

Official Transcript of Proceedings
NUCLEAR REGULATORY COMMISSION

Title: Georgia Power Company: Vogtle Electric
Generating Plant: Unit 1 and Unit 2

Docket Number: 50-424-OLA-3; 50-425-OLA-3
ASLBP No.: 93-671-01-OLA-3

Location: Rockville, Maryland

Date: Thursday, September 7, 1995

Work Order No.: NRC-322

Pages 13220-13431

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1 UNITED STATES OF AMERICA

2 NUCLEAR REGULATORY COMMISSION

3 + + + + +

4 ATOMIC SAFETY AND LICENSING BOARD

5 HEARING

6 -----X

7 In the matter of: : 50-424-OLA-3
 8 GEORGIA POWER COMPANY, et al. : 50-425-OLA-3
 9 : Re: License Amendment
 10 (Vogtle Electric Generating : (transfer to
 11 Plant, Unit 1 and Unit 2) : Southern Nuclear)
 12 : ASLBP No.

13 -----X 93-671-01-OLA-3

14 Thursday, September 7, 1995
 15 Hearing Room T 3B45
 16 Two White Flint North
 17 11545 Rockville Pike
 18 Rockville, Maryland

19 The above-entitled matter came on for hearing,
 20 pursuant to notice, at 8:30 a.m.

21 BEFORE:

22 PETER B. BLOCH Chairman
 23 JAMES H. CARPENTER Administrative Judge
 24 THOMAS D. MURPHY Administrative Judge

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I N D E X

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25
	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>BOARD</u>																		
	Thomas E. Webb					13226																		
	By Staff		13225			13229																		
			13288			13239																		
	By Intervenor		13265			13253																		
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	By Licensee	13322																						
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E X H I B I T S

<u>EXHIBIT NO.</u>	<u>DESCRIPTION</u>	<u>IDENT</u>	<u>REC'D</u>
GPC-II-71	Diesel Count List	13225	13312
GPC-II-172	Letter: 11-01-91	13326	13329
GPC-II-173	03-15-90 Memo	13327	13329
GPC-II-174	06-20-90 Bockhold Ex. S	13327	13329
GPC-II-175	Tape Transcript page 179	13327	13329
GPC-II-176	07-06-90 Memo	13327	13329
GPC-II-177	04-03-90 Memo	13328	13329
GPC-II-178	IIT Teleconference Trans 04-05-90	13328	13329
GPC-II-179	IIT Teleconference Trans 04-06-90	13328	13329
GPC-II-180	IIT Teleconference Trans 04-07-95	13328	13329
GPC-II-181	Mosbaugh Tape 34	13329	13329
GPC-II-182	Telecopy: DG Instrument Test Outline		
Int-II-232	Tape 3 Transcript	13334	13340
Int-II-233	DOL Transcript p697 Mosbaugh v GPC	13343	13347
Int-II-235	Bockhold Deposition	13361	
Int-II-233	Pages 690, 691, 697 of Bockhold Deposition	13378	13381
Int-II-235	Page 85, 86, 89 of Bockhold Deposition	13383	13385
Int-II-234	09-15-89 Memo	13400	13400
Int-II-231	Quality Concerns File	13407	

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P-R-O-C-E-E-D-I-N-G-S

8:30 a.m.

1
2
3 CHAIRMAN BLOCH: The hearing will come to
4 order.

5 Mr. Hull?

CROSS EXAMINATION

7 BY MR. HULL:

8 Q Good morning, Mr. Webb. If you would please
9 turn to what was previously marked as GPC Exhibit II-15,
10 and if you'd turn to Attachment B, page two of two
11 regarding the 1B diesel, please.

12 A I have it.

13 Q Do you note there that for what is identified
14 as start 153 on the 1B diesel that the comment for that
15 start is that it was an unplanned start?

16 A That's right.

17 Q And do you still have the GPC Exhibit 71 which
18 was your April 19 handwritten diesel count list?

19 A No, I don't.

20 Q Let me get that for you.

21 (Whereupon, the witness is proffered the
22 document.)

23 BY MR. HULL:

24 Q Referring to your handwritten April 19 list, I
25 didn't see any entry on the 1B diesel for that April 19th

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1 start. Is that correct that it's not on there?

2 A You're right, it's not on here.

3 Q Do you recall that there were some logs that
4 were not available to you when you did your log search on
5 April 19th?

6 BOARD EXAMINATION

7 CHAIRMAN BLOCH: I don't think Counsel is
8 trying to suggest something. I mean he's just asking do
9 you recall what was happening.

10 THE WITNESS: Yes, I'm trying to remember if
11 we had the shift supervisor and the control logs how up to
12 date the copies were that we had when we were reviewing
13 this, if we had the up to the minute copies or we only had
14 copies up to the previous day, and I can't recall.

15 BY MR. HULL:

16 Q Now, start 153 is listed as having taken place
17 about 3:00 in the morning, if you'll refer back to GPC
18 Exhibit II-15, is that correct?

19 A It looks like it says 0314.

20 Q And assuming that time is correct as listed
21 there, you had made your search of the logs well after
22 this time on April 19, correct?

23 A That's right.

24 Q Would you agree with me that start 153 was a
25 start with a problem?

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1 A I would have to agree it was not a planned
2 start, if the note says "unplanned" on a start.

3 Q Do you have any independent recall at this
4 point of anybody talking about this particular start at
5 the plant?

6 A No, sir, I don't.

7 Q Now, if you'd turn now to page seven of your
8 prefiled testimony.

9 A Okay, I've got it.

10 Q You reference there contacts between yourself
11 and Aufdenkampe and Odom during the afternoon of April 19.
12 During any of those contacts did you give either of those
13 individuals a verbal start count prior to delivering your
14 list to them on April 19?

15 A I don't recall giving them a count prior to
16 turning over the list, no, sir.

17 Q Do you recall any of the contacts with either
18 Mr. Aufdenkampe or Odom on the afternoon of April 19?

19 A I recall speaking to them at intervals telling
20 them what kind of progress I was making on the compilation
21 of the list.

22 Q Do you have any recall of giving them any
23 preliminary count numbers during any of those contacts?

24 A No, I can't recall talking about numbers.

25 Q If you'll turn now please to GPC Exhibit II-1.

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1 A Could you describe that, I don't know if I
2 have it here.

3 Q That's the tape 57 transcript.

4 A I don't have that.

5 (Whereupon, the witness is proffered the
6 document.)

7 BY MR. HULL:

8 Q And if you'll turn please to page 77 of that
9 transcript.

10 A All right.

11 Q Now you refer there to a misconception that
12 had started nine days ago. Do you see that?

13 A Yes.

14 Q Were you referring there to the start count
15 information that had been contained in the April 9 letter?

16 A Yes, I was.

17 Q And you thought that information was in error
18 when you said this on April 19?

19 A At that time I don't recall if I knew that it
20 was in error, but I do know it said that there had been no
21 problems or failures or words to that effect. By this
22 time on the 19th we knew that there had been tests with
23 problems or failures.

24 Q What did you mean when you said that we
25 shouldn't -- "I don't know if we should try to continue

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1 the misconception?"

2 A The misconception that we had had no problems
3 or failures.

4 BOARD EXAMINATION

5 CHAIRMAN BLOCH: So when you said -- I'm
6 sorry, this is Judge Bloch. When you just said that you
7 weren't sure if you knew there was an error in the letter,
8 what did you mean, you didn't know that that language was
9 in the letter?

10 THE WITNESS: What error, sir?

11 CHAIRMAN BLOCH: Doesn't the letter mention no
12 problems or failures?

13 THE WITNESS: Yes, sir.

14 CHAIRMAN BLOCH: So did you know there was a
15 problem in the letter?

16 THE WITNESS: By this time on April 19th or by
17 that time in the afternoon on April 19th.

18 CHAIRMAN BLOCH: You did know?

19 THE WITNESS: I knew, yes, sir.

20 CHAIRMAN BLOCH: Okay. I didn't understand
21 the preface to the answer that you gave.

22 THE WITNESS: Okay.

23 BY MR. HULL:

24 Q Mr. Webb, do you know if either in the April 9
25 letter or the April 19 LER whether GPC was trying to just

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1 give the NRC a list of total starts, or I'm sorry, a count
2 of total starts or whether they were trying to give NRC a
3 count of consecutive successful starts without problems or
4 failures?

5 MR. BLAKE: I have an objection to the portion
6 of -- it's a double question. It asks both with respect
7 to the April 19th LER and with respect to the April 9th.

8 CHAIRMAN BLOCH: Let's take a brief recess.

9 (Whereupon, at 8:40 a.m., a recess until 8:42
10 a.m.)

11 CHAIRMAN BLOCH: Let's go back on the record.

12 MR. BLAKE: I had an objection. There was a
13 double question.

14 CHAIRMAN BLOCH: Okay.

15 MR. BLAKE: It had to do with --

16 CHAIRMAN BLOCH: I sustain it. Mr. Hull can
17 just ask it twice.

18 BY MR. HULL:

19 Q Let me try to break it down, Mr. Webb. Let's
20 focus first on the April 9 letter.

21 MR. BLAKE: I have an objection to that. That
22 would have been my objection, John, and that is the man
23 had no role in the April 9 letter. So asking him about
24 what was meant by it, I think it outside the scope of his
25 testimony and --

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1 CHAIRMAN BLOCH: If you want to ask what's
2 meant, what he thought it was meant by on the 19th, so
3 that you know what his statements on the 19th meant,
4 that's okay.

5 MR. HULL: Let me try going about it this way,
6 Your Honor.

7 BY MR. HULL:

8 Q Mr. Webb, what was your understanding, in
9 other words what instructions, if any, were you given as
10 to what information you were supposed to be trying to get
11 regarding diesel start counts in your preparation of the
12 April 19 LER?

13 A On the afternoon of April the 19th I believe
14 we were supposed to verify that we had more than 20 starts
15 for each diesel with no problems or failures.

16 Q And were you supposed to be getting a
17 consecutive count of starts without problems or failures?

18 A I wasn't directed specifically of how to do
19 that.

20 Q And on this tape transcript of tape 57, after
21 performing your review, you felt that the statement about
22 no problems or failures in the April 9 letter was
23 incorrect, is that correct?

24 A I felt it had the potential to mislead people.

25 Q And what steps did you take to try to clear

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1 that up?

2 A At that time we were working on the April 19th
3 LER which was due that day, and one step I took was to ask
4 Mr. Mosbaugh how he would approach it or how he thought
5 that we should approach it.

6 Q When did you have this conversation with Mr.
7 Mosbaugh?

8 A I don't know what time of day this was. I
9 think maybe it was in the afternoon sometime.

10 Q The afternoon of April 19?

11 A Yes, sir.

12 Q And can you place that conversation in terms
13 of was it before or after this conference call with
14 corporate headquarters at Birmingham as reflected on the
15 tape 57 transcript?

16 A I don't know.

17 Q And what do you recall about this conversation
18 with Mr. Mosbaugh?

19 A I don't have an independent recollection other
20 than what I have seen on the transcript.

21 Q So you're referring here to the conversation
22 that occurred on pages 77 and 78 of the transcript?

23 A That's right.

24 Q Mr. Webb, after you had determined that there
25 was this misconception, that you refer to on the tape

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1 transcript, did you then go back to try to determine what
2 the source of that information was in the April 9 letter?

3 A No, sir.

4 Q And did anybody at that point give you any
5 information about what the source of that information had
6 been in the April 9 letter?

7 A I can't recall offhand.

8 Q And you didn't feel any obligation at that
9 point to go back and try to clear up this information in
10 the April 9 letter?

11 A I didn't feel an obligation on April 19th to
12 try to correct a piece of inconsequential information from
13 ten days earlier on a letter we weren't working on
14 anymore.

15 Q Why do you think the information was
16 inconsequential?

17 A Because if it was 18 or 19 starts or if it was
18 11 or 12 or 50 or 87, it didn't matter, it was just a
19 number.

20 Q It didn't matter to whom, to GPC or to the
21 NRC?

22 A It shouldn't matter to anybody, sir.

23 Q Could you explain that answer please?

24 A Certainly. You have a number of starts, and
25 if you had 10 good starts or 20 good starts or 50 or 100

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1 good starts, you haven't proved anything. You have to
2 have one good start to call your diesel operable, and we
3 had done that at that time.

4 Q Now, is this your opinion that you have today
5 or is this what was discussed amongst you and others on
6 the afternoon of April 19?

7 A My opinion strictly, sir.

8 Q And did you express this opinion, to the best
9 of our recollection, to anybody at the site on the
10 afternoon of April 19?

11 A I don't believe I did because we were speaking
12 about the LER rather than the April 9th letter for most of
13 that time.

14 Q Now, you'll agree though that this particular
15 part of the LER that was taking about diesel starts was
16 based on the information in the April 9 letter, correct?

17 A At least a portion of it was, yes, sir.

18 Q And not just partially, it was primarily based
19 on the April 9 letter regarding the diesel start counts,
20 correct?

21 A You mean this portion of the conversation?

22 Q No, I'm talking about the portion of the April
23 19 LER that talked about diesel start counts. That was
24 relying on the information in the April 9 letter, correct?

25 A Well, no, because by that time we had done an

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1 independent review of those start numbers.

2 Q But you were still taking those 18 and 19
3 numbers from the April 9 letter and using them as a base
4 line, weren't you?

5 A We had been in previous days, but by this time
6 on April -- or by that time in the afternoon on April 19th
7 we knew that those numbers were not good numbers anymore.

8 Q Well, why weren't they good?

9 A Because it gave the impression that we had no
10 problems or figures.

11 Q Mr. Webb, did it occur to you that when you
12 changed the language in the LER to several starts and the
13 Company insisted on putting in a number, that your view
14 about the lack of importance of the starts might not be
15 shared by others?

16 A No, at that time it didn't, no, sir.

17 Q Mr. Webb, at that point did you give any
18 consideration to just putting into the April 19 LER the
19 actual start numbers that you came up with on the
20 afternoon on April 19th?

21 A At what point? At that point you said, and I
22 just don't understand the question, what point?

23 Q After he had completed his review on April 19,
24 the afternoon of April 19 did you give any consideration
25 to putting your numbers in to the LER?

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1 A Well, it wasn't my call to make as to what
2 numbers went in there. I was asked to provide
3 information, so I provided it.

4 Q And this information that you provided exactly
5 was what?

6 A Was this list of diesel starts that we were
7 speaking of earlier.

8 Q But your list includes starts with problems or
9 failures, doesn't it?

10 A That's correct. No one asked me for a
11 recommendation as to how do you think we should reword
12 this. That was never put to me.

13 Q And you yourself didn't make a recommendation
14 of well, hey, why don't we just use the numbers that I
15 have come up with in my list of April 19?

16 A I don't recall making that recommendation.

17 Q Do you recall for what length of time on April
18 19 it was that you conferred with Mr. Odom about the
19 results of your evaluation of the records that day?

20 A It was probably 15 to 30 minutes.

21 Q You refer in page seven of your prefiled to
22 the normal quitting time. What were your regular hours
23 back in April of 1990?

24 A 7:30 to 4:00 p.m.

25 Q And it's your recollection that you were

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1 working on your start list after 4:00 p.m. on the
2 afternoon of April 19?

3 A Yes, sir.

4 Q And was it sometime after 4:00 p.m. that you
5 had your discussion with Mr. Odom about the results of
6 your start count?

7 A That was what I recall, yes, sir.

8 Q And can you recall at this point any of your
9 conversation with Mr. Odom at that time?

10 A I remember passing on to him the information
11 as shown on the list and the specific information that
12 there had been tests with problems, but I can't recall
13 what else might have been said.

14 Q And was it in the same conversation -- strike
15 that. And then I think you testified previously that a
16 half hour or so later you went back to Mr. Odom to see
17 what had happened to your list?

18 A That's right.

19 Q So that would have been around what, 5:00 p.m.
20 that you went back to Mr. Odom?

21 A It would be 4:30, between 4:30 and 5:00.

22 Q And that was at that point Mr. Odom said that
23 he had given your list to the man down the hall or words
24 to that effect?

25 A That's right.

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1 Q And did you ever determine who specifically he
2 was referring to by that comment?

3 A No, I didn't.

4 Q During the afternoon of April 19, after you
5 had done your list, were you ever told that you should try
6 to -- did you ever understand that you were supposed to
7 get a count of consecutive successful starts without
8 problems or failures?

9 A I don't recall being asked to do that.

10 Q Now, you had performed your count on April 19
11 with the assistance of Mr. Beacher, correct?

12 A That's right.

13 Q And was Mr. Beacher present when you spoke to
14 Mr. Odom about the results of your start count on April
15 19?

16 A I believe the three of us were in Mr. Odom's
17 office.

18 Q And do you recall if Mr. Beacher said anything
19 to Mr. Odom about the start counts?

20 A I believe all three of us were speaking, but I
21 can't recall what was said.

22 Q If you'll refer back please for a moment to
23 your April 19 list of starts. Down at the bottom of the
24 sheet marked DG1B you have an entry for April 18, do you
25 see that?

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1 A I see it.

2 Q Do you recall if that start was in the logs
3 when you looked at them on April 19, or was this a start
4 which you had learned about from Mr. Stokes?

5 ADMINISTRATIVE JUDGE MURPHY: Do you want to
6 be more specific about the logs, Mr. Hull?

7 BY MR. HULL:

8 Q The diesel control log or the shift supervisor
9 log?

10 A I believe it came from the logs, but I can't
11 be sure.

12 Q Did you become aware that there was another
13 start on the DG1B on the afternoon of April 19 of which
14 you had not previously been aware?

15 A I have become aware of it since that time. I
16 don't believe I knew about it on the 19th.

17 Q And on April 19 you did not contact Mr. Stokes
18 about trying to find out if there were any other starts?

19 A I don't recall.

20 BOARD EXAMINATION

21 CHAIRMAN BLOCH: Mr. Webb, Judge Bloch.

22 THE WITNESS: Yes, sir.

23 CHAIRMAN BLOCH: I'd like to ask you about
24 what you know about the practices in keeping that log.
25 Would there be any delay at all after an unsuccessful

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1 start and the entry in the entry in the start log?

2 THE WITNESS: Are you referring to the control
3 logs or the control room logs?

4 CHAIRMAN BLOCH: Yes.

5 THE WITNESS: There was not a requirement to
6 enter diesel starts in those logs, so there may be --
7 there would normally not be a delay, but it may not be
8 entered there at all.

9 CHAIRMAN BLOCH: But they were primarily, as
10 you looked at them, they were entered there most of the
11 time, weren't they?

12 THE WITNESS: Most of the time they're entered
13 in there, but we found later that some starts were not
14 entered.

15 CHAIRMAN BLOCH: Do you remember how many
16 quantitatively, was it one or two?

17 THE WITNESS: There was a few of them over the
18 period of the month between March the 20th and April 19th.

19 CHAIRMAN BLOCH: When they are entered would
20 you be surprised if it took more than two to three hours
21 after the event to enter it?

22 THE WITNESS: Well, seeing how it's been five
23 years and some of them haven't been entered yet, no I
24 wouldn't be surprised.

25 MR. BLAKE: Judge Bloch, was your question if

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1 it were entered would you be surprised?

2 CHAIRMAN BLOCH: Yes, if it were entered,
3 would you be surprised that it would take more than two or
4 three hours to make that entry?

5 THE WITNESS: Well, since it was not a
6 requirement, and if they had gone two or three hours
7 without making it, I would kind of be surprised if they
8 went back and recorded something that happened two or
9 three hours earlier.

10 CHAIRMAN BLOCH: So you think, if they were
11 going to record it, it would be much quicker than within
12 two hours?

13 THE WITNESS: It would probably be done at the
14 time or very closely to the time of the event itself.

15 CHAIRMAN BLOCH: And when you were making your
16 list did you have the -- when had you gotten the control
17 room log, when did you get those copies?

18 THE WITNESS: We generally get copies twice a
19 week up in our office. At this particular time we didn't
20 have all the logs. Mr. Beacher had gone to document
21 control to retrieve some of these logs that we were
22 missing.

23 CHAIRMAN BLOCH: So he got current information
24 as of what time on the 19th?

25 THE WITNESS: I don't recall how current the

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1 logs were that he brought back to us that we used to make
2 up this list.

3 CHAIRMAN BLOCH: Well, did he make xerox
4 copies of the logs, how did he do it?

5 THE WITNESS: He got xerox copies of the
6 original log sheets from document control. I'm sorry, I'm
7 confusing you. I believe he got xerox copies of the
8 copies that are sent to document control. I believe the
9 originals stay in the control room.

10 CHAIRMAN BLOCH: And do you know, do you or do
11 you not know, what he did about getting a copy of the data
12 for that day, the 19th?

13 THE WITNESS: I can't recall what information
14 we used to get the information on tests from the 19th.

15 CHAIRMAN BLOCH: Thank you. That clears it
16 up.

17 BY MR. HULL:

18 Q Turning your attention, Mr. Webb, back to the
19 tape 57 transcript, do you have that in front of you?

20 A Yes, I do.

21 Q Do you recall if you expressed your concerns
22 about a misconception to anyone else on the afternoon of
23 April 19 other than what is reflected on the transcript?

24 A I don't believe so.

25 Q And if you'd turn now please to GPC Exhibit 2

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1 which is the tape 58 transcript.

2 A I've got it.

3 Q Turn to page 16.

4 A Okay.

5 Q Down near the bottom on page 16 you make a
6 comment "Well, we really haven't said we have done
7 anything." Do you recall participating in this conference
8 call with corporate on the afternoon of April 19?

9 A Before I answer that I guess I need to ask, is
10 that what this tape is, this is a tape of a conference
11 call from April the 19th?

12 Q Yes, sir.

13 A I don't recall.

14 Q If you need to refer to other portions of it
15 to familiarize yourself with it, please do so.

16 (Whereupon, the witness examines the
17 document.)

18 THE WITNESS: I don't recall being on any
19 conference calls with corporate personnel on April the
20 19th.

21 BY MR. HULL:

22 Q Now, on April 19, if you'll look at page 16,
23 you'll see Mr. Shipman made some remarks.

24 A Okay.

25 Q And Mr. Shipman at that time was in corporate,

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1 correct?

2 A That's correct.

3 Q And so is it fair to say that you were
4 participating in a conference call with corporate at that
5 time?

6 A No, I was not on any conference calls with
7 corporate that day.

8 Q Are you saying that perhaps line 24 of page 16
9 is in error?

10 A I believe it's in error, yes, sir.

11 MR. BLAKE: You understand, John, that there
12 is a pause in the middle of that page, right? It appears
13 that line 21 may be indicative of something.

14 MR. HULL: Well, you know, Mr. Shipman is
15 speaking even after the pause I believe, so.

16 MR. BLAKE: Okay, thank you.

17 CHAIRMAN BLOCH: Just so that the Board won't
18 be completely in the dark, what is it that the pause
19 indicates?

20 MR. BLAKE: Well, what I thought when I first
21 looked at the page was that the prospect was that there
22 was a conversation going on and then there had been a
23 break in the tape. That's what I wondered.

24 CHAIRMAN BLOCH: It's possible it could be a
25 break.

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1 MR. BLAKE: I think he's pointed out to me
2 that I was wrong.

3 CHAIRMAN BLOCH: I think in light of the
4 witness' testimony, some effort should be made to re-
5 identify the voice of Mr. Shipman on that tape, if that's
6 possible, just to check it again to make sure that
7 everyone is correct on the voice.

8 MR. BLAKE: Well, we can certainly listen to
9 it again, but this is one of the few things that the
10 parties in this proceeding have agreed to.

11 CHAIRMAN BLOCH: But the witness hasn't, so.

12 MR. BLAKE: You know, the witness may not
13 remember.

14 CHAIRMAN BLOCH: That could be, but he seems
15 pretty firm in his memories, so.

16 BY MR. HULL:

17 Q Let me ask you, Mr. Webb, did you have any
18 part in listening to tape 58 in preparation of this
19 transcript?

20 A I don't believe I heard tape 58, or at least I
21 don't recall I heard it prior to now.

22 Q And back on the afternoon of April 19 do you
23 recall learning that there was a conference call going on
24 with corporate at some point?

25 A I remember Rick Odom telling me that the

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1 people down the hall were talking to corporate people
2 about the LER. And when he later told me that he gave the
3 information on the diesel starts to the men down the hall,
4 I made the assumption that they were still on the phone
5 call with people at corporate and everyone would know that
6 we had had these diesel start problems that are listed on
7 the list.

8 Q Do you recall actually on the afternoon of
9 April 19, after you had completed your list, actually
10 seeing anybody talking on the phone?

11 A Not with anybody from corporate.

12 MR. BLAKE: Judge Bloch, maybe the assignment
13 ought to be to determine whether or not this was Mr. Webb
14 rather than all of these other things being Mr. Shipman or
15 not.

16 CHAIRMAN BLOCH: That's another possibility,
17 yes. You mean the transcript, not the person sitting
18 here?

19 MR. BLAKE: That's right.

20 MR. HULL: Your Honor, let me move on, but
21 maybe at the next break, if we can set up the tape playing
22 equipment, we should have Mr. Webb listen to this portion
23 of the tape since he'd be the best person to be able to
24 tell whether it's actually his voice or not.

25 CHAIRMAN BLOCH: Sounds like a good idea.

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1 MR. HULL: And Ms. Young has reminded me that
2 the Board has the original of that tape, so we'd need to
3 get that from you.

4 CHAIRMAN BLOCH: We will accommodate you.

5 BY MR. HULL:

6 Q Mr. Webb, if you'd turn please to page eight
7 of your prefiled testimony. You state there that on April
8 20 you questioned the subsequent to the test program
9 language in the LER and recalled that there were only 10
10 or 11 starts following the return to operability, do you
11 see that?

12 A I see it.

13 Q How do you define operability?

14 A When a diesel test is performed per procedure
15 14980, it's for the purpose of calling the diesel
16 operable. So it's a very definitive time and space.

17 Q And can you determine from your April 19 list
18 when the return to operability took place for DG1B?

19 A On the list there is a note next to the entry
20 on March 28th '90 at 0403 that says 14980, so I would
21 assume that that's the time it was returned.

22 Q Now, that particular entry was not in your
23 handwriting though, is that correct?

24 A That's true, that came later.

25 Q And so that would not have been on the list

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1 that you provided on the afternoon of April 19, correct?

2 A That's right.

3 Q When do you first recall hearing use of the
4 term "comprehensive test program?"

5 A April 20th.

6 Q And who used that term on April 20?

7 A I saw it written on the copy of the LER that
8 had been faxed to me that morning.

9 Q And did the term mean anything to you at that
10 point?

11 A I wasn't sure what it meant.

12 Q And do you recall if the term's meaning was
13 written down or defined by any procedures, plant
14 procedures, in 1990?

15 A I didn't know at the time.

16 Q Do you recall if you took any steps at that
17 point to determine what that term meant?

18 A Well, the first thing I did was turn around to
19 Mr. Mosbaugh and ask him if he knew.

20 Q And do you recall what he said in response?

21 A I believe he said that he didn't know what the
22 statement meant.

23 Q And did you have any further follow-up with
24 Mr. Mosbaugh on this point as to what the term meant?

25 A Not at that time.

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1 Q Did you have some follow-up at a later time on
2 this point with him?

3 A I believe on or about April 30th I met with
4 him again to obtain an updated list of diesel starts. And
5 at that time or at some other meeting with him near that
6 time, on or around April 30th, I believe he told me that
7 following the -- or the under voltage testing of the
8 diesel would have been the time that we would have said
9 that the comprehensive test program was completed, and
10 then the next test would be under voltage test for each of
11 the two diesels, 1A and 1B.

12 Q And did you agree with what he was telling you
13 on that?

14 A I had no basis to disagree, so I assumed that
15 it was correct.

16 Q If you would turn please to page 10 of your
17 testimony. You identify there Exhibit B which was
18 something Mr. Mosbaugh apparently wrote, is that correct?

19 A That's right.

20 Q And referring to Exhibit B does it appear to
21 you that Mr. Mosbaugh agreed with the use of the terms
22 "comprehensive test program" and "successful starts" in
23 the May 8, 1990 draft LER revision?

24 A Would you repeat that please?

25 Q In reviewing Exhibit B does it appear to you

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1 now that Mr. Mosbaugh agreed with the use of the terms
2 "comprehensive test program" and "successful starts" in
3 the May 8, 1990 LER draft revision?

4 A It appeared that he agreed with it, yes, sir.

5 Q And does Exhibit B agree with your
6 recollection of what Mr. Mosbaugh had told you in this
7 conversation that you recall on or about April 30?

8 A Yes it does.

9 Q I need to go back for a moment, Mr. Webb, to
10 April 19. Did you know whether control logic testing was
11 involved in the starts of the diesel generator?

12 A Not on April 19th, no.

13 Q What about on May 14?

14 A By May 14th I did because that had been part
15 of the definition for comprehensive test program.

16 Q And you're referring there to the definition
17 of comprehensive test program as reflected on Exhibit B?

18 A That's correct.

19 Q And did you have any further discussions that
20 you recall with Mr. Mosbaugh on the meaning of
21 comprehensive test program?

22 A I don't recall any.

23 Q Do you agree with this definition of
24 comprehensive test program as reflected on Exhibit B?

25 A Are you asking for my opinion or?

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1 Q Let me strike that question. Do you have to
2 start the diesel to do control logic testing?

3 A It's normally done that way, yes, sir.

4 Q Do you have to start the diesel to do sensor
5 calibration?

6 A I know that the sensors can be calibrated
7 independently before they're installed, but I believe
8 after installation -- well, I shouldn't say. I guess I
9 don't really know if you have to start it to calibrate it.

10 Q Now, also on page 10 of your prefiled you
11 reference Mr. Bockhold's comment to include successful
12 starts as of May 14, 1990. Did you know then what Mr.
13 Bockhold mean by the use of the term "successful start?"

14 A I don't recall what I thought it was at that
15 time, but I am assuming that it was starts with no
16 problems or failures.

17 Q And do you recall Mr. Bockhold ever asking you
18 to find out how many consecutive successful starts without
19 problems or failures had taken place by May 14?

20 A It's possible, but I don't recall it.

21 Q Well, if you don't recall, you don't recall.
22 Don't give us possibilities. You don't have any
23 recollection I take it at the present time of any such
24 conversations with Mr. Bockhold?

25 A That's true.

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1 Q Do you know at this point whether there were
2 any, and I'm talking about May 14, 1990, do you know at
3 that point if there were any bad feelings between Mr.
4 Bockhold and Mr. Mosbaugh?

5 A That's a tough question, but no I can't say
6 that I know of any.

7 Q You didn't. Why is that a tough question?

8 MR. BLAKE: Because one reason it's outside
9 the scope of his testimony.

10 THE WITNESS: -- measuring people's feelings.

11 MR. HULL: I'm sorry, I didn't hear the
12 witness' response.

13 THE WITNESS: I wasn't accustomed to measuring
14 people's feelings.

15 BY MR. HULL:

16 Q What was your level of interaction with Mr.
17 Bockhold in May of 1990, did you interact with him on a
18 daily basis or was it not that frequently?

19 A Not that frequently.

20 Q Was that due to his being in a much higher
21 position in GPC than you were?

22 A That may have been part of it. We were on the
23 same floor of the same building, so I would see him
24 regularly. As far as interacting in a professional
25 capacity, whenever I had a report such as an LER or other

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1 document that I had taken to him and asked for his
2 approval, he would often speak to about it, but that was
3 normally the extent of our interaction.

4 Q Now, again focusing back in April-May of 1990,
5 do you recall participating in any meetings where Mr.
6 Mosbaugh and Mr. Bockhold were also present?

7 A For the month of May 1990?

8 Q April or May 1990, that general time?

9 A I don't recall. It's possible.

10 Q So do you recall if there were any
11 interactions between Mr. Mosbaugh and Mr. Bockhold during
12 that period of time?

13 BOARD EXAMINATION

14 CHAIRMAN BLOCH: He's asking about whether you
15 observed interactions between them?

16 THE WITNESS: I can't recall seeing the two of
17 them together at the same time in that time frame.

18 BY MR. HULL:

19 Q Would you turn please, Mr. Webb, to page 11 of
20 your testimony.

21 CHAIRMAN BLOCH: While we do that, let's go
22 off the record for a second.

23 (Whereupon, at 9:15 a.m., off the record until
24 9:18 a.m.)

25 BY MR. HULL:

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1 Q Mr. Webb, on page 11 of your prefiled
2 testimony you describe how you learned about a delay in
3 the corporate office in reviewing the draft LER revision.
4 Did you ever learn why that delay occurred?

5 A I received an explanation from Georgia Power
6 counsel a couple of years ago.

7 Q I don't want to inquire into any conversations
8 that are of a privileged nature that you may have had with
9 your counsel. But can you tell us what you learned about
10 why that delay had taken place?

11 MR. BLAKE: Excuse me. I need to object
12 because unless there is some other basis for it, I don't
13 know how he can accomplish the question.

14 CHAIRMAN BLOCH: What's the relevance of that?

15 MR. HULL: Let me ask a few other questions
16 and see if it --

17 MR. BLAKE: Thank you.

18 BY MR. HULL:

19 Q Did you ever -- Strike that.

20 You had a lot of experience in drafting LERs
21 and other papers that were going to the NRC prior to 1990,
22 is that correct?

23 A A couple of years worth.

24 Q And you had occasion to interact with the
25 corporate office in Birmingham in conjunction with doing

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1 those activities?

2 A That's right.

3 Q And in the past, had you ever experienced such
4 a delay as had taken place here in getting comments back
5 from corporate on papers you were working on?

6 A It may have happened -- Excuse me, may have
7 happened before but it was -- it would have been rare.

8 Q And do you recall any delays of the length
9 that took place regarding this draft LER revision?

10 A I can't recall.

11 MR. HULL: Your Honor, I think it may be
12 relevant to determine why such a delay took place here in
13 this with respect to the draft LER revision.

14 MR. BLAKE: I don't know what you mean by your
15 observation. Do you mean you mean to inquire into counsel
16 communication?

17 MR. HULL: I'm not interested in him telling
18 us that counsel so and so told him so and so but I think
19 he can describe in general terms what his understanding
20 now is of why that delay took place.

21 CHAIRMAN BLOCH: Let me clarify a bit.

22 BOARD EXAMINATION

23 CHAIRMAN BLOCH: On page 11, line 10 of your
24 testimony, you say, "Corporate told you that the revision
25 had been put on a shelf." I'm sorry. I'm reinterpreting

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1 it. You are saying in effect, aren't you, that someone at
2 the corporate office told you the revision had been put
3 on a shelf, is that right?

4 THE WITNESS: That's true.

5 CHAIRMAN BLOCH: Now, was this something that
6 counsel told you at a later date in addition to that, or
7 was it the same thing?

8 THE WITNESS: Counsel told me at a later date
9 the reason why it had been put on a shelf.

10 CHAIRMAN BLOCH: Well, I am reluctant to allow
11 you to ask about what counsel told him. It's possible
12 this could handled through an interrogatory of Georgia
13 Power.

14 BY MR. HULL:

15 Q Let me ask, Mr. Webb, did you ever get an
16 explanation from anybody on this point other than GPC
17 counsel?

18 A No, I have not.

19 MR. HULL: Your Honor, I still think that the
20 witness could describe in general terms what his present
21 understanding is. I don't think he needs to specify which
22 attorney said this or any details.

23 MR. BLAKE: It doesn't make any difference to
24 me. I still have the problem. If it was counsel that
25 gave him some communication. Frankly, let's assume what

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1 would be the importance or significance of what it is he
2 now knows? I simply don't see it and I don't think the
3 Board has a need for what this witness knows or heard from
4 counsel.

5 CHAIRMAN BLOCH: I think you may be right but
6 I'd like to know how you'd feel about responding to an
7 interrogatory from the Board that Georgia Power tell us
8 what it knows about the reason that this LER was put on
9 the shelf?

10 MR. BLAKE: Well, I think that we've elicited
11 this same amount of information, this information, from
12 others who were involved.

13 CHAIRMAN BLOCH: All right. If we already
14 have it, then we don't need it now.

15 MR. BLAKE: I think that in fact the NRC staff
16 counsel determined information from Stringfellow when he
17 was here and he was the source of the on-the-shelf, I
18 think, conversation and the subsequent knowledge about why
19 it was there. I think they have it.

20 THE WITNESS: Excuse me, Ernie. It was Amy
21 Streetman who told me that, not Jack.

22 MR. BLAKE: Who?

23 THE WITNESS: Amy Streetman.

24 MR. BLAKE: Oh. It's a new name to me. I
25 didn't -- But I think they have the information from

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1 Stringfellow who was at corporate about what was being
2 done with the document at that time, Judge Bloch. They
3 may recall better than I do.

4 MR. HULL: Your Honor, again, on this point,
5 Mr. Mosbaugh has raised an allegation that this thing was
6 buried at corporate. So, we think it's relevant.

7 CHAIRMAN BLOCH: I would like Georgia Power to
8 respond to an interrogatory about why this was on the
9 shelf and they should speak to this new person as well,
10 that she knows. But just, I think that's the best way to
11 handle it. So we don't have to know what came from
12 counsel at that time. But apparently there could be
13 additional information that counsel has that we don't
14 have. And the way to ask it, I think, is to ask Georgia
15 Power the interrogatory.

16 MR. BLAKE: All right, Judge Bloch. And we'll
17 review as well what the state of the information is on
18 this topic.

19 CHAIRMAN BLOCH: If it's already fully covered
20 and we already know it, then you'll just state that.

21 MR. BLAKE: Thank you.

22 And thank you, John.

23 BY MR. HULL:

24 Q Turn to page 12 of your prefiled testimony.
25 Let me first ask you, Mr. Webb, when GPC is working on a

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1 revised LER, do you know what the normal period of time is
2 for that revision to be filed?

3 A Normally would be 30 days.

4 Q On page 12 of your prefiled testimony you
5 state your view that the number of starts without problems
6 or failure as of May 14 or June 11 was meaningless. Why
7 do you think that it was meaningless?

8 CHAIRMAN BLOCH: I think he's already
9 testified about that. We've had extensive -- Is that
10 something that you're covering in a new way, Mr. Hull,
11 because you've asked him that question several times?

12 MR. HULL: I don't believe I have, Your Honor.
13 I hadn't covered it and it's in my cross exam plan that I
14 hadn't covered it.

15 MR. MICHAEL KOHN: Intervenor's counsel
16 covered it but I think NRC has a right to cover it even if
17 we had covered it.

18 CHAIRMAN BLOCH: Well, no, that's the
19 definition of redundancy. If he has some new angle, he
20 could cover it.

21 MR. HULL: If it's been previously covered by
22 Mr. Kohn, I'll move on. I didn't have that in my notes or
23 I didn't recall that.

24 MR. MICHAEL KOHN: Your Honor, I'd like to --

25 CHAIRMAN BLOCH: Two of the judges also

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1 recollect that it happened this morning. I mean, we're
2 having trouble remember a half hour ago but I think we do.

3 BY MR. HULL:

4 Q Mr. Webb, I now want to just ask you a few
5 questions following up on what Mr. Kohn had asked you, and
6 the others had asked you, yesterday. You stated in
7 response to a question from Judge Bloch that you could not
8 recall asking Mr. Aufdenkampe for the basis of his comment
9 that the numbers in the April 9 letter may not be correct.
10 Did you ever learn the basis of that comment, either from
11 Mr. Aufdenkampe or anybody else?

12 A I didn't know why Mr. Aufdenkampe made the
13 comment and I still don't know why he made it. When we
14 did the diesel start listing on April the 19th and we came
15 up with the number of diesel starts that had problems or
16 failures, then that kind of validated what he had told me
17 six -- that he had mentioned six days earlier.

18 Q In response to a question from Mr. Kohn you
19 said that "management had told you to remove the 18 and 19
20 numbers from the draft LER." By management, were you
21 referring to Mr. Aufdenkampe alone or others in addition
22 to him?

23 A Can we put a date on that or a time?

24 Q I think this would have been after he had told
25 you around April 13 that the numbers may not be correct?

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1 A Well, that management would have been Mr.
2 Aufdenkampe who told me that.

3 Q And I believe you testified yesterday that
4 there was a set of records that was kept behind the diesel
5 system engineer's desk. Do you recall that testimony?

6 A Yes.

7 Q Was that the case in 1990 as well as today?

8 A Yes, it was.

9 Q And these records would have been copies of
10 the originals which were kept in the vault?

11 A That's true.

12 Q And there wasn't any sort of restricted access
13 to those copies, was there?

14 A No, anybody could walk up there and look at
15 them.

16 MR. HULL: One moment, Your Honor.

17 BY MR. HULL:

18 Q Mr. Webb, do you know why the April 19 LER did
19 not use the Reg. Guide 1.108 terminology regarding valid
20 tests and valid failures?

21 A No, I don't.

22 Q And at that time, did you question the wisdom
23 of not using that terminology in the April 19 LER?

24 A I can't recall if I questioned it at that
25 time.

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1 Q Did you question it at some later time?

2 A In the process of doing the revised LER, I
3 questioned it and used it in a -- one of the drafts of the
4 revision.

5 Q Now, in reviewing the drafts of the LER
6 revision that were produced yesterday, it seemed that the
7 numbers of counts were changing from draft to draft. Do
8 you recall that?

9 A Yes, they were.

10 Q And, was there some discussion that you had at
11 that point about hey, maybe we should use valid tests and
12 valid failures?

13 A There was a point during the revision process
14 when I brought that up and that was adopted.

15 Q And do you recall who you raised that with
16 initially?

17 A It was probably Rick Odom and then John
18 Aufdenkampe.

19 Q And do you recall at some point that Mr.
20 Majors became involved in the revision rewrite effort?

21 A I believe he became involved very late, like
22 on the last one or two days. Approximately June 28th.

23 Q And prior to that, you had been working with
24 Mr. Stringfellow on the draft revision?

25 A That's right.

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1 Q And did that pose any handicaps to you in your
2 efforts to revise the draft LER revision?

3 A It wasn't so much a handicap for me but I
4 thought it was a handicap for Mr. Majors.

5 Q Did you ever learn why the task had been
6 switched from Mr. Stringfellow to Mr. Majors?

7 A I can't recall.

8 Q Do you recall whether it was actually Mr.
9 Majors who had suggested the change in terminology or was
10 it you that had initially come up with that suggestion?

11 A Well, I thought I was the one but I may have
12 spoke with him about it.

13 Q Did you feel that you had the knowledge and
14 experience to identify successful starts when you were
15 performing your count on April 19 for the April 19 LER?

16 A It would depend on the definition of
17 successful starts.

18 Q And did you understand what the successful
19 starts, what that terminology, meant on April 19?

20 A I had an idea it meant starts without problems
21 or failures but it was not a defined regulatory item.
22 There was no -- a definition that we could look up in
23 CFR for this new idea of successful starts.

24 Q And did that pose any problems for you in
25 performing your count on April 19?

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1 A No, I just gave a straight list of all the
2 diesel starts, the times of the starts, and any problems
3 that came up as according to the logs.

4 Q And is it your testimony today, Mr. Webb, that
5 you were never instructed on April 19 to obtain a count of
6 successful starts, consecutive successful starts, without
7 problems or failures?

8 A The charter was to come up with a -- was to
9 verify the more than 20 times each without problems or
10 failures. And I was asked by my supervisor to get a
11 listing of all the diesel starts. So I got a listing of
12 all the diesel starts and gave it to my supervisor who
13 passed it on.

14 Q So is your testimony that you were not
15 instructed, to your recollection, at any time in April of
16 1990 to obtain a count of successful consecutive starts
17 without problems or failures?

18 A I can't recall.

19 MR. HULL: No further questions, Your Honor.

20 BOARD EXAMINATION

21 CHAIRMAN BLOCH: Just for clarification, Mr.
22 Webb. When you use the term successful starts, do you
23 also think of them as being consecutive successful starts?

24 THE WITNESS: Only if that's part of the
25 definition that you say consecutive successful starts,

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1 then yes, you would have to say that. But if you don't
2 say consecutive, then --

3 CHAIRMAN BLOCH: But if you say successful
4 starts without problems or failures, does that mean
5 consecutive to you?

6 THE WITNESS: Not necessarily.

7 CHAIRMAN BLOCH: Does that cause you to ask
8 any more questions, Mr. Hull?

9 MR. HULL: Not at this point, Your Honor, no.

10 CHAIRMAN BLOCH: We'll take our ten minute
11 break now.

12 We're off the record.

13 (Whereupon, at 9:36 a.m. a brief recess until
14 9:55 a.m.)

15 CROSS EXAMINATION

16 BY MR. MICHAEL KOHN:

17 Q Mr. Webb, was there any demarkation between
18 what you and Mr. Beacher and were going to do with respect
19 to getting the logs -- Let me start off. Did both of you
20 start that project at the same time?

21 A Yes, we started at the same time.

22 Q So, it seems to me that there would be a
23 normal division of responsibility, one person start on one
24 diesel and someone start on the other. Is that how you
25 divided it?

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1 A No, we divided by the two different logs. I
2 was going to look at the shift supervisor logs. He was
3 going to look at the control logs.

4 Q And then you wrote down everything that was in
5 both logs on the list?

6 A That's right. When I got the information from
7 Mr. Beacher, I took his list of control log diesel starts
8 and my list of shift supervisor diesel starts and put them
9 -- put them on this one list.

10 Q So, you completed -- Let me start off there.
11 At one point there would have been three lists, if I
12 understand it. You wrote a list of the control room log.
13 Mr. Beacher wrote a list of the shift supervisor log. And
14 then those two lists were merge together?

15 A That's right.

16 Q If I understand it correctly, all the logs,
17 the control room logs for the 1B diesel you had, you
18 didn't have to go look for any of those. It was the 1A
19 diesel that you were missing logs, correct?

20 A No, the control logs cover both diesels.

21 Q Let me rephrase it. You were missing pages
22 from the 1A. You weren't missing pages from the 1B?

23 A No, both -- the controls logs cover both
24 diesels and we were missing pages of the control logs.

25 CHAIRMAN BLOCH: And you know specifically you

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1 were missing pages of the 1B as well as pages of the 1A?

2 THE WITNESS: Let me say again, Judge, that
3 the control logs cover both diesels, 1A and 1B, in the
4 same log. And there were some pages of those control logs
5 that were missing.

6 CHAIRMAN BLOCH: Thank you. I didn't
7 understand that.

8 BY MR. MICHAEL KOHN:

9 Q At an early point, then, there was a list of
10 the shift supervisor logs that would have demonstrated
11 that you did not have the correct count?

12 CHAIRMAN BLOCH: That's repetitious.

13 MR. MICHAEL KOHN: I'm asking that it would
14 have identified that they did not have the correct count.

15 CHAIRMAN BLOCH: Would the list from the shift
16 supervisor's log alone show that the count was not
17 correct?

18 MR. MICHAEL KOHN: Yes.

19 CHAIRMAN BLOCH: All right. Then that's
20 allowable.

21 THE WITNESS: Not necessarily.

22 BY MR. MICHAEL KOHN:

23 Q It would give a preliminary indication?

24 A It may have. I can't recall.

25 Q Now, weren't you getting communications back

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1 from upper management that they wanted information? Were
2 you communicating back the shift supervisor log does not
3 look like we can verify what we found? We're now looking
4 at the control room log?

5 A I believe we told Rick Odom that at some time,
6 yes, that we only had one log. We had to get the other
7 log and we're going to have to wait until we had both logs
8 to confirm that we had a good listing.

9 Q And --

10 CHAIRMAN BLOCH: The question wasn't the same
11 as the response. I think he was suggesting --

12 MR. BLAKE: It was a series of questions,
13 Judge Bloch, in fairness to the witness.

14 CHAIRMAN BLOCH: That's true. I'm not
15 criticizing the witness. But the question was whether
16 when you had looked at the shift supervisor's log, you
17 developed enough information to communicate that there
18 were already problems about the town?

19 THE WITNESS: I can't recall if we decided
20 there was enough information or if we passed that ton to
21 anybody at that point.

22 BY MR. MICHAEL KOHN:

23 Q Wasn't the information you were looking for to
24 determine whether there were any problems or failures
25 occurring between March 20 and some date in April?

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1 MR. BLAKE: I have to really object to what he
2 was asked and what he was looking at. I don't know how
3 many times but it's got to be at least a half a dozen.

4 MR. MICHAEL KOHN: Your Honor, this is a
5 situation where I'm exploring the witness and to get
6 there, we have to establish obvious facts.

7 MR. BLAKE: You have established them. That's
8 why they're obvious.

9 CHAIRMAN BLOCH: He has said several times
10 what the purpose of his counting was and it wasn't quite
11 what you just said.

12 BY MR. MICHAEL KOHN:

13 Q At some point, did you know that you were to
14 obtain -- Let me rephrase it.

15 Were you aware that the most important
16 information that you had to document on your list was
17 whether a failure or problem occurred at any time between
18 March 20 and April 19?

19 A No.

20 Q Are you saying that you could then prepare
21 just a list of starts without annotating whether or not a
22 problem or failure occurred?

23 MR. BLAKE: Objection.

24 CHAIRMAN BLOCH: He didn't say that. He's
25 going to get the list of starts and he's going to put

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1 problems or failures on the list. He's said that many
2 times.

3 BY MR. MICHAEL KOHN:

4 Q I want you to look at page 76 of Georgia Power
5 Exhibit 1 which is Tab 57.

6 A Page 76?

7 Q Uh huh.

8 A All right. I've got it.

9 Q On the bottom of page 76 Mr. Mosbaugh asks,
10 "Basically, if you had all the logs between March 23 and
11 April 9, inclusive, you could have what you needed. And
12 all you'd need to do, I think, is get the B machine. Do
13 you see that?

14 A I see it.

15 Q Did Mr. Mosbaugh make this comment to you --
16 Did you understand that to be an instruction from Mr.
17 Mosbaugh?

18 BOARD EXAMINATION

19 CHAIRMAN BLOCH: Well, before you answer that,
20 do you know whether or not you were present at that part
21 of the conversation, Mr. Webb?

22 THE WITNESS: I don't have an independent
23 recollection. And looking at this transcript, I can't
24 tell if I was in the room or not.

25 CHAIRMAN BLOCH: All right. If you could take

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1 a few moments to ascertain that, if you can?

2 Mr. Kohn, I'm having trouble figuring out the
3 relevance. Do we need to exclude the witness to have that
4 discussion?

5 MR. MICHAEL KOHN: Yes.

6 CHAIRMAN BLOCH: You're assured that you have
7 assured yourself that this is relevant to your case?

8 MR. MICHAEL KOHN: Yes.

9 CHAIRMAN BLOCH: All right. Then let's just
10 go with it.

11 THE WITNESS: Could you repeat the question,
12 please?

13 BY MR. MICHAEL KOHN:

14 Q Let's start over. On the bottom of page 76
15 Mr. Mosbaugh defines the information he needs, saying,
16 between March 23 and April 9, inclusive, a list for the B
17 machine, correct?

18 A That's the way it reads here.

19 Q And then on the top of page 77 Mr. Mosbaugh
20 asks, "Do you have that?" And there is a pause. No one
21 is responding. Do you believe you had the list at that
22 time? And I want you to answer your question based on
23 your comment that you make later on page 77, lines 16
24 through 24, saying that it's time to correct the
25 misconception.

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1 A Apparently I had enough information at this
2 point to know that we had had some starts with problems or
3 failures. But we didn't have all the information to come
4 up with the complete listing because on page 78 Odom says,
5 "I don't have all the control logs is my problem right
6 now. I've got days missing." So we must have been in the
7 middle of tabulating this list at this time.

8 But I still can't ascertain whether or not I
9 was in the room when Mr. Mosbaugh made the statement at
10 the bottom of page 76 starting with line 22.

11 Q Why didn't you meet with Mr. Aufdenkampe or
12 Mr. Mosbaugh yourself on April 19 to discuss what your
13 log, excuse me, your start list meant?

14 A I passed it to my supervisor and he had passed
15 it to one of those two people I had been told. So there
16 was no reason to follow up behind him.

17 Q Now, do you think a question could arise as to
18 what an entry meant?

19 A In relation to what?

20 Q If someone handed me this document, I might
21 note that the last entry is --

22 CHAIRMAN BLOCH: Mr. Kohn, the document you're
23 referring to is?

24 MR. MICHAEL KOHN: Georgia Power Exhibit 71.

25 BY MR. MICHAEL KOHN:

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1 Q I might note that the last entry is 4/18 and I
2 might want to know whether there was a start on 4/19. And
3 whether you had checked it. And Mr. Odom couldn't answer
4 that, could he?

5 A I don't know.

6 Q Based on your communications with Mr. Odom, do
7 you think Mr. Odom could have answered that question?

8 A I can't recall if we had up-to-date -- up to
9 the minute information on April the 19th and it's
10 reflected here as having no starts, or if we didn't.

11 Q Well, there were starts on April 19 that are
12 not on this list?

13 A That's correct.

14 Q So --

15 BOARD EXAMINATION

16 CHAIRMAN BLOCH: Mr. Webb, my recollection of
17 your testimony is that you don't recall telling Mr. Odom
18 anything about whether you did or did not have starts on
19 the 19th?

20 THE WITNESS: That's true.

21 BY MR. MICHAEL KOHN:

22 Q So then let me get back to my question, was,
23 could Mr. Odom answer a question from Mr. Mosbaugh --

24 CHAIRMAN BLOCH: We'll infer that since he
25 didn't tell him anything about it --

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1 MR. BLAKE: He doesn't recall whether or not
2 he told him anything about it.

3 CHAIRMAN BLOCH: That's right.

4 MR. BLAKE: And he's already asked this
5 question and he says he doesn't know whether or not Odom
6 might have been able to answer a question about what was
7 available on the 19th or not.

8 CHAIRMAN BLOCH: Correct, Mr. Blake.

9 BY MR. MICHAEL KOHN:

10 Q What happened to the two prior lists that you
11 and Mr. Beacher had created?

12 A I believe they were thrown away.

13 Q Who threw them away?

14 A It was probably me. I didn't want anyone to
15 see a partial listing and believe they had a completed
16 listing. So I believe I threw them away.

17 Q And what would you have done with the original
18 of GPC Exhibit 71?

19 A If you're referring to the start listing that
20 I turned over to Mr. Rick Odom?

21 Q Yes.

22 A That's what I did with that. I turned it over
23 to Mr. Rick Odom.

24 Q You didn't keep a copy or the original for
25 yourself?

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1 A No, he was in a big hurry so I just gave him
2 the original.

3 Q Now, is the document that NRC staff had given
4 in front of you the original of the document you gave Mr.
5 Odom?

6 A It appears to be a Xerox copy.

7 Q You're certain you didn't give Mr. Odom a
8 Xerox copy?

9 A I'm fairly certain, yes sir.

10 Q So, you don't know what happened to the
11 original?

12 A I gave it to Mr. Odom.

13 Q Can you tell me how frequently Mr. Odom spoke
14 with corporate?

15 A No, I don't know.

16 Q Now, would his communications with corporate
17 be about as frequent as yours?

18 A I can't say. I don't know.

19 Q On the top of Exhibit 71 you indicated that
20 the pencil markings on the top were yours.

21 CHAIRMAN BLOCH: So far you haven't asked a
22 question.

23 BY MR. MICHAEL KOHN:

24 Q Can you tell me how your pencil markings got
25 on a photocopy that you didn't make?

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1 A No, I can't. It looks like something I would
2 have done because what was scratched out says "missing
3 April 1, 6, 7, 8, 9, unit 1 control log." But in reality
4 I knew that this was a completed listing and that note was
5 -- was not applicable to this completed listing. So, it
6 would have been a good idea if I had scratched that out.
7 But I don't know why it's on this copy rather than on an
8 original.

9 Q So you put pencil marks on a copy that you
10 gave to Mr. Odom?

11 A I don't know how those pencil marks got there.
12 I think I did it but I can't recall when.

13 Q Well, did you see this photocopy again at any
14 later time?

15 A If I put those markings on there, I must have
16 seen it but I can't recall when.

17 Q And on the DG1B start list there is no
18 statement of missing control room logs, is that correct?

19 MR. BLAKE: I will stipulate to that.

20 MR. MICHAEL KOHN: All right.

21 CHAIRMAN BLOCH: Opposing party is willing to
22 stipulate to that.

23 BY MR. MICHAEL KOHN:

24 Q Isn't it true that the normal purpose, the
25 normal methodology, of correcting an error in an LER is to

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1 use a cover letter in a following revision? Correct?

2 You've established --

3 CHAIRMAN BLOCH: The witness had stated that,
4 yes.

5 BY MR. MICHAEL KOHN:

6 Q Now, wouldn't it also be true that the proper
7 and expected way to correct an error in another
8 transmission to Georgia Power -- to NRC such as the April
9 9th confirmation of action letter would be to submit a
10 revision of that letter?

11 MR. BLAKE: Objection. I believe this is
12 outside the scope of his testimony. He played no role in
13 the April 9 letter. For information, his testimony is
14 about the LER and the revision of the LER.

15 MR. MICHAEL KOHN: He testified about the use
16 of cover letters.

17 MR. BLAKE: Yes, he did, with regard to LERs.

18 CHAIRMAN BLOCH: Mr. Kohn, I don't think that
19 we have any evidence that there were enough erroneous
20 letters sent to the NRC that there was a practice
21 established as to the correct way to correct them. So I'm
22 not sure what you're inquiring about.

23 BY MR. MICHAEL KOHN:

24 Q Was it the practice that you are aware of to
25 use the cover letter to an LER to correct other

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1 correspondence to the NRC other than the LER?

2 CHAIRMAN BLOCH: Let's do a foundation,
3 please.

4 BOARD EXAMINATION

5 CHAIRMAN BLOCH: Mr. Webb, do you know if
6 there are any other correspondence to the NRC that had to
7 be corrected in a subsequent communication?

8 THE WITNESS: I can't recall them offhand but
9 there probably have been.

10 CHAIRMAN BLOCH: And is there a practice as to
11 how to do that?

12 THE WITNESS: Write a letter.

13 CHAIRMAN BLOCH: And explain the problem.

14 THE WITNESS: And explain what the correction
15 is and sometimes we even go so far as to explain why the
16 error was made.

17 CHAIRMAN BLOCH: Mr. Kohn.

18 BY MR. MICHAEL KOHN:

19 Q And if I understand your prior testimony, you
20 were focusing on the April 19 LER, so you were expecting
21 some other action with respect to the April 9th letter to
22 occur after April 19, correct?

23 A As of April 19th I hadn't thought about how we
24 might correct the from April 9th.

25 Q But based on your experience as a licensing

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1 engineer responsible for transmitting correspondence to
2 the NRC. the expected practice would have been a follow up
3 letter specific to the corrective action response letter
4 of April 9?

5 A There would be some type of correspondence
6 sent to NRC that would make the correction. Whether it
7 came with an LER or it came in a separate letter, our
8 practice would be that it wouldn't matter, as long as the
9 correction had been made.

10 Q On Georgia Power Exhibit 71, the B, Webb list,
11 DG1B start list, you pointed to UV start 14980 and
12 identified the start across the way from it as to which
13 the diesel was considered operable.

14 A That was the normal practice.

15 Q And you notice below an entry at 1356 with an
16 arrow -- in between the two entries with a 1527 time
17 saying DG1B Op. declared or Op. dec.

18 A I see that note.

19 Q Based on the ship supervisor log?

20 A I see that note on this copy with the red ink.
21 Yes, sir.

22 Q Okay. So does that entry better explain where
23 the diesel generator was --

24 CHAIRMAN BLOCH: What is the basis? Do you
25 know who put the red ink there?

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1 THE WITNESS: I believe it's Allen Mosbaugh's
2 handwriting.

3 CHAIRMAN BLOCH: Now if you want to ask him
4 about it, Mr. Kohn.

5 BY MR. MICHAEL KOHN:

6 Q You gave some testimony about numbers
7 changing, because you went -- Mr. Hull asked you about
8 numbers being changed and whether that's why you went to
9 valid starts. Do you recall that discussion?

10 A I recall him asking me that.

11 Q Is there -- If I understand it, if the numbers
12 were changing, then the valid start numbers would also be
13 changing, wouldn't they?

14 CHAIRMAN BLOCH: I don't understand the
15 question at all, Mr. Kohn.

16 MR. MICHAEL KOHN: The numbers were changing
17 due to the passage of time. Correct?

18 CHAIRMAN BLOCH: That wasn't the only reason
19 they were changing, Mr. Kohn.

20 BY MR. MICHAEL KOHN:

21 Q I'm asking, that is the only reason they were
22 changing, wasn't it?

23 A They change for that reason, and because the
24 criteria for counting starts would change when you go to
25 counting valid starts only.

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1 Q But before you went to valid starts, the only
2 reason the numbers would be changing was due to the
3 passage of time.

4 A If you look at a list of total starts, I would
5 say that that was true.

6 CHAIRMAN BLOCH: I'm sorry, but it may be that
7 the number of starts wouldn't change, but different people
8 could count them differently, couldn't they?

9 THE WITNESS: That would be correct, too.
10 Yes, sir.

11 BY MR. MICHAEL KOHN:

12 Q You were involved in preparing the
13 correspondence and seeing the drafts. You're not aware of
14 anyone miscounting the number of starts prior to going to
15 valid starts after -- during the revision portion of the
16 LER, are you?

17 A After I received the list from Mr. Mosbaugh on
18 April 30th, I took that as a valid list and used that.

19 Q And you're not aware of any start count that
20 was ever made before you changed to valid that in any way
21 was inconsistent with the list that Mr. Mosbaugh provided?

22 A Well, his list was not a list of valid starts
23 only. It included all starts. So it's not consistent
24 with the idea of counting only valid starts.

25 CHAIRMAN BLOCH: Mr. Webb, do you know of any

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1 list prior to the April 30 list of Mr. Mosbaugh which was
2 in error?

3 THE WITNESS: Other than this Exhibit 71 in
4 which some shortcomings have been pointed out already, no,
5 I don't.

6 BY MR. MICHAEL KOHN:

7 Q After Mr. Mosbaugh provided a list, did anyone
8 tell you at any point in time before you switched to valid
9 starts that the numbers in Mr. Mosbaugh's list were
10 incorrect?

11 A I don't recall that happening.

12 Q Do you have any recollection after Mr.
13 Mosbaugh gave you the list of any change in numbers that
14 would have been inconsistent with the count that Mr.
15 Mosbaugh provided on April 30th?

16 CHAIRMAN BLOCH: I don't understand the
17 question.

18 MR. MICHAEL KOHN: When you were preparing the
19 various subsequent drafts of the LER?

20 CHAIRMAN BLOCH: Ask a clear question. I just
21 did not -- Even with that amendment, I don't understand
22 the question.

23 BY MR. MICHAEL KOHN:

24 Q After Mr. Mosbaugh gave you the list on April
25 30th of diesel starts, during the entire time period when

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1 you were preparing or involved with revisions to the LER,
2 was there any number of starts included in any revision to
3 the LER before you changed to the terminology valid starts
4 where that number was inconsistent with Mr. Mosbaugh's
5 list?

6 A I don't believe so.

7 ADMINISTRATIVE JUDGE CARPENTER: Mr. Kohn, I
8 don't know that I've heard anybody ask any questions about
9 Mr. Mosbaugh's list that would lead to this follow-up. Am
10 I mistaken?

11 MR. MICHAEL KOHN: Mr. Hull asked a question
12 which indicated that the reason they were changing to
13 valid was because the start counts were changing. It's my
14 understanding the start counts never change. A final list
15 remained in effect, and start counts were not changed.

16 ADMINISTRATIVE JUDGE CARPENTER: Thank you.
17 I've been insufficiently attentive.

18 BY MR. MICHAEL KOHN:

19 Q You also gave some testimony about the reason
20 for switching to valid starts. Isn't it true that in the
21 original LER and every subsequent draft of the LER there
22 was always mention of valid starts with respect to the
23 surveillance frequency, in a separate section of the LER?

24 A I believe in a separate section there was,
25 yes.

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1 Q And the surveillance frequency section of the
2 LER -- That's with the Reg. Guide -- That was the
3 importance of the Reg. Guide. It was to establish the
4 correct surveillance frequency. Correct?

5 A That's true.

6 Q Where the error came in was in the root cause
7 section as to whether the 18 and 19 successful starts were
8 accurately identified. Correct?

9 A Could you restate that question, please?

10 Q The 18 and 19 --

11 CHAIRMAN BLOCH: Isn't this something that the
12 document says by itself? Do we really need the witness to
13 say that?

14 BY MR. MICHAEL KOHN:

15 Q Let me ask the follow-up question. The
16 question is: There was no rule about using valid or
17 invalid or any criteria when you were discussing in the
18 root cause section of the LER with respect to number of
19 diesel starts.

20 A Of course, there wasn't. What are you asking?

21 Q How long did you work with Mr. Odom?

22 MR. BLAKE: Excuse me. Is the question how
23 long did he work with Mr. Odom?

24 MR. MICHAEL KOHN: Yes.

25 MR. BLAKE: Judge Bloch, I don't know what

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1 kind of follow-up -- where it's leading to, but on re-re-
2 recross or whatever we're at at this juncture, the idea of
3 questioning how long did Mr. Webb work with Mr. Odom
4 strikes me as hardly follow-up.

5 CHAIRMAN BLOCH: What's the relevance? The
6 only problem is that every time we ask relevance, he's got
7 something. Then we just spend more time. Why is it
8 relevant?

9 MR. MICHAEL KOHN: The frequency is relevant,
10 given the scope of the witness's testimony about the
11 communications with corporate.

12 CHAIRMAN BLOCH: No. It has to be relevant to
13 the cross.

14 MR. MICHAEL KOHN: It's relevant to the cross,
15 because they --

16 CHAIRMAN BLOCH: Okay. They went into the --
17 All right, fine. Let's do that. How long in April 1990
18 had you worked with Mr. Odom?

19 THE WITNESS: We had been in the same
20 department for about three and a half years.

21 BY MR. MICHAEL KOHN:

22 Q And over that three and a half year period,
23 didn't you -- Weren't you able to establish a rough
24 feeling of how often Mr. Odom would speak to corporate?

25 A He was in his own office across the hall, and

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1 he may have spoken to them daily, but I couldn't be sure
2 about it.

3 Q That would be your -- Based on your working
4 with Mr. Odom over three and a half years, your best guess
5 is that he would have spoken with corporate on a daily
6 basis?

7 A That's my best guess.

8 CHAIRMAN BLOCH: Mr. Kohn, irritation about
9 this subject is hardly appropriate.

10 ADMINISTRATIVE JUDGE CARPENTER: Well, I don't
11 understand the value of a guess.

12 BY MR. MICHAEL KOHN:

13 Q Can you tell me who Amy Streetman was? Was
14 she a licensing engineer in Birmingham?

15 A That's correct.

16 Q Who did she work for?

17 A Jim Bailey.

18 Q She was performing the same type of function
19 you were performing at the site?

20 A At the time I spoke to her in June of 1990, I
21 believe she was filling in for some people who were
22 absent, which would have been Jack Stringfellow. So she
23 wouldn't have normally performed this role.

24 MR. MICHAEL KOHN: No further questions.

25 CHAIRMAN BLOCH: Does the staff have further

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1 cross?

2 MR. HULL: At this point, I guess I'd like to
3 know what the status is of queuing up that Tape 58 so we
4 can listen to that.

5 MR. BLAKE: Was the answer they had no more
6 questions?

7 MR. HULL: No. I have further questions,
8 based on what Mr. Kohn has questioned about, and also on
9 this whether it was Mr. Webb's voice on that tape.

10 MR. BLAKE: Can we just finish him up, and
11 then have him listen to the tape; and if it turns out it's
12 not his voice, then --

13 CHAIRMAN BLOCH: Do you have any problem with
14 that, Mr. Hull?

15 MR. HULL: Well, yes, I do.

16 CHAIRMAN BLOCH: Is the tape available now?

17 MR. BLAKE: My understanding is it is.

18 Correct.

19 CHAIRMAN BLOCH: It is ready? So Mr. Hull
20 would request that it be played now.

21 MR. BLAKE: Are we going off the record in
22 order to do this and have him listen to it?

23 CHAIRMAN BLOCH: Let's go off the record to
24 hear the tape.

25 (WHEREUPON, the proceeding was off the record

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1 briefly at 10:30 a.m.)

2 CROSS EXAMINATION BY THE NRC

3 BY MR. HULL:

4 Q Mr. Webb, before you listen to Tape 58 here
5 now, have you previously identified your voice on either
6 Tape 58 or other tapes that you may have listened to?

7 A I've identified my voice on some of the tapes.
8 Yes, sir.

9 MR. HULL: Thank you.

10 CHAIRMAN BLOCH: I'm sorry. Your answer,
11 therefore, is that you don't know whether or not you ever
12 listened to this particular segment before?

13 THE WITNESS: That's correct, sir.

14 CHAIRMAN BLOCH: Off the record.

15 (WHEREUPON, the proceeding was off the record
16 briefly at 10:33 a.m. and resumed at 10:36 a.m.)

17 CHAIRMAN BLOCH: Mr. Webb, you've just
18 listened to the tape segment which is transcribed on page
19 16 of EP Exhibit 2-2. Does this refresh your recollection
20 of whether you were present for that conversation?

21 THE WITNESS: No, sir, I don't believe that
22 was my voice. I believe that it was Mr. Ken Holmes, and
23 the reason I say that is because I was concerned at first
24 when Mr. Aufdenkampe was asking about the critique, and
25 looking at the other names on this list I didn't see

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1 anybody who was on the team, the critique team. Now I was
2 on it. So I was concerned. I thought, well, maybe I was
3 there and didn't realize it, because I was part of that
4 team; but the voice sounds to me like Mr. Ken Holmes.

5 CHAIRMAN BLOCH: Mr. Hull?

6 THE WITNESS: Mr. Holmes was the team leader
7 for the critique team. So he would have been an
8 appropriate person to ask that kind of a question to.

9 BY MR. HULL:

10 Q Mr. Webb, if you would turn back --

11 CHAIRMAN BLOCH: I would ask at this point
12 that the parties consider whether or not they want to re-
13 enter into that stipulation or not. I would think, in
14 light of the testimony, it might have to change.

15 MR. HULL: Judge Bloch, let me first identify
16 the line in question here on the tape transcript. It's
17 line 24 on page 16 which states Webb, having said, well,
18 we really haven't said we've done anything; and Mr. Webb's
19 testimony now is that he thinks that's Mr. Holmes' voice.

20 BY MR. HULL:

21 Q Is that correct, Mr. Webb?

22 A Yes, sir.

23 Q If you would turn back, please, now to your
24 April 19 list, GPC2-71.

25 A I've got it.

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1 Q In response to one of Mr. Kohn's questions,
2 you had indicated that -- or you had talked about the
3 language at the top of page 1 under the DG1A heading where
4 you reference certain dates missing. Do you see that at
5 the top of that page?

6 A Yes, sir.

7 Q Now there is no similar entry on page 2 under
8 DG1B. Is it correct then that there were no missing dates
9 or logs regarding DG1B when you did your search on April
10 19?

11 A No, it was the same log. It was one control
12 log for both diesels, but since this was a two-page list,
13 that notice would only have to be put on the first page in
14 order for people to apply it to both pages.

15 Q So did you consider the count 1B as reflected
16 on your page 2 of your list -- Did you consider that to be
17 a complete list as of April 19?

18 A Yes, I did.

19 Q Well, even though at the bottom there it ends
20 on April 18?

21 A That's right.

22 Q Turn back to page 1, please. You -- On the
23 righthand side of that page, you list various starts dated
24 April 1, April 6, April 9. Do you see that, on the right?

25 A Yes, sir.

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1 Q Were those the missing starts that you
2 referred to up above there in the part that's scratched
3 out?

4 A Apparently, it was.

5 Q And were any of those starts there starts on
6 the 1B diesel or were they all starts on the 1A diesel?

7 A Because they're on this page with the 1A
8 starts, they must have been 1A starts.

9 Q So you considered the 1B list on page 2 to be
10 complete. Is that correct?

11 A Yes, sir.

12 Q Even though there are some starts on April 19
13 which you did not list on this page for diesel generator
14 1B. Correct?

15 A That's true.

16 Q Why do you consider this list of DG1B starts
17 then to be complete?

18 A Because we didn't -- Apparently, we didn't add
19 in anymore onto the next page on a separate side list, as
20 we did on the first page.

21 Q Do you have in front of you there what was
22 previously marked as GPC Exhibit 2-70, and if not, we'll
23 need to get you a copy of that.

24 A Can you describe it?

25 Q It's the April 30 Mosbaugh list that you had

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1 made reference to in your --

2 A No, I don't have it.

3 CHAIRMAN BLOCH: So let's take a ten-minute
4 break now.

5 (WHEREUPON, the proceeding recessed briefly at
6 10:40 a.m. and reconvened at 10:55 a.m.)

7 BY MR. WEBB:

8 Q Mr. Webb, do you now have in front of you a
9 copy of GPC Exhibit 2-70?

10 A I've got Exhibit 33. Were you speaking of the
11 Mosbaugh list?

12 Q This should be the April 30, 1990 Mosbaugh
13 list.

14 A It's called Exhibit 33 here.

15 MR. MICHAEL KOHN: He's referring to GPC
16 Exhibit 2-33, which is th same document, I believe.

17 THE WITNESS: That's correct.

18 MR. HULL: Can we go off the record for a
19 moment, Your Honor?

20 CHAIRMAN BLOCH: Yes.

21 (WHEREUPON, the proceeding was off the record
22 briefly at 10:55 a.m.)

23 CHAIRMAN BLOCH: While we're waiting, I'd like
24 to correct the record. I was not talking about the
25 Lamberski list. We have enough lists --

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1 BY MR. HULL:

2 Q Mr. Webb, do you now have in front of you a
3 three-page document marked as GPC 2-70?

4 A Yes.

5 Q This is a copy of the list that Allen Mosbaugh
6 provided George Bockhold on April 30. Correct?

7 A It appears that way.

8 Q If you will turn to page 2 of that document,
9 do you notice down at the bottom line across from what's
10 marked as start number 23, there's a number 1?

11 A I've got it.

12 Q If you then to the next page, there is a
13 series of numbers in that same column going 2 through 11?

14 A I've got it.

15 Q If you would now turn, please to the Exhibit B
16 that was attached to your pre-filed testimony.

17 A Okay.

18 Q You will note that Exhibit B states that each
19 engine had been successfully started 11 times with no
20 start failures?

21 A My Exhibit B is an ALM rewrite.

22 Q If you would look at the last couple of lines
23 on that Exhibit B.

24 A I'm sorry. That's correct. Yes, it is.

25 Q So is Mr. Mosbaugh trying to characterize a

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1 series of consecutive successful starts after the
2 comprehensive test program on the GPC Exhibit 2-70?

3 A That would be my best guess.

4 Q Referring to the numbers 1 through 11 on pages
5 2 and 3?

6 A Yes, sir.

7 Q So he wasn't trying to get a list of all
8 starts. He was interested in this number of consecutive
9 successful starts. Correct?

10 A It would appear that way.

11 Q And this was for purposes of revising the LER.
12 Correct?

13 A That's true.

14 Q Does this effort by Mr. Mosbaugh to prepare a
15 revision to the LER change your testimony at all with
16 respect to your understanding of what GPC was trying to do
17 in the original LER, the April 19 LER, in terms of trying
18 to come up with a list of consecutive successful starts or
19 I should say a count of consecutive successful starts?

20 A I don't believe this information changes my
21 understanding.

22 Q Do you recall, Mr. Webb, ever learning that
23 the reason that the revision to the LER had been shelved
24 in corporate was because Mr. Hairston had decided to do a
25 QA audit?

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1 A I don't recall hearing that.

2 Q Do you recall ever learning that the reason
3 the report -- the revision to the LER report was shelved
4 was that one of the GPC Vice Presidents had conveyed
5 incorrect diesel numbers to the NRC?

6 A Do you mean outside of the LER?

7 Q Do you simply ever recall learning that?

8 MR. BLAKE: I'm sorry. Can I have the
9 question repeated, please, Mr. Hull?

10 BY MR. HULL:

11 Q Mr. Webb, do you ever recall hearing or being
12 told that the reason that the revision to the LER had been
13 shelved in corporate was that one of the GPC Vice
14 Presidents had conveyed incorrect diesel numbers to the
15 NRC?

16 MR. BLAKE: And by way of clarification, is
17 this an inquiry other than communications with counsel?

18 MR. HULL: This is trying to find out what he
19 recalls. I don't know if this was --

20 CHAIRMAN BLOCH: Well, there wasn't a question
21 about counsel. It's hearing around the plant. Wasn't
22 that the question?

23 MR. HULL: Yes.

24 MR. BLAKE: I didn't hear "around the plant."

25 CHAIRMAN BLOCH: Oh, I see.

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1 MR. BLAKE: My question is, you know,
2 previously, I think the witness said I only heard from
3 counsel.

4 CHAIRMAN BLOCH: All right. So other than
5 from counsel, do you recall hearing that the reason there
6 was delay in preparation of the LER was because it had
7 been said that a Vice President of GPC had conveyed
8 incorrect information to the NRC?

9 MR. HULL: Judge Bloch, let me interject. This
10 information comes from Mr. Webb's deposition, and there
11 was an objection made after he had given this information
12 at the deposition; but we believe that his deposition
13 testimony is a matter of public record now. So that there
14 wouldn't be any privilege that would attach to what he had
15 conveyed as to what he had learned from a GPC attorney.

16 CHAIRMAN BLOCH: Mr. Blake, what do you say
17 about that, if he already stated it?

18 MR. BLAKE: I'd like to see the deposition, I
19 guess, that he's referring to. I don't know what to make
20 of it, Judge Bloch, frankly.

21 CHAIRMAN BLOCH: I'd like to clarify the
22 ruling I made before. I'm satisfied that we are going to
23 get adequate information on the question that came up
24 before about attorney-client privilege, but I am not
25 certain that factual information that does not constitute

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1 legal advice which is given by an attorney to a client is
2 privileged.

3 MR. BLAKE: That's the root of our difference,
4 which I'll speak to in a moment, and this, I think, even
5 confirms for me the need to take the action which we plan
6 to.

7 MR. HULL: So the question I would ask Mr.
8 Webb at this point, does he recall ever testifying that he
9 had learned that the reason that the LER revision was
10 shelved in corporate was that one of the GPC Vice
11 Presidents had conveyed incorrect diesel numbers to the
12 NRC.

13 MR. MICHAEL KOHN: What page are you reading
14 from?

15 MR. HULL: Page 32 of the deposition
16 transcript.

17 THE WITNESS: Outside of discussions with GPC
18 counsel, I don't recall ever hearing that.

19 BY MR. HULL:

20 Q The question was whether you recalled ever
21 testifying to that effect?

22 A I don't recall testifying to that effect
23 outside of information from GPC counsel.

24 MR. HULL: Your Honor, I'd like a direct
25 answer to the question, whether he ever testified to that.

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1 CHAIRMAN BLOCH: The question is whether you
2 ever testified to it, regardless of whether the source was
3 from GPC counsel. Did you ever testify in a deposition to
4 that effect?

5 THE WITNESS: I can't recall exactly what I
6 said in the deposition. I'm going to have to take a look
7 at it, too.

8 CHAIRMAN BLOCH: Well, you can be shown that.

9 BY MR. HULL:

10 Q Does reading your deposition transcript
11 refresh your recollection, Mr. Webb?

12 A Yes, it does.

13 Q And what is the date of this deposition
14 testimony?

15 A I believe it was July 7th of '94.

16 Q Would your recollection of what took place
17 back in 1990, do you think, be better in 1994 or better
18 now?

19 A Beg your pardon?

20 CHAIRMAN BLOCH: Do you believe that what you
21 said in 1990 is correct? In 1994, I'm sorry, in the
22 deposition.

23 THE WITNESS: As far as I know, that
24 information is still correct. Yes, sir.

25 BY MR. HULL:

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1 Q Now, Mr. Webb, is it correct that until you
2 read that deposition transcript, you could not recall
3 having testified to that in 1994?

4 A No, I remember making the deposition in '94.

5 Q But the specific testimony that I was asking
6 you about, until you refreshed your recollection by
7 reviewing the transcript, you were not able to remember
8 that today. Is that correct?

9 A That's true. I couldn't recall what I had
10 said at the deposition in '94.

11 Q Do you think your memory of what took place in
12 1990 would be any better, given that you couldn't remember
13 what you had testified to a year ago?

14 MR. BLAKE: I'm sorry. I think that question
15 is confusing.

16 CHAIRMAN BLOCH: I don't. The question is
17 allowed.

18 MR. BLAKE: Can I have it read back, please?

19 CHAIRMAN BLOCH: I'll ask it a slightly
20 different way. Do you think that your memory of what
21 happened in 1990 is more or less accurate than your memory
22 of what happened in 1994?

23 THE WITNESS: In respect to the reason for the
24 revised LER being at corporate for such a long period of
25 time, I think both my memory from '90 and '94 are equally

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1 accurate.

2 BY MR. HULL:

3 Q And for the record, Mr. Webb -- One moment,
4 Your Honor.

5 CHAIRMAN BLOCH: The record doesn't yet
6 reflect what this transcript says, which is a gap, yes.

7 BY MR. HULL:

8 Q Mr. Webb, could you please read into the
9 record lines 6 through 12 on page 32 of the deposition?

10 A "Question: Can you recall today that ever
11 happening before?"

12 "Answer: No, it was unusual for any report to
13 go up there and not to be looked at for several weeks,
14 although I was told later that the gist of that report,
15 that there were incorrect diesel numbers, had been
16 conveyed from one of our Vice Presidents to NRC Region,
17 and that allayed my concern."

18 Q Now, Mr. Webb, since you had spoken the words
19 on the tape 57 transcript that it's time to correct this
20 misconception, you were stating those words to Mr.
21 Mosbaugh. What position did Mr. Mosbaugh have at that
22 time? Do you recall?

23 A I believe he was the Acting Assistant General
24 Manager of the plant.

25 Q Did you assume that, when you gave this

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1 information about the misconception to Mr. Mosbaugh, that
2 he would get this misconception corrected?

3 A Reflecting back on that, I can't recall what
4 my thinking was by saying that.

5 Q Do you recall having any further follow-up
6 with Mr. Mosbaugh as to his efforts to get the
7 misconception corrected?

8 A Well, the purpose of the revised LER was to
9 correct the numbers, and if you include that, I think I
10 spoke to Mr. Mosbaugh several times in the next couple of
11 months.

12 Q Now the revised LER that was sent out in
13 June -- do you feel that it corrected the numbers in the
14 April 19 LER?

15 CHAIRMAN BLOCH: Do you need to look at it?

16 THE WITNESS: It would be helpful, yes.

17 CHAIRMAN BLOCH: Note that the witness was
18 looking up, trying to reflect on what to say, and I
19 thought it might be helpful for him to see the document.
20 Mr. Hull, which exhibit have you been shown?

21 MR. HULL: GPC Number 2-15.

22 CHAIRMAN BLOCH: Is that what you have, Mr.
23 Webb?

24 THE WITNESS: It's a GPC QA audit. Did you
25 want the revised LER, Exhibit 16? I've got that here.

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1 MR. BLAKE: The LER and the revised LER were
2 the two documents, I think, that he needs.

3 MR. HULL: The LER revision is GPC 2-16.

4 THE WITNESS: Thank you, I have it.

5 BY MR. HULL:

6 Q Did the June 29 LER revision correct the April
7 19 LER start count?

8 A I believe it not only corrected it, it gave
9 better information as required by Reg. Guide 1.108 in our
10 tech specs.

11 Q You're referring there to using the
12 terminology valid tests, valid failures?

13 A That is what we are required to use, per our
14 tech specs.

15 Q But if you will turn to page 6 of the LER
16 revision, it should be in that exhibit.

17 A I've got it.

18 Q You'll note that the last sentence of the
19 large paragraph in the middle of that page states, "Since
20 the event of 3-20-90 through 6-7-90, 1B had received 12
21 valid tests with the one failure mentioned above." That
22 was counting a different period than the April 19 LER.
23 Correct?

24 A That's correct.

25 Q So do you feel that that corrects the

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1 information about start counts in the April 19 LER?

2 A It not only corrects it, but it updates it to
3 the current period.

4 Q But how does it correct it, since it doesn't
5 give you the number of starts that took place between
6 March 20, 1990 and April 19, 1990?

7 A Those are included.

8 CHAIRMAN BLOCH: The witness has previously
9 testified that the LER is always supposed to contain
10 current information and that any corrections that might
11 have to be made should be done in a separate letter.

12 MR. MICHAEL KOHN: I think that would be the
13 separate letter.

14 CHAIRMAN BLOCH: This witness has testified to
15 that.

16 MR. HULL: I believe the witness has testified
17 that the purpose of the revised LER was to correct the
18 April 19 LER.

19 MR. BLAKE: My recollection of the witness's
20 testimony is just that of Judge Bloch's. I think it was
21 quite an accurate repeat.

22 MR. HULL: The record will speak for itself,
23 Your Honor. No further questions.

24 BY MR. HULL:

25 Q Mr. Webb, again going back to April 19 of

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1 1990, is it possible that you may have been directed on
2 that date to get a list of consecutive successful starts
3 without problems or failures and that you just can't
4 recall having been told that?

5 MR. BLAKE: I have an objection to going back
6 into this area again and, frankly, the instruction from
7 this very counsel earlier to Mr. Webb was, don't give me
8 just what was possible; and now he's asking, is it
9 possible.

10 CHAIRMAN BLOCH: I would sustain the
11 objection, because it is always possible. You are not
12 asking anything.

13 MR. HULL: Well, Your Honor, we are testing
14 the witness's recollection, since he couldn't recall sworn
15 deposition testimony he had given in 1994.

16 CHAIRMAN BLOCH: Just don't ask in the form of
17 possible. Of course, it's possible.

18 MR. HULL: All right. I'll rephrase.

19 BY MR. HULL:

20 Q Mr. Webb, do you -- Mr. Webb, is it likely
21 that you had been told, and given the context of the
22 events that were occurring on April 19, 1990 and
23 thereabouts with respect to the diesel start count
24 information, that you were told to get a list of
25 consecutive successful starts?

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1 MR. BLAKE: In the spirit of trying to
2 complete the testimony, I'll let the question go. I have
3 the same objection.

4 THE WITNESS: I don't recall.

5 BY MR. HULL:

6 Q Is it also a reasonable likelihood that you
7 did participate in the April 19, 1990 phone call with
8 corporate, but you don't recall it today?

9 A I have an independent recollection of April
10 20th when I saw the LER for the first time, and Mr. Odom
11 and I had discussions saying we wish we had been in on one
12 of those phone calls so that the wrong information
13 wouldn't have been put into the LER. Because of that, I
14 would say I was not in on any of those phone calls to
15 corporate from the 19th.

16 Q But you were mentioning -- You did have an
17 independent recollection of April 20, but you do not have
18 an independent recollection of April -- what happened on
19 April 19th?

20 A April 20th, we were gnashing our teeth,
21 because we thought the LER contained wrong information.
22 April 19th, we weren't gnashing our teeth quite yet. So
23 it doesn't stand out in my memory as vividly.

24 MR. HULL: No further questions.

25 MR. BLAKE: I don't know whether this is a

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1 good time, but the witness's reaction here and the staff's
2 question actually prompts me to wonder whether or not we
3 can't put on the record while it's still fresh in our
4 minds from listening to that tape, all of us, observations
5 that we heard in just listening to it, like the pause just
6 before this Aufdenkampe and Webb, the fact that it was a
7 much lower in volume statement, the fact that it sounded,
8 from my standpoint -- I'm asking whether others have the
9 same -- like a different conversation than what was
10 occurring before and after.

11 If the Board -- I'd like the Board to consider
12 whether or not it's prepared, having listened to that, to
13 make those observations, because they could become
14 important down the road.

15 CHAIRMAN BLOCH: Does anyone want to make a
16 comment that would help to clarify whether everyone else
17 heard the same thing as Mr. Blake?

18 MR. HULL: Your Honor, the Staff feels that
19 this can be argued in findings, and that this tape
20 transcript was arrived at after considerable deliberation
21 between counsel for the various parties, and that there is
22 no need to go back at this time to try to put in all these
23 nuances.

24 CHAIRMAN BLOCH: Well, the difficulty, of
25 course, is that there was an audio played for the hearing.

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1 and the nuances were present in the courtroom, but they're
2 not in the record. I would say that both Judge Murphy and
3 I heard, and Judge Carpenter, all heard what Mr. Blake
4 just said; but if someone else would like to comment, it's
5 possible that they could help us to understand a different
6 way of thinking of it.

7 MR. MICHAEL KOHN: Mr. Mosbaugh was present,
8 and I'm sure he could tell you exactly what was occurring.

9 CHAIRMAN BLOCH: Well, perhaps -- Mr. Blake,
10 would you object to his testifying briefly after this
11 witness is gone?

12 MR. BLAKE: I'm not sure if this is the
13 juncture for it, but I find this to be fairly revealing,
14 given his past testimony on this topic and his
15 nonrecollection of the Webb list; but I'll take his
16 exquisite understanding of this. I'll look forward to it,
17 yes, at whatever time is appropriate.

18 MR. MICHAEL KOHN: I don't think it's
19 something you may want to do after the witness is gone.
20 The witness doesn't necessarily have to be present, but it
21 may generate a follow-up question for the witness. So it
22 may be wise to have the witness available.

23 CHAIRMAN BLOCH: I understand.

24 MR. HULL: The Staff's position is that there
25 are a number of instances where there's differences in

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1 volume and voices recorded on these tapes, and that
2 there's no reason to single out this particular one for
3 special treatment.

4 CHAIRMAN BLOCH: The reason is that the
5 witness, who is supposed to have been on the tape, says he
6 wasn't, and it may be that it would be helpful in figuring
7 that out.

8 MR. MICHAEL KOHN: Your Honor, I'd like to
9 make an observation, that usually the person least
10 qualified to determine who is speaking is the person who
11 is actually saying the words, because that person --

12 CHAIRMAN BLOCH: Now we're really getting
13 attorney testimony. We've had a lot of different kinds of
14 attorney testimony.

15 MR. MICHAEL KOHN: It's just, unless you're
16 familiar with hearing your voice on tape --

17 CHAIRMAN BLOCH: That's true.

18 MR. MICHAEL KOHN: -- you have heard it less
19 than anyone else. So I remember -- I always talked when I
20 heard myself played back in this room, I said, is that me.
21 I couldn't even recognize my own voice.

22 MR. BLAKE: I want to know where his expert
23 report is.

24 CHAIRMAN BLOCH: All right. So now, Mr. Kohn,
25 do you have any further questions other than the testimony

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1 by Mr. Mosbaugh about what he heard just now?

2 MR. MICHAEL KOHN: A few.

3 CROSS EXAMINATION BY INTERVENOR

4 BY MR. MICHAEL KOHN:

5 Q Mr. Webb, Mr. Holmes' office is in the
6 training center in 1990. Is that correct?

7 A I believe it was, yes.

8 Q How far away was that from Mr. Mosbaugh's
9 office -- from Mr. Aufdenkampe's office?

10 A Approximately a mile, mile and a half.

11 Q And Mr. Holmes -- did he report to Mr.
12 Aufdenkampe in 1990?

13 A No, I don't believe he did.

14 Q Do you have any reason to suspect why Mr.
15 Holmes -- Let me rephrase it -- why Mr. -- If Mr.
16 Aufdenkampe was asking a question for an answer, do you
17 think it's more likely he would be asking you, his
18 subordinate, rather than Mr. Holmes?

19 A No. Knowing Mr. Aufdenkampe, he would ask
20 questions of anybody. He doesn't care.

21 Q Would there be a record of whether Mr. Holmes
22 was in the protected area?

23 A If the conversation indeed took place in the
24 protected area, there may be a record, although being that
25 it's five years old, it may not exist anymore.

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1 Q And the fact that when you listened to the
2 voice volumes changing, were you inferring that the
3 conversation that was hard to hear was a side conversation
4 being whispered almost with the persons present in the
5 room, rather than a conversation going over the phone?

6 A I had the impression the conversation was away
7 from the tape recorder.

8 CHAIRMAN BLOCH: Before we continue along
9 these lines, could you just address briefly what
10 difference it makes whether it was Mr. Webb or Mr. Holmes?

11 MR. MICHAEL KOHN: Just to clarify the record,
12 from Intervenor's --

13 ADMINISTRATIVE JUDGE CARPENTER: Of what is it
14 probative, please?

15 MR. MICHAEL KOHN: The accuracy of the
16 transcript. Other than that --

17 CHAIRMAN BLOCH: No, no. The only thing I'm
18 interested in terms of an accurate transcript is whether
19 it's related to the matter that's being adjudicated. If
20 it has no relationship to that, let's just forget it.
21 That is the test I want counsel to be using all the time.

22 MR. MICHAEL KOHN: The only thing it would
23 relate to at this point would be the witness's
24 recollection, his memory, and his credibility. I don't
25 think it has any other relevance.

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1 CHAIRMAN BLOCH: Well, depending on how close
2 the question is, it may not even reflect on that. I'd
3 like to discontinue further consideration of whether it
4 was Mr. Webb or Mr. Holmes, unless -- Do you have
5 something to say, Mr. Hull?

6 MR. HULL: Well, as reflected in the cross-
7 exam plan that you have, Your Honor, if in fact it had
8 been Mr. Webb, as reflected in the transcript, there would
9 have been other questions that I would ask regarding how
10 long he may have been at the teleconference, when that
11 was.

12 CHAIRMAN BLOCH: He, obviously, doesn't have
13 any memory of those things, but what is the relevance of
14 whether he was there or not?

15 MR. HULL: And also whether he had provided
16 his list to Mr. Aufdenkampe at that point, and also
17 whether he had been present for any disputed portions of
18 the Tape 58.

19 CHAIRMAN BLOCH: In other words, if the tape
20 substantiates that he was there, it is still important to
21 the staff?

22 MR. HULL: Yes.

23 CHAIRMAN BLOCH: Let's continue.

24 MR. BLAKE: Let me try another tack at trying
25 to avoid this. Is there any party who is going to suggest

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1 that we alter the agreed to transcript, and I start by
2 saying we don't intend to. Does the staff plan to?

3 MR. HULL: In that case, no.

4 MR. BLAKE: Does the Intervenor plan to?

5 MR. MICHAEL KOHN: I was studying my note.

6 No.

7 CHAIRMAN BLOCH: You don't? All right. So
8 then, therefore, the stipulation is in effect, and we will
9 not have further testimony about that. Mr. Kohn?

10 MR. MICHAEL KOHN: No further questions.

11 CHAIRMAN BLOCH: Staff?

12 MR. HULL: No questions, Your Honor.

13 CHAIRMAN BLOCH: Mr. Blake?

14 MR. BLAKE: I want to move into evidence GPC
15 2-71, which is the two-page Webb list earlier identified
16 on the record and used considerably but never having been
17 admitted in evidence.

18 MR. HULL: No objection.

19 CHAIRMAN BLOCH: Granted.

20 (WHEREUPON, the document referred
21 to, previously marked as GPC Exhibit
22 No. G-71 for identification, was
23 received in evidence.)

24 MR. BLAKE: Then I have no questions for Mr.
25 Webb.

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1 CHAIRMAN BLOCH: Mr. Webb, thank you for your
2 participation. You are excused.

3 (WHEREUPON, the witness was excused.)

4 CHAIRMAN BLOCH: Mr. Blake wanted to address
5 us about Mr. Lamberski's notes.

6 MR. MICHAEL KOHN: Your Honor, Intervenor
7 objects.

8 CHAIRMAN BLOCH: What's the objection

9 MS. YOUNG: Judge Bloch, before we handle
10 that, there might be a minor problem with what version of
11 GPC 2-71 will be received in evidence. I think the rules
12 require three copies. We only have the original with the
13 pencil, the red and black ink. I think, even if we were
14 to get it reproduced, we couldn't reproduce the pencil
15 exactly the same way, even if you use the color copier.

16 CHAIRMAN BLOCH: Do we have any color copiers
17 in the agency? I don't know.

18 MS. YOUNG: I'm not sure it's going to pick up
19 the pencil.

20 CHAIRMAN BLOCH: I think at an earlier stage
21 there's a transcript section discussing in gruesome detail
22 what the colors are on that page. So we'll just use the
23 black and white copy.

24 MS. YOUNG: Thank you. You will provide those
25 three copies?

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1 MR. BLAKE: Well, sure. We can provide you
2 with copies, but I am expecting that we provided them even
3 before at the time the exhibit was identified, and they
4 are probably already a part of the record.

5 CHAIRMAN BLOCH: I do want to sustain the
6 objection before I hear it. The object of --

7 MR. BLAKE: Pardon?

8 CHAIRMAN BLOCH: I want to sustain Mr. Kohn's
9 objection before I even hear him state it. The object of
10 the stay we granted yesterday was so that you could
11 approach another body. You've approached us twice. We
12 don't want to be approached again about that document.

13 MR. BLAKE: I'm not planning to make an
14 argument. I was simply going to inform you of what our
15 decision was.

16 CHAIRMAN BLOCH: Oh, okay.

17 MR. BLAKE: I asked yesterday --

18 CHAIRMAN BLOCH: Do you have an objection to
19 our being informed of the decision? This is not going to
20 be reconsidered. As far as I'm concerned, it's not
21 reconsideration.

22 MR. MICHAEL KOHN: No, I have no objection,
23 and please do.

24 MR. BLAKE: We've overcome an objection and
25 the sustaining of it before --

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1 MR. MICHAEL KOHN: That's because I didn't
2 have an objection.

3 ADMINISTRATIVE JUDGE CARPENTER: I expect this
4 is a first.

5 MR. BLAKE: It was not my intention, Judge
6 Bloch, to try to seek reconsideration at this point of the
7 Board's ruling.

8 CHAIRMAN BLOCH: I'd like compliment everyone
9 on having a good sense of humor at this time in the
10 morning.

11 MR. BLAKE: I think it's evident that we,
12 unfortunately, have a difference of opinion with you on
13 this evidentiary matter, and it is so important to us.
14 Having considered it through a good deal of hours
15 overnight, it is our intention to seek Commission review
16 of this topic.

17 We expect to do that through 2.786 and seek
18 the Commission's ruling on this topic, because it's not
19 just this document. I mean, the Board has looked at this
20 document. You have a sense of this document, but this
21 question of attorney-client privilege --

22 MR. MICHAEL KOHN: Your Honor, this is the
23 argument that is not necessary on this record. He's told
24 us what he intends to do.

25 CHAIRMAN BLOCH: I think that's right. You're

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1 going to file it, and you'll obviously give us a copy of
2 your filing.

3 MR. BLAKE: We will indeed, but I need to get
4 on now to seek one thing from the Board, and that is a
5 continued deferral of the Board's ruling by way of a stay
6 pending the outcome of the Commission's ruling; because,
7 obviously, to hand the document over now is wholly
8 irreparable.

9 CHAIRMAN BLOCH: Okay, and the petroleum
10 jobber's criteria, one of them, is the irreparability of
11 the injury. What are the other three now?

12 MR. BLAKE: One of them is the likelihood of
13 success on the merits. It's hard to get --

14 CHAIRMAN BLOCH: Yes.

15 MR. BLAKE: That one I'm not going to argue
16 strenuously. There is who is hurt by it. We, obviously,
17 would be, and as far as I'm concerned, any delay that
18 impacts this, again, I believe, goes to us, since we're
19 the ones trying to get the action and complete the
20 proceeding. Finally, there's a public interest.

21 CHAIRMAN BLOCH: Would a week be enough,
22 because at that point I would think that the Commission
23 would have to grant a stay?

24 MR. BLAKE: I don't know what you mean by a
25 week.

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1 CHAIRMAN BLOCH: If I give you a stay of one
2 week to file the document and request a stay from the
3 Commission?

4 MR. BLAKE: This is a terribly important
5 topic. It has been briefed before. So I think that ought
6 to reduce the length of time it would take us. I'm
7 willing to say that we will do it by the end of the
8 workday on Friday next week. Yes, that's about a week.
9 Today is Thursday. So by the end of the workday next
10 Friday, Judge Bloch, if you would give us to that, and
11 I'll come back if there is anything that upsets that.

12 CHAIRMAN BLOCH: Mr. Kohn?

13 MR. MICHAEL KOHN: I'd like to respond that,
14 first, I'm not that familiar with the regulations at this
15 point to say whether the request should have been made
16 with the Commission today. I think that's typically what
17 happens in a temporary restraining order type situation.

18 You have been put on notice yesterday, and I
19 think they may have actually waived their rights by not
20 filing with the Commission, but --

21 CHAIRMAN BLOCH: Well, Mr. Kohn, what's the
22 harm to you of a delay for a week?

23 MR. MICHAEL KOHN: What I'm suggesting is that
24 there is no harm to Georgia Power by turning it over,
25 because if we're not allowed to use it in the proceeding,

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1 and it's determined that we can't use it in the proceeding
2 within the next week, then there is no harm.

3 CHAIRMAN BLOCH: Well, they're claiming that
4 it's a breach of the confidentiality period, that they
5 don't want to ever have to turn over something that
6 happened between attorney and someone they claim was in an
7 attorney-client relationship.

8 MR. MICHAEL KOHN: A breach of confidentiality
9 is no harm --

10 CHAIRMAN BLOCH: Sounds like an argument.

11 MR. MICHAEL KOHN: -- no legal harm. There is
12 no legal harm.

13 CHAIRMAN BLOCH: I want the four criteria
14 addressed, which are irreparable injury, injury to others,
15 those criteria.

16 MR. MICHAEL KOHN: Irreparable injury cannot
17 occur, because the document, if it is found to be
18 privileged, cannot be used in a legal proceeding.
19 Therefore, there is no irreparable injury.

20 CHAIRMAN BLOCH: Well, what difference does it
21 make to you whether you get it now under protective order
22 or you get it in a week? What difference does it make?

23 MR. MICHAEL KOHN: Well, I agree. It may not
24 make a difference to me, but the burden is not on me. The
25 burden is on Georgia Power.

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1 CHAIRMAN BLOCH: No. The criteria are on both
2 sides. The criteria are injury to them and injury to
3 others. We can reduce the injury to you by giving you a
4 protective order, but I don't see what that would
5 accomplish.

6 MR. MICHAEL KOHN: I'm not going to vigorously
7 object, Your Honor, at this point.

8 MR. BLAKE: These four factors, if you want to
9 double-check them, are also in your 2.788.

10 MS. YOUNG: Which is what the staff referred
11 you to yesterday.

12 MR. BLAKE: The state paragraph, Judge Bloch,
13 but they are the four that we've been asking.

14 CHAIRMAN BLOCH: Does the staff have a comment
15 on this question?

16 MR. BARTH: It depends upon what your question
17 is, Your Honor. We feel that it hasn't been discussed
18 that it would be appropriate to have this matter further
19 reviewed. So we have no objection.

20 CHAIRMAN BLOCH: You mean by the Commission?

21 MR. BARTH: Yes.

22 CHAIRMAN BLOCH: Okay. We'll grant the stay
23 until close of business next Friday.

24 One thing I would point out is that under the
25 Upjohn -- prior to the Upjohn case, this document would

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1 have been released. So the question is whether the Upjohn
2 case changes the law enough so that this type of document
3 by someone who's got no -- as we just considered, no
4 personal interest should still be considered exempt under
5 the Upjohn doctrine; and that's fine. The appeal can be
6 filed, and we'll retain the confidentiality.

7 MR. BLAKE: Thank you, Judge Bloch.

8 Do we go right to the next witness, if he's
9 here, Mr. Bockhold, or do you want to take the break now
10 for lunch?

11 CHAIRMAN BLOCH: I think we should take the
12 break. All right. We'll take a break now until 1:15.

13 Before we take the break, I do want to clarify
14 one thing. I have not ruled at all on a question of
15 whether or not factual information communicated from
16 Georgia Power's attorney to a client is or is not exempt.
17 I was not expressing a ruling on that question. I was
18 only saying that I'm not sure.

19 MR. BLAKE: I appreciate that statement.

20 CHAIRMAN BLOCH: We can adjourn.

21 (WHEREUPON, the proceeding was recessed for
22 lunch at 11:35 a.m.)

23
24
25

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A-F-T-E-R-N-O-O-N P-R-O-C-E-E-D-I-N-G-S

(1:30 p.m.)

CHAIRMAN BLOCH: We have ascertained in off the record conversations that there are two exhibits to Mr. Bockhold's testimony, pre-filed testimony, that contain excerpts from tape recordings that have been transcribed. There was an objection made by the Intervenor later, joined in to some extent by the staff, that there may be other contexts necessary within those tapes in order to complete cross examination on this matter.

The resolution that we'll go forward with is to have Mr. Bockhold questioned at this time and if there's cause for recalling him or for somehow obtaining additional followup information, we'll consider how best to do that.

We would point out, as Mr. Blake did, that this pre-filed testimony has been available for a while and he would have liked at least a day's notice which certainly would have been helpful at this point because he might have been able to come up with a context for the hearing. We'll keep that in mind when we have the good cause motions.

There being nothing more on that matter, Mr. Bockhold, I'd like to welcome you to the hearing once

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Tape #3

Side A
Date 2-23-90
Location: Bockhold's office

Bockhold : That's your copy of , uh --

Mosbaugh : Okay

Bockhold --- the evaluation. Okay. The first goal and accountability was associated with the organizational plan and the way I calculated that it looked to me like a 4.6 when you added all the numbers up and appropriately divided .

Mosbaugh : Okay

Bockhold: It was very objective and there's really not much discussion on it.

Bockhold : The, uh, next one was associated really with teamwork communication , leadership and inter-department site \ corporate areas OK. I put down the same for you and for Skip. You and Skip achieved peaceful coexistence and the organizations worked effectively together. To achieve complete syntergy more effort will be required.

Mosbaugh: Okay

Bockhold : Both are fully acceptable.

Mosbaugh: Okay

Bockhold : Goals fully achieved. I guess is the terminology.

Mosbaugh: Okay

Bockhold : Basically I combined those for yours and come down evaluation 4.5 overall. Why don't you read your strengths the way I see them.

NUCLEAR REGULATORY COMMISSION

Docket No. 50-424/425-OLA-3 EXHIBIT NO. II-232

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

Staff Applicant Intervenor Other

Identified Received Rejected Reporter SD

Date 9/7/95 Witness George Bockhold

BEFORE THE
UNITED STATES DEPARTMENT OF LABOR

ALLEN L. MOSBAUGH,	:	
	:	
Complainant,	:	<u>VOLUME III</u>
	:	
vs.	:	Case Nos. 91-ERA-01
	:	91-ERA-11
	:	
GEORGIA POWER COMPANY,	:	
	:	
Respondent.	:	
	:	

Hearing Room A, Suite 2400,
101 Marietta Tower,
101 Marietta Street, N.W.,
Atlanta, Georgia

Thursday, March 12, 1992

The above-entitled matter came on for hearing,
pursuant to Adjournment, at 9:00 a.m.

BEFORE:

HON. ROBERT M. GLENNON, Administrative Law Judge

APPEARANCES:

On behalf of the Complainant:

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STEPHEN M. KOHN, Attorney,
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NUCLEAR REGULATORY COMMISSION

Docket No. 50-424/425-OLA-3 EXHIBIT NO. II-233

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

Staff Applicant Intervenor Other

Identified Received Rejected Reporter SP

Date 9/7/95 Witness George Beckford

I N D E X

<u>WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
A. W. Dahlberg	465	479	512	513
Charles Kenneth McCoy	516	587	--	--
George Bockhold, Jr.	630	678	--	--
<u>EXHIBITS:</u>		<u>IDENTIFIED</u>		<u>RECEIVED</u>
Respondent's:				
5 - Letter 6/13/90		Premarked		629
11 - Letter 7/24/89		"		
14 - DOL Statement		"		629
22 - Statement read on site		"		595
27 - Ebnetter Letter		"		629
28 - Letter to Mosbaugh		"		629
29 - NRC Guidelines		"		
32 - Bockhold Memo		"		629
31 - August Counseling Session		"		
35 - Termination Statement		"		629
37 - 1989 Annual Review		"		629
40 - Business Ethics Policy		"		629
41 -		"		629
42 - Bockhold letter		"		
44 - Bockhold letter		"		
62 - Target Organization Package		"		629
71 - Bockhold Letter		"		629
78 - Organizational chart		"		629

1 A. Yes, he did.

2 Q. And Mr. Greene reported to Mr. Bockhold?

3 A. That's correct.

4 Q. And when Mr. Mosbaugh became the acting general
5 manager, he no longer reported to Mr. Greene; correct?

6 A. That's correct.

7 Q. He reported directly to Mr. Bockhold?

8 A. That's correct.

9 Q. Did you know that Mr. Mosbaugh would be placed in
10 the acting general manager plant support position?

11 A. Yes. That was discussed with me prior to --

12 Q. Did you agree with that placement?

13 A. Yes, I did.

14 Q. During your deposition did you state that over the
15 period of '89-'90 that Mr. Mosbaugh's communication
16 capabilities had improved over that year?

17 A. I don't recollect what I said in the deposition
18 about that subject.

19 Q. If I may just read you a question and answer from
20 your deposition, maybe this would refresh your recollection.
21 Question --

22 MR. JOINER: Your Honor --

23 MR. STEPHEN KOEN: I'll show the witness the
24 deposition.

25 MR. JOINER: Yeah, I'd appreciate that.

1 BY MR. STEPHEN KOHN:

2 Q. Could you please read on Page 47, please read Lines
3 11 through 14?

4 A. Line 11, question: "So then it's fair to say that
5 Allen showed improvement in his ability to get along for 1989
6 to 1990; correct?"

7 Line 14, Answer: "Yes, that's correct."

8 Q. And do you stand by that testimony today?

9 A. Yes.

10 Q. Thank you. You can just leave that up there. We
11 may be needing it.

12 You testified that teamwork and cooperation was a
13 major concern of yours coming into the year 1990 at Plant
14 Vogtle?

15 A. I believe my testimony was that from the time that
16 I arrived there that it was a concern of mine.

17 Q. Do you believe that if one manager accused another
18 manager of criminal action and filed a criminal charge that
19 that act may hurt teamwork between those two managers?

20 A. Certainly.

21 Q. And it could interfere with the cooperation between
22 those two managers?

23 A. Certainly.

24 Q. Yet under your policies that you orally enunciated,
25 and the law, it would be the obligation of that manager who

1 A. His annual review?

2 Q. His 1989 annual review was filled out after the OI
3 investigation into the opening of the valves, dilution
4 valves?

5 A. Wasn't the OI investigation about the same time
6 frame? I have a set of notes as far as time goes for that OI
7 investigation.

8 I have February of '90 was the -- some time in
9 February was the OI investigation into the mid-loop, and the
10 annual evaluation was signed in February of '90, so it was
11 about the same time. It was not necessarily after or before.
12 I don't remember the exact dates.

13 Q. Okay. That's fine.

14 So prior to the --

15 A. And that evaluation was a good evaluation.

16 Q. And prior to the OI investigators coming on site,
17 you had heard that there was going to be an investigation;
18 isn't that correct?

19 A. Yes.

20 Q. And is it fair to say that management was
21 speculating as to the source of the investigation prior to
22 the OI investigators coming on site?

23 A. I had asked Allen --

24 JUDGE GLENNON: I'm sorry. May you could try to
25 respond to the kernel of the question, and then --

1 THE WITNESS: Would you repeat your question so I
2 can try to respond better?

3 BY MR. MICHAEL KOHN:

4 Q. Management was speculating --

5 A. Management, sir, is who?

6 Q. You and above, and your immediate -- anyone with a
7 manager title at Plant Vogtle and SONOPCO, there was some
8 form of discussion concerning who could have originated that
9 OI investigation, wasn't there?

10 A. Yes, there was some sort of discussion because we
11 wanted to improve communications.

12 Q. And during the course of that discussion who did
13 you limit -- I mean didn't you try to focus on who that could
14 be?

15 A. I did not. I was not interested in the individual,
16 I was interested in if there was an area to try to
17 communicate better with a particular organization.

18 Q. And you concluded that it had come from Mr.
19 Mosbaugh's side of the plant?

20 A. I didn't conclude that it came from any particular
21 side of the plant. I thought that it might have come out of
22 engineering.

23 Q. That reports to Mr. Mosbaugh?

24 A. It does report to Mr. Mosbaugh.

25 Q. Now, isn't it true that as the NRC OI investigation

1 A. I didn't evaluate the status of the plant at that
2 particular.

3 Q. But eventually you learned it was at mid-loop; is
4 that correct?

5 A. I learned that the plant was at reduced inventory,
6 but I didn't know the exact sequence or the exact timing in
7 relationship to this memo.

8 Q. Now, after September 15th Mr. Mosbaugh told you
9 point-blank that the plant was at mid-loop; correct?

10 A. Yes.

11 Q. Okay. And weren't you somewhat concerned that such
12 an expert as Mr. Kitchens would make such a fundamental error
13 in not realizing whether the plant was at mid-loop or not?

14 A. Mr. Kitchens evaluated the situation at this point.
15 I believe that he told me in this memo the truth as he
16 believed it at this point.

17 When a deficiency card is written people
18 investigate further what went into the situation, and when a
19 concern is written it's investigated further and other facts
20 may come out.

21 Q. And that deficiency card was written at Mr.
22 Mosbaugh's insistence?

23 A. Mr. Mosbaugh was responsible support manager
24 responsible for identifying potential licensing event
25 reports. It should have been written at his or anybody

DATE: September 15, 1989

RE: Addition of Hydrogen Peroxide During 1R1
Log: NOV-00385
Security Code: NC

FROM: W. F. Kitchens

TO: G. Bockhold, Jr.

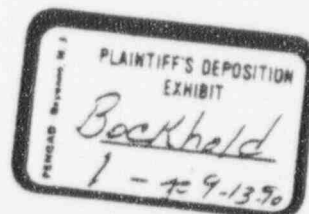
During shutdown for the first refueling outage, hydrogen peroxide was added to the RCS as a cleanup measure to reduce radiation exposure to outage workers. This was a planned activity shown on the schedule, and was performed in MODE 5 during the initial RCS drain down. The chemical was added in amounts of approximately 2.5 gallons four times during October 12, 1988 and October 13, 1988. (Attached is a chronology of operations performed on these dates, as documented in the SS logbook.)

To comply with Tech Spec 3.4.1.4.2, a clearance (#1-88-371) was used to ensure that certain RMWST valves were locked closed per procedure 228-1. During the hydrogen peroxide additions, three of these valves were momentarily opened under functional test provisions. The action statement was entered each time, and these valves reclosed within four minutes or less, as documented in the SS logbook.

Operations Management was consulted on the appropriateness of entering the ACTION statement of 3.4.1.4.2 to perform chemical addition in MODE 5 with RCS loops not filled. Management provided concurrence, and gave a tech spec interpretation that allowed momentary entry into this ACTION statement. (Based on accepted practice at another nuclear plant, verbal guidance was given that "immediate" action must be taken within five (5) minutes.) After consulting with the NSAC Manager, a Tech Spec change request was initiated to make it clear that these valves could be opened momentarily for addition of chemicals. This change would avoid the need to enter the ACTION statement. The LDCR was initiated, and scheduled for completion prior to the next refueling. Also, an outage critique comment was initiated to track this Tech Spec improvement.

Today, I was informed of a concern by a Technical Support staff member that a "tech spec violation" had occurred when the RMWST valves were opened during 1R1. This staff member was processing the LDCR for the Tech Spec change, and when he discovered we voluntarily entered ACTION statement 3.4.1.4.2, was concerned that we may have violated Tech Specs. This memo is to document the facts, and address this concern.

NUCLEAR REGULATORY COMMISSION
Docket No. 50-424/425-OLA-3 EXHIBIT NO. II-234
In the matter of Georgia Power Co. et al., Vogtle Units 1 & 2
 Staff Applicant Intervenor Other
 Identified Received Rejected Reporter SD
Date 9/2/95 Witness George Bockhold



II-234

G. Bockhold, Jr.
Page 2
September 15, 1989

In my opinion, no violation of Tech Specs occurred, because when the LCO was not satisfied, the appropriate ACTION statement was entered and appropriate actions were taken per 3.4.1.4.2. This is a basic Tech Spec compliance issue, and direction for such compliance is given in Sections 3.0.1 and 3.0.2. The BASIS for these Tech Specs was not violated. I know of no legal restriction upon voluntary entry into any Tech Spec ACTION statement, so long as the action is taken as stated. Since I would prefer to not have to enter ACTION statements to perform routine plant operations, I continue to support the LDCR for a Tech Spec change.

A side issue that was addressed because of our experience during the first refueling was to define "with reactor coolant loops not filled". As part of the review described above, after consultation with Westinghouse, we issued, on 2/22/89, a written Tech Spec interpretation. A verbatim definition would be that loops are not filled when level has been drained below 188'-3" (top of hot leg). I believe that level was above the top of the hot legs when the hydrogen peroxide was added to the RCS on 10/12/88 and 10/13/88. Therefore, an argument could be made that 3.4.1.4.2 was not applicable at that time. Our current Tech Spec interpretation puts this specification into effect upon drain down below 25% pressurizer cold cal level, and is conservative.

WFK/erd

Skip Kitchens

Attachment

xc: J. E. Swartzwelder
R. L. LeGrand
A. G. Rickman
M. B. Lackey
A. L. Mosbaugh
NORMS

UNITED STATES DEPARTMENT OF LABOR

IN THE MATTER OF:

ALLEN MOSBAUGH,)	
	)	CLAIM NO: 90-ERA-58
COMPLAINANT,)	
)	
VERSUS)	
)	
GEORGIA POWER COMPANY,)	
)	
RESPONDENT.)	

DEPOSITION OF GEORGE BOCKHOLD, JR.,
 TAKEN BY COUNSEL FOR THE COMPLAINANT,
 BEFORE JEAN W. CLEMENTS, CERTIFIED COURT REPORTER,
 AT PLANT VOGTLE, AUGUSTA, GEORGIA,
 ON THURSDAY, THE 13TH DAY OF SEPTEMBER, 1990,
 COMMENCING AT 9:30 A.M.

APPEARANCES OF COUNSEL

FOR THE COMPLAINANT:

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 ATLANTA, GA 30343

CULPEPPER REPORTING SERVICE, INC.
 551 GREENE STREET, PATIO LEVEL
 AUGUSTA, GEORGIA 30901
 (404) 722-3746

1 A. I DON'T REMEMBER.

2 Q. DID YOU ASK ANYONE ON SITE TO TRY -- LET ME
3 REPHRASE THAT. DID YOU INTEND TO TRY TO LOCATE THE SOURCE
4 OF THE RUMOR THAT MR. SKIP KITCHENS HAD OPENED THE VALVE?

5 A. NO, BECAUSE IT WAS TOTALLY RIDICULOUS THAT SKIP
6 KITCHENS WOULD OPEN THE VALVE.

7 Q. WAS THERE A RUMOR ON SITE THAT SKIP KITCHENS HAD
8 INTENTIONALLY ORDERED THAT THE VALVE BE OPENED IN VIOLATION
9 OF TECHNICAL SPECIFICATIONS?

10 A. I HEARD THAT RUMOR, TOO, AND THAT'S TOTALLY
11 RIDICULOUS ALSO.

12 Q. AND I NOTICE THAT SOME PEOPLE CHANGE IN Demeanor
13 WHEN THEY'RE ANSWERING THAT QUESTION. BUT IS THAT A
14 PARTICULAR SORE SPOT WITH YOU?

15 A. NO.

16 Q. THAT ALLEGATION IS NOT A PARTICULAR SORE SPOT?

17 A. IT'S TOTALLY RIDICULOUS, THAT'S ALL, YOU KNOW,
18 WHEN I SAY THE WORDS TOTALLY RIDICULOUS, MAYBE THAT'S JUST
19 THE WAY I REACTED.

20 Q. AND SO A TOTALLY RIDICULOUS ALLEGATION WOULDN'T
21 GET YOU UPSET?

22 A. NO.

23 Q. EVEN IF IT'S MADE AGAINST ONE OF THE HIGHEST
24 RANKING MEMBERS OF MANAGEMENT ON SITE?

25 A. NO, BECAUSE THE THING THAT JUST GIVES ME ANY

1 EMOTION AT ALL IS THAT THE N.R.C. WOULD CONTINUE TO PURSUE A
2 TOTALLY AND OBVIOUSLY TOTALLY RIDICULOUS ALLEGATION, THAT
3 THEY WOULD WASTE MAN-HOURS TO GO AHEAD AND PURSUE IT.

4 Q. AND, HOW MANY O.I. INVESTIGATIONS HAVE THERE
5 BEEN AT PLANT VOGTLE?

6 A. TWO.

7 Q. CAN YOU TELL ME WHAT THE TWO WERE?

8 A. ONE WAS ASSOCIATED WITH SECURITY AND ONE WAS
9 ASSOCIATED WITH THE MID-LOOP OPERATION.

10 Q. AND, WAS THE SECURITY INVESTIGATION, WHAT WAS
11 THAT ABOUT?

12 A. THE SECURITY INVESTIGATION WAS ABOUT VARIOUS
13 ALLEGATIONS AND VARIOUS PROBLEMS ASSOCIATED WITH SECURITY
14 AND WILLFUL WRONGDOING.

15 Q. WHO MADE THOSE ALLEGATIONS?

16 A. I DON'T KNOW.

17 Q. AND, WAS THERE A FINE ISSUED REGARDING THE FIRST
18 O.I. INVESTIGATION?

19 A. I BELIEVE THAT THE N.R.C. RULES ARE SUCH THAT
20 FINES ARE NOT ISSUED ASSOCIATED WITH O.I. INVESTIGATIONS.
21 THE NORMAL INSPECTION PROCESS IS USED TO ISSUE FINES.
22 CRIMINAL PROSECUTION IS ASSOCIATED WITH O.I. INVESTIGATIONS,
23 AND SO FINES AND O.I. INVESTIGATIONS DO NOT RELATE.

24 Q. AND, WAS THERE A CONCURRENT N.R.C. INSPECTION
25 PROCESS COVERING THE SAME AREAS AS THE O.I. INVESTIGATIONS

1 THEY SHOWED UP.

2 Q. THE INFORMATION -- WELL, LET ME REPHRASE THAT.
3 WHAT INFORMATION WAS PROVIDED TO YOU OR GEORGIA POWER
4 COMPANY PRIOR TO THE O.I. INVESTIGATION, WAS THERE A LIST OF
5 DOCUMENTS THEY WANTED TO REVIEW, WAS THERE A LIST OF PEOPLE
6 THEY WANTED TO INTERVIEW?

7 A. I DON'T REMEMBER THE SPECIFICS ON IT.

8 Q. WERE THERE WRITTEN COMMUNICATIONS FROM THE
9 N.R.C. BEFORE THE INVESTIGATION BEGUN?

10 A. I DON'T KNOW YOUR QUESTION. I MEAN, I BELIEVE
11 JOHN AUFDENKAMPE MAY HAVE HAD SOME CONVERSATIONS WITH THE
12 RESIDENT, BUT THAT IS A VAGUE REMEMBRANCE, VERY VAGUE.

13 Q. YOU SAID EARLIER YOU WERE TRYING TO MINIMIZE THE
14 AMOUNT OF TIME YOUR MANAGERS WOULD HAVE TO BE INVOLVED IN
15 THIS O.I. INVESTIGATION AND THAT YOU WERE TRYING TO LOCATE
16 THE DOCUMENTS AND WHATNOT TO SPEED UP THAT PROCESS, WHEN DID
17 YOU BEGIN THIS PROCESS?

18 A. WHEN I KNEW A LOT OF PEOPLE WERE GOING TO BE
19 HERE. PART OF MY NORMAL STAFF MEETINGS IS TO PUT OUT
20 INFORMATION ON WHAT'S GOING ON WITH N.R.C. ACTIVITIES. WE
21 HAVE MY MANAGEMENT STAFF PUT OUT THAT ACTION. PART OF MY
22 GENERAL MANAGEMENT STYLE IS TO TRY TO MAKE SURE THAT WE ARE
23 ORGANIZED SUCH THAT FOR INSPECTION TEAMS WE RESPOND AS
24 QUICKLY AS WE CAN TO GET THEM THAT INFORMATION SO THEY CAN
25 DO THEIR JOB AND BASICALLY WE CAN THEN GO ON ABOUT OUR

1 again.

2 MR. BOCKHOLD: Thank you, sir.

3 CHAIRMAN BLOCH: I remind you once again that
4 you will be telling the truth, the whole truth and nothing
5 but the truth and that your testimony continues to be
6 subject to possible penalties for perjury.

7 MR. BOCKHOLD: I understand, sir.

8 Whereupon,

9 GEORGE BOCKHOLD, JR.

10 having been previously duly sworn, was recalled as a
11 witness herein, and was examined and testified further as
12 follows:

13 DIRECT EXAMINATION (CONTINUED)

14 BY MR. BLAKE:

15 Q Mr. Bockhold, do you have before you a
16 document dated August 21, 1995 entitled rebuttal testimony
17 of George Bockhold, comprised of 27 pages?

18 A I do.

19 Q And were you involved in the preparation of
20 this document?

21 A I was.

22 Q And can you describe that involvement?

23 A I worked to prepare rebuttal testimony as laid
24 out in the document.

25 Q And as you've pleaded now and distributed to

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1 the parties and the Board, are there any corrections that
2 you need to make to this document?

3 A Yes, there are.

4 Q Will you identify those, please?

5 A On page 1, line 23, the page number at the
6 right, instead of being 7, should be 6.

7 On page 2, line 3, the page number instead of
8 being 12, should be 11.

9 On line 5, the page number instead of being
10 15, should be 14.

11 On line 10, the page number instead of being
12 21, should be 20.

13 On line 12, the page number instead of being
14 22, should be 23.

15 CHAIRMAN BLOCH: You didn't have to change
16 page 24?

17 THE WITNESS: Didn't have to, sir. On page
18 14, line 3, towards the end of --

19 BY MR. BLAKE:

20 Q Wait until people get there, please. Thank
21 you.

22 A Towards the end of the sentence, it's "while
23 we were", the word "were" needs to be added, "while we
24 were going."

25 CHAIRMAN BLOCH: Could you just take a moment?

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1 I'm concerned about the sound system. I want to get
2 someone to observe it.

3 (Pause.)

4 CHAIRMAN BLOCH: Excuse me, please continue.

5 THE WITNESS: Yes, Judge Bloch. Did you get
6 the page 14, line 3 corrections?

7 CHAIRMAN BLOCH: Yes.

8 THE WITNESS: On page 21, at the end of the
9 last sentence on the page or at the end of line 26, I'd
10 like to add this sentence: "this information was provided
11 to the IIT, IIT document 143, Intervenor exhibit 2-89,
12 which contains a list of specific sensor problems."

13 CHAIRMAN BLOCH: 2-89?

14 THE WITNESS: 2-89.

15 ADMINISTRATIVE JUDGE MURPHY: You're going to
16 have to do it again, please.

17 THE WITNESS: "This information was provided
18 to the IIT, IIT document 143, Intervenor exhibit 2-89,
19 which contains a list of specific sensor problems."

20 CHAIRMAN BLOCH: Which line did you want that
21 insert on?

22 THE WITNESS: Right after the period on line
23 26.

24 CHAIRMAN BLOCH: Okay.

25 THE WITNESS: On page 26, line 23, the GPC

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1 exhibit is dash blank. I understand that we need to have
2 an exhibit number or maybe strike that.

3 MR. BLAKE: Hasn't yet been established.

4 (Laughter.)

5 MR. BLAKE: It is Bockhold Exhibit AA which
6 sufficiently identifies it for this purpose, Judge Bloch.
7 It's attached to his testimony and as soon as we get to it
8 and identify it, and get it marked, we'll have a number.

9 CHAIRMAN BLOCH: Is that it?

10 THE WITNESS: Yes sir.

11 BY MR. BLAKE:

12 Q Mr. Bockhold, with those corrections, is this
13 testimony true and accurate to the best of your knowledge
14 and believe?

15 A It is.

16 Q And do you adopt it as your testimony?

17 A I adopt it as my testimony.

18 MR. BLAKE: Chairman Bloch, I'd ask that this
19 rebuttal testimony of Mr. Bockhold's be accepted into
20 evidence and physically incorporated in the record just as
21 though read.

22 CHAIRMAN BLOCH: Granted.

23 BY MR. BLAKE:

24 Q Mr. Bockhold, do you also have available to
25 you or in front of you a number of exhibits which are

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August 21, 1995

UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of	)	Docket Nos. 50-424-OLA-3
	)	50-425-OLA-3
GEORGIA POWER COMPANY)	
et al.	)	Re: License Amendment
	)	(Transfer to Southern
Nuclear)	
Vogtle Electric Generating Plant,)	
Units 1 and 2)	)	ASLBP No. 93-671-01-OLA-3

REBUTTAL TESTIMONY OF

GEORGE BOCKHOLD JR.

1 REBUTTAL TESTIMONY OF GEORGE BOCKHOLD JR.

2 Q. PLEASE STATE YOUR NAME AND POSITION.

3 A. My name is George Bockhold, Jr. I am employed by Southern
4 Nuclear Operating Company, Inc., as General Manager, Nuclear
5 Technical Services.

6 Q. HAVE YOU TESTIFIED PREVIOUSLY IN THIS PROCEEDING?

7 A. Yes. I have testified previously on two occasions. I
8 presented prefiled testimony on April 19, 1995, on diesel
9 generator reporting issues, and prefiled testimony on June 2,
10 1995, on diesel generator air quality statements. My
11 professional qualifications were appended to my prior,
12 prefiled testimony on diesel generator reporting issues and
13 were admitted into evidence as GPC Exhibit II-20.

14 Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY NOW BEING
15 PROVIDED?

16 A. The purpose of this rebuttal testimony is to address a number
17 of assertions made in the Prefiled Testimony of Allen L.
18 Mosbaugh, as well as in his cross-examination. Specifically,
19 I address two meetings in January, 1990, which he
20 mischaracterizes as targeted at him for raising safety
21 concerns and several statements which he attributes to me; the
22 actions which I took when I became aware that a Plant Review
23 Board (PRB) alternate member felt intimidated by me (page 7);
24 the handling of Mr. Mosbaugh's Quality Concern regarding the

1 FAVA microfiltration system (page 8); Mr. Mosbaugh's
2 assignment after Mr. Greene's return to his Assistant General
3 Manager - Plant Support position (page 12); statements which
4 I made to the PRB in the drafting of the August 30, 1990
5 letter to the NRC (page 15); whether outage schedule was given
6 priority over, or detracted from, Georgia Power's root cause
7 evaluation of the diesel generator failures on March 20, 1990
8 (page 16); the completeness of the Safety System Performance
9 Indicator (SSPI) data provided to the NRC in early April, 1990
10 prior to restart of Vogtle Unit 1 (page 21); my knowledge of
11 a maximum number of "successful starts" on April 9, 1990 (page
12 22); and why an "air blow" was not performed on the diesel air
13 lines to check air quality (page 24). Finally, I address Mr.
14 Mosbaugh's speculation that Mr. Cash's typed list of starts
15 was a back-up slide (transparency) for the April 19, 1990 NRC
16 presentation.

17 Meetings and Conversations with Mr. Mosbaugh

18 Q. MR. MOSBAUGH TESTIFIES, ON PAGES 8 AND 65 OF HIS RETYPED
19 PREFILED TESTIMONY, THAT ON JANUARY 19, 1990, SHORTLY AFTER HE
20 SUBMITTED AN ALLEGATION TO THE NRC, YOU HELD A MEETING WITH
21 HIM AND MR. KITCHENS RELATING TO "BACKSTABBING." WHAT WAS
22 THAT MEETING ABOUT.

23 A. Mr. Mosbaugh's testimony relates to a meeting I held with Mr.
24 Kitchens and Mr. Mosbaugh in January to address improving
25 teamwork and cooperation between the Operations and the Plant

1 Support organizations that they headed. We had a problem in
2 teamwork between Mr. Mosbaugh and Mr. Skip Kitchens, and
3 between the Operations and the Plant Support organizations,
4 and we needed to rectify the situation.

5 The lack of cooperation between these two organizations
6 had been a concern for some time. It was one of the main
7 items that the plant staff needed to work on. The situation
8 was a problem, in part, because Mr. Mosbaugh was not working
9 hard enough at bringing the Vogtle organizations together, to
10 develop cooperation and synergy between the departments. He
11 was not asking people how he could help them, how he could
12 support them, how he could resolve problems. Mr. Kitchens was
13 also responsible for allowing the rift between the two
14 organizations to remain without taking action.

15 Mr. McCoy spoke to me around the end of 1989 or beginning
16 of 1990 about improving teamwork at the plant. He was
17 concerned that the plant organization was not improving and
18 wanted this problem resolved.

19 Prompted by Mr. McCoy's and my concern, I had a meeting
20 in January, 1990, between Mr. Mosbaugh, Mr. Kitchens, and me
21 to discuss making the organization work together and to tell
22 both Mr. Kitchens and Mr. Mosbaugh that they needed to work
23 harder on such cooperation. This was a management improvement
24 meeting -- a team building session. I did not single out
25 either one of them. We discussed everybody's cooperation, and
26 I asked both of them to talk about what they thought their

1 personal faults were in management style and how they might
2 improve upon them, to discuss their perceptions, and to "let
3 their hair down." I believe I listed my personality faults
4 first. My objective was to encourage Mr. Kitchens and Mr.
5 Mosbaugh to work better together and to make the Vogtle
6 organization more effective.

7 Q. WHAT CONNECTION WAS THERE BETWEEN THIS MEETING AND ANY
8 SUBMISSION BY MR. MOSBAUGH OF ALLEGATIONS TO THE NRC?

9 A. None, there was no connection between this meeting and Mr.
10 Mosbaugh's submission of allegations to the NRC. At the time
11 I did not know or suspect that Mr. Mosbaugh had sent any
12 allegation to the NRC. I don't believe I even knew there was
13 any NRC Office of Investigations ("OI") investigation, until
14 the end of January, when or very shortly before OI arrived on
15 site. Moreover, Mr. Mosbaugh did not submit a Quality Concern
16 regarding the FAVA microfiltration system until after a Plant
17 Review Board vote on February 8, 1990.

18 Q. DID YOU "CONFRONT" MR. MOSBAUGH ABOUT THE SOURCE OF THE
19 DILUTION VALVE ALLEGATION ON JANUARY 29, 1990, WHEN OI CAME TO
20 THE SITE, AS MR. MOSBAUGH ASSERTS ON PAGE 9 OF HIS RETYPED
21 PREFILED TESTIMONY?

22 A. No. I did speak with a number of persons on my staff to try
23 to understand what was being investigated. I learned from
24 people that had been interviewed that there was probably an

1 allegation that Skip Kitchens had opened a dilution valve. I
2 did not know who had made such an allegation. There was some
3 speculation that the OI investigation had been initiated by
4 somebody within the NRC. I may have discussed such matters
5 with Mr. Mosbaugh, but I did not in that time-frame think that
6 Mr. Mosbaugh was involved with OI at all.

7 Q. DO YOU RECALL STATING TO MR. MOSBAUGH THAT YOU HAD
8 PROFESSIONAL TRAINING IN THE NAVY SAYING "YES, SIR" AND
9 TELLING HIM "IF YOU CAN'T CONFORM AND ACCEPT, YOU NEED TO GET
10 OUT," AS MR. MOSBAUGH ALLEGES ON PAGES 9 AND 65 OF HIS RETYPED
11 PREFILED TESTIMONY?

12 A. No. I don't remember making such statements, particularly
13 with respect to any allegations that had been made to the NRC,
14 as Mr. Mosbaugh's testimony appears to suggest. I have
15 reviewed the notes Mr. Mosbaugh prepared relating to the
16 meeting at which he alleges that I made this statement. These
17 notes indicate that it was a meeting on February 7, 1990 to
18 discuss a Plant Vogtle reorganization and associated down-
19 sizing. Periodically, I held meetings with all my managers to
20 discuss personnel needs and requirements in every department.
21 This meeting had nothing whatsoever to do with any allegation
22 made to the NRC, any NRC inspection or investigation, or any
23 safety concern.

24 Mr. Mosbaugh's notes indicate that I made the specific
25 remarks which he attributes to me. While I do not remember

1 making the remarks, I may well have made some such remarks in
2 this context of organizational change. I did not enjoy
3 discussing the elimination of jobs, but recognized that it was
4 a business necessity -- as did my superiors -- as the Plant
5 moved further away from the period of start-up and a large
6 support staff to a smaller support organization. If Mr.
7 Mosbaugh suggested that he didn't like the reorganization
8 philosophy or particular eliminations, I may well have told
9 him that he needed to learn to accept upper management's
10 directions.

11 Q. DO YOU RECALL STATING THAT, GIVEN THE VALUE OF GENERATION,
12 SOMETIMES IT'S BETTER TO TAKE THE VIOLATION, AS MR. MOSBAUGH
13 ALLEGES ON PAGE 65 OF HIS RETYPED PREFILED TESTIMONY?

14 A. I don't remember making such a statement. This would be
15 inconsistent with my approach to plant operations. Such an
16 approach would also be inconsistent with the operating
17 policies voiced by my superiors.

18 Alleged Intimidation of a PRB Alternate

19 Q. MR. MOSBAUGH TESTIFIES, AT PAGE 9 OF HIS RETYPED PREFILED
20 TESTIMONY, THAT YOUR ATTENDANCE AT PRB MEETINGS INTIMIDATED AT
21 LEAST ONE MEMBER. DO YOU HAVE ANY COMMENTS ON THIS TESTIMONY?

22 A. Yes. It was reported to me at one time that Gus Williams, who
23 served as an alternate member on the PRB, felt intimidated by
24 my actions at a PRB meeting. As soon as I heard that, I took

1 steps to correct this situation. I met with the main PRB
2 members and discussed with them at some length the need for
3 every PRB member to be able to stand up and discuss his
4 concerns and vote his conscience. I also told them to make
5 sure their alternates understood this responsibility and were
6 able to vote freely, and that if any alternates were not
7 capable of providing candid advice and recommendations, they
8 would need to chose other alternates. I also made Mr. McCoy
9 aware of the concern.

10 Mr. Mosbaugh apparently submitted the allegation of PRB
11 members to the NRC in the Summer of 1990, before the August,
12 1990, Operational Safety Inspection. The OSI inspection
13 report documents my March 1, 1990, efforts to assure that my
14 presence at PRB meetings did not influence them and that
15 alternates should be selected who would feel comfortable with
16 this responsibility. I also addressed the difference between
17 professional differences of opinion (which I believed was the
18 case with the FAVA system in this instance) and safety and
19 quality concerns (which are different methods to raise issues
20 of concern separate from PRB discussions). Section 2.7 of the
21 OSI Inspection Report which addresses this issue is attached
22 hereto as Exhibit Q.

1 Handling of Mr. Mosbaugh's FAVA Concern

2 Q. MR. MOSBAUGH STATES AT PAGE 11 OF HIS RETYPED PREFILED
3 TESTIMONY THAT YOU TOOK HIS QUALITY CONCERN (CONCERNING THE
4 FAVA MICROFILTRATION SYSTEM) AWAY FROM THE QUALITY CONCERN
5 COORDINATOR. HOW WAS MR. MOSBAUGH'S CONCERN HANDLED?

6 A. I told Bill Lyon that he had gone far enough with his review
7 of Mr. Mosbaugh's quality concern, because the issues exceeded
8 Mr. Lyon technical expertise and I was obtaining additional
9 technical expertise to handle it. Also, Mr. Lyon had come to
10 me and expressed concern that he was being asked to resolve a
11 quality concern that was submitted by his immediate
12 supervisor, Mr. Mosbaugh, who would prepare his annual
13 performance review. In essence, he was being placed in a
14 position to resolve a concern where the majority of plant
15 managers on the PRB had already voted to activate the FAVA
16 system, but his immediate supervisor opposed the use of the
17 system. I discussed these matters with Mr. McCoy, and we
18 decided not to allow the system to be placed into operation
19 until we had further reviewed Mr. Mosbaugh's concern. We also
20 decided to assign the matter to Paul Rushton, who at the time
21 was Manager of Engineering and Licensing, and who was
22 independent of the PRB's decision. Mr. Rushton also was in a
23 position where he could readily obtain additional engineering
24 support from the corporate office, including Southern Company
25 Services. We also involved the NRC, who I understand reviewed
26 Mr. Mosbaugh's Quality Concern file. A copy of my March 15,

1 1990, memorandum to Allen (attached hereto as Exhibit R)
2 states that I planned to allow the FAVA system into operation
3 after obtaining any further comments from him, Vogtle
4 management and the NRC, and spelled out specific cautionary
5 measures for its temporary operation (a permanent system from
6 another vendor was already scheduled for a May, 1990
7 delivery). While we were unable to satisfy Mr. Mosbaugh, we
8 did obtain the NRC's concurrence before we put the FAVA system
9 back into service. I now know, although I didn't at the time,
10 that Mr. Mosbaugh did not view Mr. Rushton and Mr. Mark Ajluni
11 (who analyzed one aspect of the concern) to be independent
12 because of other factors which were documented by Mr. Lyon in
13 a June 20, 1990 memorandum to his file, attached hereto as
14 Exhibit S, stating in part:

15 Allen also commented about the inadequacy of an earlier study.
16 He did not feel comfortable with it because of the lack of
17 independence. According to Allen the original A[lternate]
18 R[adwaste] B[uilding] study was performed by Paul Rushton and
19 Mark Ajulina (sic). Both Paul and Mark were aided by George
20 in their placement in SONOPCO. Their friendship goes way back
21 and they will basically cater to Bockhold's needs. Another
22 problem is that neither Paul or Mark have the knowledge or
23 experience needed for Rad Waste. He did feel that Lue (sic)
24 Long was an expert in this field, but, his assessment of the
25 ARB is tainted because it's based on Rushton's old study.

26 Later in the summer, when Mr. Mosbaugh indicated that his
27 concerns were still unresolved, we asked Lee Glenn of the
28 Corporate Concerns program to review the concerns, again to
29 provide another independent review of Mr. Mosbaugh's concerns.
30 Mr. Glenn reported up to the President of Georgia Power, who
31 was Mr. Dahlberg at the time, and outside of the nuclear

1 management chain. We asked Mr. Glenn to work with Mr.
2 Mosbaugh to resolve his concerns.

3 On June 21, 1990, Mr. Glenn and I together met with Mr.
4 Mosbaugh and explained this independent review effort. I told
5 Mr. Mosbaugh that we wanted him to basically work full-time on
6 this concern, giving it his highest priority of writing down
7 and identifying his concerns. I explained that Mr. Glenn
8 would work with Allen to understand the concerns and, then,
9 would attempt to address each one. Mr. Glenn would be the
10 primary concern contact person, I explained, instead of Mr.
11 Lyon which would give some independence to the process. Mr.
12 Glenn explained that Mr. Lyon efforts to that point, including
13 supplemental information, would be reviewed and that the NRC
14 Resident Inspector, Mr. John Rogge, would be contacted to
15 determine whether the NRC wanted to participate in the review
16 of the concerns.

17 On June 22, 1990, at a meeting which I did not attend,
18 Mr. Mosbaugh was told by Mr. Glenn that Mr. Glenn served as an
19 independent, third party reviewer of Mr. Mosbaugh's concerns,
20 outside of the plant chain of command and even outside the
21 nuclear organization. A transcript of the relevant portion of
22 their conversation is attached as Exhibit T.

23 I followed up on Mr. Glenn's efforts to assure that
24 issues potentially adverse to safety were being pursued. On
25 July 2, 1990, I asked Mr. Mosbaugh about where he stood with
26 identification of his concerns. He told me that Mr. Glenn was

1 coming to the plant the next day, and that he was planning to
2 provide him any additional technical concerns. I requested
3 that Mr. Mosbaugh develop a schedule for completing the
4 submission of his concerns and the assignments which he had
5 assumed while reporting directly to me; I explained that we
6 were still working on Manager-In-Training and related
7 assignments.

8 Mr. Glenn worked on Mr. Mosbaugh's concerns, until Mr.
9 Mosbaugh decided in early July that he wished to pursue the
10 remaining issues only with the NRC. On July 3, 1990, Mr.
11 Mosbaugh indicated a reluctance or hesitancy in identifying
12 his additional concerns to Mr. Glenn; on July 6, therefore, I
13 directed him to notify the NRC of any concerns which he was
14 withholding. I had already discussed with the NRC Residents
15 the fact that he had concerns which he would only discuss with
16 them, attached hereto as Exhibit U. In response, Mr. Mosbaugh
17 wrote me a memorandum on July 13, 1990 in which he stated his
18 conclusion that "internal processes" were not effective and
19 that, henceforth, he would take his concerns to the NRC. "I
20 think it appropriate that I continue to take direction from
21 the NRC as how to best resolve my safety concerns," Mr.
22 Mosbaugh wrote. Mr. Mosbaugh's memorandum has been admitted
23 into the record as Intervenor's Exhibit II-179.

24 Mr. Mosbaugh's Assignments After Mr. Greene's Return

25 Q. MR. MOSBAUGH STATES, ON PAGE 38 OF HIS RETYPED PREFILED

1 TESTIMONY, THAT DURING A FEBRUARY 23, 1990 MEETING TO DISCUSS
2 HIS ANNUAL REVIEW, YOU TOLD HIM THAT IT MADE NO SENSE SENDING
3 HIM TO SENIOR REACTOR OPERATOR (SRO) TRAINING. DO YOU RECALL
4 THIS CONVERSATION?

5 A. Yes. Mr. Mosbaugh had previously mentioned to me that he
6 planned to retire shortly. During his annual review, we
7 discussed his plans, and he again told me he intended to
8 retire early. I told him that if this were the case, sending
9 him to SRO school might not make sense. SRO school involved
10 a considerable investment of time and money, and I was
11 concerned we might lose this investment if he went to SRO
12 school and then retired shortly thereafter. I subsequently
13 raised this matter with Mr. McCoy.

14 Several months later Mr. Mosbaugh expressed interest in
15 SRO school as his first preference for positions. Thereafter
16 his first preference was granted when he gave Mr. McCoy
17 assurances that he would stay with Georgia Power for several
18 years after completing the SRO training.

19 Q. MR. MOSBAUGH ALSO TESTIFIES ON PAGE 38 OF HIS PREFILED
20 TESTIMONY THAT HE RECEIVED A LETTER FROM YOU ON MAY 10, 1990,
21 REMOVING HIM FROM THE PRB. WOULD YOU PLEASE EXPLAIN THAT
22 ACTION.

23 A. I had reconfigured the PRB in 1989 so that it consisted of the
24 line managers, because from a management perspective these
25 were the individuals I wanted involved. My selection of

1 individuals was consistent with plant procedures as well as
2 our commitments to the NRC. I had made Mr. Mosbaugh the Vice
3 Chairman and a member of the PRB during Mr. Greene's absence
4 because Mr. Mosbaugh was acting as such a line manager, i.e.,
5 he was the acting Assistant General Manager -- Plant Support.

6 When Tom Greene returned to duty from SRO school and
7 reassumed his position as Assistant General Manager -- Plant
8 Support, I had him assume the Vice Chairman position on the
9 PRB, because he was now in this senior line management
10 position. I never considered creating any special PRB
11 position so that Mr. Mosbaugh could remain on the Board after
12 Mr. Greene's return. My decision was based solely on
13 maintaining what I considered as the proper composition of the
14 PRB.

15 Q. MR. MOSBAUGH ALSO TESTIFIES THAT YOU RELIEVED HIM IN ALL
16 CAPACITIES FROM HIS JOB AND DID NOT RETURN HIM TO THE
17 ENGINEERING MANAGER POSITION HE HAD HELD IMMEDIATELY PRIOR TO
18 BEING MADE ACTING ASSISTANT GENERAL MANAGER -- PLANT SUPPORT.
19 WHY DIDN'T YOU MAKE MR. MOSBAUGH THE ENGINEERING MANAGER WHEN
20 MR. GREENE RETURNED?

21 A. Shortly before Mr. Greene returned to duty, near the end of
22 April, 1990, I asked Mr. Mosbaugh what job he wanted. On or
23 about April 30, 1990, Mr. Mosbaugh gave me a handwritten
24 memorandum listing his job preferences, with SRO training at
25 the top. He stated in his memorandum that he did not prefer
26 to move backwards in scope of responsibility or level. A copy

1 of this memorandum is attached as Exhibit V.

2 After Mr. Greene returned from SRO school, I assigned Mr.
3 Mosbaugh to work on several special projects while we going
4 through the selection process for the next session of SRO
5 training. I wanted to finish the SRO selection process before
6 I made decisions about new jobs. These projects that I
7 assigned to Mr. Mosbaugh during this period were important to
8 me. In addition, I solicited his selection of specific tasks
9 which had been identified as nagging problems; this was an
10 opportunity for Mr. Mosbaugh to show his leadership in
11 resolving problems, it was not a "make-work" position. I
12 thought at the time that giving Mr. Mosbaugh these assignments
13 while final decisions on SRO school were being made was
14 consistent with his wishes, as expressed in his April 30, 1990
15 memorandum, not to move backward in level. Also, the
16 Engineering Support Manager position was already held by Mr.
17 Michael Horton.

18 Drafting the August 30, 1990 Letter

- 19 Q. ON PAGE 60 OF HIS RETYPED PREFILED TESTIMONY, MR. MOSBAUGH
20 STATES THAT ON TAPE 184 YOU TOLD THE PLANT REVIEW BOARD TO
21 LEAVE PARTS OF THE AUGUST 30, 1990 LETTER TO THE NRC THE WAY
22 THEY WERE WRITTEN IN BIRMINGHAM. WHAT DID YOU TELL THE PRB??
- 23 A. What I said during that meeting, on pages 3 and 10 of Tape 184
24 (Intervenor's Exhibit II-68), was in the context of drafting
25 the August 30, 1990 letter to the NRC. My statement in 1990

1 was the following:

2 You know, the standard English context of writing a
3 good letter is you put the purpose in paragraph
4 one, then you put the facts, and then you put the
5 summary in the last paragraph. That's you know,
6 101 standard best way to write a letter. And yeah,
7 we can restart, rewrite this letter from scratch if
8 you want. But I don't believe that has anything to
9 do upon the goodness or badness of this letter, or
10 whether it's factually correct or not. . . That was
11 my side comment, and if Birmingham likes this
12 letter written this way, I don't -- that's what we
13 should do.

14 Q. WHAT DID YOU MEAN BY THESE REMARKS?

15 A. I meant that I didn't think that we should rewrite the letter
16 just to improve the style. I felt we should make any changes
17 needed to make the letter accurate and materially complete,
18 but I wasn't interested in rewriting the entire letter just
19 because someone didn't like its organization or thought they
20 could improve its writing style.

21 Q. DID YOU MAKE ANY OTHER COMMENTS ABOUT STYLE?

22 A. Yes, I stated:

23 I mean, English-wise, it's better to mix up the
24 words, than (sic) to be technically correct. Say
25 you're an engineer and you use the same term over
26 again. Good thing you're an engineer and not an
27 English major . . .

28 See Staff Exhibit 19; Intervenor Exhibit II-68, Tr. 3.

29 Q. WHAT DID YOU MEAN BY THIS STATEMENT?

30 A. Someone had commented that we used the word "confusion" twice
31 in the same paragraph. I responded and, with my statement,

1 meant that if one were an English major, it might be
2 preferable to avoid using the same word twice; but since we
3 were engineers, we should not elevate style over accuracy. In
4 other words, English majors are expected to use synonyms to
5 avoid repeating words, while engineers are expected to be
6 technically correct and the use of the same word multiple
7 times is fully acceptable. I was not suggesting that
8 something less than accuracy was acceptable in this
9 correspondence.

10 Alleged Push to Restart Plant Vogtle

11 Q. ON PAGE 27 OF MR. MOSBAUGH'S RETYPED PREFILED TESTIMONY, HE
12 ASSERTS THAT GEORGIA POWER MANAGEMENT AND OUTAGE PERSONNEL
13 PUSHED THE SCHEDULE TO RESTART PLANT VOGTLE. AS A RESULT, HE
14 ALLEGES, ROOT CAUSE TESTING AND ANALYSIS DID NOT GET SUPPORT
15 BECAUSE OUTAGE ACTIVITIES WERE GIVEN TOP PRIORITY. IS THIS
16 ACCURATE?

17 A. No, it is not. At the time of the Site Area Emergency Unit 1
18 was in an outage. As would be expected after this event,
19 outage personnel, factoring in appropriate diesel generator
20 testing and analysis activities, developed a "recovery" or
21 "restart" schedule. I did not "push" the restart schedule at
22 the expense of root cause testing and analysis. What I wanted
23 was a purposeful review and specific, thought-out plan to
24 address the many activities which had to be addressed in a
25 logical, orderly manner. This sort of schedule is exactly the

1 kind of effort which is expected in such a situation -- the
2 absence of a recovery schedule would have been imprudent.

3 With respect to diesel generator testing, the personnel
4 who were working on the diesels had all of the resources
5 necessary or desired at their disposal to determine the root
6 cause of the March 20, 1990, diesel failures. This included
7 vendor representative support, corporate technical support,
8 and whatever overtime efforts they considered prudent. Mr.
9 Mosbaugh simply is incorrect in asserting, on page 28 of his
10 testimony, that schedule pressure affected the determination
11 of the root cause of the March 1990 event and the corrective
12 actions taken. Had more time been required to address the
13 diesel generator issues, we would have spent it. But the on-
14 site technical review went as far as it logically and
15 reasonably could have gone: the component (jacket water
16 temperature sensors) which failed had been identified; the
17 component had been recalibrated, re-installed or replaced, and
18 tested; and special test starts had reproduced alarm
19 conditions which were very similar to those experienced on
20 March 20. Although the identification of the specific failure
21 mechanism would have to await the disassembly and inspection
22 and testing of Calcon sensors at the independent Wyle test
23 lab, there was no reasonable basis for not returning Unit 1 to
24 operation based on the knowledge which we had at the time.

25 In support of Mr. Mosbaugh's idea that Georgia Power did
26 not have a legitimate, good-faith probable cause of the diesel

1 generator trips, Mr. Mosbaugh argues on page 27 of his retyped
2 prefiled testimony that as of April 7, 1990 - more than two
3 weeks after the Site Area Emergency - that "it was pure
4 speculation" that two of three jacket water temperature
5 (Calcon) sensors would have "misoperated" on March 20, 1990.
6 What he ignores is the testing and analysis between March 20
7 and April 7. For example, on April 5, 1990, in a conversation
8 with the IIT in which Mr. Mosbaugh and other Vogtle
9 representatives participated, I explained that, based on some
10 Instrumentation and Control manipulations, only a slight
11 downward shift of sensor trip setpoint resulted from an
12 increasing rate of temperature rise in the sensed water media.
13 IIT Document 200, pages 14-18, attached hereto as Exhibit W.
14 At the same time, the actual jacket water temperature changes,
15 over time, were being monitored to determine if a "hot spot"
16 of hot water could have been sensed. Mr. Mosbaugh observed,
17 and commented to the NRC, that actual temperatures in the
18 jacket water were fairly homogeneous, with a variation of only
19 seven to ten degrees (page 19); the "slug of water" theory did
20 not seem credible (page 27). As he stated:

21 We are not seeing substantial shifts of the temperature probe
22 with rates of change in temperature and then it's tripping in
23 the 190 type temperature range, and our observations that the
24 system is barely (sic) homogeneous and that the hot spots are
25 in the 170 degrees range, we think those are sufficiently far
26 apart that right now it doesn't look like the slug of water
27 theory is what is causing any tripping (IIT 200 at 27.)

28 Because the site had already conducted "simulated trip"
29 testing on high jacket water temperature sensors which

1 reproduced the annunciations of the second 1A diesel trip on
2 March 20, we informed the IIT that we proposed to have an
3 independent lab test the quarantined sensors which had been on
4 the 1A diesel when the event occurred. Lewis Ward, in the
5 Birmingham corporate office, would have the lead and the IIT
6 could contact him directly (page 30). The IIT team leader
7 felt that this testing approach "sounded good" to him, and the
8 NRC Region II representative stated that the Region was "fully
9 onboard" with this approach (pages 33-34). The next day,
10 April 6th, the NRC, after discussing the 1A diesel jacket
11 water testing and scheduled functional test (See IIT Document
12 203 at pages 24-25, 31 attached hereto as Exhibit X), observed
13 that the specific failure mode of the switches was not due to
14 the rate of temperature change during calibration, that some
15 particulates in the sensors could impact their operation and
16 that setpoint drift was a possibility (page 31). "How the
17 sensors are calibrated" might also lead an understanding of
18 the causal mechanism, the IIT team leader suggested; Georgia
19 Power was to determine the specific test program for seeking
20 this mechanism. (IIT Document 203 at pages 32-33.)

21 Mr. Mosbaugh, then, is overly selective in stating that
22 "actual jacket water temperatures and the sensor 'as found'
23 calibration checks did not support this speculation."
24 Mosbaugh Prefiled at 27. By April 7, actual jacket water
25 temperature measurements had demonstrated that the March 20
26 trip was not associated with true high temperatures. And we

1 had much more information than the calibration checks, which
2 were made using Georgia Power's existing calibration
3 procedures. By April 7 the 'as found' calibration checks
4 didn't point to the probable cause of the event as much as
5 other observations made on the 1A switches such as reflected
6 in Mark Briney's April 3rd memo (GPC Exhibit II- 76, Bockhold
7 Exhibit L) and the alarm annunciations replicated during
8 diesel trip testing when the engine was started with two
9 sensors purposefully venting (See IIT Document 205, page 6-8,
10 attached hereto as Exhibit Y). Through our efforts, we had
11 narrowed the focus to a particular component, and we thought
12 the Wyle testing would pin down a specific causal mechanism.
13 We had recalibrated all the sensors, returned the diesel
14 generators to operable status, and shown that we were ready to
15 return Unit 1 to operation.

16 Safety System Performance Indicator Data

17 Q. ON PAGES 100-101 OF MR. MOSBAUGH'S RETYPED PREFILED TESTIMONY,
18 HE STATES THAT THE SAFETY SYSTEM PERFORMANCE INDICATOR
19 ("SSPI") DATA FOR THE VOGTLE DIESELS WAS OMITTED FROM THE
20 DOCUMENT PRESENTED TO THE IIT ON APRIL 2, 1990. HE ALSO SAYS
21 ON PAGE 103 THAT YOU WERE AWARE OF THE 1990 SSPI DATA AT THAT
22 TIME. DO YOU HAVE ANY COMMENT ON THIS TESTIMONY?

23 A. Yes, I do not remember whether Gus Williams, who collected the
24 SSPI data, showed me the 1990 SSPI data, told me about the
25 data, or simply indicated that it was not useful. Therefore,

1 I do not recall whether I, Mr. Williams or others omitted the
2 1990 data. However, if I had been aware of that specific
3 data, I do not believe I would have felt it appropriate to
4 present that data to the NRC. First, it would have only
5 covered two months in 1990. Two months of data would not have
6 been meaningful, and there would not have been any
7 corresponding industry average for this period to compare it
8 against. If I had tried to use the specific data, probably
9 the most appropriate way to have presented it would have been
10 to prepare a rolling 12-month average. Again, however, we
11 would not have had comparative industry data for the same
12 period. Second, my purpose in presenting the SSPI data
13 for 1987-1989 was to show that, historically, the Vogtle
14 diesels had been fairly reliable when compared to industry
15 experience. The 1987-1989 data were sufficient for that
16 purpose.

17 Third, the SSPI data is a general measure of overall
18 diesel reliability, and not informative of the specific
19 problems which have affected reliability. Additional review
20 of the data behind the indicator would be necessary for that
21 insight. By April 2, the NRC had been on the Vogtle site for
22 more than a week after the Site Area Emergency and knew about
23 the specific 1990 diesel generator activities, including
24 problems observed in starting or running the engines. A two-
25 month calculated indicator would be of little relative meaning
26 as compared to this more specific, detailed information.

1 Further, by April 2 the reliability problems associated
2 with the diesels was viewed as specific to the Calcon sensors.
3 I expressed this when, on April 2, the IIT team leader's
4 questioned "...is there anybody here that can describe the
5 [sensor] history and what it sort of tends to suggest about
6 reliability or what might have gone wrong with these sensors?"

7 I responded:

8 Well the way we summarize it was, you know, we have problems,
9 have had problems associated with these sensors during initial
10 startup phases of the engine and during overhaul times, and we
11 have not had problems in between overhaul periods of time. You
12 know, we've had reliable starts on the engines in between
13 those periods of time. So that's a general summary. (See, IIT
14 Document 168-2, pages 14-15). Bockhold M, GPC Exhibit II-77.

15 The team leader stated that he was "getting the
16 impression that the jacket water temperature switches are not
17 that reliable and I'm surprised you haven't seen that in some
18 of your monthly [surveillance] testing." I repeated my
19 observation of the timing of sensor problems and the
20 reliability between overhaul periods:

21 . . . when we've come out of overhauls basically associated
22 with engine runs around overhauls, we've had problems and
23 we've replaced switches and we've gotten good switches in that
24 have run until the next overhaul . . . (IIT Document 168-2,
25 page 18)

26 Several days later, on April 4, I once again acknowledged
27 that we had trouble during overhaul times, but during normal
28 plant operation and in between overhaul times, the switches
29 have been reliable. (See, IIT Document No. 168-1, page 60,
30 Bockhold O, GPC Exhibit II-79). Consequently, the NRC was
31 aware of sensor problems outside of operational periods (i.e.,

1 while the diesels were in overhaul).

2 Knowledge of a Specific Count Number

3 Q. ON PAGE 44 OF HIS RETYPED, PREFILED TESTIMONY, AND ON AUGUST
4 8, 1995 (T. 10407-8) MR. MOSBAUGH STATES THAT, BASED ON A
5 DISCUSSION IN WHICH YOU PARTICIPATED ON APRIL 2, YOU KNEW OR
6 SHOULD HAVE KNOWN ON APRIL 9 THAT THE MAXIMUM "SUCCESSFUL"
7 START COUNT WHICH YOU COULD CLAIM FOR DG1A WAS 12. HOW DO YOU
8 RESPOND TO THIS POSITION?

9 A. Mr. Mosbaugh is wrong. His basis is one of his tape
10 recordings which does not reflect the entire relevant
11 conversation. The NRC had an official court reporter attend
12 the meeting which Mr. Mosbaugh taped, and IIT Document 168-2
13 (Bockhold Exhibit M, GPC Exhibit II-77, dated April 2, 1990)
14 reflects the transcription of the entire meeting.
15 Intervenor's Exhibit II-45 (Tape 27, Segment #3) corresponds
16 to IIT Document 168-2, page 47, line 12 through page 48, line
17 3. A comparison of the two demonstrates that, contrary to
18 Mr. Mosbaugh's version of events, Mr. Stokes first suggested
19 he was "not sure precisely" of the number. He then confirmed
20 that the diesel had been successfully started "maybe eight
21 times" while the Cooper vendor representative, Mr. Owyong,
22 was there. In addition, Mr. Owyong stated that he knew of
23 "at least six times" when "we" witnessed the diesel testing.
24 Mr. Mosbaugh incorrectly identifies Mr. Holmes as the person
25 making this statement (Compare IIT Document 168-2, page 47,

1 lines 19-20 with Intervenor Exhibit II-45). Moreover, Mr.
2 Mosbaugh's transcript is materially incomplete. My knowledge
3 of the number of 1A diesel starts after replacement of the
4 sensors at the time is reflected on pages 43 and 44 of the IIT
5 Document, when Mr. Owyong and Mr. Stokes answered my question
6 of "how many starts did we do on the A diesel after" the
7 sensors were changed out. Both confirmed a number of
8 successful starts on the order of a dozen, successful starts
9 on April 2 (i.e., "about a dozen" - Mr. Owyong and 14, 15
10 "something like that - Mr. Stokes"). In addition I was aware
11 that the 1A diesel was started several times after April 2.
12 For example, as reflected in IIT Document 203, pages 23-25
13 (Exhibit X), I discussed with the IIT members a planned jacket
14 water test start and a functional test start on the 1A diesel
15 for April 6. On April 7, the IIT team discussed with us a
16 total of three (3) jacket water test starts (IIT Document 205,
17 pages 3-4, Exhibit Y). Given these additional start
18 activities, I reasonably believed the "successful start"
19 count of 18 for the 1A diesel.

20 Air Blow of the Diesel Generator Air Lines

21 Q. WHO MADE THE DECISION TO NOT "AIR BLOW" THE DIESEL AIR LINES?

22 A. I do not specifically recall. I do know that, at the time the
23 suggestion to air blow the air lines was made on April 4, both
24 of the Unit 1 diesels had been declared operable, and our
25 focus was on the Calcon sensors as the probable cause of the

1 March 20th diesel generator trip.

2 Q. MR. MOSBAUGH TESTIFIED THAT IN YOUR CONVERSATIONS WITH MR.
3 McCOY AND OTHERS ON APRIL 4, YOU HAD ADDITIONAL INFORMATION
4 ABOUT WHAT THE ROOT CAUSE OF THE DIESEL TRIP WAS, BUT DIDN'T
5 WANT TO SHARE IT AND THAT YOU MOVED THE CONVERSATION
6 ELSEWHERE, AWAY FROM THE AIR BLOW SUGGESTION. TR. 9601-03.
7 DO YOU HAVE ANY COMMENTS ON HIS TESTIMONY?

8 A. Yes, this is nonsense. I am aware that Mr. Mosbaugh makes
9 these "inferences" based upon a small portion of one of his
10 tape recordings (Tape 34, Intervenor Exhibit 110A). The
11 conversation on April 4, 1990 occurred prior to the
12 development of a specific plan to inspect and test the Calcon
13 sensors which were in quarantine. In the portion of the
14 transcript submitted by Intervenor, Mr. Kochery and Mr. Burr
15 indicated that if debris was in the sensors and that affected
16 the sensors operation, it would be readily observable. Mr.
17 Mosbaugh suggested an "air blow" of the lines, apparently to
18 eliminate air quality particles as a potential cause.

19 Mr. Mosbaugh is incorrect in his inference that I
20 "moved the conversation elsewhere" to avoid discussing the
21 proposed air blow. As the further tape-recorded conversation
22 reveals, different people were proposing different test
23 methodologies to pursue various root cause theories and I was
24 concerned about the organization of the various planned

1 activities and our resources, I said:

2 The problem is we have different types of people
3 doing different types of tests and . . . and . . . their
4 perception of the correct test methodology of what they
5 are used to and what their experience is different. And
6 we have been doing a lot of this in parallel to bring the
7 engines to an operable state. And now we have these
8 quarantine switches that we want to go ahead and do a
9 very rigorous . . . all of us want to do a very rigorous
10 test methodology. And we can't do it with the same
11 people we got still working on the diesels. Well, we can
12 but it all will be four days from now And that's
13 the organization I need to talk you [Ken McCoy] about.

14 Tape 34 (Tr. 11-14), Bockhold Exhibit Z. "The organization"
15 which I needed to talk to Mr. McCoy about was the structuring
16 of the activities, including the assignment of the right
17 people to develop the test methodology. This was not an
18 avoidance of Mr. Mosbaugh's suggestion; Mr. Mosbaugh could
19 have directed that the "air blow" be included in the testing
20 activities.

21 Later, on April 11th, the test methodology on the
22 quarantined sensors was developed and provided to the NRC
23 (See, IIT Document 209, Bockhold Ex. AA, GPC Exhibit II-___).
24 Before April 11th, the air receiver of one of the engines had
25 been visually inspected and it was reported that the air
26 filter on the airline supply was "like new" when changed out.
27 Therefore, although I do not recall a specific decision not to
28 perform an "air blow," additional information indicated that
29 particulates were not being introduced through the air lines
30 into the sensors.

31 MR. CASH'S TYPED LIST

32 Q. MR. MOSBAUGH SUGGESTS THAT THE "CASH LIST" WAS MADE INTO A

1 SLIDE (TRANSPARENCY) OR USED AS A BACK-UP SLIDE FOR THE
2 PRESENTATION ON APRIL 9. (TR. 10400). WAS IT?

3 A. No, not to my knowledge. The transparencies made for the
4 presentation were retrieved by my former secretary, Gloria
5 Walker, when I was temporarily assigned to a position at EPRI
6 in Palo Alto, California. Those files did not include the
7 "Cash list" or transparencies of the "Cash list."

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

In the Matter of
GEORGIA POWER COMPANY,) Docket Nos. 50-424-OLA-3
et al.) 50-425-OLA-3
)
(Vogtle Electric Generating Plant,) Re: License Amendment
Units 1 and 2) (Transfer to Southern
) Nuclear)
)
) ASLBP No. 93-671-01-OLA-3

SERVICE LIST

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U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

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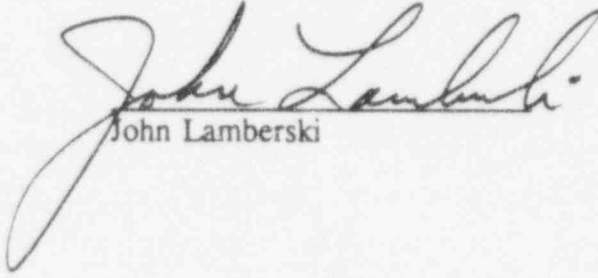
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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
Before the Atomic Safety and Licensing Board

In the Matter of	)	Docket Nos. 50-424-OLA-3
	)	50-425-OLA-3
GEORGIA POWER COMPANY,)	
et al.	)	Re: License Amendment
	)	(Transfer to Southern
(Vogtle Electric Generating	)	Nuclear)
Plant, Units 1 and 2))	
	)	ASLBP No. 93-671-01-OLA-3

CERTIFICATE OF SERVICE

I hereby certify that copies of Rebuttal Testimony of George Bockhold, Jr., dated August 21, 1995 were served on all those listed on the attached service list by hand delivery or, where indicated with an asterisk, by express mail this 21st day of August, 1995.


John Lamberski

1 referred to in your testimony, numbered Bockhold Q through
2 Bockhold AA?

3 A I do.

4 CHAIRMAN BLOCH: Mr. Blake, have you managed
5 to give a kind of index?

6 MR. BLAKE: No, not today.

7 CHAIRMAN BLOCH: Could we -- I guess there's
8 no way to do it, except to do it.

9 BY MR. BLAKE:

10 Q Mr. Bockhold, are you familiar with all these
11 documents?

12 A Yes.

13 Q And are you prepared to answer questions about
14 them?

15 A I am.

16 MR. BLAKE: Judge Bloch, I want to go through
17 and identify quickly if I can, these documents, and then
18 I'm going to ask that they be marked.

19 CHAIRMAN BLOCH: We'll help the reporter.
20 Here, quickly.

21 MR. BLAKE: The first GPC Exhibit II-172,
22 Bockhold Exhibit Q is a letter dated November 1, 1991 to
23 Georgia Power Company, particularly to the attention of
24 Mr. Harrison. And it's comprised of three pages and then
25 a portion of Enclosure 2 to that letter from the NRC and

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1 just pages, the cover page of Enclosure 2 and then pages
2 19 and 20.

3 CHAIRMAN BLOCH: I have 21.

4 MR. BLAKE: Thank you for your correction. I
5 have 19, 20 and 21. Thank you.

6 The second document which is GPC Exhibit II-
7 173 is Bockhold Exhibit R. It's memorandum, internal
8 company memorandum dated March 15, 1990 from Bockhold to
9 Kitchens and Mosbaugh.

10 The next document is GPC 174. Bockhold
11 Exhibit S. It is also a one page typed document, dated
12 June 20, 1990, signed at the bottom by W.C. Lyon III.

13 CHAIRMAN BLOCH: Off the record.

14 (Off the record.)

15 MR. BLAKE: The next document which would be
16 GPC Exhibit II-175 is Bockhold Exhibit T. It is an
17 excerpts of a transcript of one of Mr. Mosbaugh's tapes.
18 This one is a three page document and it shows a cover
19 page saying "Transcript of Audiotape 179" and then the
20 other two pages are pages 18 and 19 from a transcription.

21 The next document which is 176, Bockhold
22 Exhibit U is a one page document also, and internal
23 company memorandum dated July 6, 1990 from George Bockhold
24 to A.L. Mosbaugh.

25 The next document, which is GPC II-177 is also

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1 a one page document. It's a handwritten note or
2 memorandum to George Bockhold to Allen L. Mosbaugh, dated
3 4/30/90.

4 The next document, which would be GPC Exhibit
5 II-178, Bockhold Exhibit W, is a transcript of an IIT
6 telephone conference that occurred on April 5, 1990 and
7 has pages 1 through 37, one with a reporter's certificate
8 at the end.

9 The next document, which is GPC Exhibit II-
10 179, Bockhold Exhibit X, as well is an IIT transcript and
11 it is a transcription of an IIT telephone conference which
12 occurred on April 6, 1990. This document is comprised of
13 34 pages, plus the reporter's certificate at the end.

14 The next document, which is GPC Exhibit II-
15 180, is Bockhold Exhibit Y. It also is a transcription of
16 a telephone conference call of the IIT. This one was on
17 April 7, 1990. This document is comprised of pages 1
18 through 19, along with the reporter's certificate at the
19 end.

20 The next document, which is GPC II-181,
21 Bockhold Exhibit Z, is a three page document. The first
22 page is entitled Tape 34, April 4, 1990, Transcript TR.11-
23 14, comprised of three pages and it's a partial transcript
24 of one of Mr. Mosbaugh's tapes. It's numbered Tape 34.

25 The final document is GPC Exhibit II-182,

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1 Bockhold Exhibit AA and it is a telecopied document where
2 the first page is a telecopied cover sheet dated April 11,
3 1990 and then enclosed is a document entitled DG
4 Instrument Test Outline. It doesn't bear page numbers,
5 but there are four pages of typed text along with the
6 manufacturer's Calcon sensor -- two page description.

7 That completes the identification of the
8 documents. I would ask that they be marked with the
9 numbers that I assigned to them and that they be admitted
10 into evidence.

11 I understand there will be some objections or
12 some proviso with respect to these two documents, Judge
13 Bloch, it would be the two that you identified earlier
14 when we first went on the record.

15 CHAIRMAN BLOCH: I just note that Exhibit AA,
16 Georgia Power 182, has project numbers in the bottom right
17 from 062685 through 062690. And the motion is granted.

18 (The documents referred to were
19 marked for identification as GPC
20 Exhibits II-172 through 182 and were
21 received in evidence.)

22 MR. BLAKE: Actually, it starts with 84
23 because that's the telecopied page.

24 CHAIRMAN BLOCH: 84, thank you.

25 MR. BLAKE: I have no additional questions of

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1 Mr. Bockhold. He's available for cross.

2 CHAIRMAN BLOCH: So we've already ruled on the
3 objection about incomplete transcripts and which two
4 exhibits are those, for the record?

5 MR. BLAKE: It's T and Z.

6 CHAIRMAN BLOCH: Okay. Let's proceed with the
7 witness.

8 MR. MICHAEL KOHN: For the record we have
9 identified Rule 106 of the Federal Rules of Evidence as a
10 basis for the objection.

11 (Pause.)

12 CHAIRMAN BLOCH: That rule provides that an
13 adverse party may require the introduction at the time of
14 any other part or any other writing or recorded statement
15 which ought in fairness be considered contemporaneously
16 with it.

17 I guess the problem here is we have a
18 combination evidentiary problem and discovery problem.
19 The easiest way to handle it is I think the one we've
20 suggested, which is to provide more of the context so the
21 choice can be made.

22 Let's continue.

23 CROSS EXAMINATION

24 BY MR. MICHAEL KOHN:

25 Q Mr. Bockhold, on page 3 of your pre-filed

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1 testimony, you are addressing a meeting in which Mr.
2 Mosbaugh indicated that back stabbing was written on the
3 board. Do you recall that, on your white board?

4 A Yes.

5 Q And is it your assertion that the reason this
6 meeting was going forward was because Mr. Mosbaugh's
7 cooperation and teamwork had not been improving?

8 A Yes.

9 Q And had not been improving at the end of 1989,
10 the beginning of 1990, specifically?

11 A Yes.

12 Q Well, isn't it true that approximately a month
13 later you provided Mr. Mosbaugh with an annual review,
14 stating that his goals had been fully accomplished and
15 were fully acceptable?

16 A I believe and I don't have that document. I
17 haven't seen that document in a long time. Do you have a
18 copy of that document?

19 Q Do you recall telling Mr. Mosbaugh on February
20 23, 1990, when you were discussing his evaluation that
21 with respect to teamwork communication, Mr. Mosbaugh was
22 fully acceptable?

23 A I believe there is probably some words to the
24 effect that him and Mr. Kitchens had achieved peaceful co-
25 existence and that set of terminology was meant to mean

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1 that he needed to improve. It was a serious problem with
2 the plant.

3 BOARD EXAMINATION

4 BY CHAIRMAN BLOCH:

5 Q The specific question was whether you remember
6 having used the term "fully acceptable" to describe his
7 communications?

8 A I didn't use the term. The form has on it
9 various levels of acceptability. Basically, a fully
10 acceptable mean that you're just barely passing. If you
11 don't receive higher than that, you have a problem you
12 need to work on. When you're unsatisfactory, you put down
13 "needs improvement."

14 Q If I understand what you're saying you like to
15 give satisfactory scores to almost everybody?

16 A No. The performer who meets requirements and
17 doesn't do any extra would get a fully acceptable score.
18 Good employees would get higher than fully acceptable
19 score.

20 Q So what proportion, if you know, what
21 proportion of your employees got higher than fully
22 acceptable?

23 A I have an approximate number while I was
24 general manager there. I know an approximate number. I
25 don't know an exact number. But like 40 percent got

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1 greater than fully acceptable and like 40 percent got
2 fully acceptable and then you had some real high
3 performers like 15 percent and like 5 percent needed
4 improvement. Those are very round numbers, sir.

5 Q It would have to be. They don't add to a
6 hundred.

7 A 40, 40, 15 and 5.

8 Q 40, 40, 15 and 5?

9 A Right.

10 Q Thank you. Mr. Kohn?

11 CROSS EXAMINATION

12 BY MR. MICHAEL KOHN:

13 Q My specific question is when you called Mr.
14 Mosbaugh into your office in February of 1990 to discuss
15 his performance, did you, with respect to teamwork, do you
16 recall now telling him that he was fully acceptable?

17 A I believe that I mentioned something about
18 peaceful co-existence and words along that line. I don't
19 remember the exact words. He was marked "fully
20 acceptable." I think he knew that that was an area he
21 needed to improve, definitely, and continue to work on. A
22 high level manager like Mr. Mosbaugh should have
23 commendable or excellent ratings.

24 Q I want you to listen carefully to the question
25 and see if you can answer it exactly. I'm asking you, did

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1 you tell him in February 1990, during his performance
2 review, that Mr. Mosbaugh's teamwork communication was
3 fully acceptable? Do you recall saying those words?

4 A I don't recall those specific words, sir.

5 Q Do you recall indicating that Mr. Mosbaugh's
6 organization worked effectively together with Mr.
7 Kitchens' organization?

8 A I don't recall those specific words.

9 Q I'm going to show you a document that's been
10 marked as -- I request it be marked as Intervenor's
11 Exhibit 132, II-232, excuse me.

12 CHAIRMAN BLOCH: It may be marked.

13 (The document referred to was marked
14 for identification as Intervenor
15 Exhibit II-232.)

16 MR. BLAKE: The document is subject to federal
17 rules.

18 CHAIRMAN BLOCH: Certainly. Mr. Kohn, did you
19 understand what Mr. Blake was saying?

20 MR. MICHAEL KOHN: sure.

21 CHAIRMAN BLOCH: Do you have the context for
22 it?

23 MR. MICHAEL KOHN: I haven't moved for its
24 admission yet, Your Honor.

25 CHAIRMAN BLOCH: But you're using it to cross

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1 examine the witness.

2 MR. MICHAEL KOHN: Georgia Power has the
3 entire tape, Your Honor.

4 CHAIRMAN BLOCH: Just like you have 179.

5 MR. MICHAEL KOHN: No, there's --

6 CHAIRMAN BLOCH: You do not have the
7 transcript of Tape 3?

8 MR. MICHAEL KOHN: We do not have a prepared
9 transcript of it, other than this document. George Power
10 has prepared transcripts of, I understand, of all the
11 tapes.

12 CHAIRMAN BLOCH: I don't think that provides
13 the excuse on context. If you're going to use a document,
14 you're going to have to provide the context.

15 Maybe we could make peace here

16 (Laughter.)

17 Unless you want to waive what you were asking
18 for in their documents.

19 MS. YOUNG: I'm not sure that's the practice
20 we've been following in terms of giving counsel an
21 opportunity to initially probe into a section of the tape.
22 We haven't demanded that before that be done that opposing
23 counsel or the witness automatically have to see the other
24 sections around it. We have required that before the
25 witness either leaves or is followed up on cross or

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1 redirect by its own counsel, they have some opportunity to
2 see what's around it.

3 CHAIRMAN BLOCH: We can make the same ruling
4 before.

5 MS. YOUNG: There's been time delays between
6 that.

7 CHAIRMAN BLOCH: The ruling we made before
8 that was you'll have to provide it subsequently and there
9 could be a motion for cause concerning.

10 MR. BLAKE: Wait, wait, wait. Let's talk
11 about elemental fairness here. We distributed pre-filed
12 testimony with exhibits which demonstrated to people what
13 it is we planned to use. This is the first time I've seen
14 this document, had any idea an excerpt of this would be
15 used. That's quite a different ballgame in terms of my
16 ability to be able to prepare or look at or listen to or
17 in any other way, get a context, Judge Bloch.

18 MR. MICHAEL KOHN: There's a complete
19 difference in providing a document in cross examination
20 and providing a document that you're intending to move
21 into evidence at the time. This document is being shown
22 first to refresh the witness's recollection, and second,
23 if that doesn't work, we haven't even crossed the bridge
24 with 143, I'm mean rule 106 says when introduced. This is
25 not being introduced into evidence at this time. And I'd

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1 like to state that early on Intervenor requested on
2 numerous times that the only party who had all the
3 transcripts, if they'd be willing to produce them.
4 Intervenor cannot transcribe 200 some odd tapes without
5 incurring a cost of a few hundred thousand dollars. The
6 ability to provide excerpts is what we are barely able to
7 do and we do provide the excerpts. This was done within
8 the last few hours.

9 CHAIRMAN BLOCH: The only way I can think of
10 doing this fairly would be to rule that you may use this,
11 just as they may use their tapes, but that both parties
12 are going to have to rely on the tapes and not on
13 transcripts in order to determine whether the context was
14 provided.

15 I can't see how I can require them to furnish
16 a transcript and not require you to do the same thing.

17 All right, so we'll modify the prior ruling to
18 the extent that you can show good cause that additional
19 context is needed, but it will be done using the tapes.

20 MS. YOUNG: And does Intervenor have to take
21 three here?

22 CHAIRMAN BLOCH: So the staff wants a copy of
23 Tape 3?

24 MS. YOUNG: I'm not sure whether we have
25 possession of it, but our records, how reliable they are,

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1 I can't say. They don't show that that tape had a date on
2 it in terms of what the NRC received a copy of it. So
3 that's --

4 CHAIRMAN BLOCH: So the date is on certain --

5 MS. YOUNG: Maybe something we need to at
6 least verify, before this document is received in
7 evidence. We don't have any objection on Intervenor
8 asking questions about it.

9 CHAIRMAN BLOCH: Right now we'll just use it
10 with the witness for purposes of refreshing his memory and
11 we'll cross other bridges if necessary.

12 CROSS EXAMINATION

13 BY MR. MICHAEL KOHN:

14 Q Mr. Bockhold, I've listened to tape 3 and this
15 is what I was able to deduce was on it along with Mr.
16 Mosbaugh. Does this document you have in front of you
17 help refresh your recollection to what you may have, what
18 you said on February 23, 1990?

19 A I believe that I may have said that you and
20 Skip Kitchens achieved peaceful -- you being Allen
21 Mosbaugh -- and Skip Kitchens achieved peaceful
22 coexistence and the organizations worked effectively
23 together to achieve complete synergy. More effort will be
24 required. Mosbaugh, okay. Both are fully acceptable.
25 Yes, I believe that's what I said.

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1 Q Do you also believe you said the statement
2 above it, you started reading with -- see the statement
3 begins "the next one was associated really with teamwork
4 communication"?

5 CHAIRMAN BLOCH: Hold on a second. We need to
6 reduce the volume a little more and see if that works.

7 (Off the record.)

8 BY MR. MICHAEL KOHN:

9 Q Mr. Bockhold, I'm going to play for you this
10 portion of tape 3 and tell me, I ask that you follow along
11 with the document I've marked as Intervenor's 232. Do you
12 have Mr. Mosbaugh's evaluation?

13 I don't have it in front of me and it may have
14 already been marked as an exhibit here.

15 CHAIRMAN BLOCH: What are we going to gain by
16 having the audio played? Obviously, there are two
17 different understandings of this passage. I understand
18 what Mr. Mosbaugh's is and I understand what Mr.
19 Bockhold's is. What is listening to the tape going to be?
20 Is there a lot of enthusiasm in Mr. Bockhold's voice?

21 MR. MICHAEL KOHN: I think it will explain the
22 communication and I think that it will resolve the
23 evidentiary --

24 CHAIRMAN BLOCH: Let's play it.

25 MR. MICHAEL KOHN: -- Introduction of the

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1 document.

2 CHAIRMAN BLOCH: We'll go off the record for
3 this. There is no procedure for putting nuances into the
4 transcript, but I guess that's not unusual. We don't have
5 any procedure for nuances for the witnesses. Let's just
6 go.

7 (Off the record.)

8 CHAIRMAN BLOCH: What's the point, Mr. Kohn?
9 It sounds like a fairly perfunctory conversation between
10 an employee and an employer giving an evaluation. What
11 are we supposed to get from the words?

12 MR. MICHAEL KOHN: Your Honor, you need -- we
13 could move the tape into evidence or we could move a piece
14 of paper into evidence. It's a lot easier to move the
15 piece of paper into evidence.

16 CHAIRMAN BLOCH: There doesn't seem to be any
17 objection? Is there an objection? Granted. 232 is in
18 evidence.

19 (The document referred to, having
20 been previously marked for
21 identification as Intervenor Exhibit
22 II-232 was received in evidence.)

23 BOARD EXAMINATION

24 BY CHAIRMAN BLOCH:

25 Q Mr. Bockhold, what was the scale being used,

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1 4.5 or 4.6?

2 A The scale that was being used and without the
3 evaluation in front of me, there was a high percentage of
4 my evaluation and my two assistant general manager
5 evaluation and Mr. Mosbaugh was acting in that associated
6 with plant meeting its performance objectives. And
7 without the evaluation, I don't know if it's 60 percent or
8 90 percent, but it was a fairly high percentage with the
9 plant meeting its objectives for the preceding year. We
10 had done that and we were marked very high because of
11 that. And then there was some other subjective type
12 things on the evaluation criteria, subjective type thing
13 on the evaluation was a -- where I believe this area fell
14 in, so overall that year, I believe, we were going on a
15 five basis and we got a very high mark associated with the
16 plant meeting its plant objectives which then weighted
17 everybody's evaluation at the high end, above 4, close to
18 5, but a fully acceptable is like a 3, so this pulled down
19 Mr. Mosbaugh's evaluation.

20 CROSS EXAMINATION

21 BY MR. MICHAEL KOHN:

22 Q You rated Mr. Kitchens the same as Mr.
23 Bockhold on -- excuse me, you rated Mr. Mosbaugh the same
24 as you did Mr. Kitchens with respect to his communication,
25 correct?

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1 A That is correct.

2 Q Are you aware of -- did you have
3 communications with Mr. McCoy about the communication
4 problem?

5 A Yes.

6 Q And so based on your communications with Mr.
7 McCoy, would Mr. McCoy be of the opinion that Allen was
8 not showing improvement in his ability to get along in
9 that time period from '89 to '90?

10 A Mr. McCoy would have signed off on this
11 evaluation. He would have seen the words associated with
12 peaceful coexistence and I believe that he would have said
13 well, they've made a little bit of improvement, but they
14 need to make some more improvement.

15 Q So it was -- you were -- the communications
16 you were giving to corporate then was Allen was showing
17 improvement in his ability to get along from 1989 to 1990.
18 Is that correct?

19 A The communication I gave was basically that
20 more effort was needed.

21 Q My question is the communication you were
22 giving to corporate and what corporate understood from you
23 is that Allen showed improvement in his ability to get
24 along from 1989 to 1990. Is that correct?

25 A I can't say what was in Mr. McCoy's mind at

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1 the time, I mean what I told Allen, what I wrote was
2 that -- was the communication I believe the words they
3 say.

4 MR. MICHAEL KOHN: I'm going to seek to mark
5 as Intervenor's Exhibit II-233 the portion of the
6 Department of Labor transcript record of Allen Mosbaugh
7 versus Georgia Power, ERA case 91-ERA-01 and 91-ERA-11,
8 pages 461, 462, 599 and 600.

9 CHAIRMAN BLOCH: Granted.

10 (The document referred to marked for
11 identification as Intervenor Exhibit
12 II-233.)

13 (Pause.)

14 BY MR. MICHAEL KOHN:

15 Q In this document, if you would look on
16 transcript page 599, Mr. McCoy is being shown a portion of
17 his deposition and on page 600, he reads from line 11 of
18 his deposition and says, "So then it's fair to say that
19 Allen showed improvement in his ability to get along for
20 1989 to 1990. Correct?" And he responds that the answer
21 is correct and he's asked if he stands by that testimony
22 today and he says "yes."

23 MR. BLAKE: This is quite an awkward situation
24 here, given Mr. McCoy's current status. This is obviously
25 a very odd way to do business, to put a document in front

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1 of a witness and ask him to read it and then put it in
2 evidence. Mr. Bockhold isn't there. I don't even know if
3 he was attending this hearing at the time. We're quite --
4 this is kind of a weird --

5 CHAIRMAN BLOCH: He won't be able to put it in
6 evidence.

7 MR. BLAKE: I think that's what he wants to
8 do, that's where he's headed.

9 CHAIRMAN BLOCH: Maybe, but he hasn't asked
10 for that yet, so let's wait for that.

11 MR. BLAKE: All right, then it isn't really
12 terribly useful time wise to simply put it in front of him
13 and ask him to read it and say --

14 CHAIRMAN BLOCH: It could refresh his memory.
15 It's possible.

16 MR. BLAKE: Refresh his memory about what?
17 What Mr. McCoy said in the Department of Labor hearing?

18 CHAIRMAN BLOCH: It could be that when Mr.
19 McCoy sees what Mr. McCoy said, he'll remember something
20 differently about the events that were happening.

21 MR. BLAKE: Fair enough.

22 BY MR. MICHAEL KOHN:

23 Q Does this refresh your recollection that in
24 your communications with Mr. McCoy that he was of the
25 opinion that Allen showed improvement in his ability to

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1 get along from 1989 to 1990?

2 A In my communication, I don't have any
3 recollection. I mean if this was what was said at the
4 Department of Labor hearing, I assuming that is correct.

5 Q So based on your communications with Mr.
6 McCoy, can you tell me how you think he would come to this
7 opinion?

8 Did you tell him that Allen was showing
9 improvement or did you tell him that Allen was not showing
10 improvement?

11 A I don't remember what I said to him. I do not
12 remember any language. I don't remember if we discussed
13 it more than me giving him the performance appraisal to
14 approve. I don't remember any of that communication.
15 That's what I'm telling you and my reading of peaceful
16 coexistence, that is not a flattering term when it comes
17 to a person's performance appraisal.

18 Yes, it is fully acceptable, but it is not
19 flattering. That's all I'm saying.

20 Q The question I'm asking is not whether it's
21 flattering. My question is did you communicate to Mr.
22 McCoy that Allen was showing improvement in his ability to
23 get along from 1989 to 1990?

24 A As I said before, I don't remember what I
25 communicated to Mr. McCoy.

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1 MR. MICHAEL KOHN: We're going to move for the
2 admission of Intervenor's 233 on the basis that Mr. McCoy
3 is apparently no longer available to testify. I assume
4 that hasn't changed and it constitutes a statement against
5 a party in interest and would not be subject even to the
6 hearsay rule and thirdly, it is a statement made under
7 oath in another proceeding which I believe would have
8 raised collateral estoppel on Georgia Power.

9 CHAIRMAN BLOCH: Collateral estoppel --

10 MR. MICHAEL KOHN: Res judicata.

11 CHAIRMAN BLOCH: Even worse.

12 MR. MICHAEL KOHN: All right, I withdraw that
13 portion of the argument.

14 (Laughter.)

15 MR. BLAKE: This is what I expected. This is
16 where I thought we were headed and as I said, I started
17 off by saying it's an awkward situation. We obviously
18 would want to know what Mr. McCoy thinks about this or
19 whether or not there's something else. I'm not going to
20 oppose it, given the current situation.

21 CHAIRMAN BLOCH: If there is something that
22 comes up later where you want to --

23 MR. BLAKE: I understand that. I appreciate
24 that, Judge, but I think given the situation, I'm not
25 going to oppose it.

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1 CHAIRMAN BLOCH: Does staff have an objection?

2 Granted.

3 (The document referred to, having
4 been previously marked for
5 identification as Intervenor Exhibit
6 II-233 was received in evidence.)

7 BOARD EXAMINATION

8 BY CHAIRMAN BLOCH:

9 Q Mr. Bockhold, do you know whether in a meeting
10 that's discussed in your testimony on page 3 whether there
11 was or wasn't anything written on the blackboard?

12 A I believe there were some words written on the
13 blackboard. I don't remember specifically what they were.
14 I looked at Mr. Mosbaugh's notes. In preparing his
15 testimony, "backstabbing" could have been written on the
16 blackboard as some set of communication that I had
17 received from other people in the plant and it was
18 probably written because of that.

19 Q So is it your testimony that if that work was
20 on the board that it was intended for Mr. Mosbaugh and Mr.
21 Kitchens to read it?

22 A Yes sir. It was that people in the plant felt
23 that they had a war going on between them and they needed
24 to change that. It was affecting the plant.

25 Q It sounds a little bit like you do remember it

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1 was on the board. Is that correct?

2 A It could have very well been, you know, on the
3 board. I don't really remember. I looked at --

4 Q It's hard to have an explanation why it would
5 be on the board without thinking it probably was.

6 A I probably used the term. I don't know if it
7 was on the board or not. I looked at Mr. Mosbaugh's
8 notes. I probably used the term because of the feelings
9 of the people at the plant, giving me feedback.

10 Q Thank you.

11 CROSS EXAMINATION

12 BY MR. MICHAEL KOHN:

13 Q So your testimony is that there was in effect
14 a war going on at the plant and it was affecting the
15 plant, but Mr. Mosbaugh was rated fully acceptable in his
16 performance?

17 A Had the meeting in January with Mr. Mosbaugh
18 and Mr. Kitchens. The observation between them in
19 February was some improvement and still the concern was
20 that people out in the plant were very concerned about the
21 problems they had, problems that potentially their
22 organizations had and that's why I used the term peaceful
23 coexistence.

24 Q And at the time you used the term peaceful
25 coexistence was used and backstabbing was used, isn't it a

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1 fact there was a raging controversy going on between Mr.
2 Mosbaugh and Mr. Kitchens about whether an intentional
3 violation of a tech spec or a violation of technical
4 specification had occurred?

5 A I was not aware of a raging controversy.

6 Q Weren't you aware that Mr. Mosbaugh had raised
7 the issue in September of 1990 and that Mr. Kitchens had
8 written a memo to address Mr. Mosbaugh's concern?

9 ADMINISTRATIVE JUDGE CARPENTER: Excuse me,
10 Mr. Kohn, did you mean 1990?

11 MR. MICHAEL KOHN: 1989, thank you.

12 ADMINISTRATIVE JUDGE CARPENTER: Thank you.

13 THE WITNESS: I don't remember the date.
14 That's approximately six months from the time of this
15 meeting, if your date is correct, but I don't remember the
16 date.

17 I thought that was long time solved and Mr.
18 Kitchens responded to that and was not aware at this time
19 of Mr. Mosbaugh's allegations about the --

20 BOARD EXAMINATION

21 BY CHAIRMAN BLOCH:

22 Q Mr. Bockhold, do you recall one or two
23 incidents that may have stuck out in your mind as
24 typifying what this war was all about?

25 A I personally didn't observe the war. When

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1 both of them were around me, they were well behaved.

2 Q But I assume if you were worried about a war
3 you ask the people who saw the war what the battles were?
4 Did you ask them what the battles were?

5 A I asked them what type of examples might they
6 have and I don't remember any of those right now.

7 Q But you were convinced at the time by the
8 details of the incidents that something real had happened?

9 A I was convinced by the emotion that the people
10 displayed, not the details.

11 Q So there was nothing about the specific
12 incidents that upset. It was that the organization was
13 beset by emotional problems?

14 A It was when managers say "gee, those two
15 assistant general managers are fighting," it gets you
16 concerned.

17 Q Did they tell you specific times or places

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1 CHAIRMAN BLOCH: Did they tell you specific
2 times or places where they had fights?

3 THE WITNESS: I don't think it was --

4 CHAIRMAN BLOCH: I see it wasn't blows --

5 THE WITNESS: It wasn't blows, and I'm not
6 even sure that it was really strong words. I think it was
7 no cooperation. No working together was kind of the
8 flavor that I got.

9 CHAIRMAN BLOCH: So were they --

10 THE WITNESS: You know, one guy goes off and
11 does his thing. Another guy goes off and does his other
12 thing. And part of the notes that I reviewed to prepare
13 this testimony, you know, indicated that what I was trying
14 to do was give them appropriate direction about what their
15 roles are to be and, you know, how they should respond
16 associated with those roles.

17 And it was really a team-building session
18 where I was trying to get people to be more open and
19 discuss problems that they might have with each other,
20 including my own problems.

21 CHAIRMAN BLOCH: Did you find out whether or
22 not any of these communication problems actually had
23 affected the efficient handling of safety matters?

24 THE WITNESS: I -- none of them were
25 communicated to me that they affected safety matters.

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1 They affected the efficient working of the organizations.

2 CHAIRMAN BLOCH: We had one witness who
3 expressed some concern that if -- that if INC had seen
4 some fouling of Calcon sensors, that he might not have
5 been told about that.

6 Was it serious enough that that actually is
7 something that you would be worried about?

8 THE WITNESS: Well, if I had heard that, I
9 would be worried about it. But I don't remember hearing
10 anything like that.

11 CHAIRMAN BLOCH: But was the war so bad that
12 that might have happened, that --

13 THE WITNESS: I don't think the war was so bad
14 that that might have happened. It was peaceful
15 coexistence, less than peaceful coexistence at times.

16 CHAIRMAN BLOCH: And what was the area of
17 cooperation that you think Mr. Mosbaugh was withholding
18 from the other people, from Mr. Kitchens' people? What
19 kinds of resistance was concerning you?

20 THE WITNESS: His actively pursuing solutions
21 to problems.

22 CHAIRMAN BLOCH: So he wasn't following
23 through on engineering problems?

24 THE WITNESS: He wasn't following through on
25 plant problems trying to get them fully resolved in an

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1 efficient manner.

2 CHAIRMAN BLOCH: That sounds pretty serious,
3 isn't it?

4 THE WITNESS: Well, I think it's an area that
5 people need to work on. It's not -- it wasn't -- it
6 wasn't black or white where it was failure to do something
7 that I could tell.

8 CHAIRMAN BLOCH: But right now, you don't know
9 of any specific example where he followed to -- failed to
10 follow through in resolving a plant problem.. Is that
11 correct?

12 THE WITNESS: I can't name a specific example
13 that -- before this time frame.

14 CHAIRMAN BLOCH: Do you recall whether at the
15 time there was an example that troubled you but you've
16 just forgotten it?

17 THE WITNESS: I don't recall either way.

18 CHAIRMAN BLOCH: Okay. Let's take our ten
19 minute recess now.

20 (Whereupon, the proceedings went off the
21 record at 2:22 p.m. and resumed at 2:35 p.m.)

22 CHAIRMAN BLOCH: Is my mike on? Let's begin.

23 BY MR. MICHAEL KOHN:

24 Q Mr. Bockhold, in recent -- in responses to
25 questions to the Board, you indicated that -- you stated,

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1 "The notes I reviewed in preparing my testimony." What
2 notes were you referring to?

3 A Specifically, I think the question you're
4 asking is I looked at some handwritten notes. I assume
5 it's one of the Intervenor's exhibits. I don't know the
6 number exactly. It was some of Mr. Mosbaugh's notes.

7 Q You're referring to Mr. Mosbaugh's notes from
8 the backstabbing meeting or were you referring to other
9 notes?

10 A I was referring to the notes associated with
11 the meeting that we had on improving our communication and
12 teamwork.

13 CHAIRMAN BLOCH: Since that's come up now, do
14 you know the exhibit number for it? You can supply that
15 later for the record.

16 BY MR. MICHAEL KOHN:

17 Q Would you consider the FAVA issue to be an
18 important issue raised in the '89/'90 time frame?

19 A Yes.

20 Q And do you think Mr. Mosbaugh's follow through
21 on FAVA was less than complete?

22 A I believe he had a professional difference of
23 opinion and he followed through very thoroughly.

24 Q And did you think the dilution valve issue was
25 a major issue during the '89/'90 time frame?

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1 A No, I didn't believe that it was a major issue
2 for -- between Mr. Mosbaugh and Mr. Kitchens at that time
3 frame.

4 Q Did you believe it was a major issue at the
5 plant?

6 A I believe that, you know, it was a violation
7 that Mr. Kitchens personally got involved with.

8 Q So you now believe that Mr. Kitchens was
9 personally involved in a violation of NRC requirements?

10 A That was the -- yes, that was --

11 Q And whose -- what manager -- rephrase that.
12 Is Mr. Mosbaugh the person who brought to your attention
13 the fact that Mr. Kitchens was involved in this violation?

14 A I don't remember who brought it to my
15 attention.

16 Q Do you recall whether Mr. Mosbaugh was the
17 person who challenged Mr. Kitchens' explanation as to why
18 there wasn't a violation?

19 A What I remember is I remember that there was a
20 note, and I don't remember what the note contains, about
21 how Mr. Kitchens responded to Mr. Mosbaugh's question.

22 Q We'll come back to that shortly. I just want
23 to ask you one more.

24 BOARD EXAMINATION

25 CHAIRMAN BLOCH: Mr. Bockhold, was the

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1 violation an important one in your mind?

2 THE WITNESS: It was an important one to the
3 NRC, and it was important to me also.

4 CHAIRMAN BLOCH: And was it in some way
5 reflected in Mr. Kitchens' evaluation, performance
6 evaluation?

7 THE WITNESS: It was the subject of an OI
8 investigation, and I believe that the investigation didn't
9 conclude until after the performance evaluation.

10 CHAIRMAN BLOCH: And did you reach any
11 conclusions about the substance of the allegation before
12 the OI investigation was completed?

13 THE WITNESS: It was my opinion at the time
14 that Mr. Kitchens was a -- was licensed at Plant Vogtle,
15 and the license staff were involved with opening a
16 dilution valve.

17 And he was personally involved in that. And I
18 thought his interpretation of the tech specs was
19 reasonable at the time. With a different interpretation
20 from the NRC, it was -- NRC told us basically it wasn't a
21 reasonable interpretation.

22 CHAIRMAN BLOCH: So it wasn't reflected in his
23 evaluation because at the time, you believed it was
24 reasonable?

25 THE WITNESS: That's correct. And the OI

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1 investigation and all the details behind it had not come
2 to my attention.

3 ADMINISTRATIVE JUDGE CARPENTER: Mr. Bockhold,
4 you used the term "reasonable." How about -- does that
5 include the perspective of being conservative in
6 interpreting the tech specs?

7 THE WITNESS: In this particular instance, I
8 thin -- you know, in the end, the NRC staff concluded that
9 we were wrong. In this particular case, what --

10 ADMINISTRATIVE JUDGE CARPENTER: Well, I'm
11 asking about your posture with respect to evaluating what
12 Mr. Kitchens did. Did you feel that he acted
13 conservatively?

14 THE WITNESS: At the time, I felt he acted
15 conservatively because of the number of people that were
16 stationed and because of the specifics associated with the
17 dilution incident.

18 And it was a specific way for us to add
19 chemicals into the reactor by opening a series of valves
20 for a very short period of time, that there wasn't a
21 possibility of a dilution accident.

22 And because of that, I felt that after the
23 chemicals were added, the valves were immediately closed.
24 So at the time, I had felt that it was a reasonable way to
25 interpret the tech specs.

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1 We were -- the NRC staff indicated that we
2 should have gotten their prior concurrence, and we should
3 have. And that was a violation.

4 ADMINISTRATIVE JUDGE CARPENTER: Well at that
5 point in time, we were faced with interpreting the tech
6 specs. Did you consider having the tech specs changed so
7 they were clear?

8 THE WITNESS: I didn't hear about this until
9 after -- after the fact. So I didn't know about, you
10 know, the actual addition until after the next morning.
11 And I had -- you know, the operations people presented
12 the fact that they thought it was appropriate, and I
13 accepted their explanation.

14 ADMINISTRATIVE JUDGE CARPENTER: Was this an
15 event that you would think would not occur very
16 frequently?

17 THE WITNESS: It would be an infrequent event
18 because of the chemical addition should have been on a way
19 down before we got into that particular mode for a better
20 way to sequence the evolutions in the plant.

21 ADMINISTRATIVE JUDGE CARPENTER: So in fact,
22 there was a possibility of operations behaving in a way
23 that didn't require any interpretation of the tech specs?

24 THE WITNESS: If we would have thought about
25 it in advance, that's correct. Yes sir.

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1 ADMINISTRATIVE JUDGE CARPENTER: Well, was
2 there a lesson learned?

3 THE WITNESS: Yes sir. There definitely was a
4 lesson learned on thinking about it in advance. And
5 further, the lesson learned was to -- if we're ever in
6 that sort of situation -- if we were ever in that sort of
7 situation again, to get prior agreement from the NRC.

8 ADMINISTRATIVE JUDGE CARPENTER: Thank you.
9 This is all news to me. Thank you very much.

10 BY MR. MICHAEL KOHN:

11 Q You could have -- you could have simply filled
12 back up and then you wouldn't have been in violation,
13 correct, of the tech specs? There was a way to get around
14 it --

15 MR. BLAKE: I have an objection to just how
16 far we're going to carry the technical redo of this
17 incident and how probative and necessary it is. But the
18 Board obviously has to make the decision.

19 CHAIRMAN BLOCH: Let's go onto another
20 subject.

21 MR. BLAKE: Michael, were the notes -- did you
22 want to show him notes? I've located the numbers. There
23 are two sets of notes from January meetings, your 133 and
24 the February meeting where Allen's -- were 134. Those are
25 the two numbers that you want to show him, correct?

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1 MR. MICHAEL KOHN: Thank you.

2 ADMINISTRATIVE JUDGE MURPHY: Staff or GPC
3 exhibits?

4 MR. BLAKE: Intervenor.

5 CHAIRMAN BLOCH: Have we been able to confirm
6 the date on Intervenor II-232? Where does that come from?
7 The Staff wasn't aware of where it came from.

8 Well, handle that at the break. Let's not
9 handle it now.

10 BY MR. MICHAEL KOHN:

11 Q It's my understanding now that your current --
12 do you currently believe that Mr. Kitchens was involved in
13 a violation of technical specifications? Correct?

14 CHAIRMAN BLOCH: He said that. Go on.

15 BY MR. MICHAEL KOHN:

16 Q All right. And in 1990, when the assertion
17 that Mr. Kitchens was involved in a violation of technical
18 specifications first came up, how did you react to it?

19 A I'm not sure of your question. I think --

20 CHAIRMAN BLOCH: In what context, Mr. Kohn?

21 MR. MICHAEL KOHN: If Mr. Mosbaugh or anyone
22 else at the plant and walked up to you in 1990 and say,
23 "Mr. Kitchens was involved in intentional violations of" -
24 -

25 CHAIRMAN BLOCH: Wait a second. Let's make it

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1 a specific question. Did someone walk up to him? What
2 are you asking about?

3 MR. MICHAEL KOHN: Yes.

4 CHAIRMAN BLOCH: So ask about a person.

5 BY MR. MICHAEL KOHN:

6 Q If you had heard --

7 CHAIRMAN BLOCH: Don't dilly-dally. Drop the
8 "if" and be specific.

9 BY MR. MICHAEL KOHN:

10 Q Did you hear on-site from more than one source
11 that Mr. Kitchens was thought to have been involved in the
12 intentional violation of a technical specification?

13 A I don't remember hearing that.

14 Q Did you hear rumors on-site that Mr. Kitchens
15 had -- was alleged to have been involved in intentional
16 violation of a technical specification?

17 A I don't remember hearing that.

18 Q I'm going to show you portions of a deposition
19 taken of you on September 13, 1990, Mosbaugh v. Department
20 of Labor case -- Mosbaugh v. Georgia Power Company,
21 Department of Labor Case -- 58. I'm going to show you
22 pages.

23 CHAIRMAN BLOCH: First we have to identify it.

24 MR. MICHAEL KOHN: I'd like to -- I'd like to
25 mark it as Intervenors II-235.

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1 (Whereupon, the above-identified
2 document was marked for
3 identification as Intervenor's
4 Exhibit No. II-235.)

5 CHAIRMAN BLOCH: And describe it?

6 MR. MICHAEL KOHN: It is a three-page
7 document, deposition of George Bockhold, cover page and
8 pages 85 and 86.

9 CHAIRMAN BLOCH: Granted.

10 MR. BLAKE: I'd like to see it, get a copy.

11 CHAIRMAN BLOCH: Do you have copies?

12 BY MR. MICHAEL KOHN:

13 Q And you notice on page 85, line seven, I asked
14 you, "Was there a rumor on-site that Skip Kitchens had
15 intentionally ordered that the valves be open in violation
16 of technical specifications?"

17 And you responded, "I heard that rumor too,
18 and that's totally ridiculous also." Do you recall giving
19 that testimony?

20 A I now recall giving that testimony.

21 BOARD EXAMINATION

22 CHAIRMAN BLOCH: Do you know, Mr. Bockhold,
23 what time period the rumor was?

24 THE WITNESS: No sir, I don't remember even
25 giving this testimony without looking at the record here.

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1 BY MR. MICHAEL KOHN:

2 Q And your reaction --

3 BOARD EXAMINATION

4 CHAIRMAN BLOCH: Do you know from the
5 transcript what time period we're talking about?

6 THE WITNESS: It says the 13th of September,
7 1990, commencing at 9:30 a.m., sir.

8 CHAIRMAN BLOCH: That's the date of testimony.
9 I'm talking about the date of the rumor. Well, if you're
10 not going to rely on the date, you can continue.

11 MR. MICHAEL KOHN: Your Honor, I can say it's
12 from the -- from review of the transcript, there is
13 previous discussion about the OI investigation. And then
14 the question comes as you see it here.

15 It doesn't state the time when he heard the
16 rumor, so I assume it would be prior to him testifying.
17 That's the best we could do -- we could recommend.

18 CHAIRMAN BLOCH: Let's continue

19 BY MR. MICHAEL KOHN:

20 Q And on line 17 through 19, do you think that
21 accurately reflects how you would respond to someone in
22 your organization raising a very serious allegation about
23 Mr. Kitchens?

24 A This whole conversation is about Skip Kitchens
25 opening the valve, okay? And Mr. Kitchens would not

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1 personally put his hands on the valve.

2 Q Well, I --

3 A So that's why I indicated that it was
4 ridiculous about Mr. Kitchens opening the valve.

5 Q Well, I asked you to look at -- I think you
6 misstated here. If you look at line 7 through 9, the
7 question was, "Was there a rumor on-site that Skip
8 Kitchens had intentionally ordered that the valve be
9 opened?"

10 And then you say in line ten, "I heard that
11 rumor too," indicating that you had apparently heard more
12 than one rumor.

13 If someone had raised that allegation to you,
14 that Mr. Kitchens had intentionally ordered that a valve
15 be opened in violation of technical specifications, do you
16 believe your reaction would have been "Totally ridiculous,
17 I don't want to hear it?"

18 MR. BLAKE: I'm sorry, where does he say, "I
19 don't want to hear it?"

20 MR. MICHAEL KOHN: I'm asking him does he
21 think that's what his reaction would be.

22 MR. BLAKE: Yes, but that's not what the
23 transcript says. Is that correct?

24 CHAIRMAN BLOCH: What lines are we talking
25 about, Mr. Kohn?

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1 MR. MICHAEL KOHN: Line 17.

2 BOARD EXAMINATION

3 CHAIRMAN BLOCH: Okay, the question on line
4 seven through nine says, "Was there a rumor on-site that
5 Skip Kitchens had intentionally ordered that the valve be
6 opened," not that he personally opened it.

7 THE WITNESS: Yes sir. My answer to what I
8 believe the question is is the idea that Skip Kitchens
9 would intentionally violate tech specs would go against
10 what he believed he was -- as a licensed operator, he
11 could do.

12 I think that is still ridiculous. I think
13 Skip Kitchens is an honorable person who would not
14 intentionally violate the law.

15 So he believed that by his interpretation of
16 tech specs, he had the right, if he had made that order,
17 to -- or if asked, he had allowed people to open this
18 particular valve because -- because of his knowledge of
19 tech specs and because of his background, he felt he
20 probably had that right.

21 The idea of intentionally, willfully violating
22 the law that's required to operate the plant, I don't
23 think that's capable of Mr. Kitchens. And I don't think
24 he would do that.

25 So that's why I reacted with "ridiculous."

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1 BY MR. MICHAEL KOHN:

2 Q And did you think that the -- on page 86, line
3 two, you continue on lines one through three. And you
4 said the NRC investigation gave you -- made you a -- you
5 had an emotional reaction to that, didn't you?

6 A I've got to read.

7 Q I think if you look at --

8 A What's your question, Mr. Kohn?

9 Q You had an emotion, an emotional reaction, to
10 even anyone pursuing an investigation into the allegation,
11 didn't you?

12 A As I stated previously, the idea that Mr.
13 Kitchens would willfully violate the law gives me an
14 emotional reaction because I believe I know the -- I know
15 the man well. And it is not within his make-up.

16 Q And do you think Mr. Kitchens had an
17 exceptional knowledge and training to allow him to
18 adequately determine whether he was in violation of
19 technical specifications?

20 A Yes, he was a licensed SRO.

21 Q And do you think Mr. Kitchens had the
22 knowledge to be able to determine whether or not the plant
23 was at mid-loop when the dilution valves were opened?

24 A Absolutely.

25 Q And would you be surprised if Mr. Kitchens

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1 wrote a memo to you stating that he didn't think the plant
2 was at mid-loop or he could make an argument as to why it
3 wasn't at mid-loop when the dilution valves were opened?

4 MR. BLAKE: I'm going to have to object at
5 this juncture once again. I don't know why this record is
6 being developed. You have the cross examination planned.
7 I don't know whether there's another agenda here or some
8 other forum, whether it's really for the purposes of the
9 record in this proceeding.

10 I just don't know, Judge, without having the
11 cross examination plan and having your benefit of knowing
12 what's important to you know to make a decision whether
13 this is truly probative and worth the time.

14 MR. MICHAEL KOHN: Your Honor, can Intervenor
15 provide argument?

16 CHAIRMAN BLOCH: Yes, you should be able to
17 give us your purpose.

18 MR. MICHAEL KOHN: Thank you. Yes --

19 CHAIRMAN BLOCH: Say it on the plan.

20 MR. MICHAEL KOHN: Okay, the purpose is to
21 demonstrate that the witness's knowledge of Mr. Mosbaugh's
22 involvement, that his reaction to learning of the
23 allegations, were -- and that the fact that Mr. Mosbaugh
24 was the one who challenged Mr. Kitchens and said -- and
25 challenged his interpretation in memos going to Mr.

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1 Bockhold, and after challenging them, wrote a deficiency
2 card, and after that, the --

3 CHAIRMAN BLOCH: Well, the after is what
4 concerns me. We haven't pinned down when this happened.

5 MR. MICHAEL KOHN: Oh, this all happened in
6 the September '89 to December --

7 CHAIRMAN BLOCH: Now how do we know that?
8 That's what I asked you about before.

9 MR. MICHAEL KOHN: I was laying the groundwork
10 to introduce a document. That's where we were at, which
11 is --

12 CHAIRMAN BLOCH: You're going to demonstrate
13 that if we continue?

14 MR. MICHAEL KOHN: Yes.

15 CHAIRMAN BLOCH: The time period? I'll take
16 it -- does the Staff want to come in on the relevance of
17 this issue or not?

18 MS. YOUNG: Well, the Staff has similar
19 concerns about getting into a lot of details about the
20 FAVA infraction, but --

21 CHAIRMAN BLOCH: Dilution valve.

22 MS. YOUNG: Yes, I'm sorry, dilution valve.
23 But we are willing to give Intervenor a little more
24 opportunity to develop --

25 CHAIRMAN BLOCH: Okay. We are going to take a

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1 brief recess just to talk about it with the Board.

2 (Whereupon, the proceedings went off the
3 record at 3:00 p.m. and resumed at 3:02 p.m.)

4 CHAIRMAN BLOCH: The Board considers this a
5 relevant matter related to creditability of the witness
6 about the backstabbing meeting. And there may be other
7 relevance as well, but one is enough to admit it.

8 BY MR. MICHAEL KOHN:

9 Q Mr. Bockhold, would it -- I'm going to show
10 you a document. And first let me mark it as Intervenor's
11 234, which is a September 15, 1989 memorandum from Mr.
12 Kitchens to Mr. Bockhold. This is a two-page document.

13 CHAIRMAN BLOCH: Have we marked it? Let's
14 mark it.

15 BY MR. MICHAEL KOHN:

16 Q Mr. Bockhold, reviewing this document, does
17 this refresh your recollection that prior to September --

18 CHAIRMAN BLOCH: Wait a second. Let's mark
19 it.

20 MR. MICHAEL KOHN: Oh, I'm sorry. I would
21 like to mark it as Intervenor's 234 -- II-234, the
22 September 15, 1989 memorandum consisting of two pages from
23 Mr. Kitchens to Mr. Bockhold.

24 (Whereupon, the above-identified
25 document was identified as

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1 Intervenor's Exhibit No. II-234.)

2 THE WITNESS: Before you ask a question, I
3 need some time to read it.

4 CHAIRMAN BLOCH: Okay, I'm going to order that
5 it be marked. Just for ease of understanding this section
6 of the transcript, we'll insert II-233 and II-234 into the
7 transcript just prior to the witness's beginning to
8 testify.

9 (Pause.)

10 CHAIRMAN BLOCH: I'd like to disclose that it
11 is my impression that I admitted 232 and 233. Do the
12 parties disagree with that?

13 MR. BLAKE: I don't disagree with it.

14 MR. HULL: That's what my notes indicate, Your
15 Honor.

16 CHAIRMAN BLOCH: Okay, the reporter asked me
17 off the record, and I told him -- informed him that I
18 thought they had been.

19 MR. BLAKE: Judge Bloch, do I understand --
20 while there's a break here and I'm not taking anybody's
21 time -- that the Board --

22 CHAIRMAN BLOCH: I'm sorry, before you -- was
23 the deposition marked?

24 MS. YOUNG: Yes, Exhibit 235.

25 CHAIRMAN BLOCH: Okay, that was 235? And the

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1 one after that we're discussing now is 234?

2 MS. YOUNG: Right.

3 CHAIRMAN BLOCH: All right. So let's include
4 all of them as being bound in.

5 MR. BLAKE: We're still missing a couple of
6 other numbers that presumably we're going to get to.

7 Judge Bloch, I do want to understand that
8 you've admitted it for purposes of credibility, but not
9 for the substance of what happened on that -- in the
10 dilution valve area.

11 I take it you're weighing what is happening in
12 the witness's answers.

13 CHAIRMAN BLOCH: Not with respect to the
14 technical matter involved. It could have something to do
15 with the witness's way of proceeding on technical matters.

16 MR. BLAKE: But my question obviously is, you
17 know, if we get into whether or not it was right or wrong,
18 whether or not it was a professional way of doing business
19 --

20 CHAIRMAN BLOCH: No, we're not --

21 MR. BLAKE: -- we've got to put on people to
22 talk about whether or not it was or wasn't.

23 CHAIRMAN BLOCH: That issue is not an
24 independent issue in this proceeding, the technical issue.

25 MR. BLAKE: Thank you.

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1 THE WITNESS: What's your question, Mr. Kohn?

2 BY MR. MICHAEL KOHN:

3 Q Now, do you recall the timing of events that,
4 prior to September 15, 1989, Mr. Mosbaugh confronted you
5 with the fact that there appeared to have been a violation
6 of technical specifications concerning the dilution
7 valves?

8 A I don't specifically remember if it was Mr.
9 Mosbaugh or somebody else.

10 Q Okay. Now you -- you now recall that Mr.
11 Mosbaugh, prior to September 15, 1989, was involved in
12 raising a concern about the violation of a technical
13 specification?

14 A I don't specifically recall whether it was Mr.
15 Mosbaugh or somebody else, no.

16 Q Do you recall whether Mr. Mosbaugh was
17 involved in raising an allegation about a violation of
18 technical specifications addressed in this September 15,
19 1989 memorandum?

20 A I don't recall. It could have been him, it
21 could not have been him. I don't recall, sir.

22 BOARD EXAMINATION

23 CHAIRMAN BLOCH: Mr. Bockhold, do you recall
24 whether anyone else at Plant Vogtle made any technical --
25 raised any technical concerns with the NRC in the 1990

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1 spring and summer -- excuse me, in the 1989 through '90
2 time period beginning in, say, September of 1989 and
3 through September of 1990?

4 Did anyone else raise technical issues with
5 the NRC from Vogtle?

6 THE WITNESS: I don't recall specifically. We
7 had a quality concerns program, and some of those concerns
8 went to the NRC. I don't -- without getting a bunch of
9 documents, I don't recall any specifics.

10 We had -- throughout the start-up of Vogtle,
11 we had people raise various concerns, both to our own
12 Quality Concerns Program and to the NRC. I know that, but
13 I don't remember any specifics now.

14 CHAIRMAN BLOCH: Now are you saying you never
15 became aware that Mr. Mosbaugh raised the issue of the
16 dilution valve, or that you didn't know in the 1990
17 period?

18 THE WITNESS: In -- I didn't know until late
19 1990 that Mr. Mosbaugh was the person who raised concerns
20 about the dilution valve to the OI.

21 CHAIRMAN BLOCH: So you didn't know when the
22 meeting took place for which Mr. Mosbaugh alleges there
23 was something written on the blackboard -- on the
24 blackboard?

25 THE WITNESS: The backstabbing --

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1 CHAIRMAN BLOCH: It was after that that you
2 learned about it. Is that what you're saying?

3 THE WITNESS: Yes sir. Yes sir, that's what
4 I'm saying.

5 BY MR. MICHAEL KOHN:

6 Q But it was before this backstabbing meeting
7 that you learned that Mr. Mosbaugh had identified Mr.
8 Kitchens as being involved in the violation of a technical
9 specification?

10 A That's a question?

11 Q Yes.

12 A I didn't understand the question.

13 BOARD EXAMINATION

14 CHAIRMAN BLOCH: He's asking if you really
15 meant what you told me.

16 BY MR. MICHAEL KOHN:

17 Q Before the backstabbing meeting occurred, did
18 you know that Mr. Mosbaugh had internally to Georgia Power
19 raised a concern that Mr. Kitchens had -- let me -- that a
20 violation of technical specifications had occurred?

21 A I don't remember is Mr. Mosbaugh raised this
22 concern. And we're going back to 1989, and the event
23 happened in 1988, okay? Somebody had raised a concern in
24 the past. It might have been Mr. Mosbaugh. It might not
25 have been Mr. Mosbaugh. I don't remember.

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1 And Mr. Kitchens, to respond to the concern,
2 wrote this memo on September 15, 1989, and the event
3 occurred in 1988, to address his interpretation of
4 technical specifications and why he interpreted it that
5 way.

6 And at the time, I believe that interpretation
7 was reasonable, okay? I believe I then forgot about it
8 completely during the time frame between then and the
9 meeting to counsel Mr. Mosbaugh and Mr. Kitchens about
10 team work, okay?

11 I did not know that Mr. Mosbaugh had raised
12 this allegation to OI at that particular time. And the
13 meeting that I had with Mr. Kitchens and Mr. Mosbaugh was
14 basically to work on team work and getting us to be a more
15 effective plant.

16 BOARD EXAMINATION

17 CHAIRMAN BLOCH: Mr. Bockhold, are you saying
18 that you don't remember whether you knew that Mr. Mosbaugh
19 made this internal complaint, or that you definitely
20 didn't know at that time?

21 THE WITNESS: I don't remember if I knew or if
22 I didn't know. I know somebody made the complaint. I
23 don't -- that's all I remember today.

24 CHAIRMAN BLOCH: So you don't remember whether
25 or not in the early part of 1990, you did or did not know

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1 that Mr. Mosbaugh was involved with the complaint?

2 THE WITNESS: I think in the early part of
3 1990, I had forgotten about the complaint. I thought that
4 the complaint -- the complaint was internal --

5 CHAIRMAN BLOCH: Yes.

6 THE WITNESS: -- okay, to us.

7 CHAIRMAN BLOCH: Okay, but the only question
8 is --

9 THE WITNESS: The --

10 CHAIRMAN BLOCH: The only question is whether
11 you are stating that at that point in January of '90, A)
12 you don't remember whether you knew that Mr. Mosbaugh was
13 involved with the internal complaint; or B) you remember
14 that you didn't know.

15 THE WITNESS: I don't remember.

16 CHAIRMAN BLOCH: So it's "A?"

17 THE WITNESS: So it's "A."

18 BY MR. MICHAEL KOHN:

19 Q Do you have a recollection now that following
20 the issuance of the September 15th memo that Mr. Mosbaugh
21 told you point-blank that Mr. Kitchens assertion that the
22 plant was not at mid-loop, as stated in the memo, was
23 false?

24 MR. BLAKE: I would like a record basis for
25 that question.

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1 CHAIRMAN BLOCH: You prepared to offer the
2 record basis after the question is answered?

3 MR. MICHAEL KOHN: Yes.

4 CHAIRMAN BLOCH: Okay, I'll permit it on that
5 understanding.

6 THE WITNESS: What's the question again?

7 BY MR. MICHAEL KOHN:

8 Q After the September 15th memo was written, do
9 you have any recollection of Mr. Mosbaugh telling you
10 point-blank that the plant was at mid-loop?

11 A I have no recollection of that conversation.

12 Q I would like to show the witness --

13 CHAIRMAN BLOCH: First we mark it.

14 MR. MICHAEL KOHN: I'll have to make copies of
15 this one, but it's only one page. It is page 697 from the
16 Department of Labor proceedings transcript that was
17 previously marked as 233.

18 And I guess what I will do is attach an
19 additional page to Intervenor's 233, which will be
20 transcript page 697.

21 CHAIRMAN BLOCH: Okay, we'll take a ten minute
22 break during which copying may take place. What is the
23 number you're assigning to it?

24 MR. MICHAEL KOHN: Two-thirty-three. It was
25 previously marked. It's the same document. We're just

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1 adding a page.

2 CHAIRMAN BLOCH: Right, it's an added page.

3 The motion is granted.

4 THE WITNESS: Could I read it in the break?

5 (Whereupon, the proceedings went off the
6 record at 3:12 p.m. and resumed at 3:25 p.m.)

7 CHAIRMAN BLOCH: Intervenor's Exhibit II-233
8 shall be marked to include the original pages, which
9 included page 462, page 599, and a cover page, page 600.
10 Now Intervenor is adding pages 690, 691, 697. Those
11 together may be bound into the transcript at the place I
12 had indicated.

13 (Whereupon, the three pages were
14 added to the exhibit previously
15 marked as I-Exhibit II-233.)

16 MS. YOUNG: Previously 233 was admitted. Are
17 these pages now being automatically admitted?

18 CHAIRMAN BLOCH: I have not ruled on the new
19 pages, admission of the new pages. We'll handle that when
20 there's a motion.

21 So far it's just the initial pages in Exhibit
22 233 that are admitted. But the others are marked.

23 CROSS EXAMINATION

24 MR. MICHAEL KOHN: Mr. Bockhold, looking at
25 page 697, does it refresh your recollection that following

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1 September 15, Mr. Mosbaugh told you point blank that the
2 plant was at mid-loop?

3 THE WITNESS: Yes. I believe this is a
4 transcript of that hearing.

5 CHAIRMAN BLOCH: The question was does it
6 refresh your recollection. That means --

7 THE WITNESS: I don't recall, sir.

8 BOARD EXAMINATION

9 CHAIRMAN BLOCH: Do you have any reason to
10 doubt the truth of the answer that occurs on page 697?

11 THE WITNESS: In the context, I don't have any
12 reason to doubt the truth of the answer. Continuing on
13 down from 10 all the way down through 20.

14 CROSS EXAMINATION

15 MR. MICHAEL KOHN: Isn't it true that with
16 respect to this OI investigation, you had suspicions that
17 at a minimum, it could have come from the departments that
18 reported to Mr. Mosbaugh?

19 THE WITNESS: I didn't know who it came from,
20 where the allegation came from.

21 MR. MICHAEL KOHN: Did you figure it came out
22 of engineering somewhere?

23 THE WITNESS: I don't remember.

24 MR. MICHAEL KOHN: Do you remember thinking
25 that it may have come out of engineering?

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1 THE WITNESS: I don't remember.

2 MR. MICHAEL KOHN: Would you look at page 691
3 of the transcript, lines 20 through 22 to see if that
4 refreshes your recollection?

5 THE WITNESS: 691.

6 CHAIRMAN BLOCH: What specific lines, Mr.
7 Kohn?

8 MR. MICHAEL KOHN: Twenty through 22.

9 THE WITNESS: I don't remember saying these
10 words. I have no reason to believe they are not correct.
11 I didn't conclude that it came from any particular side of
12 the plant. I thought it might have come out of
13 engineering.

14 MR. MICHAEL KOHN: Because you thought it came
15 out of engineering, you confronted Mr. Mosbaugh to find
16 out. Didn't you?

17 THE WITNESS: I didn't confront Mr. Mosbaugh
18 to find out.

19 MR. MICHAEL KOHN: If you look at page 690 of
20 the transcript, I want you to look at 20 through 23. The
21 question is, is it fair to say that management was
22 speculating as to the source of the investigation prior to
23 the OI investigators coming on site? You begin to answer,
24 I had asked Allen.

25 Can you now continue as you think the entire

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1 answer should be? Do you see what I'm saying? Is the
2 question is asked about the source of the investigation,
3 the OI investigation. You begin your answer, "I asked
4 Allen." What do you believe you were referring to about
5 asking Allen?

6 THE WITNESS: I don't know. I don't remember.

7 MR. MICHAEL KOHN: Does that page help refresh
8 your recollection, that you were referring to a
9 conversation you had with Mr. Mosbaugh about the source of
10 the investigation?

11 THE WITNESS: No.

12 MR. MICHAEL KOHN: Your Honor, Intervenor
13 calls for the admission of pages 690, 691, and 697 of
14 Intervenor's 233.

15 CHAIRMAN BLOCH: Subject to subsequent
16 supplementation by Georgia Power or staff.

17 (Whereupon, the additional pages
18 previously marked as Intervenor's
19 Exhibit No. 233 were admitted.)

20 MR. MICHAEL KOHN: On page four, lines 12
21 through 14 of your pre-filed testimony you state that you
22 didn't believe you knew of the NRC office investigation
23 until the end of January. The key word I am focusing on
24 is when. When or very shortly before OI arrived, isn't it
25 true that you knew before OI arrived that the

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1 investigation was going to occur?

2 THE WITNESS: That is what I said in my pre-
3 filed testimony, very shortly before OI arrived.

4 MR. MICHAEL KOHN: Well which is it? You see,
5 you say when or very shortly. Are you saying it's more
6 accurate you should have just not said the word when? You
7 should have said that --

8 THE WITNESS: I don't remember how much
9 advanced notification OI gave us.

10 BOARD EXAMINATION

11 CHAIRMAN BLOCH: The only way you knew about
12 it was the advanced notification from OI?

13 THE WITNESS: That would have been the only
14 way. They, at times, just show up and say here we are to
15 investigate x, y, and z.

16 CHAIRMAN BLOCH: Okay. But your testimony is
17 that the only way you knew that OI was coming was the
18 advanced notice that they gave to you?

19 THE WITNESS: Yes, sir.

20 CROSS EXAMINATION

21 MR. MICHAEL KOHN: Didn't you -- do you have a
22 vague recollection today about Mr. Aufdenkampe telling you
23 that the resident inspector was already pulling documents
24 and looking into the mid-loop issue?

25 THE WITNESS: I don't have any recollection

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1 today.

2 CHAIRMAN BLOCH: Mr. Kohn, I assume you are
3 following up on that one.

4 MR. MICHAEL KOHN: Yes, I'm looking for the
5 cite, Your Honor.

6 I'd like to show the Witness page 89, lines 10
7 through 12 of his Department of Labor deposition.

8 CHAIRMAN BLOCH: So then you are going to mark
9 them.

10 MR. MICHAEL KOHN: Yes.

11 MS. YOUNG: Can you show copies to counsel as
12 you do that?

13 MR. MICHAEL KOHN: Your Honor, this document
14 was previously marked. As before, we are going to request
15 that page 89 be supplemented with Intervenor's 235.

16 CHAIRMAN BLOCH: And so now describe what is
17 being added to Intervenor's 235.

18 MR. MICHAEL KOHN: Page 89 of the same
19 deposition.

20 CHAIRMAN BLOCH: It may be marked in that
21 manner.

22 (Whereupon, the document was added
23 to the document previously marked as
24 Intervenor's Exhibit No. 235.)

25 CHAIRMAN BLOCH: And now you are going to show

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1 counsel and the Board.

2 THE WITNESS: Could I look at it also?

3 CHAIRMAN BLOCH: We'll take a brief break
4 while you copy it, please.

5 (Whereupon, from 3:35 p.m. until 3:38 p.m. the
6 proceedings went off the record.)

7 CHAIRMAN BLOCH: Witness may familiarize
8 himself with this page before the questions are asked.

9 Are there particular portions you want to call
10 the witness's attention to?

11 MR. MICHAEL KOHN: Lines 10 through 12.

12 THE WITNESS: What's your question?

13 MR. MICHAEL KOHN: Do you have a recollection
14 of communications with Mr. Aufdenkampe before the OI
15 investigation occurred about the residents involvement in
16 the issue?

17 THE WITNESS: I don't remember today.

18 MR. MICHAEL KOHN: Does this deposition
19 excerpt from 1990 help refresh your recollection?

20 THE WITNESS: It says I don't know your
21 question, I mean I believe John Aufdenkampe may have had
22 some conversations with the resident, but this is a vague
23 remembrance, very vague.

24 MR. MICHAEL KOHN: Would you agree then that
25 you may have had advanced notice of the OI investigation

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1 through the action --

2 CHAIRMAN BLOCH: Do you have any reason to
3 doubt the validity of that testimony?

4 THE WITNESS: I believe that this testimony is
5 valid.

6 CHAIRMAN BLOCH: Okay.

7 MR. MICHAEL KOHN: Move the introduction of
8 page 89.

9 CHAIRMAN BLOCH: Granted.

10 (Whereupon, the additional page
11 previously marked as Intervenor's
12 Exhibit No. 235 was admitted into
13 evidence.)

14 MR. MICHAEL KOHN: Your Honor, I think we also
15 move the admission of pages 85 and 86 of 235. I don't
16 believe we moved for the earlier admission of those pages.

17 CHAIRMAN BLOCH: Granted.

18 (Whereupon, the additional pages
19 previously marked as Intervenor's
20 Exhibit No. 235 were admitted into
21 evidence.)

22 MR. MICHAEL KOHN: Cover page.

23 CHAIRMAN BLOCH: Yes. All of 835 as currently
24 constituted -- 235, excuse me. All of 235 as currently
25 constituted is admitted.

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1 MR. MICHAEL KOHN: On page four, line 22 of
2 your pre-filed testimony, you start off by responding to a
3 question concerning the source of the dilution valve
4 allegation. You say, "No."

5 Should that no actually begin with I don't
6 remember?

7 THE WITNESS: There's a reference to Mr.
8 Mosbaugh's pre-filed testimony. Get that out and I can
9 re-read it. I believe this testimony here is fine. So
10 the question is worded associated with Mr. Mosbaugh's pre-
11 filed testimony. No, I did speak with a number of persons
12 on my staff to understand what was being investigated.

13 CHAIRMAN BLOCH: The question is whether the
14 answer to the question that appears on lines 18 through 21
15 should be, I don't remember instead of no. You can just
16 answer that question.

17 THE WITNESS: I think the pre-filed testimony
18 is correct. Line 18 has the term confronted in quotation
19 marks. I didn't confront, at least I didn't believe I
20 confronted Mr. Mosbaugh. I was interested in what was
21 being investigated. I was interested in maybe trying to
22 continue to improve communications in the plant.

23 MR. MICHAEL KOHN: In September of 1990 -- I
24 guess there may be one additional page to his deposition.

25 CHAIRMAN BLOCH: Which also isn't copied yet?

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1 MR. MICHAEL KOHN: No. But it is only one
2 line that's relevant.

3 CHAIRMAN BLOCH: Well if it's only one line,
4 you may be able to read it into the transcript. But
5 you'll have to show it to the witness to get the context.

6 MS. YOUNG: And opposing counsel.

7 CHAIRMAN BLOCH: So you won't be able to read
8 it.

9 MR. MICHAEL KOHN: Thank you.

10 CHAIRMAN BLOCH: Mr. Kohn, for tomorrow, I'd
11 like you to anticipate that the Witness will never say
12 what you expect him to. So you should be prepared with
13 the sections you are going to ask him about.

14 Mr. Kohn, you will be able to read those lines
15 for the record.

16 MR. MICHAEL KOHN: Staff and licensee had
17 indicated that they wanted some additional pages put into
18 the exhibit. I did not object. So at some point, there
19 will be --

20 CHAIRMAN BLOCH: So we'll do that after the
21 close of business today. The Reporter will stay to leave
22 the record open so it can be inserted.

23 MR. MICHAEL KOHN: It doesn't matter. He can
24 read the question and answer that he's talking about
25 today.

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1 CHAIRMAN BLOCH: So that the Board will
2 understand, please read the question and answer. Then the
3 context will be complete in the exhibit and the
4 transcript.

5 THE WITNESS: You want me to read the
6 question?

7 CHAIRMAN BLOCH: Well, you could if you want
8 or Mr. Kohn could, if you prefer.

9 THE WITNESS: I'm not sure exactly which one,
10 but you want 13? Starting with 13? That is where I would
11 start.

12 MR. MICHAEL KOHN: Yes, sir.

13 THE WITNESS: Question, "Do you remember
14 approaching, asking Mr. Mosbaugh if he knew the source of
15 the OI investigation into the opening of the valves?"
16 Answer, "I don't remember."

17 Question, "Do you remember asking other people
18 on site who they believed to be the source of the OI
19 investigation?" Answer, "I don't. I didn't question
20 people in that respect. There was some speculation about
21 did the OI investigation originate from inside the NRC."

22 Question, "And who was doing that
23 speculation?" Answer, "Various people were doing that
24 speculation."

25 CHAIRMAN BLOCH: He can read whatever he

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1 thinks is necessary for the context.

2 THE WITNESS: Question, "Do you speculate
3 along with Mr. Kitchens?" Mr. Shorties (phonetic) breaks
4 in, "Excuse me. This was a question."

5 I really read enough.

6 CHAIRMAN BLOCH: Mr. Kohn, the question about
7 that section? He can keep looking at it while you ask
8 him. You can look over his shoulder.

9 MR. MICHAEL KOHN: Does that refresh your
10 recollection that in 1990 you could not -- you had no
11 recollection of whether or not you had confronted Mr.
12 Mosbaugh about the source of the dilution valve
13 allegation?

14 THE WITNESS: In 1990 and today, various
15 people were speculating about the investigation.

16 BOARD EXAMINATION

17 CHAIRMAN BLOCH: That wasn't the question.
18 Does it or does it not refresh your recollection that in
19 1990, you didn't remember whether or not you had
20 confronted Mr. Mosbaugh about the investigation?

21 THE WITNESS: The term confronting to me is
22 different than the term asking.

23 CHAIRMAN BLOCH: Okay. So do you remember
24 that at that time --

25 THE WITNESS: I believe that I didn't confront

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1 anybody. Therefore, anybody includes Mr. Mosbaugh.

2 CHAIRMAN BLOCH: Okay. Is it the case though
3 that you don't remember whether or not you asked him about
4 the source of the investigation?

5 THE WITNESS: That is correct, sir.

6 CROSS EXAMINATION

7 MR. MICHAEL KOHN: Mr. Bockhold, I'm going to
8 call your attention back to Intervenor's Exhibit 234.

9 THE WITNESS: 234, a letter from Mr. Kitchens
10 to me.

11 MR. MICHAEL KOHN: At some point, did it
12 strike you as unusual that Mr. Kitchens would make a
13 erroneous conclusion in the last paragraph of this
14 document, that an argument could be made that technical
15 specification was not applicable because the plant was not
16 at mid-loop?

17 CHAIRMAN BLOCH: Sorry. I suspect that was a
18 good question, but I did not follow it. Could you state
19 it again?

20 MR. MICHAEL KOHN: Did you have any concern
21 that Mr. Mosbaugh would write in an official memorandum --
22 excuse me. Mr. Kitchens would write in an official
23 memorandum to you that an argument could be made that the
24 plant was not at the mid-loop when in fact it was?

25 THE WITNESS: I'm not sure of your question,

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1 Mr. Kohn.

2 MR. MICHAEL KOHN: Giving Mr. Kitchens --

3 THE WITNESS: I can read the paragraph that's
4 written there. Are you talking about -- what's the
5 question about this last paragraph? Do you want me to
6 read the paragraph?

7 MR. MICHAEL KOHN: It's not necessary.

8 BOARD EXAMINATION

9 CHAIRMAN BLOCH: Let me ask first. Could you
10 tell from Mr. Kitchen's memorandum whether in fact the
11 plant was at mid-loop under the circumstances he was
12 describing?

13 THE WITNESS: The term mid-loop implies to
14 most people that you have water level into the loops
15 themselves, below water level into the loops themselves.
16 By this memo, Mr. Kitchens is saying that I believe that
17 the level was above the top of the hot legs. Okay? So
18 that's what he says. So by this memo he is telling me
19 that he believes that by the standard term mid-loop, we
20 were not in mid-loop.

21 But in further discussion about that, we more
22 conservatively basically viewed mid-loop as 25 percent of
23 cold cal pressurizer level.

24 CHAIRMAN BLOCH: Was that more conservative or
25 was that what the tech spec said?

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1 THE WITNESS: Tech specs doesn't -- I don't
2 think the tech specs are clear on that. I would have to
3 get them out to read that particular section.

4 CHAIRMAN BLOCH: Did you at the time know what
5 the tech spec said on this question?

6 THE WITNESS: I believe I had looked it up and
7 thought about it, yes, sir. But I don't remember.

8 CHAIRMAN BLOCH: And you were satisfied when
9 you looked at it that you were not at mid-loop?

10 THE WITNESS: The term mid-loop is a term that
11 is not defined.

12 CHAIRMAN BLOCH: Pursuant to the tech specs,
13 as you understood them, were you satisfied that you were
14 not at mid-loop?

15 THE WITNESS: I'm not sure that the term mid-
16 loop is defined in tech specs either. I'd have to get
17 that out and look at that.

18 CHAIRMAN BLOCH: Maybe counsel can go over
19 this on redirect.

20 CROSS EXAMINATION

21 MR. MICHAEL KOHN: Mr. Bockhold, did it come
22 to your attention that the control room logs did not
23 support the assertion that Mr. Kitchens made, that the
24 level was above the top of the hot legs when the hydrogen
25 peroxide was added?

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1 THE WITNESS: I don't believe it came to my
2 attention.

3 MR. MICHAEL KOHN: I thought we previously
4 showed you a portion of a deposition, of your deposition
5 or trial testimony, where Mr. Mosbaugh told you point
6 blank that the plant was at mid-loop. Do you recall that
7 now?

8 THE WITNESS: I can get that section of the
9 deposition out and read it.

10 CHAIRMAN BLOCH: Let's just give him the
11 citation to it again.

12 MS. YOUNG: Judge Bloch, staff has a concern
13 about the probative value of this inquiry. I believe the
14 crux of this hearing is whether the communications that
15 Georgia Power gave the NRC in the March, April, August
16 time frame were complete and accurate.

17 We are now getting into more detail with
18 respect to the dilution valve issue and what were the
19 various positioning of indicators at the plant. It seems
20 to be getting too technical and a little far afield of the
21 issues of the case.

22 CHAIRMAN BLOCH: It's a question of the
23 credibility of the testimony that's been filed. There's
24 been no offer to strike it.

25 MS. YOUNG: Well, is there a reference to mid-

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1 loop in the testimony?

2 MR. MICHAEL KOHN: Yes. There is reference to
3 the OI, the source of the OI investigation on lines seven
4 through 17, page four. Then it goes on.

5 THE WITNESS: I don't know where.

6 MR. MICHAEL KOHN: And it continues on to page
7 five, line six. The discussion concerns the OI
8 investigation and whether Mr. Bockhold had reason to
9 believe that Mr. Mosbaugh was involved. The source of
10 that, the investigation being discussed is the mid-loop
11 investigation.

12 CHAIRMAN BLOCH: I'll allow the question.

13 THE WITNESS: You've got to tell me what
14 reference so I can read it and answer your question.
15 After I read it, you need to repeat your question.

16 CHAIRMAN BLOCH: I think it's in 233.

17 THE WITNESS: 233. Mine aren't marked. How
18 about a page number?

19 MS. YOUNG: Judge Bloch, I hate to raise it
20 again. But I don't think that the reference on page five,
21 which talks about Mr. Bockhold doubting that he was
22 involved with OI on a dilution valve issue has any
23 relationship to the question that Mr. Kohn is asking now
24 about whether the plant was at mid-loop or not, or whether
25 Mr. Kitchens believed it was at mid-loop.

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1 CHAIRMAN BLOCH: I'm not concerned with
2 whether the plant was at mid-loop. What I am concerned
3 about is whether this witness knew that the plant was at
4 mid-loop and ignored it. Whether he was irritated about
5 this having been raised at the time of the meeting.

6 That seems directly probative as to whether
7 the testimony is correct about what happened at the
8 meeting.

9 MS. YOUNG: That might be relevant, but I
10 don't think the questions we're getting right now are
11 really focusing in that direction.

12 CHAIRMAN BLOCH: I want to repeat my ruling
13 that I am allowing the question.

14 CROSS EXAMINATION

15 MR. MICHAEL KOHN: If you would look at
16 Intervenor's Exhibit 233, page 697.

17 THE WITNESS: I have page 697.

18 MR. MICHAEL KOHN: Do you see there that -- do
19 you recall Mr. Mosbaugh, lines 8 through 10, telling you
20 point blank that the plant was at mid-loop?

21 THE WITNESS: What line -- I'm sorry, are you
22 referring to?

23 MR. MICHAEL KOHN: Lines --

24 CHAIRMAN BLOCH: Eight through 10.

25 MR. MICHAEL KOHN: Eight through 10.

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1 CHAIRMAN BLOCH: But you may also want to look
2 at three through seven, where you say that you learned
3 that the plant was at reduced inventory.

4 THE WITNESS: Go from line five all the way
5 through line 20. I believe that's a fair representation
6 of what I knew at the time. I learned that the plant was
7 at reduced inventory, but I did not know the exact
8 sequence or exact timing in relationship to this memo.

9 Then it says, "Now after September 15, Mr.
10 Mosbaugh told you point blank that the plant was at mid-
11 loop. Correct?" "Yes."

12 "Okay. Weren't you somewhat concerned that
13 such an expert as Mr. Kitchens would make a fundamental
14 error in not realizing whether the plant was at mid-loop
15 or not?" Answer, "Mr. Kitchens evaluated the situation at
16 this point. I believe that he told me in his memo the
17 truth as he believed at this point. When a deficiency
18 card is written, people investigate further what went into
19 the situation. When a concern is written, it is
20 investigated further and other facts may come out."

21 So basically what I'm saying is that when a
22 deficiency card is written, and the question implies that
23 a deficiency card was written at Mr. Mosbaugh's
24 insistence, that additional facts came out to disposition
25 the deficiency card.

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1 BOARD EXAMINATION

2 CHAIRMAN BLOCH: So the implication is that
3 you didn't believe what Mr. Mosbaugh told you?

4 THE WITNESS: The implication is that the
5 plant is now in a different configuration. Okay? A
6 methodical, well thought-out investigation should take
7 place. The people who write the deficiency cards, it goes
8 through a whole process to disposition those deficiency
9 cards.

10 That process was taking place. The plant was
11 no longer in its configuration. So when the deficiency
12 card was going to be evaluated, the facts would come out.
13 If the facts supported Mr. Mosbaugh's position, I would
14 have heard about it. It appears that the facts didn't
15 support his position. I didn't hear about it.

16 CHAIRMAN BLOCH: It seems that the disposition
17 of the deficiency card is relevant to the witness's
18 answer, which suggests we don't have enough of the
19 transcript here.

20 The disposition of the deficiency card appears
21 to continue after page 697.

22 MR. MICHAEL KOHN: I don't think there's
23 anything more in this particular transcript, but there's
24 certainly --

25 CHAIRMAN BLOCH: There's nothing more that

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1 talks about the disposition of the deficiency card in this
2 transcript?

3 MR. MICHAEL KOHN: No. I don't recall any.

4 CHAIRMAN BLOCH: Okay. But while the card was
5 being dispositioned, you were sufficiently satisfied with
6 that process that you didn't personally check further into
7 Mr. Mosbaugh's assertion that the plant was at mid-loop?

8 THE WITNESS: That is correct, sir. I was
9 convinced that process would work.

10 CROSS EXAMINATION

11 MR. MICHAEL KOHN: Did the deficiency card
12 result in a determination of whether or not the plant was
13 at mid-loop?

14 THE WITNESS: I don't remember the disposition
15 of the deficiency card at this point. I'd have to --

16 MR. MICHAEL KOHN: Do you remember receiving
17 an NRC violation for the dilution valve incident?

18 THE WITNESS: Yes. There was an NRC
19 violation, what I believe is the interpretation of tech
20 specs, in effect that Mr. Kitchen's memo was not the way
21 the NRC saw it. Not about the mid-loop portion of it.

22 MR. MICHAEL KOHN: Would you have gotten a
23 violation if the plant had not been at mid-loop?

24 THE WITNESS: You are saying if the plant was
25 at 100 percent power and these valves would have been

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1 opened? No. We would not have gotten a violation there.

2 MR. MICHAEL KOHN: No. I'm asking if the
3 plant had not been at mid-loop, when the dilution valves
4 were opened, would you have gotten the violation?

5 THE WITNESS: What's the plant status and
6 let's look at the tech specs, and I can answer the
7 question.

8 MR. MICHAEL KOHN: With respect to when the
9 dilution valves were open that's referred to --

10 BOARD EXAMINATION

11 CHAIRMAN BLOCH: The witness is stating that
12 you don't know how to answer that question?

13 THE WITNESS: Without giving me more details
14 on the plant status, there may be other conditions where
15 it's prohibited from opening these valves. The plant
16 might have received a violation.

17 CHAIRMAN BLOCH: Is it true you got the
18 violation because you were considered by the NRC to be at
19 mid-loop?

20 THE WITNESS: Yes, sir. We got the violation
21 because we misinterpreted the tech specs.

22 CHAIRMAN BLOCH: Do you have any reason to
23 believe the NRC was wrong?

24 THE WITNESS: No, sir.

25 CHAIRMAN BLOCH: Let me ask, when you got the

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1 violation, did you make any inquiry into how it happened
2 that an incorrect determination was made by your
3 engineering people -- by the people who dispositioned this
4 deficiency card?

5 THE WITNESS: I believe when we got the
6 violation, I was no longer general manager.

7 CHAIRMAN BLOCH: Thank you.

8 MR. MICHAEL KOHN: We'd like to call for the
9 admission of Intervenor's 234.

10 CHAIRMAN BLOCH: We just -- we're dealing with
11 233.

12 MR. MICHAEL KOHN: 234 is the September 15,
13 1989 memorandum.

14 CHAIRMAN BLOCH: Granted.

15 (Whereupon, the document previously
16 marked as Intervenor's Exhibit No.
17 234 was admitted into evidence.)

18 CROSS EXAMINATION

19 MR. MICHAEL KOHN: Mr. Bockhold, do you know
20 whether the DC card was in fact properly dispositioned?

21 THE WITNESS: I have no recollection of the DC
22 card at this point.

23 MR. MICHAEL KOHN: Do you recall Mr. Mosbaugh
24 showing you the control logs to show that they were at
25 mid-loop?

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1 THE WITNESS: I have no recollection of being
2 shown the control logs.

3 MR. MICHAEL KOHN: On page eight, starting on
4 page eight, you have much discussion about Mr. Mosbaugh's
5 FAVA concern. You are aware that Mr. Mosbaugh filed a
6 concern with the Quality Concerns Program. Correct?

7 THE WITNESS: That's correct.

8 MR. MICHAEL KOHN: You are aware that the
9 Quality Concerns Program was headed by Mr. Lyons, and that
10 he began an investigation.

11 THE WITNESS: That is correct.

12 MR. MICHAEL KOHN: After Mr. Lyons began the
13 investigation, you removed him as the lead person involved
14 in the investigation. Isn't that true?

15 THE WITNESS: Mr. Lyons was concerned because
16 Mr. Mosbaugh was his immediate supervisor and the plant
17 managers had voted to put FAVA back in service. He didn't
18 feel that he could really adequately resolve it with the
19 resources he had.

20 I agree with him that I didn't think he could
21 adequately resolve it with the resources and asked Mr.
22 Rushton, and then later Mr. Glen to get involved.

23 BOARD EXAMINATION

24 ADMINISTRATIVE JUDGE MURPHY: Who had voted to
25 put it back in service? Did you say someone had voted to

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1 put FAVA back in service?

2 THE WITNESS: The plant review board.

3 ADMINISTRATIVE JUDGE MURPHY: Thank you.

4 CHAIRMAN BLOCH: How did you learn about Mr.
5 Lyons' concern?

6 THE WITNESS: He talked to me personally about
7 it.

8 CHAIRMAN BLOCH: Would that kind of a concern
9 generally be discussed with or without his immediate
10 supervisor being present?

11 THE WITNESS: He didn't have his immediate
12 supervisor present.

13 CHAIRMAN BLOCH: Well wouldn't you ordinarily
14 want the person who was both his supervisor and the
15 complainant to hear what was going to happen before you
16 took action?

17 THE WITNESS: This is a quality concern
18 program where the concern coordinator should be
19 independent of all the people involved. If the concern
20 coordinator reports directly to somebody who is involved
21 with the concern, he can not be independent and he really
22 can not carry out his function directly.

23 It is much better to get somebody who is
24 independent. We tried -- initially we got somebody in
25 corporate. When that wasn't satisfactory, we went ahead

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1 and got somebody that reported to Mr. Dahlberg.

2 CHAIRMAN BLOCH: Was it consistent with Mr.
3 Lyons' obligations to keep complaints confidential, that
4 he went to you and spoke to you about a complaint by Mr.
5 Mosbaugh?

6 THE WITNESS: It is consistent to keep
7 complaints confidential when you can.

8 CHAIRMAN BLOCH: So you felt it was okay for
9 him to come to you and for you to hear that without Mr.
10 Mosbaugh being present?

11 THE WITNESS: Yes.

12 CROSS EXAMINATION

13 MR. MICHAEL KOHN: Mr. Bockhold, the complaint
14 that Mr. Mosbaugh raised was that the PRB approve FAVA for
15 operations and that you put it back into operations.
16 Correct? That's part of it? And that you intimidated the
17 PRB during that vote process?

18 THE WITNESS: I don't agree with the -- what's
19 your question? I don't agree with the characterization.

20 BOARD EXAMINATION

21 CHAIRMAN BLOCH: Did you know what the
22 complaint was when you reassigned it?

23 THE WITNESS: I knew the complaint was about
24 putting the FAVA system back into operation.

25 CHAIRMAN BLOCH: Did you know whether or not

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1 the complaint involved in part something about you?

2 THE WITNESS: I didn't know that it involved
3 anything about me personally. I thought it was a
4 professional opinion.

5 CHAIRMAN BLOCH: And if it had involved you
6 personally, would you have taken that action by yourself?

7 THE WITNESS: The action was a technical
8 action.

9 CHAIRMAN BLOCH: The transfer of the case to
10 someone else. Would you have made that decision if you
11 also had a conflict of interest about the same complaint?

12 THE WITNESS: Oh absolutely.

13 CHAIRMAN BLOCH: You would have made that
14 decision?

15 THE WITNESS: I would have given it to
16 somebody else who was independent of me, such that it
17 could be appropriately handled.

18 CROSS EXAMINATION

19 MR. MICHAEL KOHN: Mr. Bockhold, didn't you
20 know that you were involved with Mr. Mosbaugh's concern
21 about the FAVA being returned to service before he filed
22 his quality concerns complaint?

23 THE WITNESS: I don't remember. I don't have
24 a specific reference. You know this happened over -- what
25 my recollection is at this point, this happened over like

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1 a day, two days type period. I don't know the sequence of
2 timing. I know that Mr. Mosbaugh -- the PRB voted. Mr.
3 Mosbaugh had a concern. Then we took the FAVA system out
4 of service because he had a concern.

5 MR. MICHAEL KOHN: And you attended that PRB
6 meeting that placed FAVA --

7 THE WITNESS: I think you are confusing the
8 sequence, sir.

9 MR. MICHAEL KOHN: Isn't it true, Mr.
10 Bockhold, that you took over Mr. Mosbaugh's quality
11 concerns complaint from Mr. Lyons and that you began
12 investigating it for the Quality Concerns Department or
13 you were leading the investigation?

14 THE WITNESS: I don't remember that. I
15 remember that I basically told Mr. Lyons that I was going
16 to get somebody else to take care of the quality concerns.

17 BOARD EXAMINATION

18 CHAIRMAN BLOCH: So at this time, your
19 testimony is that you don't know whether or not you
20 started investigating it yourself?

21 THE WITNESS: My testimony is, I may have used
22 some words that imply that I'm going to be responsible for
23 it. To be responsible for what was in my mind, what I was
24 going to do, was find somebody else to investigate this
25 concern. It was not that I was personally going to do the

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1 investigation of the concern.

2 CHAIRMAN BLOCH: But in addition to those
3 words, do you remember whether or not you personally did
4 anything in the way of beginning the investigation?

5 THE WITNESS: I didn't write any memos or do
6 any investigation. What I did do was physically look at
7 the plant equipment, satisfy myself associated with the
8 concern potentially was about. I remember looking at the
9 plant equipment.

10 CHAIRMAN BLOCH: In addition to that, do you
11 remember whether there was anything else you did other
12 than look at the plant equipment?

13 THE WITNESS: I don't remember anything else
14 that I did except for get somebody else to work on it.
15 That somebody else was Mr. Rushton.

16 CROSS EXAMINATION

17 MR. MICHAEL KOHN: So if I understand what you
18 are saying, at the point in time that Mr. Lyons told you
19 he had this concern about investigating a concern raised
20 by his supervisor, that's the point in time Mr. Lyons was
21 no longer involved in the investigation?

22 THE WITNESS: Yes. I was going to find
23 somebody else to handle the investigation.

24 MR. MICHAEL KOHN: So it's your testimony that
25 Mr. Lyons was then not involved after he raised that

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1 concern in the investigation?

2 THE WITNESS: By not involved, I mean he might
3 have kept the records. He wasn't the lead investigator to
4 resolve this issue. By involved, he could have kept
5 records. He could have maybe done some coordination for
6 the other investigators, that kind of stuff.

7 MR. MICHAEL KOHN: Mr. Bockhold, isn't it the
8 truth that you are the one who told Mr. Lyons that he
9 could possibly have some conflict in this investigation
10 and that he shouldn't investigate it any further and that
11 you were going to take over as the lead?

12 THE WITNESS: I don't remember those words.

13 MR. MICHAEL KOHN: I'm going to mark as
14 Intervenor's Exhibit 231, a 27 page document, which is
15 excerpted from the Quality Concerns file prepared by Mr.
16 Lyons. The first page states, Summary Report. Second
17 page is a 2-20-90 entry from Mr. Lyons. Third page --

18 CHAIRMAN BLOCH: Is there any way to do it
19 without reading something from every page?

20 MR. MICHAEL KOHN: No, Your Honor. All pages
21 are marked on the top, page one of 27 forward.

22 CHAIRMAN BLOCH: So how many pages are there
23 all together?

24 MR. MICHAEL KOHN: Twenty seven in total.

25 CHAIRMAN BLOCH: The motion to mark is

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1 CHAIRMAN BLOCH: Are you saying that there was
2 another reason, other than the conflict? It was that it
3 was beyond his technical ability?

4 THE WITNESS: Yes.

5 MR. MICHAEL KOHN: Do you believe that the
6 quality concerns coordinator had the technical ability to
7 look at a violation of technical specifications?

8 THE WITNESS: FAVA wasn't a violation of
9 technical specifications.

10 MR. MICHAEL KOHN: Do you believe he had the
11 ability to determine whether FAVA violated some planned
12 procedure or rule?

13 CHAIRMAN BLOCH: Why don't you use the
14 questions from the first page.

15 Do you believe you had the ability to
16 determine whether the FAVA project met the requirements of
17 Reg Guide 1.143?

18 THE WITNESS: I don't think he had the
19 technical ability to do what it required --
20 (indiscernible) -- judgement.

21 CHAIRMAN BLOCH: The same thing for the AFSCME
22 code section cited?

23 THE WITNESS: That is correct, sir.

24 MR. MICHAEL KOHN: Isn't it true with any
25 investigation Mr. Lyons would be involved in, that there

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1 granted.

2 (Whereupon, the document was marked
3 for identification as Intervenor's
4 Exhibit No. 231.)

5 CHAIRMAN BLOCH: You gave me two of them.

6 MR. MICHAEL KOHN: I want to call your
7 attention to page two of 27. You notice Mr. Lyons states
8 at Bockhold's request he has taken the lead on responding
9 to this concern.

10 Do you believe that would accurately reflect
11 Mr. Lyons' understanding of what your role was going to
12 be?

13 THE WITNESS: I think if you read the rest of
14 what Mr. Lyons wrote there --

15 MR. MICHAEL KOHN: I'm just asking you, do you
16 believe that sentence accurately reflects what Mr. Lyons
17 understood, that you would be taking the lead on
18 responding to this concern?

19 THE WITNESS: The answer is yes. In the
20 context of that I was going to get other people who were
21 independent of him, because he worked directly for Mr.
22 Mosbaugh, and this was really beyond his technical ability
23 to take the lead on this.

24 MR. MICHAEL KOHN: And Mr. Lyons --

25

BOARD EXAMINATION

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1 was also technical sources within Georgia Power for him to
2 get help?

3 THE WITNESS: Yes. There were sources for him
4 to get help.

5 MR. MICHAEL KOHN: And it would be his job to
6 know where to get those sources of information.

7 THE WITNESS: In most cases it would be.

8 MR. MICHAEL KOHN: And it would be his job to
9 get those sources of information if the person requested
10 confidentiality in such a way that hopefully persons
11 wouldn't even know who had raised the concern. Correct?

12 THE WITNESS: Yes.

13 MR. MICHAEL KOHN: Wouldn't Mr. Lyons have the
14 know-how to know where to find somebody within Georgia
15 Power on what Reg Guide 1.143 in the AFSCME code
16 requirements were?

17 THE WITNESS: In this particular situation,
18 because the majority of the plant managers voted to put
19 the FAVA system back into service, technically I felt
20 Corporate had to be involved to resolve the corporate
21 problem, the issues about the AFSCME code and Reg Guide
22 1.143.

23 Mr. Lyons typically went to plant engineering
24 people to resolve that sort of issue.

25

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1 CHAIRMAN BLOCH: Mr. Bockhold, do you recall
2 the first day that you called Corporate to make the
3 assignment of this matter?

4 THE WITNESS: I do not remember the specific
5 date, sir.

6 CHAIRMAN BLOCH: Do you have any records of
7 when that might have happened?

8 THE WITNESS: Well, this concern item here is
9 dated 2-20-90. I assume that Mr. Lyons would write his
10 memos in a same type time frame.

11 CHAIRMAN BLOCH: Well Mr. Lyons' memo says
12 that he thought you had taken the lead. So I don't see
13 anything that suggests he knew that he was supposed to
14 call Corporate.

15 THE WITNESS: He wasn't supposed to call
16 Corporate. I called Corporate.

17 CHAIRMAN BLOCH: Do you recall how quickly
18 that was? Was it days? Was it weeks?

19 THE WITNESS: It was days. If it wasn't the
20 same day, it was the next day. It was right away.

21 CHAIRMAN BLOCH: It was within a couple of
22 days.

23 THE WITNESS: A couple of days.

24 CHAIRMAN BLOCH: So do you recall whether or
25 not he was obtaining the PRB meeting minutes for you or

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1 for someone at Corporate on page three of 27? It appears
2 from the note that he was obtaining them for you.

3 THE WITNESS: I'm sorry. I'm not sure of your
4 question. I would have requested those minutes to forward
5 them onto Corporate.

6 CHAIRMAN BLOCH: Mr. Kohn.

7 CROSS EXAMINATION

8 MR. MICHAEL KOHN: It also states on the
9 bottom of page two of 27 that -- it says, he also said,
10 the "he" referring to you, so Mr. Bockhold also said that
11 he recognized that by Mr. Mosbaugh being my immediate
12 supervisor and the submitter of this concern, that it put
13 me into an awkward position.

14 Isn't it a fact that you raised the conflict
15 with Mr. Lyons? Mr. Lyons didn't initially raise that.

16 MR. BLAKE: I object. The question has been
17 asked and answered. It is becoming argumentative now.

18 CHAIRMAN BLOCH: I think that's true. Let me
19 phrase the question.

20 Does looking at page two of 27 refresh your
21 memory about whether or not Mr. Lyons came to you to raise
22 a question of conflict of interest?

23 THE WITNESS: I believe Mr. Lyons came to me
24 to raise a question of conflict of interest. I believe
25 this is the way he wrote up our conversation after we had

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1 it. He didn't tape record it or anything like that. This
2 is just the way he wrote it up.

3 CHAIRMAN BLOCH: Mr. Kohn.

4 MR. MICHAEL KOHN: On page five of Exhibit
5 131, you mention -- Mr. Lyon states, this morning I met
6 with George Bockhold, who asked that I document the
7 following into the file.

8 CHAIRMAN BLOCH: It's five of 231, isn't that
9 right?

10 MR. MICHAEL KOHN: Yes.

11 Do you recall meeting with Mr. -- do you know
12 why you wanted Mr. Lyons to document things into the file?

13 THE WITNESS: Because he was the keeper of the
14 Quality Concerns file. As much as reasonably possible, we
15 documented everything that we did in that file.

16 MR. MICHAEL KOHN: The next page, page 6 of
17 27, says while meeting with George Bockhold, he asked that
18 I assist him in the investigation. Does this refresh your
19 recollection of who was heading the investigation and who
20 was the assistant in the investigation?

21 CHAIRMAN BLOCH: I'm sorry. I missed your
22 citation.

23 MR. MICHAEL KOHN: Page 6, the top of page 6,
24 first sentence.

25 CHAIRMAN BLOCH: You want him to read the

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1 whole page before you answer?

2 THE WITNESS: I believe I had asked Mr. Lyons
3 to get some information as provided on the page. That
4 information was then going to be supplied to Mr. Rushton
5 and Mark Ajluni. They were, as far as I was concerned,
6 leading the investigation. I personally was not spending
7 a lot of time leading the investigation.

8 As it indicates here, I was concerned about
9 confidentiality in not blowing matters out of proportion.

10 CHAIRMAN BLOCH: Mr. Bockhold, would you read
11 paragraph two, and see if you want to modify previous
12 testimony today?

13 THE WITNESS: I've read paragraph two, sir.
14 I'm not sure I --

15 CHAIRMAN BLOCH: You stated to me just a few
16 moments ago, if I remember correctly, that you obtained --
17 asked him to obtain the PRB minutes so you could forward
18 them to Corporate. It looks like you read them yourself
19 and reached some conclusions from them.

20 THE WITNESS: I asked him two questions.
21 Understand Allen Mosbaugh's concern, if you have any
22 professional opinion asking what the PRB members would
23 say. Then I guess I told him I anticipated that they did
24 have a professional opinion that it was okay to put the
25 system in service. I would have hoped that they would

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1 have had a professional opinion that it was.

2 CHAIRMAN BLOCH: But the statement you made
3 before was that you had Mr. Lyons obtain the PRB minutes
4 so that you could send them to Corporate. It looks like
5 you didn't just send them right on to Corporate, to
6 whoever you had in mind to take over the investigation.
7 Doesn't it?

8 THE WITNESS: I was following the
9 investigation at the time. I believe I also sent them on
10 to Corporate.

11 CHAIRMAN BLOCH: What do you mean you were
12 following the investigation?

13 THE WITNESS: I had some concerns, as
14 indicated here.

15 CHAIRMAN BLOCH: So you were participating in
16 the investigation? You were reading things --

17 THE WITNESS: Participating in did the PRB
18 function correctly. I am not participating in the
19 technical issue of Reg Guide 1.143 in the AFSCME code.

20 CHAIRMAN BLOCH: So your sole purpose in this
21 was to reach conclusions about whether the PRB functioned
22 correctly?

23 THE WITNESS: That's my intent on this
24 particular page.

25 CHAIRMAN BLOCH: Were you present at that PRB

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1 meeting?

2 THE WITNESS: PRB meeting on the -- at this
3 point, I don't remember. I need something to refresh my
4 memory on that particular PRB meeting.

5 CHAIRMAN BLOCH: We need some discussion of
6 scheduling. We're going to start with Mr. Hairston
7 tomorrow. Is that correct? So we're going to have to
8 have Mr. Bockhold back. He'll be able to refresh his
9 memory in the meantime.

10 Is there something you need to finish before
11 we dismiss Mr. Bockhold for the day? We started at 8:30
12 this morning.

13 MR. MICHAEL KOHN: I would like to cover some
14 more things in this document before the end of the day, if
15 possible.

16 CHAIRMAN BLOCH: When you say some more
17 things, we have about four minutes left.

18 MR. MICHAEL KOHN: I was anticipating going
19 until 5:00, Your Honor.

20 CHAIRMAN BLOCH: Well, I wasn't. But if there
21 were urgent matters that you have to do now because they
22 are out of the bag, whatever that means.

23 MR. MICHAEL KOHN: There are a few, Your
24 Honor.

25 CHAIRMAN BLOCH: All right. Let's just handle

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1 the most important items now. We'll see how quickly we
2 can do it.

3 I am assuming that the outer limit of that is
4 about 20 minutes.

5 CROSS EXAMINATION

6 MR. MICHAEL KOHN: Was Mr. Lyons reporting
7 back to you the results of his investigation as he went
8 along?

9 THE WITNESS: Yes.

10 MR. MICHAEL KOHN: But don't you believe that
11 demonstrates that you were in charge of the investigation?

12 THE WITNESS: No. I wasn't in charge of the
13 investigation.

14 MR. MICHAEL KOHN: Did you have the -- didn't
15 you direct Mr. Bockhold as to the questions and the --
16 excuse me. Didn't you direct Mr. Lyons as to how to
17 phrase questions to be asked of PRB members whether you
18 had intimidated them?

19 THE WITNESS: We'll I'll read the rest of this
20 document.

21 MR. MICHAEL KOHN: No. You don't have to read
22 the document. I'm asking you --

23 THE WITNESS: I do not have independent
24 recollection of it.

25 CHAIRMAN BLOCH: The document is number two.

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1 It's number two on page six. It's the second question you
2 ask?

3 MR. MICHAEL KOHN: Yes.

4 BOARD EXAMINATION

5 CHAIRMAN BLOCH: Do you know whether question
6 two referred to the effect you may have had on people?

7 THE WITNESS: This one and two indicates that
8 I was present at the PRB meeting. The functioning of the
9 PRB -- okay, I was concerned about undue pressure.

10 CHAIRMAN BLOCH: Was there an allegation that
11 anyone else other than you had placed undue pressure on
12 someone?

13 THE WITNESS: No.

14 CHAIRMAN BLOCH: So you were asking that this
15 person, Mr. Lyons, find out whether you had pressured
16 people.

17 THE WITNESS: That is correct. And if I had
18 pressured people, I needed to take corrective action,
19 which I did take.

20 CHAIRMAN BLOCH: But if Mr. Mosbaugh had a
21 conflict of interest, didn't you also? Were you the right
22 person to be directing that that question be asked?

23 THE WITNESS: I should have also gotten
24 somebody else to ask that question. But since I attended,
25 and must have felt somehow that maybe people were

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1 concerned about this as an issue, so I asked Mr. Lyons to
2 find out.

3 CHAIRMAN BLOCH: Do we have the Corporate file
4 on this matter? We can either argue about it or look it
5 up. I mean, in the file it should show when they received
6 it.

7 MR. MICHAEL KOHN: We have Mr. Lyons' file.
8 I'm not certain whether we have Corporate's file.

9 CHAIRMAN BLOCH: Well, I'd like to know
10 whether there is a Corporate file on this matter.

11 MR. MICHAEL KOHN: There is a Corporate file.

12 CHAIRMAN BLOCH: How do you know that?

13 MR. MICHAEL KOHN: Because in Mr. Hobby's
14 case, the question of the Corporate Concerns Programs came
15 up. Their documentation and their procedures required a
16 file.

17 CHAIRMAN BLOCH: Okay. So since the testimony
18 is that there was a referral, and there's a question
19 raised as to how quick the referral was, I would
20 appreciate it if we could obtain the Corporate file to see
21 what the date was it was received and when the
22 investigation began.

23 MR. MICHAEL KOHN: Mr. Bockhold, do you think
24 that if the question was phrased differently on number two
25 on the bottom of page six, did you feel any undue

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1 for itself on that. Do you have a question about it?

2 MR. MICHAEL KOHN: And Mr. Williams' answer
3 was yes. Correct? My question is, did Mr. Lyons then
4 report back to you about the communications with Mr.
5 Williams was giving to you?

6 THE WITNESS: Yes. He did report back and I
7 did take action on it.

8 MR. MICHAEL KOHN: Prior to that --

9 BOARD EXAMINATION

10 CHAIRMAN BLOCH: Wait a second. So what was
11 the action you took?

12 THE WITNESS: I met with the PRB members and
13 talked about the fact that they needed to feel free to
14 vote their professional opinion about subjects and that it
15 didn't matter what other people thought. They had to
16 express their own personal opinion on which way they
17 thought the matter should be handled technically. They
18 needed to talk to their alternates to make sure that they
19 felt the same way.

20 CHAIRMAN BLOCH: Did you ever speak to Mr.
21 Williams about it?

22 THE WITNESS: I didn't speak directly to Mr.
23 Williams about that.

24 CHAIRMAN BLOCH: Did you ever inquire what
25 there was about the way you approached the meeting that

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1 pressure, if it was written rather did you feel any
2 pressure, do you think the responses might have been
3 different?

4 THE WITNESS: I don't think the responses
5 would have been different. I don't think I specifically
6 directed that language to Mr. Lyons. I think we had a
7 discussion. Mr. Lyons took down some notes of the
8 discussion and asked the questions.

9 BOARD EXAMINATION

10 CHAIRMAN BLOCH: Do you have any contemporary
11 notes that would be more reliable than Mr. Lyons' notes?

12 THE WITNESS: No, sir.

13 CHAIRMAN BLOCH: Do you have a recollection
14 that is so sharp that you know that you didn't use the
15 word undue?

16 THE WITNESS: I might have used the word
17 undue. I don't know.

18 CROSS EXAMINATION

19 MR. MICHAEL KOHN: Didn't Mr. Lyons -- on page
20 eight, there's a question two being asked to Mr. Williams.
21 It states a question. It says, "undue pressure." Is that
22 correct?

23 THE WITNESS: Question two. At the time did
24 you feel any undue pressure to force --

25 CHAIRMAN BLOCH: Okay. The document can speak

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1 might have led him to believe that you were placing undue
2 pressure?

3 THE WITNESS: The only recollection that I had
4 is that I didn't usually go to the PRB meetings. This is
5 one of the ones that I went to.

6 CHAIRMAN BLOCH: So are you confident that
7 that's the only thing, that your presence was what did it?
8 There was nothing about the way you were present?

9 THE WITNESS: I am not confident about what
10 was in his mind.

11 CROSS EXAMINATION

12 MR. MICHAEL KOHN: Do you think -- as I
13 understand it, Mr. Mosbaugh did not raise this as a
14 confidential allegation. Did he?

15 THE WITNESS: I think you are correct, but I'm
16 not sure.

17 MR. MICHAEL KOHN: You exercised Mr.
18 Mosbaugh's right to confidentiality, didn't you, without
19 even asking Mr. Mosbaugh. Isn't that correct?

20 THE WITNESS: I believe a number of people
21 knew about it, but I was trying to handle it in a discreet
22 fashion such that it would not become a rumor mill type
23 story.

24 MR. MICHAEL KOHN: Was it your right to invoke
25 Mr. Mosbaugh's right to confidentiality?

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1 CHAIRMAN BLOCH: Counsel, I'm not
2 understanding the relevance of this.

3 MR. MICHAEL KOHN: The relevance is to show
4 the insertion, the scope and extent of Mr. Bockhold's
5 insertion in to the process that he was --

6 CHAIRMAN BLOCH: That has already been
7 established.

8 MR. MICHAEL KOHN: Were you aware that Mr. --

9 CHAIRMAN BLOCH: I'm sorry. I'm not trying to
10 make a final decision on the point you made, but you did
11 certainly demonstrate that he was the one who made the
12 decision about confidentiality.

13 MR. BLAKE: Shall we ask the witness why?

14 CHAIRMAN BLOCH: I just tried to stop the
15 subject. You really want to continue with it? I don't
16 see why it's relevant that he did that, except for the
17 extent to which he was involved.

18 MR. BLAKE: Certainly the suggestion by
19 counsel is that there was something untoward about it,
20 there was something inappropriate.

21 CHAIRMAN BLOCH: Even if there was, I don't
22 see the relevance of it. If you want to straighten it out
23 in redirect, you may.

24 MR. MICHAEL KOHN: Mr. Bockhold.

25 MS. YOUNG: Mr. Kohn, excuse me for a second.

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1 Judge Bloch, you asked a question about
2 establishing the date of the referral to Corporate?

3 CHAIRMAN BLOCH: Yes.

4 MS. YOUNG: I believe at least one of the
5 documents in the exhibit Mr. Kohn is examining Mr.
6 Bockhold on indicates at least a cut-off date. Page 11 of
7 27.

8 MR. MICHAEL KOHN: This is different. That's
9 not Corporate Concerns. That's SUNOPCO.

10 MR. BLAKE: That's what we're talking about.
11 That's where the first referral was made. First up to
12 Corporate, which has been referred to as Birmingham
13 Corporate. That's been the parlance. That's the way
14 we've talked about it. Then subsequently to Mr. Glenn.

15 CHAIRMAN BLOCH: So that I will know here,
16 where's the date on this document? I can't see it right
17 away?

18 THE WITNESS: The first --

19 CHAIRMAN BLOCH: February 27. Is that the
20 earliest date we have on this?

21 THE WITNESS: The earliest date is the 23rd,
22 by Mr. Lyon saying --

23 CHAIRMAN BLOCH: No. I mean from Corporate.
24 Is this the earliest date we have on any Corporate
25 document? If there is an earlier date, I expect Georgia

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1 Power can help us out with that.

2 I'm sorry. Is there something in Mr. Lyons'
3 statement that he says he referred it to Corporate?

4 THE WITNESS: To assist him in researching
5 these issues, he will have Corporate engineering and the
6 design manager Paul Rushton and the Corporate manager of
7 Safety -- (indiscernible) -- and Engineering, Mark Ajluni.
8 Mr. Lyons says that on 2-23.

9 I know before that, I spoke to Mr. McCoy about
10 it.

11 CHAIRMAN BLOCH: Okay. What's the reference
12 in the exhibit so I can look at it?

13 THE WITNESS: It's page five of 27.

14 MS. YOUNG: Staff only interjected to indicate
15 it would be a period sometime between 2-23 and 2-27.

16 MR. MICHAEL KOHN: Staff is wrong. I'd like
17 an opportunity to question this witness on this issue.

18 CHAIRMAN BLOCH: Let's continue.

19 MR. MICHAEL KOHN: Mr. Bockhold, Mr. Rushton
20 and the other persons in the SUNOPCO project office were
21 the type of people available to Mr. Lyons to get
22 information he needed to conduct his investigations,
23 correct? On any concern.

24 THE WITNESS: They could have been asked
25 questions by Mr. Lyons. That is correct. But when they

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1 are specifically assigned to assist in the investigation
2 and take the lead, that is different than Mr. Lyons
3 handling the concern in a normal manner.

4 MR. MICHAEL KOHN: Were they taking the lead
5 as to the intimidation of the PRB or to the technical
6 issues?

7 THE WITNESS: They were taking the lead as to
8 the technical issues associated with FAVA.

9 MR. MICHAEL KOHN: How about the intimidation
10 of the PRB. Were you heading that one up?

11 THE WITNESS: The intimidation of the PRB I
12 headed up. That is correct.

13 MR. MICHAEL KOHN: After Mr. Rushton gave --
14 was Mr. Rushton involved with determining the adequacy of
15 the safety evaluation?

16 THE WITNESS: Mr. Rushton was involved with
17 determining all the technical aspects, including the
18 safety evaluation.

19 MR. MICHAEL KOHN: Did that include the
20 adequacy of the safety evaluation?

21 THE WITNESS: I'm not sure of your specific
22 question.

23 MR. MICHAEL KOHN: Was Mr. Rushton responsible
24 for the initial safety evaluation?

25 THE WITNESS: I don't know. I'd have to look

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1 at the documents.

2 MR. MICHAEL KOHN: I think I have established
3 enough for today, Your Honor. I am comfortable resting.

4 CHAIRMAN BLOCH: So you'll start tomorrow with
5 the document that shows that he was in fact the person who
6 did the initial safety evaluation? Oh, tomorrow we won't
7 do that. Well, you could bring the document, that's okay.

8 MR. MICHAEL KOHN: We will be ready to resume
9 Mr. Bockhold's deposition on this topic -- Mr. Bockhold's
10 testimony on this topic.

11 CHAIRMAN BLOCH: Do you have something that
12 demonstrates that Mr. Rushton actually did the safety
13 evaluation?

14 MR. BLAKE: I have documents which demonstrate
15 what occurred. We'll get it explained into the record.

16 CHAIRMAN BLOCH: Okay. What time tomorrow is
17 Mr. Hairston expecting to begin?

18 MR. BLAKE: He is expecting to begin at 9:00.

19 CHAIRMAN BLOCH: Okay. Do you know whether he
20 arrives early enough that we could start earlier?

21 MR. BLAKE: I believe he'll be here this
22 evening and therefore could.

23 CHAIRMAN BLOCH: We have a concern about
24 starting earlier than nine.

25 MR. BLAKE: I would like to get estimates so

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1 that I know whether or not to ask --

2 CHAIRMAN BLOCH: We'll do that. We'll go off
3 the record for that. So we're adjourned for the day.

4 (Whereupon, from 4:45 p.m. until 4:49 p.m. the
5 proceedings went off the record.)

6 CHAIRMAN BLOCH: The first thing that we want
7 to clarify on the record is that the Board has retaken
8 custody of Tape No. --

9 MR. MICHAEL KOHN: Fifty eight.

10 CHAIRMAN BLOCH: Fifty eight and of the
11 enhanced version of Tape 58. Mr. Kohn has a motion.

12 MR. MICHAEL KOHN: That Mr. Bockhold be
13 precluded until he returns to the stand from seeing
14 exhibits that have been --

15 CHAIRMAN BLOCH: You want to preclude him from
16 seeing exhibits given to him already?

17 MR. MICHAEL KOHN: No, 231, Intervenor's
18 Exhibit 231 and the entire Quality Concern package that
19 Georgia Power may have in its possession.

20 MR. BLAKE: I thought that the Board's
21 suggestion, at least in one instance, was for him to take
22 a look at it --

23 CHAIRMAN BLOCH: I think it may be appropriate
24 in the middle of cross to rule that counsel shouldn't
25 discuss it with him. But I think it would be helpful if

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1 he looked at it.

2 THE WITNESS: We're talking about this
3 document, sir?

4 CHAIRMAN BLOCH: Yes. I don't see what would
5 be lost by his looking at it without aid of counsel. Does
6 counsel object to this?

7 MR. BLAKE: I'm certainly willing to abide by
8 my professional obligations as I understand them.

9 MR. MICHAEL KOHN: Your Honor, I have no
10 objection to the witness --

11 CHAIRMAN BLOCH: What does that mean in
12 context of what I have just said?

13 MR. BLAKE: There is a good deal of law about
14 consultation with witnesses during cross. Before I --

15 CHAIRMAN BLOCH: Yes. There is. You are
16 entitled to it. That is correct. I guess the one
17 exception is in brief breaks during the day.

18 MR. BLAKE: Yes. I will certainly undertake
19 to be careful and have the other counsel be careful about
20 any consultation, given particularly the sensitivity.

21 CHAIRMAN BLOCH: Mr. Kohn, is that
22 satisfactory at this point?

23 MR. MICHAEL KOHN: Yes, Your Honor. The other
24 issue is producing the Corporate Concerns file. I think
25 Mr. Blake requested, or the Board had requested that the

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1 Corporate Concerns file be produced. We would like to
2 have that before --

3 CHAIRMAN BLOCH: I do think it would be
4 helpful in having an accurate record here, if there is
5 such a file. We don't know if there is.

6 MR. BLAKE: We're going to check. I
7 understood you to have asked all the parties whatever we
8 had.

9 CHAIRMAN BLOCH: Well, if anyone else has that
10 Corporate Concerns file, they can produce it too.

11 THE WITNESS: Judge Bloch.

12 CHAIRMAN BLOCH: Yes.

13 THE WITNESS: One of your questions I thought
14 I answered after the fact.

15 CHAIRMAN BLOCH: Well, if there's something
16 you need to clarify, it would be fine to do that right
17 now.

18 THE WITNESS: Yes. I thought you had asked a
19 question something concerning whether I was or was not
20 present at the meeting. Then after the fact, I said I
21 was. Was there any other questions along that line that I
22 need to clarify for you?

23 CHAIRMAN BLOCH: I don't recall any open
24 questions that I asked. If you remembered one, I'd be
25 happy to have you fill it in.

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1 THE WITNESS: I don't remember any. That is
2 why I am asking.

3 CHAIRMAN BLOCH: I have no consciousness of
4 having any loose ends at this point. We did state that
5 Mr. Bockhold will be needed sometime next week, in the
6 off-the-record conversations.

7 We're hopeful that we can complete the
8 examination of Mr. Hairston tomorrow. We'll be beginning
9 at 9:00 a.m. We're in adjournment.

10 (Whereupon, at 4:52 p.m. the proceedings were
11 adjourned, to reconvene at 9:00 a.m. the following
12 morning.)

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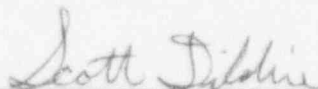
This is to certify that the attached proceedings before the United States Nuclear Regulatory Commission in the matter of:

Name of Proceeding: GA POWER CO. ET AL.
VOGTLE UNITS 1 & 2

Docket Number: 50-424/425-OLA-3

Place of Proceeding: ROCKVILLE, MARYLAND

were held as herein appears, and that this is the original transcript thereof for the file of the United States Nuclear Regulatory Commission taken by me and, thereafter reduced to typewriting by me or under the direction of the court reporting company, and that the transcript is a true and accurate record of the foregoing proceedings.



SCOTT DILDINE
Official Reporter
Neal R. Gross and Co., Inc.

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