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GPC II-135

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In The Matter Of:

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

GEORGIA POWER COMPANY

ALLEN MOSBAUGH

Vol. 3, August 24, 1994

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NUCLEAR REGULATORY COMMISSION

Docket No. 50-424/425-OLA-3

EXHIBIT NO.

GPC II-135

In the matter of Georgia Power Co. et al., Vogtle Units 1 & 2

Staff Applicant Intervenor Other

Identified Received Rejected Reporter *KHW*

Date *7/19/95* Witness *Mosbaugh*

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD
IN THE MATTER OF:)

) Docket Nos.
) 50-424-OLA-3
GEORGIA POWER COMPANY,) 50-425-OLA-3
et al.,)
) Re: License Amendment
) (Transfer to
) Southern Nuclear
) VOLUME III
(Vogtle Electric Generating)
Plant, Units 1 and 2))

DEPOSITION OF
ALLEN MOSBAUGH
August 24, 1994
10:10 a.m.

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Mr. Darl Hood

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[1] (The reading and signing of the [2] deposition by the witness was reserved.)

[3] ALLEN MOSBAUGH,

[4] having been previously duly sworn, was examined and [5] testified as follows:

[6] CONTINUED EXAMINATION

[7] BY MR. BLAKE:

[8] Q: Mr. Mosbaugh, when we broke off last [9] night, I asked whether or not you would take an [10] opportunity to review your prefile testimony before [11] the Senate Subcommittee and determine whether or not [12] in that prefile testimony that you divulged to the [13] Senate Subcommittee that there was a distinction in [14] the language between the LER and the COA letter of [15] April 9th. Have you had a chance to do that?

[16] A: Yeah, I have had a chance to look over [17] this package, and in addition to the prefile [18] testimony here, this includes all the detail of what [19] I provided the NRC with the write-ups of

validations [20] and the very detailed documentation, one write-up on [21] the confirmation action response and the aspects [22] that I thought were false in it and a separate [23] write-up on the LER and the aspects that I thought [24] were false in it.

[25] That was what I provided to the NRC as

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[1] the source, some of the source information of these [2] allegations in the summer of 1990. So the complete [3] package of allegations I gave the NRC is all [4] included here. So this has some very detailed [5] information in it.

[6] Q: Let's try to get off to a good start now [7] in terms of trying to answer the question that I [8] asked, and if you want to add additional material, [9] just let me know.

[10] My question is in the prefile testimony [11] that you provided to the subcommittee, did you [12] identify for the subcommittee that there was a [13] distinction in the language that we are all talking [14] about, the 18, 19 language between the COA and the [15] LER?

[16] A: And in the prefile testimony in [17] attachment three is the COA language and in [18] attachment, they are both in attachment three is the [19] LER language and my discussion of the falseness of [20] both languages.

[21] Q: So is it your answer to my question that [22] it's not pointed out in your prefile, typed prefile [23] testimony to the subcommittee, but if you were to [24] read all the attachments to it, you could discern [25] that that was the case; is that correct?

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[1] A: I didn't see anything in the prefile [2] testimony detailing that. The details are in the [3] attachment, and I guess I would also add that the [4] prefile testimony, I filed to address harassments [5] and intimidation within the nuclear industry and my [6] experiences of that.

[7] So that was the subject of this hearing, [8] the subject of my oral testimony, and the subject of [9] the prefile testimony. The subject that I was asked [10] to speak about was not my allegations on the [11] specific LER or COA to NRC.

[12] That became a small part of the whole [13] presentation and, like I said, the details of that [14] are contained in the attachment.

[15] Q: Insofar as it was just a small portion of [16] your presentation, you still would think that they [17] deserved to have accurate information and complete [18] accurate information?

[19] A: That's correct.

[20] Q: And nothing inaccurate or misleading?

[21] A: And the language is quoted in the [22] attachments.

[23] Q: And you regard your prefile testimony and [24] referring to the language being identical between [25] the COA and the LER as being accurate and complete?

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[1] A: I don't believe my prefile testimony [2] states that.

[3] Q: Let's take a look at your prefile [4] testimony. Let's look at footnote five on page 11 [5] and what it says, so that the record will be clear [6] on this, is that I recorded statements made by [7] plaintiff Vogtle project vice-president Ken McCoy [8] and GPC's senior vice-president, George Hairston, [9] (and others), demonstrating that they were aware [10] that prior statements related to the reliability of [11] the diesel generators were materially false and that [12] they intentionally reiterated these same false [13] statements when filing the licensing event report, [14] (LER), to the commission 30 days after the site area [15] emergency had occurred.

[16] Now, I used the term identical. You used [17] the term these same false statements. Aren't [18] you here referring to the statements in the COA and [19] then the statement in the LER?

[20] A: It says they reiterated the same false [21] statements, and the documents have the same false [22] statements with respect to stating that there were [23] no problems or failures on any of these starts, as I [24] quoted, as was quoted before.

[25] In addition, it was the intent and it is

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[1] the stated intent under the sworn testimony of the [2] people that signed both of these correspondences and [3] the people that reviewed both of these [4] correspondences that it was their intent that these [5] statements conveyed the same information or intended [6] to convey the same information to the NRC.

[7] So Georgia Power people that signed the [8] document and reviewed and approved the document [9] agree with that.

[10] Q: Isn't the testimony that you're referring [11] to from these individuals that they intended to add [12] this to clarify it?

[13] A: No.

[14] Q: To make it — it is not?

[15] A: The stated testimony is that they [16] intended those statements in the COA about the start [17] count, the start count statement, they intended that [18] to convey the same information to the

NRC in both (19) the COA and the LER. That's the testimony I'm (20) referring to.

(21) Q: I understand that their testimony (22) the COA was that they didn't realize there was a (23) problem, they felt like that was accurate (24) information they were providing, and when later (25) questioned about problems that had occurred, they

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(1) introduced that language into it in order to try to (2) rectify that problem and clarify it for the reader, (3) didn't they?

(4) A: And they said that that language did not (5) change and that it was merely conveying the same (6) information. They said that.

(7) Q: And do you think that the introduction of (8) that language about comprehensive test program was (9) just insignificant, immaterial?

(10) A: No. As I have stated before, I think (11) they added it there so that they could say the same (12) thing but to add an undefined phrase to muck it up (13) so that they could argue it after the fact.

(14) They intended it to read the same, be the (15) same, appear the same; but they wanted to allow (16) themselves maneuvering room to argue it after the fact if and when they got caught.

(10) Q: This is a theory that you have come to (19) fairly recently, isn't it, the conspiracy to muck it (20) up by the introduction of these words? That is, I (21) have never heard it articulated before this (22) deposition.

(23) A: I have certainly been able to clarify it (24) since we have conducted discovery, but I would add (25) that it is part of the theories that I have heard

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(1) the NRC's Criminal Investigation Division, the (2) Office of Investigation, articulate as well.

(3) Q: I thought we were talking about your (4) articulation. Have you articulated that before this (5) deposition?

(6) MR. KOHN: Other than to his counsel?

(7) MR. BLAKE: Sure.

(8) THE WITNESS: I don't believe that that (9) has been written up that way that I can (10) recall it: the allegations, but I would need (11) to review all of those allegations to be (12) absolutely sure.

(13) I have been able to focus on that (14) better since we have taken the testimony and (15) since we have specifically heard from the (16) Georgia Power witnesses that they view the (17) verbal presentation, the COA, letter, and the (18) LER to convey the same information.

(19) Q: (By Mr. Blake) Written up or articulated (20) or intimated or in any other way advanced by you (21) prior to this deposition?

(22) MR. KOHN: Other than to his counsel.

(23) MR. BLAKE: Right. I don't ask, as a (24) general matter, about his communications with (25) you.

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(1) THE WITNESS: I think over time I have (2) had some discussions with OI personnel about (3) that theory. Like I said, they had that (4) theory before I did.

(5) Q: (By Mr. Blake) So you indicated that you (6) thought it was a significant or material addition, (7) but you didn't think it was important enough to (8) point out to the Senate in the prefile testimony, is (9) that correct, other than it could be —

(10) A: I have answered that before. The purpose (11) of this testimony was to discuss my experiences as a (12) whistle blower and discuss harassment and (13) intimidation.

(14) In the course of that, I touched on a (15) number of allegations including delusion valves and (16) other things that are unrelated. In the details, it (17) contains all the information in terms of an (18) allegation on the COA and the LER, including the (19) quoted language that I gave to the NRC initially.

(20) Q: Let's go back to the time of the site (21) area emergency. Let's start there.

(22) Up until that time, what had been your (23) experience with or involvement with, knowledge of (24) diesel generators and their operating patterns or (25) reliability statistics, starting where you want up

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(1) until now.

(2) A: Starting in 1984, I became responsible (3) for the system engineers who at that time were (4) functioning as test engineers, and that included the (5) engineers that tested the diesels.

(6) So beginning in that time frame, the (7) system engineers and test engineers that were (8) preoperationally testing, doing the scope of testing (9) known as preoperational testing, reported to me and (10) continued to report to me from 1984 up to the time (11) of the site area emergency.

(12) Once the plant was operational, those (13) engineers were formally called system engineers. So (14) the diesel system engineer reported to me from the (15) time that unit one got its license up to the time of (16) the site area emergency.

(17) Q: Who was that person?

(18) A: I believe for that entire period of time, (19) it's been Kenny Stokes. I believe Kenny Stokes had (20) the diesel responsibility, I think, pretty much from (21) the beginning.

(22) Q: So these people reported to you (23) administratively. Had you had training or had you (24) ever worked with diesels yourself?

(25) A: I had never been a system engineer on the

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(1) diesels. I had been involved in some other plants (2) and test programs at other plants where the (3) preoperational test and system type engineers worked (4) for me, and that included engineers that worked on (5) the diesels.

(6) So in the course of that work history, (7) you know, I had that scope under my responsibility. (8) I wasn't the system engineer on the diesels. They (9) reported up to me through a supervisor and then to (10) me as preoperational testing, superintendent, and (11) then later up through a supervisor to an engineering (12) superintendent to me.

(13) Q: How would you characterize your state of (14) knowledge of the diesels as of the time of the site (15) area emergency?

(16) A: Well, I was knowledgeable about the (17) diesels and some of their operating history, but I (18) was not a system engineer and by no means would I (19) say an expert on Vogtle's diesels.

(20) I have an engineering background. I have (21) received SRO systems training which includes systems (22) and diesel systems. I do have a fairly extensive (23) background in aspects of fluid flow, aspects of (24) thermodynamics, and those types of areas that relate (25) to my engineering capabilities to analyze certain

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(1) kinds of problems which would include humidity and (2) dew point and fluid flow aspects.

(3) Q: In the course of that six-year period, (4) did you have occasion to focus on the diesels or the (5) diesels' reliability, the diesels' operability among (6) your various responsibilities?

(7) A: Not specifically. I think the site area (8) emergency obviously focussed the maximum attention (9) on the diesels and the diesel failure and the diesel (10) reliability. From the beginning the industry has (11) had some focus on Trans-America Delaval diesels (12) because of problems experienced in the industry and (13) established an owners group.

(14) So there were certain industry problems (15) that were focussed on in the construction and in the (16)

preoperational testing period that were generally [17] the issues of the owners group and there were some [18] very detailed documents, some specific inspections [19] that the plants were doing with TransAmerica Delaval [20] diesels related to cracking and problems that had [21] been experienced, and I know the system engineer [22] that's been working on those.

[23] So that was an overall industry-wide [24] concern and in particular of TransAmerica Delaval [25] diesels, but I don't believe up until the time of

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[1] the site area emergency that there was any special [2] focus on the reliability of the Vogtle diesels due [3] to problems that were occurring that were unique at [4] Vogtle; but that all changed when the site area [5] emergency occurred.

[6] Q: Had you had any questions in your mind [7] about the reliability of those diesels or the [8] adequacy of the control system of the diesels?

[9] A: Up to that point in time I had not [10] reviewed that. Like I say, I don't recall any [11] events occurring that would have caused us to do [12] that.

[13] Perhaps some problem with that was that [14] some of the problems that were occurring with the [15] diesels even before the site area emergency weren't [16] being properly recognized by operations.

[17] So there were, I think, some inadequacies [18] to recognize that the diesels were having problems [19] before the site area emergency.

[20] Q: The training about the SRO [21] responsibilities which you indicated that you had, [22] you previously have indicated that you weren't SRO [23] licensed and, therefore, weren't in a position to [24] determine whether or not the diesels were operable. [25] Do you recall that?

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[1] A: That's correct.

[2] Q: What was the difference between obtaining [3] a license and the degree of training and instruction [4] that you received on SRO responsibilities that would [5] distinguish one being able to make that [6] determination and one not?

[7] A: I was SRO certified on a boiling water [8] reactor by the General Electric who operates a [9] simulator at Tulsa or operated a simulator at Tulsa, [10] Oklahoma.

[11] You do not have the authority within the [12] nuclear industry to transfer your license from a BWR [13] to a PWR, and you don't have the authority to [14] trans-

fer a license on one plant, an SRO license on [15] one plant to another.

[16] So it would be inappropriate to assume [17] that just because I had a certification, that I [18] would have SRO authority at Vogtle. I guess I would [19] also add that what I had was a certification and not [20] a license, and there is a difference.

[21] Q: On March 28, 1990 when you talked about [22] one of the diesels being operable, it's the same [23] tape that we have referred to before, the [24] transcript, did you believe that the diesel was [25] operable?

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[1] Forget whether or not you were qualified [2] to specifically make that declaration.

[3] A: I'm reporting the status of the diesel as [4] determined by operations personnel.

[5] Q: Did you question that?

[6] A: Did I question their determination?

[7] Q: Yes. Having received SRO training, [8] having been SRO certified, did you question whether [9] or not the diesel was operable when you heard this [10] declaration made by operations?

[11] A: No, I didn't question that.

[12] Q: Let me turn to the next events. We have [13] talked a lot about the April 9th scenario, but I [14] still have a couple of questions. Were you aware [15] prior to April 9th that the company intended to seek [16] authorization to operate the Vogtle plant?

[17] A: To restart?

[18] Q: Yes.

[19] A: I may have been told that. I don't have [20] an independent memory as to exactly when I may have [21] been told that, but it's obvious that at some point [22] in time, management would want to restart the plant.

[23] Q: Yes.

[24] A: Sometime in that time frame I may have [25] been told by management that they were going to seek

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[1] a restart.

[2] Q: What was your title at that point?

[3] A: Acting assistant general manager, plant [4] support.

[5] Q: But you don't recall ever having been in [6] a conversation or in any meetings in which it was [7] discussed that the company was going to seek [8] restart?

[9] A: No. I think I may have been, but I can't [10] recall right now a specific meeting or a time about [11] that, but it would be logical that I may have been

[12] told that before they made the presentation on April [13] 9th.

[14] Q: You never knew prior to April 9th that [15] they were going to make such a presentation, or did [16] you?

[17] A: I may have. I can't recall when I first [18] knew that. If I was told about it in the time frame [19] before April 9th, I don't believe that I was aware [20] of anything before, like that week before April [21] 9th.

[22] That would have been the time frame that [23] management may have made it known and they probably [24] wouldn't have made it known just to me. They may [25] have made it known to a number of people.

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[1] Q: As of April 9th, based on what you now [2] recall your state of knowledge was, is there any [3] reason you believe, would have believed at that [4] point that the plant shouldn't restart?

[5] A: At that point in time?

[6] Q: Yes.

[7] A: At that point in time, I guess I hadn't [8] put together the basis for which the plant should [9] restart, and I was not asked to participate in [10] putting that basis together.

[11] So I guess I would say I probably lacked [12] adequate information to make that determination. I [13] wasn't asked to participate in that process.

[14] Q: Are you aware today of any knowledge that [15] you had on April 9th that would have caused you to [16] oppose a restart of the plant?

[17] A: I can't remember anything. Like I said, [18] a lot of the facts that support that or support my [19] current belief that the plant was not ready to be [20] restarted are based on information that I learned [21] after that point in time.

[22] Q: As of April 9th, did these system [23] engineers responsible for diesel testing still [24] report to you?

[25] A: Well, no. There were some changes made

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[1] in their reporting that occurred shortly after the [2] time of the site area emergency, and what changed [3] was that a critique leader was assigned to be [4] responsible and control the testing of the diesels [5] and to control the testing to determine root cause. [6] That was Kent Holmes, and Mr. Skip Kitchens assigned [7] Mr. Holmes that responsibility.

[8] Mr. Holmes, in that capacity, reported to [9] Mr. Bockhold, and the engineers that were doing the [10] testing were under their normal line of [11] responsibility at that time reporting up to me.

[12] For the purposes of the restart testing [13] and the specific response to the site area [14] emergency, the diesel test- ing was directed to be [15] controlled through Mr. Bockhold, [16] Mr. Kent Holmes. [16] He was assigned as critique committee chairman to [17] control the testing, the restart testing of the [18] diesel.

[19] So that changed the reporting [20] relationship that existed in the normal line [21] management. In addition, Mr. Ken Burr, who was a [22] corporate person that reported to Mr. Louis Ward, [23] came to the site to assist the engineers with the [24] testing.

[25] In addition, a contract engineer, Mr.

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[1] Chennault, was hired by Mr. Burr to come and assist [2] with the testing of the diesel; and in addition, I [3] believe, a Mr. Dave Lizenby of Southern came to the [4] site, so some additional corporate personnel and [5] people in contract to them came down that had [6] different reporting chains and were the people that [7] were involved in the testing of the diesel.

[8] Q: Did you feel you had been relieved of [9] responsibilities over the diesel that you had had [10] prior to the site area emergency?

A: In some respects, I think my normal line [12] management had been usurped in a couple of [13] respects. Mr. Kent Holmes was an individual that in [14] the active capacity worked for me, yet Mr. Kitchens, [15] through Mr. Bockhold, had seen fit to assign him as [16] the critique leader.

[17] In addition, then, Mr. Bockhold directed [18] Mr. Holmes to control the testing of the diesel, and [19] Mr. Holmes in that capacity reported to Mr. [20] Bockhold. So there were several management actions [21] and edicts that disrupted what had been the normal [22] line management function.

[23] Q: Did you point this out to anyone or [24] complain about it?

[25] A: No, I did not point this out. At this

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[1] point in time I had also begun to feel that [2] management was starting to discriminate against me [3] because of my having made prior allegations to the [4] NRC.

[5] It seemed almost like kind of a pattern, [6] a continuation up through the management actions [7] against me to pass me in certain activities.

[8] Q: Did you feel that this critique team [9] approach and Holmes having been appointed to oversee [10] the diesel testing and reporting to Bockhold by [11]

Kitchens' directive was in order to take you out of [12] the route?

[13] A: Well, it partially accomplished that.

[14] Q: Did you think that was an intent in what [15] it was they were doing?

[16] A: I have no firsthand knowledge as to [17] intent. I can only observe the effect.

[18] Q: Why didn't you raise that with anybody, [19] if you felt disenfranchised or if you thought it was [20] wrong?

[21] A: Well, when you have been raising some [22] issues and you feel that you have been discriminated [23] against, I guess the effect on the personnel is an [24] effect of suppressing them.

[25] You figure well, I will raise some more

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[1] issues, they will call me a complainer and they will [2] attempt to use this against me.

[3] Once you feel the pressure of management [4] or that management is trying to do that to you, it [5] has a chilling effect on you.

[6] Q: Did you feel that this created any sort [7] of safety concern, this disruption of the normal [8] management chain?

[9] A: I didn't think about it in those terms.

[10] Q: As a normal matter when you thought [11] things were being done inappropriately or wrongly, [12] did you feel it was your responsibility to raise [13] that?

[14] A: Yeah, and like I said, I did, but when [15] you start, when management starts taking actions [16] against you and then you perceive a management [17] attitude against you, it has a chilling effect on [18] you.

[19] Q: Have you ever raised this item with [20] management?

[21] A: This item being?

[22] Q: This item being the change in the [23] reporting relationships concerning diesel testing. [24] Have you ever questioned management about their [25] intentions?

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[1] A: Well, in the discovery process, we made [2] it a point to ask questions about that because we [3] didn't know, for example, who would assign Mr. [4] Holmes.

[5] So I guess my full knowledge of these [6] changes has only developed since we have had an [7] opportunity to do more discovery.

[8] Q: Who do you think was involved in this [9] determination to take you out of the chain and to [10] have Holmes reporting directly to Bockhold rather [11] than having the normal reporting relation-

ship [12] through you with regard to diesel testing?

[13] A: Well, I would think that Mr. Kitchens or, [14] perhaps, Mr. Bockhold. I'm speculating about that, [15] but, you know, the people he reported to and [16] apparently Mr. Kitchens said that he assigned Ken. [17] Mr. Bockhold was the one that directed Holmes to be [18] responsible to control the testing of the diesel. [19] So obviously Mr. Bockhold played a role in that.

[20] Q: Weren't you later added to the critique [21] team?

[22] A: Well, that's true. The answer is yes.

[23] Q: And in that role, did you not have an [24] opportunity to oversee, participate in, get the [25] results of diesel testing?

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[1] A: Well, I'm trying to think of what time [2] frame that occurred in. It seems to have been [3] sometime later, and Mr. Bockhold stated at that time [4] that he was doing that, he didn't just add me, he [5] added all managers.

[6] Q: Yes.

[7] A: So it was a situation where all the [8] managers were added on to the critique team.

[9] I believe it was at the time that the [10] critique report was coming out, and the purpose Mr. [11] Bockhold stated of what that was was to implement [12] corrective actions that the critique team was [13] recommending.

[14] These were the longer or intermediate [15] term corrective actions. That action, in some [16] respects, disrupted the conduct of the critique team [17] because there was a loss of continuity with the [18] original members that had made up the critique team.

[19] Q: Did you think that the Holmes [20] responsibility and his reporting chain, that there [21] was anything inappropriate about it or that it [22] didn't work?

[23] A: Yeah, there were some problems with it, [24] and Mr. Holmes expressed some of those concerns. I [25] think on one occasion, the diesel got tested without

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[1] Mr. Holmes' knowledge and kind of in violation of an [2] understanding that they had with the NRC relative to [3] the quarantine and the preservation of root cause [4] evidence. The diesel was tested. The NRC didn't [5] know about it.

[6] They weren't expecting the test and, in [7] addition, they changed out parts. So these changes [8] of reporting relationship and the conflicting [9] inter-

est of outage and operations and critique, I [10] think, had some problems.

[11] Q: And you think that incident would have [12] been avoided if diesel testing had still continued [13] to report to you?

[14] A: I don't know the answer to that. I'm [15] just saying that a change in normal reporting [16] relationships has the capability of causing a [17] disruption of control.

[18] Q: Is that what you attribute that [19] particular incident to?

[20] A: I haven't been able to look into that [21] incident in enough detail to draw an exact [22] conclusion. I know the incident happened, and I [23] know there were problems with who was in charge.

[24] Q: You have indicated that as of April 9th, [25] you didn't have enough information to oppose a

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[1] request to restart the Vogtle plant. Did there come [2] a time when you had enough information so that you [3] felt the plant should not operate?

[4] A: Well, on the 9th or 10th of April I sent [5] a memo to Mr. Bockhold, my then supervisor, stating [6] that the phrase in the confirmation of action letter [7] which requested restart from the 9th, just a day [8] before, within a day or two after that was the [9] presentation that was made and the confirmation of [10] action letter was issued, I sent a memo to my [11] general manager stating that one of the bases [12] requesting restart in there, the statement about the [13] review of the air quality being satisfactory, was [14] not true and said that the statements made in the [15] confirmation of action letter about air quality [16] being satisfactory was, that it was probably not [17] satisfactory, and attached some documentation and a [18] review of air quality measurements to it.

[19] So that did two things, that put him on [20] notice that that was a false, inaccurate statement [21] in the confirmation of action letter and, in [22] addition, the bases which had no concern to the NRC [23] about air quality had some inaccurate statements in [24] it and that, indeed, air quality had been [25] unsatisfactory.

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[1] Q: My question was did there come a time —

[2] A: But I didn't in that letter, you know, [3] state, you know, we should prevent restart or [4] something like that, but it certainly was one of the [5] bases that restart had been sold on.

[6] Q: What is the answer to my question?

[7] A: Well, I was going over the things I did [8] that I feel notified management that the basis for [9] restart provided for NRC was wrong or inaccurate.

[10] If the basis for your requesting restart [11] is wrong, then maybe you shouldn't be granted [12] restart. After that in April, late April, I think [13] it was the end of April, the 30th is when I sent [14] another memo stating that another basis for restart, [15] the statements to the NRC about the diesel start [16] count reliability had been inaccurate. At that [17] point, however, the plant had already been [18] restarted.

[19] Q: I still haven't heard the answer to my [20] question.

[21] MR. KOHN: Could you restate the [22] question?

[23] Q: (By Mr. Blake) My question is did there [24] come a time when you felt the plant should not be [25] operating, not did there come a time when you felt

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[1] some information that had been provided to the NRC [2] was inaccurate. Did there come a time when you [3] became concerned about whether or not the plant [4] could be safely operated?

[5] MR. KOHN: Are you starting with the [6] April '90 time frame?

[7] MR. BLAKE: I'm starting with April 9th [8] where he said he didn't have knowledge, [9] didn't have any reason to oppose restart on [10] April 9th.

[11] MR. KOHN: I object to the form of the [12] question, because it ignores events occurring [13] before April 9th.

[14] MR. BLAKE: What?

[15] MR. KOHN: I will withdraw it. I think [16] you're trying to focus on the diesel [17] generator issue. Is that my understanding?

[18] MR. BLAKE: Yes, I am.

[19] THE WITNESS: I would say that the [20] time that I arranged to meet with the Office [21] of Investigations, I think, probably was the [22] time that I had reached the conclusion that [23] the problems and the basis on which the [24] restart had been requested were sufficient [25] that the plant shouldn't have been restarted.

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[1] Q: (By Mr. Blake) This was in the July 1990 [2] time frame, is that the interview you're talking [3] about?

[4] A: I think it was probably in the June, mid [5] June 1990 time frame.

[6] Q: So by mid June 1990, you had reached the [7] position that it might be unsafe to operate the [8] plant?

[9] A: The plant probably hadn't been restarted [10] and that there were some

diesel problems that could [11] be continuing safety problems with the diesel.

[12] Q: And those particularly related to air [13] quality?

[14] A: Yes.

[15] Q: And whether or not they would start [16] reliably?

[17] A: Yes.

[18] Q: Let me continue, then. Did you go to the [19] company and say that?

[20] A: I had already gone to the company about [21] those concerns in April 10th or 11th and April 30th.

[22] Q: You had raised with the company questions [23] about whether or not information it had provided was [24] accurate.

[25] Had you discussed with the company

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[1] whether or not you thought that equated with whether [2] or not the plant could operate safely?

[3] A: I discussed with the company the [4] technical aspects of that related to the air quality [5] concerns, that bad air quality can result in [6] corrosion, moisture, and that there are small [7] orifices in the control system and they can be [8] affected, et cetera.

[9] Q: Who do you think in the company [10] understood that you believed the plant was not, [11] could not be operated at that point safely?

[12] A: I discussed those things with Mr. [13] Bockhold.

[14] Q: And do you think that Mr. Bockhold [15] understood that your position was the plant couldn't [16] be operated safely because of air quality problems?

[17] A: I think Mr. Bockhold dismissed the air [18] quality concern and didn't take it seriously.

[19] Q: Do you think that he understood that your [20] position was that the plant couldn't be operated [21] safely because of air quality?

[22] A: I'm not sure I ever said to you that at [23] the point in time that I made that discussion, that [24] I had drawn the conclusion that the plant couldn't [25] be operated safely. I think I just told you that

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[1] the point in time that I kind of reached that state [2] of mind was in mid June.

[3] Q: And my question then was did you discuss [4] that with anybody at the company?

[5] A: Well, by mid June I had filed a labor [6] case against the company. By mid June, and I can't [7] remember, June, July, but in that time frame, I was [8] fully working with the NRC because I didn't

believe [9] the company had been responsive to me.

[10] Q: Is the answer to my question no? [11] A: I had some discussions with the company [12] people that I had concerns about the reliability of [13] the diesels and that there were technical issues and [14] that I was working with the NRC at that point.

[15] I informed the company of those things in [16] June, what I think I recall was the June, July time [17] frame, the time frame after which I stated I had [18] come to that conclusion.

[19] Q: I will say the question one more time, [20] and I would like to have the answer to my question, [21] if you can. If you can't answer, that's fine, too.

[22] My question is did you say to anyone in [23] the company that you felt it was unsafe to operate [24] the plant because of air quality concerns when you [25] apparently reached that determination in about the

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[1] mid June 1993 time frame?

[2] If I have mischaracterized what you said, [3] tell me that. If you can't answer the question, [4] tell me that, but that's the question that I would [5] like to have an answer to.

[6] A: I can't recall that I specifically [7] told the company a statement like you said, that it [8] was unsafe to operate the plant, but I did state to [9] the company my concerns. I had stated the basis for [10] my concerns, and I at that point had taken my [11] concerns to the NRC.

[12] Q: We are talking about the mid June time [13] frame. The next piece of correspondence from the [14] company to the NRC was at the end of June, June [15] 29th. What was your knowledge or involvement in [16] that piece of correspondence, knowledge about it [17] before it went out or involvement in it?

[18] A: Well, I was the one that brought up with [19] my management, I believe I was the one that first [20] brought up with my management the belief that the [21] LER 90-06 was incorrect, and I worked to revise it. [22] I got it revised, I got it sent to, through the PRB [23] and sent to corporate. Then it was never forwarded [24] to the NRC.

[25] So then I pushed to get it sent out. It

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[1] took an excessive period of time to get it sent out [2] and then finally it was [3] revised some more and sent [4] out on June 29th.

[5] Q: Let's go back through each of those [6] steps. You initially pointed out the need to [7] management to revise the LER, and what time frame [8] was that?

[8] A: On April 30th I sent a memo to my general [9] manager stating that there were inaccuracies in the [10] April 9th letter and in the LER of 4/19.

[11] Q: And your general manager sent you a note [12] back to look into this, in essence?

[13] A: He sent me a note back to get with, and I [14] had a discussion with him, as well, to get with the [15] people in operations and he pretty much meant Jimmy [16] Paul Cash because Cash had been involved in the 4/9 [17] letter originally.

[18] So he did send that memo back, and then I [19] did work on it and get it to the PRB and revised.

[20] Q: And the time frame that the PRB approved [21] revision was what?

[22] A: Well, I had a meeting with the general [23] manager. The note came back, seemed like the first [24] couple of days of May, maybe May 2nd. I got with [25] Cash shortly after that, got with my technical

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[1] support manager.

[2] I believe he worked on a draft maybe on [3] May 4th. It seems like it went to the PRB on the [4] 7th, 8th, 9th time frame, and it was forwarded to [5] corporate and I know it was in corporate by the 15th [6] of May.

[7] Q: How do you know it was in corporate by [8] the 15th of May?

[9] A: By a log that's kept.

[10] Q: And then you indicated that you pushed [11] this topic. How were you doing that?

[12] A: Well, considering that it was the [13] correction of false information to the NRC, it [14] should have had very high priority, but instead [15] after the 15th of May, we didn't hear back anything.

[16] Q: We is who?

[17] A: We is me and the technical support [18] personnel.

[19] Q: Were you reading the logs on a daily [20] basis to know that it went to corporate on May 15th [21] or have you just since determined that?

[22] A: Well, probably in that time frame, I [23] probably knew, due to my daily discussions with the [24] technical manager and so forth, about the status.

[25] Q: Who is the technical status you are

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[1] referring to?

[2] A: Mr. Aufdenkampe and, perhaps, people [3] under him. At this point my knowledge is based on [4] the log.

[5] Q: But you believe that in the May time [6] frame, you would have been

aware that it was [7] forwarded to corporate in the mid May time?

[8] A: Yes, and in fact, I believe there is [9] other evidence that indicates that relative to the [10] blue folders and stuff.

[11] Q: What did you do after mid May?

[12] A: Well, after a period of time when it [13] seemed as if it had gone into a black hole in [14] corporate, I talked to some people, I think I may [15] have talked to Mr. Aufdenkampe, I may have talked to [16] people in his group. I seem to recall talking to [17] Mr. Odom.

[18] I recall Mr. Odom talking to Mr. Bailey [19] about why it wasn't submitted yet, asking when are [20] you going to submit it. I think now I'm maybe into [21] the early June time frame. After it became apparent [22] that it had stalled —

[23] Q: When was that?

[24] A: Well, I'm thinking, I guess I considered [25] a reasonable time a week or so that some action

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[1] should have been taken, but by the time we got to [2] the end of May and early June, it had apparently [3] stalled.

[4] So I recall discussions with Mr. Odom and [5] discussion with, I think he was on the phone with [6] Mr. Bailey.

[7] Q: What was Mr. Odom's position?

[8] A: He was one of the supervisors in the NSAC [9] department that handles all the NRC correspondence [10] for the site and works for Mr. Aufdenkampe at NSAC. [11] He is an NSAC supervisor, I believe, was his [12] position.

[13] Q: So this was a person who was two levels [14] below you?

[15] A: Well, Mr. Aufdenkampe reported to me, and [16] I think he reported to Mr. Aufdenkampe.

[17] Q: So what does that make him, one level [18] below you, by your parlance?

[19] A: I guess he is two.

[20] Q: Two levels below you, so you went to a [21] person two levels below you and asked what had [22] happened to it?

[23] A: I believe I asked Mr. Aufdenkampe, too, [24] maybe not on the same day but in this time period. [25] I recall making a number of inquiries on different

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[1] dates.

[2] Q: Of these two people, Aufdenkampe and [3] Odom?

[4] A: I may have asked Webb.

[5] Q: What is Webb's title?

[6] A: You said two levels below me, let me [7] clarify your statement, they were two levels below [8] me, when I would have had the responsibility; but as [9] you

should know, by May 10th or 11th, I was relieved [10] of all responsibility. So I was no longer in [11] management at that point.

[12] Q: So they no longer were two levels below [13] you but they would have been two levels below you?

[14] A: They would have been two levels below me [15] when I had the responsibility that I held before May [16] 10th or 11th, but after the 15th, which is the time [17] frame we are talking about, I had no supervisory [18] responsibility.

[19] Q: Now, you were on Mr. Webb. What was Mr. [20] Webb's title?

[21] A: He was an NSAC engineer.

[22] Q: And who did he report to?

[23] A: I think he reported to Mr. Odom at that [24] time.

[25] Q: So he was below Mr. Odom?

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[1] A: Yes.

[2] Q: And what did these people say to you when [3] you inquired?

[4] A: Seemed like Mr. Webb at one point said [5] that he had inquired himself, he had wondered the [6] same thing, why nothing had happened to it. So it [7] seemed like he had similar concerns.

[8] He had told him it was sitting on a shelf [9] in corporate. Mr. Odom indicated to me, my [10] recollection is, that nothing had been done with [11] it.

[12] It seemed like he had a conversation with [13] Mr. Bailey and asked when it was going to be [14] submitted, and Mr. Bailey said it wasn't going to be [15] submitted until, it seemed like he identified the [16] day that the IIT was going to make the presentation [17] to the commission on this Vogtle site area [18] emergency, which seemed like it was a Thursday or a [19] Friday and it seemed like that date is maybe June [20] 8th or thereabouts.

[21] Q: So you made these inquiries in late May, [22] is that the time frame?

[23] A: Late May, early June.

[24] Q: And then what happened throughout the [25] next three weeks or the bulk of June?

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[1] A: Well, it seemed like it was about June [2] 8th that my labor case was filed, and things became [3] more active after that.

[4] Q: I don't understand what you mean by [5] that.

[6] A: Well, it seemed at that point some motion [7] started to occur with the LER revision.

[8] Q: Which you tied to the filing of your [9] labor case?

[10] A: There could be a relationship.

[11] Q: Is that what you just inferred?

[12] A: Yes.

[13] Q: I'm not trying to put words in your [14] mouth. I'm just trying to determine from you what [15] your thoughts or ideas are.

[16] A: It could have been from my continuing [17] inquiries, but about June 8th, it seems like, was [18] approximately the date that my labor case was filed, [19] and it seems like that was, the LER had been dead [20] across the revision or forwarding the revision by [21] corporate had been dead for about three weeks.

[22] Like I say, you have to understand, this [23] is not just an ordinary revision to an LER. This is [24] a revision to correct previous false information.

[25] Q: And what do you mean by it seemed to

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[1] trigger a lot of action?

[2] A: Well, it seemed like after that point, I [3] became aware of two things. One was that corporate [4] was now requesting a complete rewrite to the LER.

[5] They were not going to just correct the [6] false information and write a letter and correct it [7] with the NRC. They wanted a complete rewrite.

[8] Q: Had they had a different view, corporate, [9] before that date, to your knowledge?

[10] A: There was no plan to do a complete [11] rewrite until six months later, a major update to [12] update corrective actions and so forth. Since this [13] addressed the site area emergency and since [14] corrective actions, there were some longer term [15] corrective actions, our plan had been that there [16] would be a subsequent rewrite that updated the NRC [17] on the status of those intermediate and longer term [18] corrective actions.

[19] Q: And you believe that the filing of your [20] labor complaint prompted the company to change its [21] mind and require a complete rewrite of the LER as [22] soon as possible?

[23] A: No, I believe that the decision at that [24] point in time to do a complete rewrite instead of to [25] promptly correct the false statements in the LER was

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[1] a delaying tactic.

[2] Q: And who do you attribute this delaying [3] tactic to?

[4] A: My recollection is that a high level [5] person in corporate, Mr. Hairston, wanted that.

[6] Q: And Mr. Hairston, you believe, instituted [7] this delaying tactic. Now, was

this tied to the [8] filing of your labor case?

[9] A: I don't recall the exact date, and I said [10] before I can't say if it was tied to the labor case [11] or to my continuing inquiries.

[12] MR. LAMBERSKI: You don't recall the [13] exact date of your labor case, you said?

[14] THE WITNESS: No, the exact date of [15] when I first became aware that a complete [16] rewrite was desired.

[17] Q: (By Mr. Blake) We may have two things [18] going here. One is you said there was a lot more [19] activity that seemed to have been prompted by the [20] filing of your labor case?

[21] A: Right.

[22] Q: Hadn't been much activity, much interest, [23] much involvement, much action, and then after you [24] filed the labor case, there seemed to be a lot of [25] activity.

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[1] Then you said one of these actions, [2] activities, was a determination by corporate to [3] completely rewrite the LER, that that was a delaying [4] tactic. I was asking whether or not that was [5] prompted by or related to, in your view, the filing [6] of your labor complaint.

[7] A: And I'm speculating that it may have [8] been. I don't have recollection in my head of each [9] of these dates and when I first became aware that a [10] complete rewrite was going to occur.

[11] So I don't have a set of dates written [12] down there, but my recollection from what happened [13] in that time period is that three weeks or so went [14] by and nothing had happened. The feedback to me was [15] that the document was receiving no attention in [16] corporate and sitting on a shelf.

[17] That seemed strange to me, given the [18] importance of the revision, and it seemed strange to [19] other people, such as Mr. Webb, who said he had [20] never seen that happen before.

[21] Q: What do you attribute that to now?

[22] A: It appears that they didn't want to [23] expose, they didn't want to correct it. They didn't [24] want to go to the NRC and tell the NRC about the [25] air.

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[1] Q: And they is?

[2] A: Personnel in corporate. Since I'm not in [3] corporate, I would be hard-pressed to know, but why [4] the LER to correct false information to NRC wasn't [5] promptly dealt with in open and honest communication [6] and attention to detail and no detail is too small, [7] that it doesn't make a difference; in that [8] atmosphere, and given the requirements

of 10 CFR [9] 50.9, it does not make sense that it would have sat [10] on a shelf for three weeks.

[1] Q: But it's your belief that that was a [12] result of the decision, that is, to put it off, it [13] wasn't simply somebody ignoring it or forgetting [14] about it, somebody in corporate, somebody in [15] management?

[16] A: Let's call it an intentional delay.

[17] Q: And this action, subsequent action by [18] Mr. Hairston requiring a complete rewrite was [19] another step or another method of intentionally [20] delaying the submittal of this?

[21] A: I'm speculating again, but I have the [22] belief that it was a continuing delaying tactic.

[23] Q: And is it your view that the company felt [24] that NRC wouldn't learn about this correction or [25] wouldn't learn about the inaccuracy in the LER until

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[1] this LER revision was filed?

[2] A: I believe that the company's initial plan [3] was to file the correction in such a manner that [4] they wouldn't learn of it and it wouldn't be [5] specifically flagged even after they filed the [6] revised LER.

[7] Q: And whose theory was this or whose motive [8] or intent was this?

[9] A: Well, the original LER draft, I recall, [10] there were several cover letters and the original [11] cover letters weren't even going to flag the error.

[12] The LER that was going to go along with [13] those cover letters was going to restate the diesel [14] start data in terms of valid parameters from which [15] no comparison could have been made by the NRC to [16] those numbers and the earlier numbers. The LER [17] revision normally in the course of business goes up [18] to AEOD, and without a cover letter flagging that [19] there was an error and with the body of it being [20] apples and oranges to the original submittal, I [21] think it's reasonable to think that nobody in the [22] NRC would have identified the change.

[23] Q: Because you think the NRC, when it gets a [24] revised LER, it doesn't compare the initial one with [25] the revision?

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[1] A: Even if they compared it, they couldn't [2] have told anything. The error date was different [3] and the LER [4] was being drafted along with that [4] cover letter had switched to some valid terminology.

[5] Q: What were the dates of these drafts that [6] you're referring to?

[7] A: I would need to look at the blue folder [8] and see.

[9] Q: What was the time frame?

[10] A: They were drafted in June.

[11] Q: This was after your complaint was filed [12] and the sort of activity that you're talking about [13] would seem to have been prompted by your labor [14] complaint?

[15] A: I would want to look at the blue folder. [16] A large number of the drafts were after my labor [17] case was filed. You know, there were six or seven [18] different draft cover letters.

[19] Q: You're not sure today?

[20] A: I would want to look at the blue folder. [21] I don't keep all that many dates in my head.

[22] Q: So you believe that the company members, [23] people in corporate management, intentionally were [24] deferring correcting the information in the LER and [25] one of the actions taken specifically for that as a

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[1] delaying tactic was Mr. Hairston's determination to [2] completely rewrite the LER?

[3] A: What I said was there were two things [4] that happened in the June time frame that delayed [5] the submittal of that LER, and the complete rewrite [6] decision and the determination to do a quality [7] assurance audit were the two things that I started [8] referring to earlier.

[9] Q: And your belief is that those two actions [10] were taken as part of a plan to defer the submittal [11] of this corrected information to the NRC?

[12] A: Yes, as part of a plan to delay and as [13] part of a plan to posture the company for, [14] perhaps, allegations and violations that they knew [15] might follow.

[16] Q: And do you believe that NRC, you believe [17] that that plan, to be successful, would require that [18] the company believe the NRC wouldn't learn about the [19] inaccuracy or the need for the correction to the [20] inaccuracy, until it received the LER revision, [21] correct?

[22] A: Not strictly.

[23] Q: Well, correct me, then.

[24] A: I think if you know how the NRC does [25] business, and certainly the company's executives

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[1] have a long experience in knowing how the NRC does [2] business, that what is significant is flagging this [3] information to the high levels and the decision [4] makers.

[5] If some of this information is known to [6] the lower level, not everybody has

the full scope of [7] information and can put all this together and, you [8] know, understands it in context. I believe the [9] company didn't want to, and the intent of the [10] companies was that they not make waves on these [11] issues until the critical NRC activities had [12] occurred.

[13] That included the return to operation [14] period up through the IIT, the issuance of the IIT [15] report, and the completion of the IIT report to the [16] commission.

[17] In that period of time they didn't want [18] to make waves by admitting that they had filed [19] incomplete and inaccurate information in the [20] documents that they obtained restart on, and that [21] included this LER, and that relates back to what I [22] mentioned yesterday about, you know, once you're up, [23] you're up and if you're down, you can be held down.

[24] Q: There has been testimony that calls were [25] made to NRC in the May time frame by Mr. Hairston

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[1] and Mr. McCoy. Do you believe those calls did not [2] take place?

[3] A: Well, from the testimony that we [4] obtained, for example, from Mr. Hairston and now I [5] will address first his June call, Mr. Hairston's [6] testimony about his June call is not particularly [7] credible because he led us to believe and led the [8] NRC to believe in various filings that that call was [9] to inform Mr. Ebnetter of false statements in the LER [10] and his actions and so forth when, in fact, it [11] appears to me that Mr. Hairston called Mr. Ebnetter [12] to talk about a fire emergency condition at Plant [13] Hatch on that call.

[14] He claims to have made an earlier call in [15] May. After I read Mr. Ebnetter's affidavit about [16] what Mr. Ebnetter understood to be the content of Mr. [17] Hairston's call, Mr. Ebnetter, in his affidavit, does [18] not state that he was ever told that the numbers [19] were false.

[20] He states that Mr. Hairston notified him [21] that he was doing an audit of the information and [22] if, important word, if there was a need for a [23] revision, the revision would be filed.

[24] So I think there is some question about [25] the content of what Mr. Hairston discussed on his

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[1] calls, and based on the affidavits from Mr. Ebnetter, [2] it does not appear that Mr. Ebnetter was told that [3] false statements had been made.

[4] Q: What about Mr. McCoy's calls?

[5] **A:** I'm having a little trouble remembering [6] what we learned from Mr. McCoy's calls. I guess I [7] would want to review some documentation, because at [8] this time I am not remembering what I learned about [9] Mr. McCoy's call. I would want to look at that [10] before I responded to that.

[11] **Q:** You earlier indicated that because the [12] company had a sophisticated understanding of how NRC [13] functions, that it might be that they would get away [14] with providing, deferring correction to the LEC and [15] then even putting in information in the LER, it [16] might not be understood or surface or have the [17] impact on NRC if it was done in a certain way.

[18] **A:** I think that's fairly correct.

[19] **Q:** Do you think that telephone calls by Mr. [20] Hairston to Mr. Ebnetter, by Mr. McCoy to Mr. [21] Brockman or these level of management calls on the [22] topic of whether or not the information was accurate [23] would be consistent with such a sophisticated [24] approach by the company to try to submerge this [25] correction?

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[1] **A:** Yes.

[2] **Q:** And how is that?

[3] **A:** Well, one, another aspect that I observed [4] at Plant Vogtle was, you used the word [5] sophisticated.

[6] **Q:** Yes. If I'm wrong, just correct me. I'm [7] really just trying to understand your position.

[8] **A:** Well, I will use the terminology that was [9] used at Plant Vogtle, getting the NRC in bed with [10] us.

[11] What this meant was making contact with [12] the NRC, discussing an issue with them, and the way [13] this can be done improperly is to only discuss part [14] of the information with them and get an agreement or [15] understanding.

[16] Then if it becomes a problem later, it [17] puts the NRC in a more difficult position to take a [18] firm stance in opposition because the licensee comes [19] back and said well, remember, we called you on that.

[20] **Q:** And is this the way you think this was [21] all part of a grand plan by management?

[22] **A:** I'm not sure this was a grand plan, but [23] these were some known operating methodologies.

[24] **Q:** And did you think that this was one [25] occasion when these methodologies were employed?

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[1] **A:** It may have been.

[2] **Q:** So the company, high levels of management [3] of the company called

high level managers at the NRC [4] and mentioned the topic but only a portion of the [5] topic, and then subsequently you put in the LER [6] making the actual correction, the lower levels of [7] the NRC, and then what happens?

[8] **A:** I think the way they were going to handle [9] this change which resulted in the filing of the [10] labor case, the making of the allegations to NRC, [11] the knowledge that I was working with the NRC, if [12] not the knowledge but the strong belief that I was [13] working with the NRC, I think that changed the way [14] they were going to handle it and that then [15] ultimately it was handled with a cover letter that [16] specifically flagged the errors.

[17] I think in the beginning when you look at [18] the blue file and the series of letters and cover [19] letters in the blue file, it appeared that the way [20] it was being handled kept changing.

[21] **Q:** So they changed once you filed your labor [22] case and the company came to understand that you [23] were working with the NRC, to use your terminology, [24] and then they altered their game plan?

[25] **A:** I think it affected the process. I think

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[1] the filing of my labor case affected the process.

[2] **Q:** And in the latter part of June did you [3] have any involvement in or knowledge about what the [4] company planned to say in its revision to the LEC?

[5] **A:** Well, I had been removed from the Plant [6] Review Board which was involved in obviously the LER [7] and LER revision at that time; but I did have [8] occasion to sit in on some PRB meetings.

[9] So in that respect I had some [10] involvement. I believe I expressed some concerns [11] about the letter, the cover letter that was being [12] submitted.

[13] **Q:** You were shown a draft of the cover [14] letter by —

[15] **A:** I acquired one. I can't recall how, but [16] it's something that I could have gotten from any of [17] the people that used to work for me, if I asked them [18] for it.

[19] **Q:** Aufdenkampe, those people who were on the [20] PRB?

[21] **A:** People at NSAC or PRB secretary.

[22] **Q:** What would the time frame have been?

[23] **A:** This was toward the end of June when the [24] final drafts were coming out.

[25] I recall getting a number of the cover

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[1] letters from Mr. Webb, and we had some discussions [2] about him and he told me how Mr. Hairston was [3] changing them, and that was unusual.

[4] I think he thought it was unusual that [5] all of a sudden the highest level person, the senior [6] vice-president was inserting himself into letter [7] drafting.

[8] **Q:** I think you indicated earlier you thought [9] this was quite an unusual correction to the LEC, [10] that it was correcting inaccurate information?

[11] **A:** It was very unusual and it should have [12] been immediately addressed instead of delayed for [13] months.

[14] **Q:** And when you looked at this draft, more [15] than one draft or one draft?

[16] **A:** Several drafts.

[17] **Q:** You saw several drafts in the late June [18] time frame?

[19] **A:** Uh-huh.

[20] **Q:** And what was your reaction to those?

[21] **A:** That they contained false information, [22] wrong reasons, differing reasons, contradictory [23] reasons, reasons that weren't true for the error.

[24] **Q:** And what did you do with that [25] information?

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[1] **A:** Well, I think I attended one of the later [2] meetings in the Plant Review Board when the letter, [3] the final cover letter was being finalized. I [4] voiced actions. I'm not a member at that point. [5] I'm sitting on the side lines.

[6] **Q:** So you attended a plant review meeting [7] when at least one of these drafts was considered?

[8] **A:** One of the later drafts.

[9] **Q:** And you voiced what objections?

[10] **A:** Yeah. What we are talking about is [11] documented on tape recording. It would be useful, [12] perhaps, to review that, for me to review that [13] portion of that tape recording rather than relying [14] on memory solely.

[15] **Q:** What do you recall was the reaction of [16] the Plant Review Board to your objections?

[17] **A:** Well, the bottom line reaction was that a [18] number of the members seemed to agree with me, and [19] some of these people weren't members. It seemed [20] like on this occasion, it seemed like Mr. Majors was [21] on the phone, was added to the conversation.

[22] Mr. Majors had just been recently [23] assigned this revision at corporate. He was brought [24] in cold and had no prior knowledge, which didn't [25] help. Mr. Greene, it seems like, was chairing the

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[1] PRB meeting, and he hadn't been involved either.

He had been in SRO training and then on [3] shift. So he didn't have any involvement or [4] knowledge. So when I raised some of the concerns, [5] it seemed like other people seemed to agree with me, [6] but the end result was that corrections weren't made [7] and the draft cover letter was sent out with some [8] false statements for which Georgia Power has now [9] been issued violations for.

[10] Q: So you raised your objections, you felt [11] some PRB individuals agreed with you at that time in [12] that meeting?

[13] A: Yeah.

[14] Q: And then what happened? Did the PRB vote [15] on it, accept it? Were you there?

[16] A: I can't recall the actual vote, if the [17] actual vote was taken when I was there or taken at a [18] subsequent meeting. The best thing to do would be [19] to look at the transcript to decide that.

[20] I recall that Mr. Greene said he heard [21] all he needed to hear. I took that to mean — I was [22] fairly upset. I think you can tell in my voice of [23] the recording at that time that I was upset. He [24] dismissed my concerns and said I have [25] need to hear or something to that effect.

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[1] Q: Do PRB meetings commonly have attendees [2] other than PRB members?

[3] A: I think there is one member that is not a [4] voting member or one representative that's not a [5] voting member that attends them all which, I think, [6] is quality assurance.

[7] There are other nonvoting members that [8] attend. So it's not unusual that there would be [9] some participants in PRB meetings other than the [10] defined voting members.

[11] Q: How did you happen to be at the meeting?

[12] A: I think I learned about it through some [13] personnel that used to work for me and I kind of [14] invited myself to the meeting.

[15] Q: Then you voiced objections, Mr. Greene, [16] in essence, said I have heard all I need to, and you [17] were upset at that point. What were you upset [18] about?

[19] A: I was upset before that point. Mr. Majors, who was working on this [20] specifically for Mr. [21] Hairston in corporate, was on the phone, too.

[22] Q: Was he upset, too?

[23] A: He seemed to agree with some of my [24] statements, but the end result was

that the sections [25] weren't changed and the true reasons for the errors

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[1] weren't clearly stated, accurately stated in the [2] cover letter and the cover letter was sent out that [3] way and Georgia Power has received violations on it [4] now.

[5] Q: And you were upset before that?

[6] A: I was upset during that meeting because I [7] saw this document going forward and going to be [8] submitted to the NRC with inaccurate information in [9] it and incomplete information in it.

[10] Q: Information that you didn't agree with, [11] but how do you reach the inaccurate, because you [12] didn't agree with it?

[13] A: NRC has issued violations to state that [14] it was inaccurate or incomplete.

[15] Q: I understand that as of 1994, but as [16] of —

[17] A: So they agreed with my feelings that I [18] had at that time.

[19] Q: But it was your feelings, your difference [20] with what was being said that led you to be upset?

[21] A: I was upset that we were going ahead and [22] providing inaccurate and incomplete information to [23] the NRC. I thought that was wrong.

[24] Q: And was your voicing your views in the [25] PRB your vehicle that you used in order to inject

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[1] that opinion into the company's determination of [2] what to send?

[3] A: Yes. I did that by my comments in the [4] PRB which was fairly direct, and I also did it by [5] making allegations, additional allegations to the [6] NRC.

[7] Q: Had you ever had prior disagreements with [8] PRB actions?

[9] A: A couple.

[10] Q: On those occasions did the PRB take an [11] action that you didn't agree with?

[12] A: Yes.

[13] Q: And did you do anything about that?

[14] A: Yes.

[15] Q: On those occasions?

[16] A: I filed a quality concern.

[17] Q: And on this occasion, did you —

[18] A: And I talked to my management.

[19] Q: And on this occasion, did you also follow [20] those steps by filing a quality concern or talking [21] with your management?

[22] A: I was already working with the NRC [23] Department of Investigations. I had decided that [24] that was the appropriate place to take my [25] allega-

tions, and I voiced them directly through the

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[1] company channel, and when the document was issued [2] without corrections, I took them to the NRC.

[3] Q: So once you started working with the [4] Office of Investigations, you had a different [5] approach about problem solving or differences that [6] you had within the company?

[7] A: You mentioned the quality concern. At [8] that point I had concluded that that vehicle at that [9] point in time would be ineffective.

[10] I had done the first step, I voiced this [11] directly through the responsible group and voiced my [12] concerns by my participation, and when that wasn't [13] effective, I took these additional allegations to [14] the Office of Investigations that I was working [15] with.

[16] Q: Did you have any more involvement or play [17] any other role in the finalization and submittal of [18] the June 29 letter?

[19] A: It seemed to me that not too long after [20] that meeting, the letter was signed out. I think [21] Mr. Hairston signed that letter.

[22] MR. BLAKE: We can stop there and we [23] will carry on from there. We will take ten [24] minutes.

[25] (A recess was taken.)

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[1] Q: (By Mr. Blake) Mr. Mosbaugh, you [2] indicated just before we broke that by this point in [3] time, you had lost faith in the effectiveness of the [4] quality concerns program, and that may have been a [5] reason why you didn't carry your difference with the [6] PRB on then at this point where you had taken that [7] route earlier?

[8] A: Yeah.

[9] Q: Is that correct?

[10] A: That's correct. You mentioned the [11] quality concern. There is no formal sequence or [12] pattern of raising concerns.

[13] The policy is that, and I guess the [14] requirement is that we can raise concerns on a [15] variety of different matters and if an individual [16] chose to raise an issue just with the NRC, that [17] would be a fine method of doing so, too.

[18] There is a number of different ways to [19] handle it and I think it's up to individuals to [20] choose what methods they want to use at any point in [21] time.

[22] Q: What was your problem with the quality [23] concerns program?

[24] A: Well, my problem wasn't with the [25] program. My problem was with the manner in which

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[1] the one quality concern that I filed was handled.

[2] Q: So did you think that the program was all [3] right but somehow it was not operating, not being [4] properly employed for your concerns?

[5] A: It was usurped for my concern because the [6] person that would normally investigate the concern, [7] since my concern was taken away from that normal [8] process.

[9] Q: Did you tell anybody that you felt you [10] were being discriminated against here in your use of [11] the employee concerns program?

[12] A: I expressed concerns about the handling [13] of my quality concern at some point in time. I [14] think I discussed that with the NRC.

[15] Q: Anybody at the company?

[16] A: I think I may have discussed that with [17] Mr. Bockhold, and I may have discussed that with Lee [18] Glen, but I'm having trouble remembering exactly who [19] I discussed that with. I know I raised that as an [20] issue at some point.

[21] Q: Do you recall whether or not you [22] indicated to them that you felt you were being [23] discriminated against here, that it was being used [24] in a different way for you than for others?

[25] A: I didn't feel that, and I don't feel that

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[1] way. I feel that the concern I submitted, not [2] necessarily because it was my concern, but that [3] concern was handled a different way than concerns [4] would normally be handled.

[5] I was told by Mr. Bockhold, I found out [6] that Mr. Bockhold took that concern away from the [7] individual whose job it was to investigate the [8] concerns. I was told that by that individual.

[9] Q: Who is that individual?

[10] A: By Mr. Lyons. Mr. Lyons told me that Mr. [11] Bockhold took it away from him. Then I was told at [12] some point that my concern was being handled by the [13] organization as a whole.

[14] Q: Who were you told that by?

[15] A: I think Mr. Bockhold said that. The [16] concern was handled by the whole organization. That [17] isn't the or that wasn't the purpose of the quality [18] concern program, that it be handled by line [19] management or management in general.

[20] The quality concern program was set up [21] that it be handled by a specific department, namely, [22] the quality concern department.

[23] Q: And do you know of any other concern [24] raised by any other person

other than your concern [25] raised by you that was handled in such a manner?

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[1] A: That it was handled by the whole [2] organization, I don't know. Mr. Lyons, for a period [3] of time, reported to me and I can't recall other [4] concerns where he told me that this had happened or [5] I was told where the whole organization was handling [6] it, no, from the period of time that I had [7] involvement with quality concerns.

[8] Q: So that we go along basically in a [9] chronological fashion here today. I want to refer [10] you to your interview by the Office of [11] Investigations on July 19th, 1990. Do you have a [12] copy of that transcript?

[13] A: Not with me.

[14] (Discussion ensued off the record.)

[15] MR. BLAKE: For the record, we will ask [16] that this be identified as Exhibit 9 with the [17] same nomenclature that we identified the [18] others.

[19] (Mosbaugh Exhibit DG-9 was marked [20] for identification.)

[21] Q: (By Mr. Blake) This is the investigative [22] interview of Allen Mosbaugh conducted in July 1990, [23] starting apparently at 7:30 p.m. and conducted by [24] Mr. Larry Robinson and others. Let me refer you to [25] the transcript of that interview at page 225.

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[1] At this point in the transcript, and take [2] your time in reviewing the preceding pages, whatever [3] it takes for you to confirm that this is the case, I [4] believe that you are talking about a telephone [5] conference which took place on April 19th.

[6] At line six, beginning at line six on [7] that page, you respond to a question by one of the [8] investigators as to who was involved in the [9] conference call on the other end, and you state, in [10] the room is Aufdenkampe and myself. Also on the [11] phone is Bockhold, Bailey, I think Stringfellow, [12] McCoy, and later, I don't know how much later, [13] Hairston.

[14] What was the basis for your stating that [15] Mr. Bailey was on the phone?

[16] A: My memory of that time as to who was on [17] the call, and that may have included memory of not [18] only listening on the call, but it may have included [19] memory of discussions with Aufdenkampe or [20] something.

[21] I would note that at the time I recalled [22] those people, I didn't recall Mr. Shipman who I now [23] believe definitely to have been on the call. I [24] didn't recall him.

[25] Q: So in July of 1990, you provided the NRC

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[1] investigators with inaccurate information about who [2] was on the phone call?

[3] A: I provided them with what I remembered as [4] to who was on the call.

[5] Q: Say that again. I'm sorry.

[6] A: I provided them as to what I remembered [7] as to who was on the call.

[8] This wasn't a question that they had [9] posed to me and said go out and research this or [10] give me the opportunity to go research this and ask [11] other people and get the best answer, such as was [12] Georgia Power's opportunity in the White Paper.

[13] I did this from my memory that I had [14] contemporaneous with the time I was asked this [15] question.

[16] Q: And your memory turns out not to have [17] been perfect?

[18] A: That's correct.

[19] Q: Do you think other people's memories can [20] turn out not to be perfect, as well?

[21] A: I believe that's true, but an effort, a [22] good faith effort by a big organization, given some [23] time, should be much better than the instantaneous [24] memory of one individual.

[25] Q: Did you review the tapes before you had

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[1] this interview in July of 1990?

[2] A: No.

[3] Q: Referring to the next page of the [4] transcript, 226, at the top of that page there is a [5] question about Mr. McCoy breaking away and calling [6] Ken Brockman. When do you now believe that that [7] McCoy call took place, that is, prior to, during, [8] after call A? Where do you place it in time?

[9] A: At this point in time I don't, not having [10] listened to the tape, I don't remember Mr. McCoy [11] breaking away.

[12] What I remember at this time, having [13] re-reviewed the tapes, is that Mr. Shipman came back [14] and informed me of Mr. McCoy's call. So that's what [15] I remember at this point in time. I don't at this [16] point in time remember Mr. McCoy breaking away.

[17] Q: Do you have a view today on when that [18] call took place?

[19] A: Mr. McCoy's call to Mr. Brockman?

[20] Q: Yes.

[21] A: I believe it took place before call B in [22] my nomenclature.

[23] Q: You think it was before the conversation?

[24] A: Before call B.

Q: Before call B?

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[1] A: As I use that nomenclature.

[2] Q: During the course of call A, as you use [3] that nomenclature?

[4] A: I haven't been able to determine that.

[5] Q: Mr. Mosbaugh, I'm going to ask you to [6] take a look at a transcript excerpt from tape number [7] 69. It was one of the attachments to our earlier [8] proposed stipulations, which I think you have a copy [9] of.

[10] The stipulation was number 77. I would [11] like to ask you to look at 77-B and the supporting [12] transcript for that being from tape 69, transcript [13] pages eight through 11, and see whether or not that [14] refreshes your memory on when the McCoy, Brockman [15] conversation may have taken place relative to call

[16] A:

[17] MR. KOHN: What document do you want [18] him to look at?

[19] MR. LAMBERSKI: The stipulation.

[20] MR. KOHN: The stipulation?

MR. BLAKE: It's 77-B, and I will [22] provide you a copy of the transcript [23] excerpt.

[24] THE WITNESS: All right, I have [25] reviewed stipulation 77-B and the transcript.

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[1] Q: (By Mr Blake) And your answer is?

[2] A: This doesn't refresh my memory of Mr. [3] McCoy, of when Mr. McCoy broke away or came back in [4] the call. My memory as of now is that I didn't [5] learn about that from Mr. McCoy but I learned about [6] that from Mr. Shipman.

[7] I may have incorrectly stated here McCoy [8] instead of Shipman, but my best belief at this time [9] is that I learned of Mr. McCoy's call from Mr. [10] Shipman.

[11] Q: On the assumption that this is an [12] accurate rendition of what is stated by you on that [13] tape, you would say that you were inaccurate in what [14] you were reporting here?

[15] A: I may have said McCoy instead of [16] Shipman. I can't say at this point, but it doesn't [17] refresh my memory that McCoy came back on the phone [18] and at I learned that independently from [19] rather than from Mr. Shipman.

[20] Q: Do you have any reason to believe today [21] that you might have intended to mislead people or [22] lie when you said this?

[23] A: No, I certainly wouldn't have done that.

[24] Q: So you believe it to be inaccurate, but [25] you don't believe that that means that you were

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[1] either lying or misrepresenting when you said it?

[2] A: It may be inaccurate. I just have no [3] separate memory of McCoy coming back into the [4] conversation separately than learning about that [5] from Mr. Shipman.

[6] Q: Note, also, in this transcript the [7] language that you were on the phone for the whole [8] thing. Is it your belief today that you were on the [9] phone for the entire conference call A?

[10] A: No, I believe that I entered the [11] conference call A after it had begun.

[12] Q: Do you believe that because the tapes [13] that we have been provided pick up in the middle of [14] that call, is that the basis for your belief?

[15] A: Yes.

[16] Q: Or do you have an independent [17] recollection?

[18] A: I also have an independent recollection [19] of coming into Mr. Aufdenkampe's office when the [20] call was already in progress.

[21] Q: Do you believe that you could have [22] participated in any portions of that call which are [23] not taped?

[24] A: I have no recollection of that.

[25] Q: Looking at the bottom of the same

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[1] transcript page, 226, you are discussing this [2] conference call, and you refer to it as taking place [3] on the 18th and that the LER was signed out the next [4] day, which would have been the 19th. Do you see [5] that language at the bottom of 226?

[6] A: Yes.

[7] Q: Is that inaccurate or wrong?

[8] A: The big conversation with the higher [9] level executives occurred on the 19th, is my current [10] knowledge.

[11] Q: So is this information inaccurate that [12] you provided to the NRC?

[13] A: The date of the 18th is incorrect. It's [14] the 19th.

[15] Q: Did you intend to provide them inaccurate [16] information?

[17] A: No, I didn't remember the date that [18] precisely.

[19] Q: Looking at transcript —

[20] A: I would like to add again that my [21] statements are as accurate as I recalled them at the [22] time I did the interview.

[23] If I was asked that kind of question and [24] did the research on it and got the LER which was [25] dated and to forth, I could have gotten a better and

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[1] more accurate answer that would have probably [2] indicated the 19th, but this was done in a live, [3] contemporaneous fashion and was done several months [4] later and I was off by one day.

[5] Q: Looking at transcript page 250, in [6] particular the answer that you provide in the middle [7] of that page, lines seven through 19, is it your [8] view today that there is a time limit on correcting [9] information to the NRC?

[10] A: Yes.

[11] Q: Is that a two-day time limit by virtue of [12] 50.9?

[13] A: 50.9 states that significant information [14] has to be reported to the NRC within two days, and [15] that's based on a requirement that I believe was in [16] effect at this time; and I haven't looked at the [17] current requirement, but at this time I believe that [18] was the requirement.

[19] Q: So if you were answering that same [20] question now today that was put to you in July of [21] 1990, this answer would be different?

[22] A: Well, no. This answer is entirely [23] correct, because the statement here is LER revisions [24] do not have a due date on it, probably should be [25] now, but my statement that there was no time frame

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[1] that you're required to submit a revision to an LER [2] is a true statement.

[3] There is no time frame requirement to [4] submit a revision to the LER. There is a [5] requirement in the initial submittal for 30 days. [6] There is no requirement, to my knowledge, on [7] revisions.

[8] Now, the separate issue is correcting or [9] identifying to the NRC significant information, and [10] the identifying to the NRC of significant [11] information is required to be done within two days [12] by a call to the regional administrator. That call [13] doesn't constitute an LER revision. So that's a [14] separate requirement and can be handled differently [15] than an LER.

[16] Georgia Power didn't need to submit an [17] LER revision to meet its obligations on accuracy of [18] information. It could have satisfied those [19] obligations by calling and informing the regional [20] administrator of that significant information, [21] namely, the error and the correction to the error by [22] phone.

[23] My statement after that is that, but I [24] think there certainly is a timeliness

requirement in [25] correcting inaccurate information provided to the

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[1] NRC that a licensee is obligated to timely correct, [2] and my statement there is referring to the [3] correction requirements of 50.9.

[4] Q: Is that what you were referring to in [5] July of 1990?

[6] A: I can't say if I was specifically [7] referring to that in '90. I may have, because I had [8] been distributed a memo earlier in, I believe, 1988 [9] about 50.9, but in addition to the requirement, a [10] nuclear professional, upon finding out that [11] significant inaccurate information had been supplied [12] to the NRC and, in this case, information that was [13] used to obtain a restart, would immediately correct [14] that.

[15] They wouldn't sit on it, regardless of [16] the two-day time frame. I think it's something that [17] somebody would want to do immediately. I can recall [18] other managers that I worked for that when we had an [19] issue like that, that was what they did.

[20] They immediately grabbed the phone and [21] immediately called a responsible person in the NRC [22] and said hey, we screwed up here, I got this [23] number.

[24] I remember Mr. Paul Rice talking about [25] how he handled such situations. I remember Mr.

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[1] Bellamy talking about situations that he had been [2] involved with. Their actions were to do it the same [3] day, not to wait two, three, four months.

[4] Q: Wouldn't your view today be, if you were [5] asked this question, that that should have been [6] corrected in two days by virtue of 50.9 or is that [7] not your view today?

[8] A: Yeah, that's my view.

[9] Q: So if you were asked this question today, [10] it would be a different answer than there is an [11] obligation to provide timely responses, it would be?

[12] A: I'm focussed more on that, you know, [13] having reviewed it as part of this case. The NRC [14] issued the violations against Georgia Power against [15] that specific regulation. I think that's focussed [16] attention on that regulation more so than back at [17] this point in time.

[18] Q: Is that what brought 50.9 to your [19] attention?

[20] A: No. What first brought 50.9 to my [21] attention was when the regulation was promulgated [22] and when the initial letters came out about its [23] interpretation.

[24] Q: In 1988?

[25] A: I recall definitely those letters in

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[1] 1988.

[2] Q: Let me go back to one of the earlier [3] transcript pages that we talked about, 226. Think [4] in terms of whether or not your answers would be the [5] same today as they were in July of 1990. Read, if [6] you would, lines four through 13.

[7] A: All right.

[8] Q: Is the portion of the transcript from the [9] tape recording that you're referring to here the [10] portion of the transcript or the portion of the tape [11] that just becomes so important in terms of your view [12] that the conspiracy was hatched by the exchange [13] between Mr. Hairston and Mr. McCoy?

[14] MR. KOHN: I object. Mr. Blake, I [15] believe, is mischaracterizing the witness' [16] prior testimony.

[17] MR. BLAKE: We can certainly straighten [18] that out. I hadn't intended to do that.

[19] THE WITNESS: Are you referring to the [20] disputed portion?

[21] MR. BLAKE: Yes.

[22] THE WITNESS: So your question is —

[23] MR. BLAKE: Let's straighten out Mr. [24] Kohn's problem first, because we talked a lot [25] about this yesterday. Certainly I hadn't

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[1] intended to misrepresent what I understood [2] you to have said.

[3] Q: (By Mr. Blake) I thought we had agreed [4] after we talked about that that there and then was [5] hatched the conspiracy about to disavow and to [6] testify that they hadn't understood that the [7] information was false, and that was what was on the [8] minds of those people in your view at the time that [9] exchange took place.

[10] A: I think my testimony was that it [11] culminated with this exchange.

[12] Q: All right. So you think that they [13] discussed prior to this conversation, prior to this [14] exchange that they would take the position that they [15] didn't know that the information was false?

[16] A: I think I said that the action of [17] intentionally submitting false information in this [18] LER occurred over the course of that day and [19] culminated with the discussion in the disputed [20] portion, and it was completed by the filing of the [21] underlying documentation.

[22] Q: You see, I did misunderstand, because I [23] understood in our conversations yesterday, in your [24] deposition,

for you to have said that you believed [25] that there had been prior conversations about the

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[1] introduction of the language on comprehensive test [2] program, that that conspiracy had been a subject of [3] discussions before the telephone conference that we [4] had recorded, and that it was implemented in that [5] conversation by the injection of those words and the [6] agreement to include them. That, I had understood.

[7] A: That's correct.

[8] Q: But I clearly understood you yesterday to [9] tell me that you felt with regard to their view that [10] they wouldn't admit that they understood the [11] information was false which was represented by this [12] exchange, the disputed exchange, to have been [13] hatched, to have been conceived, to have been [14] implemented all in the course of this exchange of [15] words.

[16] Now, did I misunderstand? Do you believe [17] there was prior conversation between these [18] individuals about this topic, as well?

[19] A: I believe that in the disputed portion of [20] tape 58, that those individuals discussed how they [21] were going to, further discussed how they were going [22] to handle the situation of intentionally making the [23] false statement.

[24] Q: But you believe that they had discussed [25] it previously?

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[1] A: Well, I believe, and I stated yesterday [2] that I believe there to have been prior discussion [3] about introducing the fuzzy words.

[4] Q: Yes.

[5] A: Into the LER.

[6] Q: I understood that from yesterday, but [7] what I didn't understand —

[8] A: And I view that as being part of the [9] effort to intentionally submit to the NRC and LER [10] that would repeat known false information.

[11] Q: But the idea that they would take the [12] position that they didn't know it was false, which [13] is what I —

[14] A: The way they would handle —

[15] Q: Let me just finish so we don't talk [16] together at the same time.

[17] The idea that they were going to take the [18] position that they wouldn't admit that they knew the [19] information was false, which is what I understood [20] you to get out of this disputed exchange. I had not [21] understood the subject of prior conversations [22] between them in your view.

[23] A: My view is that discussion is what it [24] is. It's a recommendation by the

lower people to [25] Mr. Hairston how to handle the situation at hand.

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and in that I mean the intentional making of this [2] false statement.

[3] Since I wasn't party, present, and [4] corporate, I am speculating based on my review of [5] the circumstances and my best belief.

[6] Q: And you believe that that topic had been [7] previously discussed by these individuals and was [8] simply being confirmed in the disputed language?

[9] A: I wouldn't know that. I would have no [10] way to know the previous discussion, if there had [11] been any. It may have been, it may not have been. [12] There is no way I can say that.

[13] Q: Is this language which you refer to in [14] July 1990 as I heard a voice say something to them [15] and again in the background, I didn't catch the no [16] on the phone, what was being said, is this the same [17] language which yesterday you characterized as being [18] relatively clear and capable of interpretation, more [19] capable than other portions of the transcript?

[20] A: I think you are somewhat [21] mischaracterizing what I said.

[22] Q: Well, please straighten that out.

[23] A: First of all, I will say that some [24] portions of this are clear, of the disputed section [25] are clear. Some portions are not as clear.

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[1] What I did say yesterday is that when we [2] asked the Georgia Power witnesses about the disputed [3] section, the response we got was I don't remember, I [4] can't hear, I can't identify that that's me.

[5] We got a big zero. What I said was that [6] when we played portions of the transcripts which [7] were equally as inaudible or not that clear, let me [8] be clear on that, that were no clearer than this. [9] Other people seemed to hear it fine.

[10] Other people when hearing the portions [11] that were relatively clear like portions are here [12] said hey, that's great, this really brings it back, [13] this really refreshes my memory.

[14] So it seems a little strange to me that [15] all the people, when we get around to discussing [16] this section, have no recollection. It doesn't [17] bring it back. They can't hear it. They can't [18] identify themselves, and that seems very different [19] than the testimony we have gotten from other people [20] in other sections.

[21] Q: In July of 1990 at the time of this [22] interview by OI, did you understand

this portion of [23] the tape to include Mr. McCoy saying let me explain, [24] I will testify to that and Mr. Shipman saying [25] disavow?

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[1] A: My independent recollection, having not [2] listened to the tapes, was I recalled Mr. Hairston [3] asking about the start situation.

[4] I recall Mr. McCoy saying something about [5] testifying. I recall Mr. Shipman saying something [6] like or saying disavow. That's what I have an [7] independent recollection of.

[8] Q: The recollection is, you're saying now [9] that in July of 1990, this testimony was based on [10] your recollection of what was said, not based on any [11] review or listening to the tape recordings of what [12] was said?

[13] A: That's correct. I didn't listen to the [14] tape recordings in preparation for this testimony.

[15] Q: So you didn't have a view in July of 1990 [16] on whether or not it was difficult to determine what [17] was being said in this portion of the tape?

[18] A: No, I wouldn't have had that view.

[19] Q: Let me shift now to the end of August. [20] There was another communication, is the next step in [21] the scenario, to the NRC.

[22] Let me ask you what, if any, your role [23] was or involvement in, knowledge of the [24] communication sent to the NRC at the end of August.

[25] MR. KOHN: Ernie, it's five to 1:00.

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[1] Are we going to start on that? We might just [2] take a lunch break.

[3] MR. BLAKE: That's fine with me. Let's [4] make it a little shorter, if we can, and [5] let's try to stick to it. Why don't we say [6] at 20 after.

[7] (A luncheon recess was taken.)

[8] Q: (By Mr. Blake) When we broke for lunch, [9] I had asked you about your involvement in, knowledge [10] of the August, end of August communication to the [11] NRC.

[12] A: You're referring to the end of August [13] communications to the NRC to correct the April 9th [14] letter?

[15] Q: I'm referring to the August 30 [16] communication.

[17] A: Right, which corrects the April 9th [18] letter.

[19] Q: I don't know how you're going to [20] characterize it. It's not always clear that my [21] characterization would be the same as yours, but I'm [22] just asking about that communication, your [23] involvement in it, your participation.

[24] A: I guess leading up to that was the [25] operational safety inspection which began the

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[1] beginning of August for two weeks. In the course of [2] that period of time, the NRC —

[3] Q: Let me just stop just for a moment. I'm [4] not asking you about your communications with [5] counsel, but I want to ask you whether or not you're [6] aware that you're not free to discuss answers to [7] questions with counsel in the course of a [8] deposition.

[9] MR. KOHN: Excuse me.

[10] MR. BLAKE: I want to ask him whether [11] or not he is aware that he is not free to [12] discuss his responses to my questions in the [13] course of a deposition.

[14] MR. KOHN: Well, he hasn't.

[15] MR. BLAKE: He hasn't, okay. That's [16] fine.

[17] Q: (By Mr. Blake) There have been no [18] communications, is what you're saying, between you [19] and counsel about my questions to you in the course [20] of this deposition?

[21] A: I don't know what you're talking about. [22] I'm not turning over and saying —

[23] Q: I know that, because I can see you here, [24] but we take breaks and I just want to know that you [25] understood that ground rule and have abided by it.

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[1] A: The requirement, again, you're trying to [2] ask me if I was discussing the responses?

[3] Q: Yes.

[4] A: To questions during the course of the [5] deposition?

[6] Q: Yes.

[7] A: I mean I have on the breaks, and Mike and [8] I had lunch together. So we discuss things.

[9] Q: Of course, and I'm not asking you, and [10] obviously you're involved in this case so you have [11] conversations with your counsel about this case. [12] What can't be done is for him to assist you in [13] responding to questions that I pose to you in the [14] course of the deposition, and the answer to that [15] question is no, I take it. That's what Mr. Kohn was [16] saying.

[17] MR. KOHN: That's correct. In fact, we [18] didn't even mention the August 30 [19] communication.

[20] MR. BLAKE: That's correct. I just [21] wanted to be sure that that had been the [22] ground rule and you understood it.

[23] THE WITNESS: You're saying that [24] because you introduced that ques-

tion before [25] the break. Is that what you're getting at?

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[1] **MR. BLAKE:** Yes. That's what prompted [2] it now and I wanted to be sure that's been [3] the case throughout the deposition.

[4] **MR. KOHN:** I'm not sure that's been the [5] case for the other witnesses that have [6] testified.

[7] **MR. BLAKE:** It's certainly true of Mr. [8] Mosbaugh, is that what you're saying?

[9] **MR. KOHN:** Yes, but I'm not sure that [10] it's been true of the licensee.

[11] **MR. BLAKE:** I'm sorry to have [12] interrupted you.

[13] **Q:** (By Mr. Blake) August 30, you were [14] starting to talk about OSI.

[15] **A:** Right. In early August for two weeks, [16] NRC sent a team to the site to do an operational [17] safety inspection.

[18] In the course of the issues reviewed by [19] the team, they were looking at issues of inaccurate [20] information and false statements in the confirmation [21] of action response and the LER for 4/19/90 LER and, [22] I think, the first revision to the LER and were [23] asking questions about the revision of the LER and [24] so forth.

[25] We held meetings about those issues and

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[1] there were interviews conducted in that period of [2] time. In that period of time, some of the questions [3] that the NRC brought up with management was why [4] haven't you corrected the confirmation of action [5] letter response, the 4/9/90 response, why haven't [6] you corrected that.

[7] So I think there was some NRC insistence [8] that a correction to the 4/9 letter be issued. So [9] based on the NRC's insistence, the company then got [10] to work on a revision, and I think at that point the [11] correction that's now over four months old, it's [12] been four months since it was issued, and I think [13] the NRC thought that it was about time that [14] something be issued.

[15] **Q:** Mr. Mosbaugh, are you going to get around [16] to answering my question?

[17] **A:** I'm trying to give you the background [18] about my involvement in it because that was some of [19] my earlier involvement.

[20] **Q:** I haven't heard you refer in one [21] sentence, phrase, or word to your involvement yet.

[22] **A:** Well, I heard about what I'm telling you [23] from my involvement, and so some people started -- [24] also, I would add at that point I am out of line [25]

management. So I am hearing from other people

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[1] what's going on.

[2] **Q:** Who were these people?

[3] **A:** In general, the people that used to work [4] for me.

[5] **Q:** That would be?

[6] **A:** That would be people like Horton and [7] Aufdenkampe and the people in the NSAC group, the [8] people that are on the PRB, those people.

[9] **Q:** Who was on the PRB that used to work for [10] you?

[11] **A:** Aufdenkampe and Horton, the secretary.

[12] **Q:** So it was those people that you were [13] hearing from?

[14] **A:** Right, and we had meetings with all the [15] managers. So that was the rest of George Bockhold's [16] staff.

[17] So a revision was initiated, and toward [18] the end of August a letter, this was being revised [19] by a letter, a letter went to the PRB to revise the [20] 4/9/90 correspondence, and it stated a reason for [21] the error, and it gave the numbers that would have [22] been correct at that time.

[23] It had a chart in it that listed all, in [24] this revision they were going to include a complete [25] listing of all the starts, of all the diesel

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[1] starts.

[2] So the PRB met with that, and I attended, [3] I sat in, invited myself to a couple, at least one [4] PRB meeting, it may have been more, where the draft [5] was being reviewed by the PRB.

[6] I remember that Mike Horton, in the [7] course of that, wanted to take it upon himself to [8] make sure that the lists, the attachment to the [9] letter was absolutely accurate. I remember him [10] telling me how he had worked until 3:00 a.m. in the [11] morning about reviewing the logs and getting this [12] list right.

[13] So he brought the list back, and at the [14] same time Mr. Bockhold was sitting in on some of [15] these PRB meetings then, too.

[16] **Q:** Some of the PRB meetings that you were [17] attending or the one that you attended?

[18] **A:** I can't recall if I attended just one or [19] maybe two. I know Mr. Bockhold was in one PRB [20] meeting that I attended when the 8/30 letter was [21] being reviewed. In that meeting Mr. Bockhold [22] started to insert himself some what into the [23] process.

[24] It was a little bit like he had done in [25] some earlier PRB meetings. The PRB was talking

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[1] about language in the letter and he was directing [2] our suggesting to the members that the language not [3] be changed or that some of these weren't issues and [4] so forth.

[5] I viewed that and another member of the [6] staff viewed that as a little bit improper because [7] the PRB was supposed to advise Mr. Bockhold rather [8] than have Mr. Bockhold steer the PRB.

[9] Mr. Aufdenkampe was an individual that [10] was having those feelings about Mr. Bockhold's [11] participation.

[12] At any rate, the Horton list was added. [13] The letter was eventually approved by the PRB and [14] sent out to the NRC on the 30th of August, and that [15] was pretty much my involvement and knowledge about [16] it.

[17] **Q:** Your involvement was that you recall [18] attending one PRB meeting at least in which Mr. [19] Bockhold participated in a way which you regarded as [20] inappropriate and you think Mr. Aufdenkampe did, as [21] well, that is, regarded it as inappropriate. Is [22] that the summary of your involvement?

[23] **A:** Yeah. I will say I felt he was steering [24] the PRB.

[25] **Q:** And what did you do about your views?

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[1] **A:** And by August 30th I was communicating [2] with the NRC about my views, and I believe in the [3] course of the time I communicated my views about [4] what had gone on with that letter with the NRC, but [5] I can't remember exactly when.

[6] **Q:** Do you think you felt it was [7] inappropriate how Mr. Bockhold was injecting himself [8] into the process?

[9] **A:** I think it was somewhat inappropriate.

[10] **Q:** And do you think it hurt the process?

[11] **A:** Mr. Bockhold kept saying that if this is [12] how Birmingham wants the letter, this is the way we [13] ought to have the letter, statement to that effect. [14] I think it prevented the members some of the freedom [15] that they might have otherwise used in drafting the [16] letter independently of the ones at Birmingham.

[17] **Q:** And did you mention this to anyone in the [18] management of Georgia Power?

[19] **A:** I don't think I brought that up with [20] anybody in Georgia Power at that time. At that [21] point the NRC, I had signed an agreement with them [22] to be a confidential informant, and I was voicing my [23] concerns about Georgia Power to the NRC.

[24] Q: Did you feel that signing the agreement [25] with the NRC to become a confidential informant

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[1] somehow inhibited you from being able to raise [2] concerns within Georgia Power or to point out where [3] you felt problems were occurring?

[4] A: No, it didn't inhibit me from raising [5] anything internally, but at that point it had become [6] my choice to raise the concerns I had through the [7] NRC.

[8] Q: Did you feel at that point any obligation [9] to your employer, Georgia Power, to point out [10] problems?

[11] A: I had attempted to do that all along, and [12] by that point I had been relieved of all my [13] responsibilities, and I was removed from involvement [14] in most safety related kinds of activities.

[15] I felt that my communication of my [16] concerns with the NRC met all my obligations, [17] including my obligations within the company.

[18] Q: Because you felt that if your concerns [19] were correct or regarded as important, they would be [20] provided back to the company and there would be a [21] cure of the problems?

[22] A: No, I felt that because that was a stated [23] option within the company policy, that if an [24] individual felt that [25] concerns would be best [25] addressed via his communication with the NRC, that

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[1] that was part of the company policy.

[2] Q: Is it your view now that the problems [3] which you did not point out to company management [4] but pointed out to the NRC could well have been [5] acted upon earlier by the company, assuming that [6] they were right, that your views were right, which I [7] don't want to dispute, I don't know one way or the [8] other?

[9] A: At that time I had lost confidence in the [10] company's resolving these concerns without NRC [11] involvement.

[12] So I will supplement, to give you a more [13] complete answer as to what you just asked. What I [14] had observed the company response to be was to [15] posture itself against me as opposed to taking the [16] kind of corrective actions that I thought [17] appropriate.

[18] So because of that, I don't think the [19] company would have, of its own, resolved these [20] better or more promptly.

[21] Q: So you don't think the company [22] that [22] point would have taken suggestions from you?

[23] A: At that point the company had been [24] dismissing my concerns and posturing itself against [25] me.

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[1] Q: What were examples of that posturing [2] itself against you?

[3] A: The removal of me from my [4] responsibilities, the removal of me from the Plant [5] Review Board, the statements made to me by [6] management about not supporting the directed [7] resolution of the company, those kinds of things.

[8] Q: All of which you attribute to your [9] position as a whistle blower?

[10] A: Yes.

[11] Q: Rather than a substantive rejection, that [12] they just didn't accept your view?

[13] A: Yes. The concerns were not taken [14] seriously by the company.

[15] Q: Why did you go to the PRB meeting?

[16] A: To find out what the company was going to [17] do about — this had begun around the time of the [18] site area emergency, and I felt false information [19] had been provided, I had given my management memos, [20] tried to get it corrected, tried to get LER [21] corrections issued.

[22] I was following through on what I had [23] begun many months before and trying to learn for [24] myself how the company was going to complete the [25] corrections of these false statements.

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[1] Q: So it was being done in order for you to [2] determine what the company was doing rather than to [3] try to provide input or to make an accurate [4] submittal to the NRC?

[5] A: At that point I was no longer a PRB [6] member. I was obtaining information as to what the [7] company was doing and wanted to follow up on what I [8] had begun and wanted to provide that evidence to the [9] NRC as I had begun to do at that point in time.

[10] Q: Let's go to what I will regard as the [11] next step which was the 2.206 petition filed in [12] September of 1990.

[13] (Mosbaugh Exhibit DG-10 was marked [14] for identification.)

[15] Q: (By Mr. Blake) We have marked for the [16] record at this deposition this document which is [17] entitled Request for Proceedings and Imposition of [18] Civil Penalties for Improperly Transferring Control [19] of Georgia Power Company's Licenses to the SONOPCO [20] Project and for the Unsafe and Improper Operation of [21] Georgia Power Company Licensed Facilities.

[22] The document that we distributed and made [23] an exhibit is just an excerpt from that entitled [24] Document. It includes the first page and then pages

[25] nine through 13. Do you recognize this document.

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[1] Mr. Mosbaugh?

[2] A: Yes. It's a portion of the 2.206 [3] petition that Mr. Hobby and I submitted.

[4] Q: Looking at the bottom of page nine [5] carrying over to the top of page ten, the sentence [6] reading on April 19th, 1990, Mr. Mosbaugh had [7] informed SONOPCO's senior vice-president, Mr. George [8] Hairston, that the diesel had suffered trips and [9] failures. What's your basis for that statement?

[10] A: My basis for that statement is the [11] conversations that I had on April 19th with Mr. [12] Stringfellow and Mr. Shipman and the word that had [13] come back of the statements of Mr. Shipman that he [14] was going to immediately go down, he and Jack [15] Stringfellow were going to go down and talk to Mr. [16] Hairston about what I had just informed him about [17] and then the feedback from SONOPCO that Mr. Hairston [18] and McCoy and Mr. McDonald were reviewing or [19] believed that a material false statement had been [20] made and then the subsequent actions on call A.

[21] That told me that what I had begun, that [22] the communications had occurred and the [23] communication loop had been completed.

[24] Q: Are you referring to the discussion which [25] appears on tape 57 between you and Aufdenkampe?

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[1] A: I just referred to conversations that are [2] contained on both 57 and 58.

[3] Q: Do you think that this is an accurate [4] statement?

[5] A: Yes.

[6] Q: That on April 19th, you informed Mr. [7] Hairston that the diesel had suffered trips and [8] failures?

[9] A: I just described the communication chain [10] that occurred up to Mr. Hairston that had begun with [11] me and Mr. Aufdenkampe and how the confirmation [12] communication loop had been completed and came back [13] to me.

[14] Q: Looking at the next sentence, [15] nonetheless, later that day, Mr. Hairston signed the [16] LER after he had been advised that the information [17] stated therein contained false information. What's [18] the false information that you're referring to [19] there?

[20] A: False information about the start count [21] statements.

[22] Q: Assuming that Mr. Hairston was informed [23] as a result of your conversation with Mr. Shipman [24] and Mr. Stringfellow, is that your position?

[25] **A:** I discussed that with Shipman and

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[1] Stringfellow.

[2] **Q:** Assuming that they subsequently discussed [3] that with Mr. Hairston, was that before or after the [4] comprehensive test program language was introduced?

[5] **A:** I believe that they discussed that with [6] Mr. Hairston before the comprehensive test program [7] language was introduced.

[8] **Q:** And certainly your questions about the [9] accuracy of the language was before that language [10] was put in?

[11] **A:** That's correct.

[12] **Q:** And do you have reason to believe that [13] Mr. Hairston might not have believed that the [14] introduction of that language cured whatever the [15] problem was, assuming that he heard about the [16] problem at all?

[17] **A:** Yes, I do. I have reason to believe [18] that — let me start over. I believe Mr. Hairston [19] did not believe that that introduction cured the [20] problem.

[21] **Q:** Because you, in fact, believed that he [22] understood the problem and just put that [23] introductory language in there so that he would be [24] able to argue about whether or not it was [25] inaccurate?

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[1] **A:** No, because I believe Mr. Hairston stated [2] to us that it was his intent that the information [3] contained in the 4/9 communication conveyed the same [4] information, the LER conveyed the same information [5] as the 4/9 phrase conveyed. I believe Mr. Hairston [6] considered those to be conveying the same [7] information to the NRC.

[8] **Q:** Looking at page 11, small F, what is your [9] basis for that statement?

[10] **A:** I think we reviewed this before or have [11] gone over the facts up to this before, but my basis [12] for that statement is, first, that it took way too [13] long since the revision was issued to get anything [14] out.

[15] Second, that seemed strange to me and it [16] seemed strange to other people that were normally [17] involved in the processing of LER's. I have already [18] covered how I think it should have been of such [19] importance that it should have been handled [20] immediately, that it shouldn't have got routine [21] priority but it should have gotten top and expedited [22] priority.

[23] **Q:** I agree with all that you're saying. My [24] only question to you is what is the basis for your [25] statement that SONOPCO intentionally delayed

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[1] advising the LER?

[2] **A:** Those are my bases because if there [3] wasn't something intentional going on here, SONOPCO [4] personnel would have done it timely. The fact that [5] they didn't do it timely indicates to me that there [6] is some motive involved.

[7] In addition, as I stated to you before, [8] when I questioned this with Mr. Odom and I believe, [9] as I stated before, he called Mr. Bailey and Mr. [10] Bailey, this was early in the week, stated that [11] well, he thought that they were going to assign the [12] LER revision out after the June 8th meeting or the [13] day of the June 8th meeting, that's part of my basis [14] for linking it up with that meeting.

[15] Also, Mr. Bailey, who is the corporate [16] licensing manager, stated his personal inclination [17] that we should not issue the revised LER until the [18] IIT reports, I think, was the words he used. That's [19] on documented tape recording.

[20] **Q:** Do you hold that view that because it [21] wasn't sent in expeditiously, it was, therefore, [22] being intentionally delayed, do you hold that view [23] even today even though Mr. Aufdenkampe told you in [24] June of '90 that Brockman had been told about the [25] inaccurate information that phone call by Mr. McCoy?

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[1] **A:** I question the extent of the [2] communications of the Georgia Power personnel that [3] they have claimed with the NRC. An individual could [4] call the NRC about this and state things like, and I [5] have heard the company use the words well, you know [6] we had problems coming out of maintenance or things [7] like that.

[8] You know, like when we had to prime the [9] fuel lines. The NRC may well have understood and [10] accepted that, you know, a failure like that was [11] something that they could dismiss and live with, [12] okay.

[13] I believe that some of these [14] communications were like that. They were partial [15] communications not telling the whole story, not [16] telling that there are problems with diesel trips on [17] Calcon switches, which would have raised some [18] eyebrows.

[19] **Q:** Are you aware that Mr. Aufdenkampe had [20] discussed this topic with the NRC residents?

[21] **A:** Mr. Aufdenkampe had some discussions with [22] the residents. I recall him saying that.

[23] **Q:** My point is do you think that still there [24] would be an intentional delay

in revising the LER [25] that had some evil motive even though there had been

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[1] conversations with the NRC by the Aufdenkampe [2] residents or McCoy to Brockman?

[3] **A:** Yes.

[4] **Q:** How can it be to any avail? How could [5] deferring it result in some successful hiding of it [6] if these conversations of the topic had already been [7] discussed?

[8] **A:** Because I believe that the communications [9] that occurred were partial and were not being [10] formally admitted to by the company, and the company [11] did not want to formally admit that they had gotten [12] restart under a false premise until these critical [13] meetings were over.

[14] **Q:** Do you now include Mr. Aufdenkampe in the [15] circle of individuals who had this sophisticated [16] view of how to do business with the NRC?

[17] **A:** I do not know what Mr. Aufdenkampe's [18] communication with the NRC was. I believe I recall [19] him saying that he talked to the resident, but I [20] don't know what that was or the extent of that [21] communication.

[22] A number of these communications have [23] been held out both to the NRC, to OI, through sworn [24] testimony as being, you know, as meeting the [25] requirements of open and honest communication and

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[1] promptly informing the NRC; but when we have delved [2] into the actual communication and the content of the [3] communication and looked at it from what was [4] received on the other end, it hasn't been as [5] advertised by Georgia Power.

[6] **Q:** Let me go to J on page 12. The first [7] part of J reads the review of the performance [8] records of diesel generator will demonstrate that it [9] was unreliable. Do you see that portion?

[10] **A:** Yes. I would like to review the whole [11] statement. All right.

[12] **Q:** Was it your view, then, in September of [13] 1990 that the diesel generator was unreliable?

[14] **A:** Yes, I believe that there were [15] significant reliability problems. I believe that by [16] September, the diesel had not only experienced its [17] failures during the site area emergency but [18] experienced failures after the site area emergency [19] when it supposedly had been fixed.

[20] **Q:** Are you talking about the May time frame?

[21] **A:** Right. Then it experienced failures in [22] July due to other causes.

and then it experienced [23] failures in August due to electrical causes. So [24] there were a — and then it was recognized that some [25] of the earlier failures in't even been caught by

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[1] the operators and weren't properly logged.

[2] So by that point in time the diesel was [3] having problems due to three, at least three [4] separate causes, one relating to the diesel [5] pneumatic system, one relating to the electrical [6] system, and another one relating to the starting [7] system; that the records were not wholly adequate as [8] to how extensive the failures were because operators [9] had failed to log failures, and by September, the [10] diesel was demonstrating a multitude of problems.

[11] Q: Do you think that your view of the diesel [12] generators were unreliable, had been arrived at in [13] about the September 1990 time frame?

[14] A: Only by September had all those problems [15] come to light.

[16] Q: Prior to that you had not reached that [17] same view?

[18] A: Well, the problems mounted up and [19] problems that weren't known initially, we became [20] aware of over the summer. So by that time the [21] problems were mounting up with the diesel.

[22] Q: So you didn't have that same view in [23] April, correct? We talked about that earlier.

[24] A: Well, in April it had demonstrated [25] problems. It had failed during the site area

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[1] emergency and the company was, thought that it had [2] fixed the problems but by May it was apparent that [3] they hadn't fixed the problems.

[4] Q: So was it in May that you arrived at the [5] view that the diesels were unreliable?

[6] A: I'm not sure I flag a particular point in [7] time, but by the end of the summer, there were [8] definitely serious questions about its reliability [9] by the end of the summer because of all these [10] different problems that surfaced.

[11] Q: Let's shift to a memorandum in support of [12] summary judgment that you provided in the Department [13] of Labor proceeding in May of '91. I'm trying to go [14] along chronologically so that we can understand what [15] your state of knowledge was.

[16] (Mosbaugh Exhibit DG-11 was marked [17] for identification.)

[18] Q: (By Mr. Blake) We have marked as our [19] next exhibit, number 11, a document entitled [20] Affidavit of Allen L.

Mosbaugh. I believe it to be [21] dated May 15th, '91.

[22] It's handwritten on the version that we [23] handed out. This is just an excerpt from that [24] affidavit which includes pages one and then 13 [25] through 18 and 24.

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[1] MR. KOHN: On the last page is a [2] different date.

[3] THE WITNESS: On the copy it shows May [4] 14th and May 23rd.

[5] MR. BLAKE: That's right. The document [6] reflects those dates on the last page. I [7] don't know whose handwriting it is on the [8] first page in the top right.

[9] Q: (By Mr. Blake) Do you know what the date [10] of this document was, Mr. Mosbaugh?

[11] A: These dates on the back are my [12] handwriting.

[13] MR. KOHN: If my recollection serves me [14] right, the 5/14/91 date was a fax date. I'm [15] trying to recall. I think that maybe —

[16] MR. BLAKE: I don't think there is any [17] confusion about what this document is, in any [18] event.

[19] MR. KOHN: No.

[20] Q: (By Mr. Blake) Look at pages 14 and 15 [21] in this package. You recognize this document, Mr. [22] Mosbaugh?

[23] A: Yes.

[24] Q: Focus particularly on the language at the [25] top of page 15, that same paragraph that follows and

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[1] carries over. This is all a matter of tape recorded [2] conversation; is it not, what you're referring to [3] here?

[4] A: What I'm referring to is documented on [5] tape recorded conversations.

[6] Q: Is it true that over the phone you told [7] Mr. Shipman that the statements in the LER were not [8] true?

[9] A: That's correct.

[10] Q: And you believe that that's what the [11] transcript of that tape recording reflects?

[12] A: I think my statement in the transcript [13] says something about if anybody said there weren't [14] problems or failures, then that's just not true, [15] referring to the 18 and 19 start count.

[16] Q: And the next statement, you believe to be [17] true and supported by the tape recording, I went [18] over the dates of diesel failures with him and [19] unequivocally stated that, contrary to the [20] statements contained in the LER, the diesel had [21] failed twice?

[22] A: I went over the dates and times of two [23] specific failures of the B diesel generator, gave [24] him the date, the time, and apparent reason. I [25] unequivocally stated to him that contrary to the

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[1] statements contained in the LER, because the LER [2] that we were talking about said that no problems or [3] failures had occurred and contrary to that, I gave [4] him the dates and times of two 1-B diesel failures.

[5] Q: You believe today that statement to be [6] accurate, the count or characterization of what's [7] recorded in that tape recording on April 19?

[8] A: Yeah, and I believe Mr. Shipman believed [9] it, too, because his response was how the world did [10] this get through the PRB and something about I think [11] this statement just needs to be stricken. So he [12] must have the same understanding.

[13] Q: I'm only asking about your statement here [14] and whether or not you regard it as an accurate [15] characterization of what, in fact, was stated on [16] April 19th?

[17] A: Yes.

[18] Q: And I don't think that Mr. Shipman has [19] expressed any view on the accuracy of this [20] characterization?

[21] A: No, but that was a communication I had [22] with him, and I communicate something and he [23] responded back indicating an acknowledgment and [24] understanding of what I had communicated.

[25] Q: What about the next statement, I also

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[1] participated in subsequent telephone conversations [2] later that day in which my concern over the false [3] statement contained in the LER was relayed to Mr. [4] Bockhold, Mr. McCoy, and Mr. Hairston. What [5] subsequent telephone conversations are you referring [6] to there that you participated in?

[7] A: Well, by the time of the conversation, [8] the word had come back that my concern over the [9] false statement had been relayed up the chain of [10] command and that word had come back that Mr. McCoy, [11] Mr. Hairston, and Mr. McDonald were reviewing, I [12] believed there was a material false statement had [13] been made and they were reviewing it now.

[14] So it was my view that the entire [15] management chain at that point knew about it.

[16] Q: Do you believe this to be an accurate [17] statement of what occurred on April 19, 1990?

[18] A: Well, I would say with respect to [19] including Mr. Bockhold here, based on my current [20] knowledge, maybe the group that my concern about [21] false statement was related to was Mr. McCoy, [22] Hairston, and McDonald, was the feedback that I got [23] back.

[24] Then it was after that that Mr. Bockhold, [25] Mr. McCoy, and Mr. Hairston became involved in the

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[1] call which was referred to as call A.

[2] Q: So you believe this is an accurate [3] statement of what occurred on April 19th, if you [4] change Mr. Bockhold to read Mr. McDonald?

[5] A: Maybe "was" should say "had been."

[6] Q: You think it is an accurate statement if [7] you change was to had been and change Bockhold to [8] McDonald?

[9] A: Yeah, I think that may clarify it. Like [10] I said, based on the knowledge I have now and the [11] review that I have done of tapes and so forth, it [12] was the group of McCoy, Hairston, and McDonald that [13] I got the feedback that my concern had gone up to [14] this group rather than this group including Mr. [15] Bockhold.

[16] Q: Were you a party to a telephone [17] conversation in which your concern over the accuracy [18] of statements in the LER was relayed to Mr. McDonald [19] or Mr. McCoy or Mr. Hairston or Mr. Bockhold?

[20] A: No.

[21] Q: What does the sentence mean?

[22] A: In the later conversations that I [23] participated in in the end of the day — I'm sorry, [24] participated in later that day, my concerns over the [25] false statements, I'm saying had been relayed to Mr.

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[1] McDonald, Mr. McCoy, and Mr. Hairston.

[2] That is saying that by the time we got on [3] to what I described as call A, my concerns had gone [4] up the management chain to the top. By the time we [5] got to the point of call A, we already discussed [6] what I believe happened on call A as a result of my [7] concerns going up to the top.

[8] Q: And that which happened on call A as a [9] result of your concerns going up to the top was?

[10] A: Was that they added the words to fuzz up [11] the language but intended to keep the same language [12] that had been submitted before and went ahead and [13] issued the LER out that way.

[14] Q: And is it your view that Mr. McDonald [15] also was involved in this

conspiracy or discussion [16] to generate that language and insert it into the [17] statement in order to fuzz up?

[18] A: He may have been. Since I wasn't in [19] corporate, I would have no direct way of knowing [20] that, but I do know that he was identified as part [21] of the group that believed a false statement had [22] been made and that they were discussing and that [23] they were reviewing then. It was after that that [24] the action on call A occurred.

[25] Q: This discussion in which this approach

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[1] was conceived and then subsequently implemented in [2] call A, then, took place after your concerns were [3] transmitted to Mr. Hairston and before call A, [4] that's what you believe?

[5] A: I believe so.

[6] Q: And sometime during that period of time, [7] these individuals got together and decided how to [8] insert this language, what language would be [9] inserted and how to accomplish it, and that was [10] implemented in call A; is that correct?

[11] A: Again, this is speculation and theory [12] that this is what happened. I wasn't in corporate, [13] but this is a speculation in theory.

[14] Q: Do you see a distinction between our [15] speculation in theory and the statement which [16] appears in this document which is I also [17] participated in subsequent telephone conversations [18] later that day in which my concern over the false [19] statement contained in the LER was related to Mr. [20] Bockhold, Mr. McCoy, and Mr. Hairston?

[21] A: Well, at the time that, I have indicated [22] how I think, based on my current knowledge, this [23] should be more correctly worded. At the time I [24] wrote this, I didn't know everything that I know [25] today.

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[1] Q: At the time you wrote this, you believed [2] you had been involved in a telephone conversation [3] late in the day on April 19th in which your concern [4] over the false statement contained in the LER was [5] related to Messrs. Bockhold, McCoy, and Hairston?

[6] A: I believe this was correct at the time I [7] wrote it. I didn't write this with a thorough [8] review of tape recordings.

[9] Q: You wrote this in May of '91 based on [10] your recollection of what had occurred in April of [11] '90 without having reviewed the tape recordings of [12] the April 19th in the interim?

[13] A: Well, at this point in time the NRC was [14] in possession of the originals of

tape recordings [15] that I had made and tape recordings that I retained [16] that contained these conversations, the originals [17] were with the NRC.

[18] I had made some copies of portions of [19] those recordings, and I had sent those to my [20] counsel. I believe that there were some other, in [21] fact, paging through this, there were some other [22] dates that were not quite correct because I hadn't [23] done a — didn't have all the tape recordings to do [24] a complete review from.

[25] Q: What is the answer to my question?

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[1] A: I did this from my recollections.

[2] Q: You did it from your recollections of [3] what occurred on April 19th, 1990, but without [4] having reviewed tape recordings from April 19th of [5] '90, correct?

[6] A: Uh-huh.

[7] Q: Is that similar to the explanation of the [8] language on the preceding page 14 which says in [9] paragraph 27, I and another member of my staff, who [10] I would guess to be Aufdenkampe but I don't know, [11] you can confirm that, relayed this information to [12] SONOPCO personnel on more than one occasion in or [13] about April 17th and 18th, 1990?

[14] A: Yeah, that was the date that I was just [15] talking about.

[16] Q: That is, you regard today that as an [17] inaccurate statement because you attribute it to the [18] fact that you had not reviewed the tapes of what [19] occurred in April 1990 since April 1990, and you [20] were going just on your memory of what had occurred, [21] which was faulty.

[22] A: I was going on a memory, and I think I [23] recall this in or about language in here because of [24] my certainty or knowing that there would be some [25] uncertainty. I believe that having reviewed the

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[1] tapes and having transcripts and things like that [2] now that more than one occasion occurred on April [3] 19th, 1990.

[4] Q: So that statement should read now, you [5] believe I and another member of my staff and is that [6] Aufdenkampe you're referring to?

[7] A: Yes.

[8] Q: Relayed this information to SONOPCO [9] personnel on more than one occasion on April 19th, [10] 1990?

[11] A: Uh-huh.

[12] Q: And the more than one occasion would [13] refer to your conversation

with Shipman and your [14] conversation with Stringfellow?

[15] **A:** Well, there were two kind of separate [16] conversations with Mr. Stringfellow interrupted by a [17] conversation with Mr. Odom.

[18] In each portion of that conversation, the [19] information was relayed and then was acknowledged by [20] Mr. Stringfellow. Then he had another conversation [21] between me and Mr. Shipman and Mr. Stringfellow, [22] then, occurred after those conversations.

[23] **Q:** Is it Shipman and Stringfellow who are [24] the SONOPCO personnel that you're referring to here?

[25] **A:** Yes.

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[1] **Q:** Turn to page 16, if you would, paragraph [2] 33.

[3] (Discussion ensued off the record.)

[4] **Q:** (By Mr. Blake) Do you believe the first [5] sentence in paragraph 33 to be correct?

[6] **A:** At this point in time I do not recall the [7] nature and extent of my conversation with Mr. Larry [8] Robinson the first week of June of 1990.

[9] I recall contacting him. I believe that [10] my counsel may have contacted him, but I really at [11] this point in time can't recall what we discussed.

[12] **Q:** Do you think it is accurate in that by [13] June of 1990 you had reached an opinion that Georgia [14] Power intentionally submitted false information to [15] the NRC, the COAL and the LER?

[16] **A:** My recollection is that by the June time [17] frame of 1990, I believe that the submitting of the [18] information and the LER and the COA was either at [19] the level — it was at a level of wrongdoing which [20] is termed by the NRC as being careless disregard or [21] intentional.

[22] I know I had discussions in that time [23] frame with Mr. Robinson when I met with Mr. Robinson [24] about what those meant and what it took to be [25] classified one or the other. By that point in time,

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[1] that was my feeling, that this was in an area of [2] wrongdoing which, you know, I think it takes an [3] investigation to draw those conclusions of being [4] willful or careless disregard.

[5] I know Mr. Robinson and I had [6] conversations about that. I believe at about the [7] same time frame, I had a conversation with Mr. Roggy [8] about those same issues where we used those terms.

[9] **Q:** At that point you hadn't yet determined [10] whether or not it was inten-

tional, it might have [11] been careless disregard? Are you able to [12] distinguish between those two terms now? I don't [13] understand the humor in that.

[14] **A:** Those are legal terms. I believe they [15] are legal terms. I know that was what Mr. Roggy, [16] when I had a conversation about this with Mr. Roggy, [17] he said only lawyers could make those, distinguish [18] between those two.

[19] I don't consider myself an expert on the [20] legal ramifications of those definitions, but they [21] are into a classification that I know is considered [22] wrongdoing.

[23] **Q:** So today whatever your background, [24] whatever the amount of time is that you have spent [25] on this topic or thinking about those words, you are

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[1] unable to distinguish between the words careless [2] disregard and the word intentional?

[3] **A:** No. From a legal standpoint, I don't [4] think I have enough knowledge to do that.

[5] **Q:** I can't, of course, ask you for a legal [6] conclusion because Mr. Kohn will jump up and [7] rightfully say you can't ask about legal [8] conclusions. I'm just asking for your common [9] understanding of those two words, those two [10] expressions and whether or not you can distinguish [11] between them?

[12] **A:** I have a common understanding, but I [13] don't think they are that black and white. The [14] reason I say that is in this industry if somebody [15] chooses not to go verify something, that might be [16] considered careless disregard, but the choice, the [17] decision of making that choice might be willful.

[18] I don't think there is a black and white [19] distinguishing between those terms, and I think [20] really only an investigation can draw that [21] conclusion.

[22] **Q:** Let me ask you to look at the next [23] document in the sequence, chronological sequence of [24] documents, a document entitled Georgia Power/SONOPCO [25] 2.206 petition response is filled with lies which I

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[1] believe would have been submitted in June of '91. [2] We can mark this as the next exhibit.

[3] (Mosbaugh Exhibit DG-12 was marked [4] for identification.)

[5] **Q:** (By Mr. Blake) Do you recognize this [6] document?

[7] **A:** Yes.

[8] **Q:** And would it have been dated in June of [9] '91, to the best of your knowledge?

[10] **A:** Yes, sometime in June.

[11] **Q:** Look on the second page, if you would. [12] There is a paragraph near the bottom that states Mr. [13] Hairston, the senior vice-president nuclear, had [14] enumerable indicators and apparently direct [15] knowledge that the information presented to him was [16] suspect, if not outright false, before he signed the [17] LER.

[18] Tell me what the basis is for your [19] statement that Mr. Hairston had enumerable [20] indicators and what those were.

[21] **A:** Well, he apparently had been told the [22] information that I had provided to Mr. Stringfellow [23] and to Mr. Shipman from my conversations with them [24] and Aufdenkampe's conversations with me and them.

[25] **Q:** And we are agreed that that conversation,

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[1] if it took place, would have concerned the language [2] before the incorporation of the words comprehensive [3] test program?

[4] **A:** I believe that's correct.

[5] **Q:** What were the other enumerable [6] indicators?

[7] **A:** I'm sure that the discussions that I had [8] with Mr. Stringfellow and Mr. Shipman, we talked [9] about a number of specifics. We talked about the [10] COA and we talked about the dates and times of the [11] failures.

[12] We talked about this having been [13] presented to Ebnetter already. So I am sure that Mr. [14] Stringfellow and/or Shipman went down and relayed [15] that same information to Mr. Hairston.

[16] Mr. Hairston obviously, I believe that [17] communication linked up when it occurred because Mr. [18] Hairston came back on to the call, call A. He [19] starts asking about trips.

[20] So the communication link occurred to him [21] and he knew that before the LER was signed. That's [22] where he should have gotten his direct knowledge [23] from. In addition, the word came back to the site [24] that McCoy, Hairston, and McDonald believed that the [25] April 9th statement was false.

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[1] Since on call A, the managers got [2] together and specifically stated Bockhold and McCoy, [3] McCoy stated you ought to use the same thing that [4] you used in your presentation, George.

[5] So right then and there it was decided to [6] use the same thing that had been in the COA. Mr. [7] Hairston has since then stated that he considers [8] these to be the same. So he knew or should have

[9] known that it was false before he signed the LER.

[10] **Q:** Were the enumerable indicators and the [11] apparently direct knowledge all of those items, the [12] information which may have been provided to him by [13] Shipman and/or Stringfellow, is that your view?

[14] **A:** Yes.

[15] **Q:** Any other enumerable indicators or [16] apparently direct knowledge?

[17] **A:** This is speculation on my part, but I [18] think there is some possibility that lists of diesel [19] starts existed within corporate organization at this [20] point in time.

[21] Mr. Cash's list, for example, had been [22] given to Mr. Byrd by this point in time. So I think [23] it's altogether possible that the start list may [24] have been incorporated, but that's a speculation on [25] my part. That's another potential source.

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[1] **Q:** Is that what you have in mind here when [2] you were talking about apparently direct knowledge [3] or enumerable indicators?

[4] **A:** No, I believe when I wrote this, I was [5] referring to the information that should have been [6] provided to him by Mr. Stringfellow and Mr. [7] Shipman. I want to add one other thing to that, [8] too.

[9] I keep, you know, we keep talking about [10] as if the only flow of communication to corporate is [11] coming from me, and that's not the case. There was [12] an extensive flow of communication coming from many [13] people on-site to corporate, not just me.

[14] So Mr. Hairston, for example, and Mr. [15] McCoy and all these people participated in staff [16] meetings, participated in morning calls.

[17] The knowledge on-site as diesel failures [18] occurred live in March and so forth, these people [19] had some direct knowledge of all these things [20] because of their direct involvement in the [21] day-to-day site operations.

[22] So it's not as if the only source of [23] information that Mr. Hairston or Mr. McCoy or any of [24] these people would have would only have come from me [25] or come from Mr. Aufdenkampe.

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[1] **Q:** Do you have any knowledge that in any of [2] those conferences, there was some sort of running [3] account of numbers of consecutive total starts [4] similar to what you might see at a plant site about [5] number of days without an accident or something like [6] that?

[7] **A:** No, but in their logs, they have logs of [8] specific trips and failures which

were the ones that [9] I was telling them about.

[10] **Q:** In their logs being?

[11] **A:** Some of their notes, so forth, Mr. [12] Shipman's notes, Mr. McCoy's notes, you know, those [13] types of notes.

[14] **Q:** The missing link here, Mr. Mosbaugh, is [15] whether they had some reason to believe that the [16] number of starts after those failures weren't 18 or [17] 19, that number. That's what's missing?

[18] **A:** That's not the missing link, because the [19] April 9th correspondence and the drafts of the LER's [20] refer as the starting point to the date of the site [21] area emergency.

[22] These people's mind set, if you look at [23] the statements they made, was that they were just [24] going to use the numbers from the April 9th [25] presentation which never was based on the

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[1] comprehensive test program.

[2] **Q:** But is it clear to you that Mr. Hairston, [3] Mr. McCoy believed that what was being stated was [4] every diesel start since March 20th, 1990 has been [5] consecutive and they now number 18 to 19, is that [6] what you think that they were saying?

[7] **A:** They knew what the confirmation of action [8] letter of 4/9 said. They reviewed it and signed [9] it.

[10] They know what it said, and the group of [11] them and the group of them at that point in time [12] doesn't include Mr. Hairston, but when the group [13] discussed that, Mr. Shipman, Mr. McCoy, Mr. [14] Bockhold, they discussed using the numbers from the [15] 4/9 presentation.

[16] They didn't discuss using a set of [17] numbers that only started after the comprehensive [18] test program.

[19] Their directive was to use the numbers [20] from the 4/9 presentation, to use the 18 and 19. So [21] what was in their mind was not as you describe. [22] What was in their mind was using the numbers that [23] were part of the 4/9 basis.

[24] **Q:** Let's go back to the 4/9 basis. Do you [25] believe that Mr. Hairston, Mr. McCoy, believed and

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[1] understood that the numbers 18 and 19 described [2] every start of the diesel since March 20?

[3] **A:** That's what it says.

[4] **Q:** And that they knew better because they [5] also knew there had been failures and that's what [6] the evil was?

[7] **A:** The 4/9 letter consists of, if I recall, [8] two sentences. It says there has been this many [9] starts since the event. So it

gives a beginning [10] point in time and it has an ending point in time, [11] there has been this many, (indicating).

[12] Then it either has a separate sentence or [13] comma, then it says no problems or failures have [14] occurred during any of these stops. That's the [15] verbage that's in there and that's the verbage that [16] Mr. Hairston signed out.

[17] **Q:** So your understanding or your belief is, [18] let me just take Mr. McCoy, that Mr. McCoy [19] understood on April 9th and again on April 19th when [20] these were submitted, that 18 or 19 starts, those [21] numbers that were utilized, described every start [22] from March 20th until April 9th, and that they had [23] all been successful and there hadn't been any [24] failures?

[25] **MR. KOHN:** I object that you are asking

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[1] him to state what Mr. McCoy understood.

[2] **MR. BLAKE:** His belief to what Mr. [3] McCoy understood, yes.

[4] **THE WITNESS:** Well, I speculate that [5] that's what Mr. McCoy thought because I guess [6] he reviewed and must have approved of that [7] verbage in the 4/9 letter. I think they felt [8] that on 4/19 it would be safe to say the same [9] thing because they knew that well, if we had [10] said that before, then there could only have [11] been some new, some additional starts since [12] then.

[13] So I think they felt safe on that, and [14] I think they just kind of shifted themselves [15] back in time to 4/9. When you read the [16] transcript of tape 58, that's what Mr. McCoy [17] says, you ought to use those numbers, 18 and [18] 19, 18 and 19 had no relationship to the 4/19 [19] count, no relationship.

[20] **Q:** (By Mr. Blake) Now, I think we can [21] remove that by just talking now about April 9th, for [22] example, and what you belief to have been the [23] understandings of the people.

[24] Do you think on April 9th that Mr. McCoy [25] was unaware of any problems with the diesel or any

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[1] failures with the diesel since April, since March [2] 20? On April 9 was he aware of any problems with [3] the diesel, any problem starts with the diesel?

[4] **A:** On April 9th, I believe Mr. McCoy knew or [5] should have known that there were problems and [6] failures of the diesel.

[7] **Q:** And do you believe, therefore, that he [8] just allowed that language to go in knowing that [9] there had been problems?

[10] A: I'm speculating.

[11] Q: Yes.

[12] A: About what he did. We tried to investigate that area in the course of discovery and since we were unable to find out how it got in there and Mr. McCoy and many others said they couldn't identify whoever verified that statement.

[17] So I guess I would say at some level of wrongdoing, Mr. McCoy must have allowed that statement to be approved without verification, perhaps, knowing that it was uncorrected.

[21] Q: As of April 9th, weren't NRC personnel, wasn't there common knowledge among management and people involved with the diesel that there had been some problems associated with diesel after March 20, after the day of the event, that there had been some

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[1] subsequent problem starts? Wasn't that common knowledge?

[3] A: Well, common knowledge within Georgia Power, yeah, I think it was common knowledge within Georgia Power, with Georgia Power management.

[6] Q: But not known by NRC personnel?

A: It may have been known by some NRC personnel.

[9] Q: But you believe that Mr. McCoy and Mr. Bockhold or Mr. Hairston, all of whom thought they could get away with saying there hadn't been any problems since March 20th with the diesel?

[13] A: I think they were a little worried about getting away with it. I think that's why they made some contact with the NRC and tried to get the NRC somewhat in bed with them and maybe told them, you know, well, there were some problems when we first were priming the lines and some of that kind of discussion, but not any complete and accurate discussion.

[21] Q: But you think that these individuals believed that the number 18 and 19 represented the total number of starts since March 20?

[24] A: As of —

[25] Q: As of April 9th.

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[1] A: That's what they signed out. That's what the COA that they signed out —

Q: And they went forward with that same belief or with that same understanding on April 19th?

[6] A: Yeah, believing that there had been some more, but they felt safe saying the same thing that they had

said before. At that point in time they had submitted the 4/9 letter.

[10] They had made the verbal presentation with the 18 and 19 numbers to NRC. The NRC had those numbers in their head. That was what was before them, and they felt safe on the 19th of showing them the same numbers again and that would not raise eyebrows particularly.

[16] Q: And do you just totally dismiss the assertions, I will use for your benefit, assertions by any of these people that the introduction of the term following the comprehensive test program was meant to describe a period of time after March 20 and not until which the start or the count of successful starts was meant to occur?

[23] A: Yes.

[24] Q: You just totally dismiss that?

[25] A: I dismiss that assertion because in those

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[1] very same people that testified under oath to us that they intended to convey the same information. I will further add that those people have had great difficulty in defining, since they can't define the term comprehensive test program, how can they have had this understanding of how it made any difference.

[8] Q: I guess you would agree with me that it's a big difference between your view of why they inserted it and their not having an adequate or common understanding of what the words meant when they did insert it? There is quite a difference between those two theories or explanations for what they were doing, isn't there?

[15] A: That's why I said in my mind, there is not such a fine line, there is not such a black and white difference between careless disregard and willfulness because the choice of something to one person can appear to be careless disregard, but that choice may have been intentional.

[21] Q: Clearly under your theory, though, there was an evil intent by the insertion of the language?

[23] A: There was an intent of wrongdoing.

[24] Q: Presumably we could agree that wrongdoing is evil and, therefore, it's probably an evil

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[1] intent?

[2] MR. KOHN: We can agree on this side.

[3] Are we in agreement with that?

[4] MR. BLAKE: That intended wrongdoing is evil?

[6] MR. KOHN: Yes.

[7] (Discussion ensued off the record.)

[8] Q: (By Mr. Blake) Turn to page eight, Mr. Mosbaugh.

[10] A: (Witness complies with the request of counsel.)

[12] Q: At the top of page eight there is the statement Mr. Mosbaugh left with the understanding that the false statement would be struck. This refers to what period of time?

[16] A: After I told Mr. Shipman about the certain dates and times of failures, Mr. Shipman made a comment that he thought he just needed to get this statement stricken. I think those were his words, and maybe it would be best if we look at tape 57 transcript.

[22] Q: The period —

[23] A: But he talks about getting the statement stricken, and asked me if I think my information is good and I tell him that it's the best information

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[1] there is, and I believe he makes another comment about getting those statements stricken.

[3] So I'm left with the impression that that's the action that's going on.

[5] Q: So the period of time that you're referring to here is at the end of your conversation on April 19th with Mr. Shipman in which you discussed your view of whether or not the LER draft was accurate?

[10] A: Yes.

[11] Q: And you, at the end of that conversation with Mr. Shipman, left that conversation with the understanding that what you regarded as a false statement would be stricken or struck?

[15] A: Yes.

[16] Q: And did you subsequently come to understand on April 19th that that would not occur?

[18] A: Yeah. On call A, the conversation occurred where they were rephrasing that section instead of striking it, and I heard Mr. McCoy state how they wanted to say the same, use the same information that you used in your, to Bockhold, that you used in your April 9th presentation.

[24] So it indicated to me at that point that they were keeping it in and then Mr. Stringfellow

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[1] appeared to be taking that down as they were saying it. Then later on, Mr. Shipman read the final verbatim to me at some point on call B.

[4] Q: In the course of call A when you understood them, that it was no longer likely to be the case that the information would be stricken or

struck, did it occur to you to speak up at that [8] point when Mr. McCoy was on the phone, when Mr. [9] Hairston was on the phone, when all these people who [10] may or may not have received the information were on [11] the phone?

[12] **A:** Well, it was —

[13] **Q:** And say to them exactly what you had [14] tried to provide indirectly? Did that occur to you, [15] that thought?

[16] **A:** It didn't occur to me because what [17] appeared to me to be happening is Mr. McCoy and Mr. [18] Bockhold and Mr. Shipman were saying let's tell the [19] NRC the same thing we told them before, let's use [20] the numbers that you had in your 4/9 presentation; [21] and when they said that, they had all at that point [22] acknowledged or the word had already come back to me [23] that they had acknowledged the 4/9 presentation was [24] false.

[25] Mr. Shipman had acknowledged that, Mr.

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[1] Stringfellow had acknowledged that. It had come [2] back to me that Mr. McCoy, Mr. Hairston, and Mr. [3] McDonald believed that to be true.

[4] At that later time on call A when they [5] stated let's use, you ought to use those numbers, [6] George, you know, you ought to use the numbers from [7] the 4/9 presentation, at that point it appeared to [8] me that they were knowingly going to put the same [9] information back in as they knew at that point had [10] been incorrect in the 4/9 presentation.

[11] **Q:** And so it wasn't worthwhile to point out [12] to them to insure that they had the information that [13] you thought it was false?

[14] **A:** These were the top people in the company.

[15] **Q:** What did you regard your role as on that [16] call?

[17] **A:** I wasn't supposed to be on that call.

[18] **Q:** Why is that?

[19] **A:** Well, I didn't know that call was going [20] to take place. I stumbled into that call, and I had [21] been sent off to do something else at that point in [22] time.

[23] **Q:** You had been sent off to do that?

[24] **A:** I had been sent off to get an interview [25] with a blue collar worker that didn't work for me.

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[1] to get an interview between him and Mr. Hairston.

[2] **Q:** And you opted not to do that but rather [3] to participate in this call?

[4] **A:** No, not at all. That was what I was sent [5] off to do, and I did that. At the time I did that, [6] this other call was simultaneously occurring. I [7] guess I finished my task a little early, earlier [8] than the point in time that that other call had [9] finished.

[10] So since I was a floor below in the [11] building in Mr. Swartzwelder's office, and since Mr. [12] Aufdenkampe's office, who was a friend of mine, had [13] been a longer term friend of mine, his office was on [14] the floor above, I just stopped by Mr. Aufdenkampe's [15] office.

[16] What I discovered was this call was in [17] progress.

[18] **Q:** Did you regard it somehow as, your role, [19] being inappropriate, that is, it could have been [20] improper for you to have spoken up?

[21] **A:** Mr. Shipman knew that call was going to [22] occur, and I believe this was a planned call, and I [23] hadn't been informed of it. Like I said, I kind of [24] stumbled into it.

[25] **Q:** Are you implying that you were being cut

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[1] out of it? You had been sent off to do another [2] chore and then they arranged this call?

[3] **A:** I'm speculating about that, but that is a [4] possible speculation.

[5] **Q:** And Mr. Shipman might have been the [6] instigator of this attempt to cut you out of this [7] call?

[8] **A:** Mr. Shipman is the person that gave me [9] the assignment to arrange an interview with a blue [10] collar plant equipment operator. Equipment [11] operators didn't work for me. They weren't people I [12] normally would interface with, but I went off to do [13] this task.

[14] **Q:** Did it strike you as strange at the time?

[15] **A:** Yes, I did.

[16] **Q:** And did you say so to him?

[17] **A:** No, I said yes, sir, I will do the best [18] I can do.

[19] **Q:** Did you have it in your mind at that [20] point that you might be being sent off to do this [21] while something else went on.

[22] **A:** No, I didn't. I did believe it was [23] strange that these people are union people, there [24] was a possibility I would have to contact them at [25] home. They didn't work for me. They probably

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[1] wouldn't have known me from Adam. They worked for [2] Skip Kitchens.

[3] They worked for Mr. Swartzwelder, Mr. [4] Cash, and down the operations chain, not the support [5] side of the

house. I thought it was strange, but I [6] went out to do what I was requested to do.

[7] **Q:** And in the course of this call when the [8] comprehensive test program language was introduced, [9] what was your view after the introduction of that [10] language about the potential accuracy of the LER [11] with that language inserted?

[12] **A:** Well, by the time that language was [13] introduced, the people on the call had stated their [14] intent. I could tell from the statements on the [15] call the intent of what the people, how the people [16] were wording it.

[17] They were wording it to be the same as [18] the 4/9 letter. That's consistent with what we have [19] heard as of this date, but from strictly a verbage [20] standpoint and just looking at the words, the words [21] added a new undefined point, and so to me looking [22] only at the words and not at what the people were [23] intending, I needed to define what the comprehensive [24] test program was.

[25] **Q:** Is it fair to say that it raised a doubt

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[1] in your mind about whether or not this might not [2] have cured the problem?

[3] **A:** I guess I would say that at that point in [4] time, I guess I wasn't smart enough or cognizant [5] enough to understand all the possible ramifications [6] of why I was added and the way I view it now.

[7] I just looked at it from the verbage [8] standpoint, and I needed to find the comprehensive [9] test program. So my thoughts at that point turned [10] to that definition. My subsequent conversations [11] after that are focussed on that definition.

[12] **Q:** So is it fair so say that the [13] introduction of that language raised a doubt in your [14] mind whether or not it cured the problem?

[15] **A:** The introduction of that language kept me [16] from being able to, looking only at the words, the [17] verbage, it kept me from being able to prove it was [18] false.

[19] **Q:** If the words hadn't been introduced, if [20] they intended to just go forward with the language [21] as you saw it in the draft without the introduction [22] of that language, would you have spoken up?

[23] **MR. KOHN:** I object. It calls for [24] speculation, but the witness may answer.

[25] **THE WITNESS:** I guess the reason why I

[1] didn't speak up was because I observed the [2] intent of the people to be promulgating a [3] known false statement, and these were people [4] a good number of levels higher than me in the [5] organization.

[6] If the wording hadn't been changed and [7] I had the perception that the intent was to [8] promulgate a false statement, I don't believe [9] I would have spoken up in those circumstances [10] probably either just because I guess it would [11] have been a feel of intimidation given the [12] circumstances.

[13] Q: (By Mr. Blake) Is it your view that as [14] of April 19th, the people in corporate knew that [15] there were not 18 or 19 successful, consecutive [16] successful starts after the failures which you had [17] pointed out, that is, they knew better than that?

[18] A: Will you ask that question again.

[19] Q: I will try to do it in some bites, so [20] there is no doubt. You point out to Shipman that [21] there are some failures that occurred and you point [22] out the dates, and you believe that Shipman went on [23] and pointed out the same information, all of it, to [24] Hairston?

[25] A: And/or Stringfellow.

[1] Q: Shipman and/or Stringfellow pointed this [2] information and all of this information out to [3] Hairston. So, therefore, you believe that Hairston [4] was aware that there were a couple of failures, two [5] failures which occurred on the dates which you had [6] specified?

[7] A: And that Hairston knew at that point in [8] time that a statement like the one in the 4/9 [9] presentation was a false statement because of there [10] not being 18 or 19 consecutive starts.

[11] Q: That's my impression. You believe that [12] Hairston realized on April 19th that there were not [13] 18 or 19 starts after those couple of failures, [14] assuming that they were identified to him and the [15] dates of them by Shipman and/or Stringfellow?

[16] A: That there wasn't an 18 or 19 consecutive [17] string between 3/20 and that letter date, 4/9.

[18] Q: Yes, you believe that?

[19] A: I believe that.

[20] Q: That there weren't, in other words, 18 or [21] 19 starts after failures which could have been [22] included in whatever his understanding was of the [23] comprehensive test program?

[24] A: Now you're throwing comprehensive test [25] program in.

[1] Q: I am, and I mean it to be the same [2] question, but I will repeat it again.

[3] You believe that as of April 19th, Mr. [4] Hairston knew, realized, knew that there weren't 18 [5] or 19 consecutive successful starts after the couple [6] of failures, assuming that he was apprised of the [7] couple of failures which you had been talking to [8] Shipman and Stringfellow about?

[9] A: I hate to intercede, but you have used [10] the term successful starts again which is not a term [11] used in any of this correspondence.

[12] Q: Well, what was the terminology?

[13] A: I don't want that to muck up our [14] communication.

[15] Q: I didn't intend that it muck up our [16] communication.

[17] A: I believe that Hairston knew that there [18] was not a string of 18 or 19 consecutive starts [19] between 3/20 and 4/9.

[20] Q: At any point in time?

[21] A: At any —

[22] Q: During that interval.

[23] A: At any point in time in that interval.

[24] Q: That he knew that there weren't?

[25] A: Right, and that knowledge is how and why

[1] he knew or believed that the 4/9 letter contained a [2] material false statement.

[3] Q: And he obtained that knowledge on the [4] 19th, you believe, by virtue of your having passed [5] your information on to Stringfellow and Shipman?

[6] A: I couldn't say when he first obtained it, [7] but I believe that the communication came in first [8] on the 19th from Stringfellow and Shipman.

[9] Q: And if I ask the same question about Mr. [10] McCoy, would I have the same answer?

[11] A: I would say the same.

[12] Q: That is, that he realized that there [13] weren't 18 or 19 consecutive starts in the interval [14] of time or any period, any portion of the interval [15] of time between March 20, and April 9th?

[16] A: Yes.

[17] Q: And the same thing would be true of Mr. [18] Bockhold?

[19] A: The word came back about McCoy, Hairston, [20] and McDonald. So that's the scope of people that I [21] ascribe that to.

[22] Q: What about Shipman, where do you put him?

[23] A: I think Shipman, yeah, the same thing [24] because I would say that he and Stringfellow are the [25] same because I'm saying that's how that information

[1] got to the other three.

[2] MR. KOHN: Is this a reasonable time [3] for a short break?

[4] MR. BLAKE: Let me just finish up this [5] document.

[6] Q: (By Mr. Blake) On the same page, page [7] eight, in the last paragraph of text at the bottom, [8] it appears that the first sentence, Allen Mosbaugh [9] arrived late for the 4/19/90 PRB and missed the [10] discussion of LER 90-06 and, as such, did not vote [11] on it. Do you still believe that to be an accurate [12] statement?

[13] A: I abstained from voting; yes.

[14] Q: Were you present for the discussion of [15] the LER?

[16] A: No, I came in late on it. I came in [17] sometime, I think part of a discussion was going on, [18] but I arrived and I don't know if I arrived in the [19] middle of it or in what portion of it I arrived but [20] I missed the beginning of it or some earlier portion [21] of it and because I was not there for the discussion [22] and I had not done a review of it, I felt [23] uncomfortable voting on it and I abstained from [24] voting.

[25] Q: There had been a prior PRB meeting in

[1] which a draft of this LER was discussed on the day [2] before?

[3] A: I believe there had been a PRB meeting on [4] the 18th in which an earlier draft was reviewed.

[5] Q: And was there a vote at that meeting in [6] which you voted to accept it?

[7] A: I don't know if there was a vote at that [8] meeting or if we just took comments at that [9] meeting. I don't recall if there was a vote. The [10] PRB meeting minutes would best reflect if a vote was [11] taken at that meeting.

[12] I recall a discussion at the early [13] meeting, and I recall individuals making comments on [14] it. PRB practice would be to review something and [15] if it was felt that the comments were minimal, a [16] document might be approved with comments and if the [17] comments were more extensive, then it would just be [18] brought back to the PRB. I remember comments being [19] made on the 18th.

[20] Q: And in the PRB meeting on the 19th when [21] you walked into it, this was the subject of [22] discussion, the LER?

[23] A: Reviewing that portion of the tape, I [24] think, would best indicate that.

My independent [25] knowledge is that when I walked in, I walked in in

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[1] the middle of discussion.

[2] Q: Do you recall any of the other topics [3] that were on the PRB meeting agenda on April 19?

[4] A: From independent recollection?

[5] Q: Yes.

[6] A: No, I don't have independent recollection [7] of other topics. I believe there would have been, I [8] mean there would have been. A review of transcript [9] 58, I think, would allow us to see what topics were [10] discussed when I was there.

[11] Q: Do you recall that there were any topics [12] before the PRB at that point that were more [13] important to you than the LER and its accuracy?

[14] A: This probably was the most important [15] document we were reviewing at that time.

[16] Q: So why was it that you didn't take a role [17] in the discussion on the LER and its accuracy?

[18] A: Well, I believe there was an action item [19] on the table or as part of the PRB to be looking at [20] the start count statement because there had been an [21] evolution of that.

[22] Mr. Aufdenkampe and his group, who worked [23] for me, were working on that. I had been taking a [24] role because you have to remember the LER at that [25] point in time is essentially due. So the LER, the

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[1] way an LER is normally processed is it's hatched by [2] the site in the first two weeks of the 30 days, and [3] this is just a general rule, it's handled by [4] corporate in the latter period of time.

[5] This transfer of responsibility occurs [6] from the site to corporate and obviously at the end [7] of the 30 days, the responsibility has to be with [8] corporate because only corporate is going to sign it [9] out or in the last day or two of this 30-day [10] period.

[11] I was taking an active role in the review [12] of this because on the 18th and 19th, I was involved [13] in these calls with the corporate people about the [14] start count.

[15] Q: When did your arrival at the PRB meeting [16] take place relative to your conversation with Mr. [17] Shipman, before, after?

[18] A: The transcripts of the day obviously will [19] document that. I think my independent recollection [20] is that the PRB meeting on the 19th occurred before [21] my conversation with Mr. Shipman, but to be sure, I [22] would want

to look at a transcript, the transcript [23] sections. I think that's my independent [24] recollection.

[25] Q: But you have indicated this was the

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[1] single, this was a huge item to you, this might have [2] been the single largest item that the PRB was [3] considering at that point.

[4] A: I think this was probably the most [5] important item on the agenda.

[6] Q: And do you recall being asked whether or [7] not you wanted to vote and declining?

[8] A: I think somebody stated to me something [9] like, you know, because I arrived in the middle of [10] it, do you want to vote and I said something like I [11] probably should abstain. So that's the way it was [12] conducted.

[13] Q: Was your basis for abstaining that you [14] had not been a participant in all the conversation?

[15] A: That was part of my basis, and the other [16] part of my basis is that I just, my recollection is [17] that just prior to this PRB meeting I was attending [18] a quality assurance audit exit on the site area [19] emergency, which was another very important [20] meeting.

[21] The quality assurance department was [22] issuing its report and findings on the site area [23] emergency. I believe I was in that meeting before [24] this, and I had not had adequate time to review this [25] latest draft of the LER and had not participated in

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[1] the full PRB discussion, and there were a number of [2] other issues in this LER. I guess it was eight [3] pages long.

[4] I was working and continued to work with [5] my staff and with the corporate staff about the [6] start count numbers during the rest of the day.

[7] So the rest of the members of the board [8] who had been there for the meeting, which included, [9] I believe, Mr. Aufdenkampe, were more than capable [10] of reviewing the LER.

[11] Q: Did the LER that the PRB reviewed that [12] day include the language which you believe to be [13] false, which you shortly before or shortly after had [14] talked with Bill Shipman about who would be carrying [15] on to George Hairston about, was this the same [16] language?

[17] A: From that day on the 19th, I believe that [18] that LER contains language like since the event. I [19] think it contains the 20 times each statement and [20] yes, I believe that's the same language that after [21] that meeting, Mr. Aufdenkampe and I called Mr. [22]

Stringfellow and later Mr. Shipman about.

[23] Let me add one other thing. I believe [24] the vote on that day also included comments about [25] that section. So I believe the way the PRB works,

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[1] approval with comments, I believe it was voted on [2] and approved with a comment to do further review or [3] verification of the diesel start count phrases. I [4] believe it was approved with comments.

[5] Q: The LER included language which you felt [6] so strongly was false that you subsequently right [7] after that and went and talked with Bill Shipman [8] about it, urged that it be carried on to the highest [9] levels of management, but you remained mute in the [10] PRB meeting and elected not to vote on it?

[11] A: That language, if I recall, it was [12] approved with comments. So the completion of the [13] approval was the resolution of that portion of the [14] language.

[15] Q: So you were content not to say anything [16] to the group, the PRB group, about your views [17] because you understood that they were proving it [18] only if it was subsequently amended or subsequently [19] subject to a check?

[20] A: I didn't know the extent of the [21] conversation and discussion that had occurred before [22] I came into the meeting.

[23] This may well have all been discussed in [24] the meeting. Since I wasn't there for that and [25] since I didn't participate in discussion of other

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[1] pages and other areas, I felt it was not appropriate [2] to vote on it. I proceeded, out of the meeting, to [3] continue to work on the accuracy of those sections [4] with Mr. Aufdenkampe.

[5] Q: Was it your view that the discussion [6] which you had missed might well have answered [7] questions that you had about the accuracy of the [8] language, that's why these individuals —

[9] A: I didn't know what was discussed while I [10] was gone. I didn't need to take all the PRB [11] members' time to bring me up to speed.

[12] The PRB works as a body and only a quorum [13] is required to vote and approve and the PRB members [14] are all qualified members and I believe Mr. [15] Aufdenkampe, I believe Mr. Aufdenkampe was present [16] at the PRB who was my direct report that was working [17] on this for me through his NSAC department.

[18] Q: I can understand the parliamentary [19] approach and your sensitivity

about taking people's [20] times on potentially on less important items, but on [21] this one —

[2] **A:** Well, Mr. Blake, I think it would have [23] been inappropriate for me to vote on a document that [24] I did not feel I had thoroughly reviewed and to vote [25] on a document that I had not participated in the

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[1] discussion. I believe that is what would have been [2] inappropriate.

[3] **Q:** And what I'm really asking was did it [4] occur to you at that time to say hey, look, I think [5] this may have a material false statement in it. [6] This might be wholly inaccurate. Can somebody tell [7] me why you are content with this language?

[8] **A:** And that's exactly what Mr. Aufdenkampe [9] and I did within a fairly short period of time to [10] the corporate people that had responsibility at that [11] point in time for finalizing the LER.

[12] **Q:** Did it occur to you to say that to your [13] peers, your bretheren in the PRB?

[14] **A:** No, it didn't, and I believe, like I [15] stated earlier, that it was a comment that was part [16] of the approval to go do that after the meeting.

[7] **MR. BLAKE:** Let's take a break.

[18] (A recess was taken.)

[19] **MR. BARTH:** At the last prehearing [20] conference, your brother stated that you [21] intended to file a comment on the licensee's [22] response to the NOV. Do you still intend to [23] and, if so, can you give us some idea of when [24] to expect it?

[25] **MR. KOHN:** Yes, we intend to. I have

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[1] not figured out what our schedule was.

[2] **MR. BARTH:** Without looking at our [3] legal authority to examine it, since I have [4] not told you that, we do want to look at this [5] thing and pay close attention to it.

[6] **MR. KOHN:** Once we finish up with [7] discovery here, we will be able to focus our [8] attention.

[9] So that should be at the end of today. [10] Is there a particular time line that was [11] better suited for the NRC? Obviously the [12] sooner the better.

[13] **MR. BARTH:** People are reviewing the [14] licensee's response now and as soon as they [15] get everything they need to review, the [16] faster it's going to go.

[17] **MR. BLAKE:** I have heard that the NRC [18] is likely to beat their deadline and may be [19] done next week. So you

might want to get it [20] in, take that into account.

[21] **MR. KOHN:** You couldn't say that with a [22] straight face, though, Ernie.

[23] (Discussion ensued off the record.)

[24] **Q:** (By Mr. Blake) Okay, Mr. Mosbaugh, let's [25] shift, if we can, to your response to Georgia

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[1] Power's First Request for Documents which you [2] provided on June 2nd of '93.

[3] Let me provide you with a copy both of [4] the interrogatories and the response. If we could [5] mark this as Exhibit 13 which is comprised of two [6] documents, actually, Georgia Power Company's first [7] set of interrogatories to Allen L. Mosbaugh served [8] on the 30th of April 1993.

[9] (Mosbaugh Exhibit DG-13A was marked [10] for identification.)

[11] **MR. BLAKE:** And Intervenor's Response [12] to the First Request for Documents by Georgia [13] Power Company which I believe to have been [14] dated June 2nd, 1993.

[15] (Mosbaugh Exhibit DG-13B was marked [16] for identification.)

[17] **Q:** (By Mr. Blake) Mr. Mosbaugh, let me [18] direct your attention to page 21 of your response. [19] Read, if you would, the first paragraph under number [20] four, submission of false information in the cover [21] letter accompanying the revision to the LER. Are [22] you on page 21?

[23] **A:** I was hoping I could look at the question [24] and get reoriented here.

[25] **MR. KOHN:** What page?

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[1] **MR. BLAKE:** Page 21.

[2] **MR. KOHN:** I think that's a [3] subsection. I don't think that's actually a [4] response.

[5] **MR. BLAKE:** This is within the response [6] to 12.

[7] **MR. KOHN:** Okay, We were reading [8] interrogatory number four.

[9] **THE WITNESS:** I am oriented in the [10] document.

[11] **Q:** (By Mr. Blake) Have you read that [12] paragraph, the one that begins on June 29, 1990?

[13] **A:** No, let me read it. All right.

[14] **Q:** Is it your view today that that, do you [15] still hold that view today as indicated in that [16] paragraph?

[17] **A:** Yes.

[18] **Q:** And what is your basis for believing that [19] Mr. Hairston knew that the cover letter contained [20] false information concerning the cause of the error?

[21] **A:** I believe it was common knowledge, I [22] won't say common knowledge but since Mr. Hairston, [23] in my belief, was involved, in the submission of the [24] false statement in the original LER, then Mr. [25] Hairston should have known what the error was; yet

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[1] it seems to me that the error here was attributed to [2] record keeping practices.

[3] In addition, I was starting to say that I [4] think it was common knowledge that as far as Mr. [5] Hairston and personnel in corporate was concerned, [6] that there was a personnel error, at least this was [7] part of what they appeared to be aware of, I'm not [8] saying that was the cause of the errors in the LER [9] or the COA, but that was being bantered about as a [10] cause at the same time.

[11] This document states that the reason for [12] the error was record keeping practices. I had [13] contested that at the time Mr. Hairston had been [14] involved with this LER and because of his firsthand [15] involvement, he should have known better. He should [16] have known that record keeping practices were not [17] the cause.

[18] **Q:** The fact that you were contesting Mr. [19] Hairston's or anyone else's view of what the cause [20] of error was wouldn't make it an intentional or [21] knowing false statement or false information, would [22] it?

[23] **A:** I believe that his direct — he had [24] direct involvement in this LER. He was one of the [25] people that I believe was aware that the start count

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[1] that they put in it was false before it went out, [2] and I think it's consistent with my belief that the [3] initial LER was intentionally put out false; that [4] Mr. Hairston ascribing the cause in the revision [5] that he put out to record keeping practices [6] indicates that he should have known that that was [7] not the correct cause.

[8] **Q:** If you accept for the moment that Mr. [9] Hairston, on April 19th, did not know that the [10] statement they were making was false —

[11] **MR. KOHN:** Of course, we don't accept [12] that, but for your question, we will —

[13] **MR. BLAKE:** I suspect you will agree [14] with me that there is some record evidence to [15] support that.

[16] **MR. KOHN:** Not from my position, there [17] isn't, but go ahead.

[18] **Q:** (By Mr. Blake) If you accept that Mr. [19] Hairston did not realize on April 19th, did not [20] intend to put out false

information in the LER, did [21] not know that he was, then could you accept that the [22] cause might have been improper record keeping rather [23] than personnel error or whatever you believe to be [24] the proper cause?

[25] **A:** No, I don't accept that record keeping

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[1] practices could under any circumstance be the cause [2] of the error in the LER or its predecessor; no, I [3] don't.

[4] I can't accept record keeping practices. [5] You're asking me to speculate starting from a [6] starting point that I don't believe. So this [7] logical process gets fairly twisted. I don't [8] believe record keeping practices played any [9] significant role in the errors that occurred.

[10] **Q:** Do you understand the basis for Georgia [11] Power's having said that record keeping practices [12] was the root cause of this problem? Do you [13] understand what they have articulated as the root [14] cause and why?

[15] **A:** I understand what they have articulated [16] and do not agree with it because they continue to [17] point out record keeping practices associated with [18] the records that were never used.

[19] So record keeping practices associated [20] with the records that were never used or accessed [21] for this can't be a reason.

[22] **Q:** If the combination of records had been [23] available to Jimmy Paul Cash, completed and [24] available as they were to you by April 30th, do you [25] think that it is possible he might not have provided

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[1] the same information he provided on or about [2] April 7th?

[3] **A:** No.

[4] **MR. KOHN:** First, I have to object, [5] because exactly the information that Mr. Cash [6] provided, Mr. Cash testified that he provided [7] the right number and that Mr. Bockhold didn't [8] use the number.

[9] So I can't, unless you want to state [10] what you believe Mr. Cash provided and [11] starting that as the foundation, I don't [12] think the witness can answer because I don't [13] think the testimony is consistent between [14] your witnesses.

[15] **Q:** (By Mr. Blake) When you provided your [16] information on April 30 to Mr. Bockhold, did you use [17] a number of different records?

[18] **A:** Yes, I did.

[19] **Q:** And were the combination of records that [20] were available for you

to use on April 30 all [21] available and compiled so that Mr. Cash could have [22] used them?

[23] **A:** I don't specifically know the answer to [24] that as to the state of compilation of the records. [25] The data sheets, the diesel data sheets may not have

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[1] all been available at that point in time, but I [2] don't know that. I do know that if I had provided [3] my — if I had chosen to use only the records that [4] Mr. Cash did use, I would still have been able to [5] make an accurate and conservative statement.

[6] **Q:** That is, by use of only the control room [7] log?

[8] **A:** Yes.

[9] **Q:** You would have arrived at the same result [10] that you did on April 30?

[11] **A:** I would have been able to make an [12] accurate statement and conservative statement to the [13] NRC relative to the numbers of starts.

[14] **Q:** What would that number have been?

[15] **A:** I would need to review those logs at this [16] point to answer your question.

[17] **Q:** Have you ever done that exercise?

[18] **A:** I have looked at the control log from [19] that period of time. I have also looked at the list [20] that Mr. Cash compiled from the control log, and in [21] the course of Mr. Cash's deposition, we asked Mr. [22] Cash to do that.

[23] The information was there. All of the [24] problems and failures were logged, and the few [25] errors that existed in the control log would have

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[1] resulted in making an accurate but conservative [2] statement to the NRC.

[3] **Q:** Do you believe if the record keeping were [4] to be improved upon in terms of consistency and in [5] terms of timeliness of compilation of these kinds of [6] data, that it would be an improvement to [7] management's ongoing knowledge of diesel operation?

[8] **A:** Will you repeat the question?

[9] **Q:** Sure. Do you believe that if there were [10] improvements in the consistency of information in [11] the logs, the way in which operators make notations [12] about diesel starts, for example, and if compilation [13] of data regarding diesel starts were to be done in a [14] more timely way than what actually existed as of [15] early April 1990, that it would provide more [16] reliable information on an ongoing basis to [17] management about how the diesels had been operating?

[18] **A:** When you say logs, are you referring to [19] control log?

[20] **Q:** That's one of them, yes.

[21] **A:** Just the control log?

[22] **Q:** No, any logs which are used in [23] conjunction with record keeping associated with the [24] diesel.

[25] **A:** Normally management doesn't use those

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[1] logs, but better practices with respect to record [2] keeping by the operators would be an improvement.

[3] **Q:** And you think that the record keeping [4] such as it was in early April 1990 regarding past [5] performance of the diesel played no role in people's [6] understanding of the accuracy of the numbers that [7] they were reporting to the NRC on April 9th and then [8] on April 19th?

[9] **A:** It played no role in the accuracy of the [10] statements that were made on the 9th and the 19th [11] because of the methods and the reasons for [12] incorporation of the numbers and the statements.

[13] **Q:** Refer on the next page in your response [14] to item lettered C at the top of page 22. Referring [15] to the question, as well, that was being responded [16] to there, do you still believe that to be your [17] position?

[18] **A:** I believe it is accurate, and I will [19] state that my response there is relative to learning [20] about the approved or seeing the final draft of the [21] June 29th, '90 letter. I believe I saw or became [22] aware of that a few days after it was signed out.

[23] **Q:** What are the specific incidents you're [24] referring to there?

[25] **A:** Well, the incident is the June 29th, '90

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[1] letter containing an inaccurate statement about the [2] reasons for the errors, and the question is when [3] I became aware of such incident.

[4] **Q:** Is this response meant to convey you [5] learned about the contents of the June 29, 1990 [6] letter a few days after it was submitted?

[7] **A:** Yeah, the final approved content, right.

[8] **Q:** Let me go now to your hearing testimony [9] to the Senate committee. I have already provided [10] you with a copy of a transcript of your testimony.

[11] **A:** Oral testimony?

[12] **Q:** Yes. Let me refer you to pages 53 and [13] 54, specifically at the top of page 54, lines three [14] and four, if you would take a second and read that [15] in context.

[16] **A:** All right.

[17] **Q:** Can you describe to me what you meant by, [18] and certainly these statements are the core of the [19] basis of the decision?

[20] **A:** The diesel start statements, specifically [21] the statements in the confirmation of action letter [22] about the diesel starts.

[23] **Q:** Those are the statements that are [24] referred to, and what do you mean by are the core of [25] the basis of the decision?

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[1] **A:** I believe that probably the most [2] important aspect of the NRC's decision to allow [3] restart of the plant after the site area emergency [4] was the status or their perception of the reliable [5] status of the diesel generator, and so I consider [6] the diesel to be at the core of the NRC, the [7] perception of the diesel reliability status to be at [8] the core of their decision.

[9] They considered other things, but I think [10] that was probably the most important thing because [11] if the diesel had not failed, there would never have [12] been a site area emergency declared.

[13] **Q:** So you believe that the statements about [14] there being 18 or 19 successful starts and there [15] being no problems or failures to have been the core [16] of the basis for the NRC's determination to allow [17] Vogtle to restart, is that what you mean to infer [18] here?

[19] **A:** I think I said the NRC's perception of [20] the reliability of the diesel was at the core of the [21] NRC's basis for restart decision.

[22] **Q:** And in taking in kind of all that we know [23] today and altering the language to make it accurate, [24] what would those numbers be?

[25] Let's assume that we were to write in

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[1] that same letter to the NRC, make the same [2] presentation, oral presentation on the 9th, the same [3] COA letter on the 9th of April, but change the [4] numbers to, in fact, be those numbers of consecutive [5] starts prior to April 9th at whatever point in time [6] they started which I think we could agree would have [7] been around March 23rd, correct me if I am wrong, so [8] that the presentation would have been wholly [9] accurate. Is that what you would have had the [10] language read?

[11] **A:** The NRC has stated their view of the [12] materiality, if you will, of the diesel start [13] statements, and I think they expressed it fairly [14] well, that if they had known, one, they said it was [15] material to their restart decision.

[16] Then they additionally had said that if [17] they had known certain things, it would have caused [18] them to look into these areas further. If they had [19] looked into these areas further, they would have [20] looked into continuing Calcon switch problems; and I [21] believe ultimately would have delved into the root [22] cause deeper and if they reached the point where [23] they thought the root cause had been adequately [24] provided, they surely would have never given [25] permission to restart.

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[1] **MR. KOHN:** I would like to make a small [2] belated clarification objection to your [3] question, focussing on the diesel start [4] language.

[5] The record indicates that Mr. Mosbaugh [6] indicated that the diesel error statement was [7] also materially false and that is something [8] that was not included in the last question.

[9] **Q:** (By Mr. Blake) Taking your counsel's [10] suggestion to heart, Mr. Mosbaugh, would you agree [11] that that language, too, would have to have been [12] changed?

[13] **A:** Well, it should never have been submitted [14] the way it was.

[15] **Q:** And is it your view today that, knowing [16] all that we know and describing it accurately to the [17] NRC on April 9th, that the NRC would not have [18] allowed restart?

[19] **A:** Yes, that is my opinion, and I believe [20] that is the opinion of the NRC because I believe [21] they considered these items to be material to their [22] decision.

[23] **Q:** Do you understand their statement that [24] these items were material to mean if they had [25] received different information, that it would have

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[1] altered their determination?

[2] **A:** Yes, that it may have altered their [3] determination, that's correct.

[4] **Q:** May have, but in your view, it would [5] have?

[6] **A:** You're asking me to speculate about what [7] the NRC would do.

[8] **Q:** Yes, I am.

[9] **A:** I believe if the NRC knew all of the [10] relevant facts, that they would not have given [11] permission to restart and that includes the facts [12] that water poured out of trip lines and all those [13] kinds of things that we now know today.

[14] **Q:** And is that what you read from the NRC [15] notice of violation or other information? Where do [16] you read this? Where do you get this impression?

[17] **A:** I have just recently gotten — I'm sorry, [18] part of where the information of materiality comes [19] from the NRC is in the NRC's response to [20] interrogatories that we submitted.

[21] It seems to me that there are some [22] statements maybe in the OI report or in the notice [23] of violation about the effect of false statements on [24] the NRC's actions.

[25] **Q:** So it's a combination of NRC's responses

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[1] to your interrogatories, in OI report, and the [2] notice of violation language?

[3] **A:** Those are the sources that I can recall [4] at the moment.

[5] **Q:** And when you read those, you interpreted [6] them as a basis for an NRC position that had they [7] received what you regard as accurate information on [8] April 9th, they would not have restarted, they would [9] not have allowed restart of the Vogtle plant?

[10] **A:** The basis for my speculation?

[11] **Q:** Yes.

[12] **A:** As to what the NRC would do?

[13] **Q:** Yes.

[14] **A:** Yeah, I consider this part of the basis [15] for that. Like I say, the basis wouldn't end [16] there. I think what I recall some of those [17] statements saying is that if we had known, we would [18] have looked further.

[19] What I'm saying is, therefore, part of [20] that process would have been looking further and [21] finding more. I'm saying that that would have [22] ultimately resulted in no decision for restart, a [23] decision against restart at that point in time.

[24] **Q:** Let me ask you to look at the next [25] document chronologically which is your response to

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[1] the second set of interrogatories provided by [2] Georgia Power. We will mark these as 14, and it's [3] actually two documents.

[4] The first is Georgia Power Company's [5] Second Set of Interrogatories and Request for [6] Documents to Allen L. Mosbaugh served on the 26th of [7] July 1993 and the second is your response, Mr. [8] Mosbaugh, entitled Intervenor's Response to the [9] Second Set of Interrogatories of Georgia Power [10] Company served on August 11th, 1993.

[11] (Mosbaugh Exhibits DG-14A and DG-14B [12] were marked for identification.)

[13] **Q:** (By Mr. Blake) Let me ask you to take a [14] look at page eight of your response. For purposes [15] of my question, I don't think you will need to look [16] at the question or do a lot of sur-

rounding [17] research. Let me just ask you the question.

[18] In your response there, 5-F, which [19] appears on page eight, you refer to an instruction [20] Cash received from George Bockhold, just get the [21] good stuff. What's the basis for that?

[22] **A:** The basis of that is I was repeating what [23] I remembered as a statement made to me by Mr. Larry [24] Robinson about when he was asking me some questions [25] about Cash's instructions, and that was what I

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[1] remember Mr. Robinson to have said or asked me [2] about, was Mr. Cash, you know that Mr. Cash has been [3] instructed to, he had used these words or a phrase [4] like this.

[5] So that's my basis for that. Having at [6] this time reviewed Mr. Cash's OI testimony, I don't [7] believe this phrase as quoted here is something that [8] Mr. Cash indicated as his instructions, and I [9] believe in actuality, it's just get the successful [10] starts instead of the spreads.

[11] **Q:** So do you believe this to be inaccurate?

[12] **A:** I believe it is inaccurate, but it was [13] what I knew at the time or believed at the time from [14] Mr. Robinson to have been the instruction. [15] Obviously Mr. Cash's testimony would have been the [16] best place to get the source of that information [17] which I eventually got access to.

[18] **MR. BLAKE:** Were you intending to [19] supplement this, Mr. Kohn?

[20] **MR. KOHN:** We were intending to review [21] responses, I mean there has been a lot of new [22] material from all sides and I don't know what [23] the parties, I think there was a conversation [24] with the licensing board where all the [25] parties agreed to review everything and

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[1] supplement.

[2] That's my recollection. I don't know [3] if that's on the time line anywhere, but the [4] parties have agreed to do that at a date [5] certain.

[6] **MR. BLAKE:** Had you had an intention to [7] supplement this particular one?

[8] **MR. KOHN:** I haven't read these [9] responses in about a year now.

[10] **MR. BLAKE:** So the answer is probably [11] no?

[12] **MR. KOHN:** The answer is that we have [13] to read them all after we finish our [14] discovery and see where we stand.

[15] **Q:** (By Mr. Blake) What was the context of [16] Mr. Robinson's describing Mr.

Cash's instruction [17] from Mr. Bockhold as being to just get the good [18] stuff?

[19] **A:** I recall that he asked me something about [20] what I knew or what I might know about Cash's [21] instructions, and he made mention to me that his [22] understanding was that Mr. Cash's instructions were [23] just get the good stuff or a phrase like that.

[24] I had not heard that, that that was his [25] instructions. Like I say, since I reviewed Mr.

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[1] Cash's OI testimony, I believe his instructions were [2] more like just get the successful starts. You asked [3] for the context, I guess I assume Mr. Robinson [4] meant that the good stuff was synonymous with [5] successful starts. I think good stuff was a [6] different -- it's not a defined term. I would call [7] that slang more or less, but I think Mr. Robinson [8] had that in mind. That's not good communication, I [9] think it's slang.

[10] **Q:** Was this a conversation that you had with [11] Mr. Robinson which you gathered this information?

[12] **A:** Yeah, and I can't recall when that [13] occurred, but he had asked me about Cash's [14] instructions, and this was a comment that I [15] recalled.

[16] **Q:** Do you recall receiving similar types of [17] characterizations from Mr. Robinson?

[18] **A:** Of a slang nature?

[19] **Q:** Of any nature, characterizations of [20] conversations between Georgia Power employees, [21] characterizations of submittals by Georgia Power to [22] NRC, characterizations of anything that we might [23] refer to as factual evidence in this case?

[24] **A:** This was a little different. Mr. [25] Robinson normally wouldn't use that kind of term.

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[1] I'm a little unclear about characterizations, but I [2] would say generally no, Mr. Robinson asked [3] questions, I provided him information. We discussed [4] what I provided him, but Mr. Robinson would not [5] generally comment on or provide what you're [6] describing as characterizations.

[7] **Q:** Yesterday you described Mr. Robinson as [8] the source of some information you had about some [9] recent interviews of Georgia Power people. Do you [10] remember that?

[11] **A:** No, I'm not sure what you're referring [12] to.

[13] **Q:** Yesterday you described Mr. Robinson as [14] having been the source of some information to you [15] about questions which had been put to Geor-

gia Power [16] personnel regarding air quality. Do you recall [17] that?

[18] **A:** Oh, about finding water?

[19] **Q:** Yes.

[20] **A:** It wasn't about air quality. It was [21] about finding water.

[22] **Q:** I put it in the air quality camp because [23] that's what the significance is of finding water, [24] isn't it?

[25] **A:** No. Finding water is significant in and

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[1] of itself.

[2] **Q:** Was the source of the water that was [3] being discussed or concerned something other than [4] air?

[5] **A:** The source was humidity.

[6] **Q:** Out of the air?

[7] **A:** From the air from the compressors, but [8] the significance is not air quality. The [9] significance is water and its effects on the [10] pneumatic system.

[11] **Q:** So in the last two days we have discussed [12] at least two instances where Mr. Robinson was the [13] source of information for you. Could you describe [14] to me or characterize for me how much information [15] you have received from Mr. Robinson over the last [16] year, not provided to but received from.

[17] **A:** Generally Mr. Robinson has asked me [18] questions. I believe the comment he made to me [19] about the finding of water or personnel being asked [20] about water was when I took my allegation to Mr. [21] Robinson about the finding of water as documented in [22] the tape recording.

[23] So that was how we came to discuss the [24] finding of water and the knowledge that the tape [25] recording indicates of Mr. Burr and Mr. Chennault

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[1] and Mr. Stokes, of the water pouring out of the trip [2] line. So that was the point in time that I had a [3] discussion with him. No, I don't believe I can tell [4] you information I received from Mr. Robinson over [5] the past year.

[6] At times I have talked to Mr. Robinson [7] about issues on a daily basis, and I have had a lot [8] of contact with Mr. Robinson because of the [9] submitting of allegations and the discussion of [10] those allegations in concurrence with him, and it's [11] been very extensive.

[12] **Q:** Is your inability to characterize the [13] information that you have received from Mr. Robinson [14] today, received over the last year, because it's [15] been so extensive, you just aren't able to do it [16] now, or would you say these are the only two facts [17] you have ever heard from Larry Robinson? What

is [18] the problem or what is the inability to do it?

[19] **A:** Well, if you have had that many conversations, I don't know what it is. But with [21] that many conversations, it just becomes very [22] difficult.

[23] I have been discussing these topics with [24] Mr. Robinson for four years, and to try to -- I mean [25] if you were to ask me the same question as to

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[1] information I received from my wife, I would have [2] the same difficulty.

[3] I might be able to remember the most [4] recent conversations, but what information I [5] received from, my wife, I couldn't even answer that [6] question.

[7] **Q:** I would understand that and, frankly, it [8] never had occurred to me to find some analogy [9] between conversations between you and your wife and [10] you and Larry Robinson.

[11] I'm just trying to understand what the [12] nature is of the discussions between you and Mr. [13] Robinson which have been other than Mr. Robinson [14] asking you questions as an OI investigator.

[15] What I'm getting out of this, and I would [16] appreciate it if you would correct the impression I [17] have, that we have been discussions where Mr. [18] Robinson passes on to you a good deal of information [19] and it's difficult for you to characterize it [20] because it has been so extensive, as extensive, for [21] example, as have been conversations with your wife [22] over the last year.

[23] **A:** I think that's an improper [24] characterization. When I call Mr. Robinson, it's [25] usually because I have a new piece of information.

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[1] but let me give you an example.

[2] As we have done depositions over the last [3] two months, when we did a deposition and I heard [4] testimony of Georgia Power witnesses that I thought [5] were relevant to my allegations, I would from time [6] to time call Mr. Robinson and say I want to let you [7] know what was testified to today by this witness [8] about this issue, and I would pass that information [9] on to Mr. Robinson, and I would in my mind go [10] through the various witnesses we did that day and [11] provide that to him.

[12] I provided to him, you know, what I [13] thought were key things. In some cases they were [14] things that I knew had not resolved in his OI [15] investigation, but I felt we had gotten an answer [16] to, maybe a missing link or something like that or [17] maybe a different story, a contradictory story, [18]

perhaps, to what he had obtained in OI testimony.

[19] So I would have reviewed that testimony [20] with him and, like I say, at times in the last [21] couple of months, I called him sometimes daily, [22] providing him that information. Generally he does [23] not provide information back to me, and generally [24] those calls are for the purpose of my feeding him [25] information.

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[1] On a few occasions he has asked me some [2] additional questions. I guess these are two [3] examples, the one you mentioned about the water, and [4] I believe that occurred when I contacted Mr. [5] Robinson about the tape segment about finding water [6] in the trip lines and this one here came from, it [7] seems to me this comes from a year or more ago, my [8] recollection of Cash's instructions.

[9] **Q:** So is your characterization which I asked [10] earlier for you to give me about the amount of [11] information Mr. Robinson has passed along to you [12] that it's infrequent?

[13] **A:** My contacts with Mr. Robinson are [14] generally because I call him to give him [15] information, and that's been very frequent after [16] late, but my contacts with him are generally to give [17] him information.

[18] **Q:** Has he ever called you to pass on [19] information to you?

[20] **A:** He has called me to return my calls, but [21] called me to pass on information, he has called me [22] to ask me a question, perhaps. To pass on [23] information, that's not something that I can recall [24] that would normally happen. Normally I call Mr. [25] Robinson and sometimes he has returned my calls.

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[1] **Q:** What is the answer to my question?

[2] **A:** The communication was generally from me [3] to him. It's very difficult in the course of as [4] much communication as I recall to remember it all.

[5] **Q:** Mr. Mosbaugh, it's obvious that you're [6] struggling to try to recall or to try to give me an [7] answer to the question, but take your time.

[8] **A:** I can't recall occasions where he called [9] me to pass on information, but I have difficulty [10] because I have talked to him on many occasions, as I [11] previously described.

[12] **Q:** Do you recall at this point any other [13] pieces of information which Mr. Robinson has given [14] you? I don't understand the smirk or the humor.

[15] **A:** There is no humor, it's just that when [16] you ask questions about com-

munications which have [17] been over a period of four years and ask for any [18] other item in a period of four years with a lot of [19] communications going on, that taxes my memory.

[20] I believe in the course of responding to [21] some of these interrogatories, we described some of [22] my conversations in an interval with Mr. Robinson, [23] and I think that's provided in one of these [24] interrogatory sets.

[25] At that time I think I did the same thing

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[1] because a similar question had been asked about [2] communications with Mr. Robinson, and I scratched my [3] head and tried to remember as much as I could that [4] was responsive to that question, and I believe it [5] was in one of these documents.

[6] At this point I'm having trouble [7] remembering what was provided in that response from [8] independent recollection. I guess including what [9] was responded to you before, that's as much as I can [10] remember here.

[11] **Q:** So you don't remember any other [12] information that you received from Mr. Robinson?

[13] **A:** Not in addition to what might be in that [14] other, in that response. I remember that instance.

[15] **Q:** On the same thing, page, look at 6-B.

[16] **MR. KOHN:** I guess in reviewing the OI [17] report and seeing how Mr. Robinson questions [18] witnesses, it often appears he provides them [19] with information and, for instance, plays [20] portions of the tape or I know this is on the [21] tape, what's your response to that.

[22] So I have a difficult time with your [23] line of questioning inasmuch as it seems Mr. [24] Mosbaugh was expressing that with respect to [25] one thing that was in the course of

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[1] conversation with Mr. Robinson about did you [2] know anything about Cash just wanting to get [3] the good stuff or something like that.

[4] So I have a hard time trying to [5] differentiate in my own mind how Mr. Mosbaugh [6] is supposed to find out what is being [7] volunteered to him or what's in a question. [8] I really think that the questions and answers [9] are very vague on that.

[10] So I have a general note I wanted to [11] make on that point. I think that just [12] looking at my understanding of how Mr. [13] Robinson questions people, it would be an [14] impossible position for any of the witnesses [15] to say what information did Mr. Robinson [16] volun-

teer to you because even during the [17] course of the OI interview —

[18] **MR. BLAKE:** I think, with all due [19] respect to your observation, that the [20] discussions that Mr. Mosbaugh is describing [21] between Mr. Robinson and him and the [22] relationship that has existed and does [23] presently exist between Mr. Mosbaugh and Mr. [24] Robinson is quite different from on the [25] record OI interviews by Mr. Robinson of other

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[1] GPC personnel, remarkably different.

[2] **MR. KOHN:** I would agree because I [3] don't believe Mr. Robinson is capable of [4] having discussions with Georgia Power people [5] without their attorneys and formal things. I [6] mean Mr. Robinson doesn't have that problem [7] with Mr. Mosbaugh.

[8] **MR. BLAKE:** I don't understand the [9] point of that comment.

[10] **MR. KOHN:** You said that the [11] relationship is different, because Mr. [12] Mosbaugh is the source and Mr. Mosbaugh is [13] providing information.

[14] Georgia Power Company is not providing [15] information particularly that I'm aware of. [16] It certainly doesn't seem to be volunteering [17] information.

[18] **Q:** (By Mr. Blake) Focussing on 6-B at the [19] bottom of page eight, will you read, as well, the [20] interrogatory to which you are responding.

[21] **A:** (Witness complies with the request of [22] counsel.)

[23] **Q:** Do you still agree that that's an [24] appropriate answer, a correct answer to the [25] interrogatory?

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[1] **A:** Yes. The information about the 1-B [2] diesel trips, dates, and times that I provided is [3] the information that demonstrated that the draft [4] that was in existence at that time was inaccurate [5] and that same information, those same trips, dates, [6] and time demonstrates that the final language is [7] inaccurate, as well.

[8] This question is with respect to the [9] language, the final language, but those particular [10] trips make the final language inaccurate as well as [11] the draft language inaccurate.

[12] **Q:** So although the interrogatory referred to [13] the final language as it appeared in the LER which [14] included subsequent to this test program and your [15] answer referred to discussions you had of draft [16] language which did not include those words, you [17] still believe it to be responsive?

[18] **A:** No. You are mischaracterizing it. The [19] information is the trips of the 1-B

diesel on the [20] 22nd and on the 23rd at particular times is what I [21] provided, and that information made the draft [22] inaccurate and made the final language inaccurate.

[23] **Q:** Your answer in 6-B is referring, however, [24] to discussions that you had before this language was [25] inserted?

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[1] **A:** That's correct, but the information [2] conveyed to those people is applicable to both and [3] that information demonstrates the statement as being [4] inaccurate.

[5] **Q:** Would your answer be the same with regard [6] to F on the next page, page nine, that is, the [7] discussions on April 19th, the phone conversations [8] in which you participated wherein Shipman and [9] Stringfellow were told that the language equivalent [10] of this constituted a material false statement was [11] the draft language?

[12] **A:** The language that is equivalent to this [13] is the confirmation of action letter. I view that [14] the information, that the language in the final LER [15] and the confirmation of action letter are equivalent [16] language and were intended to be equivalent.

[17] So I had conversations on the 19th with [18] Mr. Shipman and Stringfellow about the confirmation [19] of action language, and I view that as being [20] equivalent to the final language put in the LER. So [21] that's what I mean by equivalent to this.

[22] **Q:** Go to page ten, response to interrogatory [23] number seven. What was your role in the preparation [24] of this revision?

[25] **A:** We have discussed that before, but my

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[1] role was that after April 30th when I notified my [2] general manager that the confirmation of action [3] letter and the LER contained a false statement, I [4] subsequently worked on getting a revision to the [5] LER.

[6] I got Mr. Aufdenkampe who worked for me [7] at the time to use his NSAC department to draft a [8] revision, and we got that revision process through [9] the plant review board and we sent it to corporate [10] by May 15th.

[11] **Q:** And were you involved in the version of [12] the letter, the version of the document which was [13] provided to the corporate office by May 15th?

[14] **A:** I was involved in it in that I reviewed [15] it and I think to some degree worked with Mr. [16] Aufdenkampe or his people on it. I participated in [17] the PRB review of it, yes. Can we take a restroom [18] break?

[19] **MR. KOHN:** Mr. Mosbaugh needs to go to [20] the restroom.

[21] **MR. BLAKE:** I only have one more in [22] this document, if you can hang on for one [23] more.

[24] **Q:** (By Mr. Blake) Let's go to page 14. [25] Looking at C-2 at the bottom of page 14. I don't

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[1] think you need to look at a lot of other documents [2] in order to understand my question. First, do you [3] believe that statement that appears in C-2 still [4] today?

[5] **A:** I guess I would like to know what the [6] response is to.

[7] **Q:** Forget the yes portion and just take the [8] statement by itself. I think it stands alone.

[9] **A:** Yes, I believe that's correct.

[10] **Q:** Now, we have talked a lot about who was [11] on the call and who wasn't. We have talked a fair [12] amount about who knew or who should have known. [13] Just tell me now what you mean there by everyone.

[14] **A:** I mean everybody, let me explain it in [15] general terms.

[16] **Q:** Okay.

[17] **A:** Everybody having line responsibility for [18] that document and its accuracy and its verification [19] that participated in that call, I believe those [20] people knew or should have known, had an obligation [21] to know those facts.

[22] By name, since Mr. Hairston signed the [23] document, it would be Mr. Hairston, Mr. McCoy, Mr. [24] Shipman, Mr. Bailey if he was involved, Mr. [25] Stringfellow, and because Mr. Bockhold participated

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[1] in the phrasing of the development of the section [2] that was later determined to contain a false [3] statement, I include Mr. Bockhold, Mr. Aufdenkampe, [4] and myself. Let me try to work it from the other [5] direction now.

[6] **Q:** Mr. Ward, Mr. Rushton are some names that [7] have appeared.

[8] **A:** I include Mr. Rushton because Mr. Rushton [9] was in line responsibility for that letter. Mr. [10] Ward was outside the line responsibility.

[11] **Q:** So you don't include him? There was some [12] question whether or not he was on the call, but [13] assuming he was on the call, you still would not [14] include him in this?

[15] **A:** Well, I would include him, because I [16] believe he did know because Mr. Burr worked for him [17] and was communicating. My statement was knew or [18] should have known.

[19] Q: Okay.

[20] A: I believe he did know. Therefore, for [21] that, seven people, I guess that's everybody I'm [22] not including the two power timers over in Mr. [23] Aufdenkampe's office.

[24] Q: You're not including them?

[25] A: I'm not including — my view is I don't

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[1] really consider Mr. Webb or Mr. Williams to be on [2] the call because of the brevity of their walking in [3] and out.

[4] MR. BLAKE: Okay, let's take a break.

[5] (A recess was taken.)

[6] Q: (By Mr. Blake) Mr. Mosbaugh, let me turn [7] now to the transcript of your interview by OI in [8] November of 1993, and let me ask that a copy of that [9] transcript be marked as Exhibit 15.

[10] (Mosbaugh Exhibit DG-15 was marked [11] for identification.)

[12] Q: (By Mr. Blake) This is a 195 page [13] transcript dated November 4th, 1993 of an interview [14] conducted by the Office of Investigations of Allen [15] Mosbaugh. The front page on the exhibit indicates [16] that it began at 10:15 a.m. You have seen this [17] document before, Mr. Mosbaugh?

[18] A: Yes.

Q: Focussing on page 34, which we could do [20] it in several different places, but this is just one [21] instance, you refer there, at lines ten through 16, [22] to the Kochery list. Mr. Mosbaugh, describe to me [23] the Kochery list.

[24] A: I was refreshing my memory with the page [25] you referred me to. Paul Kochery provided me a list

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[1] that he, my memory is that he prepared it or Mr. [2] Stokes had prepared it for him. It was a [3] handwritten list consisting of several pages.

[4] I think it had some pages, the list that [5] I remember was for B, and he may have had some pages [6] for A and some pages for B, but I think I was mainly [7] looking at pages that related to the B diesel. It [8] was handwritten. It had a date and, I think, a [9] time, and a brief comment about what had occurred on [10] that start.

[11] It was pretty much one line per start. [12] It seemed like it started sometime in March, early [13] in March, as far as the listing. I specifically [14] remember it containing entries on March 22nd and [15] that were the basis for my supply that [16] information to Mr. Shipman.

[17] Q: On the 19th of April?

[18] A: On the 19th of April. It seemed like it [19] contained information that went, start information [20] that went

into April, and it seemed like it started [21] with entries that began about the time of the site [22] area emergency.

[23] I'm not sure exactly what Mr. Kochery's [24] purpose was for the list, why he had prepared it. I [25] believe that he had prepared it from, he or Mr.

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[1] Stokes had prepared it from the operations logs or [2] from their involvement in the actual testing. [3] That's most of what I remember about the Kochery [4] list.

[5] Q: Do you know what prompted the generation [6] of the Kochery list?

[7] A: I don't recall the reason why Kochery or [8] Stokes or whoever prepared it started preparing it, [9] but it seems like I believe they prepared it related [10] to the occurrence of the site area emergency.

[11] Q: Could it have been because the diesel [12] start log was not up to date and they wanted [13] information to be brought up to date from March [14] 13th, 1990?

[15] A: I wouldn't think so, the reason being is [16] that what Mr. Kochery or Mr. Stokes would have [17] wanted to update the diesel start log would have [18] been for the purposes of classifying starts as valid [19] or invalid, and the list that I remember didn't [20] contain sufficient information for Mr. Stokes or Mr. [21] Kochery to do those classifications.

[22] So I don't think that it would have been [23] an interim or something to supplant the valid, [24] nonvalid start information because I don't believe [25] when I saw it, the information there wouldn't have

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[1] allowed me to determine valid or invalid starts. I [2] don't think it would have allowed them to determine [3] valid or invalid starts.

[4] Q: How did you come by the Kochery list?

[5] A: I went to Paul Kochery's office and was [6] talking to him, and I don't know if I asked him a [7] question in that area and he showed me a list that [8] he had.

[9] Q: And did you make a copy of it then for [10] yourself?

[11] A: I can't recall exactly what I did, if I [12] took it and made a copy or if he gave me his list or [13] if I took — I don't recall how I got a copy or [14] exactly what I did with it, but I know I obtained [15] those 1-B diesel start trip failure information from [16] his listing. I think maybe — well, we can call it [17] a log, but it was his listing of starts.

[18] Q: And it was this Kochery list that you [19] were relying on when you raised

with Mr. Shipman and [20] Mr. Stringfellow the fact that there had been [21] problem starts?

[22] A: It was either the list or information [23] from the list, and when I spoke to Mr. Shipman, I [24] know I gave him a specific date and time and a [25] reason for some 1-B diesel failures. I recall that

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[1] I had obtained that information from what I am [2] terming the Kochery list.

[3] Q: You have indicated that you recall the [4] list enumerated the two diesel problems which you [5] raised with Shipman and Stringfellow on the 19th. [6] Did it also indicate the diesel problem on the 24th?

[7] A: I can't recall that. I don't recall [8] raising that with Mr. Shipman, but I can't recall [9] that being on the list or not on the list.

[10] Additionally, I can't recall if it was [11] listed on the list but not listed as a trip, [12] perhaps. I just can't recall that from his list.

[13] Q: Is it possible that's because the list [14] stopped on the 23rd?

[15] A: No, my recollection is that the list went [16] into April.

[17] Q: And what did you do with the list?

[18] A: Well, I had used the list for that basis [19] and had the specific information of the trip which I [20] conveyed to Mr. Shipman, as I talked about.

[21] At the same time, Mr. Aufdenkampe had Mr. [22] Odom going to the control logs and developing a [23] list, and to my recollection toward the very end of [24] the day on the 19th, and I believe probably after [25] the LER was signed out, they came back with a list.

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[1] and I don't remember if they had gotten every start [2] at that point.

[3] I know they were trying to find some [4] starts, and they had said something that they hadn't [5] gotten all the starts yet, but it seems like at the [6] very end of the day, they came back with a list out [7] of the control that they had obtained, control [8] logs.

[9] Then I also on that day or maybe the next [10] day, I had mentioned to Gus Williams who was in the [11] office next to Aufdenkampe's office, whether or not [12] he had control logs, and he indicated that he did [13] have the control logs.

[14] So after that point in time, I used the [15] control logs and got some other documents to develop [16] the list that I eventually put together on the [17] 30th. So at that point in time the usefulness of [18] the Kochery list, there wasn't any use and I don't [19] know what has happened to it since that time, to a [20] copy or

information that I had to take from that [21] list.

[22] When I developed the final list, I had [23] used the source documents, the control log and [24] diesel log sheets, I think the diesel log, the data [25] sheets, and the control log.

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[1] So when I used information after that, I [2] would use source information.

[3] **Q:** Incidentally, while you're raising that [4] topic, how would you characterize that task which [5] you accomplished by April 30 of getting a list that [6] you were confident about, easy, difficult, somewhere [7] in between? What would you use in the way of [8] adjectives or characterization?

[9] **A:** Well, it had been my decision to use all [10] the available information that I had rather than, [11] for example, just the control log. I also worked on [12] it mostly at home rather than at work.

[13] **Q:** Did you just take the logs home?

[14] **A:** I took some copies of some logs home, [15] made some copies. I would say the task was of [16] average difficulty. I didn't consider the task [17] extremely difficult.

[18] There were difficulties to the extent [19] that I had to get control logs, somebody that [20] routinely worked in operations, you know, and had [21] logs.

[22] First I had to get control logs, but I [23] found those with Mr. Williams, and he had a couple [24] of books of them. The only difficulty with control [25] logs is that I had to look through maybe 50 pages or

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[1] whatever the appropriate number of pages was.

[2] The data sheets, I got from Mr. Stokes [3] and I think he maintained the log information there, [4] too. In addition, part of my effort was not just, [5] like I said, I chose to use all the information and [6] cross compare and cross reference.

[7] So part of my effort was to identify [8] which information was in one log but not in another [9] log. So by doing that, I made the task more [10] difficult than merely taking one log and getting [11] information.

[12] At any rate, I would say it was an [13] average difficulty task. It wasn't extremely [14] difficult. Like I say, I know I worked on it at [15] home. Since I have four kids at home, time is [16] scarce.

[17] **Q:** You realize or you believed that a false [18] statement was submitted on April 9th, and you [19] realized that sometime shortly after April 9th, [20] correct, regarding the number of diesel starts?

[21] **A:** When I got the document, yeah, the [22] statement in the document about the air quality and [23] the diesel starts were the two things that jumped [24] out at me. I began an effort to work on air quality [25] first.

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[1] **Q:** By the 19th, you were more convinced that [2] the information was inaccurate?

[3] **A:** Yes.

[4] **Q:** That had been provided to the NRC?

[5] **A:** Yes.

[6] **Q:** And you were able to get a list that you [7] were comfortable with by April 30th which you [8] described as average difficulty?

[9] **A:** The list that I was — the purpose of the [10] list that I prepared for April 30th was to put my [11] management on notice of the false statement being [12] made. So yeah, that's correct, I was able to do [13] that by April 30th.

[14] **Q:** How much time do you think you invested [15] in obtaining the documents and then in compiling the [16] information?

[17] **A:** I can only give you a very crude estimate [18] since that's something I worked on over four years [19] ago, definitely less than eight hours total.

[20] **Q:** Looking at page 34, your statement there [21] at lines ten through 16 would reflect that you [22] believed the Kochery list went through April 13th, [23] correct?

[24] **A:** I need to read this transcript section in [25] its context, because I think it starts on the

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[1] previous page. It appears to start on page 29, so I [2] need to read for a little bit here. Okay, I have [3] read those documents now.

[4] **Q:** Was it your testimony, then, to the [5] Office of Investigations that your recollection was [6] that the Kochery list went through April 13th?

[7] **A:** I think my testimony was that I was [8] reviewing a transcript which I recall was, I think [9] it's on tape 57 or something, that Mr. Shipman made [10] the comment about a list that went through the 13th [11] of April.

[12] That's what I was talking about when I [13] discussed with OI the 13th of April date was based [14] on Mr. Shipman's comments about the list that he [15] said we were reviewing the other day that went [16] through the 13th of April.

[17] **Q:** Do you believe that Mr. Shipman was [18] referring to the Kochery list?

[19] **A:** I thought that was possible, yes.

[20] **Q:** You think that Mr. Shipman had available [21] to him the Kochery list?

[22] **A:** I don't know. It's possible that he [23] did. It's possible that he was discussing [24] information he had obtained without having the list.

[25] **Q:** You don't have a recollection of what the

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[1] date was for final data on the Kochery list that you [2] saw?

[3] **A:** My only recollection is that I believe it [4] went into April, and I don't have a recollection of [5] the exact end date of that list.

[6] **Q:** Do you today have the same view that you [7] indicated here that Mr. Shipman may have had a copy [8] of the so-called Kochery list?

[9] **A:** Or he had information about the list, [10] yes.

[11] **Q:** Do you think, therefore, that Mr. Shipman [12] had available to him a list of starts that went [13] through April 13th?

[14] **A:** I don't know.

[15] **Q:** Is that what your testimony is here?

[16] **A:** I think my testimony is and my belief [17] currently is that he may have, but I don't know. He [18] was referring to something. He could have had it or [19] he could have just had information about it.

[20] **Q:** Is this based on your review of the tape [21] or a transcript of the tape of language?

[22] **A:** This discussion, yes, it is.

[23] **Q:** And discussion that you're talking about [24] took place on April 18th?

[25] **A:** I want to look at the transcript. It

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[1] seems like it was the 18th or the 19th. Mr. [2] Robinson and I were looking at a transcript when we [3] discussed this. It seemed to me more like it was on [4] the 19th rather than the 18th. It seems like that [5] was on the 19th.

[6] We may want to look at tapes 57 and 58 to [7] allow me to determine that. That's what I was [8] looking at at the time that this interview [9] occurred. Mr. Mosbaugh, let me return if I can to a [10] document that we talked about earlier but only in a [11] very general way, and that's one of the memoranda [12] from you to Mr. Kohn, this one dated 4/12/94 [13] entitled The Real Cause, The Diesel 1-A Failure.

[14] Focussing on the first paragraph of this [15] document, what is the significance of the statement [16] that the early morning of 3/20/90 was a cool one.

[17] **A:** It was. It was one of the coolest [18] mornings of the month.
[19] **Q:** What is the significance of that to [20] discussion?
[21] **A:** Well, if you have air that has high [22] humidity in it, then it has a high dew point.
[23] If it's environment, the ambient air in [24] the diesel room were to be cooled down due to the [25] ventilation system drawing in cool outside air, then

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[1] condensation could occur inside of the lines that [2] had high humidity in them.

[3] **Q:** So the significance —

[4] **A:** The condensation inside of those lines [5] would create water within the pneumatic system which [6] any good engineer knows would cause serious problems [7] with a pneumatic control system.

[8] **Q:** So the significance is that the [9] temperature in the diesel room on the morning of [10] 3/20/90 was cool?

[11] **A:** Well, there is two aspects to that being [12] cool. Because of the way that the ventilation [13] system is oriented in the diesel room, there is a [14] definite potentiality for local cooling as opposed [15] to just the bulk room temperature.

The air is drawn inward into the building [17] under normal ventilation through sets of large [18] louvers in the walls. These louvers are oriented in [19] such a way that local blasts of outside air comes [20] in, so there could be, say, spot cooling unrelated [21] to those louvers.

[22] So I think this possibly has an impact on [23] causing dew to form within the pneumatic control [24] system. I don't want to link it just to the bulk [25] room temperature. That's my clarification or my

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[1] point.

[2] **Q:** What's your basis for stating that the [3] dew points were probably in the 80 degree Fahrenheit [4] range?

[5] **A:** Well, the dew points that were taken and [6] measured on 3/29 were in the 80 degree range.

[7] I believe those dew points were the data [8] taken closest to the time of the site area emergency [9] on 3/20. The values are only taken routinely once a [10] month. So the closest data is, I believe, the data [11] from 3/29.

Q: So it's an assumption that the [12] 3/29 data [13] would also have applied on 3/20?

[14] **A:** That's my best engineering judgment, that [15] that would be the most appropriate data to apply.

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[16] **Q:** Do you know what the air receiver tank [17] pressure was when the system was operating?

[18] **A:** Just normally operates at 220 to 240 PSI [19] range in the air receiver.

[20] **Q:** And what about the normal pressure in the [21] control air system?

[22] **A:** I have testified to this previously. It [23] is regulated at approximately 60 PSI.

[24] **Q:** And did you take into account the [25] difference in the pressures when you talked about

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[1] what the dew point would have been for the control [2] air?

[3] **A:** I'm aware of the effect of pressure on [4] relative humidity and dew point, and I'm aware that [5] the dew point at 60 PSI is a lower dew point than [6] the dew point at 240 PSI.

[7] **Q:** Do you know about how much lower?

[8] **A:** It's approximately 30 degrees [9] Fahrenheit. The use of a zygomeric chart can [10] determine that. It is not a completely constant [11] function, but you can go into a humidity zygomeric [12] chart, go to the different lines of pressure and [13] determine the change in dew point.

[14] **Q:** Would you agree with me that humidity in [15] the air would precipitate out, in other words, the [16] dew point would be reached a good deal sooner in the [17] air receiver tank than in the control airlines?

[18] **A:** No.

[19] **Q:** You wouldn't?

[20] **A:** No.

[21] **Q:** Do you think it might be reached at the [22] same time?

[23] **A:** The air receiver tank is a large tank [24] with considerable thermal mass as compared to small [25] three-eighths inch lines.

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[1] Therefore, you have to take into account [2] the heat transfer and the rated of cooling of a [3] small line, which would be fairly rapid as compared [4] to the rate of cooling of a very large tank.

[5] In addition to that, you have to take [6] into account the aspects of mass transfer within the [7] tank because the tank is holding a very large volume [8] of air as opposed to a tiny small line.

[9] It's similar to taking a temperature [10] measurement. A thermometer, you would use a very [11] tiny dot device, bulb so that its conditions [12] equilibrate rapidly as opposed to a very large item [13] which would only change its conditions very slowly.

[14] So small lines are going to be affected [15] more rapidly than the large receiver.

[16] **Q:** Is it your view that the water which [17] caused a problem in the control airlines got there [18] by virtue of the dew point being reached in those [19] lines and moisture in those lines and air in those [20] lines precipitating out rather than water getting [21] into the lines, for example, from water which [22] existed in the air receiver?

[23] **A:** I believe that is the most likely [24] scenario for the creation of water in the trip [25] lines.

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[1] **Q:** What's your understanding of how the air [2] is supplied to the sensors on the diesel?

[3] **A:** From the receiver through the logic board [4] to the trip lines to the sensor.

[5] **Q:** Is it supplied only when necessary, that [6] is, when you try to start the diesel or is it [7] supplied at all times?

[8] **A:** I believe there is different conditions [9] based on different trip lines. In addition, the [10] presence of leakage would effect that and the —

[11] **Q:** The so-called .006 orifices or orifice [12] that play an important role in your theory, is it [13] your understanding that the air supply to the [14] sensors passes through the .006 orifice?

[15] **A:** Under some conditions of operation, I [16] believe that I will be, I am looking at that area, [17] and I believe the statements or understandings [18] expressed in this document, I am going to clarify [19] and correct those because I have a better [20] understanding of the pneumatic logic board currently [21] having obtained a schematic of it through the [22] discovery process.

[23] **Q:** So it might be that the theory that you [24] have outlined in this document, you will be amending [25] or supplementing?

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[1] **A:** As I study the logic diagram, I realize [2] that I may want to clarify some statements I made [3] here because of my initial review of that. It does [4] not affect in a general way or in any general way [5] the basic theory.

[6] **MR. BLAKE:** I'm going to stop now [7] because I have promised Mr. Barth to leave an [8] hour and a half for him to ask questions, and [9] it's about 6:30. If he does not take that [10] time, then I will have an opportunity to [11] return to this with you. Thank you, Mr. [12] Mosbaugh.

[13] **EXAMINATION**

[14] **BY MR. BARTH:**

[15] **Q:** Mr. Mosbaugh, I will ask you several [16] questions to follow up Mr. Blake's.

[17] If I mischaracterize what you say, please [18] correct me. I think you testified that Mr. Hairston [19] in 1990 submitted papers to the NRC which he knew [20] contained false information; is that correct?

[21] **A:** If you're referring to the 4/9/90 letter [22] and the LER, are you referring to others?

[23] **Q:** I think either he did or he didn't.

[24] Regardless of what the letters may be, is it your [25] testimony that Mr. Hairston submitted information to

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[1] NRC in 1990 which you knew contained false [2] information?

[3] **A:** Yes, that is my testimony.

[4] (Discussion ensued off the record.)

[5] **Q:** (By Mr. Barth) Sir, do you consider that [6] Mr. Hairston, because of the submission of false [7] information to the NRC, so lacks character that he [8] should not be permitted to engage in activities [9] related to Atomic Energy Act as amended?

[10] **A:** Yes, because of the —

[11] **MR. KOHN:** Do you want him to — I [12] don't know how you want him to answer the [13] question, just as a yes?

[14] **MR. BARTH:** Most of the questions, I am [15] entitled to yes or no, but at the same time [16] he is entitled to explain an answer. If he [17] wishes to explain an answer, I certainly [18] would not prohibit him from doing so.

[19] **THE WITNESS:** Yes, because of the [20] multiple submittals and the pattern of [21] submitting false information and then [22] proceeding to continue to cover up and not be [23] candid with the NRC about admitting errors [24] and resolving the problem.

[25] **Q:** (By Mr. Barth) Going again back to 1990,

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[1] is it your opinion that Mr. McCoy is tainted by the [2] lack of good character to the extent that he should [3] not be permitted to engage in activities subject to [4] the Atomic Energy Act?

[5] **A:** Yes, because of similar response that I [6] gave for Mr. Hairston.

[7] **Q:** I would then take Mr. Bockhold, who was [8] the plant manager at the time, and ask you the same [9] questions, does he so lack character that he should [10] not be permitted to engage in activities regulated [11] by the Nuclear Regulatory Commission?

[12] **A:** Yes.

[13] **Q:** You were the acting general manager at [14] the time; is that correct, sir?

[15] **A:** No.

[16] **Q:** On March 20, 1990, were you the acting [17] general manager?

[18] **A:** No.

[19] **Q:** When were you acting general manager?

[20] **A:** Never.

[21] **Q:** Were you acting as assistant general [22] manager?

[23] **A:** Of plant support, yes.

[24] **Q:** And when was this time period, sir?

[25] **A:** I was made acting general manager or

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[1] acting assistant general manager, plant support, in [2] approximately March of 1989 and held that position [3] until approximately May 10th of 1990.

[4] **Q:** You had another assistant general [5] manager, Mr. Greene; is that correct?

[6] **A:** Mr. Greene assumed the role of assistant [7] general manager, plant support, in approximately May [8] 10th of 1990.

[9] **Q:** Do you feel that the lack of integrity [10] and character ascended above Mr. Hairston in the [11] corporation?

[12] **A:** Yes, I do.

[13] **Q:** Do you feel that Mr. McDonald lacked [14] character so as to not be trustworthy to operate a [15] nuclear facility?

[16] **A:** Yes, I do.

[17] **Q:** Did that extend above, does your opinion [18] extend above Mr. McDonald to the president of the [19] corporation at the time?

[20] **MR. KOHN:** For clarification, the [21] president of SONOPCO, we might consider to be [22] Mr. Farley or the president of Georgia [23] Power?

[24] **MR. BARTH:** I don't know where SONOPCO [25] came from.

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[1] **MR. KOHN:** Are you looking at a 1990 [2] time frame, I guess?

[3] **MR. BARTH:** In March of 1990, there was [4] no SONOPCO.

[5] **Q:** (By Mr. Barth) Could you answer the [6] question?

[7] **MR. KOHN:** You're referring to the [8] president of Georgia Power?

[9] **MR. BARTH:** Yes.

[10] **THE WITNESS:** I think my answer would [11] be yes.

[12] **Q:** (By Mr. Barth) Mr. McDonald has now been [13] replaced by Mr. Woodard and Mr. Bockhold has been [14] replaced by Mr. Beasley. Is it your view that Mr. [15] Beasley and Mr. Woodard are also tainted with this [16] culture of lack of good character?

[17] **MR. KOHN:** I'm not going to object to [18] him answering, but I will pose an objection [19] that discovery with respect to remedy has not [20] been begun and we have not deposed Mr. [21] Woodard or Mr. Beasley on this area. So with [22] that, I will allow him to answer.

[23] **THE WITNESS:** I don't fully know [24] enough about Mr. Woodard to be comfortable [25] answering your question.

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[1] **Q:** (By Mr. Barth) Could you answer the [2] question with regard to Mr. Beasley who is now [3] general manager of the plant?

[4] **A:** I have difficulty answering with respect [5] to Mr. Beasley, also, because there isn't an issue [6] that involves Mr. Beasley that we have not done [7] discovery on that would help me in reaching an [8] answer to your question.

[9] So I find it difficult to answer the [10] question with respect to Mr. Beasley, as well, [11] because of not having done the deposition or [12] discovery with him.

[13] **Q:** Do you feel that the Vogtle facility [14] should not be permitted to operate at the present [15] time under the people who are now operating in it?

[16] **A:** Yes, I feel it should not continue to be [17] operated under the management structure that now [18] exists.

[19] **Q:** Do you feel that the Nuclear Regulatory [20] Commission has failed in its operations to protect [21] the public health and safety by permitting the [22] Vogtle facility to operate at the present time?

[23] **A:** I understand that the NRC is still in the [24] process of making decisions on these issues. So I [25] believe the NRC has failed in the extent that I

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[1] think they should have been more timely, but I would [2] reserve opinion on that until the Nuclear Regulatory [3] Commission completes what has been a lengthy [4] investigation and makes a determination and if, once [5] they do that, I hope they do the right thing and I [6] guess I would only say I could only hope that it had [7] been a little faster. I reserve judgment until they [8] make their decisions.

[9] **Q:** At a minimum would the right thing be to [10] prohibit Mr. Hairston and Mr. McCoy from engaging in [11] the present activities which they do?

[12] **A:** At this point you're asking my opinion [13] about remedy, what I guess is being referred to as [14] remedy. I believe there should be management [15] changes. I believe there should be a change, a [16] program instituted to change a culture that I [17] believe existed and continues to exist.

[18] Q: The question was in direct relation to [19] Mr. Hairston and Mr. McCoy to whom you already [20] testified lacked character.

[21] A: I believe that part of the management [22] changes should include their removal from their [23] current authority over Plant Vogtle.

[24] Q: Three times, sir, you responded to [25] questions from Mr. Blake to the effect that Mr.

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[1] Chennault saw, quotes, water poured out of the trip [2] lines, close quote. Is that a reasonable [3] characterization of your testimony?

[4] A: Not exactly. My references there are to [5] a portion of the transcript where Mr. Burr and Mr. [6] Chennault discuss the pouring of water out of a trip [7] line, and based on Mr. Chennault's contribution to [8] the conversation, I infer that he was there and knew [9] about it or saw it.

[10] Q: Do you recall the piece of tape you [11] played at the deposition of Kenneth Burr in which [12] Mr. Burr walked in the room with a jar or a glass of [13] water?

[14] A: No.

[15] Q: You do not recall playing the [16] sort of a tape at the deposition of Kenneth Burr?

[17] A: No, I'm sorry. I thought you were [18] talking about —

[19] Q: Should I try the question again, sir?

[20] A: Yes.

[21] Q: Did you attend the deposition of Kenneth [22] Burr?

[23] A: Yes, I did.

[24] Q: Did you play a tape at that deposition?

[25] A: We played one or more tapes at that

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[1] deposition.

[2] Q: Did one of those tapes contain a passage [3] in which Mr. Burr walked into a room in which [4] Mr. Chennault was present and Mr. Burr walked into [5] the room and said he had a glass or water or a jar [6] of water. Do you recall playing that piece of tape?

[7] A: I would like to clarify your [8] characterization of the situation. We did play a [9] tape relative to the situation you're describing. [10] However, Mr. Burr was in the room, he didn't walk [11] into the room.

[12] Mr. Stokes was in the room on the phone [13] and Mr. Chennault was sitting in the room. I [14] walked into the room.

[15] Mr. Burr was either holding or had next [16] to him a jar partially filled with fluid that [17] appeared to be water, and we played a tape relative [18] to the conversation that occurred in that setting.

[19] Q: Could you briefly summarize the thrust of [20] that tape, sir?

[21] A: The thrust of the tape was when I saw the [22] jar of fluid, I asked what's that, or something to [23] that effect, where did that come from.

[24] Mr. Burr stated that it had poured out, [25] and it was further clarified that it had poured out

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[1] of a trip line, meaning a diesel pneumatic trip [2] line.

[3] I think words were, say, out of the end [4] of it. I think Mr. Chennault had been the one who [5] added out of the trip lines as to the origin of [6] where it had poured out.

[7] Q: And in response to questions from your [8] counsel, did Mr. Burr not testify he did not recall [9] this?

[10] A: He testified he did not recall that.

[11] Q: When your counsel deposed Mr. Stokes, did [12] not Mr. Stokes also testify he did not recall this?

[13] A: I believe that's true.

[14] Q: Does Mr. Chennault recall this at all?

[15] A: We didn't depose Mr. Chennault.

[16] Q: Do you have any other information which [17] would tell you whether Chennault recalls this?

[18] A: I'm not sure if Mr. Burr or Stokes made a [19] comment about that.

[20] Q: Do you know of anyone who questioned Mr. [21] Chennault and told you the results of his [22] questioning in this regard?

[23] A: Yes. Mr. Robinson indicated to me that [24] he was going to question Mr. Chennault. That is an [25] additional fact I am aware of.

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[1] Q: Did he tell you the results of his [2] question to Mr. Chennault?

[3] A: I can't recall that he told me the [4] results.

[5] Q: Is this piece of tape part of what [6] convinces you that there was water in pneumatic [7] lines which caused the problem with the Calcon [8] switches?

[9] A: It's part of it, and the testimony of [10] additional witnesses is an additional part of it, [11] because despite the fact that those three witnesses [12] denied having found water in the trip lines, other [13] witnesses acknowledged their memory that water was [14] found.

[15] Q: Would it be proper for me to characterize [16] your April 12, 1994 note to

Mr. Kohn the real cause [17] of diesel 1-A failure, characterize that as stating [18] that your view is that water in the lines caused the [19] problems of the switches?

[20] A: Not necessarily of the switches. A [21] proper characterization of my theory is that water [22] formed by condensation within the diesel pneumatic [23] system, pneumatic control system caused a variety of [24] malfunctions including the failures during the site [25] area emergency.

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[1] Q: Did it cause corrosion in the Calcon [2] sensors?

[3] A: It may have caused some corrosion in the [4] Calcon sensors. Most of the materials of the Calcon [5] sensors would be generally corrosion resistant to [6] water.

[7] Q: From your own personal knowledge there [8] was corrosion of the sensors?

[9] A: Since most of the components are [10] resistant to corrosion by water in those sensors, [11] generally there wouldn't be corrosion in them.

[12] Q: The question is do you know of your own [13] personal knowledge if there was corrosion in the [14] Calcon sensor switches?

[15] A: My only knowledge about corrosion within [16] a Calcon sensor is obtained from NUREG 1410.

[17] MR. BARTH: Counsel, could you ask your [18] witness to answer the question?

[19] MR. KOHN: He answered it. He said [20] that he has no knowledge other than what's in [21] NUREG 1410.

[22] MR. BARTH: Thank you for that.

[23] Q: (By Mr. Barth) Does the NRC analysis [24] agree with your theory that water caused the [25] problems?

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[1] MR. KOHN: Can you identify which NRC [2] analysis?

[3] MR. BARTH: Any.

[4] Q: (By Mr. Barth) Did the NRC analysis [5] after the accident on the 20th of March support your [6] theory that there was water in the lines?

[7] A: I can —

[8] MR. KOHN: I are you referring to NUREG [9] 1410?

[10] THE WITNESS: I consider the NRC's [11] analysis to be that which is contained in [12] NUREG 1410. However, that analysis is a [13] melding of the NRC's analysis as obtained [14] from Georgia Power plus whatever analysis [15] they added to that. It doesn't state in the [16] NRC analysis.

[17] It states the licensee conclusion. I [18] believe it states the licensee has con-

cluded [19] or something to that effect that the most [20] probable cause is improper intermittent [21] operation of the Calcon switch. That does [22] not agree with my analysis, and I believe [23] that statement of the licensee's most [24] probable conclusion is incorrect.

[25] Q: (By Mr. Barth) Are you aware of the

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[1] conclusion of the manufacturer of the switches, [2] sensors?

[3] A: I'm not aware that the manufacturer of [4] the switches, the Calcon corporation, did an [5] analysis which concluded anything about the diesel [6] failure during the site area emergency.

[7] Q: Taking you back to Ken Burr's deposition, [8] do you recall that Mr. Burr testified that there [9] were regular meetings every day in which the events [10] were discussed and at which the NRC was present?

[11] A: I know from his deposition and from [12] events occurring at the time that there were [13] frequent meetings with the NRC and a whole variety [14] of Georgia Power people.

[15] Q: Did you attend those meetings, sir?

[16] A: I attended some, probably not all that [17] many, but I attended some meetings with the IIT team [18] or members.

[19] Q: Do you recall discussing problems with [20] the diesel generators at those meetings?

[21] A: Yes, problems that were discussed with [22] the IIT team.

[23] Q: Is it correct that you worked closely [24] with Mr. Robinson, the NRC investigator, in [25] developing his investigation?

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[1] A: No, I wouldn't say so. When you say [2] developing his investigation, you mean like writing [3] his report?

[4] Q: No. Did you suggest areas for him to [5] investigate?

[6] A: I gave Mr. Robinson allegations. I gave [7] Mr. Robinson testimony.

[8] Q: Is the sum and substance of the [9] information you gave to Mr. Robinson contained in [10] your allegations and in your two depositions? Not [11] depositions, examinations under oath.

[12] A: I gave Mr. Robinson allegations at my [13] first meeting before my first OI interview. I had a [14] lengthy discussion with him where I informed him of [15] a lot of things and gave him documentation that's a [16] meeting that occurred in mid June of 1990.

[17] It wasn't until about July, it seems like [18] the 17th or 18th that we did a formal interview. I [19] sent, in the course of the

summer of 1990, I sent [20] additional documentation to Mr. Robinson. I recall [21] I sent additional allegations to Mr. Robinson.

[22] So I would say the sum and substance of [23] the information I gave to Mr. Robinson is not [24] limited to the two OI interviews.

[25] It's those interviews plus documentation

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[1] plus allegations that I have given him over the [2] course of time.

[3] Q: Did you tell him what telephone calls had [4] been made and did you ask him questions about those [5] telephone calls?

[6] A: What telephone calls had been made when?

[7] Q: During March and April 1990.

[8] A: Yes, I discussed communications that had [9] occurred in that time frame.

[10] MR. KOHN: Were you referring to the [11] conference calls in tapes 57 and 59?

[12] MR. BARTH: I haven't an answer.

[13] Q: (By Mr. Barth) Have you read, Mr. [14] Robinson's OI report?

[15] A: Yes, I have.

[16] Q: And do you agree with it?

[17] A: I guess basically I do. However, I [18] believe in some areas, the OI report does not go far [19] enough in detail.

[20] Q: Do you think that it is, with its [21] exhibits, persuasive?

[22] A: Yes.

[23] Q: Do you think that an educated person with [24] a normal intelligence would be persuaded that the [25] conclusions reached by Mr. Robinson are correct?

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[1] A: I would think so.

[2] Q: You are aware that the OI investigation [3] was turned over to the Department of Justice for [4] their review; are you not?

[5] A: At that point in time, yes.

[6] Q: You're aware that the matter was reviewed [7] by a grand jury in Atlanta, Georgia; are you not?

[8] A: Yes, I am.

[9] Q: You are aware that on March 31, 1993, [10] Sally Yates wrote a letter that the Department of [11] Justice had declined to prosecute the case?

[12] A: I am not aware of the date. I know that [13] the Department of Justice's involvement ended with [14] respect to the case.

[15] Q: Are you aware that the Department of [16] Justice declined to prosecute?

[17] A: I guess I lack sufficient understanding [18] of decline to prosecute. I know they dropped the [19] case, to use more lay terminology.

[20] Q: And some five months later in July, you [21] testified before the U.S. Senate committee on [22] Environment Health Works, Exhibit No. 8, and on page [23] ten you stated after the accident, I was able to [24] record evidence demonstrating that management had [25] engaged in criminal conspiracy to conceal

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[1] safety-related information pertaining to the site [2] area emergency and intentionally submitted material [3] false statements to the NRC with respect to the site [4] area emergency.

[5] I just ask your evaluation. Isn't that [6] presumptuous, after the Department of Justice has [7] not found the same view?

[8] A: No, because the statement says I [9] documented evidence that showed a criminal [10] conspiracy. I gave that evidence to the NRC.

[11] The NRC thought that evidence was [12] sufficiently persuasive to refer it to the [13] Department of Justice, and that process occurred for [14] a period of time until it was dropped.

[15] I don't know all the grounds for it being [16] dropped, but that says to me that the Criminal [17] Investigation Division of the NRC thought, didn't [18] think it was presumptuous, that it had involved a [19] criminal conspiracy or they wouldn't have forwarded [20] it to the Department of Justice.

[21] Q: Are you aware that the group in the NRC [22] called, for lack of a better title, the Vogtle [23] Coordinating Group, did not arrive at a conclusion [24] that criminality was involved, are you aware of [25] this?

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[1] A: No, that's not, that wouldn't be exactly [2] my understanding. The reason for that is that I [3] thought that wrongdoing, which I guess to me equates [4] with criminality, included, I will use the term [5] careless disregard and it is my perception and maybe [6] I'm incorrect that careless disregard is what the [7] coordinating group found.

[8] Now, maybe I'm misunderstanding the NRC's [9] structure and level of violations, but —

[10] Q: Is it not true that the OI investigation [11] came to the conclusion that Georgia Power personnel [12] intentionally and deliberately lied to the NRC?

[13] A: Yes, it's my understanding that the OI [14] made those kinds of statements.

[15] Q: And you have testified that that report [16] is persuasive. Did the Vogtle Coordinating Group's [17] report reach the same conclusion, sir?

A: No, it did not.

[19] Q: And, therefore, is it proper to assume [20] that these people simply cannot understand the [21] report or are misguided?

[22] MR. KOHN: I'm going to object to the [23] question inasmuch as you're asking the [24] witness to speculate as to the knowledge and [25] involvement of the coordinating group.

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[1] Discovery has been pending for many [2] months for the NRC to provide that [3] information, and I believe the judge entered [4] an order requiring the responses to be [5] filed.

[6] Inasmuch as you are just asking the [7] witness to speculate, I find the question at [8] this time to be improper.

[9] Q: (By Mr. Barth) Could you answer the [10] question, please?

[11] MR. KOHN: Could you restate the [12] question, please?

[13] Q: (By Mr. Barth) Do you find that the view [14] of the Vogtle Coordinating Group is unreasonable?

[15] A: I don't agree with — I don't agree with [16] the view of the Vogtle Coordinating Group in its [17] report. I believe that the coordinating group has [18] been too lax in its viewing of these violations, and [19] I believe the Vogtle Coordinating Group did not use [20] all of the factual basis that's in the OI report.

[21] I additionally believe that I hope that [22] the members of the Vogtle Coordinating Group will [23] use the additional facts that have been obtained [24] through these depositions to take a second look.

[25] Q: You already testified, sir, that a

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[1] reasonable and intelligent person would come to the [2] same conclusion as the OI report. So I didn't ask [3] you the question since the Vogtle Coordinating Group [4] did not come to that conclusion.

[5] MR. KOHN: First, I object because the [6] coordinating group is not a person.

[7] Group think is a very different thing, [8] and we do not know who the coordinating group [9] is. So I'm going to instruct the witness not [10] to answer.

[11] MR. BARTH: You are well aware that [12] court cases are quite clear that [13] a should [14] not —

[14] MR. KOHN: If you can tell us who the [15] coordinating group is.

[16] MR. BARTH: If you will be quiet, I [17] will continue, Mr. Kohn. The composi-

tion of [18] the group is not of any interest. The [19] group's opinion is of interest. I don't care [20] who is on that. I'm asking was the group's [21] view reasonable.

[22] MR. KOHN: Well, I object.

[23] MR. BARTH: Do you still maintain that [24] he may not answer that question?

[25] MR. KOHN: If you want him to maintain

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[1] a response as to the group's reasonableness, [2] then he needs to know the identity of the [3] group.

[4] You have failed to provide that [5] information to date. If you will provide it [6] now in your question, I will allow the [7] witness to answer.

[8] MR. BARTH: Are you instructing him not [9] to answer?

[10] MR. KOHN: I'm asking you to provide [11] the information he needs to answer.

[12] MR. BARTH: Answer the question.

[13] MR. KOHN: Mr. Mosbaugh, if the [14] coordinating group consisted of individuals [15] who were incompetent, would that affect your [16] answer?

[17] MR. BARTH: I'm conducting the [18] deposition, not you. Under the regulations [19] you are permitted to object and state your [20] objections and that's all. I'm not here to [21] argue, Mr. Kohn. If you want to instruct him [22] not to answer, instruct him not to answer.

[23] I will be glad to take it to the judge [24] if I have to. You have your choice, but I'm [25] not here to argue. Besides, I don't have

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[1] much time. It's a rather simple question, [2] was the group's conclusion reasonable.

[3] MR. KOHN: I will restate my [4] objection. The witness can answer.

[5] THE WITNESS: I disagree with the [6] group's view, and in light of what I know, I [7] believe the group based its view on some [8] information that has now been shown to be [9] incorrect.

[10] So because of those factors, I believe [11] at this time the group's view and conclusion [12] is not reasonable to me. At the time the [13] Vogtle Coordinating Group made their view, I [14] didn't and perhaps they didn't know as much [15] as I know.

[16] Q: (By Mr. Barth) Could I take you back to [17] when you began making tapes. When did you start [18] making these tapes, Mr. Mosbaugh?

[19] A: I believe the first tape recording that I [20] made at Plant Vogtle was in February of 1990.

[21] Q: Do you have any kind of an idea how long [22] each one of these tapes last? Were these hour tapes [23] or two hours?

[24] A: They were not all, I don't believe they [25] were all recorded at the same speed, but the

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[1] majority of them were recorded at the speed where [2] they would have approximately a maximum of one hour [3] on a side.

[4] Q: Is that two hours a tape?

[5] A: A maximum of two hours a tape if they [6] were recorded —

[7] Q: For some 277 tapes made between March [8] and, when was the last one, September? 9/7/90, does [9] that comport with your memory?

[10] A: No, my memory was that the first tape was [11] made in February, not March.

[12] Q: The concluding date is correct, [13] approximately?

[14] A: Approximately the first week in September [15] of 1990.

[16] Q: Mr. Blake questioned you about this very [17] briefly at the last deposition. Could you start the [18] tape recorder with your hands outside of your pocket [19] or would you have to reach in? Could you tell me [20] the mechanics of how this worked?

[21] A: I would start the tape recorder by having [22] my hand inside my pocket.

[23] Q: Did you turn the tape off and on during [24] various recording sessions so as to eliminate what [25] you thought was just not relevant or garbage?

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[1] A: Generally not, but I couldn't give you an [2] absolute answer in that regard. Generally I tried [3] to get the segment of the conversation that I was [4] recording in its full context.

[5] So generally I would, if I knew [6] beforehand that I wanted to record a particular [7] conversation, I would attempt to initiate it at the [8] beginning of the conversation or when I entered the [9] conversation and would not terminate it until I left [10] or until the conversation ended.

[11] However, sometimes if I was not recording [12] and a conversation struck up, if you will, then I [13] would need to initiate tape recording of the [14] conversation that I was interested in recording.

[15] Q: Did you initiate conversations in order [16] to record them if you knew there was a topic that [17] should be recorded?

[18] A: No, I generally went about doing my [19] business as a manager the way I normally did which, [20] in many records,

I did business by walking around [21] and meeting with my people and talking to my [22] people.

[23] That was a little bit of my management [24] style, was to drop in to people's offices. So I [25] continued the same management style.

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[1] Q: Were any NRC persons present during these [2] taping sessions, and I exclude the tape session you [3] had with the NRC inspector in his office.

[4] A: Yes, there were some meetings that I [5] recorded where NRC personnel were present. So the [6] answer is yes.

[7] Q: Were there many of those meetings?

[8] MR. KOHN: I object. That has nothing [9] to do with — can you tie this into diesel [10] generators, Mr. Barth? I'm not aware of any [11] such meeting that had anything to do with [12] diesel generators. Can you tell me how it [13] ties in?

[14] MR. BARTH: No, but I think you have [15] made an excellent suggestion and I appreciate [16] it. I would like to rephrase the question, [17] but you have really helped me out.

[18] Q: (By Mr. Barth) On any of the matters [19] relating to reporting of starts of diesel generators [20] after March 20, when you taped were NRC personnel [21] present?

[22] A: Will you rephrase or restate that? I [23] didn't listen to the conditions again.

[24] Q: You have heard it from both your counsel [25] and me. At any of the taping sessions which

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[1] regarded the diesel generator start matter or the [2] reporting of it, the LER, the April 9 meeting, the [3] April 9 letter, were NRC personnel present?

[4] A: Well, I believe at meetings —

[5] Q: At tapings.

[6] A: I had a conversation with the resident [7] inspector of where I discussed with him my concerns [8] about LER and diesel statements that I taped, and I [9] recall that when the OSI team in August exited, I [10] recall recording that meeting.

[11] Q: Were there any others, Mr. Mosbaugh?

[12] A: When diesel generator starts or the LER [13] or COA issues were discussed, that's the question?

[14] Q: You attended the deposition of Jimmy Paul [15] Cash; did you not?

[16] A: Yes.

[17] Q: Your counsel asked Mr. Cash what start [18] numbers he gave Mr. Bockhold. Do you recall that?

[19] A: Yes, I do.

[20] Q: Do you recall the numbers Jimmy Paul Cash [21] gave him?

[22] A: I believe Mr. Cash said he gave him 27 [23] and 22 or 23.

[24] Q: Did you attend the deposition of Mr. [25] Bockhold, sir?

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[1] A: Yes.

[2] Q: Did your counsel ask Mr. Bockhold the [3] number of starts that were given him by Jimmy Paul [4] Cash?

[5] A: I think he did.

[6] Q: He not testify under oath that Jimmy Paul [7] Cash told him 18 and 19?

[8] A: That's my recollection of Mr. Bockhold's [9] testimony.

[10] Q: I am done with the facts. Now I would [11] like your personal opinion. Knowing these people, [12] which one of these people was telling the truth?

[13] A: Mr. Cash is telling the truth, in my [14] opinion. Mr. Bockhold had already put 18 and 19 [15] down on the slide before Mr. Cash brought him back [16] the list with his totals of 22 or 23 and 27 [17] respectively.

[18] Q: This is speculative, so please don't [19] object, Mr. Kohn. Where on earth did Mr. Cash get [20] this 18 and 19 figure from?

[21] A: He didn't.

[22] Q: Where did Mr. Bockhold get this figure [23] from?

[24] A: Mr. Bockhold got it between him and Mr. [25] Burr, in my opinion.

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[1] Q: During the course of the OI [2] investigation, did you also have meetings with the [3] director of the Office of Investigations?

[4] A: Who is the director of the Office of [5] Investigations?

[6] Q: At that time it was a man by the name of [7] Ben Hayes.

[8] A: I don't recall meeting Ben Hayes during [9] the OSI inspection.

[10] Q: OI investigations.

[11] A: I'm sorry. I may have misunderstood. [12] Mr. Ben Hayes came to my house and met with me [13] during the course of the OI investigation which, of [14] course, spanned a number of years.

[15] Q: This is the house in Georgia?

[16] A: My residence in Georgia, that's correct.

[17] Q: You testified in response to a question [18] by Mr. Blake it's been an historical fact that when [19] the dew point was high, there were problems with the [20] diesels. Do you recall this and do I accurately [21] characterize it?

[22] A: For the period of time that I have [23] reviewed, that's correct.

[24] Q: Is this any more than a layman's [25] observation, or do you have any kind of strong

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[1] factual indication that this is true?

[2] A: I am in the process of reviewing the [3] information and data that I obtained through [4] discovery which includes the maintenance work order [5] list provided by Georgia Power and the information I [6] have been able to obtain about diesel problems and [7] failures, and I have already noted a degree of [8] correlation, a fairly good degree of correlation.

[9] Q: Will you tell us what the Pearson Product [10] Moment is?

[11] A: No, I cannot do that.

[12] Q: I thought you just said there is a good [13] degree of correlation. Would you tell us what it [14] is?

[15] A: You have asked for a technical [16] statistical quantification.

[17] Q: That's what correlation is. You said [18] it's a good correlation and I'm simply using your [19] own words. Tell us what the good correlation is [20] Pearson Product Moment is?

[21] A: I have not reached the point in my [22] evaluation to do a statistical analysis. What I [23] have noted in terms of correlation is that during [24] the periods of days of high dew point, it has been [25] coincident with the days on which the diesels

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[1] experience problems.

[2] Q: Have you worked out a correlation or do [3] you have an impression from looking at the data?

[4] A: I have not done any statistical analysis [5] at this time.

[6] Q: Could I refer you to the executive [7] summary, Vogtle Diesel Operability, do you remember [8] that document which you provided to Mike Collins?

[9] A: I remember the document you're looking [10] at. The executive summary of diesel operability is [11] not my document. That's a document that Georgia [12] Power prepared by that title. What you have is my [13] write-up about that.

[14] Q: I believe there is a figure for 1989 for [15] Vogtle Unit 1 and Vogtle Unit 2 of .006 and for 1990 [16] of .08. Are these correct, sir?

[17] A: Those are — the .08 number was not on [18] the chart in the executive summary Vogtle diesel [19] operability, but the .08 number was the number told [20] to me by the performance engineer that maintains [21] that data as of April.

[22] Q: Well, it may have been my lack of [23] attention to you and Mr. Blake, but

could you tell [24] me what the .08 represents?

[25] A: .08 represents the fraction of a year, ie,

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[1] the fraction of one at which time the diesel is [2] unavailable for service.

[3] Q: What period of time does the .08 cover?

[4] A: Those data are prepared on a year-to-date [5] basis, and I think I was not clear at the time as to [6] whether that's a 12-month rolling average or a [7] 12-month annual average. My best recollection is [8] that it is on a 12-month annual average. So it [9] would represent that data to date in 1990, but I [10] would want to look at the combinations to be sure [11] about that.

[12] Q: Do you recall your counsel asking Mr. [13] Webb about this figure?

[14] A: No. To help you out, I believe he asked [15] Mr. Williams about it.

[16] Q: Thank you, you're right. So you do [17] remember that?

[18] A: Yes, sir.

[19] Q: Do you recall Mr. Williams' response?

[20] A: Yeah, he acknowledged that that was the [21] data at that point in time for 1990.

Q: And did he not testify that the .08 [23] represented three months of data for 1990 which [24] would make it an arithmetic average of the three [25] months?

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[1] A: I think it's a year-to-date figure, and I [2] think, like I said, my best belief is that it's [3] year-to-date based on the year 1990.

[4] So if that's correct, it would have been [5] the value year-to-date for January, February, and [6] March. Also from Mr. Williams' testimony, I believe [7] that the .08 was stated to not include the failures [8] of the site area emergency.

[9] Q: Just to make it clear, it would not be a [10] difficult mathematical exercise to determine what [11] the averages were for January, February, and March [12] to March 20, 1990 to bring it down to .08 from .006 [13] from the preceding year?

[14] A: I don't believe that, if it's correct [15] that it's year-to-date basis, I don't believe that [16] the data from 1989, then, would play a role in the [17] 1990 data. If it was a rolling average, it would.

[18] Q: And you don't know which it is?

A: My best recollection at this point, I [20] saw year-to-date on that as an asterisk note at the [21] bottom, I think it says YTD.

[22] My best recollection, having noted that, [23] is that that stimulates to me that

I think it's an [24] annual 12 months rather than a rolling 12 months.

[25] Q: Can you make any sort of reasonable

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[1] scientific conclusions with three months of data?

[2] A: I think you can. I believe this was [3] noted in the testimony with Mr. Williams, in 1987 [4] there is only six months of data. It had jumped up [5] more than an order of magnitude from .006 to .08.

[6] Even though it isn't a whole year, I [7] think it's something that should be — that is [8] flagging a trend.

[9] Like I say, I note that .08, I believe [10] Mr. Williams said, did not include the failures of [11] the site area emergency. So I think it is [12] indicating a significant departure.

[13] Q: Are you talking in terms of statistics or [14] talking in terms of a layman's looking at it?

[15] A: I'm talking in terms of a layman rather [16] than a statistical evaluation, though a statistical [17] evaluation could be done.

[18] Q: I think there was, it is my impression [19] from the questions your counsel was asking that [20] there was a feeling that Mr. Bockhold was trying to [21] hide the 1990 data from public revelation at the [22] time. Is that a reasonable assumption of mine?

[23] A: I don't know about public revelation, but [24] I think he knew it looked bad. It was something [25] that would raise eyebrows and have to be explained

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[1] if it was put on that chart; and because of it [2] looking bad, it would have to be explained to the [3] NRC, and he chose to not include it in that chart.

[4] Q: From your working in the plant and your [5] knowledge of the plant, is there any data in that [6] facility that the NRC cannot obtain by simply [7] walking in and picking it up?

[8] A: I don't know how to answer that question.

[9] Q: That's a good answer. To the best of [10] your knowledge, does the NRC have the ability to [11] obtain any information it wants from the plant?

[12] A: I believe the NRC has a right to access [13] any information they want at the plant. I believe [14] probably the NRC's biggest problem in doing that is [15] there is so much information and there is relatively [16] so few NRC people to look.

[17] Q: And if Mr. Bockhold wanted to play cutesy [18] and not show 1990 data, is it not true that the NRC [19] could find that data simply by asking for it?

[20] A: If they knew to ask for it or wanted to [21] ask for it, they most certainly could. I would like [22] to make an additional statement with respect to the [23] last response, if I could.

[24] Q: Certainly.

[25] A: The fact that the NRC has the power and

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[1] the authority to access information at the plant in [2] no way alleviates the responsibility of the people [3] at the plant for providing accurate and complete [4] information to the NRC.

[5] So in no way is Mr. Bockhold's action of [6] not providing complete information alleviated by [7] the fact that the NRC has those powers.

[8] Q: Thank you. That's well understood. Have [9] you seen the response by Georgia Power Company to [10] the NOV, their responses dated July 31, 1994? I [11] show you the front cover. Have you seen this?

[12] A: I have just recently seen that.

[13] Q: Have you read any parts of it?

[14] A: I have read some parts of it. I have not [15] had an opportunity to read it all or read it in [16] detail.

[17] Q: I would like to read you a sentence and [18] ask for your comment. The sentence is on page five [19] of the Reply to Notice of Violation, EA 93-304.

[20] One of the reasons that the BEGP general [21] manager tasked the unit superintendent to review the [22] logs and count the number of DG starts was due to [23] the absence of the single source engineering support [24] DG start log based on data sheets or DG's. Do you [25] understand what he said?

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[1] A: Not exactly. I would like to read that.

[2] Q: I will provide it for you, sir, to read [3] it.

[4] A: I have read that sentence now.

[5] Q: On April 9, what was your position with [6] the plant, sir in, even though you have answered [7] many times before?

[8] A: Do you have a question about this?

[9] Q: Yes.

[10] A: My position on April 9th, 1990, I was the [11] acting assistant general manager, plant support.

[12] Q: Did you have any working relationship [13] with the diesel generator log which is stated in [14] that sentence?

[15] A: The system engineer maintained a log [16] called the diesel generator start log, and that [17] engineer worked under my organization. Is that the [18] relationship you're looking for?

[19] Q: Were you aware on April 9 that that log [20] was not up to date?

[21] A: I don't believe I was aware.

[22] Q: In your normal course of duties, would [23] you be aware on a day-to-day basis whether that log [24] was up to date?

[25] A: No, not generally.

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[1] Q: Because I don't know, where was that log [2] kept? I'm talking physically.

[3] A: The log that the diesel system engineer [4] kept was a summary log that he kept at his desk. It [5] was a summary tabulation. The data came to him when [6] the operators filled out data sheets and sent them [7] to him. He kept his log, and his log was not a [8] source log. It was a summary log based on the data [9] sheets being sent to him?

[10] A: And he kept that log at his desk.

[11] Q: Was his desk in a closed office and the [12] office had a door?

[13] A: His desk was in a bull pen area where [14] probably 30 or 40 engineers had their, it was in a [15] cubicle kind of office in a bull pen kind of area on [16] the third floor of the service building.

[17] Q: In your position at the time, you had a [18] great deal of responsibility. As a matter of course [19] did you check to see if these kinds of logs were up [20] to date?

[21] A: No, I would not normally do that, no.

[22] Q: The next is an opinion question. Would [23] you expect the general manager would check that log [24] on a daily basis?

[25] A: No.

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[1] Q: Do you have any idea how Mr. Bockhold [2] knew as of April 9 that that log was not up to date?

[3] A: No, I don't.

[4] Q: Did Mr. Bockhold ever discuss with you [5] that the log isn't up to date, Allen, get that thing [6] up to date?

[7] A: Not that I can remember.

[8] Q: If you had known that that log was not up [9] to date, would you have taken measures to see that [10] it was up to date?

[11] A: The need for this log to be up to date [12] was for the purpose of meeting NRC requirements [13] relative to reporting the number of valid failures [14] in the last hundred diesel starts.

[15] So reports like that were reported in a [16] special report to the NRC. Such special reports, we [17] would make, and I believe sometimes we would meet [18] these special reports via the LER submittals.

[19] So as long as the log was brought up to [20] date at the time that a statement of valid diesel [21] failures in the last hundred was being made in a [22] document being prepared, then the log met its [23] intended purpose.

[24] The need to have the document up to date [25] each and every day would be unnecessary unless on

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[1] that day, information was being compiled from it for [2] the purposes of stating number of failures in the [3] last hundred.

[4] It would have concerned me if I had known [5] the log had been out of date and used because if [6] that were true, then inaccurate information could be [7] obtained or could be given, but I didn't view that [8] log as something, and I don't view that log right [9] now as something that requires an absolute live time [10] updating as long as the individual using it is aware [11] of its status.

[12] Q: I was just called upon to make a side [13] comment, that sort of was a good clear answer.

[14] A: I would like to make another comment [15] about the statement since we are reviewing that [16] statement in that response. That statement didn't [17] make any sense to me. Mr. Bockhold's assignment to [18] Mr. Cash was not related to that log or its status.

[19] Q: Thank you for the suggestion. Were you [20] present when Mr. Bockhold gave his instructions to [21] Mr. Cash to make the count?

[22] A: No, I was not.

[23] Q: Did Mr. Bockhold tell you what his [24] instructions to Mr. Cash were?

[25] A: Yes, he did, in the course of deposition.

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[1] Q: Thank you. You had no prior knowledge [2] from Mr. Bockhold as to what he instructed Mr. Cash [3] to do, is that correct, prior to the deposition?

[4] A: No.

[5] Q: Did Jimmy Paul ever tell you prior to his [6] deposition what he was instructed to do?

[7] A: Yeah, he had some conversation with me [8] about what he did. I can't recall if he was telling [9] me what he did as opposed to what his instructions [10] were. He may not have said his instructions. He [11] may have just said what he did.

[12] Q: Your second request for admissions to the [13] staff requests that the staff admit the truth and [14] accuracy of OI Exhibit 36, and the collateral [15] matter. Those are your tapes number 57 and 58. [16] Your counsel, Georgia Power counsel, and counsel for [17] NRC have

agreed to those tapes. Could you tell me [18] why you asked us to do it twice?

[19] MR. KOHN: The witness didn't prepare [20] those files. We would be happy to discuss [21] that when I get back to Washington.

[22] THE WITNESS: No, I can't tell you [23] that.

[24] MR. KOHN: If there is something you [25] would like to discuss about that for

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[1] clarification, just give me a call. Charles.

[2] Q: (By Mr. Barth) Have you reviewed and [3] approved the discovery requests that your counsel [4] has filed upon the NRC prior to their being filed?

[5] A: I believe we have discussed them, but I [6] wouldn't say that I approved or reviewed and [7] approved. I have had some discussion about those [8] issues, but I wouldn't say I have reviewed them [9] frequently.

[10] Q: During March, April, and May 1990, did [11] you discuss any of your tape recordings with NRC [12] personnel excluding in regard to the diesel [13] generator issue?

[14] A: No.

[15] Q: After the tape recordings were turned [16] over to the NRC, it is my understanding that the NRC [17] had transcripts of these tapes made; is that [18] correct?

[19] A: That's correct.

[20] Q: Did you and Lori Robinson go over a [21] number of those transcripts and make handwritten [22] notes as to who the voices were and fill in voices [23] and words?

[24] A: Yes, I did.

[25] Q: I have seen a number of transcripts with

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[1] handwriting on it. Is some of that your handwriting [2] or did you and Ms. Robinson both handwrite on them?

[3] A: I made notations as to voice [4] identifications and corrections as I listened to [5] transcripts with Mr. Robinson and Mr. Craig at a [6] time. I had a copy. I believe there were other [7] copies that Mr. Robinson had. I know I wrote on [8] mine.

[9] He may have written on his. I think I [10] recall him writing on his. So I suspect there [11] exists transcripts with mine and his. I am not sure [12] that Mr. Craig at a time didn't write on some of the [13] transcripts, too.

[14] Q: In response to a question from Mr. Blake, [15] you stated that you had experience with diesel [16] generators; is that correct, sir?

[17] **A:** In the course of my work history in [18] nuclear power, I have had contact and had [19] supervisory experience with [20] engineers that had [20] diesel generator responsibilities. In the course of [21] training I have had some systems training which [22] included diesel generators, but —

[23] **Q:** I don't wish to interrupt. I do not wish [24] to limit you to nuclear power; any of your work [25] experience.

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[1] **A:** In my other professional work experience, [2] I have not had experience with diesel generators. I [3] do own some diesel engines.

[4] **Q:** Is it correct for me to assume that your [5] diesel generator experience is limited to that that [6] you had at the Vogtle facility?

[7] **A:** No, I worked at other facilities.

[8] **Q:** Could you tell me their names, sir?

[9] **A:** I worked at the Zimmer Nuclear Power [10] Plant.

[11] **Q:** Was the generator operating at the Zimmer [12] plant when you were there?

[13] **A:** I believe that —

[14] **Q:** It's never operated.

[15] **A:** Excuse me.

Q: The Zimmer has never operated.

[16] **A:** Yeah, I know, but the plant's equipment [18] was in a fairly advanced state of preoperational [19] readiness and I believe that included the diesel [20] generator.

[21] I had responsibility over the same area [22] like system engineers and preoperational test [23] engineers. I believe at the time that Zimmer was [24] shut down, let's say the preoperational testing was [25] almost 90 percent complete.

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[1] **Q:** Could you please detail for me your [2] experience with the diesel generators. Did you put [3] your hands on it, take it apart, help put it [4] together?

[5] **A:** No.

[6] **Q:** I want to know what kind of expertise you [7] have had with a diesel generator. I will allow you [8] to develop that for me.

[9] **A:** I would not have had the hands-on [10] experience with the diesels. Like I said, I have [11] had some systems training, diesel generators as part [12] of my systems training and SRO kind of training.

[13] Because I supervised the engineers that [14] were testing diesels and engineers that had the [15] system responsibilities with diesels, I would be [16] involved in diesel generator issues,

problems, and [17] that kind of activity; but I never had the [18] assignment as a diesel system engineer and I would [19] not have had a lot of so-called hands-on experience; [20] though I have done walk-downs of the diesels and [21] certainly have crawled around them, been in the [22] field with them running and with them testing and [23] being tested by the engineers.

[24] **Q:** Are you certain that Mr. Boardman had the [25] diesels running at the time?

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[1] **A:** Mr. Boardman was responsible for —

[2] **Q:** Construction.

[3] **A:** Construction activities. My [4] responsibilities were over the preoperational [5] testing activities, and yes, my recollection is that [6] the diesels were operational. I believe we had the [7] preoperational testing 90, 95 percent complete.

[8] **Q:** Could you identify the year for me, sir, [9] the time in which you were there, in which they were [10] operational, the diesels?

[11] **A:** I was at Zimmer in the time frame of [12] 1977, approximately, to 1984.

[13] **Q:** Can you recall when those diesel [14] generators were tested for operability?

[15] **A:** No, I can't. The Zimmer plant went [16] through more than one preoperational test program [17] because of its construction problems, and I can't [18] recall.

[19] **Q:** Did you have experience with diesels at [20] another nuclear facility? I believe you used the [21] plural when I asked you about experience.

[22] **A:** I didn't have a responsibility at any [23] other facility other than Vogtle and Zimmer that [24] involved activities over the diesels.

[25] **Q:** At the Vogtle facility, I understand that

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[1] you had supervisory responsibility. Did you ever [2] help to hands-on examine the diesel at the Vogtle [3] facility?

[4] **A:** Yes, I have. I have crawled over the [5] diesel and been very up close and personal with the [6] Vogtle diesel. I have done a field walk-down and [7] probably spent a good bit of time in the diesel room [8] reviewing the typing layouts and the equipment, and [9] I have been present a number of times during diesel [10] testing and diesel runs.

[11] **Q:** Did you help remove the Calcon sensors [12] for examination after the site emergency on March [13] 20, 1990?

[14] **A:** No, I didn't.

[15] **Q:** Did you ever yourself see any water come [16] out of the pneumatic lines to the sensors?

[17] **A:** No, I didn't.

[18] **Q:** Did you ever yourself see any presence of [19] water or water vapor in the pneumatic lines leading [20] to the sensors?

[21] **A:** Not in the lines. I saw the jar of fluid [22] that was ascribed to have come out of the lines.

[23] **Q:** Except for your observations about dew [24] point and Mr. Burr's jar of water, do you have any [25] other facts which would lead you to the conclusion

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[1] that water was in the lines leading to the Calcon [2] sensors?

[3] **A:** Yes, the testimony of some of the [4] witnesses that we have deposed.

[5] **Q:** Could you help my bad memory and tell me [6] which witnesses?

[7] **A:** It seems to me that Mr. McDonald, Pat [8] McDonald, some witnesses were, let me say, tentative [9] in their recollections. They said that they may [10] have seen water so I will include those. I believe [11] Mr. Holmes was one of those witnesses.

[12] I believe Mr. Charles Corsey, maintenance [13] superintendent having responsibility over the [14] diesels, was an individual that said he remembered [15] that.

[16] **Q:** During your stay at the Vogtle site, can [17] you tell me how many times you saw Mr. McDonald [18] on-site in the diesel room?

[19] **A:** I can't recall that I ever did. Just to [20] make sure we are not miscommunicating here, these [21] people are people that said they knew of the [22] occurrence of water within the system. I'm not [23] saying they testified that they saw it first hand, [24] I hope we are clear on that.

[25] **Q:** I assume with the sapienty of your

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[1] counsel, you followed up and asked Mr. McDonald who [2] he told you saw water. Who did McDonald say told [3] him he saw water in the lines?

[4] **A:** I'm not sure Mr. McDonald, I don't recall [5] Mr. McDonald's response to that question if he was [6] asked.

[7] **Q:** Good answer. Do you recall Mr. Holmes [8] telling you who told him he saw water in the lines?

[9] **A:** No, I believe if he was asked that, he [10] said he couldn't recall. He was tentative about his [11] response.

[12] **Q:** Do you recall who Mr. Corsey said told [13] him he saw water in the lines?

[14] A: I believe he was asked that, and I don't [15] think he could remember where he had obtained that [16] information from.

[17] (Discussion ensued off the record.)

[18] Q: (By Mr. Barth) Mr. Mosbaugh, time has [19] run out for me, but if you would like to amplify any [20] of your responses to me, I would like you to feel [21] free to do so unless your counsel closes it down on [22] time. I do not want any impression that we are [23] trying to shut you off from saying what you feel you [24] should say.

[25] A: I don't have any further response to your

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[1] questions.

[2] MR. BARTH: Then I have no further [3] questions. I do appreciate your appearing [4] here.

[5] MR. KOHN: This concludes Mr. [6] Mosbaugh's deposition. Thank you, [7] gentlemen.

[8] (Deposition concluded at 8:00 p.m.)

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[1] STATE OF GEORGIA:
COUNTY OF FULTON:

[3] I hereby certify that the foregoing [4] transcript was reported, as stated in the caption, [5] and the questions and answers thereto were reduced [6] to typewriting under my direction; that the [7] foregoing pages 463 through 715 represent a true, [8] complete, and correct transcript of the evidence [9] given upon said hearing, and I further certify that [10] I am not of kin or counsel to the parties in the [11] case; am not in the employ of counsel for any of [12] said parties; nor am I in anywise interested in the [13] result of said case.

[14] Disclosure Pursuant to O.C.G.A. 9-11-28 (d): [15] The party taking this deposition will receive [16] the original and one copy based on our standard and [17] customary per page charges. Copies to other parties [18] will be furnished at one

half that per page rate. [19] Incidental direct expenses of production may be [20] added to either party where applicable.

[21] Our customary appearance fee will be [22] charged to [23] the party taking this deposition.

[23] This, the 25th day of August, 1994.

JUDY J. BRAGG, CCR-A-521 [25] My commission expires on the

9th day of December, 1994.

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DEPOSITION OF ALLEN MOSBAUGH/JJB

I do hereby certify that I have read all questions propounded to me and all answers given by me on the 24th day of August, 1994, taken before Judy J. Bragg, and that:

- ___ 1) There are no changes noted.
- ___ 2) The following changes are noted:

Pursuant to Rule 30 (7)(e) of the Federal Rules of Civil Procedure and/or the Official Code of Georgia Annotated 9-11-30(e), both of which read in part: Any changes in form or substance which you desire to make shall be entered upon the deposition, with a statement of the reasons given, for making them. Accordingly, to assist you in effecting corrections, please use the form below:

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