

AFFIDAVIT OF JOHN A. OLSHINSKI

State of Georgia )  
                  )     ss:  
County of Cobb    )

JOHN A. OLSHINSKI, being duly sworn, deposes and says:

1. My name is John A. Olshinski. I am currently employed as General Manager for Nuclear Energy Consultants, Inc. ("NEC"). NEC provides engineering and operations support services to a number of utilities throughout the country, including TVA. Prior to joining NEC in July, 1986, I worked for approximately nine years at the Nuclear Regulatory Commission ("NRC"), after having spent approximately ten years in the United States Navy's nuclear program. I began working at the NRC as a reactor systems reviewer in the Reactor Systems Branch of the Division of Nuclear Reactor Regulation ("NRR"). I held a number of positions at the NRC, including serving as the first head of the Operating Reactors Assessment Branch in 1980. In 1981, I moved from NRC headquarters in Washington D.C. to NRC's regional office, Region II, in Atlanta, where I served as the Director of the Division of Reactor Safety, and then as the Deputy Regional Administrator. I have a B.S. degree in Mathematics and a M. S. degree in Management.

2. Prior to leaving the NRC in July, 1986, I was assigned to serve on the Senior Management Team (the "SMT") that the NRC had organized to supervise the numerous NRC activities associated with NRC's oversight of the Tennessee Valley Authority ("TVA"). I was the only member of the SMT

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assigned full-time to TVA activities. Consequently, in order to serve in that capacity, an Acting Deputy Regional Administrator was assigned to fulfill my prior duties.

3. The SMT was established in 1985 by William Dircks, then the NRC Staff's Executive Director of Operations, in order to oversee regulatory matters related to TVA. In 1985, TVA had shut down all of its operating nuclear power plants, and considerable attention was being paid by the NRC Staff to the conduct of activities at TVA. Region II-based inspectors assigned to TVA activities who normally reported to Region II, reported to me as a member of the SMT. This reporting scheme was similar for the regulatory activities assigned to the other members of the SMT. The SMT members included Harold Denton, the Director of NRR, Jim Taylor, the Director of NRC's Office of Inspection and Enforcement ("I&E"), Ben Hayes, the Director of the Office of Investigations ("OI"), and originally, Region II Administrator Nelson Grace, whom I replaced on the SMT in January, 1986.

4. In my capacity as Deputy Regional Administrator of Region II, as well as while serving on the SMT, I participated in some of the NRC activities associated with our consideration of whether TVA's Watts Bar facility was in compliance with 10 C.F.R. Part 50 Appendix B. Appendix B contains NRC's regulatory criteria on quality assurance activities at nuclear power plants. It provides general guidance to licensees on how to maintain the quality of safety-related construction and operation activities at a licensed facility. As a senior manager in Region II for almost five years, Region II-based inspectors reporting to me inspected all Region II licensees for compliance with the NRC regulations in general, and for compliance with Appendix B in particular. On essentially a daily basis, I was involved in the process of approving or disapproving the

issuing of violations in regards to compliance with various aspects of Appendix B.

5. In December, 1985, NRC Commissioner James Asselstine went to TVA and met with staff members of TVA's Nuclear Safety Review Staff ("NSRS") with whom Mr. Asselstine had asked to meet. At that meeting, Mr. Asselstine was presented with a list of "perceptions" that these members of the NSRS held concerning problems in construction activities at the Watts Bar facility. The conclusion of these staff members -- which Mr. Asselstine was told, was not necessarily the TVA corporate position -- was that Watts Bar was not in compliance with Appendix B. Upon his return from TVA, Mr. Asselstine expressed a great deal of concern to the NRC Staff about what he had been told at this briefing.

6. At the time of Commissioner Asselstine's briefing, the NRC Staff was well aware of the following facts: (1) we knew that there were numerous problems at TVA's facilities, as evidenced by the status of its power plants; (2) NRC and certain members of the Congress were being given information on an ongoing basis about TVA employee concerns and allegations much of which information was not accessible to TVA; (3) we knew that Watts Bar would not be operating in the near future, given the number of TVA employee concerns about Watts Bar that had already surfaced, and the priority of getting TVA's operating plants back on line; (4) we knew that NSRS had at times served the very useful function within TVA of surfacing safety problems; however, NSRS' concerns were not always of merit; also, we knew that there was a poor relationship between members of the staff of NSRS and TVA's line management; and (5) we did not have information, at the time, that had caused us to conclude that Watts Bar was not in overall

compliance with Appendix B; for had we had such a view, the NRC Staff would have issued a suspension of work order for activities at Watts Bar.

7. In order to provide the TVA corporate response on this matter for the record and in view of the very substantial pressure that the NRC Staff felt from Commissioner Asselstine about addressing NSRS' perceptions and, as I recall, the added pressure of Congressmen Dingell's and Udall's staffs on this issue, the NRC Staff sent TVA a letter on January 3, 1986, asking TVA to address NSRS' perceptions.

8. My reaction at the time, which remains my view today, is that the January 3 letter was a letter to which TVA could provide no well-received response. The subject that TVA had been asked to address was highly politicized; no matter how TVA had answered the letter, its answer would have caused a significant debate within the NRC, and among TVA's critics at the time. In short, I did not think that the January 3 letter was a very fair letter, and I believe that others in the NRC shared my view about the virtual impossibility of TVA resolving the issue raised in the letter in an uncontroversial manner. The purpose of sending the letter to TVA was, I believe, in order to establish for the record the TVA position related to the statement of perceptions by NSRS. Once NRC sent the letter, there was a significant amount of concern as to when TVA would provide a response. As I recall, there were questions of this nature generated by both Congressional staff and Commissioner Asselstine's staff. I believe that TVA was subsequently contacted regarding the timing of the response.

9. TVA answered our January 3 letter in a March 20, 1986 response. Attention within the SMT focused on what the NRC Staff should do in response to TVA's letter. Once again, political pressure was intense and

we felt we had to formally respond in some manner in a fairly short time frame. At an SMT meeting in April 1986, the SMT discussed the sensitivity of not currently agreeing with Mr. White's position on meeting Appendix B. A decision was made to take the position that the Staff could not yet decide whether we agreed with TVA, particularly in view of the unresolved status of the numerous employee and NSRS concerns of which we were aware. The NRC's letter of May 16, 1986 makes this statement.

10. At the NRC, the Staff debated whether it made sense for TVA to have made the statements it made in its March 20 letter. There were a number of reasonable approaches TVA could have taken in addressing the matter, of which their approach was one. For example, in my view, TVA had no choice but to in some manner limit its answer, and it clearly did so by addressing only the issues NSRS identified to support their perceptions; otherwise, the question could not have been answered in any reasonable time frame. In addition, I was one of a number of people who felt that it certainly was possible for there to have been numerous QA deficiencies or noncompliances at Watts Bar, as TVA's letter acknowledged, and, nevertheless, considering the number of changes that were being made and had been made to their program, for the facility to be in overall compliance with Appendix B. NRC enforcement history demonstrates that numerous violations against Appendix B have been issued for many plants. The mere fact that there have been numerous violations did not cause NRC to conclude that those plants were not in overall compliance with Appendix B. Nevertheless, there were a few people on the NRC Staff, including Jim Taylor, who held the narrower view that a plant that had numerous problems, as Watts Bar evidently did, could not be in compliance with Appendix B.

This was simply a matter on which experts could and did disagree.

11. But in any event, independent of this variance in interpretations of Appendix B, based on the facts known to the NRC at the time, TVA's March 20 letter could not possibly have misled the agency. We were well aware of the fact that lots of problems had surfaced and were surfacing at Watts Bar -- in fact, I believe our knowledge of newly surfacing problems was much more substantial than TVA's. And any and all such problems ultimately would have to be resolved. Moreover, TVA's March 20 letter acknowledged the existence of problems; there was no obfuscation of this fact. Moreover, the letter was not material. The March 20 letter certainly was not being relied upon by the NRC to resolve safety matters concerning Watts Bar. We on the Staff well knew that TVA was beginning a massive organizational transition, that many activities, including QA, were going to be significantly restructured, and that Watts Bar was far from operational readiness. Furthermore, the Staff anticipated conducting many thorough inspections and reviews of the plant when the time came; we were not relying on this letter as a means of avoiding that intensive regulatory review. In my opinion, no matter how TVA had answered the letter, NRC would have conducted the same intensive review and inspection program in order to reach a conclusion regarding the licensing of Watts Bar.

12. In summary, I did not and do not believe the March 20 letter to be a material false statement.

13. Finally, I have never been interviewed by OI on this matter.

  
John A. Olshinski

Subscribed and sworn to before me  
this 11 day of November, 1987.

  
Notary Public

Notary Public, Cobb County, Georgia  
My Commission Expires April 14, 1991

My Commission expires: \_\_\_\_\_