15 opportunity to blame the system or blame others for
16 improperly performed inspections.

17 Do you know what the consequence to an inspector
18 would have been of that inspector having acknowledged
19 that they had performed an improper inspection for
20 whatever reason; under the duress of production
21 pressure, for whatever other reason, justified or not?

22 A I'm not aware exactly of what would have happened.

23 I am aware that they could have phrased it, "Well,
24 you know, you don't really" -- "You're rushed and you
25 may, you know, cut a corner here and there." They did

1 not say that.

2 Q But they said kind of like -- I had clients come in like
3 this, and they'd say, "Mr. Guild, I have a friend, and
4 my friend has got a problem. Let me ask you about
5 that."

6 Whenever I hear that story about that friend, I
7 sort of think, you know, "Well, it's probably your best
8 friend: It's probably you."

9 When you got answers from these inspectors saying,
10 "No, I never did bad work, but, you know, I believe it's
11 been done," they gave you these sort of answers that
12 suggested, "I'm not going to point the finger at
13 anybody," and they didn't ever point the finger at
14 anybody, but they said, "I believe there has been some
15 improper work done," isn't that the same kind of
16 phenomenon, Dr. Hulin, of the worker, in essence,
17 telling you in the most discreet but direct way they can
18 that yes, they believe that bad work has been done,
19 maybe even by them?

20 A No.

21 Q Now, you mentioned, in response to Mr. Miller's question
22 on a related point, that, gee, Mr. Bisky volunteered
23 that he was aware of improperly performed work and
24 doesn't that, in effect, establish that these people
25 were forthcoming about this threatening matter.

1 Do you recall that testimony?

2 A I believe so.

3 Q Well, now, in fact, Mr. Bisky was telling us that in the
4 instances that he identified, he had reported the cases
5 already to supervision.

6 He identified the instances where others had failed
7 to note rejectable conditions, and he had told
8 supervision and perhaps even the inspector involved in
9 the deficient inspections, "You missed these things," in
10 effect, Transcript 73 of the Bisky interview.

11 Do you recall him telling you that?

12 A Yes, sir.

13 Q All right. So Mr. Bisky was telling you about a
14 circumstance that was not incriminating to him.

15 It was a circumstance where he, Bisky, had observed
16 improper work in the field and had done what he was
17 supposed to have done; that is, reported the defective
18 conditions?

19 A Yes, sir.

20 Q In that sense Mr. Bisky's answer doesn't incriminate him
21 at all, does it?

22 MR. MILLER: Excuse me.

23 A No.

24 MR. MILLER: Your Honor, I don't believe --
25 well, the witness is answering based on Mr. Guild's

1 representation regarding the transcript. I just don't
2 read it the same way.

3 MR. GUILD: Well, Mr. Chairman, perhaps Mr.
4 Miller would like another crack at this line when he has
5 his turn, but I don't think this is a proper point for
6 Mr. Miller to get his further direct examination in.

7 JUDGE GROSSMAN: Well, if the witness is
8 being misled, we will hear Mr. Miller.

9 Is that an incorrect statement that the witness
10 agreed to, Mr. Miller?

11 MR. MILLER: I believe so, your Honor.

12 MR. GUILD: Let's excuse the witness and have
13 Mr. Miller tell us on the record what's misleading about
14 the statement, please, Mr. Chairman. I don't want the
15 witness coached anymore on this point.

16 MR. MILLER: I don't want to coach him,
17 either.

18 JUDGE GROSSMAN: Well, we'll excuse the
19 witness because Mr. Miller may bring this up on
20 redirect. But otherwise the witness had already
21 answered the question.

22 So, Dr. Hulin, could you please step out in the
23 hallway for a moment?

24 (Witness excused.)

25 MR. MILLER: As I understood Mr. Guild's

1 question, he asserted that at those pages of transcript,
2 Mr. Bisky, in effect, had done everything he was
3 supposed to do by writing up the non-conforming
4 condition, when, in fact, as I read those pages of the
5 transcript, Mr. Bisky says, "I'm not there to baby-sit
6 him, either; I'm there to do my job."

7 MR. GUILD: Where are you referring to?

8 MR. MILLER: Page 73, Lines 16 and following.

9 "But on the same behalf, rather than writing up all
10 his work, I feel that he should go back with his crew
11 and take care of the matter." On the next page --

12 JUDGE GROSSMAN: You have to go a little
13 slower because the Reporter has to take that down.

14 MR. MILLER: I'm sorry.

15 Line 3:

16 "Q So you essentially have to come along
17 behind him and help?

18 "A If I was to write it up, I would have to
19 come along behind him. I don't. I call
20 it to his attention.

21 "Q But it is then your understanding that he
22 corrects it?

23 "A Yes."

24 I believe that's contrary to the premise that was
25 expressed in Mr. Guild's question.

1 MR. GUILD: It seems to me to be exactly what
2 I said, but I'll be happy to give him the specific
3 quotation that Mr. Miller referred to as well as the
4 rest of the testimony -- or the statement given so that
5 we can have it complete and we won't have to quibble
6 about it.

7 I have no quarrel with having the witness review
8 the actual transcript and consider if that affects his
9 testimony.

10 JUDGE GROSSMAN: Well, to the extent that the
11 transcript is at variance with what the witness said, we
12 will accept what the transcript said. I believe there
13 is some variance between what he agreed to and what was
14 said.

15 You can recall the witness.

16 That is, what was said in the transcript.

17 MR. GUILD: Could I ask the Reporter if there
18 is a pending question?

19 (The record was thereupon read by the
20 Reporter.)

21 MR. GUILD: Mr. Chairman, I have no further
22 questions. I think that's an accurate statement of the
23 interview and a complete response by the witness.

24 If Mr. Miller wants to have the full statement put
25 in the record, that's fine by me, too.

1 JUDGE GROSSMAN: The full statement is in the
2 record now, so we'll be governed by what the full
3 statement said, as to whether that agreement of the
4 witness was legitimate.

5 MR. GUILD: Let me just be clear, Mr.
6 Chairman. I think I'd better do this. I don't think it
7 is in the record, because the Bisky transcript is not in
8 as of now.

9 JUDGE GROSSMAN: Okay. Read the question and
10 answer.

11 BY MR. GUILD:

12 Q Dr. Hulin, let's look at this Bisky question once more
13 if I can find it.

14 MR. GUILD: 73?

15 MR. MILLER: 73.

16 BY MR. GUILD:

17 Q Dr. Hulin, do you have a transcript of Mr. Bisky's
18 interview before you?

19 A Yes, I do.

20 Q Okay. I'm looking at 73. You asked the question:

21 "Q Carl, you said that some inspectors are
22 awfully vague. What do you mean by that?"

23 "A Well, I made the statement before that
24 instead of writing up an ICR over
25 something simple that doesn't involve a

1 serious problem -- let's say missing tags
2 or a grip improperly hung -- I will check
3 the cable number and call up the office
4 and verify what inspector did it, and
5 it's developed to a point now where I've
6 got one particular inspector on five
7 different occasions. He is upset. He
8 says it's none of my business, which I
9 guess would be true. I'm not a Lead.
10 I'm not there to baby-sit him, either;
11 I'm there to do my job. But on the same
12 behalf, rather than writing up all his
13 work, I feel that he should go back with
14 his crew and take care of the matter.

15 "Q So when you say you think he is vague,
16 you think he is being a little sloppy
17 with his inspections?

18 "A Yes. I feel that he is not performing
19 his job correctly.

20 "Q So you essentially have to come along
21 behind him and help?

22 "A If I was to write it up, I would have to
23 come along behind him. I don't. I call
24 it to his attention.

25 "Q But it is then your understanding that he

1 A Yes, he did that.

2 MR. GUILD: All right.

3 Mr. Chairman, that's all the questions I have.

4 MS. CHAN: No further questions.

5 JUDGE GROSSMAN: Before Miss Chan, I have
6 just one question -- or a couple of questions.

7 BOARD EXAMINATION

8 BY JUDGE GROSSMAN:

9 Q Dr. Hulin, you responded to Mr. Miller's questions with
10 regard to the area of whether inspectors that you
11 interviewed indicated that they were aware of improperly
12 accepted inspections, and you answered the question with
13 regard to two instances in which -- one instance in
14 which the inspectors involved were terminated. That's
15 the Arndt affair, and I forget the other inspector --

16 MR. MILLER: Hunter.

17 BY JUDGE GROSSMAN:

18 Q -- Hunter and Arndt, and the other instance in which Mr.
19 Archambeault wrote up the cable spreading violation.

20 Isn't that correct, sir?

21 A Yes, sir.

22 Q And you also refer to statements in which there were
23 indications of sloppy work, but no particular instance
24 is mentioned with regard to rejectable conditions that
25 were accepted; isn't that correct, sir?

1 A I believe so.

2 Q All right.

3 Now, isn't it possible that these inspectors who
4 refer to these instances in which there was some
5 violation of the obligations of the QC Inspectors --
6 isn't it possible that when they refer to these
7 instances, that they were trying to tell you that maybe
8 there was something that wasn't completely right about
9 the circumstances but that they are going about as far
10 as they can in telling you about that situation without
11 actually incriminating themselves?

12 A I can only give you the answer I've given to Mr. Guild
13 many, many times: that in light of all the information
14 I got from all of these interviews, I did not think
15 that's what they were telling me.

16 Q But from what you've read in the case and from what you
17 understand from what you've heard here, doesn't it seem
18 possible to you that what they were answering, the cases
19 that they were mentioning and the general allegations
20 without any specificity, might have been as far as they
21 could go in answering your question without
22 incriminating themselves?

23 A That's a possibility, sir, but that was not my
24 interpretation at the time.

25 JUDGE GROSSMAN: Okay.

1 Miss Chan?

2 MS. CHAN: Staff has no questions for Dr.
3 Hulin.

4 JUDGE GROSSMAN: Mr. Miller?

5 MR. MILLER: I just have one.

6 REDIRECT EXAMINATION

7 (Continued)

8 BY MR. MILLER:

9 Q Dr. Hulin, what effect, if any, did the prospect of
10 coming here and spending hours on the witness stand and
11 collecting your hourly rate for being a witness have on
12 your evaluation of the material that you heard during
13 the course of those interviews of the second shift cable
14 pulling inspectors?

15 A None, sir. I'm a professional psychologist, and I'm
16 well paid in my university job. My putting in extra
17 hours had no inference.

18 MR. MILLER: That's all I have.

19 JUDGE GROSSMAN: Fine. Thank you, Dr. Hulin.
20 You're excused.

21 (Witness excused.)

22 JUDGE GROSSMAN: Mr. Gardner?

23 MR. BERRY: Judge, can we have a five-minute
24 recess?

25 JUDGE GROSSMAN: Certainly. We'll take a

1 five-minute recess, and then we'll go on to --

2 MR. MILLER: How late do you plan on going?

3 JUDGE GROSSMAN: Pardon?

4 MR. MILLER: I say, how late do you plan on
5 going?

6 JUDGE GROSSMAN: Well, let's go off the
7 record now.

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

10 JUDGE GROSSMAN: Back on the record.

11 We will adjourn until tomorrow at 8:00 o'clock.

12 Mr. Berry?

13 MR. BERRY: Yes, I have one matter. Thank
14 you, Mr. Chairman.

15 Mr. Chairman, reviewing the transcript from the
16 September 12th hearing session, I noticed that the
17 transcript doesn't include a copy of the prefiled
18 testimony of Mr. Little. I suspect it's probably Staff
19 counsel's fault for not making a copy of that available
20 to the Reporter.

21 I have done that now, but what I would propose, Mr.
22 Chairman, is that we mark Mr. Little's testimony as an
23 exhibit and have it travel with the record. I believe
24 all the other parties have a copy of that.

25 JUDGE GROSSMAN: Okay.

1 MR. BERRY: I would propose it be marked now
2 as Staff Exhibit 26 --

3 JUDGE GROSSMAN: Okay. That's fine.

4 JUDGE COLE: Do you have extra copies of
5 that?

6 MR. BERRY: -- and be received in evidence.

7 JUDGE GROSSMAN: So that is marked as Staff
8 Exhibit --

9 MR. BERRY: 26.

10 JUDGE GROSSMAN: -- 26 and received in
11 evidence.

12 (The document was thereupon marked Staff
13 Exhibit No. 26 for identification as of
14 November 25, 1986.)

15 (The document was thereupon received into
16 evidence as Staff Exhibit No. 26.)

17 MR. BERRY: Mr. Chairman, I'm just reminded
18 that I believe there were portions of it stricken.

19 MR. GUILD: I thought so, too, but I wasn't
20 sure.

21 MR. BERRY: Mr. Chairman, I'm just reminded
22 that there was a motion to strike Mr. Little's
23 testimony, and some parts of it were granted.

24 What I would ask, Mr. Chairman, is that Staff
25 Exhibit 26 be received subject to the limitations and

1 the ruling that the Board made at the time Mr. Little
2 testified that is reflected in the September 12th
3 transcript.

4 JUDGE GROSSMAN: Yes, that's precisely what
5 we had in mind, Mr. Berry, so we're admitting that,
6 subject to what has been stricken.

7 JUDGE COLE: Mr. Little was on the stand on
8 Friday, September 12th.

9 JUDGE GROSSMAN: We're adjourned until
10 tomorrow at 8:00 o'clock.

11 (WHEREUPON, at the hour of 5:30 P. M., the
12 hearing of the above-entitled matter was
13 continued to the 26th day of November,
14 1986, at the hour of 8:00 o'clock A. M.)
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CERTIFICATE OF OFFICIAL REPORTER

This is to certify that the attached proceedings before the UNITED STATES NUCLEAR REGULATORY COMMISSION in the matter of:

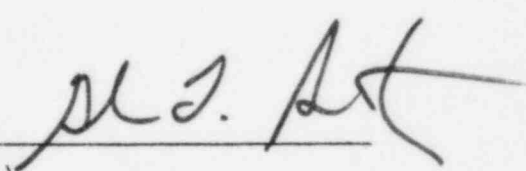
NAME OF PROCEEDING: BRAIDWOOD STATION
UNITS 1 & 2
COMMONWEALTH EDISON

DOCKET NO.: 50-456/457-OL

PLACE: CHICAGO, ILLINOIS

DATE: TUESDAY, NOVEMBER 25, 1985

were held as herein appears, and that this is the original transcript thereof for the file of the United States Nuclear Regulatory Commission.

(sig) 

(TYPED)

Official Reporter

Reporter's Affiliation