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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Appeal Board

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USNRC

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In the Matter of)
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LOUISIANA POWER & LIGHT COMPANY)
)
(Waterford Steam Electric)
Station, Unit 3))
)
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)
)

OFFICE OF SECRETARY
DOCKETING SERVICE
MAR 12 1985
Docket No. 50-382 OL

JOINT INTERVENORS' MOTION FOR LEAVE TO FILE
REPLY TO APPLICANT'S ANSWER TO JOINT INTERVENORS'
MOTION FOR LEAVE TO FILE SUPPLEMENTAL MEMORANDUM
AND APPLICANT'S RESPONSE TO SUPPLEMENTAL MEMORANDUM

Joint intervenors request leave to submit the following
reply to Applicant's Answer to Joint Intervenor's Motion for
Leave to File Supplemental Memorandum and Response to Supplemen-
tal Memorandum.

Leave is sought to correct outright misrepresentations in
Applicant's brief concerning a Middle South Utilities, Inc.
("Middle South") offering statement of December 21, 1984; the
blackout of the City of New Orleans occurring on January 21, 1985;
and the lack of independence of James Cain, and applicant Louisiana
Power & Light Company ("LP&L") from the financial constraints
of its parent and holding company Middle South.

Further, Joint Intervenor's have submitted a number of docu-
ments released by the Nuclear Regulatory Commission ("NRC") on
March 1, 1985, pursuant to Freedom of Information Act ("FOIA")
requests. Many of these documents support Joint Intervenor's
prior arguments concerning LP&L's lack of character and competence
and the NRC Staff's failure to take effective enforcement action

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against the utility. Submission of these documents at this date is timely since the NRC has refused to release them until eight to twelve months after the original requests, and then only pursuant to an order of the Federal District Court. Order, Govern- : ment Accountability Project v. U.S. Nuclear Regulatory Commission, C.A. Nos. 84-2554, 84-2555, 84-2556, 84-2557, 84-2558, 84-2559, 84-2560 (D.D.C. Jan. 9, 1985). These documents demonstrate that both LP&L and the NRC Staff have not been completely forthright with the Appeal Board in their opposition to Joint Intervenor's Motion to Reopen.

- I. MIDDLE SOUTH'S LATEST SECURITIES OFFERING STATEMENT DID NOT DISCLOSE THE CITY OF NEW ORLEANS' LEGAL POSITION THAT THE OFFERING WAS ILLEGAL.

Joint Intervenor's argued in their supplemental memorandum that Middle South failed to disclose in its latest offering statement that the City of New Orleans claimed the offering was illegal because New Orleans Public Service, Inc. ("NOPSI") did not obtain prior approval of the City Council. The motion stated, further, that "[r]egardless of whether the City or Middle South succeeds in this litigation," Middle South was under a legal obligation to make the risk of the City Council's opposition known to potential investors. Joint Intervenor's Supplemental Memorandum at 2. Joint Intervenor's analogized Middle South's failure to disclose this risk in its offering statement to prior offering statements filed with the Securities and Exchange Commission ("SEC") which included misleading and false statements about the progress of Waterford.

LP&L answered that in fact the City's legal position was "specifically and directly disclosed in Form U-1," presumably in Exhibits F-1, F-1(a) and F-2, attached as Exhibits 1, 2 and 3 to Applicant's Answer. Applicant's Answer at 6-7. However, a thorough review of these exhibits will find no clear statement of the City's legal position. Instead these exhibits discuss at length Middle South's position on the offering, without ever stating the City's position.

Next, applicant states that NOPSI cannot be charged with concealing the City's position because it was "thoroughly addressed in a special public proceeding before the SEC" and NOPSI filed on February 1, 1985, a Form 8-K Current Report with the SEC reporting the position of the New Orleans City Council on the matter. Applicants Answer at 7. However, it was not NOPSI, but the City of New Orleans which catalyzed the proceeding before the SEC. Moreover, although the SEC did authorize the issuance, at least one Louisiana state court has issued a temporary restraining order enjoining their sale. (City of New Orleans v. NOPSI and Cain, No. 85-01562 (Civ. Dist. Ct. Parish New Orleans, filed January 28, 1985)).

Although NOPSI's Form 8-K, filed on February 1, 1985, may have disclosed the Council's current position, this occurred after the Council had sued in Louisiana state court on January 28 to enjoin the issuance of the securities. Therefore, NOPSI did not disclose any information not generally known within the investment community .

II. JANUARY 21, 1985 BLACKOUT.

Applicant argues, inter alia, that the fact that individuals

responsible for the blackout were also responsible for the construction of Waterford 3 does not mean that LP&L's current management can not operate the plant competently. Applicant's Answer at 11.

However, any determination about whether a utility can operate a plant safely is predictive in nature and must be based on the company's past performance in constructing the plant. See generally Houston Lighting & Power Co. (South Texas Project, Units 1 and 2), ALAB-799, ___ NRC ___ (Feb. 6, 1985), slip. op. at 16 n. 35.

Certainly if management has failed to construct a safe plant, that same management cannot be trusted to operate the plant safely in the future.

Applicant also states that the City Council's investigative report attached as Exhibit 3 to Joint Intervenor's motion, demonstrates explicitly that LP&L and NOPSI did not deliberately or negligently blackout the City of New Orleans. However, this preliminary report states:

The report prepared by the City's investigators is only a preliminary report and did not reach any final conclusions regarding the ultimate cause of the failures of the generating units, the prudence of the procedures followed by NOPSI/LP&L during the emergency, or the prudence of policy decisions regarding weatherization or 'mothballing' of plants.

Exhibit 3 at 5.^{1/}

IV. LP&L'S LACK OF INDEPENDENCE FROM MIDDLE SOUTH UTILITIES.

Joint Intervenor's argued that according to the sworn testimony of LP&L's vice president for corporate control John Chavanne, Middle South's Chairman and President Floyd Lewis threatened to

^{1/} The second investigative report is also preliminary in nature and does not examine the causes for the blackout. See Exhibit 9.

fire James Cain, LP&L and NOPSI President, unless he supported a plan that he (Cain) felt was against the best interests of his companies. Joint Intervenor's Supplemental Memorandum at 5-6.

Applicant contends Joint Intervenor's mischaracterized a newspaper account of this deposition and that "[t]he executive's deposition testimony was tentative and uncertain on the subject, and represented only the witness' impression." In fact, the story stated the other LP&L officials corroborated Chavanne. See Exhibit 10.

Moreover, Chavanne's complete deposition provides more than "tentative and uncertain" testimony on the subject. See Deposition of John Chavanne, In re Application for an Increase of its Electrical Rates, La. Pub. Serv. Comm. Docket Nos. U-16091 and U-16092 (Jan. 23, 1985), attached and incorporated herein as Exhibit 1. The following excerpts from Chavanne's deposition illustrate Joint Intervenor's argument persuasively:

- 1) At an executive staff meeting on January 2, 1985, Cain informed his executive staff that a special LP&L board meeting would be held on January 3, 1985 to discuss an offer of settlement concerning Middle South subsidiaries' allocation of power from Grand Gulf. Cain stated at the meeting that Lewis may ask him to resign. He became visibly upset. Cain stated further that Lewis expected him to have the Board of Directors of both LP&L and NOPSI approve the offer of settlement. Id. at 56-61.
- 2) Although Cain did not want to urge the Board of Directors to accept the settlement offer, he said "he was torn by the feeling that if he did not have the offer of settlement accepted at the board meeting, that he may be asked to resign." Id. at 68; 80.
- 3) Vice-President Mike Leddick advised Cain that he should "follow his conscience, that he owed the board the responsibility of giving...his frank opinion." Cain's frank opinion was that the offer should be rejected. Id. at 70-71; 80.

- 4) Chavanne stated to Cain that in his opinion "what Mr. Leddick had advised him was the best advice anyone could give him, and that if he were forced to resign for giving his frank opinion, and for standing on what he felt was a proper principal in this matter, that I would be very proud to be fired, or to resign with him, for standing on principals." Id. at 71-72.
- 5) Cain told his executive staff that Lewis had forbidden him from contacting board members to oppose the offer. Id. at 72-73.

Cain told his staff that Lewis could terminate any of Cain's staff who made calls to the Board of Directors of LP&L and NOPSI to urge rejection of the offer. Id. at 73-74.

It is clear that Applicant has greater access than Joint Intervenors to the facts concerning LP&L's reversal of position regarding allocation of power from Grand Gulf. Therefore, Applicant's statements that Chavanne's deposition testimony is "tentative and uncertain" and that only one witness recounted this version of the January 2, 1985 meeting are both deliberate misstatements.

This Appeal Board should find LP&L management and LP&L attorneys' willingness to make false statements in filings before it is further evidence of a basic lack of corporate character and competence.

V. DOCUMENTS RELEASED TO JOINT INTERVENORS PURSUANT TO COURT ORDER PROVIDE FURTHER SUPPORT FOR PROPOSED CONTENTIONS.

The NRC Staff has argued that the problems at Waterford do not approach the seriousness of the quality assurance breakdown at the troubled Zimmer and Midland nuclear power plants, and therefore less stringent reform programs are permissible. NRC Staff's Further Response (Feb. 28, 1985), Harrison Aff., at 13-14. However, a draft of the Staff's June 13, 1984 Letter to LP&L demonstrates

that in fact the NRC Staff at that time considered the quality assurance breakdown as serious. Moreover, some members of the Staff were prepared to recommend that LP&L hire an independent third party to carry out "an objective and comprehensive assessment." John J. Harrison, head of the Task Force's Quality Assurance Team, drafted this letter. See Draft Letter to LP&L, attached and incorporated herein as Exhibit 2.

The NRC Staff has also told this Appeal Board that inaccurate statements in applicant's April 27, 1984 letter to the NRC Staff in response to CAT Team findings were not of concern and understandable given the "very general nature of the Staff's letter of April 2, 1984..." Crutchfield Affidavit of December 21, 1984, at 4. However, it appears that the NRC Staff discussed on August 1, 1984 whether to investigate and/or take enforcement action against LP&L for material false statements made in that letter. See Meeting Agenda, attached and incorporated herein as Exhibit 3, at 11. The NRC Staff did not inform the Board of its earlier concern concerning false statements in that letter, even though they believed LP&L's false statements were significant.

Joint Intervenors obtained under the FOIA draft sections of the SSER 7, which indicate that the NRC Staff verified many of the 350 allegations, but "watered down" or eliminated a number of their most critical findings and conclusions. Moreover, these drafts indicate that statements made in the various NRC Staff responses to Joint Intervenors' Motion to Reopen are not accurate.

For example, the NRC Staff has stated that it did not require 100 percent reinspection of the work of unqualified QC inspectors because it obtained adequate confidence in the quality of the hardware they inspected by "alternative methods". Harrison Affidavit at 15-16. However, earlier drafts of the section concerning unqualified Mercury QC and QA personnel reveal that the NRC Staff originally intended that 100 percent of the work of unqualified Mercury QC inspectors was to be reinspected prior to fuel load. See 5/23/84 Draft of Allegation A-01, attached and incorporated herein as Exhibit 4.

Further, the NRC Staff stated the following in their initial response to Joint Intervenor's claim that LP&L had failed to upgrade its staff after repeated warnings by the NRC:

This allegation is without support. As noted in the Crutchfield Affidavit at ¶6B, Applicant commenced a recruiting effort in 1981 and significantly increased staffing levels. The Staff has tracked and acknowledged the improvement in Applicant's staffing in several SER Supplements. The Staff has also concluded that staffing levels and staff qualifications are adequate for operation of Waterford 3.

NRC Staff Response to Joint Intervenor's Motion to Reopen, at 15.

However, both the draft and final versions of the NRC Staff's analysis of allegation A-48 indicates that in fact LP&L had repeated warnings about inadequate technical and QA staff which it ignored. For example, SSER 7, at 100, states:

The long held policy of LP&L has been to conduct their business related to engineering, construction, and operation of power plants by utilizing a very 'lean' in-house organization with almost total reliance on the Architect-Engineer (AE) constructor for engineering and construction. This policy of 'lean-ness' and almost total reliance on the AE/constructor is one of the

problems associated with Waterford 3. This problem was previously identified by outside consultants but was not acted on.

The draft version of the SSER 7 section is even stronger:

The NRC staff reviewed portions of evaluations made by MAC of LP&L management at Waterford 3 in 1977, 1979 and 1980. The "Executive Summary" of the 1979 MAC Report outlined many problems which "can critically impact the Waterford 3 Project." The particular concern was stated as follows: (1) "The long-held policy of Louisiana Power and Light has been to conduct their business related to engineering, construction, and operation of power plants by utilizing a very 'lean' in-house organization with almost total reliance on the Architect-Engineer (AE) for engineering and construction..."

The 1979 MAC Report to LP&L states, in part, "The QA group overall is strong...but few in number...it is MAC's recommendation that additional manpower be obtained. LP&L should monitor, audit and watch all of the critical activities...as they are accomplished at the site ...Additional QA manpower should be applied to ensure contractor QA records are in auditable and buyable order.

The 1980 MAC Report deals mainly with startup and operation; however, the theme of under-experienced and inadequate staff is a recurring theme and should be evaluated by NRC Staff who are responsible for operational startup, testing, etc.

See 5/30/84 Draft, attached and incorporated herein as Exhibit 5, at 23-25.

Certainly both the draft and final Staff analyses supports Joint Intervenors' basic contention that LP&L failed to upgrade its operational and QA staff adequately despite warnings that it was adversely impacting the quality of construction of Waterford 3.

Further, a comparison of the final version of the NRC Staff's analysis of allegation A-48 with the draft version contained in Exhibit 5 discloses the NRC Staff's failure to reveal in SSER 7

the true extent of the QA breakdown at Waterford. The following portions of the draft section on allegation A-48 were omitted from SSER 7:

- 1) Assessment of Allegation: The implied significance of this allegation is that a "complete" QA breakdown occurred. That is, quality control inspectors did not do adequate inspections; Mercury personnel did not have the freedom to write nonconformance reports (NCRs) and obtain effective corrective action; EBASCO and Mercury did not follow any procedure; QA records did not adequately document QA activities; and the licensee and contractors audit program, which is the last defense for identifying QA/QC problems were not adequately implemented. This breakdown also extends to Louisiana Power & Light (LP&L) because as applicant for the license and the holder of the construction permit they have QA overall responsibility for all work at the site.

Exhibit 5 at 1-2.

- 2) Interviews and Evaluation of Mercury Management. The Mercury Company was plagued by poor and discontinuous management. For example, there were six product superintendents, six product engineers and six QA site supervisors from mid 1978 thru mid 1983...

There was a high turnover among QC inspectors. EBASCO management was aware of these problems shortly after Mercury came on site. More than one source stated that LP&L and EBASCO did not properly control and assure that Mercury QA records were retained on-site but allowed Mercury to "haul" away Waterford Project records that should have remained on site. NRC Staff members also found that LP&L was still unsure as to exactly what records were on site and what records should be on site. EBASCO and LP&L management became fully aware of serious Mercury problems in 1981 and 1982, almost three years after Mercury came on site and almost 80% of the work was done. At this time EBASCO management supplemented Mercury management to complete the work, because they apparently assumed that it was too late to obtain corrective action or else [that] was an impossible task.

Id at 5.

- 3) Nonconformance and Corrective Action System Breakdown. The breakdown in the corrective action system between Mercury and EBASCO management is evident in the inability of either Company to obtain corrective actions. Both companies apparently failed to review, recognize or take action on trends which should have been apparent shortly after Mercury implemented their site QA program. It also appears that the Mercury nonconformance system impeded the freedom to initiate NCR's which could have been upgraded to CARs as a result of EBASCO management involvement.

Id at 15.

- 4) In conclusion the NRC Staff found considerable evidence indicating there was a significant breakdown in the QA program both at EBASCO and Mercury, and between EBASCO and Mercury, to the point that EBASCO management was used to supplement Mercury management. Also a breakdown of the QA program was evidenced in that LP&L did not thoroughly evaluate, determine all the causes, and identify the entire extent of the QA breakdown at the Mercury Company, even after receiving a civil penalty violation on December 6, 1982.

Id at 23.

The NRC Staff moderated its conclusion in SSER 7 to state merely that "there was a breakdown of the LP&L QA programs at EBASCO and Mercury. Also, a breakdown of the LP&L QA program was indicated..." SSER 7, at 100. Moreover, the NRC Staff's current position is that there was only a "partial" QA breakdown, rather than a complete QA breakdown, as stated in its original analysis. See Harrison Affidavit at 12.

The NRC Staff has also failed in SSER 7 to disclose the extent of corrective action it has required of LP&L. For example, in a draft of the NRC Staff's analysis of allegation A-128d it was stated that in most cases rewelds were inspected and found adequate. See Draft of allegation A-128d, attached and incorporated herein as Exhibit 6 at 1. ("In most cases the rewelds were

reinspected and found adequate.") However, the Staff's analysis in SSER 7 suggests that all rewelds were inspected. SSER 7 at 137. ("The rewelds were reinspected by LP&L and found adequate.")

Moreover, the draft sections of the staff's analysis of Allegation A-141 indicate the significance of the allegation. It is not resolved in either SSER 7, at 149, or SSER 9, at 90-94. The NRC Staff fails to explain how 70 concrete packages disappeared for over a year and were found only in August 1984 in EBASCO's vault. The Staff also ignores the fact that these concrete packages or Deficiency Reports noted deficiencies which LP&L's review of the records did not. As Joint Intervenors argued, the fact that a 1982 QAIRG document review uncovered document deficiencies which LP&L's 100 percent documentation rereview did not, reveals LP&L's inability or unwillingness to carry out adequate corrective action, even under intense NRC Staff scrutiny. See generally, Drafts of analysis of allegation A-141, attached and incorporated herein as Exhibit 7.

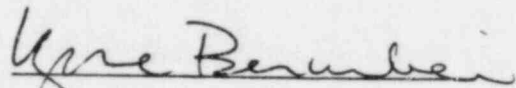
The abovesited drafts of SSER 7 and SSER 9 demonstrate the weaknesses in the NRC Staff's analysis of the QA and construction deficiencies at Waterford and the NRC Staff's downplaying of serious safety problems of the same magnitude as those detected at the Zimmer and Midland nuclear power plants. Moreover, these draft analyses in some cases indicate that the NRC Staff's responses to Joint Intervenors' Motion to Reopen have been misleading.

IV. CONCLUSION.

In conclusion, Joint Intervenors request that the Appeal

Board grant leave for filing of this Reply to Applicant's Answer to Joint Intervenor's Supplemental Memorandum, and further, in consideration of the record before it, that it grant Joint Intervenor's Motion to Reopen the Record for Litigation of Quality Assurance and Character and Competence Contentions.

Respectfully Submitted,



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Attorney for Joint Intervenor's

Dated: March 12, 1985

STATE OF LOUISIANA

PUBLIC SERVICE COMMISSION

DOCKET NO. U-16091

Louisiana Power & Light
Company (New Orleans, Louisiana), Ex
parte, In Re:

Application for an Increase
of its Electrical Rates.

DOCKET NO. U-16092

New Orleans Public Service,
Inc. (New Orleans, Louisiana), Ex Parte.
In re:

Application for an Increase
of its Electrical Rates.

TESTIMONY OF JOHN H. CHAVANNE, taken
before Mary Virginia Hughes, Certified
Shorthand Reporter, in the Law Offices
of Stone, Pigman, Walther, Wittmann &
Hutchinson, 546 Carondelet Street, New
Orleans, Louisiana 70130, taken on the
23rd day of January, 1985.

APPEARANCES:

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Videotape Operators:

JANET DENSMORE
LECLARE RATTERREE

REPORTED BY:

MARY VIRGINIA HUGHES
Certified Shorthand Reporter
In and for the State of Louisiana

1 ...oOo...

2 JOHN H. CHAVANNE,
3 Vice President, Corporate Control and
4 Assistant Secretary, P. O. Box 60340,
5 317 Baronne Street, New Orleans,
6 Louisiana 70160, having been first duly
7 sworn, was examined and testified under
8 oath as follows:

9 EXAMINATION

10
11 MR. FONTHAM:

12 Let the record show
13 that this is a deposition of Mr. John
14 Chavanne, being taken pursuant to a
15 notice of deposition and a deposition
16 subpoena issued by the Louisiana Public
17 Service Commission.

18 My name is Michael Fontham.
19 I am special counsel for the Louisiana
20 Public Service Commission; and I will
21 be the initial counsel asking questions
22 of Mr. Chavanne in this deposition.

23 There are a number of other
24 lawyers present representing various
25 parties. In order to help in

1 identifying the people asking questions,
2 when they do ask questions for the
3 videotape, I request that these lawyers
4 now identify themselves for the record.

5 MR. MORROW:

6 My name is Robert
7 Morrow with the firm of Sutherland,
8 Asbill & Brannan, representing
9 Occidental Chemical Corporation.

10 MR. TROY:

11 Richard Troy,
12 Louisiana Department of Justice,
13 representing the State of Louisiana.

14 MR. DARCE:

15 Noel Darce of the law
16 firm of Stone, Pigman, Walther,
17 Wittmann & Hutchinson, special counsel
18 for the Louisiana Public Service
19 Commission.

20 MR. ORTMAN:

21 Glen Ortman of the
22 firm of Verner, Liipfert, Bernhard,
23 McPherson & Hand, and I represent the
24 City of New Orleans.

25 MR. KEAN:

1 I am R. Gordon Kean
2 Jr., attorney for the intervenor,
3 Louisiana Energy Users Group.

4 MR. ANDERSON:

5 Wayne Anderson of the
6 firm of Monroe & Lemann representing
7 Louisiana Power & Light Company and New
8 Orleans Public Service.

9 MR. FONTHAM:

10 I believe the camera
11 is now focused on the witness.

12 I have a few other
13 preliminary comments to make. I
14 believe that, at least it is my
15 understanding that this deposition is
16 being taken pursuant to the rules of
17 the Louisiana Public Service Commission,
18 which would permit the use of the
19 deposition for any purpose permitted
20 under Louisiana civil practice.

21 Counsel, it is also my
22 understanding that there is an
23 objection you wish to reserve to the
24 use of the videotape; is that correct?

25 MR. ANDERSON:

1 That is correct. We
2 would like to make that objection
3 continuing with respect to all
4 depositions at which the videotape is
5 made. And we would like to reserve all
6 of our objections, except those as to
7 the form of the question, until such
8 time as the deposition may be sought to
9 be used, either through transcript or
10 the videotape.

11 MR. FONTHAM:

12 That's satisfactory.
13 That's my understanding of your
14 privilege.

15 MR. ANDERSON:

16 We also would like to
17 reserve our right to read and sign the
18 transcript; and we would like to make
19 that just a general stipulation,
20 applicable to all of the depositions
21 that the Commission has noticed in
22 connection with these two proceedings.

23 MR. FONTHAM:

24 That is agreeable
25 with me. Is there any objection from

1 any other party?

2 In view of the fact that
3 each of these are going to be
4 separately videotaped, I will try to
5 remember to have that put on the record
6 at the beginning of each videotape; but
7 it is satisfactory to me for you to
8 make that a general reservation of your
9 right.

10 MR. ANDERSON:

11 Thank you.

12 MR. FONTHAM:

13 At this time, I
14 request that the court reporter swear
15 the witness.

16 (witness sworn by the
17 court reporter.).

18 MR. FONTHAM:

19 Are we ready to
20 proceed?

21 BY MR. FONTHAM:

22 Q. Would you state your name,
23 please?

24 A. John Chavanne.

25 Q. What is your address, Mr.

1 Chavanne?

2 A. My business address is 317
3 Baronne Street, New Orleans, Louisiana.

4 Q. What is your home address?

5 A. My home address is 2257 New
6 York Street, New Orleans, Louisiana.

7 Q. What is your current
8 occupation?

9 A. I am vice president
10 corporate control of both Louisiana
11 Power & Light Company, and New Orleans
12 Public Service.

13 Q. What is the vice president
14 corporate control?

15 A. The responsibilities under
16 my area include auditing, financial
17 planning, MIS modeling and load
18 research and corporate performance.

19 In addition to that, I work
20 a considerable amount in rate case
21 matters.

22 Q. Would you tell me what
23 educational degrees you hold?

24 A. I hold a law degree, a
25 Masters degree, a CPA certificate, and

1 a Bachelor of Business Administration
2 degree.

3 Q. Tick them one at a time.
4 Would you tell me the year and the
5 college from which you received your
6 law degree?

7 A. 1971, from Loyola
8 University of New Orleans; 1967, the
9 MBA; 1960 --

10 Q. Where did you get the MBA?

11 A. All the degrees were from
12 Loyola University.

13 Q. Give me the years?

14 A. MBA 1967, the BBA, 1963.

15 Q. When did you receive your
16 CPA certification?

17 A. I think it was
18 approximately 1974; in that time frame.

19 Q. What course of study, if
20 any, did you pursue to obtain the CPA?

21 A. The standard courses that
22 one must take, some 27 to 30 hours of
23 all levels of accounting and business
24 law.

25 Q. Was this at Loyola?

1 A. No. Most of that was at
2 Tulane University.

3 Q. Your law degree, was that
4 received in connection with pursuit of
5 a course of study in the day school or
6 the night school at Loyola?

7 A. That was in the evening
8 division of Loyola.

9 Q. When did you first become
10 employed with any company in the Middle
11 South Utilities group of companies?

12 A. In April of 1966, I was
13 employed at New Orleans Public Service.

14 Q. Would you describe your
15 work history since the time you were
16 employed at NOPSI? -- and I will refer
17 to NOPSI as an acronym for New Orleans
18 Public Service in this deposition; I
19 will refer to LP&L as an acronym for
20 Louisiana Power & Light Company, and I
21 may refer to the Middle South Utilities
22 holding company, or the group of
23 companies as Middle South
24 interchangeably.

25 A. I was hired as a data

1 processing analyst in the methods and
2 procedures department in April of 1966,
3 and worked there for approximately a
4 year and a half or so, in which case I
5 was transferred to what was then the
6 budget and statistical department, and
7 worked in a number of positions,
8 including supervisor and manager in
9 that area.

10 I then was promoted, as I
11 recall, to assistant to the vice
12 president of finance; then to the
13 controller position --

14 Q. What would you, as you go
15 through this history, would you tell me
16 about when each of these promotions
17 occurred; and take your time and --

18 A. From --

19 Q. -- just give me a general
20 idea.

21 A. Generally speaking, I
22 worked in the budget and statistical
23 department probably from sometime in
24 1967 till sometime in the early 1970s.
25 I worked as assistant to the vice

1 president of finance for a few years in
2 the mid seventies. I was named
3 controller, probably sometime in the
4 late 1970s; and in the assistant to
5 vice president of finance, and in the
6 controller I had increasing
7 responsibilities in rate case matters,
8 primarily.

9 I was named vice president
10 of finance, as I recall, I believe in
11 November 1980, and had the -- the
12 normal functions of a person in that
13 position of authority, including the
14 treasurer functions.

15 Q. Do you hold any position
16 with Louisiana Power & Light Company?

17 A. Yes. Commencing, as I
18 recall, in August of 1983, I was named
19 a vice president of corporate control
20 of Louisiana Power & Light Company.

21 Q. Would you describe the rate
22 case duties that you referred to a few
23 minutes ago.

24 A. For a number of years, I
25 have participated directly and

1 substantially in the preparation of the
2 president's testimony in electric, gas,
3 and back then transit rate matters
4 before the New Orleans City Council; I
5 also assisted substantially in the
6 preparation of the financial vice
7 president's testimony.

8 When I assumed that
9 position, of course, I wrote my own
10 testimony, and substantially assisted
11 in the preparation of data responses to
12 all intervenors date of request in rate
13 cases, and testified myself in a number
14 of gas, electric, and transit matters,
15 before the New Orleans City Council,
16 and before the Louisiana Public Service
17 Commission.

18 Q. Would your -- did your rate
19 case responsibility before the New
20 Orleans City Council involve any
21 revenue requirements?

22 A. Yes.

23 Q. -- duties?

24 A. Yes, it did.

25 Q. Is there any difference

1 between your rate case responsibilities
2 beginning in the early 1980s, or the
3 late 1970s, whenever you said, and your
4 rate case responsibilities now.

5 A. They are essentially of the
6 same magnitude; the dollars are greater,
7 but the preparation and the work during
8 the course of it is approximately the
9 same.

10 Q. In connection with your
11 duties in, as a person dealing with
12 revenue requirements and financial
13 affairs of these two companies, have
14 you had occasion to perform any duties
15 or be a member of any committees that
16 are so-called system committees for the
17 Middle South System.

18 A. Yes. I, for several years,
19 served as representative for Public
20 Service on the Middle South Utilities
21 financial officers committee, for some
22 three to four years, I have served as
23 Public Service representative on the
24 Middle South Utilities retirement
25 committee; for a couple of years I have

1 been both Public Service and LP&L's
2 representative on MSU employe stock
3 ownership plan committee.

4 Q. Let me just back up for a
5 second and ask you this: What is your
6 understanding of the relationship of
7 New Orleans Public Service and LP&L to
8 Middle South Utilities, Inc.?

9 A. We are an operating company
10 subsidiary of Middle South Utilities
11 under the Public Utility Holding
12 Company Act of 1935, and Middle South
13 Utilities, in that regard, owns one
14 hundred percent of the common stock of
15 both companies.

16 Q. Are you familiar with a
17 company known as Middle South Services,
18 Inc.?

19 A. Yes, I am.

20 Q. What is your understanding
21 of the relationship of that company to
22 Middle South Utilities, Inc. and to
23 LP&L and NOPSI?

24 A. Middle South Services is a
25 service company subsidiary of Middle

1 South Utilities that provides a number
2 of areas of expertise to the operating
3 companies and to other entities within
4 the Middle South System that provides a
5 more efficient basis for these services
6 being provided than by the companies
7 duplicating such areas of expertise.

8 Q. Does Middle South Services
9 perform any tasks for any of these
10 committees, these system committees
11 that you mentioned, that you have had a
12 part on?

13 A. Yes, they do.

14 Q. What sort of things would
15 Middle South Services do for, for
16 instance, the financial officers
17 committee?

18 A. Depending on the agenda
19 item, during tax season, the vice
20 president of tax services would provide
21 various schedules showing the tax
22 liability for each company in the
23 system, based on budgetary matters, the
24 financial planning department of Middle
25 South Services would provide the

1 outputs generated primarily from the
2 inputs provided by the operating
3 companies that make up the annual
4 budget and the several-year forecast.

5 In essence, they are
6 responsible, of course, for
7 consolidating the financial results for
8 each of the companies in the system to
9 provide consolidated accounting
10 expertise.

11 Q. Who are members of the
12 financial officers committee?

13 A. There have been some
14 changes recently, but in essence, as I
15 recall, Ed Lupberger is chairman of the
16 committee, Ed is senior vice president
17 and chief financial officer of Middle
18 South Services and president of Electec.

19 Q. Why don't you, before you
20 go on, you said the word Electec; what
21 is that?

22 A. Electec is a for-profit
23 subsidiary of Middle South Utilities;
24 it was formed within the last, I think
25 18 or so months.

1 Mr. Frank York, the
2 financial vice president of Mississippi
3 Power & Light is a member; Mr. John
4 Harton, the financial vice president of
5 Arkansas Power & Light is a member.
6 Mal McLetchie, the senior vice
7 president of finance and treasurer of
8 both LP&L and NOPSI, is a member.

9 In addition to these
10 members, typically a number of other
11 individuals, both for Middle South
12 Services, and one or two individuals
13 usually from each of the operating
14 companies attends the meetings, and
15 based on the subject matter being
16 discussed, participates in the agenda
17 items.

18 Q. What, during what time
19 period were you a member of the
20 financial officers committee?

21 A. From the date of the time
22 of Mr. Brodtman, which as I recall, I
23 believe was November of 1980, until Mal
24 McLetchie coming over in November of
25 1984, in that time frame, I served as

1 representative for Public Service.

2 Q. You say Mal McLetchie
3 coming over.

4 Where did Mr. McLetchie
5 come from?

6 A. He was vice president of
7 tax for Middle South Services.

8 Q. Is he now the chief
9 financial officer of LP&L and NOPSI?

10 A. Yes.

11 Q. What would, in your
12 experience with the financial officers
13 committee, did that committee have
14 occasion to review computer projections
15 of revenue requirements of the
16 operating companies under various
17 alternative scenarios?

18 A. To the best of my
19 recollection, I never recall a revenue
20 requirement printout, if you will,
21 being distributed and/or discussed at a
22 financial officers meeting.

23 Q. Do you recall seeing
24 printouts of utility kilowatt hour
25 costs at financial officers meetings,

1 projected kilowatt hour costs for the --

2 A. To the best of my
3 recollection, no. I could stand
4 corrected, but as of this moment, I
5 don't ever recall that being discussed.

6 There are a number of other
7 committees within the Middle South
8 System, such as the operating committee,
9 and the rate committee, which perhaps
10 more properly by their definition may
11 have seen such. But I don't recall
12 such being an agenda item and
13 distributed and discussed at financial
14 officers meetings.

15 Q. Did the financial officers
16 discuss the ability of a given company
17 to finance generating units that the
18 operating committee may have proposed
19 that these companies construct?

20 A. I don't recall any specific
21 discussion along those lines in recent
22 years. Going back, probably as much as
23 approximately ten years ago when I
24 accompanied Mr. A. J. Brodtman, who was
25 the -- my predecessor, vice president

1 of finance at New Orleans Public
2 Service, I do recall some discussions,
3 problems associated with operating
4 companies being able to finance Grand
5 Gulf I and Grand Gulf II.

6 As I recall from almost a
7 decade ago, I know there were some
8 serious discussions at the financial
9 officers level there, where it was
10 quite obvious to the representatives
11 for Public Service and for Mississippi
12 Power & Light, that those companies
13 could not finance the construction of a
14 nuclear power plant.

15 But beyond that, I don't
16 recall in recent years any serious
17 discussion, or any discussion at all of
18 those matters.

19 Q. In fact, when you
20 accompanied the NOPSI representative to
21 the financial officers committee, did
22 that committee take any action, or make
23 any recommendations with respect to the
24 difficulty in financing Grand Gulf?

25 A. Mr. Fontham, I truthfully

1 don't recall what happened a decade ago.
2 I would hope that there would be some
3 minutes that could more accurately
4 reflect than my memory can of ten years
5 ago.

6 I do know there were
7 serious discussions, as I mentioned
8 earlier, I do know that Mr. Brodtman
9 and the vice president of finance at
10 Mississippi Power & Light at that time
11 were quite frank in indicating that
12 they would not, their companies, would
13 not be able to finance those units.

14 Beyond that, I can't recall
15 discussion of ten years ago.

16 Q. Does the financial officers
17 committee, based on your experience,
18 make decisions as to the timing of
19 securities offerings by the various
20 companies in the Middle South System?

21 A. The finance committee does
22 not; no, sir.

23 Q. What does it do?

24 A. In my interpretation, the
25 finance committee convenes to discuss

1 matters of common interest of a
2 financial nature throughout the system,
3 to be brought up to date on matters
4 from personnel to Middle South Services
5 and Middle South Utilities of a common
6 interest, and to advise the CEOs for
7 whom we report issues discussed at
8 those meetings.

9 Q. To your knowledge, has the
10 financial officers committee made any
11 decisions since 1980 or so? -- made
12 any decisions that in essence were
13 recommendations to someone?

14 A. Sir, I am sure the finance
15 committee has made some decisions.
16 Again, I -- I would think the minutes
17 could far more accurately than I
18 reflect specifically what decisions;
19 but I would consider the finance
20 committee, like most committees,
21 primarily an advisory group to the
22 respective CEOs of the operating
23 companies.

24 Q. To your knowledge, do you
25 have personal knowledge of any

1 recommendation being transmitted by the
2 finance committee to anyone?

3 A. I am sure that the
4 individual representatives of the
5 operating companies have returned to
6 their respective companies and made
7 recommendations to the CEOs, as to
8 specific items discussed, for the CEO
9 to discuss at a subsequent CEO meeting
10 or Middle South Services meeting.

11 Q. But other than that, I am
12 asking you for any, say a written
13 recommendation by the financial
14 officers committee; do you know of any
15 of those?

16 A. I don't recall any written
17 recommendation per se.

18 Q. Are you familiar with the
19 board of directors of Middle South
20 Services?

21 A. Yes, sir.

22 Q. Who comprises the board of
23 directors at Middle South Services?

24 A. It is my understanding that
25 the CEOs of each of the operating

1 companies, the CEO of Middle South
2 Services, the CEO of Middle South
3 Utilities, as well as the CEO of System
4 Fuels, Incorporated, comprise the board
5 of Middle South Services.

6 Q. Is it your understanding
7 that there is any effort to coordinate
8 securities placements among the Middle
9 South companies, the timing of
10 securities placements?

11 A. I think certainly with
12 regard to the placement of common stock,
13 that there is a coordinated effort. It
14 is obviously there has to be a
15 coordination of Middle South Utilities
16 having the funds available in a time
17 frame when the operating companies
18 require the funds.

19 So certainly to the extent
20 of common stock funding, there is
21 definitely a coordinated effort.

22 I think with regard to debt
23 and preferred stock issuances, I think
24 generally speaking, the operating
25 company has substantial attitude as to

1 hen it goes to the market for such
2 issuances.

3 Q. Does Mr. Lupberger
4 participate in the decision with an
5 operating company as to when to go to
6 the market with an issuance?

7 A. I am sure he does, and I am
8 sure Mr. Drake Keith, who is a vice
9 president at Middle South Services,
10 also I think is quite possibly even
11 more involved now than Mr. Lupberger is
12 in assisting the company in financials.

13 Q. Well, in your experience
14 with NOPSI and LP&L, have you had
15 occasion to be in charge of a debt
16 issuance?

17 A. Yes. But not in recent
18 years, because New Orleans Public
19 Service has had very, very few external
20 financings within, frankly, the last 17
21 years, since our last major
22 construction program.

23 So it's been several years
24 since I have been directly involved in
25 the financing issue.

1 Q. What is your understanding
2 of the position of LP&L -- well, let me
3 back up.

4 Are you familiar with
5 Middle South Energy, Inc.?

6 A. Yes, sir.

7 Q. Would you describe that
8 company to me?

9 A. Middle South Energy, Inc.
10 is a subsidiary of Middle South
11 Utilities, that was formed, I believe
12 in the early 1970s, in recognition of
13 the need for the development of an
14 innovative financing mechanism for
15 obtaining substantial sources of funds,
16 which perhaps otherwise would not be
17 attainable in connection with
18 construction of Grand Gulf Unit I and
19 II.

20 Q. How is that unit being
21 financed; how are those funds being
22 obtained?

23 A. There have been various
24 debt issuances of various types, I
25 believe including the venture bonds. I

1 believe some mortgage bonds,
2 substantial amounts of bank loans,
3 including some Euro-dollar bank loans,
4 and, of course, a substantial amount of
5 common stock equity.

6 Q. What is your understanding
7 of who makes the ultimate decision
8 concerning whether equity is invested
9 in an operating company or in Middle
10 South Energy?

11 A. I would say, sir, that
12 initially, it is a coordinated type
13 effort, in that there are certain
14 strategic planning capitalization
15 ratios that the Middle South System has
16 for several years established, and that
17 we are moving toward, in an effort to
18 improve our security rating. And as a
19 company needs external funds, whenever
20 possible, the operating companies want
21 to issue additional common stock equity
22 to get the debt ratio and preferred
23 ratio down, the common equity ratio up.
24 Obviously after the initial
25 coordinated effort, another factor that

1 deserves serious consideration is the
2 ability of Middle South Utilities to
3 raise the common equity that the
4 operating company needs to finance its
5 ongoing construction program and for
6 other corporate needs.

7 Q. So who makes the ultimate
8 decision?

9 A. I don't think, sir, that
10 there can be a simplistic decision, or
11 answer to the question.

12 I would say that certainly
13 if certain factors existed, where, for
14 example, Middle South Utilities didn't
15 have the wherewithall to come up with
16 the funds, they couldn't provide the
17 funds.

18 I am not sure that is
19 Middle South Utilities denying the
20 company the funds, so much as simply
21 saying we can't raise it at this point
22 in time, or the market, perhaps, is not
23 advantageous for us to raise it at this
24 point in time.

25 Another issue which is a

1 separate factor is, in the case of
2 Public Service, is a dispute between
3 the company and the counsel that sit in
4 New Orleans, as to whether Public
5 Service can issue additional common
6 stock legally as a result of certain
7 provisions in the settlement ordinance
8 which the city attorney interprets as
9 saying would prohibit the issuance of
10 additional securities, and which
11 company attorneys feel is no longer of
12 any legal significance.

13 So it is not just the
14 Middle South prohibition in that case;
15 it also is a legal interpretation of
16 the settlement ordinance.

17 Q. Understanding that all
18 kinds of factors may influence the
19 decision, who makes the ultimate
20 decision in your understanding?

21 A. I would say that ultimately,
22 Middle South Utilities has the final
23 responsibility in deciding whether or
24 not it has the ability to provide the
25 funds the operating company needs;

1 and/or whether the operating company
2 deserves an additional infusion of
3 common stock from Middle South
4 Utilities.

5 Q. Are you familiar with two
6 proceedings pending at the FERC, and by
7 that I mean the Federal Energy
8 Regulatory Commission, involving the
9 allocation of Grand Gulf, the Grand
10 Gulf nuclear unit owned by Middle South
11 Energy and the proper division of
12 generating costs on the Middle South
13 System?

14 A. Yes, sir. I am far more
15 familiar with the unit power sales
16 agreement of the Grand Gulf case than I
17 am with the system agreement; but I am
18 certainly generally familiar with both.

19 Q. What is your understanding
20 of the position of NOPSI and LP&L,
21 prior to January of 1984, in those
22 cases?

23 A. My recollection that prior
24 to January 1, 1984, LP&L and NOPSI
25 supported the MSE filed allocation of

1 the Grand Gulf Power and the unit power
2 sales agreement, and supported the
3 filing of the system agreement case as
4 proposed in the initial documents.

5 Q. Are you familiar with a
6 change of position by LP&L and NOPSI
7 that occurred sometime early in 1984?

8 A. Yes, sir.

9 Q. What is your understanding
10 of the position that LP&L and NOPSI
11 adopted in early 1984?

12 A. It is my understanding that
13 LP&L and NOPSI agreed to support the
14 Louisiana Public Service position in
15 both cases, namely on the allocation
16 issue, and the unit power sales
17 agreement case, and on the equalization
18 of production cost issue in the system
19 agreement case.

20 Q. In your opinion, did the
21 original filings of Middle South Energy,
22 and Middle South Services, lead to
23 results, projected results, that would
24 be unfair and unjust to NOPSI and LP&L
25 and their customers?

1 A. Mr. Fontham, at the time
2 the documents were filed, I was not
3 involved in any of the decision-making
4 sessions leading up to the filing of
5 those documents. To the best of my
6 recollection, I was not provided any
7 financial or rate data upon which I
8 could have formulated an opinion.

9 Q. I am not asking you what
10 your opinion was back then. I am
11 asking you, based on what you know now,
12 what operating results you have seen up
13 to the present. Were the original
14 filings to be adopted by the FERC, do
15 you believe that those original filings
16 would lead to results that are just and
17 reasonable to LP&L and NUPSI and their
18 rate payers, or unjust and unreasonable?

19 A. Mr. Fontham, in my opinion,
20 your question asks me about the filed
21 documentation; and I cannot divorce
22 myself from how I, or any reasonable
23 person, would have viewed the
24 reasonableness of that at the time the
25 documents were filed.

1 I think it can be
2 unreasonable for anyone, a few years
3 later, after substantial facts have
4 changed, to say how they would have
5 viewed the filing documents today.

6 I certainly acknowledge
7 that today a reasonable person could
8 draw considerably different conclusions
9 than that same reasonable person would
10 have concluded, perhaps, at the time of
11 the filing.

12 Q. Given the fact that you
13 don't know what you would say at the
14 time of the filing, if you had the
15 results, and you certainly sympathize
16 with the people who made their
17 decisions at the time of the filings, I
18 am only asking one question, knowing
19 what you know today, if today the
20 original MSS filing was adopted by the
21 FERC, the original MSE filing was
22 adopted by the FERC, knowing what you
23 know today, after conditions in your
24 view have changed, would the results be
25 reasonable or unreasonable?

1 A. In my opinion, from a LP&L
2 Public Service perspective, I could not
3 support the document as originally
4 filed with the information that I know
5 today.

6 Q. Is that -- may I interpret
7 that as a judgment on your part that
8 the results would be unreasonable?

9 A. I think, sir, that
10 unreasonable is a relative term that
11 everyone in this room could have a
12 different interpretation on.

13 But from my perspective,
14 based on what I know today, I would not
15 recommend that the LP&L-NOPSI
16 management support the original filed
17 allocation of the Grand Gulf case. I
18 am far less familiar with the system
19 agreement case, but as I stated earlier,
20 LP&L-NOPSI management supported the
21 equalization of power production costs
22 from I think the first quarter of 1984
23 on; and I think that was a wise course
24 of action.

25 MR. ANDERSON:

1 Let me interrupt just
2 for a moment. I noticed Mr. Chavanne
3 used an abbreviated term Public Service
4 that he obviously interchanges with
5 NOPSI and New Orleans Public Service;
6 is that correct? So the record will be
7 plain, when you are referring to Public
8 Service, you are referring to New
9 Orleans Public Service?

10 THE WITNESS:

11 That is correct.

12 BY MR. FONTHAM:

13 Q. All right, Mr. Chavanne, we
14 can beat this all morning, but I am
15 really just asking you for your belief,
16 when you said you wouldn't recommend
17 the adoption of those original filings
18 today, is that because you believe it
19 would produce unreasonable results for
20 LP&L and NOPSI?

21 A. Based on the information I
22 have today, Mr. Fontham, yes. I think
23 I should point out to this group that I
24 do not have present access to all of
25 the most recent data upon which some

1 recent decisions have been made.

2 Q. Now are you familiar with
3 the events that led to the change of
4 position by LP&L and NOPSI in early
5 1984?

6 A. I think that it was a
7 combination of factors which obviously
8 Mr. Cain, the CEO of both companies,
9 could far better address than I could.

10 It was my understanding
11 that it was a combination of a number
12 of factors, probably including the
13 administrative law judge's initial
14 decision, which substantially changed
15 the proposed allocation of the power
16 from that unit from the initially filed
17 amounts to substantially different
18 amounts.

19 I think that as additional
20 information was brought to his
21 attention, and probably to the board of
22 directors' attention, that there was a
23 complete review of the entire matter.

24 I don't think it was any
25 one factor; I think it was a

1 combination of factors.

2 Q. Have you ever had occasion
3 to hear Mr. Cain describe the meeting
4 of the chief executive officers, or a
5 meeting of the chief executive officers
6 of the system companies, in which it
7 was determined that LP&L and NOPSI
8 could assert, or would assert a
9 different position than Middle South
10 Energy and Middle South Services.

11 A. Mr. Fontham, I am sure that
12 Mr. Cain brought that to the attention
13 of his staff at that time. I don't
14 recollect, you know, the specifics of
15 the discussion, other than in a general
16 manner such as you described them.
17 That is I recall that Mr. Cain
18 indicated that the operating companies
19 had the authority to present their own
20 individual respective views before the
21 Federal Energy Regulatory Commission.

22 Q. Was it your impression,
23 based on your discussions with Mr. Cain,
24 or what you heard Mr. Cain say, that
25 the authority gained by LP&L and NOPSI

1 to assert their own positions, was a
2 change of circumstances in the sense
3 that LP&L and NOPSI did not have that
4 authority prior to that meeting?

5 A. It is my understanding,
6 subject to Mr. Cain's correction,
7 because he was there and I was not,
8 that the authority had not been
9 provided him before to take an
10 individual operating company position;
11 but that was granted for the number of
12 factors, some of which I mentioned in
13 response to your previous question.

14 Q. Was it your impression that
15 the authority that we are talking about
16 is authority flowing from the chief
17 executive officer sitting as a group,
18 or Middle South as the parent, or Floyd
19 Lewis as the chairman?

20 A. It is my recollection,
21 again subject to correction from Mr.
22 Cain, that the authority came from Mr.
23 Lewis.

24 I could stand corrected on
25 that, but to the best of my

1 recollection, I believe that was the
2 way it was presented.

3 Q. Are you familiar with a
4 change of position adopted by LP&L and
5 NOPSI in those cases recently?

6 A. Yes, sir, I am.

7 Q. Would you briefly describe
8 what you understand to be the LP&L and
9 NOPSI action that changed that position.

10 A. I think the action that
11 changed the position from a legal
12 corporate viewpoint was the board of
13 directors' action of both companies,
14 which was held on January 3rd, 1985,
15 which directed Mr. Cain and the company,
16 or authorized, to support the recently
17 filed offer of settlement with the
18 Federal Energy Regulatory Commission.

19 Q. Who filed an offer of
20 settlement with the Federal Energy
21 Regulatory Commission, to your
22 knowledge. Who were parties to that
23 offer?

24 A. To my understanding, each
25 of the Middle South System operating

1 companies in the unit power system
2 agreement case, Middle South Energy was
3 a party, and Middle South Services was
4 a party to the system agreement case.

5 Q. Is your understanding that
6 this offer of settlement has been filed
7 in both of those cases?

8 A. Yes, sir.

9 Q. Would you briefly describe
10 what your understanding is of the terms
11 of that offer of settlement?

12 A. Yes, but I should, at the
13 outset, indicate that my involvement in
14 the preparation was nonexistent, for
15 all practical purposes. My review of
16 the document has been of a very general
17 nature.

18 But my understanding, in
19 essence, is that the allocation of
20 Grand Gulf Unit No. 1 was allocated
21 17.1 percent to Arkansas Power & Light;
22 19 percent to Mississippi Power & Light,
23 17 percent to New Orleans Public
24 Service, 14 percent to Louisiana Power
25 & Light, which I believe adds up to

1 67.1 percent allocation, which is
2 referred to in the document, I believe,
3 as the initial entitlement amounts,
4 which, in essence, would remain in
5 effect, assuming the Federal Energy
6 Regulatory Commission accepts the
7 document as filed, without any
8 modifications.

9 Upon the Commission
10 accepting that document, there would be
11 additional entitlement percentages to
12 become effective in 1991, for each of
13 the four companies in varying
14 percentages, which I don't recall from
15 memory, but in essence, New Orleans
16 Public Service's goes up approximately
17 three and a quarter percentage points
18 to slightly over 20 percent in 1991,
19 Louisiana Power & Light's goes up 14
20 percent to I believe in the
21 neighborhood of 26 to 27 percent; so
22 approximately the sum of the two
23 companies is about 48 percent.

24 Arkansas Power & Light's
25 goes up I believe about ten percent to

1 a total in the neighborhood of 27
2 percent, and the balance is an
3 increased responsibility of Mississippi
4 Power & Light.

5 The document provides, in
6 essence, that Middle South Energy would,
7 up through the years 1991, receive one
8 hundred percent reimbursement of all
9 the ONM expenses, taxes other than
10 income, taxes and decommissioning
11 expense on the pro rata percentages of
12 the initial entitlement divided by the
13 67.1 percent.

14 The Middle South Utilities
15 shareholder would not receive a full
16 return on the 32.9 percent inventoried
17 amount of Grand Gulf revenue
18 requirements to the extent of
19 approximately \$50,000,000.00 a year
20 through, as I recall, 1991. The total
21 revenue requirements, I have been
22 informed, would be reduced
23 approximately \$200,000,000.00 a year
24 from the commercial operation date to
25 about 1991.

1 In connection with the
2 system agreement case, it was decided
3 that in the offer of settlement, one of
4 the terms be that each of the companies
5 would agree to support the initially
6 filed system agreement.

7 Q. Is it your understanding
8 that these two aspects of the offer of
9 settlement are connected in the sense
10 that the offer requires that both be
11 accepted before the offer is complete?

12 A. In accordance with my
13 understanding of the terms of the
14 agreement, the entire document, in toto,
15 as filed with FERC, must be acceptable
16 in order for the offer to stand.

17 Mr. Fontham, could we take
18 a five minute break, please?

19 Q. Sure. I was going to
20 suggest the same thing.

21 (Brief recess.)

22 BY MR. Fontham:

23 Q. Let the record show that we
24 are now reconvening the deposition of
25 Mr. John Chavanne.

1 Mr. Chavanne, what was your,
2 the first that you learned -- before I
3 get into that, I want to ask you a
4 couple of other questions.

5 Do you know what the
6 average fuel cost is on the NOPSI
7 system at this time?

8 A. Sir, I would really be
9 guessing. I think it is in the
10 neighborhood of three to three and a
11 quarter cents. It may be a little
12 higher.

13 Q. Do you know what the
14 highest cost fuel that NOPSI uses in
15 its generators that gets burned a fair
16 amount of time is?

17 A. No, sir. It would be a
18 pure guess on my part.

19 Q. Do you know why the Middle
20 South people, in explaining the impact
21 of the offer of settlement, used two
22 and a half cents as the avoided cost
23 that would be paid to Middle South
24 Energy for system fuel that would be
25 replaced with that 32 percent?

1 A. No, sir.

2 Q. Do you consider that
3 realistic?

4 A. It is beyond my level of
5 expertise, sir. I am sure Mr.
6 Cunningham is better qualified than I
7 to address that rate matter.

8 Q. We will save it for Mr.
9 Cunningham.

10 What is the first you heard
11 of an offer of settlement in connection
12 with the events that led to this recent
13 offer of settlement?

14 A. I was out of the office on
15 vacation most of the last two weeks of
16 December, and to the best of my
17 recollection, I don't recall hearing
18 about any offer of settlement till I
19 returned to the office on January 2nd,
20 1985. I may have heard about it in
21 early December; if I did, it didn't
22 make a significant impression on me as
23 something that was imminent. And so in
24 all candor, the best I can say is the
25 first I heard about it, where it really

1 made an impression on me, was when I
2 returned from vacation on January 2nd,
3 1985.

4 Q. Are you telling me that you
5 never heard of the events in which Mr.
6 Lupberger, at the, some retreat,
7 suddenly had it come into his mind that
8 there could be a settlement based on
9 terms somewhat similar to what
10 eventually got adopted, during December?

11 A. To the best of my
12 recollection, and I am not hedging by
13 saying to the best of my recollection,
14 I truthfully never recall hearing Mr.
15 Lupberger's name mentioned in
16 connection with any offer of settlement,
17 until January 2nd, 1985.

18 Q. What days were you out of
19 the office in December?

20 A. I don't recall exactly, Mr.
21 Fontham. But it was, in essence, the
22 last two weeks of the year. I did come
23 in intermittently simply to go through
24 the mail, I did call in my secretary,
25 and as I recall, I think a day or so

1 before the late December board meeting,
2 which I believe was December 28th, she
3 did indicate to me that there was some
4 financial data which had been left on
5 my desk in connection with information
6 that possibly was going to be presented
7 to the board, whatever the date of the
8 special board meeting was.

9 But other than a very brief
10 conversation with her, in that regard,
11 I really didn't know any of the
12 particulars. By the time I went in the
13 office, within the next few days,
14 someone had picked up the data that had
15 intermittently been left on my desk, so
16 that it was no longer there.

17 So I never had distributed
18 to me a, whatever data was presented at
19 the December 28th, I believe it is,
20 board meeting.

21 Q. When did you speak with
22 your secretary?

23 A. I believe it was December
24 the 27th, the day before the board
25 meeting, I believe. It may have been

1 the morning of the 28th itself; it was
2 one of those two days.

3 But she didn't know
4 anything other than there was a special
5 board meeting, and there was some
6 financial data which she thought was
7 being presented to the board that had
8 been left on my desk for me to pick up
9 whenever I came in.

10 Other than that, she didn't
11 know enough to tell me more, and I felt
12 like no one from the office called me
13 and asked for my input, or for me to
14 come into the board meeting. So it was
15 not nothing that in my opinion was
16 being sought.

17 Q. Did you undertake to try
18 and find out what the board would be
19 talking about?

20 A. No, sir.

21 Q. Did you -- was it your
22 understanding at that time that the
23 board would be discussing some sort of
24 offer of settlement, or settlement
25 possibility?

1 A. I think in a general way,
2 that I knew that there was, I don't
3 know if the offer of settlement term
4 was used; but as I said earlier, to my
5 recollection, I think my secretary is
6 the only person I talked to prior to
7 January 2nd. And I knew nothing more,
8 that I recall, other than what I have
9 just explained to you.

10 Q. You did not attend any
11 meetings relating to the December 28th
12 board meeting?

13 A. No, sir, I did not.

14 Q. And your testimony is that
15 no one consulted you concerning the
16 matters that were presented to the
17 board at that time?

18 A. Yes.

19 Q. You attended, then, no
20 staff meetings in December relating to
21 that offer of settlement, to your
22 recollection?

23 A. Right. To my recollection,
24 I believe I attended every staff
25 meeting held in December up till around

1 the 18th or 19th. I think the last I
2 attended was a Wednesday morning one of
3 whatever the 18th, 19th time frame came
4 in.

5 Whether there was a staff
6 meeting the following week that I
7 missed, I am not sure. But I attended
8 all staff meetings through the first
9 three weeks of December.

10 Q. During any of those staff
11 meetings, was the issue of a potential
12 settlement ever mentioned?

13 A. I do not believe so, sir.
14 I certainly do not recall such. I feel
15 confident that had it been, it
16 certainly was not done in a way that
17 impressed me as something that was
18 about to occur, or something that I
19 should make special note of, and find
20 out more about.

21 So if anyone's notes
22 indicate that it was mentioned, I think
23 they were only indicated very
24 peripherally, because I have no
25 recollection of it.

1 Q. Do you recall whether the
2 Middle South cases, at the FERC, were
3 discussed in those meetings?

4 A. Generally we discussed
5 those cases, at least briefly, at each
6 meeting, to the extent one of us will
7 ask our general counsel, Andrew Carter,
8 what is the prognostication as to when
9 a decision is going to come out on
10 either of the cases. But other than
11 that, I don't believe there was any
12 specific new strategy formulated of
13 which I was aware.

14 Q. Were you aware of any
15 discussion of any inside information
16 concerning the time within which the
17 FERC, or the administrative law judge
18 might reach a decision in those cases?

19 A. I am not aware of any
20 inside information. I think that from
21 time to time, principally, I believe
22 Mr. Carter, as I recall, would hazard
23 an opinion as to when a decision would
24 be forthcoming, as I recall, I think as
25 early as October.

1 And Andy Carter thought
2 that a decision would be forthcoming
3 imminently. But other than Andy
4 stating just his best feel for the case,
5 I have no knowledge whatsoever of any
6 inside information as to a decision
7 being imminent.

8 I would like, Mr. Fontham,
9 to add, for the attorneys present, a
10 change that Mr. Cain made some several
11 weeks ago in his staff meetings, which
12 may be of interest; namely, there have
13 been a number of management changes
14 occurred at LP&L and NOPSI since
15 November 1st.

16 And in connection with that,
17 Mr. Cain now has two staffs. He has
18 the senior staff, which in essence
19 consists of a smaller number of people,
20 primarily his executive vice president
21 and some of the senior vice presidents
22 with whom --

23 Q. Who is the executive vice
24 president?

25 A. Mr. Gerald McLendon.

1 Q. Okay. Who are the senior
2 vice presidents on the senior staff.

3 A. Mike Leddick, John Cordaro,
4 Mal McLetchie, Mack Hurstell, and Dick
5 Murlowski.

6 In addition to that staff,
7 in which time Mr. Cain indicated there
8 would be, from time to time, issues of
9 which he would want to discuss with a
10 smaller number of people than what he
11 refers to as his senior staff, he has
12 an executive staff which consists of
13 several other individuals, of which I
14 am included in the number.

15 It was possible that some
16 of the issues that you have addressed
17 to me may have been discussed at the
18 senior staff level, as contrasted with
19 the executive staff level. I have no
20 knowledge of that, but it is possible
21 that may have been done.

22 Q. Who else is on the
23 executive staff?

24 A. In addition to the members
25 of the senior staff, Bill Nelson, Bill

1 Talbot, Andy Carter, Bill Peperone, and
2 myself; I believe that includes everyone.

3 Q. Where does Cunningham fit
4 in?

5 A. I am sorry, Shelton
6 Cunningham is on the executive staff.

7 Q. All right, you said that --
8 is John Erwin on either of these staffs?

9 A. No. John Erwin is now a
10 senior vice president and consultant
11 for both companies, but he is no longer
12 on the executive staff.

13 Q. What did you learn on
14 January 2nd; or what happened on
15 January 2nd?

16 A. At the outset, I would like
17 to emphasize that what I am relating is
18 my recollection of Mr. Cain's
19 recollection. I was not present at any
20 of the meetings between him and Mr.
21 Lewis about which certain matters were
22 decided, along with other CEOs; but at
23 that meeting, in essence, Mr. Cain --

24 Q. What meeting?

25 A. At the January 2nd meeting

1 you referred to, sir.

2 Q. There was a meeting on
3 January 2nd?

4 A. Sir, would you repeat your
5 question, please.

6 Q. I said what happened on
7 January 2nd. Are you referring to a
8 staff meeting on January 2nd?

9 A. Yes.

10 Q. Who was --

11 A. There was an executive
12 staff meeting of Mr. Cain, of all of
13 the individuals I have previously
14 referred to.

15 Q. What time did that occur?

16 A. At 8:00 A.M.. Or 8:30, I
17 believe.

18 Q. How were you notified that
19 this staff meeting was going to take
20 place?

21 A. It had previously been
22 established a few weeks ago, a few
23 weeks prior to that. We have routine
24 weekly staff meetings, and it had been
25 established two or three weeks ago, as

1 a normal staff meeting.

2 Q. Tell me what happened in
3 the staff meeting.

4 A. Sir, could you please be
5 more specific as to --

6 Q. You said that Cain had some
7 recollections?

8 A. Mr. Cain started off the
9 staff meeting by informing the staff
10 that there would be a special LP&L
11 board meeting on the next day, January
12 3rd, 1985, to discuss an offer of
13 settlement.

14 Q. Did he describe the offer
15 of settlement at that time?

16 A. As I recall, in general
17 terms, as I indicated earlier, I had
18 been out for a few weeks; and I think
19 most of the other individuals on the
20 staff had already been involved in
21 various discussions, and/or were far
22 more familiar than I, who in essence
23 was walking in in a new region in which
24 I had not heard about previously.

25 There was a very broad

1 outline presented.

2 Q. Why did Mr. Cain say he was
3 calling a board meeting?

4 A. It is my recollection, sir,
5 that he indicated that Mr. Lewis had
6 asked him to convene a special board
7 meeting.

8 Q. Did Mr. Cain indicate that
9 he wanted to call this board meeting,
10 or that he was being pressured to do so?

11 A. Sir, I am not sure if he
12 referred to the fact that he was
13 pressured to call the special board
14 meeting as such. As I mentioned
15 earlier, there was another special
16 board meeting on December 28th, and I
17 truthfully don't know if as a result of
18 that board meeting, whether the board
19 had directed Mr. Cain to get back to
20 him to discuss matters more or not.

21 I don't recall Mr. Cain
22 saying words to the effect that he was
23 pressured to call the board meeting.

24 Q. When you said Mr. Lewis
25 asked Mr. Cain to call a board meeting,

1 are you referring to Floyd Lewis, the
2 chief executive officer of the system?

3 A. Yes.

4 Q. Did Mr. Cain, during the
5 course of this meeting, make the
6 statement that he might be asked to
7 resign, by Mr. Lewis?

8 A. There was a statement made
9 by Mr. Cain to the effect that he may
10 be asked to resign, yes, sir. Whether
11 he added by Mr. Lewis, I don't recall
12 exactly. But --

13 Q. What was your understanding
14 of who would ask Mr. Cain to resign,
15 during the course of that staff meeting?

16 A. I had the impression that
17 if anyone would ask Mr. Cain to resign,
18 it would be Mr. Lewis.

19 Q. Did Mr. Cain begin to cry
20 in that meeting?

21 A. I would say he became
22 visibly upset, and his voice choked. I
23 am not sure whether he cried as such,
24 but he was visibly upset.

25 Q. Was this -- when did he

1 become upset? What was he discussing?
2 was he discussing the resignation, the
3 possibility of being asked to resign?

4 A. He had indicated that in
5 essence, as I recall, that he was
6 expected to have the board of directors,
7 of both companies, approve the offer of
8 settlement.

9 Q. Was it your impression that
10 this was something he did not believe
11 to be in the best interest of the
12 companies?

13 A. Yes.

14 Q. Was it your understanding
15 that he was upset because he was being,
16 he was expected to do this?

17 A. Yes.

18 Q. Was it your impression that
19 he was expected to do this by Mr. Lewis?

20 A. Yes. That was the
21 impression he gave the members of his
22 staff. That was his interpretation of
23 Mr. Lewis' communications.

24 Q. What happened when Mr.
25 Cain's voice choked, and he became

1 emotional?

2 A. It was suggested by one of
3 the members present that we take a
4 brief recess.

5 Q. And what happened then? --
6 did the staff leave the room? -- did
7 Mr. Cain leave the room?

8 A. As I recall, I think
9 several of us just got up and got a cup
10 of coffee, including Mr. Cain, and we
11 sat down.

12 It wasn't but probably less
13 than a half a minute to a minute.

14 Q. What outline was presented
15 of the offer of the settlement by Mr.
16 Cain?

17 A. As I referred to in an
18 earlier question, Mr. Fortham, as I
19 recall, very, very brief outline,
20 because I believe most of the
21 participants at that meeting had been
22 involved in other meetings during the
23 Christmas holidays and were familiar
24 with it.

25 But as I recall, Mr. Cain

1 began by saying that a couple of
2 advantages to LP&L and NOPSI included
3 the fact that AP&L would, upon the
4 filing of the offer of settlement, make
5 a pro rata retroactive settlement of
6 the advance purchase power payments,
7 the 12 and a half million dollars a
8 month that the other three operating
9 companies in the system had been
10 providing to Middle South Energy since
11 January of 1984, on the pro rata of the
12 initial entitlement, namely Arkansas
13 would be entitled to 17.1, 67.1 of the
14 cumulative 12 and a half million dollar
15 amounts, which would have been over a
16 13-month period, which by a calculation
17 I made, would have produced a benefit
18 of some several million dollars cash
19 flow immediate benefit to Public
20 Service, and I believe about a
21 \$28,000,000.00 cash flow benefit to
22 Louisiana Power & Light Company.

23 Q. You made that calculation
24 in the meeting?

25 A. In a meeting. Whether it

1 was that meeting or a subsequent
2 meeting the next day, but I remember
3 leaning over to Mal McLetchie with my
4 calculation and asking Mal if my logic
5 in calculation were correct, and he
6 concurred with the calculation.

7 Q. This was explained as an
8 agreement to accept the pro rata
9 responsibility upon filing, rather than
10 upon approval, of the offer of the
11 settlement?

12 A. At that time, Mr. Cain made
13 the statement that we would receive
14 cash later that week. Upon filing.

15 Q. Did he say under what
16 agreement, or pursuant to what
17 discussions he had participated in to
18 obtain that understanding?

19 A. I don't -- I don't recall
20 the specifics. To the best of my
21 recollection, that provision was never
22 intended to be a part of the official
23 filed offer of settlement.

24 There may or may not have
25 been some discussion of a side

1 agreement type document. I don't
2 recall whether it was going to be
3 written or oral; but from my
4 understanding, on that occasion, I had
5 no doubt but that the parties had
6 agreed to it, and that it would be
7 something that Louisiana Power & Light,
8 and Public Service, could put forward
9 as a cash flow benefit upon the,
10 agreeing to the offer of settlement.

11 A second point that Mr.
12 Cain mentioned was that AP&L had agreed
13 in a nonenforcible, from a legal
14 perspective, agreed to give its best
15 faith efforts in providing, possibly
16 providing some White Bluff energy to
17 LP&L during the 1991-1992 time frame,
18 when I understand some of the Texaco
19 gas contract will be expiring.

20 It was not described as
21 legally binding, but something that was
22 discussed, I understand, by the CEOs,
23 probably in a meeting on December 31st.

24 Q. What do you mean probably
25 at a meeting on December 31st?

1 A. To the best of my
2 recollection, that was the time frame
3 that Mr. Cain indicated at the staff
4 meeting that these various advantages
5 were discussed by the CEOs.

6 Q. Where did that meeting
7 occur?

8 A. In Little Rock, Arkansas.
9 Could I continue on answering your
10 previous question, on advantages that
11 Mr. Cain propounded when he initiated
12 the discussion on the January 2nd
13 meeting concerning the offer of
14 settlement.

15 He also indicated that the
16 financial community was quite concerned
17 about the operating companies taking
18 separate positions, and that any coming
19 together in an offer of settlement
20 could have positive impact on the
21 financial community, where the system
22 would need to borrow substantial sums
23 of money in the next few years.

24 And as I recall, the last
25 point that was mentioned, at that time,

1 was the potential substantial negative
2 impact, both on Arkansas Power & Light,
3 and on the Middle South System, if
4 Reynolds Aluminum left the Arkansas
5 service area and produced a substantial
6 loss in revenues from Arkansas, which
7 would have to be made up possibly by
8 the system companies.

9 Q. Did Mr. Cain, in outlining
10 these things, did he discuss in any
11 general terms, or whatever, the actual
12 terms of the offer of settlement?

13 A. I don't recall it as such,
14 Mr. Fontham.

15 As I mentioned, I believe
16 that the key people on his staff, whose
17 opinion he would rely on primarily, had
18 been directly involved during the
19 Christmas holiday season, when I was
20 out of the office. But to my
21 recollection, if there was any
22 discussion, it was of a very broad
23 nature, which I don't recall any
24 specifics of.

25 Q. Would -- well, was it your

1 impression that Mr. Cain thought these
2 advantages outweighed the disadvantages
3 to LP&L and NOPSI of the offer of the
4 settlement.

5 A. I did not get that
6 impression.

7 Q. Was there any discussion of
8 disadvantages in this meeting?

9 A. No, sir.

10 Q. Was it -- was Mr. Cain, in
11 essence, relating something that had
12 been described to him as advantages, or
13 what?

14 A. I am not sure who indicated
15 to Mr. Cain all of those factors. I do
16 recall him mentioning, I believe Ed
17 Lupberger and Al Wright, had brought
18 over some data that indicated some of
19 the advantages; and the ones that stick
20 out in my mind, that I think he
21 referred to in that connection, was the
22 financial community and the Reynolds
23 Aluminum reference.

24 Q. Was it your impression that
25 Mr. Cain was hoping the board would

1 approve this offer, or disapprove it?

2 A. I think, sir, that Mr. Cain
3 was in a Catch 22 situation, where I
4 personally believe on one hand he was
5 not totally convinced that the offer of
6 settlement was something that he wished
7 to espouse acceptance by the board; and
8 on the other hand, I believe he was
9 torn by the feeling that if he did not
10 have the offer of settlement accepted
11 at the board meeting, that he may be
12 asked to resign.

13 Q. Mr. Chavanne, did Mr. Cain
14 and the members of the staff discuss
15 contacting board members, in that staff
16 meeting?

17 A. Yes.

18 Q. Did Mr. Cain and the
19 members of the board, or members of the
20 staff, any of the members of the staff,
21 discuss resignations by other staff
22 members, if Mr. Cain resigned or were
23 asked to resign?

24 A. I would like to explain
25 first the context in which the matter

1 you indicate arose, Mr. Fontham.

2 Q. Well, answer the question;
3 and then you can explain anything you
4 want.

5 A. There was a discussion of
6 the potential of other resignations
7 being requested.

8 Q. All right. Now explain.

9 A. From my perception, Mr.
10 Cain presented, to his executive staff,
11 the situation in which he had been
12 placed, and asked for advice, from his
13 executives --

14 Q. Okay, now, when you say
15 situation, do you mean the
16 Catch 22 situation?

17 A. Yes, sir.

18 Q. Was it -- I mean your
19 impression of the Catch 22 situation is
20 based on statements made by Mr. Cain?

21 A. Yes, sir.

22 Q. All right. Go on.

23 A. Mr. Fontham, I would
24 appreciate it if you wouldn't interrupt
25 my train of thought, because it is

1 difficult for me to remember where I
2 left off --

3 MR. ANDERSON:

4 That's all right.
5 Let's let Mr. Fontham ask you a
6 question.

7 BY MR. FONTHAM:

8 Q. You were going to explain
9 the context, and I think you said there
10 was advice sought about Mr. Cain's
11 situation.

12 A. Mr. Cain had asked his
13 staff for any advice that could be
14 offered as to how he should proceed at
15 the board meeting of the next day,
16 January 3rd.

17 And in that connection, as
18 I recall, the first person to speak was
19 Mike Leddick, senior vice president of
20 nuclear, who advised Mr. Cain that he
21 felt he should follow his conscience,
22 that he owed the board the
23 responsibility of giving him his frank
24 opinion.

25 Subject to Mr. Leddick's

1 statement.

2 Q. What was your understanding
3 of what that frank opinion was?

4 A. It was my understanding
5 that Mr. Cain would have preferred not
6 to have endorsed the offer of
7 settlement.

8 Q. Okay. After Mr. Leddick
9 said follow your conscience?

10 A. I don't remember the exact
11 sequence. There were several people
12 that said various things, but one
13 member of the staff suggested that
14 perhaps it would be more appropriate
15 for Mr. Lewis and Mr. Lupberger to make
16 the presentation, and for Mr. Cain to
17 in essence remain silent at the board
18 meeting the next day.

19 In support for the position
20 that Mr. Cain felt that he was in, I
21 indicated that in my opinion, what Mr.
22 Leddick had advised was the best advice
23 anyone could give him, and that if he
24 were forced to resign for giving his
25 frank opinion, and for standing on what

1 he felt was a proper principal in this
2 matter, that I would be very proud to
3 be fired, or to resign with him, for
4 standing on principals.

5 As a result of this general
6 discussion --

7 Q. Did other members of this
8 staff, in this staff meeting, make that
9 same --

10 A. As I recall, Mr. Leddick
11 endorsed the concept of standing behind
12 Mr. Cain for standing behind principals;
13 yes, sir.

14 Q. Did anyone else in that
15 staff meeting do that?

16 A. Sir, I don't recall. It
17 was in that context where advice had
18 been sought that someone -- and I don't
19 recall whether it was Mr. Cain or
20 another member present -- developed the
21 idea that it may be worthwhile for
22 certain board members to be contacted
23 to seek their support in opposing the
24 offer of settlement.

25 Q. Did Mr. Cain say that he

1 couldn't contact the board, or that he
2 was informed by Mr. Lewis not to
3 contact the board members to oppose the
4 offer?

5 A. That's my understanding.

6 Q. I mean do you recall that
7 from that meeting, him saying that?

8 A. Yes, sir.

9 Q. What did he say?

10 A. Sir, it was my
11 understanding that he had been directed
12 not to attempt to contact LP&L-NOPSI
13 board members in an effort to dissuade
14 them from voting for the offer of
15 settlement.

16 Q. By whom?

17 A. By Floyd Lewis.

18 Q. Was there a statement made
19 in this staff meeting that Floyd Lewis
20 expected Mr. Cain to get the offer
21 passed, get the offer accepted by the
22 board?

23 A. That was my understanding
24 of what Mr. Cain was saying.

25 Q. Well, then, did the staff,

1 in essence, agree to have staff members
2 contact the board members, so Mr. Cain
3 would not have to?

4 A. Sir, every member of the
5 staff volunteered to make calls to
6 assist in an effort to have the offer
7 of settlement defeated at the LP&L-NOPSI
8 board meeting, despite, I might add,
9 Mr. Cain's advanced forewarning that
10 any such person that made such calls
11 may be terminated.

12 Q. May be terminated by Mr.
13 Lewis?

14 A. That's my recollection.

15 Q. Mr. Cain was not saying he
16 would terminate the people; was he?

17 A. No, sir; he was not.

18 Q. Was he in favor of having
19 these staff members contact the board?

20 A. He did not put any pressure
21 on anyone. I would say he was in favor
22 of, but wish to emphasize, that he
23 forewarned everyone of the risk they
24 may be taking in so doing; and again,
25 wish to emphasize that in no way, shape

1 or form, did Mr. Cain attempt to put
2 any pressure on anyone to make such a
3 call.

4 Q. Did the -- were the
5 assignments made while the staff
6 meeting was still taking place?

7 A. I wouldn't characterize
8 them, sir, as assignments. As I
9 mentioned before, everyone in that room
10 volunteered to make phone calls. From
11 the volunteers, Mr. Cain did let the
12 respective individuals know who it
13 would be permissible, from his
14 viewpoint, to contact.

15 Q. Was that while the staff
16 meeting was still occurring?

17 A. Yes, sir.

18 Q. To your recollection, was
19 everybody still in that staff meeting
20 when that occurred?

21 A. Yes, sir.

22 Q. Was Mr. Hurstell in that
23 staff meeting when that occurred?

24 A. Sir, typically in a staff
25 meeting, several people will walk in

1 and out from time to time, getting
2 phone calls and messages and all. And
3 I can't say with specificity that Mr.
4 Hurstell was there. I would say the
5 probability was high that he was there.
6 But I should emphasize again that it is
7 not unusual for any of us to leave from
8 time to time to take urgent phone
9 messages, or for whatever else.

10 Q. To your recollection, did
11 you leave the staff meeting at any time
12 except for the, when it was briefly
13 adjourned when Mr. Cain became upset?

14 A. I don't recall it, sir.

15 Q. What were the -- I use the
16 word assignments -- what were the
17 decisions as to who would call which
18 board members?

19 A. I don't recall all of them,
20 and I would stand corrected by anyone
21 else's testimony that would contradict
22 this; but as I recall, I specifically
23 remember that Andy Carter agreed to
24 call Father Carter; as I recall, --

25 Q. Are they related?

1 A. Sir, I really don't know.

2 Q. Okay.

3 A. I believe that Mack

4 Hurstall agreed to call Brooke Duncan;
5 Gerald McLendon, I believe, was calling
6 a couple of directors; the only one I
7 recall was Jack Wyatt. I believe John
8 Cordaro was contacting one or two
9 directors, but I don't recall specific
10 names as to who he would contact.

11 But I do wish to emphasize
12 that myself, and every other person in
13 that room, in my opinion, willingly
14 would have made any or all of those
15 calls ourselves.

16 Q. You didn't make any calls
17 yourself?

18 A. I volunteered to, sir, but
19 no, sir, I did not. But I might add
20 that I accept full responsibility and
21 would have gladly made all of the calls
22 myself.

23 Q. How was the decision made
24 as to who would call who; did Mr. Cain
25 make those decisions?

1 A. Mr. Cain made the decision,
2 yes.

3 Q. Was it discussed in the
4 staff meeting that the board members
5 should be informed that even if Mr.
6 Cain supported the offer in the board
7 meeting, that that was not really his
8 true belief?

9 A. I think that was the
10 overall message; yes, sir.

11 MR. ANDERSON:

12 Let me interrupt just
13 a minute so that your answers are
14 responsive to the questions, Mr.
15 Chavanne.

16 Notwithstanding your
17 obvious desire to be candid about this,
18 we can't rely on what your impression
19 might have been. We have to rely on
20 what was either said to you or what you
21 have your own personal knowledge of.

22 Without intending to
23 restrict or otherwise alter your
24 answers, I would ask that you keep
25 those facts in mind.

1 A. I will say unqualifiedly,
2 that Mr. Cain indicated to each of the
3 people that the message to give to the
4 directors contacted was not to listen
5 to his words endorsing the offer of
6 settlement at the board meeting, but to
7 oppose it.

8 BY MR. FONTHAM:

9 Q. Did Mr. Cain say that he
10 planned to give -- to give lip support
11 for the offer of settlement in the
12 meeting the next day, to satisfy Mr.
13 Lewis?

14 A. I don't recall him saying
15 that at all; no, sir.

16 Q. You said that they should
17 not listen to what he says.

18 A. Another alternative may
19 have been, sir, for him to remain
20 silent.

21 I don't recall him saying
22 at his staff meeting of January 2nd,
23 whether he was going to actively
24 endorse the plan, or whether he was to
25 remain silent. So I --

1 Q. When Mr. Leddick said to
2 Mr. Cain: Follow your conscience, was
3 that -- and you endorsed that -- were
4 you saying that he should oppose the
5 offer of settlement in the board
6 meeting?

7 A. The framework in which Mr.
8 Leddick made the comment was that as
9 CEO, Mr. Cain had a responsibility to
10 the board to give them whatever his
11 frank opinion was. And to that extent,
12 I think that the board does have the
13 right to hear a CEO's frank opinion.

14 Q. Did Mr. Cain say that the
15 reason he might be asked to resign
16 would be if the board did not pass the
17 proposed settlement?

18 A. That was the nature of the
19 comment, to my understanding, yes, sir.

20 Q. Did Mr. Cain when these
21 things were told to him by Mr. Lewis?

22 A. Sir, I don't recall if he
23 did or did not.

24 I -- I don't recall whether
25 he did or did not.

1 Q. Did Mr. Cain say that he
2 had met with Mr. Lewis in the days
3 preceding this staff meeting?

4 A. He mentioned that he had
5 accompanied Mr. Lewis, I believe on the
6 afternoon of December 31st, to a visit
7 with the other CEOs in Little Rock,
8 Arkansas.

9 Q. To your knowledge, were
10 these directors called by the members
11 of the staff who agreed to make those
12 calls?

13 A. Sir, I have no personal
14 knowledge that they were all made. I
15 have no reason to doubt but that they
16 were.

17 Q. Was there any further staff
18 meeting, in which any reports were
19 given, about calls made to directors?

20 A. No, sir. None of which I
21 participated.

22 Q. Was Mr. Andrew Carter in
23 this meeting?

24 A. The meeting of January 2nd,
25 yes, sir.

1 Q. Did Mr. Andrew Carter make
2 the statement that Jerry Jackson had
3 prepared the offer of settlement? --
4 do you know who Jerry Jackson is?

5 A. Yes, sir.

6 I am not sure that Mr.
7 Carter made the statement that Jerry
8 Jackson prepared the offer of
9 settlement. I think there was probably
10 a more general comment to the extent
11 that it was a document which appeared
12 to have substantial input from Jerry
13 Jackson.

14 I am not sure he said it
15 was written by Jerry Jackson, anything
16 as definitive as that.

17 Q. Was Mr. Anderson in that
18 meeting?

19 A. No, sir.

20 In that regard, I may have
21 omitted Mr. Carter's name earlier when
22 mentioning members of Mr. Cain's
23 executive staff; if I did, Andrew
24 Carter should be listed to that. He
25 does attend the weekly executive staff

1 meetings.

2 Q. Was there any discussion,
3 in that meeting, of the effect on the
4 FERC decision date, if the offer of
5 settlement was passed, or was filed?

6 A. Yes, sir.

7 Q. What was that discussion?

8 A. As I recall it, there was a
9 general statement made, that it would
10 probably delay a decision from FERC by
11 a certain period of time, and I forget
12 the particulars. It was either two to
13 four months, or something to that
14 effect.

15 Q. Who made that statement?

16 A. I believe Andy Carter, but
17 I could stand corrected on that.

18 Q. Was this a discussion of
19 advantages and disadvantages of the
20 offer, or what?

21 A. No, sir. It was just a
22 general comment made somewhere during
23 the meeting.

24 Q. Did Mr. Cain arrange for
25 any further staff meeting in this staff

1 meeting?

2 A. I don't recall as such,
3 because typically we meet every Monday
4 morning of every week of the month,
5 except the week of the monthly board
6 meetings, in which case we meet
7 Wednesday of that week. I don't recall
8 him setting a meeting. There typically
9 would have been one the following
10 Monday, which was January 7th, at which
11 time there was a staff meeting held.

12 Q. Did Mr. Cain say at any
13 time during the course of this meeting
14 that he had thrown up?

15 A. I don't recall any such
16 statement, sir.

17 Q. Do you recall any statement
18 made by him at any time in the course
19 of that day, or the following day, that
20 he had had a nervous stomach and thrown
21 up?

22 A. No, sir, I do not.

23 Q. Did anyone else make the
24 statement to you that Mr. Cain had
25 thrown up?

1 A. Sir, I don't recall any
2 such statement.

3 Q. You said earlier that Mr.
4 Cain had made the statement that on
5 filing the offer of settlement, that a
6 payment, or based on the fact that it
7 would be filed, a payment would be made
8 within a short time period of money by
9 AP&L to LP&L and NCP&SI?

10 A. Yes, sir.

11 Q. Is it your understanding
12 that is what is in the agreement, as
13 filed?

14 A. Sir, it was my
15 understanding it was never intended to
16 be in the agreement, per se.

17 Q. Is it your understanding
18 that is still AP&L's obligation?

19 A. No, sir.

20 Q. Do you have an
21 understanding, or have you had
22 discussions as to how it stopped being
23 AP&L's obligation?

24 A. It is my understanding that
25 sometime subsequent to the morning

1 meeting of January 2nd, between that
2 time frame and 7:30 A.M., or
3 thereabouts, January 4th, that the AP&L
4 representatives disagreed with that
5 understanding, and indicated that they
6 had only obligated themselves to make
7 those payments upon acceptance by the
8 Commission of the filed offer of
9 settlement.

10 Q. Who told you that?

11 A. I believe Mal McLetchie was
12 the person who told me that.

13 Q. Do you know if he
14 participated in those discussions?

15 A. I know that he was a member
16 of the company's representatives
17 attending those sessions. Whether that
18 aspect came up during those meetings,
19 or whether that was something that the
20 CEOs talked about, I have no personal
21 knowledge.

22 Q. Did you meet with Malcolm
23 Hurstell last night?

24 A. No, sir, I did not.

25 Q. Was there a meeting last

1 night with Malcolm Hurstell?

2 A. No, sir, there was not.

3 Q. Did you discuss with your
4 counsel what occurred in Malcolm
5 Hurstell's deposition?

6 A. I did not ask counsel
7 anything about what occurred during Mr.
8 Hurstell's deposition.

9 Counsel and I did spend
10 approximately an hour together, at
11 which time he informed me of potential
12 areas of interest that I may be asked
13 to address today.

14 There was no way, shape or
15 form that I have been advised to do
16 anything other than to tell the whole
17 truth, which is certainly what I am
18 doing here today.

19 Q. I am going to move on to
20 another subject. Perhaps we could take
21 a short break.

22 A. Could we take a break.

23 (Brief recess.).

24 BY MR. FONTHAM:

25 Q. For the record, this is the

1 continuation of the deposition of Mr.
2 John Chavanne.

3 Mr. Chavanne, were you
4 assigned to do anything at all at that
5 staff meeting with respect to the board
6 meeting the following day?

7 A. No, sir.

8 Q. What was your next
9 opportunity to discuss or participate
10 in a discussion concerning the offer of
11 settlement?

12 A. As I recall, it was not
13 till the afternoon of the next day,
14 January 3rd, 1985.

15 Q. Were you present at the
16 board meeting of the LP&L and NOPSI
17 boards?

18 A. No, sir.

19 Q. Would you ordinarily be
20 present at that board meeting?

21 A. Prior to Mr. McLetchie
22 being named senior vice president of
23 finance, I had attended board meetings.
24 But it was no longer necessary
25 subsequent to him assuming that

1 position.

2 So no, starting in December,
3 it would not have been appropriate for
4 me to have attended the board meetings.

5 Q. What happened on the
6 afternoon of December 3rd, I mean
7 January 3rd?

8 A. There was a meeting of
9 several members of Mr. Cain's staff and
10 several members of John Cordaro's area
11 of responsibility, to discuss primarily
12 personal contacts to be made the next
13 day, January 4th, upon the filing of
14 the offer of settlement.

15 Q. What time did this meeting
16 occur?

17 A. As I recall, it was in the
18 3:00 to 4:00 time frame.

19 Q. Who was present?

20 A. To the best of my
21 recollection, Mr. McLendon, Mr. Cordaro,
22 I believe Richard Guthrie, Bob Redhead,
23 I really don't recall the others. I
24 believe there were others in the room.
25 It would be more of a guesstimate on my

1 part, but I think -- I am fairly
2 certain Mr. Cunningham was at that
3 meeting also.

4 Q. Was Mr. Cain at the meeting?

5 A. He was not at the meeting
6 for about an hour and a half, or 2:00
7 o'clock, as I recall, he was attending
8 Middle South Utilities board meeting,
9 which was ongoing at that time.

10 Q. Did he ever come into this
11 meeting?

12 A. Yes, sir. I believe around
13 6:00 or so he came in.

14 Q. What was discussed at that
15 meeting?

16 A. As I previously mentioned,
17 primarily who to contact the following
18 day, and who would make the contacts.

19 Q. How did you learn of the
20 board's action?

21 A. I really don't recall who
22 told me. It was -- as I recall, I
23 believe Dick Murlowski and I went to
24 lunch the day of the board meeting,
25 January 3rd; I believe that Gerald

1 McLendon had told Dick Murlowski right
2 before we went to lunch, and I think
3 Dick told me.

4 Q. What did he tell you
5 happened in the board meeting?

6 A. As I recall, Mr. Fontham,
7 simply that both boards had approved
8 the offer of settlement.

9 Q. Was there a discussion of
10 the vote?

11 A. No, sir.

12 Q. Was there a discussion of
13 what action, if any, Mr. Cain had taken
14 during the board meeting?

15 A. No, sir.

16 Q. In the staff meeting that
17 occurred later, prior to Mr. Cain's
18 arrival, was there a discussion of
19 either of those matters?

20 A. Could you repeat the two
21 matters? -- there was no discussion
22 concerning the vote, I am sure. What
23 was the second matter?

24 Q. Mr. Cain's statements
25 during the meeting.

1 A. No, sir.

2 Q. What assignments were made
3 with respect to contacts?

4 A. I don't recall the specific
5 assignments; but in essence, most of
6 the contacts were following the
7 responsibility of John Cordaro and
8 people that worked for him. But for
9 the Public Service Commission members,
10 which as I recall Mr. Cain and Mr.
11 Cunningham decided to make those
12 contacts, as well as I believe contact,
13 to contact you. In essence, that is my
14 recollection of the meeting.

15 Q. Was there a discussion of
16 what people would be told?

17 A. I don't recall the
18 specifics. I am sure that there must
19 have been some general discussion to
20 the extent that the offer of settlement
21 was being agreed on by the company in
22 an effort to eliminate any risks that
23 would be associated with, particularly
24 a disadvantageous decision in the unit
25 power sales agreement case, wherein

1 FERC could have approved the file rates.
2 But other than that, I don't recall any
3 specifics.

4 Q. Was there a discussion of
5 the likelihood of the FERC giving some
6 of Mississippi Power & Light's
7 allocation to LP&L or NOPSI?

8 A. That point was emphasized
9 at some meeting I attended. It may
10 have been that meeting, it may have
11 been the staff meeting the previous day.
12 I don't recall which one.

13 Q. Do you recall who
14 emphasized it?

15 A. No, sir, I really don't. I --
16 I really don't.

17 Q. Was there a discussion of a
18 leak of information in Arkansas at this
19 meeting?

20 A. At a couple of meetings,
21 there was some general discussion as to
22 whether Arkansas Power & Light
23 executives had possibly initiated
24 contacts prior to Mr. Cain's understanding
25 of an agreement for no contacts to be

1 made until immediately prior to the
2 filing of whenever the late morning or
3 the early afternoon of January 4th.

4 Q. Well, did it happen in this
5 meeting?

6 A. Sir, I really don't recall.

7 Q. What other meetings did you
8 attend, between the second and the
9 fourth, besides this meeting and the
10 one you have already described?

11 A. To my recollection, there
12 were no other meetings. There were, I
13 am sure, informal one on one
14 discussions, walking back to get a cup
15 of coffee, or in the restroom or in the
16 elevators.

17 But there was another staff
18 meeting on January 7th, and what I am
19 saying is at least on one occasion,
20 reference was made to the possibility
21 that Arkansas Power & Light had
22 initiated contacts before the agreed-on
23 time table.

24 Exactly which one or ones
25 of those meetings, I really don't

1 recall. But I would say that there was
2 at least some discussions, either at
3 the January 2nd or the January 3rd
4 meeting, which was probably repeated at
5 the January 7th staff meeting.

6 Q. With who was it believed
7 that Arkansas Power & Light might have
8 spoken to?

9 A. Mr. Fontham, I wish to
10 emphasize, that to my knowledge, there
11 was no definite proof that any contact
12 had been made. It was more a sense of
13 feeling of the people.

14 There was some general
15 discussion concerning the possibility
16 of contacts being made to one or more
17 of the following individuals, Public
18 Service Commission members, the
19 governor, the attorney general,
20 newspaper media.

21 But I wish to emphasize, to
22 my knowledge, no one at LP&L or NOPSI
23 had any firm proof of that. It was
24 simply a matter that was discussed as
25 something that some people sensed had

1 possibly happened.

2 Q. Was there a discussion in
3 this meeting, or any other meeting, of
4 a leak within LP&L and NOPSI?

5 A. I don't recall in any
6 meeting as such anyone suggesting that
7 there was a leak.

8 I think in some informal
9 meetings of the nature I addressed in
10 one of your previous questions, I think
11 various parties stated the opinion that
12 some people felt that in addition to
13 the possibility of a leak at Arkansas,
14 there may be a possibility of a leak at
15 the other operating companies.

16 Q. Who made those statements?

17 A. Sir, the only one I recall
18 being made to me specifically was made
19 by Dr. Jim Hoerger, an industrial
20 psychologist for the company.

21 Q. When did that happen?

22 A. I don't recall the specific
23 date, but I would -- I would say
24 sometime during the week of January 7th,
25 probably around Thursday of that week,

1 January 10th.

2 Q. What happened after Mr.
3 Cain arrived in the meeting on the
4 third?

5 A. As I recall, I think he
6 commenced by saying that the MSU board
7 had just ratified the action of the
8 operating company's approval of the
9 offer of settlement subject to the
10 Mississippi Power & Light board
11 approving it the next morning.

12 As I understand, that board,
13 because of weather conditions, had not
14 been able to meet that day, and did not
15 meet until January 3rd.

16 Q. How long was Mr. Cain in
17 that meeting?

18 A. I have no idea when the
19 meeting started or when it ended. I
20 believe it lasted two to three hours,
21 but I really don't know.

22 Q. The meeting you were in is
23 what I am talking about.

24 A. Oh, I am sorry.

25 I would say no more than a

1 half hour to 45 minutes.

2 Q. What was his appearance?

3 A. He looked as I think anyone
4 in similar circumstances would be,
5 quite tired, and exhausted.

6 Q. Did he appear disappointed
7 in the results of the day?

8 MR. ANDERSON:

9 I object to the form
10 of the question. I don't know how the
11 man can interpret.

12 BY MR. FONTHAM:

13 Q. Did he make any statements
14 that indicated to you that he was
15 disappointed in the results of the day?

16 A. I don't recall whether he
17 made any specific statement at that
18 point in time.

19 Q. Was the subject of
20 resignation discussed at that time?

21 A. Not to my recollection, sir.

22 Q. Did Mr. Cain make any
23 statement about the adequacy of the
24 board contacts that had been made by
25 the staff members in that meeting with

1 you?

2 A. No, sir.

3 Q. Did he make any statements
4 about why various board members may
5 have voted for or against this proposal?

6 A. Not at that meeting.

7 To my recollection, the
8 only reference made by Mr. Cain at this
9 meeting was his expression that we
10 should express appreciation to those
11 members of the LP&L-NOPSI board who
12 voted against the offer of settlement.

13 Q. Did he discuss whether Mr.
14 Lewis may have spoken with members of
15 the board of LP&L or NOPSI in that
16 meeting?

17 A. Not to my recollection, sir.

18 Q. Were you given any
19 assignment to contact anyone, during
20 the course of that meeting?

21 A. No, sir.

22 Q. What was the next meeting
23 you attended, or the next time you
24 discussed this offer of settlement,
25 with Mr. Cain or anyone else?

1 A. The answer to the first
2 question was January 7th, the following
3 Monday staff meeting.

4 The answer to your second
5 question was the following morning,
6 January 4th, Mr. Cain and I rode up in
7 the elevator together; and we had a
8 very, very brief discussion at that
9 time.

10 Q. What did he say at that
11 time?

12 A. I don't recall the exact
13 words, but -- and I think I initiated
14 the discussion by indicating that I was
15 surprised at the specific vote for the
16 offer of settlement by specific board
17 members.

18 Q. Did he say anything?

19 A. In essence, he echoed that
20 he, too, was surprised with certain
21 board members' votes.

22 Q. Were there any other
23 discussions between the 4th and the 7th,
24 with Mr. Cain?

25 A. Not that I recall, sir.

1 There was a press conference, as I
2 recall, the afternoon of the 4th, which
3 I attended; but -- other than that, I
4 don't recall being with Mr. Cain again
5 until January 7th.

6 Q. What happened on January
7 7th?

8 A. It was just a -- it was a
9 routine scheduled Monday morning staff
10 meeting, in which case I am sure we
11 just discussed various items concerning
12 the filing of the previous week and
13 other items of interest. I don't
14 recall anything specifically standing
15 out in my mind, other than a debriefing
16 of the various contacts made.

17 Q. Was there a discussion at
18 that time about pressure having been
19 brought on Mr. Cain by Mr. Lewis?

20 A. I don't recall any
21 discussion at that time, no, sir.

22 Q. Was there a discussion at
23 that time about Mr. Lewis contacting
24 members of the board?

25 A. I don't recall any at that

1 time; no, sir.

2 Q. Was there a discussion at
3 that time concerning board members
4 votes?

5 A. I do not believe so. No,
6 sir.

7 Q. Was there a discussion at
8 that time concerning the reaction of
9 the Public Service Commission to this
10 offer?

11 A. I think there was a general
12 debriefing; yes, sir.

13 Q. Who gave the debriefing?

14 A. I believe Mr. Cain; Mr.
15 Cunningham may have contributed.

16 Q. What did they say?

17 A. As I recall Mr. Cain
18 indicated that the members he was able
19 to reach, the members he was able to
20 reach were quite surprised,
21 disappointed, displeased at the offer
22 of settlement being filed with FERC
23 before being discussed with them.

24 Q. Was there any discussion of
25 the position of Arkansas Power & Light

1 concerning the prepayments?

2 A. Not on January 7th, because
3 as I recall, on the meeting of the late
4 afternoon of January 3rd, it was
5 brought to the attention of Mr. Cain's
6 staff that that provision would only
7 commence upon acceptance by the Federal
8 Energy Regulatory Commission of the
9 offer of settlement as filed. There
10 was no need for a further discussion on
11 the 7th.

12 Q. There was no discussion of
13 the fact that Arkansas had, Arkansas
14 Power & Light had backed out of the
15 deal?

16 A. There was a discussion of
17 that on January 3rd, as I recall. I
18 don't recall it being repeated on the
19 7th.

20 it had already been brought
21 to our attention that Arkansas
22 disagreed with the understanding that
23 Mr. Cain, and I believe Mr. McLetchie
24 previously had, that such retroactive
25 cash settlement would commence upon the

1 filing of the document.

2 Q. Do you know if there is any
3 written agreement that says that
4 Arkansas Power & Light will refund the
5 prepayment, part of the prepayments at
6 this time?

7 A. Sir, I have no personal
8 knowledge whether such a document
9 exists.

10 Q. In your personal view, is
11 the proposed offer of settlement in the
12 best interest of NOPSI and LP&L?

13 A. I think that would depend
14 on what basis one is comparing the
15 offer of settlement. If one compares
16 the offer of settlement with the risk,
17 which I think everyone would
18 acknowledge does exist, the probability
19 of it occurring, reasonable people may
20 differ, of Federal Energy Regulatory
21 Commission accepting the filed
22 application as a basis of allocation of
23 Grand Gulf power, I think one could
24 come to the conclusion that to reduce
25 that risk, obviously 47 plus percent is

1 substantially less than 68 plus percent.

2 If one would compare that
3 with the administrative law judge's
4 initial decision, one may come to a
5 different conclusion.

6 I think it depends on one's
7 analysis of that, as well as one's
8 opinion, as to how Judge Head, and
9 subsequently the Federal Energy
10 Regulatory System, would decide the
11 system agreement case.

12 I think the answer to that
13 would depend on the assumptions one
14 makes as to what FERC would finally
15 have decided. And I don't think anyone
16 but possibly God knows that, because I
17 don't think FERC knows the answer to
18 that.

19 Q. Based on the facts that
20 existed as of January 2nd, 1985, was it
21 your view that LP&L and NCP&I should
22 accept the offer of settlement?

23 A. Had my opinion been
24 solicited, I would have advised that
25 the offer of settlement minimally be

1 modified before I would personally feel
2 comfortable with endorsing it myself.

3 Q. Modified in what way?

4 A. In my view, with some
5 modifications, I think the offer of
6 settlement, could be, by me,
7 enthusiastically endorsed.

8 I think, as I mentioned
9 earlier, I think the retroactive
10 settlement of advance purchase power
11 amount should have applied immediately
12 as Mr. Cain and McLetchie were under
13 the impression it was intended to.

14 I feel, as I understand
15 from Mr. McLetchie was the intention,
16 up to a very late hour of negotiations,
17 that the document should be activated
18 upon the commercial operation of Grand
19 Gulf Unit I as contrasted with the
20 point the acceptance.

21 I think that the offer of
22 settlement should ideally have
23 addressed Grand Gulf Unit No. 2. My
24 concern is many of these issues may
25 well need to be readdressed pertaining

1 to that unit.

2 And lastly, I think that
3 the offer of settlement should have
4 addressed only the Grand Gulf issue and
5 not the system agreement issue. With
6 an offer of settlement based on those
7 modifications, I think it would have
8 been a very, very reasonable document.

9 Q. Are you saying that if
10 Judge Head still had the prerogative,
11 and the FERC still had the prerogative
12 to have cost equal, make a decision for
13 production cost equalization, then you
14 think this settlement of the Grand Gulf
15 issue would be appropriate, these
16 percentages?

17 A. In my opinion, sir, and it
18 is just that, as I mentioned before, I
19 have not been involved in the system
20 agreement case, I personally do not
21 feel that was going to happen.

22 I realize there are very
23 strong feelings in this room that that
24 was going to happen; but in my opinion,
25 that is a separate issue from the Grand

1 Gulf issue, and I think should have
2 been treated separately.

3 If it was to have been
4 compromised, perhaps a separate offer
5 of settlement addressing that specific
6 issue.

7 I frankly feel that it is
8 not fair to Arkansas Power & Light
9 Company for equalization of production
10 costs to come in at any one point in
11 time. And with all due respect to
12 persons in this room who have argued to
13 the contrary, I think in logic, I could
14 accept movement toward that over a
15 specifically defined period of time
16 agreed to throughout the system.

17 But I personally do not
18 feel that equalization of production
19 costs, started all at one point in time,
20 is fair, just, reasonable, and
21 equitable to Arkansas Power & Light
22 customers; and I am personally not
23 convinced that Judge Head, and/or the
24 Federal Energy Regulatory Commission
25 would have ruled in favor of that

1 concept.

2 Q. You mentioned Grand Gulf II.

3 What is your understanding of the

4 system plan for Grand Gulf II?

5 A. Sir, based on my

6 recollection of Mr. Cain's response to

7 questions up at a Louisiana Public

8 Service Commission rate case hearing, I

9 believe on December 3rd, I believe his

10 response was that that issue should be

11 addressed in the very near future, and

12 that if in fact the Mississippi Public

13 Service Commission, in connection with

14 proceedings concerning the

15 certification of that unit, did not

16 render the decision within a reasonable

17 period of time, then appropriate

18 individuals, and/or boards within the

19 Middle South System, should address

20 that issue.

21 Q. Have you ever heard anyone

22 say that Mr. Lewis would like the

23 certification taken away by the

24 Mississippi Public Service Commission

25 for Grand Gulf II?

1 A. I am not sure I recall
2 anyone saying Mr. Lewis has made that
3 statement.

4 I have heard that statement
5 made probably more in informal settings
6 than any formal meeting. And I don't
7 recall whether Mr. Lewis or perhaps Mr.
8 Lupberger was a source of that
9 statement, to the best of our
10 recollection; possibly the finance
11 committee meeting. But I don't recall
12 Mr. Lewis being attributed to that
13 statement per se. He may have said it,
14 but I -- he certainly never said it to
15 me.

16 Q. Have you heard the
17 statement that anyone in Middle South
18 wants, would like to see the
19 certificate denied, taken away?

20 A. It is possible that I have
21 heard that statement made in a general
22 way. I am not sure if they said it is
23 hope, but in a general way, at a
24 finance committee meeting.

25 Q. What, well, in a general

1 way; by what do you mean? You explain
2 to me what you have heard.

3 A. As I recall, when a
4 question was raised as to the
5 construction activity of Grand Gulf, or
6 whether such would continue, that a
7 response was made that pending final
8 action by the MPSC, which may well
9 include its revocation of the
10 certification, that the system would
11 probably not address the issue as to
12 whether to move forward with the
13 construction of that unit, or to cancel
14 the unit.

15 Q. Was -- did this discussion
16 include any statements concerning what
17 the desires of the system are, as to
18 whether it -- construction should
19 continue?

20 A. Sir, I don't recall with
21 specificity the desires of the system
22 as such.

23 Q. After January 7th, were
24 there any other meetings that you
25 participated in concerning this

1 settlement?

2 A. None that I recall. Again,
3 other than the weekly staff meetings,
4 we would have, of -- which I guess the
5 next one was probably the 14th; then
6 there was again one this morning which
7 I just attended very briefly.

8 I don't recall any
9 statement or fact of significance that
10 stands out in my mind being made at any
11 subsequent meeting.

12 Q. Have you reviewed the
13 revenue requirement studies relating to
14 this offer of settlement.

15 A. I have not been provided
16 such; no, sir.

17 Q. I am going to show you a
18 copy of the response to question S-10,
19 that was made in this case by, I
20 believe LP&L, at the request of
21 Louisiana Power Service Commission. I
22 ask you to turn to about the sixth page.

23 Have you ever seen that
24 projection?

25 A. I don't recall it, sir. If

1 so, I would like to suggest that Mr.
2 McLetchie, who you will be subsequently
3 deposing, if in fact this was a
4 schedule that was distributed at any
5 board meeting and/or discussed during
6 any negotiating session, that he was
7 involved in such; and he could
8 intelligently respond to questions
9 concerning this exhibit. I really
10 cannot.

11 Q. Do you know there is -- I
12 believe there is a case number up there
13 in the left-hand corner, upper
14 left-hand corner?

15 A. I don't see any such
16 reference.

17 MR. ANDERSON:

18 Counsel, are you
19 referring to the letters F.H. with the
20 number 400 behind it?

21 MR. FONTHAM:

22 Yes.

23 A. Oh, okay, I see that.

24 BY MR. FONTHAM:

25 Q. Do you know what that is?

1 A. No, sir.

2 Q. Have there -- do you notice
3 there is an entry under most of those
4 projections for without Reynolds, I
5 believe. Do you see that?

6 A. Yes, sir.

7 Q. Do you know why that was
8 done?

9 A. Sir, I cannot properly
10 respond, because I had nothing to do
11 with these documents. And virtually,
12 if not totally, am seeing them for the
13 first time.

14 Anything I said would be a
15 pure guesstimate. I think your
16 questions deserve a better answer than
17 I could give.

18 Mr. McLetchie probably is
19 quite familiar with this, and can
20 intelligently respond.

21 Q. Have there been any other
22 discussions in the staff meetings, or
23 any other meetings that you have had,
24 concerning the importance to the system
25 of Reynolds Aluminum?

1 A. None other than the general
2 reference I made to you earlier.

3 Q. When that general reference
4 was made, was there a discussion of why
5 it was that they were talking about
6 Reynolds Aluminum being dependent on
7 this offer of settlement?

8 A. No, sir.

9 Q. Do you know of any filing
10 by Middle South to accomplish a spin-off
11 of part of System Fuels, Inc. with the
12 SEC?

13 A. Very generally, I believe
14 that several months ago, there was such
15 a filing; but again, the particulars, I
16 think you are deposing Mr. Lupberger,
17 who is the president of Electec
18 sometime --

19 Q. What does Electec have to
20 do with it?

21 A. The transaction which you
22 referred to as the spin-off, and I am
23 not sure if that is the correct
24 terminology or not, involved a proposed
25 transfer of some, I believe potential

1 assets of SFI to Electec.

2 But other than that, Mr.
3 Fontham, I don't know much else I could
4 add. And if you wish to pursue that, I
5 would respectfully request you pursue
6 it with Mr. Lupberger, who certainly is
7 far better qualified than I am to
8 address the specifics of it.

9 Q. Have you heard of a
10 videotape movie involving Mr. Lewis and
11 Mr. Lupberger that relates to this
12 offer of settlement.

13 A. Yes, sir.

14 Q. Have you seen such a movie?

15 A. Yes, sir.

16 Q. When --

17 A. As my understanding, have
18 probably hundreds of people, as I
19 believe most, if not all of the Middle
20 South Service employees, it is my
21 understanding, excuse me, that copies
22 of the tape are being made available to
23 each of the operating companies, who I
24 believe have already, or are about to
25 start showing it to their employees.

1 So I say a significant
2 number of system employees have seen the
3 tape.

4 Q. When did you see it?

5 A. One day last week.

6 Q. Who did you see it with?

7 A. As I recall, it was members
8 of Mr. Cain's staff.

9 I don't believe everyone
10 was there. I think it was something
11 that the tape was brought over, and
12 whoever was available at that time was
13 invited to view the tape.

14 Q. Did Mr. Cain say why he
15 wanted people to view the tape?

16 A. I don't recall whether he
17 addressed that issue. If he did, I
18 think it was of a general nature that
19 this tape is being shown to Middle
20 South Service employees; what do y'all
21 think of showing it to the system
22 employees, or should we prepare another
23 tape that would build upon or perhaps
24 add to points raised in the other tape.

25 Q. What is the content of the

1 tape?

2 A. I think the overall
3 objective of the tape is for Mr. Lewis
4 and Lupberger to have a forum of
5 conveying to employees throughout the
6 Middle South System the advantages of
7 the offer of settlement.

8 Q. Is this a question and
9 answer tape?

10 A. Yes, sir.

11 Q. Who asks the questions; do
12 you know?

13 A. There were various Middle
14 South Service employees, in a small
15 studio type setting, that asked
16 questions.

17 Q. Do you know how the
18 questions were prepared?

19 A. No, sir, I do not.

20 Q. Does Mr. Lewis address the
21 question of whether the companies were
22 forced to accept the offer of
23 settlement on this tape?

24 A. I believe there was a
25 question addressed to him of the vein

1 of some employees have heard that the
2 operating companies were forced to
3 accept this; would you comment on that,
4 or something of a general nature like
5 that. Not an accusation, but more a
6 statement of can you give us an answer
7 we can give to those people that are
8 making such a statement.

9 Q. And what is his answer? --
10 can you paraphrase it?

11 A. I don't recall the entire
12 answer. I believe it was in response
13 to that question, that Mr. Lewis
14 indicated that as chairman and CEO of
15 Middle South Utilities, he felt it was
16 his proper responsibility to contact
17 the Middle South Utilities' board
18 members and advise them of the impact
19 on the system and on the shareholders
20 of the deficiency in revenue
21 requirements that the system would be
22 giving up by entering into such an
23 offer of settlement.

24 Q. Does he address the
25 question of whether he forced any of

1 the companies to accept this?

2 A. I don't recall a specific
3 answer, but I certainly got the
4 impression that Mr. Lewis left, you
5 know, the viewer with the understanding
6 that in essence he was neutral.

7 Q. That he was neutral?

8 A. Sir, I cannot comment with
9 specifically that he made that
10 statement in response to that question
11 or not. I was left with the impression
12 that his overall, the overall gist of
13 his answer was that no, I did not force
14 the operating companies to accept the
15 offer of settlement.

16 The specific words he
17 mentioned, I don't think anyone could
18 recall simply by viewing the tape one
19 time.

20 Q. Was there any comment about
21 this tape, after you saw it, by the
22 staff members?

23 A. Mr. Cain asked if the
24 people present thought it would be
25 appropriate to show to the employees of

1 LP&L and NOPSI, and in essence, there
2 was a general agreement that it would
3 be advantageous to show it.

4 Q. Did you view this tape as
5 representing the truth?

6 MR. ANDERSON:

7 Let me object to the
8 form of the question. I don't know
9 what that means. The truth with
10 respect to what?

11 MR. FONTHAM:

12 I will rephrase it.

13 MR. ANDERSON:

14 Thank you.

15 BY MR. FONTHAM:

16 Q. Did you view this tape as
17 accurately portraying what occurred in
18 the companies going along with the
19 offer of settlement?

20 A. Sir, in my opinion, the
21 board of directors of the companies are
22 the ones who voted on the act of, the
23 offer of settlement. And in my view, I
24 was not at the meetings, so I cannot
25 say what was discussed, you know,

1 within the meetings, as to whether what
2 was said on the tape accurately
3 reflected what happened the day of the
4 board meetings.

5 Q. Did anyone in this staff
6 meeting make the statement that Mr.
7 Lewis' representations weren't accurate?

8 A. I am not sure if anyone
9 said it was not accurate, so much as a
10 different perspective was received from
11 the tape as compared with some of the
12 statements made by Mr. Cain.

13 Q. Who made that statement?

14 A. Sir, I believe it was made
15 by Mr. Murlowski.

16 Q. Let's stop for just a
17 second while I look this over.

18 (Brief interruption.)

19 BY MR. FONTHAM:

20 Q. Was there a discussion at
21 the staff meeting this morning of this
22 deposition, or the ongoing depositions?

23 A. Not during the time period
24 I was there; no, sir. I was there from
25 about 8:30 to 8:40; there was no

1 mention whatsoever made.

2 Well, other than the fact,
3 as a general comment, Mr. McLendon
4 thought Mr. Cunningham was going to be
5 up first today, and I mentioned to him
6 I was. But other than that comment, no
7 mention whatsoever made.

8 Q. Okay. I am finished, at
9 least for now.

10 So I tender the witness to
11 the next lawyer.

12 MR. ANDERSON:

13 Let the record
14 reflect that Messrs. Fontham, Zimmering
15 and Darce are out of the room at
16 present, but they have authorized us to
17 proceed. The problem has been cured.
18 They are now present.

19 MR. MORROW:

20 Let the record also
21 reflect this is a continuation of the
22 deposition of Mr. John Chavanne. My
23 name is Robert Morrow, and I am
24 representing Occidental Chemical
25 Corporation.

1 BY MR. MORROW:

2 Q. I just had a couple of
3 questions of clarification, Mr.
4 Chavanne, concerning the January 2nd
5 meeting at which the offer of
6 settlement which was filed on January
7 4th was discussed.

8 Was there any discussion at
9 that meeting on January 2nd of not
10 contacting the Louisiana Public Service
11 Commission, prior to the filing of the
12 offer of settlement?

13 A. Yes, sir. As I recall.
14 There was a general discussion that the
15 CEOs had agreed that no one would be
16 contacted prior to the filing date of
17 the offer of settlement, which was
18 January 4th, 1985.

19 Q. Was there any specific
20 reference to not contacting Louisiana
21 Public Service Commission?

22 A. To my recollection, Mr.
23 Cain indicated that no CEO was to
24 contact any state Public Service
25 Commission member prior to the January

1 4th filing date. That, in essence, all
2 companies would initiate their contacts
3 at the same time, on the same day.

4 Q. Not to belabor the point,
5 but you are saying that then Mr. Cain
6 made no specific reference to the
7 Louisiana Public Service Commission, in
8 particular, as opposed to the other
9 state commissions?

10 A. It is my recollection, Mr.
11 Morrow, that the statement was that no
12 one, at any company in the Middle South
13 System, would contact any Public
14 Service Commission member prior to the
15 same time on the same date, including
16 Arkansas, Mississippi, and Louisiana.

17 Q. At the January 2nd meeting,
18 was there any discussion of the
19 likelihood of the FERC reversing the
20 initial decision of the administrative
21 law judge in the Grand Gulf proceeding?

22 A. No, sir.

23 Q. Turning to the basic
24 concept of the offer of settlement, of
25 the offer of settlement itself as it

1 relates to the allocation of Grand Gulf
2 I, is it fair to say that taking into
3 account the fact that Middle South
4 Utilities, or MSE, may absorb a portion
5 of the cost of that unit, that the
6 result of the offer of the settlement
7 is an allocation of 27.84 percent of
8 Grand Gulf I to LP&L, with certain
9 costs associated with that allocation
10 of 27.84 percent deferred to be
11 collected beginning in 1991?

12 A. The question is so long,
13 Mr. Morrow, I am not sure I followed
14 all the steps. I wonder if you could
15 please break it down into smaller
16 components, please.

17 Q. The basic question is is
18 not the concept of allocation of Grand
19 Gulf I under the offer of settlement,
20 LP&L getting 27.84 percent, with
21 certain costs associated with that
22 27.84 percent, being deferred, not to
23 be collected until 1991?

24 A. It is my understanding, sir,
25 that there are certain costs which will

1 be deferred into infinity, and never
2 collected from LP&L, or the other
3 companies. With that proviso, that it
4 is my understanding, as I have
5 mentioned before, I have not been given
6 access to the particular data, and had
7 the opportunity to review it myself;
8 but I have no doubt but that Mr.
9 McLetchie, and others you talked to,
10 including Mr. Lupberger, would be able
11 to produce documentation showing that
12 there is truly \$50,000,000.00 a year
13 reduction in net income for the Middle
14 South Utility system during each of the
15 annual periods that Grand Gulf I would
16 be in commercial operation up to 1991.

17 Q. I had that original caveat
18 in my first question initially, and you
19 asked me to try to shorten the question;
20 and with that caveat, is the resulting
21 allocation one of 27.84 percent to LP&L,
22 with certain costs associated with that
23 percentage deferred and not to be
24 collected until 1991?

25 A. Sir, I am not trying to

1 evade the question, but I really don't
2 feel competent to answer the specifics
3 that the question deserves and think
4 that Mr. McLetchie, who you will be
5 deposing this afternoon, and Mr.
6 Lupberger are better qualified than I
7 am.

8 I am not trying to skirt
9 the answer, but --

10 Q. What I am trying to get at,
11 Mr. Chavanne, is your understanding of
12 what impact the offer of settlement
13 will have.

14 MR. ANDERSON:

15 And he has testified
16 twice that he really doesn't feel
17 comfortable addressing that because he
18 was not involved in the development of
19 it, and he has given you the names of
20 other deponents who will be here who
21 may be able to do that.

22 BY MR. MCROW:

23 Q. I guess my only question
24 would be then you don't have an
25 understanding of what percentage would

1 be allocated to the operating companies,
2 in particular LP&L, under the offer of
3 settlement?

4 A. At what point in time, sir?
5 I think I can understand -- I can
6 explain my understanding of it in
7 certain time frames, such as commencing
8 with the commercial operation date of
9 Grand Gulf I.

10 Q. Okay. Please explain your
11 understanding.

12 A. My understanding -- subject
13 to verification by Messrs. McLetchie
14 and Lupberger -- that if one were to
15 take the initial entitlement allocation
16 percentages contained in the offer of
17 settlement, namely LP&L's 14 percent,
18 divide that by the sum of all company's
19 initial entitled percentages, 67.1
20 percent, one gets a particular
21 percentage relationship.

22 If you take that percentage
23 relationship times, as I recall, the
24 total annual revenue requirements for
25 MSE's operation expenses, maintenance

1 expenses, decommissioning expenses, and
2 taxes, other than income tax expenses,
3 that is the first calculation that
4 would be made during the initial
5 billing of the unit.

6 The difference between the
7 sum of those four components, operation,
8 maintenance, decommissioning, taxes
9 other than income, subtract it from
10 \$940,915,000.00, which is the annual
11 MSE revenue requirements, excluding
12 fuel, one gets a remainder.

13 If you take the, it is my
14 understanding, absolute percent, namely
15 17 percent by LP&L times that remainder,
16 one gets a sum that should be added to
17 the other calculation to get the amount
18 of revenue requirements for LP&L from
19 the commercial operation date of Grand
20 Gulf Unit One until 1991.

21 From 1991 on, one would
22 then take the additional entitlement
23 percentages, which as you indicated, I
24 believe, is 27 plus percent for LP&L,
25 times the total annual MSE annual

1 revenue requirements, which will be
2 somewhat less than \$940,915,000.00 to
3 get the company's 1991 annual revenue
4 requirements.

5 Q. Just for clarification, I
6 believe you referred to LP&L having a
7 17 percent allocation initially?

8 A. I stand corrected. It was
9 14 percent.

10 Q. Beginning in 1991, at the
11 27.84 percent of the total revenue
12 requirement associated with Grand Gulf
13 I, that total revenue requirement would
14 include, under your understanding, the
15 costs which were to be deferred during
16 the initial period, in with the
17 commercial operation date through
18 December 31, 1990?

19 A. I am unclear as to that
20 point. There certainly is a recovery
21 provision. Whether it will be added to
22 the annual revenue requirements, or
23 perhaps amortized over the life of the
24 unit, I am not certain. I think again
25 Mr. McLetchie or Lupberger could answer

1 that specifically.

2 Q. Is it your understanding
3 that LP&L would be responsible for
4 27.84 percent of those deferred costs?

5 MR. ANDERSON:

6 When?

7 MR. MORROW:

8 Beginning in January
9 1991.

10 A. Sir, I truly have no
11 understanding. Logic would tell me
12 that I believe so, but I have to say
13 again, I cannot answer that
14 specifically, other than to say the
15 logic holds. But again, I defer to
16 Messrs. McLetchie and Lupberger.

17 MR. MORROW:

18 Thank you. That's
19 all the questions I have.

20 MR. ORTMAN:

21 Let the record
22 reflect we have resumed with Mr.
23 Chavanne's deposition.

24 BY MR. ORTMAN:

25 Q. My name is Glen Ortman and

1 I represent the City of New Orleans,
2 and I have a few questions for you.

3 Could you tell me when
4 normally the senior staff that you
5 referred to before meets?

6 A. To my knowledge, there is
7 no specific time schedule. I think
8 whenever Mr. Cain wishes to seek their
9 advice. I think it is on a purely
10 intermittent basis, at his pleasure.

11 Q. Is there a schedule for
12 executive staff meetings?

13 A. Yes, sir.

14 Q. What is that schedule?

15 A. Generally 8:00 every Monday
16 morning, except the week of the
17 LP&L-NOPSI board meeting, in which case
18 it is 8:00 Wednesday of that week.

19 Q. Mr. Chavanne, with respect
20 to the January 2nd meetings that you
21 referred to, the staff meetings, was
22 there a written agenda prepared?

23 A. There is never a written
24 agenda prepared; no, sir.

25 Q. You indicated previously

1 that you were informed, I believe, that
2 the total revenue reduction, that there
3 would be a total revenue reduction of
4 approximately \$200,000,000.00 a year
5 from the date of the commercial
6 operation of the unit until 1991.

7 Can you tell me who gave
8 you that information?

9 A. I believe, sir, that
10 Messrs. Cain and possibly McLetchie and
11 Hurstell, either one or all of them in
12 briefing, on the January 2nd meeting, I
13 believe, the first time I heard that
14 figure.

15 Q. Was this part of the
16 information that was awaiting you on
17 your desk when you returned from your
18 vacation?

19 A. I have no way of knowing,
20 sir, I never saw that data; I never
21 asked for it.

22 Q. Mr. Chavanne, are you
23 familiar with NOPSI's recent financing
24 plan, for 1985, that was filed with the
25 Securities and Exchange Commission?

1 A. Generally. I was not
2 directly involved in preparing it. But
3 I know that we need external sources of
4 funds in 1985.

5 Q. Do you know when that
6 filing was made with the Securities and
7 Exchange Commission?

8 A. No, sir; I really don't.

9 Q. Mr. Chavanne, if the cash
10 that you had been expecting to receive
11 from AP&L during that first week in
12 January had been received, in
13 connection with the advance payments,
14 would that have affected NOPSI's
15 financing plans for 1985?

16 A. I don't think it would have,
17 sir. I think it could have affected
18 the timing.

19 As I recall from my
20 calculation, I think it was in the
21 neighborhood of seven and a half to
22 \$8,000,000.00 figure; and that
23 certainly would not have precluded most,
24 if not all, of the external financing
25 that we filed for.

1 Q. Is it your understanding
2 that some of the proceeds from that
3 financing will go to pay NOPSI's advance
4 payments to Middle South Energy?

5 A. I think, sir, again it
6 depends on timing assumptions one makes,
7 such as if Grand Gulf Unit One comes on
8 line in March 1985, my answer to that
9 would be no. We only have one more
10 month of advance purchase power to make.

11 So again, I was not
12 involved in the documentation that was
13 filed with SEC; and I do not think it
14 necessarily had any material impact on
15 the financing requirements.

16 Q. Mr. Chavanne, did you have
17 a back-up or substitute during your
18 absence from the office in late
19 December of 1984?

20 A. Only in a general way. No
21 one who would come up to my office and
22 sign paperwork or anything to that
23 nature.

24 Q. With respect to the meeting
25 on the 3rd of January, following the

1 board meetings of that morning, can you
2 tell me who was to contact the City
3 Council?

4 A. To my recollection, all I
5 recall specifically was that Richard
6 Guthrie, who is the principal contact
7 with the City Council, was to initiate
8 contacts. Whether he was to make all
9 the contacts, or whether some of his
10 associates were, I really don't recall.
11 But he was the principal contact, as I
12 recall.

13 Now John Cordaro may have
14 taken some councilmen himself.

15 Q. Was there any discussion on
16 January 7th about the reaction of the
17 City Council members to the offer of
18 settlement?

19 A. As I recall, there was
20 general discussion of various reactions,
21 of various constituencies; I don't
22 recall any particular reaction of
23 someone saying that councilmen said so
24 and so, or reacted so and so as such.
25 That does not mean to imply that

1 somebody doesn't say something. I just
2 don't recall anything said of that
3 nature.

4 Q. Was there any impression
5 you took away from that meeting as to
6 the general reaction of the council?

7 A. Sir, I wouldn't have needed
8 to have heard anybody brief me to have
9 known, simply by watching television
10 over the weekend. So I can't
11 truthfully say I walked out of that
12 meeting with any different impression
13 than I walked into it.

14 Q. Mr. Chavanne, what is your
15 understanding of what happens if there
16 is a tie vote on the NOPSI board?

17 MR. ANDERSON:

18 Wait a minute. Let
19 me object to that question. The man
20 had said that he doesn't attend the
21 board meetings, and he has -- unless
22 you can lay some predicate that he
23 would have some way of knowing, or have
24 some basis for knowledge, I think it is
25 unfair to ask him to speculate as to

1 what might happen.

2 MR. ORTMAN:

3 I will ask one more
4 question.

5 BY MR. ORTMAN:

6 Q. Mr. Chavanne, previously,
7 to Mr. McLetchie's appointment, did you
8 attend NOPSI board meetings?

9 A. Yes, sir, I did.

10 Q. Can you tell me what your
11 understanding is of the result, if
12 there is a tie vote, on the board of
13 NOPSI?

14 A. There had never been a tie
15 vote. So any statement I made would be
16 simply an opinion which may or may not
17 be of any validity.

18 Q. Could you give me what your
19 opinion is on that basis?

20 MR. ANDERSON:

21 No. I am not going
22 to let him do that. I am not going to
23 let the man guess as to what might
24 happen. He already said it hasn't
25 happened to his recollection. He has

1 no basis to give an opinion on that.

2 BY MR. ORTMAN:

3 Q. The answer is you don't

4 know, Mr. Chavanne?

5 MR. ANDERSON:

6 No, the answer is I

7 am telling you not to answer that

8 question.

9 BY MR. ORTMAN:

10 Q. Do you have any

11 understandings, Mr. Chavanne, as to

12 what happens if there is a tie vote on

13 the LP&L board of directors?

14 MR. ANDERSON:

15 I am giving him the

16 same instruction on that question.

17 BY MR. ORTMAN:

18 Q. Mr. Chavanne, can you tell

19 me if there is a witness who will be

20 deposed this week who could give me the

21 answers to those two questions?

22 A. I -- I would believe that

23 Mr. Cain would be the best witness to

24 address that question to.

25 Q. Thank you.

1 In the course of these
2 discussions in January, in which you
3 were involved, Mr. Chavanne, was there
4 any discussion as to the timing as to
5 when the FERC might issue an order in
6 the Grand Gulf case?

7 A. I recall no discussion of
8 any prognostication as to when Federal
9 Energy Regulatory Commission would
10 render a decision in the Grand Gulf
11 case.

12 Q. Was there any discussion,
13 during these meetings that you attended
14 in January, as to when Judge Head might
15 issue his recommendations in the system
16 agreement case?

17 A. I recall the opinion being
18 voiced that there was some belief that
19 Judge Head's decision may be imminent;
20 but I hasten to add, as I indicated
21 earlier, that some of us had heard that
22 statement for some, from some people
23 for months and months and months. So I
24 have no basis for the personal
25 knowledge that that prognostication was

1 anymore accurate than the one that said
2 we would get the decision in October.

3 Q. Was that prognostication
4 from Mr. Merriman in Washington?

5 A. I certainly have never
6 talked to Mr. Merriman in months and
7 months. I certainly did hear, and
8 don't recall anyone mentioning Mr.
9 Merriman's name as saying that such a
10 decision was imminent.

11 Q. With respect to the tape
12 that we were referring to, do you know
13 if any NOPSI board members have seen
14 that tape?

15 A. I have no knowledge
16 whatsoever, sir.

17 Q. Do you have any knowledge
18 if any LP&L board members have seen
19 that tape, and I am referring to the
20 Middle South Services tape, prepared
21 with Mr. Lewis and Mr. Lupberger?

22 A. If I could modify my answer
23 to the previous question, obviously two
24 directors of both companies have seen
25 it, namely Mr. Lewis and Mr. Cain. But

1 for that, I have no personal knowledge
2 that any other director of either LP&L
3 or NOPSI have seen the tapes.

4 Q. Mr. Chavanne, I have one
5 last question.

6 If Grand Gulf II is
7 decertified, do you have a personal
8 opinion or belief as to how it's sunk
9 costs should be treated?

10 A. No.

11 MR. ANDERSON:

12 Let me -- go ahead,
13 Mr. Chavanne. Let me just object to
14 the form of this question. Asking this
15 man to speculate on something like that,
16 that no one can tell what is going to
17 happen on, and is entirely outside of
18 his area, is completely unfair to him.

19 MR. ORTMAN:

20 I didn't ask him to
21 predict. I asked if he had a personal
22 opinion as to how those costs should be
23 treated.

24 MR. ANDERSON:

25 I don't know what the

1 difference is. Subject to my objection,
2 Mr. Chavanne, answer if you can.

3 A. The answer is no.

4 BY MR. ORTMAN:

5 Q. Thank you, Mr. Chavanne. I
6 am finished with my questions.

7 (Whereupon the taking of
8 the testimony of the witness was
9 concluded.).

10 MR. ORTMAN:

11 I have been informed
12 that no other attorneys have any
13 questions of Mr. Chavanne, and that
14 this, therefore, concludes his
15 deposition.

16 Thank you, Mr. Chavanne.

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REPORTER'S CERTIFICATE

I, Mary Virginia Hughes,
Certified Shorthand Reporter, in and
for the State of Louisiana, do hereby
certify that the within witness, after
being first duly sworn to testify to
the truth, the whole truth, and nothing
but the truth, did testify as
hereinbefore set forth, in the
foregoing pages;

That the testimony was reported by me in shorthand and transcribed under my personal direction and supervision, and is a true and correct transcript, to the best of my ability and understanding;

That I am not of counsel,
and in no way interested in the outcome
of this event.

MARY VIRGINIA HUGHES

Certified Shorthand Reporter

WITNESS'S VERIFICATION

I, JOHN H. CHAVANNE, do hereby verify that I have read the above and foregoing deposition, consisting of 145 pages; and that the testimony contained therein is true and correct, to the best of my ability and understanding.

JOHN H. CHAVANNE

Eisenhut 27672

Exhibit 2

Letter to LP&L (06/24/84)

On April 2, 1984, the staff began an intensive onsite effort designed to promptly complete those issues necessary for the staff to reach its licensing decision on Waterford Unit 3. These issues covered a number of areas including allegations of improper construction practices at the facility. As we indicated to you, the staff would promptly notify you of issues that could potentially affect the safe operation of the plant.

We have recently identified several items listed in the enclosure that have potential safety implications. It should be noted that they are being provided to you before the NRC staff has completed its final assessment of the significance of these concerns. The issues in the enclosure represent a limited staff audit of information related to the plant. This audit indicates, however, that if the potential problems are more pervasive, the overall safety of the facility could be brought into questions.

As a result, you are request^{ed} to propose a program and schedule for a detailed and thorough assessment of the^{se} concerns. This program^{plan} will be evaluated by the staff before consideration of issuance of an operating license for Waterford 3. This program^{plan} should address the cause of the^{se} potential problems identified, the generic implications of the concern on other safety-related systems, programs or areas and the proposed LP&L action to assure that such problems will be precluded from occurring in the future.

In order to assure that an objective and comprehensive assessment is performed, the staff strongly recommends that this review be carried out by an independent third party not currently involved in the design or construction of Waterford Unit 3.

Sincerely,

Carroll G. Eisenhut, Director
Division of Licensing
Office of Nuclear Reactor Regulation

*Why not ask for
a justification before
LP with final
before EP.*

*Recognize
implication
of 5/25/84
things may
have
changed*

U.S. NUCLEAR REGULATORY COMMISSION
REGION III

OUTGOING TRANSMISSION SERVICE REQUEST

DATE

6/12/84

27467

Number of pages

7

To (Name):

Denny Crutchfield - NRR, Waterford TAPK force

From:

J. Harrison, Region III

Description:

Input for Letter to LPA

Please notify Mr. Crutchfield when Received!

Air Rights Bldg

E/W Towers

H. Street

MCBB

Phillips Bldg

Silver Spring
(Willate Bldg)

Woodmont Bldg

Region I

Region II

Region IV

Region V

NSAC

INPO

Resident at

Corporate Office

(Identify recipient & fax number)

Other

(Designate - include fax number)

FOR WP & D/C USE

System 6 (WP)

Rapifax

3'M EXT #727

3'M EXT #728

FTS

Commercial

Time Started

Time Completed

Trans. Time

(Actual Mins.)

Operator

Rev 3/9/83
Attachment 1

FOIA-84-506

7

6. Cont'd (Insert)

The staff also found similar type problems related to Mercury NCRs in that the discrepancies were questionable; supporting documentation could not be located; rework appears to have not been accomplished; NCRs were not processed, a sufficient basis was not provided; and closure basis was inadequate.

The following NCRs fall into these categories:

Mercury NCRs

| | | | | |
|------|-----|-----|-----|-----|
| 1030 | 420 | 528 | 568 | 625 |
| 255 | 429 | 540 | 591 | 656 |
| 268 | 438 | 554 | 594 | 658 |
| 363 | 487 | 560 | 595 | |
| 380 | 491 | 565 | 614 | |

Additionally during this review the staff found problems with Fbasco discrepancy reports (DRs) in that ^{it appears} some DRs should have been elevated to NCR; closure references were incorrect ~~closure references~~ were inappropriate; closure action was improper; documentation was inaccurate ~~on many occasions~~; closure was via a DR, should have been an NCR; discrepancy failed to address the discrepancy; and the disposition of "Use-as-Is" had insufficient basis.

The following DRs fall into these categories

Excluded DRs - Related to Turnover Packages

Q2 - CS - IC - 27

Q2 / 3 - FW / IC - 851

Q2 - SI - IC - 89

QMC - APD - P47E

CH - IC - 342

BD - IC - 1143

Q1 - RC - LWS - 110

LW 3 - RC - 20

Q2 - LW 3 - SI - 10

CC - IC - 6

22. Welder Qualifications (Mercury) and Filler Material Control (Site wide)

The staff reviewed in process work records for the installation of instrumentation systems by Mercury Company. Systems reviewed included Reactor Coolant, Safety Injection, ~~and~~ Component Cooling Water, Main Steam, Main feed, and Charging Water. The staff selected welders from these records and reviewed their qualifications to the ~~actual~~ welding process ^{which} ~~utilized~~ ~~for~~ in the time frame of actual welding.

Based on the Staff's review it appears that some Mercury welders were not counted at ~~the~~

Problems included: ~~as follows~~ welders ~~are not~~ were not qualified to the correct welding procedure.

~~According to : welders were qualified for~~
~~specific even though they were not tested for that purpose.~~
~~1 process. They did not perform a test for,~~
~~the actual~~

the dates on qualification records ~~are~~ ^{approved} questioned
the worker may have worked prior to ~~starting the~~

les ^{test} and ~~a welder may have needed to a~~
~~penetration for which he was not qualified.~~ The

The mercury web site qualification status is unreliable. The overall ^{QA} records system for Mercury was in a state of disarray making record retrieval very difficult.

Also during this review the staff evaluated the controls being ~~used~~ ^{used} to control filler material. ~~A~~

The staff found

~~all site contractors~~ that the requirements for "rebaking" of low hydrogen electrodes did not meet the requirement of the ASME or AWS Codes. The Codes require low hydrogen electrodes to be rebaked at temperatures of 450° to 800° for two hours. The site practice ^{for all site contractors} was to rebake at 200° for eight hours. Justification for this Code deviation ~~could not be~~ ^{has not been} provided. ~~this review. Additionally the staff observed~~ ^{low hydrogen (E7018) being issued from the rebake ovens at the Ebasco warehouse during the review.}
~~at what point? how long?~~

LP&L shall attempt to locate the missing documentation and determine if the welders were properly qualified. ^{or 2/} If the documentation to support proper qualification cannot be located, ^{LP&L shall provide a program} ~~appropriate action shall be taken~~ to assure the quality of ^{all} ~~any~~ welds performed by ~~a~~ ^{questionable} welders.

LP&L shall also provide engineering justification for the allowance of "rebake" temperatures and holding times that differ from the requirements of the ASME and AWS Codes. A variance from the ASME Code would also require a ASME Code Case

23. QA Program Breakdown Between Ebasis and Mercury

The staff review included evaluation of the implementation of the QA programs of LP&L, Ebasis, and Mercury. The staff performed a follow-up on the previous NRC review ~~breakdown that occurred in 1992~~ ^{that} results in NRC enforcement action and a civil penalty. The ^{most recent} staff review revealed that LP&L, Ebasis, and Mercury ^{either} all failed to complete ^{or correct} ~~or correct~~ ^{fall} follow-up action. The corrective action commitment made to the NRC. Additionally LP&L, Ebasis, and Mercury ~~also~~ failed to audit the ~~entire~~ QA program as required (LP&L only performed one-third of their scheduled audits for a five year period). The audits that were conducted identified some problems ^{now} ~~that~~ ^{are} the proposed corrective actions ^{were} ~~were~~ not completed ~~and was not effective~~. Management ~~supp~~ audits performed by outside consultants, ~~also~~ identify problems and concerns that ~~were not acted on by LP&L~~. ^{LP&L also failed to take corrective}

It is also evident, as identified by the results of this NRC Task force review, that an overall breakdown of the QA program occurred. Most problems identified by the NRC had been previously identified by the QA programs of LP&L, Ebasis, and Mercury. But the failure to determine root cause and the lack of corrective action allowed the problem to persist.

LP&C shall provide an assessment of the overall QH program and determine the cause of the breakdown, together with corrective action to prevent recurrence. This overall assessment is necessary to provide assurance that the QA program can function adequately when the plant proceeds into operations. ~~The use of an independent assessment is also~~
~~crucial since the staff has no~~
~~confidence in LP&C.~~

05-11
NRE-7D
NRR 5-2

SUMMARY AND CURRENT STATUS OF
LICENSING ACTIONS
AT
WATERFORD 3

AUGUST 1, 1984

FOIA-84-426/449
C/456

456

- 1 -

*Collins
DeYoung
Denton*

- ° MARCH 12, 1984 - EDO DIRECTIVE CENTRALIZING RESPONSIBILITY
FOR MANAGEMENT OF ISSUES NEEDING
RESOLUTION PRIOR TO LICENSING DECISION

° ISSUES NEEDING RESOLUTION PRIOR TO LICENSING DECISION

- FSAR REVIEW
- REGIONAL INSPECTIONS
- BASEMAT
- ALLEGATIONS INCLUDING INQUIRY TEAM REPORT

- 2 -

FASR REVIEW AND REGIONAL INSPECTIONSFSAR REVIEW

- SER AND SIX SUPPLEMENTS HAVE BEEN PUBLISHED
- SUPPLEMENT 8 WILL ADDRESS REMAINING FSAR ISSUES
 - ENVIRONMENTAL QUALIFICATION
 - AUXILIARY PRESSURIZER SPRAY SYSTEM
 - OPERATING PROCEDURES
 - LEAKAGE REDUCTION PROGRAM
 - FIRE PROTECTION
 - LIQUID AND SOLID RADWASTE SYSTEM
 - INITIAL TEST PROGRAM

Supp 7 is
Allegation
waitup

EXPECTED PUBLICATION DATE OF SSER IS EARLY AUGUST

REGIONAL INSPECTIONS

- INSPECTION EFFORT ENHANCED WITH RESOURCES FROM OTHER REGIONAL OFFICES AND CONSULTANTS TO ASSURE TIMELY COMPLETION OF ALL INSPECTIONS
- FINAL INSPECTION REPORTS AND FOLLOW ACTIONS ARE BEING COMPLETED

{ 737
startup
CPS GA
SCD's

- 3 -

BASEMAT CRACKS

- BASEMAT IS ALMOST 300 FT WIDE BY 400 FT LONG BY 12 FT THICK
- CRACKS AND WATER SEEPAGE FIRST DISCOVERED IN SURFACE OF BASEMAT IN 1977 *Under Containment 1983*
- MOTION TO REOPEN HEARINGS ON SUBJECT OF CRACKED BASEMATS INTEGRITY - FILED DECEMBER 1983
- TWO NRC GROUPS EVALUATING TECHNICAL ISSUE
 - CONSTRUCTION ACCEPTABILITY

NRC HEADQUARTERS AND REGIONAL STAFF ALONG WITH A CONSULTANT HAVE EXAMINED CONSTRUCTION RECORDS AND CONCLUDED THAT CONSTRUCTION WAS ADEQUATELY PERFORMED
 - DESIGN ADEQUACY

NRR AND ITS CONSULTANTS FROM BROOKHAVEN HAVE REVIEWED ORIGINAL DESIGN AND INTEGRITY IN LIGHT OF CRACKS DISCOVERED AND CONCLUDE DESIGN IS ADEQUATE
- LP&L HAS NDE TESTING UNDERWAY OF BASEMAT
 - STAFF HAS DISCUSSED PRELIMINARY FINDINGS WITH LP&L WITH MOST OF THE MAT TESTED - NO DIAGONAL TENSION CRACKS DISCOVERED.
- STAFF'S FINAL ASSESSMENT TO BE PUBLISHED ON AUGUST 7, 1984

- 4 -

ALLEGATIONS

- ALLEGATIONS AROSE FROM QA PERSONNEL WORKING ON SITE AND CONCERNS ABOUT THE:
 - FUNCTIONING OF THE QA PROGRAM
 - CONTROL OF DESIGN AND FIELD CHANGES
 - DISPOSITION OF NONCONFORMANCES AND DISCREPANCIES
 - REPORTABILITY OF ITEMS TO NRC
- GENERAL ALLEGATIONS ABOUT POOR CONSTRUCTION APPEARED IN GAMBIT DURING LATE 1983
- BY LATE MARCH 1984, MEMBERS OF THE TECHNICAL AND INVESTIGATIVE STAFFS' IDENTIFIED APPROXIMATELY 350 SPECIFIC ALLEGATIONS
- MOST ALLEGATIONS DEVELOPED FROM 1 Ex. 7d WERE PRINCIPALLY AGAINST EBASCO, 7c- - 5 TOMPKINS-BECKWITH (PIPING AND MECHANICAL) AND MERCURY (INSTRUMENTATION AND CONTROL)]

- 5 -

WATERFORD 3 TASK FORCE

- THE WATERFORD 3 TASK FORCE WAS ORGANIZED TO CARRYOUT EDO'S DIRECTIVE, INCLUDING EVALUATION OF ALLEGATIONS
- TASK FORCE WAS COMPOSED OF ABOUT 40 TECHNICAL SPECIALISTS FROM NRC HEADQUARTERS, REGIONAL OFFICES, AND CONSULTANTS FROM NATIONAL LABS AND PRIVATE FIRMS
- TASK FORCE WAS DIVIDED INTO TEAMS THAT LOOKED INTO THE AREAS OF:
 - CIVIL/STRUCTURAL AND PIPING MECHANICAL
 - INSTRUMENTATION AND CONTROL
 - QUALITY ASSURANCE AND QUALITY CONTROL
- A FOURTH GROUP, THE INQUIRY TEAM - PREVIOUSLY INVESTIGATED CONCERNS RAISED IN MAY 1983
 - ISSUED A REPORT IDENTIFYING QA CONCERNS AND LP&L'S FOLLOWUP
 - LP&L RESPONDED IN SEPTEMBER 1983 AND FEBRUARY 1984
 - INQUIRY TEAM JOINED TASK FORCE TO EVALUATE ADEQUACY OF LP&L'S RESPONSE
 - INSPECTION REPORT ISSUED JULY 20, 1984

- 6 -

ALLEGATION EVALUATION

- EVALUATION TECHNIQUE GENERALLY FOLLOWED DIABLO CANYON APPROACH
- APPROACH UTILIZED INCLUDED:
 - DEVELOPMENT OF REVIEW PLAN
 - GATHER RELEVANT DOCUMENTS
 - OBSERVE FIELD INSTALLATION
 - GATHER INFORMATION FROM UTILITY AND CONTRACTORS
 - SPECIAL CONSULTANTS
- EVALUATE ISSUES
 - VALIDITY OF CONCERN
 - GENERIC IMPLICATIONS ON OTHER SYSTEMS OR VENDORS
 - SAFETY SIGNIFICANCE
 - MANAGEMENT IMPLICATIONS
- DOCUMENTED RESULTS OF ISSUES EVALUATED
- [

Ex. 5, 7a

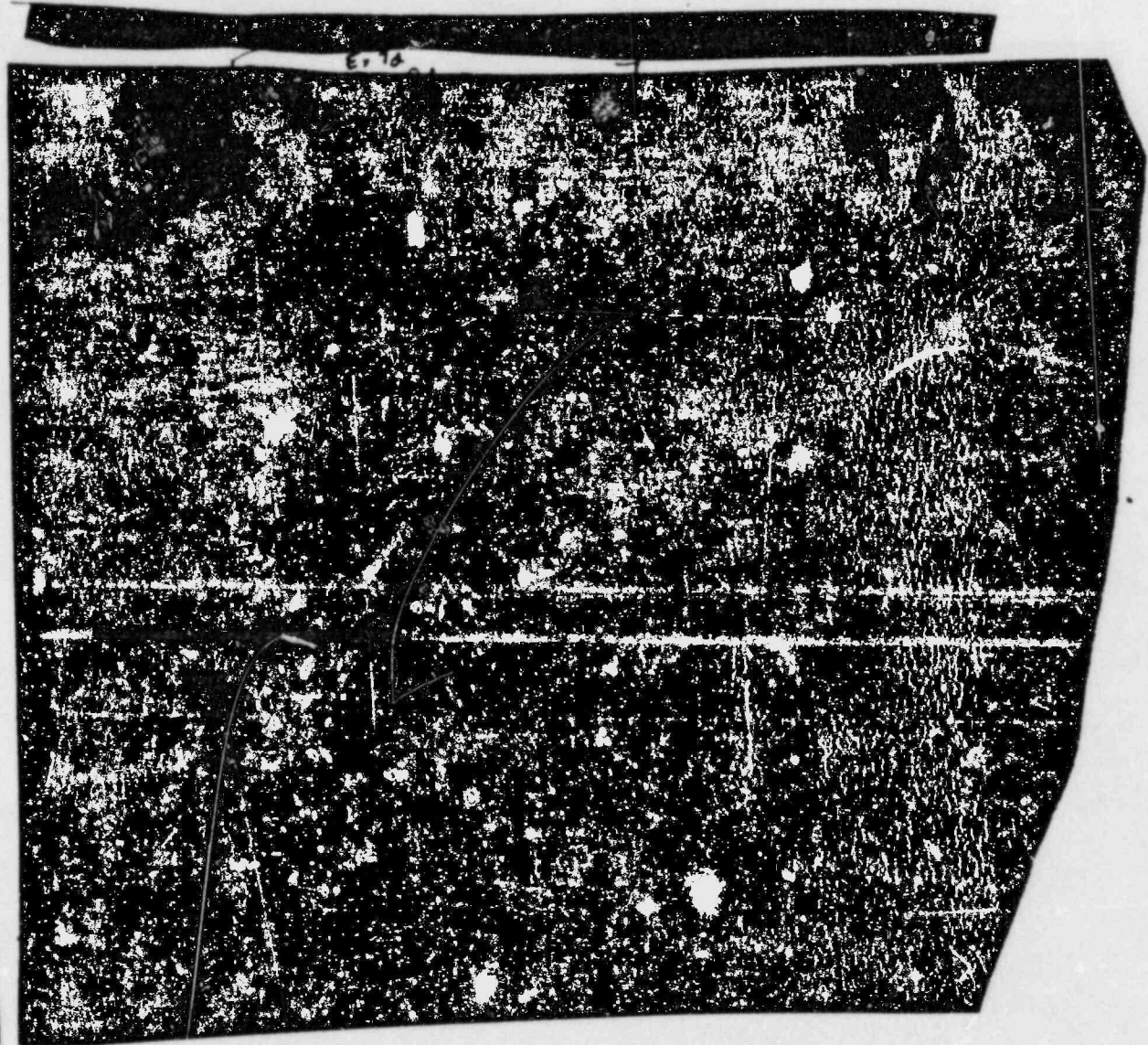
]
- TASK FORCE REPORT BEING FINALIZED AND EXPECT IT TO BE ISSUED IN MID-AUGUST 1984

- 7 -

W/H
05 70

SPECIAL CONSULTANTS

4



- 8 -

TASK FORCE ACTIONS

- COMPOSITION OF TEAMS (NUMBER OF ALLEGATIONS EVALUATED)
- CIVIL/STRUCTURAL TEAM (87) 8 MEMBERS FROM NRR, RES, IE, R-IV AND INCLUDED CONSULTANT. TEAM HAS 150 YEARS OF ENGINEERING EXPERIENCE. THE ADDED BASEMAT CONSULTANT HAD 38 YEARS EXPERIENCE.
- PIPING/MECHANICAL TEAM (42) 7 MEMBERS FROM NRR, R-IV AND A NATIONAL LABORATORY AND A CONSULTANT. TEAM HAS 149 YEARS OF EXPERIENCE.
- INSTRUMENTATION AND CONTROL TEAM (7) 4 TEAM MEMBERS FROM NRR, IE AND CONSULTANTS. TEAM HAS OVER 50 YEARS OF EXPERIENCE.
- QUALITY ASSURANCE TEAM (217) 19 TEAM MEMBERS FROM NRR, R-III, R-IV AND NATIONAL LABORATORY. TEAM HAS OVER 300 YEARS OF EXPERIENCE.

- 9 -


CONCERNS IDENTIFIED BY TASK FORCE IN JUNE 13, 1984 LETTER TO LP&L

| | |
|---|----|
| • CIVIL/STRUCTURAL CONCERNS IDENTIFIED | 7 |
| • INSTRUMENTATION AND CONTROL CONCERNS IDENTIFIED | 2 |
| • QUALITY ASSURANCE AND QUALITY CONTROL CONCERNS IDENTIFIED | 10 |
| • INQUIRY TEAM CONCERNS IDENTIFIED | 2 |
| TOTAL | 23 |
| • LP&L PROPOSED PLAN TO ADDRESS NRC CONCERNS - JUNE 28, 1984 UNDER REVIEW BY STAFF | |
| • STAFF WILL REVISIT SITE TO EVALUATE ADEQUACY OF LP&L'S FINAL RESOLUTION OF CONCERNS | |
| • NO CURRENT LICENSING DATE REQUESTED BY LP&L | |

- 10 -

TASK FORCE FINDINGS


- SOME ALLEGATIONS WERE VALID BUT CHANGES MADE ONSITE TO ADDRESS ISSUES
- SOME ALLEGATIONS WERE VALID BUT OF LITTLE OR NO SAFETY SIGNIFICANCE
- SOME ALLEGATIONS WERE NOT VALID
- SOME ALLEGATIONS WERE VALID AND THE STAFF REQUESTED ADDITIONAL INFORMATION IN 23 AREAS THAT HAVE POTENTIAL SAFETY IMPLICATIONS (SOME FOR FUEL LOAD AND SOME FOR POWER OPERATIONS)

• *Ex. 5, 7a* 

- 11 -

SCHEDULE OF FUTURE ACTIONS

Ex 70-

- 
- AUGUST 7, 1984 - PUBLISH FINAL RESULTS OF BASEMAT ASSESSMENT
- MID-AUGUST - FINISH ROUTINE INSPECTION FOLLOWUP
- ISSUE REPORT OF TASK FORCE
- REVIEW RESPONSE OF UTILITY TO 23 AREAS
(WHEN RECEIVED) AND DOCUMENT FINDINGS
- ISSUE FSAR SSER COVERING REMAINING
OPEN ITEMS
- ABOVE ITEMS MUST BE COMPLETED BEFORE STAFF WILL CONSIDER ISSUING A
LICENSE FOR FUEL LOADING AND LOW POWER.
- SEPTEMBER - EVALUATE APRIL 27, 1984 UTILITY RESPONSE
FOR POTENTIAL MATERIAL FALSE STATEMENTS

- 12 -

CHRONOLOG OF MAJOR EVENTS

- MARCH 12, 1984 - EDO DIRECTIVE CENTRALIZES MANAGEMENT AND INITIATES EFFORTS ON WATERFORD AND COMANCHE PEAK
- APRIL 2, 1984 - WATERFORD TEAM BEGINS ONSITE ACTIONS
- 39 TECHNICAL ALLEGATIONS SENT TO UTILITY
- APRIL 27, 1984 - LP&L RESPONSE TO 39 ALLEGATIONS
- MAY 25, 1984 - SITE WORK FINISHED
- JUNE 8, 1984 - MEETING WITH LP&L TO DISCUSS 23 AREAS WHERE STAFF NEEDS ADDITIONAL INFORMATION
- JUNE 13, 1984 - EISENHUT TO CAIN LETTER TRANSMITTING 23 AREAS
- JUNE 28, 1984 - UTILITY RESPONSE WITH PRELIMINARY PROGRAM PLAN RESPONDING TO 23 AREAS

Revision 0
5/23/84 (TSK2)

SSER

Task: Allegation A-01

Reference Number: 4-83-A-48/1

Characterization: The allegation is that the employment records for quality assurance (QA) personnel of the Mercury Construction Company have not been verified and that the implications of this alleged practice may apply to all Mercury employees.

Assessment of Allegation: The implied significance of this allegation is that unqualified quality control (QC) inspectors may have performed inspections, making the validity of the inspections questionable and the quality of the work indeterminant.

The NRC staff reviewed Mercury's procedure for qualification of inspection, examination and test personnel, inspector certification records, and personnel training and resume packages against Regulatory Guide 1.58, Rev. 1, as required by NRC Generic Letter 81-01, ANSI N45.2.6, 1978, and IE Circular 80-22.

The NRC staff sampled 30% of the inspector certifications of QC personnel; the results revealed that no verification of past employment was documented. An additional staff examination of inspector qualification for Allegation A-02 has indicated a generic problem of improperly certified inspectors.

Mercury inspectors have performed inspections on safety-related systems. The NRC staff believes this allegation has implied safety significance and should be resolved prior to fuel load.

Actions Required: Prior to fuel loading, LP&L shall:

1. Verify the professional credentials of 100% of the QA/QC personnel, including supervisors and managers.
2. Re-inspect the work performed by inspectors found unqualified.

References:

1. IE Circular No. 80-22, Confirmation of Employee Qualifications
2. LP&L letter W3P83-3704, Re: Confirmation of Employee Qualifications
3. See documentation of Allegation A-02 for certification packages reviewed.

4. Regulatory Guide 1.58, Revision 1.
5. Generic Letter 81-01.
6. ANSI N45.2.6, 1978.

Statement Prepared By:

R. A. Westberg

Date

Reviewed By:

Team Leader

Date

Reviewed By:

Site Team Leader(s)

Date

Approved By:

Task Management

Date

SSER

Task: Allegation A-01

Reference Number: 4-83-A-48/1

Characterization: The allegation is that the employment records for quality assurance (QA) personnel of the Mercury Construction Company have not been verified and that the implications of this alleged practice may apply to all Mercury employees.

Assessment of Allegation: The implied significance of this allegation is that unqualified quality control (QC) inspectors may have performed inspections, making the validity of the inspections questionable and the quality of the work indeterminant.

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Mercury inspectors have performed inspections on safety-related systems. The NRC staff believes this allegation has implied safety significance and should be resolved prior to fuel load.

Es 5.7-

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2. Re-inspect the work performed by inspectors found unqualified.

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1. IE Circular No. 80-22, Confirmation of Employee Qualifications
2. LP&L letter W3P83-3704, Re: Confirmation of Employee Qualifications
3. See documentation of Allegation A-02 for certification packages reviewed.

4

4. Regulatory Guide 1.58, Revision 1.
5. Generic Letter 81-01.
6. ANSI N45.2.6, 1978.

Statement Prepared By:

R. A. Westberg

Date

Reviewed By:

Team Leader

Date

Reviewed By:

Site Team Leader(s)

Date

Approved By:

Task Management

Date

SSER

Task: Allegation A-48, A-60, A-295

Reference No.: 4-83-A-88/2b; 4-83-A-88/12; 4-84-A-06/176

The allegation is that
Characterization: A Complete Breakdown in the QA Program between EBASCO and the Mercury Company, of Norwood (Contract W3 N.Y. 15)

Assessment of Allegation: The implied ~~safety~~ significance of this allegation is that, a "complete" QA breakdown occurred. *That is, quality control* inspectors did not ~~do~~ adequate inspections; ~~Mercury personnel did not have the inspections; Mercury personnel did not have the freedom to write Nonconformance Reports (NCRs) and obtain effective corrective action; EBASCO and Mercury did not follow any procedure; QA records did not adequately document QA activities; and the licensee and contractors audit program, which is the last defense for identifying QA/QC problems,~~ *was not adequately implemented.* ~~This breakdown naturally extends to Louisiana problem.~~ *also* This breakdown naturally extends to Louisiana Power & Light (LP&L), *because as* ~~since they are the applicant for a license, and the holder of the construction permit, this alleged breakdown could cause the quality of construction to be questionable.~~ *for all work at the site*

5/30/84 (TSK4)

Region IV NRC Report (No. 50-382/82-14, ~~pages 8-12~~ describes a small LP&L QA staff (4-6 positions) and a heavy reliance on EBASCO Construction management for "onsite Construction QA". In turn, EBASCO QA (10 auditors) audited QA programs of other onsite contractors and, because these auditors had additional duties ~~other than auditing that~~ ^{was a} limited their effectiveness. LP&L's annual of EBASCO included a review of 143 audits conducted by EBASCO QA during 1981. The audit summary concluded that EBASCO audit program was adequate but ~~that~~ measures should be established by EBASCO to determine the effectiveness of the contractor QA program. EBASCO QA response did not address the summary comments.

The report ~~referenced above~~ stated that in early 1982 EBASCO submitted ~~9~~ ⁴ ECCS systems to LP&L for turnover. LP&L audit of these turnover packages included QA records review and ~~an~~ ^a walkdown inspection of systems. ~~All 4~~ ⁴ systems ~~were rejected~~. LP&L reported this QA breakdown to ~~the~~ NRC on May 26, 1982, ~~Reference~~ ⁱⁿ Potentially Reportable Incident No. 80. ~~Later~~ ^{changed to} significant Deficiency Report 57, "Inadequate Instrumentation and Control Installations and Turnover Documentation." ⁹ Because of serious problems with "as-built drawing and deficient installation of I&C systems," ~~the~~ NRC imposed a civil penalty ^{of \$5,000} in ~~NRC Letter 50-382 EA 62-109~~ dated December 6, 1982.

LP&L (Letters ^W 3183-0001 and 0015) dated January 4, 1983, and April 8, 1983, respectively) responded to ~~the~~ NRC Inspection Report and Notice of Violation. They acknowledged ⁱⁿ ~~there was~~ a partial breakdown in the Waterford 3 QA Program "at the sub-tier levels and involving contractor/subcontractor organizations identified in USNRC Inspection Report 50-382/82-14." ^{LP&L responded to it.} ~~The reason for~~ the violation was stated to be caused by: (1) insufficient training of inspectors, QA reviewers, and craftsmen, (2) inadequate staffing, and (3) inadequate walkdown of completed systems. ^{LP&L is.} ~~Steps were outlined to take corrective action in these areas by~~ April 4, 1983; however, the last LP&L letter ~~dated~~ April 5, 1984, stated that "final review of corrective action documentation is scheduled to be completed in late May 1984. The Final Report will be submitted to the NRC on June 15, 1984."

Because of the above quality assurance and enforcement history, the NRC determined that ~~the methodology to followup this allegation should be as follows: (1) evaluate the implementation of Mercury QA Program, (2) evaluate EBASCO QA Program, and (3) evaluate LP&L QA Program by evaluating the audit programs and resultant corrective action with respect to the extent and cause of the QA breakdown at the licensee, EBASCO and Mercury.~~ ^{at LP&L} ~~Additional~~ ^{VP-2} problems were identified ^{at Mercury, et al.} ~~at Mercury, et al.~~ then audits of other contractors ~~would be evaluated for similar QA program deficiencies.~~

Review of

Marketing Company Audits and Corrective Action

Review of Mercury Audits and Corrective Action The NRC staff reviewed and evaluated QA Manual (QAM), Sections 1 through 18; procedures QCP-3020, 3060, and SP-664; ^{the} audit log; ^{the} matrix of all construction procedures; 8 auditor qualification files; 64 internal audits; all 1979 through 1983 audits; and QA Annual Report ^{from} ~~July 1981-82~~ ^{through} ~~July 1982~~ ^{the R. J. Jan} ~~July 1982~~. Several former Mercury employees and other site personnel having direct knowledge of the company, ~~were~~ interviewed. The following is a summary of these interviews, ^{reviews} ~~reviews~~ and evaluations.

Interviews and Evaluation of Mercury Management

The Mercury Company was plagued by poor and discontinuous management ²
because ^{Six} there were ^{Six} project superintendents, ^{Six} product engineers and
^{Six} QA site supervisors from mid 1978 ^{it was!} thru mid 1983. Site QA/QC
personnel received ^{little or no} ~~poor~~ support from corporate QA management and ^{as} a
result many QC inspectors resigned. Several QC inspectors wrote
letters of resignation describing these poor conditions and were
threatened with immediate dismissal if these letters were not withdrawn.
QA/QC personnel ^{S. Limon} constantly ~~were~~ overridden by cost and schedule concerns
because EBASCO and Mercury management were ^{to quote some QC personnel} "in bed together" and ran
"rough ~~X~~ shod" over QC. There was a high turnover among QC inspectors.
EBASCO management was aware of these problems shortly after Mercury
came on site. More than one source stated that LP&L and EBASCO did
not properly control and assure that Mercury QA records were retained
onsite but allowed ^{Mr. [unclear]} them to "haul" away Waterford Project records that

5/30/84 (TSK4)

should have remained on site. NRC staff members also found that LP&L ^{was} were still unsure as to exactly what records were on site and what records should be on site. EBASCO and LP&L management ~~finally~~ became fully aware of serious Mercury problems in 1981^{and} 1982, almost three

years after ^{they} came on site and after almost 80% of the work ^{was done} they apparently assumed that it was too late to obtain corrective action or ^{do} ~~an~~ impossible task.

It
+ this time, Ebasco management supplemented mercury management
, complete
new work;

Review and Evaluation of Corporate Annual Report

Mercury Internal Audit No. 1-9-80 (January 8, 1980)-finding No. 1,2

documented that ~~the~~ Mercury management review of the QA program ~~had been~~ ~~done~~ since September 1978; ~~(when their program implementation was getting~~

~~underway)~~. The audit log showed this finding to be closed the same date ~~the audit was~~ performed 1-9-80; however, EBASCO Audit CBB/AEZ-83-2-3 determined that the audit was not signed off as closed and only one annual review or report ~~had been accomplished and this was for the period July 81, 82.~~ ^{to July}

The NRC staff found, no additional annual reviews and the one review referenced was neither an acceptable nor adequate review referenced ~~was neither an acceptable nor adequate review of~~ the status and adequacy of the Mercury site QA program. The staff further concluded^d that this failure to perform effective QA program reviews has significantly contributed to all the Mercury conditions identified as adverse to

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Examples of these conditions include

quality, ~~such as~~ failures, malfunctions, deficiencies, deviations, defective material and equipment, and other nonconformances that were not promptly identified and corrected. ~~EBASCO and LP&L management bear direct responsibility for not assuring that a system was implemented to bring~~ such QA program breakdowns ^{their} ~~to the attention of EBASCO and LP&L management~~ at the appropriate level to ~~ensure corrective action~~. Although this ^{was} significant construction deficiency ^{was} identified as early as January 1980, EBASCO audits did not identify the same problem until February 28, 1983. ~~however~~ Other significant and similar problems ^{however} were identified in EBASCO Audits NB-79-9-4, NB-80-8-3, and SW-82-6-1, which should have alerted management to these problems as early as September 1979, but not later than June 7, 1982. Not only was this deficiency never specifically reported, but it was never corrected.

Review and Evaluation of Mercury Internal Audits

Mercury Internal Audit No. 1-11-80 ~~dated~~ January 11, 1980, documented

that ^{an} internal audit on QAM Sections 10, 11, 14, 15, and 17 ^{was not} ~~were not~~ ^{done} ~~done~~ at least once ^{per year} in 1979 as required. Internal Audit

No. 5-11-82 ~~dated~~ May 11, 1982, documented that ^{QAM} Sections 2, 7, 12, 13, 14, and 15 ^{were} ~~had not been~~ audited during 1981. ^{No} ~~Corrective Action~~ ^{init}

Request (CAR) was initiated as a result of the 1980 audit, but CAR No. 44 was issued May 11, 1982, more than two years after the same finding in Internal Audit No. 1-11-80. ~~(see paragraph 6 below)~~

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1. ... determined that Section 5, Procurement, was never audited by Mercury from 1978 through 1983 because they stated that they had purchased no materials; however, Mercury Letters WQ-1216 and 1225 dated December 15, 1982, and January 4, 1983, discuss Mercury's

issuance of a purchase order to Welders Testing Laboratory in late 1978, remaining in effect as of January 1983. LP&L acknowledged this

finding and when asked if other services were purchased stated that

calibration services were purchased. The NRC staff member reviewed existing files at Mercury and determined that QAM Sections 5, 12, 17,

and 18 were not audited in 1980. The failure to audit Section 12

"Nonconforming Items and Corrective Action" is significant because

(1) the apparent failure to take corrective action regarding Mercury

management reviews and internal audits not performed and (2) this same

Section 12 was not audited in 1981. QAM Sections 5, 14, and 16 were

not audited in 1981. QAM Sections 5, 11, 12, 13, 14, 15, and 16 were

not audited in 1983.

Response letters to audit findings describing corrective action were

found in the file for calendar year (CY) 1979, but responses were not

found for CY 1980-1983.

As discussed in paragraph 2 above, this significant construction deficiency, i.e., partial QA program breakdown, has never specifically been reported, even though the contractor identified the deficiency in January 1980 and EBASCO identified the problem in June 1982. Even more serious, Mercury ^{failed to} never corrected the problem after it was identified by Mercury and EBASCO.

2.4 Review of Auditor Qualification

Although auditor resumes ^{showed} adequate qualification, ^{the} qualification methods were inconsistent, ^{as} some ^{auditors} were given written exams, others ^{were given} oral exams, and in one case, ^{even} the oral exam was waived. The following ^{administrative or procedural deficiencies} of minor nature but they point ^{out} poor record keeping; and ^{lack} of procedural adherence:

1. ^{Erb, Jr.} performed as lead auditor on December 19, 1978, ^{but} ~~auditor qualification procedure was not in place until June 28, 1979.~~ Records indicate he was ^{not} qualified as lead auditor ~~on~~ until January 22, 1979, a month after he performed the audit. He ~~was~~ given 2 points under "Management Awarded Points" without any ^{justification}. His eye examination was dated January 16, 1979, well after his first audit.

3. General evaluation found no
(2) X *Ex 6.7c* [redacted] *he* did not have documentation in *file* to show that he had received orientation *as required by* to provide a working knowledge and understanding of ANSI N45.2 and N45.2.12; 10 CFR 50, Appendix B; *Code Section* ASME III, NCA 3000 and 4000; Mercury QA Manual; and Mercury Audit Procedure QCP-3020.

3. General evaluation
(3) X *Ex 6.7c* [redacted] *an* did not have eye examination *recording* documentation in *file* for 1981.

3. General evaluation
(4) X *Ex 6.7c* [redacted] *as required by* was not examined in accordance with paragraph 6.6 of *Ex 6.7c* QCP-3060. *There was no eye exam for 1980 and did not receive the required specified training.*

The
(5) X *Ex 6.7c* [redacted] *as required by* Audit Participation Log was not available in the QA record files *per* as required by paragraph 7.4 of *Ex 6.7c* QCP-3060.

Review and Evaluation of Mercury Audits of Implementing Procedures

The NRC Staff review of Mercury QA, construction, and special process procedures showed that Mercury *had not* ~~never~~ audited the following *Ex 6.7c* procedures during the *life of the* project: MCP-2140, 2170, 2175; SP-650, 651, 652, 653, 654, 655, 656, 657, 658, 661, 662, 663, 668, 670, 672; WPS-B, P, G; BP-1; and WPS-W3-4. EBASCO Audit No. SW-82-6-1 *dated* (June 7, 1982) *Item No. 7.10* documented *the* finding that Mercury implementing procedures had not been audited.

The NRC staff finding that many implementing procedures were not audited is particularly significant since it makes it apparent that effective corrective action was not taken. ~~It is also important to note that many~~ documentation and hardware deficiencies ~~that were identified~~ were related to the procedures which were not audited by ~~the staff~~.

Mercury Procedure Nos. QCP-3020, 3050, 3060, 3110.1, 3110.4, 3110.5, 3110.6; SP-659, 664, 665, 666, and 667 were audited only one year each during the period 1979-1983. These implementing procedures were for ~~conducting~~ auditing, qualification of inspection/test and audit personnel, pipe and tubing inspection, welding inspection, installed equipment inspection, material receiving, nonconformance and corrective action, installation of seismic expansion anchors, and control of "as built" information. Special or supplemental audits should have been performed in addition to annual audits of these areas because of ~~repetition of~~ nonconformances, deficiencies, and audit findings in these areas.

The NRC staff considers this failure to audit implementing procedures a breakdown in the Mercury QA program. ~~This~~ should have been identified in the corrective action response to the ~~previously identified NRC civil~~ penalty ~~discussed above~~ and represents inadequate corrective action.

Correct Actions Report
F.6. Review and Evaluation of CARs

The NRC staff reviewed 143 CARs issued by Mercury Company from December 19, 1978 through August 9, 1983. ^{including} All CARs relating to audits ^{by the NRC} were evaluated. The CAR log was reviewed for audit finding trends and it was determined that EBASCO should have been aware of adverse trends concerning audits as early as December 19, 1978, but certainly by CAR No. 018, initiated August 6, 1979. Other CARs (046-059) ^{concerning audits} were issued May 24, 1982, and CAR 089 concerning audits. EBASCO QA management and auditors should have reviewed ^{the CAR log} this log, recognized the trends, and advised LP&L management. Other trends which should have been recognized and investigated ^{by EBASCO} are as follows: (1) CARs 019, 024, 025, 026, 028, 033 issued between March 1980 and April 1982 identified red line "as built" drawing control and installation problems; (2) CARs 019, 020, 021, 022, 024, 025, 026, and 030 issued ^{against} to one construction supervisor between the same dates identified trends that craft personnel were not following procedures; and (3) CARs 020, 027, 034, 061, 069, 074, and 088, issued ^{to} QC and craft, between March 1980 and July 30, 1982, identified failure to inspect welds because of craft, ignoring hold points, and QC failure to inspect weld joint fit-ups. These trends are only examples as there were ^{other} adverse conditions which were identified early, but effective ^{taken} corrective action was not assured by the contractor, Mercury, or LP&L QA program.

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Review of Mercury Auditing, Nonconformance and Corrective ActionProcedures

the only time this was done was in 1974
 Auditing ~~General~~ ^{rendered} audits of vendor ~~performed~~ services, such as ~~the~~ ^{these} ~~services~~ ^{rendered} by Welder's Testing Laboratory of Metairie, ~~LA~~ ^{Louisiana} ~~were~~ ^{not}

not described in QAM Section 15.0 or QCP-2020. The QAM did not

incorporate the requirements of ANSI N45.2.12 Draft 3 Rev. 4, ~~dated~~

(February 22, 1974), ~~into~~ ^{into} ~~the~~ ^{the} ~~QAM~~ ^{QAM} followup action when CAR

is not issued and references to other applicable standards, as

specified in paragraph 1.5 "Referenced Documents." This document did ^{not} ~~not~~ require a pre-audit conference, ^{while} ~~where~~ the ANSI standard stated

that a conference "shall be conducted."

Nonconformances and Corrective Action: QAM Section 12 and SPP-664,

Revisions 4, ~~stated~~ ^{stated} ~~in part~~ ^{in part}, "When the suspected nonconforming

material, items, and services are determined by the QA Manager or

his designee to be nonconforming, a ~~QC Nonconformance Report~~

(Exhibit No. 2) is generated and a nonconformance number shall be

taken from the Nonconformance Log maintained by QA (Exhibit No. 4)

and shall be indicated on the Nonconformance Report. The NRC Staff

determined that draft Nonconformance Reports (NCRs) submitted by any

individual or department, the QA manager could reject the draft NCR

and this would be acceptable; however, it was found that draft NCRs

were not in the QA records. Therefore, the disposition ~~and~~ ^{or}

justification for rejection was not auditable because the draft NCRs

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were destroyed. The NRC staff interviewed former Mercury ~~personnel~~ and other site personnel who had direct knowledge of the NCR system.

They acknowledged that such a system may have impeded project ~~personnel~~ ^{from} processing NCRs. An LP&L QA engineer stated that LP&L had addressed this problem when Mercury management was supplemented ^{by E&W} in 1982. Mercury personnel were ^{then} encouraged to write NCRs and as a result the number increased from several hundred to more than 3000. This happened ^{at} ~~at~~ about 80% completion of the Mercury ^{work} ~~job~~. However, the NRC staff commented that this would not necessarily solve the problem of failure to process or document rejection of draft NCR's ^{or findings} that were submitted by personnel who left the site prior to ~~this~~ ^{LP&L} action. *... and this was the reason for the problem.*

2.

2.1.1.1 - 2.1.1.2 - 2.1.1.3 - 2.1.1.4 - 2.1.1.5 - 2.1.1.6 - 2.1.1.7 - 2.1.1.8 - 2.1.1.9 - 2.1.1.10 - 2.1.1.11 - 2.1.1.12 - 2.1.1.13 - 2.1.1.14 - 2.1.1.15 - 2.1.1.16 - 2.1.1.17 - 2.1.1.18 - 2.1.1.19 - 2.1.1.20 - 2.1.1.21 - 2.1.1.22 - 2.1.1.23 - 2.1.1.24 - 2.1.1.25 - 2.1.1.26 - 2.1.1.27 - 2.1.1.28 - 2.1.1.29 - 2.1.1.30 - 2.1.1.31 - 2.1.1.32 - 2.1.1.33 - 2.1.1.34 - 2.1.1.35 - 2.1.1.36 - 2.1.1.37 - 2.1.1.38 - 2.1.1.39 - 2.1.1.40 - 2.1.1.41 - 2.1.1.42 - 2.1.1.43 - 2.1.1.44 - 2.1.1.45 - 2.1.1.46 - 2.1.1.47 - 2.1.1.48 - 2.1.1.49 - 2.1.1.50 - 2.1.1.51 - 2.1.1.52 - 2.1.1.53 - 2.1.1.54 - 2.1.1.55 - 2.1.1.56 - 2.1.1.57 - 2.1.1.58 - 2.1.1.59 - 2.1.1.60 - 2.1.1.61 - 2.1.1.62 - 2.1.1.63 - 2.1.1.64 - 2.1.1.65 - 2.1.1.66 - 2.1.1.67 - 2.1.1.68 - 2.1.1.69 - 2.1.1.70 - 2.1.1.71 - 2.1.1.72 - 2.1.1.73 - 2.1.1.74 - 2.1.1.75 - 2.1.1.76 - 2.1.1.77 - 2.1.1.78 - 2.1.1.79 - 2.1.1.80 - 2.1.1.81 - 2.1.1.82 - 2.1.1.83 - 2.1.1.84 - 2.1.1.85 - 2.1.1.86 - 2.1.1.87 - 2.1.1.88 - 2.1.1.89 - 2.1.1.90 - 2.1.1.91 - 2.1.1.92 - 2.1.1.93 - 2.1.1.94 - 2.1.1.95 - 2.1.1.96 - 2.1.1.97 - 2.1.1.98 - 2.1.1.99 - 2.1.1.100

Review of EBASCO Audits and Corrective Action - The NRC staff ~~reviewed~~ ^{the} EBASCO audits of all QA records ~~processing, review and retention by~~ EBASCO Task Force Account, QA Records Department, QA Records HVAC, Tompkins-Beckwith, B&B Company, GEO Testing, and EBASCO Service, Inc. ^{Insert #1} Review of these 27 audits included ~~review of~~ ^{the} audit findings and responses for ~~4~~ ^{five} audits which contained findings. All 1982 audits of Fishbach Moore (19) ~~audits~~ ^{audit}, NISCO (20), and Tompkins-Beckwith (23) were reviewed for areas audited, findings, and responses in file. Eight EBASCO auditor qualification files were reviewed. *Insert #2*

Added to the end of the section 2.1.1.15

(27-21)

The purpose of this review was to determine if
there were any identified differences in QA
and packaging turnovers. None were found.

(27-21)

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The NRC staff ~~attended~~ ^{met} ~~with~~ ^{with} ~~the~~ ^{the} ~~EBASCO~~ ^{EBASCO} ~~audits~~ ^{audits} ~~of~~ ^{of} ~~the~~ ^{the} ~~Mercury~~ ^{Mercury} ~~Company~~ ^{Company} ~~(51)~~ ⁽⁵¹⁾ ~~performed~~ ^{performed} ~~during~~ ^{during} ~~the~~ ^{the} ~~1978~~ ¹⁹⁷⁸ ~~to~~ ^{to} ~~1982~~ ¹⁹⁸² ~~were~~ ^{were} ~~reviewed~~ ^{reviewed} ~~and~~ ^{and} ~~evaluated~~ ^{evaluated} ~~to~~ ^{to} ~~determine~~ ^{determine} ~~if~~ ^{if} ~~breakdowns~~ ^{breakdowns} ~~in~~ ⁱⁿ ~~the~~ ^{the} ~~QA~~ ^{QA} ~~program~~ ^{program} ~~between~~ ^{between} ~~Mercury~~ ^{Mercury} ~~and~~ ^{and} ~~EBASCO~~ ^{EBASCO} ~~existed.~~ ^{existed.} ~~The~~ ^{The} ~~following~~ ^{following} ~~is~~ ^{is} ~~a~~ ^a ~~summary~~ ^{summary} ~~of~~ ^{of} ~~that~~ ^{that} ~~review~~ ^{review} ~~and~~ ^{and} ~~evaluation.~~ ^{evaluation.}

1. Management Breakdown

~~is a result of~~

~~a breakdown between EBASCO and Mercury management, including~~
~~QA, was described above under paragraph 1 of the Mercury~~
~~review. The resultant breakdown caused LP&L and EBASCO to~~
~~supplement Mercury management with EBASCO management to~~
~~complete the project.~~

2. Audit Program Breakdown

The

EBASCO audit and corrective action systems ~~interface broke down~~

~~between EBASCO~~ in that EBASCO audits NB-79-9-4, NE-80-8-3, and
 NB-81-5-1, performed ~~during~~ 1979, 1980, and 1981, ~~stated~~ ^{stated} that
 Mercury audited each section of the QA manual, despite the fact
 that the Mercury CAR Log and two or more audits stated that
 internal audits were not conducted annually on each section of
 the Mercury QA Manual. EBASCO Audit SW-82-6-1 dated June 7,
 1982, finally identified ~~the~~ Mercury failure to audit their QA
 program i.e., internal and management audits (See previous
~~discussions under paragraphs 2, 3, 4, and 5 above described~~
~~under "Review of Mercury Audits and Corrective Action."~~

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Nonconformance and Corrective Action System Breakdown

~~Paragraph 8 of the above Mercury Review document~~ ^{its} a breakdown in the corrective action system between Mercury and EBASCO management ⁱⁿ was evidenced the inability of either Company to obtain corrective action. Both companies apparently failed to review, recognize, or take action on trends which should have been apparent shortly after Mercury implemented their site QA program. It also appears that the Mercury nonconformance system impeded the freedom to initiate NCRs which could have been ~~tended~~ and upgraded to CARs as a result of EBASCO management involvement; therefore, ~~this appears to be a QA~~

~~breakdown between the two companies~~

Review of LP&L Audits and Corrective Actions

~~Review and Evaluation of LP&L Responsibility and Action~~ The NRC staff reviewed the LP&L Audit Program requirements, procedures, audits (internal and management), and interviewed corporate ~~and~~ site QA manager and QA engineers involved with the audit program. ^{This review included 17} ~~seventeen~~ management and 16 site audits of EBASCO performed by LP&L were reviewed, ⁴⁵ ~~forty five~~ LP&L site surveillance reports were reviewed, ^{and} ~~The LP&L site audit schedule for 1979 through 1984 was reviewed.~~ Special emphasis was placed on LP&L responsibility for management of the overall audit program. Since this is a primary and important function,

revised

~~the QA program~~
 of LP&L, concerning participation in the project, since they rely heavily on EBASCO for design, construction, procurement, quality assurance, and other functions. ~~It~~ ^{LP&L} was extremely important for ~~them~~ to review and assess the adequacy of the QA program, as required by 10 CFR 50, Appendix B, Criterion II, and to establish and implement ^a comprehensive system of planned and periodic audits to verify ^{compliance} with all aspects of the quality assurance program, and to determine the effectiveness ^{NRC} of the program. The following is ~~a summary~~ ^{that} summarizes ~~this~~ review:

Review of Site Audits Scheduled Versus Audits Performed

The NRC staff reviewed ^{LP&L} audits scheduled and performed ~~from then through~~ during 1979, ~~1980, 1981, 1982, 1983, and 1984.~~

There were 4 auditors in 1979 who were scheduling audits; however, the number of full time auditors scheduling audits appears to decline to 3 during much of 1980. The number of site auditors appears to rise back to 4 in 1981 or slightly more in 1982. The number scheduling audits in 1983 appears to be about 4. The ~~actual~~ number of audits performed declined from approximately 80, 60, 53, 91, 42, and ~~to 0~~ during the respective audit years 1979, 1980, 1981, 1982, 1983, and the first few months of 1984.

The following ~~is~~ the monthly audits scheduled versus the audits performed: ~~80 performed of 193 scheduled, 60 of~~

| <u>Year</u> | <u>Schedule</u> | <u>Performed</u> |
|--------------|-----------------|------------------|
| 1979 | 193 | 80 |
| 1980 | 181 | 60 |
| 1981 | 172 | 53 |
| 1982 | 203 | 91 |
| 1983 | 168 | 42 |
| <u>total</u> | <u>927</u> | <u>326</u> |

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C In ~~qualifying this document~~, L.F. and ~~Nial~~ Nial
~~1.11) involved in final review~~ (next #3)

~~101, 53 of 170, 91 of 203, and 42 of 160 for the~~
~~respective years 1979, through 1982. The justification by LP&L~~
~~for missing audits was unacceptable, for example, NRC~~
~~inspection performed, unscheduled work activity performed,~~
~~SUS reviews, etc. This audit system deficiency has~~
~~existed for many years and was identified in Middle South~~

Services (MSS) Audit ~~8/27/79~~ E79-6 (AFR E-88) dated ~~December 8, 1979~~
~~August 27, August 31, 1979~~, ~~December 8, 1979~~
~~8/27/79-8/31/79 and E80-15 (AFR E-122) dated 12/8/80~~
~~December 16, 1980~~

~~12/16/80.~~ Corrective action was apparently not taken and
 it appears that ~~the~~ auditors "gave up" ~~in the MSS Audit Report~~

~~See~~ E81-12 reported the conduct of QA Audits and QA

Construction site audits ~~satisfactory~~ when only 53 of 178 ~~of time~~
~~scheduled were performed~~ ~~and~~ similarly, E82-15 conducted

~~December 6 to December 22, 1982~~ ~~12/6/82-12/22/82~~ considered ~~it~~ normal when 91 of 203 were
 conducted. The ~~actual number~~ performed, ~~versus~~ scheduled

may be ~~less~~ since ~~these~~ figures include reaudits and
 may include QA surveillances which are not to be
 considered ~~an~~ audit per ANSI N45.2.12, paragraph 1.2.2

~~"Requirements for Auditing of QA Programs for Nuclear Power~~
~~Plants."~~ This condition was discussed with the LP&L Site
 QA Manager, who did not consider ~~any of this to be a problem.~~
 It appears that LP&L management ~~has~~ ~~chosen to believe~~ they
 can delegate all ~~their~~ responsibility for their QA program
 to EBASCO.

(Page 1 #5)

militer was taken from scheduled work to attend to
work requirements such as maintenance of equipment,
etc. records and also maintained work in the
area of the 173d Airlift Group. He was in 1971,
from 1969 and from 1971 to about 1973.
The subject's job was directly responsible to
most of the other military and civilian personnel.

During this time, the LTR staff found that
the credit negative reference ~~was~~ was identified
in 1974 by Mobile South Division (MSD) in credit
reports.

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4.
 B. Review of LP&L Audit of EBASCO QA Program

The NRC staff reviewed LP&L audits of EBASCO site activities performed during 1981, 1983, and 1984. Nine audits were conducted in

1981 ^{and 1982} in 1983 ^{and 1984} during the first several months of

1984. Since LP&L has chosen to delegate the function of

~~auditing~~ ^{to the} site contractors ^{together with the} and design, construction,

procurement and quality assurance functions, ^{the audit of}

EBASCO should be comprehensive, and in depth audit of their

~~the~~ ^{the} entire quality assurance manual and implementing procedures.

~~The EBASCO QA Program should be a large percentage of the on site design, procurement,~~

~~(construction, and engineering procedures should also be a~~

~~part of the annual audit of the EBASCO QA Program. The 9~~

~~audits in 1981 and 7 in 1983 do not appear to be~~

sufficiently comprehensive to meet the requirements of

10 CFR 50 Appendix B and LP&L QP 18.3, Revision 3;

paragraph 5.0, dated February 8, 1978, which states, in

part, "Site audits shall verify that safety related

activities associated with LP&L Nuclear Power Plants are

performed in accordance with applicable regulatory

requirements, specifications, instructions, procedures,

and drawings. These audits are necessary to assess the

effectiveness of the Quality Assurance programs of the

Architect Engineer, Construction Manager and contractors

at the construction site."

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5. Overall ^{site}
 Management of ~~the~~ Audit Program

The NRC staff reviewed Mercury audits and determined that ^{it} ~~their program~~ failed to audit some key quality control and construction procedures where deficiencies occurred. It is obvious that audit of these procedures ^{could} ~~during the~~ ^{period} 1978-1983 ^{could} ~~would~~ have likely prevented these deficiencies ^{at} Mercury Company.

~~As a result of developing a matrix of procedures which had~~
~~or had not been audited,~~ the NRC recognized several ^{causes} ~~cause~~
~~and effects of~~ documentation and hardware deficiencies at
 Mercury Company in addition to several significant break-
 downs in the Mercury QA program, ^{audit,} ~~is~~ nonconformance
 and corrective action system. ^{NRC staff requested} ~~the~~ LP&L management ~~was~~
^{asked} ~~for~~ existing matrices, logs, or other documents
 which would ^{demonstrate} ~~show~~ all of the contractor procedures which
 had been audited by LP&L, EBASCO and other site contractors.

The LP&L site QA manager and QA Construction engineer
 stated that they did not know what procedures had been
 audited during ~~the~~ construction of the plant. In the case
 of Mercury, the advantage of managements' knowing that
 Mercury Company had audited the implementation of their
 procedures and assured proper control of work activity is

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NECAS to
be reviewed!

obvious. Also in this case, Mercury and EBASCO could not properly apply audit resources unless they ^{with a view of} know the frequency of audit of the construction and quality control procedures; i.e., one procedure may be over audited to the detriment of a procedure controlling red line drawings or welding. LP&L stated that they ^{did} have not managed the audit function in this manner, but simply monitored ^{with a view of} the audit of activities in a broad sense, and ^{that} there was no requirement to know what ^{the} procedures were audited.

This Philosophy is contrary to Criterion II of 10 CFR 50, Appendix B, which states, in part, "This program shall be documented by written policies, procedures, or instructions and shall be carried out throughout plant life in accordance with those policies, procedures and instructions." To assure ^{that} the NRC maintains that procedures which control work activities ^{must} ~~must~~ be monitored.

The NRC review of Tompkins-Beckwith, Fishbach ^S and Moore, and NISCO audits revealed that ^{all} all procedures had ~~not~~ been audited for these companies. Because many of these audits did not appropriately identify the QA manual sections, ~~and~~ procedures, and construction procedures, it became almost ^{determine} impossible to ~~audit~~ what procedure was audited.

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⑤ ② Review of LP&L Management Audits of Site QA Program

The NRC staff reviewed these audits to determine if LP&L had regularly reviewed the status and adequacy of the QA program on site. The audits performed at ^{the} site between 1972 and August 27, 1979, were not comprehensive, ~~audits~~ and to the contrary were ^{simply} superficial paper reviews.

Audits after this date were more comprehensive, but still do not appear to be comprehensive enough to cover all elements of the QA Manual and implementing procedures. It also appears that these audits were strictly limited to LP&L organizations and, therefore, the audit would not extend to EBASCO and their work activities. Under this circumstance it is hard to understand how the success of LP&L site QA can be measured against EBASCO performance.

The Management Audits conducted by

⑤ ① Review of Management Analysis Company (MAC)

The NRC staff reviewed portions of ~~MAC consultant~~ evaluations of LP&L Waterford 3 ^{management} ~~made and reported~~ in 1977, 1979, and 1980. The Executive Summary of the 1979 report outlined many problems which "can critically impact the Waterford 3 Project." ^{which} ~~Of particular interest are the~~ ^{concerns are the} following quotes on pages 2, 4, 5, and 8 are as follows:

(1) "The long-held policy of Louisiana Power and Light has

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been to conduct their business related to engineering, construction, and operation of power plants by utilizing a very "lean" in-house organization^(AE) with almost total reliance on the Architect-Engineer for engineering and construction, and heavy use of consultant and outside service organizations during plant operations. This policy of "lean-ness" and almost total reliance on the ~~AE~~ is, in MAC's opinion, one of the basic root causes of many of the problems associated with Waterford 3 . . .

heavy reliance on outside consultant and service organizations during the operation of Waterford 3 will, in MAC's opinion, cause additional problems once the plant is in operation The designated role of the LP&L site project is currently that of liaison and is not sufficiently involved in the planning, monitoring, and control of site activities The existing LP&L project and site organizations are lacking in numbers and in commercial nuclear power plant experience necessary to effectively monitor and control the Waterford 3 project The LP&L Quality Assurance organization has recognized basic fundamental problems related to quality but in some cases has not taken sufficient positive action to have problems resolved. The 1979 MAC Report to LP&L on page 2, paragraph 2 states, in part, "The QA group

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overall is strong . . . but few in number. . . it is MAC's recommendation that additional manpower be obtained. LP&L should monitor, audit and watch all of the critical activities . . . as they are accomplished at the site . . . Additional QA manpower should be applied to ensure contractor QA records are in auditable and buyable order."

The 1980 MAC Report deals mainly with startup and operation; however, the theme of under-experienced and inadequate staffing is a recurring theme and should be evaluated by NRC staff who are responsible for operational startup, testing, etc.

NRC Staff Conclusion

It concluded the NRC staff found considerable evidence indicating there was a significant breakdown in the QA program both at EBASCO and Mercury, and between EBASCO and Mercury, to the point that EBASCO management was ^{with} supplied to supplement Mercury management. Also a breakdown of the QA program was evidenced in that

LP&L did not thoroughly evaluate, determine all the causes, and identify the entire extent of the QA breakdown at Mercury Company, even after receiving ^{notification} civil penalty on December 6, 1982. This represents a failure to adequately evaluate the original Construction Deficiency Report No. 57 and report the full extent of the QA program breakdown, ^{order} and represents a failure to take

effective corrective action ^{which} ~~concerning~~ determining the cause of the QA breakdown at the Mercury Company; and

- (2) LP&L did not implement a program to increase ^{its} LP&L manpower and involvement with the Waterford 3 Project. This failure to implement these MAC recommendations are ^{one of} the root cause of QA problems experienced in the past and present.

Ex 5,7

4

[illegible]

The first thing I noticed when I stepped
 out of the car was the smell of the sea,
 and the sound of the waves crashing
 against the rocks. The air was fresh
 and invigorating, and the sun was
 shining brightly. I felt like I had
 found a new world.

~~Handwritten text, possibly a signature or name, crossed out with a large X.~~

~~1931 - all down to 232 feet, ...
...
...
...
...~~

3. Well - known in the field

Ex. 5, 7a

Actions Required:

7
1
Construction is complete and construction of the overall LP&L and contractor audit system is not possible. Audits are a second line defense for inspections that fail to detect deficient hardware and testing of systems, therefore, if these were adequate the plant can be adequate despite the fact that there was a QA breakdown in the audit and corrective. [The primary concern relative to audits is to assure that an effective operational audit system is established and implemented.]

- Key
Action
2. LP&L ~~should~~ ^{shall reevaluate} factor the above NRC staff findings ^{the} into responses to the NRC civil penalty and their Construction Deficiency Report No. 57 i.e., review, ^{re}evaluate, and determine the full extent of the QA breakdown ^{findings are} at the Mercury Company and ^{take} effective corrective action ^{by} regarding these items ^{with (1) to the above findings}

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3. LP&L should obtain a list of Mercury personnel and contact appropriate personnel to determine if they still have copies of draft NCR which were not processed and they consider to be significant deficiencies which they think have not been identified and corrected.

Main Point

4. ~~LP&L management should assure that they have an effective system implemented to regularly assess the status and adequacy of the QA Program which should include written policy, procedures, and adequate manpower to implement such a system. LP&L management should assure NRC staff that they have such a system demonstrate full support of such a program.~~

References

1. LP&L PSAR Quality Assurance requirements.
2. LP&L QR 18.0, Revision 2, 10-10-78, Audits.
3. LP&L QP 18.3, Revision 3, 2-8-78, Conduct of Site Audits.
4. LP&L QP 18.4, Revision 2, 2-17-83, Schedule of Site Audits.
5. LP&L QR 2.0, Revision 2, 10-10-78, Table 2-1 LP&L Commitments (Includes Regulatory Guides and ANSI standards)

6. EBASCO QAS-1, Revision 4, 6-30-82, Planning QA Activities.
7. EBASCO_QAS-2, Revision 4, 6-30-82, General Audit Procedure
8. EBASCO Procedure QAS-3, Revision 4, 6-30-82, Processing Audit Reports
9. EBASCO QAI-25, Revision 0, 8-22-83, Instruction for Auditing
10. EBASCO QAI-7, Revision 2, 2-21-84, Instruction for Surveillance/
Corrective Action.
11. Mercury QA Manual Sections 1-18, Revisions and Dates Various
12. Fischbach and Moore QA Manual Sections 1, 2, 3, 10, 15, 16, 17, and 18, various Revisions 4-1-81.
13. Fishbach and Moore QAP-103-W3, Revision 0, 6-10-77, Processing and Controlling Nonconformances.
14. Fischbach and Moore QAP-106-W3, Revision 0, 6-10-77, Auditing.
15. NISCO QA Manual Section 15, Revision C, 6-6-78, Audits.

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16. Tompkins-Beckwith QA Manual Section V, 8-1-81, Audits

I have read and understand the above information.

Statement Prepared By: _____

~~Name~~
S. Phillips_____
Date

Reviewed By: _____

Team Leader_____
Date

Reviewed By: _____

Site Team Leader(s)_____
Date

Approved By: _____

Task Management_____
Date

SSER

AKL F. I. 12

Ex. C, 7c 15

Task: Allegation A-48; A-60; A-295

Reference No.: 4-83-A-88/2b; 4-83-A-88/12; 4-84-A-06/176

Characterization: "A Complete Breakdown in the QA Program between EBASCO and the Mercury Company of Norwood (Contract W3 N.Y. 15)

Assessment of Allegation: The implied safety significance of this allegation is that a "complete" QA breakdown occurred. That is, quality control inspectors did not do adequate inspections; Mercury personnel did not have the inspections; Mercury personnel did not have the freedom to write nonconformance reports (NCRs) and obtain effective corrective action; EBASCO and Mercury did not follow any procedure; QA records did not adequately document QA activities; and the licensee and contractors audit program which is the last defense for identifying QA/QC problems. This breakdown naturally extends to Louisiana problems. This breakdown naturally extends to Louisiana Power & Light (LP&L). Since they are the applicant for a license.

Region IV NRC Report No. 50-382/82-14 pages 8-12 describes a small LP&L QA staff (4-6 position 1) and a heavy reliance on EBASCO Construction management for "onsite Construction QA". In turn, EBASCO QA (10 auditors) audited QA programs of other onsite contractors and because these auditors had additional duties other than auditing that limited their effectiveness. LP&L's annual of EBASCO included a review of 143 audits conducted by EBASCO QA during 1981. The audit summary concluded that EBASCO audit program was adequate but measures should be established by EBASCO to determine the effectiveness of the contractor's QA program. EBASCO QA response did not address the summary comments.

The report referenced above stated that in early 1982 EBASCO submitted 4 ECCS systems to LP&L for turnover. LP&L audit of these turnover packages included QA records review and or walkdown inspection of systems. All 4 systems were rejected. LP&L reported this QA breakdown to the NRC on May 26, 1982, Reference: Potentially Reportable Incident No. 80 (later changed to significant Deficiency Report 57, "Inadequate Instrumentation and Control Installations and Turnover Documentation." Because of serious problems with "as built drawing and deficient installation of I&C systems, the NRC imposed a civil penalty in NRC Letter 50-382 EA 82-109 dated December 6, 1982.

LP&L Letters (23183-0001 and 0015) dated January 4, 1983, and April 8, 1983, respectively responded to the NRC Inspection Report and Notice of Violation. They acknowledged there was a partial breakdown in the Waterford 3 QA Program "at the sub-tier levels and involving contractor/subcontractor organizations identified in USNRC Inspection Report 50-382/82-14." The reason for the violation was stated to be caused by: (1) insufficient training of inspectors, QA reviewers, and craftsmen, (2) inadequate staffing, and (3) inadequate walkdown of completed systems. Steps were outlined to take corrective action in these areas by April 4, 1983; however, the last LP&L letter dated April 5, 1984, stated that: "final review of corrective action documentation is scheduled to be completed in late May 1984. The Final Report will be submitted to the NRC on June 15, 1984."

Because of the above quality assurance and enforcement history the NRC determined that the methodology to followup this allegation should be as follows: (1) evaluate the implementation of Mercury QA Program, (2) evaluate EBASCO QA Program, and (3) evaluate LP&L QA Program by evaluating the audit programs and resultant corrective action with respect to the extent and cause of the QA breakdown at the licensee, EBASCO and Mercury. If additional problems were identified at Mercury, et al, then audits of other contractors would be evaluated for similar QA program deficiencies.

Review of Mercury Audits and Corrective Action - The NRC staff reviewed and evaluated QA Manual (QAM) Sections 1 through 18; procedures QCP-3020; 3060, and SP-664; audit log; matrix of all construction procedures; 8 auditor qualification files; 64 internal audits, all 1979 through 1983 audits; and 1 QA Annual Report July 1981-82. Several former Mercury employees and other site personnel having direct knowledge of the company were interviewed. The following is a summary of these interviews, reviews and evaluation.

1. Interviews and Evaluation of Mercury Management

The Mercury Company was plagued by poor and discontinuous management because there were 6 project superintendents, 6 product engineers and 6 QA site supervisors from mid 1978 thru mid 1983. Site QA/QC personnel received poor support from corporate QA management and as a result many QC inspectors resigned. Several QC inspectors wrote letters of resignation describing these poor conditions and were threatened with immediate dismissal if these letters were not withdrawn. QA/QC personnel constantly were overridden by cost and schedule concerns because EBASCO and Mercury management were "in bed together" and ran rough shod over QC. There was a high turnover among QC inspectors. EBASCO management was aware of these problems shortly after Mercury came on site. More than one source stated that LP&L and EBASCO did not properly control and assure that Mercury QA records were retained onsite but allowed them to "haul" away Waterford Project records that should have remained on site. NRC staff members also found that LP&L were still unsure as to exactly what records were on site and what records should be on site. EBASCO and LP&L management finally became fully aware of serious Mercury problems in 1981-1982 - almost three years after they came on site and after almost 80% of the work as they apparently assumed that it was too late to obtain corrective action or impossible.

2. Review and Evaluation of Corporate Annual Report

Mercury Internal Audit No. 1-9-80 (January 8, 1980) finding No. 1, documented that no Mercury management review of the QA program had been done since September 1978 (when their program implementation was getting underway). The audit log showed this finding to be closed the same date performed 1-9-80; however, EBASCO Audit CBB/AEZ-83-2-3 determined that the audit was not signed off as closed and only one annual review or report had been accomplished and this was for the period July 81-82.

The NRC staff found no additional annual reviews and the one review referenced was neither an acceptable nor adequate review referenced was neither an acceptable nor adequate review of the status and adequacy of the Mercury site QA program. The staff further concludes that this failure to perform effective QA program reviews has significantly contributed to all the Mercury conditions identified as adverse to quality such as failures, malfunctions, deficiencies, deviations, defective material and equipment and other nonconformances that were not promptly identified and corrected EBASCO and LP&L management bear direct responsibility for not assuring that a system was implemented to bring such QA program breakdowns to the attention of EBASCO and LP&L management at the appropriate level to insure corrective action. Although this significant construction deficiency was identified as early as January 1980 EBASCO audits did not identify the same problem until February 28, 1983; however, other significant and similar problems were identified in EBASCO Audits NB-79-9-4, NB-80-8-3, and SW-82-6-1 which should have alerted management to these problems as early as September 1979 but not later than June 7, 1982. Not only was this deficiency never specifically reported but it was never corrected.

3. Review and Evaluation of Mercury Internal Audits

Mercury Internal Audit No. 1-11-80 dated January 11, 1980 documented that internal audit on QAM Sections 10, 11, 14, 15, and 17 were not done at least once per year in 1979 as required. Internal Audit No. 5-11-82 dated May 11, 1982 documented that Sections 2, 7, 12, 13, 14, and 15 had not been audited during 1981. No Corrective Action Request (CAR) was initiated as a result of the 1980 audit but CAR No. 44 was issued May 11, 1982, more than two years after the same finding in Internal Audit No. 1-11-80 (see paragraph 6 below).

The NRC staff determined that Section 5 Procurement was never audited by Mercury from 1978 through 1983 because they stated that they purchased no materials; however, Mercury Letters WQ-1216 and 1225 dated December 15, 1982, and January 4, 1983, discuss Mercury's issuance of a purchase order to Welders Testing Laboratory in late 1978 remaining in effect as of January 1983. LP&L acknowledged this finding and when asked if other services were purchased stated that calibration services were purchased. The NRC staff member reviewed existing files at Mercury and determined that QAM Sections 5, 12, 17, and 18 were not audited in 1980. The failure to audit Section 12 "Nonconforming Items and Corrective Action" is significant because: (1) the apparent failure to take corrective action regarding Mercury management reviews and internal audits not performed, and (2) this same Section 12 was not audited in 1981. QAM Sections 5, 14, and 16 were not audited in 1981. QAM Sections 5, 11, 12, 13, 14, 15, and 16 were not audited in 1983.

Response letters to audit findings describing corrective action were found in the file for calendar year (CY) 1979, but responses were not found for CY 1980-1983.

As discussed in paragraph 2 above this significant constructions deficiency, i.e., partial QA program breakdown, has never specifically been reported even though the contractor identified the deficiency in January 1980 and EBASCO identified the problem in June 1982. Even more serious Mercury never corrected the problem after it was identified by Mercury and EBASCO.

4. Review of Auditor Qualification

Although auditor resumes show'd adequate qualification, qualification methods were inconsistent as some were given written exams, others verbal exams, and in one case even the oral exam was waived. The following are administrative or procedural deficiencies of minor nature but they point out poor record keeping:

- a. ^{6.6.7c} [REDACTED] performed as lead auditor on December 19, 1978, but auditor qualification procedure was not in place until June 28, 1979. Records indicate he was qualified as lead auditor on January 22, 1979, a month after he performed the audit. He was given 2 points under "Management Awarded Points" without any justification. His eye examination was dated January 16, 1979, well after his first audit.
- b. ^{6.6.7c} [REDACTED] did not have documentation in file to show that he had received orientation to provide a working knowledge and understanding of ANSI N45.2 and N45.2.12; 10 CFR 50, Appendix B; ASME III, NCA 3000 and 4000; Mercury QA Manual; and Mercury Audit Procedure QCP-3020.

- c. [REDACTED] documentation in file for 1981.
- d. [REDACTED] was not examined in accordance with paragraph 6.6 of QCP-3060. There was no eye exam for 1980 and did not receive specified training.
- e. Audit Participation Log was not available in the QA record files per paragraph 7.4 of QCP-3060.

5. Review and Evaluation of Mercury Audits of Implementing Procedures

The NRC Staff review of Mercury QA, Construction, and special process procedures showed that Mercury never audited the following procedures during the project: MCP-2140, 2170, 2175; SP-650, 651, 652, 653, 654, 655, 656, 657, 658, 661, 662, 663, 668, 670, 672; WPS-E, P, G; BP-1; and WPS-W3-4. EBASCO Audit No. SW-82-6-1 dated June 7, 1982, Item No. 7, documented a finding that Mercury implementing procedures had not been audited.

The NRC staff finding that many implementing procedures were not audited is particularly significant since it makes it apparent that effective corrective action was not taken. It is also important to note that many documentation and hardware deficiencies that were identified were related to the procedures which were not audited.

Mercury Procedure Nos. QCF-3020, 3050, 3060, 3110.1, 3110.4, 3110.5, 3110.6; SP-659, 664, 665, 666, and 667 were audited only one year each during the period 1979-1983. These implementing procedures were for auditing, qualification of inspection/test and audit personnel, pipe and tubing inspection, welding inspection, installed equipment inspection, material receiving, nonconformance and corrective action, installation of seismic expansion anchors and control of "as built" information. Special or supplemental audits should have been performed in addition to annual audits of these areas because of repetition of nonconformances, deficiencies, and audit findings in these areas.

The NRC staff considers this failure to audit implementing procedures a breakdown in the Mercury QA program. This should have been identified in the corrective action response to the previously identified NRC civil penalty discussed above and represents inadequate corrective action.

6. Review and Evaluation of CARs

The NRC staff reviewed 143 CARs issued by Mercury Company from December 19, 1978 through August 9, 1982. All CARs relating to audits were evaluated. The CAR log was reviewed for audit finding trends and it was determined that EBASCO should have been aware of adverse trends concerning audits as early as December 19, 1978 but certainly by CAR No. 018 initiated August 6, 1979. Other CARs (046-059) were issued May 24, 1982 and CAR 089 concerning audits. EBASCO QA management and auditors should have reviewed this log, recognized the trends, and advised LP&L management. Other trends which should have been recognized and investigated are as follows: (1) CARs 019, 024, 025, 026, 028, 033 issued between March 1980 and April 1982 identified red line "as built"

drawing control and installation problems; (2) CARs 019, 020, 021, 022, 024, 025, 026, and 030 issued to one construction supervisor between the same dates identified trends that craft personnel were not following procedures; and (3) CARs 020, 027, 034, 061, 069, 074, and 088 issued to QC and craft between March 1980 and July 30, 1982, identified failure to inspect welds because of craft ignoring hold point and QC failure to inspect weld joint fit up. These trends are only examples as there were other adverse conditions which were identified early but effective corrective action was not assured by the contractor, Mercury or LP&L QA program.

7. Review of Mercury Auditing, Nonconformance and Corrective Action Procedures

- a. Auditing: External audits of vendor performed services, such as the service vendored by Welder's Testing Laboratory of Metairie, LA were not described in QAM Section 15.0 or QCP-3020. The QAM did not incorporate the requirements of ANSI N45.2.12 Draft 3 Rev. 4, February 22, 1974, into Section 15; i.e., followup action when CAR is not issued and references to other applicable standards as specified in paragraph 1.5 Referenced Documents. This document did not require a pre-audit conference while the ANSI standard stated that a conference "shall be conducted".
- b. Nonconformances and Corrective Action - QAM Section 12 and SPP-664, Revisions 4, stated, in part, "When the suspected nonconforming material, items, and services are determined by the QA Manager or his designee to be nonconforming, a QC Nonconformance Report

(Exhibit No. 2) is generated and a nonconformance number shall be taken from the Nonconformance Log maintained by QA (Exhibit No. 4) and shall be indicated on the Nonconformance Report." The NRC Staff determined that draft Nonconformance report (NCRs) submitted by any individual or department the QA manager could reject the draft NCR and this would be acceptable; however, it was found that draft NCRs were not in the QA records. Therefore, the disposition and justification for rejection was not auditable because the draft NCRs were destroyed. The NRC staff interviewed former Mercury personnel and other site personnel who had direct knowledge of the NCR system. They acknowledged that such a system may have impeded project personnel processing NCRs. An LP&L QA engineer stated that LP&L had addressed this problem when Mercury management was supplemented in 1982. Mercury personnel were encouraged to write NCRs and as a result the number increased from several hundred to more than 3000. This happened at about 80% completion of the Mercury job. However, the NRC staff commented that this would not necessarily solve the problem of failure to process or document rejection of draft NCR's that were submitted by personnel who left the site prior to this LP&L action.

Review of EBASCO Audits and Corrective Action - The NRC staff reviewed 1983 EBASCO audits of all QA records processing, review and retention by EBASCO Task Force Account, QA Records Department, QA Records HVAC, Tompkins-Beckwith, B&B Company, GEO Testing, and EBASCO Service, Inc. Review of these 27 audits included review of audit findings and responses for 4 audits which contained findings. All 1982 audits of Fishchbach Moore (19 audits); NISCO (20); and

Tompkins-Beckwith (23) were reviewed for areas audited, findings, and responses in file. Eight EBASCO auditor qualification files were reviewed.

- All EBASCO audits of the Mercury Company (51) performed during 1978-1982 were reviewed and evaluated to determine if breakdowns in the QA program between Mercury and EBASCO existed. The following is a summary.

1. Management Breakdown

A breakdown between EBASCO and Mercury management, including QA, was described above under paragraph 1 of the Mercury review. The resultant breakdown caused LP&L and EBASCO to supplement Mercury management with EBASCO management to complete the project.

2. Audit Program Breakdown

EBASCO audit and corrective action systems interface broke down between EBASCO, in that, EBASCO audits NB-79-9-4, NB-80-8-3, NB-81-5-1 performed during 1979, 1980, and 1981 stated that Mercury audited each section of the QA manual despite the fact that the Mercury CAR Log and two or more audits stated that internal audits were not conducted annually on each section of the Mercury QA Manual. EBASCO Audit SW-82-6-1 dated June 7, 1982, finally identified the Mercury failure to audit their QA

program; i.e., internal and management audits (See previous discussions under paragraphs 2, 3, 4, and 5 above described under "Review of Mercury Audits and Corrective Action."

3. Nonconformance and Corrective Action System Breakdown

Paragraph 6 of the above Mercury Review documents a breakdown in the corrective action system between Mercury and EBASCO management was evidenced the inability of either Company to obtain corrective action. Both companies apparently failed to review, recognize, or take action on trends which should have been apparent shortly after Mercury implemented their site QA program. It also appears that the Mercury nonconformance system impeded the freedom to initiate NCRs which could have been trended and upgraded to CARs as a result of EBASCO management involvement; therefore, this appears to be a QA breakdown between the two companies.

Review and Evaluation of LP&L Responsibility and Action - The NRC staff reviewed the LP&L Audit Program requirements, procedures, audits (internal and management) and interviewed corporate and site QA manager and QA engineers involved with the audit program. Seventeen management and 16 site audits of EBASCO performed by LP&L were reviewed. Forty-five LP&L site surveillance reports were reviewed. The LP&L site audit schedule for 1979 through 1984 was reviewed. Special emphasis was placed on LP&L responsibility for management of the overall audit program. Since this is a primary and important function of LP&L concerning participation in the

project since they rely heavily on EBASCO for design, construction, procurement, quality assurance, and other functions, it was extremely important for them to review and assess the adequacy of the QA program as required by 10 CFR 50, Appendix B, Criterion II and establish and implement an comprehensive system of planned and periodic audits to verify compliance with all aspects of the quality assurance program and to determine the effectiveness of the program. The following is a summary.

1. Review of Site Audits Scheduled Versus Audit Performed

The NRC staff reviewed audits scheduled and performed during 1979, 1980, 1981, 1982, 1983, and 1984. There were 4 auditors in 1979 who were scheduling audits; however, the number of full time auditors scheduling audits appears to decline to 3 during much of 1980. The number of site auditors appears to rise back to 4 in 1981 or slightly more in 1982. The number scheduling audits in 1983 appears to be about 4. The actual number of audit, performed declined from approximately 80, 60, 53, 91, 42, and too during the respective audit years 1979, 1980, 1981, 1982, 1983, and the first few months of 1984. The following are the monthly audits scheduled versus audits performed: 80 performed of 193 scheduled, 60 of 181, 53 of 178, 91 of 203, and 42 of 168 for the respective years 1979, through 1983. The justification for missing audits was unacceptable; for example, NRC inspection performed, unscheduled work activity performed, SUS reviews, etc. This audit system deficiency has existed for many years and was identified in Middle South Services (MSS)

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Audit Nos. E79-6 (AFR E-88) dated 8/27/79-8/31/79 and E80-15 (AFR E-122) dated 12/8/80-12/16/80. Corrective ? was apparently not taken and it appears that auditors gave up as MSS Audit Report Nos E81-12 reported the conduct of QA Audits and QA Construction site audits satisfactory when only 53 of 178 scheduled were performed and similarly E82-15 conducted 12/6/82-12/22/82 considered if normal when 91 of 203 were conducted. The actual number performed versus scheduled may be less since the i.e. figures include reaudits and may include QA surveillances which are not to be considered an audit per ANSI N45.2.12, paragraph 1.2, "Requirements for Auditing of QA Programs for Nuclear Power Plants." This condition was discussed with the LP&L Site QA Manager who did not consider any of this to be a problem. It appears that LP&L management has chosen to believe they can delegate all their responsibility for their QA program to EBASCO.

2. Review of LP&L Audit of EBASCO QA Program

The NRC staff reviewed LP&L audits of EBASCO site activity during 1981, 1983, and 1984. Nine audits were conducted in 1981, 7 in 1983 and 0 during the first several months of 1984. Since LP&L has chosen to delegate the function of auditing site contractors and design, construction, procurement and quality assurance functions the audit of EBASCO should be comprehensive and in depth audit of their entire quality assurance manual and implementing procedures. A large percentage of the on site design, procurement, construction, and engineering procedures

should also be a part of the annual audit of the EBASCO QA Program. The 9 audits in 1981 and 7 in 1983 do not appear to be sufficiently comprehensive to meet the requirements of 10 CFR 50 Appendix B and LP&L QP 18.3, Revision 3, paragraph 5.0 dated February 8, 1978, which states, in part, "Site audits shall verify that safety related activities associated with LP&L Nuclear Power Plants are performed in accordance with applicable regulatory requirements, specifications, instructions, procedures, and drawings. These audits are necessary to assess the effectiveness of the Quality Assurance programs of the Architect Engineer, Construction Manager and contractors at the construction site."

3. Management of the Audit Program

The NRC staff reviewed Mercury audits and determined that their program failed to audit some key quality control and construction procedures where deficiencies occurred. It is obvious that audit of these procedures during the period 1978-1983 would have likely prevented these deficiencies at Mercury Company.

As a result of developing a matrix of procedures which had or had not been audited, the NRC recognized several cause and effects of documentation and hardware deficiencies at Mercury Company in addition to several significant breakdowns in the Mercury QA program i.e., audit, nonconformance and corrective action system. The LP&L management was asked for existing matrices, logs, or other documents which would show all of the

contractor procedures which had been audited by LP&L, EBASCO and other site contractors. The LP&L site QA manager and QA Construction engineer stated that they did not know what procedures had been audited during the construction of the plant. In the case of Mercury the advantage of managements' knowing that Mercury Company had audited the implementation of their procedures and assured proper control of work activity is obvious. Also in this case Mercury and EBASCO could not properly apply audit resources unless they know the frequency of audit of the construction and quality control procedures; i.e., one procedure may be over audited to the detriment of a procedure controlling red line drawings or welding. LP&L stated that they have not managed the audit function in this manner but simply monitored the audit of activities in a broad sense and there was no requirement to know what procedures were audited.

This Philosophy is contrary to Criterion II of 10 CFR 50 Appendix B which states, in part, "This program shall be documented by written policies, procedures, or instructions and shall be carried out throughout plant life in accordance with those policies, procedures and instructions." To assure that the NRC maintains that procedures which control work activities must be monitored.

The NRC review of Tompkins-Beckwith, Fishbach and Moore, and NISCO audits revealed that all procedures had not been audited for these companies. Because many of these audits did not appropriately identify the QA manual sections and procedures, and construction procedures it became almost impossible to audit what procedure was audited.

4. Review of LP&L Management Audits of Site QA Program

The NRC staff reviewed these audits to determine if LP&L had regularly reviewed the status and adequacy of the QA program on site. The audits performed at site between 1972 and August 27, 1979, were not comprehensive audits and to the contrary were superficial paper reviews. Audits after this date were more comprehensive but still do not appear to be comprehensive enough to cover all elements of the QA Manual and implementing procedures. It also appears that these audits were strictly limited to LP&L organizations and, therefore, the audit would not extend to EBASCO and their work activities. Under this circumstance it is hard to understand how the success of LP&L site QA can be measured against EBASCO performance.

5. Review of Management Analysis Company (MAC)

The NRC staff reviewed portions of MAC consultant evaluations of LP&L Waterford 3 management made and reported in 1977, 1979, and 1980. The Executive Summary of the 1979 report outlined many problems which "can critically impact the Waterford 3 Project." Of particular interest are the following quotes on pages 2, 4, 5, and 8 are as follows: (1) "The long-held policy of Louisiana Power and Light has been to conduct their business related to engineering, construction, and operation of power plants by utilizing a very "lean" in-house organizations with almost total reliance on the Architech-Engineer for engineering and construction, and heavy use of consultant and outside service organizations during plant

operations. This policy of "lean-ness" and almost total reliance on the A/E is, in MAC's opinion, one of the basic root causes of many of the problems associated with Waterford 3 . . . heavy reliance on outside consultant and service organizations during the operation of Waterford 3 will, in MAC's opinion, cause additional problems once the plant is in operation The designated role of the LP&L site project is currently that of liaison and is not sufficiently involved in the planning, monitoring, and control of site activities The existing LP&L project and site organizations are lacking in numbers and in commercial nuclear power plant experience necessary to effectively monitor and control the Waterford 3 project The LP&L Quality Assurance organization has recognized basic fundamental problems related to quality but in some cases has not taken sufficient positive action to have problems resolved." The 1979 MAC Report to LP&L on page 2, paragraph 2 states, in part, "The QA group overall is strong . . . but few in number. . . it is MAC's recommendation that additional manpower be obtained. LP&L should monitor, audit and watch all of the critical activities . . . as they are accomplished at the site Additional QA manpower should be applied to ensure contractor QA records are in auditable and buyable order."

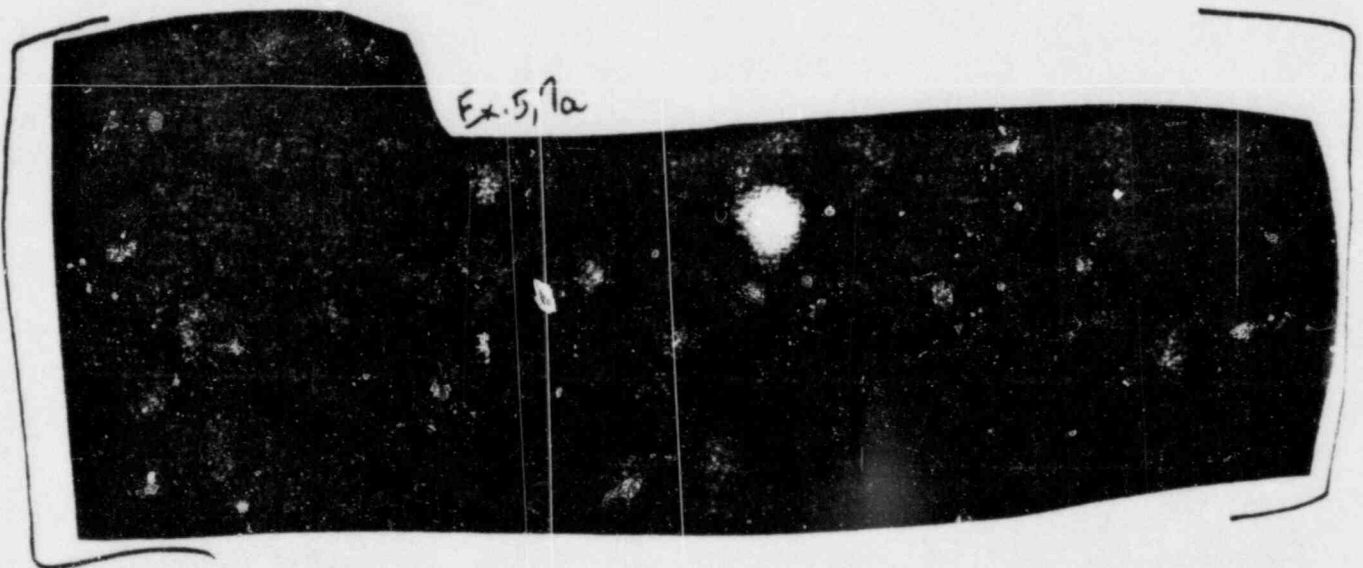
The 1980 MAC Report deals mainly with startup and operation; however, the theme of under-experienced and inadequate staffing is a recurring theme and should be evaluated by NRC staff who are responsible for operational startup, testing, etc.

NRC Staff Conclusion

There was a significant breakdown in the QA program both at EBASCO and Mercury and between EBASCO and Mercury to the point that EBASCO management was supplied to supplement Mercury management.

LP&L did not thoroughly evaluate, determine all the causes, and identify the entire extent of the QA breakdown at Mercury Company even after receiving civil penalty on December 6, 1982. This represents a failure to adequately evaluate the original Construction Deficiency Report No. 57 and report the full extent of the QA program breakdown and represents a failure to take effective corrective action concerning determining the cause of the QA breakdown at the Mercury Company.

LP&L did not implement a program to increase LP&L manpower and involvement with the Waterford 3 Project. This failure to implement these MAC recommendations are the root cause of QA problems experienced in the past and present.



Actions Required

1. Construction is complete and construction of the overall LP&L and contractor audit system is not possible. Audits are a second line defense for inspections that fail to detect deficient hardware and testing of systems, therefore, if these were adequate the plant can be adequate despite the fact that there was a QA breakdown in the audit and corrective. The primary concern relative to audits is to assure that an effective operational audit system is established and implemented.

2. LP&L should factor the above NRC staff findings into responses to the NRC civil penalty and their Construction Deficiency Report No. 57 i.e., review, evaluate, and determine the full extent of the QA breakdown at the Mercury Company and effective corrective action regarding these items.
3. LP&L should obtain a list of Mercury personnel and contact appropriate personnel to determine if they still have copies of draft NCR which were not processed and they consider to be significant deficiencies which they think have not been identified and corrected.
4. LP&L management should assure that they have an effective system implemented to regularly assess the status and adequacy of the QA Program which should include written policy, procedures, and adequate manpower to implement such a system. LP&L management should assure NRC staff that they have such a system demonstrate full support of such a program.

References

1. LP&L PSAR Quality Assurance requirements.
2. LP&L QR 18.0, Revision 2, 10-10-78, Audits.
3. LP&L QP 18.3, Revision 3, 2-8-78, Conduct of Site Audits.
4. LP&L QP 18.4, Revision 2, 2-17-83, Schedule of Site Audits.
5. LP&L QR 2.0, Revision 2, 10-10-78, Table 2-1 LP&L Commitments (Includes Regulatory Guides and ANSI standards)

6. EBASCO QAS-1, Revision 4, 6-30-82, Planning QA Activities.
7. EBASCO QAS-2, Revision 4, 6-30-82, General Audit Procedure
8. EBASCO Procedure QAS-3, Revision 4, 6-30-82, Processing Audit Reports
9. EBASCO QAI-25, Revision 0, 8-22-80, Instruction for Auditing
10. EBASCO QAI-7, Revision 2, 2-21-84, Instruction for Surveillance/Corrective Action.
11. Mercury QA Manual Sections 1-18, Revisions and Dates Various
12. Fischbach and Moore QA Manual Sections 1, 2, 3, 10, 15, 16, 17, and 18, various Revisions 4-1-81.
13. Fishbach and Moore QAP-103-W3, Revision 0, 6-10-77, Processing and Controlling Nonconformances.
14. Fischbach and Moore QAP-106-W3, Revision 0, 6-10-77, Auditing.
15. NISCO QA Manual Section 15, Revision C, 6-6-78, Audits.
16. Tompkins-Beckwith QA Manual Section V, 8-1-81, Audits

Statement Prepared By:

Name

Date

Reviewed By:

Team Leader

Date

Reviewed By:

Site Team Leader(s)

Date

Approved By:

Task Management

Date

Draft 1
4/24/84 (tsk3)SSERTask No.: A-128d, A-212Ref. No.: 4-84-A-06-23d.Characterization: Gambit article dated 1/14/84 alleged that there were undersized welds in Mercury's work.Assessment of the Allegation: Review of the records ~~uncovered~~ ^{showed} that undersized weld had been discovered in Mercury's welding of socket welds. This caused the generation of a Significant Construction Deficiency, (SCD) No. 62 (Attach 1). The Resolution of this SCD was controlled by Ebasco NCR's W3-4410 Rev 1 (Attach 2), W3-4365 (Attach 3), and W3-4366 (Attach 4).GIVEN
The reason Mercury gave for the deficient welding and inspection was that both were based on criteria for stainless tubing with a wall thickness of .065 rather than schedule 160 piping installed. A large share of their work had been installing the thinner tubing.

The thinner tubing required a 1/8" fillet weld rather than 1/4" fillet required for schedule 160. The SCD and NCR's resulted in a reinspection and rewelding of doubtful welds. In most cases the welds were reinspected and found adequate. In those cases which were marginal, Code Case N316 (Attach 2 page 9) is involved. This code case provides alternate rules for fillet weld dimensions for socket welded fittings. This code case has been accepted by the NRC as evidenced by Reg. Guide 1.84.

~~As part of the verification of this allegation, I visually surveyed portions of 20 systems (attach 5) welded by Mercury, and found no significant deficiencies in welding in the tubing or supports.~~Conclusion: Based on review of the records and visual inspection of accessible portions of 20 systems it is my opinion that the allegation was not valid when it was made (1/14/84).It may have been valid some time prior to the Significant Construction Deficiency No. 62 but normal controls ~~of necessity~~ ^{HAVE} adequately corrected the problem.Action Required: -None

AS PART OF THE VERIFICATION OF THIS ALLEGATION, PORTIONS OF 20 SYS (ATTACH 5) WELDED BY MERCURY WERE VISUALLY SURVEYED. NO SIGNIFICANT DEFICIENCIES WERE FOUND IN TUBING OR SUPPORT WELDING.

FOIA 84-426/449

C/B1

#81

Attachments:

1. Significant Construction Deficiency No. 62.
2. NCR W3-4410.
3. NCR W3-4365.
4. NCR W3-4366.
5. List of systems inspected.

This statement prepared by W H SPAULDING
Name

4/25/88
Date

Reviewed by:

Team Leader

Date

Reviewed by:

Site Team Leader

Date

Approved by:

Task Management

Date

Rec'd
5/19

Task: Allegation 141

Reference No.: 4-84-A-06-36

Characterization: It has been alleged that a listing of discrepancy notices (DNs) written during a review of 70 out of 1200 concrete placement packages were listed on a log. It was also alleged that the log was required to be maintained by instruction QAI-9A. The allogger has expressed concern as to whether these DN^s were considered in the quality review. ^(written during March through May of 1983)

~~numerous discrepancies in the concrete pour packages
The allogger and the team were not allowed to
continue to review ^{the} list of the packages~~

FOIA-84-426/449

C/92

#92

Assessment of Allegation:

(Insert A)

The NRC staff confirmed that Etroco performed a complete re-review of the concrete ^{placement} ~~form~~ packages after the alleged review of ^{the} first 70 packages. This ~~re-evaluation~~ re-evaluation included review of all the DN's and as well as original ^{placement} ~~form~~ packages for results, ~~apparently~~ and they were ~~and~~ ^{resolved} ~~disposed~~ according to the procedure. ~~DN's~~ were generated. At the time of allegation, the alleged was not aware of Etroco's re-evaluation of the packages. The NRC ~~staff~~ ^{also} reviewed ~~a sample of~~ concrete ^{placement} ~~form~~ packages. ~~The review included a review of the disposition of DN's and NCR's, and as staff findings is discussed in Allegation II C.~~

(Insert B)

Insert A

The NRC staff determined that the Ebasco procedure QAI-9 was revised during the first part of April 1983 ~~later~~ by Revision 2 to incorporate portions of what had been QAI-9A. Both of these documents addressed the Quality Assurance record review and provided the instructions for conducting the review. The QAI-9A document, which ~~was~~ was issued as Revision 1 on September 9, 1982, contained a form entitled "Quality Assurance Engineering, Construction - Installation Records Deficiency Report". The same basic form was included in QAI-9 and was known as Form QAI-9. The form provided basically a log of ~~each document and~~ ^{noted on the deficiency report} item number which was reviewed for completeness, accuracy and legibility and ~~of~~ the reason for the rejection or deficiency.

QAI No. 9A was further subdivided into portions to address various areas or disciplines were being reviewed. The NRC staff determined that the particular document which was used for the review was QAIRGS No. 483, ~~Concrete Structures, Documentation Statusing Review Instructions~~ Quality Assurance Installation Review Group (QAIRG) (Concrete Structures), Documentation Review Instruction which ^{agreed at} existed in draft form ^{during the period} since Revision A was not issued until October 9, 1983.

Based on this information the NRC staff ~~will~~ attempt to

to locate, not Deficiency Notices, but Deficiency Reports, issued under the QAIRG which apparently ~~utilized~~ utilized a draft form of QAI^{IF}GS Nos 4B-3.

~~Also~~

From the records, the NRC staff determined that as of the date of these allegations two QAI^{IF}GS reviews in the area of Civil QA Concrete Documentation had been performed.

For the ^{review by QAIRG,} first ~~a~~ search of records, including contacts with ^{person} identified by the alleged ^{as} having knowledge of the logs resulted in ^{the discovery of} no such logs. ^{for deficiency reports} The former Ebasco project quality assurance manager indicated that the QAIRG effort had been to perform a preliminary review of the concrete placement packages under the QAI-9 procedure. Since that effort resulted in the decision to complete a 100% review, the NRC staff was told that the record generated by the QAIRG was nullified. Additionally, a quality assurance engineer from Ebasco stated he had contacted two former Ebasco employees who were part of the QAIRG effort. They stated that to the best of their recollection there had not been any deficiency reports written under QAI-9.2

For the second review by QAIRG, which was

and was to have been documented on Form 9.2 in accordance with QAT-9, stated to have addressed the fuel handling building. The NRC staff was only able to locate a log entitled, Construction Installation Records Review Transmittal log. This listed activities such as concrete placement numbers and a check off column for whether the item had been labelled 9.2, yes or no. The ^{NRC} staff does not believe this is the specific log described in the allegation but it did link some of the alleged areas of concern ~~between~~ between concrete placement packages and the 9.2 (assumed to be QAT-9.2). When the references for this log to a given ^{concrete} sample placement packages were checked, no information, data sheets, logs etc. were found in the placement packages.

Based on the above the NRC staff was unable to identify the specific concrete placement packages which the QAT-9 had reviewed, ~~and~~ was unable to locate any log of deficiencies under a QAT-9 or -9A procedure or instruction, and was unable to identify any deficiency ^{reports} (referred to as deficiency notices by the alleged). As a result of these facts it would appear

that the consideration of any deficiencies noted by the QATRG effort were utilized only to determine if the review sample ~~was~~ indicated satisfactory quality records or not, and in this case the decision was that it was ~~not~~ determined that the records were not adequate and the subsequent 100% review began.

based on the current information available to the Technical Staff

As a result of these facts the NRC staff concludes that there is no safety significance or generic implications arising from this allegation. The NRC staff review of a series of concrete placement packages indicated only minor discrepancies and represented acceptable records (See Allegations A-107 and A-112/131/269).

End of Inset B

O I E 10

[Es. 57a] 4

Action Required: None

13

References:

- 1) Interoffice Correspondence of Ebasco from J.D. Davis to M. Burgan "Evaluation of Civil/Structural Documentation Stored in the QA Record Vault" 12/9/82 (A-113)
- 2) Letter from R.S. Loddick, of CP&C to D.E. Eisenhart of NRC (Response to Question 2) 4/27/84
3. ^{Ebasco} Interoffice Correspondence, Burgard to Stinson, March 28, 1983, File Reference W3-QAIGS-409.

Prepared by S. Kim.
Checked by R. Stinson

4. Extracts from QAI-9, Rev. 0 (10/31/77) and Rev. 2 (4/20/83)
5. Extracts from QAI-9A, Rev. 0 (9/21/82)
6. QAI 9A, QAIGS 48-1, Ebasco Force Account (Concrete Structures)
7. CAT 9A QAIPHS 48-7 Fluor Force Account (Steel)

6

8) QAI 9, QAI265 18-3, QAIRG - Concrete Structure

9) El Paso Interoffice Correspondence, Hill to Gytko;
dated 6/6/83.

Statement Prepared By:

S. Kim

Date

Reviewed By:

Team Leader

Date

Reviewed By:

Site Team Leader(s)

Date

Approved By:

Task Management

Date

Successful
06-14-84
N

DRAFT 1
05/23/84 (TSK4)

WATERFORD OPEN ISSUE

Task: A-141

Reference No.: 4-84-A-06-36

Characterization: It has been alleged that a listing of discrepancy notices (DNs) written during a review of 70 out of 1200 concrete placement packages were listed on a log. It was also alleged that the log was required to be maintained by instruction QAI-9. The allegor has expressed concern as to whether these DN's were considered in the quality review.

Initial Assessment of Significance: It is not possible to evaluate the significance of the allegation without knowledge of the types of discrepancies which are noted.

Source: Allegor

Approach to Resolution:

1. Attempt to locate DN logs made during QAIRP on concrete reviews from November 15, 1982 - July 31, 1983.
2. Interview Robin Shepard, secretary/clerk who had logs on her desk.
3. Interview Peggy Burgard, in whose work trailer the logs were kept.
4. Locate DN's and ascertain their disposition/consideration in the subsequent review and generation of NCR's.
5. Provide an evaluation of the significance of the DN's.

Status:

Review Lead: L. Shao

Support:

Estimated Resources: 2 man days

FOIA-84-426/449

C/93

#93

Estimated Completion: May 25, 1984

CLOSURE:

38755

4
NRC - E.S. 7a
OJ - E.S. 7a
SK
5/31
RES
DRAFT 1
5/30/84

SSER

Task: Allegation A-141

Reference No.: 4-84-A-06-36

Characterization: It has been alleged that a listing of discrepancy notices (DNs) written during a review of 70 out of 1200 concrete placement packages were listed on a log. It was also alleged that the log was required to be maintained by instruction QAI-9-IA. The alleger has expressed concern as to whether these DN's (written during March through May of 1983) were considered in the quality review.

Assessment of Allegation: Insert A The NRC staff determined that the Ebasco procedure, ⁷⁰ ~~the~~ was revised during the first part of April 1983 by Revision 2 to incorporate portions of what had been QAI-9A. Both of these documents addressed the Quality Assurance record review and provided the instructions for conducting the review. The QAI-9A document, which was issued as Revision 1 on September 9, 1982, contained a form entitled "Quality Assurance Engineering, Construction - Installation Records, Deficiency Report." The same basic form was included in QAI-9 and was known as Form QAI-9. The form provided basically a log of each document and item number noted on the deficiency report which was reviewed for completeness, accuracy and legibility and the reason for the rejection or deficiency.

QAI ~~9A~~ - 9A was ~~further~~ subdivided into portions to address various areas on disciplines were being reviewed. The NRC staff determined that the particular document which was used for the review was QAIRGS No. 48-3, Quality Assurance Installation Review Group (QAIRG) (Concrete Structures), Documentation Review Instruction, which apparently existed in draft form during the period of concern since Revision 0 was not issued until October 4, 1983.

Insert A

the NRC staff determined that no Ebasco procedure or instruction designated: QA 9-IA existed. The staff found that Ebasco procedure QAI-9A, issued on September 21, 1982 and the supplement, known as QAIRGS No. 4B-1, QAI-9A, issued on November 5, 1982 were probably the documents referred to in the allegation. In addition the NRC staff found that these documents were ~~superseded~~ voided and replaced by QAI-9, Revision 2 on April 20, 1983.

These instructions were in existence during the time of the review of the 70 concrete placement packages of the J.A. Jones Construction Company by the Ebasco Quality Assurance Installation Review Group (QAIRG).

Both of these instructions contained a form known as the QAI 9.2 Form which basically provided for the creation of a log wherein each document and item number would be identified ~~and~~ ~~the~~ the results of the review conducted for completeness, accuracy and legibility. The form title was "Quality Assurance Engineering, Construction-Installation Records, Deficiency Report." (Note that the log is for deficiency reports (DR's) and not deficiency notices (DN's) as alleged).

- 2/ -

Based on this information the NRC staff attempted to locate, not Deficiency Notices, but Deficiency Reports, issued under the QAIRG. ~~which apparently utilized a draft form of QAIRGS No. 48-3.~~

From the records, the NRC staff determined that as of the date of these allegations two QAIRG reviews in the area of Civil Quality Assurance ~~QA~~ Concrete Documentation had been performed.

For the first review by QAIRG, a search of records, including contacts with personnel identified by the alleged as having knowledge of the logs resulted in the discovery of no such logs or deficiency reports. The former Ebasco project quality assurance manager indicated that the QAIRG effort had been to perform a preliminary review of the concrete placement packages under the QAI-9 procedure. Since that effort resulted in the decision to complete a 100% review, the NRC staff was told that the records generated by the QAIRG ~~was were~~ nullified. Additionally, a quality assurance engineer from Ebasco stated that he had contacted two former Ebasco employees who were part of the QAIRG effort. They stated that to the best of their recollection there had not been any deficiency reports written under QAI-9.2 *(apparently meaning on Form QAI-9.2)*.

For the second review by QAIRG which was stated to have addressed the fuel handling building and was to have been documented on Form ^{QAI} 9.2 in accordance with QAI-9, the NRC staff was only able to locate a log entitled, Construction Installation Records Review Transmittal log. This listed activities such as concrete placement numbers and a check off column labelled 9.2, yes or no. The NRC staff does not believe this is the specific log described in the allegation, but ^{the log} ~~it~~ did link some of the alleged areas of concern between concrete placement packages and the 9.2 ^{form document} (assumed to be QAI 9.2). When the references for this log to three sample concrete placement packages were checked, no information, data sheets, logs, etc., were found in the placement packages ~~related to QAI-9.2.~~ QAI-9A or QAI-9.

- 7 -

, however,

The NRC staff confirmed that Ebasco performed a complete re-review of the concrete placement after the allegor reviewed the first 70 packages. This re-evaluation included review of all the DNs as well as original placement packages. As a result, NCRs were generated and they were resolved according to the procedure. At the time of allegation, the allegor was not aware of Ebasco's re-evaluation of the packages. The NRC staff also reviewed a sample of concrete placement packages. The review included a review of the disposition of DN and NCRs.

In summary,

~~Based on the above,~~ the NRC staff was unable to identify the 70 specific concrete placement packages which the QAIRG had reviewed, was unable to locate any log of deficiencies under a QAI-9 or -9A procedure or instruction, and was unable to identify any deficiency reports (referred to as deficiency notices by the allegor). As a result of these facts it would appear that the consideration of any deficiencies noted by the QAIRG effort were utilized only to determine if the review sample indicated satisfactory quality records or not, and in this case the decision was that it was determined that the records were not adequate and the subsequent 100% review began.

Based on the above,

~~As a result of these facts~~ the NRC staff concludes that there is no safety significance or generic implications arising from this allegation based on the current information available to the technical staff. The NRC staff review of a series of concrete placement packages indicated only minor discrepancies and represented acceptable records (see Allegations A-109, A-112, A-131, and A-269).

02 - 5.7a

Ex-5, 7a

Actions Required: None.

References

1. Interoffice Correspondence of Ebasco from J. D. Davis to M. Burgard, "Evaluation of Civil/Structural Documentation stored in the QA Record Vault," dated December 9, 1982 (A-113).
2. Letter from R. S. Leddick of LP&L to D. G. Eisenhut of NRC (Response to Question 2), dated April 27, 1984.
3. Ebasco Interoffice Correspondence, Burgard to Stinson, March 28, 1983, File Reference W3-QAIRC-409.
4. Extracts from QAI-9, Revision 0, dated October 31, 1979; and Revision 2, dated April 20, 1983.
5. Extracts from QAI-9A, Revision 0, dated September 21, 1982.
6. QAI-9A, QAIRGS 48-1, Ebasco Force Account (Concrete Structures).
7. QAI-9A, QAIRGS 48-2, Ebasco Force Account (Steel Structures).
8. QAI-9, QAIRGS 48-3, QAIRC - Concrete Structures.
9. Ebasco Interoffice Correspondence, Hill to Czyako, dated June 6, 1983.
10. *QAI-9, Rev. 2, April 20, 1983*

Statement Prepared By:

S. Kim

Date

Reviewed By:

Team Leader

Date

Reviewed By:

Site Team Leader(s)

Date

Approved By:

Task Management

Date

SSER

Task: Allegation A-141

Reference No.: 4-84-A-06-36

Characterization: It has been alleged that a listing of discrepancy notices (DNs) written during a review of 70 out of 1200 concrete placement packages were listed on a log. It was also alleged that the log was required to be maintained by instruction QAI-9. The allexer has expressed concern as to whether these DNs (written during March through May of 1983) were considered in the quality review.

Assessment of Allegation: The NRC staff determined that the Ebasco procedure QAI-9 was revised during the first part of April 1983 by Revision 2 to incorporate portions of what had been QAI-9A. Both of these documents addressed the Quality Assurance record review and provided the instructions for conducting the review. The QAI-9A document, which was issued as Revision 1 on September 9, 1982, contained a form entitled "Quality Assurance Engineering, Construction - Installation Records, Deficiency Report." The same basic form was included in QAI-9 and was known as Form QAI-9. The form provided basically a log of each document and item number noted on the deficiency report which was reviewed for completeness, accuracy and legibility and the reason for the rejection or deficiency.

QAI No. 9A was further subdivided into portions to address various areas on disciplines were being reviewed. The NRC staff determined that the particular document which was used for the review was QAIRGS No. 48-3, Quality Assurance Installation Review Group (QAIRG) (Concrete Structures), Documentation Review Instruction which apparently existed in draft form during the period of concern since Revision 0 was not issued until October 4, 1983.

Based on this information the NRC staff attempted to locate, not Deficiency Notices, but Deficiency Reports, issued under the QAIRG which apparently utilized a draft form of QAIRGS No. 48-3.

From the records, the NRC staff determined that as of the date of these allegations two QAIRG reviews in the area of Civil Quality Assurance (QA) Concrete Documentation had been performed.

For the first review by QAIRG, a search of records, including contacts with personnel identified by the allegor as having knowledge of the logs resulted in the discovery of no such logs or deficiency report. The former Ebasco project quality assurance manager indicated that the QAIRG effort had been to perform a preliminary review of the concrete placement packages under the QAI-9 procedure. Since that effort resulted in the decision to complete a 100% review, the NRC staff was told that the record generated by the QAIRG was nullified. Additionally, a quality assurance engineer from Ebasco stated that he had contacted two former Ebasco employees who were part of the QAIRG effort. They stated that to the best of their recollection there had not been any deficiency reports written under QAI-9.2.

For the second review by QAIRG which was stated to have addressed the fuel handling building and was to have been documented on Form 9.2 in accordance with QAI-9 the NRC staff was only able to locate a log entitled, Construction Installation Records Review Transmittal log. This listed activities such as concrete placement numbers and a check off column labelled 9.2, yes or no. The NRC staff does not believe this is the specific log described in the allegation but it did link some of the allegors areas of concern between concrete placement packages and the 9.2 (assumed to be QAI 9.2). When the references for this log to three sample concrete placement packages were checked, no information, data sheets, logs, etc., were found in the placement packages.

The NRC staff confirmed that Ebasco performed a complete re-review of the concrete placement after the alleged reviewed the first 70 packages. This re-evaluation included review of all the DNs as well as original placement packages. As a result, NCRs were generated and they were resolved according to the procedure. At the time of allegation, the alleged was not aware of Ebasco's re-evaluation of the packages. The NRC staff also reviewed a sample of concrete placement packages. The review included a review of the disposition of DN and NCRs.

Based on the above the NRC staff was unable to identify the 70 specific concrete placement packages which the QAIRG had reviewed, was unable to locate any log of deficiencies under a QAI-9 or -9A procedure or instruction, and was unable to identify any deficiency reports (referred to as deficiency notices by the alleged). As a result of these facts it would appear that the consideration of any deficiencies noted by the QAIRG effort were utilized only to determine if the review sample indicated satisfactory quality records or not, and in this case the decision was that it was determined that the records were not adequate and the subsequent 100% review began.

As a result of these facts the NRC staff concludes that there is no safety significance or generic implications arising from this allegation based on the current information available to the technical staff. The NRC staff review of a series of concrete placement packages indicated only minor discrepancies and represented acceptable records (see Allegations A-109, A-112, A-131, and A-269).

- Ex. 7a

Ex. 5, 7a

4

Actions Required: None.

References

1. Interoffice Correspondence of Ebasco from J. D. Davis to M. Burgard, "Evaluation of Civil/Structural Documentation stored in the QA Record Vault," dated December 9, 1982 (A-113).
2. Letter from R. S. Leddick of LP&L to D. G. Eisenhut of NRC (Response to Question 2), dated April 27, 1984.
3. Ebasco Interoffice Correspondence, Burgard to Stinson, March 28, 1983, File Reference W3-QAIRC-409.
4. Extracts from QAI-9, Revision 0, dated October 31, 1979; and Revision 2, dated April 20, 1983.
5. Extracts from QAI-9A, Revision 0, dated September 21, 1982.
6. QAI-9A, QAIRGS 48-1, Ebasco Force Account (Concrete Structures).
7. QAI-9A, QAIRGS 48-2, Ebasco Force Account (Steel Structures).
8. QAI-9, QAIRGS 48-3, QAIRC - Concrete Structures.
9. Ebasco Interoffice Correspondence, Hill to Czyako, dated June 6, 1983.

Statement Prepared By:

S. Kim

Date

Reviewed By:

Team Leader

Date

Reviewed By:

Site Team Leader(s)

Date

Approved By:

Task Management

Date

SK
✓ 5/31
RES
GHDRAFT 1
5/30/84SSERTask: Allegation A-141Reference No.: 4-84-A-06-36

Characterization: It has been alleged that a listing of discrepancy notices (DNs) written during a review of 70 out of 1200 concrete placement packages were listed on a log. It was also alleged that the log was required to be maintained by instruction ~~QAI-9~~^{QA 9-1A}. The allogger has expressed concern as to whether these DN's (written during March through May of 1983) were considered in the quality review.

Assessment of Allegation: ⁷⁰ The NRC staff determined that ~~the~~ Ebasco procedure, ~~QAI-9~~^{QA 9-1A} was revised during the first part of April 1983 by Revision 2 to incorporate portions of what had been QAI-9A. Both of these documents addressed the Quality Assurance record review and provided the instructions for conducting the review. The QAI-9A document, which was issued as Revision 1 on September 9, 1982, contained a form entitled "Quality Assurance Engineering, Construction - Installation Records, Deficiency Report." The same basic form was included in QAI-9 and was known as Form QAI-9. The form provided basically a log of each document and item number noted on the deficiency report which was reviewed for completeness, accuracy and legibility and the reason for the rejection or deficiency.

QAI ~~9A~~^{9A} was ~~further~~ subdivided into portions to address various areas on disciplines were being reviewed. The NRC staff determined that the particular document which was used for the review was QAIRGS No. 48-3, Quality Assurance Installation Review Group (QAIRG) (Concrete Structures), Documentation Review Instruction, which apparently existed in draft form during the period of concern since Revision 0 was not issued until October 4, 1983.

Insert A

the NRC staff determined that no Ebasco procedure or instruction designated QA 9-IA existed. The staff found that Ebasco procedure QAI-9A, issued on September 21, 1982 and the supplement, known as QAIRGS No. 4B-1, QAI-9A, issued on November 5, 1982 were probably the documents referred to in the allegation. In addition the NRC staff found that these documents were ~~superseded~~ voided and replaced by QAI-9, Revision 2 on April 20, 1983.

These instructions were in existence during the time of the review of the 70 concrete placement packages of the J.A. Jones Construction Company by ^{the} Ebasco Quality Assurance Installation Review Group (QAIRG).

Both of these instructions contained a form known as the QAI 9.2 Form which basically provided for the ~~creation~~ creation of a log wherein each document and item number would be identified ~~on~~ ~~the~~ ~~results~~ the results of the review conducted for completeness, accuracy and legibility. The form title was "Quality Assurance Engineering, Construction Installation Records, Deficiency Report." (Note that the log is for deficiency reports (DR's) and not deficiency notices (DN's) as alleged).

Based on this information the NRC staff attempted to locate, not Deficiency Notices, but Deficiency Reports, issued under the QAIRG, which ~~apparently utilized a draft form of QAIRGS No. 483.~~

From the records, the NRC staff determined that as of the date of these allegations two QAIRG reviews in the area of Civil Quality Assurance Concrete Documentation had been performed. CA

For the first review by QAIRG, a search of records, including contacts with personnel identified by the allegor as having knowledge of the logs resulted in the discovery of no such logs or deficiency reports. The former Ebasco project quality assurance manager indicated that the QAIRG effort had been to perform a preliminary review of the concrete placement packages under the QAI-9 procedure. Since that effort resulted in the decision to complete a 100% review, the NRC staff was told that the records generated by the QAIRG ~~was were~~ nullified. Additionally, a quality assurance engineer from Ebasco stated that he had contacted two former Ebasco employees who were part of the QAIRG effort. They stated that to the best of their recollection there had not been any deficiency reports written under QAI-9.2 *(apparently meaning on Form QAI-9.2)*.

For the second review by QAIRG which was stated to have addressed the fuel handling building and was to have been documented on Form ^{QAI} 9.2 in accordance with QAI-9, the NRC staff was only able to locate a log entitled, Construction Installation Records Review Transmittal log. This listed activities such as concrete placement numbers and a check off column labelled 9.2, yes or no. The NRC staff does not believe this is the specific log described in the allegation, but ^{the log} it did link some of the ^{form document} allegor's areas of concern between concrete placement packages and the 9.2 ^{form document} (assumed to be QAI 9.2). When the references for this log to three sample concrete placement packages were checked, no information, data sheets, logs, etc., were found in the placement packages ~~related to QAI-9.2.~~ QAI-9A or QAI-9.

, however,

The NRC staff confirmed that Ebasco performed a complete re-review of the concrete placement after the allegor reviewed the first 70 packages. This re-evaluation included review of all the DN's as well as original placement packages. As a result, NCRs were generated and they were resolved according to the procedure. At the time of allegation, the allegor was not aware of Ebasco's re-evaluation of the packages. The NRC staff also reviewed a sample of concrete placement packages. The review included a review of the disposition of DN and NCRs.

In summary,

~~Based on the above,~~ the NRC staff was unable to identify the 70 specific concrete placement packages which the QAIRG had reviewed, was unable to locate any log of deficiencies under a QAI-9 or -9A procedure or instruction, and was unable to identify any deficiency reports (referred to as deficiency notices by the allegor). As a result of these facts it would appear that the consideration of any deficiencies noted by the QAIRG effort were utilized only to determine if the review sample indicated satisfactory quality records or not, and in this case the decision was that it was determined that the records were not adequate and the subsequent 100% review began.

Based on the above,

~~As a result of these facts~~ the NRC staff concludes that there is no safety significance or generic implications arising from this allegation based on the current information available to the technical staff. The NRC staff review of a series of concrete placement packages indicated only minor discrepancies and represented acceptable records (see Allegations A-109, A-112, A-131, and A-269).

Ex. 10

Ex. 5, 7a

Potential Violations: None.] 4

Actions Required: None.

References

1. Interoffice Correspondence of Ebasco from J. D. Davis to M. Burgard, "Evaluation of Civil/Structural Documentation stored in the QA Record Vault," dated December 9, 1982 (A-113).
2. Letter from R. S. Leddick of LP&L to D. G. Eisenhut of NRC (Response to Question 2), dated April 27, 1984.
3. Ebasco Interoffice Correspondence, Burgard to Stinson, March 28, 1983, File Reference W3-QA/IRG-409.
4. Extracts from QAI-9, Revision 0, dated October 31, 1979; and Revision 2, dated April 20, 1983.
5. Extracts from QAI-9A, Revision 0, dated September 21, 1982.
6. QAI-9A, QAIRGS 48-1, Ebasco Force Account (Concrete Structures).
7. QAI-9A, QAIRGS 48-2, Ebasco Force Account (Steel Structures).
8. QAI-9, QAIRGS 48-3, QAIRG - Concrete Structures.
9. Ebasco Interoffice Correspondence, Hill to Czyako, dated June 6, 1983.
10. *QAI-9, Rev. 2, April 20, 1983*

Statement Prepared By:

S. Kim

Date

Reviewed By:

Team Leader

Date

Reviewed By:

Site Team Leader(s)

Date

Approved By:

Task Management

Date

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Appeal Board

In the Matter of)
)
LOUISIANA POWER & LIGHT COMPANY) Docket No. 50-382 OL
)
(Waterford Steam Electric)
Station, Unit 3))
)

I hereby certify that a copy of the foregoing Joint Intervenor's Motion for Leave to File Reply to Applicant's Answer to Joint Intervenor's Motion for Leave to File Supplemental Memorandum and Applicant's Response to Supplemental Memorandum has been mailed, postage prepaid, on March 11, 1985, to the following:

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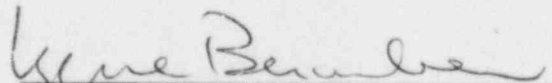
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