

1 general.

2 A That's a very complicated question, sir. I'm not
3 quite sure what I know now even. You mean about that time,
4 knowing what I know now about that time, or knowing what I
5 know now about Public Information File?

6 Q Let me try to break it out in little -- in more
7 manageable pieces. First of all, the directive is focusing
8 on what was going on in August 1, 1997 when the license
9 renewal application was filed. So, obviously it deals with
10 a period of time that you had absolutely no involvement in
11 what was going on at the radio station. But, knowing what
12 you know now, do you know whether the 'yes' response to the
13 directive on August 1, 1997, when the subject license
14 renewal application was filed, did the KALW Public
15 Information Files contain all of the Ownership Report and
16 Supplemental Reports required to be kept by then Section
17 73.3527?

18 A I'm not sure what I know now makes any difference,
19 only in that what I do know is I think everybody had correct
20 intent. When I looked at it, when I really drilled down
21 some months later and kept going back to the Public File,
22 because this was such a big deal, I saw there were Ownership
23 Reports in there for those years, it seemed fine. It was
24 like oh, okay, I didn't micro them, I didn't look at
25 everything, I just gave it a cursory look, oh, well, this

1 seems okay and this seems okay.

2 Q Let me tell you what is bothering the Commission,
3 I'll try to put it as well as I can. On August 1, 1997
4 there was a renewal application that was filed at the FCC
5 and one of the boxes was checked yes, to the effect that all
6 of the documents that the then rules required were actually
7 in the station's Public File. And following that, there was
8 the Petition to Deny, which came from Golden Gate Public
9 Radio and they made all sorts of charges. But, one of them
10 was to the effect that there were gaps in the understanding
11 Public File, that there were supposed to have been certain
12 documents in the file which at the time weren't there. And
13 so the certification wasn't appropriate, it should have been
14 checked 'no' instead of 'yes'. Now, fast forwarding to
15 February of 2001, the Commission is finally getting around
16 to focusing on this and it's asking KALW SFUSD to go back in
17 time and look at what was happening on August 1, 1997 and
18 just tell us yes or no, were all of the documents that were
19 supposed to be in the file there. And you can see from the
20 response that the first word is 'yes'. And you've indicated
21 to us that when you first came to the radio station you had
22 reviewed this response and draft and it seemed okay to you
23 based on what you knew at the time.

24 Well, now it's three and a half years later and
25 presumably there are things that you know now that you

1 didn't know in March of 2001, and so with that, all of that
2 background in mind, my first question is, is that 'yes'
3 response appropriate for what was in the station's Public
4 File on August 1, 1997?

5 A In all honesty, I would say that there were some
6 little tricks done by GGPR, that's my guess.

7 Q Okay. And what tricks do you think they pulled?

8 A There was open access to the Public File drawer.
9 Dave Evans was the Chief Engineer at the time, from what I
10 can gather, just from little notes that I've found in files,
11 where he would admonish an AO or praise them, he seemed a
12 little not schizophrenic, that's not the right word, but
13 passive aggressive.

14 Q Just enlighten me, what is an AO?

15 A Oh, announcer operator.

16 Q Okay.

17 A I'm sorry.

18 Q Okay.

19 A They're staff at the station.

20 Q Okay.

21 A And there was so much personalization of
22 everything. I mean people, it felt to me, in reviewing it,
23 in knowing some of the players on the periphery, because I'm
24 kind of a public radio industry person so I know all the
25 players in public radio, it seemed vicious, and that being

1 came to be prepared?

2 A Not since I've been there.

3 Q Moving on to response No. 2, Directive No. 2, you
4 can see here on August 1, 1997, did KALW Public File contain
5 all of the Issues Programs Lists required by then Section
6 73.3527? And in response to that the letter provides a
7 'yes' and then it goes on from there. Knowing what you know
8 now, on August 1, 1997 did the station's Public File contain
9 all the lists that were required by the rules?

10 A I don't know anything more than anybody else. I
11 would hope so.

12 Q Okay. I mean I can tell you it's fair to state
13 that if you don't know, you can just say I don't know.

14 A I don't know, I really don't know.

15 Q And has anyone at the station ever told you that
16 on August 1, 1997 all of those reports weren't there, all of
17 those lists weren't there?

18 A Nobody ever said that.

19 Q Nobody ever said that?

20 A No.

21 Q On the other hand, has anybody said to you, on
22 August 1, 1997, by God, those lists were there?

23 A I surmised it from reading the draft.

24 Q Okay. But, has anybody at the station told you, I
25 mean like I'm talking to you now --

1 A It's more like the Issues Programs Lists were
2 fine.

3 Q And who would have told you that?

4 A Probably in conversation with Bill.

5 Q Bill Helgeson?

6 A Yes.

7 Q Okay.

8 A We don't have a very big staff.

9 Q All right. I'm on a first name basis with a few
10 people.

11 A Well, I mean there's not many people to talk to,
12 there's about three or four of us.

13 Q Now, reading the first paragraph where it talks
14 about SFUSD and the present management believe that its
15 Public Information Files as of August 1, 1997 contained all
16 required Issues Programs List, materials, etcetera. Are you
17 part of the present management that had that belief, or were
18 you not involved in what is covered here by the term
19 'present management'?

20 A I was not asked did I believe that the Public File
21 had all that, I was not asked that directly. I would
22 surmise that I was included, however, I would surmise that
23 it's management.

24 Q But, to be fair to you, there is no declaration
25 from you to that effect in this letter so --

1 A Right.

2 Q -- that's why I'm trying to hone in on whether or
3 not the present management, as referenced in this letter,
4 really is meant to include you or not, since --

5 A I don't know.

6 Q -- you didn't get to sign anything?

7 A (No audible response.)

8 Q Let the record reflect relief. Now, focusing in
9 particular on the last sentence of that paragraph where it
10 reads, 'Furthermore, according to information in the files
11 of KALW's counsel, KALW station management again reviewed
12 the Public Information Files in January 1998". Well, of
13 course that couldn't have been you because you weren't
14 there?

15 A Right.

16 Q All right, so that ends that. Now, moving onto
17 the next paragraph, the first sentence reads, 'However, when
18 KALW's present management reviewed the Issues Programs List
19 file for the period in question', and that would have been
20 the period covered by the August 1, 1997 renewal
21 application, 'in connection with', there should be a word
22 there, 'in making its response to the bureau's inquiry
23 letter, they did not find, for each and every quarter during
24 that period, specifically prepared lists with respect to all
25 locally produced programs, but only the nationally produced

1 NPR Issues Programs Lists.'

2 Did you have any role whatsoever in the factual
3 assertions that appear in this sentence?

4 A No, that might have been going on when I first
5 came in. I know that Bill was reviewing the Public File,
6 the Issues Programs List specifically.

7 Q Now, moving on to the next paragraph, the first
8 full paragraph that appears on page six, it reads, 'SFUSD
9 and KALW's present management are unable to explain what may
10 have happened to this', referring to other issues or lists
11 that were referenced above, 'or any other missing lists with
12 respect to its locally produced programs.' Again, where it
13 refers to KALW's present management, in the context of this
14 sentence, is that supposed to reference Mr. Helgeson?

15 A That's, I would assume.

16 Q And you would have no reason to assume otherwise?

17 A No.

18 Q I mean there wouldn't be anybody besides yourself
19 and him?

20 A Exactly, that's pretty much it.

21 Q As you say, a small staff. All right, moving on
22 to the second inquiry, which is basically a subpart of the
23 Directive No. 2, I guess it was broken out into two parts
24 and we couldn't be bothered to go 2(a) or 2(b), we just
25 lumped them together as 2. The second part of it reads,

1 'Did any lists that were in the file contain the information
2 required by Section 73.3527.' And the response to that was,
3 'SFUSD and the present management at KALW FM believe that
4 its Issues Programs List file contained all information
5 required by then Section 73.3527 but as stated above cannot
6 presently account for a limited number of lists of
7 significant issues that were treated in locally produced
8 programs.' Again, the present management would be
9 Mr. Helgeson?

10 A I assume.

11 Q Moving on to page seven, again there's a reference
12 to present management of KALW, your assumption would be that
13 that is referring to Mr. Helgeson?

14 A Yes.

15 Q In the context of this letter?

16 A In the context of that letter, yes.

17 Q Now, looking at the first full paragraph of page
18 seven, if you could please just read that to yourself?
19 Having read that first full paragraph that appears on page
20 seven of the April 5, 2001 letter, is there any information
21 in that paragraph that you know now to be inaccurate?

22 A I don't think so.

23 Q Now, looking at the sentence in the middle of the
24 paragraph, 'SFUSD believes and avers', and we had our little
25 conversation as to what 'avers' means, 'that these materials

1 were present in the file on August 1, 1997.' Do you have
2 any knowledge as to whether that in fact was so, that all
3 the Issues Programs Lists that were required by the rule
4 were in fact in the file on August 1, 1997?

5 A I have no idea.

6 Q Now, moving on to Directive Question No. 4, the
7 response refers to the present General Manager and
8 Operations Manager. I take it we're talking about two
9 separate people and the General Manager there referred to is
10 you?

11 A Yes.

12 Q And it states that, 'Those two persons have
13 completely reviewed the Public Information File and made
14 sure that it contains all required documents, reports and
15 information through to the present.' Would that be
16 accurate?

17 A That would be accurate. It was from 1992 on, I
18 believe.

19 Q In any event, you personally satisfied yourself
20 that the information that was supposed to be there, dating
21 back to the period that the Commission was concerned about,
22 was in fact in the file?

23 A Towards the end of March, yes.

24 Q Yes. Okay. And so when we get to Directive
25 Inquiry No. 5, as of the date of this letter is the file now

1 complete? And the response is 'yes'. And I take it, from
2 what you have told me, that that would be so, that the
3 answer to that question in April of 2001 was yes, is that
4 the case?

5 A Given my knowledge of what programs they were
6 doing, yes, I had a fairly limited knowledge because I
7 wasn't listening during the nineties, as to actually what
8 they were broadcasting, but given my limited knowledge at
9 the time, yes, I believe it was. It looked --

10 Q It looked okay to you?

11 A Nice labels.

12 Q Do you know who actually put the file together in
13 terms of something like this, a file folder that I'm holding
14 now that has a nice little label on it, do you know who
15 actually physically did that for KALW?

16 A Bill was working on it and he had a helper, a
17 woman.

18 Q And do you know who that helper was?

19 A Her name is Dawn Nagengast.

20 Q Is she still at the radio station?

21 A No.

22 Q Was she a volunteer or an employee at the time?

23 A She was a volunteer.

24 Q And when did she stop providing volunteer services
25 for the radio station?

1 A Shortly after I arrived.

2 Q Do you have any knowledge as to where she might be
3 right now, I mean not physically right now but, you know, is
4 she in this area, did she move out, do you have any idea
5 where she may be?

6 A I have no idea. I believe she might still be
7 around, I don't know, I have no connection whatsoever.

8 Q Not somebody that you stayed in touch with?

9 A No.

10 Q Now, Mr. Helgeson supplied a declaration in
11 connection with the letter that was sent to us in April of
12 2001. And if you could read to yourself the contents of the
13 declaration. We can go off for a minute.

14 (Off the record at 4:40 p.m.)

15 (On the record at 4:41. p.m.)

16 MR. SHOOK: Back on.

17 BY MR. SHOOK:

18 Q Ms. Sawaya, did you have any role whatsoever in
19 the creation of Mr. Helgeson's declaration that you're
20 looking at?

21 A None whatsoever.

22 Q Now, focusing on paragraph five, the first
23 sentence reads, 'I am familiar with and have personal
24 knowledge of the contents of KALW's Public Information File.
25 All the Ownership Reports and Supplemental reports provided

1 as attachments to the response letter are true and correct
2 copies of documents that are maintained in KALW's Public
3 Information File, which copies were provided to SFUSD's
4 counsel so that they could be included as attachments to the
5 response letter and provided to the FCC.' Did you have any
6 role in providing the documents that are referenced here,
7 that being the copies of documents that are maintained in
8 the Public Information File?

9 A No.

10 Q Do you know who did?

11 A I surmise Bill.

12 Q Right, but you did not and you don't necessarily,
13 you don't really know one way or the other who actually got
14 the documents?

15 A I really don't know one way or another.

16 Q Rule of thumb, when you don't know, don't be
17 afraid to say I don't know, it's not an adverse reflection.

18 A I don't know. That's unusual to say at a
19 microphone. Listeners, I don't know.

20 Q Now, one of the things that was sent to us as part
21 of the information that was in the station's Public File,
22 was a copy of a Program Guide. And this is for the period
23 April, May, June 1997. When you looked at the KALW Public
24 Information File, was a Program Guide available for each
25 period that was covered by the license renewal application

1 that is being contested?

2 A I seem to recall that there was.

3 Q So, in other words, there would have been program
4 guides that would have gone back to, well, probably 1991,
5 and so it would have had for 1991, for 1992, etcetera, and
6 this would have been probably the second to the last one in
7 1997?

8 A Right.

9 Q There would have been one for what, May, or no
10 excuse me, this would have been the last one, because the
11 renewal application was filed in August so, the next program
12 guide would have been July, August and September. But, your
13 recollection is that when you looked at the Public File
14 there were program guides that dated back to the --

15 A That's my recollection. Certainly there were the
16 late nineties. I don't recall really having the time. I
17 mean I looked through, seemed like every one of them had a
18 program guide in them.

19 Q All right. Now, looking at this final piece of
20 our puzzle, or this portion that we're looking at, this
21 appears to be a document that comes from National Public
22 Radio, and it concerns programs that they did. And it's a
23 12 page document, and as best as we can figure --

24 A Good old NPR.

25 Q Right, good old NPR -- as best as we can figure,

1 given the information here, it pertains to programs that NPR
2 ran, it looks like, in 1997, this particular one that I'm
3 pointing out, under War Ethnic Conflict Stymies Armenia
4 Progress.

5 A Morning Edition.

6 Q -- and Morning Edition, April 7, 1997, it ran for
7 eight minutes and one second, or I guess that's what that
8 means?

9 A Yes.

10 Q And then there was a person --

11 A Anne Garrels.

12 Q -- Anne Garrels. So, this 12 page list concerned
13 programming that NPR would have supplied to its network
14 stations, I presume during the period beginning April 1997
15 and continuing, it looks as if it goes into June of 1997.
16 And is this the kind of information that NPR would regularly
17 make available to stations such as yourself, to help you put
18 together the Issues Programs List?

19 A NPR is very fastidious about making sure that
20 their member stations has as many tools as possible to meet
21 FCC regulations.

22 Q Now, looking at this document, there's a date that
23 appears basically in the upper right hand portion, and that
24 date reflect that, the date looks like 3/14/01?

25 A Uh-hum.

1 Q Now, do you have any reason to know whether the 12
2 page document we're looking at here, that bears that date of
3 3/14/01, that that was when that document was generated?

4 A It might have been.

5 Q You don't know one way or the other?

6 A No, not for sure.

7 Q Again, it's okay to say you don't know.

8 A I don't know.

9 Q Now, the next document I want to show you, and it
10 may even be the last document I want to show you?

11 A Aw shucks, I'm getting less time than everybody
12 else.

13 Q I know, it's discrimination rearing its ugly head
14 again. Okay. What I'm showing you is a document that we
15 received from SFUSD and it was filed at the Commission on
16 September 7, 2004, and my first question to you is whether
17 or not you had any role whatsoever in providing the
18 information that appears in the Admissions Responses that
19 were sent to the Commission, and we can go off the record
20 and feel free to thumb through.

21 (Off the record at 4:49 p.m.)

22 (On the record at 4:53 p.m.)

23 MR. SHOOK: We're back on.

24 BY MR. SHOOK:

25 Q I'd like you to turn to page six and the

1 particular admissions request and then SFUSD response that I
2 want you to focus on is No. 12. And when you get to the
3 very last sentence, which appears on page seven, it states,
4 'The three pages that SFUSD believes constitutes the SFUSD
5 1993 Supplemental Ownership Report are reproduced at
6 Attachment 2 hereto.' And when you got to the back, there
7 are four attachments. And the second attachment is the one
8 that's referenced in that response, and it consists of three
9 pages, and the middle page of which reflects that it was
10 signed off on in December of 1997.

11 In response to admissions request No. 12, did you
12 have any role in gathering the three pages that appears as
13 Attachment 2 to the response?

14 A Yes, given Bill's eyesight issue, I've basically
15 been the one pulling together the paperwork out of the
16 Public File for this current round.

17 Q Did it come to your --

18 A Can I ask a question?

19 Q Sure.

20 A Is that what you mean by role?

21 Q Yes. Now, in the course of pulling the three
22 pages out, that appear as Attachment 2 in connection with
23 request and response No. 12, I take it, it came to your
24 attention that the document that you were submitting was not
25 the same one --

1 A Exactly.

2 Q -- as what was given to us in April of 2001 as the
3 1993 Ownership Report?

4 A I didn't notice that.

5 Q You didn't notice that.

6 A What jumps out at me is the list should have been
7 before the signature.

8 Q Details, details. Now, again the next request and
9 response I'd like you to focus on is No. 15, which begins
10 toward the bottom of page eight and carries over to page
11 nine. Again focusing on the very last sentence of the
12 response it says that the three pages that SFUSD believes
13 constitutes the SFUSD 1995 Supplemental Ownership Report are
14 set forth in Attachment 4 hereto. And if you go to
15 Attachment 4, there's a three page document that appears to
16 be the 1995 SFUSD Ownership Report. And it too was signed,
17 apparently, on 10 December 1997.

18 Were you the person who gathered the three pages
19 that appear as Attachment 4?

20 A Yes, I pulled them out of the file.

21 Q And did it come to your attention that the 1995
22 report, that you were providing as Attachment 4, was not the
23 same as the 1995 report that was provided to the Commission
24 in April of 2001?

25 A No, it did not come to my attention.

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ATTACHMENT B

DECLARATION OF NICOLE SAWAYA

Declaration of Nicole Sawaya

I, Nicole Sawaya, do hereby declare:

1. I am the General Manager of noncommercial station KALW(FM), San Francisco, California ("KALW" or the "Station"), which is licensed to the San Francisco Unified School District ("SFUSD").
2. I began working at KALW as General Manager on March 1, 2001. I was not previously employed at KALW. My first month at KALW brought many challenges. Among the urgent issues that needed my immediate attention when I first joined the Station were: the need to reinstitute and plan for the late-spring Fund Drive, an important fund-raiser for the Station; completing the previous year's Annual Financial Report and Annual Station Activities Survey required by the Corporation for Public Broadcasting for federal funding; handling public complaints about the prior replacement of a popular DJ; and formalizing security escort arrangements for late-night Announcer/Operators.
3. As I stated at my deposition taken by the FCC Enforcement Bureau (the "Bureau") on September 28, 2004, I did not learn of the pending challenge to the KALW renewal by Golden Gate Public Radio ("GGPR") until shortly after I began working at the Station. (p. 367, lines 21-25; p. 368, lines 1-5) I remember being surprised that a challenge involving the renewal from 1997 was still pending, and felt that it was my duty to "energize" the situation, to make sure everything was being done that could be done at the FCC to get the matter resolved, and to make sure my supervisor and the Superintendent were briefed on the matter. As I explained at my deposition, "[w]hen I found out about the license challenge, I wanted to talk to the station's lawyer and find out what was going on ... I needed to be briefed and Ms. Wright [my supervisor] needed to be briefed, and ... Dr. Ackerman [the Superintendent] needed to be briefed ... I was just confused as to why something from 1997 had languished." (p. 374, lines 17-19; p. 375, lines 3-7) As I noted at my deposition, Ms. Wright and I asked Ernest Sanchez (of the Sanchez Law Firm, communications counsel to SFUSD), to move the matter forward. (p. 375, lines 8-13) Mr. Sanchez responded that he would draft a response, something we could look at. (p. 375, lines, 13-15)
4. One of the documents submitted by SFUSD to the Bureau on February 2, 2005, in response to the Enforcement Bureau's second and third requests for production of documents was a March 8, 2001 memorandum from me to Mr. Sanchez. (I note that there are actually two memoranda dated March 8, 2001; the first, which references "Enclosures," is in the nature of a cover letter from me to Mr. Sanchez transmitting another memorandum regarding "KALW & FCC letter dated: 2.5.01 - Reference 1800B3." I will refer to the second memorandum as the "March 8th Memorandum.")
5. Unfortunately, I did not have the opportunity prior to my deposition to review the March 8th Memorandum or the other items submitted by SFUSD to the Bureau in response to their second and third document requests; doing so would have refreshed my recollection about the events of March and April 2001. It is my information and belief that the Sanchez Law Firm did not provide to SFUSD the March 8th Memorandum and

other correspondence to and from SFUSD involving the renewal challenge until January 2005, notwithstanding the fact that in July 2004, SFUSD's new counsel requested that Mr. Sanchez transfer all of the KALW files to new counsel. Indeed, it is my information and belief it was not until after David Campos (the new Chief, General Counsel of the SFUSD Legal Office) requested such a transfer in writing in January 2005 that all the KALW files were transferred to new counsel by the Sanchez Law Firm.

6. When I was shown the March 8th Memorandum in January 2005, I had no immediate recollection of the memorandum or of having drafted it. However, on closer inspection, I noticed that the March 8th Memorandum is written in my style, and, notwithstanding that I have no independent recollection of writing it, I believe I did author the memorandum. I still cannot remember how I would have come to write the March 8th Memorandum: I do not remember if I was asked to do so by Mr. Sanchez or if I decided myself to take on the task after I learned of the February 5, 2001 letter of inquiry from the FCC (the "LOI"). In either event, it is clear from the Memorandum that I reviewed the LOI and the Station's public inspection file just after I started working at the Station and expressed my views regarding the responses that should be made to the FCC.
7. Specifically, under "1)" of the March 8th Memorandum, I stated "No" and explained that the 1993 and 1995 ownership reports were put in the file on December 10, 1997 – which I may have assumed because the 1993 and 1995 reports in the public inspection file were signed on that date. While the March 8th Memorandum states that copies of the 1993 and 1995 reports were enclosed with the memorandum, they were not included in the materials supplied by the Sanchez Law Firm. At the time of my deposition, I had not remembered that I had sent copies of ownership reports to Mr. Sanchez at the beginning of March 2001. (p. 396, line 5-11) I did recall, as I stated at my deposition, pulling from the KALW public inspection file in 2004 the pages relating to the 1993 and 1995 ownership reports, including the December 10, 1997 signature pages, that were provided to the Bureau in connection with SFUSD's response to admissions. (p. 400, lines 4-16; p. 401, lines 18-20)
8. I also noted under "1)" of the March 8th Memorandum that the 1999, 2000 and 2001 ownership reports were missing but had been filled out and signed. I also noted under "4)" of the Memorandum that "all reports were corrected in the Fall of 1997 when matters came to the attention of then general manager, Jeff Ramirez." I do not recall how I knew what Mr. Ramirez had done regarding the ownership reports. I concluded under "5)" that "Ownership reports are now completed and current."
9. Under "2)" of the March 8th Memorandum, I discussed the history of what I described as the "physical chaos" at the station. As I explained at my deposition, I was not employed at the Station during the 1991-97 license term; therefore I had no personal knowledge as to what was in the KALW public inspection file on August 1, 1997. (p. 355, lines 20-23; p. 377, lines 12-18) I explained at my deposition that I had started to look at the public inspection file at the very beginning of March and "was just trying to connect the dots with all this and trying to get movement." (p. 376, lines 7-15) Under "5)" of the March 8th Memorandum, I stated that "Issues and program listings are current, and back

listings are in the process of being completed to the best of our ability.” Even after reviewing the March 8th Memorandum, I do not have an independent recollection as to what I found or did not find in early March 2001 in the public inspection file regarding issues/programs lists. But I note that I stated “No” under “2)” of the March 8th Memorandum in response to the LOI question as to whether on August 1, 1997, the public inspection file contained all the required issues/programs lists.

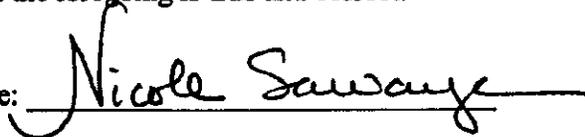
10. At my deposition, I was uncertain as to whether I had reviewed the LOI. (p. 368, lines 8-16) I do not today have an independent recollection of reviewing the LOI. However, the March 8th Memorandum, which references the LOI, suggests that I must have reviewed it very soon after commencing my employment at KALW. As I stated above, I also do not today have an independent recollection of having drafted the March 8th Memorandum. Nonetheless, if I had reviewed the memo before my deposition, on that basis, I might have been able to state with more precision what information I had provided to Mr. Sanchez for his use in the preparation of the LOI response.
11. After reviewing the March 8th Memorandum in January 2005, I double-checked my personal files, and confirmed that they did not contain a paper copy of the March 8th Memorandum. Also, about a year and a half ago, the hard drive in my work computer failed and had to be replaced; as a result I lost virtually all my e-mail and contact information and most of my document files. Only a few documents were able to be retrieved and placed on my new hard drive. After reviewing the March 8th Memorandum in January 2005, for the first time, I searched my new hard drive. I did not realize that the computer technician who worked on my transition to a new computer had placed some retrieved documents under the “My Doc’s” folder, which I had assumed was for newly created documents. Nevertheless, I checked that folder at that time and located a computer file of the March 8th Memorandum, which is additional evidence that I was its author.
12. I have since reviewed the e-mail correspondence to which I was a party included among the documents obtained from The Sanchez Law Firm in January 2005. I also have reviewed the billing invoices from the Sanchez Law firm for the March and April 2001 time period. One e-mail was sent by me to Mr. Sanchez on March 26, 2001, inquiring as to the status of the response to the FCC. I also instructed Mr. Sanchez to copy Ms. Wright and Mr. Campos on all correspondence regarding the Station, and specifically to copy KALW and Mr. Campos before any paperwork was filed. (At that time, Mr. Campos was a lawyer with the City Attorney’s Office who recently had begun working with the District’s Legal Office.) I also told Mr. Sanchez that I hoped we could clear up the challenge as soon as possible so we could move forward. Although I do not recollect if I was specifically instructed by Ms. Wright or Mr. Campos to send these instructions to Mr. Sanchez, this correspondence comports with my recollection that my role was to make sure the District responded to the FCC to keep this proceeding moving forward and to ensure that my supervisor and the Legal Office were involved.
13. Another e-mail from me is to Mr. Sanchez and Susan Jenkins (associated with the Sanchez Law Firm), dated April 3, 2001, and references a conversation between Ms. Jenkins and me the day before, the possibility of a trip by Mr. Sanchez and

Ms. Jenkins to San Francisco, and the need for a summary of the renewal challenge to help Mr. Campos, Ms. Wright and myself understand it, since all of us were new to the situation. The invoices also reference conversations between Ms. Jenkins and me on certain dates in March and April 2001. I do not recollect having any substantive conversation with Ms. Jenkins at that or any other time about the SFUSD response to the LOI; I recall only talking with her about the history of the renewal challenge, her trip with Mr. Sanchez to San Francisco and the preparation by the Sanchez Law Firm of a summary of the renewal challenge to present to my superiors.

14. In an e-mail from Bill Helgeson (KALW Operations Manager) to me, Mr. Campos and Ms. Wright, Mr. Helgeson stated that, the day before, he had had an approximately one-hour telephone conversation with Mr. Sanchez and Ms. Jenkins relating to the response to the FCC. (I note that, although Mr. Helgeson manually typed "Tuesday, April 2" on this e-mail, in fact, Tuesday was on April 3 that year, and the automatic date at the top of the e-mail reads "4/3/2001.") As I noted at my deposition, although I did not know who was providing specific responses to the LOI, I stated that I did "know that Bill [Helgeson] was reviewing the Public File, the Issues Programs List specifically;" that Mr. Helgeson was organizing the public inspection file with a station volunteer; and that I believed Mr. Helgeson provided copies of documents from the public file to counsel for use in drafting the response. (p. 391, lines 2-6; p. 394, lines 12-19; p. 396, lines 5-15) I stated at my deposition that I assumed the references in the response drafted by the Sanchez Law Firm to the LOI to the belief of "present management" that the file was complete referred to Mr. Helgeson and myself, notwithstanding that I had not provided a statement for the response. (p. 389, lines 16-25; p. 390, lines 1-8) As I stated at my deposition, towards the end of March 2001, I had personally satisfied myself that the public inspection file was complete from 1992 on, and the LOI response referred to both my and the Operations Manager's review of the file. (p. 393, lines 6-25; p. 394, lines 1-11)
15. In an e-mail dated April 3, 2001, Mr. Sanchez sent a copy of the draft response to the LOI to Mr. Campos, with copies to Ms. Wright, Mr. Helgeson and me. While Mr. Sanchez's e-mail message states that the draft response is based on discussions with Mr. Helgeson and me, I do not recollect having any substantive conversations with either Mr. Sanchez or Ms. Jenkins. As I stated in my deposition, I saw a draft of the response to the FCC LOI. (p. 370, lines 18-23; p. 378, lines 12-16) I do not recall if the April 3 draft was the only draft I saw, but there are no other drafts in the materials provided by the Sanchez Law Firm in January 2005, nor is there evidence of circulation of a final version. I explained at my deposition that I did not recall if I had been asked to provide information or comments relative to the letter. (p. 370, lines 24-25; p. 371, lines 1-2) I noted that "I had put a few things in motion," such as moving the public file into a locked cabinet in my office, and that I wanted to make sure that going forward the file would reflect all the public affairs programs. (p. 371, lines 1-7) I explained that "I do remember looking at the letter, trying to read it as best I could, certainly not with the eye that I have now." (p. 376, lines 24-25; p. 377, lines 1-5) I was not asked to supply a declaration or verify what was in the response to the LOI. (p. 377, lines 6-11) Nor would it have been fair to expect a verification from me, since I was not employed at, and did not have any personal involvement in, KALW at the time the renewal

certification was made. (p. 377, lines 12-18) I explained that although I reviewed the response to directive no. 2 of the LOI in draft form, I could not confirm that it was accurate. (p. 378, lines 12-19) I do not remember comparing the April 3 draft response to the March 8th Memorandum or having any substantive discussions thereafter with Mr. Sanchez, Ms. Jenkins or Mr. Helgeson. In retrospect, it seems obvious that there were differences between the April 3 draft response and the March 8th Memorandum – in particular the change from “No” to “Yes” in response to directives nos. 1 and 2, and the failure to discuss the late-dated 1993 ownership report. However, at the time, it seemed to me that on the whole the draft explained the difficulties the Station had experienced with the public inspection file. I knew that Mr. Helgeson, as well as Ms. Wright and Mr. Campos, would be reviewing the draft, and Mr. Helgeson in particular could confirm details relating to the public inspection file. I did not know, until it was pointed out in connection with my review of the documents provided in January 2005 by the Sanchez Law Firm, that the final version of the response to LOI differs from the draft circulated on April 3, 2001.

I declare under penalty of perjury that the foregoing is true and correct.

Signature: 

Executed on March 2, 2005

ATTACHMENT C

EXCERPTS FROM DEPOSITION OF WILLIAM HELGESON

STATE OF CALIFORNIA
COUNTY OF [illegible]

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the County of [illegible] at the City of [illegible] this [illegible] day of [illegible] 19[illegible].

Notary Public for the County of [illegible]
My Commission Expires [illegible]

[illegible]