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UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

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OVERTIME BACKFIT REVIEW PANEL

Meeting With

ALABAMA POWER COMPANY, ET AL.

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Room 6-B-11

NRC Headquarters

11555 Rockville Pike

Rockville, Maryland

Wednesday, December 18, 1991

The above-entitled proceedings commenced at 8:30 a.m., pursuant to notice, Bruce Boger, Panel Chairman, presiding.

BEFORE:

Bruce Boger, Chairman

Frank Congel, Member

B.D. Liaw, Member

OTHERS PRESENT:

E.G. Adensam
Jesse A. Arildsen
Margo H. Barron
Karla Bristow
Floyd Cantrell
Larry Evans
John E. Garlington
Steve Hoffman
Gus Lainas
Dave Lange
Lyle D. Larson
James W. McGowan
James H. Miller, III
Brad L. Moore
Dave Morey
Richard E. Mullins
David A. Repka
Jack Roe
Warren H. Swenson
Michael Webb
Jared Wermiel
Jack Woodard

PROCEEDINGS

MR. BOGER: Good morning.

The purpose of this meeting is to allow the Alabama Power Company to present its appeal of an operating staff overtime backfit imposed by the Staff as a compliance backfit. The Staff imposed this backfit in a letter dated May 24, 1991.

In your letter of August 22, 1991, you proposed modified overtime practices which were subsequently not accepted by the Staff. Therefore, in accordance with your letter, we are considering that letter as an appeal of the imposition of the compliance exception backfit.

Our internal procedures are to establish a panel to review the appeal and to provide recommendations to the director of NRR. This panel consists of me, Bruce Boger, as the panel chairman. My position at the NRC is the director of reactor projects for Regions III, IV and V.

Also on the panel are Frank Congel, on my left, who is the director of the Division of Radiation Protection and Emergency Preparedness, and Jim Richardson, who is the director of the Division of Energy Technology. Jim is on travel today. Standing in for him is his deputy, B.D. Liaw. He's to the left of Frank.

Project Manager Steve Hoffman has been assisting us by providing background information and arranging various

meetings for us.

Also present are members of the project staff and the Division of Licensing Performance and Quality Evaluation. They are here to listen.

The panel has heard from the Staff concerning the basis for the compliance backfit. We don't intend to argue the relative merits of either the Alabama Power Company or the Staff's contentions at today's meeting. We will not make our decision at today's meeting. Rather, we wish to receive any additional information that you have to provide to us and to make sure that we correctly understand your arguments against the Staff's rationale.

Our recommendations will be provided to the director of NRR who in turn shall determine whether or not the backfit is warranted. You will be advised in writing of his decision.

As you have noticed, this meeting is being transcribed. We are also in the process of routing an attendance list that will become part of the record.

Frank or B.D., do you have any comments at this point?

MR. LIAW: I want to address 50.109(a)(4)(iii), which states "The regulatory action involves defining or redefining what level of protection to the public health and safety or common defense and security should be regarded as

adequate."

How does that relate to your argument that this imposed backfit is a new interpretation of the requirement rather than "redefining" what was in it? I would invite your counsel or you to address those points.

MR. MILLER: We will be happy to. We can do that now or in the ordinary course of the proceedings.

MR. LIAW: I don't care when you do it.

MR. BOGER: Let me turn the meeting over to you, Mr. Woodard, and ask that you introduce your folks to the panel.

MR. WOODARD: I was asking Mr. Miller what it meant that you were not going to argue the merits of our position, or whatever words you stated. He explained that to me, but I hope you will be interactive with us. We want you to understand what we do fully, not partially.

MR. BOGER: I just wanted you to understand that we are not going to take a position. We just want to make sure we understand what your concerns are.

MR. WOODARD: I understand that now.

We thank you very much for this opportunity to present our position. My name is Jack Woodard. I am from Alabama Power Company and I'm also from Southern Nuclear Company. I am the vice president of Alabama Power responsible for the operation of the Farley Plant. I am

also the vice president of Southern Nuclear Company responsible for the support to Farley Nuclear Plant from the corporate office.

In case some of you don't know what that means, let me briefly explain. Today Alabama Power is the licensed owner and operator of Farley and Southern Nuclear's mission is to provide support activities to Farley, such as engineering, design, and that sort of thing.

On Monday we hope to all become Southern Nuclear. That is our plan. I understand that all the approvals are in place to allow that to happen. So all of our plant employees on Monday will become Southern Nuclear employees.

I would like to introduce our team to you.

First, we have Dave Morey. He's the plant general manager. He will be presenting the history and philosophy of overtime scheduling at Farley Nuclear Plant. He has been with our company for 16 years. He has extensive experience in supervising shift workers.

Our second presentation will be made by Mr. Brad Moore. Brad is manager of licensing, a Southern Nuclear Company employee. Brad has been with us for about ten years and he spent four of the ten years on shift as a licensed shift foreman and shift supervisor.

Jim Miller, our third presenter today, is a lawyer from the firm of Balch and Bingham in Birmingham. He will

discuss the legal aspects of this issue.

By the way, Mr. Moore will discuss the licensing ramifications of the issues.

Today we also have Larry Evans. Larry is the president of Local 796. He represents about 375 employees as Farley Nuclear Plant, all of the covered employees. He also represents about 150 of the division employees.

Larry's concerns center around his feeling that if the Staff's position is imposed upon us that we will be forced into contractual violations. He's basically concerned about distribution of overtime equitably among employees and distribution of radiation exposure, but I guess most of all he is concerned that the employees could be forced to work schedules that they really don't want to work.

Larry has a submittal he would like to make and I would like for Mr. Miller to handle that.

MR. MILLER: If it please the panel, in our Exhibit 6 we referenced a letter by the IBEW that was unsigned. We now have the signed version of it together with a petition that has been signed by some 50 of the operators that request that the panel consider the past practice of Alabama Power Company in scheduling and distributing overtime to be a safe one and to allow that practice to continue.

For the purposes of the record, I would like to mark this exhibit as Exhibit 13 to follow the first 12 that we have attached and offer that into the record at this time.

MR. WOODARD: Larry, for the record, did I state your general concerns properly?

MR. EVANS: Yes, you did.

MR. LIAW: Excuse me. I would like to ask for some clarification of what you just said about if this is imposed on you it would violate a contractual agreement between you and the union. Could you elaborate on that?

MR. WOODARD: We will elaborate on that in the course of our presentation. Mr. Morey will go into that.

MR. LIAW: That's fine.

MR. WOODARD: If he doesn't satisfy you, at the end I will come back and Larry and I will respond to you.

Now I would like to introduce to you Mr. John Garlington. He's general manager of our support activities in Birmingham. He has 20 years with the company, 14 of it at the plant. A great deal of it was managing our operational activities several years ago.

We have Rick Mullins, project engineer in licensing.

Jim McGowan, manager of SAE, our safety audit and engineering review. He's our quality assurance manager.

Lyle Larson, with the firm of Balch and Bingham.

Dave Ropka, the firm of Winston and Strawn.

We are not here today to simply argue legalistic issues. We want you to understand our philosophy and implementation of overtime scheduling at Farley Nuclear Plant. That is, we want you to understand from the point of view of a shift worker. Hopefully Dave Morey will be able to provide you that understanding in his presentation.

It is important that you have an overall appreciation of our policy as opposed to focusing on one or two elements of our policy. We think that you must have that to appreciate it.

If at any time during Dave's presentation you lose him, please stop us and let's regroup, because it may be difficult for you to follow.

Dave.

MR. MOREY: It's really not difficult for you to follow. It's difficult for me to explain it.

As Jack said, I am Dave Morey and I am the general manager of Farley Nuclear Plant. I have been with Alabama Power Company for 16-1/2 years at Farley Nuclear Plant. Prior to that I spent nine years in the United States nuclear navy. I went to Farley Nuclear Plant and was an engineer for a year. I was the maintenance supervisor. I was responsible for mechanical and electrical. In 1980 I

became the operations manager where for five years I spent some of my time working on these issues that we are talking about.

In 1985 I became assistant general manager of operations where I was responsible for all of maintenance, all of operations, chemistry, health physics and our reactor engineering group.

In 1988 I became general manager responsible for total operation of the plant.

All of my working life I have either been a shift worker or I have been supervising shift workers.

Farley Nuclear Plant is a Westinghouse designed three loop pressurized water reactor. Unit 1 went into commercial operation in December of 1977; Unit 2, in July of 1981.

We have a common control room. This is the Unit 1 main control board. This is the Unit 2 main control board. If you pick up either one, turn them 180 degrees and set them down, as close as possible with only minor exceptions you have identical units.

Alabama Power Company has maintained the two units and the simulator as similar as possible to minimize differences and to enhance safety and reliability.

The operations group is organized in crews to operate the plant. During the operation of Unit 1 and the

start-up of Unit 2 in the 1980-81 time frame we developed a plant mentality at Farley Nuclear Plant. We do not want to make decisions that are best for one unit or another. We want to do what is best for the plant. At my level and at the shift supervisor's level we continually try to push that philosophy all the way through our entire organization.

This next slide shows what an operation crew consists of. We have three columns.

This is the technical specification minimum with both units operating.

This is the technical specification minimum with one unit operating and one unit in an outage.

This is what we call our admin manning or this is what our normal manning is. This would be our normal manning for two plants in operation. With one unit in operation, one unit in an outage we are going to supplement this number of people. We will get to that in a minute.

This is the standard technical specification terminology shift supervisor. This is the SRO, which we call the shift foreman-operating. This is the reactor operator. We call them plant operators or auxiliary operators; we call them system operators. And then you have the shift technical advisor.

Our normal operating plant composition has two shift supervisors, one per unit; two shift foremen-

operating, one per unit.

We have a philosophy where we have a 50/50 mix of engineering degreed supervision and people who have come up through the ranks, coming from system operator, going to plant operator, and then moving into supervision. We don't have exactly 50/50 at any given time but we have enough so that we will have engineering experience and supervision in one crew and people who have come up through the ranks experience in one crew.

We have two shift technical advisors, one per unit. Since the STA is only needed during emergencies or significant transients, we use the STA as our shift foreman-inspecting. That's an administrative function that assists the shift supervisor.

We have four plant operators, two per unit, and nine system operators, three per unit and three that are shared between the two units.

The crews operate their respective units together to enhance overall plant safety, reliability and production. When they come in at their shift change they get together in a room. Each shift supervisor comes in and tells them what their unit is going to be doing. It doesn't make any difference whether they are working on Unit 1 or Unit 2. They are told what is going to be going on at both units, because coordination is required between the two units so

that have this plant concept, so we can make sure that we use our resources properly.

These individuals are designated on a unit basis for straight time purposes. In other words, for their normal straight time purpose they are designated to work Unit 1 or they are designated to work Unit 2. On an overtime basis they are designated on a plant basis, five overtime on Unit 2; a person who is Unit 1 qualified, Unit 1 and Unit 2 qualified, all these people are, except one shift supervisor. All these people will work overtime on a plant basis, whoever is the lowest on overtime. To equalize overtime we work it that way.

Hence overtime can be equalized and all can work their share without burdening any individual or group of individuals. The operation crew concept at Farley builds teamwork and with teamwork comes an added margin of safety. They work together and not against each other. They are not competing in operating their two units; they are competing to make the plant operate most efficiently and safely. It improves reliability, and with our concept of having the mix of engineering experience and coming up through the ranks experience it develops a range and depth of knowledge.

Since the early 1980s we have had five-crew rotation at Farley Nuclear Plant, but we have had a philosophy to staff for six crews. Since the middle 1980s

we have had enough shift supervisors, foremen and plant operators to staff six crews. We have had the extra plant operators in the five crews as extras and the extra supervisors on shift as extras or performing special projects.

Since the early 1980s Farley Nuclear Plant has had a policy of limiting overtime of the operations group to the extent practical.

MR. BOGER: Before you go too far on that, I have a question on the slide you just took off. I am curious why you have chosen to supplement your shifts with extra people beyond the minimum.

MR. MOREY: We have a relatively large crew size because it is our philosophy to staff for normal operations but to have enough personnel to respond to the unexpected. In 1980 and 1981 I very rapidly came to the conclusion that I never wanted to be manpower limited if I had a transient, if I had something that went wrong with my plant, a fire, a leak, any number of things that can go on. You become manpower limited with minimum staffing. It's not that you can't cope with it; it's that it is not the best way to do it, from my perspective.

We don't want to staff assuming everything goes right. We want to staff for an eventuality that something might go wrong. At the same time we want to operate so that

nothing goes wrong but we want to be prepared in case it does. That's a very fundamental philosophy that we have. We do it in our operating. It's also going to carry over into our shutdown; it's going to carry over into our outages. I will get into that as I get into my talk.

MR. WOODARD: I would like to add a couple things to that, assuming Dave agrees with me. This type of additional staffing we took on in the early 1980s, you will see we have done some progressive things through the years to minimize overtime, the subject we are here about.

In this particular situation, take the shift foreman-operating. If one of them happens to be sick, you may not call someone out, which could minimize overtime, because you could go back and operate that shift with one person and that would help minimize overtime.

We feel it takes that many people to get the work done, to support the maintenance and operation of the plant and be prepared for the unexpected, but it also complements things like minimizing overtime. If you come up with a guy short, you may not have to call someone out, depending on which position it is.

Further, if you take the two positions, you have four, but on most every shift we have 24 operators with six shifts, two units. Instead of four, we probably have a couple more that are overfilling system operator jobs. So

if an operator calls in sick, you don't have to call out another operator for overtime. You can take him from the SO ranks and run with maybe less than nine SOs. You probably really have more like ten SOs out there anyway on most days. You can do things like that with the extra manpower to minimize overtime.

MR. BOGER: How many licensed folks do you have?

MR. MOREY: On shift or total at the plant?

MR. BOGER: Total.

MR. MOREY: Total at the plant right now is between 110 and 115.

MR. BOGER: Do you recall how they are split out?

MR. MOREY: I have a license. Another part of our philosophy is that the people who are managing and making decisions about the plant operation have at least gone through the training. Most of us have succeeded in achieving our license. I've held one since 1979.

MR. BOGER: Those are all active licenses?

MR. MOREY: They are all current licenses. I cannot go down and relieve the shift supervisor. I keep my requalification training current. I do not keep my go down and stand the shift current.

MR. MILLER: You asked how they were split out. Do you mean between the units?

MR. BOGER: Between ROs and SROs.

MR. MOREY: Plant operators, we have 29 today. We promote plant operators in the plant, instructor positions into nuclear specialist positions, to get them off shift for several years, and then we promote them into shift foreman-operating positions.

MR. BOGER: Help me again with how the normal number -- I guess I would call that the right-hand chart. It appeared to me that you typically split them one unit to the other unit, two shift supervisors, one for one unit and one for the other unit.

MR. MOREY: There is one per unit, one per unit, two per unit, three per unit with three shared, and one per unit.

MR. BOGER: Thank you.

MR. MOREY: I believe this is Exhibit 7 in our submittal. The one we submitted is wrong. We will get you a correction.

Since 1987 our overtime of our operations people has looked like this. This is on a weekly basis. This includes shift turnover time. As you can see, our system operators have averaged on a weekly basis nine hours of overtime and our plant operators, our shift foreman-operating and our shift supervisors have averaged seven hours, on a yearly basis, on a weekly basis.

MR. WOODARD: If I may explain why it's wrong.

For example, we have a shift supervisor that we assigned to training. So there were some shift supervisors or positions that were assigned to off-shift activities, like to training. Of course their overtime was lower and it made the numbers different.

MR. MOREY: The first time we counted it we just went to the people who had the classification and counted their overtime divided by that number.

MR. BOGER: The folks that are included in this now are --

MR. MOREY: Are just the ones that were on shift at that time. So if they served six months during the year on shift and six months off, we only counted them for six months and then somebody else was the next six months.

MR. MILLER: In the handout package that you got today the overhead that you have there is consistent with the one you just saw on the screen. It should be substituted for Exhibit . The one you got today has the correct numbers on it.

MR. MOREY: This slide shows our overtime, including shift turnover time on a classification basis per week during our outages for the last six outages. It shows that our average has been less than 20 hours per week for any outages, with shift supervisors being 16, SOs being 19, and what our outages have averaged for the last 63 days,

which is well below the industry average.

We believe that we have done a good job over the years of limiting our overtime. We believe that these numbers are consistent with what other nuclear utilities are achieving. We have made some mistakes in the administration of our overtime policy and we have corrected them.

We believe our results speak for themselves. Our policy, our philosophy of minimizing overtime in the operation group to the extent possible has been achieved and is continuing to be achieved and we are continuing to do things to make it better.

MR. BOGER: For these averages, what is the base number of hours? Forty?

MR. MOREY: Forty.

MR. BOGER: Can you tell me what the maximum might be? The minimum would be zero overtime hours.

MR. MOREY: I can get that number. I don't have it with me. There is not a wide range. When we get into how we do our scheduling you will see why there is not a wide range. There is not a wide range around this number.

MR. CONGEL: So it would be fair to say that the average truly represents the duration. For the shift supervisor, for example, it is 18 hours per week for the number of weeks represented by those numbers.

MR. MOREY: That's correct. There is some

distribution but it is very narrow. When you see how we schedule them you will see why that is so.

MR. WOODARD: I would like to make a comment about the maximum. I'm not sure, Bruce, that that would tell you anything. I think what you would come up with would be a case of abuse of overtime. Let's say a guy is working on the night shift and he wants to work his off days and he volunteers and they sign him up. Those cases we have already addressed with the Commission. We have said they are inappropriate and we no longer allow that. So I'm saying what you would end up with is a case of abuse, which we no longer allow.

MR. BOCCI: I see. It's hard for me to take an average over 63 days and know basically what the peaks and valleys are. That's what you are going to show me now?

MR. MOREY: I'm going to show you why the peaks and valleys are going to be narrow.

MR. LIAW: Excuse me. On the same point Bruce is making, could I interpret that to mean that for shift supervisor during a 63-day period he averages out working 63 hours a week?

MR. MOREY: That would be 59 hours.

MR. LIAW: Let's take U2RF5.

MR. MOREY: That would be 59.

MR. LIAW: For a 63-day period the shift

supervisor works on average 59 hours a week; is that what you mean?

MR. MOREY: That's correct.

MR. LIAW: And SI is 62 hours.

MR. MOREY: In that case it was 62. Notice we have done much better. We are doing better.

MR. LIAW: What did you say the industry average is?

MR. MOREY: I didn't say anything about industry average. I said we were consistent with what other people are doing. We base that on straw polls, calling people up, seeing what they were doing. When you start talking with people it gets very difficult to make sure you are comparing apples to apples.

MR. WOODARD: Remember, we narrowed this down to the actual people working on shift, not getting involved with people that were in one of these classifications but on special assignment. If you average those in you will end up with lower numbers. These are on-shift actual numbers.

If you take the EPRI report -- what is the name of the report?

MR. MOORE: EPRI Overtime Report.

MR. WOODARD: We can get you the number of the report. They basically asked the shift supervisors what their opinion was.

MR. MILLER: For the record, it's EPRI Report MP-6748, "Control Room Operator Alertness and Performance of Nuclear Power Plants."

MR. WOODARD: I think these numbers are not actual numbers taken off time sheets. As I understand, they polled shift supervisors and said what do you think you work in overtime on the average. You will see the majority of them say they think they work six to ten hours a week. So that would really put us below average if you took that as an indicator. I don't know what that includes. Does it include people that are not totally working on shift all the time or not? I don't know.

MR. MOREY: That would be comparing what our actual numbers are to what they were saying they were working.

Also in the early 1980s, as we were developing our plant philosophy for the plant operation we also developed our five-crew rotation that our operation group uses. What I have shown here is five weeks. This is a five-crew rotation and it goes for five weeks and then starts over again. I have shown just one crew, Crew 5, because it started on a Monday and that is the easiest place to start.

This is the way it works. The 16th of December was this past Monday. Crew 5 would have been in training. Day shift they would have been in training.

On Tuesday they would have been down on shift, running the shift. They would have been responsible for operating the plant.

On Wednesday, Thursday and Friday they would have been in retraining. Then they would have had four days off.

Then they would have come back in on Wednesday and they would work six days in a row. Then they would have two days off.

Then they would come in and work evening shift where they would work seven days in a row.

Then they will have two days off. Then they come in on night shift and they work seven days in a row, and then they are off two days. Then the rotation starts again.

This is what our straight time schedule would be. In 35 days you get ten days off. In each work week, Sunday to Sunday, you work no more than five days, and you have two days off.

MR. BOGER: These are eight-hour shifts?

MR. MOREY: Eight-hour shifts.

MR. WOODARD: I believe in our response to your letter we said that it was nine days, but you can see that it's really ten days.

Is that right?

MR. MOREY: It's ten days.

MR. WOODARD: We said nine in that letter. It's really ten.

MR. MOREY: In the five-week rotation you have two sets of your off days on Saturday and Sunday and you have one set of off days that's over a Saturday and Sunday where you have four days off.

To a shift worker there are fundamentally two very important things. One is the number of Saturdays and Sundays you have off. The other one is the number of day shifts you work. Most shift workers want to maximum the number of day shifts they work. Most shift workers want to have Saturday and Sunday off.

If you have a 24-hour a day, seven-day-a-week, 52-week-a-year operation, not everybody can do that. So you try to maximize your schedule so that you can achieve those two fundamental things, maximum time on days and maximum number of Saturdays and Sundays off.

MR. WOODARD: I think there is something else that ranks right in there with that, and that is that when you do have off days that you can get them, that the company is not scheduling you to work on your off days. They put you in a position where you have a high probability of actually getting your off days.

MR. MILLER: And that ties right into the philosophy of having more than we need, because even if

somebody is sick on one of their off days, you don't get called in. You get this certainty that you are going to really be off on your off days, barring, of course, emergencies and things of that nature.

MR. MOREY: This is what our five-crew rotation looks like when you take all five crews and put them on one piece of paper. You do this by knowing what crew you are in.

Let's say that you are in Crew 3 and this week right here started the 16th of this week. So this Wednesday would be today, the 18th. Today Crew 3 would be on evening shift. You can just follow Crew 3 through, evening shifts, and they are going to come down to night shifts, and then they are going to go up here to training, to on shift, to training, and then they are going to be off, come back in on days, and then they are going to go back down to evenings.

Today Crew 5 is on shift, running the plant on day shift. Crew 1 is in retraining. Crew 3 will be on evening shift. Crew 2 will be on night shift, and Crew 4 is off. So in a five-crew rotation you always have one crew off and the other four are always working something.

Early in our plant history we realized that during an outage we needed more people, not less.

MR. BOGER: Before you go to the outage condition, in the charts that you provided, about how much overtime are

people working when both plants are operating?

MR. MOREY: When both plants are operating, you can see that our average was in the seven to nine range and during our outages we are averaging 16 to 19. So it's rather low. I don't have a figure for that. We could calculate that data out. We didn't calculate that. The majority of our overtime is being done during outages. So to bring those figures down to the seven and nine you have to be significantly less than seven and nine.

Early in our plant history we realized that during an outage we were going to need more people in operations, not less, and that during refueling we still had a lot of equipment operating that would require monitoring.

In fact, my philosophy is that a shut down unit is operating; it's just not making power and not making money for the company at the time, but it is operating. When you are shut down, even when you are in Mode 5 or Mode 6, and you look at the number of systems that you have operating, and the electrical systems and ventilation systems, et cetera, you are operating a plant. The operations technical specification surveillance is at least as great during an outage as it is during operations.

There are some people in operations that will argue that there is more going on from a surveillance requirement during an outage. My view is that it is about

the same. It's different. You are not doing solid-state protection testing, but you are doing valve stroking. Valves you have not looked at since the last refueling you are now going in and looking at and stroking, et cetera.

It is usually much more manpower intensive, these surveillances that you are doing during an outage, than when you are in operation. The added maintenance and modification activities are going to require a lot more operations activities: tagging; lining up systems to support the maintenance; fire surveillance activities; filling, draining, hydroing; ensuring adequate equipment before you take pieces of equipment out; making sure that you have adequate equipment to be able to operate the plant in whatever eventuality you are assuming might be occurring.

With the increased number of people in the plant during an outage we feel we need more operations personnel in the plant to ensure that work has been done within our policies and procedures. It is just important to have more operations people out there so that contractors or people who are not that familiar with where things are can ask and prevent having people make mistakes, getting on wrong equipment, wrong units, that type of thing.

When you are moving fuel you need a senior reactor operator in charge of fuel handling.

Our view is that outages require as high a level

of vigilance and attention to detail as operating. That is because of the exponential number of things that are being done during an outage. Hence you need more operations attention; you need more people on shift to maintain the level of safety and reliability that we want to feel comfortable with.

Again, our staffing philosophy during an outage is the same as our staffing philosophy during plant operations. We are not staffing assuming that everything is going to go right. We are staffing for the outages so that we can make sure that everything goes right, and then if everything does not go right, we will have adequate manpower to combat that.

In the early 1980s we got with our people. We asked them how it was that we could ensure that we had adequate manpower during an outage. We asked them how to develop a schedule so we could minimize overtime, meet our manpower requirements, and meet the guidelines that were then existing in the 1980-1981 time frame towards fatiguing of operators, keeping in mind that we didn't want to work excessive overtime.

Our people agreed to help us and they added a couple desires of their own. They requested that if possible we have a minimum disruption on the existing schedule, that if they had to work, they recognized they were going to have to work more hours but they would like to

work when they were working and when they were off they wanted to be off. They wanted to have a minimum disruption with their schedule and they wanted to maximize their off days.

If you were the spouse of a shift worker, you were the child of a shift worker, the less changes you do to that persons schedule the easier it is for their family to be able to figure out when it is they are going to be working and when they are not going to be. That is a major problem for spouses and children of shift workers.

They asked that we see if we could minimize the disruption of the schedule, and they asked that we be able to see what we could do about maximizing their off days. They felt that having off days was very important to their rest and being able to spend time with their family.

We looked at many schedules. We looked at many ways of doing it. They proposed that we keep the existing schedule that we have just discussed that we would do on straight time and that we place everybody on 12-hour days, and that when you were scheduled for day shift you would work from 7:00 in the morning to 7:00 in the evening, that when you were scheduled for night shift you would work from 7:00 in the evening to 7:00 in the morning.

In order to get the additional personnel that we needed day shift and night shift, keeping the same crew that

we are going to have, the crew that is going to be operating the unit that is at power is going to be the same crew that was doing it the day before we shut down. The people who are going to be operating the shutdown unit are the same people working in that crew.

Then, in order to get additional people that we need to support all the outage activities, we take the evening shift and require them to work 12-hour days, and we take half of them and put them on night shift and half of them and put them on day shift and keep the schedule that we have going. When you are on day shift, you are on day shift; when you are on night shift, you are on night shift; when you are on evening shift, half of them will be on days and half of them will be on evenings. When they are off, they are off.

This was very desirable for them. From our point of view, it kept our crew concept; it kept the crew of the two units working together; and it got us our additional people, three extra supervisors, two extra plant operators, and four or five system operators -- you can't take nine and divide it evenly, so usually the day shift gets four and the evening shift gets five -- to do the additional work during the outage. So we have an additional nine or ten people supplementing the operating crew to support all the activities that are going on during the outage.

The operations shift personnel get their days off. We thought this was an excellent solution. We believed then and I believe now that it meets the intent of the overtime guidelines and it is not overly fatiguing. It does require people to work 84 hours, two days off, 84 hours. However, they get two days off before they are going into it; they work 84 hours; they get two days off; they work 84 hours; they get two days off. Then they come in and they go to their training time. Then they get four days off and they work six days in a row and then they get two days off.

MR. WOODARD: In training they are working.

MR. MOREY: Eight hours a day.

You can see with this rotation how it is that the amount of time that someone works on this rotation is very tight around that average.

We feel that this is at least as good, and I believe that it is superior, to the NRC's policy of working somebody 12 hours for six days and giving them one day off. In a five-week period my people would work more overtime and would have only five days off, whereas my people are working less hours and they are getting ten days off in the five-week period. It is also superior because it is the one that the operators proposed and it is the one that they like.

MR. WOODARD: There is a side benefit to this thing too over and above just getting your scheduled off

days. If you will look closely at it, you are maximizing to probably the greatest extent possible your weekends that you get being a shift worker; you get your share of weekends.

MR. LIAW: Correct me if I'm wrong, but your current tech spec is a limit of 72 hours in any seven-day period.

MR. MOREY: My tech spec allows me in outages to approve exceeding 72 hours in a seven-day period.

MR. LIAW: But your philosophy of mixing operating units and outage units defeated that 72-hour limit.

MR. MOREY: But that same tech spec allows me to do that. It allows me to exceed 72 hours in a seven-day period if my plant is not operating. I will go on to show how we developed this philosophy and how it is consistent with our answers to the Commission in Generic Letter 82-02, 82-12, and 82-16.

MR. LIAW: You might have a good philosophy here and clearly there is some explicit limit in your tech spec. You could say you were allowed to have it when your plant is in outage. My question is, did you discuss it with the Staff?

MR. MOREY: Yes, and I am going to show that. I'm going to show that your reading of my tech specs is different today than what has been going on up until the 1988-1989 time frame.

MR. LIAW: When was this implemented?

MR. MOREY: This was implemented in 1981. When Unit 2 went on line this is the way we sat down and told the Commission we were going to run Unit 1 and Unit 2. They were giving us our license for Unit 2 and 0737 staffing and overtime issues were being discussed. This is the way it was approved by the NRC for us to operate when they gave us our license on Unit 2.

To summarize, the reasons that we chose to do this back in the 1980-1981 time frame is it maintains --

MR. CONGEL: Excuse me. I was just going over some numbers and doing some calculating.

MR. MOREY: Is there is anything I can do to help?

MR. CONGEL: No. I think I see it all now..

MR. WOODARD: We would welcome clarifying anything.

MR. CONGEL: I understand that.

MR. MOREY: To summarize what we see to be the reasons that we went to this back in the 1980-1981 time frame and the reasons we feel that it is good today, it maintains our crew concept of operating the plant and it supplements our staff during the outages. It keeps the same people operating Unit 1 and Unit 2 whether one of the units is shut down or whether they are in operation.

We supplement that crew with additional people

from the evening shift in order to take on the added burden that an outage has.

It maintains crew morale. It is what the operators want. It is what they came up with. They are very satisfied with it.

MR. LIAW: Excuse me. When you say that's what the operators want, what do you mean by that? Did you take a vote and decide?

MR. MOREY: You have the petition from Larry Evans that says they would like to stay on it. I have never taken a vote.

MR. LIAW: Just Mr. Evans' informal poll of his membership?

MR. MOREY: Mr. Evans has.

MR. LIAW: The reason I am asking this is, when you start talking about good or bad morale, you are making a value judgment on people. I really don't think you can make a generalized statement that says everybody likes it. Personally I don't like it.

MR. MOREY: That's right, but you're not a shift worker. This is really fundamental. For 16 years I have been working in the company that has 3,000 shift workers. They will send a letter to me and say you need to talk to all your employees by Friday. You can't do that if you are working shift work. That is not possible. People who do

not work shift work do not think like shift workers.

If you go down and talk to my operators, they want to work day shift Monday through Friday. That's what they want to do. They're just like you and I. But they are shift workers and they must work shift work. So what is the best way of doing that?

Yes, there will probably be some people that say, no, I would like to work some other schedule. What is that schedule? I have not heard anyone -- maybe Larry has -- who thinks that the NRC's "work me six days in a row on 12 hours and be off one" is superior to the schedule that I just showed you.

MR. LIAW: I'm not questioning whether it is superior or not. I'm simply saying that when you make a statement like that it injects a value judgment of people, and I would just like to know how you came up with that.

MR. WOODARD: We know because we allow them to express their opinions and have input to the schedule. We don't just go out and impose this on them. They have had an input into developing this schedule. That's why we like it, because the employees helped develop it.

MR. MOREY: This schedule on straight time and on overtime came from my employees. Every year we sit down with them and say, okay, you're going to get to sign up on the schedule again in January. How do we want to change it?

We keep doing the same schedule every year.

MR. LIAW: You just generalized again. You said "employees." I don't think employees is a single entity. For those folks who grew up in the 1960s, the way to penalize them is to ask them to work overtime. For those folks who grew up in the 1920s or 1930, during the Depression, the worst thing to penalize them was to stop them from working overtime.

MR. MOREY: I understand that. I have employees who don't want to work any overtime.

MR. LIAW: I understand that.

MR. MOREY: I also have employees that want to work every bit of overtime they can and want to, and we got ourselves into trouble because we allowed them to work more than what we should have allowed them to work. We weren't requiring them to do that; they were volunteering for it for very good reasons, but we sort of lost sight of what we were doing at the time. But they had very good reasons that for a shift worker make a lot of sense and from a safety standpoint make a lot of sense, but they don't make any sense after the fact.

If you are a shift worker at my plant, in general my employees are very satisfied with this. They want to keep this. They would like not to work shift work. There are very few that really want to work shift work.

MR. BOGER: At the risk of reaching a generalization again like B.D. is having a problem with, would the people prefer working in the normal shift or the 12-hour version of that shift? Do you know how that works out?

MR. MOREY: We tried the 12-hour shift back in 1985. We tried the 12-hour shift on straight time with both plants operating for six months and my people voted off of it. They voted off of it because the way that you handle somebody being sick, the way that you handle somebody going on vacation, the way you handle sending somebody to INPO on a peer evaluation is you take somebody off their off days, and we were disrupting their off days. That was a major segment of the people who didn't like it. The other segment didn't like it because it did not allow them to go to school in the evening. It was very disruptive to being able to continue their education. So they voted off of it.

MR. WOODARD: There was another aspect that was major. If you examine a 12-hour schedule, you are yanked around so many times. You are cycled between days and nights and days and nights and days and nights on a 12-hour schedule far more than this. You are really working three 12's; you're off; working three 12's, four 12's.

Think about that on the night shift. Every time you come off you go back to days. So you are really better

off to work seven night shifts, for example, and then with your training and your other day shifts you are really minimizing the cycling that your body goes through coming off that night shift. A lot of the older workers felt very strongly about that cycling.

MR. MOREY: In the 1980 and 1981 time frame I was very much for the 12-hour shifts. I did a lot of lobbying with my people, did a lot of lobbying with my management at that t me to try to convince them that we ought to do it. I wanted to do it. I was convinced to do it. In 1984 we r gotiated with the union to try it on a trial period. We tried it for six months. At the end of that trial period all of the workers were polled in operations as to how they wanted it, and it was like 70 to 75 percent against it, and we went back to this schedule.

MR. MILLER: If I could bring up one additional data point on your concern that the statement of maintaining crew morale is too general to be trustworthy. This contract is renegotiated periodically. This philosophy that you have heard about has been around since 1981. There have been no grievances filed. You would think that if your crew is not happy, if there is a fair amount of discontent over the way you are doing it, somebody is going to seek the protection of the contract in the grievance procedure.

MR. LIAW: Clearly, we look at it from the safety

point of view. I was involved in the discussions when the issue was before the Commission back in the early 1980s. I was tech assistant to then Commissioner Ahearn. But that is beside the point.

I lived ten years in Alabama. I can understand what life in rural Alabama is. If you have got nothing better to do, why not work overtime and make a few bucks. I was constantly asked to do that. I always turned it down when I was there. I think that is a separate issue. The issue is whether or not somebody made a judgment that you are not fatiguing people and will continue to keep them alert and able to perfo' their functions in a most efficient and effective manner. I think that is the concern that the Staff has.

MR. WOODARD: First of all, I don't believe we are going through a depression in south Alabama. These people that are the subject here are highly qualified people and could probably work anywhere they wanted to. These are licensed by you, ROs and SROs and qualified non-licensed operators. And STAs. These people could work most anywhere they want to. They love it dow. there. We have very high morale. If you look at our turnover, we have very, very low turnover of people at the Farley Plant. They love it there. We have taken surveys recently and they indicate in the surveys overwhelmingly that they are proud to work for

Southern and at that plant.

So I don't think they are hogging the overtime [illegible] otherwise they would be picking cotton in south [illegible] I don't think that's the case at all. I think these people could work anywhere they wanted to.

MR. MORRY: At the time we developed this philosophy, 1980-1981, we did evaluate that it was safe; we did evaluate that the people were not going to be overfatigued.

Remember, 1980-1981 is what we are talking about. We are not talking about 1982. If you go back and read what the Commission was telling the industry what they wanted at that point in time, they were talking about we've got to look at overtime, we've got to have guidelines for our overtime. Not rules. We have to have guidelines. We've got to have a policy of reducing and minimizing.

I believe I reduced and minimized. I believe that the schedule is not fatiguing. If you look at my operating record, we have a very outstanding operating record, one that all of our employees and ourselves are proud of. We make mistakes. You catch us in it and we catch ourselves in it. But we catch a lot more of the mistakes than the NRC does, as it should be. If you are tired, you may make mistakes but you don't catch them. We are making mistakes and catching them.

We don't have data that show that the people are tired, that they are making more mistakes because of this. Compare us to other people who are working your schedule. Are we making less mistakes? Are we making more mistakes?

MR. LIAW: I don't disagree with you at all on that. I'm not making a judgment on that aspect of it.

MR. MOREY: I am trying to present that we did look at that and we continue to evaluate that.

MR. WOODARD: One further point. I'm trying to figure out what your concern is. I'm really trying. I'm trying to put myself in your shoes.

If I looked at the seven days in a row by itself, if I just put my hands down and looked at seven days in a row, I might conclude that, gee, are these people fatigued working seven 12's in a row?

But when I open my hands up and look at a five-week period I say, gee, it's not that simple; these people are getting a lot of off days; they are getting ten days off in five weeks; gee, these people cycled through training, and when they cycled through training that shows that they are going to have more day shifts, and those are eight-hour days.

When you look at it in a five-week sense it looks pretty desirable to a shift worker. I think that's why they like it, because they look at it that way. They don't look

at it as that seven days. The fact is they kind of like that because it minimizes their cycling days to nights as a shift worker.

MR. ROE: Bruce, if I could, for the record, clarify one statement. I think that we should say that the NRC's view on overtime is as expressed in the policy and tech specs, and it is stated simply as "the nominal work week for operating crews should be 40 hours."

The NRC's view is not that it should be taken to the boundary that is expressed in the technical specifications or the policy statement. To say that the NRC would have characterized that this particular work schedule is to work them so many days, give them one day off, work them so many days, that would not be what the NRC would express as their view. Their view would be a nominal 40-hour week.

MR. WOODARD: We understand that. We are just showing you how the tech spec could be interpreted in its bounded condition.

MR. WERMIEL: But you characterized it as "the NRC approach."

MR. WOODARD: We didn't mean to do that.

Do you want to say any more about that?

MR. MOREY: No, I don't want to say anything.

MR. WOODARD: I heard it when you said it. The

way you said it could be interpreted that way.

MR. ROE: You said the NRC would schedule it to put them seven days in a row and one day off; the NRC would then work them another seven days and one day off. That's not the way we would do it. That doesn't reflect our position.

MR. WOODARD: I think you were simply trying to illustrate how you could interpret the tech spec in its bounding conditions.

MR. MOREY: Not only how I could interpret it, but how it has been explained to me by the NRC.

MR. ROE: But you said that's the way we would do it, and we would not do it that way. It's a point that you characterized what we would do.

MR. WOODARD: You don't do it anyway. The utility is the one that does it.

MR. ROE: That's correct.

MR. MOREY: So our thinking at the time was it resolved how to handle shared positions, and if you have shared positions, are they operating or are they not operating? It allowed for equalization of overtime, which is, in our opinion, very fundamental.

You do have some people who don't want to work overtime. You do have people who would like to work as much overtime as they can. If you put them on units, they have

choices as to which unit they work. If they don't want to work the overtime, they could choose to be working on the unit that doesn't have the outage. If they wanted to work the overtime, they could choose to work on the unit that does work. Therefore you are going to be not equalizing your overtime; you are going to be causing some people to have lots of rest; you are going to be having some people work much longer hours.

In addition, that is going to lead to manrem un-equalization. The outage unit person is going to get more manrem. People who are choosing to work the overtime will be receiving more dose, and the people who don't want to work the overtime will be avoiding that. You will not be equalizing your manrem.

MR. BOGER: Have you tried to equalize overtime or the manrems over a particular period of time?

MR. MOREY: Over a year's period.

MR. WOODARD: B.D., you asked the question about what was it that Larry had concerns about that related to a contractual violation. We have provisions in our contract for equalization of overtime.

MR. LIAW: That is also stated in the letter, on the second page. The 8th line says "We feel that you have entered as a participant into our contract." That is signed by Mr. Larry Evans.

MR. WOODARD: That's the way Larry feels.

MR. LIAW: I understand that. I guess the next question is, whatever contractual arrangement you and the company have should be within the framework of the regulatory requirements. Speaking for myself, I would never have any intention to be a participant.

MR. BOGER: B.D., we just received that letter and really haven't responded to it. I'm not sure that this is different than the way we work at other power plants too.

MR. LIAW: No question. I don't think we have any intention, period. Second, it ought to be within the framework of the regulatory requirement or the law. I guess we are discussing whether or not the Alabama practice is within our regulatory requirement.

MR. BOGER: I don't think we've gotten there yet.

MR. MOREY: We're trying to get there.

MR. WOODARD: We are trying first and foremost to establish that what we do is reasonable and a good practice and the employees like it and it has been long-standing.

MR. BOGER: What I am trying to appreciate is if you have two outages a year, one on each unit, is that typical?

MR. MOREY: It's not typical. It's every third year.

MR. BOGER: The overtime would equalize over a

year's time when one unit was down and the other was operating.

MR. MOREY: That's right, but in 1991 we had one outage in the spring and we didn't have an outage in the fall. In 1990 we had one outage in the fall; we didn't have an outage in the spring.

MR. BOGER: It seems like there are a lot of opportunities through a year to equalize overtime.

MR. MOREY: No.

MR. BOGER: Over a year's time. I'm talking seven to nine per week anyway. I'm just curious. This shows a 35-day cycle and not a 365-day cycle.

MR. MOREY: But it just continues.

MR. BOGER: What troubles me is I know other places equalize overtime and they don't have this particular schedule. Saying that you are not able to equalize it unless you do it this way seems odd to me.

MR. MOREY: It is very, very difficult to take one utility and take their results and compare it to another utility and their results. You have to understand their philosophy and their policies within that philosophy as to how they got those results. If we are wrong in the way we have been administering this tech spec, then you are going to require me to change my philosophy or you are going to require me to drive my costs up to the point where I'm going

to get fired. And I am going to have to change how we staff during the refueling; I am going to have to change. If I take what the NRC has said is their way that they would like me to do it, and that is the unit --

MR. BOGER: It is "a" way to do it.

MR. MOREY: They say that if I have two units, the plant means unit and doesn't mean plant. It means that if one of the units is in operation, the people work a nominal 40-hour week. In the outage you can work them up to 72 hours and then they have to have one day off. That is going to require me to split my crews. That means that at three o'clock in the afternoon when the crew comes in on the operating unit that is making power there isn't going to be an interchange between all of the members of the crew that is going to be operating both of those units, because the people are already there on the other side.

It means that people are going to start having to develop communication methods that are not in the interest. It can be done but they are not as clean as the ones that we have from the standpoint of safety and reliability.

It's going to mean that the people on the operating unit are not available to me to work over here. So therefore I have reduced the number of people that are available.

MR. BOGER: I'm reflecting back to the 100

licensed people and trying to figure out how that fits into all this equation. I'm trying to understand your philosophy of having people have licenses and be knowledgeable yet not available to operate the plant.

MR. MOREY: Those people are also out in the plant supervising specific tasks, like steam generator eddy current, like ISI. They are also out in the plant. They are just not under the direct supervision of the shift supervisor.

In the outage, fundamentally outside of the operations group everybody gets split in half, and we either work night shift or day shift. And we are all very involved in making sure that the unit that is at power stays there and is safely operated and that the outage is done most efficiently and safely.

That's basically our philosophy. It is a plant philosophy. Just because one unit is operating in a shutdown condition doesn't mean that we change our focus.

MR. ROE: I would like to clarify something I think is important in this conversation. Basically this particular approach that Staff has taken has been one of a compliance issue. That issue really hasn't been addressed today. I know that the Staff has addressed it to the panel, what the tech spec says.

To the best of the Staff's knowledge, the question

has not been asked of the Staff. Let's consider that this does not meet the tech spec. Let's just say that it is a point that we would say for argument purposes. The company has not asked the Staff if the approach they are using is acceptable to the Staff with the constraints that you have to put on. I think that's an important point.

We have focused just simply on the fact that their current practice, in the Staff's view, does not meet the technical specifications. We have not addressed that other question, to the best of my knowledge. I think that's important.

MR. WOODARD: Do we need to ask it?

MR. MOREY: Wait a second. The next thing I am going to go into is our responses to generic letters.

MR. BOGER: It sounds like a good time to take a break. Let's go off the record.

[Recess.]

MR. BOGER: Let's get started again.

I need to have one question clarified. Basically, when we were looking at the shift rotation for five crews, which is the outage shift rotation, they had a 60-hour week and then a 72-hour and then 84 and 84. I'm curious if there is overtime on top of that. That's the regularly scheduled shift hours.

MR. MOREY: You do not have an 84 in any week.

You do have an 84 in a seven-day period.

MR. WOODARD: Let me try to read something into what you asked. A person could volunteer to work on his off day. Let's say that he's got these two off days and it's outage time and it's a depression in south Alabama. Well, he wants the overtime and he feels good about working. He can volunteer to work and he would be allowed to work it under certain conditions. I would like for Dave to explain those conditions to you.

MR. MOREY: In general, now, since 1989, we don't allow them to work those two days. We would have to be in dire straits. We do come into these four days, and if a person wants to and we have the need, we allow people to work.

In 1988 we had people who were on evening shift, on this night shift, and they worked seven nights in a row. They came to us, a couple of them, and said, I've been acclimated to night shift. Now I'm going to have my two off days, and when I have my two off days I'm not going to be able to sleep during the day. My family is going to be there. So what I would like to do is just stay on night shift and work straight through, because I'm acclimated to the night shifts. We were foolish enough to approve that.

One of the facts that the NRC pointed out to us and we agreed was that we shouldn't have done that, that we

should have insisted on him getting his rest.

Since 1989, if we have the need back here and somebody volunteers in their four days, we will allow them. Usually we try to do it in these two days up here rather than on these two days here.

MR. BOGER: That 12-hour shift is the actual shift time. I guess there is shift turnover on both ends.

MR. MOREY: Yes, and all those average numbers that I gave you include shift turnover.

MR. WOODARD: Further, I would like to point out that we have gone back in the records and looked at how this has been utilized, how many people have really been working those off days. It's very, very minimal. I think that is what is important. With the policy and the system it is not happening except minimally.

MR. CONGEL: The other side of the issue is what I was going to ask, namely, how about extra sick leave being taken because people are getting tired. What I did is a back-of-the-envelope. I want to go through it with you and make sure I interpreted this right. If you take a five-week rotation with the number of hours being worked, including the training hours, you come up with 284 hours in the five-week period as opposed to a normal 200 hours if you worked a 40-hour week during that period. So that implies 84 hours of overtime during an outage, which is roughly 17

hours per week. I looked back at your slide where you talked about the average overtime per outage, and you go across the board, and lo and behold, it ranges from 16 to 19 hours.

MR. MOREY: That includes turnover time. Your calculation did not include turnover time. Those numbers include turnover time. You came up with 17?

MR. CONGEL: Right.

MR. MOREY: I'm sorry.

MR. CONGEL: It would imply to me two things, that there is neither excessive sick leave being requested nor excessive overtime being asked for during those time periods, and you are really accounting for most of it with your statement that that is the normal work schedule for outage times. That is consistent with the other data you showed me. That's the conclusion I'm looking at.

MR. MOREY: The reason it's less is that there are periods during the outage when we don't need all of these people. If they come and say, hey, I'd like to go home, and we have the opportunity, they only work an eight-hour shift. We try to spread that around among the people.

We don't take vacations during the outages. In operations there is sick leave sometimes, but it is not because of fatiguing; it's a random type thing.

MR. CONGEL: I just wanted to make sure. It

looked consistent to me. One can draw implications and I thought the implications I was drawing do look like a consistent picture.

MR. WOODARD: Sick leave does go up. At one time I thought it went up at outage time, but it really goes up at certain times of the year. I think it's in January.

MR. MOREY: It goes up in the spring and the fall when we have our outages, but if we don't have an outage in there, you can also see an increase. But that is also flu season in lower Alabama. This year it happens to be the wintertime, right now.

Any other questions before we shift gears?

[No response.]

At the same time that we were doing this we weren't doing it in a vacuum. We had guidance of 0737. We were licensing Unit 2. We had a tremendous number of discussions between us and the NRC about our staffing and about our guidelines and how we were doing overtime and how we were going to do it, how we were going to meet these new initiatives that the NRC was presenting and that our philosophy was going along with.

Then we received our license on Unit 2 and it agreed with our procedures that we had at that point in time. We had an administrative procedure, AP-64. It is a shared procedure. It gives the guidelines that tell us how

we are going to operate overtime at Farley Nuclear Plant. That was first approved in 1981. It was what we had sat down with the NRC and described how we were going to run our staffs, our crew complement, and how we were going to do our overtime during operating and when one of our units was shut down.

In February of 1982 the NRC issued Generic Letter 82-02. It was on factors causing fatigue.

We responded to that on June 4, 1982. We said that procedures are now in place limiting overtime at Farley Plant. The NRC has completed it's review of the Three Mile Island Action Plan Item for both units and it has found Alabama Power Company's policy to be acceptable and the requirement closed.

In June of 1982 Generic Letter 82-12 was issued. For the first time the NRC went beyond placing a limit on overtime and included an "objective" that operational personnel work a 40-hour week when "the plant is operating."

We responded on August 8, 1982, and said, in addition, Alabama Power Company's objective is to limit the schedule of staff at Farley Nuclear Plant, especially those with safety-related jobs, to eight hours a day, five days a week, except during extended outages. During extended outages overtime for the Farley Nuclear Plant is considered on a case basis. In part of the letter we referred you back

to the response that we had given you in June.

In September of 1982 the NRC issued Generic Letter 82-16 and provided a recommended technical specification amendment for controlling overtime.

In a letter of November 1982 Alabama Power Company informed the NRC that we had reviewed our technical specification and we had reviewed the generic letter and concluded that the generic letter was consistent with the guidance provided and that no technical specification change was required.

NRC requested that we change our technical specifications anyway, and on June 6. 1983, we made a technical specification submittal, which essentially is what we presently have in our technical specifications.

In the letter that we sent we said that the proposed change incorporates current practices and reflects commitments made and agreed to by the NRC in previous submittals on this subject, that in 1981 we were viewing plant to mean plant, unit to mean unit, and we were viewing that when we had one of our units in an outage that the guidelines that we committed to for overtime was the way we were going to operate and felt that we had understanding from the Commission at that time. That's the way we were doing it.

Every one of the letters responding to the generic

letters and the technical specification consistently said what you've agreed to is what we are going to do and we feel it is consistent with what you are sending us.

From our submittals, we did not intend to change our practices, which had been reviewed by the NRC previously and found to be acceptable. We have continued to operate in this manner.

We have had numerous NRC inspectors observing during outages and observing our practices. We have always had the residents, the senior residents and the junior residen and you have many people come in during the outages, and they have been observing and know what we have been doing.

In May 1988, in an inspection report the NRC outlined how we were doing our overtime, like I just described. They recognized the benefit of our overtime practices and concluded that the structure of approved overtime during an outage is acceptable.

In 1989, the senior resident questioned this practice. We had a management meeting in Atlanta. We went over everything that we have gone over with you now. We gave them our averages at that time. In an inspection report that came back from them they stated that the NRC representatives generally agreed with the licensee's position but expressed concern about several cases in which

operators used overtime excessively. We had a violation and we took corrective action to correct that.

MR. LIAW: Excuse me. Could you say a few words about the nature of the violation?

MR. MOREY: The nature of the violation was that I worked people in excess of the 84 hours. One example was where I worked them 16 days in a row. There was another case where a person worked 23 days and we were approving them to work their off days and approval was not being documented properly. We agreed we shouldn't even have approved it, but there were also problems with the approval process.

MR. LIAW: You admitted the violation existed?

MR. MOREY: That's correct. Our corrective action has been looked at and closed.

MR. MOORE: For the isolated cases, yes.

MR. MOREY: For the isolated cases, yes, but we explained the schedule just as we showed you right up there. We admitted to the violation that was presented to us.

MR. BOGER: In these earlier submittals did you include a copy of your shift rotation schedule as part of that?

MR. MOREY: I don't believe so. I don't know for a fact. My impression is that we did as part of the licensing process of Unit 2. We showed people where we were

going, how we would operate with two units. We had many discussions. I participated in many conference calls back and forth about our crew concept and what our staffing was going to be, et cetera. What our minimum was and then what our normal was going to be.

Was your question about at the management meeting?

MR. BOGER: No. I'm talking about the 1982 submittals.

MR. MOREY: That's how I took it.

MR. BOGER: This slide says "agreed to by the NRC staff in previous submittals on this subject." I'm trying to figure out what information was provided to us and what assumptions we may have been making at that point in time versus what you gave us.

MR. MOREY: As part of the licensing when Unit 2 was licensed we went through all this with people. There was a tremendous number of face-to-face and a tremendous number of conference calls and there were many people coming down to the plant. We had many meetings with people from NRR talking about how we were going to staff and how we were going to do our overtime and what our basic philosophies were going to be and then how we were going to actually implement our philosophies. We went through all of this.

MR. BOGER: At that point in time I know the NRC was interested in qualifications of people on shift, and

experience. I take it that was part of the discussion at the same time.

MR. MOREY: That's correct. At that time, for instance, almost all of our shift supervisors came up through the ranks and we were trying to get STAs. So all our engineering was going and getting shift technical advisor qualified and at the same time we got them a license. So then we got them experience on shift and were able to promote them into shift supervisor. We said that was what our goal was going to be; we were going to achieve that. We achieved it in about 1985. It's a long pipeline to get everybody through.

We didn't commit that we would always have 50/50, but we committed that we would have a mix and it would be around 50/50, and we have achieved that since 1985.

Lastly, in the May 24, 1991, letter the Staff told me that Alabama Power Company has utilized its current practices for scheduling overtime for a significant period of time and the Staff has indicated in the past the practices appear to be acceptable.

In summary of my section, since the early 1980s Alabama Power Company has had a policy of limiting the operations staff overtime to the extent practical.

Alabama Power Company has had since the early 1980s a philosophy of a crew concept in the operations group

based on Farley Nuclear Plant, not on units.

There are safety and reliability benefits to using our overtime practices. It's not just something w are trying to do because it's expedient; it's something that we do that fits into our philosophy that we believe to be safe. We believe that it maximizes safety.

The biggest benefit, in our opinion, is it is what our people desire, because it maintains their off days, resulting in maximum rest time and maximum time with their family.

I won't touch the last one there. I'll just let people read that.

In our opinion -- I know it's objective, but it is my opinion and it is our opinion -- it promotes morale to be able to let people do those things that they want to do as long as they are safe.

We have shown you that even with the schedule that we have been working that during an outage we have averaged less than 20 hours per week, including shift turnover time, during refueling.

To work a schedule where we have nominal 40 hours on the operating unit would result in more work being done by less people. Or it would require outages taking more time. Or you would have less qualified people performing outage tasks.

In our view, operating the plant during refueling is just as important and just as challenging as operating the plant when it's at power.

That overtime between personnel would not be equalized on the yearly basis that we presently do, and I would have to go and negotiate with the union and get something changed if I was to equalize it on any other basis.

That that results in an un-equalization or it results in manrem exposure not being equalized. It means that we have less people available to handle unforeseen circumstances, which does not fit into our philosophy. It means that there would be a disruption of the operations personnel schedules. Again, this is objective, but we believe that could result in lower morale.

In general, we have an outstanding safety record, one that we and the employees are very proud of. We have some recognition that we have excellence in operations and we believe that some of the reasons for that excellence is some of these philosophies that I have explained to you today.

I am concerned with the Nuclear Regulatory Commission. My view is that we are being micro-managed, that I have achieved a reduction of overtime, minimization of overtime, and I have people coming in and directing me on

how to manage it, and I have been achieving a very high level of success from a reliability standpoint and from a safety standpoint and from an excellence standpoint.

Not only do we believe that the NRC is trying to manage our overtime for us, but we believe that the NRC interpretation of our technical specification is clearly a backfit. At this time Brad Moore and Jim Miller are going to present our position from a licensing point of view and then from a legal point of view on why we view this to be an improper backfit.

Before they do that, are there any questions for me?

MR. LIAW: I would like to have a clarification. You talk about backfit. I guess the issue today is whether or not NRC has backfitted you properly.

MR. MOREY: That's correct. Brad and Jim are going to show you why we believe that.

MR. LIAW: You are not arguing against backfit.

MR. MOREY: I'm not arguing. I presented to you our philosophy. I tried to present to you that we have had this philosophy since 1980.

MR. LIAW: But you said NRC tried to micro-manage you in managing your overtime situation.

MR. MOREY: That's right.

MR. LIAW: And you say it should not be

backfitted.

MR. WOODARD: You are correct. We are arguing against being backfitted. We do not believe we should be backfitted because we believe we are doing the right thing.

MR. LIAW: Whether or not NRC backfits you properly, that's a procedural question.

MR. MILLER: I think that's a fair assessment of it. The precise legal question is whether or not the May 24, 1991, letter and the associated SER meets the compliance exception of the backfit rule. The core issue is, are we doing what's right? We think we are doing what is right. We're in business to do what's right; we're not in business to have a bunch of legal loopholes. We are not up here for that.

MR. LIAW: If NRC does the regulatory analysis and still decides to backfit you, you still will not appeal it?

MR. WOODARD: We hope you don't do that.

MR. MILLER: One of our secondary goals is to convince you of the correctness of the precise legal position we have taken and also to convince you that the evidence supports us in a backfit analysis on the 109(c) or a backfit analysis under (a)(4)(iii), which you brought up earlier; that the evidence would compel the conclusion that we do what's right and there is no reason to change what we have been doing and making better for the last eight or ten

years.

MR. MOREY: Now that I understand the question, that's the way I would have answered the question.

MR. MILLER: That's kind of comforting, Dave. And you just took my whole presentation away.

[Laughter.]

MR. MOORE: I'm Brad Moore, manager of licensing. You are exactly right. We felt like we could have come up here and made this a strictly legal licensing type presentation and dropped it at that. We felt like we had an excellent case to say that we have received an inappropriate justification for this backfit, a compliance backfit, when if you wanted to go that way, it should have been an analysis backfit.

We felt like there was an issue here bigger than that, and that was what we are doing is right. That's why Dave has spent the amount of time that he has going through that, developing the historical perspective as to why we have taken this position. We have interpreted our tech spec this way for years. He's also tried to tell you why we feel like the NRC has also agreed with this position. I am just going to amplify on that very briefly.

There is one other emotional aspect I want to play on a little bit. I am an ex-shift supervisor. I was down on shift. I went through this schedule with Dave. For

about five years I went through a number of outages. I was a Unit 2 shift supervisor, Shift 1 shift supervisor during that time period.

Dave emphasized the crew concept. I think that was very important. When I went into an outage on the opposite unit, I went in there with the attitude that I was going to help my fellow crew mates get through that outage. Unit 1 was going into it, but for me just to work 40 hours and leave while these guys were putting in 12 hours to get that outage in line, to me that wouldn't have been right. I went into that whole outage with the idea that we are going to get this unit down, we are going to get it refueled and back up in as short a period of time and do what we have to do to do it right. If that involves me working some additional overtime, I was more than willing to do that.

To be honest with you, when the operating unit is up and the one unit is shut down, there is an obvious shift in attention to that shutdown unit. You have maintenance activities, shutdown surveillance activities, and a lot of management attention gets shifted to that unit. The operating unit does what is necessarily right to do the surveillance that you are required to do on line and the required corrective maintenance, but there is a lot of discretionary maintenance that can get shifted after the outage.

So your attention on this operating unit to distractions, the constant stream of work requests, surveillance activities is significantly reduced and you have more time. You are working 12 hours. You are working that schedule, 7 12's, but you have a lot more time to focus on the plant.

I'm just one data point. I realize that. I did not find it particularly fatiguing to go through that schedule.

MR. WOODARD: Brad, didn't you also shift a lot of your maintenance work to before the outage? You're not just putting off stuff.

MR. MOORE: Yes. Before the outage and after the outage.

MR. WOODARD: You shift a lot of stuff before you shut down so you won't have to do it.

MR. MOREY: That is an example of the plant concept. If you know you are going to have a refueling on one unit, you look at the other unit that is going to be operating during that time and do all the things necessary before the refueling to make sure that it is going to operate well through that period of time You schedule your preventive maintenance; you schedule your surveillance.

MR. BOGER: Brad, you went through it a little too fast for me. You being on the operating unit, what things

did you do to support the unit that was in the outage?

MR. MOORE: We work as a team. That control room that Dave showed, I worked at the same basic work station as the Unit 1 shift supervisor. During outage you may run into some problems sometimes. You're there to back him up, to help him with notifications if you need to make notifications. If he gets into a bind with manpower and I'm trying to do something in the operating unit and he needs additional people or vice versa, we are right there and we are talking with each other; we have a common manpower pool; and we are able to talk about priorities together. He may say I've got to get this done in order to keep the critical path going. I'll say I can defer this surveillance on my unit for right now, and you shift the resources over there and then bring them back as you need them on the operating unit.

I've developed a relationship with that other shift supervisor. If I was to only work 8 hours and this guy over here on the other unit is working a different schedule, I would be dealing with different personalities. When you get down there in that control room atmosphere a lot of what goes on to make things run right is the fact that you have worked with the same people all the time; you know their personality; you know how they respond. That helps a lot in that type of situation.

MR. BOGER: Thank you.

MR. MOORE: At the risk of being repetitive, I felt like this is where I needed to start off. There are two types of backfits, a compliance backfit and a cost justified substantial safety benefit backfit.

The compliance backfit basically says you have not been in compliance with your commitments, your technical specifications, your regulations.

Your cost justified substantial safety enhancement benefit say that there is a new change in position.

This May 24th letter that was sent to us put us in this category, compliance, saying we are not in compliance. Through Dave's discussion, I think he has shown you why we feel like we have throughout the years been in compliance with our technical specifications. That's why we originally developed that policy and carried that all the way through.

What I would like to do is go through and show a little bit as to why we feel like the NRC has agreed with us. Before I do that, let me show you some guidance that we pulled out of documents. What does it mean to be in compliance? Who has to agree?

This is out of the Statement of Considerations when the 1985 backfit rule was put in place. I think it is important just to read through this thing. It says, "The compliance exception is intended to address situations in

which the licensee has failed to meet known and established standards of the Commission because of omission or mistake of fact."

As I said, we have developed this policy all the way along and have followed it. We believe that our interpretation of our tech spec is right, and we have not changed from that position.

It should be noted that new or modified interpretations of what constitutes compliance does not fall within that exception, and therefore you have to go through the analysis route.

There is more guidance in the NUREG-1409 about backfitting guidelines. It goes through a little section of questions and answers. I've paraphrased this somewhat. One of the questions basically says, does a previously accepted position require a backfit analysis?

It goes through a paragraph or two, but when you boil it down, it says if the NRC has accepted the licensee position by explicit approval such as in an inspection report that would constitute the fact that we both feel like we have been in compliance.

It talks a little bit about tacit approval. We feel like we have much more than just tacit approval. You can say that we've lived with it this year and we have had resident inspectors on site. We think that they have seen

our schedule and understood it. But we feel a little bit farther than that. As Dave mentioned, in 1985 an operational assessment team came to the plant. One of the things they focused on was our outage overtime. In that inspection report that we received it said that it appears the structure of approved overtime during outages is acceptable.

In 1989 we had our resident inspector looking again at our overtime practices. That's when the problem was first identified in our mind as far as NRC was concerned. He identified that operators on the operating unit were working more than 40 hours during an outage on each opposite unit. He wrote this up in an inspection report and got it identified as an inspector follow-up item. We went over to Atlanta in the summer of 1989. We went through and explained, just as Dave did, our scheduling practices.

As a result of that meeting we received another inspection report, which basically said that the NRC generally agreed with our position. But again, this was the isolated cases where we had those operators coming in voluntarily on their off days.

That report, I feel like I must say, also went on to say that the NRC still had some concerns about our overtime practices and was going to look into those, but

basically it said they generally agreed with our position.

So there are two inspection reports where we feel like we have had concurrence with what we have been doing over the years. It has been our position and it has been the NRC's position. Therefore, to say that this is a compliance backfit is really inappropriate. We believe that the compliance backfit should be withdrawn.

MR. LIAW: Excuse me. In one of the inspection reports, the one of May 18, 1988, it says "it appears that the structure of approved overtime during outages is acceptable." Your interpretation seems to be stretching. One thing is missing there. It did not say anything about hours. Second, it explicitly says during outages. My interpretation of outage is one unit is down and one unit operating. I would have a problem agreeing that it accepted your practice for a unit in operation.

MR. MOREY: In the inspection report it very clearly states that I am taking the people on the operating unit and working them the same schedule. Then he concludes this. There was no violation given; there was no inspector follow-up item.

MR. LIAW: I understand that. I have not read the inspection report. I'm simply making a comment on the statement and how you interpret it. He was very explicit to say "outages."

MR. MOORE: If you look at Exhibit 2 of this document, what we are showing is what those inspectors would have seen when they inspected our overtime outage practices. There is a schedule there. It shows Unit 1 and Unit 2 operators working the same overtime schedule. It would be hard for me to say that whoever looked at this didn't realize that those people that were not working, Unit 1 and Unit 2, on the same schedule.

MR. MILLER: It may help you when you go back and reflect on this to look at Inspection Report 88-05, which is our Exhibit 9. What they did, which is called out in the inspection report, is they took the time sheets for a period when both units were operational and went through them. Then they took time sheets for the last refueling outage and went through them. They saw all the things then that we have presented to you today.

MR. LIAW: Jim, I'm not saying that Brad mischaracterized it. I'm saying he might have been stretching it. The way it was written it said "outages." He might have looked at it and seen what you have for a unit in operation. The best I can tell he stayed silent, by choice or by ignorance. I don't know. When you look at his conclusion, he only concluded your practice or your structure is acceptable for outages. Brad was starting to say something about he is agreeing with your total concept,

plant concept. I think it would be stretching.

MR. MOREY: Exhibit 9, page 6:

The inspector also reviewed time sheets for the last refueling outage. Numerous examples were noted of operations personnel exceeding with emergency director approval 72 hours in a seven-day period. During outages the operations staff rotates through two seven-day 12-hour-per-day periods, i.e., two periods of 84 hours in seven days every five weeks. Although this exceeds the guidelines of Technical Specification umpty-umpth, the benefits of this schedule are that when additional outage-related overtime is required the operating staff continues to receive the normal off days, resulting in ten days off during the five-week period. Operators also rotate on the same schedule as during normal operations. The change is that each person works either a 12-hour day or night shift in place of his normal eight-hour work period.

From that I believe it is documented that he understood exactly what we were doing.

MR. BOGER: We will have to look at the inspection report and try and understand what the inspector did or didn't look at. It's very difficult to do that. What B.D. is saying is that we can't say from that report what he really thought about.

The one issue that I would alert you to is whether

this was done on a case basis. I think we will get to that later on when we talk about the technical specification. It's not clear to me that perhaps the inspector considered that aspect of it. I can't tell, but I would like to have the benefit of reading the whole report and put it in perspective.

MR. LIAW: I asked the question earlier what the definition of compliance exception is. One of them is omission? Or what?

MR. BOGER: Tacit or explicit approval.

MR. MOORE: We feel like this has been an act of omission. Our schedule is posted.

MR. LIAW: Or mistake of fact. I guess the point is whether or not the inspector made a mistake or misinterpreted the facts presented to him and as a result he drew a wrong conclusion.

MR. MOORE: It's hard to speak to that. What I was trying to point out was, if the inspector was looking at our overtime practices, in my opinion he was most likely looking at our schedule of the various system operators, operators, shift foremen, and that schedule clearly shows Unit 1 and Unit 2 people. It's a common schedule.

MR. LIAW: I understand. My question is why he chose to use the word "outages" only.

MR. WOODARD: Because when one unit is down the

plant is in an outage. That's the way we understand it.

MR. MILLER: One of the things that you had mentioned earlier is whether or not there was some appreciation of the crew concept by the inspector for the 88-05 inspection. Let me refer you to page 14 of the same inspection report where they talk about training and they cite as a benefit that the practice of operating crews attending requal and simulator training as a crew enhances the interface and teamwork within the crew. The way we look at it, that is a pretty clear acknowledgement of the superiority of the plant-wide integrated team approach.

It is hard to track through those things on an item-by-item basis, but when it comes your time for deliberations, those are the types of things we would ask you to look at.

Let me back up and say one thing. I wish Jack were here, because in a discussion during the break I said something about the role of lawyers in these proceedings and he was positively elated when I told him I was going to say it again for the record. I'm not supposed to be here. You don't operate nuclear power plants with lawyers. You operate nuclear power plants with engineers and scientists, people who are dedicated to the task at hand, who have a license to operate them. That's why we are here. We are here because what the operators do we think is the right

thing to do.

The core issue that you are going to be asked to decide, and I think it is clear, is this plant-wide philosophy, the team philosophy, and the benefits that flow from it, and is that what we want to promote, or do we want to divide? I can think of no better testimony or data point than what Brad told you. These people are back to back. We want to promote and see superior benefits from that way of looking at the plant.

Now I've got to turn lawyer because we got a letter on May 24, 1991. Let's focus just for a second on whether we are here on a compliance exception or whether we are here on an adequate protection exception, because it is the first thing you raised.

The letter has an attached evaluation to it and it starts off, paragraph A, this is a compliance exception to the backfit rule. Then it goes on.

In paragraph C it talks about the compliance exception. You get over to the conclusion part of the evaluation and it says "We conclude that they are out of compliance."

Since that is all we got on the issue, we look at this as an (a)(4)(i) for the lawyers that may read this one time, but they are claiming that they are entitled to a compliance exception.

The response under (a)(3), just so you will know that we have a response, that is and has been described by the Commission as an exception whose use will be extremely rare. They add that for that exception to be applicable the Staff must act rationally and consistently in light of available evidence, the evidence we are talking about here.

Let me just give you a cite for the record in case it becomes important. It is Volume 53, number 108 of the Monday, June 6, 1988, issuance in the Federal Register at 20608 and 20609.

We got a communication from the Staff that says "we invoke the compliance exception," and that raises the legal issue: Is what the position the Staff took in the May 24, 1991, letter a new or revised position? If it is, the Commission authority is clear. They have to do a backfit analysis cost justified or cost based under 109(c). There is not any other way around it.

What's the evidence on it? The way we are going to answer that legal question "does compliance exception apply?" is to look at the evidence. What did they put in their evaluation? No evidence.

In fact, the evaluation is inherently inconsistent. They say in the evaluation "we have agreed and accepted these practices" and they cite a series of inspection reports where they did that, and then say, but

the compliance exception applies. That's logically inconsistent. You can't reconcile those two statements, because they've agreed and accepted it.

What they are telling you is that you've been in compliance, but then they say -- and this statement actually appears in there -- when the tech specs were issued it was our intent. And they meant then the nominal 40-hour week on the operating unit when the other unit was in an outage.

It just can't work. The lawyer in me just says, wait a minute. You can't do that. How is it that we interpret tech specs? You really basically have two ways. You can look at the plain language of it or you can look at how people do things. The record is just replete with examples of how we have done things. The NRC Staff has always known and has actively inspected us on this issue. The 88-05 inspection report cites tech spec 622(f), the one we are here on today. In material respects it hasn't changed.

It is just compelling clear that we had express inspection report approval for all of the things that you've heard today. We also think what we do is the superior, right way to do it, but if you want to focus on the narrow legal issue, we had express approval. Not tacit; express approval.

So when you ask the question, is the May 24 letter

an expression of a new or revised position, the evidence says yes. There is no evidence to the contrary. If you answer that question as a yes, then you have to reject the position that there is a compliance exception.

We want to go a step further. We want to say and not only that, if you do an (a)(4)(iii) or a 109(c) evaluation, as Dave Morey pointed out, and Jack and Brad have also pointed out, the evidence is going to show it's the best way to do it; don't change something that's not broken; and that safety is there.

As I said, it is not the role of the lawyer, but there are a couple of other little things that we really just have to say to protect the integrity of the record. If you want to take a tech spec that says plant and interpret it to mean unit, then you get into what we talked about earlier, which is how do you change the words?

It's pretty clear that if the person who wrote tech spec wanted to say unit, they could have said unit, because they said unit in the same paragraph that plant appears. They refer to a unit staff and then they refer to a plant.

For purpose of this record we want to state our legal position that you cannot change the tech spec with any backfit analysis; you can't do a 109(c) and make "plant" read "unit." You've got to go through the tech spec

amendment process. That must be supported by your backfit analysis, but it brings with it the additional burdens of amending the license and requests for hearing opportunities and things of that nature. We've referenced that in our position paper and I'll say no more about it unless you have some questions. But we do want to protect the position that what is done at least on one legal level is an attempt to amend the license without a proper 189 proceeding.

I can see that you are interested in it. Do you need to ask a question about it?

MR. LIAW: Yes. I still haven't heard why 109(a)(4)(iii) does not apply here. Help me on that.

MR. MILLER: Let me point out to you two fundamental answers. Well, three.

The first one is that is not what the Staff says. That (a)(4)(iii) requires a written evaluation and that is not what we got. We got an (a)(4)(i) evaluation. If you look at the evaluation, it says "compliance exception" at least three places.

I don't want you to think we are up here arguing some legal loophole or nicety, but the actual fact of the matter is we got a compliance exception evaluation; we didn't get an adequate protection evaluation.

The second thing is that (a)(4)(iii) exception applies, in the words of the Commission, in cases that are

extremely rare. That extreme rareness is then bounded, and their words were the Staff must act rationally and consistently in light of the available evidence. So even if you want to evaluate what is going on today against the standards of (a)(4)(iii) and the teachings of the Commission, the only evidence that is in this record is that safety has always been a paramount concern and that safety has been the result.

MR. LIAW: You mentioned about the analysis in accordance with (a)(4)(iii). I personally am not aware of any explicit requirement for an analysis. My question to you is, what do you envision as the type of analysis the Staff is required to send you in order to apply the 109(a)(4)(iii)?

MR. MILLER: Something similar to what we got when they adopted the 109(a)(4)(i), the compliance exception. It's in the backfitting manual and maybe the chapter manual 0514 that says they will document their analysis and evaluate --

MS. ADENSAM: I believe it's in the regulation.

MR. MILLER: That they will document their evaluation for one of the exceptions.

MR. LIAW: I guess my question is for Staff then. Have you documented on that basis?

MR. WERMIEL: We documented a basis for our belief

that it was a compliance backfit and the reason for that based on our understanding that the position had not changed since the policy was implemented in 1982.

MR. LIAW: We never explicitly referred to the 109(a)(4)(iii), did we?

MR. WERMIEL: I don't recall the wording of the letter.

Eleanor, do you?

MS. ADENSAM: No.

MR. WERMIEL: I don't recall th wording.

MR. MOORE: If the question is, did that evaluation constitute analysis, the answer is no. That evaluation does not meet all the criteria that analysis would require.

MR. HOFFMAN: It did not meet the criteria for a regulatory analysis because it was not regulatory analysis backfit.

MR. LIAW: I'm not trying to be legalistic about it. Nevertheless, we are asked to recommend a very, very specific item here. I would probably consult with our legal counsel.

My last question is in terms of reality. I heard lots of good words about your practice. I heard good words about your excellent record. All those are true. I'm not going to dispute with you on that.

However, there is an explicit "guidance" or goal of nominal 40 hours in operation. You jumped up to something like 84 hours, more than double. I think any reasonable person would judge that might be excessive.

My question to you is, what do you think of that? Is it or is it not excessive when you start to talk about the number 40 and go to 84.

MR. MILLER: Let me answer the second question first. No, I don't think it's excessive. The reason I don't think so is because I'm not focusing on the isolated piece of the picture.

If you take the picture on a five-week basis, you will see that they get two days off per work week and you will see ample time for rest and restoration; you will see consistency of off days being off days; you will see efficiencies when they are on, as Brad described and as the Staff has seen, of crews working together and reducing the frustrations that can lead to fatigue.

When you take the entire picture you will see a cycle as close as it can be to what they do when both units are operating, and that leads me to the conclusion as well as the other things that we have heard today, bearing in mind that I'm not an operator, that, no, these little pieces here where you cycle through seven 12-hour days don't amount to excessive. They are bookended on either side by two days

off.

MR. LIAW: Have you ever had occasion when both units are operating you have someone work something like 84 hours in a seven-day period?

MR. MILLER: We got a yes and a no.

MR. LIAW: Time out. Since we are in a transcribed meeting here, yes or no?

Let me repeat my question. Have you ever had occasion when both units are operating that you have people work up to 84 hours during any seven-day period?

MR. MOREY: To my knowledge, no. It is not our intent to do that. But Floyd said yes, we did.

MR. CANTRELL: I believe prior to the 1989 inspection or in the outage involved in that you put people on 12-hour days for vacations and sickness going into that.

MR. MOREY: That is correct, but not 84 hours. His question wasn't have I ever put people on overtime up to 84 hours when I have two units operating. I agree with you that in between those two refuelings and both units were operating we put people on overtime to take care of vacations.

MR. CANTRELL: On the 12-hour shifts for a week at a time.

MR. MOREY: Yes. That's 60 or 72 hours, but not 84.

MR. CANTRELL: And then they went into the 84 schedule.

MR. MOREY: Then they went into the outage, right. But we stopped that because the question was raised.

MR. CANTRELL: And this is part of why the 89 was written, because of what we considered abuse of the overtime as evidenced by people working their days off in between the seven 12's.

MR. MOREY: They were not working their off days. They were just working their normal schedule on day shift and working 12 hours.

MR. CANTRELL: But you also told us earlier today that they were allowed to work those two days off in between if they requested it.

MR. MOREY: But not during an outage. That wasn't the question. The question didn't have anything to do with a unit being in an outage. The question had to do with both units being in operation.

I will have to go verify what I just said, because I didn't look at that record, but that's the way I remember what we were doing.

MR. LIAW: You have qualified yourself by saying that is based on your best recollection and knowledge. That's fine.

MR. MOREY: And it is our intent not to do that.

MR. MOORE: Can I just very quickly address your first question about how can you work 84 hours in seven days and not feel fatigued? I think one of the things you have to consider is, having been an ex-shift worker and now being a Monday to Friday type worker, when I worked shift work I worked those hours and when I turn over I'm done. That stress is gone. I've turned over every worry I had to that next guy. I work Monday to Friday now and I feel more stressed in this job than I did when I was on shift work. I carry that stress home with me. Again, this is just a data point. You carry that stress home with you. When you're a shift worker you turn it over. You don't carry that stress home. You go home; you go to sleep; you see your family; you don't worry about work.

MR. LIAW: I understand. I accept your point about being the single data point. I simply want to remind you of different strokes for different folks. You cannot generalize it.

MR. MILLER: What Brad has said in a very nice way is that in his new role now he has to deal with the lawyers and his stomach is churning all the time.

Let me go ahead and summarize. I think I am going to be as precise as I can, but there is one lawyer in me that makes me want to do this. Eleanor, if I say this wrong, you correct me, but I think there is a meeting of the

minds that we are here on the compliance exception to the backfit rule under (a)(4)(i).

MS. ADENSAM: It was clearly our intent when we issued the May letter that we were invoking the compliance exception backfit.

MR. LIAW: That is 109(a)(4)(i).

MR. MILLER: Eleanor will verify that for us, but I promise you that is what it is. We have a room full of people who are looking at the regulations right now.

MS. ADENSAM: It's (a)(4)(i).

MR. BOGER: You guys are cutting it a little more fine than Varga's letter. It just said (a)(4).

MS. ADENSAM: That's correct. That was our intent.

MR. BOGER: We are reviewing it as a compliance exception backfit.

MR. MILLER: Let's run through the legal analysis in a summary fashion. I won't restate the evidence.

The issue as we see it is, is it a new or revised Staff position? Our answer is yes. We answer yes for two reasons. Number one, custom and practice as approved by them. See the inspection reports, which interestingly enough, they identify in their evaluation and which we have identified in our position paper.

The second answer is read the tech specs. The

tech specs don't say unit. It says nominal 40-hour week while the plant is operating. We interpret "plant" to mean plant. I don't think that is an unfair or illogical interpretation. It has always been that way in practice; it is that way in the language of the tech spec; it is that way in the common ordinary use of that word as we know it in the industry. Plant means plant; unit means unit.

We take that interpretation and say when a unit is in an outage the nominal 40-hour week when the plant is operating does not apply because the plant is not operating; it is in an outage condition and your flexibility in items 1 through 5 then kick in, which we say we complied with.

MR. LIAW: Jim, I have to disagree with you on that, speaking for myself. I think plant in operation is a generic term. You talk about your practice. I'm going to tell you my practice or our practice. We never call it anything like unit in operation. We always call it plant in operation. We call it plant system. We don't call it unit system. When you say plant operation, you talk about two units. Like the Japanese. Fukishima (phonetic) has six units there. To tell me that plant in operation means all six units in operation, I think that is stretching it a little bit too far.

MR. MILLER: It may stretch it for a place like Millstone where there are varieties of designs, but that

argument falls at Farley, because they are virtually identical. They have been operated on a plant-wide integrated team approach. They have shared systems.

MR. LIAW: I accept some of your argument and recognize some of the good things you have said. I accept that. But to try to make a very, very narrow legal argument about this plant operation means a plant operation, I would put forth a counter argument like Fukishima's six units. By telling me that plant operation means all six units are not working, I would not buy that.

MR. MOREY: We are only saying that for Farley Nuclear Plant and we have been saying that consistently since 1980. Until late 1988 it was never challenged.

MR. LIAW: I disagree.

MR. MOREY: I don't see how you can disagree that it hasn't been challenged. You may disagree that you had that concept in 1980, but we explained that concept and we were licensed under that concept.

MR. WOODARD: There is something else to be said about your example of six units. You are making an extreme point, and let me say something something about that.

MR. LIAW: I admit that.

MR. WOODARD: I would like to make an extreme comment. You have six units side by side. They are virtually identical. They have no shared systems, let's

assume. What's going to happen when you shut one down? Are you going to put all six plants on 12's? No. You know that. That's the point you're making. What is going to happen, though, is you are going to take people from the other five plants and move them down there to supplement staff. You are going to go down to minimum shift complement. We're not doing that. That's one of the strengths of the way we do the business. Because the plants are the way they are, we keep the complement on the operating unit and we split that evening shift.

There is a tradeoff by reducing your staff on an operating unit that we don't trade off.

MR. LIAW: I agree with what you are saying. Clearly you are the other extreme relative to the Millstone situation. Millstone at one site has three units with three different designs. Unit people don't even talk to each other, for example. As a result, they had a pipe rupture.

MR. MOREY: And if I had two units without a shared control room I might have a different philosophy today than what I have.

MR. LIAW: I am not taking issue with you but more or less with Jim about the plant or units. I tried to point out to him that we ever said anything about unit operation or anything like that.

MR. MILLER: We can't carry the burden of

Millstone and six units, but as applied to Plant Farley, that's a fair interpretation, particularly when tested against how it has been implemented since the tech spec was issued and amended and as the entire history developed. It's a perfectly fair evaluation.

The second legal point is, if you want to change that word to mean something else, you've got a tech spec amendment that you have got to go through.

But we are going to drop down and say the last thing is the position of the Staff that this is a compliance exception. If this is a compliance exception, having said we accept it and agree with your practice, referencing this panel to the identical inspection reports we do, and then say it's a compliance exception, what is really happening is the exception is swallowing the whole. You'll never get a backfit analysis. They'll just always say pay no attention to what we have been doing for all these eight or nine years. We now will tell you.

MR. LIAW: I don't think that is what he is saying by reading those documents, by reading Varga's data. I don't think that is what he is saying. He has pointed out in the last two or three years having concern about that, particularly when that sort of thing is being stretched to something like 84 hours. I was very explicit in asking the question about the situation when you have both units in

operation.

MR. MILLER: Let me respond in what I hope is a precise manner again for your consideration during the deliberating process. In the evaluation report attached to the letter, page 3, paragraph C, they say "Alabama Power repeatedly placed the unit staffs for both units on an outage schedule when only one unit has been in an outage." And then they make this statement, and I think it answers what you said. "This practice is not consistent with the Staff's intent at the time of approval of the Farley tech spec amendments."

That occurred in 1983. You can't take that sentence, B.D., and reconcile it with eight years of practice. They issued that tech spec in 1983, and yet time after time, letter after letter, inspection after inspection we got what you saw in 88-05. You can't reconcile the two. If you say, yes, that does reconcile it the exception just swallowed it. There is no 109(c). It's gone away.

MR. LIAW: You are absolutely correct. It cannot continue to be interpreted that way for eight years. But I can point out an example with your sister utility, Georgia Power, on the nuclear heat readiness. I guess it is unlikely, but it could.

MR. BOGER: One of the things the panel has to reconcile is why similar technical specifications at other

utilities are interpreted different than the way you interpret them. Something has changed. Maybe you guys have always done it. Maybe we've changed. I don't know. But that's what the panel has to figure out.

It's not clear to us that we understood what you were saying or that we inspected and felt comfortable with what you were saying. It's not clear to me. That's why we are having this discussion, obviously.

I have a specific question with respect to the tech specs. It deals with your Exhibit 3. Section F on page 6(1)(a) talks about an individual will not work more than 16 hours in any 24-hour period, no more than 24 in any 48-hour period, no more than 72 hours in any seven-day period, all excluding shift turnover time. I see a seven-day period where there is 84 hours. How do you guys interpret that?

MR. MILLER: Flexibility afforded the plant manager under Section 5, any deviation. It then goes on to tell you that the review and approval will support the deviation. Being a lawyer, that's the legal basis for it.

MR. ROGER: It talks about guidelines for the minimum shift complement and health physics technicians. It talks about exceptions from the number of hours.

MR. MILLER: We interpret that in paragraph 5 as affording a legal basis to extend to 12 hours in a seven-

day period. Coming with that, of course, is what we say is the extra day off. You work one more day but then you get two days bookended on either side.

MR. BOGER: The way that it is approved is by the plant manager approving the routine shift schedule.

MR. MOREY: That's the approved schedule for the outage.

MR. MILLER: If there aren't any more questions, I'm going to ask Jack if he will give you what we see as our conclusions and what we hope to achieve out of this proceeding.

MR. WOODARD: I would like to make a couple of comments and tell you our conclusions.

The first comment is why we are here. I've asked myself that a lot before I got here. It's really three things. It's the seven 12's is 84; it's the 40-hour nominal work week when the unit is operating.

There was one other thing in your letter also and I failed to put it up. The letter starts out and says "you work too much overtime." I think we have addressed that. We feel our overtime when you go and average things up is within industry standards. Maybe even a little below

Most of our discussion today has been centered around these two things. Let's think for a minute about the consequences of just in a vacuum changing those two things

all by themselves. What happens?

First of all, because how you manage overtime in a plant is very complex issue, it affects many, many things. But if you were to just arbitrarily go change those two things we would lose our integrated plant operations. I think we've clearly shown how we feel about that.

We would lose our crew concept and we would not be happy about that. We think that's a big strength, and it relates to integrated operations.

We would have a decline in morale. There is no doubt in my mind about that.

Do you agree with that, Larry?

MR. EVANS: There is no doubt.

MR. WOODARD: What things would affect that morale?

Loss of weekend optimization; loss of off day optimization.

Increased overtime for a certain subgroup.

Increased radiation exposure for a certain subgroup, and a nonuniform distribution of radiation exposure.

Overtime distribution not equitable.

I think most important is that we could be put in a position of a schedule that is not favored by our employees. I think that would be the biggest issue, which

would encompass a lot of the other issues.

I want to make sure you know, since we say our philosophy has been consistent since 1981, that we have not been standing still since 1981. We have made a lot of improvements in how we manage overtime since 1981.

We have substantially increased our manpower.

We have improved our crew concept. One of the notable things we have done is further defined the duties of each person on shift. That has been a major improvement in crew concept.

Our off day utilization. We have made it to where people can get off when they are supposed to be off. We stopped the isolated abuse.

We have selectively used contractors during outages to take work off the operations personnel. We do not like to let sensitive safety-related work that is operator work be done by contractors.

We decided to train during outages. I think that is a very important thing. You go into a training week, number one, the first thing the employee thinks about is those guys really care about me. You also get the benefit of eight-hour days for a while. You get a brief break and more time on days.

We are also looking forward and planning for a six-crew concept, which we hope to put into effect sometime

next year.

MR. MOREY: The first Monday in January.

MR. WOODARD: That's our plan today.

We desire to maintain our management flexibility and prerogatives.

What is right for the people who work these shifts is very important. What is right for these people is very dependent on what they want and what they need. The company and the NRC cannot legislate what they need. The only way you can do it is to manage it. We are asking you to let us manage it. I think we have shown you today that we can manage it very effectively at Farley Nuclear Plant.

In conclusion, we hope that you will conclude this is not a compliance exception. We hope that you will conclude that no backfit is justified.

We hope that you will conclude, because we believe it, that Farley Nuclear Plant overtime scheduling practices reflect reasonable and consistent interpretations of technical specifications.

We have thrown a lot at you today. When you go back to think this over and ponder it, you may want to call us. You may want us to come, and we'll be there. We would welcome the opportunity to come back and clarify anything to you that we can.

Thank you for your attention.

MR. BOGER: Any questions or comments?

MR. LIAW: Bruce, I would like to make a statement or a response to the letter signed by Mr. Evans. I alluded to it earlier but I just want to reemphasize it.

Personally, I don't believe it was the Staff's intention to enter into your contract as bargaining participants. I want to emphasize to you that whatever agreement between you and your employer should be created within the legal framework of the regulatory regime. I just hope you understand that.

MR. EVANS: Yes, I do.

MR. LIAW: Jerry, do you care to make a statement on that?

MR. WERMIEL: No. I would just agree with you, B.D. You're correct. The intention of the Staff action was not in any way to breach any contractual agreement between the union and management at the plant. It was merely to cite an issue that legally was not in compliance with current compliance, nothing more and nothing less.

MR. LIAW: Are you going to comment, Mr. Evans?

MR. EVANS: Basically, they covered our position pretty well. We did have some concerns with your position. I understand we have to go by what's legal. I do understand that.

MR. LIAW: Thank you.

MR. BOGER: Jack, I would like to thank you and your staff for making themselves available and traveling up to the bitter Northeast, as the case may be.

As I indicated at the outset, we do have to reach a decision as a panel and make those recommendations on up the chain to the director of NRR. Our time frame is one that is fairly short. So we shouldn't keep you hanging out there too much longer. At least our intent is to proceed.

Thank you once again for the preparation you put into this. I guess we will be in touch.

Thank you.

This closes the meeting.

[Whereupon at 11:33 a.m. the meeting was adjourned.]

REPORTER'S CERTIFICATE

This is to certify that the attached proceedings before the United States Nuclear Regulatory Commission

in the matter of:

NAME OF PROCEEDING: Overtime Backfit with Alabama Power

DOCKET NUMBER:

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.

Dan Lothrop

Official Reporter
Ann Riley & Associates, Ltd.

DECEMBER 18, 1991
FARLEY NUCLEAR PLANT

OVERTIME BACKFIT APPEAL

AGENDA

I. INTRODUCTION

JACK WOODARD

II. OVERTIME PRACTICES AT FARLEY NUCLEAR PLANT

DAVE MOREY

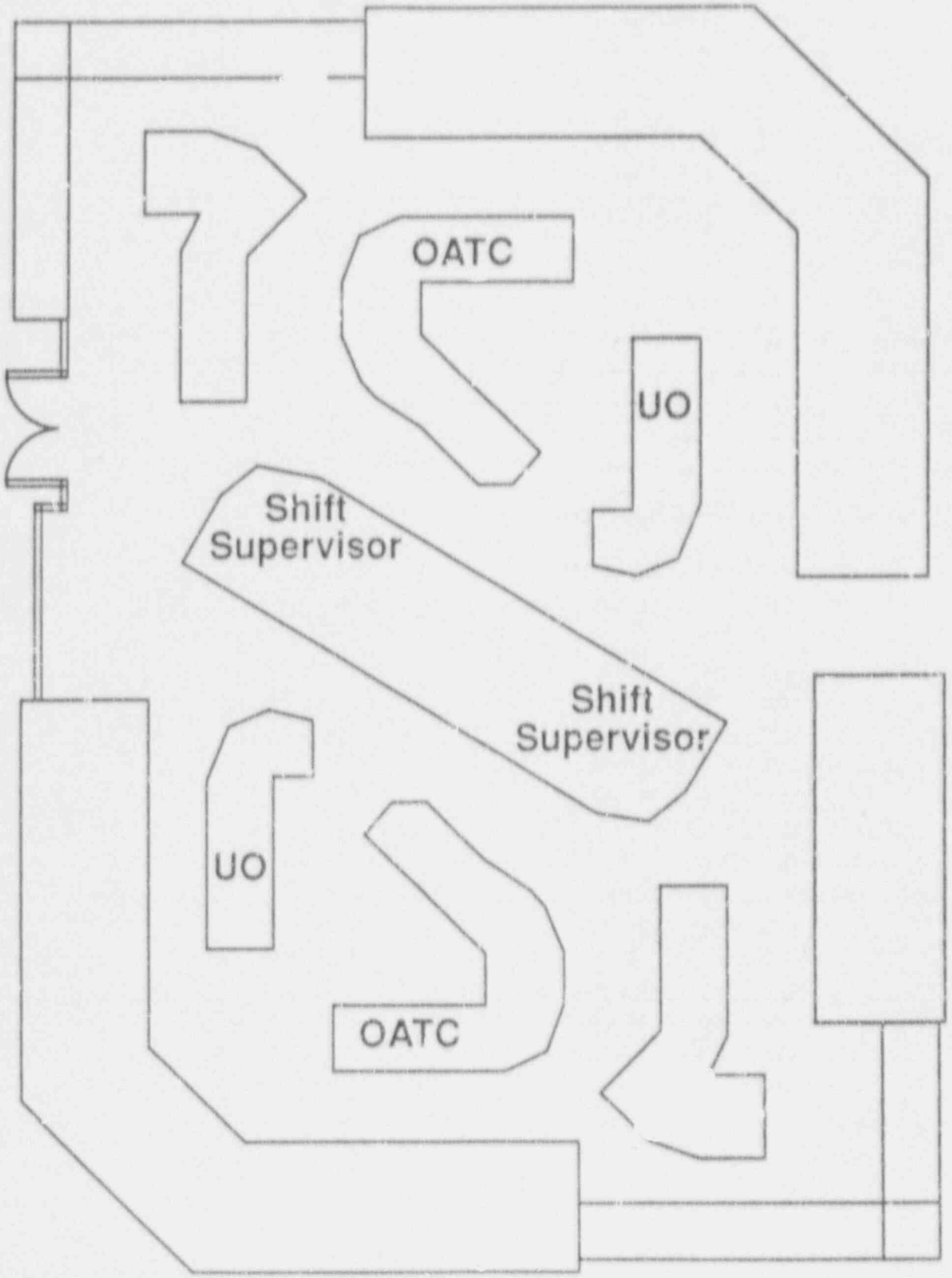
III. INAPPROPRIATE APPLICATION OF THE COMPLIANCE BACKFIT

BRAD MOORE
JIM MILLER

IV. CONCLUSION

JACK WOODARD

Farley Nuclear Plant
CONTROL ROOM



SHIFT MANNING

	TS MINIMUM WITH BOTH UNITS OPERATING	TS MINIMUM 1 UNIT OPERATING 1 UNIT OUTAGE	FNP ADMIN MANNING
SS	1 SHARED	1 SHARED	2
SRO	1 SHARED	1	2
RO	3 (2+1 SHARED)	3	4
AO	3 (2+1 SHARED)	3	9
STA	1 SHARED	1	2
TOTAL	9	9	19

FARLEY NUCLEAR PLANT ANNUAL WEEKLY AVERAGE OVERTIME HOURS

BY JOB CLASSIFICATION

YEAR	SS	SF	PO	SO
1987	6	8	8	10
1988	5	5	7	8
1989	8	7	9	10
1990	7	6	7	8
1991	7	8	6	8
AVERAGE	7	7	7	9

FARLEY NUCLEAR PLANT OUTAGE OVERTIME SUMMARY

		Average OT Hours Worked Per Week			
OUTAGE	DURATION	SS	SF	PO	SO
U2RF5	63 DAYS	19	22	12	21
U1RF8	56 DAYS	18	16	15	19
U2RF6	57 DAYS	17	18	17	20
U1RF9	48 DAYS	19	19	18	19
U2RF7	85 DAYS	15	14	16	19
U1RF10	71 DAYS	13	15	17	18
AVERAGES	63 DAYS	16	17	16	19

FARLEY NUCLEAR PLANT SHIFT ROTATION

WEEK	1	2	3	4	5
DAY	M T W T F S S	M T W T F S S	M T W T F S S	M T W T F S S	M T W T F S S
5 CREW (35 DAY CYCLE)	T D T T T - -	- - D D D D D	D - - E E E E	E E E - - N N	N N N N N - -

D = DAY SHIFT

E = EVENING SHIFT

N = NIGHT SHIFT

- = OFF DAY

T = TRAINING DAY

FARLEY NUCLEAR PLANT OPERATIONS 5 CREW SHIFT ROTATION

	M T W T F S S	M T W T F S S	M T W T F S S	M T W T F S S	M T W T F S S
DAYS	4 1 5 5 5 5 5	5 2 1 1 1 1 1	1 3 2 2 2 2 2	2 4 3 3 3 3 3	3 5 4 4 4 4 4
TRAINING	1 1 1 1	2 2 2 2	3 3 3 3	4 4 4 4	5 5 5 5
EVENINGS	3 3 3 4 4 4 4	4 4 4 5 5 5 5	5 5 5 1 1 1 1	1 1 1 2 2 2 2	2 2 2 3 3 3 3
NIGHTS	2 2 2 2 2 3 3	3 3 3 3 3 4 4	4 4 4 4 4 5 5	5 5 5 5 5 1 1	1 1 1 1 1 2 2

FARLEY NUCLEAR PLANT OUTAGE SHIFT ROTATION FOR FIVE CREWS

WEEK	1	2	3	4	5
DAY	M T W T F S S	M T W T F S S	M T W T F S S	M T W T F S S	M T W T F S S
5 CREW (35 DAY CYCLE)	T D T T T - -	- - D D D D D	D - - D D D D N N N N	D D D N N N - - N N	N N N N N - -

D = 12-HOUR DAY SHIFT

N = 12-HOUR NIGHT SHIFT

- = OFF DAY

T = TRAINING DAY

- MAINTAINS THE CREW CONCEPT OF OPERATING THE PLANT AND SUPPLEMENTED OUR STAFF DURING OUTAGES;
- MAINTAINS CREW MORALE;
- RESOLVED HOW TO HANDLE SHARED POSITIONS;
- ALLOWED FOR EQUALIZATION OF OVERTIME;
- ENSURED THAT WE HAD THE MANPOWER THAT WE FEEL WE NEED DURING OUTAGES;
- PREVENTS THE OVER WORKING OF ANY ONE SEGMENT OF OUR PERSONNEL.

ALABAMA POWER COMPANY
JUNE 4, 1982 LETTER

"PROCEDURES ARE NOW IN PLACE LIMITING OVERTIME AT THE FARLEY PLANT . . . . THE NRC HAS COMPLETED ITS REVIEW OF THIS TMI ACTION PLAN ITEM FOR BOTH UNITS AND HAS FOUND ALABAMA POWER COMPANY'S POLICY TO BE ACCEPTABLE AND THE REQUIREMENT CLOSED."

ALABAMA POWER COMPANY

AUGUST 8, 1982 LETTER

IN ADDITION, ALABAMA POWER COMPANY'S OBJECTIVE IS TO LIMIT THE SCHEDULE OF THE STAFF AT FARLEY NUCLEAR PLANT, ESPECIALLY THOSE IN SAFETY RELATED JOBS, TO EIGHT (8) HOUR DAYS, FIVE (5) DAYS A WEEK, EXCEPT DURING EXTENDED OUTAGES. DURING EXTENDED OUTAGES, OVERTIME FOR THE FARLEY NUCLEAR PLANT STAFF IS CONSIDERED ON A CASE BASIS.

ALABAMA POWER COMPANY

JUNE 6, 1983 LETTER

THE PROPOSED CHANGE INCORPORATES CURRENT PRACTICES AND REFLECTS COMMITMENTS MADE IN AND AGREED TO BY THE NRC STAFF IN PREVIOUS SUBMITTALS ON THIS SUBJECT.

SUMMARY

- o LIMIT OVERTIME TO THE EXTENT PRACTICAL
- o MAINTAINS CREW CONCEPT
- o MAXIMIZE OFF DAYS
- o PROMOTES MORALE

LIMITS NUMBER OF PEOPLE AVAILABLE TO SUPPORT OUTAGE FUNCTIONS RESULTING IN:

- MORE WORK BEING DONE BY LESS PEOPLE
- OUTAGE TAKING MORE TIME, OR
- LESS QUALIFIED PEOPLE PERFORMING OUTAGE TASKS
- OVERTIME BETWEEN PERSONNEL NOT BEING EQUALIZED
- MANREM EXPOSURE NOT BEING EQUALIZED
- LESS PEOPLE AVAILABLE TO HANDLE UNFORESEEN OCCURRENCES
- DISRUPTION OF OPERATIONS PERSONNEL SCHEDULES
- LOWER MORALE

TWO BACKFIT JUSTIFICATIONS

COMPLIANCE

COST-JUSTIFIED SUBSTANTIAL SAFETY ENHANCEMENT

FEDERAL REGISTER
STATEMENT OF CONSIDERATIONS
(50 FED REG 38097, 38103 (1985))

"THE COMPLIANCE EXCEPTION IS INTENDED TO ADDRESS SITUATIONS IN WHICH THE LICENSEE HAS FAILED TO MEET KNOWN AND ESTABLISHED STANDARDS OF THE COMMISSION BECAUSE OF OMISSION OR MISTAKE OF FACT. IT SHOULD BE NOTED THAT NEW OF MODIFIED INTERPRETATIONS OF WHAT CONSTITUTES COMPLIANCE WOULD NOT FALL WITHIN THE EXCEPTION AND WOULD REQUIRE A BACKFIT ANALYSIS AND APPLICATION OF THE STANDARD [OF 10CFR50.109(c)]."

NUREG - 1409

BACKFITTING GUIDELINES

QUESTION 3.3(1)

DOES A PREVIOUSLY ACCEPTED POSITION REQUIRE A BACKFIT ANALYSIS?

ANSWER

IF NRC HAS ACCEPTED LICENSEE POSITION BY EXPLICIT APPROVAL IN AN INSPECTION REPORT.

INSPECTION REPORT 88-05

MAY 18, 1988

". . . IT APPEARS THAT THE STRUCTURE OF APPROVED OVERTIME DURING OUTAGES IS ACCEPTABLE."

INSPECTION REPORT 89-16

AUGUST 17, 1989

"THE NRC REPRESENTATIVES GENERALLY AGREED WITH THE LICENSEE'S POSITION BUT EXPRESSED CONCERN ABOUT SEVERAL CASES IN WHICH OPERATORS USED OVETIME EXCESSIVELY."

FNP OVERTIME MANAGEMENT

- O PHILOSOPHY CONSISTENT SINCE 1981
- O PROGRESSIVE IMPROVEMENTS
  - INCREASED MANPOWER
  - IMPROVED CREW CONCEPT
  - OFFDAY UTILIZATION
  - STOPPED ISOLATED ABUSE
  - SELECTIVE CONTRACTOR UTILIZATION
  - TRAIN DURING OUTAGES
- O DESIRE TO MAINTAIN MANAGEMENT FLEXIBILITY AND PREROGATIVE

WHY ARE WE HERE?

- 7 DAY X 12 HOURS = 84 HOURS IN 7 DAYS
- 40 HOUR NOMINAL WORK WEEK ON OPERATING UNIT

CONSEQUENCE OF CHANGE

- LOSS OF INTEGRATED PLANT OPERATIONS
- LOSS OF CREW CONCEPT
- DECLINE IN MORALE

CONCLUSION

- NOT A COMPLIANCE EXCEPTION
- NO BACKFIT IS JUSTIFIED
- FNP OVERTIME SCHEDULING PRACTICES REFLECT REASONABLE AND CONSISTENT INTERPRETATIONS OF TECHNICAL SPECIFICATIONS