

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: Friday, September 15, 1995

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Pages 14057-14235

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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ATOMIC SAFETY AND LICENSING BOARD

HEARING

-----X

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

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

Friday, September 15, 1995
Hearing Room T 3B45
Two White Flint North
11545 Rockville Pike
Rockville, Maryland

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

BEFORE:

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

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I N D E X

	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>BOARD</u>
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2						
3	William H. Chenault					14065
4	By Mr. Kohn		14063			14075
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8	George Bockhold					14084
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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>
Int-II-230	GPC's 3rd response to 3rd interrogatories	*	14062
Int-II-242	Mr. Domby's notes	*	14062
Int-II-243	GPC's 4th response to 3rd interrogatories	*	14062
Int-II-244	One page from NWO 19502428	*	14062
Int-II-231	Summary Report, 02-15-90	*	14190
Int-II-245	1-pg ltr 3-16-90 from GPC	14081	14190
Int-II-246	Tape 101 Side A 05-08-90	14171	14190
Int-II-247	Excerpt of Tape 99 Side B 05-08-90	14180	14190
Int-II-248	Memo to Mr. Lyons 05-08-90	14184	14190
Int-II-249	Interview of George Frederick 06-27-90	14184	14190
Int-II-250	Interview of Mike Horton 06-26-90	14185	14190
Int-II-251	Interview of J. Aufdenkampe 07-13-90	14185	14190
Int-II-252	Audit Finding Report	14186	14190
Int-II-253	Interview notes with Skip Kitchens 06-26-90	14190	14190
Int-II-254	Procedure 00002-C	14192	14190
GPC-II-191	Review of Mr. Mosbaugh by Mr. Bockhold	14206	14207
GPC-II-192	Memo: LeGrand to Bockhold 06-21-90	14207	14211
GPC-II-193	90V0015 by W.C. Lyon 08-21-90	14208	14211
GPC-II-194	Chilling Effects/Intimidation of PRB Members	14209	14211
Int-II-89	(Previously Identified)		14211
Int-II-255	One page by Mr. Lyons	14217	14228
Int-II-256	Quality Concerns File	14218	14228

*Previously marked for identification.

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

(8:32 a.m.)

1
2
3 MR. MICHAEL KOHN: Yesterday intervenor at the
4 end of the day indicated he wanted to move exhibits into
5 evidence, exhibits he used yesterday. Have the parties
6 had an opportunity to look at those last night?

7 MR. BLAKE: You just have to remind me what
8 they are, Michael, what you were going to do yesterday.

9 MR. MICHAEL KOHN: Intervenor's Exhibit 230,
10 II-230, GPC's third response to third set of
11 interrogatories.

12 MR. BLAKE: Yes. Next?

13 MR. MICHAEL KOHN: And then Intervenor 242,
14 Mr. Dombay's notes; 243, the fourth response to the third
15 set of interrogatories; and 244, one page out of NWO
16 19502428.

17 MR. BLAKE: I have no objection.

18 CHAIRMAN BLOCH: The motion to admit is
19 granted.

20 (Whereupon, the aforementioned
21 documents, having previously been
22 marked for identification as
23 Intervenor's Exhibits Numbers
24 II-230, 242, 243, and 244,
25 respectively, were received in evidence.)

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1 Whereupon,

2

WILLIAM H. CHENAULT

3 was recalled as a witness by counsel for the licensee and,
4 having been previously duly sworn, resumed the witness
5 stand, was further examined and testified further as
6 follows:

7

FURTHER CROSS-EXAMINATION

8

BY MR. MICHAEL KOHN:

9 Q Mr. Chenault, I'd like to ask you whether you
10 recall checking -- in your prefiled testimony, you have
11 some testimony about checking the fall of the five-micron
12 filter. That appears on Page 5, Lines 1 through 6.

13 And, again, can you tell me what time frame
14 you're referring to here?

15 A This was the time before the incident, during
16 the five years I worked at Vogtle.

17 Q And that would be the normal 18-month
18 surveillance of that?

19 A No. I think this was referring to here is --
20 if there was ever any doubt about the dew point of the
21 air. Like I talked about yesterday, we'd go around and
22 check the water in the tank or open up the filter in the
23 panel, make sure there's no moisture in the panel, things
24 of that nature.

25 Q So are you indicating November 4, 1990 there

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1 was a process of routine checking of the five-micron
2 filter?

3 A No, I'm not talking about routine checking.
4 I'm talking about if there's any -- the dew point reading
5 may have been bad. Then we would go around and check
6 possible places where moisture might show up.

7 Q How many times do you recall other than during
8 an outage that the five-micron filter was checked?

9 A By myself personally?

10 Q By anyone.

11 A I don't really know.

12 Q So do you actually know whether it was checked
13 other --

14 A It's talking about here that I personally did
15 it myself if I was checking for water in the system, but I
16 don't know how many times that would be. A few times.

17 Q You yourself recall doing this check a few
18 times?

19 A Yes.

20 Q Okay. And can you tell me: Does the diesel
21 have to be declared inoperable to do that check?

22 A No.

23 Q Did you perform the check under a work order?

24 A The times what I do, the diesel was not
25 operable. It would be during start-up testing phase or

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1 things of that nature. I never did do it when the diesel
2 was declared operable.

3 CHAIRMAN BLOCH: The question wasn't that. It
4 was: Did you do it under a work order?

5 THE WITNESS: No.

6 BY MR. MICHAEL KOHN:

7 Q So you did not do it in the March or April
8 1990 time frame?

9 A No, not that I recall.

10 BOARD EXAMINATION

11 CHAIRMAN BLOCH: Mr. Chenault, under what
12 circumstances would a high-humidity condition be reflected
13 in actual condensation on the filter?

14 THE WITNESS: If there had been a problem with
15 high dew point, the -- in the air system, the main concern
16 was the pneumatic system. So --

17 CHAIRMAN BLOCH: I'm sorry. It's not the
18 question.

19 THE WITNESS: Okay. Go --

20 CHAIRMAN BLOCH: Please listen. Under what
21 circumstances would a high-humidity condition in the
22 pneumatic air be reflected in actual water being found at
23 the filter?

24 THE WITNESS: If the dew point of the air in
25 the pneumatic system was such that water might form in the

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1 pneumatic system.

2 CHAIRMAN BLOCH: Meaning that the dew point
3 was lower than the air temperature at the point of the
4 filter?

5 THE WITNESS: The dew point would be higher.

6 CHAIRMAN BLOCH: The dew point would have to
7 be higher than the temperature at the filter; right?

8 THE WITNESS: Right.

9 CHAIRMAN BLOCH: Now, was the filter a leading
10 indicator of whether condensation would occur elsewhere?

11 THE WITNESS: We used it as an indicator that
12 we would believe that it would show up. It would probably
13 show up in the filter.

14 CHAIRMAN BLOCH: And what was the reason for
15 believing that the filter was a leading indicator for
16 whether there was going to be condensation? Was it the
17 coldest point in the system?

18 THE WITNESS: I don't know what the coldest
19 point was.

20 CHAIRMAN BLOCH: Do you understand if it's not
21 the coldest point, it may not be a leading indicator?

22 THE WITNESS: That's true. But it was an
23 accessible point.

24 CHAIRMAN BLOCH: Yes, but it may not have
25 shown much about whether there was a high dew point.

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1 Would it have?

2 THE WITNESS: Well, we believe that it was an
3 indicator because it was the low point of the system.

4 CHAIRMAN BLOCH: Well, the question I'm asking
5 you is whether the belief was a mistake.

6 THE WITNESS: I think it's a good indicator.

7 CHAIRMAN BLOCH: Was it a leading indicator?

8 THE WITNESS: I don't know if it was a leading
9 indicator or not.

10 CHAIRMAN BLOCH: So what was it an indicator
11 of if it wasn't the place where the moisture was most
12 likely to form?

13 THE WITNESS: It was at a point provided by
14 the designer to check for moisture in the system.

15 CHAIRMAN BLOCH: Of course, if it was the
16 warmest place in the system, it wouldn't be a very good
17 place to check, would it?

18 THE WITNESS: I don't know if it would be the
19 best place or not.

20 CHAIRMAN BLOCH: You can't even answer that
21 question?

22 THE WITNESS: Well, just because it's the
23 warmest doesn't mean it's not a good place.

24 CHAIRMAN BLOCH: Is that true?

25 THE WITNESS: Yes.

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1 CHAIRMAN BLOCH: So you would check at the
2 warmest place in the system?

3 THE WITNESS: Not if I had a choice, no.
4 Well, I just chose the place that didn't require any
5 disassembly, just a place where you could --

6 CHAIRMAN BLOCH: It's an easy place to check.
7 But the question I'm asking is: How good a check is it on
8 whether there was moisture anywhere in the system?

9 THE WITNESS: That's the only means -- the
10 only place I had to check in the system.

11 CHAIRMAN BLOCH: Well, how good was it? What
12 did it really mean to look at that place when you didn't
13 know how it compared to the rest of the system in terms of
14 temperature?

15 THE WITNESS: Well, since I never found
16 moisture in any part of the system, including there, I
17 couldn't say how good it is.

18 CHAIRMAN BLOCH: Why does it matter whether
19 you found moisture there? How would that tell you whether
20 it was a good check or a bad check?

21 THE WITNESS: If there was moisture there,
22 then that would indicate to us that there possibly could
23 be water or moisture in other parts of the pneumatics.

24 CHAIRMAN BLOCH: And since you don't know how
25 it compares with other parts, if you didn't find moisture

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1 there, what does it indicate?

2 THE WITNESS: It indicates there was no
3 moisture in the filter.

4 CHAIRMAN BLOCH: That's all, just in the
5 filter?

6 THE WITNESS: That's right.

7 FURTHER CROSS-EXAMINATION

8 BY MR. MICHAEL KOHN:

9 Q Mr. Chenault, are you still of the opinion
10 that there's no way to get water out of the system once it
11 is introduced unless it's removed manually?

12 A That was my opinion that the pneumatics was
13 filled with water, that it wouldn't dissipate on its own.

14 Q What do you mean by "filled with water"?

15 A Had water in the system.

16 Q Would any amount of water be able to be -- is
17 there any flow through the system that would allow water
18 to be removed?

19 A There's certain times when there is flow, air
20 flow, through some of the system, yes.

21 Q What do you mean by "certain times"?

22 A While the engine is starting or stopping, if
23 you have a trip, you have air through the sensors.

24 Q So there is venting. Are you aware of other
25 periodic venting of the system?

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1 A Well, the -- say, for instance, when it's in
2 standby? Is that what you're --

3 Q Excuse me?

4 A When the engine is in standby?

5 Q Yes.

6 A No, I'm not aware of any.

7 Q If there was leakage, there would be venting
8 of the system, wouldn't there?

9 A Yes.

10 Q On a continuous basis?

11 A Yes.

12 Q And would the methods we have just discussed
13 concerning venting from the system allow for moisture and
14 condensation to evaporate and leave the system?

15 A If it was in that line that was leaking, that
16 could be a possibility.

17 Q Yesterday we briefly mentioned Tape 24,
18 Intervencr's Exhibit 85. Do you have a copy of that?

19 A No, I don't.

20 Q And I noticed that there's an earlier
21 statement of Mr. Stokes talking about Big Sister. Do you
22 know what he was referring to?

23 A No. No, I don't.

24 Q Are you aware of Big Sister being used in the
25 industry to refer to NRC?

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1 A No, I'm not.

2 Q Did you discuss the contents of Tape 24 with
3 Mr. Burr at any time prior to testifying today?

4 A I believe last year, yes.

5 Q Did you discuss the contents of Tape 24 with
6 Mr. Stokes prior to testifying today?

7 A Last year.

8 Q And was anyone else involved in your
9 discussions? Well, first, did you have separate
10 discussions or was it one large discussion?

11 A Separate discussion.

12 Q Who initiated these discussions?

13 A It was on my part. I was just asking about
14 certain aspects of the tape.

15 Q Well, what led you to ask about certain
16 aspects of the tape?

17 A I don't recall what led to it.

18 Q Well, I want you to think back as far as you
19 can at this point. What would have led you to have a
20 discussion with Mr. Burr about the contents of Tape 24?

21 A I talked to Ken several times over the year
22 about work, ongoing work. And I guess the subject came
23 up.

24 Q Did Mr. Burr tell you that he had listened to
25 the tape?

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1 A I don't recall.

2 Q Do you recall about your conversations with
3 Mr. Burr? Do you recall anything about them?

4 A I just recall asking him if there was any
5 water present because I didn't remember in any way
6 anything about water or moisture during that time period.
7 And I asked him if he remembered anything about water,
8 finding any water. And he said he didn't.

9 So I was trying to refresh my memory in case
10 there had been water present. But I just couldn't
11 remember in my own mind any instance of any water.

12 Q What were your conversations with Mr. Stokes?

13 A I talked to him on business as well and
14 essentially the same question, if he had remembered any
15 water.

16 Q Why were you calling them to ask if they
17 remembered any water?

18 A I didn't call them to ask that. I called them
19 about business, but --

20 Q Well, then I would think that they would have
21 raised it with you.

22 A No because I talked to the person from the
23 Office of Investigations several months before. And he
24 asked me not to talk with them for a couple of months,
25 which I didn't, even though I did have some business

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1 pending on some diesel matters.

2 And after a couple of montns, he said he --
3 three or four months, I did call. I can't remember what
4 the time frame for either one of them was, but I called
5 him after whatever Mr. Blair from the Office of
6 Investigations had said to wait, a couple of months,
7 because of his ongoing investigation, for independence
8 reasons.

9 And, just as casual conversation, I asked him
10 about the content of the tape and that he had asked me
11 that there's water in the system, the man from the Office
12 of Investigations, and that I told him I couldn't recall
13 anything about water and I was just trying to jog my
14 memory in case it had been the case and I just couldn't
15 remember.

16 But they said neither one of them could
17 remember anything about water either.

18 Q Are you aware that Mr. Mosbaugh can remember
19 water being found in the system?

20 A That's what I'm told.

21 Q And do I understand it that you do not have an
22 independent recollection of the events?

23 A I don't remember anything about water.

24 Q That's not my question. Do you have an
25 independent recollection of the events that occurred on --

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1 that are outlined in Tape 24, Intervenor's Exhibit 85?

2 A Outside the tape itself?

3 Q Yes.

4 A No, I don't.

5 Q Looking at Tape 24, if you would look down
6 about a fifth of the page, Mr. Mosbaugh says, "Was that in
7 the tubing that was disassembled?" Do you see that
8 statement?

9 A Yes.

10 Q Okay. If Mr. Mosbaugh -- well, Mr. Mosbaugh
11 did say that. Does that sentence indicate to you that
12 something was found in the tubing that was disassembled?

13 A That's what it would indicate to me, yes,
14 something associated with the tubing.

15 Q And Mr. Burr said, "Poured out of it." Do you
16 have any independent recollection today of anything
17 pouring out of any of the tubing?

18 A I think we're talking about air leaks in this
19 case and --

20 Q My question is: Do you have any independent
21 recollection of anything pouring out of any of
22 disassembled tubing?

23 A No, I don't.

24 Q If we were talking about air leaks, would Mr.
25 Mosbaugh be saying, "Was that in the tubing that was

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1 disassembled?" There couldn't be any air leaks in tubing
2 that was disassembled, could there? There would be no
3 more air pressure.

4 A I don't know if he was talking about
5 disassembled for design change purposes or what he's
6 talking about there, to be honest.

7 Q Would an air leak pour out of disassembled
8 tubing?

9 A It could if there was air there. If there was
10 air pressure there, it could pour out.

11 BOARD EXAMINATION

12 CHAIRMAN BLOCH: Mr. Chenault, what do you
13 think there "disassembled" means?

14 THE WITNESS: Sounds like to me there they're
15 talking about some instance where the tubing had been
16 disassembled.

17 FURTHER CROSS-EXAMINATION

18 BY MR. MICHAEL KOHN:

19 Q And we're talking about pneumatic tubing from
20 the diesel?

21 A That would be my opinion.

22 Q And eventually you were able to understand
23 that you said, "It was in the line, in the trip line,
24 where the leaks was"?

25 A Yes.

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1 Q And, if I understand it, this conversation is
2 occurring in Mr. Paul Kochery's office. Can you tell me
3 what this "it" you would be referring to as you were
4 standing in Mr. Kochery's office was? Do you have any
5 recollection?

6 A Reviewing the tape several times and the
7 transcript, it was my opinion we were talking about the
8 leaks in the tubing.

9 Q So you're saying, "The leaks was in the line."
10 You're referring to, "The leaks was in the line, in the
11 trip line, where the leaks was"?

12 A Yes.

13 Q And do you know why Mr. Mosbaugh started
14 asking questions about cleanliness?

15 A No, I don't know why.

16 Q And then towards the bottom -- actually, about
17 halfway in the middle of the tape, you say, the next time
18 you speak after saying "It was in the line, in the trip
19 line, where the leaks was," you say, "George, did they
20 flush the lines out when they added the new tubing?" Do
21 you see that?

22 A Yes.

23 Q Do you think that statement relates to your
24 thinking that there may be water in the lines?

25 A No. It appeared to me that I was answering

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1 Mr. Mosbaugh's question about cleanliness. And then I
2 asked George, whoever the George is, if they flushed the
3 lines out.

4 Q And do you know who George is?

5 A No. I don't recall who George is.

6 Q And then about a fifth of the way from the
7 bottom, you say, "Probably wouldn't have -- probably the
8 work they did would not cause a problem, probably wouldn't
9 have not got back up in there. It would have gone out to
10 the engine." Do you recall what this "it" is you're
11 referring to on this line?

12 A I think, after reviewing this, I think it was
13 referring to still the cleanliness issue. I don't know
14 the exact circumstance, but that would be my opinion that
15 we're talking about disassembled lines.

16 Q If there was water in the trip line, it would
17 be blowing out towards the engine, away from the calcons;
18 correct -- excuse me -- away from the logic and towards
19 the calcons?

20 A If there was water in those particular lines?

21 Q Yes.

22 A That's the direction of flow, yes. That's the
23 direction of flow from the logic to the engine.

24 Q And then Mr. Burr follows up and says, "The
25 orpheus was down here. So that anything that would have

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1 gone in that direction would not have gone towards the
2 logic, no reason for it to have gone towards the logic."
3 What is the "it" that Mr. Burr is referring to?

4 A Again, I think it's related to the cleanliness
5 question: During the disassembly, was the cleanliness
6 considered?

7 BOARD EXAMINATION

8 CHAIRMAN BLOCH: You don't recall what the
9 lack of cleanliness was?

10 THE WITNESS: No, I don't.

11 FURTHER CROSS-EXAMINATION

12 BY MR. MICHAEL KOHN:

13 Q Can you tell me if the calcon sensors TDI
14 supplied with the diesel were factory-set?

15 MR. BLAKE: I'm sorry. Can I have a reference
16 to his testimony?

17 CHAIRMAN BLOCH: Do you know the reference to
18 his testimony? If you have a specific one in mind, I'm
19 willing to trust you.

20 MR. MICHAEL KOHN: I have to review the
21 testimony again. I wrote this up several days ago. And I
22 don't have one in mind this second, Your Honor, if that's
23 the question.

24 (Pause.)

25 MR. MICHAEL KOHN: The reference would be in

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1 his testimony that he concluded the calcons were the
2 problem. Therefore, we're just trying to obtain
3 additional information about his knowledge of the calcon
4 and the calibrations of the calcons.

5 BY MR. MICHAEL KOHN:

6 Q Do you know if the calcon sensors TDI supplied
7 with the diesel were factory-set?

8 A I don't know.

9 Q Do you know if the diesel was run at TDI
10 before it was shipped to Plant Vogtle?

11 A Yes.

12 Q And would the normal practice be to have the
13 calcon instrumentation set at the factory before running
14 it?

15 A I would think so, but I don't know.

16 MR. MICHAEL KOHN: No further questions, Your
17 Honor.

18 CHAIRMAN BLOCH: Staff?

19 MS. YOUNG: Staff has no questions.

20 CHAIRMAN BLOCH: Mr. Blake?

21 (No response.)

22 CHAIRMAN BLOCH: Mr. Chenault, thank you for
23 joining us. You're excused.

24 (Whereupon, the witness was excused.)

25 MR. BLAKE: We'll take a break and call Mr.

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1 Bockhold.

2 CHAIRMAN BLOCH: Take a 10-minute break.

3 (Whereupon, the foregoing matter went off the
4 record at 9:00 a.m. and went back on the
5 record at 9:15 a.m.)

6 CHAIRMAN BLOCH: The Board has decided to deny
7 the motion to strike the testimony of Owyong and Johnson
8 and of Hill and Ward. It's called "Intervenor's Motion to
9 Strike Expert Testimony of Hill and Ward and to Conduct
10 Additional Discovery."

11 We're not going to rule on the additional
12 discovery request at this time. We still need to study
13 that. But we do find that the testimony is important to
14 an adequate record in this case. It's not outside the
15 scope of the issues that have been discussed and debated
16 in detail in this proceeding. It's helpful to the Board.
17 And we're just not willing to strike it. We will consider
18 the motion for additional discovery.

19 We'll be in recess until Mr. Bockhold arrives.

20 (Whereupon, the foregoing matter went off the
21 record at 9:16 a.m. and went back on the
22 record at 9:25 a.m.)

23 CHAIRMAN BLOCH: Let's continue.

24 MR. BLAKE: I wouldn't want to shape
25 cross-examination or be accused of it, but I want to point

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1 out that as soon as we finish with Mr. Bockhold, that's
2 the last witness of the day.

3 CHAIRMAN BLOCH: I think you meant the second
4 part more than the first part.

5 Whereupon,

6 GEORGE BOCKHOLD

7 was recalled as a witness by counsel for the intervenor
8 and, having been previously duly sworn, resumed the
9 witness stand, was further examined and testified further
10 as follows:

11 CROSS-EXAMINATION

12 BY MR. MICHAEL KOHN:

13 Q Mr. Bockhold, do you recall returning FAVA to
14 service?

15 A I recall a letter saying that it could be
16 returned to service under a set of conditions.

17 Q Would you look at Bockhold Exhibit R to your
18 testimony, GPC II-173?

19 A Yes. That's the letter that I just referred
20 to.

21 Q So these were the conditions that had to be
22 met before the system could be returned to service?

23 A That is correct.

24 Q And that was based on a commitment made to the
25 NRC?

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1 A That was based on evaluation and a concurrence
2 from the NRC.

3 Q Now, I'd like to point your attention to
4 Number 2 on this March 15, 1990 memo. It says, "All hoses
5 going to and from the system have been checked and meet
6 requirements of Regulatory Guide 1.143."

7 Do you know if when you returned the system to
8 service you were able to meet the requirements set out in
9 Paragraph Number 2?

10 A I don't know.

11 Q Well, are you indicating that -- well, do you
12 know if you returned the system to service knowing or
13 before you knew that you had met the Reg Guide
14 requirement?

15 A This interoffice correspondence gives
16 direction by two direct reports who have the resources to
17 ensure that Items 1, 2, and 3 are completed. I did not
18 personally verify whether they were. And I don't know if
19 they were or if they weren't at this point. I don't
20 remember if they were or if they weren't.

21 Q Well, do you believe you would have known that
22 fact before it was returned to service?

23 A I believe these people would have carried out
24 the written direction given to them.

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

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1 mark as Intervenor's Exhibit II-245 a March 16, 1990
2 letter from a Mr. Benjamin Murray to Charles Justice of
3 Georgia Power Company. It's a one-page document.

4 CHAIRMAN BLOCH: It may be marked.

5 (Whereupon, the aforementioned
6 document was marked for
7 identification as Intervenor's
8 Exhibit Number II-245.)

9 CHAIRMAN BLOCH: Off the record.

10 (Whereupon, the foregoing matter went off the
11 record briefly at 9:30 a.m.)

12 BY MR. MICHAEL KOHN:

13 Q Does this refresh your recollection that on
14 March 16, 1990 Georgia Power was advised that the hoses in
15 the FAVA system could not be certified to meet the Reg
16 Guide requirements?

17 MR. BLAKE: Judge Bloch, are we going to
18 reargue the technical correctness or wrongness of FAVA?

19 MR. MICHAEL KOHN: Your Honor, it's relevant
20 to the witness' testimony that it was a difference of
21 professional opinion which is set forth in --

22 CHAIRMAN BLOCH: There's a basis missing.

23 MR. MICHAEL KOHN: Excuse me, Your Honor?

24 CHAIRMAN BLOCH: There's a basis missing. You
25 have to establish something about knowledge.

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1 MR. MICHAEL KOHN: Well, I'm attempting to
2 establish it with the witness at this point, with --

3 CHAIRMAN BLOCH: Let's see if you can link it
4 up.

5 BY MR. MICHAEL KOHN:

6 Q Mr. Bockhold, do you now recall that Georgia
7 Power was not able to certify that the hoses associated
8 with the FAVA system could meet the Reg Guide
9 requirements?

10 A I don't recall. In fact, my recollection is
11 -- about this letter is this is the first time I've seen
12 this letter, to the best of my knowledge.

13 BOARD EXAMINATION

14 ADMINISTRATIVE JUDGE CARPENTER: Mr. Bockhold,
15 who is Mr. Charles Justice, please?

16 THE WITNESS: He was either a maintenance
17 foreman or maintenance supervisor in the maintenance
18 organization. I don't remember his exact level, sir. He
19 was in the supervisory area in maintenance.

20 ADMINISTRATIVE JUDGE CARPENTER: Are you
21 surprised that a letter such as this would be addressed to
22 him?

23 THE WITNESS: No, sir. The Maintenance
24 Department had a lot of interfaces with a lot of various
25 vendors associated with maintenance-related activities.

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1 You know, I would have thought that engineering -- my
2 reaction to 'ay is I would have thought that engineering
3 would have received this sort of letter, but the
4 Maintenance Department had received routinely lots of
5 letters.

6 CHAIRMAN BLOCH: Do you have a procedure about
7 what they're supposed to do when they receive a letter
8 like this?

9 THE WITNESS: We have correspondence
10 procedures, but I -- you know, without refreshing my
11 recollection, I'm not sure on this sort of specific
12 correspondence.

13 CHAIRMAN BLOCH: Would you have expected to
14 hear about it?

15 THE WITNESS: I would have expected to hear
16 about it if somebody was going to place the FAVA system in
17 operation and didn't meet the requirements that I set
18 forth in the March 15th correspondence to both Mr.
19 Mosbaugh and Mr. Kitchens.

20 CHAIRMAN BLOCH: Well, would you expect Mr.
21 Mosbaugh and Mr. Kitchens to hear about this at the time
22 it was received? Why would they receive it?

23 THE WITNESS: I assume that Mr. Mosbaugh and
24 Mr. Kitchens assigned this to people in their organization
25 to make sure that my March 15th letter was carried out.

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1 And I assume that they would get reports back or
2 appropriate levels in their organization would get reports
3 back that the March 15th memo was carried out before FAVA
4 was put into service.

5 FURTHER CROSS-EXAMINATION

6 BY MR. MICHAEL KOHN:

7 Q Mr. Mosbaugh strenuously objected to putting
8 FAVA back in service, didn't he?

9 A Yes.

10 Q And maintenance worked for Mr. Kitchens;
11 correct?

12 A That is correct.

13 Q And Mr. Kitchens' organization put FAVA back
14 in service with your approval; correct?

15 A I don't remember when FAVA was put back in
16 service. I did authorize with the conditions as indicated
17 here that FAVA could be put back in service on, on this
18 March 15th memo.

19 Q Well, FAVA was put back in service during that
20 outage; correct?

21 A I don't know, don't remember.

22 BOARD EXAMINATION

23 CHAIRMAN BLOCH: You recall that there was a
24 time when the FAVA system was put back in service?

25 THE WITNESS: It was -- what I do recall is it

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1 was in service and QA found a finding against it. It was
2 taken out of service. Then it was a PRB vote. I don't
3 know whether it got put back in service at that particular
4 point.

5 And then Mr. Mosbaugh raised his concern. And
6 we took it out of service. And Mr. Rushton did an
7 evaluation. And we talked to the NRC about the evaluation
8 and about the reasons, the Atlanta reasons, for putting it
9 back in service and the fact that it was in a concrete
10 vault and that the -- it was better benefit to the health
11 and safety of the public to have it in service than not in
12 service, came up with these requirements.

13 And then after that I don't know if it was put
14 back in service or not because we got the March 20th
15 blackout event. And I don't remember if I knew anything
16 about that. I don't think I did but because of March 20 I
17 think my attention was no longer on FAVA. I just assume
18 that this memo would be carried out before it would be put
19 back in service.

20 CHAIRMAN BLOCH: So at this time you have no
21 recollection of learning that FAVA was back in service
22 before March 20, 1990?

23 THE WITNESS: That is correct, sir.

24 FURTHER CROSS-EXAMINATION

25 BY MR. MICHAEL KOHN:

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1 Q Do you have any recollection of learning that
2 FAVA was put back in service before the outage ended that
3 began -- that was underway during the site area emergency?

4 A I have no recollection of whether FAVA was put
5 back in service or not put back in service.

6 BOARD EXAMINATION

7 ADMINISTRATIVE JUDGE CARPENTER: Mr. Bockhold,
8 you say you've never seen this letter before?

9 THE WITNESS: To the best of my knowledge,
10 I've never seen the letter before.

11 ADMINISTRATIVE JUDGE CARPENTER: Would you
12 take the time to read the first paragraph?

13 THE WITNESS: (Perusing document.) Yes, sir.
14 I read it.

15 ADMINISTRATIVE JUDGE CARPENTER: Do I read the
16 first paragraph correctly that Mr. Murray is reporting to
17 Mr. Justice that the site standards that ANSI B31.1 and
18 ASTM and ASME Code Section 11 are silent with respect to
19 rubber hoses and, therefore, he can't certify his hoses
20 against those standards because the standards are silent?
21 Is that? Do I read it correctly?

22 THE WITNESS: I believe that's the way I would
23 read it at this particular time, sir.

24 ADMINISTRATIVE JUDGE CARPENTER: So that the
25 last sentence of the first paragraph, which reads,

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1 "Consequently, we cannot certify our hoses to these
2 specifications," should not be read as indicating that the
3 hoses are not qualified. It's that the specifications
4 that are being used are not germane to rubber hoses.

5 THE WITNESS: Yes, sir, you could read it that
6 way.

7 ADMINISTRATIVE JUDGE CARPENTER: Are you
8 surprised that Mr. Justice would try to use those
9 standards to qualify the hoses?

10 THE WITNESS: At this point with a letter like
11 this, I think Mr. Justice should have gone to engineering
12 and asked, "Gee, I don't have enough information about my
13 memo on Item 2. What does engineering mean about," you
14 know, and help get resolution, having engineering resolve
15 it, and giving the interpretation you just gave maybe that
16 it doesn't apply.

17 I would think he would do it in writing. At
18 least if I was him, I would have done it in writing.

19 CHAIRMAN BLOCH: Mr. Bockhold, do you know
20 whether or not Reg Guide 1.143 does apply to these hoses?

21 THE WITNESS: I don't know what's in the Reg
22 Guide, sir.

23 MR. BLAKE: Judge Bloch, if we really need to
24 re-solve this problem on hoses in the FAVA system for
25 purposes of this proceeding, then I think we can do it.

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1 what you just said or your current posture is consistent
2 with your prior rulings on FAVA in the scope of this case?

3 CHAIRMAN BLOCH: I'm not sure of that.

4 MR. BLAKE: Okay.

5 ADMINISTRATIVE JUDGE CARPENTER: I believe the
6 Board needs to pause.

7 CHAIRMAN BLOCH: We could take a recess to
8 talk about that.

9 (Whereupon, the foregoing matter went off the
10 record at 9:40 a.m. and went back on the
11 record at 9:42 a.m.)

12 CHAIRMAN BLOCH: Go back on the record.

13 Having said what I said about FAVA, I immediately heard my
14 own words and was wondering whether they were correct,
15 which is at the point I was talking to the other judges
16 and Mr. Blake made his comment.

17 Mr. Kohn, what is the relevance of this FAVA
18 material to this case?

19 MR. MICHAEL KOHN: We will demonstrate that
20 Mr. Bockhold had specific knowledge that the Reg Guide was
21 -- that he knew the Reg Guide was not being followed, that
22 a quality concerns audit occurred stating that they could
23 not meet the Reg Guide requirements before it was returned
24 to service, and that Mr. Bockhold's stated opinion in his
25 testimony that it was a difference of professional opinion

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1 is unsupportable by the record.

2 And we are simply introducing the evidence
3 necessary to show that Mr. Bockhold's testimony, prefiled
4 testimony, in rebuttal in this case is false. And his
5 assertion that it was a difference of professional opinion
6 can never be supported by the record.

7 And we're also going to then show --

8 CHAIRMAN BLOCH: What's the section of the
9 testimony you're referring to? Starting on Page 8?

10 MR. MICHAEL KOHN: I believe it is. I believe
11 it should be Line 16, Page 7, Lines 16 through 18.

12 And the remainder of the scope of Mr.
13 Bockhold's prefiled testimony is that FAVA was properly
14 and adequately handled. And we will demonstrate that it
15 was knowingly returned to service. We will demonstrate
16 through this witness that it was knowingly returned to
17 service in violation of the Reg Guide and that PRB members
18 were intimidated in the process to accomplish that task.

19 MR. BLAKE: Judge Bloch, can I be heard on
20 this?

21 CHAIRMAN BLOCH: Yes, Mr. Blake.

22 MR. BLAKE: I wish I had before me our motion
23 to strike and the Board's ruling, which I have not had an
24 opportunity in these couple of minutes to review.

25 But I have a pretty clear recollection that

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1 what intervenor attempted to put into the case was what
2 they're now attempting to reintroduce into the case. And
3 that is a substantive review of FAVA and who was right and
4 what was known about the topic, how it was handled.

5 My recollection is that all that the Board
6 allowed was whether or not it had been improperly removed
7 from Mr. Lyons and appropriately handled as a procedural
8 matter and appropriate to Mr. Mosbaugh and whether or not
9 this FAVA, by way of background, had played a role in how
10 Mr. Bockhold or anybody else dealt with Mr. Mosbaugh as a
11 subjective matter and not for substance of FAVA. I think
12 that was the --

13 CHAIRMAN BLOCH: Well, I agree that the
14 substance of FAVA is not an issue, but I'm looking at Mr.
15 Bockhold's testimony, Page 7, Lines 12 through 20. And,
16 first of all, there is a question about whether or not the
17 FAVA concern is relevant to whether or not a PRB member
18 was intimidated and assessing the importance of the
19 alleged intimidation. And, second, there is this
20 statement about addressing the difference between
21 professional differences of opinion and there's this
22 parenthesis.

23 So it seems to me that it's relevant to the
24 testimony that's been submitted. There may be a problem
25 of the testimony entering into areas that you'd like to

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1 exclude.

2 So my ruling is that it is relevant to the
3 alleged intimidation of the PRB member with respect to the
4 FAVA system. That is the allegation, isn't it?

5 MR. MICHAEL KOHN: Yes, sir.

6 CHAIRMAN BLOCH: And I'm not sure what the
7 relevance of Mr. Bockhold's statements on Lines 16 through
8 20 is, but it seems to me that if that's relevant
9 testimony, this is rebuttal of it.

10 MR. BLAKE: If the choice at this juncture is
11 retaining three lines from Mr. Bockhold's testimony --
12 when I say "this juncture," virtually any three lines, but
13 these three lines in particular versus retrying the FAVA
14 issue and getting into technical judgments about from
15 Goodall and hosing and whether or not it's accurate and
16 whether or not it isn't, whether or not it was put back, I
17 will delete and agree to strike these couple of sentences
18 out of Mr. Bockhold at this point.

19 CHAIRMAN BLOCH: That was --

20 MR. BLAKE: I don't think that's the proper
21 choice, but if that's the choice, Judge, that's where I'll
22 come down because I don't think we ought to take the time.
23 I don't think it's properly in. And if that's the cure
24 for it, that's my offer.

25 CHAIRMAN BLOCH: I think it would help to

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1 strike Lines 16 through 20, but I don't think that
2 addresses the whole problem. That would address whether
3 or not there's a difference of opinion or whether it was a
4 clear problem. But I'm not sure how that takes care of
5 the alleged intimidation of the PRB member.

6 MR. BLAKE: I don't have a problem with taking
7 on the mechanics of whether or not a PRB member was
8 intimidated, whether or not he wasn't, what Mr. Bockhold
9 did about it, whether or not he was there. But that won't
10 require letters from Goodall or any other thing as far as
11 the technical ins and outs or compliance with Reg Guides
12 or anything of the sort.

13 MR. MICHAEL KOHN: Your Honor, in order to
14 demonstrate that the PRB was intimidated, we have to show
15 that the PRB had before it documentation that FAVA could
16 not meet the Reg Guides and they were intimidated to
17 putting it into service knowing that it didn't meet the
18 Reg Guides.

19 You can't go and look at the PRB without
20 looking at the underlying technical concern that they were
21 looking at. You can't say, "Were you intimidated" --

22 CHAIRMAN BLOCH: Well, that depends.

23 MR. MICHAEL KOHN: And I'd like to note --

24 CHAIRMAN BLOCH: The difference is whether or
25 not the member who alleges he was intimidated has stated

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1 anything about what his beliefs were about this Reg Guide.

2 MR. MICHAEL KOHN: Your Honor, we believe more
3 than one member was intimidated. And we have additional
4 memoranda to show that four or five members had difficulty
5 with the PRB, which we intend to introduce in the
6 cross-examination.

7 And I would like to note that the testimony
8 that we're really rebutting starts on Page 6, Line 18 and
9 runs through Page 11, Line 23. That's the scope of the
10 testimony that we are addressing in rebuttal.

11 CHAIRMAN BLOCH: We will recess again.

12 (Whereupon, the foregoing matter went off the
13 record at 9:50 a.m. and went back on the
14 record at 9:58 a.m.)

15 CHAIRMAN BLOCH: The Board recognizes that
16 this issue is important enough in terms of the scope of
17 the proceeding and the importance to the intervenor as
18 well that we should think about it before we act.

19 You're talking about whether or not there was
20 compliance with the Reg Guide, Mr. Kohn?

21 MR. MICHAEL KOHN: I'm talking about -- let me
22 try to best explain the entire scope of what we're talking
23 about, that the company failed to follow its audit report
24 about FAVA and intentionally returned the system to
25 service in violation of an earlier audit report, that they

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1 justified returning it to service knowing that it would
2 violate Reg Guide, that they received --

3 CHAIRMAN BLOCH: Did it have concurrence from
4 the NRC?

5 MR. MICHAEL KOHN: No. They had to get the
6 hoses certified, and they were never certified.

7 CHAIRMAN BLOCH: Let me ask a question of the
8 NRC. Is that consistent with the NRC's position that
9 there was no concurrence unless the hoses were certified?

10 MS. YOUNG: Judge Bloch, obviously the staff
11 is not prepared to address the FAVA issue in this level of
12 detail. All we can refer you to is the Intervenor's
13 Exhibit II-83, which is the staff inspection report which
14 addresses FAVA. There was no violation associated with
15 what GPC did with the FAVA system.

16 I don't believe in asking Mr. Bockhold a
17 question that intervenor laid a proper foundation for
18 whatever guidance in the Reg Guide they were referring to.
19 I don't dispute that, but I think there's a lot of
20 groundwork that has to be laid for the Board to even
21 understand what intervenor is referring to.

22 We're not prepared to address all the details
23 of this issue, obviously.

24 CHAIRMAN BLOCH: The possible relevance of
25 this issue to this proceeding depends on the knowledge and

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1 belief of the members of the PRB who are alleged to have
2 been intimidated. And the basis for that is not yet on
3 the record.

4 MR. MICHAEL KOHN: Yes, Your Honor. And that
5 is what I am actually trying to get onto the record. I
6 have --

7 CHAIRMAN BLOCH: I'm not sure how you can do
8 that through Mr. Bockhold.

9 MR. BLAKE: And are these exhibits that
10 anybody has been alerted to before in accordance with
11 prior Board requests?

12 MR. MICHAEL KOHN: Well, yes.

13 MR. BLAKE: Yes?

14 MR. MICHAEL KOHN: Most of them were pulled
15 out of the file that you just gave me yesterday. There's
16 a series of memoranda demonstrating that the PRB members
17 questioned memoranda being -- questioned the entire
18 process and said that whatever happened in FAVA, it still
19 can happen again at the PRB. And that happened in June.

20 CHAIRMAN BLOCH: Okay. Could you say that
21 again because that didn't make any sense to me? Whatever
22 happened in FAVA?

23 MR. MICHAEL KOHN: The events which resulted
24 in FAVA being returned to service in violation of the Reg
25 Guide requirements, there had not been an adequate root

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1 cause evaluation. And whatever resulted in that and the
2 PRB's handling of it had not been resolved.

3 CHAIRMAN BLOCH: And the minutes of the PRB
4 will show that?

5 MR. MICHAEL KOHN: No. Interview notes by Lee
6 Glenn that were turned over yesterday of the PRB members.

7 CHAIRMAN BLOCH: Lee Glenn being an
8 investigator of the OI?

9 MR. MICHAEL KOHN: The corporate concerns
10 investigation.

11 CHAIRMAN BLOCH: Corporate concerns?

12 MR. BLAKE: This sounds like a substantially
13 new item, Judge Bloch, and potentially if we get a little
14 pregnant on this, I believe, based on the representations
15 at least made, will require additional work and additional
16 evidence from licensee and potentially as well from the
17 NRC staff. I think it bears serious consideration.

18 Now, I have gone back and looked at the
19 staff's partial initial director's decision on 2.206,
20 which was subsequently vacated by the Commission for I
21 believe procedural, not for any substantive reasons. It
22 addresses this in particular, including this particular
23 condition and whether or not they were met.

24 CHAIRMAN BLOCH: I guess we're all flying in
25 the dark because I haven't seen the corporate

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1 investigation materials. And, Mr. Blake, apparently
2 you're not familiar with them. And staff hasn't seen
3 them. I can't evaluate at this time whether it's a
4 relevant issue or not.

5 Apparently some of the problem is that
6 information was just turned over yesterday. Is that
7 right, Mr. Kohn?

8 MR. MICHAEL KOHN: That is correct, Your
9 Honor.

10 CHAIRMAN BLOCH: So I'm not sure where that
11 puts us in terms of whether we should permit
12 cross-examination based on these materials.

13 MR. BLAKE: Well, what I don't understand is,
14 almost regardless of what those materials say, how it's
15 within the scope of what the Board has allowed.

16 CHAIRMAN BLOCH: Well, I guess I'm not willing
17 to speculate almost regardless. It depends on what
18 happened in the corporate investigation and how these
19 matters play out in that context.

20 What's an orderly way for us to pursue this?
21 I guess I don't see why -- Mr. Kohn, could you express a
22 little bit more about the scope of -- well, should the
23 witness be excused for this discussion?

24 MR. MICHAEL KOHN: Yes.

25 CHAIRMAN BLOCH: Mr. Bockhold, we'll be

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1 calling you. Do we know where Mr. Bockhold can be
2 reached?

3 THE WITNESS: I'll just be right outside the
4 courtroom.

5 (Whereupon, the witness was excused.)

6 MR. MICHAEL KOHN: And sometimes maybe it's
7 even better just to also do it with documents. And if I
8 just presented the documents, I think they more speak for
9 themselves than I can do at this time. So I could maybe
10 start distributing them so you have a better understanding
11 of what I'm talking about.

12 CHAIRMAN BLOCH: Okay. Distribute them first
13 and mark them second.

14 MR. MICHAEL KOHN: Okay. The first document
15 I'm distributing --

16 CHAIRMAN BLOCH: No, no. You just give them
17 to us first.

18 (Pause.)

19 MR. BLAKE: Judge Bloch, simply by the
20 quantity, I have a real concern about our ability to
21 consume all of this, react to it, in a couple-of-minute
22 break.

23 I would like to hear the proffer. I would
24 like to hear use and, as you suggested, by reference to
25 the documents. But I can't promise you that I'm going to

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1 be in a position to react to it instantaneously.

2 CHAIRMAN BLOCH: We'll take just a couple of
3 more moments before you make your presentation. I want to
4 continue reading.

5 (Pause.)

6 CHAIRMAN BLOCH: Mr. Kohn, what we're
7 concerned with, before you start talking, is that this
8 issue is collateral. It may be important, but it is
9 collateral. And so what we'd like you to do is present to
10 us the limited scope you'd like to give to this issue so
11 that it would be manageable within a proceeding.

12 MR. MICHAEL KOHN: The scope that we're
13 looking at is Mr. Mosbaugh's frame of mind in April of
14 1990, when the issue of the start count is going forward,
15 and the events leading up to that.

16 It is important to demonstrate that when Mr.
17 Mosbaugh filed a quality concern claiming that the PRB
18 violated its basic function by allowing a system to be put
19 into service in violation of a mandatory Reg Guide
20 requirement and stating that it was not a difference of
21 professional opinion but basically the breakdown of the
22 functioning of the PRB, that sets the frame of mind that
23 Mr. Mosbaugh starts operating on before the site area
24 emergency occurs.

25 And the documentation demonstrates that in

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1 Intervenor's Exhibit 231, Page 11 that was previously --
2 those two documents you have to look at at the same time.
3 And then I'll work back.

4 CHAIRMAN BLOCH: Tell us about them, yes.

5 MR. MICHAEL KOHN: That document is a
6 memorandum to Mr. Bockhold from Paul Rushton responding --
7 it's corporate engineering. And the corporate engineering
8 memo states that, yes, we cannot comply with the Reg Guide
9 and we are in violation and, then at the very end, and
10 that the original safety evaluation was insufficient in
11 documenting the conclusion that no unreviewed safety
12 questions existed. Yet, the corporate milieu was such
13 that they were willing to return the system to service
14 knowing that to be an actual fact.

15 In addition, I will mark as Intervenor's --
16 the corporate engineering's conclusion with regard to
17 FAVA, as found on Exhibit 231, on Page 13, is "I agree
18 that the FAVA system was not satisfactorily designed,
19 built, and installed, a situation that is entirely
20 unsatisfactory."

21 Then preceding this engineering analysis was a
22 document we'll mark as Intervenor's 246.

23 CHAIRMAN BLOCH: Do we have to get into the
24 technical merits of the engineering determination?

25 MR. MICHAEL KOHN: No, Your Honor, but what's

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1 important with the document I'm marking as Intervenor's
2 246 or --

3 CHAIRMAN BLOCH: Are you sure we don't have to
4 get into the technical merits? How do we know whether or
5 not it was legitimate to go ahead with that, with the
6 Engineering Department's disapproval, if, in fact, that's
7 the case, unless we also look at the technical merits of
8 the issue?

9 MR. MICHAEL KOHN: The sole justification used
10 was that it would reduce the risk consequences. There was
11 a benefit to the company. And there is --

12 CHAIRMAN BLOCH: Well, reducing the risk
13 consequences isn't just a benefit to the company. That's
14 a safety concern.

15 MR. MICHAEL KOHN: Well, it's considering the
16 benefit of the risk consequences versus the leakage from
17 the system. What's important is the audit report done in
18 May of 1989 which says "You have a system in place. It
19 didn't meet reg requirements. Determine the root cause of
20 how that happened and state the corrective action of what
21 you're going to do," and the corrective action to be taken
22 at that time was to take the system out of service, that's
23 in the audit finding. That's what they found.

24 Now you come to an outage that is taking place
25 many months later, in February. They were now going to

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1 return the system back to service. They have yet to do a
2 root cause to determine how they got it in there in the
3 first place. They didn't do any corrective actions. And
4 because their outage schedule demanded that FAVA be
5 returned to service, they returned it to service.

6 And that was Mr. Mosbaugh's concern that they
7 could not meet the Reg Guide. They knew they couldn't
8 meet the Reg Guide. And the PRB voted to return the
9 system to service when they couldn't meet the Reg Guide,
10 instead of having open discussion on what to do. It was
11 Mr. Mosbaugh --

12 CHAIRMAN BLOCH: I understand the Reg Guides.
13 You either meet the Reg Guide or you satisfy the NRC
14 otherwise that it's okay.

15 MR. MICHAEL KOHN: That's correct. At the
16 time the PRB met, they could not meet the Reg Guide. They
17 voted to put it in service knowing they couldn't meet the
18 Reg Guide before there was any NRC concurrence or
19 anything.

20 There's the starting factor of whether Georgia
21 Power then started to take some alternate course to try to
22 get around the initial problem. The ultimate problem is
23 the intimidation of the PRB to get them to vote, to put
24 something in service that couldn't meet the Reg Guide, and
25 then Mr. Mosbaugh's immediately filing of a quality

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1 concern, Mr. Bockhold's taking over the quality concern,
2 and the fact that no root cause analysis of the FAVA
3 problem ever went forward, no root cause analysis of
4 whether the PRB was intimidated ever occurred, no -- and
5 then you start looking at the documentation that the
6 corporate concerns started saying Mr. Horton, a PRB
7 member, felt that the initial installation of FAVA
8 violated the literal and intended meaning of the Reg Guide
9 and, therefore, also violated the FSAR. And he said he
10 was not confident that similar mistakes had been precluded
11 from occurring again. And this is in June of 1990.

12 Where is the root cause? If a member of the
13 PRB is stating he doesn't even know, he's not confident
14 that this same problem is going to happen again, it sets
15 Mr. Mosbaugh's frame of mind. How much can he raise
16 internally in the company? They're deaf to him. And it
17 becomes totally relevant to this proceeding to show the
18 intent, the total level of intimidation.

19 The other PRB members, Mr. Aufdenkampe states
20 that he recognized it was difficult to --

21 CHAIRMAN BLOCH: Okay. As to one relevance
22 you're arguing, that it has to do with Mr. Mosbaugh's
23 state of mind, which has to do with certain defenses that
24 are being argued about about whether the company was at
25 fault or whether Mr. Mosbaugh was at fault; right?

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1 MR. MICHAEL KOHN: That is correct, Your
2 Honor.

3 CHAIRMAN BLOCH: What is another relevance?

4 MR. MICHAEL KOHN: The state of mind of the
5 company that a technical violation is acceptable if they
6 think they can get away with it. The other one is push to
7 schedule, that when they were in the middle of this
8 outage, they needed FAVA, "Let's just get it in line. And
9 let's get the plant up and running," rather than taking
10 the required steps needed.

11 CHAIRMAN BLOCH: And how is that relevant to
12 the matters set down for hearing?

13 MR. MICHAEL KOHN: Well, with respect to push
14 for schedule, Mr. Bockhold directly addresses that in his
15 rebuttal testimony. The --

16 CHAIRMAN BLOCH: With respect to what?

17 MR. MICHAEL KOHN: He has an entire section
18 set out about push for schedule, that they weren't rushed
19 to meet the root cause. And we're saying it goes to the
20 root cause, whether it was an adequate root cause to
21 determine the reason of the site area emergency, that
22 there is such push and that they're willing to have
23 noncompliance with Reg Guide requirements or another issue
24 when it came to get the -- because they wanted the plant
25 back on line as quickly as possible.

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1 And when it came to do the root cause, the
2 same outlook was applied, "Let's get it on line. Let's
3 mislead the NRC about air quality. Let's mislead the NRC
4 about the number of diesel starts." It sets the framework
5 going on, and it sets the tone of the company.

6 Specifically, other managers indicated that
7 they felt that with respect to FAVA, it was condoned at
8 the very top of the management chain.

9 CHAIRMAN BLOCH: Okay. So the second
10 relevance you see is its relevance to the tone of the
11 company at the time of these alleged events. Is that
12 right?

13 MR. MICHAEL KOHN: That's correct, Your Honor.

14 CHAIRMAN BLOCH: Is there another?

15 MR. MICHAEL KOHN: Yes. It goes to indicate
16 the desire to tell the NRC something but not the whole
17 truth, the desire not to get to the root cause of
18 problems, even --

19 CHAIRMAN BLOCH: So you think it represents
20 telling partial truth to the NRC?

21 MR. MICHAEL KOHN: Yes, Your Honor. And it
22 represents a pattern of deception to the NRC.

23 CHAIRMAN BLOCH: Have we set anything down
24 about the truth of statements about FAVA? I thought that
25 was excluded.

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1 MR. MICHAEL KOHN: Your Honor, we're not
2 looking down. We're not getting into the truths of the
3 statements about FAVA but whether --

4 CHAIRMAN BLOCH: How can you tell whether it
5 was a partial truth without finding out what the truth
6 was?

7 MR. MICHAEL KOHN: You can tell that by the
8 fact that there was no -- how the FAVA issued was handled.
9 Mr. Bockhold takes over the investigation. There's no
10 root cause done. The entire methodology of handling it
11 speaks as to what the intent of the company was, not the
12 underlying technical issues.

13 CHAIRMAN BLOCH: Anything else?

14 MR. MICHAEL KOHN: No, Your Honor.

15 CHAIRMAN BLOCH: Mr. Blake?

16 MR. BLAKE: What we've heard in response to
17 your request for a simple explanation of how you might
18 take on this collateral estoppel I think gives us our best
19 indication of where it is we're headed. I think if you
20 allow this Judge Bloch, we're not into any simple matter
21 at all.

22 We're into a topic which spans by the
23 documents they've handed out a time frame from early in
24 '89 through at least about the time of this incident.
25 It's going to span a good deal in the way of additional

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1 topics.

2 Whether Mr. Kohn admits it or not, laced in
3 his discussion were a number of technical disputes about
4 compliance with one thing or another. I simply don't know
5 the answers to those, all those issues.

6 And I'm not prepared to respond substantively
7 to the large number of representations made here today. I
8 don't know these documents well enough. Nor do I know
9 what other documents may be around to answer it.

10 As I earlier indicated, I saw just in quickly
11 looking at some documents here a subsequent internal
12 company memorandum that said that these hoses and their
13 compliance with the Reg Guide was addressed within the
14 company.

15 I don't think any of these topics can't be
16 taken on. I think they were taken on and taken on by the
17 NRC staff in response to the 2.206 petition which led to
18 the partial directors' decision on this, which was
19 favorable.

20 Now, I don't know what to do with this topic
21 at the moment, but what I do know is this. It is large
22 enough, it sounds large enough, it sounds comprehensive
23 enough, to me like it is an attempt to retry the FAVA
24 issue in its entirety. And I think it's deserving of a
25 motion and a response from us and from the NRC staff on

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1 whether or not this topic should be allowed.

2 I think we ought to get on and try to complete
3 this. And if this results in an additional topic being
4 introduced into this proceeding, so be it.

5 We've already talked in terms of -- let me
6 just address the one thing that started all of this ball
7 rolling, which was the PRB witnesses and the extent to
8 which they were impacted by Mr. Bockhold.

9 If you take Mr. Aufdenkampe, for example, I
10 noticed one of the documents they handed out is an
11 Aufdenkampe. Mr. Aufdenkampe was asked specifically about
12 this topic. And he was here as a witness. We have it.
13 We know what Mr. Aufdenkampe's views were. We have his
14 views on this very topic. He wasn't the only one. Others
15 have been as well asked about this very topic.

16 I don't think the record is devoid of
17 information for the Board to make a determination about
18 PRB membership and the degree of influence that Mr.
19 Bockhold had on this or indeed any other topic. So I
20 think if that's really what we're talking about, we have
21 evidence which is sufficient to make it.

22 If we really want to get into the FAVA issue
23 qua FAVA, I think it ought to be approached in a more
24 disciplined fashion by a motion that refers to all of
25 these documents, an opportunity for the parties to

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1 response, and an opportunity for the Board truly to
2 consider before we get into a whole lot of extra evidence.

3 CHAIRMAN BLOCH: Mr. Kohn, what's your
4 position with respect to the adequacy of the corporate
5 follow-up investigation?

6 MR. MICHAEL KOHN: It was totally inadequate.
7 The file ended up in Troutman Sanders' offices. That's
8 where they finally could locate it. It wasn't within the
9 company.

10 The requirement of Georgia Power's corporate
11 concerns program requires that all corporate concerns be
12 brought to the management counsel, must be signed off by a
13 vice president.

14 The file demonstrates that none of the
15 internal procedures of Georgia Power to complete the
16 investigation were allowed to go forward. And ultimately
17 the file was not even within Georgia Power's premises.

18 So I think it indicates that Georgia Power's
19 quality corporate concerns program completely broke down
20 as well because they did not follow through on what their
21 requirements were.

22 MR. BLAKE: I just need one quick response to
23 that. My understanding of the reason why the file when
24 you've just requested it here in September 7th, I believe,
25 and we've located it in Troutman Sanders' offices was

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1 because of all the doggone litigation that's been
2 associated with this topic over the last years, that
3 lawyers had it in their office, not unreasonably, in order
4 to try to react.

5 ADMINISTRATIVE JUDGE CARPENTER: Mr. Kohn,
6 this recitation you just made, are you reciting from Mr.
7 Mosbaugh's testimony?

8 MR. MICHAEL KOHN: Concerning the requirements
9 of the quality concern, the corporate concerns, program of
10 the sign-off?

11 ADMINISTRATIVE JUDGE CARPENTER: Et cetera.

12 MR. MICHAEL KOHN: I believe the quality
13 concerns program may actually be in Phase I, the testimony
14 of Mr. Glenn associated with that. I certainly have it in
15 deposition form.

16 The breakdown of the corporate concerns
17 program, is that what you wanted me to address, Your
18 Honor?

19 ADMINISTRATIVE JUDGE CARPENTER: Well, I'm
20 just reading Mr. Bockhold's statement that he's speaking
21 to the handling of Mr. Mosbaugh's FAVA concern in terms
22 that Mr. Bockhold took his quality concern away from the
23 quality control concern coordinator.

24 MR. MICHAEL KOHN: That's correct, Your Honor.

25 ADMINISTRATIVE JUDGE CARPENTER: So that was

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1 the issue Mr. Mosbaugh wanted us to look at.

2 MR. MICHAEL KOHN: That is the issue and the
3 underlying reasons of why it was taken away, why it was
4 handled the way it was handled, and that there was no
5 corporate resolution to it at all.

6 CHAIRMAN BLOCH: Mr. Mosbaugh controlled the
7 follow-up is what you alleged; right?

8 MR. MICHAEL KOHN: Correct, Your Honor.

9 CHAIRMAN BLOCH: I'd like the staff's advice,
10 both on what to do and also on the procedure to follow, so
11 that we handle this properly.

12 MS. YOUNG: Well, Judge Bloch, I think we have
13 here an example of choices: choices that were made --

14 CHAIRMAN BLOCH: Thank you.

15 MS. YOUNG: -- choices that were made at the
16 time the contention was filed, choices that were made in
17 terms of identifying the basis for the contention. We
18 have a number of rulings that were made subsequent to the
19 identification of that bases.

20 To my recollection, when the contention was
21 filed, FAVA was not included as one of the elements of
22 what showed a pattern of poor or inadequate character to
23 be the recipient of a license transfer.

24 To my recollection, the contention focused
25 primarily on inadequate provision of information about

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1 diesel generator starts and diesel generator reliability.
2 And the air quality issue, of course, which may be
3 associated with reliability, has grown over time to
4 encompass some additional matters.

5 To my recollection, the Board specifically
6 confronted the issue of whether all matters identified in
7 the 2.206 petition were included in this proceeding for
8 litigation. Intervenor specifically argued that FAVA
9 dilution valve and everything else in that petition were
10 part of this proceeding.

11 The Board at one time accepted that judgment,
12 then, on further reflection, after filings from licensee
13 and the staff, came to the conclusion that matters
14 specifically not pled in the intervention petition were
15 not a part of this proceeding at this stage, that maybe at
16 some later time intervenor would be able to make a showing
17 and some type of good cause showing, if I recollect
18 correctly, -- but I don't have that order in the room with
19 me today; so this is totally from my memory -- could make
20 a showing for additional litigation on those matters.

21 The choice again was made as to what would be
22 a part of this proceeding. And those choices have bound
23 intervenor to a certain amount of -- has limited the scope
24 of intervenor's presentation in terms of supporting its
25 contention.

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1 Whatever arose out of the FAVA thing in terms
2 of the general technical merits of the decisions that were
3 made, the actions of GPC, the actions of Mr. Bockhold are
4 not in this proceeding, to my understanding, as of yet.

5 The testimony that survived GPC's motion to
6 strike primarily concerned Mr. Mosbaugh's state of mind in
7 terms of being concerned about the way his impressions of
8 actions on the part of GPC may have been modifying his
9 conduct in terms of not vigorously pursuing disagreements
10 with his GPC management unless he had done the research
11 and documentation to show that there was a basis for his
12 position.

13 That still concerned the diesel generator
14 start issue, the diesel generator reliability issue. It
15 did not involve FAVA. FAVA and a dilution valve were
16 things that were included in the testimony and survived
17 the motion to strike as a basis for basically his state of
18 mind.

19 Intervenor has argued that again today. And
20 the staff has no problem with it coming in for that
21 limited purpose. But it's our position that the inclusion
22 of the issue for that purpose does not automatically open
23 up for scrutiny in the context of this phase of the
24 proceeding or in this hearing based on the filings to date
25 of everything associated with FAVA and how it was handled.

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1 It just doesn't make sense in terms of focus of this
2 proceeding.

3 While it may logically make sense that it's
4 related to some issue of intimidation or harassment in
5 terms of Mr. Mosbaugh's mind, it wasn't included in the
6 petition to intervene.

7 It has not been included in this proceeding.
8 And to get here at this late stage of the game, although
9 we have no estimate of when this hearing might be
10 completed, to all of a sudden introduce this issue, which,
11 to my recollection, also was not the subject of
12 significant discovery in the proceeding because, again, it
13 was not part of the admitted contention -- so the staff
14 would think that Mr. Blake's suggestion as to some
15 expansion of the proceeding being based on some motion by
16 intervenor in written form would be more appropriate.

17 But, in the final analysis, it would appear
18 that it's not appropriate for inclusion in the proceeding
19 at this juncture and that questioning regarding
20 intimidation of Gus Williams or whoever the PRB member
21 that intervenor has relied on, maybe that individual
22 should be brought into the room just to express his
23 reactions to how this matter was treated.

24 And that would more narrowly focus the issue,
25 rather than totally reopening, relitigating FAVA, which

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1 Mr. Blake again correctly pointed out was addressed in the
2 2.206 decision, the merits of which were not vacated. It
3 was the procedural problems that the Commission had.

4 CHAIRMAN BLOCH: What would the staff's
5 position be if we were to limit the issue solely to two
6 questions? One is whether the reassignment of this
7 investigation to corporate was pursued with integrity or
8 whether it represented non-responsiveness to Mr.
9 Mosbaugh's concerns and a possible reason for his being
10 unwilling to advance further issues in the future. And,
11 then, second limitation would permit the litigation of the
12 intimidation of individual members of the PRB.

13 And that might require that the member be
14 called. I'm not sure that that would be -- that there's
15 much fruitfulness in pursuing that with Mr. Bockhold.

16 MS. YOUNG: Well, I would agree with your
17 observation. I'm not sure Mr. Bockhold can address how
18 these individuals felt. If intervenor wishes to meet its
19 burden on this issue in terms of whether intimidation was
20 felt by more than Mr. Mosbaugh or other PRB members, it's
21 going to take more than what has come into the proceeding
22 to date.

23 CHAIRMAN BLOCH: Okay. We'll take our
24 10-minute recess now. And the Board will rule at the end.

25 MR. MICHAEL KOHN: Your Honor?

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1 CHAIRMAN BLOCH: Yes?

2 MR. MICHAEL KOHN: Intervenor does not want to
3 expand this proceeding. Intervenor does not want to call
4 any additional witnesses. The only thing we would like to
5 do is question this particular witness on the scope of the
6 testimony he presented with -- he mentioned. That's
7 really what we're looking at.

8 If you look at the scope of his testimony, we
9 just want to cross-examine this one witness. We don't
10 want to open the scope further on this issue. But we
11 think that these documents are fair game to show to the
12 witness to question his testimony and, if you'd also look
13 at Mr. Bockhold's testimony, where he puts technical
14 documentation in as exhibits.

15 So these are just additional documentation
16 that we think is necessary to put Mr. Bockhold's testimony
17 in perspective. And that's --

18 CHAIRMAN BLOCH: During our break, I expect
19 that Georgia Power will also look over Mr. Bockhold's
20 testimony and see what portions of the FAVA testimony can
21 be struck because that could be part of the problem.

22 MR. MICHAEL KOHN: That is the problem, Your
23 Honor.

24 MR. BLAKE: Strike from what?

25 CHAIRMAN BLOCH: From the record. The

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1 question is they're arguing that they have to be able to
2 rebut his testimony. And it could be that the scope
3 problem exists in Mr. Bockhold's testimony and not just in
4 the attempts to make rebuttal. So the question is: What
5 portions of Mr. Bockhold's testimony can be struck?

6 What you might focus on is the possibility
7 that we would limit the issue to the integrity of the
8 corporate investigation and whether or not there was
9 intimidation of individual members of the PRB.

10 Then Mr. Kohn is going to say, "Well, we have
11 testimony on Line" so and so "of Page" so and so, "and
12 we've got to be able to rebut it." And I don't see how we
13 can rule out they're rebutting anything that Mr. Bockhold
14 has in his testimony. So, if it can be struck, it will
15 help to narrow the scope of the proceeding.

16 We'll take our 10-minute break.

17 (Whereupon, the foregoing matter went off the
18 record at 10:37 a.m. and went back on the
19 record at 10:52 a.m.)

20 CHAIRMAN BLOCH: The Board has deliberated on
21 the FAVA issue. And we have decided to limit the
22 litigation of this issue to two facets, as was suggested
23 before the break.

24 The first issue is the referral to corporate
25 and whether or not the follow-up investigation was

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1 appropriate, whether this represented some kind of a
2 pretense, or whether it was a real investigation.

3 And, secondly, the issue is whether or not one
4 or more members of the PRB was intimidated. And the
5 important thing there is not the truth of the FAVA issue,
6 but what those members believed and whether or not they
7 were intimidated into acting contrary to their beliefs.

8 Now, on the question of whether or not to
9 strike portions of the testimony, we are willing to have
10 Georgia Power voluntarily strike portions of the
11 testimony, but we also would entertain a written motion
12 from intervenor to strike portions consistent with the
13 ruling that we have just made. So if Georgia Power
14 chooses to voluntarily strike portions of the testimony,
15 it may do so or it may await the written motion to strike
16 portions consistent with the Board's ruling.

17 Does Georgia Power need a recess to continue
18 their discussions with intervenor?

19 MR. BLAKE: I guess I'd like an opportunity to
20 discuss what the impact is. And, frankly, I don't
21 understand. And maybe others will be able to help me with
22 the Board's ruling.

23 And my problem -- and I'll express it, and
24 then I'll talk with others -- is I don't know how we will
25 determine particularly the first issue without discussion

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1 of the topics.

2 I simply don't know how we'll make a
3 determination about the adequacy of the referral or the
4 adequacy of the job done by corporate concerns without
5 talking about the issue that corporate concerns was asked
6 to take on. And I think we're starting right down the
7 wrong slope. But hopefully others will have a different
8 impression and make me feel more positive.

9 I would like an opportunity to finish and see
10 whether or not our discussions with Mr. Kohn should
11 continue in light of what the Board has said. I think we
12 were headed actually towards a resolution which would have
13 avoided this entirely, but now I don't know. He may be
14 feeling his oats after that.

15 CHAIRMAN BLOCH: Mr. Kohn, is there reason for
16 further discussions with licensee about withdrawing
17 portions of the testimony?

18 MR. MICHAEL KOHN: Yes, there is, Your Honor.

19 CHAIRMAN BLOCH: Okay. Let me ask you this:
20 Based on your reviews of what you received on the
21 corporate concerns review, does it appear that their
22 disposition of the review was reasonable and, therefore,
23 that the only issue really left out of that is what
24 happened to the disposition?

25 MR. MICHAEL KOHN: By "disposition," you mean

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1 assigning it to the corporate?

2 CHAIRMAN BLOCH: No. You cited an audit
3 report. The question is: Did they properly resolve the
4 issue? And, therefore, is the only question left "What
5 happened?" after they resolved it?

6 MR. MICHAEL KOHN: No. They did not properly
7 resolve the issue, but the actual focus I think that
8 should also be looked up is the corporate concerns program
9 investigation. What you just referred to is the quality
10 concerns investigation, and there were two separate
11 investigations.

12 What's more important and more relevant is
13 actually the corporate concerns follow-up because, as it
14 turns out, the corporate concerns follow-up also included
15 material false statements on the diesel generator issue
16 and that corporate concerns demonstrates that the
17 corporate concerns program never did an adequate
18 investigation of the diesel generator issue as well, which
19 is certainly within the bounds of this proceeding. And it
20 shows another attempt from intervenor's perspective of not
21 getting down to the bottom truth of it.

22 So the corporate concerns looked at FAVA, but
23 they also looked at the diesel generator issue. And we
24 now have the entire corporate concerns file on that.

25 I think with respect to FAVA, the parties can

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1 reach an agreement as to striking portions of the
2 testimony and just putting in and allowing the record to
3 be accomplished, to be closed on this issue satisfactory
4 to everyone's wishes.

5 But the Board's order may have -- I think that
6 there -- intervenor is not interested in prolonging this
7 proceeding and having any extra days of hearing. And so
8 we are looking at it as how we don't have to do that, to
9 be perfectly frank.

10 So we want closure. And, even with this
11 Board's order, we would be looking at at the most minimal
12 methodology to do it. And weighing our desires for
13 closure of the record over the incompleteness of the
14 record is something that we will be doing as well, to be
15 perfectly frank.

16 So I think we can meet a resolution of this
17 issue.

18 CHAIRMAN BLOCH: So we'll take up to a
19 10-minute recess for further discussion.

20 MR. BLAKE: Let me make a different
21 suggestion. Can we go forward with Mr. Bockhold's
22 examination on other topics, at least until the lunch
23 hour? And then over lunch we can work on this one with
24 intervenor in order for more effective use of the time?

25 CHAIRMAN BLOCH: Is that --

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1 MR. MICHAEL KOHN: Yes, Your Honor.

2 CHAIRMAN BLOCH: Let's call Mr. Bockhold back.

3 MS. YOUNG: And, just for clarity of the
4 record, what's in dispute in terms of a possible motion to
5 strike is testimony beginning on Page 6 and ending on Page
6 11?

7 MR. MICHAEL KOHN: That is correct.

8 MS. YOUNG: Of the prefiled testimony? And
9 the majority of that has to do with the handling of the
10 FAVA concern?

11 MR. MICHAEL KOHN: That is correct, and the
12 intimidation of the PRB.

13 Whereupon,

14 GEORGE BOCKHOLD

15 was recalled as a witness by counsel for the intervenor
16 and, having been previously duly sworn, resumed the
17 witness stand, was further examined and testified further
18 as follows:

19 CHAIRMAN BLOCH: Welcome back, Mr. Bockhold.

20 THE WITNESS: Thank you, sir.

21 CHAIRMAN BLOCH: Press on, Mr. Kohn.

22 FURTHER CROSS-EXAMINATION

23 BY MR. MICHAEL KOHN:

24 Q Do you recall instructing Mr. Lyons to limit
25 Mr. Mosbaugh's access to the quality concerns file?

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1 A Yes, I do.

2 Q And were you aware that prior to that
3 instruction, Mr. Lyons had and was willing to make
4 information contained in the quality concerns file
5 available to Mr. Mosbaugh?

6 A I was not aware.

7 Q My understanding is that you did review the
8 quality concerns file that Mr. Lyons had. Is that
9 correct?

10 A I don't remember specifically reviewing any
11 specific file. On occasion I had to review some files,
12 Mr. Mosbaugh's and others.

13 Q If you would look at Intervenor's Exhibit 231
14 at Page 10? If you would look at the second entry on that
15 page, it addresses Mr. Mosbaugh stopping by Mr. Lyons'
16 office and Mr. Lyons' willingness to furnish documentation
17 he had obtained in his investigation.

18 Does that refresh your recollection of the
19 willingness of the quality concerns coordinator to provide
20 information to Mr. Mosbaugh?

21 A I'm not sure of your question, sir.

22 Q Can you tell me --

23 BOARD EXAMINATION

24 CHAIRMAN BLOCH: Mr. Bockhold, does looking at
25 this journal entry for Mr. Lyons remind you in any way

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1 that he had been willing to share information with Mr.
2 Mosbaugh?

3 THE WITNESS: Mr. Lyons reported to Mr.
4 Mosbaugh. Mr. Mosbaugh as part of his duties would
5 review, periodically review, quality concerns files. I'm
6 not sure how much he did or didn't do of that. And so I'm
7 not sure how what was part of his normal duties relates to
8 Mr. Kohn's question, sir.

9 CHAIRMAN BLOCH: Mr. Kohn?

10 FURTHER CROSS-EXAMINATION

11 BY MR. MICHAEL KOHN:

12 Q I thought your testimony was that this concern
13 was taken away from Mr. Lyons. So why would he be
14 furnishing portions of the file to Mr. Mosbaugh if he
15 didn't have it anymore, if he didn't have the
16 responsibility?

17 A My previous testimony was that the FAVA, which
18 I considered a technical issue about the microfiltration
19 system and the regulation associated with it, was -- the
20 technical lead on that was Mr. Paul Rushton in corporate.

21 My further testimony was that Mr. Lyons was
22 asked to keep a thorough record about everything that went
23 on associated with the concern. And, further, in my mind
24 and even to today, I had separated the FAVA issue from Mr.
25 Williams', Gus Williams', feeling of intimidation in the

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1 PRB meeting.

2 BOARD EXAMINATION

3 CHAIRMAN BLOCH: So when you say that you
4 separated them in your mind, was there some different way
5 that the two issues were being handled?

6 THE WITNESS: The PRB reports to the general
7 manager to give him advice. And the general manager
8 approves, generally with unanimous agreement from the PRB
9 members. I had to have a working relationship with the
10 PRB. There was no way that I could function in that
11 fashion.

12 I think Gus Williams' feeling of intimidation
13 was separate from the FAVA issue, sir.

14 CHAIRMAN BLOCH: In a sense that you decided
15 that you would follow up on the intimidation problem and
16 you would allow the FAVA issue to continue with corporate?

17 THE WITNESS: Yes, sir.

18 FURTHER CROSS-EXAMINATION

19 BY MR. MICHAEL KOHN:

20 Q You allowed the FAVA issue to continue with
21 Mr. Lyons or with corporate?

22 A Paul Rushton was asked to take the lead on the
23 technical issues associated with FAVA.

24 Q How come Mr. Lyons did the intimidation
25 interviews?

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1 A I asked Mr. Lyons to get me some information
2 associated with the feelings of the Board members.

3 Q Based on Mr. Mosbaugh's allegation of
4 intimidation?

5 A No. I don't believe Mr. Mosbaugh made an
6 allegation of intimidation at this particular time. I
7 believe he in person appeared to Mr. Lyons as you provided
8 me documentation on Page 1, on 215. And that talks about
9 FAVA.

10 Q Can you tell me why you instructed Mr. Lyons
11 to limit Mr. Mosbaugh's access to the quality concerns
12 file?

13 A Mr. Mosbaugh was making the -- was the
14 submitter of the allegation, the submitter of the concern.
15 And it had been basically our policy to respond to
16 submitters of concerns, but not to give them full access
17 to people's opinions about the concern file. And it was
18 just a consistent approach.

19 Q You were limiting access to the entire quality
20 concerns file; correct?

21 A No, sir.

22 CHAIRMAN BLOCH: I don't understand.

23 MR. BLAKE: Where is the reference? Can I
24 have a reference? I've been searching for what you've
25 been referring to. What is the reference?

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1 MR. MICHAEL KOHN: Let's turn to Intervenor's
2 Exhibit 231, --

3 MR. BLAKE: Right.

4 MR. MICHAEL KOHN: -- Page 26.

5 MR. BLAKE: Thank you.

6 CHAIRMAN BLOCH: I have a question. I want to
7 look at this information first, though.

8 (Pause.)

9 BOARD EXAMINATION

10 CHAIRMAN BLOCH: I want a clarification of
11 what it meant that you said there was not a restricted
12 access to the entire quality concerns file. What was
13 there restricted access to?

14 THE WITNESS: There was a restricted access to
15 the specific concerns that Mr. Mosbaugh raised as long as
16 he was acting assistant general manager of support.

17 When Mr. Greene came back, then he would be
18 the person that would have full access to all the quality
19 concerns files because he was in that line position. And
20 Mr. Lyons would be working for him.

21 CHAIRMAN BLOCH: So your testimony is that he
22 was restricted completely from access to the quality
23 concerns file about his concern?

24 THE WITNESS: He should have been. And, you
25 know, when I found out about it, I told Mr. Lyons to

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1 restrict him from access to his -- you know, his specific
2 concern with the exception that we were trying to answer
3 the concerns. So we were providing him information.

4 FURTHER CROSS-EXAMINATION

5 BY MR. MICHAEL KOHN:

6 Q When you found out about what? You said when
7 you "found out about it, I" instructed "Mr. Lyons to
8 restrict" his access.

9 A I'm not sure how the conversation came up
10 about Mr. Mosbaugh asking for all the information in the
11 FAVA quality concerns file. I mean, I'm not sure if Mr.
12 Lyons brought it up to me or what.

13 Q And is it true that you indicated that the
14 entire contents of the concern package should be limited
15 from Allen Mosbaugh's review and the only documentation
16 would be the material that he actually submitted would be
17 the only thing he would be allowed to review?

18 A Associated with the FAVA concern, in June --
19 associated with the FAVA concern, that is correct.

20 Q And was it your understanding that the reason
21 you were denying me access was because the company was
22 taking the position that the quality concerns file
23 constituted confidential attorney-client communications?

24 A I believe the company and I took the position
25 that if you were making a concern and other people had

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1 opinions about that concern, whether those opinions were
2 good, bad, or indifferent, what the company should do is
3 try to get the relevant facts and provide those
4 information back to the submitter of the concern.

5 The submitter of the concern should not know
6 everybody else's opinion about his concern. I think that
7 wasn't the appropriate way to handle concerns.

8 Q But you restricted the factual information
9 contained in the record, the memoranda and other
10 supporting documentation concerning FAVA?

11 A We restricted information in the concern in
12 general to a person that submitted the concern. We tried
13 to address and answer his concern through the quality
14 concern coordinator and in writing at times. That was our
15 general approach.

16 Q At this point in time did you believe that the
17 sole scope of the concern was a difference in a
18 professional opinion?

19 A I thought the FAVA concern was a technical
20 concern about: Could we or could we not put the FAVA unit
21 in service? Was the FAVA system appropriately built? Was
22 it causing a benefit to health and safety of the public?
23 Was it appropriately in a container that was offered
24 appropriate protection?

25 That's what I thought it was. And I thought

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1 Mr. Mosbaugh had a technical difference of opinion, that
2 the regulation did not allow this. And we had the opinion
3 that the regulation would allow this with appropriate
4 reviews. And we consulted with the NRC.

5 So we put the FAVA back in service. I allowed
6 through that memo on March 15th with certain conditions
7 for the FAVA to be put back in service.

8 Q By June of 1990 were you aware that Mr. Lyons
9 and Mr. Lee Glenn were investigating Mr. Mosbaugh's
10 concerns into air quality and in diesel start count as
11 well as the FAVA issue?

12 A Yes, I believe that is correct.

13 MR. BLAKE: Mr. Kohn, do you plan to pursue
14 this area?

15 MR. MICHAEL KOHN: Yes.

16 MR. BLAKE: Okay. I'm going to object unless
17 the Board will --

18 MR. MICHAEL KOHN: I will not pursue it at
19 this time under the understanding that we may reach some
20 further agreement. And I will go on to another area.

21 MR. BLAKE: No, no. My argument is different
22 from the prior one on how greatly we would be allowed to
23 get into FAVA areas. My area is that this diesel
24 generator count and the corporate concerns involvement
25 with it are not addressed in Mr. Bockhold's testimony.

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1 CHAIRMAN BLOCH: I think I actually did not
2 state part of what the Board decided on this FAVA issue,
3 and that is if there are matters that need to be gone into
4 as a result of new information you've obtained, you could
5 file a motion about that.

6 And, in addition, you can file new
7 contentions, but that will have to be written.

8 MR. MICHAEL KOHN: Thank you.

9 BY MR. MICHAEL KOHN:

10 Q Did you invoke confidentiality on the part of
11 Mr. Mosbaugh with respect to his FAVA allegation?

12 A I asked Mr. Lyons to handle the FAVA in a
13 confidential type manner such that it didn't get blown out
14 of proportion.

15 Q Well, if this is a difference of professional
16 opinion, don't you need open and vigorous debate on this
17 professional opinion? Can you blow a professional opinion
18 out of proportion, sir?

19 A I think some people in the plant might blow a
20 professional opinion out of proportion. I didn't --
21 surely didn't want to. And I really didn't want this
22 concern to help the teamwork that I was trying to foster
23 in the plant. And I think there was a thorough
24 investigation of the concern to get to the professional
25 opinions of the people involved.

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1 Q And the best way -- well, as I also understand
2 it, wasn't there another concern of open communication
3 within the plant?

4 A I'm not sure what you're referring to.

5 Q Well, wasn't there a desire to have free and
6 open communication so you could better communicate?
7 Wouldn't that help the problems you were observing at the
8 plant?

9 A Open and free communication is a requirement
10 for a nuclear plant. I'm very much in favor of that.

11 Q And you exercised the formal requirement of
12 confidentiality with respect to this --

13 A There wasn't a formal requirement for
14 confidentiality.

15 Q Well, Mr. Lyons and the quality concerns
16 program have a provision for confidentiality; correct, a
17 formal --

18 A Yes, has a provision for confidentiality
19 associated with the submitter.

20 Q Formal confidentiality. I mean, there are
21 written guidelines on what confidentiality is and how you
22 should handle it?

23 A There were written guidelines, yes.

24 Q And you exercised Mr. Mosbaugh's right to this
25 confidentiality, didn't you?

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1 A I said I didn't want this to get blown out of
2 proportion. I didn't say that a formal confidentiality --

3 Q You exercised Mr. Mosbaugh's right to
4 confidentiality, didn't you?

5 A No. I mean, this is a plant, a procedure, and
6 a program of the management of the company. And if we
7 feel it's appropriate to handle things in a confidential
8 fashion, we can do that.

9 Q If the --

10 A This is not solely Mr. Mosbaugh's right.

11 Q If the allegor says he doesn't want
12 confidentiality and wants open discussion on this issue,
13 the plant procedures allow for the plant to invoke
14 confidentiality?

15 MR. BLAKE: I'm sorry. Can I have a reference
16 to the allegor saying he wanted open discourse on this and
17 didn't want confidentiality? Was that the topic or was it
18 just that he didn't make the formal request to have
19 confidentiality?

20 BY MR. MICHAEL KOHN:

21 Q Well, you were aware that Mr. --

22 MR. BLAKE: Excuse me. Can I have an answer?
23 Is there a reference to the request for having open
24 discourse about this?

25 MR. MICHAEL KOHN: Yes. I think it's the fact

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1 of the PRB meetings, Mr. Mosbaugh's vigorous voicing of
2 his statements. There was no hiding of the fact as to
3 what Mr. Mosbaugh's concerns were and that he wanted it
4 openly throughout the plant.

5 MR. BLAKE: But there was no specific
6 reference to the quality concerns people, "Wait a minute.
7 Don't make this confidential. I want it open. I want
8 open discourse." Do we have an agreement?

9 MR. MICHAEL KOHN: No.

10 MR. BLAKE: We don't. Okay. Can I have the
11 reference, then, please?

12 MR. MICHAEL KOHN: I don't know if there is a
13 reference. When Mr. Mosbaugh talked to Mr. Lyons, he said
14 he did not want confidentiality.

15 MR. BLAKE: Well, you see, the problem with
16 saying that sort of thing to a witness is unless there's
17 an evidentiary record, I don't think it represents a fair
18 question.

19 CHAIRMAN BLOCH: I'm not sure, counsel, it's
20 relevant at this point. We've handled this issue pretty
21 thoroughly. I'm not sure there are going to be any more
22 questions that are going to be asked on it. Are there?

23 MR. MICHAEL KOHN: There are a few more, Your
24 Honor. Mr. Bockhold --

25 MR. BLAKE: Then I would like a reference,

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1 Judge Bloch.

2 CHAIRMAN BLOCH: Well, let's make sure he
3 doesn't restate the premise if he doesn't have a record
4 base.

5 BY MR. MICHAEL KOHN:

6 Q If you would look at Intervenor's II-231 at
7 Page 6, you state or Mr. Lyons states that you "exercise
8 his right to confidentiality." Do you see that?

9 A That "George's intention was to prevent
10 matters from being blown out of proportion."

11 Q In your mind, cloaking this investigation,
12 quality concern investigation, with confidentiality would
13 somehow stop the matter from being blown out of
14 proportion?

15 A I wanted it to be handled in a very
16 professional fashion with the people involved. And the
17 people involved were clearly the PRB. And they knew about
18 Mr. Mosbaugh's concern.

19 And I didn't want idle speculation in other
20 parts of the plant about this matter. I wanted it handled
21 very professionally and to be addressed in a technical
22 manner and resolved that way. And that's why I asked Mr.
23 Lyons.

24 And that's what the statement was. George's
25 intention was not to prevent matters from being blown out

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1 of proportion. That was my intent.

2 Q You added the word "not," "George's intention
3 was not to prevent." It actually says "George's intention
4 was to prevent matters from being blown out of
5 proportion."

6 A Yes, sir.

7 Q And isn't it the truth that it is the
8 submitter's right to evoke confidentiality?

9 CHAIRMAN BLOCH: There's enough on that.
10 You've asked that several times.

11 BY MR. MICHAEL KOHN:

12 Q Mr. Bockhold, can you tell me whether -- let
13 me refer to you on Page 26, Lines 19 through 20 of your
14 testimony. You state that Mr. Mosbaugh could have
15 directed that the air blow be included in the testing
16 activities.

17 A Yes, sir.

18 Q Mr. Mosbaugh, is it not true, did raise with
19 you and Mr. McCoy the need to conduct an air blow?

20 A In the conversation that was -- Mr. Mosbaugh
21 tape recorded, he raised the issue. Mr. McCoy said we
22 should conduct an air blow. And the tape continues on.
23 And when I listen to the tape, later on there's some words
24 to the effect that with Mr. Mosbaugh present, I tell Mr.
25 Kochery that use his judgment to change --

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1 MR. MICHAEL KOHN: Excuse me. Is there a tape
2 transcript of this that the witness is talking about?

3 MR. BLAKE: I think it's referred to in his
4 testimony at the top of Page 26, where you're questioning.
5 And I believe it to be Bockhold Exhibit Z, although you'd
6 have to confirm that with the witness.

7 THE WITNESS: That is correct. It was that
8 tape. The continuation of that tape -- it wasn't
9 transcribed, but -- indicated that later on in the tape,
10 that I tell Mr. Kochery that he should use his judgment
11 about making modifications to the procedure.

12 MR. MICHAEL KOHN: And your counsel has not
13 provided that portion of the transcript. Is that my
14 understanding?

15 MR. BLAKE: The witness just said it wasn't
16 transcribed, that he listened to more of the tape.

17 CHAIRMAN BLOCH: The witness is permitted to
18 state his memory of the tape itself.

19 THE WITNESS: I listened to more of the tape.
20 And it wasn't transcribed.

21 BY MR. MICHAEL KOHN:

22 Q Tape 34?

23 A That's correct.

24 Q Was air blow mentioned to Mr. Kochery in this
25 tape?

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1 A I assume that Mr. Kochery was sitting there.
2 You know, it was Mr. Mosbaugh's tape. And it continued
3 on. And conversations continued on. And I listened to
4 the conversations. And I assume that Mr. Kochery was
5 there for the whole part.

6 Q When the conversation concerns modifying the
7 schedule, was there any talk about doing an air blow with
8 Mr. Kochery?

9 A Mr. Kochery was preparing diesel procedures
10 that had to be used to complete the schedule. He could
11 have simply added a line or Mr. Mosbaugh could have told
12 him to add the line to include the air blow.

13 I mean, I'm not sure, you know, all of the
14 statements that went on. Let me rephrase that. This was
15 a continuation of the conversation that we had about
16 diesel testing.

17 CHAIRMAN BLOCH: I am concerned about having a
18 clear record about this. And I don't think it really is
19 acceptable to keep having the witness testify about a
20 tape. It seems to me that this particular section should
21 be transcribed so that we have some agreement on what it
22 says. If it's important enough for him to testify about
23 it, it's important enough for us to get it right for the
24 record.

25 So would counsel for Georgia Power agree to

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1 transcribe the portion that the witness is relating to?

2 MR. BLAKE: Yes. We'll have to talk with Mr.
3 Bockhold and determine from him what the portion is and
4 subsequently put it in. But I, frankly, don't understand
5 why Mr. Bockhold can't testify about what it is he heard
6 on the tape.

7 CHAIRMAN BLOCH: My concern is it's not best
8 evidence. The best evidence is the tape itself and the
9 transcript of the tape.

10 MR. BLAKE: And we certainly all have access
11 to the tapes.

12 CHAIRMAN BLOCH: Well, I don't. It's not in
13 the record. That tape isn't in the record.

14 MR. BLAKE: We can do that, Judge Bloch.

15 CHAIRMAN BLOCH: Well, if you do do that, we
16 need to know something about the metering of the tape so
17 we can get to the section. I think it also -- I don't
18 know how many copies of the tape we need either.

19 MR. BLAKE: But that, I take it, is an
20 available alternative?

21 CHAIRMAN BLOCH: That's an alternative if
22 you'd like.

23 MR. BLAKE: The reason that I suggest it is
24 because we've had enormous problems trying to agree on
25 what the transcripts say. And I don't know how long it

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1 would take us to transcribe it.

2 CHAIRMAN BLOCH: You don't have to agree to
3 it. You could file your version. And then the other
4 parties if they want to can file their versions.

5 MR. BLAKE: Trying to get to the goal line.
6 That's all.

7 MS. YOUNG: And, to clarify, we're still
8 talking about Tape 34 or another tape?

9 MR. BLAKE: Apparently Tape 34. I don't know.

10 THE WITNESS: Yes. Tape 34 is -- at least the
11 tape version that I listened to said 34 on it. I don't
12 know how many times it's been rerecorded.

13 BY MR. MICHAEL KOHN:

14 Q The activities concerning the diesel
15 generator, such as air blowdown, wouldn't they be under
16 the direction of the critique team who reported to you?

17 A The engineering group, Mr. Kochery reported to
18 Mr. Horton, who reported to Mr. Mosbaugh, who reported to
19 me. That was the line function. The critique team was
20 also reported to me in a fashion to carry out their
21 responsibilities in accordance with the procedure of the
22 critique team.

23 Q And Mr. Kochery was on the critique team?

24 A I believe he was, yes.

25 Q And the critique team was controlling the

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1 testing of the diesel and reporting to you?

2 A Engineering expertise was controlling the
3 testing of the diesel. Yes, Mr. Kochery reported to me in
4 two different fashions.

5 Q On Page 27 of your testimony, you mentioned
6 contacting Gloria Walker. She's your secretary; correct?

7 A That is correct. She was my secretary.

8 Q Right. And did she maintain master files for
9 you?

10 A Gloria Walker maintained certain files for me,
11 not master files, no.

12 Q Well, did she maintain the file for the April
13 9th presentation?

14 A She had maintained a file for April 9th
15 presentation. And when I looked at it, it was what I
16 remembered.

17 Q A file? You are aware that there was more
18 than one file?

19 A No, I'm not aware that there are any more
20 files.

21 Q You are aware that Ms. Walker was not involved
22 with preparing the materials for the presentation after
23 Friday, April 6th?

24 A I don't remember if it was Gloria Walker or
25 Esther Dixon who did the typing, but usually those two

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1 would share weekend work if it came up. But I'm not sure
2 which one was specifically involved.

3 Q Okay.

4 CHAIRMAN BLOCH: The question wasn't about the
5 typing. It was about the filing, I think. Is that right,
6 Mr. Kohn?

7 MR. MICHAEL KOHN: Yes, Your Honor.

8 THE WITNESS: The file was called Gloria
9 Walker's file because she was the secretary to the general
10 manager. Gloria Walker and Esther Dixon worked together
11 and upon that particular time.

12 I'm not sure who typed what, but -- so I'm not
13 sure of the question, I guess, is my -- I'm not sure of
14 the question right now. What's your question, sir?

15 BY MR. MICHAEL KOHN:

16 Q You went to Gloria Walker to obtain a file.
17 Is this the file that consisted of the actual presentation
18 with --

19 CHAIRMAN BLOCH: Mr. Kohn, when? When did he
20 go to get it?

21 MR. MICHAEL KOHN: Well, that's a good start.

22 BY MR. MICHAEL KOHN:

23 Q When did you go?

24 A I reviewed a copy of the file cabinet that --
25 information that Gloria Walker had in our attorney's

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1 offices in Atlanta recently.

2 Q In Atlanta recently?

3 A Uh-huh.

4 Q Can you give me what "recently" means?

5 A Three weeks, four weeks ago, five weeks ago.

6 Well, it was before the submittal of the testimony.

7 Q That's what your testimony is based on, some
8 file that ended up in Atlanta?

9 A My testimony is based upon two things: my
10 recollection of the only transparencies that I knew that I
11 presented to the NRC on the April 9th meeting. Also when
12 I looked at the file, they were the same transparencies
13 that I remembered presenting to the NRC.

14 Q It's a file in Atlanta you're referring to?

15 A Yes.

16 Q Did you look at other files to determine what
17 transparencies you did not present?

18 A I didn't have --

19 MR. BLAKE: Can we have the question again?

20 BY MR. MICHAEL KOHN:

21 Q Did you look at other files to determine
22 whether there were materials that you did not present to
23 NRC at the April 9th presentation but had been prepared?

24 A To my knowledge, the transparencies that were
25 presented on April 9th were the only transparencies

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1 available. Further, I looked at Gloria Walker's file.
2 And those were the only transparencies that were in that
3 particular file.

4 I have no knowledge of other files kept by
5 other people that relate to your question, sir.

6 MR. MICHAEL KOHN: Your Honor, if intervenor
7 counsel could have a 10-minute recess to determine what
8 other portions are appropriate now before we have our
9 discussion with Mr. Blake?

10 CHAIRMAN BLOCH: So you want to break until?

11 MR. MICHAEL KOHN: Your Honor, I have the
12 other sections that I think are relevant, but to get them
13 in order and in a presentation, I'm now going to have to
14 restructure my documentation.

15 CHAIRMAN BLOCH: Break until 1:00 o'clock?
16 Would that be satisfactory, starting now?

17 MR. MICHAEL KOHN: Yes, Your Honor.

18 CHAIRMAN BLOCH: We'll take our lunch break a
19 little early. And we'll proceed at 1:00 o'clock.

20 Mr. Blake, do you have a comment?

21 MR. BLAKE: I was just going to try to get an
22 estimate of how much is left.

23 ADMINISTRATIVE JUDGE CARPENTER: I think that
24 depends on how he views it after he reorganizes it.

25 CHAIRMAN BLOCH: Can you estimate?

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1 MR. MICHAEL KOHN: Yes. There are two
2 additional issues that I would expect to take no more than
3 an hour.

4 CHAIRMAN BLOCH: 1:00 o'clock.

5 (Whereupon, a luncheon recess was taken at
6 11:35 a.m.)
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1 A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

2 (1:05 p.m.)

3 CHAIRMAN BLOCH: Back in session. Mr. Kohn,
4 you have a stipulation to read that will be considered by
5 licensee. They expect to agree, but they'll let you know
6 next Tuesday.

7 MR. MICHAEL KOHN: The stipulation would be as
8 follows: Prior to the first start logged in a diesel
9 generator start log, there are 35 consecutive successful
10 valid tests of each diesel generator. The first start
11 following these 35 consecutive successful valid tests is
12 logged as start number one, and all other start attempts
13 of the diesel generator are sequentially numbered and
14 logged in the diesel generator start log thereafter.

15 MR. BLAKE: And as he indicated, I think it's
16 fine, Judge Bloch, but I just need to have an expert look
17 at it and say yes, that's a reasonable -- the other part
18 of our deal was what the purpose of this was, why they
19 needed this stipulation, and he was going to put that on
20 the record as well.

21 CHAIRMAN BLOCH: Do you want that on the
22 record now?

23 MR. BLAKE: Yes.

24 MR. MICHAEL KOHN: The purpose is to establish
25 the total number of starts identified in the start log as

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1 of the time of the various events that have occurred, the
2 site area emergency, as of the time of the -- so when we
3 look at a specific start number, we will know that it --
4 what had occurred before.

5 MR. BLAKE: I can make some reports also of
6 the lunch hour. One is that Mr. Bockhold had an
7 opportunity to listen to tape 34 and can point out the
8 portion of the tape that he thinks he remembers as
9 evidencing whatever it evidences. And we can do that I
10 think during the Staff's cross, because they have an
11 expanded version of tape 34, and it actually spans this
12 area. So we don't have to go off and do some additional
13 transcript.

14 CHAIRMAN BLOCH: You mean enhanced?

15 MR. BLAKE: No, I meant what I said, expanded.
16 We have a portion of tape 34, I guess, in transcript form
17 in through an Intervenor exhibit, and the Staff has
18 somewhat more, and it happens to span this portion of it.

19 CHAIRMAN BLOCH: The transcript? Okay, I
20 thought you were expanding the tape in some way, and I --

21 MR. BLAKE: I hope not. And finally, let me
22 say that we tried with the Intervenor to reach an
23 agreement on deleting things and solving the problem that
24 way. We weren't able to get there, but I've made another
25 proposal which I believe to be acceptable to them.

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1 My willingness to make this proposal and to go
2 along was actually substantially enhanced by your later
3 clarification or additional to your ruling, which I hadn't
4 understood before. I do now. And I appreciate the fact
5 that the Board is trying to find a way of accomplishing
6 this in real time and completing it.

7 My proposal was that we just go forward. Take
8 the additional hour of cross examination, cover the areas
9 that the Board believes should be properly in the scope.
10 Let's see if we can't get it out of the way this
11 afternoon, and I'll just leave it to the Board's ruling of
12 what -- they having the best understanding of what their
13 ruling is, what's in and what's out, and I'll basically
14 probably stay out of it entirely.

15 And I think we'll probably make that this
16 afternoon, and therefore complete, subject to whatever
17 additional motions Mr. Kohn has, if he thinks he needs
18 something more later on. And there's one other thing I
19 said to Mr. Kohn, and that is with regard to the exhibits
20 which he has talked about today and are important to
21 making his position. I don't have a problem with using
22 those exhibits within the scope that the Board has said.

23 We can all argue from them, and he doesn't
24 even need to question Mr. Bockhold about them if he
25 doesn't want to in order to save time. From my standpoint

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1 at least, I'm prepared to argue from those what it is they
2 mean and he can argue from them what he gets out of them,
3 and you'll see it all in our findings.

4 So, that was the sense of what I said to him.

5 MR. MICHAEL KOHN: And I appreciated Mr.
6 Blake's comments and advised him that we would truncate
7 the questioning of Mr. Bockhold, that we would move in
8 those exhibits. And I think the most expeditious way
9 would be for Intervenor to prepare a typed list
10 identifying them in which we can then just submit in on
11 Tuesday.

12 MR. BLAKE: Let's try to do it today. Just
13 tell us what the -- we know what those -- it's only three
14 or four of them.

15 CHAIRMAN BLOCH: Let's do it after -- we may
16 be able to get Mr. Bockhold finished, and then we can do
17 it then. I would like to urge the parties not to let the
18 Board be the only agency making callings. It's too easy
19 in a hearing like this for the mind to be numbed. And if
20 we work as a team, I think it's easier to keep to an
21 announced relevancy standard. It isn't easy for the Board
22 to both make and rule on relevance questions. And that
23 may be one of the reasons that we've expanded some of the
24 issues in the case.

25 The parties can be aware of what's relevant

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1 too. And I understand why the parties would refrain from
2 objecting, because often it just results in an argument
3 that doesn't get us anywhere anyway. But if the Board can
4 have the assistance of the parties in keeping us to the
5 track we've announced, we would appreciate that. Mr.
6 Kohn?

7 CROSS EXAMINATION

8 BY MR. MICHAEL KOHN:

9 Q Mr. Bockhold, Mr. Blake indicated that you had
10 looked at a tape transcript or listened to the tape?

11 A I relistened to tape 34.

12 Q Have you also looked at a tape transcript and
13 identified the portions you were referring to before the
14 break?

15 A Yes.

16 Q Can you --

17 A I don't have a copy of that.

18 Q Would that be NRC Staff Exhibit -- an NRC
19 Staff version of tape 34?

20 MR. BLAKE: Yes, I believe so. Did you just
21 get handed it today?

22 MR. MICHAEL KOHN: Yes.

23 MR. BLAKE: Yes, so did we. And that's what -
24 - we're talking about the same thing.

25 CHAIRMAN BLOCH: Let's make sure the witness

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1 agrees that that's what he saw.

2 THE WITNESS: I need to -- I don't have a copy
3 of it here.

4 CHAIRMAN BLOCH: The witness has now been
5 handed a copy by Mr. Kohn.

6 MR. MICHAEL KOHN: I'm sorry, did you direct
7 the question to me?

8 CHAIRMAN BLOCH: No, I made a statement about
9 how the document has gotten into Mr. Bockhold's
10 possession.

11 THE WITNESS: Yes, this transcript that I have
12 here of tape 34 is the -- contains the section that I was
13 referring to.

14 CHAIRMAN BLOCH: Now how are we going to get
15 the section into evidence and marked?

16 MS. YOUNG: Judge Bloch?

17 CHAIRMAN BLOCH: Yes, Ms. Young?

18 MS. YOUNG: This is one of the tapes that was
19 being discussed today between counsel for GPC and the
20 Staff. It was prepared by the Staff earlier this week,
21 and we were trying to find out if there were any
22 differences before we proffered it in the proceeding. I'm
23 not sure how Mr. Bockhold got it, but perhaps someone
24 directed his attention that the conversation that he was
25 referring to was contained in it.

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1 My understanding is the Staff was going to try
2 to revise this document to make it clear what other
3 exhibits it was derived from, because apparently there is
4 an Intervenor Exhibit 110A I believe that also captures
5 portions of this tape. So we hadn't finished that
6 process, but we'd be happy to mark this. It just may be
7 duplicated at some later point.

8 CHAIRMAN BLOCH: It's possible that the way to
9 handle it is just have the witness read the relevant
10 portion and state that he agrees with it.

11 MR. BLAKE: Why don't we just do that in order
12 to avoid complicating it? That will take care of any --
13 and you can question him about it.

14 CHAIRMAN BLOCH: Mr. Bockhold, if you would
15 just read the relevant portion of the transcript that
16 deals with the subject you raised this morning.

17 THE WITNESS: Okay, it starts really -- I'll
18 start one paragraph before the most relevant portion to
19 give a little bit more context.

20 Bockhold: And just you and I talk about
21 organization now. The diesel people needed to go to work
22 on the diesel procedures that we have going on. I need to
23 read that. After I read it, I will reconcur. I will go
24 back with you guys. Okay, have I got any -- have I got
25 any questions?

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1 (Voice Inaudible)

2 Kochery: We have no plan to put (inaudible)
3 meter on jacket water stand pipe.

4 Bockhold: He asked you to consider it.

5 (Voice Inaudible)

6 Bockhold: Just consider it, and if you think
7 it is not appropriate, we will say it is not appropriate.
8 But prepare the procedure the way you are going, and we
9 can add that. We can add -- we can hang a piece up and
10 (what I heard on tape was M&TE) (inaudible).

11 BY MR. MICHAEL KOHN:

12 Q Doesn't that portion of the transcript have to
13 do with whether the electric heater turns off or on?

14 A Yes, it has to do with an electric heater and
15 the whole test procedure.

16 Q And it has to do about the test to determine
17 about the slug of water theory?

18 A Yes, it has to do with the test associated
19 with slug of water theory.

20 Q And it has nothing to do with air blow?

21 A It shows that the engineers were considering
22 other things and other test sequences and could have
23 readily added air blow. The conversation continues on for
24 a significant period of time after that. It could have
25 added air blow to the test procedure if they had wanted

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1 to.

2 In fact, I thought McCoy had given us clear
3 direction. And with Mr. Mosbaugh in the room and Mr.
4 Kochery in the room, quite frankly I thought they would
5 just simply add air blow to the procedure.

6 Q Now adding air blow to the procedure would
7 require declaring the diesel generators inoperable,
8 wouldn't it?

9 A At various points when you do tests, the
10 diesel generator would be declared inoperable anyhow. It
11 may not be capable of intending its intended function
12 depending upon what the test is.

13 Q You would have to disassemble a lot of
14 pneumatic lines, correct?

15 A No, not a lot of pneumatic lines.

16 Q Declaring the diesel inoperable has a direct
17 effect on the critical path schedule, does it not?

18 A Not necessarily, no.

19 Q You would have to ascertain whether it would
20 or wouldn't, correct?

21 A No.

22 Q You can -- you think the way the testing
23 sequence was done and your critical path schedule was
24 developed you could have declared both diesel generators
25 inoperable at any time?

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1 A No.

2 Q So would the declaring of the diesel
3 generators inoperable in order to --

4 CHAIRMAN BLOCH: Counsel, watch your singulars
5 and plurals.

6 MR. MICHAEL KOHN: Yeah, I realize that, Your
7 Honor. Previously in this portion of the transcript, you
8 indicated that you and Mr. McCoy would have to talk about
9 that -- about the air blow, didn't you?

10 THE WITNESS: No.

11 MR. MICHAEL KOHN: Would you look at page
12 three of the NRC Staff version of tape 34?

13 THE WITNESS: You have to give it to me. I
14 don't have it.

15 CHAIRMAN BLOCH: If you're going to keep
16 referring to it, we're going to have to mark it. And that
17 means having copies for the parties. Do you want a
18 copying break?

19 MR. MICHAEL KOHN: I'd like to ask NRC Staff
20 was -- this is their document, and whether they want it
21 marked as one of their documents or not.

22 MS. YOUNG: We tried to explain before it's
23 not ready. It was still being considered. But if you
24 need to use the document, we have no objection to marking
25 it. We even have extra copies of the version as it

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1 currently exists. But it has not been --

2 CHAIRMAN BLOCH: Do you prefer it be an
3 Intervenor exhibit at this point?

4 MS. YOUNG: Why not?

5 CHAIRMAN BLOCH: So could we have the copies
6 so it could become an Intervenor exhibit?

7 THE WITNESS: Your Honor, I believe that there
8 is a few words missing. I don't know if they become
9 critical or not, depending upon the question.

10 CHAIRMAN BLOCH: You may comment on them if
11 you -- when there comes a chance, yeah.

12 THE WITNESS: Well, I listened to the tape,
13 but I listened to it about 20 minutes worth.

14 CHAIRMAN BLOCH: The parties are going to go
15 through a process of commenting on it, and then the Staff
16 will have a revised version I'm sure.

17 THE WITNESS: Yes, sir.

18 MR. MICHAEL KOHN: Your Honor, we can proceed
19 by using Intervenor's Exhibit 110A rather than mark this
20 at this time.

21 CHAIRMAN BLOCH: What does that mean, rather
22 than mark this at this time?

23 MR. MICHAEL KOHN: Intervenor's 110A is a --

24 CHAIRMAN BLOCH: Oh, all right. Okay.

25 BY MR. MICHAEL KOHN:

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1 Q Mr. Bockhold, do you have Exhibit 110A in
2 front of you?

3 A I have Exhibit 110A.

4 Q And if you would turn to page two, and the
5 relevant sections I would ask you to look at would be
6 lines --

7 A I'm sorry, I've only got one page on page
8 110A.

9 ADMINISTRATIVE JUDGE MURPHY: Mr. Kohn, my
10 110A has one page.

11 CHAIRMAN BLOCH: That's all it is.

12 ADMINISTRATIVE JUDGE MURPHY: Half a
13 paragraph.

14 CHAIRMAN BLOCH: Is that the page you want,
15 Mr. Kohn?

16 MR. MICHAEL KOHN: I believe there is a joint
17 exhibit along with it. We can just --

18 CHAIRMAN BLOCH: My 110A is also one page.
19 Let's go off the record.

20 (Whereupon, the proceedings went off the
21 record from 1:22 p.m. until 1:30 p.m.)

22 CROSS EXAMINATION (continued)

23 BY MR. MICHAEL KOHN:

24 Q Mr. Bockhold. I believe you should have in
25 front of you a document identified as Intervenor Exhibit

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1 110A, which is a joint exhibit agreed to by the parties.
2 It should be three pages in length, is that correct?

3 A I do.

4 Q And further identification, it is tape 34
5 dated 4/4/90. TR7-8 appears at the top.

6 A That's what appears on the top of the copy you
7 gave me.

8 Q Now, I call your attention to page two
9 starting with line 16, Mr. Mosbaugh suggests an air blow.
10 And Mr. McCoy indicates he thinks it's a reasonable thing
11 to do at some point. You respond on line 21 and you say,
12 "Let's you and I talk first." Does that refresh your
13 recollection that you wanted to discuss the air blow with
14 Mr. McCoy before any action occurred?

15 A It refreshes my recollection, and I wanted to
16 talk to Mr. McCoy about the organization so we could keep
17 the testing moving along and it has nothing directly to do
18 with the air blow.

19 BOARD EXAMINATION

20 CHAIRMAN BLOCH: So Bockhold, you think that
21 at that point you changed the subject to something else?
22 You weren't talking about air blow anymore?

23 THE WITNESS: That's correct. I was trying to
24 talk about organization with Mr. McCoy. The conversation
25 continued on a significant period of time after that

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1 talking about details of tests and that kind of stuff. We
2 didn't talk about organization for a while.

3 CROSS EXAMINATION (continued)

4 BY MR. MICHAEL KOHN:

5 Q Starting on page 20 of your prefiled
6 testimony, you talk about SSPI. I believe you testify
7 that two months data would not have been meaningful on
8 lines five and six.

9 A Yes, in context I testified to that, yes.

10 Q Did you investigate what the diesel problems
11 were that made those two months of data so bad?

12 A I've looked at some information currently
13 about the diesel problem that made the Unit 2 number bad,
14 yes. And you say bad -- really, that is not the correct
15 way to characterize it. SSPI is basically if your diesel
16 is running good -- running on a monthly basis, okay, and
17 tech spec requires the diesel to be tested once a month if
18 it's been running good and hasn't had any problems.

19 And if it's running good and you do have a
20 problem because of the way SSPI is calculated, you
21 basically end up taking with a two week or half a month
22 unavailability because you assume that half the time it
23 was unavailable because of the problem, and the other half
24 of the time it was available, such that in a month that
25 you had a problem with the diesel, its SSPI will be like a

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1 half, .5.

2 So it will be a very poor number in comparison
3 to averages that are a lot lower than that.

4 Q It was my understanding that the engineers
5 associated with preparing the SSPI data felt that that two
6 month data was really, really shitty. Do you recall that?

7 A You've told me about that in the past. You've
8 asked me that question before. I don't remember if they
9 used those words.

10 BOARD EXAMINATION

11 CHAIRMAN BLOCH: Could you tell me -- you just
12 told me the quantification of what two weeks out does to a
13 one month SSPI. What does two weeks out do to a one year
14 SSPI? If the two weeks had been in the prior year, how
15 would that have changed things in the data, do you
16 remember?

17 THE WITNESS: I don't have the calculation,
18 but if you had -- I believe without doing the
19 calculation, my reaction is that if you had only one such
20 failure where you -- and it depends upon the test
21 interval. If you test it today and you test it again
22 tomorrow -- okay, if you're testing it rapidly, your SSPI
23 poor number is not getting worse because you have more
24 failures. It's because it's the length of time that's
25 important.

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1 It's the total time that the machine is out.
2 So you know, you take a half and the rest of the year --
3 it would be two weeks divided by 365 days. So it would be
4 say 14 days over 365. I think that number would probably
5 be a respective type number -- a typical type number that
6 nuclear diesels would have.

7 CHAIRMAN BLOCH: So a way to handle what you
8 saw as a problem would have been to have a 12 month
9 average ending at the end of March 1990?

10 THE WITNESS: We could have produced a rolling
11 average, but then the problem with that would have been
12 that you had no industry data to compare that rolling
13 average to.

14 CHAIRMAN BLOCH: Is it very different from
15 year to year? Why couldn't you just think of comparing
16 that to the prior year?

17 THE WITNESS: Well, what we did when we
18 provided the information to the NRC is we provided Unit 1
19 numbers for '87, '88 and '89. And '87 and '88, the
20 numbers were a little bit worse than the industry
21 averages; and '89, the numbers were much better. We had a
22 good run in '89. And so, what our opinion was that our
23 engines were fairly reliable like most nuclear diesels.

24 CHAIRMAN BLOCH: Don't you agree that more
25 complete information would have somehow footnoted or

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1 explained something about the recent experience that you
2 had that wasn't in the data?

3 THE WITNESS: It might have, but we had
4 provided -- at the same time, we provided the specific
5 sensor failures that we had been experiencing, and we were
6 getting more information. But this document which is
7 Intervenor 143 -- no, it's IIT document 143, Intervenor
8 II-89, we provide the specific sensor failure problems,
9 and that's where our focus was associated with what was
10 wrong with the 1A diesel and all the testing that we had
11 done to try to bring it back to operable state.

12 CHAIRMAN BLOCH: Just looking at the SSPI --
13 present any SSPI data without something on it in the way
14 of a footnote, something like presenting a financial
15 report without a footnote about some potential liability?

16 THE WITNESS: Well, it could be, but you
17 assume that the experts that were working with it, if they
18 had questions about it, would have asked. And you -- in
19 this document, we were providing both SSPI and sensor
20 problems and a long list of sensor problems. And the
21 people that we were communicating with were the NRC
22 experts that were right there.

23 So we believe we were providing them the
24 information that was relevant at that particular time.

25 CHAIRMAN BLOCH: How do you take the sensor

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1 problem and convert them into the SSPI format?

2 THE WITNESS: Well, there's no direct
3 mathematical correlation. The fact -- your correlation is
4 simply that gee, you're focusing on what you believe your
5 problems is -- sensors during overhaul and coming out of
6 overhaul, we believe that's what our problems were.

7 And we were trying to provide the NRC relevant
8 information about that particular problem and just
9 providing information about during the overhaul period
10 during when we were out of overhaul was that the engines
11 were similar to other nuclear engines.

12 CROSS EXAMINATION

13 BY MR. MICHAEL KOHN:

14 Q You indicate that experts would be looking at
15 it. You're referring to NRC experts?

16 A Yes.

17 Q Right. And they would be able to understand
18 what the two month number meant, wouldn't they? You
19 could have just put the 1990 two months in. They would be
20 able to determine for themselves what that meant.

21 A We could have listed every month now from '87
22 through 1990, yes. We could have listed all that month by
23 month, and they would have seen some months where it was
24 like a half and other months where it was zero; yes, sir.

25 Q You could have listed the two months average

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1 for 1990, correct?

2 A We didn't. We could have. We could have
3 listed a lot of things on this piece of paper; yes, sir.

4 Q Okay. And is it -- you think that had high
5 numbers for 1990 been presented that some expert might
6 look at that two months of data and saw two weak air rolls
7 and a trip caused by a Calcon sensor, and that may have
8 raised a red flag or had perked the NRC's interest in what
9 was happening with the diesel generator associated with
10 those incidents?

11 A You're asking me to draw a conclusion of what
12 the NRC --

13 Q Do you think --

14 CHAIRMAN BLOCH: Mr. Kohn, are you sure that's
15 not an argument instead of a question?

16 MR. MICHAEL KOHN: We can take it as argument,
17 Your Honor.

18 BOARD EXAMINATION

19 ADMINISTRATIVE JUDGE CARPENTER: Mr. Kohn,
20 before you leave this area -- Mr. Bockhold, I keep being
21 curious. You frequently make mention of the fact that if
22 you managed to get some of these Calcon sensors in place
23 on the diesel that then month after month during the
24 normal surveillances they seem to perform fine.

25 THE WITNESS: Yes, sir.

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1 ADMINISTRATIVE JUDGE CARPENTER: But then in
2 an outage, they got sick. Did you ever ask yourself the
3 question what made them sick?

4 THE WITNESS: Attributed it to a couple of
5 things. One, in between outages, you don't handle them --
6 you don't test their set point. And during outages, you
7 handle them -- you check their set point. You
8 purposefully see if you can replace them with better
9 sensors to make sure the diesel runs until the next
10 outage.

11 ADMINISTRATIVE JUDGE CARPENTER: Well, my
12 question --

13 THE WITNESS: And a lot of these sensors, sir,
14 are not inservice for an emergency on the diesel. Many of
15 the sensors that during an outage you have trouble with --

16 CHAIRMAN BLOCH: This isn't responsive, is it?
17 A lot of the sensors -- I mean, what does it have to do
18 with the question?

19 THE WITNESS: I thought it did.

20 CHAIRMAN BLOCH: Does it have something to do
21 with the reason that there are more failures during the
22 outage? If it does, --

23 THE WITNESS: Well, he asked why and what did
24 I think to myself, is I thought --

25 ADMINISTRATIVE JUDGE CARPENTER: But more

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1 specifically, did you think it was worth assigning to
2 someone to find out what was the cause?

3 THE WITNESS: Yes, sir. And that's what we
4 did with Mr. Ward.

5 ADMINISTRATIVE JUDGE CARPENTER: I mean before
6 this. You didn't suddenly become aware of this in March
7 of 1990, did you?

8 THE WITNESS: I became very much aware of it -
9 -

10 ADMINISTRATIVE JUDGE CARPENTER: Yes?

11 THE WITNESS: -- I think. You know, before
12 that, I had knowledge that we had some problems, but
13 nowhere near the knowledge of the type -- scope of
14 problems that we had previously. And I also had knowledge
15 that it seemed like our diesels were very reliable. At
16 least I hadn't heard about any problems with them between
17 outages.

18 ADMINISTRATIVE JUDGE CARPENTER: Well, I agree
19 that hindsight's 20/20, but I just was curious because
20 there were a lot of failed sensors as Appendix I of NUFEG
21 1410 shows, and that's only data out of Vogtle files.

22 THE WITNESS: Yes, sir, there were a lot of
23 failed sensors.

24 ADMINISTRATIVE JUDGE CARPENTER: And somewhere
25 down in the plant, they never got to your eyes, as far as

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1 I can tell.

2 THE WITNESS: That's correct.

3 ADMINISTRATIVE JUDGE CARPENTER: But you had
4 no hint of this in late '89 or the middle of '89?

5 THE WITNESS: No, sir.

6 ADMINISTRATIVE JUDGE CARPENTER: Thank you.

7 CHAIRMAN BLOCH: Mr. Bockhold, is it fair to
8 say that with respect to the sensors the company was quite
9 good at replacing defective sensors, but they really
10 didn't do much about finding out how they had become
11 defective before the site area emergency?

12 THE WITNESS: I think that's fair to say, sir.

13 CROSS EXAMINATION

14 BY MR. MICHAEL KOHN:

15 Q Mr. Bockhold, you have testimony concerning
16 team work at Plant Vogtle, and it's my understanding --
17 would you agree that the problems with team work and
18 communication was part of the reason NRC ended up with the
19 perception that the plant was being operated in a cowboy
20 cavalier manner?

21 A Yes, I believe that's correct.

22 Q And to address that problem, as I understand
23 it, there was a big meeting held at the plant so plant
24 personnel could attend and be -- and a discussion could
25 occur on how to improve internal communications as a

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1 method of responding to this cowboy cavalier perception?

2 A Yes, there was a meeting. It included a
3 number of subjects to address the problem and to try to
4 change the perception of Plant Vogtle and -- for the NRC.

5 Q And do you recall following that meeting
6 within the same day or a day or so Mr. Mosbaugh coming to
7 you telling you that engineers in his department had a --
8 were responding to that meeting, and that they had told
9 him about events in operations that they wanted to make
10 sure upper management was aware of so you would have this
11 better communication?

12 A I don't recall that specifically. I don't
13 remember that conversation.

14 MR. BLAKE: Nor do I, but can I have a cite to
15 the --

16 MR. MICHAEL KOHN: Yeah, I'm going to mark as
17 Intervenor's Number 246 -- excuse me.

18 CHAIRMAN BLOCH: No, no, you distribute it
19 first.

20 MR. MICHAEL KOHN: Your Honor, I request to
21 mark as Intervenor's II-246 a four page document headed --
22 beginning tape number 101, side A, with a handwritten date
23 of 5/8/90 at the top.

24 CHAIRMAN BLOCH: Granted.

25 (Whereupon, the above-referenced

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1 document was marked as Intervenor's
2 Exhibit II-246 for identification.)

3 MR. MICHAEL KOHN: Mr. Bockhold, would you
4 take a moment to review this transcript please?

5 CHAIRMAN BLOCH: Is the date at the top the
6 date of the conversation?

7 MR. MICHAEL KOHN: Yes, Your Honor.

8 THE WITNESS: I have read the document you've
9 given me.

10 MR. MICHAEL KOHN: Mr. Bockhold, do you see
11 your response -- well, first, Mr. Mosbaugh on lines five
12 and six according to this transcript indicates --

13 MR. BLAKE: Which page?

14 MR. MICHAEL KOHN: The first page -- that
15 "coming out of the meeting downstairs, one of our
16 engineers came up to me and he wanted to make sure that
17 you knew about certain events that had happened." And
18 when Mr. Mosbaugh tells you that the diesel was mistakenly
19 started and that it had -- your response was, "Is there
20 something besides I'm screwing up with starting the wrong
21 diesel," on lines 15 and 16.

22 Do you believe your response to Mr. Mosbaugh's
23 bringing up something engineering wanted to make sure that
24 upper management became aware of for this free flow of
25 information was the correct response you should have had

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1 to that comment?

2 THE WITNESS: The way I'm talking there is
3 sometimes you put a voice on like you're the operator,
4 okay.

5 BY MR. MICHAEL KOHN:

6 Q Excuse me, I don't --

7 A You know, --

8 Q Excuse me, I don't know what you mean putting
9 on a voice like you're the operator.

10 A Sometimes when you respond to a question, you
11 say okay, put yourself in the position of being the
12 operator. You find this information out. I'm the
13 operator, say, on shift or something like that. Is there
14 something besides I'm screwing up and starting the wrong
15 diesel? The question -- it's really a question back to
16 Mr. Mosbaugh what is the issue. Is it the issue of the
17 fact that they started the wrong diesel, or is there some
18 other more detailed issue there?

19 Q Well, isn't the issue to determine -- well,
20 let me back up. This is in response to the meeting that
21 happened, and factual information that engineering wanted
22 to make you aware of was raised. Now, you also said that
23 your goal was to improve team work. This would be an
24 operations problem being identified by engineering,
25 correct?

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1 A It could be an engineering problem identified
2 by engineering too. The engineers could have said to
3 start a certain diesel and may have made a mistake in
4 communication. I don't know whose problem it was.

5 CHAIRMAN BLOCH: Mr. Kohn, the witness said
6 that he was trying to elicit more information about this
7 complaint when he said what the transcript says he said.
8 Now do you have something to follow up on that response?

9 MR. BLAKE: There's a difficulty too with just
10 how much we can get out of this. I don't know that this
11 witness has ever seen this transcript before, I believe;
12 and I think Mr. Kohn could confirm that it's one of the OI
13 exhibits.

14 But it's also been some additions made to it I
15 think since it was an OI exhibit. And this is why you've
16 indicated to us before if you're going to use a
17 transcript, get it around, let the people look at it, give
18 them some notice.

19 CHAIRMAN BLOCH: We'll keep in mind that --
20 have you seen this transcript before, Mr. Bockhold?

21 THE WITNESS: I don't remember it. I've read
22 the whole thing.

23 MS. YOUNG: Judge Bloch, this is not a tape
24 that's cited as an exhibit in the OI report. It is an NRC
25 transcription with, I believe, corrections by Mr.

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1 Mosbaugh. But it's not a tape that was put as an exhibit
2 to the report.

3 CHAIRMAN BLOCH: If at any time you don't
4 think that you can understand the context or you're not
5 sure what it means, just say so.

6 THE WITNESS: Yes, sir.

7 MR. BLAKE: If we have some notice, then we
8 can place it in the spot -- I don't know whether it was
9 before or after a meeting; I don't know what was happening
10 just before this, the time, or after; or -- nor do I know
11 about its accuracy or the words in here which are being
12 used.

13 MR. MICHAEL KOHN: Your exhibit of -- in Mr.
14 Hairston's testimony is tape number 99, and this is tape
15 number 101.

16 MR. BLAKE: Yeah, but Mr. Mosbaugh has also
17 said they weren't even -- their numbers aren't even
18 sequential.

19 MR. MICHAEL KOHN: No.

20 MR. BLAKE: Has not? The numbers were --

21 CHAIRMAN BLOCH: Let's proceed with the
22 questioning of the witness.

23 MS. YOUNG: Judge Bloch, if there is a
24 question about the date of the tape, the Staff can confirm
25 that the 5/8 date is correct.

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1 CHAIRMAN BLOCH: So the date is maybe 5/8 and
2 maybe not?

3 MS. YOUNG: Can confirm.

4 CHAIRMAN BLOCH: Mr. Kohn, do you have further
5 questions that are within the scope of what this witness
6 can address?

7 MR. MICHAEL KOHN: Yes, Your Honor.

8 BY MR. MICHAEL KOHN:

9 Q On page two of the transcript, doesn't Mr.
10 Mosbaugh tell you the significance that there may have
11 been a violation of the quarantine of the diesel that the
12 NRC wasn't aware of?

13 A To my knowledge, the NRC quarantined the parts
14 that were taken off the diesel and not the diesel itself.

15 Q You're not aware of the NRC quarantining the
16 diesels and diesel activities?

17 A The quarantine restrictions went through
18 various phases of restrictions, but the overwhelming
19 quarantine was on if we removed the part, it went into
20 quarantine. As we designed tests, we reviewed those tests
21 with the NRC on a real time basis.

22 Q And wouldn't it then matter when this
23 inadvertent start of the diesel occurred to determine
24 whether you had violated the NRC quarantine?

25 A In this discussion with Mr. Mosbaugh, we were

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1 supposed to look at it associated with people looking at
2 the LER. So I guess what I'm saying is that if we needed
3 to make some special report associated with what we did
4 during that time frame, you know, we would handled that as
5 a correction in the LER.

6 MR. BLAKE: Mr. Kohn, I apologize, but I've
7 lost the thread entirely. What portion of Mr. Bockhold's
8 rebuttal testimony are we now questioning on?

9 MR. MICHAEL KOHN: We're questioning on his
10 testimony concerning teamwork.

11 MR. BLAKE: Team work? Thank you.

12 BY MR. MICHAEL KOHN:

13 Q Now there was -- later on, on page three, Mr.
14 Mosbaugh also tells you about an ARV lift that
15 approximately lasted for four minutes and blew steam up as
16 high as the top of the containment.

17 A Yes.

18 Q All right. And that a call to operations had
19 occurred -- excuse me, the control room was called and
20 they were unaware that the ARV had lifted.

21 A That's what he says.

22 Q And did -- when Mr. Mosbaugh brought these
23 issues following the announcement that -- to avoid the
24 perception of cavalier cowboy that we want to have
25 improved internal communications, did you take any steps

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1 to bring these issues together between the organizations?
2 Did you take any steps to give guidance on how to proceed
3 with this, to make these issues open and disclosed?

4 A I took a couple of steps as outlined in this
5 transcript -- well, this document that you gave me here.
6 I say I'll ask operations. I tried to explain to Mr.
7 Mosbaugh what the significance of these particular events
8 in the plant were. And at the very end, on page four, I'm
9 not sure if it's significant or not, but I think the --
10 this is Mr. Mosbaugh speaking -- I'm not sure if it's
11 significant or not, but I think the communications of the
12 event is what's significant, and I think the discussion
13 down here stimulated a lot of people.

14 That's feedback to me that the discussion that
15 we had with the issue of being cowboy and cavalier had
16 some good stimulating effect. And I answer, "Okay, good."

17 Q Did you take this information -- did you make
18 the NRC aware of these events?

19 A Are you implying --

20 CHAIRMAN BLOCH: Mr. Kohn, there's no basis
21 for that that I know of. Is there any reason to believe
22 that that is the type of event that he should have taken
23 to the NRC?

24 MR. MICHAEL KOHN: Well, Mr. Bockhold, do you
25 believe a potential violation of quarantine is something

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1 to be brought to the attention of the NRC?

2 MR. BLAKE: Wait a minute, wait a minute. Are
3 we still talking team work? Or are we talking about some
4 potential new allegation or problem about --

5 CHAIRMAN BLOCH: Sustained. Well, it's time
6 for our 2:00 break. I can't say that it feels like we've
7 done much in the last hour, but let's take our ten minute
8 break.

9 MR. BLAKE: Wait a minute. Let's get an
10 estimate. Maybe we have more than we think.

11 CHAIRMAN BLOCH: How much time have you got
12 left, Mr. Kohn?

13 MR. MICHAEL KOHN: Very little.

14 MR. BLAKE: Yes!

15 (Laughter.)

16 CHAIRMAN BLOCH: Does that mean that we should
17 finish it before the break?

18 MR. MICHAEL KOHN: Yes. Your Honor, the next
19 document is tape number 99, which we would like to put
20 into evidence. It's a follow up on the meeting associated
21 --

22 CHAIRMAN BLOCH: How do we do this?

23 MR. MICHAEL KOHN: I'd like to distribute the
24 exhibit, have it marked; and if it's admit --

25 CHAIRMAN BLOCH: Well, let's do it. It's

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1 better to do it than talk about it.

2 MS. YOUNG: And this is a different excerpt
3 than appended to Mr. Hairston's testimony?

4 MR. MICHAEL KOHN: Yes.

5 CHAIRMAN BLOCH: Let's go off the record.

6 (Whereupon, the proceedings went off the
7 record from 2:02 p.m. until 2:04 p.m.)

8 MR. MICHAEL KOHN: Your Honor, Intervenor
9 would like to mark as Intervenor's II-247 an excerpt of
10 tape number 99, side B. It is identified as occurring in
11 Mike Horton's office on 5/8/90, approximately one hour
12 after the auditorium meeting transcribed on Hairston
13 exhibit II-B.

14 CHAIRMAN BLOCH: Granted. We're going to have
15 the door closed.

16 (Whereupon, the above-referenced
17 document was marked as Intervenor's
18 Exhibit II-247 for identification.)

19 MR. MICHAEL KOHN: Your Honor, Intervenor just
20 calls for the admission of this document.

21 MR. BLAKE: Have we ever seen the document
22 before right now?

23 MR. MICHAEL KOHN: Have you seen a transcript
24 of tape 99 before?

25 MR. BLAKE: Have we ever seen this document

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1 before?

2 MR. MICHAEL KOHN: No, I don't believe you've
3 seen it before.

4 MR. BLAKE: Well, what happens as a result of
5 this is that we now have to listen to the entire tape. We
6 have to determine whether or not we need to put in a
7 corrected transcript with respect to this portion, or
8 whether or not there's some other transcription that we've
9 agreed to with the Intervenor or with the Staff that
10 covers the same portion.

11 CHAIRMAN BLOCH: Well, why didn't Georgia
12 Power see it before now?

13 MR. BLAKE: And what does this have to do with
14 Mr. Bockhold? Where does he appear in here?

15 CHAIRMAN BLOCH: Well, let's just ask why
16 didn't -- if it's important, why is it not shown to
17 Georgia Power in advance?

18 MR. MICHAEL KOHN: The process of making tape
19 transcripts is lengthy, and we didn't begin this until
20 after Mr. Hairston testified and they produced his tape
21 99. It's just a matter of --

22 CHAIRMAN BLOCH: What's the relevance to this
23 witness?

24 MR. BLAKE: And what's the answer to your
25 question?

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1 MR. MICHAEL KOHN: Your Honor, the relevance
2 to this witness is that he was involved in that meeting
3 and his response to the meeting.

4 MR. BLAKE: You mean it could have been put in
5 with respect to any manager attended the meeting? Judge
6 Bloch, --

7 CHAIRMAN BLOCH: So tell me why it's necessary
8 for an adequate record since you didn't bother --

9 MR. MICHAEL KOHN: It places Mr. Hairston's
10 communications and the actual response to the site that
11 they were afraid to raise concerns at that meeting with
12 Mr. Hairston as identified in this document, and that --
13 and this would be the additional portion of tape 99
14 presented to Mr. Hairston that Intervenor needs for a
15 complete and adequate record.

16 MR. BLAKE: I oppose it.

17 CHAIRMAN BLOCH: You what?

18 MR. BLAKE: I oppose it.

19 CHAIRMAN BLOCH: Given that there was no
20 advance -- yes, Staff?

21 MS. YOUNG: Staff can't address the admission
22 of the document without even having a chance to examine at
23 least this transcription. So could we look at this over
24 the break?

25 CHAIRMAN BLOCH: The document may not be used

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1 at this time, and if you have reason to have it in for an
2 adequate record, please file a written motion. We will
3 however keep it as marked for the record, Intervenor's II-
4 247, to explain what this discussion was about. So the
5 reporter will still need copies.

6 MR. BLAKE: I understand we're done with Mr.
7 Bockhold?

8 MR. MICHAEL KOHN: Yes, we are done with Mr.
9 Bockhold, with the understanding that issues related to
10 FAVA will be submitted by exhibits.

11 MR. BLAKE: Yeah, what I'd like is over the
12 break if you'd please identify what the exhibits are that
13 you want to use so that before Mr. Bockhold goes, if there
14 are any others that I want to put in to round it out,
15 we'll be able to do it while he's here in my five minutes
16 of redirect.

17 CHAIRMAN BLOCH: Ten minute break starting
18 now. Please be prompt.

19 (Whereupon, the proceedings went off the
20 record from 2:07 p.m. until 2:17 p.m.)

21 CHAIRMAN BLOCH: Let's charge.

22 MR. MICHAEL KOHN: First document was
23 previously marked as Intervenor's II-231, pages one
24 through 27, and Intervenor will call for the admission of
25 that document at this time.

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1 CHAIRMAN BLOCH: Why don't you do the whole
2 list?

3 MR. MICHAEL KOHN: The next document would be
4 Intervenor's II-245, which was previously marked. It's a
5 March 16, 1990 memorandum or letter. The third document -
6 -

7 CHAIRMAN BLOCH: If they've been marked, you
8 don't have to read what they are.

9 MR. MICHAEL KOHN: The third document we will
10 mark is Intervenor's --

11 ADMINISTRATIVE JUDGE MURPHY: What was 245?

12 MR. MICHAEL KOHN: Goodall letter. The third
13 document is the February 15, 1990 memo to Bill Lyons,
14 quality concern program coordinator, written by Mr.
15 Mosbaugh. It is 15 pages in length. And that should be
16 marked as number II-248. The next document is a interview
17 notes of George Frederick dated 6/27/90. On the bottom
18 right-hand side, it has page numbers 100, 101, 102 and
19 103. That would be marked as Intervenor's II-249.

20 CHAIRMAN BLOCH: That's a motion to mark as
21 well as to admit?

22 MR. MICHAEL KOHN: Yes, Your Honor.

23 CHAIRMAN BLOCH: The marking may be done.

24 (Whereupon, the above-referenced
25 document was marked as Intervenor's

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1 Exhibit II-249 for identification.)

2 MS. YOUNG: You didn't respond to the request
3 to mark 248.

4 CHAIRMAN BLOCH: 248 may also be marked.

5 (Whereupon, the above-referenced
6 document was marked as Intervenor's
7 Exhibit II-248 for identification.)

8 ADMINISTRATIVE JUDGE MURPHY: I don't seem to
9 have the Frederick memo. Well, wait a minute.

10 MR. MICHAEL KOHN: The next document we will
11 mark is Intervenor's II-250, which is an interview of Mike
12 Horton dated 6/26/90. It is -- has page numbers 91, 92,
13 93 and 94 appearing at the bottom right.

14 CHAIRMAN BLOCH: Granted.

15 (Whereupon, the above-referenced
16 document was marked as Intervenor's
17 Exhibit II-250 for identification.)

18 MR. MICHAEL KOHN: The next document is a one
19 page document. It's an interview with John Aufdenkampe
20 dated 7/13/90. On the bottom right, it has page number
21 162.

22 CHAIRMAN BLOCH: Granted.

23 (Whereupon, the above-referenced
24 document was marked as Intervenor's
25 Exhibit II-251 for identification.)

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1 MR. MICHAEL KOHN: That would be marked as
2 Intervenor's II-251.

3 CHAIRMAN BLOCH: That's what's granted.

4 MR. MICHAEL KOHN: The next document will be
5 marked as Intervenor's II-252. It is a one page document
6 -- I withdraw that. It has been previously marked as
7 Intervenor's II-246. It should be a one page document
8 headed Audit Finding Report, Safety Audit and Engineering
9 Review. I'm sorry, I -- then let's mark that one as
10 Intervenor II-252.

11 CHAIRMAN BLOCH: Granted.

12 (Whereupon, the above-referenced
13 document was marked as Intervenor's
14 Exhibit II-252 for identification.)

15 MR. MICHAEL KOHN: And at this time,
16 Intervenor calls for the admission of these documents.
17 Excuse me, --

18 CHAIRMAN BLOCH: Granted. There was no
19 objection to the admission of any of the documents, is
20 that right?

21 MR. BLAKE: No, I have a question on 252. And
22 I just need to understand what its relevance is, because I
23 believe the document was unrelated to Mr. Mosbaugh's
24 raising concerns. I think this was a problem.

25 MR. MICHAEL KOHN: This document concerns FAVA

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1 and the corrective action to be taken of taking FAVA out
2 of service.

3 CHAIRMAN BLOCH: What does it have to do with
4 the two items that we admitted on FAVA?

5 MR. MICHAEL KOHN: It is addressing Mr.
6 Mosbaugh's FAVA concerns.

7 MR. BLAKE: This QA finding from '89 is
8 addressed in what?

9 MR. MICHAEL KOHN: In Mr. Mosbaugh's FAVA
10 concern.

11 CHAIRMAN BLOCH: Does it have anything to do
12 with the two items that were admitted, which is corporate
13 investigation -- whether the corporate investigation has
14 integrity or whether or not intimidation of individual
15 members of the PRB occurred?

16 MR. MICHAEL KOHN: Yes, Your Honor.

17 CHAIRMAN BLOCH: Which of those?

18 MR. MICHAEL KOHN: Whether the integrity issue
19 it sets forth a requirement of a root cause determination
20 which did not take place.

21 MR. BLAKE: My problem with -- and the reason
22 that I raised it was I don't think that Mr. Glenn or
23 anybody else when it was assigned to take a look at Mr.
24 Mosbaugh's concerns would necessarily have focused on this
25 document or how it was dispositioned a long time

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1 previously when it had been raised by -- there was a QA
2 problem that had been raised and either was taken care of
3 or wasn't.

4 But I will take the Intervenor's
5 representations that it is within the scope based on his
6 representations, and I'll see what he does with it. I
7 don't think it's relevant.

8 CHAIRMAN BLOCH: So it's admitted with respect
9 to the corporate investigation integrity issue.

10 MR. MICHAEL KOHN: And I'd just also like to
11 note for the record that the document did come out of the
12 FAVA quality concerns folder.

13 MR. BLAKE: Is this one in? Is the Kitchens
14 one in or not?

15 MR. MICHAEL KOHN: There is one additional
16 document which --

17 CHAIRMAN BLOCH: May I ask one question about
18 that document we were talking about? Was that one of the
19 documents you received yesterday?

20 MR. MICHAEL KOHN: This was in the original
21 quality concerns folder that we had prior. We got the
22 corporate quality concerns folder yesterday, so we had
23 this one --

24 CHAIRMAN BLOCH: The original quality concerns
25 file?

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1 MR. MICHAEL KOHN: Yes, Your Honor.

2 CHAIRMAN BLOCH: And do we know whether that
3 file was made available to the corporate quality concerns
4 people?

5 MR. MICHAEL KOHN: It's my -- I know. I don't
6 know if it's on the record though, Your Honor.

7 CHAIRMAN BLOCH: Are you going to be able to
8 demonstrate that on the record? I don't see how it can
9 relate to the corporate integrity investigation -- the
10 integrity of the corporate investigation, unless they
11 obtained access to it.

12 MR. MICHAEL KOHN: Your Honor, I think what is
13 -- the issue is also whether the quality concerns
14 investigation proceeded properly as well. Because if you
15 look at Intervenor's II-231, you will see that the quality
16 concern investigation was never processed. It was never
17 completed as well. So both investigations are of the same
18 matter.

19 CHAIRMAN BLOCH: Right. Well, you'll have to
20 use it with the restricted purposes that we talked about.
21 You now want to expand it to include the adequacy of the
22 original quality investigation?

23 MR. MICHAEL KOHN: Yes.

24 CHAIRMAN BLOCH: The company admits that it
25 transferred that to corporate. It wasn't completed. I

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1 don't think there's an issue there.

2 MR. MICHAEL KOHN: Well, Your Honor, then the
3 fact that it was transferred would indicate that --

4 CHAIRMAN BLOCH: All right, you'll have to use
5 it for that purpose, and that obviously means that you've
6 got to somehow establish either that they didn't get it
7 because they didn't want it, or that they got it and they
8 didn't use it.

9 MR. MICHAEL KOHN: And the last document
10 Intervenor seeks to mark is Intervenor's II-253, which is
11 a document -- interview notes with Skip Kitchens dated
12 June 26, 1990. And it has page numbers on the bottom
13 right of 95, 96, 97, 98, and 99.

14 CHAIRMAN BLOCH: Are there any further
15 objections to the admission of documents listed? Granted,
16 with respect to each of the listed documents.

17 (Whereupon, the above-referenced
18 document, previously marked as
19 Intervenor's Exhibit II-231 for
20 identification, was received in
21 evidence.)

22 (Whereupon, the above-referenced
23 documents, previously marked as
24 Intervenor's Exhibits II-245-252 for
25 identification, were received in

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1 evidence.)
2 (Whereupon, the above-referenced
3 document was marked as Intervenor's
4 Exhibit 253 for identification.)
5 (Whereupon, the above-referenced
6 document, previously marked as
7 Intervenor's Exhibit 253 for
8 identification, was received in
9 evidence.)

10 MR. MICHAEL KOHN: Your Honor, we'd also like
11 to mark as Intervenor's II-254 --

12 CHAIRMAN BLOCH: It feels like I've seen this.
13 You sure it's not in evidence?

14 MR. MICHAEL KOHN: We have not been able to
15 determine whether it is in evidence at this time.

16 CHAIRMAN BLOCH: It may be marked. Do you
17 want to receive it -- you want it in evidence?

18 (Whereupon, the above-referenced
19 document was marked as Intervenor's
20 Exhibit II-254 for identification.)

21 MR. MICHAEL KOHN: Yes, Your Honor.

22 CHAIRMAN BLOCH: Granted.

23 (Whereupon, the above-referenced
24 document, previously marked as
25 Intervenor's Exhibit II-254 for

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1 identification, was received in
2 evidence.)

3 MR. MICHAEL KOHN: And for the record, this is
4 an 11 page document, procedure 00002-C, dated 1/25/90.

5 CHAIRMAN BLOCH: Mr. Bockhold, our apologies.
6 The reason that this happened is it was an efficient way
7 to proceed given who was present in the room at the time.
8 Let's continue.

9 MR. BLAKE: I wonder if at this juncture, or I
10 can wait until redirect if you want, but there are a
11 couple of other documents out of that same file that I
12 want to at least alert people that I'll plan to move. Mr.
13 Kohn?

14 CHAIRMAN BLOCH: Would you rather do that now
15 or when Mr. Bockhold's finished? Okay, let's --

16 MR. BLAKE: I just want to ensure that he's
17 here in case I have a problem getting them in.

18 CHAIRMAN BLOCH: Okay, let's alert them.

19 MR. BLAKE: One is an interoffice memorandum
20 dated June 21st entitled FAVA Microfiltration System, a
21 memorandum from Le Grand to Bockhold. The second is a
22 Lyon sheet --

23 MR. MICHAEL KOHN: Your Honor, I just would
24 like to indicate that Intervenor was not advised that
25 Georgia Power was intending to introduce additional

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1 documents. I don't recall that at least.

2 CHAIRMAN BLOCH: You're being advised now.

3 MR. MICHAEL KOHN: Yes, and --

4 MR. BLAKE: Well, I didn't --

5 MR. MICHAEL KOHN: Well, I think -- all right,
6 all right.

7 CHAIRMAN BLOCH: You admitted certain
8 documents that have a responsive request with other
9 documents that they think are on the same subjects.

10 MR. MICHAEL KOHN: All right, thank you, Your
11 Honor.

12 MR. BLAKE: The second document is a three
13 page document that includes a list of the plant review
14 board people, and it's a one page typed -- it says at the
15 top 90V0015, signed by W.C. Lyons in the lower right-hand
16 corner.

17 MS. YOUNG: Is the date apparent on your copy?
18 Mine is obliterated.

19 MR. BLAKE: Yeah, mine is half obliterated. I
20 understand that it is 8/21/90. And the third document
21 that I'll put on on redirect is one page out of
22 Intervenor's previously identified Exhibit 95. This is
23 project page 045567. It has to do with chilling effect,
24 intimidation of PRB members. Thank you.

25 CHAIRMAN BLOCH: Ms. Young?

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CROSS EXAMINATION

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BY MS. YOUNG:

Q Good afternoon. I only have a few questions for you. The first thing I'd like to address is your testimony, pages two and three, which was the January 1990 meeting you had with Mr. Kitchens and Mr. Mosbaugh.

A Yes.

Q And the concern that was discussed during that meeting was the failure of those two individuals to work in a complementing manner?

A That is correct, failure to get good team work and synergy throughout the whole organizations.

Q Had you spoken to either one of them individually about their performance in this area before?

A I don't remember whether I did or I didn't.

Q Was it unusual for you to talk to two managers at once in terms of addressing problems you saw and the way they interacted?

A Normally it would first be to the individual. But when you talk about team work, it would be better to have the whole team there instead of just doing it on an individual basis.

Q Did you think that their inability to work well together was due to some rivalry that was going on between operations and technical support?

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1 A I think it was part of a transition coming out
2 of start up where start up engineers are very much
3 responsible for the plant and direct the test activities
4 on the systems that they're designated as the owner of.
5 They are start up engineers for a particular system, and
6 they direct people in manipulations and in maintenance
7 activities. And then when you go into operation, you get
8 to a period where the licensed SRO has to do all that.

9 So I think it's a difficult transition that
10 any organization goes through when you make the transition
11 from start up to normal plant operation.

12 Q In your opinion, did your management style
13 play any role in their failure to work well together at
14 the time you discussed these matters with them in January
15 of 1990?

16 A I think the answer is yes and no. I have
17 certain things about my management style that I consider
18 strengths and weaknesses. And so it's not a simple
19 answer.

20 ADMINISTRATIVE JUDGE CARPENTER: You say
21 maybe?

22 THE WITNESS: Maybe, sir.

23 BY MS. YOUNG:

24 Q Is it the function of the technical support to
25 kind of look behind everything operations has done?

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1 A I don't consider that the main function of
2 technical support. They're to -- their main function is
3 to address issues and problems that people bring up to
4 improve the operation of equipment to make sure that we
5 were operating in the plant in the best technical way as
6 they can. Operations calls the shots. They are licensed
7 by the NRC.

8 To call those shots, they go through a
9 rigorous training program, and they go through an
10 examination program. So I don't think in general it's
11 appropriate to second guess operations.

12 Q So would you say technical support plays a
13 more subordinate role?

14 A You could characterize it that way. It's
15 really a support role.

16 Q And if there were disagreements between the
17 organizations, would there -- those disagreements in part
18 be due to the different ways those managers may have seen
19 their roles in terms of the operation of the facility?

20 A There could have been that kind of -- those
21 types of disagreements. I think that was some of the
22 conflict at that particular time.

23 Q Now in what ways would you say your management
24 style furthered the conflict?

25 A I listen to people and come to decisions very

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1 quickly. That would tend to have operations maybe mimic
2 that style. And I need to work at listening to what
3 people say and make sure they fully state their opinion
4 and then respond to their question. Sometimes I'm short.
5 I don't intend to be, but it's just a habit that I have,
6 and I've got to work on that.

7 Q But did you see yourself as compromising too
8 much, trying to reach the middle ground between
9 disagreements with operations and technical support?

10 A I think that is something that I naturally do,
11 but I wouldn't say compromising too much. I try to get
12 people to find the middle ground and build consensus in a
13 lot of situations. And yet, in situations where I think
14 that this is the right way to go, I'm decisive.

15 Q Now on page three, you say Mr. Kitchens was
16 also responsible for allowing the rift between the two
17 organizations to remain without taking action. Could you
18 explain what you mean by that?

19 A Communication is always two way. You've got
20 to work at it. And if you don't work at it, you're at
21 fault.

22 Q I'd like to turn your attention to your
23 testimony about the SSPI data. I think it begins about
24 page 20.

25 A I have the testimony.

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1 Q Had the NRC asked you for the SSPI data in
2 1990?

3 A I don't remember, but I do not believe so.

4 Q So is it possible that Intervenor Exhibit 89,
5 which is the draft data -- I don't know if you have that
6 on the table before you. I think Mr. Kohn asked you at
7 least one question about it this afternoon.

8 A I have that exhibit.

9 Q To the best of your recollection, this was the
10 document given to the IIT?

11 A That is correct.

12 Q Now if the NRC didn't ask you for this data,
13 what was your overall purpose in providing this
14 information to them?

15 A Well, it provides a draft of the root cause
16 evaluation, key lessons learned and recommendations, some
17 information about diesel reliability, and the sensor
18 history, trip problems. The NRC was very much interested
19 in all of that, so we were providing that information.

20 Q And I think in responding to questions by Mr.
21 Kohn you indicated that the first two months of 1990 were
22 not included?

23 A That is correct.

24 Q Now, I may have misunderstood your testimony,
25 but did you explain that the two months data was not

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1 available from INPO for the other facilities that are
2 indicated on this chart?

3 A I thought I answered his -- the question that
4 way, or at least in the exchange. But that's correct, what
5 you just asked me.

6 Q So one explanation for why 1990 isn't
7 addressed is that you would not have had available
8 comparable information for the other facilities you have
9 listed --

10 A That's correct.

11 Q -- through the rest of the table. At the time
12 the IIT was on site, was it your intention to provide the
13 NRC with the most information available or the best
14 information you had available about the diesel generators?

15 A That is correct.

16 Q And did you omit the 1990 data due to any
17 motivation to conceal information from the NRC?

18 A I did not want to conceal any information from
19 the NRC.

20 Q I'd like to turn your attention to pages 23
21 and 24 of your testimony.

22 A I have the pages.

23 Q In those pages, you have a discussion about
24 the approximate count of successful starts on the diesel
25 generators --

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1 A That's correct.

2 Q -- during your discussions with the IIT, is
3 that correct?

4 A That's correct.

5 Q Now in this time period when you asked --
6 before you asked Mr. Cash to do his count, did you have a
7 ball park figure in mind for how many successful starts
8 there were on both machines?

9 A I thought it was a large number, but I didn't
10 know the exact number.

11 Q And when Mr. Cash came back with the results
12 of his count on the weekend before the April 9th meeting,
13 did you view his results as verifying in some way your
14 ball park estimates of how many consecutive successful
15 starts there had been on the machines?

16 A I believed his numbers were reasonable in the
17 lot of starts -- he came back with a lot of starts.

18 Q This afternoon Mr. Kohn had asked you
19 questions about the quarantine of the diesel generators.
20 Do you recall those? Is it your recollection that the
21 conditions or the quarantine provisions that the NRC
22 imposed on the facility in April of 1990 -- did those
23 conditions preclude Georgia Power from conducting further
24 testing of the diesels?

25 A It didn't preclude us from conducting further

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1 testing.

2 Q And was it consistent with those guidelines
3 that Georgia Power could do whatever activities it deemed
4 necessary to ensure the safety of the facility with
5 respect to operation of the diesels?

6 A Absolutely.

7 MS. YOUNG: Staff has no further questions.

8 CHAIRMAN BLOCH: Mr. Kohn, within the scope of
9 the Staff?

10 CROSS EXAMINATION

11 BY MR. MICHAEL KOHN:

12 Q Did the quarantine require Georgia Power to
13 give prior notification to the NRC?

14 A Not in all cases.

15 Q Did it require to obtain NRC approval before
16 the testing proceeded?

17 A Not in all cases.

18 Q Of the quarantine components?

19 A Of the quarantine components, if you're
20 talking specifically about the sensors, I know that the
21 answer was yes to that.

22 Q And with respect to the diesel that was
23 quarantined?

24 A Not in all cases. Some cases we worked with
25 them to review the test. I'd have to look at the exact

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1 words associated with the quarantine. It was written up,
2 and I don't have specific remembrance right now.

3 CHAIRMAN BLOCH: Did I miss something? Did
4 the Staff ask about the quarantine?

5 MR. MICHAEL KOHN: Yes.

6 CHAIRMAN BLOCH: Let's continue.

7 BY MR. MICHAEL KOHN:

8 Q The Staff also showed you Intervenor's Exhibit
9 89, and you indicated the purpose of this document was to
10 provide NRC with -- if I understand it right -- a complete
11 picture of the diesel generator at that time or the
12 problems and your detection of significant information
13 associated with the diesel failures?

14 A It was to provide the NRC information that
15 they would be interested in.

16 Q Well, you knew the NRC would be interested in
17 information related to dew point readings, didn't you?

18 A We provided some information to the NRC on
19 selected dew point readings. Every day we would provide
20 the NRC information. I'm not sure of your question, sir.

21 Q Well, on April 2, 1990 did you, when you
22 presented this document, include the recent dew point
23 readings?

24 A I'd have to go back and look at the dates on
25 the dew point. I don't remember right now what documents

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1 we provided or didn't provide on April 2nd. I don't know
2 the complete list.

3 Q Is there a reason that you can think of why if
4 you had high out of specification dew point readings at
5 that period of time you would not have included it in this
6 presentation to the NRC?

7 MS. YOUNG: I think I object to the foundation
8 of that question. You indicated a presentation to the
9 NRC. Are you referring to Exhibit 89, which was just the
10 document handed?

11 MR. MICHAEL KOHN: Yes.

12 BOARD EXAMINATION

13 CHAIRMAN BLOCH: So the question is about the
14 document? Can you think of any reason why you might have
15 excluded to mention the dew points in this document?

16 THE WITNESS: I believe when we knew we had
17 dew point problems, we communicated to the NRC that we had
18 dew point problems, and we communicated fully. And I have
19 to go get my testimony on air quality to --

20 CHAIRMAN BLOCH: No, we're familiar with the
21 IIT transcripts on this subject.

22 CROSS EXAMINATION

23 BY MR. MICHAEL KOHN:

24 Q The transition of coming out of start up with
25 respect to Unit 1 began in 1986?

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1 additional information or clarification of the answer that
2 you gave Mr. Kohn?

3 A I believe that we were following as outlined
4 here on one and two.

5 Q So when the letter says to the maximum degree
6 possible, actions should be coordinated with the IIT
7 leader in advance or notification made as soon as
8 practical, would you say that GPC's activities on
9 quarantined components that were done both before and
10 after notification to the NRC would have been consistent
11 with the provisions of this letter?

12 A Yes, to the best of my knowledge.

13 BOARD EXAMINATION

14 CHAIRMAN BLOCH: And based on what you've just
15 read, is the diesel itself quarantined or just the parts?

16 THE WITNESS: The diesel and its components
17 are quarantined.

18 CHAIRMAN BLOCH: So that in addition to the
19 components, the diesel is quarantined. Is that what
20 you're saying?

21 THE WITNESS: Yes, sir. And in practice
22 though, what that meant was that as we developed
23 procedures for the diesel, the IIT team wanted to see
24 those procedures. And we shared them.

25 CHAIRMAN BLOCH: Would it mean that if the

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1 diesel was started in error in violation of the quarantine
2 that you should notify the Staff?

3 THE WITNESS: I believe the Staff was aware of
4 every start as we were going through them on a daily
5 basis.

6 CHAIRMAN BLOCH: So they should be notified,
7 but your belief is that they did not?

8 THE WITNESS: Yes, sir.

9 MS. YOUNG: The Staff has no further
10 questions.

11 CHAIRMAN BLOCH: Mr. Kohn?

12 MR. MICHAEL KOHN: Nothing further.

13 CHAIRMAN BLOCH: Mr. Blake?

14 MR. BLAKE: I'm going to ask that some
15 documents be distributed.

16 CHAIRMAN BLOCH: Okay, let's continue.

17 MR. BLAKE: Judge Bloch, I've distributed
18 several documents which I want to get marked and to put
19 into evidence here. I just wanted to do it while Mr.
20 Bockhold is here in case there's a problem with getting
21 any of these in. The first is a document which has been
22 discussed on cross examination of Mr. Bockhold fairly
23 extensively.

24 It is the review of Mr. Mosbaugh filled out by
25 Mr. Bockhold in 1990 and includes the language about

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1 peaceful coexistence, etc., that's been the subject of
2 prior testimony. I would like this document -- it's a
3 three page -- four page document. I would like the
4 document marked as GPC II-191.

5 CHAIRMAN BLOCH: Granted.

6 (Whereupon, the above-referenced
7 document was marked as GPC Exhibit
8 II-191 for identification.)

9 MR. BLAKE: And I would move it into
10 evidence.)

11 CHAIRMAN BLOCH: Granted. Why don't we save
12 the moving into evidence for the end?

13 (Whereupon, the above-referenced
14 document, previously marked as GPC
15 Exhibit II-191 for identification,
16 was received in evidence.)

17 MR. BLAKE: Okay. The second document is a
18 three page document. It is -- the top page is a
19 memorandum from R.L. Le Grand to G. Bockhold dated June
20 21, 1990. The second is a one page memorandum to George
21 Bockhold from Allen Mosbaugh dated July 13, 1990, which is
22 attached. And the third is a June 20, one page, typed
23 document signed at the bottom by W.C. Lyon, III.

24 This document came out of the -- this document
25 should only be the first page that I've identified, and

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1 that's all we're asking be marked as GPC II-192. You
2 should ignore my comments about the attached two pages,
3 which apparently were never --

4 CHAIRMAN BLOCH: Granted and granted.

5 (Whereupon, the above-referenced
6 document was marked as GPC Exhibit
7 II-192 for identification.)

8 MR. BLAKE: The next document is a three page
9 document --

10 MR. MICHAEL KOHN: Excuse me for one second.

11 MR. BLAKE: GPC II-192 is a one page document.
12 It's a memorandum from Le Grand to Bockhold dated June 21,
13 1990 entitled FAVA Microfiltration Systems. The document
14 that I handed out have a couple of other pages attached
15 to it which you should tear off and ignore. Don't throw
16 them away, just ignore them. (Laughter.) Are you all
17 set, Michael?

18 The next document is a three page document.
19 The first page at the top bears the legend 90V0015. It's
20 a one page typed document signed at the bottom by W.C.
21 Lyon, III. I'm informed that the date on some of the
22 copies is at eliminated in the copying, but that date is
23 8/21/90. The next two pages are a table of individual
24 plant review board members or apparently alternate
25 members.

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1 ADMINISTRATIVE JUDGE MURPHY: It's a three
2 page document.

3 MR. BLAKE: It is a total of three page
4 document, yes, sir. And it should be marked as GPC II-
5 193, Judge Bloch.

6 CHAIRMAN BLOCH: Granted.

7 (Whereupon, the above-referenced
8 document was marked as GPC Exhibit
9 II-193 for identification.)

10 MR. BLAKE: The next document is a one page
11 document. It's entitled Chilling Effects/Intimidation of
12 PRB Members. It's a 92 project 045567. This actually is
13 one page out of an Intervenor identified exhibit. I
14 believe the Intervenor exhibit was page 95. It's
15 obviously on the topic that we've been discussing with
16 this witness, and I would ask that it be marked as GPC II-
17 194.

18 CHAIRMAN BLOCH: Granted.

19 (Whereupon, the above-referenced
20 document was marked as GPC Exhibit
21 II-194 for identification.)

22 MR. MICHAEL KOHN: Hold on. I just need to
23 find my copy.

24 CHAIRMAN BLOCH: Could I hear that --

25 MR. BLAKE: I'm informed I may have misspoken

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1 on the record, Judge Bloch, that I referred to a page 95.
2 What I should have said was this is one page out of I
3 believe Intervenor's earlier identified Exhibit 95. The
4 last document --

5 MR. MICHAEL KOHN: That's being marked as II-
6 CHAIRMAN BLOCH: 194. You can tell it's
7 Friday.

8 MR. BLAKE: The last document that I've
9 distributed is the one that's been the subject of cross
10 examination by the Staff and as well by Intervenor just
11 now. It's actually an Intervenor exhibit. I can remark
12 it as a GPC exhibit if we want, but based on the
13 references to it and the testimony about it, I would like
14 that this exhibit be accepted into evidence. And at this
15 point, I would move all of the documents.

16 If the Intervenor's want it remarked as a GPC
17 exhibit, I can do it; I just think it's easier to have --

18 CHAIRMAN BLOCH: Well, why don't you mention
19 which document it is.

20 MR. BLAKE: It's Intervenor's Exhibit 89, and
21 it's a four page document.

22 CHAIRMAN BLOCH: Well, if it's Intervenor's
23 89, we don't need to describe it.

24 MS. YOUNG: Well, would Intervenor just like
25 to move it in so we can --

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1 MR. MICHAEL KOHN: Yeah, Intervenor moves in
2 his Exhibit 89.

3 MS. YOUNG: No objection.

4 CHAIRMAN BLOCH: Granted in all cases.

5 (Whereupon, the above-referenced
6 documents, previously marked as GPC
7 Exhibits II-192-194 for
8 identification, were received in
9 evidence.)

10 (Whereupon, the above-referenced
11 document, previously marked as
12 Intervenor's Exhibit II-89 for
13 identification, was received in
14 evidence.)

15 MR. BLAKE: And we'll get copies to the court
16 reporter for it. And I moved all the others as well, 191,
17 192 --

18 CHAIRMAN BLOCH: That's what I was granting.

19 MR. BLAKE: Thank you.

20 CHAIRMAN BLOCH: Yes, Mr. Kohn?

21 MR. MICHAEL KOHN: I'd just like a second to
22 look at GPC Exhibit 194 if I may.

23 MR. BLAKE: Michael, this is the one that came
24 out of your proposed exhibit -- your number 95.

25 MR. MICHAEL KOHN: Your Honor, we would not

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1 object to the admission of this document. The problem is,
2 it refers to an investigation conducted by Georgia Power
3 of members and that they were questioned -- that these
4 notes of this investigation would not have been produced.
5 And for -- though our objection is that Georgia Power's
6 stated position as it reflects in here is based on
7 interview notes that are not in evidence.

8 CHAIRMAN BLOCH: I'm sorry, the motion is to
9 admit them in evidence. And what's the response about
10 that?

11 MR. BLAKE: He didn't object, but --

12 MR. MICHAEL KOHN: The objection is this
13 document sets forth Georgia Power's position. Intervenor
14 did not introduce this page into the record, and in order
15 to allow Intervenor the ability to adequately put in
16 additional documentation necessary to rebut this, we --
17 Georgia Power is going to have to make available all the
18 documentation referenced in drafting this document.

19 MS. YOUNG: Staff doesn't understand
20 Intervenor's objection basically because the exhibit from
21 which this was taken was already identified by Intervenor.
22 They have not moved it into evidence, but I would have
23 thought that if they had problems with components in their
24 exhibit, that they would have identified those earlier.

25 MR. MICHAEL KOHN: Your Honor, the scope of

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1 the exhibits as they were introduced is as they had been
2 testified to. There's been no testimony from Intervenor
3 on this page of that exhibit. And the scope of that
4 exhibit was limited to the white paper questions and
5 answers. This happens to be another issue that the NRC
6 was investigating at that time, and Georgia Power's
7 position as stated here is based on an internal
8 investigation.

9 And based on the date that this investigation
10 occurred, it would appear that these notes have not been
11 produced. So, I don't think it is fair for Georgia Power
12 to put in its position on the issue without the supporting
13 documentation -- without at least Intervenor's right to
14 review it, other than -- if Georgia Power agrees to make
15 that documentation available, we would not object to its
16 admission.

17 MR. BLAKE: I'm somewhat stumped, and I'm
18 going to temper the suggested comments which have been
19 made to me to make. (Laughter.) But I have to agree with
20 Ms. Young's observation that it's a -- I hadn't really
21 anticipated an objection from the Intervenor to a page
22 from one of their identified exhibits. It certainly isn't
23 a matter of not having known.

24 I believe this to have been -- and I can work
25 with Mr. Bockhold to further -- and that's why I asked him

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1 to stay or asked that he -- we'll try to deal with these.
2 But if you notice that this document in the last sentence
3 refers to the document GPC 193. I don't think it's
4 anything more than a summary of what came out of Mr.
5 Lyon's work which appears on the document which wasn't
6 objected to and which we put together to submit to the OSI
7 in August of '90.

8 CHAIRMAN BLOCH: It's clear that if this --

9 MR. BLAKE: I didn't temper it enough.

10 CHAIRMAN BLOCH: Was it the computer that --

11 MR. BLAKE: Yes, it was one of the components.

12 ADMINISTRATIVE JUDGE CARPENTER: They get
13 smarter all the time.

14 CHAIRMAN BLOCH: If this document is in
15 evidence, it would be clear that this page could be added.
16 But if it was just an exhibit that was used in questioning
17 a witness, I'm not sure that the fact that it was used as
18 an exhibit is a basis for admitting it. What is the basis
19 for admitting it?

20 MR. BLAKE: No. Well, it is the outcome of
21 Mr. Lyon's work which was the preceding exhibit, 193; and
22 this summary was developed in the course of the OSI work
23 and provided to the OSI in August of 1990.

24 CHAIRMAN BLOCH: And this is prepared by whom?

25 MR. BLAKE: Mr. Bockhold and others. We can

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1 ask him while he's here. That's why I kept him.

2 CHAIRMAN BLOCH: And it was presented to the
3 OSI?

4 MR. BLAKE: Yes.

5 CHAIRMAN BLOCH: Mr. Bockhold, is that your
6 recollection of this document?

7 THE WITNESS: That is my recollection of this
8 document, sir.

9 CHAIRMAN BLOCH: So what's the objection?

10 MR. BLAKE: And it's on the very topic that
11 we're talking about.

12 CHAIRMAN BLOCH: The objection is that you
13 want information concerning what's being cited here?

14 MR. MICHAEL KOHN: Your Honor, I guess if I
15 get an understanding from Georgia Power that the basis for
16 the last paragraph on this page was the contents of the
17 quality concerns file, then I may not have an objection.

18 MR. BLAKE: Well, Mr. Bockhold could do better
19 than I probably in terms of evidence, but that's clearly
20 my understanding, Judge Bloch.

21 THE WITNESS: That is correct.

22 CHAIRMAN BLOCH: The motion to admit is
23 granted.

24 MR. MICHAEL KOHN: I have no further objection
25 to it.

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1 CHAIRMAN BLOCH: You may continue, Mr. Blake.

2 MR. BLAKE: I have no questions of Mr.

3 Bockhold. In the course of his earlier examination, there
4 were some references to excerpts from a Department of
5 Labor deposition and Department of Labor testimony which
6 we were offered the opportunity to supplement, and we
7 will. But we need to make some copies of that, and
8 there's not a need for Mr. Bockhold to stay for that
9 purpose.

10 MR. MICHAEL KOHN: The portion of that
11 deposition was -- I'm not sure if it was marked or not.
12 It's Intervenor's 241. Excuse me, Mr. Burr's deposition.
13 Excuse me, I take it back.

14 MR. BLAKE. You had a false start I think.

15 CHAIRMAN BLOCH: So, any recross would have to
16 be based on the documents that were just admitted. Do you
17 have any further recross, Mr. Kohn?

18 MR. MICHAEL KOHN: Your Honor, the only
19 recross will be just the admission of additional documents
20 from the quality concerns or corporate concerns file.

21 CHAIRMAN BLOCH: Do you need Mr. Bockhold here
22 for that?

23 MR. MICHAEL KOHN: No, Your Honor.

24 CHAIRMAN BLOCH: Is there any further recross
25 by Staff?

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1 MR. BLAKE: I'd just like to know what they
2 are before Mr. Bockhold leaves.

3 CHAIRMAN BLOCH: Oh, all right; let's do it
4 then.

5 MR. MICHAEL KOHN: Your Honor, it would take
6 time to assemble those documents. It's not something I
7 can do instantaneously.

8 CHAIRMAN BLOCH: How much time do we need as a
9 recess now?

10 MR. MICHAEL KOHN: We're going to need
11 approximately a half hour.

12 CHAIRMAN BLOCH: All right, so it's 3:10.
13 We'll resume at 3:30, so you're going to speed up the half
14 hour.

15 MR. MICHAEL KOHN: Yes, sir.

16 (Whereupon, the proceedings went off the
17 record from 3:10 p.m. until 3:35 p.m.)

18 MR. MICHAEL KOHN: All right, the next
19 document Intervenor would like to mark is II-255 -- is a
20 one page document previously passed out by Georgia Power
21 dated June 20, 1990. As I understand it, this document
22 came from the quality concerns file, is that correct?

23 (Whereupon, the above-referenced
24 document was marked as Intervenor's
25 Exhibit II-255 for identification.)

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1 ADMINISTRATIVE JUDGE MURPHY: Are you sure we
2 haven't seen this before?

3 MR. MICHAEL KOHN: Yeah, this was one that
4 Georgia Power removed from the one -- and didn't put in.

5 (Laughter.)

6 CHAIRMAN BLOCH: You shouldn't have sent that
7 airplane flying.

8 ADMINISTRATIVE JUDGE CARPENTER: Thank you for
9 refreshing my memory. I thought I was getting fuzzy.

10 CHAIRMAN BLOCH: I now understand its
11 importance, yes.

12 MR. MICHAEL KOHN: And the last compilation of
13 documents Intervenor would like to --

14 CHAIRMAN BLOCH: I'm sure you've described it.
15 We laughed so much.

16 MR. MICHAEL KOHN: June 20 --

17 CHAIRMAN BLOCH: Signed by Mr. Lyons?

18 MR. MICHAEL KOHN: Yes, it is signed by Mr.
19 Lyons, a one page document.

20 CHAIRMAN BLOCH: Granted.

21 (Whereupon, the above-referenced
22 document was marked as Intervenor's
23 Exhibit II-256 for identification.)

24 MR. MICHAEL KOHN: The next document is
25 Intervenor's II-256, which is a compilation of documents

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1 from the corporate quality concerns file starting with the
2 first page, which demonstrates that the review of the
3 quality concerns file did not go through its required --

4 CHAIRMAN BLOCH: Wait a second. You're now
5 summarizing an argument. We're describing a document.

6 MR. MICHAEL KOHN: Okay.

7 ADMINISTRATIVE JUDGE CARPENTER: You're
8 testifying.

9 CHAIRMAN BLOCH: The first page contains --

10 MR. MICHAEL KOHN: The sign off lists which
11 are not filled out with respect to the quality corporate
12 concerns file.

13 CHAIRMAN BLOCH: That was better.

14 MR. MICHAEL KOHN: The second page has a one
15 on the bottom right-hand corner and is dated 6/19/90. The
16 third page would have a seven on the bottom right-hand
17 corner if it's --

18 CHAIRMAN BLOCH: You mean if we could see it?

19 MR. MICHAEL KOHN: If you could see it. And
20 on the top, it's dated 6/21/90, conversation with George
21 Bockhold/Bill Lyons, which is a two page document. And
22 the second page has an eight on the bottom. The next page
23 has a nine on the bottom, or should have a nine on the
24 bottom. It is dated 6/21/90. It says re: Allen Mosbaugh
25 concern at the top, conversation with John Rogge.

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1 The next document, which --

2 ADMINISTRATIVE JUDGE MURPHY: Whose initials
3 are on the bottom?

4 MR. MICHAEL KOHN: Those would be Lee Glenn.
5 The next document should have a ten on the bottom. It is
6 dated 6/21/90, interview of Allen Mosbaugh, and is -- I
7 believe it runs to a page 18 at the bottom. Again, it is
8 also -- the last page is signed by -- initialled by Mr.
9 Glenn.

10 The next document is dated 6/22/90.

11 CHAIRMAN BLOCH: I don't see the 18 at the
12 bottom.

13 MR. MICHAEL KOHN: It may have been lost in
14 the photocopying, Your Honor.

15 CHAIRMAN BLOCH: So at any rate, the document
16 consists of eight unnumbered pages.

17 MR. MICHAEL KOHN: The next document is marked
18 as -- bears a 19 at the bottom and is dated 6/22/90, re:
19 Allen Mosbaugh concern, meeting with Allen Mosbaugh. It's
20 two pages in length, the last page bearing Mr. Glenn's
21 initials. The next document is one page in length,
22 numbered 21 at the bottom with Mr. Lyon's signature at the
23 bottom with the date 6/21/90.

24 The next document is dated 7/5/90 with Mr. --
25 it is a one page document with Mr. Glenn's initials at the

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1 bottom. It bears a 1/18 on the bottom right.

2 CHAIRMAN BLOCH: I challenge you to talk
3 faster.

4 MR. MICHAEL KOHN: The next document is dated
5 7/5/90, re: Allen Mosbaugh concern telephone conversation
6 with Ken McCoy. It bears Mr. Glenn's initials at the
7 bottom and should bear a 121 on the bottom right. The
8 next document is a three page document --

9 CHAIRMAN BLOCH: They're numbered, so you
10 could just call them, 122 through --

11 MR. MICHAEL KOHN: 124.

12 CHAIRMAN BLOCH: -- 124. And then I don't
13 know what the next number is after that.

14 MR. MICHAEL KOHN: The next numbers would be
15 160 -- apparently 159 got out of line. There's a 160,
16 161, and the last page is 159.

17 CHAIRMAN BLOCH: Great. That may be
18 identified.

19 MR. MICHAEL KOHN: And Intervenor calls for
20 the admission of these documents.

21 MR. JOINER: Licensee objects, Your Honor. I
22 don't think these documents are responsive to the few
23 additional documents we put in to balance out the original
24 exhibits that Intervenor marked. Intervenor had included
25 a number of documents that related to intimidation of PRB

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1 members. We put in the additional documents we saw in the
2 files that related to intimidation of PRB members.

3 I believe those were three of our exhibits.
4 The fourth, Intervenor's Exhibit 245, had -- was a letter
5 that postdated Mr. Bockhold's March 16th memo indicating
6 that the hoses in the FAVA system couldn't be certified to
7 meet some certain specifications. We put in one memo to
8 show that Mr. Bockhold got a response back that the FAVA
9 system hoses had been tested in accordance with whatever
10 the Reg. Guide was.

11 I can't understand how that possibly could
12 have prompted an additional 25 pages, which as far as I
13 can tell, don't touch any of those topics.

14 CHAIRMAN BLOCH: Mr. Kohn, answer?

15 MR. MICHAEL KOHN: The documents Licensee put
16 in came from the same file. Intervenor I believe is
17 entitled to put in the other responsive documents from the
18 file. Second, at the time Intervenor initially identified
19 the documents, as I stated on the record, Georgia Power
20 did not indicate they were planning to put additional
21 documents in.

22 Had they done so, I would have identified
23 these from the outset.

24 CHAIRMAN BLOCH: I'm sorry, but the question
25 is whether it's responsive to what they put in.

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1 MR. MICHAEL KOHN: Yes, Your Honor, it is also
2 responsive. It deals with FAVA and deals with the
3 quality concerns investigation and the adequacy of the
4 quality concerns investigation. All of these documents
5 come out of the quality concerns file where they --

6 CHAIRMAN BLOCH: Okay, well I know they came
7 out of that file. The question is whether they are
8 relevant to the documents that the Licensee put in. So
9 what do you characterize as the substance of the documents
10 they put in to which this is responsive?

11 MR. MICHAEL KOHN: In order to adequately
12 resolve the issue of the FAVA allegation and Georgia --

13 CHAIRMAN BLOCH: It's not a FAVA allegation.

14 MR. MICHAEL KOHN: Excuse me. Georgia Power
15 put in, for example, a one page document from the -- from
16 Intervenor's I believe Exhibit 95, which was not in the
17 FAVA one set forth their position on FAVA and the
18 investigation and the adequacy of the investigation.

19 CHAIRMAN BLOCH: The adequacy of the
20 investigation is an issue, yes.

21 MR. JOINER: On intimidation.

22 MR. MICHAEL KOHN: This document that I've put
23 together puts forth Intervenor's response to --

24 CHAIRMAN BLOCH: The adequacy of the corporate
25 investigation?

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1 MR. MICHAEL KOHN: Correct, Your Honor. This
2 document puts in Intervenor's full response to the content
3 of the corporate file in response to Georgia Power's
4 assertions related to the adequacy of their investigation.

5 MR. JOINER: Your Honor, the one page document
6 I believe Intervenor identified only addressed the
7 intimidation issue. I don't believe it addresses anything
8 beyond that.

9 MR. MICHAEL KOHN: Your Honor, first I'm
10 having a difficult time really understanding Georgia
11 Power's objection. This is -- these documents are not
12 being presented to be cross examined through this witness.
13 These are documents we feel necessary to complete
14 Intervenor's case. Intervenor has not rested, so I'm not
15 really understanding the underlying objection to begin
16 with.

17 And I think we can -- the Foard gave a ruling
18 as to the scope. I think these documents all fit in
19 within the scope, and Licensee had asked me to identify
20 all the documents today as best I could. And I have now
21 gathered them together to do so, Your Honor.

22 CHAIRMAN BLOCH: I'm looking at 255. Just
23 point out something to me that's important here.

24 MR. MICHAEL KOHN: Yes, it concerns the use of
25 the quality concerns investigation as a tool to obtain

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1 information to defeat allegations raised by a concerned
2 Georgia Power employee rather than the methodology to gain
3 information to adequately investigate the allegations.

4 CHAIRMAN BLOCH: Wrapping my mind around that
5 -- this says what about defeating an employee?

6 MR. MICHAEL KOHN: You have to read it in
7 scope with other documents contained in Intervenor's 256,
8 which go forward and state Georgia Power's use of its
9 lawyers to gain information and not to -- and we believe
10 the documentation in its totality shows it's not to
11 respond to the quality concerns or the concerns raised by
12 the Intervenor, but is an attempt to gain information
13 where they can use elsewhere.

14 And that is the relevance to show that the
15 investigation was not performed for -- was not adequate
16 and was in fact performed for an ulterior motivation.

17 CHAIRMAN BLOCH: So what are the subjects on
18 which this would be admitted?

19 MR. MICHAEL KOHN: I think --

20 MS. YOUNG: Judge Bloch, the Staff is having
21 trouble following this too, because I thought the issues
22 that were ruled within the scope of the proceeding had to
23 do with whether a PRB member was intimidated, and I don't
24 see those specific subjects covered in either of these
25 documents.

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1 CHAIRMAN BLOCH: And also whether the
2 corporate investigation had integrity.

3 MS. YOUNG: Of the intimidation of a PRB
4 member.

5 CHAIRMAN BLOCH: No.

6 MS. YOUNG: What?

7 CHAIRMAN BLOCH: Corporate investigation that
8 was referred for Mr. Lyon to the corporate -- to
9 corporation for further investigation.

10 MS. YOUNG: The follow up of the FAVA issue?

11 CHAIRMAN BLOCH: Yeah, that was what my ruling
12 was.

13 MS. YOUNG: Okay, and do these -- do all of
14 these papers --

15 CHAIRMAN BLOCH: I don't know. I mean, --

16 MS. YOUNG: -- only concern the corporate
17 follow up?

18 CHAIRMAN BLOCH: I am not thoroughly familiar
19 with the documents that the Licensee put in, and I'm not
20 up to speed on that. I don't know how I could possibly be
21 up to speed on it.

22 MR. MICHAEL KOHN: Your Honor, I think what --
23 if you look at Intervenor's 256, the second page is
24 telling as to what the purpose is of the corporate
25 investigation. It states that Chuck Whitney called and

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1 advised that Allen Mosbaugh had filed a Department of
2 Labor complaint and had secured legal services of the same
3 firm out of Washington handling the Hobby case.

4 And they go on to discuss --

5 CHAIRMAN BLOCH: That doesn't show me anything
6 about the purpose, but --

7 MR. MICHAEL KOHN: It then goes on to say that
8 Ken McCoy asked that they -- and they had agreed to have
9 corporate concerns work with the plant in identifying and
10 resolving any and all technical issues identified by Mr.
11 Mosbaugh. The following documentation thereafter goes
12 forward with the technical issues, predominantly FAVA; and
13 then goes on to look at the other technical issues
14 including diesel generator, start count, and goes through
15 their -- what is supposedly their investigation into this.

16 And the - it goes on then --

17 CHAIRMAN BLOCH: It helps you to show that it
18 was superficial and non-effective?

19 MR. MICHAEL KOHN: Yes, Your Honor.

20 CHAIRMAN BLOCH: All right, we'll admit it
21 solely for the purpose of finding out whether the
22 corporate investigation had integrity and whether or not
23 intimidation of individual members of the PRB occurred. I
24 would stress again what I said before about the
25 intimidation as the truth of the FAVA matters is not

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1 important there. What's important is what the PRB members
2 believed and how they were intimidated with respect to
3 their beliefs.

4 Are there any other matters to handle before
5 Mr. Bockhold may be dismissed?

6 (Whereupon, the above-referenced
7 document, previously marked as
8 Intervenor's Exhibit II-255 for
9 identification, was received in
10 evidence.)

11 (Whereupon, the above-referenced
12 document, previously marked as
13 Intervenor's Exhibit 256 for
14 identification, was received in
15 evidence.)

16 MR. MICHAEL KOHN: Moving in Intervenor's 255
17 as well.

18 CHAIRMAN BLOCH: I thought you moved them
19 both?

20 MR. MICHAEL KOHN: I did, but I wasn't clear
21 if your ruling was on both.

22 CHAIRMAN BLOCH: The instruction is with
23 respect to both.

24 MR. MICHAEL KOHN: Thank you, Your Honor.

25 CHAIRMAN BLOCH: There being no other matters

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1 to --

2 MR. MICHAEL KOHN: Your Honor, earlier I
3 mentioned that there would be a portion of a deposition of
4 Mr. Lee Glenn which I indicated I did not have available
5 with me in the office today -- in the court today. I just
6 wanted to --

7 CHAIRMAN BLOCH: Does that need to be -- have
8 Mr. Bockhold here?

9 MR. MICHAEL KOHN: No, Your Honor. I just
10 wanted to -- that there shouldn't be surprise later on.

11 CHAIRMAN BLOCH: Mr. Bockhold, I --

12 MR. BLAKE: Boy, I'm surprised even now.

13 CHAIRMAN BLOCH: -- that you have extra time
14 to catch your plane. Thank you for joining us today, and
15 you are dismissed, maybe for the last time in this case.

16 THE WITNESS: Thank you, sir.

17 (The witness was excused.)

18 MR. BLAKE: I'd like that reference again to
19 the Lee Glenn. I don't remember any reference today to
20 that. What are we talking about?

21 MR. MICHAEL KOHN: The deposition of Mr. Glenn
22 in the Hobby and I believe the Mosbaugh proceeding.

23 MR. BLAKE: I'm sorry, I just don't remember
24 any reference to it today. You've got to put it in
25 context for me.

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1 MR. MICHAEL KOHN: Yes, it explains the
2 operation of the quality concerns -- excuse me, the
3 corporate concerns program and what they're supposed to
4 do.

5 MR. BLAKE: Was there some reference to it
6 today, is that what you just said?

7 MR. MICHAEL KOHN: Yes, I referred to it
8 earlier on the transcript today.

9 CHAIRMAN BLOCH: Am I correct that we're up to
10 the scheduling portion of this meeting?

11 MR. BLAKE: Yes, on the Lee Glenn thing, I'll
12 just have to -- when I see it, I guess I'll know it. But
13 at this juncture, I'm not waiving anything.

14 CHAIRMAN BLOCH: My understanding is that the
15 only matter on our schedule for next Tuesday is Hill and
16 Ward. Are there any other witnesses that need to be
17 scheduled before the Staff?

18 MR. BLAKE: No, we have none.

19 CHAIRMAN BLOCH: All right, do you have any,
20 Mr. Kohn?

21 MR. MICHAEL KOHN: Depending on discussions
22 with respect to Lee Glenn and the Mr. Burr issue remains
23 open, those would -- and would appear to be the only
24 potential at this time.

25 CHAIRMAN BLOCH: You were asked to have

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1 specified witnesses by Wednesday. You can't specify them
2 now?

3 MR. MICHAEL KOHN: Yes, Your Honor, I can
4 specify them. Mr. Burr, but we're still attempting to
5 work out a resolution with Georgia Power whether we need
6 to call Mr. Burr; and I think Mr. Glenn, and depending, we
7 may also have a resolution after they see the deposition
8 portion.

9 CHAIRMAN BLOCH: Okay, and we have no
10 subpoenas for them. Do you need subpoenas?

11 MR. MICHAEL KOHN: I don't know if Georgia
12 Power is requiring subpoenas or not.

13 MR. BLAKE: We're not going to require
14 subpoenas for Mr. Burr. I suspect we're going to work out
15 something with Mr. Burr. If we don't work it out, then it
16 probably will require a subpoena or require witness fees
17 and the whole deal. Mr. Glenn I hadn't even thought
18 about. I didn't realize it until just this moment that he
19 was a prospective witness. And I don't know what to make
20 of that.

21 At the moment, I'd say yes, I guess he needs a
22 subpoena and needs to follow through. And frankly, maybe
23 it's good cause because it just came up today, but I
24 haven't even thought about that, Judge Bloch. This is all
25 new to me. I think this is the first time I have ever

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1 heard Lee Glenn's name as a prospective witness in all the
2 witness lists in all the prior identifications here.

3 MR. MICHAEL KOHN: And that's simply because
4 we did not get Mr. Glenn's corporate files until
5 yesterday.

6 MR. BLAKE: And I don't know what the proffer
7 is -- what his testimony would be.

8 CHAIRMAN BLOCH: What would be the scope of
9 the examination of Mr. Glenn?

10 MR. MICHAEL KOHN: His quality -- his
11 corporate concerns investigation.

12 MR. BLAKE: We might well oppose that if it
13 comes to that. Maybe it won't. Maybe we'll avoid the big
14 -- but I suspect we'll probably oppose it based on
15 timeliness, the fact that there were no discovery requests
16 of Mr. Glenn's file throughout an extended discovery
17 period and a variety of other reasons. But --

18 CHAIRMAN BLOCH: Well, if things break down
19 and you're going to need a subpoena, I suppose you're
20 going to have to get it to me at home tomorrow. So after
21 we're done, I'll help you know what the address is if you
22 have to do that.

23 MR. MICHAEL KOHN: Thank you, Your Honor.

24 CHAIRMAN BLOCH: But if you're going to have
25 him next week, it would have to be by tomorrow. Now

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1 what's the Staff's situation in terms of scheduling its
2 witnesses and also serving their testimony -- additional
3 testimony?

4 MS. YOUNG: Staff's testimony will not be
5 ready until Monday.

6 CHAIRMAN BLOCH: Okay, you think it will be
7 ready on Monday?

8 MS. YOUNG: Yes.

9 CHAIRMAN BLOCH: And when would you like your
10 witnesses to begin?

11 MS. YOUNG: Sometime after Mr. Hill and Mr.
12 Ward complete.

13 CHAIRMAN BLOCH: All right, let's get an
14 estimate on that. Mr. Kohn, do you know how long the
15 examination --

16 MS. YOUNG: Are we still on the record?

17 CHAIRMAN BLOCH: Yes. Do you think we should
18 go off the record for this? I guess we should. Let's go
19 off the record.

20 (Whereupon, the proceedings went off the
21 record from 3:55 p.m. until 4:00 p.m.)

22 CHAIRMAN BLOCH: The next session will be
23 Tuesday the 19th at 9:00 a.m. We will begin at that time
24 with Hill and Ward. We understand that Intervenor has two
25 possible witnesses in mind after Hill and Ward, but that

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1 there will be discussions about whether their testimony is
2 necessary. If the discussions break down, I will make my
3 home address known to Mr. Kohn so he can request subpoenas
4 at that time.

5 What he should do is to send the forms of
6 subpoenas and have someone wait while I read it and decide
7 whether to sign it. After those witnesses, either Hill
8 and Ward or Hill and Ward plus one or two more are
9 completed, Intervenor has requested that there be some
10 break before they begin cross examining the Staff panels.
11 We would consider at that time what the nature of that
12 break will be.

13 After that break is over, the Staff testimony
14 will start. We'll hopeful that will be either Thursday or
15 Friday next week. There will be two Staff panels --
16 three, three Staff panels. The order of the panels has
17 been discussed with the Intervenor, and if there are any
18 further questions, I'm sure discussions will continue
19 about that. Mr. Blake, you have a question?

20 MR. BLAKE: Yes. I was surprised to hear you
21 say Thursday or Friday. I would believe it would be
22 either Wednesday or Thursday for the Staff to begin next
23 week.

24 CHAIRMAN BLOCH: All right, I guess there was
25 an estimate with Mr. Hill and Ward of a day to a day and a

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1 half. So it -- well, at any rate, it may be Wednesday or
2 Thursday, that's possible. But we expect there will be
3 some short break between their testimonies. The following
4 week we'll be beginning on Tuesday through Friday,
5 beginning at Tuesday at 9:00 a.m.

6 And we can record for the record that Mr. Kohn
7 was unwilling to state the length of his cross examination
8 of the Staff panels not having seen the finished testimony
9 from Staff. We'll expect an estimate from him at the
10 earliest time that he can manage that. We expect the
11 Staff testimony to be filed and served on Monday.

12 There being no further business, we are
13 adjourned until Tuesday at 9:00 a.m.

14 (Whereupon, the proceedings were adjourned at
15 4:03 p.m., to reconvene Tuesday, September 19, 1995 at
16 9:00 a.m.)

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C E R T I F I C A T E

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

SCOTT DILDINE
Official Reporter
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