

3. During the time that I served as the Deputy Director of I&E, the NRC regulatory responsibility for QA matters rested fully with I&E. As a consequence, I became involved, from early 1985 on, with compliance and QA matters at Watts Bar.

4. In 1985, the NRC decided to establish a TVA management oversight group, which was called the Senior Management Team (SMT), to oversee regulatory matters related to TVA. TVA had shut down all five of its operating reactors, and was experiencing problems at the Watts Bar construction site. The SMT met routinely to supervise the numerous regulatory activities that were underway in connection with the TVA facilities. Mr. Taylor, the Director of I&E, was a member of the SMT. When I was Deputy Director of I&E, I provided assistance to Mr. Taylor in accomplishing that responsibility; occasionally I sat in on SMT meetings for or with Mr. Taylor. Also on the SMT were Mr. Harold Denton, Director of NRR (and Chairman of the SMT), Ben Hayes, Director of CI, and a representative from NRC Region II (originally Nelson Grace, the Regional Administrator, who was then replaced on the SMT by John Olszinski, the Deputy Regional Administrator of Region II). Hugh Thompson, from NRR, was the secretary of the SMT, and was responsible for maintaining records of our activities and decisionmaking. When Mr. Denton was unable to attend the SMT meetings, Darrell Eisenhut, his Deputy, attended on his behalf. Similarly, when I became the Deputy Director of NRR in July, 1985, I attended the SMT meetings in Mr. Denton's absence.

5. In January, 1986, as a result of a briefing by several NSRS staff members to then Commissioner Asselstine about QA-related problems at Watts Bar, NRC sent TVA a letter asking TVA to respond to the allegations that were brought to Commissioner Asselstine's attention. That January 3, 1986 letter sought TVA's corporate position, under oath, concerning NSRS' perceptions of the status of compliance with Appendix B at the Watts Bar facility. I did not participate in the preparation of this letter.

6. I am familiar with TVA's March 20, 1986 response to the January 3, 1986 letter. I participated in a number of meetings held for the purpose of reviewing the TVA response. The TVA cover letter stirred up considerable controversy within the SMT and the NRC Staff generally. As set out in the NRC reply of May 16, 1986, the TVA letter of March 20, 1986:

addressed the eleven NSRS Perceptions of Watts Bar Status, identified the programs and procedures in place to address each of those issues, and identified the corrective actions planned or taken in response to such issues. Your response acknowledged that noncompliances existed. You also concluded that no pervasive breakdown of the quality assurance (QA) program existed; that the problems had been identified; that TVA has remedied or will remedy all identified design/construction deficiencies and noncompliances, and therefore, the overall QA program is in compliance with 10 CFR 50 Appendix B. Further, you emphasized the new management initiatives that you and the newly appointed QA manager, Richard B. Kelly, will be undertaking to further examine the QA program effectiveness in the nuclear power program in general and at Watts Bar in particular.

This letter was concurred in by Jim Taylor, Ben Hayes, Darrell Eisenhut (for himself and Harold Denton), John Dishinski, and Jim Lieberman, who worked in the Office of the Executive Legal Director.

7. There were fundamentally two schools of thought about the meaning of TVA's March 20 letter; and there was debate within the NRC Staff about which of the interpretations was the better one.

8. I was one of a number of people who considered the letter to be a reasonable response to a difficult question that had been posed to TVA. The TVA response was in fact of the type that I had expected, in response to our January 3, 1986 request. It was somewhat general. It acknowledged that many problems existed at Watts Bar. But it concluded that overall things were generally under control; that is, that there was a system in existence at Watts Bar for controlling the quality of construction activities. It did not say that the system was operating perfectly, or even well; but it relied on the existence of an approved QA program, which was being implemented, albeit sometimes too slowly, to conclude that TVA was in overall compliance with Appendix B at Watts Bar.

9. As I recall, the Executive Director of Operations, Victor Stello, Hugh Thompson and I had the same general view concerning the TVA reply; that is, that TVA was in overall compliance with Appendix B notwithstanding certain identified deficiencies.

10. However, several others on the NRC Staff considered it inconsistent to contend that Appendix B could be said to be met at a facility if there were multiple problems surfacing, as there were at Watts Bar. In my view, this was a rigid and incorrect interpretation of Appendix B. Compliance with Appendix B neither requires nor expects the absence of mistakes or procedural deficiencies in construction activities at a nuclear power plant. Furthermore, compliance with Appendix B neither requires nor expects that all mistakes will be detected and corrected by the QA program. Appendix B simply provides a broad framework of management principles and measures for ensuring that there is "adequate confidence" that the plant will operate safely. Notwithstanding this Appendix B framework, there were some individuals within the NRC Staff who had a lower threshold for finding noncompliance with Appendix B. Included in this group was the Director of I&E, Jim Taylor, as evidenced by his October 1, 1986 Congressional testimony.

11. It is inconceivable to me that the Director of OI, Mr. Hayes, was unaware of these differing NRC views of Appendix B, and of the views about the reasonableness of the TVA response notwithstanding the many problems at Watts Bar, which, of course, were acknowledged in the TVA response.

12. I did not and do not consider the March 20, 1986, letter to constitute a material false statement concerning Appendix B compliance at Watts Bar. This conclusion is based on

my long experience with, and understanding of, the general requirements of 16 C.F.R. Appendix B, the fact that TVA's March 20 letter had readily acknowledged that many problems existed, some of which had not yet even been identified, and that TVA obviously had a lot more to do before Watts Bar would be ready to operate. Given our knowledge of the problems at Watts Bar, and TVA's acknowledgement of those problems, none of us could have been misled by TVA's response, even if we all did not agree with TVA's judgment of "overall" compliance with Appendix B.

13. In preparing its response to the TVA March 20 letter, much more attention was given by the NRC Staff to its content than to any other letter in which I had been involved. This partially stemmed from the substantial pressure that had been, and was being placed on the NRC Staff by Henry Myers, a Congressional staff member on Congressman Udall's staff. Mr. Myers was frequently calling Mr. Taylor and Mr. Hayes, among others, with allegations relating to TVA's nuclear program. Mr. Myers was personally very involved in the status of TVA and Watts Bar. He seemed to believe that activities were underway to deny or minimize problems at TVA. Not surprisingly, then, the NRC Staff felt continuing pressure from Mr. Myers and was concerned about being subject to Congressional criticism.

14. Mr. Thompson and his staff had the responsibility to prepare the NRC reply to the TVA March 20 letter. Members of the SMT and other members of the NRC Staff, including Mr. Stello, Dr. B. D. Law, and I also had input into the reply. There was a wide variety of views about the March 20 letter because there was a wide variety of views about what constitutes a pervasive QA breakdown and compliance with Appendix B. These questions are matters of professional judgment. Most of us felt that the best answer to TVA's letter would be the one that we ultimately gave, namely, that the NRC Staff did not necessarily agree or disagree with TVA's judgment, as stated in its March 20 letter. Our response was sent on May 16, 1986.

15. The May 16, 1986 reply considerably broadened the inquiry that the NRC Staff had originally made of TVA. In its January 3, 1986 letter, the NRC Staff had drawn TVA's attention specifically to the NSRS' eleven perceptions, and had asked TVA for its corporate position with respect to the NSRS conclusion regarding Appendix B compliance at Watts Bar. In our May 16 letter, we made it clear that we were concerned not only with the issues set out in NSRS's perceptions, but also with other allegations that had surfaced and were continuing to surface, such as TVA employee concerns. I was therefore not at all surprised by TVA's June 5, 1986 response to our May 16 letter, which expressed some uncertainty about whether TVA and the NRC

Staff were both addressing the same question, or whether there was a misunderstanding between us.

16. I considered TVA's June 5 response to be consistent with the position that TVA had previously taken. In both of its letters on the issue, TVA focused on problems that had been identified and those yet to be identified, as well as work underway and yet to begin. In its March 20 letter, TVA specifically addressed the issues underlying the NSRS' perceptions, in response to our inquiry about them; it also referred to broader QA issues, which were going to be addressed by the then underway restructuring of the TVA QA organization and program. This latter point was emphasized in more detail in the June 5 letter. Neither letter was inconsistent with TVA's withdrawal, in April, 1986, of its 1985 Watts Bar certification letter. There was not much discussion by the SMT, that I can recall, of the June 5 letter.

17. I took over Darrell Eisenhut's job as the Deputy Director of NRR in July of 1986. In that capacity, I again became a participant in the SMT, stepping in for Harold Denton. My best recollection of SMT activities from July, 1986 through March, 1987, when I left the NRC, was our focus on the technical details of numerous NRC inspections at TVA and other regulatory activities. I do not recall the Watts Bar Appendix B matter being an ongoing issue of discussion by the SMT, although it could have come up from time to time.

13. I do not recall why the Appendix B matter was referred to OI as a matter involving potential wrongdoing. I do recall that a meeting took place involving Ben Hayes, Jim Taylor and Hugh Thompson out of which a judgment was made that the March 20 letter should be referred to OI for investigation. Of course, all three of these individuals had been involved in the earlier extensive discussions in which the NRC Staff had debated the meaning of the March 20 letter itself, as well as what it meant to comply with Appendix B.

15. OI has never asked to interview me, notwithstanding my participation in the SMT, my reviews of TVA's March 20 and June 5 letters, my involvement in the preparation of the NRC May 16 reply to TVA's March 20 letter, and my overall involvement in QA and enforcement matters at TVA.


Richard H. Volmer

Subscribed and sworn to before me
this 17 day of November, 1967.


Notary Public



My Commission expires:

December 25, 1968.