

November 17, 1987

AFFIDAVIT OF DARRELL EISENHUT

State of Maryland)
) ss:
County of Montgomery)

DARRELL EISENHUT, being duly sworn, deposes and says:

1. My name is Darrell Eisenhut. Currently, I am Vice President of NUS Corporation, Gaithersburg, Maryland. I have been with NUS since June, 1986. Prior to joining NUS, I worked for 18 years with the United States Nuclear Regulatory Commission (NRC). I held numerous positions while at the NRC, beginning there as an AEC project manager, and culminating my NRC career as Deputy Director of the Division of Nuclear Reactor Regulation (NRR). I have a B.S. and an M.S. degree in physics.

2. In 1985, while serving as Deputy Director of NRR, I was one of a group of individuals who participated with a Senior Management Team (SMT) overseeing regulatory matters related to the Tennessee Valley Authority (TVA). By August 1985, TVA had shut down all five of its operating nuclear power plants (Browns Ferry 1, 2 and 3 and Sequoyah 1 and 2); it also was experiencing problems at the Watts Bar construction site. In order to provide central management oversight of TVA issues, the SMT initially met frequently. Members of the SMT included Harold Denton, Director of NRR, Jim Taylor, Director of the Division of Inspection and Enforcement, Ben Hayes, Director of the Office of Investigations, and a representative from Region II.

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3. In December, 1985, NRC Commissioner James Asselstine visited TVA. During his visit, he attended a briefing by members of a TVA safety review group, called the Nuclear Safety Review Staff (NSRS), who were concerned about construction activities at the Watts Bar site. One of the products of that visit was that Mr. Asselstine brought back a slide which stated that "10 CFR 50 Appendix B requirements are not being met" at Watts Bar. Appendix B of 10 C.F.R. Part 50 is a statement of NRC's broad regulatory principles of quality assurance (QA) applicable to the construction and operation of nuclear power plants. Upon his return from TVA, Commissioner Asselstine forwarded the material to the NRC Staff.

4. The NRC Staff had been informed that TVA did not necessarily concur in the stated NSRS staff perceptions. We therefore determined that the best course of action that we could take in response to these perceptions, forwarded to us by Commissioner Asselstine, would be to turn the question around and ask TVA what its position was on the NSRS perceptions and Appendix B compliance at Watts Bar. We did this in a January 3, 1986 letter, which I signed.

5. My recollection of the purpose of the January 3 letter was that it was intended to seek TVA's corporate position about the NSRS perceptions and about Watts Bar's compliance with Appendix B. Nevertheless, it would have been perfectly reasonable for TVA to have understood, as it apparently did, that the letter was

asking for TVA's views about NSRS' perceptions, and whether the facts behind those perceptions caused TVA to conclude that Watts Bar was not in compliance with Appendix B. The letter in fact began with a reference to the NSRS perceptions, which were attached, and then went on to ask about compliance with Appendix B. In short, the two interpretations of the letter that I have described here are each reasonable interpretations of the NRC's January 3 letter.

6. Contemporaneous with the sending of the January 3, 1986 letter, TVA announced the arrival of Steven A. White to become the Manager of Nuclear Power for TVA. On March 11, 1986, Mr. White spoke at a Commission meeting, at which time he was asked several pointed questions by Commissioner Asselstine about the filing of an answer to our January 3, 1986 letter. Mr. White indicated at that time that an answer would be forthcoming. He also made it clear that his answer would not go back and address QA matters at Watts Bar that had occurred in the past. This statement was subsequently discussed within the NRC Staff, but to the best of my knowledge, our uncertainties about this approach were not communicated to TVA. Mr. White's statement of March 11 adds credence to his position as stated on March 20, 1986.

7. TVA addressed our January 3, 1986 letter in a March 20, 1986 response. Subsequently, in a May 16, 1986 letter to TVA, the NRC Staff restated our understanding of TVA's March 20 letter, along with the statement that at that time, the NRC was not

prepared to agree with TVA's conclusion until we had reviewed additional information, including employee concerns. Obviously, we also were aware of the TVA statement in the March 20 letter that TVA's technical review of the NSRS issues was continuing, along with further examination of the TVA nuclear QA program in general. In our May 16 letter, we sought further clarification from TVA of its position.

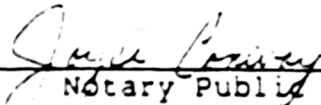
8. The May 16 letter acknowledges that TVA's conclusion was "regarding Appendix B requirements relative to the eleven NSRS issues." This supports TVA's understanding that in its January 3 letter, NRC had asked about Appendix B requirements in a limited context. Because the May 16 letter asked broader questions about Appendix B, it is understandable that TVA might have understood NRC's concern to have become significantly broader than our focus in the January 3 letter.

9. Recognizing the scrutiny being given to TVA by the NRC, Mr. White's testimony on March 11 about not going back, and in view of the qualifications in TVA's March 20, 1986 response concerning existing problems, the ongoing nature of TVA's review, and the limited scope of TVA's response, the March 20, 1986 letter was not capable of misleading a reasonable agency expert.

10. Although I actually signed the two NRC letters central to this issue, I have never been interviewed by OI on this matter.


Darrell Eisenhut

Subscribed and sworn to before me
this 17th day of November, 1987.


Notary Public

My Commission expires: July 4, 1990.