

November 17, 1987

AFFIDAVIT OF RICHARD H. VOLLMER

City of San Francisco)
) ss:
State of California)

RICHARD H. VOLLMER, being duly sworn, deposes and says:

1. My name is Richard H. Vollmer. Currently, I am Vice President of TENERA, L.P., Bethesda, Maryland. I have been with TENERA since March, 1987. Before I began my employment at TENERA, I worked for 19 years with the United States Nuclear Regulatory Commission (NRC). While at the NRC, I held a variety of positions, including Chief of the QA Branch from its formation in 1972 to 1976; Director of the TMI Recovery Group at Three Mile Island from 1979 to 1980; and Director of the Division of Engineering of the Office of Nuclear Reactor Regulation (NRR) from 1980 to 1985. In early 1985, I became the Deputy Director of the Office of Inspection and Enforcement (I&E). In July, 1986, I was appointed as the Deputy Director of NRR. I left the NRC in 1987. I have a B.S. degree in physics (1952) from Notre Dame.

2. While I was the Deputy Director of I&E, I was involved on an ongoing basis in regulatory and enforcement issues related to Tennessee Valley Authority's (TVA's) Watts Bar facility. The purpose of this affidavit is to relate some of the circumstances surrounding these matters, and to present my views of, and my involvement with respect to TVA's March 20, 1986 letter to the NRC regarding the Watts Bar facility.

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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 OI, and a representative from NRC Region II (originally Nelson Grace, the Regional Administrator, who was then replaced on the SMT by John Olshinski, 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, 1986, 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 Olshinski, 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 10 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. Liaw, 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, sitting 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.

18. 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.

19. 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. Vollmer

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


Notary Public



My Commission expires: December 25, 1990.

AFFIDAVIT OF JOHN A. OLSHINSKI

State of Georgia)
)
County of Cobb) ss:

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

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

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.

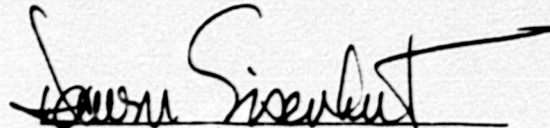
7. TVA addressed our January 3, 1986 letter in a March 20, 1986 response. Subsequently, in a May 16, 1986 letter to TVA, the NRC Staff restated our understanding of TVA's March 20 letter, along with the statement that at that time, the NRC was not

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.

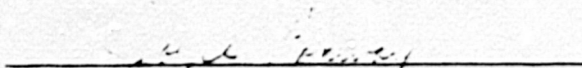
8. The May 16 letter acknowledges that TVA's conclusion was "regarding Appendix B requirements relative to the eleven NSRS issues." This supports TVA's understanding that in its January 3 letter, NRC had asked about Appendix B requirements in a limited context. Because the May 16 letter asked broader 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 1, 1991.