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**NUCLEAR REGULATORY COMMISSION**

Title: Hearing ITMO Charlissa C. Smith

Docket Number: 55-23694-SP

ASLBP Number: 13-925-01-SP-BD01

Location: Augusta, Georgia

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UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

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ATOMIC SAFETY AND LICENSING BOARD PANEL

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HEARING

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In the Matter of:                   :  
CHARLISSA C. SMITH                : Docket No. 55-23694-SP  
  : ASLBP No. 13-925-01-SP-BD01  
(Denial of Senior                   :  
Reactor License)                   :

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Wednesday, July 17, 2013

Meeting Room A  
Augusta Public Library  
823 Telfair Street  
Augusta, Georgia

BEFORE:

RONALD M. SPRITZER, Chair  
WILLIAM J. FROEHLICH, Administrative Judge  
BRIAN K. HAJEK, Administrative Judge

1 APPEARANCES:

2 On Behalf of the Applicant:

3 CHARLISSA SMITH  
4 5029 Reynolds Way  
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6 (706) 339-1285

7

8 On Behalf of the Nuclear Regulatory Commission:

9 DAVID CYLKOWSKI, ESQ.  
10 LLOYD SUBIN, ESQ.  
11 JEREMY WACHUTKA, ESQ.

12 of: U.S. Nuclear Regulatory Commission  
13 Office of the General Counsel  
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17

18 ALSO PRESENT:

19 NICOLE PICARD, Law Clerk

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10:27 a.m.

CHAIR SPRITZER: Good morning. This is the Atomic Safety and Licensing Board. We are here this morning in the case, in the matter of Charlissa Smith, Denial of Senior Reactor Operator License, Docket No. 55-23694-SP, and there's also an ASLBP number, 13-925-01-SP-BD01.

As I indicated, I am the Board Chairman, Ron Spritzer. I'm an attorney. I'll ask the other Board members to briefly introduce themselves, starting to my left.

JUDGE FROEHLICH: Good morning. My name is William Froehlich. I'm a full-time legal judge on the ASLBP Panel. I've been with the Panel for just over five years.

Before that, I was Director of Administrative Litigation at the Federal Energy Regulatory Commission, and I'm beginning my 60th semester as an adjunct professor of Administrative Law at George Mason University.

JUDGE HAJEK: I'm Brian Hajek. I'm an administrative judge technical with ASLBP. Like Judge Froehlich, I've been with the Board for about five years. Prior to that, I am a nuclear engineer. I

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1 worked part-time about 20 years ago for NRC, with  
2 Operator Licensing, and I am, have been on the faculty  
3 at Ohio State University and I am now retired from  
4 there.

5 CHAIR SPRITZER: All right. Let's have  
6 the NRC, just the representatives not the witnesses,  
7 counsel for the NRC identify themselves.

8 MR. WACHUTKA: I'm Jeremy Wachutka,  
9 counsel for the NRC staff.

10 CHAIR SPRITZER: How do you pronounce your  
11 name?

12 MR. WACHUTKA: It's Wachutka, Your Honor.

13 CHAIR SPRITZER: Fine, okay.

14 MR. CYLKOWSKI: David Cylkowski on behalf  
15 of the staff.

16 MR. SUBIN: And Lloyd Subin, also from OGC  
17 on behalf of the staff.

18 CHAIR SPRITZER: And Ms. Smith, could you  
19 identify yourself for the record?

20 MS. SMITH: I am Charlissa Smith.

21 CHAIR SPRITZER: And you are representing  
22 yourself today?

23 MS. SMITH: Yes, Your Honor, I am.

24 CHAIR SPRITZER: Okay. Now Ms. Smith, you  
25 were inquiring briefly off the record about your

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1 witnesses. I understand Mr. Turner and Mr. Waltower  
2 are here, available to testify?

3 MS. SMITH: That's correct, Your Honor.

4 CHAIR SPRITZER: So Mr. Tucker, you said  
5 he would be available by phone today, or he's  
6 available by phone today; is that correct?

7 MS. SMITH: That's correct.

8 CHAIR SPRITZER: Well, we may have had a  
9 little miscommunication. We did issue an order that  
10 we would hope to get in touch with him at  
11 approximately 2:30. Do you know if that's, is that  
12 convenient for him? Is he going to be available at  
13 that time?

14 MS. SMITH: Yes, Your Honor. I did give  
15 him a copy of the order, and he is aware that he's  
16 supposed to be available at that time. I just  
17 expected to receive a little bit more detailed  
18 instructions as to if he would have to call in or if  
19 he would actually be called. So outside of that, he  
20 does know.

21 CHAIR SPRITZER: Right, I forgot. Our  
22 technical support person over to my right, Andy Welke.  
23 Also our law clerk, Nicole Picard. Mr. Welke, as I  
24 understand it, we will be calling Mr. Tucker; is that  
25 correct sir?

1 MR. WELKE: Yes.

2 CHAIR SPRITZER: We will be calling him.  
3 We'd like him to be available at 2:30. I can't give  
4 you a precise time limit. I would think maybe within  
5 an hour, and it may -- somewhere in the range of one  
6 to two hours. Hopefully, he is available for that  
7 length of time.

8 MS. SMITH: Your Honor, he does know to be  
9 available approximately at 2:30. So he's aware.

10 CHAIR SPRITZER: All right. Before we  
11 move to the admission of documents, are there any  
12 procedural issues that the other side wants to raise,  
13 before we move into the admission of documents?

14 MR. WACHUTKA: None for the NRC staff,  
15 Your Honor.

16 CHAIR SPRITZER: Ms. Smith, did you have  
17 anything else of a procedural nature?

18 MS. SMITH: No concerns, Your Honor.

19 CHAIR SPRITZER: Okay. All right. We've  
20 covered Mister -- oh. My colleague reminds me, I  
21 suspect everybody here knows this, but if you have a  
22 cell phone, please turn it off or silence it, and we  
23 do have restrooms immediately available on the other  
24 side of the door.

25 In terms of breaks and lunch, as I said,

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1 we'd like to start with Mr. Tucker at 2:30. My  
2 thought is that we break for lunch at about one, and  
3 hopefully have everybody back here no later than 2:15,  
4 so we can -- we have some technology to assemble to  
5 get in touch with him.

6 The way that will work, briefly, we will  
7 be able to talk, the judges would be able to talk to  
8 him. The parties, representatives will not. But if  
9 you do have any questions as we are asking questions,  
10 if you think of any additional questions you want us  
11 to propound to Mr. Tucker, we'll allow the opportunity  
12 to write them.

13 You'll have to write them down, I suspect,  
14 by hand, hand them to Ms. Picard, and we'll try and  
15 get them, try and get them in. All right. Before we  
16 move in, oh the other thing I should cover is to thank  
17 the library, whose facility we're using here.

18 I don't know if anybody's here from the  
19 library, but they have been very accommodating in  
20 allowing us to set up this facility and get it ready  
21 for this hearing.

22 All right. Let's start on the documents.  
23 Ms. Smith, let's start with you. We have your final  
24 exhibit list dated July 10, 2013. Is that list  
25 complete? Does it include all the documents that you

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1 want the Board to look at?

2 MS. SMITH: Yes, Your Honor. It is  
3 complete.

4 CHAIR SPRITZER: And I take it you would  
5 like the Board to admit those exhibits?

6 MS. SMITH: That's correct, Your Honor.

7 CHAIR SPRITZER: Does the staff have  
8 objections to any of the exhibits identified on Ms.  
9 Smith's July 10, 2013 exhibit list?

10 MR. WACHUTKA: No objections, Your Honor.

11 CHAIR SPRITZER: Very well. We will admit  
12 those into evidence.

13 (Whereupon, the document referred to was marked  
14 for identification as CCS Exhibits were received in  
15 evidence.)

16 Ms. Smith, were there any documents and if  
17 so can you identify them, that you have also  
18 submitted, which are on your exhibit list that you've  
19 also submitted in unredacted form?

20 MS. SMITH: Your Honor, I only had I  
21 believe it was four documents, and I believe it was  
22 only four documents that I had to submit. All the  
23 other documents were pretty well obtained from the  
24 NRC's list, and they were previously redacted before  
25 I got them.

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1 CHAIR SPRITZER: Okay. Of the ones that  
2 you submitted that you redacted, do you remember the  
3 document -- do you know the exhibit numbers? If you  
4 need a minute, I can move on to the NRC staff.

5 MS. SMITH: Uhh --

6 CHAIR SPRITZER: Oh, go ahead, go ahead.

7 MS. SMITH: CCS-002 is one. CCS-019.  
8 CCS-040, CCS-041 and I may need a minute to find the  
9 last one, Your Honor.

10 CHAIR SPRITZER: All right.

11 MR. WACHUTKA: Your Honor, NRC staff. We  
12 see that as CCS-092.

13 MS. SMITH: Thank you. No, that's not the  
14 correct one. This was an email. If you give me a  
15 minute, then I'll try to locate it.

16 (Pause.)

17 CHAIR SPRITZER: I'll tell you what, let's  
18 do this. Why don't we go ahead and move onto the  
19 staff's exhibits. Maybe in the break, you can verify  
20 what exhibit it is and we'll, someone will remind me.  
21 Hopefully, I'll remember. But remind me after our  
22 next break to go back and identify that specific  
23 document.

24 Why don't we move on to the NRC's staff  
25 exhibits. I'll ask you the same questions. Are there

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1 any changes to the staff's final exhibit list, either  
2 additions, deletions or anything else?

3 MR. WACHUTKA: There's no changes, Your  
4 Honor.

5 CHAIR SPRITZER: And I take it you would  
6 move those documents into evidence?

7 MR. WACHUTKA: Yes, Your Honor. The NRC  
8 staff would like to move into evidence all our pre-  
9 filed testimony and our proposed exhibits from NRC 001  
10 to NRC 058.

11 (Whereupon, the documents referred to were  
12 marked for identification as NRC Exhibits 001 to  
13 0058).

14 CHAIR SPRITZER: Very well. Mr. Smith, do  
15 you have objection to any of the staff's exhibits?

16 MS. SMITH: No objection, Your Honor.

17 CHAIR SPRITZER: By the way, I'm including  
18 with the term "exhibits" pre-filed testimony.

19 (Whereupon, the documents referred to as NRC  
20 Exhibits 001 to 058 were received in evidence.)

21 CHAIR SPRITZER: Also, we have some --  
22 well let me ask the staff. You have some, also had  
23 some unredacted versions of originals. Do you have,  
24 can you identify which ones those were? That is,  
25 documents which were originally filed in redacted

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1 form, and which at our request you subsequently  
2 provided us with unredacted versions?

3 MR. WACHUTKA: Yes, Your Honor, and first  
4 of all, we'd like to mention that one of our exhibits,  
5 NRC-043, is in an A and a B version, because it was  
6 too large to file as one file. But it's continuously  
7 paginated as if it were one file.

8 CHAIR SPRITZER: Okay.

9 MR. WACHUTKA: And for unredacted  
10 exhibits, I'll just read through them. There is NRC-  
11 007, NRC-009, NRC- 010, NRC-013, NRC-016, NRC-020,  
12 NRC-022, NRC-031, NRC-033, NRC-034, NRC-035, NRC-036,  
13 NRC-037, NRC-038, NRC-039, NRC-042, NRC-43A and B,  
14 NRC-044, NRC-046, NRC-047, NRC-048, NRC-052, NRC-053,  
15 NRC-054, NRC-055 and NRC-056, Your Honor.

16 CHAIR SPRITZER: Very good, thank you. By  
17 the way Ms. Smith, I don't think I asked you, did you  
18 file -- were any of your exhibits filed in parts but  
19 not so indicated on your exhibit list? That is, a  
20 document you filed in multiple parts but didn't label  
21 it A and B or whatever on your exhibit list?

22 MS. SMITH: Your Honor, I do have CCS-005  
23 Alpha and CCS-005 Bravo. It was a procedure that was  
24 approximately 600 pages long, 500 to 600 pages long,  
25 and the first half was designated with the Alpha; the

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1 second half was designated with the Bravo, and I did  
2 submit them with that designator.

3 CHAIR SPRITZER: And I believe those were  
4 copies of NUREG-1021?

5 MS. SMITH: That's correct.

6 CHAIR SPRITZER: All right. Now we also  
7 have some Board exhibits. We previously notified the  
8 parties in our order of, I believe it was July 10,  
9 that we were going to include in the record as Board  
10 Exhibit 001 the document identified as Adam's  
11 Accession No. M as in Michael, L as in Larry, 13080A,  
12 that's capital A, 128. So that will be Board Exhibit  
13 1.

14 (Whereupon, the document referred to was marked  
15 for identification as Board Exhibit 1 and received  
16 into evidence.)

17 CHAIR SPRITZER: And on, I believe it was  
18 also in that July 10th order, we had three information  
19 requests to the staff. The staff, and we thank the  
20 staff for its efforts on responding promptly to those  
21 requests. You filed a response on July 15.

22 Board Exhibit 2 will be the staff's  
23 response to our Information Request 1.

24 (Whereupon, the document referred to was marked  
25 for identification as Board Exhibit 2 and received in

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1 evidence.)

2 CHAIR SPRITZER: Board Exhibit 3 will be  
3 the staff's response to our Information Request 2.

4 (Whereupon, the document referred to was marked  
5 for identification as Board Exhibit 3 and received in  
6 evidence.)

7 CHAIR SPRITZER: Now the remaining  
8 documents were filed in unredacted form, and will  
9 therefore be non-public. First, there were certain  
10 U.S. 303 forms from 2011. Those three forms, the  
11 first will be Board 4, identified as Board Exhibit  
12 004U, that's the letter U for unredacted.

13 (Whereupon, the document referred to was marked  
14 for identification as Board Exhibit 004U and received  
15 in evidence.)

16 CHAIR SPRITZER: The second will be Board  
17 005U.

18 (Whereupon, the document referred to was marked  
19 for identification as Board Exhibit 005U and received  
20 in evidence.)

21 CHAIR SPRITZER: The third will be Board  
22 006U.

23 (Whereupon, the document referred to was marked  
24 for identification as Board Exhibit 006U and received  
25 in evidence.)

1 CHAIR SPRITZER: And then we have some 303  
2 forms from 2012. Those will be, have been marked by  
3 Mr. Welke as Exhibits 007U through 012U.

4 (Whereupon, the documents referred to were  
5 marked for identification as Board Exhibits 007U to  
6 012U and received in evidence.)

7 CHAIR SPRITZER: Can the staff, I know you  
8 won't be able to do it today, but can you file those  
9 forms in redacted versions? Obviously, it's not going  
10 to be for the hearing, but --

11 MR. WACHUTKA: Right. Yes, Your Honor, we  
12 can file them as unredacted, but it make a take a  
13 little while.

14 CHAIR SPRITZER: As redacted.

15 MR. WACHUTKA: As redacted, sorry.

16 CHAIR SPRITZER: Okay. We'd ask the staff  
17 to do that. When we get those, they will be -- they  
18 will become Board 004, 005, 006, etcetera, without the  
19 letter "U." What our convention is is to file -- when  
20 an exhibit is filed in an unredacted version, like the  
21 exhibits I just referred to, they will be marked with  
22 the letter U after the exhibit number.

23 All right. Unless there are any other --  
24 Mr. Welke, are there any other issues I need to raise  
25 with regard to exhibits?



1 MR. WELKE: No.

2 CHAIR SPRITZER: All right. We are ready  
3 now to move past the administrative matters and have  
4 opening statements. We ask that these be limited to  
5 approximately five minutes per side. Ms. Smith, would  
6 you like to begin?

7 MS. SMITH: Sure, Your Honor. Good  
8 morning members of the Board, NRC staff and  
9 representatives. I'd like to start off by talking  
10 about the NRC values and ethics. NRC values say that  
11 the NRC adheres to principles of good regulation, and  
12 that includes independence, openness, efficiency,  
13 clarity and reliability.

14 Independence specifically identifies that  
15 final decisions must be based on objective, unbiased  
16 assessments of all information and must be documented  
17 with reasons explicitly stated.

18 The principles of ethical code for  
19 government officers and employees says that employees  
20 shall put forth honest effort in the performance of  
21 their duties, and they shall act impartially, they  
22 shall adhere to all laws and regulations that provide  
23 equal opportunity, and they shall endeavor to avoid  
24 any action that gives the appearance that they are  
25 violating the law or ethical standards.

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1           This was my expectation prior to taking  
2           this 2012 exam. My expectation was that the  
3           government agency that was assigned the enormous  
4           responsibility of determining operator competency in  
5           the nuclear industry would grade me on nothing more  
6           and nothing less than what was observed during my  
7           exam.

8           My license application was denied based on  
9           the simulator portion of the exam, the most subjective  
10          portion of the exam. My immediate reaction was shock.  
11          After I read the document, I was again shocked. It  
12          was an absolute 180 degree turn of a presentation of  
13          information that differed from my own account of what  
14          actually happened.

15          What does an individual do when you  
16          discover that you were failed based on documentation  
17          that's not consistent with the actual events? What do  
18          you do when information is purposely left out to give  
19          a different perception?

20          What do you do when comments reported are  
21          written at a level of creativity and careful  
22          placement, so that the words will turn a correct  
23          action into an incorrect action? What do you do?

24          After writing an appeal response to  
25          dispute the accuracy of this document, I decided to

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1 investigate. I requested several documents through  
2 the FOIA process. I eventually received a response  
3 from my administrative review that again denied and  
4 sustained the denial, and here I am a year later,  
5 thousands of pages later.

6 Not only do I continue to defend the  
7 stance that my comments were inaccurate, I've also  
8 further validated that I was treated differently.  
9 Since that time, I've discovered that I was unaware of  
10 discussions that occurred during my waiver request.  
11 I've discovered that my 2012 simulator examiner had  
12 involvement with the previous exam team eight months  
13 prior to the test.

14 I've discovered that the review team was  
15 contaminated by the opinions of the 2012 exam team,  
16 and they were provided documents on several occasions  
17 as a source of recommendations for my review. I've  
18 discovered that they willfully ignored procedural  
19 guidance on numerous occasions.

20 I've discovered that while I was losing  
21 faith in this organization, that someone in that  
22 organization independently recognized that something  
23 wasn't right, and that something was not within those  
24 values and ethics of the NRC organization that I  
25 mentioned earlier. That individual cared enough to

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1 send an email of concern.

2 So I'm here today to present factual data  
3 from the simulator, emails and reported documentation  
4 that was written by several of the individuals that  
5 are here today. I'm here to show you that I should  
6 have been granted a waiver, my comments were not  
7 justified and my appeal request was not fair and just,  
8 due to the involvement of the exam team.

9 I'm here to show you that I should have  
10 been issued a license. The staff will try to shift  
11 your attention from the appropriateness of these  
12 comments to some justification that's not even  
13 provided or supported by the testing outline, the  
14 testing outline that was approved by the Region II  
15 exam team.

16 My request is simple. I am just asking  
17 that the Board look at the factual data and make an  
18 assessment, the statements of position are considered  
19 and if any of my comments are not aligned with the  
20 pre-approved expectations, then I ask that those  
21 comments be removed and my grade reassessed.

22 I'm only asking for the fair and impartial  
23 treatment that I've been denied for a year. Thank  
24 you.

25 CHAIR SPRITZER: Very well, thank you.

1 From the staff?

2 MR. WACHUTKA: Yes, Your Honor. May it  
3 please the Board, my name is Jeremy Wachutka, and I,  
4 along with Lloyd Subin and David Cylkowski, am counsel  
5 for the NRC staff.

6 As you have just heard from Ms. Smith, the  
7 subject of this proceeding is Ms. Smith's claim that  
8 her 2012 senior reactor operator or SRO license  
9 application was improperly denied by the NRC, and that  
10 as a result, she should immediately be granted an SRO  
11 license by this Board.

12 Let us first discuss what an SRO is  
13 exactly. An SRO is qualified as the supervisor in the  
14 control room of a nuclear power plant. In this role,  
15 the SRO must direct and ensure the proper execution of  
16 all power plant evolutions. Most importantly, the SRO  
17 is responsible for immediately and accurately  
18 responding to any plant casualty that may arise.

19 The SRO's response in this regard is  
20 critical to ensuring the health and safety of the  
21 public. As such, the NRC has developed a regimented  
22 program for individually licensing SRO applicants, who  
23 often study and practice for years before they are  
24 sufficiently qualified to receive a license.

25 Now Ms. Smith comes before this Board,

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1 asking that this Board overturn the results of this  
2 regimented licensing process, by which multiple NRC  
3 examiners with years of experience determined that Ms.  
4 Smith was not sufficiently qualified to be granted an  
5 SRO license.

6 Ms. Smith gives three reasons for this  
7 request. First, Ms. Smith argues that she would have  
8 been granted a waiver from taking the 2012 operating  
9 test, and that had this waiver been granted, her 2012  
10 SRO application would also have been granted, because  
11 she passed the 2012 written test.

12 Second, Ms. Smith argues that if her 2012  
13 simulator test had been properly graded, then she  
14 would have received a passing grade, and thus  
15 qualified for an SRO license in 2012. But instead,  
16 she alleges that bias on the part of the NRC staff  
17 caused them to grade her more harshly than other  
18 applicants, and thus caused her to fail the 2012  
19 simulator test.

20 Third, Ms. Smith argues that the informal  
21 review panel that reviewed the grading of her 2012  
22 simulator test would have found that she had passed,  
23 but for allegedly improper influence on this informal  
24 review panel by the Region II examiners.

25 What Ms. Smith fails to argue, though, is

1 proof for these claims. Throughout her statement of  
2 positions, her pre-filed testimony and her reply, Ms.  
3 Smith continuously faults the NRC staff for not  
4 adequately proving that it acted properly in denying  
5 her application.

6           However, this argument is backwards. The  
7 Commission's regulation at 10 C.F.R. Section 2.325  
8 places the burden of proof on the applicant, and in  
9 this case, that burden of proof on Ms. Smith is a  
10 heavy one.

11           Specifically, the Commission, citing the  
12 Supreme Court, has stated that "Clear evidence" is  
13 required to rebut the presumption that government  
14 officials, acting in their official capacity, such as  
15 the NRC staff in this case, have properly discharged  
16 their duties.

17           Furthermore, Board decisions regarding  
18 specifically the grading of operator tests have  
19 required that the applicant must prove that the  
20 disputed staff grading was arbitrary or an abuse of  
21 discretion, in order for the applicant to prevail.

22           As the staff's statement of positions in  
23 pre-filed testimony has demonstrated, and as the  
24 further staff testimony in this hearing will  
25 demonstrate, Ms. Smith has not presented any of this

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1 required clear evidence that the staff improperly  
2 discharged its duties, or that the staff acted  
3 arbitrarily or abused its discretion with respect to  
4 grading in any manner that caused in any way the  
5 denial of her 2012 SRO license application.

6 Rather, the staff testimony will  
7 demonstrate that the staff properly and reasonably  
8 discharged its duties with respect to Ms. Smith's  
9 preliminary waiver request, with respect to the  
10 grading of Ms. Smith's 2012 simulator test, and with  
11 respect to the informal review of Ms. Smith's 2012 SRO  
12 license application denial.

13 All of these staff duties were discharged  
14 consistent with the requirements in 10 C.F.R. Part 55,  
15 the guidance in NUREG-1021 and OLMC-500, past NRC  
16 precedent and common sense.

17 In conclusion, an SRO performs duties  
18 significant to the public health and safety, and SRO  
19 applicants are not granted waivers or licensed  
20 lightly.

21 In this proceeding, Ms. Smith has the  
22 heavy burden of proving wrong the staff's professional  
23 opinion that she was not sufficiently qualified for  
24 this responsibility, and Ms. Smith does not satisfy  
25 this burden, but rather only provides arguments that

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1 are largely based on speculation and the inference of  
2 bad intent on behalf of the staff.

3 Therefore, this Board should decide in  
4 favor of the staff. Thank you.

5 CHAIR SPRITZER: Thank you. All right,  
6 let me ask all the witnesses -- I assume all the  
7 witnesses who are going to testify, other than Mr.  
8 Tucker, are physically present in the room at the  
9 moment for the staff; is that correct?

10 MR. WACHUTKA: That's correct, Your Honor.

11 CHAIR SPRITZER: And for Ms. Smith, Mr.  
12 Turner and Mr. Waltower are here, as you previously  
13 indicated?

14 MR. WACHUTKA: That's correct, Your Honor.

15 CHAIR SPRITZER: Let me ask all the  
16 witnesses to stand and raise your right hand. We're  
17 going to swear you in collectively. All right. I'm  
18 going to read you the witness oath. Please answer yes  
19 or no affirmatively. We don't want nods of the head,  
20 since this gentleman, our court reporter, cannot pick  
21 up a nod of the head.

22 [WITNESSES SWORN.]

23 CHAIR SPRITZER: All right. All witnesses  
24 have indicated an affirmative response, and we will  
25 now move on and start testimony. Ms. Smith, we'll

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1 begin with you. I think you can stay where you're  
2 located. Why don't have Mr. Waltower and Mr. Turner  
3 move up to the seats directly in front of the  
4 microphones.

5 We're going to take Ms. Smith and her  
6 witnesses in turn basically, but we may have some  
7 questions for you during her testimony. My co-judge  
8 reminds me Ms. Smith, I don't believe you actually  
9 stood and raised your right hand. Could you please do  
10 that now?

11 MS. SMITH: Sure, Your Honor.

12 [WITNESS SWORN.]

13 DIRECT EXAMINATION

14 CHAIR SPRITZER: Very well. You may be  
15 seated. All right, your name is Charlissa Smith, and  
16 could you tell us where you reside?

17 MS. SMITH: I reside at 5029 Reynolds Way in  
18 Grovetown, Georgia, which is at 30813.

19 CHAIR SPRITZER: And how are you presently  
20 employed?

21 MS. SMITH: I am currently employed with  
22 Southern Nuclear.

23 CHAIR SPRITZER: And Southern Nuclear  
24 operates the Vogtle Units 1 and 2 nuclear plants?

25 MS. SMITH: That is correct, Your Honor.

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1 CHAIR SPRITZER: Now as I understand it, in  
2 March 2011, you took a test administered by the NRC to  
3 become a senior reactor operator or SRO; is that  
4 correct?

5 MS. SMITH: That is correct, Your Honor.

6 CHAIR SPRITZER: And you learned at some  
7 point that you had failed that exam; is that correct?

8 MS. SMITH: That's correct, Your Honor.

9 CHAIR SPRITZER: How did you learn about  
10 that? How were you informed?

11 MS. SMITH: Your Honor, the entire class has  
12 to take a three-part test. The first two portions you  
13 take and it's administered by the examiners. The last  
14 portion is the written portion, and that's actually  
15 administered by the facility, and my understanding is  
16 is that they are in contact with the NRC examiners.

17 Seventy percent of my class failed the  
18 written, and we found out the day of the actual exam,  
19 and that was April the 1st, 2011.

20 CHAIR SPRITZER: Now at some point did you  
21 review your possible future options with your  
22 employer, as far as the possibility of retaking the  
23 SRO exam?

24 MS. SMITH: At that time, Your Honor, the  
25 facility was shocked, because so many people had

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1 failed the written portion of the exam. That's not  
2 usually a normal thing that happens. You only have a  
3 small percentage that usually would fail, and at that  
4 time, they were, I think, trying to sort through  
5 exactly what happened.

6 But at some point, there was some  
7 discussions in which they talked about the possibility  
8 of taking another exam. But the issue was the  
9 logistics of working out someone being able to  
10 actually write the exam and meeting all the  
11 requirements to administer it.

12 Later, it was found that that was not going  
13 to be possible, and eventually the facility decided  
14 that they would have the individuals that failed the  
15 written portion to retake with the class that was  
16 coming up the next year.

17 CHAIR SPRITZER: That would be the exam that  
18 was administered in March and April of 2012?

19 MS. SMITH: That's correct, Your Honor.

20 CHAIR SPRITZER: Now did you have -- did you  
21 have any discussions with your employer about the  
22 possibility of applying for a waiver for the operating  
23 part of the exam in March-April of 2012?

24 MS. SMITH: Yes, Your Honor. I want to say  
25 maybe a couple of weeks after the actual failure. It

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1 may have been longer. It may have been a month later.  
2 Our manager came in and spoke with us, and he told us  
3 that he would talk to everybody individually, and  
4 during that conversation, he told everyone in the  
5 classroom that the NRC said that they were, verbally  
6 said that they were willing to grant waivers for  
7 everyone except for myself, and then at that time, he  
8 took us all individually into a room and talked about  
9 our different results.

10 At that time, I was told that even though  
11 they said that they weren't willing to grant me a  
12 waiver, that they were still going to apply for it,  
13 because they didn't really know why I wasn't getting  
14 a waiver. But they felt that -- if they felt that  
15 strongly about it, they would submit it and just have  
16 them to deny it formally.

17 CHAIR SPRITZER: Who was the manager you've  
18 just been referring to?

19 MS. SMITH: That would be Rick Brigdon.

20 CHAIR SPRITZER: Okay. Can you spell his  
21 last name?

22 MS. SMITH: B-R-I-G-D-O-N.

23 CHAIR SPRITZER: And what's his position  
24 with -- the company is Southern Nuclear Operating, I  
25 believe?

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1 MS. SMITH: At that time, he was the  
2 training manager.

3 CHAIR SPRITZER: And can you give us an  
4 approximate time frame for when he told you that you  
5 were not likely to get a waiver?

6 MS. SMITH: I would say approximately May of  
7 2011.

8 CHAIR SPRITZER: Okay.

9 MS. SMITH: I know it was right around the  
10 time, I think, that we found out that our results from  
11 the actual simulator exam.

12 CHAIR SPRITZER: Now did there ever come a  
13 time when someone from Southern told you they were not  
14 going to apply for a waiver for you, for the March  
15 2012 exam?

16 MS. SMITH: Absolutely not, Your Honor. I  
17 was told this up until the day it was actually  
18 submitted. The training supervisor came in. He  
19 passed a license application out for every student in  
20 the class. He pointed it out to me, that we are going  
21 to be submitted a waiver for you, and we will see what  
22 they say.

23 CHAIR SPRITZER: And the training supervisor  
24 was who?

25 MS. SMITH: This was Tim Harris.

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1 CHAIR SPRITZER: Tim Harris, okay. One of  
2 the witnesses from whom you've submitted testimony was  
3 Perry Tucker. Did he have any role in any of the  
4 events you've just described?

5 MS. SMITH: Your Honor, I think I misstated  
6 that Tim Harris was the training supervisor. He was  
7 actually the lead instructor.

8 But Perry Tucker was the previous lead  
9 instructor when I came along in 2011, and by the time  
10 I made it to the 2012 class, Tim Harris had taken over  
11 that position. So Perry Tucker was the individual  
12 that prepared all the documentation.

13 CHAIR SPRITZER: Now did ever come a time  
14 when you learned that in fact Southern Nuclear  
15 Operating Company -- well, let me restate that. Did  
16 there ever come a time when someone from Southern told  
17 you that they were not in fact going to request a  
18 waiver for you?

19 MS. SMITH: Your Honor, what I was told was,  
20 and I cannot recall which individual told me. I was  
21 told to report to the front office. The NRC was not  
22 willing to grant me a waiver. So I was going to have  
23 to basically take the entire test over.

24 I went to the front office and I signed my  
25 documentation. I was under the impression that they

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1 had formally denied it and it would just be a matter  
2 of time before I received the paper work in the mail.  
3 But no one actually gave me any details to say what  
4 actually happened. So I wasn't aware at that time  
5 what actually was going on.

6 CHAIR SPRITZER: When you said "they had  
7 formally denied it," who was they?

8 MS. SMITH: They, as in the NRC staff or  
9 exam team that received it.

10 CHAIR SPRITZER: And can you give me an  
11 approximate time frame for when you were told this?

12 MS. SMITH: It had to be probably within a  
13 week.

14 CHAIR SPRITZER: Of what?

15 MS. SMITH: Of the day that I had talked to  
16 Tim Harris. So that was probably around February,  
17 late February, and I will just gauge that it was  
18 around February the 23rd, just based on what Perry  
19 Tucker wrote down as the date that they actually  
20 submitted the applications.

21 So I will say that's approximately when I  
22 talked with Tim Harris, or when Tim Harris brought in  
23 the applications for everybody, because he brought  
24 them in maybe a couple of days before they actually  
25 submitted them, and told everybody to make sure all

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1 your information was correct. Within a week from  
2 there is when I was notified.

3 CHAIR SPRITZER: That you would not be  
4 granted a waiver?

5 MS. SMITH: That's correct.

6 CHAIR SPRITZER: So it sounds like we're  
7 talking early March 2012?

8 MS. SMITH: Approximately.

9 JUDGE HAJEK: Can you clarify the signing,  
10 let's say the production of and signing of 398s,  
11 because I'm a little bit confused here. My  
12 understanding from the testimony from Perry Tucker is  
13 that he prepared all the 398s that were preliminarily  
14 sent to the NRC.

15 And then as I understood from what you were  
16 saying, the class was notified, or Tim Harris came  
17 into the class with 398s for everyone to sign,  
18 including you?

19 MS. SMITH: That's right.

20 JUDGE HAJEK: And your 398 that you did sign  
21 at that time had a waiver request on it?

22 MS. SMITH: Your Honor, there are actually  
23 two submittals, and they're both on the NRC 398 form.  
24 The initial submittal is the preliminary submittal.  
25 On this form, it basically has all of your

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1 information, but it is an unsigned version, and it is  
2 intended to be submitted to the NRC staff.

3 At that time, they would go through. They  
4 would review it. If there's anything that needs to be  
5 corrected or clarified, to make sure that you wouldn't  
6 have any administrative-type issues, it could be  
7 addressed prior to the actual final submittal, which  
8 is the document that would be signed.

9 So preliminary paper work was brought to me,  
10 and that was what was discussed with Tim Harris. I  
11 was unaware that a conversation occurred between that  
12 preliminary document and the final document. So when  
13 it came time for the final document to be submitted,  
14 that was the document in which the waiver request was  
15 removed.

16 JUDGE HAJEK: So there were -- it sounded  
17 like you had described three versions of the 398, but  
18 you're saying there were only two versions. The first  
19 one was the preliminary that had been sent in, and  
20 what was the approximate mailing time of that?

21 MS. SMITH: That was the one that as mailed  
22 approximately the end of February. That was the one  
23 that Tim Harris came into the room with.

24 CHAIR SPRITZER: Mr. Welke, it might help at  
25 this point if you could bring up CCS-003 and I believe

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1 I want to go to page -- excuse me, 001, 002. That's  
2 correct. CCS-002. That's the right number.

3 JUDGE HAJEK: About page 15 or so.

4 CHAIR SPRITZER: Right. There it is, okay.

5 JUDGE HAJEK: So this is the -- this is the  
6 preliminary form, and you say this was sent to NRC in  
7 February of 2012?

8 MS. SMITH: That's correct, Your Honor.  
9 Yes, that's correct, Your Honor.

10 JUDGE HAJEK: So that was only -- so this  
11 was well after the 120-day telephone call?

12 MS. SMITH: That's correct, Your Honor.  
13 Well yes, that's right. That's correct. This was  
14 approximately -- 30 days prior is when a preliminary  
15 is sent in, and 14 days prior is when the final is  
16 sent in, approximately.

17 JUDGE HAJEK: Okay. So you, this was a form  
18 that was tasked out that you saw, but did not sign.  
19 Then the final forms were prepared, can you give us an  
20 approximate time?

21 MS. SMITH: Like I said, it had to be within  
22 a week from the time frame that preliminary was sent.  
23 It could have been two weeks, somewhere around that  
24 time.

25 JUDGE HAJEK: So let's, for purposes of our

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1 discussion, we'll just say two weeks, and we can pin  
2 down an exact date while you're if we need to.

3 MS. SMITH: Okay.

4 JUDGE HAJEK: Okay. At this point in time  
5 then, Tim Harris came to see you again?

6 MS. SMITH: No, no, no. The time that I  
7 spoke with Tim Harris was just the original date  
8 around February --

9 JUDGE HAJEK: Around February.

10 MS. SMITH: --when he came and brought all  
11 the students their preliminary 398 forms, and the  
12 intent of him bringing them to everybody was to make  
13 sure that all of your administrative information was  
14 correct. Your, you know, address, anything like that  
15 needed to be correct.

16 And when he passed those documents out, he  
17 just mention to me or pointed it out to me that, you  
18 know, hey I just want to point out that we did, you  
19 see that we did request a waiver for you, and we're  
20 going to see what they say, as in NRC --

21 JUDGE HAJEK: Those were his words, Tim  
22 Harris' words?

23 MS. SMITH: Yes, Your Honor, yes.

24 JUDGE HAJEK: Okay. The package of 398s or  
25 the class that you're talking about, was this the

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1 class of seven, or I guess it's really six at this  
2 point, who were requesting waivers, who had failed the  
3 written in the past, or was this is the class of 22?

4 MS. SMITH: Your Honor, the original class,  
5 which was the Hot License 16, was the first class that  
6 I was a part of where I failed the written exam. The  
7 second class, the individuals from the first class  
8 were actually still kind of linked to that group that  
9 came next.

10 So that 22 actually encompassed those  
11 individuals that were going to be receiving waivers as  
12 well.

13 JUDGE HAJEK: So when Mr. Harris came into  
14 the room with the preliminary 398s, there were six  
15 individuals or there were 22?

16 MS. SMITH: No, Your Honor, I don't know the  
17 exact number that were actually in the classroom. But  
18 the Hot License 17 class, I want to say it was maybe  
19 about 16 individuals in that classroom. The  
20 individuals that were a part of my original class was  
21 in another classroom down the hall.

22 So in that particular -- but we were all  
23 submitted at the same time. So it was all considered  
24 one package. It wasn't separated like two groups. It  
25 was, from my understanding, all submitted together.

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1 JUDGE HAJEK: So the presentations were made  
2 in two separate classrooms, of the 398s for you to  
3 review?

4 MS. SMITH: I would assume so, because I  
5 don't know what happened in the other classroom.

6 JUDGE HAJEK: Okay, and then, your  
7 understanding is that those 398s were somehow packaged  
8 together and sent to NRC, to Region II for review?

9 MS. SMITH: That's correct.

10 JUDGE HAJEK: And then approximately two  
11 weeks later, you, all these 398s, the plant had  
12 received notice from NRC is your understanding?

13 MS. SMITH: That's my understanding.

14 JUDGE HAJEK: That either the 398s were  
15 fine, or there was additional information that was  
16 needed, and within the context of the notification of  
17 the plant, you were told not by NRC but by the plant,  
18 Tim Harris again?

19 MS. SMITH: I don't recall exactly who told  
20 me that day. I was just told to report to the front  
21 office, because I was not going to be granted a  
22 waiver. The NRC was not willing to grant me a waiver,  
23 and I needed to go and sign my final form, without --

24 JUDGE HAJEK: Okay, and you went to the  
25 front office to -- and who did you see there?

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1 MS. SMITH: I saw Mary Catherine (ph), the  
2 secretary in the Training Center.

3 JUDGE HAJEK: Okay, and you signed it?

4 MS. SMITH: Yes, Your Honor, I did.

5 JUDGE HAJEK: Did you have other discussions  
6 with anyone?

7 MS. SMITH: No, Your Honor, I did not.

8 JUDGE HAJEK: Okay. So you had wanted a  
9 waiver.

10 MS. SMITH: Yes, Your Honor.

11 JUDGE HAJEK: You had been told that by,  
12 someone unidentified at the plant, that NRC, I want to  
13 be careful about the wording here, specifically,  
14 completely, unequivocally stated that a waiver would  
15 not be granted. Not that it would likely not be  
16 granted, but that it would not be granted.

17 MS. SMITH: Yes, Your Honor.

18 JUDGE HAJEK: Your testimony is the language  
19 used in making this description to you was that it was  
20 -- by a plant person, who need to find. I mean we  
21 need to find someone to corroborate that particular  
22 statement, who actually said a waiver, that that  
23 person was told that a waiver would not, absolutely  
24 not be granted?

25 MS. SMITH: That's correct, Your Honor.

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1 JUDGE HAJEK: Okay, and then you signed the  
2 398 anyway?

3 MS. SMITH: Yes, Your Honor.

4 JUDGE HAJEK: Why?

5 MS. SMITH: Your Honor, it is pretty well  
6 the way it's going to work out is if I refuse to sign  
7 it, I would not be able to take the exam. So you have  
8 a choice to either to continue to dispute it, or go  
9 ahead and take the exam.

10 I recall later having discussions with some  
11 other individuals, where I pretty well had said it  
12 doesn't matter, because I've done very well in the  
13 class and I'm very confident. I'm making very high  
14 scores. I'm doing very well in the simulator, on my  
15 JPMS.

16 So it doesn't matter what they do, because  
17 I'm going to pass anyway. So I was very confident  
18 that it didn't matter what type of obstacles they put  
19 in front of me. It wasn't going to be an issue,  
20 because they weren't going to be able to hold me back.

21 So I was willing to retake the entire test,  
22 because I was under the impression that I wasn't going  
23 to be treated unfairly.

24 JUDGE HAJEK: Okay. Do you want me to  
25 continue? I have a couple --

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1 CHAIR SPRITZER: Yeah.

2 JUDGE HAJEK: Okay. So I understand your  
3 level of confidence, and when you say that you had  
4 this high level of confidence because you were doing  
5 well in the class, I'm curious about what class you're  
6 talking about?

7 MS. SMITH: I'm sorry, go ahead.

8 JUDGE HAJEK: Yeah, that's it. What class  
9 were you doing well in? What training was being  
10 provided to you and -- well, go ahead and answer that  
11 part.

12 MS. SMITH: As I said before, Your Honor, I  
13 was a part of Hot License 16, in which 70 percent of  
14 the class failed the written portion.

15 When I was told initially that I was not  
16 going to receive a waiver, the company decided that  
17 they would go ahead and put me into the next class, so  
18 that if there were issues later, I would still be  
19 allowed to take the examination, because they would be  
20 able to document some form of remediation.

21 So I basically repeated the last year of the  
22 class with the next class that came along, which was  
23 Hot License 16. So I still had to retake exams; I had  
24 to relearn, not relearn, but you know, revisit the  
25 JPMs, and I still had to go and do simulator practices

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1 on a daily basis.

2 JUDGE HAJEK: Okay. Hot License 16 was the  
3 2011 class?

4 MS. SMITH: That's correct, Your Honor.

5 JUDGE HAJEK: Hot License 17 was the 2012  
6 class?

7 MS. SMITH: The 2012, that's correct.

8 JUDGE HAJEK: Okay. Were you always  
9 considered part of the 2016 class and never considered  
10 part of the 2017 class?

11 MS. SMITH: Your Honor, I was considered a  
12 part of the Hot License 17 class when I --

13 JUDGE HAJEK: Okay. So you said that you  
14 had continued in training class, then, along with the  
15 2017 class?

16 MS. SMITH: That's correct.

17 JUDGE HAJEK: The Hot License 17 class.

18 MS. SMITH: That's right.

19 JUDGE HAJEK: In that, were you the only  
20 one, or did all six participate?

21 MS. SMITH: Your Honor, initially, let's see  
22 there were six individuals. Initially three were told  
23 they didn't have a problem, and that they would  
24 receive waivers. Then there was three -- well  
25 initially, I was identified as the only one that

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1 wouldn't receive a waiver, and maybe about two weeks  
2 later the staff contacted the company and identified  
3 that there were two more individuals that they were  
4 going to look at.

5 So they actually put all three of us in that  
6 class, in the Hot License 17 class, and I'm assuming  
7 that as the emails that I've discovered later came  
8 out, saying that hey, we're willing to grant  
9 individuals for these individuals but she's not likely  
10 to get one, I'm assuming that that was when those two  
11 individuals were removed from the class.

12 So initially all three of us were put in the  
13 class. Those two were removed because they got  
14 confirmation from the NRC staff that they were willing  
15 to sign off on it, but they still were not willing to  
16 approve, or not likely to approve a waiver for me.

17 So I was, I had to continue to stay in the  
18 class, and I was the only one that originated from Hot  
19 License 16.

20 JUDGE HAJEK: Okay. I just have a couple  
21 more. Okay. So you went into the Hot License 17  
22 class approximately what date?

23 MS. SMITH: I would guess approximately  
24 July.

25 JUDGE HAJEK: July of 2011?

1 MS. SMITH: And that's just approximate,  
2 Your Honor, because obviously I wasn't taking notes  
3 through that time.

4 JUDGE HAJEK: Right. But it was a complete  
5 class. You did everything?

6 MS. SMITH: I did the last year. There's  
7 like three portions of it, and I did the last year,  
8 which was the control room operations portion.

9 JUDGE HAJEK: Okay, on the simulator  
10 training. What about, and the JPMs --

11 MS. SMITH: Everything was included in that  
12 last portion, yeah.

13 JUDGE HAJEK: How does the plant set up the  
14 crews?

15 MS. SMITH: I'm not actually sure how they  
16 set them up, but I mean you may have one week where  
17 you may work with one group, and then you could work  
18 with a different group.

19 JUDGE HAJEK: So it's a rotating --

20 MS. SMITH: Yes. It's not anything --

21 JUDGE HAJEK: Because the plant doesn't  
22 really know, at that point at least, who's going to be  
23 on the crew as it's going to be examined; is that  
24 correct?

25 MS. SMITH: That's correct, that's correct.

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1 JUDGE HAJEK: Okay. Let's see. Let me just  
2 check here, I think. Go ahead. Let's go back and  
3 leave the form there, please. By the way, this is the  
4 document or Form 398. It begins on page 14 of CCS-  
5 002, which was Mr. Tucker's testimony.

6 Looks like it continues onto page 15, 16,  
7 which is an attachment to the license application, and  
8 then going on to page 17. That's also, I take it,  
9 part of the Form 398?

10 MS. SMITH: Yes, Your Honor. That is your  
11 reactivity manipulations.

12 JUDGE HAJEK: Okay. Now on the first page,  
13 if we could go back to page 14 of 20, and right. On  
14 the box labeled "4, Section F-2," I take it that box  
15 is checked and I take it that's the request for the  
16 waiver of the operating exam in 2012, March-April of  
17 2012?

18 MS. SMITH: That's correct, Your Honor.

19 CHAIR SPRITZER: And if we go on down, it  
20 says "Justify in Item 17." If we go to Item 17, and  
21 this is on page 15 of 20, it says under Comments, Item  
22 4, F-2, "Passed all categories of the operating test  
23 given from March 16-24, 2011." Was this on the form  
24 you signed, in the preliminary application that you  
25 signed?

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1 MS. SMITH: This is a copy of the  
2 preliminary form, so there was no signatures. But  
3 this was the document.

4 CHAIR SPRITZER: That you reviewed?

5 MS. SMITH: Yes, Your Honor.

6 CHAIR SPRITZER: All right. Oh, yes. Let's  
7 go back to page 14 of 20. In section or Box 13, it  
8 says "Training-Other." That looks like it's Box 13,  
9 little G, and it refers to training between, looks  
10 like 6/2011 and 3/2012. It says 24. Number of weeks,  
11 I guess that says, 25 weeks. Is that, does that refer  
12 to the same training you've just been discussing with  
13 Judge Hajek?

14 MS. SMITH: Yes, Your Honor.

15 CHAIR SPRITZER: So this form, this is for  
16 Mr. Tucker's affidavit. But as far as you can recall,  
17 is that an accurate copy of the preliminary  
18 application that was submitted on your behalf to the  
19 NRC?

20 MS. SMITH: Yes, Your Honor.

21 CHAIR SPRITZER: Do you know how it was  
22 submitted? That is, was it by mail, electronically?

23 MS. SMITH: I did go and I had a secretary  
24 from the Training Center to look at, they have like a  
25 log of all documents that go out, and she did look up

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1 this document and it was on there, and it went out by  
2 mail is my understanding.

3 CHAIR SPRITZER: By regular mail?

4 MS. SMITH: I can't tell you if it was  
5 priority or but my understanding is it went out by  
6 physical mail?

7 CHAIR SPRITZER: Not electronically?

8 MS. SMITH: That's my understanding.

9 CHAIR SPRITZER: And was it in one package  
10 for all 22 approximately candidates?

11 MS. SMITH: I think it was, Your Honor,  
12 simply because there was a cover sheet that went with  
13 it, and it listed several names. It did not have the  
14 attachments that went with it. The actual folder  
15 itself only had the cover sheet.

16 So that was my assumption, by looking at all  
17 of the names that were listed, that it included  
18 everyone's information.

19 CHAIR SPRITZER: Do you know a Mr.  
20 Wainwright at Southern Nuclear Operating Company?

21 MS. SMITH: I do, Your Honor.

22 CHAIR SPRITZER: And what's his first name?

23 MS. SMITH: Greg.

24 CHAIR SPRITZER: Greg Wainwright. What is  
25 his position?

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1 MS. SMITH: He is the individual who wrote  
2 the examination. I don't know the actual formal  
3 title.

4 CHAIR SPRITZER: Which examination did he  
5 write?

6 MS. SMITH: He wrote both, 2011 and 2012.

7 CHAIR SPRITZER: And when you say he wrote  
8 the exam, explain to me how that process works?

9 MS. SMITH: The facility actually writes the  
10 entire examination. They write the written portion,  
11 they write the JPM portion and they come up with the  
12 simulator portion, and as it's written, it requires --  
13 it's required to be reviewed or approved by the NRC.

14 So the NRC can come in and look at it and,  
15 you know, decide that there are certain pieces of the  
16 document that they don't like, or they may ask that  
17 they change certain things. But I guess you can say  
18 it's a collaboration between the two groups. But the  
19 facility itself actually writes the document.

20 But the can't write it and then just say  
21 okay, this is the final document. It requires that  
22 approval process from the NRC, and it's not something  
23 that happens overnight. It's literally a process.

24 CHAIR SPRITZER: Did you ever have any  
25 conversations with Mr. Wainwright about whether a

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1 waiver would be requested on your behalf?

2 MS. SMITH: I did speak with Mr. Wainwright  
3 after the exam was over.

4 CHAIR SPRITZER: Which exam?

5 MS. SMITH: I'm sorry, after the 2012 exam  
6 was over.

7 CHAIR SPRITZER: And at that point had you  
8 learned that you failed the operating portion of the  
9 2012 exam?

10 MS. SMITH: I did, Your Honor.

11 CHAIR SPRITZER: And what was your  
12 conversation with Mr. Wainwright at that time?

13 MS. SMITH: I asked Mr. Wainwright if he  
14 knew any of the specifics of the waiver request, and  
15 if he could tell me some of that information. He  
16 went, he discussed that it was not intended to submit  
17 a waiver for me.

18 I asked him a few more questions and I asked  
19 if he could elaborate on the conversation that  
20 actually occurred, and each time that I asked him more  
21 questions about that conversation, he would change the  
22 conversation to something else.

23 So I was under the impression that he was  
24 hiding information at that time, because he would not  
25 answer certain questions.

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1 CHAIR SPRITZER: All right. I think there's  
2 been reference to a, in the record to a 120-day  
3 conference call. Do you know what that refers to?

4 MS. SMITH: Yes, Your Honor, and obviously  
5 I didn't know anything about it until after this  
6 process was over. But it's not something I knew about  
7 prior to the test.

8 CHAIR SPRITZER: So I take it you weren't  
9 actually on the conference call?

10 MS. SMITH: No, Your Honor. The students  
11 are not included in a lot of these discussions that  
12 occur.

13 CHAIR SPRITZER: Now returning, if we might,  
14 to CCS-002 and page, I believe the document beginning  
15 on page 18. Now this appears to be a letter dated July  
16 13, 2011, signed by a Mr. Tynan, T-Y-N-A-N, Vice  
17 President of Vogtle, which among other things states  
18 that "Southern Nuclear Operating Company is requesting  
19 a waiver for the operating exam portion of the initial  
20 license examination, scheduled to be administered at  
21 the Vogtle electric generating plant in March 2012 for  
22 the individuals identified below."

23 Now it's somewhat blocked out, but it looks  
24 pretty clear that one of the listed candidates is a  
25 C.C. Smith. I take it that would be you?

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1 MS. SMITH: That's correct, Your Honor.

2 CHAIR SPRITZER: Have you ever seen this  
3 document before?

4 MS. SMITH: I did not see the document until  
5 after the failure of the exam.

6 CHAIR SPRITZER: In 2012?

7 MS. SMITH: In 2012, I'm sorry.

8 CHAIR SPRITZER: And all right. So you  
9 hadn't -- do you have any knowledge as to -- well  
10 first, whether this document was actually sent to the  
11 NRC?

12 MS. SMITH: Again, I did ask the Secretary  
13 to pull up this document, and this document was also  
14 included on that list of information that did go out.  
15 So it was documented and if you note in the corner,  
16 the NOT number is the numbers that they use to track  
17 that information.

18 CHAIR SPRITZER: They being --

19 MS. SMITH: I'm sorry, they as in the  
20 Training Center. So any secretary can send  
21 information out. So it may not necessarily be the  
22 same individual.

23 But they would go to this log, they would  
24 write the next sequential number, and they would write  
25 whatever the details or the description of that

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1 particular item, to show that it was sent out.

2 CHAIR SPRITZER: Now on the next page, page  
3 19 of 20, there's an indication that they were  
4 attachments. However, we don't actually seem to have  
5 the attachments. Do you know whether there were in  
6 fact any attachments to this document?

7 MS. SMITH: I don't know, Your Honor.

8 CHAIR SPRITZER: Do you know whether there  
9 was ever a response from the NRC to this letter?

10 MS. SMITH: I do not think that there was a  
11 response, Your Honor.

12 CHAIR SPRITZER: What are Mr. Tynan's  
13 responsibilities at the Vogtle plant?

14 MS. SMITH: He's the vice president of  
15 Vogtle.

16 CHAIR SPRITZER: Does that mean he's at the  
17 head of the hierarchy, he's the top dog, so to speak?

18 MS. SMITH: Yes, Your Honor. Yes, Your  
19 Honor, he is.

20 CHAIR SPRITZER: Did he normally have any --  
21 maybe you can clarify for me. Do you have any idea  
22 why this was signed by the vice president, this letter  
23 was signed by the vice president, rather than somebody  
24 directly involved in the training?

25 MS. SMITH: Your Honor, I did have a

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1 conversation with Perry Tucker, and I asked him if he  
2 could explain the circumstances around this document,  
3 and he did identify that he went to a conference with  
4 the NRC.

5 I don't know what conference it is. I would  
6 just make an assumption, just because I did a little  
7 bit of searching on the NRC website, and I know that  
8 they have different conferences for the exam writers,  
9 and you know, they give details and information on  
10 what you may need to actually complete on of these  
11 exams.

12 He identified that during this conference,  
13 he did raise his hand and ask the question of how  
14 would you go about making sure that the NRC was aware  
15 when you wanted to submit a waiver request for any  
16 individual, and he said that he was told that it  
17 would, out of courtesy, you can send a letter and have  
18 it, that basically identifies who you intend to  
19 request waivers for.

20 Now as far as why Mr. Tynan would sign it  
21 versus someone else, I was not privileged to any  
22 information, to actually make that comment.

23 CHAIR SPRITZER: All right. Let's talk a  
24 little bit about the March-April 2012 operating exam.  
25 Did you have an assigned examiner during that exam?

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1 MS. SMITH: During the March, which exam?

2 CHAIR SPRITZER: This the 2012, the second  
3 one, March-April 2012.

4 MS. SMITH: For the JPM portion, any of the  
5 examiners could give it. It was just basically  
6 whichever examiner was assigned to give that  
7 particular JPM. So you did not have the same examiner  
8 for the JPM portion of it. But for the simulator  
9 portion, everyone was assigned one individual  
10 examiner.

11 CHAIR SPRITZER: And who was assigned to  
12 you?

13 MS. SMITH: Mark Bates.

14 CHAIR SPRITZER: Now for the JPMs, who  
15 administered? Do you remember which examiners  
16 administered the JPM?

17 MS. SMITH: All. All examiners  
18 administered. That was Phil Capehart, Mark Bates and  
19 Michael Meeks.

20 CHAIR SPRITZER: Do you recall which JPMs  
21 Mr. Meeks administered?

22 MS. SMITH: I do not, Your Honor, not  
23 without looking up some type of reference. I think  
24 that it may be listed on exhibit CCS-045. Let me  
25 verify. Next page. I think in the parentheses it

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1 does have names identified on some of those.

2 CHAIR SPRITZER: All right. Now you said  
3 Mr. Bates administered the simulator portion of the  
4 exam. Do you know whether any of the other examiners  
5 provided written comments on your performance during  
6 the simulator part of the 2012 operating exam?

7 MS. SMITH: I would assume that they did.  
8 I did see in their examiner notes that there may have  
9 been sometimes where they may have wrote a comment  
10 like "Talk to Michael about this" or something to that  
11 effect.

12 But according to the NUREG-1021, all the  
13 examiners get together and have a discussion once the  
14 scenario is over, and each time that we did have a  
15 scenario, there was a 30 minute period where we  
16 waited.

17 Those individuals went to the back, convened  
18 and then came out and asked questions, like I said,  
19 maybe about 30 minutes later.

20 CHAIR SPRITZER: And who asked questions of  
21 you during the simulator portion?

22 MS. SMITH: The individual that's assigned  
23 to you. So Mark Bates asked me questions.

24 CHAIR SPRITZER: All right. So you didn't  
25 actually get any questions from either Mr. Capehart or

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1 Mr. Meeks during the 2000 --

2 MS. SMITH: No, Your Honor.

3 CHAIR SPRITZER: Let me finish the question.

4 MS. SMITH: I'm sorry.

5 CHAIR SPRITZER: During the 2012 exam, you  
6 didn't get any questions from Mr. Meeks or Mr.  
7 Capehart during the simulator portion of the 2012  
8 exam?

9 MS. SMITH: Not where they physically asked  
10 me, no Your Honor.

11 CHAIR SPRITZER: Did you have any other  
12 contact with Mr. Meeks or Mr. Capehart during the 2012  
13 exam that you haven't told me about yet?

14 MS. SMITH: Contact as in during the  
15 simulator portion? Can you --

16 CHAIR SPRITZER: Well, let talk about -- all  
17 right, the simulator portion of the exam.

18 MS. SMITH: Those individuals were in the  
19 room, so they were actually assigned to the other  
20 individuals. It was a three-man crew. So everybody  
21 was in the actual room, but as far as contact, no I  
22 didn't actually go and speak with them or have any  
23 conversations with them, no.

24 CHAIR SPRITZER: Can you tell me  
25 approximately how many men and women were in your

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1 operating exam class in 2011?

2 MS. SMITH: It was ten, Your Honor.

3 CHAIR SPRITZER: Do you know how many were  
4 men and how many were women?

5 MS. SMITH: There were eight men, two women.

6 CHAIR SPRITZER: Okay. What happened to the  
7 other woman in that exam?

8 MS. SMITH: She failed the operating portion  
9 of the exam, and she later resigned from the company,  
10 after she was told that she could not go back and re-  
11 examine.

12 CHAIR SPRITZER: All right. As far as race  
13 or ethnicity in the 2011 exam class, do you recall --  
14 you mentioned that you and the other woman were both  
15 Afro-American. Were there any other Afro-Americans in  
16 the operating exam class in 2011?

17 MS. SMITH: Yes Your Honor, it was. It was  
18 one male.

19 CHAIR SPRITZER: And did that individual  
20 pass or fail in 2011?

21 MS. SMITH: He failed the written. He  
22 passed the other two portions.

23 CHAIR SPRITZER: And what happened as far --  
24 did he request a waiver for the --

25 MS. SMITH: He did, and he received a

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1 waiver.

2 CHAIR SPRITZER: I know you want to tell me  
3 your testimony, but let me -- so this gentleman can  
4 get everything down clearly, I need to finish the  
5 question. I think what I was asking was did this  
6 individual Afro-American male who took the operating  
7 exam in 2011, did he apply for a waiver in 2012?

8 MS. SMITH: Yes Your Honor, he did.

9 CHAIR SPRITZER: And was he granted a  
10 waiver?

11 MS. SMITH: Yes Your Honor, he was.

12 CHAIR SPRITZER: Let me -- can we bring up  
13 CCS-003? Now without giving me this individual's  
14 name, can you tel me if he's one of the various  
15 operators identified in the left hand column of this  
16 exhibit?

17 MS. SMITH: Yes, Your Honor. He is -- can  
18 you make it a little bit larger? He is Operator D.

19 CHAIR SPRITZER: D as in Dog?

20 MS. SMITH: That's correct, Your Honor.

21 CHAIR SPRITZER: Okay. Now let me ask you  
22 same questions about the operating exam class in 2012.  
23 Can you break that down between men and women?

24 MS. SMITH: I can pick out the differences.  
25 I can't tell you the entire breakdown. But I can tell

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1 you that there was one white female, there was one  
2 black female, and there were, there was one black  
3 male.

4 CHAIR SPRITZER: Were you the black female  
5 or was that someone else?

6 MS. SMITH: That was me, Your Honor.

7 CHAIR SPRITZER: Okay, and between men and  
8 women totally, you can't recall? Well let me ask --

9 MS. SMITH: Everyone else was white males.

10 CHAIR SPRITZER: All right, in the 2012  
11 operating exam class?

12 MS. SMITH: That's correct, Your Honor.

13 CHAIR SPRITZER: So of the people who were  
14 granted waivers for the March 2012 exam, you said  
15 there was one Afro-American male. Everyone else, I  
16 take it, was a white male, that is, those who were  
17 granted waivers?

18 MS. SMITH: That's correct, Your Honor.

19 JUDGE FROEHLICH: My colleagues have taken  
20 many of the questions I wanted to ask you, Ms. Smith,  
21 but there were a few that we can maybe fill in a bit.

22 Can you tell me your educational background?  
23 I noticed on the Form 398 you have a Bachelor's  
24 degree, I believe, in Chemistry. Please elaborate on  
25 that a little bit, and then I want to go through the

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1 training and your preparation for both the 2011 exam  
2 and then the 2012 exam.

3 MS. SMITH: Your Honor, as I said, I have a  
4 B.S. in Chemistry. It's just general chemistry, and  
5 I've got military educational background from being in  
6 the Army as an officer. But outside of that, that's  
7 pretty well it. No engineering experience.

8 JUDGE FROEHLICH: Okay. So your  
9 preparation for the senior reactor Operator License  
10 instant is based on your training in the plant and  
11 your positions and experiences at Southern Vogtle  
12 plant; is that right?

13 MS. SMITH: Your Honor, they do have a  
14 procedure that talks about the different paths, based  
15 on what your educational background is. There's one  
16 path for engineers; there's another path for people  
17 like myself who have technical degrees, and you know,  
18 there's another path for individuals who don't have  
19 degrees.

20 JUDGE FROEHLICH: So when the -- so I guess  
21 at some point you had a number of different positions  
22 in the Vogtle plant prior to taking the 2011 exam?

23 MS. SMITH: That's correct.

24 JUDGE FROEHLICH: What were those  
25 positions?

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1 MS. SMITH: Your Honor, I started in 2011 as  
2 a chemistry technician, and within three years, I was  
3 promoted to a chemistry foreman, and I think within  
4 about two and a half years, I was selected to go to  
5 this senior reactor operator course, and I stayed in  
6 Operations for about a year prior to that, and then I  
7 went into the class.

8 JUDGE FROEHLICH: So you were selected by  
9 the plant. I guess the way it works there is they  
10 look at the people who are working there, and those  
11 that they believe have some promise or some aptitude  
12 for this type of a job, they approach you? It's not  
13 like they have a posting and you applied?

14 MS. SMITH: It is actually -- you do apply  
15 for it, and at times you are approached, and I was  
16 approached, and I did apply, and there is still a  
17 selection process even if you, you know, even if  
18 someone asks you. There is still a selection process,  
19 and I did go through that selection process and was  
20 successful in being selected.

21 JUDGE FROEHLICH: Explain, just because I  
22 don't know how this is done at the plant, what is that  
23 selection process?

24 MS. SMITH: They actually have you go and  
25 take a test. They do look at your background just as

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1 you were saying, if they feel that you have the  
2 aptitude, they'll put together a board. Everybody  
3 comes in and they interview, and based on a lot of  
4 this information, they make a decision as to who they  
5 would like to select to go to the course.

6 JUDGE FROEHLICH: So this was in early 2010  
7 or 2011?

8 MS. SMITH: Again, I didn't keep notes of  
9 everything, but it was probably, maybe more about  
10 2009. So this process goes on for quite a while, and  
11 you're actually waiting for several months before you  
12 even get anywhere on the class, the date of the start,  
13 the start date for the class or any of the other  
14 information.

15 Then there's two pools, which is the SRO  
16 selection group, and then you have the RO group. So  
17 those actually occur at two different times, and from  
18 my group, the SROs were selected first. So we had to  
19 still wait until the ROs were selected, and that was  
20 several months later.

21 JUDGE FROEHLICH: Okay, and so what is the  
22 training that you took or was provided by the Southern  
23 Company, in preparation for the first exam, the one  
24 you took in 2011?

25 MS. SMITH: The first portion is the GFES

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1 portion, which is basically the fundamentals of how  
2 the actual plant operates, and I mean this is not  
3 necessarily giving you specific information about the  
4 plant. It's just talking about the theory of how the  
5 plant actually works.

6 So you've kind of got, you have to have that  
7 fundamental knowledge of how the plant operates, how  
8 different meters operate, different things that you  
9 would need to move further into the course.

10 The second portion is -- and at the end of  
11 that portion, you have to take a GFES examination,  
12 which is again administered by the NRC. They're not  
13 physically there, but it's just like how the written  
14 portion was that I described earlier, where the  
15 facility gives it, and it's in collaboration with the  
16 NRC itself.

17 I did take that portion. I received a 96.  
18 I think I was the third highest score. Then the  
19 second portion was the systems portion, and this is  
20 pretty much where they go through and they teach you  
21 about all the systems in the plant and how they  
22 operate, how they work.

23 You have to understand the line-ups, what  
24 happened when certain things happen. If a pressure  
25 gets to this point, what equipment is going to change

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1 state. In every one of these phases, there is testing  
2 that goes on every week, and based on your grading, it  
3 will determine if you actually stay in the course.

4 In 2011, we started with 20 people. In the  
5 end, we only had ten. The control room operations is  
6 the last portion, and that's the portion where  
7 everything is supposed to be brought together.

8 So all this stuff that you learned in  
9 systems, as well as what you're starting to learn in  
10 simulator, you've got to be able to put it together  
11 and understand what you're seeing and what's actually  
12 happening, and the correct way to respond to it in the  
13 emergency-type situations.

14 JUDGE FROEHLICH: And how long is this  
15 course? Is this every day for a month?

16 MS. SMITH: Two years.

17 JUDGE FROEHLICH: Every day for two years?

18 MS. SMITH: Yes, Your Honor. Well, every  
19 day excluding weekends and holidays.

20 JUDGE FROEHLICH: Right. Every work day  
21 for two years, you're in class preparing for what, I  
22 guess, will be the operating exam that you took in  
23 2011, okay. I guess the training people at the plant  
24 keep metrics on how the people are doing, I guess.  
25 You had just told me that people are weeded out?

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1 MS. SMITH: That's right.

2 JUDGE FROEHLICH: What was your rank in  
3 class?

4 MS. SMITH: I did very well in the systems  
5 portion. In the control room operations portion, I'd  
6 say I was probably in the middle. Are we just talking  
7 about 2011 or 2012 as well?

8 JUDGE FROEHLICH: Well, let's start with  
9 2011. I want to see how you were doing in your  
10 preparation, and then we'll talk about 2012, because  
11 I guess you had to take some parts of this again?

12 MS. SMITH: That's right, yeah. Yes, Your  
13 Honor, and I was in the middle in the control room  
14 operations portion.

15 JUDGE FROEHLICH: Okay, all right. So then  
16 you took the exam. You got a grade that was a passing  
17 grade, didn't get the waiver. We're enrolled, I guess  
18 they call this the remediation that we saw on the  
19 chart, the 25 weeks. Is that --

20 MS. SMITH: Yes, Your Honor.

21 JUDGE FROEHLICH: Is that the supplemental  
22 training or preparation that you had after the 2011  
23 exam but before the 2012 exam?

24 MS. SMITH: That's correct. Can I mention  
25 one more thing, Your Honor. At the end of the 2011

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1 class or all classes, when you complete the three  
2 different portions, at the end you still have to take  
3 what they call a company audit, and this audit is  
4 supposed to resemble the NRC exam.

5 The ideal is is that typically they make the  
6 audit harder than the NRC exam, and the theory is if  
7 you can pass the audit, then they expect you to be  
8 successful in the NRC exam. I actually did take the  
9 audit and pass the audit as well, which is a mimic of  
10 it. The only difference is is it's not approved by  
11 the NRC.

12 JUDGE FROEHLICH: The audit, is it graded  
13 the same way the NRC --

14 MS. SMITH: Yes, Your Honor.

15 JUDGE FROEHLICH: And it has the same  
16 criteria, same requirements as the simulator portion  
17 as well?

18 MS. SMITH: Yes, Your Honor. That's right.

19 JUDGE FROEHLICH: All right. So after, in  
20 preparation now for the 2012 exam, there was 25 weeks  
21 of remediation. Is that every day for 25 weeks?

22 MS. SMITH: Yes, Your Honor. I was put in  
23 with the next class, which was Hot License 17. So  
24 again, it was the exact same schedule, where you would  
25 go in, you would do classes for the first portion of

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1 the day, and then the second half of the day was spent  
2 in the simulator.

3 So again, it was every day, Monday through  
4 Friday, up until you got to that point right before  
5 the audit.

6 JUDGE HAJEK: Excuse me. Just to clarify  
7 what you're asking. Judge Froehlich referred to that  
8 as a period of remediation. But in fact it was not a  
9 period of remediation. You were just part of the next  
10 class. It was not really to remediate what had  
11 happened in the prior exam for you?

12 MS. SMITH: I think that that is just a  
13 matter of your selection of words, because I was told  
14 that I was being put in that class, so that if there  
15 was an issue, where my waiver was not granted, then  
16 they would be able to identify what the remediation  
17 was.

18 CHAIR SPRITZER: Who would be able to  
19 identify what the remediation was?

20 MS. SMITH: The NRC. So when I sent my  
21 documentation in for the 398, you don't want to say  
22 okay, here's this 398, but she received absolutely no  
23 remediation training. It was a preparation for if the  
24 waiver was not approved and they in fact did deny it,  
25 then I would still be able to take the 2012 exam.

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1 CHAIR SPRITZER: Now we've heard at least --  
2 I'm sorry. Let me just clarify this. We're getting  
3 our act together here slowly. The remediation that  
4 was done or that you participated in, was it directed  
5 solely at the written examination that you failed, or  
6 was it also directed, at least in part, at the  
7 operating exam that you passed?

8 MS. SMITH: It was -- the portion that you  
9 are referring to included everything, because if I was  
10 going to -- if I was required to retake the entire  
11 exam, then they needed to be able to show that I did  
12 receive training in every area.

13 CHAIR SPRITZER: Do you know how Vogtle, the  
14 Vogtle Training Department determined what remedial  
15 work you needed for the operating exam?

16 MS. SMITH: I do not, Your Honor.

17 CHAIR SPRITZER: Okay.

18 JUDGE FROEHLICH: All right. So this 25  
19 weeks is a, or it doesn't include the GFESs? It's  
20 just the systems and the operations portions that you  
21 described?

22 MS. SMITH: That's correct. It's not the  
23 actual systems -- it's not the second portion of  
24 systems. You don't go back and relearn the systems  
25 portion in this part. It's where you're putting the

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1 knowledge you have about the systems together with the  
2 simulator.

3 So you're kind of learning about the  
4 procedures for the emergency network and the abnormal  
5 network, for when you have different failures in the  
6 simulator.

7 JUDGE FROEHLICH: And I assume that  
8 Southern keeps metrics on how people are doing in this  
9 class, as they did for the year before?

10 MS. SMITH: Yes they did, Your Honor.

11 JUDGE FROEHLICH: Okay, and how did you do  
12 in this class?

13 MS. SMITH: I was typically in the top five.

14 JUDGE FROEHLICH: The top five of how many  
15 is this?

16 MS. SMITH: About 16 to 17 people.

17 JUDGE FROEHLICH: Top five, and that answer  
18 includes both the written test --

19 MS. SMITH: Everything.

20 JUDGE FROEHLICH: --and exams that they  
21 gave you, as well as the time on the simulator?

22 MS. SMITH: Everything, Your Honor.

23 JUDGE FROEHLICH: And was there a company  
24 audit exam in 2012?

25 MS. SMITH: There was, Your Honor. I'm

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1 sorry, I keep doing that. Yes there was, Your Honor.

2 JUDGE FROEHLICH: And how did you do on the  
3 company audit exam?

4 MS. SMITH: Again, I'm pretty sure it was  
5 still top five.

6 JUDGE FROEHLICH: Top five?

7 MS. SMITH: Yes, Your Honor. Did very well  
8 in the simulator.

9 JUDGE FROEHLICH: That's all I have on this  
10 topic.

11 JUDGE HAJEK: Would you say in the 2012  
12 audit exam that you did better in that audit exam than  
13 you did in the audit exam from 2011?

14 MS. SMITH: Yes Your Honor, I did.

15 JUDGE HAJEK: Do you have a measure of that?

16 MS. SMITH: A measure? My grades were  
17 higher.

18 JUDGE HAJEK: Okay, and in that you had, in  
19 the 2012 exam, excuse me, this included a written  
20 exam?

21 MS. SMITH: It did, Your Honor.

22 JUDGE HAJEK: And you had scored higher on  
23 the written in 2012 than you did in 2011?

24 MS. SMITH: That's correct, Your Honor.

25 JUDGE HAJEK: It included a full set of 15

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1 JPMs?

2 MS. SMITH: It did, Your Honor.

3 JUDGE HAJEK: You passed all of those JPMs?

4 MS. SMITH: I think that I failed one, Your  
5 Honor.

6 JUDGE HAJEK: In 2011, do you recall your  
7 audit results?

8 MS. SMITH: Not in that level of detail.

9 JUDGE HAJEK: In 2012, on your JPM audits,  
10 you failed one?

11 MS. SMITH: That is correct.

12 JUDGE HAJEK: Do you recall which one?

13 MS. SMITH: I think it was for closing an  
14 ARV.

15 JUDGE HAJEK: Can you tell us what an ARV  
16 is, since we're not supposed to be technical people?

17 MS. SMITH: If you are required to relieve  
18 pressure from the steam generators, the typical path  
19 is through the steam dumps. That's going to control  
20 your cooling on the secondary side of the plant.  
21 There's a primary side and a secondary side.

22 Typically, as I said before, your cooling  
23 would go through the steam dumps. But if there's a  
24 problem, where that path can't be completed to the  
25 steam dumps, then there are isolation valves that can

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1 cause that path to be directed through ARVs. The ARVs  
2 can be manually opened or closed as needed.

3 JUDGE HAJEK: These are auxiliary relief  
4 valves?

5 MS. SMITH: That's correct.

6 JUDGE HAJEK: Is that right?

7 MS. SMITH: Yes.

8 JUDGE HAJEK: Okay. The JPMS that you  
9 passed in 2011 or 2012, I'm sorry, did you have  
10 comments made about your performance on those that  
11 were not critical?

12 MS. SMITH: I do not recall if I received  
13 comments. All I know is that I only failed one. But  
14 I don't want to say something that I can't remember to  
15 that level of detail. But I'm pretty sure that I had  
16 very minimal comments.

17 JUDGE HAJEK: On the simulator portion of  
18 that exam, you've stated that you felt you were in the  
19 top five. What's your measure of being the top five?

20 MS. SMITH: There are scores, and I  
21 averaged, I think about 2.7. After the test, people  
22 were discussing their scores and based on what I  
23 heard, I was one of the top scores.

24 JUDGE HAJEK: Did you have comments on an  
25 exam report that was shared with you after the audit

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1 exam?

2 MS. SMITH: I did have comments, but it was  
3 nothing like what was written up on my NRC exam.

4 JUDGE HAJEK: Were those -- my interest is  
5 in what was done with those comments afterwards?

6 MS. SMITH: I'm sure that they still have  
7 that information on file.

8 JUDGE HAJEK: Well, my interest is more in  
9 what was done from a training perspective. So you had  
10 comments that were written up on the JPMs and comments  
11 that were written up on your performance on the  
12 simulator exam, we're talking the audit specifically.

13 Did they provide some, did they say hey Ms.  
14 Smith, come on. We need to talk about where you  
15 didn't do perfectly here, in order -- so that if this  
16 comes up again, you're going to do perfectly.

17 In other words, did they give you some  
18 remedial training post-audit remedial training on  
19 those items? Or did you have to do that yourself, or  
20 take on the responsibility to do it yourself?

21 MS. SMITH: No, Your Honor. When the audit  
22 phase is complete, you still go through training going  
23 up to the NRC exam. As far as was I specifically  
24 given a specific training plan? No, I wasn't. I was  
25 not identified as an individual of concern.

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1           The company felt that I did very well. They  
2 did not think that there were really, that there was  
3 really an issue where I needed to go through  
4 additional remediation. But I do know that there were  
5 times where we would come in and say if the entire  
6 class had a problem with a particular JPM, they may  
7 have identified that as this is common problem against  
8 the group.

9           So they may do retraining on that particular  
10 item, but it was not necessarily that they would say  
11 okay, Ms. Smith, here is your plan. This is what  
12 we're going to do specifically. It was more of it was  
13 a collective type issue, where we may get some  
14 additional training on that.

15           Then there were some people that may have  
16 been identified as needing a little bit further  
17 remediation, and those particular individuals would  
18 have to sit with a particular individual, where he may  
19 talk them through some different things or discuss  
20 some different things.

21           I was not a part of that, because I was not  
22 being remediated. So but you know, for the most part,  
23 we're just still continuing to train, going up to the  
24 NRC. So there is a period of time in between those  
25 two tests. It's not like you take the test today and

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1 a week later you're taking the NRC exam.

2 You take that test and then you continue on  
3 with more training. So you get more training, and my  
4 assumption would be that maybe they may have looked at  
5 some of the comments or some of the information, and  
6 maybe tailor the things that we looked at going into  
7 the test, to kind of make sure everybody was better  
8 aligned.

9 But as far as coming to me and saying this  
10 is your specific plan, no, that did not happen.

11 JUDGE FROEHLICH: A few minutes ago, Judge  
12 Spritzer asked you questions about the demographics in  
13 your class of 2011 and the class of 2012. How many  
14 SROs are at plant Vogtle?

15 MS. SMITH: It would be a pure guess.

16 JUDGE FROEHLICH: Approximately.

17 MS. SMITH: I would guess maybe about 40.

18 JUDGE FROEHLICH: Forty, and how many of  
19 them are female?

20 MS. SMITH: There are two females.

21 JUDGE FROEHLICH: How many of them are  
22 black?

23 MS. SMITH: None.

24 JUDGE FROEHLICH: And I assume that means  
25 that there are no black female SROs at the plant?

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1 MS. SMITH: That's correct.

2 JUDGE FROEHLICH: Okay, thank you.

3 CHAIR SPRITZER: Before Judge Hajek asks you  
4 some questions, just one point of clarification. To  
5 get into the class where you are training to be an SRO  
6 or an RO, is that a competitive process at Vogtle?

7 MS. SMITH: It is, Your Honor.

8 CHAIR SPRITZER: Do you have any idea what  
9 the ratio of people who apply to be in that program is  
10 to those who are accepted?

11 MS. SMITH: I do not know. I do know that  
12 when we initially took a test, they do have you to  
13 take a test, and I know that it was a classroom that  
14 had maybe about 20-30 chairs in the room and there  
15 were a lot of people in the room.

16 But I don't think that that was the only  
17 test that they had. So I don't really know who the  
18 pool of people is. I just know that on that  
19 particular day when I took that test, that room was  
20 pretty well full.

21 CHAIR SPRITZER: Now during the 25 weeks or  
22 so of remedial work that you referred to in, I guess  
23 it's in the second half, mainly in the second half of  
24 2011 and continuing into 2012, were you paid a full  
25 salary for that?

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1 MS. SMITH: Yes Your Honor, I was.

2 CHAIR SPRITZER: So the plant's making a  
3 rather substantial investment in your training, I take  
4 it?

5 MS. SMITH: That is correct. We are told  
6 when we start the class that they invest \$700,000 in  
7 each student.

8 CHAIR SPRITZER: Which class is that?

9 MS. SMITH: For the SRO/RO class, because of  
10 the amount of time, the training that is associated  
11 with it.

12 CHAIR SPRITZER: Are you doing any other  
13 kind of work at the plant at that time when you were  
14 taking the class?

15 MS. SMITH: No. The class is your job.

16 CHAIR SPRITZER: All right.

17 JUDGE HAJEK: Now let's change horses just  
18 a little bit here. So currently, you filed an  
19 affidavit. You told us what group you're working  
20 with.

21 MS. SMITH: Uh-huh.

22 JUDGE HAJEK: Would you go over that a  
23 little bit and tell me exactly what your  
24 responsibilities are today with the plant?

25 MS. SMITH: I am currently in the Emergency

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1 Preparedness Group. I have transitioned to that  
2 department after I failed the 2012 exam, and basically  
3 I assist in the preparation of drill scenarios and  
4 interface with the Operations Department.

5 There's somewhat of a small amount of  
6 overlap from the Operations Department, which is the  
7 portion that the SRO is responsible for declaring  
8 emergencies, and that's pretty well what emergency  
9 preparedness is. It's ensuring that we declare  
10 emergencies correctly, that we notify off-site  
11 agencies, and we are responsible for basically going  
12 on and testing the plant on that readiness.

13 JUDGE HAJEK: So I noticed, and I don't  
14 recall the place, who's your supervisor in this area?

15 MS. SMITH: Currently, we do not have a  
16 supervisor in the department. Initially, it was  
17 Michael Johnson, and he was recently promoted to the  
18 Health Physics Manager. So we're currently in  
19 transition for new supervision.

20 JUDGE HAJEK: I guess what I had noticed was  
21 that the person who was responsible for the emergency  
22 department was also responsible for training. His  
23 title was somethign like manager of Training and  
24 Emergency Preparedness. I was surprised by that  
25 title.

1 MS. SMITH: I think that you may be talking  
2 about the training manager. I don't know why they  
3 list it that way, but the training manager, it does  
4 say training manager, emergency preparedness, and my  
5 assumption would be because the Operations Department  
6 actually has to teach that portion of emergency  
7 preparedness.

8 Even though we are the department that  
9 develops the scenarios, we don't actually go out and  
10 teach that portion to the operators. So it's actually  
11 other licensed individuals or certified individuals  
12 who actually teach it.

13 So that would be my assumption as to why  
14 that name is listed that way. But that's not the  
15 manager who's over emergency preparedness. It's a  
16 different line-up and the actual individual who is  
17 over emergency preparedness is the emergency  
18 preparedness supervisor. It's actually not even  
19 identified as a manager position.

20 JUDGE HAJEK: So what are you doing, if  
21 anything, at the plant currently to maintain your  
22 skills on the control boards or the control room?

23 MS. SMITH: As far as any formal training,  
24 I am not doing anything to formally maintain that  
25 skill. But as a part of the Emergency Preparedness

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1 Group, we do have to go over and run scenarios in the  
2 simulator, and at times, I do get the opportunity to  
3 actually operate some of the equipment over there in  
4 the simulator.

5 JUDGE HAJEK: So if, and we don't know where  
6 we're going with this of course, but let's say  
7 hypothetically, that's a new word I learned as I was  
8 reading the testimony, hypothetically if this Board  
9 should find that you should receive a license, what is  
10 your expectation of your future at that point?

11 MS. SMITH: Are you speaking as far as  
12 getting me back up to speed, to go back into the  
13 Operations Department? Is that what you're --

14 JUDGE HAJEK: Yes, that's correct.

15 MS. SMITH: Well, I know that in the past,  
16 there have been several individuals who have  
17 transitioned out of the Operations Department.

18 They've gone to other departments and been  
19 out as long as two years, and when they came back,  
20 they had to go through training in the Training  
21 Department, to basically get them back up to speed and  
22 learn everything that they did not get while they were  
23 gone.

24 So essentially, if I were put back into the  
25 -- if I were to receive the license and go back to the

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1 Operations Department, they would likely put me back  
2 in training. They would have me to basically learn  
3 every requalification training segment that I've  
4 missed, until I would be at a point that I would  
5 actually be back up to speed, to be able to sit shift.

6 I know that they would not put you directly  
7 back on shift. They would make sure that you were  
8 back trained, back to the level that was appropriate  
9 for you to go to shift.

10 JUDGE HAJEK: So you'd go into a typical  
11 requal program. The plant would administer a requal  
12 exam or you'd participate in a full requal program and  
13 exam program, and the plant would administer this and  
14 not the NRC?

15 MS. SMITH: That's correct.

16 JUDGE HAJEK: And if hypothetically, we find  
17 that you're not going to receive a license, then what  
18 is your expectation?

19 MS. SMITH: As far as going forward, as far  
20 as career-wise?

21 JUDGE HAJEK: Yes.

22 MS. SMITH: At that point, I will probably  
23 start looking for various openings throughout the  
24 plant, to see if there is any supervisor-type  
25 positions that may be a good fit for me.

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1 JUDGE HAJEK: Rather than staying in  
2 Emergency Preparedness?

3 MS. SMITH: Depending.

4 CHAIR SPRITZER: Have you had any  
5 discussions with Southern Nuclear Operating about  
6 possibly taking the exam a third time?

7 MS. SMITH: I have not spoken with them  
8 about it, no. I was told, when I initially failed my  
9 2012 exam, I was told that if I was interested, that  
10 they still saw my potential, and that they were  
11 willing to put me in the next class.

12 I pretty well told them that I felt that if  
13 there was a target on my back now, it's going to be  
14 there next year. So I elected not to go back to the  
15 class.

16 CHAIR SPRITZER: All right. I think now  
17 would be a convenient time for a break. I will have  
18 some further questions for you after the break. But  
19 why don't we take about a, well seven or eight minute  
20 break, and come back at -- try and get back by ten  
21 after 12:00. But we won't start without you.

22 (Whereupon, a short recess was taken.)

23 CHAIR SPRITZER: All right. I think we're  
24 ready to go back on the record. Ms. Smith, in  
25 connection with this proceeding, did you attempt to

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1 secure the testimony of Rick Brigdon, the individual  
2 you referred to previously?

3 MS. SMITH: I did not, Your Honor.

4 CHAIR SPRITZER: Any particular reason why  
5 you didn't?

6 MS. SMITH: I didn't really think that his  
7 testimony would aid me in the actual case.

8 CHAIR SPRITZER: Why not?

9 MS. SMITH: Really the only thing that he  
10 could speak on was the discussion that happened  
11 initially with the NRC, where they identified that  
12 they were not going to give me a waiver. But that's  
13 about all I felt that he could really respond to,  
14 because the later events, he was not the training  
15 manager in 2012, or for the 2012 class.

16 CHAIR SPRITZER: So the conversation or  
17 communication with the NRC that he was a party to  
18 about your not getting a waiver or not, being not  
19 likely to get a waiver, when approximately was that  
20 again?

21 MS. SMITH: After the test was over, the  
22 emails that I discovered were dated in August, August  
23 I believe.

24 CHAIR SPRITZER: Of 2011?

25 MS. SMITH: Of 2011, that's correct.

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1 CHAIR SPRITZER: All right. Let me ask you  
2 the same questions about Tim Harris. Did you attempt  
3 to secure his testimony for this proceeding?

4 MS. SMITH: I did not, Your Honor. Tim  
5 Harris was, he became the lead examiner in 2012, 2012,  
6 prior to us taking the 2012 exam. But I can't recall  
7 exactly when he took over. I felt that Perry Tucker's  
8 testimony would be more important, because he was the  
9 individual who actually prepared the documents.

10 CHAIR SPRITZER: And Greg Wainwright, did  
11 you attempt to secure his testimony for this  
12 proceeding?

13 MS. SMITH: I did not Your Honor, because  
14 during my questioning of Mr. Wainwright, he was very  
15 inconsistent, and each time that I asked questions, on  
16 several occasions he would change the subject.

17 He would talk about something different than  
18 what I actually asked, and it seemed like there was a  
19 lot of avoidance about providing any of the details  
20 that occurred with the conversation over the phone  
21 with the NRC.

22 CHAIR SPRITZER: And Mr. Tynan, T-Y-N-A-N,  
23 the vice president we talked about earlier?

24 MS. SMITH: Yes, Your Honor.

25 CHAIR SPRITZER: Did you attempt to secure

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1 his testimony?

2 MS. SMITH: I did not, Your Honor.

3 CHAIR SPRITZER: Why not?

4 MS. SMITH: Your Honor, Tom Tynan is the  
5 vice president. I mean I wasn't going to go and ask  
6 him.

7 CHAIR SPRITZER: All right. I think the  
8 answer to that's pretty obvious. And George Gunn,  
9 that's G-U-double N, who is he?

10 MS. SMITH: George Gunn was the training  
11 supervisor in 2011, and I did attempt to secure a  
12 statement from him, and he came back and expressed to  
13 me that he was not comfortable with providing me with  
14 a statement, and that he felt that he would have to  
15 basically have someone representing him from the NRC,  
16 not the NRC, I'm sorry, the SNC organization.

17 CHAIR SPRITZER: And you didn't pursue it  
18 after that?

19 MS. SMITH: I did not, Your Honor.

20 CHAIR SPRITZER: Did you ever have direct  
21 contact with the NRC regarding the possibility of a  
22 waiver for the 2012 operating exam?

23 MS. SMITH: I had absolutely no contact with  
24 the NRC.

25 CHAIR SPRITZER: So your comments today

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1 regarding communications between NRC and Southern  
2 Nuclear Operating about the possibility of a waiver,  
3 that's all based on secondhand information that you've  
4 gotten from other people?

5 MS. SMITH: Your Honor, I did go and I  
6 questioned several of the people in the Training  
7 Center, and when I spoke with each one of those  
8 individuals, that was the information that they did  
9 give me.

10 In conjunction with the actual emails that  
11 I secured, I know that before I actually went to  
12 through the FOIA process, that email where it was  
13 identified that they would not likely grant a waiver  
14 for me, that was provided to me by Rick Brigdon.

15 So I did go and speak with different people.  
16 I did get them to discuss different details about the  
17 information with me, but I felt that when I started  
18 getting some pushback as to writing statements, I  
19 pretty well just backed off.

20 JUDGE FROEHLICH: Yeah. I wanted to follow  
21 up with one question. How many African-American SROs  
22 are the plant at Vogtle?

23 MS. SMITH: Currently licensed or including  
24 previously, because everyone --

25 JUDGE FROEHLICH: Each way.

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1 MS. SMITH: Okay. I am aware of one  
2 African-American SRO currently, and I know that there  
3 is one other who was, excuse me, there were two others  
4 that were previously held active licenses, and they  
5 were black males.

6 JUDGE FROEHLICH: Okay, thank you.

7 MS. SMITH: Sure.

8 JUDGE HAJEK: I guess, so that's the SRO  
9 level. What about ROs?

10 MS. SMITH: ROs, there is one, just Rodney.  
11 I was trying to think if there was someone else, but  
12 Rodney's the only one, Mr. Waltower, excuse me.

13 JUDGE HAJEK: You know, that is rather  
14 surprising demographics to me. Should it be? It may  
15 matter or not matter. I guess that was just -- it  
16 should be an off the record statement. I shouldn't  
17 have made it. I am surprised.

18 JUDGE FROEHLICH: Judge Hajek, may I  
19 interrupt. How many, just while we're on  
20 demographics. How many females ROs are there?

21 MS. SMITH: One, and she was just licensed  
22 in the last class.

23 CHAIR SPRITZER: Do you know the total  
24 number of ROs?

25 MS. SMITH: I do not know.

1 JUDGE HAJEK: Maybe Mr. Turner or Mr.  
2 Waltower could give us those, since they're part of  
3 that.

4 MR. WALTOWER: I would give an approximate  
5 number of between 35 and 40.

6 JUDGE HAJEK: Total numbers?

7 MR. WALTOWER: That's correct.

8 JUDGE HAJEK: And SROs?

9 MR. WALTOWER: About the same.

10 JUDGE HAJEK: About the same. But all those  
11 SROs are not active in operations; is that correct?  
12 Some of them are engineers with other  
13 responsibilities; is that correct?

14 MR. TURNER: That's right.

15 CHAIR SPRITZER: Ms. Smith, you agree, do  
16 you not, that a passing score on one part of an  
17 examination does not automatically entitle an  
18 applicant to a future waiver of that part on a later  
19 exam?

20 MS. SMITH: I believe that if there is  
21 significant justification that can be backed up with  
22 factual data, that there is a possibility that you  
23 could turn down a waiver. But I do not think that if  
24 you just decided that because I feel like it, you  
25 should be able to turn down a waiver.

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1 I think it should have some significant  
2 information that should be backed up, and it shouldn't  
3 just be based on statements or things that can't be  
4 proven.

5 CHAIR SPRITZER: Now did you ever receive a  
6 written explanation from anyone as to why -- I take it  
7 what happened at some point is you were told your  
8 waiver application was not going to go through, in  
9 some way or other. Did you ever receive any kind of  
10 written explanation from anyone --

11 MS. SMITH: I did not, Your Honor. But I  
12 did have several people in the Training Department  
13 that I chose not to mention their names, because I  
14 wouldn't want them to be retaliated against.

15 But I did have several people in the  
16 Training Department that came up to me and identified  
17 that they did not understand why I was not receiving  
18 a waiver, and that that's the first time that they've  
19 seen this in 20-30 years.

20 CHAIR SPRITZER: In your Exhibit CCS-076,  
21 unfortunately I don't think I have a page number.  
22 This is a question that I did not prepare. In your  
23 Exhibit CCS-076, well you'll have to take my word for  
24 it; I did read this. It does appear somewhere in the  
25 document.

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1           You asserted that no additional contact was  
2           made with the NRC, in regard to a waiver for you after  
3           the August 2, 2011 email from Mr. Meeks to Mr. Gunn,  
4           the Vogtle Operations Training supervisor, in which  
5           the NRC stated that you were not likely to be granted  
6           an operating test waiver.

7           Do you still believe, based on everything  
8           you've seen in this proceeding, that there was no  
9           additional contact after that email?

10           MS. SMITH: Your Honor, that comment was  
11           made in response to statements that were written by  
12           the exam team members, and from my understanding it  
13           was Capehart and Bates' statement that actually said  
14           that we did not have any more contact.

15           So my assumption was that there was not any  
16           more contact that they were willing to admit to. Now  
17           do I believe that there were other conversations?  
18           Yes, I do. I believe that there were backdoor  
19           conversations that there is absolutely no  
20           documentation to prove.

21           CHAIR SPRITZER: Do you know what the  
22           substance of any those conversations was?

23           MS. SMITH: I can only provide hearsay for  
24           you.

25           CHAIR SPRITZER: Well, we're allowed to

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1 consider hearsay, so tell us what you know.

2 MS. SMITH: I was told -- I was told that  
3 they were, that basically it was identified that there  
4 was not enough time to assess my waiver, and that it  
5 could possibly affect the 2012 class overall, Hot  
6 License 17's overall class date, and that that could  
7 possibly be delayed because of my waiver.

8 CHAIR SPRITZER: I believe there's a  
9 statement in Mr. Tucker's testimony to that effect.  
10 Is that the individual you're referring to?

11 MS. SMITH: No, that is not the individual.  
12 Mr. Tucker, in his statement, he just spoke about the  
13 not being enough time. He did not include additional  
14 information beyond that.

15 CHAIR SPRITZER: Can you tell us, without  
16 the concerns that you mentioned previously, who the  
17 individual who told you this is?

18 MS. SMITH: I can. I am concerned, but I  
19 can tell you the name.

20 CHAIR SPRITZER: All right. Who was that?

21 MS. SMITH: It was Rob Dorman.

22 CHAIR SPRITZER: Okay. We don't have any  
23 testimony from him in this proceeding do we?

24 MS. SMITH: That's correct, and I felt that  
25 because it was hearsay, and that I could not prove it,

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1 I did not want to pursue trying to get a statement.  
2 I was trying to provide as much factual information as  
3 I could.

4 JUDGE HAJEK: Let me go back to the comment  
5 you made in that regard, that you were told that if,  
6 that your waiver or wavier request or waiver denial  
7 would, could affect the timing of the 2012 exam. Can  
8 you elaborate on that please?

9 MS. SMITH: I was just pretty well told that  
10 it could possibly delay it.

11 JUDGE HAJEK: Why?

12 MS. SMITH: Because it was going to take a  
13 lot of time for them to respond and to answer the  
14 requirements for that, and I didn't understand the  
15 origination of that comment either, because they have  
16 in --

17 The NRC procedure NUREG-1021 does have a  
18 statement in there, where it says if you do not have  
19 enough time to provide the information or to provide  
20 the documentation for denial of a waiver, that it is  
21 acceptable to contact the company and let them know  
22 that it's denied, and to send that documentation at a  
23 later date.

24 But from my understanding, there was a  
25 conversation that occurred that was basically saying

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1 that if we have to, if we, you know, if we have to  
2 evaluate her waiver, it will push the class off.

3 JUDGE HAJEK: Okay. So your understanding  
4 is strictly one relative to a need for documentation;  
5 is that correct?

6 MS. SMITH: That is my understanding, yes.

7 JUDGE HAJEK: Thank you.

8 CHAIR SPRITZER: Let me direct your  
9 attention to CCS-001. That's handwritten page 19, the  
10 page that got a handwritten number 19 down at the  
11 bottom. Here we go. Yeah, there we go.

12 Now in this email, Mister -- well the author  
13 identifies three potential retake applicants as  
14 individuals we are confident we will request an  
15 operating exam waiver, and then the author identifies  
16 three potential retake applicants, that "we are  
17 presently evaluated their status." Which group were  
18 you listed under?

19 MS. SMITH: I am listed under the group  
20 where they are evaluating the status.

21 CHAIR SPRITZER: And do you know why you  
22 were listed in the second group in this email?

23 MS. SMITH: Yes, Your Honor. This email  
24 spanned from the conversation that occurred with the  
25 NRC, where they identified initially verbally with

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1 Rick Brigdon that I would not be provided a waiver.

2 CHAIR SPRITZER: All right.

3 MS. SMITH: And later, as identified, two  
4 other individuals were later determined that they were  
5 also evaluating them, and those were the three people  
6 that was listed on that second half. All of those  
7 names were based on communications that came from the  
8 NRC.

9 CHAIR SPRITZER: Okay. But what was meant  
10 by "we are still evaluating these individuals"?

11 MS. SMITH: I don't know. I did not write  
12 the email, as far as the way that he worded it. But  
13 the three individuals in the second portion were the  
14 people who were identified by the NRC examiners,  
15 excuse me.

16 CHAIR SPRITZER: Oh this -- now wait a  
17 minute. I don't remember seeing an exhibit where the  
18 NRC identified those three individuals. This is the  
19 first of all exhibits in the time line that I recall  
20 having seen, that separates these folks into two  
21 groups.

22 MS. SMITH: Can I speak? May I speak?

23 CHAIR SPRITZER: Yes.

24 MS. SMITH: Okay. The two -- the second,  
25 the other two individuals, they were identified, as I

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1 stated initially, I was verbally identified first, and  
2 then later they came back, or the NRC examiners came  
3 back and identified two additional names.

4 My understanding is it was, I guess, all  
5 through communication. But I'm sure that Rodney and  
6 Mr. Waltower and Mr. Turner can testify that those  
7 other two individuals were placed on a class just like  
8 me, and they were actually put in first.

9 CHAIR SPRITZER: Did they ultimately receive  
10 waivers?

11 MS. SMITH: When they, my assumption is is  
12 that when this email came out, where they identified  
13 that they were willing to give them those waivers,  
14 then they pulled those guys out of that class and I  
15 remained in.

16 CHAIR SPRITZER: Do you believe that the  
17 written examination score is relevant when evaluating  
18 an operating test waiver request?

19 MS. SMITH: Repeat? Can you repeat the  
20 question again?

21 CHAIR SPRITZER: Do you believe that the  
22 written examination score is relevant when evaluating  
23 an operating test waiver request?

24 MS. SMITH: Well obviously, the NRC has  
25 identified on numerous occasions that there's no

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1 documentation or documented criteria for identifying  
2 when you receive a waiver. So I mean that's pretty  
3 well an open-end question.

4 I do believe that, you know, if you are  
5 considering submitting a waiver and you have some  
6 issues or you're trying to determine if the individual  
7 should receive a waiver, I don't see any issues as to  
8 looking at the grades and how that individual panned  
9 out among the group. I don't see it being a problem,  
10 no. Would it be the ultimate reason? No, absolutely  
11 not. But --

12 CHAIR SPRITZER: Have you seen in NUREG-1021  
13 and specifically in ES-204, the statement that "If  
14 additional information is required to reach a decision  
15 on a waiver request, the regional office shall  
16 generally request the necessary information from the  
17 facility licensee, in accordance with ES-202." Have  
18 you seen that statement?

19 MS. SMITH: I have seen that statement.

20 CHAIR SPRITZER: What do you understand that  
21 to mean?

22 MS. SMITH: That is, if you are evaluating  
23 the, or my assumption is that if you're evaluating if  
24 an individual should receive a waiver, and if you  
25 wanted to look at additional information that maybe

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1 the facility had to help you make your decision, then  
2 you would certainly have the right to contact them and  
3 say hey, can you provide whatever X amount or whatever  
4 documents that it is that you choose to make your  
5 decision.

6 CHAIR SPRITZER: Do you believe this  
7 language would authorize the NRC, if it received a  
8 complete preliminary application, to contact the  
9 license and ask did you really mean to submit this  
10 preliminary application?

11 MS. SMITH: I do not believe that that's  
12 what that means.

13 CHAIR SPRITZER: Why not?

14 MS. SMITH: Because I think that when you  
15 initially, if you look at NUREG-1021, there is a  
16 portion of NUREG-1021 that identifies when you receive  
17 the 30-day preliminary application, that's the moment  
18 when you actually start the evaluation for the waiver.  
19 Once the waiver evaluation starts, at some point if  
20 you have questions, that is when I would think that  
21 that comment would be applicable.

22 I think that basically, that statement is  
23 trying to -- there's an attempt to fit it to mean  
24 something that it actually doesn't.

25 CHAIR SPRITZER: Now I believe you've

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1 indicated in your pre-filed testimony that it would be  
2 appropriate or more appropriate to compare applicant  
3 performance, that is to compare the performance of  
4 different applicants, in a way that accounts not only  
5 for the number of comments they received, but also the  
6 number of simulator scenarios that were administered  
7 to each individual.

8 MS. SMITH: Uh-huh.

9 CHAIR SPRITZER: Is that a fair statement?

10 MS. SMITH: I think it is. I think that if  
11 an individual receives two scenarios and I'll just  
12 make up an example, excuse me. I'll make up an  
13 example.

14 Say if you have two candidates, and both  
15 candidates, for argument's sake, complete two  
16 scenarios. Let's say that they both acquire ten  
17 comments each, and for argument's sake, let's say that  
18 those ten comments are the exact same comments.

19 If one of those individuals receives another  
20 scenario, and they receive two additional comments,  
21 and it causes a failure, there's nothing in the  
22 procedure that is going to allow you to say well  
23 technically, when the two scenarios were completed,  
24 these individuals were in the same place.

25 But because this one had an extra scenario,

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1 they acquired more comments. There's nothing that  
2 protects anyone from that. Basically, if you get an  
3 extra scenario, you're susceptible to more comments.

4 So if you want to make a consideration and  
5 a comparison, you might want to look at just how many  
6 scenarios that individual had, because if someone had  
7 two and they acquired a certain number of comments,  
8 and obviously, if you get another one then there's  
9 more opportunity to receive more comments.

10 So I would think that that would be  
11 important to take into consideration.

12 CHAIR SPRITZER: Okay.

13 JUDGE HAJEK: Well, I'm going to agree and  
14 disagree. I do agree that if you have more scenarios,  
15 you have the potential for getting more comments.  
16 Doesn't really matter exactly what those comments are,  
17 and how they are placed in the grade sheet relative to  
18 what RFs they're applied to.

19 So you could have an additional set of  
20 comments that, you know, maybe get put into Competency  
21 6 and there were no other, which is I think tech  
22 specs, is that correct? So maybe you had no other  
23 tech spec issues, and so they're put into Competency  
24 6, and they just don't have any effect on the overall  
25 score that you get on your simulator exam. You'd

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1 still pass.

2 MS. SMITH: That is a possibility Your  
3 Honor, but please take into consideration, in  
4 reference to this particular case, my entire complaint  
5 is about the fact that I received comments that I  
6 shouldn't have received, and that some of these  
7 comments were fit into the same location, for the  
8 purpose of accumulating enough points to cause a  
9 failure.

10 So I mean I understand your point of view,  
11 and I agree to a certain extent. But that's also  
12 based on an individual that's absolutely impartial and  
13 unbiased to the individual.

14 CHAIR SPRITZER: Now you told me that you  
15 think one appropriate way to take account of comments  
16 is to divide by the number of administered simulator  
17 scenarios. Can you explain how you believe that  
18 approach should be applied in your case?

19 MS. SMITH: Your Honor, I was simply  
20 providing some different examples of how you can break  
21 down the numbers and make different comparisons. It  
22 wasn't necessarily geared towards making or saying  
23 that this is the way everything needs to be compared.

24 But I was basically just trying to point out  
25 that that chart, the way that it's made, it doesn't

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1 take into account the number of scenarios, and it  
2 doesn't take into account the number of competencies.  
3 So again, as an SRO, I'm graded in six competencies.  
4 But an RO is graded in four competencies.

5 So again, if I'm graded in more areas, it's  
6 a possibility that again, I can receive more comments.  
7 And, because if I'm graded in three scenarios versus  
8 two scenarios, then again, more opportunity to receive  
9 more comments.

10 The comparison that I was basically making  
11 was saying okay, if you have an individual that  
12 receives three scenarios, and this individual has two  
13 scenarios, and if you're -- excuse me, using this to  
14 take into consideration whether to grant a waiver,  
15 then there needs to be some comparisons of how  
16 everything averages out, versus just saying oh, I'm  
17 just going to count the comments.

18 Because basically, from my perception, it  
19 looks as if my waiver evaluation was handwritten or  
20 hand-fit or tailored to whatever my situation was. I  
21 believe that if I would have not received that many  
22 comments, but it had been an issue with grades, they  
23 would have shined the spotlight in a different area.

24 So I think it was simply a matter of just  
25 deciding where they wanted to point the light, and say

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1 yep, that's the detail that we're going to go after.  
2 But you know, I'm just basically saying that, you  
3 know, it should be taken into consideration, the  
4 number of scenarios.

5 A and B can't be compared if there was some  
6 differences. They can't be compared side by side.  
7 You've got to make some changes or some adjustments to  
8 the numbers to make it fair is what I'm saying.

9 CHAIR SPRITZER: You referred in your answer  
10 to a chart. Without too much difficulty, can you tell  
11 me what chart you're talking about?

12 MS. SMITH: I'm not sure what chart you're  
13 talking about. What --

14 CHAIR SPRITZER: I think in your last  
15 answer, you referred to a chart or a chart that  
16 apparently was comparing your number of comments with  
17 that of other people, other applicants.

18 MS. SMITH: Yes. Let's see. I think that  
19 it's the NRC-008 waiver spreadsheet. NRC-008.

20 CHAIR SPRITZER: Okay. There we go.

21 MS. SMITH: Yes.

22 CHAIR SPRITZER: All right. Let's look at  
23 another document. That's your table CCS-003, and it  
24 looks like the, taken as an average score for you on  
25 the simulator is 2.47. Am I reading that correctly?

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1 MS. SMITH: That's correct, Your Honor.

2 CHAIR SPRITZER: Are you aware of any SRO  
3 instant applicant being granted a waiver with an  
4 operating test score of 2.47 or below?

5 MS. SMITH: Your Honor, I am not aware, but  
6 I also noticed that on their chart that there's some  
7 missing data for SRO instance, and I don't know why  
8 that data's not there. But keep in mind as well that  
9 again, my complaint is that I received comments that  
10 I should not have been receiving, and this is also in  
11 2011.

12 CHAIR SPRITZER: We're just talking about  
13 the grading right now. It looks like their Operator  
14 A and B, I take it their average scores are 2.55 and  
15 2.58?

16 MS. SMITH: Not A and B. Well yes, you're  
17 right. I'm sorry. You are correct.

18 CHAIR SPRITZER: Those are reactor operator;  
19 that is, RO applicants?

20 MS. SMITH: That's correct, Your Honor.

21 CHAIR SPRITZER: And it looks like they did  
22 receive waivers?

23 MS. SMITH: They did, Your Honor.

24 CHAIR SPRITZER: All right, and I take it  
25 you received 12 comments on the simulator part of the

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1 2011 exam?

2 MS. SMITH: That's correct, Your Honor.

3 CHAIR SPRITZER: Do you know of any other  
4 applicant who received that many comments?

5 MS. SMITH: I do, Your Honor. It was the  
6 individual that failed the operating test that year.

7 CHAIR SPRITZER: Oh, okay. Anyone else?

8 MS. SMITH: No, Your Honor.

9 CHAIR SPRITZER: Okay. Now I understand  
10 your point about you think you, you feel that you were  
11 graded on, or that some or all of the comments were  
12 inappropriate or unfair. Apart from that, is there  
13 any other reason that you feel your performance was  
14 comparable to others who had been granted a waiver in  
15 the past?

16 MS. SMITH: I think that I pointed out an  
17 operator on CCS-071, which was a reactor operator, and  
18 that individual received eight comments. The  
19 spreadsheet does not identify how many scenarios that  
20 individual had.

21 So if you were to assume that he had two  
22 scenarios, then you could very well divide that number  
23 and determine that we both averaged about the same.  
24 And if you were to also take into consideration the  
25 number of competencies, you would still find that we

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1 averaged the same.

2 That individual that was granted a waiver  
3 was actually graded by two of the individuals that  
4 were a part of my exam team.

5 CHAIR SPRITZER: You said this was in an  
6 exhibit?

7 MS. SMITH: CCS-071. Let me see if I can  
8 find the page number. I want to say that it's about  
9 page 95, maybe a little bit further, but somewhere  
10 along in there. It's on page 94, and he received  
11 eight comments. If you go to page 91, you can see who  
12 the exam team was.

13 CHAIR SPRITZER: On a different subject, in  
14 your pre-filed testimony, you assert that Examiner  
15 Bates was assigned to C. Smith for the simulator  
16 portion, and was included/present in discussions about  
17 C. Smith and her 2011 performance.

18 On what basis do you assert that Mr. Bates  
19 was present in discussions about your 2011  
20 performance?

21 MS. SMITH: This is based on the  
22 documentation that was provided by the NRC in emails.  
23 Let me see if I can actually locate that information.

24 (Witness reviewing documents.)

25 MS. SMITH: Excuse me. If you look at page

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1 one of CCS-001, you will see on the paragraphs that  
2 starts of "On June 7th, 2011," basically they were  
3 talking about the issue with the email talking about  
4 the waiver.

5 You'll see that it says, and this was a  
6 statement, I believe, from Michael Meeks, it says that  
7 after receiving this email, M. Meeks consulted with P.  
8 Capehart, J. Hopkins, M. Bates and M. Widmann, to  
9 formulate a consolidated response from the region."

10 That sounds like he was a part of that  
11 group, and in addition, if you were to go to page 25,  
12 and this is just to point out that there was obviously  
13 some type of conversation. He does say right there,  
14 where it says "Sorry to get, to be so long getting  
15 back to you. I have checked with Mark Bates and  
16 Malcolm, and have preliminary answers for you."

17 CHAIR SPRITZER: Is it your position that it  
18 was unreasonable for Mr. Bates to serve as your  
19 examiner of record on the 2012 exam?

20 MS. SMITH: I do think it was inappropriate,  
21 based on the conversations or the involvement with the  
22 exam team members. I do not believe that he was  
23 allowed to be separate and independent. I believe  
24 that he was included in correspondence that maybe he  
25 should not have been included in.

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1 CHAIR SPRITZER: If Mr. Bates had been part  
2 of a team that included two individuals who hadn't  
3 examined, been a part of an examination team for you  
4 previously, would you have had any problem with his  
5 being on the team for 2012?

6 MS. SMITH: Obviously, Your Honor, I had no  
7 knowledge of Mark Bates prior to my examination. I  
8 would not have had a problem with him being my  
9 examiner. I actually didn't have a problem with him  
10 being my examiner this year.

11 It was not until I found out that there was  
12 obviously more contact than I was aware of, which  
13 would explain why there was so many discrepancies in  
14 my write-up.

15 CHAIR SPRITZER: Did you ever overhear any  
16 statements made by any individual on the examination  
17 team, I think this is referring to 2012, indicating  
18 they planned to treat you differently from other  
19 applicants?

20 MS. SMITH: Obviously not. But I've never  
21 met anyone that has said that when they did.

22 CHAIR SPRITZER: All right. Do you assert  
23 that the examination team was biased against you due  
24 to your performance on the 2011 examination? That is,  
25 are you asserting that the 2012 examination team was

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1 biased against you due to your performance on the 2011  
2 examination?

3 MS. SMITH: I cannot answer that question,  
4 Your Honor. I think that that's a question that would  
5 be better asked to actual exam team. I would just be  
6 speculating.

7 CHAIR SPRITZER: All right. I'm going to  
8 refer back to Scenario 7, Event 5. This is in our  
9 2012 operating exam. Description of this event is  
10 "Pressurizer pressure transmitter PT-456, fails high,  
11 resulting in PORV 456 opening with a failure of the  
12 block valve to auto close." Does this ring a bell  
13 with you?

14 MS. SMITH: It does, Your Honor.

15 CHAIR SPRITZER: Do you agree that you  
16 incorrectly operated the PORV hand switch?

17 MS. SMITH: I did take it to the wrong  
18 direction, Your Honor.

19 CHAIR SPRITZER: And that resulted in the  
20 PORV not closing?

21 MS. SMITH: That is correct, Your Honor.

22 CHAIR SPRITZER: Do you believe that closing  
23 the PORV was or was not safety-significant?

24 MS. SMITH: I think that that may be a  
25 question that would be better directed to an

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1 individual with a lot more experience than myself. I  
2 do think that it is of some safety significance, yes.  
3 But as far as providing every level of detail about  
4 it, I'm obviously at an initial license level. So --

5 CHAIR SPRITZER: Do you believe that closing  
6 the PORV lacked proper queuing?

7 MS. SMITH: No, I don't, Your Honor.

8 CHAIR SPRITZER: Do you believe that closing  
9 the PORV did not contain measurable performance  
10 indicators?

11 MS. SMITH: I do believe that the measurable  
12 performance indicators were not identified, once this  
13 comment was changed to critical. So when I asked that  
14 question, I pretty well said that hey, this does not  
15 provide this information.

16 Which means that you have to at least  
17 identify some criteria to say what is considered the  
18 correct or incorrect answer to meet the criteria for  
19 a critical comment. But I mean this, these questions  
20 are in reference to information that was changed in  
21 post-exam.

22 So I've not seen any written documentation  
23 that talked about the operation of a PORV and it being  
24 incorrect. As far as the way that the testing outline  
25 is written today or initially, it was written to say

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1 that the PORV was supposed to be taken to the closed  
2 position. If it's not taken to the closed position,  
3 that is a comment.

4 CHAIR SPRITZER: Do you believe that you  
5 were not provided with performance feedback concerning  
6 the PORV?

7 MS. SMITH: I do believe that the feedback  
8 occurred, but as the feedback occurred I was  
9 corrected, before even having an opportunity to catch  
10 my own error.

11 CHAIR SPRITZER: Can you explain, keeping in  
12 mind that I'm lawyer, not a nuclear operator --

13 MS. SMITH: Sure Your Honor.

14 CHAIR SPRITZER: --what that means?

15 MS. SMITH: Sure. Feedback, being that you  
16 would get some type of response, to let you know that  
17 the incorrect action actually occurred.

18 I did take the PORV to the incorrect  
19 position, but please keep in mind that that was also  
20 while I was in progress of doing an important  
21 manipulation prior to, that no other crew seemed to  
22 have experienced.

23 So I was obviously the only crew that had a  
24 simultaneous failure, and irregardless of that, I was  
25 willing to be accountable for the error that I did

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1 make. But I think in an example that the NRC  
2 provides, they talk about an individual who did not  
3 close a PORV.

4 But that individual had seven minutes where  
5 they didn't know that the PORV was opened. I was not  
6 granted seven minutes. Mines was within seconds.

7 JUDGE HAJEK: Let me follow up on that just  
8 a little bit. So independent of how many minutes or  
9 seconds, your intent was to close the PORV?

10 MS. SMITH: Initially, I did make the error.  
11 I did not recognize that I had made the error, and  
12 before I recognized it, I was corrected.

13 JUDGE HAJEK: I'm sorry. Let me ask my  
14 question all over again. When you went to manipulate  
15 the PORV, was your intent to close the PORV?

16 MS. SMITH: It was.

17 JUDGE HAJEK: Okay, and so you operated the  
18 control device for closing the PORV in the wrong  
19 direction?

20 MS. SMITH: That is correct.

21 JUDGE HAJEK: Okay, and when you did that,  
22 I understand what you said, that you were corrected by  
23 another crew member.

24 MS. SMITH: Right.

25 JUDGE HAJEK: So you were watching what

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1 instrumentation and what indications, to observe for  
2 yourself the necessary queues, to know whether or not  
3 you were taking the right action?

4 MS. SMITH: I was in progress of performing  
5 immediate operator actions, which requires three  
6 steps. The first step is to close the sprays. That  
7 takes, I would probably guess maybe six to ten seconds  
8 to do.

9 You actually first the controller. It takes  
10 a little bit for the valve to actually close. The  
11 second one is to go over and manipulate the PORV in  
12 the closed position, and then from there you go over  
13 and you operate the heaters.

14 I went over, I manipulated the sprays. I  
15 went over, closed or thought that I was closing the  
16 PORVs. Obviously, I was startled by the fact that I  
17 was doing something else and received another failure.  
18 So it was actually quite startling, and I think that  
19 that's why I made the mistake.

20 Then after that, I immediately went and took  
21 the heaters to the on position. So I was actually  
22 going from this step to this step to this step, and  
23 then at that point, that was when I was corrected. So  
24 it was not a matter of I manipulated the hand switch  
25 and stared at a gauge.

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1           No, that's not what happened. I was in the  
2 progress of performing immediate operator actions,  
3 which are required for certain failures. I was  
4 completely the last step of that, and then at that  
5 time typically is when, you know, you take the time to  
6 kind of look at it.

7           I'm not saying that you would not look at it  
8 as you're doing it. I'm just saying that immediate  
9 operator actions are intended to be performed in an  
10 expedient manner.

11           JUDGE HAJEK: Okay. The hit is on  
12 manipulation of the PORV?

13           MS. SMITH: That's right, and I do not  
14 disagree with that hit.

15           JUDGE HAJEK: Okay. I'm just trying to  
16 understand. I understand that it was done in a series  
17 of operations.

18           MS. SMITH: That's correct.

19           JUDGE HAJEK: And that there were other  
20 parts to that series besides just closing the PORV?

21           MS. SMITH: That's right.

22           JUDGE HAJEK: Okay. But I want to make sure  
23 that I understand, that your intent was to close the  
24 PORV?

25           MS. SMITH: It was, and I did express that

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1 to my examiner.

2 JUDGE HAJEK: Okay, and when -- now I'm not  
3 familiar with the control. So how do you? What does  
4 it look like?

5 MS. SMITH: It is simply the hand switch  
6 itself looks like a small rectangle, about like that  
7 (gesturing), and you basically have a hand switch  
8 which looks like a little T handle, I guess you can  
9 say.

10 JUDGE HAJEK: So does it rotate?

11 MS. SMITH: It either will go this way or  
12 this way (gesturing).

13 JUDGE HAJEK: Okay.

14 MS. SMITH: And the plate says "Open/close."  
15 So it was obvious, I mean obviously I can read, and I  
16 know what the word "open and close" is. I think it  
17 was just simply as I said, a matter of being startled,  
18 and the fact that I was moving from one important  
19 manipulation to quickly having to respond to something  
20 else.

21 JUDGE HAJEK: Okay. This particular switch,  
22 is it a throttle valve or is it a --

23 MS. SMITH: It is an open/close.

24 JUDGE HAJEK: Open/close. So you took it to  
25 open instead?

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1 MS. SMITH: That's correct.

2 JUDGE HAJEK: And the PORV was already open?

3 MS. SMITH: That's right.

4 JUDGE HAJEK: And so your action, there's a  
5 lot of emphasis on competencies and consequences. In  
6 this particular case your action or incorrect action  
7 had to no consequence, because the PORV was already  
8 open; is that correct?

9 MS. SMITH: Your Honor, it would have still  
10 required that the path would have had to be closed,  
11 and I did identify, during the examination -- well,  
12 maybe I should step back and do a better explanation.

13 Let's imagine that we have a piece of  
14 piping, and that you have the PORV here, and then you  
15 have what they call the block valve in front of it,  
16 and let's say that normally, the block valve is left  
17 in the open position, and the PORV opens.

18 To close or isolate that path, you would  
19 have to close the PORV. If you do not close the PORV,  
20 there's still another valve that you can close, which  
21 is the block valve, because it's on the same piece of  
22 piping.

23 Well, I did fail to take the PORV to the  
24 correct position, because it was responding to an  
25 instrument error, and in the examiner's notes, they

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1 identified that I pointed out that the block valve did  
2 not operate as it should have, because when the  
3 pressure drops, at 2185 the block valve will  
4 automatically close.

5 But because a failure, which was initiated  
6 as a part of the exam itself, it failed to take it to  
7 the closed position to isolate that path off. But I  
8 did identify that the block valve did not operate  
9 properly, and the next action typically is to take it  
10 to whatever its automatic function is expected.

11 But I was corrected prior to having to  
12 manipulate that block valve, and the PORV ended up, I  
13 ended up taking it to the correct position, because I  
14 as corrected. But it does show that I was competent  
15 enough to identify that the block valve did not do  
16 what it was supposed to, but there was not an  
17 opportunity to challenge or assess if I was actually  
18 going to close it.

19 So they're going to have to make more than  
20 one assumption, outside of saying "Oh, she would have  
21 never closed the PORV." No, you have to make the  
22 assumption that she would have never closed the PORV,  
23 and that she would never close the block valve. You  
24 cannot make that assumption without additional  
25 information. It would have had to been an opportunity

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1 for me to have to manipulate the block valve, and that  
2 opportunity was not there.

3 JUDGE HAJEK: Okay. I think there are two  
4 different issues. Okay, I understand the sequence  
5 that you described.

6 MS. SMITH: All right.

7 JUDGE HAJEK: Trying the first -- if you  
8 could not have closed the PORV, you would have gone  
9 and -- I understand that, in what you have said, that  
10 if you had failed to close the PORV, then you would  
11 have moved on to try to close the block valve.

12 MS. SMITH: That's right.

13 JUDGE HAJEK: But the issue is whether or  
14 not you took the PORV control switch to the open or  
15 the closed position. You took it, you say that you  
16 took it to the open position, and you recognized that  
17 once one of your crew mates told you that whoops, Ms.  
18 Smith, you took it to the open instead of the closed,  
19 and then you corrected yourself and you took it to the  
20 closed. Is that a fair description of what happened?

21 MS. SMITH: Yeah, I was corrected, and then  
22 I took it to the correct position, that's right.

23 JUDGE HAJEK: Okay. So I want to go back to  
24 the safety significance, an issue that you sort of  
25 declined to answer. But there is a safety, it seems

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1 to me a relatively easy safety significance issue, the  
2 safety significance being that there was an RCS leak,  
3 yes, and that failing to close the PORV would have  
4 continued that leak. It would not have stopped the  
5 leak.

6 So the safety significance, as I'm looking  
7 at it, is that the PORV not being closed, permitted  
8 the leak to continue. Now I'm going to guess -- I'm  
9 not a PWR specialist, but I'm going to guess the PORV  
10 is, the flow path is the PORV flow is going into a --

11 MS. SMITH: A tank.

12 JUDGE HAJEK: A tank, right.

13 MS. SMITH: Right, and the tank would have  
14 --

15 JUDGE HAJEK: What do you call that tank?

16 MS. SMITH: It is the PRT.

17 JUDGE HAJEK: The PRT, pressure relief tank.

18 MS. SMITH: That's right.

19 JUDGE HAJEK: Okay. So as long as the PORV  
20 is going into that tank and the relief valve and the  
21 tank isn't blowing, you really don't have a leak yet.  
22 It's not until the relief valve and the tank actually  
23 blows. But that might have happened had you not  
24 stopped the leak path, and you had two ways to stop  
25 the leak path. Close the PORV or close the block

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1 valve.

2 So what I understand you to be saying is you  
3 attempted to close the PORV. You attempted in the  
4 wrong direction and a crew member saw that you did  
5 this, and said take the switch to the other position,  
6 before you had a chance to react. Is that what you're  
7 saying?

8 MS. SMITH: That's correct, Your Honor.

9 JUDGE HAJEK: And so because the correction,  
10 you're saying the correction made -- you made the  
11 incorrect error. The correction came too fast for you  
12 to self-correct?

13 MS. SMITH: Yes, Your Honor.

14 JUDGE HAJEK: And that's end of story?

15 MS. SMITH: Yes, Your Honor. I think that  
16 had I been allotted more time, that I would have  
17 pointed out the discrepancy myself. Like I said, I  
18 did identify that the block valve did not close as it  
19 was expected to --

20 JUDGE HAJEK: You said before you took the  
21 action on the PORV?

22 MS. SMITH: I think it was right around the  
23 same time as I was being corrected.

24 JUDGE HAJEK: So you took action on the  
25 PORV. You took incorrect action on the PORV. So I'm

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1 over here with my left hand. I'm closing the PORV and  
2 I'm noticing that the block valve -- so you have  
3 another indication.

4 Is the block valve indication really close  
5 to the PORV location, so that you can see these two  
6 and the red/green lights and everything?

7 MS. SMITH: They are located under each  
8 other. So you have one switch on top, one switch is  
9 on the bottom, and as I said --

10 JUDGE HAJEK: So you were taking action on  
11 the PORV, and you're scanning the panel and you see  
12 oh, and you said verbally, you voiced it out loud,  
13 that the block valve had not closed?

14 MS. SMITH: Yes, Your Honor, I did.

15 JUDGE HAJEK: So you're taking action on the  
16 PORV. You're verbalizing the block valve is not  
17 closed, and a crew mate said Carla, you have to go to  
18 the other direction?

19 MS. SMITH: Your Honor, can I kind of  
20 clarify, because I kind of hear you saying, "as you  
21 were taking action." I'm assuming that you are  
22 talking about the initial action, in which I took it  
23 in the wrong direction. Is that what you're speaking  
24 of?

25 JUDGE HAJEK: Yes.



1 MS. SMITH: Okay, yeah. As I did the  
2 initial action and took it in the wrong direction, I  
3 was corrected by a crew member and as I was being  
4 corrected by him, I had not taken the action to close  
5 the valve at that time. It's kind of like if I'm  
6 talking to you right now. I would talk to you, then  
7 you would perform the action.

8 But as he was telling me that information,  
9 I noticed that the block valve did not do what it was  
10 supposed to, but I was already corrected. So then my  
11 next action was to take the PORV in a correct  
12 direction.

13 JUDGE HAJEK: Okay, I understand. Thank  
14 you.

15 MS. SMITH: Sure.

16 CHAIR SPRITZER: I'm going to now ask you a  
17 question or two about Scenario 7, Event 3 I believe it  
18 is, and the description of this event is TE-0130,  
19 fails low. Loss of cooling to let down heat  
20 exchanger. Does that ring a bell with you?

21 MS. SMITH: It does, Your Honor.

22 CHAIR SPRITZER: Can you explain what you  
23 meant when you stated during this event, "The only  
24 thing we can do is call Clearance and Tagging to get  
25 the temperature element fixed." Well, let me ask you

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1 first, do you remember that statement?

2 MS. SMITH: I do remember that statement,  
3 Your Honor.

4 CHAIR SPRITZER: Okay, and can you explain  
5 what you meant by that?

6 MS. SMITH: Your Honor, initially when we  
7 received this failure, and it may be good to point out  
8 one of my exhibits to better explain this. It's the  
9 exhibit where I point out the layout of the control  
10 room. Let's see if I can find that.

11 MALE PARTICIPANT: 056.

12 MS. SMITH: Thank you. CCS-056. There you  
13 go. All right. If you notice, the circle has the  
14 words "OATC" written in them. The star, which that is  
15 to designate the SS, which was the supervisor, and  
16 that star is over a desk that's located on a platform.

17 You will see the original location of the UO  
18 to the right-hand side, the box that's not filled in.  
19 When we received the failure, you'll see like a yellow  
20 burst that shows about where that TE controller is  
21 located. Let me kind of explain the different zones.

22 I've got C panel written right there.  
23 Typically, the OATC takes care of the C panel and the  
24 panel to the adjacent, the adjacent panel to the left,  
25 which is the lines for that structure that encompasses

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1 that little burst, okay. The UO typically will take  
2 care of the panels to the right of the Charlie panel,  
3 and the next panel over and the UO also takes care of  
4 the two boxes on the other side.

5 That's usually, we usually have zones.  
6 That's not to say that one or the other cannot respond  
7 to the other one. But typically, when you are  
8 monitoring those panels, those are your areas that you  
9 typically will take care of.

10 I received the TE-0130 failure. I went  
11 over. So I walked from the Charlie panel to the  
12 adjacent panel to the left. I responded to the  
13 annunciators, acknowledged it, announced it to the SS  
14 and said we've just had a failure. You know, I don't  
15 recall the exact words that I used, but I identified  
16 the alarms and that we had received a failure.

17 At that point, I had not started to diagnose  
18 yet. I simply went over, which the first thing that  
19 we're taught, which is to silence the alarms and then  
20 announce them. So I silenced the alarms, announced  
21 the alarms and was told to go back and monitor  
22 reactivity, which is located at the Charlie panel,  
23 which is where the circle is located for the OATC.

24 Now please keep in mind this entire control  
25 room is not very large, so the entire control room is

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1 in the same vicinity. But as far as zones, this is  
2 the way all the areas are taken care of. Now this was  
3 technically on my panel, so I felt that it should have  
4 been my failure. But as a direction from the SS, I  
5 was told to go back to the Charlie panel.

6 I went to the Charlie panel. The UO walked  
7 over to the area in front of the TE-0130. If I  
8 understand correctly, I think I recall that he pulled  
9 the ARP, which is an annunciator response procedure.  
10 Annunciator response procedure is basically you look  
11 at which alarms came in, and it will help you to  
12 diagnose and figure out what the potential problems  
13 are that's going on.

14 He pulled out the ARP. He was looking to  
15 figure out what actually occurred, and while he was  
16 looking for a justification or a diagnosis of what was  
17 going on, and this was fairly quickly, I kind of  
18 leaned over to the SS and said you know hey, you  
19 realize that the failure is on TE-0130.

20 He looked at it, and he kind of starts  
21 shuffling through some papers, and we have what you  
22 call abnormal, abnormal operating procedures, and that  
23 basically is just going to deal with when you have  
24 different failures, but it's not necessarily an  
25 emergency type condition. It could be, but for the

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1 most part it's just to deal with failures and how to  
2 basically address them, and get the plant in a stable  
3 condition until it's actually fixed.

4 So we kind of start shuffling around a  
5 little bit, and my assumption was that he was thinking  
6 that the information for that particular controller  
7 was in an AOP. I knew that it was not in an AOP, so  
8 I was pointing it out to him and saying no. The only  
9 way that you can get that fixed is by calling C&T.

10 So that was pretty well what the comment was  
11 based on. At that time, I was assigned to do  
12 something else.

13 CHAIR SPRITZER: Were you aware that there  
14 is an associated abnormal operating procedure for this  
15 condition?

16 MS. SMITH: There is not, to my knowledge,  
17 a procedure that addresses this, and I knew that,  
18 because I was a part of Hot License 16, and this was  
19 constantly drilled in our heads, because we had people  
20 that would receive the exact same failure, and they  
21 would go looking for an AOP, and there was none there,  
22 and we were specifically told by our Training  
23 Department that there's no AOP for this one.

24 You've just got to know to do this or you  
25 may have to handle it this way. But we were basically

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1 taught from our previous class. Now obviously, I  
2 would have had different exposure than some of the  
3 people did in 16 in my systems versus their systems.

4 So that's why I knew it, and I knew that  
5 that was not associated with an AOP. Now if something  
6 has been added post-exam, I don't know about that.  
7 But during the time that we were taking our exam, that  
8 was not in an AOP. Now I'm not talking about an ARP;  
9 I'm talking about an AOP, two different things.

10 CHAIR SPRITZER: What is an ARP?

11 MS. SMITH: ARP is the annunciator response  
12 procedure. That is the document that you would pull  
13 when you receive the alarm. AOP is the document  
14 that's typically ran by the shift supervisor.

15 So typically when a condition exists, the  
16 shift supervisor will pull out an abnormal operating  
17 procedure, to ensure that the plant is stable. ARP is  
18 just looking at that specific failure.

19 CHAIR SPRITZER: I think we'd better stop at  
20 this point, so can we get back by 2:15 to contact Mr.  
21 Tucker at 2:30. Have you had any contact with him  
22 since this morning? Do think you think -- well, is he  
23 going to be ready at 2:30?

24 MS. SMITH: I have not -- the last time I  
25 spoke with him was I think Thursday evening.

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1 CHAIR SPRITZER: Right. Well, it would be  
2 a good idea to call him immediately, immediately,  
3 confirm that he will be available at 2:30, because  
4 that's our target for calling him. We will be  
5 contacting him. He doesn't have to call anywhere.

6 MS. SMITH: Okay.

7 CHAIR SPRITZER: And I don't think he needs  
8 to do anything other than answer the telephone, and we  
9 have everything, we'll have everything set up to put  
10 him on the speaker phone. Okay, very good. Let's  
11 break for lunch now. It's now 1:15. Everyone do  
12 their very best to be back by 2:15.

13 (Whereupon, at 1:15 p.m., a luncheon recess  
14 was taken.)

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1 A F T E R N O O N S E S S I O N

2 2:26 p.m.

3 CHAIR SPRITZER: We are going back on the  
4 record at 2:26, according to my watch. We're getting  
5 ready to call Mr. Tucker. Before we do that, is there  
6 anything we need to discuss?

7 MR. WACHUTKA: Not from the staff, Your  
8 Honor.

9 MS. SMITH: No, Your Honor.

10 CHAIR SPRITZER: Because Mr. Tucker will be  
11 with us just for this period, if either side has  
12 questions you want us to ask him, as I indicated  
13 previously write them down, give them to Ms. Picard,  
14 our law clerk. She'll pass them up to me.

15 Don't wait 'til after we get off the phone.  
16 I assume that's obvious, but just to reiterate that.  
17 All right, with that brief note, are we ready to go?

18 [PHONE CALL PLACED.]

19 CHAIR SPRITZER: Mr. Tucker?

20 MR. TUCKER: Yeah. This is Mr. Tucker.

21 CHAIR SPRITZER: Perry Tucker?

22 MR. TUCKER: Yes sir. Can you hear me fine?

23 CHAIR SPRITZER: Yes, I can hear you. Can  
24 you speak again, make sure we haven't lost you?

25 MR. TUCKER: Yes sir, I'm here. I'm sorry

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1 I couldn't get on a land line. I'm camping, so I had  
2 to call you on my mobile phone. I appreciate y'all  
3 working with me.

4 CHAIR SPRITZER: We're glad to have you. My  
5 name is Ron Spritzer. I'm the chairman of the Atomic  
6 Safety and Licensing Board for Ms. Smith's case. Are  
7 you generally aware of what this case is about?

8 MR. TUCKER: Yes sir, and it just reminded  
9 me in my car, outside the camper, are the packages  
10 that I'm supposed to have with me. If you want me to  
11 go get them, I'll be happy to.

12 CHAIR SPRITZER: Do they have something to  
13 do with this case?

14 MR. TUCKER: Yes, there are two, I guess  
15 what do y'all call it, CCS-001 and 002?

16 CHAIR SPRITZER: Yes. Why don't you go  
17 retrieve those?

18 MR. TUCKER: I'll go retrieve those. It  
19 won't take but a minute. I should have had them with  
20 me.

21 (Pause.)

22 MR. TUCKER: Okay, I have them. I'm headed  
23 back into the camper.

24 CHAIR SPRITZER: All right, Mr. Tucker.  
25 Since this is a proceeding, an administrative law

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1 proceeding, I'm going to swear you as a witness.  
2 You're not visible to me, but I'll ask you to raise  
3 your right hand.

4 MR. TUCKER: Yes sir. I have my right hand  
5 raised.

6 [WITNESS SWORN.]

7 DIRECT EXAMINATION

8 CHAIR SPRITZER: Very well, and what is your  
9 current employment?

10 MR. TUCKER: Current employment is with  
11 Southern Nuclear at Plant Vogtle, and I'm in the  
12 Operations Department as the Corrective Actions  
13 Program coordinator. Started that about six months  
14 ago.

15 CHAIR SPRITZER: Okay. How were you  
16 employed during the period between approximately March  
17 2011 and March 2012?

18 MR. TUCKER: In March 2011-March 2012.  
19 Spring of 2012, that's when Carla took her retake  
20 exam, if I'm correct.

21 CHAIR SPRITZER: That's right.

22 MR. TUCKER: I was a training supervisor for  
23 the licensing operator continuing training at that  
24 time.

25 CHAIR SPRITZER: All right, and in March --

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1 MR. TUCKER: Well, wait a minute. Excuse  
2 me, I'm sorry. From March to January, I was the  
3 training supervisor for the initial training, the  
4 program that Carla was in, and then starting in  
5 January 2012 to March 2012, I went over to the  
6 continuing training role as a supervisor.

7 CHAIR SPRITZER: All right. Now I take it  
8 you know Charlissa Smith?

9 MR. TUCKER: I know Carla very well.

10 CHAIR SPRITZER: When do you first become  
11 acquainted with her?

12 MR. TUCKER: I first became acquainted with  
13 her, I don't know the year when she hired in the  
14 Operations Department, and this was a few years before  
15 she actually went to License school. But I mean I  
16 would, I mean some time in the 2000's, but I don't  
17 remember exact year.

18 CHAIR SPRITZER: And what school was it you  
19 just referred to?

20 MR. TUCKER: That's the license, reactor  
21 operator/senior reactor Operator License school. So  
22 I knew her before she ever started at school, from the  
23 fact she was an Operations Department employee.

24 CHAIR SPRITZER: Did you have a role in her  
25 training for her March 2011 SRO exam?

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1 MR. TUCKER: I was the training supervisor  
2 for the March 2011 SRO exam. Yes, I had a role.

3 CHAIR SPRITZER: What was that role?

4 MR. TUCKER: That role was of course I was  
5 the supervisor in charge of her training program, as  
6 well as included setting up filing the NRC license  
7 applications, to be able to apply for an exam, taking  
8 a license exam. So that was my role.

9 CHAIR SPRITZER: All right. Now did you  
10 learn at some point that she, that in March of 2011,  
11 in the March 2011 exam, she passed the operating exam  
12 but failed the written examination?

13 MR. TUCKER: Yes, I was aware that she  
14 passed the operating exam and failed the written  
15 examination in the spring of 2011.

16 CHAIR SPRITZER: Did you talk with her about  
17 the possibility of retaking the written exam?

18 MR. TUCKER: I guess I'm not sure I  
19 understand that question. I mean we talked about  
20 retaking it in the future, and I know initially we had  
21 looked at having like a, I don't know the number of  
22 months you have to wait, but possibly having a retake  
23 exam at a short time period after they took the exam  
24 that she failed.

25 But we never did go through with that.

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1 CHAIR SPRITZER: Okay. Did you discuss with  
2 her the possibility of applying for a waiver of the  
3 operating exam, if she went ahead and retook the  
4 written exam?

5 MR. TUCKER: Yes. We had conversations  
6 about when she took -- we knew that she was going to  
7 take an exam a year later, and we had conversations  
8 that we would apply for a waiver at that time, but for  
9 the parts that she had passed, and in hopes of she  
10 would only have to retake the written.

11 CHAIR SPRITZER: Did you personally ever  
12 discuss the possibility of her obtaining a waiver with  
13 the Nuclear Regulatory Commission?

14 MR. TUCKER: Say the question one more time,  
15 please.

16 CHAIR SPRITZER: Sure, and that's fine. Any  
17 time you don't understand what I'm asking you; it's a  
18 little more difficult communicating by telephone.

19 MR. TUCKER: Yes sir.

20 CHAIR SPRITZER: So we want to get your  
21 correct testimony, so anything that's unclear, don't  
22 hesitate to ask.

23 MR. TUCKER: Yes sir.

24 CHAIR SPRITZER: Did you personally ever  
25 talk to the NRC about the possibility of Carla getting

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1 a waiver from taking the operating exam again?

2 MR. TUCKER: I never personally talked to  
3 anyone from the NRC specifically about Carla. I did  
4 talk and ask a general statement at an August 2011  
5 exam writers conference about --

6 They were doing a session on filling out NRC  
7 license applications, and I did generally, I said I  
8 have a number of students, whatever you want to call  
9 them, examinees, that I'm going to have to -- I'm  
10 going to be asking for a waiver, and I just wanted  
11 some general instructions. There was nothing specific  
12 to any one name.

13 CHAIR SPRITZER: Was this a telephone  
14 conversation or a conference did you say?

15 MR. TUCKER: It was at the August exam  
16 writers conference, 2011 exam writers conference in  
17 Atlanta, at whatever the NRC headquarters is. It was  
18 a little conference room, or the had -- I guess it was  
19 across the street. We had a conference room or  
20 whatever we were at.

21 CHAIR SPRITZER: Do you remember who was  
22 there from the NRC?

23 MR. TUCKER: Pretty much all the Region II  
24 examiners. Specifically, I'll just name the ones that  
25 come to ind. I know Malcolm, is Widmann his last

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1 name? I can't remember the guy. Frankie is part of  
2 his name. I can't remember. Bruno Calabrero or  
3 whatever. I can't pronounce that good.

4 Let's see. Dagblamit, I call him "the  
5 Marine." I'm trying to think, because I like him a  
6 lot. He was the examiner at the recent Vogtle. I  
7 can't think of his name right now, but it will come  
8 back to me. But some other names escape me. But  
9 pretty much most of the Region II examiners at that  
10 time were there.

11 CHAIR SPRITZER: Do you remember if a Mr.  
12 Meeks was there?

13 MR. TUCKER: Mr. Meeks was there -- Rick  
14 Baldwin. That was the name of the guy I was trying to  
15 think. Michael Meeks was there, yes.

16 CHAIR SPRITZER: Mr. Capehart?

17 MR. TUCKER: Phil Capehart was there, yes.  
18 Thank you for reminding me of the names.

19 CHAIR SPRITZER: And a Mr. Bates? Do you  
20 remember seeing him there?

21 MR. TUCKER: From memory, I don't remember  
22 seeing Mr. Bates. Not that that doesn't mean he  
23 wasn't there. I'm just going from memory from two  
24 years ago almost.

25 CHAIR SPRITZER: What understanding did you

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1 come away with, as far as what you needed to do to  
2 request a waiver for Carla Smith and the other people  
3 who might be retaking the operating exam?

4 MR. TUCKER: One of my questions, and what  
5 I understood, and of course, remember; it wasn't about  
6 anybody specifically, but the question was that we  
7 would formally ask for the waiver on the pre-app.

8 But as a courtesy, it would be to give the  
9 NRC heads up. You know, hey, we're going to be  
10 requesting waivers for X students, so they could have  
11 time to explain. Sometimes it has to go be approved  
12 by another level, I guess outside the region.

13 I'm not sure of the protocol, but so I mean  
14 that's why I asked the question, because I knew, you  
15 know, we had -- a month before we had formally, signed  
16 by our vice president, sent a letter requesting a  
17 waiver for all the students that only failed the  
18 written exam in March of 2011.

19 I was just getting, making sure I understand  
20 what I had to do to formally request the waiver,  
21 because it is a legal process. I look at it that way.  
22 You have to really cross your T's and dot your I's,  
23 when you do your paper work.

24 CHAIR SPRITZER: Let me ask you. You said  
25 you have the document that's called CCS-002, which I

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1 believe is your --

2 MR. TUCKER: Yes, I have it. That was the  
3 one I've seen, 002. I have it in front of me.

4 CHAIR SPRITZER: Would you turn to page 18  
5 of that document?

6 MR. TUCKER: Page 18. Okay, I'm on page 18.

7 CHAIR SPRITZER: Is that the letter you were  
8 just referring to from the vice president?

9 MR. TUCKER: That was the letter I was  
10 referring to, and it was sent about a month before  
11 that conference that I was telling you about, where I  
12 asked the general question, to make sure I understood  
13 the process for applying for waivers.

14 CHAIR SPRITZER: Okay. Now on the second  
15 page, which is page 19 of 20 of your affidavit, it  
16 indicates attachments.

17 MR. TUCKER: Okay, I see that.

18 CHAIR SPRITZER: Do you know what the  
19 attachments were?

20 MR. TUCKER: I don't recall, other than  
21 reading them.

22 CHAIR SPRITZER: Did you personally have any  
23 role in preparing this letter for the vice president?

24 MR. TUCKER: I did not. No, I was not  
25 responsible, in charge of preparing this letter. That

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1 was from my supervisor, George Gunn, was involved in  
2 that.

3 CHAIR SPRITZER: Now who at that time, and  
4 I take it we're talking about July and August of 2011,  
5 who was in charge of deciding at Southern Nuclear, who  
6 was in charge of deciding for which persons you would  
7 actually make a waiver request?

8 MR. TUCKER: Well, I don't know if we really  
9 pinpointed one person. I know the training manager  
10 had discussions with me, and in June of that year, a  
11 month before this letter, we had took Carla and two  
12 others actually back into the training program. Or  
13 actually all of them, all the ones that were going to  
14 be on waiver, had some form of training preparation.

15 We had made the statement we're going to  
16 apply for waiver for everybody, you know, get them  
17 ready for the exam the next spring. So I mean nobody  
18 really -- I don't think it's written down anywhere  
19 that says "so and so person will make that decision."

20 But we had all along, it was our intent to  
21 apply for waivers for everybody that passed, any part  
22 that passed, and that included Carla. I think there  
23 like five of them or six of them.

24 Yes, six of them. In that letter, it lists  
25 all the candidates, and we had full intentions of

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1 applying for, and I did on my pre-app apply for  
2 waivers for every one of those, for everything they  
3 passed the previous year.

4 CHAIR SPRITZER: Why did you want to apply  
5 for a waiver for all six of those persons?

6 MR. TUCKER: Well, I mean they passed that  
7 portion of the exam. So why make them go retake it?  
8 I mean as part of the regulations, it allows you to  
9 apply for waiver, and on the retake part that she  
10 failed, I mean we had done, we did remediation on the  
11 weaknesses, any comments or whatever. I mean because  
12 there's always, it don't matter.

13 Nobody's perfect. Even if you pass, you  
14 have comments and weaknesses that you need to work on.  
15 So we worked on that stuff, and said hey, when we  
16 apply for the waiver, that was part of it then. We  
17 had worked on any weaknesses. From the previous exam  
18 that they passed, it was like request a waiver for  
19 that part.

20 CHAIR SPRITZER: As I understand your  
21 testimony, your company arranged for Ms. Smith to have  
22 remedial training in preparation for the 2012 exam?

23 MR. TUCKER: Absolutely. She had a -- I  
24 don't have it with me, but I have written  
25 documentation showing her remediation in any weak

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1 areas she had had from the previous exam, including  
2 those areas that she had passed and had failed,  
3 because obviously you need to work on both of those.

4 CHAIR SPRITZER: So that would include both  
5 the operating exam and the written exam?

6 MR. TUCKER: That would be correct.

7 CHAIR SPRITZER: And as I -- well, tell me.  
8 Let me ask this question. As a result of your  
9 deciding to put her in the remedial program, I take it  
10 she was basically doing that full time for a number of  
11 months; is that true?

12 MR. TUCKER: If she went from June of 2011  
13 until when they took the exam in the spring of 2012.  
14 That's how many months of remediation that was  
15 involved.

16 CHAIR SPRITZER: And is that a substantial  
17 expense for your company, to put someone in the  
18 remedial training program?

19 MR. TUCKER: Oh yes. I mean any training is  
20 a significant expense, yes, because you've got to  
21 think for all those weeks and months, her salary she's  
22 being paid to go, or whoever it may be. I just said  
23 she, but they're being paid to go to training. So  
24 that's a significant undertaking.

25 CHAIR SPRITZER: Now you said you didn't

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1 have -- you personally, other than the August  
2 conference that you told us about, you personally did  
3 not have any direct communication with the NRC about  
4 this whole issue of waivers; is that a fair statement?

5 MR. TUCKER: That's correct. I never talked  
6 to anyone directly, on waivers for anybody. It was  
7 just a general question at that conference, that was  
8 open to I don't know how many people we had there, 40-  
9 50 people. Just a general question on the floor.

10 CHAIR SPRITZER: Now did you become aware at  
11 some point, even though you personally didn't talk to  
12 the NRC, did you become aware through word of mouth at  
13 Plant Vogtle, that the NRC had indicated they were  
14 unlikely to grant the waiver for Ms. Smith for the  
15 2012 operating exam?

16 MR. TUCKER: I was very much aware. It  
17 happened via email exchanges, several email exchanges,  
18 that NRC indicated that they would likely not grant  
19 a waiver for Carla, and of course part of that  
20 remediation was also in her training was anticipating  
21 at the possibilities of not having a waiver.

22 We would make sure that we did extra  
23 training to get her prepared to take all parts of the  
24 exam.

25 CHAIR SPRITZER: When you learned that the

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1 NRC had said she was not likely to get a waiver, did  
2 that in any way change your company's plans, as to  
3 whether you would actually apply for her to get a  
4 waiver?

5 MR. TUCKER: Never changed our plan. I mean  
6 my words were we're going to make them tell us they're  
7 not going to give her a waiver. We're going to apply  
8 for it.

9 CHAIR SPRITZER: Why was that your position?

10 MR. TUCKER: Well I mean that's the way the  
11 regulation stands. You pass an exam, you can request  
12 a waiver. So I mean that's --

13 CHAIR SPRITZER: And I take that would  
14 probably increase her chances of passing the exam in  
15 2012?

16 MR. TUCKER: I'm sorry. Say again please?

17 CHAIR SPRITZER: I take it that  
18 realistically looking forward, that would increase  
19 somewhat her chances of passing the 2012 exam?

20 MR. TUCKER: Well, if all you have to focus  
21 on is one aspect of the exam, obviously you can get  
22 more time and energy being prepared for it. So yes,  
23 the least number of pieces, parts of an exam you take,  
24 you can spend your time and energy preparing and be  
25 better ready.

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1 CHAIR SPRITZER: Did the company ever --  
2 have you ever seen a form, are you familiar with the  
3 form, it's an NRC form called an ES-303?

4 MR. TUCKER: Is that the license application  
5 form?

6 CHAIR SPRITZER: No.

7 MR. TUCKER: 303. What is it? Tell me what  
8 the name of it is. Is that the grading form, I guess?  
9 That's what it sounds like.

10 CHAIR SPRITZER: It's basically a report of  
11 the results of her exam, and the case we're  
12 particularly interested in would be the results of her  
13 March 2011 operating exam.

14 MR. TUCKER: Okay. If that's the grading  
15 forms, I'm familiar with those, yes.

16 CHAIR SPRITZER: And did you receive that  
17 form from Ms. Smith's March 2011 operating exam?

18 MR. TUCKER: We did receive that. The NRC  
19 not only mailed the entire paper work to the  
20 applicant; they also mailed a copy of it to the  
21 licensee.

22 CHAIR SPRITZER: Did you review the comments  
23 on that form concerning Ms. Smith's performance on the  
24 operating exam?

25 MR. TUCKER: I have reviewed those comments.

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1 I mean it's been a while now, you know, almost what.  
2 I mean but yes. Let's keep it to -- I did review  
3 those comments.

4 CHAIR SPRITZER: Did those comments play any  
5 role in determining what remedial training Ms. Smith  
6 would have for the 2012 exam?

7 MR. TUCKER: Well, that was part of why I  
8 reviewed them, because when we were setting up  
9 remediation plans, to make sure we cover weak areas  
10 from the previous exam, we -- that's why I looked. As  
11 a matter of fact, it wasn't just her. It was the  
12 other applicants. If I remember right, Andy Dyer and  
13 let's see, Sean.

14 I mean multiple applicants that we had to  
15 retake the operating test, that's why I reviewed those  
16 comments for Carla, yes. I did have a factor. That's  
17 how you help tailor what you're going to remediate on.

18 CHAIR SPRITZER: Let me take you back to the  
19 letter we were looking at before from the vice  
20 president. This is one on page 18.

21 MR. TUCKER: Yes sir, page 18.

22 CHAIR SPRITZER: To your knowledge, did  
23 Southern ever receive an answer to this letter from  
24 the NRC?

25 MR. TUCKER: I have no knowledge of a



1 response from this letter from the NRC.

2 CHAIR SPRITZER: Let me, the same document  
3 CCS-002, let me ask you to look at pages 14 through  
4 17.

5 MR. TUCKER: 14 through 17. Okay, I'm on  
6 page 14.

7 CHAIR SPRITZER: Can you tell us what this  
8 document is?

9 MR. TUCKER: This is the, let's see here,  
10 it's either the application or pre-application. Let  
11 me turn the page and look. This is the pre-  
12 application, the one you send in a couple of weeks  
13 early. I can't remember if it's 14 days. You send in  
14 prior because they're certified.

15 This one we send in unsigned by the training  
16 manager and the vice president, and it's to give the  
17 NRC time to look through to make sure we're not going  
18 to have any issues. So that's what this is.

19 CHAIR SPRITZER: And to your knowledge, was  
20 this document in fact sent to the NRC?

21 MR. TUCKER: This document was sent to NRC.  
22 I mean I'm very -- I'm the one that filled this out.  
23 So I'm very up to speed on what we sent and what we  
24 didn't. This was sent, yes.

25 CHAIR SPRITZER: When you prepared this

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1 document, was there any uncertainty in your mind  
2 whether your company wanted, in fact wanted to seek a  
3 waiver for Ms. Smith?

4 MR. TUCKER: There was never an uncertainty  
5 that we were going to request a waiver. Now I still  
6 had the knowledge that we had already set forth the  
7 previous summer the possibility they would deny a  
8 waiver for the operating exam. But like I told you,  
9 we were going to apply.

10 This is the formal means, this application.  
11 That's the way I understand it. You have to ask for  
12 it so they can formally tell you no. That letter the  
13 previous summer was just a courtesy, we're going to be  
14 asking for it, so here's your heads-up.

15 They had always indicated, from that general  
16 question, the answer to it was that be courteous to  
17 us, and if you're going to request a waiver, let us  
18 know more than in advance of the pre-app.

19 So what we're looking at on page 14 is the  
20 pre-app, and you could see it has checked the question  
21 a waiver on the, all the operating exams, and if you  
22 flip to page 15, I have -- there's a comment in Block  
23 17 that goes with that checkbox in Block 4, for  
24 Foxtrot 2. So the first comment in Block 17 deals  
25 with that.

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1 CHAIR SPRITZER: And if we turn to page 16,  
2 it says "Item No. 13 dot little G. "Applicant has  
3 successfully completed a comprehensive remedial  
4 training program for SRO duties. The program included  
5 a remedial training on areas of weakness identified in  
6 the denial letter dated May 9, 2011," etcetera.

7 Is that the remedial training you told us  
8 about previously?

9 MR. TUCKER: Yes sir. The denial letter,  
10 essentially that little letter says you didn't get  
11 your licenses, and then they attach the grading  
12 criteria. So remember I told you I looked through all  
13 the grading comments and stuff, and they used that to  
14 make up her remedial program.

15 CHAIR SPRITZER: Now did you hear  
16 subsequently that sending this form, preliminary  
17 application form, did you hear anything about an NRC  
18 response to the company about Ms. Smith?

19 MR. TUCKER: I did, I did. I got a phone  
20 call from one of the gentleman on the exam team. Well  
21 his words, I don't know if I need to be -- his words  
22 were like I stirred up a hornet's nest by asking for  
23 a waiver for Carla, and you know, of course if you  
24 read all those chain emails that are attached in the  
25 affidavit, you'll see where I --

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1 I mean I never meant to upset anybody. It  
2 was always our intention to apply for a waiver, and so  
3 you know, through all that discussion we decided, you  
4 know, they indicated to us that she wouldn't have  
5 time, they wouldn't have time to process her  
6 application.

7 Therefore, that would delay her being able  
8 to take the exam, and of course there no exam time  
9 slot available for a delayed exam, and that we -- so  
10 we subsequently decided that the certified, signed  
11 application a couple of weeks later, we would not  
12 request a waiver.

13 CHAIR SPRITZER: Who told you that?

14 MR. TUCKER: Thad Thompson. It was a  
15 contract. He called me on the phone, and then I got  
16 an email from -- his supervisor sent me the email. I  
17 believe it's included in our exchange. But that's  
18 who. So it was one of the guys on the land team  
19 talking to Michael Meeks.

20 CHAIR SPRITZER: All right. You said, is it  
21 Thad or Chad Thompson?

22 MR. TUCKER: Thad, T-H-A-D.

23 CHAIR SPRITZER: And he was a contractor?

24 MR. TUCKER: He previously worked for  
25 Southern Nuclear at Plant Vogtle and he retired, and

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1 we brought him back in to help the exam team learn how  
2 to do the NRC exams and stuff. So at this time he was  
3 a hired contractor on the exam team for the NRC.

4 CHAIR SPRITZER: And you mentioned someone  
5 else, I believe, in your answer.

6 MR. TUCKER: His supervisor is Greg  
7 Wainwright.

8 CHAIR SPRITZER: Greg Wainwright.

9 MR. TUCKER: I called him up, because I  
10 wanted to -- I had not saved any emails that dealt  
11 with this, and I wanted to see the previous emails  
12 that had gone around, dealing with the -- essentially  
13 they deny her waiver, just to see if there was  
14 anything that, you know, if I should ask for it, and  
15 I had no reason to believe I shouldn't have, and I  
16 validated that by looking at his emails. I got ahold  
17 of it.

18 CHAIR SPRITZER: Did anybody at Southern  
19 ever tell you you should not have asked for the waiver  
20 for Ms. Smith?

21 MR. TUCKER: Nobody ever told me not to  
22 before I filed the pre-application, that's correct.

23 CHAIR SPRITZER: You referred to a hornet's  
24 nest, I think, in one of your answers.

25 MR. TUCKER: Say that again please?

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1 CHAIR SPRITZER: I think you referred to one  
2 of your recent answers to a "hornet's nest." Could  
3 you explain what you meant by that?

4 MR. TUCKER: I was hesitant to say those  
5 words. You know, how you had an analogy in the legal  
6 sense, I guess. You know if you shake a hornet's  
7 nest, the hornets all buzz and fly around?

8 CHAIR SPRITZER: Sure.

9 MR. TUCKER: That was kind of an analogy I  
10 was kind of using. That was probably maybe not the  
11 best appropriate term.

12 CHAIR SPRITZER: Well, whatever this was,  
13 hornet's nest or otherwise, was it your understanding  
14 that the filing of the Form 398, excuse me, the  
15 preliminary application requesting a waiver for Carla  
16 had in some way stirred things up?

17 MR. TUCKER: That's absolutely correct.  
18 That's probably the best way to say it. I mean I  
19 guess it's like they were surprised we asked for a  
20 waiver on the pre-app.

21 JUDGE HAJEK: This is Brian Hajek, one of  
22 the other judges on the panel. Who called Mr.  
23 Thompson from NRC and told him that there was a  
24 concern about receiving a waiver request for Ms.  
25 Smith? Did you hear me?

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1 MR. TUCKER: I'm sorry. I thought you were  
2 talking. I didn't hear you.

3 JUDGE HAJEK: Okay. This is Brian Hajek,  
4 one of the other judges on the panel.

5 MR. TUCKER: Yes sir, I can hear you now.

6 JUDGE HAJEK: Okay. Who called from NRC and  
7 talked with Mr. Thompson and raised the issue  
8 specifically about a waiver request for Ms. Smith?

9 MR. TUCKER: I don't remember from memory.  
10 Is it in one of those emails? I mean I don't want to  
11 say. I can assume, let's see here. I don't want to  
12 say. I mean I would assume it was the lead examining,  
13 but I -- and I would just be guessing. I'd just note  
14 our guy, our exam guy had talked to one of the  
15 examiners in Atlanta.

16 CHAIR SPRITZER: Now who was the person who  
17 the examiner in Atlanta talked to at Southern? Do you  
18 know for sure?

19 MR. TUCKER: It would likely have been Greg  
20 Wainwright. I mean it was either Greg or Thad. Thad  
21 is the one that called me, you know. Him and Greg  
22 carpool, so they talk together good. So I don't  
23 recall from memory exactly which one it was that  
24 talked to them.

25 I mean I would expect it to have been Greg,

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1 because he was the supervisor, and that would have  
2 been who the NRC would have communicated any formal  
3 communication with.

4 CHAIR SPRITZER: Let me ask you to look at  
5 page four of your affidavit again. That's CCS-002.

6 MR. TUCKER: I'm looking at page four.

7 CHAIR SPRITZER: Down at the bottom, there's  
8 a date 2/23/12. It says "The Vogtle Unit 1 and 2  
9 program training supervisor." Let me stop and ask  
10 you, who was that at this point in time?

11 MR. TUCKER: Okay. That was Greg  
12 Wainwright.

13 CHAIR SPRITZER: All right, and it says he  
14 was notified by the Vogtle Unit 1 and 2 examination  
15 supervisor --

16 MR. TUCKER: Okay.

17 CHAIR SPRITZER: That the NRC chief examiner  
18 for March-April 2012 license examinations stated that  
19 the "Time was not available to process Carla's  
20 application with waiver request and likely denial,  
21 prior to the scheduled examination dates pending."

22 MR. TUCKER: That's correct.

23 CHAIR SPRITZER: Is that statement here  
24 based on what Mr. Thompson told you?

25 MR. TUCKER: No. That one's based on my

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1 memory when I didn't forget. That's why I wrote it  
2 down. I wrote all that down, because I did have a  
3 memory of exactly specifically what happened. That's  
4 why I got all that right. But yes. Now that you say  
5 that, that's right.

6 It was Michael Meeks talking to Greg  
7 Wainwright, and Mr. Thompson is the one that called me  
8 up first, trying to give me a heads-up, that this was  
9 going to happen. Then I physically talked to Greg  
10 Wainwright and I got --

11 CHAIR SPRITZER: This whole page begins with  
12 the title "Sequence of Events, Synopsis/Facts."

13 MR. TUCKER: Yes sir.

14 CHAIR SPRITZER: Did I understand you to say  
15 you wrote this all down?

16 MR. TUCKER: I wrote this whole page myself.  
17 I wrote it back in January of this year, while things  
18 were still fresh on my mind from what was going on.  
19 Yes, this page four and the first two bullets on page  
20 five are all my personal statement that I wrote down.

21 CHAIR SPRITZER: Now the preliminary  
22 application for Carla Smith, was that submitted  
23 together with preliminary applications for the other  
24 Vogtle applicants?

25 MR. TUCKER: Yes sir. All the preliminary

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1 applications went together. We had over 20 of them  
2 that went.

3 CHAIR SPRITZER: Now were the other  
4 preliminary applications also unsigned?

5 MR. TUCKER: Correct. The preliminary  
6 applications are always sent in unsigned. It gives  
7 the NRC a chance to look at your application to see if  
8 there's any problem before you send in the signed,  
9 formal one.

10 CHAIR SPRITZER: Do you know whether --

11 MR. TUCKER: And we had, I mean we've made  
12 typos before and stuff like that. That's why when you  
13 sign it, it's a legal piece of paper. So that's why  
14 it's kind of nice for everybody, a kind of heads-up.  
15 Here's what we're going to be sending in. See if you  
16 see any problems with it.

17 CHAIR SPRITZER: Do you know whether the NRC  
18 started processing the preliminary application --  
19 well, let's strike that. Let me go back. Did you  
20 ever hear anything back, to the effect that the NRC  
21 had problems with any of the other preliminary  
22 applications, that is other than Ms. Smith's?

23 MR. TUCKER: I'm sorry, my throat kind of  
24 got -- I know we had like a typo on one of them and I  
25 can't remember. Nothing major. I mean just --

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1 somebody else, we had a little typo or something on  
2 somebody, and they called and we corrected that. But  
3 nothing major at all.

4 CHAIR SPRITZER: To your knowledge, did the  
5 NRC ever indicate that processing those other waiver  
6 requests would cause a delay?

7 MR. TUCKER: I never heard of any statements  
8 of the other applications causing delay for waivers  
9 like that.

10 CHAIR SPRITZER: Now turning back again to  
11 page four of this document again, CCS-002.

12 MR. TUCKER: Yes sir.

13 CHAIR SPRITZER: And this is where you refer  
14 to a, you have a 9/27/11. It says "The NRC chief  
15 examiner replied to 9/9/11 correspondence, reiterating  
16 the previous statement of a likely denial of a waiver  
17 for Carla Smith, and additionally adding that he had  
18 briefed regional NRC management on the inquiry, and  
19 that only with submittal of actual license  
20 applications would the waiver decision be formally  
21 evaluated and determined."

22 Is that -- did that continue to be your  
23 understanding, up to the point that you submitted the  
24 preliminary application for Carla Smith?

25 MR. TUCKER: Yes sir. That's my

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1 understanding, after the submittal of the preliminary  
2 app.

3 JUDGE HAJEK: Yeah. This is Brian Hajek  
4 again. When you created this sequence of  
5 recollections that you have on pages three and four,  
6 you apparently wrote this in an email to Robert  
7 Dorman?

8 MR. TUCKER: Yes sir, that's correct. He  
9 had requested it from me.

10 JUDGE HAJEK: I'm sorry, who is Robert  
11 Dorman and what generated the need to create this  
12 list?

13 MR. TUCKER: Bob Dorman is a shift manager  
14 in Operations, and for Carla's class, he was the  
15 mentor from Operations assigned to help prepare them  
16 for the license exams, and I mean he just cared about  
17 Carla, and part of his involvement was following it  
18 all the way through.

19 JUDGE HAJEK: So why did you write? I still  
20 didn't understand from you. Why did you write this  
21 list, this sequence?

22 MR. TUCKER: Bob sent me an email and asked  
23 me to write down the sequence of events, basically for  
24 I guess Carla, and this time -- no guess. Carla was  
25 preparing what y'all are doing today, preparing an

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1 appeal. So in preparation for her appeal, he wanted  
2 me to document everything that I could before time and  
3 memory faded away.

4 JUDGE HAJEK: Okay.

5 CHAIR SPRITZER: Now as I understand your  
6 testimony, at some point Southern decided not to  
7 formally request a waiver for Ms. Smith; is that  
8 correct?

9 MR. TUCKER: Yes sir. After, it was within  
10 a day or two of learning that they weren't going to --  
11 the NRC reported they weren't going to have time to  
12 get her, process a waiver based on a pre-app  
13 submittal. My training manager requested that I send  
14 in the certified application without a request for a  
15 waiver.

16 CHAIR SPRITZER: And you did as you were  
17 instructed, I take it?

18 MR. TUCKER: Yes sir. I did as I was  
19 instructed.

20 CHAIR SPRITZER: Did you talk about that  
21 decision with Carla?

22 MR. TUCKER: I don't recall. I'm thinking  
23 I probably did, but I don't really recall from memory  
24 if I talked to Carla about that.

25 CHAIR SPRITZER: To your knowledge, was

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1 there any other reason that Southern decided not to  
2 submit a formal application for a waiver for Carla,  
3 other than the problem of the delay?

4 MR. TUCKER: The delay was the only reason,  
5 because we had -- because we didn't know. It was  
6 indeterminate when we could have some kind of, another  
7 exam, and it takes months literally to make up exams.  
8 So the delay was solely the reason, since the NRC  
9 reported back that she wouldn't be able to take her  
10 exam with everybody else.

11 We had prepared her to take all parts of the  
12 exam, you know, just in case she didn't get the  
13 waiver, and that's really kind of what happened.

14 CHAIR SPRITZER: Now do you believe that if  
15 this problem of potential delay had not arisen,  
16 Southern would have requested a waiver for Carla Smith  
17 in the final application?

18 MR. TUCKER: I have no doubt. I mean I was  
19 the one filling applications out. I know we would --  
20 if we had not been told there would be a delay, we  
21 would have requested the waiver in the certified app.

22 CHAIR SPRITZER: It's been suggested in this  
23 case that the submission of the preliminary  
24 application for Carla, with a request for a waiver,  
25 may have been a mistake by Southern. Do you have an

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1 opinion about that?

2 MR. TUCKER: I have a strong opinion about  
3 that. There was no mistake in requesting a waiver on  
4 the preliminary application. I mean I filled it out.  
5 I know. I'm the one that filled it out.

6 CHAIR SPRITZER: Is it possible -- well,  
7 strike that. Did any manager, anybody above you in  
8 the management at Southern ever indicate any  
9 displeasure with your submitting that preliminary  
10 application for Carla?

11 MR. TUCKER: No one indicated any  
12 displeasure. We had changed training managers from  
13 the training manager. Again, his original instruction  
14 was that we were going to apply for waivers for  
15 everybody. But the new manager, I explained why, and  
16 he wasn't displeased.

17 I mean it was more concern about the delay.  
18 That's what, you know, that's what the concern was  
19 about. We followed the rules. I mean that's the way  
20 we see them written down.

21 CHAIR SPRITZER: Just so you know, Mr.  
22 Tucker, we're going to switch pitchers here, so to  
23 speak. Another one of the judges, Judge Froehlich, is  
24 going to ask you some questions.

25 MR. TUCKER: Yes sir.

1 JUDGE FROEHLICH: Good afternoon, Mr.  
2 Tucker.

3 MR. TUCKER: Yes sir.

4 JUDGE FROEHLICH: As I understand your  
5 position in the company, you are involved in preparing  
6 the applicants to take the NRC licensing exams; is  
7 that right?

8 MR. TUCKER: At the time of Carla's  
9 examination, that was one of my responsibilities,  
10 preparing the application for the NRC in that.

11 JUDGE FROEHLICH: Okay, and do you have a  
12 role also in preparing the exam, as it's prepared, I  
13 guess, by the company for submission to the NRC for  
14 approval?

15 MR. TUCKER: I did not have a role. We had  
16 an Examination Group, who are separate from the  
17 Training Group, in the aspect of those that prepare an  
18 exam but don't interact on a day-to-day basis with  
19 those that do the training.

20 JUDGE FROEHLICH: Okay. But you do have a  
21 knowledge, then, of the training that she received,  
22 both before the 2011 exam and the training, the  
23 remedial training and the additional training that she  
24 received before the 2012 exam?

25 MR. TUCKER: Yes sir, I have that knowledge.

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1 I was the supervisor responsible for the training.

2 JUDGE FROEHLICH: And how did Ms. Smith do  
3 among her classmates on the preparation for the 2011  
4 exam? Was she a good student, she was just barely  
5 getting by? What is your recollection of what kind of  
6 student she was in the preparation for the 2011 exam?

7 MR. TUCKER: The 2011 exam, I mean there's  
8 no question as far as being a good student and doing  
9 things that get you prepared, to get prepared for an  
10 exam. Now she was not top of the class but, you know,  
11 middle of the class. I guess that that's what you're  
12 looking for, if you're asking for an opinion.

13 I mean she did pass all aspects of the  
14 process and exams that go up to being able to be  
15 selected to take the NRC exam, and she was a very good  
16 student, I mean studious. She put the time in.

17 JUDGE FROEHLICH: And how about when you  
18 saw her again, or when you had an occasion to see what  
19 kind of student she was in preparation for the 2012  
20 exam? How did she compare to the rest of the students  
21 who were taking classes?

22 MR. TUCKER: Okay. In October time frame of  
23 2011, this is with the next class, she was getting  
24 prepared to take spring 2012 exams, I had an  
25 opportunity to see her. She had improved. In January

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1 of 2012, I told you I went over to the continuing  
2 training program as a supervisor.

3 So her last three months leading up to the  
4 spring of 2012 exams, I did not get a chance to see  
5 her in action. So I really can't say on that. But  
6 she improved, or actually I can't remember if there  
7 were several times I got to see her. I know she's  
8 improved.

9 JUDGE FROEHLICH: And did you have occasion  
10 to review the exam that she took in 2011, review it  
11 either to come up with the additional training that  
12 she would be getting for retaking it, or for flaws in  
13 the program? I mean did you have a chance to look at  
14 the, her 2012 exam and see the mistakes she made, the  
15 answers she gave and the grading?

16 MR. TUCKER: I think you meant 2011 exam, I  
17 guess.

18 JUDGE FROEHLICH: I'm sorry. Thank you  
19 sir, 2011.

20 MR. TUCKER: Yes. I did look at her grading  
21 and comments from her 2011 exam, and that did go into  
22 part of the remediation program that was set out for  
23 her to prepare for the 2012 exam.

24 JUDGE FROEHLICH: And what was your  
25 reaction, if any, to the comments that you saw on that

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1 2011 exam?

2 MR. TUCKER: Really, I mean I didn't really  
3 have a reaction, so to speak. I did note that she had  
4 more comment than other applicants or candidates or  
5 examinees, whatever you want to call them.

6 But I mean I was looking strictly for a  
7 comment and any weakness derived from that comment, to  
8 put into her training to make her better in that area.  
9 I didn't make any general comments per se on the  
10 overall comparisons between her and the others.

11 JUDGE FROEHLICH: Well based on that  
12 comments, was that a basis for, to design or the  
13 emphasis that she would get in the remediation  
14 classes, in the preparation for the 2012 exam?

15 MR. TUCKER: Absolutely, comment. I mean  
16 that's what you would use, those type comments for, to  
17 make sure that you did things to improve in that area,  
18 so you would get comments in whatever area it was that  
19 you were graded in.

20 JUDGE FROEHLICH: From a person who has  
21 been in the Training Department, how well do these  
22 exams mirror the responsibilities and the situations  
23 that the operators will face when they're on the job?

24 MR. TUCKER: Well, the exams really deal  
25 more in the abnormal or emergency type stuff. Of

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1 course, the emergency parts, you hope you never get  
2 involved in that on the job, but you have to prepare  
3 for it.

4 As far as day-to-day supervisor roles, I  
5 mean there's a very small touch. I guess when you  
6 happen to recognize and implement a tech spec, LCO  
7 condition for like a broke piece of equipment or  
8 instrument, that type thing.

9 But it's really not geared toward the day-  
10 to-day, you know, the plant's running and we just  
11 launder an example. I mean the training is. You go  
12 through all that during the training, and then the  
13 additional part is the emerg ops. I mean did I  
14 understand your question? Did I understand it right?

15 JUDGE FROEHLICH: Well, I'm wondering about  
16 the relationship between the training and, for  
17 example, the company audit examination. I wanted to  
18 know if those are good predictors of how someone will  
19 fail or pass?

20 MR. TUCKER: Oh, from that aspect, yes. All  
21 that is a good predictor of how they'll perform on the  
22 NRC, and typically we hope the audit is going to be  
23 harder than NRC, you know. But at least a give or  
24 take level bias, it should be very similar, yes.

25 JUDGE FROEHLICH: Do you have a

1 recollection of how Ms. Smith fared on the company  
2 audit exam, either in 2011 or in 2012?

3 MR. TUCKER: I have no idea how she did in  
4 2012. 2011, I haven't looked any for details. I mean  
5 I know she passed, but I don't recall any detail,  
6 okay. I mean I know at the time I looked, I knew all  
7 that stuff, but we have time separation.

8 JUDGE FROEHLICH: I notice in a lot of the  
9 exhibits, these waivers that we've been talking about  
10 are referred to as routine waivers. From the person  
11 who prepares them, are waivers prepared for all, for  
12 anyone who passes either part of the exam but doesn't  
13 pass the other part of the exam?

14 MR. TUCKER: Well, I'm really not sure if  
15 the NUREG has the word "routine waiver" in there. I  
16 just know the waiver, I mean I always looked at as a  
17 waiver is a waiver, the way I think the rules are  
18 written.

19 JUDGE FROEHLICH: Well, are the waivers,  
20 are they granted routinely? Are they applied for  
21 routinely, let me ask that question?

22 MR. TUCKER: Well, oh. Well, I don't know  
23 really why. I know we had a number of years of test,  
24 we've had 100 percent of the applicants that would  
25 pass. But we have had applicants in the past that

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1 have failed a portion of the exam and then they apply  
2 for a waiver and retake.

3 So yes, we have had waivers before. I mean  
4 the word "routine" is really not jumping out at me as  
5 an official term. Waivers had happened though, yes.  
6 I don't recall any problems with waivers in the past  
7 with anybody.

8 JUDGE FROEHLICH: Let me ask it the other  
9 way. Other situations, do you have a recollection of  
10 situations where people passed one part of the exam,  
11 but a waiver was not requested?

12 MR. TUCKER: I'm not aware of any applicant  
13 that we have not requested a waiver for. That don't  
14 mean we haven't in the past, but I'm not aware of it.

15 JUDGE FROEHLICH: Okay. So if it's one of  
16 the students who's coming through the program, if they  
17 pass one part, be it the written or the simulator  
18 part, and they fail the other, the company would put  
19 forward a waiver request in the normal request; is  
20 that correct?

21 MR. TUCKER: My normal knowledge is yes. I  
22 mean if they pass a part, you're darn right we're  
23 going to ask for a waiver.

24 JUDGE FROEHLICH: Okay.

25 JUDGE HAJEK: This is Brian Hajek. I want

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1 to refer to the letter from, in CCS-002 on page 11,  
2 that looks like it was initiated from George Gunn to  
3 Michael Meeks, and in this letter in June, he defines  
4 that Vogtle is in the process of identifying  
5 individuals in which we plan on requesting waivers.

6 This is the letter with two groups of  
7 individuals. "The top group we're confident that we  
8 will request an operating exam waiver." The second  
9 group, three other -- it says "Three other individuals  
10 from that class also passed the March '11 operating  
11 exam.

12 "However, we are presently evaluating their  
13 status, and are inquiring as to whether or not Region  
14 II would approve an operating exam waiver." Can you  
15 elaborate, please, on what is meant here by "We're  
16 evaluating their status?" What evaluation was being  
17 done?

18 MR. TUCKER: Yes sir, I can. This was  
19 probably within a week of these three individuals  
20 listed returning to the current, putting them into the  
21 current licensing program that was getting ready for  
22 the spring 2012 exam. But evaluating their status  
23 means, you know, we're going to evaluate their  
24 performance on their previous NRC exam, and determine  
25 if we're going to spend the time and money to get them

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1 prepared to go for another exam, and that's what that  
2 means.

3 I mean we're not evaluating whether or not  
4 we think NRC would give them a waiver or not. We're  
5 evaluating their status as a whole. Do we believe  
6 they're capable of being trained and prepared to pass  
7 an NRC license exam, and if so, we'll send them  
8 forward to take the next license exam.

9 If not, they'll be removed from the program,  
10 and that's what we were doing with these three  
11 individuals at the time.

12 JUDGE FROEHLICH: Why were they separated  
13 out from the other three?

14 MR. TUCKER: I'm trying to remember. Off  
15 the top of my head, I really can't say at the moment.  
16 I just know it's looking at overall performance in  
17 school and what they did on the previous exam.

18 JUDGE FROEHLICH: Well, our understanding  
19 in here, or can you give us an idea of where these  
20 six, all six, where their performance, what their  
21 variations in performance were in their training  
22 programs? I mean was one of these at the top of the  
23 class, another one at the bottom of the class?

24 MR. TUCKER: Okay. The three up top, the  
25 first three listed, Jenkins, Gordon and Sinkler, did

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1 well on all their NRC exams except the written. They  
2 failed that.

3 The next three, Dyer, Barefield and Smith,  
4 I mean it could be anything from failing, you know,  
5 there's different parts of the operating exam. You've  
6 got the simulator as well as you got JPMs in the  
7 plant, JPMs in the simulator, the admin JPMs.

8 So you know, and I don't remember all the  
9 details right now, but what we normally do is we look  
10 at -- they may have failed one or two of those or, you  
11 know, failed these parts. They might have passed  
12 overall.

13 So it's kind of -- I mean it's a lot of time  
14 and effort and money. You just don't send people up  
15 just to be sending them up. You want to make sure, we  
16 want to send somebody up we feel certain they're going  
17 to pass. That's why we were dealing with these three.

18 JUDGE FROEHLICH: I'm going to refer to a  
19 document that to don't have.

20 MR. TUCKER: Yes sir.

21 JUDGE FROEHLICH: And this is, you may have  
22 seen this. This is NRC-006, which is testimony from  
23 Mr. Meeks, and on pages --

24 MR. TUCKER: I have not seen that document,  
25 just so you know.

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1 JUDGE FROEHLICH: Okay. On page 17, he  
2 states that Ms. Smith's name was in this group of  
3 three, identified in the June 7th letter, and makes  
4 the evaluation, and these are pretty much his words,  
5 his interpretation of them being in this second group  
6 is that "The facility licensee was not confident that  
7 her performance merited an operating exam waiver.  
8 Otherwise, she would have been in, listed in the first  
9 group."

10 So it that your interpretation of all three  
11 of the names being in this second group, that at the  
12 time of this email on June 7th, all three of these,  
13 you were not confident that their performance merited  
14 an operating exam waiver?

15 MR. TUCKER: No, I wouldn't directly say  
16 that. I mean that's not really how we look at this.  
17 We're not thinking of whether or not they're to get a  
18 waiver. We're thinking of whether we're confident  
19 overall for going back through and getting their  
20 license exam at the end. I wouldn't take it that way.  
21 That's me.

22 JUDGE FROEHLICH: Thank you.

23 MR. TUCKER: I'm trying to remember back for  
24 those two. I mean, you know, we did, all three of  
25 these, we determined that yeah, we felt they were

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1 competent to go forward and go to the NRC, take an NRC  
2 exam, and all three of those, Dyer, Barefield and  
3 Smith, we put back in the training program in a state  
4 of going to school with the other students that were  
5 all going in class, anticipating the potential that  
6 they would, could get denied a waiver, and that only  
7 one of the three did get denied.

8 Now the other three, we felt highly  
9 confident that we didn't even have to worry about the  
10 operating exam at all. So we didn't even -- once a  
11 week, we'd have them go in there and be part of the  
12 simulator and stuff like that. But we really didn't  
13 put the remedial program, getting them focused on the  
14 operating part.

15 JUDGE FROEHLICH: So let me ask about the  
16 remedial program. All six of these were in some type  
17 of remedial program; is that correct?

18 MR. TUCKER: Correct. I mean even the three  
19 up, Jenkins, Gordon and Sinkler, they had some  
20 remediation that they had to do in the simulator that  
21 is related to operating exam, and we felt like they  
22 would not get denied a waiver. So we definitely,  
23 you've still got to remediate any weaknesses, because  
24 everybody has comments.

25 So we would not send somebody up for an exam

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1 that didn't have some remediation in those comment  
2 area, and even those three had some remediation  
3 involved in the operating part, even though they got  
4 a waiver and we felt high confident they would.

5 JUDGE FROEHLICH: So I think what I heard  
6 you say was that you provided a remedial training  
7 program for all six of these candidates, and you  
8 didn't say this part. But part of it, I'm going to  
9 put words in your mouth a little bit, part of their  
10 training program emphasized the written program,  
11 because that's what they really had to retake for  
12 sure. Is that correct?

13 MR. TUCKER: Correct. I mean they all had  
14 remediation in all areas.

15 JUDGE FROEHLICH: Okay, writing, and then  
16 part of it, when you say "in all areas," the other  
17 part emphasized, and you did use the word "comment."  
18 Is that comments that were on the 303s?

19 MR. TUCKER: The grading, yes. That's the  
20 grading sheets for the operating exam. Yes, 303s are  
21 it.

22 JUDGE FROEHLICH: So it's a standard, would  
23 you say it's a standard part of your training program  
24 to collect the 303s after any exam, and then provide  
25 a training program on whatever the comments were that

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1 were on the 303s?

2 MR. TUCKER: That is definitely in a  
3 standard. Pass or fail, we look at those 303s, and  
4 even if they're granted a license, we still do some  
5 form of remediation, based on what the exam comments  
6 brought out.

7 (Pause.)

8 MR. TUCKER: Y'all still here?

9 JUDGE FROEHLICH: Yeah, we're still here.

10 MR. TUCKER: Okay. I was just making sure  
11 I didn't lose you.

12 JUDGE FROEHLICH: Okay. Let me move on to  
13 one question about the 2012 exam and its appeal.  
14 There were three members of the appeal panel. One of  
15 those individuals, Mr. Steely, provided comments on  
16 about 9/26/12 to his co-panel members, Mr. Jackson and  
17 Mr. Muller, and this comment is found in one of Ms.  
18 Smith's exhibits, CCS-027.

19 MR. TUCKER: I don't have that one.

20 JUDGE FROEHLICH: Okay. This relates, and  
21 it's relative to a reactor water storage tank leak.  
22 It was Event No. 6 in her Scenario No. 7. The  
23 statement was that the facility, the facility response  
24 was that "The operator at the controls should not be  
25 burdened with the additional responsibility of

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1 considering and recommending actions related to a  
2 problem or failure," because they wanted the operator  
3 at the controls to concentrate on managing reactivity.  
4 Can you comment on that please, about how that  
5 consideration is dealt with in your training program?

6 MR. TUCKER: Well, I'm sorry. But I'm going  
7 to have to ask you to kind of tell me again about  
8 that, so I make sure I understand it.

9 JUDGE FROEHLICH: Okay. We do not have  
10 copies of this particular correspondence between the  
11 facility and the NRC.

12 MR. TUCKER: Okay. I wasn't involved in  
13 that appeal either, so that's why I had you repeat it.

14 JUDGE FROEHLICH: Okay, and that's fine,  
15 because I'm asking about the training program, and the  
16 emphasis in the training program.

17 Apparently, and this is my inference from  
18 the communication that we do have a copy of,  
19 apparently someone, there were comments made from the  
20 facility back to the NRC on the grading on the exams,  
21 and specifically in this case, it's related to Ms.  
22 Smith's grading.

23 Someone at the facility, and we don't know  
24 who, made a comment to the exam team perhaps, or  
25 perhaps maybe to the management of the exam team at

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1 NRC. The facility response was that the operator at  
2 the controls should not be burdened with the  
3 additional responsibility of considering and  
4 recommending actions related to some problem other  
5 than reactivity control while the operator at the  
6 controls is specifically responsible for reactivity  
7 control.

8 So my question is, to you is how do you  
9 train your crews relative to taking responsibility for  
10 reactivity control during the occasion of other  
11 malfunctions that might be occurring while they're on  
12 their OATC watch?

13 MR. TUCKER: Okay, I understand a little  
14 better now. How we train is that, you know, obviously  
15 there's nothing more important than to monitor  
16 reactivity.

17 So if an event happens, even if it's on the  
18 operator control board, either the operator at control  
19 does a turnover to the unit operator, while they go  
20 focus on the event.

21 In other words, somebody always has a full  
22 focus on reactivity, or either the operator at control  
23 maintains a focus on reactivity, and the other person  
24 focuses on the event that's going on. I mean  
25 obviously we don't want, we want to avoid having no

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1 one being able to put full focus on reactivity  
2 management.

3 JUDGE FROEHLICH: Would you repeat that  
4 please, the last sentence?

5 MR. TUCKER: The last sentence? I mean we  
6 -- I'm trying to remember what I said. I mean we want  
7 to always -- we want to train our operators that  
8 somebody is always having a full focus on reactivity  
9 management, and whether it be the operator at the  
10 controls and it's on their board and they focus.

11 Somebody takes their oversight or reactivity  
12 management or they maintain it, and somebody else does  
13 their malfunctions.

14 JUDGE FROEHLICH: So if the plant is in a  
15 relatively stable state, that is power's not really  
16 affected by what this other malfunction might be, you  
17 want the -- you want one of your board operators.

18 As I understand what you said, it could be  
19 either of the board operators, it should first perhaps  
20 be in the OATC, but maybe that person takes charge of  
21 taking care of the other malfunction, and turns, in a  
22 very overt way, responsibility for reactivity over to  
23 the unit operator one way or the other.

24 But once that person or an individual is  
25 assigned reactivity control, are you saying that you

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1 expect them to concentrate only on reactivity control,  
2 and not be thinking about what's going on otherwise?

3 MR. TUCKER: Well, I mean we want them to  
4 thinking about what's going on. But we still want to  
5 put that focus on reactivity control.

6 I mean as an SRO, I'll tell you, if that is  
7 facing me, my first choice is can I get the other  
8 operator, the unit operator to go deal with the  
9 malfunction that the operator at the control panel is  
10 experiencing, and let the operator at control stay  
11 focused on reactivity?

12 But yes, I want them to be aware of what's  
13 going on and speak up, input, have knowledge of how to  
14 handle what we're doing, but keeping that oversight  
15 focused on reactivity management. I don't want them  
16 to sit there and be oblivious to what's going on  
17 around them, if that's what you're trying to ask me.

18 JUDGE FROEHLICH: Okay. So you want them  
19 to concentrate on reactivity control, but not, I think  
20 your words were, not be oblivious to whatever the  
21 other event might be?

22 MR. TUCKER: That's correct.

23 JUDGE FROEHLICH: And by not being  
24 oblivious, do you expect them to perhaps offer advice  
25 and options while that other event is going on, or

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1 just remain cognizant of it?

2 MR. TUCKER: I would actually expect them to  
3 speak up and offer comments and input.

4 JUDGE FROEHLICH: Thank you.

5 MR. TUCKER: I'll be upset if they didn't  
6 speak up.

7 JUDGE FROEHLICH: Okay. I don't have any  
8 other questions.

9 CHAIR SPRITZER: All right. I have a few  
10 more questions, Mr. Tucker. Ms. Smith, I don't know  
11 if you have anything you wanted to suggest to us.

12 MS. SMITH: No, Your Honor.

13 CHAIR SPRITZER: Mr. Tucker, were the  
14 preliminary 398, was the preliminary 398 form  
15 submitted for Carla Smith, do you know whether that  
16 was submitted by mail or electronically?

17 MR. TUCKER: We submitted it, I think we  
18 used FedEx. I know we mailed it, and we usually what  
19 we do is I've tried to get our administrative  
20 assistants to go electronically.

21 I haven't done that yet. But we do FedEx,  
22 I believe it's FedEx, and we get a receipt, you know,  
23 when they get it. When they get delivered, we get a  
24 little electronic receipt saying they got it. So  
25 that's how they were delivered.

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1 CHAIR SPRITZER: Did you get such a receipt  
2 for the preliminary 398 for Carla Smith?

3 MR. TUCKER: I'm sure we did, and I'm sure  
4 we have it on record. We normally keep that stuff.  
5 I mean I wasn't up there when it happened, but I'm  
6 certain that we did.

7 JUDGE HAJEK: Who would the 398s have been  
8 sent to in the cover letter or addressed to?

9 MR. TUCKER: I don't -- off the top of my  
10 head, I'd have to look that one up. Whoever it tells  
11 us to -- in the NUREG-1021, there's like a form letter  
12 and it tells you who to send it to. Probably chief  
13 examiner, but I'd have to actually look at that form  
14 letter.

15 Because you have to -- you put a little  
16 cover letter on it signed by the -- we do do that for  
17 the cover letter signed by the vice president. Even  
18 though he didn't sign the apps for the preliminaries,  
19 there is a cover letter that says "In accordance with  
20 the NUREG, here's the pre-apps."

21 I mean because you have deadlines you have  
22 to meet, so it is a formal process, even though  
23 they're pre-apps.

24 CHAIR SPRITZER: Mr. Tucker, what do you  
25 understand the purpose of submitting preliminary

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1       uncertified applications to the NRC to be?

2               MR. TUCKER:  I think I stated that earlier.  
3       It's just so that you have any type of issues or  
4       something, they can call you up.  Because when you  
5       sign a piece of paper, you're signing that it's  
6       perfect.  I mean that's a legal document.

7               So to send it in unsigned gives you a chance  
8       to, maybe if you made like a typo or a mistake or  
9       something like that, and they can call you up and say  
10      hey, did you mean to check this or what?  They can  
11      discuss it with and you fix it before you send the  
12      final one.

13              It's taken pretty serious, I mean the signed  
14      document.  You've got to have T's crossed, the I's  
15      dotted.  It's a legal document.  I mean that's how I  
16      look at it and that's how I believe it is.

17              CHAIR SPRITZER:  Now referring you back to  
18      the conversation you had with, is it Thad Thompson?

19              MR. TUCKER:  Yes sir.

20              CHAIR SPRITZER:  Did you personally contact  
21      anyone at the NRC to confirm what you heard from Mr.  
22      Thompson, about a possible --

23              MR. TUCKER:  No sir.  I've never myself made  
24      any phone calls to the NRC.  It was all through the  
25      exam group, because that's kind of the protocol.  That

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1 is the protocol, not kind of.

2 The protocol is the exam group is the one in  
3 constant communication with NRC, when we're getting  
4 ready for an exam, and they're the ones that do all  
5 the talking between them.

6 CHAIR SPRITZER: Now with reference to the  
7 -- hold on just a minute. With reference to the delay  
8 that Mr. Thompson told you about, that is that Carla  
9 Smith's waiver request would cause a delay, or could  
10 cause a delay, did you ever discuss this issue with  
11 Mr. Wainwright?

12 MR. TUCKER: I know we commented to each  
13 other. I don't know how deep we went into it. I mean  
14 I know we discussed it, yes, like I say. I just don't  
15 recall what we discussed.

16 I mean and part of that discussion was, you  
17 know, I always had the intention of applying for the  
18 waiver, and I didn't want to upset anybody. People  
19 were upset about us formally -- I mean I was surprised  
20 that there was surprise at the NRC.

21 CHAIR SPRITZER: Now to your knowledge, did  
22 the NRC ever block Southern Nuclear Operating from  
23 submitting a final waiver request for Carla Smith?

24 MR. TUCKER: Did they ever what? Say that  
25 word again?

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1 CHAIR SPRITZER: Well, prevent. Did they  
2 ever prevent you from submitting a final waiver  
3 request?

4 MR. TUCKER: The NRC had no say-so in  
5 whether our certified application was going to ask for  
6 a waiver or not. They had no influence as far as  
7 directly saying yea or nay. It was all strictly  
8 because we were concerned about the delayed exam, as  
9 I stated earlier.

10 CHAIR SPRITZER: Was Ms. Smith's 25 weeks'  
11 remedial training separate from what the HL-17 class  
12 received?

13 MR. TUCKER: It was either graded -- there  
14 were some parts of it that she did separate, but a lot  
15 of it, the majority of it was integrated into the  
16 training that she was involved in with that group, the  
17 HL-17 group.

18 CHAIR SPRITZER: Did she receive tailored  
19 remedial training, or did she just participate in  
20 training with HL-17?

21 MR. TUCKER: No. She had some specific  
22 items. Like I said, I actually had to type up, and I  
23 don't have them with me. But I mean I had to type up  
24 a remedial plan. This is the stuff, in addition to  
25 being in school with the HL-17 group. We've also got

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1 to focus on a couple of these items, and that came  
2 from her comments from her failed exams. So yes, they  
3 were tailored to her individually.

4 CHAIR SPRITZER: Did Ms. Smith pass a  
5 comprehensive operating test audit?

6 MR. TUCKER: She had -- yes. She had the  
7 comprehensive operating test audit in the spring of  
8 2012.

9 CHAIR SPRITZER: Why was that not documented  
10 on the explanation for Item 13G on her preliminary  
11 application?

12 MR. TUCKER: Let me take a look at that.  
13 You said 13 Golf, 13G?

14 CHAIR SPRITZER: Yes, exactly. Yes, on the  
15 398, the preliminary 398, which is part of your  
16 affidavit.

17 MR. TUCKER: Well, that was part of her  
18 remedial program, was going through and including  
19 passing another operating audit, and I'd have to --  
20 I'm sure I've got that wrote down in her remedial  
21 thing, but that was all part of it.

22 I didn't specifically -- I'd have to look at  
23 her remedial plan. I'm sure, I feel certain it's in  
24 there.

25 JUDGE HAJEK: Yeah. On page 16, you have an

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1 item that reflects 13G, where you say "The applicant  
2 has successfully completed a comprehensive remedial  
3 training program for SRO duties. The program included  
4 a remedial training program on areas of weakness," and  
5 I'm curious about this next phrase in this sentence.

6 MR. TUCKER: Yes sir.

7 JUDGE HAJEK: Excuse me. Areas of weakness,  
8 this is on -- did you find that? It's page 16.

9 MR. TUCKER: Yeah. I'm looking at the same  
10 paragraph you're on.

11 JUDGE HAJEK: Second paragraph, second  
12 paragraph. Identify -- okay. "The program included  
13 remedial training on areas of weakness," and the next  
14 few words "Identified in the denial letter dated May  
15 9th, 2011 and on the knowledge areas in the NRC K&A  
16 catalogue, that an SRO applicant may be evaluated on."

17 Now the denial letter, I went back and I  
18 looked at the denial letter, and it really said only  
19 that she had not passed the written exam. So there  
20 weren't any other areas of weakness that were really  
21 identified.

22 So what was the meaning of this particular  
23 phrase in this paragraph?

24 MR. TUCKER: I guess denial letter is not  
25 the best choice of words there. It's the grading,

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1 because I remember what it is, I looked at her grading  
2 sheets, and took all stuff from that.

3 JUDGE HAJEK: Her grading sheets being --  
4 that's what you meant to have said at the bottom?

5 MR. TUCKER: Yeah. Denial letter is not the  
6 best choice of words there.

7 JUDGE HAJEK: Okay.

8 MR. TUCKER: I mean it was in her previous  
9 exam. Any areas of weakness, the best way to say it  
10 would be any areas of weakness identified in her  
11 previous exam.

12 JUDGE HAJEK: Okay. So continue reading in  
13 that paragraph, "and on the knowledge areas of the K&A  
14 catalogue that an SRO might be evaluated on." The  
15 last sentence then says "The applicant successfully  
16 completed a facility developed 100 question SRO  
17 written audit exam," and this is what I think what  
18 Judge Spritzer was asking about. You didn't say  
19 anything in here about the other aspects of the audit  
20 exam?

21 MR. TUCKER: That, I could have and I  
22 probably should have. But in the back of my mind, my  
23 assumption was she was going to get a waiver. So when  
24 I wrote, when I planned that out, that was kind of in  
25 the back of my mind. But yeah, I could have said that

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1 about three, the Barefield and the Dyer applicants  
2 too. They all passed an audit exam too.

3 JUDGE HAJEK: Okay. I have another  
4 question, and I want to go back to Judge Spritzer's  
5 line of questioning. Go back to page six of your  
6 testimony, to the center of the page please.

7 MR. TUCKER: I have page six. I'm on page  
8 six.

9 JUDGE HAJEK: Okay, and you had indicated  
10 that in response to one of Judge Spritzer's questions,  
11 that the Commission never said that we absolutely will  
12 not receive a waiver for Carla.

13 But in the middle of this page, under  
14 "Record of Correspondence," you have June 7th, August  
15 2nd, September 9th. Then in this next paragraph, I  
16 completely don't understand what you've said here.

17 You've said "Based on the response from the  
18 NRC, was I supposed to concede that no waiver would be  
19 given or asked for, based on NUREG-1021 instructions?  
20 I surely don't want the NRC unduly upset. But I  
21 thought and intended to follow the formal and legal  
22 way required."

23 MR. TUCKER: Yes.

24 JUDGE HAJEK: Well if you're following the  
25 legal way, what do you mean "You don't want to upset

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1 the NRC?"

2 MR. TUCKER: I mean --

3 JUDGE HAJEK: Think please.

4 MR. TUCKER: I'm trying to think how to  
5 answer that. We want to follow the process, and not  
6 upset somebody if we're not following process.

7 JUDGE HAJEK: Who are we --

8 MR. TUCKER: Remember what I said earlier  
9 about the hornet's nest, y'all asked me. I mean the  
10 impression I was given, they were kind of surprised  
11 that we had asked for the waiver, but they never came  
12 out and said she would not definitely get a waiver.

13 It was likely it would be denied the waiver  
14 is all the words they used on the previous  
15 correspondence, and they didn't respond back on the  
16 formal letter. So I mean, you know, as I said, I was  
17 supposed to concede that they were going to yep, it's  
18 a definite no, because there never was nobody said no,  
19 she would not get a waiver. That was never stated.

20 JUDGE HAJEK: How many correspondences  
21 occurred between the NRC and the staff, during which  
22 the NRC either made the statement, or the NRC  
23 representative either made the statement she will  
24 likely be denied a waiver, or express surprise about  
25 that waiver request potentially coming in? Is this

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1 one --

2 MR. TUCKER: Well, your first question was  
3 there was at least three of those correspondences that  
4 dealt with -- we were going to ask for, or we inquired  
5 about waiver status potential, and the NRC, you know,  
6 will respond likely to be denied. There were at least  
7 three of those. I mean that's why I kind of got them  
8 listed there for you.

9 JUDGE HAJEK: Okay, so and then Mr. Thompson  
10 came back and asked you why you were stirring up a  
11 hornet's nest on this?

12 MR. TUCKER: That was basically the words he  
13 used, yes.

14 JUDGE HAJEK: So by that point in time, were  
15 you beginning to get the feeling that somebody was  
16 unduly upsetting the NRC, because of the continued  
17 confusion about the waiver?

18 MR. TUCKER: Yeah. I mean I just didn't  
19 understand why they seemed surprised we asked for it.  
20 I guess that's the best way for me to state it, and I  
21 don't want to upset them.

22 I mean obviously, you know, you don't -- the  
23 guy that's coming in to do the exam, you don't go, you  
24 don't want to be their enemies obviously. I mean  
25 that's just good business. You want to do things fair

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1 and right. That's all my ever intentions were.

2 JUDGE HAJEK: Okay, thank you.

3 CHAIR SPRITZER: Unless there are any more  
4 questions from anyone?

5 MR. WACHUTKA: Not from the NRC staff, Your  
6 Honor.

7 MR. TUCKER: I'm having trouble hearing you.

8 CHAIR SPRITZER: Just a minute.

9 MS. SMITH: None, Your Honor.

10 CHAIR SPRITZER: All right, Mr. Tucker. I  
11 believe we are concluded with you. We appreciate your  
12 taking time out of your vacation to make yourself  
13 available, and --

14 MR. TUCKER: Yes sir. Thank y'all for being  
15 patient enough to work with me.

16 CHAIR SPRITZER: Very good. Have a good  
17 day. Let's take a five minute break, or maybe seven  
18 minutes.

19 (Whereupon, a short recess was taken.)

20 CHAIR SPRITZER: All right. Let's go back  
21 on the record, and let me give a brief game plan for  
22 the rest of today. We'll finish with Ms. Smith, Mr.  
23 Waltower and Mr. Turner. We hope to have time to move  
24 on top the exam team. I don't know whether we'll  
25 finish with them today or not. We won't go beyond the

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1 exam team today.

2 If we do finish with them, we should be fine  
3 for tomorrow. In any event, we'll try and get as much  
4 as we can done today. We indicated we planned to stay  
5 here until approximately seven o'clock. Hopefully,  
6 that's not a problem for anybody.

7 MS. SMITH: No, Your Honor.

8 CHAIR SPRITZER: Staff, are you witnesses  
9 okay? They're able to stay until about seven if  
10 necessary?

11 MR. WACHUTKA: Yes, Your Honor.

12 CHAIR SPRITZER: Okay, great. Let's see,  
13 where was I? Bear with me a moment. Okay, here we  
14 are. Ms. Smith, you and Mr. Waltower, Mr. Turner.  
15 You're all still under oath.

16 DIRECT EXAMINATION (resumed)

17 CHAIR SPRITZER: In Exhibit CCS-116, you  
18 state that you do not fault the review team for taking  
19 input from the region, but you do fault them for  
20 taking input from the exam team.

21 Given that the governing guidance for  
22 conducting informal reviews contained in OLMC-500 has  
23 a provision to ensure that the review results include  
24 regional/examiner record input, which regional staff  
25 members, other than the examiners with firsthand

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1 knowledge of the examination, do you believe would  
2 have been able to offer meaningful input for the  
3 informal review?

4 MS. SMITH: Your Honor, obviously I am not  
5 as familiar with the structure of the NRC Region II  
6 staff area. So I can't say that I actually know who  
7 would be above this exam team. I do know that there  
8 are other examiners that are a part of that actual  
9 division or a portion of the region.

10 I am sure that there are individuals that  
11 are above even the individual who was the supervisor  
12 of the exam team. So I would think that it would have  
13 been someone that would have been a little higher, or  
14 some examiner that was outside of that actual group  
15 itself.

16 CHAIR SPRITZER: Can we bring up Exhibit  
17 CCS-116, specifically page 43? Now in this exhibit,  
18 you discuss the use of the terms "and" and "or" with  
19 respect to the informal review process contained in  
20 OLMC-500. Please explain why you think that this  
21 distinction is important.

22 MS. SMITH: Okay, let's see. Give me one  
23 second, Your Honor. Do you want to reference the page  
24 number at the bottom of the -- yeah. Okay. I think  
25 it is CCS-030, which would be the OLMC document. If

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1 you were to pull up page three, at the top of page  
2 three.

3 All right. Your Honor, if you look at  
4 statement Bravo, it starts off and you'll see some  
5 numbers in the body, one, two and three. But it  
6 starts off saying "The chief IOLB," which from my  
7 understanding would be at the NRR, "in consultation  
8 with the affected region and the IOLB staff, will  
9 determine whether to one, have an independent  
10 qualified examiner from one of the regions perform the  
11 review; two, have the IOLB perform the review; or  
12 three, convene a three-person appeal panel."

13 So that statement alone allows a choice as  
14 to which way you want to handle the review. Now my  
15 assumption would be if there were not any type of  
16 issues as far as anyone disputing if they were treated  
17 differently or anything like that, and it was just  
18 moreso, okay, I think it may be some more information  
19 that you should consider, I would think that choice  
20 number one would be appropriate.

21 Like maybe the examiner didn't consider  
22 something, and in that case, it would be performed at  
23 the actual region itself. Number two says to have the  
24 IOLB to perform the region. As I said before, my  
25 understanding is that the IOLB is the NRR, and I think

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1 later, and I'll point that out too, but later in the  
2 document it says that normally, the IOLB is the choice  
3 that's selected.

4 Number three is the convening of the three-  
5 person appeal panel. For my review, it was decided on  
6 choice number three, that a three-person appeal panel  
7 would be a forum to perform the review. Let's see.  
8 It says "Since all administrative review results are  
9 subject to final approval by the IOLB, in order to  
10 enhance efficiency the IOLB will typically perform the  
11 review and document the results, taking into account  
12 any regional/examiner of record input."

13 Now if you notice that statement does say  
14 the IOLB will typically perform the review and  
15 document the results. In that particular case, it  
16 says that you will take into account the  
17 regional/examiner of record input.

18 It goes on and talks about when the  
19 different selections may be appropriate, and if you  
20 see again Option 3, which is that last sentence, it  
21 says that "Option 3 might be appropriate for  
22 particularly complex or contentious cases," which  
23 obviously that's where my case falls.

24 If you look at (c), it again goes on and  
25 talks about the IOLB, and that individual having

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1 contact with the region/examiner of record input, and  
2 the examiner of record is one of the exam team  
3 members.

4 Delta, which moreso talks a little bit more  
5 about the panel itself, it says "If it is determined  
6 that an appeal panel will be used for the review, then  
7 the chief IOLB, in consultation with all the NRC  
8 regions, will determine that make-up."

9 Then if you go to like the last sentence, it  
10 says that the panel shall be impartial, i.e., it may  
11 include a representative from the affected region, but  
12 it will not include individuals involved with the  
13 applicant's licensing exam.

14  
15 There's also another reference. If you were  
16 to go to page five -- I'm sorry. Go back to your page  
17 three. This would be Comment F. It says "The results  
18 of all administrative reviews will be approved by the  
19 IOLB, and signed off by the director, DIRS, taking  
20 into account any input from the affected region and/or  
21 examiner of record."

22 In all other cases, it's stated  
23 region/examiner of record. In this case, it says  
24 "and/or," meaning that there has to be some cases in  
25 which it may be appropriate to include the examiner of

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1 record, and sometimes where it may not.

2 Now obviously, if you look at the first  
3 three choices, I would not think that there would be  
4 an issue as to why the examiner of the -- the examiner  
5 of record would have any problem with being included.  
6 But if it were a complex situation, then I would think  
7 that it would make more sense that the individuals in  
8 question should not be involved, as is stated for the  
9 appeal panel, where it says that they are to remain  
10 impartial.

11 CHAIR SPRITZER: All right. Do you recall  
12 during your 2012 operating exam, Scenario 7, Event 6,  
13 which I believe has to do with the RWST. Is that  
14 radioactive water storage tank or --

15 MS. SMITH: Oh wow.

16 CHAIR SPRITZER: Reactor water --

17 MS. SMITH: Reactor water storage refueling.

18 MR. TURNER: Refueling of radioactive waste.

19 MS. SMITH: Refueling. Excuse me, thank  
20 you.

21 CHAIR SPRITZER: Radioactive waste storage  
22 tank?

23 MS. SMITH: Refueling water storage tank.

24 MR. TURNER: Refueling water storage.

25 CHAIR SPRITZER: Refueling water storage

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1 tank. All right. In any event, do you recall an  
2 Event 6, Scenario 7, that involved that tank?

3 MS. SMITH: That's correct.

4 CHAIR SPRITZER: You state in your statement  
5 of Position 6 that you were directed by the SRO to  
6 monitor reactivity during this event, while the UO  
7 addressed this event. Did your monitoring of  
8 reactivity result in making any control board  
9 manipulations during this event?

10 MS. SMITH: I'm sorry, say that again?

11 CHAIR SPRITZER: Okay. You state in your  
12 statement of Position 6 that you were directed by the  
13 SRO to monitor reactivity during this event, while the  
14 UO addressed the event. Did your monitoring of  
15 reactivity result in making any control board  
16 manipulations during the event?

17 MS. SMITH: No, it did not.

18 CHAIR SPRITZER: Did your responsibility for  
19 monitoring a stable, primary plant preclude you from  
20 being aware of the situation that the rest of the crew  
21 was dealing with, that is the lowering of the RWST  
22 level?

23 MS. SMITH: It did not.

24 CHAIR SPRITZER: Were you aware that the  
25 sludge mixing isolation valves should have closed on

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1 RWST low level?

2 MS. SMITH: I do know that, Your Honor, and  
3 at the time that we received the failure, it took a  
4 few minutes to actually figure out exactly what the  
5 alarms were associated with. I mean you have to go  
6 through a process of actually analyzing and diagnosing  
7 the failure.

8 By the time that I determined what the issue  
9 was, the crew was already talking about going to the  
10 back and closing the sludge mixing valves, which they  
11 were concerned about the procedural guidance to close  
12 those valves.

13 Going to the back, the procedure does not  
14 give specific instructions that identify how to  
15 actually close those valves. There is an automatic  
16 feature that when those valves are closed, the pump  
17 will shut off and the intent or the discussion that  
18 was going on at that time was not where is the  
19 location of those valves, but we've got to find a  
20 standard operating procedure to be able to close those  
21 valves, so that we don't challenge that automatic  
22 actuation.

23 So at the time that I noted what was going  
24 on, it was already being discussed and had already  
25 been determined. So it would have made no sense for

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1 me to say "Go to the back and close the sludge mixing  
2 valves," when the discussion was already in progress.

3 CHAIR SPRITZER: Do you recall any  
4 conversations with Mr. Waltower concerning the plant  
5 design for those valves to close on RWST low level?

6 MS. SMITH: Mr. Waltower did not say that to  
7 me.

8 JUDGE HAJEK: Who did he say it to?

9 MS. SMITH: The SS.

10 JUDGE HAJEK: So Mr. Waltower is here and he  
11 can speak for himself, perhaps.

12 MR. WALTOWER: I didn't know I was free to  
13 speak, Your Honor. I was aware it was my turn or I'm  
14 free to speak yet. That's --

15 JUDGE HAJEK: Go ahead.

16 MR. WALTOWER: That whole scenario, the way  
17 it's written up, is inaccurate. When the incident  
18 happened, the first one actually came in, Carla  
19 acknowledged the alarm, and she was supposed to first.  
20 Then when it was time to pull the ARP --

21 JUDGE HAJEK: So that I'm on -- okay. So  
22 when the event occurred.

23 MR. WALTOWER: Yes sir.

24 JUDGE HAJEK: This was an alarm went off.

25 MR. WALTOWER: That's correct.

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1 JUDGE HAJEK: And the alarm specifically was  
2 refueling water storage tank?

3 MR. WALTOWER: Low level, that's correct.

4 JUDGE HAJEK: Low level.

5 MR. WALTOWER: That's correct, 94 percent.

6 JUDGE HAJEK: All right, and this was on  
7 Carla's board?

8 MR. WALTOWER: The panel to the left of  
9 Charlie panel, on which Carla can acknowledge the  
10 alarm. That's correct.

11 JUDGE HAJEK: Okay.

12 MR. WALTOWER: So then our next step after  
13 acknowledging the alarm, making sure it's silent, she  
14 announced it to Mr. Turner, had him pull the ARP.

15 JUDGE HAJEK: Okay, back up just a moment.

16 MR. WALTOWER: Yes sir.

17 JUDGE HAJEK: So an alarm comes in. The  
18 alarm goes off; everybody hears it, right?

19 MR. WALTOWER: Yes sir.

20 JUDGE HAJEK: And a light flashes.

21 MR. WALTOWER: That's correct.

22 JUDGE HAJEK: You look up, you acknowledge  
23 the alarm, silence the alarm, and then you make an  
24 announcement by stating, saying what the alarm block  
25 says?

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1 MR. WALTOWER: That's correct.

2 JUDGE HAJEK: You whisper that or does it go  
3 off to every -- it's said loudly, so everyone hears  
4 it, or you know, I'm going back to these terms that --  
5 I mean this is used in the write-up in a couple of  
6 places, where it makes it read as though the statement  
7 acknowledging the alarm and some of the discussion  
8 that occurred during this particular event was said in  
9 more of a private manner, which I'm having a difficult  
10 time understanding.

11 MR. WALTOWER: It was not said in a private  
12 manner. Once Ms. Smith announced to Mr. Turner, he  
13 had me pull the ARP.

14 JUDGE HAJEK: He had who, you?

15 MR. WALTOWER: Generally, you heard Mr.  
16 Tucker said the trainee is to monitor the Charlie  
17 panel. It was a simple issue of taking annunciator  
18 response procedure, and seeing if it addressed the  
19 alarm. It did not address the alarm, so we proceeded  
20 to pull the trends, and I called the simulator booth.  
21 That's where the operator sits that controls the  
22 simulator. Said "Dispatch the system operator to this  
23 room, the valve gallery for the RWST, and tell me if  
24 he can see anything."

25 As the alarm, as that trend continued to

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1 lower, I told Mr. Turner well, when we got feedback  
2 from the booth that there was a leak in the room, the  
3 system operator didn't give me specifics. I said  
4 "Stick your head back in there and tell me exactly  
5 where the leak is."

6 He said it was downstream of the sludge  
7 valves that Judge Spritzer mentioned earlier. At that  
8 point, I stated to Mr. Turner, I said "Those valves  
9 are automatically supposed to close. If they do not  
10 -- it's an automatic action that does not happen, I  
11 can make it happen outside of having an SOP."

12 All of our communications were trained to  
13 the T, to three-way. Mr. Turner fed that back to me,  
14 but he had concerns about the pump automatically  
15 tripping off as it would when those valves will close.  
16 So his concern was Mr. Waltower, find procedural  
17 guidance to remove from service.

18 That's what caused this whole delay. We  
19 knew what was going on and how to get the valve closed  
20 within the first five minutes. If Mr. Turner had said  
21 okay, under guidance of the 10,000 procedure, it  
22 allows you to remove, to take -- make an action happen  
23 that didn't happen automatically as it's supposed, I  
24 would have had the system isolated within the first  
25 five minutes.

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1           There was no question of where the valves  
2 were on the QPCP. There was no question where the  
3 valves were in the plant. There's no question on how  
4 they operate. It was simply finding the SOP that was  
5 vague, to go back there and say okay, start the pump  
6 and close the two valves. Leak isolated. End of the  
7 casualty.

8           Carla did not have any input because she  
9 already heard me tell Mr. Turner what I need to do  
10 with the valves. That was it for her. All we needed  
11 to find was the SOP guidance, because she can't go to  
12 the QPCP. It's outside of the picture that she drew.  
13 She can't go back there, because she's monitoring the  
14 Charlie panel, which is protecting the core.

15           That's what happened in that incident, like  
16 the whole incident. That's it. All this other stuff  
17 is I don't know, someone's fairy tale. I don't know.  
18 That's as simple as it was. You said be frank  
19 earlier, so that's why I'm --

20           JUDGE HAJEK: I am happy to have you be  
21 frank. So what's the issue with the pump stripping?

22           MR. WALTOWER: That system is designed,  
23 whether the A or B sludge mixing valve. I don't  
24 particularly call them trained, but they have their  
25 individual power supplies on the indicators. If

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1 either one of them see a low level in the isolate, it  
2 also sends a signal to the pump, which takes the  
3 suction through those valves to recirc the tank, to  
4 keep everything sludge mixing mixed.

5 JUDGE HAJEK: Okay. So help me with the  
6 PNID picture here, because as I said earlier, this is  
7 your plant. It's not my plant. I'm not an expert on  
8 your plant. So you just gave me some extra  
9 information that I hadn't seen before.

10 So the pumps take a suction on, from those  
11 valves, or through those valves.

12 MR. WALTOWER: Through the valves.

13 JUDGE HAJEK: I was thinking that the valves  
14 were sending fluid out, but this is fluid coming in.

15 MR. WALTOWER: This is fluid coming from the  
16 tank through the valves to the pump, back into the  
17 tank.

18 JUDGE HAJEK: Back into the tank.

19 MR. WALTOWER: Yes sir.

20 JUDGE HAJEK: So you had a net positive  
21 suction head issue. If the valves closed, the pump's  
22 tripped in order to protect the pump --

23 MR. WALTOWER: That's exactly correct.

24 JUDGE HAJEK: From overheating or from  
25 damage. Okay.

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1 MR. WALTOWER: That's correct.

2 JUDGE HAJEK: So if you were to close the  
3 valves before tripping the pump, I guess the question,  
4 there was a leak between the valves and the pump; is  
5 that correct?

6 MR. WALTOWER: Downstream of the valves.

7 JUDGE HAJEK: I'm sorry?

8 MR. WALTOWER: It was downstream of the  
9 valves.

10 JUDGE HAJEK: It was downstream of the  
11 valves, which would mean it's upstream of the pump?

12 MR. WALTOWER: That's correct.

13 JUDGE HAJEK: So at this point, the pumps  
14 are really under some stress, because they're losing  
15 some of the flow to them. They're being deprived of  
16 flow that they -- suction flow, because there's some  
17 kind of a leak, and Mr. Turner's -- yes or no?

18 MR. TURNER: That would be correct if the  
19 pipe was completely sheared off. I'd agree with that.  
20 But in this case, with the head of water on the RWST,  
21 it would still supply net positive suction into those  
22 pumps, with a leak there and the valves open.

23 MR. WALTOWER: We did say -- the booth  
24 operator fed back that it was spraying in the room,  
25 which indicates that it wasn't a shear break. It was

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1 somewhat of a hole in it, like a pinhole, like a water  
2 hose on the ground with a pinhole on it.

3 He said it was spraying in the room. With  
4 no motor force other than the head on the tank, if  
5 it's spraying in the room it's not a shear break.

6 MR. TURNER: But not knowing that  
7 information, I made a decision to go to the SOP, just  
8 turn the pump off before we shut the valves. That was  
9 my call.

10 JUDGE HAJEK: Okay. How difficult is it to  
11 turn the pump off?

12 MR. TURNER: Not difficult at all.

13 MR. WALTOWER: That's correct, and that's  
14 what I would have done.

15 MR. TURNER: The time that took the longest  
16 was finding the procedure to do that.

17 JUDGE HAJEK: So there was disagreement  
18 within the crew that -- Mr. Waltower would have said  
19 "well, let's just shut the pumps off, and not worry  
20 about what the procedure said." Is that -- now I'm  
21 not encouraging that you operate that way. I'm asking  
22 a question about --

23 (Simultaneous speaking.)

24 MR. TURNER: We also have procedural  
25 guidance as well in a comment of operations, that

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1 allows us to take actions, automatic actions if they  
2 don't recur, to take the actions mainly. We could  
3 have operated under that as well. But we still have  
4 94 percent. We're already in the tech spec for low  
5 level on the RWST.

6 So I made a conscious decision to go ahead,  
7 find the procedure and turn the pumps off, then shut  
8 the valves.

9 JUDGE HAJEK: Okay. Okay. So I understand  
10 the reason for the pumps to automatically trip should  
11 the valves close. Is this two pumps running in  
12 parallel and two lines, independent lines for each  
13 pump?

14 MR. TURNER: One pump, double isolation on  
15 the suction.

16 JUDGE HAJEK: One pump, double isolation on  
17 the suction?

18 MR. TURNER: That's right. I believe that's  
19 right.

20 MR. WALTOWER: That's correct. That's  
21 exactly right.

22 JUDGE HAJEK: Okay. The discussion that was  
23 going on then, was it private between the two of you?  
24 So everybody, all three candidates were involved, or  
25 not necessarily involved, but cognizant of the

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1 discussion and the decision process?

2 MR. TURNER: Yes sir. We weren't  
3 whispering. We weren't over by ourselves. We were a  
4 couple of panels down from where Carla was, but we  
5 were talking back and forth, through Rodney and I.

6 I've already directed Carla to, I directed  
7 -- when I directed Rodney to pull the ARP, I directed  
8 Carla to continue monitor reactivity while Rodney  
9 pulled the ARP and took the actions necessary.

10 JUDGE HAJEK: And at this point, you had no  
11 -- see, this explanation given by the examiners was  
12 that there were -- there was an estimate of the leak  
13 rate. Did you get an estimate of the leak rate?

14 MR. TURNER: I don't remember.

15 MR. WALTOWER: He did not give us -- I  
16 received a phone call from the booth, and they just  
17 said --

18 JUDGE HAJEK: Who took the phone call from  
19 a booth?

20 MR. WALTOWER: I took the phone call.

21 JUDGE HAJEK: Okay, that was another  
22 question that I had, and the phone call said what?

23 MR. WALTOWER: That the water was spraying  
24 all over the valve gallery.

25 JUDGE HAJEK: Okay.

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1 MR. WALTOWER: The operator made it clear he  
2 could not get in the room easily.

3 JUDGE HAJEK: Okay. But you also had  
4 another, you had other information to watch the level  
5 in the tank, and I think I heard one of you say "94  
6 percent"? Is that what I heard?

7 MR. WALTOWER: That's correct.

8 JUDGE HAJEK: And it was decreasing. You  
9 could see it on the gauge in the control room that it  
10 was decreasing?

11 MR. WALTOWER: That's correct.

12 JUDGE HAJEK: How much water does this tank  
13 hold?

14 MR. WALTOWER: We have to maintain by tech  
15 spec. We have to have about 686,000 gallons at power.

16 JUDGE HAJEK: I'm sorry?

17 MR. WALTOWER: That's at power.

18 JUDGE HAJEK: At power.

19 MR. WALTOWER: 100 percent power, or at  
20 power.

21 JUDGE HAJEK: Okay. That's a lot of water?

22 MR. WALTOWER: That's correct.

23 JUDGE HAJEK: And so if you're visibly  
24 watching this go down one percent at a time, one  
25 percent at a time, let's say it hit 94 percent and you

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1 can still see it going down. So it was, sounds to me  
2 like a pretty good-sized leak. Does that matter? Is  
3 there a safety significance to that?

4 MR. WALTOWER: The tank itself is the safety  
5 significance. That's why the valves were supposed to  
6 isolate that 94 percent.

7 JUDGE HAJEK: So if the valves isolate,  
8 they're upstream of the pump, and this is a  
9 circulating pump. So are there valves downstream of  
10 the pump that you were also isolating, or are we only  
11 talking one set of valves?

12 MR. WALTOWER: Only one set of valves refer  
13 to isolation.

14 JUDGE HAJEK: And they are -- they are on  
15 the suction side of the pump?

16 MR. WALTOWER: That's correct.

17 JUDGE HAJEK: Okay. So the leak was between  
18 the pump and the valve, and if the isolation valves  
19 that are upstream of the leak isolate, then we're not  
20 going to get water pouring out through the leak point  
21 from that direction. But you will get water, will you  
22 not, backflowing then through the pumps, if the pumps  
23 have tripped?

24 MR. WALTOWER: If the pump would have flowed  
25 water, yes, we would have had that issue. You're

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1 correct. But the issue at the time was getting those  
2 valves isolated. That's what failed to happen. I  
3 agree with you, but simulator scenario, the valves  
4 isolated, the leak stopped.

5 MR. TURNER: Also assuming there's no check  
6 valve in there. But I'd have to have a PNID to give  
7 you an accurate indication of that, a check valve on  
8 the discharge of that pump.

9 JUDGE HAJEK: Yeah. It sounds like the  
10 scenario's not -- it sounds like there is poor  
11 fidelity between the simulator and the plant, if there  
12 is no check valve.

13 MR. WALTOWER: That's correct.

14 JUDGE HAJEK: In that system. Okay.

15 MS. SMITH: Your Honor, may I add something?

16 JUDGE HAJEK: Oh. This is a three-person  
17 crew.

18 MS. SMITH: I just wanted to point out that  
19 while this event was going on, I was making  
20 recommendations, based on what I could see, and I did  
21 recommend that we isolate the manual valves. At that  
22 time, I could not see if the automatic valves didn't  
23 close, but I did make a recommendation at that time,  
24 or around the time that the discussion was going on.

25 So I was actually saying hey guys, if we

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1 need to close the manual valves, look into that too.  
2 And after the exam team left, there was a procedure  
3 revision that was applied to that ARP, in which they  
4 went and added guidance to include the pump.

5 JUDGE HAJEK: The pump?

6 MS. SMITH: That is correct.

7 JUDGE HAJEK: In the ARP?

8 MS. SMITH: That is correct. Previously, it  
9 didn't address shutting off the pump, and after the  
10 exam was over, a procedural revision was submitted,  
11 and it was adjusted to now include instructions when  
12 you go and shut off that valves, to also turn the pump  
13 off in the correct sequence.

14 JUDGE HAJEK: Okay. Now you raise another  
15 question in my mind. Again, I emphasize it's your  
16 plant. I'm not familiar with the PNID or the system  
17 itself. But how do you close the manual valves?

18 MS. SMITH: Your Honor, please keep in mind  
19 it's been a while since I've actually looked at the  
20 PNIDs for the RWST.

21 JUDGE HAJEK: Yes. But back on that day a  
22 year ago, you knew.

23 MS. SMITH: That's right, in fact, and I do  
24 remember --

25 JUDGE HAJEK: So Mr. Turner, you're still on

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1 the control room, right, on crew?

2 MR. TURNER: Right.

3 JUDGE HAJEK: Okay. So where the manual  
4 valve?

5 MR. TURNER: I don't know of any manual  
6 valves.

7 JUDGE HAJEK: Is this manual?

8 MR. TURNER: You can manually jack those  
9 valves in the closed position. Is that what you're  
10 talking about?

11 JUDGE HAJEK: Are these local manual  
12 controls? You've got to go down and be --

13 MR. TURNER: It's right beside the tank.

14 JUDGE HAJEK: Right beside the tank?

15 MR. TURNER: That's right.

16 JUDGE HAJEK: In the same room where the  
17 water's spraying out?

18 MR. TURNER: That's right.

19 MR. WALTOWER: That's correct.

20 JUDGE HAJEK: This is nice, safe water to  
21 walk into?

22 MS. SMITH: Now mind you, that was before  
23 the phone call in which it was identified that water  
24 was spraying everywhere. I mean there's a phone call  
25 made, there's a response, you know, and it's just hey,

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1 I'm sitting here monitoring reactivity. I'm just, you  
2 know, "Hey, maybe we need to look at this, maybe we  
3 need to look at that" type deal.

4 Because keep in mind, I was not looking at  
5 any ARPs. I was not looking at any PNIDs. I was  
6 pretty well going off of memory.

7 JUDGE HAJEK: Okay, and so your testimony at  
8 this time is that you made comments to them.  
9 Whispering comments?

10 MS. SMITH: No, Your Honor. They were not  
11 whispering comments.

12 JUDGE HAJEK: So that should be in Mr.  
13 Bates' notes?

14 MS. SMITH: It should be, it should be. But  
15 if your intent is not to collect anything positive,  
16 then it would not be there.

17 JUDGE HAJEK: I will have to go back and  
18 look at his notes. Okay.

19 (Off record comments.)

20 CHAIR SPRITZER: Ms. Smith, this question is  
21 for you, Ms. Smith, I believe. Did the RWST level  
22 continue to lower for almost 20 minutes during the  
23 scenario, during the event that we've been talking  
24 about?

25 MS. SMITH: Based on the information that

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1 was provided by the exam team, yes. But can I  
2 actually validate that? No. Being a member of the  
3 exam team, we're not sitting there, you know, it's not  
4 like I'm sitting there with a stop watch and saying  
5 okay, start, you know.

6 Obviously, a minute felt like an hour at  
7 times, and seconds could have felt like minutes. So  
8 I cannot, you know, for 100 percent sure tell you  
9 exact minutes. I can only go by what their notes say.

10 CHAIR SPRITZER: Right. Did you know where  
11 the hand switches for the isolation valves were  
12 located while the event was in progress?

13 MS. SMITH: Yes, I did.

14 CHAIR SPRITZER: Did any of your team mates  
15 suggest walking across the control room to Panel QPCP,  
16 to verify the position of the RWST sludge mixing  
17 isolation valves?

18 MS. SMITH: I do not recall anyone  
19 mentioning it, but I know that there was a time that  
20 I saw Rodney leave and go towards the back panel. But  
21 I cannot say I knew exactly what the conversation was,  
22 because at some point, they were at the other ends,  
23 where I couldn't hear the entire conversation. I  
24 could hear bits and pieces, but not everything.

25 CHAIR SPRITZER: Is the RWST a safety

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1 significant piece of equipment?

2 MS. SMITH: It is. It is, it is.

3 CHAIR SPRITZER: What is its function?

4 MS. SMITH: When we are 100 percent power,  
5 keep in mind that we are trained to respond to  
6 emergency-type situations. So if we were to have a  
7 large break LOCA, the RWST provides the water that  
8 would basically feed all the emergency pumps that  
9 would keep the core covered.

10 So it's a significant amount of water, with  
11 the intent that there's a huge hole in the primary  
12 system, and that water has got to be made up, and you  
13 know, ideal is is that water is dumping through  
14 several, going through several pumps, and that on the  
15 discharge end or where the actual break is located,  
16 you'll expect that flow to come out of that break.

17 Eventually at some point, when the RWST gets  
18 to approximately 29 percent, you would then take the  
19 primary side pumps or your ECCS pumps. You would  
20 basically take them to a recirculation mode, where  
21 they would be then pulling their suction from the  
22 bottom of the containment building.

23 CHAIR SPRITZER: Does your facility have  
24 administered procedure requirements that allow for  
25 operators to manually address a failed automatic

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1 action, such as operators manually closing the RWST  
2 sludge mixing isolation valves, that failed to  
3 properly isolate in this situation?

4 MS. SMITH: They do have procedural guidance  
5 that does allow you that, and we are taught in  
6 training that that is a credit card that you only use  
7 when you have to. But if I recall that procedure, I  
8 do also recall that it also says that you have to have  
9 supervisor permission to do it.

10 CHAIR SPRITZER: Do you believe that it is  
11 acceptable for a team of operators to allow the RWST  
12 to drain for 19 minutes, without verifying the  
13 position of the isolation valves by looking at a panel  
14 located within the main control room?

15 MS. SMITH: Can you repeat the question one  
16 more time, Your Honor?

17 CHAIR SPRITZER: Sure. Do you believe that  
18 it is acceptable for a team of operators to allow the  
19 RWST to drain for 19 minutes, without verifying the  
20 position of the isolation valves, by looking at a  
21 panel located within the main control room?

22 MS. SMITH: I think that it should be  
23 verified. I'm not sure I know exactly where you're  
24 going with that.

25 CHAIR SPRITZER: Well, some of these

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1 questions were not written by me.

2 MS. SMITH: Okay.

3 CHAIR SPRITZER: I don't know. Judge Hajek  
4 may be able to amplify them in some respects. So if  
5 I knew where it was intended to go, I would tell you  
6 but --

7 JUDGE HAJEK: Excuse me, Your Honor. It's  
8 not my question either, but I would anticipate that  
9 what you're looking at or should be looking at over  
10 that 20 minute period would have been the rate of  
11 water loss.

12 MS. SMITH: That's correct.

13 JUDGE HAJEK: If the rate of water loss is  
14 really low, then how long it drains, you know, I mean  
15 it may have an impact.

16 MS. SMITH: Yeah, I -- oh, I'm sorry.

17 JUDGE HAJEK: Go ahead.

18 MR. WALTOWER: The problem with the series  
19 of questions that Judge Pritzer was asking, it didn't  
20 happen that way. We knew as a crew where the valves  
21 were. We knew how to close them.

22 The sole issue was Mr. Turner making the  
23 conservative decision-making to remove the system from  
24 service to protect the pump, versus me wanting to use  
25 the procedure you just asked her about, the 10,020 I

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1 think, as she called it, as we commonly call it in the  
2 plant "the credit card," to make an automatic action  
3 happen that did not happen on its own, as you said  
4 Judge Hajek, about not allowing water to go that long.

5 We knew where it was. We knew what we had  
6 to do to do it. It's just making a conservative  
7 decision-making. We are pressed to make sure that we  
8 can answer any question that the NRC asks.

9 So some things that you think in your mind  
10 that you can make happen, it goes back to okay, I've  
11 got to be able to show these gentlemen that I took  
12 this action based on this SOP.

13 Or you've got to be able to say I took this  
14 automatic action that didn't happen by 10,020. That's  
15 all the hesitation was. All of those other questions,  
16 it didn't happen that way. It wasn't a lack of  
17 knowledge. Yes, the draining did take some time, but  
18 it was only based on finding the SOP, nothing else.

19 Not a lack of knowledge, not knowing what to  
20 do. It was based on the SOP guidance, looking for it.  
21 It was one of those things that's just hidden where  
22 you didn't expect it to be.

23 JUDGE HAJEK: Okay. Now I don't know  
24 whether I'm trying to make this, you know, something  
25 more. I understand what you have said. I'm wondering

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1 about, I'm going to go back to this leak rate. Is  
2 there a point of level, or is there a level in the  
3 RWST at which Mr. Turner said you're already below the  
4 tech spec limit.

5 Is there a limit at which it might reach  
6 when you are required to trip the plant, because you  
7 may not have sufficient ECCS water available?

8 MR. WALTOWER: The tech specs will drive  
9 that.

10 JUDGE HAJEK: No, there is --

11 MR. TURNER: You get a certain amount of  
12 time to recover level. I'm not really sure --

13 JUDGE HAJEK: From low level?

14 MR. WALTOWER: That's right.

15 MS. SMITH: Yeah, I think it's one hour.

16 MR. WALTOWER: That's correct. It's a tech  
17 spec-driven issue.

18 MR. TURNER: To recover the level.

19 MR. WALTOWER: Recover --

20 MR. TURNER: If we recover the level, then  
21 we don't have to shut the plant down.

22 JUDGE HAJEK: Say it louder.

23 MR. TURNER: If we can recover the level in  
24 the time allotted by the tech specs, then we don't  
25 have to --

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1 JUDGE HAJEK: Don't have to shut the plant  
2 down.

3 MR. TURNER: --shut the plant down.

4 JUDGE HAJEK: Is there a level below which  
5 you might fall, and not have sufficient water at all?  
6 The tech specs don't require an immediate shutdown.

7 MR. TURNER: That's right. They just give  
8 the 94 percent as our tech spec level, to take action  
9 to get level back within tech spec requirements, and  
10 if we can't do that, then I believe the tech spec  
11 makes us shut down.

12 JUDGE HAJEK: Okay. Now you provided  
13 testimony, gentlemen, on this event; is that correct?

14 MR. TURNER: That's right.

15 JUDGE HAJEK: And one of the comments, and  
16 let me see if I can find this comment, by the  
17 examiners, and I apologize; I don't have the exact  
18 location of that in front of me here. But one of the  
19 examiners made the comment that your testimony, this  
20 is in NRC-001, page 83, where the staff, you want to  
21 pull that up?

22 NRC-001, page 83. I'm not sure where it is  
23 exactly on that page, but it makes the statement that  
24 this board should find in favor of the staff on this  
25 particular event, because their statements are based

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1 on contemporaneous note-taking, note-taking during the  
2 event, whereas and/or immediate post-scenario  
3 caucusing, while your testimony, and this is -- was  
4 specifically directed you, Mr. Turner in this case,  
5 regarding the leak management was constructed weeks  
6 afterward, and not -- after a time that you had not  
7 been thinking about the event.

8 Why is this so or was that so ingrained in  
9 your mind, that you were able to reconstruct this  
10 event to provide the testimony that you gave, that was  
11 not a result of contemporaneous note-taking?

12 MR. TURNER: You're saying how can I  
13 remember that?

14 JUDGE HAJEK: Yes.

15 MR. TURNER: That's your question, how can  
16 I recall, right?

17 JUDGE HAJEK: How do you recall that, weeks  
18 later?

19 MR. TURNER: I don't know. I mean I can't  
20 answer that question.

21 JUDGE HAJEK: Do you have any resources that  
22 --

23 MR. TURNER: I can recall things ten years  
24 ago that happened, right, just small things though.  
25 I mean it doesn't have to be grand events in your mind

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1 that you remember, and it's specific times in your  
2 life. But this was relatively fresh. I mean it says  
3 just a few weeks away.

4 JUDGE HAJEK: Do you have a response to that  
5 question, Mr. Waltower?

6 MR. WALTOWER: Similar to what he said, but  
7 different things have different impact. I'm a combat  
8 vet. I can remember running over a body, hearing  
9 their bones crush. This right here was similar to  
10 that impact of this NRC is something that I never  
11 thought that I would be a part of. So this event has  
12 significant impact.

13 MR. TURNER: The whole event now. I mean  
14 it's not just we remember just this one part and  
15 that's it, right. It's like the whole two years of my  
16 life -- this is our career at this one point.

17 MR. WALTOWER: And also be advised, since  
18 you're talking about the memory, we were advised to  
19 leave the premises, to make sure that we didn't  
20 compromise any other students or something of that  
21 effect. So we went and debriefed at lunch every day.  
22 We debriefed at lunch what we did, step by step, and  
23 kind of had our own recollection of these other events  
24 that happened. This is how we're going to prepare or  
25 change something for the next day. So we're still a

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1 crew.

2 JUDGE HAJEK: We, we debriefed. Who's we,  
3 the three of you?

4 MR. WALTOWER: Ms. Smith, Mr. Turner and  
5 myself.

6 JUDGE HAJEK: Was there anyone else there to  
7 take notes, or you're just going there and you're  
8 talking about here's what happened and wow, I wish I  
9 would have seen that?

10 MR. WALTOWER: Exactly. That's why the  
11 three ways, the isolating the valves automatically, as  
12 you mentioned in the 10,000 procedure.

13 That's why it's standing out, because this  
14 was the first time that Mr. Turner, in all his  
15 training, did not meet the ability to use the credit  
16 card. I mean it was just something that was like Mr.  
17 Turner, I can count on your for this.

18 This is one day you said be conservative and  
19 do it this way. I usually expect that from Ms. Smith.  
20 So yes, that's why we can remember these events.  
21 They're significant times in our lives. I don't know  
22 about these two. I can speak for myself. It's  
23 significant for me.

24 JUDGE HAJEK: Okay. Well let me grab that  
25 randomly, then, okay? I have missed the scenario

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1 number, but it was when the controlling pressurizer  
2 pressure channel, 455, filled high.

3 MR. TURNER: Yes sir.

4 JUDGE HAJEK: So I haven't looked at this in  
5 detail. Can you tell me, can you describe that event  
6 to me, for me?

7 MR. TURNER: You're asking me? I'll answer  
8 the question.

9 MS. SMITH: Your Honor, were you speaking  
10 about the 455 or the 456 valve, because there was one  
11 day we had a 455 valve, and a different day when we  
12 had the 456.

13 MR. TURNER: That's right. It's the  
14 pressure level.

15 MS. SMITH: So I'm not sure. They're both  
16 the same system. So I'm not sure if you intended to  
17 say 455.

18 JUDGE HAJEK: Let me find it. I will tell  
19 you.

20 MS. SMITH: And can I add one more thing,  
21 Your Honor?

22 JUDGE HAJEK: Yes.

23 MS. SMITH: I hate to keep going back and  
24 bringing up something. But I did find a comment in  
25 Mr. Bates' notes on CCS-047, in which it says "C to

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1 R," which means Carla to Rodney, "discussing closing  
2 manual valves." So someone obviously heard me say  
3 something about that.

4 JUDGE HAJEK: Okay. Okay. This is Scenario  
5 3. Event 4 is my question, controlling pressurizer  
6 channel PT-455 fails high."

7 MR. TURNER: I wasn't a part of that.

8 JUDGE HAJEK: You were not in that scenario.

9 MR. TURNER: No sir.

10 JUDGE HAJEK: Were you in that scenario, Mr.  
11 Waltower?

12 MR. WALTOWER: Yes sir. I was operator at  
13 the controls.

14 JUDGE HAJEK: Okay. Can you describe what  
15 happened in that event please?

16 MR. WALTOWER: In essence what you just  
17 said. PT-455 failed high, caused FV-121 to respond as  
18 it should, and I think that's the scenario where, that  
19 was the deal where Carla was concerned about immediate  
20 operator actions, and there are no immediate operator  
21 actions concerning a level failure.

22 So from there, I was given directions.  
23 After she enter 18,001 and eventually drives me to  
24 take control of FV-121 manual, which is never  
25 controlled for a pressurizer.

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1 MS. SMITH: Your Honor, I'm still not clear  
2 on -- I don't think I heard you. Which scenario and  
3 event are we speaking of again?

4 JUDGE HAJEK: Scenario 3, Event 4.

5 MS. SMITH: Scenario 3, Event 4.

6 JUDGE HAJEK: Yes, and recognize here I  
7 picked this, because I'm very curious about your  
8 ability to recollect a few weeks after, or I guess now  
9 we're close to a year after -- of what had occurred  
10 during that event. So if I were to ask for you to,  
11 which I'm not going to do.

12 We do not have time to look at every single  
13 event that occurred. We have a lot of data to review  
14 and read and enable us to look in detail at these.  
15 But we can't, we don't have time to ask, in a two-day  
16 period here, about every one of these.

17 So I was looking at recollection there.  
18 Okay. I have -- there was another event, gentlemen,  
19 that you were interested in. Scenario 3, again and  
20 I'm sorry, Mr. Turner, I'm picking a scenario that  
21 you're not, you weren't involved in.

22 But Ms. Smith, I'd like you to help with  
23 this one, if you could please. Scenario 3, Event 7.  
24 This is the SI/SLI initiation, I believe, and initiate  
25 with the P-11 interlock. Can you describe for us non-

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1 technical folks here what a P-11 interlock is? There  
2 are a number of interlocks in a Westinghouse PWR that  
3 are called P-6, P-7, P-8, P-10, P-11.

4 MS. SMITH: P-11 is three bistables that are  
5 receive input three pressure channels. There's a  
6 total of four pressure channels on the pressurizer.  
7 Three of the channels feed P-11.

8 When you would perform an SI/SLI block,  
9 there's a requirement that you have to meet the P-11  
10 bistable requirement, which is basically that two out  
11 of the three have to be less than 2,000, and gosh, I  
12 lost my train of thought.

13 JUDGE HAJEK: Okay. I apologize for jumping  
14 in and asking for help in understanding. What's a P-  
15 11 block or what's a block? What are you talking  
16 about SI block? What does that mean?

17 MS. SMITH: Collect my thoughts and explain.

18 MR. WALTOWER: It prevents --

19 MS. SMITH: When you, when there is a safety  
20 injection, from my -- I cannot remember the exact set  
21 point. I'm wanting to say something to the effect of  
22 1860.

23 MR. WALTOWER: 70.

24 MS. SMITH: What is it?

25 MR. WALTOWER: 1870.

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1 MS. SMITH: 1870. 1870 psig. You're going  
2 to receive a safety injection, which is going to cause  
3 a lot of your ECCS pumps to kick on and basically  
4 start to move that water that came from the RWST.

5 Now there may be times where you want to  
6 prevent that actuation from occurring. For this  
7 particular event and can you repeat it one more time,  
8 just so I know which event it was?

9 JUDGE HAJEK: This was Scenario 3, Event 7.

10 MS. SMITH: Seven, which was a steam  
11 generator tube rupture.

12 JUDGE HAJEK: That's correct.

13 MS. SMITH: There is a point in this  
14 procedure when we would have to do a SI/SLI block, and  
15 whenever you get to that step in the procedure, the  
16 ideal is to prevent that safety injection from  
17 occurring, based on what is going on.

18 Now I'm trying to find the step in the  
19 procedure, because obviously everything is driven by  
20 where we are in the procedure, and I can't seem to  
21 find exactly where that step is located, to see  
22 everything that's going on. But the ideal of the P-11  
23 is -- okay. (reading to self).

24 I am trying to remember the exact details,  
25 Your Honor.

1 JUDGE HAJEK: Well, Mr. Waltower has perfect  
2 recollection.

3 MS. SMITH: No, it is not an issue of  
4 recollection. I know exactly what happened in the  
5 event. The issue that I'm having is trying to explain  
6 to you the, you know, exact details of how P-11 works  
7 and why we do it. I remember the details of what  
8 happened on that particular event. That's not an  
9 issue.

10 But I just wanted to make sure that I could  
11 properly explain it to you, and not incorrectly  
12 explain it.

13 JUDGE HAJEK: So you have the procedure  
14 there? Is that what you're looking at?

15 MS. SMITH: I am trying -- yes, I am looking  
16 for that particular step of the procedure, yes. But  
17 are you asking -- maybe I need to step back and ask  
18 are you asking --

19 JUDGE HAJEK: Step back and explain to us.  
20 P-11 receives signals from three instruments; is that  
21 what I understood you to say?

22 MS. SMITH: That's correct. That's the --

23 JUDGE HAJEK: If it has a low pressure from  
24 at least two of those three --

25 MS. SMITH: That's correct.

1 JUDGE HAJEK: Then it will cause the SI  
2 pumps to start to inject?

3 MS. SMITH: No, no, no, no, no. That's not  
4 what I'm saying. I'm saying that for you to perform  
5 the block, which is basically going to a hand switch,  
6 taking those hand switch to the block position, it  
7 would keep the block from occurring if you went below  
8 or it would prevent the SI from occurring when you  
9 take those block switches to the block position. But  
10 you cannot perform that block until you're less than  
11 2,000 psig.

12 JUDGE HAJEK: On at least two channels?

13 MS. SMITH: On at least two channels of the  
14 P-11, that's correct. So it's -- say that we are  
15 above 10,000 psig, and you go over and try to block,  
16 take those hand switches to block. Nothing's going to  
17 happen. It's not going to block it; it's not going to  
18 do anything.

19 But if you go below 2,000 on two of those  
20 three channels and take those hand switches to block,  
21 it will then block that actuation from occurring.

22 JUDGE HAJEK: Okay. So during this event,  
23 you verified that the pressure on a digital gauge was  
24 below 2,000?

25 MS. SMITH: That's correct.

1 JUDGE HAJEK: And directed the block?

2 MS. SMITH: That's correct.

3 JUDGE HAJEK: And it was that you only  
4 looked at one gauge before you directed the block?

5 MS. SMITH: Your Honor, the digital gauge is  
6 fed from one of the gauges. So if my memory serves me  
7 correctly, I think it is the 455 and 457 channel that  
8 can feed that digital meter. So it will be identical  
9 to whatever the gauges are reading.

10 From the supervisor chair, I cannot see the  
11 actual numbers of the other three channels. Now there  
12 are four pressure channels, but only three of them are  
13 going to feed to that actual P-11 bistable, and from  
14 the supervisor chair, all I can see is needles that  
15 are about the same, you know, level, and they're all  
16 side by side, same scale. Nothing's different.

17 So you can see that they're all at the same  
18 point, but you cannot, I cannot see them. The  
19 individual that's in the OATC position can actually  
20 see them. But I can see the digital meter, and the  
21 theory is is that if the digital meter says this and  
22 that means that that meter that it's reading from is  
23 also saying that.

24 JUDGE HAJEK: So the digital meter receives  
25 its input from a single channel?

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1 MS. SMITH: That is correct. It has two  
2 possible paths, but it's based on what position is  
3 selected. So you've kind of got like a switch that  
4 will say 455 or 457. So based on where you have that  
5 switch, that's where it's going to be reading from.

6 JUDGE HAJEK: So is it sufficient to assume  
7 if that is reading below 2,000, that the others are  
8 also; is that what I understand you to say?

9 MS. SMITH: Well, as I said, the meters for  
10 the other gauges were all on the same line. So yes,  
11 the assumption would be if you see them all kind of on  
12 the same platform or the same, they all pretty well  
13 look like they're in the same location, and your  
14 digital meter is reading the same as all of those  
15 other locations, then yeah, the idea would be that  
16 they're all reading the same.

17 JUDGE HAJEK: So in terms of having given  
18 the order to perform the P-11 block, was that  
19 appropriate without having verified that you had  
20 sufficient below 2,000 signals for certain? Did you  
21 -- is that -- so are you only looking at one?

22 I don't understand. Are you looking only at  
23 the digital, so that you're only looking at one  
24 channel? Should you be collecting data from multiple  
25 channels before giving such an order?

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1 MS. SMITH: Your Honor, for several of the  
2 indications in the control room, there are so many  
3 different indications for a lot of different things.  
4 Yes, it would be a good ideal to have looked at the P-  
5 11 bistable. Was there a problem that I did not  
6 necessarily look at it? No.

7 But had I looked at the P-11 and the block  
8 still didn't occur, then I still could have gotten  
9 another comment that I also didn't look at the VPLB.  
10 So I mean you can literally take that as far as you  
11 choose to take it.

12 I mean it's a good ideal, but it's not  
13 necessarily that anything was done wrong by attempting  
14 to do the block. We did meet the requirements,  
15 according to the gauges. For whatever reason, those  
16 gauges were not aligned with when the P-11 block  
17 occurred, and those P-11 bistable blocks did not,  
18 excuse me, the lights did not extinguish until about  
19 1,950, which is still way lower than when they are  
20 expected to block, expected to extinguish.

21 So had I not followed the procedural  
22 guidance, I probably would have gotten a comment that  
23 said I didn't follow the procedural guidance. So it  
24 kind of seems like I was in a catch either which way.

25 JUDGE HAJEK: Okay. So you said that they

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1 didn't extinguish until they got down to around, until  
2 the other indicators indicated somewhere around 1,950?

3 MS. SMITH: That's right. That's correct.

4 JUDGE HAJEK: But they should have  
5 extinguished when once pressure dropped below 2,000?

6 MS. SMITH: That is correct, Your Honor.

7 JUDGE HAJEK: Do you have data from the  
8 simulator that shows that?

9 MS. SMITH: There is no data that will tell  
10 you when the light came on. Now I do have data that,  
11 based on the examiner's notes and the times that they  
12 wrote down, I can show that the time when I --

13 Or when I identified that we were less than  
14 2,000 psig, which was also a value that they wrote  
15 that came from, they as in the examiners, wrote that  
16 came from an RCS gauge, RCS gauge and pressurizer  
17 gauge which the RCS gauge is also a digital meter.

18 It was collected from that digital meter,  
19 and that number was different from the number that I  
20 said pressure was at for the pressurizer pressure.  
21 But if you go and look at that data, you'll see that  
22 the time that they said pressure, RCS pressure was at  
23 2,007 psig, there were three corresponding channels on  
24 the pressure that showed that we were at 1,998.

25 So yes, we were below 2,000 and I can show

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1 you that data.

2 JUDGE HAJEK: Okay. When you say that you  
3 had three corresponding channels that showed 1,998,  
4 those are digital channels?

5 MS. SMITH: Those are the actual analog  
6 gauge.

7 MR. WALTOWER: Instruments.

8 MS. SMITH: Instruments. Yeah, the gauges.

9 JUDGE HAJEK: You can read two pounds out of  
10 2,000, 1,998 and 2,000?

11 MR. WALTOWER: You could turn the PT-455  
12 that's trended in a similar --

13 MS. SMITH: Yeah. There's an IPC. We have  
14 an integrated plant computer, in which you can  
15 actually look at those indications. Now at the time,  
16 I was not looking at those indications. I was, as I  
17 said, looking at the digital meter and noticing that  
18 all the meters were on the same line, with the  
19 exception of one that was actually failed.

20 JUDGE HAJEK: Okay. I'm good with that.  
21 This is your question. Thank you.

22 CHAIR SPRITZER: Mr. Turner, this question  
23 asks you state in your pre-filed testimony that Mr.  
24 Waltower informed you, not Ms. Smith, that the  
25 automatic isolation of the RWST did not take place.

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1 Were you aware and therefore knowledgeable of all  
2 communications between Ms. Smith and Mr. Waltower?

3 MR. TURNER: I don't believe I missed any  
4 communications between those two.

5 CHAIR SPRITZER: Don't believe you did.  
6 Okay. Ms. Smith, I think, told us earlier, I take it  
7 this is a rather small area that you're working in at  
8 the time this is all going on. Is it true that  
9 reports from the field operator stated that the leak  
10 was downstream of the sludge mixing isolation valves?

11 MR. TURNER: That is true.

12 CHAIR SPRITZER: Is it true that this same  
13 field operator also reported that he could not see the  
14 position of the sludge mixing isolation valves, due to  
15 the conditions surrounding the valves?

16 MR. TURNER: That is right.

17 CHAIR SPRITZER: Now you state in your pre-  
18 filed testimony there was never any confusion as to  
19 where the sludge mixing isolation valves were located.  
20 Is that a correct summary of your testimony?

21 MR. TURNER: Yes sir.

22 CHAIR SPRITZER: If this was so, then why  
23 did you not have the UO verify the valve's position,  
24 as indicated on the control room panel, until after  
25 you pointed at the control room panel designation on

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1 the piping and instrumentation diagram?

2 MR. TURNER: Say that again?

3 CHAIR SPRITZER: I'll be happy to. If this  
4 was so, that is you told me previously that you said  
5 in your pre-filed testimony that there was never any  
6 confusion as to where the sludge mixing isolation  
7 valves were located.

8 Given that, then why did you not have the UO  
9 verify the valve's position, as indicated on the  
10 control room panel, until after you pointed at the  
11 control room panel designation on the piping and  
12 instrumentation diagram?

13 MR. TURNER: I don't recall it that way.  
14 Hand switches. Rodney, no question that Rodney knew  
15 where the hand switches were. He just has to verify  
16 those positions. Rodney wanted to go close them. I  
17 wouldn't let him go close them without SOP guidance.

18 CHAIR SPRITZER: All right. This is a very  
19 specific question, Mr. Waltower, if you -- it says "At  
20 9:06:47," I take it that's nine o'clock, six minutes  
21 and 47 seconds, did you state to Ms. Smith that sludge  
22 mixing should have isolated on the low RWST level"?

23 MR. WALTOWER: I can't tell you what was  
24 happening at 0906. I ain't that good.

25 CHAIR SPRITZER: Is this -- all right. Well

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1 forget the specific time limit.

2 MR. WALTOWER: But yes, I did state -- I did  
3 state. I stated to Mr. Turner. I requested  
4 permission to take the action based on that.

5 CHAIR SPRITZER: Did reports from the field  
6 operator specifically state that the leak was  
7 downstream of the sludge mixing isolation valves?

8 MR. WALTOWER: It did, the second time he  
9 called back.

10 CHAIR SPRITZER: Did the same field operator  
11 also report that he could not see the position of the  
12 sludge mixing isolation valve, due to the conditions  
13 surrounding the valves?

14 MR. WALTOWER: That's correct.

15 CHAIR SPRITZER: Now we're talking, we're  
16 moving on to Scenario 3, Event 5, and in your pre-  
17 filed testimony, you state that you "observed the EHC  
18 pressure alarm illuminate." Is that true?

19 MR. WALTOWER: That's correct.

20 CHAIR SPRITZER: With no leaks in the  
21 system, approximately how long should it take for the  
22 EHC pressure to decay, until that alarm is received?

23 MR. WALTOWER: With no leaks in the system?

24 CHAIR SPRITZER: Uh-huh.

25 MR. WALTOWER: I've never been trained to

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1 see it during --, but it hasn't accumulated or prevent  
2 it from, excusing my language, dropping like a rock.

3 CHAIR SPRITZER: Uh-huh.

4 MR. WALTOWER: But if the annunciator came  
5 in, we were at the 1,500 pounds. That's when the  
6 alarm comes in.

7 CHAIR SPRITZER: Approximately how long does  
8 it take after the alarm illuminates, for the pressure  
9 to decay by an additional 100 psig and lower to the  
10 automatic start set point of the standby EHC pump?

11 MR. WALTOWER: I can't give it to you in a  
12 time figure, but it's enough time to pull the ARP,  
13 look through it and get guidance to start a pump.

14 CHAIR SPRITZER: Are you aware that Form  
15 ESD-2 states that it will take several minutes for  
16 that alarm to be received after the pump has tripped?

17 MR. WALTOWER: Several minutes? I guess  
18 they're basing that on the fairy tale world of the  
19 simulator. I mean that's a hit or miss on what's  
20 going on with the plant, or how fast does that  
21 transience happen.

22 CHAIR SPRITZER: Have you seen the simulator  
23 scenario Form ESD-2?

24 MR. WALTOWER: I don't have that with me.

25 CHAIR SPRITZER: Is it true that Ms. Smith

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1 directed the start of the standby EHC pump one minute  
2 and 31 seconds, more or less, after the EHC pump  
3 tripped?

4 MR. WALTOWER: I don't remember the time.  
5 What I do remember is we got the annunciator. She  
6 directed the surrogate to pull the ARP, and that's  
7 where she got the guidance to start the pump.

8 CHAIR SPRITZER: All right.

9 (Off record comments.)

10 JUDGE HAJEK: Okay. Let me go back to  
11 procedure and training, instead of asking about  
12 specific events, okay.

13 So as I understand, you debriefed yourselves  
14 afterwards, and at some point after the exams were  
15 complete, you received word that you either passed, or  
16 in both of your cases, you received word that you had  
17 passed, and Ms. Smith, you received word that you had  
18 not passed.

19 But my question gentlemen is for you. When  
20 did you receive a copy of your 303 form, and from who  
21 did you receive it?

22 MR. WALTOWER: What's the 303 form?

23 JUDGE HAJEK: The 303 form is your exam  
24 score sheet. It's probably some place for each of  
25 you. Mr. Turner's going to be more pages than Mr.

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1 Waltower's is, 11 to 25 pages, something like that.  
2 That's the form that has the X marks on the first  
3 page, that indicates that you passed the written exam,  
4 passed each of the other two parts of the exam.

5 It has a list of all of the -- it has a list  
6 of all of the JPMS you took and the comments.

7 MR. TURNER: I can't remember the day I got  
8 them. I believe Tim Harris gave that to me. He was  
9 the lead instructor, license.

10 JUDGE HAJEK: So you received them probably  
11 on the same day, and it was from Tim Harris?

12 MR. TURNER: Yes.

13 JUDGE HAJEK: Once you received that form,  
14 you saw the very specific comments that were made  
15 concerning your performance on JPMS and on the  
16 simulator exam, explain to us what happened at that  
17 point in time, in terms of how the Training  
18 Department, if the Training Department addressed those  
19 comments in your cases. Mr. Turner, why don't you go  
20 first?

21 MR. TURNER: In my case, went over them with  
22 Tim, the comments that we had. I'd already told them  
23 I knew what was coming for the JPMS, because I knew I  
24 had messed them up, and we had talked about those  
25 previously.

1           So all of mine were verbal, talking to Tim,  
2 going over them, what happened, what am I going to do  
3 personally to fix these, and I don't remember signing  
4 any documentation to that effect, as far as our  
5 discussion for the remediation for that.

6           JUDGE HAJEK: You say you do or don't?

7           MR. TURNER: I don't.

8           JUDGE HAJEK: But you had a discussion. But  
9 you didn't go into a remedial training program of any  
10 kind to go over those events?

11          MR. TURNER: No sir.

12          JUDGE HAJEK: But you had a -- it was one on  
13 one?

14          MR. TURNER: That's right.

15          JUDGE HAJEK: Okay. Mr. Waltower.

16          MR. WALTOWER: Likewise.

17          JUDGE HAJEK: Okay. Was this typical of the  
18 way that it happens at the plant? Then all, would you  
19 say that all of the candidates had the same  
20 experience?

21          MR. TURNER: Same discussion. If it wasn't  
22 with Tim Harris, it would have been with Rob Dorman or  
23 one of the other license instructors.

24          JUDGE HAJEK: Each one of you one on one?

25          MR. TURNER: Right.

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1 JUDGE HAJEK: To have that brought, okay.  
2 Are you personally aware of the scores that your  
3 fellow candidates had received? Does everybody know  
4 what everybody else got?

5 MR. WALTOWER: Open discussion.

6 MR. TURNER: That's right.

7 MR. WALTOWER: We didn't go into details.  
8 It's an open discussion, kind of like man, I got this  
9 on this, because I did this. Kind of like us just  
10 sitting around the table talking.

11 MR. TURNER: Like you're talking about  
12 specific numbers on how we did?

13 JUDGE HAJEK: Yeah.

14 MR. TURNER: I don't, I didn't ask anybody  
15 what their numbers were or anything like that.

16 JUDGE HAJEK: Okay. So you wouldn't  
17 necessarily know who the top performer was or who the  
18 bottom performer was?

19 MR. TURNER: Not necessarily, no sir. I  
20 have an idea who it would be but, but I mean based on  
21 -- not seeing his score, not knowing his specific  
22 score compared to all of the class, I don't know.

23 JUDGE HAJEK: Okay. The person who -- okay.  
24 So you have an idea of who the bottom performer was,  
25 other than Ms. Smith, because she was the only one who

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1 failed; is that correct?

2 MS. SMITH: That's correct.

3 MR. TURNER: And I base that on just  
4 discussions on, you know, how they felt about it or  
5 they didn't do so good. But they didn't think they  
6 did well enough in these certain area they, you know,  
7 needed improvement in. So like procedural uses and  
8 things of that nature.

9 JUDGE HAJEK: Okay. So the bottom  
10 performer, do you feel that person is a safe or is  
11 going to be or has been since receiving his passing  
12 grade, a safe operator?

13 MR. TURNER: Yes sir.

14 JUDGE HAJEK: Do you have any concern about  
15 being on shift with that individual? Can you tell me  
16 why you don't have a concern about being on shift with  
17 him?

18 MR. TURNER: Because they've passed the  
19 training.

20 JUDGE HAJEK: Because they passed --

21 MR. TURNER: You can watch their  
22 performance, and coming out of license school, I mean  
23 we're not going to be perfect at our job. We can't  
24 be, because we don't have the experience that's  
25 required to be, or let me word this just a little bit

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1 more carefully than what I'm going at now.

2 What I'm saying is we're going to improve.  
3 So even a bottom performer who passed in license  
4 school is going to improve on that. You understand  
5 what I'm trying to say?

6 JUDGE HAJEK: I think I do, but I'd like to  
7 know what is going to cause you to improve?

8 MR. TURNER: Improve his experience on  
9 shift; you get going to requal, being associated with  
10 really, I mean we have really experienced operators at  
11 our plant, some 30 years plus operators.

12 You gain a lot of knowledge. They have a  
13 lot of knowledge and they impart that knowledge to  
14 you. So that only makes me and everybody else that I  
15 went to class with better.

16 JUDGE HAJEK: Can you differentiate for me  
17 the type of knowledge that you're talking about, that  
18 is going to cause you to improve, and where I'm, what  
19 I'm looking at there is when you're on shift, most of  
20 the time, you know, the plane's flying and not a whole  
21 lot to do.

22 You're doing normal, you're doing STs and  
23 other normal activities. But when you're in the  
24 simulator, you're responding to one malfunction after  
25 another. You don't have an opportunity to do that

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1 type of response in the control room.

2 So where do you find that you are going to,  
3 with just your control room experience going forward,  
4 become a better operator?

5 MR. TURNER: Understand we all would have --  
6 the way our control room is set up, there's not only  
7 one supervisor there all the time. There's always  
8 four or five supervisors there all the time. So any  
9 time an evolution goes on, because right now I'm  
10 primarily field supervisor.

11 Evolution goes on in the control room. Go  
12 to the control room, watch these guys perform this  
13 evolution, the way that it's expected to go. Hey,  
14 this little quirky part of this procedure, you need to  
15 watch this and this and this, you know.

16 That's the knowledge I'm talking about we  
17 gain, that helps us operator in accordance with those  
18 procedures and safely.

19 Also, we have the aspect where requal, I'm  
20 always shift supervisor for my group in requal. But  
21 I also have a very experienced STA and a very  
22 experienced shift manager with me, who said I've seen  
23 this before. This is the route we need to take. So  
24 if you see this again, you know what to do.

25 So I get a lot of backup, a lot of -- like

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1 I said, a lot of knowledge there.

2 JUDGE FROEHLICH: Okay. Do you believe  
3 that the simulator exercises that you were graded on,  
4 were they graded properly?

5 MR. TURNER: For me?

6 JUDGE FROEHLICH: Yes.

7 MR. TURNER: There were some comments in  
8 there that were inaccurate, I believe. I don't have  
9 them in front of me. Like the RWST one specifically.  
10 Made it seem like we were lost, we were all lost and  
11 that wasn't true.

12 JUDGE FROEHLICH: And Mr. Waltower, was  
13 your simulator exercise or exercises graded properly?

14 MR. WALTOWER: I have the same deltas he  
15 just mentioned. It was just certain things. Like he  
16 mentioned, Judge Hajek mentioned something about  
17 somebody's notes not saying something.

18 Well, I haven't seen anywhere notes where it  
19 said that Mr. Waltower challenged Mr. Turner in order  
20 to go close the valves. That dialogue was in there.  
21 It's not noted. So there's some discrepancies, but  
22 that's like anything. No one's perfect. There's some  
23 discrepancies.

24 JUDGE FROEHLICH: On the grading, and how  
25 about for the comments that were made or maybe the

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1 comments that weren't made? Do you have disagreement  
2 with --

3 MR. WALTOWER: Likewise. I mean at the time  
4 before this catastrophe happened, it seemed more like  
5 maybe they didn't, they may not have understood our  
6 dialogue. Maybe they didn't understand what I was  
7 telling Mr. Turner, or how I was challenging Ms.  
8 Smith.

9 So I looked at it at the time as an  
10 interpretation issue before this catastrophe happened.  
11 So --

12 CHAIR SPRITZER: I believe, do we have any  
13 more questions for the staff for any of these  
14 witnesses?

15 MR. WACHUTKA: The staff has no further  
16 questions, Your Honor.

17 CHAIR SPRITZER: Judge Hajek or Judge  
18 Froehlich? Ms. Smith, do you have any questions that  
19 you want us to ask Mr. Turner or Mr. Waltower?

20 MS. SMITH: No, Your Honor, I don't.

21 CHAIR SPRITZER: All right. Why don't we  
22 take a five minute break and then we'll move on to the  
23 exam team.

24 (Whereupon, a short recess was taken.)

25 DIRECT EXAMINATION



1 CHAIR SPRITZER: Are we ready go to back on  
2 the record. Very good. Good afternoon, gentlemen.  
3 I'll remind each of you you're still under oath. Can  
4 you tell us who each of you are, starting on my left?

5 MR. MEEKS: Your Honor, my name is Michael  
6 Meeks.

7 MR. BATES: My name is Mark Bates.

8 MR. CAPEHART: My name is Philip Capehart.

9 CHAIR SPRITZER: Very well. We're going to  
10 be asking questions directed to all of you. We'll try  
11 and be specific as we can about who we're directing  
12 the question to initially.

13 However, if you want to add something in  
14 response to the question, even if it wasn't directed  
15 to you, we'll be happy to hear what you have to say.

16 Let me start with you, Mr. Meeks. Turning  
17 to an email that appears on CCS Exhibit, Exhibit CCS-  
18 001, page 29, bring that up, and it's the email that  
19 starts at about the middle of the page. Well, further  
20 down. I take it this is an email from you to -- well,  
21 to an unidentified person apparently at Vogtle.

22 You're apparently responding to an email  
23 they'd sent you, having to do with waivers, and you  
24 refer to "routine waivers" in the paragraph numbered  
25 one. What is it that makes a waiver routine?

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1 MR. MEEKS: Sir, it might be useful if you  
2 were to call up Rev 9, Supplement 1 of NUREG-1021,  
3 Section ES-204.

4 CHAIR SPRITZER: Okay.

5 MR. MEEKS: I believe that to be CCS-005  
6 Alpha. So as the gentleman's calling it up, so when  
7 we use the term "routine waiver," essentially there  
8 are certain waivers that are specified within our  
9 guidance here in NUREG-1021, Section ES-204, where  
10 essentially the Commission has delegated to the  
11 regions the power to grant or to deny certain  
12 categories of a waiver.

13 So when I use the term "routine waiver," I  
14 mean it in this context. So a routine waiver is a  
15 waiver that the region can approve or deny, without  
16 getting outside verification, if you will sir.

17 CHAIR SPRITZER: I believe, you're close to  
18 it. It's on page 84. Is this the section that we're  
19 talking about?

20 MR. MEEKS: Yes sir, that is the correct  
21 section. So when I use the term "routine waivers,"  
22 what I mean is it's a waiver that the region can  
23 authorize, can either grant or to deny without first  
24 contacting or getting authorization from the NRR  
25 program officer.

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1 CHAIR SPRITZER: All right. Can there be  
2 such thing as a routine denial of a waiver?

3 MR. MEEKS: No sir.

4 CHAIR SPRITZER: Okay. Let's look at page,  
5 I believe go back to page 83, and here we have some,  
6 in paragraph two, little B on this page, we have some  
7 information about denials.

8 Specifically, the third paragraph of that  
9 subsection, "The region does not require written  
10 concurrence from NRR to deny an applicant's waiver  
11 request, but it should discuss its decision with the  
12 Operator Licensing Programming office before informing  
13 the applicant. Formal concurrence may be desirable in  
14 some cases."

15 So does that mean you have to consult with  
16 the Rockville, Maryland office, at a minimum consult  
17 with them before denying a waiver?

18 MR. MEEKS: Sir, the verb there is "should  
19 discuss." So within the context of the guidance,  
20 "should" as a recommendation is not something that we  
21 absolutely have to do, sir.

22 CHAIR SPRITZER: As a practical matter, does  
23 that happen most oft he time when you deny a waiver?  
24 Do you, that is, discuss your decision with the  
25 Operating Licensing Program office before informing

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1 the applicant?

2 MR. MEEKS: Sir, I do not know of any  
3 denials that I have personally been a part of, and so  
4 I do not know of any prior history where we have or  
5 have not talked to the program officer.

6 CHAIR SPRITZER: All right. Let me ask the  
7 other two witnesses. Mr. Bates and Mr. Capehart, do  
8 you have any experience one way or the other with  
9 denials of waivers, other than in the case of Ms.  
10 Smith?

11 MR. BATES: No, I do not. Only on a  
12 recommendation of another examiner, I signed for that  
13 examiner on a denial of a waiver. But I did not do  
14 the evaluation of that waiver.

15 CHAIR SPRITZER: And Mr. Capehart?

16 MR. CAPEHART: I have not personally had  
17 discussions with the program office. My discussions  
18 are held through my branch chief, and it's at his  
19 prerogative at that time. I confer to him if he needs  
20 to make that discussion occur.

21 CHAIR SPRITZER: At a minimum, if you're  
22 going to deny a waiver, do you talk to your branch  
23 chief?

24 MR. CAPEHART: That's correct, I do.

25 MR. BATES: Yes.

1 MR. MEEKS: Yes sir, we do.

2 JUDGE FROEHLICH: Is the denial of a  
3 waiver, is that a common occurrence, or is there  
4 something about the procedure in 2011 that is unique  
5 or out of the ordinary? We'll start with you, Mr.  
6 Meeks.

7 MR. MEEKS: Sir, probably one way to react  
8 to your question, I'm not sure what common means. If  
9 we look at Exhibit NRC-008, essentially what we did as  
10 part of our preparations for this hearing was we  
11 looked back at several years' worth of docket files  
12 for the personnel who had been granted operating test  
13 waivers within the region.

14 In roughly a seven year space of time, there  
15 was only one that we found, sir. So I'm not sure what  
16 "common" would mean, but out of roughly seven years,  
17 there was one, sir.

18 JUDGE FROEHLICH: And I'd like to clarify.  
19 Those are waivers of a portion of the operating exam;  
20 is that correct?

21 MR. MEEKS: Yes sir, I'm sorry. When I say  
22 waivers, in this context what I'm meaning is a waiver  
23 of all portions of the operating test. There are many  
24 other waivers that we grant.

25 JUDGE FROEHLICH: Right, for the time,

1 things like that. Can I jump in? Was the  
2 administration of the 2011 or the 2012 exam unusual,  
3 out of the ordinary in any way?

4 MR. MEEKS: Sir, if you're specifically  
5 talking about how the operating test of those two  
6 tests were run, the one comment I would provide was  
7 that on the first exam, 2011 yes sir, based on some of  
8 the problems that we had had with validating simulator  
9 scenarios, the one thing that was out of the normal  
10 for routine Region II practice was that we started off  
11 by administering the JPMS first and the simulator  
12 scenarios second.

13 Normally, it's the other way around, and  
14 that was the only thing, as a part of the operating  
15 tests for both exams, that were out of the norm. The  
16 results of the first exam were out of the norm, in  
17 that of the number of applicants, there were ten  
18 total, seven of the ten did not pass the written exam  
19 portion, and that is outside of the norm for a typical  
20 Region II test sir.

21 JUDGE FROEHLICH: Mr. Capehart, did you --

22 MR. CAPEHART: Yes. I was the chief  
23 examiner of record for the 2011 exam. I'd like to  
24 amplify on his comments a little bit. There were  
25 several things that were out of the norm during that

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1 exam process. We ran into difficulty during that  
2 exam.

3 There was a root cause analysis performed  
4 after the exam because of the high failure rate, which  
5 led to --

6 JUDGE FROEHLICH: This was the written,  
7 excuse me. That was on the written?

8 MR. CAPEHART: There were seven out of ten  
9 failed the written exam; that's correct, sir. The  
10 root cause analysis basically stated that there was a  
11 new exam team that was used for that exam. So there  
12 was a big delta between how the exam was delivered for  
13 the audit exam.

14 If you recall, several people have mentioned  
15 the fact that the audit exam is usually given at a  
16 level that is potentially a difficulty to be expected  
17 higher than the NRC exam. But on the root cause  
18 analysis, they say that was not the case, that the  
19 audit exam, written exam did not reflect well against  
20 the NRC exam, which was a direct indicator of why the  
21 performance was below what it was expected.

22 Also, because of the difficulties we had, we  
23 came in to do what we call the preparatory week.  
24 There were a lot of errors that were demonstrated by  
25 the licensee, and preparing the material that required

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1 us to delay part of the exam, as Mr. Meeks stated.

2 So we ended up basically having what was  
3 going to be originally the first week of the exam as  
4 a development week, to make sure that the material met  
5 the QA, the quality assurance criteria on NUREG-1021.

6 JUDGE FROEHLICH: When the NRC -- this is  
7 probably for Mr. Capehart. When the NRC reviewed the  
8 written exam prior to its administration, did you have  
9 any inkling at that time that it was more difficult  
10 or, you know, anomalous, or would result in an  
11 anomalous result, i.e. the 70 percent that didn't  
12 pass?

13 MR. CAPEHART: No sir. We're not involved  
14 in the audit exam process. That's an onsite exam  
15 process.

16 JUDGE FROEHLICH: I'm sorry. I was  
17 unclear. I meant the actual exam, I guess. NRC has  
18 to approve the written exam, the licensing written  
19 part before it's given. At that stage, when you  
20 reviewed it or the region reviewed it --

21 MR. CAPEHART: The only thing I can tell you  
22 is my professional opinion. When we, in the exam  
23 report, if you look at the exam report, you'll note  
24 that the original submittal was considered  
25 unsatisfactory. It did not meet the quality

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1 guidelines that we expect.

2 So there had to be several changes made to  
3 the written exam. Basically, we had several questions  
4 that were considered unsatisfactory that had to be  
5 revised and go through a verification process before  
6 we allowed the exam to be given.

7 CHAIR SPRITZER: Are you talking about the  
8 operating exam now or the written exam?

9 MR. CAPEHART: Written exam, sir.

10 CHAIR SPRITZER: Are you -- in the March  
11 2011 exam, you were also involved in that with  
12 reviewing the written exam, as well as the operating  
13 exam?

14 MR. CAPEHART: Yes sir. I'm the chief  
15 examiner of record. So I was accountable for ensuring  
16 that the exam, each portion of the exam met the  
17 quality guidelines in NUREG-1021.

18 CHAIR SPRITZER: All right. Let's look at  
19 page 26 of CCS-001, and this is the email apparently  
20 sent to you from the Vogtle plant, that is to Mr.  
21 Meeks from the Vogtle plant, talking about identifying  
22 individuals for whom they plan on requesting a waiver,  
23 and others for whom they indicate they might request  
24 a waiver.

25 I take it, Mr. Meeks, your response to that

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1 email, the June 7th email was the August 2 email, that  
2 starts on, at the bottom of or in the middle of page  
3 29 of the same document. Am I correct about that?

4 MR. MEEKS: Yes sir, you are.

5 CHAIR SPRITZER: Given that the email sent  
6 to you was dated June 2nd, and apparently the  
7 examiners had agreed in early May that a waiver was  
8 not likely to be granted for Ms. Smith, can you  
9 explain to me why it took until August 2nd for the NRC  
10 to respond, if that's in fact the case?

11 MR. MEEKS: Sir, I think the best way to  
12 present the history is that the first series of  
13 emails, if you want to refer to NRC-013, the first  
14 series of emails, which occurred in May, were  
15 basically emails from within the NRC, from both myself  
16 and Mr. Hopkins to Mr. Capehart, and then from Mr.  
17 Capehart to Mr. Widmann, and at that time, the Vogtle  
18 facility was looking at the possibility of having a  
19 retake exam before the next regularly scheduled 2012  
20 exam.

21 So our first round of evaluation, if you  
22 want to use that term, of the potential that the  
23 facility might be asking for operating test waivers  
24 for the six retake applicants, it was in that frame,  
25 in that time frame setting that we were looking at the

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1 possibility of having a retake in a relatively short  
2 order.

3           The email of June to me was from Mr. Gunn,  
4 who at that time was the Operations Training  
5 supervisor at Vogtle, and by that time, they had  
6 decided not to have the retake application,  
7 essentially that they would decide as to whether the  
8 six retake applicants were going to be placed into the  
9 regularly scheduled 2012 exam.

10           So essentially by that time, Mr. Capehart,  
11 as the chief of the previous exam, his duties, if you  
12 will, had been superseded by my future participation  
13 as the chief in training for the next exam. So at  
14 that time, based on the email from Mr. Gunn to myself,  
15 we looked at it, if you will, a second time, to see  
16 what was the proper way to characterize the six retake  
17 applicants.

18           At that time, essentially there was a long  
19 delay in actually getting back to Mr. Gunn. That was  
20 due to my personal schedule. I was on a different  
21 exam when the email came in. I was then on leave, and  
22 I believe, as I state in my testimony, NRC-006, it was  
23 probably in hindsight too long of a time not to get  
24 back to Mr. Gunn.

25           Essentially, when we did evaluate in early

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1 August of the status of the six retake applicants, I  
2 talked with Mr. Capehart. We looked at the various  
3 303 forms for the six, and we also talked in detail  
4 with my supervisor, Mr. Widmann.

5 So I specifically recall having a meeting  
6 essentially with Mr. Capehart and with Mr. Widmann, as  
7 to how do we characterize those six to the facility.

8 At that time, based on our review of the  
9 303s from the first exam, we felt relatively confident  
10 that we would be able to grant operating test waivers  
11 for five of the six, and we decided that the phrasing  
12 we would use to the facility was that for Ms. Smith's  
13 case, we would likely not grant the operating test  
14 waiver, sir.

15 CHAIR SPRITZER: Why did you choose that  
16 particular phrasing, just with regard to Ms. Smith?

17 MR. MEEKS: Your Honor, what we saw when we  
18 reviewed Ms. Smith's 303 forms was that her  
19 performance on that test was, from our viewpoint, much  
20 worse than the other five. So the terms "likely deny  
21 the waiver," we were trying to be very clear to the  
22 facility that we don't grant or deny waivers based on  
23 emails.

24 It's a formal process, but since the site  
25 asked us for our input, we wanted to be honest with

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1       them essentially.  So based on the meeting that we had  
2       with Mr. Capehart and Mr. Widmann, and we looked at  
3       the performance of the various applicants, we saw that  
4       Ms. Smith's performance on the first exam likely  
5       warranted further evaluation, if she were to retake it  
6       in 2012, sir.

7               CHAIR SPRITZER:  When someone applies for a  
8       waiver as I understand it, and correct me if I'm  
9       wrong, one of the things they're supposed to include  
10      is whatever remedial work, I believe the term is  
11      remedial program they've been involved in since their  
12      last exam; is that true?

13             MR. MEEKS:  Yes sir.  The basis of the  
14      decision to grant or to deny the waiver is heavily  
15      weighed, as to the documentation that the facility  
16      licensee provides, as to what training has been given  
17      and the correction of any deficiencies that were noted  
18      on the previous exam, sir.

19             CHAIR SPRITZER:  So if someone has passed  
20      the operating exam, but they have some deficiencies.  
21      They've been noted on the 303 form.

22             The company shows you, her employer that is,  
23      shows you that they've adopted a remedial program for  
24      that individual to address those problems.  That can  
25      affect your decision to grant or deny the waiver?

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1 MR. MEEKS: Yes sir. If the facility  
2 provides us information, for instance as part of a  
3 certified license application, as to what retraining  
4 had been given, that would influence us as to our  
5 determination as to whether to grant or to deny the  
6 waiver, yes sir.

7 CHAIR SPRITZER: Now in the summer of 2011,  
8 that had not happened for Ms. Smith. That is you did  
9 not have the information about whether she was going  
10 to be part of a remedial program and what that program  
11 would consist of; is that true?

12 MR. MEEKS: Yes sir, that is true. We were  
13 thinking that all six retake applicants would probably  
14 be taking part in a training program, but we did not  
15 have any details of that training program, sir.

16 CHAIR SPRITZER: And you would need that  
17 information to make a final decision of whether to  
18 grant or deny a waiver, among other things?

19 MR. MEEKS: Yes sir, we would.

20 CHAIR SPRITZER: Okay.

21 JUDGE FROEHLICH: And the details of the  
22 program, that would be included on the form that's  
23 sent in? The waiver application would include, I  
24 guess, a sentence or two or a paragraph on what  
25 remedial training has occurred for each individual; is

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1 that correct?

2 MR. MEEKS: Yes sir. On the license  
3 application form, NRC-398, the waiver would be noted  
4 by the checkbox in Box 4 dot Foxtrot, and then the  
5 form has to provide further documentation. That could  
6 be on the form; it could be part of the submission.

7 But yes sir. We would look for a  
8 description of what the training program was. We  
9 would potentially look for was the training program  
10 targeted to remediate deficiencies noted on any  
11 previous tests, and we would evaluate that versus the  
12 applicant's performance on the previous test in our  
13 evaluation process, sir.

14 JUDGE FROEHLICH: Just, would you elaborate  
15 just a little bit more for me please. I'm trying to  
16 get a feel for each individual who's requesting a  
17 waiver, in this case where the -- well, for the five.  
18 Do they get a separate paragraph individually tailored  
19 on what remediation they had, or is this sort of a  
20 boilerplate, you know, three liner?

21 They took 25 hours at the plant and we've  
22 reviewed all of the comments from the year before.  
23 How detailed is the description of the remediation?

24 MR. MEEKS: Your Honor, what I've seen is  
25 that it generally varies from plant to plant.

1 Normally, the minimum documentation that we see would  
2 probably be a paragraph length, maybe one or two  
3 paragraphs.

4 Some of the facilities will submit, let's  
5 say the full remedial training package, and then ES-  
6 202 and 204 of NUREG-1021 also grants us the option,  
7 if we feel that we need to have further documentation  
8 of what an applicant's retraining program is, we can  
9 ask that of the licensee, to help us in our  
10 evaluation, sir.

11 JUDGE FROEHLICH: And what did you get, I  
12 guess, from Plant Vogtle, in the waiver request forms  
13 for the five individuals where waivers were submitted?  
14 How much detail? You said some plants give you two  
15 paragraphs. What did you get from Plant Vogtle for  
16 the five?

17 MR. MEEKS: Your Honor, I don't specifically  
18 recall what the other five applicants had. However,  
19 I believe in CCS-002, Mr. Tucker's exhibit, when he  
20 provides the unsigned preliminary application, that  
21 that language would likely be similar with Ms. Smith  
22 and the other five applicants, sir.

23 JUDGE FROEHLICH: And as I remember, it was  
24 one line, as I recall it, on the front of the form,  
25 maybe Box 17, 14, 17, and then there was one

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1 paragraph, maybe two sentences on the next page. Is  
2 that what you're referring to?

3 MR. MEEKS: Yes sir. If you look at CCS-  
4 002, I believe there was a, on the back side of the  
5 NRC 398 form under Block 17, you have the one line  
6 there, and then there was a supplementary page, which  
7 I believe had maybe a paragraph under Item 4 dot --  
8 yes sir, those two paragraphs there.

9 JUDGE FROEHLICH: And finally, what we see  
10 here on the screen, that one line on the front and the  
11 two paragraphs on the page, was that the same for each  
12 of the five people who received waivers for the 2012  
13 exam?

14 MR. MEEKS: Your Honor, if you look at  
15 Exhibit CCS-002, I believe Mr. Tucker testified to  
16 that fact, that he created every unsigned application  
17 as the same, with the exception of personal data.

18 So I believe that was one of the things that  
19 we noted when we received the unsigned applications,  
20 that although in our previous emails we had  
21 communicated with the facility that we evaluated one  
22 of the six differently from the other five, they were  
23 all the same.

24 That was one of the things that led to our  
25 questioning, as to why the operating test waiver block

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1 had been checked for Ms. Smith on the unsigned  
2 application, sir.

3 CHAIR SPRITZER: Let me just ask, before we  
4 move, while we have this document in front of us and  
5 before we move on.

6 The document that the Form 398, preliminary  
7 application, that begins on page 14 of Mr. Tucker's  
8 affidavit, again CCS-002, is that in fact the Form 398  
9 preliminary application that the NRC received for  
10 Charlotte Smith, for Charlissa Smith, excuse me?

11 MR. MEEKS: Your Honor, the NRC does not  
12 retain the unsigned copies that are sent in of the 398  
13 forms. So we do not have any records of it. However,  
14 since Mr. Tucker has testified that he was the  
15 individual who had prepared it, based on looking at it  
16 in his testimony, I would think that it would be the  
17 same, sir.

18 CHAIR SPRITZER: All right.

19 JUDGE HAJEK: I have a question about that  
20 form also. So you believe, relative to Mr. Tucker's  
21 testimony, that this form would be exactly the form  
22 that was submitted for the five, for all six  
23 candidates, as the preliminary form, and that it might  
24 follow quite accurately that at least for the five  
25 candidates, excluding Ms. Smith, that this form would

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1 be totally representative of the other five?

2 MR. MEEKS: Sir, can you please restate?

3 I'm not sure I'm following your question.

4 JUDGE HAJEK: Sure. Okay, so Mr. Tucker has  
5 shown us this form, and he says this form is what I  
6 wrote up for all six candidates.

7 So given that Ms. Smith's form, at the end  
8 process, was changed after this preliminary form was  
9 sent in, the other five, can we make, can we infer  
10 from his statements, Mr. Tucker's statements, the  
11 other five are represented by this form?

12 MR. MEEKS: Your Honor, yes sir. I would  
13 believe that the other five retake applicant forms  
14 would be very similar to the form here presented for  
15 Ms. Smith.

16 JUDGE HAJEK: Okay. I'm curious about your  
17 choice of the word "very similar." What would have  
18 been different, other than PII?

19 MR. MEEKS: Sorry, sir. It was not very  
20 clear. The differences between the other five retake  
21 applicants would have been in their personal  
22 information, educational background, so on and so  
23 forth of those applicants, sir, not about the  
24 documentation on the form of the retraining and the  
25 justification that the facility licensee was providing

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1 for that operating test waiver, sir.

2 JUDGE HAJEK: Okay. So this form, then, if  
3 other than the personal identification information,  
4 would represent the forms for the other five  
5 candidates. What were you evaluating this form for,  
6 for purposes of providing waivers? What part of the  
7 exam?

8 MR. MEEKS: Sir, this would be for the  
9 operating portion. All of the operating portions, for  
10 both the simulator and written portions.

11 JUDGE HAJEK: Okay. So I'm looking at this  
12 form, and I am seeing it says, in Box 17 here, to  
13 justify Item No. 4F2. The reason is "passed all  
14 categories of the operating test given from March 16  
15 through 24, 2013 (sic)." That's all.

16 It says Box No. 4F5, I have to go back and  
17 look at these. I think it reflects the GFES exam.  
18 Item 13G references an attachment in this license  
19 application.

20 Item No. 14 referenced the attachment in  
21 this license application, and if I go back to 14, I  
22 can't read it. The writing's too small. "Significant  
23 Control Manipulations." There's a chart of those  
24 Significant Control Manipulations, then. There's the  
25 chart. So that one's for Ms. Smith specifically.

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1           So that page, is that correct? That page is  
2           for Ms. Smith specifically? Okay. So each of the  
3           other five candidates, this page would have been  
4           different?

5           MR. MEEKS: Probably pretty similar, because  
6           it has to perform the same function, describe the  
7           reactivity manipulations.

8           JUDGE HAJEK: Here's where I'm having a real  
9           problem with this. If I go down to these statements  
10          here, and by the way, your testimony also indicated  
11          that you don't believe any of this was filled in in  
12          her form, initial Form 398 that I read. We can try to  
13          find it.

14          But here's where I'm having trouble. Item  
15          4F5 speaks to NUREG-1021 ES-204, and this is the GFE  
16          exam, right?

17          MR. MEEKS: Yes sir.

18          JUDGE HAJEK: Okay. Now maybe, probably the  
19          others all had the same. Mr. Tucker said they did.  
20          They were all the same. So that would be there. Item  
21          13 is No. 13G here, this is the one that I had  
22          significant concerns about, relative to the evaluation  
23          the region did to approve a waiver of the operating  
24          test.

25          This says "The applicant has successfully

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1 completed a comprehensive remedial training program  
2 for SRO duties." Okay. I can go along with that  
3 part. "The program included remedial training on  
4 areas of weakness," and this is the part, and I asked,  
5 I think I asked Mr. Tucker about this also.

6 "Areas of weakness identified in the denial  
7 letter dated May 9th, 2011, on the knowledge areas of  
8 the K/A catalogue," and it goes on in the last  
9 sentence to say that "The applicant successfully  
10 completed a facility-developed 100 question SRO  
11 written audit examination."

12 Now if this is the same paragraph that was  
13 on the other five applications, and the purpose of  
14 your review is to review these applications, in order  
15 to grant a routine waiver on the operating exam, what  
16 does this say about the operating exam?

17 I have, in my reading, I have no information  
18 about the operating exam, and how, what remediation  
19 might have occurred relative to their performance and  
20 the comments that were on the operating exam. I don't  
21 see the justification at all in this application. So  
22 where do you see the justification?

23 MR. MEEKS: Your Honor, when you look at the  
24 second paragraph for 13 dot Golf, it talks about the  
25 weaknesses identified in the letter. Essentially,

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1 the way that we read that was that the letter would  
2 have -- let me step back.

3 We would have sent each of the retake  
4 applicants' 303 forms to the training manager and the  
5 training staff.

6 So knowing that the training staff was going  
7 to design a program that would retrain on the  
8 deficiencies that we had identified in those 303s, the  
9 assumption was that in the denial letter dated May the  
10 9th, what the facility licensee was telling us was  
11 that they had evaluated the 303s, and that that was  
12 the basis of the retraining program, sir.

13 JUDGE HAJEK: Okay. So let's go to the  
14 denial letter. Now I'm at a disadvantage here right  
15 now. I don't have a copy of the denial -- I know I  
16 have a copy of the denial letter. Can anybody help me  
17 find the May denial letter that was sent to Ms. Smith,  
18 so that we can pull it up? The May 9th, 2011 denial  
19 letter. I think I know how to do that.

20 MS. SMITH: I think that that's CCS-016.

21 JUDGE HAJEK: That should be -- I have it.  
22 I've got it, I've got it. That should be NRC-007.  
23 No, that's not it.

24 MS. SMITH: Your Honor, I have CCS-016.

25 JUDGE HAJEK: CCS-016.

1 MS. SMITH: That's correct.

2 JUDGE HAJEK: Okay, okay. So here's the  
3 denial letter that was sent to Ms. Smith. Now Ms.  
4 Smith failed the written exam. She passed the  
5 operating exam, and "This letter is to inform you that  
6 your grade on the written exam, taken on April 1st,  
7 2011, in connection with your application for an SRO  
8 license, indicates that you did not pass the written  
9 exam.

10 "As a result, the NRC proposes to deny your  
11 application. Enclosed is a copy of the written exam  
12 results, indicating those areas in which you exhibited  
13 deficiencies. A copy of the master answer key is also  
14 provided.

15 "If you accept the denial and decline to  
16 request either an informal NRC staff review or hearing  
17 within 20 days as discussed below, this proposed  
18 denial will become a final denial. You may then apply  
19 for a license, according to 10 C.F.R. 55.35."

20 Because you passed the simulator operating  
21 testing, administrative systems simulator operating  
22 test, you may request a waiver. Because you did not  
23 pass the written, you're going to have to retake it.

24 You may apply for a license two months from  
25 the date of this letter if you don't accept the



1 denial, or you can do this kind of stuff. That's all  
2 the way down through the rest of it. I see nothing in  
3 here about performance on her operating exam, other  
4 than you passed.

5 So if we accept Mr. Tucker's submittals of  
6 398s for everybody, I don't see how you can apply your  
7 statement that we looked at the 398s, and we waived,  
8 made a decision to waive in operating test, when the  
9 398 refers to this letter, and I'm having a difficult  
10 time understanding why the letter would be any  
11 different to the other five candidates, simply because  
12 it's pretty much a form letter right out of the NUREG.

13 We've had trouble with those form letters'  
14 use in the past. I don't see the operating exam  
15 remedial training being addressed in any way  
16 whatsoever here, to enable the region to make a  
17 decision on waiving the operating exam.

18 I think all those candidates should come  
19 back and take the operating exam. It clearly was not  
20 appropriately waived.

21 MR. MEEKS: Sir, the letter that we have on  
22 the screen now is the first three pages of the  
23 packages that are sent to the individual applicants at  
24 the end of our process, once we finish with the  
25 documentation. I believe, sir, what you do not see

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1 attached with this letter is the various documentation  
2 that we provide to those applicants and to the  
3 training staff when we mail these letters out.

4 So for instance, Ms. Smith, with this  
5 letter, would have received her 303 forms. She would  
6 have received a copy of the written exam, and she  
7 would have received essentially an ES-Delta 1 cover  
8 sheet, showing the outline of the simulator scenarios  
9 that she was a part of for this test, sir.

10 JUDGE HAJEK: The conclusion of this letter  
11 says "Enclosures as stated." The only thing I see  
12 stated on page one is that she gets a copy of the part  
13 that she failed, the written exam and the answer  
14 sheet. Am I reading this letter properly?

15 MR. MEEKS: Yes sir. The letter probably  
16 states that it is practice and it is customary to send  
17 out, with the pass or fail letters if you will, a copy  
18 of the 303s, a copy of the written exam.

19 Especially if there is a failure of that  
20 written exam, they'll be a full copy sent out and we  
21 also provide, as I mentioned sir, the ES-Delta 1 cover  
22 sheets, annotating the team members from that test.  
23 So you are correct, that the letter does not  
24 specifically speak to the whole package sir.

25 JUDGE HAJEK: Okay, and your answer, I

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1 believe, said that for people who failed the -- this  
2 immediate answer, for people who failed the written  
3 exam.

4           Would someone who passed the written exam  
5 get the exam package that someone who failed gets?  
6 Would they get the same things, or is there some  
7 difference between those who passed and those who  
8 failed??

9           MR. MEEKS: Sir, the general answer is that  
10 each of the applicants in their letter that they would  
11 receive, would receive their full documentation of the  
12 303 forms. They would receive the ES-Delta 1 cover  
13 sheets, and then if they had not passed any one  
14 particular portion of that test, they would receive a  
15 full copy of that test.

16           So for instance, if they were to pass to,  
17 fail the written exam, we would provide a full copy of  
18 that written exam. If they were to fail one of the  
19 operating test portions, we would provide full  
20 documentation of the let's say ES-Delta 1 and ES-Delta  
21 2 forms with that documentation, sir.

22           JUDGE HAJEK: Where -- but the letter says  
23 that the -- "Enclosed is a copy of the written exam  
24 results, indicating those areas in which you exhibited  
25 deficiencies, and a copy of the master answer key is

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1 also provided."

2 Then at the bottom of the letter, it says  
3 "Enclosures as stated." So the only enclosures as  
4 stated would be related to the written exam, right?  
5 So you're saying that there should have been ES-303s  
6 as one additional enclosure that is not stated; is  
7 that correct?

8 MR. MEEKS: Yes sir. With each letter, we  
9 will always have the 303s for the various applicants,  
10 because that is their official record grading sheet,  
11 whether they pass or fail. So the letter, I see your  
12 point. It might not be as clear as it should be, sir.

13 JUDGE HAJEK: Okay. So Mr. Turner, just an  
14 hour or so ago, I asked him when he first saw his 303,  
15 and he said that he first saw his 303 when Mr. Harris,  
16 is that Mr. Harris, discussed it with him, and Mr.  
17 Waltower, I'm not sure what your -- is it the same  
18 person or a different person?

19 MR. WALTOWER: I can't remember which  
20 instructor.

21 JUDGE HAJEK: But it was a plant person who  
22 showed them their 303s in the first place, and maybe  
23 I'm confused by the redaction that we have here at the  
24 beginning. This letter is addressed to Ms. Charlissa  
25 C. Smith, and then the next two lines are redacted.

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1 I'm going to guess, which may not be a good  
2 thing to do, but I should ask. Is the address that's  
3 been redacted, is that her home address?

4 MR. MEEKS: Yes sir, that would be her home  
5 address.

6 JUDGE HAJEK: Is that the address on the  
7 398? Is that where you get that?

8 MR. MEEKS: Yes sir. That would be the  
9 basis of the letter, yes sir.

10 JUDGE HAJEK: Okay. So these gentlemen  
11 should have received this 303 to their home; is that  
12 correct, and so should Ms. Smith have received the 303  
13 with this letter to her home?

14 MR. MEEKS: Yes sir. They would have  
15 received their own 303, that was the results of their  
16 test.

17 JUDGE HAJEK: Well, they're still under oath  
18 and they're still sitting in the back. Did the three  
19 of you receive a copy of your 303 sent to your home?

20 MR. TURNER: No sir.

21 JUDGE HAJEK: You did?

22 MR. TURNER: Did not.

23 JUDGE HAJEK: Did not.

24 MS. SMITH: I did receive a copy of my 303.

25 JUDGE HAJEK: You did receive a copy. Mr.

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1 Waltower, did you receive --

2 MR. WALTOWER: All I got was one letter,  
3 which was the actual license acknowledgment. Your  
4 Honor, all I did receive was the actual license in a  
5 manila envelope. That's all I received to my home,  
6 nothing else.

7 JUDGE HAJEK: Okay. I guess your two may be  
8 different, because you didn't receive denials. You  
9 received licenses, and they were to your home. So but  
10 you didn't receive a 303 with it?

11 MR. WALTOWER: Negative, I did not.

12 JUDGE HAJEK: Did not. Okay. So we have a  
13 conflict between what I understand is common practice.  
14 Was that your term that you used, common practice to  
15 send the 303 with the letter, even though it's not  
16 indicated specifically in the letter? I'm not sure  
17 what the ES-Delta 1 and Delta 2 forms are. Are they  
18 in NUREG-1021?

19 MR. MEEKS: Yes sir. To use the term  
20 "common practice," probably it would have been more  
21 accurate for me to state that the process for sending  
22 out letters when someone passes or fails is once again  
23 governed by NUREG-1021.

24 So I believe that if you look at the ES-501  
25 series, it will probably specify in greater detail

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1 than might be on our letters, as to what has to be a  
2 part of the package sent to the individual applicants,  
3 once we have finished documenting each test, sir.

4 MR. BATES: Your Honor, I would like to add  
5 that I'm looking currently at NUREG-1021, in the ES-  
6 501 series, and it's a PDF document. I'm on page 213  
7 of 464. I'd like to read a section of that.

8 It says "After the licensing official has  
9 signed the license denial and notification letters,  
10 the Regional Office shall send each applicant's  
11 letter, along with the following materials:

12 "A copy of Forms ES-303-1, ES-303-2, and ES-  
13 D1 and Forms ES-D2, if the applicant failed the  
14 simulator operating portion, reflecting the as-run  
15 scenario conditions but without any rough examiner  
16 notes regarding the applicant's performance."

17 So in this, it shows that it is a NUREG  
18 requirement for us to send the ES-303 forms and the  
19 Delta 1 forms with the packages that go out with the  
20 denial letters, and that is the way that we typically  
21 do that.

22 JUDGE HAJEK: But apparently it's not  
23 consistently done, or maybe it is in some cases,  
24 whether that be inconsistently done.

25 MR. BATES: To my knowledge, it is

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1 consistently done.

2 MR. CAPEHART: Maybe we need to clarify.  
3 You said the 303 forms. That's not the entire 303  
4 package. It's 303, page 1 and page 2, if they did not  
5 -- unless they failed that portion of exam. Then they  
6 would receive the complete exam at that point.

7 MR. WACHUTKA: Your Honor, one point from  
8 the NRC staff. All this is required with the denial  
9 letter. If someone passes, then all they get is their  
10 license. They don't get all these additional forms.

11 JUDGE HAJEK: I see. So Ms. Smith, did you  
12 receive, along with your May 9th, 2011 letter, a copy  
13 of your entire 303 package?

14 MS. SMITH: Your Honor, I did receive the  
15 303, with the comments that went along with the  
16 scenario, the simulator scenario.

17 JUDGE HAJEK: Okay.

18 MS. SMITH: I'm sorry, I said simulator.  
19 I'm thinking about 2012. I mean the written --

20 JUDGE HAJEK: 2012. How about 2011?

21 MS. SMITH: 2011, I received the written  
22 portion and my complete 303. Yes, I did.

23 JUDGE HAJEK: Okay. So then what the review  
24 of for the waiver, that is done in office, in the  
25 regional office, was then when this letter from Mr.

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1 Tucker or the 398 came in, and it says that the -- can  
2 we pull that back up, since I can't remember the  
3 wording?

4 Okay. So when this says the program  
5 included with remedial training on areas of weakness  
6 identified in the letter, then the interpretation that  
7 you have of that is that it would also include  
8 remediation on the content of the 303?

9 MR. MEEKS: Yes sir, that is correct.

10 JUDGE HAJEK: That's correct, okay.

11 CHAIR SPRITZER: Can we go back for a minute  
12 to the preliminary application for Ms. Smith. Again,  
13 this is, I guess everybody knows it by heart by now,  
14 CCS-002, beginning at page 14.

15 I think you told me, Mr. Meeks, correct me  
16 if I'm wrong, that if you get a preliminary  
17 application and it doesn't, does not include  
18 sufficient information about the remedial program for  
19 a particular applicant, you would typically request  
20 that information from the licensee who's submitting  
21 the application?

22 MR. MEEKS: Yes sir, that is one of the  
23 options granted to us in ES-202 and 204 of the NUREG.  
24 If we feel like we need to have further information,  
25 then we ask the facility licensee for that

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1 information, sir.

2 CHAIR SPRITZER: Now for the five applicants  
3 for waivers for the March, from Vogtle for the March-  
4 April 2012 operating exam, the five who actually got  
5 waivers, not Ms. Smith, did their preliminary  
6 applications provide you sufficient information on  
7 their remedial programs, or did you request additional  
8 information?

9 MR. MEEKS: Sir, we did not ask Vogtle for  
10 any further information for the other five retake  
11 applicants.

12 CHAIR SPRITZER: Did you consider the  
13 information that was submitted on the 398 to be  
14 adequate for you to review the remedial program?

15 MR. MEEKS: Yes sir, we did.

16 CHAIR SPRITZER: For Ms. Smith, essentially  
17 the same question. Was the information provided here  
18 concerning her remedial training sufficient for you to  
19 evaluate her application for a waiver, in the  
20 preliminary application?

21 MR. MEEKS: Sir, we never began to formally  
22 evaluate a potentially operating test waiver for Ms.  
23 Smith, because Mr. Wainwright had notified us that the  
24 facility did not mean to submit the unsigned  
25 application with the operating test waiver checked.

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1           So he had notified us that we would not be  
2 receiving a formal signed license application with  
3 that operating test waiver. So we never essentially  
4 began to evaluate formally the potential of an  
5 operating test waiver for Ms. Smith.

6           CHAIR SPRITZER: Well, looking at it today,  
7 this is the three pages, 14, 15 and 16 of Exhibit CSS-  
8 002, if you had reached the stage of actually  
9 evaluating her for a waiver, would this information  
10 have been sufficient on her remedial training program?

11           MR. MEEKS: Your Honor, if I could, I'll  
12 refer to my pre-filed testimony. Sir, this is NRC-006,  
13 and it's on page 24.

14           Sir, in the hypothetical case, if Mr.  
15 Wainwright, after my phone call with him, if he had  
16 called me back and said that they did intend to  
17 formally submit a waiver for the operating test for  
18 Ms. Smith, as I answered here, we would have followed  
19 the process that is laid out in ES-204.

20           At that time, I would have reviewed Ms.  
21 Smith's 303. I would have consulted with Mr. Capehart  
22 and we would have made a recommendation based upon the  
23 303 and the documentation that we had to my  
24 supervisor, Mr. Widmann.

25           Based upon the documentation provided in Mr.

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1 Tucker's CCS-002 for Ms. Smith's case, we would likely  
2 have asked the facility licensee for more information,  
3 potentially a more detailed training plan that would  
4 specifically show that they had addressed deficiencies  
5 noted, and any evaluation potentially that the  
6 facility licensee might have done, and would have  
7 likely consulted with the NRR program office.

8 This is a hypothetical, because again, we  
9 never really formally began our process, because Mr.  
10 Wainwright of the Vogtle training staff had notified  
11 us that they were not going to submit, nor had they  
12 meant to submit an op test waiver for Ms. Smith.

13 CHAIR SPRITZER: That conversation with Mr.  
14 Wainwright as you've described it, I take it that  
15 occurred after you called the plant to inquire whether  
16 they intended to submit an application for her; is  
17 that correct?

18 MR. MEEKS: Sir, the conversation that I'm  
19 referring to was a phone call that I had with Mr.  
20 Bates present with Mr. Wainwright, after we had  
21 received the package of the unsigned application  
22 forms, and we recognized that for Ms. Smith's unsigned  
23 form, that they had the box checked for an operating  
24 test waiver. So that was a phone call that I'm  
25 referring to, sir.

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1 CHAIR SPRITZER: My question, though, is who  
2 initiated the phone call? Did Mr. Wainwright call you  
3 and say "That was a mistake, we goofed," or did you  
4 call him and inquire whether they had made a mistake?

5 MR. MEEKS: No sir. When we received the  
6 package with the 22 applicants of the unsigned  
7 applications, Mr. Bates and I both reviewed them and  
8 we noted that Ms. Smith's application had the  
9 operating test waiver box checked.

10 We did not think that we would see that on  
11 Ms. Smith's application, because Mr. Wainwright had on  
12 several times notified us that Ms. Smith was going to  
13 be retaking both the operating test portion and the  
14 written test portion, and that Vogtle had not intended  
15 to submit an operating test waiver for her.

16 So once we had received those unsigned forms  
17 and we noted that, we were the ones who called Mr.  
18 Wainwright. So I made that phone call. Mr. Bates was  
19 present in my office, and we called him sir.

20 CHAIR SPRITZER: Mr. Bates, is that your  
21 recollection of what occurred?

22 MR. BATES: Yes, that is my recollection.

23 JUDGE HAJEK: I'm recalling -- so let me  
24 see, let me repeat back what I think Mr. Meeks just  
25 said. You received the 22 forms. You reviewed

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1 together all 22 forms, and you noticed that there was  
2 a request for a waiver on Ms. Smith's form together.  
3 Is that correct? Is that what I just heard?

4 MR. MEEKS: Your Honor, not technically  
5 together, no sir. I'm not sure when we received the  
6 package with the 22 unsigned applications, I do not  
7 recall specifically whether Mr. Bates reviewed them  
8 first or whether I looked at them first, because I was  
9 serving as the chief in training.

10 Essentially, both of us would have looked at  
11 them essentially. I do not know whether we looked at  
12 them together. However, we were both present when we  
13 made the phone call to Mr. Wainwright, sir.

14 JUDGE HAJEK: But you both looked at the  
15 forms?

16 MR. BATES: We did both look at the forms.

17 MR. MEEKS: Yes sir.

18 JUDGE HAJEK: Both of you read how much of  
19 the forms? All of them, the entire everything, all  
20 three pages?

21 MR. BATES: Yes.

22 MR. MEEKS: Yes sir.

23 JUDGE HAJEK: So you both read that there  
24 was Box 4, or I'm sorry, Box 4 or 4F2 checked, to  
25 request a waiver, that in Box 17, there was a

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1 justification that she had passed all categories of  
2 the operating test, and that the justification was  
3 further described, that the additional training was  
4 provided to meet, to cover the areas of weakness  
5 identified in the denial letter of May 9th, 2011; is  
6 that correct?

7 MR. BATES: Correct.

8 JUDGE HAJEK: So I'm confused then, because  
9 I thought I saw other testimony that said that this  
10 justification was not included, and I'll have to go  
11 search for that. Am I totally incorrect on what I  
12 believe I saw?

13 CHAIR SPRITZER: If I can help out, I think,  
14 and you can correct me if I'm misremembering here, but  
15 in response to Mr. Ehrhardt's, I believe it's called  
16 fairness review, when he asked you why you had  
17 contacted the licensee concerning the preliminary  
18 application for Ms. Smith?

19 MR. MEEKS: Yes sir, it did.

20 CHAIR SPRITZER: And as I recall, part of  
21 your response was along the lines that well, the box  
22 in Item 4F2 had been checked. Other information that  
23 would have normally been included to support a waiver  
24 was not included, such as the explanation of remedial  
25 program. Is that true?

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1 MR. MEEKS: Your Honor, knowing, not seeing  
2 just what you were stating there, what I might have  
3 been trying to represent with that was that normally  
4 for an applicant, where there would potentially be  
5 questions, I would have an expectation that the  
6 facility would provide more documentation than we saw  
7 on the unsigned application, and that it raised  
8 questions in our minds as to whether the facility  
9 licensee had deliberately chosen to provide full  
10 information for this applicant, or whether it was more  
11 of what could be termed a "cut and paste" error, sir,  
12 and whether the facility licensee had just happened to  
13 have generated Ms. Smith's unsigned application the  
14 same as everyone else, without putting further thought  
15 into more of a justification for that individual, sir.

16 CHAIR SPRITZER: All right. We'll go back  
17 and look for the discussion I think I was referring  
18 to. So do I understand your testimony, then that this  
19 Form 398, the one that appears in Tucker's affidavit,  
20 looks to you like a cut and paste job?

21 MR. MEEKS: Yes sir, it does.

22 CHAIR SPRITZER: What about it looks like a  
23 cut and paste job? Just the same, because it's the  
24 same as the other applications, the other five that  
25 were submitted?

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1 MR. MEEKS: Yes sir. One of the points to  
2 be brought out is the very final sentence there for  
3 Item 13-Golf, which only talks about passing the  
4 written audit examination.

5 We had been notified several times by Mr.  
6 Wainwright that Ms. Smith had been placed back into  
7 the Hot License class, that she was doing the full  
8 program, both of the operating test and the written  
9 exam, and that she would take both a full operating  
10 test audit and a written exam audit, sir.

11 CHAIR SPRITZER: But I take it since all six  
12 of the applications were the same, they must have all  
13 been, in your view, cut and paste jobs. Is that true?

14 MR. MEEKS: Yes sir. I believe that the  
15 language used by the facility was the same for all  
16 six.

17 CHAIR SPRITZER: And I think you told me  
18 previously you didn't request any additional  
19 information on the remedial program for the other five  
20 applicants, who ultimately obtained waivers; am I  
21 remembering correctly?

22 MR. MEEKS: No sir. We did not ask the  
23 Vogtle facility for any extra information for the  
24 other five retake applicants, sir.

25 CHAIR SPRITZER: Does the NRC normally grant

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1       waivers     based     on     applications,     preliminary  
2       applications that it considers "cut and paste" jobs?

3               MR. MEEKS:   Your Honor, once again, the  
4       language of the license application might be the same.  
5       The difference in the cut and paste error would have  
6       been for Ms. Smith's case, who would have received a  
7       very different training program, and would have taken  
8       a different audit exam.

9               So although the language in the application  
10       might have been the same, the retraining programs  
11       would have been different, and it would have been  
12       tailored to the deficiencies noted on those  
13       applicants' 303 forms, sir.

14              CHAIR SPRITZER:   But that would have been  
15       true for all six applicants, wouldn't it? All of  
16       their training programs would have been tailored to  
17       the deficiencies noted on their 303 forms, would they  
18       not?

19              MR. MEEKS:   Yes sir.

20              MS. SMITH:   Your Honor, I did find the  
21       exhibit that refers to the statement that you were  
22       talking about, where it says that some of the  
23       information was not included. That's in CCS-015.

24              CHAIR SPRITZER:   CCS-015. Why don't we  
25       bring that up.

1 MS. SMITH: Page four.

2 CHAIR SPRITZER: Page four. All right.

3 015, not 105?

4 MS. SMITH: 015. A little bit more down.

5 That's it right there.

6 CHAIR SPRITZER: Right. Well, Mr. Meeks is  
7 this an email -- can we go up a little, so can I see  
8 who it's from? Is this an email that you wrote on or  
9 about August 30, Mr. Meeks?

10 MR. MEEKS: Yes sir.

11 CHAIR SPRITZER: And I take it this is  
12 referring to the conversation you told us about  
13 earlier with Mr. Wainwright?

14 MR. MEEKS: Yes sir. The first paragraph  
15 talks about the phone call that I had with Mr.  
16 Wainwright, with Mr. Bates present.

17 CHAIR SPRITZER: And during this call, you  
18 say he told you that Carla Smith's preliminary  
19 application was essentially a typo?

20 MR. MEEKS: Actually, sir, let me clarify.  
21 The phone call that we had to Mr. Wainwright, where  
22 Mr. Bates was present, was then followed by Mr.  
23 Wainwright calling us with the results, when he had  
24 checked with his training management.

25 So I was not clear. The response that we

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1 received was in a second phone call. So Mr. Bates and  
2 I called Mr. Wainwright when we received the unsigned  
3 398 forms. One or two days later, Mr. Wainwright  
4 called us back, and said that what he had told us  
5 previously was true, that they did not intend to  
6 submit an op test waiver for Ms. Smith, and that the  
7 final form would not have that box checked.

8 So that was when we received the information  
9 that I referenced in the first paragraph of this  
10 email, sir.

11 CHAIR SPRITZER: All right. Well when did  
12 he tell you that it was a typo or mistake? During the  
13 first phone call, the second or both?

14 MR. MEEKS: During the second phone call,  
15 sir. During the first call, as Mr. Tucker mentioned  
16 earlier today, Mr. Wainwright was my normal point of  
17 contact for all matters regarding the 2012 exam, and  
18 at the time when the phone call was made, which based  
19 on Mr. Tucker's testimony was probably late February  
20 of 2012, we were in the middle of our preparations for  
21 that exam.

22 Mr. Wainwright was in the process of  
23 developing and closing out, finalizing all of our  
24 testing materials. So when we called Mr. Wainwright,  
25 we essentially believed that he would probably not

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1 have answers for us at that time. We had several  
2 questions in our mind.

3 He had previously told us that the facility  
4 was not going to ask for the routine waiver. However,  
5 those conversations had taken place when the  
6 Operations training supervisor and the training  
7 manager were different people. They had recently been  
8 changed out.

9 So when we received the unsigned forms,  
10 there was a chance that they had intended to submit  
11 the waiver request. Maybe they had changed their  
12 mind.

13 So with our first phone call to Mr.  
14 Wainwright, essentially we were asking him to check  
15 with his Training management and verify, before we  
16 began our process to evaluate a likely denial, verify  
17 with his training management to please get back to us  
18 in a day or two with the answer as to did they  
19 deliberately intend to submit the waiver for Ms.  
20 Smith, or had it been an oversight.

21 One or two days later, Mr. Wainwright called  
22 us back, and he said that it had been a mistake,  
23 oversight, and they were not going to submit the  
24 operating test waiver for Ms. Smith on the formal  
25 signed Form 398, sir.

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1           Then when we received the formal signed  
2           398s, we saw that what Mr. Wainwright had told us was  
3           true, and that the box 4 dot Foxtrot was not checked,  
4           and there was no justification provided on that final  
5           signed form, sir.

6           CHAIR SPRITZER: You heard Mr. Tucker's  
7           testimony earlier today. I take it you were in the  
8           hearing room?

9           MR. MEEKS: Yes sir.

10          CHAIR SPRITZER: And I believe he referred  
11          to his impression that the submission of a preliminary  
12          application for Carla Smith requesting a waiver had  
13          stirred up a hornet's nest.

14          MR. MEEKS: Yes sir. I believe that was the  
15          term that Mr. Tucker used.

16          CHAIR SPRITZER: I take that to mean he  
17          thought that the preliminary application had irritated  
18          the NRC. Is that a fair characterization?

19          MR. MEEKS: No sir. I do not know why he  
20          would have said hornet's nest, but during the phone  
21          call that Mr. Bates and I had with Mr. Wainwright, we  
22          were very clear with him that essentially we were just  
23          trying to determine whether the unsigned application  
24          was deliberate, or whether it was an oversight.  
25          Essentially, we just wanted to know that before

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1 beginning our process to formally evaluate what would  
2 likely be a denial.

3 There was no intent on our part, and there  
4 was no, nothing presented to the facility licensee  
5 that we were upset to see the box checked. We didn't  
6 think we would see it checked, and that was the reason  
7 for our phone call, sir.

8 It was something from the 120 day phone call  
9 and several other times, Mr. Wainwright had notified  
10 us they had placed Ms. Smith back into the Hot License  
11 class. They were planning on having her take both  
12 portions of the test.

13 So based on our conversations with Mr.  
14 Wainwright, essentially we were saying please verify  
15 with your new training management, was this done  
16 deliberately? Do you want us to formally evaluate Ms.  
17 Smith's waiver request, or was it some kind of an  
18 oversight?

19 JUDGE FROEHLICH: To the best of your  
20 recollection in dealing with waivers from Plant  
21 Vogtle, isn't the common practice, the ordinary  
22 practice or the routine practice for them to request  
23 waivers for any candidate who failed either part of  
24 the exam?

25 MR. MEEKS: Your Honor, since I'm a recently

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1 qualified chief, I really can't talk to the common  
2 practice at Vogtle, sir. Perhaps Mr. Capehart might.

3 JUDGE FROEHLICH: I was going to say Mr.  
4 Capehart, at least in your experience in dealing with  
5 Plant Vogtle, isn't the routine practice coming from  
6 Plant Vogtle for them to put in a waiver for that part  
7 of an exam that was passed, if the other part, you  
8 know, wasn't?

9 MR. CAPEHART: Like I said, that's part of  
10 the routine waiver process for our region to review  
11 those if they are submitted, and in my past history of  
12 experience, I would say that's true.

13 JUDGE FROEHLICH: Okay, thank you.

14 CHAIR SPRITZER: I'm trying to understand  
15 why a company, they've invested a substantial sum of  
16 money in training Ms. Smith, that wanted to take the  
17 exam again, at least the written exam, what would they  
18 have to lose by going ahead and submitting a waiver  
19 application, even though you'd already told them it  
20 was likely to be denied, but you hadn't made a final  
21 determination?

22 Given the investment they put into this  
23 individual, why just drop it?

24 MR. MEEKS: Your Honor, I cannot speak to  
25 the mind set of the Vogtle training staff at that

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1 time. What I can speak to is that based upon the  
2 email record that I had with Mr. Gunn, it appeared  
3 that the Vogtle training staff viewed Ms. Smith, as  
4 the email I think of June showed, in the second of the  
5 two groups of three, and we had been notified by Mr.  
6 Wainwright on several times specifically that they  
7 were not going to submit the operating test waiver.

8 Beyond the fact that they might be taking  
9 some kind of an action that was contrary to what they  
10 had notified us previously, I really can't speak to  
11 what they might have to lose, sir.

12 CHAIR SPRITZER: All right. So you referred  
13 to the email from Mr. Gunn in June. Let's look at  
14 page 18 of CCS-002.

15 This is the July 13, 2011 letter signed by  
16 Mr. Tynan, vice president of Vogtle, requesting or  
17 saying "Southern Nuclear is submitting, in accordance  
18 with NUREG-1021," etcetera, a request for a waiver for  
19 the operating exam portion of the initial license  
20 examination scheduled to be administered at the Vogtle  
21 Engineering Generating Plant in March 2012, for the  
22 individuals identified below."

23 One of those is apparent C.C. Smith. Do you  
24 see that on the document?

25 MR. MEEKS: Yes sir, I do.

1 CHAIR SPRITZER: Have you ever seen this  
2 document prior to this proceeding?

3 MR. MEEKS: Yes sir. The first time that I  
4 saw this document was I believe when I first saw Mr.  
5 Tucker's testimony filed for this hearing, sir. I did  
6 not see this letter and it was not part of the waiver  
7 process, as we went through before the operating test  
8 exam, sir.

9 CHAIR SPRITZER: Now it's mailed to the  
10 attention of Mr. Mark Franke or Franke, F-R-A-N-K-E.  
11 Who is he?

12 MR. MEEKS: Sir, Mr. Franke is present here.  
13 He is currently the Chief of the Operations Branch II  
14 within Region II, sir.

15 CHAIR SPRITZER: Well, have you ever asked  
16 him if he received this letter?

17 MR. MEEKS: Yes sir. When we saw this in  
18 Mr. Tucker's exhibit, I believe Mr. Franke, Mr.  
19 Widmann and I looked at this.

20 We tried to determine whether we had seen  
21 this letter, and I believe that we might have found it  
22 in the Operator Licensing files that we had. However,  
23 before this hearing, I had not seen this letter, sir.

24 CHAIR SPRITZER: But if I understand your  
25 testimony, then, the NRC did in fact receive the

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1 letter?

2 MR. MEEKS: Yes sir, I believe we did.

3 CHAIR SPRITZER: And there's a reference to  
4 attachments on the second page. Does the NRC have the  
5 attachments?

6 MR. MEEKS: Sir, the letter that we saw  
7 within the file room was essentially just what is  
8 shown here within CCS-002. I do not recall any  
9 attachments to this letter.

10 CHAIR SPRITZER: If I understood your  
11 testimony earlier, you said the NRC does not normally  
12 retain preliminary Form 398s, that is the unsigned  
13 versions?

14 MR. MEEKS: Yes sir, that is correct.

15 CHAIR SPRITZER: So they might have received  
16 them with this letter and discarded them? Would that  
17 be consistent with what you understand the normal  
18 practice to be?

19 MR. MEEKS: No sir. The unsigned  
20 applications are sent in by the facility 30 days  
21 before the start of the operating test. This was a  
22 letter that was sent well before the start of our  
23 normal process, which normally starts at the 120-day  
24 mark, what is sometimes called the corporate  
25 notification phone call, which is followed by the

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1 corporate notification letter.

2 So we would not expect to have received  
3 unsigned applications with this form. We would expect  
4 to see those 30 days before the start of the operating  
5 test, because it would be at that point that the  
6 facility could certify to us that the individual  
7 applicants would have finished with whatever version  
8 of the training program they would have been a part  
9 of, sir.

10 CHAIR SPRITZER: To your knowledge, did the  
11 NRC ever respond to this July 13 letter?

12 MR. MEEKS: Sir, to my knowledge, I do not  
13 believe that we did, no sir.

14 CHAIR SPRITZER: Now this letter,  
15 unfortunately the copy we have before us on the  
16 screen, is redacted. But have you seen the unredacted  
17 version, the full letter without names blocked out?

18 MR. MEEKS: Yes sir. I did see the letter  
19 that we found in our Operator Licensing file room, yes  
20 sir.

21 CHAIR SPRITZER: And if I recall correctly,  
22 correct me if I'm wrong, this list of candidates does  
23 not draw any distinction between the six for whom a  
24 waiver, the company indicates a waiver will be  
25 requested. Is that also your recollection?

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1 MR. MEEKS: Yes sir. When we found this  
2 letter early this year, which was the first time that  
3 I saw this, the letter is as you see it here. There  
4 is no differentiation between the six retake  
5 applicants, sir.

6 JUDGE FROEHLICH: Can I just interject?  
7 Mr. Wainwright, who's your telephone contact, he would  
8 report to or is below Mr. Tynan in the food chain at  
9 Southern?

10 MR. MEEKS: Yes sir.

11 CHAIR SPRITZER: Had you seen this letter  
12 before -- I take it you didn't see this letter until  
13 this proceeding that we're here for today got started.  
14 Is that what your testimony is?

15 MR. MEEKS: Yes sir, that's correct.

16 CHAIR SPRITZER: Had you seen the letter at  
17 the time you received Ms. Smith's preliminary  
18 application, including the waiver request, would that  
19 have altered your view that the company was not  
20 serious about pursuing a waiver for her?

21 MR. MEEKS: Sir, I'm not sure that I follow  
22 your question. Could you please restate?

23 CHAIR SPRITZER: Certainly. Had you seen  
24 this document at the time or before you had received  
25 Ms. Smith's preliminary application, unsigned Form 398

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1 requesting a waiver, would it have affected your  
2 belief that the company did not really intend to  
3 request a waiver for her?

4 MR. MEEKS: Sir, I believe that my actions  
5 would have been relatively the same. I would have  
6 contacted my point of contact, Mr. Wainwright, and  
7 would have verified.

8 Had he, if the timing of it would have been  
9 such that he would have previously told me that they  
10 were not going to submit, and I see information to the  
11 contrary, then I want to verify that information, sir.

12 CHAIR SPRITZER: Now we have a voluminous  
13 record of materials, including various emails here.  
14 Can you point me to any email or other documentation  
15 where prior to your pre-filed testimony in this case,  
16 you reported that Mr. Wainwright had told you that the  
17 company would not be submitting a waiver request for  
18 Ms. Smith?

19 MR. MEEKS: Sir, I do not believe that I  
20 have any documentation of that. We first learned that  
21 Mr. Wainwright had notified us that they were not  
22 intending to submit the operating test waiver during  
23 what is called the 120-day phone call, or the  
24 corporate notification phone call, one of the items  
25 called out in NUREG-1021, Section ES-201.

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1           Mr. Bates was present during that phone  
2 call, because once again, I was the chief in a  
3 training status. He was in a way supervising me,  
4 verifying that what we were doing was correct.

5           So after that 120-day phone call, I notified  
6 my supervisor, Mr. Widmann verbally, just as following  
7 up on the chain of emails that he was already a part  
8 of, that Vogtle did not intend to submit an operating  
9 test waiver. But besides my pre-filed testimony and  
10 that of Mr. Bates, I do not know of any documentation  
11 specifically that I have for Mr. Widmann, excuse me,  
12 Mr. Wainwright.

13           CHAIR SPRITZER: All right. Let's take a  
14 look at -- let me ask you generally. When you receive  
15 one of these Form 398s requesting a waiver, unsigned,  
16 the so-called preliminary application, what are you  
17 supposed to do with it, under NUREG-1021?

18           MR. MEEKS: Well sir, we're supposed to  
19 evaluate that application, check it for any potential  
20 errors, verify that the information supports  
21 potentially having this applicant as part of an NRC  
22 test.

23           We go through the various checks within  
24 NUREG-1021, to verify that the form is correct and it  
25 has all the information that we need to either grant

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1 or deny any potential waivers, or to verify that the  
2 applicant meets all the various regulations that is  
3 needed for sitting, if you will, for an NRC exam.

4 CHAIR SPRITZER: Now the preliminary  
5 application for Ms. Smith, again beginning on page 14  
6 of CCS-002, does it contain any errors?

7 MR. MEEKS: Your Honor, based upon the  
8 conversation that we had with Mr. Wainwright, Mr.  
9 Wainwright notified us that the 4 Foxtrot box had been  
10 checked in error, that the facility had not intended  
11 to submit an operating test waiver for Ms. Smith, and  
12 that the final signed form would not have that block  
13 checked.

14 CHAIR SPRITZER: Looking just at the  
15 document itself though, I understand your testimony  
16 about what Mr. Wainwright said to you, but looking at  
17 the form itself, do you see anything on the form  
18 itself that is an error?

19 MR. MEEKS: On the actual cover page and the  
20 second page, no sir. But once again, as we've pointed  
21 out, on the justification provided for Block 13-Golf,  
22 on the attached forms, it seems to not be complete as  
23 to the full extent of Ms. Smith's audit exam provided  
24 by the facility, sir.

25 CHAIR SPRITZER: So did you go back to the

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1 facility -- when you called Mr. Wainwright, you said  
2 you asked him whether the submission was a mistake.  
3 Did you also say if it wasn't a mistake, we're going  
4 to need more information about her remedial program?

5 MR. MEEKS: No sir, I did not state that.

6 CHAIR SPRITZER: Why not?

7 MR. MEEKS: Essentially, we had not begun  
8 our process to evaluate Ms. Smith's waiver for this  
9 time frame, sir. As I said, there was the first  
10 phase, where we're looking at the potential for a  
11 retake exam. Then we have the phase where Mr. Gunn  
12 has been sending us emails and asking us as how we  
13 would evaluate the six retake applicants.

14 Then, if you will, we had moved into the  
15 phase where Mr. Wainwright, having had that previous  
16 history, had notified us that Ms. Smith would -- that  
17 the facility was not going to submit an operating test  
18 waiver for Ms. Smith.

19 So at the time, our essential concern was  
20 just as to whether we should begin our formal process  
21 for a likely denial, or whether we wouldn't need to do  
22 the extra work. So specifically during the phone call  
23 that Mr. Bates and I had with Mr. Wainwright, where we  
24 asked him to please check with his training  
25 management, was this an oversight or did they intend

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1 to submit an op test waiver, essentially we were just  
2 looking for a yes or no answer, as to whether we  
3 should begin our process, or whether we didn't have to  
4 begin the process and we wouldn't have to worry about  
5 it, sir.

6 CHAIR SPRITZER: So as I understand your  
7 chronology of events, Mr. Wainwright said he would go  
8 to the training management and check with them, as to  
9 whether a waiver was really intended for Ms. Smith.  
10 Did I understand you correctly on that?

11 MR. MEEKS: No sir. Specifically, that was  
12 what I asked Mr. Wainwright to do, because knowing  
13 that he was part, he was developing the test and he  
14 was likely not the person who would have prepared the  
15 unsigned application forms; also knowing that the  
16 training management had recently changed out, I had  
17 asked him please verify with your training management  
18 and then call me back in a day or two, essentially so  
19 that we know was this a typo, was this an oversight.  
20 Did you mean to submit it, and then we can start our  
21 process.

22 So that was something that I likely asked  
23 him, was to verify with his training management  
24 whether they truly meant to submit this, or whether it  
25 had been a type of oversight, sir.

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1 CHAIR SPRITZER: So if I understand what  
2 you're telling me, and assuming Mr. Wainwright did  
3 what you asked him to do, he would have gone to his  
4 training management and asked was this 398 form for  
5 Ms. Smith a mistake?

6 MR. MEEKS: Yes sir, that was my  
7 understanding. When he called me back, he said that  
8 he had checked, and that it was an oversight, and that  
9 the final signed applications would not have an  
10 operating test waiver checked for her or  
11 justification.

12 CHAIR SPRITZER: Training management at  
13 Vogtle at that time, who did that consist of?

14 MR. MEEKS: Specifically sir, if you'll look  
15 at the emails that we had, prior to this time frame,  
16 training management would have been Mr. Gunn, who was  
17 the Operations training supervisor. He was in charge  
18 of all of the Operations training, and then Mr.  
19 Brigdon was the training manager.

20 So he was in charge of all training at the  
21 Vogtle site. Mr. Wainwright, shortly before we  
22 received the unsigned forms, had notified us that  
23 there had recently been a change in the Vogtle  
24 training management, and that Mr. Gunn had been  
25 changed out with a Mr. Acree, who was now the

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1 Operations Training supervisor, and that Mr. Brigdon  
2 was going to be or had been changed out by Mr. Brown,  
3 who would now be the training manager.

4 So both positions essentially that we had  
5 dealt with before in our emails before had been  
6 changed, very close to the time frame as to when we  
7 received the unsigned applications, sir.

8 CHAIR SPRITZER: Then logically if Mr.  
9 Wainwright did what you asked him to do, he would have  
10 contacted those individuals, to see if Form 398 was a  
11 mistake?

12 MR. MEEKS: Yes sir. I believe that he  
13 would have spoke with either Mr. Acree or Mr. Brown,  
14 or with both of them, sir. They would have been his  
15 supervisors in the training management chain of  
16 command, if you will sir.

17 CHAIR SPRITZER: But do you know  
18 specifically -- I know what you thought he would do.  
19 But do you know specifically who in the training  
20 program Mr. Wainwright would have spoken to?

21 MR. MEEKS: Sir, in a phone call where Mr.  
22 Wainwright called us back, I do not recall that he  
23 specifically named any names that he had talked with,  
24 no sir.

25 CHAIR SPRITZER: As I recall Mr. Tucker's

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1 testimony, his testimony was that he was contacted by  
2 Mr. Thad Thompson, who either works with or reports to  
3 or has some connection with Mr. Wainwright?

4 MR. MEEKS: Yes sir. Mr. Thad Thompson  
5 works or worked with Mr. Wainwright. They were part  
6 of the Exam Group, and Mr. Thompson was actually part  
7 of the 120-day phone call or the corporate  
8 notification call that Mr. Bates and I had with Mr.  
9 Wainwright.

10 So the parties on that call from Region II,  
11 it was myself and Mr. Bates, and from Vogtle, it was  
12 Mr. Wainwright as the principle point of contact, and  
13 then Mr. Thompson, who was also helping him out with  
14 the test preparation, sir.

15 CHAIR SPRITZER: So there's nothing you know  
16 that would contradict Mr. Tucker's statement, that Mr.  
17 Thompson contacted Mr. Tucker in response to or as a  
18 follow up to some sort of conversation that Mr.  
19 Thompson had had with Mr. Wainwright?

20 MR. MEEKS: Sir, I have no knowledge of any  
21 conversations that might have occurred between Mr.  
22 Thompson and Mr. Tucker, sir. I have never, during  
23 this whole process, the point of contact that we  
24 always used to send data, information back and forth  
25 was with Mr. Wainwright, and we never talked directly

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1 with Mr. Tucker.

2 Several times, Mr. Thompson might have been  
3 on the phone call with Mr. Wainwright. Specifically  
4 when we talked about Ms. Smith's waiver issue, I do  
5 not believe that he was. I think we spoke directly to  
6 Mr. Wainwright, sir.

7 CHAIR SPRITZER: All right. It's almost  
8 seven o'clock, by which the time we said we would keep  
9 you all here until. We regrettably are not finished  
10 with the examination team yet, so we'll have to ask  
11 you gentlemen to return tomorrow. The building, as I  
12 understand it, will be open at eight.

13 MALE PARTICIPANT: This room.

14 CHAIR SPRITZER: Well, this room will be  
15 open at eight. So you can, I think, get in the room  
16 at eight. I'm not sure what the situation is for the  
17 rest of the building.

18 (Off record comments.)

19 CHAIR SPRITZER: All right. The rest of the  
20 building will be closed until nine. So and we will  
21 try to start at nine, or at least as close to nine as  
22 we can tomorrow. Thank you.

23 (Whereupon, at 6:57 p.m., the hearing was  
24 recessed, to reconvene on Thursday, July 18, 2013 at  
25 9:00 a.m.)