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NRC PUBLIC DOCUMENT ROOM

THE DOW CHEMICAL COMPANY  
EXHIBIT NO. 3

INTEGRATED MEETING NOTES  
OF DAVID A. DURAN

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Duran Notes

THE FOLLOWING IS AN ACCURATE SUMMARY OF WHAT WAS SAID DURING THE MEETING;  
HOWEVER, IT SHOULD NOT BE REGARDED AS BEING VERBATIM IN ANY SENSE.

(The following are notes taken in a meeting between Dow and Consumers Power on 9/29/76. Those present include Judd Bacon, Rex Renfrow, Lee Nute, Milt Wessel and Dave Duran.)

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- Rex: Larry Bremer to try case, new on case, this assignment came from staff meeting with Consumers Power. Doesn't know when the answer will be on the expansion question. It will take them 10 months to come to hearing on the substantive issues from the date the necessary information is received. ER will still be filed on 10/22/76. We have told them that this 10 month delay is too long for us. We intend to file our brief.
- Lee: What is the source of the screw-up?
- Judd: They had it assigned to someone else.
- Rex: Chapar had Marty write up things for him. Marty is now on way to Europe. Dick Brown was preparing to hear this. He has now come over to take some of my job. He is not really ready to do this. This is why Bremer is going to do it. On the bottom line - we can get them ready to go to hearing. I have given them Roy Wells and Dick Keeley's name. If we have to go the 6th, they will not be able to put forward a substantive case at all. If no one meets the burden of going forward, they should cancel the hearing.
- Judd: We are very close to getting ready for the interim hearing.
- Rex: We have word that MC has his trial schedule up to date and Judge Cavillo confirms that he is tied up until 11/18/76. We think the Board will give this delay to him. My main concern is that we don't move that substantive hearing so far out that we have a delay in the interim hearing. We think the supplement will have to be re-circulated. This will take 90 days minimum. You then have to work these 90 days into the schedule. This gets us into March. I have a revised schedule that we will attach to our motion. These changed dates will be 10/6 and 10/20, delete 10/22, both remain, 11/1 moves to where 12/6 is and 12/6 goes to 12/17. We don't know when the hearing is. This could be between 10/6 and 11/18. Go back to 11/8 date - this date becomes 12/30. In the written portion 11/1 becomes 11/15 date? 11/22 dates remains the same. 12/9 take out and 12/13 take out - change 12/28 to 1/21 and then take 1/10 out and the remainder of schedule remains the same. Hearing is then on ACRS and environmental matters. Both sets of discussion coming on at same time. This frees up November and the hearing on suspension. We have to go forward for 10/6 like they are going to be heard. As soon as we get word that this has been changed we will let you know.
- Milt: We should go forward today with what we have worded on.
- Rex: He talked about the schedule for 10/6. Dave Rosso, Carol B. - out of our office. We have tried to provide time when we can work with witnesses. This will give us an idea when I intend to work with them and get them ready. I need to see a basic outline of what Dow will give us to go with.

Milt: I don't think you need to have agreement on what is going to go on. As far as what is to be said - we will not say anything unless you want us to say it - etc. I don't see that you need agreement on this.

Rex: What I mean by agreement - I mean agreement on the facts.

Milt: If there is a question of privilege or trade secret, we will object. If it is otherwise, we will not get in your hair.

Rex: This is beautiful!

Milt: 10/4 is Yom Kippur and I have to be home on this date.

Rex: I want to work with the Dow witnesses on Monday, 10/4.

Milt: I hope this will get some answers to you this morning and today. I also teach and I have to go to New York on 10/7.

Rex: The four main issues form a coalition case. This is not the way I will put the witnesses on. Underneath them I have put the sub-issues. The witnesses are in all caps out at the side. I will be glad to answer any questions you may have on these four issues.

Rex: Lee, you and I have talked on this. The only problem I have with Temple is that the original position that Dow had on this and I don't want a witness to get up there and tell other than the truth.

Milt: We are telling the truth as we see it. It is probably better to have a person there who has direct knowledge of this and Joe Temple knows more about this than most people. He knows about the effect of delay. On the question of his lack of enthusiasm, he will testify to the truth. He will say again what he has stated to you. He is one member of a board on this. Company policy is different from his view and we will give you our position on this. We know that Joe Temple will state that he agrees with the company policy.

Rex: I will be satisfied with this if he in fact does this.

Milt: At some point, we will have a full hearing in this matter.

Judd: We should bring out all these things at the suspension hearings.

Milt: At this point, we are not prepared to give anyone what went on during any proceedings. I think that correspondence that has gone on between us, internally, has not been given to you yet. Joe Temple does know all these things.

Rex: Provided that Joe Temple's position is how you have read it out - I will be more than happy to go with Joe Temple. I don't know what the pure economics are - is there an alternative way to get steam to Dow?

- Milt: I think you will see this in what we will give you today. This position depends on when you are looking at it. If you look at this right now - the answer is that nuclear power comes out best. If you look at it in 1983 or 1984 - this will change.
- Lee: He talked about the program Mary Sinclair is going to be on. She may talk about the 11/74 press release of Joe Temple.
- Milt: Be aware that this was done in 1974 and a lot of things have happened since then and it will be shown that Joe Temple has changed his view now to get in line with the Dow Board decision. He mentioned all of the factors considered with all the legal implications that are present in this situation. I would be very reluctant to get into these areas. Some are privileged and some are not.
- Rex: This is the third big thing on my list. This is the current negotiations that are going on now.
- Judd: They are in abeyance now. I am not quite sure where they are now.
- Rex: Those negotiations give me a problem, not so much from the suspension hearing but from the big hearing. I would like to get them out in the suspension hearing. When the big hearing comes out - I would like to work out something between ourselves, some general guidelines as to where we are going. If I have to put a person on the stand, I would like to know what he is going to say. This may come right in the middle of negotiations and this may cause a problem from this viewpoint.
- Milt: This is what I was saying that this will cause a problem because we are not going to turn over voluntarily what is going on in-house or internally. The answer to this is that it is obvious from this point (today) the parties have both asserted rights and interests and we don't really know what to do about these. We should try to resolve these before 11/15.
- Rex: If we go forward with the environmental thing - we should set down some reasons and positions. What I have said is - we are going to do the ER on all of this.
- Judd: If we get this 11/15 continuance, we should be able to sit down and iron this out.
- Milt: In answer to your question - attorney/client privileges - I don't think work product applies to the negotiations. Another one is the relationship among the parties. We will not give this up until compelled to. You would probably agree with me that we would be very reluctant to expose our internal processes until there have been some final agreement in the negotiations.
- Rex: It doesn't bother me to tell the board that the documents asked for are internal to Dow and cause a business relationship problem and that they should be subpoenaed before they are given to Cherry. The other part is - we could get by this if Lee and Judd could resolve the thing before we get there.



Judd: Not one of us can do it alone - we need a lot of other people to get together and agree on this.

Milt: I think the picture has improved.

Rex: 1/21/77 is the date for discovery request.

Milt: You will need to be ready to turn these notes over if they are released by the board.

Rex: I think we can work out if your witness stand is that we can limit it to this to a great extent - what is your ultimate position vs. what you may be able to go back to. I don't want to put Youngdahl on the stand. What I am going to try to do is that we will get people to state their ultimate on the ER instead of their fall-back positions.

Milt: Let's see what we can do about getting this position refined.

Rex: Rates you are going to charge Dow may become an issue.

Judd: Will Dow take steam and what will Dow do about present fossil facilities?

Milt: We are speculating on what this document has in it.

Lee: We have a problem when we get into the air pollution issue. Mr. Friedman with one of his delegates will be there to hear what we are going to say. They would love to nail us.

Milt: He handed them a copy of the draft of Joe Temple's testimony. He told them to look it over and get back to us when they want to discuss it. This was at 9:18 a.m.

THE MEETING ADJOURNED.

THE MEETING CONTINUED AT 10:15 a.m.

Rex: He handed a copy to Milt of a list of witnesses he would like to have for the hearings.

Milt: We have given the list, the outlines of these questions and if you go further we run into problems. Give us what you need further and we will see what we can do with it.

Rex: Most of this stuff is somewhere in the draft and when I put Joe Temple on the stand I would like to see him testify in my order. In the original contracts - what we like is the original thing that Dow stated about these in the contracts.

Milt: The intentions may be stated in the contract, but I doubt if Joe Temple can remember what the intentions were. I don't think Joe Temple could answer this.

- Rex: If you are going to explain the 1974 modifications, I can put the contracts into evidence and say they speak for themselves. I would rather put Joe Temple on the stand and get into this from the beginning. Generally, what the contracts called for on their part and also what Dow's commitments were under that contract. When I say Dow's commitment, I mean Dow committed in return. I think the water thing comes in here, but we will get into this later.
- Milt: Lee nor I were in here when this was agreed to.
- Rex: I don't care on this one where Lee or Milt stated that when this contract was entered into that Dow's requirements were such and such.
- Milt: If you want something beyond the document as to what Dow's requirements were, we will probably have to go get it.
- Rex: I really think I have to get this. What I am really looking for is a person to feed this information to Joe Temple in a general fashion. I think the Commission asked you people some questions and we came back with some answers.
- Judd: Whatever the Commission asked you for and what your answers. I assume you have the FES. Also the contract would have something in respect to Dow's operations of its own facilities.
- Rex: Dow probably also stated that they were not going to run their present equipment and not have air pollution problems. In the 1974 negotiations - what I want is the changes and requirements and commitments made by Dow.
- Milt: There are differences as to what these things mean. There have been differences in these discussions as to whether the non-recoverable under any circumstances or in the event of some environmental action.
- Judd: I don't think we have to get into the meaning of these clauses but rather the meaning of change and what Dow wants to do in this matter.
- Rex: I am not asking Joe Temple what some of these responses in the draft mean.
- Judd: We are going to need further detail in those 1974 changes. You stated that you are going to be taking 2 million pounds per hour because this is what it states in the contract.
- Rex: What I have tried to do is state this out logically and not in a fashion of what really happened from 1967 to 1974.
- Judd: If the board can still conclude that the reason for the original statements are valid, they may see it our way. The third thing is - did Dow commit to build these sewage building changes in the original contract?
- Lee: This is a separate agreement between Dow and Consumers Power.

- Rex: I would like to fit this into Joe Temple's testimony. This is why I need it. One of our problems is that we have porta-johns on site and as soon as you can get this sewage thing completed, we will be able to remove these. In continuing Michigan Division review - let Joe Temple state why he reviews this contract from time to time. This is separate from the Dow USA Review.
- Judd: Important point on Paul Oreffice's position. See Milt on this.
- Rex: Stated why Joe Temple made certain statements.
- Milt: Why do you want Joe Temple's opinion on some of these things. Do you want Joe Temple's view of certain Court of Appeals findings. I hope you would let him say just what he stated in here.
- Rex: I would hope that you and Joe Temple would sit down and put down some basic business decisions on this.
- Milt: This is what we have tried to do in this draft.
- Rex: Mary Sinclair has all of these press releases and Joe Temple is going to be confronted with this.
- Milt: You are asking for all the things Joe Temple has thought about this.
- Rex: We want it all - this doesn't mean we will use it all but we would like to see it.
- Judd: I think we are better off in the long run if we get it off now.
- Milt: We have to be very careful about what we are doing in this hearing and what we may be doing, otherwise like in the negotiations. I don't know how much of this is privileged information. You are asking for a lot of information but this presents a problem. The ideal thing is that we reach some agreement on these negotiations before we get to the hearings.
- Judd: We want to know what the picture is before we get to the hearings so that they don't.
- Rex: I don't want this problem to come out and interfere with what goes on in the hearings.
- Judd: For our purposes initially - we need to see everything there is.
- Rex: We then need the action Joe Temple took based on the Michigan review. You then had the Dow USA review. We need the same things on this.
- Milt: If I push further on this information - then we may get into a situation where Dow immediately files suit against Consumers Power.
- Rex: What all of this is aimed at are these requirements up here for steam and electricity. What is the legal implication for breaking the contract. I am not interested in this. We want to know what you viewed your requirements were initially and why they have changed.

Milt: What if I was to have a clause in the draft that there are a great number of other elements involved in a corporation decision and it included many things - would this do it?

Rex: This would invite a question. I want to get away from this. The requirements under the original contract is what I want to get. Then we want to get into the modifications and why. Then we want to get into the Michigan and USA Reviews and why they reached these decisions. After the USA Review you have present intent of what Dow needs. This is what we are aiming at in all of the above - #5. Joe Temple in #2 will tell you what things he is using for consideration and then in #5 he will tell you these things again. Again - relating back to steam and electric supply to Dow. He pointed to draft #4 - I need a little more specific for the board to make a decision under NEPA.

Milt: This is what happens when you want us to get more specific. A source of concern will be our problems of what to do.

Rex: I don't think any lawyer will let us get away with this in a courtroom. I would state that you are entirely dependent upon Consumers Power to supply your steam. You have no backup for this steam and if the units go down tell us when you will be without this backup but with the need still existing.

Milt: This is what the thing already says.

Milt: I am more hopeful that when the witness gets on the stand and he is pushed to these other issues that the lawyers stop you.

Rex: I want Joe Temple to give me an outline on what he wants to say.

Milt: Joe Temple has a great reluctance to say anything.

Milt: Is it possible for Dow to send you a letter on this?

Rex: The Court of Appeals wants to know what Dow's intent is. We have to do this.

Milt: This may be true at the big hearing but not at the suspension hearing.

Rex: I think they want to know this. If Dow's intentions are to run their fossil fuel operations until 1980 - the board will want to know this. Consumers Power has already stated that if Dow doesn't need the steam, they will cancel one unit and move the other to Palisades.

Milt: Judd, you told Lee that if Dow wants out, this is the end. I have the feeling that if what we are asking for is finished, that you are inviting the board to say that this is such a tenuous thing that this should be put to an end.

Judd: I want to hear them from Joe Temple.

Milt: Once you hear them from Joe Temple, then we have a lot of other problems. It is my intent to do whatever needs to be done that needs to be done. One may come up with the conclusions that this is a very tenuous thing. If Joe Temple gets before the Board and states that it is our intent to take "X" and "X" amount of electricity, this will suffice.

- Milt: That is fine if that is all you ask him.
- Rex: What is Dow really going to do? The answer is "X". Why are you doing this and why are you there - there has been a stormy relationship between the parties. I would like to put this out in the best light possible - it is business judgement. When we talked about it - we are talking about mixing in #2 and #3. These things seem to be related back to what we said on day one. The restrictions - I don't know enough about this contract to know what restrictions you want and this bothered us the most.
- Judd: This only went to restrictions on how to use the steam that we get from Consumers Power. Can we sell this steam to other people?
- Rex: Everytime I get back into this - everything that you want to change from day one flows from your reliability of getting steam.
- Lee: You have two things - once it comes on - how reliable will it be and another is when will we get the steam.
- Rex: I am going to have to put Consumers Power on to talk about what they want to do in selling a portion of their output. I think there is a distinction between why Dow wants the contract and why they want it changed from what is going on now in negotiations. I would like to doublecheck that Joe Temple and Howell are at least in agreement of what they are negotiating about.
- Milt: I hope they are in agreement as to what they are negotiating about. The June 30 letter to Youngdahl lists several reasons for these negotiations. Let me see Rex what you need. You want this in a different order - no problem. You want more specific about the technical aspects about the amount of steam and electricity, the alternatives for steam and electricity, what the present fossil fuel can do. You do not want anymore statement of the problem areas underlying hearing.
- Judd: We may not need them for testimony but we want them here.
- Rex: I don't want anymore than what you have in there - I just want it more directly.
- Milt: I think I see what you mean.
- Rex: I want it from the scope of what Dow needs in steam and electricity.
- Milt: Judd, we would like to give you details for our purpose here as long as it doesn't get into other considerations. Why do we have to talk about the best effort clause, etc.
- Judd: I really don't want to hear this from a legal side. But I do want to know what to know what is troubling Joe Temple from a personal side. Why would he make the statement he made to the press club?
- Milt: You cannot avoid getting into the details as long as you get into the reasons for our decisions. The thing to say is why get into the reasons at all. This gets into other areas of consideration. I don't know if what corporation attorneys say is privileged or not. What I am fighting is what importance is Joe Temple's



- Milt: opinion? This is what I am fighting about. Joe Temple will answer in response to such a question - what is bothering him is that he is concerned about Consumers Power's inability to supply steam and electricity and to share data in the area of money decisions, etc. These reasons from Joe Temple are his personally and not necessarily the view of the Board of Directors. Why get into this at all?
- Rex: What I think is best is for us to put on the case ourselves in the best fashion we can and shape the facts the best way we can to our best advantage.
- Milt: I think that a lot of these things that Joe Temple will say will or may prejudice ongoing negotiations.
- Judd: What are some of the other things he may state if he is asked?
- Milt: He gave some things.
- Rex: Bremer told me that if Dow doesn't have a witness with them, we will subpoena him.
- Milt: Wouldn't it be better if we let them subpoena Joe Temple? -
- Rex: I don't think this is the best thing to do.
- The Meeting Adjourned at 11:20 a.m.
- The Meeting Commenced at 11:40 a.m.
- Lee: He talked about the press conference of Consumers Power on 10/4. They want Joe Temple to be there.
- Rex: We do not want Joe Temple there.
- Rex: Their proposal, the general and policy stuff I see no problem in all of us being there. On the sensitive stuff, I would assume that Judd would be asked to leave the room when I am preparing Joe Temple. I will summarize what I want and need to do - three things - a Dow witness will have to be provided by Consumers Power or be subpoenaed by another party. Bremer will - how to go about deciding about what information to put in. We have to talk about 1974 negotiations about current intent and corporate review - when I have to include those items that the best way to do that is to put it out in the most direct manner and then prepare the witness so that the answer you get will be the best I can come up with. I have been toying with the idea of not having Joe Temple as a witness but someone will probably subpoena him so let's just use him and go from there.
- Milt: Why don't we go in there and start?
- Rex: Let's just talk to him about this general outline. Judd can stay with us on this.



- Milt: Judd may be present on the general stuff and then on the cross - Judd does not have to be present then.
- Rex: I would like to do with Joe Temple - talk about what I am going to need from him and what things I am going to need from him. I would then give him a couple of days for him to put this stuff together and give me an outline of this by myself and then put it together. I am then setting aside next Monday for getting together with him. But before this meeting I need to see what he is going to come up with. I need this by Friday at the close of business. You can get to me by Saturday at Jackson.

The Meeting Continued With Joe Temple Present.

- Milt: Joe, we are going to go into those alternatives concerning Dow's needs and requirements for steam and electricity and our intentions in these areas and not the legal aspects of what we have if to sue Consumers Power or anything in that area.
- Milt: He went into the general guidelines that Rex put out.
- Rex: In that outline, Joe, what I am really looking for is the-steam and electricity part of it. This is what I want you to focus on. I know that any corporation that signs a contract that is to be completed in 1974 and is no scheduled to be completed in 1981 must review their options from time. In this review there are reasons why you come to the conclusions of going forward with it or not. You must look at the availability, reliability and safety of it. What I am looking for in this outline - I want to go through the hassle Dow has been through to insure themselves that this steam will be there in 1981. If this is not going to be there you are going to continue your review of the situation. I want it more detailed than you have provided in Milt Wessel's draft.
- Temple: I think we would be willing to proclaim that it was a very good idea in the beginning and if we were on steam today it would still be a good idea.
- Rex: We want to limit to Dow's intent today in this hearing. There is no way this can be limited however because of the other parties.
- Temple: Will the hearing board let the parties get into my personal views regardless of its relevance?
- Milt: He read the prefacing statement that Joe Temple may read to the board.
- Rex: I don't want Joe Temple to start off saying this initially even though he may have to say something like it in the hearing process. He stated that Joe Temple should become sensitive to the fact that he should state it is his personal opinion rather than Dow's. He will say that we have requested that Dow provide us a witness. When we get down to the 1976 decision date, we get down to what Dow's position was and their reasons for it. Once again, I am talking about steam and electricity and not about other things. What I am really looking for are your alternatives to these two areas. You made these decisions and passed them up through the system. Then Dow USA made a decision on it. As soon as

- Rex: this is brought out - the other side is going to ask you what your personal opinion is and we will object but to no avail. What we are going to do today is - some of the reasons of your own as to why you arrived at your decisions in a personal sense - we need to handle this for cross exam and we are doing this preparing without Judd being present. On those negotiations - we will have to get into your intent just a little bit further. You may be asked about what Consumers Power intent is in these negotiations and we will get you a copy of what Consumers Power will want you to say on this. You would probably go on the stand on 10/6 or 10/7 and your statements would be as of that date. We are going to do the questioning by oral means. What becomes important is not the idea you want to convey but the words you use to convey it.
- Temple: Why not write it down if your words are what you are?
- Rex: I am really interested in your words. You talk different than you write. This is why I would like you to prepare an outline from you in your own words responding to the outline I have given you. Give me this by Saturday and I will look at this and get back to you on Monday.
- Milt: What about delaying until Tuesday?
- Rex: I think we are going to be doing this on Tuesday anyway. I would rather start with him on Monday.
- Milt: I would like as much more specifics we can give him on what our requirements are and it doesn't have to be written in this form but rather in a raw data form and then put into Joe Temple's own words.
- Rex: What I really want is that Dow was really reviewing a business decision. This is the proper thing for you to do and continue to do. I would rather that you air on the side of too much on your outline rather than not enough. I need to get into a lot about this.
- Temple: I hope I don't have to get into an area that a Jim Burroughs or an economic evaluator could answer.
- Rex: The data you get from other people should be put into a file and kept. This will allow us to get that person on as a backup witness because we are not going to put you on the stand as an expert in any of these areas.
- Judd: One of Cherry's tactics is to take a person out of his particular area of expertise.
- Milt: If we have a coal gasification plan.
- Rex: If we are asked to talk about best cost/benefit alternatives - you should not bring up this coal gasification item because you have stated that the nuclear power steam is the most economical alternative to do that.
- Milt: No one went into Dow's operations to see if there are other ways to generate steam.

Rex: If Dow would have stated that the best alternative was not nuclear steam then we would be in an area where.

Milt: We have to be careful that this coal gasification does not get into the trade secret area.

Rex: I don't intend to raise the issue of nuclear steam vs. non-nuclear steam in the suspension part of the proceeding. It is a greater probability that when they redo the cost/benefit analysis they will get into this for the big hearing and we will get into this.

Temple: The data we get on the nuclear thing is what we get from Consumers Power and we look at it for our purposes. The base set of facts is one set of numbers but we look at it from different viewpoints. The alternative review does not spring from information we get from Consumers Power. This is internally generated.

Milt: What we will try and get for you by Saturday is response through the 1-6 items (including attaching documents if necessary) to the best of our ability. What time on Monday?

Rex: At 8:00 a.m. in the morning with the possibility of going through Tuesday until finished. Let's start with the backup paper right away and go from there.

Milt: In your planning, are you going to use Joe as the second witness?

Rex: I have to go with Keeley first because he will go through the Consumers Power area. The next guy has to be Dow. After this is the environmental impact guy.

Temple: When does Steve come in?

Rex: We can play with Joe and Steve.

Judd: We have already talked about the discovery file. Make sure this is made up.

Rex: Separate out the privileged information from the other file.

Judd: Proposal from air pollution control people. Press releases concerning Joe's remarks. Notices under the contract regarding estimated take and reserve capacity.

Rex: We don't have much time to comply with the discovery request on the big hearing.

Lee: Please put a file together of the documents to back up your position.

Temple: When we have a backup person, make sure he has the backup material that he worked from.

THE MEETING ADJOURNED

Duran Notes

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(The following are notes taken in a meeting between Dow and Consumers Power on 10/12/76. Those present include Judd Bacon, Rex Renfrow, Dave Rosso, Milt Wessel, Lee Nute and Dave Duran. The meeting commenced at 10:45 a.m.)

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Rex: Office is consolidating all correspondence and once this is done, we will send copy of Order granting Motion to Court of Appeals.

Milt: He talked about letter from Cherry asking for discovery and he then read a draft of a letter he is considering sending to Cherry in this matter.

Judd: Stated that he has deletions to suggest - last sentence regarding paragraph 3 of Dow's.

Lee: Talked about the MCS meeting with Mary Sinclair is going to give us a problem.

Judd: This doesn't give him a problem.

Lee: Talked about labor organizations that have requested to appear at hearing.

Rex: Stated that he got a call from Arnold who stated that he was upset about what the possible shutdown would have on the labor force in this area.

Lee: There are about ten requests that we have.

Rex: To a limited extent, he felt that their appearance would be the best way to handle their concern.

Judd: Possible effect on the community.

Rex: Seabrook case - impact on community. He feels that if this gets to a closed case, we could go to this type of information to try to give the community an idea of the impact on them which will result from a shutdown.

Judd: Anyone in local government who keeps statistics on what effect a shutdown will have on the community.

Rex: Dr. Wayne North of the Midland County Commission are the ones who have this type of information and could get this to you.

Lee: The Chamber of Commerce had a resident director but he is gone and I don't know if anyone does this now.

Milt: This is a very rough question to answer once it gets past Consumers Power plant.

Lee: Where does the Seabrook case stand?

Rex: The Commission states that they are going to review this because the Appeal Board doesn't have something in front of them. We plan to file an amicus curiae brief in this matter.

Judd: Briefs are due on 18th and oral argument on 24th.

Rex: Talked about the intricacies of the Seabrook case. He then handed out a copy of the revised Midland hearing schedule.

Milt: What is wrong with what we gave you - we think this is in first draft.

Judd: We see it as an outline.

Lee: Are you going to do it in question and answer form?

Rex: We don't want to do it in question and answer form.

Milt: Let me tell you where I think we are today - the first thing I gave you was my doing; the second one was Lee's doing. As to form - who does this is not important. As to right now - what we have given you is final in terms of what Joe has to offer.

Judd: You have done a good job on what you have done - we have some holes that need to be filled.

Milt: Once Joe is in the picture, this is then done. What I am really asking you for is what do you need in the first and second draft? At this point we have done everything that needs to be done and the dates are not now logical. The week of 10/25, I am in Toronto.

Rosso: We will accommodate your schedule. We want to go down through the material you have given us and ask questions that we may have about it.

Milt: This is fine.

Rex: I would rather see more than what we will end up with in Joe's testimony than what we have already asked for. We have not really decided what to put in in terms of cross and direct.

Rosso: We viewed this document as to what you want to say about this and then we will have to review them.

Milt: I want to say again that we are not a party and this is Consumers Power document as to what to put in. Joe wants to be sure that it is accurate and complete. Apart from questions of trade secrets and privilege, we will share that information that you feel is important. You will be authoring party and we are not.

Rosso: We share this understanding. Let's start with the material on the alternatives. This would be in the area of graphs where we have the most questions. Could you tell us what the assumptions are that are not stated in chart #1?

Judd: We need both assumptions and what you are going to do about scrubbers.

Rex: When we do cost analysis, we go to coal units. We want to know if the difference between our costs and your costs are identified. This is why the various bases are important so we can understand this.

Lee: These were the charts used in the Dow USA Review. My understanding is that the "B" study, you have a copy of this. Gil has a copy of this. This report has all the information that you may need on this. The coal costs of 1.62 is one that Consumers Power gave to us. We think all the numbers are those that Consumers Power gave to Dow.

Rex: You and I need to get together because these are based on old coal costs.

Lee: We think these are the new coal costs.

Judd: Are all capital Black & Veatch?

Lee: Yes. I will ask Jim because he thought you had this impression.

Judd: What about the escalation costs?

Lee: The coal costs figure is 1982. The escalation figure is a Dow figure of 9%.

Judd: (made a reference which I didn't catch)

Lee: You want what was presented to the Dow Board and this is what the chart shows.

(Note: Discussion centered on what the charts mean and where they are coming from - 15-20% ROI.)

Milt: This is here because this was presented to the Board. Joe has a graph that he worked up and we would be glad to share this with you.

Rex: Let's see them.

Milt: He went through a discussion on ROI. The ROI need is different depending on what the type of investment was with actual costs. What the basis for the Board's decision is a difficult thing to pin down - it is not important - what is important is that this is the decision.

Lee: He handed out Joe's charts on this to Consumers Power.

Judd: He talked about this coming up on cross and he stated that this should be answered according to what was actually done.

Rex: The strongest part of why we cannot stand a delay is because of Dow. This question of delay is why Joe has to come up with this type of reasoning. It would be nice to be able to get the negotiations out of the way. These charts, since they are Joe's, may be better to check.

Rosso: You may not need to use any charts at all.

Rex: We will not argue with Dow that your coal costs are too low. The truth is probably somewhere in the middle.



- Judd: The only thing that is relevant is - does Dow still want steam and what are they going to do about their present fossil fuel facilities?
- Rosso: We have not made the technical decision as to how much of this material to put in. He then stated what Joe's position should be as told to Consumers Power. He mentioned that Joe should state that Dow is reviewing all the time and that they have come up with the conclusion to take steam and power from Consumers Power, etc. We need to look at what information you have given us and talk to you about this.
- Rex: I would like to sit down with Lee next week and run through your documents. This may give me a better feel for what is in those documents. This is in relation to your information on cost/benefit analysis.
- Milt: I don't know what information or document you are talking about. I don't see any purpose at all to having you do this. We have done what you requested and now it is your job to look it over and tell us what more you need. You should see any documents you should see and may have some questions about, but we think you should tell us now that - this is what you actually want from us at this point in time.
- Judd: Aside from direct - we need to review all documents because of the request for cross. We will have to see this anyway.
- Milt: What documents are you talking about?
- Rex: I don't want current negotiation documents right now. He stated that he hopes Judd and Lee could get together on these current negotiations. What we need the backup documents of what has taken place in the past.
- Lee: There were four meetings on current negotiations. Our notes of those meetings - Consumers Power has the first two meetings.
- Milt: Dow gave you minutes of those notes and Consumers Power stated that they were not satisfied with the content.
- Rosso: I would like to get into this now.
- Judd: I want to have Chart #4 explained to him.
- Lee: He explained this.
- Rosso: We need this information for cross preparation. Another reason we need this information is that Cherry may want to get into what Dow's position will be 6 months from now and what information they base this decision on.
- Rex: As soon as we stated that we cannot stand another delay because of Dow's problem - Cherry will want to get into Dow's decision and position.
- Rosso: Everything we have from you is strongly slanted towards the economic side. Maybe we need to look at all the other things that were looked into. I would like to see a list of what you considered.

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- Milt: Once you get into this area, then you get into an area of how much Dow can rely on Consumers Power and Cherry would have a field day with this.
- Rosso: We viewed the information you gave us as a step towards our making a decision on what to put into Joe's testimony. Maybe we should start off paragraph by paragraph.
- Rex: Let's do this.
- Rex: Talked about putting in all the contracts because they have never been entered into the record. The water contract should be looked at to determine when it was created and whether or not it has been changed. If it has not been changed, it is not important. Sewage contract - Lee stated that we have signed an agreement with Consumers Power and it has been requested by Consumers Power to be changed - this change is now in the process but not agreed to. We will check on this. I want to know about some of these changes in terms of whether or not they will have a way of affecting the cost/benefit analysis.
- Rosso: The question is: Do we have to put in the contracts or just the steam contract?
- Milt: I would suggest that the original contracts plus the changes be put into the record. Put them in through Consumers Power witness.

(The parties then engaged in a review of Joe Temple's draft as follows:)

I. Original contracts.

- Rosso: Commented on Dow's reference to need for steam and electricity.
- Judd: Where is Dow going to take the 20 million pounds of steam? Is this at the source of the pipe, etc.?
- Rex: Is the 20 million pounds per hour tied to 4 million pounds per hour?
- Judd: No! There are different interpretations as to what the 20 million pounds actually mean.
- Rex: It is my understanding that 20 million has some bearing on the 1974 changes in relation to the 4 million requirement. What I would like to see on this 20 million is to separate it out from the 4 million requirement and put down on the 20 million the fact that Dow upon certain notice take up to the total steam capacity.
- Milt: Why don't we say that in 1974 we have made changes in these areas.
- Rex: The Court of Appeals is saying that the entire cost/benefit analysis is up for grabs and if an item has not changed from its original position, then we do not have to worry about it. Conversely, we are trying to prepare our direct case and we feel we need to put in the original contracts and then the changes so that the cost/benefit analysis can then be redone. We may want to take out the information on this original contracts and start with the 1974 modifications. This may be the approach we want to take. This eliminates "I" and starts with "II". This may be how we want to proceed but this decision will be made later.

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- Rex: Who understands how to calculate the cost of steam?
- Lee: Burroughs knows how to do this. We may not want Jim to testify to this or Joe for that matter. We think Consumers Power should testify to this.
- Milt: We don't want to get beyond the limited areas put together by the Board. Some of these things are of concern between Dow and Consumers Power, but we should not get this in front of the Board.
- Rex: We want to be sure that Burroughs and Keeley calculate the rate in the same manner or at least come up with the same rate.
- Lee: The important thing to state is that the rate will be set by the Michigan PUC and this is the important thing to remember.
- Judd: He asked Lee when the next negotiation meeting should be set up.

(Rosso made a statement which I didn't get.)

II. 1974 Negotiations.

- Rex: Talked about non-recoverables on page II-2.
- Lee: Pointed out that the definition of NR was changed.
- Rosso: Talked about 2 million of steam was arrived at and why it was important.
- Rex: Stated that it was arrived at from both sides - Dow wanted 2 million and Consumers Power stated that this was a minimum and they planned below which Consumers Power generation of power would fall.
- Rosso: In respect to II,b,1 - we should know how Dow is going to make sure their present facilities will run beyond 1980.
- Rex: He asked Lee to get a summary of what has been spent in the past to keep these plants up.
- Lee: He stated that he would get this, plus information on what we may have to spend in the future to keep up the plants.
- Rex: Is there a place that we can go to get the information as to what it took to keep these plants going?
- Lee: I think that this information has to be looked for and obtained from others.
- Rex: Not only do we have to tell what Dow spent in keeping its plants going, but also why they need the steam by a certain date because Dow is going to have to shut these things down at some future date. On IIC - has any decision been made on this?
- Lee: He stated that we are going to do it but we have not taken any steps to implement this. It will take a fossil fuel plant vs. nuclear but we are not sure what kind of fossil fuel plant.

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- Judd: Are you going to use these plants all the time?
- Lee: We will use it depending on the amount of time Consumers Power goes down and it will be operational all the time.
- Rex: Are you far enough along with these plans to tell the Board or Staff what you were going to put in and what effect this may have on air pollution?
- Lee: We are not really sure where we are going to be in this area in terms of what alternatives to go with.
- Rosso: Are these going to be new plants?
- Lee: Yes they are. Whatever we put in will have to meet the new air quality source.
- Rex: He expressed a fear that we may be caught using two different sets of costs between the Black & Veatch study vs. what our costs were based upon. This is in the area of the cost for 1 million pounds of steam vs. the Black & Veatch type study.
- Lee: We have not really looked at what it would cost to deliver 1 million pounds of steam because we have not reached a decision on what kind of system to go with.
- Rex: This lead type is such that you still have time to make this decision.
- Milt: This is true.
- Rex: We will come back to you on this one.

III. Continuing Michigan Division Review.

- Rosso: It is important that the final decision that the Board is the thing we are looking for.
- Milt: This was my point exactly and why we felt reluctant to answer the questions from Consumers Power as they were asked. In IIIC, we were concerned with putting down Joe's reasons because this gets us into a very sensitive area. If we get into this area on cross, I will object on the basis of privilege, irrelevance, etc.
- Rosso: On III, what were the reasons Joe came up with his decisions?
- Milt: This is a sensitive area we have talked about at length and what difference does it make to the entire case.
- Rosso: In considering what to put into direct testimony, we will be trying to anticipate what Cherry is going to ask in cross. We may either put it in in our direct case or be ready to meet it should it come out in cross. These are our alternatives. My original stand was not to get into the Division review and the reasons for that review being reversed. Now you are telling me that Cherry will have this information and now I am concerned about this.

- Milt: We should have Joe testify that, because of the ongoing negotiations, we would be reluctant to get into this area because of its sensitive nature.
- Rosso: We are going to have to think alot about this one.
- Milt: You should make this judgment about whether you want to do it or not.
- Rex: One of the reasons I want the economic stuff is because if we decide the Board needs it to make a decision.
- Milt: Joe's concern has to do with the reliability of Consumers Power as a continuing supplier even after the plant comes on board. These are Joe's concerns. This feeling may not have been instrumental in the Board making its decision - they probably made their decision on the economics of the case and this is why Rex wants this economic information.
- Rosso: I don't want to second guess Rex, but I hear what he says about Joe's position and I want to form my own opinion.
- Lee: He talked about how the decision was made by the Dow USA Board.
- Rosso: Is there anything further to discuss on IIIC?
- Rex: I'd like to know what the witness will say when I ask him his opinion on a particular subject. This is why we need to know if there are any documents in existence that have a bearing on this. It would be helpful to get a 5 or 6 page thing on Joe's opinions in this area.
- Lee: He asked Judd to leave the room. Joe Temple was now discussed in the meeting at 2:15p.m.
- Milt: Stated what Joe's position was and why he has this feeling. Credibility problems with Consumers Power because of Consumers Power actions over the years. - new contract agreement and then could not continue the plant because of money problems - Youngdahl's entire demeanor in the matter. - fuel purchase position sale. - financing by Consumers Power, disclosure by Consumers Power to Dow. - coal requirements for future, Consumers Power in paper. - Consumers Power failure to tell Dow about delays and why. - track record of Consumers Power was not one which would lead one to have much confidence in their ability. - a lot of what Cherry states about Consumers Power is really true.
- Rex: Does what you have told me about Joe's position find its way into the release from Joe to the Board?
- Milt: Most of what Joe sent to the Board does not contain many of the things we have just talked about.
- Lee: He talked about his own experiences with Judd at a meeting with Dow and Consumers Power on this issue. Consumers Power told Joe to be sure that he was ready to go on the witness stand and did not ask Joe what he was going to say. Finally, Joe told Consumers Power at this meeting what his personal feelings were about Consumers Power.



- Milt: One consideration that Joe may not be swayed by is that crude petro is the lifeline of Dow and they need nuclear fuel development to protect this and free up oil for other uses. Talks about Consumers Power attitude in negotiations and their refusal to really address the problem and make decisions about what Dow is asking for in regard to changes in the contract.
- Rex: If I and Dave Rosso can go back to Consumers Power and tell them that Consumers Power should try and conclude these negotiations because it would remove a great number of items of concern when we get to hearing. How many of the things would be taken care of if the negotiations were finalized?
- Milt: If he gets all the changes he wants in related to a definite of liability - he will be happy and the various problems will not exist.
- Rosso: If we were to put in an "out" date now, this would be very harmful to our position in the suspension hearing.
- Milt: Youngdahl thinks that we have the right to just walk away and Judd keeps saying Dow does not have that right.
- Lee: He talks about other examples of Consumers Power thinking we can get out by 1985.
- Milt: If Consumers Power says that 1985 is when the plant is going on stream - most of Dow will say that Dow will walk on this.
- Rosso: Our position is: we cannot stand anymore delays and there is a possibility that Dow will walk because of another delay.
- Milt: The cost/benefit analysis is affected dramatically by the two year delay in construction and this has to be considered.
- Rex: On the substantive issues: we have a winner. On the suspension hearing we have a problem because the Appeal Board may not realize that Dow does not have until 1985 before they are forced to act on the decision of whether to start on other plants or not.
- (Lee Nute made a reference which I missed.)
- Rex: On the issue of documents regarding the negotiations, some of the documents have been turned over to Consumers Power and some of them have not. He asked Lee if Dow has a file of documents that they have sent to Consumers Power and if so, he would like to just get a place to sit down and go through these documents.
- Lee: This request could be complied with.
- Rex: I would cut off looking at the documents in the negotiations that you have not given to Consumers Power.



- Lee: A problem lies in the area of subcommittee meetings where Jim/Keeley are arguing about some of these things.
- Rosso: What is the nature of the documents that Consumers Power has not seen?
- Lee: There is a lot of privileged information plus a lot of information that is confidential in-house, but is discoverable.
- Rosso: This gives us a problem if it is discoverable.
- Milt: If Cherry asks you get it from us, we may refuse to do this and then run the risk of getting it subpoenaed. We would hope not to have to deal with this at all because we would hope the entire area could be regarded as irrelevant.
- Rex: In relation to how to handle the sensitive documents, at the time we are going to testify you turn over all the documents used to support your testimony. This will depend on which direction we take on direct.
- Milt: This case or lawsuit is Consumers Power's responsibility and we will try to make sure that we help you in your endeavor. He once again stated that the sensitivity of the documents regarding current negotiations causes a problem.
- Rosso: Our concern about this is that the Board is running scared with intervenors in general and the applicant will probably lose in the long run. Now, if Rex comes up to see you, he will be given to review all those documents that you do not consider confidential or privileged. Can you give us a list of what you consider confidential?
- Milt: This would be no problem, as long as you do not need the confidential material that relates to ongoing negotiations between Dow and Consumers Power.
- Rosso: A document that was intrical to the decision making process with Dow should be included, excluding those documents that are confidential from an in-house stand in relation to the ongoing negotiations. Can you give us this list?
- Lee: As you have outlined it, this would be no problem to supply this.

IV. Dow USA Review.

- Rosso: What was the decision of the negotiating team?
- Lee: The negotiating team position was: there is no longer a probability or a possibility that the nuclear plant would be good for Dow's Midland Plant. This was stated by Joe to Youngdahl on September 13. This was the decision that the Board reversed.

Charts on IVB.

- Judd: Is there a spare copy of the Black & Veatch report around?
- Lee: He went to get a copy of this or to find one.

Rosso: On page 2, he asked about the statement concerning the uncertainties that were not considered. He would prefer not to see language that they were not discussed nor resolved.

Lee: Black & Veatch did an economic study of what it would cost to build a plant that is similar to what is contained in the slide. We have copies of it and will give it to you.

Rex: Put it in the pile of documents I will see later. I want to make sure that the figures used are consistent with the figures used for Campbell #3.

V. Present Intent.

Rosso: Do you have any information that shows steam needs beyond 1982?

Lee: No, we don't.

Rex: He asked for energy conservation information within Dow.

Lee: We have had an EC program for many years in Dow.

Rosso: He asked about the statement in paragraph B on 300,000 kilowatt needs.

Lee: For use at the Dow Midland Plant - we need at least 300,000 kilowatts at the present time.

Rosso: Are Consumers Power cost projections based on Dow taking 300,000 kilowatts? If they are, we need to know this because of your statement in paragraph B.

Rex: I don't think Consumers Power projections are based on this.

Rosso: Are the numbers you gave us also assuming that you are going to generate some electric power yourselves?

Lee: I am not sure on this.

Rosso: What we need is that Dow will need "X" number of kilowatts for their process and "Y" number will be taken from Consumers Power and "Z" number will be generated by your own facilities.

Lee: If Consumers Power's steam facilities come on and give it to us economically enough, we would not have to generate our own steam.

Rex: If you plan on adding on any equipment, will it reduce these emissions?

Lee: The emissions vary on what we are burning. We do not plan on adding any equipment to reduce these emissions like scrubbers or tall stacks.

Milt: Let's talk about schedule. Who is going to work with Joe?

Rex: Either Dave or I will talk to and prepare Joe.

- Rosso: I think we will go back and sit down and come to a decision on what approach we want to take. This should be made in the next two days. This decision must come after we see your documents. Then one of us will sit down and do some writing on this. Then we would like to be able to check our draft against what the people who have worked on this. We then want to sit down with Joe with this draft. This could come as early as next week or the beginning of the following week.
- Rex: I would like to come up about 10/18 and 10/19 to look at the documents. Then Dave and I have to go to Jackson on 10/19 and set up a meeting with Joe on 10/22.
- Milt: Joe will not be available on 10/22. On the 11/8-15 period of time --.
- Rex: If we make a decision between now and 10/13, I will come up on 10/13 and look at documents. Dave will start writing on 10/14. We will give you the draft on 10/19 and come up and discuss it with Joe on 10/20. (8:00 a.m. to 3:00 p.m.)
- Milt: If another day is needed before 11/15, let's make it 10/29 or 11/1.
- Rex: After 10/20, this will give Joe nine days to write up his testimony. If Joe's testimony is good, we may or may not have a meeting on 11/1 after receiving Joe's testimony on 10/29. Let's start with witness preparation with Joe on 11/8. If more is needed, we will go with 11/12 with Joe. Let's talk about who goes when as a witness: Keeley; Joe; Howell; Power; Costs - or something of this nature.
- Lee: He went over what Rex needs in the way of documents from Dow: -- money sunk in power plants to keep them going; -- list of documents we regard confidential with regard to Consumers Power; -- Black & Veatch study; -- backup documents, all documents relating to what we have discussed relating to the testimony excluding confidential documents with Consumers Power; -- need 1974 documents regarding negotiations at that time; -- 2 sets of notes for 1976 negotiations that we have given to Consumers Power.

The Meeting Adjourned at 4:25 p.m.

Duran Notes

THE FOLLOWING IS AN ACCURATE SUMMARY OF WHAT WAS SAID DURING THE MEETING;  
HOWEVER, IT SHOULD NOT BE REGARDED AS BEING VERBATIM IN ANY SENSE.

(The following are notes taken in a meeting between Dow and Consumers Power on 11/1/76. Those present include Rex Renfrow, Dave Rosso, Milt Wessel, Lee Nute and Dave Duran. The meeting commenced at 8:45 a.m.)

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Rosso: We are here to talk about Joe Temple's testimony.

Rex: What about the documents I want to take back with us?

Milt: Are you talking about the documents I have sealed?

Rex: He talked about the documents that he is going to let Cherry see in Jackson. He talked about the documents of meetings held with Consumers Power. He stated Cherry would be asked to sign a protective order.

Milt: We really don't care if Cherry sees it, we don't want Consumers Power to see them without letting us see their documents. He talked about our rights under the protective order. If we are forced to let the documents out under the protective order, we want to see like documents from Consumers Power.

Rex: He talked about notes that Consumers Power has like Keeley's notes. He stated that Dow would be able to see these. He stated that he doesn't have any meeting notes like Dow has. He talked about Youngdahl's notes that he stated he would not let out until he has to.

Rosso: Both Youngdahl's and Dow's documents would be under protective order.

Milt: He talked about the protective order again. He stated that if Dow is forced to show Consumers the notes, Dow wants to see like notes from Consumers Power.

Rex: Consumers Power doesn't have notes of the meeting like Dow.

Milt: He went over the terms of the protective order between Dow and Consumers Power. The documents that you, Rex, asked about initially are being protected under the same order.

Rex: We don't want to see the subject of continuing negotiations aired in public.

Milt: We agree with this.

Lee: You may not want to bring some of this other stuff to light.

Rex: I may want to use this stuff strictly for a smokescreen type effect.

Rosso: He talked about the letter Consumers Power sent out regarding discovery to Cherry that may be held in Jackson.

- Lee: What about getting out of the hearing?
- Rex: We haven't heard anything on this. I don't know when we will hear anything or if we will. We may want to use this as a leverage to tell the ASLB that it should be delayed because it is now before the Commission. What about the ER? Have you had a chance to look at this?
- Lee: I have it to Jim and he is looking at it.
- Rex: I have a meeting with the Mayor and Superintendent to talk about the impact of delay. He talked about the 1 million pound backup system. I don't want to get into a debate with Dow at the hearing on the economics of this. It would be better if we agreed on the figures. He stated that the price of coal is increasing at a rapid rate. Maybe we can get back to this. He then talked about the way the legal work on certification and other things are going to be handled.
- Rosso: Let's start this thing on Joe's testimony. The main problem I have with it is it reads more like an affidavit than testimony. He went through why he had drafted the testimony in the first place. He wanted it to flow from Howell's testimony to Joe's. He talked about why he put in certain terms to "flavor" the testimony. I don't know why you cut out some of this stuff or why you went back to an affidavit format. I am trying to work you back to working from my draft rather than your draft.
- Milt: It was not done inadvertently. What was done was done with a lot of thinking. The third person format was different from what you would put it is consistent with what was done in the earlier proceedings. It may be different from what you are doing now, but it is not different from what was done earlier. We are concerned with what may happen on Joe's cross exam. We are not concerned with what may happen in your direct testimony case. He stated that he would want to make it very clear on the testimony that this was Consumers Power doing and not Dow's. This is because we are concerned with Consumers Power coming back at a later date and saying that Dow shot the thing down. He talked about this problem.
- Rosso: I guess I don't follow this.
- Milt: He talked about the questions that Consumers Power gave Dow to answer.
- Rosso: You are concerned with Consumers Power making Dow make statements about certain things like concerning negotiations and then have this brought out by Cherry.
- Milt: We are also concerned that once some of this stuff is out on the table, then people may tend to select the things that would show that the negotiations between Dow and Consumers Power are of a very tenuous nature. This could be very easily brought out on cross exam.
- Rosso: Would it be better if it was of a question and answer format?

- Milt: This would at least show that the testimony was being brought out in response to Consumers Power questions and not a product solely of Dow.
- Rosso: Why do you feel we were being disingenous?
- Milt: Dow is very interested in maintaining its rights to leave its options open. We think that Dow has a good case if for a cause of action based on the "best efforts" clause with Consumers Power. We have stated nothing about this. We do want to leave this option and others open. A lot of this depends on what is agreed upon during continuing negotiations. I thought we made this clear when we talked about Joe's views.
- Rosso: I thought you were only talking about the cost factor and the energy factor. I thought you stated that if these were not a problem - then you would be prepared to go forward with this.
- Milt: We are also concerned with the reliability factor. He talked about this. All those things are there and if Joe is pushed he will say them. Joe has two concerns - he supports Consumers Power's efforts but that he also will not jeopardize Dow's rights.
- Rosso: He talked about the fact that he did not have in the testimony that Dow is concerned about Consumers Power reliability to handle steam and if it comes to a certain point, Dow will walk. He stated that he didn't say this because it would lose the case.
- Milt: He went through the original draft and showed that one could read into the statements about supply options that there are several ways to allow Dow to meet their needs. What we are concerned about is Consumers Power coming back and accusing Dow of trying to mess the thing up. He then talked about Joe's stating that he is familiar with Howell's testimony. He stated that he was uncomfortable with this statment because Joe may or may not be familiar with Howell's testimony. He talked about whether or not Dow will agree with Consumers Power on what is principle among the things that are going back and forth between the two. Why can't you just say that the contracts speak for themselves.
- Rosso: We think that Howell's testimony would be directly out of the contract and Joe should not have any problem with this.
- Milt: Joe has not seen Howell's affidavit.
- Rex: We are willing to send it up to Joe for him to see.
- Milt: He would be characterizing the document and this is done by accepting Howell's testimony. Why do you have to have Joe characterize Howell's testimony?
- Rosso: Because this is factually correct of what the contract is all about in 1974 changes and it would be better if Joe affirms this on direct instead of on cross.
- Lee: There is violent disagreement between the parties on what changes were principle and what they meant.



Rosso: We covered this problem in the last sentence of our statement.

Rex: The only time this becomes important is in the case of abandonment. What we have tried to do is go into the changes that effect the cost/benefit analysis for the Commission.

Milt: Where do you say this?

Rex: We don't say it per se.

Milt: If Joe doesn't make this clear in the hearing, it could come back to haunt us later on in a possible lawsuit with Consumers Power. This is why we do not want us to characterize Howell's testimony as factually correct.

Rosso: I would agree with you that the statement "following principle changes" could create a problem. However, I made these statements with the contract in front of me.

Milt: The proper way to do this is to say that the contract speaks for itself.

Rosso: Can we do this in time to file testimony by the 5th?

Lee: Your relationship with Joe will be very important to this. He has been through all the drafts of everything and if you want to get a witness hostile to you this will happen if you have him go through it again. He also feels less kindly towards Consumers Power than before. He doesn't like Judd. I don't think Joe will agree to go through this again. I will sit down with you and go through this with you as to why we made the changes we did.

Rosso: I have never met Joe and I don't know what his impression of me will be. He talked about this.

Milt: He talked about the feeling one gets in the adversary process that the other side is trying to screw them. He talked about the letter Judd sent to Lee on Dow being withdrawn as a party.

Rex: A discussion ensued on the content of the letter.

Lee: He stated that Burroughs stated that his remark was what he would do if he was pushed today.

Milt: One little episode is not a problem. You must put it in context with what has gone on among the parties in the past.

Lee: We are at a point now where we, Dow and Consumers Power, do not trust each other at all. He doesn't trust Judd. He thinks Judd is out there trying to screw them.

Rosso: We are not trying to get anyone in this situation.

- Milt: This may be your intent but we are reacting this way because of the way the parties have acted in the past and the basic feeling of mistrust. What is wrong with saying that the contract is a valid contract and speaks for itself.
- Rex: There is an easier way to do this. Let Joe sit there and hear what Howell says. Then we get Joe on the stand and ask him if he agrees with what Howell says. If he agrees he will say so. But we need to know if he agrees. We may leave it out of the testimony that we have to put in on the 5th but we need to know what he is going to state on the 16th.
- Rosso: We want Joe to basically trust us during the hearing and that he can feel that we are his friends, etc. The way the testimony is now it gives one the impression that something has been left out. It needs some more transitional type language in it.
- Rex: Why don't we start with what Lee has given us keeping in mind what we are doing this for. If we want things that you have left out that we want to be put back in we can talk about this.
- Milt: We have to look at the change in relationship to whether it will have a significant affect on future problems between Dow and Consumers Power.
- Rex: We would review it and hope that you would review Howell's testimony and let us know if there are any problems with what he is going to say on the contract. Take out references you prepared the draft in response to Consumers Power's questions. Then you can write a letter to us stating the reason why you want to leave it out and refer the various drafts.
- Milt: This would be okay, but it begs someone to ask about this if it comes up. Why get into a problem with having to refer to a separate piece of paper on this.
- Rosso: He talked about the problem.
- Milt: In October 20 letter from Lee - we have agreed to include things that would be decided by Consumers Power for use in their brief.
- Rosso: What about doing it in question and answer? It would eliminate the need for a letter and other things.
- Rex: Fine, let's do this but we want to go through this. Let's go back to the first paragraph. I would like to add that the testimony was prepared under my supervision and is true and accurate to the best of my knowledge. The second thing I will like to do is pull out all the numbers. I would like it in first person rather than third.
- Milt: I have no trouble with this.
- Rex: I would like to add in his experience about position in 1973 - add that at that time he became familiar with the situation and knows what is going on. He talked about the statement "constantly reviewed contracts since 1974". Let's try to get by the 1967 to 1974 period as accurately as possible. Let's say -

- Rex: "Since 1967 when the contracts were originally set forth" paragraph, take out "is constantly" and substitute "has periodically" reviewed.
- Milt: Made a statement which I missed.
- Rex: Get whatever was factual about 1967-1974 in the draft. Now, on page #2, you may want to consider adding that Dow is going to continue to review as a result of any significant changes or happenings in the matter.
- Lee: This is stated later in the draft.
- Rex: He asked Lee to talk to Joe about the. On 3.1 and 3.2, can't you put 4 and 5 after 2 and then follow with 3? This would flow better.
- Rosso: I don't have anything on 2. On 3.2 change the parenthetical to reflect what the reality is. On 4 on page 5 - you may want to change it in some manner as to what Dow will do in the event of any significant changes.
- Milt: This is a significant problem - Consumers Power is going to pick what question to ask and Joe will answer it. If Joe is asked a question and he doesn't come through as having answered the question, he will be criticized for this. We don't want Joe to get into this section. In an question and answer format, this may not happen and it will be better for Joe. He is not going to say anything about possible legal action against Consumers Power unless asked.
- Rex: Dow may want to respond to a question that Dow was to reserve its options.
- Milt: The board got the impression that Consumers Power wants Dow to produce a witness that didn't know what has gone on. They stated that Dow's witness was to be completely aware and so testify.
- Rosso: I don't think we are asking you to make a substantive change.
- Rex: Made a statement which I missed.
- Milt: Do you intend to ask a question pertaining to the 1976 management review?
- Rosso: We may ask Joe to only state what the conclusion of that review was.
- Rex: We may want Joe to then conclude that Dow wants to keep its rights and options open.
- Lee: Management saw two general areas of significant misrepresentation from Consumers that Dow was concerned about: 1 - the issue that things may have been misrepresented on prospectuses. 2 - serious misrepresentation when 1974 amendments were agreed to. He talked about the utility mentality in terms of what impression they have given Dow and what they actually mean. He then stated that the rights of recourse are this - can Dow prove what Consumers Power told Dow.

Rex: I know all of this. However, I don't want anything in the draft that will allow Cherry to say that Joe has misled him.

Lee: This is the way Joe wants it stated - not the lawyers.

Milt: In respect to the question - what was the conclusion - Joe may want to say that nuclear was the decision and not get to the area of options, etc.

Rex: Made a statement which I missed.

Lee: Why don't you tell me the way you want it phrased and I will take it into Joe and see what he says about it.

Rosso: We are going to have to do some drafting this afternoon. If we see Joe then, we can explain some of this.

Rex: I would like the statement "continue to review it and keep all its options open".

Milt: It brings out the tenuousness between the parties.

Rosso: I don't know if it does that.

Rex: We want to emphasize that right now it is Dow's intent to go forward with the plant while at the same time keep all its options open.

Rosso: In 5, I did not understand that Dow had told Consumers Power that Dow needed an ROI of greater than 15%.

Rex: On 5, it would be much easier in direct about discussing the 15% ROIBT.

Milt: On this matter, your draft was very long and very complete but some things were left out. We don't think it is very important to go through this entire thing.

Rex: On 6.

Milt: Should we go back and state that we are currently looking at this?

Rex: The Court of Appeals statement deals with the cost/benefit analysis and the negotiations between Dow and Consumers Power do not affect the cost/benefit analysis and shouldn't be allowed to go into.

Lee: Talked about the letter Burroughs sent to Consumers Power and the fact that it was not clear to anyone unless it is walked through very carefully.

Rex: If the letter comes out, it will be clarified.

Rosso: On page 7, what about the statement that Dow will be able to use the steam it gets from Consumers Power?

- Lee: We are restricted from reselling it and this is what we would like to eliminate this. It also means that we could not generate electricity with this steam.
- Milt: Talked about 300 megawatts requirement in contract. The contract still states that Dow will take all of this even though they will not need it. Joe will respond that Dow is still committed to take all of this even though they don't need it and Consumers Power has not changed their position on this during negotiations.
- Lee: Talked about the negotiations between Consumers Power and Dow in relation to the requirement for 300 megawatts.
- Rex: Made a statement which I did not get.
- Rosso: On page 8, what is Consumers Power Rate F?
- Lee: This is Rate F on standby and auxillary.
- Rosso: Should we add Consumers Power Rate F, S & A?
- Lee: No, because these are different.
- Rex: Dow will be the only one in the state on Rate F.
- Rosso: What about the question on page 9, minimizing Dow's cost. He recommended changes here. Put in the explanation that the.
- Rex: We all have a problem when you talk about auxillary in minimizing Dow's costs. You get into the area of peak periods, etc. See page 10 of Consumers Power drafts as an example of what to put in Dow's draft on page 9 in regards auxillary and backup.
- Milt: Maybe this should be in response to another question.

THE MEETING ADJOURNED

# POOR ORIGINAL

## Duran Notes

THE FOLLOWING IS AN ACCURATE SUMMARY OF WHAT WAS SAID DURING THE MEETING:  
HOWEVER, IT SHOULD NOT BE REGARDED AS BEING VERBATIM IN ANY SENSE.

(The following are notes taken in a meeting between Dow and Consumers Power on 11/8/76. Those present include Dave Rosso, Rex Renfrow, Milt Wessel, Lee Nute, Joe Temple, and Dave Duran. The meeting commenced at 8:45 a.m.)

- 
- Rosso: We are here to do three things today:
- cross exam for preparation for next week
  - talk about other things relevant to the hearing
  - talk about pricing on coal and coal gasification
- We notified Cherry of the availability of our documents on Thursday, but he has not shown up as yet.
- A variety of areas that Cherry will focus on:
- reviews (continuing economic reviews, reviews since 1974, reviews which follow the decision on the C/A and the new price on the cost of the plant)
  - old power houses (what it costs to keep running, alternatives to keeping them running, etc., will they run until 1984?)
- Milt: There is a very substantial distinction between the 1984 date and whatever we plan to do in 1982. One is to stop when we have another source of supply; the 1984 date has been selected at the outside if everything fails.
- Rosso: I want to explore what distinctions Joe will make in his own mind. I think Cherry will be attacking this.
- Milt: There is an element of adversity between Dow and Consumers Power. Why would Cherry want to show that these things could be run longer?
- Rosso: Because this would give him a chance to show that the plant should be shut down. Let me continue our outline:
- comparative cost studies that Dow has done. Are we telling him the truth here?
  - current contractual negotiations and how they relate to Dow's current plans. (Dow will keep all of its options open; firm deadline on steam supply.)
- Rex: Joe's PR releases (I think they will have all the PR releases that Joe generated.)
- Rosso: Lets get right into it then if Dow does not have anything they want to add to these areas.
- Rex: Milt - have you pulled for Joe the stuff on the last hearing where Dow said they were going to do such and such? I have pulled this out and will send Joe the package up.



Milt: What witnesses are you talking about?

Rex: (made a statement which I missed)

Milt: I don't think a Dow witness was there; they were probably all Consumers Power witnesses.

Rosso: Mr. Temple, on Page 2 of your testimony you discussed reviews conducted since 1967 with regard to the economics of nuclear steam to other alternatives--how many of those reviews were made?

Joe: Since 1967 there were reviews made continuously when we felt a significant cost change or a delay in the date, etc. About  $\frac{1}{2}$  dozen reviews.

Rosso: Who participated in those reviews?

Joe: The entire Dow negotiating team. Prior to that--Bosscher.

Rosso: Who are the members of the negotiating team?

-- Burroughs, Nute, Major Manager (Gaska), Joe.

-- Is Gaska in charge of providing steam? Does this include responsibilities for the power house?

-- Yes.

-- Burroughs--what does he do?

-- Working with Consumers Power on the nuclear power plant from the technical and economics standpoint.

-- Has Burroughs been the primary generator for the review team?

-- For the Division review team?

-- Were there other review teams?

-- Yes - there was a corporate review team.

Rosso: Who are the members of the Corporate review team?

Joe: Klomprens, Snyder, Gohrband, Schneider, J. Johnson, Decker.

Rosso: What function does the corporate review team play in evaluating the division review?

Joe: There has not been a corporate review until this last review. The division teams felt that the significance of their conclusions was such that we felt they should be correct and we asked Orefice to have a corporate team look at the division decision.

-- The corporate review team was put together for this one review and at this time they reviewed all the other reviews from division?

-- This is right.

-- What did Burroughs do for the division review team--what facts did he look into?

-- Jim's areas of expertise are many--been with the program since its inception, worked with Consumers Power in many areas.

-- What economic data did he provide you with?

-- Economic analysis of information that we received from Consumers Power and came up with what Dow's best alternatives were. We looked at three alternatives.

-- What was the best alternative in the first review?

-- All of the alternatives were conventional fired power houses (he went into this).

-- Why did you go from gas to oil to coal?

-- Economics and availability.

-- Is coal your cheapest source of fuel?

-- Yes, and most available.

-- You say you evaluated three in the last review?

-- Coal was the cheapest.

-- Conventional power house, package boilers, coal gasification.

-- Which of those were found to be the most economical?

-- At the current stage of coal gasification, we did not feel we wanted to rely on this method because it is not thoroughly tested, etc. On the basis of not having data to evaluate coal gasification, we decided that we would go with conventional power houses fueled with coal.

Rosso: Did all your reviews indicate that nuclear energy was the best of all your alternatives.

-- We were able to see that nuclear energy had a cost advantage over all the three areas. It still comes out ahead appreciably.

Rosso: Has this changed recently?

Joe: Somewhat!

Joe: The review done in 1973 showed that without any return on investment for Dow that there was a \$10 million a year advantage to Dow. The most recent review showed a \$38 million disadvantage to Dow. It showed that we would need another \$6 million disadvantage to get it into Dow return on investment range to make it worthwhile for Dow.

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Rex: One of the things we have to get into if front end . . . .

Rosso: What were your assumptions in regard to coal alternatives?

-- The plant costs were a result of our figures and those used from Black and Veatch report.

-- How did you equate these costs - costs per year? Did you present value all costs?

-- I am not totally familiar how the economic evaluation took in its entirety. I can interpret the results but I don't know how one goes through one.

-- Do you know if the costs were levelized?

-- No!

-- Are the cost assumptions for coal still valid today?

-- Yes!

-- Have there been any sharp increases in the cost of coal today?

Joe: We are not aware of these. We have checked and we have not seen this difference in rise of costs like Consumers Power has recently stated.

Joe: The big difference is in the current phase between the way costs will fluctuate over the next few years. The real work is that we are going to make the best possible decision we can based on the information available at the time we have to make that decision.

Rex: I don't want to get into a debate as to whose cost estimates are right. It seems like that Dow's Consumers Power projections for the cost of coal of Dow's estimates are usually three months behind Consumers Power.

Joe: He didn't know if this is right or not.

Rex: You should try to state that at that particular point in time this is where you should try to project it out. This is what Milt was talking about. The Consumers Power people have told me that their coal prices are based on estimates they have received from quotes and Dow's estimates may be on the cost of getting coal from their own mines.

-- The big lag is the percent increase in 1982 and beyond . . . . is Dow versus Consumers Power.

Milt: Consumers Power people may think there has been a doubling of coal prices in the last few months.

Joe: We do not agree with Consumers Power coal price estimates. Our experts within Dow have been looking at this and we are not going to change our estimates.

Milt: These figures come from a letter from Howell dated 9/21/76. Now they are going and raising their estimates after this.

Rex: This is because they have come out right after that and tried to buy coal.

Rex: The price Consumers Power are coming up with are those quoted to them from the people they buy coal from.

Joe: Dow's prices are based on the people we buy coal from.

Rex: Is Dow using low sulfur or high sulfur?

Joe: High sulfur.

Rex: This may be the reason for the discrepancy since I think Consumers Power is using low sulfur and there is a significant cost difference between high and low sulfur coal.

Rosso: The costs are very different over a long period of time--by a factor of 3 to 2. Do you have a reliability problem with high sulfur units?

Rex: If we do have a problem between Dow and Consumers Power - this is where it is. I will try and get Dow and Consumers Power coal people together and see if they can make some sense out of all this. I will do this tomorrow for up here and let you take care of this.

Rosso: How much of a cost increase in the cost of the nuclear plant would have to take place to get you that other \$6 million?

Joe: I haven't checked this out. The \$6 million can come from a combination of more costs and less capital or any combination of that. (They then went through the cost of plutonium over the next several years.)

Rosso: Are there any other points on the economic analysis that we should be aware of?

Rex: (He went through the cost increase that would result in another delay: 5 months suspension = 9 month delay = 15 months = commercial onstream delay)

Joe: A five month delay would then cost us another \$6 million and this should push the nuclear thing over the top and coal would be an economically advantageous source.

Joe: We would look at our relationship with the air pollution control commission; availability of money within Dow; our relationship with Louisiana; etc.

Rex: This is what you looked at in the last review?

Joe: This is right.

Milt: I get the distinct impression that the critical factor in all of this is the economic thing. This is not true because there were a lot of other factors in this that were equally important. The last review came out to favor nuclear power.

Rex: The other part of this, Joe, is that the type of review that is done is purely that the FEA people are looking at the economic side of this to make their decision. The one thing they can tie down are cost numbers. They can get into this. The reason we are hitting on the economics are because they are hard, fast numbers and this is what people can get a grasp on. The Board will also do this in addition to Cherry.

Rosso: How much of a sense do you have for the decision that Dow eventually decides not to take nuclear power from Consumers Power?

Joe: (made a statement which I missed.)

Milt: This is a perfect answer for you because you are looking at this from your personal viewpoint.

Rosso: From our point of view it would be better to have the Dow corporate decision. This is because Joe feels so strongly about Consumers Power being here at all. You feel that Dow does not have proper control over all this. It is not going to be good for us to have you stress the negative on this matter. You should stress the Dow Corporate review.

Milt: I share Dave's comment on this. Cherry will ask you what your personal views are.

Rex: There is a perfect way to do this--this is to talk about the Dow review and give the answer like you just have. You have a review team and different things are important to different people and this is why we have different people on the team and each aspect of the things that came before the review team will be looked upon differently from a personal level or viewpoint.

Rosso: The way I see it is--there is a question here of basic philosophy of why we approach the difference of the Dow position here. You may say that--the Dow position is this--then state it. You may also want to state that, in addition to this, I have some other personal concerns--and state these.

Joe: I don't have a problem with that approach.

Rosso: One of the likely attacks is to question you on the economics of the review. The economic side shows you that you are close to a tilt on this matter. This is because costs have been escalating on this matter from many sources. You should not volunteer information--let Cherry ask questions on these areas. You should state that you are not the economics expert and this information has been provided to you and you do not know if certain things have changed since they gave you this information initially. We are going to try and get you some information on the coal price difference between Dow and Consumers Power. This is not purely an economic review. The corporate board did consider many other things other than economics.

Rex: There are more than economics here. But under the FES it is the economics that really count. If it makes sense to show that Dow can get their steam from some other source than nuclear steam, then the other side has made their case. Numbers on levelized, normalized, present value, etc. You should become familiar with this for the hearing. This comes out of the B & V Report.

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Rosso: He should become comfortable with it rather than hesitant.

Rex: What about those steam prices in the contract? This comes in on 3 different ways: revise the steam prices; it comes in under the ER; etc.

Joe: What Howell may want to do to change these on the cost of steam goes back to the contract and the basis on which they were prepared.

Rex: Under the ER-- . . . Everyone is going to have the ER--this is an Environmental Report supplement.

Lee: I don't think we have this report.

Rosso: It would be helpful to have Joe look over the section of Dow.

Rex: . . . .

Rosso: What other factors would Dow consider other than economics in making its decisions?

Joe: It considers a number of things that were designed to gage our feelings about Consumers Power and their reliability to furnish steam. If ultimately a decision were made not to take steam from Consumers Power, we looked at the impact this would have on the community and also the impact on the nation's nuclear power picture. We also considered the safety aspect and whether or not Dow should consider this in regard to our decision on the nuclear plant. We feel the plant will be built safely and operated safely. On the area of legal obligations between the parties-- . . . .

Rosso: What were the points of discussion in regard to Consumers Power?

Joe: The track record of Consumers Power was one of the items. The things that have taken place over the period since the two parties have entered into this situation.

Rex: I don't want Joe to get himself in a box where he talks about a review or some review and then get into trouble when he starts talking about the Division review. I assume Dave is talking about the Dow corporate decision. Be sure in your own mind what review you are being asked about or which you are answering.

Lee: The only review you were present for was the one hour review of the Board and you were not present for the review that the Board made immediately before making their decision.

Rosso: You don't want to break this thing down to specific reviews and each part of the review. It is not important to distinguish between one of several meetings.

Milt: It was our hope that we could only be concerned with the review made by the corporate board. Our original position was that all the other reviews made were not really relevant here.

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Rosso: What other considerations came up at that meeting? Also, what your role has been throughout? What other factors were considered at the meeting with the Dow Board?

-- We made other points in addition to the economics. One was the role that the air commission; the availability and cost of nuclear fuel; our confidence in Consumers Power in terms of reliability, etc.; what sort of legislation could come up in the future with regard to the air pollution control commission; what sort of labor unrest may take place at the plant site or of key vendors.

Rosso: Do you recall any others?

Joe: No!

Rosso: What about you questioning the basic level of confidence on Consumers Power?

-- There were really no conclusions drawn in relation to these issues that I am aware of. The Board left the room I was in and made their decision.

-- Who made the presentation to the Board?

Joe: No presentation was made . . .

Rosso: Was there any discussion at the meeting in relation to the basic level of confidence?

Milt: We talked about the legal obligations of Dow to Consumers Power under the present contract. This may be a privileged area and Joe should allow a pause to get into this objection from our point. Don't describe it because we think it is privileged, but it is alright to state that there was a discussion.

Joe: I told Lee that he has to get some stuff for him so that his file is complete so that he may look at this.

Rosso: On the basic level of confidence of reliability of delivering the steam once it is on line--what was the Board's question on this?

Joe: No one on the Board seemed to have any problem with this and no questions or discussions took place on this question.

Milt: It is very important that Joe was not in the meeting with the Board where they made their final decision.

Rosso: Do you have a copy of the transparency that was shown at the meeting?

Milt: Our problem is between Dow-Consumers Power in that we do not want them to know what goes on internally. This is not from the standpoint of what Cherry will ask about. In relation to the problem between Dow-Consumers Power on what documents to show to each other--we will release documents to you if you will show us the notes from the same meeting or tell us that you have no notes.

Lee: (He showed the factors that were figured into the base comparisons and from which a slide was made--the one on the uncertainties that were not figured, were not shown nor was a slide made from it).

Rosso: How was this dealt with at the meeting with the Board?

Joe: . . .

Lee: The uncertainties not figured into the base comparison were not shown nor talked about. They were never mentioned.

Rosso: Was "operation snafu" discussed or mentioned at all?

Joe: I don't remember the phrase being used. Julius talked about the problem of having radioactivity being introduced into our products--this was the "whispering campaign".

Rosso: Who created this document?

-- I really do not know?

-- Who created the term "operation snafu"?

Joe: I know what the phrase means in terms of WW II.

Rosso: What does it refer to in our situation?

Joe: This was in regard to Consumers Power's Palisades problem.

Rosso: Does this mean that Dow thinks Consumers Power is screwed up, generally, etc?

Joe: I don't know this. I just know what the word snafu means.

Rosso: In your own opinion--what does the phrase mean to you?

-- My level of confidence in Consumers Power has diminished somewhat over the last 3 years and goes back to the specific performance in a number of jobs and their performance.

-- Which ones?

Joe: The Midland Plant; the Palisades Plant in regard to construction, etc.; the amount of time it has taken to bring the plant on line and the number of long outages that they have had; the Marysville Plant which cost considerably more from the standpoint of construction and feed stocks.

Rosso: What about Marysville?

Joe: This is the LNG plant where they get their feed stock from Canada. Now Canada has stated that their fuel is only for use in Canada.

Rosso: Is it the cost escalation at Marysville that bothers you?

Joe: As far as I know it is operating okay. (He then went into a review of what Consumers Power has done in the past and why we feel Consumers Power is not a "barn burner" in this area.)

Rosso: And this is what the term "operation snafu" was interpreted to mean?

Joe: Yes!

Rosso: Is this all?

Joe: I may not really want to go into this area, but there have been a number of people in Dow who have not believed that Consumers Power has really leveled with Dow on the point of financing. "He then went into the problem that came from 1974 and the contract modifications entered into and then the fact that Consumers Power shut down the plant construction because of financial problems. He also talked about the fact that the Consumers Power negotiations team was not always well prepared to talk about important things at negotiations. He stated that Russ was not prepared at times and he has agreed that they were not prepared). All of those things caused me to feel uneasy about it.

Rosso: If you get into the Dow Board meeting and you mention the transparency, Cherry will ask to see it and will be given it. Once he sees it he will get into the phrase of "operation sanfu". He will then ask you questions on what it means.

Joe: Are you saying it was critical in the form of a transparency or that it was mentioned or discussed at the meeting?

Rosso: (He went through the entire picture that Cherry is going to want to paint in terms of what Dow's position is and why it wants to get out).

Milt: (He asked a question from the ER where it stated that 2.8 million pounds of steam would be taken by Dow. He stated that this should read 2.4 to 2.3. A discussion then followed on this matter between Milt and Rosso and Rex).

Rosso: (He stated that if you would prefer that Cherry not ask you for a document then you should not mention the document but state that: as you recall, this is what went on at the meeting. You talked about continuing reviews and then you talked about a further review.) In what respect was the further review different?

Joe: (He did state that as the numbers became higher and higher we felt it necessary to look at this in relation to the nuclear steam and the alternatives were getting closer together.) Once we got into this we wanted to make sure that the review questions asked were broad enough to cover all the different aspects of this thing like impact on community, etc.

-- What about the impact on community?

Joe: . . .

Rosso: What will you be looking at in the future to see if things have changed significantly?

Joe: The timing is very important but there are a whole number of issues that were talked about at the corporate review and these would be reviewed at the appropriate time and then added if necessary.

Rosso: What were the options discussed at the meeting as to which ones should be kept open?

Joe: I think the statement made was made by Orefice and I interpreted this to mean as not to obstruct any option we may have. He stated that we should not forfeit any options.

Rosso: Would one of the options be that of disassociating themselves from the Consumers Power nuclear steam option?

-- It may be.

-- What would it take for Dow to get out of this?

Joe: I really can't answer this because it depends on several other items to be considered.

Rosso: When you talk about package boilers you talk about gas and oil fired. When you talk about conventional you talk about coal gasification but not oil and gas--why not?

Joe: This would be too expensive.

Rosso: If you were just going to be using the package boilers alone you would just be generating steam and not electricity.

Joe: This is right.

Rosso: . . .

Joe: Our needs for steam in 1967 and now are considerably different.

Rosso: What were your steam projections in 1982 as made in 1967?

Joe: To the best of my knowledge I don't even think we had made them. I have seen figures that show that 4 million pounds per hour was a realistic figure, etc.

Joe: It was thought back then that we could use steam up as rapidly as possible. Now we do not think that this is the best thing to do.

Rosso: What things have happened that have resulted in a change in this projection of what you think you need?

Joe: Energy conservation in that Dow has been real big in this area. We keep track of steam usage by looking at steam used per pound of product made. This has been reduced about one-third which is very significant over the last few years. (Should we really get into this for Consumers Power?)

Lee: We may want to get into it to make sure that what we say is consistent with what we said at the recent FEA hearings in Washington.

Rex: . . . (He talked about the production of steam at 175 psig and that it generates 252 mwts of electricity.)

note: (The parties broke for lunch.)

Rosso: Lets go over what happened during the review for the Board in terms of who was there and what went on.

Joe: I went over this whole thing. Let's reference it back to the C/A decision in that this decision increased to a significant extent the number of imponderables. This also came from the fact that the latest price estimate from Consumers Power was \$1.6 million and the rumor that figures higher than that were being given within Consumers Power. It could be that the answer very likely could come out differently from what Dow's position was in the beginning. I asked Jim B. to look at all the economic factors on the costs that we were getting on the thing. We gave further attention to those things that Dow was getting and there had already been a discussion on the coal gasification situation. The group had also discussed the non-economic things like will Consumers Power be able to finance the thing; will the C/A further affect us; will Consumers Power be able to run the thing in a reliable manner once they got it on stream. And again what our alternatives were and how good were they from a legal point of view. There were several sessions held where we exchanged and reviewed these things. I then went on vacation and thought about these things. I think at that point in time we had done enough in the area of economics in the matter. People further refined studies, etc., and when I got back we looked at it again. We had a meeting set up to talk to Consumers Power on 9/13/76. Someone from Dow was going to have state Dow's position and we didn't want to get into this until the situation had been thoroughly looked at within Dow. The basic question today is--what is Dow's answer in regard to the nuclear project? The decision I reached, and the negotiating team concurred, was--there was not any longer the probability and possibility that the nuclear plant would no longer be advantageous to Dow. As of the decision reached that day--this is that we came up with. We further told them at that meeting that there would be a corporate review of that decision--we told this to Consumers Power on 9/13/76.

Rosso: In this evaluation you took the economic costs as marginally beneficial to the nuclear unit. The other factors on the other side of the review were what?

Joe: The probability was that it would not end up being advantageous. The other thing here is the position of the MPUC in relation to our relation with Dow-Consumers Power in terms of what we have to pay for it. This is a significantly different proposition than we thought we were into earlier. In doing our own research we have concluded that the MPUC could affect the price we pay under the various contracts. The MPUC would have jurisdiction in the matter.

Lee: This was also the opinion of Consumers Power up until February.

Rosso: Joe--you are a lousy witness in terms of Consumers Power's position in the case. You do not support things in a positive manner that we would like you to pursue. It would be better to have a witness that would look at the nuclear plant in a very positive manner.

Rosso: Now, what about the present fossil fuel units--when Dow initially executed the general agreement in 1967, the project did have the nuclear plant coming on line in 1974-75. What were Dow's projections in regard to the useful life of Dow's units? Were there any estimates made then that would show the decision being around the mid 70's?

Joe: I think that there were information around that would support this.

Lee: I think their timing was more from an air pollution control commission standpoint.

Rosso: Your units are still operating now? (Yes!) Have any of them been retired since 1966?

Joe: I really don't know because we have changed some units from a fuel switch standpoint. I would guess we have taken some off-line.

Rosso: So your units are significantly different from 1967?

Joe: I don't think they are significantly different. Some are operating on different fuels.

Rosso: What are you doing now with regard to air pollution control?

Joe: We are running in the summer two boilers on gas and one boiler on gas. We have twelve boilers and a couple of package boilers. We have a number of boilers set up to switch fuels when we get temporary interventions. The operation of power houses is tied into environmental research in conn. This is the way we are getting the ambient air standards on sulfur dioxide.

Rosso: How much money have you had to spend in capital costs to get the air pollution control program to where it is now?

Joe: I say it would be in the range of \$2.5 million to \$4 million. We do burn premium fuel and gas.

Rosso: What about prolonging the lives of these units until 1984?

Joe: Starting about 1972 we concluded that we were going to have a delay whether from Consumers Power or not. Up until that point in time we had been looking at a shut down of 1975. At that time we started doing maintenance on the position that the plants would have to run longer. At the present time we have identified what has to be done to run them until 1982. They may go beyond this by a year or so. This cost is in the range of \$30 million. This number does not include doing nothing further in regard to doing something else in the air pollution control.

Joe: All of the things in the system are getting older.

Rosso: What is the most critical part of the plant in terms of age?

Joe: I don't think there is a critical thing per se. The auxillary equipment is getting so old that we can't even buy parts anymore. The whole system has to be reliable in its entirety or we won't run it.



-- Have you looked to see if, with additional expenditure, you can get beyond 1984?

Joe: We have people who have said that we cannot get beyond that from a reliable and safety position.

Rosso: Have you had outages in an increasing manner since then?

Joe: Yes! We have even though I haven't been here all that time.

Lee: Two points here: by the men who run the power houses, this switching from fuels causes more wear and tear than is normal. Also, since 1967 we have not been hiring power engineers to run the power house because they don't feel they needed it. The current crew is older.

Joe: In 1974 we ran at a very high rate of capacity and in 1975 we ran at a somewhat lower rate of capacity.

-- Do you view this trend as continuing?

-- No! We expect our sales to go up.

Rosso: What about energy conservation?

Joe: Energy conservation has continued but it is hard to equate this to savings.

Rosso: How much electricity are you producing now?

Joe: About 65-70 megs/month. We buy about one-third of what we need and make the rest.

Rosso: It seems you are using 100 megs/month?

Joe: About 90-100 megs/month.

Rosso: Have projections about the useful life been made on the basis of this lower demand that you are placing on them?

Joe: I am sure that it has. The power houses are of a continuing problem and we are continuously looking at them.

Rosso: Can these power houses be changed to meet air requirements without a variance?

Joe: No! I don't think so.

Rex: On these old power houses--Lee get for us the ones you are operating now--

Joe: We have two power houses going now.

Rex: You may want to review this now. Another thing--on this fossil fuels on the actual figures, reliability--up or down--someone should be able to give you some answers on this. How do you know that these can only last until \_\_\_\_? \_\_\_\_\_. Someone should refresh you on this. Stopping short of you being a power house expert.

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Rosso: I am pretty sure we are going to have to get into this area.

Rex: We are going to have to let them get into this.

Rosso: What about the cost study areas?

Rex: The only question I have is--when Joe was talking to Dave about costs changing appreciably, you got into the problem of fuel costs, etc. Are there any other reasons as to why the advantage nuclear has had has declined to the level that it is now?

Joe: Mainly, the costs of the plant has gone up plus the cost of fuel.

Rosso: The next area is--current negotiations or the press releases.

Rex: The only press release is of December, 1975, that we may be concerned with.

Joe: Give them a copy of this press release.

Rex: One of the reasons this press release hasn't bothered me this much is because you have given a figure there and stated that this increase in costs have narrowed the advantage appreciably.

Joe: (He stated that this was in terms of an economic advantage over other Dow locations.)

Rex: It seems a lot of these reasons for the press release are the same as you went into in 1967 in the review and this will already be covered and will not have to be gone into again.

Rosso: Why don't you feel you can compete with the other areas of Dow in an economic sense?

Joe: We thought we had an advantage in the future because we thought we knew what steam was going to cost us. This was our long range planning based on these facts.

Rex: This is why you came up with that chart showing the advantages and disadvantages of nuclear fuel versus other methods of steam.

Rosso: Is there an overall energy planning unit for all of your plants?

Joe: Not really! There is a tech center that looks over Dow's technology as it relates to product, etc.

Rosso: If I have a big corporation that runs all over the country and other units within that corporation can make the same products, given the oil problems in the future, I may want to switch items around to take advantage of sources of different types of fuel that is available in different parts of the country.

Milt: It became apparent that if Midland didn't get a more economical source of energy, they were going to lose out in the future to other divisions in the country.

Joe: There was a feeling among managers here that they would like to make all items of different kinds of products right here in Midland. Irv Snyder oversees this tech center. The overall responsibility for this area rests with the division managers like myself.

Joe: The other areas are going to coal like in Texas. Louisiana is going to coal gasification.

Rosso: What are your plans in back up and auxillary sources of steam? Your testimony states that you have the right in the contract to put in one million pounds/hour if you get nuclear steam.

Joe: Package boilers do not generate electricity.

Rosso: Cherry may ask you whether you are in the planning and what we have looked at and what you plan to do in this area.

Rex: Your people should look at this. I don't know if it makes any sense to say that we are going to package boilers.

Milt: I am positive that Jim B. plans to use this steam at a certain level. . .

Rosso: What Rex was saying was that if Jim and Joe can quantify how much they were going to use. . .

Milt: That if he can state that we are going to use twice as much as what you have stated in the ER report. I don't want Dow to be blamed for what is in that ER report.

Rosso: All I want Dow to state that Dow is going to operate this backup system X% of the time.

Milt: (He went through the whole thing about Jim B. giving an answer based upon what type of questions Rex asked him.)

Rex: I may not have asked him the right questions, but I have put down the information as he gave it to me. If Burroughs can quantify how much of the time you are going to use the backup, what type of fuel, and what type of emissions, then we are going to have to state in a report these things stated above.

Milt: Jim Burroughs can give you information on ranges, estimates, and other things. If you are asking us to furnish these things, we will do this. Let's get what we can get on this matter so that we can correct it so that people reading the documents are not mislead into thinking that Dow put those figures into the ER.

Rex: I need the cost of that backup unit from Jim Burroughs. (He asked Joe to get this for him). We need the capital cost of the backup and and substitute systems.

Lee: There is also a disagreement on the . . .

Rosso: Joe--you stated that in current negotiations that Dow has taken the position that . . . there must be a . . . deadline for taking steam. What date are you plugging for?

- Joe: 1984 or before! This is because there is a date beyond which the present power house will not be able to operate any more. This would be through 1984.
- Rosso: You checked this date which you are going to negotiate for on the basis of the breaking down of the power houses?
- Joe: This is correct!
- Rosso: What is your position if the contract date is not reached on the 1984 date? What is your position if this date is not met?
- Joe: We feel that Dow has fulfilled its obligation to Consumers Power and that we would then go off and do what we needed to continue to run the plant for the future.
- Rosso: Does this mean that they will walk away from the Nuclear Plant?
- Joe: I can't say this until I check with my legal counsel, but I would say that this is right. We have told Consumers Power very clearly that when 1984 comes and goes we feel that we have fulfilled our obligation and that we will walk away.
- Rosso: If 1984 comes and you are not getting steam, then you will probably know that Consumers Power is not going to meet their obligations under the contract. What kind of lead time do you have in meeting your energy needs?
- Joe: We have to get started with intensive planning right now and get money at least six years in advance.
- Rex: This seems to be right with what Consumers Power is now estimating in their two coal fired.
- Rosso: This means that if you are going to get a unit on line in 1984 this means that you are going to have to do something starting next year. This means that any delay now would be critical. Not only because a five month delay pushes this back nine months and 15 months, you are also in a position to have to make a decision on whether or not you should start getting your thinking together for a coal fired plant in terms of permits, equipment, etc.
- Rex: It probably should come down to the point that Joe should state that if this thing comes down to 1978 then we have to go forward without plans to start building another source of steam. This means that Joe has to get started on this . . .
- Rosso: We talked about point two on page seven the last time we were here on usage restriction on reselling steam, etc.
- Joe: We just don't want them to tell us what to do with the steam 20 years from now.
- Rosso: What other restrictions are there?

Joe: We cannot generate electricity right now.

Rosso: How about this statement that Dow will have to purchase steam from other sources if Consumers Power does not come on stream when it was suppose to?

Joe: This means that we have to keep our power houses in shape.

Rosso: Cherry will probably take you through this and if you tell him what restrictions there are and why you want to get out of each one of them.

Rex: We tried to go back and find out what was in front of the Board when they heard this thing. It appears Amendment 13 was before the Board and it would appear Amendment 14 on would be up. Howell's testimony talks about changes that have occurred in Amendment 14 on.

Rosso: Why do you want to cut the current electric contract from five to one year?

Joe: The current electric contract . . . The reasons that we want a less restrictive . . . on power are the same as why we want less restrictions on everything else in that it would be in the best interests of the Midland Plant. This goes back to the fact that we didn't want any electric contract in the first place.

Rosso: This doesn't bother me as much because the electric contract thing is not really as important in this proceeding as the steam contract because this need for electricity is spread out over a number of years and it turns out that it is not that significant for this year. He may not get into this energy conservation area. When you tell him you are currently using 90-100 he may want to know what is going to drive it up to 175 megs. You must relate three different bases to him on this.

Joe: . . . (He talked about what he should get into and why).

Rosso: (He went through this area and why and how . . .)

Rex: On the electric service area: how much of this will be done by Consumers Power and how much will be self-generation?

Joe: I cannot answer that question.

Rex: If you don't know--there must be a reason why you don't know.

Joe: The reason is because right now we have not determined what we are going to do in relation to the nuclear contract and what we are going to have to do.

Rosso: What are you going to do with the present power houses if Consumers Power comes on line right on time? Will you continue to run them?

Joe: I don't want them to run. When I am convinced that we have a reliable source of steam, I will want them shut down.

Rex: That is the right way to answer that--as soon as possible we are going to shut them down. Your answer should be as close as this answer as possible and let them fish for other things in that.

- Rosso: On page 8--other issues that were of importance were a more clear definition of "operation date". He may want to get into the provision of keeping expenditures on Consumers Power as to what the amounts are and what the costs were incurred for, etc. He may also get into the other points on unrecoverables, financial protection for Dow if Consumers Power is not able to produce up to the standard in the industry.
- Rex: I have read Joe's meeting notes and there is a good discussion in there on this. Doesn't this go to the Palisades Plant and that their experience was far below industry standards.
- Joe: This also goes to the confidence question.
- Rex: Lee--on the nonrecoverables, in Keely's testimony on cost of . . . you will see a number in there as to a . . . We will credit this in our alternatives, you will see this in a chart in Keely's affidavit. We have checked a number which we believe to be representative and which would be a credit and it is conservative. We picked a high number because it ends up as a credit. These figures are \$41 million in 1977, . . .
- Rosso: On page 8 in the second sentence--there was an entire line dropped. Joe--we will fix this by asking you if any changes have been made to your testimony. This will be done when you are on the stand or by filing a change to the NRC staff.
- Rex: I have a few things on this--on page 2--this should be "for Dow". On page 3 at the top--you may get a question about what circumstances do you know or what circumstances would make you change your mind.
- Joe: It is the same answer--what has to change?
- Lee: This includes the final number we were given in relation to cost.
- Joe: We know that Bechtel came up with a higher number than \$1.6 million because Russ told us this.
- Rex: Bechtel came in and stated that it would cost \$X million to implement QA. Consumers Power told them they would put it in and it would not cost this much. This is why Bechtel's numbers are higher. On page 4 in the middle "the problems of the nuclear plant. . ."--what problems of the nuclear plant?
- Joe: The problem that we are referring to is the timetable. This is what is critical.
- Rex: The only other thing that we get back to is the ROIBT. Someone will probably ask you a question about that. They will want to know why you must meet 15% . . ., etc. What type of investment may you make on this other than this?
- Joe: We could put our money in a minimum risk area and get 8%. This means that putting our money in an investment like the power plant must generate a higher percent of return, etc.



Lee: We should change the first question we had in the area of a type of the wording on "being postponed".

Duran Notes

THE FOLLOWING IS AN ACCURATE SUMMARY OF WHAT WAS SAID DURING THE MEETING; HOWEVER, IT SHOULD NOT BE REGARDED AS BEING VERBATIM IN ANY SENSE.

(The following are notes taken in a meeting between Dow and Consumers Power on 11/15/76. Those present include Joe Temple, Dave Rosso, Rex Renfrow, Milt Wessel, Lee Nute, Lou Pribila, and Dave Duran. The meeting commenced at 8:45 a.m.

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Rex: He stated that his office is sending a notice to the Board telling them that Joe is not going to be available December 1, 2, 3 and that he will have to testify on November 30. This will mean that you will go before Howell and it will give Cherry what he wants, but this also means that he will not have Howell's testimony to refer to.

Milt: It is important to recognize that Joe will not be here on December 1, 2, 3 and we will tell this to any court in the case that the Board subpoenas Joe.

Rosso: It is also very sad that the Board did not come up on November 16 to let the people who want to testify do so at that time.

Joe: Joe stated that he would be leaving December 1. -

Rex: This means that you will come on the afternoon on November 30.

Milt: Short of a subpoena, Joe will not be here beyond December 1 and we will go to the court to contest this.

Rosso: No one has gone down to look at our documents in Jackson as yet.

Rex: Those contracts that we finally found went in as exhibit No. 27 from Mapleton. They were not anywhere where it is supposed to be. Do you remember what Murphy did with them?

Milt: I remember that they were screwed up to begin with. If you want a copy I hope that you could find it at Kaye, Scholer.

-- A discussion continued on this.

Lee: Mapleton Exhibit #27--I will look for this in our documents.

Rosso: We thought we would go back over the same things we went through last time. Rex will ask you some cross-exam type questions.

Joe: Have we got resolved where the corrections were?

Rex: Yes, and we are going to hand out corrections to everyone.

Rosso: We may still ID them on the stand. There is one on page 8 and one on page 6 of another copy. Consumers Power dropped the line from the copy they prepared. Dow did not leave the line out of there that they sent to Consumers Power.

Rex: He went through the procedure of what Joe is going to put through when he takes the stand. He went through this with Joe.

Rosso: What about proper foundation concerning the documents from the MAPC in this area? Who is the custodian of the business records for Michigan Division?

Lee: I have the records in my file and I would be willing to testify to this fact.

Joe: Of the documents that went to me I sent a copy to Lee and also a copy to the person in charge of questions between Dow and the state.

Lee: Lets go down through these Exhibits A through G.

Rosso: It seems they are all covered either through Joe or Lee. (He told Joe that he should know what is in the documents and how they affect us.)

Rex: You should need to know the status of both EPA and the state appeal board. (He asked Lee to bring a copy of the EPA response to their letter. He talked about what goes on during voir dire. He didn't think Joe would have any problem with this area because Joe is in charge of negotiations on this matter. He then continued with what would go on during the hearing.) You will have a clean copy of your testimony and any time the other side asks you a question they state is in your testimony, ask them to tell you what page it is on and then Joe should go directly to that page and refresh himself on this matter before testifying on it.

Milt: (He advised Joe that he did not have to go to his record unless he feels he really needs to.)

Rex: (He advised Joe to watch for Cherry's paraphrasing his testimony.)

Rex: He then continued with the cross-exam technique.

Joe: He responded to various questions from Rex.

-- A discussion ensued on whether or not Dow has initiated any legal action against Consumers Power in relation to the contract. A discussion continued on the letter that Lee sent to Judd. Lee pointed out that Consumers Power has stated in there prospectus that there is a possibility that Dow will sue Consumers Power over their actions.

Rosso: He restated the response that he would like Joe to make and stated that he would like Joe to stay out of the area of legal actions taken or not taken.

Rex: He continued in the same vein. He stated that Joe should refrain from referring to the fact that there were two separate reviews (Michigan Division and USA). He cautioned Joe on what he states about the socio-economic impact on the community if the plant is delayed or shut down. He stated that Joe should read the testimony of both Howell and Keely to be familiar with it.

Rosso: I would recommend that Joe not read Keely's testimony but he should read Howell's testimony for various reasons.

- Rex: He continued in this area. He advised Joe to keep in mind that if he could not answer the question then Cherry will want that particular witness to answer the question. He stated that Joe should state that, even though he was not present for the decisions on this matter, he can still state what the conclusions that the committee came up with.
- Joe: He talked about the meeting that took place between Dow and Consumers Power in regard to the impact on Consumers Power the action would have if Dow was to walk away from the contract.
- Rosso: He reviewed Dow's position on what would happen if there were additional delays or costs of construction. (Joe responded to this.) He stated that Joe should emphasize that in the event of any particular significant change--he should state that Dow will review the situation in depth.
- Rex: He continued to question Joe on their position and what it may take to change Dow's present position. Joe asked Lee to look up how many megs of electric power Dow now produces for its own use. He continued talking about Dow's fossil fired plants. On Exhibit 8-E, he asked a question pertaining to installation of particulate controls.
- Lou: He talked about the alleged SO<sub>2</sub> violation.
- Rosso: It is important to realize that Dow is not really going to know what to do in the event of further delays until Consumers Power and Dow get together and resolve things by further negotiating.
- Rex: He cautioned Joe to make sure he kept his scheduled dates in mind in relation to how much lead time Dow needed in order to put in their package boilers on a complete, more pure system. He then talked about Dow's computations on the economic advantage of going to the alternative. This gets into the entire ROIBT situation. He then asked Joe about the various types of alternatives that are being considered by Dow at the present time. (Joe talked about this.)
- Rex: (He asked about the specifically stated date at which time a reliable source of steam would be available to Dow. He then asked a question based on page 7--no contractual restrictions on making and using process steam and electric power. He asked about how Dow intends to try and modify some of these types of steam generating plants.)
- Joe: (He talked about the many possibilities that Dow would entertain in the event they wanted to sell steam to other people.)
- Rex: (He pointed out to Joe that it seems apparent to him that Dow is trying to keep all its alternatives open to meet any situation that comes up that provides other options that may be available.)
- Rosso: (He asked about the current contracts between Dow and Consumers Power in regard to whether or not the contracts call for retiring the existing fossil fuel plants. He asked Joe if there was anything that would prove to the Board that those units will be retired.)
- Joe: (He went through the speal about needing steam and into the entire reliability and economical system problem.)

-- Be careful to distinguish Dow's position on whether or not they plan to do something with the old fossil fueled plants. We do not want to make a statement that will come back to haunt us during future relationships with Dow/Consumers Power. (Predisposed to get out of the contract.)

Rosso: (He asked about Dow's position if they could not get a variance beyond 1980 on their old fossil fueled plants. He asked if an adverse ruling from the state air pollution commission would compel us to withdraw from the project. He then asked about what the words "all of its options" really mean in relation to Dow's position during future contract negotiations with Consumers Power.) Does this include the possible cause of action that Dow will walk away?

Joe: (He stated that . . .)

-- Dave Rosso then asked what would be a significant enough cost increase in the plant to trigger Dow to go to an alternative course of action. Joe stated that Dow would have to review the entire situation before determining to go to an alternate course of action; however, the magic number in terms of an increase in cost would be \$6 million. Dave asked Lee if there is anything in previous testimony dealing with . . . Another question--coal price assumption. Where is this at right now? Rex stated that Lee is still working on setting this up. Milt stated that it probably is not worthwhile to set this session up because if it is just a data difference they really don't need a meeting to get together on this. Dave talked about what he understands the problem to be right now. Lee stated that there is no difference in data base on prices but there is a definite difference in the escalation factor. He went through these differences. Milt pointed out one of the dangers of Dow changing their escalation figures to match Consumers Power's--it may seem that Dow is buckling under to Consumers Power or that they really don't have faith in their own numbers or procedures. Rex pointed out that, initially, Dow and Consumers Power positions were in accordance and now they have changed. Dave went through several reasons as to why he wanted the meeting of the coal people to take place. He had hoped they could define the difference and making Joe aware of the difference. The third reason is related to continuing negotiations between the parties. The fourth reason is that Dow will have the advantage of the latest figures from Consumers Power so that they may make a decision based on this in the future.

Milt: He talked about several things pertaining to impeaching our own internal review. It would be sufficient to have Consumers Power just communicate to Dow that they have escalated the figures and why.

Rosso: Can't we try to get the coal people together before the hearing?

Lee: He stated that he thought Dow could once they got to the people involved.

(Note: I left meeting to go to court in Bay City at 1:30 p.m. in Echols matter.)