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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
+ + + + +
OFFICE OF INVESTIGATIONS
INTERVIEW

-----X
IN THE MATTER OF :
INTERVIEW OF : Docket No.
WILLIAM E. ENGELKING : 2-93-004
:
-----X

Thursday, July 20, 1995
Room 1600
First Virginia Bank Tower
Norfolk, Virginia 23514

The above-entitled interview was conducted at
9:00 a.m.

Information in this record was deleted
in accordance with the Freedom of Information
Act, exemptions 7C
FOIA- 96-19

BEFORE:
JAMES D. DOCKERY Investigator

EXHIBIT 18
PAGE 1 OF 107 PAGE(S)

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WASHINGTON, D.C. 20005

B/11

1-2-94-003

1 APPEARANCES:

2 On Behalf of the NRC:

3
4 JAMES D. DOCKERY, Investigator
5 of: U.S. Nuclear Regulatory Commission
6 101 Marietta Street
7 Room 2900
8 Atlanta, Georgia 30323
9 (404) 331-6549

10
11 On Behalf of the Witness:

12 WILLIAM W. NEXSEN, ESQ.
13 Stackhouse, Smith & Nexsen
14 1600 First Virginia Bank Tower
15 Post Office Box 3640
16 Norfolk, Virginia 23514
17 (804) 623-3555

18
19 WITNESS:

20 WILLIAM ENGELKING
21 5426 Robin Hood Road
22 Norfolk, Virginia 23513

23
24
25

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

9:04 A.M.

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INVESTIGATOR DOCKERY: For the record, it is now approximately 9:00 on July the 20th, 1995. The location is the Law Offices of, and help me out here.

MR. NEXSEN: Stackhouse, Smith and Nexsen.

INVESTIGATOR DOCKERY: And that's in Norfolk, Virginia. This is an interview of Mr. William Engelking regarding his knowledge of the events and circumstances surrounding a series of allegations in Department of Labor complaints by Mr. Thomas Saporito.

Present at this interview are me, I'll be conducting the interview, James D. Dockery. I'm a Senior Investigator with the NRC, Office of Investigations. Also present is the witness, Mr. Engelking and Mr. Engelking's Counsel. And if you would identify yourself for the record, please?

MR. NEXSEN: My name is William W. Nexsen of Stackhouse, Smith & Nexsen, 1600 First Virginia Bank Tower in Norfolk, Virginia.

INVESTIGATOR DOCKERY: And Mr. Nexsen, as I understand it, you are corporate counsel for -- or you represent also the Atlantic Group or TAG?

MR. NEXSEN: Yes sir, I do.

INVESTIGATOR DOCKERY: Okay. And Engelking,

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1 is it your desire that Mr. Nexsen represent you here
2 today?

3 THE WITNESS: Yes sir.

4 INVESTIGATOR DOCKERY: Mr. Engelking, will you
5 raise your right hand, please?

6 WHEREUPON,

7 WILLIAM ENGELKING

8 WAS CALLED AS A WITNESS BY THE NUCLEAR REGULATORY
9 COMMISSION, AND HAVING BEEN DULY SWORN, WAS EXAMINED AND
10 TESTIFIED AS FOLLOWS:

11 THE WITNESS: I do.

12 INVESTIGATOR DOCKERY: Thank you. I've
13 identified myself to you by explaining my credentials, my
14 identification. Mr. Engelking, would you state your full
15 name for including the spelling and tell me your social
16 security number?

17 THE WITNESS: William Edwin Engelking. That's
18 W-I-L-L-I-A-M E-D-W-I-N E-N-G-E-L-K-I-N-G, and my social
19 is ~~XXXXXXXXXX~~

20 INVESTIGATOR DOCKERY: And what is your -- you
21 are currently employed by the Atlantic Group?

22 THE WITNESS: Yes sir.

23 INVESTIGATOR DOCKERY: What is your position?

24 THE WITNESS: I am a Division Manager of Power
25 East.

cc [unclear]

1 INVESTIGATOR DOCKERY: How many years have you
2 been with the Atlantic Group, or TAG as we'll refer to it
3 here?

4 THE WITNESS: Currently 12 years.

5 INVESTIGATOR DOCKERY: Okay. During the
6 period of October to December of 1991, what was your
7 position?

8 THE WITNESS: I was the Site Administrative
9 Coordinator at the Palo Verde Nuclear Power Generating
10 Station.

11 INVESTIGATOR DOCKERY: And that's operated by
12 an NRC licensee, the Arizona Power Service Company, I
13 believe. Do you recall the name Thomas J. Saporito?

14 THE WITNESS: Yes sir.

15 INVESTIGATOR DOCKERY: Did you have anything
16 to do or were you involved at all with considering Mr.
17 Saporito's qualifications or selection to work in the Unit
18 Two outage at Palo Verde?

19 THE WITNESS: I was not the recruiter, so I
20 didn't accept or look at the qualifications. They found
21 the people, recruited the people, and sent their resumes
22 to me. And that's why I became part of the process, in
23 submitting the resumes to the units.

24 INVESTIGATOR DOCKERY: Okay, what -- can you
25 describe that process for me, please?

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1 THE WITNESS: Okay. When the unit makes a
 2 request, and it's done through a form that Palo Verde
 3 called a CLR, if I remember the correct terminology. At
 4 that point, we would go back to the recruiting office and
 5 have these people under those qualifications look for
 6 those numbers, whatever that number may be.

7 As they find people interested in wanting to
 8 coming to work that are qualified, we would either send
 9 their resume or send a formatted resume, depending on how
 10 the resume is sent to us. Sometimes we have to format the
 11 resumes based on -- we only have the application. So we
 12 have to take it off the application and put it in a resume
 13 format, submit them to the site or to the unit I should
 14 say, the individual unit.

15 And at that point, they would review and give
 16 them back to me and say, "I would prefer this person" and
 17 "Is he still available?" We would then go back and
 18 confirm with that person that he has been requested to go
 19 to work at that unit, and will he be available on these
 20 dates?

21 There's a lot of other paperwork associated
 22 with that: security paperwork, tax paperwork, employee
 23 agreements behind that.

24 INVESTIGATOR DOCKERY: Mr. Saporito was hired
 25 for the Unit Two outage at Palo Verde. Is that correct?

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1 THE WITNESS: Yes sir.

2 INVESTIGATOR DOCKERY: Could he have been
3 hired for that position if his resume was not provided to
4 the unit by TAG?

5 THE WITNESS: No sir.

6 INVESTIGATOR DOCKERY: Mr. Engelking, as I'm
7 sure you recall, during early 1992, Mr. Saporito filed a -
8 - actually a series of complaints claiming that he was
9 discriminated against by both the Atlantic Group and
10 Arizona Power in that he was not hired for the follow-up
11 outage which was the -- I believe began in January of 1972
12 at Unit One at Palo Verde.

13 Do you recall those series of complaints by
14 Mr. Saporito?

15 THE WITNESS: Yes, I became aware of them.

16 INVESTIGATOR DOCKERY: Okay. Do you happen to
17 know when you first became aware of Mr. Saporito's
18 complaints?

19 THE WITNESS: My best recollection was, I
20 believe -- I want to say February of '92 is when I would
21 have been contacted by --

22 INVESTIGATOR DOCKERY: Good. I specifically -
23 - what I want to talk to you about here today is what Mr.
24 Saporito has styled as an amended complaint, which is
25 dated 29 June 1992, and which has attached to it an

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1 affidavit by Mr. Saporito dated 7 May 1992.

2 We discussed this before we went on the
3 record, and you mentioned that you were familiar with that
4 complaint.

5 THE WITNESS: Yes sir.

6 INVESTIGATOR DOCKERY: What I want to do is go
7 through this complaint, more or less point by point, and
8 have you respond to some of the statements that Mr.
9 Saporito makes.

10 Now there are some statements in here that are
11 not in dispute based on my reading of past transcripts,
12 and we won't be going over those. But there are some
13 statements where Mr. Saporito makes some pretty specific
14 statements about interactions he had with you and
15 discussions that were had.

16 And that's what I'd like to get you to respond
17 to if you will.

18 MR. NEXSEN: If I understand one of Mr.
19 Engelking's answers to your questions, you need
20 clarification. Do you want me to get in this?

21 INVESTIGATOR DOCKERY: By all means.

22 MR. NEXSEN: Okay, because you asked him when
23 he first became aware of a complaint by Mr. Saporito. And
24 I believe he said he was contacted February and it stopped
25 there. And I think -- because I don't believe anybody

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1 knows anything about TAG being involved until much later.

2 If you want to talk about that, I think he
3 needs to clarify what he means by what happened in
4 February.

5 INVESTIGATOR DOCKERY: That would be fine.
6 I'd be happy to hear that.

7 THE WITNESS: Well, I was miscollecting that.
8 I really didn't know about Mr. Saporito's complaint itself
9 until I was asked to do this original affidavit, which was
10 in June.

11 MR. NEXSEN: But what happened in February?

12 THE WITNESS: In February -- it's so hard, you
13 get confused looked backwards. In February, I was
14 contacted by Mr. Robertson for some information. He was
15 with Employee Concerns at Palo Verde, just asked about the
16 selection of the I and C process, which I talked to him
17 about and submitted him a piece of paperwork on the basic
18 steps in the I and C selection process.

19 In fact, when I came out of that meeting, both
20 myself and Jan Gillard, who wa' my assistant, were both
21 asked questions about it. When we came out of it, we sat
22 and discussed who were they talking about, knowing it had
23 to be something to do with the I and C. And neither one
24 of us came up with --

25 INVESTIGATOR DOCKERY: There were just the two

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1 of you having that discussion among yourselves?

2 THE WITNESS: Yes, myself and Jan Gillard.

3 INVESTIGATOR DOCKERY: And you could not put a
4 name at that point to --

5 THE WITNESS: No. She came up with a
6 different name. I came up with another name. So we had -
7 - I didn't have a clue at that time that there was
8 anything out there. It wasn't until this affidavit, or I
9 was requested to make a statement on this affidavit, that
10 I knew about who it was.

11 INVESTIGATOR DOCKERY: Okay. Going now to the
12 - as I stated before to Mr. Saporito's amended Department
13 of Labor complaint. He makes the statement, "While
14 Claimant was working PVS Unit Two, he identified to PVNGS
15 management numerous concerns which appear to be violations
16 of Nuclear Regulatory Commission, or NRC, requirements."

17 Were you aware of Mr. Saporito raising any
18 protected concerns?

19 THE WITNESS: No sir.

20 INVESTIGATOR DOCKERY: At some point, did you
21 become aware of his claim to have raised such concerns?

22 THE WITNESS: Yes, when the things were filed
23 and I started having discussions with the Atlantic Group
24 on it. That was late May.

25 INVESTIGATOR DOCKERY: Okay. On or about

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1 April 8, 1992, Mr. Saporito filed his first complaint that
2 specifically named TAG as a defendant in his DOL suit,
3 just to refresh your memory. Do you recall when Mr.
4 Saporito -- when the Unit Two outage began? Was that -- I
5 believe it was the end of September. Is that about right?

6
7 THE WITNESS: Yes, September of '91.

8 INVESTIGATOR DOCKERY: Okay, Mr. Saporito
9 claims that he informed you that he had made -- he had
10 identified numerous violations of NRC requirements to APS
11 management. Do you recall him making you aware of that?

12 THE WITNESS: No, he said absolutely nothing
13 to me about his concerns. His only conversation to me was
14 he didn't like the way some of the other people worked,
15 for a better word, and he didn't give me any specifics on
16 that.

17 INVESTIGATOR DOCKERY: Well, that sounds
18 pretty vague.

19 THE WITNESS: It was extremely vague. It
20 wasn't really a conversation to be very honest. I mean,
21 he just -- to the best of my recollection, he just
22 basically gave me a line about he didn't like the way
23 other people did their work.

24 INVESTIGATOR DOCKERY: Did you construe that
25 in any way to be safety or health related?

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1 THE WITNESS: No sir.

2 INVESTIGATOR DOCKERY: How would you
3 characterize your relationship with or knowledge of Mr.
4 Saporito prior to late December 1991?

5 THE WITNESS: I had very little knowledge of
6 him. I knew who he was since he had come to work for us.
7 At best, it was Administrative Coordinator to an employee
8 type of relationship, in passing saying hello and such. I
9 would say it was amiable.

10 INVESTIGATOR DOCKERY: Is it fair to say then
11 that you hadn't had any problem with him up to that point?

12
13 THE WITNESS: No, none at all.

14 INVESTIGATOR DOCKERY: Any conflict with him?

15 THE WITNESS: None.

16 INVESTIGATOR DOCKERY: Did you socialize with
17 him in any way up to that point?

18 THE WITNESS: No sir.

19 INVESTIGATOR DOCKER: Is it fair to say you
20 just didn't know him very well at all up to that time?

21 THE WITNESS: Only that he was an employee of
22 ours.

23 INVESTIGATOR DOCKERY: All right, sir.

24 THE WITNESS: I had a huge amount of employees
25 there.

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1 INVESTIGATOR DOCKERY: How many did you have
2 at that time?

3 THE WITNESS: My recollection, I believe it
4 was right about 180 on site.

5 INVESTIGATOR DOCKERY: Under those
6 circumstances, in general, did you get to know any of the
7 employees very well normally?

8 THE WITNESS: No, no. I didn't -- other than
9 going out to the sites and when I passed out checks, or in
10 my journeys out to the different units, the site was
11 extremely -- it's an extremely large site. It covers a
12 large amount of area.

13 I had the normal morning hour things going,
14 anything due, anybody -- so just general conversations,
15 but not of a personal nature.

16 INVESTIGATOR DOCKERY: Okay. In his complaint
17 and the attached affidavit, Mr. Saporito alludes to a
18 meeting he had with you on or about January 2, 1992. Do
19 you recall that meeting?

20 THE WITNESS: Yes sir.

21 INVESTIGATOR DOCKERY: Do you think he's about
22 right on that date? That would have been the day after
23 New Years if you can remember back that far.

24 THE WITNESS: Yes, I believe that is the
25 correct date.

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1 INVESTIGATOR DOCKERY: He states that during
2 that meeting you brought up a violation of NRC
3 requirements which occurred during the Unit Two outage to
4 him. It had to do with TAG contract electricians that
5 became contaminated somehow. Do you recall that?

6 THE WITNESS: Yes, I do.

7 INVESTIGATOR DOCKERY: What was the purpose of
8 that discussion?

9 THE WITNESS: During the outage, we had two
10 people that either didn't pay attention or ignored marked
11 areas. They were in an area where they were allowed to be
12 in under the RWP they were working on. They were looking
13 for an emergency lighting system. And this was off in
14 some of the rooms.

15 And they passed the -- if I'm not mistaken, a
16 high radiation, it might have been a high contamination.
17 It was a specifically marked area. The passed through a
18 door with this marking and violated, because they weren't
19 under the proper RWP, and they violated their own -- I
20 don't know if you -- procedure, but they violated it.

21 INVESTIGATOR DOCKERY: But this was something
22 that you brought up to Mr. Saporito, correct?

23 THE WITNESS: Yes, it was. When we discussed
24 this with the plant, my boss, Vance Pettus, asked that --
25 I tried to explain what happened to each and every

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1 employee as they exit the site.

2 INVESTIGATOR DOCKERY: Why? What was the
3 purpose of that explanation?

4 THE WITNESS: He made a commitment to the site
5 that he would let each one of our employees understand
6 what had happened. During conversations things get
7 misconstrued as far as why were these people disciplined?
8 They were just trying to do their jobs.

9 So I wanted to make it very clear, this is
10 what happened; this is why these people were disciplined;
11 and this is something that every employee has to be
12 totally aware of when you're out there working and
13 travelling in and out of other areas that you know you're
14 properly set up, whether it be TLDs and such or monitored
15 runs, the right RWP to work in that area.

16 It was very obvious from what you just asked
17 me and what was said throughout this testimony that he
18 didn't understand what I was trying to tell him.

19 INVESTIGATOR DOCKERY: How did he convey that
20 or how did you come by that impression, by something that
21 he said?

22 THE WITNESS: Yes, his statement that two
23 people became radioactively contaminated. That wasn't
24 what the problem was. I mean, they could have possibly
25 become contaminated out in -- they don't know where they

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1 became contaminated. They could have been contaminated in
2 a place where they were under the proper RWP.

3 That wasn't the problem. The problem was is
4 that they passed a barrier that was obvious they were not
5 supposed to pass under the RWP they were working on. They
6 should have went back out and got properly set up, talked
7 to the HPs, whatever was necessary to go into area to look
8 for the piece of equipment.

9 INVESTIGATOR DOCKERY: Mr. Engelking, you
10 stated they were disciplined. How were they disciplined?
11 What was that disciplinary action.

12 THE WITNESS: My best recollection is I
13 believe they were both let go, if I remember. And --

14 INVESTIGATOR DOCKERY: So pretty severe
15 discipline then?

16 THE WITNESS: Yes, it was.

17 INVESTIGATOR DOCKERY: Okay. According to Mr.
18 Saporito's complaint, at this point in his conversation
19 with you on January the 22nd, he claims that he identified
20 numerous apparent violations of NRC requirements to you.
21 Not -- he advised that he had notified APS of these
22 violations, and he states that he conveys that information
23 to you at that time. Is that your recollection?

24 THE WITNESS: No. He said nothing of that
25 manner.

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1 INVESTIGATOR DOCKERY: It goes on in his
2 complaint that he discussed a few of these apparent
3 violations with you. That would not be the case then,
4 right?

5 THE WITNESS: No, he -- again like I had said
6 before, he had made mention that he didn't like they way
7 some of the other people did their work, for better words.
8 I don't remember how I would have asked, who are you
9 talking about, what are you talking about?

10 But I would have asked -- inquired in some
11 manner of what is the problem. And he never elaborated
12 even on that. He left it just extremely vague. He wasn't
13 happy with the way other people did things.

14 He did not give me examples, names, jobs.

15 INVESTIGATOR DOCKERY: Can you remember his
16 exact words, to the best of your recollection anyway? Was
17 he complaining about the volume of their work, the
18 methodology they used?

19 THE WITNESS: My best feeling of it? He was
20 complaining about the people themselves.

21 INVESTIGATOR DOCKERY: Personality conflicts?

22 THE WITNESS: That's the way I took it more
23 than anything that he wasn't happy with those people and
24 the way they did their jobs or how they worked with him.

25 INVESTIGATOR DOCKERY: But he didn't give you

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1 any names?

2 THE WITNESS: He didn't give me any names. He
3 didn't give me any jobs. He didn't give me any specifics
4 in any manner of it.

5 INVESTIGATOR DOCKERY: Did you attempt to draw
6 him out on those specifics?

7 THE WITNESS: Yes, I did. I talked to him
8 about -- I had worked at Palo Verde on other jobs prior --
9 before I was Administrative Coordinator on working on a
10 control panel for the nozzle dams and the procedure
11 involved in that that I was very involved with. And I
12 spoke to him about how I perceived that.

13 You're following the intent of a procedure.
14 If you're following it step by step and you're in an area
15 where, by procedure, you're supposed to sign every step as
16 you perform them.

17 Now if you're in a contaminated area or you're
18 in a high radiation area, you have a working copy. That
19 working copy isn't going to come out of there anyway. You
20 follow those steps. You're following intent of procedure,
21 and then you come out and you initial because you're
22 reading them step by step, you follow it step by step.

23 And when you get into the clean area, then
24 that's the copy that's going to have to come out to be
25 maintained. And that -- I discussed that with him.

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1 But again, even after that, he didn't give me
2 anything else. He didn't talk to me about well, these
3 people did this on their procedure; these people didn't do
4 this properly. He just -- that was the end of the
5 conversation.

6 INVESTIGATOR DOCKERY: Is it fair to say he
7 didn't provide you with enough detail to conduct any type
8 of follow-up on his information?

9 THE WITNESS: There was no detail, yes. There
10 was nothing I could follow up on.

11 INVESTIGATOR DOCKERY: Where was this
12 conversation taking place? Again, I'm referring to
13 January 2, 1992.

14 THE WITNESS: It was in my office at the Palo
15 Verde site.

16 INVESTIGATOR DOCKERY: Okay. And Mr. Saporito
17 makes the statement in his complaint that "Mr. Engelking
18 told Claimant that Claimant's raising safety concerns at
19 PVNGS was pretty much common knowledge around the site."
20 Did you make such a statement to Mr. Saporito?

21 THE WITNESS: No sir.

22 INVESTIGATOR DOCKERY: He makes the statement
23 that he asked you if the reason he was not selected for
24 the Unit One outage was because of his raising safety
25 concerns. Did he ask -- make such an inquiry of you?

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1 THE WITNESS: No sir.

2 INVESTIGATOR DOCKERY: He states that you told
3 him that he should have done his job and not made waves.
4 Did you make that statement to him?

5 THE WITNESS: No sir.

6 INVESTIGATOR DOCKERY: He goes on that he
7 "threatened" during that conversation, his word, to
8 contact NRC officials. Did he raise such a threat during
9 that conversation?

10 THE WITNESS: No, there was nothing said.

11 INVESTIGATOR DOCKERY: Okay. I want you to --
12 this is important. He states that -- Saporito states:
13 "Mr. Engelking became very apprehensive and warned
14 Claimant that it wouldn't be a good career move for
15 Claimant to cause anymore trouble." Did you make such a
16 statement?

17 THE WITNESS: No sir, absolutely not.

18 INVESTIGATOR DOCKERY: Is the term "career
19 move" is that a term that you commonly use?

20 THE WITNESS: No.

21 INVESTIGATOR DOCKER: Do you ever recall
22 using it?

23 THE WITNESS: No, not ever in the context of
24 talking to an employee.

25 INVESTIGATOR DOCKERY: What would you consider

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1 the meaning of "good career move" or "bad career move?"

2 THE WITNESS: Well if I took that what I would
3 consider for myself is I made a career move when I left
4 Palo Verde and took a position back in Norfolk because I
5 felt my opportunities were better here. That I would
6 consider a career move.

7 INVESTIGATOR DOCKERY: During your
8 conversation, any conversation, with Mr. Saporito, do you
9 recall him ever using the term "career move?"

10 THE WITNESS: No.

11 INVESTIGATOR DOCKERY: Was anything similar,
12 perhaps not those exact words, anything similar to the
13 term "career move" used?

14 THE WITNESS: No sir, not as I recall.

15 INVESTIGATOR DOCKERY: Okay. Mr. Saporito's
16 complaint goes on to state that on or about January sixth,
17 that he informed you that although he had contacted TAG
18 regarding a new assignment, no offer had been made. Do
19 you recall a -- this would be approximately four days
20 after, and it may have been by telephone. I'm not sure
21 this was in person.

22 Do you recall him contacting you?

23 THE WITNESS: I believe that refers to the
24 chance meeting that we had in my apartment complex parking
25 lot as I was coming home from work.

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1 INVESTIGATOR DOCKERY: Describe that meeting
2 for me, please.

3 THE WITNESS: I would have to say it probably
4 wasn't really a meeting. I was driving into the parking
5 lot.

6 INVESTIGATOR DOCKERY: What time was it?

7 THE WITNESS: I guess late afternoon, 5:30 or
8 somewhere thereabouts possibly. I don't even remember
9 when I left. I believe I got off about 3:30 or 4:00. So
10 it would be about 5:00 or thereabouts. It took about an
11 hour to drive back.

12 I was driving into the parking lot. As I was
13 driving up to the space near my apartment, I saw Mr.
14 Saporito packing his car.

15 INVESTIGATOR DOCKERY: Did he appear to be
16 getting ready to leave?

17 THE WITNESS: Yes.

18 INVESTIGATOR DOCKERY: Okay.

19 THE WITNESS: Up to that time, I didn't even
20 know he lived in that same complex. This is a huge
21 complex. I had never run into him before. I didn't know
22 he was there.

23 I got out of the car and said hello. I
24 wouldn't call it a meeting because I don't believe I even
25 walked over and spoke to him. It was like across a couple

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1 of cars: "How's it going? Have a safe trip. Keep
2 checking in." It's almost a standard -- I mean all my
3 employees, I'm always telling them, "Keep checking in."

4 I mean, it will change at times within an
5 hour. They can call in and there won't be a job.
6 Something comes up, somebody calls for additional people.
7 So I'm telling the employees to keep checking in.

8 INVESTIGATOR DOCKERY: How long did this
9 chance meeting last?

10 THE WITNESS: It was two minutes or less.

11 INVESTIGATOR DOCKERY: Let me take you back to
12 the meeting four days earlier in your office on January
13 second. Tell me what the tone of that meeting was. Was
14 it cordial?

15 THE WITNESS: Yes, I thought it was cordial.
16 There were no harsh tones, no raised voices, if that's
17 what you mean.

18 INVESTIGATOR DOCKERY: Would it be fair to say
19 -- well, you characterize it for me. What was your
20 relationship with Mr. Saporito at the end of that meeting?

21
22 THE WITNESS: I felt we left on equitable
23 terms. He -- I gave him a card and told him to keep
24 checking in for employment. I'm not sure if we shook
25 hands or not, but it was -- when he left here, I felt we

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1 left on good terms.

2 INVESTIGATOR DOCKERY: You did give him a copy
3 of your business card?

4 THE WITNESS: Yes, I believe I did.

5 INVESTIGATOR DOCKERY: Would you -- I believe
6 he makes the same claim.

7 THE WITNESS: I normally do that. If I have
8 one and I was at my desk, anybody that would come through
9 at the end -- my business card has the 800 numbers, so
10 that they can just put it in their billfold and you don't
11 lose the number. You can always be checking in even if
12 you're out on the site somewhere, working another job
13 that's ending. You can always be checking in for work.

14 INVESTIGATOR DOCKERY: Mr. Engelking, would
15 you provide a copy of your business card to an individual
16 that you did not consider to be a fit employee?

17 THE WITNESS: No, I would not.

18 INVESTIGATOR DOCKERY: That would be kind of
19 counter-productive I would think.

20 THE WITNESS: Yes sir.

21 INVESTIGATOR DOCKERY: Do you recall him
22 making the comment to you that he had not heard anything
23 about being selected for the Unit One outage?

24 THE WITNESS: At this January second meeting?

25 INVESTIGATOR DOCKERY: No, no. I'm sorry to

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1 be skipping around now. Now we're back in the parking lot
2 at your apartment.

3 MR. NEXSEN: I'm sorry, I got confused.

4 INVESTIGATOR DOCKERY: Yes, I'm sorry. I went
5 back to January second. We had been talking about the
6 January sixth meeting in the parking lot, and I went back
7 to the second meeting in his office. And now I want to
8 take us back again to the meeting in the parking lot.

9 And Mr. Saporito claims that he queried you or
10 mentioned that he hadn't heard anything from TAG about a
11 new assignment at the Unit One outage.

12 THE WITNESS: My best recollection of that is
13 that he told me he had called the office and had checked
14 in looking for work. I don't specifically recall him
15 asking me about the Palo Verde Unit One outage.

16 INVESTIGATOR DOCKERY: What was his demeanor
17 at this meeting in the parking lot. "Meeting" is a bad
18 word, but I don't know how else to characterize it.

19 THE WITNESS: Yes. It was friendly. There
20 was no -- again, there was no confrontation or at-odds
21 type situation. And I felt it was a very friendly
22 conversation and I told him to have a safe trip.

23 INVESTIGATOR DOCKERY: Okay. According to Mr.
24 Saporito's complaint, Mr. Engelking remarked, "Well, what
25 did you expect? I told you that a contractor should just

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1 do his job and not make waves." Do you recall making that
2 comment to him?

3 THE WITNESS: No sir, I did not make that
4 comment.

5 INVESTIGATOR DOCKERY: He states that he was
6 then asked by you, "You have quite a history of making
7 waves, don't you?" Did you ever make that statement to
8 Mr. Saporito?

9 THE WITNESS: No sir, I did not.

10 INVESTIGATOR DOCKERY: Another statement he
11 ascribes to you is, "It's no secret that you raised safety
12 concerns at the Florida Power and Light Company. And your
13 history of making waves is common knowledge at this site."
14 Did you make any such statement?

15 THE WITNESS: Absolutely not, sir.

16 INVESTIGATOR DOCKERY: Okay. The next
17 statement he makes in his complaint is that he told you
18 that APS Manager, Mr. Dan Robertson, contacted Mr.
19 Saporito by telephone on January 3 informing him of the
20 good news that APS has not made a decision. He, as I
21 recall from other documents and testimony, Mr. Saporito
22 thought there was a still a possibility that he was going
23 to be selected for the Unit One outage.

24 And that began in January of 1992?

25 THE WITNESS: It was scheduled to start

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1 somewhere in January. It kept getting delayed. It kept
2 getting pushed back. I believe it started in February of
3 '92 when it actually started.

4 INVESTIGATOR DOCKERY: Okay, I believe the
5 statement then may be irrelevant. In regard though to
6 that statement in his complaint, he goes on to claim that
7 you said, "Forget it. You're finished here. And if you
8 expect continued employment with TAG as a contractor,
9 don't pursue this matter any further."

10 Do you recall that statement or anything
11 similar to that being made to Mr. Saporito?

12 THE WITNESS: Nothing that could even be
13 construed as something like that was said.

14 INVESTIGATOR DOCKERY: Mr. Saporito states
15 that, per his complaint, that he again threatened to
16 contact the NRC representatives, and that he intended to
17 file a DOL complaint because he was not selected to work
18 at that Palo Verde Unit One outage.

19 During this meeting on January the sixth in
20 the parking lot, did Mr. Saporito raise the Nuclear
21 Regulatory Commission?

22 THE WITNESS: No sir, he did not.

23 INVESTIGATOR DOCKERY: Did he mention the
24 Department of Labor?

25 THE WITNESS: No sir, he did not.

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1 INVESTIGATOR DOCKERY: Mr. Saporito claims
2 that you threatened him not to file a DOL complaint and
3 warned him that he was making a "career decision" insofar
4 as TAG could not afford to jeopardize big employment
5 contracts like the one with APS. Do you recall the phrase
6 or the term "career decision" being used by either
7 yourself or Ms. Saporito during this meeting?

8 THE WITNESS: No sir.

9 INVESTIGATOR DOCKERY: Is that --

10 MR. NEXSEN: Can I ask it another way?

11 INVESTIGATOR DOCKERY: Certainly.

12 MR. NEXSEN: Was that statement having
13 anything to do with career decisions used?

14 THE WITNESS: No.

15 MR. NEXSEN: Not that you don't recall, it was

16 --

17 THE WITNESS: No.

18 MR. NEXSEN: Do you recall the statement it
19 was not made?

20 THE WITNESS: There was no statement made
21 along those lines.

22 INVESTIGATOR DOCKERY: By either you or Mr.
23 Saporito?

24 THE WITNESS: That's correct.

25 INVESTIGATOR DOCKERY: Okay. Mr. Saporito, in

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1 his complaint, makes the statement that your comments and
2 actions during the meetings of January the second and
3 January the sixth with him make it clear that you were
4 aware or you were made aware of the Claimant's protected
5 activities.

6 Now this whole area of protected activities --
7 let me first ask you, when I -- when I use the term
8 "protected activity," what is your understanding of that
9 term in the NRC context?

10 THE WITNESS: Well, I understand through my
11 training and such that if you ever have a concern, you are
12 able to bring it to your local NRC representative, whether
13 it be a site one or what we call a local area office, and
14 bring that to them. And that's without any retaliatory
15 action, discrimination based on you bringing a concern to
16 the NRC. That's my understanding from the training I get
17 with the NRC Form 3.

18 INVESTIGATOR DOCKERY: During the course of
19 Mr. Saporito's employment and during the Unit Two outage
20 from September through December of 1991, and up to your
21 meeting with him on January the sixth, do you ever recall
22 the term "whistle-blower" being used with respect to Mr.
23 Saporito?

24 THE WITNESS: No sir.

25 INVESTIGATOR DOCKERY: What's your

1 understanding of that term?

2 THE WITNESS: I have a lot more of an
3 understanding of it now than I did back then if I would
4 have heard it.

5 INVESTIGATOR DOCKERY: Understandably so.

6 THE WITNESS: A whistle-blower is somebody
7 that's bringing concerns out to the -- from working in the
8 plants and bringing those concerns out to the NRC. It's
9 my understanding now it's a protected activity again. So
10 I guess that's where the protected activity would come
11 from.

12 INVESTIGATOR DOCKERY: Mr. Saporito makes the
13 claim that he felt intimidated and threatened by certain
14 of the statements we've already gone over, specifically
15 your comment, alleged comment to him, that it wouldn't be
16 a career move for him to cause more trouble there; your
17 comment, alleged comment, "Forget it, you're finished
18 here, and if you expect continued employment with TAG,
19 don't pursue this matter any further," and your alleged
20 comment, "Don't do it. You're making a career decision."

21 Did you attempt to intimidate or threaten Mr.
22 Saporito for any reason?

23 THE WITNESS: No sir, I did not. I had
24 absolutely no reason to.

25 INVESTIGATOR DOCKERY: The tone of your

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1 conversation with Mr. Saporito on the -- on January the
2 sixth in the parking lot, did Mr. Saporito appear to be
3 agitated or did he appear to be cowed or threatened or
4 intimidated by the conversation you were having with him?

5 THE WITNESS: Not in the least. It was --
6 again I'll say, friendly, amiable, short conversation.

7 INVESTIGATOR DOCKERY: You stated that you
8 provided a copy of your business card. That was at the
9 earlier meeting?

10 THE WITNESS: Yes sir.

11 INVESTIGATOR DOCKERY: Mr. Saporito readily
12 accepted that card?

13 THE WITNESS: Yes sir.

14 INVESTIGATOR DOCKERY: Mr. Saporito claims
15 that TAG generally, and perhaps you specifically, played a
16 role in denying him a contract I and C technical position
17 during the Unit One outage. Did you have any involvement
18 in denying him that position?

19 MR. NEXSEN: For the Unit One.

20 INVESTIGATOR DOCKERY: For the Unit One, yes.

21 THE WITNESS: Absolutely none.

22 INVESTIGATOR DOCKERY: Mr. Saporito states
23 finally in his amended complaint, "Respondent's actions
24 and comments regarding the Complainant," and in this
25 respect he's referring to you as well as your employer,

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1 TAG, that those comments regarding him were based at least
2 in part on his engagement in activities protected by the
3 Energy Reorganization Act.

4 Is that a fair statement? Were you aware of
5 any activities he is engaged in?

6 THE WITNESS: No sir, not at that time. Long
7 after that.

8 INVESTIGATOR DOCKERY: It's not specifically
9 discussed in this complaint, but I'd like to ask if you
10 recall meeting with Mr. Saporito during probably the last
11 -- sometime during the last two weeks of December? Was
12 there any meeting that you had with him during that period
13 of time?

14 THE WITNESS: Not that I recall. I go out
15 onto the units on a daily basis and go to the shops. If
16 an employee is there, I'll speak to them and ask them how
17 it's going, how's everything. But I don't recall talking
18 to Mr. Saporito specifically. I was talking to employees
19 all day long. I couldn't give you a clue who I spoke to.

20 MR. NEXSEN: Okay. Can I ask you one
21 question? During the end of December of 1991, where were
22 you?

23 THE WITNESS: The last week I was on vacation.

24 MR. NEXSEN: So the last week you were on
25 vacation?

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1 THE WITNESS: Yes, the last full week in
2 December I believe it was.

3 INVESTIGATOR DOCKERY: You anticipated the
4 question I wanted to ask him.

5 MR. NEXSEN: I'm sorry. I was just wondering
6 -- yes, I actually thought he was gone for two weeks.

7 THE WITNESS: I might have been. I don't
8 remember for sure.

9 INVESTIGATOR DOCKERY: Okay, but we're pretty
10 sure of a meeting you had with Mr. Saporito in your office
11 on January the second?

12 THE WITNESS: Yes sir.

13 INVESTIGATOR DOCKERY: Clearly you were back
14 to work by that time?

15 THE WITNESS: Yes sir.

16 MR. NEXSEN: What happened at that, not all
17 the conversation, but what was the purpose on meeting on
18 January second? Why would you remember that?

19 THE WITNESS: Well, he came in to get his last
20 paycheck and we had already mailed the paychecks off to my
21 recollection. He also brought in his exit paperwork and
22 things that I was responsible for making sure came to me,
23 and was properly -- go to the proper stations to make sure
24 everything got done.

25 INVESTIGATOR DOCKERY: Mr. Engelking, you

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1 mentioned earlier that you may have had as many as 100 or
2 possibly more employees under your control during that
3 period of time. Were you able to get to know many or all
4 of these employees on a first-name basis or recognize them
5 by sight?

6 THE WITNESS: Yes, I recognized a great deal
7 of them, but I didn't get to know them. I'd use their
8 first names if I remembered them. Very often I don't
9 remember names, especially people that would come for the
10 outages and leave. If I had to say did I know people by
11 their first names there, some of the long-term employees
12 that has been there and rolled over when we took over this
13 contract, I remembered their first names. A lot of those
14 I did.

15 INVESTIGATOR DOCKERY: How about Mr. Saporito?
16 Was he one -- was he an employee that you came to know
17 prior to, let's say, the end of December? You could put a
18 name to his face?

19 THE WITNESS: No, I don't believe I could
20 have.

21 INVESTIGATOR DOCKERY: That would indicate to
22 me that you didn't have any specific reason to recall him
23 or who he was. Is that a fair statement?

24 THE WITNESS: Yes, that is.

25 INVESTIGATOR DOCKERY: As I mentioned earlier,

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1 Mr. Saporito -- the complaint, we just went through the
2 statements in his complaint. He attached an affidavit to
3 that complaint, and I'm referring to the amended complaint
4 of June 29 here. He attached a May seventh affidavit to
5 that complaint, and he reiterates some of the statements
6 that are in the complaint.

7 But bear with me. I want to go through here
8 and see if there's any additional detail that he's
9 supplied in that affidavit. Okay, his affidavit states
10 that "On or about January 2, 1992, I met with TAG Manager,
11 Mr. William Engelking, to receive my paycheck." That's
12 correct?

13 THE WITNESS: That's correct, except my title
14 wasn't Manager.

15 INVESTIGATOR DOCKERY: He apparently felt that
16 you had some management responsibility over him.

17 THE WITNESS: Yes, I was Administrative
18 Coordinator, and that would be a management-type
19 responsibility.

20 INVESTIGATOR DOCKERY: He states that, "During
21 this meeting, I asked Mr. Engelking if a list of I and C
22 technicians selected by APS for the Unit One outage had
23 been given to TAG." Do you recall him making that
24 inquiry?

25 THE WITNESS: Yes sir.

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1 INVESTIGATOR DOCKERY: He alleges that you
2 responded that such a list did exist and that you had a
3 copy of that list on your desk. Is that correct?

4 THE WITNESS: That is correct. It was a
5 handwritten list that was left on my desk.

6 INVESTIGATOR DOCKERY: Do you know who hand-
7 wrote that list?

8 THE WITNESS: Yes, I do. It was Tina Beeble
9 from the -- she was -- I think her title Office
10 Administrator or Office Manager at the Phoenix, Arizona
11 office. And she had come out there to help cover the site
12 while I was on vacation, working with Jan Gillard. If I
13 can elaborate just a little bit on that?

14 INVESTIGATOR DOCKERY: Certainly.

15 THE WITNESS: There was -- this list had, if I
16 remember right, 11 names written on it by Tina, and then
17 there were two other names written on it I believe by Jan
18 Gillard after she had written the original list. And Jan
19 had added two more names to it.

20 INVESTIGATOR DOCKERY: What did that list
21 represent?

22 THE WITNESS: Somebody had called from Unit
23 One. I believe it was Mr. Wagner or it might have been
24 Mr. Warner. I'm not sure because I was not there. But
25 they had called over with the names of the people that

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1 they preferred that they wished to see if would be
2 available to support their outage that they had selected
3 out of these resumes.

4 INVESTIGATOR DOCKERY: Now if I understand
5 correctly, that list represented the individuals -- APS
6 that Unit One had selected?

7 THE WITNESS: Yes, they called that to us. We
8 had given them the resumes. They had gone through them
9 and they called back. These are the people we prefer to
10 have. Contact these people.

11 INVESTIGATOR DOCKERY: Mr. Saporito states
12 that he asked you if his name appeared on the list, and
13 you responded that his name did not appear on the list.
14 He asked you why his name did not appear on the list and
15 asked you what criteria was utilized by APS in selecting
16 the I and C technicians.

17 Do you recall such a conversation with him?

18 THE WITNESS: I recall him asking if his name
19 was on the list, yes. And --

20 INVESTIGATOR DOCKERY: You mean him asking

21 you? THE WITNESS: Yes, asking me.

22 INVESTIGATOR DOCKERY: Right.

23 THE WITNESS: That's what the question on the
24 list was. And if I remember right, I didn't even know
25 what all the names were on that list because I had just

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1 come back to work that day, picked it up and looked and
2 said no, it was not.

3 I'm not sure how it was stated after that, if
4 he asked me what criteria, why it wasn't on that list. I
5 don't remember exactly how he worded that, but I did not
6 have an answer for it.

7 INVESTIGATOR DOCKERY: Was he -- excuse me,
8 was he upset?

9 THE WITNESS: He didn't appear to be upset. I
10 mean again, this whole conversation, there was no
11 positioning or voice inclinations that I picked up on that
12 he seemed to be made or upset with something.

13 INVESTIGATOR DOCKERY: Mr. Engelking, is there
14 any way to go back and determine exactly when you were on
15 vacation during the last -- would that appear in your
16 personnel records or somewhere?

17 THE WITNESS: I'm sure it would -- we could go
18 back through the payroll history, and it would be coded
19 under a different code for vacation time. So I believe it
20 would show, yes.

21 INVESTIGATOR DOCKERY: Mr. Nexsen, perhaps it
22 would be best for me to ask Ms. Taylor about that? Would
23 she be the best source of that information?

24 MR. NEXSEN: If we could take a break, I could
25 get somebody to run that.

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1 INVESTIGATOR DOCKERY: That would be fine.

2 THE WITNESS: That would be -- if I could use
3 the restroom sometime.

4 THE WITNESS: You can use the restroom right
5 now.

6 INVESTIGATOR DOCKERY: We'll go off the
7 record.

8 (Whereupon, the proceedings went off the
9 record at 9:52 a.m. and resumed at 10:02 a.m.)

10 INVESTIGATOR DOCKERY: Okay, we're back on the
11 record and I remind you, Mr. Engelking, that you remain
12 under oath.

13 THE WITNESS: Yes sir.

14 INVESTIGATOR DOCKERY: When we left off, we
15 were talking about trying to determine the dates during
16 December of 1991 that you were on leave. And your
17 counsel, Mr. Nexsen, has placed a telephone call to
18 attempt to get that information for us.

19 Prior to that, we were discussing Mr.
20 Saporito's affidavit, May seventh affidavit, and certain
21 statements he makes in that affidavit specifically
22 regarding your June second, 1992 in his office -- in your
23 office.

24 MR. NEXSEN: January second.

25 INVESTIGATOR DOCKERY: January second, I'm

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1 sorry.

2 MR. NEXSEN: That's all right.

3 INVESTIGATOR DOCKERY: Thank you. And his
4 statement that he asked you why his name did not appear on
5 the list of selectees for the Unit One outage -- he makes
6 the statement that you got up from behind your desk and
7 pointed to a hand-made drawing on a display board hanging
8 on his office wall. "Mr. Engelking discussed a violation
9 of NRC requirements which occurred at Palo Verde Unit Two.
10 The violation resulted when two TAG electricians became
11 radioactively contaminated while performing work related
12 to emergency lighting system."

13 Now that's -- basically he's referring there
14 to what you explained to me earlier was your conversation
15 with him.

16 THE WITNESS: That's correct. That was the
17 conversation that I had that Vance Pettus had instructed
18 me to have with all employees upon exiting, all possible
19 employees. I didn't necessarily get every one, as
20 many as possible.

21 INVESTIGATOR DOCKERY: In describing or
22 discussing that event, "that" being the two electricians
23 with Mr. Saporito, did you use the term "violation of NRC
24 requirements" or did you characterize that event in some
25 other way?

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1 THE WITNESS: No, I don't believe I used "NRC
2 requirements." I would have spoken in the sense of plant
3 procedures. They violated -- they violated the RWP, their
4 Radiation Work Permit, by going into an area that was not
5 authorized underneath that RWP.

6 INVESTIGATOR DOCKERY: Mr. Saporito claims
7 that you stated that the matter involving the electricians
8 was quite serious. It would probably result in a fine
9 against APS by the NRC. Did you make that statement?

10 THE WITNESS: No sir, I did not. I would not
11 have any knowledge of how that would be handled. That's
12 at Palo Verde.

13 INVESTIGATOR DOCKERY: In other words, I think
14 what you're saying is as far as you know, it would be the
15 responsibility of the -- of Palo Verde management to deal
16 with the issue.

17 THE WITNESS: That's correct.

18 INVESTIGATOR DOCKERY: And whether or not to
19 bring it to the attention of the NRC?

20 THE WITNESS: I'm sure there's guidelines of
21 what they had to do in that aspect. But I had no input or
22 information or would have no knowledge of what their
23 responsibilities are.

24 INVESTIGATOR DOCKERY: And that had not been
25 discussed with you by APS. Is that correct?

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1 THE WITNESS: No, that was not discussed with
2 me.

3 INVESTIGATOR DOCKERY: And that would be
4 proper in your view that they would take it upon
5 themselves to deal with the issue as far as the
6 regulations?

7 THE WITNESS: That's correct. I didn't have
8 any discussions with APS about those violations. My
9 discussion was with my boss, Vance Pettus, that asked me
10 to please explain to each employee what had happened and
11 why that disciplinary action had taken place.

12 INVESTIGATOR DOCKERY: Mr. Saporito states, "I
13 told Mr. Engelking that I identified numerous apparent
14 violations of NRC requirements to APS management at Unit
15 Two, and I discussed a few of them with Mr. Engelking."
16 Do you recall such a conversation or statements by Mr.
17 Saporito?

18 THE WITNESS: No. Again, he did not discuss
19 anything except the very, very vague references he made to
20 other people's work practices or how they worked with him.
21 I mean, I can't even make a definitive statement about
22 what he was talking about because he was so vague about
23 it.

24 He just didn't like -- my best feeling was he
25 just didn't some of the people he worked with and he

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1 didn't like the way they performed their jobs.

2 INVESTIGATOR DOCKERY: Had you had any
3 complaints by any of his coworkers about Mr. Saporito?
4 Had you heard any at that time?

5 THE WITNESS: No, nobody brought any
6 complaints to me about Mr. Saporito.

7 INVESTIGATOR DOCKERY: Well, not complaints --
8 not complaints, say, health and safety complaints, but
9 about him personally, not getting along generally?

10 THE WITNESS: There was -- there was something
11 that was brought to me, and I don't remember the time
12 frame or where it was, and it was again very -- I don't
13 have great recollection on it. That there was some sort
14 of an altercation between him and another I and C
15 technician. I believe it was relatively early on in the
16 outage.

17 It was not brought to me by management, by my
18 management, by APS management. It was something that was
19 said to me in passing. And I have very limited knowledge
20 of it. I heard no more about it. My understanding was
21 was that it was a personality conflict, and that they were
22 reassigned into different teams or something to get rid of
23 that problem, which is not a real uncommon problem during
24 outages when you work long hours.

25 You almost -- I mean, you spend all your day

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1 and half your nights a lot of times together. So it's not
2 uncommon. I've run into that many times over the outage.

3 INVESTIGATOR DOCKERY: It's not exactly a play
4 school.

5 THE WITNESS: No, it isn't. And you spend
6 long hours and you spend a lot of time together. And I've
7 run many crews and personality conflicts were not
8 uncommon. People are different and they don't always work
9 together well, and you have to just make small
10 adjustments.

11 And that's probably where I'm getting all this
12 vagueness that he threw to me that day, that it was him
13 having a problem with the employees, or he didn't work
14 with the employees, or like working with the employees I
15 should say.

16 INVESTIGATOR DOCKERY: Okay. Mr. Saporito
17 makes the claim that, "Mr. Engelking stated that he was
18 aware that I had raised safety concerns at Palo Verde
19 because he and Mr. Bob" --

20 MR. NEXSEN: Can I stop you and just go back
21 to that one second --

22 INVESTIGATOR DOCKERY: Yes.

23 MR. NEXSEN: -- because I think it ought to be
24 clear on the record? When you say you "learned about this
25 altercation," who told you about it?

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1 THE WITNESS: I have no idea.

2 MR. NEXSEN: Was it anybody that was involved
3 in the altercation?

4 THE WITNESS: No, no.

5 MR. NEXSEN: Neither Mr. Saporito came to you
6 to complain about the altercation or the other man
7 involved?

8 THE WITNESS: That's correct. Neither one of
9 them brought anything to me. It was just something that
10 was mentioned to me in passing. And I don't put a lot of
11 stock in those types of conversations.

12 INVESTIGATOR DOCKERY: Is it fair to say that
13 your knowledge of that did not cause you to have any
14 predisposition toward Mr. Saporito one way or another?

15 THE WITNESS: Absolutely not.

16 MR. NEXSEN: I'm sorry.

17 INVESTIGATOR DOCKERY: Okay. Mr. Saporito
18 claims that you stated to him you were aware that he had
19 raised safety concerns because you and Mr. Bob Wasak, I
20 believe it's -- it's spelled in the complaint W-A-S-A-K,
21 had been out drinking together. And it was pretty much
22 common knowledge around the site anyway. How would you
23 respond to that?

24 First of all, do you recall Mr. Saporito -- or
25 do you recall making that statement to Mr. Saporito?

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1 THE WITNESS: No sir. I did not make any
2 statement to that -- in any way, shape or manner.

3 INVESTIGATOR DOCKERY: Who is Mr. Wasak?

4 THE WITNESS: Mr. Wasak was another I and C
5 technician. For a very short period of time when he first
6 came out there, he stayed at the same hotel that I was in.
7 We did go to a football game together. I believe we shot
8 pool about a block from the hotel one evening and had a
9 couple of beers together.

10 There was one other night that I went out in -
11 - I don't believe I went out with Mr. Wasak, but I'm
12 pretty sure that Mr. Wasak was there along with a bunch of
13 other employees. And I don't remember where it was.

14 It was at a bar and I had a few drinks, but it
15 was not specifically with him.

16 INVESTIGATOR DOCKERY: During this June second
17 meeting in your office that we've been discussing, do you
18 recall Mr. Wasak's name being mentioned by either you or
19 by Mr. Saporito?

20 THE WITNESS: No, he didn't -- he did not
21 bring --

22 INVESTIGATOR DOCKERY: Do you believe it was?

23 THE WITNESS: No, it was not. There were no
24 names brought up of any shape or of anybody.

25 INVESTIGATOR DOCKERY: Mr. Saporito claims,

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1 "Mr. Engelking stated 'You're a contractor. You should
2 have just done your job and not made any waves here.'"
3 Did you make that statement?

4 THE WITNESS: No sir, I did not.

5 INVESTIGATOR DOCKERY: Mr. Saporito claims
6 that he told you that he was concerned about public
7 safety, and that he would contact NRC officials if APS did
8 not resolve his safety concerns. Was that comment made?

9 THE WITNESS: No sir, it was not.

10 INVESTIGATOR DOCKERY: Did he, at any point
11 during the January second meeting, bring up any unresolved
12 safety concerns that he had?

13 THE WITNESS: No sir.

14 MR. NEXSEN: Did he bring up any safety
15 concerns?

16 THE WITNESS: No.

17 MR. NEXSEN: Whether they were resolved or
18 unresolved is the question?

19 THE WITNESS: No, he brought up none to me in
20 any way, shape or form. In fact, we have that -- there's
21 a form there that's used in the exiting that allows them
22 to identify any problems they have. And if I recall
23 properly, he didn't identify any on there.

24 So if I would have seen that on his forms, I
25 probably would have asked the question. That wasn't on

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1 that form either.

2 INVESTIGATOR DOCKERY: That would have been
3 his opportunity to more or less document any unresolved or
4 any safety concerns that he had, and note necessarily NRC
5 concerns. They could have been OSHA or --

6 THE WITNESS: Yes, any kind of concern can be
7 documented on this form, and I believe most of the plants
8 are using them now to give the employees of when they
9 leave if they have a concern, whatever shape, matter or
10 form, they can bring it up, even if it's a supervisory
11 concern that the plant directs isn't a good supervisor.

12 They can identify anything they want, identify
13 at that point. It goes back to the plant for result.

14 INVESTIGATOR DOCKERY: Okay. Your
15 recollection is Mr. Saporito had no concerns of -- that he
16 documented on that form?

17 THE WITNESS: Yes, that's my recollection. He
18 had none.

19 INVESTIGATOR DOCKERY: Mr. Saporito alleges
20 that "Mr. Engelking became very apprehensive and said,
21 'Look, as a contractor with TAG, it wouldn't be a career
22 move for you to cause any more trouble here.'" We've
23 discussed that comment before, and your testimony is that
24 that discussion did not take place.

25 THE WITNESS: No sir, I did not say that.

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1 INVESTIGATOR DOCKERY: Mr. Saporito states
2 that, "Mr. Engelking then gave me his business card and
3 told me to contact TAG for another job assignment." You
4 recollection is that that did take place?

5 THE WITNESS: Yes sir. It was something that
6 I did with every employee if I had the opportunity to do
7 it.

8 INVESTIGATOR DOCKERY: But as we discussed
9 earlier, it would be unlikely to do that if that employee
10 was deemed by you or somebody else not fit for future
11 employment.

12 THE WITNESS: Absolutely. There would be no
13 reason for me to be giving him my card.

14 INVESTIGATOR DOCKERY: If that had been the
15 case with Mr. Saporito, would that have been discussed at
16 that time?

17 THE WITNESS: That he was deemed not to be
18 employable again?

19 INVESTIGATOR DOCKERY: Yes. Have you ever had
20 such a conversation with an exiting employee?

21 THE WITNESS: No.

22 INVESTIGATOR DOCKERY: But you would not,
23 under those circumstances supply them with a copy of your
24 business card?

25 THE WITNESS: I may well might if somebody was

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1 saying t hey wanted to contact somebody, I might given
2 them a card because of the 800 number on it so they'd have
3 a reference point. I wouldn't do it as a general, here's
4 my card. I don't have those kinds of conversations of
5 employees normally. I'm not going to tell them that
6 you're not re-employable. That wouldn't be proper.

7 INVESTIGATOR DOCKERY: Mr. Saporito claims
8 that, "On or about the week of January the sixth, 1992, I
9 met with Mr. Engelking in the parking lot of my apartment
10 complex, that being the Sun Eagle Apartments in Glandale,
11 Arizona." Your testimony today has been that that meeting
12 did take place?

13 THE WITNESS: Yes.

14 INVESTIGATOR DOCKERY: And it was
15 happenstance?

16 THE WITNESS: Yes, it was.

17 INVESTIGATOR DOCKERY: Mr. Saporito said --
18 claims that, "I told Mr. Engelking that I'd contacted Ms.
19 Ellen Simmons at TAG regarding a new job assignment, but
20 that I had not been offered a new assignment yet." Who is
21 Ms. Ellen Simmons?

22 THE WITNESS: At that time, she worked for Ms.
23 Taylor in the Personnel Department, and she would have
24 been one of the recruiters. I believe her title was
25 recruiter at that time.

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1 INVESTIGATOR DOCKERY: And that would have
2 been here in Norfolk?

3 THE WITNESS: Yes.

4 INVESTIGATOR DOCKERY: Do you recall him
5 making that statement to you at that time?

6 THE WITNESS: Yes. I believe he had told me
7 he had called in and checked. I don't know if he said he
8 had talked to Ms. Simmons, but I believe he had said he
9 had called in.

10 INVESTIGATOR DOCKERY: Okay. In response to
11 that statement, Mr. Saporito claims that you said, "Well,
12 what did you expect? I told you that a contractor should
13 just do his job and not make any waves." It was your
14 earlier testimony that you did not make such a comment.
15 Is that correct?

16 THE WITNESS: No sir, I did not make that
17 comment.

18 INVESTIGATOR DOCKERY: And again, he claims
19 that "Mr. Engelking said, 'You have quite a history of
20 making waves, don't you?' I asked Mr. Engelking exactly
21 what he meant by that statement." Your response to that
22 assertion?

23 THE WITNESS: I didn't make those comments.

24 INVESTIGATOR DOCKERY: He reiterates his
25 allegation that you said, "It's no secret that you raised

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1 safety concerns at Florida Power and Light Company, and
2 your history of making waves is common knowledge at this
3 site." First of all, let me ask you were you, at that
4 point, aware that he had ever worked for Florida Power and
5 Light Company?

6 THE WITNESS: I probably would have been aware
7 if I had went back and looked at his resume which I would
8 have had in my files or his application. Did I have --
9 did I know in my mind that he had worked at Florida Power
10 and Light? No, I wouldn't have been able to correlate
11 that employee to Florida Power and Light at that point,
12 no.

13 INVESTIGATOR DOCKERY: Is it fair to say then
14 that it's unlikely during this meeting in the parking lot
15 of January the sixth that you would have brought up
16 Florida Power and Light Company?

17 THE WITNESS: No, I wouldn't have brought it
18 up. I wouldn't have been able to -- with all of those
19 employees, I wouldn't have been able to recall that this
20 gentleman worked for Florida Power and Light and somebody
21 else worked at another plant. I would not have known that.

22 INVESTIGATOR DOCKERY: Is it correct to say
23 then that you did not make the statement attributed to you
24 here by Mr. Saporito?

25 THE WITNESS: That is correct. I did not make

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1 that statement.

2 INVESTIGATOR DOCKERY: Mr. Saporito claims
3 during that meeting that you made the statement, "Forget
4 it. You're finished here. And if you expect continued
5 employment with TAG as a contractor, don't pursue this
6 matter any further." Did you make that statement?

7 THE WITNESS: No sir, I did not.

8 INVESTIGATOR DOCKERY: Mr. Saporito reiterates
9 his claim that he told you at that point that he intended
10 to contact the Nuclear Regulatory Commission and file a
11 complaint of discrimination with the Department of Labor.
12 Do you recall him making that statement?

13 THE WITNESS: No sir, he did not make the
14 statement.

15 INVESTIGATOR DOCKERY: Okay.

16 THE WITNESS: I would definitely remember if
17 he made something like that to me. He did not say that.

18 INVESTIGATOR DOCKERY: I would think invoking
19 the NRC would be rather significant to you.

20 THE WITNESS: If I heard that -- if I heard
21 that comment at my -- I mean, the antennas would have went
22 up. I would have definitely picked up on that
23 immediately.

24 INVESTIGATOR DOCKERY: Let me ask you then, of
25 course this is hypothetical, had you heard that -- him

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1 make that comment, what would your reaction have been?

2 THE WITNESS: Well, I have a real standard
3 reaction any time I feel there may be a problem, whether
4 it be something like this or an injury, anything. I
5 always went back to my Personnel Manager, and that was
6 Ellen Taylor.

7 I'd call her if I even had an inkling that
8 something would be -- was wrong or something was out
9 there, I would call her and talk to her, get direction in
10 certain cases. If there was an injury, documentation,
11 investigation.

12 She was very good at making sure -- I was good
13 at covering my own bases, but I always went back to her to
14 make sure I had all my bases covered. It's always good to
15 have the back-check. If I would have heard something like
16 that, the first thing I would have done was called Ms.
17 Taylor and spoke to her and let her know that.

18 INVESTIGATOR DOCKERY: Okay. In that regard
19 then, at any time between -- any time during that first
20 couple of weeks of January, did you recall Ms. Taylor
21 regarding, specifically regarding Saporito for any reason?

22 THE WITNESS: No sir.

23 INVESTIGATOR DOCKERY: Mr. Saporito makes the
24 claim again that you stated, "Don't do it. You're making
25 a career decision if you do because TAG cannot afford to

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1 jeopardize big employment contracts like the one with
2 APS." You testified earlier that that conversation --
3 that statement was never made by you, correct?

4 THE WITNESS: Absolutely. I did not make
5 that.

6 INVESTIGATOR DOCKERY: Okay. Basically what
7 we've just done, only I think in a little more detail, Mr.
8 Engelking, is go through some point by point an affidavit
9 response that you made to Mr. Saporito's affidavit. And
10 I'll show you this. We looked at it earlier.

11 This is an affidavit signed by you on the 22nd
12 of May 1992. And you also have a copy there.

13 THE WITNESS: Yes.

14 INVESTIGATOR DOCKERY: I would ask you to take
15 as much time as you need, but look at that affidavit, if
16 you haven't already, in some detail and tell me, at the
17 time you signed that affidavit, was it a true and accurate
18 statement of events as you recalled them?

19 THE WITNESS: Yes, it was.

20 INVESTIGATOR DOCKERY: Does what's contained
21 in that affidavit remain true and accurate today?

22 THE WITNESS: Yes, it does.

23 INVESTIGATOR DOCKERY: Mr. Engelking, are you
24 familiar with a Mr. Warner that worked for APS?

25 THE WITNESS: Yes sir.

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1 INVESTIGATOR DOCKERY: What was his position
2 if you recall?

3 THE WITNESS: I believe he was the I and C
4 Supervisor, was his title.

5 INVESTIGATOR DOCKERY: For a specific unit?

6 THE WITNESS: Unit One.

7 INVESTIGATOR DOCKERY: What is your
8 recollection or knowledge as to his position in selecting
9 I and C technicians for the Unit One outage?

10 THE WITNESS: I'm sorry?

11 INVESTIGATOR DOCKERY: Okay. What were his
12 responsibilities, to the extent that you know, with
13 respect to making selection of I and C techs for the Unit
14 One outage at Palo Verde?

15 THE WITNESS: We had -- we initially had the
16 conversation, which was probably a phone conversation if I
17 remember right, on he was going to need some I and C
18 techs.

19 INVESTIGATOR DOCKERY: Did he contact you?

20 THE WITNESS: Yes.

21 INVESTIGATOR DOCKERY: Do you know
22 approximately when that would have been? And obviously
23 not a date, but even what month? If we could put it in
24 the context of say prior to your going on vacation?

25 THE WITNESS: Yes, it would have been prior to

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1 me going on vacation, I believe. I'm sure of it, in fact.

2

3 INVESTIGATOR DOCKERY: And he advised you that
4 they would be needing I and C techs?

5 THE WITNESS: That's correct.

6 INVESTIGATOR DOCKERY: Did he make a specific
7 request of you at that time?

8 THE WITNESS: Well, we had some conversations.
9 He had a budgetary problem at that point. At one time he
10 thought, I'm not sure of the numbers, but I believe it was
11 close in numbers we had at Unit Two would be needed at
12 Unit One. That number went from that all the way down to
13 five at one point from the 18, I think it was, at Unit
14 Two, down to five.

15 He had told me what he was trying to do was
16 change pockets, I guess, do something with his budget to
17 move the money so he could get additional I and C techs.

18 He needed -- he had a greater need than the
19 five, but he only had the budget for five initially. So
20 we had a number of conversations, whether it had been in
21 passing out in the unit or by phone, about those needs.

22 Even with that number changing, what would
23 have been requested was "I need I and C techs." And I
24 would have submitted him the resumes. And I had brought
25 resumes to -- I shouldn't say I brought them to him. I'm

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1 not sure if I brought them to him or I had my assistant
2 bring them to him. But we submitted resumes to him.

3 INVESTIGATOR DOCKERY: Your assistant was?

4 THE WITNESS: Jan Gillard.

5 INVESTIGATOR DOCKERY: These various
6 conversations you had with Mr. Warner, do you think they
7 would have been in November, as early as October?

8 THE WITNESS: I don't believe they -- no. My
9 best recollection, they would have been shortly before the
10 end of the Unit Two outage, that being, I wanted to get
11 information to line up the people so that I could -- it's
12 much more efficient to talk to the people at Unit Two.

13 I mean, they were asking me, "Well, are we
14 going there? How many people are we going to have?" So I
15 believe it started -- my best recollection, at best, late
16 November, beginning of December, somewhere in that arena.

17 INVESTIGATOR DOCKERY: In any of those
18 conversations with Mr. Warner, did Mr. Saporito's name
19 come up?

20 THE WITNESS: No.

21 INVESTIGATOR DOCKERY: Did any specific I and
22 C tech's name come up?

23 THE WITNESS: During the submittal process?

24 No.

25 INVESTIGATOR DOCKERY: In going through the

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1 various records and affidavits and testimony, there's one
2 thing I've never been clear on, is how Mr. Warner came to
3 be in possession of a list of I and C techs, proposed I
4 and C techs or the resumes of the I and C techs. Do you -
5 - can you shed any light to -- there was some testimony in
6 the DOL proceeding that well, they would have all just
7 been provided to him from the Unit Two outage, implying
8 that it was almost automatic that he could have gotten the
9 list from within APS rather than a list from TAG.

10 THE WITNESS: Oh, I'm sure he could have --
11 I'm sure he could have gotten a list. List, now I'm not
12 saying the resumes. He might have been able to get the
13 list of the people over at Unit Two. I'm sure he had that
14 availability.

15 MR. NEXSEN: But what did you do because I
16 think --

17 THE WITNESS: But my recollection is that we
18 supplied him with the resumes, whether it had been myself
19 or Jan Gillard or Vance Pettus, whoever happened to be --
20 I believe it was me that actually took the original group
21 of resumes to him.

22 INVESTIGATOR DOCKERY: Do you have a specific
23 recollection of meeting with him or of the actual handing
24 to him of those resumes?

25 THE WITNESS: Again, I believe that I

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1 specifically took them to him and handed them to him.

2 INVESTIGATOR DOCKERY: Was Mr. Saporito's
3 resume among those that you believe you recall giving to
4 Mr. Warner?

5 THE WITNESS: Yes, it was. Everybody that was
6 interested from the Unit Two -- if I can digress for just
7 a moment. What I did in this period of time was I went to
8 the Unit Two supervisor, Steve Grove, and I would have sat
9 down with him and asked him how the I and C techs
10 performed.

11 Now that's something I would have done
12 continuously through the outage, whether it was a formal
13 meeting or just "How are things going? Is everything
14 okay? Are there any problems?"

15 I did go to him before this and sat down and
16 said, "Is there -- did the I and C techs perform up to
17 your needs? Was there anybody lacking or anybody that you
18 would not recommend?"

19 INVESTIGATOR DOCKERY: Was there anybody in
20 that category according to Mr. Grove?

21 THE WITNESS: No.

22 INVESTIGATOR DOCKERY: Did he name any names
23 in response to that?

24 THE WITNESS: No, all the employees -- he
25 didn't name any names. He said all the employees were

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1 adequate, good employees, and he would recommend them to
2 be submitted. He had no problems with any of them.

3 INVESTIGATOR DOCKERY: And that would include
4 Mr. Saporito?

5 THE WITNESS: Yes sir. And also, overlapping
6 at the same time, we would have been asking, inquiring of
7 the employees, did they want to be submitted? Certain
8 employees didn't want to be submitted. Certain employees
9 had other jobs or they wanted to take a break, or whatever
10 it may have been. They didn't want to be submitted to the
11 other unit.

12 But everybody that wanted to be submitted from
13 the Unit Two outage, they were all recommended and
14 everybody was submitted that wanted to be submitted, and
15 that included Tom Saporito.

16 INVESTIGATOR DOCKERY: Okay. I have
17 interviewed Mr. Warner, and he had given me a statement to
18 the effect that he did, in fact, receive, among others,
19 Mr. Saporito's affidavit. He wasn't exactly -- affidavit,
20 I'm sorry, resume. He wasn't exactly clear how he came to
21 be in possession of that resume, but he did specifically
22 recall Mr. Saporito's resume.

23 And I'm just trying to find out, it never has
24 been -- nobody is totally clear on how that event took
25 place. But I guess at the time it wasn't all that

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1 significant.

2 THE WITNESS: Well, the reason I say that I'm
3 -- my best recollection is that he would have taken those
4 resumes. While he might have had -- I don't know if the
5 Unit Two people even kept the resumes that they had
6 submitted to them. I don't know what they did with them.
7 But at best, being in administrative, I would not have
8 taken the chance that one of those were mis-filed and
9 says, "I got them from Unit Two and I have all the
10 resumes."

11 I would have wanted to make sure that he had
12 all the resumes. And that's why I'm very sure that we
13 would have supplied him with those resumes, another copy
14 out of our files.

15 INVESTIGATOR DOCKERY: Is it fair to say that
16 that would have been in your best interest as a business
17 decision?

18 THE WITNESS: Absolutely, that's what I'm
19 saying. Administratively, that would have been one of --
20 what I would have seen as one of my responsibilities so
21 you don't have those small details or things going through
22 the cracks so to speak.

23 INVESTIGATOR DOCKERY: Was there any reason
24 for you to be specifically aware at that time that Mr.
25 Saporito's resume was included in that submission?

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1 THE WITNESS: Yes, I would have been
2 specifically aware of it because I would have made sure
3 that all the resumes from Unit Two -- I mean, I wouldn't
4 have -- specifically aware in the sense that I would have
5 checked each name and said "Yes, I have a resume for all
6 these people. They want to be submitted."

7 We put resumes in there from the I and C
8 reworkshop that weren't working on Unit Two.

9 INVESTIGATOR DOCKERY: Would Mr. Saporito's
10 name or inclusion on that list have been any more
11 significant to you than any other I and C technician?

12 THE WITNESS: No, it would have been just a
13 checklist. I have all the names on this list. I have all
14 the resumes. And we're taking them there in that context.
15 Here is 18 resumes.

16 MR. NEXSEN: Was there a list? I mean, you
17 all have been talking about a list. I mean --

18 INVESTIGATOR DOCKERY: Yes, I may be using
19 "list" when I'm really referring to is resume.

20 MR. NEXSEN: Yes, a stack of resumes, I
21 understand you gave to Mr. Warner. But is the or was
22 there a list that you generated?

23 THE WITNESS: A checklist against that? No.
24 I would have went though, counted resumes, looked at all -
25 - you know, looked, okay, I've got the people from the I

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1 and C reworkshop; I have the people from the Unit Two
2 outage. I would also look and say well, I don't have -- I
3 know there's at least one person that didn't want to be
4 submitted. I want to make sure his wasn't in there.

5 Don't submit one that --

6 INVESTIGATOR DOCKERY: So there was at least
7 one individual who specifically did not want to be
8 included in that submission?

9 THE WITNESS: Yes, that's my recollection,
10 that there was at least one that did not want to be
11 submitted from the Unit Two. There might have been more.
12 I'm not --that I'm not clear on anymore, but I know -- I
13 want to say we had 18. The number 18 sticks in my mind.
14 I believe we had 18 I and C techs in Unit Two.

15 And I believe we submitted initially 16
16 resumes, and then two additional resumes after that. And
17 like I said, there were at least a couple of people from
18 the I and C reworkshop. That would give me the belief
19 that somebody didn't want to be submitted.

20 And my recollection is somebody did not want
21 to be submitted.

22 INVESTIGATOR DOCKERY: Let's go back to -- you
23 mentioned a conversation you had with Mr. Grove, or Steven
24 Grove, who was the I and C Supervisor for the Unit Two
25 outage.

1 THE WITNESS: Yes.

2 INVESTIGATOR DOCKERY: Did Mr. Grove -- if Mr.
3 Grove had told you that he felt that one or more of the
4 technicians that had worked under him for the Unit Two
5 outage were inadequate, what would you have done?

6 THE WITNESS: Well, I probably would have
7 wanted him to expound on that. There's a number of
8 reasons they might not like him on Unit Two. It might
9 have been personality or his inability to work with his
10 directs. Or it might have been that they weren't up to
11 speed on the systems that Steve Grove was doing
12 maintenance on, or he wasn't as highly qualified as
13 somebody else to work on a particular piece of equipment.

14 So I'd really want to know more than he's not
15 as good as the next person. That wouldn't -- depending on
16 what that was. I mean, if it was a he didn't work well
17 with my directs or he's a little more mouthy or more --
18 you know, has taken a two week course in everything, is
19 one of the terms I like to use, he seems to know more than
20 anybody else.

21 That wouldn't preclude me from submitting him
22 to Unit One. Now if it was something that would be
23 serious like no, he's not qualified. I mean, every piece
24 of equipment he worked on, we had to go back and check.
25 First off, I truly believe if that would have been an

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1 instance, he wouldn't have been there for the outage.

2 He would have been gone before that. He would
3 have been taken out of service. It wouldn't preclude me
4 from not submitting him depending on the circumstance.

5 INVESTIGATOR DOCKERY: But you would be
6 interested in the looking into why Mr. Grove would make a
7 negative statement like that if it occurred?

8 THE WITNESS: Yes, yes.

9 INVESTIGATOR DOCKERY: But it's been your
10 testimony that such a statement was not made, either about
11 Mr. Saporito or any of the other I and C techs from the
12 Unit Two outage?

13 THE WITNESS: That's correct. He recommended
14 them all.

15 INVESTIGATOR DOCKERY: Mr. Engelking, you
16 mentioned earlier that you worked under Mr. Vance Pettus.
17 What was Mr. Pettus' job title or position at that time?

18 THE WITNESS: Site Manager, Site Rep. He was
19 my boss. He had the overall responsibility of the TAG
20 management and to the site. His level of involvement in
21 the site would have been more with the manager levels, on-
22 site --

23 INVESTIGATOR DOCKERY: Was he on-site?

24 THE WITNESS: -- supervisory on an -- yes, he
25 was.

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1 INVESTIGATOR DOCKERY: Let me ask you, where -
2 - were you located in the same office with him or nearby?

3 THE WITNESS: Yes, he was -- at that time, we
4 had moved buildings. He was, if I remember right, either
5 in the office right adjacent to mine or the next one over.

6
7 INVESTIGATOR DOCKERY: Okay. Would that have
8 been -- Palo Verde has the administrative building. Were
9 you like located in there or one of the buildings outside
10 of the fence?

11 THE WITNESS: We were located outside the
12 protected area of the fence.

13 INVESTIGATOR DOCKERY: Okay.

14 THE WITNESS: Yes. We were out at the -- in a
15 building behind the End-processing Center.

16 INVESTIGATOR DOCKERY: Did you have occasion
17 to go into the protected area very often?

18 THE WITNESS: Yes, almost on a daily basis.

19 INVESTIGATOR DOCKERY: To your knowledge, did
20 Mr. Pettus -- no, let me ask it another way. Did you ever
21 have any discussions with Mr. Pettus prior to January
22 sixth, 1992, regarding Mr. Saporito?

23 THE WITNESS: No sir, I did not. Mr. Pettus
24 is probably the best boss I've ever worked for. I don't
25 think you could get the chance to say anything bad about

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1 anybody, even if they had already done something to him.
2 He's just the kind of guy that if would have had
3 knowledge, he probably wouldn't have spoke to me about it
4 anyway. That's just not his way. I mean, he's just a
5 well liked person.

6 INVESTIGATOR DOCKERY: But the two of you had
7 no occasion to discuss Mr. Saporito prior to --

8 THE WITNESS: No.

9 INVESTIGATOR DOCKERY: -- up to the sixth of
10 January 1992?

11 THE WITNESS: No, we did not discuss Mr.
12 Saporito. I don't believe we ever discussed Mr. Saporito
13 at any time, even in the hiring process. We would have
14 discussed numbers and I and C techs and do you have them
15 all here and are they getting processed through and are
16 they in the training? But we wouldn't discuss the
17 particular names.

18 INVESTIGATOR DOCKERY: I'd like to go off the
19 record at this point.

20 (Whereupon, the proceedings went off the
21 record at 10:40 a.m. and resumed at 10:50.)

22 INVESTIGATOR DOCKERY: Okay, we're back on the
23 record, and Mr. Engelking, I'd remind you that you
24 continue to be under oath.

25 THE WITNESS: Yes sir.

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1 INVESTIGATOR DOCKERY: We've -- while we were
2 off the record, I provided you and your counsel with a
3 facsimile or a xerox of some handwritten notes, one page,
4 the source of which I'm not -- I don't claim to know.

5 My only interest is that it mentions your
6 name. I believe it might be attorney work product from
7 some of the litigation pertaining to Mr. Saporito. My
8 best guess is it would have been from the notes of perhaps
9 one of the APS attorneys in that litigation.

10 What I'd like to do is read the notes to the
11 extent that I can make them out. And you have copies
12 there, and take exception to my reading of them if you
13 feel you need to.

14 The first statement is, "(1) Late October,
15 Engelking got call from Howard in Howard's office." Do
16 you know who Mr. Howard is, Mr. Engelking?

17 THE WITNESS: Yes, I believe they're referring
18 to the -- it might not be correct in the title. They had
19 to do with the administration of our contract.

20 INVESTIGATOR DOCKERY: Mr. Howard would be an
21 APS employee?

22 THE WITNESS: Yes sir.

23 INVESTIGATOR DOCKERY: And do you recall a
24 late October telephone call from Mr. Howard?

25 THE WITNESS: I remember the call. I don't

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1 know the time frame. I don't know if it was late October,
2 November. I don't know that.

3 INVESTIGATOR DOCKERY: Actually, let me start
4 by asking, do you recall relating the information
5 contained on this document to anyone during the course of
6 the litigation? Does this information ring a bell with
7 you? It would appear that not necessarily that you had
8 conveyed this information, but do you have any
9 recollection of perhaps being interviewed and providing
10 this information?

11 THE WITNESS: If I could break this apart, I
12 mean, I have -- I understand what both of these things are
13 about.

14 INVESTIGATOR DOCKERY: Yes, well I --

15 THE WITNESS: But I don't remember relating it
16 to anybody.

17 INVESTIGATOR DOCKERY: Okay, fine.

18 THE WITNESS: I might well have.

19 INVESTIGATOR DOCKERY: We'll go back to just
20 going through it then. You -- your testimony is that you
21 do recall getting a telephone call from Mr. Howard?

22 THE WITNESS: Yes.

23 INVESTIGATOR DOCKERY: Okay. The next
24 statement is, "Howard and B. Hanson asked questions." Do
25 you know -- do you recognize the name B. Hanson?

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1 THE WITNESS: Yes, he -- I believe he was --
2 worked for Howard.

3 INVESTIGATOR DOCKERY: In the contract
4 administration area?

5 THE WITNESS: I believe it was the contract
6 administration area of Palo Verde.

7 INVESTIGATOR DOCKERY: Okay, "Asked questions
8 about how references were" -- can you make out --

9 THE WITNESS: "Checked." I believe whether
10 those were checked.

11 INVESTIGATOR DOCKERY: Checked? "Specific
12 questions Engelking asked home office" or --

13 THE WITNESS: Yes, that's what it looks like
14 to me, "home office."

15 INVESTIGATOR DOCKERY: What do you make of
16 that?

17 THE WITNESS: My recollection of this, they
18 called -- they asked me to come over there and asked me
19 specifically about how we did our background reference
20 checks for employees, part of the recruitment process.
21 How did you do it and what is your accuracy on it?
22 "Accuracy" wouldn't be the right word. How did you do
23 this process? How did you verify and check things?

24 INVESTIGATOR DOCKERY: Did you know at the
25 time what they were trying to determine?

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1 THE WITNESS: No, not initially in that
2 meeting, I didn't. I thought they were trying to
3 determine if we had done proper paperwork, proper checks
4 on the people we were submitting.

5 INVESTIGATOR DOCKERY: Let me step back a
6 second. The document or the notes start off late October.
7 I would assume that to be late October of 1991. Is that
8 correct as you recall?

9 THE WITNESS: Yes.

10 MR. NEXSEN: Can we take a quick break?

11 INVESTIGATOR DOCKERY: We'll go off the
12 record.

13 (Whereupon, the proceedings went off the
14 record at 10:55 a.m. and resumed at 10:57 a.m.)

15 INVESTIGATOR DOCKERY: We're back on the
16 record again. I remind you you continue to be under oath
17 here, Mr. Engelking.

18 THE WITNESS: Yes sir.

19 INVESTIGATOR DOCKERY: Okay, we're to the
20 point where you're having a conversation. We've
21 established it was probably late October 1991 with Mr.
22 Howard and Mr. Hanson. Was -- well, let's go on with
23 what's written here.

24 The next name, or it looks like it could be
25 Engel or it could be Kegel or it could -- can you make out

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1 what that first word is?

2 THE WITNESS: I thought it said "Gayle," but
3 I'm not sure.

4 INVESTIGATOR DOCKERY: Okay, it could be
5 "Gayle." Is there a Gayle that you recall?

6 THE WITNESS: No.

7 INVESTIGATOR DOCKERY: It appears to be "Gayle
8 checked records." Does that -- does that mean anything to
9 you?

10 THE WITNESS: No, it doesn't.

11 INVESTIGATOR DOCKERY: Okay. Next statement
12 under number one appears to be "FLA" -- I assume to be
13 Florida -- "gave clean bill to TAG." Do you agree that
14 that's what it appears to state?

15 THE WITNESS: Yes.

16 INVESTIGATOR DOCKERY: "Engelking" something
17 "Hanson that Florida" --

18 THE WITNESS: "Clean?"

19 INVESTIGATOR DOCKERY: Clean? Yes, that's
20 what I -- does that mean anything to you?

21 THE WITNESS: In all the context, it means
22 something. The statement itself doesn't mean anything.

23 INVESTIGATOR DOCKERY: Okay. And it appears
24 that the last statement under (1) is that "Engelking later
25 met."

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1 THE WITNESS: I don't know.

2 MR. NEXSEN: I agree that Engelking later or
3 late --

4 INVESTIGATOR DOCKERY: Yes, it doesn't --

5 THE WITNESS: But the next word doesn't make
6 any sense.

7 INVESTIGATOR DOCKERY: Okay. Now can -- we've
8 been through it. That's our best decoding of it. Can you
9 tell me what this all means to you?

10 THE WITNESS: Yes, I can. I was asked to come
11 over to their office one day. And I don't know if Howard
12 is his first name or last name. I don't recall that. But
13 they asked me -- I don't have real great recollection
14 exactly how the questions were asked.

15 But they asked me about our checks,
16 verification procedures on employees, submitted employees.

17 INVESTIGATOR DOCKERY: These are background
18 checks or --

19 THE WITNESS: Yes, part of the employment
20 process, application process, and which would also entail
21 the background checks as far as security background too.

22 I was very confused in that meeting. I didn't
23 really know what they were trying to get -- want me to do
24 for them. I came to -- and I can't explain how I came to
25 this. I really don't remember, but I came to an

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1 understanding -- when I left the meeting, I went back to
2 the office and started reviewing my employees.

3 I came to -- this I do remember. I came up
4 with Florida and Thomas Saporito at that point. And I
5 believe I came up with it because it was a "quit" or
6 "fired" on the application or the copy.

7 I don't have the originals, but I would have
8 had copies of things. And I went back to our office and
9 asked the questions, have we done proper checks?

10 INVESTIGATOR DOCKERY: Who did you ask that

11 of? THE WITNESS: Ellen Taylor I would believe I
12 would have asked that of. That would have been the person
13 -- she was the person I always went to, so I'm sure that's
14 who I would have went to. Even if it would have gone back
15 into the Security Department, I would have went through
16 Ellen Taylor, I believe.

17 INVESTIGATOR DOCKERY: Let me stop you for
18 just a second.

19 THE WITNESS: Okay.

20 INVESTIGATOR DOCKERY: During this apparent
21 meeting with Howard and Hanson which you were involved in,
22 was the name Thomas Saporito raised?

23 THE WITNESS: No.

24 INVESTIGATOR DOCKERY: Okay.

25 THE WITNESS: No. That's where I -- I don't

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1 know how I came up with -- I'm wanting to say -- I mean,
2 my recollection is that that was the one application I
3 looked at that had "quit" or "fired" or something
4 derogatory in the application which would have drew me to
5 that.

6 INVESTIGATOR DOCKERY: When you say
7 "application" do you mean Mr. Saporito's application?

8 THE WITNESS: Yes. I mean, I would have went
9 through all the applications. I would have went -- again,
10 I don't remember how I got back to this Florida. But I do
11 remember that I got back to -- that was a piece of
12 derogatory. And I went back and checked that.

13 I'm not sure if they gave me Florida. I don't
14 know if they said a specific state. I'm not quite clear
15 on that at all.

16 I know somehow I was brought to that, but
17 there were no names. And that's an -- I know there were
18 no names because I went back completely lost and started
19 searching for what are they looking for? Where have we
20 dropped the ball or where have we dropped paperwork?

21 INVESTIGATOR DOCKERY: Let me ask you this.
22 You gleaned from this that you had the -- you recall
23 having this meeting.

24 THE WITNESS: Yes.

25 INVESTIGATOR DOCKERY: Were you tasked to make

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1 -- take some follow-up action? This could document
2 perhaps two contacts with Mr. Howard. Do you see what I'm
3 getting at?

4 THE WITNESS: Was I -- was I tasked? Well, I
5 took it upon myself. I felt I needed to answer the
6 questions about had we done proper verifications and
7 backgrounds on these people. And I went back and checked
8 things out.

9 The only thing that I found was -- the way I
10 remember this that looking through my paperwork, I found
11 this derogatory, not derogatory, wrong word, in his
12 application that would have said "quit" or "termed" or
13 "Fired" whatever it may have said on the application.

14 And I remember that was brought up during
15 court testimony exactly what was on there. And I would
16 have gone back to the office and said, "Have we checked
17 this out?"

18 And they came back and said, "Yes, we did.
19 Absolutely. And there is nothing derogatory that would
20 keep him from being employed."

21 INVESTIGATOR DOCKERY: Do you recall then
22 getting back to Mr. Howard or Mr. Hanson and providing
23 them any follow-up information --

24 THE WITNESS: Yes, yes.

25 INVESTIGATOR DOCKERY: -- regarding this?

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1 THE WITNESS: Yes, I would have. I would have
2 went back to them and --

3 INVESTIGATOR DOCKERY: But do you specifically
4 recall it though?

5 THE WITNESS: Yes.

6 INVESTIGATOR DOCKERY: And what did you tell
7 them as best you can recall?

8 THE WITNESS: My best recollection is I would
9 have went back to them and said, "I found this piece of
10 negative," fired or like I had already stated. "And we
11 checked it out and the reference was okay as far as
12 information received back by checking that out through the
13 security process and background check."

14 INVESTIGATOR DOCKERY: Okay. Now let's fine-
15 tune that a little bit. When you say "reference" would
16 you be referring to the fact that the reference given by
17 Florida, the Florida utility, was not negative? Is that
18 what you mean by "reference?"

19 THE WITNESS: Yes, yes.

20 INVESTIGATOR DOCKERY: Okay.

21 THE WITNESS: I guess that would be a suitable
22 inquiry or something along those lines of paperwork.

23 INVESTIGATOR DOCKERY: I would take it then at
24 that contact with Mr. Howard and Mr. Hanson, Mr.
25 Saporito's name would have come up?

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1 THE WITNESS: The second one?

2 INVESTIGATOR DOCKERY: Yes.

3 THE WITNESS: I would guess that it would have
4 come up because that's what led me to this. I mean,
5 that's --

6 INVESTIGATOR DOCKERY: And Mr. Saporito was
7 the only one that you --

8 THE WITNESS: No, when I went to the office --
9 I mean, when I called to the office, and this would have
10 bene the Norfolk Office, I would have asked them in the
11 overall context and also brought out that specifically.
12 But I would have had them check it.

13 Have we done all our paperwork? Have we done
14 all our backgrounds? Not just specifically Thomas
15 Saporito.

16 INVESTIGATOR DOCKERY: I understand. But I'm
17 looking at the end of that process, Mr. Saporito's name,
18 if I understand your testimony correctly, was the only one
19 that surfaced.

20 THE WITNESS: I believe so. I believe his was
21 the only one that had the term "quit," "fired," or
22 something. But I'm not real clear on that. I'm not sure
23 if there were other names or not. I believe his was the
24 only one though.

25 INVESTIGATOR DOCKERY: At that time, and as a

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1 result of your inquiries, did you come to know that Mr.
2 Saporito had been a whistle-blower?

3 THE WITNESS: No, no. My understanding what
4 this was, this was from contracts and that they were doing
5 -- we were new to this contract, and that they're doing a
6 check on us and saying --

7 INVESTIGATOR DOCKERY: For quality assurance?

8 THE WITNESS: Something on that order. Are
9 you doing the paperwork? I mean, all the paperwork I had
10 to supply to them. P Quals, which was a certification
11 paperwork, where these guys verified their education and
12 work history and things like that, all went to this
13 department.

14 And it all had to be there in a certain time
15 frame to meet the contract criteria. So I felt I was
16 being checked.

17 INVESTIGATOR DOCKERY: Oh, I see. To make
18 sure that your procedures and policies as a contractor to
19 APS were adequate?

20 THE WITNESS: Yes.

21 INVESTIGATOR DOCKERY: Oh, I see.

22 THE WITNESS: There was a number -- I mean,
23 this wasn't the only instance. There's other things that
24 they called me on and wanted me to check on, P Quals and
25 where are they and when are we getting them?

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1 The contracts also dealt with the time and
2 invoicing. I spent a lot of time in that area. I was
3 there all the time, in fact, a great deal of time.

4 INVESTIGATOR DOCKERY: As a result of this
5 instance, your dealing with Mr. Howard and Mr. Hanson, and
6 Mr. Saporito's name surfacing, did that cause you to be
7 more aware of Mr. Saporito than any other I and C techs?

8 THE WITNESS: No, not at all. That -- this
9 never came back to mind until way down the road when all
10 this stuff started coming up.

11 INVESTIGATOR DOCKERY: How about when you met
12 with Mr. Saporito on the meetings he's described, and
13 we've discussed here, January second and January sixth?

14 THE WITNESS: No sir.

15 INVESTIGATOR DOCKERY: Okay. Same document,
16 same strange document, under the -- under section number
17 (2). I make it out to be "Joe Marlow" --

18 THE WITNESS: Yes, that's right, Joe Marlow.

19 INVESTIGATOR DOCKERY: -- "is at an outage in
20 South Carolina with Engelking." Have we agreed on that?

21 THE WITNESS: Yes, we were both on the same
22 site. He wasn't working for me.

23 INVESTIGATOR DOCKERY: Okay. Well first of
24 all, who is Joe Marlow?

25 THE WITNESS: Joe Marlow was an I and C tech

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1 at the Unit Two outage at Palo Verde.

2 INVESTIGATOR DOCKERY: Okay. And I said South
3 -- "SC" is that South Carolina?

4 THE WITNESS: Yes.

5 INVESTIGATOR DOCKERY: What facility?

6 THE WITNESS: Catawba Nuclear Station.

7 INVESTIGATOR DOCKERY: When was that?

8 THE WITNESS: The time frame was June -- it
9 was -- I left Palo Verde I believe May 30th or 31st. I
10 went home --

11 INVESTIGATOR DOCKERY: Of what year?

12 THE WITNESS: Of '92. I was transferring to
13 the Norfolk Office. I went for a -- what I call a
14 sabbatical, a little R and R.

15 And I got called out to run a job for a
16 different manager for Nuclear Services Manager, an ice
17 condenser maintenance job at Catawba, South Carolina.
18 They asked if I could support it.

19 I went to Catawba, South Carolina. So it
20 would have been I believe the second week of June, maybe
21 the third week. It was the mid-week of June or mid-month
22 of June sometime.

23 INVESTIGATOR DOCKERY: Of 19?

24 THE WITNESS: Is when -- '92. And that's when
25 I would have went there. As far as when I ran into Joe

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1 Marlow, which I recall, that was sometime into the outage.
2 It could have been late June. It could have been into
3 July. I'm not sure of the date of that at all.

4 INVESTIGATOR DOCKERY: All right. But this is
5 clearly subsequent to any meeting that you had with Mr.
6 Saporito in January of 1992?

7 THE WITNESS: Yes.

8 INVESTIGATOR DOCKERY: What's discussed here,
9 what we believe is discussed here, is -- did not occur
10 until June of 1992?

11 THE WITNESS: Yes.

12 INVESTIGATOR DOCKERY: Okay. We'll go through
13 it rather quickly then. "Marlow brought up subject." I
14 can't be exactly sure what that means, but underneath it
15 is written "Knew of suit." Does that -- what does that
16 mean to you?

17 THE WITNESS: He knew at that time what was
18 going on.

19 INVESTIGATOR DOCKERY: What was going on
20 being?

21 THE WITNESS: That Thomas Saporito had a suit.

22 INVESTIGATOR DOCKERY: Against?

23 THE WITNESS: APS I believe, but I'm --

24 INVESTIGATOR DOCKERY: All right. Okay, the
25 next statement, as I read it, is "Witnessed altercation

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1 with T.S. and McCullough." Does that have any
2 significance for you? And shall we assume here that T.S.
3 refers to Thomas Saporito?

4 THE WITNESS: Yes. I -- we had a fairly long
5 conversation. I believe he talked to me about McCullough
6 and Thomas Saporito.

7 INVESTIGATOR DOCKERY: Who is McCullough?

8 THE WITNESS: McCullough was the gentleman
9 that he was supposed to have had the altercation with at
10 Palo Verde in October/December '91.

11 INVESTIGATOR DOCKERY: During the Unit Two
12 outage?

13 THE WITNESS: Unit Two outage.

14 INVESTIGATOR DOCKERY: Okay. And you related
15 what you knew of that earlier in this testimony?

16 THE WITNESS: Yes, yes. In all honesty, I
17 hadn't thought about this. I don't -- I barely -- I
18 recall our conversation. I didn't really talk about the
19 altercation, that he witnessed it.

20 INVESTIGATOR DOCKERY: Okay. It's --
21 underneath that is what appears to be "T.S. arrogant." Is
22 that McCullough's --

23 THE WITNESS: Yes, that was Joe Marlow'

24 INVESTIGATOR DOCKERY: I'm sorry, Marlo

25 THE WITNESS: Yes, Joe Marlow 

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1 [REDACTED] He -- I do
 2 remember one of the things you related to me, if you want
 3 me to talk about what was -- I believe this last -- well,
 4 maybe you want to read that first before I --

5 INVESTIGATOR DOCKERY: Yes, let's go because
 6 I'm start -- the relevance of this, number two, on this
 7 document, seems to be rather limited, but we'll go through
 8 it anyway. "Marlow on job with T.S." and then an arrow
 9 from Marlow to the next statement, which would indicate,
 10 "Marlow told T.S. they couldn't do the job without" -- I
 11 make that out to be perhaps "engineer?"

12 THE WITNESS: Yes.

13 INVESTIGATOR DOCKERY: "T.S. insisted he
 14 could." Now I make that out to be a disagreement between
 15 Marlow and Mr. Saporito over whether or not he could
 16 continue with some technical job without the presence of
 17 an engineer. Am I correct here?

18 THE WITNESS: Yes. That's the way I would
 19 read it.

20 INVESTIGATOR DOCKERY: And do you know what
 21 he's referring to there?

22 THE WITNESS: Yes, I can elaborate on that --

23 INVESTIGATOR DOCKERY: Okay.

24 THE WITNESS: -- just a little bit. I can't
 25 elaborate on the engineer. I don't remember him

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1 specifically speaking to me about an engineer. What I do
2 remember him -- you need to understand, I'm not an I and C
3 tech. I'm not knowledgeable.

4 But he did tell me about -- I wish I could
5 remember the specific piece of equipment. What I remember
6 from the conversation was that he said this piece of
7 equipment that can be used for two different things. One
8 is a pressure indicator or a level meter to indicate
9 level.

10 INVESTIGATOR DOCKERY: Now is this what Mr.
11 Marlow related to you?

12 THE WITNESS: This is what Marlow is relating
13 to me in this conversation.

14 INVESTIGATOR DOCKERY: During June of 1992 --

15 THE WITNESS: Yes.

16 INVESTIGATOR DOCKERY: -- to the best of your
17 recollection?

18 THE WITNESS: Yes.

19 INVESTIGATOR DOCKERY: Okay, go ahead.

20 THE WITNESS: He spoke to me about Mr.
21 Saporito followed -- again, I'm not real qualified here.
22 But the way I understood it, the procedure is kind of a
23 dual procedure.

24 If you're using it as a level indicator, you
25 use these steps. If you're using it as a pressure

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1 transmitter, you calibrate it to these steps.

2 And he completely followed the wrong set of
3 steps is what I remember him telling me about him. He
4 would not listen to Mr. Marlow that, "You can't do it that
5 way, it's not going to work that way. You can't calibrate
6 it. It will never cal." I mean, those those types of
7 conversations.

8 INVESTIGATOR DOCKERY: Now that event that was
9 described to you by Mr. Marlow occurred during the late
10 1991 Unit Two outage at Palo Verde?

11 THE WITNESS: Yes, this was at Palo Verde --

12 INVESTIGATOR DOCKERY: Okay.

13 THE WITNESS: -- Unit Two.

14 INVESTIGATOR DOCKERY: Okay. So there's an
15 agreement over what could or could not be done between Mr.
16 Marlow and Mr. Saporito?

17 THE WITNESS: Yes, and --

18 INVESTIGATOR DOCKERY: It goes on -- the way I
19 read it, it says, "T.S. messed job up."

20 THE WITNESS: That's what I would read it as.

21 INVESTIGATOR DOCKERY: Okay. And then the
22 next line is, "They had to get engineer to fix T.S.
23 mistakes."

24 THE WITNESS: That's what I would read too.

25 INVESTIGATOR DOCKERY: Okay, is that

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1 consistent with what you were told by Mr. Marlow? Because
2 obviously this is a rendition done neither by you nor Mr.
3 Marlow. But it would appear to be a rendition of comments
4 made by you.

5 That being the case, does that give you any
6 further clue as to who you might have related these two
7 instances to?

8 THE WITNESS: To be very honest, no. I mean,
9 I don't know who I related this to. I do remember the
10 conversation with Mr. Marlow. I do know he did not think
11 Mr. Saporito was any better of an I and C tech than
12 anybody else was, or more qualified.

13 INVESTIGATOR DOCKERY: Okay. That --

14 THE WITNESS: He obviously did not like Tom
15 Saporito all that terribly much.

16 INVESTIGATOR DOCKERY: But this would have
17 been approximately six months after the last conversation
18 you had ever had --

19 THE WITNESS: Yes.

20 INVESTIGATOR DOCKERY: -- with Mr. Saporito,
21 correct?

22 THE WITNESS: Yes. It was a chance meeting.
23 I believe it was in the cafeteria of the Processing and
24 Administrative Building at Catawba. I just happened to
25 run into him in the break room.

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1 INVESTIGATOR DOCKERY: Okay. Mr. Nexsen,
2 anything regarding this that you want to bring out?

3 MR. NEXSEN: No. I don't know whose document
4 it is. It's obviously not mine because it's not my
5 handwriting. And I don't think it's Mr. Engelking's
6 handwriting.

7 THE WITNESS: No.

8 INVESTIGATOR DOCKERY: I think I can find out,
9 but I'm not sure it's necessary because I think it's been
10 adequately gone over and explained.

11 MR. NEXSEN: At least Mr. Engelking remembers
12 the events and they are obviously not tied --

13 INVESTIGATOR DOCKERY: That's more significant
14 to me that than the document is.

15 MR. NEXSEN: -- together.

16 INVESTIGATOR DOCKERY: Mr. Engelking, once you
17 became aware that Mr. Saporito had filed a complaint or
18 instituted legal proceedings against your employer, that
19 being TAG, did you -- let me -- let's go off the record
20 for a minute, please.

21 (Whereupon, the proceedings went off the
22 record at 11:20 a.m. and resumed at 11:22 a.m.)

23 INVESTIGATOR DOCKERY: Back on the record.
24 We're back on the record, and I would remind you again,
25 Mr. Engelking, that you continue to be under oath here.

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1 THE WITNESS: Yes sir.

2 INVESTIGATOR DOCKERY: When you became aware -
3 - how were you made aware that Mr. Saporito had instituted
4 some sort of legal proceedings against TAG?

5 THE WITNESS: I believe Ellen Taylor would
6 have called me along about this time that they wanted me
7 to give them a statement of what happened in this supposed
8 meeting that we had. Not supposed, but a meeting we had
9 on the January second date.

10 And that would have been, I'm sure, into --
11 well, the date of late May. At that point, I would have
12 told them what I knew about. That's the first I became
13 aware that there was anything going on.

14 INVESTIGATOR DOCKERY: Okay. Now you just
15 looked at your affidavit, which we sort of can put a date
16 on it then I think because your affidavit seems to
17 specifically address what is stated by Mr. Saporito in his
18 affidavit.

19 There's a very -- if we were to go through
20 this -- for instance, "I did not say 'You have quite a
21 history of making waves, don't you?'" Now that appears to
22 me, and correct me if I'm wrong, but to be a direct
23 response to Mr. Saporito's affidavit of May seventh.

24 THE WITNESS: Yes, it was.

25 INVESTIGATOR DOCKERY: Okay. So by May 22nd,

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1 sometime on or before May 22nd, you were made aware that
2 Mr. Saporito was involved in legal proceedings against you
3 employer. Is that correct?

4 THE WITNESS: Yes. I guess I can't say that
5 he had made lies about me, but yes, I was responding to
6 what he had said about me.

7 INVESTIGATOR DOCKERY: Were you given any
8 instruction by management of the Atlantic Group into how
9 you were to respond to any inquiries by or about Mr.
10 Saporito, whether they were telephone -- what I'm trying
11 to get at is if you were to be contacted say by somebody -
12 - by Mr. Saporito seeking employment after that date, were
13 you given any instructions to how to deal with Mr.
14 Saporito?

15 THE WITNESS: No. I wouldn't have had any
16 reason to be talking to Mr. Saporito on employment. That
17 wouldn't be one of my functions. I wouldn't be -- I guess
18 if I can elaborate just here. I wouldn't have to be told
19 that. If somebody has said these kinds of things about
20 me, if somebody called me up and starting asking me
21 questions about it, I wouldn't answer them. I would take
22 that upon myself.

23 INVESTIGATOR DOCKERY: And what would you have
24 done? Let me ask it this way. Did that occur at any
25 point? Did anybody call and ask you about Mr. Saporito?

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1 THE WITNESS: Other than like Ellen Taylor?

2 INVESTIGATOR DOCKERY: Yes, no. Certainly
3 that would be expected.

4 THE WITNESS: Yes. Outside of the context of
5 the affidavit and such as that, no.

6 INVESTIGATOR DOCKERY: Hypothetically, k if I
7 had called you say while you were at Catawba and asked you
8 for a reference for Mr. Saporito, how would you have
9 responded?

10 THE WITNESS: I don't --

11 MR. NEXSEN: I'm going to object. Obviously
12 it didn't happen.

13 INVESTIGATOR DOCKERY: Yes, that's true.

14 MR. NEXSEN: I mean, but the objection -- I
15 don't know where we're going with it, but answer.

16 THE WITNESS: I would not make a reference on
17 Mr. Saporito or any other employee. I don't do the
18 references.

19 INVESTIGATOR DOCKERY: Okay. Well, let me ask
20 it that way. Did there ever come a time when somebody did
21 call you and ask you for a reference for Mr. Saporito or -
22 - I guess that would be it, the regular call that you
23 might expect. You know, "I understand this guy worked for
24 you. How did he do?" Did that ever happen?

25 THE WITNESS: No, not that I recall.

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1 INVESTIGATOR DOCKERY: Then is it fair to say
2 you never had occasion to affect Mr. Saporito's subsequent
3 employment in the nuclear industry one way or another? Is
4 that --

5 THE WITNESS: That's correct. That's correct.
6 If you -- I don't know if I should interject this or not.
7 My only input would be to his COSSs, which is our
8 evaluations, which is not a call or anything like that.
9 It's internal paperwork.

10 INVESTIGATOR DOCKERY: Okay, COS stands for --

11
12 THE WITNESS: Change of Status. It's an
13 internal tracking paperwork that we use for -- to track an
14 employee. I mean, it's everything from address, phones,
15 tax changes and pay changes.

16 INVESTIGATOR DOCKERY: Performance
17 evaluations?

18 THE WITNESS: Performance evaluations.

19 INVESTIGATOR DOCKERY: Did you do more than
20 one COS for Mr. Saporito? First, did you do one COS for
21 Mr. Saporito?

22 THE WITNESS: Tina Beeble did the COS. Again,
23 my input to COSSs at the Palo Verde site would have been if
24 somebody was above or below what I would consider was
25 their average, then I would put that input to it.

1 If I had a problem with somebody, if I had a
2 complaint, if throughout the outage I had somebody not
3 showing up on time and it was brought to my attention,
4 then at the end of that outage, I would probably instruct
5 Tina and say "Well, attendance should" -- one would be the
6 lowest and five is the highest in our rating, average
7 being three. And I would say, "Well, attendance should be
8 two. Work performance added to it should be a four."

9 I would interject that. If I didn't interject
10 then it became an average of three. They were average
11 employees. They did their job properly.

12 INVESTIGATOR DOCKERY: Was Mr. Saporito's an
13 average evaluation?

14 THE WITNESS: Yes sir, it was.

15 INVESTIGATOR DOCKERY: Does that imply
16 anything negative about Mr. Saporito's performance?

17 THE WITNESS: No, absolutely nothing. He was
18 an average employee. I rated him average and he was
19 eligible to be rehired both to the site and to the
20 company.

21 INVESTIGATOR DOCKERY: We'll go off the record
22 for just a second.

23 (Whereupon, the proceedings went off the
24 record at 11:28 a.m. and resumed at 11:38 a.m.)

25 INVESTIGATOR DOCKERY: Okay, we're back on the

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1 record and I remind you again, Mr. Engelking, that you
2 continue to be under oath here.

3 THE WITNESS: Yes sir.

4 INVESTIGATOR DOCKERY: When we first started
5 talking today, you mentioned that on January the second
6 when Mr. Saporito came to your office, there was a list on
7 your desk of those I and C techs that Palo Verde had
8 designated that they wanted for the next outage. Is that
9 correct?

10 THE WITNESS: Yes sir.

11 INVESTIGATOR DOCKERY: Was that list the --
12 meant to be the indication to you of these are the people
13 we want, or was there something more formal than that?

14 THE WITNESS: No, that was the -- that list
15 had been called over, and that was their pick of who they
16 preferred have working Unit One outage. And I believe
17 they wanted 13. The original list only had 11, so it
18 wasn't even a completed list at that time.

19 With the original 11, there was two names
20 added to it thereafter.

21 INVESTIGATOR DOCKERY: Did Mr. Saporito's name
22 ever appear on any list as somebody they wanted to -- APS
23 wanted to employ during an upcoming outage, during the
24 Unit One outage? Was he ever included on a list?

25 THE WITNESS: He was not requested, no.

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1 INVESTIGATOR DOCKERY: Okay. Did you have,
2 you personally have, any input into Mr. Warner or any APS
3 employee's decision of who -- which I and C techs to
4 employ for the Unit One outage?

5 THE WITNESS: No sir.

6 INVESTIGATOR DOCKERY: Would that normally be
7 something that you would have input to?

8 THE WITNESS: No sir.

9 INVESTIGATOR DOCKERY: Do you recall any
10 discussions with Mr. Warner, Mr. Grove, anybody from APS
11 Palo Verde regarding who they should or should not employ
12 for the next outage, the Unit One outage?

13 THE WITNESS: Well with Mr. Grove, I had the
14 discussion with them about their performance and such and
15 who would be recommended and all were recommended. So in
16 that context, yes I discussed with him the people, but not
17 name by name.

18 INVESTIGATOR DOCKERY: How about with Mr.
19 Warner?

20 THE WITNESS: No, I didn't have any discussion
21 with him who should be selected.

22 INVESTIGATOR DOCKERY: Did Mr. Warner ever
23 contact you and ask you about y specific I and C techs?

24 THE WITNESS: No sir.

25 INVESTIGATOR DOCKERY: Okay. We've gone off

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1 the record here a couple of times, and we've been involved
2 in trying to establish, and we still are, when you were on
3 leave during the last week of December. We're clear on
4 one thing at this point, that you did -- you were back at
5 Palo Verde on site on January the second, the date that
6 you had the discussion in your office with Mr. Saporito.
7 Is that fair to say?

8 THE WITNESS: Yes sir.

9 INVESTIGATOR DOCKERY: Assuming that you got
10 back sometime -- we'll determine this hopefully in just a
11 minute. Had the decision to hire or not hire -- actually
12 not hire Mr. Saporito been made before you left for
13 vacation or was it something that occurred while you were
14 on vacation? Given what we know about the dates --

15 MR. NEXSEN: Can we change that question --

16 INVESTIGATOR DOCKERY: Yes.

17 MR. NEXSEN: -- from what the decision made,
18 because obviously that could have been made at some time,
19 to were we told about the decision? But to say he could
20 have been --

21 INVESTIGATOR DOCKERY: That's more precise.
22 When you became aware of that decision. Can you --

23 MR. NEXSEN: Or when the Atlantic Group became
24 aware if you weren't the person that they called.

25 THE WITNESS: Of the --

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1 INVESTIGATOR DOCKERY: When -- do you recall
2 the point at which you first became aware that there was
3 as list from Palo Verde of the I and C techs that they
4 wanted to hire the next outage?

5 THE WITNESS: Yes. I became aware of that the
6 day I got back onto the site.

7 INVESTIGATOR DOCKERY: You were not aware of
8 that list prior to leaving on vacation? I think we've
9 established that you left for vacation on Saturday,
10 December 21st.

11 THE WITNESS: That's right. I was not aware
12 of it, no.

13 INVESTIGATOR DOCKERY: When you got back, you
14 were aware of --

15 THE WITNESS: Yes, the list was there.

16 INVESTIGATOR DOCKERY: Okay. All we need to
17 do now is establish how many days you were off, and I'm
18 confident we'll be able to do that.

19 MR. NEXSEN: Can we establish how did the list
20 come to be?

21 INVESTIGATOR DOCKERY: Or how did you come to
22 be in possession of the list?

23 MR. NEXSEN: Yes.

24 THE WITNESS: Okay.

25 MR. NEXSEN: I mean, why is there a list and

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1 how was this list determined?

2 THE WITNESS: Well, Tina Beeble was helping
3 cover for me while I was gone on vacation. And some point
4 that week I was gone on vacation, they called over there
5 with their list of preferences of who they wanted employed
6 for that outage.

7 And if I can say something about preference,
8 that's not to say that everybody else that wasn't selected
9 was not wanting to be hired. They gave us a list of who
10 they preferred. And that list was ongoing changing
11 because of people not being available or wanting to be
12 submitted after the fact.

13 They said, "No, I don't want to be submitted.
14 Now submit me." It's an ongoing process is what I'm
15 trying to say. So I would always call the list a list of
16 preferred people. And --

17 INVESTIGATOR DOCKERY: And this list that was
18 somehow apparently generated during your absence did not
19 contain Mr. Saporito's name?

20 THE WITNESS: No sir, it did not.

21 INVESTIGATOR DOCKERY: Mr. Engelking, is it
22 fair to say that APS and Mr. Warner, Palo Verde
23 management, were given the opportunity to select -- by TAG
24 to select Mr. Saporito for employment during the Unit One
25 outage?

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1 THE WITNESS: Yes, they were. They were
2 supplied his resume along with the rest for review.

3 INVESTIGATOR DOCKERY: To your knowledge, did
4 anybody, you or any of your coworkers, management
5 underlings, whatever, at the site influence APS or Palo
6 Verde management in any way with regard to who was
7 selected?

8 THE WITNESS: No sir.

9 INVESTIGATOR DOCKERY: Okay, at this point I'd
10 like to go off the record.

11 (Whereupon, the proceedings went off the
12 record at 11:45 a.m. and resumed at 11:55 a.m..)

13 INVESTIGATOR DOCKERY: Okay, Mr. Engelking,
14 we're back on the record and I remind you once again that
15 you continue to be under oath.

16 THE WITNESS: Yes sir.

17 INVESTIGATOR DOCKERY: One of the last
18 allegations that I have to investigate that Mr. Saporito
19 made is his contention to the NRC that -- very broadly
20 that employees of the Atlantic Group, unspecified, were
21 either less than truthful or may have committed perjury
22 during the course of the DOL proceedings, the Department
23 of Labor proceedings.

24 I have been through everything I can lay my
25 hands on, and read it and tried to digest it. And the

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1 most -- the most conflicting testimony that I've run
2 across are his affidavit of May seventh and the subsequent
3 complaints and your affidavit in response to that.

4 Now we went through that literally sentence by
5 sentence, the comments, the statements he alleges you
6 made, and the comments, statement he alleges he made. And
7 they almost directly refute each other.

8 You do specifically refute many of the things
9 that he claims to have said or that he claims you said. I
10 assume there were no witnesses to either of those two
11 conversations; that being the June second and the June
12 sixth conversations between you and Mr. Saporito?

13 THE WITNESS: None that I'm aware of.

14 INVESTIGATOR DOCKERY: Certainly you would be
15 aware if there were any witnesses?

16 THE WITNESS: There could have been people in
17 the apartments at that complex that could have heard the
18 conversation, but --

19 INVESTIGATOR DOCKERY: Do you think that's --
20 I'm not -- I'll tell you, I'm not aware of any and Mr.
21 Saporito has not said there were any.

22 THE WITNESS: Yes, I'm not aware of any.

23 INVESTIGATOR DOCKERY: Okay. I am stuck with
24 a dilemma here, as I'm sure you're aware. False
25 statements in an official proceeding are important,

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1 they're significant.

2 I -- from your affidavit, it's very clear that
3 you very specifically refute that you made certain
4 statements attributed to you, and as you have done here
5 under oath.

6 What we have is a one on one conversation that
7 cannot be corroborated by outside witnesses. I'd like to
8 ask you, although it's not definitive in such a manner,
9 how would you feel -- do you feel strongly enough about
10 your convictions with respect to those two discussions,
11 would you be willing to take a polygraph test regarding
12 those -- that interaction and the comments Mr. Saporito
13 has ascribed to you?

14 THE WITNESS: Certainly.

15 INVESTIGATOR DOCKERY: Okay.

16 MR. NEXSEN: Now having said that, my client
17 has agreed to take the polygraph. I might have to discuss
18 with him the ramifications. But we can leave that until
19 another day.

20 INVESTIGATOR DOCKERY: I certainly understand
21 and respect that. Mr. Engelking, I want to thank you for
22 being here today, and I'd like to ask you if there's
23 anything that you'd like to add for the record, anything I
24 haven't asked you that you think perhaps I should have
25 asked, should have gone into more detail on?

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1 This is your chance to give me anything you
2 feel is germane.

3 THE WITNESS: Well, I think with your -- I
4 think it will be brought out probably with Ellen Taylor
5 that I used Ellen Taylor for a sounding board, a
6 checkpoint, a reference check to make sure I was covering
7 all my bases, whether it was accident investigations,
8 employee complaints.

9 We have, you know, an internal program for
10 that. And I've done this for years and years. And it
11 just -- what seems simple to me, I guess, is not that
12 simple, but if I had had any inclination, if I would have
13 even made those statements to -- you know, even if I would
14 have even made those statements, I would have called.

15 Ellen Taylor would have known. Somebody would
16 have known if there was any indication that I thought
17 there was a problem.

18 And it just -- all the statements he makes,
19 nothing follows. I mean, it just -- he makes a lot of
20 terrible, nasty statements against me, and yes, there has
21 been perjury, and that gentleman has perjured himself
22 repeatedly by saying these things about me.

23 I'm more than upset about it. I've even asked
24 a lawyer if there's anything I can do to, you know -- I've
25 gone through a lot of turmoil. I've gone through a lot of

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1 stress.

2 It doesn't appear to have damaged me inside my
3 company, but that's up underneath, you know? Where would
4 I be or what would have happened or, you know, do people
5 doubt my word now? I've never gone through this before.

6 It's upsetting to me that somebody can just
7 come out and say things and not be held accountable.

8 INVESTIGATOR DOCKERY: I certainly understand
9 that, and I assure you that my intent is not to prolong
10 this. It's -- the NRC also has to satisfy itself, the
11 Commission, that this issue can be put to bed.

12 And that's my reason for being here today.
13 Anything else you'd like to add?

14 THE WITNESS: No, I don't believe so.

15 MR. NEXSEN: Before we go off the record --

16 INVESTIGATOR DOCKERY: Yes, we can enter that
17 information.

18 MR. NEXSEN: -- let's take a look at -- I've
19 now got some time sheets to play with. And with Mr.
20 Engelking's help and my calendar, Mr. Engelking, it
21 appears that -- let's go back here. Tell me about would
22 that Friday where you worked -- is that 1.5 hours straight
23 time and --

24 THE WITNESS: Eight and a half over.

25 MR. NEXSEN: Why would that be?

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1 THE WITNESS: Why?

2 MR. NEXSEN: Oh, you had already worked --

3 THE WITNESS: I had worked at the beginning of
4 the week.

5 MR. NEXSEN: Okay.

6 THE WITNESS: This is the beginning of the
7 week. This is week ending 12/22, Sunday being 12/22.

8 MR. NEXSEN: I'm sorry. You worked the full
9 week on the 20th. So you worked all day Friday on the
10 20th?

11 THE WITNESS: Yes.

12 MR. NEXSEN: Okay, and then went on vacation
13 the week of the 23rd through the 27th. Is that correct?

14 THE WITNESS: Well, it would be -- the week
15 would start on the 23rd and end actually on the 29th.
16 That's the full week.

17 MR. NEXSEN: Okay. So you would have worked,
18 but for your vacation, on the 28th and the 29th.

19 THE WITNESS: No, those are --

20 MR. NEXSEN: Those are Saturday and --

21 THE WITNESS: I never work a weekend, but --

22 MR. NEXSEN: Okay. And the following week,
23 which ends January fifth, you worked one day, the 30th.
24 Adn is that a nine?

25 THE WITNESS: Tuesday the 31st, yes.

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1 MR. NEXSEN: Is that nine hours? So you
2 worked Monday, the 30th; Tuesday, the 31st, the first of
3 January blacked out.

4 THE WITNESS: That's a holiday.

5 MR. NEXSEN: So it's a holiday and then you
6 were back at work on the second, which is a Thursday.

7 THE WITNESS: Yes.

8 MR. NEXSEN: Okay. You would have worked
9 Friday, the third?

10 THE WITNESS: Yes.

11 INVESTIGATOR DOCKERY: So you were off just
12 one week?

13 THE WITNESS: Yes.

14 INVESTIGATOR DOCKERY: The inclusive dates
15 that you were not working would have been from Saturday,
16 December 21st until Sunday, December 29th, returning to
17 work on Monday, December 30th, correct?

18 THE WITNESS: Yes.

19 INVESTIGATOR DOCKERY: Okay, good. Mr.
20 Nexsen, is there anything that you'd like to bring up
21 before we go off the record?

22 MR. NEXSEN: No sir.

23 INVESTIGATOR DOCKERY: Okay. With that, again
24 I want to thank you for being here and being forthright.
25 And I want to ask you have any promises or threats been

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1 made to you regarding your testimony here today by me or
2 anybody else from the NRC or anybody outside?

3 THE WITNESS: No sir.

4 INVESTIGATOR DOCKERY: Okay. We'll go off the
5 record.

6 (Whereupon, the hearing was concluded at 12:05
7 p.m.)

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