

# EXHIBIT 9

Case No. 2-1998-023S

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EXHIBIT 9

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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In the Matter of: :  
INTERVIEW OF :  
DARYL SMITH : Case No. 2-1998-023  
(CLOSED) :  
- - - - - X

TVA Central Lab and Field Testing  
Services  
Chickamauga Power Service Center  
Access Road at Highway 153  
Chattanooga, TN  
Wednesday, April 26, 2000

The above-entitled matter came on for interview,  
pursuant to notice, at 8:55 a.m.

BEFORE:

GARY CLAXTON, Special Agent  
WILLIAM BEARDEN, Inspector

APPEARANCES:

On Behalf of the Tennessee Valley Authority:  
EDWARD J. VIGLUICCI, Senior Attorney  
Office of the General Counsel  
400 West Summit Hill Drive, ET-11A-K  
Knoxville, Tennessee 37902-1499

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C O N T E N T S

WITNESS	EXAMINATION
DARYL SMITH	
BY MR. CLAXTON AND MR. BEARDEN	4

E X H I B I T S

NUMBER	IDENTIFIED
[NONE.]	

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

[8:55 a.m.]

1  
2  
3 MR. CLAXTON: For the record, today is April 26th, 2000.  
4 This is an interview of Daryl Smith. This interview is  
5 being conducted at TVA Central Services Building in  
6 Chattanooga, Tennessee. Also present at the interview is Ed  
7 Vigluicci, Senior Counsel for the Tennessee Valley  
8 Authority; Also Bill Bearden, who is with the Maintenance  
9 Branch for the Nuclear Regulatory Commission, Region II; and  
10 myself, I'm Gary Claxton, a senior investigator for the  
11 Nuclear Regulatory Commission, Office of Investigations.

12 Mr. Smith, you are aware of my identity, my  
13 official identity, and purpose for being here?

14 MR. SMITH: Yes.

15 MR. CLAXTON: And, Ed, just for the record if you  
16 would, I've already identified you, but if you would give  
17 your purpose in being here.

18 MR. VIGLUICCI: Sure. My name is Ed Vigluicci.  
19 I'm Senior Licensing Counsel for TVA, Office of the General  
20 Counsel. I'm here to represent Daryl during this interview  
21 and I also represent the Tennessee Valley Authority.

22 MR. CLAXTON: Daryl, as in the past I'd ask you if  
23 you'd asked or if you had requested Mr. Vigluicci to be here  
24 with you and represent you?

25 MR. SMITH: Yes, sir.

1 MR. CLAXTON: Okay. And you're aware, you know  
2 that he also represents your employer, TVA?

3 MR. SMITH: Yes.

4 MR. CLAXTON: And you're aware that anything that  
5 you say can be shared with your employer through Mr.  
6 Vigluicci?

7 MR. SMITH: Yes, sir.

8 MR. CLAXTON: And you have no objection to him  
9 being here?

10 MR. SMITH: None.

11 MR. CLAXTON: Do you have any objection to placing  
12 the information that you're going to give under oath?

13 MR. SMITH: No.

14 MR. CLAXTON: Would you raise your right hand,  
15 please?

16 Whereupon,

17 DARYL SMITH,

18 being first duly sworn, was examined as follows:

19 DIRECT EXAMINATION

20 BY MR. CLAXTON:

21 Q Thank you. You can put your hand down.

22 Daryl, primarily what we'd like to talk about is  
23 some information that you provided to Darrell White, the  
24 investigator for the NRC Office of Investigations back on  
25 April 10th. I was unavailable to be here and I think you

1 had provided some information that you thought might be  
2 important to supplement what we had learned earlier in this  
3 investigation of the Watts Bar ice basket screws. So I  
4 would like to go through some of that information.

5 First of all, we'd like to talk about the  
6 mislabeling aspects of the Set A versus Set B screws in the  
7 first metallurgical report; and if I say the first  
8 metallurgical report, you understand that's the one that was  
9 written on June the 2nd, 1995.

10 A Yes.

11 Q And you authored that?

12 A Yes.

13 Q Okay. Now, I think in essence what you related to  
14 Darrell White was that the whole screw in Set A may have  
15 been mislabeled and identified as a Set B screw in the  
16 second report; is that right?

17 A (Witness nods head.)

18 Q Okay.

19 A No, sir. I believe that's -- you have it the other  
20 way around.

21 Q You're right. Okay. The Set B screw was  
22 mistakenly -- okay. I'll let you say it.

23 A The crack in the screw which was labeled Set A in  
24 the first, excuse me, which was labeled Set B in figure  
25 seven in the first report was actually a Set A screw labeled

1 in the second report.

2 Q Okay.

3 A It was never a Set B screw.

4 Q All right.

5 MR. BEARDEN: It was received as a Set A screw?

6 THE WITNESS: That is correct.

7 BY MR. CLAXTON:

8 Q When you received these screws or at that time,  
9 how were they labeled? Was the actual screw attached or  
10 put in some type of container?

11 A We received eleven screws initially and I can't  
12 remember if they were in two separate bags or if they were  
13 in -- all in one bag, but there were ten fractured screw  
14 heads and one whole screw. And at the time we received  
15 them, the best of my recollection, we referred to the whole  
16 screw as a new screw, not knowing that later other screws  
17 were going to be submitted which were also called new  
18 screws.

19 Q Okay. Now, you told Darrell White that at the  
20 time the report was written that, I think the words you  
21 used, we came to a belief that there was a labeling problem  
22 in the first report which was corrected in the second  
23 report. How did you come to that understanding?

24 A Recently? Is that what you're referring to?

25 Q Well, it said that during the time this report was

1 written we came to a belief that these and then dash, dash,  
2 that there was a labeling problem in the first report?

3 A Okay.

4 MR. VIGLIUCCI: So he's talking in the actual  
5 duration between the first report and the second report.

6 BY THE WITNESS:

7 A I believe what happened was we initially thought  
8 the whole screw from the melt tank was a new screw and it  
9 was labeled new screw. Whether it was inadvertent or a  
10 mistake or whatever, I can't remember. But the screws which  
11 were received later as a Set B new screws created some  
12 confusion because then we had a new screw in Set A and a new  
13 screw in Set B. That confusion was carried through from the  
14 first report even to the June 12th endorsement.

15 Q Okay. Let me stop you there. What you said  
16 earlier, though, was that apparently the actual photographs  
17 were mislabeled. And that's my question to you, is do you  
18 know how that came about. Apparently you realized that at  
19 some point and that was corrected?

20 A During the process of clarifying the first report  
21 the labels A and B were re-examined and the photograph of  
22 the crack in the Set B screw in the first report was  
23 determined that it was mislabeled and should be corrected to  
24 read Set A screw in figure seven of the second report.

25 Q Now, when you say it was mislabeled, is it taped



1 to a card? How physically -- or how was it labeled  
2 physically that it was confused?

3 A I'm not sure exactly how it was labeled. My best  
4 guess is that on the back of the microstructural mount which  
5 contained the sectioned screw that the photograph was taken  
6 from, the label N-E-W was placed on the back probably before  
7 the Set B screws were received. And when the photographs  
8 were taken of that crack, the caption new was labeled on  
9 those photographs. So then when the Set B screws were  
10 received and testing was performed on those screws, they  
11 were also new screws; and it wasn't until the second report  
12 was issued that the clarification was made between the whole  
13 screw from in-service Set A and the new screws in Set B.

14 Q Okay. So what you're telling me was that you've  
15 come to the realization or memorization, or whatever, that  
16 there was a mix-up or a mislabeling. And I guess we need to  
17 keep that separate because if a screw is mislabeled, that  
18 meant you wrote down the wrong identifier on it?

19 A I don't believe it was the wrong identifier. I  
20 believe -- that was just the way we kept track of which  
21 screw was from -- which screw was which. The label new was  
22 simply originally to differentiate the whole screw from the  
23 fractured screws. New is just a way of saying unfractured.  
24 It wasn't until we received the Set B screws which were  
25 truly new screws --

1 Q Uh-huh.

2 A -- that the differentiation had to be made between  
3 the whole screw in Set A and the new screws in Set B.

4 Q Do you still have the actual hard copy photographs  
5 that were made --

6 A Yes.

7 Q -- that were -- where those notations were made on  
8 the back?

9 A Yes.

10 Q Do you have those available here at the lab?

11 A They're right here.

12 MR. VIGLUICCI: I think those are all the  
13 photographs from the first and second reports, Daryl?

14 THE WITNESS: That is correct.

15 MR. VIGLUICCI: So if you go those figures -- are  
16 both figure sevens in that package?

17 THE WITNESS: Yes, sir.

18 MR. VIGLUICCI: Okay.

19 BY MR. CLAXTON:

20 Q Okay. For the record we'll just note that Mr.  
21 Smith has provided thirteen pages with black and white  
22 photographs mounted to the page and the pages appear to be  
23 the originals. And I'll ask you, Mr. Smith, are these the  
24 originals of the figures that were included in the June 2nd  
25 and June 19th reports?

1 A Yes, they are.

2 Q Okay. These are apparently mounted with some type  
3 of adhesive. Do you know if there are any notations on the  
4 back of the photograph?

5 A There is a notation on the back of that top  
6 photograph in the figure you're holding.

7 Q And for the record, that would be the transverse  
8 cross-sectional view of a crack present in the screw that  
9 was not in service from Set, quote, A, end quote, 400-X,  
10 Vilella's etch.

11 Can I remove the picture? Has it been removed?

12 A Yes, I removed it yesterday.

13 MR. VIGLUICCI: It's just taped on.

14 BY MR. CLAXTON:

15 Q The back of the photograph has a handwritten  
16 notation that says new 400-X Vilella, same spelling,  
17 V-I-L-E-L-L-A. Did you make both of those notations?

18 A I believe that's my handwriting.

19 Q It appears that those were made with different  
20 inks or different pens. Do you recall making those at  
21 different times?

22 A No, I believe that one was on tape and the tape has  
23 caused the ink to look differently.

24 Q Okay. Now, is there any way of knowing whether  
25 that's the Set A or the Set B screw just from the notations

1 on the back?

2 A It's either from Set A or Set B.

3 Q Is there any way of knowing which one?

4 A Not just from the notations, no.

5 Q Okay. Because I think what we're talking about is  
6 how the photographs were mislabeled or confused. And my  
7 question to you is, is there any way of knowing which one  
8 that is?

9 A Well --

10 Q I'm sorry. Before we go too far, the photograph  
11 that we're looking at was included in this second report; is  
12 that correct?

13 A That's correct.

14 Q That's the figure seven in the second report. And  
15 as I said earlier, that's noted as being from Set A. Okay.

16 A Now, keep in mind that during the time we are  
17 preparing reports when the information is fresh in our minds  
18 a lot of times we will not have to take notes on everything.  
19 So the notes that we have today are just vague reminders of  
20 what was going on at the time.

21 Q Okay. Now, you said something earlier that I want  
22 to follow up on. Were the twelve Set B screws received at a  
23 different time from the fractured screws?

24 A That appears to be what happened. I honestly can't  
25 remember, but I believe from everyone else's testimony that

1 is the case.

2 MR. BEARDEN: Would the receiving log show that?

3 THE WITNESS: Ed?

4 MR. VIGLUICCI: Gary brought that point up  
5 yesterday and so we pulled the receiving log. It does show  
6 that they did arrive -- the screws were arrived on a certain  
7 date, but there is only one entry for the receipt of the  
8 screws. Gary, I have the log up here right behind you, I'm  
9 going to go retrieve that and show you that page from that.  
10 We went through this after our conversation yesterday. This  
11 is the 1995 receipt log.

12 MR. CLAXTON: Okay.

13 BY MR. CLAXTON:

14 Q For the record, we're looking at -- would this be  
15 referred to as a lab receipt?

16 A Just a log book.

17 Q Just a log. And this is used when you receive  
18 material in the lab for examination?

19 A That's one purpose, but it's also mainly to  
20 cross-reference shop order number with sample description.  
21 Therefore, even if shop order numbers are opened that don't  
22 even have samples corresponding to them, they're stilled  
23 logged there so that we have a record of that.

24 MR. VIGLUICCI: There is a second entry there.

25 THE WITNESS: Which does not have a quantity

1 associated with it.

2 MR. BEARDEN: This indicates there were eleven  
3 screws.

4 MR. VIGLUICCI: Eleven screws.

5 THE WITNESS: Yeah. That's correct.

6 MR. VIGLUICCI: If you'll look at this entry here,  
7 this is 95-1219 as far as the lab shop order number. We  
8 went and pulled that. This is the shop order. It was only  
9 opened, according to this, for additional time to be charged  
10 to the lab report. It doesn't note any additional screws.  
11 I think it's just -- Daryl, what's your best explanation,  
12 it's an extension of time?

13 THE WITNESS: In order for us to charge out to a  
14 shop order number, that shop order must be opened. After a  
15 report is submitted, that shop order is considered closed.  
16 So, in order to go back and charge more time to it, an  
17 additional shop order must be opened.

18 MR. VIGLUICCI: So it doesn't necessarily mean  
19 there were additional screws or anything received at that  
20 time. It's just an extension of time to allow you to charge  
21 to that shop order?

22 THE WITNESS: That's correct. And that's why it's  
23 logged in the book is just to cross reference the shop order  
24 number with the sample. But there was actually no  
25 additional samples submitted for that particular shop order.

1 Therefore, the original samples which were received were  
2 logged in the first entry. Subsequent samples which were  
3 received that related to that first shop order number were  
4 not logged because they were tied back to that same shop  
5 order number.

6 This is not a means of cataloging how many samples  
7 are in the lab. It's just the date the initial samples were  
8 submitted.

9 MR. BEARDEN: This is the book that's referred to  
10 as a receiving log?

11 THE WITNESS: That is correct.

12 MR. BEARDEN: Because I'd heard that term before.

13 THE WITNESS: And this is not something that we  
14 were required to do. This is just something we did to try  
15 to keep things straight in our own minds.

16 BY MR. CLAXTON:

17 Q Okay. What would this document be called?

18 A Just a short report.

19 Q Okay. This is apparently signed by Leslie  
20 Blankenship as prepared by you?

21 A (Witness nods head.)

22 Q It says this shop order was opened, as you say, in  
23 order for additional time to be charged to laboratory report  
24 number 95-1021, and I think that was the report number for  
25 both the June 2nd and June 19th reports?

1           A    That is correct.  Then there is a typo there.  It  
2 says June 9, but it should have been June 19th.

3           Q    Okay.

4           MR. VIGLIICCI:  If you need to keep a copy of  
5 that, Gary, you're welcome to do that.

6           MR. CLAXTON:  Sure.

7           BY MR. CLAXTON:

8           Q    Okay.  Before you showed me the photographs you  
9 have here, we were talking about whether it was possible to  
10 positively determine whether the screw in question was A or  
11 B and you showed me the photograph.  And let me reask the  
12 question.  How did you determine that the photograph in  
13 figure seven of the second report was actually screw A?

14          A    Well, I believe what happened was we had a  
15 cross-section through this particular screw that was labeled  
16 new.  And after the first report came out and after the  
17 endorsement came out and there was some confusion as far as  
18 which screws had cracks in them, we went back and looked.  
19 If you'll notice in the June 12th endorsement we combined  
20 Set A and B as new screws.

21          Q    Which really doesn't answer the question.  So  
22 we've still got A and B put together?

23          A    Right.  As you see, we called the new screws from  
24 Set A and B here.  We found a crack in one of those screws.  
25 So I believe that it came into question which screw had the



1 crack because --

2 Q Uh-huh.

3 A -- at some point after this endorsement was  
4 released and before the June 19th report was released, there  
5 was some revelation that we have a screw labeled new which  
6 is actually not part of the new screws in Set B and it must  
7 be the whole screws in Set A received in the original bag of  
8 samples that were received.

9 Q Do you recall why the endorsement was requested or  
10 who requested it?

11 A No, sir, I do not.

12 Q Okay. The endorsement states that it submitted an  
13 order to catalog which screw samples were discovered to  
14 contain cracks. Is there any documentation or do you have  
15 any notes or is there a log or anything that might be in the  
16 RIMS that would show who made that request?

17 A No, sir. I believe Delsa could probably give you a  
18 better answer on that. I don't remember.

19 Q Now --

20 A Well, allow me to continue, please.

21 Q Sure.

22 A The clarification was then made that there was a  
23 crack in the whole screw from Set A which was labeled new.  
24 And when the photograph was taken, it was still labeled new;  
25 but at some point the distinction was made that even though

1 it was labeled new, it was not from Set B, it was from Set  
2 A, and clarified in the second report, figure seven to be  
3 the screw from Set A containing the crack.

4 MR. VIGLUICCI: I think, Gary, the endorsement  
5 itself is probably the best contemporaneous evidence that we  
6 have since the endorsement says that one new screw was  
7 received with the original batch of fractured Set A in which  
8 cracks were found at the thread roots. So at that point  
9 there is still, as I say, using the new but it talks about  
10 the Set A in which the cracks were found at the thread  
11 roots.

12 BY MR. CLAXTON:

13 Q But somehow it appears that Set A got intermingled  
14 with Set B or at least the photograph?

15 A Just the label new was on the Set A screw.

16 Q Uh-huh.

17 A And you'll notice that we said in the endorsement  
18 note that one new screw was received with the original batch  
19 of fractured screws, and that was the Set A batch --

20 Q Uh-huh.

21 A -- in which cracks were found. So in other words,  
22 we found cracks in that screw. Then they wanted us to look  
23 at all of the, quote, new screws, unquote, and check for  
24 cracks. Of the Set B screws which were not destroyed for  
25 chemical testing, there were seven additional Set B screws

1 left.

2 Q Okay. Yeah.

3 A And of those seven screws, no cracks were found.  
4 And in the table in the endorsement, it says cracks were  
5 found in one of the eight new screws including screws from A  
6 and B. The caption at the bottom says that one new screw  
7 from Set A, which was actually the whole screw from Set A,  
8 had cracks which were found. That lets you know that no  
9 cracks were found in the Set B screws and the only screw  
10 that had crack was the Set A screw.

11 Q Okay.

12 A Therefore, the photograph that had the crack must  
13 have been from a Set A screw. If you have no cracks in a  
14 Set B screw and you have a photograph of a crack in a screw,  
15 it must be from the Set A screw if it's labeled new because  
16 it's either going to be A or B.

17 Q Did you photograph or did you section any B  
18 screws?

19 A Yes, sir. We sectioned seven B screws.

20 Q Do you have those photographs somewhere in your  
21 file?

22 A No, sir. There was nothing to photograph because  
23 we found no cracks.

24 Q Okay.

25 A We only photograph flaws, not -- now we did

1 photograph the slack-quench microstructure from Set B which  
2 was also considered a microstructural flaw similar to a  
3 quench-crack. Those photographs were reported in the June  
4 19th report in figure twelve.

5 Q All right. Now, let's get into the time period a  
6 little bit from what I hear you saying that at the time of  
7 this endorsement you realized that there was a mislabeling  
8 problem or the photograph in the first report --

9 A I believe that after this endorsement came out  
10 there was a question brought up as to was a new screw  
11 regarding the whole screw from Set A or the new screws from  
12 Set B.

13 Q Uh-huh.

14 A And I believe that we looked at it with an  
15 inquisitive attitude and logically deduced that the cracks  
16 which were found were from the whole screw in Set A and,  
17 therefore, clarified in figure seven of the June 19th  
18 report.

19 Q Okay. Now, who was involved in that, when you say  
20 we? I think -- I'll let you tell me. I think you told  
21 Darrell that you and Delsa, maybe Phil Gass?

22 A That's correct. Yeah, I believe it was just  
23 primarily the three of us.

24 Q Okay. Now, what you're telling me implies one of  
25 two things, and you tell me if you agree with me. There was

1 either an error or mislabeling or some type of mistake made  
2 and that photograph was put in the first report and  
3 mistakenly labeled Set B, or it was intentionally removed.  
4 Actually, there was a Set B that was cracked and that was  
5 intentionally removed and replaced with A. Which one was  
6 it?

7 A The first one. There was a lot of --

8 Q Instead of saying first one --

9 A What you said the first time was correct. There  
10 was not a crack in the Set B screw which was intentionally  
11 removed. We did not find any cracks in any Set B screws.  
12 Now, what we did find was not due to a mistake, per se, as  
13 much as a labeling convention.

14 We did not receive all of the screws at the same  
15 time to the best of my recollection. If we had of, there  
16 probably would have been a more clear labeling convention  
17 established at that time.

18 When we received the first eleven screws, I don't  
19 believe the label A was even given to them. I believe that  
20 when the remaining screws would come in, it was then  
21 determined to go back and then label the first ones A, the  
22 next ones B and so forth.

23 Q Okay.

24 A Therefore, the label new which was put on the whole  
25 screw from Set A was only for the purpose of separating it

1 from the fractured screws because once you begin to, say,  
2 drill them into small shavings, then they're virtually  
3 indistinguishable and the only way to differentiate them is  
4 to call one fractured and one, in this case, quote, new,  
5 unquote. Later when we received the Set B screws we said,  
6 hey, these are new screws as well.

7           So is this whole -- is this screw that was  
8 received in the first batch a new screw? And I believe it  
9 was clarified that no, it was not. It was a whole screw,  
10 and that was probably with the help of the customer as well.  
11 We probably asked them some questions. I know that Vonda  
12 has said that she remembers asking questions about that.  
13 And I believe that during this time we came to a more clear  
14 understanding as far as which was a Set A and which was a  
15 Set B screw.

16           Q     Okay. Now, in our initial interviews I think you  
17 and Delsa both talked about how the photograph was exchanged  
18 to improve the flow; that you had done some additional  
19 testing on some other sets and that the Set B photo in the  
20 first report was replaced with another set of photos in  
21 order to improve the flow. Nothing was ever said either by  
22 you or Delsa about this mislabeling or the realization that  
23 there was a mistake --

24           A     That is correct.

25           Q     -- until recently. And what I'm -- I think what

1 I'm hearing now is that there was a labeling or error in  
2 identifying the screws and that was -- was that maybe you  
3 just didn't want to talk about it or Delsa was trying to --

4 A No, sir. No, sir. I believe that we did not have  
5 a recollection at that time. When we published the first  
6 report and --

7 Q Wait. Let me clarify something. At the time a  
8 year ago when we first interviewed or when we first talked,  
9 you're saying you didn't have a recollection, that you went  
10 through all this and made these corrections?

11 A I'm saying at that time it was not clear as far as  
12 what happened and we did not all get together and talk about  
13 what happened. It was each of us giving you our independent  
14 ideas as far as what could have happened, but our  
15 recollections were very vague at that time. Since then  
16 we've had the opportunity to discuss it, look at all of the  
17 evidence and logically what appears to have happened is now  
18 more clear in everyone's mind, including Delsa. But let's  
19 be clear.

20 Q Okay.

21 A The error that you refer to is only in the first  
22 report. When the figure is labeled Set B screw, that is the  
23 error. It is a typographical error in the first report,  
24 figure seven that should say Set A. The photograph being  
25 labeled new or being somehow from the screw that was labeled

1 new, was clarified that it was not actually a new screw from  
2 Set B. It was the whole screw from Set A.

3 But the fact that it had the new label on it  
4 somehow got the label B put in the caption of figure seven  
5 in the first report. That was a typographical error. It  
6 should have been Set A screw. And in the etched photograph  
7 in the figure seven on the second report, the correct label  
8 reads Set A. That label should have also been in the first  
9 report, however it was mislabeled in the first report.

10 Q Okay. I think the way you're characterizing it is  
11 a simple typographical error, --

12 A That is correct.

13 Q -- and what I'm trying to tell you, Daryl, is that  
14 as a result of that first report that indicated there were  
15 some new unused screws that had manufacturing defects and  
16 the implications of that carried out or carried downstream  
17 by the fact that there were no corrective actions taken by  
18 the engineering staff at Watts Bar to determine what those  
19 manufacturing defects were or what the implications were or  
20 if any actions needed to be taken.

21 Now, to take that a little further, the first  
22 report supposedly was recalled but it was actually in RIMS.  
23 It was on file. It was, you know -- parts of it may have  
24 been called, but it was in the RIMS and it was relied upon  
25 by the engineering staff and Mr. Adair as to what the



1 metallurgical state of those screws were. The second report  
2 was not RIMSed.

3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]

11 [REDACTED]  
12 [REDACTED] --  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]

19 A I do not believe that Delsa or myself or anyone  
20 remembered this labeling problem, this clarification that  
21 was made until years later when we all started looking at  
22 the evidence and it sort of logically flowed. Because even  
23 all the times when you would ask me, you know, why was the  
24 text removed -- you said, you know, I could understand if a  
25 figure was, you know, if a photograph was substituted for

7c

7c

1 flow purposes or whatever, and then you understood how that  
2 might happen; but you didn't understand how the text could  
3 be surgically removed that said that there were cracks found  
4 in Set B screws and that conclusion was not carried over  
5 into the second report.

6 Well, that didn't make sense to me either. My  
7 response to you was, well, I don't know, it just must have  
8 been a mistake. But in reality, going back and realizing  
9 what actually happened -- and I still don't have any clear  
10 recollection as far as making these or any of the other  
11 changes. I don't even remember doing the hardness tests,  
12 but I know now that I did it because the data sheets have my  
13 initials on it. What I'm telling you is that we made a  
14 mistake on the first report and forgot about it. We went  
15 back, looked at the evidence, realized there was a  
16 typographical mistake.

17 MR. VIGLUICCI: I want to add a little something  
18 here, Gary. I know you characterized it as selective  
19 memory. I wouldn't agree with -- this is not an  
20 after-the-fact rationalization. This is an after-the-fact  
21 recollection based upon what we think was a group  
22 understanding, coming together, looking at all the facts,  
23 looking at all the documents and trying to logically put  
24 together why certain errors led to certain conclusions. And  
25 I think that all falls into place when you look at that

1 mislabeling of the Set B screw. If you accept that as, as  
2 Daryl said, an inadvertence or a misunderstanding at the  
3 time of what constituted a new screw, the facts fall into  
4 place; the endorsement falls into place, what it was trying  
5 to do; the pictures fall into place, what they were trying  
6 to accurately represent; the text, the changes that were  
7 made to the text accurately describe what the situation was.

8 THE WITNESS: Right.

9 MR. VIGLUICCI: That's what led the team to  
10 believe that, hey, that's what must have happened. We don't  
11 have anyone's clear recollection of, yeah, I labeled that at  
12 that time as an A or a B. That was five years ago and . . .

13 MR. CLAXTON: Right.

14 MR. VIGLUICCI: All we're saying is if you look at  
15 all the evidence together, that's what makes sense and  
16 that's what we were able to sort of recollect individually  
17 and as a team. And then you characterize it as that  
18 resulted in your reliance on the report down the road by  
19 Nuclear. It did.

20 We're going to be able to show that that  
21 recollection that -- their reliance on that report was  
22 conservative. They could take that first report and relied  
23 on it and dispositioned exactly the way they did and  
24 properly so. They characterized it -- the fact that it was  
25 a manufacturing issue really would have made no difference

1 to the site. It assumed it was installed in the plant and  
2 they needed a disposition as installed screw. That's the  
3 most conservative way of taking that information and  
4 dispositioning it.

5 If there is a manufacturing issue, it's easy  
6 enough to take those screws, put them in the warehouse and  
7 put a hold on them and throw them away, what you have to do  
8 with disposition and the use in the condenser. That's what  
9 you said Mr. Adair used and relied upon.

10 That's not anywhere in the control of Daryl. He  
11 doesn't have any role in determining what corrective actions  
12 are or how that's going to be treated by Nuclear.

13 MR. CLAXTON: Yeah.

14 MR. VIGLUICCI: They're just asked to look at the  
15 facts, tell them in their best estimates where are the  
16 cracks and what was the cause of the cracks. BY MR.  
17 CLAXTON:

18 Q And -- well, what I'm trying to establish here is  
19 if it was a mistake or if it was an error. I'm here to hear  
20 that. I'm willing to listen to that. But, you know, for me  
21 to have gone through these interviews and here you have the  
22 photographs, you and Delsa both said that it was -- you were  
23 very positive and very definite in the reasoning for these  
24 photographs being changed was that to improve the flow, that  
25 you had additional testing --

1           A     Which is true.  If you'll notice we did do just  
2     that.  This typical photograph here was replaced with these  
3     typical photographs here of set H screws which were  
4     additional testing.  I mean, we did recall that and that did  
5     happen.  What we did not remember was the typographical  
6     error, between this photograph and this photograph.

7           MR. VIGLUICCI:  That's what we did as a team.  We  
8     sat down and put the two figure sevens together and we asked  
9     Delsa and Daryl what changed here and why do you think it  
10    changed, what's your best recollections.  Two things were  
11    going on.

12          MR. CLAXTON:  Okay.

13          MR. VIGLUICCI:  This change was made and this  
14    change was made.  This A crack disappeared here.  It took  
15    they took an A and substituted it with an H.  Both  
16    intergranular cracks.  This represented additional testing  
17    that was done, so they put in -- if we did additional  
18    testing to the H screws, let's put in the H and give them  
19    the best evidence that we have on that type of cracking.

20          MR. CLAXTON:  Okay.

21          MR. VIGLUICCI:  So that was done for flow purposes  
22    to make it --

23          MR. CLAXTON:  Okay.  Initially -- and for the  
24    record, we're looking at a photocopy of some figures.

25          MR. VIGLUICCI:  This is figure seven from the

1 first report.

2 MR. CLAXTON: It looks like five figures here and  
3 how they were substituted between the first and second  
4 report. Now, it appears that the top left figure which here  
5 is identified as Set A, was that identified as Set B in the  
6 first report?

7 THE WITNESS: No. This is a cracked screw from  
8 Set A, fractured screw.

9 MR. CLAXTON: Okay.

10 MR. BEARDEN: A piece?

11 THE WITNESS: Yes, sir, one of these.

12 BY MR. CLAXTON:

13 Q And the lower left photo in this photocopy is  
14 identified as -- as polished Set B. Did that appear in the  
15 first report?

16 A Yes, sir.

17 MR. VIGLUICCI: This is an actual photocopy of Set  
18 -- of figure seven for report one. This is an actual  
19 photocopy of figure seven, report two. So what we were able  
20 to establish is that indeed changes were made in figure  
21 seven for flow purposes. They had better information and  
22 they used that information to create this second report, the  
23 figure seven. They also made the correction from bottom  
24 left to top right and corrected the Set B to Set A label.  
25 So they did two things, but all five pictures changed in

1 some way.

2 BY MR. CLAXTON:

3 Q Daryl, I'm just having a hard time understanding  
4 why you had all this information. I think we went through  
5 at least two interviews --

6 A Yes.

7 Q -- and none of this came out.

8 A It only began to come clear to me around May 13th  
9 of last year when, after our third interview, I told you  
10 that I believed that these were the same photographs. I  
11 wasn't sure, but I had a suspicion of that and I showed you  
12 the pictures and I explained to you my belief was that these  
13 two were the same.

14 After that, during some meetings that Ed and I had  
15 preparing for the trial, I brought it to their attention and  
16 it was questioned at that point. And then later I had the  
17 technology to overlay the two photographs after scanning  
18 them in and was able to essentially prove in my mind, at  
19 least, that these were the same crack.

20 Q Okay. Now, when you said you showed me those  
21 pictures, did you have these original photographs?

22 A No, sir, I did not have these at the time. These  
23 were found later. What I showed you were the actual  
24 reproductions of these that we received from --

25 Q Now, when you say these were found later, where

1 did you find them?

2 A These were in the file folder for the report. We  
3 found them yesterday on Delsa's desk.

4 Q Okay. Is that --

5 A Prior to that --

6 Q Is that the file folder that you have there, the  
7 brown expansion folder?

8 A No, sir. This is just my notes. These were in the  
9 folder that when the Curtiss Overall trial came up and they  
10 -- we were requested to give all of the information we had  
11 --

12 Q Uh-huh.

13 A -- pertaining to that, that file folder was pulled.  
14 The original photographs were scanned in and placed on CD  
15 ROM and then everything was submitted to the NRC and to the  
16 attorneys and then all the contents of the file folder were  
17 set aside.

18 Q Okay. Now, you said this was found on Delsa's  
19 desk. Did you ask her about any documents or, I mean, how  
20 did you find it on Delsa's desk?

21 A I asked the secretary who scanned these photographs  
22 in --

23 Q Uh-huh.

24 A -- probably a year or so ago, if she remembered  
25 what happened to the original photographs and she said she



1 didn't remember, but she would look for them. And she dug  
2 around through files on her desk and on Delsa's and she  
3 found them there.

4 Q Who was that secretary?

5 A Sally Vincent.

6 Q Is that V-I-N-C-E-N-T?

7 A Yes, sir.

8 Q Was anyone else present when you exhibited these  
9 photocopies of these pictures to me?

10 A No, sir. It was just me and you, I believe.

11 Q And where did that take place?

12 A In this room during -- after the third OI interview  
13 on May 13th last year.

14 Q In that interview of May 13th was either Mr.  
15 Vigluicci or Mr. Fine present?

16 A Mr. Vigluicci was present during the interview. I  
17 don't recall if he was in the room after we had ceased the  
18 interview and I had -- you had asked me if I had anything  
19 else I'd like to show you and I did. And I believe that we  
20 probably took a recess for me to gather my notes and find my  
21 pictures to show you and then I came back and showed you.

22 Q And where did you get those photocopies?

23 A They were the original figures that were reproduced  
24 by TVA Reproductions that were actually part of the original  
25 report. We had both copies of the report there that had the

1 original photocopies.

2 Q Did you ever show those photographs to Mr.  
3 Vigluicci or Mr. Fine or anyone else and express that you  
4 thought those were the same photographs?

5 A Yes, March of this year.

6 Q Okay. So from May of 1999 until March of 2000 did  
7 you bring that topic up to anybody other than me?

8 A No, sir.

9 Q Okay.

10 A I wasn't even sure of it myself. I just  
11 suspicioned it at that point.

12 MR. CLAXTON: Ed, you may or may not want to  
13 answer this question, but I'll just direct it to you. Have  
14 you instructed Daryl to provide any information without  
15 counsel or have you advised him that he should not talk to  
16 OI without counsel?

17 MR. VIGLUICCI: No.

18 MR. CLAXTON: And I'm basing that on the fact that  
19 he provided this information without you being in the room.

20 MR. VIGLUICCI: First of all, as to the first  
21 question, no, I've never provided him any counsel whether or  
22 not he should provide or should not provide information to  
23 you.

24 MR. CLAXTON: Okay.

25 MR. VIGLUICCI: I recall the third interview and

1 went back over my notes. I didn't have anything in my  
2 handwritten notes. Most of my notes were basically of your  
3 questioning Daryl insofar as his potential culpability and  
4 this is a good opportunity to, you know, make any and all  
5 information available. So I remember -- that part I  
6 remember as being very direct to the point type of  
7 interview. But that's the only real notes that I put down  
8 and I -- so that's the only thing I'm recalling from.

9 MR. CLAXTON: Uh-huh.

10 MR. VIGLIUCCI: So I may or may not have been in  
11 the room. If I had heard that particular testimony, that,  
12 hey, I suspect they may be the same, even the same  
13 photograph, at that time I don't even know that that would  
14 have made as big an impression on me as it does today. I,  
15 too, have benefited from being able to sit down with smarter  
16 people than myself about the metallography and the  
17 metallurgy and the metallurgical reports and the  
18 significance of some of these facts.

19 So that particular meeting that Daryl refers to,  
20 the management meeting where that was brought to our  
21 attention, I learned with everybody else what the potential  
22 implications of that were. So I -- and just from my  
23 perspective, I believe that Daryl's recollections and how  
24 they came together as a team to understand this is, you know  
25 -- in my mind represents a logical and a credible way that

1 those facts became known.

2 BY MR. CLAXTON:

3 Q Daryl, you told Darrell White that the only  
4 difference between the screws were the bags they were  
5 received in and, therefore, the labels were kept separate.  
6 And then you added that I believe there might have been some  
7 confusion as far as the labels for the micros as well?

8 A That's correct.

9 Q Can you go into a little bit more detail as far as  
10 what the confusion may have been?

11 A Yes, sir. The micro refers to the hard epoxy mount  
12 which is poured around a piece of metal; then it is polished  
13 and etched; and then the photographs are taken of that  
14 polished and etched or just polished surface from that  
15 micro. The micros, when they're removed from the press in  
16 which they are made, they do not have any identification  
17 marks on them. They must be inscribed or written on the  
18 micros in order to -- in order for the metallographer to  
19 know which sample he's looking at. And I believe that what  
20 happened was the whole screw that was received in Set A was  
21 labeled new in order to differentiate between it and the  
22 fractured screws.

23 And then when the Set B screws came in, they were  
24 labeled B since they were separate from the first batch and  
25 then we went back and relabeled the first batch A. And then

1 since that one already had a label on it of new, it was  
2 confused with the Set B screws. The typo was made in the  
3 first figure seven to call it a Set B screw and then later  
4 clarified in the second report to call it a Set A screw.  
5 Even though it said new, even on the back of the photograph,  
6 we knew there were no cracks in the Set B screws as  
7 evidenced by the endorsement and, therefore, it must have  
8 been the Set A screw.

9 Q Okay. So when you say there was some confusion as  
10 far as the labels for the micros, you're talking about the  
11 photographs and not the samples themselves?

12 A Well, I'm talking about the labels on the back of  
13 the micros which I believe the only one we had any confusion  
14 on was the new screws and the fact that the first screw that  
15 was -- the first whole screw that was received in Set A was  
16 labeled new in order to differentiate it from the fractured  
17 screws. And then later the Set B screws came in, which were  
18 also new screws, so the word new was used interchangeably  
19 between that whole screw in Set A and the Set B screws. And  
20 it needed clarification so that the second report properly  
21 identified that crack as a Set A screw and not the Set B  
22 screw which was mislabeled in the first report.

23 Q Okay. My question is would that miss -- or that  
24 confusion, did that occur on the actual mounted sets or the  
25 photographs?

1           A    To the best of my recollection, I believe that was  
2 on the actual mount.

3           Q    Okay. And how did you correct that?

4           A    I just changed the caption in the figure to reflect  
5 the proper label for that.

6           Q    And how did you know what the correct label was?

7           A    Well, the photograph was labeled new, but that  
8 means it was taken during the time that we still did not  
9 understand the difference between the whole screw in Set A  
10 and the new screws in Set B. I believe that the -- once all  
11 the Set B screws were examined and found not to contain any  
12 cracks and the only cracks were found in the screw received  
13 in the original batch of Set A which is noted in the bottom  
14 of the endorsement, that the crack we're looking at that  
15 said new on the back of the photograph must have been the  
16 Set A screw which was not a new screw, rather a whole screw  
17 from the melt tank.

18                   And since the screws from Set B did not have  
19 cracks in them, the conclusion Number Six which was listed  
20 in the first report saying that there were cracks found in  
21 Set B, was corrected and not placed in the second report  
22 because there were no cracks found in any Set B screws.

23           Q    Okay. So what was the significance of the defect  
24 in the Set A screw which was found or how would you consider  
25 that, or would you call that a manufacturing defect?

1 A Yes.

2 Q Okay.

3 A Now, the fact that you have a quench crack that is  
4 limited to the case is not that big a deal. The fact that  
5 you have a slack-quench microstructure in some parts of the  
6 screws, again not that big a deal. They're both  
7 metallurgical flaws that are typically found in self-tapping  
8 sheet metal screws of this quality. And the fact that we  
9 showed in figure twelve of the second report that we had  
10 some slack-quenched areas in a screw from Set B shows that  
11 we were not trying to hide any metallurgical flaws in any  
12 Set B screws. We were showing a metallurgical flaw in the  
13 microstructure here in figure twelve just like we did --

14 Q For the record, you're pointing at figure twelve  
15 which appeared in the June 19th report?

16 A That's correct.

17 Q And you're pointing to some micro photographs?

18 A That is correct.

19 Q Okay.

20 A If we were being instructed to hide information  
21 about any new screws from Set B, which we were not, but if  
22 we were, we would have been instructed to not only remove  
23 quench cracks but any kind of manufacturing defects at all  
24 which would include all cracks shown from all the sets and  
25 any slack-quenched areas which were found.

1           But the fact that you have manufacturing defects  
2 in other screws indicates this is just a typical phenomena  
3 that occurs with this manufacturing process. The fact that  
4 you have a slack-quenched microstructure, which occurs in  
5 the first report, is a typical phenomena that occurs with  
6 this manufacturing process.

7           The quench cracks are very small, limited to the  
8 case, metallurgically irrelevant. However, that was not my  
9 job to make that determination. My job was just to point  
10 out the fact that they were there or not there, as was the  
11 case in the Set B screws. While she's doing that may I  
12 take a moment to confer with Ed, please?

13           MR. CLAXTON: Sure.

14           [Recess.]

15           MR. CLAXTON: Back on the record at 10:07 a.m.  
16 with same parties present. BY MR. CLAXTON:

17           Q     Daryl, I would like to ask you whether any  
18 additional testing was conducted by you along with Phil Gass  
19 after the initial testing for the June 2nd report? Do you  
20 recall?

21           A     In what time frame?

22           Q     Well, do you recall any additional testing in the  
23 immediate time frame of the first report?

24           A     Sure. I mean, we had other sets that had not been  
25 examined that needed to be examined and documented.



1 Q And was that documented in the endorsement to the  
2 June 2nd report?

3 A Yes, it was. And it was also documented in the  
4 June 19th report.

5 Q Okay. Did you do any testing several months later  
6 that you recall as far as maybe even a year later?

7 A I don't recall any testing. I recall --

8 Q Or examinations, metallurgical examinations?

9 A No, I recall when the OGC requested information for  
10 the Department of Labor trial, Phil and I going back and  
11 digging up the old micros and all the data sheets from the  
12 data file, all of that information.

13 Q Micros being the micro photographs?

14 A No, the actual --

15 Q The actual set?

16 A -- epoxy set and the screws.

17 MR. BEARDEN: That was in '97 or so, wasn't it?

18 THE WITNESS: I can't remember.

19 MR. VIGLUICCI: And, Gary, based on Phil's -- Mr.  
20 Gass' recollections and Daryl's statements to me that he did  
21 recall going back and searching the files and the like, I  
22 was able to retrieve a memo that the lab sent basically  
23 providing this information back to OGC as a result of its  
24 request, and that was in the July '97 time frame when the  
25 lab would have sent information to us based upon our request

1 for any and all information they had related to the case.

2 MR. CLAXTON: Okay. Now, Mr. Vigluicci has  
3 provided a memo dated July 31st, 1997 from Richard Morley,  
4 M-O-R-L-E-Y, who is the manager of Central Lab Services to  
5 Thomas Fine, F-I-N-E, and I believe Mr. Fine is also a  
6 counselor at TVA?

7 MR. VIGLUICCI: Yes, sir. He is litigation  
8 counsel.

9 BY MR. CLAXTON:

10 Q Do you recall, Daryl, whether any additional  
11 examinations or observations were made or did you just  
12 obtain the data that you had already done?

13 A I don't believe any additional data or observations  
14 were made. I did go back and look at the data sheets that  
15 were in the data file. The dates that were on the data  
16 sheets were only around the '95 time frame.

17 Q Okay.

18 A Which said to me if we did any additional testing  
19 and had filed that information in the folder, which I would  
20 assume we would have done, those data sheets would have had  
21 more recent dates on them. So, according to my  
22 recollection, no, I don't believe we did any further  
23 testing.

24 Q Okay. At this time is there a file or are there  
25 any files that contain any data regarding either of these

1 two metallurgical examinations, any hard copy documents? In  
2 other words, in the lab are there any files that have any  
3 type of information such as the photographs here or any data  
4 sheets?

5 A Yes, sir. The -- they're all the data sheets of  
6 which you have copies already.

7 Q Okay. So --

8 MR. VIGLUICCI: We were also -- remember, Daryl,  
9 we were looking at the file yesterday. We had -- I can't  
10 tell when they were marked up. We had some marked up copies  
11 of some of the reports, one and two, that had some, you  
12 know, lineations and some notes on them as part of that  
13 file.

14 BY MR. CLAXTON:

15 Q Now when you say data sheet, what are you  
16 referring to? What does that mean in your terminology?

17 A Well, the information provided in the first and  
18 second reports in the tables was taken from data sheets,  
19 which is output from the machines, which were used to  
20 measure that information. So it was basically raw data that  
21 was copied to the report, placed in tabular format which  
22 made it more visually appealing.

23 Q Uh-huh. Do you have any photographs scanned into  
24 your computer or any of the TVA computers that you know of  
25 other than what we're seeing here?

1 A No, sir. Have you seen the overlap?

2 Q Yes, I have.

3 A Okay. That's the only thing I could think of.

4 MR. BEARDEN: That's just a representation of what  
5 you've got on the table?

6 THE WITNESS: Yes, sir. I might even have a copy.  
7 Have you seen it?

8 MR. BEARDEN: Yes.

9 THE WITNESS: Okay. You have a copy right there,  
10 good.

11 BY MR. CLAXTON:

12 Q Now, you referred to the overlap. While we're on  
13 that, just for the record, why don't you describe how this  
14 figure came into being.

15 A Okay. During the time I was questioning if the two  
16 cracks were the same, I went back --

17 Q And that was about when?

18 A This -- when I actually did this was on March 16th  
19 of 2000.

20 Q 2000. Okay.

21 A These, the two photographs which had previously  
22 been scanned in by our secretary, Sally Vincent, were on CD  
23 ROM, I was able to extract those two photographs. Since I  
24 didn't have the original photographs at that time and I knew  
25 from the captions that these photographs were both taken at

1 the same magnification, which was 400-X -- which, by the  
2 way, was another clue to me that said that these were from  
3 the same sample since they were both taken at approximately  
4 the same orientation, at the same magnification level.

5 Okay. So I took those two photographs then and  
6 concentrated on the areas where the cracks were. And using  
7 the technology I have on my computer today, first I rotated  
8 both photographs such that the plane of the crack was  
9 horizontal and then I cropped the area of just the crack out  
10 and actually enlarged it slightly, about a hundred and fifty  
11 percent so that you see the two cracks here, one colored red  
12 and one colored blue, so that they're -- so that they're  
13 laying in the same plane and there is no confusion as far as  
14 the orientation or the rotation.

15 Uh, then I just, uh, laid one on top of the other  
16 and the purple areas which resulted showed that there was a  
17 very good overlap between the two. And the tail of the  
18 crack had a similar orientation and the little fingers which  
19 branch from the crack were similar in both photographs,  
20 which sort of said to me that these were the same crack.  
21 And the only explanation for the difference in appearance  
22 would be the fact that in order to etch the sample, it was  
23 repolished which meant that some of the metal was removed  
24 and you traveled deeper into the crack in three dimensions  
25 which would explain how it's slightly different. As you can

1 see in the as-polished, you have a scratch which travels  
2 across the photograph diagonally and that scratch is not  
3 present in this photograph of the etched sample which is an  
4 indication that the sample has been repolished, and that  
5 explains why the crack has changed slightly.

6 Q Okay.

7 A And even after I did this, I still submitted it to  
8 everyone and I believe that it was even sent to the NRC then  
9 and the senior metallurgist at TVA. I don't know if he was  
10 the senior metallurgist at that time, but Terry Woods looked  
11 at it and he thought at that point that it was the same  
12 crack. And I believe that information was also passed on to  
13 the NRC.

14 Q Okay. Now, you referred to the technology which  
15 you presently have on your computer that you used. When did  
16 you obtain that technology?

17 A I believe we purchased that software back in late  
18 '97, I believe.

19 Q Okay,

20 A Fourth quarter '97, about that time frame.

21 Q Why did that occur to you in March and not before?

22 I think you had said that you had shown me a couple of  
23 pictures that you thought, you know, maybe this was the same  
24 crack and apparently, as you say, there was no reaction on  
25 my part. Did you think at that time to take it a step

1 further and --

2 A Actually, no --

3 Q -- enlarge those cracks?

4 A -- I didn't at that time. It just didn't occur to  
5 me that it was that big of a deal. I just was throwing  
6 ideas out because up to this point the questions you had  
7 been asking me were very pointed as far as why did you omit  
8 this and why was this done and why was that done. My  
9 responses were very narrow and not -- I wasn't looking at  
10 this from a, you know, an investigative standpoint. And it  
11 was only after the third interview when, you know these  
12 questions, you know, were asked again that my mind began to  
13 wander and think of other possible scenarios that might have  
14 caused this substitution to take place.

15 One of those scenarios was the fact that, well,  
16 maybe it was a typo. Looking at those two cracks it sort of  
17 dawned on me, well, they might be the same crack. But, you  
18 know, my pointing it out to you was just my way of throwing  
19 that idea out there. I didn't really expect, you know, this  
20 to really have any impact because these are just minor,  
21 insignificant quench cracks and the fact that we show  
22 manufacturing defects in the other screws shows that there  
23 was a problem. There wasn't, you know, any big deal whether  
24 it's from a Set B or a Set G or what set it's from. If  
25 you've got a quench crack, you've got a quench crack.

1           So I figured if it was that important that you  
2 would investigate it and pass it on to your team and if it  
3 came back later that that was actually the case, then so be  
4 it. But I had other work to do and other jobs assigned  
5 which I went on and did. And then when this came back up  
6 later that we were going to have to go to Atlanta and all  
7 that and we were discussing the data we had so far, I  
8 mentioned in passing to the others that were present in the  
9 room, well, by the way, I had suspected that these could be  
10 the same cracks. It's just another guess as far as what  
11 happened.

12           And I also told them at that point that I had  
13 related it to you, and they were surprised that they hadn't  
14 heard of it and they asked me to tell them what I felt was  
15 going on here. And I said, well, I just thought that maybe  
16 these were the same crack and we had a typo, that seems to  
17 be just as good an explanation as anything else we've come  
18 up with at this point.

19           Q     Do you recall who else or do you recall who you  
20 discussed that with or who you made that explanation to?

21           A     This was in front of everyone who was present at  
22 the meeting in John Scalice's office prior to the interview  
23 or prior to going down to Atlanta.

24                     Do you remember who all was there?

25           Q     Okay. Do you recall whether Delsa was there?



1           A    Delsa was there, Adair was there, Terry Woods was  
2 there.

3           MR. VIGLUICCI: I think Terry was sick. I don't  
4 think he was at that particular meeting.

5           BY MR. CLAXTON:

6           Q    Was Vonda Sisson there?

7           A    I believe Vonda was there.

8           MR. VIGLUICCI: Myself.

9           THE WITNESS: Ed was there.

10          MR. VIGLUICCI: Mark Burzynski, Paul Pace.

11          BY THE WITNESS:

12          Q    Paul. But, I mean, at that point it was still  
13 just being questioned and then after that meeting is when I  
14 decided maybe I should be a little bit more proactive here  
15 and pick up the ball and run with it, so to speak. Maybe I  
16 should start looking at this, and start doing my own  
17 investigation of this and so that's exactly what I did.

18                I decided to try and test my theory. So I took  
19 the scanned photographs and made the overlap and shared my  
20 findings with everyone else; and that's when we decided that  
21 this was, indeed, the same crack.

22                But during that time when you were asking me over  
23 and over again, well, why did you make this substitution,  
24 the only thing that came into my mind was that it was just  
25 for flow purposes or it was a mistake of some sort. And I

1 honestly didn't remember, neither did anyone else, that this  
2 had been done.

3 BY MR. CLAXTON:

4 Q But at some point, specifically back in 1995 when  
5 you actually made those changes, there was a reason?

6 A I believe that --

7 Q At that time you knew --

8 A -- back at that time when all this Set A and Set B  
9 were being questioned that we made the realization that this  
10 was labeled new and it should have been labeled whole screw.  
11 And I believe my notes even make reference to that, my  
12 handwritten notes, and also the, you know, the report  
13 itself. Everywhere where it said new screw in the first  
14 report from Set A, it was replaced with whole screw not in  
15 service from Set A in the second report.

16 So obviously there was a conscientious relabeling  
17 of that new screw from Set A and I believe that's because we  
18 called it new and it should have been called whole screw  
19 from Set A. We didn't know at the time when we labeled it  
20 new that we were going to be receiving new screws, and that  
21 there was going to be a confusing issue between the two sets  
22 of screws.

23 But once we received the two sets of screws we had  
24 new screws in B and we had another screw that we were  
25 calling new from A and the customer said, well, wait a

1 minute, this Set A screw is not a new screw, you need to  
2 clarify that. That's when we went back and looked at the  
3 photographs and said, well, you know what, we called -- we  
4 made a bad call here. We called the crack in the Set A  
5 screw a Set B screw since it was labeled new and we  
6 clarified that for the second report.

7           And that's just the best of my recollection. You  
8 know, like I said, I still don't remember doing any of this.  
9 It's been five years, but this is the most logical thing  
10 that I can think of that -- reason to give you as far as why  
11 that substitution was made.

12           Q     Okay. You told Darrell White that your best  
13 recollection seems to be that -- my best recollection seems  
14 that it was more so my discovery and my handling it. And  
15 later Darrell asks, do you know who discovered, prior to the  
16 second report, during your testing that the cracks in Set B  
17 and Set A were the same. And you said, I do not recall  
18 that, but I know that I was the person, I guess it should  
19 be, who changed the figure, therefore I was aware of it.

20           So I'm having trouble justifying what you remember  
21 and what you don't remember because one time you say you  
22 know -- here you're telling me that it was your discovery  
23 and then later you say you're not sure who discovered it  
24 and, you know, the fact that B was --

25           A     I'm saying --

1 Q Well, the fact that B was replaced with A is not  
2 -- it is kind of an issue and I hear what you're saying,  
3 that you took some actions back in 1995 because you realized  
4 an error, but what I don't hear you saying is that I made a  
5 mistake. And if you're telling me you didn't remember this  
6 back last March, you know, then all I can do is record that.

7 If you follow what I'm saying is if there was an  
8 error back in 1995 and you corrected that error, that's an  
9 error. You know, we all make mistakes. But it's -- from  
10 that point on, especially up to 1995 when we interviewed you  
11 and Ms. Frazier, at least twice each, and after all this  
12 jogging of memories and looking at reports, this doesn't  
13 come back. It just doesn't make sense, Daryl.

14 A Well, let me say it to you again.

15 Q Okay.

16 A We had a sample that was labeled new. There was  
17 some confusion there. We -- I was the person who changed  
18 the figure, therefore, I was the one probably who made this  
19 realization. Now, I was not the one who brought into  
20 question the fact that A and B were different and that was  
21 the customer. They said, you know, clarify here: when you  
22 say new screw, are you talking about the one from Set A or  
23 the one from Set B. And I think, well, what's the  
24 difference. Obviously in the endorsement we said new was A  
25 and B. And they said, no, there is a problem, A is not a

1 new screw. And then --

2 Q All right. I think I asked you earlier, do you  
3 know -- can you tell me who the customer was?

4 A I believe it was Vonda. And then we were like, oh,  
5 I see. Well, if A is not a new screw, then we need to  
6 clarify in the second report whole screw not in service and  
7 not new screw. And during that clarification when I was  
8 going back and making substitutions in the first report  
9 rather than saying new screw from A, I would say whole screw  
10 not in service from A.

11 I must have made this discovery that this was  
12 mislabeled. I mean, that's the best of my recollection,  
13 Gary. And I'm not saying that, you know, I remember doing  
14 this and I remember such and such a day and what I was  
15 wearing and what I had for lunch I can't remember all that.  
16 I'm just saying it was -- it's logical to me that that's  
17 what happened.

18 Now after going back and looking at all the  
19 evidence and talking to everybody, this seems to be the best  
20 story I could come up with to explain what happened and,  
21 yes, a mistake was made. Was it mine? Well, I don't know.  
22 Was I the one who labeled the micro new? I can't remember.  
23 Was I the one who put the report together? Yes, I was. So  
24 from that standpoint, you know, I was the one who put the  
25 words on the paper. Was the mistake mine? Well, Delsa

1 signed the report. Was it hers? It was all of us.

2 We just made a mistake and then we put the whole  
3 thing behind us. We went on after we issued the second  
4 report having all mistakes corrected or at least enough to  
5 satisfy the customer's requirements. And then all this came  
6 back up years later. We couldn't remember what had been  
7 done and I couldn't even remember that there was an  
8 endorsement that came out or that, you know, the figures had  
9 even changed until all of this was brought up and asked to  
10 me. And, you know, the best explanation I could give at the  
11 time was, well, it just must have been for flow purposes,  
12 you know, which that actually did happen as we showed you,  
13 you know.

14 It was just the actual typographical mistake  
15 didn't come clear in my mind until after the third interview  
16 and I started questioning, well, what are some other  
17 possible ways that this could have happened. And one  
18 possible way was that this was the same screw, that it was  
19 not two different screws; that there was not an intentional  
20 substitution or removal of Set B information, it was just a  
21 clarification; that it was not actually a Set B screw to  
22 begin with, it was only a Set A screw.

23 Then it makes sense sort of. And I, you know,  
24 told everybody in Scalice's office, well, I believe this is  
25 what happened, and, you know, this is what I conveyed to

1 Gary Claxton, and this is what I think happened. Then went  
2 and did the overlay and then it was confirmed, and then, you  
3 know, I still don't think -- I mean, after listening to all  
4 the evidence that, yeah, okay, we said this was a Set B  
5 crack in the first report, okay, there is some significance  
6 to that as far as this being a new screw. I understand  
7 that. And I understand that the first report was -- had  
8 information in it which, you know could -- which was just --  
9 well, it was not correct information, I mean, you know.

10 Q If true, it could be a problem?

11 A If true it could have been a problem.

12 Q All right.

13 A I understand how you could view that. But as a  
14 metallurgist, understand that this is not ground shaking  
15 stuff. This is very insignificant. This is typical of what  
16 you're going to see in these screws and we saw it in the  
17 other screws as well. It was all manufacturing defects.  
18 The fact that it was in a, quote, new screw from the  
19 manufacturer wouldn't really matter since the screws that  
20 were in service, the cracks also came from the manufacturer.  
21 Do you understand?

22 Q Uh-huh.

23 A So it's like to me, I guess, in my mind I just  
24 didn't see where it was that big a deal. But it was big  
25 enough to correct, you know, and say, well, let's get our

1 labels right here, folks. This isn't a new screw anymore,  
2 this is a whole screw from Set A. Calling it new doesn't  
3 mean -- I guess at the time we thought that whole screw  
4 might have even belonged in the set of new screws that we  
5 received from Set B. That's how we thought about it.  
6 Instead of having twelve screws from Set B, we actually had  
7 thirteen new screws, one was received with the fractured  
8 screws and then twelve was received later.

9 Q Well, I think to boil down what I'm getting at is  
10 that the figure seven which was, I'm sorry, figure seven in  
11 the first report which was labeled a B screw was not left  
12 out inadvertently as you and Delsa both said last year; is  
13 that correct? I mean, it wasn't inadvertent because you  
14 purposely took it out?

15 A I believe that it was just a typographical error.  
16 I think that Delsa now sees that, too. Neither one of us  
17 realized at the time when you were asking us the questions  
18 what -- why that had been left out.

19 I think the more important questions which you  
20 were asking were, you know, what was the ramification of  
21 this. And, you know, we said, well, since this didn't even  
22 go to RIMS or, at least in our space, we didn't send it to  
23 RIMS, you know, since we didn't -- since we had control over  
24 this document and the one we did submit to RIMS had the  
25 correct information in it, we didn't think there was any



1 problem.

2 But since -- then later during the Curtiss Overall  
3 trial when a photograph or photocopy of the report  
4 mysteriously wound up in RIMS and this all question of,  
5 well, why did this come about, I mean, Curtis did ask Vonda,  
6 you know, to explain to me the difference and she went over  
7 the differences between the two reports. And he was  
8 concerned about this and Vonda talked to me about this, you  
9 know. This was a -- and, of course, I don't really remember  
10 all this. This has just come back up from Vonda's  
11 testimony, but, you know, I don't know why we didn't  
12 remember the exact events that happened other than the fact  
13 that it had -- a couple of years had transpired and also we  
14 didn't -- Delsa and I did not sit down and go over  
15 everything. We didn't talk about what could have happened  
16 and explore different theories. It was just answering your  
17 questions at that point.

18 Q Okay. So you're saying just prior to your first  
19 interview you didn't discuss this with Delsa?

20 A No.

21 Q Did you review the report in any way?

22 A I looked at it. I didn't go through line by line,  
23 but, you know, I just glanced over it. But we were not  
24 hiding any information. If we were hiding information, why  
25 would we include detrimental photo micrographs for the Set B

1 screws in the second report? You know, why would we issue  
2 endorsements and photo micrographs of any kind of quench  
3 cracks which were from the manufacturing process? Plus, I  
4 think we were more concerned with showing that there was no  
5 conspiracy going on.

6 And your questions when you were asking us was,  
7 did somebody prompt you to take this photograph out. Well,  
8 no. I mean, your questions were not geared such that we  
9 were exploring all possibilities of what happened. You were  
10 more concerned with trying to determine what the purpose was  
11 for this covering up of evidence. We were trying to explain  
12 to you there was no covering up of evidence.

13 We weren't necessarily trying to dig ourselves  
14 into this matter to try to figure out exactly what happened.  
15 We were just trying to defend ourselves at that point. And  
16 only after later, when I actually took the conscious effort  
17 to decide, hey, I'm going to look at this and try to figure  
18 out what happened for myself just so, you know, I get it  
19 straight at least in my mind that this -- that I've compared  
20 the cracks and I've shown that they were the same.

21 Q Okay. So what I hear you saying was that you did  
22 not understand that I was asking you how that Set B  
23 information could have been left out. You heard me asking  
24 you whether there was a conspiracy or who asked you to leave  
25 it out?

1           A     Right.  And I needed to, I guess, not feel like I  
2 was on the defensive so much in order to begin to explore  
3 other possibilities.  I mean, I'm not saying you didn't ask  
4 me.  You might have come out and said, you know, what's  
5 going on here and give me a chance to talk about it, but my  
6 mindset was just not in the mind frame of trying to figure  
7 it out.

8                     And now that we've gone back and all the  
9 information has been organized and we've all looked at it  
10 and we've pulled out these little tiny details and these  
11 little tiny clues from these different documents and sort of  
12 arranged them all into a logical flow, chronologically  
13 speaking, whatever, now backing into it, looking at it from  
14 that standpoint, looking at all the evidence, this seems to  
15 be what happened.

16                    And that's what I'm trying to get across to you is  
17 that now, after looking at all this stuff more closely and  
18 spending many, many, many hours examining it, this seems to  
19 be the most plausible explanation.  And I'm sorry that I  
20 didn't think of it and I'm sorry that Delsa didn't think of  
21 it.  I'm sorry, that, you know, it didn't come out until  
22 last year, but, you know, I think the more important thing  
23 is what is actually the truth and that's what we're trying  
24 to convey to you is what the actual circumstances are here.

25                   MR. CLAXTON:  Okay.  I guess I just have maybe one

1 or two other things just to close up. Before I do, Bill, do  
2 you have anything?

3 MR. BEARDEN: Make sure I understand your  
4 explanation here.

5 BY MR. BEARDEN:

6 Q You're presenting this as a most probable cause.  
7 Nobody has remembered this as being what happened?

8 A Well, I'm saying I'm ninety-nine percent sure this  
9 is probably what happened.

10 Q Yeah. But through this logical process of  
11 overlaying?

12 A Right.

13 Q At this point you still don't remember this. It's  
14 just that you believe this is what happened based on this  
15 logical process?

16 A Yeah. I don't remember sitting down and going,  
17 hey, look at this, we've made a mistake, we've got to  
18 correct it.

19 Q Now I remember?

20 A Yeah. It wasn't like that. And I don't remember  
21 performing the hardness tests. I don't remember doing the  
22 chemistry tests. I don't remember sitting down and writing  
23 this report. I don't remember taping the pictures down to  
24 the pages. I don't remember doing any of this.

25 Q And none of the other people that were involved

1 remember this?

2 A Well, I believe they have a clear recollection now  
3 that we've all gone back and shared information, as do I,  
4 and even though I look at a data sheet and I see my initials  
5 on it in 1995 when, you know, this is one of the first big  
6 jobs I'd ever worked on, you know, and I see that, hey, I  
7 did a lot of the work on this and all that, I still don't  
8 remember doing it. But based on everything that we've  
9 looked at, this seems to be what happened and we're all  
10 pretty confident now that this is what happened.

11 BY MR. CLAXTON:

12 Q Back in 1995 between the two examinations, during  
13 that period of time, when you talked about the Set B screw  
14 in the first report and I think I recall you said you talked  
15 to Delsa and, maybe, Phil Gass about it and that resulted in  
16 the June 19th report?

17 A And also Vonda.

18 Q Okay. Vonda was involved in that. Okay. Let me  
19 make sure I understand this correctly. Vonda was part of  
20 the discussions wherein you realized that possibly figure  
21 seven in the June 2nd report was actually a Set A screw?

22 A I'm not sure if we actually specifically discussed  
23 figure seven, but we did discuss the A and B scenario and  
24 that the label new did not apply to the whole screw in Set  
25 A.

1 Q I'm sorry. The label what?

2 A The label new, N-E-W, did not apply to the whole  
3 screw in Set A. And I believe as a result of that, going  
4 back and looking at the two figure pages and looking at the  
5 labels on the back of the pictures and going, well, if we  
6 had a crack in that screw but we didn't have any cracks in  
7 the Set B screws, then why do we have -- show a picture for  
8 a crack in a Set B screw here, you know, the explanation  
9 that that must be the Set A screw and we corrected that in  
10 the second report.

11 Q Did Vonda initiate this question about why --

12 A Well --

13 Q I'll let you tell me. Did she initiate the  
14 question about the A, B screw?

15 A I believe that when we had the meeting here, which  
16 I still don't even remember the meeting when Terry Woods  
17 came out to the lab and everybody was out here and talking  
18 about the report.

19 Q This was as a result of the issuance of the first  
20 report?

21 A Yeah.

22 Q And that she had some problems with?

23 A Right. I think as a result of all that is when all  
24 of this came up. And then it was sort of like Vonda  
25 following up then after talking it over with Curtiss, once

1 the second or once the endorsement was issued -- well, I'm  
2 not sure exactly what that time frame was.

3 MR. VIGLUICCI: Well, you have your notes, right?

4 THE WITNESS: June 8th notes.

5 MR. VIGLUICCI: Is that your notes of the meeting  
6 where Terry came to the site?

7 THE WITNESS: I believe so.

8 MR. VIGLUICCI: I think, Gary, that's the notes,  
9 set of notes we provided a copy of to Darrell and he took  
10 back with him. This is the one page handwritten notes that  
11 I think also provide you some contemporaneous --

12 MR. CLAXTON: Are those the notes that you gave me  
13 on our first interview where you wrote down things that  
14 needed to be corrected?

15 MR. VIGLUICCI: Yes. And one of those was etching  
16 and had reference to the fact...

17 THE WITNESS: Set B, etch to reveal case depth.

18 MR. VIGLUICCI: That's dated 6/8?

19 THE WITNESS: Right. Here where it says etch to  
20 reveal the case depth, include figure, that was referring to  
21 show this crack in the etched condition. BY MR. CLAXTON:

22 Q Okay. And for the record --

23 A Or show a crack.

24 Q For the record, Daryl, is showing me an original  
25 of a memo that we previously had been provided which is a

1 Tennessee Valley Authority memo sheet with handwritten notes  
2 on it. And these were made on June 8th, 1995 at the meeting  
3 with Terry Woods?

4 A (Witness nods head.)

5 Q Okay. And I think you just said that you made a  
6 note there to etch to reveal case depth, include figure.  
7 What does it mean to include figure?

8 A Show a picture of the etched case depth.

9 Q Okay. And that became the transverse  
10 cross-sectional view in figure seven of the second report?

11 A I believe so, yes. It's the only etched picture we  
12 have in the second report showing that case depth in the  
13 crack. Again, the importance there is that the crack is  
14 limited to within the case. In other words, it's not into  
15 the core of the screw, showing that it's insignificant from  
16 a metallurgical standpoint. But, again, that was not our  
17 call to make; it was just -- we were to point that out.

18 MR. CLAXTON: Okay. Why don't we take a short  
19 break, if you all would like to talk. We'll take a break at  
20 10:48 a.m.

21 [Recess.]

22 MR. CLAXTON: Back on the record at 11:02 a.m.,  
23 same parties present.

24 Bill, did you have any questions you would like to  
25 ask?



1 MR. BEARDEN: No.

2 MR. CLAXTON: Ed, do you have any questions?

3 MR. VIGLUICCI: I have nothing else, sir.

4 BY MR. CLAXTON:

5 Q Daryl, do you have anything?

6 A Well, yeah, I'd like to ask that I get a transcript  
7 of the proceedings today. Also I wanted to ask you how you  
8 felt about what I've told you so far. I mean you  
9 personally. Have I satisfactorily convinced you that I was  
10 not trying to hide anything from you and that this was  
11 merely just an oversight that has only recently come into  
12 play because we've had the opportunity to thoroughly review  
13 all the evidence and sort of come at it from a different  
14 standpoint?


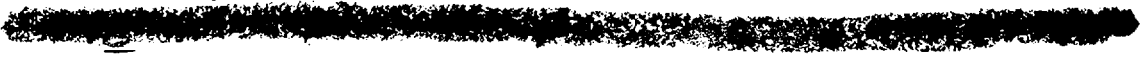

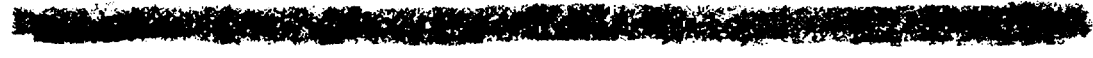


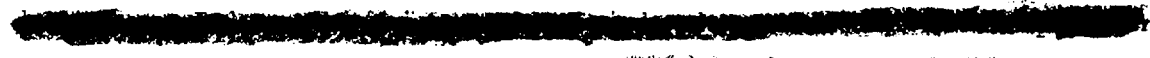
15 Q I'll have to give you a textbook answer because I  
16 can't allow my feelings to come into this. What I will do  
17 is what I've done in the past, is when I receive your  
18 testimony


19 [REDACTED] 7C  
20 [REDACTED] we will come up with some conclusions the  
21 best we can supported by everything we can gather up. And  
22 then recently you came up with additional information and I  
23 will take that information and we will do additional  
24 interviews and see if it fits back together [REDACTED]

25 [REDACTED] I'm not above doing that.

1 I think we talked before the interview began and I  
2 think we each admitted to some sins. And I'm here to hear  
3 whatever the truth is the best we can determine that and to  
4 match it up with the evidence that we can put our hands on  
5 as well as what you're telling us.

6 So sometimes it's difficult not to let your  
7 personality come into play, but that's just something we  
8 have to do. I've been in law enforcement all of my adult  
9 life and one of the things that I've learned above all is  
10 that there are two sides to every story. Sometimes it  
11 doesn't come out very clearly at first, but I do commit to  
12 you that I'm here to hear both sides of the story and make  
13 the very best judgment or conclusion on that that I can.  
14 And so that's why we're here today is to hear everything you  
15 can say.

16    
17    
18    
19    
20    
21    
22    
23 

24  So that's the best answer I can give  
25 you.

7c  
7L

1 A [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 Q Okay.

10 A And if there is any question in your mind that I  
11 have not answered that you're still fuzzy on, tell me  
12 because I want to be able to explain it the best I can.

13 Q Well, I'm willing to do that and I think I've  
14 asked all the questions that I can for now.

15 I think one thing I would like to clear up is  
16 you've referred to a typographical error on several  
17 occasions. And just for someone who has not seen the back  
18 of this photograph or may not know exactly what we're  
19 talking about, when you say typographical error, are you  
20 referring to the notation on the back of the figure seven  
21 photograph that was initially identified as Set B -- I'm  
22 sorry. There was a figure seven photograph initially  
23 identified as a new screw?

24 A The typographical error is twofold, if you will.

25 Q Okay.

1           A    The first part refers to the labeling of the whole  
2 screw from Set A as a new screw.

3           Q    And that was a handwritten notation on the back of  
4 the photograph?

5           A    It -- the handwritten notation on the back of the  
6 photograph is from the notation on the back of the  
7 microstructural mounting media for that screw which, at  
8 first, was merely to differentiate it from the fractured  
9 screws. Okay. And that was the first part, was we called  
10 it a new screw because it had not broken and that's why it  
11 got the label new.

12                   Later when we received other screws which had not  
13 even been in service yet, those were called new screws. So  
14 we should have at that point gone back, relabeled this as  
15 whole screw Set A, not put the -- you know, marked through  
16 the word new on the back of this photograph and wrote whole  
17 screw Set A. And that if we'd have done -- actually this  
18 photograph had not even been taken at that time. If we had  
19 gone back even to this photograph and written on the back of  
20 it whole screw Set A and made sure that we didn't refer to  
21 it as a new screw, certainly not a new screw from Set B,  
22 which that was the second part of the error, if we had done  
23 that then this would have read in the first report  
24 transverse view of the crack present in a whole screw that  
25 was not in service from Set A. That's what it should have

1 read.

2 So the first part was the fact that yes, we  
3 mislabeled it because we didn't receive all the samples at  
4 the same time. We called the whole screw from Set A a new  
5 screw, and that was the first part of the mistake. The  
6 second mistake was assuming that because it was called a new  
7 screw it was part of the Set B family when it was actually  
8 not. So this part right here was the typographical error  
9 called a Set B screw, it was actually a Set A screw.

10 Q And for the record, you're pointing to the figure  
11 seven in the June 2nd report?

12 A Yes. And --

13 Q I'm sorry. And you're actually pointing to the  
14 narrative under the photograph which identifies it as a Set  
15 B?

16 A Right.

17 Q Okay.

18 A So we made two errors, the first was not  
19 necessarily an error as much as it was just an accident.  
20 You know we mislabeled something as new. Maybe instead of  
21 calling it new, we should have called the whole screw from  
22 Set A, you know, X and the rest of the screws Y or given  
23 them numbers, you know, one, two, three, four, five, six,  
24 seven, all the way up to eleven. Okay. Maybe that was what  
25 we should have done.

1            Obviously, in hindsight looking back, that's the  
2 way we would do it now because when you receive samples at a  
3 later date that have the same labels as what you've already  
4 given your previous samples, you've got some jumbling up  
5 there.

6            So later we came back and wrote the endorsement  
7 that said, hey, we've got the cracks in one new screw from A  
8 and B. Well, to the customer, they were like wait a minute,  
9 we didn't send you any new screws in Set A. You know, there  
10 was some confusion there. What's going on here.

11           The fact that we labeled it wrong to begin with is  
12 not necessarily as much of a mistake as it is that when it  
13 was labeled it was assumed to be part of Set B and it was  
14 placed on the figure. That is probably the more significant  
15 because then that ties this crack to the screws that had not  
16 yet been in service.

17           Okay. And I can understand how someone from the  
18 outside, not having a very good understanding of  
19 metallurgical flaws of this nature, might say, well, this is  
20 more significant to have a crack in a screw that's not been  
21 in service than it is the cracks that have been in service.  
22 Do you see what I'm saying?

23           Q     Uh-huh.

24           A     Whereas, once that person understands that these  
25 cracks are, indeed, from the manufacturer even though

1 they're in service and that it doesn't matter what screw has  
2 the crack, if it's got a quench crack in it, that's from  
3 just making these, if you will, cheap screws -- they're  
4 assumed to have a certain amount of problems. Other  
5 problems that you can find in the screws, see this quenched  
6 and tempered microstructure that you see here in the case  
7 and when you start getting into this area here where you see  
8 these areas of white soft, ferrite surrounding the prior  
9 ostanetic (Phonetically) grain boundaries here that can  
10 cause intergranular cracks when they travel through this,  
11 you know, it's -- these types of problems are typical.

12 Q Okay. You can describe that and I'll sit here and  
13 nod my head yes, but I assure you I have no idea what you're  
14 talking about. I know what a crack looks like.

15 A Okay.

16 MR. CLAXTON: Ed, did you catch all that?

17 MR. VIGLUICCI: Actually, I'm better now than I  
18 was a few years ago.

19 BY MR. CLAXTON:

20 Q I hear what you're saying and it was all recorded.

21 A Well, if there was a problem in a Set B screw and  
22 if somebody came and said, hey, we don't want there to be  
23 any problems in any Set B screws -- and as far as I  
24 understand the conspiracy theory that was going on, was that  
25 this -- these Set B screws or the new screws were what was

1 relating to the PER. And they had to --

2 MR. CLAXTON: It's an acronym.

3 BY THE WITNESS:

4 A They were relating to the PER. And in order to get  
5 the PER closed so that Watts Bar, you know, could go on  
6 line, if someone were to come and say sweep all that under  
7 the rug so that we can get this PER closed, obviously we  
8 wouldn't do that. We are professionals here regardless  
9 whether there is a PER or not. We don't want to see a  
10 nuclear plant go on line -- we've got families that live in  
11 the Tennessee Valley, you know, we're concerned about the  
12 safety as well. We're not going to do that. But, you know,  
13 if somebody had come to us and said take out this  
14 information that shows we have problems in the Set B screws,  
15 we would have also taken this out, too, which we didn't.

16 Q And you're referring to figure twelve in the  
17 second report?

18 A Right.

19 Q Okay. Showing the micro photographs?

20 A I mean, we wouldn't have shown cracks in the other  
21 screws. We wouldn't have shown lapping at the thread roots.  
22 We just said these failed by overtorquing, end of story.  
23 Okay. But we didn't. We went on to say -- even in both  
24 versions of the reports we talked about metallurgical flaws  
25 that were present in the screws. In both reports we talked



1 about the same flaws.

2 Now in the second report we didn't, or in the  
3 first report we didn't delve so much into the slack quench,  
4 but we did talk about how they failed in sort of a mixed  
5 mode failure and that's relating to the slack quench. When  
6 we went back and did further testing we documented the slack  
7 quench microstructure to explain that, that is why this was  
8 included in the second report. All of the information about  
9 metallurgical flaws in these screws that were given in the  
10 first report was also given in the second report. There  
11 wasn't anything omitted that would say, you know, these  
12 screws are okay or vice versa. Do you understand what I'm  
13 saying?

14 Q Uh-huh.

15 A A metallurgist could pick up either report and say,  
16 okay, you've got quench cracks, you've got something which  
17 may be this mixed mode or this slack-quenched area. You've  
18 got hardnesses that are higher than normal, but these are  
19 still pretty strong screws. For their intended purpose,  
20 these typical problems that you're going to see with these  
21 screws are insignificant.

22 Now, the first report contained some conjecture,  
23 some information that Curtiss Overall related to Vonda and  
24 Vonda related to me that, you know, we had some crazy stuff  
25 going on with these ice condensers. But that was not stuff

1 that we, as a laboratory, could confirm. We had to tell  
2 only the facts, only what we saw.

3 Q And that was part of the basis for rewriting the  
4 June 2nd report?

5 A Yes. And now, after we go back and we look at all  
6 the information and we catalog and put it in the big binders  
7 with all the tabs and we get everything organized, we're  
8 able to get a better understanding of how this information  
9 became mislabeled. And it's my best recollection that we  
10 had a typographical error, a labeling problem which was  
11 corrected for the second report and the conclusions that  
12 were -- that said that we had the cracks in the Set B were  
13 taken out on purpose because we actually didn't have any  
14 cracks in any Set B. Not that that would matter. We still  
15 had cracks in other screws, okay.

16 The fact that it was Set B didn't matter. Still  
17 cracks from the manufacturer. However, we understood that  
18 as a -- from a metallurgical standpoint, those cracks are  
19 still insignificant compared to the strength of the cracks,  
20 the loading conditions that the cracks -- or that the screws  
21 were placed in. And even though we had some idea as far as  
22 their use in the plant, I mean very limited knowledge now as  
23 far as how they're used, we still knew that we didn't know  
24 enough to make any judgments as far as their usability, that  
25 the customer had to make that determination. And the

1 customer had to take into account all the other factors  
2 which we listed in the first report which we took out  
3 because they were items of conjecture. You know, we don't  
4 work at the plant and we don't know how these things are in  
5 service or anything like that.

6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]

) This was all done  
12 of the standpoint of trying to generate a technically  
13 accurate report --

14 Q Okay.

15 A -- with as much information as we could give them  
16 without going into the speculation zone. There was an  
17 element of forgetfulness on my part, Delsa's part, everyone  
18 else who took part in the changes that didn't come up during  
19 your questioning. I apologize for that. I'm sorry that I  
20 didn't remember this earlier. And I wish that I had of  
21 taken a lot more time to review this and to come up with  
22 what now is so, you know -- this case, I see these figures  
23 in my mind when I close my eyes at night, you know. I wish  
24 I knew it that well back then so that your first conclusions  
25 you drew were the most accurate.

TC

1

1 I believe the information that we gave you was  
2 correct to the most part, you know. We did do some  
3 substitutions for flow, you know. We did do the things that  
4 we talked about. But the fact that these two are not two  
5 different screws never came out. That was the basis for  
6 your whole line of questioning, and I apologize for not  
7 having realized that. I mean, I wish I had of.

8 But now that we've gone over all the information  
9 and it's clear in my mind or as clear as it probably ever  
10 will be, you know, I'm trying to convey to you what I  
11 believe is the most logical explanation for this.

12 And, again, not trying to hide any information. I  
13 was not trying to hide any information from you in the  
14 first, second, third, fourth OI interviews and I'm not  
15 trying to hide any information from you now. You have full  
16 access to all of my documents, records and as far as  
17 anything I can remember. I just really want you to have it  
18 clear in your mind so that you can give a -- the most  
19 accurate picture of what happened and that's all I'm trying  
20 to convey to you is just the most accurate recollection.

21 MR. CLAXTON: I think I understand everything  
22 you've said today. I think we've gone into pretty  
23 excruciating detail on what each of us understand and trying  
24 to come somewhere in the middle to make sure we understand  
25 each other, the questions and the answers.

1           For the record prior to the beginning of the  
2 interview Mr. Smith had asked to be allowed to tape record  
3 this interview and I told him that that was against NRC's  
4 Office of Investigations' written policy that would not  
5 allow that, but that he could request and, as a matter of  
6 fact, you have requested a copy of this transcript in lieu  
7 of being able to tape record it. So we'll note that for the  
8 record.

9           THE WITNESS: And all other OI interview  
10 transcripts that are available, I would like to request as  
11 well. I only have my deposition I gave during the  
12 Department of Labor case. I don't have any OI transcripts.

13           MR. CLAXTON: That's noted.

14           THE WITNESS: Anything you can provided me, I  
15 would appreciate just for my own knowledge.

16           MR. CLAXTON: Okay.

17           THE WITNESS: Are there any other, what you refer  
18 to as, discrepancies or contradictions that you would like  
19 me to go into any more detail on? BY MR. CLAXTON:

20           Q     Well, I think what I have probably, you know,  
21 after I have one you would probably answer the same one for  
22 the others as far as recalling what happened back in 1995 as  
23 opposed to what happened in 1999.

24           A     I mean, specifically in my testimony where I might  
25 have said something that you think that I am contradicting

1 myself, I would like the opportunity to explain anything  
2 that you have in your mind as a question as far as my  
3 truthfulness in any of my interrogations.

4 Q Well, we talked earlier about your recollection  
5 that it was your discovery.

6 A Uh-huh.

7 Q And then --

8 A Which I may not have phrased that the best because  
9 I believe that I did not solely come to this conclusion. It  
10 was prompted from the meeting at the laboratory which Terry  
11 Woods attended. It was prompted from questions Vonda had  
12 about the Set A versus the Set B. There were other things  
13 which caused me to come to the realization that this sample  
14 was mislabeled and the fact that I changed the figure says  
15 that, yes, I was the one who made the typographical mistake,  
16 all right. No one else could have done that other than me.  
17 But as I indicated, it was a twofold error. The first part  
18 which was the mislabeling of the sample from receipt, I do  
19 not feel is specifically my fault. I don't believe really  
20 blame could be really placed in that matter. It's just a  
21 matter of we picked a word to represent an object.

22 Q Uh-huh.

23 A And we picked the wrong word not knowing what other  
24 objects were coming in later. And, you know, where I said  
25 there that I was the one that made the change, yes, I was.

1 And I wasn't -- and then later I said I don't really  
2 remember. Well, that's true I don't really remember, but  
3 obviously I was. Both items are true.

4 Q Okay. Now, yeah, I think probably the wording,  
5 the way you stated it, you told Darrell White that it was  
6 determined that it should not be mentioned in the second  
7 report, talking about the information on the Set B screw.  
8 That's a pretty definite statement, it was determined it  
9 should not be said.

10 A Okay.

11 Q And then a few questions later Daryl asked you  
12 whether you specifically remember a discussion between  
13 everyone on that. And you responded, no, sir, I don't have a  
14 very clear recollection of anything that went on during this  
15 time.

16 A That's correct.

17 Q So, you know, on the one hand you say that it was  
18 determined that it should not be mentioned in the second  
19 report which sounds like a pretty clear recollection.

20 A Okay. Well --

21 Q So it's things like that that I was having a  
22 little trouble with --

23 A That's fine.

24 Q -- and that's why I was confronting you on the  
25 selective memory.

1           A    I believe that the way I should have said that was  
2 that it must have been determined that the screw from Set A  
3 was mislabeled. That's the only logical conclusion that I'm  
4 left with after looking at all the information.

5           Okay. What I was trying to point out to you was  
6 that this substitution was made in order to clarify a  
7 mistake. We have documents that back that up. We have my  
8 handwritten notes. We have the endorsements. We have the  
9 things that appear to indicate the line of reasoning of what  
10 was going on. I do not have a memory of changing any of  
11 this stuff, but you can look at the evidence and you can see  
12 that it was changed. And I know that I was the person that  
13 wrote the figure pages, that I did all this work, I taped  
14 the pictures down and all that.

15           Okay. So the way to really convey that to you is  
16 that this is the most logical reason. I mean, it had to  
17 have been determined that the screws were mislabeled, not  
18 that I recall a specific epiphany, if you will, where the  
19 mistake was found.

20           Q    Uh-huh.

21           A    But I recall the discussions vaguely where we  
22 talked about the A and B screws. I see the result now and  
23 I'm sort of putting two and two together in my mind.

24           Q    In the '95 time frame?

25           A    Yeah. I'm saying, you know, this had to have been



1 what happened. Okay. So the way I said it there is like a  
2 determination was made, like I had a very clear  
3 recollection. That wasn't the best way to say it.  
4 Determination was made. The determination had to have been  
5 made at some point, which I'm not real clear on, but I would  
6 agree that it did happened. Don't you feel that way?

7 Q I hear what you're saying. That's what we've been  
8 here working on.

9 A All right. Okay.

10 MR. VIGLUICCI: And I just want to make clear what  
11 you're recording from there, Gary, what are you --

12 MR. CLAXTON: Our pages are not the same. I  
13 printed this on a different printer.

14 MR. VIGLUICCI: I think Daryl in that particular  
15 statement qualified that that was the most logical  
16 explanation of what happened. To read that quote in full as  
17 far as it was determined that, I think he went on to explain  
18 that, from a logical standpoint that must have been what  
19 happened. I don't think that was a --

20 MR. CLAXTON: He's expounded on here.

21 MR. VIGLUICCI: I don't think that's an absolute  
22 statement.

23 THE WITNESS: I wish I had more clear memories.  
24 If I knew how big this was going to turn into, I would have  
25 probably had more clear memories and I'd be able to sit here

1 and tell you today, hey, I remember such and such said to me  
2 at such and such time, we've got to take a look at this, and  
3 I remember doing this and I remember all of this, but I  
4 don't. It's been five years. But I have vague  
5 recollections of all this stuff and we have the evidence  
6 laid out in front of us of what actually came about from all  
7 that, so we're trying to backtrack and look at what we've  
8 got. I feel like I've pieced together the most logical  
9 story that I can give you and I believe in my mind it is the  
10 truth.

11 MR. CLAXTON: Okay.

12 THE WITNESS: And I want you to believe that as  
13 well and I want you to take the truth back to everybody else  
14 and share it with them. That's why I want to make sure that  
15 I am credible to you and I want you to understand that I'm  
16 not using selective memory as an excuse.

17 MR. CLAXTON: I hear what you're saying. Do you  
18 have anything else, Ed?

19 MR. VIGLUICCI: No other than as Daryl said, we'll  
20 make a request for the transcripts and I know you're going  
21 to get this transcribed and at your earliest convenience  
22 we'd be willing to come down and review for accuracy and  
23 make sure we get the best record in place.

24 MR. CLAXTON: All right. Bill, do you have  
25 anything?

1 MR. BEARDEN: No.

2 MR. CLAXTON: If there are no other comments or  
3 questions, we would conclude the interview at 11:31, but I  
4 would like to ask you whether all this information has been  
5 provided freely and voluntarily.

6 THE WITNESS: Yes.

7 MR. CLAXTON: And whether you've received any  
8 threats or promises, either from the Nuclear Regulatory  
9 Commission or Tennessee Valley Authority, regarding the  
10 information you've given us?

11 THE WITNESS: None.

12 MR. CLAXTON: That being the case. We'll conclude  
13 the interview at 11:31 a.m.

14 [Whereupon, at 11:31 a.m., the interview was  
15 concluded.]

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CERTIFICATE

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COUNTY OF HAMILTON  
STATE OF TENNESSEE

I, Pamela A. Fisher, Notary Public and  
Certified Court Reporter, do hereby certify that I  
reported in machine shorthand the recorded interview of  
Daryl Smith, that the said witness was duly sworn by me;  
that the foregoing pages, numbered from 1 to 91,  
inclusive, were typed under my personal supervision and  
constitutes a true and correct record of the record  
interview of said witness.

I further certify that I am not an attorney  
or counsel of any of the parties, nor a relative or  
employee of any attorney or counsel connected with the  
action, nor financially interested in the action.

Witness my hand in the City of Chattanooga,  
County of Hamilton, State of Tennessee, this 1st day of  
May, 2000.

Pamela A. Fisher

Pamela A. Fisher, Notary Public  
and Certified Court Reporter  
My Commission Expires: 08/26/00.  
Certificate No.0232.