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**NUCLEAR REGULATORY COMMISSION**

Title: ITMO Andrew Siemaszko

Docket Number: IA-05-021; ASLBP No.: 05-839-02-EA

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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ATOMIC SAFETY AND LICENSING BOARD PANEL  
PRE-HEARING CONFERENCE

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IN THE MATTER OF: : Docket No. IA-05-021  
ANDREW SIEMASZKO : ASLBP No. 05-839-02-EA

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Thursday, February 16, 2006

The above-entitled matter came on for  
hearing, pursuant to notice, at 12:55 p.m.

BEFORE:

LAWRENCE McDADE Chair  
E. ROY HAWKENS Administrative Judge  
PETER S. LAM Administrative Judge

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On Behalf of Union of Concerned Scientists/Ohio  
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## P R O C E E D I N G S

(1:01 p.m.)

1  
2  
3 ADMIN. JUDGE McDADE: I'm Judge McDade,  
4 Chair of the Licensing Board. Here with me also are  
5 Judge Roy Harkens and Judge Peter Lam. We are here  
6 for ASLBP No. 05-839-02-EA, in the matter of Andrew  
7 Siemaszko.

8 During the course of this proceeding,  
9 given the fact that this is being done telephonically,  
10 I would ask the parties when they speak to state their  
11 name so that what they have to say can be  
12 appropriately attributed to them in the transcript.  
13 Although our voices we all view as distinctive, the  
14 stenographer court reporter may not be able to pick  
15 them out on such short notice.

16 What I would like to do today is basically  
17 ask some questions and Judge Hawkens and Judge Lam  
18 will have questions as well, I'm sure, on, as I  
19 understand, the only matter currently before us which  
20 has to do with the request for a stay of these  
21 proceedings pending the outcome or the resolution of  
22 criminal proceedings that have been initiated in the  
23 Northern District of Ohio against Mr. Siemaszko.

24 From the standpoint of the NRC staff, is  
25 there any other matter that we need to take care of

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1 during the course of this proceeding?

2 MR. HAMRICK: This is Steven Hamrick.  
3 I'll be arguing this issue. That's all we need to  
4 cover today.

5 ADMIN. JUDGE McDADE: From the standpoint  
6 of Mr. Siemaszko?

7 MS. GARDE: No, Your Honor.

8 ADMIN. JUDGE McDADE: And that's Ms.  
9 Garde?

10 MS. GARDE: Yes, this is Ms. Garde. I'm  
11 sorry.

12 ADMIN. JUDGE McDADE: Okay. And Mr.  
13 Lochbaum, do you have anything else you believe we  
14 need to cover today?

15 MR. LOCHBAUM: This is Dave Lochbaum. No,  
16 Your Honor, thank you.

17 ADMIN. JUDGE McDADE: Okay. And will you  
18 be speaking for both Ohio Citizen Action and Union of  
19 Concerned Scientists today?

20 MR. LOCHBAUM: Yes, I will.

21 ADMIN. JUDGE McDADE: Okay. Let's  
22 proceed. I mean my first question -- and let me  
23 address it to the NRC staff -- in paragraph three of  
24 his affidavit, Mr. Balantine -- to Mr. Siemaszko.

25 PARTICIPANT: I'm sorry. Your voice is

1 going in and out right now and I can't hear exactly  
2 what it is you are saying.

3 ADMIN. JUDGE McDADE: Okay. My question  
4 was this. In the Balantine affidavit, in paragraph  
5 three, it indicates that the government is currently  
6 providing open file discovery to Mr. Siemaszko in the  
7 criminal proceeding. And a question that I have of  
8 the NRC staff -- are there documents that would be  
9 available to Mr. Siemaszko under Section 2.336(b) that  
10 would not be provided to him under open file discovery  
11 currently being provided by the Department of Justice?

12 MR. HAMRICK: This is is Steven Hamrick  
13 for the NRC staff. It is our understanding that the  
14 documents that will be provided through the open file  
15 discovery will encompass the vast majority of the  
16 documents that we would be providing under our  
17 discovery as well.

18 There may be a few documents that aren't  
19 included but the vast, vast majority of them will be  
20 covered by the open file discovery.

21 ADMIN. JUDGE McDADE: Okay. Are there any  
22 that you can describe for me that would not be  
23 discoverable, would not be turned over by the  
24 Department of Justice? And if so, explain how the  
25 discovery of those documents by Mr. Siemaszko could

1 potentially adversely effect the prosecution?

2 MR. HAMRICK: Can I have one moment  
3 please, Your Honor?

4 ADMIN. JUDGE McDADE: Yes.

5 MR. HAMRICK: Thank you. Thank you for  
6 the time. There are a few miscellaneous documents,  
7 all of which have been produced already in response to  
8 FOIA requests and are publicly available. So in that  
9 respect, there would not necessarily be any harm as  
10 they are already publicly available and they have  
11 already been given to members of the public.

12 ADMIN. JUDGE McDADE: To me it seems like  
13 the biggest distinction between the discovery that  
14 would be available to Mr. Siemaszko in our proceeding  
15 as opposed to the discovery under the criminal  
16 proceeding would be Mr. Siemaszko's ability to depose  
17 individuals. That he would not have that ability in  
18 the criminal proceeding.

19 However, given the nature of the criminal  
20 proceeding, that right is somewhat limited. For  
21 example, if he were to choose to depose individuals,  
22 say Rodney Cook or David Geisen, those individuals  
23 would, of course, have the right to rely on their  
24 Fifth Amendment privilege and not respond to  
25 questions.



1 Are there any individuals the deposition  
2 of whom the Government believes it would be harmful to  
3 the prosecution to allow the deposition of?

4 MR. HAMRICK: Yes, investigators from the  
5 NRC's Office of Enforcement and NRC staff would --  
6 their deposition would be harmful to the prosecution.  
7 And also other FENOC employees who -- or former FENOC  
8 employees who may have information relevant would be  
9 harmful to the prosecution as well besides Mr. Geisen  
10 and Mr. Cook.

11 ADMIN. JUDGE McDADE: Okay, now, with  
12 regard to the NRC investigators that could be  
13 potentially deposed, am I incorrect that at this point  
14 in time, A, it would have been necessary for them to  
15 make a record of whatever information they had  
16 received, what they observed, what they were told,  
17 basically to summarize their inspection with memos of  
18 interview and that those would all be discoverable  
19 prior to trial by Mr. Siemaszko.

20 Could you explain to me how the deposition  
21 of those individuals would materially adversely effect  
22 the prosecution since their records would already be  
23 discoverable?

24 MR. HAMRICK: Well, to the extent that in  
25 a deposition the defense counsel would be allowed to

1 delve further into -- could use these already  
2 discoverable documents and ask further questions to  
3 get a more detailed explanation from these NRC  
4 employees and investigators.

5 ADMIN. JUDGE McDADE: They would be able  
6 to do that at trial in any event. Wouldn't that work  
7 towards making sure that the facts truly came out? In  
8 other words, the defense would have any opportunity to  
9 question them and then do additional discovery on  
10 their own additional investigation to determine the  
11 accuracy of what was said?

12 How is the Government adversely impacted  
13 by allowing them to do that based on a deposition as  
14 opposed to waiting at trial and then having to request  
15 a continuance of the trial in order to do that?

16 MR. HAMRICK: Well, the Government would  
17 be adversely effected. It's the whole Campbell v.  
18 Eastland kind of factors that we have been talking  
19 about.

20 There is a reason that criminal defendants  
21 are not given a right to take depositions or serve  
22 interrogatories and that's because, you know, of the  
23 reasons we have discussed in our previous motions. So  
24 the basic policy distinctions and policy reasons for  
25 that would still be applicable.

1 ADMIN. JUDGE McDADE: In most of those,  
2 they talk about a balancing. And here the  
3 representation made by Mr. Siemaszko and I'm assuming  
4 that it is accurate because you haven't contradicted  
5 it, is that Mr. Siemaszko has already made two lengthy  
6 statements to the Government and been subjected to 37  
7 separate interviews by the Government.

8 Doesn't this, you know, specifically, you  
9 know, help balance things for Mr. Siemaszko unlike the  
10 average criminal defendant, whom the Government has  
11 never had an opportunity to talk with? The purpose of  
12 the limited discovery in criminal matters is to  
13 prevent, you know, fabrication of evidence,  
14 facilitation of perjury.

15 Hasn't Mr. Siemaszko pretty well been  
16 locked in to any particular story or recollection of  
17 events through these detailed statements and 37  
18 interviews? How would the Government be adversely  
19 impacted by allowing the deposition of these  
20 individuals? Could it facilitate the fabrication of  
21 evidence or the facilitation of perjury on the part of  
22 Mr. Siemaszko?

23 MR. HAMRICK: Well, first of all, the 37  
24 interviews, not all of those were from the Government.  
25 Many of those interviews that were cited were from

1 FENOC themselves when they were doing internal  
2 investigations. As far as, you know, the possibility  
3 of perjury, we have addressed that earlier in our  
4 further affidavits that have been attached.

5 Now it is very difficult for us to  
6 prospectively, you know, speculate on how specifically  
7 one may commit perjury or may manufacture evidence.  
8 But the fact that just speaking generally about a  
9 defendant in this kind of situation, a defendant would  
10 always have -- by taking someone's deposition, they  
11 can have a sense of someone else's take on the events  
12 and be able to craft their testimony in such a way as  
13 to appear consistent or in such a way to not -- to try  
14 to not contradict something that has been already  
15 said.

16 And to the extent that Mr. Siemaszko  
17 believes the balance in, you know, the criminal case  
18 is unfair, that should be, you know, appealed to his  
19 criminal judge and asking them not to use the civil  
20 proceeding to further harm the balance in the criminal  
21 case.

22 ADMIN. JUDGE McDADE: Okay. What is  
23 fundamentally unfair about allowing Mr. Siemaszko  
24 access to other witnesses the same way that the  
25 Government has had access to Mr. Siemaszko through

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1 these witness statements and, I assume, the interviews  
2 that he gave to the company? The Government has  
3 copies of those memos of interview. Doesn't this just  
4 simply balance things out in a way that is not  
5 anticipated generally by the rules of criminal  
6 procedure where defendants aren't questioned in detail  
7 several scores of times?

8 MR. HAMRICK: Well, I think we need to  
9 keep in mind that with a criminal case, you know,  
10 there is a much higher burden of proof. And also he  
11 does still retain the right to assert his Fifth  
12 Amendment privilege.

13 And because of that, there is this  
14 balancing test -- I'm sorry, not balancing test --  
15 there is this balance that has been struck. And that,  
16 just as a matter of policy, that needs to remain.  
17 That balance is important.

18 ADMIN. JUDGE McDADE: Well, I mean the  
19 balance is struck in the federal system. It's  
20 different than other systems. Many states allow the  
21 deposition of witnesses in criminal cases and are  
22 still able to run a criminal justice system.

23 In the federal system, the balance is  
24 struck because there is the possibility of witness  
25 intimidation in major cases. Also the possibility of

1 fabrication of evidence. And the subordination of  
2 perjury. My question is given the unique facts of  
3 this particular case, are those real risks in this  
4 particular case? And if so, can you explain how?

5 MR. HAMRICK: Given this particular set of  
6 circumstances, well I don't know necessarily that we  
7 can demonstrate specifically how someone could  
8 theoretically commit perjury or manufacture evidence.

9 But I do think that just because there are  
10 previous statements that have been made that that does  
11 not necessarily foreclose that as a possibility.

12 ADMIN. JUDGE McDADE: Okay. One of the  
13 things raised by Mr. Siemaszko in his reply here  
14 talks about the criminal case and the civil  
15 administrative matter that we are conducting as being  
16 distinguishable.

17 In other words, the administrative matter  
18 bases on documents that were prepared, a condition  
19 report and the work order that were prepared by Mr.  
20 Siemaszko in April of 2000.

21 And whether or not those documents  
22 contained materially false information as opposed to  
23 the criminal case that basically is focusing on  
24 activities in the fall of 2001, almost a year and a  
25 half later, where responses were drafted to the August

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1 3rd, 2001 NRC interview.

2 What's the NRC staff's position on that?  
3 Do you think that Siemaszko's position has merit? And  
4 if not, why not?

5 MR. HAMRICK: Well, I think that's  
6 interesting. In both cases, obviously there are  
7 distinctions. Obviously it is not the exact same set  
8 of issues at hand. But both cases do rely on the  
9 underlying issue and this whole endeavor was the  
10 condition of the reactor pressure vessel head, the  
11 attempts that were made in the year 2000 by Mr.  
12 Siemaszko to clean the head, and his knowledge of the  
13 condition of the head and his own attempts to clean  
14 the head.

15 This case, this important case revolves  
16 around his attempts to clean the head and his  
17 knowledge of the state of the head. The responses in  
18 2001 from FENOC to the NRC involve FENOC's attempt to  
19 convince the NRC to let them remain in operation  
20 because of the condition of the reactor pressure  
21 vessel head.

22 That issue is important. Mr. Siemaszko's  
23 knowledge of the condition is important. And Mr.  
24 Siemaszko's knowledge of his cleaning is important in  
25 both cases.

1           So yes, the cases are certainly  
2 distinguishable but they involve -- the crux of both  
3 cases is the same.

4           ADMIN. JUDGE McDADE: Okay. Have you been  
5 advised by the Government of how long they think the  
6 trial will take? And when they think the trial will  
7 get off the ground?

8           MR. HAMRICK: We have not been advised on  
9 the length of the trial itself. We have been advised  
10 that -- in our motion we state that a motions date has  
11 been set for March 24th. It is our understanding that  
12 the trial date itself will be set on that motions  
13 date. So we will know, we believe, by March 24th what  
14 the trial date.

15           Now there are, of course, speedy trial  
16 considerations. So, you know, it shouldn't be too  
17 long, however, you know, there are certain things that  
18 are beyond our control.

19           ADMIN. JUDGE McDADE: Well, in a case like  
20 this, I can't envision that Mr. Siemaszko isn't going  
21 to file a motion and any time there is a defense  
22 motion pending, the speedy trial clock is tolled --

23           MR. HAMRICK: Certainly.

24           ADMIN. JUDGE McDADE: -- under the federal  
25 system. And I'm just trying to get an idea that if



1 the Government anticipates that this is going to be a  
2 one-week trial, the District Judge should be able to  
3 set it down relatively quickly. If they anticipate it  
4 is going to be a three-month trial, it may be a  
5 considerable period before the judge is able to set  
6 aside that much time for it.

7 So that was the basis for my question  
8 about your sense of the anticipated length of the  
9 trial and when they anticipated it would actually go,  
10 given the nature of the docket in the Northern  
11 District of Ohio.

12 But you are telling me you don't know and  
13 you wouldn't know until basically the end of March.

14 MR. HAMRICK: Well, we do not know exactly  
15 how long the trial will be. I don't believe it is  
16 anticipated to last three months. But other than  
17 that, you are correct. We can't tell you when exactly  
18 that the trial will be set.

19 And, of course, any motion from Mr.  
20 Siemaszko to stay the criminal case for, you know, to  
21 have a chance to look over his discovery because it is  
22 a fairly complicated case, that would, of course, be  
23 Mr. Siemaszko's decision.

24 ADMIN. JUDGE McDADE: Okay. Now with  
25 regard to that date, March 24th, is that the date that

1 the motions are due? Or is the date that the District  
2 Judge is going to be hearing argument on those  
3 motions? In other words, is there a hearing set for  
4 the 24th of March? Of is it just -- that's the date  
5 by which the various parties need to submit their  
6 motions?

7 MR. HAMRICK: It's my understanding that  
8 that is the date they will be actually having  
9 argument.

10 ADMIN. JUDGE McDADE: Okay. And do you  
11 know the date by which the motions will be submitted?

12 MR. HAMRICK: No, I do not.

13 ADMIN. JUDGE McDADE: Okay. One of the  
14 issues with regard to harm -- and I'd like if you  
15 could address this. In our last session, one of the  
16 things that was mentioned by the NRC staff is that  
17 they viewed this as not an immediately effective  
18 order.

19 And that they were going to submit  
20 something so if Mr. Siemaszko were able to find  
21 employment within the industry, he would not -- at the  
22 current time;, he would not be in violation of the  
23 order because it is not immediately effective although  
24 there was some language in the order that would  
25 indicate that if he were working in the industry, he

1 must immediately stop.

2 What has happened on that? Have you  
3 submitted anything to Mr. Siemaszko in that regard?

4 MR. HAMRICK: We have not. I believe that  
5 following the hearing in December, there was a --  
6 different parties came to different conclusions as to  
7 what exactly was going to be done. It was the staff's  
8 understanding that Ms. Garde would be requesting a  
9 clarification in writing.

10 The terms of the order indicate that any  
11 request having to do with the order should be made in  
12 writing to the Director of the Office of Enforcement.  
13 Perhaps that wasn't clarified itself well enough at  
14 the last hearing.

15 We at OGC don't really have the authority  
16 to make a specific request of changing or clarifying  
17 the order. The order is an OE order. And so any  
18 request needs to be made in writing to the Director of  
19 the Office of Enforcement.

20 Although we certainly don't anticipate a  
21 problem once that request comes in -- we don't  
22 anticipate a problem having that clarification be  
23 made.

24 ADMIN. JUDGE McDADE: Have you consulted  
25 with the Office of Enforcement to determine if their

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1 interpretation of this order as represented at our  
2 previous hearing, namely that if Mr. Siemaszko were,  
3 in fact, to become in the industry, that he would not  
4 be in violation of the order?

5 MR. HAMRICK: Yes. We have been in  
6 consultation with OE, yes, ongoing. And we, from the  
7 beginning, are aware that the Office of Enforcement  
8 does not interpret the order to be immediately  
9 effective.

10 ADMIN. JUDGE McDADE: Okay.

11 ADMIN. JUDGE LAM: This is Judge Lam.  
12 Based on what I just hear from Mr. Hamrick, I would  
13 suggest to Ms. Garde that a request be made to  
14 facilitate the issuance of that letter. Ms. Garde,  
15 what is your view?

16 MS. GARDE: Well, Judge, I certainly did  
17 not -- this is Ms. Garde, I certainly did not  
18 understand that I had an obligation to request that in  
19 writing on the basis of the hearing. But having now  
20 heard that, I certainly will do that.

21 I think someone should have called and  
22 brought that to my attention if they were waiting for  
23 that. That would have been courteous and I think the  
24 staff's position is disingenuous. But I will request  
25 it.

1 ADMIN. JUDGE McDADE: This is Judge McDade  
2 again. It certainly up to you what, if anything, you  
3 wish to do at this point in time with regard to that.  
4 And at this point, I've got some questions I'd like to  
5 address to you, you know, specifically can you address  
6 your position on harm? I mean we have discussed in  
7 the past at the previous hearings.

8 And the Government's position which, at  
9 least, on its face to me seems to have some merit is  
10 that the indictment effectively trumps the enforcement  
11 order. And that any harm that came to Mr. Siemaszko,  
12 any inability that he has to gain employment within  
13 the industry caused by the enforcement order is  
14 minuscule compared to the impact of the indictment.

15 Do you disagree with the Government's  
16 position? And if so, why?

17 MR. CLIFFORD: This is John Clifford  
18 speaking, Your Honor. We've pretty much conceded that  
19 after having kept Mr. Siemaszko in the warming oven  
20 with this ambiguous order that they have never changed  
21 and having done that for what -- six or eight months  
22 now, and now that they've got an indictment, that that  
23 does trump the proposed barring order.

24 However, the delay requested by the staff  
25 prejudices Mr. Siemaszko in more significant ways.

1 Postponing this civil matter to await the outcome of  
2 a criminal matter puts him at a disadvantage. He's  
3 much better off if he is able to litigate the issues  
4 in the civil matter first especially considering that  
5 the staff contends that there is a factual  
6 relationship, an overwrite in the two matters.

7 We think that they have kept him on the  
8 line for all this time while they waited to get an  
9 indictment. And now they want to put the indictment  
10 first or the criminal trial first. And that is a much  
11 more difficult position for him to be in.

12 ADMIN. JUDGE McDADE: Well, you indicated  
13 that Mr. Siemaszko, in your words, has been in the  
14 warming oven here and I guess it has actually been  
15 about ten months since the original order was issued,  
16 but at this point in time, on the issue basically of  
17 judicial economy, I mean won't the criminal matter  
18 resolve this one way or the other?

19 If the criminal matter results in a  
20 conviction of Mr. Siemaszko, effectively he will be  
21 unemployable in the industry in perpetuity. On the  
22 other hand, if he is acquitted, it would indicate that  
23 the Government cannot prove that he knowingly made  
24 false statements. Won't this administrative matter go  
25 away one way or the other once the criminal matter is

1 resolved? And for judicial economy, shouldn't we let  
2 that happen rather than to have two proceedings?

3 Certainly the criminal proceeding will go  
4 forward regardless of what happens in this  
5 administrative proceeding if we were to go first. But  
6 the corollary won't necessarily follow. What's your  
7 view on that?

8 MR. CLIFFORD: My view is that if the  
9 staff thought that, then what they should do is simply  
10 dismiss the civil action and put all their money on  
11 the criminal case. But that's obviously not their  
12 view. They want to be able to hold back and have two  
13 bites at the apple.

14 They can lose the criminal prosecution and  
15 still come back and try and prove their case in this  
16 proceeding by a preponderance of the evidence. You  
17 know, that's something that can and does happen. Just  
18 think of the O.J. Simpson case where he was acquitted  
19 and then the family came back and sued him for  
20 wrongful death.

21 And there are different facts that are  
22 being alleged here. So even if there weren't the  
23 different burden of proof, they could come back and  
24 say well, these are different facts anyway so that the  
25 result of he one does not estop proceeding on the

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1 other.

2 So they want the advantage of taking two  
3 swings at him. We don't want them to have that  
4 advantage. That's a prejudice to him to give them two  
5 swings.

6 ADMIN. JUDGE HAWKENS: Mr. Clifford, Judge  
7 Hawkens here. They could take, though, these two  
8 swings even if they followed the procedure you would  
9 like to see, which is, I think, a dismissal of the  
10 administrative sanction and if they went forward with  
11 the criminal action, he was not convicted, they could  
12 then re-institute this civil sanction and go forward  
13 with the administrative proceeding, could they not?

14 MR. CLIFFORD: No, they couldn't re-  
15 institute this civil sanction proceeding because they  
16 filed for this on the last day possible. So they  
17 would be barred by limitations on this matter.

18 ADMIN. JUDGE HAWKENS: All right. Tell me  
19 -- all right, I understand what you are saying.

20 ADMIN. JUDGE McDADE: This is Judge McDade  
21 again. If the situation were as you desire, which is  
22 we go forward with this administrative proceeding and  
23 assume you were to prevail at this administrative  
24 proceeding as we were to find that the order was  
25 inappropriately issued, that would have no effect on



1 the criminal case. And the criminal case would then  
2 be able -- and almost assuredly would forward,  
3 wouldn't it?

4 MR. CLIFFORD: Well, we don't know that  
5 but let's assume that it would. Let's face it. A  
6 defendant in a criminal case deciding whether to go  
7 forward and defend himself against the might of the  
8 Government is really taking a heck of a risk. And a  
9 lot of people do enter pleas just in recognition that  
10 it is an all or nothing kind of thing in the  
11 litigation.

12 A defendant in a civil suit has certainly  
13 less to lose if he does lose. And it's more  
14 encouraging to go forward or a better opportunity to  
15 go forward and defend yourself.

16 If Mr. Siemaszko prevails in the civil  
17 matter, we think that it might very well -- and the  
18 facts that come out will give him a strategic  
19 advantage of being able to prove the truth of what he  
20 says and the falsity of the Government's position.

21 For instance, I was struck by Mr. Hamrick  
22 saying in response to a question about the overriding  
23 facts that both matters involve -- even at different  
24 stages involved a condition of the reactor head. And  
25 Mr. Siemaszko's knowledge of that condition in April

1 2000. I think he was saying that that would be  
2 relevant or suggesting that that would be relevant to  
3 show what his knowledge was in September of 2001.

4 ADMIN. JUDGE McDADE:

5 And it sounds to me like the Government  
6 anticipates trying to present evidence in the criminal  
7 case that Mr. Siemaszko already knew in April of 2000  
8 that there were problems with the reactor head. So  
9 that it's up to his advantage to be able to prove the  
10 truth on his knowledge and what communications he made  
11 and what communications he did not make in April of  
12 2000, that he would be in a better position then to  
13 defend himself against the criminal matter.

14 ADMIN. JUDGE LAM: Mr. Clifford, this is  
15 Judge Lam. So your legal strategy is to prevail in  
16 this administrative proceeding and lavish that  
17 winning, if you do win, to have a favorable impact on  
18 the criminal proceeding?

19 MR. CLIFFORD: Yes, Judge Lam, I might say  
20 our legal strategy is to prevail in both proceedings  
21 and our opportunity to do so is enhanced by avoiding  
22 this delay in the civil proceeding. And, of course,  
23 that's exactly why the Government wants to delay the  
24 civil proceeding is so that they will have an  
25 advantage in trying to extract either a plea agreement

1 or conviction against Mr. Siemaszko in a criminal  
2 proceeding.

3 They want the advantage of postponing the  
4 civil proceeding. We rather they not have that  
5 advantage. We think they already have enough  
6 advantage on their side.

7 ADMIN. JUDGE McDADE: This is Judge McDade  
8 again. And it seems from what you've said, to a  
9 degree, you concede that there is some merit to the  
10 Government's position that there is an intertwining  
11 between the facts underlying the administrative order  
12 and the indictment that to a very large degree,  
13 whether or not the false statements -- allegedly false  
14 statements made in the fall of 2001 are a function of  
15 what, in fact, Mr. Siemaszko did and what Mr.  
16 Siemaszko knew back in the spring of 2000. Is that  
17 correct?

18 MS. GARDE: This is Ms. Garde and I would  
19 like to address that question, Judge.

20 These are very different sets of  
21 circumstances and very different documents. I don't  
22 really understand the Government's theory in terms of  
23 trying to intertwine the issues. I do think that that  
24 is disingenuous. And I could talk about that for  
25 longer than we have left on this call in terms of what

1 the differences are.

2 And I tried to summarize that in the  
3 brief. But I don't think that they are that  
4 intertwined. The document -- the work order documents  
5 that are the heart of this civil enforcement  
6 proceeding are very, very different documents or  
7 theory than their argument that there was a conspiracy  
8 to deceive the Government about the condition of the  
9 reactor head in 2001.

10 And although I head that they are saying  
11 that, I really don't understand how that works  
12 together. Now I don't understand the theory of their  
13 case but I don't agree that they are the same. They  
14 are just such fundamentally different documents and  
15 you can't take them out of context. I mean in order  
16 to talk about what did Mr. Siemaszko know in 2001  
17 about the condition of the reactor head and what his  
18 involvement were in the representations to the NRC  
19 staff.

20 You have to look at a much different body  
21 of material. Only members -- they were responding to  
22 an NRC bulletin that wasn't even issued until August  
23 2001.

24 So the parameters of what they're trying  
25 to prove, they are going to have to do some pretty

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1 significant dancing to try to get those things all  
2 together.

3 And I don't think they can get there. So  
4 I do -- I mean I agree exactly with John that they are  
5 looking for a strategic advantage which, I think, will  
6 be denied to them if we are able to prevail in the  
7 civil enforcement proceeding. And it is one we hope  
8 you don't give them. Mr. Siemaszko should be able to  
9 prove the case they brought against him last year.

10 ADMIN. JUDGE McDADE: All right. Let me  
11 ask something here. And this is just thrown out, at  
12 the moment, for comment both from Mr. Siemaszko and  
13 also from the NRC staff.

14 One of the issues raised by the NRC staff  
15 is the lack of reciprocity that Mr. Siemaszko can take  
16 depositions of potential Government witnesses and then  
17 Mr. Siemaszko could refuse to be deposed claiming a  
18 Fifth Amendment privilege.

19 And that he would then, you know,  
20 effectively even if there is an adverse inference  
21 taken in this administrative matter, the most  
22 significant matter is the criminal matter and he would  
23 gain a significant advantage there, which is the real  
24 battle, the more significant fight.

25 If we were to allow the civil matter to go

1 forward but to direct that the first deposition be  
2 that of Mr. Siemaszko so that the Government would  
3 have the opportunity to depose Mr. Siemaszko and if he  
4 refused to answer questions that were relevant based  
5 on a Fifth Amendment privilege, that we could then  
6 revisit whether or not the rest of discovery would go  
7 forward.

8 What would be Mr. Siemaszko's view of that  
9 as a way to, again, balance the equities here? Ms.  
10 Garde?

11 MS. GARDE: Oh, I'm sorry, Judge, I was  
12 consulting with Mr. Clifford. I think that is a very  
13 good tactical suggestion. I don't have Mr.  
14 Siemaszko's criminal lawyer at the table with us but  
15 I think that you have captured exactly the dilemma  
16 that could develop.

17 I have kind of two responses to that. We  
18 are not intending to, if I understand everything with  
19 the criminal lawyer, claim any privilege for the  
20 events surrounding the issues case in the 2000  
21 matters. That the staff would then ask the question  
22 that says in September 2001, what did you do? I would  
23 have a real problem with that question because I think  
24 it is outside of the scope of this proceeding.

25 I'm confident that you could manage that

1 discovery in a way that was fair including, if  
2 necessary, supervising the actual deposition. And  
3 part of the reason that I believe that is because Mr.  
4 Siemaszko, he has been interviewed -- I said 37 times.  
5 About a dozen of those are by the Government.

6 The rest are by various elements of FENOC  
7 but the NRC has all of those statements. It's not  
8 like they don't know what his position is on virtually  
9 everything. But that's a very good tactical  
10 suggestion and one we would definitely be willing to  
11 take the risk.

12 Now I assume that you would not permit  
13 that deposition to go forward until we actually got  
14 through the paper discovery part.

15 ADMIN. JUDGE McDADE: Well, to me those  
16 are two entirely separate issues. And it started with  
17 the question that I had initially as to what documents  
18 would not be provided through the open files discovery  
19 that might be provided through the discovery in this  
20 administrative proceeding.

21 MS. GARDE: Right. And, Judge, I didn't  
22 respond to that because you kind of kept going with  
23 the staff. But I did have something on the document  
24 discovery I wanted to be heard on.

25 ADMIN. JUDGE McDADE: Okay. Before you do

1 that, let me just go back and ask the staff. The  
2 proposal, and again this is just put out for  
3 consideration here, it's not a proposal as such, what  
4 would your view be as to the effect of going forward  
5 with a deposition of Mr. Siemaszko initially, allowing  
6 him to either not claim privilege or to claim  
7 privilege selectively?

8 That if we, the Board, viewed that he  
9 claimed privilege inappropriately -- in other words as  
10 a tactic to avoid appropriate discovery relevant to  
11 the discovery order, we could then just, at that  
12 point, cancel further discovery and postpone the  
13 proceeding until after the criminal matter, would that  
14 be sufficient in the Government's view to balance the  
15 equities here and allow this to go forward?

16 MR. HAMRICK: We would not be comfortable  
17 with that as a resolution. First of all, the issue  
18 of, you know, what is, you know, a discoverable  
19 question is, you know, things that would lead to  
20 relative information. So we would be able to ask a  
21 very broad level of questions.

22 ADMIN. JUDGE HAWKENS: You wouldn't be  
23 denied that, though, under -- this is Judge Hawkens --  
24 under Judge McDade's -- the suggestion that he is  
25 exploring. You would be entitled to pose those



1 questions and see what Siemaszko's response was.

2 MR. HAMRICK: Well, thank you. I  
3 appreciate that. A further problem with that solution  
4 is that there really is no bright line between what is  
5 relevant to this case, the 2000 issues with this case  
6 and the 2001 issues with the criminal case.

7 As we've seen from listening to Ms. Garde  
8 and Mr. Clifford, sometimes it seems like the cases  
9 are intertwined, as Mr. Clifford is arguing, and  
10 sometimes it seems like they are not intertwine, as  
11 Ms. Garde is arguing. And, I mean, it is a tough nut  
12 to crack.

13 The cases are intertwined. And if we ask  
14 a question about his activities during the 12th  
15 refueling outage in the year 2000, cleaning the head,  
16 he may very likely feel that -- his criminal counsel  
17 may very likely feel it is necessary to take the Fifth  
18 Amendment on that because that is directly relevant to  
19 his knowledge of his activities cleaning the head,  
20 which is relevant to the criminal case.

21 So I think it will just be a very  
22 difficult situation deciding what is and what isn't  
23 the proper use of the Fifth Amendment.

24 ADMIN. JUDGE McDADE: This is Judge McDade  
25 again. Isn't that why they pay us the big dollars to

1 make those determinations?

2 MR. HAMRICK: Perhaps. But I think -- I  
3 don't know that even -- not doubting your judging  
4 skills, I don't think there would be a place to draw -  
5 - there wouldn't be any tool to draw the line between  
6 these issues.

7 So you certainly, I don't think, want to  
8 be able to force Mr. Siemaszko to answer a question he  
9 doesn't feel like answering. And that doesn't really  
10 leave us with any positive solution in that case.

11 ADMIN. JUDGE HAWKENS: Judge Hawkens here.  
12 The solution in that case, I believe Mr. Hamrick was  
13 if you asked him at the outset of the deposition 40  
14 questions and he claims the Fifth, that he is  
15 certainly entitled to claim for all of those  
16 questions, you could come back to us and say these  
17 questions were relevant to the administrative  
18 proceeding. He claimed the Fifth and, therefore,  
19 there is a sound basis for staying proceedings pending  
20 the outcome of the criminal proceeding.

21 What would be the downside to going that  
22 route?

23 MR. HAMRICK: Well, the downside of that  
24 route is that it basically gives him a Girard run at  
25 our deposition. It shouldn't really be the case that

1 he, you know, necessarily, you know, knows what is  
2 coming. And it's -- you shouldn't have a practice  
3 deposition basically.

4 And if he knows what is coming, then we  
5 give him in the same situations with the same concerns  
6 about possibly, you know, the manufacture of answers  
7 or just -- anything along those lines. That's just  
8 not the way we're comfortable going forward with the  
9 deposition.

10 ADMIN. JUDGE McDADE: This is Judge McDade  
11 again. Having listened to Mr. Siemaszko's counsel a  
12 number of times, quite frankly I can't envision that  
13 he would be deposed without having several dry runs.

14 MR. HAMRICK: Certainly.

15 ADMIN. JUDGE McDADE: Or you all have an  
16 opportunity to depose him. But in any event, let me  
17 get back -- Ms. Garde, you had indicated you had some  
18 issues with regard to documents?

19 MS. GARDE: Yes, Judge. You asked a  
20 number of questions. And I just wanted to share with  
21 the parties on the phone a little bit of additional  
22 information about that which leads to a question.  
23 Certainly given what the staff's position is that  
24 there would only be a few documents that were not  
25 disclosed, there was a February 13th letter to Mr.

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1 Siemaszko's criminal counsel outlining what was going  
2 to be provided in open discovery, which does a pretty  
3 good summary of what they are all going to be giving  
4 him and/or making available. It lists a number of  
5 interviews of Siemaszko that are also being provided.

6 What is not listed at all -- and I want to  
7 understand whether that is a part of the 17,000  
8 documents, is the OI report or the OI interviews of  
9 Mr. Siemaszko. Obviously those are the documents that  
10 I think are at the heart of what is the basis of the  
11 case they've brought here against Mr. Siemaszko.

12 ADMIN. JUDGE McDADE: Well, the interviews  
13 of Mr. Siemaszko would have to be turned over under  
14 Rule 16 of the Rules of Federal Procedure.

15 MS. GARDE: I would have thought they  
16 would have been listed in this February 13th letter.  
17 But they're not. And the OI report isn't listed.

18 I don't know the answer to this. I'm just  
19 saying that it looks to me like what the staff said is  
20 correct. The vast majority of materials are going to  
21 be provided in the criminal case. But I'm just  
22 telling you that it doesn't list either the OI Report  
23 or the OIL interviews of Mr. Siemaszko.

24 ADMIN. JUDGE McDADE: This is Judge McDade  
25 again. As I understood what the staff said is that

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1 almost all of the documents would be provided through  
2 the open files discovery. The remaining documents are  
3 available under FOIA and have already been produced.

4 So that the document discovery really  
5 isn't an issue. That they don't need to protect  
6 documents, you know, by staying this proceeding. And  
7 that their request to stay the proceeding is based on  
8 the other aspects of discovery, namely the deposition  
9 and interrogatories and not the document request.

10 To the NRC staff: have I misinterpreted  
11 your position?

12 MR. HAMRICK: Well, we do think that  
13 because there is a -- I'm sorry, this is Mr. Hamrick.  
14 We do think that because there is an ongoing criminal  
15 process, that the discovery should be had through the  
16 criminal process. And that the Department of Justice  
17 should control the disclosure of that information.

18 But you are correct in saying that other  
19 than that, you are correct. The documents are not our  
20 issue.

21 ADMIN. JUDGE McDADE: Okay. This is Judge  
22 McDade again. I don't have any other specific  
23 questions.

24 Judge Hawkens, do you have anything  
25 specific?

1 ADMIN. JUDGE HAWKENS: I do, for Mr.  
2 Clifford. There seems to me to be real tension  
3 between Ms. Garde's position that the facts and issues  
4 in the two proceedings are barely, if at all,  
5 intertwined.

6 And your position that it is important to  
7 go forward with the administrative proceeding because  
8 if you prevail there, you'll have a tactical advantage  
9 in the criminal proceeding. Can you address that, Mr.  
10 Clifford?

11 MR. CLIFFORD: Certainly. First of all,  
12 you know, Mr. Hamrick said that they felt that the  
13 event of April 2000 were somehow relevant to the  
14 criminal case. And that's what I heard him say. If  
15 I misheard him, I apologize. But that's what my notes  
16 of his statement --

17 ADMIN. JUDGE HAWKENS: Yes, that's what  
18 Mr. Hamrick says. But I believe Ms. Garde did not  
19 agree with that.

20 MR. CLIFFORD: We don't agree with that.  
21 Assuming that what counsel for the staff said is  
22 correct, then it follows that we are disadvantaged by  
23 having the criminal case go first. And that there is  
24 an advantage to us to be able to establish the facts  
25 regarding the April 2000 events before going to a

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1 criminal matter.

2 The Government says that it believes the  
3 April 2000 events are relevant in its version of the  
4 April 2000 events is relevant to the criminal matter.  
5 Isn't that what they are saying?

6 ADMIN. JUDGE HAWKENS: So you disagree  
7 with what Mr. Hamrick is saying?

8 MR. HAMRICK: I disagree with what he is  
9 saying but I'm saying assuming arguendo, to throw a  
10 little Latin in -- that he is correct, then that it  
11 would follow that the Government is seeking to gain  
12 further advantage by doing the criminal case first.

13 MS. GARDE: I agree with that. If there  
14 was a confusion, I apologize.

15 ADMIN. JUDGE McDADE: I understand your  
16 position now, thank you.

17 Judge Hawken, do you have anything  
18 further?

19 Judge Lam?

20 ADMIN. JUDGE LAM: I had a question for  
21 Mr. Lochbaum. Mr. Lochbaum, the criminal indictment  
22 of Mr. Siemaszko came with a set of restrictions on  
23 his travel. Now how does that compare with the  
24 staff's enforcement order on his employment process?  
25 Would you care to comment?

1 MR. LOCHBAUM: This is Dave Lochbaum. I  
2 saw those restrictions in the Department of Justice's  
3 actions And as I interpreted it, and my  
4 interpretation may be wrong, was that if Mr. Siemaszko  
5 found employment in one of the areas outside of those  
6 restrictions, he could go back to the Court and seek  
7 to extend it or allow a new region to be entered. So  
8 I didn't see that as permanent or final.

9 So that may be a wrong interpretation but  
10 that's how I read that -- or took that to mean.

11 ADMIN. JUDGE McDADE: This is Judge  
12 McDade. And based on my experience of more than 30  
13 years practicing federal criminal law, that is  
14 correct. That pre-trial services would generally be  
15 quite liberal in granting an extension of that unless  
16 there were some valid reason why it should not be  
17 further restricted.

18 And in the event pre-trial services did  
19 not agree, that they then would have the opportunity  
20 to go to the District Court to get that expanded. But  
21 Ms. Garde, do you have anything different on that?

22 MS. GARDE: No, I have no reason to  
23 believe that your interpretation is not correct. The  
24 areas that we has permitted to travel to deal with  
25 work and family obligations and the criminal matter.

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1 If he would find a person somewhere else outside of  
2 that, I have no reason to believe wouldn't entertain  
3 that request.

4 But I still don't have an answer to the OI  
5 report.

6 ADMIN. JUDGE McDADE: Well, neither do we.  
7 But at this point in time, you know, the issue of  
8 documents is not something that we are considering.  
9 That the inability, you know, if we go forward, you  
10 will have the ability to request any documents you a  
11 and the Government has said that that isn't a basis  
12 for continuing this proceeding, that aspect of  
13 discovery. And that is what we will operating on in  
14 making our decision.

15 Well, at this point in time, do you have  
16 anything further that you would like to bring to our  
17 attention relevant to the issue of whether or not we  
18 should grant a stay of this proceeding or whether or  
19 not we should set it down for discovery and move  
20 forward?

21 Ms. Garde?

22 ADMIN. JUDGE McDADE: No, Your Honor, I  
23 think you've done -- the Board has done a very good  
24 job sorting through a complicated situation. And that  
25 the kind of proposed idea that you suggested is a good

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1 one. And holds our feet to the fire. And fleshes out  
2 the issues that need to be addressed.

3 We hope you go that way and look forward  
4 to getting this case finally under way. So we'll await  
5 your decision.

6 ADMIN. JUDGE McDADE: Okay. From the NRC  
7 staff, do you have anything further?

8 MR. HAMRICK: No, we don't have anything  
9 further other than just to reiterate that we have  
10 asked for a stay of the proceeding and we are not  
11 comfortable with the proposal as outlined previously.  
12 Thank you.

13 ADMIN. JUDGE McDADE: Mr. Lochbaum, do you  
14 have anything further?

15 MR. LOCHBAUM: This is Dave Lochbaum, I  
16 just have an observation related to the discussion  
17 Judge McDade had early on in the conference about the  
18 initiation and duration of the criminal proceeding.

19 I notice that on or about January 23rd,  
20 2006, Michael Johnson, the NRC's Director of  
21 Enforcement, granted I believe a six-month extension  
22 to some of the parties also being pursued by the NRC  
23 for Davis-Besse related issued. And was just  
24 wondering if that six-month extension was related to  
25 the criminal proceeding or unrelated to the criminal

1 proceeding.

2 If it is related, then it might have some  
3 insight into the decision you are about to make.

4 ADMIN. JUDGE McDADE: Okay. Specifically,  
5 you are referring to other individuals against whom  
6 enforcement order were entered will have an additional  
7 six months within which to determine whether or not to  
8 request a hearing, correct?

9 MR. LOCHBAUM: That is correct, yes.

10 ADMIN. JUDGE McDADE: Well, I certainly  
11 don't know the answer to that. I don't know whether  
12 the NRC staff would have an answer to that. And I'm  
13 not really sure at this point whether or not that  
14 would be relevant to our decision of whether to go  
15 forward in this.

16 Even if the other one is delayed, we may  
17 decide to go forward or to grant a greater delay.  
18 Does the NRC staff have anything to offer on that?

19 MR. HAMRICK: Yes, this is Steve Hamrick  
20 again. There were four orders issued in January that  
21 were all -- unlike this order to Mr. Siemaszko -- were  
22 all immediately effective. There was one of the four  
23 orders, the individual was granted a six--month time  
24 extension in order to request a hearing. His order is  
25 still -- it is currently effective and he is currently

1 barred from participating in NRC-licensed activities.

2 The six-month extension was simply for  
3 requesting a hearing. That's all that was entailed  
4 with that.

5 ADMIN. JUDGE McDADE: Okay. Anything  
6 further from any of the parties?

7 MS. GARDE: I had one other question,  
8 Judge, when we around the room for introductions, so  
9 to speak, I didn't understand who was the last party  
10 that joined and on behalf of who that party joined.,

11 ADMIN. JUDGE McDADE: Well, the other  
12 individuals -- this is an open hearing. There are no  
13 other parties other than Mr. Siemaszko, the parties  
14 represented by Mr. Lochbaum, and the NRC staff. The  
15 other individuals are from various law firms that  
16 apparently were interested in what was going on and  
17 given the fact that this is a public proceeding, had  
18 the opportunity to listen to it although not  
19 participate.

20 If those individuals wish to identify  
21 themselves to Ms. Garde at this point they can, if  
22 not, they're, you know, not required to. But --

23 MS. BUCHANAN: This is Sandy Buchanan from  
24 Ohio Citizen Action. I don't know if you met me or  
25 not but I did join toward the --

1 MS. GARDE: Yes, I heard you Sandy, thank  
2 you.

3 ADMIN. JUDGE McDADE: But Ohio Citizen  
4 Action is a party. And I had asked specifically for  
5 the purposes of this whether Mr. Lochbaum would be  
6 speaking for both Ohio Citizen Action and Union of  
7 Concerned Scientists. And he indicated that he would  
8 be.

9 MS. BUCHANAN: Yes, he was, yes.

10 ADMIN. JUDGE McDADE: But there were also  
11 a number of law firms. Morgan Lewis has a  
12 representative, I believe. Are there other parties  
13 still on the line that wish to identify themselves?

14 MS. PENNY: Yes, my name is Jane Penny.  
15 I'm an attorney in Harrisburg, Pennsylvania with the  
16 law firm of Killian & Gephardt.

17 ADMIN. JUDGE McDADE: Okay. Thank you.

18 MS. GARDE: Judge, thank you.

19 ADMIN. JUDGE McDADE: Okay. One thing  
20 again I have no idea at this point, you know, I need  
21 to sit down with my colleagues and discuss what we  
22 want to do. One thing though that I was going to  
23 propose and I had raised as a possibility a way of  
24 proceeding which would be to allow a deposition. You  
25 have not, Ms. Garde, had an opportunity to speak with

1 Mr. Siemaszko, although he certainly had the  
2 opportunity to participate in this conference here  
3 today as he does with all of them as well as his  
4 criminal attorney.

5 You may have a desire before you commit  
6 yourself one way or the other on that to speak with  
7 them. And what I would suggest is, you know, we, the  
8 Board, need to discuss this matter. But if you wanted  
9 some time to discuss with them the issue and present  
10 something in writing, my suggestion would be, you  
11 know, would Tuesday, the 21st, be sufficient for you  
12 to do that?

13 MS. GARDE: Judge, I did already have this  
14 discussion more in general with both criminal counsel  
15 and Mr. Siemaszko before today's call. But I  
16 appreciate the opportunity now to with a little bit  
17 more clarity to get back with both my client and his  
18 criminal counsel and to send you a letter. Did you  
19 say by Tuesday, the 24th?

20 ADMIN. JUDGE McDADE: Would that be  
21 sufficient time?

22 MS. GARDE: I can't imagine that that is  
23 not sufficient time. I also do want to make a comment  
24 on the record although I think it is clear. Yes,  
25 Tuesday is the 21st.

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1 ADMIN. JUDGE McDADE: I'm sorry.

2 MS. GARDE: Okay, Tuesday, the 21st.

3 ADMIN. JUDGE McDADE: Yes.

4 MS. GARDE: Okay, yes. That will be fine.

5 And I will send you a letter.

6 And that is I don't want either the Board  
7 or any of the parties to get the impression that Mr.  
8 Siemaszko isn't participating in these hearings  
9 because he is not interested. He has a job. He's  
10 working very hard to hold on to that job. And just  
11 can't take the risk of substantially more time away  
12 from it than he needs to.

13 So please don't read anything into his  
14 nonparticipation in these calls.

15 ADMIN. JUDGE McDADE: We certainly have  
16 not. And just to advise you that in the event he has  
17 time issues, you know we can modify the time when we  
18 have hearings in order to facilitate his requirements  
19 as well.

20 But anyway, in the event, you know, when  
21 you submit that on the 21st, please e-mail it to Mr.  
22 Lochbaum and to the NRC staff. And if either of you  
23 have any comments on it, if you could get those  
24 comments to us by Thursday, the 23rd. Is there any  
25 reason why that wouldn't be doable?

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1 MR. LOCHBAUM: This is Dave Lochbaum. No,  
2 not from our standpoint.

3 MR. HAMRICK: And this is Steve Hamrick.  
4 That's fine for us as well.

5 ADMIN. JUDGE McDADE: Okay. And is there  
6 anything else that we need to take up from the NRC  
7 staff's standpoint?

8 MR. HAMRICK: No, Your Honor, thank you  
9 very much.

10 ADMIN. JUDGE McDADE: Okay. And Ms.  
11 Garde?

12 MS. GARDE: No, Your Honor.

13 ADMIN. JUDGE McDADE: Mr. Lochbaum?

14 MR. LOCHBAUM: No, Your Honor, thank you.

15 ADMIN. JUDGE McDADE: Judge Hawkens?  
16 Judge Lam?

17 Well, then we are in recess. And we will  
18 wait and see if there are any further submissions and  
19 issue an opinion as promptly as we can. Thank you.

20 (Whereupon, the above-entitled pre-hearing  
21 teleconference was concluded at 2:01 p.m.)

22

23

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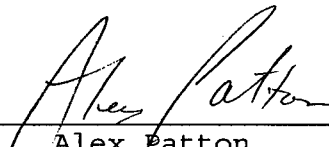


CERTIFICATE

This is to certify that the attached proceedings before the United States Nuclear Regulatory Commission in the matter of:

Name of Proceeding: Pre-Hearing Conference  
ITMO of Andrew Siemaszko  
Docket Number: IA-05-021  
ASLBP No.: 05-839-02-EA  
Location: Rockville, MD

were held as herein appears, and that this is the original transcript thereof for the file of the United States Nuclear Regulatory Commission taken by me and, thereafter reduced to typewriting by me or under the direction of the court reporting company, and that the transcript is a true and accurate record of the foregoing proceedings.



Alex Patton  
Official Reporter  
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