

1 just doesn't like the one he's giving.

2 MS. OTT: He says he doesn't know --
3 nobody's defined what "cost overruns" is.

4 JUDGE PRIDGIN: I understand the
5 question. I'll overrule. The witness seems quite
6 capable of saying his definition or definitions of the
7 term.

8 THE WITNESS: I've given two definitions
9 to cost overrun. The definition that I use in
10 day-to-day life, the definition that has come about
11 because of this S&A agreement. I don't care which
12 definition you use. Our system will do it, okay? The
13 system identifies every dollar we spent. Doesn't
14 matter if it was in budget, out of budget,
15 contingency, not contingency, underrun, overrun.
16 Every dollar we spent on this project, we have
17 documentation and explanation as to why we spent it.

18 BY MS. OTT:

19 Q. So do the CPs track cost overruns?

20 A. I'm sorry?

21 Q. Do the CPs track cost overruns?

22 A. Are you saying Charlie Prenger Echo or
23 Charlie --

24 Q. CPs, cost projections.

25 A. CPs, do the CPs track cost overruns?

1 Q. Yes.

2 A. They're a budgeting tool. They help you
3 look into the future.

4 MS. OTT: Judge, I asked a yes-or-no
5 question, can you please instruct the witness to
6 answer my question?

7 JUDGE PRIDGIN: I will, and if you're --
8 if you can answer that question, I mean, I believe
9 it's a yes-or-no question and if you don't know,
10 you're free to say so.

11 THE WITNESS: The way you're asking the
12 question, I don't know. Are you asking me do the CPs
13 track actual costs?

14 BY MS. OTT:

15 Q. Do the CPs track cost overruns? So a
16 cost overrun would have to be an actual cost if you're
17 getting into an overrun.

18 A. Okay. Thank you. That's what I needed.
19 So based on that, no. The CPs would not. The CPs do
20 not track the actuals.

21 Q. No?

22 A. They're never intended to.

23 Q. And would that be the same to R&Os, that
24 they do not track cost overruns?

25 A. That is correct.

1 Q. So what tracks the cost overruns? The
2 CPs and the R&Os do not track cost overruns.

3 A. The CPs and R&Os were budgeting tools.
4 what we used to track costs --

5 Q. Okay.

6 A. What we used to track costs are purchase
7 orders, change orders, and invoices. Those are what
8 actual costs go to.

9 Q. How many change orders were there for
10 Iatan 1?

11 A. For Iatan 1?

12 Q. Yes.

13 A. Through what point in time?

14 Q. Through today.

15 A. I don't know that I have those facts in
16 front of me through today.

17 Q. Do you have an estimate of how many
18 change orders for Iatan 1 has gone through today?

19 A. If you'd bear with me, I may have a note
20 here. No, I don't have any notations on Unit 1.

21 Q. Do you have a notation on how many R&Os
22 have gone through for Iatan 2 today -- I meant change
23 orders.

24 A. Are you asking me how many change orders
25 on Unit 2?

1 Q. Yes.

2 A. Okay. And I'm going to use
3 approximation; 27, 2,800 change orders.

4 Q. Around 2,800?

5 A. Somewhere between that.

6 Q. Do you have an estimation of how many
7 purchase orders have gone through Iatan 1?

8 A. No, I don't.

9 Q. Do you have an idea on Iatan 2 how many
10 purchase orders?

11 A. I don't. I can give you a guesstimate on
12 both projects together.

13 Q. And what would that estimate be?

14 A. I would guess somewhere between, I don't
15 know, 1,500, 1,600 POs. And that would be -- that's a
16 guesstimate.

17 Q. Now how many invoices have there been for
18 Iatan 1?

19 A. I don't know that.

20 Q. Do you have an estimate?

21 A. Thousands. I mean, I don't know how many
22 there would be.

23 Q. And how about for Iatan 2?

24 A. The same.

25 Q. Just thousands or tens of thousands?

1 A. If I had to guess, I'd probably -- I
2 would guess it would be in the tens of thousands,
3 absolutely.

4 Q. Okay.

5 A. Again, that's a complete guess on my
6 part.

7 Q. Now, did you ever prepare an explanation
8 of cost overruns for senior management?

9 A. Did I ever prepare a what? I'm sorry.

10 Q. Explanation of cost overruns for senior
11 management.

12 A. Yes.

13 Q. Do you know if Staff ever received a copy
14 of your explanation of cost overruns for senior
15 management?

16 A. Yes, they did.

17 Q. And what documentation was that?

18 A. That would be the purchase orders, change
19 orders, RTAs, reforecast documents, the K reports, the
20 contingency logs and the transfer logs.

21 Q. Now, can you trace the actual costs to
22 the common facilities for the Iatan project to actual
23 invoices?

24 A. To actual invoices? No.

25 Q. Can you trace the actual costs of the

1 common facilities of the Iatan project to the actual
2 budget?

3 A. To Unit 1 and Unit 2's budget? Yes.

4 Q. Is it -- is it based on estimates or is
5 it based on actual numbers?

6 A. It was based -- the value for common was
7 based on estimates.

8 Q. Okay. Now, have you ever seen Staff Data
9 Request 970?

10 A. I've seen a lot of data requests. I
11 don't particularly know what 970 is. If you could
12 hand it to me, I could probably tell you.

13 Q. I'm going to hand it to you and then the
14 response.

15 A. Okay.

16 Q. And I don't think I'm going to get into
17 highly confidential information, so -- even though the
18 data request is. So Data Request 970, Staff asked:
19 "For Iatan 2, please provide a list of all cost
20 overruns from KCP&L's original definitive estimate,
21 control budget estimate through April, 2010, the
22 amount for each cost overrun, a detailed description
23 of the overrun and why each cost overrun was incurred
24 and the charge to the project and how the cost overrun
25 was mitigated, if it was mitigated."

1 Now, your illustration that you attached
2 to the -- this data request, did you respond to this
3 data request?

4 A. I did.

5 Q. You're talking about variances.

6 A. Yep.

7 Q. And I thought we established earlier that
8 variances are not the same thing as cost overruns.

9 A. I don't think we established that at all.
10 I thought, from my recollection, what we established
11 according to me is that cost variances are made up of
12 overruns and underruns and depending if you're talking
13 to the people at site on where I track costs
14 day-to-day, that's what we defined and what we did.

15 Now, if we're moving the line here and
16 saying cost overruns or anything above the 1,685 or
17 the CBE, which is what's happened, essentially. I'm
18 okay with that, but that's not what we did when we
19 talked about cost variances.

20 Q. Now, did you answer this DR based on the
21 definitive estimate?

22 A. Yeah, the control budget and the
23 definitive estimate are one in the same.

24 Q. And -- but you have answered this DR
25 based on cost overruns or cost variances?

1 A. It was based on cost variances. It
2 showed both overruns and underruns. And I would also,
3 as I read through this, like to point out at the
4 bottom of this says, "Mr. Archibald has walked through
5 this portfolio in previous meetings and would be able
6 to provide assistance again, if needed."

7 Q. Thank you for pointing that out.

8 Now, have you seen Risk and Opportunity
9 Information Sheet 237, which is related to Schiff
10 Hardin, E & Young, and KCP&L internal audit?

11 A. I have.

12 Q. I'm going to hand you a copy of it.

13 A. Okay.

14 Q. If you want to look over it for a second.
15 Now, have you had a chance to look at it?

16 A. Yeah, I believe so.

17 Q. Okay. And looking at the analysis, is
18 this under the analysis, where you would find the
19 explanation for the cost overrun?

20 A. This would be the explanation.

21 Q. For the cost overrun?

22 A. Yes.

23 Q. Now how do we know if this is going into
24 the contingency or if it's going into the cost
25 overrun?

1 A. Okay. So I think what you're asking me
2 is how do you know if this dollar amount was just
3 within the base estimate or it used some of the
4 original control budget estimate, part of the 220?

5 Q. Yes.

6 A. Okay. You would go to the contingency
7 log.

8 Q. But can you tell from this document
9 whether or not this is going to go into the
10 contingency budget or be a cost overrun?

11 A. What this document represents was
12 anything --

13 MS. OTT: Judge, that's not my question.

14 JUDGE PRIDGIN: Are you able to answer
15 her question?

16 THE WITNESS: As a yes or no?

17 JUDGE PRIDGIN: I think that's what she
18 wants.

19 THE WITNESS: I think it's a process
20 question. No.

21 BY MS. OTT:

22 Q. So does the contingency log reference
23 this R&O?

24 A. No.

25 Q. So how can you tell if this R&O is in the

1 contingency log or if it is a cost overrun?

2 A. I don't think I understand what you're
3 asking me.

4 Q. Well, if you can't tell from this R&O
5 whether it's a cost overrun --

6 A. Uh-huh.

7 Q. -- or if it's a contingency, and the
8 contingency log doesn't reference this R&O, how can
9 you tell it's part of the contingency?

10 A. The contingency log is a log from cradle
11 to grave on how all the contingency was allocated into
12 the base estimate. All you have to do is go to the
13 contingency log, sort on the cost code, get a
14 cumulative total of that contingency through a point
15 in time when the \$220 million was exhausted, which
16 would have been sometime April/May time frame, and you
17 can see how much contingency of the original 220 was
18 applied back to the base estimate.

19 Q. But it doesn't -- it doesn't direct you
20 back to this particular -- to an R&O.

21 MR. HATFIELD: It's been asked and
22 answered, Judge.

23 JUDGE PRIDGIN: I'll overrule.

24 THE WITNESS: No, it wouldn't.

25 BY MS. OTT:

1 Q. So under this analysis, is this -- well,
2 first, is Schiff Hardin a cost overrun?

3 A. Yes.

4 Q. So is this the explanation of why Schiff
5 Hardin is a cost overrun?

6 A. I'd like to clarify. When I say "yes," I
7 don't care how you define cost overrun, whether it's
8 the site view or the Staff's view, Schiff Hardin's a
9 cost overrun. Okay?

10 I'm sorry, what was your question?

11 Q. So is this where you would go to
12 determine whether Schiff Hardin was a cost overrun?
13 Is this the explanation of Schiff Hardin's cost
14 overrun?

15 A. I would tell you it is part of the
16 explanation, yes.

17 Q. Just part?

18 A. Yes.

19 Q. So where's the other part?

20 A. I would tell you in order to get a full
21 understanding of the cost overrun, I would do a
22 comparative of the control budget estimate, understand
23 how the contingency was used, and then look at the
24 actual dollars spent. Once you've identified that,
25 you can use this R&O package and if you wanted to go

1 deeper into what I would refer to as a level four or
2 level three or four granularity, you can go to the
3 invoices as well.

4 Q. So is that how KCP&L explains its cost
5 overruns?

6 A. Explains them to who?

7 Q. Explains them pursuant to the stipulation
8 and agreement.

9 A. I guess I'm having a problem here.

10 Q. I mean, there's parties to the
11 stipulation and agreement, are there not?

12 A. Oh, yes, there are.

13 Q. And you're supposed to identify and
14 explain? So I'm asking what you just said, is that
15 correct, how KCP&L explains their cost overruns?

16 A. And I may have said this before, KCP&L
17 uses the RTAs, the purchase orders, the change orders,
18 the reforecast documents, all this information to
19 explain the cost overruns and underruns.

20 Q. So besides this R&O as part of the
21 example for the Schiff overrun, where's the other part
22 of Schiff's explanation for their cost overrun?

23 A. I would tell you on -- if you're trying
24 Schiff out, I would tell you to look at all the
25 reforecast documentation and then if you wanted

1 further analysis, I mean, I personally go into the
2 invoices and pull the invoices and you can get further
3 detail than what was in here.

4 MR. SCHWARZ: Judge, at this stage, I
5 would just like to remind the Commission that I have
6 an objection pending to the assertion that any Schiff
7 Hardin is in the CBE.

8 JUDGE PRIDGIN: Thank you.

9 BY MS. OTT:

10 Q. Mr. Archibald, do you still have the
11 document in which I believe both Mr. Schwarz and
12 Mr. Mills had you look at earlier that have the
13 December, 2006 updated control budget estimate in
14 front of you?

15 A. I do not.

16 MR. HATFIELD: 251, that's the one he
17 said he had never seen before.

18 MS. OTT: well, he just saw it with
19 Mr. Mills, so he at least saw it two hours ago.

20 THE WITNESS: Thank you.

21 BY MS. OTT:

22 Q. Now, if this were the budget in which the
23 board approved? In particular the Schiff Hardin
24 amount that's -- this document does not appear to be
25 HC, is it?

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MR. HATFIELD: what?

MS. OTT: I mean, I don't have HC on it.

THE WITNESS: I think the one Mr. Schwarz
had on it had HC on it.

MS. OTT: So just for one question, go
in-camera.

JUDGE PRIDGIN: Okay. Just one moment,
please.

(REPORTER'S NOTE: At this point, an
in-camera session was held, which is contained in
Volume 26, pages 2196 to 2197 of the transcript.)

1 JUDGE PRIDGIN: We're back in public
2 forum. Ms. Ott, when you're ready.

3 FORREST ARCHIBALD testified as follows:

4 BY MS. OTT:

5 Q. I don't think we've established yet,
6 what's your job title?

7 A. Cost manager senior.

8 Q. How many years were you in charge of cost
9 controls prior to the Iatan project?

10 A. When you say "in charge," I've had 13
11 years of experience in the construction industry.
12 I've dealt with costs -- I may -- it may help to give
13 some background on --

14 Q. How many years were you a lineman or a
15 worker during those 13 years?

16 A. Are you asking me how many years I was a
17 craft worker?

18 Q. Yes.

19 A. Okay. So I was -- I started my career
20 from the ground up. I started as an ironworker. I
21 spent roughly about a year as an ironworker where I
22 learned the fundamentals of construction.

23 Q. So you were only one year as a craftsman?

24 A. Yes.

25 Q. So prior to becoming the -- I believe --

1 what did you say your title was, a cost?

2 A. Cost manager senior.

3 Q. Cost manager -- were you a cost manager
4 prior to this project?

5 A. Yes.

6 Q. And how long were you the cost manager?

7 A. I don't know how long I was technically a
8 cost manager. I tracked costs for one of the largest
9 utilities in the nation for about three years,
10 American Electric Power. I've done over a dozen
11 retrofit projects.

12 Q. So you were the cost manager for three
13 years?

14 A. I tracked costs, I don't know how many
15 years I was manager of the department. I don't know
16 that.

17 Q. Were you ever manager of the department?

18 A. Yes.

19 Q. At AEP?

20 A. Yes.

21 Q. And you have no indication of how long
22 you maintained the title of cost manager at AEPC?

23 A. No. I tracked costs for about three
24 years for them on over a dozen retrofit projects.

25 Q. You might have tracked costs, but were

1 you the manager?

2 A. Yes, but I don't know out of the three
3 years, how many I was the manager. If I had to guess,
4 I would say roughly half, but I mean, that's a guess.

5 Q. what's your salary, Mr. Archibald?

6 MR. HATFIELD: Judge, I object, it's
7 irrelevant.

8 MS. OTT: It's based on his experience.

9 MR. HATFIELD: It needs to be in HC.

10 JUDGE PRIDGIN: It may be relevant, I
11 think it probably does need to be in HC.

12 MR. FISCHER: Judge, I would request even
13 though we're in HC that this kind of information is
14 employee-specific, is sensitive information. I would
15 ask that even my company's representatives leave the
16 room so we could discuss this if this has to go on.

17 I think this is just -- it's not known
18 throughout the company what everybody else makes.
19 It's not known what your pensions are. It's not known
20 what your -- what your performance appraisals are.
21 And just because we're in HC does not make it
22 appropriate to go invade someone's privacy in this
23 way. And I would just request at your indulgence that
24 we -- we clear the room.

25 JUDGE PRIDGIN: okay. Ms. Ott, can you

1 tell me how this is relevant?

2 MS. OTT: His compensation is charged to
3 the project.

4 JUDGE PRIDGIN: All right. Do you need a
5 moment, Mr. Fisher?

6 MR. SCHWARZ: But it's not at issue, it's
7 not material.

8 MS. OTT: I think it's also relevant to
9 his experience.

10 JUDGE PRIDGIN: Has it not been elicited
11 anywhere else?

12 MR. HATFIELD: I don't believe so, Judge.
13 It wasn't asked in his deposition.

14 MR. FISCHER: Judge, clearly this
15 information is in the cost of service as is every
16 other employee in the company.

17 JUDGE PRIDGIN: Agreed.

18 MR. FISCHER: That's not the issue. The
19 issue is really whether in this Commission hearing
20 room we need to go through this kind of information.
21 It's not relevant to the particular issue that's in
22 front of the Commission about the cost control and
23 it's just -- we've seen several instances in this
24 hearing where we've gone through very personal
25 information without an apparent purpose and I would

1 request that we be given the opportunity to limit the
2 damage to this person.

3 JUDGE PRIDGIN: I'm going to sustain. I
4 mean, if everyone's salary is in cost of service, you
5 know, everyone's salary is in cost of service. I'm
6 going to sustain.

7 MR. HATFIELD: Just to be clear, for the
8 record, then, the objection that the company made was
9 not only that it's wholly irrelevant to the question,
10 but also that it's duplicative because the information
11 is already contained in the record to this Commission,
12 just to make sure our record's clear in case anyone
13 has an issue with it later.

14 MS. OTT: I don't believe it's in the
15 record yet, just for clarification, and I don't think
16 individual-specific are in the record later on in the
17 hearing. I think it's an overall number.

18 MR. SCHWARZ: But it's not material to
19 any issue in the case. No one is suggesting that
20 Mr. Archibald's salary is inappropriate. As far as I
21 know, no one has challenged the capital expense
22 allocations of Mr. Archibald's salary. His salary is
23 simply not at issue.

24 JUDGE PRIDGIN: I agree. I've sustained.

25 MS. OTT: Just a second.

1 BY MS. OTT:

2 Q. Have you seen Staff Data Request 455 and
3 455-A?

4 A. I'm not sure, if you could hand me a
5 copy, I could tell you.

6 Q. And if you could read the question and
7 then the answer.

8 A. "445: Please provide all Iatan 1
9 reporting documentation that states that the Iatan 1
10 cost overruns are related to labor productivity and
11 availability. Availability of qualified personnel,
12 rapid increases in commodity prices, and scarcity of
13 materials and qualified vendors.

14 "The response: The Iatan 1 environmental
15 upgrade project has not incurred cost overruns. The
16 current control budget estimate of 484 million has not
17 been exceeded and management does not believe it will
18 be exceeded. Response provided by construction
19 project, project controls."

20 Q. And that was dated February 3rd, 2009?

21 A. Yes, it was.

22 Q. And do you agree with that?

23 A. Do I agree that the current control
24 budget of 484 has not been exceeded and management
25 does not believe it will be exceeded and that the

1 environmental upgrade project has not incurred cost
2 overruns?

3 Q. Yes.

4 A. I do not agree with the first statement
5 on we have not incurred cost overruns, no.

6 Q. So you --

7 A. I do agree that the current control
8 budget estimate of 484 has not been exceeded, nor do
9 we believe it will.

10 Q. Now, if you go to the next page, the
11 supplement.

12 A. Okay. "445-A, please provide all Iatan 1
13 reporting documentation that states the Iatan 1 cost
14 overruns are related to labor productivity and
15 availability, availability of qualified personnel,
16 rapid increases in commodity prices and scarcity of
17 materials and qualified vendors.

18 "Response: All variances from the
19 control budget estimate are captured in and reported
20 from the cost control system. In each of these
21 projects' cost reforecasts, the project team has made
22 certain assessments of these variances. KCP&L has
23 made all cost reforecast work papers, including these
24 assessments, available for review by staff." And then
25 it has an attachment.

1 Q. And do you agree with that response as
2 well?

3 A. Yeah, I would say that in the cost
4 reforecast, we made certain assessments of the
5 variances in there. It was a forward-looking
6 exercise, yes. And I would agree we provided all that
7 information to Staff.

8 MS. OTT: I have nothing further. Thank
9 you.

10 JUDGE PRIDGIN: All right. Thank you. I
11 do want to move on to redirect and then point out I
12 believe the Commissioners are in agenda. I don't know
13 if they'll have questions for Mr. Archibald or not, so
14 to try to keep the hearing moving, I'd like to go to
15 redirect with the caveat that he may be recalled for
16 bench questions. And if that's the case, I'll permit
17 recross and redirect.

18 MR. HATFIELD: So we're ready for
19 redirect?

20 JUDGE PRIDGIN: Yes, sir.

21 REDIRECT EXAMINATION

22 QUESTIONS BY MR. HATFIELD:

23 Q. Mr. Archibald, first of all, do you need
24 a break or anything?

25 A. I wouldn't mind a bathroom break.

1 MR. HATFIELD: Judge, would you mind?

2 JUDGE PRIDGIN: That will be fine. We'll
3 stand in recess until 2:30.

4 MR. HATFIELD: Thank you.

5 (A break was held.)

6 JUDGE PRIDGIN: All right. We are back
7 on the record. We are to redirect of Mr. Archibald
8 and depending on what I hear from the Commission, he
9 may or may not be released from redirect. I will give
10 the parties as much notice as I can. So Mr. Hatfield,
11 when you're ready, sir.

12 MR. HATFIELD: Thank you, Judge.

13 BY MR. HATFIELD:

14 Q. Mr. Archibald, let me start with the
15 definition of "cost overruns." We had a lot of back
16 and forth on that.

17 A. Yes, we did.

18 Q. So -- and let me start here. In your --
19 when you were working on the -- when the project was
20 in full throws, I guess we should say, where were you
21 physically located?

22 A. At the Iatan site.

23 Q. And did you occasionally get questions
24 about Forrest, do we have an overrun in this area or
25 that area?

1 A. Yes.

2 Q. And when people would ask you that, did
3 it have different definitions to different people?

4 A. Yeah, absolutely. And let me give you an
5 example. When I was onsite and day-to-day operation,
6 a cost overrun or a cost underrun or cost variances,
7 as we call them, Brent Davis or Bob Bell or someone
8 may come in my office, even contract managers would
9 come in and say, hey, where's my contract at, where's
10 my budget at, where's my overrun, where's my overrun.
11 And they would be talking against the 1,468,5 where we
12 had a stake in the ground to measure them against and
13 make them get approval for every contingency draw that
14 we spent.

15 Now, if I got the same question from an
16 executive like Mr. Downey or someone at that level,
17 they weren't in the trenches day-to-day monitoring
18 those items. They were looking at the global picture,
19 so a cost overrun to them would be different. A cost
20 overrun to them would be at the 1,685 level.

21 Q. Okay. So, but let me just -- I think
22 that explains it, but let me ask you a couple of
23 questions to make sure I understand. So Mr. Davis, we
24 already talked about this, but what was his role from
25 your perspective?

1 A. Mr. Davis was the project director.

2 Q. Day-to-day project management?

3 A. Absolutely.

4 Q. And when he said a cost overrun, you were
5 explaining to him whether he was -- I'm going to say
6 it this way, you tell me if this is fair, whether he
7 was going into contingency or not?

8 A. That is correct.

9 Q. And if he was a dollar into contingency,
10 he had an overrun?

11 A. Absolutely right.

12 Q. And when Mr. Downey, for example, would
13 ask you about an overrun, he wasn't asking you whether
14 you were into the contingency?

15 A. Correct.

16 Q. He was comparing it to the definitive
17 estimate or the control budget estimate, the 1,468,5
18 number?

19 A. That's correct.

20 Q. And so when he asked you that, you knew
21 that's what he meant and you'd explain an overrun?

22 A. Absolutely right.

23 Q. And in that instance, an overrun would be
24 are we going to go over contingency?

25 A. Yes.

1 Q. And is that the context by which you were
2 attempting to answer Ms. Ott's question about what's
3 an overrun, what's not?

4 A. It is.

5 Q. All right. And now, sitting through this
6 hearing, and let me ask you, you've reviewed the
7 stipulation and agreement, right?

8 A. Yes.

9 Q. And -- and you said it's not defined in
10 there and it says whatever it says?

11 A. Correct.

12 Q. But in answering questions for Ms. Ott or
13 for me or for the Commission, are you willing to
14 assume that an overrun is everything above the control
15 budget estimate in 2006, the 1.685?

16 A. Yes, I'm okay with that.

17 Q. And you can track overruns to that
18 number?

19 A. I can track underruns and overruns to any
20 number you want that's within that K report.

21 Q. So you can track an overrun or a
22 variance, an underrun, you can track that to the
23 1.685, which control as contingencies?

24 A. The 1,468,5?

25 Q. The 1,468,5, you can track to that?

1 A. Yes.

2 Q. The 1.685 control budget estimate, you
3 can track to that?

4 A. Yes.

5 Q. Can -- now was there a reforecasted
6 budget at one point?

7 A. Yes.

8 Q. And what was the first reforecasted
9 number?

10 A. It was a billion nine zero one.

11 Q. And can you track variances to that
12 number?

13 A. Yes.

14 Q. Can you track -- so I assume you can
15 track overruns to that number?

16 A. Yes.

17 Q. And don't give me the number, but was
18 there another reforecast after that?

19 A. Yes.

20 Q. Can you track variances to that number?

21 A. Yes.

22 Q. Overruns, underruns?

23 A. Yes.

24 Q. You can track them both. All right.

25 Now, you also had discussion about an exhibit folks

1 were showing you -- Judge, I'm just going to stand up
2 here and look over Mr. Mills's shoulder, Exhibit
3 261-HC, which was some board minutes. Do you recall
4 that discussion?

5 A. I do.

6 Q. And I understand you weren't at the board
7 meeting; is that right?

8 A. That is correct.

9 Q. So let me just ask you: In your work on
10 the project, had you ever heard of the board approving
11 a specific cost line item?

12 A. No.

13 Q. What was your understanding of the budget
14 that went to the board level?

15 A. My understanding of --

16 MR. SCHWARZ: Objection, calls for
17 speculation.

18 MR. HATFIELD: Just his understanding, he
19 doesn't have to speculate on that.

20 JUDGE PRIDGIN: I'll overrule. If he
21 doesn't know, he can say so.

22 THE WITNESS: My understanding, and
23 again, I wasn't there, but my understanding was the
24 budget was approved at the 1.685 level.

25 BY MR. HATFIELD:

1 Q. And that's how you managed it, assuming
2 that the 1.685 level?

3 A. Yes.

4 Q. Not on a line-by-line basis?

5 A. Actually, I do manage it on a
6 line-by-line basis.

7 Q. Right, but you managed it assuming the
8 board hasn't approved it on a line-by-line basis?

9 A. Yes.

10 Q. Now I'm just going to go kind of back
11 through this in order. Now, Ms. Ott asked you about
12 an error in your testimony. And let's go talk about
13 that for just a minute. Page 13 of your only
14 testimony filed here.

15 A. Yes.

16 Q. Line 12. And now that we've made that
17 correction, I want to make sure that we understand
18 what we're correcting. You are there in your
19 testimony quoting from Staff's report; is that right?

20 A. I am.

21 Q. And Ms. Ott showed you Staff's report; is
22 that correct?

23 A. Yep.

24 Q. And you went through and you reverified
25 for her each word in Staff's report, right?

1 A. I did.

2 Q. And you needed to change one which was
3 change the word "variances" to "overruns," correct?

4 A. Correct.

5 Q. So that now your testimony directly
6 quoting from Staff's report reads as follows: "It is
7 clear that KCP&L has the capability to track,
8 identify, and explain control budget cost overruns."
9 Is that your testimony?

10 A. Yes.

11 Q. And let me ask you: Do you agree with
12 that? Does KCP&L have the ability to track, identify,
13 and explain control budget cost overruns?

14 A. Yes.

15 Q. And have you already discussed with
16 Ms. Ott all of the ways in which you can do that?

17 A. Yes, I have.

18 Q. And is that through your cost control
19 system?

20 A. Yes. The cost control system and the
21 documents that make up the cost control system.

22 Q. All right. Now, several counsel talked
23 to you a little bit about contingency log.

24 A. Uh-huh.

25 Q. And I think at one point, you directed

1 Ms. Ott toward the contingency log in order to
2 track -- if you wanted to track a variance by a cost
3 code line.

4 A. Yes.

5 Q. And is that -- if you wanted to track a
6 variance by a cost code line would a contingency log
7 be used?

8 A. Yeah, what you would do, the contingency
9 logs are a cumulative log of every contingency log
10 that's taken place. Whether it was a draw, deposit,
11 it's a record of any time we touched contingency. So
12 no matter what it was, a purchase order, a change
13 order, an invoice itself, or a forecast adjustment
14 based on the reforecast, you can go back and see that
15 history. It doesn't matter if you change the
16 contingency and reset it or developed a new
17 contingency. We still maintained all the historical
18 data in there. We also maintained the log on an
19 ongoing basis.

20 Q. So if you start with a budget line item
21 of a hundred dollars --

22 A. Yep.

23 Q. -- and then you would -- later you would
24 increase that budget through reforecast process or
25 whatever?

1 A. Yes, ma'am (sic).

2 Q. The contingency log would still track any
3 draws back to that original hundred dollars?

4 A. Well, I believe what Ms. Ott was
5 referring to when she was discussing with me is the
6 staff seems to have a problem understanding how the
7 \$220 million worth of the control budget contingency
8 was allocated.

9 Q. Yep.

10 A. If you went to that log, you could easily
11 see by cost code how it was distributed above the
12 line. So you could go, for instance, to -- and I'm
13 going to use hypotheticals because I don't have
14 numbers in front of me, but you could go to cost code
15 1210, see what the control budget was, the base budget
16 that ties to the 1,468,5, and then you would be able
17 to see how much of that original \$220 million of
18 contingency was allocated to that line. Anyone can do
19 it. You can pick it up. What it would tell you is
20 roughly \$190 million of the 220 went to the directs
21 and \$30 million went to the indirects.

22 Q. Okay.

23 A. Anyone who picks up the documents, if
24 they understand what they're looking at, could do the
25 analysis.

1 Q. And do you know whether Staff was
2 provided with all of the contingency logs?

3 A. Staff was. We had recurring DRs, if I
4 believe, and I'm going from memory, 622 and then there
5 were subsequent DRs where Staff asked specifically
6 just for the contingency logs. On top of that, there
7 were -- there were several meetings I've had with
8 Staff where I've walked through the process and walked
9 through the contingency log themselves, so they could
10 understand.

11 In fact, to go a step further, my
12 management -- and when I say my management, KCP&L
13 management -- directed me around the third quarter of
14 2009 that I was to make myself available every Friday
15 in case Staff had questions. That was communicated to
16 Staff by me and by my management that I would be
17 available. All they had to do was pick up the phone,
18 tell me what time to be there and I would be there.

19 Q. And that commitment was made when now? I
20 didn't get the year.

21 A. Third quarter, 2009.

22 Q. 2009. And have you been, in fact,
23 available every Friday in order to answer any
24 questions Staff might have?

25 A. I would not say every Friday because I'm

1 sure I ended up taking a day or two off, but I would
2 tell you out of the last year -- the last 60-plus
3 Fridays, I've been available at least 90, 95 percent
4 of the time.

5 Q. And how many times did they take you up
6 on that offer?

7 A. I could count it on one hand.

8 Q. Okay. All right. Now, on -- now, there
9 was also some discussion about reforecasts and CPES
10 and I guess I just want to help give you an
11 opportunity to clear this up a bit. I think you
12 touched on it with Ms. Ott. When you're doing a
13 reforecast, is it a -- is it documenting historical
14 evidence?

15 A. No, absolutely not.

16 Q. What is a reforecast attempting to do?

17 A. When you do a reforecast, you're looking
18 forward in time. You're trying to project where your
19 costs are going to end up so you have an accurate
20 estimate of completion. If you take a look at our
21 reforecast in May of 2008, and you've really got to
22 back it up before that first reforecast because if you
23 look at our cost control system, it was about the
24 second or third quarter, 2007, we identified that our
25 budgets were going to be challenged. We saw the

1 problem before it happened.

2 At the end of '09, we locked the books
3 down and began the reforecast. In May of '08, it was
4 approved. At that time, we were able to predict where
5 we were going to be on costs within two percent of
6 where we're going to be now.

7 Q. So now let me ask you about that for a
8 minute. When you engaged in the reforecasting process
9 that you just referred to in '08, had you exceeded the
10 1.68 control budget estimate?

11 A. No.

12 Q. So the process was trying to predict,
13 what, whether you would?

14 A. Correct. It was trying to predict
15 whether we were going to exceed that budget or not.
16 And if we were, what the drivers and explanations
17 were. And from sitting in these hearings and granted,
18 Wolf Creek's way before my time in the business, but
19 my opinion is what they did at Wolf Creek was an
20 after-a-fact forensic accounting analysis on how these
21 cost overruns occurred.

22 Q. Okay.

23 A. Based on everyone's testimony, I think
24 that's what everyone was trying to avoid here in this
25 S&A agreement.

1 Q. Right.

2 A. We did that. We looked forward in time
3 and said these budgets aren't sufficient, we're going
4 to have overruns, and here's why, okay? Now after the
5 fact, when we're done, it's almost like we're being
6 asked to do the same thing. Hey, we want you to go do
7 these forensic analyses and create some packages and
8 tell us where the overruns were. Well, all that
9 documentation exists.

10 If all we needed to do was an
11 after-the-fact analysis, then why did we do all these
12 forward projections? It's because we wanted to
13 control the costs, we wanted to know where we were and
14 we wanted to be able to explain those overruns. We
15 wanted to get the budget, we wanted to get it right
16 and control the costs for not only the company but
17 also for the ratepayers.

18 Q. All right. I want to ask you about that
19 process for a minute, and we may want to go to some of
20 your exhibits that are in the record. But before we
21 do that, Ms. Ott showed you a risk and opportunity
22 analysis sheet and I think I may have taken yours.

23 MR. HATFIELD: So Judge, can I approach?

24 JUDGE PRIDGIN: You may.

25 BY MR. HATFIELD:

1 Q. And this is the -- I think she identified
2 it and maybe you agreed it's the -- it includes the
3 Schiff Hardin risk and opportunity analysis, right?

4 A. Yes.

5 Q. Now, is that -- maybe you know, is that
6 attached to your system somewhere, that same R&O?

7 A. I don't think it is, no. No, it's not.

8 Q. Okay. So walk us through for a minute
9 here. There is a -- how do we tell what the
10 reforecast cost is on this R&O?

11 A. Well, what it would tell you is if you
12 look on the fourth line down as a reforecasted cost of
13 an -- are we in HC?

14 MR. HATFIELD: I guess we need to be.
15 Sorry.

16 JUDGE PRIDGIN: That's all right. One
17 moment, please.

18 (REPORTER'S NOTE: At this point, an
19 in-camera session was held, which is contained in
20 volume 26, pages 2221 to 2222 of the transcript.)

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1 JUDGE PRIDGIN: All right. Thank you.
2 We're back in public forum.

3 FORREST ARCHIBALD testified as follows:

4 BY MR. HATFIELD:

5 Q. So using a definition of "cost overruns"
6 that is amounts over the control budget estimate, is
7 that what number appears here?

8 A. Yes.

9 Q. All right. And on the sheet we were just
10 looking at, R&O Number 237. So is that how we would
11 identify what the predicted cost overrun will be --

12 A. Yes.

13 Q. -- using that definition we just went
14 through?

15 A. Yes.

16 Q. All right. And then in the analysis --

17 MR. SCHWARZ: Judge, I just want to make
18 sure that my prior objection as to the contents of the
19 CBE is noted. Thank you.

20 JUDGE PRIDGIN: It is noted, thank you.

21 BY MR. HATFIELD:

22 Q. And then there's an analysis section; is
23 that right?

24 A. Yes.

25 Q. And I think you already talked about

1 this, but is this where an explanation is supposed to
2 go?

3 A. Yes.

4 Q. So in this case, it says "S-H," which is
5 defined as Schiff Hardin --

6 A. Yes.

7 Q. -- "has had four full-time personnel at
8 the project site and this level of participation is
9 expected to continue for the duration of the project."

10 A. Yes.

11 Q. So -- and then it says, "Additional
12 Schiff Hardin resources are periodically engaged as
13 necessary."

14 So does that mean -- does that mean that
15 based on some sort of current run rate, you think the
16 costs are going to be more given the existing staffing
17 levels?

18 A. Yeah. What it -- what we were trying to
19 convey here is that based on the current run rate and
20 the expected scope that Schiff Hardin was engaging in,
21 that when you trended it out and compared it to the
22 budget, there wasn't sufficient budget. We needed
23 more.

24 Q. Okay. Now, this particular R&O -- well,
25 let's finish up with it. And then it says for E&Y,

1 I'm skipping a sentence, "The scope and frequency of
2 these audits is greater than originally anticipated --

3 A. Correct.

4 Q. -- due to project complexity and
5 increased audit scopes."

6 A. Yes.

7 Q. So is that attempting to explain why we
8 need more money for E&Y?

9 A. Yes.

10 Q. And these are documents, if we go to the
11 next page, mine's copied front to back. For every one
12 of these, was there -- these R&Os, was there an
13 identification of who prepared it?

14 A. Yes.

15 Q. So you could go talk to that person if
16 you needed to one -- anyone could go talk to that
17 person if they needed to for additional explanation?

18 A. Yes.

19 Q. And then somebody reviewed it?

20 A. Correct.

21 Q. And that would be, in this case, you?

22 A. Correct.

23 Q. And then somebody had to approve it,
24 right?

25 A. Yes.

1 Q. And those -- could those be the same
2 people? In other words, could Forrest Archibald
3 prepare, review, and approve one?

4 A. They shouldn't be, no.

5 Q. All right. Yeah, so then once an R&O was
6 completed, what were they used -- what was done next
7 with an R&O?

8 A. Well, once -- are you asking me after the
9 reforecast was approved or during the process?

10 Q. No, sorry, I'm way before that.

11 A. Okay.

12 Q. So Mr. Davis maybe would prepare an R&O.
13 That probably happened on this project?

14 A. Yeah, the way the process would work is
15 someone would identify an R&O item. The R&O item
16 would be investigated and vetted by that person. Once
17 they thought they had sufficient justification, they'd
18 bring it in front of my team and then we would have a
19 meeting to review that.

20 we would then have a subsequent meeting
21 with the Schiff Hardin team, review it as well, find
22 out if we needed additional documentation or if there
23 was stuff lacking at this point. It may pass, it may
24 get withdrawn, or it may get better information and
25 revise it. And then it would be compiled into an

1 overall list for final vetting by the leadership team.
2 Once they signed off on it, we would move up the
3 ladder to senior management.

4 Q. Okay. So -- and then once senior
5 management had it -- did it take a different form when
6 it went to senior management?

7 A. Yeah, when we took it to senior
8 management, we maintained the original list, but we
9 tried to summarize it into an executive summary, if
10 you would, to where we could explain it on a high
11 level as to what was driving the costs up, so we could
12 identify and explain is what we tried to do.

13 Q. So did the project management team have
14 to -- this is my words, so you tell me if it is
15 wrong -- approve an R&O before it went on up?

16 A. Yes.

17 Q. And then once you got all those R&Os
18 together, was that the reforecast that was presented
19 to executive leadership?

20 A. Yes.

21 Q. All right. So were there R&Os that were
22 created that were not approved by the project
23 leadership team?

24 A. Absolutely.

25 Q. Can you give us a magnitude of just

1 approximately, in your experience, how many R&Os were
2 prepared that never made it past project leadership
3 team?

4 A. And I'm going from memory here.

5 Q. Right.

6 A. I think there's over 200 R&Os, at
7 least -- I would guess probably half or a third of
8 that never made it.

9 Q. Okay. So they didn't get recommended on
10 up for some of the reasons you -- they didn't make it
11 through the process you described?

12 A. Correct.

13 Q. And every R&O that gets created has a
14 number on it?

15 A. Yes, it does.

16 Q. And did CPs work in a similar way?

17 A. Yes, they do.

18 Q. Can you just describe that process? You
19 don't need -- if it's the same as R&Os, just tell me
20 now.

21 A. It's the basic same process but what we
22 did was try to streamline it. We grouped like costs
23 together so they could be investigated and reviewed
24 together and so that we knew once we closed a certain
25 number of accounts, we wouldn't have to look at those

1 again, there wouldn't be double-dips, so it really
2 streamlined the process.

3 Q. So still identified by dollar amount, how
4 much more you would need over the current budget?

5 A. Yes.

6 Q. Still included in an explanation of why?

7 A. Yes.

8 Q. Still required preparation overview
9 approval?

10 A. Yes.

11 Q. Still had to be vetted through the
12 project team?

13 A. Yes.

14 Q. Still had to be approved by the project
15 team before they would go to executive leadership?

16 A. Correct.

17 Q. All of them were still maintained and
18 available for review whether or not they were approved
19 by the project leadership team?

20 A. Yes.

21 Q. And they're all available today?

22 A. Yes.

23 Q. Were they all --

24 A. I'm sorry, will you re-ask your question?

25 Q. Are they all available today?

1 A. What was your one before that?

2 Q. I don't remember. I bet your answer was
3 yes.

4 A. I just want to make sure I heard what you
5 asked.

6 Q. I'm just going to ask another question.
7 Is that all right? Were the R&Os given to Staff?

8 A. Yes.

9 Q. Were the CPs given to Staff?

10 A. Yes.

11 Q. All right. A couple of more questions.

12 MS. OTT: Before we move on from the
13 R&Os, you did a lot of discussion on the R&O that I
14 handed Mr. Archibald earlier, I'd like to have it
15 marked as an exhibit because I think you only read a
16 portion of it, and that way for clarity.

17 MR. HATFIELD: Yeah, that's a good idea,
18 whatever number we're on, Judge.

19 JUDGE PRIDGIN: This would be a Staff
20 exhibit.

21 MS. OTT: I move for it to be admitted,
22 281-HC.

23 (KCP&L Exhibit No. 281-HC was marked for
24 identification by the court reporter.)

25 JUDGE PRIDGIN: Label this as 281-HC, it

1 has been offered, any objection?

2 MR. HATFIELD: Judge, I don't think I
3 have an objection, I just want to make our record
4 clear because we've been throwing a lot of documents
5 around. 281-HC is also known as R&O Item Number 237?
6 Is that right, Ms. Ott?

7 MS. OTT: Yes.

8 MR. HATFIELD: I have absolutely no
9 objection.

10 JUDGE PRIDGIN: 281-HC is admitted.
11 (KCP&L Exhibit No. 281-HC was received
12 into evidence.)

13 MR. HATFIELD: All right. Thank you.

14 BY MR. HATFIELD:

15 Q. Mr. Archibald, Ms. Ott asked you a series
16 of questions about how many documents there are. If I
17 asked you to find a particular invoice, I want a
18 Schiff Hardin invoice for whatever month, could you do
19 it?

20 A. Yes.

21 Q. About how long would it take you?

22 A. I'm guessing it depends on how long it
23 takes the system to boot up, but maybe five minutes.

24 Q. So of the thousands, many tens of
25 thousands, if I tell you which one I want, five

1 minutes?

2 A. Yeah.

3 Q. Same would be true with change orders?

4 A. Yes.

5 Q. Purchase orders?

6 A. Absolutely.

7 Q. And you maintained all of those documents
8 throughout the project; is that right?

9 A. Yes.

10 MR. HATFIELD: That's all I have for this
11 witness, Judge.

12 JUDGE PRIDGIN: Mr. Hatfield, thank you.
13 Mr. Archibald, thank you very much. You may step
14 down. Are we ready for Mr. Meyer?

15 (A recess was taken.)

16 (Change of court reporters.)

17 JUDGE PRIDGIN: All right. We are back
18 on the record. Before I administer the oath to
19 Mr. Meyer, let me verify with counsel the plan for
20 tomorrow. And I understood that we would be taking
21 Dr. Hadaway tomorrow out of order. And that -- after
22 conferring with parties, I understand that at least
23 some of the parties want to give mini openings on cost
24 of capital tomorrow and that's certainly fine with me.
25 I just want to verify on the record that that would be