

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

In the Matter of)

PACIFIC GAS AND ELECTRIC)
COMPANY)

(Diablo Canyon Nuclear Power)
Plant, Units 1 and 2))

Docket Nos. 50-275
50-323

(Construction Quality Assurance)

AFFIDAVIT OF H.W. KARNER, R.D. ETZLER

STATE OF CALIFORNIA)

COUNTY OF)

SAN LUIS OBISPO)

ss.

The above, being duly sworn, depose and say:

I, H.W. Karner, am Quality Assurance/Quality Control Manager for Pullman Power Products at the Diablo Canyon Power Plant.

I, R.D. Etzler, am currently employed by Pacific Gas and Electric Company as Field Construction Manager at Diablo Canyon in the General Construction Department.

8404040393 840319
PDR ADOCK 05000275
Q PDR

It is alleged that:

The problems with hydrostatic tests offer another example of management harassment of QA personnel for communicating with the NRC. In May 1982 after Mr. Hudson spoke extensively with NRC representatives, Mr. Karner expressed anger at the length of the interview. Soon afterwards, Mr. Karner threatened to get rid of Hudson, the auditor. (citing Hudson Aff. at 26.)

1. It is true that during the course of the May 1982 NRC investigation, Mr. Hudson was involved in lengthy, private discussions with an NRC representative. However, Mr. Harold Karner has no recollection of expressing anger at the length of the interview or about the fact that Mr. Hudson was involved in such a session. In fact, a number of other Pullman and PGandE employees were similarly summoned to such meetings. Mr. Karner also had multiple conversations with NRC representatives at that time.
2. As for the alleged threat to "get rid of Mr. Hudson", a documented conversation was held with Mr. Hudson in July 1982 at which time he was told by Mr. Karner that Mr. Karner was dissatisfied with his performance. Mr. Hudson was told of a number of instances where he failed to follow the approved procedures of ESD 263, "Internal Auditing Procedure of Field QA Program by Field Staff." Specific sections of the procedure were discussed and Mr. Hudson was asked to comply with the procedure.
3. Mr. Hudson was advised to have his prepared audit checklists receive the necessary management review and approval, as required by ESD 263, Paragraph 7.3, which states the audit schedule, procedures and checklist

are subject to approval by the Field QA/QC Manager. Mr. Karner advised Mr. Hudson that he obtain from him acknowledgement of his findings prior to publishing his reports, as provided in Paragraph 3.2 of ESD 263, which requires the assigned QA Auditor to report his findings to the Field QA/QC Manager. A specific instance when this was not done was un:scheduled Audit Report #31, dated July 6, 1982, which was published without the QA Manager's approval. By the provisions of ESD 263, Paragraph 7.4.2, a pre-audit meeting is required to be conducted by the Internal Auditor, which Mr. Hudson had not been doing. Under the provisions of ESD 263, Paragraph 8.1, the Internal Auditor must conduct post-audit conferences with the supervisor of the area being audited. This requirement was also not complied with by Mr. Hudson. None of the facts of the July 22, 1982, discussion between Mr. Karner and Mr. Hudson are referenced in Mr. Hudson's affidavit.

4. At an earlier meeting on July 15, 1982, Mr. Hudson was told that Mr. Karner felt he could not put much faith or trust in his judgment. This latter feeling resulted from Mr. Hudson's lack of candor during the meeting on July 15, 1982. At that meeting, Mr. Hudson initially refused to admit that he had sent an engineer's report on pipe rupture restraint bolting to the NRC without first going through the appropriate in-house channels to address the issue. He finally admitted that he had sent the report, but only after being confronted with evidence that he had done so. Certainly, Mr. Hudson did have the right to bring a problem to the attention of the NRC. Mr. Karner's concern with this situation resulted both from Mr. Hudson's failure to use established mechanisms to identify

and resolve the problem and from Mr. Hudson's false statement. At the July 22, 1982, meeting Mr. Hudson conceded that Mr. Karner could no longer put much faith or trust in his judgment and that someone was needed in his position that Mr. Karner could trust and have confidence in. He further stated that he would willingly return to the field as a QC inspector or in any other function within the Pullman QA/QC Department as Mr. Karner deemed appropriate. At the conclusion of this meeting, Mr. Karner told Mr. Hudson that he intended to replace him as Internal Auditor.

5. It has since been determined, and is now common knowledge, that Mr. Hudson had, for an extended period of time been attempting to get into the pipefitter's union, which paid substantially more money than he was earning in his present position. These attempts began approximately two years prior to his resignation from the Pullman QA/QC Department. On May 6, 1982, Mr. Hudson had come before the Pipefitters' Union Executive Board and requested a classification change. He had three years seniority in the QC group which at that time was sufficient to upgrade to a pipefitter's classification. The Union Executive Board referred him to the Examining Board and he was told he needed to attend one year of pipefitting apprenticeship class. It is believed Mr. Hudson attended such classes and successfully completed them. On April 7, 1983, Mr. Hudson came before the Pipefitters' Executive Board requesting a classification change which he was granted. He resigned from Pullman QA/QC on May 19, 1983, which was four months after the confrontation of January 28, 1983.

JI #92, Motion at 26.

It is alleged that:

In January 1983, Mr. Hudson was removed as internal auditor, on pretextual grounds that he had not closed out enough audits. Unfortunately, Mr. Karner and supervisors were sitting on some of Hudson's audits beyond the required deadline, although they were not demoted for obstructing the process. Mr. Karner also was loading Mr. Hudson down with ancillary assignments, and unscheduled audits were not counted. (citing Hudson Aff. at 24.)

6. Mr. Hudson was replaced as the Pullman Internal Auditor in January, 1983. He then worked in the Pullman QA/QC Department closing out Discrepancy Reports (DRs) and Deficient Condition Notices (DCNs). He was not removed from his position of Internal Auditor on the pretextual grounds that he had not closed out enough audits.
7. Mr. Hudson's failure to comply with ESD 263 has already been discussed and was a significant reason for his reassignment. While Mr. Hudson had also been criticized for not conducting all of the scheduled audits, it was not his responsibility to do the corrective action necessary to close out the audits. Thus, the statement by Mr. Hudson that he was removed as the Internal Auditor on pretextual grounds that he had not "closed out" enough audits is simply not true.

JI #127, Motion at 38.

It is alleged that:

On January 28, 1983, Mr. Karner ordered Mr. Hudson not to identify any more problems except pursuant to Karner's specific directions. In effect, Karner removed all of Mr. Hudson's organizational freedom to identify any violations except at management whim. (citing Hudson Aff. at 12.)

8. The apparent continued conflict between Mr. Hudson and Pullman QA/QC management referenced in the Motion came about primarily because of Mr. Hudson's continuing deviation from established procedures for the conduct of his work and from the scope of his assigned responsibilities. The alleged acts of intimidation by Pullman management were, in fact, nothing more than continued attempts to exercise management responsibility to enforce the provisions of approved procedures and assigned responsibilities. Without such an orderly process, the activities which are part of any job cannot be accomplished in an efficient manner and the process can become chaotic and uncontrolled. It is apparent that Mr. Hudson is an individual who believes that the rules apply to everyone except himself. While he refused to acknowledge the need for control of his work activities, at the same time he freely criticized other work activities for what he called lack of proper control.
9. The details concerning this item as set forth in the Hudson affidavit, page 12, item number 28, refer to activities surrounding Unscheduled Internal Audit (UIA) #35 on pipe rupture restraints. This unscheduled internal audit dealt specifically with welding procedures and welding performance qualifications. This audit contains no reference to nondestructive examination (NDE). As Mr. Hudson continued to attempt to work on NDE activities after he was no longer the Internal Auditor, while justifying such work as being part of UIA #35, he was, in fact, working outside the scope of his assigned duties. If he had a continuing concern about NDE on particular welds, these concerns should

have been brought to the attention of the new Internal Auditor, Mr. John Guyler, or, more correctly, to the attention of the QA records examiners responsible for checking rupture restraint records. Mr. Hudson chose not to do either but instead was determined to personally pursue the situation outside normal procedures.

10. The facts clearly demonstrate that there was no effort to restrict Mr. Hudson's organizational freedom as is clearly documented by the scope and content of the various audits he performed when he was assigned that responsibility. However, his new position had a different scope of responsibility which Mr. Hudson refused to recognize. Mr. Guyler was hired as Pullman Internal Auditor on December 13, 1982. After a short familiarization period for Mr. Guyler, Mr. Hudson was assigned to other duties. However, Mr. Hudson continued to attempt to perform activities which were now the responsibility of Mr. Guyler.

JI #130, Motion at 39.

It is alleged that:

QA management repeatedly enforced its illegal policies through threats. For example, on January 28, 1983 Mr. Karner warned that he would "get rid of" Mr. Hudson, if the latter continued to identify problems on his own initiative. Mr. Hudson describes the environment and its effect as follows:

From his demeanor, I was unsure whether he was referring to my presence on the job, or my presence--period. Mr. Karner's threats eventually convinced me to resign and to take a pipefitting job. The pervasive atmosphere of intimidation was too counter-productive for an employee to successfully uphold required QA/QC standards within Pullman's quality assurance program. (citing Hudson Aff. at 13.)

11. The fact that a verbal confrontation occurred between Mr. Karner and Mr. Hudson on January 28, 1983, is not disputed. As described by Mr. Hudson in his affidavit (Exhibit 3, at 12, 13) "... Mr. Karner screamed at me ... (and) ... at this point I screamed at him ... At this point we were toe to toe, face to face, screaming at each other."
12. The actual facts that led up to this unfortunate occurrence, however, deserve review. First, there was the July 1982 incident involving Mr. Hudson's sending an engineer's report to the NRC without the engineer's consent and without going through channels (see paragraph 4 above). Next was the discussion involving compliance with ESD 263, which also occurred in July 1982 (see paragraphs 2 and 3). Further, there was Mr. Hudson's stated willingness to serve in another capacity as selected by Mr. Karner. Finally there was Mr. Hudson's long-held plan to join the Pipefitter's Union (see paragraph 5 above).
13. Then there was Mr. Hudson's failure to stay within the limits of his responsibilities after being succeeded as Internal Auditor by Mr. Guyler. It was this continued failure to follow job assignment duties which led to the confrontation of January 28, 1983. Mr. Karner does not recall using the exact terminology attributed to him in the motion although such exaggerations on the part of either party may have occurred.

JI #86, Motion at 25.

It is alleged that:

Mr. Karner improperly prevented the internal auditor from finding where ESD 246 was used. After the auditor traced

ESD 247 to welds in the crack repair program on feedwater nozzles in the Unit 1 Steam Generator, Mr. Karner ordered him not to look where ESD 246 had been used. (citing Hudson Aff. at 21-22.)

14. Contrary to the allegation that Mr. Hudson was prevented from investigating where ESD 246 had been used, the facts demonstrate that a conference was held on September 14, 1983, to address the response to Audit Action Request (AAR) #1 and, at this conference, it was decided that the following actions would be pursued (as documented in a memo dated September 15, 1983):

"3. ESD 246 and ESD 247

A. NDE Leadman would perform following investigations:

- 1) Check with Williamsport and Paramount [other Pullman facilities] to see if they have a PQR [procedure qualification record] for these type MT procedures.
- 2) Check records of Steam Generator Nozzle work to determine if these procedures were used.
- 3) Check MT Daily Reports to determine if these procedures were used.

B. Internal Auditor checked B31.7 code and found PQR's are required for NDE procedures.

C. After investigation is completed, a decision as to Corrective Action would be made."

15. Procedures ESD 246 and ESD 247 both apply to magnetic particle examination and are identical, except for the acceptance criteria. When it was ascertained that, contrary to what was first believed, ESD 247 had been used on the feedwater nozzles of the Unit 1 steam generator, it was no longer of importance whether ESD 246 had been used. The reason for this is because the corrective actions required would be identical for both procedures and the possible existence of any additional

- locations would become moot if it could be shown that ESD 247 was, in fact, adequate. The acceptability of these procedures was subsequently demonstrated by the development of the PQR which was a part of DR 4662.
16. Mr. Hudson coauthored DR 4662, dated November 8, 1982, which described the specific details which were known at the time in regard to the use of ESD 247. While it would not have been unreasonable to specifically state if and where ESD 246 was used, such a statement would have had no impact on the further disposition of the DR.
 17. The facts, therefore, substantiate that rather than preventing Mr. Hudson from looking further, Mr. Karner merely indicated that identification of further cases where these procedures had been used was not necessary, as the need for either corrective action or procedure qualification had been clearly established. As previously noted, the procedures were qualified.

JI #133, Motion at 40.

It is alleged that:

On Friday, January 13, 1984 Pullman temporarily made good on the repeated threats to "get rid of" Mr. Hudson. He was laid off from his pipefitting job the day after finishing a two month series of disclosures to the NRC, including three reports to Commissioner Gilinsky and three interviews with NRC inspectors. Although 50 employees were laid off, almost all were from other unions besides the local. The only employees laid off from the local union were Mr. Hudson, his partner and two others with unrelated management conflicts. Mr. Hudson was laid off over the objections of his foreman, at the express direction of Pullman's resident mechanical manager. On January 25, 1984, the day after retaliation was widely discussed at congressional hearings, management called Mr. Hudson back to work. (citing Hudson Aff. at 29-30.)

18. On January 13, 1984, Project Construction Management instructed Pullman, Foley, and Bechtel to reduce their workforces by approximately 50 persons each. This instruction was issued to begin labor force reduction as a result of work completion on Unit 1. Since January 13, 1984, the Pullman manual workforce has been reduced by more than 300 persons. Pullman did lay off 50 persons on January 13, 1984. Included in these layoffs were two persons from the Area 10 Fab Shop, one of whom was Mr. Hudson.
19. Mr. Hudson's Foreman did, as indicated in Hudson's affidavit, question the laying off of these two individuals because they were members of the local union. This objection was discussed by the Foreman with the Pullman General Foreman and with the Union Steward. The decision was made that, based on the relatively low seniority of these individuals in the Area 10 Fab Shop and on their relatively low performance, they would be laid off. This decision was not made the subject of any union grievance.
20. The practice of preferentially laying off "travelers" (members of out-of-town union halls) as opposed to "locals" as proposed by Mr. Hudson in his affidavit has been determined to be an unfair labor practice by the National Labor Relations Board and by the Federal Courts. Had Pullman followed the course proposed by Mr. Hudson, they would have left themselves open to legal actions by others. The fact that 8% of those individuals laid off were locals is relatively consistent with the general population of the pipefitters which was made up of approximately 17% locals and 83% travelers. The facts behind

Mr. Hudson's layoff are further elaborated in the affidavits of Paul L. Stieger and Milton L. Andrews, attached hereto as Exhibits 1 and 2, respectively.

21. At the request of PGandE, Mr. Hudson was rehired by Pullman on January 25, 1984, and is presently employed at Diablo Canyon. This action was taken not out of a fear of losing wrongful discharge claims, but was initiated to assure that the discussion of Mr. Hudson's technical questions would not be further clouded by claims of retaliation by Mr. Hudson.

JI #27, Motion at 14.

It is alleged that:

The use of inferior steel in AWS 1-1 improperly was approved by an official who the corporate records showed was simultaneously a construction and QA official. Either the records contain a false statement, or the official was simultaneously working for the construction and QA departments in violation of 10 CFR 50, Appendix B, Criteria I requirements for organizational freedom. (citing Hudson Aff. at 7.)

22. It is assumed that the alleged use of an inferior steel refers to the use of A515 as a base metal, because it is the only base metal used which is shown in the technique specification (AWS 1-1) but not listed in the code (AWS D1.1). This usage was approved by the initial issue of AWS 1-1. No change was made to that portion of the specification. In the absence of the cognizant Pullman Corporate Welding Engineer, Mr. Ken Freed (who is permanently assigned in Williamsport, Pa.), Mr. Virgil Casey, Pullman QC Supervisor, prepared a revision to the previously approved specification. The revision was merely a change to the

requirements for run-off tabs and backing straps, and was implemented only after a telephone conversation with Mr. Freed, who indicated the acceptability of the revision. At no time did Mr. Casey work for the Pullman Construction Department. Consequently, he was not, as alleged in the Motion, simultaneously working for the construction and QA departments. It is recognized that Mr. Casey should have noted that he was signing the revision as the preparer (not as an approver as alleged) for Mr. Freed. However, approval of the revision required a number of other signatures in addition to that of the preparer. These signatures, including those of Mr. Karner, the PGandE Welding Engineer, and the PGandE Mechanical Resident Engineer were also duly affixed to the revision before it was issued.

JI #139, Motion at 42.

It is alleged that:

The Pullman QA department had to meet its tight schedule deadlines with hopelessly inadequate resources. As Pullman's internal auditor at the time reports: "To illustrate, from August 1980-September 1982, Mr. Karner was the only permanent employee in the QA/QC site management. He did not have an assistant QA manager, and the QC supervisor was a temporary employee." (citing Hudson Aff. at 30.)

23. The QC supervisor that is referred to in the Motion was not a member of Pullman's corporate organization and, as such, he is not considered a "permanent" employee. However, he is far from being a "temporary" employee since he has been with Pullman at Diablo Canyon for approximately nine years. Contrary to the allegation, Pullman QA/QC site management, during the period in question, consisted of several key

individuals who had long employment with the Company. In addition to Mr. Karner, a QA Supervisor, a QC Supervisor, and QC Leadmen were on the job. These individuals had been employed by Pullman for an average of about five years. During the first portion of the period, August 1980 through September 1982, the scope and intensity of Pullman's work did not require additional QA/QC management personnel. With the increase in the amount of work performed by Pullman, which began in mid-1982, additional QA/QC management personnel were added to the Pullman organization.

JI #140, Motion at 42.

It is alleged that:

Pullman's management demonstrated its anti-QA philosophy by establishing a structure to formally circumvent PG&E QA participation in issues identified by Pullman's QA program. For example, until recently PG&E's resident mechanical engineer, a construction official, reviewed and approved corrective action to Discrepancy Reports. This means the construction department had final control of any decision whether to submit Discrepancy Reports to the NRC as Nonconformance Reports. Further, as of May 1983 Pullman audits went directly to PG&E's resident mechanical engineer. PG&E site QA/QC was bypassed from the review. (citing Hudson Aff. at 30.)

24. Mr. Hudson's allegation re-emphasizes his continued failure to understand or to follow the reporting requirements and review system in place at Diablo Canyon. From the time Pullman wrote the first DR to October 1, 1982, either a PGandE Minor Variation Report (MVR) or a PGandE Nonconformance Report (NCR) was prepared to document findings and corrective actions on essentially all Pullman DRs. The writing of the MVR was performed by the PGandE GC Mechanical Resident Engineer (MRE) or

his designee. The MVRs were then reviewed by PGandE GC QC and PGandE Corporate QA. (Although PGandE corporate QA had no procedural requirement for this review, the review was routinely done.) PGandE NCRs are reviewed by a Technical Review Group which always includes both GC QC and PGandE Corporate QA representatives. Thus, it is incorrect to say that the Construction Department ever had the final say on the dispositioning of these reports.

25. On October 1, 1982, the procedure was modified to eliminate unnecessary and redundant paper work. This was accomplished by changing the essentially automatic issuance of an MVR to a discretionary decision after review of the Pullman DR by the GC MRE. The MRE disposition is reviewed by GC QC which in turn is audited by PGandE Corporate QA. This entire process is periodically reviewed by NRC inspectors who are free to look at any portion of the system at any time. Thus, the allegation that "site QA/QC is bypassed" is patently false, as is the claim that Construction has or had final control of the decision on Pullman DRs.
26. Hudson states that Pullman audits went directly to PGandE's MRE and that PGandE site QA/QC was bypassed. There are eight people on distribution of all Pullman audits. The distribution includes Pullman's Vice President of Quality Assurance, Pullman's Director of Quality Assurance, the Authorized Nuclear Inspector, PGandE's MRE, and other Pullman supervisors. It is correct that the only PGandE representative on distribution is the PGandE MRE. This is appropriate since the MRE is responsible for administering Pullman's contract, including assuring compliance with quality requirements. Additionally, it is incorrect to

infer that PGandE QC and QA are bypassed. These two entities perform an audit function and thus they periodically (or as frequently as they desire) audit and review Pullman Internal Audits.

27. However, even if the PGandE GC MRE was the sole reviewer, Mr. Hudson fails to understand the function and responsibilities of the MRE. The PGandE GC Department is responsible for the construction and startup testing of Diablo Canyon. The number one priority of the GC organization is safety and quality. The responsibility for mechanical work, such as piping, is assigned to the GC MRE, who is responsible for assuring that Pullman and other mechanical contractors perform their work in accordance with applicable regulations, specifications, codes, and procedures. Thus "Construction" has a high sensitivity for assuring that quality work is performed and that any discrepancies which are documented are properly resolved. The GC MRE and his staff have initiated over 4600 MVRs. There is a separate PGandE GC QC group that audits the MRE's organization and the Contractor's organization to assure compliance with quality procedures. In addition, the PGandE Corporate QA Staff on site audits PGandE GC QC and the Contractors for compliance with all quality procedures including reporting discrepancies.

JI #141, Motion at 43.

It is alleged that:

When Pullman QC employees informally notified PG&E of violations, the results were not any better. Pullman's former internal auditor used this approach with the following result: "none of the violations were corrected." (citing Hudson Aff. at 31.)

28. Numerous concerns and quality-related questions are presented to PGandE GC Supervisors, Field Engineers, and Inspectors daily. These concerns and questions are communicated in a variety of methods, both formally and informally. Examples of formal methods are letters and discrepancy reports. Informal methods include telephone calls, direct conversations, handwritten unsigned notes, memoranda, etc. Documentation requirements are well established by contractor and PGandE procedures. Formal notification, such as Pullman's DRs and DCNs, are always treated as controlled documents which receive appropriate management review and are tracked to assure that they are properly closed out. All formal notices are formally responded to and the corrective action taken, if any is necessary, is documented. The informal notices of concerns are considered and, if substantiated, are formally documented. Pullman's former internal auditor, Mr. Hudson, is known to have contacted PGandE GC and QC and QA personnel numerous times during his employment in Pullman QA/QC for information. If he informally notified them of perceived discrepancies, his approach was not in compliance with the approved procedures for documentation and tracking of such items. Informal notices do not automatically receive formal responses, and, if the contacted organization determined the concern to be unsubstantiated, Mr. Hudson would not have necessarily received any reply. If Mr. Hudson were adequately performing his role, he should have instituted formal notice of concerns he felt important. Such notices would then receive a formal response.

JI #45, Motion at 18.

It is alleged that:

QC management told inspectors not to perform inspections when construction objected. An example occurred on September 1, 1983, when a welder refused Mr. Lockert permission to check for compliance with contract requirements for the flow of argon gas. QC management directed Mr. Lockert to perform his inspections, elsewhere. (citing Lockert Aff. at A5-6.)

29. At no time did Pullman QC Management establish a policy of deferring to Construction when Construction voiced an objection. During the incident referred to in Mr. Lockert's affidavit at A5-6, he interpreted the requirement for flow measurement to necessitate a flow meter at or close to the welder. In fact, the required flow meter was located at the gas bottles which in turn were located on a different elevation. The location of the flow meter complied with the applicable procedure. Although he was advised of this condition, Mr. Lockert apparently did not accept this situation, but he was correctly overruled by his QC supervisor, Mr. Merle Edgerton.

JI #126, Motion at 38.

It is alleged that:

On October 17, 1983 Pullman QA management informed Mr. Lockert that he no longer would be able to research or make copies of professional standards such as the American National Standards Institute (ANSI) or American Society of Mechanical Engineers (ASME) codes. This action prevented Mr. Lockert from conducting necessary research for his inspections when the engineering specifications were deficient through failure to include any rejection criteria. (citing Lockert Aff. at 3, A5)

JI #131, Motion at 39.

It is alleged that:

On October 17, 1983 Pullman QA management threatened Mr. Lockert with loss of his job if he continued to research professional codes and standards after being ordered not to. Mr. Lockert recalls the QC supervisor's threat: "You got one foot out the door, Mr. Lockert, one more wrong move and you're gone." (citing Lockert Aff. at A9.)

JI #128, Motion at 38.

It is alleged that:

On December 15, 1983 Pullman dismissed Mr. Lockert in part for being out of his assigned area on a "wild goose chase," indicating that inspectors did not even have the freedom to look for violations. (citing Lockert Aff. at 5, A3, and A32-36.) Normally an inspector's legally protected work area "can encompass the entire project." (citing 1/12/84, Anon. Aff. at 4.)

JI #132, Motion at 40.

It is alleged that:

The grounds for Pullman's December 15 dismissal of Mr. Lockert indicates that the pattern of retaliation has intensified. Mr. Lockert had not even been reprimanded before for being out of his area. (citing Lockert Aff. at 5, A32-33.) Another inspector put the severity of the policy shift in perspective: "This seemed absurd to me because it had never happened before that an inspector had ever been accused of being out of an assigned work area." (citing 01/12/84, Anon. Aff. at 4.)

30. At no time has any inspector, Mr. Lockert included, been forbidden to research applicable codes and standards or other pertinent documents. However, such research activities must be performed within the time constraints of the individual's assigned activities. In the case of QC inspectors, they are assigned to specific activity areas in the plant and are required to be in those areas to sign off on the work being performed when the appropriate hold points are reached. Mr. Lockert was

not terminated for merely being physically outside of his work area. Mr. Lockert's problem was not that he left his assigned work area to do research, but rather, he left his assigned area without asking the permission of his leadman or supervisor, and his whereabouts were unknown for extended periods of time. Such absences led to work stoppages and/or delays. Had Mr. Lockert requested the necessary approvals, or had he pursued his research during other available times, the information he desired could have been easily obtained as it is always readily available. It can be further pointed out that in most cases, the need for QC inspectors to perform such research is minimal. The procedures in use generally reflect the requirements of the relevant specifications, codes, and standards. Thus, the originating documents should not need to be researched once the procedure has been approved.

31. Mr. Lockert insisted on unnecessarily pursuing the review of industry codes and standards to the detriment of his other assigned duties. For so doing, he received a reprimand from Mr. Russell Nolle, a Pullman QC supervisor, which implied that if he persisted in abandoning his assigned post without appropriate permission, he would be jeopardizing his continued employment. The reprimand that Mr. Lockert received on October 17, 1983, was not considered a threat, but rather a statement of fact and a normal disciplinary remark within the context of the incident in question. During this period of time the craft did not have proper QC coverage as required and Mr. Nolle explained that he had received calls from craft superintendents complaining that they could not proceed with the work, sometimes for hours. The circumstances surrounding

Mr. Nolle's remarks are explained in his affidavit attached as Exhibit 3. In any event, Mr. Nolle's remarks were directed towards Mr. Lockert's continued absence from his assigned work area and not towards his desire to do research.

32. On December 14, 1983, another instance occurred when Mr. Lockert was out of his work area without proper authorization for about two hours. At this time Mr. Lockert was the only inspector assigned to the Area 10 Fab Shop where he had responsibility for inspecting the fabrication of pipe rupture restraints, an activity involving four crafts. Inspection points, called "hold points," must be signed off by the responsible inspector before work can continue. It is imperative that personnel are available to provide this required inspection so that work can progress in a timely manner. On December 15, 1983, Mr. Lockert was terminated for his continued practice of leaving his assigned work area without permission.
33. As to the allegation that an inspector has the freedom (incorrectly referred to in the motion as a "legal right") to roam the entire job site at will, it can easily be seen that such a policy would be chaotic and, at the least, provide severe constraints to the efficient performance of normal activities. An inspector could, with appropriate permission, conduct other activities only if those pursuits did not prevent him from performing his primary function. It should be pointed out that there are other individuals including contractor and PGandE QA/QC personnel and NRC representatives who have the organizational freedom and responsibility to roam the site at will and inspect any conditions which they feel require investigation.

34. Mr. Lockert freely admits that he had been reprimanded on October 17, 1983, for abandoning his assigned work area without authorization, but characterized that admonition as a "threat." The allegation that no one in the QC department had ever been similarly accused of being out of his assigned work area is also non-factual. Mr. Lockert's situation was not unique. For example, in 1983, Mr. Mitch Peterson was found to be in an area where no craft work was going on. He received a written reprimand and disciplinary action of two weeks off without pay. Mr. Peterson was not terminated at that time because the length of time that he was in this unauthorized area could not be established, craft coverage did not suffer as a result, and this was Mr. Peterson's first offense. There have been additional instances where other inspectors, such as Mr. Meagher, received written warnings for being out of their respective work areas. Also, there were a minimum of six individuals in addition to Mr. Lockert terminated under similar circumstances during the period from July 1983 to the time of Lockert's termination. It should once again be emphasized that repetition of this offense by a QC inspector cannot be tolerated due to the adverse impact on other individuals and quality related activities.

JI #47, Motion at 18.

It is alleged that:

On October 18, 1983 a QC supervisor ordered Mr. Lockert to accept a full penetration weld, over his protest at not being allowed to visually inspect the back of the weld as well as the front. (citing Lockert Aff. at 3, A7.)

35. The explanation by a QC Supervisor, Mr. Russell Nolle, as to why the inside diameter of the root pass did not require inspection was correct and does not reflect failure to provide adequate control over inspection and process monitoring as alleged. In addition, Mr. Nolle did not coerce Mr. Lockert to accept the weld but merely indicated that if Mr. Lockert still had concerns, he should document, on the process sheet, the fact that the inside diameter of the stanchion was inaccessible for inspection. Mr. Lockert did so.
36. The weld in question was a full penetration weld attaching a pipe support stanchion (pipe) to a process pipe. A cover plate had been welded over the end of the stanchion during the fabrication operation. This is a normal and acceptable practice. The process sheet for the weld in question did not require a root pass inspection. Mr. Lockert's inspection was intended to be a final visual inspection of a completed weld which had no hold point for weld root pass inspection. Since no root pass inspection was required, it was not necessary to inspect the inside weld surface, and there was no reason not to install the cover plate prior to final weld inspection. This is in accordance with Pullman's Visual Inspection Procedure ESD 215 and the applicable code, ANSI B31.7. The procedures do not require other members to be disassembled to conduct an examination. Pipe welding, by its very nature, often makes the inside surface inaccessible for visual inspection. There is no requirement that an inspector must visually inspect the inaccessible back side of a weld unless there is specific external evidence that the weld might be faulty. No such evidence existed nor is claimed to have existed by Mr. Lockert.

37. The Code ANSI B31.7, ASME Section IX, and the applicable Pullman Process Sheet require that:

- a. The welding procedure be qualified for open butt full penetration welds. Mr. Lockert's affidavit does not allege that the procedure was not qualified.
- b. The welder must be qualified for open butt welding. Mr. Lockert does not allege that the welder was not qualified.
- c. The process sheet required a fit-up inspection to assure the correct root gap and bevel was maintained prior to welding. Mr. Lockert does not allege that the fit-up inspection was not documented or was unacceptable.
- d. Mr. Lockert does not allege that there was any evidence on the accessible weld surface, and there was none, to indicate an unacceptable weld, therefore justifying removal of the cover plate.
- e. The code does not require a volumetric radiographic or ultrasonic nondestructive examination (NDE) of pipe attachment welds.

In conclusion, the QC Supervisor's decision not to remove the cover plate was correct and was in accordance with procedures.

38. Mr. Lockert's affidavit also states that he had noticed that the welding machines were not calibrated. These machines are grid-type equipment with no voltage or amperage gauges and do not require calibration.
39. Mr. Lockert also alleges that tong-type portable ammeters were not issued and were rarely seen in the field. Tong testers are used in accordance with approved procedure ESD 219, Weld Procedure Monitoring, to verify that welders are welding within appropriate parameters.

JI #22, Motion at 13.

It is alleged that:

QA management directed inspectors to wink at violations on grounds that the defects would be caught by other departments. When QC inspector Lockert raised the issue of improperly substituting a weld "technique" for an approved procedure, management responded not to worry because the flaw had already been identified in an audit. That is not an excuse to ignore inspection findings. The inadequacy is particularly obvious since the audit had occurred eight months earlier, during which time the violations continued unabated. (citing Lockert Aff. at A11.)

40. There is nothing in Mr. Lockert's affidavit to support the Motion's allegation that QA management directed inspectors to "wink at violations" and the statement is simply not true. There is no evidence to substantiate the statement in JI #22 that Mr. Lockert's findings were being ignored. On the contrary, the concerns of Mr. Lockert were discussed with Mr. Chris Neary, QA Welding Engineer, as stated in Mr. Lockert's own affidavit at A15. The lengthy discussions with Mr. Neary covered changes to procedures which were in process in order to satisfy concerns which had been previously expressed. There is no evidence that the use of WPS 7/8 on rupture restraints was inadequate. This was confirmed by a thorough review of this procedure and its use. This review was made in 1979 by several welding engineers in connection with the rupture restraint weld repair program. Thus, the statement in the allegation that the "violations continued unabated" is untrue because there were no violations. (See Breismeister et al. affidavit filed contemporaneously herewith in response to JI #21 for a technical discussion of WPS 7/8.)

JI #24, Motion at 14.

It is alleged that:

Pullman QA management coerced Mr. Lockert to conduct inspections for compliance with an unqualified weld technique by offering him the alternative of looking for a new job. (citing Lockert Aff. at 4, A10-13.)

41. The accusation that Mr. Lockert was forced to conduct inspections to an unqualified procedure is false. Mr. Lockert continued to express dissatisfaction with the existing procedure, which had been approved by PGandE and was qualified. Mr. Karner asked Mr. Lockert what his specific concerns were. Mr. Lockert responded that they involved the groove details for prequalified joints in AWS D1.1. Mr. Karner then asked Mr. Lockert if the joint details were, in fact, within the parameters of the prequalified joint details. Mr. Lockert responded that, while they were within the parameters, he could not in good conscience perform the required inspections. He was informed that he was free to inspect to the approved procedures and, if he chose not to do so, that Mr. Karner had no other work for him. Mr. Lockert indicated that he would conduct the inspections. Mr. Karner stated that he expected and required that Mr. Lockert, or anyone else identifying joint configurations outside the parameters of the welding procedures and/or the prequalified joint details of AWS D1.1, take the appropriate action to correct any such discrepancies.
42. Mr. Lockert states, at A13 of his affidavit, that he had done everything in his power to rectify the situation which he felt was adverse to quality. This is not correct. All he had done was file an informal memo, which was not in accordance with existing procedures, and hold

conversations with Mr. Karner and Mr. Neary, who explained that no discrepancy existed. If he felt as strongly about this issue as he now says he did, Mr. Lockert could and should have followed the requirements of ESD 268 and written a DCN, which is the approved method of identifying conditions noted by an inspector as being adverse to quality. This was never done.

JI #3, Motion at 9.

It is alleged that:

Pullman refused to process a formal QC report on the uncontrolled welding qualification tests. On December 12, 1983 the same inspector attempted to issue a Deficiency Change Notice (DCN) about the violations. A Pullman engineer refused to sign and process the report on the basis of the inspector's eyewitness account, however. He added a unique precondition that could be used to disqualify all visual inspection results -- the necessity of "hard evidence". (citing Lockert Aff. at A15-16.)

43. Mr. Lockert did exercise his right to initiate a DCN about what he perceived to be a violation. He correctly indicates in his affidavit, at A16, that the DCN requires a Pullman engineer's signature. The fact that the Pullman engineer refused to sign the DCN is not, in and of itself, surprising or unusual since the engineer, in signing such a document, is indicating he agrees that a discrepant condition exists. As stated by Mr. Lockert, the engineer requested that additional evidence be provided. This is a normal, logical sequence of events. Mr. Lockert's affidavit, at A16, indicates the engineer's stated willingness to sign the DCN if Mr. Lockert could provide the requested information. The information was not provided by Mr. Lockert; therefore the DCN was not processed further.

44. In conclusion, the statement made in the Motion that Pullman refused to process a formal QC report is untrue. In fact, a DCN was being processed through normal procedures as required by Pullman Procedure ESD 268. Mr. Lockert does not allege that he made any attempt to provide additional evidence of a deficient condition to the engineer, as he had specifically been requested to do.
45. On the day of his termination, Mr. Lockert attempted to remove a number of documents from the site. These documents included the original copy of this DCN (1640-022) (see Exhibit 4, attached). If he had been successful, it would have been difficult, if not impossible, to determine the facts of this situation. This attempted action by Mr. Lockert was in violation of the site job rules as well as ESD 268.
46. As respects the alleged establishment of a "unique precondition," the engineer's refusal to sign the DCN in no way establishes a policy of requiring hard, as opposed to visual, evidence to support an inspection and was not "unique" in any respect. It merely indicates that the responsible engineer was of the opinion that the information made available to him was insufficient to require a DCN.

JI #4, Motion at 10.

It is alleged that:

Completing the Catch-22, on December 15, 1983 a production official refused the QC inspector access to inspection records that he had reason to believe did not exist for at least 20 welders who had been qualified from December 7-9, 1983. When warned that this violated the QA program, the relevant production foreman responded, "What are they going to do -- put me in jail?" (citing Lockert Aff. at 4, A16.)

47. The Motion alleges that on December 15, 1983, a production official refused a QC inspector access to inspection records. (In Mr. Lockert's affidavit, at A16, the date referred to is December 13th, not December 15th). Mr. Lockert, in his affidavit, at A16, indicates that he went to the test bay and requested of Mr. Art Savacoul, the Pullman Production Foreman, access to QC records concerning inspections performed on welder qualifications. Mr. Lockert did this knowing full well, as he states in his draft of DCN 1640-022, that the Production Foreman is not responsible for maintaining welder qualification records. Mr. Lockert then indicates that he went to Mr. Pat Watson, as he should have done in the first place, and was shown the welders' qualification records. The records he was shown were those required to be kept in accordance with Pullman's Quality Assurance Manual, ASME Section IX, and ESD 216. Any argumentative statement by the Production Foreman can be attributed to the tone of Mr. Lockert's request and to the fact that the Production Foreman was not responsible for, nor did he have, the requested records (see Exhibit 5, attached).

JI #5, Motion at 10.

It is alleged that:

On December 15, 1983 Mr. Lockert, the same QC inspector, was terminated on pretextual grounds in retaliation for having pursued the welder qualification test violations. The grounds for the charge were factually inaccurate. (citing Lockert Aff. at 5, A32-36, A39-42, and A44-45.) As a result, the strong consensus among the QC inspectors was that Mr. Lockert lost his job in retaliation for having prepared a DCN. As an anonymous QC inspector still at the plant explained, "Everybody in the QC department knows the real reason Steve was fired: he had found a serious QA deficiency, and insisted on writing it up." (citing 1/12/84, Anon. Aff. at 2-4)

48. The allegation contained in the Motion and included in the anonymous affidavit cited above that Mr. Lockert was terminated in retaliation for pursuing the DCN or for merely being physically outside of his work area is unsubstantiated hearsay and factually untrue. As previously stated, Mr. Lockert repeatedly abandoned his assigned position, without permission, for extended periods of time to pursue activities of his own choosing.
49. As for the allegation that Mr. Lockert was terminated in retaliation for preparation of a DCN, at the time of his discharge Pullman Management had no indication that DCN 1640-022 even existed. In fact, the DCN had not yet been processed to even include the field engineer's signature, as the engineer was awaiting the requested additional information as stated in response to JI #3.
50. In addition to the allegation stated in the Motion, the referenced January 12, 1984, anonymous affidavit refers to Mr. Lockert's misconception concerning the need for the constant presence of a QC inspector during welder qualification tests. In fact, the applicable procedure, ESD 216, only requires that the inspector satisfy himself that certain activities are performed and recorded acceptably. Such satisfaction does not require constant attendance but can be achieved through the use of hold points and periodic overview. As set forth in detail in the Neary et. al. affidavit filed contemporaneously herewith in response to JI #1 and 2, the welder qualification tests were totally supervised by appropriate Pullman QC personnel.

JI #6, Motion at 10.

It is alleged that:

In January 1984 Pullman assistant QA manager Frank Lyautey falsely informed the NRC that Mr. Lockert quit his job, when in reality he was fired. (citing 1/12/84, Anon Aff. at 5.)

51. The anonymous affidavit attributes this allegation to yet another unnamed individual. Mr. Lyautey never informed any representative of the NRC that Mr. Lockert quit his job. In fact, Mr. Lyautey's recollection is the opposite, that he expressly indicated that Mr. Lockert had been terminated (see Exhibit 6, attached).

JI #134, Motion at 40.

It is alleged that:

Mr. Hudson and Mr. Lockert's experiences were not unique, as evidenced by the September 1983 dismissal of a QC inspector who was fired for pursuing a DCN over the objections of his lead man. Although the official reason for the dismissal was absenteeism, Pullman ignored its own procedures for gradually escalated enforcement against this offense. (citing 1/12/84, Anon. Aff. at 5.)

52. The QC inspector referred to in the Motion and the anonymous affidavit is believed to be Mr. Roger Fisher. Mr. Fisher was not terminated in September 1983, as indicated in the allegation, but on August 15, 1983. The reason for this action was a documented history of excessive tardiness and absence. The actual decision to initiate this action was arrived at after Mr. Fisher and eight other inspectors failed to show up to work a weekend assignment as they had previously agreed. This seriously affected Pullman QC's ability to perform necessary inspections. The records of each of the nine individuals were reviewed

and disciplinary action taken. Of the nine, only Mr. Fisher had received a previous written warning regarding tardiness and his attendance record during his five months with Pullman showed seven days of unexcused absence in addition to his chronic lateness. Based on this record, a decision was made to terminate Mr. Fisher at that time. The other inspectors were given official warnings. The Project document which had been signed by Pullman and was in effect at the time of this incident establishes a variety of jobsite workrules-practices. It states in pertinent part that, "Disciplinary action up to and including discharge will be taken for, but not limited to: ... 4. Poor and/or irregular attendance including excessive tardiness." It can therefore be clearly seen that the discharge of Mr. Fisher at this time was consistent with established jobsite work rules and practices.

53. Mr. Fisher's pursuit of the DCN referenced (DCN 1245-025) had no bearing on his termination. Although the timing of the two incidents coincides, they are not otherwise related. After the DCN was submitted on August 13, 1983, Mr. Karner discussed the DCN extensively with Mr. Fisher. Mr. Karner did not consider the contention a valid issue nor did he feel that the subject of the alleged intimidation was substantiated. This latter issue was investigated in depth by Mr. Karner with Mr. Fisher's supervisor and the craft superintendent, Mr. Richard Babineau. The matter was documented in an office memo dated August 15, 1983. Mr. Karner's investigation disclosed that there had, in fact, been a loud discussion between Mr. Fisher and Mr. Babineau. After this discussion Mr. Babineau became upset and stormed off to see the QC Supervisor,

almost falling in a construction hole in the process. Mr. Karner advised Mr. Babineau that such displays of anger were not acceptable and that any action which might even be perceived as intimidation would not be tolerated. Mr. Karner's actions demonstrate that Pullman management did take timely corrective action about alleged threats of intimidation, and that the termination of Mr. Fisher was unrelated to any activities on his part related to the DCN or to claims of harassment.

JI #135, Motion at 41.

It is alleged that:

Other reprisals were less dramatic but hit home in the pocketbook, such as denial of raises to QC inspectors. To illustrate, a current inspector reports that in the fall of 1983 Assistant Pullman QA Manager Frank Lyautey explained why the inspector had not received a merit raise: "Production foremen had complained that he was holding them up in their work, and not being 'cooperative' enough with the craft workers." (citing 1/12/84, Anon. Aff. at 7.)

54. Once again, the documented facts do not substantiate the claims made in the Motion. The inspector referred to in the allegation is Mr. Craig Meagher, an individual who was hired by Pullman on January 24, 1983. After 90 days with the company, Mr. Meagher received an 8% salary increase.
55. He was by-passed for a second merit increase 90 days later because he was not recommended by his lead or supervisor. This was discussed with him and he was asked why he was apparently having trouble getting along with his supervisors. It is recognized that almost every inspector has trouble of some sort at some time with the craft personnel. It is part

of any manager's duty to monitor this type of problem and deal with it. Pullman has never failed to act on behalf of any inspector who was being harassed or intimidated. Mr. Meagher's performance continued to be reviewed within the context of the normal performance and salary review policy. Mr. Meagher was, however, recommended for a raise in September 1983 after review with his supervisor. The request was processed and he received a 9.8% raise. To imply that an individual whose salary was increased by in excess of 18% during his first 9 months with the company was somehow being punished is unreasonable and unwarranted.

JI #136, Motion at 41.

It is alleged that:

Due to repression by Pullman QA management, "a significant number of QA violations have gone unreported" and the quality of construction at Diablo Canyon is indeterminate. (citing Hudson Aff. at 30.) As Mr. Hudson explained, "Those who persist in reporting the violations are dismissed, or harassed relentlessly until they resign, or give up and stop trying." (Id.) A current QC inspector concluded, "One of the biggest threats to effective QC work at Pullman Power Products is the fact that inspectors know they can be fired for doing their jobs too well." (citing 1/12/84, Anon. Aff. at 2.)

56. QA violations have not gone unreported as stated by Mr. Hudson. In fact, the items identified by all auditors, including Mr. Hudson, have been reported as is required by procedure. For example, one may turn to Exhibits 1, 2, and 3 of Mr. Hudson's affidavit. If Mr. Hudson was dissatisfied with the answers to his concerns, the appropriate action was for him to come forward immediately and not close out the audits. Some of the audits referred to in his affidavit were performed as long

ago as January 1982. If Mr. Hudson really felt as strongly about the issues addressed and the proposed corrective actions as he states, it was incumbent upon him to pursue the issues further through appropriate channels.

57. Personnel in the QA/QC Department are not terminated for identifying quality problems. This is evidenced by a review of logs of current and previous employees that have written DCNs. Perusal of such a log gives evidence that the number of DCNs written by an individual has no correlation with terminations. In this connection, see the attached affidavit of Mr. Richard L. Marks (Exhibit 7, attached). Mr. Marks himself generated a substantial number of DCNs and during his tenure with Pullman he received periodic raises as well as promotions to the leadman position.
58. The effectiveness of any department, especially a QA/QC department, can be adversely impacted if individuals in that department believe they are above the rules and that they are free to function in an undisciplined and uncontrolled manner. On a project such as the construction of a nuclear power plant, it is even more important that all entities perform their functions within established and approved guidelines. This is, in fact, the reason for the existence of a QA/QC organization. It ensures that everyone stays within their assigned areas of responsibility and performs their work correctly. It is therefore reasonable to assume that the QA/QC organization would accept the fact that it must also work to preestablished rules and constraints and that it must do so in a manner consistent with the way it regulates others.

It is alleged that:

Inspectors wishing to issue a Nonconformance Report must navigate a convoluted maze of interim reports and approvals that inherently delay disclosure to the NRC. First, the inspector must file a "Discrepant Condition Notice" (DCN). PG&E does not see the report, which remains within Pullman's organization at that stage. An inspector cannot even issue the report without also obtaining the signature of a lead man, and often an engineer from the production department. Mr. Karner can void this report or order corrective action such as rework without sending it to PG&E for dispositioning. Once received by PG&E, the DCN is called a Discrepancy Report (DR). A DR finally becomes a Nonconformance Report only when PG&E decides to send it to the NRC. Under these circumstances, both organizational freedom for QC inspectors and prompt disclosure of violations to the NRC are impossible. (citing 1/12/84, Anon. Aff. at 6.)

59. The overall responsibility for notifying the NRC of design and/or construction deficiencies rests with the licensee, PGandE. The reporting system of PGandE and its contractors has been established (and is audited by the NRC) to allow an orderly flow of appropriate and current information up through the proper channels to assure that the information provided to the NRC is correct. While this system of checks and balances may appear as a "convoluted maze" to an inexperienced individual who uncovers what he believes to be a problem, it is, in reality, a logical sequential process by which issues can be identified, investigated, and resolved. This process requires the involvement of individuals with broader perspectives or more detailed knowledge of the issue in question. Information regarding the disposition of an issue is readily available to the originator. If he is dissatisfied with the resolution of the issue, he may bring the issue to the attention of a

higher authority within his own organization. In addition, he may also bring the issue to the attention of PGandE's General Construction organization.

60. Details of Pullman Power Products procedures for reporting deficient conditions are contained in procedures ESD 268 (Field Procedure for Deficient Condition Notices (DCN)) and ESD 240 (Field Procedure for Nonconformance Reporting called a Discrepancy Report (DR)). These procedures have been in effect since 1973 for ESD 240 and 1978 for ESD 268. These procedures were prepared, reviewed, and approved by both Pullman QA/QC management and PGandE to be in compliance with the Pullman QA Manual section for nonconformance reporting (KFP-10) and PGandE's Specification 8711. These procedures give the specific details for preparation of a DCN and a DR. The DCN, as identified in ESD 268, is a method for field personnel to identify what they believe to be problems that violate procedures and which cannot be corrected during the normal course of construction. In accordance with the approved procedure, ESD 268, PGandE is not required to review the DCN.
61. The DCN, by procedure, does require Pullman Engineering concurrence. If a DCN is prepared by engineering, it also requires Pullman QA/QC concurrence. This assures that both Pullman disciplines are aware of the condition, have the opportunity to assure that all items are accurately depicted, and that all necessary information is included in the DCN. The review by a Pullman QA/QC leadman, which is not required by procedure, was implemented to further assure that information is accurate, that all necessary information was included, and to let upper

levels of responsibility know of problems that are occurring. This review is not intended to delay submittal of these reports, but is done to prevent further recurrence, to immediately provide additional training and instructions to the responsible parties, and to assure that these reports are not rejected for lack of information at the next level of review. With proper justification, a DCN can be voided at any level of review including that of the QA/QC manager. If the DCN is voided prior to reaching the Pullman QA/QC manager, it is done so only with the concurrence and agreement of the originator or his first line supervisor.

62. If the DCN is voided at any stage of the process, the original DCN or a copy thereof is returned to the originator. Additional instructions have been implemented to assure that these documents are handled properly and voided copies are kept on file. The DCN can be dispositioned in various ways, one of which is identifying the problem on a DR.
63. All Pullman's DRs are reviewed and approved by the PGandE General Construction Department Mechanical Resident Engineer (MRE) or his designee. As with Pullman, PGandE General Construction also has two levels of discrepancy reporting. They are the Minor Variation Report (MVR) and the Nonconformance Report (NCR). Generally, Pullman's DRs require PGandE GC to generate a MVR. Pullman DRs which meet the criteria for a PGandE NCR are so documented.
64. The NCR is PGandE GC's reporting vehicle for more significant discrepancies. Resolution of an NCR requires establishment of a Technical Review Group (TRG) to develop and approve corrective action

and to determine whether the nonconformance is reportable to the NRC. The TRG includes representatives from Corporate QA, PGandE's GC QC and persons with the technical expertise necessary to develop corrective action and to determine reportability. Contrary to the allegation, NCRs are frequently initiated for nonconformances which are not reportable to the NRC. Proper resolution of the NCR is accomplished in either case, and is not dependent on whether or not the item is reportable.

JI #138, Motion at 42.

It is alleged that:

Pullman's QA management mirrors the construction department's philosophy of scheduling as a higher priority than quality. As a Pullman inspector explains, "Unfortunately, Mr. Karner seems to be more concerned with scheduling than he should be. He has often said that it is our duty to 'support the craft.' Mr. Karner takes a lot of suggestions from Pullman's Project Manager...in terms of deadlines by which QC must finish its work." (citing 1/12/84, Anon. Aff. at 7.)

65. Without the production function, it would be unnecessary to be concerned with quality at all. In any organization where quality is important, the work of the QA/QC organization must be considered when scheduling the production work. Once this schedule is determined, QA/QC makes every reasonable effort to support it. This does not imply that scheduling has a higher priority than quality. When necessary, the QA/QC organization can, and does, stop or slow production until the desired level of quality is achieved. It has never been Mr. Karner's, or Pullman's, policy to sacrifice quality for schedule or production. There is nothing inherently wrong with a concern for scheduling. The

view that the QA/QC organization has a duty to "support the craft", or the statement that QA takes suggestions from the Pullman Project Manager with respect to deadlines, is not inconsistent with responsibilities for quality assurance and quality control. Pullman makes every effort to provide the necessary personnel to conduct the required inspections in the field to support whatever craft activity is being performed. To do otherwise would not add quality but would only adversely impact cost.

Jl #137, Motion at 41.

It is alleged that:

Retaliation extended to the PG&E construction department as well, where at least since 1977 management consistently has relied on intimidation and retaliation to avoid correcting regulatory violations. Mr. Cooper reports the response to a problem report that he wrote in 1979: "I was given a table in the corner of the 'coffee room' in the temporary administration building, and isolated from all my co-workers for 4 months." When he persisted in his efforts, management harshly criticized Mr. Cooper in his 1979 performance appraisal for taking such initiatives. (citing Cooper Aff. at 24-25.)

66. The Motion exaggerates and misrepresents the facts. In his affidavit, at 24, Mr. Cooper states that when "he found errors in safety-related procedures, I was assigned to rewrite these procedures." He also takes umbrage with the fact that he was "given a table in the corner of the 'coffee room' . . . and isolated from all my co-workers for 4 months."
67. Considering Mr. Cooper's experience, he certainly must know that there are literally thousands of procedures required for the construction and operation of a nuclear power plant. The preparation of these procedures and subsequent revision is a monumental effort requiring the continuing

efforts of virtually every engineer, foreman, and technician in the plant. To the extent that procedure writing is "distasteful," it is a distaste that is shared by all.

68. As Mr. Cooper was the individual who discovered the concerns in the safety related procedures and as the procedures involved areas where he had expertise, it is only natural that he was assigned the task of revising the procedures. Since the shop area lacked office space for work of this nature, temporary tables were often set up in available areas, such as the "coffee room" of the Administrative Building. This room was selected because it was the only available space and was being used only intermittently during the day. The room also has ready access to the central file system located in the Administration Building. No restrictions were placed upon Mr. Cooper's freedom to go where he pleased and he was no more isolated from his "crew" than any other person whose work location was in the Administration Building. In summary, although only Mr. Cooper can state whether he felt he was being retaliated against, there were a large number of other individuals doing a similar job under similar or worse conditions who have not come to the same conclusion as Mr. Cooper.

69. Mr. Cooper also alleges that he was harshly criticized in his 1979 performance appraisal for taking "initiatives". Yet, his affidavit refers only to two statements in that appraisal that:

"John is a skilled craftsman in troubleshooting and calibrating. However he is intent on redesigning most equipment he is assigned to test or repair or rewriting most procedures he is assigned to perform. To complicate the process of evaluating his criticisms of equipment design and procedures John usually becomes indignant and recalcitrant if responsible supervision does not agree with him or respond as quickly as he would like."

"John meets the overall job requirements. However he tends to deviate from assigned tasks into areas, such as design of the plant, for which he is not responsible. John would be more valuable if he would concentrate his efforts on assigned tasks."

Both of these statements imply that Mr. Cooper could do his job satisfactorily but that he persisted in attempting to go outside his area of responsibility and reacted indignantly when criticized.

70. PGandE's supervisors are trained and instructed to give performance reviews that accurately reflect the employee's performance. The evaluations are then reviewed by at least one higher level of management to ensure that the evaluation is fair. If the evaluation of Mr. Cooper was not all in glowing terms, it was because he is a human being, like all of us, with strengths and weaknesses, not because he was a "whistleblower," a title he assumed himself several years after the date of the review in question.
71. A relevant sidelight is that PGandE did not consider the performance review to be a particularly poor review. This is substantiated by the decision to re-employ Mr. Cooper in April 1981 after he had resigned in November 1979. No company intending to retaliate against an employee by using a performance review would rehire the employee 1-1/2 years later. One can only wonder why Mr. Cooper wanted to return to work for PGandE in 1981, considering the ill feelings he harbored toward management which he apparently developed in the 1978-1979 time frame.

JI #122, Motion at 36.

It is alleged that:

PG&E construction personnel do not even have access to the formal nonconformance reporting system, outside the QA department. They cannot issue Nuclear Plant Problem Reports (NPPR), which can eventually reach the Nuclear Regulatory Commission. Only employees in the Nuclear Plant Operations (NPO) department can issue NPPR's. Other employees must be content to report violations through memos. (citing Cooper Aff. at 20.)

72. This allegation is false. As discussed in the responses to JI allegations 120 and 140, PGandE GC and all contractors each have their own formal nonconformance reporting systems. These systems can be used by any employee within his respective organization. Each of these systems can eventually result in a report being submitted to the NRC.
73. All organizations have at least two levels of nonconformance reporting. PGandE's operating organization, Nuclear Plant Operations (NPO), uses the Nuclear Plant Problem Report (NPPR) as one of its reporting mechanisms. Contrary to the Motion, NPO has made explicit provisions for anyone, regardless of organizational affiliation, to initiate an NPPR. This capability is in addition to the system which exists within each individual's own organization. The facts, therefore, clearly refute the statement that individuals are restricted in their ability to bring identified problems to the attention of the appropriate authorities. In fact, Mr. Cooper himself while employed in PGandE's General Construction Department initiated several Minor Variation Reports. This is in direct conflict with his affidavit (see Exhibit 8, attached).

JI #123, Motion at 37.

It is alleged that:

Management during 1978 instructed control technicians not to write NPPR's without prior approval from a foreman, according to notes from a shop log. (citing Cooper Aff. Ex. 12.)

JI #125, Motion at 37.

In other cases management ordered construction personnel not to write problem reports without prior approval. On July 13, 1978 Mr. Cooper's foreman imposed this prohibition. (citing Cooper Aff. at 24.)

74. Contrary to the Motion, technicians were not instructed to "not to write NPPR's without prior approval..." but were in fact, requested to verbally review any problems with their foreman before initiating a written report. At the time referenced in the shop log Mr. Cooper was employed by NPO and the supervisor to whom he refers, Mr. Mark Stephens, was the NPO Instrument Foreman. Mr. Stephens' affidavit, attached hereto as Exhibit 9, puts the matter in the proper perspective. This policy of discussing issues before starting the formal reporting mechanism is a normal, prudent policy which eliminates unnecessary and excessive paperwork and assures that all relevant facts are accurately described to make certain the issues are addressed by the system.
75. The writer of JI #125 apparently became confused by the affidavit of Mr. Cooper and states that management ordered "construction personnel not to write problem reports without prior approval." (emphasis added) At the time of the July 13 discussion, Mr. Cooper was employed by NPO and not Construction.

Jl #124, Motion at 37.

It is alleged that:

PG&E management arbitrarily swept problems under the rug by voiding NPPR's without explanation, as occurred in at least eight cases identified on February 23, 1979 in the shop log. In other instances during 1978 and 1979, Mr. Cooper reports that NPPR's "simply disappeared."

76. The NPPR is one of the means employed by PGandE's NPD Department for documenting the identification, investigation, and resolution of plant problems. Any person who believes he has identified a plant problem can write a NPPR to document the problem. When a NPPR is generated, it initially is reviewed by first level supervision to verify that a legitimate problem exists. If supervision determines that the problem is not valid, the NPPR can be voided. Other reasons for voiding a NPPR include:
 - The determination that the same problem is also addressed on another NPPR or on another kind of problem or discrepancy report.
 - The determination that another proceduralized mechanism would be more appropriate than the NPPR for documenting the problem.
77. If a NPPR is voided, an explanation is provided to the person who initiated the NPPR. If the employee is dissatisfied with the explanation or resolution and continues to believe a valid problem exists, he can pursue the matter through successive levels of management. Once entered into the tracking system, a voided NPPR remains a permanent plant record.

78. NPO has reviewed its records to identify all eight of the voided NPPR's referenced in Exhibit 12 of Mr. Cooper's affidavit. No instances have been identified where NPPRs were improperly voided, and each of the eight were voided for a valid reason.
79. With respect to the allegation that NPPRs 'simply disappeared', management at Diablo Canyon has never deliberately destroyed or voided a NPPR in order to cover up or dismiss a plant safety issue. Any employee found deliberately destroying a problem report for such a reason would be subject to disciplinary action up to and including discharge. The tracking system presently in use for NPPRs is intended to minimize the possibility that a NPPR is lost or remains unprocessed. The record review referred to above has shown that the disappearance of NPPRs has never been a significant problem at Diablo Canyon.

JI# 129, Motion at 39.

It is alleged that:

Pullman QA management has refused to support inspectors victimized by physical intimidation and violence from construction workers, resulting in resignations of conscientious inspectors due to their vulnerability. For example, in the spring of 1983 a pipefitter and welder physically threatened a respected inspector, whose tires were later slashed in the parking lot. Mr. Karner replied that there was nothing he could do when the inspector asked for help. As a result, the inspector resigned. (citing 1/12/84, Anon. Aff. at 5-6.)

80. The statement that management refused to support QC inspectors victimized by physical intimidation and violence from construction workers is totally inaccurate.

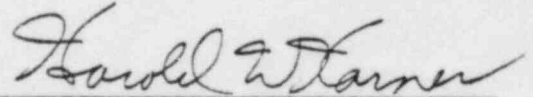
81. Mr. Steve Hopper, who is the inspector that is referred to in the Motion, came to Mr. Karner's office on April 7, 1983, to discuss his concerns. Mr. Joe Watson, Pullman QC Lead, Mr. Frank Lyautey, the Pullman Assistant QA/QC Manager, Mr. Pat Watson, the Union Job Steward, Mr. Hopper, and Mr. Karner all immediately had a lengthy discussion concerning this situation. Promptly after this discussion, these same items were discussed with Mr. John Ryan and Mr. Paul Stieger, who were Pullman's Resident Construction Managers, as well as with Mr. Bob Faull, Pullman's Construction Superintendent. This discussion was also extensive. At both discussions, Mr. Hopper was assured that he had the support of the Pullman QA organization as well as Pullman Construction Management, and that these conditions would not be tolerated. This is documented in an April 11, 1983, letter from Mr. Karner to Mr. Paul Stieger and Mr. John Ryan (see Exhibit 10, attached). In addition, Mr. Bob Velasquez, Mr. Hopper's leadman, recounted the sequence of events by letter dated April 12, 1983 (see Exhibit 11, attached).
82. These conditions were also brought to the attention of PGandE's Field Construction Manager, Mr. R. D. Etzler, and Mr. Etzler expressed full PGandE support for Pullman's efforts to assure that this type of situation did not reoccur. Mr. Etzler provided additional security coverage at the various parking lots to prevent future incidents.
83. Mr. Hopper's concerns were further investigated and a determination was made that the details of the inspection which led to the alleged harassment of Mr. Hopper were as he had reported. The individuals involved were terminated for failure to perform the work which was the

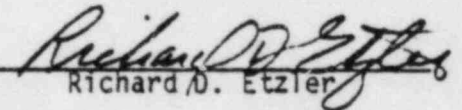
subject of this inspection in accordance with accepted procedures.

Although the accusations concerning the tire slashing or threats to do bodily harm could not be proven, the removal of these individuals from the site effectively closed the situation. There have been other instances where proven harassers have had their employment terminated.

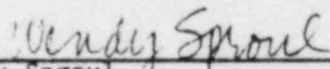
84. In conclusion, the statement that inspectors are not supported by management is totally false and unsubstantiated by the facts. In a letter which Mr. Hopper wrote after he left the site, he thanked Mr. Karner and Pullman management for their corporation and efforts on his behalf (see Exhibit 12, attached).

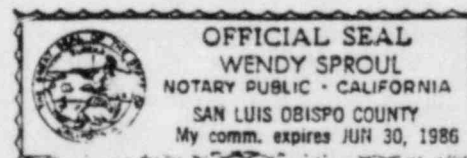
DATED: March 19, 1984


Harold W. Karner


Richard D. Etzler

Subscribed and sworn to
before me this 19th day
of March, 1984


Wendy Sproul
Notary Public in and for the
County of San Luis Obispo,
State of California.
My commission expires
June 30, 1986



Exhibits

1. Milton L. Andrews Affidavit dated 3/16/84
2. Paul Steiger Affidavit dated 3/19/84
3. Nolle Affidavit dated 3/18/84
4. Draft DCN 1640-022
5. Savacoul Affidavit dated 3/19/84
6. Lyautey Affidavit dated 3/17/84
7. Marks Affidavit dated 3/19/84
8. Cooper MVRs
9. Mark Stephens Affidavit dated 3/19/84
10. Karner Letter to Stieger/Ryan dated 4/11/83
11. Velasquez memo to Karner dated 3/12/83
12. Hopper Letter to Karner dated 4/7/83