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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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ATOMIC SAFETY AND LICENSING BOARD PANEL

HEARING

In the Matter of: : Docket No. IA-050-052

DAVID GEISEN : ASLB No. 06-845-01-EA

Tuesday,
December 9, 2008

The above-entitled hearing was
convened, pursuant to notice, at 8:30 a.m.

BEFORE:

MICHAEL C. FARRAR, Administrative Judge, Chair

E. ROY HAWKENS, Administrative Judge

NICHOLAS G. TRIKOUROS, Administrative Judge

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APPEARANCES:

On Behalf of David Geisen:

ANDREW T. WISE, Esquire
RICHARD HIBEY, ESQ.
of: Miller & Chevalier, Chartered
655 15th Street, N.W.
Suite 900
Washington, D.C. 20005
(202) 626-5800

On Behalf of the Nuclear Regulatory Commission:

LISA B. CLARK, Esquire;
CATHERINE MARCO, Esquire;
SHAHRAM GHASEMIAN, Esquire; and
KIMBERLY A. SEXTON, Esquire
of: Office of the General Counsel
U.S. Nuclear Regulatory Commission
Mail Stop - O-15 D21
Washington, D.C. 20555-0001

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Alan Hiser	1195			
<u>EXHIBIT NO.</u>	<u>MARK RECD</u>			
None				

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

(8:30 a.m.)

1
2
3 JUDGE FARRAR: Okay, on the record. Good
4 morning, everyone. We're here at 8:30 to start the
5 second day of hearings Mr. Geisen's challenge. How
6 did the staff make out with its witness situation?

7 MR. GHASEMIAN: We're ready to put on our
8 next witness.

9 JUDGE FARRAR: Who will be?

10 MR. GHASEMIAN: Mr. Prasoan Goyal.

11 JUDGE FARRAR: Okay. Before he takes the
12 stand, any preliminary matters?

13 MR. GHASEMIAN: I don't believe so.

14 JUDGE FARRAR: Mr. Wise, Mr. Hibey?

15 MR. WISE: No, Your Honor.

16 JUDGE FARRAR: Who will be next after Mr.
17 Goyal?

18 MR. GHASEMIAN: After Mr. Goyal, Mr. Hiser
19 will follow Mr. Goyal.

20 JUDGE FARRAR: He'll be back.

21 MR. GHASEMIAN: Yes.

22 JUDGE FARRAR: And you had -- so we should
23 finish Mr. Goyal sometime this afternoon, early
24 afternoon?

25 MR. GHASEMIAN: Yes, Your Honor.

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1 JUDGE FARRAR: Good. All right. Then,
2 Mr. Goyal, if you would -- are you ready?

3 MR. GHASEMIAN: Yes.

4 JUDGE FARRAR: If you would stand and
5 raise your right hand, please. No, stand.

6 MR. GOYAL: I need to tell you, even
7 though I'm wearing hearing aid, I have difficulty in
8 hearing and sometime in understanding, so I would be
9 requesting either to slow down or to repeat. So that
10 would be my request. They don't work as well as they
11 should.

12 JUDGE FARRAR: Andy, do we have any -- do
13 we have headphones or something.

14 While Andy is doing that, raise your right
15 hand.

16 WHEREUPON,

17 PRASOON GOYAL

18 was called as a witness and, after having been first
19 duly sworn, was examined and testified as follows:

20 JUDGE FARRAR: Thank you. Be seated.
21 We'll wait and see if Andy can get a set of headphones
22 and see if that will work better.

23 MS. CLARK: While we're waiting, I do have
24 one other matter I wanted to raise. With regard --

25 (Whereupon, the proceedings went off the

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1 record at 8:33:21 a.m., and went back on the record at
2 8:35:47 a.m.)

3 JUDGE FARRAR: All right. We're back on
4 the record having solved the audio problem. And while
5 we're trying to get a speaker to put near Mr. Goyal so
6 he can hear better, Ms. Clark, you had something you
7 wanted to discuss?

8 MS. CLARK: Yes. With regard to the
9 testimony regarding our enforcement sanction, Mr.
10 O'Brien was the -- is prepared to testify on the
11 sanction against Mr. Geisen, and on the enforcement
12 actions that were taken or not taken with regard to
13 other individuals involved in these events.

14 However, with regard to the broader
15 question you asked, which is about enforcement
16 sanctions taken generally in the Agency and
17 significant sanctions, we would propose adding another
18 witness, Mr. Jim Luehman. He was the Deputy Director
19 of Enforcement for a number of years, and he has a
20 very broad knowledge of enforcement actions taken
21 throughout the Agency. Mr. O'Brien is a regional
22 person, and I think you will get a better, more
23 satisfactory answer to those questions from Mr.
24 Luehman.

25 JUDGE FARRAR: Before I check with Mr.

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1 Wise, and I think that -- who is this second
2 gentleman?

3 MS. CLARK: Jim Luehman.

4 JUDGE FARRAR: I think his testimony could
5 be much abbreviated; in other words, the more you get
6 away from the Davis-Besse situation, the less relevant
7 or helpful it is, but we thought - and particularly
8 Judge Trikouros had remembered something from years
9 ago about someone getting a five-year debarment, and
10 so we would need it to be far less intense and
11 thorough testimony, but just to give us an idea what
12 has the practice been. Give us some historical frame
13 of reference.

14 With that understanding, Mr. Wise -- so we
15 would have -- he would just come in and testify. He
16 wouldn't give us anything in advance or anything.

17 MS. CLARK: No. My expectation is that he
18 could spend some time maybe looking through records to
19 refresh his recollection, but he would basically
20 testify as to in his position as a Deputy Director of
21 Enforcement, where he was really involved with most of
22 the enforcement actions that the Agency saw during
23 those years. He could give you, I think, sort of a
24 high-level view of how the Agency looks at enforcement
25 actions of certain significance.

1 JUDGE FARRAR: Mr. Wise, with that
2 understanding, and reserving to both parties at the
3 end of the case to say it was irrelevant and it
4 shouldn't have even -- our view is always we ask
5 questions, because you don't want to close a record
6 and be sitting back trying to write a decision and
7 saying gee, we wish we'd asked about this. So when we
8 come up with something like this, that does not - even
9 if you graciously present it - it doesn't preclude you
10 from saying but his testimony amounts to nothing,
11 because all we care about is this case, and/or Mr.
12 Geisen, and so forth.

13 Mr. Wise, with that understanding, is that
14 agreeable to you? And reserving to you the same right
15 to say it doesn't matter what this fellow said about
16 what happened 20 years ago at Three Mile Island.

17 MR. HIBEY: Is he a current employee of
18 the Agency?

19 MS. CLARK: Yes, he is.

20 MR. HIBEY: Or is he a retiree?

21 MS. CLARK: No, he's a current employee.

22 MR. HIBEY: He's not the person who signed
23 the ultimate enforcement order.

24 MS. CLARK: No, he's not.

25 JUDGE FARRAR: He's going to do history.

1 MR. HIBEY: Well, I -- they can call
2 anybody they want --

3 JUDGE FARRAR: Well, don't blame them,
4 blame me.

5 MR. HIBEY: No, I don't blame you at all,
6 Your Honor.

7 JUDGE FARRAR: Very good, Mr. Hibey. Gee,
8 in that 40 years you've learned something.

9 MR. HIBEY: I try anyway to continue the
10 experience. I think we'll just have to wait and see
11 what the man has to say.

12 JUDGE FARRAR: Yes.

13 MR. HIBEY: We'll go from there.

14 JUDGE FARRAR: Yes. I'm not saying it's
15 relevant. I'm saying it might be helpful, if they've
16 never banned anybody for five years, I'd like to know
17 that. If they do this three times a year, I'd like to
18 know that.

19 JUDGE HAWKENS: Are these bars documented?
20 Can your witness bring records with him that he can
21 share with Mr. Wise and Mr. Hibey, and with the Board
22 Members?

23 MS. CLARK: Yes, I can ask him. We do
24 maintain records of our enforcement actions. The only
25 question I might have is that if they're long enough

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1 ago, I'm not sure that we'll still have the records,
2 but I will ask him to bring any enforcement action
3 documents he may have.

4 JUDGE FARRAR: Okay. Then we'll leave it
5 at that. And, again, reserving your rights to say it
6 amounts to something, or does not amount to something.
7 Mr. Goyal, did Andy come back with the speaker?

8 THE WITNESS: No.

9 JUDGE FARRAR: Okay. That's all right.
10 Off the record.

11 (Whereupon, the proceedings went off the
12 record at 8:41:48 a.m., and went back on the record at
13 8:41:56 a.m.)

14 JUDGE FARRAR: Back on the record. As
15 long as we're on the subject of relevant and not
16 relevant, I think the lawyers all understand this, but
17 the fact that one or another of the Board Members asks
18 a question during the course of the proceeding, asks
19 a question of a witness does not mean that that
20 question represents the thinking of the other two
21 Board Members. And sometimes it may not even
22 represent the thinking of the Board Member who asked
23 it, in terms of don't take any -- don't draw any
24 conclusion from the question that the Board Member has
25 made up his mind about the subject, it's really just

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1 us trying to make sure we have all the facts in front
2 of us that we may need to help decide the case.

3 All right. I think we're all set. Go
4 ahead, Mr. Ghasemian.

5 MR. GHASEMIAN: Good morning, Your Honors.
6 Good morning, Mr. Goyal.

7 THE WITNESS: Good morning.

8 DIRECT EXAMINATION

9 BY MR. GHASEMIAN:

10 Q Would you state your name and spell it for
11 the record, please.

12 A Yes. My name is Prason Goyal, G-O-Y-A-L.

13 Q And did you review on the internet any
14 part of the proceeding that you are at today?

15 A No, I did not.

16 Q Did you talk to anyone about the hearing
17 today?

18 A No, I did not.

19 Q Okay.

20 JUDGE FARRAR: You mean talk to anyone
21 about what transpired yesterday?

22 MR. GHASEMIAN: Yes.

23 THE WITNESS: I did not talk to anybody.

24 JUDGE FARRAR: And no one tried to
25 approach you and talk to you.

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1 THE WITNESS: No.

2 JUDGE FARRAR: Okay.

3 MR. GHASEMIAN: I guess other than us
4 calling him and telling him --

5 JUDGE-FARRAR: No. Right. Right.

6 BY MR. GHASEMIAN:

7 Q Mr. Goyal, who are you employed by?

8 A Currently, I'm employed by Bechtel
9 Corporation.

10 Q And where do you live?

11 A Currently, I'm living in Lexington,
12 Kentucky.

13 Q Is that the same -- do you work in the
14 same city that you live?

15 A No. I'm working in Richmond, Kentucky,
16 which is about 25 miles south of Lexington.

17 Q How long have you been with Bechtel?

18 A About -- starting about 2003.

19 Q Let's talk about your educational
20 background a little bit. Could you tell us about your
21 educational background?

22 A I have a Master's degree in Mechanical
23 Engineering from the University of Iowa. I also have
24 a Management degree from Northwestern University.

25 Q Were you ever employed at the Davis-Besse

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1 nuclear power plant?

2 A Yes, I was.

3 Q And who did you work for when you worked
4 at the plant? Who was your employer?

5 A Employer at that time was Toledo Edison.

6 Q And did it stay Toledo Edison for the
7 entire time that you were at the plant?

8 A No, I think the name changed one or two
9 times. In the end it was First Energy.

10 Q Okay. And how long did you work there?

11 A I started in 1986, and worked there to
12 2002.

13 Q And what positions did you hold when you
14 worked at the plant?

15 A I was a Senior Mechanical Engineer.

16 Q What was your position close to when you
17 left the plant?

18 A The same.

19 Q Same. When you were at the plant, were
20 you a member of any committees?

21 A Yes. I was a member of B&W Materials
22 Group Committee, part of B&W Owner's Group.

23 Q And what does B&W stand for?

24 A B&W is Babcock & Wilcox. They are the
25 manufacturers of the reactor vessel and NSSS supply

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1 system.

2 Q And what was the purpose of the Materials
3 Committee?

4 A Materials Committee was formed of five
5 utilities, and they were looking at the generic
6 material problems of the B&W reactors, reactors of
7 plant would be more appropriate. And there are
8 various ongoing issues associated with material,
9 reactor vessel internals, thermal stratification of
10 surge line, Alloy 600 issues.

11 JUDGE FARRAR: Mr. Goyal, Mr. Hibey is
12 having trouble hearing you. Can you bring the
13 microphone more in front of you?

14 THE WITNESS: Is this better?

15 MR. HIBEY: I hope. Thank you.

16 JUDGE FARRAR: Pull it as far that way as
17 you can.

18 THE WITNESS: Okay.

19 JUDGE FARRAR: Okay. Good.

20 THE WITNESS: Is it better?

21 MR. HIBEY: Some.

22 BY MR. GHASEMIAN:

23 Q And did the Materials Committee deal with
24 nozzle crack issues?

25 A Yes. They were dealing with Alloy 600

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1 issues, which involve nozzle cracking, also.

2 Q Did the B&W Owner's Group have other
3 committees?

4 A Yes they did. B&W Owner's Group had a
5 Executive Committee, and then they had a Steering
6 Committee, then there were ten or twelve working
7 groups, one of them was Materials Committee, some
8 others were Operations, Nuclear Safety, Maintenance.
9 They were sharing the problems and solutions of five
10 utilities. They had the same type of reactor.

11 Q Did other employees at the plant -- were
12 any other employees at the plant members of these
13 other committees?

14 A Yes. The Executive Committee was formed
15 of the VP from the company, the Steering Committee was
16 formed from various managers from the utility. And
17 working groups were working groups. They were
18 engineers, senior engineers, civil engineers. So the
19 hierarchy was Executive Committee, Steering Committee,
20 and then working groups, which were 10 or 12 at the
21 time.

22 Q Was Mr. Geisen a member of the Steering
23 Committee?

24 A Yes, Mr. Geisen was a member of the
25 Steering Committee.

1 Q And what role did the Steering Committee
2 play?

3 A Well, the Steering Committee, really they
4 looked at the various projects which the working group
5 has identified to be worked, and also the funding
6 requirement, how much money is needed to fund these
7 projects. And all this input from the various working
8 group or committees went to the Steering Committee
9 member. And then the Steering Committee made the
10 decision which projects are at what priority level,
11 what funding level, and they made recommendation to
12 the Executive Committee.

13 Q So who did the Materials Committee report
14 their recommendations to?

15 A Well, at the plant-wise, I would be
16 reporting to Mr. Geisen what the B&W Owner's Group
17 Materials Committee projects are, and what funding
18 requirements are.

19 Q It would go to the Steering Committee?

20 A Right.

21 Q And who would the Steering Committee
22 report to?

23 A The Steering Committee reports to the
24 Executive Committee.

25 Q Do you know if Mr. Geisen was a member of

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1 any other boards or committees at the plant?

2 A Yes. There is a Condition Review Board
3 the plant has, and Mr. Geisen was member of that
4 board, also.

5 Q What did that -- what was the function of
6 that Condition Review Board?

7 A Condition Review Board, actually, anybody
8 can identify the problem at the site, and then all
9 those problems were written, assigned numbers, and
10 they went to the Board for assessment on the plant
11 safety. And then the Board assigned the responsible
12 group or engineer to analyze the problem, recommend a
13 solution. And it went to supervisors approval when
14 the engineers are finished working on it, and went
15 back to the Board. The Board will review the results,
16 analysis, problem identification, recommendations, and
17 they will make further actions on it. So the Board
18 consisted of five or six managers, which were Manager
19 of Operations, Manager of Design System Engineering,
20 Manager of QA, Manager of Licensing, so this was a
21 board which had a lot of expertise in the nuclear
22 area.

23 Q And was the Manager of Design System
24 Engineering a member, as well?

25 A Yes.

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1 Q And earlier you said condition. By
2 condition, is condition reports the same as condition?
3 Did they review condition reports?

4 A Actually, at the time when I was there,
5 they were using potential condition adverse to quality
6 report, PCAQ; what, in short, we just starting using
7 word Condition Report.

8 Q So it's the same -- when we refer to PCAQ
9 and Condition Reports, it's different names for the
10 same type of report.

11 A Right.

12 Q Is that fair?

13 A That is correct.

14 Q It's name just changed over the years from
15 PCAQ to Condition Report.

16 A Yes, shortened it.

17 Q Have you written any PCAQs or Condition
18 Reports?

19 A Yes, I have.

20 Q In 1996, were you involved in the
21 inspection of the Davis-Besse vessel head?

22 A Yes, I was involved in the inspection of
23 the head.

24 Q And after that inspection did you write a
25 PCAQ?

1 A Right, I did.

2 Q We'll go to Staff Exhibit 16. Is this --
3 do you recognize this document?

4 A Yes, I do.

5 Q Is this the condition report that you
6 wrote in 1996?

7 A Yes.

8 Q And is that your handwriting there?

9 A Yes, it's my handwriting.

10 Q Before we go review some of the things
11 that you wrote in here, I want to ask you a few
12 questions. Why did you write this PCAQ?

13 A Well, I wrote it when I finished the
14 inspection. I saw boric acid on the head, to record
15 that condition, because when I inspected the head
16 there was no procedure given to me, or no training
17 given to me to do the head inspection. I performed
18 the head inspection. I came back and asked my
19 colleague what procedure should I use in the head
20 inspection, so he said just use boric acid control
21 procedure.

22 JUDGE FARRAR: Who was your colleague that
23 you asked?

24 THE WITNESS: I don't recall the name. So
25 he just use the boric acid control procedure, so I

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1 read the procedure, and then I wrote this condition
2 report on that basis.

3 BY MR. GHASEMIAN:

4 Q And what were the circumstances that led
5 you to do the inspection?

6 A Normally, a Design Engineer does not --
7 normally is not involved with the hardware plant
8 equipment, but is in the design, but I received a call
9 from Project Control, so somebody from the plant
10 called me. Prason, we would like you to perform the
11 head inspection. Will you do it? I said, "Yes, I
12 will do it." And I went there, and performed the
13 inspection with the help of two technicians.

14 Q Did you have any training doing vessel
15 head inspections?

16 A No, I did not.

17 Q And you said you had two technicians
18 helping you out. Is that correct?

19 A Right.

20 Q Now, could you explain how you went about
21 doing the inspection?

22 A I mean, we were given one hour for the RP,
23 based on the dose that you spend one hour.

24 Q Let me interrupt you for a second. What
25 does RP stand for?

1 A Radiation Protection. And so we -

2 JUDGE FARRAR: I'm sorry. Let me go back
3 a step. Before they asked you to do that, what were
4 your -- what job were you doing?

5 THE WITNESS: I was -- my main job was the
6 heating, ventilation, and air conditioning engineer.

7 JUDGE FARRAR: Okay. That's all I needed.
8 You all had asked us at one point to read the
9 transcript of the criminal case to get ready, and that
10 was the link I was looking for. Thank you.

11 BY MR. GHASEMIAN:

12 Q So how did you go about doing your
13 inspection?

14 A Inspection, we went to the RP and got the
15 dosimetry, and got instructions that they spend about
16 one hour. And with the two technicians, I went into
17 the containment, and I asked technicians have you done
18 it before? Both of them said yes, I've done it. I
19 said, "Okay, let's go." And there was a scaffolding
20 already built around the head. The monitor was
21 already set, so that was all done, so I was at the
22 monitor, and directing the activities of these two
23 technicians.

24 Q And you took the video, and you --

25 MR. GHASEMIAN: Well, can I approach the

1 model, Your Honor?

2 JUDGE FARRAR: Certainly.

3 BY MR. GHASEMIAN:

4 Q Okay. Mr. Goyal, this is -- could you
5 tell us -- this is a cross-sectional view of a vessel
6 head.

7 A Yes.

8 Q Now, could you describe how you went about
9 doing your inspection?

10 A Well, there were two technicians. One has
11 a three, four foot wire pole, both of them. One had
12 a video camera, another one had a light.

13 Q So was the video camera stuck on a pole or
14 a stick?

15 A Right. They were attached to the poles,
16 and one light they would stick in one mouse hole,
17 another put a stick in the next one.

18 Q Okay. I'm pointing at the model at the
19 base. Is this a mouse hole?

20 A Yes.

21 Q Okay. And the holes out here are what?

22 A They are stud holes, and these are
23 numbered. CRDMs are not numbered. The only number
24 you see is the stud hole numbers.

25 Q Okay. And so was there a monitor outside?

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1 A Right. Monitor was on the scaffolding
2 away from this area.

3 Q Okay. And you guys, what did you do?

4 A We went around in one direction. My
5 recollection is counterclockwise, went around, so that
6 we can cover the circle. And we'll announce the stud
7 holes numbers, which mouse holes we are going to be
8 looking into.

9 Q And why did you call out the stud numbers?

10 A Stud hole numbers were called in to
11 pinpoint the location of the inspection, the video we
12 are taking, saying it's stud hole number 36, or 38, or
13 whatever the number.

14 Q So is it your -- we watched a portion of
15 the video of the '96 inspection. Was that -- the
16 person, the voice that was calling out the numbers,
17 was that your voice?

18 A Yes, that is my voice.

19 Q Okay.

20 A And we went around and recorded on the
21 monitor. And I was giving them direction to move up,
22 left, right, whatever we can move.

23 Q And you were just basically sticking the
24 pole in the -

25 A Right. Pole in there.

1 MR. GHASEMIAN: Okay. Thank you, Your
2 Honor.

3 BY MR. GHASEMIAN:

4 Q So what was the purpose of calling out the
5 stud holes?

6 A Well, the purpose was that you can go back
7 to the head map. There's a plan of the vessel head
8 where the nozzles are identified, CRDMs are
9 identified, the both pools are identified, also
10 north-south/east-west are identified, so you can
11 coordinate the video with the actual location of the
12 CRDMs where performing the inspection, so we can look,
13 what did we look at.

14 Q And what was the purpose of the
15 inspection?

16 A Purpose was to look at the head for boric
17 acid.

18 Q Did you see any boric acid when you were
19 doing your inspection?

20 A Yes, we saw some.

21 Q Could you tell what the source of that
22 boron - well, it wasn't -- was it boric acid or was it
23 boron deposits?

24 A I think it's a boron deposit.

25 Q And could you tell the source of the boron

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1 deposits on the vessel head?

2 A I think my evaluation indicated that most
3 probably is coming from the flanges. And, also, that
4 since the boric acid was left there, we couldn't
5 determine what the source was. I think it's written
6 in there in the evaluation, "Since the head is not
7 clean, it's difficult to assess what is the source."

8 Q And what was the scope of your inspection?

9 A My inspection was -- I was just doing a
10 general inspection, because there was no guidance, no
11 procedure. Say go inspect the head, so you go and
12 inspect the head. You inspected the head. Then what
13 do you do? Then he would read the procedure, the
14 procedure which was suggested by my colleague. And
15 then I read the procedure, then I write the condition
16 report.

17 Q Okay.

18 A And wrote the condition report based on
19 that procedure, compliance or non-compliance, some of
20 the steps.

21 Q So were you trying to see the whole head?

22 A We were trying to see whatever we can see
23 through the mouse holes and the technique we were
24 using.

25 Q So how much of the head could you see with

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1 the technique that you were using?

2 A The mouse holes, as you can see, are
3 limited in size. The pole is three, four feet long.
4 The technique we were using, I use an estimate that
5 we're seeing about 50-60 percent of the head.

6 Q Could you -- how far up the vessel head,
7 if you can kind of approximate, how far up could you
8 go, how many rows up? I think there's five rows of
9 nozzles on the head. How many, roughly, do you -

10 A I don't know. I mean, we were just -- I
11 wasn't counting any rows or anything, and we just did
12 a general inspection. I did a general inspection.

13 Q Could you get far up the vessel head?

14 A Well, the head is half-sphere, which it is
15 there, and the technique you're using, it's hard to
16 reach to the top.

17 JUDGE FARRAR: The pole was how long?

18 THE WITNESS: Three, four feet long. It
19 was a wire pole. And you would stick it in the mouse
20 hole, and go look.

21 JUDGE FARRAR: And how far, if the camera
22 was on the end of the pole, how far beyond where the
23 camera was would you estimate you could see, the
24 camera could see?

25 THE WITNESS: I mean, it was attached 90

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1 degrees to the pole, the camera. It's a one-inch
2 diameter, one inch and a half diameter, we just stuck
3 it on the end of the pole so you can -

4 JUDGE FARRAR: So it's not looking
5 linearly along the pole. It's looking to the side.

6 THE WITNESS: Right.

7 JUDGE FARRAR: So you're seeing any higher
8 up the head than the pole is reaching.

9 THE WITNESS: Right. I mean, it wasn't
10 attached at an angle or anything. I just remember
11 seeing was 90 degrees..

12 JUDGE TRIKOUROS: Mr. Goyal, you were an
13 HVAC engineer, and you were assigned to do the head
14 inspection. Is that because the HVAC group typically
15 did head inspections, or was there some other reason
16 why they were using someone with your background to do
17 a head inspection?

18 THE WITNESS: I think -- I can only
19 hypothesize that since I was a member of the B&W
20 Owner's Group Materials Committee, so send this guy
21 in, you know. So I said, "Okay."

22 JUDGE TRIKOUROS: Was that specifically
23 identified, that it was your involvement in that
24 particular working group of the B&W Owner's Group that
25 qualified you to do the head inspection? Was that

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1 told to you, that it was your -- or were you guessing?

2 THE WITNESS: No. The Owner's Group
3 Materials Committee member did not perform the
4 inspection of the head, other utility member, they
5 were with me. I talked to them. None of them
6 performed. Either it was performed by their ISI Group
7 or their System Engineers. So it was a hard way, but
8 that's how it happened.

9 JUDGE TRIKOUROS: Well, I'm trying to
10 understand. Was there a shortage of people available
11 in the ISI Group?

12 THE WITNESS: I do not know. There must
13 be, because they are looking beyond -- they are
14 looking for somebody to perform the inspection.

15 JUDGE TRIKOUROS: But you had never done
16 one before.

17 THE WITNESS: No.

18 JUDGE TRIKOUROS: And you didn't do one
19 after.

20 THE WITNESS: Right.

21 JUDGE FARRAR: But you didn't ask when
22 your boss or whoever it was came to you, you didn't
23 say why me? I don't know anything about this.

24 THE WITNESS: I think I don't exactly
25 recall that. They called me and I just said, "Yes, I

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1 will do it." The plant is requesting something of
2 you, and you say I'll go do it. And I do not know why
3 they didn't come to the supervisor, to me, but they
4 came directly to me.

5 JUDGE TRIKOUROS: Who was your direct
6 manager?

7 THE WITNESS: I reported to -- I joined in
8 '86. I had various supervisors, every few years I had
9 different one. But at that time, Mr. Theo Swim was my
10 current supervisor.

11 JUDGE FARRAR: Did he give you this
12 assignment?

13 THE WITNESS: He did not give me the
14 assignment. Assignment was directly from the plant to
15 me.

16 JUDGE FARRAR: And when you got that
17 assignment, did you say to your supervisor hey, you've
18 got to hear what they just asked me to do, something
19 like that?

20 THE WITNESS: I must have informed him,
21 because I did talk to him quite often, but I do not
22 recall the detail of the discussion.

23 JUDGE TRIKOUROS: Thank you.

24 THE WITNESS: Thank you.

25 BY MR. GHASEMIAN:

1 Q Mr. Goyal, were you just being a good
2 employee doing what was being asked of you to do? I
3 mean, is that a fair characterization of the
4 circumstances that you agreed to do the inspection?

5 A Yes. They asked me, and I agreed to do
6 it, even though I did not have the proper training, or
7 proper procedure. But I went and performed it.

8 Q Okay. Let's go inside Exhibit 16 a little
9 bit, and let me ask you a few questions about the
10 information in the PCAQ 96-551. Now, let's go to Part
11 I, Box A. And I'm going to highlight the -- let's
12 see. Well, I thought I could highlight the sentence.

13 JUDGE TRIKOUROS: I believe it's a scan.
14 It may not be highlightable.

15 MR. GHASEMIAN: Okay. All right. Well,
16 I can't highlight it, but I'll refer you to where --
17 point the cursor to the sentence that I'm going to
18 talk about, the first sentence starting with, "The
19 video tape of CRDM nozzle inspection (below the RV
20 head insulation) shows several patches of boric acid
21 accumulation on the RV head."

22 BY MR. GHASEMIAN:

23 Q Why was it important to point out that
24 there was boron accumulation on the head?

25 A Well, you're looking at head, and you're

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1 seeing boric acid there. And so you're depicting as-
2 found condition.

3 Q And what do you mean by "depicting as-
4 found condition"?

5 A As-found condition is that you run the
6 plant for 12 months, 18 months, go inside the
7 containment and perform a head inspection that is as-
8 found condition after the plant has run for about 12
9 months, or 18 months, so that's a as-found condition.

10 MR. HIBEY: Your Honor, may I interpose an
11 objection. I guess with this microphone I should
12 remain seated.

13 JUDGE FARRAR: Yes, that's fine. Yes, and
14 pull it towards you a little bit.

15 MR. HIBEY: We have stipulated that Mr.
16 Goyal wrote this PCAQ or Condition Report, but I would
17 question the relevance of this line of questioning to
18 him at all without some connection to Mr. Geisen. It
19 would seem to me that the question is whether this
20 witness has any evidence that this PCAQ was ever given
21 to Mr. Geisen. Otherwise, it seems to me all we're
22 doing is reviewing the document, which there's been a
23 stipulation.

24 JUDGE FARRAR: Mr. Wise, or Mr. Ghasemian,
25 before you answer that, I was about to ask a similar

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1 question; which is, where are we going with this? In
2 other words, we can read this, if you want us to, and
3 if there are key points that are not comprehensible,
4 Mr. Goyal can tell us about them. But given the
5 preparation the Board has made already, given the
6 excellent tutorial of yesterday, given the videos, I
7 want to know, just as a matter of efficiency and
8 finishing the trial in the allotted week, where you're
9 going with this. And then add on top of that, Mr.
10 Hibey's objection, that if this is stipulated, what's
11 he going to tell us that we don't already know?

12 MR. GHASEMIAN: Yes, Your Honor. Thank
13 you. This document is, so to speak, the foundation of
14 the information that was at the plant. And the
15 condition report lived on for several years before it
16 got closed out. The document, itself, there's a lot
17 of statements that Mr. Goyal wrote in there that he
18 can explain why he thought the importance of the
19 information that he was putting in -

20 JUDGE FARRAR: But that, I think, after
21 all our preparation and after yesterday, we can read
22 and say okay, wow! This is an interesting report. Mr.
23 Hibey says okay, the more interesting question is what
24 happened to this report; and, particularly, how did it
25 come, or not come to Mr. Geisen's attention.

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1 MR. GHASEMIAN: Yes, Your Honor.

2 JUDGE FARRAR: For having Mr. Goyal tell
3 us how important all this is, is -

4 MR. GHASEMIAN: Yes, Your Honor.

5 JUDGE FARRAR: Doesn't get us to where we
6 need to get, which is what happened to this report,
7 and why did people pay attention, or not pay
8 attention? Who did he talk to about the report? What
9 happened? Did people consult him in 2000 and say hey,
10 you did '96, let's make sure we know what you did.
11 Let's get to the action, as opposed to the report,
12 which more or less speaks for itself. So that didn't
13 have a question mark at the end of it, but it was a
14 question.

15 MR. GHASEMIAN: If I may try to answer
16 your inquiry. The document, as I said, sets the
17 foundation, and it serves several purposes. One, Mr.
18 Geisen has stated in various forms, and particularly
19 before the ACRS, about the scope of the previous
20 inspections, and we will -- and that's going to be
21 part of our case, that the scope that Mr. Geisen
22 represented the inspections to be are contrary to what
23 Mr. Goyal did, and what happened in '98 and 2000. And
24 Mr. Goyal documented his findings in this document, so
25 that's one purpose.

1 JUDGE FARRAR: Okay. But that, I think
2 Mr. Hibey is saying, here's the report. Mr. Goyal did
3 it, and I'd like to know did it go in a file cabinet,
4 or a round file somewhere, or did he go spend the
5 next three years saying to Mr. Geisen you've really
6 got to look at this.

7 MR. GHASEMIAN: Yes, Your Honor.

8 JUDGE FARRAR: I'm just telling you what
9 I found.

10 MR. GHASEMIAN: If I may -

11 JUDGE FARRAR: And, obviously, the answer
12 -- well, no, not obviously. The answer is -- never
13 mind.

14 MR. GHASEMIAN: So the other aspect of it
15 is that -- and we will show through various other
16 exhibits, that Mr. Goyal sent many emails and trip
17 reports that Mr. Geisen received.

18 JUDGE FARRAR: Then I would say let's get
19 -

20 MR. GHASEMIAN: If you would allow me to
21 finish, Your Honor, and I will gladly do my best to
22 answer your questions.

23 So Mr. Goyal sent many emails and trip
24 reports documenting his findings, what he learned
25 about circumferential cracking, the condition of the

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1 head based on past inspections, 2000, '98, and past
2 inspections, definitely 2000, and '96.

3 Now, for you to judge his credibility on
4 the concerns that he's raising on the eve of the
5 responses that the Company and Mr. Geisen is
6 representing to the NRC, Mr. Goyal wasn't raising
7 these concerns, or raising sending these emails in a
8 vacuum. I mean, there was a basis for his knowledge.
9 And I think his credibility will not be well served if
10 we can't be allowed to explore how he went about the
11 inspection, and what he was thinking, and what he was
12 directed to do at the time, and why he was looking at
13 the various things, and what he found. And the
14 various statements that he wrote in this PCAQ endured,
15 and set the foundation for what he raised later on.
16 So to just say well, the Board can just read the
17 document and figure out on its own which parts are
18 more important or less important, that doesn't allow
19 the Staff to adequately have the opportunity to carry
20 its burden to prove its case.

21 JUDGE FARRAR: Let me ask -- I understand
22 your answer. Let me ask Mr. Hibey and Mr. Wise, does
23 your stipulation go so far as to -- or if it doesn't,
24 are you willing to agree here that when Mr. Goyal
25 wrote this, he was doing the best he could, and he

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1 believed everything that he put in this report in
2 1996?

3 MR. HIBEY: Well, I think those
4 characterizations about the best he could, and
5 everything he had in the report are not -- do not go
6 to the essence of what we're hearing.

7 JUDGE FARRAR: First, just answer that.
8 In other words, because if the answer to that is no,
9 he wasn't doing his best, and there's stuff in here
10 that you take issue with, then we've got to let Mr.
11 Ghasemian go through it, and we'll find out what's
12 wrong with the report.

13 MR. HIBEY: No, we don't take issue with
14 the content of the report.

15 JUDGE FARRAR: Right.

16 MR. HIBEY: What we take issue with is its
17 connection, not to FENOC, not to Davis-Besse, not to
18 what was in the atmosphere I think is the word that
19 Mr. Ghasemian -

20 MR. GHASEMIAN: I didn't use "atmosphere",
21 Your Honor.

22 MR. HIBEY: You used -- forgive me, sir.
23 Did I miss -

24 MR. GHASEMIAN: Yes, you misspoke.

25 MR. HIBEY: I misspoke. I certainly don't

1 intend to do that. Whatever the characterization is,
2 your recollection controls, but it hit my
3 understanding to be that this was something that was
4 somehow common knowledge. We're here to try the
5 question of what Mr. Geisen knew, and when he knew it.
6 There has yet to be a statement made by this witness
7 that this particular document was given to Mr. Geisen
8 by Mr. Goyal, or otherwise has some evidence that, in
9 fact, it was. And in the absence of that, all you
10 have is the PCAQ, and you can take it for whatever
11 it's worth, but it needs to be connected, and I don't
12 see that connection.

13 JUDGE FARRAR: Well, we'll eventually get
14 to the connection. My question is, how much time are
15 we going to spend here before we get to the
16 connection? I understand you'd like us to see Mr.
17 Goyal, he can show us he's a good workmanlike employee
18 by talking about this whole thing. That's not the
19 issue. I think what we want to see in terms of
20 credibility, and that's what a lot of this case comes
21 down to, is okay, later, what did he do with this
22 report? And at that point, he's free to say I went to
23 Mr. X, and Mr. Y, and Mr. Geisen, if he did, and said
24 you really got to look at my report. And we'll get
25 the flavor of his credibility then, but we don't have

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1 a couple of hours, or three hours to go through this
2 report and have him say here's why I wrote down this.
3 He wrote it down. They've stipulated the report can
4 come in. It came in by stipulation.

5 MR. GHASEMIAN: Your Honor, we don't plan
6 to spend three hours on this document, probably half
7 an hour to 45 minutes, but it's not going to be three
8 hours.

9 JUDGE FARRAR: Okay. We were told this
10 witness was going to take half a day. You were told
11 we're going to -- everyone was told we're going to
12 finish this trial this week. There's a lot of reasons
13 to finish this trial this week. The driving one on
14 our mind is if we don't finish it this week, I don't
15 know when we'll finish it, but there are other reasons
16 to finish this trial this week.

17 MR. GHASEMIAN: And we stand by all the
18 schedules that we'll -

19 JUDGE FARRAR: Okay. But if you're going
20 to spend an hour on this document, and he's going to
21 be in a half a day, then we're going to short circuit,
22 I think, the evidence that we're all here to hear; how
23 did this document, and a number of others that were
24 floating around the company come to, or not come to
25 Mr. Geisen's attention? That's what we're here for.

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1 MR. GHASEMIAN: If I may, if the Board is,
2 or if the standard is that we are going to-- here's
3 what we're going to provide as far as this document.

4 As I said, this document set the
5 foundation, and it endured, and it was referenced in
6 subsequent condition reports that were filed in '98
7 and so on. It was the substance of it, not
8 necessarily reference to the condition report, the
9 substance of it, the findings of the inspection was
10 also found in other meeting minutes of various groups.

11 Now, those groups, the committees and the
12 project review group, and the condition report review
13 group or board, Mr. Geisen was a member of both
14 groups. Now, is there a -

15 JUDGE FARRAR: Okay. Great. That's what
16 we need to hear. He was on the Board, and Mr. Goyal
17 came up and one of the agenda items in the minutes
18 says Mr. Goyal reports to the Board at which Mr.
19 Geisen is present. Boy, you've got to really look at
20 my '96 report because it's foretelling some problems.
21 That's what we want to hear, if that kind of testimony
22 exists, not what the report said in itself. We're
23 giving -- I haven't consulted with my colleagues yet,
24 and I will in a minute, but I think we're giving you
25 the report. Mr. Goyal wrote the report, and he

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1 believed it.

2 MR. GHASEMIAN: Your Honor, I think the
3 Staff would request opportunity to be able to point
4 out various portions of the report, and have Mr. Goyal
5 explain why he thought it was important, explain some
6 of the statements are not clear on their face. I
7 mean, they may seem to be clear, but having Mr. Goyal
8 explain why he wrote and what he wrote, I think it's
9 valuable.

10 And the other portion -- another thought
11 that I may speak to is that - and Mr. Hibey may have
12 referred to this, whether it was common knowledge -
13 part of our case is that the condition of the head,
14 vessel head was relatively common knowledge. It was
15 recorded in minutes of meetings. It was referenced in
16 his condition reports, and we'll have -

17 JUDGE FARRAR: Okay. But having him talk
18 about the content of this report isn't going to tell
19 us that it was common knowledge. It's going to tell
20 us what was in the report.

21 MR. GHASEMIAN: Again, that common
22 knowledge wasn't created in a vacuum. I mean, there
23 was a basis for that. And not being allowed to kind
24 of explore and establish that in -

25 JUDGE FARRAR: Common knowledge doesn't

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1 come from the content of the report. Common knowledge
2 comes from what he did with the report, or how he
3 talked about it.

4 JUDGE HAWKENS: I think highlighting the
5 salient points, and clarifying any ambiguities will
6 suffice, and then getting to the connection between
7 this report and Mr. Geisen.

8 MR. GHASEMIAN: Well, if the Board is
9 expecting some testimony from Mr. Goyal that he gave
10 this report to Mr. Geisen, or talked to Mr. Geisen
11 about this report, the Board will not hear that
12 testimony.

13 JUDGE FARRAR: That's fine. We assume
14 sooner or later we'll hear something like that from
15 somebody, but we don't have -- and I'm not discounting
16 your theory. Mr. Goyal and Mr. Geisen may have never
17 spoken, but if Mr. Goyal gave this to a committee that
18 later said to Mr. Geisen, we need you to look into
19 this, that's a -- presumably, you can win your case
20 without connecting Mr. Goyal directly to Mr. Geisen.
21 But the way to win the case is to establish the common
22 knowledge that somehow -- that was in the company, and
23 that somehow came to Mr. Geisen's attention. That's
24 fine. But -- let me consult with my colleagues. Off
25 the record.

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1 (Whereupon, the proceedings went off the
2 record at 9:28:32 a.m., and went back on the record at
3 9:30:00 a.m.)

4 JUDGE FARRAR: Judge Trikouros has one
5 question before we start, which will allow us to
6 divert attention from the humiliating announcement I
7 have to make, my colleagues want you to go ahead. But
8 to be brief about it, and bear in mind that we're
9 looking for the connection, so we'll give you some
10 latitude. Let's zero in on key points, and then let's
11 get to the reason we're here, which is what happened
12 to this report.

13 MR. GHASEMIAN: Yes, Your Honor.

14 JUDGE TRIKOUROS: I have a quick question.
15 What was the disposition of this corrective action
16 report, or condition report, as you refer to it? Was
17 it dispositioned in 1996?

18 THE WITNESS: The recollection is there is
19 some note from the QA in there to the corrective
20 action to prevent the reoccurrence, for the
21 implementation of modification 94-0025, which would
22 allow about 10 to 12 round holes be put on the service
23 structure above the mouse hole so you can inspect the
24 head, and clean the head.

25 JUDGE TRIKOUROS: Fine. So this condition

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1 report was dispositioned on the basis of a plant
2 modification to allow larger inspection holes.

3 THE WITNESS: Yes, I think so.

4 JUDGE TRIKOUROS: So which were never
5 actually modified.

6 THE WITNESS: Right. Never, ever.

7 JUDGE TRIKOUROS: So this was never really
8 dispositioned.

9 THE WITNESS: I mean, if you are looking
10 at my position, it's a senior engineer dispositioning
11 a condition report, and a group of people from the
12 company making a recommendation that to prevent this
13 from reoccurring, a modification be implemented. This
14 goes back to the Condition Review Board, which then
15 agrees or not agrees with the recommendation. And the
16 recommendation, if it's a plant modification, then it
17 follows a different path.

18 JUDGE TRIKOUROS: All right. Fine. I got
19 what I need. Thank you. You could proceed.

20 JUDGE FARRAR: Go ahead, Mr. Ghasemian.

21 MR. GHASEMIAN: Your Honor, I will do my
22 best to abbreviate what I was hoping that I could
23 cover, and I will be much more to the point.

24 BY MR. GHASEMIAN:

25 Q Mr. Goyal, let's go to page 3 of your

1 condition report. And just for the record, I guess
2 any -- is it fair to say all the -- well, the first
3 page, that's your handwriting. Right?

4 A Right.

5 Q And how about page 1A, that I -- is it up
6 on your screen?

7 A Yes, I do.

8 Q Okay. Page 1A, is that your handwriting?

9 A Yes.

10 Q Okay. How about on page 2?

11 A I think somebody else write -

12 Q That's somebody else's. Okay. Page 3,
13 that's page 3 of the documents. Is that your
14 handwriting?

15 A Yes, it is.

16 Q And page 3A?

17 A Right, my handwriting.

18 Q How about the lower portion of Page 3A, is
19 that your handwriting?

20 A No. That's a -

21 Q That's somebody else's.

22 A Right.

23 Q Okay.

24 A That's from Mr. Donnellon.

25 Q How about page 4?

- 1 A That's my handwriting.
- 2 Q Is all of it your handwriting?
- 3 A Right.
- 4 Q Okay. And page 5?
- 5 A Yes.
- 6 Q Page 6?
- 7 A Yes.
- 8 Q There are certain signatures at the
9 bottom, but the written -- what's written in Box G, H,
10 and I, that's your handwriting?
- 11 A Yes, that's my handwriting.
- 12 Q How about page 7, is that your
13 handwriting?
- 14 A No, that's not my handwriting.
- 15 Q Okay. And page 8?
- 16 A The handwriting, this assigned action is
17 not mine.
- 18 Q Okay. And page 9?
- 19 A My handwriting.
- 20 Q Page 10?
- 21 A Yes.
- 22 Q And is that your signature at the bottom?
- 23 A Yes, there.
- 24 Q How about page 12?
- 25 A That's the -- this is not my handwriting.

1 Q Okay. Not your handwriting. Page 13?

2 A My handwriting.

3 Q Now, is this -- okay. How about on page -
4 there's no page number on it, but -

5 A That's not my handwriting.

6 Q Let me try to locate -- there's a number
7 172 in brackets at the bottom of the page. And that's
8 not your handwriting. Right?

9 A No.

10 Q How about the page that has in the lower
11 right-hand corner of it in brackets 183. Is that your
12 handwriting?

13 A No.

14 Q How about page 176 at the bottom?

15 A No, that's not my handwriting.

16 Q 177 in brackets, is that -

17 A No, that's not my handwriting.

18 Q How about 178?

19 A Yes, mine.

20 Q 179?

21 A No.

22 Q 180?

23 A No.

24 Q Okay. Now, going all the way back up to
25 page 3, do you see that on your screen?

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1 A Yes.

2 Q Okay. Go to the box that says -- Box C,
3 "Significance." And there's Category 2, and that's
4 checked. What does "Category 2" mean?

5 A Well, Category 2 means this is a
6 significant condition report. One is normal, and the
7 other one, if you assign a category which you do in
8 consultation with your supervisor, so this was a
9 significant condition report, which at the time, by
10 the procedure required a root cause evaluation. So
11 that's the significance of this.

12 Q And did that change at any time, this
13 category of your -- of this PCAQ 96-551?

14 A My understanding is it was changed to
15 normal condition report, and a root cause wasn't
16 performed.

17 Q And do you know why that happened?

18 A No, I don't.

19 Q Do you know when that happened?

20 A No, I do not.

21 Q Looking in Box E, which is the heading
22 "Justification", at the bottom, starting at the bottom
23 of the -- I think my cursor is -- anyway, at the
24 bottom the sentence starts, "Since the boric acid",
25 and it goes on to the next page, "deposits are not

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1 clean, it is difficult to distinguish whether the
2 deposits occurred because of the leaking flanges or
3 the leaking CRDM." What are you saying there?

4 A Well, if you have -- if you know how you
5 started out with a clean head, if the head is not
6 clean and you run the whole cycle and you find again
7 boric acid, you don't know where it's coming from.
8 The only way -- one of the ways to identify which one
9 is leaking is you start with a clean head, and make
10 sure when you're starting, the flanges are not
11 leaking. So at least you use a clean head, CRDM
12 flanges are not leaking, run the cycle 12 month, 18
13 month, whatever, open up and look at the head again.
14 And if you find boric acid and you note that your
15 flanges are not leaking, that you know that's coming
16 from the nozzle. And if flanges are leaking, it's
17 difficult to assess what is the source. So we had in
18 even '96, I didn't know what the condition was in '94,
19 but '96 is the starting point for me looking at what
20 gets on the head, and not knowing what the source is.

21 Q Okay. Now, I'm going to - for some reason
22 this page is upside down.

23 (Off the record comments.)

24 JUDGE FARRAR: Is that 15?

25 MR. GHASEMIAN: I'm going to page 15, but

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1 page 15, as you can see, it's upside down.

2 JUDGE FARRAR: It is in the hard copies
3 also.

4 THE WITNESS: What's the exhibit number?

5 MR. GHASEMIAN: Now it's right side up.
6 Thank you, Andy.

7 THE WITNESS: Okay.

8 BY MR. GHASEMIAN:

9 Q And do you see it on the screen?

10 A Yes.

11 Q Okay. Now, let's go down to Box D, with
12 the heading, "Corrective Action to Prevent
13 Recurrence". And you refer to a modification 94-0025.
14 Could you explain what that modification is?

15 A That was the modification to install 10 or
16 12 round 12-inch holes around the services sector
17 above the mouse holes, so that you can inspect the
18 head, and also we can clean through those mouse holes,
19 I mean, through those access holes.

20 Q And when was that modification supposed to
21 occur?

22 A It's saying that modification has been
23 approved for implementation during 13th refueling
24 outage by PRC and WSC.

25 Q PRC is what?

1 A PRC is Project Review Committee, and WSC
2 is Work Scope Committee.

3 Q And PRC is the group that Mr. Geisen was
4 a member of?

5 A Yes, as far as I know.

6 Q Okay. And 13RFO -

7 MR. HIBEY: Your Honor, may I object to
8 that last question and answer? First of all, it was
9 leading. But more importantly, it is absolutely
10 inaccurate. As the evidence will clearly show, and
11 this witness will so testify when we get to him on
12 cross examination, that Mr. Geisen was not a member of
13 the Condition Review Board in 1996, or 1998.

14 JUDGE FARRAR: Let me interrupt. Now, Mr.
15 Goyal, you just said Mr. Geisen was -- in response to
16 the question, Mr. Geisen was a member of this, and
17 then you added "as far as you know." Did I hear that
18 right?

19 THE WITNESS: Right. The reason is I
20 don't know the years when he was a member.

21 JUDGE FARRAR: All right.

22 MR. GHASEMIAN: If I may be allowed to --
23 I mean, that wasn't the end of my questioning, Your
24 Honor.

25 JUDGE FARRAR: Okay. But I would -- what

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1 is really crucial in this case, unlike most of our
2 cases where we have experts who don't know predicting
3 the future for us, here what somebody knows and didn't
4 know is very important, so if you do not know the
5 answer to a question, do not try to help us by
6 volunteering something that you're not sure of. And
7 I appreciate when you said that, "as far as you know",
8 that is helpful, but let's try to keep it to
9 specifics. I'll give you a little -- I've got your
10 objection in mind, Mr. Hibey, but go ahead, Mr.
11 Ghasemian, I'll let you follow up.

12 MR. GHASEMIAN: Well, I'm under the
13 presumption, Your Honor, since the document is in the
14 record, that there is some latitude as far as me being
15 allowed to ask some leading questions. Otherwise -

16 JUDGE FARRAR: The issue here isn't
17 leading questions, whether this fellow has any
18 knowledge of whether Mr. Geisen was on this committee
19 at this time.

20 MR. GHASEMIAN: Right. And I was -

21 JUDGE FARRAR: And if he doesn't know, he
22 doesn't know, and you'll have to establish that
23 somewhere else. And eventually Mr. Geisen will tell
24 us what committees he -

25 MR. GHASEMIAN: And our intent was not to

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1 establish that he was a member in '96 and '98.

2 JUDGE FARRAR: Wait a minute. Let's --
3 Eric, can you go back to the question that triggered
4 all this?

5 (Readback.)

6 JUDGE FARRAR: That was leading and
7 perhaps untrue, so let's start -- we'll ignore all
8 that, and let's start again on this inquiry.

9 BY MR. GHASEMIAN:

10 Q What does 13RFO stand for?

11 A 13?

12 Q 13RFO.

13 A Refueling Outage, 13 is refueling outage.

14 Q And what year was that supposed to occur?

15 A In '96 was -

16 JUDGE FARRAR: Okay. It was 2002. That's
17 fine.

18 BY MR. GHASEMIAN:

19 Q 13RFO is 2002? Okay. And do you know if
20 Mr. Geisen was a member of the PRC in 2000?

21 A I don't know.

22 Q Okay.

23 JUDGE FARRAR: Do you know if he was a
24 member in 1998?

25 THE WITNESS: I can only tell about '96.

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1 JUDGE FARRAR: Was he a member in '96?

2 THE WITNESS: No, he was not a member in
3 '96 because Mr. Bob Donnellon was the Design
4 Engineering Manager at that time.

5 MR. GHASEMIAN: Your Honor, just for the
6 record, our intent was not to say that Mr. Geisen was
7 a member of the group in '96. Evidence will show that
8 he was a member in 2000. And given the fact that the
9 condition report was one that's lived on, was a living
10 document for several years, and it was a modification
11 that was scheduled for 2002, the subject matter of it
12 is, we would contend, would be something that the PRC
13 would be knowledgeable of. So, again, the intent was
14 not to say that Mr. Geisen was a member in '96 or '98.
15 I mean, the evidence will show clearly that he wasn't.

16 JUDGE FARRAR: This document says - this
17 is a 1998 document, and it says it's been approved by
18 the PRC. I assume since the document came in by
19 stipulation that the 1998 PRC approved this.

20 MR. GHASEMIAN: Right.

21 JUDGE FARRAR: Okay. So we know that.

22 MR. GHASEMIAN: Right.

23 JUDGE FARRAR: But so far, we don't know
24 anything beyond that, and you'll have to -- the things
25 you said about when Mr. Geisen served will have to be

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1 established through some other witness, including Mr.
2 Geisen, himself.

3 MR. GHASEMIAN: Or documents, Your Honor.

4 JUDGE FARRAR: Or documents, fine.

5 MR. GHASEMIAN: If I may have a moment,
6 Your Honor.

7 JUDGE FARRAR: Certainly.

8 BY MR. GHASEMIAN:

9 Q Okay. Mr. Goyal, let's go to Staff
10 Exhibit 72. And let's go down to page 6. We're going
11 to talk about, is this the -- could you explain what
12 are we looking at on this page? What's the -- well,
13 the subject line relates to the modification that we
14 just talked about. Right?

15 A Right. Well, PRC, Project Review
16 Committee, holds a meeting, and they -- all the
17 supervisor or engineers, whoever are interested in the
18 modifications. And sometime you have previous notice
19 and sometime you don't, probably the same time that
20 you come to the meeting. So I attended this meeting
21 with Mr. Glenn McIntyre, who was Systems Engineering
22 Supervisor, and I had discussions with him about this
23 modification sometime back. And this is the meeting
24 where they prioritize and look at the funding
25 requirement, so this is a part of that.

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1 Q Okay. Now, I direct your attention to the
2 lower half of the page in the results, paragraph that
3 starts with "results", and go to the middle of it.
4 The sentence that starts out with, "The Mod resolves
5 PCAQ 96-0551, one of the oldest open PCAQs." What
6 does it mean to be an open PCAQ?

7 A Well, I remember that the Board keeps a
8 tab of which are the oldest one, and work off the old
9 list, so this is just saying it's one of the ten
10 oldest condition reports which are open.

11 Q And how does a condition report get
12 closed?

13 A Well, normally implement the
14 recommendation. That's how it should be closed. And
15 this modification was the corrective action for this
16 PCAQ.

17 Q And when was it scheduled? It was
18 scheduled for the 13RFO. Is that -

19 A Right.

20 Q Now, moving on to -- I'm going to talk
21 about your involvement in 1998 head inspection.

22 JUDGE FARRAR: Before you go on, let me
23 ask. You said ordinarily they get resolved by you do
24 what was called for. Do they ever get resolved by
25 somebody later deciding either based on new

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1 information, or based on finances or whatever,
2 somebody says well, it seemed like a good idea at the
3 time, but we're not going to do it? Would that be a
4 resolution?

5 THE WITNESS: I don't recall what
6 happened. This condition report was closed.

7 JUDGE FARRAR: Not this one. You had
8 spoken -- the question was what happened, how do these
9 get closed? Can they get closed by someone saying
10 yes, we thought once we would do it, but now we're not
11 going to do it? Or was that not your experience?

12 THE WITNESS: No, that's -- I wouldn't
13 know about that, because Board is the one which have
14 decides when they can close it.

15 JUDGE FARRAR: Thank you. Go ahead, Mr.
16 Ghasemian.

17 MR. GHASEMIAN: Thank you, Your Honor.

18 BY MR. GHASEMIAN:

19 Q Now, relating to the 1998 head inspection,
20 were you involved in the 1998 vessel head inspection?

21 A I did not perform the head inspection
22 myself.

23 Q Did you have any role relating to the 1998
24 inspection?

25 A There was a condition report written which

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1 was sent to me for disposition, because I have the
2 '96, so they send the report and video tape to me to
3 review.

4 Q And who -

5 MR. HIBEY: I'm going to object. That's
6 not even responsive to the question. The question
7 was, did he have anything to do with the '98 head
8 inspection?

9 JUDGE FARRAR: You're right, but -

10 MR. GHASEMIAN: Can I ask a follow-up
11 question?

12 JUDGE FARRAR: Let's presume the follow-up
13 question was asked, and that that was his answer to
14 it. Objection noted, but overruled.

15 BY MR. GHASEMIAN:

16 Q Who asked you to do your review of the
17 videos?

18 A I don't remember, but normally Board
19 assigns to them, a request for review. And it was
20 assigned to me, if you look at the report.

21 JUDGE FARRAR: And the Board is whom?

22 THE WITNESS: The PCAQ reported, we call
23 it condition report, sometime we call it Potential
24 Condition Adverse to -

25 JUDGE FARRAR: Right. But you said the

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1 Board.

2 THE WITNESS: Report, Condition Report.

3 JUDGE FARRAR: No, I thought you, in
4 response to a question, you said the Board assigned
5 it.

6 THE WITNESS: Right.

7 JUDGE FARRAR: Who's the Board?

8 THE WITNESS: PCAQ, or Condition Review
9 Board.

10 JUDGE FARRAR: Okay.

11 THE WITNESS: Sorry.

12 BY MR. GHASEMIAN:

13 Q And do you know why you were assigned to
14 do that review?

15 A I did the '96 evaluation, so they sent the
16 '98 to me.

17 Q For performance of -- not for the
18 performance.

19 A For resolving, for reviewing, for
20 analyzing.

21 Q The videos that were taken of the 1998?

22 A Yes.

23 Q Now, let's go to Staff Exhibit 17. Is
24 this the condition report that you just referred to?

25 A Yes.

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1 Q And you didn't write this condition
2 report, did you?

3 A No, I did not write. It's written by Pete
4 Mainhardt.

5 Q And do you know when he wrote -- I mean,
6 did he write this after he did his inspection?

7 A Normally, these are as-found condition.
8 I didn't understand your question. Could you please
9 repeat it?

10 Q Did he write this condition report -- do
11 you know whether he wrote it after he conducted his
12 inspection?

13 A Yes.

14 Q Now, is this your handwriting, on page 2,
15 is this your handwriting?

16 A Yes.

17 Q And you say that you reviewed the tapes.
18 What did you write in that? Can you read what you
19 wrote?

20 A Yes, I can read it. "The video tape of
21 the reactor vessel head inspection 4/24/98 is the
22 date, through the weep holes were reviewed. It showed
23 that most of the head area is covered with an uneven
24 layer of boric acid, along with some large lumps of
25 boric acid."

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1 Q And what did you mean by "uneven layer of
2 boric acid"?

3 A It was scattered all over the head. It
4 was uneven.

5 JUDGE TRIKOUROS: Was it a dust layer?

6 THE WITNESS: Kind of dust layer.

7 BY MR. GHASEMIAN:

8 Q Could you see more boron on the videos in
9 '98 than what you saw on the head in 1996?

10 A I did not see any appreciable difference,
11 and I didn't have both the videos available to me at
12 the same time, so it's hard to picture what you have.

13 Q Did you make any recommendations after you
14 did your review?

15 A The recommendation was similar, or
16 identical to the condition report, which was written
17 in '96.

18 MR. HIBEY: Excuse me, Your Honor. May I
19 once again interpose an objection as to this document
20 and this testimony, unless and until it's tied to Mr.
21 Geisen. There's no evidence in the record that there
22 is such a connection; and, therefore, the relevance of
23 this questioning is -

24 JUDGE FARRAR: Well, your objection may or
25 may not prove to be well taken. We're taking all this

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1 over my objection, with the belief that it will
2 eventually be connected up. If it's not, then your
3 objection is well taken.

4 Before you go on, on page 2 it says --
5 this is your handwriting. It says it's continued.

6 MR. GHASEMIAN: It's continued on the next
7 page, Your Honor.

8 JUDGE FARRAR: But the sentence, it ends
9 with an "and", and the next page seems to start a new
10 sentence.

11 THE WITNESS: Yes. And the T should have
12 been small, and the color -

13 JUDGE FARRAR: Oh, the color. Okay.
14 Fine. All right.

15 BY MR. GHASEMIAN:

16 Q In Box F at the bottom of page 2, is that
17 where you made your recommendation, or is that your -

18 A Yes, that's the part I'm referring to,
19 that PCAQ 96-0551 recorded similar concerns, and the
20 root cause evaluation and corrective action to prevent
21 reoccurrence for this are same, similar to 96-0551.

22 JUDGE TRIKOUROS: The person who did that
23 inspection, what was his involvement in this document?

24 THE WITNESS: In '98?

25 JUDGE TRIKOUROS: Yes.

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1 THE WITNESS: He just performed the head
2 inspection. And like he -- he was a -- my
3 recollection is, he was a service water system
4 engineer.

5 JUDGE TRIKOUROS: I'm sorry. Say that
6 again.

7 THE WITNESS: Service water systems
8 engineer.

9 JUDGE TRIKOUROS: Okay.

10 JUDGE FARRAR: What was his name?

11 THE WITNESS: Pete Mainhardt.

12 JUDGE TRIKOUROS: Okay. So in '98 we have
13 a Service Water System Engineer performing the head
14 inspection. And you were asked to write the condition
15 report.

16 THE WITNESS: He wrote the condition
17 report. I was asked to evaluate.

18 JUDGE TRIKOUROS: Okay. And did he make
19 any recommendations in the condition report?

20 THE WITNESS: No. The resolution and
21 analysis was all transferred to Design Mechanical, to
22 me.

23 BY MR. GHASEMIAN:

24 Q Okay. Now, moving on to the 2000 vessel
25 head inspection for 12RFO, did you have any

1 involvement in that inspection?

2 A I had very limited.

3 Q Did you do the inspection?

4 A No, I was not involved in performing the
5 inspection.

6 Q Did you do a similar review, as you did in
7 1998?

8 A No, I did not.

9 Q So what did you do?

10 A Well, the request was made to me to call
11 Framatome and find out how the head could be cleaned,
12 what are the methods available. So I called Framatome
13 person, Steve Fyfitch, who was on the Materials
14 Committee from the Framatome side, and I asked him
15 what methods are available. And he described me two,
16 three methods, water, using dry ice. That's what I
17 remember.

18 Q And did you pass along that information?

19 A Well, I passed it along to the plant.

20 Q Did you review the video tapes of the 2000
21 inspection at any time?

22 A I did on my own.

23 Q And could you tell us the circumstances
24 for that?

25 A Well, I called Andrew Siemaszko, and I

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1 request the tape, and he said, "Yes, come on in", and
2 I looked at the tape.

3 MR. HIBEY: I'm sorry. I just didn't hear
4 that answer.

5 JUDGE FARRAR: Andy, can you move that
6 mic?

7 MR. HIBEY: Could we just have the
8 reporter repeat it?

9 JUDGE FARRAR: No, it takes forever to get
10 -- it's not the old-fashioned days where they look at
11 the tape and they got it right away.

12 THE WITNESS: Can you hear me, Mr. -

13 JUDGE FARRAR: Andy, can you get that
14 microphone so it's maybe angled on the other side of
15 him?

16 MR. GHASEMIAN: Your Honor, I can re-ask
17 the question.

18 JUDGE FARRAR: Yes, let's do that.

19 BY MR. GHASEMIAN:

20 Q First, Mr. Goyal, after you talked to Mr.
21 Fyfitch and got some ideas about the cleaning of the
22 head, and you passed that along to the plant you said.
23 Right?

24 A Right.

25 Q What was the technique that was ultimately

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1 used? Do you know?

2 A Well, they used water.

3 Q Did you think that's a good idea to use
4 water?

5 A Well, I had discussion with my supervisor
6 during '96 or '95, '95-96, Mr. John Hartigan, about
7 cleaning the head with water, and we were both
8 concerned that water may go in into the nozzle, which
9 will be mixed with boric acid, so were not very in
10 favor of using water, but that was just a discussion
11 at that time.

12 Q Did you have any discussions in the 2000
13 time period when the plant was considering what method
14 to use?

15 A Well, they did not discuss with me what
16 methods they were going to use.

17 Q Now, moving on to the question - the area
18 that I asked you about a little bit earlier - did you
19 have an opportunity to review the 2000 inspection
20 video tapes?

21 A Yes, I did.

22 Q You did?

23 A Yes.

24 Q And what were the circumstances giving
25 rise to that?

1 A I asked Mr. Siemaszko, the System
2 Engineer, can I look at the tape, and he said, "Yes,
3 come on in." And I spent three, four minutes with him
4 and looked at it.

5 Q And what did you -

6 JUDGE HAWKENS: I'm sorry. How long did
7 you look at it?

8 THE WITNESS: Three, four minutes.

9 JUDGE HAWKENS: Three to four minutes.

10 Thank you.

11 BY MR. GHASEMIAN:

12 Q Did you see the entire tape, do you know?

13 A I do not know. That's what I saw.

14 Q And what did you see in the duration that
15 you saw?

16 JUDGE FARRAR: Before you answer that, why
17 were you looking at this tape?

18 THE WITNESS: I was just curious for my
19 own -- there was no official assignment to review it
20 or anything.

21 JUDGE TRIKOUROS: And Mr. Siemaszko showed
22 it to you, basically, you said. Was anyone else
23 there?

24 THE WITNESS: No.

25 JUDGE TRIKOUROS: Just the two of you.

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1 THE WITNESS: Right.

2 BY MR. GHASEMIAN:

3 Q And what did you see on the tape?

4 A Well, I saw boric acid on the head, part
5 of it.

6 Q And was it more than what you had seen in
7 '98 and '96?

8 A Yes, it was slightly more.

9 JUDGE FARRAR: What was that word before
10 "more"? It was? Did you say very more?

11 THE WITNESS: Well -

12 JUDGE FARRAR: No, what did you say?

13 THE WITNESS: I said it was slightly more
14 than '96 or '98.

15 JUDGE FARRAR: Slightly more.

16 THE WITNESS: Slightly more, more than
17 what you saw in '96 and '98.

18 JUDGE FARRAR: Slightly more.

19 THE WITNESS: Yes.

20 JUDGE TRIKOUROS: Was there any
21 conversation regarding parts of the head that were not
22 on video?

23 THE WITNESS: No, I did not have any
24 discussion.

25 JUDGE TRIKOUROS: Was it your

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1 understanding that the entire head was viewed on
2 video, or was it about 24 nozzles?

3 THE WITNESS: I did not get your question,
4 sir.

5 JUDGE TRIKOUROS: Was it your
6 understanding that the video covered every CRDM
7 nozzle? Did you have any impression?

8 THE WITNESS: I looked in three, four
9 minutes whatever was there, and -

10 JUDGE TRIKOUROS: All right. So you had
11 no impression regarding that.

12 THE WITNESS: Right.

13 JUDGE TRIKOUROS: That's fine. Feel free,
14 please, to answer no.

15 THE WITNESS: No.

16 BY MR. GHASEMIAN:

17 Q After you saw the video, did you talk to
18 anyone?

19 A I talked to Mr. Siemaszko. I asked him
20 are any flanges leaking, so he did indicate, yes, five
21 flanges are leaking, one has a steam cut. And after
22 two days, one, two days, I talked to my supervisor,
23 Mr. Theo Swim. And I told him that I had looked at
24 the tape, and System Engineer has told me that five or
25 six flanges are leaking, and nozzles may be leaking.

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1 Q Now, look at -

2 A Let me finish it, please.

3 Q I'm sorry.

4 A And Mr. Swim said, "Why are you involved
5 and System Engineer; what" -

6 JUDGE TRIKOUROS: Could you speak more
7 into the microphone?

8 THE WITNESS: Sure.

9 JUDGE FARRAR: Let's go off the record.

10 (Whereupon, the proceedings went off the
11 record at 10:09:14 a.m., and went back on the record
12 at 10:10:07 a.m.)

13 JUDGE FARRAR: Back on the record. Go
14 ahead.

15 BY MR. GHASEMIAN:

16 Q Did you want to say anything more, Mr.
17 Goyal?

18 A No.

19 Q Let's go to Staff Exhibit 21. This is a
20 email from you. It's dated December 13, 2000 to
21 Andrew Siemaszko, with a courtesy copy to Mr. Geisen,
22 and other individuals. Is that right?

23 A Yes.

24 Q Now, you were forwarding an email from Mr.
25 W. Gray. Do you know who that is?

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1 A Yes. Bill Gray was the Project Manager
2 from Framatome for the Materials Committee.

3 Q And in the email that Mr. Gray is
4 forwarding, or sending to you, that you forwarded to
5 others at the plant, including Mr. Geisen, Mr. Gray is
6 discussing a conversation he had with a David
7 Whitaker. Is that correct?

8 A Right.

9 Q And who is David Whitaker?

10 A David Whitaker is the representative for
11 Duke Energy, Duke Power at that time.

12 Q In the first sentence it says that, "David
13 Whitaker called yesterday and asked me to pass along
14 a Lessons Learned from the Oconee ongoing RV head
15 penetration situation." What was the Lessons Learned
16 from Oconee, as you understood it, as you read this?

17 A I mean, it is stating that the amount of
18 boric acid observed was very small, and it's important
19 to have a clean head for a good visual inspection. If
20 the head is not clean, the chances of finding boric
21 acid, such as that observed at 21 are not very good.
22 That's what he's saying.

23 Q Now, did -- what was the -- did Davis-
24 Besse have a clean head in '96, '98, and 2000, as far
25 as you knew?

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1 A I know about '96 and '98. No, it didn't
2 have a clean head.

3 Q And why did you forward this information
4 to Mr. Geisen and others?

5 A Well, it is transferring, it's not only
6 this email, whatever information I got from the
7 industry, or I get from other sources, I transfer to
8 my supervisor, and other people in the company who may
9 use it, may need to know it. That's the reason.

10 Q Let's go to Staff Exhibit 22. And this is
11 a intra-company memorandum dated January 30, 2001.

12 JUDGE FARRAR: Before you do that, do you
13 have any recollection whether Mr. Geisen replied to
14 this email?

15 THE WITNESS: No.

16 BY MR. GHASEMIAN:

17 Q We're looking at Staff Exhibit 22. It's
18 an intra-company memorandum from you to Mr. Swim.
19 It's dated January 30, 2001. And the subject line is
20 trip reports, BWOG Materials Committee meeting."
21 Before we get to talk about the document, what is a
22 trip report? Is this document a trip report?

23 A All the company trip report I have taken
24 since day one, I was with Toledo Edison or First
25 Energy. I have to submit a trip report with my

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1 expense report or I won't get paid. So every trip I
2 have taken has a trip report attached to it. I have
3 made a trip report for every trip report.

4 JUDGE FARRAR: That's company policy.
5 Right?

6 THE WITNESS: Right. That's what I was
7 told, and I prepared for every expense report I filled
8 out.

9 JUDGE TRIKOUROS: Can I ask just one
10 question before you start on this exhibit? So if I
11 had seen an email from Bill Gray that said that nozzle
12 leakage results in very small amounts of boron, and
13 the head has to be very clean in order to be able to
14 see it. And that was information I had. And I do a
15 head inspection, and I see lots of boron. What
16 assumption could I make then, other than that the
17 boron was head flange, or nozzle flange leakage?
18 Would that not be a reasonable assumption to make out
19 of that?

20 THE WITNESS: Yes, I would think so.

21 JUDGE TRIKOUROS: So, in other words, when
22 you were looking at all this boron on the head, I'm
23 assuming you were thinking it was from the flanges,
24 because you had seen emails that clearly said that if
25 it were nozzle leakage, it would be very small amounts

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1 of boron. Did you think like that at all?

2 THE WITNESS: Well, main focus when I was
3 doing '96, '98 was geared on flanges. It wasn't
4 focused on the nozzle. And Davis-Besse had a history
5 of flange leaks for some time, and the evaluation is
6 there that we can't determine the source, but wasn't
7 pursued further.

8 JUDGE TRIKOUROS: Okay. That's fine.

9 BY MR. GHASEMIAN:

10 Q And you sent this trip report to Mr.
11 Geisen, as well. Right?

12 A I have to see the -

13 Q Let's go to the last page. Do you see his
14 name in the CC?

15 A Yes.

16 Q And I'm reading the first paragraph.

17 JUDGE FARRAR: And next to Mr. Geisen's
18 name, what are those numbers, Mr. Goyal?

19 THE WITNESS: Yes.

20 JUDGE FARRAR: It says you sent it to Mr.
21 Geisen. What's the 3105?

22 THE WITNESS: I don't recall what these
23 numbers are. Sorry.

24 JUDGE FARRAR: So we don't know what 3105
25 w/a means.

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1 THE WITNESS: With attachment, w/a is with
2 attachment.

3 JUDGE FARRAR: Oh, with attachment.
4 Right. Okay.

5 BY MR. GHASEMIAN:

6 Q Could those numbers be potentially the
7 mail stop within the company for the document?

8 A Yes, that's possible.

9 Q And this trip report, and I'm reading the
10 first paragraph, was a meeting at B&W OG Materials
11 Committee meeting on January 22nd in Atlanta. Am I
12 reading that correctly? Is that right?

13 A Yes, I attended this meeting.

14 Q Going down to the first bullet point.
15 Okay. Now I can highlight it, I highlighted it. It
16 says that "Boric acid crystals were detected on the
17 RVH during the routine visual head inspection." And
18 RVH stands for what?

19 A Reactor vessel head.

20 Q And the next sentence says, "They were
21 able to find this leak because their CRDM flanges do
22 not leak, and the head was in pristine condition."

23 A Right.

24 Q What did you understand this bullet point
25 to mean? When you wrote it, what were you trying to

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1 pass along?

2 A Well, pass along was this information that
3 they're able to find whether nozzle is leaking, was
4 there knowledge of the flanges were not leaking in the
5 head. When they started down and out, the head was
6 very clean, so if any boric acid they find, they can
7 relate it to the nozzle leakage. That's what they're
8 saying in this. That's before.

9 Q So, in this case, at the time, Davis-Besse
10 had an issue with flange leakage. Right?

11 A Right.

12 Q And did it have a pristine -- was the head
13 in pristine condition, as far as you knew?

14 A Well, as I said before, '96, '98 it
15 wasn't.

16 Q So you have flange leakage and you don't
17 have pristine condition, so what does that -- how does
18 that information relate to Davis-Besse?

19 A I mean, it relates in the sense that you
20 can't distinguish what the source is, could be flange,
21 could be nozzle, because you have boric acid on the
22 head. That's what it's saying, we didn't start out
23 with a clean head. So that's the message here, or
24 information here.

25 MR. GHASEMIAN: Your Honor, it's about

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1 10:20. If you may consider taking a 10-15 minute
2 break now.

3 JUDGE FARRAR: And how much longer do you
4 think you have with Mr. Goyal?

5 MR. GHASEMIAN: I think we'll go through
6 several documents, but we will go through them in a
7 relatively expedited fashion, so an hour to an hour
8 and a half, just at the latest.

9 JUDGE FARRAR: Okay. It's almost 20
10 after. Let's come back at 25 of 11.

11 MR. GHASEMIAN: Thank you, Your Honor.

12 (Whereupon, the proceedings went off the
13 record at 10:20 a.m., and went back on the record at
14 10:36 a.m.)

15 JUDGE FARRAR: All right, Mr. Ghasemian.
16 You may continue with your direct examination.

17 MR. GHASEMIAN: Thank you, Your Honor.

18 BY MR. GHASEMIAN:

19 Q Mr. Goyal, let's go to Staff Exhibit No.
20 23. Do you see it on your screen?

21 A Yes.

22 Q Okay, and it's an E-mail from you. It's
23 on March 26th, 2001, sent to Andrew Siemaszko and
24 courtesy copy to Mr. Geisen and several other
25 individuals; is that correct?

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1 A Yes.

2 Q And the subject is Ocone 3 CRDM nozzle
3 cracking.

4 A Right.

5 Q Now, what's the purpose of this E-mail?
6 What is it about?

7 A The purpose is to tell that Ocone 3,
8 these nozzles' heat number is M 3935 and Davis-Besse
9 nozzle 1, 2, 3, 4, 5 have the same heat number as
10 Ocone 3 nozzle.

11 Q And what's the significance of that?

12 A The heat number is the same batch of
13 material properties. So just providing the
14 information that these nozzles may be susceptible to
15 cracking because of the same heat number.

16 Q Now, looking at the last sentence, and I'm
17 highlighting it, it says, "Special attention should be
18 paid to these nozzles during the next visual
19 examination of the RV head."

20 Now, at that time, in March of 2001, the
21 next one was scheduled to be in 2002.

22 A Right.

23 Q And that was the 13 RFO?

24 A Correct.

25 Q And what did you mean by special attention

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1 should be paid to these nozzles?

2 A What it's say is that if I look carefully
3 at the nozzle area surrounding it on the head, just
4 pay special attention to physical examination of these
5 nozzles, you know. Just highlight them.

6 Q And why did there need to be a special
7 attention paid to the nozzle and --

8 A Because they have the same heat as the
9 Ocone 3 heat.

10 JUDGE FARRAR: How are you going to pay
11 them special attention? Aren't they the ones at the
12 crown of the reactor head?

13 THE WITNESS: I think that's why pay
14 special attention.

15 JUDGE FARRAR: You can't pay special
16 attention to them during a visual examination if you
17 can't see them. I think the evidence so far is you
18 can't see them.

19 THE WITNESS: I am disbursing the
20 information which I have gathered in the meeting. I
21 am not -- in this E-mail I'm not proposing a solution.

22 JUDGE FARRAR: Wait a minute.

23 THE WITNESS: I'm just --

24 JUDGE FARRAR: This E-mail, it doesn't say
25 where you've been you've learned this. So what

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1 triggered you to send this? Where had you been or
2 what did you see that made you send this E-mail?

3 THE WITNESS: As you will see over the
4 future of time, my trip reports, my E-mails, they are
5 distributing the information for the company people.

6 JUDGE FARRAR: Right, but should we take
7 from this Staff Exhibit 23 that because of your role,
8 your trips and so forth that you had gotten some
9 recent information? It doesn't say where you had
10 gotten it, but you had gotten some information about
11 Oconee?

12 THE WITNESS: Right.

13 JUDGE FARRAR: Okay. So you tell them
14 about the cracks. You tell them that Davis-Besse has
15 the same, but that last sentence that Mr. Ghasemian
16 highlighted sounds like that's your recommendation
17 because the Oconee people wouldn't have made -- I
18 mean, or did the Oconee make that recommendation?

19 THE WITNESS: No, this is a recommendation
20 from me.

21 JUDGE FARRAR: Okay. You made the
22 recommendation.

23 THE WITNESS: Right.

24 JUDGE FARRAR: But I've only been doing
25 this for two days, and I know you can't see nozzles 1,

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1 2, 3, 4 and 5.

2 THE WITNESS: I did not get your question,
3 sir.

4 JUDGE FARRAR: Huh?

5 THE WITNESS: I did not get your --

6 JUDGE FARRAR: My question is I think we
7 learned yesterday, and somebody correct me if I'm
8 wrong, that the way the nozzles are numbered one, two,
9 three, four and five are at the crown of the reactor
10 head.

11 THE WITNESS: I believe, yes.

12 JUDGE FARRAR: Okay, and so far everything
13 we've seen and everyone who has talked to us and the
14 model shows that you can't get the camera up to the
15 crown of the reactor head.

16 THE WITNESS: Right.

17 JUDGE FARRAR: Okay. So did you know that
18 then on March 26th, 2001?

19 THE WITNESS: I'm just making a general
20 statement with the fact that we have the same heat.
21 I'm just putting a comment into my E-mail. You know,
22 I'm not saying anything else.

23 JUDGE FARRAR: Okay. Why didn't you say
24 instead of "special attention should be paid during
25 the visual examination," which it may not be possible

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1 to do, why didn't you say, "This reaffirms that I was
2 right three years ago when I said we've got to cut the
3 access holes in the side of this super structure
4 because then we could see these and now it's really
5 important that we see these"?

6 THE WITNESS: When you're writing an E-
7 mail, you're just kind of going with what you know and
8 you are adding your thoughts into it.

9 JUDGE FARRAR: Okay.

10 THE WITNESS: This was the addition in
11 there.

12 JUDGE FARRAR: Thank you.

13 BY MR. GHASEMIAN:

14 Q Mr. Goyal, when you were writing your E-
15 mail in March of 2001, did you know where nozzles
16 number one, two, three and four and five were, which
17 nozzles on the vessel head were one, two, three, four
18 and five?

19 A I will say I recall them being on the top
20 of the head.

21 Q And are there other techniques other than
22 the technique that you used, the visual or that was
23 used at Davis-Besse to inspect the vessel head?

24 A Yeah, there are other techniques
25 available, like some people use crawlers, which can

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1 just climb up the head and can go to the top with a
2 video camera in it. So there are other techniques
3 available, yes.

4 JUDGE FARRAR: Can those go through weep
5 holes?

6 THE WITNESS: They are small enough, yes.
7 I have not investigated that, but they are not very
8 large.

9 JUDGE TRIKOUROS: Mr. Goyal, my
10 understanding was in 13RFO you were not going to be
11 doing a visual inspection or not relying so much on a
12 visual inspection as you were going to be relying on
13 a non-destructive examination, eddy current, or some
14 other method. That's my understanding from
15 information I've heard. So the status of those
16 nozzles with respect to boron, I would see that as not
17 totally relevant.

18 But that's my understanding from
19 information that I heard with I think it was Mr.
20 Holmberg. Can you confirm that the 13 refueling
21 outage inspection was going to be nondestructive
22 examination?

23 THE WITNESS: My impression was we will
24 have holes cut in so that we can clean and inspect.
25 That was my impression, the modification.

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1 JUDGE FARRAR: So you were still relying
2 on this open item, which was scheduled for the 13 --

3 THE WITNESS: Right, including our date.

4 JUDGE FARRAR: Thirteen RFO. So when you
5 wrote this, you're still thinking we'll be able to see
6 them.

7 THE WITNESS: Yes.

8 JUDGE FARRAR: Because this modification
9 will be made.

10 THE WITNESS: Right.

11 JUDGE TRIKOUROS: I don't want to pursue
12 this too far, but even with the larger inspection
13 holes, if the as-left condition in 2000 was with a
14 significant amount of boron already remaining on the
15 head, then there was no possible visual inspection
16 that could occur in 13 RFO that would meet the
17 criteria of your E-mails, which were it has to be a
18 pristine head in order to visually inspect to see the
19 small amounts of boron.

20 Therefore, I'm assuming, and I believe I
21 heard Mr. Holmberg say -- and I'd have to check the
22 transcript -- that the 13th refueling outage was going
23 to be nondestructive methods of evaluation. You were
24 going to go in and look at each nozzle explicitly look
25 at each nozzle and determine if, in fact, there were

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1 any cracks. That's the only think that makes sense to
2 me. Everything else does not make sense to me. So --

3 THE WITNESS: I do not recall.

4 JUDGE TRIKOUROS: That's fine.

5 JUDGE FARRAR: While we're on this
6 subject, before the break you had said you saw three
7 or four minutes of the I'll call it the Siemaszko
8 videotape of the 2000 inspection, and you saw slightly
9 more boron deposits.

10 THE WITNESS: Right.

11 JUDGE FARRAR: But you have no way of
12 identifying for us today which portions of that
13 videotape you saw.

14 THE WITNESS: Right.

15 JUDGE FARRAR: We saw a long version
16 yesterday. You don't -- he showed you what he showed
17 you.

18 THE WITNESS: Right.

19 JUDGE FARRAR: Okay.

20 BY MR. GHASEMIAN:

21 Q Okay, Mr. Goyal, let's go to Staff Exhibit
22 No. 28. Is it up on your screen?

23 A Yes.

24 Q Now, this is I'll call it a trip report,
25 and correct me if I'm wrong. It's an inter-company

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1 memorandum from you to Mr. Swim, and it's dated April
2 26, 2001, and the subject is NEI/MRP Alloy 600 ICG and
3 NRC meeting.

4 A Right.

5 Q Now, in the first paragraph, you say that
6 you attended two meetings, one on April 11, 2001, and
7 one on April 12th, 2001, the first with the
8 NEI/EPRI/MRP. Could you explain what that all stands
9 for or what meeting that is?

10 A NEI is Nuclear -- I forgot all these.

11 JUDGE FARRAR: Energy Institute.

12 THE WITNESS: Energy Institute. Thank
13 you.

14 And EPRI, Electric Power Research
15 Institute, and MRP is Materials Reliability Project or
16 Program. It was an industry group which was preparing
17 a -- they were looking into these Alloy 600 issues,
18 and there was an integrated task force looking into
19 and evaluating what is going on in the industry.

20 BY MR. GHASEMIAN:

21 Q And the second meeting was with the NRC,
22 right?

23 A Right.

24 Q And on the first page, I'll just summarize
25 it. The four bullet points are issues that the NRC

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1 raised in those meetings that you're passing along,
2 right?

3 A Right.

4 Q And the first is discussing CRDM crack,
5 cracking, circumferential issues relating to Ocone,
6 and the four bullet point, various discussions about
7 or the discussion of implications of recent cracks,
8 found circumferential cracks relating to that GL97-01.

9 What is GL97-01?

10 A I'm not --

11 Q Was that NRC --

12 A -- seeing it from here. I do not recall.
13 I'm just reading from here, 101, degradation of CRDM
14 nozzle and other vessel closer head penetrations.

15 Q Is that an NRC created document or is it
16 an industry created document? Do you know?

17 A That's an NRC generic letter.

18 Q Okay. Now, going to page 3 of the
19 document, the second page, it's kind of blank with a
20 box, you know, kind of box in it with certain comments
21 on Guy Campbell, but we're going to the third page.

22 A Okay.

23 Q And the second full paragraph, I'm going
24 to highlight. It says the NRC was concerned that
25 right now circumferential cracks would not be detected

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1 unless these start leaking. Could you tell us what
2 the NRC's concerns related to?

3 A Well, if you perform an NDE, which is
4 mostly early (unintelligible), the crack may be
5 further but you can't detect it just looking at the
6 visually the crack. You would detect only if the
7 nozzle starts leaking that there is a crack. I think
8 that's I understand what they're saying.

9 Q Okay. Moving on to -- let's see.

10 MR. GHASEMIAN: If I may have a moment,
11 Your Honor.

12 JUDGE FARRAR: Are you going to a new
13 exhibit? Is this something --

14 MR. GHASEMIAN: Yes, I'm sorry, Your
15 Honor.

16 JUDGE FARRAR: Are you going to a new
17 exhibit?

18 MR. GHASEMIAN: Yes.

19 JUDGE FARRAR: Let me ask a question about
20 this exhibit. On the last page of it there's a note
21 to you.

22 THE WITNESS: I don't have the page here.

23 JUDGE FARRAR: Andy, can you bring that
24 back up? No, no.

25 The note to you on the last page.

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1 THE WITNESS: Yes.

2 JUDGE FARRAR: That's from?

3 THE WITNESS: Mr. Guy Campbell.

4 JUDGE FARRAR: Who was he?

5 THE WITNESS: He was the Vice President,
6 Davis-Besse.

7 JUDGE FARRAR: Is that a Vice President or
8 the Vice President?

9 THE WITNESS: The Vice President.

10 JUDGE FARRAR: So he's the top person on
11 site?

12 THE WITNESS: Yes.

13 JUDGE FARRAR: And he reported to somebody
14 at headquarters, wherever headquarters is?

15 THE WITNESS: Correct.

16 JUDGE FARRAR: And according to this, he
17 sent a copy of his note to your supervisor, Mr. Swim,
18 Mr. Geisen and Mr. Moffitt.

19 THE WITNESS: Right.

20 JUDGE FARRAR: Did he, Mr. Campbell, ever
21 call you to discuss this report?

22 THE WITNESS: No.

23 JUDGE FARRAR: Do you know if he ever
24 called any of those three other gentlemen to discuss
25 this report?

1 THE WITNESS: I don't know.

2 JUDGE FARRAR: Well, you say you do not
3 know?

4 THE WITNESS: I do not know.

5 JUDGE FARRAR: Do ahead, Mr. Ghasemian.

6 MR. GHASEMIAN: Thank you, Your Honor.

7 Before we go on to the next exhibits, co-
8 counsel pointed out in response to Judge Trikouros'
9 question about what the company's plans were for 13RFO
10 inspection. I refer you to Staff Exhibit 9. It's the
11 Serial Letter 2731, the September 4th one on the page
12 4 of 19 at the bottom, Davis-Besse. It says, "Plans
13 for future inspections consist of the following," and
14 there's a discussion of exactly what they were
15 planning on doing.

16 BY MR. GHASEMIAN:

17 Q Mr. Goyal, let's go to NRC Staff Exhibit
18 No. 30. Is this another trip report?

19 A Right.

20 Q And it's from you to Mr. Swim. It's dated
21 now June 11, 2001, and it discusses a meeting that you
22 attended on May 21 through May 23, 2001, and the
23 subject is B&W Owners Group, OG, Materials Committee
24 meeting. What was these Items 1 through 11? What are
25 these?

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1 It says that Davis-Besse is participating
2 in the follow projects. What does that mean?

3 A These are the projects which B&W Owners
4 Group Materials Committee has on their plate. The
5 members are utility members, meaning their shows and
6 they are all listed in here that these are the items
7 we are working on, and some are deferred. Some are
8 being worked.

9 Q And who decides the fund -- I mean, why
10 are some things deferred and some things -- does
11 funding play into the decision making there?

12 A These go to the Steering Committee, the
13 B&W Owners Group Steering Committee on the various
14 projects from the various working groups, and they,
15 the Steering Committee, prioritize and request the
16 funding from the Secretary. That's my understanding.

17 Q Now, going down, scrolling down on the
18 same page, there's item number one. You say that the
19 following are the main topics discussed in the meeting
20 and there's a reference to a D. Whitaker. Is that the
21 same --

22 A Right.

23 Q -- David Whitaker that we read an E-mail
24 from yesterday that he was forwarding on a
25 conversation with Mr. Whitaker?

1 A Yeah, same Dave Whitaker from Duke
2 Engineering or Duke Power:

3 Q Throughout, on the second sentence there's
4 a reference to UT examination. What is a UT
5 examination?

6 A UT is ultrasound examination.

7 Q And how about in the next paragraph it
8 says they emphasize the importance of a good PT.
9 What's a good PT -- what does PT stand for?

10 A Well, PT is a term where you can just
11 check the surface cracks and can see inside or use
12 eddy current or ultrasound.

13 JUDGE FARRAR: What do the initial stand
14 for?

15 THE WITNESS: Penetrant testing.

16 JUDGE FARRAR: Oh, okay.

17 THE WITNESS: Dye penetrant.

18 BY MR. GHASEMIAN:

19 Q And are these -- NDE, is that a kind of
20 catch-all term --

21 A Yes.

22 Q -- that includes these types of testing?

23 A NDE, non-destructive examination, is a
24 catch-all, PT, UT, ECT.

25 Q Okay. Now, let's go to Staff Exhibit No.

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1 31.

2 JUDGE FARRAR: Before we leave this one,
3 on the third page of this you sent blind copies,
4 according to the exhibit. You sent blind copies to a
5 number of people. Why do you select those people?

6 THE WITNESS: Well, I think Mr. Geisen is
7 my, at that time, manager and the --

8 JUDGE FARRAR: At that time you're
9 working?

10 THE WITNESS: I'm working in design
11 engineering.

12 JUDGE FARRAR: And he is?

13 THE WITNESS: If I can look at the date,
14 then I can see.

15 JUDGE FARRAR: The date is June --

16 MR. GHASEMIAN: Eleven, 2001.

17 JUDGE FARRAR: June 11, 2001.

18 THE WITNESS: Yes.

19 JUDGE FARRAR: Okay. So do you still
20 report to Mr. --

21 THE WITNESS: Theo Swim.

22 JUDGE FARRAR: -- Swim and --

23 THE WITNESS: And he reports to Mr.
24 Geisen.

25 JUDGE FARRAR: -- he reports to Mr.

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1 Geisen.

2 THE WITNESS: Right.

3 JUDGE FARRAR: Okay, and who are these
4 other people?

5 THE WITNESS: Ted Lang was in nuclear
6 engineering or may still be. He was a senior nuclear
7 engineer.

8 Guy LeBlanc, I can't remember. I think he
9 might be in instrumentation, IMC.

10 Terry McDougall, the Secretary.

11 And Danny Mominee, I don't even know which
12 department he was in, and all of the engineers and
13 mechanical, the structural units which is the group I
14 belong to.

15 JUDGE FARRAR: And why are these blind
16 copies?

17 THE WITNESS: I don't know. Normally I
18 say cc, not blind, but they're getting the copies.

19 JUDGE FARRAR: Okay. Thank you.

20 Go ahead.

21 MR. GHASEMIAN: Thank you.

22 BY MR. GHASEMIAN:

23 Q Let's go on to Staff Exhibit No. 31. This
24 is an inter-company memorandum from you to
25 distribution, and it's subject, Mode 5 reactor vessel

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1 head inspection recommendations dated June 27th, 2001,
2 and distribution is on page 4 of the document.

3 And is Mr. Geisen listed in that
4 distribution list?

5 A Yes, besides other people.

6 Q Okay, and just above that, the
7 distribution list, is that your signature next to
8 "prepared by"?

9 A Yes, these are mine.

10 Q And it was reviewed by Mr. Swim?

11 A Correct.

12 Q And he was your supervisor.

13 A Right.

14 Q And approved by is that David Geisen's
15 signature?

16 A Right.

17 Q And he was Mr. Swim's manager?

18 A Supervisor.

19 Q Supervisor.

20 A I reported to Mr. Swim, and Mr. Swim
21 reported to Mr. Geisen.

22 Q Okay. Now, going back up to page 1, what
23 does Mode 5 mean?

24 A This is my impression. The six modes, one
25 is for power, six is differential down, and Mode 5, I

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1 think, is code shutdown, right.

2 Q And what was the purpose of -- well, in
3 the first paragraph it says the purpose of this
4 memorandum is to provide an engineering evaluation for
5 responding to the question, and in quotations, should
6 Davis-Besse perform a visual head inspection if the
7 plants shut down to Mode 5 conditions, question mark.
8 It says currently the visual head inspections planned
9 in 13RFO, which is in 2000, right?

10 The 13RFO was scheduled for 2000? Excuse
11 me. Two thousand two. I misspoke. Right?

12 A Yeah.

13 Q So what caused the performance of this
14 evaluation? JUDGE FARRAR: Meaning?

15 THE WITNESS: Mr. Campbell and Mr.
16 Coakley, the outage manager. There were about six,
17 seven people in this meeting.

18 JUDGE FARRAR: And how did you
19 characterize their instructions to you? You were
20 supposed to write a memo that would do what?

21 THE WITNESS: There were discussions on
22 that there were some other B&W plants were --

23 JUDGE FARRAR: No, no, no. You kind of
24 gave us a theme for why you were writing this memo.

25 THE WITNESS: Oh, okay.

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1 JUDGE FARRAR: Not the details. What were
2 you trying to prove with this memo?

3 THE WITNESS: We were trying to prove with
4 this memos, is we were just defining that the plant
5 shuts down, goes to Mode 5, that we do not inspect the
6 head. That's what we're trying to --

7 JUDGE FARRAR: So you --

8 THE WITNESS: -- instruction given in a
9 meeting.

10 JUDGE FARRAR: So your instruction was to
11 show why you would not need to do this in Mode 5?

12 THE WITNESS: Correct.

13 BY MR. GHASEMIAN:

14 Q When you first did the evaluation, what
15 was the duration? What period of time were you
16 considering in your evaluation?

17 A Well, this evaluation, I had help from my
18 supervisor and from Nuclear Engineering, and initially
19 this justification was going only up to December 31st
20 of 2001, but then my supervisor kind of requested to
21 really check if we can extent it to the out-patient,
22 and if so, can we extend it. And I look and say yeah,
23 and so that was the one change made.

24 Q And do you know why the period was
25 extended?

1 A No, I don't.

2 Q Okay. Why did Mr. Geisen have to, going
3 to the signature page, why did Mr. Geisen have to
4 approve this evaluation?

5 A Would you repeat it?

6 Q Do you see on page 4?

7 A Right.

8 Q It says that Mr. Geisen approved it.
9 That's his signature. Why did he have to approve
10 this?

11 A Well, it's a plant condition which you're
12 trying to justify. It's like a JCO, justify
13 continuing operation, kind of, but we didn't call it
14 that way, and manager has to approve it. It's safety
15 related and SRB has to approve it. So I think it went
16 through approval process.

17 Q And you said, I think, JC --

18 JUDGE FARRAR: But you wrote it. You
19 wrote this memo?

20 THE WITNESS: I wrote with the help of --
21 I mean, with under my supervision. Mr. Theo Swim made
22 some other changes, what he wanted to make, and
23 discussed with Nuclear Engineering the impact,
24 consequences of section.

25 JUDGE FARRAR: Did Mr. Geisen help you

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1 write it?

2 THE WITNESS: No, he did not help me write
3 it.

4 BY MR. GHASEMIAN:

5 Q Now, why was -- at the time you were in
6 Design Engineering, right?

7 A Right.

8 Q And why was this evaluation under Design
9 Engineering? Why didn't the other departments do the
10 evaluation?

11 A I don't know the answer to that question.

12 Q Let's go to --

13 JUDGE FARRAR: Wait, wait. Are you
14 leaving the exhibit?

15 MR. GHASEMIAN: No -- yes, leaving the
16 exhibit to another page on the exhibit.

17 JUDGE FARRAR: Okay.

18 MR. GHASEMIAN: I was going to say let's
19 go to page 2 of the exhibit at the bottom. I'm
20 highlighting the sentence. It says, "Large boron
21 leakage from a CRDM flange was observed. This leakage
22 did not permit the detailed inspection of the CRDM
23 nozzles."

24 BY MR. GHASEMIAN:

25 Q Which outage are you talking about?

1 A Could you please?

2 Q Well, there's a sentence that I have it
3 highlighted.

4 A Yes.

5 Q It says, "Large boron leakage from a CRDM
6 flange was observed. This leakage did not permit the
7 detailed inspection of the CRDM nozzles."

8 A Right.

9 Q In the first sentence in that paragraph
10 you say during the 12RFO at Davis-Besse. I guess I'm
11 asking is the large boron leakage that was observed
12 that didn't permit the detailed inspection of the CRDM
13 nozzles, are you talking about at the 12RFO?

14 A Yes.

15 Q And it goes on to say that the flange was
16 repaired and the head was cleaned. At that time did
17 you think that the head was cleaned?

18 A No, because I had a discussion with the
19 system engineer, and I had a -- the head was clean
20 except the center section.

21 JUDGE FARRAR: You said the head was
22 clean?

23 THE WITNESS: Except the center section,
24 center section of the head, and my supervisor asked me
25 to delete that portion from here.

1 JUDGE FARRAR: Where did you learn that
2 the head was cleaned at all?

3 THE WITNESS: I -- what happens, Davis-
4 Besse used to issue an outage letter or something, and
5 one of the --

6 JUDGE FARRAR: It's the one called "The
7 Insider"?

8 THE WITNESS: Yeah, I think. That came to
9 my attention, and Mr. Siemaszko had done a very good
10 job of cleaning the head and this and that. So I
11 picked up the phone, and I talked to him. I said,
12 "And you -- it looks like you did a good job. How
13 about the center section?"

14 He said, "We couldn't clean that section."

15 So I knew that it wasn't cleaned
16 completely.

17 JUDGE FARRAR: When Mr. Geisen signed off
18 on this it looks like the same day it was written, did
19 you take this to him to have him sign off or did you
20 just send it up the chain and it got to him?

21 THE WITNESS: I just sent it up the chain.

22 JUDGE FARRAR: So you did not have a
23 conversation with him about this letter?

24 THE WITNESS: No.

25 JUDGE HAWKENS: So you said your

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1 supervisor directed you to remove a sentence. That
2 was Mr. Swim?

3 THE WITNESS: Yes.

4 JUDGE TRIKOUROS: Why did he do that?
5 What was the problem with leaving those words in
6 there? Why do you think he did that?

7 THE WITNESS: I don't recall what the
8 reasoning was.

9 JUDGE FARRAR: Did you say to him, "Sorry,
10 boss. I can't do that"?

11 THE WITNESS: No, I did not say that.

12 JUDGE FARRAR: Sitting here today, do you
13 wish you had said, "Sorry, boss. I can't do that"?

14 THE WITNESS: Yes. That's to be
15 considered for many other things, too.

16 JUDGE HAWKENS: Mr. Goyal, in your '96
17 condition report, based on the deposits of boron, you
18 had indicated in the report that it's difficult or
19 impossible to definitely identify the source.

20 THE WITNESS: Right.

21 JUDGE HAWKENS: But here you seem to state
22 with certainty the source of the leak, which was from
23 the flange.

24 THE WITNESS: Yes, that's where we knew.

25 JUDGE HAWKENS: Why did you know now that

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1 it was from the flange or why did you know when you
2 wrote this recommendation in June of 2001 it was
3 definitely from the flange, whereas in 1996 you could
4 not identify the source?

5 THE WITNESS: As I have indicated before,
6 that there was a steam cut on one of the nozzle
7 flanges, and it was leaking, and --

8 JUDGE HAWKENS: Oh, I understand there was
9 a leak. A source was the flange.

10 THE WITNESS: Right.

11 JUDGE HAWKENS: How could you rule out
12 that another sources was not the penetration?

13 THE WITNESS: I don't recall why. I
14 didn't do it.

15 JUDGE TRIKOUROS: So Mr. Swim asked you to
16 remove the words that indicated that the head wasn't
17 fully cleaned, was Mr. Geisen aware of the change to
18 the letter?

19 THE WITNESS: No. He was not aware of the
20 change to the letter.

21 JUDGE FARRAR: Ms. Clark, would you add
22 Mr. Swim to the testimony we're going to receive later
23 in the week from your enforcement people, please?

24 BY MR. GHASEMIAN:

25 Q Mr. Goyal, how do you know Mr. Geisen --

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1 I forget the question. Mental lapse.

2 How do you know about whether Mr. Geisen
3 -- I withdraw the question.

4 Let's go to Staff Exhibit 32. Now, this
5 is an E-mail from you. It's dated July 10th, 2001, to
6 Mr. Siemaszko with a courtesy copy to Mr. Geisen and
7 other individuals, and the subject is plant specific
8 data verification, and in your E-mail you're
9 forwarding an E-mail from a Mr. Mark Fleming. Do you
10 know who Mark Fleming is?

11 A Mark Fleming is -- I'm looking at the E-
12 mail -- Dominion Engineering. He was working for
13 Dominion.

14 Q But you don't remember what his position
15 or role was?

16 A No, I don't.

17 Q Now, the E-mail that Mr. Fleming had sent
18 you has attached to it a couple of tables, and I'm
19 going to scroll down to the tables, and I'm going to
20 make the screen a little bit smaller so that the whole
21 table -- although I don't know. Maybe I'll make it
22 bigger and then kind of go back and forth.

23 A Yeah, I'm looking at that.

24 Q Okay. What is this? It says the heading
25 is plant specific data verification form. What was

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1 the purpose of this table that he was sending to you
2 about -- I guess sending to you? In Table 1 it refers
3 to Davis-Besse. So why is he sending you information
4 and it's from Dominion, sending you information about
5 Davis-Besse?

6 A I think either -- there was some industry
7 response evaluation being prepared at that time, and
8 they were looking for plant specific information to
9 send this table to be filled out.

10 Q And the information that's already on
11 here, you know, it says Davis-Besse. The next
12 scheduled refueling outage is spring of 2002, and bare
13 metal visual ID and the visual date, March 2000, what
14 did you understand this -- which outage to be
15 referring to?

16 A Two thousand.

17 Q Okay. And full, partial, and underneath
18 it's 100 percent and result is no leakage detected.
19 B&W, under comments, it's B&W plants have gap under
20 insulation, and what's the significance of the comment
21 that B&W plants have gap under insulation?

22 A Well, my recollection is there is a CE
23 plant or Westinghouse plant. They have insulation
24 glued over the head. So B&W plants had insulation
25 above the head which will separate. You can do a bare

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1 metal inspection on the B&W plants. You couldn't do
2 it where the insulation is glued onto the head. So
3 just information being provided.

4 Q And Davis-Besse was a B&W plant?

5 A That's correct.

6 Q So for Davis-Besse, the insulation was --

7 A Above deck.

8 Q So you could actually --

9 A You can do a visual inspection.

10 Q Now, scrolling back up to your E-mail that
11 you wrote forwarding this other E-mail, in the middle
12 -- and I'm highlighting the sentence -- it says, "The
13 table currently shows 100 percent inspection which is
14 not correct. Because of the flange" -- excuse me --
15 "because of the large boric acid deposit on the head,
16 very few CRDMs could be inspected."

17 Why did you write that?

18 A Well, wording 2000 results and what I saw,
19 that it was, you know, boric acid on the head, and we
20 can say that 100 percent inspection was performed and
21 know leak -- I mean, the flanges were leaking at the
22 time. One of the flanges was steam cut. So.

23 Q And you're referring to that 2000
24 inspection?

25 A Yes.

1 Q And how did you know that very few CRDMs
2 could be inspected?

3 A Well, this is just based on my observation
4 of the tape. I'm just making a statement there. It's
5 hard to see.

6 Q And when you say "observation of the
7 tape," what are you referring to?

8 JUDGE FARRAR: Did you say "observation of
9 the head" or "observation of the tape"?

10 THE WITNESS: Let me --

11 MR. GHASEMIAN: No, I don't think you have
12 it. You don't have it written in here, but when you
13 were --

14 JUDGE FARRAR: Just now you said it was
15 based on my observation of the -- I thought you said
16 head.

17 MR. GHASEMIAN: No, he said tape.

18 THE WITNESS: Tape.

19 JUDGE FARRAR: You said tape. Okay.

20 BY MR. GHASEMIAN:

21 Q And what do you mean by observation of the
22 tape?

23 A Looking at the tape which I reviewed with
24 Andrew.

25 Q I see. So would you say that what you saw

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1 was -- do you still -- would that slightly -- I think
2 earlier on you said there was slightly more boric acid
3 that you saw on the tape. With that slightly more
4 boric acid, you could only see a few CRDMS? Is that -
5 -

6 A That's the inference, yes.

7 Q Now, going to Staff Exhibit No. 33 --

8 JUDGE FARRAR: Wait. that's the inference
9 from what you wrote or that's the inference you drew
10 from the tape?

11 THE WITNESS: You drew from looking at.

12 BY MR. GHASEMIAN:

13 Q So this is --

14 JUDGE FARRAR: Wait. Are you leaving this
15 exhibit?

16 MR. GHASEMIAN: I've moved on to the --
17 oh, do you want to ask more questions?

18 JUDGE FARRAR: Yeah.

19 MR. GHASEMIAN: Should I go back to 32?

20 JUDGE FARRAR: No, no. That's all right.
21 You sent a copy of this to Mr. Geisen.
22 Did he respond either electronically or in person to
23 ask you what was going on with this?

24 THE WITNESS: No.

25 JUDGE FARRAR: Okay. Go ahead, Mr.

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1 Ghasemian.

2 MR. GHASEMIAN: Thank you, Your Honor.

3 BY MR. GHASEMIAN:

4 Q I pulled up Staff Exhibit No. 33. I think
5 it's another trip report dated July 12, 2001, from you
6 to Mr. Swim, and the subject is EPRI/MPR Alloy 600
7 Workshop, and scrolling down to the last page is Mr.
8 Geisen listed as one of the recipients in the cc
9 column?

10 A Yes, besides other people.

11 Q Okay. And going back up to page 1, so
12 this is a trip report that you participated in an MRP
13 Alloy 600 Workshop and an Alloy 600 Assessment
14 Subcommittee meeting in June 13, 14, 15 in Atlanta,
15 and there's a heading below it, "Lessons Learned for
16 Davis-Besse."

17 What do you mean by that, "Lessons Learned
18 for Davis-Besse"? Lessons learned from where?

19 A The lesson learned is from other plants'
20 information, what the problems are there, what
21 solution they have implemented. It's just like a
22 learning from other plants' problems and solutions.
23 It's a lesson learned.

24 Q And underneath that heading, you say,
25 "Following are the lessons learned from Ocone and" --

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1 A Arkansas.

2 Q -- "Arkansas Nuclear head inspection for
3 boric acid." Then you list several bullet points. In
4 the first bullet point you say service structure
5 access is needed in order to clean and inspect the
6 head, and in parenthetical you note Davis-Besse does
7 not have service structure hold. What information are
8 you conveying there?

9 A I'm conveying that we certainly at that
10 time didn't have those openings which were requested
11 and the modification. We need those openings to clean
12 the head, basically indicating that Davis-Besse does
13 not have service structure holes.

14 JUDGE FARRAR: At that point what was your
15 understanding about whether that project was still
16 scheduled for the 2002 outage?

17 THE WITNESS: Well, that's my
18 recollection, that based on the meeting I attended,
19 that it's going to be the 13 refueling outage.

20 JUDGE FARRAR: No, maybe I didn't make my
21 or let's start again. When you wrote this, did you
22 think Davis-Besse still was planning to create that
23 access in 2002?

24 THE WITNESS: Yes, I thought that they
25 will put the holes there.

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1 JUDGE FARRAR: So you thought that project
2 was still --

3 THE WITNESS: Going on.

4 JUDGE FARRAR: -- on target.

5 THE WITNESS: Right.

6 BY MR. GHASEMIAN:

7 Q So why did you highlight it? Why did you
8 put it in a parenthetical there? Why did you think
9 it's important to highlight that information?

10 A As you can see, as you can see in the
11 exhibit, the title is lesson learned from other plants
12 or lesson learned for Davis-Besse. The other plants
13 are able to clean their heads and inspect because they
14 have these access holes. Way back in, I think, '96 or
15 '98 I talked to a few of these utilities that are you
16 able to clean your head completely with these holes,
17 the additional holes, and they said yes, they can.

18 So it's a -- I think it's information
19 being provided, you know.

20 Q Now, going to the second bullet point in
21 the document, NRC Exhibit 33, it says the leaking
22 nozzle may produce very little boric acid, and why did
23 you think that information is important to pass along?

24 A I think the second and third go kind of
25 hand in hand. I mean, and --

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1 Q The third bullet point is the head needs
2 to be cleaned in order to see leaking nozzle.

3 A Right, and the leaking nozzle may produce
4 very little boric acid and can detect it if your head
5 isn't clean.

6 Q So based on your knowledge of the
7 condition of the head, do you think you could detect
8 very little boric acid from leaking nozzles?

9 A Well --

10 Q At Davis-Besse?

11 A Very, very difficult to do that, you know.

12 Q Now, moving on to -- let's see. Yeah, the
13 last page, it's more than three pages down, but it's
14 page 3 of the document. The first full paragraph,
15 now, going back to the dates, the date of this trip
16 report is July 12th, and I'm going to highlight the
17 sentence.

18 It says, "NRC is planning to issue this
19 bulletin in early August 2001. This bulletin will
20 require a response within 30 days."

21 In the same paragraph it refers to Jack.
22 Do you know who Jack is?

23 A No.

24 Q Is Jack an ARC employee?

25 A No, reading this, Jack, I don't know who

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1 he is.

2 Q Okay. So the joint --

3 A If you go up then --

4 Q On the previous page it says, "Jack
5 Strosnider, Director, Division of Engineering, NRC,
6 presented regulatory perspective on CRDM cracking."
7 Are you referring to this Jack?

8 A Yes.

9 Q Okay. So where are you -- this last
10 sentence where it says NRC's planning to issue this
11 bulletin in early August, did you get the information
12 from Jack Strosnider? I'm say -- Strosnider.

13 A Right. He also said -- I mean it's
14 written in that way, you know.

15 Q So as of the meeting was in June, mid-
16 June, let's say. Did you talk to other people about
17 the information that you wrote in here? Did you tell
18 other people that NRC was planning on issuing a
19 bulletin in August? Do you remember?

20 A No, I don't remember, but sometimes
21 important things I did discuss with my supervisor.
22 Rather than reading the report, I'll go and talk to
23 him on certain issues, but the specific, this one, I
24 don't know.

25 Q Okay, but at least as far as as late as or

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1 as early as July 12th, you had told the list of people
2 on the last page.

3 A Right, that last page.

4 JUDGE FARRAR: You had told them by
5 sending them a copy?

6 THE WITNESS: Sending this E-mail, not
7 verbally communicating.

8 JUDGE FARRAR: Did you ever hear -- and
9 the first name on that list is? Oh, you don't have it
10 up?

11 THE WITNESS: Mr. Campbell.

12 JUDGE FARRAR: Yes. Did you hear back
13 from any of these people?

14 THE WITNESS: No.

15 JUDGE FARRAR: When you talked to your
16 super -- you wrote this memo.

17 THE WITNESS: Right.

18 JUDGE FARRAR: Did you discuss it with
19 your supervisor, Mr. Swim?

20 THE WITNESS: That's what I'm saying that
21 I do not recall whether I specifically discussed this
22 E-mail

23 JUDGE FARRAR: Okay. Do you recall
24 whether he said, "This is getting to be a big deal.
25 We'd better go see my supervisor, Mr. Geisen"? Did he

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1 ever say that to you?

2 THE WITNESS: No.

3 JUDGE FARRAR: You've been involved at
4 this point for which inspection did you do?

5 THE WITNESS: Ninety-six.

6 JUDGE FARRAR: Okay. So for five years at
7 this point you've been involved in this subject, even
8 though you didn't want to. You were just a good
9 soldier at the beginning. You didn't plan to be
10 involved in this, but now you're involved in it. And
11 now you're going to a lot of meetings, industry-wide
12 meetings, and you're sending a lot of what look to be
13 well written and thorough memos about this subject.
14 And you're never hearing back from anybody.

15 Are you getting frustrated at this time,
16 at that time in your life?

17 THE WITNESS: It is, but I have sent so
18 many E-mails. I don't believe I got any E-mail
19 response back. So.

20 JUDGE TRIKOUROS: Mr. Goyal, one of the
21 bullets says baseline pictures, parens, video, are
22 needed for next inspection. Did you think that you
23 had that?

24 THE WITNESS: Baseline would be after the
25 head is cleaned.

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1 JUDGE TRIKOUROS: After what?

2 THE WITNESS: After the reactor vessel
3 head is cleaned. That will be the baseline for the
4 next outage.

5 JUDGE TRIKOUROS: Right. So did you think
6 that the as-left videos --

7 THE WITNESS: Right.

8 JUDGE TRIKOUROS: -- from the previous
9 outage, which in this case was 2000 or 12 refueling
10 outage, were adequate to suffice with respect to this
11 bullet item? .

12 THE WITNESS: I do not know whether they
13 had as-found condition videos. I do not know whether
14 they had videos after the cleaning.

15 JUDGE TRIKOUROS: So the only videos you
16 saw from the 12th refueling outage were the as-found.

17 THE WITNESS: That is correct.

18 BY MR. GHASEMIAN:

19 Q And the bullet point, I think, that the
20 Judge was referring to is the fifth one from the
21 bottom, I guess, the baseline picture, parenthetical,
22 video, are needed for next inspection; is that
23 correct?

24 A That's right.

25 Q I mean, that's the -- okay. Thank you,

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1 Your Honor.

2 Okay. Were you involved, moving on from
3 these documents, were you involved in development of
4 the response to the -- well, do you know if there was
5 a bulletin that was issued?

6 A Yes, I know.

7 Q And do you remember when it was issued?

8 A I got an E-mail from Bill Gray saying
9 that --

10 Q Was it in August 2001? Does that sound --

11 A Right, August some time.

12 Q Now, were you involved in development of
13 the company's response to the bulletin?

14 A Yes.

15 Q Okay. Now, let's go to Staff Exhibit No.
16 35. Okay. It is an E-mail from you and Mr. Siemaszko
17 and Mr. Cunnings. Who is Mr. Cunnings, John B.
18 Cunnings?

19 A Mr. Cunnings was for some time acting
20 supervisor for Mr. Siemaszko.

21 Q Okay, and the subject was NRC bulletin,
22 and it's dated August 9, 2001, and underneath it says,
23 "Please see my comments in bold letters."

24 I'm going to scroll down to that
25 attachment. Are these your comments in bold? I'll

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1 just briefly scroll down. Do they look to be?

2 A Yeah, these are my comments in bold
3 letters.

4 Q Okay. So let's go through some of them.

5 MR. HIBEY: Excuse me. Could you repeat
6 the exhibit number?

7 MR. GHASEMIAN: It's Staff Exhibit 35.

8 THE WITNESS: Yeah.

9 BY MR. GHASEMIAN:

10 Q Now, on the I think it's the third page of
11 the exhibit, the heading is response to NRC Bulletin
12 2001-01, and your first comment there is you added the
13 word "thermal" before "installation."

14 A Right.

15 JUDGE FARRAR: Mr. Ghasemian, before you
16 talk about what he added, what were you commenting on?
17 Where had you gotten the non-bold parts of the
18 document from?

19 THE WITNESS: I don't know that, where
20 they came from.

21 JUDGE FARRAR: In other words, the last we
22 heard a couple of minutes ago, you answered counsel's
23 question that you were assigned to work on this.

24 THE WITNESS: That's correct.

25 JUDGE FARRAR: But how was in charge of

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1 working on it?

2 THE WITNESS: There were various folks,
3 but the responses basically developed are coordinated
4 by Licensing.

5 JUDGE FARRAR: By who?

6 THE WITNESS: Licensing Group.

7 JUDGE FARRAR: Okay.

8 THE WITNESS: Licensing.

9 JUDGE FARRAR: That's not Mr. Geisen?

10 THE WITNESS: No. Mr. Geisen is in Design
11 Engineering, And Mr. Gerard Coke (phonetic) was really
12 preparing the response of coordinating and getting
13 everything put together.

14 JUDGE FARRAR: Okay, and somehow through
15 that process you got a draft set of responses and
16 somebody asked for your comments.

17 THE WITNESS: That's correct, sir.

18 JUDGE FARRAR: And you sent your comments
19 to Mr. Siemaszko and Mr. Cummings.

20 THE WITNESS: Right.

21 JUDGE FARRAR: But you don't know who
22 created the underlying document.

23 THE WITNESS: I can't add it.

24 JUDGE FARRAR: Okay. Go ahead, Mr.
25 Ghasemian.

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1 MR. GHASEMIAN: Thank you, Your Honor.
2 I'll ask some questions that may enlighten
3 that area.

4 JUDGE FARRAR: Okay.

5 BY MR. GHASEMIAN:

6 Q Who was tasked, assigned to gather
7 information from the various departments that inputted
8 into the response of Davis-Besse?

9 A There is a green sheet, and the back of
10 the green sheet kind of describes it, but in this
11 specific case, 1D was assigned to myself, Mr.
12 Siemaszko and Mr. Coke.

13 Q By saying 1D, what are you referring to?

14 A One D, I'm referring to Bulletin 1D.

15 Q Well, Section 1D of the bulletin; is that
16 correct?

17 A Correct.

18 Q Okay. So Bulletin 2001-1, it had several
19 sections; is that correct?

20 A Right.

21 Q And Section 1D of the document was
22 assigned to you, Mr. Cook (phonetic) and Mr. Siemaszko
23 to develop a response for.

24 A Right.

25 Q Is that fair to say? Okay.

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1 And so you don't remember who you received
2 the initial draft of this document that you added your
3 comments to..

4 A That is correct.

5 Q Is it fair to say that it was either from
6 Mr. Siemaszko or Mr. Cook?

7 A I mean, I would ansewr I don't know.

8 Q Okay. All right, but these comments are
9 yours; is that true?

10 A Right.

11 Q Okay.

12 A The bold comment.

13 Q In bold, yes. Now, let's go to Bulletin
14 1D so that we're clear on what section --

15 JUDGE FARRAR: Wait. You're leaving this
16 document?

17 MR. GHASEMIAN: We'll come back to it,
18 Your Honor, but I just wanted to go back to the
19 bulletin to the specific section --

20 JUDGE FARRAR: Oh, okay.

21 MR. GHASEMIAN: -- so that it's clear.

22 BY MR. GHASEMIAN:

23 Q Mr. Goyal, I've pulled up Staff Exhibit
24 No. 8. Do you recognize this document?

25 A Yes.

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1 Q And I'm going to scroll down to Section
2 1D. That's page 11, and I'm on page 11 of 15. So 1D,
3 it says, "All addressees are requested to provide the
4 following information," and I can't highlight it, but
5 it's the paragraph next to D. It says, "A description
6 of the VHP nozzle and RPV head inspections,"
7 parenthetical, "type, scope, qualification
8 requirements and acceptance criteria," "that have been
9 performed at your plant," parenthetical, "plants," "
10 in the past four years and the findings. Include a
11 description of any limitation," in parenthetical,
12 "insulation or other impediments," close
13 parenthetical, "to accessibility of the bare metal of
14 the RPV head for visual examinations."

15 So is it that you, Mr. Cook, and Mr.
16 Siemaszko were tasked with developing the answer to
17 this paragraph? Is that correct?

18 A Right.

19 Q Okay. Now, let's go back to the document,
20 Exhibit No. 35, and going down to do you see the
21 heading 19? Okay. I can highlight it. Your
22 comments that I'm highlighting, in parenthetical you
23 said, "Need to add what did we do with flange leak."

24 Why are you adding that information or
25 making that comment?

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1 A Well, I mean, the flanges are leaking.
2 They need to be repaired or fixed, you know, so that
3 when you go to the next one you know you started out
4 with flanges not leaking.

5 Q Going to the next page, and I'm
6 highlighting, you made two comments in the section
7 that I'm highlighting, but I'll go back to the first
8 paraenthetical comment. You ask, "How do you know
9 when there was so much boron on the top of the head?"
10 question mark, and that's following a sentence that
11 says, "No evidence of nozzle leakage was detected."
12 Why are you asking that question?

13 A Well, it's the same thing. I looked in
14 three, four minutes, whatever I saw, and I'm asking
15 are we comfortable that you can see 95 percent of the
16 nozzle. So tying it into the three, four minute of
17 paper I have seen.

18 Q And that's the next comment you made.
19 You're asking are you comfortable with the 95 percent.

20 A Right.

21 Q Because that sentence said 95 percent of
22 the nozzles were inspected, and so did you have an
23 idea that 95 percent of the nozzles were not
24 inspected?

25 A No, I was just asking. Ninety-five

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1 percent seemed high number. That's all I'm indicating
2 here.

3 Q Based on your review of the three, four
4 minutes of review of the area. Okay. Now, going to
5 Staff Exhibit No. 36 --

6 JUDGE FARRAR: Before you leave, right
7 after those bold sentences, the draft, which you did
8 not comment on says the head was cleaned with the
9 demineralized water as best as it could be,
10 considering the dose and the method.

11 Now, if somebody asked me did you do a
12 job, sometimes I say as best I could and that means
13 I'm really proud of it, but I came up a little short,
14 or it could be a way that I didn't really do much
15 because I really couldn't.

16 So did you look at that next to the last
17 sentence and say, "Gee, that could be read two
18 different ways"? You know, it says as best it could.
19 What does that mean? Is that a great job and you just
20 missed your target or is it a lousy job and you're
21 making an excuse?

22 THE WITNESS: I do not recall.

23 JUDGE FARRAR: You didn't write that
24 sentence.

25 THE WITNESS: No, I did not write that.

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1 JUDGE FARRAR: You didn't comment on it
2 either.

3 THE WITNESS: I did not comment on it.

4 JUDGE FARRAR: Okay. And the last sentence
5 says subsequent video inspection of the clean head and
6 nozzles was performed for future use. So to me the
7 use of the word "clean head" means that in the
8 previous sentence the way to read it is we really did
9 a great job and we just barely missed. Is that how
10 you read this when you go it?

11 THE WITNESS: I read it, and I didn't see
12 anything to comment on because neither I reviewed --
13 neither I cleaned the head nor I reviewed the tape
14 after cleaning.

15 JUDGE FARRAR: Oh, the tape you saw was --

16 THE WITNESS: As-found condition.

17 JUDGE FARRAR: -- was as found.

18 THE WITNESS: That's right.

19 JUDGE FARRAR: So you never saw the tape
20 after cleaning.

21 THE WITNESS: Right. I did not see the
22 tape after.

23 JUDGE FARRAR: Did you send this E-mail to
24 Mr. Geisen?

25 THE WITNESS: I have to look to see.

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1 JUDGE FARRAR: If I were to represent to
2 you that the heading, the E-mail heading, does not
3 include his name, then you would have no independent
4 recollection that you sent it to him some other way?

5 THE WITNESS: Right. I do not have any
6 recollection.

7 JUDGE TRIKOUROS: I was going to ask the
8 more general question. It clearly shows you sent it
9 only to two people, but do you have any reason to
10 believe that others saw it, including Mr. Geisen?

11 And your answer is no to that?

12 THE WITNESS: yeah.

13 JUDGE FARRAR: Go ahead, Mr. Ghasemian.

14 BY MR. GHASEMIAN:

15 Q Now, going to Staff Exhibit No. 36, this
16 is an E-mail from you to Mr. Geisen and Mr. Swim, and
17 cc Dale R. Wuokko. What position did Mr. Wuokko hold?
18 Do you remember?

19 A Yeah, Mr. Wuokko was supervisor in
20 Licensing.

21 Q And it's an E-mail on August that you sent
22 on August 11, 2001, and the subject line is NRC
23 Bulletin 2001-001, circumferential of RV head
24 penetration nozzle. Now, it documents a meeting that
25 was held earlier that day at 8:30 a.m. in Mr.

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1 Lockwood's office with a, and you list a number of
2 individuals, and Mr. Geisen is not listed.

3 He didn't attend that meeting, right? He
4 was not at that meeting, right?

5 A He was not at that meeting because the
6 attendees are listed in this.

7 Q Right, but you forwarded the E-mail to him
8 and the other two folks just to -- why did you forward
9 this E-mail to him or send this E-mail out to him?

10 A This meeting, there are some actions or
11 decisions kind of indicated by senior management, and
12 I wanted to keep my supervisor and Mr. Geisen informed
13 of that because they were not present in this meeting.

14 Q And scrolling down to second to the last
15 paragraph, the sentence that I'm highlighting, it says
16 you wrote that it was pointed out that we cannot clean
17 our head through the mouse holes, and Andrew Siemaszko
18 is requesting three large holes be cut in the service
19 structure for viewing and cleaning.

20 Now, the first part of this sentence
21 before the "and," you said it was pointed out that we
22 cannot clean our head through the mouse holes, which
23 RFOs were you referring to?

24 A Beg your pardon?

25 Q When you said it was pointed out that we

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1 cannot clean our head through the mouse holes, were
2 you referring to the 2000, 1998, 1996 --

3 A It was the previous outage where we tried
4 to clean the head and couldn't reach to the top of the
5 head or couldn't reach the entire access to the head.

6 Q So you're talking about all '96, '98, and
7 2000?

8 A Right, '96, '98.

9 Q So are you referring to all three or just
10 '96 or '98?

11 A I'm referring to all three in a sense.
12 It's a generic statement that they first pointed out
13 that we cannot clean our head through the mouse holes.

14 Q Okay. Now, moving to the part after
15 "and," where it says Andrew Siemaszko is requesting
16 three large holes be cut in the service structure for
17 viewing and cleaning, what are you passing along
18 there?

19 A Well, we had some discussion about this
20 issue about how you clean the head in the sense that
21 mouse hole -- you cannot get full access through the
22 mouse hole. So he was suggesting why don't we put
23 some holes in the services structure and we would
24 rewire them after we are done cleaning.

25 I said okay, you know. Cut some holes,

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1 clean it, and patch them up. So you do not need a
2 modification to do this approach, that you are getting
3 around forbidding modification to be done. You can
4 cut rectangular squares and do the job and put them
5 back. So that was the discussion. He was requesting
6 that holes be cut.

7 Q So was this a discussion that you had with
8 him? I mean, he's not listed on this. Did he attend
9 this meeting? Did he attend this meeting?

10 A If he's not listed on the attendees, then
11 he did not attend.

12 Q Okay. So did you have this discussion
13 with him at some other time before August 11?

14 A Some other time.

15 Q Okay. Moving on to Staff Exhibit No.
16 37 --

17 JUDGE FARRAR: Well, before we leave it,
18 did you hear back from Mr. Geisen in response to this
19 memo?

20 THE WITNESS: No, I didn't.

21 MR. GHASEMIAN: Should I move on?

22 JUDGE FARRAR: So you didn't. Okay. Yes,
23 go ahead.

24 So you didn't hear back from him.

25 THE WITNESS: No.

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1 JUDGE FARRAR: To this point had you heard
2 back from him on any of the memos related to this
3 subject?

4 THE WITNESS: I do not recall.

5 JUDGE FARRAR: Go ahead.

6 JUDGE TRIKOUROS: But had you had any
7 conversations in the hall or anywhere that indicated
8 that the people that you sent the memo to saw it,
9 including Mr. Geisen, or read it?

10 THE WITNESS: The discussion I had, I'm
11 just interested in my modification, my data special
12 modification that kind of moved through. I had
13 discussions with Mr. Glenn McIntyre, who was systems
14 supervisor, that this modification moving, and with
15 Mr. Geisen I have discussions on the B&W Materials
16 Committee projects, what projects we are working on
17 and how much funding we need, and these kind of
18 discussions I remember.

19 BY MR. GHASEMIAN:

20 Q Mr. Goyal, when you just said, you know,
21 "my modifications," were you referring to the
22 modification -- what modification are you referring
23 to?

24 A Ninety-four, zero, zero, two, five.

25 Q Is that the one that was scheduled for the

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1 13RFO?

2 A Right.

3 Q So why do you say it was your
4 modification? I mean, did it arise out of your
5 condition report? Is that why you were saying it was
6 my modification?

7 A I was pushing for it. I talked to
8 independent safety. I talked to Andrew. I talked to
9 my supervisor. I talked to Mr. Glenn McIntyre. How
10 many people you talk to say that we need to do it?

11 And so I mean that's all I can say.

12 JUDGE FARRAR: But that's why you thought
13 it was your modification. I mean, you were the person
14 in the company pushing for this or you had pushed for
15 it.

16 THE WITNESS: I had vocated (phonetic) for
17 it.

18 JUDGE FARRAR: yeah.

19 THE WITNESS: May be not strong enough.

20 BY MR. GHASEMIAN:

21 Q Okay. Now, moving on to Staff Exhibit 37,
22 this is an E-mail from you. It's dated August 13th to
23 Mr. Siemaszko and Mr. McLaughlin and cc'ing Mr.
24 Cummings and Wuokko. In it you say you've attached
25 the JCO for head inspection. This has been approved

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1 by D. Geisen, and "D. Geisen," did you mean David
2 Geisen?

3 A Yes.

4 Q And SRB, and who's SRB?

5 A SRB is the Station Review Board.

6 Q Okay, and you go on to say this was
7 written on 6/27/01. Now, are you -- by JCO. Is this
8 the June 27th, 2001 memorandum that we went over
9 earlier? It's Staff Exhibit No. 31. Are you
10 referring to that document?

11 A Yeah, it was the modified justification
12 document.

13 Q Okay. And you go on to say that -- and
14 I'm highlighting it -- it says, "My" -- and you're
15 writing, "My concern is that all of these outside
16 people may focus on our lack of complete or limited
17 inspection of CRDM."

18 First, what did you mean by "outside
19 people"?

20 A Outside people is outside of the plant,
21 external.

22 Q Okay, and what was your concern?

23 A The concern is you look at the videos of
24 whether it is the '96 or '98 or 2000. Inspections
25 were not done 100 percent, you know, as-found

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1 condition.

2 Q And how was your concern related to your
3 June 27th, 2001 memorandum, referred to as JCO?

4 A Well, JCO does have a -- I mean, it's
5 finding out that inspections were limited, you know.
6 Not the JC. We found that issue, but what was
7 modified evaluation, you know. There is a sentence in
8 there that not all of the CRDMs were inspected.

9 JUDGE TRIKOUROS: What's the history of
10 that JCO? Who initiated that?

11 THE WITNESS: I initiated it.

12 JUDGE TRIKOUROS: You initiated it.

13 THE WITNESS: Right, at the request of
14 senior management.

15 JUDGE FARRAR: And when you say it had
16 been approved by Mr. Geisen, that's not recent to this
17 memo. That's when he signed -- you sent it up the
18 chain and he signed it.

19 THE WITNESS: Are you referring to that
20 Mode 5?

21 JUDGE FARRAR: Yeah.

22 THE WITNESS: I signed it, my supervisor
23 signed it, Mr. Geisen signed it.

24 JUDGE FARRAR: Right, but if I remember
25 our conversation earlier this morning, you never

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1 talked to Mr. Geisen about it. He signed it.

2 THE WITNESS: Right. I signed, gave it to
3 my supervisor --

4 JUDGE FARRAR: Right.

5 THE WITNESS: -- and he --

6 JUDGE FARRAR: And when you say in this
7 memo or this E-mail of August 13th that it had been
8 approved by Mr. Geisen, you're referring to that past
9 event.

10 THE WITNESS: Right.

11 BY MR. GHASEMIAN:

12 Q Now, when you said initiated, you didn't
13 start drafting that June 23rd -- this Staff Exhibit 31
14 without Mr. Swim knowing about that you're going on
15 this task, did you?

16 A Well, I didn't understand your question.

17 Q I think to one of the questions you said
18 that you initiated that memorandum. I just want to
19 ask -- and you followed up and said by the direction
20 of senior management.

21 A Right.

22 Q So when you started working, started
23 drafting the document, did Mr. Swim know that you're
24 working on this document?

25 A Yes. I know because he asked me, "When

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1 are you going to write it?" So one week gone by, the
2 next week. The plant is waiting for it. When are you
3 going to write it? I said, "Okay. I'll write it."
4 So yes.

5 JUDGE TRIKOUROS: I need to understand a
6 few things here. So the term JCO in my experience is
7 justification for continues operation.

8 THE WITNESS: Right.

9 JUDGE TRIKOUROS: There's a problem that
10 is of such a nature that there's a question whether or
11 not you should continue to operate the plant at all;
12 is that correct?

13 The word JCO doesn't show up. I didn't
14 realize it was Exhibit 31. The other thing doesn't
15 say JCO at all.

16 THE WITNESS: It doesn't say. It say kind
17 of misnomer used in the sense that when I was doing
18 the evaluation and writing it, as you can see, it was
19 a Mode 5 evaluation, whether Davis-Besse should
20 inspect the head. That was the title of the question
21 being answered or evaluated.

22 JUDGE TRIKOUROS: Were you trying to
23 justify continued operation with that memorandum?

24 THE WITNESS: I was just define that we
25 don't have to inspect the head.

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1 JUDGE TRIKOUROS: If you hadn't justified
2 that you didn't need to inspect the head, would you
3 have had to shut down and inspect the head? Was that
4 the understanding?

5 THE WITNESS: Probably that's correct.

6 JUDGE TRIKOUROS: And that was the
7 document that Mr. Swim had asked you to modify.

8 THE WITNESS: Right.

9 JUDGE TRIKOUROS: Without the modification
10 that Mr. Swim had asked you to make, would you have
11 had to shut the plant down and inspect the head?

12 THE WITNESS: I don't know the answer
13 because this has to go through SRB, Condition Review
14 Board or higher up. I can't answer that question.
15 I'm not in the operational aspect of the plant,
16 whether we need to shut down or not.

17 JUDGE TRIKOUROS: So apparently Davis-
18 Besse uses the term JCO somewhat differently than I
19 understand it, but still fundamentally you were doing
20 a justification for continued operation as I would
21 understand it.

22 That's fine.

23 BY MR. GHASEMIAN:

24 Q And just to be clear, and this was at the
25 direction of senior management did you say?

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1 A Right.

2 Q And was there a -- did you -- was there a
3 conclusion that management wanted you to reach or not
4 reach? Was there any discussions as far as what the
5 desired outcome of the evaluation was?

6 A I mean, the outcome was that Davis-Besse
7 didn't want to inspect and shut down, you know, as you
8 can see in further discussions on the subject, that
9 meeting I attended in there. I think they wanted me
10 to advise that justification or whether to include the
11 cracks are found in some other plants, and my
12 discussion was that I don't have the expertise or the
13 knowledge to do that.

14 Q Now, the last sentence, you go on to say
15 this JCO will also be reviewed by Tim and Jim Martin
16 and some consultant. Do you consider these people as
17 outside people?

18 A Yeah, these are outside people.

19 Q Okay. Moving on to Staff Exhibit No. 39.

20 MR. HIBEY: Which exhibit number, please?

21 MR. GHASEMIAN: Thirty-nine, Staff Exhibit
22 39.

23 BY MR. GHASEMIAN:

24 Q Do you see it up on your monitor, Mr.
25 Goyal?

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1 A Yes, I do see it.

2 Q Okay, and we're still in August. It's an
3 E-mail from you to Mr. S. Fyfitch and W. Gray and who
4 is Steve Fyfitch?

5 A Steve Fyfitch is a metallurgist, and he
6 was part of the B&W Materials Committee.

7 Q And W. Gray, we talked about him before.

8 A Yes. Bill Gray was the project manager of
9 that group, B&W Materials Committee.

10 Q Okay, and you cc'd Mr. Geisen and Mr. Swim
11 and other people.

12 A Right.

13 Q And the subject line is NRC Bulletin, and
14 it's dated August 17, 2001. And moving down to the
15 middle, if I may have a moment, last sentence in
16 Paragraph 1, you wrote, "Is it possible to go back to
17 1998? That is when a good head exam was done with no
18 nozzle leakage," period, and in parenthetical you say,
19 "Meaning not taking any credit for 2000 inspection."

20 What are you -- why are you asking that?

21 A My recollection is somewhere, either some
22 supervisor or manager asked me or discussed with me
23 that can we go back to Framatome and start with the
24 1998 crack growth issue, what would be the crack
25 growth, and I don't recall other details per se, you

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1 know, but why we're saying that discredit the 2000
2 inspection.

3 JUDGE TRIKOUROS: I'm sorry. I'm having
4 trouble.

5 THE WITNESS: Oh, okay.

6 JUDGE TRIKOUROS: You're talking with your
7 hand --

8 THE WITNESS: Oh, I'm sorry. I do not
9 recall how this sentence got in there and what it
10 means. I mean, my recollection is they were discussed
11 with either any of the other supervisors or managers,
12 you know, discussed with me and told me to go back to
13 Framatome and start in 1998, you know.

14 BY MR. GHASEMIAN:

15 Q When you're saying meaning not taking any
16 credit for 2000 inspection, by August 17th, 2001 you
17 had a sense of what the condition of the head in 2000
18 was, didn't you?

19 A Yeah. I mean the condition I knew was
20 that the inspection -- that tape I looked with angle,
21 you know, the boric acid was then on the head.

22 Q And then why would -- okay. So you're
23 saying you don't recall why you were saying that we
24 shouldn't be taking credit for the 2000 inspection?

25 A Right.

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1 Q Okay. Let's go to Staff Exhibit No. 40.

2 JUDGE FARRAR: Hold on. Did you discuss
3 the last paragraph?

4 MR. GHASEMIAN: No, Your Honor.

5 JUDGE FARRAR: Okay. Am I correct-that in
6 the last paragraph you're taking credit saying we
7 don't have to -- I'm paraphrasing, of course -- is
8 that a statement that we don't have to be as worried
9 as the people at Oconee are because we have a better
10 system in some ways?

11 THE WITNESS: I am identifying that DB is
12 unique, that --

13 JUDGE FARRAR: No, no. I'm just the
14 reader of this and I come to the last paragraph and I
15 say, "Oh, good. I don't have to worry about this as
16 much as I thought because we have this -- the problem
17 we're worried about or the NRC is worried about comes
18 from Oconee, and we don't have to be as worried
19 because we had this little deal in our system that
20 protects us more than Oconee would be protected from
21 this problem." If I were a reader, could I come to
22 that conclusion?

23 THE WITNESS: And I don't recall what was
24 the thought process in writing that statements are
25 written there.

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1 JUDGE FARRAR: Right. I'm just asking,
2 well, you wrote this, right?

3 THE WITNESS: Right. I did.

4 JUDGE FARRAR: You're talking about a head
5 vent line, which I think you're saying is a good
6 thing. Oconee doesn't or you're saying Davis-Besse is
7 unique because you have this head vent line.

8 THE WITNESS: No, it's unique because of
9 the raised loop, and I wouldn't know now what the
10 raised loop is.

11 JUDGE FARRAR: No, but then you say, "And
12 we have a head vent line," and then you talk about the
13 head vent line.

14 THE WITNESS: Right.

15 JUDGE FARRAR: If I'm reading this, aren't
16 you suggesting to me as the reader that that head vent
17 line is a good thing that makes this less of a problem
18 than the people who don't have a head vent line?

19 THE WITNESS: Yes, it moves the coolant.

20 JUDGE FARRAR: Right, but just as a
21 general theme, if I read this and I work at Davis-
22 Besse and I read this, don't I say, "Oh, good," or do
23 I say, "Oh, that's bad"?

24 You want me to say it's -- I mean, you're
25 taking credit for it, aren't you?

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1 THE WITNESS: They're taking credit for
2 it.

3 JUDGE FARRAR: Yeah, okay.

4 THE WITNESS: yeah.

5 BY MR. GHASEMIAN:

6 Q Moving on to Staff Exhibit No. 40, this is
7 another trip report that you wrote to Mr. Swim. It's
8 dated August 22, 2001, and the subject line is trip
9 report, dash, NRC Bulletin 2001-01 meeting. And in
10 the first paragraph you reference the meeting was on
11 August 15th, 2001.

12 A Right. August 15, 2001.

13 Q Yeah, and the sentence that I'm
14 highlighting, it says the purpose of the meeting was
15 for the NRC to explain their expectation for the
16 bulletin response, and beneath it are four times.
17 Now, why was there a meeting with the NRC in August
18 before your response?

19 A What is the question?

20 Q Why were you and others meeting with the
21 NRC relating to the bulletin?

22 I guess by this time had you submitted
23 your response to the NRC? This is August 22.

24 A I don't think they submitted this
25 response. Bulletin was issued in?

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1 Q August 3rd.

2 A August 3rd?

3 Q Yes.

4 A But you had 30 days to respond. So.

5 Q So the meeting was on August 15th. So
6 this is -- the meeting occurred before the first --

7 A Before the response.

8 Q And what was the purpose of the meeting?

9 A Well, I mean, at this point, see, I mean,
10 when I had examination there was no procedure to
11 follow that what are we looking for, what is
12 acceptable, what is not acceptable, and there were no
13 qualified inspectors. A person called in and do the
14 inspections. So those points are identifying that we
15 need to develop those procedures, inspectors, and I
16 didn't see the all four points. I just remember
17 seeing the top two points.

18 Q And the last page, do you see Mr. Geisen's
19 name in the cc list of names?

20 A Right.

21 JUDGE FARRAR: Do you see Mr. Campbell's?

22 THE WITNESS: Mr. Campbell is on the list,
23 too, yeah, yeah.

24 BY MR. GHASEMIAN:

25 Q Now, going to Exhibit --

1 JUDGE FARRAR: Hold on.

2 MR. GHASEMIAN: Oh.

3 JUDGE FARRAR: Okay. So you go to the NRC
4 meeting with EPRI. So there's probably somebody from
5 all of the plants, all of the nuclear power plants
6 that are affected by this bulletin would have been
7 invited to send someone to this meeting. Is that how
8 EPRI worked, how EPRI and its relationship with NRC
9 worked?

10 THE WITNESS: Yeah.

11 JUDGE FARRAR: I mean, NRC says -- are you
12 aware or is it correct that the NRC would have invited
13 all of the people who got this bulletin and said,
14 "Come on in and we'll tell you what we want," or
15 alternatively, EPRI got the bulletin and said, "We
16 need a meeting with you all so that we know what you
17 want"?

18 Do you know which of those it was? In
19 other words --

20 THE WITNESS: I'm having difficulty in --

21 JUDGE FARRAR: Okay.

22 THE WITNESS: -- understanding the
23 question.

24 JUDGE FARRAR: All of a sudden everybody
25 shows up here on August 15th. It was not just Davis.

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1 You were there for Davis-Besse.

2 THE WITNESS: Right.

3 JUDGE FARRAR: And how many people from
4 other nuclear power plants were there?

5 THE WITNESS: There would be quite a few
6 people there.

7 JUDGE FARRAR: Twenty?

8 THE WITNESS: I do not recall how many
9 were there at that time.

10 JUDGE FARRAR: I mean, a good crowd.
11 You've been at committee meetings with these people
12 from different companies.

13 THE WITNESS: A good crowd, yes.

14 JUDGE FARRAR: Okay. So there's a good
15 crowd there, and you come back in August, and you have
16 all of these lessons learned and the challenges. At
17 this point, what does Mr. Swim say?

18 I know you only send this trip report so
19 you can get -- in theory you only send it so you can
20 get your money. Like any company, they don't want you
21 going off on boondoggles, going to meetings, nothing
22 happens, but you keep going to the meetings. So this
23 justifies why you took this trip.

24 But does Mr. Swim say, "Hey, this is
25 getting to be a big deal. We've got to go see Mr.

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1 Geisen"? Did he say that to you?

2 THE WITNESS: No. I don't recall that.

3 JUDGE FARRAR: You would recall if Mr.
4 Swim --

5 THE WITNESS: Taking me --

6 JUDGE FARRAR: -- taking you and saying,
7 "Let's go to see Mr. Geisen," and then Mr. Geisen may
8 want to go see somebody above him because this is
9 really getting to be a big deal? That didn't happen?

10 THE WITNESS: No, that didn't happen.

11 JUDGE FARRAR: Okay. Go ahead.

12 JUDGE TRIKOUROS: I have a question. I'm
13 sorry. You sent this E-mail, this document to a lot
14 of people. People have a sense of who's working on
15 something or who's not working on something. We
16 clearly send a lot of documents to a lot of people
17 just for information only.

18 Who was actually working on this response
19 to the NRC?

20 Let me rephrase that. Is it your
21 understanding that Mr. Geisen was directly involved in
22 working on this response to the NRC such that this was
23 important information to him?

24 THE WITNESS: I do not know that, but I
25 know that Mr. Cook was preparing the response with the

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1 licensing supervisors involved in that preparation of
2 the response. That I know because I talked to Mr.
3 Cook one or two times, and then we have meetings of
4 different managers or directors, not necessarily on
5 this subject.

6 So it's very difficult for me to answer
7 the questions you're asking me, you know, because the
8 response is normally created by something of getting
9 input from different part of the company, whether it's
10 Design or Operations or whatsoever is contributing to
11 that.

12 JUDGE TRIKOUROS: You were working
13 directly with Mr. Cook on this?

14 THE WITNESS: Not directly, but he will
15 send me the E-mail, you know, and work with Andrew on
16 the Section 1D, you know.

17 JUDGE TRIKOUROS: I didn't notice. Was
18 Mr. Cook on distribution for all of these documents?

19 THE WITNESS: I wouldn't know unless I see
20 the E-mails, you know.

21 JUDGE TRIKOUROS: So he was not? He was
22 preparing the response to the NRC and here you have
23 some important information regarding what the NRC was
24 expecting about the response and he wasn't sent it who
25 was preparing it, yet Mr. Geisen was sent it who was,

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1 you know, for all accounts incidental to it.

2 Is there a logic there or were you
3 expecting someone that you distributed it to to
4 discuss it with Mr. Cook who was writing the response?

5 THE WITNESS: I mean, to answer your
6 question, I need to see the people who are receiving
7 this, if I can see a list. Then maybe I can give you
8 better response.

9 JUDGE FARRAR: There you go. Can you read
10 that?

11 THE WITNESS: Mr. Lockwood is the
12 supervisor-manager of -- I believe he's the manager of
13 Licensing. So it is going to Licensing. So to say
14 that Licensing --

15 JUDGE TRIKOUROS: So who is the --

16 THE WITNESS: Mr. Lockwood.

17 JUDGE FARRAR: And Mr. Cook was consulting
18 for him?

19 THE WITNESS: Yeah, yeah. So I can
20 answer, yes, Licensing was aware of what is going on.

21 JUDGE TRIKOUROS: So basically you sent
22 this to fairly high level people, starting with Mr.
23 Campbell --

24 THE WITNESS: Right.

25 JUDGE TRIKOUROS: -- including Mr.

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1 Moffitt, and you were expecting that the appropriate
2 managers would then send it forward to the appropriate
3 people. So you were expecting Mr. Lockwood to
4 communicate this to Mr. Cook.

5 THE WITNESS: Right. I mean, I'm sending
6 it to manager, and Mr. Campbell.

7 JUDGE FARRAR: Getting back to Judge
8 Trikouros' initial question that on a deal like this
9 everybody knows who's really working on it, and you
10 told him you couldn't answer, but didn't you really
11 answer because you said Mr. Cook was working on it and
12 a couple other people?

13 So forgetting approval processes and who
14 might have to eventually sign off on something, those
15 are the people; the people you named are the people
16 working on it. You know, they're working on the
17 project.

18 THE WITNESS: I mean, I'm keeping the
19 management informed of --

20 JUDGE FARRAR: Oh, no, no, no, no. This
21 is a different question. In other words, you knew --
22 you answered, I think, that Mr. Cook and somebody else
23 were the people really working on this.

24 THE WITNESS: Right.

25 JUDGE FARRAR: Okay, and you did not

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1 include Mr. Geisen in that list of people really
2 working on it.

3 THE WITNESS: On some of them; maybe some
4 of them not, you know. I can't answer --

5 JUDGE FARRAR: No, I'm not talking about
6 this --

7 THE WITNESS: You're talking about the --

8 JUDGE FARRAR: I'm just talking about
9 Judge Trikouros' initial questions. As you wandered
10 around the company in mid-August --

11 THE WITNESS: Right.

12 JUDGE FARRAR: -- late August and you're
13 saying, "Boy, I have to work on this project," the key
14 people that you were aware of that you needed to work
15 with -- forget the lines of command and everything --
16 they were Cook and somebody else.

17 THE WITNESS: Yes.

18 JUDGE FARRAR: Who was the somebody else?

19 THE WITNESS: It would be in the licensing
20 -- licensing book.

21 JUDGE FARRAR: Yeah, but it wasn't Mr.
22 Geisen.

23 THE WITNESS: He was on the Licensing.

24 JUDGE TRIKOUROS: The connection you're
25 making, Mr. Ghasemian is that these documents were

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1 cc'ed to Mr. Geisen. They were also cc'd --

2 MR. GHASEMIAN: No, we're not contending
3 that. That is the fact that he was cc'd.

4 JUDGE TRIKOUROS: I understand. That's
5 the connection. They were also cc'd for example to
6 Mr. Campbell. In fact, almost every one that went to
7 Mr. Geisen went to Mr. Campbell, who signed under oath
8 that to the best of his belief the things that were
9 inaccurate were, in fact, inaccurate, and that you
10 would argue that he received all of these documents.
11 Therefore, he should have known that, but, you know,
12 that's another story.

13 But I'm trying to understand the dynamic
14 in the company at this point. People are receiving
15 these E-mails from people and communications from
16 people, but they're probably receiving 100,000 other
17 E-mails on 100,000 other topics, and to me it isn't
18 sufficient necessarily to say, "I sent you an E-mail."
19 I would like to hear something that says, "I spoke to
20 you in the hall. I communicated with you. I saw in
21 at a meeting. We discussed this."

22 I just don't see anything there. That's
23 really where I'm going with these questions, why I
24 keep asking for any communication other than I sent
25 out an E-mail. We've already asked if there were any

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1 response to the E-mails, and the answer is, no, there
2 was never a response to the E-mails that said, "I'm
3 aware of this. Thank you," or anything like that.

4 So that's really where I'm going with it.

5 MR. GHASEMIAN: Thank you, Your Honor. I
6 understand where you're coming from. Be mindful that
7 the Staff did not take its action just based on one E-
8 mail or one trip report or one witness testimony.
9 It's a consideration of all these documents which we
10 haven't gone through all of them. It's a
11 consideration of other individuals involved in this
12 matter, and the testimony of Mr. Geisen himself and
13 the videos. So videotapes of the inspections.

14 So if it were just one E-mail, I would
15 agree with you that the Staff would be in big trouble
16 carrying its burden, but it is not just one E-mail.
17 It's a series of E-mails, series of trip reports,
18 testimony of Mr. Geisen, the videotapes themselves,
19 and the magnitude of the deviation, frankly, from the
20 true condition of the head.

21 I mean, it wasn't missing, off by one
22 nozzle or two nozzles. I mean, the videos will speak
23 for themselves. So that's --

24 JUDGE TRIKOUROS: We're only on Tuesday
25 morning, and there's a lot to go.

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1 MR. GHASEMIAN: Absolutely.

2 JUDGE TRIKOUROS: I'm simply mentioning
3 that when you're saying to make a connection that
4 someone sent an E-mail to somebody out of a group of
5 ten, it isn't -- to me that isn't definitive evidence
6 that someone knew of something. That's all.

7 MR. GHASEMIAN: Well, I hope that -- I
8 mean, I won't get into our closing arguments --

9 JUDGE TRIKOUROS: Yeah, rather than argue.

10 MR. GHASEMIAN: -- or post brief filings,
11 but I hope that we will be able to, you know, put
12 forth other evidence that will --

13 JUDGE FARRAR: I think we can take Judge
14 Trikouros' comment as an alert that that's where the
15 case needs to go.

16 MR. GHASEMIAN: Thank you, Your Honor.

17 JUDGE FARRAR: If you are to prevail.

18 MR. GHASEMIAN: I understand. May I
19 proceed?

20 JUDGE FARRAR: Yes, go ahead.

21 MR. GHASEMIAN: Thank you.1

22 BY MR. GHASEMIAN:

23 Q Let's go to Staff Exhibit No. 41. And
24 this is an E-mail from you to Mr. Cook and Mr.
25 Siemaszko and other individuals, and Mr. Geisen is not

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1 on this E-mail. Is that fair to say?

2 A Yes.

3 Q Okay. Now, this is August 27, and the
4 subject line is Serial No. 2731827, Version 1B, and
5 you have the following comments: "I suspect these
6 comments relate that version of the document." Is
7 that fair to say?

8 A Oh, I --

9 Q Are these comments related to the version
10 that you were reviewing?

11 A Yes, Version 1B.

12 Q Okay. Let's go to Item No. 2. I'll
13 highlight it, and it says, "Subsequent review of 1998
14 and 2000 inspection video results," period. "The
15 discussion here gives an impression to the reader that
16 we were able to look at all of the CRDM. It is very
17 difficult to look at the CRDMs when there is boric
18 acid around it." Period. "Do we want to reward
19 this?" Question mark.

20 Now, what are you referring to as far as
21 the discussion here? Are you referring to the
22 discussion of the draft response, the section of the
23 draft response?

24 A Yeah, I think it's Version 1B. It had a
25 paragraph about review of 1996 and 2000 inspection

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1 with your tape.

2 Q And why are you making this statement?
3 Why are you asking this question?

4 A Well, I have to see what did we -- what is
5 in there to make this comment.

6 Q Well, in the second sentence you say, "It
7 is very difficult to look at the CRDMs when there's
8 boric acid around it." What did you mean by that?

9 A I mean, it's the same issue that it's
10 difficult to inspect all the CRDMs because of
11 limitations of the mouse hole, the technique we're
12 using. Plus you have boric acid existing on the head.
13 I would like to see where did this say there that that
14 prompted me to write this comment. They must have
15 written that I --

16 Q Well, we don't have the actual -- I don't
17 know if there was any attachments.

18 A Okay. No attachments. So this is what
19 I'm saying, that it gives an impression that you can
20 look at all of the CRDMs, and I'm saying it's very
21 difficult to look.

22 Q Okay. Let's move on to Staff Exhibit --

23 JUDGE FARRAR: Let me ask a question.
24 This was sent on August 27th and relates to a draft
25 that was pending on that date, and you're talking

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1 about needing to make sure we had the tapes. Who in
2 the company had the tapes of the as found and as the
3 after cleaned?

4 THE WITNESS: After cleaning?

5 JUDGE FARRAR: Yeah. Who would have those
6 tapes?

7 THE WITNESS: I don't know. Normally
8 system engineers keep it.

9 JUDGE FARRAR: Would that be MR.
10 Siemaszko? Would he have had them?

11 THE WITNESS: I mean, I'm saying
12 sometimes. I don't know who keeps the --

13 JUDGE FARRAR: Would there have been
14 multiple copies? Would you do the tape and then
15 reproduce multiple copies so a lot of people have them
16 or is there only one tape?

17 THE WITNESS: I would not know about that.

18 JUDGE FARRAR: I think, Mr. Ghasemian, you
19 started out by pointing out that this E-mail didn't go
20 to Mr. Geisen. If one of these recipients of it --

21 THE WITNESS: Would you put that E-mail,
22 please, back again so I can see who?

23 It went to --

24 JUDGE FARRAR: Yeah, that's not my
25 question.

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1 THE WITNESS: Oh, I'm sorry.

2 JUDGE FARRAR: Did Mr. Geisen come to you
3 before this E-mail went out or in the few days
4 afterwards and say, you know, "I need to see these
5 tapes." Did he ask you for help in seeing these
6 tapes?

7 THE WITNESS: No, he did not.

8 JUDGE FARRAR: Go ahead.

9 He would not have had the tapes himself.
10 I mean, he could have but there would be no reasons in
11 the way the company was organized that he would be the
12 keeper of these tapes.

13 THE WITNESS: That's correct.

14 BY MR. GHASEMIAN:

15 Q Okay. Let's go to Staff Exhibit No. 9.
16 I went to the wrong exhibit. Let me show you No. 10.
17 Let's go to Staff Exhibit No. -- okay. Where are we
18 at? I'm looking at the wrong -- here we are. Okay.
19 Let me just make sure. We've got so many exhibit --
20 NRC Staff Exhibit No. 10, and this is the green sheet
21 for Serial Letter 2731, which was submitted on
22 September 4th, 2001.

23 Do you see is that your initials there?

24 Do you see the green sheet on the screen?

25 A Yes, I see.

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1 Q And is a green sheet? Could you explain
2 what a green sheet process is?

3 A Green sheet is, as you can see, the green
4 color sheet with the name of the people written down.
5 When I was sending out a response to NRC, the green
6 sheet gets attached to the top of the response, and
7 it's routed to different people to get their
8 concurrence and signature.

9 Q And various managers from various
10 departments sign it; is that --

11 A Correct.

12 Q And does each manager have a different
13 responsibility, you know, what they're supposed to
14 look at and what they're supposed to approve or concur
15 with?

16 A I think green sheet has some description
17 of the document, the back of it.

18 Q Okay.

19 A Was the thing at work.

20 Q Now, do you see your initials on here?

21 A Yes, this is my initial.

22 Q And I read under the column received 8/28
23 and approved 8/28.

24 A Right.

25 Q So you signed off on it on 8/28. Is that

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1 fair to say?

2 A Right.

3 Q Okay. Did you write an E-mail after you
4 signed?

5 And what did it mean when you -- after
6 signing off on it, did you write an E-mail?

7 A Yes,

8 Q Relating to the serial letter response?

9 A Yes, I did.

10 Q Let's go to Staff Exhibit 42.

11 JUDGE FARRAR: Now the one we just left
12 was number what?

13 MR. GHASEMIAN: Number 10, Your Honor.
14 Staff Exhibit No. 10.

15 JUDGE FARRAR: Why is that not stamped?

16 MR. GHASEMIAN: It is actually. The first
17 sheet is stamped and the second sheet is the same
18 document but the unstamped version of it because we
19 didn't have any space to put the stamp. So we didn't
20 want to cover up any portions of the document.

21 JUDGE FARRAR: Maybe it's Joanne's fault.
22 I can blame her.

23 MR. GHASEMIAN: No.

24 JUDGE FARRAR: I'm sorry. I was missing
25 a -- Oh, this is 42.

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1 PARTICIPANT: Yes.

2 JUDGE FARRAR: I'm sorry, Mr. Ghasemian.
3 Somehow the copy we had did not have the stamp on it.
4 So that's why I was confused.

5 MR. GHASEMIAN: I apologize for that.

6 JUDGE FARRAR: But the green sheet we were
7 just talking about had a space on the second page for
8 Mr. Geisen's signature.

9 MR. GHASEMIAN: Yes. Yes, Your Honor.

10 JUDGE FARRAR: Can you bring that up?
11 Joanne, let me have that again.

12 MR. GHASEMIAN: It's several pages down,
13 Your Honor. It's Bates stamped at the bottom. There
14 are two Bates stamps, but the NRC one is NRC027-1696.
15 As you may know, Mr. Geisen signed off. He signed it.

16 JUDGE FARRAR: Okay. I had a 1694 where
17 he had not signed off.

18 MR. GHASEMIAN: If you go down a couple
19 more --

20 JUDGE FARRAR: A 1696, he had signed off.

21 MR. GHASEMIAN: Yes.

22 JUDGE FARRAR: Received at 8/28; approved
23 at 8/28.

24 MR. GHASEMIAN: And then as you will see,
25 may note, he also signed off for Mr. Moffitt.

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1 JUDGE FARRAR: Yes. Right.

2 MR. GHASEMIAN: A couple days later.

3 JUDGE FARRAR: Did Mr. Geisen, Mr. Goyal,
4 before -- in between when you signed it on the 28th
5 and he signed it on the 28th, did he have any
6 conversation with you about it?

7 THE WITNESS: With my supervisor?

8 JUDGE FARRAR: No, did Mr. Geisen have any
9 conversation with you about it?

10 THE WITNESS: No.

11 JUDGE FARRAR: About the letter?

12 THE WITNESS: No.

13 JUDGE FARRAR: Do you know if he had any
14 conversation with your supervisor about it?

15 THE WITNESS: Not -- If I did, I do not
16 recall.

17 JUDGE FARRAR: On a day-to-day basis and
18 forget this project, forget anything about the cracks
19 and stuff, Mr. Swim worked for Mr. Geisen. You worked
20 for Mr. Swim. Tell me about the hierarchy there.
21 Would you talk to Mr. Geisen on a regular basis about
22 -- I mean, would you see him in the hallways or
23 somewhere? Would you talk directly to him if, say, a
24 minor problem came up and you happened to see him?
25 Would you ask him about it or was there a hierarchy

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1 where you only talked to Mr. Swim and Mr. Swim only
2 talked to Mr. Geisen?

3 THE WITNESS: On certain issues, I did
4 talk to him which were related to the materials
5 committee. But the other items I went through Mr.
6 Swim.

7 JUDGE FARRAR: So you weren't forbidden --
8 There wasn't a rigid hierarchy where you couldn't talk
9 to him.

10 THE WITNESS: No, there wasn't any rigid
11 hierarchy, but I mostly discussed with him Owners
12 Group issues, you know.

13 JUDGE FARRAR: Thank you.

14 BY MR. GHASEMIAN:

15 Q Mr. Goyal, let's go to Staff Exhibit No.
16 42. Is this the email that you were talking about
17 just a moment ago that you sent after signing the
18 green sheet?

19 A Yes.

20 Q And you sent it a couple days later on
21 August 30, 2001 in the morning and you sent it to
22 Andrew Siemaszko, Mark McLaughlin and cc'ed Mr. Cook
23 and Mr. Miller. The subject line is "Heads
24 Inspection." I'm going to highlight the sentence "You
25 say that we don't say anywhere in our response to the

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1 bulletin that inspection through the mouse holes
2 creates an impediment for 100 percent visual
3 examination" and in parenthetical you say "(management
4 needs to know this)." Why did you write this?

5 A There was a draft on the 2731 came to me
6 for review I had put down a comment on it that we
7 don't say that there's an impediment to 100 percent
8 inspection through the mouse holes and that I was not
9 going to sign it until you put that comment in there.
10 But it went back to Mr. Cook and then I had a visit
11 from Mr. Cook and Mr. Siemaszko. They came and talked
12 to me about the comment and indicated, Mr. Siemaszko
13 indicated, there was no problem. He can look at the
14 100 percent of the head and based on that discussion
15 I signed that green sheet.

16 And later then I had a second thought
17 about that and then sent out this email saying that we
18 don't say anything about 100 percent, I mean, the
19 impediment to the 100 percent inspection. So that's
20 the email I sent out and this email also has those --
21 had the holes that Mr. Siemaszko wanted to -- that
22 there is no ring work request has been initiated to
23 cut the holes in the services structure. So there are
24 two issues which are kind of mixed together.

25 JUDGE FARRAR: Before I ask the next

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1 question, Mr. Goyal's interaction with the staff in
2 terms of enforcement has been concluded. Is that
3 correct?

4 MR. GHASEMIAN: Yes, Your Honor.

5 JUDGE FARRAR: And you have a deferred
6 prosecution agreement with the Justice Department that
7 simply says, "Go about the world and tell the truth
8 and you'll be okay." It says more than that I'm sure,
9 but that's what it says.

10 THE WITNESS: Tell the truth and accept
11 the responsibility for your action.

12 JUDGE FARRAR: Okay. So then let me ask
13 this question. Let me make sure I understand what you
14 just said. You saw the draft response and you said to
15 somebody, "I'm not signing that. That's not right."

16 THE WITNESS: I mean I didn't sign it.

17 JUDGE FARRAR: But first you said I'm not
18 going to sign that.

19 THE WITNESS: Right.

20 JUDGE FARRAR: It's not right and then Mr.
21 Siemaszko came to see you with Mr. Cook.

22 THE WITNESS: Right.

23 JUDGE FARRAR: And they asked you what
24 your problem was and you told them the problem and
25 they said, "Don't worry about it. You can see the top

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1 of the head or whatever." Now you knew that not to be
2 true. Isn't that correct?

3 THE WITNESS: Right.

4 JUDGE FARRAR: But they prevailed on you
5 to sign it anyhow.

6 THE WITNESS: They provided some
7 convincing there's no problem, that they can see the
8 entire head and I signed it.

9 JUDGE FARRAR: But you knew that wasn't
10 true.

11 THE WITNESS: That's why I sent the email,
12 yes.

13 JUDGE FARRAR: Okay. Don't get -- We'll
14 go through it. But when they came and talked to you,
15 they convinced you even though you knew it wasn't
16 true.

17 THE WITNESS: Yes.

18 JUDGE FARRAR: And so you signed it.

19 THE WITNESS: Right.

20 JUDGE FARRAR: Did you go to Mr. Swim and
21 say, "I need help here, boss. I've just signed
22 something that I know isn't true"?

23 THE WITNESS: No, I did not go to my boss.

24 JUDGE FARRAR: And then you also did not
25 go to Mr. Geisen and say, "I need help, Mr. Big Boss.

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1 I just signed something that's not true."

2 THE WITNESS: Right. I did not go to Mr.
3 Geisen.

4 JUDGE FARRAR: So when Mr. Geisen got this
5 he had no way, and since you hadn't talked to him
6 about he had no way of knowing from the documents that
7 this problem existed.

8 THE WITNESS: Right.

9 JUDGE FARRAR: There was nothing to alert
10 him later that same day that he shouldn't sign this
11 because of the problem you just talked about. He
12 didn't know about that problem.

13 THE WITNESS: Right.

14 JUDGE FARRAR: Okay. Then two days later
15 you know you have a problem, so you go ahead and send
16 this email.

17 THE WITNESS: Right.

18 JUDGE FARRAR: Because now you're trying
19 to make sure the problem gets dealt with even though
20 the memo, the response, is going to the NRC. You're
21 trying internally to rectify that by dealing with
22 these other people and saying, "We have to take care
23 of this."

24 THE WITNESS: Right. One of them is the
25 preparer of it, Mr. Siemaszko.

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1 JUDGE FARRAR: Right. Okay. Good. Thank
2 you.

3 JUDGE TRIKOUROS: And one of the things
4 they told you to induce you to sign it was that there
5 would be a modification made that would help this
6 thing.

7 THE WITNESS: That's a separate issue, but
8 I combined the issue to the same email for whatever
9 reason. I was just trying to inform that we are
10 planning to cut inspection openings during 13
11 refueling outage so we can clean the head and look at
12 the head, yes.

13 JUDGE TRIKOUROS: You see those as
14 separate issues.

15 THE WITNESS: Separate issues.

16 JUDGE FARRAR: Go ahead, Mr. Ghasemian.

17 MR. GHASEMIAN: Thank you, Your Honor.

18 BY MR. GHASEMIAN:

19 Q Just as a clarification, when you had the
20 discussion with Mr. Siemaszko about the impediments
21 when he said, he came to you and kind of persuaded you
22 otherwise, was it just him or was it with Mr. Cook?

23 A Both were there.

24 Q Both were there?

25 A Both were there.

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1 Q And who was doing most of the kind of
2 persuasion?

3 A Talking with them by Mr. Siemaszko.

4 JUDGE FARRAR: It was who?

5 THE WITNESS: Mr. Siemaszko, Systems --

6 BY MR. GHASEMIAN:

7 Q So on August 30 when you sent this email,
8 the Serial Letter 2731 hadn't been sent to the NRC at
9 that time yet, was it?

10 A I think it went later on than that.

11 Q Yes, I think the dates on that serial
12 letter is September 4th. So this is roughly four to
13 five days, you know, four days before the date of the
14 document.

15 A Right. It went the 4th then.

16 Q Now let's go to Serial Letter 2731, Staff
17 Exhibit No. 6.

18 JUDGE FARRAR: Six or nine?

19 MR. GHASEMIAN: No, Your Honor. For some
20 reason I wrote six on my notes, but it is actually
21 nine.

22 JUDGE FARRAR: Nine.

23 BY MR. GHASEMIAN:

24 Q Do you recognize this document, Mr. Goyal?

25 A Yes. It's dated September 4th, a response

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1 to Bulletin Serial Number 2731.

2 Q And is that serial -- And this is the
3 drafts that we were talking about related to earlier
4 drafts of this document. Is that fair to say?

5 A Yes.

6 Q Okay. So I'm going to go down to
7 Attachment 1. It's on page 18 of 19. There's a
8 diagram there I want to ask you some questions about
9 and it's Bates-stamped at the bottom lower right
10 corner, NRC036-03675 and in the box to the right it
11 says, "Figure 3, CRDM Inspection Plant Flow Chart."
12 Were you involved in the creation of this flow chart?

13 A Yes. Yes, I was.

14 Q And did you work with anybody else?

15 A I worked with Mr. Chuck Daft who was in
16 the ISI group.

17 Q And what does ISI stand for?

18 A In Service Inspection.

19 Q And can you read what that black, it's
20 almost not visible or legible, can you read what it
21 says in the black box?

22 A No, I can't.

23 Q Okay. My copy -- Well, let's --

24 JUDGE FARRAR: Sorry. It's hard to read
25 on the screen or do we agree it says, "RV Head Visual

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1 Inspection"?

2 MR. GHASEMIAN: Yes. Yes, Your Honor. My
3 version kind of I can read. That's what it says.

4 JUDGE FARRAR: Okay.

5 BY MR. GHASEMIAN:

6 Q So this flow chart, you created it when?
7 Roughly, time frame wise?

8 A It was during the preparation of the
9 response to the bulletin.

10 Q So the bulletin caused you to, you and Mr.
11 Daft, to create this flow chart.

12 A Right. For future inspection.

13 Q That's what I was going to ask. And the
14 flow chart was for what to do for future inspection.

15 A Right.

16 Q And the one that was coming up in 2002.
17 Now for 2000 and '98 and '96, this wasn't around.

18 A Correct.

19 Q This flow chart. So let's go through the
20 flow chart. It says "Boric acid deposit detected."
21 So the box below it, it says, "Determine source" and
22 there are three boxes below that. It's "Recent CRDM
23 flanges" and you go down a certain path, "Leaking
24 nozzles" and then the next, the action item, is to
25 inspect the nozzle and if you can't determine the

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1 source, it comes back to "inspect nozzles." Is that
2 fair to say? Is that a fair description of it?

3 A Yes, it is.

4 Q So if you can't -- If it's a leaking
5 nozzle or if you can't determine the source, you
6 inspect the nozzle, right?

7 A Right.

8 Q And what do you do to inspect it? What
9 are -- It says I think both flow paths are pretty much
10 the same. You do the same things. And I want to ask
11 you about "characterize flaws." What does that mean?

12 A That means you determine the size of the
13 crack, the location of the crack. Characterize the
14 flaws means characterize the cracks, you know, where
15 are they located, axial, circumferential.

16 Q And how do you find out whether it's axial
17 or circumferential?

18 A I mean the NDE methods could be used.

19 Q And by NDE.

20 A Non-destructive examination. A
21 combination of PT, UT or ECT, you know.

22 Q And PCT is what?

23 A ECT is eddy current.

24 Q Okay. So those are the types of
25 examinations we talked about a little bit earlier in

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1 the day.

2 A Right.

3 Q Okay. Now if back in 2000 or '98 or '96,
4 Davis-Besse determined that the boron was the result
5 of leaking flanges. Now let's say they couldn't
6 determine that, what the source of the boron was.
7 What would have happened? Would they have followed
8 the same kind of flow chart as we have here?

9 A Yes. I mean if you follow this flow chart
10 it will follow the same path.

11 Q So what would they have done if they
12 couldn't determine what the source was?

13 A Inspect the nozzles to determine the
14 source.

15 Q So although this flow chart you created it
16 for the future inspection, it kind of applies for what
17 you would have done in the past. Is that fair to say?

18 MR. HIBEY: I think that's totally
19 speculative. Objection. This document speaks for
20 itself and that should be the end of it.

21 MR. GHASEMIAN: Your Honor, if I may
22 respond. This document speaks for what they're going
23 to do for future inspection. I'm asking the witness
24 based on what's on this flow chart is that the type of
25 actions that they would have, not necessarily what

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1 exactly this is, but does this type of action reflect
2 what the plant would have done in past inspections.

3 MR. HIBEY: I think that's speculative.

4 JUDGE FARRAR: We'll permit it and take
5 the answer for what it's worth and then after you
6 answer I want to ask you something. Go ahead. You
7 can answer or do you need it repeated?

8 THE WITNESS: What was the question?

9 BY MR. GHASEMIAN:

10 Q So in the past inspections if through the
11 inspections you couldn't determine the source of the
12 boron that was found on the head in 2000, '98 or '96,
13 what would have -- what would be the next step to
14 figure out what the source was?

15 A Based on this flow chart if you can't
16 determine the source, you inspect the nozzles.

17 Q Well, this flow chart wasn't in place in
18 2000, '98 and '96.

19 A Right.

20 Q So if in, let's say, 1996 the source
21 couldn't be determined, what would be the next step?

22 A Probably to inspect nozzles.

23 Q And how do you -- How would you have
24 inspected the nozzles?

25 A Use the techniques which are, which were,

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1 available at that time which would be PT, UT. ECT was
2 still in development. It was in development in '96.
3 So we used the techniques what was available for NDE
4 and perform an inspection to the best of the tools
5 available.

6 MR. GHASEMIAN: I don't have any more
7 questions of --

8 JUDGE FARRAR: Of this witness?

9 MR. GHASEMIAN: Of this document.

10 JUDGE FARRAR: Yes. We've been having so
11 much fun I forgot to look at my watch and we started
12 early and it's way past the lunch room.

13 MR. GHASEMIAN: Your Honor, I only have
14 three more exhibits to go through and so I think it's
15 probably best if we just finish off and take a break
16 rather than take a break and come back for Mr. Goyal.

17 JUDGE FARRAR: Let me ask the witness.
18 It's not easy sitting there in the witness box having
19 a whole lot of people asking you questions. Do you
20 want to -- Would you prefer to continue with just a
21 few more exhibits and then have lunch or would you
22 rather stop and have lunch now?

23 THE WITNESS: We can continue if everybody
24 agrees.

25 JUDGE FARRAR: Okay. That would be

1 better, Mr. Wise, for you to finish the direct before
2 lunch. Then you would have Mr. Hibey to prepare.
3 Then let's -- Roy?

4 JUDGE HAWKENS: Full speed ahead.

5 JUDGE FARRAR: Then let's go ahead.

6 BY MR. GHASEMIAN:

7 Q Let's go to Staff Exhibit 49.

8 JUDGE FARRAR: Well, I hate to do this.
9 But before we leave that exhibit on page 03659 down in
10 the corner, the last full paragraph on the page says,
11 "A gap exists between the pressure vessel head and the
12 insulation, the minimum gapping approximately two
13 inches and does not impede visual inspection." Mr.
14 Goyal, as I understand the evidence the insulation may
15 not impede visual inspection, but the geometry and the
16 length of the pole and the way in which the camera is
17 angled makes visual inspection impossible. Did you
18 happen to notice this? Did this sentence concern you?

19 THE WITNESS: Yeah. The comment was on
20 this paragraph that we're not identifying that there
21 is a impediment inspection because of the mouse holes
22 location and the technique used. But the centers,
23 well, just that impediment.

24 JUDGE TRIKOUROS: But now --

25 JUDGE FARRAR: Go ahead.

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1 JUDGE TRIKOUROS: But now I asked you
2 before -- Let me back up. All B&W plants have this
3 same configuration.

4 THE WITNESS: That is a correct statement
5 except they have modifications which were
6 modifications of additional 10 or 12 holes which were
7 installed in all the plants in '96. Only Davis-Bessie
8 and ANO-1 did not have those holes.

9 JUDGE TRIKOUROS: Right.

10 THE WITNESS: So all the --

11 JUDGE TRIKOUROS: But when I asked you
12 about the importance of those man ways or inspection
13 holes you had said that that was a separate issue from
14 the two inch gap. Because I was getting at can you
15 with those inspection holes, the two inch gap, the two
16 inch gap between the insulation and the top of the
17 head is not an issue, you had said that's a separate
18 question and I'm not sure we're on the same page, you
19 and I. If the modification had been made to cut those
20 holes --

21 THE WITNESS: Right.

22 JUDGE TRIKOUROS: -- would your position
23 regarding the inability to inspect the top of the
24 head, would that still be true?

25 THE WITNESS: Yes. If you cut the holes,

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1 you can see the top of the head. You can reach it.

2 JUDGE TRIKOUROS: So the modification
3 would make the ability to inspection the entire head.

4 THE WITNESS: That is correct and that was
5 verified by talking to the other utilities.

6 JUDGE TRIKOUROS: Okay. That's fine. I
7 just want to make sure.

8 THE WITNESS: It is recorded in the '96
9 551 that I talked to two utilities. That was the
10 action assigned to me to talk to the utilities to make
11 sure that these inspection openings were provided
12 access for inspection and cleaning which was
13 confirmed.

14 JUDGE HAWKENS: Did you receive training
15 or how did you get an understanding of what it meant
16 when you signed approval on a green sheet?

17 THE WITNESS: I do not recall training of
18 -- I think it was understood that you are signing your
19 area is correct, up to date. The area you are
20 responsible for or that you are reviewing that it is
21 correct.

22 JUDGE HAWKENS: All right. Thank you.

23 MR. GHASEMIAN: May I proceed, Your
24 Honors?

25 JUDGE FARRAR: Yes. Go ahead please.

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1 MR. GHASEMIAN: Thank you.

2 BY MR. GHASEMIAN:

3 Q Going forward to Staff Exhibit No. 49,
4 this is a email from you, Mr. Goyal, to Mr. Geisen and
5 courtesy copy to Misters Wuokko, Miller and
6 McLaughlin. The subject line is "Crack Growth Rate"
7 and the date is October 3, 2001. Now the first
8 sentence you're referring to "Yesterday we mainly
9 discussed/focused this CGR..." What's the CGR?"

10 A CGR is crack growth rate.

11 Q "...of crack in CRDM nozzle tubes, i.e.,
12 CGR in Alloy 600 material." So you had a meeting with
13 the recipients of this email the day before about the
14 crack growth rate.

15 A I don't recall that "Yesterday we mainly
16 discussed..." Okay. So that yesterday was a meeting
17 and discussed about the Alloy 600 CGR, crack growth
18 rate.

19 Q And in that meeting, I mean, is Misters
20 Geisen and Wuokko and others, were they in that
21 meeting?

22 A That I do not recall.

23 Q So do you know why you would send it to
24 Mr. Geisen?

25 A I was keeping Mr. Geisen and my supervisor

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1 informed of what is going on with the various issues.

2 Q Okay. And the next sentence you talk
3 about the purpose of your notes and by your notes,
4 you're talking about this email.

5 A Well, I'm talking about two materials,
6 Alloy 600 and Alloy 182 and there was some industry
7 notification, not notification, information that Alloy
8 182 crack growth rate is faster than Alloy 600.
9 That's just information, you know.

10 Q And the last sentence you say, "We don't
11 need to discuss this with the NRC. Should the NRC ask
12 a question on this subject we need to say that the
13 industry experts are in the process of establishing
14 the rate."

15 A Right.

16 Q Now was there an interaction with the NRC
17 that you're writing about? Was there something
18 scheduled for that day?

19 A I do not recall.

20 Q Okay. And do you recall why you were
21 sending this information to Mr. Geisen?

22 A I didn't -- I send it to Mr. Geisen, the
23 same to Mr. Wuokko, Mr. Miller and Mark McLaughlin.

24 Q And I guess the information you were
25 making a distinction between the two different types

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1 of --

2 A Materials.

3 Q -- materials. Right.

4 A One is the -- material and one is the tube
5 material.

6 Q Okay, and you just wanted him to know the
7 distinction.

8 A What is going on.

9 Q Going to Staff Exhibit 53. Now this is
10 another email that's dated October 3, 2001. It's the
11 same day. You are a -- It's an email from Mr.
12 McLaughlin and you're a recipient and he's forwarding
13 you and several other individuals an email that you
14 had sent to Mr. McLaughlin and cc'ed Mr. Geisen. I'm
15 highlighting Mr. Geisen's name. Do you see that?

16 A Yes, I see that on there.

17 Q So in a way you're sending -- You're
18 getting back the same email that you sent to Mr.
19 McLaughlin. Is that fair to say?

20 A Yes.

21 Q Okay. So the email that you had sent on
22 that same day earlier at 1:20 p.m. you had sent it to
23 Mr. Geisen.

24 A Right.

25 Q And to Misters McLaughlin and Daft and Mr.

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1 Swim and others or that's it. And the subject line is
2 "Photo of the Crystal River VHP Indication" and VHP is
3 what?

4 A Vessel head penetration.

5 MR. GHASEMIAN: Okay. And I'm going to
6 scroll down to the last photo and, Your Honors, the
7 staff and Mr. Geisen's counsel have stipulated that
8 this photo is the same photo as the small black, what
9 we have on the scene, the black and white. Through
10 the copying it just didn't come out right.

11 JUDGE FARRAR: All right. Fine.

12 MR. GHASEMIAN: So we've stipulated that
13 this photo is the same photo that was attached to the
14 email on October 3, 2001.

15 JUDGE FARRAR: All right.

16 BY MR. GHASEMIAN:

17 Q Now do you see the photo on the scene, Mr.
18 Goyal?

19 A Yes, I do.

20 Q And what is this an indication of?

21 A This is a very -- I mean it's a small leak
22 around the CRDM tube. The nozzle is leaking and this
23 is -- In the industry they call it popcorn-type
24 deposits. It looks like popcorn around the tube.

25 Q And what that's a result of? What kind of

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1 crack?

2 A That's a nozzle crack, you know.

3 Q And this was found at Crystal River, a
4 vessel head indication.

5 A Right. Crystal River.

6 Q And do you know why you sent it to Mr.
7 Geisen and Mr. Swim and Mr. Coakley when you sent the
8 email on October 3rd?

9 A Yes, I sent it to Chuck Daft. He's in the
10 ISI group and I sent it to them for the information.

11 Q And do you recall why you forwarded this
12 email or this picture to these folks?

13 A For their information and use. Mark
14 McLaughlin is the -- He was the Alloy 600 project
15 manager type on the Davis-Besse. That's why he's on
16 this list.

17 Q Now going to Staff Exhibit 54, this is an
18 email again on the same day on 10/3/2001 at roughly
19 sometime past 2:00 p.m. You sent an email to Mr.
20 Geisen and cc'ed Misters McLaughlin, Miller, Wuokko
21 and Mr. Swim and the subject line is "Ocone 3
22 Inspection" and are you -- In the first sentence, I
23 see that you say "I discussed OC 3 inspection results
24 with Dave Whitaker" and I think we've talked or we've
25 referred to Mr. Whitaker a couple times before.

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1 A Right.

2 Q What did you discuss with Mr. Whitaker
3 about OC 3?

4 A I just discussed the inspection results
5 with Mr. Dave. That's why they missed the detection
6 on the nozzle in the spring of 2000.

7 Q And referring you to the middle of that,
8 I'm going to highlight it, he said, I'm reading,
9 "There were two reasons. They didn't know what they
10 were looking for (They were looking for large
11 quantities of boron sitting on the head) and, two, the
12 head was not clean." I guess I went a little too far.
13 Let me -- Those were the reasons that he told you
14 about the condition at Oconee.

15 A Right.

16 Q Now the condition, how did that relate to
17 Davis-Besse? Were there large quantities of boron
18 sitting on the head in your inspection and subsequent
19 reviews?

20 A There were large quantities, but we didn't
21 know the source and the head was not clean.

22 Q And this information is saying that they
23 missed the indications at Oconee when they had those -

24 -

25 A When they inspected the head in the spring

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1 of 2000.

2 Q I think we earlier -- I think Judge Farrar
3 may have asked, I think, mentioned or asked you were
4 you subject to an NRC enforcement action.

5 A Yes.

6 Q And why were you subject to the NRC
7 enforcement action? Why? What was the reason that
8 the NRC took action against you?

9 A I think it was providing inaccurate
10 information.

11 Q And was there any sanction imposed against
12 you?

13 A Yes.

14 Q And what was it?

15 A I think I was barred for one year.

16 Q You were barred from working in the
17 nuclear industry?

18 A Working in the nuclear industry.

19 Q For one year.

20 A One year.

21 Q And did you appeal that?

22 A Yes, I did.

23 Q And what happened after you appealed it?

24 A I didn't pursue it.

25 Q And did you subsequently enter into some

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1 agreement with the Department of Justice?

2 A Yes.

3 Q And what was that about?

4 A That was -- Again I think it was based on
5 providing inaccurate information and you know agreeing
6 to sign an agreement that you accept the
7 responsibility and provide truthful testimony.

8 Q And is that why, the reason, you signed
9 that agreement was to accept responsibility for your
10 actions.

11 A Yes.

12 JUDGE FARRAR: What did the Department of
13 Justice ask from you in return for deferring
14 prosecution or were they just feeling generous that
15 day?

16 THE WITNESS: No, they asked for full
17 cooperation in an investigation and provide truthful
18 testimony.

19 JUDGE FARRAR: And you provided them that
20 cooperation.

21 THE WITNESS: Yes.

22 JUDGE FARRAR: And did you provide the NRC
23 staff that same cooperation?

24 THE WITNESS: Yes.

25 MR. GHASEMIAN: Could I ask a couple of

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1 follow-up questions, Your Honor?

2 BY MR. GHASEMIAN:

3 Q Has the NRC staff -- Are you standing to
4 gain anything from your testimony today?

5 A No, sir.

6 Q Did the NRC staff offer you anything?

7 A No.

8 MR. GHASEMIAN: No more questions, Your
9 Honor.

10 JUDGE FARRAR: And your penalty from the
11 staff, the one year that remained in effect.

12 THE WITNESS: I thought that was from --

13 JUDGE FARRAR: I mean, was that effective
14 immediately?

15 THE WITNESS: Yes. That was effective
16 immediately.

17 JUDGE FARRAR: So you had to leave your
18 job right then.

19 THE WITNESS: I was not working in the
20 nuclear industry.

21 JUDGE FARRAR: Oh, you had already left.

22 THE WITNESS: Right.

23 JUDGE FARRAR: Where were you working
24 then?

25 THE WITNESS: I was working with Bechtel

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1 in Nevada. They have a test site there.

2 JUDGE FARRAR: Did they, did Bechtel, find
3 out that you had been subjected to this order?

4 THE WITNESS: Yes.

5 JUDGE FARRAR: What did they say about
6 that?

7 THE WITNESS: They called my supervisor
8 and they told my supervisor and I went off to ask him
9 what did he want me to do about it and do it. I mean
10 to me just leave. So I think they contacted some
11 people and they said I could continue working.

12 JUDGE FARRAR: Fine. Thank you.

13 MR. GHASEMIAN: We don't have any more
14 questions at this time, Your Honors.

15 JUDGE FARRAR: Okay. It's 1:15 p.m. This
16 witness was going to take half a day, but I never
17 believe lawyers when they tell me that anyhow. But we
18 do need to keep on pace. Can we get by with an hour
19 lunch, Mr. Wise? So we'll come back at 2:15 p.m.?

20 MR. WISE: That's fine.

21 JUDGE FARRAR: And how long do you think
22 your cross will be? I'm sorry, Mr. Hibey.

23 MR. HIBEY: To be determined and
24 finalized, Your Honor, but I think we'll be on pace.

25 JUDGE FARRAR: Okay, and so we will get to

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1 Dr. Hiser this afternoon or start him at least.

2 MR. GHASEMIAN: Yes, Your Honor.

3 JUDGE FARRAR: Okay. Good. Then we'll
4 see you all. Get a good break, Mr. Goyal, and we
5 appreciate your testimony so far. See you at 2:15
6 p.m. Off the record.

7 (Whereupon, the proceedings went off the
8 record at 1:16 p.m. and resumed at 2:24 p.m.)

9 JUDGE FARRAR: Okay, let's go on the
10 record for the afternoon session. We've had a little
11 audio problem, so let's keep on moving..

12 Mr. Hibey, you were going to cross examine
13 Mr. Goyal.

14 MR. HIBEY: No questions, Your Honor.

15 JUDGE FARRAR: Okay. Ms. Clark, you have
16 the charging, rather than ask Mr. Goyal to talk about
17 it, the charging document, is that in ADAMS?

18 MS. CLARK: The order, yes.

19 JUDGE FARRAR: And can we take official --
20 you know, in case we want to know exactly what the
21 charge was, judicial notice. Rather than ask him to
22 go through exactly what the charge was, we'll just
23 read the document.

24 MS. CLARK: Okay would you like us to
25 bring it in here, Your Honor?

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1 JUDGE FARRAR: We'll get it and take
2 notice of it. Let me just ask one, just one set of
3 questions.

4 The head corrosion incident was in the
5 spring of 2002. When did you leave the company?

6 THE WITNESS: I left the company in
7 September 2002.

8 JUDGE FARRAR: So that was after the
9 investigation started.

10 THE WITNESS: Right.

11 JUDGE FARRAR: And you left. And then
12 when the order came out in January 2006, you had
13 already left. Was that an immediately effective
14 order?

15 THE WITNESS: Right, I was not working in
16 the --

17 JUDGE FARRAR: Right. So it had no impact
18 on you in the way you described it.

19 THE WITNESS: Right.

20 JUDGE FARRAR: Okay, fine. There having
21 been no --

22 (Pause.)

23 All right, Mr. Geisen, having no cross,
24 there's no -- we have no questions and there's no
25 redirect, so we're done.

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1 Mr. Goyal, he came to town last night, I
2 think? Thank you for coming. We, of course, don't
3 know how this case is going to come out and I don't
4 want to say anything else about your testimony, but it
5 seems to us looking at the evidence that you tried for
6 a good number of years to bring to the attention of
7 the company people a problem that you saw that existed
8 and even though the whole thing came to a bad end for
9 you, I think you ought to be commended for that
10 effort, particularly since it was something that when
11 they first asked you to inspect the head that was not
12 your business. So we appreciate your coming here to
13 testify and your efforts when you were within the
14 company, at least on that part of the -- what you were
15 doing. And that's not meant as a negative comment
16 about the enforcement or anything. Just you appeared
17 for a good point to be trying to do a good job. And
18 I want to make sure that we knew that that came
19 through.

20 Then you're -- we don't need him to stand
21 by? Okay, then you're excused with the Board's
22 thanks. Please do not talk about your testimony until
23 the -- with anyone until after the end of the week
24 just in case word got around to one of the other
25 witnesses. It may not, but you're free to talk after

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1 the end of the week when our trial is over, if you
2 would not talk about your testimony with anyone.

3 THE WITNESS: Yes, I will not talk.

4 THE COURT: Thank you, sir.

5 (The witness was excused.)

6 THE COURT: All right, will Dr. Hiser be
7 next?

8 MR. GHASEMIAN: Yes, Your Honor. We'll
9 call him in.

10 (Pause.)

11 JUDGE FARRAR: Mr. Hiser, before you sit
12 down, raise your right hand, please.

13 WHEREUPON,

14 ALLEN LEE HISER
15 WAS CALLED FOR EXAMINATION BY THE NRC STAFF AND,
16 HAVING FIRST BEEN DULY SWORN, WAS EXAMINED AND
17 TESTIFIED AS FOLLOWS:

18 JUDGE FARRAR: And thank you for making
19 yourself available today. We heard yesterday of the
20 tragedy your friend is going through and we appreciate
21 you making yourself available today.

22 DIRECT EXAMINATION

23 BY MR. GHASEMIAN:

24 Q Good afternoon, Dr. Hiser. Could you
25 state your full name and spell your last name?

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1 A My full name is Allen Lee Hiser, Jr. The
2 spelling of that is A-L-L-E-N H-I-S-E-R.

3 Q And who do you work for?

4 A I'm employed by the U.S. Nuclear
5 Regulatory Commission in the Office of Nuclear Reactor
6 Regulation.

7 Q Before I ask you any other questions, did
8 you have an opportunity to watch any of the proceeding
9 on the internet or on the internal TV circuits?

10 A No.

11 Q Did you talk to any of the witnesses that
12 testified yesterday or today?

13 A No.

14 Q Did anyone talk to you about the substance
15 of any witness testimony?

16 A No.

17 Q And what is your current position at the
18 NRC?

19 A I'm a Branch Chief in the Office of
20 Nuclear Reactor Regulation. The branch is the Steam
21 Generator Tube Integrity and Chemical Engineering
22 Branch.

23 Q And what are your duties as a Branch
24 Chief?

25 A I'm a first-line supervisor of about eight

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1 or nine engineers. We deal with issues related to
2 integrity of components and nuclear power plants.

3 Q And how long have you been in that
4 position?

5 A About three years.

6 Q And what did you do before that?

7 A Prior to that I was Branch Chief in the
8 Office of Nuclear Regulatory Research and before that
9 I was an engineer in the Office of Nuclear Reactor
10 Regulation.

11 Q And how long have you been with the NRC?

12 A This finishes 19 years.

13 Q Could you tell us about educational
14 background?

15 A I have three degrees: Bachelor of Science
16 degree in Mechanical Engineering from the University
17 of Maryland. I have a Master of Science degree in
18 Mechanical Engineering from the University of Maryland
19 and a Ph.D. in Material Science and Engineering from
20 Johns Hopkins University in Baltimore.

21 Q If I may ask you, Dr. Hiser, if you would
22 direct your answers to the Board. They may not hear
23 you.

24 In 2001 time frame what was your position?

25 A I was a Materials Engineer in the Office

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1 of Nuclear Reactor Regulation, Materials and Chemical
2 Engineering Branch.

3 Q And how does the NRC generally communicate
4 in writing with reactor licensees?

5 A One of the devices that we use are called
6 generic communications. They would be things like
7 bullet and generic letters, Information Notices, and
8 regulatory information summaries, regulatory issue
9 summaries.

10 Q Let's talk about Information Notices.
11 What is the purpose of the Information Notice?

12 A Information Notice normally describes an
13 operating event that's occurred within the reactor,
14 power reactor regime would be at another operating
15 reactor. That operating event would be something that
16 would challenge safety in some way, would have
17 relevance to other plants. The Information Notice
18 would describe the event that occurred. It would
19 provide some perspective on that and it would simply
20 notify plants of the event that has occurred and
21 suggest that they evaluate the information notice for
22 relevance to their plant, but no other action is
23 required by the Information Notice. It's really a
24 one-way vehicle from the NRC to the plants to notify
25 them of this operating event.

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1 Q So it's not seeking any information from
2 licensees?

3 A No. It's as I said, just a one-way
4 vehicle. It's notifying plants of the operating
5 event.

6 Q I'm going to pull up Staff Exhibit No. 29.
7 Is this one of the information -- is this an
8 Information Notice?

9 A Yes. This is Information Notice 2001-05
10 which was issued on April 30, 2001.

11 Q What was it about?

12 A It's entitled "Through-Wall
13 Circumferential Cracking of Reactor Pressure Vessel
14 Head Control Rod Drive Mechanisms, Penetration Nozzles
15 at Oconee Nuclear Station Unit 3."

16 This Information Notice describes an event
17 that was identified at that plant in February 2001.

18 Q What was the event that was identified?

19 A What was found at Oconee Unit 3 was first
20 of all boric acid on the top of the reactor vessel
21 head. Through further investigation by the licensee,
22 they identified cracking in their control rod drive
23 mechanisms.

24 Q What kind of cracking was it?

25 A This was what's referred to as

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1 circumferential cracking which in a tubular product
2 would be a crack that runs around the circumference of
3 the tube.

4 Q And does that have a safety significance
5 to it?

6 A Yes, that type of cracking is of
7 particular concern to us because in this case the CRDM
8 nozzle, if the crack were to grow far enough, then the
9 nozzle could break, if you will, and then separate
10 with the high pressure, high temperature of the water,
11 the top of the nozzle would be ejected and a loss of
12 coolant accident could occur.

13 Q And after the issuance of this Information
14 Notice, did NRC take any other actions relating to
15 circumferential cracking?

16 A Shortly after the Information Notice was
17 issued, another unit at Oconee identified additional
18 circumferential cracks. They were very large and
19 ultimately the NRC ended up issuing a Bulletin on this
20 subject.

21 Q Hold up Staff Exhibit No. 8. Is this the
22 Bulletin that you just referred to?

23 A Yes. This is Bulletin 2001-01, issued
24 August 3, 2001.

25 Q What was this Bulletin about?

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1 A Well, I mentioned previously that there
2 are -- the NRC has several generic communication
3 vehicles that we use. The Information Notice just
4 provides information to licensees. A Bulletin is
5 different in that it requires a response by licensees.
6 In the case of this Bulletin, we laid out similar
7 information to what was in the prior information
8 notice, supplemented by the more recent operating
9 experience at the other Oconee unit and we required
10 licensees to provide us information on prior
11 inspections that they had performed at their plant in
12 this area and also to describe their inspection plans
13 for their next outage.

14 Q In the scheme of generic communications
15 that the NRC issues, how does a Bulletin fall within
16 the spectrum as far as significance?

17 A I would say Bulletins are the most
18 significant. They generally relate to safety issues
19 and generally they're issued in a very timely manner.
20 For example, the Information Notice was issued in
21 April. The Bulletin was issued only four months
22 later. So I would say that these are the most
23 significant generic communications because it's
24 thought to be a significant safety issue for which we
25 need information very quickly from plants.

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1 Q And is it -- how does the NRC use the
2 information that it receives from licensees?

3 A The information is used on a plant-
4 specific basis to determine if additional regulatory
5 actions need to be taken by the NRC, for example, to
6 require actions by the licensee or to provide us with
7 information so we can just make just regulatory
8 decisions over all. For example, if we find through
9 out review of the Bulletin responses that a handful of
10 plants have a specific susceptibility or concern with
11 an issue, then we would take action possibly against
12 those plants. If we instead find that there's a more
13 widespread issue, then we would take more generic
14 regulatory action.

15 Q Now leading up to --

16 JUDGE FARRAR: Mr. Ghasemian, let me ask
17 one under the theory that there are no stupid
18 questions. I take it Bulletins go out rather
19 infrequently?

20 THE WITNESS: In that time frame they were
21 more infrequent than they are now.

22 JUDGE FARRAR: Okay, and the fact that
23 this is number 2001-01 means it's the first one in
24 2001?

25 THE WITNESS: That's correct.

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1 JUDGE FARRAR: For the regulated
2 community, this was all they had seen so far that
3 year?

4 THE WITNESS: That's correct, and actually
5 I think it was the first one since September of 1997.
6 So it had been almost four years since we issued a
7 Bulletin.

8 BY MR. GHASEMIAN:

9 Q Now after the issuance of the Bulletin,
10 was there any other meetings that the NRC had with the
11 industry relating to the Bulletin?

12 A Well, we had a lot of public meetings with
13 the industry, both before we issued the Bulletin and
14 then afterwards. The industry clearly had a high
15 interest level in this. It was through their
16 inspections that this finding first occurred. The
17 industry was trying to get ahead of the issue, if you
18 will, to implement voluntary actions. It would
19 forestall any actions by the NRC. Subsequent to
20 issuance of the Bulletin, we had I believe at least
21 one and probably a couple of public meetings where we
22 described the basis for the Bulletin and described the
23 kinds of information that we were requesting in the
24 Bulletin.

25 Q Now going to NRC Staff Exhibit No. 38,

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1 hold it up, can you see it on your screen?

2 A Yes.

3 Q It's an email dated August 15, 2001 from
4 Mr. Kennedy to Mr. Cook and this is internal to Davis-
5 Besse. I just want to direct your attention to the
6 body of the email. It refers to an 8/15/01 NRC
7 industry meeting concerning the NRC request for
8 additional information regarding the CRD nozzle
9 packing. NRC Bulletin 2001-01. Is this one of the
10 meetings that you were just referring to?

11 A Yes.

12 Q And it goes on to say the purpose of the
13 meeting was to provide NRC expectations for responding
14 to the Bulletin. Is that an accurate explanation of
15 what the purpose of the meeting was?

16 A Yes, it is.

17 Q Now were you involved in the issuance of
18 the NRC Bulletin 2001-01?

19 A I was the technical lead on preparation of
20 the Bulletin, developing the text of the Bulletin
21 itself, working with our senior managers to ensure
22 that we had the right focus on the Bulletin and then
23 working it through the administrative processes, if
24 you will, to get the Bulletin issued. Part of that is
25 a review by our committee to review generic

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1 requirements, for example.

2 I was also the technical lead on review of
3 the responses to the Bulletin.

4 Q And how many responses did you review
5 roughly?

6 A Well, there's 69 plants. My guess would
7 be somewhere in the order of 25 to 35 responses, since
8 some of the responses covered multiple units.

9 Q And did you review the responses relating
10 to the Davis-Besse Nuclear Power Plant?

11 A Yes, I did.

12 Q What was the goal of the Bulletin?

13 A The goal was to sort of the overall goal
14 was to determine the status of each plant. We were --
15 did not have sufficient knowledge in terms of the
16 inspections that licensees had implemented at previous
17 outages before the Bulletin was issued. And we also
18 wanted to -- so that we didn't know if those
19 inspections were adequate to address the concerns of
20 the Bulletin. The Bulletin also then gathered
21 information about future inspection plans by
22 licensees. And this would enable us to understand
23 when plants were due inspections and the type of
24 inspections that they intended to implement.

25 Q Did it categorize plants according to

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1 susceptibility?

2 A One of the key parts of the Bulletin was
3 this graded approach where we tried to categorize
4 plants by using a parameter called susceptibility. It
5 would classify plants by those that we thought were
6 potentially highly susceptible to the cracking
7 mechanism and those would be less susceptibility and
8 then those in between that would be modern
9 susceptibility.

10 Q And what are the major factors that play
11 into placing one plant in one category or not or
12 making them more susceptible or less susceptible to
13 the type of cracking that the Bulletin was seeking
14 information about?

15 A The susceptibility model that was used in
16 the Bulletin used the operating time of the plant and
17 the operating temperature as the key parameters.

18 Q And which category did the Davis-Besse
19 plant fall?

20 A Davis-Besse was one of the high
21 susceptibility plants.

22 Q Let's go inside the Bulletin. Hold it up
23 again. NRC Staff Exhibit 8.

24 I'm scrolling down to page 4 of 15. Do
25 you see that on your screen?

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1 A Yes.

2 Q And do you see the paragraph under the
3 heading "Discussion"?

4 A Yes.

5 Q I'm going to try to highlight which I
6 can't, but I will -- it's in the middle of the
7 paragraph. The sentence starting with "In addition" -
8 - and I'll read it. "In addition to presence of
9 circumferential cracking at ONS 3" and what does ONS
10 3 stand for?

11 A That stands for Oconee Nuclear Station
12 Unit 3.

13 Q "Where only a small amount of boric acid
14 residue indicated a problem calls into question the
15 adequacy of current visual examinations for detecting
16 either axial or circumferential cracking in VHP
17 nozzles." What is this sentence -- what information
18 is being made?

19 A Well, it provides some context to the
20 findings that were made at Oconee Nuclear Station Unit
21 3. Prior to the findings of cracking at Oconee, this
22 issue actually had been examined by the industry and
23 by the NRC. Some of the conclusions from that were,
24 for example, that cracking would predominantly be
25 axial in nature. The findings at Oconee were of

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1 concern because instead of the axial cracks which
2 don't pose a significant structural integrity concern,
3 the cracking that was identified was circumferential.
4 So that was one thing that was highlighted in the
5 Bulletin.

6 A second noteworthy finding at Oconee was
7 that prior analyses had indicated that substantial
8 quantities of boric acid would be found from a leaking
9 nozzle. Instead, at Oconee, they quantified it at
10 about one cubic inch, so very small quantity was
11 found.

12 In addition, the size of the cracks that
13 were found at Oconee were almost 50 percent of the way
14 around the circumference, so clearly that indicated an
15 elevated risk of nozzle ejection well beyond what we
16 had considered previously. So I think those probably
17 were the three main factors that really are laid out
18 overall in the Bulletin, but I think are sort of
19 encapsulated in that one statement.

20 Q In a moment, I'm going to show you a Staff
21 Exhibit No. 68 and we'll come back to the Bulletin
22 again in a moment.

23 Is this scrolling down to the second page
24 of the exhibit, could you describe what we're looking
25 at?

1 A Yes, this is a photograph of the Oconee
2 Unit 3 upper vessel head nozzle 56, I believe it was
3 the one that had the largest cracks. What's shown
4 here in the photograph are the boric acid deposits
5 that were identified by the licensee and when they did
6 followup they found large circumferential cracks.

7 Q Now let's go back to Staff Exhibit No. 8,
8 page 4 of 15.

9 That same paragraph under the "Discussion"
10 heading. In the middle of the paragraph the sentence
11 that starts with "This is" -- do you see the cursor?

12 A Yes.

13 Q Okay. Could you read that sentence
14 starting with "This is"?

15 A The Bulletin reads, "This is especially
16 significant if prior existing boric acid deposits on
17 the RPV head masked the identification of new
18 deposits."

19 Q And what's the significance of this
20 sentence?

21 A Well, as I mentioned previously, the
22 expectation was that nozzle leakage would provide
23 large amounts of boric acid and licensees that did
24 visual inspections looked for large amounts of boric
25 acid. With the findings at Oconee, with the one cubic

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1 inch of boric acid, one of the concerns we had was
2 that licensees didn't have adequate sensitivity, that
3 they were looking for large quantities and they really
4 needed to worry about one cubic inch.

5 The other main concern beyond this
6 sensitivity was the fact that if there were prior
7 existing deposits from flange leakage or any other
8 source, Conoseal leaks, things like that at the plant,
9 then it would be difficult to identify one cubic inch
10 amongst other deposits that may have been on the head
11 from other sources.

12 Q For reactors similar to Davis-Besse's
13 design, what are the primary sources of boron deposits
14 that may be found on the vessel head?

15 A Well, there may be -- there are potential
16 sources from above the head, for example, from leaking
17 flanges, things like that. There may be a couple
18 other small instrument lines, very small, maybe one
19 inch diameter in that order. Other than that leaking
20 nozzles, for example, such as the CRDM nozzles would
21 probably be the only other source.

22 Q Looking at the exhibit we have up, in the
23 same paragraph moving on to the next -- another
24 sentence further down the paragraph, it says, the
25 sentence that starts with "however" could you read

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1 that?

2 A It says, "However, the NRC staff believes
3 that boric acid deposits that cannot be dispositioned
4 as coming from another source should be considered as
5 a conservative assumption to be from VHP nozzles and
6 appropriate corrective actions may be necessary."

7 Q And what's the significance of that
8 sentence?

9 A The significance of that is that there is
10 really a couple -- first of all, that if you found
11 boric acid deposits on the head, and if you had, for
12 example, a flange leak and you could say leaking
13 flange, boric acid on the head and directly correlate
14 the two together so that you could say this boric acid
15 came from leaking flanges. Then one could use that as
16 one way to disposition the boric acid deposit. Absent
17 an ability to make that positive link between the
18 source and the deposit, then one should take a more
19 conservative approach and say I'm not sure where
20 that's from. It may be from a leaking flange. It may
21 not. I can't prove that it's from a leaking flange or
22 from some other source, so I should assume it's from
23 a leaking nozzle. And the consequence of that would
24 be in the second case that a licensee would need to do
25 a more intrusive inspection to determine if the boric

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1 acid came from a crack in a nozzle. So that would be
2 the main consequence I think that's laid out in that
3 section of the Bulletin.

4 JUDGE HAWKENS: Excuse me, so Doctor, if
5 you knew it was coming -- if you knew you had a
6 leaking flange, and are you saying that under the
7 guidance you provided here, you could automatically
8 discount the possibility of a CRDM leakage?

9 THE WITNESS: No, I don't think -- not at
10 all. I mean it's not a matter of saying I have a
11 leaking flange. I have a deposit therefore one led to
12 the other. One would need to do some examination,
13 some additional work to be able to disposition that
14 deposit as positively coming from the leaking flange
15 or from some other source.

16 JUDGE HAWKENS: And if you have the boric
17 acid residue around the base of a CRDM, and you know
18 you have a leaking flange, then how do you conclude
19 the source of the leak?

20 THE WITNESS: From some of the operating
21 experience that we had that maybe came a little bit
22 later in the fall, for example, the deposits from
23 leaking flanges tended to be light, sort of a
24 snowflake sort of debris. It was -- it had a very low
25 density. It was not adherent to the head, could be

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1 vacuumed, could be blown away with a low pressure air
2 and that would be one way that one could disposition
3 the boric acid as coming from a source that we weren't
4 very concerned about in all honesty.

5 BY MR. GHASEMIAN:

6 Q Dr. Hiser, if a nozzle has a flange
7 leakage, does that preclude the same nozzle having a
8 nozzle leakage?

9 A No, not at all.

10 Q So is it possible to have both of them?

11 A Absolutely, yes, the two are independent
12 events.

13 Q And when you were talking about taking
14 additional -- the scenario that if you know there's a
15 flange leakage and there's boron deposits around the
16 nozzle interfacing the head, and I'm paraphrasing,
17 correct me if I'm wrong, you said that if the licensee
18 can take additional action to conclude that it's
19 coming from the flange. What kind of actions are you
20 -- were you contemplating or are you contemplating
21 that the licensee would take?

22 A Well, one would be to develop some
23 approach to do that disposition. For example, other
24 plants understanding the nature of leaks from flanges
25 and components called Conoseals that are similar to

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1 flanges, but in different reactor designs. They
2 identified the fact that leaks from those sources
3 tended to be more like snow. So it's a low-density
4 material, easily maneuvered around, so they did things
5 like vacuuming. They used low-pressure air to -- if
6 you will, clear the field so that they would be able
7 to do a visual examination where the nozzle
8 intersected the head. That was the area of concern
9 that we had.

10 So if a licensee could vacuum the material
11 away readily, then -- or use low-pressure air to
12 disturb it so that they could this visual inspection,
13 then we thought at that point in time that that was a
14 reasonable way to disposition flange leakage.

15 Q Now what if the nozzle is surrounded or
16 otherwise engulfed in boron deposits, how would you
17 consider that information as far as whether the source
18 of the boron?

19 A I don't think that would be something that
20 could be dispositioned as being from a leaking flange
21 or from some other source. The intent of that
22 description was to take a conservative stance on
23 things. If you had a deposit and you could say it was
24 from a leaking flange, then -- and you could prove it,
25 then that was acceptable. If you could not prove it,

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1 then you needed to take additional actions.

2 Q And by proving, what was expected of
3 licensees to do in order to prove that they knew it's
4 coming from a flange leakage?

5 A Well, there could be several approaches.
6 I talked about using low-pressure air, using a vacuum
7 to vacuum up the snow-type deposits, if you will. I
8 think what some other licensees did is they did
9 radionuclide dating of the deposits and they were able
10 to determine that deposits were five, ten years old,
11 that some reactor operation had occurred, had resulted
12 in a spill on the head, but it was -- had been there
13 for a long time and was benign. I mean that was
14 another approach that the licensees used.

15 JUDGE TRIKOUROS: Dr. Hiser, a quick
16 question. Having a flange leakage doesn't preclude a
17 nozzle leakage on the same nozzle, right?

18 THE WITNESS: That's correct.

19 JUDGE TRIKOUROS: So if you have a flange
20 leakage, it's likely to obstruct any ability to do a
21 qualified visual inspection of the nozzle, base of the
22 nozzle that -- where it intersects the head.
23 Therefore, it almost -- it's almost a given that you'd
24 almost have to assume there might be something else.
25 Isn't that the case?

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1 THE WITNESS: At the point in time when we
2 issued the Bulletin, I think that's what our thinking
3 was in all honesty. If you saw a deposit, you really
4 should follow up.

5 JUDGE TRIKOUROS: But you didn't say that
6 in the Bulletin which kind of surprised me.

7 THE WITNESS: We do not like to close the
8 door on licensees doing additional actions that can --
9 that they can use to prove that their plant is safe
10 and I think that really is what's reflected in there.
11 As a conservative assumption you should assume that
12 you needed to take additional actions. We didn't want
13 to close the door and say if you see anything on the
14 head, then you have to take action because there are
15 other sources that are not relevant to the purpose of
16 the Bulletin.

17 JUDGE TRIKOUROS: And you weren't trying
18 to exclude large deposits, for example, if there were
19 a large deposit at a nozzle that was not attributable
20 to a flange that did not look like popcorn, then
21 clearly that still could have been a nozzle leakage,
22 right?

23 THE WITNESS: Well, if there were large
24 deposits not attributed to a flange leak, then I would
25 say a licensee should have taken actions immediately.

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1 JUDGE TRIKOUROS: But the Bulletin didn't
2 spell out all these variations. It was just allowing
3 the Applicant to make these decisions basically?

4 THE WITNESS: Well, is allowing the
5 Applicant -- is the purpose of the Bulletin is we're
6 gathering information. We want to find out what have
7 licensees done, what's the condition of their head,
8 what are their inspection strategies going forward.
9 This part of the Bulletin just lays out a logic path,
10 if you will, that if you go back and review records
11 and you find certain things, then here's a way that
12 that information should be interpreted. We didn't
13 want to restrict licensees from doing anything. We
14 were just trying to figure out what information they
15 have and what they're planning to do at this point.

16 We did not have a multi-tiered approach to
17 interpreting the deposits and things like that. It
18 was a very straight-forward approach. Visual
19 inspection is a first level of inspection. If you see
20 something that clearly appears to be from a leaking
21 nozzle, then take more action. If you see something
22 that you're not sure if it's -- where it's from, take
23 additional action.

24 JUDGE TRIKOUROS: My last question, the
25 Bulletin didn't in any way relate to anything other

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1 than circumferential cracking of the nozzles, right or
2 the welds?

3 THE WITNESS: The major safety concern we
4 had was circumferential cracking. The deposits, in
5 all honesty, wouldn't know whether they were from an
6 axial crack or a circumferential crack. Once you saw
7 a deposit, that generally is an indication that
8 there's a problem. It's sort of like your engine
9 light going on on your dashboard. You don't know
10 necessarily what the problem is, but you generally
11 want to take your car to the mechanic fairly soon.
12 This is analogous that this would -- the licensee
13 should get a mechanic under the head and try to figure
14 out where the deposit came from, whether it was from
15 a crack or maybe there are no cracks in that nozzle.

16 JUDGE TRIKOUROS: But there was no --
17 there wasn't any thinking on the part of the NRC with
18 respect to corrosion from that boron?

19 THE WITNESS: There was nothing
20 articulated in the Bulletin.

21 JUDGE TRIKOUROS: So as far as the NRC was
22 concerned, boron on the head is not a problem at 600
23 degrees dry conditions?

24 THE WITNESS: I think some of the analyses
25 that have been performed in the mid to late 1990s had

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1 indicated that the temperature was high enough that
2 with the leak rates that were expected from cracks
3 that first of all the deposit would be identified
4 before there could be sufficient wetting of the boron
5 to cause a corrosion issue. So I think part of the
6 expectation was that the size of the cracks in the
7 leak rates you would get would be small enough such
8 that you couldn't provide an environment that would
9 promote corrosion. In that sense, boron on the head
10 with no water source would dry out and not be a
11 corrosion concern.

12 And I still think that likely is the case
13 under most circumstances. But it's when you have
14 boron, you have a water source, for example, through
15 a leaking nozzle that maintains a water environment.
16 Then you have a boric acid solution that can be very
17 aggressive with the seals that are used in the vessel
18 heads.

19 JUDGE TRIKOUROS: But the NRC wasn't
20 expecting such large leaks from nozzles at that time?

21 THE WITNESS: We were not expecting such
22 large leaks because this issue had been a focus of the
23 industry for about ten years prior to this. So we
24 knew that licensees were tuned into looking for boric
25 acid deposits. The early work related to I think

1 Generic Letter 97-01 which was issued in 1997 on
2 leaking nozzles talked about large quantities of boric
3 acid and licensees were doing inspections looking for
4 boric acid quantities.

5 The expectation we had was that if people
6 are tuned into that, then we were not expecting very
7 high leak rates overall.

8 JUDGE TRIKOUROS: Thank you.

9 BY MR. GHASEMIAN:

10 Q Dr. Hiser, when you were talking about the
11 licensees proving that their leakage was from a flange
12 leakage, did you expect that, in that process you
13 would have a full picture of the condition of the head
14 in order to make that determination so that you could
15 test or validate the arguments that are presented to
16 you to make a regulatory determination?

17 A Well, I think one of the purposes of the
18 Bulletin was to -- again, to gather information from
19 licensees about what they had done inspection-wise,
20 what their findings were. Our regulations in 10 CFR
21 50.9 stipulate that plants must provide us with
22 complete and accurate information that they submit to
23 the NRC. Our expectation clearly was that licensees
24 would provide us with all relevant information.

25 Q And by stipulate, you mean, would you

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1 agree that it's a requirement?

2 A It's a requirement, yes. And I believe
3 it's not only the licensees, but licensee staff,
4 contractor staff that's employed by the licensee. It
5 trickles down, if you will, to the staff that worked
6 for the licensee and were paid by the licensee.

7 Q Dr. Hiser, let's go -- move on to page 5
8 of the Bulletin. The first full paragraph going down
9 to the last sentence, the sentence that starts with
10 "One aspect of conducting effective visual
11 examinations." Could you read that sentence?

12 A "One aspect of conducting effective visual
13 examinations that is common to all PWR plants is the
14 need to successfully distinguish boric acid deposits
15 originating from BHP nozzle cracking from deposits
16 that are attributable to other sources."

17 Q And why was this -- why was it important
18 to distinguish the type of deposit?

19 MR. WISE: Your Honor, I'm going to object
20 at this point. I think we are deep into having Dr.
21 Hiser repeat testimony about an issue that is not
22 central to this case which is the materiality of the
23 content of the Bulletin. The Bulletin speaks for
24 itself and we're not in a situation where we are
25 challenging whether these things were material to the

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1 NRC.

2 MR. GHASEMIAN: Your Honor, may I respond?

3 JUDGE FARRAR: Yes, at the risk of being
4 reversed again by my colleagues, I was wondering as we
5 started this we heard a lot of this yesterday. We're
6 familiar with it and as you could see this morning,
7 we're much more interested in for purposes of this
8 case in finding out Mr. Geisen's connection with all
9 of this rather than -- Dr. Hiser is obviously a
10 knowledgeable witness and I'm interested in hearing
11 him, but we need to get to what happened in this case
12 and this is several times we've heard this information
13 or so it seems to me. But go ahead.

14 MR. GHASEMIAN: Your Honor, in our view
15 it's difficult to evaluate one's knowledge without
16 understanding the requirements that were in place,
17 information that was submitted to the staff.

18 And you will hear and you've heard to a
19 certain degree certain positions that are rationale
20 for certain conduct or statements that are in conflict
21 with what the Bulletin required. Those actions or
22 rationale for doing certain things may seem reasonable
23 in and of itself, but we have to look at it in the
24 context of what the Bulletin required, not necessarily
25 what the licensee wanted the NRC to know. So that's

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1 why it's critical in our view that we go through the
2 Bulletin and highlight the pertinent language that's
3 clear on its face and have the person who was the lead
4 engineer drafting the language and explaining the
5 expectations and to put things in context.

6 And therefore, we believe the document to
7 a certain degree does speak for itself, but Dr.
8 Hiser's explanation of various sentences and standards
9 that were required is critical in our ability to carry
10 our burden.

11 JUDGE FARRAR: Were we a Jury or hadn't
12 done any preparation for this case, I understand what
13 you're saying. But we really worked hard to get ready
14 for this and we really want to finish this week.

15 MR. GHASEMIAN: I believe --

16 JUDGE FARRAR: He won't like to hear me
17 say this, but Judge Trikouros could be sitting over
18 there and give the same testimony. That's why
19 Congress set up Boards like this and we're blessed to
20 have someone with his background sitting with us and
21 it's your case, but we're going to finish and let's
22 make it clear.

23 MR. GHASEMIAN: Yes, Your Honor.

24 JUDGE FARRAR: If the staff doesn't finish
25 its case this week, that's going to be its case. We

1 have a long time to get to this point and that's going
2 to be the staff's case, whenever this week ends, and
3 we go home. That's the end of the case. So please
4 bear that in mind and make sure you present to us the
5 parts of the testimony that are most important for us
6 to hear.

7 MR. GHASEMIAN: Yes, Your Honor, and we're
8 privileged to have the Board as we do, but we're not
9 in a position, unfortunately, to know -- I understand
10 what you're --

11 JUDGE FARRAR: Mr. Wise?

12 MR. WISE: The point is this. To the
13 extent that it's clear on its face, it's on its face
14 and it's in the record.

15 To the extent that something is not clear
16 on its face, the fact that Mr. Hiser or Dr. Hiser,
17 excuse me, had some alternative thought process as he
18 wrote the Bulletin is irrelevant unless he's
19 communicated that to Mr. Geisen. I don't believe
20 there will be evidence to that degree. That
21 hypothetical may be a straw man because I don't think
22 what we're hearing from Dr. Hiser is that he had
23 thoughts in his head that were not communicated
24 through the Bulletin.

25 JUDGE FARRAR: Along that line, that's why

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1 it might be good to get to somebody who can tell us
2 about this meeting that took place later at NEI's
3 request or EPRI's request or at the NRC staff's
4 invitation, all the industry people, including Mr.
5 Goyal showed up and the staff said what its
6 expectations were. That would respond to Mr. Wise's
7 point. Was there some expectation other than on this
8 page that the people knew about them?

9 MR. WISE: Well, Your Honor, I have to
10 tell you, I don't think it would be responsive because
11 I don't think there's any evidence that whatever
12 happened in that meeting was communicated to Mr.
13 Geisen.

14 JUDGE FARRAR: Somehow I knew you were
15 going to say that. This is not a good day for me.

16 Let me caucus with my --

17 (Pause.)

18 JUDGE FARRAR: Two to one again, Mr.
19 Ghasemian. Go right ahead.

20 MR. GHASEMIAN: Thank you, Your Honor.

21 JUDGE FARRAR: But I think it's really
22 three to nothing in terms of yes, it's your case, you
23 have to prove it, but let's keep it moving,
24 understanding the Board's level of preparation and in
25 most cases intelligence.

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1 MR. GHASEMIAN: Your Honor, could we have
2 a less than five-minute recess so for me to kind of
3 evaluate the whole direct and try to cut out parts to
4 address your concern?

5 JUDGE FARRAR: And believe me, we
6 understand this is your case. You have the burden.
7 And I wouldn't be urging this as a trap, well, they
8 won't cover something. No, we're only doing this
9 because we do get this and as you can see this
10 morning, we really want to get to the point where Mr.
11 Geisen is involved or lack thereof, becomes the
12 subject.

13 So let's -- it's a quarter after. Let's
14 take ten minutes, come back at 25 after and see what
15 you have cut out for us.

16 MR. GHASEMIAN: Thank you, Your Honor.

17 JUDGE FARRAR: Thanks.

18 (Off the record.)

19 JUDGE FARRAR: Go ahead, Mr. Ghasemian.

20 BY MR. GHASEMIAN:

21 Q Dr. Hiser, could you turn to page 8 of 15,
22 of the bulletin, please? Actually, excuse me, it is
23 on your screen. Can you see it?

24 A Yes.

25 Q And going down to the paragraph, it is the

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1 second to the last paragraph at the bottom, starting
2 with before the subpopulation of the plants.

3 There is a discussion, in this paragraph,
4 about qualified visual examinations. Did the bulletin
5 require a qualified visual examination for the high
6 susceptibility trends?

7 A The bulletin didn't require anything.
8 What it did is it described the type of visual
9 inspection that we thought would be adequate for high
10 susceptibility plants.

11 And that the qualified visual exam that is
12 described has two parts to it, where, first of all one
13 would need to be able to observe the interface of the
14 nozzle, in the head, to see if there are any deposits
15 there.

16 And, second of all, was what was called a
17 gap analysis. So it would be a mathematical analysis
18 that would demonstrate that there was a gap between
19 the nozzle and the head, such that if you had a leak,
20 that a deposit would be available on the head to be
21 observed.

22 Q So when you were saying one of the factors
23 was to be able to look at all the nozzles, is that
24 equivalent to one hundred percent inspection of the
25 head?

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1 A Yes, that would be one way to look at it,
2 it would be that it is one hundred percent of the head
3 inspection. If you -- for a plant like Davis-Besse
4 there are 69 nozzles. If you only looked at 68, the
5 69th may be the one that has a big circumferential
6 crack that causes a LOCA.

7 So we needed to, licensees needed to be
8 sensitive to all nozzles on the head.

9 Q And you referred to gap analysis. Could
10 you explain what a gap analysis is?

11 A Well, the gap analysis relates back to how
12 the nozzles are fabricated. Through a process called
13 an interference fit process, the outside diameter of
14 the nozzles is, actually, larger than the diameter of
15 the holes.

16 So in order to insert the nozzles into the
17 holes the nozzles are cooled down using liquid
18 nitrogen, for example, so at minus 250 fahrenheit, for
19 example.

20 So the nozzle contracts, it is inserted
21 into the head, as it warms up it expands and
22 intersects with the vessel head.

23 In general terms these interference fits
24 are on the order of five thousands of an inch, maybe
25 ten thousands of an inch, in terms of diametral

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1 difference.

2 So there is hard metal to metal contact.
3 The concern that we had was that if you had a leak
4 around the weld, on the CRDM nozzle, that this
5 interference fit would be so tight, that you may have
6 a leak, but that leak would be trapped by this
7 interference fit.

8 So you wouldn't get boric acid to travel
9 to the top of the head where your visual inspection
10 would be effective in detecting the leak.

11 So this gap analysis was, again, a
12 mathematical analysis using as-built dimensions, so
13 that the licensee could demonstrate that they, in
14 fact, would get an opening of that interference fit,
15 so that a leak at the weld, or anywhere on the nozzle,
16 would manifest itself as a deposit on the head, and it
17 could be identified through the visual inspection.

18 That is why I say there are two parts to
19 it, the gap analysis, plus being able to visualize the
20 interface of the head and the nozzle.

21 Q For nozzles that did not open up, or the
22 nozzles that did not have a gap, how would that
23 influence a determination whether an inspection is a
24 qualified visual inspection or not?

25 A Well, for any specific nozzle, if the gap

1. analysis did not demonstrate that there was a gap,
2 then that nozzle, you could not do a qualified visual
3 inspection of, because you couldn't prove that a leak
4 would give a deposit.

5 So from that perspective, again, and a
6 sort of a conservative approach, at that point in
7 time. We thought that the gap analysis needed to
8 demonstrate a gap before we could trust the visual
9 inspection.

10 Q Now, did the gap, if the gap analysis
11 indicated that there would be no gaps around any
12 nozzle, did that --

13 JUDGE FARRAR: Mr. Ghasemian, I'm sorry I
14 have to interrupt. Dr. Hiser wasn't here yesterday,
15 so he doesn't know that what he just said in the last
16 five minutes is exactly what we heard yesterday.

17 But that is what I thought you were going
18 to do in your ten minutes. We don't need to hear
19 that again, there was no indication, on the part of
20 the Board that we didn't believe Mr. Holmberg when he
21 explained that to us.

22 And, like I said, we've been at this two
23 days, and I could have given the interference fit
24 test, not quite as eloquently, but I could have
25 answered any questions about it. But we don't need to

1 hear that again.

2 MR. GHASEMIAN: Yes, Your Honor.

3 JUDGE FARRAR: We know that, he wrote it
4 in here, and we don't have to have him explain, to us,
5 that that is what he meant, when we already know that.

6 MR. GHASEMIAN: Your Honor, I was just
7 going to ask, that was the leadup to the next
8 question, and that was going to be the end of this
9 discussion.

10 JUDGE FARRAR: Okay. But please try to
11 bear this in mind, that if we've heard it once, we
12 don't need to -- no disrespect to you, Dr. Hiser, but
13 we are trying to finish something here, and it is not
14 your fault.

15 Go ahead, Mr. Ghasemian.

16 MR. GHASEMIAN: Thank you, Your Honor.

17 BY MR. GHASEMIAN:

18 Q So, Dr. Hiser, does a gap analysis replace
19 a visual, a requirement for a visual inspection of a
20 nozzle?

21 A No, it doesn't replace it, it adds value,
22 if you will. If a nozzle is inspected, and it is
23 found to be clean, and the gap analysis demonstrated
24 a gap, then we had high confidence that there are no
25 through-wall cracks in that nozzle.

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1 If one inspected a nozzle, and it was
2 clean, but the gap analysis failed, then we would not
3 think that credit should be given for that nozzle to
4 be uncracked, because you can't demonstrate that a
5 through-wall leak would have given you a deposit that
6 you could see.

7 Q If a nozzle is engulfed in boron deposits,
8 but the gap analysis indicates that there is no gap
9 for that nozzle, was it your expectation that that
10 nozzle still needed to be inspected visually, or not?

11 A I think there still was value in a visual
12 inspection for all nozzles. The gap analysis, again,
13 the way the bulletin was written, in that time frame,
14 we thought that the gap analysis was a conservative
15 approach.

16 Just because you failed the gap analysis
17 didn't mean that a leak wouldn't give a deposit on the
18 head. It was a conservative calculation to
19 demonstrate a gap.

20 I think what we have found, subsequently,
21 is that the gap analysis really wasn't necessary.
22 That there is enough geometry characteristics between
23 the nozzle and the head, that you pretty much always
24 will get a deposit on the head.

25 You can't make the interference fit hide

1 enough. But there always, I think, was an expectation
2 that all of the nozzles would be inspected visually by
3 a licensee that was trying to take credit for a visual
4 inspection.

5 Q Let's move on to Staff Exhibit number 9.

6 JUDGE HAWKENS: Dr. Hiser, may I ask a
7 question? The last sentence of that paragraph, is
8 that just indicating that in the absence of a
9 qualified visual exam the plant should conduct NDEs?
10 Am I reading that correctly?

11 THE WITNESS: I don't --

12 JUDGE HAWKENS: You don't have that in
13 front of you?

14 THE WITNESS: I don't have that.

15 MR. GHASEMIAN: Excuse me, Your Honor,
16 what exhibit would you --

17 JUDGE FARRAR: The same page, the same
18 exhibit, that would be exhibit 8, 8 of 15.

19 MR. GHASEMIAN: Yes, Your Honor, I will
20 pull it up. And what page would you like?

21 JUDGE HAWKENS: Eight, and it is the last
22 sentence of the next to the last full paragraph, same
23 paragraph we were looking at.

24 THE WITNESS: That is correct. If you
25 failed the gap analysis we did think that that nozzle

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1 should be inspected using an NDE approach. Your
2 interpretation is correct.

3 JUDGE HAWKENS: Thank you.

4 JUDGE FARRAR: Before you turn, Mr.
5 Ghasemian, into the company's response, Dr. Hiser,
6 before your bulletin went out, what was the industry
7 culture about the presence of boron here and there?

8 Forget the Oconee -- you know, before you
9 focused on the circumferential cracks, what was the
10 culture in terms of there is boron lying around here
11 and there, is that a big deal, little deal? What was
12 it?

13 THE WITNESS: Well, I think in general it
14 was a big deal. We had issued generic letter 8805 in
15 the 1988 time frame. And licensees had boric acid
16 corrosion control programs that they were
17 implementing.

18 Our expectation, and I think the purpose
19 of those programs was to remediate boron that was on
20 metallic surfaces that it could corrode.

21 JUDGE FARRAR: So was it a future
22 corrosion problem, or that the presence of the boron
23 indicated a leak somewhere, and that that needed
24 remediation, or both?

25 THE WITNESS: They really went hand in

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1 hand. But you, in general, the metallic surfaces that
2 are used, you know, carbon steel, low alloy steel,
3 they are susceptible, very susceptible to acidic
4 corrosion.

5 Clearly you want to --

6 JUDGE FARRAR: And more so, other than on
7 the head, than on the head? Because the head --

8 THE WITNESS: Other places as well.

9 JUDGE FARRAR: -- the head has, you have
10 the temperature protection, so it is not going to be,
11 didn't think it would --

12 THE WITNESS: Well, at operating
13 conditions it would be at high temperature. At shut
14 down conditions, if the boric acid became wet, if
15 excess humidity in the containment, things like that,
16 that it could moisturize and could cause a corrosion
17 problem.

18 I think, in general, you are correct. If
19 licensees, through their boric acid corrosion control
20 programs, found boric acid, they clearly would want to
21 fix the leak, first of all, because they have a
22 problem.

23 But, secondly, they would want to
24 remediate the boric acid to ensure that it doesn't
25 cause a problem of corrosion.

1 JUDGE FARRAR: Thank you, go ahead.

2 MR. GHASEMIAN: Thank you, Your Honor.

3 BY MR. GHASEMIAN:

4 Q Moving on to Staff Exhibit number 9. This
5 is the first response to your serial letter 2731,
6 September 4th, 2001. Do you recognize reviewing this
7 document?

8 A Yes, this was the first response that
9 Davis-Besse provided to the bulletin.

10 Q Scrolling down to page 2 of 19, attachment
11 1; I'm pointing under the heading NRC Bulletin Request
12 Item 1D, and would you agree that basically that
13 section that I'm highlighting now, is part of section
14 1-D of the bulletin?

15 A I believe that is a word for word
16 encapsulation of the bulletin.

17 Q They just repeated it, okay. And under
18 response, the second sentence, starting with the --

19 MR. WISE: Your Honor, while Mr. Ghasemian
20 looks, I would object to the question, given the last
21 witness, and the lack of any tie between Mr. Geisen
22 and the drafting of this document, I would object to
23 any questions about the content of it, as irrelevant
24 to this hearing.

25 MR. GHASEMIAN: Can I respond, Your Honor?

1 Your Honor, we haven't put forth our whole
2 case. So there is going to be evidence that Mr.
3 Geisen was, in fact, involved. He received two emails
4 of the drafts, he reviewed the document, before he
5 signed it.

6 He signed the green sheet, which indicated
7 that he is the responsible manager for the technical
8 accuracy of it. We have a witness that will testify,
9 tomorrow, that Mr. Geisen told him, in an interview,
10 that he reviewed the video tapes, and he has received
11 all these emails.

12 So I understand that that is Mr. Geisen's
13 position, but there is other evidence to consider, and
14 to weigh against his position.

15 So we believe it is critical to go through
16 2731 and explain what Dr. Hiser understood, some of
17 the statements in the documents, to mean.

18 JUDGE FARRAR: But isn't there a
19 stipulation that this sentence, or some of these
20 sentences are false? Isn't there a stipulation
21 between the parties?

22 MR. GHASEMIAN: Yes, Your Honor, but not
23 for everything. There is stipulation on specific
24 facts and assertions. But unless Mr. Wise is
25 stipulating that the entire document, as set, is

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1 incomplete and inaccurate, then we will have to caucus
2 and consider that offer, but --

3 JUDGE FARRAR: I thought there was a
4 stipulation that you all entered into, that said some
5 aspects of this are false?

6 MR. GHASEMIAN: Yes, Your Honor.

7 JUDGE FARRAR: So you are not going to ask
8 about those?

9 MR. GHASEMIAN: We don't plan to directly.
10 But in the context of what Dr. Hiser's understanding
11 of those statements, we will touch upon --

12 JUDGE FARRAR: Well, what is Dr. Hiser --
13 if they are stipulated to be false, then with all due
14 respect to Dr. Hiser, I don't care if he thinks they
15 are false, Mr. Geisen has stipulated they are false.

16 So I don't need Dr. Hiser to go through a
17 long deal and tell me that they are false. And you've
18 already established that Mr. Geisen was a recipient of
19 these emails, and signed the green sheet.

20 We talked to Dr. Goyal about that. Unless
21 Dr. Hiser knows some more facts about the internal
22 workings of Davis-Besse -- now, maybe there were
23 meetings with him, and he gleaned some information
24 about what was happening inside Davis-Besse, and he is
25 welcome, we welcome that kind of testimony.

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1 But I guess we have to look at the --
2 well, Mr. Wise, it is your motion, so if you can show
3 me where there is a stipulation that this sentence is
4 false, then otherwise we have to let Mr. Ghasemian go
5 ahead.

6 MR. WISE: If I could find the stipulation
7 I --

8 MR. GHASEMIAN: Your Honor, may I make,
9 say one thing?

10 JUDGE FARRAR: Yes.

11 MR. GHASEMIAN: This case is about,
12 needless to say, and I'm not saying anything that
13 everybody understands. This case is about Mr.
14 Geisen's state of mind.

15 We are saying, as Mr. Wise --

16 JUDGE FARRAR: Right.

17 MR. GHASEMIAN: -- artfully said in his
18 opening, that it is about Mr. Geisen lying. And the
19 statements that were made, we need to look at the
20 impact of those statements, on the recipients of the
21 information, to evaluate those that are relevant into
22 what the state of mind of the person that is making
23 those statements.

24 JUDGE FARRAR: Wait a minute, is there a
25 material, is there a defense here of materiality, that

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1 Mr. Geisen knowingly made false statements, but they
2 were on inconsequential matters and so, therefore, he
3 -- I didn't know, maybe I missed something, but I
4 didn't know that there was a materiality defense here.

5 MR. WISE: There isn't. The materiality
6 is on page 2 of the stipulation.

7 MR. GHASEMIAN: Yes, I'm not talking --

8 JUDGE FARRAR: Then we don't need Dr.
9 Hiser to tell us this, you know, this affected the --

10 MR. GHASEMIAN: But you are going to --

11 JUDGE FARRAR: You know what I'm getting
12 a sense of?

13 MR. GHASEMIAN: Yes, Your Honor.

14 JUDGE FARRAR: I'm getting a sense that
15 the Staff thinks that the Staff is on trial here. And
16 I know there was a lot of noise made, back in 2002,
17 about whether the Staff did a good job or not.

18 But we are not here to decide that. And
19 I don't need to have Mr. Holmberg and Dr. Hiser tell
20 us what a great job they did, and how this was a
21 material misrepresentation, and so forth, because they
22 are not on trial.

23 MR. GHASEMIAN: Well, Your Honor, I think
24 the Defense, along the way, part of its string in
25 their case is what the Staff did, based on the

1 information that was provided by Mr. Geisen, and
2 FENOC, and information that was available to
3 everybody.

4 JUDGE FARRAR: Wait, there is a
5 stipulation that, I think, FENOC submitted some bad
6 materials. FENOC paid a 30 million dollar fine to the
7 Department of Justice, so we don't need to prove that
8 FENOC did a bum job.

9 And we are not here to express an opinion.
10 Other people, other than us, have looked into it,
11 whether the Staff did a good job in 2002, and we don't
12 know about that, we don't care about that, and we are
13 not going to find out about that.

14 Mr. Ghasemian is on trial, and we have
15 been here for much of two days and I'm not hearing a
16 lot about him. Now if you want to go through the
17 week, and defend the Staff, and attack FENOC, that is
18 great, but that sounds like Mr. Wise's opening
19 statement, that that is not what is at issue here, he
20 concedes all that.

21 MS. CLARK: Your Honor, it is true that we
22 have not yet heard from Mr. Geisen. But I think that
23 we can anticipate some of the things we may hear.

24 And we may hear that Mr. Geisen failed to
25 tell us certain things because he thought they weren't

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1 that important. Perhaps that is why he didn't read
2 the emails he got. Perhaps that is why he wasn't
3 paying much attention.

4 Essentially his defense is that, you know,
5 despite the fact that this was a bulletin, he didn't
6 pay enough attention to determine these things, before
7 he signed off on serial letters, before he gave
8 submissions to the NRC.

9 And I think it is critically important
10 that we bring out the context of the importance of
11 this bulletin, and the significance to the NRC.

12 It is not that we are trying to defend the
13 Staff. But I think that Dr. Hiser's testimony will
14 show you that this was not a small matter, this was a
15 huge deal, it was a huge deal in the industry, and a
16 huge deal to the NRC, and Mr. Geisen must have known
17 that.

18 JUDGE FARRAR: Suppose Mr. Geisen didn't
19 pay enough attention here, and suppose that at the end
20 of the case we issue a ruling, we find that Mr. Geisen
21 didn't pay enough attention here, is he guilty or not
22 guilty?

23 MS. CLARK: He is not guilty. But I will
24 submit to you that given the job he had, design basis
25 engineering manager; given the position he had, given

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1 his knowledge, his background, it is simply not
2 believable that he didn't pay enough attention to know
3 that these statements were false.

4 JUDGE FARRAR: Then we had better get him
5 on the stand, and we better have him there for a
6 couple of days, because you will have a lot of
7 questions of him, and we will have a lot of questions
8 of him.

9 But so far Dr. Hiser seems believable to
10 me, and we are not going to -- I don't know what we
11 are establishing through him. I mean, if we could get
12 the --

13 MS. CLARK: Well, what we would like to
14 focus on is the significance of the bulletin, and the
15 information, and the fact that the industry was aware
16 of the significance of this information.

17 What I would suggest, one way to proceed
18 is maybe to move on next to the conference call of
19 October 3rd, and I'm going to -- I'm now getting a
20 copy of our stipulations. I will go through them, and
21 be sure that any questions we ask on the serial
22 letter, will only refer to matters that we have not
23 stipulated to as being inaccurate.

24 JUDGE FARRAR: Mr. Wise, would that
25 satisfy your objection?

1 MR. WISE: It does, it does. But I think
2 that the sense that somehow Mr. Geisen is, at any
3 point, said that he believed the bulletin was not
4 important, or that this was somehow less than an
5 important matter, is just -- it has no foundation.

6 And the Staff knows exactly what he has
7 said, repeatedly. This is just not the issue in this
8 case.

9 JUDGE FARRAR: Well, the Staff has the
10 burden of proof. If they prove the wrong issue, then
11 that will be a good day for Mr. Geisen. Go ahead.

12 Dr. Hiser, I'm sorry you are sitting
13 there, I know you had some serious problems yesterday,
14 and today, and this has nothing -- as I think you can
15 tell, this has nothing to do with you. Your job is to
16 answer the questions that are asked of you, and you
17 are doing a nice job with it.

18 MR. GHASEMIAN: Thank you, Your Honor. We
19 will move onto the October 3rd, 2001 teleconference.

20 BY MR. GHASEMIAN:

21 Q Do you recall the teleconference on that
22 date?

23 A Yes. It was, if you will, a technical
24 level phone call we had with technical staff of Davis-
25 Besse, to discuss their bulletin response, and to ask

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1 questions of it, so that we could get some
2 clarification, and request some additional information
3 from them.

4 Q Let's go to NRC Staff Exhibit 51. And the
5 parties have stipulated that these are Dale Miller's
6 notes, and he took them contemporaneously with the
7 teleconference, and ECG refers to Mr. Geisen, and to
8 comments attributable to ECG were made -- the summary
9 of them were reflected here.

10 Is Al Hiser, is that referring to you?

11 A I would assume so, yes.

12 Q Okay. When you heard, when you read the
13 comments, do you remember what was represented about
14 the scope of the inspection, past inspections at the
15 Davis-Besse plant?

16 A I'm not sure that I understand the
17 question. During the phone call?

18 Q During the phone call what was represented
19 to be the scope of the past inspections, vessel head
20 inspections?

21 A Well, I think the general sense was, as
22 stated there in the one note, was that one hundred
23 percent inspection of the head was completed at the
24 prior inspection.

25 Q And what did you understand that to mean?

1 A Well, that the entire head had been
2 observed, and that there were no relevant indications,
3 on the head, from that inspection.

4 Q Based on this information how did you view
5 this information? Was it -- well, let me step back.
6 What was your concern with serial letter 2731?

7 A Well, we had questions about the
8 inspections that had been performed, at Davis-Besse,
9 at the prior outage. It wasn't clear, to us, exactly
10 what the coverage was. There were some qualifiers,
11 and things, in some of the portions of the submittal.

12 And we wanted to understand, better, what
13 exactly was the scope of the inspection, and the
14 coverage that was made during the inspection.

15 Q And did you find that the representations
16 that were made, about the scope of the past
17 inspections, to be a positive or a negative, relating
18 to the condition of the vessel head?

19 A Well, I think it was very positive and
20 affirming, over all. My recollection is that they
21 clearly were, had been aware of the concerns about
22 cracking in these nozzles, you know, the generic
23 letter 9701 types of inspections.

24 It appeared that they had been
25 implementing things that were consistent with the

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1 visual inspection that was discussed in the bulletin.
2 I think the main concerns that we had just related to
3 some of the details.

4 But, overall, the sense from the
5 submittal, and also from the phone call, was very
6 positive, that they had done a good inspection, and it
7 was clearly meant to reassure us about the quality of
8 the inspection that was performed previously.

9 MR. GHASEMIAN: Your Honor, Mr. Geisen has
10 stipulated that he was the representative that made
11 those representations about past inspections.

12 BY MR. GHASEMIAN:

13 Q Moving on to Staff Exhibit number 52,
14 scroll down a few pages, I think it is page 4 of 5 of
15 the exhibit. Do you recognize these notes?

16 A Yes, they are my notes.

17 Q And are these your notes of that same
18 teleconference?

19 A Yes, that is correct.

20 Q And could you read what you wrote under
21 past inspections?

22 A It says one hundred percent inspection of
23 head, boric acid interferences on some nozzles, five
24 to six nozzles, and they looked at the base of the
25 nozzles.

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1 Q So what did you do, when you heard that,
2 what did you understand that to mean?

3 A Well, taking the last statement first,
4 looked at the base of the nozzles, that meant to me
5 that they had, you know, done a visual inspection that
6 covered the area of concern, where the nozzle
7 intersected with the vessel head.

8 The fact that there were some boric acid
9 interferences was germane information to us. Out of
10 the 69 nozzles the representation was that there were
11 63 or 64 that they had been able to visually inspect
12 at the prior outage.

13 Q Now, after this teleconference, was there
14 any other -- what was the next interaction that you
15 had with representatives of Davis-Besse?

16 A The next interaction that I had, or was
17 involved in, was October 11th, 2001, there was a
18 briefing of commissioner of technical assistance that
19 occurred.

20 Q Let's go to -- and why did you attend --
21 did you attend that briefing?

22 A Yes, I --

23 Q And why did you attend that briefing?

24 A I was notified of it, I think, about one
25 hour before the briefing occurred.

1 JUDGE TRIKOUROS: May I interrupt one
2 moment? Who was participating from the Davis-Besse
3 side on that October 3rd phone call, other than Mr.
4 Geisen, are you aware?

5 THE WITNESS: I have seen a list from
6 FENOC of who was on the call, but I don't recollect
7 from the call itself.

8 JUDGE TRIKOUROS: You don't recollect if
9 Mr. Goyal was part of that phone call?

10 THE WITNESS: No. At that point in time,
11 that was the first interaction we had, it is on the
12 phone. I mean, I wasn't able to -- I can't tell you
13 names, and faces, and voices, in particular, at that
14 point in time.

15 JUDGE TRIKOUROS: Right.

16 THE WITNESS: But it was -- we were
17 expecting that there were licensing and engineering
18 folks on the call, was our expectation.

19 BY MR. GHASEMIAN:

20 Q Now, moving on to Staff --

21 JUDGE FARRAR: Don't move on yet.

22 JUDGE TRIKOUROS: But it was definitely
23 Mr. Geisen that told you that one hundred percent of
24 the head had been inspected, and of the few nozzles
25 that actually weren't inspected, the base of those

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1 nozzles was looked at?

2 THE WITNESS: I think my note on base of
3 the nozzle was inspected, didn't necessarily relate to
4 the five or six, but related to the other 63 or 64,
5 that they were able to do visual exam of the base of
6 the nozzles.

7 JUDGE TRIKOUROS: And it was Mr. Geisen
8 that told you that, according to your notes?

9 THE WITNESS: No, my notes don't reflect
10 that. I think the other set of notes, from Mr.
11 Miller, would be the ones that reflected that.

12 MR. GHASEMIAN: And Mr. Geisen has
13 stipulated that he did make those statements, so there
14 is no --

15 JUDGE TRIKOUROS: I just wanted to -- Dr.
16 Hiser was there, and I wanted to hear him tell me.

17 THE WITNESS: I do not, again, voices and
18 things, my notes didn't reflect who made that
19 statement.

20 JUDGE FARRAR: So Mr. Geisen has
21 stipulated that the four bulleted items, at the top,
22 or near the top of Staff 51, he stipulated that he
23 said those things.

24 MR. GHASEMIAN: Yes, Your Honor.

25 MR. WISE: I have to find the exact

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1 stipulation. I believe what Mr. Geisen has stipulated
2 to, and this may be a distinction without a
3 difference, was that Mr. Miller's notes reflect those
4 as being said by DCG, and he has no recollection to
5 the contrary.

6 He is also not denying that he said those
7 words. But to suggest that it is that affirmative of
8 a memory, I think --

9 JUDGE TRIKOUROS: I'm sorry, I didn't
10 hear. Mr. Geisen has no recollection of that, is that
11 what you are saying?

12 MR. WISE: Mr. Geisen, I think, has
13 conceded that Mr. Miller's notes attribute those
14 statements to him, and he has no recollection that
15 contradicts that.

16 JUDGE FARRAR: Page 4 of the stipulation?

17 MR. WISE: This was a separate
18 stipulation, Your Honor. The one that was introduced
19 yesterday relates to the notes of Mr. Miller, and --

20 MR. GHASEMIAN: Your Honor, it is our
21 exhibit, Staff Exhibit 77, and on page 4 of the
22 stipulated facts, under the heading October 3rd, 2001
23 teleconference, Mr. -- there are two paragraphs about
24 what was stipulated to, and I'm just reading the first
25 sentence of the second paragraph.

1 Mr. Geisen's statement that one hundred
2 percent of the RPV head had been inspected, but for 5
3 or 6 nozzles, at the top of the RPV head was
4 inaccurate, because large accumulations of boric acid
5 deposits impeded access to large portions of the RPV
6 head, extending well beyond the top of the nozzles.

7 That is what has been stipulated to, Your
8 Honors.

9 JUDGE FARRAR: Dr. Hiser, I'm confused.
10 When someone says to you, we did one hundred percent
11 inspection, some areas were precluded. If I heard
12 that I would say give me that again? Because how can
13 it be one hundred percent if some are precluded?

14 THE WITNESS: Well, there are two ways to
15 look at it. The way that I looked at this was one
16 hundred percent of the head meant that they were able
17 to see all four -- you know, it is a round head, but
18 all four corners, they could see all parts of the
19 head.

20 There were a few nozzles that the bases
21 were precluded. But, otherwise -- you are correct, it
22 is 100 minus some portion of the head that is around
23 those nozzles.

24 JUDGE HAWKENS: So under the plain
25 language of your bulletin, non-destructive evaluation

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1 was required, because they did not conduct one hundred
2 percent inspection of the tubes?

3 THE WITNESS: I wouldn't say would be
4 required, but that would be the next step for those
5 nozzles, that one should do non-destructive
6 examination.

7 The bulletin, again, didn't say -- it
8 wasn't a requirement to be sort of strict about that.
9 It just provided what we thought would be a responsive
10 inspection protocol.

11 And, in fact, we tried to measure the
12 responses against what we thought was a correct
13 protocol. But it wasn't a specific requirement as
14 such.

15 JUDGE HAWKENS: But when was the next step
16 you required?

17 THE WITNESS: Well, at the next
18 inspection. Again, within the context of the
19 bulletin, we wanted to see what licensee had done,
20 inspection-wise, what they had found.

21 And following that we would make
22 regulatory decisions, you know, whether to require
23 inspections, or maybe licensees were going to
24 implement inspections that we thought were responsive
25 to the bulletin, such that the safety concerns that we

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1 had would be ameliorated.

2 But that was the purpose for gathering
3 information. It wasn't so much to force actions by
4 licensees, but let them know what our thinking was,
5 what appropriate actions were, and enable them to
6 demonstrate that their prior actions met the bulletin,
7 met those expectations, or to give them the
8 opportunity to implement inspections, in the future,
9 that met the expectations of the bulletin.

10 JUDGE FARRAR: How many companies
11 responded, how many facilities responded to the
12 bulletin?

13 THE WITNESS: Sixty-nine PWRs, so we had
14 a response that covered each one of those 69.

15 JUDGE FARRAR: And were you having
16 conference calls, like this, with each of them?

17 THE WITNESS: No, we had -- the way that
18 we graded the bulletin, with high susceptibility,
19 there was a review team of four folks that I was the
20 head of, and we really focused on the high
21 susceptibility plants.

22 Those were the ones that we thought could
23 have a safety concern.

24 JUDGE FARRAR: And how many of those would
25 have been --

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1 THE WITNESS: I believe there were 12 or
2 13.

3 JUDGE FARRAR: So you had conference calls
4 with each of them?

5 THE WITNESS: Some of them we did not
6 because, for example, the Oconee units we knew that
7 their prior inspections were adequate. So we, you
8 know, so they were sort of off the list of concerns
9 that we had.

10 And other plants, numerous plants had
11 plans to do inspections in the fall, before December
12 31. So we wanted to ensure that their inspections
13 were adequate. But other than that they were not a
14 concern.

15 I think that dropped us to four plants,
16 initially, that we had concerns about.

17 JUDGE TRIKOUROS: Are we going to come
18 back to October 3rd? Because I have a real concern
19 about the October 3rd communication.

20 MR. GHASEMIAN: We were not planning on
21 returning, but let's stay on October 3rd --

22 JUDGE TRIKOUROS: Well, then maybe -- let
23 me ask a few questions about October 3rd.

24 MR. GHASEMIAN: Absolutely.

25 JUDGE TRIKOUROS: There is a stipulation

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1 that says specifically Mr. Geisen's statement that one
2 hundred percent of the RPV heads had been inspected,
3 but for five or six nozzles, at the top of the RPV
4 head was inaccurate, because large accumulations,
5 etcetera. That is the stipulation.

6 There is a Miller set of handwritten notes
7 that attributes that statement to DCG.

8 MR. GHASEMIAN: Yes.

9 JUDGE TRIKOUROS: All right. There is a
10 Mr. Moffitt testimony that specifically says, Mr.
11 Geisen did not say that. And he says, specifically,
12 I know that because that would have caught my
13 attention because I know that it wasn't true.

14 Are those the three facts that we have so
15 far, or the three items we have, so far, regarding
16 what Mr. Geisen said, or didn't say at that --

17 MR. GHASEMIAN: Well, on that interaction
18 we are taking Mr. Geisen's representation that he did
19 make those statements. And we are relying on --

20 JUDGE TRIKOUROS: You are relying on the
21 stipulation?

22 MR. GHASEMIAN: That he made those
23 statements. Now, if somebody else, on the other end
24 of the phone line, within FENOC, recollects that it
25 was somebody else making the statement, that may be

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1 fine.

2 But Mr. Geisen has stipulated that he made
3 those statements.

4 JUDGE TRIKOUROS: Well, I would like to
5 hear more about that, at the right time, perhaps when
6 Mr. --

7 MR. GHASEMIAN: Although I haven't -- I
8 need to review the Moffitt transcript to see exactly,
9 I don't recall exactly what he said, but I will take
10 your word for it, that that is what he says.

11 JUDGE FARRAR: Was that Miller?

12 JUDGE TRIKOUROS: No, Moffitt.

13 JUDGE FARRAR: Moffitt. Okay, go on.

14 BY MR. GHASEMIAN:

15 Q Moving on to Staff Exhibit number 55, do
16 you recognize these slides? Let me scroll up, scroll
17 down.

18 MR. WISE: Mr. Ghasemian, I'm sorry, can
19 I interrupt just for a second?

20 MR. GHASEMIAN: Sure.

21 MR. WISE: Judge Trikouros, I think this
22 is a question of what the speaker was speaking to. I
23 think that what Mr. Moffitt was testifying to, and I
24 think if you read the couple of pages before he makes
25 that statement, I believe what he was saying was that

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1 he did not hear Mr. Geisen saying we saw all the
2 nozzles.

3 I think Mr. Moffitt's impression was that
4 what Mr. Geisen said was it was one hundred percent
5 inspection of the head, except for five or six nozzles
6 that were precluded from inspection.

7 And I believe what Mr. Moffitt was trying
8 to communicate was that, had I heard him say we saw
9 all the nozzles, that would have stuck out to me,
10 because I knew that wasn't true.

11 And what he believes he said was one
12 hundred percent except for the five or six that were
13 precluded.

14 JUDGE TRIKOUROS: All right. So the
15 statement that one hundred percent inspection of the
16 head was made is true?

17 MR. WISE: I believe those words were
18 spoken. And the question is, what was meant by them,
19 and what was the remaining context of the sentence.

20 BY MR. GHASEMIAN:

21 Q Dr. Hiser, what I have up is Staff Exhibit
22 55, and I have scrolled down to slide number 6, it is
23 a presentation that was given at the TA briefing, and
24 Mr. Geisen has stipulated that he presented slide 6
25 and slide number 7.

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1 And I will ask you a couple of questions
2 about some of the information that are on this slide.
3 Now, on this slide number 6, on the third bullet point
4 it says: No head penetration leakage was identified.

5 What did you understand that to mean?

6 A Well, with the couple of bullets above it,
7 it was clear that Davis-Besse had gone back and
8 reviewed the information that they had, from their two
9 prior inspections, that they used the 2001
10 sensitivity, not the sensitivity that would have been
11 in the mind of the inspectors during those
12 inspections.

13 And they had, in their mind, a positive
14 determination that there was no head penetration
15 leakage.

16 Q And what do you mean by positive
17 determination?

18 A Well, it is an affirmation that, you know,
19 it is not just a benign statement, well we didn't see
20 anything, but in context with the prior bullets, that
21 they had a very positive finding.

22 I mean, they were looking for the kinds of
23 things that were of concern in the bulletin; they
24 reviewed all of the available information, and they
25 saw nothing that was relevant to what the bulletin was

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1 concerned with.

2 Q And based on that representation, would
3 you have expected to have found nozzles engulfed in
4 boron?

5 A No, I don't believe so.

6 Q How about boron that would need to be
7 jarred from the vessel head to be jarred loose?

8 A No, not at all.

9 Q How about finding large chunks of boron
10 uphill from the flange leakage was indicated?

11 A No.

12 Q Now, let's go to the next slide, slide
13 number 7. And the first bullet point it says: All
14 CRDM penetrations were verified to be free from
15 popcorn type boron deposits, using video recordings
16 from 11 RFO, or 12 RFO.

17 What did you understand that to mean?

18 A Well, again, it is a very positive
19 affirmation that they verified that things were free.
20 It was, in my mind, it was to allay any concerns that
21 we had of the adequacy of their inspection.

22 They used prior data, but they re-
23 interpreted it under the sensitivity of 2001. And
24 they had made a positive determination, these things
25 have no popcorn type deposits.

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1 Q Going down to the third bullet point, it
2 says that plant specific finite element analysis shows
3 that 65 out of 69 were opened up sufficiently to
4 provide visual indication.

5 Q Could you explain what you understood this
6 to mean?

7 A Well, I think that speaks to the gap
8 analysis that we talked about earlier, where in this
9 case, from their analyses, there were four nozzles
10 that would not have a positive gap.

11 Q So did you still expect that those four
12 nozzles be visually inspected?

13 A I think there was an expectation that
14 those four nozzles would have been included in their
15 re-review of all of their data. So that, clearly,
16 those four would have fell under the first bullet.

17 Q It says: All CRDM nozzles, or all CRDM
18 penetrations were verified to be free. It doesn't say
19 65 out of 69, or make any exclusions such as that.

20 Q So if the four nozzles were engulfed in
21 boron from vessel head to the bottom of the
22 insulation, would the gap analysis replace the
23 requirement for the visual inspection of those four
24 nozzles?

25 A No. Clearly the visual inspection is

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1 independent of that. The gap analysis allows you to
2 interpret the visual inspection results. But it
3 doesn't replace, or negate the need to do a visual
4 inspection.

5 Q Now, after this TA briefing, the NRC
6 receives serial letter 2735 on October 17th.

7 JUDGE FARRAR: Wait, you were at the TA
8 briefing?

9 THE WITNESS: Yes, I was.

10 JUDGE FARRAR: Help me with chain of
11 command here. You work for the executive director for
12 operations, and I assume things get to the
13 Commissioners when you all, either when they call for
14 them, or you work them up the chain, and you are ready
15 to make your recommendation, and they hear you out.

16 What was the nature of -- this sounds like
17 a kind of an irregular meeting.

18 THE WITNESS: Well, this is a drop-in by
19 the licensee. This was not initiated by the Staff,
20 there was no staff presentation. As I mentioned
21 earlier, technical staff was notified within an hour
22 before the start of this briefing, that it was
23 occurring.

24 So it was not -- to use the word
25 irregular, from my perspective, I think that it was.

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1 JUDGE FARRAR: So the licensee sets it up.

2 THE WITNESS: With the Commission --

3 JUDGE FARRAR: With technical assistance.

4 And then you all, who are working on it, get notified
5 to come, but you are just there listening?

6 THE WITNESS: That is correct.

7 JUDGE FARRAR: And chiming in, I suppose,
8 when you are asked.

9 THE WITNESS: No. Actually we were not
10 asked, I mean, we were purely there as observers, and
11 not participants. And I would say that our
12 notification was sort of along the lines of, oops we
13 forgot, or why don't we let the Staff, who is
14 involved, know about this.

15 I mean, it clearly was an ad hoc
16 notification to us.

17 JUDGE FARRAR: And I should remember this,
18 but who was there from the company?

19 THE WITNESS: I believe the first slide
20 describes the presenters, at least.

21 MR. GHASEMIAN: Yes, Your Honor. I will
22 pull it up. This slide is the second page of the
23 exhibit 55, and it lists the individuals.

24 JUDGE FARRAR: Mr. Campbell, Mr. Moffitt,
25 Mr. Geisen, Mr. Lockwood, and Mr. Fyfitch from

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1 Framatome.

2 MR. GHASEMIAN: Yes, Your Honor.

3 JUDGE TRIKOUROS: Do we know who set up
4 this meeting? Do you know who set up this meeting?

5 THE WITNESS: No, we were notified right
6 before it started, so --

7 JUDGE TRIKOUROS: Yes.

8 MR. GHASEMIAN: May I proceed?

9 BY MR. GHASEMIAN:

10 Q Dr. Hiser, so after the TA briefing, what
11 was your impression of the condition of the past
12 inspections, was the information you received, or you
13 heard, encourage you as far as -- was it encouraging,
14 or discouraging as far as what you had heard in 2731,
15 or on the teleconference on October 3rd?

16 A I think it was, it sort of went beyond, I
17 think, what occurred in the phone call. You know,
18 there was -- I think what occurred in the phone call
19 was, you know, it did clarify some of the information
20 that was in the submittal.

21 The submittal was worded somewhat
22 ambiguously, the phone call clarified that it was one
23 hundred percent of the head except for five or six
24 nozzles.

25 I think what occurred at the TA briefing,

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1 information that went beyond the phone call, and
2 stated specifically that they did, that they re-
3 viewed the tapes from RFO 11, and RFO 12.

4 That they verified that it was free of
5 popcorn deposits. I mean, it was very positive
6 statements. It wasn't, well we don't really know what
7 is going on.

8 It was, we used today's level of concern,
9 and sensitivity, and we made positive determinations
10 that there is nothing of concern on the head.

11 JUDGE FARRAR: Who was the principal
12 spokesman for the company, in your observation?

13 THE WITNESS: The -- if you want to look
14 at it from a hierarchal perspective, Guy Campbell was
15 the highest ranking person.

16 JUDGE FARRAR: Did he have a lot to say,
17 or --

18 THE WITNESS: I believe at the beginning
19 and end. Introductions and then, you know, sort of
20 the summation, if you will.

21 JUDGE FARRAR: And at that point how vivid
22 was the threat that there might have to be a shutdown
23 by December 31st, had that emerged yet, or --

24 THE WITNESS: Well, I think there was a
25 prior phone call between Brian Sheron and, presumably,

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1 Guy Campbell, or folks at his level, at Davis-Besse.
2 That was September 28th.

3 And at that point, I think the point was
4 made that we thought that they should shut down. I
5 don't know that any specific regulatory action was
6 proposed. But I'm sure the point was made that we
7 were very serious in that belief, that December 31 was
8 a time when we wanted to have inspections completed.

9 But, beyond that, my guess is that orders,
10 or anything like that, had not been discussed. I
11 mean, we were focused more, from a safety perspective,
12 that we thought before the end of the year the plant
13 should be inspected, and there really shouldn't be
14 operation beyond December 31 without an inspection
15 being performed, or the prior inspection being
16 validated as being effective.

17 JUDGE FARRAR: Go ahead.

18 BY MR. GHASEMIAN:

19 Q Dr. Hiser, one question about the October
20 3rd teleconference. During that teleconference did
21 the NRC make a request to get a copy of the videos of
22 the past inspections?

23 A Yes, I think my -- the set of notes that
24 I took, at the meeting, described that at the end.
25 There were several items that Davis-Besse said they

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1 would provide to us by October 25th.

2 Q So had you received any of that
3 information, the video tapes, by this TA briefing?

4 A No, no.

5 Q Did you receive them by October 24th?

6 A Video tapes, no.

7 Q We will talk about it later. But do you
8 remember when -- did you ever see the video tapes?

9 A The only time we saw the video tapes, in
10 this time frame, was November 8th, 2001.

11 Q And who showed them to you?

12 A That was Mr. Geisen.

13 Q Did you get a copy of it at that time?

14 A No, we did not.

15 Q Let's move on to serial letter 2735.

16 MR. GHASEMIAN: Your Honor, if we may ask
17 to have a few minutes to go through the serial
18 letters, and what has been stipulated, so that we save
19 time?

20 I'm kind of -- I will confess that I'm
21 kind of winging it and kind of not asking certain
22 questions that I'm anticipating that you may not want
23 to hear about, and I would like to have a better kind
24 of approach so we don't, kind of, waste your time.

25 MS. CLARK: Your Honors, I have gone

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1 through the stipulations, and I think that we can keep
2 a very limited amount of questions to cover the
3 stipulations that we haven't agreed to.

4 JUDGE FARRAR: Do you want 20 minutes?

5 MS. CLARK: I think five minutes.

6 MR. GHASEMIAN: How about ten minutes?

7 JUDGE FARRAR: It is 23 after, let's come
8 back at 25 of.

9 (Whereupon, the above-entitled matter
10 went off the record at 4:23 p.m. and went
11 back on the record at 4:36 p.m.)

12 JUDGE FARRAR: Okay. Mr. Ghasemian,
13 please proceed.

14 MR. GHASEMIAN: Thank you, Your Honor.

15 BY MR. GHASEMIAN:

16 Q Dr. Hiser, let's go to Exhibit 11, which
17 is Serial Letter 2735, and -- okay. I'm going to go
18 down. I'm going to scroll down to Attachment 1, 2 of
19 5. And this is dated October 17, 2001.

20 Okay. I'm going to highlight the first
21 sentence in the last full paragraph, and hopefully I
22 can stop it at the right place. Okay.

23 JUDGE FARRAR: Before you do that, all of
24 the serial letters, who signed them?

25 THE WITNESS: I'm not sure. Someone at

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1 FENOC.

2 JUDGE FARRAR: Scroll back to page 2.

3 MR. GHASEMIAN: This?

4 JUDGE FARRAR: Yes. This was -- oh, this
5 is not Mr. Campbell. Was Mr. Worley at any of these
6 meetings?

7 THE WITNESS: The name does not have any
8 significance to me from any of these interactions.

9 JUDGE FARRAR: Okay. Go ahead.

10 BY MR. GHASEMIAN:

11 Q Okay. Going back down to Attachment --
12 okay. There we go. Do you see the sentence that I've
13 -- it's a long sentence, but do you see that?

14 A Yes.

15 Q And would you take a moment and read it to
16 yourself?

17 A Okay.

18 Q Did you read it? Are you done reading?

19 A Yes.

20 Q Oh, okay. And do you see a reference to
21 a whole head visual inspection of the --

22 A Yes.

23 Q -- RPV head?

24 A That's correct.

25 Q Was did you understand that to mean?

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1 A Well, to me, that just -- that meant that
2 the licensee, during those inspections, was able to
3 see all parts of the head. So a whole head to me was
4 the same relevance as 100 percent head inspection, you
5 know, along those lines. So it just meant that, you
6 know, they had -- there was no -- no impediments, if
7 you will, to accessing any part of the head for either
8 -- any of those three inspections.

9 Q And does whole head visual inspection, is
10 there a -- let me rescind that. For visual
11 inspections, do they do sample checking of nozzles?
12 Is there a sample checking for visual inspections of
13 vessel heads?

14 A Well, our expectation was not that there
15 would be sampling. I mean, our expectation was that
16 there was -- each nozzle was a potential leaking
17 nozzle, one that could cause a LOCA. So, you know, we
18 were concerned with every nozzle on the head. In a
19 case like this, with there only being 69 nozzles and
20 there not really being any way to screen some nozzles
21 as being important and some as not, you know, they
22 would all be treated the same and would all -- you
23 know, your sampling would be 100 percent sampling, not
24 a fraction of the nozzles.

25 Q Now, when you received this Serial

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1 Letter 2735, did you understand that it's replacing or
2 superseding Serial Letter 2731 that was submitted on
3 September 4, 2001?

4 A No. I think the subject line says
5 "supplement," and that was -- I mean, these things
6 build upon themselves as we get more information,
7 unless, you know, the -- what could have been used as
8 a subject line is -- you know, that this supersedes
9 the September 3rd submittal. But that's not the way
10 this was conveyed, and I -- I'm not sure if that --
11 that it's not reflected at any point in the letter or
12 the attachment, that it supersedes the prior
13 information.

14 Q Scrolling down to Attachment 2, page --
15 and I have it up. Do you see it on your screen?

16 A Yes.

17 Q And it's page 1 of 2, and it's a table, as
18 reflected. Now, there's -- three of the columns, that
19 middle column, I guess the fourth column, it says 1996
20 inspection results, 1998 inspection results, and 2000
21 inspection results. I thought that the bulletin --
22 the bulletin asked for the past four years'
23 inspections. Why is there information about the 1996
24 inspection results?

25 A Well, that goes beyond the four years. At

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1 some point in here, the subject changed a little bit,
2 in that the licensee began to discuss a probabilistic
3 risk assessment. And one of the purposes I think for
4 going back to 1996 was to try to baseline those
5 calculations, that risk analysis.

6 Q And were you still expecting to get the
7 results of the visual inspections, or was that not a
8 focus anymore?

9 A No. Clearly, it was -- it was a concern,
10 and it was one of the focuses that we had, because the
11 probabilistic risk analysis uses the visual inspection
12 results as input to it in a sense.

13 Q I've scrolled down to page 2 of 2, which
14 is the following page on that table, and at the end we
15 see the notes -- I can highlight it I think. And it
16 says, "In 1996, during 10RFO, the entire RPV head was
17 inspected." And 10RFO is the 1996 inspection.

18 A Yes.

19 Q Right? And what did you understand "the
20 entire RPV head was inspected" to mean?

21 A Well, again, that the whole head, 100
22 percent of the head -- I mean, however -- you know,
23 whatever term you want to use to describe it, but that
24 the -- you know, all parts of the head had been
25 examined.

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1 JUDGE FARRAR: Mr. Ghasemian, before you
2 leave this exhibit -- Dr. Hiser, if I flew in and
3 landed here and someone gave me this document, would
4 it be fair for me to conclude that all 69 of the
5 nozzles had been seen? I mean, if you didn't know
6 anything, would you look at this and say, "Forget what
7 they say about each one, but that they saw each one"?

8 THE WITNESS: I think that would be an
9 accurate way to interpret it, yes.

10 JUDGE FARRAR: Now, unlike me, you knew
11 something. Is that how you would --

12 THE WITNESS: Yes. Yes. I mean, there
13 are specific entries for each nozzle, which, you know,
14 indicates -- there is no -- you know, no leak
15 identified with the bracket, say, that -- you know,
16 that that was a group conclusion. I mean, each
17 specific nozzle had a specific conclusion drawn for
18 it, other than the '96. And I think the second part
19 of their note describes why that was the case.

20 BY MR. GHASEMIAN:

21 Q And the second part it says -- I'm
22 highlighting it -- "Since the video was void of head
23 orientation narration, each specific nozzle view could
24 not be correlated." What did that mean to you?

25 A Well, that meant to me that they could

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1 not, on an individual basis, review the video and say,
2 "This portion is nozzle 15, and we can see that
3 there's no deposit. And the next nozzle is," you
4 know, another nozzle. They just were not able to draw
5 that distinction in reviewing the video of which
6 frames related to which nozzle.

7 Q So after reviewing this 2735 submittal on
8 October 17th, what was your impression of the
9 condition of the vessel head at this point, based on
10 the information that was submitted to you?

11 A Well, I think it was still relatively
12 positive. They had gone back, reviewed videos. We
13 had been told about head cleaning operations, and so
14 I think at this point we still had a relatively
15 positive view of things.

16 I think what was reflected in this
17 submittal was a reduction in the claimed effectiveness
18 of the inspection. Instead of saying for the 2000
19 inspection that we, you know, were able to see all
20 nozzles, I think they said that 40 of them were --
21 could be observed, or 45 maybe is the right number.

22 And then, going back to the '98
23 inspection, that I believe it was 50 of them could be
24 visualized. So there was some reduction in
25 effectiveness of the inspections, but I think there

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1 still was an overall positive sense to things.

2 JUDGE FARRAR: Well, wait a minute. The
3 question I just asked you about the table, if you and
4 I go back and look at the letter, Attachment 1,
5 page 2, there was a -- that counsel asked you about a
6 few minutes ago, they there say that during 1998 50 of
7 69 nozzles were viewed, and then, in 2000, 45 of 69
8 nozzles were viewed. But if you and I are -- manage
9 to compare the table with that paragraph, wouldn't we
10 say, "Hey, something is wrong here"?

11 THE WITNESS: I don't recollect what the
12 table -- what was recorded.

13 JUDGE FARRAR: I'm sorry. The table is
14 the one that you were talking about, and the -- where
15 they have an entry for each one.

16 THE WITNESS: Yes.

17 JUDGE FARRAR: They don't indicate that
18 some of them they can't make an entry for. But then,
19 if you go back to the letter, they say, "We couldn't
20 see" -- that's the page 1160, Mr. Ghasemian, that you
21 had up there before.

22 MR. GHASEMIAN: 1160?

23 JUDGE FARRAR: Yes. Where the letter
24 says, "We did 50 -- we viewed 50 of 69," and then 45
25 of 69 two years later. So that tells me one year they

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1 couldn't view 19.

2 THE WITNESS: Right.

3 JUDGE FARRAR: And another year they
4 couldn't view 24. But I don't see that on that table
5 you and I were discussing.

6 THE WITNESS: Well, I think it -- we could
7 go and count them on the table, but I think --

8 JUDGE FARRAR: No, no. On the table they
9 don't have any representation that they're not viewing
10 them.

11 THE WITNESS: Well, I think that's what
12 "flange leak evident" means.

13 MR. GHASEMIAN: No, I think that Your
14 Honor -- His Honor is asking about the 1996 column.

15 JUDGE FARRAR: No, no. '96 is fine.
16 Okay. So "flange leak evident" --

17 THE WITNESS: Meant that they could not do
18 the visual inspection for that nozzle.

19 JUDGE FARRAR: Thank you. So those should
20 add up to the numbers we just said. Okay.

21 THE WITNESS: Right.

22 JUDGE FARRAR: Okay.

23 THE WITNESS: And I think the next
24 sentence --

25 JUDGE FARRAR: Okay. But that -- why is

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1 that reassuring -- you said the overall tone is
2 reassuring. If "flange leak evident" means they can't
3 see them, and they admit they can't see them, why is
4 that reassuring? Why is this whole letter, you know,
5 I think you said "relatively reassuring" to you?

6 THE WITNESS: Well, I think it's
7 relatively reassuring because it's more clarification.
8 At this point, a lot of this information is starting
9 to feed into the probabilistic risk assessment. For
10 four of the nozzles they had already said, "We could
11 not do a qualified visual at any point in time." So
12 from that perspective, we needed to understand, what
13 did that mean from a safety perspective?

14 And the probabilistic risk assessment was
15 a tool that the licensee introduced to try to quantify
16 the significance of those four nozzles, and then the
17 other ones that they couldn't view at various points
18 in time. So it's -- you know, it is two steps
19 forward, one step back. I mean, it's more
20 information. It isn't 100 percent positive
21 information, but it is -- it gains -- it enables us to
22 gain understanding of what the condition of the head
23 was.

24 BY MR. GHASEMIAN:

25 Q With the information that was made

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1 available to you, did you expect that certain nozzles
2 would be engulfed in boron deposits?

3 A No. That would not -- with the conclusion
4 about flange leaks --- again, we had certain
5 expectations of what "flange leakage" meant, and, I
6 mean, that would not have included nozzles engulfed in
7 boric acid.

8 Q How about if boron deposits would have to
9 be broken up with like a -- some kind of a stick or a
10 steel bar?

11 A No, I don't think that's reflected at all
12 in any of the wording that's used here.

13 Q Or, in certain cases, boron accumulation
14 prevented the insertion of the camera in the mouse
15 holes of the vessel head.

16 A No, that's not indicated in any of the
17 wording.

18 Q Okay.

19 A And it is not consistent with what I think
20 my expectation would have been.

21 Q Now, moving on to Staff Exhibit 58, this
22 is an NRC -- summary documents of an October 24, 2001,
23 public meeting. And I'm going to scroll down to the
24 attendees list, if I can find it. It should be
25 actually pretty far up. Do you see your name there?

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1 A Yes.

2 Q And do you see Mr. Geisen's name there?

3 A Yes. He is listed under FENOC.

4 Q And this meeting -- what was this meeting
5 about?

6 A It was a meeting with FENOC, a public
7 meeting, to discuss some of the information that they
8 were gathering on the condition of their head. It
9 talks about some of their -- they discuss some of
10 their analyses. I think at this point the
11 probabilistic analysis, I believe in particular the
12 deterministic analysis, that they were performing.
13 And then, put additional information on the
14 inspections as well.

15 Q Going down to Slide 6, does this look
16 familiar to you?

17 A Yes.

18 Q Is it the same as the -- or almost the
19 same as the Slide Number 6 presented by Mr. Geisen on
20 the October 11th TA briefing?

21 A Yes. I think this is probably word for
22 word very consistent.

23 Q And Slide Number 7, do you recognize --
24 have you seen that before? Well, actually --

25 A I think this is -- this had some new

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1 information.

2 Q Okay.

3 A Because I think this may have been the
4 first time that they discussed 24 penetrations that
5 could not be inspected in 2000, and 19 that could not
6 be inspected in 1998.

7 Q Okay. Let's go back -- let's go to the --
8 to the second-to-the-last sentence, starting with,
9 "The limiting nozzle population is those nozzles that
10 could not be inspected in '98 or 2000." What is that
11 referring to?

12 A Well, that refers in part back to the
13 probabilistic risk assessment. It also, I believe,
14 refers back to a deterministic analysis. I think if
15 you look at the last bullet it says it is
16 conservatively assumed that for these penetrations an
17 axial through weld flaw occurs immediately upon
18 startup from 10RFO, May 1996.

19 We had -- at this point, we had models for
20 the crack growth, and what the licensee had done was
21 what we call "deterministic calculations." You assume
22 a flaw size, you assume a crack growth rate, you
23 assume a stress level, and you see how far or how long
24 it would take a crack to grow to the point that you
25 could eject a nozzle and cause a LOCA.

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1 From that deterministic analysis, they
2 would use the May 1996 as a starting point for that
3 calculation. So that would mean that at this point,
4 on October 2001, they had a little bit over five years
5 of operating time, minus any outage time, over which
6 they would have the opportunity to grow a crack. And
7 that was the -- really, the significance I guess going
8 back to the 1996 analysis or inspection results.

9 Q So by this point, on October 24th, did you
10 have a better idea of why some of the nozzles couldn't
11 be seen?

12 A Well, I think it was clear from the
13 submittals it was due to flange leakage. I mean, the
14 licensee had stated that in several submittals, stated
15 it in meetings. I mean, in my mind, it was clear what
16 the impediments were.

17 Q Okay. But the quantity of the boron, what
18 were you envisioning as far as the quantity? I mean,
19 was it like -- that the nozzles would be kind of
20 surrounded by boron? Or what's the nature of your
21 expectation?

22 A Well, I think the expectation would have
23 been that there was boron on the head. Maybe it had
24 some thickness to it. I mean, it's sort of like a
25 light snowstorm. You know, maybe half an inch or, you

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1 know, some -- some quantity of depth, but nothing
2 substantial. I mean, I think fractions of an inch
3 would have been the kind of expectation that we would
4 have had at this point in time.

5 Q And going down to Slide 9 of this
6 presentation, do you recognize seeing a slide similar
7 to this?

8 A Yes.

9 Q And what does it say as far as the -- I
10 guess it says, "All CRDM penetrations were verified to
11 be free from boron deposits using video recordings
12 from 10RFO, 11RFO, or 12RFO." So was this reassuring
13 information to you or kind of --

14 A Well, absolutely. It's consistent, I
15 mean, with things that had been stated before. And,
16 again, they were making positive statements about the
17 condition of the head.

18 Q So by this point, you're not hearing
19 anything that is inconsistent with what you've heard
20 along the way since the --

21 A Well, there was clarification about the
22 masking instead of I think early on we were told five
23 or six nozzles couldn't be viewed in 2000. Now it was
24 24. So there was some, you know, creep, if you will,
25 of information that -- you know, sort of step by step

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1 there was some reduction in the effectiveness of the
2 inspections. And I think that's one of the things
3 that's reflected in these slides.

4 Q Now, going to Staff Exhibit Number 13 --

5 JUDGE FARRAR: Let's stay with these
6 slides a minute.

7 MR. GHASEMIAN: Okay.

8 JUDGE FARRAR: On Slide 7, we've got the
9 same information we had in the table you and I were
10 discussing about they couldn't inspect 19 one year,
11 they couldn't inspect 24 the other. So we do our
12 cracking growth analysis -- okay. So we didn't see
13 these, and so we go back to the last time we saw them,
14 we figure out the rate and the years and we're fine.

15 But you're saying when you read that
16 you're thinking, okay, there's the snowstorm dusting,
17 whatever, you can't see them. What would you -- how
18 would it have affected your thinking if instead of --
19 and this then gets to the next slide -- if there is --
20 it's not a snowstorm, it's not popcorn, but it's a
21 mountain. It was -- you know, the mountain obscured
22 your view. What would you do differently?

23 What would you say, then, you and your
24 colleagues, is that -- oh, that's interesting, but,
25 still, they've calculated the -- you know, the

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1 cracking growth rate properly, or does this say,
2 "We've got a different ballgame here"?

3 THE WITNESS: I think it would have said,
4 "We have a different ballgame." If we were told, you
5 know -- an earlier question to me related to hard
6 deposits had to be chipped away, things like that. If
7 we had that kind of information, I think it would have
8 raised a lot of red flags.

9 JUDGE FARRAR: Where would you have
10 thought that was coming from?

11 THE WITNESS: We wouldn't have known, and
12 that's why we would have -- we would have wanted to
13 get more information. What is going on? We have been
14 told this, this, and this. Now, all of a sudden,
15 you're telling us you have, you know, rock, rock-like
16 deposits that have to be chipped away. That's not
17 consistent with anything we have ever seen.

18 JUDGE FARRAR: Okay. So that wouldn't
19 just be excessive flange leakage.

20 THE WITNESS: I don't believe so, no.
21 That was inconsistent with anything we had seen at any
22 other plant, and I think we would have, you know,
23 really scratched our heads and really dug into it
24 quite a bit more in detail.

25 JUDGE FARRAR: What would your first three

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1 theories be? If you just learned that this afternoon,
2 what would your first three theories be about what it
3 might be? Or two theories or four theories.

4 THE WITNESS: Well, what -- you know,
5 first would be clearly there is a source of water that
6 is keeping the stuff wetted. And nozzle or flange
7 leaks probably wouldn't do that excessively. I'm not
8 sure that we would have believed almost that there
9 were nozzle leaks to that point, because that was --
10 would have been such a gross conclusion to reach.

11 And I don't know that we would have
12 believed ourselves. If we said, "Oh, maybe they have,
13 you know, big cracks that are leaking a lot of
14 water" --

15 JUDGE FARRAR: A whole lot of axial
16 cracks.

17 THE WITNESS: Yes. I don't know that we
18 would have believed that, because there should have
19 been precursor, you know, indications of a problem.
20 I mean, I think the -- with the timeline would have
21 raised a lot of concerns with us overall.

22 JUDGE HAWKENS: Who was the principal
23 spokesperson on behalf of the licensee at this
24 meeting?

25 THE WITNESS: I don't recollect. I think,

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1 again, my guess is that the presenters are listed on
2 one of the first couple of slides. I don't
3 specifically remember at this presentation who made
4 each -- you know, presented each slide.

5 JUDGE HAWKENS: You don't have any memory,
6 then, of Mr. Geisen making a --

7 THE WITNESS: No. Not specifically, no.

8 JUDGE FARRAR: Since you weren't too
9 frightened that this -- you know, things are still
10 kind of positive, why did you all want the videotapes?

11 THE WITNESS: Just further -- so that we
12 could have additional information on what the
13 conditions were on the head. We had seen videos from
14 other plants, we had seen a lot of photographs, and it
15 was to put this information into context with that
16 experience base. You know, if we had seen things in
17 the videotapes that were radically different from what
18 we saw at other plants, again, that would have raised
19 a lot of flags with us.

20 JUDGE TRIKOUROS: Were there other plants
21 that were delaying beyond the end of the year?

22 THE WITNESS: There were, I believe, four
23 plants that were not -- their initial submittal was
24 not consistent with the order, or the bulletin -- I'm
25 sorry. Two of those plants were Dominion plants. The

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1 first two units, Surry and North Anna, had found
2 problems, so Dominion shut those two units down and
3 did a visual inspection.

4 Another unit -- Robinson -- had followed
5 the industry findings, so in April 2001 they did a
6 qualified visual inspection. They were able to
7 substantiate the gap analysis part, and we gave them
8 credit for that inspection. So Davis-Besse, and then
9 D.C. Cook was the other unit that initially planned to
10 shut down in I believe November of '01, but they had
11 forced outage time in the summer that delayed their
12 refueling outage to mid-January. And ultimately they
13 convinced us that that was an acceptable time for them
14 to shut down.

15 So Davis-Besse -- you know, really, Davis-
16 Besse and D.C. Cook ended up being the two outliers,
17 if you will, in terms of, you know, what we would know
18 by December 31 about the condition of their head,
19 either that -- that they had not performed a prior
20 inspection that was consistent with the description in
21 the bulletin.

22 JUDGE TRIKOUROS: So you were putting a
23 lot of resources into these plants that were outliers,
24 basically.

25 THE WITNESS: That's correct. Plus, we

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1 were following inspection outages and findings at
2 other high susceptibility plants that had shutdown and
3 were doing a qualified visual. We took trips to North
4 Anna, I know in particular to see some of their --
5 oversee some of their findings and inspections. We
6 had a full plate overall.

7 MR. GHASEMIAN: Should I proceed, Your
8 Honors?

9 BY MR. GHASEMIAN:

10 Q Dr. Hiser, let's go to Staff Exhibit
11 Number 66. And what I have up is a photo of the
12 Davis-Besse vessel head, and it was taken in the 12RFO
13 in 2000. When was the first time you saw this photo?

14 A I saw this sometime mid, I believe, summer
15 2002 when one of the members of the Davis-Besse I
16 believe lessons learned task force members showed it
17 to me, when they had reached the end of their work.

18 Q This is a photo commonly -- it's part of
19 a series of photos commonly referred to as the red
20 photo. It may be this one or one that is very similar
21 to it. But if you would have seen this photo at any
22 time during the fall of 2001, when you were
23 interacting with FENOC representatives related -- and
24 getting information about the vessel head and their
25 past inspection, would this photo have caused you to

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1 take any actions?

2 A Yes. I think -- I think that what is easy
3 for anybody to understand from the photo is there is
4 a significant problem under the service structure on
5 the Davis-Besse head. You don't expect to have
6 flowing material like this coming out from that. You
7 don't expect significant oxide quantities like this.
8 It would be indicative of a significant corrosion
9 event occurring under the head.

10 I think this would have -- I think this
11 would have gotten a lot of attention from a lot of
12 levels at the NRC if we had had access to this.

13 Q And what would have -- what would it have
14 caused you to do?

15 A Well, I think I would have pushed for it
16 -- at a minimum the plant shutting down by the end of
17 the year to do an inspection. This to me indicates a
18 significant problem. My guess is I would have, you
19 know, pushed for probably an immediate shutdown. This
20 is a significant finding. I mean, this is -- to me,
21 this should tell almost any engineer that there is a
22 significant problem there at Davis-Besse.

23 Q During the fall of 2001, after seeing it
24 in 2002, would you have expected to see -- to get this
25 photo or something similar to this photo as part of

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1 the information that the -- that the NRC was getting?

2 A Clearly, that would have been the
3 expectation. 50.9 -- 10 CFR 50.9 says "complete and
4 accurate." And this would be very material to the
5 condition of the head. That's what we were trying to
6 understand -- what was going on on the vessel head.
7 Were the nozzles leaking? Were they not leaking?
8 This clearly is relevant to that.

9 Q Do you know what the -- can you tell based
10 on this photo what the source of the boron deposits
11 pouring out is, or that are deposited there?

12 A No. No, it's not obvious that it's nozzle
13 leakage. But it's obvious that there's a significant
14 problem, you know, that's leading to this photo.

15 JUDGE FARRAR: Suppose there wasn't a
16 bulletin outstanding, everybody is just going about
17 their business, and you never sent a bulletin. And
18 someone is working at a plant, and they have a
19 refueling outage, and they see that. Do they have to
20 call you, like in the next five minutes or something?

21 THE WITNESS: No. But the boric acid
22 corrosion control program should highlight this. I'm
23 not sure what a licensee would do. You know, there
24 are --

25 JUDGE FARRAR: And the boric acid --

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1 that's not boric acid.

2 THE WITNESS: Well, that's what the white
3 material is is boric acid.

4 JUDGE FARRAR: Right, the white is.

5 THE WITNESS: Yes.

6 JUDGE FARRAR: But the -- but it's not
7 boric acid that's inert. It's not boron that's inert.

8 THE WITNESS: Right.

9 JUDGE FARRAR: It's boric acid that has
10 caused some kind of corrosion.

11 THE WITNESS: Right.

12 JUDGE FARRAR: And they don't have to drop
13 everything and call you?

14 THE WITNESS: No, I don't believe so. I
15 mean, would a prudent licensee do that? Clearly.

16 JUDGE FARRAR: Suppose your resident
17 inspector was hanging around when they did the -- when
18 they did this and he saw that?

19 THE WITNESS: I would hope that a resident
20 inspector would have flagged us.

21 JUDGE FARRAR: Like that day.

22 THE WITNESS: As soon as they saw it, yes.
23 Resident inspectors have a lot of different
24 engineering backgrounds, and they have an electrical
25 engineer resident inspector who doesn't -- you know,

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1 didn't understand the significance of this. I would
2 hope that that's fairly obvious to pretty much all
3 engineers.

4 JUDGE FARRAR: Doesn't everyone know that
5 red stuff means something is rusting?

6 THE WITNESS: I can't speak to everyone.
7 To me, yes, it's obvious. I think the photo speaks
8 for itself, in all honesty.

9 JUDGE FARRAR: Go ahead.

10 MR. GHASEMIAN: Your Honor, just for
11 clarification, there is nothing in the record, at
12 least so far, that indicates that a resident inspector
13 saw this photo or received it or anything of that
14 nature, I don't believe. Maybe I --

15 JUDGE FARRAR: Right. My question was
16 "if," I think.

17 MR. GHASEMIAN: I'm sorry, Your Honor.

18 JUDGE FARRAR: My question was more "if."

19 MR. GHASEMIAN: Hypothetical?

20 JUDGE FARRAR: Yes.

21 MR. GHASEMIAN: Okay. Thank you.

22 JUDGE FARRAR: I mean, I want -- I was
23 trying to get at, what does this mean to different
24 levels of people? You know, people at the company,
25 resident inspector, just a passerby.

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1 MR. GHASEMIAN: Thank you, Your Honor.

2 BY MR. GHASEMIAN:

3 Q One question. Did anybody at headquarters
4 receive this photo, as far as you know?

5 A Within the fall 2001 timeframe, no, I'm
6 not aware of anybody having received it.

7 JUDGE FARRAR: Would you be aware?

8 THE WITNESS: I was the lead technical
9 reviewer, so, yes, I think anything -- and we had a
10 lot of discussions with project managers, with various
11 levels of management. I believe that that would have
12 been funneled to us fairly readily.

13 JUDGE FARRAR: So everyone would have
14 known you were the go-to guy, and if this shows up in
15 my mailbox --

16 THE WITNESS: Yes. I think that's the
17 case.

18 JUDGE TRIKOUROS: They were doing cleaning
19 with water, demineralized water. Was this photo taken
20 during that cleaning, or was this -- what was the
21 correlation of that cleaning to this photo? Do you
22 know of any correlation?

23 THE WITNESS: My understanding is this
24 photo is an as-found condition.

25 JUDGE TRIKOUROS: As-found.

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1 THE WITNESS: Yes.

2 JUDGE TRIKOUROS: It didn't reflect the
3 cleaning process or anything like that.

4 THE WITNESS: My understanding, it does
5 not. But even if it was after cleaning, I would still
6 look at the coloration and really say -- I would agree
7 on cover up there by the cleaning. I mean, you don't
8 expect piles of rust. I mean, you will have some rust
9 on the head just from the high temperatures and things
10 like that, but not those kinds of quantities.

11 BY MR. GHASEMIAN:

12 Q Dr. Hiser, let's go to Staff Exhibit
13 Number 13. And this is Serial Letter 2744, and it's
14 dated October 30, 2001. Starting at the bottom of the
15 page, and going on to the following -- top of the
16 following pages, I guess I'll -- here we go. Do you
17 recognize -- well, do you recognize this sentence as
18 being in 2735, that we --

19 A It looks to be the same sentence.

20 Q And it refers to whole head visual
21 inspection? By this date, October 30, did you have a
22 different understanding of what that meant as opposed
23 to when you read it on October 30? Or did you have
24 the same understanding?

25 A Well, to me, "whole head" has the same

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1 meaning 2001 or today. I mean, it means 100 percent
2 of the head, entire head, however you choose to word
3 it.

4 Q Okay. I think earlier you referred to a
5 viewing of some of the videos on November 8th, that
6 Mr. Geisen presented some of the videos. Could you
7 tell us the circumstances leading to that meeting?

8 A I believe we had a public meeting that
9 afternoon, November 8th. One of the things that we
10 had been interested in was the videotapes, because
11 they would provide information on the condition of the
12 heads. After, you know, the work was done at the
13 meetings, I believe -- I don't know, 5:00, 4:00,
14 between 4:00 and 6:00, somewhere in there Mr. Geisen
15 brought videos with him. Some number of staff -- my
16 guess is somewhere -- five to 10 staff members stayed
17 to watch videos.

18 Q Do you recall which videos -- which
19 inspection videos you watched?

20 A My recollection is 1996 and 1998
21 inspection videos.

22 Q And who else was present at this meeting?

23 A Besides Mr. Geisen, just NRC staff. I
24 believe my supervisor and his supervisor and then some
25 of the other technical reviewers would have been in

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1 attendance.

2 Q So Mr. Geisen was the only company
3 representative there?

4 A He was the only FENOC representative, yes.

5 JUDGE TRIKOUROS: And these were as-found?

6 THE WITNESS: Yes. That's what we were
7 most interested in was as-found.

8 BY MR. GHASEMIAN:

9 Q And how do you know you watched the 1996
10 and 1998 videos?

11 A I don't recollect if there were markings
12 on the -- you know, the videos -- on the screen, on
13 the videos. They had a date-time stamp kind of thing.
14 I don't remember if there were any of those, or if it
15 was just through the verbal statements by Mr. Geisen
16 that they were the '96 and '98 videos.

17 Q Did you review the entire tapes?

18 A No. No. We reviewed portions of the
19 tapes that Mr. Geisen showed us.

20 MR. GHASEMIAN: Your Honors, we were
21 planning on showing certain segments of the '96 and
22 '98 videotapes, but in light of your concerns and
23 direction we'll -- I'll just ask about those videos,
24 and Mr. -- from Dr. Hiser.

25 JUDGE FARRAR: What did we see yesterday?

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1 MR. GHASEMIAN: Yesterday you viewed
2 portions of the 2000 --

3 JUDGE FARRAR: Right.

4 MR. GHASEMIAN: -- cleaning video.

5 JUDGE FARRAR: Right.

6 MR. GHASEMIAN: And portions of the 1996
7 as-found inspection video.

8 JUDGE FARRAR: Right.

9 MR. GHASEMIAN: And portions of the 2000
10 inspection video.

11 Now, on the DVD on Exhibit -- Staff
12 Exhibit Number 81, the DVD, there are other files that
13 are reflective of the various, you know, inspections.
14 So there is like I think three videos of different
15 length and different portions of the head in 2000 and
16 '96 and '98. So I only showed one of them.

17 JUDGE FARRAR: Can we -- are we going to
18 see what Mr. Geisen showed them?

19 MR. GHASEMIAN: Well, we don't --

20 JUDGE FARRAR: Or we don't know what he
21 showed.

22 MR. GHASEMIAN: We don't know what was
23 exactly viewed, but I was -- what I was planning on
24 doing, just running -- on the 1996 inspection, just
25 running a portion of it just continuously and asking

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1 Mr. Hiser if that's consistent with what he viewed
2 then and showing portions of it that showed
3 significant accumulation and boric acid, and ask him,
4 did he see anything like that, and so on.

5 I mean, I wasn't planning on taking too
6 much time, but -- but with the videos, one minute
7 seems like eternity, so --

8 JUDGE TRIKOUROS: The only concern that I
9 have about the videos at this point is with respect to
10 what we're talking about here. There's a statement
11 that I believe you made, Dr. Hiser, in a -- possibly
12 a transcript that I read that referred to an
13 impression you got when you were being showed the
14 tapes by Mr. Geisen. And then, you subsequently saw
15 these tapes under some other set of circumstances, and
16 you said that it was totally different.

17 Now, maybe you could just explain that,
18 and we don't need to see the tapes. But that's --
19 that -- I was hoping we could explore that a little
20 bit with you in person.

21 THE WITNESS: Sure.

22 MR. GHASEMIAN: Absolutely.

23 JUDGE TRIKOUROS: So is that -- did I
24 accurately reflect your earlier comments?

25 THE WITNESS: I think they are consistent

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1 enough, yes.

2 JUDGE TRIKOUROS: So perhaps you can put
3 some detail in there. You saw the tapes of Mr.
4 Geisen, and you had an impression that the 2000
5 inspection, for example, was a pretty reasonable as-
6 found condition. Is that what you're telling me?
7 Because I've seen that 2000 tape, and I really have
8 trouble believing that.-

9 MR. GHASEMIAN: Well, Your Honor, he
10 didn't say that he viewed the 2000 tape. It was only
11 '96 and '98. And --

12 JUDGE TRIKOUROS: Oh, it wasn't the 2000
13 tape.

14 MR. GHASEMIAN: No.

15 JUDGE TRIKOUROS: Okay.

16 MR. GHASEMIAN: And I was going to show
17 the 2000 tape and say, "Did you see anything like
18 this?" and --

19 JUDGE TRIKOUROS: All right. Thank you
20 for that. Appreciate that. So you saw the '96 and
21 '98 tapes, not --

22 MR. GHASEMIAN: Portions of them.

23 JUDGE TRIKOUROS: Portions of them. Okay.

24 THE WITNESS: That's correct.

25 JUDGE TRIKOUROS: And you subsequently saw

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1 those same tapes and had a different impression. Is
2 that what --

3 THE WITNESS: Well, I subsequently have
4 seen maybe fuller portions of the tapes, if you will.
5 The sections that I recollect from '96 showed -- well,
6 and showed relatively benign conditions, not a lot of
7 boron on the head, and, I mean, consistent with some
8 of the photographs that we had seen from, for example,
9 Ocone and some of the other plants, where, you know,
10 there is boron in various places but, you know,
11 clearly not a significant problem.

12 I think in some of the -- well, let me
13 just speak to that. And then, in '98, there was more
14 boron on the head, but, again, relatively small
15 quantities. I mean, maybe, you know, a half-inch
16 thick, something like that, on the head itself,
17 nothing that would really raise a lot of concerns.

18 From some of the subsequent viewings that
19 I have had, there are a lot of areas that would --

20 JUDGE FARRAR: Of the '98 tape.

21 THE WITNESS: '98 in particular, and '96
22 I'm not real sure of right now, because they've --

23 JUDGE FARRAR: So you're thinking you saw
24 different portions of the '98 than you had previously
25 seen.

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1 THE WITNESS: I think I have been shown
2 portions of '98 that we clearly did not see in -- on
3 November 8, 2001, yes.

4 JUDGE FARRAR: And where does the 2000
5 tape come in?

6 THE WITNESS: 2000 tape we did not review
7 in -- on November 8, 2001.

8 JUDGE FARRAR: When did you first see it?

9 THE WITNESS: My guess is somewhere within
10 the last couple of years. I don't remember exactly.

11 JUDGE FARRAR: Oh, you didn't see it right
12 after the cavity was discovered.

13 THE WITNESS: No. No. At that point, it
14 was not relevant to the things we were doing.

15 JUDGE FARRAR: How long -- go ahead.

16 JUDGE TRIKOUROS: I'm sorry. And why
17 didn't you see any of the 2000 tape that day?

18 THE WITNESS: Well, we saw the '96 tape,
19 we saw the '98 tape. You know, there was more boron
20 on the head on '98, which was obvious. What we were
21 told by Mr. Geisen about the 2000 tape was that if we
22 thought that the 1998 tape was bad, the 2000 tape was
23 worse.

24 And I guess I took that to mean that there
25 were, you know, more areas obscured by boron, which

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1 was consistent with the things that they had told us,
2 and at that point it was obvious that we were not
3 going to accept the 2000 inspection as being
4 responsive to the bulletin, so it really wasn't
5 important that we see something that we knew was not
6 going to be -- I mean, the expectation at that point
7 was that the condition of the nozzles as reflected,
8 for example, in that table that we -- that was in an
9 earlier submittal, that those condition assessments
10 were accurate.

11 So we didn't -- you know, we didn't need
12 to do a nozzle-by-nozzle review or something like
13 that. The licensee said they had done that. I mean,
14 all the pieces were relatively consistent with one
15 another, so we really didn't need to review the 2000
16 tape.

17 JUDGE TRIKOUROS: But what I'm hearing is
18 that you basically excluded it from consideration at
19 that point, that you were not going to use the
20 information from the 2000 tape. Is that what I heard
21 you say?

22 THE WITNESS: We were not going to use it
23 as being a replacement for -- or being -- let me see
24 if I can -- that it would not fulfill the expectations
25 of the bulletin such that nothing more was necessary.

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1 I mean, I think that was -- but the 2000 inspection
2 was important, again, for some of the mathematical
3 analyses that they were doing -- for example, the
4 probabilistic risk assessment.

5 So the statements by the licensee that
6 they could view 45 of the 69 nozzles in 2000, that
7 played directly into the analysis. We didn't feel
8 that we needed to review the whole tape to see whether
9 45 was the right number, or, really, it was 43. I
10 mean, we assume that the licensee -- again, in
11 accordance with 50.9 complete and accurate -- that
12 they had done a thorough review of the tapes and had
13 accurately and consistently applied their review
14 standards to it.

15 JUDGE TRIKOUROS: What was your
16 understanding of the as-left condition of the head
17 from 2000? Were you under the impression that the
18 head, as of that time, the time you were meeting with
19 Mr. Geisen, that we had a head that had been
20 thoroughly cleaned after the 2000 inspection?

21 THE WITNESS: I believed that at that
22 point in time, yes. And I think some of the
23 information that the licensee had provided relative to
24 their planned inspection, they talked about it being
25 a qualified visual inspection. Well, we had made it

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1 clear in the bulletin that to do a qualified visual
2 inspection you needed to have a clean head, so you
3 could see around the interface of the nozzle and the
4 head.

5 So the -- I mean, they may not have said,
6 "We cleaned the entire head, we -- you know, we have,
7 you know, nothing on the head," but the couple of
8 factors together, I mean, clearly left that impression
9 that the head was clean.

10 JUDGE TRIKOUROS: Okay. Thank you.

11 BY MR. GHASEMIAN:

12 Q One question about 2000. If your
13 expectation -- or if you expected to see nozzles
14 engulfed in boron, would you have wanted to see the
15 2000 video?

16 A If we had any expectation that that would
17 be the case, we would have wanted to see the videos.
18 And we would have done a video-by-video review. But
19 that was not -- there was no indication that we had
20 that that would be the case, and from the -- what
21 appeared to be thorough review of the available data
22 that the licensee provided in their submittals, I
23 mean, it clearly -- there was no reason for us to
24 expect that.

25 JUDGE TRIKOUROS: Did you ever meet with

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1 anyone else regarding these videos or the condition of
2 the head in a manner similar to Mr. Geisen?

3 THE WITNESS: A one-on-one sort of
4 situation? No, there was no -- no circumstances --

5 JUDGE TRIKOUROS: But Mr. Siemaszko did
6 meet with you later, I understand.

7 THE WITNESS: As a part of a public
8 meeting, he made some statements regarding the -- you
9 know, the condition of the head and things.

10 JUDGE TRIKOUROS: Okay.

11 THE WITNESS: But it was -- you know, it
12 was, again, part of a public meeting where, you know,
13 he had the floor at that point in time.

14 JUDGE TRIKOUROS: All right. So the only
15 real one on one that you had was with Mr. Geisen where
16 it was relatively informal, and you were being showed
17 videos.

18 THE WITNESS: Yes, that's correct. And I
19 think "informal" really is the right word. It was --
20 it was, you know, non-confrontational, you know, no
21 pressure, you know, non-threatening, anything like
22 that. It was just, you know, we felt that we needed
23 to view some of the videos to -- to do a complete
24 review of the information that was available to us.

25 JUDGE TRIKOUROS: Thank you.

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1 JUDGE FARRAR: Mr. Ghasemian, the videos
2 are in the record, so we can watch them at our leisure
3 if we need to. If you showed them now, is that for
4 our benefit, to bring particular parts to our
5 attention? Or is it to get the witness' reaction to
6 particular parts? But if it's the latter, I mean, he
7 said -- he said if he had seen the 2000 video then,
8 you know, that would have been different. And I don't
9 know that anyone is going to quarrel with that.

10 MR. GHASEMIAN: Well, everything we have
11 put forth is for your benefit. So if you are going to
12 review the videos and --

13 JUDGE FARRAR: Well, how long are -- each
14 video is -- are they hours long?

15 MR. GHASEMIAN: Well, no. They are of
16 differing lengths, and none that I recall extend
17 beyond an hour. And I was -- by no means was I
18 planning on playing anything more than shorter
19 segments. But I was going to ask if -- to play a
20 segment of the 2000, but since Mr. -- Dr. Hiser has
21 testified that he never saw it, and we have seen --
22 the Board has seen other segments of it which are
23 relatively consistent, and these -- what I was going
24 to show is just another portion and another -- it's as
25 dramatic as what we saw yesterday, so --

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1 JUDGE FARRAR: Yes. I mean, we saw
2 dramatic ones. He has seen the whole thing, so we
3 already have -- he has not seen it here, but he has
4 seen it before and told us his reaction to it. So I
5 don't know that we need to see them. If later, after
6 the record is closed, you find that there are
7 particular portions that we, you know, need to look
8 at, we'll be happy to do that. But we'd rather do
9 that on our own time, unless you are going to --

10 MR. GHASEMIAN: Well, I could --

11 JUDGE FARRAR: -- ask the witness to
12 comment on them.

13 THE WITNESS: I'd just like to clarify one
14 thing. I have not seen all of the videos of any of
15 the inspections. I have seen portions of the videos
16 that are not consistent with the -- my recollections
17 of the November 8 meeting. But I have not reviewed
18 the entire videos for any of the three years.

19 JUDGE FARRAR: Okay.

20 MR. GHASEMIAN: I can read into the record
21 for your benefit, you know, the parts that I was
22 planning on showing. I mean, that may take two
23 minutes to just -- for me to read the segments, if
24 that's worth anything.

25 JUDGE FARRAR: Can somebody type that up

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1 and --

2 MR. GHASEMIAN: Sure.

3 JUDGE FARRAR: -- we'll put it in the
4 record as if read tomorrow. And we don't need Dr.
5 Hiser's -- right. If you give us that, it doesn't
6 matter if you give us that tomorrow, because he is not
7 -- he is not going to -- we are not going to ask for
8 his comments on those sections.

9 MR. GHASEMIAN: No. But if we -- if the
10 Board takes judicial notice that for certain segments
11 of it he is going to -- he would testify that they are
12 consistent with what he -- what segment that I was
13 going to play tomorrow is -- is not inconsistent with
14 what he saw then, and I'll show segments that he would
15 testify that definitely it's inconsistent with what he
16 saw, meaning he didn't see it.

17 And the same thing for 1998, show him a
18 segment of '98 and ask him whether he saw something
19 similar to this. And he would testify that he hadn't.
20 And the same with 2000 -- show him a segment, say,
21 "Did you see anything like this?" and he would
22 testify, "No, I haven't."

23 JUDGE FARRAR: The 2000 we know he didn't
24 see. So you would -- you're trying to establish that
25 what you're showing on there -- some portions you hope

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1 he would say, "Yep, that's kind of like what Mr.
2 Geisen showed me." And other portions which
3 presumably would be more dramatic, if that's the right
4 word.

5 MR. GHASEMIAN: Right. And they're --

6 JUDGE FARRAR: Or, "No, I didn't see
7 anything like that at that time."

8 MR. GHASEMIAN: And there are portions
9 that are extended periods of the videos that are, you
10 know, 10 to 15 minutes. And, you know, what you see
11 is not -- is similar to the --

12 JUDGE FARRAR: So all you really need to
13 see is 30 seconds.

14 MR. GHASEMIAN: Yes. But --

15 JUDGE FARRAR: "Is this what you saw?"
16 "No, I never saw anything like that." "Here is 30
17 seconds." "Yes, that looks like what I saw." So you
18 don't --

19 MR. GHASEMIAN: Well, no, I was going to
20 play a longer version of, "Is this what you saw, or
21 similar?" and he would probably say, "Yes, that's
22 consistent with what I saw." It runs for 10, 15
23 minutes. But I --

24 JUDGE FARRAR: But we don't need --

25 MR. GHASEMIAN: Okay.

1 JUDGE FARRAR: We don't need -- I mean --
2 MR. GHASEMIAN: I mean, we can -- we can,
3 as you suggested --

4 JUDGE FARRAR: We saw Mr. Siemaszko -- a
5 great big size thing that wouldn't even fit through
6 the weep hole. You see 15 seconds of that, you know
7 whether you've seen that before or not. I mean, you
8 don't need to see 30 minutes of that to say, "Yep, I
9 saw that," or "I didn't." As soon as you see it, you
10 have a reaction.

11 As soon as we saw the '96, saw 10 seconds
12 of the pristine head, we have a reaction. We don't
13 have to see 10 minutes of the pristine head. Is there
14 a way we can make this -- Mr. Wise, I forget -- you
15 have been so good today, I forget you are in the room.
16 You're anxious to say something.

17 MR. WISE: No. Actually, I was turning
18 the microphone off.

19 JUDGE FARRAR: Oh.

20 (Laughter.)

21 Do you have any thoughts on this?

22 MR. WISE: Well, I mean, I do. I think
23 Dr. Hiser has testified as to what his impression was,
24 and I think the relevant evidence is going to be what
25 Mr. Geisen's actions were, what you can draw from

1 that. And I don't see that showing portions of the
2 tape advanced the ball on that, although I will say
3 that I would object to some suggestion that the staff
4 would pick portions and say -- Dr. Hiser would say he
5 didn't see this or he did see this.

6 But I think that Dr. Hiser has given a
7 fairly clear view of what he now believes he saw and
8 what he didn't.

9 JUDGE FARRAR: You're saying -- okay. Let
10 -- maybe that's what we need to zero in on. You're
11 saying you saw things in the '98 tape later that were
12 worse -- if I can use that word -- than what you saw
13 when Mr. Geisen did his screening of it.

14 THE WITNESS: Yes.

15 JUDGE FARRAR: Okay. Why don't we leave
16 it at that. When you finish, he'll be subject to
17 cross. If we get a huge issue about that, then on
18 redirect you can pull out the videotapes and show him
19 portions and say, "Let's" -- short portions, and get
20 his reaction. And then, they can recross him on that.

21 MR. GHASEMIAN: One --

22 JUDGE FARRAR: I mean, I guess I would
23 urge, save it for redirect, if we need it. We may end
24 up not needing it.

25 MR. GHASEMIAN: One -- at least based on

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1 Mr. Geisen's testimony in his criminal trial, and
2 certain -- cross examination of certain -- of Mr.
3 Hiser in the criminal trial, I suspect that one
4 approach is going to be that Mr. Geisen, all he did
5 was stick the videotape in the VCR and let it run,
6 and, you know, the staff member said, "Hey, let's go
7 over here, let's go over there, and stop here, back up
8 there, go forward."

9 And that leaves one with one impression of
10 what the interaction was. And there is another
11 version that there were segments of the videotape
12 which were not favorable to -- for the NRC to see,
13 because they were not good conditions, and only
14 segments of -- long segments were played that the head
15 was not so alarming. So --

16 JUDGE FARRAR: But we can't -- but we
17 can't, in Warner Wolf's words, go to the videotape,
18 because we don't have the videotape of what was shown
19 -- we don't know what Mr. Geisen presented that day.
20 We can't recreate that from the tapes. We can
21 recreate it by you asking Dr. Hiser what he -- what
22 the drill was that day and how that -- how that
23 showing went, and then he'll be cross examined.

24 And then, when Mr. Geisen testifies, his
25 lawyers will say, "How did you run that showing?" and

1 you'll cross examine him. And that's what credibility
2 and demeanor credibility is all about. I don't think
3 we -- yes, I wish we had a videotape of Mr. Geisen
4 showing the videotape. Then, we'd know. But we don't
5 have that, and we have to reconstruct it as best we
6 have. And I don't think the videotape is part of
7 that. Their story is part of it.

8 JUDGE TRIKOUROS: Was there only one copy
9 of the videotape? I guess I'll ask you, Dr. Hiser,
10 since you're there. What you were seeing, was it the
11 official copy? Was there any way you could tell?

12 THE WITNESS: Only through --

13 JUDGE TRIKOUROS: Or was it a copy of what
14 was actually taken? Do you have any feel for that?

15 THE WITNESS: My understanding is the
16 original videos were on a -- not on a VHS format, and
17 the licensee had gotten this transferred to a VHS
18 format. The only way that we knew what the tapes were
19 was, you know, statements by Mr. Geisen. As far as I
20 know, at that point in time, they were the only -- the
21 copy that he brought with him, and then took with him,
22 were the only copies in -- you know, at the White
23 Flint Building. Whether -- I'm sure there were
24 duplicates back in --

25 JUDGE TRIKOUROS: You answered another

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1 question. Nothing was left with you.

2 THE WITNESS: No, nothing was left.

3 JUDGE FARRAR: Mr. Ghasemian, why don't we
4 try it that way.

5 MR. GHASEMIAN: Okay.

6 JUDGE FARRAR: Just reserving your right
7 tomorrow to argue that, based on the cross
8 examination, there is a need for the videotapes.

9 MR. GHASEMIAN: If I may ask --

10 JUDGE FARRAR: You can just ask --

11 MR. GHASEMIAN: -- some questions right
12 now about --

13 JUDGE FARRAR: Yes.

14 MR. GHASEMIAN: -- the circumstances
15 relating to that. Okay.

16 JUDGE FARRAR: Yes, let's do that. And in
17 terms of planning today, how much more direct exam do
18 you have?

19 MR. GHASEMIAN: We have just one more area
20 to cover, which relates to the ACRS meeting.

21 JUDGE FARRAR: Right.

22 MR. GHASEMIAN: Which is --

23 JUDGE FARRAR: Right.

24 MR. GHASEMIAN: -- somewhat to the point,
25 so --

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1 JUDGE FARRAR: And, Mr. Wise, Mr. Hibeys,
2 you're going to want to cross examine tonight, or
3 start tomorrow?

4 MR. WISE: Your Honor, my inclination a
5 half hour ago was to try to do it tonight. But I'll
6 actually defer to your -- to the Panel and your
7 considerations of courtroom personnel and --

8 JUDGE FARRAR: I was worried about -- Mr.
9 Goyal looked kind of tired. He had a long day. Dr.
10 Hiser looks like he is in pretty good shape. I'd
11 rather make more progress tonight, because then we put
12 that in the bank and --

13 THE WITNESS: I think I've fooled you.
14 I've been here since 6:00, so --

15 (Laughter.)

16 JUDGE FARRAR: Yes. Well, let's go ahead
17 and finish up the direct, and then we'll make a
18 decision. Go ahead.

19 BY MR. GHASEMIAN:

20 Q Dr. Hiser, let's talk about the meeting
21 where Mr. Geisen showed the video inspection tapes of
22 the 1996 vessel head inspection and the 1998. I think
23 you earlier testified that it was you and several
24 other staff members. It was late in the afternoon.
25 And where -- was it in a conference room? Could you

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1 tell us the setting?

2 A Yes. It was a conference room in the One
3 White Flint Building.

4 Q And there was a VCR and a TV?

5 A Yes, that's correct.

6 Q And Mr. Geisen -- what happened? How did
7 it come about that the videotapes started being
8 viewed?

9 A Mr. Geisen had I believe a briefcase or
10 some sort of a case that had the videos in them,
11 pulled out one that he said was from the 1996
12 inspection, put it into the VCR, and proceeded to play
13 it.

14 Q Was there a remote control or any kind of
15 a device that controlled the VCR?

16 A I don't recollect.

17 Q Okay.

18 A Whether it was controlled via a remote or
19 pushing buttons on the front of the VCR, I just don't
20 remember.

21 Q And do you recall who was -- either if
22 there was a remote control or who was pushing the
23 buttons, who was doing --

24 A Mr. Geisen controlled the -- you know, the
25 playing of the tapes.

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1 Q And how long of the 1996 tape do you
2 recall viewing?

3 A I would -- my recollection would be
4 somewhere on the order of 30 minutes. You know, maybe
5 less than that.

6 Q And do you remember whether it was
7 different files of the videotapes, or is it just
8 because in the 1996 there is more than one file of the
9 inspection? Do you recall?

10 A I don't remember more than one tape being
11 played, but there may have been, you know, additional
12 -- they may have played multiple tapes during that
13 timeframe. I don't have a specific recollection right
14 now.

15 Q So if two tapes or two of the files were
16 somehow connected together, you wouldn't have had any
17 way of telling whether it's one continuous long one or
18 whether it's two different tapes that are connected
19 together?

20 MR. WISE: I'm going to object to the
21 leading end of the speculation.

22 JUDGE FARRAR: Overruled.

23 THE WITNESS: No, I don't -- I don't know
24 that there would have been a way to tell if multiple
25 tapes had been combined onto one tape or anything like

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1 that. I --

2 BY MR. GHASEMIAN:

3 Q Or multiple files, data files, or video
4 files.

5 A No. We wouldn't have had -- I mean, I
6 can't tell you right now that that was obvious, and --
7 but for -- I'm not sure that it would have been
8 noticeable if it had been done.

9 Q Okay. So what -- could you tell us how
10 the 1996 -- how you guys went about watching it?

11 A Mr. Geisen started the tape, and, in
12 general, the condition of the head was, you know,
13 relatively good. The way things flowed, we had, I
14 don't know, probably, again, six to 10 or so of the
15 staff members there. So we had six to 10 pairs of
16 eyes watching the tapes. I think we, you know, saw
17 pretty much everything that was on the tape.

18 There was some discussion about, you know,
19 things that we could see and all. We would
20 occasionally ask Mr. Geisen to, you know, stop the
21 tape, maybe rewind to a portion, so that we could get
22 another impression of what was on the tape. I believe
23 occasionally it was fast forwarded.

24 I don't -- I don't believe that it was
25 ever -- the tape was ever stopped and then fast

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1 forwarded to a portion of the tape. I think
2 throughout the entire tape -- time that the tape was
3 playing it was viewable. I mean, you could see it.
4 It might have the lines through it from the fast
5 forwarding, but it was -- you could generally see the
6 condition of the head.

7 And, as I said, Mr. Geisen, you know, at
8 our request would either fast forward or pause or, you
9 know, maybe rewind to portions of the tape.

10 Q Now, this is a VHS -- the VCR machine,
11 right? Or was it a -- kind of a --

12 A I want to say VHS. It was either that or
13 beta back then.

14 Q Okay.

15 A Yes. But it was --

16 Q Okay. It was not a CD or a DVD player.

17 A No.

18 Q Okay.

19 A No, not at all.

20 Q And was it similar to -- I remember when
21 I used to have a VCR -- that when you fast forward
22 there is lines that -- that show when you are fast
23 forwarding. Was it similar to that when you were fast
24 forwarding?

25 A Yes.

1 Q Okay. And when you were viewing that, did
2 you see any -- of the 1996 tape, did you see any
3 images with significant two-, three-, four-inch piles
4 of boron surrounding nozzles towards the top of the
5 head?

6 A No. That was not anything that we saw in
7 any of the tapes that we saw.

8 Q And if you would have seen that, what
9 would you -- what would have that -- what would have
10 that caused you to do?

11 A Well, that would have been totally
12 inconsistent with some of the submittals that talked
13 about the 1996 tape as being clean. I mean, that was
14 being used as the baseline for their analyses, and so
15 the expectation was that they could view every nozzle
16 and that there were no problems. If we had seen large
17 piles of boric acid, we would have dug into things
18 quite a bit more.

19 Q And for the -- what happened after your
20 viewing of the 1996 tape?

21 A After we saw, you know, whatever portion
22 of the '96 tape that we chose to see, Mr. Geisen put
23 in a tape that he said was from 1998.

24 Q And did you follow the same kind of --

25 A Same --

1 Q -- format that we have talked about about
2 the '96?

3 A Yes. That's correct.

4 Q Going forward and backward and stopping
5 and --

6 A Yes.

7 Q Did you see in the 1998 tape -- did you
8 see any images of boron deposits of two-, three-,
9 four-inch, or significant quantity in -- surrounding
10 any nozzles or towards the top of -- or any other
11 portion of the vessel head?

12 A No. There were -- nothing that was as
13 substantial as that. We -- there was more boron on
14 the head. It was, you know, covering a greater
15 portion of the head. What I recollect, though, is as
16 the camera moved through it, it was -- it looked like
17 flange leakage. I mean, it was more the loose boric
18 acid that we would not assume came from a leaking
19 nozzle.

20 So it was, again, you know, consistent
21 with the statements that had been made about the
22 quality of the inspection.

23 Q Well, would you have -- if you would have
24 seen piles of boron deposits around any nozzles, what
25 would that have caused you to do?

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1 A Well, I think we would have -- again, we
2 would have asked a lot more questions of the licensee
3 and tried to understand. You know, my guess is we
4 would have said, "We've heard what you've told us
5 about the tapes. What we have seen is inconsistent
6 with that. We want a copy of the tapes. And we're
7 going to go through them one by one and, you know,
8 frame by frame."

9 MR. WISE: Your Honor, I haven't objected
10 up to this point. But when Dr. Hiser starts saying
11 that he would guess, I have to renew my objection to
12 speculation. And this is also repetitive. I mean, I
13 think it's fairly clear what he would have done had he
14 seen a video -- if he recalls having seen a videotape
15 with huge piles of boron on it.

16 JUDGE FARRAR: You have a point, but it is
17 important to learn what he would have done. So if you
18 don't have to guess, then -- if you don't know what
19 you would have done, say so. If you do know what you
20 would have done, say so. But don't surmise
21 excessively.

22 BY MR. GHASEMIAN:

23 Q So if you would have seen great quantities
24 of boron deposits around any nozzles, would it have
25 stuck in your mind that you have seen such an image

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1 for any particular of the inspections?

2 A Well, clearly, because we didn't take
3 additional actions. I mean, if we had seen things
4 like that, we would have taken additional action. We
5 didn't do it.

6 Q And what additional -- what are the type
7 of additional actions that you may have taken?

8 A I believe we would have requested tapes,
9 copies of the tapes, so that we could do, you know,
10 pretty much a frame-by-frame review of them. So that
11 we could -- at that point, we -- that clearly would
12 have undermined all of the information that had been
13 provided to us, that was providing us with a level of
14 confidence about the condition of the head.

15 Once that confidence was undermined, we
16 would have done a more extensive -- I mean, we would
17 have done a thorough review of everything. We
18 wouldn't have relied on the licensee's interpretation
19 of things. We would have gone back and tried to
20 verify all of the information that they had.

21 Q And you said that -- what happened after
22 you viewed the 1998 video?

23 A After we saw the 1998 video, and, clearly,
24 there was more boric acid on the head making it harder
25 to see the interfaces of the nozzles, what I recollect

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1 is Mr. Geisen saying that, "Well, if we thought the
2 1998 video was bad, that the 2000 video was even
3 worse." And he recommended, to some measure, us not
4 seeing the 2000 tape.

5 Q Okay.

6 JUDGE TRIKOUROS: Dr. Hiser, why didn't --
7 that wasn't enough to get you to say, "Look, I think
8 we'd better see these tapes"? And, you know, "Leave
9 them with us," or "send us a copy," or --

10 THE WITNESS: No. We -- I mean, the
11 licensee had already provided information that the
12 head was not -- you know, they could not do 100
13 percent, make a 100 percent determination on nozzles,
14 you know, they had said 45 in 2000, 50 in -- or, yes,
15 50 in 1998. So we knew that it was not 100 percent a
16 qualified inspection.

17 We were -- in all honesty, at this point
18 we were trying to look at the probabilistic risk
19 analysis and figure out what kind of credit we could
20 give for those inspections. What we saw in the tapes
21 was consistent with what the licensee had presented to
22 us in their submittals and in their analyses. So we
23 didn't see any disconnect. I mean, things were
24 consistent up to that point.

25 If we had seen, you know, large piles of

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1 boric acid, which were not consistent with what we had
2 been told, then we would have taken other actions.
3 But things were pretty much consistent.

4 JUDGE FARRAR: But at that point, were you
5 headed toward a shutdown before December 31st, or were
6 you headed toward doing the crack growth analysis?

7 THE WITNESS: Well, the licensee was doing
8 a crack growth analysis and a probabilistic analysis.

9 JUDGE FARRAR: And that was going to be
10 their salvation to get -- in other words, if they
11 hadn't done that, you were going to do it on
12 December 31st?

13 THE WITNESS: Well, if not for those two
14 items, they really would not have had a position as to
15 why they shouldn't shut down. Those were the two
16 bases that they were using to not do an inspection
17 before December 31.

18 JUDGE FARRAR: How did this end up?
19 Eventually, you -- eventually, over some -- over some
20 objection, somebody recommended to let them go ahead.

21 THE WITNESS: How did it end up? The
22 licensee ultimately proposed some actions. I'm trying
23 to think of the exact phraseology -- the compensatory
24 measures that they believed would reduce the
25 likelihood and consequence of a loss of coolant

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1 accident by injection of one of the nozzles.

2 For example, they reduced their operating
3 temperature slightly, and that would have an effect on
4 crack growth rate. It would reduce it, not a
5 significant amount in all honesty, but it would have
6 an impact if they were in an incipient failure
7 condition.

8 They proposed compensatory measures. The
9 staff had drafted an order, and I believe it was with
10 the Commission for review at that point. So it was --
11 we were on the -- NRR was on the verge of issuing the
12 order.

13 JUDGE FARRAR: The order to?

14 THE WITNESS: To have Davis-Besse shut
15 down by December 31.

16 JUDGE FARRAR: What was your position on
17 that?

18 THE WITNESS: My position was we should
19 issue it. I believe there were a lot of uncertainties
20 in both the crack growth analysis and the risk
21 analysis. The other high susceptibility plants,
22 almost without exception, had identified cracking. Of
23 the B&W plants had identified cracking, and many of
24 them had found circumferential cracks. I thought the
25 company they kept was not something that we should

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1 allow them to operate beyond December 31.

2 JUDGE FARRAR: But then they pushed the
3 compensatory measures, and they were allowed to say
4 open. Was that ruling by the Executive Director for
5 Operations, or was that the Commissioners?

6 THE WITNESS: Actually, the NRR Office
7 Director decided not to issue the order. He was the
8 one that has signatory authority for the --

9 JUDGE FARRAR: Oh. So he could let them
10 stay open, but he couldn't have shut them down?

11 THE WITNESS: He could have shut them
12 down, yes. We had an order drafted. All he needed to
13 do was sign the order.

14 JUDGE FARRAR: He didn't need the
15 Commissioners' approval?

16 THE WITNESS: No. I think it's more of a
17 courtesy for, you know, such drastic measures for a
18 licensee to make sure the Commissioners are informed.
19 And if they have any questions, then, you know, give
20 them the opportunity to engage.

21 JUDGE TRIKOUROS: Do you think if you had
22 seen the 2000 tape, then, on that day, that you might
23 have behaved differently?

24 THE WITNESS: If it was -- if the
25 correlation of what we would have seen relative to the

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1 entire volume of tapes was consistent with what I now
2 know we saw for '98, relative to the entire volume of
3 '98 videos, no, I think we would have not done
4 anything different. I believe we would have only been
5 -- we would have only viewed portions of the 2000 tape
6 that were consistent with what we had been told and
7 what they had submitted. That was -- that's my belief
8 of '98.

9 We only saw portions that were consistent
10 with submittals and testimony about the tapes. We
11 didn't see the portions that were -- would have --
12 that were problematic.

13 JUDGE TRIKOUROS: So you do think you were
14 shown -- you were specifically shown -- good portions
15 -- I don't -- maybe I shouldn't say "good portions" of
16 the tape, but you were specifically shown selected
17 portions of the tape.

18 THE WITNESS: I don't know if I would say
19 that. The only thing I can say is the portions that
20 we saw --

21 JUDGE TRIKOUROS: I'm trying to understand
22 what you are saying.

23 THE WITNESS: Well, all I'm saying is the
24 portions of the tapes that we saw for '96 and '98 were
25 not trouble. I know that there are portions, at least

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1 of the '98 tape, that if we had seen them we would
2 have taken actions.

3 JUDGE FARRAR: But I thought you saw the
4 entire tape, even though some of it was fast
5 forwarded.

6 THE WITNESS: No. No, we did not. We did
7 not. That's what I said before. We did not see all
8 of the '96 or all of the '98 tapes. And I still have
9 not reviewed personally all of those tapes.

10 JUDGE FARRAR: Because there was another
11 cassette that wasn't -- in other words, the entire
12 inspection was not on this one video cassette?

13 THE WITNESS: That may have been the case.
14 We were not doing an audit of the inspection.

15 JUDGE FARRAR: Right.

16 THE WITNESS: And what we were trying to
17 do was gain an understanding of the condition of the
18 head.

19 JUDGE FARRAR: But I thought I heard the
20 testimony to be there was this videotape, and you went
21 -- Mr. Geisen went through the whole thing, some at
22 regular speed, some fast forward, and then you got to
23 the end of the tape. So in that sense, you had seen
24 or had the opportunity to see the entire tape. Now
25 you're suggesting that there was some other tape that

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1 -- or maybe that Mr. Geisen didn't get to the end of
2 the tape. Maybe he stopped halfway through. But
3 somehow there is a suggestion that there is a missing
4 tape.

5 MR. GHASEMIAN: No, Your Honor. I think
6 Dr. Hiser -- my recollection is he testified that the
7 only -- they viewed portions of the 1996 and 1998
8 tape. There was no testimony, as I recall, that all
9 of the tapes were played.

10 The portions that they did view --

11 JUDGE FARRAR: Well, let me ask him. Was
12 it your impression that you had gone from beginning to
13 end of the two tapes?

14 THE WITNESS: No. No. I think by sort of
15 general acclamation, we got to a point where we
16 thought we have seen enough of the '96 tape that --

17 JUDGE FARRAR: This was the after-hours
18 meeting.

19 THE WITNESS: Yes.

20 JUDGE FARRAR: Everyone is tired like
21 right now.

22 THE WITNESS: Well, we're tired and we had
23 a specific purpose in mind, and we thought that we had
24 fulfilled that purpose.

25 JUDGE TRIKOUROS: Were these tapes in a

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1 briefcase or in a -- how did -- were there more tapes
2 that you were able to see at -- paint a picture for
3 us. Did you --

4 THE WITNESS: I believe there were -- may
5 have been more tapes. I don't have a specific
6 recollection.

7 MR. WISE: I would ask the Court to figure
8 out what the basis for that is. That is rank
9 speculation.

10 JUDGE FARRAR: Did you see, in Mr.
11 Geisen's briefcase, more tapes?

12 THE WITNESS: As I say, I do not have a
13 specific recollection.

14 JUDGE FARRAR: Okay.

15 JUDGE HAWKENS: Although Mr. Geisen
16 controlled the fast forward, the regular play, did I
17 understand you to say that you were directing him when
18 to fast forward and when to put it back to regular
19 play?

20 THE WITNESS: I believe that's the way
21 that it worked, yes. Yes, I don't -- do not recollect
22 him fast forwarding to any specific portions and
23 then --

24 JUDGE HAWKENS: Unless you directed him
25 to.

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1 THE WITNESS: Yes. Yes, I believe that's
2 the case.

3 JUDGE HAWKENS: And you also said that as
4 he fast forwarded you could discern enough of the
5 video to have concluded whether there was a greater
6 buildup --

7 THE WITNESS: Right. Yes, I think --

8 JUDGE HAWKENS: -- of the boron.

9 THE WITNESS: -- if there had been, in the
10 portions that were fast forwarded, we would have been
11 able to identify enough of what was in the frame that
12 we would have said, you know, "Stop, replay that
13 part." I know a few times we did that. I don't
14 remember the specific circumstances or, you know, what
15 we did see, you know, just artifacts in the tape,
16 something on that order.

17 But I do not want to leave the impression
18 that Mr. Geisen started a tape, stopped it, fast
19 forwarded to another place, and then restarted it.
20 Things were pretty much at our direction of what he
21 showed us on the tapes that he showed us.

22 JUDGE TRIKOUROS: I just find it
23 interesting that you spent time with Mr. Geisen, you
24 saw two tapes, or two inspections, or parts of two
25 inspections, and everything looked fine to you.

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1 Subsequent to that, in -- I don't know when it was,
2 maybe during the OI investigation, I don't know when
3 -- you saw the same inspections, and everything looked
4 terrible to you.

5 I almost get the impression you are
6 telling me that one party showed you one part that
7 they wanted you to form an impression on. The other
8 party showed you another part that they wanted you to
9 get an impression on. I'm very confused by what
10 you're saying. If you could help me, that would be
11 great.

12 THE WITNESS: Well, the subsequent showing
13 of tapes that I had seen, that have areas that would
14 have raised a lot of concerns to us, were shown to me
15 by what I believe are Office of Investigation from
16 Region III who are working with Department of Justice.

17 JUDGE TRIKOUROS: All right. So those
18 were -- it was the OI investigation.

19 THE WITNESS: Yes. And, you know, the
20 clear question at that point was: did you see tapes
21 that looked like this? And they --

22 JUDGE TRIKOUROS: Did they show you the
23 whole tape?

24 THE WITNESS: No. No.

25 JUDGE TRIKOUROS: They only showed you

1 selected portions of the tape.

2 THE WITNESS: That's correct. That's
3 correct. That's why I say, I have not seen any of the
4 three years worth of inspections from start to finish.

5 JUDGE FARRAR: Do you remember the name of
6 that person?

7 THE WITNESS: From Region III? Jim
8 Gavula.

9 JUDGE FARRAR: Was Mr. Ulie with him?

10 THE WITNESS: May have been. May have
11 been. But Jim Gavula was the person that I interacted
12 with on the tapes the most. He has probably reviewed
13 them more than anyone else in history.

14 JUDGE HAWKENS: Can you tell me, once
15 again, when Mr. Geisen told you, "If you think '98 is
16 bad, 2000 is even worse," what that -- why he said
17 that to you, and what you understood him to be saying?

18 THE WITNESS: Well, I understood him to be
19 saying that there was more boric acid on the head,
20 which was consistent with other statements and
21 submittals that we had received. And that I didn't
22 see anything nefarious in the statement. Just that,
23 you know, you've seen '98, '98 is not --

24 JUDGE HAWKENS: Well, it seems like it
25 would be a very candid statement.

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1 THE WITNESS: Well, yes. But in terms of
2 aiding our assessment of the inspections, that there
3 would be nothing more that we would gain from seeing
4 the 2000 tape. That was the impression that I had.
5 I mean, that was my expectation, that we were -- you
6 know, that he was -- he was -- you know, "Don't waste
7 your time. You've seen '98. It's not -- it's not
8 real good. 2000 is even worse. I mean, we are not
9 claiming" -- he didn't say this. "We're not claiming
10 full credit for 2000. You know, so it's not -- it's
11 not going to be a dealbreaker for you guys whether you
12 review it or you don't review it."

13 I mean, he didn't forcefully say, "No,
14 don't look at 2000." It was just more recommendation.
15 "You know, clearly, you guys aren't too impressed with
16 '98; 2000 is worse."

17 JUDGE FARRAR: In other words, he has
18 recognized -- one interpretation is he is recognizing
19 he is not going to gain anything by showing -- in
20 other words, in terms of what the company was trying
21 to accomplish with the responses to the bulletin, he
22 is not going to gain anything -- the company is not
23 going to gain anything by you looking at 2000.

24 THE WITNESS: That's correct.

25 JUDGE FARRAR: If you're not going to give

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1 them credit already, you are sure not going to give
2 them credit when you see that.

3 THE WITNESS: Yes.

4 JUDGE FARRAR: Right.

5 JUDGE TRIKOUROS:- But he wasn't saying --

6 JUDGE FARRAR: That's how you took it.

7 THE WITNESS: Yes.

8 JUDGE TRIKOUROS: But he wasn't saying to
9 you that, "If you like these, you'll like the 2000
10 better," or -- he was basically, in your opinion,
11 being honest about the 2000 tape, that it had
12 excessive amounts of boron on it? And if you think
13 you had a lot in '98, we had more in 2000? That's
14 basically what he's telling you.

15 THE WITNESS: That was my interpretation,
16 yes.

17 JUDGE TRIKOUROS: Okay. And that was not
18 an incorrect statement. Or was -- was it an incorrect
19 statement as far as you know?

20 THE WITNESS: I believe that, again, from
21 portions of what I have seen from '98 tapes, if we had
22 reviewed every tape that there is, we would have had
23 issues. So from that perspective --

24 JUDGE TRIKOUROS: Right. But he didn't --
25 he wasn't trying to tell you that the 2000 tape was

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1 something positive. He was trying -- it sounds like
2 he was trying to tell you something -- that the 2000
3 tape was really -- had quite a bit of boron on it.

4 THE WITNESS: Yes. I believe that was the
5 context of the statement, and, again, that was
6 consistent with what we had heard from -- or what they
7 had provided in submittals.

8 JUDGE HAWKENS: Although based on that
9 statement, you did not anticipate the volume of boron
10 that actually was there, is that correct?

11 THE WITNESS: No, absolutely not. And,
12 you know, we didn't -- in all honesty -- in 1998
13 either, given what we saw in the videotapes. The
14 photographs that I think are referred to as the white
15 photographs from 1998, I never would have expected
16 that that was from the same outage as the videos that
17 we reviewed from 1998. They did not seem to be
18 consistent at all.

19 MR. GHASEMIAN: I have a couple of
20 questions, Your Honors.

21 JUDGE FARRAR: Okay.

22 BY MR. GHASEMIAN:

23 Q So when Judge Trikouros just said that
24 when -- that Mr. Geisen said that there was quite a
25 bit of boron, did you understand that to mean that,

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1 you know, nozzles were engulfed in boron deposits? Is
2 that "quite a bit of boron" to you?

3 MR. WISE: Your Honor, I have to object.
4 First of all, I don't think the testimony was that Mr.
5 Geisen said there was quite a bit of boron. I believe
6 the Judge was trying to get a sense for what the
7 witness was saying. But then to then say that Mr.
8 Geisen said it was --

9 MR. GHASEMIAN: I apologize.

10 MR. WISE: -- boron, and then ask the same
11 question about whether that means it was engulfed in
12 a nozzle --

13 MR. GHASEMIAN: I apologize for
14 attributing that to Mr. Geisen, but maybe I
15 misunderstood the Judge's question.

16 BY MR. GHASEMIAN:

17 Q But when the Judge characterized it as
18 "quite a bit of boron," did that -- was that
19 equivalent to you? Was your expectation that there
20 would be nozzles that would be engulfed in boron?

21 A I don't -- there was no expectation from
22 any of the statements or viewing the videos that the
23 nozzles were engulfed in boron.

24 Q When he talked about the 2000 video, could
25 he have been talking about the quality of the tape

1 itself rather than what it depicted?

2 A I'm not sure whether he -- my assumption
3 at the time was that it was the -- it was the
4 information to be conveyed in the tape, not the
5 technical quality of the tape. You know, for example,
6 it was too dark or something along those lines that
7 one really couldn't interpret it. But just that the
8 information that was there was, you know, not going to
9 give them additional benefit beyond what they were
10 already claiming in their analyses.

11 Q So when he was talking about -- when he
12 made the statement about the 2000 tape, did he say
13 that there was quite a bit of boron in -- you can see
14 quite a bit of boron on the videotape?

15 A I don't recollect that statement.

16 Q Did he say that there were nozzles that
17 were surrounded by boron deposits?

18 MR. WISE: Objection. Asked and answered.

19 MR. GHASEMIAN: It's a different
20 statement, Your Honor.

21 JUDGE FARRAR: Well --

22 MR. WISE: He said what he said. I
23 mean --

24 MR. GHASEMIAN: But the implication is
25 that, you know, Mr. Geisen was being honest and

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1 truthful by offering that -- saying that there was
2 something --

3 JUDGE FARRAR: Did he say -- so we don't
4 have to go through like six things that he didn't say,
5 the question -- I guess the easier question would be:
6 did he say anything other than -- help me.

7 THE WITNESS: My recollection of the
8 statement was, "If you think this tape is bad, 2000 is
9 worse."

10 JUDGE FARRAR: And is that all he said
11 with respect to --

12 THE WITNESS: That's all that I can
13 recollect at this point.

14 JUDGE FARRAR: Is that tape, Mr.
15 Ghasemian, that --

16 MR. GHASEMIAN: And the question -- and
17 the follow up is: could he -- you understood it to
18 mean that he is talking about the quantity of boron on
19 the head. But could it have also been a statement
20 regarding the quality --

21 JUDGE FARRAR: You know, you already asked
22 -- we already --

23 MR. GHASEMIAN: I'm not sure, with the
24 objections and the comments, what he answered, Your
25 Honor.

1 JUDGE FARRAR: He --

2 MR. GHASEMIAN: Could he have also --

3 JUDGE FARRAR: Could he have been
4 referring to the quality of the tape? You have
5 already answered, but it's easier for you to repeat
6 your answer than us to go back and find it.

7 THE WITNESS: Yes. I don't believe that
8 he meant the technical quality.

9 JUDGE FARRAR: Okay.

10 THE WITNESS: I believe it was the amount
11 of boron on the head and the credit that they could
12 gain from that.

13 MR. GHASEMIAN: Your Honor, I understand
14 that. But my question is -- I understand that that's
15 what Mr. -- Dr. Hiser's interpretation of that
16 statement was. My question is: is it possible that
17 he may have been talking about the quality of the
18 tape?

19 JUDGE FARRAR: He just said no.

20 MR. GHASEMIAN: He said what he understood
21 that statement --

22 JUDGE FARRAR: Oh, okay.

23 MR. GHASEMIAN: -- to mean.

24 JUDGE FARRAR: Okay. Is it possible he
25 meant quality?

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1 THE WITNESS: I guess that's possible,
2 yes.

3 JUDGE FARRAR: Okay.

4 MR. GHASEMIAN: I don't have any more
5 questions about the -- that November 8th video he --

6 JUDGE FARRAR: So we still have, what, the
7 ACRS meeting?

8 MS. CLARK: Your Honor, at this point in
9 time, we have a witness who just flew in from
10 California, and he is waiting to meet with us. He is
11 due to testify tomorrow morning.

12 JUDGE FARRAR: That's Mr. Martin?

13 MS. CLARK: Yes. I was wondering if we
14 could maybe adjourn at this time and continue with Dr.
15 Hiser in the morning.

16 JUDGE FARRAR: Okay.

17 MR. WISE: Your Honor, our strong
18 preference would be to continue tonight. I think it's
19 important that we do the cross examination of this
20 testimony tonight, if the Court is willing to indulge
21 that.

22 JUDGE FARRAR: How long is Mr. Martin's
23 testimony going to be?

24 MR. GHASEMIAN: His direct will be half an
25 hour, maybe an hour.

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1 JUDGE FARRAR: What?

2 MR. GHASEMIAN: Half an hour to an hour,
3 no more than an hour. I'm just being --

4 JUDGE FARRAR: Originally, I thought his
5 testimony would go, "What did you do?" He'd say, "I
6 went to Davis-Besse for two weeks?" "How many people
7 did you interview?" "Fifteen." "Did you take notes?"
8 "Yes, I took notes. I always take notes." "And how
9 did you have your notes made up?" "Secretary typed
10 them." "What did they say? What do you remember?"

11 MR. GHASEMIAN: Well, that may --

12 JUDGE FARRAR: What's an hour?

13 MR. GHASEMIAN: Well, I'm just being
14 conservative, but half an hour.

15 JUDGE FARRAR: I mean, I'm -- he testified
16 at the criminal case.

17 MR. GHASEMIAN: Yes, Your Honor.

18 JUDGE FARRAR: We were --

19 MR. GHASEMIAN: And that's why we wanted
20 to have his transcript, and so -- but Mr. Geisen's
21 counsel objected to that.

22 JUDGE FARRAR: Right. And we upheld the
23 objection, and he is coming. But there is -- doesn't
24 he have just like one thing he is going to say, and we
25 either believe him or we don't?

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1 MR. GHASEMIAN: Yes, Your Honor. But even
2 in the criminal case, it wasn't a five-question
3 direct, and, you know, 10 minutes on and off. It --
4 I mean, I -- actually, I was there. I recollect it
5 was -- it was not a long direct, but it was not, you
6 know, "Did you write the notes? What did you write?
7 What did he say? Thank you very much." It was -- I
8 mean, you know, we -- with all honesty, you know, we
9 have to ask him, you know, just the procedural
10 questions, just background. I mean, that in itself
11 takes --

12 JUDGE FARRAR: Okay.

13 MR. GHASEMIAN: -- five, 10 minutes.
14 So --

15 JUDGE FARRAR: I was just thinking whether
16 we could, if it was going to be short enough, whether
17 we could continue tonight and you meet with Mr. Martin
18 tomorrow morning and we start a little later tomorrow
19 morning.

20 MS. CLARK: That would be acceptable.

21 MR. WISE: That's fine with us.

22 JUDGE FARRAR: Is that all right?

23 MR. GHASEMIAN: Yes.

24 JUDGE FARRAR: Why don't we do that?

25 MR. WISE: Okay.

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1 MS. CLARK: All right. If we could just
2 have a moment, I'd like to call him.

3 JUDGE FARRAR: Sure.

4 MS. CLARK: What time could we --

5 JUDGE FARRAR: Okay. How long is the ACRS
6 testimony?

7 MR. GHASEMIAN: Ten minutes. I mean --

8 JUDGE FARRAR: Okay.

9 MS. CLARK: So --

10 MR. GHASEMIAN: I'm scared to say exactly,
11 but roughly 10 minutes I think.

12 JUDGE FARRAR: Okay. All right. Let's
13 take our last break, make it 10 minutes.

14 Mr. Wise, will you need a break after the
15 ACRS testimony?

16 MR. WISE: No.

17 JUDGE FARRAR: You can launch right in.

18 MS. CLARK: I'm just wondering what time
19 we will begin tomorrow morning.

20 JUDGE FARRAR: Well, assuming we finish
21 Mr. Hiser, then we would want to finish Mr. Martin
22 tomorrow morning.

23 MS. CLARK: So in terms of when I have to
24 tell him to be ready to testify. Maybe 10:00?

25 JUDGE FARRAR: 10:00, yes.

1 MS. CLARK: Okay.

2 JUDGE FARRAR: We finish him by noon.
3 Then, Mr. Geisen gets on the stand after lunch
4 tomorrow.

5 MS. CLARK: Okay.

6 JUDGE FARRAR: Then, we've got Mr. Geisen
7 on on Wednesday afternoon. We're in good shape.

8 Are you -- in terms of the sequestration
9 rule, should we have the two staff penalty witnesses
10 here for Mr. Geisen's testimony?

11 MR. WISE: I don't think so, Your Honor.
12 I can't imagine that the penalty they decided in 2000
13 would be affected by what he says in court in 2008.

14 JUDGE FARRAR: Well, I had been thinking
15 there might come a time when we'd say to them, "If you
16 knew in 2003, 2004, 2005, what you know now, having
17 watched Mr. Geisen's testimony, would your testimony
18 be the same?" And they may say yes, or they may say,
19 no, it would be two years, or they may say, no, it
20 would be 10 years. But that's -- I recognize that's
21 a fraught question. So --

22 MR. HIBEY: It is. May we reflect on
23 that, Your Honor, during the break?

24 JUDGE FARRAR: It's not imperative, but I
25 -- particularly when we're going to bring in a fellow

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1 who wasn't involved in this case, so -- but I can do
2 without that. I can ask him a hypothetical rather
3 than have him -- so that's your call.

4 MS. CLARK: That -- I recall a matter that
5 I -- I apologize I didn't mention before. Mr. Luehman
6 is making a presentation in Region III tomorrow, and
7 he is now planning to travel back tomorrow afternoon.
8 So he would not be here tomorrow. He would be here --
9 he wouldn't be available until Thursday morning.

10 JUDGE FARRAR: And he's the fellow who had
11 nothing to do with this case?

12 MS. CLARK: Correct.

13 JUDGE FARRAR: Okay. Well --

14 JUDGE HAWKENS: Mr. O'Brien would be
15 available tomorrow?

16 MS. CLARK: Oh, I'm corrected.
17 Apparently, Mr. Luehman was the Deputy Director of OI
18 at the time this enforcement action was taken. So he
19 was, in fact, involved to some extent.

20 MR. GHASEMIAN: Yes, he was involved, so
21 he does know about these cases. But we're going to
22 put him up to talk about the history and --

23 JUDGE FARRAR: The past. But I thought he
24 might also be an expert witness from his prior vantage
25 point on a case he knew nothing about, but that seems

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1 not to be the case.

2 JUDGE HAWKENS: Will Mr. O'Brien be here
3 tomorrow, be available tomorrow?

4 MR. GHASEMIAN: I believe he came -- he is
5 -- or he will arrive this evening, so he will
6 physically be in the building tomorrow. I don't know
7 about his schedule, but I'm sure he will make himself
8 available if the Board so deems him to be --

9 JUDGE FARRAR: Well, Mr. Wise, Mr. Hibey,
10 you all decide whether you want to relax the rule for
11 that purpose.

12 MR. WISE: Okay.

13 MR. HIBEY: Thank you.

14 JUDGE FARRAR: And, again, what he says
15 isn't binding, but we thought he might have some
16 thoughts, having seen Mr. Geisen.

17 All right. It's 6:20. Come back at 6:30,
18 and we'll go full speed ahead.

19 (Whereupon, the proceedings in the
20 foregoing matter went off the record at
21 6:21 p.m. and went back on the record at
22 6:31 p.m.)

23 JUDGE FARRAR: On the record. All right,
24 Mr. Ghasemian.

25 BY MR. GHASEMIAN:

1 Q Dr. Hiser, let's go and pull up Staff
2 Exhibit No. 59 and it is a transcript or portion of
3 the transcript of a November 9, 2001 meeting of the
4 Advisory Committee on Reactor Safeguards. I'm
5 scrolling down to page 358 of the transcript. You see
6 Mr. Geisen's name at the bottom.

7 A Yes.

8 Q And were you present in this meeting?

9 A Yes.

10 Q I think your name is here someplace.

11 A Line 19.

12 Q But go to 397. Now I'm going to ask you
13 to read Vice Chairman Bonaca's question and I'm going
14 to ask you what you thought what his question was
15 seeking and then I'll ask you to read Mr. Geisen's
16 answer.

17 MR. WISE: Objection. Relevance.

18 MR. GHASEMIAN: Relevance on what?

19 MR. WISE: Relevance on what Dr. Hiser
20 thought the question meant. The question and the
21 answer are there.

22 MR. GHASEMIAN: Your Honor, one of the
23 charges against Mr. Geisen is that he provided
24 incomplete and inaccurate information in this exchange
25 and I'd like to ask Mr. Hiser who was there to say

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1 when he heard this question what kind of an answer he
2 was expecting to hear and what he actually heard.

3 MR. WISE: I guess my objection is that
4 what Dr. Hiser expected to hear I think is irrelevant.
5 If the staff wants to illicit what the context of the
6 question was, what the topic that was being discussed
7 at the meeting is, that's fine. But Dr. Hiser
8 expected to hear.

9 JUDGE FARRAR: I don't think what he
10 expected to hear, what he thought after he heard the
11 answer.

12 MR. GHASEMIAN: Okay.

13 JUDGE FARRAR: Is that all right? Is that
14 all right, Mr. Wise?

15 MR. WISE: I guess that's fine.

16 JUDGE FARRAR: He's been interacting with
17 Mr. Geisen. So he hears a question. He has an
18 expectation which may be right. We don't care what
19 his expectation was, but he has a reaction and we do
20 care about that.

21 MR. WISE: That's fine, although I think
22 the context is irrelevant too.

23 MR. GHASEMIAN: I'll ask about the
24 context. That's fine and I'll ask --

25 JUDGE FARRAR: And you'll have your cross.

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1 You can ask him. Go ahead. Okay. What line are we
2 on on page 397?

3 MR. GHASEMIAN: Three ninety-seven line
4 18.

5 JUDGE FARRAR: Okay. Do you have that in
6 front of you, Dr. Hiser?

7 THE WITNESS: Yes.

8 JUDGE FARRAR: Okay. There's a question.
9 There's an answer. Okay. We want it to be in the
10 record. Go ahead.

11 BY MR. GHASEMIAN:

12 Q There's from line 18 to 23. Could you
13 read that? You can read it to yourself; Vice Chairman
14 Bonaca's question and I guess it's two part and do you
15 recall the context in which this question was being
16 asked?

17 A I really don't recollect the question
18 other than through the transcript.

19 Q But reading the question.

20 JUDGE FARRAR: Let's make this simple.
21 Here's the question. "What was the extent of the
22 inspection?"

23 MR. GHASEMIAN: Okay. Let's read the
24 answer that Mr. Geisen gave.

25 JUDGE FARRAR: It's too long. We have it

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1 right here.

2 MR. GHASEMIAN: Okay. Let's --

3 JUDGE FARRAR: It's Staff Exhibit 59
4 beginning line 24 and it goes all the way down to line
5 20 on the next page.

6 MR. GHASEMIAN: Your Honor, let me -- If
7 I'm allowed, I can ask him about a particular
8 sentence.

9 JUDGE FARRAR: Sure.

10 MR. GHASEMIAN: Or statement by Mr.
11 Geisen.

12 BY MR. GHASEMIAN:

13 Q Mr. Geisen starting in line 25 going to
14 line 2 of the following page on page 398, he said,
15 "With regard to these inspections," and he's referring
16 to the 1998 and 2000 inspections, "recognize that they
17 were not done looking for this particular phenomena."
18 Do you know what phenomena he was referring to? And
19 it goes on to say, "They were looking for other
20 things."

21 MR. GHASEMIAN: Well, Your Honor, let me -
22 - allow me to just have him read through line nine
23 because it's the same thought.

24 A Okay. They were -- The highlighted
25 portion that you had on there was "They were looking

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1 for other things. The two inspections done in 1998
2 and 2000 were really looking for the impact of boric
3 acid leakage from leaking flanges that we had
4 subsequently repaired and what was the impact to that.
5 So the views that we got from those was in many cases
6 some of the drives you couldn't even get a good view
7 of."

8 Q So what did you understand when you heard
9 this? Was this consistent with what you were hearing?
10 Is this consistent with what the information that was
11 provided to you throughout the fall of 2001 regarding
12 the condition of the head and the scope of the
13 inspections in 1998 and 2000?

14 A Well, I'm not sure before this that we
15 were really told what the purpose of the inspections
16 in 1998 and 2000 was.

17 Q But what were the inspections offered to
18 be for?

19 A I think all the testimony or all the
20 information provided by the licensee indicated that
21 they had re-reviewed the tapes. So they were gaining
22 an additional interpretation of what was on the tapes,
23 but not necessarily that we did these inspections to
24 support the bulletin that wasn't issued yet.

25 Q So after you reviewed the videotapes, the

1 2000 and '98, sometime in 2000 or 2002 or later at
2 some point, reading this, is this -- how would you
3 describe this statement in response to the answer or
4 to the question that was being asked by Vice Chairman
5 Bonaca?

6 A Well, I think it almost asks a or answers
7 a different question. I mean the extent of the
8 inspection would cover whole head coverage and things
9 like that and I think the response really was to the
10 purpose of the inspection that were performed.

11 Q So I'm paraphrasing. So you're saying
12 that he didn't -- The answer that he gave is not an
13 answer --

14 MR. WISE: Objection. Leading.

15 MR. GHASEMIAN: I'm just restating what he
16 just said, Your Honor.

17 MR. WISE: It's not restating.

18 JUDGE FARRAR: It is. We'll allow it. Go
19 ahead.

20 BY MR. GHASEMIAN:

21 Q Am I correct to understand what you just
22 said that the answer that he gave is an answer to a
23 different question?

24 A I believe the answer is not really to the
25 extent of the inspection. The portion that is

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1 highlighted there that I read from talks about the
2 fact that the two inspections were looking for the
3 impact of boric acid leakage for leaky flanges. So
4 that was the purpose of the inspections in 1998 and
5 2000.

6 Q So what would you have expected the answer
7 to be to that question?

8 A I would have expected a question
9 discussing the extent of the inspection to that
10 coverage and things like that.

11 JUDGE FARRAR: But he does talk about
12 coverage. He starts on line seven and he says about
13 he couldn't get a good view of the drives and he says
14 the camera was looking upwards and you got a downward
15 look and so that was better.

16 MR. GHASEMIAN: But he's saying that the
17 scope of the, the purpose of the, inspections were not
18 to look at -- The implication was that they were not
19 looking at the nozzles, the interfaces. They were
20 just looking at the ceiling of the service structure
21 or the insulation and based on our videos that we've
22 seen, yes, there is three views of the service
23 structure, but that doesn't mean that the purpose of
24 the inspections were just to look at the services
25 structures.

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1 JUDGE FARRAR: We're kind of -- We're
2 going around in circles about this. There is a
3 stipulation. There's some kind of stipulation on
4 this. We have what he said. We know what Dr. Hiser
5 has told us Mr. Geisen reported to him earlier. I
6 don't know what's going to emerge from Dr. Hiser
7 telling us more about what he thinks the statement
8 said.

9 MR. GHASEMIAN: Your Honor, we don't have
10 any more questions.

11 JUDGE FARRAR: Okay. Mr. Wise or Mr.
12 Hibey.

13 MR. WISE: Thank you. Your Honor, before
14 I start, let me just advise the Court of a scheduling
15 concern that Dr. Hiser has which he needs to leave by
16 7:20 p.m. to reach a train. What I would suggest is
17 that we start the cross examination, see where we get.
18 If we have to stop at 7:15 p.m., but I'd like to start
19 tonight.

20 JUDGE FARRAR: Okay.

21 CROSS EXAMINATION

22 BY MR. WISE:

23 Q Doctor, good evening. Let's start with
24 November 9th because we were just talking about it.
25 You were there, right?

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1 A Yes.

2 Q So if you would have had a concern that
3 he, Mr. Geisen, wasn't answering the question that was
4 asked you could have pointed that out at the time.
5 Correct?

6 A That's not my role.

7 Q Certainly nothing offended about what he
8 said at the time that led you to suggest to the ACRS
9 that he was not answering the question, right?

10 A I think that's correct.

11 Q Okay. But the phenomenon that you were
12 talking about at the time in the ACRS meeting was
13 circumferential cracking. Correct?

14 A I would need to review more of the
15 transcript, presumably circumferential cracking and
16 cracking of nozzles.

17 Q Okay. November of 2001 the issue that was
18 at the heart of your discussions with Davis-Besse was
19 circumferential cracking. That's fair, right?

20 A Yes, that's correct.

21 Q Okay. The discussion at the ACRS was
22 primarily also about crack growth rate and the
23 deterministic model, correct?

24 A I do not remember. I have not seen the
25 transcript for this meeting until --

1 Q I'm not asking you really what's on the
2 transcript. I'm asking you your recollection.

3 JUDGE FARRAR: You have to be at your
4 table. Stand here.

5 MR. WISE: I have the microphone on.

6 JUDGE FARRAR: Can you, Dr. Hiser, angle
7 yourself a little different so you're looking at Mr.
8 Wise when you hear his question and look at him?

9 THE WITNESS: Sorry.

10 MR. WISE: Actually, Your Honor, let me --

11 JUDGE FARRAR: It's all right as long as
12 he does that.

13 MR. WISE: Okay. I can also move around
14 if you prefer.

15 JUDGE FARRAR: Yes.

16 (Off the record discussion.)

17 BY MR. WISE:

18 Q So aside from the transcript, November of
19 2001, you recall the ACRS meeting I take it.

20 A Not substantial detail.

21 Q Do you recall that by the middle of
22 October the majority of your conversations with Davis-
23 Besse was focusing on crack growth rates and the
24 deterministic model?

25 A I would say it had three portions. The

1 other portion was the effectiveness of the
2 inspections.

3 Q And the reason that you were discussing
4 the effectiveness of the inspections was because the
5 effectiveness of the inspections was defining when the
6 crack growth rate model began, correct?

7 A That was one of the purposes, yes.

8 Q By November of 2001, Davis-Besse was
9 running their crack growth rate model from 1996,
10 correct?

11 A Correct.

12 Q In effect not taking credit for the 1998
13 and 2000 inspections for the purpose of the crack
14 growth rate model, correct?

15 A No, that is not correct.

16 Q If they were running the model from 1996,
17 the model was predicated on the idea that the first
18 time they would take credit for a nozzle was 1996,
19 correct?

20 A No, that is not correct.

21 Q What is your understanding of how the
22 model works?

23 A The probabilistic model used results from
24 2000 and '98 and '96. It used results from all three
25 inspections. That was the purpose of the tables that

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1 laid out how many nozzles were viewable at each of the
2 three inspections.

3 Q And it's your understanding that the PRA
4 did not use '96 as the baseline.

5 A No, the PRA used '96 as the baseline, but
6 it did use '98 and 2000 in addition to '96.

7 Q Let's talk about November 8th, the night
8 before with the video tapes. The meeting started at
9 about 5:30 p.m., right?

10 A On that order, yes.

11 Q Okay, and your recollection was that it
12 lasted about an hour and a half or two hours, correct?

13 A That's correct.

14 Q Mr. Geisen was the only one from Davis-
15 Besse I believe you testified.

16 A Yes.

17 Q And you don't know how he came into
18 possession of the video tapes that he showed.

19 A I have no basis for knowing that.

20 Q You also don't know how he found out that
21 he was going to be one presenting the tapes.

22 A No, I have no basis for that.

23 Q Who made that decision?

24 A I have no idea.

25 Q You don't know when it was made.

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1 A No.

2 Q What you know is that Mr. Geisen showed up
3 at about 5:30 p.m., right?

4 A We had a meeting I believe that afternoon
5 and he was there throughout the meeting. So he was
6 there before 5:30 p.m. as well.

7 Q So, in other words, he was occupied during
8 the afternoon hours before the meeting started.

9 A I believe he would have been, yes.

10 Q And then you went from that meeting into
11 the 5:30 p.m. session.

12 A That's correct.

13 Q And you're in a room with a television and
14 a VCR on a cart, correct?

15 A Yes.

16 Q Is it fair to say that all sort of huddled
17 around the TV?

18 A I don't believe we were huddled around,
19 no. We were sitting in chairs. There were tables in
20 the room. I mean there was no cluster, if you will,
21 right around the television. No.

22 Q And Mr. Geisen put in the first tape.

23 A Yes.

24 Q Now you said before I believe on direct
25 you used the word that he controlled the showing of

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1 the video. Just so that we're clear, by controlled.
2 you mean he hit the play button, the fast forward
3 button, the rewind button.

4 A Yes, that's correct.

5 Q There was never a time where someone said,
6 "Hey, wait a minute. Stop" and he refused to stop.

7 A No, I think my testimony was that we would
8 ask him to stop or pause or rewind.

9 Q And he did when you asked.

10 A Yes, I don't recollect that there were any
11 issues with him not doing what we asked him to do.

12 Q And certainly if he had done something
13 like that, if you would have said, "Wait. Pause it"
14 at that moment and he had continued to fast forward
15 it, that would have peaked your interest.

16 A Yes. We would have said "Rewind."

17 Q Okay.

18 A "Not far enough." "Go back further." No,
19 I think we would have -- I do not recollect any
20 problems with that.

21 Q And that's something you would recall I
22 assume because it would have been suspicious behavior.

23 A Absolutely.

24 Q Now there was also never a time where the
25 screen went blank while he was fast forwarding,

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1 correct?

2 A I don't have any recollection of that
3 happening.

4 Q When -- Let me ask you this. When you
5 watched the 1996 tape, there was no sound on that
6 tape, was there?

7 A I don't recollect that the sound was
8 turned on for any of it because we were more talking
9 with Mr. Geisen. We were making observations of
10 things. I mean if there was sound, we probably would
11 have requested that the volume be turned off on the
12 television because it wasn't really relevant to us.
13 I can't tell you whether there was sound or not.

14 Q Okay, but you don't remember hearing any
15 sound while the '96 tape was playing.

16 A No.

17 Q Mr. Geisen, I take it, had not been in the
18 room where the videos were viewed before the meeting
19 started, correct?

20 A He never would have been in there
21 unaccompanied by an NRC employee.

22 Q So this is not a situation where he would
23 have had occasion to become familiar with the VCR
24 before you arrived.

25 A I had no basis to say that he would have

1 been familiar with it before we arrived.

2 Q Okay. The '96 tape, you stopped watching
3 it based on I believe you said it was a group
4 decision.

5 A Yes.

6 Q This was not a situation where Mr. Geisen
7 suddenly hit stop and said, "Well, you don't need to
8 see anymore of '96." Right?

9 A I don't recollect that happening. No, I
10 think it was by sort of group consensus.

11 Q The '98 tape is put in and played,
12 correct?

13 A That's my recollection, yes.

14 Q Did you see more of the '96 tape, I mean,
15 in terms of time that you spent watching the tapes?
16 Did you spend more time watching '96 or watching '98?

17 A I don't recollect any difference in time
18 one way or the other.

19 Q You would agree with me, I take it, that
20 during the November 8th meeting it never appeared to
21 you that Mr. Geisen had a specific agenda to show you
22 parts of the tape and not show you others, correct?

23 A For the viewing of the video tapes?

24 Q Right.

25 A Yes, I did not have that impression that

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1 there was any agenda.

2 Q And at some point he expressed frustration
3 at the 2000 tapes.

4 A He had comments about the 2000 tapes, yes.

5 Q And in fact he did express frustration at
6 the quality of the tapes. Isn't that correct?

7 A I don't recollect that the word "quality"
8 was used.

9 Q Do you recall testifying in a deposition
10 in the cases of Steven Moffitt and Dale Miller?

11 A I remember testifying, yes.

12 Q Do you recall testifying that Mr. Geisen
13 expressed frustration at the quality of the 2000
14 video?

15 A I do not remember testifying to that, but
16 it would not surprise me.

17 Q All right. When he said what he said to
18 you about the 2000 video and set aside for a second
19 exactly what his words were, it did not strike you as
20 peculiar?

21 A His words?

22 Q Right.

23 A No, within the context of the discussions
24 that we had and the videos that we'd seen, no, it did
25 not strike me --

1 Q You didn't think that he was deliberately
2 withholding anything.

3 A I did not have that impression, no.

4 Q And you didn't think he was trying to
5 scare you off from watching it.

6 A No. I did not have that impression.

7 Q You said on direct that you didn't get a
8 copy of the tape, correct?

9 A That's correct.

10 Q In fact, the staff never asked for a copy
11 of the tape, right?

12 A The staff had asked on October 3rd for a
13 copy and I'm sure various times up to that point we
14 had asked for copies.

15 Q On November 8th as Mr. Geisen was putting
16 the videos in the briefcase, no one on the staff said,
17 "Hey, would you leave us with a copy of those tapes?"

18 A I don't recollect anybody saying that, no.

19 Q You certainly have no recollection of Mr.
20 Geisen seeming to not want to leave them with you,
21 correct?

22 A No, I don't have any recollection of that.

23 Q Let me ask you that question without a
24 triple negative. If you had asked him to leave the
25 tapes and he had refused, that is something that would

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1 have caught your attention.

2 A Absolutely.

3 Q The first time that you saw these tapes
4 you said, just to be clear, was with the investigators
5 from OI, correct?

6 A Which tapes?

7 Q The first time you saw the inspection
8 videos after the discovery of the cavity in the head.

9 A I believe that's true, yes.

10 Q And that's when you decided that you had
11 not been shown the whole tape in November of 2001.

12 A That is when it was obvious to me that
13 there were images on some of the tapes that were not
14 consistent with my recollection from what I saw
15 November 8th. I mean I think we knew on November 8th
16 that we had not seen all of the tape or tapes.

17 Q I just want to make sure I get your words
18 right because I believe you said before that the
19 reason you knew that was because if you had seen in
20 November of 2001 what you saw when you were sitting
21 with OI you would have done something, correct.

22 A Yes. That's correct.

23 Q You would agree with me that at that point
24 you were operating with the knowledge that there was
25 a corrosion cavity found in the head, correct?

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1 A Yes, that's correct.

2 Q You also knew that back the first time you
3 saw the red photos, correct?

4 A That is correct.

5 Q And those are the photos for the record
6 that were taken in April of 2000, right?

7 A Yes.

8 Q Now you testified a bit on direct about
9 the role of the resident inspector in a plant.

10 A Very briefly, yes.

11 Q The resident inspector is the eyes and
12 ears of the NRC at a plant. Is that fair to say?

13 A Yes. That's correct.

14 Q And I take it you understand that the
15 questions you were being asked in that regard were not
16 idle hypotheticals, right?

17 A The questions today?

18 Q Yes.

19 MR. GHASEMIAN: Objection, Your Honor.

20 MS. CLARK: This is --

21 MR. WISE: Let me be clear.

22 BY MR. WISE:

23 Q You know that the resident inspector at
24 Davis-Besse saw the red photo --

25 MS. CLARK: Objection, Your Honor. This

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1 was not covered in direct.

2 MR. WISE: He talked about the red photo
3 and what he would have made of it.

4 JUDGE FARRAR: Yes.

5 MS. CLARK: We were talking about what the
6 resident inspector might or might not have seen.

7 JUDGE FARRAR: Objection overruled. Go
8 ahead.

9 THE WITNESS: I don't remember the
10 question.

11 BY MR. WISE:

12 Q You are aware that the resident inspector
13 at Davis-Besse, specifically Dough Simpkins I believe
14 is his name, saw the red photo in April 2000, correct?

15 A I have heard of that. I have no direct
16 knowledge. I have not seen any documentation that
17 demonstrates that. I've heard mainly through
18 questioning probably like this that that is the case,
19 but I have no proof of that.

20 Q Assume for the purposes of the next couple
21 questions that that is true and I will ask you the
22 question --

23 MS. CLARK: Objection, Your Honor. This
24 is --

25 BY MR. WISE:

1 Q I will ask you the questions with the
2 caveat that you are saying that you've heard it but
3 don't know it. Okay.

4 A That I have heard that the resident
5 inspector --

6 Q That you heard that the resident inspector
7 had the photo.

8 A -- had the photo. What context? What time
9 frame?

10 Q In April of 2000.

11 A Okay.

12 Q Okay. You testified on direct that this
13 was the kind of photo that anybody would have
14 recognized the significance of, right?

15 A I believe that's correct.

16 Q Or at least you hoped that any engineer
17 would recognize the significance of.

18 A Yes.

19 Q If it is true that the resident inspector
20 at Davis-Besse had the photo in April of 2000, is it
21 possible that your take on that photograph is at least
22 in part influenced by the fact that when you saw you
23 knew that there was a five by seven corrosion cavity
24 growing in the head?

25 MS. CLARK: objection. This question is

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1 based on so many assumptions that I have absolutely no
2 idea what it really is getting to.

3 JUDGE FARRAR: Overruled. We understand
4 it's a hypothetical and we understand it. You may
5 answer.

6 THE WITNESS: No, I believe at face value
7 it's obvious there's a problem. What one should see
8 on that photo is the head, the flange, the bolts and
9 that's it. Relatively clean. That is anything but
10 clean and there is -- I mean it is obvious given the
11 Boric Acid Corrosion Control Program, etc., that that
12 is not an acceptable condition.

13 BY MR. WISE:

14 Q Obvious to you.

15 A I think it's obvious to any engineer that
16 has any credibility with any mechanical materials or
17 pretty much any other training.

18 Q And obvious now.

19 A I think it should have been obvious to
20 anybody at any point in time.

21 Q Yet the resident inspector had it and did
22 not recognize its significance. Well, strike that.
23 If the resident inspector had it and did not refer to
24 the information to headquarters, whether it was NRR or
25 some other part of headquarters, what conclusion would

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1 you draw from that?

2 A Regarding? I'm not sure what conclusion.
3 Regarding what?

4 Q Could that mean the resident inspector
5 just didn't understand its significance?

6 A It could mean a lot of things.

7 Q Could it mean that the resident inspector
8 did not understand its significance?

9 A It could mean he did not understand the
10 significance, yes.

11 Q You said at one point that you during
12 October saw a progression of information. I believe
13 you used the word "progression."

14 A Yes.

15 Q So at one point you were told on the
16 telephone call 100 percent of the nozzles except for
17 five or six that are obscured.

18 A Right.

19 Q And at a later point you're told 45 out of
20 69 were viewed.

21 A Yes.

22 Q That's the progression you're speaking of.

23 A Yes.

24 Q Nothing in that progression from one point
25 to another led you to believe that Davis-Besse had

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1 been lying to you at the beginning, correct?

2 A No, I don't believe that there was
3 anything in there where I said, "These guys have been
4 lying to us." No, it appeared to me to be as they
5 gathered more information and clarified things, here's
6 new information.

7 Q So that change in number as you understood
8 it was the result of a more searching review that was
9 being conducted.

10 A I thought it was a good engineering effort
11 to validate the information that had been provided
12 previously.

13 Q You understood that that review was being
14 conducted or at least led by an engineer named Andrew
15 Siemaszko, correct?

16 A No, I was not aware of who led any kind of
17 effort like that at Davis-Besse.

18 Q You now know that at least, right?

19 A No, actually I don't know now either, I
20 mean, as much as the comment about the resident
21 inspector. I've heard of this, but I have no
22 documentation that would convince me of that.

23 Q Did you testify at the trial of Andrew
24 Siemaszko in August of 2008?

25 A Yes.

1 Q Do you recall that at that time Mr.
2 Siemaszko was sitting in the Defendant's chair?

3 A Yes.

4 Q And you had been called as a Government
5 witness against Mr. Siemaszko, correct?

6 A That's correct.

7 MR. WISE: Your Honor, I do not have
8 enough copies of this, but I'm just using it to
9 impeach. So I'm going to give one to the staff.

10 JUDGE FARRAR: Okay.

11 MR. WISE: I'll hand one to the Board.
12 Ms. Clark, I'm going to ask Dr. Hiser and if I could
13 approach, Your Honor.

14 JUDGE FARRAR: Yes.

15 MR. WISE: To look specifically at page --
16 Well, actually look at the first page first.

17 JUDGE FARRAR: First, tell us what it is.

18 MR. WISE: Right. We'll go to the first
19 page first.

20 BY MR. WISE:

21 Q Do you recognize that if I'm looking at
22 the first page as the transcript of testimony taken at
23 the trial of Mr. Siemaszko?

24 A That's what this says, yes. I hadn't seen
25 it before and taking it at face value. That's what it

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1 is.

2 Q Okay. Take a look at the first page
3 behind the cover which should bear the number 271 at
4 the very top.

5 A Yes.

6 Q If you look to the very bottom
7 notwithstanding what I believe is the misspelling of
8 your name, this is the beginning of your testimony,
9 correct?

10 A Yes.

11 Q Take a look at page 527 at line 21. At
12 Mr. Siemaszko's trial you were asked the question of
13 "Who provides that information and those inputs?" And
14 if you look at the answer before I believe you'll see
15 that you were talking about the analysis of nozzle
16 condition.

17 A Which line?

18 Q I'm on page 527.

19 A Yes.

20 Q The answer I'm going to ask you to look at
21 and read is lines 23 to 25. If you want additional
22 context you have to look up to about the middle of the
23 page. Have you had a chance to read that?

24 A Yes.

25 Q You were asked at that trial "Who provides

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1 that information? Who provides those inputs?" and
2 your answer to that question was "For things such as
3 nozzle condition, things like that, that would come
4 from presumably an engineer who had responsibility for
5 the inspection." Correct?

6 A That's correct.

7 Q Okay. Turn to page 544. The question and
8 answer I'm going to ask you about specifically is at
9 line 21 but you may need to start at line 13 to get
10 the context of this question and answer. The question
11 at line 21 was "But did you know he (meaning Andrew
12 Siemaszko) was there to review the video tapes of
13 those inspections at Davis-Besse in 2001 in order to
14 respond to the bulletin?" And your answer was "That
15 would have been my expectation knowing his involvement
16 in the inspection in 2000 and presumably his position
17 at the plant. I would have. It would be my
18 expectation that he would have had pretty much lead
19 responsibility for that activity of reviewing the
20 video tapes." Correct?

21 A That's what it says, yes.

22 JUDGE FARRAR: Wait. That's what it says
23 or that's what you said? That's your testimony.

24 THE WITNESS: I don't have a recollection
25 of what I said. So all I can do is go by what is in

1 the transcript.

2 BY MR. WISE:

3 Q Do you have any reason to doubt the
4 authenticity?

5 A No.

6 Q At Mr. Siemaszko's trial, you essentially
7 testified that he was the one that expected had done
8 the video review, correct?

9 A I said that he was the likely the lead of
10 it, yes. It would have had lead responsibility for
11 that, yes.

12 Q Now at one point on direct you were asked
13 the question of whether 2735 and the later bulletins
14 supplemented or I can't even remember the other word
15 and I apologize.

16 A Superseded.

17 Q Superseded. Thank you. And your answer
18 was that it supplemented but didn't supersede,
19 correct?

20 A That's correct.

21 Q Was there ever a discussion about whether
22 2735 was meant to replace 2731?

23 A No.

24 Q You certainly understood when you got 2735
25 and then even the later submissions after that that

1 the information that Davis-Besse wanted you to proceed
2 on was the more recent information they were giving
3 you, correct?

4 A No, I believe when one provides
5 supplemental information as opposed to saying it
6 supersedes, it's the full body of information that we
7 would look at, the latest information. Any later
8 information that contradicted original submittals
9 would clearly supersede that information, but in toto,
10 the original submittal still had weight unless every
11 aspect of it had been superseded.

12 Q When Davis-Besse said to you at one time
13 that in 2000 they could see -- and I know this is not
14 in one of the serial letters but just by way of
15 example. When they said to you on April 3rd they
16 could see 100 percent of the head except for five or
17 six nozzles and later told you that they could see 45
18 of 69, I take it that the information you worked off
19 of was the later information, right?

20 A That's correct, yes.

21 Q Even though they didn't use the word
22 "supersede," correct?

23 A That's correct.

24 Q You didn't take those two, divide them by
25 two and conclude that they could see 57 and a half

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1 nozzles, right?

2 A No. I didn't do that.

3 Q Let's talk about October 3rd briefly. The
4 point of the call was what?

5 A The point of the call was for us to relate
6 our observations to the Davis-Besse staff from our
7 review of the September 3rd submittal and to provide
8 some of the questions that we had on their submittal.

9 Q Near the end of the call, there was a
10 request from someone at Davis-Besse for the staff to
11 provide their data and their methodology and the
12 reasons that you had reached your conclusions about
13 the potential problems they might have, correct?

14 A I don't recollect. If I could see my
15 notes, I would probably be able to refresh my memory
16 on that.

17 (Off the record discussion.)

18 MR. WISE: Your Honor, this is Staff 52.

19 BY MR. WISE:

20 Q These are your notes, Dr. Hiser.

21 A Yes.

22 Q Scrolling down, does it appear that it was
23 just one page?

24 A Yes. That's all.

25 Q Is that consistent with your recollection

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1 of the notes you took for that meeting?

2 A Yes, there's only one page.

3 Q How long did the call last?

4 A I don't recollect. My guess is 30 minutes
5 to an hour, something on that order.

6 Q Okay. Do you see anything in your notes
7 about First Energy requesting the basis for the
8 staff's position?

9 A No.

10 Q Aside from your notes, do you have any
11 recollection of that?

12 A I remember at some point whether it was on
13 this call or later those kinds of discussions. At
14 this point in time, the staff, we had not performed
15 any analysis and so we didn't have it. If they'd ask
16 we would have said we don't have a detailed
17 deterministic analysis to give you. We didn't have
18 one ourselves.

19 Q Weren't you telling Davis-Besse at the
20 time of this call that the staff's position was that
21 there was going to be an 18-month cycle imposed for
22 inspections?

23 A No.

24 Q That wasn't said.

25 A No, some plants had 24-month operating

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1 cycles. Why would we say that?

2 Q Is there any reference in your
3 recollection to 18 months?

4 A No, not that I can recollect.

5 Q You don't recall any reference to "Based
6 on NRR analysis operation beyond 18 months could
7 result in operation with structurally-significant
8 flaws and therefore the staff will continue to pursue
9 regulatory action"?

10 A I don't remember that statement. I don't
11 remember the context.

12 Q Okay.

13 A Some plants operate on a 24-month cycle
14 and I don't recollect that we had a real concern in
15 cycle-by-cycle operation.

16 Q It would be a C change if that staff had
17 made that comment to Davis-Besse, correct?

18 A Well, it again depends on the context of
19 the statement. The statement may have been made
20 related directly to Davis-Besse and circumstances with
21 Davis-Besse. I do not believe that would have been a
22 general statement that we had concerns over an 18-
23 month operating period for all plants. So I would
24 need to understand the context of the question and the
25 statement first.

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1 Q But you have no recollection of that topic
2 coming up during this call.

3 A No direct. As I said, there may. From
4 the one note on there, I related to crack growth rate
5 and there were issues if you will with the crack
6 growth rate that we had for the primary water-
7 environment and that for the environment and the
8 annulus between the nozzle and the vessel head and
9 there was some comment to that. I know there were
10 questions about crack growth rates and things like
11 that. I don't remember anything specific to the
12 staff's analysis or anything like that because as I
13 said we didn't have one then.

14 Q Do you recall the staff telling Davis-
15 Besse that they could not disclose some things because
16 they were pre-decisional?

17 A I remember at some point be it on this
18 phone call or subsequently.

19 Q And what did that mean?

20 A That generally would be information -- In
21 this context, my guess is that that related to parts
22 of our analysis that we were still working with our
23 consultants on.

24 Q October 3rd was your first interaction of
25 any sort on this topic with Davis-Besse, correct?

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1 A Personally, yes.

2 Q Before that phone call, the name David
3 Geisen meant nothing to you.

4 A That is correct.

5 Q In fact, it's probably fair to say that
6 after that phone call the name David Geisen meant
7 nothing to you.

8 A I think that's probably correct.

9 Q The first time you met him was October
10 11th, correct?

11 A Probably the first time I saw him, yes.

12 Q All right.

13 A I don't believe I met him on that day, but
14 at that point could put a face and a name together.

15 Q But you would certainly say that you had
16 no interactions with Mr. Geisen in September of 2001.

17 A I do not remember any interactions.

18 Q And no interactions with Mr. Geisen in
19 August of 2001.

20 A I do not remember any interactions, no.

21 Q And as far as you know, no one from the
22 NRC had any interactions with Mr. Geisen in either of
23 those months.

24 A There are -- I have no knowledge of
25 anybody having interactions. There are a lot of

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1 people in the NRC.

2 MR. WISE: Judge, we're at 7:15 p.m. I
3 have probably another 20 minutes. So if the Court is
4 willing to break.

5 JUDGE FARRAR: When's the next train?

6 THE WITNESS: It sounds like taxicab
7 tonight.

8 JUDGE FARRAR: No, there's no later train.

9 THE WITNESS: No.

10 JUDGE FARRAR: How far do you have to go?

11 THE WITNESS: Past Leesburg.. Point of
12 Rocks (phonetic) is where I'm headed to.

13 JUDGE FARRAR: Anybody going there?

14 MS. CLARK: Your Honor, we have some
15 redirect as well. So we would have to reconvene in
16 the morning in any event.

17 JUDGE FARRAR: Okay. Do you want to have
18 him come back at 10:00 a.m. tomorrow?

19 MR. WISE: I think that makes the most
20 sense.

21 JUDGE FARRAR: And then finish -- Are you
22 available at 10:00 a.m. tomorrow?

23 THE WITNESS: Yes.

24 JUDGE FARRAR: So that way you can meet
25 with Mr. Martin, Ms. Clark, in the morning at the

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1 plant.

2 MS. CLARK: Yes. Thank you.

3 JUDGE FARRAR: All right. Then you go
4 ahead. You be here at 10:00 a.m. tomorrow and we'll
5 finish our business in your absence.

6 THE WITNESS: Okay.

7 (Witness excused.)

8 JUDGE FARRAR: And don't talk to anybody
9 about your testimony until you get back here.

10 THE WITNESS: Okay.

11 JUDGE FARRAR: Okay.

12 JUDGE HAWKENS: Your cross examination was
13 admirably brisk though, Mr. Wise.

14 MR. WISE: Thank you, Your Honor.

15 JUDGE FARRAR: Ms. Clark, the gentleman
16 who was sitting back there and just went out with Mr.
17 Wise, that's whom?

18 MR. GHASEMIAN: With Mr. Hiser you mean?

19 JUDGE FARRAR: With Dr. Hiser.

20 MS. CLARK: Yes, that's Jay Collins.

21 MR. GHASEMIAN: Jay Collins probably.

22 JUDGE FARRAR: He was in here during the
23 entire trial.

24 MS. CLARK: Yes, he was.

25 JUDGE FARRAR: He knows not to talk to Dr.

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1 Hiser about what anybody else said.

2 MR. GHASEMIAN: I believe --

3 MS. CLARK: I think he understands.

4 MR. GHASEMIAN: He understands because
5 he's been -- He's our technical consultant.

6 JUDGE FARRAR: Okay.

7 MS. CLARK: So he understands.

8 MR. GHASEMIAN: He's been involved in the
9 hearing discussions and closed door discussions.

10 MR. WISE: Your Honor, just so that we're
11 clear, I think the rule is not only about what other
12 people said but nobody should be talking to Dr. Hiser
13 about his ongoing testimony.

14 JUDGE FARRAR: Right. That's what I tried
15 to make clear to him as he was leaving. He should go
16 home, get a good night sleep and show back up here not
17 talking to anybody.

18 MR. GHASEMIAN: Okay.

19 JUDGE FARRAR: Particularly in the middle
20 of cross examination.

21 All right. So we will finish Dr. Hiser.
22 You think how much longer?

23 MR. WISE: I would think 15 or 20 minutes.

24 JUDGE FARRAR: And we'll finish him by
25 11:00 a.m.

1 MS. CLARK: Yes.

2 JUDGE FARRAR: Okay. So we can put Mr.
3 Martin on then and since we'll start late we'll have
4 a late lunch. We'll finish Mr. Martin, have lunch and
5 then Mr. Geisen can take the stand. Sounds like that
6 will work.

7 MS. CLARK: And have we decided about
8 whether we should have Ken O'Brien observe tomorrow?

9 JUDGE FARRAR: Yes.

10 MR. HIBEY: We have no objection if that
11 is an aid to the Court.

12 JUDGE FARRAR: I'm thinking there's a --

13 MR. HIBEY: We won't stand in the way.

14 JUDGE FARRAR: There's a possibility it's
15 an aid. Again, we're not bound by --

16 MR. HIBEY: Yes.

17 JUDGE FARRAR: -- staff directives or by
18 staff enforcement policies but there's an old case,
19 it's so old I might not even have been on it, I don't
20 know, about the staff enforcement policy is not
21 binding on us, but it's interesting and we pay
22 attention to what they say. So if they have some
23 points they'd like to make that might be useful and,
24 of course, you can cross examine them.

25 MR. HIBEY: It would be helpful if

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1 tomorrow we received any additional documentation that
2 the staff might have.

3 JUDGE FARRAR: On the non-charged people.

4 MR. HIBEY: On the non-charged people and
5 anything else that they are going to rely on with
6 these particular witnesses.

7 JUDGE FARRAR: Okay. Good. We'll look
8 forward to that, say, no later than the 12:00 noon
9 hour, the lunch hour. Can we do that?

10 MR. GHASEMIAN: Well, Your Honor, we've
11 made our request to the Office of Enforcement folks
12 and they are in the process of finding documents as
13 requested. So we haven't talked to them today. So we
14 don't know where they're at and how long more they
15 will need. But we will give the Board an update
16 tomorrow.

17 JUDGE FARRAR: Okay. Give them an update
18 from the Board.

19 MR. GHASEMIAN: Yes, Your Honor.

20 JUDGE FARRAR: To get that stuff into you
21 by the time you need it and Mr. Hibey needs it.

22 MR. GHASEMIAN: Okay.

23 JUDGE FARRAR: Okay.

24 MR. GHASEMIAN: Well, Your Honor, I don't
25 know when Mr. Hibey needs what documents, but we, the

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1 staff, as far as Mr. O'Brien, the only document that
2 we're going to rely on was the enforcement policy.

3 JUDGE FARRAR: Mr. O'Brien is talking
4 about the old folks, the cases long ago.

5 MR. HIBEY: No. Mr. O'Brien I understand
6 is going to speak to the issue of sanctions from Mr.
7 Geisen.

8 MR. GHASEMIAN: That is correct.

9 MR. HIBEY: He may also have information
10 about others who were sanctioned such as Mr. Goyal.

11 JUDGE FARRAR: Right. Mr. O'Brien we want
12 to have talk about everybody involved in Davis-Besse
13 including the list which I keep adding to. I think it
14 was Mr. Campbell yesterday and Mr. Swim today. The
15 other gentleman whose name escapes me --

16 MR. GHASEMIAN: Mr. Cook.. That's what you
17 said.

18 JUDGE FARRAR: No. I mean the other
19 witness.

20 MR. GHASEMIAN: Oh, Mr. Luehman.

21 JUDGE FARRAR: He's going to talk about
22 older cases and I don't care if he -- We're all going
23 to kind of wing on that, aren't we, Mr. Hibey?

24 MR. HIBEY: I think we're going to be
25 winging it also on Mr. O'Brien, but that's the bed

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1 we're lying in that we're not having a problem with.

2 JUDGE FARRAR: But I want -- Mr. O'Brien
3 should make sure that all the people give him all the
4 documents by tomorrow noon that deal with any of the
5 Davis-Besse people and if they say why, say because
6 the Board said so because they can move fast enough
7 when they want to and now we want them to.

8 MR. GHASEMIAN: Thank you, Your Honor.

9 JUDGE FARRAR: You tell them that we're
10 sitting here passing judgment on what's going to
11 happen to a man's life and I want those documents in
12 here.

13 MR. GHASEMIAN: Yes, Your Honor.

14 JUDGE FARRAR: Anything else? Okay. Then
15 we'll see you at 10:00 a.m. and finish Dr. Hiser.

16 MR. GHASEMIAN: Your Honor, I want to
17 thank not only the Court but especially the folks who
18 are kind of tied in here for staying until 7:30 p.m.
19 tonight.

20 JUDGE FARRAR: Who is that? Andy and
21 Joanna? That's what we pay them for.

22 MR. GHASEMIAN: And our court reporter.

23 JUDGE FARRAR: Court reporter, all right.
24 No, you're right and I wouldn't say anything mean
25 about them if it were true. But we're all very fond

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1 of Joanna and Andy and couldn't get along without
2 them. Off the record.

3 (Whereupon, at 7:21 p.m., the above-
4 entitled matter was concluded.)

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CERTIFICATE

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

Name of Proceeding: Evidentiary Hearing

Docket Number: IA-05-052;

ASLB No. 06-845-01-EA

Location: Rockville, Maryland

were held as herein appears, and that this is the
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