

1 STATE OF SOUTH CAROLINA
2 COUNTY OF HAMPTON

IN THE COURT OF
COMMON PLEAS

- - -

3 RICHARD LIGHTSEY, LEBRIAN :
4 CLECKLEY, PHILLIP COOPER, :
5 ET AL., ON BEHALF OF THEMSELVES :
AND ALL OTHERS SIMILARLY :
SITUATED, :

CASE NO.
2017-CP-25-335

6 Plaintiffs, :

CONFIDENTIAL
TRANSCRIPT

7 vs. :

8 SOUTH CAROLINA ELECTRIC & GAS :
9 COMPANY, A WHOLLY OWNED :
10 SUBSIDIARY OF SCANA, SCANA :
CORPORATION, AND THE STATE OF :
SOUTH CAROLINA, :

11 Defendants, :

12 SOUTH CAROLINA OFFICE OF :
13 REGULATORY STAFF, :

14 Intervenor. :

(Case Caption Continues on Page 2)

16 VIDEOTAPED DEPOSITION OF TERRY ELAM

17 DATE TAKEN: Monday, October 15, 2018

18 TIME BEGAN: 12:58 p.m.

19 TIME ENDED: 5:41 p.m.

20 LOCATION: K&L GATES, LLP
21 Hearst Tower, 47th Floor
22 214 North Tryon Street
Charlotte, North Carolina

23 REPORTED BY: Cynthia First, RPR, CRR, CCP
24 EveryWord, Inc.
25 P.O. Box 1459
Columbia, South Carolina 29202
803-212-0012

1 (Case Caption Continued)

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THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NOS. 2017-207-E, 2017-305-E, AND 2017-370-E

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IN RE: Friends of the Earth and Sierra Club,
Complainant/Petitioner vs. South Carolina
Electric & Gas Company,
Defendant/Respondent

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IN RE: Request of the South Carolina Office of
Regulatory Staff for Rate Relief to SCE&G
Rates Pursuant to S.C. Code Ann. § 58-27-920

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IN RE: Joint Application and Petition of South
Carolina Electric & Gas Company and
Dominion Energy, Incorporated for Review
and Approval of a Proposed Business
Combination between SCANA Corporation and
Dominion Energy, Incorporated, as May Be
Required, and for a Prudency Determination
Regarding the Abandonment of the V.C. Summer
Units 2 & 3 Project and Associated Customer
Benefits and Cost Recovery Plans

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22 ALSO PRESENT:

23 SHANE OSBORNE, Videographer
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25

I N D E X

2 PAGE

3 EXAMINATION

4 By Mr. Cox 9

5 By Mr. Evans 112

6 By Mr. Keel 129

7 Signature of Deponent

8 Certificate of Reporter

9

10 ELAM EXHIBITS DESCRIPTION MARKED

11 1 V.C. Summer Integrated Project 52
12 Schedule Review, August 1, 2014,
SCANA_RP0880932

13 2 E-mail correspondence dated 8/25/14, 84
14 with attached V.C. Summer Integrated
Project Schedule Review & Validation,
15 SCANA_RP0692496-692508

16 3 Letter to Ronald A. Jones, from 91
17 Carl Churchman, dated 8/7/15,
WEC_SCORS_000001-4

18 4 Construction Performance Meeting, 120
WE 12/28/14, SCANA_RP0422865-422878

19 5 BLRA Milestone Tracking March 2017, 136
20 SCANA_RP0931787-931793

21 6 E-mail correspondence dated 9/8/16, 147
ORS_SCEG_00527443-527454

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1 THE VIDEOGRAPHER: Good afternoon.
2 Today's date is October 15th, 2018, and the
3 time is 12:58 p.m. The witness is Terry Elam.

4 If the counsel would please identify
5 themselves and whom they represent, then the
6 witness will be sworn in by the court reporter
7 after which you may proceed.

8 MR. COX: Jim Cox appearing on behalf of
9 the South Carolina Office of Regulatory Staff.

10 MR. EVANS: Jerry Evans on behalf of the
11 Plaintiff ratepayers.

12 MR. KEEL: Brandon Keel of the law firm of
13 King & Spalding on behalf of SCE&G and SCANA.

14 MS. NEWTON: Emily Newton from
15 King & Spalding, also for SCANA and SCE&G.

16 MR. HATCH: Ben Hatch from McGuire Woods
17 on behalf of Dominion Energy, appearing in the
18 PSC proceedings.

19 MR. ELLERBE: Frank Ellerbe on behalf of
20 Central Electric Cooperative, appearing in the
21 PSC proceedings.

22 MS. SULLIVAN: Tara Sullivan with K&L
23 Gates on behalf of Westinghouse.

24 MR. MURA: Dave Mura with Westinghouse.

25 MR. RYAN: Thomas Ryan from the law firm

1 of K&L Gates, representing Westinghouse.

2 MR. ELAM: Terry Elam.

3 MR. COX: Telephone appearances?

4 MR. CROTTY: Brian Crotty, South Carolina
5 Public Service Authority.

6 MS. KIRKLAND: Harley Kirkland, Attorney
7 General's Office, for the State of South
8 Carolina.

9 MS. KING: Ariail King from the firm of
10 Lewis Babcock, for the Plaintiff ratepayers.

11 MS. PITTMAN: This is Jenny Pittman from
12 the South Carolina Office of Regulatory Staff.

13 MR. COX: I think that's everyone.

14 Good afternoon, Mr. --

15 THE COURT REPORTER: May I swear in the
16 witness?

17 MR. COX: Sorry.

18 THE COURT REPORTER: Please raise your
19 right hand. Do you solemnly swear the
20 testimony you are about to give shall be the
21 truth, the whole truth, and nothing but the
22 truth, so help you God?

23 MR. ELAM: I do.

24 THE COURT REPORTER: Thank you.

25 - - -

1 TERRY ELAM, being first duly sworn,
2 testified as follows:

3 - - -

4 EXAMINATION

5 - - -

6 BY MR. COX:

7 Q Good afternoon, Mr. Elam.

8 A Good afternoon.

9 Q Did I pronounce your name right?

10 A Elam, yes.

11 Q Okay. Mr. Elam, we just met. My name is
12 Jim Cox. I'm an attorney representing the South
13 Carolina Office of Regulatory Staff in a couple
14 different legal proceedings. One proceeding is a
15 state court action brought by customers of SCE&G
16 against SCE&G and SCANA in which the ORS has
17 intervened.

18 The other proceeding in which I represent
19 the ORS is a proceeding before the South Carolina
20 Public Service Commission. It's a proceeding or a
21 consolidated set of proceedings involving recovery
22 of costs associated with the V.C. Summer Units 2 and
23 3 project. And now is the time that's set for your
24 deposition in this matter.

25 My first question is: Have you had a

1 deposition taken before?

2 A No.

3 Q Let me just describe to you a little bit
4 about how a deposition works. Myself and other
5 attorneys present will have the opportunity to ask
6 you questions.

7 You just took an oath, and that oath that
8 you took is the same oath that you take in a
9 courtroom. It carries the same weight and penalty
10 of perjury, so your testimony is just as if it was
11 in a courtroom.

12 Do you understand that?

13 A Yes, sir.

14 Q I'll be asking you questions today. And
15 if at any point you don't understand a question I
16 ask, if it's too vague or if I use terms that are
17 incorrect or the question is impossible, if you let
18 me know, I'll try to improve the question so that
19 you understand it. However, I can only do that if
20 you let me know that the question is one that you
21 did not understand.

22 Will you let me know if you do not
23 understand a question?

24 A I will.

25 Q We can take breaks when you need them this

1 afternoon. All you have to do is let me know when
2 you need a break. Again, I won't know that you need
3 a break unless you let me know. So will you let me
4 know if you need a break?

5 A Yes, sir, I will.

6 Q I'll be asking you about different events
7 that occurred in association with the project. And
8 I'll be asking about conversations that you might
9 have had with other individuals. When I ask for
10 information about conversations, I'm not interested
11 in any conversations that you had with the
12 attorneys, your attorneys and Westinghouse's
13 attorneys.

14 If, for some reason, if I inadvertently
15 ask you a question that calls for information that
16 you had with one of the attorneys, feel free to let
17 me know, and I'll adjust the question so that it
18 doesn't implicate those kind of communications.

19 Do you have any questions about how a
20 deposition works?

21 A No, sir, not at this point.

22 Q Okay. What did you do to prepare for your
23 deposition today?

24 A I had some meetings with the Westinghouse
25 attorney, and also Thomas from K&L Gates, reviewed

1 some data that had been presented, but other than
2 that, not a lot.

3 Q What type of data did you review?

4 A I looked at the monthly project report and
5 some schedules that we had prepared and was in the
6 project review meeting format.

7 Q What type of format is that that you're
8 speaking of?

9 A It's pretty much a progress schedule,
10 level 1 report that was presented in the project
11 review meetings.

12 Q So other than those documents you
13 mentioned, did you look at any other documents to
14 prepare for your deposition?

15 A No, sir.

16 Q Okay. And you did real well there. There
17 might be times when I'll ask a question and you'll
18 know halfway through my question what I'm going to
19 ask you. You did real well there to hold off and
20 wait until I'm done so that we have a clean record.
21 I appreciate that.

22 Other than the attorneys, did you talk to
23 anyone else to prepare four your deposition?

24 A No, sir.

25 Q We deposed a corporate representative of

1 Westinghouse last week, Joni Falascino, and she had
2 mentioned that in preparation for her deposition,
3 she had spoken to several people to become more
4 knowledgeable about the project, and that you were
5 one of the people she spoke with. Did you speak
6 with her at some point?

7 A Yes, I did.

8 Q Can you explain what occurred in that
9 conversation?

10 A One of the questions was how long was I in
11 my current position. What type of information was
12 provided on a -- on a monthly basis, weekly basis,
13 daily basis?

14 I can't think of anything other than that
15 that was specific to the preparation for this. It
16 was general questions, nothing deep in detail in the
17 conversation.

18 Q Was it generally about the scheduling
19 process on --

20 A Yes, sir.

21 Q -- the project?

22 A It was.

23 Q Okay. And I've already started using the
24 term "the project." And I just want to establish on
25 the record what I'm referring to and being sure we

1 both understand that.

2 When I refer to "the project," will you
3 understand that I'm referring to the V.C. Summer
4 Unit 2 and Unit 3 construction project?

5 A Yes, sir, I would.

6 Q So let's go into your background,
7 Mr. Elam. Can you -- first, what is your current
8 employment?

9 A Currently I'm working as a CNO consultant
10 for the ENE Corporation in the country of the UAE.

11 Q When you use the term "CNO," what does
12 that stand for?

13 A Chief nuclear officer.

14 Q And what are your duties in consulting on
15 that project?

16 A My duties deal with schedule and schedule
17 review, and mentoring younger scheduling personnel.

18 Q And how long have you been in that
19 position?

20 A I have been working for them since late
21 February of this year.

22 Q And who do you work for in that position?

23 A As in specifically a manager or --

24 Q Good point. Who was your employer?

25 A My employer is ENE, Emirates Nuclear

1 Energy Corporation, I believe, is the correct
2 terminology.

3 Q And is that the entity that's building
4 this project?

5 A Yes.

6 Q What kind of reactor is it?

7 A They are designed, developed, and built by
8 the Koreans, South Koreans.

9 Q Is it similar to the AP1000?

10 A It's a nuclear power plant.

11 Q Okay. What was your position before that
12 one?

13 A Right after -- from 2008 till end of
14 August of 2017, I worked on the V.C. Summer project.

15 September of '17, I went to work for
16 Entergy for a six-month period, helping them with
17 some schedule-related work.

18 And then in February, I went to work for
19 the current company we were talking about, ENE.

20 So...

21 Q When in 2008 did you start work on the
22 V.C. Summer project?

23 A December.

24 Q What was your position on the V.C. Summer
25 project?

1 A I was the project controls manager over
2 the schedule.

3 Q And who did you report to during your time
4 in that position?

5 A Many different people over the course of
6 the eight or nine years. Specifically the last
7 person that I reported to at the close of the
8 project was Carl Churchman, Rod Cavalieri and Carl
9 Churchman.

10 Q And were you reporting to the project
11 director during your time on the project?

12 A I'm not sure that director was in the
13 title. I'm not sure of Mr. Churchman's exact title
14 at that time or -- Mr. Cavalieri was the director of
15 the PMO at that point, and I was reporting to him
16 as -- yes.

17 Q What does the PMO stand for?

18 A Project management office.

19 Q Is that the same position that
20 Mr. Churchman later held?

21 A No. Mr. Churchman was above that. We
22 reported up to Mr. Churchman.

23 Q So at some point in time, did -- did
24 Mr. Churchman replace Mr. Cavalieri as --

25 A No.

1 Q -- as the project director?

2 A No.

3 Q Who preceded Mr. Churchman in his job, if
4 you recall?

5 A That would have been Ken Hollenbach, I
6 believe.

7 Q Did you ever report to Mr. Hollenbach?

8 A Not directly.

9 Q Can you summarize what your duties were on
10 the project?

11 A My duties on the project were to develop,
12 maintain, and implement the integrated project
13 schedule.

14 Q Was that your duty throughout your entire
15 time on the project?

16 A Yes, it was.

17 Q How many employees did you have working
18 for you in your position there?

19 A At the close of the project or is --

20 Q Let's take it in different time periods.
21 It sounds like it changed at some point in time.

22 A It did.

23 Q Let's start with when you first began
24 working.

25 A 2009, I'd say, there was approximately

1 seven; and at the close of the project, I'd say,
2 approximately 30.

3 Q And were those employees --

4 A And those --

5 Q I'm sorry. Go ahead.

6 A Go ahead.

7 Q You can go ahead and finish.

8 A That was -- that was -- the 30 was the
9 people that actually reported to me.

10 Q And were those 30 employees -- were they
11 full-time working for you on scheduling issues?

12 A That's correct.

13 Q Did it slowly increase from seven to 30 or
14 was there a sudden shift in the number of people
15 that worked for you?

16 A It was a slow, steady increase.

17 Q Do you know why it increased over time?

18 A Complexities, amount of work increased as
19 time went along.

20 Q Did you request more employees to be
21 assigned to your section, or did your managers
22 assign those to you without any requests on your
23 part?

24 A They were at my request.

25 Q Did you make more than one request or were

1 these periodic requests that you made over time?

2 A Periodic requests.

3 Q Was there a point in time where you felt
4 that you didn't have enough people to be able to get
5 the job done, as far as the schedule?

6 A No.

7 Q Prior to working on the project, what was
8 your position before that?

9 A I was manager of scheduling for GE Power,
10 specifically on the STP project and the ESBWR
11 project.

12 Q What is the STP project?

13 A South Texas project.

14 Q Was that a nuclear project, as well?

15 A Yes, it is.

16 Q And what was the ESWR project?

17 A ESBWR was a new technology that GE was
18 trying to introduce in the same time frame that the
19 Westinghouse AP1000 was being developed. I do not
20 recall the exact definition of the characters ESBWR.

21 Q Is that also a nuclear reactor?

22 A Yes, it is.

23 Q How long did you work for GE on those
24 projects?

25 A Eighteen months.

1 Q From what time period?

2 A 2007 to 2008.

3 Q And why did you leave GE?

4 A Better opportunity.

5 Q With Westinghouse?

6 A Yes. Well, no; with Shaw.

7 Q Okay.

8 A I went from GE to Shaw.

9 Q Can you describe how you were hired to
10 work on the V.C. Summer project?

11 A I'm not sure I understand.

12 Q Did you apply or did someone tell you
13 about the opportunity? Were you recruited?

14 A I knew about the opportunities, and I
15 elected to seek employment with them.

16 Q How did you find out about the
17 opportunity?

18 A I don't remember.

19 Q Who hired you?

20 A William Fox.

21 Q What was his position?

22 A I don't recall.

23 Q Did he work for Shaw?

24 A Yes, he did.

25 Q Prior to GE, what was your employment

1 before then?

2 A I was a contractor working for TVA.

3 Q What were you --

4 A Tennessee Valley Authority.

5 Q Sorry. What were you doing in that
6 position?

7 A I was a schedule manager.

8 Q Was that a construction project?

9 A In sorts.

10 Q How was that?

11 A It was actually the refurbishment of an
12 existing unit.

13 Q What unit was that?

14 A Browns Ferry Unit 1.

15 Q And were you involved in managing the
16 schedule for that refurbishment?

17 A Yes.

18 Q How long did you do that job?

19 A Sixty months, five years.

20 Q Your work for GE on the STP and ESBWR
21 projects, were those construction projects?

22 A At the time I worked for GE, it was
23 engineering and licensing for the construction of
24 new projects.

25 Q You said for new products?

1 A New projects.

2 Q New projects. Did you put together a
3 schedule for constructing construction on those
4 nuclear projects for GE?

5 A Yes, very high level.

6 Q Was that different than the type of
7 schedule you were creating for the V.C. Summer
8 project?

9 A Yes.

10 Q How did it differ?

11 A Level of detail, conceptual versus having
12 actual completed engineering data and constructors
13 to work with.

14 Q Which schedule had more detail, the V.C.
15 Summer one or your schedules at GE?

16 A V.C. Summer.

17 Q Is there a reason that you know of that
18 the schedules in your GE position weren't as
19 detailed, were more conceptual than the schedule at
20 V.C. Summer?

21 A Yes; lack of -- lack of detail for the
22 conceptual schedules.

23 Q And, I guess, the question I wanted to get
24 to is: Did the projects that you were working on at
25 GE, did they have more detailed schedules and you

1 just weren't involved in them, or was the schedule
2 that existed only a conceptual type schedule?

3 A Conceptual schedule.

4 Q Do you know if a more detailed schedule
5 was not necessary at the GE project?

6 A Not at that time.

7 Q Why was that?

8 A Because it was the infancy of the initial
9 design.

10 Q Was the construction occurring when you
11 were at the GE project?

12 A No.

13 Q Have you ever worked on scheduling for a
14 nuclear construction project prior to V.C. Summer?

15 A Yes.

16 Q Where was that?

17 A Comanche Peak in Texas. Do you want all
18 of them?

19 Q Yeah, if you could do that.

20 A Grand Gulf in Mississippi; Callaway in
21 Missouri; Clinton in Illinois. I think that's it
22 for construction.

23 Q And you worked on those four projects when
24 construction was occurring?

25 A That's correct.

1 Q Can you describe the state of the schedule
2 at the V.C. Summer project at the time you came in
3 to work on the project?

4 A Can you state that again?

5 Q Sure.

6 Did a schedule exist at the time that you
7 came to work at the V.C. Summer project?

8 A Yes.

9 Q And do you know how that schedule was
10 created?

11 A No.

12 Q What level schedule was it?

13 A I would -- in my opinion, it would at best
14 been level 2. And that would have been in December
15 of '08 time frame.

16 Q Did it surprise you that the schedule that
17 was in place was at best a level 2 at that time?

18 A No, it did not.

19 Q Why didn't it surprise you?

20 A It was the beginning of the project right
21 after signing of the contract. And I would not have
22 expected any more than what I found at that point.

23 Q Okay. And before we go further in talking
24 about the changes you made, I think it might be
25 helpful if we discussed the terminology on

1 scheduling. You've referred to level 1 and level 2
2 here.

3 Could you describe what -- briefly, what
4 each level in a construction schedule there is?

5 A Level 1 would be the most simplest,
6 highest level of the schedule.

7 Level 2 would be additional detail that's
8 bounded by the level 1.

9 And level 3 is, again, more granular,
10 still staying within the confines of level 2 and
11 level 1.

12 Q Do they go any -- any further past
13 level 3?

14 A Not in my experience.

15 Q I've seen some papers that refer to a
16 fully integrated schedule. Can you describe what a
17 fully integrated schedule is?

18 A It all depends on the basis of the
19 schedule, but, you know, fully integrated means
20 that -- in my experience, that engineering,
21 construction, and commissioning is all tied together
22 to -- to show the interfaces between the various
23 different aspects of -- of constructing something.

24 Q What are the different aspects that get
25 integrated into a nuclear construction schedule?

1 A Engineering, construction, and
2 commissioning.

3 Q Are there any other areas that get
4 integrated into a schedule?

5 A I'm going to say no, but there's always
6 room for other aspects.

7 Q And what do you mean by "room"?

8 A You could have a separate organization for
9 procurement and know that's totally separate, so...

10 Q Was that ever done on the V.C. Summer
11 schedule?

12 A There was procurement.

13 Q Was that integrated at a certain point in
14 time or was that integrated throughout the schedule
15 when you were there on the project?

16 A It was integrated. I don't remember what
17 time frame.

18 Q Some point when you were there?

19 A Yes.

20 Q Was that an effort you made to integrate
21 procurement into the schedule?

22 A Yes.

23 Q Were there any other areas that you
24 integrated into the schedule during your time at the
25 project?

1 A Not that I remember.

2 Q Did you work for Shaw during your entire
3 time on the project?

4 A No, I did not.

5 Q Can you describe when that changed?

6 A Whenever Shaw was sold to CB&I, and then
7 when CB&I sold to Westinghouse.

8 Q So when Shaw was sold to CB&I, you then
9 became a CB&I employee; is that right?

10 A That's correct.

11 Q And then when Westinghouse purchased the
12 Stone & Webster portion of CB&I, you became a
13 Westinghouse employee?

14 A WECTEC.

15 Q WECTEC employee?

16 A Yes.

17 Q Did you have employees from other entities
18 in the consortium, besides your own, on the
19 scheduling team when you were on the project?

20 A Repeat that again.

21 Q Sure. And let me kind of describe where
22 I'm going.

23 When you worked for Shaw and CB&I, did you
24 have employees from Westinghouse that were on your
25 scheduling team?

1 A Clarify "team."

2 Q "Team," I refer to individuals who
3 provided you with scheduling information to create
4 the main schedule.

5 A From a company other than Shaw or CB&I?

6 Q For --

7 A So the IPS at that point had a
8 Westinghouse portion and a CB&I portion, or a Shaw
9 portion. So yes, there were scheduling people from
10 Westinghouse, and there were scheduling people from
11 whichever company it was at the particular time
12 you're asking about, whether they were Shaw or CB&I.

13 But yes, there were Westinghouse people.
14 They didn't work -- they were not one of my
15 employees. Okay. They were part of the
16 organization that met -- made up the IPS.

17 Q Okay. Can you describe how you went about
18 updating the schedule during your time on the
19 project?

20 A Could you be more specific?

21 Q Sure.

22 The -- when you got to the project and you
23 had a schedule, can you describe how that schedule
24 changed, how you went about updating and changing
25 the schedule in response to developments that

1 occurred on the project?

2 A We worked with the individual
3 organizations that owned a piece of the IPS, whether
4 it was engineering, or whether it was construction,
5 or whether it was commissioning, procurement. We
6 worked with the individuals that owned that data to
7 continually provide updates and continuing to
8 develop and enhancing what was there.

9 Q Were there periodic meetings where that
10 information was passed to you or was it as
11 circumstances dictated, when developments occurred?

12 A Information flowed continuously every --
13 every day. Okay. So the schedule was always
14 dynamic, okay, and evolved day to day, hour to hour,
15 minute to minute.

16 Q And that information would get passed to
17 you as circumstances dictated; is that --

18 A It was getting passed to the schedulers
19 that supported those organizations daily, hourly.

20 Q So each of the organizations on the
21 project had a scheduler who would update information
22 on that organization schedule, and that information
23 would be passed to you for the master schedule, as
24 well?

25 A There wasn't two separate efforts. It's

1 all one effort.

2 So as you stated, there were individual
3 schedulers that supported organizations. And they
4 updated the schedule, added additional information
5 or whatever on whatever basis that -- that they had
6 a change to make.

7 You make it sound like, well, there's a
8 schedule here and it's passed over here. That's not
9 the way it is. It's a live, living document.

10 Q How many organizations were there that had
11 schedules?

12 A I couldn't answer that.

13 Q What were the biggest organizations that
14 you can recall that had schedulers?

15 A Engineering and construction.

16 Q Who were the schedulers for those groups?

17 A I don't remember.

18 Q So construction, would that have been an
19 employee for Shaw that was the scheduler?

20 A Shaw, CB&I or WECTEC, depending on the
21 time frame you're discussing.

22 Q Okay.

23 A There were Fluor scheduling -- schedulers
24 after 2016 that was involved also.

25 Q At what point did the project begin to

1 have an integrated project schedule?

2 A We had an integrated project schedule
3 whenever I came to work in 2008.

4 Q Did it become more integrated over time?

5 A Yes, it did.

6 Q Can you describe how it did?

7 A The product -- the product, being the
8 schedule -- continued to evolve with detail;
9 therefore, it became more integrated because of the
10 level of detail over time.

11 But, you know, the engineering portion of
12 the schedule, the construction portion of the
13 schedule, and the commissioning portion of the
14 schedule was -- was there in 2008.

15 Q Did you take steps to more closely
16 integrate those organizations into the master
17 schedule?

18 A Can you repeat that again?

19 Q Sure.

20 Did you take steps to more fully integrate
21 those pieces of the schedule together in the master
22 schedule?

23 A I don't -- as the schedule evolved and
24 there was more detail, again, I mean, it just -- the
25 schedule continued to materialize and develop over

1 the years, which, you know, gave it more
2 integration. It wasn't one day to say, "Hey, we
3 want more integration."

4 It was an evolving, living document over
5 time.

6 Q What types of details were added to the
7 schedule to give it more detail?

8 A As -- as time went on and we continued to
9 work with the engineering and the construction
10 pieces, the subject matter experts within -- within
11 construction and engineering had more interface,
12 which allowed for the additional level of detail of
13 construction to -- to evolve. Okay.

14 And therefore, we were able to get more
15 granular with all aspects of the schedule.

16 Q So, like, for a certain event, you were
17 able to add more details about the different
18 precursor events that need to occur to get to a
19 certain point? Is that a -- is that what you're
20 kind of referring to?

21 A Yes, sir.

22 Q At some point in time, did the schedule
23 move from being, at best, a level 2 to a higher
24 level schedule?

25 A Certainly.

1 Q When did that occur?

2 A I don't recall that there's a magic point
3 in time that this happened. I just -- I don't -- I
4 don't recall.

5 Q Was it more like a steady process, the
6 schedule became more detailed and higher-level
7 throughout your time there?

8 A Yes, sir.

9 Q Were there any time periods where your
10 section did a more thorough review or update to the
11 schedule to increase the level of detail in the
12 schedule?

13 A I don't remember a specific time frame
14 that we just said, "Hey, we're going to stop and add
15 more detail."

16 We did not do that.

17 Q Can you describe what's in a construction
18 schedule, the events that go into a schedule to
19 create a nuclear construction schedule?

20 A Simple terms, civil, mechanical,
21 electrical, commodities to commissioning.

22 Q I've seen the term "critical path"
23 described on a schedule. Are you familiar with that
24 term?

25 A Yes, sir.

1 Q Can you describe what that means on a
2 schedule?

3 A Critical path is usually the longest
4 series of activities that get you from the start to
5 the completion.

6 Q Why is it called the critical path?

7 A I can't answer that.

8 Q Is it the most important path for a
9 schedule to make the completion date?

10 A I wouldn't say so.

11 Q How does it differ from the other paths
12 that go into the completion of a reactor?

13 A Repeat that again.

14 Q Sure.

15 How does the critical path differ from the
16 other paths that go into the completion of a
17 reactor?

18 A The critical path is always the longest
19 series of activities that gets you from point A to
20 point B, which is the latest completion. The other
21 paths usually fall within the duration of the
22 critical path.

23 Q So does that mean that the other paths
24 have more give that, if something isn't met, there's
25 a potential that the completion could be met versus

1 the critical path in which the schedule needs to be
2 met for the completion to occur by that date?

3 A I'm going to ask you to repeat that again.

4 Q Yeah, it was complicated. I'm sorry.

5 MR. KEEL: Objection to form.

6 BY MR. COX:

7 Q When you say the longest path for the
8 critical path, are you referring to the fact that
9 the schedule depends on that path, meeting the dates
10 on that path, in order for the substantial
11 completion date to also be met?

12 A Assuming that that critical path is
13 correct.

14 Q Why does -- I'm not sure I understand the
15 assumption that you mean there.

16 Let me rephrase the question. Are you
17 saying there that if -- if the assumptions that go
18 into that critical path are correct, then if that
19 schedule is not met on the critical path, then the
20 substantial completion date is going to be affected?

21 A I'm going to ask you again: Restate that.
22 I think we're close.

23 Q Why is the critical path important?

24 A Because the critical path should be the
25 shortest collection of activities to get you from

1 point A to point B in the time frame that you're
2 working against. So therefore, the rest of the
3 project, assuming that that critical path is
4 correct, has to fit within those two points.

5 Q What happens if the schedule on the
6 critical path isn't met?

7 A If you don't adhere to the critical path,
8 assuming that it's correct, between your two points,
9 then you would not complete in the given time frame.

10 Q Did that ever happen on the V.C. Summer
11 project?

12 A Yes.

13 Q When did that happen?

14 A Many times.

15 Q Do you recall the events that occurred
16 that led to the critical path timeline not being
17 met?

18 A Not -- not -- not specifically at this
19 point.

20 Q Was module fabrication an element on a
21 critical path that wasn't met at times?

22 A Yes.

23 Q Was that a common issue that caused the
24 critical path schedule to not be met?

25 A Define "common."

1 Q More than once?

2 A Yes.

3 Q More than twice?

4 A Yes.

5 Q More than three times?

6 A I can't answer.

7 Q Okay.

8 Are there any other events that you recall
9 occurring that resulted in the critical path
10 schedule not being met out at V.C. Summer?

11 A I can't recall.

12 Q Shield panel fabrication, was that an
13 event that -- a critical path event that wasn't met?

14 A Yes.

15 Q And do you recall if that happened once or
16 more than once?

17 A Once.

18 Q Can you describe the process for revising
19 a schedule when you realized that a event on the
20 critical path has not been met?

21 A Will you repeat that? Do I remember --
22 how would we go about revising the schedule when we
23 had an evolution that didn't support critical path?

24 Q Correct.

25 A Scheduling would identify the issue. We

1 would get the respective subject matter experts
2 together and formulate mitigation plans and work
3 through whatever the issues were. That was our
4 typical approach at being able to work with issues
5 like that.

6 Q What's a mitigation plan?

7 A Some type of recovery.

8 Q Recovery of the schedule?

9 A Yes.

10 Q Is that something that's done every time
11 an event, a milestone on the schedule is not met?

12 A Yes.

13 Q Is it done even when the milestone that's
14 not met is not a critical path milestone?

15 A Yes, there were times for that.

16 Q How do you go about, as a scheduler,
17 identifying mitigation strategies?

18 A Again, you get the subject matter experts
19 together and let them determine the best avenue and
20 approach to the mitigation. It was not a
21 scheduler's position to do that.

22 Q So is it fair to say that your role is to
23 being sure that you had the right people answering
24 the questions, to be sure that you had the best
25 information available for the schedule?

1 A It was my job to identify the issue,
2 not -- not to direct the subject matter experts or
3 whatever. I would inform my management that we have
4 an issue that, you know, we need to look into.

5 Q Were you ever involved in the process
6 where the strength of the mitigation effort was
7 analyzed? "Strength" might be a bad word, but
8 the -- the ability of the mitigation effort to
9 actually mitigate the schedule.

10 A Would you rephrase that again?

11 Q Sure.

12 When these mitigation efforts were
13 identified by the subject matter expert, would you
14 kind of accept the mitigation efforts they provided
15 or were you involved in any kind of review process
16 to determine whether it was a valid or a mitigation
17 effort that was sufficient?

18 A I had no responsibility in the mitigation.
19 That was in the subject matter expert's management
20 chain or -- or that group of people responsible for
21 the activities that was in jeopardy here. I had
22 no -- no input as to how valid or invalid it was.

23 Q Were you observing at all any processes
24 where subject matter experts would review mitigation
25 efforts to determine if those efforts were

1 achievable?

2 A Yes.

3 Q Can you describe what you observed there?

4 A I don't have any specific recollection for
5 that.

6 Q And let me make the question more broadly.
7 I'm interested in finding out whether the consortium
8 reviewed the mitigation efforts to determine how
9 likely they were to be able to be realized or to see
10 if they were actually something that could be done.
11 And I was wondering if you could maybe share any
12 information you have about that process to review
13 the mitigation efforts.

14 A I would say that the ones that I sat in on
15 were very detailed and well thought through and, you
16 know, were achievable. There was a lot to be done
17 to be able to implement the mitigation strategies.
18 And, you know, those were documented and updated on
19 a frequent basis.

20 Q Was there ever a time where you felt that
21 there was a mitigation strategy in place on the
22 schedule that was not attainable?

23 A No, sir.

24 Q Was there ever a time on the schedule when
25 there was a substantial completion date on the

1 schedule that you felt was not attainable?

2 A No, sir.

3 Q So is it fair to say you thought the
4 schedule was challenging, but it -- always that
5 there was a way to get it met?

6 A I do.

7 Q Was there a point in time where you felt
8 the schedule was particularly challenging, more so
9 than other points in time, where you felt like it
10 would be extremely difficult to meet the schedule?

11 A I think the schedule was challenging.

12 Q Is that pretty much throughout the
13 project?

14 A Yes. Yes.

15 Q Okay. Was there ever a point in time
16 where the schedule was adjusted and the new
17 substantial completion date was identified before
18 identifying mitigation strategies that could make
19 that schedule be met?

20 MR. RYAN: Object to form.

21 THE WITNESS: Yeah, you need -- I don't
22 quite understand the question.

23 BY MR. COX:

24 Q Yeah. Let me rephrase that.

25 When you had to revise the schedule and

1 you realized that the substantial completion dates
2 for the units had to be adjusted, can you describe
3 the process that you went through to identify new
4 substantial completion dates for the units?

5 A Extensive reviews and challenges were
6 orchestrated, held by all the organizations
7 involved, and along with -- along with the client.
8 So --

9 Q I'm sorry.

10 A -- a very involved process.

11 Q And I'd like to just understand how that
12 process worked from a technical standpoint.
13 Obviously I'm not a scheduler or an engineer, so the
14 level of technicality, I -- I probably can't take a
15 whole lot. But I would like to understand the
16 process you went to in identifying these are our new
17 substantial completion dates.

18 A The schedule was processed. The
19 information would be rolled out in the form of
20 schedule reports, reviewed by the appropriate
21 parties, and adjustments made or not made, accepted,
22 not accepted. Mitigations may be discussed and
23 would be incorporated at that point.

24 Q Who would produce the schedule reports?

25 A My organization would.

1 Q And who would you provide those reports
2 to?

3 A First, they would go to management for
4 whichever company I was working for at the given
5 time, be it Shaw, CB&I, or WECTEC/Westinghouse.

6 Q What were they being reviewed for?

7 A Accuracy.

8 Q Were there times that your reports were
9 not accepted?

10 A I don't think so.

11 Q And how, ultimately, did you and your team
12 identify a new substantial completion date when the
13 schedule was revised?

14 A When the critical path was ran and all the
15 involved parties agreed that, yes, that is a good,
16 viable critical path.

17 Q Was there ever a time when you were told
18 to develop a path that met a certain completion
19 date? In other words, you were given a completion
20 date and told to find a schedule that would meet
21 that date?

22 A No.

23 Q Was there ever a time where you felt
24 pressured to come up with a schedule that would meet
25 a certain completion date?

1 A No.

2 Q Is there ever a time where you had a
3 dispute with someone from the client or from your
4 own management change about whether the path that
5 you identified could be met?

6 A No.

7 Q When you referred to the client, were you
8 referring to SCE&G?

9 A Correct.

10 Q Who did you deal with from the SCE&G?

11 A There were several different people that I
12 interfaced with from the client side.

13 Q Who most commonly did you interact with?

14 A Kyle Young from the management side more
15 often.

16 Q Did you meet with him at a set time or was
17 it at random times?

18 A We had a weekly set time that we -- that
19 we met. And that would incorporate the monthly
20 issue of the schedule also that we would transmit to
21 them on the 10th of each month.

22 Q And that weekly meeting, was it just you
23 and he?

24 A No. It was several people from -- from
25 his team, and it would be myself and another manager

1 that worked for me.

2 Q Who was the manager who worked for you?
3 Who attended?

4 A His name is Aaron, A-A-R-O-N, Tibbetts,
5 T-I-B-B-E-T-T-S.

6 Q What was his job?

7 A He was the schedule manager under me that
8 handled the day-to-day processing of the schedule.

9 Q Kind of your second in charge?

10 A Yes.

11 Q Was that throughout the project?

12 A Yes. The -- yes.

13 Q So when you had a change, a significant
14 change to the schedule, is Mr. Young the person from
15 the client who you would seek out to discuss that
16 issue with?

17 A He would be the first interface point,
18 yes.

19 Q Were there any other significant
20 interfaces that you had with the client,
21 individuals?

22 A Mr. Torres infrequently.

23 Q What were -- what was the purpose of your
24 meetings with Mr. Torres?

25 A It would be something dealing with the --

1 with the schedule. I don't remember specifics.

2 Q Was there ever times where you would seek
3 him out, as opposed to Mr. Young, for some other
4 reason?

5 A No, sir.

6 Q I'd like to go through a couple different
7 time frames on the project. And I know it's been
8 some time, and you may not have specific
9 recollection.

10 But between the 2009 and 2012 time period,
11 there was a change in the schedule, a change order
12 16, that resulted in a schedule delay on the
13 substantial completion dates.

14 Do you have any recollection as to what
15 caused that schedule change?

16 A Not specifically.

17 Q Generally?

18 A Generally, the issuance of a license. And
19 I just -- I can't specifically recall, so I know the
20 delay in the licensing was part of it.

21 Q Do you recall being part of a team that
22 reviewed the schedule in mid 2014?

23 A Yes.

24 Q What do you recall about that effort?

25 A It was a multiweek evolution that a rather

1 large group of us kind of sequestered and reviewed
2 the schedule, made changes, and worked on the
3 reestablishment of a COD.

4 Q What is a COD?

5 A Commercial operations date.

6 Q Is that --

7 A Same as contractually substantial
8 completion.

9 Q So you would view the COD and the SCD as
10 being the same?

11 A To me, yes.

12 Q Do you recall who was part of that large
13 group that reviewed the schedule in 2014?

14 A I remember some of the people.

15 Q Can you identify who you recall being part
16 of that?

17 A From my group it was myself, Aaron
18 Tibbetts, Timothy Riddle. And from SCE&G it was
19 Kyle Young, Bernie Hydrick, who is a scheduler.
20 There was another scheduler from their organization.
21 I can't remember his name. He was a contractor and
22 he was present.

23 Q Your microphone fell, Mr. Elam.

24 A There was Bernie Hydrick. They had
25 another contract scheduler that worked with them. I

1 can't remember his name. There was Santee Cooper
2 personnel present. There was also SCE&G financial
3 people there at the same time. That's the -- and
4 also we had, from -- from the CB&I side, we had Don
5 DePierro, who was like our sponsoring manager of
6 this evolution was present also.

7 Q Do you remember who from Santee Cooper was
8 there?

9 A Marion.

10 Q Marion Cherry?

11 A Yes.

12 Q Why was this group reviewing the schedule?

13 A I don't remember all the specifics, but we
14 were late to substantial completion.

15 Q So basically you realized that the current
16 schedule was no longer going to work?

17 A What do you mean by won't work?

18 Q Good point. Basically you realized the
19 current schedule couldn't be met?

20 A I'm going to answer in my terminology.

21 Q Please.

22 A The schedule that we were using would not
23 support the substantial completion date.

24 Q Do you recall when that realization
25 occurred?

1 A Not specifically.

2 Q How about generally?

3 A How about -- pardon me?

4 Q How about generally?

5 A January-ish of that year, 2014.

6 Q And how did that realization occur? Was
7 it you that identified that or did someone come to
8 you and point that out?

9 A I think our organization was identifying
10 the issues associated with the schedule. There
11 was -- there was other efforts going on also that
12 were being identified at the same time. I don't
13 remember specifics there either, though.

14 Q Those other issues, do you recall what
15 those were?

16 A Not specifically.

17 Q Was productivity an issue that was being
18 looked at, as well, to your knowledge?

19 A That would have been outside my purview.

20 Q Do you recall --

21 A All I can report on is the schedule.

22 Q Right. And do you recall the level of
23 productivity being a concern, as far as not being at
24 the level needed to support the schedule?

25 A I think that was pretty evident by the

1 fact that, you know, when we would do our updates,
2 you know, we were not on schedule. Hence the
3 substantial completion dates when we were doing
4 those meetings were not on target. So...

5 Q So is it fair to say that around
6 January 2014, you realized that the issues that were
7 causing the project to fall behind were such that
8 the current schedule could no longer be met and
9 needed to be revised?

10 A I didn't realize that in -- in January.
11 There was an effort ongoing that started in early
12 January that would have -- as it progressed, we
13 were -- we were anticipating some issues with that
14 data that was going to be presented.

15 So we -- we knew there was issues. And
16 they would continue to manifest in early '14 is the
17 reason we wound up in the reviews later that year.

18 Q When did -- when did the reviews begin?

19 A I don't recall exact date for -- for that.

20 Q Was there a gap in time between the
21 realization that the current CODs could not be met
22 and the beginning of work by this team to identify a
23 new schedule?

24 A I don't think there was a gap. It was
25 a -- it was a very big process and -- and with the

1 integration of the schedule, there's a lot of pieces
2 and parts to it in organizations that each one of us
3 had to work through, through our pieces and parts.
4 Okay.

5 So I don't think there's a gap. I just
6 think that the amount of data, and assembling that
7 data and getting it to the schedules just took that
8 period of time. That's what I remember.

9 Q Was this a more complex schedule
10 reassessment than the one that had occurred with
11 change order 16 in 2012?

12 A Yes.

13 Q Do you know why that is?

14 A As I recall, in change order 16, that
15 mainly dealt with construction, where this effort
16 was an engineering/construction effort in 2014.

17 Q The financial people from SCE&G that you
18 mentioned that were part of the group, what did they
19 contribute to the schedule reassessment in 2014?

20 A I have no clue.

21 Q They weren't providing you with
22 information?

23 A No.

24 Q Were you involved at all in the process to
25 determine the cost associated with the -- a

1 schedule?

2 A No.

3 Q Who from your company was involved in that
4 process, if you know?

5 A I don't know.

6 - - -

7 (V.C. Summer Integrated Project
8 Schedule Review, August 1, 2014,
9 SCANA_RP0880932, marked Elam Exhibit
10 Number 1 for identification.)

11 - - -

12 BY MR. COX:

13 Q Mr. Elam, I've handed you a document
14 that's been marked Exhibit 1. I'd like to ask you
15 some questions about this document.

16 And do you need a break? If you need --

17 A Can we take a break?

18 Q Absolutely.

19 A And I'll take a look at this.

20 THE VIDEOGRAPHER: The time is 2:15 p.m.
21 and we are off the record.

22 (Recess in the proceedings from 2:15
23 to 2:28.)

24 THE VIDEOGRAPHER: The time is 2:28 p.m.,
25 and we are back on record.

1 BY MR. COX:

2 Q So, Mr. Elam, you have in front of you a
3 document that's labeled Exhibit 1. And for the
4 record, I'm going to reference the page numbers of
5 that exhibit. It's SCANA_RP0880932 through
6 SCANA_RP0880950.

7 Mr. Elam, have you seen this document
8 before?

9 A Yes.

10 Q What is it?

11 A It was a presentation put together by
12 myself and the CB&I management personnel of the --
13 about the schedule review that we had been
14 undertaking in 2014.

15 Q So this is the same review that you were
16 describing before our break regarding the team that
17 was put together after January --

18 A No, sir.

19 Q -- 2014?

20 A Between January and August of 2014, is
21 that your statement?

22 Q Yes. Is this -- is this the -- is this
23 document a reflection of the work that that review
24 that you were describing before the break?

25 A Yes.

1 Q Okay. And who did -- who was this
2 presentation to?

3 A I do not recall the presentation itself.
4 The document, I understand, but I do not remember
5 the presentation.

6 Q Okay. And the second page of the document
7 has a summary. And it mentions that the integrated
8 project schedule will not be official until this
9 review is complete.

10 Do you know when this review was complete?

11 A I do not know when this specific review
12 was complete.

13 Q Was there any document that you recall
14 that your group published or sent out when the
15 review was complete?

16 A I do not.

17 Q Okay. Do you recall whether there was
18 more review that was conducted after this
19 presentation?

20 A Yes.

21 Q What type of review continued after this
22 presentation?

23 A It was the one that you questioned me
24 about a while ago, in August.

25 Q That was the joint review process that

1 happened with SCE&G and Santee Cooper?

2 A That's correct.

3 Q So is it fair to say that the review
4 process that occurred up until the time of this
5 presentation was work that was done by the
6 consortium?

7 A This was a product that the consortium put
8 together for the review work from January through,
9 it looks like the end of July here, first of August.

10 Q And that process did not involve a joint
11 effort with SCE&G or Santee Cooper; is that right?

12 A Did not.

13 Q And the joint review process occurred
14 after this presentation; is that right?

15 A Yes. There was knowledge that this was
16 going on, but there was no involvement.

17 Q Okay. And that same page of the document,
18 the summary -- it's actually numbered at the bottom
19 page 1, because the title page isn't numbered -- it
20 includes two different substantial completions, one
21 of June 2019, which is entitled, "Impacted/Partially
22 Accelerated," and then one of December 2018,
23 "Accelerated."

24 Can you describe what the difference is
25 between those two options?

1 A It appears under the second paragraph,
2 Unit 2, Substantial Completion December 2018,
3 Accelerated, had some additional caveats about
4 the module deliveries for the shield building
5 and CA01, with some additional
6 engineering/procurement/construction/licensing
7 items that would need to be accelerated.

8 Q And what would that result in if that
9 occurred?

10 A Can you be more specific?

11 Q Sure. Is it fair to say that if those
12 events -- the schedule contemplated an option where
13 if the events listed under that option occurred,
14 then the schedule could be accelerated to
15 December 2018?

16 A That's correct. I would classify that as
17 mitigation.

18 Q So is it fair to say that the
19 December 2018 option includes additional mitigation
20 efforts that aren't in the June 2019 option?

21 A That's the way I read it from this sheet,
22 and the way I remember it.

23 Q What does the term "impacted" mean in this
24 context?

25 A Can you point out where you're reading

1 that from?

2 Q Sure. Next to June 2019, it says

3 "Impacted/Partially Accelerated."

4 A I can't remember exactly why the word
5 "impacted" is there other than we were not meeting
6 the previous substantial completion date. I do not
7 know what -- I can't recall specifically what
8 "impacted" means in this sentence.

9 Q The third bullet point under that
10 June 2019 option states, quote: "Fabrication and
11 delivery of the Shield Building panels are based on
12 the delivery dates provided by the vendor," end
13 quote.

14 Can you explain what that means?

15 A The vendor provided a schedule with given
16 dates in it that we had utilized to establish this
17 June of 2019 date.

18 Q So is it fair to say that if the vendor
19 failed in providing the panels on those dates, then
20 that would impact the schedule that is put forth
21 here?

22 A In that scenario, I would say yes.

23 Q Do you recall who the vendor was that was
24 delivering the shield building panels?

25 A Not -- no.

1 Q Do you recall whether the vendor was able
2 to provide the shield building panels on the
3 delivery dates that they stated?

4 A I cannot at this point, no.

5 Q Do you recall whether that turned out to
6 be an issue, the shield building panels, as far as
7 impacting the schedule?

8 A Become an issue when?

9 Q After this presentation.

10 A No, I can't.

11 Q Was it an issue before the presentation,
12 to your recollection?

13 MR. KEEL: I'll just object to form.

14 THE WITNESS: Repeat.

15 BY MR. COX:

16 Q Sure.

17 Do you recall the shield building panel
18 delivery being a schedule issue at any point in time
19 on the project?

20 A The way this reads, yes.

21 Q What makes you reach that conclusion from
22 the way this reads?

23 A Fabrication and delivery of the panels are
24 based on the delivery dates provided by the vendor,
25 meaning that the schedule basis for 2019 is exactly

1 as what that says.

2 Q But you're not reading into this that the
3 vendor had failed in the past to provide panels on
4 time?

5 A I am not.

6 Q There's two critical assumptions listed
7 under the next bullet point. Can you describe what
8 it means -- what critical assumptions means in this
9 context?

10 A It meant that if they didn't meet the
11 commitment specified here, then the June 2019 date
12 could be impacted, just as what we just talked about
13 the shield panels.

14 Q Okay. Now, if you could turn to page 3 of
15 the PowerPoint, Bates numbered 0880935, there's
16 critical path scenarios identified for both
17 scenarios.

18 Can you explain in layman's terms what the
19 critical path scenario is for the June 19th date?

20 A Yes. The critical path was predicated on
21 the shield building wall panel deliveries from --
22 this says NNI, which was the vendor -- Newport News
23 Industrial, I think, into the erection schedule.

24 Okay.

25 So the critical path, with the dates that

1 was provided on page 1 in that line item, that
2 bullet, was the leading critical path to the
3 completion of the shield building to get to
4 substantial completion.

5 Q And if those -- if that schedule was not
6 met on that path, then that would affect the COD
7 date for the unit; is that correct?

8 A COD or substantial completion?

9 Q Would it make a difference?

10 A It just refers to everything as
11 substantial completion.

12 Q You know, you're right. Let's stick with
13 that. Let's call it substantial completion. Is
14 that correct?

15 A Yeah -- repeat your question again.

16 Q Sure.

17 If the critical path schedule was not met
18 for this June 19 -- June 2019 scenario, then is it
19 correct to say that the substantial completion date
20 for that unit would not be met?

21 A So let's clarify. If the dates are later
22 than what was specified in the previous page, where
23 we said that the delivery of the panels dates were
24 provided by the vendor, if they were later than
25 those, depending on which ones they were, yes, it

1 would have been hard to make the completion of
2 June 2019.

3 It's not a good, clear, easy answer there
4 because you don't know which panels were on critical
5 path versus which ones weren't. There's a lot of
6 detail there. I just want to clarify that. Any one
7 single panel being late may not.

8 Q I appreciate that level of detail in your
9 answer.

10 One question that your answer made me
11 think of is: Is there a potential to identify
12 additional mitigation steps once a critical path
13 step has not been met, or does the schedule
14 automatically get pushed back because all mitigation
15 efforts have already been identified?

16 A I would say, at any given point in time,
17 there's always opportunity to mitigate.

18 Q So if a critical path step is not met,
19 then is it fair to say, before extending the
20 substantial completion date, you would be sure to
21 look to see if there's any mitigation steps that
22 could keep the unit on schedule?

23 A That is correct. I would do that.

24 Q On page 5 and 6 of the PowerPoint, there's
25 some graphics. Can you explain generally what these

1 graphics are depicting?

2 A The graphics depict the two different
3 scenarios of impacted/partially accelerated and
4 accelerated. These are high-level tools that we
5 used for the project that were of level 1 detail,
6 I'll call it. Maybe a little more than level 1.
7 But they clearly depict the two different critical
8 paths for those two scenarios, impacted/partially
9 accelerated and accelerated.

10 Follow the red lines. Those would be the
11 critical path in each one of the scenarios.

12 Q At this point in time, did you have a
13 level 3 schedule for the project?

14 A Yes.

15 Q Is this work that your team did in early
16 2014, did that move your schedule to a level 3, or
17 did one already exist before then?

18 A It existed many years before that.

19 Q Did this process in early 2014, did it
20 increase the level of the schedule at all?

21 A No.

22 Q Are you familiar with the term resource --
23 "fully integrated resource-loaded schedule"?

24 A That's two different things.

25 Q Can you explain how it's two different

1 things?

2 A Integrated schedule is just that, meaning
3 that the -- the engineering piece, the procurement
4 piece, the construction piece, the commissioning
5 piece are all tied together and you get a critical
6 path from birth to death. Okay.

7 And your other terminology I think you
8 used was fully resource-loaded. Was that your
9 terminology?

10 Q Fully integrated resource-loaded.

11 A Okay. Resource loading is a totally
12 separate aspect of a schedule.

13 Q What does it show?

14 A What do you mean? Explain. Explain. I
15 don't understand.

16 Q Sure. And it's probably a bad -- let me
17 rephrase the question.

18 I'd like to know what a resource-loaded
19 schedule means. Are you able to describe that?

20 A In very simple terms, it could provide you
21 an insight into the manpower required to do the
22 given evolution or thousands of evolutions.

23 Q So does it take into account the resources
24 that are available to get the work done?

25 A No.

1 Q What does a resource-loaded schedule show
2 that a fully integrated schedule that's not
3 resource-loaded not show?

4 A So state that again.

5 Q Sure.

6 What does a resource-loaded schedule show
7 that a non -- a schedule that is not resources --
8 resource-loaded does not show?

9 A The only thing that you can derive from a
10 resource-loaded schedule is to be able to look at a
11 resource histogram, which is no more than an Excel
12 spreadsheet, that gives you the manpower required to
13 implement the activities, depending on how you
14 want -- how much detail you want, whether you want
15 it in hours, whether you want it in shifts, whether
16 you want it in days, weeks, months.

17 So the only thing the resource schedule is
18 going to show you is what the level of manpower
19 required for the given evolution will take,
20 depending on how you've loaded the individual
21 activities. So, you know, the byproduct from
22 resource loading is to be able to look at a manpower
23 histogram over time to see what the requirements are
24 to be able to staff the job or to staff a job or a
25 given evolution.

1 Q Did the schedule you had at the project,
2 did it -- was it resource-loaded?

3 A No.

4 Q And is that true throughout the time you
5 were on the project?

6 A Yes.

7 Q Is there a reason that you did not do any
8 resource loading on your schedule?

9 A There -- yes. One is that we didn't have
10 the information in a format that was commensurate
11 with the level of detail in the schedule.

12 Two, there was not a requirement to
13 resource load the schedule.

14 Q In that second point, you're referring to
15 there being no requirement placed on the consortium
16 by the owners to have a resource-loaded schedule?

17 A Yes. I don't think there was a
18 requirement in the contract to do that.

19 Q The schedule that you had on the project,
20 did it depend upon a certain level of productivity
21 from the craft workers?

22 A I'm going to say no.

23 Q And is that because it wasn't
24 resource-loaded?

25 A No.

1 Q Why is it that your schedule --

2 A That's because the subject matter experts
3 that provided the durations for the activities had
4 that baked into their durations and the number of
5 men that they planned to assign to that given task.

6 Q So it's fair to say that the organizations
7 needed to develop their plan as to how productive
8 their workers would be, and use that in their
9 inputs, and then let you know what the dates that
10 they obtained, based on that information, were?

11 A I'm going to ask you to repeat that again.

12 Q Sure. Let me see if I can make it more
13 simple.

14 A Yes.

15 Q Is it fair to say that productivity factor
16 was used by the organizations that provided you
17 information on the schedule, but it was not
18 something you needed to know directly to calculate
19 the master schedule?

20 A Yeah. Productivity is more of a function
21 of the cost people, not schedule.

22 Q And why is that?

23 A Because as I stated, the superintendents,
24 the construction subject matter experts, when they
25 evaluated whatever the next -- whatever the

1 evolution is, they're just applying, hey, this is
2 how many men it's going to take me to do this work,
3 okay, in this time period.

4 Because they knew that if they had a crew
5 of six people, they looked at what the complexity
6 and whatever the -- whatever the commodity task was,
7 okay, and he said, hey, this is -- this is how many
8 days or hours it's going to take me to do this
9 evolution. Okay.

10 Q And if they're wrong about that, then if
11 they incorrectly assume that the workers will be
12 more productive than they are, then they just have
13 to hire more workers to meet the schedule; is that
14 fair to say?

15 A I want you to repeat that one again.

16 Q Yeah. Let me -- let me try to rephrase
17 it.

18 I want to -- I do want to understand
19 whether the level of productivity can have any
20 impact on the schedule. And let's take your
21 hypothetical of a crew of six people in an
22 organization, and let's say the unit leader says
23 that, "I think my six people can get this project
24 done within one month." And that organization
25 leader tells you that he can hit that milestone in

1 one month. And let's say his workers are only half
2 as productive as they should be.

3 Now, my understanding is that he can go --
4 one option for the organization leader is to hire
5 six more people. And to still get that job done in
6 one month, it's going to cost more, but he's going
7 to get it done on schedule.

8 But if he doesn't hire more people and it
9 takes him two months to get that task done, would
10 that lack of productivity have an impact on the
11 schedule?

12 A Not necessarily. That evolution could
13 have had 200 days of float on it. And just because
14 it took me another 15 days to get it done has no
15 impact on the schedule.

16 Q What do you mean by "float"?

17 A So you asked me about critical path
18 earlier. Critical path has no float. That's the
19 zero total float path of the project.

20 You also asked me about other paths
21 leading into that. So if it's not critical path, a
22 group of activities have what we call in schedule
23 terms total float, okay, which means that the total
24 float number is equivalent to some value, whether
25 you're in days or hours. Okay. And as long as you

1 don't use all of that total float up for that given
2 evolution, okay, there's no impact to the project.

3 If it had five days of float and it took
4 you 10 days to finish, you would be five days late
5 to something.

6 Q Is it correct to say, though, that for a
7 task that has no float, if the productivity is not
8 what is estimated and it's delayed, then that will
9 affect the schedule?

10 A Productivity has nothing to do with the
11 schedule itself. If you don't meet the duration of
12 the work laid out, then you have an issue.
13 Productivity is a cost issue with how much money
14 it's costing you to do something. Okay.

15 What we're concerned with with the
16 schedule is, "Hey, did you start the job on time?
17 Did you finish it on time?"

18 "I started it on time, but I didn't finish
19 it on time."

20 Okay. There could be or could not be an
21 impact to something downstream of that.

22 Q Were there any times on the project where
23 the schedule was extended due to a lack of
24 productivity in completing or constructing a certain
25 milestone?

1 A I won't use the same words you used, but
2 yes, there was issues where we didn't finish jobs in
3 the allotted amount of time that had some impact to
4 something downstream. And, you know, one of the
5 other documents we looked at, I think, earlier, you
6 know, had us beyond the substantial completion date.
7 That's why.

8 Q Were you engaged in any negotiations with
9 the organizations that provided you with information
10 for the schedule about whether their productivity
11 assumptions were reasonable?

12 A No.

13 Q Is it fair to say you accepted what they
14 provided you on those issues?

15 A I'm sure there was pushback at times, but
16 I can't recall specific instances.

17 Q The negotiation or the, I should say, the
18 joint effort that you had with SCE&G and Santee
19 Cooper after this Exhibit 1 was published, can you
20 describe how those -- how that process went?

21 A So if I understood the question correctly,
22 the subsequent meeting to this, when we basically
23 sequestered ourselves and worked through the
24 schedule issues?

25 Q Yes. Can you describe that process?

1 A Yeah. So we -- as a group, we kind of
2 sequestered ourselves away from the day-to-day
3 evolutions, and we started out in a very basic
4 schedule setting and began to analyze the schedule.
5 And the first week was -- of this was strictly based
6 on just the construction aspects and understanding
7 the critical path as it existed. And, you know,
8 from that point, we made refinements, reanalyzed the
9 schedule.

10 You know, this sounds like, you know --
11 I'm sure to you guys, that why did it take so long.
12 You have to realize, our schedule was very big.
13 Okay. And for us just to do a calculation on the
14 schedule took 30 to 45 minutes. Okay. So you make
15 one minor change, you wait 30 to 45 minutes for the
16 results. Okay. So it was very time-consuming.

17 And then after -- after the first week or
18 so, we started getting other subject matter experts
19 in, analyzing the data that we had, looking for
20 additional enhancements. And this just continued on
21 over -- over a three-week period or so. So very --
22 I don't want to say intense, but very long days with
23 a lot of people in the room, a lot of discussions,
24 you know, making phone calls to subject matter
25 experts, getting their input, getting the risk

1 people in, getting mitigation, you know, pieces
2 developed, you know, as -- and, you know, these --
3 these, you know, impacted/partially accelerated, you
4 know, accelerated, partially accelerated, there was
5 lots of -- lots of things that came out of this
6 three-week workshop. I can't remember specifics,
7 but, you know, I know it was -- it was intense and
8 there was long days there.

9 Q How did SCE&G and Santee Cooper contribute
10 to that process?

11 A Lots of questions, lots of challenges. I
12 can't remember specifics, but, you know, they had --
13 they had their construction people attending off and
14 on also, people in and out.

15 But, I mean, they were a voice. And we
16 reconciled whatever concerns they had or -- you
17 know, we as a group decided how to move forward. So
18 they were interactive, if that's what you're looking
19 for. They weren't just in the room. So they were
20 interactive with the whole process going on for that
21 three weeks.

22 Q Were they pushing you to identify
23 additional mitigation efforts?

24 A I do not remember any specifically. I
25 think we did a pretty good job ourselves of

1 controlling that and identifying them; so not
2 specifically, that I remember.

3 Q Did you ever feel that they were pushing
4 you to accelerate the schedule beyond what was
5 reasonable?

6 A I don't -- I don't think so.

7 Q Were there ever times where SCE&G and
8 Santee Cooper would push for a mitigation effort
9 that you had to say, "No, that's just not feasible"?

10 A Not that -- not that I can recall.

11 Q The schedule that you arrived at at the
12 completion of this process, is it a schedule that
13 you felt was attainable?

14 A Yes.

15 Q Is it fair to say that you didn't
16 guarantee that that schedule would -- would result,
17 did you?

18 A Rephrase or restate.

19 Q Sure.

20 Is the schedule that you came up with at
21 the end of that process in 2014, was that a schedule
22 that you guaranteed would be met?

23 MR. RYAN: Object to form.

24 THE WITNESS: One more time.

25 BY MR. COX:

1 Q Sure.

2 That schedule is an estimate, right,

3 Mr. Elam, the schedule --

4 A The schedule is a model.

5 Q A model. Were you saying it was the most
6 likely schedule that would occur on the project?

7 MR. RYAN: Object to form.

8 MR. KEEL: Same.

9 THE WITNESS: The schedule was achievable.

10 BY MR. COX:

11 Q So this schedule that you came up with in
12 2014, is it fair to say that it's an achievable
13 schedule that you believed could be attained and
14 that you hoped would be attained?

15 A Hope is not a plan, so I'll say that we
16 thought it was achievable.

17 Q Is it a schedule that you thought would be
18 the most likely schedule that resulted on the
19 project?

20 MR. RYAN: Object to form.

21 THE WITNESS: The schedule was achievable.

22 BY MR. COX:

23 Q When you say "achievable," did you feel
24 that that was the earliest that the project could be
25 completed?

1 MR. RYAN: Object to form.

2 THE WITNESS: I think, when you develop a
3 schedule, you build the schedule to be
4 achievable in the shortest amount of time that
5 is implementable.

6 BY MR. COX:

7 Q And that's what this schedule was?

8 A Yes.

9 Q Did you assign risk factors to the
10 likelihood of different mitigation strategies being
11 effective?

12 A I did not.

13 Q Was that done by anyone?

14 A Yes.

15 Q Who did that?

16 A That was under Lisa Cazalet.

17 Q Were you involved in her work on that
18 area?

19 A Yes.

20 Q What was your involvement?

21 A To -- to either schedule the mitigation or
22 attend the mitigation meetings and understand where
23 we were with the mitigations. Some mitigations were
24 taken in the schedule and some were not.

25 Q And were some not taken in the schedule

1 because they were viewed as too risky?

2 A No. No. It just took a while for some of
3 the mitigation strategies to mature.

4 Q What would happen if Ms. Cazalet
5 identified a mitigation strategy that had a low
6 probability of success? How would that impact the
7 schedule?

8 MR. KEEL: Object to the form.

9 THE WITNESS: I don't really know how to
10 answer that, because I don't remember the
11 specifics about all the -- the mitigation
12 efforts or the risk efforts. So I can't help
13 you there.

14 BY MR. COX:

15 Q Do you know if the risk connected with a
16 mitigation strategy being effective was reflected in
17 some way in the schedule you developed?

18 A Repeat again.

19 Q Do you know if the risk connected with the
20 mitigation strategy being effective was reflected in
21 some way in the schedule you developed?

22 A Yes, at some point.

23 Q And how --

24 A Repeat that question one more time. I
25 want to be sure I understood what you're asking me.

1 Q It's very important. I appreciate you
2 doing that.

3 Do you know if the risk connected with a
4 mitigation strategy being effective was reflected in
5 some way in the schedule you developed?

6 A Disconnect the risk piece of your
7 question. The mitigation would have been reflected
8 in the schedule at some point once all the details
9 were worked out.

10 If the mitigation didn't come to fruition,
11 then we would show the deltas in the schedule. I
12 mean, you have no choice. If you can't mitigate it,
13 okay, then you have to show the impacts from the
14 item in the schedule.

15 Q Let me do a hypothetical so that -- I
16 think it might help you realize the point I'm trying
17 to get at and whether I'm -- I've got some point
18 that doesn't make any sense or not. I was a science
19 undergrad major, but that doesn't count for much.

20 Let's say you identify a mitigation
21 strategy on a certain task. And let's say that
22 mitigation strategy is assessed to have a 90 percent
23 likelihood of success, so it's viewed as being a
24 strategy that is very likely to be successful.

25 But let's say elsewhere on that critical

1 path you have a mitigation strategy that you
2 identify as only being about 10 percent likely to be
3 successful, so maybe a Hail Mary, a long shot.
4 You're going to have a tough time making that
5 mitigation strategy work, but you can't exclude it
6 as potentially being an option.

7 Did your schedule at all reflect the
8 likelihood of a strategy being effective or not
9 effective? So let's take that 10 percent example.
10 Would your schedule say, well, it has a chance, so
11 we're going to incorporate it into the schedule as
12 though it is going to occur, or would there be some
13 discount on it to reflect the concern that it might
14 not be effective?

15 MR. KEEL: Object to form.

16 MR. RYAN: Object to form.

17 THE WITNESS: We would have shown the
18 impact from the likelihood of it not being
19 successful. Okay. We were not -- we did not
20 hide the fact -- "hide" is probably not the
21 right word. But in many cases, we would show
22 the impacts of these items that had a low
23 likelihood of being able to be achieved.

24 Now, there's a little more to the story in
25 that we would provide up the data that says,

1 even with the mitigations of this item, you
2 know, and the impacts from it not being
3 successful -- okay. That's basically where the
4 schedule was when the item was identified that
5 it needed to be mitigated. It was already a
6 problem. We knew the impacts from it, okay,
7 and it's there, you know.

8 The mitigation strategy goes into effect.
9 We didn't take credit for mitigation until we
10 knew it was going to be successful. Okay.

11 So I think I've answered your question
12 because it sounded like you were saying, "Okay.
13 You said you were going to save four weeks off
14 of this project, but it's only a 10 percent
15 chance. So therefore you went ahead and took
16 credit for it."

17 No, we didn't.

18 BY MR. COX:

19 Q I think you did get to it in your answer
20 there at the end. It sounded like you're saying
21 that you required really solid evidence that a
22 mitigation strategy would be effective in order to
23 allow it to be reflected on your calendar. Is that
24 right?

25 A That's correct.

1 Q Okay. Was there a specific threshold of
2 certainty that you used?

3 A I'm going to say no. No.

4 Q Was it not very -- I'm sorry. Go ahead.

5 A We were more about a deterministic
6 schedule versus a risk-based schedule. Okay.
7 Deterministic being here's the facts; here's the
8 durations, okay; and here's the impacts from it.

9 The risk and the mitigation strategies
10 were just that. And they were reviewed by us and
11 SCE&G, Santee Cooper, roughly on a monthly basis.

12 Q Have you been involved with risk-based --
13 risk-based construction schedules before?

14 A No.

15 Q Do you know if such a thing exists?

16 A I do not have firsthand knowledge of it
17 because I've never dealt with it. I have never been
18 a scheduling manager or scheduler associated with
19 risk-based scheduling.

20 Q And is it correct to say that there were
21 times when you rejected a mitigation strategy
22 because your team felt that it was unlikely to be
23 successful?

24 MR. RYAN: Object to form.

25 THE WITNESS: We, scheduling, didn't have

1 that authority.

2 BY MR. COX:

3 Q So the mitigation strategies came from the
4 organizations and you implemented them into the
5 schedule; is that correct?

6 A If there was one, that's correct.

7 Q On page 10 of Exhibit 1, page 10 of the
8 PowerPoint, can you describe what this graphic
9 shows?

10 A We call these a PivotTable to graphically
11 show the differences in the different schedules from
12 the baseline, original baseline versus the change
13 order 16 agreement. Okay.

14 And then the bottom two lines represented
15 the two scenarios that was listed at the beginning
16 of the -- of the presentation for accelerated and
17 impacted/partially accelerated. And it describes
18 the certain milestones that were along the critical
19 paths of the project.

20 Q Can you turn to the next page, pages 11
21 through 14, and explain what's reflected in that
22 chart?

23 A Okay. On page 11 and 12 are the Base Load
24 Review Act milestones with their dates that were
25 previously identified as targets for -- to meet the

1 requirements of the Base Load Review Act.

2 Q What does "Primavera Activity ID" mean?

3 A So in the schedule itself, every activity
4 has a unique number. And that is the tracking
5 number in the schedule for that given evolution.

6 Q What does "Reset Milestone Date" mean on
7 that chart?

8 A I can't answer that.

9 Q Okay. There's a column labeled "Delta
10 Months from Reset Milestone Date." Do you know what
11 that refers to?

12 A Yes.

13 Q What does that refer to?

14 A That's the difference between reset
15 milestone date and month end milestone date.

16 Example: Page 12, tracking number 124.
17 If you look at the reset date is 30 June '15. Month
18 end milestone date, 31 October '16. There's a
19 16-month delta between those two dates.

20 Q So is that the difference between the
21 schedule that had been in effect and the schedule
22 that's proposed with this COD?

23 A Without studying this and looking at
24 additional data, I can't -- I don't know the origin
25 of the reset date.

1 Q Sure. And if you could turn to pages 15
2 through 17 of this document, can you explain what
3 this chart is?

4 A 15 through 17. Yes.

5 These pages are the milestones that we
6 used to track the project. Okay. It was a one-page
7 list, one for Unit 2, one for Unit 3, identical
8 activities between them. And the current dates in
9 the right-hand column represented the scenarios
10 that's called out at the top, impacted/partially
11 accelerated schedule. Those are the dates that
12 these milestones would fall on. These milestones
13 were very integral to the schedule. They have a lot
14 of meaning. Okay.

15 Page 16, the same scenario, but the
16 accelerated dates as described in the previous
17 earlier part of the document.

18 Page 18 -- 17. Excuse me -- are the ones
19 for the Unit 3, which we only have the one scenario
20 for Unit 3.

21 Q And the last event is substantial
22 completion of the unit; is that right?

23 A That's correct.

24 Q And the first action is approval of the
25 COL?

1 A Restate. I didn't understand.

2 Q The first key date for each unit was the
3 approval of the COL license?

4 A The command operating license, that is
5 correct.

6 Q Those are all the questions I have on that
7 document, Mr. Elam.

8 - - -

9 (E-mail correspondence dated 8/25/14,
10 with attached V.C. Summer Integrated
11 Project Schedule Review & Validation,
12 SCANA_RP0692496-692508, marked Elam
13 Exhibit Number 2 for identification.)

14 - - -

15 BY MR. COX:

16 Q I'm going to hand you a document labeled
17 Exhibit 2 (handing). Exhibit 2 is a document that's
18 Bates numbered SCANA_RP0692496 through
19 SCANA_RP0692508.

20 It's an e-mail with an attached PDF file.
21 The original e-mail went from Aaron Tibbetts to
22 several people, including yourself, Mr. Elam, on
23 August 25th, 2014.

24 And I wanted to ask you about the
25 attachment, the PowerPoint attachment to the e-mail,

1 to see if you recognize what that document is.

2 A Can we have a few minutes to study this?

3 Q Certainly.

4 THE VIDEOGRAPHER: The time is 3:24 p.m.,
5 and we are off the record.

6 (Recess in the proceedings from 3:24
7 to 3:32.)

8 THE VIDEOGRAPHER: The time is 3:32 p.m.,
9 and we are back on record.

10 BY MR. COX:

11 Q Mr. Elam, you have Exhibit 2 in front of
12 you. Have you -- can you identify what Exhibit 2
13 is?

14 A Yes. Exhibit 2 is the culmination of all
15 the work that was done while we were sequestered
16 doing this intense schedule review.

17 Q So this was -- this PowerPoint was
18 completed after the review period was done with
19 SCE&G and Santee Cooper?

20 A Right. This is the -- this is the final
21 documentation that wrapped all of that up and was
22 presented to SCE&G, Santee Cooper management, our
23 CB&I management, Westinghouse. I don't know if
24 there was anybody else there or not. I don't think
25 so.

1 Q And there's a slide that's labeled page 2,
2 called "Path Forward." Can you describe what that
3 shows?

4 A Yes. That was the plan of the plan for us
5 to do all that work. That's what this was, page 2.

6 Q And to your knowledge, was this schedule
7 met, actually performed?

8 A Yes.

9 Q So is it fair to say that by the end of
10 August, the schedule review had been -- August 2014,
11 the schedule review was completed?

12 A This part of the review was complete, yes.

13 Q And what is "this part"?

14 A Meaning that we had -- we had the schedule
15 information that would be proposed for at least a
16 retargeting of the schedule for -- for a new
17 substantial completion.

18 Q The next page in the exhibit, page 3, is
19 labeled "IPS History."

20 A Yes.

21 Q This is the same slide that was in
22 Exhibit 1.

23 A Similar, not the same.

24 Q Okay. Can you explain how it's different?

25 A The scenarios are a little different from

1 what was in the presentation from August the 1st in
2 the fact that it doesn't have the original baseline
3 on it. It starts with -- with the settlement
4 agreement under change order 16. Then there's an
5 additional line next where we worked on a different
6 substantial completion for the impacts from some
7 modules. Okay.

8 And then we get into the two scenarios,
9 the 2014 impacted/partially accelerated, 2014
10 accelerated. And then there was a 2014 additional
11 acceleration model that we did.

12 So it's a little bit different scenarios
13 than what was in the Exhibit 1.

14 Q In the additional acceleration, does that
15 include some of the potential accelerations that you
16 identified could be done in Exhibit 1?

17 A No.

18 Q Do you know what additional acceleration
19 was contemplated there?

20 A Specifically, no, I don't.

21 Q Okay.

22 A It's just been -- it's been too long ago.

23 Q Were you involved in any discussions with
24 SCE&G or Santee Cooper about whether the schedules
25 that you developed would be presented to the South

1 Carolina Public Service Commission?

2 A Restate that again.

3 Q Sure.

4 Were you involved in any communications
5 with SCE&G or Santee Cooper regarding whether the
6 schedule that you developed would be presented to
7 the South Carolina Public Service Commission?

8 A At this point in time?

9 Q At any point in time.

10 A I mean, we -- we typically knew that if
11 SCE&G and Santee Cooper were going to go back to the
12 PSC or ORS or whatever, we would typically know
13 that, okay, and help produce the products that they
14 would need in the filings or whatever. So, I guess,
15 the answer is yes.

16 Q So you had that --

17 A Specifically here, I don't -- I don't
18 know.

19 Q Okay.

20 A Because we would have to provide all the
21 BLRA information and stuff, the details for that.

22 Q Did SCE&G ever communicate to you that a
23 schedule you had developed was unlikely to be
24 accepted by the PSC?

25 A No. I don't think there would be any

1 reason for SCE&G to tell me that.

2 Q The next page of this Exhibit 2, page 4,
3 can you explain what that shows?

4 A So page 4 has those major milestones, the
5 40 milestones that we looked at in the previous
6 Exhibit 1. And this is a table that shows the
7 differences in the dates between the June 2019, the
8 September '18 scenarios. And without studying it
9 more, that's about the extent of what I can tell
10 you.

11 Q The next four pages, pages 5 through 8 of
12 the spreadsheet, are entitled, "Acceleration
13 Review - Work Shifts."

14 Can you explain what that shows?

15 A So this is additional detail by building
16 and the various different activities of work that
17 needed to be performed. And if you look toward the
18 right-hand side of the sheet, you'll see a column
19 marked "Calendar."

20 Are you with me?

21 Q Yes.

22 A Okay. So in order to -- in order to meet
23 that September -- if you look at the bottom of the
24 page, right in the middle, it's kind of hard to
25 read, but it says: "VCS Unit 2 accelerator work --

1 work shift activities to support September 2018
2 substantial completion."

3 So these are the activities that we had to
4 double shift on five tens, which made those five
5 days a week, 20 hours a day. Those are the
6 activities -- to be able to bring that schedule back
7 from December to September, these are the activities
8 that we would have had to put on at least two
9 shifts, okay, to make the scenario work out for a
10 September completion.

11 Q And the next two pages --

12 A Which? As in page?

13 Q -- page 9 and 10, that's entitled,
14 "Acceleration Review - Shield Panels."

15 Can you describe what that is?

16 A These are the dates that we would have
17 needed shield panel deliveries by to be able to meet
18 the September of '18 substantial completion date.
19 So this is additional mitigation that would have
20 been needed to be able to meet that date.

21 Q And one last issue on Exhibit 2, Mr. Elam.
22 If you turn back to page 3, the IPS History chart,
23 there's one line there entitled, "2013 April Module
24 Summit Meeting Delivery Schedule. Mitigation
25 Performed to Keep Substantial Completion in 2017."

1 Is that a schedule that your group
2 prepared at some point in time?

3 A Yes.

4 Q Was it prepared in or about April of 2013?

5 A I can't recall. There's not enough info
6 here for me to make that call.

7 Q But it's fair to say that it was a
8 schedule that was performed before the schedule you
9 did in August 2014, correct?

10 A Yes. I mean -- yes.

11 - - -

12 (Letter to Ronald A. Jones, from
13 Carl Churchman, dated 8/7/15,
14 WEC_SCORS_000001-4, marked Elam
15 Exhibit Number 3 for identification.)

16 - - -

17 BY MR. COX:

18 Q Mr. Elam, Exhibit 3 is a document that was
19 produced by your attorneys in this action or -- I'm
20 sorry -- Westinghouse's attorneys in this action.
21 And it appears -- well, I was wondering if you could
22 describe for me what this document is.

23 A Okay. I've looked at the document.

24 Q Can you explain what it is?

25 A This looks like one of our month-end

1 letters, transmittals to the client for -- for data
2 the end of July 2015.

3 Q And was this done every month when you
4 were on the project?

5 A Yes.

6 Q How was the schedule -- what format was
7 the schedule in when you provided it to SCE&G?

8 A This -- well, there was -- there was
9 numerous reports provided, okay, as you can see from
10 sheet 4, the last sheet. Okay. There's a list of
11 documents in PDF form that was supplied.

12 Also, it states that enclosed is a CD.
13 Okay. On that CD was these documents. And in
14 addition to that, there was a Primavera XER file.
15 That's the native format that Primavera -- Primavera
16 data is exported in so that somebody else could take
17 the data and reload it on another Primavera machine
18 and review it.

19 Q And was that electronic format of the
20 schedule provided to SCE&G during your entire time
21 on the project?

22 A Yes, it was, with the exception of periods
23 that we elected not to send a schedule to them
24 because we were working in conjunction with them to
25 either retarget or rebaseline.

1 Q Would that include the time period when --
2 between January and August 2014, when your team was
3 revising the schedule?

4 A I don't have the documentation in front of
5 me to verify that.

6 Q The first page --

7 A And I don't remember.

8 Q Okay. No. That's fine.

9 The first page, I'd like for you to
10 explain one term. I think you discussed it earlier,
11 but it says, quote: "The attached files correspond
12 to a forecasted Unit 2 substantial completion date
13 of September 28, 2019. This is 101 days negative
14 float to the June 2019 target substantial
15 completion," end quote.

16 Can you explain what those sentences mean?

17 A That means that the current schedule that
18 we were providing them was 101 days later than
19 June 2019 for the substantial completion of Unit 2.

20 So if you -- if you take a calendar and
21 you go June of 19, add three months to it plus a few
22 days, you're about there. So it would have been
23 September something.

24 Q Those are all the questions I have on
25 Exhibit 3, Mr. Elam.

1 I wanted to turn to a different topic now.
2 It's in relation to an assessment that was performed
3 on the project by the Bechtel Corporation.

4 Did you become aware, during your time
5 working on the project, that Bechtel was performing
6 an assessment of the project?

7 A Yes.

8 Q When did you become aware of that?

9 A I don't know the month, year. Well, I
10 know the year's got to be probably 2015. I don't
11 know what month.

12 Q How did you become aware of it?

13 A I was requested to meet face to face with
14 the Bechtel individuals, and -- and eventually
15 provide -- provide information to them.

16 Q Do you recall who you met with from the
17 Bechtel Corporation?

18 A I can't remember names, but I do remember
19 that it was their project controls manager that was
20 there doing the schedule evaluation, and some of
21 their construction individuals. Whether they were
22 superintendents or, you know, construction managers,
23 I don't remember.

24 Q Did they interview you all at once or was
25 it separate interviews with each of them?

1 A Separate interviews. They're, you know --
2 when you say "all at once," are you talking about
3 interviewing all the CB&I people all at once or was
4 all the Bechtel people there at the same time?

5 Q That was vague.

6 How many times were you interviewed?

7 A I don't have an exact number. Several. I
8 mean, we were interactive with them the whole time
9 they were on-site. I just don't remember how long
10 they were on-site, so...

11 Q When you say "interactive," what kind of
12 interactions was occurring between your group and
13 Bechtel?

14 A Providing schedule information or just
15 answering questions from their project controls
16 group or from their construction group.

17 Q Was there any information they asked for
18 that you weren't able to provide them?

19 A None.

20 Q The interviews that you had with Bechtel,
21 were you the only one being interviewed or were
22 other folks from the consortium also being
23 interviewed?

24 A Others. Aaron Tibbetts from my group, he
25 and I represented the schedule piece. Lisa Cazalet

1 represented the cost and the risk side.

2 Q Did you take any notes during these
3 interviews?

4 A Not that I remember. Maybe a note to,
5 hey, provide report XYZ.

6 Q Do you recall what they asked you about?

7 A Not specifically.

8 Q Schedule?

9 A Yeah. Yeah. I mean, you know, that's
10 pretty broad but yet pretty detailed, you know. So
11 yeah, I -- it's hard.

12 Q No. That's fine.

13 What were you told about what information
14 to provide to Bechtel?

15 A None.

16 Q You --

17 A Open book.

18 Q So you weren't given any specific
19 instructions?

20 A No.

21 Q Just to give them what they needed?

22 A Yes.

23 Q And who told you that?

24 A Ken Hollenbach, who was our -- our site VP
25 for CB&I at the time.

1 Q At the time that Bechtel was performing
2 this assessment, were you aware that Bechtel was
3 assessing the schedule for the project?

4 A Yes.

5 Q How did you become aware of that?

6 A Through the information they were seeking.

7 Q Did they ever tell you they were assessing
8 the schedule?

9 A I don't remember specifically.

10 Q But from their request, it was clear to
11 you that they were assessing the schedule?

12 A Absolutely.

13 Q Did you ever receive a copy of Bechtel's
14 written schedule assessment?

15 A Never.

16 Q Have you seen it as of now?

17 A Only when it became a public document.

18 Q Do you know why you were not given access
19 to the Bechtel schedule assessment when you were on
20 the project?

21 MR. RYAN: Object to form.

22 THE WITNESS: I do not.

23 BY MR. COX:

24 Q Are you disappointed that you were not
25 given Bechtel's schedule assessment at the time you

1 were on the project?

2 MR. RYAN: Object to form.

3 THE WITNESS: I couldn't answer that --

4 MR. KEEL: Object to form.

5 THE WITNESS: -- you know.

6 BY MR. COX:

7 Q Did you have any reaction to finding out
8 that there was a written schedule assessment and
9 realizing that you weren't provided it at the time?

10 A No.

11 Q Once you reviewed it, what did you think
12 of it?

13 MR. KEEL: Object to the form.

14 THE WITNESS: I had no opinion.

15 BY MR. COX:

16 Q It didn't cause you to have any thoughts
17 about the conclusions they had reached?

18 A I had no opinion.

19 MR. RYAN: Object to form.

20 MR. KEEL: Same.

21 BY MR. COX:

22 Q Did you wish you had seen it earlier?

23 MR. RYAN: Object to form.

24 MR. KEEL: Same.

25 THE WITNESS: I have no opinion or no

1 comment.

2 BY MR. COX:

3 Q Were you aware that at a certain point in
4 time, Westinghouse entered into an amendment to the
5 EPC contract that is commonly called the fixed price
6 option?

7 A State your question again.

8 Q Sure.

9 Did you become aware at a certain point in
10 time that Westinghouse and SCE&G had entered into an
11 amendment to the EPC contract that was called the
12 fixed price option?

13 MR. RYAN: Object to form.

14 THE WITNESS: That's -- that's outside of
15 my responsibilities, no.

16 BY MR. COX:

17 Q You didn't become aware of that?

18 A At what point in time? Be more specific
19 about at what point in time.

20 Q Well, after it happened.

21 A Well, I mean, we all knew after it
22 happened.

23 Q That's all my question is, if you knew it
24 happened.

25 A Yeah, I did know it happened after the

1 fact, but I didn't have leading information that it
2 was going to happen.

3 Q Well, it was just setting up some more
4 questions, really. I wanted to see if you had some
5 general awareness of an amendment being issued.

6 The question I wanted to ask you is:
7 After that point in time, did you notice any
8 difference in SCE&G's interactions with you, as far
9 as their review of your schedule?

10 MR. KEEL: Object to form.

11 THE WITNESS: No.

12 BY MR. COX:

13 Q Did you continue to have the same meetings
14 with them?

15 A No changes.

16 Q Did you detect any change in interest on
17 their part, as far as the accuracy of the schedule?

18 A No.

19 Q Did the nature of your discussions with
20 them change at all after that point in time?

21 A No.

22 Q Was there a certain point in time where
23 you concluded that the schedule that you had for the
24 project was not going to be met?

25 MR. RYAN: Object to form.

1 THE WITNESS: Restate.

2 BY MR. COX:

3 Q Sure.

4 Was there a certain point in time on the
5 project, with respect to the last schedule you had
6 on the project, so -- let's back up a bit.

7 Do you recall what the last schedule you
8 had on the project called for with respect to
9 substantial completion dates?

10 A Not exact dates, but I know that Unit 2
11 specifically was not meeting the substantial
12 completion date on July 31st, 2017. I do not
13 remember specifically about Unit 3.

14 Q So you're talking about at the date of
15 abandonment; is that correct?

16 A Yes. You asked me last.

17 Q Right. And -- well, that's a good
18 starting point because my question for you is: At
19 what date did you realize that Unit 2 would not make
20 that substantial completion date?

21 A Without being able to look at a lot more
22 documentation and stuff, I can't tell you. I know
23 it wasn't July the 31st, 2017. I know it wasn't
24 that date. It would have been prior to that, but I
25 don't know specifically what date the schedule issue

1 did not support the substantial completion. I'd
2 have to have documentation in front of me.

3 Q Were there any discussions before the
4 abandonment date of the need to do another schedule
5 review to come up with a new completion date?

6 A With all the effort that was going on in
7 late 2016 and 2017, we knew that there was going to
8 be a established -- a new schedule would be
9 established.

10 Q What -- what information led you to know
11 that?

12 A The -- the estimates that were rolled out
13 in -- in late '16, early '17.

14 Q And those estimates were showing that the
15 project wasn't going to be able to make the current
16 schedule?

17 A The information would have made it very
18 difficult to meet the current substantial completion
19 dates.

20 Q Was there any type of workshop that was
21 occurring to identify a new date, completion date,
22 prior to abandonment?

23 A At what point?

24 Q After it became clear that the dates, the
25 completion dates established in 2016 weren't going

1 to be met.

2 MR. KEEL: Object to form.

3 THE WITNESS: Let me restate that.

4 I don't know that the substantial
5 completion dates couldn't be met.

6 What I do know is that the schedule at the
7 current time was not supporting substantial
8 completion. We had not had any workshops at
9 that point to look for any kind of additional
10 mitigation efforts to recover the schedule at
11 that point in July of '17.

12 BY MR. COX:

13 Q In your experience, would that have been
14 the next step to occur before resetting the dates,
15 is to look at additional mitigation efforts?

16 A Ask me the question again.

17 Q In your experience, would that have been
18 the next step to occur before resetting the dates,
19 is to look at additional mitigation efforts?

20 A I think that could have been one option.

21 Q What were the other options that could
22 have been taken?

23 A I can't think of one right now.

24 Q Mr. Elam, I'm going to check my notes real
25 quick, and I think I'm almost complete.

1 A Good deal.

2 Q Mr. Elam, have you ever worked with
3 Bechtel before your interviews with them on the
4 V.C. Summer project?

5 A Never.

6 Q From your experience on the project, did
7 Fluor's involvement on the project increase the
8 level of productivity?

9 A That's not my area of expertise.

10 Q From -- from your experience or your role
11 on the project, were you able to -- are you able to
12 comment on whether Fluor's involvement was
13 beneficial to the schedule?

14 A Again, I don't -- I can't answer that.

15 Q What is a schedule constraint?

16 A A constraint is a means by which you can
17 tell an activity, "I don't want you to start before
18 this given time," even though logic may say it
19 could. Okay. Or you can use a constraint to tell
20 an activity, "Hey, you can't finish later than
21 this." Okay.

22 So it's an artificial way to be able to
23 dictate to the schedule the outcome of a certain
24 string of logic or a given activity. It's a way to
25 get it to happen at a certain time in -- in the

1 schedule.

2 Q What is the purpose of a constraint on a
3 nuclear construction schedule?

4 A There's 365,000 ways to use them. There's
5 no one given answer. Okay. If you have a specific,
6 I'll try to answer your question, but as a general
7 rule, there's -- there's not one -- there's not one
8 rule for why you would use one.

9 Q What's the most common reason that you
10 would constrain an activity on a nuclear
11 construction schedule?

12 A Again, I -- there is no one clear-cut
13 reason. There's thousands of reasons to want to use
14 a constraint.

15 Q Does a constraint -- does a constraint
16 result in an activity having an artificial
17 completion in that it's being provided a date that
18 cannot be obtained?

19 A Read that back.

20 Q Let me rephrase it.

21 Can a constraint be used to dictate a
22 certain event is going to occur at a certain time
23 even though, in reality, there's no chance that it
24 will occur on that date?

25 A Yes.

1 Q And why is that done?

2 MR. KEEL: Object to the form.

3 THE WITNESS: Without a specific, I can't
4 answer the question. There is -- there is
5 reasons, there's times that you would want to
6 use a constraint to control a given evolution.
7 Okay. Without a specific, I can't -- I can't
8 provide any better answer than that.

9 It's -- if you're asking me if it's an
10 acceptable practice or if it's commonly done, I
11 can tell you that, yes, it is an accepted
12 practice and it is commonly done, not only in
13 nuclear, but any other form of scheduling.
14 Okay.

15 It can be abused, okay, but it's totally
16 acceptable to use a constraint. We use
17 constraints in a certain way, if that's where
18 you're -- if that's where you're headed. Okay.
19 So we had -- we had reasons. We monitored
20 constraints on a daily basis, and we knew
21 exactly why we were using a constraint.

22 BY MR. COX:

23 Q And would you use a constraint on the
24 project when you had information that showed you
25 that the constraint set -- set a date that was

1 unable to be met?

2 A No, because -- some scheduling 101:
3 Critical path, zero float. We talked about in some
4 of these documents having negative float, being 101
5 days late. If you didn't use a constraint, you
6 would not know you're late, because the constraint
7 makes that evolution go negative. That's a negative
8 101.

9 If we didn't put a constraint on
10 substantial completion in that case that we alluded
11 to a while ago in one of the exhibits, then the
12 variance would always be zero because the activity
13 would have moved 101 days out. Okay. But it would
14 still be zero total float, and you would not be able
15 to distinguish that you were 101 days late unless
16 you did math to say, "Hey, my date was June. Now
17 it's September." Okay. So there's reasons to use
18 constraints within the schedule.

19 Q So you don't want to change the date on
20 the critical path because the information you
21 receive will tell you whether you're negative on
22 that path; is that right?

23 A That's correct.

24 Q On the noncritical paths, would you
25 implement the same constraint or would you allow the

1 date to fluctuate because it's not a critical path
2 and it -- and it's not going to affect the
3 substantial completion?

4 A No, we would not use them necessarily on
5 other paths.

6 Q Would you have some logic that would allow
7 the constraint to take effect on a noncritical path
8 to let you know when it was -- the event was so far
9 out of tolerance that it was becoming critical?

10 A That's a possibility. You would never
11 have negative float if you didn't use a constraint
12 somewhere.

13 Q Do you use constraints in creating a
14 schedule?

15 A Possibly.

16 Q On the project, did you ever constrain the
17 substantial completion dates?

18 A Sure.

19 Q How did you do that?

20 A Put a constraint on it: Finish no later
21 than this date. That's how we get the negative 101
22 days.

23 Q And once you establish that constraint,
24 would you then start to build the schedule up to
25 that substantial completion date?

1 MR. KEEL: Object to form.

2 THE WITNESS: Typically, no, that's not
3 the way you would do it.

4 BY MR. COX:

5 Q How would you typically do it?

6 A You would lay the -- you would lay the
7 schedule out. And when we talked about critical
8 path very early in this conversation, so it's the
9 longest string of series activities from point A to
10 point B. Does that meet your desired end date? Yes
11 or no? Okay.

12 Just say it came out to July, and you
13 really wanted it to be in June. Okay. So you would
14 constrain it to June. And then you would look for
15 the mitigation efforts, okay, in that longest string
16 of activities, which may be over a five-year period,
17 a lot of time, to look for 30 days in that string.
18 Okay.

19 So, you know, if you -- just to give you
20 an example: You're working five days a week.
21 You've got a 20 -- you've got a 20-day duration.
22 That's a month. Okay. I change that to six days a
23 week. I've already gained four days out of that
24 period. Okay.

25 So -- or if I took that 20 days and put it

1 to working 20 hours a day instead of 10 hours a day,
2 I'm doing 20 days' worth of work in 10 days. That's
3 what your assumption is.

4 So there's a lot of ways over that three-
5 or four-year period of time that you're looking at
6 you're 30 days late and you really want this plan
7 back in June. There's a lot of opportunity in four
8 years' worth of series activities to do some
9 mitigation.

10 Q In your experience as a construction
11 scheduler, have you ever been brought in as a third
12 party to assess the schedule that's being used on a
13 project?

14 A No.

15 Q And --

16 A Can you --

17 Q Sure.

18 A Restate your question again.

19 Q Sure.

20 So you're familiar with the fact that
21 Bechtel came in and assessed the V.C. Summer
22 project, correct?

23 A Yes.

24 Q Have you ever, in your experience, been
25 called on to do a similar assessment?

1 A Like that, no.

2 Q And we talked a little bit about your
3 background, but I didn't go into your educational
4 background. Can you explain your post-high school
5 education, if any?

6 A Yes. I went to trade school. I was an
7 electrical apprentice. And after I got out of
8 apprenticeship school, I was a journeyman
9 electrician.

10 And I worked my way into an electrical I&C
11 type testing background. And then I become what's
12 called today, I was a planner who planned work for
13 others to -- or craftsmen to go implement. And
14 then -- that was at about age 27.

15 Then I became a scheduler in 1979, and
16 I've been doing that ever since. So '72 to '79, I
17 went through an apprenticeship program, testing
18 environment and work planning.

19 Q Do you know when your next trip to the UAE
20 is scheduled?

21 A Friday.

22 Q And do you know when you'll be back in the
23 states?

24 A Not exactly.

25 Q Do you know if you're scheduled to be gone

1 the month of November?

2 A Yes.

3 MR. COX: I have no further questions.

4 Thank you for your time, Mr. Elam.

5 THE WITNESS: Thank you.

6 MR. RYAN: Do you want a break or keep
7 going?

8 THE WITNESS: Let's go.

9 MR. RYAN: Take a break?

10 THE WITNESS: No. Let's roll.

11 MR. RYAN: Okay. Your show.

12 THE WITNESS: I may in five minutes, but
13 right now I'm good.

14 MR. RYAN: All right. Sure.

15 - - -

16 EXAMINATION

17 - - -

18 BY MR. EVANS:

19 Q Mr. Elam, my name is Jerry Evans, and I
20 represent the ratepayers in the state court action.

21 And as you just referenced, when you need
22 a break, let me know, and we will certainly
23 accommodate you. And I will try and be as efficient
24 as I can.

25 I'd like you to direct your attention to

1 Exhibit 1.

2 A (Witness complies with request.)

3 Q And particularly, I'd like to talk about
4 the assumptions that are listed beginning on page 7.

5 A Okay.

6 Q Are these assumptions that you came up
7 with or were they provided to you by -- by some
8 other party?

9 A No. This is -- the assumptions and stuff
10 are the combination of my group, senior management
11 team, and the department managers for these issues.

12 Q Okay. What about SCE&G? Would they have
13 participated in providing any of these assumptions?

14 A No, sir.

15 Q Okay. The first one, Overall Project,
16 sounds logical enough. "Engineering, procurement,
17 construction, and startup resources will be
18 available as planned."

19 What I'd like to know is: At this point
20 in time, did you have any history or knowledge that
21 engineering, procurement, construction, resources
22 had not been available when needed?

23 A No, sir, I do not.

24 Q Okay. What about the second assumption,
25 "Engineering assumes no additional scope of field

1 work resulting from remaining engineering due to
2 regulatory changes"? Well, let me finish my
3 question.

4 What -- what assurances did you have to
5 make that a reasonable assumption? What -- how did
6 you verify that this was a reasonable assumption?

7 MR. RYAN: Object to form.

8 MR. KEEL: Same.

9 THE WITNESS: I didn't.

10 BY MR. EVANS:

11 Q Okay. And had you had, at this point in
12 time, any historical knowledge that there had been
13 problems resulting from regulatory changes?

14 A Sure.

15 MR. RYAN: Object to form.

16 BY MR. EVANS:

17 Q And that had impacted the schedule?

18 A Sure.

19 Q And under "Licensing," the second one that
20 says: "The owner, SCE&G, will incorporate necessary
21 licensing changes in a manner that does not delay
22 the IPS."

23 First of all, what is IPS?

24 A Integrated project schedule.

25 Q Again, did you do anything to -- to verify

1 the reasonableness of this assumption?

2 MR. RYAN: Object to form.

3 THE WITNESS: After the presentation, we
4 identified the areas of concern that SCE&G
5 would need to work on.

6 BY MR. EVANS:

7 Q Okay. And were you at this appointed time
8 aware that there had been licensing changes that did
9 affect the schedule?

10 A Was I aware of, at this time --

11 Q Yes.

12 A -- there had been licensing changes made
13 to support the schedule?

14 Q That impacted the schedule.

15 A I would say yes, or we wouldn't have
16 written this line item in here.

17 Q Okay. So --

18 A Okay.

19 Q -- the fact that it's listed as an
20 assumption means this is something we should have
21 some concern about?

22 A When we were doing these scenarios, I'm
23 pretty sure, the way this reads, that we ran into
24 issues with the SCE&G activities associated with
25 licensing. And we made changes to say, "Here's what

1 you have to do in order to support this schedule."

2 Does that make sense?

3 Q It does. Thank you.

4 And just one more thing on this exhibit.

5 If you'd turn to pages 11 and 12, the BLRA Milestone
6 Tracking.

7 A (Witness complies with request.)

8 Q You explained earlier what the delta
9 months meant, you know, that the extent to which a
10 project was negative to the reset milestone date,
11 correct?

12 A Yes, sir.

13 Q Okay. And BLRA milestones were presented
14 in monthly reports, correct?

15 A Yes, sir.

16 Q And I've seen those. And depending on the
17 milestone, in some cases the delta months increases
18 over time, correct?

19 A Yes, sir.

20 Q That delta number can increase, and that
21 will show up on the schedule, but that wouldn't --
22 it can increase and increase, but that itself would
23 not change the substantial completion date. Am I
24 correct?

25 A Not true.

1 Q Not true. Explain to me how that could or
2 could not.

3 A Depending on whether one of these BLRA
4 milestones is in the critical path, okay, and its
5 variance -- depending on whether one of these BLRA
6 milestones don't have enough float --

7 Q Okay.

8 A -- okay, and the variance becomes greater
9 than the amount of float that the activity had, it
10 could impact substantial completion.

11 It's kind of a complicated answer I gave
12 you if you don't really understand the schedule.
13 But, you know, if -- if the Base Load Review Act has
14 60 -- has 20 days of float on it, and the variance
15 to where it was originally set is greater than that,
16 then it's beginning to impact something. It doesn't
17 mean it's beginning to impact critical path, but
18 it's having a downstream effect on something.

19 And whatever it's impacting, if it were to
20 only have 10 days of float, and we continued to not
21 meet the date, and the variance got bigger and
22 bigger and bigger, then it would eat that 10 days of
23 float up and start impacting the next activity
24 downstream, which could be critical path or some
25 other path leading into critical path.

1 Q And at what point do you say to the
2 owners, "We have a problem. We now cannot meet the
3 scheduled operational date"?

4 A As soon as it's identified --

5 Q Okay.

6 A -- you know. And, you know, the criteria
7 for the BLRAs was plus 18 months. So we had
8 specific watches on anything that was 10 or greater.
9 So we had discussions, you know, the client with us
10 and us with the client, about those -- about those
11 BLRA milestones.

12 Q And prior to this schedule reevaluation in
13 mid 2014, what is the prior time that there had been
14 an adjustment to the substantial completion date?

15 A You know, without -- without some
16 documentation, I can't answer. You know, it's
17 just -- it's been -- there was a few of those and
18 too long ago for me to remember.

19 Q Just one more question on this document.
20 The last column of this chart, it says,
21 "Internal Notes." And I just wanted to ask you
22 about one of them. The second notation in that
23 column on page 11, "There was a delay due to
24 schedule refinement and schedule resequencing."

25 I just wanted you to explain to me what

1 that meant. How would that cause a delay?

2 A You know, that -- that specific one is a
3 Westinghouse item.

4 Q Okay.

5 A And I do not have the answer for that.

6 Q And this appears on the schedule based on
7 information in this case that Westinghouse had given
8 to you?

9 A Right. There was certain ones of these
10 that Westinghouse proper took care of, like
11 equipment and stuff, and that's what that is,
12 refueling machine. And that would have been between
13 them and the vendor that was manufacturing that
14 piece of equipment. And I'm -- I just -- I don't
15 know.

16 Q You used the term earlier that you had a
17 deterministic schedule rather than a risk-based
18 schedule. Do you recall that?

19 A Yes, sir.

20 Q So is it the case that you did not build
21 contingencies into your schedule?

22 A We did not.

23 Q Was there any way to look at your schedule
24 and identify potential float?

25 A Your word "any" is really big. It's kind

1 of like "all."

2 Possibly. I mean...

3 Q But your schedule was designed to show
4 actual float rather than potential float. Is that
5 an accurate thing to say?

6 A It was actual float, yes.

7 Q Let me show you an exhibit.

8 - - -

9 (Construction Performance Meeting, WE
10 12/28/14, SCANA_RP0422865-422878, marked
11 Elam Exhibit Number 4 for identification.)

12 - - -

13 BY MR. EVANS:

14 Q And if you want to take a minute to look
15 at that, I will tell you that the only question I'm
16 going to ask you about is on the pie chart, the
17 second to the last page.

18 A (Witness complies with request.) Okay.

19 Q Is this a document that you're familiar
20 with?

21 A Yes.

22 Q Did you participate in construction and
23 performance meetings?

24 A Yes.

25 Q Okay. This -- the exhibit we've just

1 marked has the starting Bates number
2 SCANA_RP0422865.

3 MR. EVANS: And I'm directing the witness'
4 attention to the second to last page, which
5 ends in Bates 877.

6 BY MR. EVANS:

7 Q Sir, this is a pie chart that's labeled,
8 "Schedule Adherence Reasons." Can you tell me what
9 is being depicted in this chart?

10 A So this schedule adherence, we monitored
11 on a weekly basis the number of activities that were
12 scheduled to start or finish within that seven-day
13 period. Okay.

14 And this pie chart represents in
15 percentage form the reason either an activity did
16 not start or did not finish. So we were trying to
17 get our hands around and trend what -- what are the
18 most relevant issues for us not being able to start
19 or complete an activity within a seven-day window.

20 Q Would this chart apply to a one-week
21 period or is it cumulative?

22 A This is week ending, so it would be -- it
23 would be on a weekly basis.

24 Q Okay. And there are some descriptions
25 here, "Design, Material, Inadequate Schedule,"

1 things like that. But the largest one, 50 percent,
2 is called "Institutional Delay." What does that
3 mean?

4 A I can't answer that. It's been -- it's
5 been too long.

6 Q Wow. Because that was fully half the
7 delays in that week.

8 A Yes. I just can't answer.

9 Q Okay.

10 A Other than, if you look at the other ones,
11 they are pretty good reasons. Okay.

12 Q The other reasons are sort of
13 self-defining.

14 A Right. So, I mean, you're getting the
15 gist out of this part and, you know...

16 Q Okay.

17 A I used to ask my guys, "What does that
18 mean?"

19 Q Who would be the best person to tell me
20 about construction delays in this chart? Who would
21 be the best person?

22 A Honestly, me; and I don't know.

23 Q Okay. Well, I appreciate your honesty,
24 sir.

25 On Exhibit 2, on -- page 5 of that

1 "Acceleration Review - Work Shifts," do you see
2 that?

3 A Yes, sir.

4 Q You explained the data under the column
5 "Calendar," in terms of applying hours a day and the
6 days and the work shifts.

7 Is this the type of workforce data that --
8 that had traditionally been included in your
9 schedule?

10 A Yes. The -- looking at the schedule
11 proper, you know, this -- this information is -- is
12 there for -- for anybody to review. You can look at
13 any one activity and -- in the schedule and see its
14 related calendar for work shifts.

15 Q And was this -- were you getting data from
16 the various departments on their actual labor force
17 when you were doing these estimates?

18 A When we were doing these scenarios, we
19 were telling them what -- we were telling
20 construction management, "Here's what you're going
21 to have to do to be able to meet these dates."

22 So in this schedule workshop, okay, we
23 were developing the models that said, "Okay. Here's
24 what we've done to be able to meet this date. Like
25 this is all centered around that September date.

1 And specifically, between December of '18 and
2 September of '18, what did we have to do to be able
3 to pick up that three months?"

4 So that's specifically why this page is in
5 there that, hey, you know, out of, you know, this
6 is -- there's 58, 77, 100 -- 142 activities out of
7 20,000 that we had to increase the working hours on
8 to be able to move the schedule end date from
9 December to September. That's specifically why.
10 They wanted to specifically be able to see what the
11 mitigation efforts were that we did to pick up that
12 three months.

13 Q And do you know if these workforce
14 requirements were met?

15 A Well, we didn't use that scenario. We did
16 not use the September scenario as an actual
17 scenario. We went back, I believe, with the
18 December of '18 established schedule.

19 Q Okay. And did that include work --
20 similar workforce requirements that would be listed
21 on a chart?

22 A Sure. I mean, there were -- there were
23 other activities, even to meet December, that we had
24 to work double shifts on to be able to try and
25 maintain the schedule.

1 Q And as far as you know, were those
2 requirements for workforce met?

3 A As far as I know, yes.

4 You know, that's -- let me reclarify that,
5 because that's not in my purview. I don't know the
6 answer to that.

7 Q Were you, in general, aware of any
8 problems of worker shortages?

9 MR. KEEL: Object to form.

10 THE WITNESS: Still, again, that's
11 construction management.

12 All I can say is, hey, either you got to,
13 you know -- I mean, the schedule is a model,
14 and the duration for a given activity is X. If
15 they can get to activity X in that duration
16 with two men -- that goes back to your PF
17 comment -- you know, it doesn't really matter
18 to me scheduling how you get there. I just
19 want you to hit that date, because if you can
20 hit that date, it doesn't impact something
21 else.

22 BY MR. EVANS:

23 Q You mentioned at the time that
24 Westinghouse took over part of CB&I, you then became
25 an employee of Westinghouse, correct?

1 A That's correct.

2 Q Did your team that had been with you when
3 you were a CB&I employee, did they come with you to
4 Westinghouse?

5 A Yes, sir. We had very little perturbation
6 over the eight or nine years with the schedule team.

7 Q And you also mentioned that in coming up
8 with the integrated project's schedule, there was a
9 Westinghouse portion and a CB&I portion. Is that
10 correctly your testimony?

11 A In the early days, okay, there was
12 Westinghouse engineering, procurement, licensing;
13 there was CB&I engineering, procurement. Okay.

14 Then there was -- did I say that right?
15 There was Westinghouse engineering, procurement.
16 There was Shaw engineering, procurement,
17 construction, commissioning.

18 And then it began -- then Shaw to CB&I,
19 the transition from Shaw to CB&I; and then from CB&I
20 to Westinghouse/WECTEC. Some people went to
21 Westinghouse, some people went to WECTEC.

22 Q Okay. Was anyone from SCE&G -- did they
23 have a role in the day-to-day schedule making?

24 A No. However, we did have some SCE&G
25 licensing activities in the schedule that we

1 reviewed a few minutes ago, okay, which were, you
2 know, Westinghouse prepares it. Okay. They send
3 the transmittal to the -- to SCE&G. And then SCE&G
4 is the only one that could submit the licensing
5 information to the NRC.

6 So we did schedule their activities for
7 that, and we would consult them on where they were
8 with progress on their activities.

9 Q Okay. You testified earlier that you
10 never felt pressured to meet a certain completion
11 date; is that correct?

12 A That's correct.

13 Q Was there no one from SCE&G who was
14 expressing to you the importance of meeting a
15 completion date?

16 A You need to clarify at what point, or
17 daily or -- you know, I'm not sure I understand your
18 question well enough to be able to answer it.

19 Q In the times you were in meetings
20 discussing the schedule that included
21 representatives from SCE&G -- and certainly there
22 were those meetings, yes?

23 A Yes.

24 Q Was anyone from SCE&G expressing any
25 opinion at all on the importance of meeting the

1 completion dates?

2 A I think the question is a little vague, so
3 I don't know exactly how to answer it.

4 There was certainly always SCE&G people
5 available or in schedule review meetings. They had
6 their comments. You know, they made us go back to
7 the board and look for mitigations at certain
8 points.

9 You know, if your question is along the
10 lines, "Did they just not care?" the answer is no.
11 We had a lot of interaction back and forth.

12 Q Was there any point, prior to the
13 abandonment of the project, that you considered the
14 challenges of meeting the schedule to be such that
15 the project would not be completed?

16 A No, sir.

17 Q Did you ever hear that view expressed by
18 anyone from SCE&G?

19 A No, sir, I did not.

20 MR. EVANS: Thank you. That's all the
21 questions I have.

22 THE WITNESS: Thank you, sir.

23 Can we take five?

24 MR. KEEL: Absolutely.

25 THE VIDEOGRAPHER: The time is 4:47, and

1 we are off the record.

2 (Recess in the proceedings from 4:47
3 to 4:54.)

4 THE VIDEOGRAPHER: The time is 4:54 p.m.,
5 and we are back on record.

6 - - -

7 EXAMINATION

8 - - -

9 BY MR. KEEL:

10 Q Mr. Elam, we met shortly before your
11 deposition, but again, my name is Brandon Keel and I
12 represent SCE&G and SCANA in these matters. And I
13 just have a few more questions for you, and then
14 we'll wrap up your deposition. Okay?

15 A Okay.

16 Q I believe you testified in response to
17 Mr. Cox's questioning that you first started on the
18 VPS project -- sorry -- V.C. Summer project in
19 December of 2008; is that right?

20 A That's correct.

21 Q And when did you finish working on that
22 project?

23 A I finished working on the project 7/31 of
24 2017, and ceased employment with WECTEC on 8/31.

25 Q Throughout your time working on the

1 project at V.C. Summer, is it fair to say that you
2 always performed your responsibilities to the best
3 of your ability?

4 A That's correct.

5 Q Is it fair to say that throughout your
6 time working on the project, that whenever you
7 communicated information about the project, you did
8 so honestly?

9 A I did.

10 Q And your primary responsibility for the
11 project was scheduling?

12 A That's correct.

13 Q Is it fair to say that whenever you
14 provided information regarding the schedule of --
15 for the project, you believed it to be accurate?

16 A Yes.

17 Q Okay. Is it fair to say that whenever you
18 provided a schedule for the project, that you
19 believe it reflected the best available information?

20 A Yes.

21 Q And you've already testified, I believe,
22 in response to Mr. Cox's questioning, that at the
23 time you proposed any schedule for the project, you
24 believed it was achievable?

25 A That's correct.

1 Q And to the extent that there were delays
2 along the way on the project, the consortium was
3 putting in place various mitigation strategies that
4 were believed to be sufficient to meet the projected
5 completion dates; is that fair?

6 A That's correct.

7 Q And I want to talk a little bit more about
8 the scope of the work that goes into developing a
9 project of this nature.

10 I believe you testified in response to
11 Mr. Cox's questioning that you have basically been
12 doing scheduling for major construction projects for
13 the last 39 years; is that right?

14 A Without doing the math, I'll take your
15 word for it. That would be close anyway.

16 Q Since 1979?

17 A Right.

18 Q Okay. And on this particular project, you
19 testified that you had your own team of schedulers
20 that varied over the course of the project, but
21 ended with roughly 30 employees working underneath
22 you; is that right?

23 A Approximately, yeah.

24 Q And they were working full-time on
25 scheduling issues?

1 A That's correct.

2 Q Okay. In addition to your team of
3 employees, I took it from your prior testimony that
4 there were individuals within the different
5 departments on the project that were providing you
6 information for scheduling. Is that right?

7 A When you say me, just clarify that. They
8 were providing schedule updates, maintenance,
9 modifications to the schedule. I only own the
10 schedule data itself.

11 So just to try to clarify, they didn't --
12 they didn't get information and come directly to me
13 and then go put it in the schedule. The information
14 they obtained from the organizations they're
15 supporting went into the schedule, it was analyzed
16 and vetted, and either it was okay or it was an
17 issue. If it was an issue, the concerns got raised
18 and passed on to whomever to get a resolution to
19 whatever the issue was.

20 Q Sure. I don't mean to you specifically.
21 But your team was responsible for the schedule
22 itself?

23 A Yes.

24 Q But the substantive information about
25 where the status of the project was in comparison to

1 certain items --

2 A That came from me, to the manager.

3 Q And just for the record, you may know
4 where I'm going with my questions. Just let me
5 finish so only one of us is talking at a time. I'd
6 appreciate it.

7 And were there particular individuals
8 outside of the scheduling team who were primarily
9 responsible for providing the scheduling team
10 information to update the schedule?

11 A So restate your question one more time.

12 Q Sure.

13 So outside of the employees working
14 directly for you, were there particular individuals
15 at different parts of the organizations who had that
16 responsibility for updating the schedule?

17 A Yes.

18 Q Do you know how many different individuals
19 were involved in that process?

20 A No, I do not.

21 Q Do you know how many different, let's say,
22 departments were involved in that process?

23 A Not specifically. And it's not
24 necessarily departments, because the schedule was --
25 the architecture of the schedule was --

1 construction-wise was by building. Okay. So you
2 had a lot of different construction superintendents,
3 general foremens, that worked with the individual
4 schedulers in their given area to support that.

5 Then, yes, you did have other departments.
6 You had -- you had another organization for
7 procurement. You know, we've been through this; the
8 engineerings, the licensing, so -- the commissioning
9 people. So I don't have a specific number, but a
10 lot of people.

11 Q Okay. Is it fair to say that, outside of
12 the 30 employees working on your team, that dozens
13 of other people were involved in scheduling?

14 A Let me be sure I understand your question.
15 So besides the 30 that worked to me, there was --
16 you used the word "dozen"?

17 Q Were there dozens of other people who were
18 involved in the process of providing information to
19 update the schedule?

20 A The construction schedule?

21 Q The overall schedule.

22 A Many, because there was -- there was many
23 different facets to the schedule. Okay.

24 We were controlling over 300,000
25 activities. Okay. So there's many, many people,

1 many organizations, many companies involved in the
2 overall IPS.

3 Q So my dozens comment is -- is shooting it
4 a little too low there, is what you're saying?

5 A Yes, sir.

6 Q And the main schedule was maintained in
7 the Primavera database; is that right?

8 A Primavera.

9 Q Primavera.

10 And at the end of that -- at the end of
11 the project, is it true that there were, roughly,
12 over 300,000 activities --

13 A Yes.

14 Q -- maintained in that schedule?

15 A That is correct.

16 Q Do you know how that number varied over
17 time from 2008 to 2017?

18 A I know some of it. I don't know all of
19 it.

20 Q Roughly, were there several hundred
21 thousand or over 100,000 activities reflected in the
22 schedule for years prior to the end of the project?

23 A Your question was: Was there 100,000
24 activities or so prior to --

25 Q Years prior to the end of the project.

1 A Yes.

2 Q And in addition to the Primavera database,
3 is it true that you were also responsible for
4 providing the updated BLRA milestone reports that we
5 looked at earlier?

6 A I was responsible for the construction
7 BLRA milestones. Westinghouse was responsible for
8 the other ones, which consisted mainly of either a
9 licensing issue or -- a licensing activity or a
10 procurement.

11 Q Is it fair to state that you always made
12 your best effort to ensure that the updated
13 milestone schedules you provided to the owners
14 reflected the most current information concerning
15 the project schedule?

16 A That's correct.

17 Q And do you recall, as of March of 2017,
18 what the most recent BLRA milestone report reflected
19 in terms of the status of meeting the guaranteed
20 substantial completion dates?

21 A No, I do not.

22 MR. KEEL: Let's mark that Exhibit 5.

23 - - -

24 (BLRA Milestone Tracking March 2017,

25 SCANA_RP0931787-931793, marked Elam

1 Exhibit Number 5 for identification.)

2 - - -

3 BY MR. KEEL:

4 Q Mr. Elam, I've just handed you what's been
5 marked as Exhibit Number 5 for your deposition. Do
6 you recognize this document?

7 A Yes, I do.

8 Q And what do you recognize Exhibit Number 5
9 to be?

10 A The BLRA milestone tracking report that we
11 provided info for on a monthly basis.

12 Q Okay. And if you're looking at the first
13 page of the chart, just walking through the columns,
14 the tracking ID column on the left just refers to
15 the number of the particular task; is that right?

16 A That's -- that tracking ID was unique to
17 the first time this was ever issued as a BLRA
18 document, I believe.

19 Q Okay. And then the Primavera activity ID
20 would reference where that item lines up in the
21 overall Primavera schedule?

22 A That's correct. That's a unique ID for
23 that specific activity.

24 Q Okay. Then you have a description of the
25 activity. And then the reset milestone date, as of

1 September 1, 2015, that would be a reference to the
2 active schedule; is that right?

3 A That would have -- the column that says
4 "Reset Milestone Date as of September 1st, 2015"
5 would be the last -- would be the date that, for the
6 ones not complete, would have been rebaselined and
7 approved by the ORS, PSC.

8 Q That's -- for the incomplete ones, that
9 references the most recent approved date for the
10 protected items is your understanding?

11 A Most recent, I'm not sure about.

12 Q Okay.

13 A I don't remember the last time that we
14 went through a reset.

15 Q Okay. As of --

16 A But if you say so.

17 Q Go ahead.

18 A I'm good.

19 Q All right. And then you've got the actual
20 completion date, which references either the dates
21 completed or a projection; is that right?

22 A If it says "actual," that's actual.

23 Q Okay. And then you've got the delta from
24 the months comparing the completion date to the
25 reset milestone as of September 1st, 2015?

1 A That's correct.

2 Q Okay. And if you'd turn to page 7 of 7 on
3 Exhibit 5.

4 A Yes.

5 Q And you look down the middle of the page,
6 tracking ID 133 references Unit 2 substantial
7 completion, and it has a delta of plus 6.

8 Do you see that?

9 A I do see that.

10 Q So is that saying that as of this
11 March 2017 tracking, the Unit 2 substantial
12 completion date was projected to be six months
13 behind the September 1st, 2015, date?

14 A Yes.

15 Q And then if you look down at the bottom,
16 item 146, the Unit 3 substantial completion date has
17 a delta of zero.

18 A Yes.

19 Q So as of March of 2017, the projected
20 completion date for Unit 3 was equivalent to where
21 it was set as of September 1st, 2015?

22 A Yes, it was in the same month.

23 Q And in response to Mr. Cox's questioning,
24 you made a reference to updated estimates that were
25 received sometime in late 2016.

1 Do you recall that?

2 A Yes.

3 Q I just want to ask you a few questions
4 about that.

5 Who put together those estimates in late
6 2016?

7 A Specific to a name?

8 Q No. What organization?

9 A It would have been C -- it would have been
10 WECTEC and Fluor. Westinghouse, WECTEC, Fluor.

11 Q Had you actually seen those late 2016
12 estimates?

13 A Yes.

14 Q Do you recall what they were estimates
15 for?

16 A The manhour completions for the project.

17 Q Were they estimated cost or schedule or
18 both, if you know?

19 A Repeat your question.

20 Q Sure.

21 They were -- you said the estimates that
22 Fluor and WECTEC put together in late 2016 were the
23 manhour completions for the project. Is that right?

24 A That's correct.

25 Q Okay. Now, does the manhour completions

1 for the project impact cost more than schedule?

2 A That's not my area of expertise.

3 Q Okay. Do you --

4 A Cost is not.

5 Q Sorry. Go ahead. What did you say?

6 A Cost is not my area of expertise.

7 Q Yeah. Do you know whether these late 2016
8 projections from Fluor and WECTEC were focused on
9 the cost to complete the remaining part of the
10 project?

11 A I can't answer that.

12 Q Do you recall if the updated estimates in
13 late 2016 from WECTEC and Fluor were revised
14 projections of the schedule for the project?

15 A The estimate itself has nothing to do with
16 the schedule. It's data.

17 Q The manhours to completion wouldn't
18 necessarily impact the schedule?

19 A I didn't say that.

20 Q Okay.

21 A Okay. The question you asked was: Did
22 the manhour estimates affect the schedule?

23 Q I asked: Do you recall if the updated
24 estimates in late 2016 from WECTEC and Fluor were
25 revised projections of the schedule for the project?

1 A They were -- they were revised
2 projections, but schedule is not in the equation at
3 that point.

4 Q Did Fluor and WECTEC ever get to a point
5 where they were putting together a revised schedule
6 for the project?

7 A There were many scenarios ran with the
8 revised estimate manhours in late '16 and early '17.
9 So there was a lot of -- a lot of work done with the
10 new numbers.

11 Q Okay. So there was a lot of work being
12 done in that time period, late 2016, early 2017,
13 with the revised estimates of manhours. But do you
14 know whether that -- they ever completed that work?

15 A When you say "complete," further define
16 "complete." Help me out there with your question.

17 Q Sure.

18 As far as you know, prior to the
19 Westinghouse's bankruptcy filing, did Fluor and
20 WECTEC finish their work in coming together with
21 new revised estimates for the cost or schedule of
22 the project?

23 A And when you say "complete," again, are
24 you asking me if the information was ever presented
25 to SCE&G, the final outcome of this product?

1 I'm not exactly sure where we're going
2 with the question, so I need to better understand
3 "complete" and what you mean by that.

4 Q Sure.

5 Well, let's -- let's take your example.
6 As far as you know, was the Fluor and WECTEC -- did
7 they ever present the results of their analysis to
8 SCE&G prior to the bankruptcy filing of
9 Westinghouse?

10 A Honestly, I can't remember.

11 Q That's fine.

12 A You said prior to the bankruptcy
13 announcement? Okay. I can't remember.

14 Q Mr. Cox had referenced earlier in his
15 questioning an amendment that was put together
16 for -- to the initial EPC agreement.

17 Do you recall that?

18 A I remember a question earlier about fixed
19 price, did I know something about fixed price. I
20 remember that question that he asked me.

21 Q Okay. Do you recall that there was an
22 amendment to the EPC contract in late 2015?

23 A Yes, during the acquisition by
24 Westinghouse of CB&I.

25 Q Yeah. Okay. And as part of that

1 amendment, did you understand that the consortium,
2 or Westinghouse specifically, was committing to new
3 guaranteed substantial completion dates?

4 A At what point?

5 Q Well, at any point did you understand
6 that?

7 A After -- after I became a
8 Westinghouse/WECTEC employee, yes, which was January
9 the 2nd of 2016 --

10 Q Okay.

11 A -- but not prior to.

12 Q Okay. And you understood, at least as of
13 the time you became an in-house WECTEC employee,
14 that the amendment to the EPC contract provided the
15 owners with the option of electing a fixed price for
16 the remainder of the project?

17 A Yes, sometime in the early 2016, yes. I
18 don't know exactly when, but...

19 Q Based on your experience in working on the
20 project, do you believe that Westinghouse had every
21 intention of meeting its commitments in the EPC
22 amendment?

23 A Sure.

24 Q Based on your experience, it's your
25 understanding that WECTEC was doing everything it

1 could to meet the projected substantial completion
2 dates; is that fair?

3 A Yes.

4 Q Mr. Elam, were you ever involved in
5 communicating information about the project to ORS?

6 A Yes.

7 Q And how were you involved in communicating
8 information about the project to ORS?

9 A Had a meeting once a month. After we
10 would issue the schedule information, there would be
11 a scheduled meeting with the ORS. And I was asked
12 to attend that meeting and try to answer any
13 questions, specific questions they had about --
14 about the schedule and the schedule update for that
15 month.

16 Q So did you attend these monthly meetings
17 with the ORS throughout your time working on the
18 project?

19 A I would say in the last 18 months or so.
20 I don't recall the exact date, but I know it was in
21 the latter years of the project, not at the
22 beginning.

23 Q And what type of information would you
24 communicate to the ORS during these meetings?

25 A I would answer any question they had.

1 Q Okay. When you responded to any questions
2 that the ORS had, did you always do so honestly?

3 A Yes.

4 Q Did you always provide the ORS what you
5 believed was complete and accurate information in
6 response to their questions?

7 A Yes.

8 Q Do you know what information about
9 schedule of the project was made available to the
10 ORS as part of these monthly meetings?

11 A No, I do not.

12 Q Okay. Was the information that you would
13 convey to the ORS consistent with the information
14 you would convey to the owners about the schedule of
15 the project?

16 A Yes, it was.

17 Q And the ORS personnel, during those
18 meetings, would ask questions about the status of
19 the project; is that right?

20 A Specifically about schedule-related items.

21 Q What type of questions would they ask you
22 about scheduling?

23 A I can't answer that. They typically had
24 written questions that they would ask, you know, a
25 comparison from one month to the next month. I

1 don't remember any specifics other than they would
2 have their list of questions to ask.

3 Q Okay. And when you say they would ask
4 about comparison from one month to the next month,
5 what do you mean by that?

6 A If, say, we had a critical path change, or
7 new module information that had come in, or a piece
8 of equipment, they would -- they would ask, based on
9 the previous month's schedule, "Why didn't this
10 activity drive fuel load or some other milestone
11 within the project?"

12 And we would have to explain what we did
13 to mitigate the issue.

14 MR. KEEL: Let's go ahead and mark this as
15 6.

16 - - -

17 (E-mail correspondence dated 9/8/16,
18 ORS_SCEG_00527443-527454, marked Elam
19 Exhibit Number 6 for identification.)

20 - - -

21 MR. RYAN: Are you going to ask more about
22 the attachment or --

23 MR. KEEL: I'm not going to ask about the
24 e-mail. I'm only going to ask about a couple
25 of items in the agenda and the summary on the

1 last page.

2 THE WITNESS: The agenda being page 1?

3 MR. KEEL: Yeah, page -- I think it goes
4 on. I'm not going to ask you about all of it.
5 I just have a couple of particular things I
6 want to point out. I think it goes 1 through
7 8. And then the last page is the summary. The
8 one behind that, Mr. Elam.

9 THE WITNESS: That's the same as on the
10 front.

11 MR. KEEL: There's one on the back of
12 that.

13 MR. RYAN: Let's take a look.

14 MR. KEEL: Take your time.

15 THE VIDEOGRAPHER: The time is 5:23, and
16 we are off the record.

17 (Recess in the proceedings from 5:23
18 to 5:29.)

19 THE VIDEOGRAPHER: The time is 5:29 p.m.,
20 and we are back on the record.

21 BY MR. KEEL:

22 Q Mr. Elam, before we took a break, I had
23 handed you what's been marked as Exhibit Number 6
24 for your deposition. Do you recognize this?

25 A Not really.

1 Q Okay. So the first document is just a
2 cover e-mail that's from Cynthia Lanier to Kyle
3 Young, yourself, and copying Alan Torres.

4 Do you see that?

5 A Yes.

6 Q And it says it's referring to follow-up
7 action items from last month's ORS briefing.

8 Did you see that?

9 A Yes.

10 Q And then there are three attachments that
11 are behind the documents. The first one I want to
12 ask you to -- or ask you questions about is page 1
13 that's titled, "SCE&G V.C. Summer Units 2 and 3,
14 August 23rd in 2014 -- August 23rd and 24th, 2016,
15 ORS Site Visit Agenda."

16 Do you see that, sir?

17 A Yes, sir.

18 Q Now, are these documents referring to one
19 of the regular monthly meetings that you talked
20 about earlier with the ORS?

21 A I can't answer yes or no.

22 Q Okay. Were those regular monthly meetings
23 with the ORS conducted on-site?

24 A Yes.

25 Q And then if you look down on the agenda,

1 it's got two days there. In the middle of the day,
2 Tuesday, August 23rd, 2016, refers to
3 "Scheduling/Risk Management, Terry Elam and Kyle."

4 Do you see that?

5 A Yes, sir.

6 Q And who is the Kyle referring to there?

7 A Speculating, Kyle Young.

8 Q Okay. And it looks like you were slotted
9 on the agenda with Mr. Young to discuss
10 scheduling/risk management with the ORS from 1:30 to
11 2:30 on August 23rd, 2016.

12 Do you see that?

13 A Yes.

14 Q Okay. What type of information was
15 communicated to the ORS about scheduling/risk
16 management in this meeting?

17 MR. RYAN: Object to form.

18 THE WITNESS: I answered the questions
19 that the ORS asked. I didn't present. I
20 strictly answered questions.

21 BY MR. KEEL:

22 Q Okay. Would Mr. Young have presented
23 information on scheduling/risk management?

24 A I don't know what schedule information was
25 provided to the ORS. We did not provide it. We --

1 WECTEC, Shaw, CB&I -- did not provide information
2 directly to the ORS.

3 Q Okay. But the ORS would ask you questions
4 about the schedule, right?

5 A Yes.

6 Q Based on the questions they would ask, did
7 you get the impression that they had access to at
8 least some information about the schedule of the
9 project?

10 A Yes, they would have had to.

11 Q They would have had to have had access to
12 the schedule of the project to ask the questions
13 they were asking you; is that fair?

14 A That's fair.

15 Q And would the information about the
16 schedule of the project reflect, roughly, where the
17 status of the project was in comparison to the
18 projected schedule?

19 MR. RYAN: Object to form.

20 THE WITNESS: You'll have to ask me that
21 again.

22 BY MR. KEEL:

23 Q Sure.

24 Would the type of scheduling information
25 that the ORS would have had access to, based on the

1 questions you were asked, indicate how the status of
2 the project compared with the projected dates in the
3 schedule?

4 MR. COX: Object to form.

5 THE WITNESS: The ORS could only see
6 whatever information was provided to them.

7 So therefore, I don't quite understand how
8 to answer your question about where it was
9 projected.

10 Now, you know, if your question relates to
11 the information they were provided two months
12 prior to that meeting, you know, yes, they
13 could have looked at where we forecasted to be
14 from the two months previous to the month that
15 they were actually reviewing.

16 So I'm not sure how to answer your
17 question, sir.

18 BY MR. KEEL:

19 Q Okay. Do you know if the scheduling
20 information that was provided to the ORS would
21 provide the type of variance or deltas that we've
22 seen in the different scheduling reports?

23 MR. RYAN: Object to form.

24 MR. COX: Object to form.

25 THE WITNESS: I can't answer that because

1 I don't know what kind of information they got.
2 We'll leave it at that.

3 BY MR. KEEL:

4 Q Okay. From the questions that you would
5 receive at these meetings with the ORS, did you get
6 the impression that they at least had some
7 information about how the status of the project
8 compared to the schedule?

9 A I think the information that they had
10 allowed them to compare one month to the other
11 month. The status of the project, I don't know what
12 they knew about the status of the project.

13 Q Okay. If you look down on this same page,
14 page 1 of Exhibit Number 6, under "Contractor
15 Briefings," there's a little A for "Project Status
16 and Transition," and then in parens there, "Carl
17 Churchman and Jeff Hawkins."

18 Who was Carl Churchman? Who is Carl
19 Churchman?

20 A Carl Churchman was the -- I don't know his
21 official title, but he was the head Westinghouse guy
22 on the site.

23 Q Okay. And who is Jeff Hawkins?

24 A He was the lead Fluor person on-site.

25 Q Okay. And the second bullet point down

1 here says: "Please provide the plan for
2 accelerating the production to an overall rate of
3 3 percent per month and provide a comparison to
4 historical rates." Paren, "Repeated from previous
5 meeting," closed paren.

6 Do you see that?

7 A I see it.

8 Q Do you recall being present at meetings
9 with the ORS in which there was a discussion about a
10 plan for accelerating the production to an overall
11 rate of 3 percent per month in comparison to
12 historical rates?

13 A No, I do not.

14 Q Do you have any reason to doubt that
15 this -- there was a discussion about sub bullet 2
16 here in a meeting with the ORS?

17 MR. COX: Object to form.

18 THE WITNESS: I can't answer. I don't
19 know.

20 BY MR. KEEL:

21 Q Now, if you turn to the very last page of
22 this Exhibit Number 6, the title is "August 23rd-24,
23 2016, ORS Site Visit Summary."

24 Do you see that at the top?

25 A Yes.

1 Q Okay. And in the middle of the page
2 there's a paragraph that starts in bold, "Briefings
3 by NND management." And the third sentence in there
4 says: "Terry Elam provided an update on the project
5 schedule."

6 Do you see that?

7 A Yes.

8 Q What information did you provide about the
9 project schedule to the ORS during this meeting?

10 MR. RYAN: Object to form.

11 THE WITNESS: I can't answer that. I
12 don't know the answer.

13 BY MR. KEEL:

14 Q What information would you generally
15 provide to the ORS about the schedule at these
16 meetings? I know you've said you would respond to
17 their questions, but do you recall --

18 A I responded to their questions only.

19 Q Do you recall any particular questions you
20 were asked and what information you provided in
21 response?

22 A No, I do not.

23 Q And the second to last paragraph on this
24 page, "ORS Debrief With Our Team," the second to
25 last sentence refers to: "Gary Jones reiterated his

1 pleasure with the progress of the project and hoped
2 the progress would continue."

3 Do you see that?

4 A Yes.

5 Q Were you ever present for any discussion
6 in which Gary Jones said something to the effect of
7 what's reflected in that sentence?

8 A No.

9 Q Do you know who Gary Jones is?

10 A Yes.

11 Q And who was Gary Jones?

12 A Gary Jones was a member of the ORS team.

13 Q Okay. Did you ever provide any
14 information, orally or otherwise, to Gary Jones
15 about the status of the project?

16 A Only in meetings, this meeting, if
17 specifically asked a question.

18 Q Do you recall whether Gary Jones asked you
19 questions about the project during any meetings with
20 the ORS?

21 A So your question is: During any of these
22 monthly meetings with the ORS, did Gary Jones ever
23 ask me a question?

24 Q Yes.

25 A Yes, he did.

1 Q And what questions did Gary Jones ask you?

2 A I have no clue.

3 Q Do you remember, roughly, what type of
4 questions?

5 A They would be schedule-related questions.

6 Q Okay. Do you recall Gary Jones or other
7 representatives of the ORS asking questions about
8 mitigation plans that were put in place to meet the
9 schedule?

10 MR. RYAN: Object to form.

11 THE WITNESS: Yes.

12 BY MR. KEEL:

13 Q Do you recall Gary Jones or other
14 representatives of the ORS asking questions about
15 productivity on the project?

16 A Not in -- not in my sessions.

17 Q But in other sessions, do you recall that?

18 A I have no clue.

19 MR. KEEL: I'll just look through my notes
20 here.

21 Mr. Elam, I have no more questions. Thank
22 you very much for your time.

23 THE WITNESS: Thank you.

24 MR. RYAN: Thank you. No further
25 questions from anyone?

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For the record, we'd just like to reserve the right to designate all or some of the portions of the transcript confidential.

MR. KEEL: Do you want to read and sign?

MR. RYAN: Yes, we'll read and sign.

THE VIDEOGRAPHER: The time is 5:41 p.m., and this concludes today's deposition of Terry Elam. And we are off the record.

- - -

(Witness excused.)

- - -

(Deposition was concluded at 5:41 p.m.)

- - -

SIGNATURE OF DEPONENT

I, the undersigned, TERRY ELAM, do hereby certify that I have read the foregoing deposition transcript and find it to be a true and accurate transcription of my testimony, with the following corrections, if any:

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TERRY ELAM

CERTIFICATE OF REPORTER

I, Cynthia First, Registered Professional Reporter and Notary Public for the State of North Carolina at Large, do hereby certify:

That the foregoing deposition was taken before me on the date and at the time and location stated on page 1 of this transcript; that the deponent was duly sworn to testify to the truth, the whole truth and nothing but the truth; that the testimony of the deponent and all objections made at the time of the examination were recorded stenographically by me and were thereafter transcribed; that the foregoing deposition as typed is a true, accurate and complete record of the testimony of the deponent and of all objections made at the time of the examination to the best of my ability.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof. Witness my hand, I have hereunto affixed my official seal this 15th day of October 2018, at Charlotte, Mecklenburg County, North Carolina.



Cynthia First,
Registered Professional Reporter
Notary Public
State of North Carolina at Large
My Commission expires:
August 2, 2020