

**ORIGINAL**  
UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the matter of:

DUKE POWER COMPANY, et al

(Catawba Nuclear Station,  
Units 1 & 2)

Docket No. 50-413 OL  
50-414 OL

Location: Rock Hill, S. C.

Pages: 3080 - 4176

Date: Wednesday, June 6, 1984

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**TAYLOR ASSOCIATES**

Court Reporters  
525 I Street, N.W. Suite 1006  
Washington, D.C. 20006  
(202) 293-3998

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
BEFORE THE ATOMIC SAFETY & LICENSING BOARD

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In the Matter of:	:	
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DUKE POWER COMPANY, et al.,	:	Docket No. 50-413 OL
	:	50-414 OL
(Catawba Nuclear Station	:	
Units 1 and 2)	:	ASLBP No. 81-463--6A OL
	:	
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U. S. District Court  
Old Post Office Building  
Second Floor  
Caldwell & Main Streets  
Rock Hill, South Carolina

Wednesday, June 6, 1984

The hearing in the above-entitled matter was  
convened, pursuant to recess, at 9:05 o'clock a.m.

BEFORE:

MORTON B. MARGULIES, Chairman  
Atomic Safety and Licensing Board

ROBERT M. LAZO, Member  
Atomic Safety and Licensing Board

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## 1 APPEARANCES:

2 On behalf of the Applicants, Duke Power Co., et al.

3 J. MICHAEL MCGARRY, III, Esquire  
4 ANNE W. COTTINGHAM, Esquire  
5 MARK CALVERT, Esquire  
6 Bishop, Liberman, Cook, Purcell & Reynolds  
7 1200 Seventeenth Street, N. W.  
8 Washington, D. C. 200369 ALBERT V. CARR, JR., Esquire  
10 RONALD V. SHEARIN, Esquire  
11 Duke Power Company  
12 422 South Church Street  
13 Charlotte, North Carolina 28242

14 On behalf of the NRC Staff:

15 GEORGE E. JOHNSON, Esquire  
16 HENRY J. MCGURREN, Esquire  
17 Office of the Executive Legal Director  
18 U. S. Nuclear Regulatory Commission  
19 Washington, D. C. 20555

20 On behalf of Intervenor, Palmetto Alliance:

21 ROBERT J. GUILD, Esquire  
22 Post Office Box 12097  
23 Charleston, South Carolina24 On behalf of Intervenor, Carolina Environmental Study  
25 Group:JESSE RILEY  
854 Henley Place  
Charlotte, North Carolina 28207

On behalf of the State of South Carolina:

RICHARD P. WILSON, Esquire  
Assistant Attorney General  
State of South Carolina  
Post Office Box 11549  
Columbia, South Carolina 29211

I N D E X

Please note pagination error following transcript page 3119, skipped 799 pages to 3920. See note at appropriate point in transcript.

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<u>WITNESSES</u>	<u>Direct</u>	<u>Cross</u>	<u>Examination</u> <u>Redirect</u>	<u>Recross</u>	<u>Board</u>
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J. Elbert Pope

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EXHIBITS

NUMBER

	marked for	rec'd in
	<u>identification</u>	<u>evidence</u>

STAFF EP-3A [Memo dated 5/8/84  
to Jordan fm Krimm]

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P R O C E E D I N G S

JUDGE MARGULIES: Please come to order.

This is the fourteenth day of evidentiary hearings into the emergency planning issues involving the Catawba Nuclear Station. We are at the point where we will hear Intervenors rebuttal evidence to be presented by subpoenaed witnesses.

We consider rebuttal evidence to be that evidence that will be given to explain, repel, counteract or disprove facts given in evidence by the adverse parties.

We will now proceed with the Intervenors' case. Are you ready to call your first witness, Mr. Guild?

MR. GUILD: Yes, Mr. Chairman, we are.

Before we do that I would ask the record reflect that we sought initially to elicit evidence from the subpoenaed witness who will appear today, tomorrow and perhaps on Friday by way of our case in chief as direct evidence. We appreciate the Chair's ruling characterizing that as rebuttal evidence and understand the implications of that ruling in terms of the scope of examination. But, we wish the record to reflect that it was our initial desire to have these witnesses treated as witnesses in support of our case in chief.

JUDGE MARGULIES: The record will so reflect.

MR. GUILD: At this point, Mr. Chairman, we would ask Mr. Frank Sanders to come forward, please.

mm2

1 JUDGE MARGULIUS: Mr. Sanders, if you step up I  
2 will swear you in. Then you can assume the seat to testify.  
3 Whereupon,

4 FRANK B. SANDERS

5 was called as a rebuttal witness, and having been first duly  
6 sworn, was examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MR. GUILD:

9 Q Sir, will you state your full name for the record,  
10 please?

11 A Frank B. Sanders.

12 Q I apologize. I think I had you down as an A.  
13 Sanders.

14 And, your official position, please?

15 A I'm Director of the Division of Public Safety  
16 in Governor Riley's Office in South Carolina.

17 Q All right, sir.

18 And have you been the recipient of a process of  
19 a subpoena to appear and testify here today?

20 A That's correct.

21 Q Now, you haven't had the benefit of listening to the  
22 prior testimony, but in this proceeding you have been  
23 identified by witnesses as playing a role with respect to  
24 both planning and the implementation of planning in the event  
25 of an accident at the Catawba Nuclear Station.

mm3

1 Do you have such a role?

2 A That is correct.

3 Q Would you briefly tell us, please, what your  
4 duties and responsibilities are in the position you hold in  
5 regard to that plan?

6 A As Director of the Division of Public Safety I  
7 have responsibility for the Office of Emergency Preparedness  
8 in the Governor's Office.

9 Within the Governor's Office, we are responsible  
10 for the possible command and control of local and state  
11 governments to reduce or to eliminate any damage to state  
12 government or to property or to persons in case of an  
13 accident at a fixed nuclear facility.

14 We are overall responsible by statute for  
15 emergency planning and making sure there are plans for  
16 disasters in South Carolina.

17 Q All right, sir.

18 Can you tell me what statute you have in mind as  
19 that basis?

20 A I don't have a cite in mind. But, under the  
21 Emergency Preparedness Statute which set up the office  
22 within the Adjutant General's Office, it gives certain  
23 authority to the Governor and states his authority. Then  
24 I think he has the authority through the South Carolina  
25 constitution.

mm4

1 Q All right, sir.

2 Mr. Sanders, the records reflect you are a lawyer,  
3 are you not?

4 A That's correct.

5 Q By training. And perhaps you could give us a bit  
6 more information about your professional background and  
7 training as it relates to the position you hold now, please.

8 A I graduated from the University of South Carolina  
9 Law School in 1970. Subsequent to that I was on a fellowship  
10 out of Howard University for a year and worked with indigent  
11 American Indians. Subsequent to that I worked in Governor  
12 West's administration, worked in Criminal Justice Planning.  
13 Then worked in the Fifth Circuit Solicitor's Office in  
14 Richland and Kershaw Counties in South Carolina.

15 Subsequent to that I went to the University of  
16 South Carolina Law School, was Director of Clinical Programs  
17 for three years.

18 Subsequent to that I moved to the United States  
19 Virgin Islands and helped prepare the Virgin Islands  
20 subsequent criminal code. Then returned to the United States  
21 and was employed by the Department of Juvenile Placement  
22 and asked to care for the Community Program.

23 Then I went back to the United States Virgin  
24 Islands, drafted a comprehensive children's code. Then  
25 returned to South Carolina, was employed as a consultant by



1 Governor Riley to head the Sentencing Guidelines Commission.

mm5

2 Then after that, approximately one year ago  
3 I was employed by Governor Riley to head up the Division of  
4 Public Safety.

5 Q All right, sir, would you outline please any  
6 specific training and educational background that you have in  
7 the area of emergency management, please.

8 A I have no specific training in the area of  
9 emergency management. I have a previous work history in  
10 the area of planning and management responsibilities.

11 Q All right, sir.

12 Are you familiar generally with -- first of all,  
13 are you aware of the existence of a South Carolina Planning  
14 document that relates to planning for radiological emergencies  
15 at the Catawba Station?

16 A Yes. I think basically I am aware of four plans  
17 that would directly or indirectly affect the Catawba facility.  
18 It would be the South Carolina Disaster Comprehensive Plan;  
19 it would be the SCORERP plan; it would be the Technical  
20 Radiological Plan which is part of the SCORERP Plan; and  
21 the Catawba Site Specific Plan.

22 Ther there is a York County Comprehensive Disaster  
23 Plan. Part of that plan would deal with a possible incident  
24 at the Catawba facility.

25 Q All right, sir.

mm6

1                    Now, with part of that plan, one of the plans you  
2 identified is the SCORERP. We have been referring to it  
3 that way, the South Carolina Operational Radiologically  
4 Emergency Response Plan.

5            A        Yes.

6            Q        Is that the planning document that describes how  
7 the emergency plan for the station would operate in South  
8 Carolina?

9            A        Would you repeat that?

10          Q        How it would operate? Is that the operations plan?

11          A        In case of the incident?

12          Q        Yes.

13          A        That's correct.

14          Q        Now testimony yesterday was focused on the  
15 assignments of primary and support responsibilities under  
16 that plan. Are you generally aware that SCORERP in part  
17 sets forth primary and support responsibilities for various  
18 persons and agencies within the State of South Carolina?

19          A        Yes, it does.

20          Q        I have a copy of that document. Do you happen to  
21 have one with you?

22          A        Yes, I brought one with me.

23          Q        Can I get it handed up to you, perhaps?

24          A        Yes.

25                    (Document handed to witness.)

mm7

1 Q Now, if you would turn to Table 3, it appears  
2 at page 55 of SCORERP, Mr. Sanders.

end T1  
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3 A Yes, I have it.  
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1 Q Is that the pertinent table that reflects the  
2 assignments of primary and support responsibilities in South  
3 Carolina under the plan?

4 A This would be the table. I think it also has a  
5 description by agency. For example, the Governor's Office  
6 has seven or eight primary functions and it states those  
7 under the Governor's Office but as far as delineating between  
8 support and primary, this is my understanding.

9 Q I understand as well that that is the case. On this  
10 table in particular looking at the function "command and  
11 control" which is set forth on page 55 as the first functional  
12 area, do you see there the Office of the Governor indicated  
13 as having primary responsibility for that area?

14 A Yes.

15 Q Is that consistent with your understanding?

16 A Absolutely.

17 Q What is your understanding of the term "Office of the  
18 Governor?" What does that consist of and what does that mean  
19 as you use it in this plan?

20 A I think Office of the Governor primarily means the  
21 chief executive of the state. Also included in the term  
22 generally used it also means his executive assistant and  
23 directors of his various division and other personnel within  
24 the office.

25 Q In terms of responsibilities under the Catawba Plan

1 could you identify by title and name if you can please the  
2 persons who have principal responsibilities within the Office  
3 of the Governor?

4 A I would think the people who would have principal  
5 responsibility, certain the chief executive would have the  
6 ultimate responsibility and I don't think he could delegate  
7 that responsibility.

8 Q That is Governor Riley?

9 A That is Governor Riley. Then I would think that  
10 Bill deLoche who is an executive assistant for Governor Riley  
11 who works in the area of public safety and then there is myself.  
12 I am director of the Division of Public Safety. There is  
13 Gaines Boone who is deputy director in the Division of Public  
14 Safety.

15 Q Mr. Boone works for you?

16 A That is correct.

17 Q All right.

18 A Then there is Perdy McCloud who is the Emergency  
19 Preparedness Coordinator who in the chain of command is under  
20 Mr. Boone and also there is Ms. Judy Turnipseed who works  
21 for Public Information.

22 Q Mr. McCloud in turn works for you under Mr. Boone?

23 A That is correct.

24 Q Ms. Turnipseed for you?

25 A That is correct.

1 Q All right, sir. As you indicated there is a  
2 narrative description of the tasks assigned to various  
3 agencies that precedes that table three. Please look at  
4 page 11 under "execution" which is "IV" in the Plan, Part One.

5 A (Perusing document.) Yes.

6 Q Look under "B", "Tasks," "1," "State," "b", "Office  
7 of the Governor." Is that the portion which enumerates  
8 specifically the tasks that are assigned to the Governor's  
9 Office?

10 A I think that includes the task say of one. I think  
11 that is spelled out later in the plan.

12 Q How about starting with that so I will know what you  
13 are referring to?

14 A I think the Governor has ultimate responsibility  
15 other than for DHEC personnel and other than personnel at  
16 the fixed nuclear facility to send them back in if they have  
17 reached a certain level of radiation.

18 Q By that you mean send in emergency workers into a  
19 high radiation area?

20 A That is correct, when they have reached a certain  
21 level.

22 Q Explain a little bit more about what you mean by  
23 that to be clear?

24 A I don't know if I can be clearer. Basically DHEC  
25 makes a recommendation to the Governor through me as to what the

1 radiation dosage a person has obtained and according to the  
2 technical plan if they have reached that certain radiological  
3 dosage, then the Governor is the only person who can send an  
4 emergency workers back into an infected area. I would think  
5 that DHEC has the responsibility for its radiological  
6 workers and the fixed nuclear facilities, I understand, is  
7 controlled by a different entity. My understanding is that  
8 it is the NRC.

9 Q By a fixed nuclear facility, you mean in this case  
10 Duke Power employees?

11 A The workers at the power facility. I assume they  
12 would be Duke Power employees.

13 Q All right. Just to be clear on this point, what  
14 level of radiation exposure do you have reference to at which  
15 the Governor would be responsible for making the mandatory  
16 decision for emergency workers to enter an area where additional  
17 exposure would be possible?

18 A I do not know.

19 Q Now you mentioned that the Governor would have control  
20 over state workers save those employed by the Department of  
21 Health and Environmental Control.

22 A For this specific purpose, yes.

23 Q Is the reason why the Governor would not have  
24 control over the DHEC workers that they are employed by an  
25 independent commission that is answerable to their own chain of

1 command?

2 A I don't know the logic behind that decision.

3 Q With that additional caveat of authority vested in  
4 the Governor's Office not enumerated at this point in the plan,  
5 is that an exclusive and exhaustive list of the tasks assigned  
6 to the Office of the Governor under the Plan to the best of  
7 your knowledge?

8 A To the best of my knowledge, yes, it is.

9 Q Where in the plan is the Governor's Office of Public  
10 Safety Programs reference and the tasks assigned to you and  
11 your people explicitly set forth?

12 A It is not in here that I am aware of when it makes  
13 reference to the Office of the Governor. I think in specific  
14 instances it is talking about the Division of Public Safety.  
15 It does make specific reference to the Governor's Press  
16 Secretary but I am not aware of any where it makes direct  
17 reference to the Division of Public Safety.

18 Q All right. Do you know off hand where that reference  
19 is to the Governor's Press Secretary?

20 A It would under the matters concerning the media.

21 Q How about Annex C, Public Information?

22 A (Perusing document.) I think on page C-3 is a  
23 reference.

24 Q Yes, sir, under item "4," Governor's Press Secretary?

25 A That is correct.



1 Q That is an additional person in the Governor's  
2 Office then that has principal responsibilities under the  
3 Plan?

4 A That is correct. That is Chip McKenney. Mr. McKenney  
5 has generally delegated that responsibility to Ms. Turnipseed.

6 Q So in fact the implementation of the Plan as set  
7 forth in Annex C with respect to the Governor's Press Secretary  
8 should really be understood to refer to the Public Information  
9 Officer, Ms. Turnipseed, in your office?

10 A At this time. The next Governor might change his  
11 mind as to who he would want to have that responsibility  
12 but at this time, Ms. Turnipseed has that responsibility.

13 Q Why is that, Mr. Sanders?

14 A I really don't know why. She is a very capable  
15 person. She has worked in this field before and has ability  
16 to do the job.

17 Q All right, sir.

18 A Also, I think she probably has more time available  
19 than Mr. McKinney.

20 Q Let me ask you this. The revision of this portion of  
21 the plan that I have before me has a date of August 1981. Is  
22 that current to the best of your knowledge?

23 A That is current to the best of my knowledge.

24 Q Was Governor Riley in office as of that date?

25 A That is correct.

1 Q Were Mr. McKenney's duties delegated to Ms. Turnip-  
2 seed as of that time?

3 A I do not know. I was not in this position at that  
4 time.

5 Q Do you know whether Ms. Turnipseed was there at the  
6 time?

7 A It is my understanding she was.

8 Q I will ask her. In this matter of Mr. McKenney's  
9 relationship with Ms. Turnipseed in terms of this responsibil-  
10 ity, what is the basis for the delegation that you referred to?

11 A The basis for the delegation? I am sorry. I don't  
12 understand.

13 Q First of all, is there a legal authority that you  
14 have in mind that is the basis for the delegation?

15 A No. As I read this particular appendix, it allows  
16 Mr. McKenney to delegate this responsibility and he has done  
17 so.

18 Q Tell me what specifically you have in mind in the  
19 appendix as providing for that delegation?

20 A The reference you just made on page C-3 under  
21 IV-A-4 where it says, "The Governor's Press Secretary or  
22 authorized representative...".

23 Q You read that as reflecting Ms. Turnipseed as the  
24 authorized representative?

25 A Yes.

2-8

1 Q Is there a formal instrument or proclamation or  
2 executive order or other documentation reflecting that  
3 delegation that you are aware of?

4 A Not that I am aware of. It might be in Ms. Turnip-  
5 seed's job description under the state personnel system.

6 Q All right, sir. I think that was the only reference  
7 to a specific identifiable person by title within the  
8 Governor's Office that you are aware of in the Plan. Were  
9 there others that you are aware of?

10 A When the Forward Operations Emergency Center is  
11 established, the media center is established, I don't know  
12 if it makes reference to the Press Secretary at that time or  
13 not -- when the media center is established.

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1 Q Right. I was looking to see if that reference  
2 was included in the same annex. Are there other members of  
3 the Governor's office that are expressly referred to by  
4 function or responsibility in the plan, Mr. Sanders, other  
5 than the press secretary?

6 A Not other than the Governor, specifically.

7 Q Are you aware generally of the requirements of  
8 federal regulations with respect to the content of emergency  
9 plans for fixed nuclear facilities?

10 A I have knowledge that there are such regulations,  
11 but I have not specifically read those regulations.

12 Q Are you aware of the existence of a planning  
13 standard referred to as NUREG-0654 that sets forth various  
14 evaluation criteria for planning?

15 A Not generally. People in my staff, I assume, are.  
16 They have made reference, I believe, to that specific cite,  
17 but I do not have knowledge about it.

18 Q Well, I submit to you that as part of that planning  
19 standard in that regulatory requirement there's a requirement  
20 for the assignments of primary and support responsibilities  
21 under the plan. Are you aware generally that that's a  
22 regulatory requirement?

23 A No, I'm not aware of it, but I'm not surprised  
24 if it is. That's the way we function.

25 Q And in part of the evaluation criteria under that

1 standard there's an instruction to set forth the legal  
2 authority that supports the assignments of responsibilities  
3 under the plan. And were you aware of that?

4 A Not specifically, no.

5 Q Let me direct your page to page 1 of SCORERP, and  
6 there is set forth under B. Authority, what appears to be an  
7 indication of the legal basis for the assignments of primary  
8 and support responsibilities under the South Carolina plan,  
9 do you see that?

10 A Yes.

11 Q Now, would you agree that the primary and legal  
12 authority with respect to emergency preparedness is the  
13 statutory authority that is reflected in Item 1, and that is  
14 Act No. 199 of 1979.

15 A Would you repeat the question? I'm not sure  
16 I understand it.

17 Q That the principal statutory authority is reflected  
18 in Item 1; that is, Act 199 of July 1979, establishing the  
19 Emergency Preparedness Division.

20 A I would agree, as far as statutory responsibility,  
21 but I also think it's constitutional authority given to the  
22 Governor.

23 Q And that constitutional authority is set forth  
24 at Item 3 on that page?

25 A Yes.

1 Q All right, let's start there, Mr. Sanders. You and  
2 I both went to the same law school and have practiced in  
3 South Carolina, and you would agree, would you not, that  
4 South Carolina is frequently characterized as a legislative  
5 state in terms of the organization of its form of government?

6 A How do you mean that? I'm not sure.

7 Q Well, have you heard that characterization?

8 A Yes.

9 Q All right. And I mean that by way of contrast  
10 with a state that could be described as an executive state  
11 where the governor or the executive authority is seen as  
12 having primary authority as contrasted with a legislature.

13 Generally speaking, South Carolina is characterized  
14 by the term "a legislative state." Would you agree that?

15 A I would agree that most of the authority in South  
16 Carolina is vested with the Legislature. We have no cabinet  
17 form of government, for example.

18 Q And as part of that distinction that you just made  
19 of not having a cabinet form of government, Governor Riley  
20 does not appoint secretaries in charge of various executive  
21 departments as in the federal system where the President would,  
22 with advice and consent, appoint a secretary of defense, or  
23 perhaps the Director of the Federal Emergency Management  
24 Agency and that sort of thing.

25 A That's correct. He would only do so perhaps

1 indirectly by appointing the members of the Board of Directors  
2 and the agency directors are answerable to them.

3 Q And as part of that last observation, South  
4 Carolina's executive functions are principally carried out by  
5 a plethora of, I think, 129 or so at last count, independent  
6 boards and commissions whose professional administration is  
7 answerable to the independent boards and commissions, correct?

8 A I would think absent some other authority that's  
9 correct.

10 Q And, for example, one of the agencies charged with  
11 responsibility under the plan is the Adjutant General's  
12 Office. The Adjutant General is not a gubernatorial appointee;  
13 he's an independent, elected, constitutional officer, correct?

14 A That's correct.

15 Q And his staff reports to him and not to the Governor.

16 A I think the Governor has the authority to call out  
17 the National Guard, but the National Guard under his authority.  
18 I cannot --

19 Q I think Mr. Lunsford made that point yesterday as  
20 well. And that is that in certain circumstances, the  
21 constitution provides that the Governor calls out the National  
22 Guard, calls them into active service -- he's the Commander-  
23 in-Chief.

24 A That's correct.

25 Q But absent that condition, the Governor does not

1 supervise the Adjutant General or the Adjutant General's  
2 staff, correct?

3 A He does not. The Adjutant General is a separate  
4 constitutional officer.

5 Q All right, and in addition, another agency under  
6 the plan assigned command and control responsibilities is the  
7 Department of Health and Environmental Control. It is an  
8 independent commission, is it not?

9 A I would see the role of the Department of Health  
10 and Environmental Control as one of technical assistance  
11 rather than command and control. But the answer to your  
12 question is the agency director is responsible to that board.

13 Q All right. Well, I didn't mean to put words in  
14 your mouth, but I think that Table 3 itself indicates that  
15 DHEC is assigned command and control support responsibilities,  
16 and that was what Ime [redacted] said that. Would you agree  
17 with that?

18 A I think [redacted] if you're talking about command and  
19 control of state and local governments, I think the Governor  
20 has exclusive authority over that. But as far as control of  
21 specific employees within DHEC, they do have that responsibility.

22 Q Look at page 5 again, Mr. Sanders. My reference  
23 was simply that under the function, command and control,  
24 DHEC is assigned the support responsibility.

25 A Oh, yes, I understand.



1 Q Except in the sense that the Governor appoints  
2 members of the Board of Health and Environmental Control to  
3 serve a term of office; he does not appoint the head of that  
4 agency such as you would in the cabinet form. And instead,  
5 the Commissioner, Dr. Jackson at present, is employed by and  
6 answerable to the Board of his agency, correct?

7 A That's correct. The Governor may have some  
8 removal authority but I just can't honestly state whether he  
9 does or not. But he perhaps has removal authority in  
10 certain situations.

11 Q Such as, for example, constitutional authority to  
12 remove an officeholder who had been accused of a crime?

13 A Yes.

14 Q That would not apply under other circumstances,  
15 though, would it?

16 A It would not.

17 Q Now, would you accept, Mr. Sanders, that Act No. 199  
18 of July 1979 referred to at page 1 under Authority has been  
19 codified in the South Carolina Code of Laws as Sections  
20 25.1.420 and following sections?

21 A I'm familiar with the Act but I'm not familiar with  
22 the Code cite.

23 Q Let me just show you that. That's what I have in  
24 front of me. I'll show you a Xerox of those Code sections.

25 (Counsel handing document to witness.)

1 Q If you look in the history under the code section,  
2 would you agree that it reflects 1979 Act No. 199?

3 A Yes.

4 Q You don't have a copy of this, do you?

5 A I have a copy of the Act but I don't have a copy  
6 of this specific statute that's in the Code.

7 Q Let me let you look on, then. Would you agree that  
8 25.1.420 establishes and provides assignments of responsibility  
9 to the South Carolina Emergency Preparedness Division?

10 A Yes, it does.

11 Q Of the Office of the Adjutant General?

12 A Yes.

13 Q And Section 25.1.440 entitled "Additional Powers  
14 and Duties of the Governor During a Declared Emergency,"  
15 provides among other things that upon the declaration of an  
16 emergency, the Governor has the power to (7), "direct and  
17 compel evacuation."

18 A Yes, it does.

19 Q And would you agree that that is the statutory  
20 basis for the Governor's powers and responsibilities under  
21 the emergency plan for the Catawba Station?

22 A Yes. I would think perhaps he has a constitutional  
23 authority to do that, also. But as far as the statutory  
24 responsibility, I think that specifies his authority.

25 I think the Governor under the constitution is

1 the guardian of public safety, and certain inherent powers  
2 would flow from that.

3 Q Well, you would agree with me, though, wouldn't  
4 you, that someone in the Governor's office might make that  
5 case, but someone who was in the Legislature, for example,  
6 might -- and in fact have in litigation in South Carolina --  
7 make just the contrary case, and that is that the Governor's  
8 powers in South Carolina are circumscribed by specific and  
9 express assignments of authority in the constitution and by  
10 statutory powers, and that he has powers that don't extend  
11 beyond those expressly assigned.

12 A I couldn't say what someone in the Legislature  
13 might say or might not say. I think he probably does have  
14 authority under the constitution, as the guardian of public  
15 safety.

16 Q Well, you are not aware of decisional authority  
17 in South Carolina that stands for the proposition that I just  
18 proposed to you.

19 A No, I am not, under an emergency type situation.

20 Q Well, under an emergency type situation he has  
21 explicit authority under the statute.

22 A Yes, he does.

23 Q All right. And it's your position that he has  
24 authority that extends beyond the terms defined in the  
25 statute?

1           A     He very well could.

2           Q     Would you tell me what that authority is, then?

3           A     I would think that, in fact, he is responsible for  
4 the health and safety of all South Carolinians.

5           Q     The statute provides that, Mr. Sanders. I'm  
6 looking at Subsection (a), "The Governor, when an emergency  
7 has been declared, as elected Chief Executive of the State,  
8 shall be responsible for the safety, security and welfare of  
9 the state, and shall be empowered with the following additional  
10 authority to adequately discharge his responsibilities." And  
11 then there are enumerated seven explicit grants of authority  
12 by the General Assembly.

13                     My question is, what other additional authority  
14 do you view the Governor as having beyond those enumerated  
15 there?

16           A     Other than what's in the constitution -- I'd have  
17 to get a copy of the constitution to look at and read. But  
18 I think he has inherent authority under sections of the  
19 constitution that would give him all the authority that is  
20 stated in the statute.

21           Q     All right. So the statute may explicitly assign  
22 responsibilities that are otherwise inherent. Is that your  
23 view?

24           A     Yes, but I don't know if the constitutional  
25 authority is as limited as what is provided in the statute.

1 Q Well, let's make this a little more concrete.  
2 What I'm interested in is with specific reference to the  
3 Catawba plan, and plans. I mean that collectively. What  
4 other, if any, authorities beyond those set forth in the  
5 statute that we've been looking at -- what other authorities  
6 are possessed by the Office of the Governor? And can you  
7 direct my attention to the specific parts of the plan that  
8 rely for their basis on authority beyond this statute?

9 Do you follow that question?

10 A Yes. As far as the plan states, on page 1 under  
11 Roman I, Subsection (b), under (3) --

12 Q I'm sorry, I lost you there.

13 A Back to page 1.

14 Q Under Authority?

15 A Yes. Under (3), where it says, "Article IV of the  
16 Constitution of South Carolina provides that the Governor has  
17 complete responsibility of all activities of the State."

18 Q That's about as broad a grant of authority as you  
19 can get, but what I'm truly trying to drive at is what parts  
20 of the plan for Catawba are dependent on grants of authority  
21 to the Governor under that constitutional provision or any  
22 other that are greater than those enumerated in Items 1 through  
23 7 under the specific statute?

24 Because what I'm trying to understand, Mr. Sanders,  
25 is if something in the plan is dependent for its implementation

1 on an inherent authority that is not set out in the statute,  
2 I would like to identify that, alright? Would you like me  
3 to show you the list of the seven --

4 A I think I'm familiar with them but it probably  
5 would help refresh my memory. For example, Mr. Guild, I  
6 would think that the Governor, absent the statutory authority,  
7 would have the police power to order and direct an evacuation  
8 absent the statutory authority.

9 For example, I think the Governor has the authority  
10 to call out the National Guard under the constitution, and I  
11 don't think it's specified in this specific statutory cite.

12 Q Well, that is a help. And if calling on the  
13 National Guard is an authority that might be required under  
14 the plan that is not cited in that statute, that is one.

15 The statute exists, so I'm really not focusing on  
16 things that are inherent if the statute didn't exist. What I  
17 want to know is for the plan to work, are there authorities  
18 that the Governor has, in your view, beyond those enumerated  
19 in that list? And you stated one and that was calling out the  
20 National Guard.

21 A I'm not aware of any others.

22 Q Is there a statutory basis for the creation and  
23 authority that is vested in your office?

24 A I think there's an executive order which  
25 establishes the Division of Public Safety. There's also

end 3

1 statutory authority for setting up the Office of Criminal  
2 Justice, which specifies some of my duties under the South  
3 Carolina Code.  
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2 Q Do those duties include any that are associated  
3 with responsibilities under the South Carolina plan with  
4 Catawba?

5 A Under the statutory cite, no.

6 Q So the legal authority for your duties would be  
7 founded upon an Executive Order of the Governor?

8 A That's correct. And whatever the Governor may be  
9 able to delegate.

10 Q And that delegation is embodied in that Executive  
11 Order?

12 A Not that I am aware of. It establishes the office.

13 Q What is the embodiment of any delegated authority  
14 that you have?

15 A I know of no executive order or statutory cite.

16 Q Any other written basis for the delegation, docu-  
17 mentary basis?

18 A Not that I'm aware of other than in a job descrip-  
19 tion that has been written, and an understanding of responsi-  
20 bility since I took this position.

21 Q All right.

22 That job description would be your job description?

23 A That's correct.

24 Q I assume you don't have that before you?

25 A No, I do not.

Q Can you tell me by the best of your recollection,



mm2

1 what the material parts of that job description are as they  
2 relate to your responsibilities under the plan?

3 A It would be difficult to say.

4 I am responsible for the Office of Emergency  
5 Preparedness and being a liaison as between responsibilities  
6 in the plan and responsibility of the Governor.

7 Q All right.

8 A For example, I don't know if it is spelled out in  
9 my job description, but it is an understanding under our  
10 standard operating procedures that, for example, at the  
11 Forward Emergency Operations Center I would be the forward  
12 person there along with my Emergency Preparedness coordinator.  
13 Whereas the Deputy Director for my division would stay back  
14 at the State Emergency Operations Center.

15 Q All right, sir.

16 Now, I would like for you please, Mr. Sanders,  
17 to tell me with specific reference to the Governor himself,  
18 Governor Riley in this instance, what his responsibilities  
19 are in the implementation of an emergency response plan in  
20 the event that an accident does occur at the Catawba Nuclear  
21 Station.

22 Now, to put it in some context, we had a  
23 considerable body of discussion in this proceeding. Let me  
24 premise it this way: In the event of a very serious accident  
25 at the Catawba Station, one that the NRC views as unlikely --

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1 we certainly hope is unlikely -- but one which is included  
2 among those in the planning basis for emergency response  
3 plans. Assume a very fast-developing severe accident, and  
4 that is one where because of a series of human errors  
5 and perhaps mechanical malfunctions there is a degradation of  
6 the reactor core, the fuel elements at Catawba, and there  
7 is a breach of that reactor vessel and the reactor containment  
8 which, by design, is intended to contain radiation. That  
9 there is a large release of the inventory radionuclides from  
10 the facility in an airborne form, a plume blown by the wind.  
11 And that that plume contains sufficient radiation that  
12 persons offsite would likely be exposed to radiation doses  
13 exceeding the Environmental Protection Administration's  
14 Protective Action Guides.

15 All right, are you familiar generally with those  
16 terms?

17 A Most of them, yes, sir.

18 Q All right.

19 What I am positing is a serious, fast-breaking  
20 accident where emergency response would be required in the  
21 form of life-protective actions. Something would have to be  
22 done to protect the populace who, otherwise, would be exposed  
23 to life-threatening doses of radiation.

24 And you are aware that accidents of that sort are  
25 part of the planning basis for emergency response plans for

mm4 1 Catawba?

2 A As all instances are, yes.

3 Q All right.

4 Now, assuming such an accident, and assuming that  
5 the people of South Carolina are impacted by that accident  
6 and without -- we don't have to be more particular about that,  
7 but that only means that the plume is not going exclusively  
8 across Lake Wylie in North Carolina, there is a danger of  
9 exposure to persons in South Carolina necessitating response  
10 by your people.

11 Now, under those circumstances I want to understand  
12 specifically what the responsibilities and tasks of the  
13 Governor himself are under the plan?

14 A It is my understanding that if the situation is  
15 classification of an immediate general emergency, that the  
16 plant would call directly to the local Emergency Preparedness  
17 Director, in this example South Carolina York County. If  
18 there is an escalating general emergency, they would call  
19 the person at DHEC, and then DHEC would call the Emergency  
20 Preparedness Division, they would call me, I think.

21 If it is of the escalating nature, I would  
22 immediately call the Governor, I would talk directly to the  
23 appropriate official at DHEC. Based on his recommendation  
24 I would recommend to the Governor what action should be  
25 taken under the scenario that you gave.

mm5

1 I would assume that it would be an evacuation of  
2 certain sectors. I would probably then proceed immediately  
3 to the SEOC. The Executive Order would bring forth all  
4 aspects of emergency plans, would establish the SEOC that  
5 would take control of local and state government.

6 Q And that SEOC is the State Emergency Operations  
7 Center?

8 A That's correct.

9 Q That's located in Columbia?

10 A That's correct. In the Rutledge Building.

11 Q All right.

12 Now, focusing on the Governor, I understood then  
13 from your last response that the Governor's task would be to  
14 make the decision to declare a state of emergency?

15 A That's correct.

16 Q By Executive Order?

17 A That's correct.

18 Q All right.

19 And, to direct a specific protective action  
20 and evacuation is what you indicated as a possible choice.

21 A It seems very likely under the scenario that  
22 you gave.

23 Q All right. That's fine. Let's accept that.

24 So, his task would be to do those two things,  
25 correct?

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1           A       Yes.    And, I think calling forth a plan which  
2 would bring all the agencies that have responsibility under  
3 this plan and the Comprehensive Disaster Preparedness Plan  
4 would all arrive at SEOC and would take responsibility for  
5 state government -- for local and state government.

6                    And also media responsibility.

7           Q       All right.

8                    Let's talk about how you accomplish that task.  
9 Let's take the situation where the Governor is involved, that  
10 you just indicated. Now, by what means would you contact  
11 the Governor after you had been informed of the existence of  
12 an escalating incident at the Catawba Plant, anticipated to  
13 lead very quickly to the kind of severe accident with public  
14 exposures that I premised.

15                   How would you communicate with the Governor?

16           A       I would call him. It depends on the time of day  
17 and the situation. But directly, I would call him either at  
18 the State House, call him at the Mansion, or get in touch  
19 with the security person that is always with him and have him  
20 tell the Governor I need to talk to him directly.

21                   This would be through a beeper system.

22                   And also, if the Governor was in his automobile,  
23 I could contact him directly through the highway radio system.

24           Q       Give me a little more information about that.

25                   The first system, you pick up a telephone?

mm7

1 A That's correct.

2 MR. MC GARRY: I will object.

3 I object on the grounds of relevancy, I object on  
4 the grounds that this line of questioning has nothing to do  
5 with any facts already in this case. It is not rebuttal  
6 testimony.

7 I have sat here, Mr. Carr has sat here, we have  
8 just consulted. We have been listening for the last 15 or 20  
9 minutes. It is interesting. But, we asked ourselves, what  
10 testimony is Mr. Sanders rebutting, what piece of evidence  
11 that is already in the record is his testimony rebutting?

12 We don't know what it is. So, therefore we maintain  
13 that this entire line of inquiry is beyond the scope of  
14 rebuttal testimony. It appears as clear direct testimony  
15 getting into the responsibilities of the Governor, getting  
16 into the responsibilities of Mr. Sanders. That is direct  
17 testimony. It is not rebuttal testimony.

18 MR. GUILD: Mr. Chairman, we disagree. We might  
19 as well settle this right now, because if we are going to  
20 be wasting a lot of time at each juncture arguing which  
21 specific line and phrase of the Applicant's case the  
22 question is directed to, we will be here quite some time  
23 with Mr. Sanders and each of the rest of the witnesses.

24 Mr. Sanders' testimony is sought with respect,  
25 among other things, to Contention 8. That is the coordination

m m8 1 contention, to paraphrase its description.

2 Applicants presented the testimony yesterday of  
3 Mr. Coleman, Mr. Harris, Mr. Lunsford, Mr. McSwain,  
4 Mr. Phillips, Mr. Broome, Mr. Thomas with respect to this  
5 contention. That is a prefiled document of some weight. We  
6 heard a lot of testimony from them yesterday.

7 The testimony most material to that which  
8 Mr. Sanders' testimony addresses, is that of Mr. Lunsford and  
9 Mr. McSwain, the gentlemen who are employed by the Emergency  
10 Preparedness Division in South Carolina, who were explaining  
11 to the best of their understanding how they assumed it all  
12 would orderly work in the Governor's Office to the extent  
13 the Governor's Office was charged with primary responsibilities  
14 for command and control in South Carolina.

15 Now, it seems apparent to me that Mr. Sanders, as  
16 the person who is charged with that responsibility as the  
17 Director of Public Safety Programs, who is the official that  
18 this Board has limited us to as a surrogate for the Governor  
19 of South Carolina who is charged with explicit responsibility  
20 for protective action in South Carolina, is the appropriate  
21 witness to be asking these questions. These questions are  
22 material.

23 Regardless of how you characterize them, it is  
24 clear rebuttal to the substance of Applicants' case, which  
25 is that there are effective assignments of primary and

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1 support responsibilities, and that there will not be  
2 coordination problems, confusion or conflict impeding the  
3 implementation of the plan.

4 JUDGE MAPGULIES: I thought at one point we were  
5 heading in that direction, counsel, in terms of the authority  
6 of the Office of the Governor. And yesterday we heard  
7 testimony as to the authority of the Office of the Adjutant  
8 General. And there was some area in terms of how the two  
9 interreacted, and what the statutory authority was for their  
10 interaction. I thought we were heading in that direction.

11 MR. GUILD: So that is certainly a significant  
12 point, and I think that point is established.

13 What I think is established among other things,  
14 so far, is that Mr. Sanders, as capable as he is, operates  
15 outside of the -- in my view, it is our position -- outside  
16 of the authorities which the State is obligated to indicate  
17 as the basis for the assignments of primary and support  
18 responsibilities under the plan.

19 His office is not mentioned in the plan at all.  
20 His role in the plan is only indicated by way of answers to  
21 cross-examination questions directed by this counsel at  
22 witnesses who Applicants offered as the exclusive witnesses  
23 for the South Carolina State response, and that was  
24 Mr. Lunsford and Mr. McSwain, who in turn said no, it is  
25 not us, it is the Governor's Office; no it is not the



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1 Governor, it is Mr. Sanders who has to do these things.

2 We are now at the juncture where I am seeking  
3 to demonstrate that Mr. Sanders in fact has to accomplish  
4 what he has begun to set out for us, and that is gleaning  
5 information from the Department of Health and Environment  
6 Control, transmitting it to the Governor, and getting a  
7 decision from the Governor on two scores; declaring emergency  
8 and directing protective action.

9 Now we maintain that that can't be accomplished,  
10 or is unlikely to be accomplished with sufficient efficiency  
11 and lack of confusion to accomplish effective protective  
12 action. But, Judge, you barred us from getting into the  
13 substance of the Governor's responsibility, you said you  
14 have got to ask staff people to find out what they do because  
15 they know, and we can't go to the horse's mouth to find out  
16 what the Governors know.

17 If you lock us out of this as well, you know we  
18 might as well throw up our hands. You might as well have  
19 said the plan will be magically approved regardless of the  
20 human elements required for implementation.

21 I don't know how to make more crystal clear to  
22 you the need to examine the specific gentleman who is  
23 assigned responsibilities under the plan to determine if it  
24 can be implemented. I just don't know how to make it any  
25 clearer.

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(Please note, a misfingering of the keys  
caused the page numbers above to be omitted in the  
sequence of pages.)

The Reporter  
M. Meltzer

mm11 1

JUDGE MARGULIES: Where are we going in terms of  
2 the nature of the radio communications and the systems?

3 MR. GUILD: Judge, you know it is really funny,  
4 because Applicants put in testimony that says all we have  
5 got to worry about is the fact that Duke has a wonderful  
6 system of radios, et cetera and phones at the Catawba station.  
7 And they put that in by way of their case on Contention 8.

8 And I am now trying to suggest to you through the  
9 testimony of Mr. Sanders that the radio links that are  
10 required for effective coordination don't stop with  
11 Mr. Coleman's testimony or the testimony of the gentlemen  
12 offered by Applicants.

13 And now we have determined that there is another  
14 link, and the link is critical, if you are going to get the  
15 Governor to perform the two key functions that he performs.

16 (Board conferring)

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1 JUDGE MARGULIES: At this point, Mr. Riley, we can  
2 see that this is still in the area of rebuttal in terms of  
3 explanation but we would caution you at this point that your  
4 case is one of rebuttal and not to put in a new direct case.

5 MR. GUILD: Yes, I appreciate that. Thank you.  
6 We dispute the notion that this constraint is an appropriate  
7 one, this rebuttal constraint.

8 JUDGE MARGULIES: We have gone through that.

9 MR. GUILD: Yes, I know we have, Judge. But my  
10 problem is this. If I have to look over here at Mr. McGarry  
11 and expect them to pop up at every question, we are going to  
12 go through this whole trip over and over again. I would ask  
13 for specific conclusions of law with respect to rebuttal  
14 if your view is that we are exceeding the scope of a proper  
15 rebuttal case because I frankly take exception to the initial  
16 ruling and find it simply a device to constrain us from being  
17 able to present a case period.

18 So if there is to be a ruling that says that you  
19 anticipate and I assume you did when you made the ruling in the  
20 first instance that you were going to limit us in some fashion  
21 to the questions, I would just as soon have very clear  
22 instructions at the outset so that I don't waste my time  
23 nor the gentleman's time who have been called to come here from  
24 some distance nor the expense to my client for bringing them  
25 here to listen to applicants at every juncture argue that

1 somehow we should be precluded from eliciting this evidence.

2 JUDGE MARGULIES: If you recall counsel at the  
3 opening of this session, I gave you what our ruling was as  
4 to what rebuttal evidence consists of and you thanked me for it  
5 at that time. That same definition continues to apply.

6 MR. MCGARRY: Your Honor, we would like the record  
7 to reflect that the examination of Mr. Sanders commenced at  
8 9:05. Our first objection raised came at 9:55 and it has been  
9 the only objection that we have made thus far.

10 MR. GUILD: I certainly appreciate Mr. McGarry's  
11 uncharacteristic courtesy and reticence.

12 MR. MCGARRY: I object to that characterization.  
13 That is not a professional thing to say on this record.

14 MR. GUILD: It is not a professional thing, Mr.  
15 McGarry, for you --

16 JUDGE MARGULIES: Will you address the Board? If  
17 there is any direction to any counsel, the Board will give it.

18 MR. GUILD: The record should reflect Mr. McGarry's  
19 uncharacteristic of zeal for the first hour and I acknowledge  
20 it. My point is I expect that he and Mr. Carr have gotten to  
21 the point after their consultation and reticence this far that  
22 we are likely to hear this objection or type of objection with  
23 some greater degree of repetitiveness. That is the basis for  
24 my inquiry of the Chair at this point about what the Chair's  
25 view was. I appreciate the Chair renewing your instructions

1 from the beginning and I am prepared to go forward.

2 BY MR. GUILD: (Resuming)

3 Q Mr. Sanders, back to the subject at hand. You have  
4 to reach the Governor. The Governor has tasks under the Plan.  
5 You were going to tell me how you reach him. You said you  
6 pick up a phone as one means and that had something to do with  
7 a beeper system. Would you just tell me what that system is,  
8 please?

9 A (Witness Sanders) Yes. We are given a card and  
10 all people who play a part in the emergency plan have a card  
11 and how to get in touch with the main actors within the system  
12 and for example, the card would have my telephone number at  
13 the office and at home and the beeper number that I have has  
14 about a 30-mile radius. Otherwise, I can be contacted either  
15 through the highway department radio system or the South  
16 Carolina EPD radio net.

17 Q All right. So the beeper is your beeper?

18 A The beeper is my radio, that is correct.

19 Q It is for a call back from the Governor? That would  
20 be the use that you referred to?

21 A No. This is when the Emergency Preparedness Division  
22 needs to get in touch with me. That is how they get in touch  
23 with me. How I would get in touch with the Governor is  
24 through the beeper system to the highway radio system by  
25 directly going to the State House or to the Mansion or by

5-4

1 sending a messenger such as someone from SLED to pick up the  
2 Governor or tell the Governor that I need to get in touch with  
3 me or whatever or the Highway Patrol System or whatever.

4 Q That is what I am focussing on, your contact with  
5 the Governor. The primary means is you pick up a telephone.

6 A Primary means, that is correct.

7 Q Is that a normal commercial telephone?

8 A That is correct.

9 Q You call him at his place of work or where you expect  
10 him to be if he wasn't there. At night, you would call him at  
11 the mansion.

12 A That is correct. I also understand that there is a  
13 dedicated line from the Emergency Preparedness Division  
14 directly to the Governor's Office.

15 Q Is that your office?

16 A That is in the State House.

17 Q I mean the Emergency Preparedness Division, that is  
18 the Adjutant General's Office?

19 A That is correct.

20 Q You are not located at that place, are you?

21 A I am not.

22 Q So that line would help them contact the Governor  
23 but it is your role to contact the Governor?

24 A That is correct.

25 Q Why don't you have a dedicated line since it is

1 your job to contact the Governor?

2 A We haven't perceived that as a problem before so  
3 we don't have that form of communication such as a dedicated  
4 line.

5 Q Why does the Division of Emergency Preparedness  
6 have one if their job is not to contact the Governor?

7 A I would imagine that is a back-up system in case  
8 they could not get in touch with me or someone in the chain  
9 of command they would use that directly to get in touch with  
10 the Governor.

11 Q Is that what the Plan calls for?

12 A Not that I am aware of, no.

13 Q How are you made aware of the Governor's availability,  
14 where he is and how you reach him?

15 A Generally I am given a weekly itinerary of where  
16 he would be. That is not called for in the Plan or part of  
17 the standard operating procedure. Generally getting in touch  
18 with Governor Riley has never been a problem in any emergency  
19 type situation or when we needed to get in touch with him  
20 because of other means. I don't have a sheet as to where  
21 he will be by the minute but certainly if he is going to be  
22 out of the jurisdiction, then we are notified of that and we  
23 set up linkages with the lieutenant governor or if both are  
24 out of town which occurred last year, we would brief the  
25 president of the senate and his staff as to the emergency



1 responsibilities and their responsibilities as acting governor.

2 Q All right. That authority is provided for in the  
3 constitution?

4 A Yes, that is my understanding.

5 Q All right. You have the responsibility for  
6 emergency response for nonradiological matters as well?

7 A Yes.

8 Q In that capacity you have had need to contact the  
9 Governor so that he can exercise emergency responsibilities  
10 for other than radiological events also provided for in the  
11 statute that we have been talking about?

12 A That is correct. If I was not available, some member  
13 of my staff.

14 Q Let me ask you this. How many times have you been  
15 called upon to make that contact with the Governor?

16 A In an emergency situation?

17 Q Yes.

18 A The recent tornadoes in March, my office was, and  
19 the Penopolis Dam situation approximately a year ago.

20 Q Those are the two incidents?

21 A That is correct.

22 Q That is since you have taken office?

23 A That's right.

24 Q When did you come to the job that you have now?

25 A May of last year. There are also other instances

1 where there might be an emergency situation where I would  
2 contact Mr. deLoache in the Governor's Office and we would  
3 do that procedure. For example, Mr. Guild, when the children  
4 were removed from the home in Colleton County last week  
5 we had to sign an order declaring an emergency to open up  
6 the National Guard Armory to accept the children.

7 So rather than calling the Governor directly, I  
8 used the offices of Mr. deLoache to contact the Governor  
9 when he was available.

10 Q That was a circumstance I take it where none of  
11 those children or others were in immediately life threatening  
12 danger at the time that you need to act. They had already  
13 been in the care of law enforcement. It was not necessary to  
14 bother the Governor in that matter.

15 A Not immediately but we needed his authority to have  
16 an executive order to open up the National Guard Armory.

17 Q You didn't need to contact him directly though. It  
18 wasn't of such urgency that you needed to contact him  
19 directly?

20 A It was not of such an urgency.

21 Q So there have been two incidents where there has been  
22 a sufficient urgency in your judgment that required your  
23 direct contact with the Governor?

24 A That is correct.

25 Q The first of those I believe was a threatened dam

1 failure in Penopolis, South Carolina?

2 A That is correct.

3 Q Was that a circumstance where it was perceived that  
4 there was life threatening harm to the citizens?

5 A That is correct.

6 Q The Governor declared a state of emergency?

7 A He did.

8 Q The State Emergency Response Plan was implemented?

9 A Parts of the Plan were implemented.

10 Q Tell me about the link in that instance between  
11 your office and the Governor. How did the word come to you  
12 and how did you in turn make the contact that you had to  
13 make to get the Governor's responsibility carried out?

14 A In that particular situation I was contacted by  
15 David Reed who is an executive assistant in the Governor's  
16 Office and indicated he had received a call from Santee Cooper  
17 saying that there was a problem with the Penopolis Dam  
18 and gave me a statement as to the seriousness of that situation.  
19 He asked me what information I had about it. I had just  
20 been called about one or two minutes before that by the  
21 Emergency Preparedness Division which gave me the same  
22 information.

23 I proceeded directly to the Emergency Preparedness  
24 Division to find out the status of the dam at Penopolis. While  
25 I was there I either received a call directly from the Governor

1 or through Chip McKenney, I honestly can't remember, indicating  
2 that we were going to set up a command center in the county  
3 and we proceeded down there and the executive order was  
4 drafted by myself and someone else to set the situation in  
5 motion.

6 At that time Chief Strom, Leon Gasque, David Reed  
7 whom I just mentioned, and myself flew to Penopolis and set  
8 up a command center. We had normal communications between  
9 the Governor. I had communications between the Governor at  
10 the mansion and he was also on Kiawah Island and at one point  
11 we went directly by helicopter to meet with the Governor and  
12 give him a status report and to bring the Governor to the  
13 Penopolis Dam.

14 Q That is when he had gone to Kiawah?

15 A That is correct.

16 Q You mentioned Chief Strom and Leon Gasque. Those  
17 gentlemen are employed by the State Law Enforcement Division?

18 A That is correct.

19 Q So in that instance the Governor's Office knew about  
20 the matter before you did and they sort of reversed the  
21 order that would otherwise be in place? They called you  
22 and you took it from there, correct?

23 A Yes. I think like I said two or three minutes  
24 before Mr. Reed called I was called by the Emergency  
25 Preparedness Division and they gave me a status report. I

1 believe they called me before Mr. Reed did. Mr. Reed had  
2 direct conversations with officials at Savannah River Plant  
3 whereas the people in the Emergency Preparedness Division  
4 got their information up through the local emergency  
5 preparedness director. I think it is probably simultaneous.  
6 It was within a matter of minutes that I heard from  
7 Emergency Preparedness Division and the Governor's Office.

8 Q You mean to say Santee Cooper. You said Savannah  
9 River plant.

10 A I am sorry.

11 Q Santee Cooper.

12 A Yes.

13 Q They are the operators of the dam?

14 A That is correct.

15 Q Now how about the second instance that you mentioned  
16 and that was the tornadoes of recent memory, March I believe  
17 this year.

18 A Yes. What transpired?

19 Q Tell me what transpired there?

20 A I received word in Colorado Springs, Colorado that  
21 tornadoes had touched down in South Carolina by a member of  
22 the Emergency Preparedness Division. At that time the  
23 Director of the Emergency Preparedness Division was also in  
24 Colorado Springs and we called back to the Emergency  
25 Preparedness Division. It is my understanding that within

5-11

1 minutes after touchdown of the tornado Mr. Boone, Gaines  
2 Boone of my office, was dispatched to go to Newberry. Mr.  
3 Purdy McCloud went to the SEOC and Mr. McCloud is the person  
4 who had direct contact with the Governor and gave him the  
5 information and recommended that an emergency be declared.

6 Subsequent to that the Governor went to the SEOC.

7 Q All right. In that instance I take it you and the  
8 director of the Emergency Preparedness Division --

9 A Yes.

10 Q -- were in Colorado on a common purpose.

11 A That's right.

12 Q Convention, meeting -- something like that?

13 A That's right.

14 Q Since you both are involved in emergency prepared-  
15 ness, is it fair to say the subject was emergency preparedness?

16 A That's right.

17 Q Why did they contact you? That is what I am trying  
18 to get at.

19 A As to what? As to the tornado?

20 Q You were out of state.

21 A That's right.

22 Q The plan, I assumed, called for persons in your  
23 absence to take your responsibility under the plan.

24 A Yes.

25 Q Why were you then still included as part of the

1 chain?

2 A I was not part of the chain. They called Mr. Boone  
3 in my absence as part of the chain. They called me for  
4 information purposes.

5 Q All right.

6 A And also for me to return to South Carolina.

7 Q In that instance give me an idea if you can, please,  
8 of the time required between the notice of the impending  
9 emergency condition and the notice to the Governor and his  
10 actions in declaring a state of emergency and requiring  
11 specific response?

12 A To the best of my knowledge an emergency was  
13 declared one hour and 30 minutes after the first tornado  
14 touched down, I believe, in Abbeville County.

15 Q How about in the Penopolis Dam situation? Can you  
16 tell me what the time was between the notification from the  
17 authorities at Santee Cooper and the issuance of the emergency  
18 declaration?

19 A It was within a matter of hours. I would say  
20 probably one to two hours after officially being notified  
21 of the situation in Penopolis.

22 Q All right. Tell me what you mean by officially  
23 notify? What point is that that you have reference to?

24 A I would think either through the information that  
25 I recieved through the Emergency Preparedness Division or from

1 the information that Mr. Reed received from the Santee Cooper  
2 personnel as to the status of the dam as to what situation the  
3 dam was in and perhaps it might collapse.

4 Q My question is really trying to get at this. You  
5 say Mr. Reed in the Governor's Office got the call from Santee  
6 Cooper first?

7 A That's correct.

8 Q Is that the official notification?

9 A No, it is not. The people at Santee Cooper knew  
10 Mr. Reed and knew that he worked in the area of natural  
11 resources and had an ongoing relationship with him.

12 Q So they naturally called him?

13 A That is correct.

14 Q He wasn't the designated person under the Plan  
15 but they called him because they knew him?

16 A He is not the designated person under the South  
17 Carolina Disaster Preparedness Plan. There might be a formal  
18 chain of notification by the Santee Cooper parties to Mr.  
19 Reed of which I am not aware. He might be on some call  
20 system. I think Santee Cooper has its own responsibilities  
21 for emergencies. They have responsibility for calling  
22 specific people. Mr. Reed might be on that list. For  
23 example, they have responsibility for calling the Charleston  
24 Naval Base to say there might be a rupture in the dam. They  
25 have a certain list of people to call.



1 Q Is it fair to assume that there are significant  
2 populations downstream from this dam?

3 A That is correct.

4 Q Give me an idea of the time from the call, your  
5 best estimate of the time of the call from Santee Cooper to  
6 Mr. Reed, the first state authority that was contacted, and  
7 the issuance of the Governor's Executive Order.

8 A When I first received information when the Governor  
9 declared a state of emergency was probably a matter of 30  
10 minutes to 45 minutes. It was very quick.

11 Q All right. What I am trying to find out though is  
12 the point where the people at the facility, Santee Cooper,  
13 contacted the state which I understood to be the call to Mr.  
14 Reed and the subsequent issuance of the executive order? How  
15 much time transpired between those two events?

16 A I do not know how long the dam was in a dangerous  
17 situation before they called Mr. Reed.

18 Q Right.

19 A Or the word was gotten to the Emergency Preparedness  
20 Division. It is my impression that it happened fairly  
21 quickly. But from when Mr. Reed was notified and when I was  
22 notified, I think it was a matter of 30 to 45 minutes before  
23 an emergency order was signed and an airplane was dispatched  
24 to go to the Penopolis area and set up a command center.

25 Q I am not trying to pick nits with you. I just

1 want to understand the timeframe. You said originally one to  
2 two hours. What I want to know is from the point when the  
3 Santee Cooper people regardless of how long they waited  
4 contacted David Reed to the time the Governor issued an  
5 executive order, an estimate of the total elapsed time.

6 A From the notification of Reed and myself, I think  
7 probably 30 to 45 minutes before the Governor actually said  
8 that there was a state of emergency and an executive order was  
9 subsequently signed by him.

10 Q What is the one to two hours that you mentioned  
11 earlier?

12 A I think there is probably some period of time in the  
13 notification process when there was a suspicion that something  
14 was wrong with the dam to confirmation to calling Mr. Reed  
15 and calling the Emergency Preparedness Division.

16 Q Fine.

17 A I imagine there was a period of time when they  
18 didn't know the seriousness of the situation at Penopolis.  
19 I included that decision-making in the time estimate.

20 Q All right. The public information annex to the  
21 plan, Mr. Sanders, includes at appendix three various sample  
22 emergency broadcast system messages. Are you generally  
23 familiar with those?

24 A I know that they are there but to be honest I don't  
25 know if I have read those or not.

5-16

1 Q Look at page C-17 if you have that appendix.

2 A Yes.

3 Q It is the message that has the heading, "Protective  
4 Action/Evacuation." Do you see that?

5 A Yes.

6 Q I want to focus on this part of that message. "Those  
7 persons living in the affected area are..." and then there are  
8 three parentheticals "advised, requested, ordered by the  
9 Governor to proceed with an orderly evacuation over" and it  
10 goes on to specify the detail.

11 What is your understanding of the meaning and  
12 significance of the term "advised, requested and ordered?"

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1           A     I have no knowledge of the word ever being used,  
2 requested. I think "advisory" is self-explanatory, or I  
3 take it to mean demand; direct and demand. I take the word  
4 "order" to mean direct and demand.

5           Q     Does that carry with it the understanding of  
6 legal compulsion -- order?

7           A     It's my understanding it does include that.

8           Q     And does that term "order" in your view reflect  
9 the Governor's exercise of his authority under the Emergency  
10 Management Act that we've talked about? And that is, to  
11 direct and compel evacuation.

12          A     Yes, and I also think he probably has authority,  
13 through the constitution -- through the statutory authority.  
14 I think he clearly does.

15          Q     I want to show you an exhibit that's been received  
16 in evidence, Mr. Sanders. Intervenor's Emergency Planning  
17 Exhibit 21. This is a letter written by Lieutenant Thomas  
18 of SLED to Mr. McSwain, one of the planners, at EPD. This  
19 is a January 18, 1983 letter. I want to direct your attention  
20 to a part of it.

21                   This is with respect to planning for Carowinds,  
22 the theme park, one of the facilities in the Catawba EPZ  
23 with a large number of people during peak times in the summer.

24          A     Yes.

25          Q     "I met with the Assistant Attorney General, John

1 Wilson, on this date, in reference to our problem at  
2 Carowinds. He advised I was correct in stating that only the  
3 Governor of the State of South Carolina could ask for an  
4 evacuation. Home rule is in effect in this state; however,  
5 it does not give local authority any power as to the question  
6 of evacuation."

7 Now, is that statement consistent with your  
8 understanding of the powers of the Governor vis a vis local  
9 authorities?

10 A Yes, with one small difference. I think under the  
11 home rule statute, that local authority can be given to a  
12 county council or to a city council to declare a state of  
13 emergency, and that is limited to that jurisdictional area.  
14 But generally, that is a true statement.

15 Q Well, what is the basis for the authority that you  
16 just referred to? That is, declaration by local government  
17 of a state of emergency?

18 A I don't think that they have enumerated powers,  
19 police powers, under the constitution, but I think they can  
20 be given authority by the General Assembly.

21 The General Assembly, in establishing the Home  
22 Rule Act, does establish for some local entities to have the  
23 authority to order an evacuation if a certain percent of  
24 that body so orders. And it would be in effect for 60 days.

25 Q Can you give me a specific statutory reference?

1           A     Just the Home Rule sections.  Probably Chapters 4  
2     and 5.  But the county or city council have to meet beforehand  
3     and give that specific authority to that law enforcement  
4     agency.

5           Q     In the specific instance in which there would be  
6     a need for a declaration and an evacuation?

7           A     That's my understanding.  As far as authority to  
8     compel an evacuation.

9           Q     Now, appended to this letter from Lieutenant  
10    Thomas of SLED to Mr. McSwain, is the opinion of the Attorney  
11    General, September 5, 1980 -- have you seen this before?

12          A     Yes, I have.

13          Q     In its conclusion it cites the Home Rule Act as  
14    well as the constitution, the provisions you've referred to,  
15    and the Emergency Management statute that we've talked about,  
16    and concludes, "It's accordingly the opinion of this office  
17    that under existing law, neither a county nor a municipal  
18    governing body or official has the authority to direct or  
19    compel an evacuation of any of the populace.  This is not to  
20    say, however, that local officials, including law enforcement,  
21    should not continue to warn or encourage evacuation when  
22    hazardous or dangerous conditions exist on the local level."

23                 Now, are you aware of that opinion?

24          A     Yes.

25          Q     All right.  And is that consistent with your

1 understanding of the authority under the state plan?

2 A I have no reason to dispute that opinion.

3 Q Mr. Sanders, turn, if you will please, to  
4 Annex B to the SCORERP document, and that's entitled  
5 "Training." And would you agree with what I will paraphrase  
6 as the testimony of previous witnesses, probably Mr. Lunsford  
7 in particular for South Carolina, and Mr. Harris for North  
8 Carolina. And that is, the way that you insure that persons  
9 who are assigned responsibilities under the plan are capable  
10 of implementing those responsibilities is through informing  
11 them of what responsibilities they have, training them in the  
12 effectuation of those responsibilities, and testing the plan  
13 through the use of exercises and drills. Is that a fair  
14 understanding?

15 A I think it's accurate.

16 Q And would you agree that not only is it required  
17 under the NRC regulations and guidance, but good practice to  
18 provide for effective training of those with responsibilities  
19 under the plan?

20 A I think that's generally true.

21 Q And is that the purpose of the Training Annex  
22 that I'm directing your attention to, to accomplish that  
23 purpose?

24 A I'm just not sure what all this annex encompasses.  
25 But I think through exercises at fixed nuclear facilities

1 we do a lot of what you indicated. I don't know if it's  
2 all included in this appendix.

3 Q No. I would submit that the exercise portion is  
4 probably not, but this is focused on training. And you  
5 would agree that this is a part of the plan that sets forth  
6 what training is to be conducted?

7 A I think it's generally true. I can't say with all  
8 certainty.

9 Q Look at page B.1. I'm sorry, I didn't mean to  
10 cut you off. Did you have something else?

11 A I can't say with all certainty that this is the  
12 only section that pertains to training.

13 Q Page B.1. The purpose -- to specify the  
14 radiological emergency response training that will be  
15 provided for those tasks with off-site RER responsibilities.

16 A I might have missed the page you're on. Are you  
17 on page C.1?

18 Q No, B. B as in boy. B.1. I just read the purpose  
19 section and that seems to indicate that this is the appro-  
20 priate part of the plan that sets forth those training  
21 provisions.

22 A Yes.

23 Q All right. Now procedures. 1. "State and local  
24 government RER personnel will be thoroughly briefed on all  
25 applicable RER plans, procedures and duties." Are you aware



1 of that provision?

2 A Yes.

3 Q 2. -- and I'm skipping down a little bit. "It is  
4 the responsibility of each department or commission director  
5 to insure that his personnel are trained to a high  
6 preparedness level."

7 A I see that, yes.

8 Q You agree those are important aspects of the  
9 training proviso in the plan?

10 A Yes.

11 Q Now turn to Table 1, at page B.3. It's entitled,  
12 "RER Training Requirements." Does that set forth the subjects  
13 on which various actors under the plan assigned primary and  
14 support responsibilities are to be trained?

15 A It appears to be, Mr. Guild. I haven't really  
16 gone over this table in any detail.

17 Q That's fine, Mr. Sanders. If I'm not stating  
18 it correctly and you know it, just tell me. I appreciate  
19 your telling me also if it's something that you may not have  
20 seen before.

21 Does that appear to be the tabular indication of  
22 the subjects for which training is called for under the plan?

23 A It appears to be, yes.

24 Q Now, the first line on the lefthand column says  
25 "Governor's Office." Now that is you, right, and others

1 including Governor Riley and other persons that you've  
2 mentioned as having responsibilities under the plan? In  
3 the Governor's Office. Right?

4 A Yes, that's correct.

5 Q Now what I want to understand is this. I see a  
6 listing of the obligations for training for the Governor's  
7 office. RER, plans and procedures. These are the ones with  
8 X's in them. I assume that means that you are supposed to  
9 be trained in these things: first aid, radio -- I assume  
10 that's radiological health -- IND -- I assume that means  
11 individual radiological health -- COMO -- I assume that  
12 means communications -- access, control, protective measures,  
13 drills and exercises, public information and EOC/FEOC  
14 procedures. Correct?

15 A That's a correct reading.

16 Q Now what I want to understand is with specific  
17 reference to the Governor himself, Governor Riley, what of  
18 these subjects and in what degree has the Governor been  
19 familiarized, informed and trained in order that he can  
20 effectively implement his responsibilities under the plan?

21 A There's been no specific training that I'm aware of.  
22 Like I say, I've been in the position one year. Other than  
23 my critique to him of fixed nuclear facility exercises, I  
24 know of no specific training given to him.

25 Q Has the Governor read the plan?

1           A     Not that I'm aware of. I've never asked him.  
2 I think the Governor relies on me and other members of my  
3 staff to be familiar with the plan. I think we probably view  
4 an incident at a fixed nuclear facility no differently than  
5 any other kind of crisis situation. The same chain of  
6 command and the same decisionmaking authority that lies in  
7 what to do in a tornado or what to do with a possible dam  
8 rupture is the same as a radiological release at a fixed  
9 nuclear facility.

10           Q     Well yet, you recognize that there are some pretty  
11 significant distinguishing characteristics for a radiological  
12 emergency, particularly a serious accident at the Catawba  
13 facility, as contrasted with any other manmade or natural  
14 disaster.

15           A     I realize there are distinctions, but as far as  
16 command decisions that the Governor would have to make, I know  
17 of no distinctions.

18           Q     Well, tell me what the Governor understands about  
19 the critical information, facts, that would be material to  
20 the decision as to which and whether to order protective  
21 actions. What does the Governor know with respect to the  
22 need to evacuate, for example?

23           A     As far as general knowledge, I think it would be  
24 limited as far as the specific information. Nothing other  
25 than what I would provide to him, or any other advisors he

1 might call in.

2 Q At the time of an incident?

3 A At the time of an incident.

4 Q Now, how about the other people in your office?

5 Let's start with you, Mr. Sanders. Have you had training in  
6 each of the subjects indicated for the Governor's office?

7 A I have had no training regarding first aid. Others  
8 I have had varying degrees of training.

9 Q And can you tell me what kind of training that  
10 has been, or give me some specific reference to the training?

11 A course or something of that sort?

12 A Well, as far as a specific course, I haven't  
13 attended any specific course. I have, of course, read the  
14 SCORERP plan and have had discussions with persons in my  
15 office regarding the responsibility, and I've been through  
16 two exercises at fixed nuclear facilities, at H.B. Robinson  
17 and the recent one at the Catawba facility.

18 Q Have you had an opportunity to participate in  
19 training such as, for example, the training offered by the  
20 federal government for radiological emergency response?

21 A I have not.

22 Q How about others in your office? Your deputy,  
23 Mr. Broome?

24 A They have both attended courses in this area. What  
25 specific courses I'm not aware of. Mr. McCloud was

1 instrumental in drafting the SCORERP plan so I would imagine  
2 he's had a great deal of training in this particular area.

3 Q And you're not aware of the specifics but you assume  
4 he has had --

5 A Yes.

6 Q And Ms. Turnipseed?

7 A I think she has attended some instructional programs  
8 regarding public information. The one that comes to mind is  
9 the recovery efforts after the immediate response; what  
10 recovery might be necessary.

11 Q All right, sir. I have a letter or memo that is  
12 written on January 25, 1983, from Mr. Tully who is an engineer  
13 at Duke, to Mr. Dale with Duke Power, and it makes this  
14 observation. A meeting was held between the states of North  
15 and South Carolina, Duke and the counties -- I am paraphrasing.  
16 Now, quote, "During this meeting the representatives of the  
17 South Carolina Department of Emergency Management..." -- and  
18 I take that to be the Emergency Preparedness Division --  
19 "...stated that evacuees would not be allowed to cross state  
20 lines. This creates a situation where neither Interstate 77  
21 northbound nor U.S. Route 21 northbound would be available to  
22 evacuate residents of the area surrounding the station and  
23 would increase the time necessary to accomplish an evacuation."  
24 "Although additional meetings will be held on this  
25 subject, if no resolution is forthcoming the entire emergency

1 plan could be in jeopardy. Please be aware that this  
2 situation exists and that it may be necessary for Duke upper  
3 management to approach the states of North and South Carolina  
4 concerning the issue of evacuation across state lines. This  
5 issue could become critical due to the fact that emergency  
6 plans will be litigated as part of the licensing process.  
7 Licensing will advise if management assistance is required."

8 And there's a note that appears on the document  
9 and this document came through discovery from the Applicants.  
10 "John Lee was concerned with South Carolina's position in  
11 past concern to..." -- an acronym that I cannot identify --  
12 "... that resulted in this letter. SC's position could  
13 cause us problems in hearings. It will about double evacuation  
14 time. We will keep you advised."

15 Now the record reflects the changes that have been  
16 made in the plan so that South Carolina evacuees now can take  
17 what is modeled by computer to be the quickest way out,  
18 including crossing the state lines.

19 But what I want to understand if you know, Mr. Sanders,  
20 is what was the basis for the position reflected in this memo  
21 that South Carolina evacuees would not be allowed to cross  
22 state lines initially?

23 A I have absolutely no idea. I didn't know the letter  
24 existed, I didn't know there had been such conversation.

25 Q You were not aware of that being an issue?

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A No.

Q And are you aware of how such a position would have the effect of doubling evacuation times in the event of an accident or causing problems in an emergency?

end 6

T7 MM/mm

2           Q       Are you aware of earlier plans to co-locate the  
3 command posts, the Forward Emergency Operations Center for  
4 the South Carolina people and the State Emergency Response  
5 Team for North Carolina people, earlier plans to co-locate  
6 those command posts at the Clover National Guard Armory or  
7 some other site, for the Catawba Plant?

8           A       I have no knowledge.

9                   I know Mr. Boone and Mr. Platt of my office  
10 attended planning meetings for the last two years with  
11 North Carolina officials and officials from Duke. What has  
12 been discussed regarding that I do not know. I know that  
13 did not happen.

14           Q       The record reflects that didn't happen, and the  
15 North Carolina people are now going to Douglas Airport in  
16 Charlotte, and that there would be wire and radio communica-  
17 tion between the two.

18                   But you are not aware what the basis was for  
19 initially looking at co-locating and the subsequent decision  
20 to separate the command facilities?

21           A       I am not aware of those discussions or the  
22 logic behind separating.

23                   I did discuss with the North Carolina officials  
24 the necessity for having a North Carolina person located at  
25 the FEOC. It is my understanding a South Carolina official  
from the Emergency Preparedness Division was located at the



mm2

1 SERT.

2 Q Yes, we have heard testimony to that effect.

3 Now the letter that Mr. Thomas, or Lt. Thomas of  
4 SLED sent to Mr. McSwain that we talked about earlier-- that  
5 is Exhibit 21 in evidence -- makes the following observation,  
6 in addition to what we have already talked about.

7 It says, the term "evacuation" should be avoided  
8 unless an order has been signed by the Governor. This is  
9 true for any large private employer in the beginning --  
10 earlier to give you some context, specifically speaking of  
11 Carowinds. Jim Carroll's office -- Jim Carroll is the late  
12 Emergency Management Director in your County?

13 A Yes.

14 Q Jim Carroll's office can advise the management  
15 of each phase in the emergency process and can suggest an  
16 early closedown as they normally would, but should not tell  
17 them to evacuate. The term evacuation should be avoided  
18 unless an order has been signed by the Governor. This is  
19 true of any large private employer in York County.

20 Now, an additional document that was a meeting  
21 agenda on the subject of evacuation at Carowinds that took  
22 place in July of 1982 that Mr. McSwain says he prepared, has  
23 among the listed items, topics of discussion -- in quotes now,  
24 shutdown versus quotes evacuation with reference to the same  
25 point.

mm3

1                   Now, are you aware of the considerations that  
2 would underlie the advice that Lt. Thomas provided to  
3 Mr. McSwain with respect to avoiding use of the term  
4 evacuation?

5           A        You will have to elaborate. I am not sure if I  
6 follow your question.

7           Q        All right.

8                   Well, you are aware that Mr. Thomas'-- Lt. Thomas'  
9 position reflected in the Attorney General's Opinion we talked  
10 about earlier --

11          A        Yes.

12          Q        -- makes the point that only the Governor can order  
13 an evacuation.

14          A        Order, in the sense of direct and compel, yes.

15          Q        Direct, compel, those are the words that the  
16 Attorney General's Opinion uses, direct and compel.

17          A        And the statute.

18          Q        And the statute as well.

19                   And, according to the Attorney General's Opinion,  
20 the role of local law enforcement, public officials would  
21 be warn and encourage. That is the words used by the  
22 Attorney General's Opinion, right?

23          A        Yes.

24          Q        Now, given that and the existence of a large  
25 number of people at, say, Carowinds or any other facility,

mm4

1 36,000 is posed as the peak summer population at Carowinds --  
2 given that large number of people and the obvious  
3 difficulties in evacuating them in a timely fashion, the  
4 thought was given to providing such a facility and advanced  
5 precautionary evacuation recommendations -- I used the word  
6 evacuation again in quotes because it is a term of art.  
7 More or less a recommendation, or as the Attorney General's  
8 Opinion says, encouragement or warning.

9 Now, in that context what I wanted to understand  
10 was, are you aware of what planning considerations were  
11 involved in this discussion, in the decision to choose your  
12 words carefully, say shutdown and not evacuate?

13 And if so, would you tell us, please?

14 A No, I'm sorry, I can't. I can't respond to that.

15 I don't know of the discussions Mr. Thomas had  
16 with Mr. Carroll, or MR. Carroll with Carowinds.

17 Q Are you aware of discussions of that issue, not  
18 necessarily in the context of Carowinds, but in the terms  
19 of implementing the Catawba emergency plan?

20 A Not specifically with the Catawba Site Specific  
21 Plan regarding the distinction between the local's authority  
22 to evacuate and the Governor's authority.

23 Q Well, does the plan call for the advisory shutdown--  
24 and that is the term that is used in the document -- in order  
25 to effectively implement the protective action in the

mm5

1 evacuation?

2 A Not that I am aware of. To be honest I have not  
3 read the York County Comprehensive Emergency Disaster Plan  
4 or its sections regarding a fixed nuclear facility.

5 I would assume that if there are such types of  
6 evacuation shutdown, it would be referenced in that section.

7 Q You are not aware of any provision for advisory  
8 shutdown or advisory evacuation short of the Governor  
9 declaring it?

10 A In the plan,, no.

11 MR. GUILD: Mr. Sanders, thank you very much for  
12 answering my questions and taking your time to be here with  
13 us. There may be other questions from other Parties, but  
14 that concludes my examination. Thank you.

15 JUDGE MARGULIES: Let's take a 15-minute recess  
16 at this time.

17 (Recess)

18 JUDGE MARGULIES: Back on the record.

19 Have the Parties agreed amongst themselves as to  
20 the order of procedure for examination of the witness?

21 MR. JOHNSON: No.

22 JUDGE MARGULIES: Is there any preference?

23 MR. WILSON: If we might just for convenience,  
24 but, it seems to be a little more expeditious if we can go  
25 either after Staff or Applicant. It seems more expedient

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1 as far as the State is concerned in terms of questions posed  
2 ahead of time, is what I am saying, among the other two  
3 parties.

4 MR. MC GARRY: I guess our preference would be  
5 to go last, since we have the ultimate burden.

6 MR. JOHNSON: The Staff has no problem going next  
7 in that order, generally.

8 We have no questions, though.

9 MR. WILSON: In that case --

10 MR. RILEY: Judge Margulies, may I ask some  
11 questions?

12 JUDGE MARGULIES: I want to call to the attention  
13 of the Parties -- I think it is important at this time that  
14 we expect and will conclude Intervenors' Rebuttal Case by  
15 Friday. How you make use of your time, that is up to you.

16 MR. GUILD: We appreciate your ruling to that  
17 effect, Judge, and that is our plan as well.

18 I think it should be reflected that Mr. Sanders  
19 carried with him fairly heavy burdens, and the extensive  
20 examination of him will reflect that. I suspect the other  
21 witnesses will take comparatively less time.

22 JUDGE MARGULIES: If you wish to go ahead,  
23 Mr. Riley, you can go ahead. But you realize that Friday  
24 is the last day?

25 MR. RILEY: I have no problem with that, sir.

b mm7

1 BY MR. RILEY:

2 Q Mr. Sanders, you indicated that about 35 minutes  
3 elapsed between hearing about the Pinopolis Dam problem and  
4 the Executive Order being signed, and the process being  
5 fully authorized, is that correct?

6 A That's correct.

7 I do not have personal knowledge as to when the  
8 Executive Order was signed and reduced to writing, but that  
9 is when the Executive Order was given.

10 Q Do I recall correctly you drafted the Executive  
11 Order in that 35-minute period?

12 A Probably participated in it. We have samples of  
13 models that we have used in the past, or used standard forms.  
14 And I think probably that was presented.

15 Q Well, my question has to do with judgments with  
16 respect to taking the time for essential personnel to draft  
17 a document in a very rapidly-developing accident scenario.  
18 And I would appreciate your commenting on whether you can  
19 see situations where the rapidity of development of the  
20 emergency was such that the paperwork would be deferred.

21 Would you care to comment on that?

22 A I think your statement is correct. The first  
23 thing to do is to make the command decision. Then reduce it  
24 to writing later, such as in the Pinopolis Dam situation, we  
25 discussed what should be in the Executive Order when it was

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1 reduced to writing. I am not sure, our office generally  
2 participates in the drafting of such orders, and I assume  
3 we used a particular model that we use for Executive Orders.

4 Q With respect to the training requirements for the  
5 decisionmakers in this process -- it has already been  
6 established that the Governor has taken no particular training  
7 courses with respect to the management of radiological  
8 emergencies. Do you see a benefit in the Governor's being  
9 so required?

10 A I really don't have an opinion on that. I don't  
11 know if there would be or not. It depends on the content of  
12 the course.

13 I think he is more concerned with making command  
14 decisions and having appropriate personnel in place so they  
15 can advise him as to what the situation is.

16 Q Do you see it as beneficial to yourself to have  
17 more rather than less specific factual material relating to  
18 the technical nature of a radiological accident?

19 A I feel comfortable with the knowledge that I have,  
20 and to be honest, it is at a fairly minimal level. But, I  
21 trust the people that are advising me.

22 MR. RILEY: That will be all, thank you.

23 JUDGE MARGULIES: Mr. Wilson?

24 MR. WILSON: Thank you, Mr. Chairman.  
25

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## CROSS-EXAMINATION

1  
2 BY MR. WILSON:

3 Q Mr. Sanders, in the South Carolina Operational  
4 Radiological Emergency Plan, SCORERP if you will, the  
5 operational side of it, did you prepare the legal authority  
6 section in that?

7 A No, I did not.

8 Q Have you had occasion to act as legal counsel for  
9 the Governor? Are you the legal counsel for the Governor?

10 A That is not my responsibility. The Governor has  
11 his own legal counsel. In some situations I have advised  
12 the Governor on some specific legal matters, particularly  
13 in the absence of legal counsel.

14 Q And have you conducted any legal studies of the  
15 Governor's powers and authorities as they relate to evacuation  
16 or other emergency exercises?

17 A No, I have not.

18 Q I take it then that you were not purporting in  
19 your earlier testimony to be such a scholarly -- authority  
20 or have produced any such scholarly research, is that right?

21 A That's right.

22 Q All right, sir.

23 So those responses are simply your impressions? Is  
24 that fair? Or, what value were they as far as your mind is  
25 concerned?



mm10

1           A       I think that is fair. I probably have a better  
2 understanding of it, being an attorney.

3           Q       You have been in your office for what, approximately  
4 a year?

5           A       A little over a year, approximately 13 months.

6           Q       And during that time, have you had occasion in  
7 responding to emergency situations in the State, to deal with  
8 contingencies which may not be covered in a written or a  
9 formal plan?

10          A       I would think naturally that would be the case.  
11 I can't think of a specific situation. But as you can  
12 imagine in a disaster-type situation, things cannot always  
13 be written down.

14                 But I think the disaster plan that we have that  
15 assigns roles, gives a good understanding of who is to do  
16 what. But as far as specific requests or specific crises,  
17 they are not spelled out in the plan.

18          Q       All right, sir. And in those unexpected types of  
19 contingency situations, are the emergency response personnel  
20 with whom you are familiar, prepared to respond to such  
21 unexpected contingencies that are not in the plan?

22          A       That's very true. I think we have a good track  
23 record on that.

24          Q       All right, sir.

25                 You also in earlier testimony mentioned the

mm11 1 Pinopolis Dam episode, and also the recent emergency from  
2 the tornadoes in the State.

3 A Yes.

4 Q Did either one of those actually involve the  
5 exercise of SCORERP?

6 A No, they did not.

7 Q As far as SCORERP itself is concerned, Mr. Sanders,  
8 is that document periodically reviewed by Federal authorities  
9 for compliance with Federal Emergency Management Agency  
10 and Nuclear Regulatory Commission requirements?

11 A I would assume that is correct. I do not  
12 personally do that, but members of my staff, I would assume,  
13 would take that responsibility.

14 Q I'm sorry, members of your staff --

15 A I assume people on my staff assume that responsi-  
16 bility and do it if so required. People are very conscientious  
17 as I indicated. Mr. McCloud helped draft SCORERP, so I am  
18 sure he is aware of the Federal regulations.

19 Q Has this current version that we have before us  
20 been approved by FEMA as being in compliance with those  
21 Emergency Planning requirements?

22 A That is my understanding.

23 Q All right, sir.

24 And in practice, have you observed any confusion  
25 regarding the implementation of SCORERP as it relates to

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1 lines of communication and authorities, for respective State  
2 and local authorities?

3 A Not that I am aware of. I was very pleased with  
4 the exercise that we had at Catawba facility in which we, of  
5 course, used the SCORERP plan.

6 Q All right, sir.

7 And then just finally one point. You mentioned the  
8 commercial telephone lines as being one method of getting in  
9 contact with the Governor. The system that you were referring  
10 to, is that a general public exchange, or is that one that  
11 is confined to State agencies or other official business?

12 A As far as communication between myself and the  
13 Governor, it would be normal telephone lines regarding  
14 communication with the Governor.

15 As I also indicated, he and I both are on the  
16 highway radio system, South Carolina Highway Patrol Radio  
17 System.

18 Q Let me just ask you, are you both on the State  
19 exchange, or are you out on the general Columbia exchange?

20 A We are on the State exchange. I didn't know  
21 there was a differentiation between the two.

22 MR. WILSON: All right, sir. Thank you.

23 That's all I have, Mr. Chairman.

24 JUDGE MARGULIES: Applicant?  
25

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1 BY MR. MC GARRY:

2 A Mr. Sanders, concerning your staff and their  
3 experience with emergency planning, you have on your staff  
4 knowledgeable people with respect to how to handle emergency,  
5 how to respond to emergency?

6 A Yes, I think very capable.

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1 Q Are those persons responsible for preparing plans  
2 and assuring plans be carried out and for preparing  
3 responses and assuring that the response activity of your  
4 organization to be carried out?

5 A That is correct. That is their primary responsibil-  
6 ity.

7 Q In the event of an emergency, you yourself have a  
8 particular role to play, is that correct?

9 A That is correct.

10 Q And in performing your duties, do you have access  
11 to your staff and the expertise residing in that staff?

12 A Yes, I do.

13 Q You avail yourself of that expertise?

14 A Absolutely.

15 Q Are you aware of the allegation of contention eight  
16 in this proceeding?

17 A Generally, yes.

18 Q That would be that the lines of communication are  
19 uncertain with respect to local jurisdictions and state  
20 jurisdictions.

21 A Yes.

22 Q The allegation is made that the lines of authority  
23 are not clearly drawn, is that correct?

24 A That is the allegation, yes.

25 Q Do you believe that that allegation is correct with

1 respect to your responsibilities and your jurisdiction?

2 A I think the lines of communication are clear and  
3 through the past times when we have had to use the chain of  
4 command or channels of communication have been successful and  
5 has not be in a problem in the past.

6 Q Do you understand your function?

7 A Yes.

8 Q Do you have any reason to believe that the primary  
9 and supporting organizations referenced in the plan do not  
10 understand their functions?

11 A No. To the contrary in the exercises we have had  
12 I think all agencies have performed as outlined in the plan.

13 Q Did you witness any conflict or confusion during  
14 those drills?

15 A No, I did not.

16 Q I believe one of the drills you made reference to  
17 is the Catawba drill, is that correct?

18 A That is correct.

19 Q With respect to SCORERP, am I correct that that Plan  
20 is the same plan as pertains to the Robinson facility, the  
21 Oconee facility and the Sommer facility?

22 A Yes. It is a SCORERP plan in general and then  
23 each of the facilities have a certain section within the  
24 SCORERP plan as does the technical radiological plan.

25 Q There was some discussion, Mr. Sanders, concerning

1 the Governor's Office and what was meant by the term Governor's  
2 Office. Yesterday there was an implication that the Governor's  
3 Office could comprise 200, 300 to 400 people. I believe your  
4 testimony today is that the definition that you would  
5 utilize with respect to defining the Governor's Office would  
6 be limited to discrete individuals such as the Governor, Mr.  
7 deLoache, yourself, Mr. Boone, Mr. McCloud and Ms. Turnipseed,  
8 is that correct?

9 A And possibly Mr. McKenney as Press Secretary.

10 Q Should the record be left with the impression that  
11 with respect to the responsibilities assigned to the  
12 Governor's Office that they could be performed in the first  
13 instance by anybody in the Governor's Office?

14 A If it is strictly defined as to the persons that you  
15 indicated, it could be. If it is a broader definition of  
16 200 or 300 people, that is not their responsibility nor  
17 would anyone think that it was their responsibility.

18 Q You were asked some questions concerning the legal  
19 authorities set forth in the plan. That was on page one.  
20 Reference was also made to a NRC and FEMA document which we  
21 have been referring to as NUREG-0654 and counsel for  
22 Intervenors posited that that regulatory document required  
23 that delegated responsibilities should be identified in  
24 your plan. Do you recall that discussion?

25 A I remember the discussion.

4

1 Q Let me just hand you NUREG-0654 and I am turning  
2 to page 32 that is the page that counsel is referring to and  
3 examining the pertinent section on page 32 which page bears  
4 the caption, "Assignment of Responsibility, Organizational  
5 Control Continued" and turning to small "b", does it not read,  
6 "Each plan shall contain (by reference to specific acts, codes  
7 statutes) the legal basis for such authorities."

8 A Yes, it states that.

9 Q Would that not lead one to ask oneself what  
10 authorities is one talking about?

11 A Yes, it would.

12 Q Then would not one go to section "2-a" immediately  
13 above to ascertain what authorities?

14 A That would seem logical.

15 Q Does it not appear that the authorities that are  
16 being referenced to command and control, alerting and notifica-  
17 tion, communications, public health information, et cetera?

18 A Yes, it does.

19 Q Directing your attention to the authorities contained  
20 in the State Plan, that is page one which you have been asked  
21 questions on, in your judgment does that authority contain  
22 in the State Plan establish the authorities for these  
23 particular functions that we have just discussed such as  
24 command and control, et cetera?

25 A If I understand your question correctly, yes, it



3-5  
1 does.

2 Q There was some discussion of the exercise. There  
3 was some discussion of tornadoes. There was discussion of the  
4 dam. In any of those incidents, do you have any reason to  
5 believe that the other organizations that were called on  
6 or would be called on would not be responsive to the  
7 Governor's direction?

8 A They have been and I am sure that they will be in  
9 the future. I think from the critique that was given by the  
10 FEMA officials on the tornado situation and the recovery,  
11 South Carolina did an excellent job.

12 Q With respect to the dam and the order of contact,  
13 did the plan work?

14 A Yes, it did.

15 Q Did the job get done?

16 A Absolutely.

17 Q Were people protected?

18 A People were protected.

19 Q With respect to the tornadoes, if I understand  
20 correctly you were out of town, is that correct?

21 A I was out of town for the immediate response. That  
22 is correct. I returned to South Carolina.

23 Q The Emergency Preparedness director was also out of  
24 town?

25 A That is correct.

1 Q Did the plan work?

2 A Absolutely.

3 Q Did the job get done?

4 A It did.

5 Q Were people and property protected?

6 A They were.

7 Q There was some discussion, Mr. Sanders, concerning  
8 the role of the local jurisdictions particularly in immediate  
9 emergencies, do you recall that?

10 A Yes.

11 Q In the absence of a governor's declaration of an  
12 emergency, are you aware that local jurisdictions can take  
13 actions including the use of the sirens and the EBS message  
14 and indeed instructing people to evacuate?

15 A Yes.

16 Q Do you believe there is anything inconsistent with  
17 that local action and any of the authorities that you have been  
18 shown today?

19 A As far as I can see from my reading of the Plan,  
20 there is no inconsistency.

21 Q What is clear, am I correct, is that the local  
22 jurisdictions cannot compel evacuation?

23 A That is my understanding of the law.

24 Q There was some discussion of Carowinds and  
25 precautionary notice. Do you recall that?

1 A Yes.

2 Q Do you see anything wrong with the precautionary  
3 notice which would enable large facilities such as Carowinds  
4 to shut down prior to a declaration of emergency by the  
5 Governor?

6 A It would seem that it could be the most prudent  
7 thing to do.

8 Q With respect to training and training of the  
9 Governor, you indicated that what was important in your  
10 judgment was the Governor have able assistants so as they  
11 could provide advice to him. Is that correct?

12 A That is correct.

13 Q Does the Governor in your judgment have such able  
14 assistance?

15 A Yes, he does.

16 MR. MCGARRY: Thank you, Mr. Sanders. No further  
17 questions.

18 JUDGE MARGULIES: Is there anything further of the  
19 witness?

20 MR. GUILD: Nothing further, Judge. Thank you,  
21 Mr. Sanders.

22 JUDGE MARGULIES: Thank you for coming here today,  
23 Mr. Sanders.

24 (Witness excused.)

25 MR. GUILD: Mr. Chairman, may we proceed?

1 JUDGE MARGULIES: Very well.

2 MR. GUILD: Sheriff Pope, please.

3 Whereupon,

4 J. ELBERT POPE,

5 was called as a rebuttal witness, and having been first duly  
6 sworn, was examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MR. GUILD:

9 Q Sheriff, will you state your full name and your  
10 position for the record, please sir?

11 A J. Elbert Pope. I use the initial "J." It is  
12 J. Elbert Pope.

13 Q You are the sheriff of York County, sir?

14 A Sheriff of York County.

15 Q How long have you held that position, Mr. Pope?

16 A This is my first term on that. I have been with  
17 the County though all told of 38 years.

18 Q In what capacity did you serve the County those  
19 other years before you were sheriff, sir?

20 A I started out with what was at one time the old  
21 rural police when six people had this whole county, six  
22 officers. It gradually came on up from that.

23 Q How many people do you have under you now, sir?

24 A I have around 63 or 64, I believe.

25 Q Of those, Sheriff, how many are commissioned officers,

XXXXXXXXXXXX

1 law enforcement officers?

2 A All of those are.

3 Q Sheriff Pope, you appear here today as a result of a  
4 subpoena asking you to come and testify in this case, correct?

5 A That is correct.

6 Q Are you aware, sir, that the Sheriff of York County  
7 is assigned responsibilities in the event of an accident at  
8 the Catawba Nuclear Station?

9 A That is correct.

10 Q Would you generally describe what your understanding  
11 is of the Sheriff's responsibilities under the plan, please?

12 A To start with I designated to Chief Deputy Mitchell,  
13 he has attended all these meetings and so forth and we have  
14 been to different nuclear plants and have participated in their  
15 exercises and I have different ones delegated for different  
16 jobs. We have 11 people that in a case of an emergency of any  
17 kind to be called on. Say for Duke, we have a ring-down phone  
18 and it comes it to our dispatchers and they are instructed at  
19 that time to drop whatever and get right on it.

20 They are instructed also to notify the other counties  
21 before anything is actually done at that point unless it is  
22 just a strict emergency then.

23 Q Tell me where is your office, sir?

24 A I have two offices. The main one is here in Rock  
25 Hill, our control office -- our radio equipment and so forth.

1 Q What is the name of that facility, Sheriff?

2 A It is the Rock Hill office.

3 Q Is it the law enforcement center?

4 A It is not the city law enforcement. We have our own  
5 building over here.

6 Q All right, sir. It is the Sheriff's Department in  
7 Rock Hill.

8 A Sheriff's Department in Rock Hill and then I have a  
9 Sheriff's Department in York.

10 Q Where are you located?

11 A Between them, back and forth.

12 Q You have offices in both places?

13 A That is correct.

14 Q Do you have one place you spend more time or you  
15 spread yourself between the two?

16 A If court is going on, we spend more time in York.  
17 I need to be in the courtroom at all times if court is going  
18 on.

19 Q All right, sir. Where is your dispatcher located,  
20 Sheriff?

21 A They are here in Rock Hill.

22 Q What is the facility called where they are located?

23 A That is the Rock Hill office.

24 Q All right. Is that the location of the County warn-  
25 ing point to your knowledge?

1           A     No, it is not. The warning point would be at City  
2 Hall at the Rock Hill Police Department in the basement.

3           Q     Which of those points is the point that receives  
4 the first information from the Catawba plant?

5           A     My Rock Hill office.

6           Q     Your office?

7           A     That is right.

8           Q     They are the ones that are tied in directly to the  
9 plant?

10          A     They have our radio receiver up there and then we  
11 have this ring-down phone that they would call us on.

12          Q     So the dispatcher who is the first county employee  
13 who would get the word if there was an accident at Catawba  
14 would be a man who works for you or now a woman who works for  
15 you?

16          A     That is correct.

17          Q     What is your understanding of what your dispatcher,  
18 do, Sheriff, when and if word came from the Catawba station  
19 that there was an eminent or soon-to-occur serious accident at  
20 the plant?

21          A     First of all, they would notify the other counties  
22 that would be involved and then they would start calling the  
23 different officers and get them in. They have a list of the  
24 officers who are designated for specific jobs and then they  
25 would call the civil defense and get the command post

1 activated.

2 Q By civil defense, you are talking about the County  
3 Emergency office?

4 A That is what I am talking about.

5 Q The late Mr. Carroll's office?

6 A That's right. Cotton Howell is now in charge of it.

7 Q The late Mr. Carroll has been replaced by another  
8 gentleman. Can you state his name again, please?

9 A Steve Thomas was acting during the gentleman's  
10 sickness and then Cotton Howell took over.

11 Q Mr. Howell is now the Emergency Management Director  
12 for York County?

13 A Yes, sir.

14 Q When did he assume that position, Sheriff?

15 A Just recently, very recently. Steve Thomas was  
16 handling all that before.

17 Q Mr. Thomas has testified in the case.

18 A I wasn't here.

19 Q Right. What other responsibilities do you and  
20 your people have in the event that the dispatcher got word  
21 that there had been a serious accident in progress at the  
22 plant?

23 A After notifying and getting this post set up,  
24 then our job would be to see to the evacuation part of it.  
25 We would get our orders coming away from that post and then



1 we would be in charge of that, maintaining traffic along  
2 with the highway patrol and general law enforcement along  
3 with it.

4 Q All right, sir. Now what do you understand would  
5 happen if there were a very serious accident at the plant?  
6 You have been present this morning so far when Mr. Sanders  
7 testified?

8 A Part of it, yes.

9 Q What I wanted to put before you was the assumption  
10 of hypothetically a very severe accident happens, one we  
11 hope will never happen, but one that doesn't give us days of  
12 notice or even hours of notice but one that is happening in  
13 such a fashion that persons in York County depending on wind  
14 conditions of course might be exposed to serious risk of death  
15 or long term harm from radiation and such an accident might  
16 occur in as little as a half an hour.

17 Assuming that such a serious accident were occurring  
18 and what happened was that your dispatcher gets a call from the  
19 control room at the plant saying that such is occurring. Does  
20 your dispatcher do what you have just described as his task?

21 A Did you say, would the dispatcher do it?

22 Q Would he do what you just got done explaining he  
23 would do?

24 A I think so, yes. He should. That would be his main  
25 function right then when they get that is to get something

1 started as quickly as possible.

2 Q What responsibility does that dispatcher have  
3 for making decisions about how to protect the public, Sheriff?

4 A His main decision would be like I said to start  
5 notifying the people that is going to give out the different  
6 parts of this plan.

7 Q All right. Now I assume that notification would be  
8 by telephone?

9 A Telephone or radio and if necessary by teletype.

10 Q So he has a ring-down phone connecting with the  
11 other counties in the plan, correct?

12 A Correct.

13 Q I assume he has normal commercial telephone to call  
14 other people?

15 A That is correct.

16 Q Say, for example, Mr. Howell?

17 A Yes.

18 Q How about yourself? Would he reach you?

19 A I assume I would be working at that time and I could  
20 be between either one of these whether the radio is there  
21 or I would be in the car with the radio or whatever.

22 Q So if you were in a vehicle, you would have a radio.

23 A Radio, yes.

24 Q How about if your were off-duty and you were at home.

25 A Telephone. And, of course, I leave the radio on

1 when I am home to keep up with what is going on.

2 Q How about the circumstances where the accident  
3 as I was describing is occurring over a very short period of  
4 time. Studies and previous evidence have suggested, Sheriff,  
5 that in the most serious kind of accident the release from  
6 the facility of fatal amounts of radiation could occur within  
7 a half an hour to an hour. Then the only factor that would  
8 determine exposure would be the wind or meteorology, rain  
9 or wind or what have you, that got that radiation from the  
10 plant to a person who was out in the county or in some other  
11 place. Accepting that, sir, assuming the most serious  
12 accident, your dispatcher gets the word that it is happening  
13 and applicant, Duke Power's people at the control room, say  
14 "Immediate protective action is recommended." They recommend  
15 it.

16 What is your dispatcher supposed to do in that  
17 instance?

18 A He is supposed to activate those sirens.

19 Q How does he do that?

20 A By calling some of them but I think there is a  
21 button or something. I forget exactly how it is activated  
22 there but it can be done that way.

23 Q What else does he do? Does he do anything else?

24 A He or she, whichever one happened to be on, would  
25 start trying to get the key people and get them ready for this.

8-16

1 Then we try to get in there to get the people out.

2 Q Are you familiar with the Emergency Broadcast  
3 System, Sheriff?

4 A No. All this has been -- every meeting or in these  
5 different places where we have sent them actually to observe  
6 and so forth, I have delegated that to these different  
7 officers. I have sent quite a few officers to these different  
8 places to actually go through these different positions.  
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1 Q All right. Sheriff, are you familiar with the  
2 fact, first, that there are written plans for an accident at  
3 the Catawba facility?

4 A I'm assuming there are.

5 Q Do you know what those plans are, Sheriff?

6 A No, I do not.

7 Q Sheriff, there is a State of South Carolina Opera-  
8 tional Plan, there's a State of South Carolina Technical  
9 Radiological Plan, there is a Catawba site-specific plan and  
10 there is a York County plan. Have you read any of those plans?

11 A Not a one of them.

12 Q Now, what I have before me is the York County  
13 Emergency Operations Plan, January 1984. What I'd like to ask  
14 you, sir, is are you aware of which agencies and officers in  
15 the county have which responsibilities under the plan, aside  
16 from -- leaving aside your office, first.

17 A No, I do not.

18 Q Do you know who is in charge of making decisions  
19 in York County in terms of what specific action to order,  
20 what protective action to take?

21 A We would get ours, like I said, through this command  
22 post or when it is set up.

23 Q Well, that assumes that you would have time to do  
24 that.

25 A That's true.

1 Q And assuming you do have such time, do you know  
2 who is in charge of that command post?

3 A No. Just like I said, I sent Chief Deputy  
4 Mitchell. I was surprised that he wasn't subpoenaed because  
5 he is the one who has tended to all this.

6 Q Okay. I want to direct your attention to the part  
7 of the plan that talks about assignments of responsibility.

8 Let me start again. I want to direct your  
9 attention to page Q-28 of the York County plan, Sheriff, and  
10 there there is reference to evacuation and actions taken to  
11 accomplish evacuation. And I want to know first what your  
12 role as Sheriff is in accomplishing evacuation, if you know.

13 A Well, according to what we've got down for our  
14 dispatchers and so forth, Howe would be the head of the  
15 whole thing.

16 Q Mr. Howe?

17 A Cotton Howe. The first alternate would be  
18 Gene Klough, County Manager.

19 Q Are you looking at some part of the plan?

20 A I'm looking at our role in this. Would you care  
21 to see it?

22 Q No, just tell me what it is.

23 A That's what I was trying to do. I was trying to  
24 tell you what I had on it.

25 Q That's a list of who is in charge in order of --

1 A That's exactly what I'm looking at.

2 Q Fine, thanks.

3 A I come third in that alternate. And it's got all  
4 the phone numbers listed and everything for each person --  
5 home phone, job phone and so forth.

6 The next alternate would be Chief Deputy Mitchell.  
7 And then it goes on, the way each officer is assigned, whether  
8 he's with a mobile unit and who is the backup on that in case  
9 you can't get the person. You've got your first and second  
10 alternate on that. It's got the officers listed, the  
11 lieutenants and captains and so forth.

12 And then you've got a control coordinator, and  
13 you've got two alternates on that in case you're not able to  
14 find the first one.

15 And then we go into the jail and we go into the  
16 dispatchers and we've got alternates there. And then it says  
17 next, we start off and notify the Highway Patrol, and we go  
18 from there to the Rock Hill Police Department, York Police  
19 Department, Clover Police Department, Tega Cay Police Depart-  
20 ment, Fort Mills Police Department and all the area fire  
21 departments and rescue squads.

22 Q Let me focus your attention -- is there more,  
23 Sheriff?

24 A No, that's it.

25 Q Let me focus your attention on the evacuation.

1 Let's assume that the decision has been made by whoever the  
2 appropriate people are to call for an evacuation of a  
3 substantial number of people in York County. There's been  
4 an accident, there's either a projected release of radiation  
5 in significant amounts, or there has been a release of  
6 radiation, and the decision is made to try to get people out  
7 of harm's way. Now, what is the Sheriff's Department's  
8 responsibility in terms of accomplishing that evacuation?

9 A To get into the areas and try to get the people out.  
10 To check for radiation. We have the equipment for that, and  
11 it will be given out and used in the areas. And general law  
12 enforcement. You generally get in there and continue to try  
13 to do your job.

14 Q All right. who is in charge of the law enforcement  
15 functions that are necessary in order to accomplish  
16 evacuation, Sheriff?

17 A That's what I was telling you about this list.  
18 Each one that has been assigned a duty, each one has been  
19 assigned a duty, and being assigned a duty and with the  
20 backups that we go according to plan.

21 Q All right. Is there any designated person as far  
22 as you know who is in charge of the law enforcement aspects  
23 of evacuation in York County?

24 A Well, just like I said before on these different  
25 meetings and these exercises and things, Chief Deputy Mitchell



1 has been the one that has coordinated that part of it. At  
2 the time I wasn't available.

3 Q All right. You've got a police department in  
4 Rock Hill, correct?

5 A Yes.

6 Q Now, can you tell me what their responsibilities  
7 are in accomplishing an evacuation in York County?

8 A Well, that would be up to the chief in their  
9 department. We would notify each department of what's  
10 happened, and that's the list of police departments I gave you  
11 a few minutes ago. They would be notified, and then these  
12 orders would come from that command post as to what was  
13 needed in each area.

14 Q What is your relationship in the event of an  
15 accident and the need to evacuate, you and the Sheriff's  
16 Department, to the Rock Hill Police Department?

17 A Well, it's right in there, all together. You see,  
18 this is set up in the Rock Hill Police Department, this  
19 command post or Civil Defense, however you want to put it.  
20 Then these different agencies begin to come in and we go on  
21 from there.

22 Q How about the Highway Patrol? What is the relation-  
23 ship between your department and the Highway Patrol?

24 A They would be primarily traffic.

25 Q Traffic?

1 A Primarily traffic, yes.

2 Q Is the Highway Patrol in charge when they come in  
3 to York County?

4 A No. They come in there and if we've got this  
5 particular area to evacuate, they handle traffic in that area.  
6 We try to get in there and notify the people that we feel  
7 haven't been notified.

8 Q How about your department?

9 A That's what my department is doing.

10 Q Right. Is your department in charge of the Highway  
11 Patrol people?

12 A No. They work independently of each other.

13 Q Now, where would you send your people in the event  
14 that there was the decision to evacuate? Where would you  
15 send your law enforcement people?

16 A Into the area to see that the people got out, see  
17 that they've been notified. We're liable to have some old  
18 lady there that maybe she didn't hear that siren go off.  
19 You want to be sure she gets out of the house.

20 Q All right. So your deputies -- if that's what  
21 they're called --

22 A That's right.

23 Q Their assignment would be primarily to see that  
24 people were notified and got out.

25 A That's right.

1 Q Now, can you tell me how many of them are assigned  
2 to specific areas of the county? What percent?

3 A Well, I've got 11 different ones out so that they  
4 could go to the area right away.

5 Q Okay, 11 available to go, specifically?

6 A Right then, yes. And then, of course, we could call  
7 others out. They could be called into the area or called out  
8 to help -- the command post or wherever.

9 Q Do they have specific assignments of where they  
10 would go in the event --

11 A They would get -- the ones you called out would.

12 Q Do you know where those assignments are?

13 A That's what I just told you a minute ago on that.  
14 Some of them are assigned to mobile units; some of them are  
15 assigned to traffic coordination and dispatching, different  
16 things of that nature.

17 Q Sheriff, are you aware of any plans to handle  
18 evacuation and traffic control for special facilities; let's  
19 say for --

20 A Carowinds?

21 Q Carowinds is an example. How about that, and how  
22 about Heritage, U.S.A.?

23 A That's been discussed.

24 Q Yes, and what are the plans for that?

25 A I haven't gone into the plans on that but I know

1 it's been discussed.

2 Q Do you know what your department's responsibilities  
3 are for those two facilities?

4 A To get in there and help. We don't have the  
5 facilities, other than these patrol cars, to move people  
6 there. But it's my understanding that -- at the one meeting  
7 I went to there was talk about bringing schoolbuses in and  
8 things of that nature, to move them out.

9 Q Are you aware of any specific plan that you've had?

10 A I am not, no, sir.

11 Q How about hospitals and nursing homes?

12 A Well, all that would come under that. They would  
13 be notified.

14 Q What is your department's responsibility for seeing  
15 that they evacuate?

16 A That would be coming out of this command post.

17 Q Okay. Do you know whether there are specific  
18 plans for hospitals and nursing homes for your department?

19 A I understand that there is, yes.

20 Q Can you tell me what they are, sir?

21 A I don't know what they are. It's like I told you.  
22 I have not attended these meetings. Chief Deputy Mitchell  
23 was designated to go to all of them, and he has the  
24 information on it.

25 MR. GUILD: All right, sir. Sheriff, I believe that

1 will be all, and please answer any questions that these other  
2 gentlemen may have for you. Thank you, sir.

3 JUDGE MARGULIES: Staff?

4 CROSS EXAMINATION

5 BY MR. JOHNSON:

6 Q Sheriff Pope, you've mentioned on a number of  
7 occasions your Chief Deputy Mitchell.

8 A Yes, sir.

9 Q And he has attended planning meetings concerning  
10 the plan.

11 A That's correct.

12 Q Are you, in the event of an evacuation or declaration  
13 of an emergency or an accident which requires response by  
14 your office, intending to rely on his knowledge and information  
15 concerning the plan and course of action, in order to perform  
16 the Sheriff Office's function in an emergency?

17 A I would be in that command post, just like the  
18 others, in there coordinating it. Did that answer your  
19 question?

20 A No. You would be at the command post.

21 A I would be in there along with these other agencies  
22 that are in there, your Civil Defense.

23 Q But in terms of performing your functions under  
24 the plan, are you intending to rely on Chief Mitchell? Chief  
25 Deputy Mitchell?

1           A     No, I would be there with him.

2           Q     I didn't hear you.

3           A     I said I would be there with him.

4           Q     And at that time, to the extent that functions are  
5 needed to be performed by your office, you would be relying  
6 on his knowledge of the plans, et cetera?

7           A     That's right.

8           MR. JOHNSON: Thank you.

9           JUDGE MARGULIES: Mr. Wilson?

10          BY MR. WILSON:

11          Q     Sheriff, did your office participate in the recent  
12 Catawba Nuclear Station exercise?

13          A     That's right, and got a good report from our  
14 end of it.

15          Q     And during that exercise, did you or anyone in your  
16 department notice any confusion or lack of coordination as  
17 far as lines of authority or communications, state and  
18 local authorities?

19          A     No, we got a good report on our end of it. And  
20 the other end, too.

21          Q     Earlier when you mentioned the Operations Center,  
22 is that the Clover Armory that you're referring to, or where?

23          A     Well, it's in that exercise but what I'm referring  
24 to about the Operations Center would be in the basement of  
25 the Rock Hill Police Department, normally.

1 Q All right. Now that is the one before the Clover  
2 Armory was opened, is that right?

3 A That's right.

4 Q When the Clover Armory operates you're there, right?  
5 Is that what you said?

6 A I wasn't. I said I would normally be, yes.

7 Q All right, under the plan.

8 A Under the plan, yes.

9 Q As far as law enforcement functions went, there  
10 are other responsibilities that may have to be assumed. Who  
11 do you take direction from in the Armory at that point?

12 A I imagine it would come from the Civil Defense.

13 Q All right. And if there are any questions as to  
14 how to do something that they order, you've got Chief  
15 Deputy Mitchell at your side; is that right?

16 A Yes.

17 Q And as to all of this, there's no confusion in  
18 your mind?

19 A None whatsoever.

20 MR. WILSON: All right, sir, that's all.

21 THE WITNESS: I have competent people.

22 JUDGE MARGULIES: Applicant?

23 MR. RILEY: Judge Margulies, I have some questions.

24 JUDGE MARGULIES: You may proceed.  
25

1 BY MR. RILEY:

2 Q Sheriff Pope, how long have you been in your  
3 position as Sheriff?

4 A This is the first term.

5 Q Yes, but how many months or years?

6 A Well, my term ends -- I've got to run again Tuesday,  
7 and my term ends January 1st.

8 Q Is it a two-year term?

9 A Four-year term.

10 Q So you've been in a little over three years, then?  
11 Is that correct?

12 A That's right, going on four years.

13 Q Do you know whether or not it's a responsibility  
14 of county police to monitor people who may have been exposed  
15 to radiation to see if they're --

16 A I didn't catch the start of that.

17 Q Is it a responsibility of the Sheriff's Department  
18 to monitor the radiation level of people who may have been  
19 exposed?

20 A That's right.

21 Q Do Sheriff Department people have decontamination  
22 responsibilities?

23 A We do.

24 MR. CARR: Your Honor, excuse me, I'm going to  
25 object at this point. That sounds to me like it's a facet of



1 a contention other than what Sheriff Pope was called on.  
2 The Sheriff was called on Contention 8, which as we know is  
3 the efficacy and coordination of the plan; 14 and 15 which  
4 is the time evacuation study, and 18 which is the contention  
5 which relates to whether or not the local phone systems will  
6 be overloaded, so that emergency personnel will not be able  
7 to be notified.

8 MR. RILEY: Judge Margulies, I don't think you'll  
9 have to rule on this because I was going on to the next  
10 question.

11 JUDGE MARGULIES: You may continue.

12 BY MR. RILEY:

13 Q You have pointed out that Chief Deputy Mitchell has  
14 had special emphasis placed on getting familiar with the plans  
15 involved for a Catawba emergency. Is that correct?

16 A That's correct.

17 Q Now, in Chief Deputy Mitchell's absence, who is the  
18 backup person and what is the backup persons' preparation?

19 A I believe when I started off on this thing I said  
20 there was a first and second alternate. Do you want the  
21 names?

22 Q That would be fine, yes.

23 A All right. One of them is Lieutenant Joe Smart,  
24 who is acting captain now. Ronnie Bowers, who is a  
25 lieutenant. Those are the two backups to Chief Mitchell.

1 Q Now, what specific training have they had with  
2 respect to responding to a radiological emergency?

3 A They have been sent to these -- like I say, these  
4 different -- we were down -- and I can't remember the name  
5 of the plant, down below Clemson --

6 Q The Oconee plant.

7 A We went to the exercise there and they have been  
8 briefed on different things at these meetings and so forth.

9 Q To your knowledge, have they read the SCORERP plan?

10 A No, I don't. You know, I told you a minute ago  
11 I didn't know anything about these plans because I had  
12 designated these officers to go to this thing, and therefore,  
13 I didn't go myself. I had other things at the time that  
14 I had to do.

15 Q Right. Do you know if Chief Deputy Mitchell has  
16 familiarized himself with the plan I just referred to, the  
17 State of South Carolina Operational Radiation Emergency  
18 Response Plan?

19 A He has. He has all the materials.

20 Q Right, but you cannot speak as to whether or not  
21 his alternates have?

22 A He has the materials.

23 Q He has, but you can't speak as to whether or not  
24 his two alternates are familiar with the materials?  
25

1           A     No, I can't say that. I don't know. He has the  
2 materials and I would assume that he has -- .

3           MR. RILEY: Thank you.

4           JUDGE MARGULIES: Applicant?

5           BY MR. MC GARRY:

6           Q     Thank you. Concerning Captain Mitchell -- Chief  
7 Deputy Mitchell, you indicated you delegated authority to  
8 him as well as these two lieutenants you just mentioned.

9           A     That's correct.

10          Q     Do you have the authority to delegate?

11          A     I'm supposed to be the head of it.

12          Q     So you feel you do have that authority?

13          A     I do, yes, sir.

14          Q     Do you delegate other responsibilities?

15          A     I do.

16          Q     Do you have any reason to believe that Chief Deputy  
17 Mitchell and the two lieutenants have not carried out their  
18 responsibilities with respect to this emergency plan that  
19 we're discussing today?

20          A     These are all competent people.

21          Q     You indicated that he has the materials and the  
22 lieutenants have the materials; the materials being the  
23 various plans. Is that correct?

24          A     That's my understanding.

25          Q     Do you have any reason to believe that they have not

1 familiarized themselves with those plans?

2 A No, I don't.

3 Q Would it be reasonable to conclude that they are  
4 familiar with those plans?

5 A I would assume that they are because he is very  
6 conscientious, to start with.

7 Q Did those gentlemen participate in the recent  
8 Catawba exercise?

9 A Yes, sir.

end 9

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P10 MM/mmml 1

2 Q There has been discussion of your office in York  
3 and your office in Rock Hill, and then also the Rock Hill  
4 Police Department's officer here in Rock Hill. And then the --  
5 you refer to it as the Command Post, we refer to it as the EOC  
6 here in Rock Hill. And that is located in the Law-Enforcement  
7 Center, is that correct?

8 A That's correct.

9 Q Just to clear up any potential confusion. Directing  
10 your attention to page Q13 of the York County Emergency  
11 Operation Plan, there was some discussion of the location of  
12 the dispatcher.

13 There is a dispatcher, is there not in the Law-  
14 Enforcement Center, who would contact you in respect to your  
15 responsibility?

16 A At times there is two there.

17 Q Now with respect to your dispatcher, isn't it  
18 correct that your dispatcher in the County Warning Point is  
19 on the Cherry Road location?

20 A Yes, that's correct. That's the Rock Hill office  
21 I was referring to.

22 Q Thank you.

23 Now there was some discussion, Sheriff, concerning  
24 how your people would go about -- your dispatchers would go  
25 about contacting your troops. And you mentioned ringdown  
phone, the teletype and the radio.

mm2

1 Do you have other means of contacting these  
2 people, these necessary people if you couldn't reach them  
3 one of those means?

4 A We would send a car to them, send it to their  
5 homes.

6 Q There was some discussion of the role of the  
7 dispatcher and discussion of the dispatcher activating the  
8 sirens. I believe you mentioned they push a button.

9 Do you know whether or not this dispatcher would  
10 coordinate with the other counties?

11 A He would have to.

12 Q You mentioned the role of the Rock Hill Police  
13 Department, and there was also some discussion about the  
14 Highway Patrol. Do you recall that?

15 A Yes, sir.

16 Q Have you had an occasion in the past to work with  
17 the Rock Hill Police Department?

18 A Yes.

19 Q Have you had an occasion to work with the Highway  
20 Patrol?

21 A I worked with all of them in the County.

22 Q Have you worked well with those --

23 A No problem whatsoever.

24 Q With any of those organizations?

25 A None of them.

mm3

1 Q No confusion?

2 A None whatsoever.

3 Q You have been able to get the job done?

4 A We have handled jobs for them if it is outside  
5 the city, if they have got a problem, we help them and them  
6 help us.

7 I've got an agreement with Rock Hill on using  
8 some of their detectives out in the County, and they use some  
9 of mine inside.

10 Q With respect to your role in the plan, if at some  
11 point in time your resources are exhausted and you have used  
12 your resources, can you draw on the resources of, say, the  
13 Highway Patrol?

14 A I call the Highway Patrol, I call SLED. We have  
15 got, like I said, teletype there, we can have SLED in on  
16 occasion of what we call an emergency where we have had a  
17 problem.

18 Q In the past, have you had to call up those  
19 organizations?

20 A A number of times.

21 Q Have they responded?

22 A Quickly.

23 MR. MC GARRY: Let me have just one moment, your  
24 Honor.

25 (Counsel for Applicants conferring)

mm4

1 MR. MC GARRY: I think that is it, your Honors.  
2 Thank you.

3 EXAMINATION BY BOARD

XX

4 BY JUDGE LAZO:

5 Q Sheriff Pope, I had a question. In responding to  
6 Applicants' counsel a moment ago, you said you had occasion  
7 to work with the Highway Patrol in the past, and there had  
8 been no confusion, no problems.

9 However, in responding to Mr. Guild's question  
10 regarding that same matter, I think you indicated that your  
11 Sheriff's Department vehicles would assist in traffic control  
12 and in alerting people that might have to be moved that  
13 didn't hear the sirens, and that if necessary you could have  
14 the Highway Patrol people come in.

15 And, I assume by that you mean the State Highway?

16 A State Highway Patrol, yes.

17 See, we have a radio connection with the Patrol  
18 down at -- their headquarters is in Chester. And we can call  
19 them and get in contact with them by radio. We are not on  
20 their frequency. But we do, anytime anyone wants a Highway  
21 Patrol locally, we make the call.

22 Q But when you were explaining this cooperation with  
23 the Highway Patrol, I think you said that they would work  
24 independently with your office.

25 And I wondered in what way might that be coordinated?



mm5

1           A       Well that would come through the command post that  
2 we were discussing a minute ago.

3           Q       I see.

4           A       They would have a set specific area to work in.  
5 We would still work together.

6           Q       Then by "independent," you mean two independent  
7 organizations?

8           A       Working together.

9           Q       But someone else directing their work?

10          A       That's correct.

11          Q       I see.

12                   JUDGE LAZO: All right, thank you.

13                   JUDGE MARGULIES: Is there anything further of  
14 the witness?

15                   MR. GUILD: Nothing further, Mr. Chairman.

16                   JUDGE MARGULIES: You are excused Sheriff Pope.  
17 Thank you for coming here today.

18   (Witness excused)

19                   MR. GUILD: Mr. Chairman, can you give an idea  
20 of how much further you would like to go this morning?

21                   JUDGE MARGULIES: Do you have another witness  
22 that you would want to get out?

23                   MR. GUILD: Yes.

24                   Mr. Chairman, at this time we would ask  
25 Mr. Dickson, the Chairman of York County Council come forward.

mm6

1 JUDGE MARGULIES: I am going to swear you in.

2 Whereupon,

3 HAROLD MASON DICKSON

4 was called as a rebuttal witness, and having been first  
5 duly sworn was examined and testified as follows:

6 MR. MC GARRY: Your Honor, we have got an initial  
7 problem we thought we might want to bring to the Board's  
8 attention at this time.

9 With all due respect to this gentleman, we don't  
10 know who this gentleman is. His name wasn't listed as one  
11 of the subpoenaed witnesses. J. Jerry Williams was  
12 subpoenaed.

13 MR. GUILD: Mr. Chairman, if I may identify the  
14 witness.

15 DIRECT EXAMINATION

16 BY MR. GUILD:

17 Q Would you state your full name and your position  
18 for the record, Mr. Dickson?

19 A Harold Mason Dickson, Chairman of the York County  
20 Council.

21 MR. GUILD: Mr. Chairman, we designated at the  
22 outset that the York County Plan version that I was referring  
23 to listed Mr. Williams in that position.

24 With all respect to Mr. Dickson, he appears to  
25 have succeeded the gentleman that I erroneously identified.

mm7

1           We sought the gentleman for his official position  
2 as indicated, with responsibilities under the plan. I believe  
3 Mr. Dickson is responsive to that request.

4           JUDGE MARGULIES: Is there any problem?

5           MR. MC GARRY: That certainly catches us by  
6 surprise. We tried to do our homework and prepare for this  
7 proceeding. We had absolutely no idea that this was going to  
8 happen.

9           MR. GUILD: The gentleman has been talking to the  
10 Duke employees all morning. Counsel can express great  
11 surprise, but Mr. Dickson has been here since 9:00 o'clock  
12 this morning, and he holds the official position that has been  
13 indicated from the outset that we desire. I just can't  
14 imagine Mr. McGarry or his client is harmed by discovering  
15 that Mr. Dickson holds that position and not Mr. Williams.

16           JUDGE MARGULIES: Had Applicants interviewed  
17 Mr. Williams?

18           MR. MC GARRY: Yes, sir. I flew down Friday and  
19 met with Mr. Williams, because his name was on the list. And  
20 we maintain that earlier when what Intervenors were doing was  
21 conducting discovery, they should have known that this  
22 gentleman, Mr. Dickson, was the Chairman of the Board of  
23 Commissioners. They should have indicated his name.

24           They got the wrong person. We shouldn't pay that  
25 price.

mm8

1 MR. GUILD: Mr. Chairman, it is just beyond  
2 credulence that Mr. McGarry maintains seriously that he is  
3 surprised or harmed in any way.

4 The fact of the matter is Mr. Dickson holds the  
5 position. The original identification that we filed in April --  
6 April 16th -- did not list the name because at that time I  
7 was unaware who had the position. I was aware only of the  
8 designation by title.

9 Between April 16th and May 16th, I looked at the  
10 plan. The plan listed erroneously the name of Mr. Dickson's  
11 predecessor. In trying to be as precise as I could, I put  
12 that name down.

13 But the fact of the matter is, it is clear from as  
14 far back as April 16th, we sought the person that held the  
15 official position of Chairman of the County Council. I submit  
16 that Applicants are simply hiding behind a legal, overly  
17 technical reading of what was an inadvertence at the very  
18 worst on the part of counsel, and an inadvertence, frankly,  
19 on reliance on a document that obviously was not accurate  
20 and current.

21 It is Mr. Dickson whose testimony we seek, and who  
22 is here in response to the subpoena, and we ask to examine  
23 the witnesses.

24 JUDGE MARGULIES: It is a matter of more than just  
25 technical concern in that Mr. McGarry flew down and

mm9

1 interviewed the other individual.

2 MR. GUILD: Thinking he was Chairman of the County  
3 Council, Mr. Chairman?

4 JUDGE MARGULIES: He was the individual named in  
5 the subpoena.

6 MR. GUILD: We identified by title the position,  
7 Chairman, York County Council. I can't seriously believe,  
8 Mr. Chairman, that there was any misunderstanding about  
9 the desire of this party to seek the Chairman who acts in  
10 that official capacity. I can't believe it. I just, frankly,  
11 can't believe it unless they maintain also that they were  
12 also under the erroneous assumption as I was, that Mr. Williams  
13 still held that official position.

14 MR. MC GARRY: Your Honor, we were not under that  
15 erroneous assumption. We knew who the Chairman of the York  
16 County Council was. But the subpoena was issued for J. Garrett  
17 Williams, the request was made for J. Jerry Williams. We  
18 don't know why the Intervenors particularly wanted to call  
19 J. Jerry Williams, no more than any other witnesses are being  
20 called.

21 MR. GUILD: They most certainly do --

22 MR. MC GARRY: The reason being, if we look at the  
23 general request, it is for all intents and purposes repetitive  
24 for each individual. So, we can't be placed in a position of  
25 guessing why they want to call an individual.

Mml0

1 J. Jerry Williams was at one time the Chairman of  
2 the York County Council, and there may have been a reason  
3 why they wanted to call J. Jerry Williams because he held  
4 that position.

5 MR. GUILD: Mr. Chairman, the document very  
6 clearly states "Official capacity, Chairman, York County  
7 Council."

8 Now, if Applicants knew as of the date that we  
9 argued this that Mr. Williams did not hold that office, you  
10 would think they would have been forthcoming and said,  
11 "Listen, you named the wrong man, we object to your subpoena  
12 because Mr. Williams is not, as you indicate, the Chairman  
13 of the York County Council."

14 I suspect that they either knew it at the time  
15 and sat on that knowledge, trying to set a trap in which to  
16 ensnare us over what is a ridiculous technicality. And I  
17 will submit to you that at the point where we argued these  
18 subpoenas, for the issuance of these subpoenas over  
19 Applicants' and Staff's objections Friday a week ago, I was  
20 still under the misimpression that Mr. Williams held that  
21 position.

22 I learned the correct information only the next  
23 day by reading in the newspaper that in fact Mr. Williams  
24 no longer held that job, but left office at Mr. Dickson's  
25 election.

mm11

1                   So, all I can tell you, sir, is that I relied on  
2 erroneous information. I can't seriously believe that anybody  
3 was under the misapprehension that we sought anybody other  
4 than the person that holds the official capacity that  
5 this gentleman that we have now sworn in, is now on the  
6 witness stand, now holds.

7                   MR. MC GARRY: I can assure the Board I would not  
8 have taken a plane trip down and go talk to Mr. Williams,  
9 rather than talking to Mr. Dickson, if I thought Mr. Dickson  
10 was going to be called. I didn't think he was going to be  
11 called.

12                  MR. CARR: Let me make just two points if I could,  
13 your Honor.

14                  In the first place, Mr. Guild incorrectly  
15 characterizes it as a matter of argument. We were not  
16 allowed to argue these subpoenas. I believe that the Board  
17 specifically stated the regulations didn't allow for that.

18                  MR. GUILD: No, they didn't, Mr. Chairman.

19                  MR. CARR: Second, it is no secret that  
20 Mr. Dickson is Chairman of the County Council. I suspect he  
21 has held that position for sometime. A simple telephone  
22 call by Mr. Guild, if that is who he really wanted, at any  
23 time over the past two years, could have told him or  
24 informed him as to who the Chairman of the County Council is.

25                  He didn't do his homework, he subpoenaed the wrong

mml2 person and the subpoena should be dismissed and Mr. Dickson  
2 should be excused.

3 (Board conferring)

4 JUDGE MARGULIES: I think what procedure we will  
5 follow at this point is to recess for lunch and give you  
6 sufficient time to examine and speak to Mr. Dickson before  
7 he testifies. That is the best thing we can do under these  
8 circumstances.

9 MR. MC GARRY: Thank you, your Honor. We appreciate  
10 that.

11 JUDGE MARGULIES: It is a quarter after twelve.  
12 We will recess until a quarter to two.

13 (Whereupon, at 12:15 p.m., the hearing was  
14 recessed to resume at 1:45 p.m. this same day.)

15 End T10  
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AFTERNOON SESSION

(1:45 p.m.)

1  
2 JUDGE MARGULIES: Back on the record.

3 Whereupon,

4 HAROLD DICKSON,

5 having been previously called as a rebuttal witness and

6 having been previously duly sworn, resumed the stand,

7 continued to be examined and continued to testify as follows:

## CONTINUED DIRECT EXAMINATION

8  
9 BY MR. GUILD: (Resuming)

10 Q Mr. Dickson, if you would, sir, I believe you stated  
11 your name and your position as chairman of the York County  
12 Council. When did you take office in that capacity?

13 A January of 1982.

14 Q All right, sir. You have been present this morning  
15 during the testimony of the preceding witnesses, have you not?

16 A Yes, sir.

17 Q You might say there was a little bit of start-up  
18 time. Did you get a chance to talk to Mr. McGarry or other  
19 lawyers for the company over the luncheon recess?

20 A Yes, sir.

21 Q Good. I assume they told you what to expect and  
22 that you are aware that York County has a plan for response  
23 in the event of an accident at the Catawba Nuclear Station?

24 A Yes.

25 Q Are you aware as I asked a couple of the other

1 gentlemen of what plans exist for response in the event of an  
2 emergency at the Catawba Station and if you are can you tell  
3 me what those are, can you identify those for us, plesase?

4 A Repeat that, please. What plan?

5 Q Yes. Can you identify the plans that are in  
6 existence?

7 A My role in it?

8 O No, first just what the plans are.

9 A All right. As a county councilman, Mr. Guild, we  
10 have approved an ordinance for York County. Under our home  
11 rule form of government, we operate under the county manager  
12 form and the county manager would be directed by the county  
13 council to carry out these emergency procedures through the  
14 department head.

15 Q All right, sir.

16 A We have an emergency preparedness director whose  
17 name has been mentioned, Mr. Howell, which coordinates all  
18 of this.

19 Q Do you have a copy of the York plan with you, Mr.  
20 Dickson?

21 A I don't have a copy, no, sir.

22 Q Let me show you a part of it.

23 A (Perusing document.)

24 Q This is attached to the front part of the plan and  
25 let me just ask you, is that the ordinance that you are talking

11-3

1 about, sir?

2 A A copy of our ordinance.

3 Q Yes.

4 A Yes, sir.

5 Q It is attached to your York County Operations Plan.

6 A Right.

7 Q Does that ordinance reflect that it was approved  
8 by Mr. Williams, Mr. J. Gerry Williams, the chairman of the  
9 York County Council.

10 A At that time, yes, sir. He was chairman and signed  
11 the ordinance when it was passed.

12 Q That is the authority that you all operate under  
13 but the question that I was focussing on was the plans that  
14 exist and I wanted to ask you to identify what plans exist  
15 for response in the event of an emergency at the Catawba  
16 Nuclear Station?

17 A As county councilman, we from time to time have been  
18 brought up to date as councilman by the emergency preparedness  
19 coordinator. I have not been brought up to date since  
20 September of last year. Mr. G. M. Carroll was our director  
21 at that time. The council has called him in just for  
22 information purposes just to know what is going on so we would  
23 at least have a briefing on the evacuation plan and what all  
24 he was doing. At that time it was very impressive to me and  
25 looks like a lot of homework had been done in planning the

11-4

1 evacuation for York County.

2 Q That was back in September of last year?

3 A Yes, sir.

4 Q Before Mr. Carroll's death. Was it Mr. Carroll who  
5 did that?

6 A Right.

7 Q Are you aware specifically of what plan by name or  
8 just general description exists?

9 A I just know by organization chart how it is supposed  
10 to work. The plant calls our sheriff's department. The  
11 sheriff's department calls emergency preparedness and  
12 emergency preparedness calls all the people who are connected  
13 with the plan and also calls the county manager. The county  
14 manager calls me to just inform me that there is a disaster.  
15 We are not called unless we need to call an emergency meeting  
16 of the council to enact ordinances or resolutions to go along  
17 with the disaster.

18 Q What kind of action would you take if you had such  
19 an emergency meeting of the council?

20 A It would depend on what the emergency was.

21 Q Let's take an emergency at the Catawba Nuclear  
22 Station, one in which it was anticipated that there would be  
23 a release of radiation into York County sufficient that it would  
24 cause death or serious injury to York County citizens.

25 Q The ordinance in which we have already passed into

1 law should take care of any problems that might arise, the  
2 reason because the law was enacted to set up the agency to  
3 take care of these problems. If something happened that this  
4 ordinance did not take care of, we would have to take action  
5 on it in an emergency meeting as far as the councilmen of York  
6 County.

7 Q I am looking at the same ordinance that I showed you  
8 and I gather that is what you had reference to. It says that  
9 section six on page "vi" "State of disaster or emergency  
10 may be declared by the county council if it finds a disaster  
11 or emergency has occurred or that the threat thereof is  
12 imminent." It goes on and then it enumerates the powers that  
13 are conferred by council having made such a declaration of  
14 disaster or emergency. Would you agree that enumerated among  
15 those powers are the power "f" says, "Direct evacuation of  
16 all or part of the population from any stricken or threatened  
17 area within the county if such action is deemed necessary for  
18 the preservation of life or other disaster mitigation response  
19 or recovery." Do you agree that is what it says?

20 A Yes.

21 Q In that event you would have to be notified to call  
22 an emergency meeting of the county council to declare a state  
23 of emergency or disaster and then take whatever action including  
24 directing evacuation as it sets out in the ordinance, right?

25 A I believe, Mr. Guild, that ordinance would already

1 have our staff people to enact the plan which has already  
2 been presented. I think the county would have a responsibility  
3 until the governor maybe would declare that it would be state  
4 of emergency and then we would help coordinate with that  
5 group is the way I understand it.

6 Q You heard Mr. Sanders' testimony this morning,  
7 didn't you?

8 A Yes, sir.

9 Q Mr. Sanders is a representative of the Governor's  
10 Office and you heard him discussing this very point, didn't  
11 you?

12 A Yes.

13 Q I am looking at the ordinance and Mr. Sanders said  
14 that he thinks that under the authority conferred by the home  
15 rule act counties have the power to adopt emergency response  
16 ordinances. From reading your ordinance, I gather that is what  
17 this one was, is that correct?

18 A Right.

19 Q Having read that ordinance then, it looks very  
20 clearly to me and I will show it to you that what that  
21 ordinance specifies is that your council can declare a state  
22 of emergency and your council can do a number of emergency  
23 things and the one that I read that is really important for  
24 our purposes here is direct evacuation of all or part of the  
25 population, correct?

1           A     I believe since that ordinance has been enacted, it  
2 has been overruled by the Attorney General.

3           Q     Oh, it has?

4           A     That particular part of it as far as taking control  
5 of maybe moving people or compelling people to do certain  
6 things as far as the county is concerned.

7           Q     Do you mean the Attorney General said you couldn't  
8 do that?

9           A     I believe that is correct?

10          Q     Okay.    What I am showing you is a January 1984 --  
11 it is several pages -- that is the January 1984 date appearing  
12 at the bottom of those pages, isn't it?

13          A     Yes.

14          Q     As far as I know that was offered by Duke Power as  
15 the current version of York County Operations Plan.  Is it  
16 current as far as you know?

17          A     As far as I know, it is, yes.

18          Q     Now under home rule, the people of York county  
19 had an opportunity to select forms of government.  I think  
20 you finished telling us which form you have.  You have a  
21 council manager form, correct?

22          A     Yes.

23          Q     Under the council manager form I take it the  
24 council members are the governing body of the County.  You are  
25 elected, right?

          A     Yes

1 MR. CARR: I think you mean county manager. I  
2 think you said council manager.

3 MR. GUILD: I stand corrected if I did. I meant to  
4 say council manager form of government.

5 MR. CARR: That is what you did say.

6 BY MR. GUILD: (Resuming)

7 Q Council manager meaning you have a county council  
8 and you have a county manager and that is form as you call  
9 it under home rule in South Carolina, right?

10 A (Witness Dickson) Right.

11 Q Under council manager, you are the elected body,  
12 the county council, and you hire a county manager?

13 A Yes.

14 Q The county manager is your professional day-to-day  
15 administrative officer who runs the county under your  
16 direction?

17 A Yes.

18 Q I gather that as the chairman of the county council  
19 you are the senior elected official of York County, aren't  
20 you?

21 A Senior by what? Amount of years?

22 Q No, sir. Senior by way of responsibility and  
23 authority.

24 A Yes, sir.

25 Q You preside over the county council?



1 A Yes, sir.

2 Q Looking at another portion of the Plan here and  
3 let me show it to you, sir.

4 A (Perusing document.)

5 Q The heading on that page is "Direction and Control,"  
6 is it not?

7 A Yes.

8 Q It shows a line of succession. Isn't that at the top  
9 of the line of succession the York County Council?

10 A Yes.

11 Q Of which you are chairman?

12 A Yes.

13 Q Below that is the county manger and who is that,  
14 that is Mr. Klugh?

15 A Gene Klugh, yes.

16 Q The county director of general services, that is Mr.  
17 Thomas?

18 A Yes.

19 Q The fourth in line is director of municipal and county  
20 emergency preparedness agency and that is now Mr. Howell?

21 A Right.

22 Q The Director of Public Works whom I haven't had the  
23 pleasure of meeting and the fire marshall?

24 A Yes.

25 Q At page 17 there is an attachment "1," an organization

1 chart. Does that organization chart show the York County  
2 Council at the top of the chart?

3 A Yes.

4 Q With the county manager reporting to council,  
5 emergency preparedness director to the county manager and so  
6 on down the line.

7 A Yes.

8 Q Do you understand, Mr. Dickson, that the York County  
9 emergency operations plan is a plan for a variety of hazards,  
10 one of which is for an accident at the Catawba Plant?

11 A Yes.

12 Q I want to direct your attention to Annex Q. It is  
13 entitled, "Fixed Nuclear Facility Plan." Would you agree  
14 that that is the plan for Catawba? That is a part of a plan  
15 that applies to Catawba?

16 A (Perusing document.) Yes.

17 Q As far as you know that is what applies in this  
18 situation?

19 A Yes.

20 Q At page Q-12 under that "Fixed Nuclear Facility Plan"  
21 under the heading, "Direction and Control," I see the  
22 following: "The direction and control for York County is as  
23 follows: (1) County Manager, (2) Director of General Services,  
24 (3) Director of Emergency Preparedness."

25 A That is within the plan itself. The direct plan

1 would be under his direction.

2 Q What I want to understand is this. Under the  
3 general response line of succession organizational structure  
4 the county council is at the top making decisions.

5 A Directing the county manager.

6 Q Okay, right. But here county council is not mentioned  
7 at all. You start with the county manager.

8 A That is a copy of the direct procedure plan there,  
9 right? That is the plan?

10 Q Fixed Nuclear Facility, Annex Q.

11 A That's right. This is the plan so that the manager  
12 would be in charge. The council would not. We have already  
13 established a law and an ordinance for our staff people to  
14 follow through with the plan. That is why it wouldn't appear  
15 on that.

16 Q There is my source of confusion, Mr. Dickson. You  
17 see I read your ordinance as saying that in order to declare a  
18 state of emergency, in order to evacuate people of York County,  
19 you as the chairman and presiding officer of the county council  
20 and other members of the council have to have a meeting and have  
21 to enact an ordinance and have you direct an evacuation, that  
22 it is your decision as the senior elected official of the  
23 county to preside over that meeting. Yet I see elsewhere in the  
24 plan that it appears to be Mr. Klugh who is set as the first  
25 in the line of command and direction under the Fixed Nuclear

1 Facility Plan.

2 How do you explain that confusion?

3 A I don't think it is confusiion. The ordinance that  
4 the county council approved to enact the plan and set up the  
5 department, we passed an ordinance to set up those procedures  
6 but the county manager would be the man to carry them out.  
7 I don't see that as being confusing.

8 Q I guess, sir, the source of lingering confusion for  
9 me is the provision of the ordinance I showed you earlier and  
10 that says, "A state of disaster or emergency may be  
11 declared by the County Council, et cetera," and then it  
12 sets forth what you do having made such a finding including  
13 evacuation. What appears to be confusing to me still is  
14 how you escape the responsibility for the county council  
15 itself to be ultimately responsible for the decision to  
16 declare an emergency and take emergency protective action  
17 including evacuation unless as you stated that Attorney  
18 General's decision simply through all that ordinance out  
19 and left is with the county manager being in charge. Is  
20 that what I am to think?

21 A I think some decision has been made on that. I am  
22 not really sure of that.

23  
24  
25  
end#11  
sy flws  
w?#12

1 Q Mr. Dickson, would you tell me, please, sir, --  
2 well, let me start again. You were present this morning  
3 when Mr. Sanders testified, you stated. Under the South  
4 Carolina Operational Radiological Emergency Response Plan,  
5 the state plan, it's required that state and local authorities  
6 who are responsible for emergency response receive initial  
7 and periodic training, and I wonder if you could tell me  
8 what training you have had for radiological emergency response  
9 with regard to the Catawba Station, please.

10 A Me personally?

11 Q Yes, sir.

12 A I was just brought up to date, Mr. Guild; I was not  
13 an active person in the proceeding. I had been brought up  
14 to date from time to time by staff people. I personally was  
15 not involved.

16 Q And when you say brought up to date, you're talking  
17 about the September meeting with Mr. Carroll when you briefed  
18 the council?

19 A Yes, and I was aware of the meetings that were going  
20 on when you had the evacuation plan and this kind of thing.  
21 I was contacted that day when the emergency evacuation plan  
22 took place. I was -- you know, when they had the mock.

23 Q The exercise.

24 A Yes, sir.

25 Q In February.

1           A     Everything went through as far as I know, and as  
2 far as I've been told, went through well. And I was contacted  
3 earlier that day when it started and they went through the  
4 whole procedure.

5           Q     What did you do that day, Mr. Dickson?

6           A     I continued to work in my job, just like I always do.

7           Q     And what kind of work is that?

8           A     Real estate sales.

9           Q     So you continued your normal work. Did you have  
10 a meeting of the council?

11          A     No, sir.

12          Q     Did you perform any other responsibilities in  
13 an emergency exercise?

14          A     No, sir.

15          Q     And you were informed that it was happening?

16          A     Yes.

17               MR. GUILD: Thank you very much. I appreciate your  
18 appearing and answering the questions, and the others may  
19 have some questions for you, sir.

20                               CROSS EXAMINATION

21               BY MR. RILEY:

22           Q     You mentioned the passage of an ordinance dealing  
23 with this, this -- the initiating act for the passage of  
24 the emergency response division in York, with the knowledge  
25 that there was going to be a Catawba plan in York County?

1           A     Yes, sir.     It was under construction at that time.

2           MR. RILEY:   That's what I meant.   That's all,  
3     thank you.

4           BY MR. WILSON:

5           Q     Mr. Dickson, despite the "lingering confusion"  
6     about who is responsible at the county level for ordering  
7     evacuation, is there in practice confusion regarding who's  
8     responsible for doing what in an emergency situation at the  
9     Catawba Nuclear Station?

10          A     Is there any confusion?

11          Q     Is there, in fact, any?

12          A     Not to my knowledge, no, sir.

13          MR. WILSON:   That's all, thank you.

14          JUDGE MARGULIES:   Staff?

15          MR. JOHNSON:   Could I have just a moment, please.

16          (Pause.)

17          BY MR. JOHNSON:

18          Q     What I would like to clear up, Mr. Dickson, is the  
19     question that Mr. Guild was asking about, and it relates to  
20     Mr. Sanders' testimony of this morning.   I have a series of  
21     steps that I understand, and then I would just like to see if  
22     I can clarify the last step or two.

23                 The first step is that there's a Home Rule Act  
24     which authorizes counties to order evacuation where required,  
25     understanding that there is some limitation perhaps on that

1 authority based on the Attorney General's decision that  
2 relates to compelling evacuation. I understand that point.  
3 Would you agree so far with that?

4 A Yes.

5 Q Then under the Home Rule Act, the county council has  
6 enacted this ordinance that we've been discussing. It starts  
7 on page ii in the York County Plan; is that correct?

8 A What was that, sir?

9 Q The legal basis of the York County ordinance  
10 adopted October 10, 1980. We've been talking about that.

11 A Yes, right.

12 Q And part of that, as Mr. Guild was saying, in  
13 Section 6 is the state of disaster or emergency by declared  
14 by the county council if it finds a disaster or emergency has  
15 occurred, et cetera. And one of the other authorities that is  
16 mentioned in that same section is paragraph (f) which is direct  
17 evacuation.

18 A Yes.

19 Q The situation that I'm interested in exploring is  
20 fastbreaking situation in which -- we had the Sheriff here  
21 this morning, and yesterday we discussed the situation in which  
22 a dispatcher is called upon at the county level to push the  
23 button to sound the sirens, consult with the other dispatchers,  
24 get a coordinated emergency broadcast system message out, and  
25 presumably that message would have some kind of direction to



1 the public. And one of the possible directions, presumably,  
2 is to evacuate.

3 The question in my mind is: does the dispatcher  
4 have the authority to suggest, recommend or what have you  
5 that the message that would be broadcast urge, warn, suggest,  
6 recommend or direct an evacuation in the absence of the  
7 meeting of the county council.

8 A Yes. I think under this ordinance if a disaster  
9 has been called from the plant to the Sheriff, to our coordinator  
10 that is in charge of the evacuation plan, he would have all  
11 the authority in the world to evacuate if that was necessary,  
12 under our department heads.

13 Q And you're saying that that is without the county  
14 council meeting?

15 A Yes.

16 MR. JOHNSON: That's all I have, thank you.

17 MR. CARR: I just have a couple of questions.

18 BY MR. CARR:

19 Q I want to make sure that I understand the situation.  
20 You have the ordinance that has been referred to today, and  
21 under your system of government it's my understanding that  
22 in the event of an emergency at Catawba, the responsibility  
23 of responding to that emergency rests with the county  
24 manager and the professional emergency response staff of  
25 the county.

1 A Yes, sir.

2 Q And the county council is not involved except  
3 obviously, they would be consulted or would be kept up to  
4 date and provided with information as to what's happening.

5 A Informed, yes.

6 Q And the decisionmaking and the actual hands-on  
7 work is performed by the county manager and the professional  
8 staff.

9 A Yes.

10 MR. CARR: Thank you. That's all I have, Your Honor.

11 MR. GUILD: Mr. Chairman, just one moment.

12 REDIRECT EXAMINATION

13 BY MR. GUILD:

14 Q Well, Mr. Dickson, page 7 of your plan under  
15 County Government says this about the county council and  
16 county management. "The county council has overall responsi-  
17 bility for policy decisions affecting the pre-disaster  
18 activities, disaster operations and recovery operations of  
19 all facets of the county's organization and the coordination  
20 of emergency support to the municipalities and other resources  
21 made available to the county." Right?

22 A Let me read that again.

23 (Counsel handing document to witness.)

24 A It says the county council has overall responsibility  
25

1 for policy decisions, yes, sir. We have established the  
2 policy decisions in our ordinances for our department heads.

3 Q Okay. Now look below that, the County Manager.  
4 What does it say about his responsibilities?

5 A He is responsible to the county council.

6 Q So you have stated that despite your ordinance and  
7 despite this part of the plan, you have left it up to the  
8 dispatcher to make the decision on the matter of policy of  
9 whether or not to take protective action for the people of  
10 York County in the event of an accident.

11 A He said dispatcher. I would say -- I told him our  
12 department head's coordinator, emergency coordinator, would  
13 have authority to take the plan as it is already laid out, to  
14 evacuate.

15 Q All right. You don't read that section -- let me  
16 just look at it. You don't read this section I just showed  
17 you about the county council's responsibility, including  
18 responsibility in disaster operations -- not just planning,  
19 but operations?

20 A But first of all, it says policy decisionmaking.  
21 This is our role.

22 Q Right. In disaster operations.

23 A Right. We have already established the policy  
24 decision by establishing an ordinance to protect the people  
25 of the county.

1 Q Right, and that ordinance says you have to have a  
2 meeting of the council to declare an emergency.

3 A Just a disaster meeting, emergency meeting. We  
4 don't have to have a meeting to evacuate.

5 Q But you had to have had the meeting beforehand to  
6 declare the emergency, right?

7 A No, sir. If the emergency arises, the coordinator  
8 will take the ball and roll with it.

9 Q You don't see any inconsistency with the language  
10 in the ordinance, the language here in your plan, and your  
11 testimony?

12 A No, sir.

13 MR. GUILD: Okay. Thank you, sir, that's all I have.

14 JUDGE MARGULIES: Is there anything further of  
15 the witness?

16 MR. CARR: Yes, sir, just one quick question.

17 RECROSS EXAMINATION

18 BY MR. CARR:

19 Q The part you were just on, Mr. Dickson, is, as  
20 Mr. Guild pointed out to you earlier, the overall county  
21 emergency plan for, if you will, all hazards. Isn't that  
22 correct? It's the overall county response to emergencies?

23 A It is what, sir?

24 Q The part that you and Mr. Guild were just  
25 discussing on page 7 of your plan is an overall county plan

1 designed to deal with all emergencies.

2 A Yes, sir, all emergencies.

3 Q Now, the specific part of the county plan that deals  
4 with a potential emergency at Catawba is Annex Q, is that  
5 correct?

6 A Yes, sir.

7 Q And doesn't Annex Q indicate clearly that for  
8 purposes of a response to an emergency at Catawba, that the  
9 county has determined that the county manager is in charge?

10 A Yes, sir.

11 Q That's in the direction and control section that  
12 you and Mr. Guild talked about in Annex Q, is that correct?

13 A Right.

14 Q So is it fair to assume that Annex Q represents  
15 the policy decision that you and Mr. Guild just discussed,  
16 that that is the way the county will respond to a nuclear  
17 emergency at Catawba.

18 A That's correct.

19 MR. CARR: Thank you.

20 MR. GUILD: No more questions.

21 JUDGE MARGULIES: Thank you, Mr. Chairman, for  
22 appearing here today. You are excused.

23 (Witness Dickson was excused.)

24 MR. GUILD: Our next witness is Mr. Nathaniel  
25 Davis, Jr. Would you come forward, please?

1 Whereupon,

2 NATHANIEL DAVIS, JR.

3 was called as a rebuttal witness by counsel for Intervenors  
4 and, after being first duly sworn, took the stand and was  
5 examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MR. GUILD:

8 Q Mr. Davis, would you state your full name and your  
9 position, please, for the record?

10 A My full name is Nathaniel Davis, Jr. I'm an  
11 Administrator with the York School District No. 1, one of  
12 the principals of the high school and Director of Transporta-  
13 tion for York District 1.

14 Q Thank you. Now, if we can -- if you could help me  
15 understand what the situation is in York County, you have more  
16 than one school district that represents the schools in the  
17 County of York, do you not?

18 A That's correct.

19 Q And York District 1 is one of those districts. And  
20 how many are there in total, if you know, sir?

21 A There are four districts in York County. That's  
22 Fort Mill, RockHill, Clover and York.

23 Q And when you say York District 1, it's a district  
24 that compromises the town of York?

25 A That's correct. Well, there are other towns that

1 are included, so it's York School District 1, but York is  
2 involved, yes.

3 Q And the formal title of the body is York County  
4 School District No. 1, is that correct?

5 A That's if you engulf the other three school districts.

6 Q All right, sir. I wanted to try to clear up the  
7 confusion, but maybe I've just created more. I'm looking at  
8 some of the company's documents and they have the county  
9 divided into what they call York County School Districts  
10 1 through 4.

11 A That's correct. I'm only responsible for York 1.

12 Q And that's generally in the area of the town of the  
13 City of York, correct?

14 A That's correct.

15 Q Okay, I understand, thank you. Now I understood,  
16 Mr. Davis, that you have participated in planning for response  
17 in the event -- unlikely and hopefully it will never happen,  
18 but a serious accident occurs at the Catawba Nuclear Station  
19 and there is required protective response that would include  
20 movement of your kids in York School District No. 1. You've  
21 been involved in that process?

22 A Yes, I have.

23 Q All right. Could you just generally describe what  
24 your involvement has been, please?

25 A Well, my involvement directly would be responsible

1 for transporting the youngsters that are in York District 1  
2 along with other personnel, and that would basically be  
3 staff personnel of York District 1, to staging centers located  
4 at two of our other schools in York District 1. Those staging  
5 centers are Sharon Elementary and Hickory Gove Elementary.

6 Q All right. And generally, where are those located?  
7 What communities --

8 A They're located in the town of Sharon, South  
9 Carolina and Hickory Grove, South Carolina.

10 Q And if we were looking at a compass and we looked  
11 at Lake Wiley and the Catawba Station in the center of the  
12 compass, what direction would those staging areas be relative  
13 to, to the Catawba Station?

14 A They would be west.

15 Q And approximately what distance, just to give us  
16 a feel for where you're moving your kids to.

17 A I would say roughly 25, 30 miles from Catawba.

18 end 12  
19  
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1 Q Now what I was focusing on in my earlier question  
2 was, before we get to your responsibility in the event of  
3 an accident and the need for a response, I wanted to understand  
4 your involvement in the planning process that has happened  
5 so far, Mr. Davis.

6 Could you tell me what involvement you had in  
7 developing the plans up until this point, please?

8 A The involvement I had with just the York 1 plan  
9 had to do with working with other personnel within the  
10 district to basically draw up how the mobilization of the  
11 students would be involved and the transportation of them  
12 to the staging centers.

13 Q What involvements have you had with persons of  
14 similar responsibilities to your own for other school  
15 districts for York County and perhaps for other school  
16 districts affected by the plan, but outside York County?

17 A To what extent are you asking?

18 Q Just in planning for an accident at Catawba.

19 A I have conferred with other transportation  
20 supervisors.

21 Q All right.

22 In what kind of setting have you conferred?

23 A Well, we basically discussed their plans in  
24 relation to our plan. We have that type of relationship  
25 that does exist.

mm2 1 Q Have you worked with the Applicant, with Duke  
2 Power Company people in the planning process?

3 A Not directly, I haven't.

4 Q Have you worked with consultants to Duke Power  
5 Company, the people from the traffic-planning firm, PRC  
6 Voorhees?

7 A We have been involved in meetings, yes.

8 Q Would you just give us a description please, of  
9 what that involvement has consisted of.

10 A Well, initially when we realized that we had to  
11 have a plan for evacuation in case of an emergency, those  
12 persons did come in and we did work as a team in getting  
13 ideas in terms of what other districts and other counties  
14 had done in helping draw up the plan.

15 Q Can you recall -- give me an idea of how many  
16 meetings you had with those people? One? Ten?

17 A There was some that I was unable to attend  
18 because of other responsibilities. I would say, oh, four or  
19 five.

20 Q All right. That sounds extensive to me as compared  
21 to a simple 15-minute briefing.

22 You worked extensively with these people on  
23 several occasions for purposes of developing a plan that we  
24 are talking about?

25 A Well, people within the district. We have spent

mm3

1 several days.

2 Q All right.

3 And how about, if you would, Mr. Davis, lead me  
4 through a description please, of how you went about performing  
5 your task in developing the plans to be used for the York  
6 School District 1 students. I am interested in -- in relation  
7 to working with the Voorhees people, with people in other  
8 districts, with people in your own district. If you could  
9 just give me a general description of the process that you  
10 went through to develop your plan, please.

11 A What we did, we looked at other established plans  
12 or plans that we did have that were made accessible in terms  
13 of what we felt would be workable for York 1. Our main goal  
14 was to get -- transport the young people out of the area that  
15 would be contaminated, depending on what way the wind would  
16 be blowing, or et cetera.

17 So, I think what we really did was to decide how  
18 best this could be achieved, and that is what we did. It is  
19 pretty well outlined in our district plan as to what my  
20 tasks are.

21 Q All right.

22 Now I have seen the result, Mr. Davis. I guess  
23 what I am trying to understand is what led to that result,  
24 what led to the process.

25 I have got a document that has been presented in

mm4

1 evidence by Mr. Kulash. Did you meet him before? He was  
2 employed by PRC Voorhees. Maybe? Maybe not?

3 A I'm not sure.

4 Q Mr. Kulash testified, and he was presented as a  
5 witness for Duke, as to the time it would take to evacuate  
6 persons, including students, from the Catawba emergency  
7 planning zone, the ten-mile or about ten-mile plume EPZ.

8 Were you aware that he performed studies about  
9 the time it would take to do that? He and his people?

10 A Well, I am aware of charts that I have read.

11 I could basically tell you that without even doing  
12 a study as to the amount of time it would normally take to  
13 transport our young people in York 1 to the staging centers.  
14 Because, if you really look at the chart, neither of our  
15 schools are really located within the ten-mile zone. We are  
16 in the EPZ, but we are not -- none of our schools are there.

17 So, I could basically tell anyone without an  
18 unnecessary study, as to the amount of time it would take to  
19 transport the young people in York District 1 to the staging  
20 centers out at Sharon and Hickory Elementary Schools.

21 Q Do that, if you would.

22 A Roughly an hour, an hour and 15, 20 minutes.

23 Q That's on the basis -- that estimate is on the  
24 basis of what information, Mr. Davis?

25 A General knowledge of transportation of young people

mm5

1 in York District 1.

2 Q That's what it takes you to do it every day?

3 A Well, on an average, if we put them all together.  
4 Because, you know, we are going in one direction. And  
5 therefore it would not be -- it wouldn't take as long as  
6 it does for some routes than other routes.

7 Q Okay.

8 Let's back up one second now. Mr. Kulash presented  
9 this testimony and he performed an analysis and that  
10 analysis has been received as an attachment to his testimony.  
11 It is entitled "Adequacy of Planning for School Population  
12 Evacuation, Catawba Nuclear Station Emergency Planning Zone,  
13 March 1984."

14 Have you ever seen that?

15 A I don't recall.

16 Q Let me show it to you.

17 A I might have a copy. I am not familiar with it  
18 directly.

19 (Document handed to witness)

20 Q This is Kulash Attachment C, the final version of  
21 the draft.

22 A Yes, I have a copy of this.

23 Q So you have seen it?

24 A Yes.

25 Q Did you review it when it was in a draft stage?

mm6

1 Do you recall whether or not you had a chance to  
2 see it as it was being developed?

3 A One of the Superintendents and I did look at it.

4 Q What did you think about it when you saw it,  
5 Mr. Davis?

6 A Well, at that particular time I was only concerned  
7 with York 1.

8 Q Right.

9 A And what I read about York 1, I felt workable.

10 Q Did you have any questions about it at all?

11 A No.

12 Q Then there was a document that Mr. Kulash  
13 presented that is on Appendix B to this testimony. And  
14 that is entitled "York School District No. 1 Evacuation Plan."

15 Can you identify that?

16 (Document handed to witness)

17 A Yes, I am familiar with it.

18 Q Are you the author or a participant in producing  
19 that plan?

20 A Yes, participant.

21 Q Okay.

22 Well, who was the author of the plan, Mr. Davis?

23 A One of the Superintendents. If you will note that  
24 he is a person that would directly contact me.

25 Q Who is he by name?

mm7

1 A Corbett Gibson.

2 Q Okay, Mr. Gibson.

3 A I believe he is listed as the lead coordinator.

4 Q All right.

5 Now I am looking in this plan, Appendix B to  
6 Mr. Kulash's testimony, for York No. 1. And I see Corbett  
7 Gibson by name, Kenneth Love in his absence, and on the  
8 second page, under tasks, lead coordinator, I see, 2,  
9 notify District Director of Transportation of the Evacuation  
10 Order. And that is you, correct?

11 A That's correct.

12 Q And further down that page, District Director of  
13 Transportation, you again and some enumerated responsibilities  
14 under the plan?

15 A That is correct.

16 Q Now, under that plan -- let's start another point.

17 Are you aware, Mr. Davis, that in order to evacuate  
18 all of the students in York County, a number of the schools  
19 will require multiple bus trips? In other words, the  
20 regular bus takes a load of students out, must unload at  
21 a staging area or somewhere else, come back and load up  
22 another load of kids and take them out.

23 A That's not true for York 1.

24 Q Right. York 1 is a school district that  
25 doesn't require multiple trips, correct?

mm8

- 1 A In this particular case, yes, you are correct.
- 2 Q Now that is because you have available enough
- 3 vehicles to be able to get out your kinds in one trip, you
- 4 project, correct?
- 5 A Correct.
- 6 Q Now, where do those vehicles come from that you are
- 7 projecting to have available to do a one-trip evacuation.
- 8 A POVs.
- 9 Q That means what?
- 10 A Private vehicles owned by the students, driven by
- 11 the students.
- 12 Q Okay. And the staff?
- 13 A Yes.
- 14 Q Those are vehicles that are where?
- 15 A They are on our campus.
- 16 Well, a number are on the campuses of each school.
- 17 If you will note that at the York Comprehensive High School,
- 18 we have a total of 237 and the other --
- 19 Q Wait a minute, you are looking in the plan itself
- 20 now?
- 21 A That is correct.
- 22 Q Okay. I see, under schools?
- 23 A Under schools.
- 24 Q Right.
- 25 A Private vehicles.



mm9

- 1 Q Okay. Yes.
- 2 A Okay. At the high school they have middle schools,  
3 elementary schools, they are all listed.
- 4 Q Okay.
- 5 A POVs.
- 6 Q So you assume that you have and can rely on, would  
7 you accept 385 privately-owned vehicles?
- 8 A If you totalled the POVs in the district, that is  
9 probably what it amounts to.
- 10 Q And those you rely on in addition to your district-  
11 owned school buses, correct?
- 12 A That's correct.
- 13 Q Now I am looking at Mr. Kulash's Attachment C.  
14 That is the study of the Adequacy of Planning. Okay.
- 15 I am looking at his Exhibit 3, it is at page 6.  
16 That is entitled "Role of Privately-Owned Vehicles, POVs in  
17 School Evacuation."
- 18 (Document indicated to witness.)
- 19 Right, got that?
- 20 A Okay, got that.
- 21 Q Now he has three sets of columns there; if 100  
22 percent participation, if 75 percent participation, if 50  
23 percent participation.
- 24 Okay. Now your plan assumes that you are going to  
25 have a total of 385 privately-owned vehicles, correct?

mm10 1 A Correct.

2 Q And that's on the basis of the assumption that  
3 there will be 100 percent participation of the available  
4 privately-owned vehicles, isn't it?

5 A That's correct.

6 Q Now if there is only 50 percent participation  
7 of privately-owned vehicles, what is the effect in terms of  
8 the number of students who will be able to be evacuated  
9 through that means, through privately-owned vehicles? What  
10 is the comparative number, please?

11 A What we would do in this particular case if those  
12 additional POVs were not available, we could place additional  
13 students on the buses.

14 What we based this basically on was roughly, I  
15 believe, 60 persons per bus. We could very easily get 70  
16 persons, or 75 persons on a 60-passenger bus. You know we  
17 are talking about a case of an emergency.

18 Q Okay.

19 So you are talking about putting more people on  
20 the buses, okay. But that still isn't going to solve your  
21 problem if there is only 50 percent participation. You  
22 are going to have to find more buses, aren't you?

23 A We do have additional buses that would be available  
24 at the bus maintenance shop. This did not include our  
25 activity buses or our district vans.

mm11 1 Q Right. And you have got to get those to the  
2 school to pick the kids up, right? You need them?

3 A Yes, yes.

4 Well, they are located at one of the schools,  
5 really.

6 Q They may need to go to another school to get kids,  
7 if you don't have the POVs, right?

8 A That's correct.

9 Q Now would you accept that according to Mr. Kulash's  
10 figures now, the difference in 100 percent participation of  
11 the privately-owned vehicles and 50 percent is -- you would  
12 require some 32 busloads to get your kinds out -- up to 41  
13 busloads.

14 A Okay.

15 Q Is that correct?

16 You need to say yes or no so the reporter can get  
17 it.

18 A Yes.

19 Q Is that accurate to the best of your knowledge?

20 A Well, I have available 42 buses. Now that is at  
21 my disposal, and that does not include the extra district  
22 vehicles or the buses that would be available at the bus  
23 maintenance shop if necessary. What we consider as spare  
24 buses.

25 Q All right.

mm12                    Now, have you made any kind of study, Mr. Davis,  
2                    or are you aware of Duke or Mr. Kulash or his people doing  
3                    any kind of study about the actual likely percent participa-  
4                    tion of privately-owned vehicles in assisting you in  
5                    evacuating students?

6                    A            That's a good question. When we have a fire drill  
7                    or we have a tornado drill or whatever, we have bus evacuation  
8                    drills, we have got an excellent participation from our young  
9                    people. I think in case of an emergency, who knows.  
10                   I strongly feel that we would receive this type of participation.

11                   Q            I'm sure people would be well motivated and want  
12                   to help where they could. But, you would agree, wouldn't you  
13                   that it is likely if there is a privately-owned vehicle that  
14                   belongs to, let's say, a student, that that student may have  
15                   obligations to assist others in addition to his friends who  
16                   are also students at the school. He may have an obligation  
17                   for being the primary source of transportation for his  
18                   family at home, or for relatives at home, and he or she may  
19                   feel compelled out of blood being thicker than water, to take  
20                   first responsibility for assisting those with close  
21                   relationship to him than his fellow students.

22                                      That's a possibility, isn't it?

23                   A            Sure, that's a possibility. But it is also my  
24                   understanding that no one will be allowed to go back into  
25                   the zone once whatever has taken place. Is that not correct?

mm13

1 Q I don't think it is, Mr. Davis.

2 I think that an assumption underlying the  
3 evacuation plan is that people would have prerogative -- and  
4 in fact be expected to go after their relatives, to go home  
5 to fetch whoever is there without transportation and to get  
6 out.

7 And in that case you would expect, wouldn't you,  
8 that a number of people with vehicles at school would do just  
9 that, wouldn't they?

10 A I am sure -- there is a possibility we may have  
11 some students that would not abide by the command or the  
12 order or the rule or the regulation.

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1 Q You wouldn't be ordering these students to make the  
2 choice between assisting their families in evacuating, going  
3 home first to care for their loved ones as opposed to assisting  
4 their fellow students? You wouldn't put them in the position  
5 of being compelled to choose to take students instead of going  
6 home?

7 A I do believe that our staff will be given that order.

8 Q Let me understand what you mean by that. Your staff  
9 would be given the order to tell the students to do that?

10 A No, that they would be responsible to report to the  
11 staging centers.

12 Q The staff would?

13 A Yes.

14 Q What is the basis for the authority of the school  
15 officials to order their staff to do that, do you know?

16 A I can't answer that question.

17 Q Are you aware of whether or not there is a legal  
18 authority for school management to order or direct their staff  
19 to transport students with their vehicles as opposed to taking  
20 care of their own family responsibilities?

21 A There are orders that they are given daily and  
22 annually but not of this particular nature. We have not had  
23 to. I would hope that they would abide by the order as a part  
24 of their unwritten contract.

25 Q Would you treat it as an order to the students to use

14-2

1 their privately owned vehicles to play this key role in  
2 transporting students?

3 A I really cannot answer that.

4 Q You have Mr. Kulash's study in front of you, Mr.  
5 Davis. Look at page four there if you would, please.

6 A (Perusing document.)

7 Q Look at page one, I am sorry. School District Plans  
8 is the title. Each school district has developed its own  
9 plan for evacuating its schools. Although there are small  
10 differences among the plans, they are similar in most  
11 respects. The principal features of the plans are as follows  
12 and then there are some listings. I am now to page four.  
13 The last item on the list is "regular training of school  
14 personnel." "To insure that they are familiar with their role  
15 in an evacuation each year every faculty member and bus  
16 driver will be issued a copy of the district's evacuation  
17 plan."

18 A Right.

19 Q Has that been done?

20 A Yes. We have received communications. This is  
21 an ongoing process.

22 Q Right.

23 A This will be done again in September or in August  
24 because we enroll in school in August. This will be covered  
25 in August as a part of our orientation processes and this is

1 kind of an ongoing thing that will take place especially with  
2 the bus drivers because of new persons coming aboard, those  
3 that are no longer with the school system.

4 Q Has it been done yet?

5 A No, it has not.

6 Q When did you write your plan? It was in the spring  
7 of this year, was it not?

8 A I believe the final revision was 4/13.

9 Q That plan has not been distributed to the teachers  
10 and students?

11 A It has not, but each student and each staff person  
12 have received communications in reference to Catawba Nuclear  
13 and what to do in case of an emergency. So they have received  
14 communications but not the up-to-date communications.

15 Q They got Duke's brochure, right?

16 A Yes.

17 Q We talked about that. You have seen that brochure?

18 A Yes, I have.

19 Q That doesn't describe how you are going to be  
20 evacuated, does it?

21 A No. I understand that.

22 Q All right. What additional training is going to be  
23 provided either initially when they come back this year since  
24 it hasn't been done yet and on a continuing basis? First let's  
25 talk about training for the bus drivers, Mr. Davis. Who are the



1 bus drivers that will drive the buses that are to be used in  
2 your evacuation?

3 A These persons consist of students that are enrolled  
4 or will be enrolled in York Comprehensive High School and  
5 also adults.

6 Q Let's focus on the students first. How old are the  
7 students?

8 A They range between 16 and 19.

9 Q The adults, give me an idea of who as an adult would  
10 be included?

11 A The adults are basically housewives -- housewives  
12 or ladies that drive school buses. At YCHS you must be  
13 enrolled in five classes per day, one period for lunch. So  
14 we are talking about six periods. You cannot operate a  
15 kindergarten route if you are a regular student so therefore  
16 we must use adults within the program. These are people who  
17 run a regular route in the morning, they run a kindergarten  
18 route during mid-day and they run the regular route in the  
19 afternoon.

20 Q Just by proportion give me an idea how many student  
21 drivers you would use as compared to the adult drivers?

22 A I believe we have about 13 adult drivers. We have  
23 ten kindergarten routes but we have 13 adult drivers. We  
24 have 42 regular route buses. I think I have probably 62  
25 regular drivers. So what we are saying is that if the adults

1 were not on campus, we would have the availability of our  
2 drivers to place on the buses. That is understood.

3 Q What training will be performed for the bus drivers  
4 as far as implementing their responsibilities under the  
5 evacuation plan?

6 A This is something that I will get with the other  
7 superintendents and we will establish what criteria and what  
8 type of in-services we will hold for them in orienting them  
9 and giving them instructions as what part we will expect them  
10 to play in case of a disaster.

11 Q All right. There hasn't been any training on this  
12 subject so far, is that fair?

13 A They have not.

14 Q You don't have the outlines of what the training will  
15 consist of in the future?

16 A This hearing has given me tremendous input.

17 Q Good. That's a help. What can you tell us will be  
18 in that outline of training then on the basis of what you know  
19 now?

20 A I would rather not say because it is a team effort.  
21 In drawing up policies, rules and regulations we get together  
22 and do this. I have reference to the other members of the  
23 administrative staff.

24 Q You have been here all day and I appreciate your  
25 patience. You heard the testimony of others before you.

1           A     I did.

2           Q     I think you probably were present earlier when Mr.  
3 Sanders testified from the Governor's Office, weren't you?

4           A     That's correct.

5           Q     I directed his attention to a part of the South  
6 Carolina plan that talks about radiological emergency response  
7 training requirements and requirements that the plan says  
8 are applicable to state and local government radiological  
9 emergency response personnel. I wonder if you can tell me  
10 whether or not your personnel and I am first talking about  
11 your student and adult drivers will be trained in the following  
12 subjects: radiological emergency response plans and procedures,  
13 are they going to be trained in that?

14          A     I am sure that whatever we will deem necessary that  
15 they know of have knowledæ of, we will implement and follow  
16 through.

17          Q     How about radiological monitoring?

18          A     If that is necessary. I really can not answer you  
19 at the present time as to what we are going to deem necessary.

20          Q     You couldn't say whether they are going to be  
21 trained in accident assessment, decontamination, first aid,  
22 radiological health for individuals, communications, access  
23 control, protective measures, drills and exercises.

24          A     Some of those they are already trained in because  
25 we practice drills, first aid. In case of an emergency or an

14-7

1 accident, they have written procedures that they are to  
2 follow. They have some of this information as it is.

3 Q How many students were evacuated during the  
4 February Catawba exercise in York School District?

5 A We were not involved.

6 Q You didn't evacuate any, did you?

7 A No.

8 Q All right, sir. If I asked you the same question  
9 about the other people who were involved in your plan,  
10 school personnel not bus drivers, but the teachers, the  
11 administrators, would your answer be generally the same?  
12 Planning may come but you don't have the details now?

13 A That is correct. I think the principals of each  
14 school will be responsible for the orientation of the staff.

15 Q If I asked about you, yourself, Mr. Davis as the  
16 director of transportation for York School District One and  
17 I went down that same list, what of those subjects have you  
18 had radiological emergency response training in if any?

19 A None.

20 Q In order to normally get your students home from  
21 school, how many trips do your buses take?

22 A I have six buses that are involved in more than one  
23 trip. We have developments that are very close to the high  
24 school and one bus operates three trips but the three trips  
25 are made within a period of about 60 minutes.

1 Q All right. Now Mr. Kulash says in his study that  
2 since drivers are normally with their buses at a high school  
3 in most cases, there is not likely to be a shortage of drivers.  
4 Do you agree?

5 A I agree with that statement.

6 Q What happens if there are not immediately available  
7 normally assigned student drivers and adult drivers to handle  
8 their bus?

9 A I usually have a surplus of between 12 and 15  
10 subdrivers. You are going to have illnesses and other type  
11 things so therefore you must have back-up replacement. We  
12 have back-up trained replacement.

13 Q Are those back-up trained replacements assigned to  
14 a specific bus?

15 A Not necessarily. They are assigned to buses that  
16 basically are in their locale.

17 Q All right. The districts have carefully reviewed  
18 their fuel situation and none will be needed to refuel buses  
19 before ordering an evacuation. How did you carefully review  
20 your fuel situation if you did to reach that conclusion?

21 A This really needs to be directed to the county's  
22 supervisor of transportation but my buses are normally gased  
23 twice a week and we have an availability of gasoline that  
24 is three miles from my bus lot.

25 Q That is fine. But in that event someone would have to

1 drive the bus to that gasing point and fuel the bus up and  
2 then go.

3 A No. We have the tankers that arrive on campus and  
4 do that.

5 Q So the tanker gets brought to the bus.

6 A Yes.

7 Q How long does it take to full up a tanker?

8 A I am sure that in the case of an emergency or some-  
9 thing of this particular nature, I would roughly say with  
10 two men an hour to an hour and a half and that is if that is  
11 necessary.

12 Q Mr. Kulash says that each school district has  
13 arranged for space in buildings outside the EPZ for evacuated  
14 students to wait to be picked up by their parents.

15 A Yes. We have two centers.

16 Q Those are staging areas, correct?

17 A That is correct.

18 Q Students normally attending those schools and living  
19 outside the EPZ will be taken home to make room for the  
20 evacuated students. Do you have a plan to do that?

21 A Yes, sir.

22 Q How is that going to be handled?

23 A Those students -- if you will notice, we will be  
24 moving westward with our district. The young people that  
25 live on those routes home that would be outside that area

1 would be dropped off.

2 Q By the bus?

3 A By the bus, yes.

4 Q But the bus is going to take time to get the kids  
5 out of the staging area schools to make room for the kids  
6 that are coming from the evacuated schools.

7 A We have buses that are stationed at the staging  
8 area schools that would not be coming back into the area.  
9 In other words, they would be continuing further westward.

10 Q Those are not among your 42 buses?

11 A No.

12 Q Where do those buses come from?

13 A Yes. They are a part of the 42 buses.

14 Q But you already have those 42 assigned to handle --  
15 or you have 41 of the 42 assigned to handle the kids in the  
16 schools that are in the EPZ, right?

17 A We have a total of 46 buses.

18 Q Those are the activity vans?

19 A Yes.

20 Q Right. I guess what I am just trying to understand,  
21 Mr. Davis, is mechanically how do you get the kids out of the  
22 school which is the staging area at the same time as you  
23 utilize your bus complement to evacuate the kids from the  
24 schools that are in the EPZ? Can you help me clarify that?  
25 You just lost me there.

14-11

1           A     I feel that once a bus arrives at the staging  
2 centers, I would see no need for those students that were  
3 at the staging centers that are enrolled in school, I would  
4 see no need for them to remain there since they would not be  
5 within the EPZ zone.

6           Q     Maybe I am just not communicating. You are using  
7 41 of your 42 buses and I understand you have these activity  
8 vans taking it up to 46.

9           A     I have a fleet of 46 buses. That does not include --

10          Q     Which buses are going to take the kids to vacate  
11 the staging areas and which buses are you relying on in  
12 additional to the privately owned vehicles to be the evacuation  
13 buses? Do you follow me?

14          A     I understand exactly what you are saying. But I think  
15 the key is we no longer have any of the young people within  
16 the zone. I think that is the most important thing. I think  
17 that once those that are at the staging centers and we are  
18 talking about 15 to 20 miles outside. I don't see why we  
19 really need to concentrate on that part at the present time  
20 although it may be a part of the plan.

21          Q     Do you train bus drivers to perform their normal  
22 functions of driving a school bus?

23          A     The state does that.

24          Q     Is there a training program that requires -- give me  
25 the thumbnail sketch of what you do to train bus drivers.



1           A     First of all, they must apply. Once they have  
2 applied they must be approved and recommended by at least  
3 three members on the staff along with an administrator  
4 a guidance counsellor and those recommendations come into  
5 my office. After I get the recommendations on them then I  
6 make the final decision. This list is submitted to the  
7 county supervisor of transportation.

8                     We establish the dates for the three-day testing.  
9 The county supervisor for transportation along with a state  
10 employee spend three days of training with these young people  
11 within the classroom, of instruction within the classroom,  
12 and they spend one day behind the wheel. So we are talking  
13 about four days of instructions.

14                    If they pass, they receive state school bus  
15 license.

16           Q     Are these students also licensed motor vehicle  
17 operators?

18           A     That is a criteria.

19           Q     So you have to start with a driver's license?

20           A     Absolutely. You must be 16 years of age along with  
21 being physically fit.

22           Q     Is there a difference between driving a school bus  
23 and driving a standard late model American car, Mr. Davis?

24           A     I would think that our school bus drivers are probably  
25 some of the most competent drivers within the state.

end#14

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1 Q I have never driven one but I have driven some big  
2 trucks and can imagine that handling a schoolbus, particularly  
3 with its valuable cargo of students, can be a responsibility  
4 somewhat greater than driving a passenger car. Is that  
5 a true statement?

6 A I drove a bus in North Carolina when I was in high  
7 school, and I found it to be exceptionally rewarding and a  
8 very good experience, a tremendous responsibility.

9 Q It handles differently from a car?

10 A Very definitely, sir.

11 Q How long is a schoolbus? Forty feet? I'm just  
12 guessing.

13 A Twenty feet.

14 Q How much do they weigh?

15 A 1500 --

16 Q Tons?

17 MR. MC GARRY: Objection. I don't think the weight  
18 of a schoolbus is relevant with respect to Contentions 14 and  
19 15 which Mr. Davis has been called to provide testimony on,  
20 so we object to it because it's irrelevant.

21 MR. GUILD: Mr. Chairman, if you can give me about  
22 30 more seconds I can demonstrate its relevance.

23 BY MR. GUILD:

24 Q Mr. Davis, a schoolbus weighs a lot more than a  
25 standard passenger vehicle, doesn't it?

1 A Sure.

2 Q They have manual transmissions?

3 A I have three that do; the others are automatic.

4 Q In school districts other than yours, York 1 --  
5 perhaps in York 1 with an actual implementation it turns out  
6 you cannot rely on as many privately-owned vehicles as you have  
7 or your buses are broken down, but at least in the other  
8 districts already by their plan they have to make a second  
9 trip, right? To get all the kids out. Do you agree with that?

10 A I am familiar with two districts that will.

11 Q All right. Now, those second trips, we're informed,  
12 will not be made by your state licensed schoolbus drivers;  
13 they will be made by other people, emergency workers voluntarily  
14 going back in to get kids, right? Are you aware of that?

15 MR. MC GARRY: We object to that question. That's  
16 mischaracterizing the record. The record does not reflect that.  
17 The record reflects that schoolbus drivers will go back in  
18 and pick up school children. Schoolbus drivers will not go  
19 back in to pick up transportation for people, but they will  
20 go back in if necessary to pick up schoolchildren.

21 BY MR. GUILD:

22 Q Those buses will be driven by persons other than  
23 state licensed schoolbus drivers I asked you to accept that,  
24 and I submit that the record reflects that.

25 JUDGE MARGULIES: The record will speak for itself.

1 And if you want to premise your question on your hypothetical,  
2 then direct that.

3 MR. GUILD: I do, Mr. Chairman.

4 JUDGE MARGULIES: You may proceed.

5 BY MR. GUILD:

6 Q Mr. Davis, my question to you is this: Under normal  
7 circumstances, a person off the street, even a person who is  
8 an adult and who's driven a car for a long time would not be  
9 qualified to drive a schoolbus without having taken the  
10 course of instruction and passed the examination that you've  
11 just identified. Isn't that true?

12 A I don't agree with that.

13 Q Well, if I walked down to your school and got in a  
14 bus, would I be authorized to drive --

15 A You would not be authorized to drive it, no, not  
16 under that circumstance. Absolutely not. But if you're  
17 asking could you drive it, very definitely, you could drive it.  
18 You may not drive it drive it properly, but you could drive it.

19 Q That's my concern, Mr. Davis, is driving it properly.  
20 And my concern is frankly, sir, driving it properly when  
21 that bus is being driven by someone who may be well meaning  
22 and may be well motivated but who may, in fact, not have  
23 sufficient qualification to perform the responsible function  
24 of operating a heavy motor vehicle to perform emergency  
25 evacuation functions.

1           A       I don't think that applies to York 1.

2                   MR. MC GARRY: I'll object to that question. The  
3 premise is that you're going to have people other than  
4 schoolbus drivers driving the schoolbus. That may be the  
5 case in other school districts but it isn't the case in  
6 Mr. Davis's school district, and Mr. Davis is here only to  
7 speak to his school district.

8                   MR. GUILD: That's just not the case, Mr. Chairman.

9                   MR. MC GARRY: So we maintain that this line of  
10 questioning is totally irrelevant.

11                   MR. GUILD: Well, Mr. McGarry can split whatever  
12 hairs he'd like to try to split, Mr. Chairman, but we were  
13 trying to reflect some expedition here, not having the most  
14 knowledgeable person with respect to evacuation of school  
15 children from all five districts in York County, and that's  
16 our effort to try to keep the list of subpoenaed witnesses as  
17 low as possible and get this hearing done by Friday.

18                   I maintain that we've been very forthright in  
19 positing first that Mr. Davis's plan presumes that there won't  
20 be second trips, although frankly, sir, I think it's a  
21 plausible premise that if their rosy assumptions about the  
22 availability of privately-owned vehicles do not pan out,  
23 that they will themselves be required to make multiple trips  
24 to effectively evacuate their own population, School  
25 District 1.

1           Nonetheless, it seems to me perfectly relevant and  
2 very important to ask this witness the question he was just  
3 trying to respond to, and that is you know, what likely  
4 reduction in safety would be effected by having untrained  
5 persons driving schoolbuses performing evacuation functions.

6           I submit the question, Your Honor.

7           JUDGE MARGULIES: Going back to the original  
8 question, my recollection of Mr. Kulash's testimony was the  
9 same as Mr. McGarry described it. I'm not totally certain  
10 but that's my recollection.

11          MR. GUILD: Mine, sir, is to the contrary.

12          JUDGE MARGULIES: And the record will speak for itself.  
13 The objection is overruled. You may answer the  
14 question.

15          MR. GUILD: I think you probably did, Mr. Davis,  
16 but maybe you could repeat it.

17          BY MR. GUILD:

18          Q     Your opinion on the question of untrained persons  
19 driving your schoolbuses, please.

20          A     I'm saying they could drive the bus. I would not --  
21 it was my understanding when you asked the question that  
22 could a person off the street come in and transport some of  
23 my kids home in the afternoons. I informed you that they  
24 could, but probably not within the rules and guidelines.  
25 And I have reference to the proper procedures.

1 JUDGE LAZO: Pardon me. When you earlier answered  
2 that question I think you said that they might not drive it  
3 properly, and I wondered by that do you mean in a manner that  
4 might not be harmful to the engine, or in a manner that might  
5 be dangerous to others.

6 THE WITNESS: Your Honor, I think I had reference  
7 to in driving a schoolbus you need to know when to put the  
8 stop arm out, when to take it in, how to check the rear view  
9 mirror. I had reference to operating properly procedures.  
10 I think that's the only way to drive a bus when you're  
11 transporting young people.

12 Now contrary to that, the answer would be different.

13 BY MR. GUILD:

14 Q How easy would it be for a person with no  
15 experience driving anything other than a standard Ford to  
16 make a J-turn, to turn a schoolbus around in a two-lane  
17 roadway, for example, Mr. Davis?

18 A A person could do it, carefully.

19 Q It might take them a little bit of time and trouble  
20 and might not make it the first try?

21 A Right.

22 Q Isn't it a skill that you have to learn, and that's  
23 why you teach it to students?

24 A It's an important skill, yes.

25 Q I agree with that. And by the same token, a schoolbus

1 might be a little unusual handling, let's say, coming to an  
2 emergency stop as contrasted with your standard design Ford  
3 family car, wouldn't it?

4 A Well, there's a difference between driving a bus  
5 and a car. Sure.

6 Q Might have a higher center of gravity and not be  
7 able to take a turn at quite the speed that a family car  
8 would, correct?

9 A That's correct.

10 MR. GUILD: Mr. Davis, I appreciate your testimony,  
11 and your patience in waiting for us today. That's all I  
12 have, Mr. Chairman, thank you.

13 JUDGE MARGULIES: Staff?

14 CROSS EXAMINATION

15 BY MR. JOHNSON:

16 Q Mr. Davis, I'm George Johnson, I'm counsel for the  
17 NRC Staff. During Mr. Guild's examination he asked you  
18 several questions about the possibility of conflict between  
19 the staff's responsibilities to go home and evacuate with  
20 their children or whoever is in their home, and their  
21 responsibility to drive, I assume, privately-owned vehicles  
22 out of the EPZ with students or other people from the school  
23 within your district.

24 My first question is, have these individuals --  
25 I assume mainly teachers, staff in the school district that



1 you're involved in -- been oriented in any way concerning  
2 this function of driving others out of the EPZ in the event  
3 of an emergency at Catawba?

4 A This has not been done at the present time. These  
5 are things that hopefully, we will follow through with during  
6 our in-services in August.

7 Q At that time, would you contemplate that you would  
8 inform them of these responsibilities that they would be  
9 expected to perform?

10 A I'm sure that all of this will be a part of the  
11 policies, once the administrative team within the district  
12 complete design of it.

13 Q Would part of this instruction be for them to make  
14 arrangements or plans for evacuation of other persons in  
15 their household if they wouldn't be available to go home and  
16 drive to such people's houses?

17 A Here again, I really cannot tell you what the policy  
18 or the plan will engulf until we really look at the mechanics  
19 of it, sit down and draw it up. If you're talking about  
20 members of the staff.

21 Q Is it reasonable to assume, however, that if you're  
22 going to be expecting these adults, teachers, staff members,  
23 to drive other people from the school out of the EPZ that  
24 you would instruct them to make alternative arrangements  
25 for themselves, for their families.

1           A     That is correct because according to our plan, they  
2 will be responsible for helping supervise and operate the  
3 staging centers.

4           Q     And similarly with the case of students with  
5 privately-owned vehicles, would that instruction also take  
6 place, and any need for alternative arrangements be covered?

7           A     Yes, sir.

8           Q     With regard to the last subject that Mr. Guild  
9 covered, that is, the training for drivers, are you aware of  
10 the training to be given to drivers in other school districts?

11          A     I am not.

12               MR. JOHNSON: That's all I have, Your Honor.

13               JUDGE MARGULIES: South Carolina?

14               BY MR. WILSON:

15          Q     Mr. Davis, does your evacuation plan anticipate  
16 parents getting children anywhere but at the staging centers?

17          A     It does not.

18          Q     And you are one of how many district transportation  
19 directors in the school district? Or rather, in the county?

20          A     There are four.

21          Q     And of those four, yours, if I understood everything  
22 correctly, is the only one that does not anticipate return  
23 trips to evacuate all of the children in your charge?

24          A     I'm familiar with two others, and according to the  
25 plan, ours do not.

1 Q What do you mean "two others"?

2 A Which indicate that they will have to go back in --  
3 to make more than one trip, if that was your question. The  
4 buses would have to make more than one trip.

5 Q As far as you know, though, you're the only district  
6 that would not have to do that?

7 A That's correct.

8 Q So as far as the question of return trips, you will  
9 probably be the least knowledgeable individual director in  
10 the county for that purpose, to answer that question. Is  
11 that right?

12 A That's correct.

13 MR. WILSON: Thank you, Mr. Davis, that's all.

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end 15

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MR. RILEY: Judge Margulies?

2 JUDGE MARGULIES: Yes, I believe you skipped your  
3 turn, Mr. Riley.

4 MR. RILEY: You didn't indicate a turn for me,  
5 sir. You asked for Staff and you asked for Mr. Wilson.

6 JUDGE MARGULIES: I think you ought to speak up  
7 if you have some questions following Mr. Guild's examination.

8 MR. RILEY: I would be glad to be so instructed.

9 JUDGE MARGULIES: All right, you may ask your  
10 questions.

11 MR. RILEY: Thank you.

xxx

12 BY MR. RILEY:

13 Q Mr. Davis, in off hours when school is not in  
14 session, nights, weekends, vacations, is there anything in  
15 the plan for using your school buses?

16 A No. Not -- we do have a plan in case of  
17 emergencies, we do have those, inclement weather or power  
18 failure or whatever, and we have what is known as a  
19 telephone emergency network that we have used numerous times.

20 And all drivers aren't very familiar with it.

21 Q My question, Mr. Davis was, in regard to an  
22 accident in the Catawba plant, is there a role given your  
23 district school buses in such an emergency in any of the  
24 state planning documents or your county planning documents?

25 A We do not -- it is not a part of our District 1

mm2

1 plan at the current time.

2 Q Can you speak as to whether it is part of the  
3 York County Plan for the Catawba Station?

4 A I do not know, sir.

5 MR. RILEY: Thank you.

6 JUDGE MARGULIES: Applicant?

7 MR. MC GARRY: Thank you.

8 BY MR. MC GARRY:

9 Q Mr. Davis, in discussion concerning the POVs, do  
10 you have any reason to believe the students won't respond in  
11 the fashion that you assumed they are going to respond?

12 A I do not.

13 Q You were asked to look at the Kulash testimony.  
14 Do you recall that?

15 A Yes.

16 Q ... I believe you were asked to look at Exhibit 3,  
17 page 6?

18 MR. GUILD: I'm sorry, counsel. Say again, please.

19 MR. MC GARRY: Exhibit 3, page 6 of Kulash Attachment  
20 C to Contention 14 and 15?

21 THE WITNESS: Yes, sir.

22 BY MR. MC GARRY:

23 Q There are various scenarios; if 100 participation  
24 of the POVs, 75 percent and 50 percent, correct?

25 A Correct.

xxx

mm3

1 Q Now if we were to total the number of people that  
2 you have to transport in your school district, that would  
3 be 1540 plus 2239, is that correct?

4 A That is correct.

5 Q And that comes to a total of 3979. Would you  
6 accept that?

7 A Yes.

8 Q If we divided that by 70 people per bus, and that  
9 is a figure that is acceptable to you in an emergency, is  
10 that correct?

11 A That is correct.

12 Q We would come up with 56.3, approximately 57  
13 bus trips, is that correct?

14 A That is correct.

15 Q Presently you have how many buses available to you?

16 A I have 46, 2 activity buses. We have a district  
17 van. So we have roughly about 50 vehicles.

18 Q Can each one of those 50 vehicles handle 70  
19 people?

20 A 43 of them can.

21 Q 43 of those.

22 So, if we subtract 43 from 57 we find that at  
23 the maximum then -- well, the number you arrive at would be  
24 14, is that correct?

25 A That's correct.

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1 Q So assuming then that there is absolutely no POV  
2 used, and the entire student population is transported by  
3 buses, you would have to make 14 additional trips. Is that  
4 correct?

5 A That's correct.

6 Q Now you said that you would transport these students  
7 from their schools which are located beyond ten miles from the  
8 Catawba Plant, but still within the EPZ, is that correct?

9 A That is correct because the Municipality is a  
10 part of the EPZ.

11 Q Then you would transport these students outside  
12 the EPZ to the designated staging areas that you have mentioned;  
13 Hickory Grove and Sharon Elementary?

14 A That is correct.

15 Q You indicated they are about ten or fifteen miles  
16 beyond the EPZ.

17 A That is correct.

18 Q So you have a ten or fifteen-mile trip to make, is  
19 that correct?

20 A That is correct.

21 Q How long do you think it would take a bus to  
22 travel ten to fifteen miles?

23 A It takes a bus to travel to Sharon about 13 --  
24 between 13 and 15 minutes.

25 Q So if those buses had to make 14 return trips, it

mm5

1 would then take them a corresponding time to get back to the  
2 school, to be approximately 15 minutes, is that correct?

3 A That's correct.

4 Q Then take them an additional 15 minutes to then  
5 get back out to Sharon, is that correct?

6 A That is correct.

7 Q So that gives us an additional half hour, plus  
8 some unloading and loading time, is that correct?

9 A That is correct.

10 Q So that would be within an hour, is that correct?

11 A That's correct.

12 Q So your initial time to evacuate the children  
13 was about an hour and ten minutes, I believe your testimony  
14 was. So if you had absolutely no cooperation and no  
15 utilization of POVs, you would add then an additional hour  
16 to your evacuation time, is that correct?

17 A That is correct.

18 Q Now speaking of these POVs, Mr. Guild expressed a  
19 concern that some of these privately-owned vehicles would go  
20 home to pick up the family members, instead of transporting  
21 the school children.

22 Do you recall that?

23 A Yes, I do.

24 Q Now based on your experience at the high schools  
25 as assistant principal would you expect that many of the



mm6

1 adults have given their child a car to leave parked at the  
2 school all day on a regular basis when it is the only car  
3 available to the family?

4 A No, the majority of the cars that are on our  
5 campus are owned by the students themselves.

6 Q Getting back to that return trip, if you had to  
7 make that return trip, you would use the student drivers as  
8 the other school districts indicate they would do, is that  
9 correct?

10 A Yes, we would.

11 Q Now, with respect to training, your job is to  
12 coordinate and see that the buses deliver the children to  
13 these staging areas, is that correct?

14 A That is correct.

15 Q Do you know your job?

16 A Yes, sir, I do.

17 Q Do you need any further training in your job?

18 A No, sir, I do not.

19 Q If you felt you needed further training, would  
20 you hesitate to ask for it?

21 A Absolutely not.

22 Q Now, with respect to the bus drivers, I believe you  
23 indicated that they had received training from the State, is  
24 that correct?

25 A That is correct.

mm7

1 Q Do you believe they need any additional training  
2 how to drive school buses?

3 A No.

4 Q Isn't that the function that they are going to  
5 perform in the emergencies, drive a school bus?

6 A That is correct.

7 Q Now also in your York School District No. 1  
8 Evacuation Plan on the last page, I see you have a form. It  
9 is captioned York School District No. 1, Training/Plan  
10 Review Signoff Sheet, is that correct?

11 A That is correct.

12 Q Do you plan to use this form?

13 A Yes, we do.

14 Q And this form will be used for teachers and bus  
15 drivers, it appears, is that correct?

16 A That is correct.

17 Q So the form reads, "I (blank) have read the  
18 emergency evacuation plan. I understand my roles and  
19 responsibilities as a (blank) teacher, (blank) bus driver."

20 And you plan to have each teacher and bus driver  
21 sign this form?

22 A That is correct.

23 Q Now with respect to this continuing issue of  
24 training, is it not true that many or most of your drivers  
25 change from year to year?

mm8

- 1           A       We lose roughly 40 percent annually.
- 2           Q       Now is school in session at this point in time?
- 3           A       No, it isn't. I am, but school isn't.
- 4           Q       So, therefore, if any student drivers need
- 5 training for whatever purpose with respect to this emergency,
- 6 they would need that prior than to the recommencement of
- 7 school, is that correct?
- 8           A       Well -- or even during school.
- 9           Q       But that would be in the fall of '84?
- 10          A       That is correct.
- 11          Q       There was a discussion of the gasoline. Is it a
- 12 common practice that your school buses run near empty gauged?
- 13          A       No, that is not a common practice.
- 14          Q       At what point in time do you refill your buses?
- 15          A       It is done on a two-day basis. Well, every two
- 16 days the buses are gased, and I would roughly say that we
- 17 probably have an average of 15 gallon of gasoline in each bus
- 18 on an average.
- 19          Q       Prior to refueling?
- 20          A       Prior to refueling.
- 21          Q       How many miles do you get to the gallon, approxi-
- 22 mately, in those buses?
- 23          A       Eight.
- 24                   MR. MC GARRY: No further questions. Thank you
- 25 very much.

XXX

mm9

## REDIRECT EXAMINATION

BY MR. GUILD:

1  
2  
3 Q Mr. Davis, this form that is on the back of your  
4 plan, no one signed that form yet, have they?

5 A No, sir.

6 Q Now the form says, "I have read the Emergency  
7 Evacuation Plan."

8 Sir, are you aware that the Emergency Evacuation  
9 Plan is of several hundred pages in length and consists of a  
10 plan for York County, plan for the State of South Carolina  
11 for Operations, a Technical Radiological Emergency Response  
12 Plan for the State, a Site-Specific Plan as well as  
13 implementing procedures?

14 A Maybe we need to reword that and say York School  
15 District 1 Evacuation Plan then.

16 Q All right.

17 By that you mean to represent the document of  
18 3 1/2 pages, right?

19 A That's right.

20 Q Okay.

21 Now by having someone sign that piece of paper that  
22 says they have read -- after you have clarified and said they  
23 read the York School District No. 1 Evacuation Plan and say  
24 in addition, as your little statement says here, "and under-  
25 stand my role and responsibilities as a teacher, bus driver,"

mm10

1 you are not trying to, by that form, represent that these  
2 3 1/2 pages are sufficient information to so inform a person  
3 and allow them to so understand their role and responsibilities?

4 A I believe that I did indicate in my testimony that  
5 in August we do plan to cover in detail our plan and policies  
6 that we have not completely implemented in reference to  
7 questions that were asked.

8 So, that will be handled basically by the  
9 principals of each school and by my office.

10 Q Well, let's assume that Mr. McGarry's recollection  
11 is correct and that in the event that there were problems  
12 with getting your kids out in the manner set out in your plan,  
13 you had to do multiple trips.

14 I think your testimony in response to this question  
15 was you would use your student drivers to make the second  
16 trip, right?

17 A Right.

18 Q Well, would those student drivers, having signed  
19 this little signoff sheet, acknowledge that they were  
20 potentially returning back into an area that might be exposed  
21 to radioactive contamination?

22 Is that what that signoff would indicate?

23 A Well, I think what that signoff would indicate  
24 would give us support that we would need in case this was --  
25 that we did have to do this, that we would have the support

mm11

1 of these persons.

2 Q Well, in the plan, the 3 1/2 pages, does that  
3 say that anywhere in there that you may be called upon to  
4 perform services in helping your fellow students evacuate,  
5 that may expose you to harmful amounts of radiation, or  
6 words to that effect?

7 A They would not be within the ten-mile zone.

8 Q Who wouldn't be within the ten-mile zone?

9 A I don't have any schools within the ten-mile zone.

10 Q Does that mean they are not going to be exposed  
11 to radiation?

12 A That depends on the wind and a number of other  
13 factors involved, I'm sure. I don't know. I hope not. I  
14 hope no one will be.

15 Q Exactly. But your plan doesn't have anything to  
16 the effect that sending you back into the plume exposure  
17 pathway, emergency planning zone, might entail you as a  
18 bus driver, exposing yourself to the risk of radiation, does  
19 it?

20 A Oh, I am sure once these policies have been  
21 completed and discussed, these things will be explained to  
22 those persons that are involved.

23 Q All right.

24 Now we are talking about 16-year olds signing a  
25 piece of paper that appears to acknowledge that they

mm12

1 understand something --

2 A Before you can drive a bus in York District 1,  
3 you must have parental consent.

4 Q You are going to get parental consent to send  
5 these students back into the EPZ?

6 A That is something we can discuss also.

7 Q Now, let's talk about Mr. McGarry's new math here  
8 for a moment. You pack 70 kids into a bus. That is a pretty  
9 full bus, isn't it?

10 A Well, we are talking about 60-capacity buses.  
11 That is not too bad.

12 Q Pretty full bus. You don't operate the bus  
13 normally that way, do you?

14 A No, absolutely not. It is against state law.

15 Q What is the normal capacity for these buses?

16 A 60.

17 Q Is that the specified maximum?

18 A Yes. A 60-passenger -- 54- and 60-passenger.

19 Q I'm sorry, I missed that.

20 A Yes, that is correct.

21 Q Now you told me that your staging areas are  
22 between 10 and 15 miles from the schools where the buses are  
23 leaving from, right?

24 A That is correct.

25 Q And you said you could get to those schools in 13

mml31 to 15 minutes.

2 Well, my math tells me that that is driving at  
3 60 miles an hour to get 15 miles.

4 A 15 miles --

5 Q I think -- the old math, right. If you are going  
6 to go 15 miles in 15 minutes, that is 60 miles an hour.

7 A No. Well, I'm sorry, that was an error.

8 Yes, that's correct. I agree. Buses only go 35  
9 miles an hour.

10 Q So, it is going to take twice that long, or a  
11 little less than twice that long?

12 A Well, 10 miles -- okay.

13 Q So, Mr. McGarry says you are going to be able to  
14 make a full return trip in an hour.

15 It is going to be two hours, right, or in that  
16 ballpark?

17 A All right, roughly.

18 Q And you are going to have some time to offload  
19 and onload. Say you offload and onload in 5 minutes each way,  
20 you are still talking about a trip in excess of 2 hours and 10  
21 minutes after you have made your first trip which takes an  
22 hour and 10 minutes.

23 MR. MC GARRY: Point of clarification.

24 My additional computation assumed offloading and  
25 onloading. So there is no need now to double count that.



mm14 1

BY MR. GUILD:

2 Q It is reduced by 5 or 10 minutes then; 3 hours,  
3 right?

4 A I don't have my calculator.

5 Q I just thought the new math from counsel seemed  
6 to produce an answer that was only two-thirds as long as it  
7 seemed to me was apparent from the distances and times we  
8 are talking about. And we are not talking about doing this  
9 in a setting where it is not simply the bus careening down  
10 the highway. at 60 miles an hour, 30 miles an hour, it is  
11 a bus that is going down that highway with 140,000 other  
12 people perhaps who are also evacuating in the event of a  
13 nuclear accident.

14 You don't really expect that they are going to  
15 be able to make that trip in the normal amount of time, do  
16 you Mr. Davis?

17 A I would think not, under abnormal circumstances.

18 MR. GUILD: That is all I have.

19 Thank you, Mr. Davis, Mr. Chairman.

20 JUDGE MARGULIES: Thank you for coming here today,  
21 Mr. Davis. You are excused.

22 (Witness excused)

23 JUDGE MARGULIES: Let's take a 15-minute recess.

24 (Recess)

25

end T16 Lynn fls

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1 JUDGE MARGULIES: Back on the record.

2 MR. MCGURREN: Your Honor, perhaps I could clear  
3 up one point regarding staff exhibit EP-3 which is the  
4 interim findings of FEMA. At the time that we put EP-3 in,  
5 the findings had not officially been forwarded from FEMA to  
6 the NRC and what I would like to have marked for identification  
7 is the forwarding memorandum that did officially forward the  
8 interim findings to the NRC from FEMA.

9 I have given copies of this memorandum which is  
10 a memorandum from Richard W. Krimm who is the assistant  
11 associate director, office of natural and technological  
12 hazards program to Edward L. Jordan, director, division of  
13 emergency preparedness and engineering response, office of  
14 inspection and enforcement, U. S. Nuclear Regulatory Commission.  
15 I ask, Your Honor, that this one-page document be marked  
16 as Staff EP-3A and I can provide copies to the court reporter  
17 as well as the Board. I also ask that it be received in  
18 evidence.

19 JUDGE MARGULIES: Any objection?

20 MR. GUILD: Mr. Chairman, Mr. McGurren led me to  
21 believe earlier that the only difference between this and the  
22 covering memo on the exhibit EP-3, Staff EP-3, was that this  
23 had Mr. Krimm's signature and if that is the only difference,  
24 I have no objection.

25 JUDGE MARGULIES: Is that correct, Mr. McGurren?

1 MR. MCGURREN: I think if you take a look at Staff  
2 EP-3, Your Honor, you will see that the conclusion -- my  
3 quick reading is that it is identical. There might be some  
4 word differences with regard to other paragraphs, but essenti-  
5 ally they are the same. Let me show counsel Staff EP-3.  
6 Substantively speaking, I don't think there is any significant  
7 difference.

8 (Counsel reviewing document.)

9 MR. MCGURREN: Just to complete the record in terms  
10 of showing that in fact the findings have been forwarded to  
11 the NRC staff.

12 MR. GUILD: Mr. Chairman, as long as it is understood  
13 that this is not the proof of the substantive matters that are  
14 contained in the memo. It is not the identical memo. I  
15 misunderstood Mr. McGurren's information earlier. The original  
16 cover memo is from the Atlanta Regional Office transmitting it  
17 to the Washington Office. The EP-3A cover memo is from the  
18 assistant associate director to the NRC. So long as it  
19 is simply identified for purpose of demonstrating that the  
20 matter was transmitted and not the proof of the substance, I  
21 have no objection.

22 JUDGE MARGULIES: It is so admitted for that purpose.

23 MR. JOHNSON: Your Honor, I would advise though  
24 that this document, the substance is an element. It is this  
25 document and the supporting documents on which the NRC is

1 relying and it is substantively identical I believe to the  
2 underlying memo and therefore it basically adopts the findings  
3 that it covers but it should be admitted for what it is and  
4 for the substance.

5 I would hate to think that we were going to deprive  
6 this memorandum of its substantive value. It does not have a  
7 different conclusion but it still should be treated as having  
8 substantive evidentiary value.

9 JUDGE MARGULIES: Substantive value for what purpose?  
10 To show the way it was transmitted?

11 MR. JOHNSON: Showing the findings that were  
12 contained in the other document that was previously in evidence  
13 was adopted by the national office of the Federal Emergency  
14 Management Agency and so transmitted to the NRC as such.

15 MR. GUILD: Mr. Chairman, we object to it being  
16 received as substantive evidence. The FEMA witness was  
17 tendered to support the interim findings document and we  
18 examined him as to that document. Mr. Krimm nor anyone else  
19 in the Washington office has been tendered for cross-examination  
20 and that is exactly the problem I tried to avoid by stating  
21 my view that it should be received for a limited purpose.

22 JUDGE MARGULIES: Let me see EP-3 and I will  
23 reserve decision and we can take it up at a later time.  
24 Let's get on to the witnesses.

25 MR. McGARRY: Just so the record reflects, we support

17-4

1 the staff and their request. It seems to us this document  
2 that we are talking about, the May 8, 1984 letter, serves  
3 two purposes. One, it documents the fact that indeed the  
4 interim findings from the region were transmitted to  
5 headquarters and secondly, it documents the fact that  
6 headquarters has adopted a document that is already in  
7 evidence as indeed the findings of FEMA. It is a procedural  
8 matter.

9 MR. GUILD: If if that is the position of Applicants,  
10 we view it as objectionable since the persons who are  
11 purported to sponsor the adoption of the exhibit are not being  
12 tendered for cross-examination. If it is to have any  
13 substantive value that the Washington office approved the  
14 substance of the interim report, then it is incumbent upon  
15 the sponsor to offer someone who can stand cross-examination  
16 on the review that it received and failing to do so it seems  
17 to me deprives us of a right to confront that evidence. We  
18 oppose it and would suggest that it is only appropriate to  
19 receive it for the limited purpose of showing that the memo  
20 exists and not for proof of the substance.

21 JUDGE MARGULIES: I will reserve the decision and  
22 we will take it up at another time. Let's get on with the  
23 subpoenaed witnesses.

24 (The document referred to was  
25 marked for identification as  
Staff Exhibit No. EP-3A.)

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1 MR. GUILD: Mr. Chairman, at this time if we may  
2 proceed I would ask that Mr. Luther Fincher come forward and  
3 be sworn.

4 Whereupon,

5 LUTHER L. FINCHER, JR.,

6 was called as a rebuttal witness, and having been first duly  
7 sworn, was examined and testified as follows:

8 DIRECT EXAMINATION

9 BY MR. GUILD:

10 Q Mr. Fincher, would you kindly state your full name  
11 and your position for the record, please?

12 A Luther Langdon Fincher, Jr. I am the acting director  
13 for emergency management of Charlotte and Mecklenberg Counties.

14 Q All right, sir. When were you appointed to that  
15 position, Mr. Fincher?

16 A March 16 of this year.

17 Q Can you describe generally your professional back-  
18 ground and your training, please?

19 A I have spent 18 and a half years in the Charlotte  
20 Fire Department progressing through the ranks from firefighter  
21 to battalion chief. Synonymous with my appointment to  
22 emergency management I am the hazardous material coordinator  
23 for the City of Charlotte which I am doing that job at the  
24 same time as doing the directorship of emergency management.

25 Q Mr. Wayne Broome who has testified as a witness in

XXXXXXXXXXXXXXXX

1 this proceeding works for you now?

2 A Yes, sir. He does.

3 Q In what capacity does Mr. Broome serve?

4 A He is the operations officer.

5 Q Has Mr. Broome ever held the position administrative  
6 officer?

7 A Yes.

8 Q He doesn't hold that position any more?

9 A I guess he does.

10 Q Does he hold both those positions, Mr. Fincher, or  
11 do you know?

12 A He holds both of them, yes. Out of a two man office,  
13 I hold the directorship. He holds everything else.

14 Q All right, sir. What is the significance, Mr.  
15 Fincher, of your title "acting director" as compared to  
16 director in full or in its own right, in a non-acting fashion?

17 A Since Mr. Broome has been tied up in the planning  
18 and the organizing and the development of a plan for over a  
19 year, this vacancy of the directorship has come about since  
20 October with the retirement of the director. Someone needed to  
21 fill that position while he has been attending hearings and  
22 plannings for Catawba Nuclear Power Plant because there are  
23 18 other types of natural and man-made hazards that have to be  
24 planned and dealt with besides nuclear power plants.

25 Q Yes, sir. So you are performing the functions of

17-7

1 Mr. Broome's office while he is able to spend a considerable  
2 period of time focusing on the Catawba planning?

3 A Yes, sir. I have taken the management functions  
4 off of Mr. Broome's shoulders. It is now budget time for  
5 the city and the county. I will have to handle the budget  
6 and planning for the next fiscal year.

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1 Q And your predecessor, as the director of that  
2 office, Mr. Broome's previous supervisor, was whom?

3 A Mr. Ken Williams.

4 Q And Mr. Williams retired?

5 A Yes, sir.

6 Q Do you anticipate occupying the position you hold,  
7 Director of the Emergency Management Office, on a regular and  
8 full-time basis in the future?

9 A No, sir.

10 Q And if you can, sir, is your plan to return to the  
11 fire department?

12 A Well, I have 18 1/2 years in a retirement system,  
13 and to leave and go over and take the directorship of  
14 Emergency Management would require that I leave that system  
15 and join another retirement system, and I'm not going to  
16 leave 18 1/2 years in a retirement system.

17 Q What does that amount to, then? I mean, what is  
18 your plan if you're not going to remain as Emergency Manage-  
19 ment Director?

20 A I will remain the Director until we upgrade the  
21 position in salary, which we are working on at the present  
22 time, and then we'll advertise the position and have it filled  
23 in the normal way that most management positions are filled  
24 in the City of Charlotte.

25 Q All right, so you expect that someone will replace

1 you in a full-time capacity as director of that office.

2 A Yes, sir.

3 Q And do have you a time estimate or a time projection  
4 when that would likely occur?

5 A No, sir.

6 Q In a year or two years?

7 A Oh, I would say sometime within this year.

8 Q All right, sir, thank you. Is it fair to say,  
9 Mr. Fincher, that anticipating that your tenure in office  
10 will be primarily as an acting director to perform the  
11 responsibilities you just outlined, and that's basically to  
12 take management responsibility from Mr. Broome while he  
13 focuses on planning for this particular need, that you  
14 yourself, rely on Mr. Broome with respect to not only planning  
15 but implementation of planning should it be necessary with  
16 respect to the Catawba facility?

17 A Yes, sir, but I am aware of a lot of the plans  
18 also, and in the event that Mr. Broome is unavailable then  
19 I can do that.

20 Q Who, between the two of you, is assigned the primary  
21 responsibility for response under that plan?

22 A Mr. Broome.

23 Q All right, sir. So you essentially would be  
24 Mr. Broome's backup in his absence, under the plan, if it  
25 needed to be implemented now?

1           A     Yes, sir.

2           Q     All right. Given that, Mr. Fincher, I gather it's  
3 fair to say that it's Mr. Broome's experience and qualifica-  
4 tion and knowledge of the plan and ability to implement the  
5 plan that one should rely on primarily, and not yours. You  
6 perform the management function and the backup function that  
7 you just described.

8           A     I can perform the same functions that Mr. Broome  
9 can if he is not available. Mr. Broome has been there since  
10 the plans for McGuire were formed, and he has helped to write  
11 those plans, and he has helped write the plans for Catawba.  
12 He knows all of the procedures.

13                     I've been working with Mr. Broome for approximately  
14 a year and a half on other matters through the Fire Department  
15 in instituting emergency planning, and I can implement the  
16 plans just like Mr. Broome can.

17           Q     I guess what I'm trying to do is save both of us  
18 a lot of time, Mr. Fincher. Is it fair to say that you rely  
19 on Broome because otherwise, I'm going to feel necessitated  
20 to go through the process with you. But he's the one who is  
21 primarily responsible, correct?

22           A     Absolutely.

23           Q     Despite the fact that you're his boss, as indicated.

24           A     That authority has been delegated to him.

25           Q     I understand, thank you. Now, Mr. Broome has

1 presented testimony on a number of contentions, and one of  
2 those contentions I'm sure you're familiar with, and that  
3 has to do with the position of these parties, Palmetto  
4 Alliance and the Carolina Environmental Study Group, that there  
5 should be expanded emergency planning for the City of  
6 Charlotte, focused on the extension of the emergency planning  
7 zone, the plume EPZ into parts of Charlotte. Are you familiar  
8 with Contention 11 in that regard?

9 A Yes, sir.

10 Q And I know I have seen you at a number of meetings  
11 where you've been involved in the process of study that has  
12 taken place with respect to that issue; a study by not only  
13 this licensing board but by -- on emergency planning review  
14 committee appointed by the county commissioners in Mecklenburg  
15 County, correct?

16 A Yes.

17 JUDGE MARGULIES: I'm going to interrupt at this  
18 point, Mr. Guild. I don't think it's ever been established of  
19 record in this proceeding what the particular governmental  
20 relationship is between the City of Charlotte, the County of  
21 Mecklenburg and why we have joint organizations such as the  
22 Charlotte/Mecklenburg Emergency Management Office.

23 MR. GUILD: That's right.

24 JUDGE MARGULIES: I could ask Staff to clarify it,  
25 but if you want to go ahead, I think it's important that we

1 establish that of record and it hasn't been done up to this  
2 point.

3 MR. GUILD: Fine.

4 BY MR. GUILD:

5 Q Your office is a joint office of the county and  
6 the city, is it not?

7 A Yes, sir, it is.

8 Q And are you somewhat unique in that regard? Do  
9 you have any other joint offices of the city and county?

10 A Yes, sir, we do.

11 Q And what are those?

12 A Building Standards happens to be one. Planning  
13 Commission is another. They are joint, consolidated offices.  
14 Mecklenburg is one government; the city of Charlotte is  
15 another government. Sometimes a department of the city and  
16 a department of the county are doing the same jobs, and to  
17 prevent the overlapping of those jobs we have consolidated  
18 the departments to try and save the taxpayers some money.

19 JUDGE MARGULIES: Excuse me. When you have a  
20 consolidated department like that, who has supervisory  
21 responsibility, the county or the city, or both? Or how does  
22 it work?

23 THE WITNESS: Depending on the organization. In  
24 my office, the city of Charlotte has the direct supervision  
25 and the management of the budget. The Building Standards

1 Department happens to be a consolidated department, and the  
2 county is the boss of that department.

3 JUDGE MARGULIES: Thank you.

4 BY MR. GUILD:

5 Q And I think it has been previously explained,  
6 Mr. Fincher. You are responsible -- your office is responsible  
7 for emergency response in both the county of Mecklenburg and  
8 the city of Charlotte, which is a part of that county.

9 A Yes, sir.

10 MR. CARR: Your Honor, I think at this point I'm  
11 going to interject, and I would move that it is appropriate  
12 that the subpoena that was issued for Mr. Fincher be quashed,  
13 and Mr. Fincher be excused and allowed to go on his way.  
14 Mr. Guild's examination has proven pretty clearly that the  
15 relevant official in these matters is Mr. Wayne Broome, and  
16 Mr. Broome has testified on every single contention in  
17 this proceeding.

18 And what the examination by Mr. Guild has done is  
19 demonstrate that the grounds on which the subpoena was  
20 issued are no longer valid.

21 If I could read from that for a moment, it says that  
22 his testimony sought with respect to Contentions 1, 7, 8, 11,  
23 14, 15 and 18 as Acting Director of the Charlotte-Mecklenburg  
24 EMO, Mr. Fincher supervises the administrator officer,  
25 Mr. Wayne Broome, and is in charge of planning, organizing and

1 coordinating emergency response for the county and city.  
2 And then there's the standard boilerplate about what Intervenors  
3 seek to prove.

4 Now, as we said and as was discussed when Mr. Odom's  
5 subpoena was discussed, the relevant county official here  
6 is Mr. Broome. We all heard him testify. The grounds for  
7 Mr. Fincher's subpoena have been demonstrated to be invalid.  
8 Mr. Fincher should be excused.

9 MR. GUILD: Mr. Chairman, I'm glad to hear that  
10 Mr. Carr has been listening carefully because I have tried to  
11 narrow the point of examination, and we have reached the  
12 point now where I'm going to get into it. I'm glad to hear  
13 that he has followed the course of the examination.

14 Witnesses don't evaporate because of the answers  
15 that they give. I appreciate the witness's candor in  
16 explaining his reliance on Mr. Broome. I'm not surprised,  
17 and expected it, but that doesn't end the matter. And if  
18 you will permit, I have some questions that I believe this  
19 gentleman's personal knowledge is demonstrably relevant to.

20 (Board conferring.)

21 JUDGE MARGULIES: In that the witness is also  
22 a stand-in for Mr. Odom, and Mr. Odom's subpoena was quashed  
23 on the basis of Mr. Fincher testifying, I will permit the  
24 examination to continue. We will permit the examination.

25 MR. GUILD: Thank you, Mr. Chairman.

1 BY MR. GUILD:

2 Q Directing your attention to the question of the  
3 expansion of the emergency planning zone for the city of  
4 Charlotte, Mr. Fincher, -- and I think we agreed that you are  
5 familiar with that issue and have attended proceedings where  
6 that subject has been discussed. I understand from  
7 Mr. Broome's testimony and that of other witnesses offered  
8 by Duke that one premise underlying their views that the  
9 emergency planning zone need not be extended for Charlotte  
10 is that there exists already a sufficient planning foundation  
11 in the city of Charlotte, upon which to respond for all  
12 hazards, including the hazard posed by an accident at the  
13 Catawba facility. Are you aware of that view?

14 A Yes, sir.

15 Q And you are aware of the existence of what has  
16 been referred to as the city of Charlotte All-Hazards Plan?

17 A Yes, sir, I am.

18 Q All right, sir. Now, Mr. Broome in his testimony  
19 on Contention 11 makes reference to the all-hazards plan and  
20 the effectiveness of that plan as a basis for presuming that  
21 an adequate and effective emergency response would be taken  
22 in the event of a serious accident at Catawba that threatened  
23 people beyond the 10-mile line as it exists now and persons  
24 who resided in Charlotte.

25 And I'm looking at page 6 of Mr. Broome's pre-filed



1 testimony and there he says as follows. If you want to  
2 follow along that's all right; it's not real detailed.  
3 Page 6, Mr. Fincher.

4 (Counsel handing document to witness.)

5 Q By the way, this is towards the end of the document.  
6 I take it back. Actually, it's about the middle of the  
7 document. Do you have it available to you?

8 A I have page 6.

9 Q Okay, good. Line 17, "Perhaps the best way to look  
10 at an evacuation for a situation would be to look at it in  
11 the context that occurred in the recent chemical fire  
12 emergency response this office was involved in."

13 And it goes on to talk about that. The question  
14 at page 7, "Please describe briefly what happened with the  
15 people who were evacuated in the case of that chemical fire."  
16 And page 8, "How many people were evacuated, how large an  
17 area was involved, ..." et cetera.

18 Now, you are familiar with that evacuation in that  
19 emergency that's referenced there, aren't you?

20 A Yes, sir, I happened to be the incident commander  
21 for that Baxter-Harriss warehouse fire.

22 Q And that's the Baxter-Harriss chemical fire, correct?

23 A Yes, sir.

24 Q And you were with the Fire Department at the time  
25 and were in command at that incident, correct?

1           A     Yes, sir.

2                     MR. GUILD:  Mr. Chairman, I submit that that is  
3 what I would like to examine the witness about at this point.

4                     BY MR. GUILD:

5           Q     Now, that response at the Baxter-Harriss fire,  
6 the Baxter-Harriss Company, involved the exercise, if you  
7 will, in a real-life situation of the Charlotte All-Hazards  
8 Plan, correct?

9           A     Yes, sir.

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1 Q Now, let's talk a little bit about the details  
2 of that. Now tell me first, in what capacity you were  
3 involved in response to that incident, please?

4 A I was a Battalion Chief in charge of the District  
5 No. 2 of the Charlotte Fire Department and the initial response.

6 There was a box alarm of two engine companies,  
7 a ladder company and one District Fire Chief, and I was the  
8 District Fire Chief.

9 Q All right.

10 Now just give us an idea, as the District Fire  
11 Chief you would be in charge of --

12 A I was in charge of six fire stations, 47 men,  
13 one-fourth of the geographical district of the City of  
14 Charlotte.

15 Q All right, sir.

16 Now, the Baxter-Harriss chemical fire, describe  
17 briefly what the hazard was involved in that incident,  
18 please.

19 A 300 drums of sodium hydrosulfide, 800 cases of  
20 paraquat, 800 cases of orthane tobacco dust, numerous other  
21 things stored inside the building which you have no problem  
22 with, like plastic tablecloths, cardboard boxes.

23 Q All right, sir. Tell me how the All Hazards Plan  
24 was implemented in response to the Baxter-Harriss fire,  
25 please?

mm2

1           A        When it became evident that the toxic vapors  
2 were hazardous to the health of the public, it was determined  
3 that evacuation would have to take place. And we knew it  
4 was going to be for a long period of time. And, if we are  
5 going to evacuate people for a long period of time, then we  
6 are going to have to shelter these people.

7                    When we started to shelter people, Wayne Broome  
8 was already on the scene, and with his assistance we started  
9 to use that portion of the plan that gave the responsibility  
10 to the City Police Department to evacuate those given areas,  
11 and the Department of Transportation to transport those  
12 people, and the Red Cross and the school system to open up  
13 and man the shelters.

14           Q        All right, sir.

15                    Now, how was the first information transmitted to  
16 the emergency response people about the existence of the  
17 hazard?

18           A        Well, the call that we received from the Baxter-  
19 Harriss Warehouse Company was of a possible chemical fire  
20 involving sodium hydrosulfide.

21                    So, just general standard operating procedures  
22 with the Fire Department would alert all personnel of the  
23 hazards of a chemical fire. And on our way to the fire our  
24 dispatchers read to us out of a book what the problems of  
25 sodium hydrosulfide were.

mun3

1 Q How did the call come in?

2 A Through a telephone.

3 Q Who made the call?

4 A The secretary for the Baxter Warehouse fire --  
5 Baxter Warehouse Company, Baxter-Harriss Warehouse.

6 Q How long after the fire began, did the secretary  
7 report the fire?

8 A It was a delayed response. The problem is, the  
9 warehouse did not have a telephone in it. When the occupant  
10 of the warehouse, or warehouseman discovered he had a problem,  
11 he had to go across the street to a restaurant or a cafe  
12 to make the call back down to his parent firm. He did not  
13 call the Fire Department at the time.

14 Mr. Harriss went up to his warehouse, which is  
15 about five or six blocks up the street, and at that time they  
16 decided they needed to call the Fire Department, so they went  
17 back across the street and called the secretary and asked  
18 her to call the Fire Department, which was about a 15 or 20-  
19 minute delay.

20 Q All right. And with that call was the information  
21 transmitted that there was a hazard that might affect the  
22 general populace?

23 A Yes, sir.

24 Q And how was that information -- what information  
25 reflected that hazard?

mm4

1           A       Well, when they told us that the product involved  
2 may be sodium hydrosulfide which gives off sulfur dioxide.

3           Q       That was enough information to know that the  
4 release of that gas might affect the surrounding populace,  
5 the general public?

6           A       Well we don't take it to affect the general  
7 populace first. A lot of our chemical fires will only affect  
8 the personnel that are going to attack the fire. And so we  
9 want to protect our own personnel first to make sure that they  
10 can adequately mitigate the circumstances.

11          Q       All right.

12                   Well, you got the information that there was a  
13 potentially hazardous situation to the general public, a  
14 hazardous chemical that in this setting created a gas that  
15 was toxic. Did you --

16          A       Let me interrupt you for a moment.

17          Q       Sure, please.

18          A       We deal with chemicals all the time. Now I can  
19 deal with chemicals last week, sodium hydrosulfide. And if  
20 they give it to me, I don't think of the public. Maybe I  
21 can get there and there is only one drum involved. I know  
22 how to handle sodium hydrosulfide. It is to isolate the  
23 drum, take it outside and dose it with a lot of water.

24                   But, when you got one drum hot in the middle  
25 of 800 it will slowly progress. It is not a fast-reacting

mm5

1 chemical. And it creates an exothermic reaction to where  
2 it would produce heat and ignite other drums.

3 But, you have got to wait until the circumstances  
4 are beyond our control at that point, and you are releasing  
5 enough toxic vapors to affect the populace.

6 Q Right.

7 Well, what I am trying to drive at at this point,  
8 Mr. Fincher is, the Fire Department and the Fire Fighters  
9 responded to this call and with some anticipation that there  
10 may be a hazard, at least to them because of the substance  
11 involved.

12 And I want to know under the All Hazards Plan, or  
13 with regard to the All Hazards Plan, at what point did the  
14 nature of the hazards' existence get reported beyond the  
15 Fire Fighters to the general emergency response people who  
16 are indicated in the All Hazards Plan? For example,  
17 Mr. Broome in his office.

18 A We received the initial report at about 11 minutes  
19 after 4 on September 13, 1982.

20 I arrived on the scene two minutes later.

21 After all of the CO 2 and dry powder from all  
22 of the companies involved was exhausted, I requested a  
23 second alarm, which gave me an additional five companies of  
24 men.

25 Q About when did you do that, Mr. Fincher?

mm6

1 A Approximately 4:30 in the afternoon.

2 Q All right, sir.

3 A At which time I got a special piece of apparatus  
4 from the Charlotte Airport, which contained 300 pounds of  
5 Purple K.

6 Q Say again?

7 A Purple K, which is a dry chemical extinguishing  
8 agent.

9 Q All right, sir.

10 A Sodium hydrosulfide has the problem that you can't  
11 use a little bit of water. A little bit of water causes it  
12 to react. It is reactive to a little bit of water. You  
13 have to use large amounts of water.

14 While large amounts of water to you, Mr. Guild,  
15 might be a quart of water if you have to drink it, but large  
16 amounts of water to a fireman, we are talking about thousands  
17 of gallons per minute. And we cannot produce that amount of  
18 water inside of a structure on hand-held lines.

19 So, at approximately 1430 when I had a second  
20 alarm brought in and we used an extinguishing agent, we  
21 attacked the fire -- and the fire has a potential of  
22 reignition. And my officers immediately reported back to  
23 us that they did have reignition. Every time they  
24 extinguished the fire, they had reignition.

25 And finally, when one of my officers inside of



mm7

1 the structure reported, "We have fire from the floor to the  
2 ceiling," they could not see and they were trying to  
3 move these 250-pound barrels with a forklift, they couldn't  
4 see from the dry powder extinguishing agent, and the fumes  
5 coming off the sodium hydrosulfide, we removed all of our  
6 men from the structure and went from an offensive firefighting  
7 mode to a defensive firefighting mode.

8 And at that time, myself, Mr. Broome, the other  
9 Battalion Chief that came out, the Assistant Chief of the  
10 Fire Department quickly had a conference, and it was determined  
11 to allow the roof of the building to burn off so that we  
12 could appropriately and properly apply the large amounts  
13 of water to be used for extinguishing agent.

14 Q All right. Let me back up just one second.

15 At what point did you provide notice to the  
16 Charlotte-Mecklenburg Emergency Management Office of the  
17 existence of this hazard?

18 A We did not have to. He responded on his own.

19 Q All right. You didn't call the EMO then?

20 A No, sir.

21 Q Was part of your procedures under the All  
22 Hazards Plan to notify the Emergency Management Office?

23 A Yes, sir. There is. But the Emergency  
24 Management Office manages all emergency frequencies at  
25 both the Police and the Fire Departments, and if it is a

mm8 1 major escalating event we expect -- and it is part of the  
2 Emergency Management Office responsibility -- to show up  
3 and see if he can assist that incident commander in any way,  
4 as providing resources from either the City, the County or  
5 the State of North Carolina.

6 Q Mr. Broome heard about the developing incident  
7 on the radio?

8 A Yes, sir.

9 Q Commercial radio?

10 A I don't know of any other kind -- yes, that.

11 Q Public media?

12 A Yes. Plus he was monitoring our broadcast, too.

13 Q All right.

14 You didn't ask for help from Mr. Broome or the  
15 Emergency Management Office, and he was aware of it as a  
16 citizen, of course a very interested citizen listening and  
17 he came of his own volition?

18 A He came of his own volition.

19 Mr. Broome and I had been working on some type of  
20 evacuation by voting precincts for several months prior to  
21 this. And our working relationship had grown to the point  
22 that he was more interested in a lot of fires, and he was --  
23 I don't know his reason for showing up.

24 Q All right.

25 In what capacity were you working on that

mm9

1 evacuation plan by voting precincts with Mr. Broome?

2 A Wayne developed the plan in the Emergency Management  
3 Office. I was one of 12 Battalion Chiefs in Charlotte Fire  
4 Department that the plan had to be explained to.

5 I carried a map in my car, my fire car showing  
6 those voting districts.

7 Q So you worked along with 12 other Battalion  
8 Chiefs with Mr. Broome on that?

9 A Yes, sir.

10 Q Okay, fine.

11 Now, at what point was the decision made under  
12 the All Hazards Plan to establish an Emergency Operations  
13 Center to handle this emergency?

14 A It was not.

15 Q Why was that not done?

16 A Well, I think that was the reluctance of myself,  
17 the Assistant Chief of the Fire Department, that we thought  
18 that we could handle the entire incident from the scene.

19 I think we have learned a lesson from it though,  
20 that from now on any time that we are going to evacuate  
21 the populace and they are going to have to be sheltered or  
22 housed somewhere, then we will open the EOC.

23 Q And why is that? Why do you believe that should  
24 be done?

25 A Because certain functions can be run from the EOC,

mm101 that is not putting the people that are in the EOC under  
2 the crisis management of operating at the scene of a  
3 disaster.

4 Q All right. For example, communications?

5 A Yes, that is one.

6 Q In what respect would the establishment of an EOC  
7 aid in more effective communication?

8 A They can communicate with more departments than  
9 we can on the scene at that time.

10 Since that time we have developed -- which was  
11 one of the recommendations of the Mayor's Blue Ribbon  
12 Committee on this Baxter-Harriss Warehouse fire -- a mobile  
13 command post. Now we have a mobile command post and can  
14 communicate with all emergency response organizations out of  
15 one vehicle.

16 We did not have this before.

17 Q All right, sir.

18 Now, under the All Hazards Plan, what explicit  
19 responsibilities did Mr. Broone have?

20 A He is to coordinate all of the activities of  
21 the emergency response organization.

22 It is also his job and function, if we wanted to  
23 use our sirens, for him to direct the use of those. It is  
24 also to help coordinate the evacuation, the opening of the  
25 shelters. He coordinates- all of the emergency response at

mm11

1 that time.

2 Q Well does coordinate mean command?

3 A No, sir.

4 Q What does it mean? How do you say coordinate?  
5 How do you understand the term coordinate as applied to  
6 Mr. Broome's responsibilities under the All Hazards Plan?

7 A I think to coordinate means to get all of the  
8 agencies working together. And it may be that Mr. Broome  
9 would have to make a decision for the group.

10 But usually we reach decisions by consensus.

11 Q Would it be Mr. Broome's responsibility as the  
12 coordinator in the absence of consensus to make a decision  
13 for the group?

14 A Yes, sir.

15 Q In that sense would he have command responsibility?

16 A Well, we work under the Incident Commander System  
17 in the City of Charlotte and Mecklenburg. Depending upon the  
18 circumstances of whether it is a Police or Fire function,  
19 they are the Incident Commander, always.

20 And he will not make any command decisions  
21 affecting Police or Fire.

22 Q Let's put it in the context of a decision that  
23 affects both Police and Fire but is not a Police or a Fire  
24 decision. And let's say it is a question of calling for an  
25 evacuation of persons who might be affected by a chemical

mml2

1 fire.

2 A First of all, Mr. Broome is not qualified to  
3 know whether evacuation is needed at a chemical fire or not.  
4 He has to depend on other agencies, other interrelated  
5 agencies that operate under an emergency response team.

6 Those recommendations will either come from the  
7 Fire Department or the Department of Environmental Health  
8 of Mecklenburg County.

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1 Q I understand that he like everybody else who has  
2 testified in this proceeding says they have to rely on  
3 someone else for technical information since none of us know  
4 it all. Is he still yet the person who makes the decision  
5 based on that recommendation?

6 A The decision to what?

7 Q In this case of evacuation.

8 A The Fire Department evacuates every day without  
9 Mr. Boome's assistance.

10 Q Let's talk about the context where it is not a  
11 fire-burning and someone in the house being removed from the  
12 fire or the house next door, but let's talk about the Baxter  
13 Harris fire.

14 A Okay.

15 Q Was it Mr. Broome's decision to make to evacuate?

16 A No, sir. It was mine.

17 Q It was yours.

18 A Yes.

19 Q What is the basis for your having that responsibility  
20 at that time, Mr. Fincher?

21 A Under the instant command system, evacuations happen  
22 to be one of the procedures that we use, what will be the  
23 results of our actions and we knew with toxic fumes or vapors  
24 coming off of this that may affect the populace that  
25 evacuation was imminent.

1 Q We got to the point of your identifying this  
2 hazard as posing a threat to persons in the general public  
3 around the facility. Had you notified any people in  
4 government outside of Mr. Broome and the fire department,  
5 let's say Mr. Odom, the chairman of the county commission?

6 A Let me explain the function of city and county  
7 government about an EOC.

8 Q Yes.

9 A Inside the city we have city manager council form  
10 of government. If it is inside the city then we look for the  
11 city manager of his assistants to work with us in our  
12 problems. If it is inside the county, the area outside of  
13 the city of Charlotte, then we would look for the county  
14 commission and the county manager.

15 Q So in this instance, it was inside the city?

16 A Yes, sir.

17 Q So Mr. Odom didn't have anything to do with it?

18 A No, sir.

19 Q You didn't call him?

20 A No, sir.

21 Q I presume you didn't call the county manager?

22 A No, sir.

23 Q How about the city manager or the mayor?

24 A I would have to go back and think who the mayor was.  
25 With an EBS message going out all over TV and all over radio,



1 I am sure they all knew it.

2 Q They knew about it because they saw it on TV or heard  
3 it on the radio, but what I want to understand is did the  
4 mayor or the city manager or someone in a position of authority  
5 with the City of Charlotte then get notified and make the  
6 command decisions about evacuation, using the EBS, et cetera,  
7 et cetera, et cetera?

8 A No, sir, not that I know of. That was not my job  
9 or my responsibility to notify. I was the instant commander  
10 on the fire site. I wouldn't even know if anybody did call  
11 them. That would be the assistant chief of the fire department  
12 or the chief of the fire department at that time.

13 Q You weren't aware of them being notified then?

14 A I don't have any idea. I remember some of them  
15 showing up at the scene at night.

16 Q You weren't aware of anyone giving specific notice  
17 to the city manager or the mayor?

18 A No. The All-Hazards Plan does not have an alert  
19 and notification list as does the Nuclear Power plants do and  
20 it is not incumbent upon us to notify certain personnel. It  
21 would depend on the circumstances. If we opened the EOC,  
22 then we would have a certain alert notification list. But  
23 you have to remember that this only a second alarm fire  
24 involving 60 or 70 firemen at one time out of a department of  
25 630. So it is nothing unusual for us. The only thing

20-4

1 that was unusual was the evacuation of three to five thousand  
2 people.

3 Q That is what makes it the basis presumably for Mr.  
4 Broome saying it is demonstration that we don't need an  
5 emergency plan for the City of Charlotte for the Catawba plan.  
6 That is why he mentions the Baxter-Harriss as being unusual,  
7 right?

8 A Yes.

9 Q Who from city government showed up regardless of how  
10 they found out about it?

11 A The assistant city manager.

12 Q Who was that by name?

13 A I wouldn't even know at the time, several of them.  
14 We have four or five.

15 Q All right. When they showed up on the scene, what  
16 role did they take?

17 A None.

18 Q They just observed?

19 A Yes, sir. The fire chief showed up. He doesn't  
20 take a role. He leaves command function and as to the command  
21 system, he has the authority to take over if he desires but  
22 as long as things are progressing as it should then he will  
23 leave people in their place.

24 Q You were in command?

25 A Yes, sir.

1 Q The assistant city manager is there and your fire  
2 chief is there.

3 A Yes.

4 Q But they are not making input or command decisions?

5 A No, sir.

6 Q They are just watching?

7 A Well, they come in and sit in on our briefings and  
8 just listen to them and if they consider that we are making  
9 the right decisions, they let us progress.

10 Q All right, sir. I was following your time sequence.  
11 You got on the scene at 4:11, I think you told me.

12 A Four/thirteen.

13 Q You called for a second alarm at 4:30.

14 A Somewhere plus or minus a couple of minutes.

15 Q I gather that the fire was producing a plume of  
16 smoke that was rising from the facility, is that true?

17 A At what time?

18 Q You tell me.

19 A After I initiated a second alarm response at about  
20 4:30 and it was discovered that we had fire from floor to our  
21 ceiling and I would say that was like 4:45, we decided to go  
22 from an offensive mode to a defensive mode in firefighting.  
23 In other words, instead of trying to save the property and  
24 protect the property, we are now going to try to protect  
25 exposures around the property and let the property burn up.

1 If you wish, that is the term you might want to use.

2 Q All right.

3 A Our decision was a group decision to allow the roof  
4 to burn off where we could apply a minimum of 4,000 gallons  
5 of water per minute. At that time we started to get together  
6 and try to reach another group decision on whether or not we  
7 were going to have to have evacuation. I think at approximately  
8 five o'clock, Wayne Broome showed up on the scene and asked  
9 us if we needed his assistance.

10 Q All right. That is when you were beginning to talk  
11 about evacuation?

12 A Yes, sir.

13 Q At that point, were you seeing a plume of smoke  
14 leaving the fire?

15 A It is hard to relate in times. If I knew that you  
16 were going to enter into this type of questioning, I would  
17 have brought a computer breakdown of times with me which I  
18 have.

19 Q Just to the best of your recollection. I appreciate  
20 the times might not be perfect.

21 A You are going back 21 months and it is very difficult  
22 to give you the minutes.

23 Q You are doing really well so far, Mr. Fincher.

24 A After the time that we evacuated all of our  
25 personnel, it took approximately 15 to 30 minutes or more

20-7

1 for the entire roof of this structure to burn off. So we  
2 are talking about now after five o'clock before we have a  
3 plume emitting from this building.

4 Q When the roof went, then you started getting smoke  
5 in quantities?

6 A Absolutely.

7 Q So five of 5:15, somewhere in there, you are getting  
8 smoke?

9 A It is definitely after five o'clock.

10 Q Five/thirty.

11 A Well, 5:15, I will take.

12 Q All right. At what point did you find out that  
13 you also had paraquat in the facility?

14 A I can't give you a specific time. I know that  
15 somewhere in the firefighting process, it might have been  
16 around six o'clock, that our fire prevention officer who  
17 is the fire marshall of the City of Charlotte brought me a  
18 gallon of paraquat and said, "Now, Luther, we have this  
19 product involved."

20 Q Was the fire's effect on the paraquat creating  
21 additional hazard?

22 A We didn't know because it wasn't in any of my  
23 research material on chemicals and so I immediately had our  
24 dispatch office contact Chem Trec in Washington, D. C. who  
25 immediately put us in contact with Chevron Chemical in San

20-8

1 Francisco to let me know what the effects of paraquat involved  
2 in fire would be. We were very worried that it could possibly  
3 be absorbed through the skin and the smoke. But Chevron  
4 assured us that it was not.

5           What it created for us was a toxic run-off. Paraquat  
6 is a herbicide used in no til farming and we know that it is  
7 emissible in water and we knew that if it got into our storm  
8 drains it would flow into the creek. When you are starting  
9 to apply 4,000 gallons of water per minute on a fire for hours,  
10 you create a run-off and the run-off goes somewhere but I  
11 had already researched this in advance and had trucks of  
12 sand standing by with tarpolans to block all of our storm  
13 drains but some got into our storm drains and got into our  
14 creeks.

15           Q     What about the effects of the paraquat in the smoke  
16 in terms of inhalation?

17           A     There were none.

18           Q     No inhalation effects?

19           A     No, sir, not on paraquat.

20           Q     Did you know that at the time?

21           A     No, I did not. But during the fire when we made  
22 contact with Chevron Chemical, they told us that when paraquat  
23 is involved in fire, the carrier of it which is like a  
24 combustable liquid-like kerosene burns up and this in turns  
25 flows to the ground and as soon as it touches the dirt, it is

1 equalized.

2 Q Were there other chemicals involved in the fire?

3 A Yes, sir, othene tobacco dust.

4 Q Is that a herbicide?

5 A No, sir. It is an insecticide.

6 Q Was that being released into the plume?

7 A I am sure it was but we didn't know anything about  
8 it.

9 Q So shortly after five or 5:15 or 5:30, you are  
10 getting a large amount of smoke from the building. What led  
11 you to begin to discuss evacuation and the need to evacutate?

12 A After a conference with our environmental health  
13 department which was also on the scene, it was determined  
14 that these vapors were toxic and we should consider evacuation.  
15 Naturally we took their recommendation and started the  
16 evacuation. The Southern Railroad yards and all of the  
17 commercial occupancies on the east and north of the building.  
18 There were no residences involved at this time.

19 Q All right. How did the environmental health people  
20 arrive on the scene?

21 A They were called and asked for by the fire department.  
22 We call them for all chemical fires.

23 Q So you called them when?

24 A I didn't call them physically. The fire department  
25 communications center called them.

1 Q When did they arrive on the scene?

2 A They were on the scene before Wayne, soon into the  
3 incident.

4 Q All right.

5 A They do not have red lights and sirens so they have  
6 to respond under normal traffic conditions.

7 Q You got the point where you said you were evacuating  
8 essentially an area that did not have any residences.

9 A Mostly commercial buildings and the Southern Railroad  
10 freight yard.

11 Q Can you estimate how many people were involved in  
12 the areas to the east and north, the commercial areas that you  
13 are talking about?

14 A Most of the commercial areas were already shut down  
15 being that it was five o'clock in the afternoon. The only  
16 business that we knew of that was functional was the Southern  
17 Railroad freight yard.

18 Q Not many people involved in that?

19 A I don't know what their work crew is because I didn't  
20 go over and evacuate. We turned that over to the police  
21 department.

22 Q Tell me mechanically now once you had this conference  
23 about the idea of evacuating, how was the decision made and  
24 how was the decision communicated?

25 A At the scene of any major incident, I have a liason



1 officer that will assist me from the police department. It is  
2 my decision to evacuate in the case of a fire. It would be any  
3 other battallion chief's decision to evacuate in case of fire.  
4 He will have with him a liason officer with the police  
5 department. Once we determined that evacuation is needed, we  
6 communicate that verbally with our liason officer who will  
7 then radio, use his handy-talky or walky-talky to communicate  
8 that to the police commander on the scene who may be at another  
9 location.

10 Q Is that what happened in this instance?

11 A Yes, sir, it did.

12 Q Where did the instructions then go?

13 A To the field personnel, the police department.

14 At that time we were blocking off North Tryon Street from  
15 traffic and rerouting traffic anyway.

16 Q How far was that from the site?

17 A We were rerouting approximately two and a half  
18 blocks south on North Tryon Street around the area of Dalton  
19 Avenue.

20 Q Can you give me an idea of the area involved in  
21 blocks or square miles, whatever convenient measure you have,  
22 in this first area to be evacuated, the commercial area?

23 A What do you want?

24 Q What size area?

25 A I would say it was a quarter of mile across the

1 railroad yard, up to Madison Avenue or the 30 Street viaduct  
2 which would be approximately a half a mile.

3 JUDGE MARGULIES: Excuse me. At this point it is  
4 evident that Mr. Fincher will be the last witness here  
5 today. So if you want to release any of your other subpoenaed  
6 witnesses, you may do so.

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1 MR. GUILD: If that's the pleasure of the Chair,  
2 I had one other witness that I thought perhaps we could get  
3 to today, depending on how late you wanted to go. But if you  
4 want to quit after Mr. Fincher --

5 JUDGE MARGULIES: Yes.

6 MR. GUILD: We have, I think, Ms. Turnipseed who  
7 is the other representative from the state and I had hoped  
8 to reach her today. But if she could be with us tomorrow  
9 morning we'll get her done as quickly as possible.

10 MR. WILSON: Mr. Chairman, what time in the morning  
11 are you going to reconvene?

12 JUDGE MARGULIES: 9:00 o'clock.

13 MR. GUILD: I have to say also I had made a prior  
14 commitment to two other witnesses to take them the very first  
15 thing in the morning, but I explained to Ms. Turnipseed  
16 earlier.

17 JUDGE MARGULIES: I didn't make a commitment to  
18 take her at 9:00 o'clock tomorrow. The question was at what  
19 time we're going to convene, and it will be 9:00 o'clock.

20 MR. GUILD: Yes, sir, I understand.

21 BY MR. GUILD:

22 Q All right, Mr. Fincher. An area approximately  
23 a half mile by a quarter mile?

24 MR. GUILD: Oh, for the record, Mr. Chairman,  
25 Mr. Pugh, we understand, is going to be available but would

1 like some assurance that we can get him early and I said I  
2 would get him first thing. Mr. Chernoff is also to be  
3 available, and he has a medical appointment and I had  
4 committed previously to get him first thing, so between the  
5 two of them we'll get them one, two or two then one. They  
6 will be first up, though.

7 BY MR. GUILD:

8 Q Mr. Fincher, an area about a quarter mile by a  
9 half mile?

10 A That's a good approximation.

11 Q Now, in the city of Charlotte you have a system of  
12 fixed sirens, do you not?

13 A Yes, sir, we do.

14 Q Now, those are what we refer to as a Civil  
15 Defense siren, right?

16 A Yes, sir.

17 Q And you've had some problems with them working,  
18 haven't you?

19 A Yes, sir, we have.

20 Q I mean, you tested them recently and I think four  
21 out of five failed the test?

22 A That's correct.

23 Q Did you rely on the sirens or try to use the sirens  
24 in the Baxter-Harriss chemical fire?

25 A No, sir, we did not.

1 Q Why not?

2 A Because the were not close to where the fire was.

3 Q The sirens didn't cover the area involved?

4 A That's correct. Those sirens were put in 25 years

5 ago, and the city has grown quite a bit in 25 years.

6 Q So large parts of the city are not effectively

7 covered by those sirens.

8 A That's correct.

9 Q Even if they work.

10 A Yes. Even if all four or all five of them operate.

11 Q Now, the decision was made to evacuate this first

12 area, the largely commercial area, and did you put out an

13 evacuation message on the Emergency Broadcast System at this

14 point?

15 A I can't answer that. You'd have to ask Mr. Broome

16 that because that was his job function.

17 Q All right. You're not aware of whether there was

18 an EBS message at that point in time?

19 A I have no idea.

20 Q You, as the battalion chief, I assume, were

21 occupied fighting the fire so you didn't evacuate the people,

22 correct?

23 A That's correct.

24 Q And who was responsible for conducting the evacuation?

25 A Once -- after consultation of Mr. Broome and myself

1 and Environmental Health, who had workers in the field,  
2 we determined the area to be evacuated, and then it was given  
3 to the police department to do.

4 Q Okay. And that's the first area, that one-quarter  
5 by half mile?

6 A Yes, sir.

7 Q And there, you accomplished the evacuation? The  
8 police did?

9 A Yes, sir.

10 Q Do you know how many people were involved in that  
11 first area?

12 A I have no idea.

13 Q And do you know when they completed evacuation of  
14 all of those people, however many there were?

15 A Yes, it came back to me verbally over the radio  
16 by my liaison officer with the police department who had  
17 told me the evacuation was completed.

18 Q And can you give me an idea of when that directive  
19 went to your liaison officer?

20 A I don't have any idea.

21 Q And when it came back that it had been accomplished?

22 A No.

23 Q Now, the smoke from this fire, was it visible?

24 A Yes, sir.

25 Q Was it visible at considerable distance from the  
site?

1 A Yes, sir.

2 Q How far would you say?

3 A I wasn't on the outside looking in; I was on the  
4 inside looking out, so I can't give you any idea.

5 Q All right. Several miles?

6 A I have no idea.

7 Q Well, in your experience in fighting fires, would  
8 you say that you could see a fire of this sort from several  
9 miles away, Mr. Fincher?

10 A Well, you've got understand a little bit about  
11 fires. You know what temperature inversions are?

12 Q I think I do.

13 A Well, temperature inversion happens in the evenings  
14 when the humidity starts to rise and the temperature starts  
15 to cool off; smoke won't go as high as it did in the bright,  
16 open daylight. And also, the smoke was heavy in content of  
17 sulfur dioxide and it will start to come down. It will go  
18 up a little bit and as the chemicals weigh it down it will  
19 come back down to the ground.

20 Q All right. So it stayed in contact with the ground  
21 where people were.

22 A Yes, it did.

23 Q As opposed to going straight up and away where  
24 there's nothing but birds up there.

25 A Yes, sir.

1 Q And in fact, it imposed a greater hazard for that  
2 reason than it would have if there was not a temperature  
3 inversion.

4 A That's correct.

5 Q But it was visible, you expect, from a distance?

6 A Well, I'm sure it was, but it's not that heavy  
7 type of black smoke that you're used to seeing with a  
8 hydrocarbon fire.

9 Q Okay. What color?

10 A Well, anywhere from light grey to a darker type  
11 grey.

12 Q All right, sir. We have now gotten up to what looks  
13 to me to be about 5:30.

14 A Well now, if you're talking about when the  
15 evacuation was complete, I don't know what time it was completed.

16 Q Well, I'm at the point where you have called for  
17 an evacuation of the first area, and that's the area to the  
18 north and to the east, the commercial area, correct? And  
19 you're not sure when that evacuation was complete. But let's  
20 take it up now to the stage where you enlarged the zone to be  
21 evacuated, and tell me how that came to pass, please.

22 A With the change in wind direction. It became  
23 evident that the wind changed approximately 180°.

24 Q At approximately what time?

25 A Well, I can't give you a time on that. It was



1 before dark.

2 Q Just before dark. All right. What was your-all's  
3 reaction when that happened?

4 A We knew that an evacuation was going to have to be  
5 extended in a now western portion away from the fire. It  
6 forced us to move our command post. It forced the Police  
7 Department to move their command post.

8 Q Did that produce a pretty chaotic response?

9 A No, sir.

10 Q You had to pick up and move everything? You knew  
11 there were a lot of people out there now instead of just a  
12 commercial area, right?

13 A I just told my aide to move the fire car, and the  
14 Police Department got in his car and moved it a block.

15 Q How about the people?

16 A What people?

17 Q The people who were going to be affected now that  
18 the wind direction had changed.

19 A Well, at that time, we had to extend the evacuation  
20 across north Tryon Street and we started to use the area  
21 of something like Dalton Avenue over to north Graham Street,  
22 and north Graham Street out to 24th Street, back down to  
23 north Tryon Street.

24 Q Give me an estimate of the bounds in terms of  
25 distance.

1 A Another something like a quarter or half a mile.

2 Q And how many people were in that area?

3 A This is a residential neighborhood. A few  
4 commercial occupancies. It would be a guesstimate. It's  
5 hard to tell you how many people.

6 Q Give me your best estimate if you would, please.

7 A 500 people.

8 Q Is this essentially a low-income neighborhood?

9 A Yes, sir, it is.

10 Q And large numbers of people who did not have their  
11 own transportation means?

12 A That's correct.

13 Q And how was the decision reached, then, to evacuate  
14 this second area?

15 A That was --

16 MR. CARR: Your Honor, excuse me, I'm going to object.  
17 That's been asked and answered twice now. The wind changed  
18 180°. Mr. Fincher --

19 MR. GUILD: Yes, I heard that, Mr. Chairman, and  
20 really, it's not much help to have Mr. Carr repeat what has  
21 already been said. The question is how he reached the  
22 decision to evacuate the second area. I know --

23 JUDGE MARGULIES: The question is as to who he  
24 conferred with

25 MR. GUILD: Yes, sir, that's what I'm driving at,

1 and I appreciate your help.

2 THE WITNESS: Mr. Broome, again, with the Environ-  
3 mental Health and with my battalion chief in charge of the  
4 south sector and the assistant chief of the Fire Department  
5 it was determined to extend the evacuation. It was a group  
6 decision.

7 BY MR. GUILD:

8 Q All right. Did you move your command post first?

9 A I didn't move my command post. I had my aide move  
10 the command post.

11 Q You had to move with it, didn't you?

12 A I had to walk.

13 Q Well, what I'm driving at is this --

14 A I physically moved 100 feet. That's not difficult.

15 Q Well, it may not be but we may be talking about a  
16 situation either in this case or a situation in the case of  
17 an accident that your all-hazards plan is supposed to  
18 address, Mr. Fincher, where minutes to move 100 feet or  
19 the time it takes to rearrange your command post before you  
20 decide on evacuating people might mean someone's life.

21 Now, you recognized it might mean someone's life  
22 or health in this case, didn't you?

23 A Correct.

24 Q If someone is downwind and the wind changes and  
25 they have a toxic chemical that hits them while you're in

1 the process of rearranging your command post, it could mean  
2 life or health, couldn't it?

3 A Well, we're not talking about a wind blowing 20  
4 miles an hour. We're talking about a very calm wind, and you  
5 can see the vapors start to turn and start to go across  
6 Tryon Street, and I could outwalk the plume. And I could see  
7 that it was changing and that's when we got together and  
8 made our decision, marked off our area to evacuate and  
9 implemented it.

10 Q All right. Now, how much time transpired between  
11 the wind shift and your communicating the order to evacuate  
12 to the police people?

13 A Mr. Guild, I can't give you those times because I  
14 don't have them. I really don't know. It would take four  
15 or five minutes to get all of the parties together. Before,  
16 we didn't have what I would call a command post where all  
17 the people who manage different departments came together  
18 at one specific point and stayed at that specific point.

19 Now we do have that, and it takes a little time  
20 just to get all the people together to make that decision.

21 Q Five minutes?

22 A Something like that, to get them together, determine  
23 what we're going to do, tell the Police Department what the  
24 areas were to evacuate. That's their problem. That's a  
25 police function.

1 Q Well, it's our problem, Mr. Fincher, because we're  
2 trying to figure out whether we have a plan that works or  
3 not. What I'm trying to understand is you've got 500  
4 people, the vapors are creeping in their direction, walking  
5 speed or whatever speed it is but it's toxic vapors and  
6 you've got to move 500 people or someone has to, right?

7 A Correct.

8 Q Now, how do they do that?

9 A By taking the police car, slowly traveling through  
10 the neighborhood, sounding their sirens and giving a message  
11 verbally over their speaker, the PA system.

12 Q What message do they give?

13 A I didn't listen to it, but I'm sure it would be  
14 something like there's an emergency in this neighborhood  
15 created by a fire on north Tryon Street, and it is advised  
16 for you to evacuate the neighborhood up to north Graham  
17 Street, and if you don't have transportation, stand by for  
18 the city buses that will pick you up.

19 Q Did they use the word "advise"?

20 A I don't know what words they used, Mr. Guild.  
21 I'm just giving you an example. I didn't listen to it.

22 Q You don't know what message was used?

23 A No, sir.

24 Q Did the all-hazards plan have a pattern message  
25 to be used?

1 A No, sir, it does not.

2 Q It didn't at the time?

3 A No, sir, it did not.

4 Q How long did it take to evacuate the about 500  
5 people in the second area?

6 A I can only guess.

7 Q Your best estimate would be appreciated.

8 A Ten or 15 minutes.

9 Q It took 10 or 15 minutes to get the word to the  
10 police, for the police to get the message out by driving all  
11 through the neighborhood, to get buses to go pick the people  
12 up who didn't have their cars and to get them out?

13 A Yes, sir.

14 Q How did you know you were going to have to have  
15 buses to transport people?

16 A That wasn't my problem; that was Mr. Broome's  
17 problem.

18 Q How did he know?

19 A I don't know. You have to ask him.

20 Q Do you know whether or not it required the observation  
21 by the police that people, in fact, were not leaving because  
22 they didn't have means to leave; before they could get out  
23 they had to find some other alternate source of transportation  
24 like a city bus?

25 A Well, Mr. Guild, at that time I had a tunnel vision

1 of just Fire Department work. It wasn't my job to be  
2 concerned with emergency management work. And I don't know  
3 what the emergency management did in September of 1982.  
4 When I said I needed evacuation, I told the police officers,  
5 they evacuated and Wayne Broome did whatever job he had to  
6 do. I didn't know what emergency management did in  
7 September of 1982.

8 Q All right, sir. Mr. Fincher, you provided me a  
9 copy of the report on the Baxter-Harriss fire.

10 A Yes, sir.

11 Q And it's a report that was submitted by Assistant  
12 Chief Blackwelder.

13 A Yes, sir.

14 Q And I'm looking at page 3 of that report under the  
15 title "Evacuation." After observing about the railroad yard  
16 not having -- or requiring many people, it goes on. "At  
17 approximately 1800 hours the wind shifted to the west. At  
18 this point, the area west from north Tryon Street to north  
19 Graham Street, and from Dalton Avenue north to include  
20 Keswick was ordered evacuated. This involvement required many  
21 police officers, and under the direction of Major Laney,  
22 evacuation was performed."

23 Do you know how many police officers?

end 21 24

25

T22 MM/mm1

1 MR. CARR: Your Honor, I will object.

2 Mr. Fincher said at the time of the fire he  
3 was in the Fire Department. I think he said three or four  
4 times the evacuation was carried out by the Police Department  
5 and the decisions made by Mr. Broome.

6 BY MR. GUILD:

7 Q Did you subsequent participate in a review of  
8 that incident, Mr. Fincher?

9 A Yes, I did.

10 Q Do you know the answer to the question? If you  
11 don't, just tell me.

12 A No, I don't know how many police officers performed  
13 the function.

14 Now you are only talking about less than a dozen  
15 streets.

16 Q Okay.

17 A No street being more than six blocks long.

18 Q Okay.

19 So it wasn't a large evacuation, it was a small  
20 evacuation?

21 A It was a small area, yes, sir.

22 Q 500 people?

23 A Yes, sir.

24 Now my guesstimate of that -- I could be wrong  
25 by 100 percent -- you may not have but 200 people in that.



mm2

1 Q Or 1000 people?

2 A No. You would not have -- I am high.

3 Q 500 or less?

4 A Absolutely.

5 Q By the time this area was clear, the evacuation  
6 area had to be extended westward and ultimately extended  
7 to Baileys Ford Road and West to LaSalle Street.

8 Why was that?

9 A Because we had reports from our Police officers in  
10 the field that were patrolling those areas adjacent to the  
11 evacuated zones that the smoke was irritating them driving  
12 their zones, and we decided to extend that district.

13 Q All right, sir.

14 Then if the Police driving the streets were  
15 irritated by the smoke, we can assume that the general public  
16 who lived along those streets was also exposed to the smoke,  
17 correct?

18 A Yes, sir.

19 Q So you didn't evacuate people before the smoke  
20 got to them, did you?

21 A No, sir.

22 Q All right, sir.

23 Now, give me a general description if you would  
24 of the area of this next zone that was evacuated, then.

25 A I don't know if I can remember each zone. I know

mm3

1 east of North Tryon was the first zone. West of North Tryon  
2 was the second zone.

3 And you said up to Keswick Avenue?

4 Q Yes.

5 A The third one would extend from Keswick out to  
6 28th Street, I think, which involved WSOC TV who were doing  
7 their regular 6 to 7 o'clock news broadcast and had to be  
8 evacuated out of their studio.

9 Q All right.

10 Now give me an idea of the approximate area in  
11 this expanded zone.

12 A Well, from Keswick to 28th, we are talking about  
13 6 blocks by 6 blocks.

14 Q All right.

15 Half mile by half mile?

16 A Yes.

17 Q Approximately.

18 JUDGE MARGULIES: Mr. Guild, we are going through  
19 this step by step. I don't know what we are accomplishing,  
20 actually.

21 MR. GUILD: Judge, I hope what we are accomplishing  
22 is establishing that you are not going to rely on Mr. Broome's  
23 testimony that the Baxter-Harriss chemical fire demonstrates  
24 that the All Hazards Plan should be presumed to be effective  
25 emergency response planning for the City of Charlotte, sir.

mm4 1

2 Since it is the only piece of evidence that  
3 Applicants seem to rely on as demonstrating the capability  
4 to accomplish effective protective action in Charlotte, it  
5 requires in my judgement, in order to try my case, doing  
6 just what I am trying to do. I apologize that it is boring  
7 the Chair, but it really is my only effort to try to rebut  
8 what Applicants have attempted to rely on in this regard.

9 JUDGE MARGULIES: You are going through it in  
10 such detail that I don't think it is material and accomplishing  
11 anything.

12 MR. GUILD: May I continue, Mr. Chairman?

13 JUDGE MARGULIES: Yes.

14 BY MR. GUILD:

15 Q How many people were in this zone, the additional  
16 zone?

17 A I can tell you how many people were in all zones  
18 combined that were sheltered and fed on that night.

19 Q Right.

20 A That is all I can tell you.

21 Q You just don't know?

22 A I don't know, no, sir.

23 Q The paragraph in the report concludes, "Evacuations  
24 continued as the winds shifted until approximately 2100  
25 hours." Correct?

A That's correct.

mm5

1 Q All right.

2 Does that indicate that there was a final wind  
3 shift at 2100 hours, or is that when the evacuations --

4 A I think when it was all over the wind had changed  
5 360 degrees and we had to evacuate in every direction.

6 Q Say again the last part?

7 A The wind changed approximately 360 degrees from our  
8 arrival at the fire and we had to make evacuations in all  
9 directions.

10 Q All right.

11 A We had to expand that zone in a westerly direction  
12 one time.

13 Q Beyond the commercial area?

14 A Beyond Graham Street when we went all the way over  
15 to Bailey's Ford Road.

16 Q Do you know how many people were resident or  
17 working in the ultimate total area that was the subject of  
18 your evacuation order?

19 A We are talking about several square miles. And  
20 I don't have any idea. It is our guesstimate we evacuated  
21 between 5- and 6000 people that night.

22 Q I think the report says 3- to 5000 people, doesn't  
23 it?

24 A That's good, 3- to 5000.

25 Q All right.

mm6

1                   And that is on the basis of how many people showed  
2 up at the shelters?

3           A        No, sir. I don't know where the figure came from,  
4 I didn't write the report. I know that we fed in the  
5 shelters that night in excess of 1600 people.

6           Q        All right. Mr. Broome's testimony says, page 8,  
7 How many people were evacuated? Somewhere around 3000  
8 people. We had a little over 2000 people to show up at  
9 shelters. We don't know how many people went to friends and  
10 relatives. Normally when you look at that many people in  
11 a shelter, you probably add maybe another 20 or 30 percent  
12 to account for those people who go to relatives' homes,  
13 because that is common in an evacuation.

14          A        Yes, sir.

15          Q        That's the basis for the estimate of how many  
16 people. A total of 3000.

17                   Now, assuming that it is 3000 and only 2000  
18 showed up at the shelters, assuming it is 3000, how long did  
19 it take to evacuate those people from the point when you  
20 started evacuating to the point when you completed evacuation?

21          A        Well, I think you brought out on the page, 2100  
22 which was 9 o'clock at night, which gives you about three  
23 hours.

24          Q        All right.

25                   Now, did you have predesignated shelters to send

mm7 1 these people to?

2 A Yes, sir, we did.

3 Q You did?

4 A Yes, sir.

5 Q And were the shelters opening and functioning  
6 when the people got there?

7 A One of them was not.

8 Q Why not?

9 A Because we had a breakdown in our communications  
10 at that time which has since been addressed. We didn't have  
11 anybody specifically named to call somebody with the keys.  
12 But since, that problem has been solved.

13 Q And that was a school?

14 A Yes, sir, it was.

15 Q And that was a school that your emergency people  
16 didn't have the keys to get into?

17 A Well, before we even opened up the school we  
18 started to get the odor of the vapors there and we just  
19 moved them to another school.

20 Q So all right. In addition to not having the  
21 keys, it turned out that it was an inappropriate shelter  
22 because it was in the plume pathway?

23 A Yes, sir. Projected plume pathway.

24 Q Well, you got vapors?

25 A Well we had some people who said they had an odor.

mm8

1           You might smell gasoline at the service station  
2 but that don't mean that you have got a bad toxic vapor.

3           Q     All right, sir.

4           Did the review of the use of the All Hazards Plan  
5 in the Baxter-Harriss Chemical fire identify problems?

6           A     Yes, sir, it did.

7           Q     Would you describe those for us, please?

8           A     One of the problems was what you just brought up  
9 in your last question about opening up shelters which has  
10 since been addressed.

11          Q     Has it been corrected?

12          A     Yes, sir, it has been corrected.

13          Another problem was communications. We had some  
14 communications problems. That being that Wayne Broome did  
15 not have direct radio communications in his vehicle to be  
16 able to put out an EBS message. That, since, has been  
17 corrected.

18          Let's see. I think I have got a piece of paper  
19 in my pocket.

20          Q     Sure. I'll show you the report here, if that  
21 helps.

22          A     I don't have that report. You have got the only  
23 copy.

24          Q     All right, let me show you. We can both look on  
25 the same paper and see if we can conclude this quickly.

mm9

1           A       One of them was evacuation by voting precincts  
2 that was established as a problem.

3           Q       All right. And that was the plan that you and  
4 Mr. Broome had been working on before the fire?

5           A       Yes, sir.

6           Q       What was the problem using voting precincts?

7           A       Nobody knows what voting precinct they live in.

8           Q       All right.

9                   And is that still part of the All Hazards Plan  
10 to use voting precincts?

11          A       No, sir. It is not. We use a geographical  
12 boundary.

13          Q       So voting precincts are not in the plan anymore?

14          A       Well, they are still in the plan. We haven't  
15 had the opportunity -- Mr. Broome working by himself hasn't  
16 had the opportunity to change that.

17          Q       You are going to change it, though?

18          A       Absolutely.

19          Q       How are you going to do it hereafter, in the  
20 future?

21          A       We are going to use geographical boundaries.

22          Q       Streets?

23          A       Streets, creeks, anything. MOre than likely it  
24 will be streets.

25          Q       Okay.



mm101

(Showing document to witness)

2 Problems. This is page 6 of the report.

3 A All lines to Fire Commu cations and Police  
4 Communications, both City and County were jammed, delaying  
5 some important decisions that needed to be communicated by  
6 telephone.

7 Q Why were they jammed?

8 A Because of people calling in and telling us how  
9 to fight the fire, because of people calling in telling us  
10 19 miles away that I smell something, am I in danger.

11 Q All right.

12 And what were the important decisions that were  
13 delayed because of that jamming? What is the reference there?

14 A Probably being able to get a call back from  
15 Chevron Chemical out of California.

16 Q So, it made it difficult for you to get the  
17 information you needed to fight the fire correctly and know  
18 whether or not the paraquat posed a hazard to the people?

19 A That is correct.

20 Q B, failure to notify school officials.

21 Does that have to do with sheltering?

22 A Yes, sir, it did.

23 Now that function is with the Red Cross. Once  
24 we make that initial call to the Red Cross, it is their  
25 job function to contact school officials and open up the

mm11

1 shelters.

2 Q It wasn't at the time?

3 A No, it was not. It wasn't identified.

4 Q The Red Cross had a role under the All Hazards  
5 Plan at that time, didn't they?

6 A Yes, sir.

7 Q For shelter management?

8 A Yes, sir.

9 Q They just weren't specifically identified as  
10 needing a call at the time?

11 A That's correct. This is the first time that the  
12 plan had ever been used and we identified problems with it.  
13 And I am sure that every time it is used we will identify  
14 problems and work and try to solve them.

15 Q But it is our hope that at the time you use it  
16 it is not with an accident with the Catawba Plant to identify  
17 problems.

18 C, under communications. Difficulty in communicating  
19 with the agencies that were not represented in the Fire Command  
20 Post.

21 Is that a reference to Mr. Broome?

22 A Well, that's one. We identified a problem that the  
23 Incident Commander, being myself, did not have radio communica-  
24 tions directly with the Police Department, directly with  
25 Environmental Health, directly with Mr. Broome's office,

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1 directly with any other agency that was involved.

2           Since, that has been corrected with our new  
3 mobile command post that when any agency reports on the  
4 scene we will give them a portable radio and he will be on  
5 the same frequency as we are.

6           Q       Perhaps you touched on the second area. The  
7 second problem, identifies Fire Command post.

8           It says, no clear identification open to  
9 command post of the assigned roles of people of various  
10 agencies operating the command post, lack of portable radio  
11 communications.

12          A       That is correct.

13          Q       How about the second of those items, no clear  
14 identification of the assigned roles of the people of  
15 various agencies operating the command post?

16          A       That is correct.

17                In the Incident Command System each person from  
18 a different agency that shows up on the scene has a specific  
19 function to do. When a man shows up for environmental health  
20 he is wearing civilian clothes like you or I, the Incident  
21 Commander cannot identify him just by sight. So now we give  
22 him a vest to wear and Environmental Health is written on  
23 it. If Mr. Broome shows up, we will now give him a vest to  
24 wear which is a fluorescent orange, and it will say  
25 Emergency Management on it.

mm13.1

1           The Incident Manager will wear one that says  
2 IC on it.

3           Q     Third item, last item, equipment. Lack of  
4 protective self-contained breathing units early in emergency.  
5 Fire fighters needed more of those?

6           A     At that time in September of '82, we only had  
7 three pieces of self-contained breathing apparatus on each  
8 truck, and four people assigned.

9                     That problem has been corrected. There is a piece  
10 of equipment for each on there.

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1 Q Second, time involved to mobilize equipment not  
2 assigned to the fire or police departments such as front-end  
3 loaders, fork lifts and dozers. Why did you have a problem  
4 in obtaining that equipment in a timely fashion?

5 A It was determined that the fire department would  
6 try to get the front-end loader for us to dig a pit so that  
7 the toxic runoff of paraquat could be contained in that pit.  
8 They did not try to coordinate that function with our on-site  
9 coordinator who was Mr. Broome. Mr. Broome had plans in place  
10 to get it a whole lot sooner but was never asked to do so.  
11 That has been corrected.

12 Q How has that been corrected?

13 A The contingency plan is in place that I have  
14 developed and it will solve that problem. We have a  
15 contingency plan with street maintenance in the City of  
16 Charlotte and the front-end loader is available to us 24 hours  
17 per day. I have 15 firefighters trained on the use of it and I  
18 have a key to their lock and their vehicles.

19 Q As a result of this analysis or this report, various  
20 recommendations were made for improvements in your emergency  
21 response capability and plan.

22 A Yes, sir.

23 Q I think you have touched on a couple of these  
24 already but one is to set a policy to activate the EOC where  
25 individuals are going to be evacuated.

23-2

1 A When they are going to be evacuated and sheltered.

2 Q Right. That is now part of the plan?

3 A Yes, sir. It is not written into the All-Hazards  
4 Plan at this time.

5 Q You are going to do that though?

6 A Absolutely.

7 Q All right. "Establish a spokesman to provide  
8 constant updates to the media from a fire command post with  
9 an EOC." You didn't have a spokesman at the time?

10 A We did not have a public information officer. Since  
11 that time one has been appointed.

12 Q Who is that person? Who by job title?

13 A For a fire problem it happens to be the assistant  
14 chief of the fire department, Robert Ellison. For the City  
15 of Charlotte, it will be our public information office  
16 which will be Mr. Bill Guerrant.

17 Q How about a hazard? Let's say there is a response  
18 at the Catawba Nuclear Station. Who would be the designated  
19 spokesman?

20 A It will be the public information officer of the  
21 County of Mecklenburg.

22 Q Does the Plan provide for that?

23 A Yes, sir, it does, not in the All-Hazards Plan but  
24 our Catawba Plan does.

25 Q Which is your Catawba Plan?

1           A     The State of North Carolina Emergency Response Plan  
2 for Catawba Nuclear Plant.

3           Q     I see. The existing plan?

4           A     Yes.

5           Q     How about for the City of Charlotte? Is there a  
6 spokesperson for the City of Charlotte?

7           A     Yes, sir, Mr. Bill Guerrant's office. In the event  
8 we have a Catawba or McGuire incident, the city and the  
9 county offices of public information jointly combine themselves  
10 at that time to assist in public information.

11          Q     All right. "Number five. Establish an information  
12 center to divert the information seeking calls from fire and  
13 police command centers." Is that an attempt to alleviate the  
14 problem of the overloading of the telephone line?

15          A     Yes, sir, it is.

16          Q     What have you done to solve that problem?

17          A     We have additional lines in both communications  
18 centers that are not published any more.

19          Q     So you will have some free lines where you won't  
20 have incoming calls coming in?

21          A     Absolutely.

22          Q     How about an information center? Do you have that?

23          A     In the All-Hazards Plan?

24          Q     Yes, sir.

25          A     Yes. It will be at the EOC.

1 Q There will be an information center where people  
2 can get information?

3 A Yes, sir.

4 Q Will they have numbers where they know they can  
5 call in?

6 A Numbers will be given out.

7 Q How will they be given out?

8 A Through EBS. It is more or less rumor control.

9 Q All right. Now the other recommendation, item  
10 one, "Evaluate the City of Charlotte's protective response  
11 plan to determine if revisions are necessary." That is the  
12 All-Hazards Plan, right?

13 A Yes, sir.

14 Q Was such an evaluation performed?

15 A I don't think that it was done by the Mayor's Blue  
16 Ribbon Committee. It is being done at this time by the  
17 county commissioners committee, the Charlotte/Mecklenburg  
18 emergency management planning review committee.

19 Q The committee that is also charged with reviewing  
20 the adequacy of planning for the Catawba Nuclear plant?

21 A Yes, sir.

22 Q It is also looking at the adequacy of the All-Hazards  
23 Plan?

24 A Yes, sir.

25 Q The review of the All-Hazards Plan is in progress, is



1 it not?

2 A Yes, sir, it is.

3 Q You are aware that that committee appointed by the  
4 county commission determined to recommend that additional  
5 planning be implemented for the City of Charlotte by the  
6 extension of the emergency planning zone into the City of  
7 Charlotte, are you not?

8 A You lost me there. You will have to rephrase your  
9 question.

10 Q The same committee that you said said is looking  
11 into the All-Hazards Plan decided on the 16th of May to  
12 recommend the extension of emergency planning zone for the  
13 Catawba facility into the City of Charlotte.

14 A They recommended it to the county commissioners.

15 MR. CARR: Excuse me. I think we are getting the  
16 record confused here. I believe that what Mr. Fincher is  
17 reporting to is what we call the Mayor's Blue Ribbon Committee  
18 that reported on the Baxter-Harriss fire.

19 MR. GUILD: No, sir. We are not confused at all.  
20 Mr. Fincher said there was that committee that didn't review  
21 the All-Hazards Plan but the committee that I just referred  
22 to is looking at it now. Is that correct, sir?

23 WITNESS FINCHER: That is correct.

24 MR. CARR: All right. I stand corrected. I am sorry.

25 MR. GUILD: Mr. Fincher, thank you for your

1 appearance. I appreciate your time. Those are all the  
2 questions I have.

3 JUDGE MARGULIES: Mr. Riley.

4 CROSS-EXAMINATION

5 BY MR. RILEY:

6 Q What was meant, Mr. Fincher, in the review that I  
7 understand was made of the All-Hazards Plan to "insure a  
8 more professional operation?"

9 A I don't even know what you are making reference to.

10 Q There was a committee that made a report on March 11,  
11 1983 in regard to the performance of the All-Hazards Plan, is  
12 that correct?

13 A I don't think that they made a report in reference  
14 to the All-Hazards Plan. The committee, the Blue Ribbon Study  
15 Committee on Chemical Safety, was appointed by Mayor Knox  
16 and they did not study the All-Hazards Plan. They identified  
17 the problems that were in the Baxter-Harriss warehouse fire.

18 Q Which was treated under the All-Hazards plan as its  
19 first test.

20 A That is your assumption. It is not mine.

21 Q I thought that was your testimony. Didn't you say  
22 that the All-Hazards Plan was in effect at that time?

23 A Yes, it was.

24 Q Didn't you say that this was the first operation  
25 that was carried out under it?

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23-7

1 A That's correct.

2 Q That is all I said.

3 A They didn't study it. The Blue Ribbon Committee did  
4 not study it. The Blue Ribbon Committee did not study the  
5 All-Hazards Plan.

6 Q I see your point. Looking at page 15 of the  
7 Report, the Mayor's Chemical Safety Blue Ribbon Study  
8 Committee of March 11 --

9 MR. CARR: Your Honor, I am going to object to any  
10 further questions on that document. We sat here while we went  
11 step-by-step through the Baxter-Harriss fire. Now there is  
12 apparently a committee of some sort which has studied matters  
13 regarding chemical safety in the City of Charlotte.

14 Mr. Fincher has just testified that this committee  
15 that we are talking about now did not study the All-Hazards  
16 Plan.

17 MR. GUILD: If the witness could be shown the  
18 document, Mr. Chairman, I am looking at it and it simply  
19 reflects that he is incorrect or mistaken in that last  
20 testimony. The question is obviously germane. If the witness  
21 could be shown the document it reflects the fact of their  
22 review of the All-Hazards Plan.

23 JUDGE MARGULIES: If it is beyond the witness'  
24 knowledge, how is it going to help us?

25 MR. GUILD: It is going to help you because it is

1 going to tell you that the All-Hazards Plan doesn't work, Mr.  
2 Chairman, if you are interested in the subject. But if really  
3 this is an exercise in futility, then maybe we should just so  
4 state.

5 The fact of the matter is there has been a review  
6 of the All-Hazards Plan. It was determined to be deficient  
7 and the witness should be allowed to be confronted with the  
8 document that reflects that, sir.

9 JUDGE MARGULIES: I will let you show the document  
10 to the witness.

11 BY MR. RILEY: (Resuming)

12 Q Mr. Fincher, would you please read into the record  
13 section two of the document I have just given you?

14 A "A review of the City of Charlotte Protective  
15 Response Plan for All-Hazards was completed. In general  
16 it was agreed that the current plan is good. The subcommittee  
17 believes that some changes can be made to insure a more  
18 professional operation. This committee also feels that the  
19 areas of prevention and compliance should be reviewed and  
20 considered part of the planning process."

21 I stand corrected.

22 Q Thank you.

23 A But if you read further in that document it was not  
24 one of the 17 recommendations that was issued by that  
25 committee that I am in charge of implementing.

23-9

1 Q Does this study find that improvements were called  
2 for in personnel training?

3 A Yes, sir, it was.

4 Q In contingency planning?

5 A Yes, sir.

6 Q In central coordination?

7 A Yes, sir.

8 Q In the EBS system?

9 A Yes, sir.

10 Q To what extent does the current All-Hazards Plan  
11 deal with nuclear contingencies?

12 A The information that we receive from Duke Power  
13 that was evaluated by our staff that it became imminent  
14 that we were going to have to evacuate some of the people  
15 in the city limits of the City of Charlotte, we would just  
16 give it to our police department to evacuate those certain  
17 areas that were laid out for us, that geographical district.

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1 Q Going back to Baxter-Harriss for a moment, you  
2 said sulfur dioxide was present in the plume.

3 A Yes, sir.

4 Q In the emergency broadcast were people advised of  
5 the sort of injury that sulfur dioxide causes on inhalation  
6 and the symptoms which would be responded to with medical  
7 attention?

8 JUDGE MARGULIES: The witness testified that he  
9 didn't know what was on the emergency broadcast, Mr. Riley.

10 MR. RILEY: Well, it was pointed out, of course,  
11 that he was present at reviews that were made subsequently,  
12 although at the time he may not have known this. I would  
13 expect he would have had a chance to find out later.

14 JUDGE MARGULIES: Well, why don't you ask him that?

15 BY MR. RILEY:

16 Q Did you find out later whether there was medical  
17 information transmitted to people who were exposed potentially?

18 A I did not listen to any of the EBS messages, and  
19 any critiques that I was in on they were not reviewed.

20 Q Do you know whether there was any follow-up with  
21 respect to health consequences for the people who were  
22 potentially exposed?

23 A If they were what?

24 Q Any follow-up efforts with respect to health  
25 problems for the people who were potentially exposed?

1           A     Yes, sir, it was broadcast to them that anyone  
2 who felt any need to go to the hospital and be checked or  
3 had respiratory problems to report to the hospital.

4           Q     You pointed out that something in the vicinity of  
5 maybe three to six thousand people were affected in the  
6 Baxter-Harriss fire. Are you familiar with the number of  
7 people who potentially might receive radiation doses in the  
8 worst case accident, as portrayed in the Final Environmental  
9 Statement for the Catawba plan?

10          A     Yes, sir, from the information you gave me.

11          Q     Right. And do you recall the number 3000 to 6000 people  
12 for dosages over 25 rem?

13               MR. CARR: I'm going to object at this point.  
14 Initially, when I raised the question of whether Mr. Fincher  
15 should not be excused, I think the record clearly establishes  
16 his position in the nuclear emergency arena and the position  
17 of Mr. Broome, and my understanding was that what we got  
18 Mr. Fincher here for, by Mr. Guild's own admission, was to  
19 talk about the Baxter-Harriss fire. That has been examined  
20 in some great detail.

21               I think the purpose of his testimony -- I think  
22 that the purpose for calling him has been exhausted. My  
23 understanding is the reason that Intervenors called him,  
24 by their own admission, was not to go into the area that  
25 Mr. Riley's probing into now.

1 MR. GUILD: You are mistaken, Mr. Carr.

2 MR. RILEY: Mr. Chairman, we weren't going to go  
3 into a radiological question. What we wanted to do was find  
4 out Mr. Fincher's opinion about the adequacy of the plan  
5 that worked reasonably well for three to six thousand people  
6 for a very much greater number of people, like 100-fold  
7 greater. This is the sense of the question.

8 A plan that's adequate on one scale; will it be  
9 adequate on a much larger scale.

10 (Board conferring.)

11 JUDGE MARGOLIES: I will permit you to answer the  
12 question, but we're going to conclude this session today by  
13 6:00 p.m. That's going to be the end of this session, and  
14 if you're not finished with this witness today, he'll have  
15 to come back tomorrow. You may answer the question.

16 BY MR. RILEY:

17 Q I will remind you of it. Assuming that the plan  
18 worked reasonably well with the glitches that we have already  
19 discussed and realizing that there may have been some learning  
20 experience involved here, which you have testified to, how  
21 well do you think the plan would work for approximately  
22 30,000 people, which is about ten times as many as the 3000?

23 A In my opinion, it would work excellent.

24 Q For 30,000?

25 A Yes, sir.



1 Q In terms of the number of officers available for  
2 notifying people and carrying things out and so forth?

3 A Absolutely. We have a minimum of 143 fire  
4 personnel on duty at a time. We have a minimum of approxi-  
5 mately 200 police officers on duty at a time. That's not  
6 even counting the Mecklenburg County Police Department and  
7 being able to call in approximately 800 to 1200 volunteer  
8 firemen.

9 Q Of course, timescales are involved. The worst  
10 case, of course, is a quick-breaking accident.

11 A Well, you've got to tell me something now. Quick-  
12 breaking. How much time are you going to give me?

13 Q In my opinion, the worst case accident would give  
14 no notification time; the release would be essentially  
15 instantaneous, very dense over a period of 20 to 30 minutes.

16 A Well, I can't evacuate nobody.

17 Q Well, hold on just a second, Mr. Fincher. That's  
18 at the Catawba plant. Depending upon wind speed, the plume  
19 will take sometime to reach Charlotte. If it's the average  
20 wind speed of 7 1/2 miles an hour, it would be about an hour  
21 and 20 minutes. If it's very slow, 2 1/2 miles per hour,  
22 it will take four hours. So we've got a variable timescale  
23 here, and that sort of, I think, indicates the range in  
24 which it might fall.

25 Q You're allowing me now some time to give protection  
action.

1 Q That's right. And the minimum time might be on  
2 the order of an hour because we scheduled about 15 minutes  
3 or so for the word to get out about accidents and so forth.

4 A What is the question?

5 Q The question is, do you see yourself having an  
6 adequate coping organization in an hour, realizing that for a  
7 large accident there will be a large call-up of volunteer  
8 fire department people whom you mentioned, et cetera?

9 A In one hour we cannot give that type of evacuation  
10 and expect it to progress. No, we can't.

11 Now, if you're going to give me from four to six  
12 hours, or it may be that it progresses to the point where it  
13 might be 24 hours from my notification that it's going to  
14 happen. But in one hour the only protective action I can  
15 give is for people to stay in their houses.

16 Q Now in the area under consideration, Contention 11,  
17 w're talking about something like 140,000 people. We have  
18 upped the ante now an appreciable factor again. We've upped  
19 it a factor of 50. With respect to adequate time, how do  
20 you feel in terms of the adequacy of emergency forces --  
21 fire department, et cetera?

22 A Well, all of the emergency resources that I have  
23 at our disposal would be in the neighborhood of 2000 people.  
24 I think it's adequate -- if I had a full seven hours I could  
25 evacuate that total zone.

1 Q Seven hours?

2 A Yes, sir.

3 Q All right. Now with respect to paraquat, it was  
4 normal business hours for Chevron in California.

5 A Yes, sir.

6 Q What would the result have been if Chevron had  
7 been closed?

8 A We have a 24-hour emergency phone number for all  
9 chemical companies.

10 Q They have a 24-hour emergency number.

11 A Yes, sir.

12 MR. RILEY: That will be all.

13 One second, please.

14 (Counsel for Intervenors conferring.)

15 BY MR. RILEY:

16 Q In regard to the --

17 JUDGE MARGULIES: You said you were concluded,  
18 Mr. Riley, didn't you?

19 MR. RILEY: I interrupted myself and withdrew that,  
20 sir. One more question, please.

21 JUDGE MARGULIES: You may.

22 BY MR. RILEY:

23 Q With regard to the Baxter-Harriss fire, is there any  
24 information on how many were actually exposed to sulfur  
25 dioxide fumes?

1           A     I think I have a given number back at the office  
2 about how many people actually went to the hospital and  
3 were possibly treated, plus the amount of emergency response  
4 personnel that were examined.

5           Q     Do you have some sort of an estimate of the number  
6 of people there, some sort of recollection?

7           A     Approximately 100 fire officers and probably a  
8 dozen police officers that were seen by our city medical  
9 staff.

10          Q     How about the general public?

11          A     I don't have any idea at this time.

12          Q     But there were some?

13          A     Certainly, yes, sir.

14                MR. RILEY: Thank you.

15                JUDGE MARGULIES: Staff?

16                BY MR. JOHNSON:

17          Q     Mr. Fincher, I'm George Johnson, counsel for the  
18 NRC Staff, and I have a few questions for you. Are you  
19 familiar with the North Carolina Emergency Response Plan  
20 for the Catawba Nuclear Station emergencies?

21          A     As much as I could learn in the last 10 weeks.

22          Q     Why do you refer to 10 weeks?

23          A     It was approximately 10 weeks ago that I was  
24 appointed to this position.

25          Q     Are you familiar also with the Part 3 of that plan

1 that discusses the role of Mecklenburg County in that overall  
2 plan?

3 A Yes, sir.

4 Q Have you familiarized yourself with the command and  
5 control assignment of responsibilities and direction that --  
6 the concepts of operation that are in Part 3 of the plan?

7 A Yes, sir.

8 MR. GUILD: Mr. Chairman, I just want to state for  
9 the record that Mr. Johnson is entering an area that I very  
10 carefully avoided entering, and that is the adequacy of the  
11 general plans for the facility.

12 Now, with due regard to your view that we turn in  
13 the pump at 6:00 o'clock, I'd state that if Mr. Johnson is  
14 entering a new area, I will seek to examine on that area as  
15 well. So I state it by way of an objection to going beyond  
16 the scope of the witness's rebuttal examination.

17 MR. JOHNSON: I was just building a foundation, of  
18 course, and I don't plan to go beyond the scope of the  
19 rebuttal testimony. Mr. Guild was attempting to show the  
20 relevance of the all-hazards plan's implementation, and he  
21 went into direction and control aspects of that, and that's  
22 the direction I'm going, and the relevance of that testimony  
23 that he elicited to the plans that are under examination in  
24 this case.

25 JUDGE MARGULIES: You may continue.

1 MR. GUILD: If he does it under the North Carolina  
2 plan, I will examine on the same subject, Mr. Chairman.

3 JUDGE MARGULIES: That's no problem.

4 BY MR. JOHNSON:

5 Q Particularly with respect to the decisions with  
6 respect to notification and ordering protective actions, are  
7 you also familiar generally with those?

8 A Yes, sir, I am.

9 Q During an emergency that involves the Catawba  
10 Nuclear Station, the concepts and plans that I'm referring to  
11 would be called into play. And to the extent actions were  
12 required by Mecklenburg County, the designated officials under  
13 that portion of the plan that I've been referring to would  
14 be involved in protective action response and so forth;  
15 alert, notification and other aspects of the plan.

16 Do you have any reservations concerning the -- let  
17 me stop one second.

18 Also, in the concepts that we discussed earlier in  
19 this case with regard to Contention 11, we discussed the  
20 planning basis for nuclear emergencies that are derived from  
21 NUREG-0396 and discussed in NUREG-0654, that being that the  
22 concept of the 10-mile approximately, emergency planning zone  
23 could serve -- the detailed planning for that area could  
24 serve as a basis for ad hoc planning beyond that zone. And  
25 that -- you are familiar with those concepts?

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A Yes, sir, I am.

Q And similarly, the question arises under this contention whether -- I believe that's why we all have this plan that's been discussed today -- whether that is a relevant factor or can be used with regard to the expansion of protective response in the event it becomes necessary to expand from the EPZ. Do you follow me so far?

A Yes, sir.

Q So the question I have for you is, given what you know about the emergency response plan that's in place now for Catawba Nuclear Station for the State of North Carolina and Mecklenburg County, do you see any problem moving beyond the EPZ planning and implementation of those plans with the concepts and responsibilities that are contained in the all-hazards plan for Charlotte, if that need be?

MR. GUILD: Objection. Mr. Chairman, if it calls for a conclusion with respect to the adequacy of plans for the existing EPZ, it's distinctly an area that I avoided examining on on my rebuttal examination. It will open an entirely new area. I consciously established that Mr. Fincher was not passing on the adequacy of plans for the existing EPZ, that he defers to Mr. Broome on that subject and I tried to narrow my examination to the all-hazards plan itself.

Mr. Johnson is clearly expanding the scope of the witness's examination, and I object.

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1 MR. JOHNSON: I think it is clear that he was  
2 testifying throughout this period on the All Hazards Plan.  
3 Its only pertinence is as I suggested.

4 (Board conferring)

5 JUDGE MARGULIES: Would you just repeat the last  
6 part of your question, the portion that was the actual question,  
7 not the entire predicate. Just the question.

8 MR. JOHNSON: I am not sure I can remember exactly  
9 the question that was asked. Maybe the reporter can read it  
10 back.

11 (Whereupon, the reporter read the record as  
12 requested.)

13 MR. JOHNSON: Do you understand the question?

14 MR. GUILD: There is an objection pending,  
15 Mr. Chairman. I would ask for a ruling.

16 JUDGE MARGULIES: Let's see if the witness  
17 understands the question.

18 Don't answer it, but do you understand the  
19 question?

20 THE WITNESS: I think I understand the question.

21 MR. JOHNSON: I can try to rephrase it.

22 JUDGE MARGULIES: Would you rephrase it?

23 MR. GUILD: Your Honor, I would like a ruling on  
24 the objection, please.

25 JUDGE MARGULIES: He is withdrawing the question



mm2 1 and rephrasing it. Then you can object to the question.

2 MR. GUILD: The question has been withdrawn.

3 BY MR. JOHNSON:

4 Q My question is based upon what you know about the  
5 concept of operations for the Charlotte -- excuse me, the  
6 Mecklenburg County aspect of the North Carolina plan, whether  
7 you see any problem in using the All Hazards Plan for  
8 Charlotte as a basis for expanding emergency protective  
9 action response in the areas for which the City of Charlotte  
10 has its plan covers?

11 MR. GUILD: Objection.

12 The predicate, the rephrased question, the original  
13 question, all as a premise requires the witness to pass upon  
14 the adequacy of the existing plan.

15 It is beyond the scope of rebuttal testimony.

16 MR. JOHNSON: Your Honor, I am not really asking  
17 the witness to pass on the adequacy per se of that plan, but  
18 as to the plan and its ability -- excuse me, the reverse --  
19 the ability to tie in the All Hazards Plan with the State and  
20 Mecklenburg County Plans as they exist.

21 I am not asking him to evaluate those plans, just  
22 to tell me whether he feels there is any inconsistency  
23 between the plans so that the concept of operations that  
24 would be in place within the EPZ can, in fact, be expanded  
25 on an ad hoc basis.

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1 JUDGE MARGULIES: Looking to the effectiveness of  
2 the All Hazards Plan?

3 MR. JOHNSON: Yes.

4 JUDGE MARGULIES: I will permit the question.  
5 You may answer.

6 THE WITNESS: I wouldn't have any problem with  
7 instituting it at all. If we have already -- the plan calls  
8 for specific evacuation of a ten-mile EPZ. If we are  
9 going to extend that two miles I don't have any problem.  
10 The same people are already there to do the job.

11 The All Hazards Plan -- we wouldn't just switch  
12 from one plan to the other plan, we would just expand the  
13 plan which we have.

14 MR. JOHNSON: Thank you.

15 One second, your Honor.

16 (Counsel conferring)

17 MR. JOHNSON: That's all I have.

18 BY MR. WILSON:

19 Q Just briefly, Mr. Fincher, I think Mr. Johnson  
20 was getting in an area I was interested in, too, and I just  
21 want to make sure that we are not crossing up here.

22 Now the All Hazards Plan is in place for those  
23 parts of Mecklenburg County in the EPZ? Is that right?

24 A Right now we have two All Hazards Plans, one for  
25 the City and one for the County.

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1 Q All right.

2 Now, as to the overall framework, those plans  
3 provide for providing operational support for protecting the  
4 public health and safety. Can that plan be applied on, as  
5 he says, an ad hoc basis as circumstances may warrant outside  
6 of the original plan area of application?

7 A Yes, sir, it can.

8 Q All right, sir.

9 Based on your experience with it, do you foresee  
10 any problems with doing so on an ad hoc basis during an  
11 emergency?

12 A No, sir, I do not.

13 Q All right, sir.

14 And as to your experience with the Catawba  
15 Nuclear Station itself -- now you said earlier you had been  
16 on the job for what, ten weeks?

17 A Yes, sir.

18 Q Did you participate as an observer or as an offi-  
19 cial in the recent Catawba Nuclear Station exercise?

20 MR. GUILD: Objection, Mr. Chairman. It is  
21 beyond the scope of the rebuttal. I tried to stay away  
22 from asking the witness to pass on the effectiveness of the  
23 existing plan. I asked no questions about the exercise.  
24 It really opens up a whole new area of questioning.

25 MR. WILSON: Your Honor, the man was subpoenaed

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1 to testify as to contentions 1, 7, 8, 11, 14, 15 and 18.  
2 That Mr. Guild or Mr. Riley have elected to exercise their  
3 option not to examine on those subjects, I don't think  
4 affected me or anybody else in this proceeding.

5 MR. GUILD: I beg to differ, Mr. Chairman. I  
6 think the scope of the witness' proper cross examination is  
7 limited by the scope of his rebuttal testimony.

8 MR. WILSON: All I asked, really, is whether he  
9 participated.

10 JUDGE MARGULIES: If it is an area you intend to  
11 go into, Mr. Wilson, we will sustain the objection.

12 MR. WILSON: I just wanted to know if he partici-  
13 pated in it.

14 JUDGE MARGULIES: If that is your sole question  
15 you may ask the witness.

16 THE WITNESS: Yes, I participated in the exercise.

17 B. MR. WILSON:

18 Q And really I wanted to ask if the All Hazards  
19 Plan was used in that exercise.

20 MR. GUILD: Objection.

21 MR. WILSON: In whole or part.

22 MR. GUILD: Objection.

23 MR. WILSON: I am not going to ask him how. I  
24 just want to know if it was exercised.

25 MR. GUILD: He has got a second question.

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1           You know, you allowed him in the door. If you  
2 allow the area, we are going to talk about the exercise.

3           MR. WILSON: My point is, I guess he had his  
4 chance and he didn't use it.

5           I can withdraw the question. It doesn't matter  
6 that much.

7           BY MR. WILSON:

8           Q     You are going to get plenty of opportunities to  
9 exercise it, aren't you, Mr. Fincher?

10          A     Yes, sir.

11          JUDGE MARGULIES: Applicants?

12          BY MR. CARR:

13          Q     Mr. Fincher, I have a few questions here.

14                Back when we first started this conversation,  
15 you indicated I believe -- was it your testimony that over  
16 the last 18 months to two years Mr. Broome has essentially  
17 spent full time on the Mecklenburg County Plan dealing  
18 with the Catawba Nuclear Plant?

19          A     Yes, sir, that is correct.

20          Q     Now with respect to the Baxter-Harriss fire,  
21 let me just ask you. There was a good bit of testimony on  
22 the different organizations that were represented.

23                Basically I would like to ask you this: Is i  
24 your view that with respect to the Baxter-Harriss fire, the  
25 necessary organizations -- by that I mean Fire, Police,

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1 Emergency Management organizations were on the scene of the  
2 fire, that they took the necessary actions under the  
3 circumstances, and that people were protected, they were  
4 evacuated and food and shelter was provided and their  
5 health and safety was protected?

6 A Yes, sir.

7 Q Let me ask you now, Mr. Fincher, did moving your  
8 command post interfere with decisions and implementation of  
9 decisions necessary for protection of the public?

10 A No, sir.

11 Q In the Baxter-Harriss incident?

12 A No, sir, it did not.

13 Q Did consultation with the other organizations  
14 during that incident to arrive at the decisions necessary  
15 for protection of the public interfere with either arriving  
16 at those decisions or implementing those decisions necessary  
17 for protection of the public?

18 A No, sir, it didn't.

19 Q Now the evacuation that you spent some time on,  
20 the total evacuation took place in stages, didn't it?

21 A Yes, sir, it did.

22 Q So that there was not a situation where the  
23 area ultimately evacuated was ordered at one time to  
24 evacuate?

25 A Well, we did it in stages. We did stage 1, the

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1 railroad yards; stage 2, across the street. We expanded  
2 the zone five times or four times in stages.

3 Q If you had started right at the outset and  
4 ordered evacuation of the entire area that was ultimately  
5 ordered evacuated, do you believe it could have been  
6 accomplished in a shorter time than it was?

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1           A     We could probably have evacuated the entire area  
2 in less than one hour.

3           Q     The fact that one shelter wasn't open at the time  
4 some of the people got there during the evacuation and  
5 ultimately that shelter wasn't used, did that fact have an  
6 effect on anybody's health or safety?

7           A     No, sir. It did not. We did not have one civilian  
8 injured in the entire episode.

9           Q     Now with respect to the recommendations and  
10 improvements which have been advised or recommended in the  
11 All-Hazards Plan as a result of the Baxter-Harriss fire and  
12 other studies that have been referred to, have those  
13 improvements been made or are they in the process of being  
14 made?

15          A     They are in the process of being made. We just  
16 haven't had the time to type them up and put them together  
17 but between Wayne and myself those have been instituted.

18          Q     There was a question about the action of the blue  
19 ribbon committee, the Nurken committee, and the recommendation  
20 of part of that committee of May 16. Are you aware that that  
21 recommendation came before the county council Monday morning?

22          A     Yes, sir. I am.

23          Q     Are you aware of the action the county council took  
24 with respect to that recommendation?

25          A     Yes, sir. I am.



1 Q What did they do?

2 A They have refused to accept those findings on the  
3 recommendation of the county manager.

4 Q Did they take some action with respect to the  
5 committee?

6 A Yes, they did. The head of the county commission,  
7 Mr. Odom, will make contact with Mr. Nurken to get Mr. Nurken  
8 to bring him up to date on where they are at in presenting  
9 the findings that they were asked to find to start with -- the  
10 entire questions.

11 Q In short then the action of the county commission  
12 was to return this recommendation to the Nurken committee  
13 and tell them to carry out the charge they were originally  
14 given?

15 A That is correct.

16 Q Mr. Fincher, I would now like to ask you a few  
17 questions as to how this All-Hazards plan worked in the  
18 Baxter-Harriss fire. I have here a copy of the All-Hazards  
19 Plan which is in evidence as the intervenor's exhibit EP-46.  
20 First, let's look at "II."

21 JUDGE MARGULIES: Before you go on counsel, we are  
22 up to six o'clock and we are going to recess.

23 MR. CARR: I have about five minutes, Your Honor,  
24 and then we will be done with Mr. Fincher.

25 JUDGE MARGULIES: Then we have further examination

1 by intervenor.

2 MR. GUILD: Your Honor, if we can I would very much  
3 like to excuse Mr. Fincher. I made a personal commitment to  
4 him to get him on and off today and the questions that are  
5 being asked are appropriate questions to be asked by Mr. Carr  
6 and I expect that any further examination will be limited  
7 but if you bear with us, I would like to see if we can  
8 complete Mr. Fincher today.

9 JUDGE MARGULIES: It seems we always run into the  
10 problem that a lot of time is wasted with minutia and  
11 irrelevancies and then we come up to the end of the day it  
12 is always a matter of bearing with the parties and if the-  
13 time were allocated more properly and used more resourcefully  
14 and professionally, we would not wind up with these problems  
15 all the time.

16 MR. GUILD: I beg to differ with the Chair's  
17 observation and would appreciate it if you would weigh the  
18 evidence when it is in, Judge, but that is your prerogative  
19 to make such a commentary. I would hope that you would  
20 consider carefully the details of actual experience and not  
21 view them as irrelevant and minutia, sir.

22 The fact remains though if you would allow us to  
23 go for another ten or 15 minutes, I believe we could finish  
24 the gentleman and allow him to go home.

25 JUDGE MARGULIES: We are going to recess. We are

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1 talking about ten or 15 minutes and then it becomes 15 and 30.  
2 This will be the appropriate time to recess.

3 WITNESS FINCHER: I can come back in the morning  
4 if I can rearrange a deposition that I have to give to an  
5 attorney. He is coming in from San Francisco to meet with me  
6 tomorrow.

7 JUDGE MARGULIES: Can you give us another time  
8 sometime tomorrow?

9 WITNESS FINCHER: Yes. I can give it to you the  
10 first thing in the morning.

11 JUDGE MARGULIES: You can be here first thing in the  
12 morning.

13 MR. CARR: Can we start at 8:30?

14 MR. GUILD: Judge, I have made prior commitments to  
15 two other witnesses to take them the first thing tomorrow  
16 morning.

17 WITNESS FINCHER: If we can make it tomorrow  
18 afternoon, I can give me deposition earlier.

19 MR. GUILD: Judge, how about ten more minutes and  
20 let the man go?

21 (Board conferring.)

22 JUDGE MARGULIES: Will you be able to come in at a  
23 set time in the afternoon, tomorrow afternoon?

24 WITNESS FINCHER: Yes, sir.

25 (Board conferring.)

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1 JUDGE MARGULIES: Please arrange that time with  
2 counsel. We will recess at this time and reconvene at nine  
3 o'clock tomorrow morning.

4 (Whereupon, the hearing in the above-entitled  
5 matter was recessed at 6:02 o'clock p.m., to reconvene  
6 at 9:00 o'clock a.m., Thursday, June 7, 1984.)  
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CERTIFICATE OF PROCEEDINGS

This is to certify that the attached proceedings before the  
NRC COMMISSION

In the matter of: Duke Power Company, et al

Date of Proceeding: Wednesday, June 6, 1984

Place of Proceeding: Rock Hill, South Carolina

were held as herein appears, and that this is the original  
transcript for the file of the Commission.

Mimie Meltzer

Official Reporter - Typed

*Mimie Meltzer*

Official Reporter - Signature

Marilynn Nations

Official Reporter - Typed

*Marilynn Nations*

Official Reporter - Signature

Suzanne Young

Official Reporter - Typed

*Suzanne Young*

Official Reporter - Signature