

ADDENDUM I

**Excerpt of Proceedings
of
THE NORTH CAROLINA SENATE JUDICIARY II
COMMITTEE HEARING**

JULY 6, 2010

**Transcription made available
to
SENATE JUDICIARY II COMMITTEE
by
STANLY COUNTY**

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Excerpt of Proceedings
of
The North Carolina Senate Judiciary II Committee
Hearing
held
Tuesday, July 6, 2010

North Carolina State Legislature Building

In re:
The Yadkin River Project
Alcoa, Badin Lake

Question and Answer Session
of
Mr. Bill O'Rourke of Alcoa

Agenda Item:
Receipt and consideration of information related to Yadkin
River in and near Stanly County

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1 **PROCEEDINGS** (Approximately 6:00 p.m.)

2 **CHAIRMAN HARTSELL:** First let me
3 welcome you back again to apologize for the situation
4 this morning. I want to explain it to everybody.

5 Let's go back to the agenda item
6 entitled "Receipt and Consideration of Information
7 related to the Yadkin River in or near Stanly County."
8 As I'm sure you'll remember, last Thursday, a majority
9 of the Committee voted to authorize, in fact, the
10 Committee unanimously voted to authorize the issuance
11 of subpoenas to UNC TV and to Eszter Vajda. The
12 Committee sought copies of all footage in their
13 possession regarding the Alcoa Corporation activities
14 in a Stanly County, North Carolina, near the Yadkin
15 River.

16 I want to report again that UNC TV
17 voluntarily delivered the requested materials
18 yesterday, early yesterday morning, July 5th 2010.
19 Although I still have not reviewed these materials, I
20 understand they consist of 13 DVDs and a rough
21 inventory of the raw footage.

22 With regard to Ms. Vajda, who is
23 here, she was served with a subpoena, and I might add
24 at the same time there was subpoenas that sent, we
25 sent, actually what are in effect public records

1 request, two each, so it's kind of an ironic situation.
2 However, Ms. Vajda was served with a subpoena on July
3 the 1st.

4 Before we proceed with this
5 further, I would like to direct you to the attention --
6 you have on your desk a copy of GS 120 19.2. If you
7 look at subsection A, this provision allows committees
8 to require attendance of witnesses by subpoena. In the
9 last sentence it provides that committees may allow
10 sworn statements in lieu of oral testimony.

11 In addition to your copy of 120
12 19.2, you should also have a copy of an affidavit
13 executed by Ms. Vajda. Just -- I'm a little hesitant
14 to read things, but I think I'll do that just for the
15 record:

16 (Chairman reads affidavit of Ms.
17 Eszter Vajda.)

18 CHAIRMAN HARTSELL: Now, I think
19 it is incumbent upon me to explain what happened this
20 morning for which I apologize. There's a long
21 explanation and there's a short one; I will give you
22 the long one first and then I will give you the short
23 one.

24 Apparently, there were issues relating
25 to the size and the format of the files, which caused

1 unexpected difficulties that took some time to resolve.
2 Once we received the file, it could not be played until
3 we obtained the appropriate hardware.

4 The short answer we had to go from
5 a windows or an Apple to a windows operating system and
6 that's what took place.

7 Okay. Since we do not need to hold
8 a hearing or take sworn testimony, we will proceed with
9 the remainder of the Committee by hearing the program
10 and then taking any Committee members' questions
11 following that.

12 And I will acknowledge to the
13 Committee that last evening I received a request from
14 Mr. Neely asking that representatives from Alcoa be
15 given the opportunity to speak and we will do so at the
16 conclusion of the -- that opportunity will be given in
17 like manner just as we would in any other committee
18 meeting.

19 Okay. I think we are prepared to
20 begin. I want to ask my instructor have I done
21 everything I need to do?

22 UNIDENTIFIED VOICE: I believe the
23 Committee is ready to view the video.

24 CHAIRMAN HARTSELL: I would like to
25 thank Mr. Ross for his invaluable assistance in making

1 this technology work. Thank you.

2 (Video played.)

3 CHAIRMAN HARTSELL: Thank you
4 chuck?

5 MR. NEELY: Thank you very much.
6 (Alcoa.) (Indiscernible comments of introduction of
7 Mr. O'Rourke.)

8 CHAIRMAN HARTSELL: Okay. Mr.
9 O'Rourke, if you would identify yourself as a spokesman
10 for Alcoa?

11 MR. O'ROURKE: My name is Bill
12 O'Rourke, I'm a Vice President of Environment Health
13 and Safety for Alcoa Corporation.

14 Mr. Chairman and Committee Members,
15 I want to thank you for the opportunity to be here. I
16 really appreciate the opportunity to view this movie
17 with you for the first time.

18 I clearly heard the insinuations of
19 the environment, health and safety irresponsibility and
20 cover-up. What we just saw is not an accurate picture
21 of Alcoa nor Alcoa's long history with the State of
22 North Carolina. It doesn't tell you the truth about
23 our company or our environmental record.

24 I would like to share with you a
25 few important points about Alcoa.

1 Alcoa is a company with a very rich
2 history of doing what's right. We've been named one of
3 the most sustainable and environmentally responsible
4 corporations in the world.

5 Most of you are familiar with the
6 Dow Jones Sustainability Index, it's a very reputable
7 index that's global in nature, and Alcoa has been on it
8 every year since its inception seven years ago.

9 On June 25th, we filed our
10 application to be considered again for the eighth
11 consecutive year. I read that application and will
12 tell you at the end of it I'm rather proud of what
13 we're able to do as a corporation on a global nature.

14 Environment, health and safety is
15 an articulated corporate value in Alcoa. We have seven
16 articulated corporate values, and I understand so do
17 many other corporations. What does distinguish us
18 though is we do actually articulate environment, health
19 and safety as one of our values.

20 Those values for some corporations
21 are just words written on a piece of paper. I do
22 believe in my heart that we do taken seriously in
23 Alcoa, especially the environment, health and safety
24 value. We are proud of our record. Sure, we're not
25 perfect, but we're improving all the time, and we take

1 every allegation and every complaint seriously and
2 address it completely.

3 Let me talk about North Carolina.
4 When we started our operations in North Carolina nearly
5 a hundred years ago, it was long before there were any
6 environmental laws and certainly no environmental laws
7 on PCBs because they weren't even invented. Not all of
8 us understood the implications of the environmental
9 laws or the impacts of them, which we do know today.

10 When Alcoa started to learn about
11 value impacts of our operations, we stepped up and
12 started working together with state and federal
13 officials. That's our process. It's the government
14 regulations which are in place which are required to
15 have us in compliance, and we take that seriously.

16 We worked with the officials to
17 identify and address any issues that were raised in a
18 very responsible manner.

19 Since then, we've spent more than
20 \$10 million on remediation efforts at the Badin Plant,
21 and we believe we have cleaned it up. We are fully
22 compliant with North Carolina and federal environmental
23 laws. I think it's important that I say that again.
24 We are fully compliant with North Carolina and federal
25 environmental laws.

1 We are proud of our collaboration
2 with the state and federal authorities to be in that
3 position. We're proud of our cleanup record.

4 The statement of compliance is
5 rather inconsistent with some of the items that I've
6 heard in that movie, and I urge you to look closer at
7 Alcoa's record and Alcoa's situation.

8 As part of our commitment to
9 protect the environment, we studied the sentiments in
10 Badin Lake. This was near our plant. We found low
11 levels of PCBs in the sediments in a 1977 study.
12 Immediately, we let the state officials know what we
13 found, we let the community know what we found. That's
14 the Alcoa I know. When you find something wrong, you
15 disclose it and then you deal with it.

16 The state dealt with it. The State
17 determined that the sentiments, which are already
18 similar to post cleanup levels in most lakes in the
19 region, they did not pose a risk. That was a state
20 determination.

21 Since we found the low levels of
22 PCB in 1977, we continued to monitor, we monitored
23 those sediments to make sure they don't spread and they
24 are not spreading. That's one reason why the state
25 health officials even suggested that we look upstream

1 for sources of PCB contamination following the Badin
2 Lake Fish Study.

3 The movie claimed that the PCBs in
4 Badin Lake can be directly tied back to Alcoa's
5 operations. But Dr. John Rodgers, the Clemson
6 professor who was cited and quoted in the movie who
7 supposedly made that connection, backed off from his
8 claims when he was under oath.

9 In a deposition, Dr. Rodgers
10 admitted that the work in his July 27th 2009, study was
11 not a definitive fingerprint, it couldn't link the PCBs
12 in the fish back to Alcoa's operation.

13 Dr. Rodgers went on to say that
14 there was data inconsistent with the relationship
15 between the PCBs from Alcoa's plant and the fish in
16 Badin Lake. And he said there could be other sources
17 of PCB which are responsible for the PCB levels in the
18 fish in that lake.

19 The North Carolina Division of
20 Waste Management went even further. In a February 25th
21 2009 memo about Badin Lake Fish Study, that memo said
22 the source of PCBs could not be determined with any
23 certainty and they noted that there's a small pocket of
24 PCBs in sediments near Alcoa's plant that will analyzed
25 and did not pose a significant health risk.

1 The Southwest region of Badin Lake
2 where the Alcoa facility is located found only one fish
3 tissue sample, one, that was above the standard for
4 PCBs.

5 Numerous congeners not used at the
6 Alcoa facility were detected in the fish tissue samples
7 collected in Badin Lake. It's important to recognize
8 that there are 4,500 square miles that drain into the
9 Yadkin Project, and the state has already found similar
10 concentrations of PCBs in fish upstream of Badin Lake
11 near Mocksville.

12 The bottom line is Alcoa complies
13 with North Carolina environmental laws. We've gone
14 beyond the regulatory requirements. Still opponents
15 seem to be focusing attention away from a real issue of
16 relicensing.

17 Throughout the relicensing process,
18 we have worked with state agencies, environmental
19 groups and others to craft an agreement that will
20 improve water quality in the Yadkin River, provide for
21 long-term conservation of land, and protect the
22 environment. We've conducted more than 20 technical
23 studies and spent considerable time addressing these
24 issues.

25 We've spent over \$20 million on

1 these environmental tests on the Yadkin project and
2 relicensing. That's in addition to the 10 million of
3 cleanup efforts at the Badin Plant.

4 We are committed to spend \$240
5 million to operate the project, the dam project, 80
6 million of which is solely to increase the dissolved
7 oxygen in the Yadkin, and 40 million of that has
8 already been spent.

9 I want to address just a couple of
10 issues that I saw in the movie.

11 We were accused of some OSHA
12 violations and citations. I did a quick look at how
13 many OSHA citations Alcoa has received since July 5th
14 of 2005, that's a six-year period up to today.

15 In the whole United States, we have
16 received 60 citations, that's about ten per year.
17 That's in the nation.

18 In North Carolina, we have received
19 three. These are public records, you can check.

20 Look at the primary metals industry
21 of North Carolina. In that industry alone, there have
22 been 335 OSHA citations or North Carolina Department of
23 Labor citations, they sometimes inspect together or
24 have the inspections together.

25 So that means that Alcoa has less

1 than one percent of the citations in North Carolina in
2 the last six years. That's pretty low and a little
3 different than we heard insinuated in the movie.

4 Alcoa was lost workday rate, for
5 those who know or are familiar with that, is 0.07
6 through this year as of this date. Our total
7 reportable rate is 1.2. That's how many injuries you
8 have per hundred workers or 200,000 man hours per year.
9 That's a rather stellar record.

10 Still, we've had fatalities and we
11 need to clean those up, and we are focusing on those.
12 But are lost workday rate, total reportable rate, is
13 something to be proud of.

14 At many of our plants it's more
15 dangerous to drive to work than it is to work there.

16 This is a stellar record that has
17 been in place since 1987 and has improved every year
18 since then, and I'm rather proud of it.

19 Let me mention something else that
20 was referenced in the movie.

21 Some of the litigation. People
22 have the right to bring claims. Of course they have
23 the right to bring claims, we know that, in all of the
24 states.

25 I checked on one of the cases that

1 we had recently. It is *Pryor et al. versus Alcoa* it
2 was seven named defendants [sic] in Blount County,
3 Tennessee. They asked for relief. A class action
4 relief declared and medical surveillance be made
5 available to employees and retirees.

6 In this case seven named plaintiffs
7 were in the case, but six had to be excluded because
8 they weren't residents of the district where the case
9 was brought, so that left the case with Mr. Pryor. In
10 Mr. Pryor's case, his only allegation, since they
11 dismissed the class, was that he wanted medical
12 surveillance.

13 Alcoa has been providing medical
14 surveillance for decades to active employees and
15 retirees. When some of the recent cases were raised,
16 we sent letters to 27,000 retirees around the country
17 requesting them to get the medical surveillance that
18 they were entitled to get.

19 Mr. Pryor, who brought this action
20 against us, chose not to get the medical surveillance.
21 So, we advised them that we were going to move for
22 dismissal, so they asked us if we would settle the case
23 instead by each of us being half of the attorneys'
24 fees, which turned out to be \$600 for each side.
25 That settlement is sitting on the desk of the Blount

1 County District Court Judge.

2 There was an allegation that the
3 Mohawks near Messina, New York, got a decision against
4 Alcoa. There is no such decision yet. It's called the
5 St. Regis Mohawk Tribe. We are dealing with them on a
6 regular basis. We are working with the EPA. The EPA
7 continues to collect data and information, they've been
8 collecting this data and information for 20 years now
9 because they want to get this decision right.

10 There are PCBs in that river as
11 there is in Badin Lake, as there is, by the way,
12 everywhere, these things are ubiquitous. If you
13 remember, in the early 1950's corporations were
14 encouraged to use PCBs, it's a flame retardant. It was
15 considered a safety measure in plants, so everybody
16 started to use them in their operations.

17 It was in 1977 that the health
18 risks were identified, so companies like Alcoa
19 discontinued immediately.

20 What we did in Badin was to stop
21 the point source. There were still PCBs in the plant
22 that could find their way into the lake, we stopped
23 that immediately, and that's why we didn't have a
24 continued run-up.

25 In some of our other operations, we

1 were a little slow and had more cleanup to do. But in
2 Badin Lake, we were able to do that as a first step,
3 and the next step is to do the testing and the analysis
4 that has to be done.

5 I also want to mention that we do
6 have what I consider to be a world-renowned health and
7 industrial hygiene program in the company. In the
8 1990's, we went to Yale University's Medical School and
9 said, "would you be our corporate medical director?"
10 Within a week they said they would like to do that, and
11 they put five -- one full-time and four part-time
12 M.D.'s on our health account. We have since had one of
13 those M.D.'s move to Stanford University. We call it
14 our Stanford-Yale partnership, and they have data and
15 information that watches all of these pieces of
16 information that you saw in the video. We watch for
17 arsenic and hydrogen fluoride,
18 polyaromatic hydrocarbons. We don't want them, either.
19 We have a respiratory program for our employees, we
20 don't want them breathing those fumes, that's
21 inappropriate, and we know that, and we do conduct the
22 tests.

23 I'm very proud of being at Alcoa, I
24 am probably in my last job in Alcoa, and I've held
25 quite a number of them, including corporate auditor in

1 which we conduct environmental audits and health and
2 safety audits at all of our locations around the world.
3 we check for compliance with the law, respirator-fit
4 tests, health and safety programs.

5 And now I'm now probably in my last
6 job in Alcoa, and I'm very proud to be in this one
7 because this is the right one. This is a values job in
8 Alcoa and I'm proud to be here.

9 Again, Mr. Chairman, Committee, I
10 appreciate the opportunity to be here, it's very
11 gracious of you. Thank you.

12 **CHAIRMAN HARTSELL:** Questions of
13 the Committee? Senator Vaughan?

14 **SENATOR VAUGHAN:** It looks like you
15 conducted a number of studies. In any of your studies,
16 has there been a connection between the PCBs produced
17 by Alcoa at Badin Lake and any cancer or any other
18 diseases?

19 **MR. O'ROURKE:** we have had no
20 definitive analysis of that.

21 Again, as I said, if people believe
22 that that's happening, then they need to raise that
23 issue. And it's been done. Alcoa faces that
24 periodically, I'd say once or twice a decade we have
25 people that are around locations where we exist, and

1 they'll say there is a higher incidence of pituitary
2 adenoma in Evansville, Indiana, for example.

3 We immediately take that allegation
4 and hand it off to our medical department, which is now
5 Yale University and Stanford University. They have to
6 form a team of experts that are outside. They need a
7 peer review team of outsiders, and they need to conduct
8 that study and report their results. The whole study
9 gets reported and that comes out, yes.

10 SENATOR VAUGHAN: Follow-up
11 Mr. Chairman?

12 Would you provide those to this
13 Committee?

14 MR. O'ROURKE: Of course.

15 SENATOR VAUGHAN: Thank you.

16 CHAIRMAN HARTSELL: Senator Berger?

17 SENATOR BERGER: I have a series of
18 questions about worker injury claims. You chose to
19 identify one that I assume was publicly disclosed, the
20 outcome, in Tennessee. Can you share with this
21 Committee how many worker injury lawsuits you have
22 settled in the State of North Carolina?

23 MR. O'ROURKE: I -- I don't have
24 that information, no, but I would be very surprised if
25 it's out of the norm of other corporations or

1 industries just because of the incident record that
2 we've had at Badin.

3 SENATOR BERGER: Follow-up?

4 MR. O'ROURKE: I would be glad to
5 share that with you though.

6 SENATOR BERGER: Follow-up?

7 CHAIRMAN HARTSELL: Follow up.

8 SENATOR BERGER: well, will you be
9 in a position to share with this Committee how many
10 suits have been settled? And the reason I ask that
11 question is I was a Judge at the Industrial Commission
12 for ten years, and I can tell you that I know from
13 direct knowledge from the agency that Alcoa had a high
14 number of lawsuits filed against it. Is that something
15 you can provide to this Committee?

16 MR. O'ROURKE: Yes, sir.

17 SENATOR BERGER: Follow-up?

18 CHAIRMAN HARTSELL: Follow up.

19 SENATOR BERGER: Can you also share
20 with this Committee what the average amount that you
21 settled those lawsuits for? I mean, you gave a an
22 example to this Committee that somebody essentially
23 filed a frivolous lawsuit and you had to pay \$600. Can
24 you tell us what your average payout is in these
25 lawsuits, as well?

1 MR. O'ROURKE: I don't know that, I
2 can go back to the office ---

3 SENATOR BERGER: Okay. Will you
4 make that information available to this Committee?

5 MR. O'ROURKE: (Certainly.)

6 SENATOR BERGER: One more
7 follow-up.

8 CHAIRMAN HARTSELL: Follow up.

9 SENATOR BERGER: Now, I understand
10 when you do settlement ---

11 MR. O'ROURKE: Some of that may be
12 confidential.

13 SENATOR BERGER: Well, that's my
14 next question.

15 MR. O'ROURKE: I'm not a lawyer.

16 SENATOR BERGER: I understand in an
17 individual case where you would not want to know how an
18 individual worker got paid out. But, aside from that,
19 would you be willing to release all of the attorneys
20 that have entered into settlements with your company to
21 disclose the facts and evidence that they gathered in
22 those cases for public review as long as the actual
23 amount that any particular worker got remained
24 confidential with Alcoa in the interest of openness and
25 full disclosure so that the public can fully see what's

1 going on here? would you release all of those
2 attorneys from those? would Alcoa be willing to
3 release all those attorneys from those confidentiality
4 agreements?

5 MR. O'ROURKE: These would be cases
6 that are pertinent to the relicensing issue?

7 SENATOR BERGER: Well, I think the
8 issue for us and I think the thrust of this program is
9 if you're going to be entrusted as the protector of
10 this water, then your record and history will have a
11 full bearing on whether you should be able to have that
12 responsibility. So, I'm talking about lawsuits, worker
13 injury lawsuits.

14 It's my understanding you all --
15 you -- you opened up and the only lawsuit you shared
16 with this Committee was a lawsuit in which you said,
17 "We only had to pay out \$600." Your point was to say,
18 "These lawsuits are frivolous."

19 well, why don't you tell people how
20 many lawsuits you've had what the average settlement is
21 and let them see what the facts were in those cases as
22 long as the amount that any individual worker
23 negotiated is kept secret?

24 MR. O'ROURKE: We will respect the
25 confidentiality and get you that information, the

1 collective information; yes.

2 **SENATOR BERGER:** Will you release
3 the lawyers to be able to disclose the evidence that
4 they got against you in their cases for public
5 consumption? Are you going to hold them to those
6 confidentiality agreements?.

7 **MR. O'ROURKE:** I won't do that
8 today, I can't do that today because I don't know what
9 the lawyers have negotiated. I also don't know if
10 there is health and safety information or medical
11 information or other information to be kept
12 confidential for other reasons.

13 **CHAIRMAN HARTSELL:** Okay. I think
14 I saw Senator Jones's hand.

15 **SENATOR JONES:** Thank you for
16 coming, I appreciate your coming today.

17 In your three citations that were
18 issued, would any of those cause health risks to
19 anyone, the cause of those violations would it cause
20 damage to anyone?

21 **MR. O'ROURKE:** One was an
22 allegation or a citation against an extrusion plant
23 that wasn't even in a the Badin Plant.

24 Second was you may recall that
25 there was a contract diver that died around the Falls

1 Dam, I believe. There is always an investigation after
2 that and that was the second citation, and along with
3 it was a fine of \$6,300.

4 The third I'm not aware of, but I
5 don't believe it was a health claim. I believe it was
6 a worker safety issue.

7 SENATOR JONES: All right. Thank
8 you. One follow up.

9 CHAIRMAN HARTSELL: Follow up.

10 SENATOR JONES: I know with all my
11 testing fish, does it cost a great deal of money to
12 test fish to find out how much PCBs are in it? I know
13 we've got an issue here about what's in that lake and
14 how often and who's going to test these fish. Is it a
15 huge cost in that?

16 MR. O'ROURKE: The whole fish study
17 has to be identified of how you're going to do, how
18 you're are going to conduct the tests. Sometimes you
19 take the fish and you make sure they stay in the same
20 region. You conduct some of them that are kept inside
21 of a cage for a period of time and then test again in
22 another period of time. You have to locate the areas
23 where you're going to do it.

24 We have already spent \$20 million
25 on fish testing and other licensing issues that are

1 there, and that's why we have been resistant.

2 If the state would come in or the
3 Federal Licensing Board would come in and say we need
4 these additional tests for these reasons, that would be
5 fine. The actual cost for the test is probably not
6 that large.

7 However, let me make another
8 comment. My understanding is under the law of the
9 State of North Carolina you need a certain number of
10 fish to be tested and they need to have a certain level
11 of contaminants that are found in that test.

12 The current fish advisory that we
13 have on Badin Lake was not based on that number of fish
14 but on less fish. So why would you want to conduct
15 another series of tests if, indeed, we're not going to
16 follow the requirements of how many fish have to have
17 the contaminant levels in them to determine if there is
18 a fish advisory or not? We are reluctant to do that.

19 **SENATOR JONES:** All right. And my
20 follow-up to that would be who selects the number of
21 fish to test? I mean, if you want to do it correctly,
22 I guess, and I've got a hundred fish, I want to make
23 sure I've got a hundred in there to do it with. But
24 who ---

25 **MR. O'ROURKE:** We deal with the

1 state authorities and they determine. We come up with
2 a program and go back and forth on how many, which
3 species, how often, what time, and location. And after
4 all that is approved, then you launch the fish study,
5 which usually takes a period of time.

6 **SENATOR JONES:** And my last
7 question.

8 I have never been to Badin, I just
9 know about where it's located. The plant and there, I
10 you said it's going to be closed, it's closed at this
11 time, and that will not be reopening I don't guess.

12 So we have a dam there that was
13 built, I think it says, about 50 years ago and was
14 built with the intention of hiring about 900 people,
15 but they only got up to about 370, so I guess someone,
16 I don't know whether it's the state, someone violated
17 part of that somewhere on the intent of the number of
18 jobs that was going to be created by the plant.

19 Now we have a dam there that was
20 built because of the plant, is that correct?

21 **MR. O'ROURKE:** The dam was built in
22 1917. The plant was built shortly thereafter. The
23 electricity from the dam was used in part for running
24 of the operation, that's correct.

25 More dams were built, the series of

1 four, with the last one being built in 1963 and the
2 licensing starting in about 1958.

3 We in Alcoa like to consider our
4 power to be a separate business from our operations.
5 In fact, we have now about 63 percent of our power is
6 hydropower for the smelting operations around the
7 world. We operate hydro assets in Iceland, are part
8 owner of three dams in Brazil, and really believe in
9 clean, renewable energy coming from these dams.

10 **SENATOR JONES:** But when you built
11 the dams, did you have in mind the process you are
12 using now for this power to go elsewhere?

13 **MR. O'ROURKE:** We have operations
14 elsewhere. It was insinuated in the movie that you can
15 take that power and put it on the grid it, and we can
16 run it down to Mount Holly, South Carolina, and run the
17 smelter there from that power. We have other
18 operations that are around; yes, we can move that power
19 around and, in effect, run our facilities with that
20 power. That's why we have the Energy Department.

21 **CHAIRMAN HARTSELL:** Senator Vaughan
22 again?

23 **SENATOR VAUGHAN:** In your opinion
24 based on all your research, is it safe to drink the
25 water in Badin Lake now?

1 MR. O'ROURKE: Yes, it's safe to
2 drink the water in Badin Lake, it's safe to swim in
3 Badin Lake.

4 If I could elaborate? Thank you.

5 The amount of PCBs in Badin Lake
6 right now is lower than the targeted clean level at
7 most lakes and the Great Lakes and the Saint Lawrence
8 River and the Hudson River, it's the targeted cleanup
9 level.

10 If you go to your grocery store,
11 take some fish out of the freezer and have that
12 analyzed, you're going to find PCBs.

13 If you find a polar bear in the
14 polar ice caps and do an autopsy on it, you're going to
15 find PCBs. These things are ubiquitous.

16 At the level in a Badin Lake as has
17 been determined by the State is at a safe level, yes.

18 SENATOR VAUGHAN: And it's safe to
19 work at your plant?

20 MR. O'ROURKE: Indeed, indeed. It
21 might be safer to work at that plant than to drive to
22 work. I believe that.

23 CHAIRMAN HARTSELL: Okay. Go back
24 to Senator Berger, and then we'll come over here.

25 SENATOR BERGER: You discussed the

1 testimony or a quote from the film with regard to
2 Dr. Rodgers and his opinion that there was a
3 relationship between the PCBs being released by the
4 Alcoa plant and the PCBs being found in the fish in
5 this lake, I think it's Badin Lake.

6 You used the phrase -- you quoted
7 this doctor as not agreeing that there was a definitive
8 fingerprint. Can you -- can you tell me what evidence
9 you think has to exist to be able to show a
10 relationship between the PCB, PCBs, being released from
11 the company and the PCBs being found in the lake?

12 **MR. O'ROURKE:** There are certain
13 congeners that are sort of fingerprints that are inside
14 the PCBs that can be conducted in tests. And even in
15 his test he said under oath, that certain of those
16 congeners did not link directly back to the Badin Lake
17 or the Badin plant.

18 Now we did use PCBs in the plant
19 and we released PCBs into Badin Lake, it was legal at
20 the time that we did it. But we did it around the
21 outfall, was the place where they went. And around
22 there that's where we've done most of our testing to
23 make sure that that's clean and not moving.

24 **SENATOR BERGER:** Follow-up?

25 **CHAIRMAN HARTSELL:** Follow up.

1 **SENATOR BERGER:** Is it your
2 testimony here today that ultimately in the deposition
3 testimony Dr. Rodgers gave that he went through his
4 opinion that there was a causal relationship between
5 the PCB in the Alcoa Plant and the PCB in the lake? Is
6 that what you're saying, or are you just pointing out
7 concessions he made a to your lawyer on
8 cross-examination?

9 **MR. O'ROURKE:** I'm pointing out
10 statements that he made while he was under oath. The
11 statements under oath were a lot more qualified than
12 they were when he was talking not under -- under oath.

13 **SENATOR BERGER:** Follow up.

14 I mean, I have not read his
15 deposition, but I will just ask this question. I mean,
16 isn't it true that he still stood by his professional
17 expert opinion that there was a causal relationship
18 between the PCBs being released by the Alcoa Plant and
19 Badin Lake?

20 **MR. O'ROURKE:** I haven't read his
21 entire testimony, either, I was given these statements.
22 And I would say if he stuck to his guns that's pretty
23 inconsistent with these statements.

24 **CHAIRMAN HARTSELL:** Okay. Senator
25 Atwater?

1 SENATOR ATWATER: Mr. O'Rourke, I,
2 too, want to thank you for your presence here today.
3 And I -- it piqued my interest when you were speaking
4 about Stanford University and Yale University. I have
5 some experience in another life, administrative
6 experience, about occupational health studies with
7 universities and union and corporate people.

8 And I wanted to ask you in those
9 studies that you -- you have requested occupational
10 health assessment studies, environmental health
11 studies, from those universities about your plants?

12 MR. O'ROURKE: Definitely.
13 Definitely.

14 SENATOR ATWATER: And in those
15 studies, is the research team comprised of M.D.'s, Ph.
16 D.'s, Ph.D. epidemiologists, M.D. epidemiologists, bio-
17 statisticians, environmental scientists, industrial
18 hygienists and so on?

19 MR. O'ROURKE: Our staff at Yale
20 includes Dr. Mark Cullen, who runs the environmental
21 and health program at Yale. He has an epidemiologist
22 on his staff, an internist and a statistician.

23 And now we are linking it with
24 Stanford University, and they're bringing their
25 background into that as well.

1 I can give you an example of what
2 they recommended recently. There's a belief now that
3 for small particulate matter, smaller than two and a
4 half microns, pm 2.5, is causing cardiovascular
5 disease. Not respiratory, cardiovascular. Well, that
6 would be really significant if that's the case because
7 we have small particulate in our plants.

8 So we now have a research study
9 that's been designed by the Ph.D.'s and M.D.'s and
10 epidemiologists and statisticians, but they're sending
11 our industrial hygienists off to plants in the United
12 States to conduct samples. So they're hanging samples
13 [sic] on employees now, taking tests and then feeding
14 that information back to Yale statisticians to be able
15 to look at the information and find out is there a
16 causal effect here or not.

17 If there is, we better find a
18 better respirator or make sure more people are wearing
19 their respirators, and the dust situation. If there
20 isn't, it would be nice to know that, too, that there
21 isn't causation.

22 Now, the reason they want us to
23 conduct the study is that our database includes
24 information about people who have treatable diseases
25 like diabetes and hypertension, people who are obese

1 and people are smokers, they cause cardio-vascular
2 deceases as well. We can take that database and
3 actually exclude those effects from the pm 2.5 and
4 really isolate that as a cause or not.

5 So this is the kind of Alcoa that I
6 know, this is proactive. We want to find out if our
7 employees are being hurt by breathing something that's
8 inappropriate; and if they are, let's fix that right
9 away.

10 SENATOR JONES: One follow-up.

11 CHAIRMAN HARTSELL: Follow-up.

12 SENATOR ATWATER: Thank you.

13 Additionally, would you share with
14 us some of the medical occupational exposure studies
15 that they've been able to determine, you know, what's
16 at risk in terms of health versus relative to exposure?

17 MR. O'ROURKE: Sure. I had
18 mentioned our lost workday rate, total reportable rate,
19 they are -- the are stellar, but still we want to have
20 zero incidents in our operations. So, we've gone to
21 them and said, "What can we do to lower the incidence
22 even more?"

23 And they're able to take a lot of
24 our data and information and come back and give us
25 reports.

1 For example, people with
2 hypertension and diabetes are being hurt about
3 one-third more often than people without at our
4 locations. And they are suggesting that we must not
5 have the environment where these people can take care
6 of their disease the right way and they must get out of
7 balance. So, we've been able to put programs in place
8 to address that.

9 They've looked at overturn issues,
10 and we found out that people that work more than twelve
11 and a half hours of overtime a day [sic] or 60 hours a
12 week were getting hurt 25 percent more than the rest of
13 the population. So there's something you can act, too.

14 So, now to work more than that
15 requires the business union's president's signature
16 that says, "I authorize the overtime, I understand the
17 risk and I authorize the overtime for this period of
18 time."

19 But that's helpful. They have been
20 able to look at smokers and obesity as well in the
21 workplace and find higher incidents of worker safety
22 and worker health issues based on the condition of our
23 employees. So we've launched wellness programs at 60
24 percent of our locations, smoke cessation programs at
25 about half of our locations, trying to get these people

1 to deal with the cause and the root cause of their
2 symptoms and their problems.

3 SENATOR ATWATER: One final?

4 CHAIRMAN HARTSELL: Senator
5 Atwater?

6 SENATOR: One brief follow-up
7 question. Thank you, sir.

8 CHAIRMAN HARTSELL: Sure.

9 SENATOR ATWATER: Do your studies
10 have a component of looking longitudinally at your
11 employees at relative to deaths, researching their
12 death certificates, specific maladies, cancer sites and
13 so on and statistically relating that to the exposure,
14 environmental exposures, they've had in your plant?

15 MR. O'ROURKE: We are doing that
16 now, and the database is only 20 years old, but that's
17 almost a generation of workers. And we probably have
18 an elaborate database, which in ten years will probably
19 be the best and we'll be able to track morbidity and
20 mortality all the way through the workforce, yes.

21 SENATOR ATWATER: Again, thank you.

22 MR. O'ROURKE: Thank you.

23 CHAIRMAN HARTSELL: Senator
24 Apodaca?

25 SENATOR APODACA: Thank you,

1 Mr. Chairman. A quick inquiry of the Chair. Is it
2 permissible to ask questions other than on the health
3 issues dealing with this?

4 CHAIRMAN HARTSELL: Certainly.

5 SENATOR APODACA: Thank you.

6 And I, too, want to thank you for
7 showing up today. We're somewhat tired of seeing
8 Mr. Neely, it's good to see a new face.

9 My question is how many other
10 facilities does Alcoa, and I mean dams, currently own
11 in the U.S. or operate in the U.S. that do not have
12 production facilities tied to them at this time?

13 MR. O'ROURKE: In the United
14 states, we only have the series of dams run along the
15 -- there's the four that are associated with the
16 project, and then there's two on the edge of Tennessee.
17 So that's six that are pretty much close together. And
18 that would be it.

19 SENATOR APODACA: Follow-up
20 question.

21 CHAIRMAN HARTSELL: Follow-up.

22 SENATOR APODACA: Yes. On the ones
23 in Tennessee, where are they in the licensing process
24 or are they in the middle of a contract, do you know?

25 MR. O'ROURKE: I would have to

1 defer, but I can probably do it quickly.

2 In 2005, the license was received
3 for those four dams.

4 SENATOR APODACA: Another
5 follow-up?

6 CHAIRMAN HARTSELL: Follow up.

7 SENATOR APODACA: When did you
8 close that facility prior to the licensing?

9 MR. O'ROURKE: The Tennessee
10 facility?

11 It still manufactures (can sheath)
12 in our Knoxville, Tennessee, facility. We have
13 curtailed the smelter for now because this economic
14 crisis hit Alcoa and the aluminum industry harder than
15 most; so when we curtailed production, we curtailed
16 that. Hopefully, business can turn around and business
17 conditions and that can start again .

18 SENATOR APODACA: One last
19 question.

20 CHAIRMAN HARTSELL: Certainly.

21 SENATOR APODACA: Is it now Alcoa's
22 policy or corporate policy to move all new facilities
23 outside the United States?

24 MR. O'ROURKE: I would say no and
25 the answer to that is a lot of the growth in the

1 markets are here in this country. We are currently
2 looking -- well, we announced the sales agreement for
3 an aluminum window manufacturer that's located in
4 Pennsylvania. That, if it gets all of its approvals,
5 will go into our building and construction business in
6 September.

7 We're looking very closely to the
8 U.S. car manufacturers now. They have the new (Cap A)
9 regulations that are going to require them to light-
10 weight of their vehicles. And when they do that, the
11 quickest way to do it is to switch to aluminum. So we
12 are hoping to get aluminum-intensive vehicles in this
13 country.

14 Right now, the biggest aluminum-
15 intensive vehicles are the Audi A-8. But we need it on
16 production cars, the Fords and General Motors and
17 Chryslers here.

18 So where the market is that's where
19 we will be.

20 SENATOR APODACA: Follow up?

21 CHAIRMAN HARTSELL: Certainly.

22 SENATOR APODACA: The last 30
23 facilities Alcoa has built, where were they?

24 MR. O'ROURKE: I would say half are
25 outside of the United States.

1 SENATOR APODACA: (Indiscernible.)

2 MR. O'ROURKE: Right.

3 SENATOR APODACA: Thank you.

4 CHAIRMAN HARTSELL: Senator Queen?

5 SENATOR QUEEN: Yes.

6 I just had a question concerning
7 the filming and the work done on this documentary. It
8 was done at our public TV station by an employee of the
9 public TV station and it hasn't really gone forward in
10 a public way, this is I think the first public showing
11 of it.

12 Was anybody at Alcoa involved in
13 putting pressure on keeping this documentary from going
14 forward in any way?

15 MR. O'ROURKE: To my knowledge that
16 answer is no. Going forward, I think you would mean --
17 by "going forward," if you meant it goes through the
18 appropriate editorial process, the solicitation of
19 opinions from other people, the correction of any
20 distortion or misstatement of facts, such as Alcoa is a
21 multi-trillion dollar organization, which I wish we
22 were, that process I would hope would have been
23 followed.

24 SENATOR QUEEN: Was there any -- I
25 guess I just dealing in the vernacular here, I'm an

1 architect not a lawyer here. But was there efforts on
2 behalf of Alcoa in discussions to our public TV
3 stations about what sort of documentary they were doing
4 and any relationship or support you may have or threats
5 of any kind. legally or otherwise, if such and such is
6 not done to your satisfaction? Do you know of any such
7 discussions?

8 MR. O'ROURKE: I know of none. I
9 know there were discussions that went on and they
10 talked about it. But threats, I know of none.

11 SENATOR QUEEN: Do you think folks
12 involved could perceive those as threats, those sorts
13 of discussions that you say you've had?

14 MR. O'ROURKE: I don't think I
15 could put myself in their shoes and perceive that.

16 SENATOR QUEEN: Okay.

17 CHAIRMAN HARTSELL: Senator Allran?

18 SENATOR ALLRAN: Thank you,
19 Mr. Chairman.

20 I'll mention this to you, sir,
21 since you are here--maybe we should get this
22 information some other way--but as I watched the
23 information about Badin Lake, I just wondered about how
24 the water in the other lakes in North Carolina
25 compares.

1 I know that -- I live on Lake
2 Hickory, and we're not exactly known for having the
3 purest water in the world.

4 I know that there was an admission
5 that your arsenic levels were higher, but there was a
6 reason given. And then there was the mention of the
7 PCBs.

8 I would be interested to know how
9 the other lakes in North Carolina compare for purposes
10 of toxins.

11 MR. O'ROURKE: I would encourage
12 you to investigate that question and I think what you
13 will find is that the PCB level and concentration in
14 Badin Lake is equivalent to that of most of the other
15 lakes in North Carolina.

16 CHAIRMAN HARTSELL: Follow up?

17 SENATOR ALLRAN: I think we need to
18 find that out so that we can get a comparison with
19 other lakes, not just talking about one lake.

20 But my other question, and I might
21 be asking the wrong person to ask you this, but since
22 the primary purpose of Alcoa is to produce aluminum not
23 to manage hydroelectric, now that you're not producing
24 aluminum anymore on the lake, it seems to me sort of
25 misplaced to be issuing the relicensure to you since

1 you're not doing the purpose for which it was issued in
2 the first place.

3 MR. O'ROURKE: If you read our
4 corporate charter, it says, "Alcoa is in business to
5 make money and a profit for the shareholders, to
6 respect its employees and the communities where we
7 operate."

8 We make money in areas outside of
9 aluminum. We also have diverted on periods of our
10 life, 122-year life, we've gone into plastics, we've
11 gone into wiring harnesses for automobiles and trucks,
12 we've gone into other areas.

13 We've now decided that power is a
14 big business and power is a business that we should be
15 in. We've named a new president of our power
16 organization, and he runs those assets on a global
17 basis. So it does fit the broader purpose of Alcoa.

18 SENATOR ALLRAN: Another question.
19 Well, like I just said, I figured you weren't the right
20 person to ask that question to.

21 But Duke Power is a utility,
22 Progress Energy is a utility. Are you a utility?

23 MR. O'ROURKE: Alcoa as a corporate

24 ---

25 SENATOR ALLRAN: Right.

1 MR. O'ROURKE: No.

2 SENATOR ALLRAN: Well, well Walmart
3 might want to run that also, and so might Ford. I
4 mean, there are a lot of corporations that might want
5 to run a water company, but they don't get too, only
6 utilities do, normally.

7 It was said in the documentary that
8 your investment had been recouped through amortization;
9 is that true?

10 MR. O'ROURKE: Our investment had
11 been recouped ---

12 SENATOR ALLRAN: --- through
13 amortization.

14 MR. O'ROURKE: --- through
15 amortization of the investment?

16 SENATOR ALLRAN: Correct. That's
17 what was said in the documentary. Is that true?

18 MR. O'ROURKE: Have we recovered
19 our investment that we made in the dams along the
20 river?

21 SENATOR ALLRAN: Correct.

22 MR. O'ROURKE: I would say over the
23 long period that we've been there, I would sure hope
24 so, I sure hope we're still not running at a loss. We
25 are planning to spend \$240 million more on these dams,

1 which will put us in a non profit situation for about a
2 five-year period. But, after that, we hope to be able
3 to make money.

4 **SENATOR ALLRAN:** So then if you
5 were not to be relicensed because to a large extent you
6 are an anomaly because you are not a utility and you're
7 anomalous relative to the other people running these
8 hydroelectrics, then it would be true to say that you
9 would not be losing any money because you recouped it
10 and more over the period of time that you have been
11 licensed?

12 **MR. O'ROURKE:** I would look at it
13 going forward. I would look at it from here to what is
14 your return on your investment that you're making
15 today. So, today we want to make an investment in
16 those dams, \$240 million. As we mentioned before, we
17 get revenue on electricity from the dams of about \$44
18 million, and of that we get a profit of about eight.
19 So it's going to take a few years to recoup the
20 investment that we put into the dams.

21 **SENATOR ALLRAN:** Why though if you
22 were originally licensed to do the project with those
23 four dams and to manage the hydroelectric -- if the
24 purpose was to produce aluminum and you are not doing
25 that anymore, why should you be satisfied if a

1 different type of corporation than everybody else who
2 might want to do that when normally and regularly
3 hydroelectric is managed by utilities, which are highly
4 regulated on behalf of the people?

5 **MR. O'ROURKE:** We have been
6 following the regulations on that dam for the 50-year
7 term of the license and since then under the annual
8 renewals, and we believe that we have been doing that
9 properly.

10 **CHAIRMAN HARTSELL:** Okay. Senator
11 Snow hasn't asked a question, so let me ---

12 **SENATOR SNOW:** I was looking in
13 2009 the Department of Health and Human Services in
14 North Carolina ordered a fish consumption advisory for
15 the lake saying they had found elevated levels of PCBs
16 in the water and in smallmouth bass and in catfish. Is
17 that right?

18 **MR. O'ROURKE:** I believe there was
19 one fish that had a PCB level that was above the safe
20 limit.

21 **SENATOR SNOW:** The Department of
22 Health and Human Services, that was what they found
23 though, wasn't it? They did find elevated PCBs in
24 fish?

25 **MR. O'ROURKE:** Yes.

1 SENATOR SNOW: And is it true that
2 after that finding that you resisted by appealing any
3 posting of signs warning the public about those
4 findings?

5 MR. O'ROURKE: I would say that
6 that is an inaccurate portrayal. What Alcoa did was
7 when the -- when the authorities came to us and said,
8 "we're going to post a fish advisory," our concern was
9 let's make that advisory be accurate, let's make sure
10 that we let the community know exactly what was found,
11 exactly where the advisory ought to be posted, et
12 cetera. We worked with the authorities to come up with
13 a common language which we eventually agreed upon. And
14 within I believe it was two weeks after agreement of
15 that language the signs were made, the signs were
16 posted where we agreed they should be posted, and it
17 had the language that we have a common agreement on.

18 So to construe that as us fighting
19 it I think is the opposite of what we actually did, we
20 wanted it to be accurate and complete.

21 SENATOR SNOW: But the department
22 did, in fact, put the signs up eventually, is that
23 right?

24 MR. O'ROURKE: And then we agreed
25 with the wording that was on it and the location of it,

1 yes.

2 **CHAIRMAN HARTSELL:** Senator Jones?
3 We going to try to close out.

4 **SENATOR JONES:** All right. This
5 will be my final question. There may be two parts to
6 this.

7 But I know that you are an
8 intelligent individual. You're not seen that by no
9 means that no one at the plant at Badin has ever -- did
10 not die from cancer caused by the plant? Is (that)
11 what you're saying?

12 **MR. O'ROURKE:** I don't know that.
13 I wouldn't say that nobody died from cancer at the
14 plant. I wouldn't say that the causation between
15 cancer and an individual employee at that plant has
16 been found. That's what I would say. Correct.

17 **CHAIRMAN HARTSELL:** Senator Berger?

18 **SENATOR BERGER:** Follow-up?

19 **CHAIRMAN HARTSELL:** Follow up.

20 **SENATOR BERGER:** So, the things
21 that generate the aluminum there at the plant would not
22 have caused cancer?

23 **MR. O'ROURKE:** There are some known
24 carcinogens that are in the process. We've identified
25 them, we want to know about them, and then we want to

1 protect our employees from them. So we identified the
2 employees that work in these areas, we explained to
3 them the need to wear respirators, and then we actually
4 tested them to make sure they're wearing the
5 respirators the right way. And then they have
6 continuous monitoring so the medical department can
7 determine that they aren't having any symptoms or cases
8 or causes, that's correct.

9 **SENATOR BERGER:** This is the last
10 one.

11 So, therefore, before they put the
12 respirators on, and some of these people 34 years old,
13 some were 50, whatever, about the time the plant got
14 started, could they have contracted anything during
15 that time that might have caused death later?

16 **MR. O'ROURKE:** Of course. I had
17 grandparents who worked in steel mills before any of
18 the health and safety regulations were in place; and
19 during those days, God only knows what they were
20 wearing or breathing or how they were protected. When
21 the laws came into place they not only required certain
22 respirators on others, they required monitoring on a
23 regular basis.

24 So even the employees that had been
25 there for years and years were requested to get into

1 the medical department and get tested to find out if
2 you had this disease or that disease or another disease
3 and if it can be treated.

4 **CHAIRMAN HARTSELL:** Senator Berger?

5 **SENATOR BERGER:** I want to get a
6 sense of the level of proof you think has to exist for
7 this Committee to believe there's a causal relationship
8 between exposures to harmful substances and contracting
9 a disease.

10 Now, I've heard you say. "Well,
11 there has not been a finding that a worker has been
12 exposed to a particular chemical and contracted
13 cancer." I've heard you say there has been nobody --
14 there has been no definitive fingerprint to show that
15 there is a relationship between exposure to PCBs
16 released by your plant and any cancers.

17 But I did hear you say, "But we can
18 explain the relationship between arsenic, the high
19 level of arsenic in Stanly County, we can explain that,
20 we can tell you, and it has to do with other
21 substance."

22 So, can you give us some
23 understanding of how you can know that that is the
24 cause of the high rate of arsenic in Stanly County?
25 Because I think that would give us a sense of what it

1 is you believe the level of proof you have. So, tell
2 us what evidence you had to draw that conclusion and
3 put that out there as the explanation for why Stanly
4 County has this much higher rate of arsenic than the
5 general population here in North Carolina.

6 MR. O'ROURKE: I can say that we
7 conduct our water monitoring samples on a regular
8 basis. That sampling gets reviewed by the state and
9 other authorities on a regular basis. If they find
10 that contamination that's in the groundwater or other
11 areas of the plant, that gets reported.

12 And the reason we can't find a
13 direct causation is because people have not been able
14 to find that in those reports.

15 SENATOR BERGER: Follow up? (If
16 nobody needs to ask a question, I'll waive.)

17 Your CEO on this documentary said
18 he had an explanation for why Stanly County has a high
19 rate of arsenic showing up relative to everybody else
20 and he attributed it to some other substance, pyrite.
21 So what is -- tell us how you all drew that conclusion
22 that you can prove that the pyrite is the reason that
23 there is the high rate.

24 MR. O'ROURKE: I don't think he
25 pointed to pyrite as the culprit. He pointed to it as

1 a possible other reason for that being the case. He
2 did say that we have done the studies and the sampling
3 of our groundwater and our emissions at our plant and
4 we haven't found it there. And if we haven't found it
5 there, it must be somewhere else.

6 MR. ELLIS: I would just have to
7 make the clarification, Mr. Chairman, that was not our
8 CEO in the video.

9 CHAIRMAN HARTSELL: Mr. Ellis?

10 MR. ELLIS: (Unless I got a real
11 promotion.)

12 The information that I conveyed in
13 the video is directly from a geologist who works for
14 the State of North Carolina in a meeting of September,
15 I think it was, 2007.

16 CHAIRMAN HARTSELL: Follow up
17 only.

18 SENATOR BERGER: Again, what was it
19 that made you believe that geologist versus other
20 witnesses, such as Dr. Rodgers who -- I mean, he was
21 dealing with PCB. But what was it that made you know
22 that the geologist was correct as opposed to those that
23 would argue it's from your plant?

24 MR. ELLIS: He's certainly has the
25 expertise in that area, and my recollection was that

1 maybe 20 years with the State working on these kinds of
2 issues. His follow-up statement was that he would be
3 hard-pressed to attribute that level of arsenic to
4 Alcoa.

5 SENATOR BERGER: Well, what was
6 this geologist's name?

7 MR. ELLIS: I can't remember right
8 offhand, but I can get that for you.

9 SENATOR BERGER: Can you get that
10 information for us?

11 MR. ELLIS: I can, sir.

12 UNKNOWN SPEAKER: I feel compelled
13 to mention that (?) gold mines where this was located
14 were in Rowan and Cabarrus Counties, and we don't have
15 those levels. I felt compelled to mention that.

16 CHAIRMAN HARTSELL: I feel we have
17 had a lot of discussion. I need to ask just a couple.

18 Do you have groundwater monitoring
19 wells surrounding the plant in Badin?

20 MR. O'ROURKE: We monitor
21 groundwater on a regular basis, yes.

22 CHAIRMAN HARTSELL: How long have
23 they been in existence?

24 MR. O'ROURKE: I can't answer that
25 question.

1 CHAIRMAN HARTSELL: How many of
2 them are there?

3 MR. O'ROURKE: I can't answer that
4 question, either. I can get that for you, Mr.
5 Chairman.

6 CHAIRMAN HARTSELL: Have the
7 results of testing the groundwater monitoring wells for
8 however long they have existed been provided to the
9 State or otherwise?

10 MR. O'ROURKE: Yes. As required.

11 CHAIRMAN HARTSELL: As required?

12 MR. O'ROURKE: Yes.

13 CHAIRMAN HARTSELL: Two, do you
14 have the epidemiological documents showing a high
15 incidence of kidney and/or bladder cancer in the
16 employees at the Badin works compared to the population
17 as a whole?

18 MR. O'ROURKE: We do not.

19 CHAIRMAN HARTSELL: And are you
20 aware of the testimony in deposition in the Washington
21 State case where Mr. Ellis testified that the
22 environmental cleanup cost would be 50 Million as
23 opposed to the 10 million which you identified?

24 MR. O'ROURKE: That was an
25 investment of potential liability for remedial actions

1 at the plant. If you go to our Annual Report in the
2 management summary, you'll see a discussion of our
3 current remediation issues. The largest at that time
4 would have been the Messina operation, that is the
5 largest estimate, that still hasn't been decided.

6 The Point Comfort operation, which
7 was a mercury release which has been decided, has been
8 cleaned and has gotten a release from the EPA.

9 And a third was Badin, which was
10 estimated at 50 and we've spent 20 on the relicensing,
11 ten at the plant. But, again, at that time, it was an
12 estimate.

13 CHAIRMAN HARTSELL: But the 20 on
14 relicensing wasn't on environmental cleanup, was it?

15 MR. O'ROURKE: Some of it was
16 associated with the testing that was done in the lake,
17 Mr. Chairman.

18 CHAIRMAN HARTSELL: So there's a
19 difference in that deposition testimony and the facts
20 just like there may have been an element of a
21 difference in deposition a testimony from Dr. Rodgers
22 and what you consider to be the facts. Is that a fair
23 statement?

24 SENATOR BERGER: There could be a
25 factual difference.

1 CHAIRMAN HARTSELL: I'm just saying
2 your conclusions drawn are little different, are they
3 not, in terms of the relative testimony?

4 MR. O'ROURKE: I think the
5 statement that was made at the time that there was a
6 \$50 million estimate of cleanup on the remediation
7 costs at Badin was an accurate forecast of what that
8 could have been at the time.

9 CHAIRMAN HARTSELL: Senator Allran,
10 one question.

11 SENATOR ALLRAN: Thank you,
12 Mr. Chairman.

13 Could I ask a question of staff or
14 pose it to you, Mr. Chairman?

15 CHAIRMAN HARTSELL: Sure.

16 SENATOR ALLRAN: Could we ask the
17 staff just to go to DENR and get for us the various
18 levels of these toxins in all the lakes so that we can
19 compare Badin Lake to the other lakes with regard to
20 the what we've been talking about, PCBs and arsenic,
21 whatever these things are that ---

22 CHAIRMAN HARTSELL: To the extent
23 they are available, we'll be glad to do that.

24 SENATOR ALLRAN: I would think we
25 would have ---

1 CHAIRMAN HARTSELL: Our Committee
2 staff also staffs the Environment Committee chaired by
3 Senator Atwater.

4 UNKNOWN SPEAKER: We will be happy
5 to request that information from the Department.

6 CHAIRMAN HARTSELL: Okay. Folks,
7 Mr. O'Rourke, I will say again thank you so much for
8 coming. Chuck, thank you for bringing him.

9 MR. O'ROURKE: Mr. Chairman, I
10 appreciate the time and the professionalism of you and
11 your Committee. Thank you.

12 CHAIRMAN HARTSELL: With that, we
13 are adjourned.

14 (Senate Judiciary II Committee
15 Meeting adjourned at approximately 8:08 p.m.)

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STATE OF NORTH CAROLINA

COUNTY OF WAKE

C E R T I F I C A T E

I, Margaret M. Powell, Certified Verbatim Reporter and Notary Public, do hereby certify that the foregoing excerpt of the question and answer session of the hearing before The North Carolina Senate Judiciary II Committee in the matter of The Yadkin River Project was transcribed by me and that the foregoing pages constitute a true and accurate record of the audible portions of the Proceedings taken from an N.C. General Assembly CD labeled "Judiciary II 7-06-10."

I further certify that I am neither counsel for, related to nor employed by any of the parties to this action in which this matter was heard; and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, and am not financially or otherwise interested in the outcome of the action.

July 8, 2008

/s/ Margaret M. Powell

Margaret M. Powell, CVR

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