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EXHIBIT 12

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EXHIBIT 12

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

- - - - -X.
IN THE MATTER OF: :
INTERVIEW OF PAUL EVANS :
(CLOSED) :
- - - - -X

Hampton Inn
5604 Seminole Avenue, Room 120
Lynchburg, VA 24502

Wednesday, November 12, 1997

The above-entitled matter came on for interview,
pursuant to notice, at 5:25 p.m.

BEFORE:

JOSEPH ULIE, Investigator

ANN RILEY & ASSOCIATES, LTD.
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1250 I Street, N.W., Suite 300
Washington, D.C. 20005
(202) 842-0034

EXHIBIT 12
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C O N T E N T S

WITNESS

EXAMINATION

PAUL EVANS

BY MR. ULIE

4

E X H I B I T S

NUMBER

IDENTIFIED

RECEIVED

[None.]

P R O C E E D I N G S

[5:25 p.m.]

MR. ULIE: Today's date is November 12th, 1997 at approximately 5:25 p.m., Eastern Time.

For the record, this is an interview of Mr. Paul Evans, last name spelled E-v-a-n-s, who was formerly employed by Morrison Knudsen Corporation.

This interview is being conducted at a Hampton Inn Hotel located at 5604 Seminole Avenue, Lynchburg, VA 24502, in Room 120.

Present at this interview is Joseph M. Ulie, last name spelled U-l-i-e, Special Agent with the United States Nuclear Regulatory Commission Office of Investigations.

As agreed, this interview is being tape recorded by Court Reporter Mark Mahoney. The subject matter of this interview concerns an NRC investigation initiated to determine if Mr. Allen Artayet, last name spelled A-r-t-a-y-e-t, was discriminated against for raising safety concerns.

Mr. Evans, if you would, please stand and raise your right hand I'll administer the oath.
Whereupon,

PAUL R. EVANS,
a witness, was called for examination by the United States Nuclear Regulatory Commission and, having been first duly

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1 sworn, was examined and testified as follows:

2 DIRECT EXAMINATION

3 BY MR. ULIE:

4 Q Why don't you begin for the record and identify
5 your full name or say your full name.

6 A My name is Paul Royal Evans. I live at [REDACTED]

7 [REDACTED] My home phone is

8 [REDACTED] And I presently am working for PCI Energy
9 Services. I guess at the time this took place, I was
10 working for SGT, which was an offshoot of Morrison Knudsen
11 and Duke Engineering Company.

12 Q Okay. That's fine. I'll prompt you with
13 questions, so that's more than enough.

14 What's your academic background?

15 A Basically no degree; high school. I have probably
16 30 college credits, a lot of different courses from American
17 Society of Metals, American Welding Society. I'm a CWI,
18 certified welding inspector. I've been a welding engineer,
19 a senior welding engineer, a practical engineer for BMW
20 Nuclear Technologies. Just a whole host of engineering
21 positions. Even though I don't have a degree, many years
22 ago, the NRC looked into my background, felt that I was
23 capable of holding an engineering title, so it's never been,
24 you know, a problem or anything else.

25 So presently, I'm a manager of weld engineering at

1 PCI Energy Services in Lake Bluff, Illinois.

2 Q And how many years have you generally been
3 involved in the welding area?

4 A Twenty years, 20 plus.

5 Q Okay. And you mentioned you were currently
6 employed by PCI.

7 A Energy Services in Lake Bluff, Illinois.

8 Q Do you know what PCI stands for? Is that an
9 acronym?

10 A Well, it's PCI Energy Services. It used to be
11 called Power Cutting, Inc., Incorporated, and they changed
12 the name to facilitate more of the power business, so they
13 called it Energy Services. So it is PCI Energy Services.

14 Q And when you worked at Point Beach, you were
15 actually employed by STG?

16 A SGT.

17 Q SGT.

18 A SGT, Steam Generator Team, which was a combination
19 of Duke Engineering and Morrison Knudsen.

20 Q So was Morrison Knudsen considered like the parent
21 company of SGT?

22 A Yes, it was. My paycheck said SGT.

23 Q All right. What were your dates of employment
24 with SGT?

25 A That would be July 14th, I believe, 1996 to

1 December 31st, I believe, within a couple days, both of
2 them.

3 Q All right. That's December 31st, '96 --

4 A Yes.

5 Q -- correct?

6 A Approximately six months.

7 Q Okay. What was your position that you held?

8 A Welding engineer, site welding engineer.

9 Q And were you stationed at Point Beach the entire
10 time?

11 A Yes. Yes, sir.

12 Q And why don't you just generally describe your
13 duties.

14 A When I got there, they were pretty far behind and
15 one of the things that I helped them do is to perform many
16 of their procedure qualifications to actually be able to go
17 in and do the steam generator changeout, the welding. They
18 were quite aways behind. So probably the first three to
19 four months, I facilitated working on procedures. I mean
20 like seven days, 14 hours a day -- it was pretty grueling up
21 front. And then after that, we started the steam generator
22 changeout and on that, I worked basically as a shift
23 engineer during the daytime, and I worked seven days,
24 twelve, 14 hours a day.

25 Q And when you say procedure qualifications, are we

1 talking the welding procedure qualifications?

2 A Welding procedures, right. The other things I
3 worked on as well were also welder qualifications themselves
4 to the procedures that we had qualified.

5 Q And who was your supervisor, if you remember?

6 A I have to try to remember his real name. We used
7 to all call him Rusty. Rusty Gorden, that's his real -- I
8 don't know what his first name was. We always called him
9 Rusty.

10 Q Can you spell his last name?

11 A G-o-r-d-e-n.

12 Q Okay. And what was his title?

13 A He was the -- he was site welding engineer as
14 well. Actually, he was over the welding engineers. He was
15 my boss.

16 Q Okay.

17 A I was one of the site welding engineers, and he
18 was our boss.

19 Q And as far as --

20 A Actually, his first name was Eugene. I just
21 remembered.

22 Q Okay.

23 A Eugene Gorden.

24 Q And Rusty was a nickname?

25 A Rusty is a nickname, yes.

1 Q All right. And as far as his chain of command?

2 A He went to Max Bingham. Max Bingham was the
3 project engineer or site engineer or -- I'm sorry -- site
4 manager.

5 Q Can you spell Max' last name?

6 A B-i-n-g-h-a-m, Bingham.

7 Q And then who did Max report to?

8 A Max reported to a vice president who was also
9 Allen's boss, an Italian guy. I can't remember his name.

10 Q Lou Pardee?

11 A That's it. Lou Pardee.

12 Q All right. Pardee is spelled P-a-r-d-i?

13 A P-a-r-d-e -- I believe it's P-a-r-d-e-e, I
14 believe.

15 Q Okay. All right. And do you remember a Marty --

16 A Yes.

17 Q -- last name spelling, C-e-p-k-a-u-s-k-a-s?

18 A Yes. Cepkauskas or something like that. Yes. He
19 was a -- let's see. He was somewhere in there. He was like
20 a project -- I think he was like the project manager and the
21 other guy was site manager, Max. I think that's how it
22 worked. Both of them were pretty high up there.

23 Q All right. Was there anyone else on site that
24 would have been considered at management level?

25 A Just the quality assurance manager, but he would

1 have reported to Max as well and --

2 Q Do you recall his name?

3 A Mike -- he's a big Green Bay Packer fan. What the
4 heck was his last name? I should have brought some of my
5 records. I can't remember his last name. I'll try and
6 remember.

7 Q How about a Chris McDonald? Do you remember him?

8 A Chris McDonald? Yes.

9 Q Where did he fit in the chain of command?

10 A I don't really know. I didn't deal with Chris
11 much, I didn't deal with Marty much.

12 Q Okay.

13 A You know, I just pretty much dealt with Rusty and
14 Max.

15 Q Okay. How about Mackie? Is there a Mackie?

16 A I don't know him.

17 Q All right. How about a Barry Ditzler?

18 A Oh, Ditzler, yes.

19 Q What was his -- do you know what his position was?

20 A He was sort of like just an all around gofer, more
21 or less -- you know, a guy -- he was knowledgeable in some
22 quality aspects, knowledgeable in some welding aspects. He
23 helped me a lot in the procedural qualifications, sort of
24 like an assistant engineer or a welding tech, more or less.
25 I would say probably more a welding tech. I don't know what

1 his pay name was, you know, like title, but I would say
2 probably a welding tech.

3 Q You mentioned Rusty Gorden being your immediate
4 supervisor.

5 A Right.

6 Q Who else reported to Rusty?

7 A We had another guy there, Don Shipira.

8 Q Could you spell his last name?

9 A S-h-i-p-i-r-a.

10 Q And he was also a welding engineer?

11 A I don't know what the guy was.

12 Q Was that his intended position, though? He was a
13 coworker of yours?

14 A Yes. I --

15 Q Okay.

16 A I don't know. I don't know what his title was.

17 Q Okay. And who else besides you and Don worked for
18 Rusty?

19 A There were two other guys, Don Huffstot,
20 H-u-f-f-s-t-o-t, I think, Huffstot, and there's one other
21 gentleman, and I can't believe I forgot his name. I
22 remember his wife's name. That's not good. Let me see. I
23 don't remember his name. I'll try and remember.

24 Q Okay. If you remember, just mention it.

25 Did you have a letter of delegation to issue

1 welding procedures?

2 A I don't believe that I ever really issued any.
3 There might have been one. I can't -- I don't remember if
4 it was me or Rusty who issued it. I think it was Rusty.
5 What I did was I prepared it, but I don't believe I issued
6 it, not from a signature standpoint.

7 Q Okay. Why don't you give a little background.
8 You're talking about the welding procedure?

9 A Right, the welding procedure specification.

10 Q Okay.

11 A We did all the PQRs --

12 Q And those are?

13 A The procedure qualification records.

14 Q Okay.

15 A And that qualifies a welding procedure. See, what
16 you do first is you perform a -- you sort of have a
17 guideline that you're going to weld by, and then you sort of
18 qualify that, and by doing that, you're running what's
19 called a procedure qualification record. All you're doing
20 is you're verifying that this material can be welded to this
21 material with this filler material, and you do all kinds of
22 testing on that, laboratory testing. They do bends in
23 tinsels, and that kind of stuff, hardness tests, Charpy
24 impact tests, post-weld heat treatment. Whatever the weld
25 in the field would see, this procedure is supposed to see,

1 and that's how you more or less qualify what you're going to
2 actually do in production.

3 Now, once you have your PQRs, you go ahead and you
4 actually have qualified now your WPS or your welding
5 procedure specification, and your welding procedure
6 specification is actually used by a welder in the field as a
7 guideline to make all of his production welds. And what we
8 did on site was we actually performed all the PQRs,
9 procedure quals, we sent all of the information to
10 corporate, corporate actually wrote them all and signed
11 them, you know, the final, because they had their own
12 format, and from there, he developed a welding procedure
13 specification and typically would send it out to us.

14 Now, earlier on in the project, Allen had a lot of
15 problems qualifying procedures. He ran -- I don't know --
16 anywhere between ten and 14 and most of them didn't go.
17 Most of them failed.

18 Q When you say ran ten and 14, what's the --

19 A Ten to 14 different procedures, different welding
20 tests.

21 Q Who actually had the responsibility for qualifying
22 the Point Beach --

23 A Allen.

24 Q -- project --

25 A Allen

1 Q -- specific?

2 A Originally Allen. That was a corporate function
3 per the QA manual and the welding manual.

4 THE REPORTER: It was a corporate function per
5 what?

6 THE WITNESS: Per the quality assurance manual and
7 the welding manual, and what Allen does is he can designate
8 people to do that, which he did with us.

9 BY MR. ULIE:

10 Q And that's what's called a letter of delegation?

11 A Well, not really for the procedure qual.

12 Q Okay.

13 A That would only be to issue a WPS on his behalf,
14 because the signature authority is still corporate, and
15 unless he designates somebody, you know --

16 Q For purposes of qualifying the welding procedures,
17 is there any form or designation or is it just that he
18 designates --

19 A Well, yes, he can designate somebody to go ahead
20 and do it. I mean, he was doing it until he couldn't do it,
21 so we were so short of time at that point in time that
22 that's when I came in and took over and more or less
23 completed it in a pretty timely fashion.

24 Q When did you actually get involved in that --

25 A In July when I first got there. I realized that

1 they were sort of sinking, because at the rate they were
2 going, they wouldn't have been complete in order to do
3 production welding. So one of my specialties is, you know,
4 I'm very good at procedures. I'm on ASME code committees,
5 so I am pretty familiar with the welding requirements and
6 techniques that have to be used and what have you.

7 Q Just as a matter of background, referring back to
8 your qualifications, which ASME code committees are you on?

9 A ASME subcommittee on general requirements, and I'm
10 also on the working groups for procedure qualification and
11 welder qualification. I work on some of the working groups
12 for those and help guys develop responses to code
13 interpretations, code cases, et cetera, and also new
14 information for technical data that's going to go into the
15 newer ASME section 9, whether it be the bear code or the
16 addendas.

17 Also I belong to some of the committees for
18 American Welding Society. There is a committee for putting
19 together welding technician certification, also one for
20 welding engineer, one for CWI. I've been on those either in
21 the past or am presently on them, over the last, gosh, I
22 don't know, 15 years, 17 years.

23 Q Going back to talking about the qualifying of the
24 welding procedures, how critical was it to meet the project
25 schedule or how strictly was the schedule followed?

1 A Very critical. Very critical. The reason being
2 is because every day that they're down, you know, you're
3 talking anywhere from a half million to a million to maybe
4 even more per day that they have to pay in replacement costs
5 for fuel and everything else, plus the extra time that
6 they're on site, you know, with the whole crew that they had
7 and the trailers and, you know, the whole nine yards, all
8 the rigging and, you know, anything extraneous, more time,
9 would cost more money and, therefore, would take away from
10 profit, which is obviously bottom line.

11 So that's one of the things that you always want
12 to try and maintain -- a schedule -- and obviously the best
13 would be to try and be ahead of schedule. But if all the
14 procedures originally had went that Allen tried to qualify,
15 they would have been in very good shape, and they could have
16 been even ahead of schedule, but it didn't work out that
17 way.

18 Q Say that one more time. If they would have --

19 A If all of the procedures that Allen originally ran
20 would have passed --

21 Q Then we're talking procedures that he ran -- the
22 PQRs?

23 A The PQRs.

24 Q Okay.

25 A The coupons, the welding coupons that he welded

1 up, if they had all gone the first time around and passed,
2 then the project would have been in pretty good shape. And,
3 you know, obviously they had, you know, budgeted time and
4 everything else for that, materials and -- but now, you see,
5 part of the problem is when you're getting into
6 qualifications for a steam generator replacement, you need
7 specific base materials to qualify with as well as filler
8 materials, you know, your welding rods and all that. You
9 just can't use any off-the-shelf item. And that's part of
10 what Allen's problem was -- he did not have the correct
11 materials, and ultimately what happened was he had failures.

12 Q Who directed the PQRs to be run for Point Beach
13 project, do you know?

14 A Corporate, I guess. I mean, it would come from
15 the contract -- you know, once a contract is let and once
16 you get a contract, somebody in corporate makes a decision
17 that the PQRs have to be run, and then they also make the
18 decision what has to be run.

19 Typically when you're doing the bidding, those are
20 the kinds of things that you look for. You look at the
21 requirements of the job, the code that's being used, and
22 from that, that's how you develop your procedures -- what
23 kind of materials is the steam generator, what kind of
24 materials is the existing piping, and then you go buy the
25 materials accordingly, your filler materials for welding and

1 your base materials for your qualification.

2 Q Do you know how the interface between project and
3 corporate worked? Were you involved in that at all?

4 A Not very long.

5 Q As ar as cooperation that existed between the
6 project and corporate --

7 A Well, before I got there, there was some kind of
8 -- something happened, I don't know what it was. I think
9 part of the problem was Allen having so many problems that
10 the site lost faith in the guy because, to be honest with
11 you, from a professional standpoint, he didn't do a very
12 good job. And I think the site more or less after that sort
13 of wrote him off, if you know what I mean. You know, not --
14 they can't do it totally, but I mean as far as cooperation
15 goes. You know, why cooperate with somebody that doesn't
16 even know what they heck they're doing. I think that's sort
17 of the stance that a lot of people looked at, not that that
18 that's the right thing, but, you know --

19 Q From the project side of the house, the people
20 that were at Point Beach, who gave you that impression or
21 who talked like that?

22 A Pretty much management.

23 Q Be specific. You know, when you -- that's kind of
24 a broad, you know --

25 A I know. I'm trying not to name names. Probably

1 the two people I think that had the most -- would be Rusty
2 and Max.

3 Q That you had interface with?

4 A Yes. Yes. They were pretty disgusted on his
5 knowledge and, you know, what had taken place and how far
6 behind they were. I mean, they -- you know, Allen didn't
7 realize it, but he was putting these guys in a hell of a
8 fix. I mean, here they are, they're coming up, they have
9 like less than two months left to start the job, and they
10 don't have any procedures qualified yet. You're talking
11 serious stuff here.

12 Q Was it that corporate or Allen's recommendations
13 were considered overly conservative or that he just was
14 being viewed as --

15 A Both. Both.

16 Q -- incompetent?

17 A There are some things that SGT corporate did that
18 weren't required; they still do it today. They do a lot of
19 stuff. They make everything so conservative that it just --
20 you know, it kills the project, kills the site, you know.
21 They do so many things extra that there is no need for. So
22 what that shows you is a lack of experience, in my opinion.

23 Q On Allen's part?

24 A On corporate's part, period, QA and also in
25 engineering, welding engineering.

1 Q So there was somewhat of a belief on the project
2 side of the house that not all the PQRs needed to be done
3 that Allen --

4 A No, I wouldn't say that. I would say at times
5 that there was extraneous testing that was performed or
6 ideas on how testing should be performed that were over and
7 above what the Code required.

8 As a matter of fact, I think even the NRC had a
9 concern on a couple of items. One of them had to do with
10 heat input and I think the NRC was wrong personally because
11 I know how the whole industry runs heat input from Charpy
12 impacted procedures, and it sure isn't like the way that the
13 NRC thought -- you know, his thought process was, the
14 thought process being that testing would be complete on the
15 exact highest heat input pass and in reality, that's almost
16 an impossibility to even figure out, you know, from the
17 standpoint of trying to find it in a weld, you know? So I
18 think it's quite impractical. And Allen also came up with
19 that same thought pattern. I don't know if it was because
20 of the NRC or what. I think it was actually before that,
21 but we had told him that that's not standard industry, you
22 know, practice on how it's done.

23 Highest heat input is normally somewhere in that
24 weld and the weld is generally -- the whole thing is
25 considered heat impact tested or heat intensified tested

1 whenever you go ahead and do your Charpy impact, whether
2 it's for the weld metal or the heat affected zone or the
3 base metal.

4 Q Based on your knowledge, do you know if Rusty
5 Gorden was assigned to work on the site specific welding
6 procedure specs?

7 A I think so. I think he was asked to redo --
8 because I think -- as a matter of fact, I think I had some
9 input in that. On some of the procedures that were out
10 there, we revised them and we sent it back to corporate. I
11 believe -- gosh, I can't remember if we ended up signing
12 some of them there. It wouldn't be me, but it would have
13 been Rusty.

14 Q What would -- would he have been signing the PQRs?

15 A No. That would have been just I think the -- see,
16 you said the welding specifications.

17 Q Right. Right.

18 A That's a little bit different.

19 Q Okay.

20 A Welding specifications are basically how you run
21 your program overall.

22 Q Okay.

23 A Okay? When you get down to actual welding
24 procedure specifications, that's what you use to actually do
25 a weld, and then your PQR backs that up as supporting

1 evidence or documentation.

2 Q So what you were referring to that Rusty would
3 have signed, would that have been --

4 A Was the general program.

5 Q Okay. The welding procedure specs?

6 A Well, no. Just the welding specifications
7 concerning the site specific stuff.

8 See, when you have like a corporate welding
9 program --

10 Q Yes.

11 A -- it encompasses basically how the whole
12 corporation does business.

13 Now, sometimes when you go to a site, you will
14 write a site specific procedure --

15 Q Right. Okay.

16 A -- for welding in general.

17 Q All right. I understand. What you're saying is
18 there is a corporate welding procedure spec --

19 A Yes, sir.

20 Q -- and there's also site specific or project
21 specific, depending on what --

22 A Right. And I can't remember if Allen signed
23 those. You know, I think Rusty would have put it together,
24 probably would have gotten input from Allen, I'm sure,
25 because Allen was pretty tight on what --

1 Q For the Point Beach project --

2 A Right.

3 Q -- specific.

4 A Yes. I'm thinking he would have shown it to him,
5 and if Allen had a problem or something, you know, they
6 would have talked it out. I mean, they did have some
7 cooperation. I mean, they had to. That was quite a large
8 undertaking. But I've seen it a lot better before. I mean,
9 there was always a hint of a problem there, you know?

10 Q Did you work with Rusty at all on the site
11 specific welding procedures?

12 A Yes. Yes. As a matter of fact, I believe I
13 reviewed them in many cases for him.

14 Q And during what time period was that?

15 A That was probably -- after we got the procedures
16 qualified, we had a little bit of time left over, and I
17 think it was in that time frame.

18 Q Okay. You said when you first started was July
19 14th of '96? And pretty much right after you started, you
20 got involved in qualifying the PQRs; is that right?

21 A Right away, yes.

22 Q And how long a period was that and when did the
23 site specific weldings --

24 A Well, I guess it was probably 30 to 45 days before
25 I actually got involved in procedure quals because we were

1 starting to get back information that the tests were failing
2 and then I think, at that time period, I realized, hey, we
3 better go ahead and order materials even if, you know, a
4 couple -- the next couple were okay, you know, just so we
5 have them, because it takes sometimes a couple days to a
6 week, maybe longer, to get materials, you don't know.
7 Because these are special materials, you've got to ask for
8 certain criteria with the material.

9 Q And this is to run the PQR?

10 A This is to run the PQRs.

11 Q Okay.

12 A And basically it's code, you know, related
13 information that you need.

14 Q So that would have been in the August time frame
15 we're talking about?

16 A I believe so.

17 Q And then how long did it take -- and I realize you
18 don't have any documents in front of you, but to the best of
19 your recollection --

20 A I think a couple -- within two or three weeks, we
21 had reviewed and made comments. I know I made a lot of
22 comments to the site stuff that we were using because, you
23 know, a lot of times, corporate stuff, what you may have in
24 corporate you don't have in the field on that specific job,
25 so it's not really applicable.

1 Q So when did you -- when did you feel that you were
2 actually done with the PQRs for the project?

3 A Gosh. I'm trying to remember when the job
4 started. Do you know that, when the actual generator was --

5 Q No, I don't.

6 A I would say sometime before October.

7 Q And then the project specific welding procedures
8 then were from the October time frame on?

9 A Yes. Maybe October, beginning of October to --
10 maybe even a week back, maybe like the last week, the 21st
11 of September.

12 Q And based on your own knowledge, did the project
13 interface with Allen? Was that the corporate contact or was
14 there anyone else that the project was actually in contact
15 with?

16 A Well, there was another guy -- Andy -- he's the
17 corporate QA. Andy --

18 Q Walcutt?

19 A Walcutt, yes. Thank you.

20 Q Is that W-a-l-c-u-t-t?

21 A I believe so.

22 Q And as far as -- what was your association with
23 Allen?

24 A Well, I was, believe it or not, the only guy that
25 would pretty much talk to him on site. Nobody else really

1 wanted to even bother with the guy. So I was pretty much
2 the guy that was constantly in contact with him.

3 The only problem that I had was Allen could never
4 make decisions. He always had to bring somebody else on the
5 phone, and the other guy was Andy Walcutt, and he's a QA
6 guys, and what he knows about welding is pretty pathetic.
7 So that was another reason we had so many problems.

8 Q So as far as your association with Allen, during
9 the project, you did have some firsthand discussions with
10 Allen himself --

11 A Sure. Oh, I hollered at him on the phone many a
12 time.

13 Q And is that because Rusty and Allen weren't
14 getting along?

15 A Yes. They didn't even -- Rusty really didn't even
16 -- you know, he designated me to talk with him as the
17 corporate more or less --

18 Q Like a liaison --

19 A Yes.

20 Q -- between the --

21 A Right.

22 Q -- project and corporate?

23 A Which, you know, was probably the best thing
24 because, you know, I was a lot more open-minded.

25 Q What was Allen's relationship with Rusty?

1 A It was there. I mean, it was just more or less
2 because it had to be. If Rusty had to talk to him, he
3 would, but otherwise, he wanted me to more or less dicker
4 with him or, you know, develop a relationship between him
5 and I, which, you know, we were friends anyway, so --

6 Q What was at the heart of this problem between
7 those two?

8 A Well, I think the way Allen conducted himself, you
9 know, number one, being so conservative. You know, these
10 sites, I mean, they have budgets, they have everything else,
11 and I don't know how much money Allen cost us up front by
12 ordering all those materials and, you know, having somebody
13 weld all these things out, sending them in to get tested,
14 the testing failing, and then having to go ahead and re-run
15 all these, buy all new materials, except now the materials
16 are being bought correctly and cost more.

17 So I mean, it just -- it cost the site a lot of
18 extraneous money because of Allen, and then sometimes there
19 was extraneous tests that he may have performed once in a
20 while that, you know, we felt on site didn't need to be
21 done. Specifically I couldn't tell you which ones, but --
22 what else? I think it was just his lack of in many cases
23 being able to make a decision. That was another one. You
24 know, he would always have to bring Andy on the phone. It's
25 like he was a puppet. I mean, it's like the guy could never

1 give you an answer; he always had to go to somebody else.

2 Q And do you know if these comments, then, were
3 conveyed up the chain to corporate?

4 A Sure.

5 Q And who was doing what? Rusty was talking to Max?

6 A Either that or I would talk to Max. Max would ask
7 me. He would ask how are we doing with Allen or -- you
8 know, and I would tell him, you know, well, you know, we're
9 here, we're there, you know. Is there any problems? Well,
10 other than the fact that, you know, he wants to do this or
11 he wants to do that.

12 You know, I was up front with everybody. I mean,
13 I'm just there to get a job done. I'm not there to hype
14 anybody or to kiss anybody's butt or anything else. If
15 somebody asks me a question, I give them an answer, just
16 like I'm doing here.

17 Q Did Max say he talked to anybody at corporate?

18 A Oh, I think Max talked to Lou Pardee several
19 times. I'm quite sure. Because he wasn't happy with Allen.
20 Allen would sort of blow off Max at times, you know, because
21 he felt, you know, I'm corporate and he's site and, you
22 know, I don't need him.

23 Allen -- that's the other thing, too, is Allen had
24 a big corporate management type complex, you know, and he
25 tried to push that down your throat, and that's one of the

1 reasons I think also that Rusty didn't appreciate the guy,
2 you know? Rusty had worked for M&K a long time and, you
3 know, I don't think he really needed to be talked down to in
4 many cases which, you know, that's sort of how Allen
5 operates at times. Me, I let it slide and I just take him
6 for, you know, for Allen. I know how Allen is. So -- but
7 there's many a time that I argued, you know, with him on the
8 phone or told him, you know, I think we ought we ought to go
9 this way or that way or, you know, tell him I think he's
10 wrong, you know, just a, you know, case in point, I think
11 you're wrong here, this is really what you need to do, and
12 he would say, well, you know, I'll take it under advisement,
13 but usually he wouldn't do it. Once in a while, he did,
14 though.

15 Q Separate from business or professional
16 disagreement that you may have had with Allen, from a
17 personal standpoint, did you have any problems with Allen?

18 A No. No. I always liked the guy. I mean, he's a
19 nice guy; it's just that he is not too experienced. I think
20 that's probably his biggest disadvantage, is he lacks
21 experience, and I believe, if I'm not mistaken, the reason
22 that they sort of downgraded him at M&K was to go out and
23 get experience. I don't think it was for derogatory
24 purposes. I mean, if you can't handle a job, you know, you
25 need more experience, then, well, they put him out in the

1 field. They didn't get rid of him. They put him into a
2 field function where he may, you know, learn more.

3 I don't know if that's what their intent was and
4 later on bring him back up. I don't know. I couldn't tell
5 you.

6 Q What comments were made about the corporate
7 welding position becoming available that you heard?

8 A I was asked if I wanted to fill that position, and
9 I told him, well -- as a matter of fact, while Allen was
10 still there, they asked me if I wanted that position, and I
11 said, well, when would that be? So they told me probably in
12 about six months. And it so happened that I had an offer
13 from a company called Black & Veatch, which is an
14 engineering outfit in Kansas City, and Black & Veatch made
15 me an offer and I told these guys, if you guys have a
16 legitimate offer for corporate in Cleveland, and it's now,
17 then what is it, you know? Let me know.

18 Q That's fine. And who was it that talked to you
19 about the position?

20 A Rusty and Max. Rusty asked me if I would be
21 interested, and then I went in and talked with Max, and Max
22 was trying to get something done through Lou Pardee, but the
23 problem was -- what was the problem? I guess the problem
24 was that Lou was really Allen's boss in corporate, and I
25 don't think our site came under Allen's boss. Our site came

1 under another VP. Who that was, I don't know. I don't
2 think it was Marty. I don't know what his position was.

3 Anyway, the problem that I understand at that time
4 was, well, they wanted to get rid of Allen, but they had to
5 be careful in what they were doing because they wanted to
6 more or less put him out in the field so he could get more
7 experience. So I said, well, what does that mean? Do you
8 have a position now or don't you, I said, because I need to
9 know because I'm thinking about this other position. And
10 they said, well, no, not yet. So they tried to go talk to
11 Lou and I guess that was -- Lou more or less stuck up for
12 him, I think.

13 Q Stuck up for?

14 A Stuck up for Allen.

15 Q Allen.

16 A And at that point in time, they weren't releasing
17 him. So I said, okay, well, what I'm going to do is take
18 the other position at Black & Veatch. So -- I mean, I was
19 pretty fortunate because Max thought so highly of me coming
20 in and helping him out with the procedure quals and getting
21 them off the ground that the last two weeks I was there, he
22 gave me paid vacation sort of. I mean, in other words, like
23 I went home two weeks early and the company picked it up --

24 Q You got two weeks' extra pay?

25 A -- in appreciation, yes.

1 Q Well, when did you first get the offer from Black
2 & Veatch? What time period was that?

3 A Probably around sometime in November, maybe the
4 third week in November.

5 Q And when was it that Rusty first approached you
6 with the potential -- asking if you were interested in the
7 position, or how did he -- how did the subject come up?

8 A One day I was in the trailer and he just came up
9 and said, you know, if something came about, would you be
10 interested in a corporate position. He said -- I believe
11 that he was offered it as well, but he didn't want it. I
12 don't know -- I think in many cases, there are guys like
13 himself, they make more money in the field, you know? And
14 him and his wife, they work together, --

15 Q I see.

16 A -- you know, and so they make -- they do pretty
17 well with per diem and everything, you know, and he would be
18 losing money if he went to corporate.

19 Q All right. When was that discussion, then, in the
20 trailer?

21 A Probably the beginning of November maybe.

22 Q Okay.

23 A November time frame sometime, the first couple of
24 weeks.

25 Q And then when -- that's when you told him if they

1 were willing to make an offer, to bring it forth and --

2 A Well, you know --

3 Q -- he went back and talked to Max and said --

4 A Right. And then I went in and talked with Max and
5 Max says, well, they were working on trying to do something,
6 they would let me know. I said well, when? Because Black &
7 Veatch needs to know something soon. And I think I told
8 Black & Veatch probably right around December first maybe
9 that I was going there, because I think that's when I gave
10 my two weeks' notice. And then I worked two weeks and then
11 they paid me the last two weeks, and then I started at Black
12 & Veatch.

13 Q Now, if you wouldn't have went to Black & Veatch,
14 were you told at MK or SGT --

15 A SGT.

16 Q -- that you were going to be getting --

17 A I was going to --

18 Q Be laid off?

19 A Oh, no. No, no, no.

20 Q You would have still --

21 A Sure. I was going to complete that job with the
22 rest of the company or the rest of SGT, and at that point in
23 time, go down to Florida, to St. Lucie.

24 Q And that's another project that MK or SGT --

25 A That's correct. SGT is down there with the steam

1 generator changeout at St. Lucie.

2 Q Okay. So you would have went there if you didn't
3 go to Black & Veatch?

4 A Yes, sir. Probably as the site welding engineer.

5 Q And what was the reason that Rusty was saying that
6 Allen's position may be open or an opening may be --

7 A They were trying to basically get him relieved.

8 Q And what was the basis? I mean, was this
9 corporate? Project? What happened? You know, what led up
10 to it? What was Rusty saying was the problem?

11 A Well, it's just the combination of in some cases
12 incompetence, in some cases him being hardheaded.

13 Q Was it related, though, to the Point Beach project
14 problems?

15 A Oh, I believe so. I don't think those two knew
16 each other before then, and I think him really falling on
17 his face with all the procedure qualifications had a lot to
18 do with it.

19 Q Is that what -- the impression that Rusty left you
20 with?

21 A That's what I got, yes.

22 Q How about Max? Did you have any discussions with
23 Max about this specific subject?

24 A Yes. Max just -- he just didn't like him, period.
25 He thought he was more like a snake in the grass.

1 You know, when you're in corporate, you're
2 expected to be able to deal with many people, and, I mean,
3 I've had a lot of corporate positions, and you have to be
4 real flexible and you have to be able to work with many
5 different types of people, and Alan sometimes, he's very
6 hardheaded. I mean, he's a nice guy, I like the guy as a
7 friend, but -- you know, and I've told him this. I'm not
8 telling you something that I wouldn't tell him in front of
9 his face. I've told him, you know, you've got to learn to
10 be more open and try and work with people. You know, you
11 have this one-sided thing.

12 And the other thing is he can't make a damn
13 decision without somebody being on the phone, you know? So,
14 you know, a culmination of basically I think people just
15 lacked confidence in him, and the fact that they had a hard
16 time getting along with him. I was the only one on the site
17 that could even talk to the guy, you know? I mean, I don't
18 think he really wanted to talk to other people either. He
19 said he did, but I know he didn't. You know, that's the
20 impression he gave me.

21 Q Do you know if Max' problems or concerns with Alan
22 happened prior to Point Beach? Had they dealt with each
23 other prior to Point Beach?

24 A I think so. I think they had. And I think Max
25 also had a bad experience with him previously.

1 Q Do you know if there was anyone else besides Rusty
2 and yourself that were being considered for the --

3 A No.

4 Q -- corporate position if it opened up?

5 A No. I know the guy that did take it, but I don't
6 think he is permanent, is Sal DelVecchio -- Sal something --
7 because I've talked with him since then, because he had a
8 lot of questions.

9 Q Do you know how to spell his last name?

10 A Gosh. It's Sal -- I should have brought my phone
11 book.

12 Q Or phonetically.

13 A Well, he's the corporate welding engineer right
14 now.

15 Q It's Sal DelVecchio?

16 A It starts with a D. I can't remember.

17 Q Okay. And go ahead. What were the discussions
18 that you had with him?

19 A Well, actually, my company, PCI, was working with
20 him, because PCI does their welding, okay, their actual --

21 Q PCI does the actual --

22 A PCI Energy Services works with SGT on doing the
23 steam generator projects.

24 Q Okay.

25 A Okay. So Sal was at PCI doing a new procedure

1 qualification for Florida Power, and they had some questions
2 about how it was supposed to be done in accordance with the
3 Code. So they called a couple of Code committee members and
4 they told them to call me. So both of these guys from PCI
5 and -- Steve Johnson from PCI and Sal, he -- they called me
6 and, you know, I spent probably the next four days, half
7 hour, 45 minutes a day talking with them on things that they
8 would need to do and how they would have to, you know,
9 perform this qualification in accordance with the Code.

10 Q As far as, then, the discussion where you had told
11 Rusty and Max that if they made you an offer, you know, you
12 would consider that, what ended up happening?

13 A Alan didn't end up being let go, and it was going
14 to be another six months down the road maybe. They didn't
15 know, --

16 Q Okay.

17 A -- you know. They left it in the air like, well,
18 gosh, you know, if you stay, you know, and that position
19 opens up, and we're hoping that that would happen in the
20 next six-month time frame, we would like you to fill that
21 position, and I said, well, sorry, you know, here's
22 something more solid and substantial.

23 Q You had that offer already from Black & Veatch?

24 A Right.

25 Q And you left, then, at the end of the year?

1 A Yes, sir.

2 Q And that was --

3 A I started at Black & Veatch January 2nd.

4 Q Based on your own knowledge, what would you say
5 was the primary motivation for removing Alan or downgrading
6 him?

7 A Lack of experience, not being able to work well
8 with others.

9 Q And that gets back to the conflict between Rusty
10 and Max and Alan.

11 A [Nods yes.]

12 Q Okay.

13 A Very, very shortsighted at times, depending on
14 what the subject is.

15 Q All right. Is there anything else that you can
16 add that would be relevant to the subject that we've been
17 discussing that I haven't asked that you would offer?

18 A Alan is also on a Code committee for brazing, and
19 -- but I think since he's been out of that corporate
20 position, he has -- I believe he has resigned from that
21 because he hasn't been at any of the meetings.

22 I keep in touch with a lot of the guys, Barry
23 Ditzler and, gosh, there was one other guy. He used to do
24 most of the qualifications of our welders. Jackie Barrett
25 was his name. Jackie Barrett was also working for Rusty and

1 he did all the welder qualifications.

2 Q Okay. He was a welding engineer?

3 A Yes.

4 Q Was that the name you couldn't remember --

5 A Right.

6 Q -- before?

7 A I'm not sure if he was a welding tech or a welding
8 engineer. I think the only persons that were considered
9 welding engineers were myself and Don Huffstot, and I think
10 welding techs were Barry Ditzler and Jackie Barrett.

11 Q Barrett, B-a-r-r-e-t-t or --

12 A Yes. And Don Shipira. I don't know if he was a
13 welding tech, or he thought he was a welding engineer. I
14 don't know.

15 Q All right. Anything else that you can think of?

16 A [Shakes head no.]

17 Q All right. I just have two closing questions.
18 Have I threatened you in any manner or offered you any
19 rewards in return for this statement?

20 A Just a cup of hot chocolate.

21 Q Let me --

22 A I'm sorry. No, you haven't.

23 Q Have you given your statement freely and
24 voluntarily?

25 A Yes, sir.

1 MR. ULIE: This interview is concluded at
2 approximately 6:15. Thank you and we're off the record.

3 [Whereupon, at 6:15 p.m.; the interview was
4 concluded.]
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REPORTER'S CERTIFICATE


This is to certify that the attached proceedings
before the United States Nuclear Regulatory Commission in
the matter of:

NAME OF PROCEEDING: INTERVIEW OF PAUL EVANS
(CLOSED)

DOCKET NUMBER:

PLACE OF PROCEEDING: LYNCHBURG, VA

were held as herein appears, and that this is the original
transcript thereof for the file of the United States Nuclear
Regulatory Commission taken by me and thereafter reduced to
typewriting by me or under the direction of the court
reporting company, and that the transcript is a true and
accurate record of the foregoing proceedings.



Mark Mahoney

Official Reporter

Ann Riley & Associates, Ltd.

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in accordance with the Freedom of Information
Act, exemptions b2
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ADMINISTRATIVE LAW JUDGE:

That's all right. Just let me know before we terminate the hearing. Mr. Ashmus, you may call your first witness.

MR. ASHMUS:

Yes. Martin Cepkauskas, please.

ADMINISTRATIVE LAW JUDGE:

Mr. Cepkauskas, would you please stand and raise your right hand?

(Witness sworn)

ADMINISTRATIVE LAW JUDGE:

Please be seated.

MARTIN CEPKAUSKAS,

called as a witness, having first been duly sworn according to the law, testified as follows:

DIRECT EXAMINATION

BY MR. ASHMUS:

Q. First off, would you state your full name for the record, please, and spell it for the court reporter?

A. Yeah. My name is Martin D. Cepkauskas, C-e-p-k-a-u-s-k-a-s, also known as Marty.

Q. What's your address?

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A. [REDACTED]

Q. Are you employed?

A. Am I employed?

Q. Yeah, are you employed?

A. Yes, I am.

Q. And by what organization?

A. Morrison Knudsen Company.

Q. Do you hold any positions with Morrison Knudsen?

A. Yes, I'm president of SGT, Limited.

Q. In connection with your employment at Morrison Knudsen and SGT, do you maintain a resume on file?

A. Yes, I do.

Q. If you could turn to the white binder in front of you, it's under tab A, and it's the third sheet in that. Do you see your resume in there?

A. Yes. It's a little bit old. I have more than 25 years. It's probably eight years old, but thanks for the compliment.

Q. But this is your resume?

A. Yes, basically it is.

Q. And since this is somewhat dated, what have you been doing since the D.C. Cook work that's referred to on this?

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1 A. It's updated pretty good as far as the Florida
2 Power and Light and the projects for Wisconsin Electric.
3 The history is about correct on there.

4 Q. And in particular, were you president of SGT
5 at the time of the Point Beach project...

6 A. Yes.

7 Q. ...that Morrison Knudsen did?

8 A. Yes.

9 Q. How many years of experience have you had in
10 engineering or management in the nuclear field?

11 A. Thirty-three.

12 Q. And in the nuclear field, what is your
13 position as president of SGT with regard to the importance
14 of maintaining a stringent welding safety program?

15 A. I'm responsible for the overall project to
16 make sure it's done in accordance with the applicable
17 procedures of the contract, codes, and standards.

18 Q. Are you familiar with Alain Artayet?

19 A. Yes, I am.

20 Q. When did you first become acquainted with Mr.
21 Artayet?

22 A. When he first came to work at the Cleveland
23 office after we completed the D.C. Cook project, somewhere
24 in '88 or so.

25 Q. Now, at that time for D.C. Cook, from your

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1 point of view, did Mr. Artayet have involvement in the
2 welding process development or the welding program at D.C.
3 Cook as the project was ongoing?

4 A. No.

5 Q. There's been some prior testimony concerning a
6 trip to France. Do you recall a trip to France with Mr.
7 Artayet?

8 A. Yes.

9 Q. And do you recall when that was?

10 A. '90 or '91, probably '91.

11 Q. Between the end of the D.C. Cook project in
12 1995, and other than the trip to France, did you have any
13 working relationship with Mr. Artayet?

14 A. Yes.

15 Q. And what was that?

16 A. Alain was our corporate welding engineer in
17 the Cleveland office.

18 Q. And in what context would you come into
19 contact with him over that period of time when there were
20 no nuclear projects going on?

21 A. Fairly casual.

22 Q. During that time, did you have any experience
23 working with him in the development of any welding
24 qualification procedures?

25 A. No.

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1 Q. Can you describe the Point Beach project for
2 the Judge, please?

3 A. The technical aspects of it?

4 Q. Just what the project was about.

5 A. The project consists of replacing steam
6 generators in the nuclear power plant. The plants are
7 designed for a 40-year lifetime without requiring
8 replacement. Because of water chemistry problems and so
9 forth, the steam generators that are large heat exchangers
10 have two corrosion problems that limit the plant's power
11 output. Our contract is to replace the steam generators at
12 the nuclear power plant which requires cutting into the
13 reactor coolant system, rigging, removing, machine the
14 pipe, put new steam generators back in, bring the nuclear
15 system back to its original design configuration.

16 Q. And this is a major undertaking, correct?

17 A. That's correct. The severity as far as
18 complexity, I guess, is probably better wording for it.
19 Like I said, they were not originally designed to be
20 replaced, so it requires rigging techniques, cutting
21 techniques, concrete removal techniques that are not
22 normally performed on other projects.

23 Q. And with regard to welding operations, was
24 there anything new about the welding at the Point Beach
25 project?

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1 A. We did use an approved welding process called
2 narrow-groove welding. That was on the reactor coolant
3 pipe.

4 Q. Were there other welding processes that were
5 similar to those that have been used in the past?

6 A. The other welding processes that are similar
7 to be used was what we call the girth [ph] weld. It's a
8 large weld in about a 17-foot diameter shell, and
9 originally when we did Point Beach unit I, that weld was
10 made with 80,000 tensile strength welding material and base
11 metal. The Point Beach unit II design was 90,000 KSI
12 tensile material, which required development of new welding
13 procedures to weld that material. Therefore, new procedure
14 qualifications were required.

15 Q. And who did you assign to do the welding
16 qualifications?

17 A. The corporate welding engineer, Alain Artayet.

18 Q. And that was your decision to assign Mr.
19 Artayet to do that?

20 A. That's correct, as the corporate welding
21 engineer, yes.

22 Q. And what was your reason for assigning Mr.
23 Artayet to do that as opposed to asking him to delegate his
24 authority to someone else?

25 A. We have always used our corporate welding

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1 engineer to develop PQRs. Our quality manual requires that
2 PQRs be developed by the corporate welding engineer, under
3 the control of the corporate welding engineer.

4 Q. So did you direct anyone or yourself to ask
5 that Mr. Artayet delegate his authority to qualify welding
6 procedures at any time, like May or June of 1996?

7 A. I guess there was some discussion on the site
8 as far as who should develop the welding procedures. It
9 was my decision to have Alain Artayet produce the welding
10 procedures.

11 Q. Did you become aware of any situation in which
12 Mr. Artayet had changed his mind after making a commitment
13 to one of your people in the field?

14 A. Yes. There was an initial meeting at the
15 Point Beach project where welding was discussed between
16 welding engineers on the site and Alain, and there was
17 agreement to change some forms for simplification, if you
18 will. My understanding was that that meeting went very
19 well. Everybody mutually agreed on the changes that were
20 required. Shortly after that, I was told that the
21 agreements that were made at that meeting didn't come to
22 fruition, that Alain didn't want to change some of them.

23 Q. So what you learned was that Mr. Artayet had
24 changed his mind?

25 A. Yes.

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1 Q. And did you also learn that your people in the
2 field were not happy about that?

3 A. That's correct.

4 Q. Did you learn in your capacity as president of
5 SGT of any other problems that your people in the field
6 felt that they were having with Mr. Artayet?

7 A. My feeling was that there was some personality
8 clashes, not coming to agreement on some items.

9 Q. And how about you, yourself? Did you
10 encounter anything during the course of the Point Beach
11 project that caused you to question whether Mr. Artayet was
12 giving or capable of giving proper support to your project?

13 A. There was a change in some technical things,
14 technical opinions. When Alain first came to Morrison
15 Knudsen after the D.C. Cook project was completed, he
16 raised a concern as far as the adequacy of the welds that
17 were installed at the D.C. Cook project concerning drop
18 weights and Charpies and temperatures. We got that
19 resolved as far as what we performed was correct in
20 accordance with the code requirements. The disturbing
21 thing that happened at Point Beach during development of
22 weld procedures, there was a complete opposite turn that
23 said drop weight test was not required, and I was informed
24 of that, that Alain faxed that information, and I did see a
25 fax that said drop weight tests were not required, and

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1 there wasn't enough weld material, weld coupons left to
2 perform them and they weren't required, which was a
3 complete reversal from his first concerns at D.C. Cook, and
4 the code is very clear on requiring drop weight testing. I
5 couldn't understand why Alain would say that drop weight
6 testing was not required.

7 Q. Did you voice that concern to anyone else?

8 A. Yes, I voiced that concern to Lou Pardi as far
9 as it appeared to me that there might be a
10 misinterpretation on code requirements.

11 Q. So in this particular case, this was a
12 situation where at D.C. Cook, and this was back in 1988 or
13 thereabouts, there had been an issue of whether there was
14 adequate drop weight testing, and at Point Beach in 1996, a
15 statement that drop weight testing is not required at all
16 by Mr. Artayet?

17 A. Uh-huh.

18 Q. And you questioned that because you believed
19 that drop weight testing is required.

20 A. The code is very specific about requiring drop
21 weight testing.

22 Q. And about what time in the course of the
23 project did this issue of whether drop weight tests were
24 required or not come up?

25 A. It was prior to the performance of the

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1 welding. It was during the procedure qualification
2 development.

3 Q. And were drop weight tests eventually used in
4 accordance with your understanding of what the code meant?

5 A. They better be.

6 Q. Now, what contacts did you have with Mr.
7 Pardi, if any, relating to whether Mr. Artayet should
8 continue on in having responsibility with the nuclear
9 projects?

10 A. I told Lou about some of the personality
11 problems that were going on, about the drop weights, and
12 that was about the extent of it.

13 Q. And did you demand that he fire Mr. Artayet?

14 A. No, sir.

15 Q. Did you have any discussions like that with
16 him after, say, the middle of December?

17 A. We finished our project probably just prior to
18 Christmas, and there were no discussions. Our job was
19 completed. We had the procedure qualifications that we
20 needed, the welding was completed. It was reviewed by the
21 client, by authorized nuclear inspectors, by the Nuclear
22 Regulatory Commission and so forth. The project was done.

23 Q. So as far as any concerns that you were
24 raising about Mr. Artayet, you had already raised them and
25 did not discuss them any further with Mr. Pardi after

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1 December.

2 A. That's correct. That's right.

3 Q. And what were you doing after December?

4 A. I celebrated Christmas with my family and then
5 went to Florida to start the St. Lucie project.

6 Q. And what kind of project is the St. Lucie
7 project?

8 A. Same type of project.

9 ***

10 MR. ASHMUS:

11 No further questions.

12 ADMINISTRATIVE LAW JUDGE:

13 Cross examine.

14 ***

15 CROSS EXAMINATION

16 BY MR. BELL:

17 Q. Mr. Cepkauskas, about this drop weight testing
18 memo, where were you when you saw this memo discussing drop
19 weight testing?

20 A. Which one are you talking about?

21 Q. The one that you said was about the time or
22 just before they were doing the welding procedure
23 qualifications for Point Beach.

24 A. I was at Point Beach.

25 Q. Okay. And Mr. Artayet drafted this memo?

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1 A. It was a fax.

2 Q. From Mr. Artayet?

3 A. Yes. I believe it was probably Memphis or
4 wherever he was at. It wasn't from the home office.

5 Q. Okay. Where would that memo be today?

6 A. It was not a memo. It was a fax, and I don't
7 know where it's at.

8 Q. Okay. Was this some sort of handwriting...

9 A. Yes, it was.

10 Q. Okay.

11 A. And a cover page of a fax.

12 Q. And what did it say?

13 A. The exact words, not having in front of me, I
14 can't tell you. The summary of it was that drop weight
15 testings weren't required.

16 Q. Weren't required for what?

17 A. The tests that he was performing.

18 Q. Any test in particular that you can remember?

19 A. You have to do drop weight testing before you
20 do Charpy impact testing.

21 Q. Okay. And you were very surprised to read
22 that?

23 A. Yes, I was.

24 Q. Because anybody in the business knows that you
25 got to do the drop weight testing?

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1 A. Anybody in the nuclear business knows that.

2 Q. Okay. Would it be possible for you to look in
3 the documents related to the Point Beach project and see if
4 you could find a copy of that for us?

5 A. I can't find it.

6 Q. Who would be the right person to find a copy
7 of that for us?

8 A. Faxes are not kept as records. I had a copy
9 of it. I can't find it; I wish I could find it. The
10 people at the project, I've asked them to look for theirs,
11 and they have not been able to find it. I do not
12 accumulate paper, because I travel from job to job, and I
13 read things and I throw them away.

14 Q. Okay. How many pages in length was this?

15 A. Probably a two-page, cover page of a fax, and
16 whatever was attached to it.

17 Q. Okay. And you've asked people to look for it,
18 and they simply can't find it?

19 A. That's correct.

20 Q. All right. You indicated that you made the
21 decision that Mr. Artayet and not Rusty Gorden was going to
22 be responsible for the welding procedure qualification for
23 Point Beach, correct?

24 A. Our corporate welding procedure provides that
25 the corporate welding engineer be responsible for the

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1 development of the procedure qualification records.

2 Q. Okay. My question was, though, you made the
3 decision that Mr. Artayet was going to do that, not Mr.
4 Gorden, correct?

5 A. Mr. Gorden was not the corporate welding
6 engineer. Alain Artayet is.

7 Q. Okay. But it was your -- there was a dispute
8 about who was going to do that, wasn't there?

9 A. It was my decision that Alain would do it.

10 Q. Okay. And are you aware of the fact -- you
11 know Max Bingham, don't you?

12 A. Yes, I do.

13 Q. He works for you?

14 A. Uh-huh.

15 Q. You're his boss?

16 A. I'm his boss.

17 Q. You're aware that he was very upset that Mr.
18 Artayet was doing the welding procedure qualification and
19 not Rusty Gorden, correct?

20 A. Such is life.

21 Q. My question is, were you aware of that?

22 A. I wouldn't say he was upset. I directed him
23 to do it. I don't know if he was upset or not.

24 Q. Do you know that Mr. Bingham expressed to Mr.
25 Artayet and to Mr. Walcutt the fact that he was very

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1 unhappy that Mr. Artayet was doing those welding procedure
2 qualifications?

3 A. Makes no difference whether he was happy or
4 not. That was the direction given to him to perform it.

5 Q. But my question is, did you know that he was
6 upset?

7 A. No, sir.

8 Q. So me saying it today is the first time you've
9 ever heard that Max Bingham was upset that Alain was doing
10 the welding procedure qualifications and not Rusty Gorden?

11 A. If it's the degree of upsetness that you're
12 talking about, Max is upset about a lot of things, but
13 there was no real expression of -- the expression was,
14 okay, it's your decision, we're going to do it.

15 Q. Well, that may be what Mr. Bingham said to
16 you, but are you aware that Mr. Bingham said to other
17 people within MK that he was very unhappy that Alain was
18 going to Memphis to qualify the welds?

19 A. No. No.

20 Q. Okay. So today's the first time you ever
21 heard that?

22 A. Yes.

23 Q. Okay. And if you'd been aware of it at the
24 time, you would have told Max Bingham to shut up and go on
25 with life?

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1 A. That's correct.

2 Q. Because it's very clear that it's Alain's job
3 and not Rusty Gorden's job to qualify those welds?

4 A. That's correct.

5 ***

6 MR. BELL:

7 I have no further questions.

8 ADMINISTRATIVE LAW JUDGE:

9 Mr. Cepkauskas, you mentioned something about a
10 personality clash with Mr. Artayet?

11 THE WITNESS:

12 Yes.

13 ADMINISTRATIVE LAW JUDGE:

14 Are you referring to your clash with him?

15 THE WITNESS:

16 Mine?

17 ADMINISTRATIVE LAW JUDGE:

18 Yes.

19 THE WITNESS:

20 No, not mine. There were obvious clashes between
21 Alain Artayet and the site welding people.

22 ADMINISTRATIVE LAW JUDGE:

23 And the site welding people.

24 THE WITNESS:

25 Right.

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1 ADMINISTRATIVE LAW JUDGE:

2 But you didn't have any problem?

3 THE WITNESS:

4 I had no problems.

5 ADMINISTRATIVE LAW JUDGE:

6 Redirect, Mr. Ashmus?

7 MR. ASHMUS:

8 I don't believe so, Your Honor.

9 ADMINISTRATIVE LAW JUDGE:

10 Thank you, Mr. Cepkauskas. You may call your next
11 witness.

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Information in this record was deleted
in accordance with the Freedom of Information
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FOIA- 2000-0014

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4/5

1 hand, please?

2 ***

3 (Witness sworn)

4 ***

5 ADMINISTRATIVE LAW JUDGE:

6 Please be seated.

7 ***

8 DREW EDLEMAN,

9 called as a witness, having first been duly sworn according
10 to the law, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. ASHMUS:

13 Q. Would you state your name for the record and
14 spell your last name for the reporter, please?

15 A. My name is Drew Edleman. It's E-d-l-e-m-a-n.

16 Q. And Mr. Edleman, where do you live?

17 A. I live at [REDACTED]

18 [REDACTED]
19 Q. Where do you work?

20 A. I work for MK.

21 Q. And what's your job there?

22 A. Director of performance systems.

23 Q. What does that job entail?

24 A. There's really two parts to it. My primary
25 function is to look at continuous improvement opportunities

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1 in the operations, metrics, measurements of our
2 performance, customer satisfaction, those kind of things.
3 The second part of my job is administrative over Cleveland
4 quality assurance personnel.

5 Q. When you say administrative over Cleveland
6 quality assurance personnel, what does that mean?

7 A. Primarily, I watch the dollars, the overhead
8 expenditures to make sure that we have it under control.

9 Q. Would it be your job as administrative control
10 to go through various technical procedures and determine
11 whether they complied with the codes and so forth?

12 A. No.

13 Q. Within the scope of your administrative
14 authority, does that include the position of corporate
15 welding engineer?

16 A. Administratively, yes. He reported directly
17 to his supervisor, who was Andy Walcutt.

18 Q. But administratively, it would have been you?

19 A. Yes.

20 Q. Now, do you remember becoming aware at any
21 time in 1996 that Mr. Pardi had any questions concerning
22 the suitability of Mr. Artayet for the position of
23 corporate welding engineer?

24 A. The first conversation I had, a meeting with
25 Lou Pardi, was in mid-December, sometime before Christmas.

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1 I don't know the precise date. That was the first time I
2 was aware of a problem.

3 Q. And what was that conversation, as you recall
4 it?

5 A. As best I recall, it was basically that he had
6 a problem with Alain in terms of working with the power
7 group. He was concerned that he lost -- that a lot of the
8 people in the power group lost confidence in Alain and his
9 technical abilities and having trouble working with them,
10 and that's pretty much what the conversation was like at
11 the time.

12 Q. Did he decree any specific action at that
13 time?

14 A. No. We had some discussion about what Alain
15 should do, and we said specifically we didn't want to
16 terminate the guy. What we wanted to do was to try to find
17 a place for him, that he might need some more field
18 construction experience, but no decision had been made that
19 date.

20 Q. Did you follow up on that meeting at all?

21 A. Lou and I had meetings probably -- I'm just
22 guessing, but probably four or five small meetings over the
23 next month from that date to discuss this issue.

24 Q. Did you talk to Andy Walcutt at all?

25 A. I believe I had a conversation with him at

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1 least once, talking about this issue, concerned about what
2 had happened, why wasn't I informed, and also the issue of
3 what do we do with Alain when one of your two customers is
4 gone, so you have not enough billable time.

5 Q. You said why weren't you informed. Was the
6 meeting that you had with Mr. Pardi the first you'd heard
7 that there were problems?

8 A. Yes.

9 Q. When you met with Mr. Walcutt, did he indicate
10 to you that he had been aware of problems?

11 A. Somewhat, but, you know, I thought he was
12 handling them. He said there was no problem.

13 Q. So Mr. Walcutt said he was aware of problems,
14 but he thought Alain was handling them?

15 A. No, I thought he was handling them, Andy was
16 handling them, but this was after the fact. I mean, this
17 was sometime after mid-December.

18 Q. So you had a meeting with Mr. Pardi in which
19 you learned that Mr. Pardi felt that there were problems
20 with Mr. Artayet and his relationship with the field, the
21 perception of him in the field. Then you had further
22 meetings with Mr. Pardi, and you also had a meeting or
23 discussion with Mr. Walcutt to say, you know, what's going
24 on, are there problems, and Mr. Walcutt said yeah, there
25 have been some.

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1 A. Yes.

2 Q. Okay. Now, did there come a time when you
3 became aware of the Hartford Steam Boiler report of
4 deficiencies?

5 A. The first -- yeah, the first time, I think,
6 Lou called me in his office and showed me the report. I
7 don't remember what date that was.

8 Q. And did he tell you at that time that
9 something specific needed to be done?

10 A. I think it was around that time. I can't
11 remember the date the report came out, to be honest with
12 you.

13 Q. All right. What was it that around that time
14 you decided needed to be done?

15 A. Well, it was finally decided -- I think it
16 must have been that that report was the one that came out
17 at that time, because on the morning of January 15, 1997,
18 he and I finally had a decision to make, and we made the
19 decision on what we had to do, and that occurred on the
20 15th.

21 Q. Now, prior to that time when the Hartford
22 Steam Boiler report first came out or information about it
23 came out, did Mr. Pardi tell you that he had decided that
24 Mr. Artayet had to be removed from the corporate welding
25 side for the power group?

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1 A. There was discussion about that he had concern
2 about it. The final decision wasn't made until the 15th,
3 though.

4 Q. That was a situation where Mr. Pardi was not
5 the person to make the decision on his own, correct?

6 A. No, because Alain didn't work for him.

7 Q. He worked for you?

8 A. He worked for me.

9 Q. And did you do anything between the time that
10 Mr. Pardi met with you in connection with the Hartford
11 Steam Boiler report to consider options?

12 A. We had discussed options, and what I was
13 proposing at one time was that Alain would stay on and
14 handle group welding only for the process industrial group
15 and that we'd get somebody else for the nuclear work. That
16 was one of the discussions, and that's what I proposed
17 early on.

18 Q. And you did that because Mr. Pardi said he
19 didn't want Alain working in the power group, correct?

20 A. Yes.

21 Q. And he did that at the time of the Hartford
22 Steam Boiler report coming out?

23 A. Yes.

24 Q. And what was your conclusion about whether you
25 could make two jobs out of the one job?

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1 A. Well we looked at the billability (sic), which
2 is the history of billable time, obviously, that everybody
3 has to have, and we were concerned that really, you'd have
4 two people both maybe 40 or 50-percent billable; and it
5 wasn't practical from that standpoint, and it didn't really
6 make sense to have two welding engineers. We couldn't
7 support it.

8 Q. And you came to that conclusion around the
9 15th?

10 A. That was the day before we made the decision,
11 yes.

12 Q. And was that prompted by Mr. Pardi coming to
13 you and saying we've got to settle this?

14 A. Yes.

15 Q. And what did you do on the 15th?

16 A. On the 15th, Lou and -- Mr. Pardi and I had a
17 conversation, made the decision.

18 Q. What time on the 15th was that?

19 A. Fairly early in the morning. I don't know the
20 exact time. We had a brief conversation. I went down and
21 talked to the director of human resources, Kevin Tobin
22 [ph], and told him what the decision was and asked for his
23 advice, told him how I was going to address the issue with
24 Alain and asked if he had any advice. He did bring up
25 something related to the amount of time that we should

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1 carry Alain, that it couldn't be indefinite, that we should
2 have some kind of a stipulation period, and he indicated we
3 should do that. Then I went to see Lou Pardi and I told
4 him I wanted to have a conversation with Tom Zarges, the
5 president and CEO, who is my boss and Lou's boss really to
6 inform him, number one, and number two, to get his
7 permission to carry Alain for three months of overhead if
8 necessary until I was able to find him another position in
9 the company.

10 Q. Now, you said you met with Kevin Tobin on the
11 15th of January.

12 A. Yes.

13 Q. Was that the first time you'd met with Kevin
14 Tobin about Mr. Artayet?

15 A. No. I met one other time shortly after the
16 conversation I had with Lou Pardi in mid-December of '96.

17 Q. That was before the end of the year...

18 A. Yes.

19 Q. ...that you met with Mr. Tobin? And what was
20 the nature of that earlier discussion with Mr. Tobin?

21 A. Pretty much what Lou's concerns were about not
22 being able to have Alain support the power group, and I
23 guess I was just kind of bouncing off thoughts, what he
24 thought about it and what his concerns might be, and what,
25 if any, advice he might have, sort of counsel.

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1 Q. And did he indicate to you that there had been
2 other situations where people hadn't worked out in
3 particular circumstances and they'd gone off to other spots
4 in the company and done fine?

5 A. That does happen quite often. I don't know if
6 we discussed that particularly in that meeting, but it does
7 happen.

8 Q. And after the 15th -- well, after your meeting
9 with Mr. Zarges, what did you do then?

10 A. Once I met with Mr. Zarges, then I decided I'd
11 better call in Andy and tell him first -- Andy Walcutt, I'm
12 sorry, and I called up Andy and told him what the decision
13 was and what we were going to do and why the decision was
14 being made, and I told him that we were just informing him
15 before I told Alain. I immediately called up Alain and
16 asked him to come upstairs and talk to me, and I told him
17 of the decision to remove him as group welding engineer.

18 Q. Now, prior to the time you met with Mr.
19 Walcutt on the 15th, had you talked to Mr. Walcutt at all
20 that day about anything?

21 A. On the 15th?

22 Q. On the 15th.

23 A. No.

24 Q. That was the first time you saw him was
25 when...

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1 A. When I saw him, I called him into my office to
2 tell him.

3 Q. And was Mr. Walcutt involved at all in the
4 decision to remove Mr. Artayet from the position of
5 corporate welding engineer?

6 A. No.

7 Q. All right. What happened then after you told
8 Mr. Walcutt? Did you call Mr. Artayet?

9 A. I called Mr. Artayet up and informed him that
10 he was no longer group welding engineer and why we made
11 that decision.

12 Q. Did you talk to him at that time about
13 alternate positions in the company or what would be done
14 for him?

15 A. Yes. I conveyed to him that I had talked to
16 Tom Zarges and got his agreement to carry him for three
17 months, if need be, while we found him another position,
18 whether it was some other part of the company.

19 Q. And after the 15th, did you follow up on that?

20 A. Yes.

21 Q. What did you do about finding another
22 position?

23 A. I talked to really two people, the vice
24 president of engineering, because Mr. Artayet had indicated
25 that he was interested in trying to get into engineering,

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1 and I asked Mr. Recker [ph], the vice president of
2 engineering to look into it. He took about a week to look
3 into it and decided that he really couldn't use him, and so
4 right about that time, I talked to the vice president of
5 construction, Jim Garrett, and Jim said he thought he had a
6 place for him, and he wasn't familiar with Alain or his
7 background, so I asked him to go talk to Mr. Artayet, and
8 see if there was some kind of a connection and he had the
9 right kind of position, and that's what he did.

10 Q. And did you in fact find a position for Mr.
11 Artayet or...

12 A. Mr. Garrett found a position for him, yes.

13 Q. And was it always your intention to get Mr.
14 Artayet placed as quickly as possible?

15 A. Yes.

16 Q. I mean from the 15th on.

17 A. Yes.

18 Q. Did Mr. Artayet ever ask you not to place him
19 as quickly as possible?

20 A. No.

21 Q. In December of 1996, do you remember any
22 occasion in which Mr. Artayet came to you and told you that
23 he'd been fired by Mr. Pardi?

24 A. No.

25 Q. And would it be correct that you also did not

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1 tell him that you were surprised to hear that he'd been
2 fired by Mr. Pardi from the position of corporate welding
3 engineer for the nuclear group?.

4 A. He had never been fired by Lou. He couldn't
5 fire him. He worked for me.

6 Q. You never had a such a conversation with Mr.
7 Artayet. You have to answer out loud.

8 A. I'm sorry. No, I didn't.

9 ***

10 MR. ASHMUS:

11 That's all I have, Your Honor.

12 ADMINISTRATIVE LAW JUDGE:

13 Off the record.

14 ***

15 [Wherein, the hearing ended at 4:35 p.m.]

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ADMINISTRATIVE LAW JUDGE:

This proceeding will come to order. This is the second day of hearing in the case of Alain Artayet versus Morrison Knudsen Corporation, Case number 97-ERA-34. We're going to continue with the cross examination of Drew Edleman. Mr. Edleman, would you take the stand? You've already been sworn.

DREW EDLEMAN,

called as a witness, having previously been duly sworn according to the law, testified as follows:

CROSS EXAMINATION

BY MR. BELL:

Q. Good morning.

A. Good morning.

Q. Thank you for coming back. How long have you known Mr. Artayet?

A. I think probably about four or five years.

Q. And how long have you been administratively in charge of the quality assurance functions of MK?

A. About four years.

Q. Okay. During those four years, have you ever had any personality clashes with Alain?

A. Not personally.

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1 Q. In the summer of 1996, a year ago, did Alain
2 come to you and tell you that there was a problem with Max
3 Bingham, that he was having a problem with Max Bingham?

4 A. He indicated in one of the discussions, and I
5 don't remember what it was, but it probably was sometime in
6 '96, about some conflict with Max Bingham. I said, is
7 there something you want me to do about it, and he said no,
8 it was being handled.

9 Q. And you understood that Mr. Artayet had
10 initiated a conversation with Mr. Bingham to try to work
11 through the issues?

12 A. I don't recollect exactly what was said about
13 how it was being done.

14 Q. Okay. But it wasn't a phone call you got from
15 Max Bingham. It was Mr. Artayet coming to you and talking
16 about it?

17 A. Yes.

18 Q. Okay. Now, until December or so of 1996, were
19 you aware that anybody else at MK was having personality
20 problems with Alain?

21 A. No, I was not.

22 Q. And is it fair that the first time you learned
23 about any personality problems was in mid-December when you
24 had a conversation with Lou Pardi?

25 A. Yes.

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1 Q. Okay. And during that conversation in mid-
2 December, Mr. Pardi told you that there were personality
3 conflicts involving Alain?

4 A. Personality conflicts, but it really related
5 more to loss of confidence. The people had lost confidence
6 in Alain's abilities.

7 Q. Okay. And during that same conversation, Mr.
8 Pardi told you that he did not think Alain was appropriate
9 to be serving the power division at MK any longer, is that
10 right?

11 A. He had real strong concerns about him serving
12 in power in the future.

13 Q. Now, are you aware that Mr. Pardi had a
14 meeting with Mr. Artayet in mid-December to discuss that?

15 A. I don't recollect the meeting itself. I
16 wasn't there.

17 Q. Well, do you recollect Mr. Artayet telling you
18 before Christmas that he'd had a conversation with Lou
19 Pardi about it?

20 A. I really don't remember that.

21 Q. Okay. Do you remember having a conversation
22 with Kevin Tobin in mid-December, 1996, where you and Kevin
23 Tobin discussed the fact that Mr. Pardi wanted Alain out of
24 the power division?

25 A. Yes, we had a conversation.

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1 Q. Okay. And it's in connection with your
2 discussions with Mr. Pardi in mid-December that you first
3 learned that anybody was having problems with Alain?

4 A. Yes.

5 Q. Did things then quiet down over the holidays?
6 You didn't have Mr. Pardi talking to you any longer over
7 the holidays about finding a place to move Mr. Artayet?

8 A. I don't remember any conversation from
9 sometime in mid-December until after the first of the year.

10 Q. Okay. And nothing was done until January 14
11 or 15 to actually move Alain out of the group welding
12 engineer position, is that right?

13 A. A decision was made on the morning of the 15th
14 and Alain was also told on the morning of the 15th of
15 January.

16 Q. Okay. And in the days before January 15, at
17 least you weren't involved in any meetings where there were
18 discussions about moving Alain out of the group welding
19 engineer position, is that right?

20 A. I had a number of conversations with Lou Pardi
21 between the mid-December and the January 15. A lot of
22 discussions were still going on about -- my discussion was
23 really related to can he really service the process group
24 still even if he couldn't serve power, and how would that
25 work out. I was trying to work out another arrangement.

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1 Q. And specifically, the arrangement that you
2 were trying to work out is that Alain wouldn't function for
3 the group welding engineer as the power division, Mr.
4 Pardi's group, but he could serve as the group welding
5 engineer for everything else in the company. Is that sort
6 of what you were trying...

7 A. That was my proposal.

8 Q. Okay. And you eventually came to the
9 conclusion that that was not economically feasible?

10 A. That's correct.

11 Q. Okay. Is it fair to say that it was Mr. Pardi
12 who was behind getting Alain out of the group welding
13 engineer position?

14 A. Yes.

15 Q. And is it fair to say that Mr. Pardi was
16 pretty adamant about getting Mr. Artayet out of that
17 position?

18 A. He was pretty adamant by the time I had talked
19 to him right after the first of the year, I think.

20 Q. And did Mr. Pardi tell you that the reason he
21 got back into this after the first of the year was that he
22 heard about the Hartford Steam Boiler audit?

23 A. Yes.

24 Q. And Mr. Pardi said in the face of that audit,
25 we got to do something about this situation?

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1 A. Yes.

2 Q. Okay. Now, on January 15, you called Alain to
3 your office to tell him that he was being dismissed as
4 group welding engineer?

5 A. Yes.

6 Q. Had there been any discussion about asking
7 Andy Walcutt to remove Alain from his position?

8 A. Not by me.

9 Q. Okay. During the meeting with Alain that you
10 had on January 15, did you tell Alain that you did not
11 necessarily agree with the decision that had been made?

12 A. No, I don't believe I did, because I did agree
13 with the decision.

14 Q. Did you tell Mr. Artayet that you had
15 attempted to talk Lou Pardi out of the decision?

16 A. I don't believe I did. I might have said that
17 I was trying to get him to serve just the process group at
18 the time. I think I mentioned that, and I told him why I
19 thought it was not feasible.

20 Q. Do you remember telling Mr. Artayet that you
21 were just the messenger of the bad news?

22 A. I might have said that.

23 Q. Do you remember telling Mr. Artayet that it
24 was Max Bingham who wanted Alain out of the position, and
25 that he had conveyed those ideas to Mr. Pardi?

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1 A. I think Max Bingham was one of the people that
2 was part of the power group people that had a problem with
3 him. Whether or not I said Max Bingham in that meeting, I
4 don't remember.

5 Q. But it was in fact Max Bingham who was one of
6 the people that wanted Alain out?

7 A. He was one of the people as I understood from
8 Lou.

9 Q. Okay. Now, during the meeting on 15 January,
10 did Alain ask you a number of times during that meeting
11 what he would be doing tomorrow and next week and next
12 month?

13 A. Yes. He was concerned about it. The first
14 thing I told him is that he was not fired.

15 Q. You did tell him, though, that things were
16 happening so fast that there hadn't really been time to
17 figure out exactly where the company was going to put him?

18 A. That's correct.

19 ***

20 MR. BELL:

21 I don't have any other questions. Thank you.

22 ADMINISTRATIVE LAW JUDGE:

23 Mr. Edleman, just a couple questions.

24 THE WITNESS:

25 Sure.

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1 ADMINISTRATIVE LAW JUDGE:

2 Were you the person that approved Mr. Artayet's
3 performance appraisals? Was that your function?

4 THE WITNESS:

5 I did one year when I first took over. I actually
6 conducted them, but it was still based on input
7 from Andy Walcutt. After that first year, I felt
8 it was more appropriate for him working with on a
9 daily basis for Andy Walcutt to do those. I
10 believe I also signed them after that, but they
11 were filled out by Andy Walcutt.

12 ADMINISTRATIVE LAW JUDGE:

13 So you in fact did review them?

14 THE WITNESS:

15 Yes, I did.

16 ADMINISTRATIVE LAW JUDGE:

17 How would you characterization his performance
18 prior to these conversations with Mr. Pardi in
19 December of 1996?

20 THE WITNESS:

21 If you look back at most of the performance, they
22 were, I believe, I think it was [REDACTED]. I'm not
23 positive. The rating goes up to five different
24 groupings, and that would be the [REDACTED]. I
25 believe.

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1 ADMINISTRATIVE LAW JUDGE:

2 So you would characterization his performance as
3 [REDACTED]?

4 THE WITNESS:

5 It was characterized as [REDACTED] yes.

6 ADMINISTRATIVE LAW JUDGE:

7 All right. [REDACTED]

8 THE WITNESS:

9 I think it's a scale of five, so [REDACTED]
10 [REDACTED]
11 [REDACTED]

12 ADMINISTRATIVE LAW JUDGE:

13 Mr. Pardi wasn't able on his own to remove Mr.
14 Artayet. You had to do that, is that correct?

15 THE WITNESS:

16 Yes. He didn't report -- the way the quality
17 system works in the nuclear industry, it has to be
18 independent, and he reported to Andy, I reported to
19 Tom Zarges, so it was kind of an independent
20 reporting.

21 ADMINISTRATIVE LAW JUDGE:

22 When Mr. Pardi came to you and expressed these
23 problems that Mr. Artayet was having with the
24 audit, based on his past performance, did you
25 consider other alternatives besides removing him as

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1 group welding engineer? Did you feel that was the
2 appropriate sanction at that time?

3 THE WITNESS:

4 Not at that time. We had a number of discussions,
5 and I -- well, my feeling was that we've got two
6 customers that he served, and one customer didn't
7 want to use him anymore, and that's a major
8 concern. What I was trying to do was see whether
9 or not it would be appropriate for him to serve the
10 power group -- I'm sorry, the process group instead
11 of both groups, and we had some discussions around
12 that, how we could do that or if we could do that.

13 ADMINISTRATIVE LAW JUDGE:

14 But you rejected that option?

15 THE WITNESS:

16 Yes. By the end of it, I realized it just wouldn't
17 work.

18 ADMINISTRATIVE LAW JUDGE:

19 You said one customer wasn't satisfied. You mean
20 the outside people?

21 THE WITNESS:

22 No, I'm sorry. In essence, they're internal
23 customers, the two divisions. They're a line-type
24 organization and he performed a staff function like
25 I do.

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1 ADMINISTRATIVE LAW JUDGE:

2 So which customer are you referring to that was
3 dissatisfied?

4 THE WITNESS:

5 I'm talking about the power division.

6 ADMINISTRATIVE LAW JUDGE:

7 Okay. And Mr. Bell asked you about Mr. Bingham
8 influencing your decision. How does Mr. Bingham
9 relate to you in the organizational structure?

10 THE WITNESS:

11 Mr. Bingham is a project manager that would report,
12 I believe, to Marty Cepkauskas who reports to Lou
13 Pardi.

14 ADMINISTRATIVE LAW JUDGE:

15 Okay. So he has no control over your decision-
16 making.

17 THE WITNESS:

18 No.

19 ADMINISTRATIVE LAW JUDGE:

20 Okay. Mr. Ashmus, redirect?

21 MR. ASHMUS:

22 Well, this is actually in the nature not so much of
23 redirect but a supplemental direct. There was the
24 issue of trips and I had a couple of documents that
25 I didn't introduce yesterday that I'd like to have

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1 Mr. Edleman identify, if that's acceptable.

2 ADMINISTRATIVE LAW JUDGE:

3 All right.

4 ***

5 REDIRECT EXAMINATION

6 BY MR. ASHMUS:

7 Q. If you can please take a look at these two
8 documents, the first one I'll ask...

9 A. These are the same documents.

10 Q. These are the same documents. I think...

11 ***

12 MR. BELL:

13 I've got two different ones.

14 THE WITNESS:

15 I've got 70572, top right-hand corner.

16 MR. BELL:

17 I've got a December and an August.

18 THE WITNESS:

19 The payment, okay, and 12/21.

20 ***

21 BY MR. ASHMUS:

22 Q. If you could turn first to the one that refers
23 to check number 075996 on the very top right-hand corner?

24 A. Okay.

25 Q. I'd ask you to take a look at this document

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1 and all the pages of it very quickly. Is this basically
2 the travel reimbursement for Mr. Artayet's trip to Point
3 Beach or a trip to Point Beach?

4 A. Yes. It's a particular trip that he took.
5 It's the expense account.

6 Q. And is your signature on the second page of
7 that?

8 A. Yes.

9 Q. And what's the date of the trip as reflected
10 on this?

11 A. Well, it was from 12/10 through 12/12, leaving
12 Cleveland on 12/10 and returning on 12/12.

13 Q. And the purpose of the trip as shown on that
14 travel and personal expense account report is what?

15 A. On the top is discussions on steam generator
16 replacement project, Point Beach welding operations.

17 Q. And let me ask you to turn to the document
18 that refers to check number 089190.

19 A. Okay.

20 Q. Can you tell us what that is?

21 A. Again, that's another expense account for a
22 trip. The purpose of the trip is to assist in ASME section
23 three and NR survey, sub-assembly assessment, and it
24 occurred between July 20, '96 through July 28, '96, and I
25 approved that one also.

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1 Q. Were there any other trips that you can recall
2 approving that Mr. Artayet took to Point Beach in 1995 or
3 1996?

4 A. Not to my recollection.

5 Q. Let me also follow up on what the question
6 that the Judge asked you about the evaluations. I'd ask
7 you to turn to tab G in the white book.

8 A. Okay.

9 Q. And the first set within that, is that--
10 there's a sheet on it and then followed by an employee
11 performance review and career development plan dated
12 12/19/95, do you see that, that page?

13 A. Yes.

14 Q. Is that his 1995 evaluation packet, as it
15 were?

16 A. Yes.

17 Q. And that's the one in which he's rated
18 [REDACTED] on the page before that?

19 A. Yes, he was.

20 Q. And if you can continue on to the next
21 document in that packet, which is contained in there, and
22 can you identify what that next one is?

23 A. There's the -- it was the 1996 review, career
24 development plan and review.

25 Q. All right. Can you tell from this what the

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1 evaluation level was in 1996?

2 A. It was [REDACTED]

3 Q. So that's [REDACTED] 7C

4 [REDACTED]

5 A. That's correct.

6 ***

7 MR. ASHMUS:

8 That's all I have, Your Honor.

9 MR. BELL:

10 I have a few.

11 ***

12 RE CROSS EXAMINATION

13 BY MR. BELL:

14 Q. While you've got it open to his 1996
15 performance evaluation, could you tell me, please, where it
16 says on his 1996 performance evaluation that Mr. Artayet
17 had personality conflicts?

18 A. I don't see those specific words.

19 Q. They're not there, are they?

20 A. I don't see those words.

21 Q. There's nothing even implying that Mr. Artayet
22 was having trouble getting along with others inside or
23 outside MK, does it?

24 A. It doesn't state that here.

25 Q. Does it say anywhere in his 1996 performance

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1 evaluation that Mr. Artayet was not capable of supporting
2 the power division?

3 A. No, it doesn't state that.

4 Q. Does it say anywhere in his 1996 performance
5 evaluation that the capabilities or performance of Mr.
6 Artayet as group welding engineer were below accepted
7 standards?

8 A. It doesn't specifically state that.

9 Q. Does it generally state that?

10 A. It doesn't address the issue you just raised.

11 Q. You sat at a meeting on January 15 where the
12 decision was made to remove Mr. Artayet as group welding
13 engineer, is that right?

14 A. That's correct.

15 Q. And that meeting was held what, about 18 days
16 after this performance evaluation was done?

17 A. That's correct.

18 Q. Are any of the things that you discussed in
19 that meeting on January 15 discussed in his performance
20 evaluation done 18 days earlier?

21 A. No, they're not.

22 ***

23 MR. BELL:

24 No further questions.

25 ADMINISTRATIVE LAW JUDGE:

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1 Was this performance rating done before or after
2 your discussions with Mr. Pardi in December of
3 1996?

4 THE WITNESS:

5 It was done -- it had to be done right around the
6 same time. I don't know exactly in mid-December
7 when we had the discussion, so I don't know the
8 exact dates, but it was around the same time, but I
9 may not have seen this particular review until some
10 time later.

11 ADMINISTRATIVE LAW JUDGE:

12 So you're saying you signed it afterwards?

13 THE WITNESS:

14 I didn't sign this one, at least this copy. I
15 don't remember it.

16 ADMINISTRATIVE LAW JUDGE:

17 You saw it, but you didn't sign it?

18 THE WITNESS:

19 I don't see my signature on it. I don't know why
20 in this particular case.

21 ADMINISTRATIVE LAW JUDGE:

22 This was made out by Mr. Walcutt?

23 THE WITNESS:

24 Yes.

25 ADMINISTRATIVE LAW JUDGE:

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1 Anything further from this witness?

2 MR. ASHMUS:

3 No, Your Honor.

4 ADMINISTRATIVE LAW JUDGE:

5 Thank you, Mr. Edleman. You may step down. You
6 may call your next witness.

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Act, exemptions b2
FOIA 2000-0014

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1 ADMINISTRATIVE LAW JUDGE:

2 But you didn't have any problem?

3 THE WITNESS:

4 I had no problems.

5 ADMINISTRATIVE LAW JUDGE:

6 Redirect, Mr. Ashmus?

7 MR. ASHMUS:

8 I don't believe so, Your Honor.

9 ADMINISTRATIVE LAW JUDGE:

10 Thank you, Mr. Cepkauskas. You may call your next
11 witness.

12 MR. ASHMUS:

13 I call Lou Pardi to the stand, please.

14 ADMINISTRATIVE LAW JUDGE:

15 Please raise your right hand.

16 ***

17 (Witness sworn)

18 ***

19 ADMINISTRATIVE LAW JUDGE:

20 Please be seated.

21 ***

22 LOUIS PARDI,

23 called as a witness, having first been duly sworn according
24 to the law, testified as follows:

25 DIRECT EXAMINATION

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1 BY MR. ASHMUS:

2 Q. Can you state your full name for the record
3 and spell your last name for the court reporter, please?

4 A. Louis E. Pardi. Last name is P-a-r-d-i.

5 Q. What's your address?

6 A. [REDACTED]

7 Q. And where do you work?

8 A. I work for Morrison Knudsen Corporation in the
9 Cleveland office.

10 Q. What's your job there?

11 A. I'm the executive vice president of the power
12 division.

13 Q. What responsibilities does that job entail?

14 A. I'm responsible for all of Morrison Knudsen's
15 business that they do in the electric utility industry,
16 both the marketing of projects and the operations of
17 projects.

18 Q. Would that include projects that are performed
19 through SGT?

20 A. Yes.

21 Q. What is your -- let me ask how long you've
22 been with MK.

23 A. A little over five years. I joined MK in
24 January of 1992.

25 Q. Where did you work prior to that time?

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1 A. My immediate previous employer was Fluor
2 Daniel, and I was with them for almost 17 years.

3 Q. What kind of work did you do with Fluor?

4 A. When I originally started with Fluor Daniel, I
5 was working for Daniel Construction Company. Fluor
6 Corporation acquired Daniel Construction Company in 1978,
7 and when I originally worked for Daniel Construction
8 Company, I went there as the chief welding engineer. I was
9 responsible for supporting all their projects from a
10 welding engineering point of view, and I later became the
11 director of technical services where I was responsible for
12 all of MK's welding programs and all of their quality
13 programs. In 1982...

14 Q. You said MK. Are you...

15 A. I'm sorry, Fluor Daniel. In 1982, I moved
16 from a staff-type function into an operations function, and
17 had increasing responsibilities in the building of power
18 plants.

19 Q. Did those power plants include nuclear?

20 A. Yes.

21 Q. How many nuclear plants would you have worked
22 on in a management...

23 A. I worked on a number of nuclear power plants
24 for Fluor, but I was responsible for the construction of
25 two of them. Actually, one, I was the project manager for,

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1 and the other one, I was an assistant to the project
2 manager.

3 Q. Do you still have the white binder there?

4 A. Yeah.

5 Q. Can you turn to tab A, please?

6 A. Okay.

7 Q. And right after that, the first sheet after
8 that tab, do you recognize what that is?

9 A. That's my resume.

10 Q. And does that reflect your general experience
11 in construction?

12 A. Yes.

13 Q. When you came to MK, was Mr. Artayet working
14 there already?

15 A. Yes.

16 Q. And what was your relationship with him over
17 the years?

18 A. Well, Mr. Artayet never worked directly for
19 me, but he was in a staff position basically in support of
20 our projects, the power projects as well as projects
21 responsible to other divisions.

22 Q. Did you have occasion to interact with him?

23 A. Oh, yes.

24 Q. What kind of support did you expect from Mr.
25 Artayet?

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1 A. Well, I relied on Alain to be our welding
2 expert in all matters, particularly the qualification,
3 development of our corporate welding procedures, as well as
4 solving welding engineering problems as they arose on
5 projects from time to time.

6 Q. Do you regard the corporate welding engineer
7 position as having responsibility for successful quality
8 welding program on the projects that are performed in the
9 power group?

10 A. Yes.

11 Q. Is that beyond simply developing the
12 certifications or qualifications of the welding procedures?

13 A. Yes.

14 Q. Did there come a time when you became aware of
15 any difficulties between Mr. Artayet and field personnel
16 working in nuclear projects at MK?

17 A. Yes.

18 Q. Can you describe for the Judge what you
19 learned, when?

20 A. Well, shortly after joining MK when I was
21 trying to understand the various people that worked in the
22 company, various groups, I talked to Mr. Artayet just to
23 get to know him and understand how he worked and how he saw
24 his job, and about that time, and this was within the first
25 six months or so of joining MK, I had heard that there was

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1 a problem at our D.C. Cook steam generator job, a job that
2 was completed four years or so before my coming to MK. But
3 my understanding at that time is that there was a conflict
4 and his interpretation of the code and the site welding
5 procedure -- I'm sorry, the site welding personnel, and it
6 had to do with drop weight tare tests. Since it was a
7 problem that happened in the past, I really didn't delve
8 into it. It was just a point of information that I had.

9 Q. And did you, in connection with the later
10 Point Beach project, find that there were any problems?

11 A. Yes. I knew that there were problems
12 primarily from talking to the site people that there was
13 friction between Alain and the site welding engineering
14 people.

15 Q. Do you remember anything specific that you
16 heard about -- from the site about issues that they had
17 with Mr. Artayet?

18 A. Well, I seem to recall that the issues were
19 relative to the requirements for qualifying welding
20 procedures, and that there was a disagreement on the
21 specific requirements between what Alain thought needed to
22 be done, and what the project thought the requirements
23 were.

24 Q. Did you ever receive a report raising
25 questions about whether Mr. Artayet had indicated that drop

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1 weight testing was not required when other people thought
2 that drop weight testing was required?

3 A. I received a fax from the project with a note
4 on it from Marty Cepkauskas. I don't recall the note
5 exactly, but the gist of the note is that what Alain was
6 telling them at Point Beach was contrary to what he had
7 told them at D.C. Cook. I did not delve into the matter.
8 I just filed it away as a piece of information.

9 Q. And did you eventually come to the decision
10 that Mr. Artayet was not the person that you wanted to be
11 supporting the power group welding operations?

12 A. Yes.

13 Q. And tell us why you reached that conclusion
14 when you did.

15 A. Well, shortly after returning from the
16 Christmas holidays, it was the first day back to work, and
17 I can't remember if that was the third or the fourth, I was
18 given an oral debriefing of a recently completed audit that
19 was performed by our authorized nuclear inspection agency,
20 Hartford Steam Boiler, and I was surprised and a little bit
21 concerned because the auditor had spent, if I remember, one
22 day at MK, and had found four deviations in our welding
23 procedures. That really concerned me, because I relied on
24 Alain to make sure that our welding procedures were above
25 reproach, and it was at that time that I decided that we

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1 needed to make a change.

2 Q. Had you discussed the possibility of making a
3 change even prior to that time?

4 A. I may have some time during the time when the
5 concern about the welding procedure qualifications and the
6 disagreement between Alain and the site. I may have said
7 something, I don't know, about I'm concerned that we may
8 have to do something, but I did not make up my mind that
9 something had to be done until I heard the debriefing of
10 the Hartford Steam Boiler audit.

11 Q. And can you turn to tab D in the white binder,
12 please?

13 A. B?

14 Q. D, as in dog.

15 A. Yes.

16 Q. And the first two pages of that, have you seen
17 this before?

18 A. Yes. These are the findings that I was
19 referring to when I talked about the Hartford Steam Boiler
20 inspection audit.

21 Q. And you heard about these or received a
22 debriefing about what was coming...

23 A. Right.

24 Q. ...prior to actually receiving this document?

25 A. Right.

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1 Q. Did you have any meeting in the middle of
2 December with Mr. Artayet when you told him that you were
3 firing him from his position as group welding engineer for
4 nuclear work?

5 A. No.

6 Q. All right. You decided in early January that
7 a change needed to be made, and what did you do to
8 implement that decision or move forward with that decision?

9 A. Well, since Alain didn't work for me and it
10 was a separate organizational chain of command, he reported
11 ultimately to Drew Edleman. So I went down and talked to
12 Drew Edleman and said, Drew, I'm concerned, particularly
13 concerned about the findings of this Hartford Steam Boiler
14 audit, and we need to make a change. Alain just is not
15 performing the job that needs to be performed for our
16 nuclear projects, and Drew then took it under consideration
17 as to what needed to be done.

18 Q. And do you know what specifically he was
19 considering?

20 A. Well, we kicked around and talked about a lot
21 of things. One was to hire another welding engineer and
22 have that welding engineer just be responsible for power
23 projects an the nuclear projects in particular, and then
24 have Alain stay on and work with the other divisions. That
25 did not seem to be a wise business decision. We'd just

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1 have more overhead than we wanted to incur at that time, so
2 we refrained from doing that. We also talked about just
3 terminating him and thought that that was a little bit
4 harsh, so we decided to give him three months to find an
5 opportunity of employment in the company, during which time
6 we were going to actively pursue finding a job for him.

7 Q. And when was that final decision about exactly
8 what to do made?

9 A. Someplace around the middle of January, the
10 15th or 16th, the day that we finally got -- this
11 authorized inspection letter, in accordance with our
12 program, is turned over into a quality finding report, and
13 when I got that, I went down and went over with Drew and
14 said, here, we need to do something.

15 Q. And what then did you do? Did you get any
16 further authorization?

17 A. I told Drew that I thought this was a matter
18 that we should discuss with Tom Zarges, who's the president
19 of the Cleveland engineering and construction group, and
20 Drew and I proceeded to do that. We went in and explained
21 the situation to Tom Zarges. He concurred with our
22 decision, and then Drew went about informing Alain.

23 Q. So the discussion that you had with Mr. Zarges
24 was the same day that Mr. Artayet was informed?

25 A. I believe it was, yes. I think it was the

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1 morning of that day.

2 Q. And was Andy Walcutt involved at all in the
3 decision-making process?

4 A. No.

5 Q. Was Max Bingham involved at all in the
6 decision-making process?

7 A. No.

8 Q. Was Marty Cepkauskas involved...

9 A. No.

10 Q. ...in the decision-making process? As far as
11 the decision itself, you decided that he needed to be
12 removed from power...

13 A. Right.

14 Q. ...and Mr. Edleman decided that he really
15 couldn't split the position into two?

16 A. Right.

17 Q. And that he would be given an opportunity to
18 work elsewhere at MK, and Mr. Zarges approved those
19 decisions?

20 A. Yes, yes.

21 Q. Other than your knowledge of the friction
22 between Mr. Artayet and the site people and the questions
23 raised about this drop testing qualification issue and the
24 Hartford report, was there any other factor that you took
25 into consideration in determining that a change needed to

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1 be made in power?

2 A. No.

3 Q. Now, what, in your view, is the importance of
4 the corporate welding engineer function on an ongoing basis
5 for Morrison Knudsen, looking ahead at work that may be
6 coming in?

7 A. Well, the primary function is to make sure
8 that our welding procedures comply with all the codes and
9 regulations that we work under. I mean, I relied on Alain
10 100 percent to do that.

11 Q. And that's even though you have a welding
12 background?

13 A. Yes, but I haven't been a welding engineer for
14 quite a while, and I'm not really proficient to make
15 technical decisions about the codes and standards. They
16 change. I have a basic understanding of welding
17 metallurgy, but I'm no longer a welding engineer, but I do
18 know that having served that function, that when I was at
19 Fluor Daniel, the company relied on me to make sure that
20 our procedures met all of the various codes and standards
21 that we worked under, and I considered that to be my
22 charter and my sole responsibility.

23 Q. And even if you were right in some fashion, if
24 you couldn't get the job site people to go along with that,
25 would you consider that you'd been successful or that you

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1 were unsuccessful?

2 A. No. One of the most important functions from
3 a home office personnel is to be able to develop a
4 camaraderie and have the projects respect you so that you
5 can work with them, and that was one of the things that
6 from the very beginning when I told Alain, when I met him,
7 I told him that my experience had been that the most
8 important thing in his job was to gain the respect of the
9 project people, and I feel that way. I mean, that's what I
10 did when I had that job, that's what my mentors told me I
11 needed to do, and they were right.

12 Q. Have you made any job offers for a regular
13 position to fill the group welding engineer position..

14 A. No.

15 Q. ...since Mr. Artayet has been gone?

16 A. No. We have interviewed some people, but we
17 have not made a job offer.

18 Q. Is it your intention to fill that position
19 with a yes-man?

20 A. A yes-man in the sense of...

21 Q. Who will do whatever the project wants whether
22 it's in compliance with the code or not?

23 A. Absolutely not, absolutely not. I consider
24 that position to be an important one for a number of
25 reasons. As I said, we need to have our corporate

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1 procedures meet every aspect of the codes and standards,
2 and not just the Hartford procedures, our project
3 procedures. I mean, we can't have projects, each project
4 going off and qualifying their procedures to their own
5 specifications and requirements. That would be an absolute
6 mess. We'd never know what we had, we wouldn't know the
7 quality. I mean, the whole idea of having a corporate
8 welding engineer is to establish uniform standards and
9 procedures so that all of our procedures comply with ASME
10 and NRC requirements.

11 Q. Would you turn to tab C in the white book,
12 please? The first page of that is a quality program
13 resolution for SGT, Limited, is that correct?

14 A. Yes.

15 Q. And it's typed L.E. Pardi on one of the
16 approval lines. Is that your signature above it?

17 A. Yes.

18 Q. Does this program resolution go with the
19 quality commitment of SGT?

20 A. Yes.

21 Q. If you can turn to the next page, is this one
22 of the sections of the quality assurance manual, section 9?

23 A. Yes.

24 Q. And this particular one is dated what date?

25 A. 18 June 96.

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1 Q. Do these things, as they're developed, do they
2 go through various amendments and changes with different
3 issue dates on them?

4 A. Yes.

5 Q. If you can take a look through this and
6 indicate whether it in fact reflects various welding
7 procedures that were applicable to the Point Beach job, I'm
8 not going to ask you just particular one, but which type of
9 document is one of the documents that would apply.

10 A. Yes. In fact, the date 18 June 96 means that
11 it was in effect at the time we were qualifying and getting
12 ready to do the work at Point Beach, so I would assume that
13 most of the procedures that were qualified to Point Beach
14 were done under this revision. I don't know when the next
15 revision of this came out, but this certainly is the
16 revision that would have been in effect about the time that
17 we were qualifying Point Beach welding procedures.

18 Q. After the decision was made on the 15th of
19 January to remove Mr. Artayet from the corporate welding
20 engineer, group welding engineer position, did you make any
21 further decisions with regard to his employment at all, or
22 was that basically the end of your involvement with Mr.
23 Artayet's job assignments?

24 A. No, I did not. My last discussion about his
25 future with the company was that I did not want to

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1 terminated his employment. I felt that we ought to at
2 least give him an adequate period of time to with our help
3 find another job in the company, and I proposed to Drew
4 that that be three months, and that's what was decided, and
5 after that, I was not involved in it.

6 Q. Did you get a chance to speak to Mr. Artayet
7 on the 15th after he talked to Mr. Edleman and was informed
8 of his removal from the position?

9 A. I don't know. Sometime after the decision was
10 made, and I'm not sure if it was that day or the next
11 several days or even the next several weeks, I approached
12 Alain and told him that I was sorry that things turned out
13 the way they did, and I think that was my last discussion
14 with him.

15 Q. If you can turn to page I, please, tab I? On
16 the second page of that is an affidavit. Do you see that?

17 A. Yes.

18 Q. Is that your signature on that?

19 A. Yes.

20 Q. And does this affidavit reflect your belief as
21 to what is appropriate to expect from a group welding
22 engineer?

23 A. Exactly.

24 Q. Did anything, by the way, having to do with
25 D.C. Cook issues raised by -- let me say raised in January

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1 of 1997 impact your decision whatsoever?

2 A. Absolutely not. I wasn't aware of anything
3 related to D.C. Cook up to and including the time when I
4 made the recommendation and made the decision that we make
5 a change with Alain.

6 Q. By the way, did Mr. Artayet ever come to you
7 and tell you that he had disapproved or found deficiencies
8 in welding procedure specifications that had been prepared
9 at the Point Beach site, and that the project welding
10 engineer refused to make the changes that he had specified?

11 A. I don't recall him doing that. I guess I
12 should add that I feel that if he had done that, and I was
13 convinced that that was a serious enough problem, I would
14 have done something about it.

15 ***

16 MR. ASHMUS:

17 No further questions.

18 ADMINISTRATIVE LAW JUDGE:

19 Cross examine.

20 ***

21 CROSS EXAMINATION

22 BY MR. BELL:

23 Q. Let me see if I can convince you, Mr. Pardi.
24 You are aware of the fact that the Hartford Steam Boiler
25 audit found problems with the site-specific Point Beach

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1 welding procedures, right?

2 A. Right.

3 Q. And you know that Mr. Artayet didn't prepare
4 the site-specific welding procedures, correct?

5 A. I'm not sure that they were prepared entirely
6 without his involvement. I know that he was involved in
7 initial attempts to qualify the procedures. In fact, if
8 Alain was doing what I wanted him to do, what I expected
9 him to do, he would have been involved very much in the
10 preparation of those procedures, so...

11 Q. Let's turn back to...

12 A. ...for you to tell me that he had no
13 involvement in them, I'm surprised at that. I mean, it may
14 be, but...

15 Q. Let's turn back to tab C, shall we?

16 A. Which tab?

17 Q. Tab C as in cat. Let's look at the first page
18 after your signature which is page 1 of 7. Do you see that
19 there?

20 A. Yes.

21 Q. Let's look at section 9.2.1. Now, that says
22 that it's Mr. Artayet's responsibility to qualify the
23 welding procedures, doesn't it?

24 ***

25 MR. ASHMUS:

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1 Objection, it says what it says.

2 ADMINISTRATIVE LAW JUDGE:

3 What are you referring to, Mr. Bell?

4 MR. BELL:

5 Section 9.2.1 on page 1 of 7.

6 ADMINISTRATIVE LAW JUDGE:

7 Is this the first page of C?

8 MR. BELL:

9 It's the second page of C.

10 ADMINISTRATIVE LAW JUDGE:

11 The quality assurance manual?

12 MR. BELL:

13 Yes.

14 ADMINISTRATIVE LAW JUDGE:

15 Okay.

16 THE WITNESS:

17 It says it's his responsibility to direct
18 preparation and qualification.

19 ***

20 BY MR. BELL:

21 Q. And he did that. You know that Mr. Artayet
22 went to Memphis and qualified the welds.

23 A. Right.

24 Q. Let's look at 9.2.5. Doesn't that say that it
25 was Rusty Gorden's obligation to develop site-specific

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1 welding procedures?

2 A. Yes.

3 Q. Rusty Gorden was the project welding engineer,
4 correct?

5 A. Right.

6 Q. And if you flip back to the next revision, the
7 20 August revision, further back in Exhibit C.

8 A. Okay.

9 Q. Section 9.2.5 says exactly the same thing,
10 doesn't it, that it's Rusty Gorden's obligation to develop
11 the site-specific welding procedures, correct?

12 A. I'm sorry, 9.2.5?

13 Q. Yes, the 20 August revision.

14 A. Right, under the direction of the group
15 welding engineer.

16 Q. Did Mr. Artayet tell you what attempts he made
17 to direct Mr. Gorden in developing the site-specific
18 welding procedures?

19 A. I don't recall. He may have told me that
20 there was some concerns, but I honestly don't recall.

21 Q. Did Mr. Artayet tell you that Rusty Gorden had
22 sent him some welding procedures and that he had reviewed
23 them, and that the had sent a fax to Rusty Gorden calling
24 to Rusty Gorden's attention problems in the welding
25 procedures?

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1 A. He may have done that, but I don't recall.

2 Q. You testified on direct examination that if
3 you had known that there were problems coming from Rusty
4 Gorden's end, you would have done something about it.

5 A. No, I said if I was convinced that there were
6 serious problems with the qualification of the welding
7 procedures, I would have done something about it.

8 Q. But we're not talking about -- the Hartford
9 Steam Boiler audit didn't talk about qualification of
10 welding procedures, did it?

11 A. Well, it talked about problems with our
12 welding procedure specifications, which...

13 Q. It talked about problems with the site-
14 specific welding procedures, didn't it?

15 A. That's right. Yes.

16 Q. And those had been prepared by Eugene Rusty
17 Gorden, correct?

18 A. Under the direction of Alain Artayet.

19 Q. Who signed them?

20 A. Rusty Gorden did.

21 Q. And are you aware that Rusty Gorden sent those
22 to Alain Artayet in October, and Mr. Artayet marked them up
23 and sent them back to Rusty Gorden?

24 A. I'm not, but that's what should have happened.

25 Q. Well, it did happen. Do you disagree with

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1 that?

2 A. I mean, I did not see the marked-up copies of
3 the procedure, but that's...

4 Q. My question is, what inquiry did you make
5 before you fired the man?

6 A. Inquiry relative to what?

7 Q. To whether Alain Artayet screwed it up or
8 whether Rusty Gorden screwed it up.

9 A. Our QA program specifically says that the
10 group welding engineer is responsible for the oversight of
11 all of our welding procedures and the qualifications.

12 Q. Your QA program says, does it not, at section
13 9.2.5 of Exhibit C, that the project welding engineer
14 develops project-specific welding procedures.

15 A. That is a paragraph under paragraph 9.2.1,
16 which says that the group welding engineer is responsible
17 to direct preparation and qualification of the welding
18 procedure specifications.

19 Q. Right. Qualification of a welding procedure
20 is a different function than developing a site-specific
21 welding procedure, is it not?

22 A. No, it's not. It's 9.2.1 -- it's generic.
23 All of our corporate -- all of our welding procedures, and
24 furthermore, Alain knew that I depended on him to oversee
25 all of our welding operations...

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1 Q. Right, and...

2 A. ...corporate or site-specific.

3 Q. And you were also aware that Alain depended on
4 you when he came to you in December and told you that you
5 were going to have problems on the audit that you should
6 have looked into it.

7 A. He never did that.

8 Q. He never did that?

9 A. He never told me that we were going to have
10 problems on the audit.

11 Q. Mr. Artayet has testified that on or about 15
12 December, you called him to your office and you two had a
13 two-hour meeting. Is he lying about that?

14 A. I do not recall the meeting.

15 Q. Is he lying about it?

16 A. From my perspective, he is. I just do not
17 recall the meeting.

18 Q. Mr. Artayet has testified that during that
19 meeting, you removed him from all of his non-nuclear--
20 from all of his nuclear duties.

21 A. I did not do that.

22 Q. He's lying about that, too?

23 A. If that's what he said, he is.

24 Q. And he's also testified on direct that during
25 that meeting, he told you about how he had tried to get

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1 Rusty Gorden to fix the problems with the welding procedure
2 and that Mr. Gorden had not done that. Is he lying about
3 that, too?

4 A. I don't recall that.

5 Q. What did you do to investigate whether Mr.
6 Artayet had made the mistake or whether Rusty Gorden had
7 made the mistake?

8 ***

9 MR. ASHMUS:

10 I object. There's no foundation that there was
11 ever anything -- that there was even a meeting, let
12 alone one that would cause anything to be
13 investigated.

14 MR. BELL:

15 I'll rephrase the question.

16 ***

17 BY MR. BELL:

18 Q. The Hartford Steam Boiler report that you got
19 on or about 6 January 1997 identified a problem with the
20 site-specific welding procedures at Point Beach, correct?

21 A. Right.

22 Q. You knew that Rusty Gorden had prepared those,
23 did you not?

24 A. Rusty Gorden in conjunction with Alain.

25 Q. Did you ever look at them?

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1 A. No.

2 Q. If you'd looked at them, you would have seen
3 that Alain's signature wasn't on them, is that right?

4 A. I believe that's the case, yes.

5 Q. What did you do to try to determine whether
6 Alain had tried to get Rusty Gorden to fix the welding
7 procedures?

8 A. Nothing.

9 Q. Would it have made a difference to you if you
10 knew that Alain had faxed mark-ups to the welding
11 procedures back to Rusty Gorden in early November in an
12 attempt to try to get Rusty Gorden to do them the right
13 way?

14 A. No.

15 Q. It wouldn't have made any difference to you?

16 A. No.

17 Q. Why not?

18 A. Because that was Alain's job, to oversee the
19 welding procedure development, and...

20 Q. How else can Alain do his job other than
21 trying to work with Mr. Gorden to get the procedures right?

22 A. In the world of putting together procedures,
23 it's very common for procedures to go to three, four, or
24 five iterations of drafts and review and approval, so that
25 fact that there was an iteration that came to the corporate

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1 office for review and approval, was marked up and sent
2 back, does not surprise me at all. I would expect that to
3 happen.

4 Q. And are you aware that in December of 1996,
5 Mr. Artayet went to Andy Walcutt and said to Andy, I want
6 to put some extra people on this to fix the Point Beach
7 welding procedures, and that Mr. Walcutt said don't do it?
8 Are you aware of that?

9 A. No.

10 Q. Would that have made a difference to you if
11 Mr. Walcutt had specifically directed him not to fix the
12 Point Beach welding procedures?

13 A. Would that have made a difference to me in
14 what regard?

15 Q. In making the decision that Mr. Artayet was
16 responsible for the quality findings report in the Hartford
17 Steam Boiler?

18 A. This is getting very convoluted. I honestly
19 don't understand what you're saying.

20 Q. I understand. All right, I'll back up.
21 You're saying that Mr. Artayet was responsible for the
22 Hartford Steam Boiler findings, correct?

23 A. Yes.

24 Q. And you're saying that even though Rusty
25 Gorden prepared the site-specific welding procedures, that

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1 Mr. Artayet should have done more to help Mr. Gorden fix
2 them, is that right?

3 A. Or he should have made it perfectly clear to
4 me that we had a serious problem.

5 Q. And you're saying you don't remember whether
6 he in fact made it perfectly clear to you.

7 A. I don't remember, no.

8 Q. Are you aware that Mr. Artayet went to Andy
9 Walcutt and said we need to fix the Point Beach welding
10 procedures, and Andy Walcutt said don't do it?

11 A. No.

12 Q. You're not aware of that?

13 A. I'm not aware of that at all.

14 Q. Had you been aware of the fact that Mr.
15 Walcutt told Mr. Artayet not to fix the Point Beach welding
16 procedures prior to the audit, would you still hold Alain
17 responsible for the findings of the audit?

18 A. First of all...

19 Q. You should answer that yes or no. Can't you?

20 A. The question is not clear in my mind.

21 Q. Let me try it again.

22 A. Okay.

23 Q. You're saying that Alain was responsible for
24 the Hartford Steam Boiler finding concerning the Point
25 Beach specific welding procedures, correct?

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1 A. Right.

2 Q. My question is, if you were aware that Alain
3 tried to fix it and that Andy Walcutt said don't, if you
4 knew that, would you still be of the opinion that Alain is
5 the one who caused the problem?

6 A. Yes.

7 Q. Even though he offered to fix it and he
8 received a direct order not to?

9 A. Yes.

10 Q. So is it your testimony that whatever Hartford
11 Steam Boiler determined to be a problem, it was Alain's
12 fault, no matter what he did, to try to fix it?

13 A. No.

14 Q. What more could he have done other than to
15 work with Mr. Gorden back in November, to bring it to Mr.
16 Walcutt's attention. to offer to Mr. Walcutt that he would
17 attempt to fix it only to have Mr. Walcutt tell him not to?

18 A. Your Honor, can I answer this a little bit
19 differently than yes or no and tell you how I feel about
20 this situation?

21 ***

22 ADMINISTRATIVE LAW JUDGE:

23 You can answer and elaborate.

24 THE WITNESS:

25 If I had known that Alain thought there were

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1 significant deficiencies in our procedures, that
2 something needed to be done in preparation for that
3 Hartford audit, I would have done whatever it took.
4 The problem was that I held Alain responsible for
5 the qualification and quality of our welding
6 procedures, and I had no idea that when Hartford
7 audited us that we were going to have that type of
8 problem. Now, if Alain did in fact go to Andy and
9 say, Andy, we've got to fix these things, and Andy
10 said no, he was not reflecting my feeling or MK's
11 feelings about what we need to do with our
12 procedures. Our procedures need to be top-drawer,
13 and if we need to work around the clock or whatever
14 we need to do to get those procedures correct,
15 that's what we should do.

16 ***

17 BY MR. BELL:

18 Q. And you're not aware of the fact that Mr.
19 Artayet suggested to Mr. Walcutt in early December of 1996
20 that exactly that happened...

21 A. No.

22 Q. ...that additional personnel be brought in,
23 that they work around the clock through the holidays to get
24 the procedures right?

25 A. No.

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1 Q. If you were aware of that, would you still
2 hold Alain responsible?

3 A. No, but I do hold Alain responsible for the
4 fact that our procedures were in that state of disarray so
5 soon before the Hartford audit or at any point in time, but
6 if he said we need to fix them, he was absolutely right,
7 and we should have done them, but he should have told me
8 that.

9 Q. Well...

10 A. If he didn't get a response from...

11 Q. ...Mr. Artayet has testified...

12 A. ...Andy, he should have come to me.

13 Q. ...that on or about 15 December, he did tell
14 you that, and you said he lied about it.

15 A. I don't remember that.

16 Q. Let's talk about the second reason that you
17 gave for removing Mr. Artayet, and that's the memo
18 concerning drop weight testing. Are you sure that memo was
19 from Mr. Artayet?

20 A. You know, all I remember is that Marty
21 Cepkauskas called me and said that he had a memo, and I
22 believe it was from Alain Artayet to the site saying that
23 drop weight tare tests were not done. He then faxed me a
24 copy of the memo, and all I remember about the fax is that
25 there was a note from Marty, you know, of incredulity. I

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1 mean, he couldn't believe it about how could this happen,
2 and that's the extent of my involvement. I did not probe
3 into it. I don't even think I read the memo. All I knew
4 is that Marty was saying that this is crazy, because on one
5 site, we got into trouble for not doing it, and now he's
6 saying we don't need it here. I kept an open mind because
7 specs and codes change from project to project, and it
8 could be on one project you don't need it, but I mean,
9 that's all I know about that issue.

10 Q. Isn't it true that the memo was from Mr.
11 Walcutt?

12 A. It could be.

13 Q. Do you want to explain to the Court why you
14 fired Mr. Artayet for a memo written by Mr. Walcutt?

15 A. First of all, I did not fire Mr. Artayet.
16 He's still employed by our company. The reason for...

17 Q. I want you to explain to the Court why he was
18 removed from the position of corporate or group welding
19 engineer because of a memo that Mr. Walcutt wrote.

20 ***

21 MR. ASHMUS:

22 Objection.

23 THE WITNESS:

24 It was not because of that. I made my decision...

25 MR. BELL:

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1 You said that that was one of the three reasons...

2 THE WITNESS:

3 I didn't say that.

4 MR. BELL:

5 Mr. Pardi, you answered specifically in response to
6 your lawyer's question that there were three things
7 you took into consideration.

8 MR. ASHMUS:

9 Objection.

10 MR. BELL:

11 Number one was the Hartford Steam Boiler report,
12 number two was the memo about drop weight testing,
13 and number three was job place friction. Those are
14 the three things you testified to.

15 THE WITNESS:

16 I made my decision...

17 MR. ASHMUS:

18 Objection. That's not what the question was.
19 That's a mischaracterization of both the question
20 and the answer.

21 ADMINISTRATIVE LAW JUDGE:

22 What question are you referring to?

23 MR. ASHMUS:

24 The question that Mr. Bell is referring to that he
25 answered.

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1 ADMINISTRATIVE LAW JUDGE:

2 That can be clarified. You can ask that question,
3 and he can clarify his testimony.

4 ***

5 BY MR. BELL:

6 Q. Why did you fire Mr. Artayet or remove him
7 from his position for a memo that he didn't even write?

8 A. I did not remove Mr. Artayet from his existing
9 position for that memo. I removed him -- I made the
10 recommendation that he be removed, because it was obvious
11 and the single most obvious thing was the Hartford Steam
12 Boiler audit findings, and...

13 Q. You already testified...

14 A. ...the welding procedures...

15 Q. ...that you didn't know all the facts about
16 that, and...

17 A. I did know all the facts. I knew the facts
18 that I needed to make the decision about his being able to
19 support the power division.

20 Q. Mr. Pardi, you just testified that if you had
21 known that Mr. Artayet offered to bring people in and to
22 work around the clock...

23 A. I'm not sure. Is that...

24 Q. Can I finish my question? You just testified
25 that if you'd been aware of those facts, you might not have

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1 come to the same conclusion that Mr. Artayet was
2 responsible for the findings.

3 A. If those were indeed facts, and if I was made
4 aware of them, I might have thought about the thing
5 differently.

6 Q. Okay. Fair enough. Now, are you saying that
7 the memo about drop weight testing is not one of the things
8 you took into consideration when you made the decision to
9 remove him from his position?

10 A. Anything that goes through your mind is
11 something you take into consideration.

12 Q. Well, did the memo go through your mind when
13 you were making the decision?

14 A. I guess it did.

15 Q. My question to you then is why do you hold Mr.
16 Artayet responsible for a memo that his boss wrote?

17 ***

18 MR. ASHMUS:

19 Objection. The question was could it possibly have
20 been Mr. Walcutt, and the answer was perhaps.

21 ADMINISTRATIVE LAW JUDGE:

22 Rephrase the question.

23 ***

24 BY MR. BELL:

25 Q. If it determines that it's Mr. Walcutt who

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wrote the memo and not Mr. Artayet, would you still think it highly appropriate to remove Mr. Artayet from his position in whole or in part because of a memo he didn't write?

A. I believe that Andy in that memo was talking about a recommendation made by Alain, and my perception was that that recommendation was that drop weight tare tests are not necessary.

Q. So now you recall the memo and you in fact recall that Mr. Walcutt wrote it, is that right?

A. No.

Q. Let me show it to you. It's Exhibit 4 -- I'm sorry, Exhibit 5. That's the memo, isn't it?

MR. ASHMUS:

Objection.

ADMINISTRATIVE LAW JUDGE:

On what grounds?

MR. ASHMUS:

On the grounds that Mr. Pardi has testified to seeing a memo with a note on it from Marty, and there was no such note.

ADMINISTRATIVE LAW JUDGE:

He can identify whether this is it or not.

THE WITNESS:

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1 I don't remember this memorandum.

2 ***

3 BY MR. BELL:

4 Q. That's not the one you're referring to?

5 A. I don't believe I ever read the memorandum in
6 detail. I remember that it had a note on it from Marty
7 saying -- with some question of how can they not be
8 required on this job when they were required before.

9 Q. So you took...

10 A. I did not go into...

11 Q. ...into consideration in making the
12 determination to remove Mr. Artayet a memo that you hadn't
13 even read?

14 A. No, I didn't take into consideration the memo.
15 I took into consideration Marty's comments to the memo.

16 Q. Are you aware of the fact that Mr. Artayet
17 didn't work at MK during the D.C. Cook project?

18 A. Well, he worked at MK when we were putting the
19 final paperwork together for D.C. Cook. That's what my...

20 Q. How do you know that...

21 A. ...perception is.

22 Q. ...since you weren't working there until 1992?

23 A. Because when I joined the company, people told
24 me of this concern that they had at D.C. Cook.

25 Q. My question is, did you make the determination

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1 that you were going to rely on that memo as a part of your
2 decision to remove Mr. Artayet without even having read it
3 carefully?

4 A. If I did, it was a very minor part in my
5 decision.

6 Q. Let's talk about the third factor then, job
7 friction. Isn't it true that the job friction largely
8 revolved around the fact that Max Bingham wanted his
9 welding engineer, Rusty Gorden, to qualify the Point Beach
10 welding procedures?

11 A. I don't know.

12 Q. You don't know what the friction was about?

13 A. I do know that the friction, from my
14 perspective, there was friction between the corporate
15 welding engineer and the project welding engineer.

16 Q. And isn't it true that what the friction was
17 about was that Mr. Bingham wanted his welding engineer and
18 not Alain to qualify the Point Beach welding procedures?

19 A. That may have been the case.

20 Q. Isn't it true that it would have been a
21 violation of the same paragraphs in Exhibit C that we
22 looked at before for Rusty Gorden to qualify those welding
23 procedures without a delegation from Alain?

24 A. That's true, and it would have also been
25 against my philosophy on how those welding procedures

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1 should have been qualified. I'd say...

2 Q. It also would have been...

3 A. ...that Alain needs to be intimately involved
4 in these procedure qualifications.

5 Q. And he was, wasn't he?

6 A. As far as I know, he was.

7 Q. And he hacked off Max Bingham because of it,
8 didn't he?

9 A. If he did, Max Bingham never told me that.

10 Q. Max Bingham never told you that he was very
11 angry at Alain because Alain refused to delegate to Rusty
12 Gorden the ability to qualify the Point Beach welding
13 procedures?

14 A. No, he never told me that.

15 Q. He never told you that?

16 A. No.

17 Q. So you're not aware of a meeting that Andy
18 Walcutt and Alain Artayet had with Mr. Bingham at the site
19 in July, late July, to resolve the question of whether Mr.
20 Artayet or Mr. Gorden was going to qualify the Point Beach
21 welding procedures?

22 A. You have to realize that I don't get involved
23 in the day-to-day aspects of every project that I run. I
24 knew that there were problems, but I knew it at a very
25 broad level. I knew that Alain had tried to qualify some

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1 of the welding procedures off-site. I was at a Dupont job
2 someplace, and the project was not happy with that, and I
3 told the project that what I thought they should do is
4 qualify the procedures at the site under Alain's
5 supervision, and by that, I meant that I thought that Alain
6 should go down there, sit down with the project welding
7 engineers, make up a menu, if you will, of all the things
8 that had to be done to qualify the procedures, and then
9 monitor that to his satisfaction. That's how I envisioned
10 that the procedure should have been done, but I was not
11 involved on a day-to-day basis in the welding procedures.

12 . Q. Are you aware that Mr. Cepkauskas made the
13 decision that it was Alain who should be qualifying the
14 Point Beach welding procedures?

15 A. I'm only aware of the fact that I told Marty
16 that Alain was the guy that was responsible for the welding
17 procedures.

18 Q. And are you aware that Alain made the decision
19 to qualify those welds in Memphis because they had the
20 appropriate equipment in Memphis to do the welding?

21 A. No, I'm aware that that decision was made, but
22 I didn't know why.

23 Q. Are you aware that Mr. Artayet invited Rusty
24 Gorden to come and participate in the weld qualification
25 process?

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1 A. I would expect him to do that, but I'm not
2 aware that he did.

3 Q. Would it have made a difference to you if you
4 had known all these facts before you took the decision to
5 remove him from his position?

6 A. No, no.

7 Q. So you're -- the responsibility for the
8 friction that you've testified to rests only with Alain and
9 not with anybody else?

10 A. I'm sure that's not the case. There's two
11 sides to every story.

12 Q. And the side you chose was the one that
13 resolved itself in favor of removing Mr. Artayet from his
14 position.

15 A. The side I chose was the only action that I
16 could take in my position. I counted on somebody to have
17 MK's welding procedures beyond reproach, and that did not
18 happen.

19 Q. But it...

20 A. It caused us considerable embarrassment.

21 Q. But it didn't happen despite Mr. Artayet's
22 very best efforts to make sure that those welding
23 procedures were correct.

24 A. That's where we disagree. I don't agree that
25 he made his very best efforts.

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1 Q. And you don't agree with me because you're
2 unaware of the fact that Mr. Artayet offered to get those
3 welding procedures in shape before the Hartford Steam
4 Boiler audit, and he was directed not to do it?

5 A. That's a claim. I mean, I don't know that to
6 be a fact.

7 Q. Okay. Are you going to go back to the office
8 and ask Mr. Walcutt about it?

9 A. I might.

10 Q. Is it possible that you had a discussion with
11 Mr. Walcutt or Mr. Walcutt said he wanted the Hartford
12 Steam Boiler findings to be made, because he was sick and
13 tired of the people at Point Beach trying to run roughshod
14 over the quality assurance department at MK?

15 A. Mr. Walcutt?

16 Q. Uh-huh.

17 A. No.

18 Q. Never heard that?

19 A. Never had that conversation.

20 Q. Now, you're aware of the fact that Mr. Artayet
21 was removed from his position as corporate welding engineer
22 on 15 January 1997, is that right?

23 A. Yes.

24 Q. And you're aware of the fact that the day
25 before, Mr. Artayet had finished work on a memorandum

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1 discussing the deficiencies in Point Beach welding
2 procedures?

3 A. I'm aware of that now, yes.

4 Q. You were not aware of the fact on January 15,
5 1997, that Mr. Artayet had written a memorandum finding a
6 whole series of additional problems with the Point Beach
7 welding procedures?

8 A. I am aware of that memorandum. I'm not sure
9 exactly when I became aware of that memorandum.

10 Q. That memorandum, is it your testimony, was not
11 discussed in relation with the decision to remove Mr.
12 Artayet from his position as corporate welding engineer?

13 A. I believe it was, but I'm not sure.

14 Q. It was discussed?

15 A. The memorandum...

16 Q. Was it discussed? I'm just trying to clarify
17 your answer. You believe it was discussed?

18 A. The basis for my decision was the Hartford
19 Steam Boiler Audit.

20 Q. My question is...

21 A. That memorandum expanded upon that...

22 Q. It found a whole bunch of additional problems.

23 A. The additional stuff, right. Right.

24 Q. And was that discussed on 14 or 15 January
25 1997?

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1 A. I think it was.

2 ***

3 MR. BELL:

4 I have no further questions.

5 ADMINISTRATIVE LAW JUDGE:

6 Redirect.

7 ***

8 REDIRECT EXAMINATION

9 BY MR. ASHMUS:

10 Q. Now, the particular memorandum that was
11 prepared on the 14th or completed on the 14th was a draft
12 QFR. Is that your understanding?

13 A. I don't remember if I saw the draft or the
14 final version of it.

15 Q. To your recollection, was there any change in
16 your view of whether Mr. Artayet should remain as the group
17 welding engineer from the first week of January until he
18 was informed of the decision on the 15th?

19 A. No.

20 Q. No

21 A. I believe I recall what happened, though. I
22 made the decision after I had the oral report from the
23 Hartford Steam Boiler audit, and I went down to talk to
24 Drew Edleman about it, and he and I pondered on what to do,
25 because it was a dilemma. Nobody wants to change people

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1 around in an organization. Then in the middle of the
2 month, either the 14th, 15th, or whatever, I saw either the
3 draft or the final copy of the QFR, and that made me
4 remember that we needed to take some action, that there
5 were some deficiencies in our welding procedures, and I
6 went down to talk to Drew, and that's when we -- when I
7 made the decision, and that's when we made the
8 recommendation to Tom Zarges, so I did see that memorandum.
9 I did see it before I made the final recommendation, but I
10 don't remember if it was a draft or the final copy.

11 Q. Was there anything in that draft report or
12 final report that changed your position in any way that Mr.
13 Artayet had not provided MK with a clean quality welding
14 program?

15 A. No. I guess finally seeing the extent to
16 which our procedures had problems reinforced my earlier
17 decision that our welding procedures and our welding
18 program was not up to the quality level that I expected,
19 and reinforced that I had made the right decision.

20 ***

21 MR. ASHMUS:

22 Nothing further.

23 ADMINISTRATIVE LAW JUDGE:

24 Any recross, Mr. Bell?

25 ***

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RECROSS EXAMINATION

1
2 BY MR. BELL:

3 Q. So in addition to the other three factors,
4 there's now a fourth factor, and that is another of the
5 reasons for the action being taken was your actual review
6 of the quality finding report?

7 ***

8 MR. ASHMUS:

9 Objection.

10 ADMINISTRATIVE LAW JUDGE:

11 On what grounds?

12 MR. ASHMUS:

13 It's a mischaracterization of the testimony.

14 ADMINISTRATIVE LAW JUDGE:

15 Let him explain whether that in fact is the answer
16 to the question, if that is the reason for the
17 action.

18 ***

19 BY MR. BELL:

20 Q. You just said that when you read the eight-
21 page memorandum attached to the quality finding report,
22 that led you to the conclusion that the welding program was
23 in disarray, and that reinforced your decision.

24 A. No.

25 Q. Isn't that what you just said?

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1 A. I said it reinforced my previous conclusion
2 and previous decision.

3 Q. And my question is, is that now a fourth
4 reason why the action was taken to remove Mr. Artayet from
5 his position as group welding engineer?

6 A. No, only the fact that it tickled my memory
7 and said I've got an action item on the table here that I
8 have to finish, and that's when I went to talk to Drew and
9 said we've got to do something.

10 ***

11 MR. BELL:

12 No further questions.

13 ADMINISTRATIVE LAW JUDGE:

14 Thank you, Mr. Pardi.

15 THE WITNESS:

16 Thank you.

17 ADMINISTRATIVE LAW JUDGE:

18 You may take your seat. Off the record for a
19 minute.

20 ***

21 (Off the record)

22 (On the record)

23 ***

24 ADMINISTRATIVE LAW JUDGE:

25 Would you remain standing and raise your right

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1 Anything further from this witness?

2 MR. ASHMUS:

3 No, Your Honor.

4 ADMINISTRATIVE LAW JUDGE:

5 Thank you, Mr. Edleman. You may step down. You
6 may call your next witness.

7 MR. ASHMUS:

8 Mr. Walcutt.

9 ADMINISTRATIVE LAW JUDGE:

10 Please raise your right hand.

11 ***

12 (Witness sworn)

13 ***

14 ADMINISTRATIVE LAW JUDGE:

15 Please be seated.

16 ***

17 ANDREW WALCUTT,

18 called as a witness, having first been duly sworn according
19 to the law, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. ASHMUS:

22 Q. Would you state your full name for the record
23 and spell your last name for the court reporter, please?

24 A. Andrew J. Walcutt, last name is spelled W-a-l-
25 c-u-t-t.

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1 Q. And Mr. Walcutt, what's your address?

2 A. [REDACTED]

3 Q. Where are you employed?

4 A. Morrison Knudsen Corporation.

5 Q. In what position?

6 A. Group quality director.

7 Q. How long have you been employed with MK?

8 A. Fifteen years.

9 Q. How long have you been group quality director?

10 A. Since '92 or '93.

11 Q. What position did you hold before you became
12 group quality director?

13 A. Immediately prior to that, I was a quality
14 engineer in the Cleveland office in between projects.
15 Before that, I was a project quality manager on various
16 projects around the country.

17 Q. So you've had both field experience and
18 headquarters experience?

19 A. That's correct.

20 Q. Is that something that's common at MK?

21 A. Yes.

22 Q. In connection with your work, have you come to
23 know Alain Artayet?

24 A. Yes.

25 Q. And how long have you known Mr. Artayet?

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1 A. I went into the office in '89. I'd say since
2 '89.

3 Q. And have you had a relationship with being a
4 supervisor in the chain of command involving Mr. Artayet?

5 A. Yes.

6 Q. And how long had you had that position of some
7 supervisory responsibility?

8 A. The '92 or '93 time frame.

9 Q. And what was your level of relationship with
10 Mr. Artayet prior to becoming his supervisor?

11 A. He was in charge of welding and I was in the
12 quality side of the house, so separate direct paths
13 reporting to the quality director.

14 Q. In the position that Mr. Artayet held, what in
15 your view were his major responsibilities?

16 A. He was responsible for development or
17 administration of the corporate welding program,
18 establishment of corporate welding policies. He was
19 responsible for the code -- in our code manuals, the
20 welding sections of those manuals. He was responsible for
21 providing technical advice to our engineering forces on the
22 projects on welding-related issues as requested by the
23 projects or requested by the engineers. He was responsible
24 for qualification of welding procedures. That's about it.
25 That's it.

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1 Q. Now, in your position, did you have any
2 opportunities or occasions to interface with Mr. Pardi as
3 head of the power group?

4 A. Yes, on a regular basis.

5 Q. What was your understanding of the reliance
6 that Mr. Pardi placed upon Mr. Artayet in terms of having
7 an effective compliant corporate welding program?

8 A. Mr. Pardi looked at Alain as the corporate
9 welding engineer and expected Alain to ensure that the
10 welding program met code and contract requirements.

11 Q. Specifically, did Mr. Artayet have any
12 involvement with the Point Beach steam generator
13 replacement project?

14 A. To some extent, yes.

15 Q. And he was the group welding engineer?

16 A. Correct.

17 Q. And did you accompany Mr. Artayet on a trip to
18 Point Beach early in the course of that project?

19 A. Okay. The project had begun mobilizing for
20 the construction activity in say, the November of '95 time
21 frame, so in December, November or December I took him up
22 to the site to interface with Rusty Gorden, who was
23 appointed to be the project welding engineer.

24 Q. And on that trip, was there a meeting that you
25 attended and Mr. Artayet attended and Mr. Gorden attended?

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1 A. There was a meeting in Rusty Gorden's office.
2 I didn't stay for the whole meeting. I basically put those
3 two people together in the same room and told them to, you
4 know, work out and get a good feel for each other and work
5 out whatever issues they thought were necessary. I didn't
6 stay in the room for the whole meeting.

7 Q. And did you learn that there had been some
8 consensus reached at that meeting?

9 A. Before -- I walked at the end before we left,
10 and I asked had all issues been resolved, are you guys
11 comfortable with each other. I saw two heads nod. I got
12 the feeling they were both satisfied with the outcome of
13 the meeting, and then we left.

14 Q. And did you later learn that Mr. Artayet had
15 changed his mind about the commitment that he'd made?

16 A. I believe it was the next day that Alain said
17 that he had been thinking overnight and had decided that
18 some of the agreements that he reached with Rusty were not
19 acceptable to him and that he had changed his mind on them.

20 Q. And what did you respond to Mr. Artayet?

21 A. I told him that that was bad practice to go
22 back on your word. This is the construction world, that
23 once you make an agreement, they expect you to carry out
24 that agreement. To go back on it is just -- it just wasn't
25 good practice.

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1 Q. And was this an issue of some safety thing or
2 simply a matter of record-keeping, format or form?

3 A. I really -- it didn't sound like it was a
4 technical issue. It sounded like it was one of these
5 disagreements in how to do something. There's multiple
6 ways of doing -- like filling out a form or how a format
7 is. It was an agreement in that area that the change of
8 mind had taken place.

9 Q. Did you have any other occasions to visit the
10 Point Beach site with Mr. Artayet during the course of the
11 Point Beach work?

12 A. There was one other time in July.

13 Q. And there's been some testimony that there was
14 a major purpose for that trip and that something else
15 happened, but what was the major purpose for that trip?

16 A. Well, we were in the process of getting ready
17 for the ASME survey. The client had requested that the
18 work that we do be code-stamped under our ASME program.
19 When that happens and I have to mobilize my stamps to the
20 field, that requires an on-site survey by ASME, and as a
21 result, you know, they come in and a team comes in and does
22 a full assessment of all operations described in our code
23 manual. I wanted Alain to go up there to overview the
24 welding process, you know, was everything in shape for this
25 code survey to take place.

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1 Q. And did that occur?

2 A. Yes.

3 Q. And was there then, at the conclusion of that
4 process a meeting that you attended and Mr. Artayet
5 attended and Max Bingham, if not other people attended?

6 A. There was another thing going on. You asked
7 for the main reason. The main reason I had in mind was to
8 get ready for the code survey. Another reason for Alain to
9 be there was to coordinate with the people on-site on the
10 weld procedure qualification process because that was not
11 going as fast as they needed it to go.

12 Q. And was the meeting with Max Bingham in
13 relation to the site's dissatisfaction with the process of
14 the qualification?

15 A. There was two meetings, one where there must
16 have been eight or so people sitting around a table
17 discussing the procedure qualification process and what we
18 needed to do to support the overall schedules, and then
19 after that meeting was over, there was a separate meeting
20 with Max Bingham, Alain Artayet, and myself.

21 Q. And what occurred in that meeting?

22 A. Max basically reviewed why he was dissatisfied
23 or concerned with Alain's performance. There was -- in
24 looking at the qualification process, there was apparent
25 breakdowns in communications between the site and Alain,

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1 so, you know, those types of issues were discussed, you
2 know, why Max was concerned with Alain, why he didn't like
3 some of the decisions Alain was making. Max indicated that
4 he felt that Alain didn't try to help the project, so he
5 was concerned about that.

6 Q. Was there an issue concerning the fact that
7 Mr. Artayet was using somebody unconnected with the project
8 to do qualifications?

9 A. When the site requested the qualification to
10 be done by Alain Artayet, Alain and I met and we looked
11 around at our options. Given the schedules that they
12 wanted the procedures produced on, the only facility where
13 we had the ability to produce weld test coupons at that
14 rate would be the Memphis site, because we had people down
15 there, we had welders that had worked and we had some idea
16 of their ability. We had a welding engineer in place down
17 there who could work with us to make sure things were
18 happening, so we had mobilized the qualification process at
19 that site. During that process, Alain had appointed Keith
20 Mackey [ph] to be his representative as group welding
21 engineer, and by procedure, he's allowed to delegate his
22 authority, and he did that for Keith, and had Keith follow
23 the qualification process, and Max's issue was, well, why
24 couldn't you delegate Rusty Gorden, he's on this project,
25 he's here, his background is nuclear. He was sort of upset

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1 that you'd appoint somebody not on a nuclear project to be
2 working on these procedures instead of somebody on the
3 project.

4 Q. Subsequently, did Mr. Artayet actually
5 document his prior authorization to Mr. Mackey?

6 A. I believe that's the case. I think he
7 probably did it verbally at first, and there's a letter in
8 the file that shows up in late July, August.

9 Q. But Mr. Mackey had already been...

10 A. He had already...

11 Q. ...working on qualifications prior to this
12 delegation?

13 A. Correct.

14 Q. The formal delegation?

15 A. Before the formal delegation.

16 Q. So it wasn't -- in your understanding, it
17 wasn't Mr. Bingham being upset that Mr. Artayet was doing
18 it himself and not allowing someone else on the project to
19 do it, but that he wasn't doing it himself; he was
20 delegating somebody to do it who wasn't connected with the
21 project instead of the project person?

22 A. Right.

23 Q. In connection with this project, again, in the
24 fall of 1996, did you have a conversation with Mr. Pardi
25 about a question that the field had raised concerning the

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1 direction that they thought they had received from Mr.
2 Artayet concerning drop tests and qualifications? You have
3 to answer out loud for the record.

4 A. Yeah. I'm just trying to make sure I have it
5 lined out right. Lou expressed the fact that the project
6 had lost confidence in Alain's technical capabilities, and
7 by the project, I mean Marty Cepkauskas, and based on the
8 information that Lou had been presented concerning the drop
9 weight impact test options, he didn't have any more
10 confidence in Alain, and that, you know, that he saw it as
11 a major problem, and he didn't see how Alain could continue
12 to serve the power group as group welding engineer.

13 Q. And did you then respond by looking into the
14 issue?

15 A. Yes.

16 Q. And did you make a report...

17 A. Yes.

18 Q. ...to Mr. Pardi?

19 A. Yes.

20 Q. Do you recall the general nature of your
21 conclusions in the report?

22 A. I could not find anywhere, you know,
23 concerning the heat impact issue, I couldn't find anywhere
24 where Alain had made that statement. I found one memo or
25 letter or one piece of information where Alain was

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1 discussing the impact issue, but he was discussing it in
2 terms of someone in the industry has said this is an
3 option. I don't think it's real, but here it is. That's
4 the only thing I could see where he was actually quoting
5 somebody else concerning impacts and what you needed to do
6 with them. I didn't see where he personally could be
7 attributed to taking that position, and that's what my memo
8 said.

9 Q. And did your memo look into other aspects of
10 the process of qualification and the reasons why things had
11 gone so slowly?

12 A. Yes. One of the other problems that the
13 project had with Alain was that the procedures that he was
14 qualifying down in Memphis, they said none of those
15 procedures passed. It was a total waste of effort and
16 money, and in looking at the tests that were done in
17 Memphis whether they passed or failed and the end procedure
18 results, what I found was that the test requirements that
19 we were trying to meet down in Memphis were different than
20 the test requirements on the eventual set of procedures
21 that were generated by the site. There had been a change
22 by Westinghouse in the test parameter requirements which
23 essentially made the test easier to pass. So if you were
24 trying to compare the test program at the site to the test
25 program in Memphis, it was more of an apple-orange

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1 situation than apples and apples.

2 Q. Basically, your report indicated that Mr.
3 Artayet was certainly not solely to blame for this,
4 correct?

5 A. Correct.

6 Q. And that there may have been a
7 misunderstanding of something that Mr. Artayet had said or
8 reported that caused the site to believe that he was
9 advocating the drop testing was not needed?

10 A. Based on the information I could find, yes.

11 Q. And again, you did not ever see what has been
12 described as a fax or handwritten fax?

13 A. No.

14 Q. Now, in the course of the review of the
15 qualification process, did you find that some of the
16 samples that were tested in Memphis had failed because of
17 lack of fusion?

18 A. There were a couple of the test reports that
19 came back from the lab that cited lack of fusion for the
20 failure.

21 Q. More than one?

22 A. Two.

23 Q. Two. In the fall of 1996, did you have any
24 involvement in getting Mr. Artayet assigned to Parkersburg
25 on a relatively extended basis?

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1 A. There was -- one of my welding engineer
2 inspector, Sam Snyder, was going -- had to leave the site
3 for about a month's period of time to prepare for and take
4 an ACI test and there was a large amount of work involving
5 welding going on during that time, and I felt it would be a
6 good opportunity for Alain to go out and see the site and
7 also meet a need that we had on the site.

8 Q. Was this the only time during 1996 that you
9 assigned him to a field position?

10 A. We also had Alain out in the field on the
11 Corning job. They were -- it was a design build. He was
12 working with Tony Tototnick [ph] who was a design engineer
13 to install a piping system, and I don't know all the
14 details, but basically, it was a high-pressure cyclic
15 piping session that fed the molds that injected glass into
16 the press that makes your picture tubes, high-pressure,
17 stiff material, complex material, complex welding.

18 Q. And was this -- the fact that you'd provided
19 these opportunities something that you were looking at to
20 enhance Mr. Artayet's field background?

21 A. Well, Alain had many years of experience in
22 the field from a craft viewpoint. He has quite a bit of
23 knowledge from that standpoint, but, you know, from a
24 supervisory or an engineer, from someone who's overseeing
25 or planning the work, he didn't have that type of

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1 experience, so I was looking for assignments such as that
2 that would broaden his experience to see that type -- how
3 things actually get done from a management perspective in
4 the field.

5 Q. Now, when Mr. Artayet returned back from
6 Parkersburg, you and he went to Colorado for a meeting,
7 correct?

8 A. Right.

9 Q. When you came back from that meeting, did Mr.
10 Artayet report to you that he had found that Rusty Gorden
11 had failed to respond to Mr. Artayet's criticisms of
12 several site-specific WPS forms and had submitted forms
13 that were in violation of the code?

14 A. No.

15 Q. Did you tell him in -- well, did he offer to
16 fix any deficiencies in the WPS forms prior to the upcoming
17 Hartford audit?

18 A. It wasn't discussed.

19 Q. Did you order Mr. Artayet not to fix any
20 deficiencies identified by him to you that would cause MK
21 to fail the Hartford audit?

22 A. No.

23 Q. Did Mr. Artayet come to you and tell you in
24 December that he had had a meeting with Lou Pardi in which
25 Mr. Pardi had fired him or removed him as group welding

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1 engineer for nuclear power work?

2 A. No.

3 Q. Did you tell Mr. Artayet to hide from the
4 Hartford inspectors his removal as group welding engineer?

5 A. No.

6 Q. From your point of view, at the time of the
7 Hartford audit, was there any question about whether Mr.
8 Artayet was or was not the group welding engineer for
9 everything?

10 A. Correct. He had to be. There was no choice.

11 Q. Were you yourself involved in the decision to
12 remove Mr. Artayet from the position of group welding
13 engineer or corporate welding engineer?

14 A. No.

15 Q. Can you please turn to in one of those big
16 black binders, there's an Exhibit number 6?

17 A. Okay.

18 Q. That's a fax cover sheet.

19 A. Right.

20 Q. On the left-hand side of that, is there a
21 notation there?

22 A. Right.

23 Q. And is that your notation?

24 A. Right. Yes.

25 Q. And does that reflect the first time you saw

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1 this?

2 A. Yes.

3 Q. And when -- can you tell -- I can't read all
4 the writing, but...

5 A. It says review of master index dated 14-
6 October-96, and that's my initials and date. That
7 reference to me means that the procedures that are attached
8 here were issued under the master index date of 14 October
9 96, a note to tell me where to tie it back to.

10 Q. And you saw this on the 14th of January, 1997?

11 A. Yes.

12 Q. Would that have been in connection with your
13 review of the Hartford deficiencies and the subsequent
14 reports?

15 A. Correct.

16 Q. Now, you were aware and participated in the
17 Hartford audit, correct?

18 A. Right. Yes.

19 Q. Did you know prior to the receipt of the
20 formal report from Hartford that there were going to be
21 findings?

22 A. At the exit meeting on the 31st, we discussed
23 what he was going to formally write, so I would say on the
24 31st, I knew I was going to have findings.

25 Q. And when you say we, who was present?

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1 A. The exit meeting would have been myself, Bruce
2 Kovacs, and Alain Artayet and Wally Zimmerman.

3 Q. And did you communicate the likely outcome of
4 the audit to Mr. Pardi when he returned to the office after
5 the first of the year?

6 A. Not at that time, because the audit identified
7 a problem which indicated there might be additional
8 problems, and before I brought -- instead of bringing them
9 up one at a time, I wanted a full and complete analysis of
10 all procedures, so I knew all the problems and brought them
11 to Lou at one time.

12 Q. So it wasn't you personally that told Mr.
13 Pardi that Hartford was going to make findings or was about
14 to make findings? You have to answer out loud for the
15 record.

16 A. Oh. No.

17 Q. What did you do to follow up?

18 A. I told Alain Artayet that I wanted a complete
19 review of all the welding procedures, site-specific welding
20 procedures generated by the site, and I wanted that done as
21 quickly as possible. I then had to leave to go out and see
22 a couple of other companies.

23 Q. These are companies unconnected with the Point
24 Beach project?

25 A. They were qualifications for the Florida Power

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1 and Light project, yes, unconnected.

2 Q. And so you were gone, and Mr. Artayet was
3 assigned to follow up and find everything that he could
4 find about any problems with Point Beach?

5 A. Correct.

6 Q. Would you turn to item D in the white loose-
7 leaf binder that ought to be there? It's a smaller one.

8 A. Okay.

9 Q. Can you identify this?

10 A. This is the report generated by Wally
11 Zimmerman reporting the results of the audit, sent to me
12 and received on January 6, 1997.

13 Q. And did you then at a subsequent date prepare
14 a quality finding report?

15 A. I used this -- Wally Zimmerman's report to
16 prepare the initial quality finding report which then
17 caused the investigations to start taking place.

18 Q. Was it not the case that there actually had
19 been investigations prior to the issuance of the QFR by Mr.
20 Artayet?

21 A. Investigations of what?

22 Q. A review of the Point Beach issues. The
23 Hartford...

24 A. Not to my knowledge.

25 Q. ...report came out and you assigned Mr.

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1 Artayet to look into everything having to do with Point
2 Beach?

3 A. Correct.

4 Q. Then the QFR was issued?

5 A. Correct.

6 Q. And then the follow-up on the QFR, right?

7 A. And then the investigations took place.

8 Q. Okay. So maybe we're talking in a little
9 different terms. What Mr. Artayet did is not what you're
10 calling an investigation?

11 A. No. I called it the evaluation.

12 Q. So we have the Hartford evaluation, the QFR
13 investigation...

14 A. Let me -- this is a little bit complex. The
15 Hartford audit, Hartford report, MK evaluation by Alain
16 Artayet, QFR issued, MK evaluation of all the conditions,
17 and then the final report issued with all the issues
18 identified.

19 Q. Okay. So if you can keep going through part D
20 here. The next page is a QFR?

21 A. Right.

22 Q. And that's dated 15 January of '97?

23 A. Right.

24 Q. And this calls for a response by the 31st of
25 January?

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1 A. Correct.

2 Q. And that's reflected at the bottom of that
3 page, correct?

4 A. Right.

5 Q. And then the next page of that is what?

6 A. That's like the follow-up, corrective action
7 taken or proposed to correct discrepancy; that's where
8 you're figuring out what you have to do. Cause of
9 discrepancy is where you identify what you think caused the
10 discrepancies that you've identified, and then the next one
11 is preventative action, what are you going to do to prevent
12 the discrepancy from happening again.

13 Q. And there's an attachment reference which is
14 not included here?

15 A. The -- okay.

16 Q. That's correct?

17 A. Yes.

18 Q. And then at the bottom of that, there's a
19 check for the implementation of the corrective measures
20 that have been identified, correct?

21 A. Correct.

22 Q. And that was completed by when?

23 A. The 20th of March.

24 Q. All right. And then the next page is what, or
25 the next document is what?

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1 A. On January 28, I'm generating a letter to Tom
2 Zarges because by that time, I had enough information to
3 address the findings that Wally Zimmerman had identified
4 and the actions that we were taking to resolve or have
5 resolved those findings.

6 Q. Now, in connection with your review of what
7 occurred and what resulted in the findings, did you
8 conclude that the issue of lack of communication or
9 personality conflicts had a major contributing factor or
10 was a major contributing factor to the problems?

11 A. Yes.

12 Q. And we know that Mr. Artayet has been removed
13 from his position as group welding engineer.

14 A. Uh-huh.

15 Q. Did you conclude that Mr. Artayet was solely
16 responsible for all the problems?

17 A. No.

18 Q. Were there actions taken not necessarily with
19 regard to Point Beach, because that project was closed, but
20 with regard to future projects involving anyone other than
21 Mr. Artayet?

22 A. I felt that whenever you have a communications
23 breakdown, there's two sides to it. I felt that Rusty
24 Gorden also contributed to the communication breakdown. I
25 informed Marty Cepkauskas and Max Bingham that I would not

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1 accept Rusty Gorden to continue in the function of project
2 welding engineer and that they would have to find a
3 replacement.

4 Q. And that's all that you had authority to do in
5 your position?

6 A. That's all I could do, yes.

7 Q. So as far as the St. Lucie job which is the
8 one immediately following Point Beach and future jobs, Mr.
9 Gorden is not being permitted by you to be project welding
10 engineer.

11 A. Correct.

12 Q. Did you speak to -- let me go back. On the
13 date of January 15, do you recall any contact that you had
14 with Mr. Artayet?

15 A. January 15?

16 Q. In the morning, January 15, the day Mr.
17 Artayet was informed that he was being removed.

18 A. We were in the office together, yes.

19 Q. And do you remember having some kind of
20 discussion with him in relation to D.C. Cook?

21 A. Yes. I remember walking into his office. I
22 had the D.C. Cook procedures manual in my hand, and at that
23 time, Alain said that the problems that I was seeing at
24 Point Beach also occurred at D.C. Cook, and I said that if
25 they're the same problems and as I go through and resolve

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1 the Point Beach problems, I should be also resolving any
2 issues that came up at D.C. Cook. I then went on to say
3 that at this point in time my priority was Point Beach. I
4 couldn't do two investigations at the same time. I needed
5 to concentrate on Point Beach, because that was an
6 immediate problem, and that once I had Point Beach
7 resolved, I would then go back and look at D.C. Cook.

8 Q. Did you ask Mr. Artayet at that point to
9 investigate anything having to do with D.C. Cook?

10 A. No. I took the book out of the office with
11 me. I did not want any investigations done at that point.

12 Q. Did he ask you or entreat you or beg you not
13 to assign him the task of looking into D.C. Cook?

14 A. Not to -- I don't remember that, no.

15 Q. Now, after you left Mr. Artayet's office, did
16 you have any discussion about D.C. Cook that day or the
17 next week with anybody?

18 A. I was on a plane by Wednesday night to Florida
19 to -- because that's where the information was that I could
20 sit down with Rusty Gorden, who was the project welding
21 engineer. He was in Florida and I really didn't have
22 anything else on my mind than getting the Point Beach
23 issues resolved. I had to find out whether I had real
24 problems.

25 Q. So specifically, between the time you met with

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1 Mr. Artayet and there was a mention of D.C. Cook, you
2 didn't say anything about D.C. Cook to Mr. Pardi or Mr.
3 Edleman or Mr. Zarges?

4 A. No.

5 Q. And then what next occurred on the day of the
6 15th with regard to your knowledge about what was going to
7 happen with Mr. Artayet?

8 A. Sometime in the morning, Drew Edleman informed
9 me that Alain was going to be relieved of his group welding
10 engineer's position, and that Drew was going to tell him
11 that. I said, well, I'm going to go down and I'm going to
12 let him know ahead of time, and then I went down and told
13 Alain, and I think it was the morning of the 15th.

14 Q. So when you said you told him, you gave him
15 what, a heads-up or something like that?

16 A. Yes.

17 Q. Were you asked to terminate Mr. Artayet or to
18 actually do the removal?

19 A. No.

20 Q. Did you ever refuse to do something like that?

21 A. I wasn't given the opportunity.

22 Q. Now, in connection with the responsibility of
23 the corporate welding engineer over the preparation and
24 qualification of WPSSs, are you aware of Mr. Pardi's
25 position that the corporate welding engineer is responsible

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1 for all WPSs, whether or not they're generated on site or
2 not?

3 A. Yes.

4 Q. And was that position one that was taken by
5 everybody in the corporation at all times without any
6 dispute about where the lines were drawn as to preparation
7 of the site-specific WPSs and the authority of the group
8 welding engineer or corporate welding engineer?

9 A. There was an ongoing dispute between the
10 project and Alain as to what level of authority he had, how
11 much involvement he should have with the site procedure
12 generation. Of course, the site was concerned that if
13 Alain had to review and approve all site procedures, you
14 know, what would they do at 12:00 Sunday morning and they
15 couldn't get hold of Alain, so they'd bring up issues like
16 that, that they felt they had to have control of the site
17 procedures, and that was one of those failures to
18 communicate that kept on.

19 Q. Was Mr. Artayet's position throughout 1996
20 that he did have responsibility for all WPSs in an ultimate
21 sense?

22 A. Yes, and that's why he would require -- I
23 think the agreement that was worked out was that the
24 project would be able to issue procedures. They were to
25 send him -- during the procedure development process, they

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1 were supposed to be sending him copies that -- prior to
2 sign-off by the client and he was supposed to see the
3 finalized version.

4 Q. Let's go back. When the Hartford audit was
5 conducted and you were told that there were going to be
6 problems found, were you given from Hartford an
7 identification of what those problems were going to be?

8 A. That would have occurred during the exit
9 meeting.

10 Q. And did you report to anybody other than
11 yourself what -- that there were going to be some problems
12 and what those problems might be?

13 A. No.

14 Q. So the other people who were present were Mr.
15 Artayet and who else?

16 A. Bruce Kovacs.

17 Q. And who's Bruce Kovacs?

18 A. A quality engineer.

19 Q. I think just for the record in your trip down
20 to the Point Beach facility or the Point Beach job in
21 January, was that -- not to Point Beach, I'm sorry, to St.
22 Lucie.

23 A. Uh-huh.

24 Q. Why did you go to St. Lucie to investigate the
25 Point Beach issues?

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1 A. Because all the people involved with the Point
2 Beach project were now at St. Lucie. They had the
3 documentation there, and there was nobody to talk to at
4 Point Beach, so if I was going to investigate and discuss
5 the issues with the people involved, I'd have to do that in
6 Florida.

7 Q. And in your investigation -- let me make a
8 distinction between items that are hardware-type items
9 where there may be something that's done that actually
10 causes there to be an issue of structural integrity of the
11 completed project, and those items that relate to
12 documentation of what has occurred and most other things in
13 there. Can you tell me what your conclusions were as to
14 whether the deficiencies that were identified in the
15 Hartford survey turned out to be hardware issues or other
16 issues, programmatic-type issues?

17 A. The outgrowth of the Hartford audit, I believe
18 we identified two WPSs with heat input problems, which
19 would have been a hardware issue. In one case, the WPS was
20 used in one application, and that particular weld was cut
21 out, so therefore, that WPS was never used, and in the
22 second one, it was used and the problem hinged on a code
23 interpretation and that was where you should pick your
24 impact values. The resolution was that the code as in
25 effect in 1986 allowed you to pick a heat input out of the

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1 impact-tested zone.

2 Q. Therefore, your conclusion was that this
3 turned out not to be a hardware problem?

4 A. It was no longer a hardware-affecting problem
5 under the code.

6 Q. Do you recall whether either of those heat
7 input issues had been included in the fax that Mr. Artayet
8 had sent to MG in November that you saw in January?

9 A. I did not review that fax for that
10 information. I didn't, so I don't know the answer there.

11 Q. Now, with regard to the move of Mr. Artayet to
12 Parkersburg, did you have any involvement at all in the
13 timing of that move?

14 A. No. When he was removed as group welding
15 engineer and not allowed to perform that function anymore,
16 Drew Edleman had told me that they were going to be looking
17 for another position for Alain somewhere in the company,
18 and, you know, that's what they were doing, looking for
19 another position somewhere.

20 Q. So specifically, did you have any information
21 about whether Mr. Artayet was or was not about to do
22 something in relation to D.C. Cook that impacted in any way
23 on when he was assigned to Parkersburg?

24 A. No.

25 Q. Did you ever tell anybody that they had to

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1 quickly move to get Mr. Artayet...

2 A. No.

3 Q. ...out of Cleveland because he was going to do
4 something with regard to nuclear reporting?

5 A. No.

6 ***

7 MR. ASHMUS:

8 I think that's all I have.

9 ADMINISTRATIVE LAW JUDGE:

10 Any cross examination, Mr. Bell?

11 MR. BELL:

12 Thank you, Your Honor.

13 ***

14 CROSS EXAMINATION

15 BY MR. BELL:

16 Q. Mr. Walcutt, are you familiar with a concept
17 known as a responsible corporate official?

18 A. Yes.

19 Q. Why don't you tell the Judge what the
20 responsible corporate official is under 10 C.F.R. part 50?

21 A. Responsible -- part 21 or part 50?

22 Q. I'm sorry, part 21.

23 ***

24 MR. ASHMUS:

25 Objection, Your Honor. It's calling for a legal

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1 conclusion.

2 ***

3 BY MR. BELL:

4 Q. Have you signed a document by which you
5 acknowledge that you have certain legally enforceable
6 obligations as MK's responsible corporate official?

7 A. Yes.

8 Q. What do you understand your signature on that
9 document to mean?

10 A. It means that if a condition affecting an
11 operating plant is identified, that it has to be one,
12 evaluated. If that evaluation determines that there was in
13 fact a physical condition occurring, then notification has
14 to be made to the NRC.

15 Q. What's a 10 C.F.R. part 21 checklist?

16 A. It's our form that allows us to ensure that we
17 address the issues of the law as we step through the
18 process.

19 Q. What's the sanction for not stepping through
20 the process?

21 A. Is there a real problem or not? If there's no
22 real problem, there's no sanction. If there is a real
23 problem and that problem is "covered up," then there's
24 criminal and financial penalties.

25 Q. Do you remember in January, 1997, having a

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1 number of discussions with Mr. Artayet about the D.C. Cook
2 plant in relation to a 10 C.F.R. part 21 determination?

3 A. No, not a number of conversations.

4 Q. Well, how many did you have?

5 A. I think we had it one day.

6 Q. And when was that in relation to when Mr.
7 Artayet was removed from his position?

8 A. It was the day that the QFR got issued.

9 Q. You might want to take a look at Exhibit 20
10 in the notebooks in front of you.

11 A. Okay.

12 Q. Does that refresh your recollection as to when
13 you had the conversation with Mr. Artayet?

14 A. That would either be 1/23 or 1/24.

15 Q. And when was Mr. Artayet removed from his
16 position as group welding engineer? About a week before
17 that, wasn't it?

18 A. Possible. I don't have an exact date.

19 Q. Well, isn't it January 15? Doesn't everybody
20 know it was January 15?

21 A. Okay, January 15.

22 Q. So that's about a week afterwards?

23 A. Correct.

24 Q. And about a week before he got shipped off to
25 Parkersburg, right?

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1 A. Okay.

2 Q. Doesn't that indicate that after he was
3 removed as group welding engineer, Mr. Artayet continued to
4 look at whether there were problems at the D.C. Cook plant?

5 A. I'd say probably, yes.

6 Q. Well, you've testified that the conversation
7 you had with Mr. Artayet about D.C. Cook took place about
8 the 23rd, which is about eight days after he was removed.
9 Isn't it true, therefore, that after he was removed as
10 group welding engineer, he continued to look at the D.C.
11 Cook situation?

12 A. Apparently.

13 Q. Your answer is yes?

14 ***

15 MR. ASHMUS:

16 His answer is apparently.

17 MR. BELL:

18 Would you like to testify?

19 ADMINISTRATIVE LAW JUDGE:

20 If you can't give a yes or no, apparently will
21 satisfy for me.

22 ***

23 BY MR. BELL:

24 Q. Is there any problem with you admitting what's
25 perfectly obvious?

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1
2 MR. ASHMUS:

3 You're asking him to speculate about what happened
4 when he was not present and had no opportunity to
5 see...

6
7 BY MR. BELL:

8 Q. Were you present during the conversation that
9 you had with Mr. Artayet...

10 A. Yes.

11 Q. ...about D.C. Cook?

12 A. Yes.

13 Q. So you were present during the conversation
14 you had?

15 A. Yes.

16 Q. And that conversation took place eight days
17 after Mr. Artayet was removed as group welding engineer?

18 A. Yes.

19 Q. Is it not therefore a fact that after Mr.
20 Artayet was removed as group welding engineer, he continued
21 to look into the D.C. Cook situation?

22 A. I used the word apparently because I was not
23 in the office during that time frame, and if Alain was able
24 to generate or he generated, it was apparent that he
25 continued to look at the D.C. Cook procedures.

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Q. After he was removed as group welding engineer?

A. Correct.

Q. And about a week before he was exiled to Parkersburg?

MR. ASHMUS:

Objection on characterization of exiled to Parkersburg.

ADMINISTRATIVE LAW JUDGE:

Overruled.

THE WITNESS:

Am I allowed to clarify?

MR. BELL:

I'll withdraw the question.

BY MR. BELL:

Q. Now, I don't want the Judge to have the impression that your testimony is that all of these documentation issues are unimportant. Do you consider 10 C.F.R., part 50, appendix B, to be unimportant?

A. No.

Q. Isn't it true that part of the reason why your job exists and why you sit in your office is to fulfill duties which MK has under 10 C.F.R. part 50, appendix B?

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A. Yes.

Q. And isn't it true that in order for MK to be able to do any nuclear work, MK has to have a quality assurance program?

A. Correct.

Q. And they have to follow the quality assurance program?

A. Correct.

Q. And isn't it true that the defects that were uncovered in the Hartford Steam Boiler audit were problems with the quality assurance program at MK?

A. Yes.

Q. And that's your responsibility, isn't it?

A. That's the purpose of the management review.

Q. My question is, you're in charge of MK's QA program, are you not?

A. Yes.

Q. Mr. Artayet's not in charge of MK's QA program, is he?

A. He's not in charge of the MK QA program.

Q. Were you present during any conversations when Mr. Pardi said that perhaps you ought to be removed from your position?

A. No.

Q. Did Mr. Pardi ever criticize your performance

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1 as MK's QA director?

2 A. We had talked about it.

3 Q. What did he say?

4 A. He wanted me to get better control of my
5 welding engineer.

6 Q., And that was resolved by relieving him of his
7 job?

8 A. No, this was -- we're talking way before.

9 Q. Back in mid-December?

10 A. How about back in April, May, June.

11 Q. What was going on back in April, May, and June
12 that Mr. Pardi said you needed to get control over your
13 group welding engineer?

14 A. The welding procedures were not being
15 qualified. The schedule was slipping, the project was
16 having problems, he was getting feedback from the site that
17 the project wasn't being supported.

18 Q. So you went into Mr. Artayet's office and what
19 did you say to him?

20 A. I don't recall.

21 Q. Did you go into his office?

22 A. I went into his office just about every day.

23 Q. Did you talk to him about the conversation you
24 had with Mr. Pardi back in April or May?

25 A. I can't recall. I mean, when I say yes to

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1 something, I'm able pretty well to quote time and date, and
2 I can't recall time and date. I can't remember.

3 Q. What does apparently mean, since you're
4 drawing a distinction between apparently and yes?

5 A. Apparently means that I did not witness him
6 doing it.

7 Q. I just want to be sure. Now, who developed
8 the welding procedures that were used at the Point Beach
9 plant?

10 A. The site-specific welding procedures were
11 developed by the site welding engineers under Rusty Gorden.

12 Q. Who signed off on them?

13 A. Rusty Gorden, for the most part, unless Rusty
14 Gorden delegated that responsibility to one of his welding
15 engineers.

16 Q. You're aware that Mr. Artayet never signed off
17 on any of them?

18 A. On the site welding procedures, Alain Artayet
19 did not sign off on any of those procedures.

20 Q. You're aware of the fact that Mr. Artayet sent
21 down corporate welding procedures to the Point Beach site?

22 A. We sent the PQR and supporting welding
23 procedure specifications, both corporate documents.

24 Q. We means Mr. Artayet, doesn't it?

25 A. It's coming out of my department, so I...

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1 Q. Well, whose responsibility is it under your QA
2 program to send those to the site?

3 A. Direct responsibility would be Alain
4 Artayet's.

5 Q. And he fulfilled that responsibility?

6 A. Correct.

7 Q. And Mr. Gorden changed certain of the terms in
8 those corporate welding procedures when he developed the
9 site-specific welding procedures, correct?

10 A. He did not use all the same parameters that
11 the corporate welding procedure had.

12 Q. So he changed certain of the terms. That was
13 my question.

14 A. It doesn't give the complete picture to say
15 yes or no. There are essential variables, supplementary
16 essential variables, and nonessential variables.
17 Nonessential variables can be changed with -- they can be
18 changed. There's no requirement for qualification, so they
19 could be changed. Supplementary variables could have been
20 changed at the project without any code or program problem.

21 Q. But that's not what happened. That wasn't the
22 Hartford Steam Boiler finding, was it?

23 A. The Hartford Steam Boiler was with heat input.

24 Q. Is that a supplementary essential variable?

25 A. That's a supplementary essential variable for

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1 impact-tested materials.

2 Q. And it can't be changed by Rusty Gorden
3 without requalification, correct?

4 A. It cannot be exceeded.

5 Q. And it was exceeded in Mr. Gorden's...

6 A. Yes.

7 Q. ...site-specific welding procedures, is that
8 right?

9 A. Correct.

10 Q. That's a violation of MK's QA program,
11 correct?

12 A. Correct.

13 Q. And that's one of the findings in the Hartford
14 Steam Boiler report, correct?

15 A. Correct.

16 Q. Now, it was Mr. Gorden on the site who changed
17 a supplementary essential variable from the corporate
18 procedure that Mr. Artayet sent, is that right?

19 A. That's correct.

20 Q. Do you know whether Mr. Gorden sent the site-
21 specific welding procedure to Mr. Artayet for review before
22 it was approved and used at the site?

23 A. For the procedures we had in place, the answer
24 was he did not have to get it to Alain prior to issue.

25 Q. My question was, did he get it to Alain prior

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1 to it being issued?

2 A. I don't know.

3 Q. You never investigated that?

4 A. No.

5 Q. Was it a matter of complete indifference to
6 you?

7 A. It didn't matter at the time. At the time,
8 the project was over, essentially over. All the welding
9 had been done. The issue at that point in time was do I
10 have a weld in the field with a physical problem.

11 Q. Well, there was another issue, wasn't there?

12 A. What was the other issue?

13 Q. Whether to remove Mr. Artayet from his
14 position as group welding engineer.

15 A. That wasn't my issue.

16 Q. Are you aware of the fact that it was Mr.
17 Pardi's issue?

18 A. I was aware that Mr. Pardi was concerned with
19 Alain's performance.

20 Q. And when you had that conversation or those
21 conversations with Mr. Pardi, did you say, Lou, Rusty
22 Gorden changed a supplementary essential variable, it's not
23 Alain's fault? Did you say that to Lou?

24 A. Not prior...

25 Q. Because your neck was next, wasn't it?

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1
2 MR. ASHMUS:

3 Objection. He's entitled to finish his answer.

4 MR. BELL:

5 I'm sorry.

6 ADMINISTRATIVE LAW JUDGE:

7 Sustained.

8
9 BY MR. BELL:

10 Q. Finish your answer, please. Did you say to
11 Lou that the screw-up occurred at Point Beach by Rusty
12 Gorden and not by Alain?

13 A. I told -- I had told Lou, Marty Cepkauskas
14 that the problems identified by Alain were real problems.

15 Q. And they weren't Alain's fault, were they?

16 A. I had told them that.

17 Q. You told them that they weren't Alain's fault?

18 A. Correct.

19 Q. When did you tell them that, before or after
20 he was removed from his position as group welding engineer?

21 A. It goes back to my memos back in November when
22 I was first told by Lou that he was concerned with Alain's
23 position on impact values. I did a complete investigation
24 and identified that the issues that he had raised to me
25 were not valid.

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1 Q. And that was before he was removed from his
2 position as group welding engineer?

3 A. Yes.

4 Q. Do you know of any circumstance where Alain
5 Artayet ever did anything that he didn't think was
6 consistent with the quality assurance of MK?

7 A. No.

8 Q. Is it fair to say that during the entire time
9 that you've known Alain, he's performed competently and
10 professionally?

11 A. As a welding engineer, correct.

12 Q. And I assume the areas where you have some
13 concern about his performance deal with these personality
14 conflicts or...

15 A. Ability to communicate, ability to get his
16 point across.

17 Q. Let's talk about one of those, if we can. You
18 testified on direct that one of those areas where you had
19 problems had to do with Mr. Artayet changing his mind about
20 some commitment he'd made in Point Beach?

21 A. Correct.

22 Q. Now, you've got a travel voucher up there, Mr.
23 Artayet's travel voucher, check number 075996. Do you see
24 that there?

25 A. Okay.

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1 Q. If you take a look at that travel voucher,
2 does that refresh your recollection as to when you and Mr.
3 Artayet had this conversation? .

4 A. Yes.

5 Q. And when did you have the conversation?

6 A. It probably would have been 12/13. It was the
7 day after we got back. It was that morning.

8 Q. Okay. The 13th of December, 1995.

9 A. The next workday morning is about the best I
10 can tell you.

11 Q. Okay.

12 A. If the 12th was a Friday.

13 Q. I want you to turn to the white binder up
14 there. Can you go to Exhibit G, please?

15 A. Okay.

16 Q. Turn to the fourth page of Exhibit G, please.

17 A. Okay.

18 Q. It's a performance evaluation of Mr. Artayet
19 that you did six days after the conversation you had with
20 him on the 13th?

21 A. This is '95.

22 Q. That's right. The conversation you just
23 testified to took place December 13, 1995, right?

24 A. Okay. Correct.

25 Q. So this is the performance evaluation that you

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1 gave to Mr. Artayet six days later, correct?

2 A. Right.

3 Q. Is it done in your handwriting?

4 A. Yes.

5 Q. Could you tell the Court, please, where in the
6 performance evaluation you did six days after the
7 conversation you noted in Mr. Artayet's performance report
8 that he was having a problem with communication?

9 A. Other objectives, become more diplomatic.

10 Q. Was that the problem, that Mr. Artayet wasn't
11 being diplomatic?

12 A. Those are the words I used. The problem was
13 inability to communicate.

14 Q. But you didn't say inability to communicate.
15 You said he needed to be more diplomatic.

16 A. Okay.

17 Q. Well, let me ask you this. Did you disagree
18 with Mr. Artayet's change of mind? Substantively disagree.
19 Did you think he came to the wrong conclusion?

20 A. The issue, as I understood it, did not involve
21 code. It's a matter of discretion. It was -- there's many
22 ways to generate documents or what they look like. Alain's
23 preferred way of doing it was different than Rusty's
24 preferred way of doing it.

25 Q. Was Alain's way wrong and Rusty's right?

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1 A. Neither one was right or wrong. It's
2 different ways. You can reach the same objective doing it
3 different ways.

4 Q. Okay. And what you told Alain was you need to
5 say what you're saying in a more diplomatic way.

6 A. Again, those are the words I used, but what I
7 told him was that you need to be able to get your point
8 across.

9 Q. Well, he got his point across, didn't he? He
10 said I don't want to do it the way you want to do it, and I
11 changed my mind.

12 A. Is that how the procedures ended up? If they
13 didn't incorporate his comments into their procedures, and
14 we're not talking PQRs and we're not talking WPS. We're
15 talking implementing procedures for which there are no code
16 rules.

17 Q. Alain's entitled to his opinion and Rusty
18 Gorden's entitled to his.

19 A. And they have to work it out, which is, you
20 know, why it was essential that the two groups start
21 working together.

22 Q. And six days after the conversation took
23 place, you gave Mr. Artayet [REDACTED] performance
24 rating, is that right?

25 A. Yes. The majority of his work was [REDACTED]

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1 Q. Now, there was a meeting in July that you
2 attended with Mr. Artayet where the three of you had a
3 private meeting with Max Bingham?.

4 A. Right.

5 Q. Did you feel at the end of that meeting that
6 the air had been cleared?

7 A. Yes.

8 Q. Did you come back on the airplane with Alain
9 or did you talk to Alain about it after the meeting?

10 A. I probably did.

11 Q. Did you tell Alain that you were glad that
12 you'd had the meeting with Max Bingham and you thought
13 things were going to go okay?

14 A. Yes. In my mind, I thought that that meeting
15 had settled all the issues.

16 Q. When did you learn that that meeting had not
17 settled all the issues?

18 A. Well, I guess it would have been when Lou said
19 that there was a problem, that they continued to have
20 problems with Alain Artayet over this impact issue.

21 Q. And when was that?

22 A. October.

23 Q. And you told Mr. Pardi after you looked into
24 it that Alain was right?

25 A. That I couldn't find anything wrong with what

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1 Alain had done. Now, the issue that he had raised, I
2 couldn't find any evidence that it was right.

3 Q. And you found plenty of evidence that Alain
4 had spent the whole bulk of the time looking into the
5 issue, calling experts in the field, trying to find the
6 right answer, is that right?

7 A. Yes.

8 Q. That's part of Alain's job, isn't it?

9 A. Yes.

10 Q. And in this particular case, he did it in an
11 exemplary fashion.

12 A. Yes.

13 Q. Did you tell that to Mr. Pardi?

14 A. I want to say no. I gave Mr. Pardi the letter
15 and I reviewed it with him, and said that if he had any
16 further questions, contact me.

17 Q. Do you know that Mr. Pardi testified here
18 yesterday that one of the reasons why he took the action to
19 remove Alain from his job was because of the drop weight
20 testing issue?

21 ***

22 MR. ASHMUS:

23 Objection. That mischaracterizes the testimony
24 yesterday.

25 ADMINISTRATIVE LAW JUDGE:

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1 Overruled.

2 THE WITNESS:

3 Ask the question again? .

4 ***

5 BY MR. BELL:

6 Q. Are you aware that Mr. Pardi testified here
7 yesterday that one of the reasons why Mr. Artayet was
8 removed from his position was Mr. Pardi's concern about
9 this drop weight testing issue?

10 A. That would -- now that you tell me he
11 testified to this, yes. It makes sense. I mean, I wasn't
12 aware that he testified to that, but I am aware that that
13 would be a reason that he'd make that decision.

14 Q. And if he came to the decision to fire Mr.
15 Artayet over that issue, you would disagree with the
16 decision that Mr. Pardi made, wouldn't you?

17 A. I had no evidence that that was a valid
18 problem. I would have said that.

19 Q. But you didn't.

20 A. I wasn't asked to. I wasn't...

21 Q. And you didn't volunteer to Mr. Pardi that
22 Alain was right and that Max Bingham and Marty Cepkauskas
23 were wrong?

24 A. I did in the letter I sent to him in November.
25 I mean, it's spelled out right there what I found. I said

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1 I found no evidence where Alain had ever...

2 Q. Are you also aware that yesterday, Mr. Pardi
3 testified that he never read your memo?

4 A. No.

5 Q. Did you ever talk to Max Bingham or Marty
6 Cepkauskas about this drop weight testing issue?

7 A. While I was doing my investigation, I did talk
8 to them trying to find a memo that somewhere somebody said
9 that Alain had written. I couldn't find it.

10 Q. You conducted a thorough and diligent
11 investigation for the memo and you couldn't find it?

12 A. Correct.

13 Q. Let's talk about the qualification of welding
14 procedures at Point Beach. You've testified that that
15 qualification was done in Memphis and that you concurred in
16 that decision, correct?

17 A. Yes.

18 Q. And Keith Mackey, I believe you testified on
19 direct examination about his background.

20 A. Uh-huh.

21 Q. Mr. Mackey had significant experience in
22 nuclear industry, didn't he?

23 ***

24 ADMINISTRATIVE LAW JUDGE:

25 Off the record for a minute.

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1

2 (Off the record)

3 (On the record)

4

5 ADMINISTRATIVE LAW JUDGE:

6 We're back on the record. Go ahead, Mr. Bell.

7

8 BY MR. BELL:

9 Q. I think the last question was didn't Mackey
10 have significant experience in nuclear projects?

11 A. Yes.

12 Q. Okay. And you were aware of that at the time?

13 A. That's why I was comfortable.

14 Q. Okay. Do you know whether Mr. Artayet invited
15 Rusty Gorden to come to Memphis and participate in the
16 welding procedure qualifications?

17 A. I expect he would have done that.

18 Q. Why would you expect that he would have done
19 that?20 A. Because I can't recall specifically that he
21 said I called Rusty Gorden and said meet me in Memphis. I
22 don't recall that.23 Q. But given what you know about Alain's
24 professionalism, your expectation is that he would have
25 made the call.

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1 A. Correct.

2 Q. And under the MK quality assurance program,
3 the responsibility to qualify those welding procedures
4 rested with Mr. Artayet, is that right?

5 A. Correct.

6 Q. Did Max Bingham ever say to you that he was
7 angry that Mr. Artayet wouldn't delegate welding procedure
8 qualifications to Rusty Gorden?

9 A. He was upset with it, yes.

10 Q. Now, you and Mr. Artayet went to Colorado
11 Springs in December, is that right?

12 A. Correct.

13 Q. Did you travel back together?

14 A. I don't think so.

15 Q. Okay. Do you remember the day after you got
16 back finding a number of welding procedures for the Point
17 Beach plant in your in box?

18 A. Not necessarily, no.

19 Q. Do you remember the day after you got back
20 from Colorado Springs having a conversation with Mr.
21 Artayet where the two of you discussed the fact that there
22 had been a distribution of the Point Beach welding
23 procedures?

24 A. No.

25 Q. Do you remember having a discussion shortly

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1 after you got back from Colorado Springs where you told Mr.
2 Artayet that you were concerned about the number of
3 revisions that there had been in the Point Beach welding
4 procedures?

5 A. Yes.

6 Q. How did you know that there were a number of
7 revisions unless you had gotten them and you had looked at
8 them?

9 A. There are -- I would have been looking at the
10 master index. When you look at the master index, it gives
11 you rev (sic) levels.

12 Q. And you saw that a number of the welding
13 procedures had been revised a number of times?

14 A. Right.

15 Q. And you told Mr. Artayet that you were
16 concerned about that?

17 A. I said it was unusual to have that many revs
18 for such a short-term project.

19 Q. And did you tell Mr. Artayet that the number
20 of revisions indicated to you that the group welding
21 engineer was not doing his job?

22 A. No.

23 Q. Was that your opinion?

24 A. No. Again, we're talking about site-level
25 procedures, right?

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1 Q. Generated and approved by Rusty Gorden.

2 A. Correct.

3 Q. Is it your testimony that at no time in
4 December did Mr. Artayet come to you and say that he had
5 reviewed the site-specific Point Beach welding procedures
6 and that there were problems with them?

7 A. Right.

8 Q. The first time that you became aware that
9 there were problems with any of the Point Beach welding
10 procedures is when you sat through the Hartford Steam
11 Boiler audit?

12 A. The one problem that I knew about which was
13 being tracked under our program was that we were required
14 to have the original documentation for test reports, heat
15 treatment record. There was one PQR that didn't have a
16 complete documentation package, and it was being tracked as
17 an action item in our system. Rusty Gorden, who was
18 responsible for getting that information to us, had gone on
19 vacation, and he was not going to be back until after the
20 first of the year, and that was the only open welding issue
21 that I knew of going into the audit.

22 Q. And specifically with reference to the site-
23 specific welding procedure that you've already testified
24 about where Rusty Gorden's site-specific procedure exceeded
25 the heat input that Alain's corporate welding procedure

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1 had, the first time you learned of that problem was when
2 you sat through the Hartford Steam Boiler audit?

3 A. On the 31st or -- the 31st.

4 Q. You had no heads-up about that one from Mr.
5 Artayet at all?

6 ***

7 MR. ASHMUS:

8 You have to answer out loud.

9 THE WITNESS:

10 Huh?

11 MR. ASHMUS:

12 You have to answer out loud.

13 THE WITNESS:

14 Yes. I had no heads-up.

15 ***

16 BY MR. BELL:

17 Q. Were you aware in mid-December, 1996, that Mr.
18 Pardi wanted to get Alain out of the group welding engineer
19 position?

20 A. No.

21 Q. Mr. Pardi never discussed that with you?

22 A. No.

23 Q. Mr. Bingham never discussed it with you?

24 A. No.

25 Q. Mr. Edleman never discussed it with you?

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1 A. No.

2 Q. Mr. Cepkauskas never discussed it with you?

3 A. No.

4 Q. Let me ask you to turn to Exhibit I in the
5 white notebook, the first line of the third paragraph. Do
6 you see there where Mr. Edleman talks about how in mid-
7 December, Mr. Pardi wanted to get Alain out of his
8 position?

9 A. Correct.

10 Q. Your testimony is that nobody ever came to you
11 as Mr. Artayet's supervisor and talked to you about that?

12 A. Correct.

13 Q. There's no question in your mind that under
14 MK's quality assurance program, you're required to have a
15 group welding engineer, correct?

16 A. Correct.

17 Q. Removing Mr. Artayet from his position would
18 cause, to some degree or another, some deviation from the
19 quality assurance program until somebody else got in there,
20 correct?

21 A. Correct.

22 Q. And you, after Mr. Artayet was sent to
23 Parkersburg, you eventually delegated yourself the group
24 welding engineer duties so that that block in the
25 organizational chart would be filled up, correct?

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1 A. Until I could find someone who could take it.

2 Q. Okay. But the answer is yes, that's why you
3 did that memo was to make sure that you were in compliance
4 with the QA program.

5 A. Which memo?

6 Q. The one where you appointed yourself
7 essentially as group welding engineer.

8 A. Yes.

9 Q. So had Mr. Pardi and Mr. Edleman and Mr. Tobin
10 and others in mid-December been discussing removing Alain
11 from his position, that was potentially an action which
12 could have had an impact on the QA program, correct?

13 A. Correct.

14 Q. Yet your testimony is that even though you are
15 the QA manager and although you're the one responsible for
16 maintaining compliance with it, that none of them came to
17 you and discussed it with you?

18 A. That's correct.

19 Q. And is it your testimony that Mr. Artayet did
20 not tell you in mid-December that he had had a meeting with
21 Lou Pardi, and that Lou Pardi had told him that he should
22 stop working on power division projects?

23 A. No.

24 Q. You never heard that from Mr. Artayet,
25 correct?

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EXHIBIT 17
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1 A. Correct.

2 Q. And is it your testimony that shortly before
3 the Hartford Steam Boiler audit that Mr. Artayet -- you
4 have no recollection of Mr. Artayet ever saying to you we
5 may have a problem because my block on the organizational
6 chart is not filled in anymore?

7 A. No.

8 Q. In the black notebooks there, could you take a
9 look at Exhibit 26, please?

10 A. Okay.

11 Q. What do you recognize that to be?

12 A. It's a message.

13 Q. A telephone message slip?

14 A. Right.

15 Q. Do you recognize the handwriting on it?

16 A. No, one of the secretaries.

17 Q. Is that the kind of telephone message slip you
18 use in your office?

19 A. Yes.

20 Q. Does that indicate that Mr. Bingham called you
21 on January 15?

22 A. Yes.

23 Q. What did Mr. Bingham call you about on the
24 15th of January, 1997?

25 A. It's possible that I called him to tell him

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EXHIBIT 17

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1 that I was coming to Point Beach.

2 Q. Is it possible that he called you to say he
3 wanted Alain Artayet out of his job?

4 A. No.

5 Q. Isn't it true that the day before, January 14,
6 1997, you faxed Mr. Bingham a draft of Mr. Artayet's eight-
7 page report finding a number of problems with the welding
8 procedures used at Point Beach?

9 A. That's possible. It was probably at that
10 point I was giving a heads-up to them and to Lou Pardi on
11 the 14th.

12 Q. Do you remember writing a memo to Mr. Bingham
13 in which you transmitted to him a copy of Mr. Artayet's
14 draft?

15 A. No, I don't.

16 Q. I want to show you Exhibit 12, please.

17 A. Okay.

18 Q. Is that a memo you sent to Max Bingham the day
19 before Alain Artayet was removed from his position?

20 A. Yes.

21 Q. And what did you attach to that memo to Mr.
22 Bingham?

23 A. The draft report.

24 Q. Prepared by Mr. Artayet...

25 A. Right.

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EXHIBIT 12

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1 Q. ...about the Point Beach welding procedures,
2 correct?

3 A. Correct.

4 Q. Now, isn't it true that prior to you sending
5 that to Mr. Bingham on the 14th, that Mr. Bingham was not
6 aware that there were numerous problems with the welding
7 procedures used at Point Beach?

8 A. Would you restate that question? I was
9 reading.

10 Q. Prior to you sending that to Mr. Bingham, was
11 he aware that there were a number of problems with the
12 welding procedures at Point Beach?

13 A. To my knowledge, no.

14 Q. So your memo of January 14 to your knowledge
15 was the first time that Mr. Bingham became aware that there
16 weren't one or two problems, but there were a whole bunch
17 of problems with the Point Beach welding procedures?

18 A. True.

19 Q. And did you talk to Mr. Bingham on the 14th or
20 the 15th about that memo?

21 A. Other than telling him it was coming, and
22 these are the issues that are going to have to get
23 resolved. That would have been the conversation.

24 Q. And Mr. Bingham accepted that calmly and
25 coolly and just said, boy, I look forward to reading it?

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EXHIBIT 11

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1 A. I guess I didn't care. I mean, that was what
2 we had found. They had to be resolved. I really didn't
3 care whether he liked it or not.

4 Q. Well, he didn't like it, did he?

5 A. I don't know. I didn't ask him.

6 Q. Well, did he tell you how he felt about it?

7 A. No, he didn't.

8 Q. He didn't use the name Alain Artayet with a
9 couple of spicy words either in front of it or behind it?

10 A. No, he pretty much stayed out of it, you know,
11 again, because by the 16th, I'm on-site doing, you know,
12 trying to get these issues resolved.

13 Q. And what was Mr. Bingham's attitude when you
14 were on-site about Mr. Artayet and his eight-page memo?

15 A. I didn't discuss it with him. That wasn't why
16 I was there, and I really wasn't going to be listening to
17 that.

18 Q. Shouldn't you have tried to have better
19 communication with Mr. Bingham?

20 A. My focus at that point in time was to...

21 Q. Was on QA.

22 A. It was on resolving the issues that had been
23 identified because there were potential physical problems
24 with a power plant that was scheduled to go on-line
25 sometime in January. I had to find out before that plant

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EXHIBIT 11

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1 went on line.

2 Q. You were there to do your quality assurance
3 function.

4 A. Correct.

5 Q. Just like Mr. Artayet had tried to do his
6 quality assurance function, and if Max Bingham had a
7 problem, so what?

8 A. Right.

9 Q. And that's how Mr. Artayet acted too, isn't
10 it?

11 A. Yes.

12 Q. Except he got fired for it.

13 A. He was removed from his position.

14 Q. For doing his job.

15 A. I can't testify to that.

16 Q. Well, are you aware of any valid reason why
17 Mr. Artayet was removed from his position?

18 A. The only valid reason that I could see was
19 Alain's inability to work with the project team and that,
20 again, I found a failure to communicate between the two
21 parties, and that led to the problems that we had to deal
22 with.

23 Q. How many times did you talk to Mr. Artayet
24 about that in 1996?

25 A. The failure to communicate?

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EXHIBIT 11

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1 Q. Uh-huh.

2 A. I discussed that issue with him on a number of
3 occasions.

4 Q. Can you go to his 1996 performance evaluation
5 and tell the Court, please, where you talked about that in
6 his 1996 performance evaluation? It's Exhibit G.

7 A. The fourth bullet down, identify methods to
8 improve and bring something to management attention.
9 That's job responsibilities. Again, you're talking, become
10 more diplomatic.

11 ***

12 MR. ASHMUS:

13 Are you looking at the same one? I just want to
14 make sure you're looking at '96.

15 THE WITNESS:

16 I'm looking at G.

17 MR. BELL:

18 The 1996 performance evaluation.

19 MR. ASHMUS:

20 That's further down in G.

21 THE WITNESS:

22 Right. I'm on the last -- well, it says career
23 development plan.

24 MR. BELL:

25 I'm asking about your evaluation of him, not his

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1 career development plan.

2 MR. ASHMUS:

3 Next page.

4 THE WITNESS:

5 I was listing the prime job responsibilities and
6 performance and improvement plan. It's not listed.

7 ***

8 BY MR. BELL:

9 Q. So the only reason that you can possibly think
10 of to justify Mr. Artayet's firing in January isn't even
11 discussed in his December performance evaluation.

12 A. Right.

13 ***

14 MR. BELL:

15 Can I have a minute, Your Honor?

16 ADMINISTRATIVE LAW JUDGE:

17 Yes.

18 MR. BELL:

19 I have nothing further.

20 ADMINISTRATIVE LAW JUDGE:

21 Do you wish to redirect?

22 MR. ASHMUS:

23 I have no further questions.

24 ADMINISTRATIVE LAW JUDGE:

25 You may step down, Mr. Walcutt. Thank you.

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1 THE WITNESS:

2 Thanks.

3 ADMINISTRATIVE LAW JUDGE:

4 We'll take a five-minute recess.

5 ***

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97-013

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EXHIBIT 21

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1 THE WITNESS:

2 Thanks.

3 ADMINISTRATIVE LAW JUDGE:

4 We'll take a five-minute recess.

5 ***

6 (Off the record)

7 (On the record)

8 ***

9 ADMINISTRATIVE LAW JUDGE:

10 We're on the record. Please stand and raise your
11 right hand.

12 ***

13 (Witness sworn)

14 ***

15 ADMINISTRATIVE LAW JUDGE:

16 Please be seated.

17 ***

18 KEVIN TOBIN,

19 called as a witness, having first been duly sworn according
20 to the law, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. ASHMUS:

23 Q. Can you state your full name for the record
24 and spell your last name for the court reporter, please?

25 A. Kevin Robert Tobin, T-o-b-i-n.

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EXHIBIT 21

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1 Q. What's your address?

2 A. [REDACTED]

3 Q. Where are you employed?

4 A. Morrison Knudsen.

5 Q. What's your job there?

6 A. Director of human resources.

7 Q. Let me ask you to turn your attention to the

8 white loose-leaf binder to tab B.

9 A. Yes.

10 Q. The first part of that, can you tell us what
11 it is?

12 A. The title of tab B is handbook for salaried
13 employees, 1996.

14 Q. And what is that?

15 A. It's basically our employee handbook.

16 Q. And would that apply to Mr. Artayet?

17 A. Yes.

18 Q. Go, if you will, toward the end of tab B.

19 There is an MK classification system for job family.

20 A. Yes.

21 Q. Construction engineer is 12010.

22 A. Yes.

23 Q. Do you see that? Is that the job family
24 description that applies to Mr. Artayet?

25 ***

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1 ADMINISTRATIVE LAW JUDGE:

2 Which number are you referring to, Mr. Ashmus?

3 MR. ASHMUS:

4 It's under the top right-hand corner, Your Honor.

5 It says 12010, under tab B.

6 THE WITNESS:

7 It would be number 2 in your book.

8 ADMINISTRATIVE LAW JUDGE:

9 Okay.

10 THE WITNESS:

11 Yes, to your question.

12 ***

13 BY MR. ASHMUS:

14 Q. And his formal job classification is a grade
15 15, staff construction engineer, is that correct?

16 A. Yes.

17 Q. And continuing on under tab 4, do you see the
18 last two pages of that?

19 A. Yes.

20 Q. What is that, please?

21 A. It's a list of names, list of employees who
22 have the job family of construction engineer.

23 Q. And with the exception of the three -- these
24 are all the people in the construction engineer no matter
25 which particular grade, salary grade they are?

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EXHIBIT 21
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1 A. Yes, it goes from grade 10 to grade 17.

2 Q. And with the exception of the three
3 individuals who are checked, are all these people assigned
4 outside of Cleveland?

5 A. Yes.

6 Q. Now, in connection with Mr. Artayet
7 specifically, do you recall having any discussion with Drew
8 Edleman in December of 1996 about Mr. Artayet's job
9 situation?

10 A. Yes.

11 Q. And can you describe what that conversation
12 was about?

13 A. Drew stopped down to my office, and basically,
14 the discussion was that he was concerned about Alain as to
15 -- there were some concerns about his doing his job within
16 the power division on the particular job he was on, and
17 just wanted to discuss it, what would be some options down
18 the road if it didn't work out.

19 Q. And did you discuss any particular options
20 that you can recall?

21 A. One particular option was, you know, could we
22 transfer him to another location, another division, because
23 Drew at that time was concerned about billable time, and
24 that's a key issue in our organization.

25 Q. And did -- is transferring a common practice

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1 at MK?

2 A. Very much so.

3 Q. Now, when somebody is transferred from one
4 position or taken away from one position and given an
5 opportunity to find someplace else, who controls the timing
6 of the transfer, where he used to be or where he's going to
7 -- or she?

8 A. It's basically -- well, both the sending and
9 receiving talk about it, but, you know, the receiving party
10 has got quite a bit to say in it, making sure that the
11 position's available and when it is available, and it's a
12 coordination problem.

13 Q. Did you have any follow-up conversations with
14 Mr. Edleman or further discussions with Mr. Edleman about
15 Mr. Artayet after that?

16 A. After the holidays, after the first of the
17 year, again, Drew stopped down and indicated that he was--
18 something was going to have to be done relative to a
19 transfer or some other option. He again wanted to discuss
20 it. A couple things that we said that -- you can't leave
21 something open-ended. You've got to talk to the employee
22 and explain to him what's going on, but also, I thought it
23 would be important to get a commitment from Tom Zarges, who
24 is Drew's boss, as to how long we could carry Alain in the
25 process of trying to find him a job. I mean, you can't

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1 look for one indefinitely, and you needed to put some type
2 of a closure or a time frame to find this job.

3 Q. Did you discuss a specific time frame?

4 A. Looking at two to three months, and I believe
5 Tom agreed to a 90-day or three month situation.

6 Q. What is the arrangement for compensation for
7 Mr. Artayet as a worker at the Parkersburg facility?

8 A. He was transferred to the Parkersburg facility
9 on a short-term relocation, which basically means that the
10 company will assist him with his living expenses down there
11 and will provide periodic trips home.

12 Q. What's the amount of the assistance provided?

13 A. I believe he's getting [REDACTED] a month as well as
14 a trip home [REDACTED]

15 Q. And he's entitled to come home other times in
16 that, but that's at his own expense, is that correct?

17 A. Yes.

18 Q. And is he entitled to the [REDACTED] a month whether
19 he expends it on motels or chooses to use it in some other
20 fashion?

21 A. Yes.

22 Q. He's not required to have receipts for that
23 amount, is that correct?

24 A. I don't believe so.

25 Q. And is that the standard amount that anybody

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EXHIBIT 21

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1 who is on that type of assignment in Parkersburg would
2 receive?

3 A. In talking to the business manager, there are
4 four or five, maybe six other people on a similar program.

5 ***

6 MR. ASHMUS:

7 That's all I have.

8 ADMINISTRATIVE LAW JUDGE:

9 Cross.

10 ***

11 CROSS EXAMINATION

12 BY MR. BELL:

13 Q. Mr. Tobin, who within MK is responsible for
14 making sure that the company acts in compliance with the
15 Energy Reorganization Act?

16 A. I'm not sure.

17 Q. Are you familiar with what the Energy
18 Reorganization Act prohibits or allows?

19 A. To some degree.

20 Q. Are you aware that there are signs that have
21 to be posted in the workplace?

22 A. I'm not sure.

23 Q. Have you ever seen any signs in the workplace
24 discussing what the Energy Reorganization Act prohibits?

25 A. I'm not sure.

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EXHIBIT 21

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1 Q. Do you know that the phrase protected activity
2 means under the Energy Reorganization Act?

3 A. No.

4 Q. During any of the discussions that you were
5 having about Mr. Artayet, did anybody ever raise the
6 question that Mr. Artayet may be engaging in activities
7 which would make his transfer or reliving him of his group
8 welding engineer position unlawful?

9 A. Not in any of the discussions that I
10 participate in.

11 Q. Were you aware of the fact that the day before
12 Mr. Artayet was removed from his position as group welding
13 engineer, that he had written a memo finding a number of
14 defects in welding procedures used at the Point Beach
15 nuclear power station?

16 A. No.

17 Q. Was there ever any discussion as to whether
18 Mr. Artayet could be discharged, demoted, or otherwise
19 discriminated against because he had written such a memo?

20 A. No discussion that I was aware of took place.

21 Q. It was simply not a factor that anybody even
22 ever thought about, was whether he had engaged in protected
23 activity.

24 A. No.

25 Q. Mr. Artayet held the position called group

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EXHIBIT 2

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1 welding engineer, is that right?

2 A. That was his working title in our language.

3 Q. You call it a position, don't you?

4 A. He was classified as a staff construction
5 engineer.

6 Q. But you called it a position, didn't you?

7 A. He used that title.

8 Q. Well, Mr. Tobin, take a look at Exhibit H in
9 front of you in the white binder, and tell me whether on
10 about the second or third line of that, it doesn't say Mr.
11 Artayet was removed from his position as group welding
12 engineer.

13 A. This is the e-mail?

14 Q. It is what it is. I don't know what it is.

15 A. A position of group welding engineer.

16 Q. There's a difference between a position and a
17 classification, am I right?

18 A. Yes.

19 Q. Mr. Artayet is no longer holding the position
20 of group welding engineer, is that right?

21 A. Right.

22 Q. And he has not held that position since he
23 went to Parkersburg.

24 A. Yes.

25 ***

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EXHIBIT 21
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1 MR. BELL:

2 I have nothing else, Your Honor.

3 ADMINISTRATIVE LAW JUDGE:

4 Mr. Ashmus.

5 ***

6 REDIRECT EXAMINATION

7 BY MR. ASHMUS:

8 Q. Just to clarify, the document in front of you
9 that you just had, is that a document that you wrote or a
10 document that you received?

11 A. Received.

12 ***

13 MR. ASHMUS:

14 That's all I have.

15 ADMINISTRATIVE LAW JUDGE:

16 Thank you, Mr. Tobin. You may step down. Anything
17 further, Mr. Ashmus?

18 MR. ASHMUS:

19 No, Your Honor.

20 MR. BELL:

21 Your Honor, I have one very brief rebuttal witness
22 who is here.

23 ADMINISTRATIVE LAW JUDGE:

24 All right.

25 MR. BELL:

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EXHIBIT 21

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1 It shouldn't take more than five minutes.

2 ADMINISTRATIVE LAW JUDGE:

3 Please raise your right hand.

4 ***

5 (Witness sworn)

6 ***

7 ADMINISTRATIVE LAW JUDGE:

8 Please be seated.

9 ***

10 JOHN C. LUF,

11 called as a witness, having first been duly sworn according
12 to the law, testified as follows:

13 DIRECT EXAMINATION

14 REBUTTAL

15 BY MR. BELL:

16 Q. Could you state your name and spell your last
17 name for us, please?

18 A. My full name is John Charles Luf, L-u-f.

19 Q. And Mr. Luf, where do you work?

20 A. I work at Morrison Knudsen Corporation,
21 Cleveland office, in the engineering department.

22 Q. Okay. How long have you worked for MK?

23 A. Somewhere between ten to 15 years.

24 Q. What's your educational background?

25 A. I have a high school degree, and I dropped out

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EXHIBIT 27

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EXHIBIT

15-00000

COMPANY PRIVATE

**MORRISON KNUDSEN CORPORATION**

44-97-018

24

PERFORMANCE REVIEW

Introduction

This process begins with a listing of the *Primary Job Responsibilities*. These include major tasks, duties, functions, and assignments for which the employee is responsible in the *current* position. At least four responsibilities should be identified.

The *Performance Summary and Improvement Plan* is the supervisor's assessment of the individual's performance during the evaluation period. This section is to be used to describe major contributions and strengths, as well as those performance areas needing improvement. For each of the *Primary Job Responsibilities*, the following factors are to be considered.

Professional and Technical Skills

- **Job knowledge** – awareness of the requirements, methods, and systems pertaining to the employee's function
- **Productivity** – including quality and quantity of work, and the handling of priorities
- **Verbal communication** – effective face-to-face interaction with peers, supervisors, and subordinates
- **Written communication** – clear and concise expression of ideas through letters, memos, and other business writing

Skills Application

- **Initiative** – the ability to anticipate and take needed action, and to work independently
- **Decision making** – setting objectives, generating alternatives, and considering consequences
- **Problem solving** – problem/cause identification; selection and timely implementation of workable solutions to problems
- **Adaptability** – the ability to handle change or difficult situations
- **Attention to safety** – awareness of applicable regulations and following safe work practices
- **Cost control** – adherence to budgets; responsible and efficient use of materials and resources
- **Attention to scheduling** – working within set time parameters
- **Commitment to quality** – producing at or above accepted standards
- **Team commitment** – support for the coworkers, the work group and organization; dedication to goals and objectives

Relationships

- **Relationships with others** – working helpfully with others individually and in groups; responding to supervision
- **Client relations** – effectiveness in dealing with internal and external clients and their representatives

Managerial Skills

- **Planning/scheduling** – coordinating assigned work objectives; establishing controls to monitor and guide progress
- **Leadership** – inspiring productive achievements in subordinates; providing environment for self-motivation
- **Delegating work** – distributing work appropriately and fairly; effectively supporting work
- **Subordinate development** – encouragement and assistance in matters pertaining to career decisions and growth opportunities
- **Attention to safety** – encouraging safety awareness and encouraging subordinates to develop safe work habits
- **Attention to EEO and Affirmative Action** – through compliance with appropriate regulations and by setting positive examples
- **Attention and adherence to Corporation policies and procedures** – including ethical standards

For more information, see page five of the *Employee Performance Review and Career Development Plan – Supervisor's Guide*.

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07-0000

EXHIBIT

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EXHIBIT 28

CASE NO. 3-97-013

4/10

EXHIBIT 28

Name ALAN ARTYET Soc. Sec. # [REDACTED] Working Title GROUP WELDING ENG. Grade [REDACTED]

Group/Staff Function WELDING ENGINEER Department/Project QUALITY

Reason for this Action:

☒ Annual Review ☐ New Hire ☐ Transfer/Promotion ☐ Other _____ Review Date _____

EMPLOYEE PERFORMANCE REVIEW AND CAREER DEVELOPMENT PLAN

COMPANY PRIVATE

 MORRISON KNUDSEN CORPORATION

PERFORMANCE REVIEW

Introduction

This process begins with a listing of the *Primary Job Responsibilities*. These include major tasks, duties, functions, and assignments for which the employee is responsible in the *current* position. At least four responsibilities should be identified.

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- Job knowledge – awareness of the requirements, methods, and systems pertaining to the employee's function
- Productivity – including quality and quantity of work, and the handling of priorities
- Verbal communication – effective face-to-face interaction with peers, supervisors, and subordinates
- Written communication – clear and concise expression of ideas through letters, memos, and other business writing

Skills Application

- Initiative – the ability to anticipate and take needed action, and to work independently
- Decision making – setting objectives, generating alternatives, and considering consequences
- Problem solving – problem/cause identification; selection and timely implementation of workable solutions to problems
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- Attention and adherence to Corporation policies and procedures – including ethnical standards

For more information, see page five of the *Employee Performance Review and Career Development Plan – Supervisor's Guide*.

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7-07-09

NO

Ex

IDENTIFICATION SHEET

AMS NO. RIII-97-A-0035

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FOIA 3000-0014

#1

NAME: ALAIN ARTAYET

ADDRESS: [REDACTED]

WORK PHONE: [REDACTED]

HOME PHONE: [REDACTED]

COMMENTS/REMARKS: Information received by R. DeVitto/OI,
provided by the Concerned Individuals attorney.

Mr. Artayet has an attorney, Steven D. Ball.
Mr. Ball's pager number is [REDACTED].
We can call Mr. Ball if we are unable to contact
Mr. Artayet.

#2

NAME:

ADDRESS:

WORK PHONE:

HOME PHONE:

COMMENTS/REMARKS:

MEMORANDUM OF CALL

Previous editions usable

TO:

☒ YOU WERE CALLED BY— ☐ YOU WERE VISITED BY—

OF (Organization)

☒ PLEASE PHONE ► (Enter area code,
if necessary)

☐ DSN

☐ WILL CALL AGAIN

☐ IS WAITING TO SEE YOU

☐ RETURNED YOUR CALL

☐ WISHES AN APPOINTMENT

MESSAGE

Call tonight after 4:30
at [REDACTED]
or [REDACTED]

NOT FOR

RECEIVED BY

Christine

DATE

3/20/97

TIME

11:55

17540-00-634-4018
3-112

OPTIONAL FORM 363 (Rev. 7-94)
General Services Administration

★ U.S. GOVERNMENT PRINTING OFFICE: 1995-385-890

CASE CHRONOLOGY

Case Number 3-97-013	Date Opened 3-13-97	Opened By R. PAUL / J. Vhe
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Date	Activity
7/25/97	Received covert tapes made by alleges back from Ct. reporting service w/ partial transcript. Fax received from Chuck Lyons, Esq., Hartford Stn. Bailey Inspection & Insurance Co., of 12/96 audit done at MK.
7/28/97	FOD review RCP
8/4/97	An ARB was held. SI briefed the ARB on the status of the case. ARB Chairman, G. Drant instructed a DRS Tech. representative to accompany SI during the Hartford Stn. Bailey Inspection & Insurance Co. interview scheduled for Thurs., 8/7/97. J. Schapker, Rx Inspector was assigned. SI coordinated w/ Schapker.
8/29/97	FOD review RCP
9/5/97	Agent contacted alleges for background info. on a potential witness C. Ballaire. He also said he was sending a ltr. to NRC (see file for e-mail dated 9-5-97)
9/12/97	Agent contacted alleges to request DOJ Reentry info.

Activity Codes L/M - Letter or Memo TC - Telephone Call INSP - Inspection
MTG - Meeting INV - Investigation REP - Report Issued

Rx - Reactor

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4/12

Opened By
R. Fair

Activity

7/1/97 (cont) Weinstein telephoned & Agent advised to have it reporter provide a transcript for the work done thus far & return everything to OI:RTH. He acknowledged this instruction.

7/2/97 Agent left message for Walt Zimmerman, Hartford Str. Boiler Inspection & Insurance Co., regarding an audit he did identifying deficiencies in the MK DA Program, which according to the allegor has relevance to his complaint.

7/8/97 Agent left message for Zimmerman again. No response to date. Drafted ltr to Zimmerman to call Agent sent in final certified mail. Spoke w/Range, for Mr. C Lyons. He said he would ~~facilitate~~ ^{arrange} an interview w/ Zimmerman for NRC.

7/22/97 Sherma Donovan, NRC Hqtrs., called to advise that she has not received the ^{correct} tape/transcript back from it. reporting service but intends to contact Neil Gross to request info be returned to OI:RTH.

7/25/97 Agent contacted Lyons. Lyons is asking for the interviewing to occur during wk. of 8-11-97. He will call back.

Activity Codes

L/M = Letter or Memo
MTG = Meeting

TC = Telephone Call
INV = Investigation

- INSP = Inspection
REP = Report Issued

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CASE CHRONOLOGY

FILE NUMBER 3-97-213	DATE OPENED 3-13-97	OPENED BY R. Paul
DATE	ACTIVITY	
5/7/97	Agent telephoned Steve Bell, attorney for all ages, who said he would send the tapes to OI: RTH but today.	
5/8/97	Agent received one cassette-size tape from S. Bell. Bell's letter dated 5/7/97 said the tape contains various conversations between all ages & his supervisors. Agent request Tim Marcum, SBA-OIG, to duplicate audiotape for OI: RTH. Marcum agreed to do this on Monday, 5/12/97.	
6-9-97	A. Ortog, CI, telephoned Agent for a status on case. Specifically, he asked if NRC has taken any action involving NK and requested that the D.C. Court holding procedures be expedited back to him. Agent provided this info. to Jay Hopkins. Ortog also advised that he was scheduled to have his case heard by DCI at a hearing on 6/11, Wed. Hopkins said he would wait to hear back from J. Schapke on wedding procedures and then return call to Ortog. Agent offered assistance if needed, Hopkins will follow-up responding. Hopkins requested Ortog to participate, which was done on this date.	
6/23/97	FOD review RCP	
7/1/97	Sherna Donovan & Jack Weinstein, NRC Hdqtrs. (G. Reporters Request) advised that Grand G. Reporting Service is unable to at least having extreme difficulty in transcribing the tape sent for transcription. In consultation w/FOD, tape returned & Agent attempt to transcribe tape. Agent left message for Weinstein.	
ACTIVITY CODES	L/M = LETTER OR MEMO	TC = TELEPHONE CALL
	MTG = MEETING	INSP = INSPECTION
	INV = INVESTIGATION	REP = REPORT ISSUED

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CASE CHRONOLOGY

Case Number

Date Opened

Opened By

3-97-013

3/13/97

R. Paul

Date

Activity

3/17/97
Whe

Agent reviewed Jay Hopkins memo of 3-13-97 and other case file information.

3/19/97

Agent spoke w/son, requested Alain to have a no. where he can be reached.

3/20/97

Agent spoke w/C.I., tentative interview date of 4/11/97, Friday, at 10a.m., at S. Bell, attorney's office.

EX
7C

[REDACTED] Friend's phone no., where Alain is staying. He wished to confirm meeting date w/his attorney. Alain to call Agent back.

3/27/97

Agent spoke w/C.I., interview still on but he hasn't heard anything from his attorney. He will call his attorney again to confirm date.

4/13/97

Allegee was interviewed on the record by Agent X Schapker, DRS, RTH.

4-18-97

Request was made to OSC for assistance.

4/21/97

Agent contacted Steve Bell, he said documents will be Fed-X today along w/tape recordings, which are a copy. He asked AT to make a copy of tapes & return. Tapes were requested per RCP in coordination w/Agent.

Activity Codes L/M - Letter or Memo
MTG - Meeting

TC - Telephone Call INSP - Inspection
INV - Investigation REP - Report Issued

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CASE CHRONOLOGY

Case Number	Date Opened	Opened By
3-97-013	3-13-97	R. Paul / J. Ullie
Date	Activity	
1/16/97	C Ballara interviewed.	
10/1/97	FOD Review RCP	
10/6/97	Ballara's transcript sent back to be re-transcribed.	
10/15/97	<p>Alleger called to inform NRC that he was laid-off on 9-30-97 for his Parkersburg, W. V. project. B. Clayton & R. Paul informed via e-mail. Alleger said he sent docu. to NRC via J. Hopkins which may be helpful to the investigation. Agent arranged an interview with Paul Evans for Nov. 5, at 2 PM, at the Holiday Inn (815) 729-2000 located at 180 & Larkin Ave. (Exit 130B). Evans current no. is (913) 337-2000 x. 258 at BKR & Vetch, Shawnee, KS, home no. in [REDACTED] EXTC [REDACTED], temporary home no. in [REDACTED] & a new work no. of (847) 680-8100 at PCI, Lake Bluff, IL. Info. faxed to Agent for Alleger.</p>	
10/31/97	<p>FOD Review. Jay Hopkins advised that the DOL ALS found in favor of the alleger. The DOL ALS opinion is being forwarded to OI. At this time, FOD said to continue w/ OI case investigation.</p>	
11/4/97	<p>Alleger called to confirm OI had been informed of the ACS DOL decision in his favor. He has yet to be reinstated but said an expected today.</p>	
Activity Codes	<p>L/M - Letter or Memo TC - Telephone Call INSP - Inspection MTG - Meeting INV - Investigation REP - Report Issued</p>	

Case Number

3-97-013

Date Opened

3-17-97

Opened By

Y. Ulie.

Date _____

Activity

11/24/97

FOD Review, based on priorities ECD updated 4/98 RCP

$$12 \overline{) 1197}$$

max Bingham called to said he was unable to locate the 2 documents requested by Agent.

1698

FOD Review RCP

1/7/98

B. Clayton, Engr. Officer, RIII, advised that Chuck Weil of his staff will be assigned the follow-up of the MK investigation.

1/27/98

ROI in draft.

1/28/98

FOD Review RCP

2/6/98

ROI issued

Activity Codes

L/M - Letter or Memo
MTG - Meeting

TC - Telephone Call
INV - Investigation

INSP - Inspection
REP - Report Issued

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ATTORNEYS AT LAW

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<http://www.ulmer.com/>
E-mail Address
sbell@ulmer.com

STEVEN D. BELL
Direct Dial (216) 902-8831

Bond Court Building
1300 East Ninth Street, Suite 900
Cleveland, Ohio 44114-1583
Fax (216) 621-7488

(216) 621-8400

Columbus Office
88 East Broad Street, Suite 1980
Columbus, Ohio 43215-3506
Fax (614) 228-8561
Telephone (614) 228-8400

April 21, 1997

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FOIA- 2000-0014

VIA FEDERAL EXPRESS

Joseph M. Ulie, M.S.
Special Agent
Office of Investigations
United States Nuclear Regulatory Commission,
Region III
801 Warrensville Road
Lisle, IL 60532-4351

RE: Alain Artayet/Morrison Knudsen Corporation

Dear Joe:

Enclosed please find a copy of the set of documents which you reviewed
during our meeting on April 11. I am also trying to get [REDACTED]
[REDACTED] to you tomorrow.


Very truly yours,


Steven D. Bell

145:kmh
F:\WPDOC\BELST\DATA\710120.D1

4/13



DATE: January 22, 1997
TO: Andy Walcutt
FROM: Alain Artayet 
SUBJECT: CONCERNS ABOUT MK'S D.C. COOK WPS's

This memo is written to you to confirm our conversation last night on January 21, 1997 (between the hours of 5:00 pm to 5:30 pm) about the D.C. Cook Field Welding Procedure (FWP) manual that you presented to me on my desk last Wednesday morning (January 15, 1997) between the hours of 8:00 am and 8:30 am. I waited for you to return from your St-Lucie trip before talking to you about the following concerns.

At that time last Wednesday, you asked me to review the D.C. Cook WPS's to verify as to whether or not there was something wrong with these WPS's. I briefly reviewed the subject WPS's in front of you and immediately informed you that the same mistakes that were done on the Point Beach WPS's were also made on several of the WPS's used on the D.C. Cook SGRP. More importantly, it was also pointed out to you that WPS-No(s) M-1-1-BA (Rev. 0, issue date of 9-16-88) and M-1-1-AB (Rev. 1, issue date of 6-9-88) were both describing the use of E7018 electrodes for the SMAW process on thicknesses greater than 5/8" to 8" (where notch toughness is required). Furthermore, the figures in these WPS's indicated use on production welds with thicknesses greater than 3/4". PQR-No(s). 1-117 and 1-124 both support these WPS's. These PQR's indicate the use of E7018-A1 electrodes of the SFA-5.5 filler metal specification during welding procedure qualification with the SMAW process. Therefore, E7018 electrodes from the SFA-5.1 filler metal specification on the above WPS's were not qualified (prior to use on the D.C. Cook SGRP) for applications where notch toughness was a requirement. The use of E7018 electrodes for the above conditions is not in compliance with ASME Section III NB/NC-2311 and ASME Section IX, QW-404.12.

It should be understood that by you presenting me with this D.C. Cook FWP manual early last Wednesday morning and asking me to review these WPS's for any problems, you put me in a position that obligates me (as an engineer) to disclose these concerns to you in writing because of the serious implications. As you verbally mentioned to me yesterday, I know you will take care of the above concerns after the Point Beach QFR-No. 1 issues have been completed.

cc: D. Edleman
Files

End

0260 Help Wanted 0260 Help Wanted 0260 Help Wanted 0260 Help Wanted 0260 Help Wanted 0260

Office Operations Manager

Middough Associates Inc., a leading engineering consulting and construction company, offers an outstanding opportunity for an individual to manage all office maintenance and operational issues for our Cleveland headquarters and other satellite locations. This position requires strong management skills and hands-on knowledge of mechanical and electrical building systems. Responsibilities include office space planning, building renovations, systems maintenance, subcontractor liaison and supervision, security and fire protection, warehousing, vendor interface, and fleet maintenance. Excellent computer skills (MS Office) required.

The qualified candidate will possess strong communication skills, an appropriate BS level degree, and 10+ years of directly related experience preferably with a service (non-manufacturing) organization. We provide competitive performance-based compensation and benefits including 401(k) and profit sharing. For confidential consideration, send your resume to our Human Resources Manager at MIDDOUGH ASSOCIATES INC., 1901 E. 13th St., Cleveland, OH 44114, fax (216) 771-2074. Equal opportunity employer, m/f/d/v.

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ENGINEERS AND DESIGNERS

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Our fast paced architectural office has an immediate opening for a full time receptionist. The candidate must have a professional attitude while representing our firm at the front desk and excellent phone manners when handling our multi-line system. This position also involves participating with others

RECEPTIONIST/ GENERAL OFFICE

Excellent opportunity to work for growing company, Strang Corporation, owners and operators of the Applebee's and Don's restaurants, is looking for an individual with a friendly, outgoing personality to answer busy phones and provide general

CORPORATE WELDING ENGINEER

Direct implementation of Morrison Knudsen's Corporate welding program. Typical codes and standards that must be addressed are ASME Boiler and Pressure Vessel Code Sections, I, III, VIII, IX and XI, ASME B31.1 and B31.3 and AWS D1.1. Serve as MK's technical consultant, both internally and externally, on welding related issues, including those affecting design. This includes the review of vendor supplied PQRs/WPSs, and design documents, to ensure compliance with the specified codes and standards, providing advice on welding equipment selection and use, weld program development and training, welder training and the evaluation of the welding program effectiveness at the project level.

Qualifications for this position include 10 or more years of experience in the development and implementation of construction/industrial welding programs. The candidate must have extensive experience with welding related codes and how these codes are applied and interpreted for the various industries that MK serves. The candidate must have procedure writing skills. Candidates with a degree in weld engineering, metallurgy or mechanical engineering are preferred.

We offer a competitive salary and benefits package. Send your resume to: Morrison Knudsen Corporation, Attn: Cedra Chambers, 1500 W. 3rd St., Cleveland, OH 44113. Or fax 216/523-3799. Morrison Knudsen is an Equal Opportunity Through Affirmative Action Employer.

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CORPORATION**

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Our Installed Sales Dept. is seeking contractors in the following areas:

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We are looking for an individual with at least one year of office experience. Skills required include typing of 50wpm; good phone and interpersonal skills;

RECEPTIONIST, Insurance Company. Skill level: \$600/wk. Corporate ladder climber. FREE Indiana jacket! Tammy 734-4821. Area Office Services

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RECEPTIONIST—Tax prepar-

CMHA is currently seeking following position:

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- A High School Diploma and Operations and Computers
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Please submit resume to:
CUYAHOGA METROPOLITAN

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Cleveland

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Entry level opening with a southeast company for a research technician. Candidates should have college chemistry degree plus biochemistry or molecular biology with strong technical skills. Previous research experience a plus. Respond with resume and salary to:

BOX AS-166
THE PLAIN DEALER
1801 SUPERIOR AVENUE
CLEVELAND, OHIO 44114
Attn: Research Technician

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MANAGEMENT**

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STEVEN D. BELL
Direct Dial (216) 902-8831

(216) 621-8400

May 7, 1997

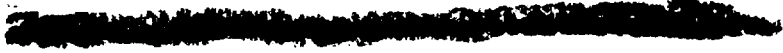
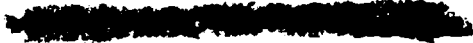
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FOIA- 3000-0014

VIA FEDERAL EXPRESS

Joseph M. Ulie, M.S.
Special Agent
Office of Investigations
United States Nuclear Regulatory Commission,
Region III
801 Warrensville Road
Lisle, IL 60532-4351

RE: Alain Artayet/Morrison Knudsen Corporation

Dear Joe:

Enclosed please find 


Very truly yours,



Steven D. Bell

145:kmh
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4/14

F A X

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Act, exemptions b2
FOIA- 2000-0014

To: Attention: Joe Ulie
Company: NRC
Fax: (630) 515-1438

From: Alain Artayet
Pager: N/A
Home: [REDACTED]

Date: October 15, 1997
Pages: 9 (includes cover)
Re: More info. to support my phone conversation today

After I talked to you today, I decided to fax you my summary of activities during my last week with MK. Also attached is the letter (no attachments) that I sent to Jay Hopkins via certified mail received by S. Tambling at your office on 9-24-97. Please, call me to inform me that you received this fax. Thank You.

OCT-15-1997 11:21

P.01

**SUMMARY OF ACTIVITIES DURING THE LAST WORK WEEK OF
9/23-30/97 AT THE DUPONT WASHINGTON WORKS PROJECT
FOR MORRISON KNUDSEN CORPORATION**

Monday - 9/22/97

Took the day off because of my birthday on 9/21/97 and to finish writing the NRC letter (took 12 hours) about MK's inappropriate closure of Part 21 for the D.C. Cook Unit #2.

Tuesday - 9/23/97

Left home at about 4:00 am and reported to work at about 7:15 am. During a meeting with craft supervision I was summoned via pager at about 8:30 am by Dave Adams, MK's Project Manager at WW. Dave informed me that he was very happy with my performance during the shutdown and the entire time I was on the project. At that point, he told me that he had contacted Jim Garrett and John Legay to inform them that I was going to be released from the WW project on 9/30/97 due to budget cutback reasons (also known as rif - reduction in force). He said that he would have told me this on Monday 9/22, but I was not on the project. I told him that I had decided to stay home because it was my birthday on Sunday and that I had an NRC letter to complete. He said that Jim Garrett would try to possibly transfer me to another project. Dave told me that he was hoping that the transfer would be in the Cleveland area so that I would not have to travel as far as I have been for the past eight months. He also complimented me on my professionalism during the length of my stay at WW, because I did not let my litigation problems interfere with the project activities.

NOTE: This notification was not the usual two week notice as is normally given to exempt employees, but only one week. I was informed by Mike Kelly, my direct supervisor, that during a staff meeting he was told that a one month notice would be given to exempt employees. This was communicated during a project staff meeting on 9/2/97, and I have a copy of those project staff meeting notes from Mike's hand writing. Mike Kelly was very unhappy with Dave Adams for also not giving him a two week or one month notice before removing me from his staff. Mike was only notified of their decision to remove me from the project the morning of 9/23/97 just before I was.

Thursday - 9/25/97

Call No. 1: Jim Garrett called me first at WW at approx. 9:00 am to ask me if I wanted to be added to an organizational chart as QC Manager for a bid proposal that was supposed to be submitted by MK on Monday (9/29/97) for a DuPont Project in Chattanooga, TN. He told me I would be a good candidate because of my good relationship with DuPont. He said that we had a good chance of winning this project. I asked him how long the project would be and when would I have to start, and he replied that I would have to start immediately and that the first part of the project would last until the year 2000 and the second phase until 2003. I responded that it was not my desire to

be a QC Manager. I said that I am a welding engineer and I worked all my life in welding. He replied that part of my job would be overseeing welding activities. I replied that I did not know enough about electrical and concrete work. He replied that I did not have to know about these disciplines because I could hire inspectors to oversee these activities. I told him that I thought that a QC manager was a dead end road because MK changes QC managers on DuPont projects like they change their pants just like they did at the WW project. I told him that because of these changes QC managers were very unhappy on the WW project. I also told him that the government would decide if I would be working again under Andy Walcutt. He replied that I would be reporting to the project manager, and not Andy (which I saw as a lack of understanding on his part about QC reporting functions, which is one of the problems at MK). I asked him if I could have some time to think about this, and call my wife. He said that he wanted an answer before noon.

Call No. 2: At about 10:30 am I called Jim Garrett back and asked him if I called back fast enough; and he replied that it would do. He said to hold on the phone, because he wanted to set up a conference call with Bret Williams, V.P. of Industrial and Process Division. I held on for about 4 to 5 minutes and then I hung-up the phone thinking that I had lost them. I called back and I asked him what had happened, and he said that he tried to connect me but he couldn't (Bret Williams had to go). I immediately told him again that I was not interested to be on an organization chart for a potential project as a QC Manager because that was not my interest. I informed him that I had asked myself if I would put a resume on the market as a QC Manager, and I said to myself "No". Therefore, based on that thought process I was not interested in the potential QC manager offer for a bid proposal. I told him that welding was all I ever wanted to do and the position I wanted was the Corporate Welding Engineer position that I used to have, and I told him that anything he could do to help me get my Corporate Welding Engineer position back would be appreciated. He replied that was out of his control. I asked if he had talked to Andy Walcutt, he hesitated and informed me that he had been talking to Andy. I told Jim that I appreciated his considering me to be on the organization chart, and since I did not want to leave him without someone for that possible position, I referred him to Mr. Greg Rolston who is currently at the St. Lucie SGRP and who would be available for the Chattanooga job (if we get awarded the project) after the shutdown in St. Lucie. I told him that Greg was his man for the potential QC job and that he should check with Andy to make sure I was not stepping on any toes. I told him that Greg was involved with the Salt River Project, and I thought Greg already had experience with being a QC manager. I told him that Andy should have recommended Greg instead of me (because I knew that Greg had been waiting for such an opportunity). I gave him my home phone number in Cleveland, and told him that if he would consider me for another potential job not to hesitate to call me at home on Friday or at work between now and Tuesday (9/30/97).

Mike Kelly talked to Ken Metz to try to keep me until Thursday 10/2/97 in order for me to complete as many FCR's as I could complete during my last week, but I was told on Tuesday 9/30/97 that Dave Adams would not allow me to stay until Thursday. Mike Kelly told me (in the afternoon of Thursday 9/25/97) that Dave Adams wanted me to

finish 30 FCR's before I left on Tuesday 9/30/97. I went home that Thursday at approximately 5:15 pm.

Monday - 9/29/97

Went back to Parkersburg Monday morning. Left work at 11:15 to attend a DuPont Golf Invitational and luncheon for the entire FEP team to show appreciation for a successful shutdown. DuPont was hoping for the same success for Packages 2 and 5, which is still a lot of work that remains to be done before February 1998. The outing lasted all day and our green team won, but my golf was not up to par.

Tuesday - 9/30/97

Mike invited Tom Manley, Ken Metz and myself to lunch and we returned at approx. 1:30 pm. After completing 20 of the 30 FCR's (that management wanted me to finish) and at about 2:00 pm I asked Mike Kelly if I could leave around 3:30 pm to go home early. He replied that I could. So I started looking for Jim Garrett on the project, because Mike Kelly told me that Jim had told him in an earlier morning meeting that he wanted to talk to me. Mike also informed me that Jim had told him that he was disappointed that I refused to be on the org. chart for the bid proposal, because Jim was hoping that he could hold on to me on overhead charges while waiting to see if MK would get awarded that potential contract (so Mike thought that I had made a mistake to say "NO" to Jim). I replied to Mike that Jim never informed me that those were his intentions (to keep me on overhead until potential award of contract), and I added that it would have been wrong for me to mislead Jim into accepting to be put on an org. chart for a QC manager position I did not want and for the purpose of staying on overhead charges. I also told him that I was not asked to be Project Welding Engineer for that job either.

I went looking for Jim Garrett at about 3:00 pm, but I was told by Mike at that time that Jim Garrett had to leave on an emergency!!!! So I went looking for Larry Bayne, MK's Human Relations Manager for the WW project, and I was told by Debbie Washington (who works for Larry) that Larry had left earlier for the remainder of the day. So I asked Debbie, if I was going to be given a pink slip and she told me that Larry had left her with no instructions. But she said that they would be sending me a check on Thursday next week for the 60 hours they owed me.

I was released on that day with both Tom Manley (Mike Kelly's counterpart for the Monomers project) and Ken Metz (Mike Kelly's boss). Tom Manley was transferred to a GM plant in Fort Wayne - Indiana, and Ken Metz was to report in Cleveland on Thursday morning. I was not transferred anywhere and I was not told to report to Cleveland. However, Ken Metz thought that maybe I should show up in Cleveland on Wednesday morning, but I was also told that Jim Garrett would be traveling out-of-town Wednesday and Thursday by Mike Kelly (I decided to contact Steve Bell instead). Mike Kelly told me that he was told to report to Cleveland on Thursday morning to discuss his future with MK!!!!???

As I said goodbye to the people I had worked with since February 11 between 3:30 and 4:00 pm, several people told me that MK was releasing me very unprofessionally and they said it was probably because of my case. I left the project to go home at about 4:15 pm.

End (not yet!)

Monday - 10/6/97

I called Steve Bell at about 3:00 pm to ask him if he had heard anything from Keith Ashmus, and he told me that Keith said to call someone in Cleveland. So Steve and I agreed to call Kevin Tobin. At 3:10 pm I left a message for Kevin Tobin to call me at home. I was told by Yolanda (who was the receptionist that answered the phone) that Kevin was in a meeting out of the building?

Tuesday - 10/7/97

I called Kevin Tobin at 7:30 am to find out about my official employment status with MK. He told me that I was layed off because I refused to be included on the proposal for the Chattanooga DuPont project. I replied that was for not wanting to be added to an organization chart for a proposal as a QC manager for a potential project. I told him also that was not what I wanted to do and that I did not need an engineering degree to be a QC manager, and that I could have been a QC manager a long time ago instead of getting a degree. I added that it would have been better to ask me to be a Project Welding Engineer (PWE) instead, and I added that Jim Garrett probably had some other ideas in his head. He replied that they probably didn't think they needed a PWE. I answered that for such a long term project (in this case to the year 2003) welding would become intense eventually. He continued by adding that Jim Garrett told him that Jim had intentions to have me work on the proposal (meanwhile I was thinking that the proposal was due the following Monday of 9/29/97 - two working days after his phone call). I replied that it was nice to see that Jim Garrett was also [REDACTED] because he never discussed these intentions with me over the phone. I added that it would have been misleading for me to accept being added on an org. chart for the purpose of working in the Cleveland office. I also told him that Jim Garrett told Mike Kelly that he had intentions to keep me in Cleveland until they would be awarded the contract, and I told Kevin that I responded to Mike's comment by telling him that Jim did not tell me that over the phone. Kevin asked me if I had called Jim Garrett since I left Parkersburg? I said no because I gave my home phone number to Jim Garrett for other potential job offers, but I told Kevin that I did look for Jim Garrett before I left Parkersburg and that I was told that he had to leave on an emergency!!! I also told Kevin that Larry Bayne was also gone for the afternoon, so it was very unprofessional for them to release me the way they did. I asked shouldn't I get some kind of release documents like a pink slip for a layoff? He said that no such document was required when you are terminated. I told him that I needed some kind of document to present to the unemployment office. He told me that I should report to the

EX 7C

unemployment office and added that they (MK) would handle it. I asked him when would my health insurance expire, and he replied that it would expire at the end of October and that I would be receiving a package from the Boise office. I asked him what are they going to do if the government orders me back in my job? He replied that they would handle it when that time came. I ended the conversation by saying have a nice day.

The above information was written by Alain Artayet.

End - 2

[REDACTED]
CERTIFIED MAIL

Monday, September 22, 1997

Jay Hopkins
Office Allegation Coordinator
USNRC - Region III
Suite 255
801 Warrenville Road
Lisle, IL 60532-4351

Subject: MK's Inappropriate Closure of 10 CFR 21 Reportability
For the D.C. Cook Unit #2 Concerns

Dear Mr. Jay Hopkins:

I received your letter AMS No. RIII-97-A-0035 on August 16, which indicated that I contact an allegation coordinator, if I had any additional information related to my concerns. I talked to Mr. Joe Ulie on September 12, and he informed me that he already had sent an e-mail to inform you that this letter was coming your way. The information I am about to present to you was given to me during the DOL hearings as evidence to be used during the hearing process. I did not review the technical aspects (particularly 10 CFR 21 Applicability Report dated 3-18-97) of this evidence until about a month and a half after the completion of the hearing. At that time, I did not pursue any action to inform the NRC because I felt the NRC would identify this information during their own investigation. In addition, I did not want to come across as trying to influence your investigation, or make it appear that I have a personal vendetta against MK's management (as indicated by the 4th paragraph of Mr. Andy Walcutt's memo no. M-QM-97-019 dated March 18, 1997).

I finally completed this letter to make you aware of how MK's management closed the Part 21 applicability review of my concerns from a technical viewpoint. As you are aware, I verbally disclosed welding concerns to MK (via Mr. Andy Walcutt, Director of Quality) for the D.C. Cook Unit #2 nuclear power plant on January 15, 1997. After I investigated the legitimacy of my concerns a little further (see the enclosed D.C. Cook production documents), a formal written notification was presented to Mr. Walcutt on January 22, 1997 with memo no. M-QM-97-004. This memo was presented to Mr. Walcutt with Mr. Drew Edleman as a witness (MK's Director of Performance Systems and administrative supervisor of Mr. Walcutt).

As you can see, a "Determination Checklist for 10 CFR Part 21 Applicability" form was completed by me on January 23, 1997 and presented to Mr. Walcutt on that day at 1:45 p.m. On January 27, 1997, Mr. Lou Pardi, Executive Vice-President of MK's Power Division, wrote a formal memo. to Mr. Walcutt indicating that the MK welding engineer (no name mentioned?) at the St. Lucie Unit #2 nuclear power plant determined that MK currently has procedure qualification records (no PQR-no. given) with E7018 that passed required notch toughness in the as-welded and PWHT conditions. The welding engineer referred to could possibly be Mr. Eugene (Rusty) Gorden or Mr. Don Huffstodt. Mr. Gorden was the project welding engineer (PWE) at both Point Beach Unit#2 and D.C. Cook Unit #2 Steam Generator Replacement Projects (SGRP). As a point to note, Mr. Gorden was promoted by Mr. Max Bingham and Mr. Marty Cepkauskas as the Construction Engineering Manager (CEM) for the St. Lucie Unit #2 SGRP to direct all construction engineering disciplines (including PWE in accordance with the organizational chart of MK's QA manual and program for welding operations). In addition,

OCT-15-1997 11:25

[REDACTED]

postmarked
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P.07

please be aware that Mr. Walcutt testified under oath during the DOL hearing on June 12, 1997 that he informed Marty Cepkauskas and Max Bingham that he would not accept Rusty Gorden to continue in the function of project welding engineer and that they would have to find a replacement for the St. Lucie job (see the DOL transcript page 254 and 255). Therefore, Mr. Pardi could possibly be referring to Mr. Don Huffstodt, the new St. Lucie PWE, who was the MK Corporate Welding Engineer before I was hired in 1988.

I believe that PQR-No. GT-SM/1.1-Q4, is the PQR Mr. Pardi is referring to, and this PQR was qualified in 1996 for the Point Beach Unit #2 SGRP. Be aware that the actual production welding parameters (i.e., maximum heat input and use of E7018 or E7018-A1) at D.C. Cook Unit #2 SGRP were never considered in 1996 for the procedure qualification to be used at the Point Beach Unit #2 SGRP. Please, note that the actual maximum heat input used during production welding at the D.C. Cook Unit #2 SGRP in 1988 still remains unknown today. Mr. Pardi is not admitting to an actual ASME Section III code violation in 1988 for welding on a nuclear power plant with E7018 electrodes without the use of proper ASME qualified welding procedures. He further deduces on his own, as MK's Executive VP, that the technically advisable resolution to a possible welding problem in 1988 would be resolved by qualifying a welding procedure in 1996. Prior to making this judgment, I believe Mr. Pardi did not:

1. Determine the actual maximum weld heat input used during production welding of over a dozen butt joints and several weld buildups performed under the scope of ASME Section III (Class 2) for 32" dia. main steam and 14" dia. feedwater piping systems for all 4 steam generators at D.C. Cook Unit #2. For the reference material I used for making this determination, see the attached weld maps and weld data cards documenting the use of WPS-No. M-1-1-AB with E7018 electrodes. Please note that I did not find any QA/QC reports recording actual heat input control inspections performed during the actual production welding of the above welds in 1988. I only had time to inquire into MK's Quality Department corporate vault (of which I was always permitted access). Also note that I believe nobody bothered to look at the D.C. Cook Unit #2 SGRP documents stored at MK's storage warehouse on State Road in Cleveland. MK management fails to recognize that this is a hardware problem that could affect the serviceability of permanent plant items (see memo. M-QM-97-013).
2. Understand that qualifying a welding procedure 8 years later does not constitute that the mechanical integrity of the welds in-service will be maintained for the life of the plant. The above welds could currently be acceptable from a nondestructive examination (NDE) point of view. However, just because a weld is acceptable in accordance with radiographic and ultrasonic inspection requirements, does not mean that the weld is mechanically sound. For instance, the welds could have acceptable weld discontinuities, but could be lacking toughness (influenced by heat input during welding) which is the ability of a weld to resist crack initiation or propagation.
3. Obtain consent and approval of the owner (i.e., American Electric Power) of the D.C. Cook Unit #2 on his determination.

Memo M-QM-97-013, which was written to file by Mr. Walcutt, was used to close the potential Part 21 evaluation. Mr. Walcutt indicates that WPS's No. M-1-1-AB and M-1-1-BA do not reference PQR-No. 1-126, and that PQR 1-126 references WPS-No. M-1-1-AB. He fails to recognize that:

1. PQR-No. 1-126 was not referenced because it was not qualified to support FWP-15.4 (WPS M-1-1-AB) and FWP 15.22 (WPS M-1-1-BA). It was a typographical error that PQR-No. 1-126 references WPS-No. M-1-1-AB because this PQR was:

- a) Qualified for an unassigned base metal (A588 welded to A588) where M-1-1-AB was prepared and qualified for welding assigned base metals under the grouping of P1 to P1 materials. A588 is not recognized as a P1 material in accordance with ASME Section IX.
 - b) WPS-No. M-1-1-AB was developed on 6/9/88 using supporting PQR's 1-124 and 1-117 that were completed on 10/1/86 and 4/8/88, respectively (before the WPS-No. M-1-1-AB development date of 6/9/88). PQR-No. 1-126 was qualified several months later on 8/31/88.
 - c) WPS-No. M-1-1-AB requires the use of Postweld Heat Treatment (PWHT) and this is supported using PQR-No. 1-117. PQR-No. 1-126 was qualified without PWHT and cannot support WPS M-1-1-AB.
2. PQR-No. 1-126 cannot be used to justify the use of E7018 with the indicated heat inputs (calculated using $V * I * 60 / \text{IPM}$) because it was qualified in the flat (1G) position only, and WPS M-1-1-AB was prepared for use in all positions and uphill progression.

Mr. Walcutt has also failed to recognize that MK cannot use PQR-No. GT-SM/1.1-Q4 qualified in 1996 because the heat inputs used at the D.C. Cook Unit #2 SGRP in 1988 are unknown. The Part 21 applicability for the D.C. Cook Unit #2 was not properly evaluated by Mr. Walcutt, Mr. Pardi, and the unknown welding engineer Mr. Pardi refers to. This obvious lack of understanding by the above people involved in closing the D.C. Cook concerns, leads me to wonder if the Point Beach Unit #2 concerns were also properly evaluated.

Memo M-QM-96-065 was written by me (after the July meeting between Mr. Walcutt, Mr. Bingham and myself) to partially delegate Mr. Eugene (Rusty) Gordon on August 1, 1996.

→ Please, forward this memo and the two facsimiles about drop weight testing (including ASTM standard E208) to Mr. Ulie per his request.

If you deem necessary, please feel free to forward a copy of this letter and entire contents to Jean Lee, Jerry Schapker, and Joe Ulie.

Sincerely,

Alain Artayet

Attachments: M-QM-97-004,
QAI 1.1-1 (with only my signature),
Lou Pardi's memo of 1/27/97,
M-QM-97-009,
M-QM-97-013,
QAI 1.1-1 (signed by Walcutt on 3/18/97),
M-QM-97-019,
Weld Maps for Steam Generators #1 through 4,
Weld Data Cards for Package No. 1531A (for Steam Generator #1),
WPS No. M-1-1-AB (FWP-15.4),
WPS No. M-1-1-BA (FWP-15.22), and
WPS No. M-588-B (FWP-15.23).