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P R O C E E D I N G S

(10:00 a.m.)

1
2
3 JUDGE FARRAR: Good morning. Be seated,
4 please.

5 PARTICIPANTS: Good morning, Your Honor.

6 JUDGE FARRAR: We're on the record on
7 Wednesday morning. Mr. Wise, you were in the middle
8 of your cross-examination of Dr. Hiser. Is he here?

9 MR. GHASEMIAN: I believe he may be
10 outside.

11 JUDGE FARRAR: all right. While you're
12 doing that, I'll take up some preliminary matters.

13 Ms. Clark, at the end of Dr. Hiser's
14 testimony, we'll want you to draw our attention, not
15 read into the record, but draw our attention to the
16 portions of Mr. Moffitt's testimony that you primarily
17 rely on. We will read the entire testimony, but
18 before Mr. Geisen takes the stand, we want to have in
19 mind what your case against him consists of. So we'll
20 have you draw those portions to our attention.

21 And at that point, Mr. Wise, you all can
22 draw any other particular points to our attention, but
23 we want to make sure we have the staff's case in mind.

24 And does your direct case against Mr.
25 Geisen include what you're going to elicit when it's

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1 your turn to examine Mr. Geisen?

2 MS. CLARK: Yes, it will.

3 JUDGE FARRAR: So that's not just cross.
4 In other words, in theory, you would call him as your
5 own hostile witness, do that, and then --

6 MS. CLARK: Yes, Your Honor.

7 JUDGE FARRAR: -- you do that all at once
8 at the end.

9 MS. CLARK: Yes.

10 JUDGE FARRAR: So we will not know the
11 extent of your case until we're finished with your
12 examination of him.

13 MS. CLARK: Correct.

14 JUDGE FARRAR: We're still waiting for Dr.
15 Hiser. Let me see if there's anything else.

16 Mr. Hibey, it came to my attention through
17 a usually reliable source that you had a question
18 about some documents that you might want to use later.

19 MR. HIBEY: It was a question about the
20 logistics of getting them copied if on a short notice
21 they're needed, and I've been advised that that
22 accommodation could be provided to us.

23 JUDGE FARRAR: Right.

24 MR. HIBEY: And we're grateful. Thank
25 you.

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1 JUDGE FARRAR: Okay. And, Ms. Clark, one
2 further question. The two staff witnesses on what I'd
3 call the penalty phase, they're only going to talk
4 about the penalty, not why they believe Mr. Geisen was
5 guilty of something.

6 MS. CLARK: That's correct.

7 JUDGE FARRAR: So in other words, they
8 will start that their colleagues said here's what this
9 fellow did, and they will explain why if he did that
10 it results in a particular penalty.

11 MS. CLARK: Yes.

12 JUDGE FARRAR: But they're not going to
13 add to the record on why they believe he did it.

14 MS. CLARK: No, Your Honor.

15 JUDGE FARRAR: Okay.

16 (Pause in proceedings.)

17 MR. WISE: Your Honor, does the Court
18 still have the copy of the Siemaszko trial transcript
19 that I gave you yesterday?

20 JUDGE FARRAR: Yes.

21 MR. WISE: There's an outside chance that
22 there will be one more reference to it. Thank you,
23 Judge.

24 JUDGE FARRAR: Let's go off the record for
25 a moment.

1 (Whereupon, the foregoing matter went off
2 the record at 10:05 a.m. and went back on
3 the record at 10:05 a.m.)

4 JUDGE FARRAR: All right. Back on the
5 record.

6 Dr. Hiser has arrived. We've taken up a
7 couple of preliminary or collateral matters in his
8 absence.

9 And, Mr. Wise, before you start, let me
10 ask a couple of questions so that you can include them
11 in your cross-examination if the need arises.

12 MR. WISE: Okay.

13 JUDGE FARRAR: Mr. Ghasemian, I got
14 nervous last night that somehow in the furor about the
15 form of your questions on the ACRS meeting we might
16 have missed something that you were trying to
17 establish. So let me ask a couple of questions of Dr.
18 Hiser and then you follow them up if you want.

19 Whereupon,

20 DR. ALLEN HISER
21 resumed as a witness called by counsel for the NRC
22 Staff and, having been previously duly sworn, was
23 examined and testified further as follows:

24 JUDGE FARRAR: Dr. Hiser, the ACRS meeting
25 of November 9th that we were talking about, do you

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1 remember what the agenda item was?

2 THE WITNESS: Not specifically, no.

3 JUDGE FARRAR: Okay. Let's assume for the
4 purpose of this question that since the ACRS meets
5 only on fairly significant matters that it was this
6 circumferential cracking issue generally or related to
7 Davis-Besse. If that was, indeed, what the agenda
8 item was, then the statement Mr. Geisen made about the
9 inspections and the camera angles and so forth, would
10 that have been responsive not necessarily to the
11 question that was specifically asked him, but to the
12 issue pending in front of the ACRS?

13 THE WITNESS: That's a very open question.
14 The portion of the ACRS transcript that I was not
15 specifically asked about, the following paragraph
16 talks about the angle of the camera and things like
17 that and, I think, indicates relative ineffectiveness
18 of the inspection for looking at the nozzle-to-head
19 interface. That does not -- is not consistent with my
20 understanding of the videotapes from 2000 --

21 JUDGE FARRAR: No, no, no. I'm not asking
22 whether --

23 THE WITNESS: Okay.

24 JUDGE FARRAR: -- it was consistent with
25 the videotapes. Was it responsive to the issue that

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1 ACRS had in front of it?

2 And let's even narrow the issue. If the
3 issue in front of the ACRS was the crack growth rate,
4 was it responsive?

5 THE WITNESS: I believe the question was
6 regarding the extent of the scope of the inspection.

7 JUDGE FARRAR: Right. That was the
8 question, but they were there on a particular agenda.

9 THE WITNESS: Well, my -- my -- again, I
10 have to surmise based on experience and things like
11 that. My expectation would be the ACRS was dealing
12 with a number of technical issue related to Davis-
13 Besse, crack growth rate, condition of the head,
14 things like that, what inspections had been performed
15 previously.

16 ACRS tends to delve into all aspects of
17 things so that the question I think was something that
18 they were trying to understand better from their own
19 perspective of what information was available
20 regarding the condition of the head at previous
21 inspections.

22 JUDGE FARRAR: All right. I think that
23 helps at some point. Ms. Clark, do your people get
24 the ACRS agenda for that date?

25 MS. CLARK: Yes, Your Honor.

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1 JUDGE FARRAR: And we'll take notice of
2 that.

3 Dr. Hiser, did anyone from the ACRS ever
4 contact you or the other people involved in the
5 enforcement order against Mr. Geisen and complain
6 about his answer that he gave them?

7 THE WITNESS: I can only speak for myself.
8 I was not contacted by anyone. I did not hear from
9 anyone that they had been contacted.

10 JUDGE FARRAR: By the ACRS?

11 THE WITNESS: By the ACRS.

12 JUDGE FARRAR: Okay, and last question.
13 Did the enforcement order -- am I correct that the
14 enforcement order does not charge Mr. Geisen with
15 anything connected with the videotape playing for the
16 staff on November 8th?

17 THE WITNESS: I'm not familiar with the
18 details of the enforcement order.

19 JUDGE FARRAR: Oh, I thought you were one
20 of the key people in drafting it up.

21 THE WITNESS: Okay. Which? The shutdown
22 order.

23 JUDGE FARRAR: No, no, no. Oh, okay.

24 THE WITNESS: That I was involved in
25 drafting.

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1 JUDGE FARRAR: The shutdown order that
2 never --

3 THE WITNESS: Right.

4 JUDGE FARRAR: -- never issued.

5 THE WITNESS: Right.

6 JUDGE FARRAR: You were not involved in
7 the January, whatever, 2006 enforcement order that
8 barred Mr. Geisen?

9 THE WITNESS: No, not at all.

10 JUDGE FARRAR: No role at all.

11 THE WITNESS: Not that I recollect.

12 JUDGE FARRAR: Okay. All right. Mr.
13 Ghasemian, I hope that puts on the record everything
14 you were trying to establish about the ACRS meeting,
15 but before Mr. Wise starts his cross, if you wanted to
16 expand on my questions, then he can cross-examine
17 everything that's in front of him instead of having to
18 reopen it.

19 MR. GHASEMIAN: One question, Your Honor.

20 DIRECT EXAMINATION (Resumed)

21 BY MR. GHASEMIAN:

22 Q Dr. Hiser, the answer that we read
23 yesterday and the following paragraph that you
24 seemingly read that I didn't point out, was that
25 responsive to the question that was asked by Vice

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1 Chairman which -- and I'm paraphrasing -- related to
2 the extent of the inspection? Was it a full and
3 complete answer?

4 MR. WISE: Objection, Your Honor. It
5 calls for a legal characterization that the Board has
6 to make.

7 JUDGE FARRAR: Well, we're interested.
8 We'll allow it. We're interested in his opinion, and
9 then he can try to justify that opinion.

10 THE WITNESS: If I could see the full
11 answer again.

12 MR. GHASEMIAN: Staff Exhibit 59. Scroll
13 down to page 397 of the document. Vice Chairman's
14 question starts at page 397 of the document, Line 18
15 to 23, and Mr. Geisen's response starts on Line 24 and
16 goes on to the next page, to 398, to Line 20.

17 THE WITNESS: (Examining document.) The
18 question is is that answer responsible to the
19 question?

20 MR. GHASEMIAN: Yes.

21 THE WITNESS: I believe it is responsive
22 to the question, yes. It discusses the extent of the
23 inspection that was performed.

24 BY MR. GHASEMIAN:

25 Q And is that based -- is that reflective of

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1 the videotapes that you subsequently reviewed in
2 context of the actual videos? Is that complete in
3 your opinion?

4 A Well, the videos do show numerous shots of
5 the super structure, you know, the bottom of the
6 insulation and the structure that supports the
7 insulation. I would say that the ability to make
8 assessments about the interface of the nozzle and the
9 head where there were not boric acid impediments, I
10 believe that one could make assessments. I mean, it
11 was not -- the camera did not focus on the super
12 structure to the exclusion of looking at the head. So
13 from that perspective, the answer may not be complete.
14 I think it tries to minimize the ability to make a
15 determination of the nozzle leakage possibilities.

16 MR. GHASEMIAN: I have no more questions,
17 Your Honor, regarding ACRS.

18 JUDGE FARRAR: Okay. Thank you.

19 One more question, Mr. Wise. I'm sorry,
20 before you start.

21 The order which you've told me you're not
22 familiar with, but maybe you can help me technically
23 with this sentence. Page 3 of the Staff's January
24 4th, I think, 2006 order, in the background statement
25 talking about what happened at Davis-Besse says,

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1 "Neither the limited head cleaning or resulting
2 inspections," blah, blah, blah, "were sufficient to
3 insure that the significant boric acid deposits on the
4 reactor pressure vessel head were only a result of
5 CRDM flange leakage as supposed and were not a result
6 of reactor cooling system pressure boundary leakage"

7 Explain to me. I understand the
8 difference between the rod penetrations and the flange
9 leakage, but why is the flange leakage not part of --
10 not pressure boundary leakage. Aren't we talking
11 about the same water?

12 THE WITNESS: It is the same water, but
13 when one talks about pressure boundary leakage, one is
14 normally talking about cracks in metallic components
15 that should not have cracks. For example, the
16 circumferential cracks are in a part of the tubular
17 portion of these nozzles that should have no defects
18 in them.

19 JUDGE FARRAR: Right.

20 THE WITNESS: And contrast nozzle or
21 flange leakage. The flanges are a bolted joint, and
22 the O brings --

23 JUDGE FARRAR: In a sense they're part of
24 the pressure boundary.

25 THE WITNESS: They're part of the pressure

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1 boundary, but leakage from those is considered
2 different because it's a seal problem, not a component
3 problem, if you will.

4 JUDGE FARRAR: So you kind of, if I can
5 paraphrase, you kind of expected that the gasket is
6 going to be not perfectly fitting or will exhibit some
7 wear, and that's, if I can use some jargon, that's not
8 a big deal compared to a crack where there shouldn't
9 be a crack.

10 THE WITNESS: Cracking is much more of a
11 concern. Seal leakage at flanges and things like that
12 is a concern. You know, the quantities of leakage can
13 be very high, but making themselves evident is a
14 problem unlike a crack that can grow to a point that
15 you end up with a sudden spike in leakage that you may
16 not be able to control.

17 JUDGE FARRAR: Thank you.

18 Mr. Wise, it's finally your turn, but I
19 wanted to make sure that we didn't -- that after you
20 finished we didn't ask some questions that triggered
21 a need for you to go and have another shot at it.

22 MR. WISE: Thank you, Your Honor.

23 CROSS EXAMINATION (Resumed)

24 BY MR. WISE:

25 Q Good morning, Dr. Hiser.

1 A Good morning.

2 Q Let me start by asking you to turn your
3 attention back to the october 3rd call that we
4 discussed a little bit yesterday.

5 A Sure.

6 Q That was the teleconference with Davis-
7 Besse. We spoke yesterday about Mr. Geisen saying on
8 that call that in the 2000 inspection, they had done
9 a 100 percent -- they had inspected 100 percent of the
10 head except for the five or six nozzles that were
11 obscured. And I think we agreed that you did not take
12 that to mean they had inspected the entire head,
13 correct?

14 A Well, I took it to mean that they had
15 inspected all parts of the head for the areas that
16 were of principal concern with the bulletin, the
17 nozzle, the head interface, that 63, 64 of those could
18 be inspected.

19 Q And that five or six had been obscured.

20 A Right.

21 Q Now, as to the nozzles that were not
22 obscured, you did not believe that the not obscured
23 nozzles necessarily afforded a 360 degree view of the
24 nozzle, correct?

25 A I would have -- I would have expected that

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1 a substantial portion of that circumference would have
2 been visible. Three hundred and 60 degrees, you know,
3 maybe not the one could go all the way around, but I
4 think at that point in time, I think there would have
5 been an expectation that one would have had -- been
6 able to -- if there were any deposits anywhere around
7 that circumference, that one would have been able to
8 identify it, be they at the top of the nozzle, you
9 know, on the uphill side or the downhill side or
10 anywhere in between, that that would have been an
11 expectation.

12 Q You expected they had a sufficient view.

13 A Yes.

14 Q And a sufficient view to you mean they
15 could see the downhill side of a nozzle, correct?

16 A I think later that would have been my view
17 of a sufficient view. I think at that point in time,
18 I think I would have expected that their statement
19 meant that they could see all portions of that
20 circumference; that if there were deposits on any part
21 of that interview, that they would have been able to
22 see them.

23 MR. WISE: May I approach, Your Honor?

24 I'm going to show you what I've marked for
25 identification as Geisen 20.

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1 (Whereupon, the document referred to was
2 marked as Geisen Exhibit No. 20 for iden-
3 tification.)

4 BY MR. WISE:

5 Q Take a look at the third page of that
6 document. You were interviewed in August of 2002 by
7 a gentleman named Special Agent Bodenstein, correct?

8 A Yes.

9 Q Now, the cover page of this shows that
10 it's an Office of Investigations Interview. Do you
11 know sitting here today whether this was an OI
12 interview of an OIG interview?

13 A I'm not sure.

14 Q Okay.

15 A No.

16 Q But looking at the transcript, you'd agree
17 with me that this is a transcript of your interview,
18 correct?

19 A Yes.

20 Q Of that day.

21 A And I remember speaking to Agent
22 Bodenstein, yes.

23 Q Great. Turn to page 6, if you would, and
24 starting at Line 1, counsel, on that day you were
25 asked that question and gave this answer.

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1 Question: "On the nozzles excluding the
2 five or six that may have had interferences, when you
3 were told that they have done an inspection of the
4 other nozzles, do you interpret that as a 360 degree
5 inspection?"

6 Answer: "I would have expected at that
7 point in time that we would not have been sa detailed
8 as 360 degrees, but I think the intent of the
9 discussion would have been that it would have provided
10 a sufficient coverage to effectively clear thee
11 nozzle. They did not say 360 degrees, but at least it
12 would have been sufficient familiarity with what was
13 observed at each nozzle to say there was no leakage
14 there. As an example, I would have expected at the
15 minimum that the observed area would have been what's
16 called the downhill side of the nozzle, which is if
17 the nozzle is cut into a curved part of the head, that
18 would be the part that has the lowest elevation. It's
19 closer to the flange, which it has been observed at
20 other plants that's where the deposits tend to
21 accumulate from routine analysis. So at a minimum,
22 that part of the nozzle would have been observed, but
23 there were no -- I don't recollect and don't have in
24 my notes any indication of direct statements of the
25 amount of coverage for each nozzle, but just that all

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1 of them would have been observable except for the five
2 or six."

3 Do you recall that question and giving
4 that answer?

5 A Not specifically, but --

6 Q Do you have any reason to question the
7 accuracy of the transcript?

8 A Not at all.

9 Q I want to show you some portions of Staff
10 Exhibit 81 I believe is the number, which is the clip
11 of the videos. I ask you to take a look at your
12 screen. What I'm showing you right now, and let the
13 record reflect we're at the 2:24 mark, two minute and
14 24 second mark of the 1996 inspection tape, Your
15 Honor.

16 Taking a look at the nozzle that you see
17 in the middle of the screen, would you agree with me
18 that in looking at that nozzle the downhill side of
19 that nozzle is visible?

20 A I would agree with that, yes.

21 Q Based on the answer that you gave that I
22 just read to you in the OI interview, this nozzle by
23 your test would have at that point had a sufficient
24 view to effectively clear the nozzle, correct?

25 A No. No, I think that's an incorrect

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1 interpretation.

2 Q Can you see the downhill side?

3 A You can see the downhill side. There are
4 extensive deposits to cover the rest of the
5 circumference.

6 Q You didn't mention anything about deposits
7 around the circumference in your OI interview, right?

8 A That's correct.

9 Q Okay.

10 A I mean, my expectation would have been if
11 there were deposits like that around the nozzles, they
12 would have been highlighted in any documentation from
13 the licensee, not just sort of excluded.

14 Q Right.

15 A We could see the downhill side, but we
16 couldn't see the rest because they're deposits. I
17 mean, that's ignoring the thing that we're looking
18 for.

19 Q Are you done? The question was you can
20 see the downhill side of this nozzle, right?

21 A Yes, you can.

22 Q By your description in the OI interview
23 where you said a downhill side view, this would be
24 sufficient to clear the nozzle, right?

25 A Depending on what the reason that one

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1 could not see the remaining part of the nozzle, that
2 would depend on the reason for that.

3 MS. CLARK: I have to object here. I
4 think that's a misreading of his testimony. Let's
5 please go back and read it again.

6 MR. WISE: I'll read the entire portion
7 again, but I read it verbatim out of the transcript,
8 Your Honor.

9 MS. CLARK: I believe it said that it was
10 at a minimum. He didn't say that that was sufficient
11 to clear the nozzle.

12 MR. WISE: "They did not say 360 degrees,
13 but at least it would have been sufficient familiarity
14 with what was observed at each nozzle to say there was
15 no leakage there. As an example, I would have
16 expected at a minimum that the observed area would
17 have been what's called the downhill side of the
18 nozzle."

19 BY MR. WISE:

20 Q Those were your words, correct?

21 A That's correct.

22 Q Now, can we go back to the video? Thanks.

23 That portion of the '96 inspection tape,
24 I take it you would tell me today you didn't see that
25 portion.

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1 A No, I don't believe we saw that, no, and
2 I don't recollect it because if we had seen that, I
3 believe we should have taken action.

4 Q Okay.

5 A In particular, if one looks at the nozzle
6 that's in the back, there appear to be deposits on the
7 downhill side.

8 MR. WISE: Your Honors, I'm going to 4:12
9 in this tape.

10 BY MR. WISE:

11 Q Can you see the downhill side of that
12 nozzle?

13 A You can see the downhill side of that
14 nozzle. You can also see two other nozzles.

15 Q Can you see the downhill side of the
16 nozzle in the left center of the photograph?

17 A Yes.

18 MR. WISE: Your Honor, I'm going to move
19 the tape to 15:14; move it to 15:13. Sorry. It is
20 15:14.

21 BY MR. WISE:

22 Q Can you see the downhill side of that
23 nozzle?

24 A The one that's at the foreground, yes.

25 Q Okay.

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1 A Well, my guess is if you ran it forward or
2 backward a little bit that that frame -- yeah, there
3 you go, yes.

4 Q So at this part of 15:14 --

5 A Yes.

6 Q -- we can't see the downhill side of this
7 nozzle, correct?

8 A I think that's obvious, yes.

9 Q And I take it from the way you described
10 it in the OI, this would give you a minimum downhill
11 view to sufficiently clear this nozzle.

12 A I think with the view, you'll again -- a
13 little bit forward or backward where you could at
14 least see the bottom 180 degree arc. That would be,
15 I think, representative of a downhill side, yes.

16 Q As you sit here today, you believe you saw
17 that portion of the tape?

18 A I don't believe so. I think, well, it's
19 hard to say. The deposit that's in the back, that
20 would be a part that if that were on the tape, we
21 would have wanted, you know, to fast forward or rewind
22 just to try to understand exactly what that is,
23 whether it's a deposit that's around a nozzle or it's
24 between nozzles, the size of it, that sort of thing.

25 Q And we go to 5:25. As you look at 5:25 of

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1 the tape, can you see the downhill side of that
2 nozzle?

3 A Yes.

4 Q Is that an image that you believe you saw?

5 A May have been, may have been.

6 Q Is it fair to say, Dr. Hiser that it's
7 very difficult for you as you sit here today to tell
8 me which portions of this tape you saw and didn't?

9 A Oh, absolutely, yes. That was seven years
10 ago. The only way that I can qualify what I believe
11 I saw and what I didn't saw (phonetic) is the reaction
12 that I would have had if I had seen some of the
13 portions of the tape that obviously are there.

14 Q The reaction that you today believe you
15 would have had looking back, correct?

16 A No, the reaction that I did not have seven
17 years ago in looking at the tape that clearly would
18 have been conditions that would have been inconsistent
19 with what we were told and would have been
20 inconsistent with what we were told and would have
21 been of concern given the technical issues we had with
22 the safety of the plant. But we didn't -- we didn't
23 raise an issue. So that's why I don't believe that
24 those portions were viewed on November 8, 2001.

25 Q Can you see that photograph on your

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1 screen?

2 A Yes.

3 Q This is from Staff 80. Do you recognize
4 what that is?

5 A Looks like a photograph from the 1996
6 inspection.

7 Q Do you recognize it as a picture out of
8 Serial Letter 2744?

9 A I don't recollect seeing this photograph,
10 no. I mean, it's --

11 Q You reviewed the serial letter, correct?

12 A Seven plus years ago, yes.

13 Q Do you recall reviewing 2744?

14 A Yes.

15 Q You were the lead reviewer for Davis-
16 Besse's submission?

17 A I do not remember every photograph I saw
18 in 2744.

19 Q This photograph shows a substantial amount
20 of boron on the nozzle to this side of the picture
21 right as you look at it. Would you agree with me?

22 A Yes. It looks like there is boron, yes.

23 Q this is consistent with the type of
24 picture that you've just said would have caused you
25 concern had you seen those portions of the '96

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1 videotape, correct?

2 A I don't remember. I don't know which
3 quality of the photograph that I had was relative to
4 this.

5 Q Okay. Well, I can tell you that the Staff
6 and Mr. Geisen have stipulated that these pictures
7 represent the quality of photographs that were
8 contained in 2744.

9 A Again, the copies that I saw may not have
10 been this high quality.

11 Q Would you agree with me that this picture
12 and the quality that's in front of you now shows
13 substantial amounts of boron on the top side of the
14 nozzle to the right side of the photograph?

15 A To the upper part of the screen in the
16 background, yes, I do agree with that. The nozzles
17 that would have been of main interest in the center of
18 the photo has no deposits around it.

19 Q Mr. Hiser, you just told me that in some
20 of the video clips, even though you could see the
21 downhill side of the nozzle in front of you, what
22 would have caught your attention is the nozzle to the
23 back, and that would have caused you to take action.
24 Didn't you just say that?

25 A Yes.

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1 Q In this picture are you telling me that
2 you wouldn't have been concerned because the boron
3 that's in the picture is not in front but it's in the
4 back?

5 A No, I'm saying it may not have been
6 noticed in reviewing the photographs.

7 Q But it was certainly given to you.

8 A This quality of photograph I would expect
9 was provided to the NRC. Whether this quality is what
10 I myself reviewed is -- I can't state affirmatively to
11 that.

12 Q Let me ask you about the phrase "bare
13 metal visual inspection." When you use that phrase,
14 you don't mean necessarily that the head is entirely
15 clear of boron, correct?

16 A Within the context of looking for deposits
17 from leaks, from nozzles, the concern is the interface
18 of the nozzle and the head. That's where we, in
19 particular, want bare metal to be.

20 MR. WISE: Andy, would you pull that
21 photograph up again?

22 BY MR. WISE:

23 Q Based on the picture that you see here and
24 the boron that we've just talked about in the back,
25 would you describe that as a photograph showing a bare

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1 metal visual inspection?

2 A I believe it shows for the nozzle that's
3 in the center of the screen a bare metal visual, yes.

4 Q Would that picture support the assertion
5 that they were able to do a bare metal visual
6 inspection in 1996?

7 A I would say that it raises questions about
8 the overall inspection.

9 Q Okay, but my question is if I handed you
10 this picture and I said, "Dr. Hiser, based on this
11 picture, the licensee has told me he could do a bare
12 metal visual inspection," would you agree with that or
13 disagree based on what you see in this photograph?

14 A I would say that there at least are some
15 portions of the head that one could make that
16 determination, that one could say there's a bare metal
17 inspection.

18 Q So the answer then is, yes, you could say
19 you could --

20 A Well, it's a conditional yes. There are
21 portions that can be viewed in a bare metal condition,
22 yes.

23 Q But let's make sure -- I'm trying to limit
24 this so we're not conditional. I'm saying based on
25 what you see in this photograph --

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1 A But it is conditional. I mean, again,
2 you're looking at 69 discrete areas that you're trying
3 to examine. One cannot say a yes or a no
4 categorically for all of them based on this
5 photograph.

6 Q But when you were told in the course of
7 discussions we did a bare metal visual inspection, you
8 understood that that didn't mean the entire head was
9 clear of boron.

10 A No, I would have expected that that meant
11 that in particular the interfaces of the nozzles and
12 the head were clear for all 69 nozzles.

13 Q So if Mr. Geisen had seen this photograph
14 and later represented to you that Davis-Besse had done
15 a bare metal visual inspection, that would not be
16 patently untrue to you based on that picture.

17 A I would say that photograph does not rule
18 that out.

19 Q Or any of the photographs of 1996 that you
20 saw in 2744, correct?

21 A Again, I haven't reviewed 2744 photographs
22 in more than seven years. So I don't -- I can't make
23 that determination. For example, in this case what I
24 would want to see for the nozzle that's to the upper
25 part of the screen, I would want to see a photograph

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1 of something that is more focused on that nozzle so
2 that the what appears to be a boron deposit in the
3 background, so that it would be more understandable.
4 What is it? You know, can one see the interface of
5 the nozzle and the head or can one -- is it impeded by
6 the boron?

7 Q Based on this picture alone though, you
8 would not rule out the possibility that they had done
9 a bare metal visual inspection?

10 A That's correct. I would not rule it out.

11 MR. GHASEMIAN: Your Honor, while Andy is
12 going to the next photo, in the actual 2744 document
13 there's a note that was written by Mr. Geisen
14 underneath that photo, and we'll go to it, but just
15 for the record, the photo that we're showing now, it's
16 the better quality in Exhibit 80, but Exhibit 13 are
17 the photos with the captions.

18 So that picture, there's a caption under
19 it in the actual serial letter.

20 JUDGE FARRAR: Okay. Well, why don't you,
21 if you wish to on redirect, you can --

22 MR. GHASEMIAN: Yes, Your Honor. Thank
23 you.

24 JUDGE FARRAR: -- you can bring that out.

25 MR. WISE: I'll do it right now, Your

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1 Honor. The caption is on the screen right now
2 underneath the photo.

3 BY MR. WISE:

4 Q Can you read it for us?

5 A Yes. "Some boron piles were observed at
6 the top of the head in the vicinity of previous
7 leaking flanges. Because of its location on the head,
8 it cannot be removed by mechanical cleaning, but was
9 verified to not be active or wet, and therefore, it
10 did not pose a threat to the head from a corrosion
11 standpoint.

12 "Additionally, since these drives are not
13 credited with leaking, that further ratifies that the
14 boron is free from previous flange leakage. The boron
15 was heaviest beneath the mirror insulation seams."

16 Q Thank you.

17 Going back to the pictures that were in
18 2744 --

19 JUDGE FARRAR: Did you read that word as
20 "free" or "from"? I thought I heard you say "free"
21 when the caption said "from."

22 THE WITNESS: Ah. "The boron is from
23 previous flange leakage."

24 JUDGE FARRAR: Okay. Mr. Wise, would it
25 distress you if I asked a technical question at this

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1 point?

2 MR. WISE: Not at all, as long as it's not
3 to me.

4 JUDGE FARRAR: Good point. Dr. Hiser, I
5 was struck when we saw the model by the forest, if I
6 can use that term, that nozzles make on the head and
7 how little room is in there. When you have flange
8 leakage or you think it's flange leakage because you
9 have deposits on the head that aren't from cracks
10 around the nozzles, how easy is it or intuitive is it
11 to say, ah-ha, that leakage is from a particular
12 flange?

13 Does your flange leakage just dribble down
14 the mechanism or could it spray out a little bit and
15 get adjacent to some other nozzle by the time it gets
16 to the head?

17 THE WITNESS: Well, looking at the model,
18 the leakage would presumably spray out. It's at high
19 temperature, high pressure. The water wants to flash
20 the steam. So it's going to come spurting out the
21 side. The only way for the boron that precipitates
22 out of the water when it flashes the steam, the only
23 way for that to get to the head would be through gaps
24 between the insulation panels, for example, or the
25 hole through the insulation where the nozzle is

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1 inserted.

2 JUDGE FARRAR: But that could be a
3 neighboring nozzle.

4 THE WITNESS: For out -- well, where
5 presumably there would -- yes, I think you would get
6 deposits down onto the head either through -- yeah,
7 once the boron is sprayed out, probably not through
8 that nozzle, but, yeah, maybe adjacent nozzles.

9 JUDGE FARRAR: So when you look at -- if
10 you look at the head only and say, ah-ah, that's
11 flange leakage because we can see the -- we can see
12 the bottom; we can see the interface of the nozzles
13 with the head. There's something in between there and
14 you say that's flange leakage.

15 You don't know what flange. You wouldn't
16 know without doing more work which flange was leaking;
17 is that right?

18 THE WITNESS: That's correct. You
19 presumably want to go above the insulation level and
20 try to make a determination from that point.

21 JUDGE FARRAR: So when you're doing that
22 maintenance, you would then go above there, and you
23 would -- how would you know which flange is leaking?
24 You'd see deposits at the edge outside the gasket?

25 THE WITNESS: Yes. Yeah, I think that

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1 normally would be one way to identify it or, you know,
2 spray pattern on adjacent nozzles or flanges,
3 something like that.

4 JUDGE FARRAR: That's helpful. Thank you.

5 MR. WISE: Thank you.

6 BY MR. WISE:

7 Q So we looked at this photograph, which you
8 said would not preclude you from concluding that they
9 could do a better metal visual, correct?

10 A I think that's correct. I don't think it
11 proves or disproves a bare metal visual.

12 Q How about this photograph which is page
13 10?

14 A I would say the same thing. Neither
15 proves nor disproves.

16 Q What about this photograph?

17 A The same thing.

18 Q Is it fair to say that coming out of
19 reviewing the photographs in 2744, you believe that
20 Davis-Besse had, in fact, done a bare metal visual in
21 1996?

22 A I guess we didn't -- my recollection is
23 from reviewing 2744 that there was nothing that
24 directly contradicted that contention by the licensee.

25 Q It was a reasonable inference.

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1 A I think reasonable inference, yes.

2 Q We talked a little bit --

3 JUDGE HAWKENS: Mr. Wise, what photograph
4 is this? I'm looking at the letter and looking at the
5 pictures that were attached.

6 MR. WISE: I apologize, Your Honor. It's
7 a little bit confusing. The letter itself, I believe,
8 is Exhibit 13.

9 JUDGE HAWKENS: Yes, I have that.

10 MR. WISE: The photographs in Exhibit 13
11 are not of the quality that were in the original
12 document which it was provided. This document has
13 been recopied probably 500 times. So the photographs
14 that appear in the serial are produced at Tab 80, and
15 I believe what you will find is that the photographs
16 from the 1996 inspection that we were just discussing
17 are at pages 4, 10, and 13 of Exhibit 80, and on pages
18 13, 19, and 22 of Staff Exhibit 13, which is the
19 actual letter.

20 JUDGE HAWKENS: Thank you, counsel.

21 BY MR. WISE:

22 Q The tech assistants meeting on October
23 11th, we I think agreed yesterday that that was the
24 first time that you had seen Mr. Geisen.

25 A Yes.

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1 Q Interacted face to face with Davis-Besse.

2 A Yes.

3 Q And that was the meeting that Mr. Geisen
4 presented some slides about the past inspection.

5 A Yes.

6 Q He did not say during that meeting that he
7 had personally reviewed the videotapes, correct?

8 A I don't recollect that he made that
9 statement, no.

10 Q And let me turn your attention very
11 briefly back to November 8th, which was the day that
12 Mr. Geisen showed the video tapes to you.

13 A Yes.

14 Q You had a discussion yesterday about Mr.
15 Geisen expressing frustration about the 2000 videos,
16 correct?

17 A He made statements about those, the
18 videos, yes.

19 Q And I asked you wasn't it true that he was
20 expressing frustration about the quality of the video,
21 correct?

22 A Yes.

23 Q And your answer was?

24 A I believe my answer was that I interpreted
25 his statements about the videos, and I don't remember

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1 him, you know, using the word "quality" in itself, but
2 just stating that it was if you thought the '98 video
3 was bad, 2000 was worse. My interpretation was that
4 there was more boron on the head with the 2000 videos.

5 Q Do you recall that he actually was
6 speaking about how difficult it was to interpret the
7 videos?

8 A I don't. I did not interpret it that way,
9 and he made no statements that would have indicated
10 that.

11 Q I'm going to show you what I've marked as
12 Geisen Exhibit 21 for identification.

13 (Whereupon, the document referred to was
14 marked as Geisen Exhibit No. 21 for iden-
15 tification.)

16 BY MR. WISE:

17 Q Looking at the front page, do you
18 recognize this as the transcript of your deposition in
19 the matter of Steven P. Moffitt?

20 A Yes.

21 Q Taken October 2nd, 2006?

22 A Yes.

23 Q If you'll turn with me to page 129, I
24 direct your attention to Line 15. You were asked this
25 question: "Do you recall whether he expressed some

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1 frustration of the quality of the videos?"

2 Answer: "I think he did mainly about the
3 2000 video."

4 Question: "What do you recall about
5 that?"

6 Answer: "I recall a statement along the
7 lines of, you know, if you think the '98 video is hard
8 to see, hard to interpret, then the 2000 is even more
9 difficult."

10 You were asked those questions and gave
11 those answers, correct?

12 A Yes.

13 Q Do you recall, in fact, that Davis-Besse
14 had made a disclosure in Serial Letter 2744 about the
15 inferior quality of the 2000 tape?

16 A At this point I don't recollect that, no.

17 MR. WISE: Going back to Staff 13, Your
18 Honor. Page 48 of this document.

19 BY MR. WISE:

20 Q Can you read the second paragraph?

21 A Yes.

22 Q Can you read it out loud, please?

23 A "The lighting and video camera optics
24 create an orange coloration of all of the pictures.
25 However, deposits of boron are visually discernable as

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1 shown by the scattered pieces of boron."

2 Q Do you recall that the Staff on November
3 8th was asking Mr. Geisen questions about how Davis-
4 Besse had called particular nozzles?

5 A I don't remember specific questions, but
6 that would have -- would seem to be the line of
7 interest that we would have had.

8 Q Do you recall that he was unable to tell
9 you how those calls had been made?

10 A No, I don't remember any answer that he
11 would have provided.

12 Q Do you recall him saying that Andrew
13 Siemaszko had, in fact, been involved in constructing
14 the table?

15 A I don't remember any statements to that
16 effect.

17 Q Do you recall Mr. Siemaszko coming to the
18 NRC about a week after that session?

19 A At some point subsequent to that I
20 remember Mr. Siemaszko being at a public meeting that
21 we had with Davis-Besse, yes.

22 Q And you recall him saying that he would
23 swear on a stack of bibles that he had done a good
24 inspection in 2000? And by "he" I mean Mr. Siemaszko.

25 A I remember words to that effect, yes.

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1 MR. WISE: I have nothing further.

2 JUDGE FARRAR: Did I understand you
3 correct, Mr. Wise? Are you done with cross?

4 MR. WISE: I am done. Thank you.

5 JUDGE FARRAR: Thank you.

6 Dr. Hiser, looking at your testimony as a
7 whole, I take it you believed in 2002 and now that the
8 information Davis-Besse submitted to you was untrue
9 and Mr. Geisen was responsible for that, or did you
10 just believe that it was untrue?

11 THE WITNESS: Well, I believe it was
12 untrue. I really don't have a personal view of Mr.
13 Geisen's role in that.

14 JUDGE FARRAR: Okay. So your view in all
15 of this is Davis-Besse furnished you information that
16 you later came to believe was bad information?

17 THE WITNESS: yes.

18 JUDGE FARRAR: Okay, and what you just
19 said is that you don't know what Mr. Geisen's role in
20 that was.

21 THE WITNESS: In preparing the information
22 that was provided to us, yes, that's correct.

23 JUDGE FARRAR: Right, and beyond that you
24 wouldn't know first hand, other than through your
25 communications with Mr. Geisen, what he knew from

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1 internal company communications at that time.

2 THE WITNESS: I would say that's correct,
3 yes.

4 JUDGE FARRAR: So you have no information
5 about internal company communications that may have
6 informed or misinformed him?

7 THE WITNESS: That is correct.

8 JUDGE FARRAR: Do you have a question?

9 JUDGE TRIKOUROS: Yeah. I'm trying to
10 wrestle with the idea that -- well, was the NRC
11 accepting the idea that if there's flange leakage
12 there's not nozzle leakage, that they could not occur
13 simultaneously?

14 THE WITNESS: No, no. That's --

15 JUDGE TRIKOUROS: Clearly not. Yet there
16 are discussions in submittals that indicate that the
17 boron deposits that are seen covering a nozzle's
18 intersection with the head are flange leakage, but
19 that doesn't mean that there's not a leaking nozzle
20 there, right?

21 THE WITNESS: No, and I would say that in
22 a case like that, that would -- I would say we would
23 call that an indeterminate visual assessment. You
24 could not determine whether there was a leak there or
25 not because the nozzle -- a potential deposit from a

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1 leak was masked by the deposit that's there. Within
2 the context of the bulletin in that case, then NDE
3 would be in order to make a determination whether
4 there's cracking in that nozzle.

5 JUDGE TRIKOUROS: So in allowing Davis-
6 Besse to proceed with a shutdown months after your
7 December date, you were basing that on the crack
8 growth determination analyses and the PRA -- which I'm
9 asking. I may sound like I'm telling -- that
10 indicated that each of the 69 nozzles had been seen as
11 clear of any nozzle defects as far back as '96, and
12 that therefore, even if the inspections that took
13 place after '96 showed those nozzles covered with
14 boron, that that boron had to be from flange leakage;
15 is that correct? That was the basis of your
16 determination.

17 THE WITNESS: I wish I had written all of
18 that question down because there's a lot of parts to
19 it. Okay. Let me maybe jump into the middle, the one
20 part that I can remember.

21 The PRA was baseline at 1996 for 65
22 nozzles.

23 JUDGE TRIKOUROS: Baseline means that
24 every nozzle was shown to be clear of a crack, of
25 cracks?

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1 THE WITNESS: It was every nozzle was
2 shown or purported by the licensee to be free of
3 deposits in 1996. Let's do some accounting. There
4 are four nozzles that failed the gap test.

5 JUDGE TRIKOUROS: Right.

6 THE WITNESS: For those four nozzles, the
7 clock started with the plant started operation. For
8 a second class of nozzles, 1996 was the last time that
9 they had been identified by the licensee to be clear
10 of deposits. For some set of nozzles, 1998 was the
11 last time that they were found to be free. Other
12 nozzles, 2000.

13 I think the numbers, if I remember, are
14 45, 59, and then 65. So for 45 of the nozzles, they
15 would have started the clock on the calculation from
16 April 2000. So the nozzles would have had about a
17 year and a half of operating time for a crack to
18 propagate around the circumference of the nozzle.

19 For another, the 45-50, another five
20 nozzles, they would go back to 1998 and say in 1998 we
21 may have started a crack to grow around the
22 circumference. So those nozzles would have
23 approximately three and a half years of crack growth
24 time.

25 For another portion of the nozzles, they

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1 would go back to 1996. So the nozzles were then in
2 that way for the probabilistic risk assessment
3 calculation.

4 There was a deterministic calculation that
5 was a little less significant, I guess, if you will,
6 because it had to assume certain initial properties
7 and was a very simple calculation. So that was not as
8 important. Let me see if I can pick up --

9 JUDGE TRIKOUROS: But the PRA calculation,
10 the PRA analysis would had to have had a crack growth
11 determination as part of it, right?

12 THE WITNESS: The crack growth rate would
13 have been used as a -- modeled as a variable that had
14 a mean value and an uncertainty to it.

15 JUDGE TRIKOUROS: Right.

16 THE WITNESS: Which is, yeah, that would
17 have been one of the variables that would have been
18 randomized to the Monte Carlo process. To get back
19 to, you know, why did we allow them to operate beyond
20 December 31, my personal belief was then that we
21 should not have allowed them to continue to operate,
22 that things such as the PRA model had substantial
23 uncertainty to them, and I didn't believe that we
24 could hang our hat on the results from that model. I
25 thought that there were enough other circumstantial

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1 evidence, if you will, that made it such that Davis-
2 Besse should be shut down.

3 I cannot tell you why the NRR Office
4 Director ultimately decided not to issue the order.
5 Clearly, I think he believed that the risk was not --
6 it was not a substantial risk with continued
7 operation.

8 I believe that if I had had something like
9 the red photograph that I could have showed the Office
10 Director and said, "Circumstantial evidence is such
11 that I think Davis-Besse should be shut down. Here I
12 believe is proof that Davis-Besse should be shut
13 down."

14 JUDGE TRIKOUROS: Okay, but the picture --
15 I want to make sure that the picture that we have is
16 clear, and that is that I tell you that I've looked at
17 all six -- let's say 65 out of the 69 nozzles or 64
18 out of the 69 nozzles based on three visual
19 inspections over the course of six years. That
20 establishes a baseline. I do a PRA analysis. I do a
21 crack growth analysis that shows that I should not
22 have a problem in, let's say, March of 2002.
23 Therefore, I should continue to operate.

24 All of that hinges on the -- that the
25 company provided adequate information or accurate

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1 information regarding the status of the nozzles at a
2 given time.

3 THE WITNESS: I would agree in toto.

4 JUDGE TRIKOUROS: That's the picture.

5 THE WITNESS: I would agree in toto with
6 that statement.

7 JUDGE TRIKOUROS: That's fine.

8 JUDGE FARRAR: Did you argue your position
9 that the plant should shut down on December -- by
10 December 31st you argued that more or less forcefully
11 to the NRR Director?

12 THE WITNESS: Not as pointedly as that
13 with him directly. With more Brian Sheron, who was
14 the Associate Director for, in effect, reactor safety,
15 with him and lower level management within NRR. There
16 was a general discussion of the issues and the
17 concerns that the staff had, and at that point all of
18 these items were discussed. You know, they were put
19 on the table, discussed and, you know, ultimately not
20 to be found to be persuasive.

21 JUDGE FARRAR: All right. Mr. Ghasemian,
22 are you prepared to start your redirect?

23 MR. GHASEMIAN: Yes, Your Honor.

24 JUDGE FARRAR: Go ahead.

25 MR. GHASEMIAN: Thank you, Your Honor.

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REDIRECT EXAMINATION

BY MR. GHASEMIAN:

1 Q Good morning, Dr. Hiser. As of October
2 30, which was the date that the 2744 submittal -- the
3 pictures that Mr. Wise was showing you was from the
4 2744 submittal that was dated october 30th. As of
5 that date, you hadn't seen the videotapes of any
6 update inspection past vessel head inspections, had
7 you?

8 A No, we had seen no videos at that point.

9 Q Had you seen any other pictures of the --
10 of the past inspections?

11 A I don't remember the date of the first
12 submittal that provided photographs. I just don't
13 recollect specifically.

14 Q Okay.

15 A October 30 may have been the date that we
16 received the first submittal with photographs.;

17 Q With photographs, okay. So as of that
18 date, you didn't have any -- or did you have any
19 reason to disbelieve the information that you reviewed
20 in the 2744 CDER letter?

21 A No, there was -- there was no reason to
22 disbelieve anything that we had been provided at that
23 point in time.

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1 Q You were expecting that the information
2 would be complete and accurate and responsive to the
3 bulletin?

4 MR. WISE: Your Honor, I would object to
5 the leading.

6 BY MR. GHASEMIAN:

7 Q What was your expectation as far as the
8 completeness of the information that was submitted on
9 October 30th?

10 A Well, my expectation, given the visibility
11 of the issue within the industry, the discussion
12 that's in the bulletin, that they would have been
13 complete and accurate in all ways.

14 Q And as you said, you didn't have any
15 reason to, you know, expect otherwise.

16 A No.

17 Q Or --

18 A No, we -- that is an assumption going in,
19 that we'll be provided with complete and accurate
20 information.

21 Q Okay. Now, I'm going to go through the
22 photos that Mr. Wise went through, but in reverse
23 order. So the caption that you read relating to the
24 2000, couple of 2000 photos, do you recall reviewing
25 this and Mr. Wise reading some of the caption?

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1 A Yes.

2 Q And I'm kind of summarizing the
3 discussion, and you correct me if I'm wrong, and the
4 discussion was about the 2000 inspection videos and
5 the quality and kind of the reddish hue of the photos
6 or the videos, and Mr. Wise read some portions of the
7 notes on the right, correct?

8 A Yes.

9 Q Okay. Reading the sentence that --
10 JUDGE HAWKENS: Would you identify the
11 exhibit and the page of the exhibit, please?

12 MR. GHASEMIAN: I apologize, Your Honor.
13 It's Staff Exhibit No. 13, and it is page C37. It's
14 written notation at the lower right-hand corner of the
15 page, and it had three photos, number 67, 43, and 35
16 with the captions that are right off the photo.

17 BY MR. GHASEMIAN:

18 Q And if you would direct your attention to
19 that second full paragraph, it talks about -- it
20 starts with the lighting and video camera optics
21 created an orange coloration of all of the pictures.
22 Do you see that?

23 A Yes.

24 Q And what did you understand that to mean?

25 A With what?

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1 Q What it says that --

2 A Well, what it said to me was ignore the
3 colors, look more at the features that one can see in
4 the photographs.

5 Q Okay, and the next sentence, what does it
6 say?

7 A However, deposits of Boron are visually
8 discernable as shown by the scattered pieces of boron.

9 Q And what do you understand visually
10 discernable to mean when you read it?

11 A Well, I guess with what -- looking at the
12 whole sentence, scattered pieces of boron would tell
13 me that the boron, you can identify it on the
14 photographs because it's sort of scattered pieces.
15 It's not one chunk, one pile, something along those
16 lines.

17 Q So that you could see the boron through
18 the photos.

19 A Yes.

20 Q It's not that you couldn't see any boron.
21 You couldn't -- the quality wasn't good that you
22 couldn't see what you're looking at.

23 MR. WISE: Objection. Leading.

24 JUDGE FARRAR: Yeah, if you can be
25 careful, Mr. Ghasemian, about how you phrase your

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1 questions.

2 MR. GHASEMIAN: Yes, Your Honor.

3 BY MR. GHASEMIAN:

4 Q When it says -- going back to the
5 sentence, "However, deposits of boron are visually
6 discernable as shown by the scattered pieces of
7 boron," do you understand that to mean that based on
8 the coloration you couldn't see what you're looking at
9 or that it has a certain hue to it, but you can see
10 what you're looking at?

11 A Well, I would say that it means that --
12 and maybe I need to contrast videos versus photographs
13 because these photographs are discrete frames from the
14 video, but at least from the video that one could see,
15 you know, discrete areas of boron, you know, discrete
16 pieces of boron.

17 I think in the photographs that are shown
18 here, it's very difficult to do that. So my
19 perception of that statement would have been along the
20 lines of you can see what you see here, but in reality
21 you have to discount the coloration. In reality we
22 can see discrete areas of boron that are on the head.
23 So my interpretation would have been that the videos,
24 you know, from a comprehensive review were more
25 interpretable than these specific photographs were.

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1 The photographs clearly are very poor.

2 Q Okay, and moving up to the page -- the
3 other photos that Mr. Wise showed you, and let me
4 scroll up, he showed you that from Exhibit -- actually
5 this is the first photo that you were looking at.
6 Let's go to that and then we can go to the -- so the
7 photo Mr. Wise was showing you in Staff Exhibit No.
8 80, the better quality of the photo; so -- but I'm not
9 going to focus on this photo itself. I'm focusing on
10 the caption below it of what it says.

11 And when the first sentence says some
12 boron particles were observed at the top of the head
13 in the vicinity of the previously leaking flanges, and
14 it goes on to say the reason, and when you read the --
15 could you read the next sentence?

16 A "Because of its location on the head, it
17 could not be removed by mechanical cleaning, but was
18 verified to not be active or wet and, therefore, did
19 not pose a threat to the head from a corrosion
20 standpoint."

21 Q And then it goes on to give additional
22 explanation for why it's okay to have the boron; is
23 that right?

24 A Yes.

25 Q And could you read that?

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1 A "Additionally, since these drives are not
2 credited with leaking, that further ratifies that the
3 boron is from previous flange leakage. The boron was
4 heaviest beneath the mirror insulation seams."

5 Q So when you read this caption to this
6 photo that Mr. Geisen has stipulated, Your Honor, that
7 he wrote this caption, what do you -- reading the
8 caption and looking at the photo, what's your
9 impression of what you're looking at?

10 A Well, the photo is pretty much
11 uninterpretable.

12 MR. WISE: Objection, Your Honor. If
13 we're going to use the photo and interpret the photo,
14 let's use the photo that the parties have stipulated
15 actually shows what was in the document when it was
16 submitted.

17 MR. GHASEMIAN: Okay. Well, let's go to
18 it.

19 JUDGE FARRAR: So the record is clear,
20 that photo we were just looking at was not the one
21 that was attached to the --

22 MR. GHASEMIAN: Right. The parties have
23 -- the staff has stipulated that the photo, the clear
24 photo that Mr. Wise showed, that is the photo that was
25 submitted.

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1 JUDGE FARRAR: Then why were we looking at
2 this one?

3 MR. GHASEMIAN: I wanted to point to the
4 note.

5 JUDGE FARRAR: The caption, and that was
6 not on the original photo?

7 MR. GHASEMIAN: Yes, the caption was in
8 the original photo, Your Honor, but I just -- the
9 photo that's -- let me go back to Number 13.

10 Staff Exhibit No. 13 was submitted to the
11 Staff. The photo, due to continued copying of various
12 versions, the quality of the photo has deteriorated.

13 JUDGE FARRAR: Right.

14 MR. GHASEMIAN: But we have found a good
15 quality that we've stipulated that it's in Staff
16 Exhibit No. 80, and for purposes of the photo only, if
17 you would consider that photo is Staff Exhibit 80 as
18 if that's what you're looking at in this document. So
19 the caption was --

20 JUDGE FARRAR: You want me to transpose,
21 take this caption --

22 MR. GHASEMIAN: And transpose it in the --
23 exactly.

24 JUDGE FARRAR: Okay. So now we have the
25 caption in the record. So let's see the real photo.

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1 (Pause in proceedings.)

2 BY MR. GHASEMIAN:

3 Q Okay. Is this the photo you were looking
4 at before with Mr. Wise?

5 A That's the photo that we looked at before.

6 Q Okay.

7 A In all honesty, what I recollect from the
8 document that I reviewed was the other photo actually,
9 that level of quality.

10 Q Okay, okay, but let's say for the
11 discussion at hand, and this photo has underneath the
12 caption that we just read, and reading that caption
13 with this photo, what was your impression of what you
14 were looking at?

15 A Is there some way I can see the caption
16 again?

17 Q Yes. Can you see the --

18 A Yes. Well, there are many -- I think many
19 parts of this statement. First of all is, while
20 looking at the second to the last sentence, it says,
21 "Additionally, since these drives are not credited
22 with leaking, that further verifies that the boron is
23 from previous flange leakage." So that told me that
24 they were -- these deposits were in an area that the
25 licensee did not expect to see deposits even if the

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1 nozzle was cracked.

2 And then jumping up to the top, that these
3 -- that boron piles were found in the area of previous
4 leaking flanges. So they had an explanation for where
5 the boron came from. Could not be removed by
6 mechanical cleaning. Because of its location it was
7 in an area that they could not access in order to do
8 cleaning, but it was not active or wet and, therefore,
9 they did not believe that it had a corrosion risk to
10 it.

11 The last statement, boron was heaviest
12 beneath and the mere insulation seams would be
13 consistent with flange leakage, where there would be
14 limited areas where you could get some of the deposits
15 from above the insulation to the top of the head.

16 Q Did you have any reason to disbelieve this
17 note?

18 A No.

19 JUDGE FARRAR: Wasn't the pending question
20 that led to all of this whether the photograph was
21 inconsistent with the caption or did I --

22 MR. GHASEMIAN: No, Your Honor.

23 JUDGE FARRAR: You didn't ask that
24 question?

25 MR. GHASEMIAN: No, I don't believe I

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1 asked that question.

2 JUDGE FARRAR: Okay. I'm wrong again.

3 Well, let me ask. Is that photograph, the
4 photograph that we looked at a minute ago when we saw
5 the original, was that inconsistent with the caption?

6 THE WITNESS: I would not say it's
7 inconsistent.

8 JUDGE HAWKENS: Dr. Wiser, on cross
9 examination though you had indicated that you had some
10 concerns about the fact that there was the build-up at
11 the top of the nozzle and that, therefore, even though
12 you said you didn't require a 360 degree inspection
13 and it would be satisfactory, it may be satisfactory
14 if the downhill were clear, that you still had
15 concerns about them clearing that and crediting it for
16 not having flange leakage.

17 THE WITNESS: Well, I think the --

18 JUDGE HAWKENS: Or nozzle leakage. Excuse
19 me.

20 THE WITNESS: Right. The basis for why it
21 was not possible to inspect 360 around the nozzle was
22 important. I think in many cases there were
23 impediments to doing the inspection that would
24 restrict the visibility of the nozzle so that you
25 couldn't see 360. In such a case if it was an

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1 impediment due to insulation or something on that
2 order, then I think that would not rule out a
3 determination for that nozzle.

4 But if the reason that you can't see 360
5 around is because there's boron on 300 degrees around
6 or 270 degrees, then that clearly is not a reason to
7 accept a limited inspection. I mean, in fact, that
8 would be ignoring the condition that you were looking
9 for.

10 So to say that, well, if we could see the
11 downhill side of the nozzle and it was clear, whereas
12 the rest of the nozzle had boron around it is a
13 nonsensical conclusion.

14 JUDGE HAWKENS: Going back to Judge
15 Farrar's question, are you satisfied with Mr. Geisen's
16 note on this photograph that it's consistent with the
17 photograph itself, that a reasonable engineer could
18 conclude that we can credit the nozzle with not
19 leaking?

20 THE WITNESS: I think for the nozzle
21 that's at the center --

22 JUDGE HAWKENS: No, I'm talking about the
23 ones at the right.

24 THE WITNESS: I would -- I would not want
25 to -- personally would not want to make a

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1 determination on that nozzle based on that photograph.
2 My expectation would be that there would be a better
3 photograph, you know, maybe not in this package, but
4 somewhere on the video that would enable one to make
5 a determination for that nozzle.

6 JUDGE FARRAR: Are we talking about the
7 nozzle that was in the center of the picture?

8 THE WITNESS: No. The nozzle that's in
9 the background.

10 JUDGE FARRAR: The background, okay.

11 THE WITNESS: Yeah, and that is --

12 JUDGE FARRAR: The one in the center is
13 fine.

14 THE WITNESS: I would say that that would
15 be an acceptable condition. Yeah, the one that's in
16 the background, because of the appearance of deposits,
17 I would want another view. Are they really up against
18 the interface of the nozzle and the head? Are they
19 removed? You know, that would be the kind of thing
20 that if I were doing the inspection that I would want
21 to see, and as a verified, that I would want to see.

22 I mean but absent -- in all honesty,
23 absent another view that says that that nozzle is
24 clean, I would not want to say that that nozzle did
25 not have a leak on it, the one that's in the

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1 background. I mean, I would -- I guess a conservative
2 approach to me would be assume that all of the nozzles
3 have leaks until you can say that each nozzle has a
4 clean visual examination, and then you check them off
5 that way. You don't assume they're all clean until
6 you see something that's a problem.

7 I would sort of work the other way. When
8 in doubt, assume that it has -- that it may have a
9 crack in it.

10 JUDGE FARRAR: If someone told us that you
11 could credit a nozzle for not being cracked if you
12 could see a clean one-eighth of it and no boron
13 deposits nearby, would that be a legitimate way to
14 look at things?

15 THE WITNESS: One-eighth of it? So 45
16 degrees at the bottom of the nozzle?

17 JUDGE FARRAR: Right.

18 THE WITNESS: I would, again, want to know
19 why can't you see the other 315 degrees. What was the
20 concern?

21 JUDGE FARRAR: No, no. You can't see it
22 because of the angle of the camera. Your camera is
23 showing you, you know, a one-eighth quadrant.

24 THE WITNESS: If a plant were doing an
25 inspection, I would say do an NDE of that nozzle. If

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1 one is trying to review old information, I think I
2 would, you know, identify that nozzle in a way to say
3 it's not clean, but you know, it has some good
4 attributes, that the downhill portion is clean, but I
5 wouldn't be entirely comfortable assuming that that
6 nozzle was free of leakage.

7 JUDGE FARRAR: Okay. Thank you.

8 JUDGE TRIKOUROS: Do you have a memory of
9 a request that was made for these videotapes during
10 any communication that you had with Davis-Besse?

11 THE WITNESS: I know that my notes from
12 the October 3rd phone call had such a request, and I
13 don't have specific recollections, but I do remember
14 that the issue of tapes came up during various
15 subsequent interactions. I don't remember the reason
16 if they were not provided to us. If I remember, there
17 were issues with getting the tapes copied to a medium
18 that we would be able to view them on, things like
19 that.

20 JUDGE TRIKOUROS: But so that was followed
21 up? In other words, it wasn't just a statement made
22 at the meeting, the telephone meeting: please provide
23 us with these tapes, and then Davis-Besse did not, and
24 you just never remembered to ask them again?

25 THE WITNESS: No.

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1 JUDGE TRIKOUROS: It was more than that.

2 THE WITNESS: -- what we did because
3 November 8th we did have them bring tapes for us to
4 view. I don't remember the chain of events that
5 occurred from October 3rd to November 8th whereby we
6 did not get tapes, but we did view them on that day.
7 I mean, I don't remember the sequence of events. You
8 know, at some point did we say, you know, "You'd
9 better show us something by early November or we're
10 going to do something"?

11 I don't remember what happened to
12 precipitate the viewing on November 8th. I mean, at
13 this point in time we were dealing with a large number
14 of plants that we had issues with, plants with
15 inspections. So some things like that, again, we
16 probably would have trusted the licensee to provide us
17 with the information as soon as it was available.

18 JUDGE TRIKOUROS: All right. So you do at
19 least have a memory of the tape, the request for the
20 tapes being in your notes.

21 THE WITNESS: Yes.

22 JUDGE TRIKOUROS: Or you viewed your notes
23 and you saw that, and I believe I also saw it
24 somewhere other than in your notes. I don't have it
25 immediately with me, and I was very curious why you

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1 didn't follow up on that request for those tapes
2 because --

3 THE WITNESS: I believe we did, but we
4 never -- clearly, we never ran it to ground and
5 obtained a copy of the tapes. I mean, that -- I think
6 that is a truism. I believe that we did in subsequent
7 interactions with the licensee renew our request, but
8 it did not get fulfilled, and we did not push it to
9 the point that it was fulfilled.

10 JUDGE TRIKOUROS: All right. Thank you.

11 JUDGE FARRAR: I'm sure our questions
12 interrupted somebody. Was that you, Mr. Ghasemian?

13 MR. GHASEMIAN: Yes, Your Honor.

14 JUDGE FARRAR: Go ahead. Continue with
15 your redirect.

16 BY MR. GHASEMIAN:

17 Q Going back to the caption, directing your
18 attention to the second line, in the middle of the
19 sentence it says -- well, I'll read the second
20 sentence starting out with "because of its location on
21 the head, it could not be removed by mechanical
22 cleaning, but was verified to not be active."

23 Does this caption indicate what actions
24 were done to verify that?

25 A No, no. It doesn't indicate what actions

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1 were performed, but it does indicate, again, that the
2 licensee took some action to verify.

3 Q Well, do you know what those actions were?

4 A No.

5 Q And to verify, I presume, the source of
6 the boron, what type of actions are available to make
7 that verification?

8 MR. WISE: Your Honor, I'm going to object
9 on relevance grounds. Where the Board is going
10 hopefully today is that you will hear from Mr. Geisen
11 who has said that he wrote this caption, and the
12 question really is what was his knowledge when he
13 wrote it and what did he mean by writing it really,
14 not what potential mechanical means are out there to
15 do a cleaning.

16 JUDGE FARRAR: I'll rule I'll allow some
17 leeway here to put this in context, but only briefly.

18 You may answer.

19 THE WITNESS: Let me make sure I answer
20 the right question.

21 BY MR. GHASEMIAN:

22 Q I mean, it says that they took some
23 actions to verify. Now, what are the type of actions
24 that are possible to take to verify the source of
25 whether there's the deposition, the boron deposit was

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1 from flange or from any other source?

2 A At that point in time, you know, I'd have
3 to speculate as to what the state of knowledge back
4 then and what would be reasonable actions. You know,
5 clearly, from what's described in the caption if the
6 deposit was wet, then it likely would not have been
7 from a flange leak.

8 MR. WISE: Your Honor, I'm going to
9 object. I think Dr. Hiser's candor that this is
10 speculation precludes the rest of the answer.

11 JUDGE FARRAR: Let me try to ask or pin
12 this down. When you put yourself back in 2001, you
13 see that caption. They verified it. Then you say to
14 yourself, "Oh, they must have done A, B or C." What
15 are A, B, and C in 2001?

16 THE WITNESS: I would say back then A, B,
17 and C would have been to look at the character of the
18 deposit, look at the color of the deposit, things like
19 that. If it was a loose, you know, snowflake type of
20 a deposit that clearly was from flange leakage, that
21 would have been one of the factors that would have
22 gone into it. If it was a deposit that was adherent,
23 tightly adherent to the head, then I think that would
24 not have been an obvious factor that would indicate
25 from a flange leak.

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1 If the deposit was wet, for example, that
2 would be another indication that it was not from a
3 flange leak. If the deposit had a brownish coloration
4 to it, that would indicate that it was an old deposit.

5 JUDGE FARRAR: So these would have been
6 all visual things they would have done.

7 THE WITNESS: Yes, yes.

8 JUDGE FARRAR: Just verified signal to you
9 that they did some other kind of nondestructive
10 examination.

11 THE WITNESS: Well, I guess given the fact
12 that they're reviewing videotapes, I would expect that
13 in combination with the tapes and contemporaneous
14 records would have been made of actions that they
15 took, that that would have been the kind of
16 information they would have reviewed. If there was
17 deposit on the head, you know, what did they do at
18 that time frame to characterize it? Did they check to
19 see whether it was mobile? Was it adherent? Was it
20 wet? Was it dry, things like that? The color of it
21 presumably would have been discernable from the video.

22 You know, but based on the total of
23 information that was available, you know, and this is
24 a positive statement, it's not we're not sure where
25 this stuff came from. We think that it came from

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1 here, but there's verification involved. So that
2 implies that they used some sort of an engineering
3 rationale, if you will, to look at the information and
4 draw reasonable engineering conclusions about it.

5 JUDGE FARRAR:- Okay. Thank you.

6 Does that answer the question?

7 MR. GHASEMIAN: Yes, Your Honor. Thank
8 you.

9 Dr. Hiser, let's go to --

10 JUDGE FARRAR: And, Mr. Wise, feel free to
11 cross-examine again on that answer.

12 MR. WISE: Very well.

13 JUDGE FARRAR: I thought I was getting a
14 multiple choice, A, B and C, and we got an essay exam.
15 So if you want to -- not criticizing, Dr. Hiser --

16 THE WITNESS: Sorry.

17 JUDGE FARRAR: No, no, no. That's fine.
18 We need all of the information we can get.

19 So, Mr. Wise, you can challenge any of
20 that that you want.

21 MR. WISE: Thank you.

22 JUDGE FARRAR: Go ahead, Mr. Ghasemian.

23 MR. GHASEMIAN: Thank you, Your Honor.

24 BY MR. GHASEMIAN:

25 Q Dr. Hiser, do you remember yesterday Mr.

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1 Wise was asking you some questions about the duration
2 of or the duration between outages? There was an 18
3 month versus two years, and there was some discussion
4 about what the NRC was expecting of the licensees to
5 shorten their refueling outage. Do you recall that
6 discussion?

7 A Yes.

8 Q Okay. Now, let me refer you to Staff
9 Exhibit No. 51. These are Mel Holmberg's notes of the
10 October 3rd, 2001 teleconference which you attended.
11 Let's go to the first paragraph. I'm going to
12 highlight the sentence.

13 You said earlier that you had made the --
14 you recollected from your notes that you had made the
15 request to get the videos.

16 A Yes.

17 Q Could it have been that you had reviewed
18 this document? Was it your recollection from this
19 document or --

20 A No, I remember in my notes specifically
21 there's a boxed in area that was items that we had
22 requested, and I believe it indicated the licensee
23 would provide them by October 25th, and the videos
24 were one of the items on that list.

25 Q Okay. Let's go to -- these are your notes

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1 that you're referring to, right?

2 A Yes, yeah, the boxed in area right there.

3 Q Is this the box that you're referring to?

4 A Yes.

5 Q And that I'm highlighting. Okay. And it
6 says -- could you read what it says?

7 A It says, "Prior inspection results, videos
8 and qualified head." That would have been the gap
9 analysis, the third item there.

10 Q Okay, and there's an arrow.

11 A Yes, and it says "by 10/25," by October
12 25th.

13 Q Okay. Now, going back up to Mr.
14 Holmberg's summary of the teleconference --

15 MR. WISE: Your Honor, I guess I'd object
16 to this line of questioning. I'm not sure where we're
17 going. Dr. Hiser testified to his recollection of the
18 meeting based on his notes.

19 MR. GHASEMIAN: Your Honor, yesterday Mr.
20 Wise used this document to cross-examine Mr. Hiser.
21 I should be afforded the opportunity to go to this
22 document and ask him about this various statements
23 about the 18-month and 2,000-month or 20 -- 18 and 24-
24 month duration of time between outages.

25 MR. WISE: Judge, I didn't use this

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1 document to cross-examine him. I asked him whether
2 the Staff had talked with Davis-Besse that day about
3 an 18-month outage, and he said no.

4 JUDGE FARRAR: Okay. Mr. Wise, you're
5 saying you did not use this document on cross?

6 MR. WISE: No. I certainly didn't show
7 this witness the notes of someone else to impeach him
8 with someone else's notes.

9 MR. GHASEMIAN: But I recall he read from
10 these notes. I may be mistaken, but I thought the
11 words that Mr. Wise was reading, they were from this
12 document.

13 JUDGE FARRAR: Okay.

14 (The Board conferred.)

15 JUDGE FARRAR: Okay. As we recall, the
16 witness referred to his own notes of this meeting, and
17 now you want him to look at -- why do we want him to
18 look at someone else's notes?

19 MR. GHASEMIAN: Your Honor, Mr. Wise
20 referred to --

21 JUDGE FARRAR: Never mind what Mr. Wise.
22 Why are we -- what do we want out of Dr. Hiser today?

23 MR. GHASEMIAN: Because the implication
24 was that the NRC was --

25 JUDGE FARRAR: No, no.

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1 MR. GHASEMIAN: If I may be afford to be
2 heard, Your Honor.

3 JUDGE FARRAR: Go ahead.

4 MR. GHASEMIAN: Yesterday I --

5 JUDGE FARRAR: Never mind. Just ask your
6 question.

7 BY MR. GHASEMIAN:

8 Q Do you recall Mr. Wise using the term --
9 and I'm sure he'll correct me if I'm wrong -- the word
10 "sea change"? There would be a sea change if the NRC
11 would make a requirement for licensees to shorten
12 their operation periods? Do you recall any discussion
13 about that?

14 A I remember a discussion yesterday about 18
15 months being some sort of an acceptable operating
16 period or more than 18 months was not -- you know,
17 would not be acceptable. I remember some discussion
18 of that.

19 Q And why would that be --

20 MR. GHASEMIAN: Your Honor, I was just
21 given the piece of the transcript from yesterday. I
22 can read it.

23 JUDGE FARRAR: Just ask the questions

24 BY MR. GHASEMIAN:

25 Q Do you recall the discussion on the

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1 teleconference about shortening the operations period
2 from 24-month to 18-month?

3 A No, no. That wouldn't -- that was not
4 something we ever contemplated.

5 MR. GHASEMIAN: Thank you, Your Honor. I
6 have no more questions.

7 JUDGE FARRAR: As long as we have this
8 document in front of us, Staff 52, the second page of
9 it has a list of Davis-Besse attendees, people on the
10 conference call, including Mr. Geisen, Mr. Moffitt,
11 Mr. Lockwood, Mr. Cook, Mr. Miller, some others.

12 But on the first page of the thing where
13 it says who's there from NRR and who's there from
14 Region 3, and it says licensee, it says "see
15 attached," which I take it is this attached list, and
16 then without a comma it says "including Guy Campbell,
17 Site VP."

18 Do you remember was Mr. --

19 THE WITNESS: Yeah, I --

20 JUDGE FARRAR: Do you remember Mr.
21 Campbell was on the call?

22 THE WITNESS: I believe from my copy of
23 this attendance list that I hand wrote in Mr.
24 Campbell's name. So, yeah, I believe he was on this
25 phone call.

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1 JUDGE FARRAR: Someone did a list and then
2 this parenthetical on the first page is just saying
3 Campbell was also there?

4 THE WITNESS: And I believe that's
5 consistent with my handwritten notes on this agenda as
6 well.

7 JUDGE FARRAR: All right. Mr. Ghasemian,
8 go ahead.

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

11 JUDGE FARRAR: Certainly..

12 (Pause in proceedings.)

13 MR. GHASEMIAN: Staff has no more
14 questions, Your Honor.

15 JUDGE FARRAR: Any recross, Mr. Wise?

16 MR. WISE: Just one question.

17 RECROSS EXAMINATION

18 BY MR. WISE:

19 Q Doctor, Judge Trikouros asked you about
20 whether there were additional requests for the videos
21 between October 3rd and November 8th.

22 A Yes.

23 MR. WISE: I guess I have two questions,
24 Your Honor.

25 BY MR. WISE:

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1 Q If those requests had been made, they
2 would have been made to someone in Regulatory Affairs
3 or Licensing at Davis-Besse, correct?

4 A My guess is if I was involved, it would
5 have been technical discussion. So it would have been
6 more of the technical phone calls as we were talking
7 about the information that Davis-Besse was providing
8 and some of the conclusions they were reaching and
9 some our questions.

10 Q Okay. The requests for information to be
11 submitted from the licensee would go to Licensing or
12 Regulatory Affairs?

13 A I think in general that's where formal
14 requests would go, yes.

15 MR. WISE: Very good. thank you. That's
16 all.

17 JUDGE FARRAR: Any redirect?

18 JUDGE TRIKOUROS: Before we lose you as a
19 witness, yesterday we discussed your impressions that
20 the videotapes that you were shown for reasons which
21 we never really established were not the same or
22 showed you parts that were not complete that later OI
23 -- during the OI investigation you saw those same
24 videotapes or parts of them that were a concern to
25 you.

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1 You know, now there's a request for the
2 videotapes and a nozzle-by-nozzle inspection or
3 nozzle-by-nozzle table made at the October 3rd meeting
4 or video meeting. The videotapes were not provided as
5 a submittal to you. They were shown to you on
6 November 8th, but then back to my first comment about
7 the completeness of that is something you were
8 questioning.

9 So they were not provided directly to you
10 as a submittal after October 3rd, but you were given
11 nozzle-by-nozzle evaluations that showed parts of them
12 again. So I'm wondering. Every time I look I see the
13 issue of parts of the videotapes either in one form or
14 another, in one manner or another. What's your sense
15 about that?

16 Is your sense that if you had been given
17 the videotapes in their totality a week after October
18 3rd, would we have been here now?

19 THE WITNESS: From what I've seen on
20 videos, I would say, no, we would not be here. I
21 think my guess is Davis-Besse would have been shut
22 down some time in the fall of 2001, and they would
23 have identified the issue on top of the head and
24 things would have proceeded in a more normal
25 regulatory process at that point in time.

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1 JUDGE TRIKOUROS: Thank you.

2 JUDGE FARRAR: Questions?

3 JUDGE HAWKENS: Toward the end of Mr.
4 Wise's cross-examination he talked about a meeting in
5 mid-November that you attended where Mr. Geisen made
6 a representation about the 2000 inspection, and if you
7 could amplify on that.

8 MR. WISE: Your Honor, just for clarity,
9 the statement was made by Mr. Siemaszko.

10 JUDGE HAWKENS: Oh, it was by Mr.
11 Siemaszko.

12 MR. WISE: Yes. The stack of Bibles
13 comment?

14 JUDGE HAWKENS: Yes.

15 MR. WISE: Yes, that was made by Mr.
16 Siemaszko.

17 JUDGE HAWKENS: Thank you. That clarifies
18 that.

19 In the meeting where Mr. Geisen was
20 showing you the tapes --

21 THE WITNESS: Yes.

22 JUDGE HAWKENS: -- and toward the end of
23 the meeting he expressed frustration about the 2000
24 tape, was it your impression or did he tell you at any
25 time during the meeting that he had personally viewed

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1 the 2000 tape or that he had viewed the '98 and '96
2 tapes before the meeting with you?

3 THE WITNESS: Well, I took his comment to
4 mean that he at least had seen some portion of the
5 2000 tapes because he was representing the --
6 representing the tapes. Clearly, he had seen the '96
7 and '98 at least portions with us. Whether he had
8 seen the tapes from beginning ot end for each year, I
9 don't believe he made any representation to that
10 effect.

11 JUDGE HAWKENS: Okay.

12 JUDGE FARRAR: Mr. Wise, do any of our
13 questions lead you to want to do more cross?

14 MR. WISE: No, Your Honor. Thank you.

15 JUDGE FARRAR: Okay. Then, Mr. Ghasemian,
16 then we're done with this witness then?

17 MR. GHASEMIAN: I believe so, Your Honor.

18 JUDGE FARRAR: Dr. Hiser, we appreciate
19 your attendance here, and thank you for -- we had to
20 rearrange schedules a little bit to get you here. So
21 we appreciate your coming in.

22 THE WITNESS: Okay. Thank you very much.

23 JUDGE FARRAR: Thank you. Thank you very
24 much.

25 THE WITNESS: Thank you.

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1 (The witness was excused.)

2 JUDGE FARRAR: We've been at this an hour
3 and 45 minutes. So let's take our mid-morning break,
4 even though it's almost noon. Let's come back at noon
5 and we'll start with Mr. Martin; is that correct?

6 MR. GHASEMIAN: Yes, Your Honor.

7 JUDGE FARRAR: Thank you.

8 (Whereupon, the foregoing matter went off
9 the record at 11:44 a.m. and went back on
10 the record at 12:01 p.m.)

11 JUDGE FARRAR: Be seated, please.

12 (Pause.)

13 All right, Ms. Sexton, I take it from your
14 moving your chair, you're going to present Mr. Martin?

15 MS. SEXTON: That's correct, Your Honor.

16 JUDGE FARRAR: Is Mr. Martin here?

17 MS. SEXTON: Yes, he is.

18 JUDGE FARRAR: Take the witness stand,
19 please.

20 MS. CLARK: Your Honor, whenever you'd
21 like, I'd like to -- I do have documents for --
22 concerning the other individuals involved. We can
23 address that whenever you like.

24 JUDGE FARRAR: On Mr. Geisen's side, who
25 is responsible for the cross examination, and you're

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1 also the one who wants the documents, so we'll wait
2 until the luncheon recess to get them to you?

3 MR. HIBEY: Thank you.

4 JUDGE FARRAR: This has to do with not
5 this witness --

6 MR. HIBEY: Mr. O'Brien.

7 JUDGE FARRAR: Right. And if you want the
8 documents right now --

9 MR. HIBEY: No, I can wait.

10 JUDGE FARRAR: Wait until lunch. Okay,
11 good.

12 Mr. Martin, would you stand, please, raise
13 your right hand.

14 WHEREUPON,

15 JOHN BRADLEY MARTIN

16 WAS CALLED FOR EXAMINATION BY THE NRC STAFF AND,
17 HAVING FIRST BEEN DULY SWORN, WAS EXAMINED AND
18 TESTIFIED AS FOLLOWS:

19 JUDGE FARRAR: Be seated, please. Go
20 ahead, Ms. Sexton.

21 DIRECT EXAMINATION

22 BY MS. SEXTON:

23 Q Good morning, Mr. Martin. First, I'd like
24 to thank you for taking the time to come all the way
25 out to Rockville. I know it's not really in your neck

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1 of the woods, but we appreciate that. And also, as I
2 said to you earlier, whenever I ask you questions, if
3 you could just direct your answers to the Board.

4 Can you state your name and spell it for
5 the record?

6 A It's John Bradley Martin, B-R-A-D-L-E-Y,
7 M-A-R-T-I-N.

8 Q And before we get started, have you
9 watched on TV or on the internet any portions of the
10 proceeding this week?

11 A I have not.

12 Q And have you spoken to any of the
13 witnesses who have testified in the proceeding this
14 week?

15 A I have not.

16 Q And has anyone spoken to you about the
17 testimony of any witnesses who testified in the
18 proceedings?

19 A No.

20 Q And Mr. Martin, where do you live?

21 A I live in Lafayette, California.

22 Q And are you currently employed?

23 A I am. I own an engineering consulting
24 company.

25 Q And what sort of --

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1 (Loss of audio feed.)

2 JUDGE FARRAR: Pardon the audio
3 interruption.

4 Ms. Sexton, Mr. Martin, you can start that
5 answer again, if you would.

6 THE WITNESS: My company, it's just me and
7 one partner and the focus of our business is nuclear
8 safety issues at some domestic plants and supportive
9 plants. Nuclear plants.

10 BY MS. SEXTON:

11 Q How long have you been involved in the
12 nuclear industry?

13 A Since 1962.

14 Q And how did you get your start?

15 A Well, I joined the Navy and got sent to
16 Navy Reactors in Washington so I spent the first 14
17 years or so in design and construction of Naval
18 nuclear plants.

19 Q And what did you do after you left the
20 Navy?

21 A I came to the Nuclear Regulatory
22 Commission in 1976 and spent six years in the
23 Materials Division and then the remainder in two of
24 the NRC regions, Region 5 and Region 3, as Regional
25 Administrator.

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1 Q And can you give us a brief description
2 what you did as Regional Administrator?

3 A Well, it was primarily the inspection and
4 enforcement programs for nuclear reactors and we also
5 had a good number of materials licenses.

6 Q And what did you do when you left the NRC?

7 A Well, I started a consulting company in
8 1995 and have been doing that ever since.

9 Q In the course of your consulting business,
10 have you done any work at Davis-Besse Nuclear Power
11 Station?

12 A I did.

13 Q And when did you start that work?

14 A In -- somewhere in the middle of 1996.

15 Q And what sort of work did you do?

16 A I was appointed to their Nuclear Safety
17 Oversight Board which was the Company Nuclear Review
18 Board.

19 Q And what did you do as a representative on
20 that?

21 A Well, I really had two things. For the
22 first several years my focus of interest was the
23 quality assurance activities and the corrective action
24 program. And the last couple of years was engineering
25 activities.

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1 Q And have you done any work at Davis-Besse
2 as a result of the discovery of the vessel head
3 degradation?

4 A Yes, I did.

5 Q And were you asked to do anything?

6 A Well, shortly after the problem was
7 discovered, I was asked to come to Davis-Besse and
8 assist with the management and organizational aspects
9 of the evaluation they would like to do. And this was
10 the last week of March 2002.

11 Q So you were there for approximately one
12 week doing this review?

13 A Yes, yes.

14 Q And did you go with any of the other
15 groups or teams that went out to Davis-Besse in 2002?

16 A No. I was operating as an individual that
17 week.

18 Q And when you went out there to do your
19 review, did you do anything to prepare?

20 A Well, not until I got there because this
21 was just recently discovered and there really wasn't
22 anything to review, but after I got there -- do you
23 want me to describe what I did that week?

24 Q Yes, please, Mr. Martin.

25 A Well, the first thing I did once I got

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1 there was to request the licensing group to give me
2 the correspondence that they had had for the last
3 several years between the company and the NRC. There
4 were at least two Bulletins relative to -- there was
5 one in 1997, I believe. Then another one in 2001.
6 And so I read through that correspondence and I'd like
7 to emphasize that it was not a discipline review. It
8 was mostly to leaf through it to see just to get some
9 context in which to operate and try to understand what
10 the company's strategy was in dealing with these
11 Bulletins.

12 Then secondly, I went to look at it with
13 the system engineer and then thirdly I interviewed a
14 number of people, 15 or so, for which I've written up
15 some notes. And then lastly, I had an exit meeting
16 with three of the company officers and the company
17 president at the end of that week. It might have even
18 been on Saturday.

19 Q And have you ever done this type of review
20 before?

21 A Well, no, not specifically this kind of
22 review, but I've -- if by that you mean have I
23 interviewed a large number of people and then tried to
24 draw some conclusions from it, yes, I've done that a
25 number of times, Salem, DC Cook, primarily the plants

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1 that have been a problem.

2 Q And what was the purpose of those
3 interviews and conclusions that you were trying to
4 draw?

5 A Well, in both of those cases it was to
6 interview all of the nuclear plant operators and then
7 draw any common themes or threads of what they thought
8 the problems were. I found that fairly productive.
9 Usually, the operators know what's going on and if you
10 ask them, they'll tell you and you can get a pretty
11 good insight.

12 Q And at the point that you went out to
13 Davis-Besse to start your review process, had the
14 Office of Investigations interviewed any of the Davis-
15 Besse employees at that point?

16 A Not that I'm aware of. I think I was
17 probably the first.

18 Q And so the Department of Justice hadn't
19 gone out there yet?

20 A Not that I'm aware of.

21 JUDGE FARRAR: What were these dates
22 again?

23 THE WITNESS: The last week of March.

24 BY MS. SEXTON:

25 Q And for the record, how far after the

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1 discovery of the degradation was that?

2 A I don't recall exactly, but it wasn't more
3 than a few days.

4 Q So can you say one more time about how
5 many people you think you interviewed during the
6 course of your review?

7 A The list of the interviews is circulating
8 somewhere. It's around 15. I can't remember exactly,
9 15 to 20.

10 Q And approximately how long did you
11 interview those people for?

12 A Well, it varied, but I'd say on the
13 average about 45 minutes, maybe half hour, some were
14 longer, others were shorter.

15 Q And while you were performing your review,
16 did you have a chance to interview Mr. Geisen?

17 JUDGE FARRAR: Hold on, Ms. Sexton. Let
18 me ask a clarifying question.

19 Who was the highest ranking person that
20 you interviewed?

21 THE WITNESS: I'd have to look back
22 through the list.

23 JUDGE FARRAR: I'll be more specific. Did
24 you interview Mr. Guy Campbell?

25 THE WITNESS: No. I don't believe he was

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1 there. But he might have been. I do not know.

2 JUDGE FARRAR: Who commissioned you to do
3 this?

4 THE WITNESS: This was the -- at the time
5 he was the plant manager, I believe. His name was
6 Howard Burgendahl. He shortly thereafter became the
7 site vice president. So I don't know what job he was
8 in when he called me. I can't recall.

9 JUDGE FARRAR: And you were contacted
10 because you had been on this previous company board?

11 THE WITNESS: Well, I presume so.

12 JUDGE FARRAR: I mean that was your --

13 THE WITNESS: That was my assumption.

14 JUDGE FARRAR: Right, they could have
15 picked you out of the phone book, but you had had this
16 previous contact in a semi-auditor kind of role.

17 THE WITNESS: Exactly. I presumed that's
18 why he called. He could have asked anybody, but he
19 called me and I said yes, I'd come out and take a
20 look.

21 JUDGE FARRAR: Go ahead, Ms. Sexton.

22 BY MS. SEXTON:

23 Q So while you were performing your review,
24 did you have a chance to interview Mr. Geisen?

25 A Yes, I did.

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1 Q Mr. Martin, I now have on the screens,
2 Staff Exhibit 63 and that should also be in the
3 notebook, if you'd like to see a paper copy of that,
4 after Tab 63.

5 A Okay, I can see it on the screen here
6 pretty well.

7 Q Okay, fantastic.

8 MR. WISE: Your Honor, I would object to
9 showing of the document to the witness unless he has
10 no independent recollection without his notes.

11 It may be that that's the case, but we're
12 skipping stuff.

13 MS. SEXTON: Your Honor, these are in the
14 record.

15 JUDGE FARRAR: Right, but the point is Mr.
16 Wise wants to know --

17 MS. SEXTON: I'll ask the question.

18 BY MS. SEXTON:

19 Q Mr. Martin, do you have any independent
20 recollection of your interview with Mr. Geisen apart
21 from these notes?

22 A No.

23 Q So did you review these notes before
24 testifying today?

25 A I did.

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1 Q And when you were performing your
2 interview with Mr. Geisen, did anything in particular
3 stand out to you?

4 A Well, yes, two things. But I'd like to
5 just give a little background first. My focus at this
6 point was who knew that boric acid was left on the
7 head after the 2000 review. I wasn't particularly
8 probing into Bulletin responses. So when I saw this
9 -- will you put the document back up, it disappeared.

10 There were two things that struck my
11 interest. First of all is that Mr. Geisen had
12 approved removal of boric acid removal as a mode
13 restraint and I remember asking him why he did that
14 and what basis did he have for that. And as I noted
15 here it wasn't -- it was done on the basis that -- the
16 boric acid would be removed, not that it had been
17 removed.

18 JUDGE FARRAR: Do you recall he was the
19 one who created that restraint or did someone else?

20 THE WITNESS: I don't remember that.

21 JUDGE FARRAR: But he's the one who
22 removed it.

23 THE WITNESS: I said why did you remove
24 that or agree to remove it and he was the, as I
25 recall, the engineering representative at the Outage

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1 Control Center.

2 So I thought it was odd that he would move
3 a mode restraint based on somebody's promise to do
4 something rather than being convinced that it already
5 had been done. So that stuck in my mind and I noted
6 that here.

7 JUDGE TRIKOUROS: Do you have any personal
8 knowledge that that was different from normal
9 convention at Davis-Besse?

10 THE WITNESS: Uh --

11 JUDGE TRIKOUROS: Because there was still
12 a mode restraint associated with boric acid in the
13 sense that there was a cleaning requirement, right?

14 THE WITNESS: I didn't know that. I just
15 asked why did you look mode restraint. My
16 understanding was that that probably should not have
17 been done unless you were convinced that the condition
18 had been remediated, but I didn't press it any further
19 than that. She asked me what stuck in my mind. That
20 stuck in my mind.

21 And then secondly was that -- can I see
22 the document again? It keeps disappearing.

23 That the second thing was that he was not
24 aware that boric acid had been left on the head until
25 much later in -- I put here in August of 2001. And I

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1 thought that was interesting also that at least he,
2 along with a lot of other people thought the head had
3 been cleaned, but it hadn't. He didn't know that
4 until 2001 some time.

5 So those are the two things that stuck in
6 my mind.

7 BY MS. SEXTON:

8 Q Now Mr. Martin, I'm going to ask you about
9 one other portion of this -- your interview. And
10 specifically, when did Mr. Geisen say that he had
11 reviewed videotapes of past inspections?

12 A You know, I don't recall a lot of
13 discussion about videotapes. What I was -- what I
14 wrote here, he became aware of it in the interactions
15 surrounding this Bulletin in August of 2001 and
16 apparently what I wrote is that he became aware of it
17 in reviewing the videos. But that's all I recall is
18 what I wrote here. I don't recall any further
19 discussion about when they were reviewed and under
20 what circumstances.

21 Q And what you have written down you would
22 assume is what was actually said to you during the
23 course of --

24 A That's right.

25 Q And just to go through a few more

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1 questions, what was your process for taking notes
2 during these interviews?

3 A Well, I usually, when I do these, I just
4 ask questions and write down what people tell me. It
5 wasn't intended on being a verbatim transcript or
6 being used in a legal proceeding. It was more of a
7 fact-finding effort and in fact, it wasn't even as
8 formal as questions and answers. You have to add the
9 question yourself. They should be pretty obvious, but
10 I just went through a list of questions and wrote down
11 anything relevant that was said.

12 Q And how did your handwritten notes come to
13 be typed?

14 A Well, after either during the process or
15 shortly thereafter, I gave them to Burgendahl's
16 secretary to type up and she typed them and I reviewed
17 them and so by that Friday they were complete.

18 Q And why did you need her to type your
19 notes for you?

20 A I can't type. If I do, it would take a
21 lot longer than the week I had.

22 Q So any time you have something handwritten
23 you have to give it to someone else to type for you?

24 A Yes.

25 Q And did Mr. Burgandahl's secretary ever

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1 indicate a problem to you with your handwriting?

2 A Not that I recall. I'm sure we had some
3 things that needed to be corrected.

4 Q So you said you reviewed the notes?

5 A Yes, after she typed them and probably
6 made some corrections, but I just can't remember those
7 details.

8 MS. SEXTON: No further questions, Your
9 Honor.

10 JUDGE FARRAR: Let the record reflect that
11 we started at 12:08 and it's 12:18. Ms. Sexton or
12 someone I forget who it was yesterday told me it could
13 be a half hour or an hour and I said I could do it
14 faster myself and you've done very well. Thank you.

15 MR. WISE: Good morning.

16 JUDGE FARRAR: Hold on a second, Mr. Wise.

17 MR. WISE: Sorry.

18 (Pause.)

19 JUDGE FARRAR: Go ahead, Mr. Wise.

20 MR. WISE: Thank you, Your Honor.

21 CROSS EXAMINATION

22 BY MR. WISE:

23 Q Good morning, Mr. Martin.

24 A Good morning.

25 Q Let me ask you, at the beginning, let's

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1 talk about the issue of the removal of the mode
2 restraint first because I believe you said that was
3 one of the issues that stuck out to you from your
4 conversation with Mr. Geisen, correct?

5 A Right.

6 Q Do you recall that there was a mode
7 restraint related to a condition report? Do you
8 recall that?

9 A No.

10 Q What was your understanding of what it was
11 that Mr. Geisen had done?

12 A It was my understanding he was the
13 engineering representative in the Outage Control
14 Center. There was a mode restraint for cleaning the
15 head and he agreed to lifting that on the basis that
16 when I asked him what the basis was it was that the
17 head would be cleaned. I thought that was odd that it
18 should have been, but it had been cleaned.

19 Q I'm sorry, I interrupted you.. What was
20 your last sentence?

21 A My opinion was that any mode restraint
22 removal should be based on some objective evidence
23 that the work had already been done, not that it would
24 be done.

25 Q How did you draw your conclusion that he

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1 was the engineering representative of Outage Central?

2 A That was my presumption, why he would even
3 be in a position of removing a mode restraint. I
4 believe he told me that.

5 Q But you're not sure?

6 A No.

7 Q It's not reflected in your notes?

8 A No.

9 Q Would it be unusual for there to be only
10 one engineering manager in Outage Central during an
11 outage?

12 A Well, probably not more than one at any
13 one time. They would operate in shifts.

14 Q But you don't know whether Mr. Geisen was
15 the sole engineer?

16 A No.

17 Q How he came to be there?

18 A Unless he could work 24 hours a day, there
19 were probably some others as well.

20 Q You don't know who the others were?

21 A No.

22 Q You don't know how he came to end up in
23 Outage Central?

24 A No.

25 Q Do you recall him talking to you about

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1 lifting the mode restraint because there was another
2 condition report and work order that was going to
3 perform that cleaning of the head?

4 A If he did, I don't remember it, no.

5 Q And it's not in your notes?

6 A No.

7 Q Do you recall a discussion about how the
8 work order, how there was a work order that would
9 prevent the plant from coming back on line unless the
10 head had, in fact, been cleaned?

11 A No, I don't remember any discussion of
12 that.

13 Q Is it fair to say that your discussion
14 with Mr. Geisen -- did you review any documents
15 relating to the condition reports?

16 A You know, at the time I talked to him, I'm
17 not sure that I had or not. The sequence there, some
18 time during the week, I looked at a couple of
19 condition reports. Whether I looked at this specific
20 one that had the mode restraint removal, I can't say.
21 I don't recall.

22 Q So on this issue at least, you would agree
23 with that your discussion with Mr. Geisen was not
24 particularly detailed, is that fair?

25 A No, not detailed at all.

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1 Q Can you tell me the difference between an
2 as-found and as-left inspection?

3 A Well, not other than just the plain
4 meaning of it. As-found is what it looked like as the
5 plant shut down and as-left is what it looked like
6 when it restarted.

7 Q Do you recall any discussions about those
8 two types of inspections with Mr. Geisen?

9 A No.

10 Q The focus, I think you said, on direct was
11 on the head cleaning. That was the focus of your
12 conversation?

13 A Yes.

14 Q And not on the Bulletin responses?

15 A No.

16 Q I take it also you weren't focusing on any
17 particular individual's review of the videotapes?

18 A No.

19 Q Or how representations in the Bulletins
20 had been made?

21 A No.

22 Q The notes that Ms. Sexton showed you, and
23 let me pull those back up for you.

24 The notes that you took and we'll talk
25 about the process of those notes in a second, but the

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1 notes you took don't reflect any involvement or any
2 connection between the videos and the Bulletin,
3 correct?

4 A Yes, I wasn't looking into that.

5 Q And the sentence that we were focusing on
6 before about when Mr. Geisen reviewed the videotapes,
7 in fact, talks about when preparing for NRC
8 interactions in August of 2001, correct?

9 A That's what I wrote, yes.

10 Q I take it you didn't have any further
11 conversation with him about first of all what he meant
12 by reviewed?

13 A No.

14 Q Or what he meant by interactions?

15 A No.

16 Q Let me talk about your notes just very
17 briefly. You said the process you followed was you
18 handwrote notes first?

19 A Yes.

20 Q During the conversation?

21 A During the conversation.

22 Q I asked you this question before. I'll
23 try to ask it nicely. But you would agree with me
24 that your handwriting is not the easiest to read?

25 A Some people have problems with it, yes.

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1 Q And some people actually includes one Mr.
2 Martin?

3 A Yes. It depends on how late it is in the
4 day, but I'm quite able to read the typed version.

5 Q Okay, you said before that this was not
6 intended to be a formal investigation?

7 A Yes. This was in previous discussions
8 we've had the word investigation had been used. To me
9 that connotes a much more disciplined purposeful
10 review. This was more of a survey and fact-finding
11 and see what patterns emerge.

12 Q And I take it that if this had been a more
13 formal investigation, one of the steps you might have
14 taken would be to have made a verbatim transcript of
15 people were telling you?

16 A Exactly.

17 Q Perhaps you would have allowed people to
18 review the memo or the notes that were typed to make
19 sure that it was accurate?

20 A Yes.

21 Q None of those steps were taken in this
22 situation?

23 A No.

24 Q One of the things that you did in
25 connection with your week at Davis-Besse was that you

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1 reviewed the submissions that were made from Davis-
2 Besse to the NRC?

3 A Well, again, reviewed is a pretty strong
4 word. I surveyed them, leafed through them to try to
5 understand for both the Bulletins, the earlier one and
6 the later one, to try to understand what theory was
7 here, what was the approach on doing these head
8 inspections.

9 Q In the 2001 Bulletin and the exchange that
10 followed, did you also survey slides from meetings
11 between Davis-Besse folks and the NRC?

12 A Yes. There was a lot of that sort of
13 thing in the package that I flipped through, yes, but
14 I didn't review it in any detail.

15 Q Do you recall that the first face-to-face
16 interaction between the NRC and Davis-Besse occurred
17 around October 11 of 2001?

18 A I don't recall that, no.

19 Q If I posed a hypothetical to you and asked
20 you to assume for the purposes of the hypothetical
21 that the first face-to-face interaction between anyone
22 from Davis-Besse and the NRC was on October 11th,
23 would you agree with me that it's possible that your
24 notes are incorrect in reflecting that Mr. Geisen said
25 that he did it, he viewed the videotapes preparing for

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1 interactions in August of 2001?

2 A Well, that turns on what you mean by
3 interactions. I mean the interactions started with
4 the Bulletin issue. People had to get prepared, had
5 to think through their strategy, had to review
6 documents, had to get ready to make a submittal. So
7 I'm pretty sure that's what I had in mind, not the
8 formal meetings. But it's hard for me to recreate
9 what I was thinking at that time.

10 Q You have no information that Mr. Geisen
11 was involved in the initial submittal?

12 A No, I don't know what involvement he had.

13 Q You had no information that he was
14 involved in reviewing the initial Bulletin?

15 A Not that I recall, but I don't -- I can't
16 say he didn't. Maybe he did, maybe he didn't. I
17 can't testify to that.

18 Q You had no information that he was?

19 A No.

20 Q You have no information that he was
21 involved in the strategizing about how to respond to
22 the Bulletin?

23 A If he did, I'm not sure what it was.

24 Q You have no information that he was
25 involved in drafting the initial response?

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1 A No.

2 Q And you did not go into any detail with
3 him about the word interactions as that word appears
4 in your notes?

5 A No.

6 Q That's all I have. Thank you, Mr. Martin.

7 JUDGE FARRAR: Thank you, Mr. Wise.

8 A couple of questions from the Board. Mr.
9 Martin, you and I have a couple of things in common.
10 Some people say that they can't read my handwriting
11 and the difference is I can see that they're right.
12 Somehow I've survived this many years without learning
13 to type with more than two fingers either. But we may
14 have a difference. And there are times when I wish I
15 had taken a little more pains of my notes because I
16 have trouble reading. But if I gave my notes to
17 someone's secretary to type for me and assuming that
18 the Secretary was able to do them, I would insist that
19 I have my handwritten notes back and I would keep them
20 with the typed notes because they're the best
21 evidence.

22 Where are your handwritten notes?

23 THE WITNESS: Your Honor, I have no idea.
24 Presumably, the secretary shredded them after we were
25 through with them. I didn't keep them.

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1 JUDGE FARRAR: When she gave you the typed
2 notes that she had prepared back, did she hand you
3 your notes?

4 THE WITNESS: I don't remember. I presume
5 she did, but I don't recall that.

6 JUDGE FARRAR: Okay, that's always
7 important to me, because I know I have bad
8 handwriting, so the only way I can check if she got it
9 right is to have those back.

10 THE WITNESS: Typically, I do that, but I
11 can't swear in this case. It's hard for me to imagine
12 that I wouldn't do that, but I don't recall those
13 details or specifically what happened to the pieces of
14 paper. I had no use for them once they were typed.
15 So I'm sure we just got rid of them.

16 JUDGE FARRAR: You said that one of the
17 things you were -- that caught your attention was that
18 Mr. Geisen had removed the mode restraint?

19 THE WITNESS: Yes.

20 JUDGE FARRAR: On someone's promise to do
21 something?

22 THE WITNESS: Yes.

23 JUDGE FARRAR: You're probably not aware
24 of this, but we had a case recently here involving the
25 MOX facility on the Savannah River site that a company

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1 is building for the Department of Energy. And there's
2 a regulation, 70.23(a)(8) that says the staff shall
3 not issue a license or the next phase of the license
4 until construction has been completed. And the staff
5 proposed at one time to issue the license seven years
6 before construction was completed on the promise that
7 they would watch and make sure it was completed. We
8 had some trouble with that.

9 Would you, given the positions you've held
10 here before, is what Mr. Geisen was proposing any more
11 startling than what the staff was proposing in the MOX
12 facility?

13 THE WITNESS: Well, I think that's why I
14 reacted to it because it seemed improper to me. And
15 the mode restraint is fairly formal and if you remove
16 it, it should be based on some objective evidence, not
17 a promise to do something in the future. And so I
18 noted that down and went on. I didn't think I
19 explored it any more than that.

20 JUDGE FARRAR: But there was something
21 that was left, as I understand the evidence, and maybe
22 this is not true, there was something that was left,
23 a work order or something that had -- that somebody
24 was going to have to say yes, that was done before the
25 mode restraint was issued, just like the staff told us

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1 in MOX they would check and make sure construction was
2 completed.

3 THE WITNESS: That's what Mr. Wise was
4 implying, but I don't know --

5 JUDGE FARRAR: You're not aware of the
6 work order. Okay.

7 THE WITNESS: At the time, I didn't focus
8 on that, that I recall.

9 JUDGE FARRAR: You were familiar -- that
10 committee you sat on before you started this work?

11 THE WITNESS: Yes.

12 JUDGE FARRAR: Was that for the Davis-
13 Besse facility or was that company-wide?

14 THE WITNESS: It was company-wide at that
15 point.

16 JUDGE FARRAR: When you finished all these
17 interviews and made your report, and given the
18 positions you had held here before, what was your
19 impression of this company?

20 THE WITNESS: I think I captured that in
21 the memo pretty well is that --

22 JUDGE FARRAR: Which memo?

23 THE WITNESS: The memo that I gave to the
24 company officers. Do they have a copy of that?

25 I think it was dated March 28th.

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1 JUDGE FARRAR: We don't have that, do we?

2 MS. SEXTON: I don't think it's in the
3 exhibit list, Your Honor.

4 JUDGE FARRAR: Go ahead, just talk about
5 it then.

6 THE WITNESS: I put together -- see, I had
7 had some experience in the past with shutdown plants
8 and plants in trouble, Salem, DC Cook, after I left
9 the NRC and a number before that when I was with the
10 NRC. And so what I reminded them of was that back in
11 the late '90s, it became necessary technical standards
12 had slipped quite a bit at First Energy and Davis-
13 Besse, in particular, and they really needed to change
14 some of their management, which they did. But it
15 turned out, the new management fell into all the same
16 behavior patterns that the old management had. And so
17 I was pretty frustrated with the situation at that
18 point.

19 Their standards weren't good. And they
20 did not display some of the fundamental technical
21 principles in problem solving like, for example, I
22 pointed out in the memo that in preparation they did
23 not appear to go back and resurrect all this knowledge
24 that later turned out people knew, some people knew
25 that boric acid had been left on the head. And I

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1 found that astonishing. And so if you read through
2 that memo, it basically, my strong admonition to that
3 was do not -- typically, when a plant gets in trouble
4 and gets shut down it goes into a period of denial for
5 a year or so where nothing much useful gets done. I
6 urged them do not do this. You need to start with
7 basically a public acknowledgement that we really made
8 a mess out of this and here's what we need to do to
9 rehabilitate ourselves technically primarily.

10 And so that was the sense of the exit I
11 had with the company officer.

12 JUDGE FARRAR: And that interview was with
13 whom?

14 THE WITNESS: Well, there were three
15 officers, four actually. The vice president of
16 Engineering whose name was Wood; the site vice
17 president who was Burgendahl at the time.

18 JUDGE FARRAR: Do you know what had
19 happened to Mr. Campbell?

20 THE WITNESS: I have no idea. I'm very
21 murky on what happened at that point, but I never saw
22 him again.

23 And then there was a fellow named Lou
24 Meyers who was being brought in to assist in all of
25 this. He had not been involved in it to date. And

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1 then the president of the company whose name was
2 Saunders.

3 JUDGE FARRAR: President of?

4 THE WITNESS: FENOC.

5 JUDGE FARRAR: FENOC. Which had at that
6 point three facilities?

7 THE WITNESS: Yes.

8 JUDGE FARRAR: Perry, Davis-Besse and --

9 THE WITNESS: Beaver Valley.

10 JUDGE FARRAR: Beaver Valley. When you
11 said people hadn't -- whatever you said about three
12 minutes ago that was critical of the people for not
13 doing things, was that in your judgment a top-down
14 problem or a bottom-up problem?

15 THE WITNESS: Well, in the context of that
16 discussion it was more top-down because the top level
17 of people had been specifically brought in to remedy
18 that situation and had not done it. So that was my
19 focus. Of course, at that point then there was even
20 a new cast of characters brought in.

21 JUDGE FARRAR: In your experience with the
22 company, this question that arose about whether they
23 would have to shut down by December 31st in response
24 to the Bulletin or whether they could get the
25 extension to February, do you have a recollection of

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1 what the driving company top-down philosophy would
2 have been communicated to its employees? Was that --
3 let me pose two possibilities, there may be more.

4 One would be we want to keep this facility
5 open for all the usual reasons and make sure,
6 gentlemen, that whatever happens, it stays open. Or
7 would it be we'd like to keep this facility open, but
8 this is a dangerous business and we owe the NRC the
9 best answers possible and if there's problems, bring
10 them out. Would you select one of those or would you
11 say something else?

12 THE WITNESS: You know, it's hard for me
13 to -- I'm not so sure it would be either one of those.
14 It's somewhere in between where it was clear there was
15 a very strong interest in not losing the fuel value
16 for several months unless there was a really good
17 reason.

18 And so I think as any licensee would do,
19 look very hard at what are the arguments and make the
20 best argument you can to the NRC and then see what the
21 decision is.

22 I think it goes without saying they wanted
23 to complete the fuel cycle if at all possible.

24 JUDGE FARRAR: Were you involved at all in
25 the NRC Office of Investigations or Department of

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1 Justice inquiry later? Did they ask -- did any of
2 those people interview you?

3 THE WITNESS: Yes. Both.

4 JUDGE FARRAR: Do you recall what you told
5 them about Mr. Geisen, in particular, or about other -
6 - the company or other people in general?

7 THE WITNESS: You know, that was a long
8 time ago. I don't remember all those details. It's
9 in the transcripts. And I looked at them again to
10 make sure I didn't stump all over myself here. I
11 think you will find that I said the same thing I said
12 today, but at least I hope I did.

13 JUDGE FARRAR: If you had been in the --
14 back here in the Office of Enforcement between 2003
15 and 2006, are you in a position today to say what you
16 would have recommended in terms of who should have
17 been sanctioned? If the answer is you're not in a
18 position, that's fine?

19 THE WITNESS: I think that's -- we're
20 unfortunately inflicted with what we know today, not
21 what we knew then so I really -- it's hard to say.

22 JUDGE FARRAR: Okay, thank you for your
23 answers. My colleagues may have some questions.

24 JUDGE HAWKENS: Mr. Martin, you responded
25 to Judge Farrar's question that you presumed that you

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1 reviewed the typed copy of your notes against your
2 handwritten copies. Why do you make that presumption?

3 THE WITNESS: Well, frequently, once
4 things are turned into typed form, clarity is the
5 issue and sometimes what you write isn't very clear.
6 The verbiage isn't right or sometimes it's misspelled.
7 I noticed even in the version that was on the screen
8 there was a misspelling in one of the words where it
9 said "worked" rather than "worried." So it's for
10 those reasons.

11 I'm pretty sure I reviewed it. I mean I
12 can't imagine I wouldn't have.

13 JUDGE HAWKENS: You can't imagine that you
14 wouldn't have because you generally, you ordinarily do
15 it, that's a practice?

16 THE WITNESS: Yes.

17 JUDGE HAWKENS: So it would have been a
18 deviation from your practice?

19 THE WITNESS: I mean I would never turn
20 something important over to somebody to type and then
21 just walk away from it. I mean no telling what would
22 come out.

23 JUDGE TRIKOUROS: Mr. Martin, your charter
24 was associated with organizational management issues
25 rather than any type of technical or in some specific

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1 charter it was just generally look at the management
2 organizational situation that occurred that we had in
3 place and try and understand where it broke down to
4 allow this to happen. That was basically your
5 charter?

6 THE WITNESS: That was my understanding.
7 It was all verbal over the phone and after I got
8 there, I believe it was after I got there I was asked
9 to do the organizational part of the root cause
10 assessment which I declined to do because that
11 requires some formal qualifications that I didn't have
12 and it also would have taken a lot longer which at the
13 time I didn't have either, so. What I agree to do was
14 to do a few days of interviews and come up with some
15 ideas at the end on how I thought they should proceed
16 at this point.

17 JUDGE HAWKENS: You answered my next
18 question was did you think that one week was
19 sufficient to achieve that charter?

20 THE WITNESS: No. I didn't. And, in
21 fact, I think this is in some of the previous
22 transcripts. I had recommended to the company that
23 they get a formal investigator to pick up and continue
24 these interviews because there were a number of
25 inconsistencies in them that needed to be followed up

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1 by someone who was trained and had the time to do
2 this. It wasn't me.

3 JUDGE TRIKOUROS: Did the people that you
4 interviewed when you started the interview, do you
5 remember if you explained to them what the charter was
6 while you were there?

7 THE WITNESS: You know, I don't remember.
8 I -- most of them knew who I was, so I don't think I
9 was an unknown quantity, but I don't recall that I sat
10 down and said specifically here's my charter, here's
11 what I'm here to do. I think it was more of a
12 conversation.

13 JUDGE TRIKOUROS: So is it your sense that
14 people were aware that you were there looking
15 organizationally rather than specifically at them or
16 trying to focus on something that they themselves did
17 at any particular time. Was it -- what would be your
18 characterization regarding that?

19 THE WITNESS: You know, I'm not sure what
20 they thought. I didn't --

21 JUDGE TRIKOUROS: And the reason I'm
22 asking this is that if I were being interviewed and I
23 understood the charter was organizational, then I
24 would speak to you in the -- instead of using certain
25 pronouns I would use organizational words. So

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1 basically everything I would tell you would be almost
2 preceded whether explicitly or implicitly or
3 explicitly with the word "the organization." So the
4 organization did this, the organization did that, the
5 organization knew this at this time, the organization
6 didn't know this.

7 Was there any sense in your mind that that
8 was going on with the interviews the people were
9 speaking to you in the organizational person?

10 THE WITNESS: I don't think so. I think
11 the tone of the interviews if you review them were
12 mostly what their role was. And frankly, as I said
13 before, my focus was who knew that boric acid got left
14 on the head in 2000 and before because I didn't. I
15 was very shocked at that.

16 And so I had a sort of an ulterior motive
17 of finding out who knew about this and it turned out
18 almost nobody. And so that was the major focus of
19 those interviews. And it wasn't on the Bulletin and
20 what happened later.

21 So most of them, the people I talked to I
22 was interested in when did you know about this and
23 what was your role in that? And they weren't very
24 guarded at all. I mean most people were pretty open.
25 In fact, I think they all were.

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1 JUDGE TRIKOUROS: Did -- there were people
2 such as Mr. Siemaszko, for example, that may have
3 clearly known what the status of the head was at the
4 end of the 2000 inspection.

5 Did you speak to him?

6 THE WITNESS: I sure did. He was the
7 first person I talked to.

8 JUDGE TRIKOUROS: Was he aware that -- did
9 he indicate to you that there was boric acid left on
10 the head?

11 THE WITNESS: Well, yeah. That's where
12 things, you know -- I talked to him first because I
13 wanted to go look at the head personally and before
14 you do anything it's always good to go look at things.
15 And he seemed to know the most about it. And so I was
16 referred to him as the guy to show me. So we had a
17 couple of hours to talk as we put on our protective
18 clothing and went out in containment and climbed
19 around and looked at the head. So yeah, he knew that
20 the head was reinstalled with boric acid still on it.

21 And that was the first time I learned that
22 that was the case.

23 JUDGE TRIKOUROS: Did you ask him who else
24 might have known that the head had boric acid on it
25 considering his situation, the people he spoke to, the

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1 people -- the interactions he had. I would think he
2 would be a very good source of finding out what you
3 were interested in.

4 THE WITNESS: Well, I did find out from
5 him who else was involved. Certainly, the outage
6 manager and some of the rad techs, but no, I didn't
7 pursue that, as I recall. It's not in the notes. I
8 probably didn't pursue it. But there were three or
9 four things in his interview that stuck out and one
10 was that the boric acid was left on the head.

11 JUDGE TRIKOUROS: Okay. With respect to
12 the viewing -- you were aware from him that there were
13 videotapes I assume. He was your first interviewee.
14 He told you there were videotapes?

15 THE WITNESS: You know, I didn't focus on
16 the videotapes. What I focused on were the still
17 photographs that were quite shocking and I had never
18 seen those before and you probably have seen them.
19 And --

20 JUDGE TRIKOUROS: Are you referring to
21 still photographs such as the ones in -- that were
22 submitted to the NRC?

23 THE WITNESS: I'm not sure. There was --
24 have they been submitted as evidence?

25 JUDGE FARRAR: Are you referring to what's

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1 become known as the red photo?

2 THE WITNESS: Yes, yes. It's sort of a
3 flowing boric acid through --

4 JUDGE FARRAR: There was one photo that
5 you saw.

6 THE WITNESS: Yes, right. There may have
7 been more, but that's the one that shocked me.

8 JUDGE FARRAR: And Mr. Siemaszko showed
9 you that one?

10 THE WITNESS: I can't remember whether he
11 did or not. I believe he did. But I couldn't swear
12 to it. It was during these discussions.

13 JUDGE TRIKOUROS: When did you become
14 aware that there were videotapes?

15 THE WITNESS: Well, in talking to him, I'm
16 pretty sure that was his assignment during the 2000
17 refueling was to monitor the Babcock & Wilcox people
18 who were doing the inspection which were videotaped.
19 But I don't believe, if I ever looked at the tapes, I
20 can't recall having looked at them. That wasn't the -
21 - all I needed to do was see that still photograph to
22 --

23 JUDGE TRIKOUROS: So when Mr. Geisen, in
24 your interview with him, indicated as your notes say
25 that he had viewed the videotapes, prior to or in

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1 August of 2001, you knew which videotapes he was
2 referring to?

3 THE WITNESS: Well, I'm not sure how many
4 videotapes there were. I did not make an inventory of
5 them, nor did I review them that I recall and there
6 were videotapes from I believe from several previous
7 refuelings as well.

8 So I just took at face value what I
9 thought he said, was that he became aware of it. My
10 focus was when did you become aware of it. It was in
11 August which was I was much relieved because well,
12 partly relieved because I was very interested in who
13 knew they had got reinstalled with the boric acid on
14 it. And very few people, not including him,
15 apparently.

16 JUDGE TRIKOUROS: And you feel certain
17 that he wasn't speaking organizationally that his
18 organization became aware of that. And the reason I'm
19 pursuing this is we are speaking hindsight now. When
20 you did speak with Mr. Geisen, he was well aware now
21 of everything and I'm sure at that point had put
22 together the entire picture of when his organization
23 became aware of it and I'm sure by then he had
24 possibly realized some things he should have done that
25 he didn't do. All of that was working during your

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1 interview with him. I'm just trying to understand if
2 you got a sense that he was speaking from that voice,
3 rather than from the voice of someone who was back in
4 August of 2001.

5 THE WITNESS: No, I didn't get a sense of
6 that.

7 I must say, at that time this was very,
8 very early and as time goes by we all spend a lot of
9 time thinking what did we do and should have done and
10 all that. This was very early. So I think there
11 wasn't much of that yet at all. This is about as
12 fresh as it could be and so I didn't really get into
13 that as to what I was interested in when did you --
14 because if the head was reinstalled with boric acid on
15 it, we could not have inspected it completely. And
16 the strategy for the earlier Bulletin was that nothing
17 too bad could happen in a single fuel cycle, so if we
18 know the condition of the head each time, it's
19 refueled. There could not be anything too bad happen
20 in that time period for the next 18 months to 2 years.
21 But if it was installed with boric acid still on it,
22 you could not have known the condition of the head and
23 that would be very bad.

24 And so that was my reason for probing when
25 did you know about this and he, among most of the

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1 other people I talked to, did not know that it had
2 been -- at least that's what I wrote down. But then
3 Bulletin responses for 2001-01 I did not get into the
4 details of that. I'm not sure what.

5 JUDGE TRIKOUROS: So it was your
6 impression that David Geisen's knowledge was actually
7 an exception rather than a rule for a number of the
8 people in the management chain there? The others
9 really did not know; but your impression was that Mr.
10 Geisen knew?

11 THE WITNESS: No, quite the contrary. I
12 think the pattern that emerged from the interviews
13 that people, supervisors and above, the vast majority
14 did not know the head got reinstalled with boric acid
15 on it which I found incredible. Just a few people,
16 apparently, knew about this. And to me, that's a big
17 problem. How could we not know this?

18 JUDGE TRIKOUROS: When you say "knew about
19 this", you're referring to the point after the 12th
20 refueling outage when the head was reinstalled?

21 THE WITNESS: Yes, that was my main focus.

22 JUDGE TRIKOUROS: And that was your focal
23 point.

24 So any information that you got regarding
25 when someone knew later during this whole evolution of

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1 events really was not something you explored or really
2 paid closed attention to, so you weren't interested in
3 that?

4 THE WITNESS: Right.

5 JUDGE TRIKOUROS: Yet somehow it stood out
6 the August 2001 date shows up in your notes.

7 THE WITNESS: But that's like well a year
8 after the end of the 2000 refueling, so that's why --
9 I mean it was way beyond the end of the 2001
10 refueling. So he didn't know about it at that point.

11 JUDGE TRIKOUROS: All right, that's fine.

12 THE WITNESS: Does that make sense?

13 JUDGE TRIKOUROS: So when you wrote that,
14 your focus is gee, he didn't know about it until a
15 long time later.

16 THE WITNESS: Yes.

17 JUDGE TRIKOUROS: As opposed to gee, he
18 knew about it before the Bulletin. You're not
19 focusing -- your concern is --

20 THE WITNESS: Reference back to the 2000
21 --

22 JUDGE TRIKOUROS: Let me ask you about
23 that August thing. And for the moment assume we
24 believe what I think Mr. Geisen is going to say later,
25 that he -- we don't get you both on the stand as a

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1 panel, so we have to do it -- and assume he's going to
2 say that he didn't know about it in August, he
3 reviewed it at some later time. And assume, we
4 believe that you're also -- your notes reflected
5 accurately what you thought had been said. And that
6 your testimony here is truthful.

7 So whenever I get that situation I try to
8 look for -- how can I reconcile the truth he thinks
9 he's telling with the truth you think you're telling.

10 You didn't go into this, these interviews
11 with a series of written questions?

12 THE WITNESS: No.

13 JUDGE TRIKOUROS: So based on your wisdom
14 and experience, asked the questions that developed
15 during the 20 or 30 or 45 minutes and jotted down the
16 portions of the answers that you thought were
17 significant for your purposes. Is that right?

18 THE WITNESS: Correct.

19 JUDGE TRIKOUROS: Is it possible Mr.
20 Geisen indicated when he reviewed the videotapes and
21 that nearly at the same time before, after he
22 mentioned that a Bulletin had come out in August and
23 then he's talking about interactions with the NRC
24 which are later, if we believe what we're going to be
25 told what we're being told by them, the interactions

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1 in his mind were later, they were October, November.
2 But the Bulletin was August, so you're not focusing on
3 the Bulletin. He was involved with the NRC a lot.
4 He's not focusing on August other than the Bulletin.
5 Is it possible that you conflated two or three nearly
6 simultaneous answers and in your mind truthfully wrote
7 down he reviewed the videotapes in August? Is that
8 possible?

9 THE WITNESS: You know, I really can't
10 recreate what -- other than the fact that really
11 wasn't the focus of the questioning, so I doubt if we
12 got into those two or three other things that might
13 have been conflated, but --

14 JUDGE TRIKOUROS: Okay, I guess what I'm
15 suggesting is if there were different things in his
16 mind, his focus, then in your focus could you both be
17 telling the truth and it's a miscommunication or a
18 degree of confusion? Did the court reporter hear
19 that?

20 THE WITNESS: I don't know. I can't say.

21 JUDGE TRIKOUROS: Okay. When you -- thank
22 you. I appreciate you trying to think about it for
23 us.

24 When you spoke to Mr. Siemaszko and you
25 knew that he knew about the condition of the head, do

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1 you recall him telling you I reported that to Mr.
2 Geisen?

3 THE WITNESS: No. I don't recall that at
4 all.

5 JUDGE TRIKOUROS: Did you interview Mr.
6 Goyal?

7 THE WITNESS: I did.

8 JUDGE TRIKOUROS: Did he tell you that for
9 five years he had been trying to make people alert to
10 this problem?

11 THE WITNESS: He did. Well, he pointed it
12 out to me that in fact I believe many years before he
13 had pointed out that the access to the head was such
14 that you really could not do a good inspection of it
15 and that that had never been resolved to put in access
16 ports. That's what I gathered from him.

17 JUDGE TRIKOUROS: In your thinking back to
18 your capacity as Regional Administrator, if that had
19 come to your attention, that here's a facility that
20 doesn't have the kind of access that allows you to do
21 this, would that have been troubling to you?

22 THE WITNESS: It would have been a big
23 deal, yes. See, the whole theory, if you -- this is
24 kind of getting a little far afield --

25 JUDGE TRIKOUROS: No, no, we get to decide

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1 that.

2 THE WITNESS: But the theory of --when
3 the Alloy 600 cracking issue came up in France, the
4 rationale for the Babcock & Wilcox plants was put
5 together by the owners' group and so the approach they
6 proposed was that we will do a thorough inspection at
7 each refueling of the head, so it's in a known
8 condition, that it's not leaking and so they had some
9 data that would suggest in another fuel cycle of 18
10 months to 2 years, the cracking, if it did exist could
11 not proceed to the point where it would be a major
12 safety problem. That was the rationale, that the
13 earlier Bulletin, the one from 1996 or 1997, was
14 agreed upon. And so I believe all the B&W plants
15 together submitted that response to the NRC.

16 And so, if you could not get access to
17 inspect the head, you could not comply with what was
18 committed to. That was why that was important, that
19 you'd be able to do a thorough, unobstructed view of
20 the head and the control rod drive mechanism tubes.
21 And so what Goyal pointed out early on was the access
22 was such that you really can't do a good inspection.
23 I believe he also told me that the one that was done
24 in 1996 was somewhat incomplete. So what where it
25 started and had his issue been properly resolved and

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1 dealt with, that was a missed opportunity.

2 JUDGE TRIKOUROS: Why wouldn't the
3 regulators here or in the region have zeroed in on
4 that and said we've got to have this facility cut
5 these access holes then because otherwise we could be
6 heading for a problem? Was Mr. Goyal the only person
7 in the country who knew this?

8 THE WITNESS: That's probably because the
9 regulators didn't know about it. There's thousands of
10 these kinds of condition reports written every year
11 and I sure didn't know about it.

12 JUDGE TRIKOUROS: But right, you wouldn't
13 know that he had generated a condition report in his
14 company, but you would know as you focus on boric acid
15 and head cleaning that we have this one and I can't
16 remember the record, if there was one other, that are
17 not up to snuff compared to their peers in terms of
18 allowing this access. That's not a red flag?

19 THE WITNESS: It should have been.

20 JUDGE TRIKOUROS: Thank you.

21 JUDGE HAWKENS: Did you submit this FENOC
22 along with your formal report, Mr. Martin, or did you
23 just keep this for your personal notes for creating
24 your report?

25 THE WITNESS: Submit what?

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1 JUDGE HAWKENS: Exhibit 63, your notes,
2 your typewritten notes.

3 THE WITNESS: Let me look. Of the
4 interviews?

5 JUDGE HAWKENS: Your interview of Mr.
6 Geisen.

7 THE WITNESS: Let me --

8 MS. SEXTON: It's on the screen, Mr.
9 Martin.

10 THE WITNESS: Well, yes, there were like
11 15 interviews, that was one of them that were all
12 clipped together. I kept a copy and I gave a second
13 copy to the site vice president to use as his point of
14 departure in doing their own investigations.

15 JUDGE HAWKENS: In the fourth paragraph,
16 the second sentence, "at that point I was
17 disappointed, but not worded" --

18 THE WITNESS: Should be "worried" --

19 JUDGE HAWKENS: Should be "worried"?

20 THE WITNESS: Yes.

21 JUDGE HAWKENS: Thank you.

22 JUDGE TRIKOUROS: Yes, just one more
23 question. I'm sorry I got wrapped up in reading that
24 and totally absorbed.

25 This issue of videotapes, I just want to

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1 be certain of this. Did not come up, other than Mr.
2 Siemaszko and Mr. Geisen, the question of reviewing
3 videotapes, that did not come up in any interview with
4 anyone else?

5 THE WITNESS: If it did, I sure don't
6 remember it. And even with those two, we didn't get
7 into it in any detail. What I was focused on was that
8 photograph.

9 JUDGE FARRAR: That photograph being the
10 red photo?

11 THE WITNESS: Yes.

12 JUDGE TRIKOUROS: Thank you very much.

13 JUDGE FARRAR: Ms. Sexton, you may do
14 redirect based on anything Mr. Geisen's counsel asked
15 on cross or of course, anything that the Board asked.

16 MS. SEXTON: Thank you, Your Honor.

17 REDIRECT EXAMINATION

18 BY MS. SEXTON:

19 Q Just going back to the red photo for a
20 second, can you describe for us what you thought when
21 you saw that photo?

22 A Well, first of all, the popular notion --
23 the control rod drive mechanisms on the B&W plants
24 were originally bolted connections and many of them
25 leaked. And most of the other plants had fixed that,

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1 but at Davis-Besse there had been a continuing problem
2 with this and the popular notion was that this would
3 be sort of a snow-like material that you could sort of
4 blow off the head with air or easily clean it off and
5 it would not adhere to a 600 degree hit.

6 Well, when you look at this it's very
7 clear that this is not snowy material. It was
8 described to me as ceramic-like and the red color
9 clearly shows there is corrosion products. And in
10 fact, the training that people got on the Boric Acid
11 Corrosion Control Program clearly said that you look
12 for reddish-brown discoloration as a sign of
13 corrosion.

14 So one look at this and you knew right
15 away that the model people had been using was just not
16 correct and so it seemed pretty obvious to me this
17 should have been viewed as a substantial problem. I
18 never knew about this.

19 Q And you spoke a little while ago about the
20 fuel cycle. How did you get the impression that
21 completing the fuel cycle was something that was
22 important to management?

23 A You know, I don't recall exactly, but
24 there are several million dollars worth of fuel that
25 would not be used. If they shut down prematurely,

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1 they'd refuel the plant, so there are several tons of
2 unused fuel so the impression I had, I don't recall
3 where I got it is that there was a great deal of
4 interest if possible, I mean if reasonable to complete
5 the fuel cycle. The argument could be made.

6 Q And one final question, do you have any
7 reason to believe that you would have written down
8 something different than what an individual said
9 during the course of your interview?

10 A No. It's not my practice to make this
11 stuff up. I write down what I'm told.

12 Q Thank you. No further questions.

13 JUDGE FARRAR: Thank you, Ms. Sexton.

14 Mr. Wise?

15 RE CROSS EXAMINATION

16 BY MR. WISE:

17 Q Mr. Martin, have you ever spoken to an
18 individual by the name of Pete Mainhardt?

19 A I did.

20 Q Do you remember that Mr. Mainhardt was the
21 one that actually took the red photo?

22 A You know, I don't know if he's the one
23 that took it or not, but I believe he's the one that
24 filled out the boric acid corrosion control inspection
25 sheet. That's my belief.

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1 Q Do you recall Mr. Mainhardt expressing
2 some degree of anger, that might be the right word,
3 about what he saw in the photo?

4 A No, not what he saw in the photo. He was
5 angry, but not about that, as I recall.

6 Q Every trial practice class I've ever taken
7 would tell me not to ask this question, but I'm going
8 to do it anyway.

9 JUDGE FARRAR: If you don't, I will.

10 BY MR. WISE:

11 Q Tell me what Mr. Mainhardt was angry
12 about.

13 A He was angry because he felt that he had
14 been lied to by Mr. Siemaszko. And he filled out the
15 inspection sheet that showed there was this reddish-
16 brown color, the inspection process for the Boric Acid
17 Corrosion Control Program had in it a sheet to fill
18 out with two parts to it. Part one is what did you
19 see, and then part two is what was done about it.

20 And the part one was filled out describing
21 the situation that was shown on the photograph which
22 he thought was a big problem. And what he was angry
23 about, what he told me, is that he had been reassigned
24 to something else in the middle of all this and so he
25 later asked the system engineer, Siemaszko, how did

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1 all this work out and he was told the head was clean
2 and everything is fine.

3 Then he finds out, like I did, that that
4 wasn't the case and so he was upset. That's the sense
5 of the interview and it's in the package there
6 somewhere also, but --

7 Q Did Mr. Mainhardt tell you that he gave
8 the red photo to the resident inspector at the plant?

9 A If he did, I don't remember that.

10 Q Let me ask you about Mr. Goyal. You said
11 that he --

12 JUDGE FARRAR: As a former Regional
13 Administrator, would you tend to remember that if it
14 had been said to you?

15 THE WITNESS: I think so, but -- so I
16 doubt if he -- if he did give it to him, it probably
17 was not at the time, but I don't know. If he had said
18 he gave it to the NRC in 2000, that probably would
19 have stuck in my mind and I would have written that
20 down. But I'm speculating.

21 That would have been an important fact, I
22 think.

23 BY MR. WISE:

24 Q Mr. Goyal, in essence, told you that he
25 had been trying to get holes cut for years to improve

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1 access, correct?

2 A Well, he did for a while. And then the
3 responsibility for this was transferred from the
4 design group to the plant engineering group and so I
5 think he wasn't too involved in it for the last two or
6 three years before.

7 Q Did he tell you that he had signed off on
8 a submission to the NRC that indicated that there were
9 no impediments to inspection by the structure of the
10 head?

11 A If he did, I don't recall that.

12 Q You said he also told you that he had done
13 the inspection in 1996 and --

14 A Yes.

15 Q What was his characterization of what he
16 was able to see?

17 A You know, I would prefer to go and refer
18 back to my notes. I'm speaking from memory here which
19 may be a little murky, but my recollection what he
20 said is that it was not a very rigorous. They stuck
21 the boroscope in there and in fact, they didn't keep
22 records of exactly which tube they were looking at.

23 And it was more of a survey than a
24 detailed inspection is my recollection. I'd have to
25 look at the notes again to make sure.

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1 Q And did he tell you that he signed off on
2 a submittal to the NRC that represented that in that
3 inspection, 65 of 69 nozzles had been inspected?

4 A No, I don't recall that.

5 MR. WISE: That's all I have, Your Honor.

6 JUDGE FARRAR: Did he tell you that at one
7 point he was going to -- he was asked to sign off on
8 a submittal to the NRC that he told people he would
9 not sign it because something in it was not true and
10 that Mr. Cook and Mr. Siemaszko came to him and talked
11 him out of it and persuaded him to sign it even though
12 he still knew it was not true and that he had later
13 tried to send, correct that within the company to make
14 it later true? Do you remember that?

15 THE WITNESS: I'm confident he didn't tell
16 me that or I would have written it. That's
17 significant.

18 JUDGE FARRAR: Mr. Wise, you said you were
19 done?

20 MR. WISE: I'm done.

21 JUDGE FARRAR: Ms. Sexton?

22 MS. SEXTON: I'm done.

23 JUDGE FARRAR: All right, Mr. Martin, we
24 had a debate. We could go -- time flies when you're
25 having fun, about whether we needed you here or could

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1 get by on your testimony in the criminal case and I
2 think having observed you today, we're thankful that
3 we made the decision to have you here because I think
4 that notwithstanding Mr. Geisen and you have a
5 difference of opinion on something.

6 We appreciate you coming here, cross
7 country, and sharing your views with us, given the
8 unique role you've played here and in the company. So
9 thank you for your efforts. You are excused.

10 THE WITNESS: Thank you.

11 (The witness was excused.)

12 JUDGE FARRAR: All right, it's now 1:18.
13 How long, Ms. Clark, will it take you to read or tell
14 us of portions about Mr. Moffitt's testimony, do you
15 have those?

16 MS. CLARK: Well, I'm looking at Moffitt,
17 it's three typed pages, so I would say --

18 JUDGE FARRAR: That's all?

19 MS. CLARK: Three specific pages I want to
20 call out to you.

21 JUDGE FARRAR: Okay.

22 MS. CLARK: So I would suggest we maybe
23 just give you the written versions.

24 JUDGE FARRAR: In writing?

25 MS. CLARK: Yes.

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1 JUDGE FARRAR: Why don't we also -- so the
2 transcript will be as complete as possible, why don't
3 we have a copy bound into the transcript as though you
4 had read it to us right now.

5 MS. CLARK: Okay.

6 JUDGE FARRAR: Those will be the -- so
7 what we will now bind into the transcript are the
8 portions, particular portions of Mr. Moffitt's
9 testimony which is already in as an exhibit,
10 particular portions that the staff wants us to read,
11 pay particular attention to and we might get a chance
12 during the lunch hour to look at those so that we will
13 have your whole case in mind when Mr. Geisen takes the
14 stand this afternoon.

15 [INSERT - portions of Moffitt's testimony
16 (refers to Exhibit 74) and Mr. Gibb's testimony
17 (refers to Exhibit 75) to be read at hearing.]

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In the matter of David Geisen
ASLBP No. 06-845-01-EA

GEISEN exhibit list

Geisen Exh. #	Date	Description	Crim. Trial exhibit #
1	8/8/01	Kennedy email re: MRP Draft Response	32
2	8/9/01	Goyal email re NRC Bulletin	33
3	8/9/01	Kennedy email re SYME response to NRC Bulletin 2001-01 paragraph 1.d	35
4	8/20/01	Cook email re New Draft on CRDM Cracking	42
5	8/22/01	Goyal email re 12RFO RV Head Inspection - Bulleting 2001-01 response	43
6	8/22/01	Cook email re Serial Letter 2731 revised	44
7	8/23/01	Cook email to Daft, others re Seraila (sic) 2731	n/a
8	8/23/01	Cook email to Goyal, others re Serial 2731 8-23-01 Prason's comments and resolution	n/a
9	8/23/01	Cook email re Serial 2731 w/Prason's and C Daft's comments incorporated	47
10	8/23/01	Cook email to Campbell, others re Advanced copy of Serial 2731, Response to Bulletin 2001-01, Cracking in CRDM Nozzles	48
11	8/27/01	Cook email re Serial 2731 8-27-01 Version 1b	53
12	8/29/01	Cook email to Moffitt, others re Response to Bulleting 2001-01	n/a

Geisen Exh. #	Date	Description	Crim. Trial exhibit #
13	9/28/01	Hiser email to CRDM Contacts re Staff Assessment of Bulletin 2001-01 Responses; Bates no. NRC001-0938	n/a
14	10/03/01	Holmberg notes from 10/3 conference call, Bates no. NRC001-0571	n/a
15	10/15/01	Cook email to Wuokko, others re Seraila (sic) 2735 - Supplemental information; Bates no. NRC017-2714 - 2720	n/a
16	10/16/01	Cook email to Goyal forwarding email from Siemaszko to Cook and Wolf; Bates no. NRC 002-0156 - 0158	n/a
17	10/17/01	Siemaszko email to Goyal re Nozzle Inspection table; Bates No. NRC010-1567	n/a
18	4/29/00	Outage Insider	200 (admitted as defense 5-G)

(

1 JUDGE FARRAR: It's now --

2 MS. SEXTON: And the other matter is the
3 documents?

4 JUDGE FARRAR: Yes.

5 MS. SEXTON: that we got with regard to
6 the other individuals involved in Davis-Besse.

7 JUDGE FARRAR: And you've now delivered
8 those?

9 MS. SEXTON: Well, we have them with us so
10 we can deliver them now. I was wondering whether you
11 wanted those to be admitted as exhibits?

12 JUDGE FARRAR: Not yet.

13 MS. SEXTON: Okay.

14 JUDGE FARRAR: We may come to that
15 depending on what people talk about and what Mr. Hibey
16 responds, but let's just now just share them with him
17 and we'll worry about the other later.

18 JUDGE HAWKENS: How lengthy are those
19 documents, Ms. Clark? I'm wondering if I could -- if
20 there's no objection from Mr. Hibey, if I could look
21 at them over the lunch period as well.

22 MR. GHASEMIAN: Well, we haven't -- it's
23 probably about a couple of inches thick. It's
24 probably 20 documents.

25 JUDGE HAWKENS: Do you have an extra

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1 package?

2 MR. GHASEMIAN: Absolutely, Your Honor.

3 JUDGE HAWKENS: That would be great.

4 JUDGE FARRAR: Just give us one and we'll
5 share.

6 MR. GHASEMIAN: Your Honors, if I may,
7 some of these documents, excuse me, defense counsel
8 already have them in their possession. Just for the
9 convenience for them and for the convenience of the
10 Board we just made extra copies, so it's kind of
11 complete.

12 JUDGE FARRAR: Perfect.

13 MR. GHASEMIAN: They're not all new
14 documents as far as we know.

15 JUDGE FARRAR: All right, and we can sort
16 out the details later, but we appreciate you taking
17 that rapid action so we can move ahead.

18 All right, should we come back at -- next
19 is -- you all will present Mr. Geisen. Do you need
20 extra time to prepare for that?

21 MR. WISE: No, Your Honor.

22 JUDGE FARRAR: Then let's come back at
23 2:30.

24 MR. WISE: That's fine.

25 JUDGE FARRAR: And we'll start right in on

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1 that.

2 And Ms. Clark, let us have or did you
3 already give Johanna a copy of the Moffitt portions?

4 MS. CLARK: Yes.

5 MR. GHASEMIAN: Not yet, we've stamped
6 them and we'll give them to her at the break.

7 JUDGE FARRAR: Yes.

8 MS. CLARK: Mr. Moffitt and Gibbs. We
9 have two transcripts. Mr. Moffitt and Gibbs, Gregory
10 Gibbs, to be placed into the record as read.

11 JUDGE FARRAR: Yes, rather than have them
12 be as exhibits.

13 MS. CLARK: Exactly.

14 JUDGE FARRAR: We'll put them in the
15 record as if read, so a person reading the transcript
16 will say aha, I have to go to your exhibit and there's
17 where it will be.

18 So just make sure she gets a copy that we
19 can quickly look at and a copy for the court reporter
20 to bind into the transcript at the point at which we
21 had previously mentioned it.

22 Okay, we'll come back at 2:30 and hear Mr.
23 Geisen's testimony.

24 (Whereupon, at 1:24 p.m., the hearing was
25 recessed, to reconvene at 2:30 p.m.)

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1 JUDGE FARRAR: On the record. Any
2 preliminary matters?

3 MR. HIBEY: This would be a preliminary
4 matter with respect to the materials that were turned
5 over, but since I know everyone is anxious for Mr.
6 Geisen to testify, perhaps at the end of the day we
7 might have a few moments for me to express my views
8 about the product and make a request.

9 JUDGE FARRAR: Is there a simple step we
10 can take now? For example, if you -- I don't know
11 what it is you've got. Is there something specific
12 you can ask for that the staff could get someone
13 digging up in the next three hours?

14 MR. HIBEY: Yes.

15 JUDGE FARRAR: Okay. What?

16 MR. HIBEY: The analysis --

17 JUDGE FARRAR: Without argument, just tell
18 me what it is.

19 MR. HIBEY: Indeed. The analysis behind
20 each of the letters declining to make an enforcement
21 move against a number of individuals and it's not
22 deliberative process. Somewhere along the line
23 somebody had to pull it all together.

24 Secondly, in one of the submissions, since
25 they don't identify these people by name, at least, I

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1 can't pick out their names, but I suspect it's the one
2 that has to do with Mr. Goyal. There is a portion
3 that is heavily redacted and I don't know what's in
4 it, but I would ask that the Court look at it to
5 determine whether it should be produced.

6 JUDGE FARRAR: My offhand but also
7 considered judgment is at this stage of the proceeding
8 nothing is redacted and if we have to swear you in for
9 an oral protective order or non disclosure order we'll
10 do it right now. But there's nothing redacted about
11 anything that Mr. Hibey needs to represent his client.

12 MS. CLARK: Your Honor, the redaction is
13 because there's some information that's pre-decisional
14 in that document and that's what we redacted.

15 JUDGE FARRAR: Then let us see it. Give
16 us a full copy which has marked in the margins what's
17 redacted so we can immediately discern what the
18 redacted material is and we will look at that and if,
19 Mr. Hibey, you can't ask questions about it, I think
20 this was a matter that the Board raised and if we have
21 the unredacted copies we will ask questions about it.
22 I've not been doing this for 40 years cross examining
23 people like you, but we can give it a shot.

24 MR. HIBEY: Sure. I'm sure it will be a
25 good shot. Thank you, Your Honor.

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1 JUDGE FARRAR: Anything else preliminary?

2 MR. WISE: Your Honor, I guess just as a
3 housekeeping matter before we call Mr. Geisen at the
4 beginning of the Defense case we would move in the
5 Exhibits 1 through 18 that are on the Geisen exhibit
6 list.

7 JUDGE FARRAR: Are those -- There are none
8 missing. They're consecutive.

9 MR. WISE: I believe they are.

10 JUDGE FARRAR: And is there any objection
11 to any of them?

12 MS. CLARK: No, Your Honor.

13 JUDGE FARRAR: All right. Then there
14 being no objection, we will do what we did with the
15 staff list and bind them in the record at this point
16 as though you had read them. So we will bind them in
17 the record as though you had read them and that will
18 save us a lot of time and effort yet again.

19 (The documents referred to
20 having been previously marked
21 for identification as Geisen
22 Exhibits Nos. 1-18, were
23 received in evidence.)

24 Okay. Then we're ready to hear from Mr.
25 Geisen. Mr. Geisen, raise your right hand if you

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1 would.

2 WHEREUPON,

3 DAVID GEISEN

4 was called as a witness for the Defendant and, having
5 been first duly sworn, assumed the witness stand, was
6 examined and testified as follows:

7 JUDGE FARRAR: Thank you. Be seated.

8 DIRECT EXAMINATION

9 BY MR. WISE:

10 Q Good afternoon.

11 A Good afternoon.

12 Q Can you introduce yourself to the Board?

13 A My name is David Geisen, G-E-I-S-E-N.

14 Q Where you do presently live?

15 A I live in DePere, Wisconsin.

16 Q How long have you lived there?

17 A Since August 2003.

18 JUDGE FARRAR: Excuse me. Do you have
19 your -- Did we ever settle that matter about the two
20 staff sanction witnesses being here?

21 MS. CLARK: Yes, Mr. Ken O'Brien is here.
22 Jim Luehman is traveling back today from Chicago.

23 JUDGE FARRAR: Okay. Who is Mr. O'Brien?

24 MR. O'BRIEN: I'm Mr. O'Brien.

25 JUDGE FARRAR: Okay. Thank you.

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1 MR. O'BRIEN: You're welcome.

2 JUDGE FARRAR: I appreciate you being
3 here. We look forward to hearing from you.

4 MR. O'BRIEN: Yes, sir.

5 JUDGE FARRAR: Go ahead, Mr. Wise.

6 MR. WISE: Yes.

7 BY MR. WISE:

8 Q If you would just briefly tell the Board
9 a little bit about your educational background.

10 A Yes, I graduated from Marquette University
11 in 1982 with a degree in Civil Engineering. I was
12 ROTC and had been selected for the Nuclear Power
13 Program. So I went into nuclear submarines for
14 approximately -- Well, I was in the Navy for six
15 years, on submarines for four of those six, the last
16 two years being a recruiting command.

17 And when I left the Navy in May of 1988 I
18 went to work for Toledo Edison as a systems engineer.
19 I was at Toledo Edison in various roles, starting out
20 in systems engineering, mechanical side, where I had
21 primarily responsibility with reactor coolant pumps,
22 containment spray, containment air cooling and then
23 went into the SRO training program for approximately
24 19 months and came out of that program with an SRO
25 certification, did not license and went into the

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1 supervisory ranks, went back to systems and at that
2 time as the supervisor of the electrical and controls
3 group and then I was in that role from the summer of
4 '96 until March of 2000. In March of 2000, I was
5 selected to be the design basis engineering manager.

6 Q Let me stop you.

7 A Sorry.

8 Q That was a little too brief.

9 A Okay.

10 Q And also the court reporter gave up
11 because you're speaking too quickly.

12 A Sorry.

13 Q And when I tell you you're speaking too
14 quickly, you know you're speaking too quickly.
15 Graduated from Marquette in what year?

16 A 1982.

17 Q Do you have any degrees after that?

18 A Yes, I did.

19 Q Tell the Court about them.

20 A I did get a masters in Business
21 Administration. I completed that in the -- I was
22 taking that during the same time that I was doing my
23 SRO cert. But I ended up completely that in December
24 of 1995 in the area of -- That was at Bowling Green
25 State University which is just south of Toledo and the

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1 area of concentration as in finance.

2 Q Did there come a time that you served in
3 the U.S. Navy?

4 A Yes.

5 Q For how long?

6 A I was in the Navy for six years.

7 Q Can you tell the Board a little bit about
8 your experience in the Navy, the roles you had?

9 A Yes. I started out like I said I was
10 ROTC. I got chosen by Admiral Rickover during my
11 junior year and actually my senior year at Marquette
12 I took all mechanical electives. So I actually have
13 a B.S. in Civil Engineering and no area of specialty
14 in Civil Engineering.

15 I went down to the Nuclear Power School at
16 that time in Orlando, Florida for six months, then
17 went up to Upstate New York to the D1G prototype for
18 six months and then went to submarine school in
19 Groton, Connecticut for approximately three months,
20 reported to my submarine, the U.S.S. Nathaniel Green
21 which was a ballistic submarine that was based out of
22 Groton, Connecticut but refitted out of Holy Loch,
23 Scotland. I did that, reported to that submarine in
24 approximately November of '84 and I did five ballistic
25 submarine patrols on that submarine prior to her going

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1. into the yards for decommissioning and I left the
2. submarine right after, right before she actually went
3. in the yards but after she had left the weapons depot.

4. Q What year did you join Toledo Edison?

5. A I joined Toledo Edison in May of 19 --
6. actually May 31st of 1988.

7. Q And what was your first job?

8. A My first job was I took for the reactor
9. coolant pumps and I was a systems engineer in
10. Mechanical Systems Group. Actually, at that time,
11. there were two different mechanical systems groups.
12. I was in primary systems and I had the reactor coolant
13. pumps was my primary system. But then I had also
14. responsibility for containment spray and the
15. containment air cooling system, the piping side of it,
16. service water to it.

17. Q And what years did you have those systems
18. as part of your purview?

19. A I had those systems from 1988 until 1994
20. when I entered the SRO program.

21. Q What is the SRO program?

22. A I'm sorry. Senior Reactor Operator
23. training program.

24. Q What did that entail?

25. A You basically learn how the plant operates

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1 system by system and there's a fair amount of time
2 spent in classroom and then additionally there's a lot
3 of time spent on the simulator learning how to operate
4 the plant and going through all the evolutions of
5 basically becoming a control room operator but a
6 supervisor. That's what the -- There's a senior
7 reactor operator within the organization and there's
8 reactor operators. So this was for the senior reactor
9 operator position.

10 Q When did the SRO -- When did your
11 participation in the SRO program end?

12 A In the summer of 1996.

13 Q When you left the SRO program in the
14 summer of '96, what job did you take then?

15 A I became the supervisor of -- I was back
16 in the systems engineering but this time over on the
17 electrical and controls side of the house as a
18 supervisor.

19 Q How long would you hold that job for?

20 A Until March of 2000.

21 Q Between '96 and 2000 in the job that you
22 described in systems, what were your primary
23 responsibilities?

24 A Well, I was the supervisor of that group.
25 We had approximately, well, it varied from time to

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1 time, but anywhere from seven to ten system engineers
2 and we had all of the electrical components, switch
3 yard, generation, the generator itself, any of the --
4 anything that dealt with the electrical distribution
5 at the site. That was the electrical part of it and
6 then controls part of it was instrumentation such as
7 controls instrumentation, a lot of the instrumentation
8 systems that are used to control various functions of
9 the reactor, those types of systems.

10 Q In any of your jobs that you've described
11 so far, were you associated with work on the reactor
12 vessel head?

13 A No, I wasn't.

14 Q Or on the nozzles?

15 A No.

16 Q Okay. Let me ask you to turn your
17 attention back to 1996. Do you know when during that
18 year the tenth refueling outage happened?

19 A That was in the spring of 1996.

20 Q And in the spring of 1996, where were you?

21 A I was still in the SRO training program.

22 Q Did you have any involvement in the tenth
23 refueling outage in the spring of 1996?

24 A Not that I recall. I might have been
25 called out occasionally for advice and consultation on

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1 reactor coolant pumps because I was still considered -
2 - I had the most tenure as a reactor coolant pump
3 system engineer. After I left it, there was people
4 would have it for one or two years at a crack. So I
5 got a lot of questions forwarded my way.

6 Q I show you Staff's Exhibit 16 and ask you
7 if you recognize that document.

8 A Yes, that's the document that Mr. Goyal
9 testified to earlier this week.

10 Q Did you see that document in 1996?

11 A No, I didn't.

12 Q When was the first time that you saw this
13 document?

14 A It would have been sometime and I can't
15 say for sure exactly when but sometime in the spring
16 of 2002 when we were going through dissecting
17 basically the events that led up to us discovering the
18 hole in the head.

19 Q When you say "we" who do you mean?

20 A The station.

21 Q And --

22 A I'm sorry. I talk that way a lot.

23 Q Was this an organized review that the
24 station conducted?

25 A There were a lot of different groups that

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1 were doing the review. So, yes, it wasn't like it was
2 just one review. There was in addition to the
3 external reviews that were going on such as the AIT
4 team and such there was a blue collar or how do they
5 call, blue ribbon review board that came in that was
6 vice president level individuals that were doing the
7 reviews. We had root cause teams from Perry and
8 Beaver Valley that had come over and were doing
9 reviews. I had countless interviews during that
10 spring time frame.

11 Q The work that you were doing when you left
12 the SRO program in 1996 and assumed your job as -- And
13 tell me the title again.

14 A Supervisor of Electrical Control Systems.

15 Q In that job as a supervisor, did you deal
16 with issues related to the content of 96-551?

17 A No, I did not.

18 Q I take it that you've reviewed this
19 document fairly closely over the past couple of years.

20 A Yes, I have.

21 Q How certain are you that this is not
22 something that came to your attention in 1996?

23 A Very certain.

24 Q Mr. Goyal mentioned something I believe
25 and correct me if I get the name of it wrong called

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1 the "condition report" or "condition review board."

2 A Yes, the CARB is the acronym we used for
3 it. It actually went through two different acronyms.
4 Probably at the time frame that he was talking about
5 it was probably still called the PCAQ Review Board
6 because they were still called PCAQs, Potential
7 Conditions Adverse to Quality. Eventually though it
8 became the CARB, Corrective Action Review Board.

9 Q Did you ever serve on that board?

10 A Yes, I did.

11 Q When did you begin service on that board?

12 A When I became a manager of the design
13 group that became a standard position on the CARB. I
14 might have served some time when I was a supervisor
15 because I think I was named as an alternate to my
16 manager of the systems group. But I can't be sure on
17 that.

18 Q Did you serve on that board when this PCAQ
19 was processed by the board if it was?

20 A No.

21 Q I show you Staff 17. Do you recognize
22 that document?

23 A Yes.

24 Q And tell the Board what your understanding
25 is that that document is?

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1 A This is the document that Pete Mainhardt
2 wrote, a condition report, based on a visual
3 inspection that he had performed in -- it would have
4 been 11RFO.

5 Q Which is 1998.

6 A 1998.

7 Q Did you see this document in 1998?

8 A No.

9 Q When was the first time you saw this
10 document?

11 A Once again, that would have been the fall
12 or, excuse me, the spring of -- right after we found
13 the hole in the head when we were doing all the
14 evaluations.

15 Q The job you held at the time of the 11th
16 refueling outage in 1998 was what?

17 A Well, my position was I was the -- Because
18 that's when I was the supervisor of the electrical
19 controls group. However, during -- I say that because
20 that was my official role. But during the outage we
21 always have like dual hats and so my role during the
22 outage I was put in charge of reactor coolant pump
23 work. So I was in charge of I guess project manager
24 for overhauling the reactor coolant pumps for lack of
25 a better title.

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1 Q What is the relationship, if any, between
2 the reactor coolant pumps and the reactor vessel head?

3 A The reactor coolant pumps are what drives,
4 is the driving force for sending the primary coolant
5 through the reactor.

6 Q Is that system related in function to the
7 nozzles that have been the subject of this hearing?

8 A Only in the fact that they're both in the
9 primary system.

10 Q Did your work on the reactor coolant pumps
11 bring you into contact with discussion about either
12 the inspection of the head or the cleaning in 1998?

13 A No, I pretty much had spent most of my
14 time during that outage camped out inside the D rings,
15 I'm sorry, the -- I don't know if there's another name
16 for them, but we called them the D rings. Those are
17 the -- They're big concrete wall rooms that are shaped
18 like a D. There's two of them on either side of the
19 reactor cavity and that's where the steam generators
20 and reactor coolant pumps are located. So I spent
21 most of my time in containment inside those, inside
22 the D rings working on the motors.

23 Q How many personnel if you can give me a
24 guess are involved in working on an outage such as the
25 11th refueling outage?

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1 A It varies from outage to outage depending
2 upon the number of modifications we're doing. So it'd
3 be just an estimate. I mean we have the entire
4 station there. At that time, we were probably 900 to
5 1,000 personnel assigned to the station and we would
6 bring on probably anywhere from 300 to 400 contractors
7 in for the outage. If there was a special project
8 that was going on such as steam generator cleaning or
9 something like that, that would be additional to that.

10 Q We've been talking during the hearing
11 about events related to the reactor vessel head during
12 the outage. How broad in terms of the scope of the
13 plant are the activities that go on during an outage?

14 A They cover the entire plant from secondary
15 side to primary side.

16 Q What do you mean by "secondary side"?

17 A I'm sorry. Secondary side is everything
18 from the -- is basically the steam side of the plant
19 versus the nuclear generation side of the plant which
20 is the primary. So the whole purpose of the outage is
21 work anything that we can't work online because the
22 systems are inoperating. So that may be anything from
23 transformers in the switch yard all the way up to the
24 reactor itself.

25 Q What was your next job at Davis-Besse?

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1 A As I mentioned previously, I got selected
2 by Mr. Moffitt to be the design basis engineering
3 manager in March of 2000.

4 Q Had you worked with Mr. Moffitt before?

5 A In the fact that he was the director of
6 Engineering. So as a supervisor within systems, he
7 was two levels above me.

8 Q When you became the manager of design
9 basis engineering, were there particular concerns to
10 that department in terms of its past performance?

11 A Yes, the design group had been struggling
12 for lack of a better term for quite a while. They
13 were not held in the highest graces of people inside
14 the fence. I should probably clarify what that is.
15 There was always this kind of riff or I guess
16 description of people that are inside the fence and
17 people that are outside the fence.

18 The people inside the fence, we're talking
19 the protected security boundaries and the DBAB, we
20 call it DBAB, Davis-Besse Administration Building,
21 which was outside the fence was where all the design
22 group was. And systems engineering and maintenance
23 operations, all that was inside the fence where the
24 power plant was. So there was this perception that
25 design basis engineering was kind of aloft and never

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1 came inside the protected area. They were always out
2 in the ivory tower that the DBAB was considered. I'm
3 sorry. Davis-Besse Administration Building was
4 considered and so there was a disconnect there.

5 But there was also some production issues.
6 They were constantly late on getting their
7 modifications out. A fair amount of I'd call wasted
8 effort spent on modifications that never went
9 anywhere. They're using a ton of contractor dollars,
10 once again, some of that on modification work that was
11 never actually even implemented. And so there was a
12 feeling as though the design group was not very
13 effective.

14 One of the reasons I was chosen by Mr.
15 Moffitt at least in his terms was to try to bridge
16 that gap being that I was coming from an inside
17 defense mentality going out there and tried to bring
18 the two groups a little bit closer together and make
19 them a little bit more in tune with the station's
20 needs.

21 Q Perhaps I should have asked this before. I
22 asked you the last question, but can you give the
23 board a description of what design basis does. What
24 that group is in charge of doing at the plant?

25 A Yes. Design basis engineering, it's

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1 design engineering. At Davis-Besse they added the
2 word "basis" in because the focus was maintaining the
3 design basis of the plant. They were the keepers of
4 the design basis of the plant. So any modifications
5 that needed to be done we were in charge of those,
6 calculations, that sort of thing.

7 So my group actually consisted of what I
8 would refer to as four engineering groups and then one
9 group that for lack of another location was put
10 underneath design engineering and the reason for that
11 was that was a computer engineering group that they
12 had a lot of the computer stuff but not too much of
13 that was really tied to design basis.

14 Q What were the groups underneath the design
15 basis?

16 A The main groups under the design was we
17 had nuclear engineering which had all of the nuclear
18 calculations and actually early on when I first took
19 over the organization, it was nuclear engineering
20 included reactor engineers as well and they were
21 eventually segmented off into a corporate reactor
22 engineering group about a year into my tenure.

23 Q What did those folks do?

24 A The reactor engineers were responsible for
25 the fuel. They were responsible for doing any time we

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1 did a core offload. They did the -- designed the core
2 change-out, did all the sequencing sheets and did the
3 final inspection to verify that all of the fuel
4 assemblies went where they were supposed to go because
5 they would all be of different weight, enrichments or
6 age and stuff. And they also got involved with doing
7 the inspections for any kind of leakers that might be
8 associated with the fuel control rods. And then
9 that's the reactor engineering part.

10 The nuclear engineering part which was
11 also part of the same group initially, they owned all
12 of the calculations I should say of heat balance type
13 calculations, those types.

14 Then we had another group that was
15 mechanical design. Mechanical design actually had
16 civil, structural and mechanical in it. I think at
17 one time they were separated out into multiple groups,
18 but they were all one group when I took over and they
19 were responsible for any designs that were done on
20 mechanical systems in the plant.

21 We had an instrumentation and electrical
22 design group and they obviously owned all the
23 instrumentation and electrical. They didn't actually
24 own the instrumentation. Systems really owned the
25 equipment, so to speak, but they were the design

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1 authority for any of those systems or components.

2 And then we had procurement engineering.
3 Procurement engineering was really -- They took care
4 all of receipt inspections, if there was some -- we
5 used to refer to it as like-for-like type component
6 change-outs. In other words, if you had a component
7 that maybe the serial number changed on it or the
8 model number changed by one digit or something, they
9 would do an evaluation of the suitability of that
10 replacement part to replace what was in the plant.
11 And then they would also do any kind of receipt
12 inspection, make sure that the parts that came into
13 the warehouse met the quality requirements that we
14 needed. So we had receipt inspectors as part of that
15 group.

16 And the last group because I know I'm
17 missing one --

18 Q Did you talk about the computer systems
19 folks?

20 A Computer systems engineering group and
21 that was the group that like I said they owned a lot
22 of the computers. They didn't own the laptops type
23 thing. They owned all of the mainframe computers as
24 well as within the instrumentation systems in the
25 plant if there was firmware embedded on EPROMS or

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1 something like that, they kept current of what the
2 current firmware version was and likewise if we did a
3 change-out of something, updated the firmware or
4 something. They would update that in the database.

5 JUDGE TRIKOUROS: Did that group also
6 include the plant (phonetic) computer?

7 THE WITNESS: Yes, it did.

8 JUDGE TRIKOUROS: Yes.

9 BY MR. WISE:

10 Q When you became the manager of design
11 basis engineering in 2000, how many employees worked
12 underneath you?

13 A I had approximately 42.

14 Q Can you give the Board some sense of what
15 the organizational chart looked like underneath you?

16 A Yes, I had -- Well, like I said, I had
17 about 42 what I would call direct reports. I had --
18 There was myself. I reported up to Steve Moffitt who
19 was the director of engineering and Steve reported to
20 the site vice president and then underneath my
21 organization I had five supervisors for the various
22 groups and underneath those individuals, they would
23 have anywhere from -- I think probably the smallest we
24 had was maybe nine up to about 14 or 15 engineers,
25 predominantly engineers. Some of them may have been

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1 technicians especially over in the computer
2 engineering side working for them.

3 I also had an additional about probably an
4 additional 30 to 35 people that I was their onsite
5 leader, so to speak, point of contact. Those are
6 individuals that were assigned to corporate tasks but
7 they were onsite. So if site specific issues came up
8 such as random drug screenings or anything like that
9 those came through me as the site coordinator for
10 those individuals. But they didn't actually work for
11 me. So I didn't have to do any -- I didn't give any
12 assignments or anything to them.

13 Q Okay.

14 A That total headcount that was like another
15 30 on top of the 42 or so that I had.

16 Q Was Theo Swim somewhere in that
17 organizational chart?

18 A Theo Swim was one of my five supervisors.

19 Q And what group was the supervisor of?

20 A He had the mechanical design group.

21 Q Before you became the manager of design
22 basis engineering, had you worked at all with Mr.
23 Swim?

24 A I had interactions with him because I had
25 systems or something. He had been in that group for

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1 a long, long time. So if you had a design change that
2 you wanted on your system, you ended up, we had what
3 we called "system team reviews" where you would have
4 somebody from the design group as well as operations,
5 maintenance and the systems engineer, they would come
6 together to discuss a proposed design for a plant. So
7 you'd have interaction with them from that standpoint.

8 MR. WISE: Your Honor, very briefly. I'm
9 not going to have Mr. Geisen break down some of these
10 technical terms because my expectation is the Board
11 understands them. But certainly don't hesitate to
12 interrupt.

13 JUDGE FARRAR: We'll ask if it's not clear
14 to us. Thank you.

15 MR. WISE: Thank you.

16 BY MR. WISE:

17 Q And Prasoan Goyal, when you became the
18 manager in 2000, where was he within the design
19 organizational chart?

20 A He was one of the design engineers that
21 worked for Theo, I'm sorry, Theo Swim.

22 Q Before 2000, had you had any interactions
23 with Mr. Goyal?

24 A No.

25 Q Let me show you Staff 72. Do you recall

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1 seeing this document I guess it was yesterday when Mr.
2 Goyal was on the stand?

3 A Yes.

4 Q Can you tell the Board your understanding
5 of what this document is?

6 A Yes, this is the meeting minutes from the
7 Davis-Besse Project Review Group. The Project Review
8 Group is a manager level group that would review
9 proposed projects and they would prioritize them and
10 basically recommend funding for them.

11 Q Do you recall Mr. Goyal's testimony about
12 his presentation to the Project Review Group?

13 A Yes.

14 Q About modifications having to do with
15 cutting inspection holes in the head?

16 A Yes, I do.

17 Q Were you present at this meeting?

18 A No, I wasn't.

19 Q In 1998, were you at all involved in
20 determining whether or not a modification such as that
21 would be made?

22 A No, I wouldn't have been. My predecessor
23 for the design engineering is on here. That's Frank
24 Swanger.

25 Q And in '98, did you have any conversations

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1 either with Mr. Goyal or Mr. Swanger about this issue?

2 A No, I did not.

3 Q Did there come a time that it came to your
4 attention that there had been some discussion about
5 this type of modification?

6 A Yes. It was -- Once I became the manager
7 of the design group in 2000 and took over being on the
8 project review group, there was a list of
9 modifications that were already approved and scheduled
10 and the Project Review Group would periodically review
11 what that schedule was.

12 Q We've seen emails and we'll go through
13 them a little bit later from Mr. Goyal, some
14 addressing this subject. Did there ever come a time
15 that you and Mr. Goyal spoke about the issue of this
16 modification?

17 A Not that I recall.

18 Q The 2000 outage, do you recall when that
19 occurred?

20 A The 2000 outage occurred in the spring of,
21 well, 2000.

22 Q It wasn't a trick question.

23 A I couldn't tell you the exact time frame,
24 but I mean all of our -- We were on a 24 month cycle
25 and had been for about six or seven years then. So

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1 they were altogether in the spring and they usually
2 were in the April, March-April time frame.

3 Q At the time that the outage occurred, were
4 you already in your position as manager of design
5 basis engineering?

6 A Yes, I took over the role as manager about
7 a week before the outage started.

8 Q What was your focus going into that
9 outage?

10 JUDGE FARRAR: Before you answer that, Mr.
11 Wise, could we have the witness, now that we're done
12 with the preliminaries, address his answers toward us?

13 MR. WISE: Yes. I'm sorry.

14 THE WITNESS: I'm sorry. The question
15 again was what was I focusing on I think.

16 BY MR. WISE:

17 Q Yes. Going into 12RFO.

18 A Going into 12RFO, early on it was almost
19 like damage control so to speak. I really had to
20 learn the group. I hadn't done a lot of involvement
21 with them. But also we were in the midst of starting
22 the outage and I say damage control because we were
23 not where I would want us to be going into an outage
24 from a design group. We did not have our ducks in a
25 row. We did not have all our procedures,

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1 modifications, all those changes that needed to be
2 done to support the outage. We were not ready which
3 had been an ongoing complaint of design for quite a
4 while.

5 As such, we ended up with unit cycling a
6 lot of people because they're out in the field.
7 They're doing modifications and because the
8 modifications were not the quality level that I want.
9 There were a lot of field problem resolutions that had
10 to occur and stuff. So that was the focus early on
11 was trying to get all those things ready to go.

12 Ideally we should have had every
13 modification complete, stamped, ready to go, on the
14 shelf a good nine months prior to give our procurement
15 people at least a fighting chance of getting the parts
16 they needed there. But there were times we were
17 actually pushing modifications out actually in some
18 cases during the outage but in other cases just weeks
19 before the outage and then our procurement engineering
20 group was going nuts trying to get all the parts here
21 on time because as you can imagine some of the lead
22 times for some of these parts are not exactly shelf
23 items.

24 Q Sit back just a touch from the mike.

25 A I'm trying to stay close to the mike.

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1 Q About how many modifications was design
2 basis working on for that outage if you remember?

3 A I don't know exactly for that outage how
4 many. I think it was on the order of about -- I'm
5 sorry. I think it was on the order of about 70
6 modifications total.

7 Q Did any of them have to do with either the
8 inspection of the reactor vessel head or the cleaning
9 of the reactor vessel head?

10 A No.

11 Q Did there come a time during the 12th
12 refueling outage that you ended up in outage central?

13 A Yes, probably about three weeks into the
14 outage I volunteered to go into outage central.

15 Q Can you tell the Board what outage central
16 is?

17 A outage central shows a lot more impressive
18 than it actually is. What it was is on the fourth
19 floor of our building, our main office building,
20 inside the fence, we had a conference room and nothing
21 spectacular about the conference room but during
22 outages we transformed it into outage central or the
23 War Room or whatever you want to call it. It had a
24 lot of nicknames, but we'd set up a series of tables
25 and computer stations and name placards, however many

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1 placards out there for every major work group within
2 the station and that was like the communication hub
3 for the outage.

4 Q How many people would be in outage central
5 on average during the outage?

6 A There was I would say probably about 16 to
7 18 probably assigned positions.

8 Q And how long did the outage in 2000 last
9 approximately?

10 A I think about six weeks.

11 Q At what point during that outage did you
12 volunteer to go into outage central?

13 A About three and a half weeks into it,
14 three, three and a half weeks into it, I volunteered
15 to take over Theo Swim's position.

16 Q Why did you do that?

17 A Theo was getting pretty burned out. He
18 was getting one day off a week. So he was working a
19 72 hour work week and he was getting burned out and I
20 just offered to hop in and help.

21 Q And how long did you end up working in
22 outage central during that outage?

23 A Until the end of the outage.

24 Q So we're talking two and a half weeks,
25 two, two and a half weeks?

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1 A Two and a half weeks and I'd have to look
2 back at what the total duration of the outage was.
3 But, yes, approximately that. A little less than half
4 the outage.

5 Q Can you give the Board an idea of what
6 types of tasks you performed when you were in outage
7 central during that outage in 2000?

8 A As the engineering point of contact in the
9 outage central, like I said every major discipline had
10 a point of contact and we had a night shift, day
11 shift. It was staffed 24 hours a day, seven days a
12 week. Any engineering issue that came up was taken
13 right to that individual and that individual's job
14 then was to determine who's going to work on what and
15 contact the appropriate group.

16 The feeling was is that we wanted it to be
17 kind of a one-stop-shop type thing. Anybody in the
18 field that had an issue they didn't have to try to
19 figure out who the right person was to go to. They
20 could just go to outage central and outage central
21 would take care of it. So anything that was
22 engineering related would come to us to determine who
23 would work on that.

24 And then we would also take care of like
25 scheduling issue, make sure we had the right people at

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1 the right place at the right time. Keeping track of
2 the schedule was pretty critical from an engineering
3 perspective because especially when it came down to
4 like the reactor fuel, refueling, core load, core
5 offload type things, because we had a very limited
6 number of reactor engineers and we had to get -- we
7 didn't want to burn them out. We didn't want to bring
8 them on shift too early and cause them to be burned
9 out or run out of hours and that sort of thing. So
10 that was the type of thing, the coordination.

11 Q When you say "we," give the Board some
12 sense of who else was with you at various times in
13 outage central during that outage and their titles if
14 you recall them?

15 A Okay. The way it was laid out is you had
16 a -- we had an outage director. The outage director
17 was someone that was usually associated with out of
18 the outage management group like, for instance, Scott
19 Coakley was the outage manager for the outage
20 management group and during the outage he became one
21 of the outage directors and then there would be
22 another individual that would be on there opposite him
23 on a different shift. They were the control of the
24 outage and basically everyone else within outage
25 central worked for them.

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1 And you'd have an engineering rep. You'd
2 have the radiation protection representative. I don't
3 know if we called ourselves representatives or
4 engineering rep. Then you had someone from
5 operations. That was usually one of the shift
6 managers. Once we went into the outage they went into
7 a different rotation and one of their shift managers
8 would be on shift there. We'd have a maintenance
9 representative. That was usually one of the
10 maintenance supervisors or some cases may have even
11 been as high up as the superintendent of maintenance
12 as well as -- I'm trying to think of the other groups
13 that we had in there. Supply chain had somebody in
14 there. A safety individual was in there for
15 environmental safety. I'm sure I'm forgetting some.

16 But they all basically reported up through
17 the outage manager and then we had an oversight
18 individual in there and that oversight individual was
19 a director level individual. We had four directors.
20 I already mentioned earlier my boss, Steve Moffitt,
21 was one of those directors. Those directors were in
22 an oversight rotation. So their schedule was a little
23 different than everyone else's. I'm not sure exactly
24 -- They kind of conferred among themselves to decide
25 what their schedule was, but there was always someone

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1 there around the clock to be the oversight.

2 Q Was there ever a point during the outage
3 that you were the only engineer in outage central?

4 A I mean physically assigned I may have been
5 the only one in there. At the time people were --
6 When you say "in outage central," I'm trying to -- Are
7 you asking assigned or physically in the room because
8 people were constantly coming and going?

9 Q I guess the more relevant question is was
10 there ever a lead engineer that was leading all
11 engineering tasks in outage central?

12 A Not really.

13 Q Did there come a point during the outage
14 that an issue came to your attention having to do with
15 the cleaning of the reactor vessel head?

16 JUDGE FARRAR: Before we get to that, you
17 mentioned stepping in for Mr. Swim who was burned out
18 on 72 hours a week? How many -- What was your average
19 work week after you stepped in for him?

20 THE WITNESS: About the same.

21 BY MR. WISE:

22 Q During that time did you also have
23 responsibilities relating to your design basis manager
24 role?

25 A Yes, I did, but at that point the dye was

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1 cast. You know, for better or worse, design's primary
2 function for the outages really happens weeks, months,
3 ahead of time getting prepared. So we were -- There
4 were other things going on and when I went into that
5 role for Theo he pretty much then went back to the
6 administration building and in many cases filled in
7 for me at the manager level.

8 Q Let me go back to the question about
9 whether there came a time that an issue came to your
10 attention regarding cleaning of the head.

11 A Yes, there did.

12 Q Tell the Board about what happened.

13 A That was -- There was -- This is a long
14 time ago. So I'm trying to -- I'm foggy on a lot of
15 the actual interaction details, but there was a lot of
16 discussion of what's the right way to clean the head.
17 Historically we had always done it mechanically with -

18 -
19 JUDGE TRIKOUROS: Mr. Geisen, when you say
20 there was discussion, set this up a little bit for me.

21 THE WITNESS: Okay.

22 JUDGE TRIKOUROS: Were these formal
23 meetings of all of these reps that was on a frequent
24 basis that took up certain issues or was this an ad
25 hoc meeting?

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1 THE WITNESS: No, it was more of an ad hoc
2 discussion a bunch of engineers that came to the
3 outage central. I don't know how to call it, a tie
4 breaker vote type thing where they were discussing
5 what's the best way and we had a caucus. I say "we"
6 because I was involved with it. There had been I
7 guess an ongoing discussion between Prason Goyal,
8 Theo Swim, Glenn McIntyre who was mechanical systems
9 supervisor at that time and Andrew Siemaszko. Systems
10 was wanting to use water to clean the head and
11 historically we had not done that and design,
12 specifically Mr. Goyal, was hemming and hawing a
13 little bit on that. He wasn't sure if that was the
14 right thing to do. They were looking at it from a
15 standpoint of everyone believed boron on a dry state
16 on the head is inert and his concern was "Okay. If
17 you're going to go and wash this down are you creating
18 a problem because you're now putting it back in liquid
19 form?" That's what the discussion was about.

20 JUDGE TRIKOUROS: Was rad engineering
21 involved at all?

22 THE WITNESS: I don't think rad
23 engineering got involved in that aspect of it because
24 our discussion was more along the technical nature of
25 is it okay to use water. I know that systems got

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1 involved with radiological protection afterwards or
2 they may even got involved beforehand. I don't know.
3 I know that radiological protection got involved
4 because they had to come up with a way of collecting
5 the water and everything like that. But I wasn't
6 involved in those discussions.

7 JUDGE TRIKOUROS: Did you have anyone
8 there who is a chemistry expert?

9 THE WITNESS: No.

10 JUDGE TRIKOUROS: Did you contact anyone
11 was a chemistry expert, someone at Framatome or
12 someone that, the head manufacturer or nothing like
13 that? You guys were trying to deal with all yourself?

14 THE WITNESS: That may have gone on. I
15 don't know for sure. Prason was the individual that
16 was considered the heavy from materials standpoint on
17 the head and I don't know if he -- I didn't personally
18 talk to anybody from a chemistry expert standpoint and
19 we didn't have one in that specific discussion.

20 JUDGE TRIKOUROS: So the plan was that you
21 who were there were going to make this decision.

22 THE WITNESS: Correct.

23 JUDGE TRIKOUROS: Okay. Thank you.

24 BY MR. WISE:

25 Q Do you recall how long the discussions

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1 lasted about methods to clean the head?

2 A It wasn't a very long discussion. I would
3 say probably 15, 20 minutes.

4 Q Did there come a time during that outage
5 that you saw what we've seen during the hearing and
6 it's been referred to as the red photo?

7 A I wasn't formally given the red photo, but
8 I did see in outage central. I think it actually
9 arrived in outage central before I actually got there
10 and took over for Theo Swim. But there were copies
11 laying around.

12 Q Can you tell the Board what your
13 impression was of that photo when you saw it?

14 A I thought it looked ugly. You know, I
15 knew that we had a history of flange leakage, but I
16 didn't really have a frame of reference from a
17 perspective of was that worst than what we had seen in
18 past outages. So I knew that systems was working on
19 it. They were the appropriate group to work on it.
20 Hindsight being what it is, I wish I had done a lot
21 more with it, but I didn't.

22 Q At the time in 2000 do you recall what you
23 thought you were seeing in terms of what was coming
24 out the weep holes?

25 A Yes. I thought it was flange leakage.

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1 Q Was there any discussion that you recall
2 within outage central about whether there was a
3 possibility that this was something other than flange
4 leakage?

5 A No, I think the entire outage central had
6 pretty much wrapped their hands around this was going
7 to be -- this is flange leakage and there was already
8 at that point when I got into outage central and
9 identified a number of nozzles that we were going to
10 actually go and rework.

11 Q Through the process of this hearing and a
12 trial which you and I had the good fortune of spending
13 a month in, you've heard a lot about how that photo
14 showed rusting or brown color. In 2000 when you were
15 in outage central, was there discussion that you
16 recall about the color of what you were seeing?

17 A Not that I recall.

18 Q As you sit here now, is there another
19 potential source besides corrosion in the reactor
20 vessel head that could cause a brown color?

21 A I think there's a lot of things in the
22 head that, you know, the structure, that can cause
23 that. There was always I guess the structural steel
24 that supports the insulation is just carbon steel and
25 I've come to realize there was a lot of video taken of

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1 the underside of that looking at that.

2 Q What was the decision about how to go
3 about cleaning the boron that was on the head?

4 A That was they were going to use the hot
5 water approach. We had been very successful. The
6 station had been very successful in using hot water to
7 clean the containment air cooler's cooling coils in
8 the past and so we were basically going to use the
9 exact same equipment. It was equipment that was
10 already owned by radiation protection and they were
11 familiar with using it. So we were going to use that
12 exact same equipment.

13 Q Did there come a time that you had some
14 involvement with two condition reports and a work
15 order in connection with this issue during 12RFO?

16 A Yes.

17 Q I'm going to show you first Staff's 18.
18 Take a look at that and if you could tell the Board
19 what that document is.

20 A This was a condition report written by
21 Andrew Siemaszko that he wrote partway through the
22 2000 outage documenting the boron on the head.

23 Q When do you recall you first saw this
24 condition report?

25 A I saw it when I was in outage central. I

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1 can't tell you exactly when, but it was during that
2 outage.

3 Q Was this the only condition report that
4 dealt with the issue of boron on the head found during
5 that outage?

6 A No, it actually even references in there
7 the 782?

8 Q I show you Staff's No. 17. Strike that.
9 Staff's 19. Do you recognize this document?

10 A Yes, I do.

11 Q Will you tell the Board what that document
12 is?

13 A This was the condition report I just
14 mentioned that was written earlier and my
15 understanding was Pete Mainhardt wrote this based upon
16 the inspection of the reactor. He says, "Reactor
17 flange indicated boric leakage from the weep holes."
18 So my understanding is this is what generated the red
19 photo.

20 Q And did you see this document during the
21 2000 outage?

22 A Yes.

23 Q As you look back on your review of these
24 documents, can you give the Board a sense of what your
25 impression was of what the condition was that existed

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1 on the reactor vessel head?

2 A My impression is that we had this boric
3 acid that was on the head as a result of flange
4 leakage and we, the 1037 CR was somewhat duplicitous
5 of the 782.

6 Q Do you recall reading the language in this
7 condition report at the time?

8 A Yes.

9 Q Did you have discussions about the
10 significance of particular sentences in Mr.
11 Mainhardt's report?

12 A No, I really didn't discuss this CR with
13 anybody.

14 Q Did there come a time that you took some
15 action with regards to one of the condition reports?

16 A Yes, I did. 1037 was on the mode
17 restraint list and what we had was in outage central
18 we maintained mode restraint list and there was a lot
19 of condition reports that would put on the mode
20 restraint list when they were initially written and
21 screened saying that basically they wanted an
22 evaluation done on them as to whether there was any
23 outage related work that needed to be done prior to
24 changing modes.

25 So in 2000 outage I actually went through

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1 1037 and one of the things that was identified was the
2 fact that we needed to clean the head. There was a
3 work order out there for cleaning the head that was on
4 the mode restraint list. So based on that, I took the
5 1037 off the mode restraint list.

6 Q I'm showing you page eight of Staff's
7 Exhibit No. 18. Can you take a look at that?

8 A Okay.

9 Q Tell the Board what that is.

10 A This is my response to remove this
11 condition report from the mode restraint list.

12 Q Assuming that this condition report was in
13 fact removed from the mode restraint list per your
14 instruction, was there anything that would have
15 stopped the plant from going online before the head
16 had been cleaned to your understanding in April of
17 2000?

18 A Yes, the work order for doing the cleaning
19 of the head was on the mode restraint list.

20 Q I show you Staff's 20.

21 JUDGE TRIKOUROS: What does it mean on
22 there when it says, "No evaluation is needed to
23 support a mode 4 entry"? Does that mean no one is
24 going to check if that was done or does that mean --

25 THE WITNESS: No. If you look at the

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1 paragraph in totality, Your Honor, I was identifying
2 earlier on that the CR was written but that there was
3 an evaluation that was going to be performed under 782
4 and that there was not a separate reviewer evaluation
5 that needed to be performed under 1037 and so
6 therefore no evaluation was needed in support of the
7 mode 4 entry. And like I said earlier, the condition
8 reports were put on the mode restraint list with the
9 idea being that you're going to do an evaluation to
10 identify if there's any field work that needed to be
11 done and I was identifying that there was no further
12 evaluation that needed to be done on this to take that
13 off that mode restraint list.

14 JUDGE TRIKOUROS: And who owns the mode
15 restraint list?

16 THE WITNESS: Well, I mean if you --
17 strict ownership of it would be operations because
18 they control mode changes. They actually have
19 procedural requirements as part of their checklist
20 prior to changing modes. One of the things to check
21 is verify that there's no outstanding items on the
22 mode restraint list. When you say "own it" I'm kind
23 of apprehensive about covering that because planning
24 and scheduling kind of own it.

25 JUDGE TRIKOUROS: I just don't understand

1 --

2 THE WITNESS: I'm sorry. Go ahead. I was
3 going to say from an actual ownership of the list I
4 think planning and scheduling would probably be the
5 best people to say they own it because they're the
6 ones that do all the planning and scheduling of work
7 and any work that's generated or work order that's
8 created and kept in the hopper, it's in their hopper.

9 JUDGE TRIKOUROS: What I'm getting at is
10 what authority did you have to add or remove anything
11 from the mode restraint list?

12 THE WITNESS: Engineering had the ability
13 to evaluate -- If they were assigned a CR to evaluate,
14 we could go through and do that. Anybody could get
15 assigned an action to resolve whether something should
16 be on the mode restraint list.

17 JUDGE TRIKOUROS: So is this document
18 sufficient to remove something from the mode restraint
19 list or does someone have to -- I don't see sign-offs
20 on this or anything. Is this what it takes to get
21 something off the mode restraint list, just simply you
22 issue one of these?

23 THE WITNESS: With regard to a condition
24 report, that was the case because the condition report
25 is just doing an evaluation if additional work is

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1 identified. Obviously if there's work identified,
2 physical work that has to occur for that mode list,
3 there's a lot of checks and balances on that work
4 being done.

5 We put a lot of items on a mode restraint
6 list, conditions reports, that basically say we want
7 this condition report evaluated prior to changing mode
8 in case there is something that we need to do before
9 we change modes. We don't want to do the evaluation
10 after we've changed to a state that we can't do the
11 work in. So it's really just whoever is assigned the
12 evaluation of that CR can go ahead and do that. So
13 virtue of the fact that I was in outage central as the
14 engineering rep, I had the ability to go in and
15 evaluate these CRs, sorry, condition reports, for
16 their impact on if work was required.

17 JUDGE TRIKOUROS: So if you take me down
18 the line on this document, where did this go once you
19 signed it?

20 THE WITNESS: This, I mean, the actual
21 letter itself stayed with the document with the
22 condition report and would just be --

23 JUDGE TRIKOUROS: I'm sorry. Who would
24 have gotten it?

25 THE WITNESS: It would have stayed with

1 the condition report and the condition report whoever
2 is doing the full evaluation of the condition report
3 would get that. All what I wrote was not an intent to
4 close out the condition report nor did it. All it did
5 was say "Is there anything else that needs to go on
6 the mode restraint list?"

7 JUDGE TRIKOUROS: Let me ask my question
8 a little bit differently.

9 THE WITNESS: Okay.

10 JUDGE TRIKOUROS: Were you recommending to
11 someone that they remove this constraint, that they
12 remove this from mode restraint list, or were you
13 making it happen?

14 THE WITNESS: With this, I was making the
15 recommendation to the group that maintains the mode
16 restraint list to take this CR off that mode restraint
17 list because we already had other work out there.

18 JUDGE TRIKOUROS: So they had to look at
19 this, make a decision if they thought it was an
20 appropriate thing to do. I don't think they would
21 mindlessly --

22 THE WITNESS: That's correct.

23 JUDGE TRIKOUROS: So there was another
24 authority besides yourself who would look at this and
25 make the decision whether they want to or don't want

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1 to take it off the mode restraint list.

2 THE WITNESS: That's correct.

3 JUDGE TRIKOUROS: Okay.

4 JUDGE HAWKENS: Who is ultimately
5 responsible for complying with the condition you have
6 in your third or fourth sentence that says, "The
7 reactor vessel head will be cleaned of all boron
8 deposits following completion of the flange repair"?

9 THE WITNESS: That would have been whoever
10 was assigned that work order and in this case it was
11 I think Andrew Siemaszko might have been officially
12 assigned that work order. I have to look at the work
13 order because it could very well have been a RP work
14 order that he just helped out on. So that's why I'm
15 hedging my answer a little bit.

16 MR. WISE: Your Honor, can I move from
17 this document to the work order? Thank you. This is
18 Staff No. 20.

19 BY MR. WISE:

20 Q Do you recognize this document?

21 A Yes, I do.

22 Q What is it?

23 A This is the work order that was for
24 cleaning the head.

25 Q Do you see a signature on this document

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1 from a plant engineering person?

2 A Yes, Andrew Siemaszko.

3 Q What was your understanding of Mr.
4 Siemaszko's role in this process?

5 A He was the team leader or whatever for the
6 team that cleaned the head.

7 Q Did you see this work order in 2000?

8 A No, at the time that I did that CR or that
9 last page that we looked at prior to this, when I
10 filled that out, I went online to verify that the work
11 order was out there and was signed on to work in the
12 field. It was in the system showing ready to work and
13 actually signed on and approved for working in the
14 field meaning that the shift supervisor had already
15 signed on to it authorizing that they could go ahead
16 and do work.

17 I have subsequently found out that this
18 was actually Theo had signed off prior to or actually
19 at an earlier date than when I had filled out that
20 form. So the field work was essentially complete at
21 that point, but I had no way of knowing that where I
22 was at going through the database because the database
23 on the computer had not been updated yet to reflect
24 that.

25 Q When you signed the document at the end,

1 the 1037 that we looked at before, did you believe
2 that the cleaning had been done or would be done?

3 A I believed it was scheduled.

4 Q And what was your understanding of whether
5 the plant could come back online if the work had not
6 been completed?

7 A My understanding was that that work
8 request would have prevented them to come online
9 because operations would not have been able to approve
10 the mode change with that open work out there.

11 MR. WISE: We don't have any other
12 questions. Should I shut this document down?

13 JUDGE TRIKOUROS: Just leave it for a
14 second. So I'm just trying to -- So the owners of
15 this mode restraint list when they looked at this,
16 they saw your signoff and I guess they saw this
17 (Indicating). Did this automatically remove CR, I
18 forget what the number was now, 737.

19 MR. WISE: 1037.

20 JUDGE TRIKOUROS: Did this automatically
21 remove CR 737 off the mode restraint list?

22 THE WITNESS: I believe that's how it
23 happened. Yes, sir.

24 MR. HIBEY: Excuse me, Your Honor. That's
25 1037.

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1 THE WITNESS: 1037.

2 JUDGE TRIKOUROS: 1037, I'm sorry. I know
3 there were -- I can't remember which was which.

4 So this was -- They made the determination
5 that all requirements were met and therefore they
6 could change mode with respect to the head cleaning.

7 THE WITNESS: Correct. Operations would
8 have made that determination by verifying every work
9 order that was assigned to that particular mode was
10 complete and signed off and the last signature on
11 every work order is operations signoff. So operations
12 --

13 JUDGE TRIKOUROS: So even if you had seen
14 this --

15 JUDGE FARRAR: Let him finish.

16 JUDGE TRIKOUROS: I'm sorry. Go ahead.

17 THE WITNESS: What I was going to say is
18 operations has a copy of the mode restraints and they
19 keep a running tally that as they close out a work
20 order they take that off that mode restraint list so
21 that when they get to that point where they need to
22 change they know that they've now completed all the
23 work that had been identified.

24 JUDGE TRIKOUROS: All right. So even if
25 you had seen this you might have done exactly the same

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1 thing with that condition report.

2 THE WITNESS: That's correct. If I had
3 known that the work had already been completed I would
4 have worded it a little different, but it would have
5 been the same result.

6 JUDGE TRIKOUROS: Right. So it's
7 irrelevant. This work order is fundamentally
8 irrelevant to your action. You would have signed that
9 condition report. If you had seen this, you would
10 have signed the condition report if you thought this
11 was still open.

12 THE WITNESS: That's correct because this
13 accomplishes the field work.

14 JUDGE TRIKOUROS: Okay. I wasn't trying -
15 - I didn't understand where this was in the scheme of
16 things.

17 THE WITNESS: Right.

18 JUDGE FARRAR: Where does it say on Staff
19 20 that the work was done? I see on the front page it
20 says "Work order review."

21 THE WITNESS: Mr. Wise has scanned down to
22 that page, page five.

23 JUDGE FARRAR: Five. Yeah. Okay. Thank
24 you.

25 (Off the record discussion.)

1 JUDGE TRIKOUROS: Mr. Wise, I don't have
2 additional questions right now.

3 JUDGE FARRAR: Did you say you didn't see
4 this until later?

5 THE WITNESS: That's correct, sir. I did
6 not see this, Your Honor, until -- I did not actually
7 look at this work order until probably 2002.

8 JUDGE FARRAR: Okay.

9 THE WITNESS: I knew it existed when I
10 filled out the form because it was -- The part that
11 you see that is preprinted and everything is actually
12 online minus all the signatures. So what you have
13 online is just -- When one of these organizations
14 signs the working copy for instance to commence work,
15 they then go into the database, the work order
16 database, and they sign on or put a date in there that
17 says "There's now an active work order out there." So
18 you tell that you have an active work order out there.
19 You just can't tell where it is in the progress until
20 they sign off on it saying that field work is complete
21 and when I looked at it field work had not been -- it
22 hadn't been updated in the system yet, but obviously
23 when I looked at this much later it had been signed
24 off in the field. They just hadn't updated the
25 database yet.

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1 JUDGE FARRAR: Much later is?

2 THE WITNESS: When I looked at this in
3 2002.

4 JUDGE FARRAR: 2002. But at the time --
5 But between April of 2000 and later in 2002 your
6 responsibility was you had said you wanted this work
7 done. You were counting on other people not to let
8 the plant restart without the work being done and it
9 was not your responsibility to ascertain that it had
10 been done.

11 THE WITNESS: That's correct, Your Honor.

12 JUDGE FARRAR: Who -- And Mr. Siemaszko
13 said on that page "Work performed without deviation."

14 THE WITNESS: That's correct, Your Honor.

15 BY MR. WISE:

16 Q And just so we're clear, in 2000 as you
17 came out of the 12th refueling outage you were not
18 aware of this page that bore Mr. Siemaszko's
19 signature, correct?

20 A That's correct.

21 Q Notwithstanding the fact that you hadn't
22 seen this page coming out of 12RFO did you have any
23 understanding about whether the head had been cleaned
24 completely?

25 A Yes. I believe the head had been cleaned

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1 completely.

2 Q Do you recall what your belief was based
3 upon?

4 A Well, there had been notices sent out.
5 The Outage Insider was one of them. I believe that
6 most of the site believed that the entire head had
7 been cleaned.

8 JUDGE TRIKOUROS: And you thought the head
9 was cleaned and you've maintained that thinking up
10 until you found out that it wasn't.

11 THE WITNESS: That's correct.

12 JUDGE TRIKOUROS: When was that?

13 THE WITNESS: That was sometime in the
14 fall of 2001. I can't tell you exactly when.

15 BY MR. WISE:

16 Q I'm showing Geisen 18 and ask you if you
17 can tell the Board if you recognize what that document
18 is.

19 A This is one of the outage newsletters that
20 was sent out. You see on there it says "12RFO day
21 29." They basically would put one out almost every
22 day detailing --

23 JUDGE HAWKENS: What exhibit is this, Mr.
24 Wise? I'm sorry.

25 MR. WISE: It's Geisen 18, Your Honor.

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1 JUDGE HAWKENS: Thank you.

2 THE WITNESS: And in an effort to try to
3 keep everybody on the site in the loop, you know,
4 involved in the outage, we would put out these
5 newsletters. I say "we." I believe this was put out
6 by our communications people. They would put in
7 basically as you see it the activities that were
8 completed within usually the last 24 hours or that are
9 big ones that are scheduled for that day and then a
10 lot of times they'd have a I call it human interest
11 but like a focus on a particular activity and in this
12 case it was on the head cleaning and I think it
13 focused more on Mr. Siemaszko's efforts to get that
14 head cleaning done.

15 BY MR. WISE:

16 Q Now as you sit here today, do you have a
17 specific recollection of reading this document in
18 2000?

19 A No, I don't.

20 Q Was it your practice to read the Outage
21 Insider when it came out?

22 A Yes, that was the expectation that
23 everybody would read, everyone site-wide would read
24 these communications as they came out.

25 Q How often did it come out if you recall?

1 A I believe it came out almost daily.

2 JUDGE FARRAR: Mr. Wise, before you leave
3 that document.

4 MR. WISE: Yes.

5 JUDGE FARRAR: Did you write that section
6 entitled "Reactor Head Cleaning"?

7 THE WITNESS: No, Your Honor, I believe
8 that was written by the communications group.

9 JUDGE FARRAR: Okay. Did they call you in
10 writing it to ask your opinion?

11 THE WITNESS: No, Your Honor.

12 JUDGE TRIKOUROS: In outage central, you
13 discussed how to clean the head and whether or not you
14 should be using water to clean the head.

15 THE WITNESS: Right.

16 JUDGE TRIKOUROS: It was an ad hoc
17 meeting.

18 THE WITNESS: Correct.

19 JUDGE TRIKOUROS: And you all gave Mr.
20 Siemaszko the go-ahead to use water to clean the head.

21 THE WITNESS: That's correct.

22 JUDGE TRIKOUROS: But he never reported
23 back as to whether that worked or not or whether there
24 were any problems?

25 THE WITNESS: If he did, he didn't report

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1 directly back to me. He may have reported back to
2 like the outage manager, but I can't speak to that,
3 sir.

4 BY MR. WISE:

5 Q Other than the head cleaning effort, were
6 there other issues that you were involved in
7 discussion --

8 JUDGE FARRAR: Wait a minute. Just to
9 make absolutely clear in that little group that had
10 the meeting and said it's okay to use the water even
11 though there was some concern about it, that little
12 group never got together and said, "Let's get Andy in
13 here and see how he did" or they never got together in
14 your presence?

15 THE WITNESS: That's correct, Your Honor.
16 No, they didn't.

17 BY MR. WISE:

18 Q During the time that you were in outage
19 central in 2000, were you involved in the resolution
20 of issues regarding engineering judgments?

21 A Daily. That was the main function of
22 being in there.

23 Q And how often would there be followup on
24 those other issues?

25 A It depended on the issue. I mean, there

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1 were a lot of times if you had assigned someone to go
2 out and run on it, the expectation was they would go
3 and carry it to fruition and they would be coming back
4 to us if once again they needed assistance from
5 another group or something.

6 Q As you came out of the outage in 2000, did
7 you have any involvement in planning for the
8 inspections in 2002 for 13RFO?

9 A No, I didn't.

10 Q Did there come a time that you joined
11 something called the B&W Steering Committee?

12 A Yes. As a member -- As soon as I became
13 the design engineering basis manager and took over
14 from Frank Swanger, that is a collateral duty of the
15 design manager and so that was turned over to me.

16 Q Can you tell the Board a little bit about
17 what the steering committee does?

18 A The steering committee is the
19 prioritization and the deveer-upper (phonetic) of
20 funds for projects.

21 Q How many members does the committee have
22 approximately?

23 A I'm trying to remember how the charter is
24 written. We always had probably seven or eight people
25 in these meetings. But I think the way the charter is

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1 written is there's a representative from each utility
2 and then at least one of the B&W or Framatome,
3 whatever their name was at any particular time, was
4 the steering committee. And so you didn't have a one-
5 for-one for every B&W plant because like Duke had
6 three B&W plants but there's only one individual on
7 there.

8 Q Did there come a time that issue of
9 circumferential cracking or nozzles came to the
10 attention of the steering committee?

11 A Yes and it would have been late 2000,
12 early 2001 and that was when the -- Well, the
13 circumferential cracking issue came to our attention
14 I want to say in the spring of 2001 because we had
15 already heard reports out from the Oconee
16 representative. I think it was probably the January
17 meeting. I don't remember exactly right now when we
18 had our meetings. We had monthly teleconferences and
19 then we met and he had presented the information they
20 had gotten from the Oconee inspection for Oconee 1 and
21 Oconee 2 and then in February they had the Oconee 3
22 outage and that's when they found circumferential
23 cracking.

24 The real issue for bringing up the Oconee
25 1 and 2 information was that and the big discussion

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1 initially early on with that was that the steering
2 committee had an ongoing project where they were
3 funding or going to fund a test effort or inspection
4 effort down at Crystal River 3 and that was going to
5 involve a lot of nondestructive examination type
6 testing looking specifically for axial cracking
7 because we were trying to determine if we as a owners
8 group had susceptibility to axial cracking and once it
9 was found at Oconee 1 and 2 there was really no reason
10 to continue to fund this going looking for it at
11 Crystal River 3. We already confirmed that as an
12 owners group we were already susceptible to it. So
13 that was the discussion early on.

14 And then in the spring after the February
15 outage at Oconee 3, then there was a lot of discussion
16 on the fact that they found that 164 degree
17 circumferential crack on one of their nozzles and the
18 steering committee was focusing a lot on what do we
19 need to do as an owners -- because the whole purpose
20 of the owners group is to pull together your -- pool
21 your resources to address an issue and this was now
22 going to be no longer a plant specific issue but an
23 owners group issue. We were pooling our resources
24 together and redirecting them away from some projects
25 to see what can we do to get past some of the issues,

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1 some of the big issues, that Oconee 3 was bringing
2 forward which was the ability to do remote
3 inspections, the ability to do remote repairs,
4 automated repairs. They were doing it all by hand and
5 were burning out welders left and right from having
6 these guys work in a lead box underneath a very hot
7 head on the head structure on the storage structure.
8 So that was one of our big focuses early on in 2001.

9 Q Did your work on the steering committee
10 cause you to gain information about Davis-Besse's past
11 inspection or cleaning history?

12 A No, we were focusing on how to do the
13 analysis. There were three main prongs I guess that
14 you would say that the steering committee was focusing
15 on. One was coming up with some sort of robot that
16 you could position under there that would do the NDE.
17 The other one was coming up with an acceptable repair
18 methodology so that once you found a crack how do you
19 get rid of it, how do you mill it out and in the
20 process of milling it out where basically you're
21 milling out above J weld and putting in a whole new
22 weld and partial overlay in doing that and then the
23 third was once you do that what is the appropriate
24 stress relaxation methodology. So we were developing
25 criteria to use a water impingement stress relaxation.

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1 Now I say "we." The owners group was
2 funding that, but all the work, the analysis and all
3 that was being done by Framatome and we were just --

4 Q What is Framatome?

5 A B&W Framatome. They were the designers of
6 the plant.

7 Q Did you know at that time whether
8 Framatome had a role in the past inspections at Davis-
9 Besse?

10 A Well, I knew that Framatome had done
11 inspections at the plant. They had been contracted to
12 do the inspections. They had been contracted to do
13 the repair work for replacing the seals or the gaskets
14 on the nozzles. They were also -- Because they were
15 our predominant outage contractor, they also took care
16 of all the eddy current owner steam generators. They
17 did a lot of the reactor coolant pump work. Those
18 were all separate tasks.

19 But Framatome is a huge organization and
20 the Framatome group that we were interfacing as an
21 owners group with is not the same as their field
22 services group. They are like two completely
23 different entities. Did that answer your question?

24 Q Yes. You said that the steering committee
25 was not plant specific. Who was at that time the

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1 Davis-Besse person most knowledgeable about
2 circumferential cracking?

3 A It would probably come down to Prasoan
4 Goyal as the -- if you're talking about getting right
5 down to the metallurgical aspects of things because it
6 was the materials group, the materials subcommittee,
7 of the owners group that was taking the lead on that.

8 Q Okay, and what was your understanding of
9 his involvement in developing understanding of this
10 issue?

11 A He was attending a lot of the meetings and
12 having all the discussions. The materials group was
13 also -- He was also on our EPRI MRP, Electric Power
14 Research Institute/Materials Reliability Program. He
15 was the representative of both of those and so he was
16 getting involved very extensively from that
17 standpoint.

18 Q I show you Staff Exhibit 21. Do you
19 recall seeing this document when Mr. Goyal testified?

20 A Yes.

21 Q Do you recall receiving this document in
22 December of 2000?

23 A Not specifically, but I was cc'ed on it.
24 So I have no reason to believe that I didn't receive
25 it.

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1 Q Take a look at the text --

2 JUDGE FARRAR: Before we look at it, how
3 many emails would you get a day?

4 THE WITNESS: Anywhere from probably a low
5 of 15 to a high of 35/40.

6 JUDGE FARRAR: Okay.

7 BY MR. WISE:

8 Q How many of those came from folks that
9 were directly reporting to you?

10 A I'd say probably one-third.

11 Q Do you have a --

12 A There were a lot of emails that I would
13 get because we had like standard distribution emails
14 type thing.

15 Q Did you have a practice with the people
16 that reported to you about what they should do if an
17 email or a memo had particular urgency or importance?

18 A Yes because I've gotten so many I had
19 instructed my supervisors that if they expected me to
20 take an action on something versus -- they would have
21 in the subject line "Action needed" or "Action
22 requested" or something like that. If it was sent to
23 me as an FYI, it was just that, "FYI - No action
24 required."

25 Q I'm going to ask you to take a look at the

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1 text in the email that Mr. Goyal forwarded and ask you
2 to put yourself back in your shoes in December of
3 2000.

4 A Okay. I'm there.

5 Q (Laughter) How's the weather? Taking a
6 look at the language, is there anything that stands
7 out that would have been surprising to you?

8 A No. The statement --

9 Q Go ahead.

10 A I understood Dave Whitaker was one of the
11 Prason's counterparts on several of the groups he was
12 on. So I just viewed it as an intergroup
13 communication.

14 Q The statement that "It was important to
15 have a clean head for a good visual inspection" at the
16 time that you got this email what was your
17 understanding of whether a cleaning effort had been
18 successful coming out of 12RFO.

19 A I was under the impression we had been
20 very successful with that.

21 Q Did you have any conversation with Mr.
22 Goyal about this email that you recall?

23 A No.

24 Q Did you have any conversation with Mr.
25 Goyal in the fall or winter of 2000 and 2001 about the

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1 subject of the finding at Oconee or circumferential
2 cracking?

3 A We may -- He may have briefed me. I don't
4 recall anything that stood out. It was so long ago I
5 really don't -- there was nothing that really stands
6 out as "Ah-ha." But there were a lot of times he
7 would come in and -- I don't want to say a lot of
8 times. He would occasionally stop by to brief me on
9 what the MRP was working on.

10 Q What's the MRP?

11 A I'm sorry. Materials Reliability Program
12 was working on or what his B&W subcommittee materials
13 group was working on, more along the lines to keep me
14 in the loop because we were going to have funding
15 issues coming up.

16 Q What was your understanding of Mr. Goyal's
17 connection to the MRP?

18 A He was a member of it.

19 Q Staff Exhibit 22. Do you recognize what
20 the form of this document is?

21 A Yes, this is our intercompany memorandum
22 and this was a trip report.

23 Q What was the purpose of a trip report?

24 A In a nutshell, a trip report was to
25 anybody that took a trip we had a requirement and I

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1 think this was station wide, it definitely was within
2 my organization, that you fill out a trip report to
3 report back on any salient points that you may have
4 learned on that trip because the phrase I used to use
5 with my supervisors is "We're not funding nuclear
6 tourism. If you're going to go on a trip, we want you
7 to get some value out of it and bring that back." So
8 I had a policy within my group that every trip report
9 (1) you didn't get paid until the trip report was
10 submitted. So it often was submitted with their
11 expense report. That was a good hammer to have to
12 ensure you got your report. And (2) there was a
13 specific distribution that those had to go to that
14 obviously that the trip report was to their
15 supervisor. But I would get a copy as well as all the
16 other supervisors within the group would get a copy.

17 Some of the supervisors took it upon
18 themselves to add an additional distribution to have
19 it go to their entire section. The rule or the
20 standing rule that I had with supervisors was it was
21 their responsibility then to go through all those trip
22 reports and glean from them any lessons learned that
23 they would want to pass on to their group. That's why
24 when we saw these earlier these weeks you saw the same
25 names show up over and over and over again. They were

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1 standard distribution.

2 Q Do you have a recollection of on average
3 how many trip reports you get in a month?

4 A It would vary but probably three to four.

5 Q Did you read them all?

6 A Yes.

7 Q Did you discuss issues with the people who
8 wrote them on a regular basis?

9 A Not very often.

10 Q What would cause you to discuss an issue
11 that was contained in a trip report?

12 A Probably if there was something that was
13 in there that I felt we should be taking action on at
14 work.

15 Q Any recollection of Mr. Goyal coming to
16 you to speak with you about this trip report?

17 A No.

18 Q Or about the issue at Oconee 1 that's
19 discussed in it?

20 A No, but in all honesty what he was
21 briefing us on in this trip report for the most part
22 we had already been briefed on by the representative
23 from Oconee during one of the monthly B&W steering
24 committee meetings we had. So it wasn't like I didn't
25 know that there was stuff going on at Oconee.

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1 Q When you say "we," who do you mean?

2 A The "we" is the member of the steering
3 committee had a conference call that was scheduled and
4 initiated by the Framatome rep of the or B&W rep of
5 the steering committee and then it was chaired by
6 whoever was the steering committee chairman at that
7 time and there would be like an email sent out ahead
8 of time "This is when we're going to have the
9 conference call. These are the main topics type
10 thing."

11 Q As you go into the spring of 2001 --

12 JUDGE FARRAR: Mr. Wise, before we get to
13 that, we're going to have to take a break for the --
14 Oh, that's done. I thought we had to take a break for
15 the court reporter. We're going to need a break and
16 I don't want to interrupt you once you get into the
17 events of particular interest. Would this be a good
18 time to stop?

19 MR. WISE: I think this is fine.

20 JUDGE FARRAR: All right. It's 4:05 p.m.
21 Let's be back at -- Is ten minutes enough break?

22 MR. WISE: I think so.

23 JUDGE FARRAR: Okay. Then we'll be back
24 at 4:15 p.m. Ten minutes. Off the record.

25 (Whereupon, a short recess was taken.)

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1 JUDGE FARRAR: All right, Mr. Wise. I
2 think we're ready to go.

3 MR. WISE: Thank you.

4 BY MR. WISE:

5 Q All right. Mr. Geisen, I'm showing you
6 Staff's 23. Do you recognize this document from
7 yesterday?

8 A Yes, I do.

9 Q Can you tell the Board what your
10 understanding of the content of the e-mail is?

11 A Yes. The Materials Group was trying to I
12 guess identify any kind of susceptibilities or
13 similarities between Ocone 3 and all of the other
14 plants. And one of the things they identified was
15 with regard to the heat of the metal, that Davis-Besse
16 had several nozzles that were cut from the same heat
17 or machined from the same heat.

18 Q Did you have any discussion with Mr. Goyal
19 about this e-mail back in March of 2001?

20 A No, I did not.

21 Q The last sentence references attention to
22 be paid during the next visual examination of the RV
23 head. Did you have any responsibility in March of
24 2001 for the upcoming inspection?

25 A No, that was -- Mr. McLaughlin was in

1 charge of the upcoming inspection.

2 Q And who is Mr. McLaughlin?

3 A Mark McLaughlin -- well, he was an
4 Engineer at the plant. I'm trying to think. His
5 official title at that time I'm not sure, but he was
6 in the Life Cycle Management Group. And one of his
7 duties was to come up with the inspection for -- the
8 inspection plan for the next outage.

9 Q I'm going to skip you ahead to Staff's
10 Exhibit Number 31.

11 JUDGE HAWKENS: Do you have any
12 recollection of reading this e-mail, Mr. Geisen, at
13 the time it was sent?

14 THE WITNESS: No, I don't, Your Honor.
15 But I probably did receive it, since it was sent to
16 me. I don't think that if I had read it it would have
17 been anything alarming in it, because we knew that --
18 I think by that time there had been enough discussion
19 in the owner's group that we knew that various plants
20 had that same heat.

21 JUDGE HAWKENS: And when you say you think
22 -- you have no reason to think you didn't receive it,
23 does that raise a presumption that you, in fact, at
24 least skimmed it for content?

25 THE WITNESS: That would be my assumption,

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1 yes, sir.

2 JUDGE HAWKENS: Thank you.

3 BY MR. WISE:

4 Q This is Staff's Exhibit Number 31. Do you
5 recognize what it is?

6 A Yes.

7 Q Tell the Board what your recollection is
8 of any -- if any, of receiving it.

9 A Well, it kind of gets back to our mode
10 restraint list a little bit. At Davis-Besse, they
11 maintain a list of "what if" work orders that are
12 already prepared that in the event we were to shut
13 down for whatever reason, and given the fact that I
14 had been there in '98 when we were shut down by a
15 tornado, it does happen.

16 We had a -- we wanted to have all of those
17 things that you would do during a shut down, we would
18 want to have all of those work orders already
19 prepared, ready for sign-on, and all the parts and
20 everything already procured and standing by. And so
21 we grouped them together, and we would have either a
22 Mode 3 or a Mode 5 list of work orders.

23 And since you can't inspect the head in
24 Mode 3, the next question was: well, what if we end
25 up going to Mode 5? Should we do a head inspection at

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1 that time, and should we be getting everything ready
2 so it's on the shelf ready to go? And that's what the
3 purpose of this evaluation was, is to evaluate if, in
4 fact, we were to trip and go to Mode 5, should we then
5 go in to do this inspection?

6 Q You heard Mr. Goyal testify about this
7 document yesterday.

8 A Yes, I did.

9 Q Back in June of 2001, were you aware that
10 he was preparing this document?

11 A Yes, I signed off on it.

12 Q But were you aware that he had begun to
13 work on it when he started work on it?

14 A No. I became aware at some point when Mr.
15 Swim asked for me to -- told me that he was going to
16 need my approval on it. I don't -- I can't tell you
17 exactly when that was.

18 Q Do you know why he was doing it and who
19 asked him to do it?

20 A I don't know who asked him to do that. I
21 could hazard a guess that it was somebody associated
22 with the Outage Management Group, because of the --
23 they are the ones that are always going and saying,
24 "Well, what if?" And they put the "what if" list
25 together.

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1 Q I believe that Mr. Goyal referred to this
2 document yesterday, or at least referred to it in
3 another e-mail as a JCO. Can you tell the Board what
4 your understanding of a JCO is?

5 A Yes. I think he misspoke. A JCO is
6 justification for continued operation. At least from
7 my background, is something that you -- an evaluation
8 that you enter in with the NRC to continue operating
9 a plant. Due to some issue out there, this was not
10 intended to be that. This was, just as it says, a --
11 if the plant goes to Mode 5, should we do an
12 inspection? And it has nothing to do with continued
13 operation of the plant.

14 Q You said that you signed off on this
15 document.

16 A That's correct.

17 Q I take it that you reviewed it before you
18 signed off on it.

19 A Yes, I did.

20 Q Let me direct your attention to the second
21 page. Do you have any recollection of -- first of
22 all, do you have any recollection of speaking with Mr.
23 Goyal about this document?

24 A No, I don't.

25 Q Were there any discussions that you can

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1 recall about the content of the document, either with
2 Mr. Goyal or with anyone else, including Mr. Swim?

3 A I don't believe there was a discussion.
4 I know that Theo Swim brought it to me.

5 Q Yesterday, Mr. Goyal testified that he was
6 asked by Mr. Swim to make an edit to the last
7 paragraph of the second page of this document. Do you
8 recall that testimony?

9 A Yes, I do.

10 Q Were you included in that conversation at
11 all?

12 A No, I wasn't.

13 Q Did Mr. Swim advise you that this
14 conversation had taken place?

15 A No, he did not.

16 Q Do you have any idea what the context was
17 of that conversation?

18 A No, I'd have to ask Theo about that.

19 Q Let me ask you to turn your attention to
20 the language in the last paragraph, specifically the
21 second sentence that starts, "Large boron leakage from
22 a CRDM flange was observed." Do you have a present
23 recollection, as you sit here today, of reading that
24 sentence in June of 2001?

25 A I don't recall it, you know, from that

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1 perspective. I would have -- from what I know and
2 projecting what I knew at that time, I probably would
3 have just attributed that to exactly what we had seen
4 during the 2000 outage, the red photo that everyone
5 talks about. I mean, we knew we had -- the station
6 was -- most people at the station knew that we had
7 flange leakage and had gone in and done a repair of
8 the flanges, and I included.

9 Q Had the amount of boron that was thought
10 to be from the flanges at that time ever been
11 quantified for you?

12 A Not that I can remember.

13 Q Some time later, there would be discussion
14 -- when we get into October of 2000 -- about 100
15 percent of the head was inspected, except for five or
16 six nozzles?

17 A Correct.

18 Q In June of 2001, had anyone ever given you
19 a sense of those numbers?

20 A No.

21 Q Had you ever had any discussions about the
22 effectiveness of the inspection in 2000?

23 A No.

24 Q The line in this document where Mr. Goyal
25 -- four lines from the bottom -- says, "The flange was

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1 repaired, and the head was cleaned," was that
2 consistent or inconsistent with your understanding of
3 what had happened during the 12th refueling outage
4 when you got this in June of 2001?

5 A That was exactly what I was under the
6 impression we had done.

7 Q Was there any discussion at the time that
8 this document was circulated and given to you for your
9 approval about whether this representation about the
10 head being cleaned was true?

11 A I'm not sure I understand that question.

12 Q I can't imagine why you would have.

13 (Laughter.)

14 In June of 2001, when this document was
15 brought to you for your approval --

16 A Correct.

17 Q -- was there any discussion about whether
18 or not the statement about the head having been
19 cleaned was accurate or not?

20 A No, there wasn't.

21 Q Let's move to Staff 32. We're now in July
22 of 2001. Do you recall Mr. Goyal testifying about
23 this document yesterday?

24 A Yes, I do.

25 Q Do you see your name on the list of

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1 recipients?

2 A Yes, I do.

3 Q Did you have any conversation with Mr.
4 Goyal about this document in July of 2001?

5 A No, I did not.

6 Q The line about "100 percent inspection,
7 which is not correct," was that consistent or
8 inconsistent with your understanding of what had been
9 found going into the 2000 outage?

10 A I've got to be honest. When I would have
11 gotten this, I don't necessarily know that I really
12 did any kind of evaluation of it. I mean, I knew that
13 we had flange leakage when we went into that outage.
14 Beyond that, I didn't have any really in-depth
15 knowledge of the inspection, and that's why, you know,
16 I viewed this as a request from Prasoan Goyal to
17 Andrew to fill in the data table that was needed by
18 the MRP.

19 Q Why Andrew?

20 A I assume because Andrew is the Reactor
21 Coolant System Engineer responsible for maintaining
22 all the records of the head inspections.

23 Q What is the significance to you, if any,
24 of the list on the cc line?

25 A I view that as that is all of the

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1 supervisors, the managers, over the two individuals
2 exchanging the e-mail.

3 Q Do you know why you were copied on this
4 document?

5 A I would guess only because I was Prason's
6 manager. Probably the same reason that Dave Eshelman,
7 who was Andrew's manager.

8 Q Do you know what the table is that is
9 attached?

10 A Yes. I believe that's the table that was
11 used by the MRP for developing their risk-significance
12 profile.

13 Q Okay.

14 JUDGE TRIKOUROS: Mr. Geisen, was that the
15 only e-mail of the -- all the ones we just saw that
16 you hadn't seen? It seems like you saw the others,
17 right?

18 THE WITNESS: I'm not saying that I didn't
19 see it, Your Honor. I'm just saying I don't recall
20 ever doing anything with it. I mean, it appeared as
21 though it was --

22 JUDGE TRIKOUROS: It didn't register with
23 you at all.

24 THE WITNESS: Well, no, I -- if I --
25 looking at -- I don't remember it first hand, but with

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1 how I viewed things back then I would have just viewed
2 it as a communication between Prasoon and Andrew
3 asking for Andrew to do some work. And I look at the
4 people that are cc'd on that, and it just seems to
5 make sense that if you're going to ask somebody in a
6 different department to do work, you would cc their
7 bosses.

8 JUDGE TRIKOUROS: Were you aware at the
9 time that -- that's the table that went -- eventually
10 went to the staff, right?

11 THE WITNESS: No, Your Honor. I believe
12 this is a data table that the MRP was using to come up
13 with their risk profile. I might be wrong on that,
14 but that was my impression of what this was.

15 MR. WISE: Your Honor, this is page 5 of
16 7 of that document.

17 JUDGE TRIKOUROS: Oh, I'm sorry.

18 MR. WISE: I believe it is the attachment.

19 JUDGE TRIKOUROS: I'm familiar with this.

20 This is information being provided to --

21 THE WITNESS: Correct. Back to the MRP.

22 BY MR. WISE:

23 Q And your take was that Mr. Goyal was on
24 the MRP, and Mr. Siemaszko was the one who had done
25 the inspection.

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1 A Correct.

2 Q And that was the purpose of the e-mail
3 exchange.

4 A Correct.

5 JUDGE TRIKOUROS: That's fine. I have no
6 question on it.

7 BY MR. WISE:

8 Q Okay. Let's go to 33. Do you recognize
9 this document, Mr. Geisen?

10 A Yes. This is another trip report that Mr.
11 Goyal spoke to earlier.

12 Q Let me pull down the first page that
13 doesn't have the sticker. Do you recall having any
14 conversation with Mr. Goyal about this document?

15 A No, I don't.

16 Q Okay. Let me ask you to turn to the first
17 bullet point under the topic "Lessons Learned for
18 Davis-Besse." This, I take it, refers to the
19 modification that Mr. Goyal spoke about.

20 A Yes.

21 Q And had proposed.

22 A That would be correct. That's how I would
23 take it.

24 Q In July of 2001, were you involved in any
25 discussions about technology that would be used in the

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1 upcoming inspection?

2 A Yes. We had had -- I say "we" -- myself,
3 I had had a side bar conversation during one of our
4 owner's group meetings with the representative from
5 Arkansas. And he had mentioned that they were using
6 a new technology for doing their inspections, which
7 was a robotic rover that would take the camera -- it
8 actually had some sort of magnetic wheels on it, so
9 that it could actually crawl up on the head, had a
10 very relatively low profile. It would fit through the
11 mouse holes and -- or the weep holes, and they could
12 get in there and do a good video.

13 That was Arkansas' ANO-1's approach how
14 they were going to do going forward -- do their
15 inspections. It sounded like a very reasonable
16 approach, and so I actually funded out of my design
17 engineering budget, because plant engineering didn't
18 have the money left in their budget for the year, I
19 actually funded buying a rover, so that Systems
20 Engineering could have that available for their
21 inspection in 2002.

22 And I, along with the individual from
23 Arkansas, entered into a gentleman's agreement to make
24 each other's rovers available for spares in the event
25 the other one broke. And so we were -- I don't know

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1 if that answers your question, but that's what we were
2 looking at for an improved inspection technique. And
3 that was the inspection technique that we used in
4 2002.

5 Q Do you know if Arkansas ever used the
6 rover?

7 A My understanding is, yes, they did.

8 Q And when is your understanding that they
9 used that rover?

10 A During their spring outage of 2001.

11 Q And was there anyone from Davis-Besse that
12 you understood had observed that inspection?

13 A Yes. Andrew Siemaszko was sent to
14 Arkansas to learn from their inspection and
15 participate in their inspection.

16 Q What was your understanding of how
17 Arkansas compared to Davis-Besse in terms of
18 configuration?

19 A They were almost identical.

20 Q As you look at this document, and the
21 first bullet point, was it your belief that the rover
22 would enhance the ability to inspect the head?

23 A Yes.

24 Q What would --

25 A It was my opinion that using the rover

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1 would have actually probably negated the need for the
2 service structure access holes.

3 Q On the first day of the hearing, Mr.
4 Holmberg demonstrated with the stick and the model the
5 inability to get the camera to the top of the head.
6 In 2001, what was your understanding about the ability
7 to access the head through the method -- well, let me
8 ask you this first. Did you know what method was used
9 in the prior inspections to inspect the head?

10 A At the time, no. I was under the
11 impression that we were just using a camera on the
12 stick.

13 Q And did you have any --

14 A At the timeframe that this e-mail was --
15 or letter was coming out.

16 Q And did you have any understanding about
17 what limitations, if any, that method created?

18 A Yes. I believe there was discussion that
19 there was a -- that you just couldn't get up and
20 around like you wanted to, which is why we were
21 looking at the rover as an option.

22 Q Was there any sense that there were parts
23 of the head that were entirely inaccessible on your
24 part? Did you believe that?

25 A No.

1 Q Had you been involved in discussions about
2 the success of past inspections in July of 2001?

3 A No, I wasn't.

4 Q Turn to Staff's 34.

5 JUDGE TRIKOUROS: Before you put that
6 away --

7 MR. WISE: Yes.

8 JUDGE TRIKOUROS: -- sorry to --

9 MR. WISE: No, that's fine.

10 JUDGE TRIKOUROS: The rover that was used
11 at ANO-1, was that moving on a clean, relatively
12 pristine reactor vessel head, do you know?

13 THE WITNESS: That was my assumption, yes,
14 sir, it would be. So that you'd get the magnetic
15 wheels to actually adhere.

16 JUDGE TRIKOUROS: Because the -- you just
17 mentioned that the rover might be a replacement for
18 the service structure modification, or that was your
19 thought.

20 THE WITNESS: Yes, sir.

21 JUDGE TRIKOUROS: If there were -- in the
22 previous outage there were excessive deposits on the
23 head, would the rover be able to function to do a head
24 inspection in the event that the head in 13RFO looked
25 like 12? Was there any discussion about that?

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1 THE WITNESS: I don't remember any
2 specific discussion about that. I mean, I think from
3 -- my own internal viewpoint at that time was that I
4 was operating under the premise that we had cleaned
5 the head, and that we would be driving this rover over
6 a clean head, and that, you know, if we found any
7 boron that, for instance, obscured the travel of the
8 rover, we were going to be into a different type of
9 inspection anyways.

10 JUDGE TRIKOUROS: Right. So you'd be back
11 to using the weep holes.

12 THE WITNESS: No. I -- what I'm getting
13 by that is that if -- if we went in, knowing that we
14 had a clean head to start with, if we went in and we
15 found big piles of boron on -- boron in there that
16 prevented the progression of that rover, we would
17 probably be into going in and doing some sort of NDE
18 type of inspection on the nozzles to get that
19 inspection done. So, I mean, that was my thinking at
20 the time.

21 BY MR. WISE:

22 Q Did you have an understanding -- I'm
23 sorry, Your Honor. Go ahead.

24 JUDGE TRIKOUROS: Go ahead. Okay.

25 MR. WISE: No, please go ahead.

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1 JUDGE TRIKOUROS: Are we going to be
2 getting to when this modification was terminated? Is
3 it still on the books as of July 12, 2001?

4 THE WITNESS: My understanding is it was,
5 yes, sir.

6 JUDGE TRIKOUROS: Okay. Are we going to
7 be talking about this at some point, or should I ask
8 something now?

9 MR. WISE: You can ask now.

10 JUDGE TRIKOUROS: Do you have any feel for
11 when this modification was terminated? And were you
12 involved in that discussion and what the reasoning for
13 it was?

14 THE WITNESS: I don't believe that the
15 modification was ever officially terminated. It was
16 scheduled for 13RFO, and my understanding is it got
17 rescheduled to 14RFO and based on the assumption that
18 we could do inspections. But I believe, then, when we
19 found the hole in 2002, it immediately got elevated
20 back to that existing outage of 13RFO.

21 My recollection is that it never actually
22 got cancelled. It just got moved around, so I'd have
23 to go and check that.

24 JUDGE TRIKOUROS: All right. I think that
25 we may have some testimony from Mr. Gibbs that

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1 indicates that it was no longer -- that he expected to
2 see it as a viable -- on the viable mod list, but that
3 it wasn't there.

4 THE WITNESS: Okay.

5 JUDGE TRIKOUROS: So, but to your
6 recollection, this was never actually terminated. It
7 was just deferred.

8 THE WITNESS: That was my understanding,
9 yes, sir. I may be wrong on that. I mean, it's --
10 we're talking seven years ago, so --

11 BY MR. WISE:

12 Q Part of Judge Trikouros' first question I
13 believe was based on the fact that you had found, or
14 at least through the red photo, there was clearly an
15 excessive amount of flange leakage as you went into
16 the 2000 outage, correct?

17 A Correct.

18 Q Was there some sense on your part that
19 that was unlikely to repeat itself in 2002?

20 A Certainly, because we had gone in and
21 cleaned the head, and we had done flange work. And I
22 think one of our historical -- at least from my
23 understanding is the historical problem that we had
24 with flange leakage constantly recurring was that we
25 never really fixed it right.

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1 And so, in 2000, there was -- we were
2 going to go in and actually machine the steam cuts
3 away to actually fix it right. And so internally I
4 didn't expect there to be a continued repeat problem.

5 JUDGE TRIKOUROS: So in July of 2001,
6 could you give me a sense of where this problem, this
7 issue with the head, was on your plate so to speak?
8 You know, these types of proceedings tend to elevate
9 this to a level that is perhaps unreal. You know,
10 where were you in July 2001 in terms of other
11 projects, things that were going on? Could you give
12 me a sense of that?

13 THE WITNESS: I don't necessarily know
14 that I can give you a short answer to that. I can
15 tell you that --

16 JUDGE TRIKOUROS: And, certainly, July
17 through --

18 THE WITNESS: Correct.

19 JUDGE TRIKOUROS: -- you know, the
20 August --

21 THE WITNESS: Well, what had happened in
22 -- I mentioned earlier that there were a lot of issues
23 with design engineering when I took over. I had
24 gotten, at the request of Mr. Campbell, some outside
25 help, which I will -- which is another way of saying

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1 that I had people come in and critique how we were
2 doing business and come up with a laundry list of
3 things that needed to be fixed or suggestions.

4 In the fall of 2000, we kicked off -- I
5 kicked off in my department a -- a big improvement
6 program. We had a device or a program put together
7 that was called the DBAR, which was the Design Basis
8 Assessment Report, which was a series of performance
9 indicators, tracking improvement initiatives that we
10 had put together for all of those things that my group
11 had been raked over the coals with by the previous
12 INPO evaluation, as well as this help I was getting.

13 And that was a fairly extensive project.
14 It involved things like design calculation
15 reconstitution, a complete revamping of how we did a
16 lot of our calcs, as well as a calculation -- doing a
17 lot of calcs over again, reconstituting those. So
18 there was a lot of that effort going on with the end
19 date looming in August when the INPO evaluation team
20 was coming back in.

21 And they had -- obviously, they had been
22 in several years earlier. And when I had taken over
23 as the Design Manager, nothing had been really
24 completed along the lines of what they recommended our
25 shortfalls were. We had kicked off a design

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1 reconstitution, but it had gone nowhere. There was no
2 progress made on it.

3 So that was probably the biggest focus
4 that summer was getting ready for that. I mean, I'll
5 be honest, based upon the feedback that I had gotten
6 from Mr. Campbell in the fall of 2000 that point blank
7 said that we will not have another one of these
8 evaluations, and this is your first and last strike.

9 So, you know, the pressure was on. We
10 either did well in that INPO evaluation in August or
11 I was going to be out of a job. So it would be honest
12 to say that that was my focus that summer. That,
13 coupled with the fact that the outage for -- the 2002
14 outage was looming.

15 And one of the things I had put into place
16 was a drop-dead date of nine months prior to the start
17 of that outage all modifications had to be completed.
18 Excuse me, all modifications proposed freeze date --
19 in other words, you couldn't identify any other mods
20 past that nine-month mark. Initially, it was 12
21 months, and I got a lot of kickback on that, so we
22 moved it to nine months.

23 So that point had hit, and we had put
24 together an attack list, because I had to have all of
25 the mods -- all of the modifications on the street

1 ready to implement six months ahead of time, so that
2 we gave our materials people, our purchasing people,
3 a six-month lead time on the parts and stuff. So that
4 was --

5 JUDGE TRIKOUROS: And six months was
6 roughly September timeframe?

7 THE WITNESS: Correct. So I think it was
8 actually the end of September was the six-month mark.
9 So that was the biggest thing that was occupying my
10 focus.

11 JUDGE TRIKOUROS: Okay. So you were
12 dealing with a situation in which the Vice President
13 had told you that "there won't be any failure in this
14 department, any -- it has got to get in shape"?

15 THE WITNESS: Yes. The honeymoon was
16 over.

17 JUDGE TRIKOUROS: You had an INPO audit
18 coming up, which was critical to your success in that
19 position, did your normal functioning with four
20 different departments, four different groups, under
21 your tutelage.

22 THE WITNESS: Five. Five, Your Honor.

23 JUDGE TRIKOUROS: And you were -- this is
24 the first time that you were the manager for an
25 outage, where you were the manager responsible for the

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1 work packages to be -- the mod packages to be prepared
2 for an outage.

3 THE WITNESS: That's correct, Your Honor.

4 JUDGE TRIKOUROS: Was there anything else
5 going on at that time?

6 THE WITNESS: I'm sure there probably was
7 a few things.

8 JUDGE TRIKOUROS: Okay. All right. I
9 just wanted to get a perspective on that. That's all.
10 Thank you.

11 JUDGE FARRAR: Mr. Wise -- Mr. Geisen,
12 what's a TAC list? You said you were preparing a TAC
13 list.

14 THE WITNESS: I think I meant to say an
15 attack list.

16 JUDGE FARRAR: Attack, A-T-T-A-C-K.

17 THE WITNESS: Yes.

18 JUDGE FARRAR: Okay.

19 THE WITNESS: What order I would attack
20 these things in.

21 JUDGE FARRAR: Fine. I thought it was an
22 acronym.

23 THE WITNESS: Sorry.

24 JUDGE FARRAR: Mr. Wise, were you going to
25 examine Mr. Geisen about INPO to any great extent?

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1 MR. WISE: I was. But let me get one
2 document -- through one document, and then I'll --

3 JUDGE FARRAR: No. I was going to ask
4 some questions. But if you're going to cover -- I was
5 going to follow up on Judge Trikouros. But if you're
6 going to cover it, I'll --

7 MR. WISE: I actually think -- it doesn't
8 matter which order we do it. So I think we should --
9 why don't we do it now.

10 JUDGE FARRAR: Me or you?

11 MR. WISE: You.

12 (Laughter.)

13 JUDGE FARRAR: If I remember right from my
14 previous incarnation, INPO was created after Three
15 Mile Island?

16 THE WITNESS: Yes, Your Honor.

17 JUDGE FARRAR: And there was a point at
18 which, when I was following it, the industry
19 leadership -- or am I right that the industry
20 leadership credited INPO and its work with the plants
21 as dramatically improving the safety and operability
22 of the nation's nuclear fleet?

23 THE WITNESS: That's correct, Your Honor.

24 JUDGE FARRAR: So when Mr. Campbell said,
25 "This is a big deal" -- and this is how you learned

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1 from your peers somebody else had a best practice, you
2 had learned about it, and you would do better.

3 THE WITNESS: That's correct, Your Honor.
4 The -- I guess the mantra behind INPO -- keep in mind
5 that INPO is staffed all by personnel from the
6 powerplants that are -- there is a few full-time
7 employees, but the majority of them are on an 18-month
8 rotation of assignment, on loan. They call them INPO
9 loanees.

10 Their mantra is if you're doing something
11 better than anyone else is doing, it's an industry
12 best practice the first time they come around. If the
13 second time they come around you are doing the same as
14 everyone else, and there may be best practices out
15 there, you should be evaluating adopting those.

16 If they come around the third time and
17 there is a best practice out there that you haven't
18 adopted, you are now behind the times. So the
19 expectation is is once something -- once they identify
20 an INPO best practice, you basically have a -- I call
21 that a one inspection period grace time to implement
22 it.

23 If it goes to the second time and you
24 haven't implemented it, you get some serious comments
25 made and can get evaluated poorly. And we had

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1 received that on our previous INPO evaluation as --
2 they usually refer to it as either -- you are either
3 improving or constant or declining, and you never want
4 to be evaluated as declining and we were in a couple
5 of areas.

6 JUDGE FARRAR: And Mr. Campbell's interest
7 in this, then, would not have been just to avoid the
8 embarrassment of a bad grade. This is really how you
9 -- how in the industry you all improve safety and
10 reliability. I mean, so this was not a paper exercise
11 that you wanted to pass so you --

12 THE WITNESS: No, Your Honor.

13 JUDGE FARRAR: -- could tell your Board of
14 Directors; this was your life's blood of how --

15 THE WITNESS: That's exactly correct, Your
16 Honor.

17 JUDGE FARRAR: -- you ran the facility.

18 THE WITNESS: And, actually, the INPO
19 evaluation permeates into a lot of other evaluations.
20 I believe the NRC uses it, you know, as some -- as
21 their input is deciding what things they are going to
22 -- what inspections they are going to do.

23 It is definitely used I think in
24 determining what your insurance rating is with the
25 nuclear insurance. So, from that standpoint, it

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1 actually has a bottom dollar effect on the
2 corporation, because their insurance rates may go up
3 if they do poorly. At least that's my understanding.
4 That's above my paygrade, so I didn't really get
5 involved with it. But that was my understanding.

6 JUDGE FARRAR: Okay. Thank you.

7 And feel free to elaborate, Mr. Wise.

8 MR. WISE: Thank you.

9 BY MR. WISE:

10 Q If you could just tell the Board when the
11 INPO site visit occurred in 2001.

12 A The INPO site visit occurred -- I'm not
13 sure exactly when they came onsite. I believe it was
14 right around the beginning of September. And I know
15 when they exited, because that day is burned into my
16 memory. That was on the 28th of September.

17 Q Just as a teaser for the Board, what
18 happened that day?

19 A Well, the 28th of September, it was a
20 Friday, all the managers were in. I remember it being
21 a Friday, because were on a 4/10 work schedule, so we
22 didn't normally work Fridays. But it was the exit day
23 for INPO, so that morning we had had our exit. And it
24 went well. It was very -- it was a good exit, so that
25 was good.

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1 We expected Mr. Campbell to be in a really
2 good mood. Unfortunately, Mr. Campbell came in --
3 into the conference where we were at and was not in a
4 very good mood because that was the day that the NRC
5 had contacted Mr. Saunders. Specifically, Dr. Sheron
6 had contacted Mr. Saunders and told him that he felt
7 we needed to shut down.

8 I'm going on too much, aren't I?

9 Q That wasn't a teaser. That was Moby Dick.

10 A Okay. Sorry.

11 (Laughter.)

12 Q We'll get back to that. I want to show
13 you a couple of documents before we do.

14 A Luckily these minutes are being recorded
15 instead of having to type them.

16 Q Staff's 34. Take a look at it. Starting
17 in the middle of the document, can you tell me what
18 this appears to be?

19 A Well, it looks like Prason had an e-mail
20 out there, and it was forwarded by Frank Kennedy to
21 Rod Cook.

22 Q What does the e-mail say, Mr. Goyal's
23 e-mail?

24 A Mr. Goyal's portion, "It appears the NRC
25 is looking for plant-specific information or info.

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1 This would create a difficult situation for us when
2 they review our past inspection results."

3 Q Were you on this e-mail?

4 A No, I was not.

5 Q Did you talk to Mr. Goyal about this
6 e-mail?

7 A No, I did not.

8 Q Any idea what concern he is talking about
9 in -- when you -- back in August of 2001, any idea
10 what he is talking about?

11 A No, I don't.

12 JUDGE FARRAR: What is the date on that?

13 MR. WISE: August 8th.

14 BY MR. WISE:

15 Q Staff's 35. Can you tell the Board what
16 that is?

17 A A very brief e-mail.

18 Q From who to who?

19 A From Prasoon to Andrew and John Cunnings,
20 who -- during this timeframe John Cunnings would have
21 been Andrew's immediate supervisor.

22 Q The subject of the document?

23 A The NRC Bulletin.

24 Q Do you recall as you sit there right now,
25 when Bulletin 2001-01 was issued?

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1 A The 4th of August.

2 Q In August 2001, did you have any
3 involvement in the drafting of the response to
4 Bulletin 2001-01?

5 A No, I did not.

6 Q What is your understanding now about who
7 was heading up that effort?

8 A Rod Cook was assigned by Licensing as the
9 response drafter. And he was eliciting input from
10 numerous employees.

11 Q Including who, if you know?

12 A Well, I know a lot now. Obviously, Andrew
13 Siemaszko, Prason Goyal, Mark McLaughlin. I believe
14 Framatome had some parts to it.

15 Q I'm going to show you Staff's 36. Do you
16 recognize that document?

17 A Yes, I've seen it before.

18 Q Do you recall receiving it in August of
19 2001?

20 A No, but I don't doubt that I did.

21 Q I take it from the meeting list that you
22 agree you were not in attendance at the meeting?

23 A That's correct.

24 Q Take a look at the third paragraph of the
25 text.

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1 A The one that starts, "I indicated"?

2 Q Yes.

3 A Okay.

4 Q Did you have any discussion with Mr. Goyal
5 in August of 2001 about this issue of the mouse holes?

6 A No.

7 Q Did you have any discussion with Mr.
8 Siemaszko about that issue?

9 A No.

10 Q I think I've asked you this already, but
11 forgive me, did you have any discussion with Mr. Goyal
12 about this particular e-mail?

13 A No.

14 Q Or about this meeting?

15 A No.

16 Q Other than having seen it during the
17 course of this case, do you have any recollection of
18 what this e-mail was referring to?

19 A Just based on the content in the e-mail I
20 can surmise what it's about.

21 Q The idea that Mr. Goyal was speaking about
22 the potential modifications, would that have been
23 noteworthy to you at the time?

24 A No, it wouldn't have. I knew that that
25 was a modification he had -- had a lot of sentimental

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1 value to him I guess.

2 Q Let me show you Staff's 39. Do you
3 remember Mr. Goyal testifying about this document?

4 A Yes, I do.

5 Q Did you have any discussion with him about
6 it?

7 A No.

8 Q Do you recall talking to him about the
9 subject matter contained in it?

10 A No.

11 Q The line at the end of the first
12 paragraph, the second-to-the-last line where it says,
13 "Is it possible to go back to '98? That is when a
14 good head exam was done with no nozzle leakage,
15 meaning not taking any credit for 2000 inspection."
16 As you sit here today, recalling what your state of
17 knowledge was in August of 2001, would that sentence
18 have caused you any concern?

19 A No, I would have just -- looking at the
20 sentences before that, I would have probably evaluated
21 that as looking at when we can do our starting point
22 for our crack propagation model.

23 Q Why could you not take any credit for the
24 2000 inspection?

25 A Because it was nozzle leakage, and

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1 specifically at the top of the head there were several
2 flanges that had leaked.

3 Q Did you know that in August of 2001?

4 A That we had had flange leakages in 2000?

5 Q Yes.

6 A Yes, I knew that.

7 Q I'm going to walk you through a series of
8 documents quickly that are Geisen 1 through 12. I
9 want you to tell me what they reflect and whether you
10 were on them.

11 A This one is -- it looks like, once again,
12 it's -- Prason generated it to, based on the names
13 that I see there, people that were probably individual
14 contributors to the bulletin response. And it looks
15 like then it was forwarded from Frank Kennedy to Rod
16 Cook.

17 Q Who is Frank Kennedy?

18 A Frank Kennedy is in Licensing.

19 Q And who is Rod Cook?

20 A He was a contractor in Licensing.

21 Q What were their roles in the bulletin?

22 A I may have misspoke on that one there. I
23 said bulletin, but if I look at it he is actually
24 talking MRP.

25 Q Geisen 2. Do you recall what this is?

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1 A I think you showed that to me earlier.
2 I'll use my same response -- a very short e-mail.

3 Q Short e-mail that attaches what?

4 A Looks like some sort of response to some
5 sections of the bulletin. I'm assuming, based upon
6 the first page of that e-mail, that these are
7 something that Prason was working on.

8 Q Were you privy to these exchanges?

9 A No, I was not.

10 Q Did Mr. Goyal come discuss with you any
11 concerns about the exchanges?

12 A No, he did not.

13 Q Did Mr. Siemaszko come talk to you at any
14 point about the content that went into 2731?

15 A No, he did not.

16 Q Did Mr. Cook come to talk to you about it?

17 A No, he did not.

18 Q Did there come a time that Mr. Cook
19 brought you a draft of 2731?

20 A Yes, he did, sometime -- sometime towards
21 the tail end of August, I believe.

22 Q What happened when he brought you the
23 draft?

24 A I didn't have time to look at it right
25 away, so it -- I think it sat in my in basket. And

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1 like within five, six hours, he came back with another
2 one and -- a revised draft or whatever, and I told
3 him, I said, you know, I would look at the finished
4 product as part of the green sheet review.

5 Q Why was he bringing --

6 A I think what he was trying to do, based
7 upon what he initially said when he dropped it off --
8 I don't remember if I talked to him or whatever, but
9 my -- what I do remember was the purpose of the draft
10 was like a heads up that the green sheet is coming,
11 and we've got to have this signed off in a relatively
12 short timeframe, so let's get a head -- you know,
13 let's start reviewing it.

14 Then, he turned around with a revised
15 draft, before I even got a chance to review the first
16 one. So I basically told him, I said, "Well, just --
17 I'll review the finished product when it's ready to be
18 signed."

19 Q Did Mr. Cook give you any indication that
20 there was tension or disagreement about the content
21 that was going into the letter?

22 A No. I just got the impression they were
23 running down to the wire when the letter was due.

24 Q Did Mr. Goyal ever come to you and suggest
25 that he had concerns that there was language in the

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1 letter that he did not agree with?

2 A No, he did not.

3 Q Did he ever come to you with a concern
4 that Mr. Siemaszko and Mr. Cook were forcing him to
5 put something in there that he believed was untrue?

6 A No, he did not.

7 Q Geisen 3. Are you on this one?

8 A No, I'm not.

9 Q Geisen 4. Are you on this one?

10 A No, I'm not.

11 Q Geisen 5. Are you on this one?

12 A No, I'm not.

13 MR. WISE: Your Honor, rather than walking
14 through all 12, which I'm sure is very exciting to the
15 Board, let me move on, because the Board has, I
16 believe, all of the documents in front of it.

17 BY MR. WISE:

18 Q When was the first time that you became
19 involved in the approval process for 2731?

20 A That would have been the 28th of August
21 when I got the final document for green sheet review.

22 Q And what did you do when you did your
23 green sheet review of this document?

24 A I read through the whole thing, made sure
25 that it made sense to what I knew. I reviewed people

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1 that -- looked to see who had reviewed it, made sure
2 that the appropriate worker-level individuals had
3 reviewed and agreed and had signed off on it.

4 Q Who from your department had been working
5 on input to the serial letter?

6 A Prason Goyal.

7 Q When you signed the green sheet -- let me
8 ask you this. How many times have you signed the
9 green sheet for 2731?

10 A I signed it for myself on the 28th, and
11 then Rod came back to me on the 30th to have me sign
12 for Steve Moffitt, because Steve was gone -- I believe
13 that was his sequester week for the INPO evaluation.
14 Steve was the -- he was my boss, so I was signing for
15 him, and he was being sequestered because he was the
16 site -- I don't remember what -- the title they call
17 it, the site peer evaluator for INPO. So he was
18 actually part of the INPO team for that week or for
19 that evaluation, and the week before they start I
20 think they get sequestered.

21 Q When you signed it on your behalf as
22 manager of Design Basis Engineering, what did you
23 check before you signed it?

24 A That all of the appropriate managers that
25 report to Steve had approved it.

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1 Q No. I mean, when you signed it as Design
2 Basis Manager.

3 A I'm sorry. I thought you meant as Steve.

4 Q When you signed it for yourself.

5 A Like I said, I looked over it to make sure
6 that it -- technically, it made sense to what I knew.
7 And I also verified that the appropriate people that
8 I felt should have been the individual contributors to
9 it had signed off on it.

10 Q And when you signed off for Mr. Moffitt,
11 what did you do?

12 A I verified that the appropriate
13 disciplines that report to Mr. Moffitt, those managers
14 had signed off on it and had approved it.

15 Q You now know, I take it, that your green
16 sheet responsibilities included verifying the
17 technical accuracy of the document, correct?

18 A Definitely.

19 Q Did you take any additional steps beyond
20 reading it and checking to make sure that the relevant
21 people had had input to verify the technical
22 information in the document?

23 A No. I wish I had.

24 Q When you signed the green sheet, both for
25 yourself and for Mr. Moffitt, did you have any sense

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1 that any of the content in the letter was inaccurate?

2 A No.

3 Q Misleading?

4 A No.

5 Q False?

6 A No.

7 Q Unfounded?

8 A No.

9 JUDGE FARRAR: Mr. Wise, you had a
10 question there that I didn't quite follow. You said
11 -- it sounded like you were asking, "Do you now know
12 that you had more responsibility -- that your initials
13 meant more than they did at the time?" Can you -- I
14 kind of missed the significance of that.

15 MR. WISE: Sure.

16 JUDGE FARRAR: Can you --

17 MR. WISE: I understand.

18 JUDGE FARRAR: -- rephrase the --

19 MR. WISE: I'm sorry, Your Honor.

20 JUDGE FARRAR: I heard the question, I
21 heard the answer, but I'm not sure what it means.

22 BY MR. WISE:

23 Q During the course of the litigation of
24 this case, I take it, you have read the back of the
25 green sheet and what it tells signatories that their

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1 responsibilities are, correct?

2 A Correct.

3 Q And one of the responsibilities for a
4 manager is to verify the technical accuracy, correct?

5 A Correct.

6 Q At the time that you signed the green
7 sheet, had you gotten any training in what your
8 responsibility was?

9 A No. I believed when I signed it I was --
10 I was doing a good review. I don't believe that's the
11 case now, but I believed at the time I was doing a
12 good review.

13 JUDGE HAWKENS: In retrospect, how would
14 you have reviewed the technical accuracy?

15 THE WITNESS: Well, in retrospect, you
16 know, I subsequently went on to a different powerplant
17 after I left Davis-Besse. And I have seen a
18 completely different way of how they do their reviews,
19 where they actually assign a technical reviewer that
20 does a line-by-line verification and, you know, that
21 this came from this point.

22 You know, everything in there is
23 identified, exactly where it comes from, and that
24 person has a huge amount of responsibility, versus the
25 shotgun approach that we were doing at Davis-Besse

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1 where you just put all kinds of people's names on the
2 green sheet and hope we catch everything. Just --
3 it's just not the right way to do it. I just didn't
4 know any better at the time.

5 JUDGE TRIKOUROS: Well, what you're
6 describing is an organizational difference between the
7 powerplant you went to and the powerplant you were at.

8 THE WITNESS: That's correct. I think,
9 though, that Davis-Besse has subsequently changed how
10 they do their technical reviews.

11 JUDGE TRIKOUROS: I'm sorry. Say that
12 again.

13 THE WITNESS: I believe, as a result of
14 this, Davis-Besse has subsequently changed how they do
15 their technical reviews. At least I would hope so.

16 JUDGE FARRAR: Thank you, Mr. Wise. I
17 think that clarifies that point.

18 MR. WISE: Thank you, Your Honor.

19 BY MR. WISE:

20 Q Mr. Goyal testified yesterday about an
21 e-mail that he sent after he had signed the green
22 sheet raising some concerns about things that he
23 believed management needed to know. Do you recall his
24 testimony on that?

25 A Yes, I do.

1 Q Did you receive that e-mail?

2 A No, I don't believe I did.

3 Q Did he ever speak to you about his
4 concerns that were raised in the e-mail?

5 A No, he did not.

6 Q Did Mr. Swim ever come to you with
7 concerns that Mr. Goyal had?

8 A Not that I recall.

9 Q What was the next thing that happened in
10 relation to the bulletin?

11 A September 28th.

12 Q Okay. You've given the Board some sense
13 of the lead-up. Tell the Board what you recall about
14 the content of the conversations that occurred that
15 day.

16 A Well, as I mentioned, we were debriefing
17 the -- INPO had just done their exit that morning, and
18 the managers were still caucused together debriefing.
19 Although it was more of a celebratory debrief versus
20 anything else, because we had done well on it.

21 Mr. Campbell came in, and I'm not sure of
22 the exact sequence, but basically Mr. Moffitt got
23 involved, Mr. Lockwood got involved, and Mr. Moffitt
24 designated me to go in his stead with Mr. Campbell,
25 because Mr. Moffitt, being the peer evaluator, had to

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1 finish wrapping up the INPO debrief.

2 The gist of it was is that we had gotten
3 a phone call that -- Mr. Saunders had gotten a phone
4 call, the President of FENOC, from Dr. Sheron at the
5 NRC saying that we should shut down. And, obviously,
6 Mr. Saunders was, based upon --

7 JUDGE FARRAR: Shut down right then or
8 shut down December?

9 THE WITNESS: I don't necessarily know
10 that there was any kind of further detail other than
11 that. It just -- I just know that Mr. Campbell was a
12 little spun up at that point, because his boss,
13 obviously getting blindsided by this, called him. And
14 I --

15 JUDGE FARRAR: Right.

16 THE WITNESS: -- didn't have to be a fly
17 on the wall to imagine how that phone call went. But
18 -- so there was this immediate concern of, okay,
19 what's going on? And so that was the focus, and it
20 was -- Mr. Lockwood was I guess assigned the lead to
21 set up a conference call with the appropriate people
22 at the Commission to find out what's going on and try
23 to get some more details, because it really -- it
24 blindsided us.

25 JUDGE FARRAR: When did you sign the green

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1 sheet?

2 THE WITNESS: I signed for myself on the
3 28th of August, and for Mr. Moffitt on the 30th of
4 August.

5 JUDGE FARRAR: And then, after that, the
6 response to the bulletin went in, and that was
7 September 4th, and now we have a gap of 24 days. In
8 that time, nothing -- did anything happen related to
9 the bulletin or the response that you recall?

10 THE WITNESS: No, Your Honor.

11 JUDGE FARRAR: Okay.

12 THE WITNESS: But we did have an INPO
13 evaluation during that timeframe.

14 JUDGE FARRAR: Right. Okay.

15 BY MR. WISE:

16 Q On the 28th of September, was there a next
17 event set?

18 A Yes. We were going to have a conference
19 call set up. I don't know that we -- if we firmed up
20 the actual -- how much of the details. But there was
21 then a pre-meeting that was established on the 2nd to
22 figure out what we were going to say to the NRC and
23 what questions we were going to ask.

24 Q Did you have a defined role before the
25 October 3rd conference call in what you were going to

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1 be doing going forward on this issue?

2 A No.

3 Q The pre-conference call preparation
4 meeting, how many of them were there, if you recall?

5 A I know there was at least one. I don't
6 recall the specifics. I know there was at least one,
7 because I have subsequently seen handwritten notes and
8 stuff of that one.

9 Q How many people were involved from Davis-
10 Besse's side in preparing for the October 3rd call?

11 A There were probably a dozen, dozen and a
12 half people.

13 Q What did you do in particular in
14 preparation for October 3rd?

15 A Reviewed our submittal, 2731.

16 Q As you reviewed it in preparation for the
17 call, was there anything in the submittal that caught
18 your attention?

19 A No.

20 Q Anything that struck you as untrue?

21 A No.

22 Q In the preparation meeting on October 2nd,
23 was there any expression of concern about the accuracy
24 of the submittal?

25 A No. There was just a lot of curiosity as

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1 to -- I think the biggest underlying question in our
2 mind was, you know, we sent all of this information in
3 for a bulletin response. The whole rest of the
4 industry, or at least the PWR portion of the industry,
5 all sent a response in.

6 And then, we got told, okay, you need to
7 shut down. And the underlying thought in my mind was,
8 all right, what did you guys learn from that -- you,
9 the NRC, learn from that that we don't know? And I
10 was just trying to play over what we had said in our
11 2731 to see if something jumped out that -- like an
12 "ah ha" moment. And I didn't have one of those.

13 Q Were you the leader of the Davis-Besse
14 team going into the October 3rd call?

15 A No. That would have been Mr. Moffitt.

16 Q When you say that you were mulling these
17 things over, were you the lead strategist in how to
18 prepare for the call?

19 A No. The actual layout of the call I think
20 -- I would have -- I would probably have to say, the
21 way you're asking that, the lead strategist for the
22 call would probably have been Dave Lockwood. I mean,
23 he was -- he was the one that set up the meeting. He
24 was the Reg. Affairs Manager, so I think -- when
25 you're saying "strategist," I'm thinking you are

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1 talking like a talking outline or something, and I
2 think he was the one that was putting that together.

3 Q I just want to try to give the Board a
4 sense for how this kind of group collaboration worked.
5 Was everyone tasked with trying to figure out what the
6 issue was and how to get from point A to point B? Or
7 were certain people given certain specific roles?

8 A There may have been some specific roles
9 out there as far as like, who is going to establish
10 the communication link? Who is going to determine who
11 is going to be there on the other end? Those types of
12 -- the logistics of actually setting up the meeting.
13 There was discussion of that.

14 There was -- I know there was some
15 discussion over, okay, what is it that in their -- in
16 our response could have caused this response from the
17 NRC? And let's start looking at that. That was kind
18 of the general feeling. It was -- it certainly wasn't
19 a structured, you know, project plan. You're going to
20 go out and do A, B, C, and D.

21 Q Okay.

22 A I don't want to say it was a free for all,
23 but it was -- I mean, it was kind of like that.

24 Q I'm going to show you Staff's 47, and ask
25 you if you recognize what this document is.

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1 A I believe this is the discussion agenda
2 that I mentioned Mr. Lockwood was I think the author
3 of.

4 Q And this related to the October 2nd
5 meeting or the October 3rd call? If you know.

6 A I'm not sure.

7 Q Can you explain to the Board what the
8 agenda sets out and how the various points relate to
9 the names?

10 A Well, obviously, we're talking about the
11 background. That's, first, just where we are relative
12 to -- where Davis-Besse was relative to Oconee 3, both
13 in effective full power years, and I believe -- I
14 believe the 3.1 that's in there is effective full
15 power years off the susceptibility ranking versus
16 actual effective full power years.

17 Q Okay. The point under ongoing activities,
18 since bulletin response.

19 A Okay.

20 Q Give the Board some sense of what these
21 bullet points are.

22 A The next bullet -- the first bullet under
23 ongoing activities since the bulletin response is --
24 and this is something I guess Mr. McLaughlin was
25 working on with establishing what are -- doing a

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1 finite element analysis with SIA, which is -- SIA is
2 Structural Integrity Associates. That was in
3 preparation for laying out our inspection plan for
4 2002, our next outage. I mentioned that Mr.
5 McLaughlin was in charge of putting that together.

6 So I guess one of the things that we were
7 looking at there is is that if we could not have a
8 finite element analysis that said the gaps opened up,
9 then we were going to have to plan to do NDE.

10 Q What's the next bullet?

11 A Okay. The crack growth rate model.

12 Q Are these all items that were --

13 A I can't give you a whole lot of details
14 other than what the bullet says there, because I don't
15 know what was discussed.

16 Q Are these items that were going to be
17 discussed on the call?

18 A I believe that was the intent.

19 Q Let me show you the next page of this
20 document. And I want you to pay special attention to
21 the underline under "examination statistics" and the
22 phrase "Concerned that we don't have a frame-by-frame
23 review. Why not? If NRC comes or sees tapes, we are
24 wide open." Any idea whose handwriting that is?

25 A No, I don't.

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1 Q Any recollection of that being uttered at
2 a preparation meeting that you were at?

3 A Not that I remember.

4 Q As you look at that now, is that a phrase
5 that would have caught your attention had you been in
6 that meeting?

7 A Yes. I think that -- I mean, it --
8 especially the last part of it.

9 Q Why?

10 A Because it just -- it speaks -- it's kind
11 of an alarmist-type language, and it makes it sound
12 like we've got some problems.

13 Q Anybody say that in the October 3rd
14 conference call?

15 A Not that I recall.

16 Q You spoke on the October 3rd conference
17 call to the subjects of the 2000 inspection and the
18 '98 inspection, correct?

19 A In all honesty, I don't remember saying
20 anything at that meeting. However, I have reviewed
21 Mr. Miller's notes, Dale Miller's notes, and I have no
22 reason to believe that Dale Miller's notes are not
23 accurate. Also --

24 JUDGE FARRAR: Hold on, Mr. Wise.

25 THE WITNESS: I don't mean to be a cagey

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1 answer, but --

2 JUDGE FARRAR: No, that's fine. Did we
3 learn in the last couple of questions what -- we
4 didn't learn whose handwriting these notes are in.

5 MR. WISE: Right.

6 JUDGE FARRAR: Did we learn that they were
7 put on this document in the December -- in the
8 October 2nd prep meeting?

9 MR. WISE: I don't think we -- I don't
10 think we know the answer to that at all.

11 JUDGE FARRAR: And do we know whether Mr.
12 Geisen was in the October 2nd prep meeting?

13 MR. WISE: I think he recalls that he was
14 in some meetings, but it --

15 THE WITNESS: Yes.

16 JUDGE FARRAR: Okay. But you don't recall
17 anyone saying this?

18 THE WITNESS: No, I don't, Your Honor.

19 JUDGE FARRAR: And you never saw this
20 document before the October 3rd call to the NRC? Or,
21 I'm sorry, I'm leading the witness. Did you see this
22 document before the October 3rd NRC call?

23 THE WITNESS: The agendas, Your Honor,
24 or --

25 JUDGE FARRAR: No. The one with --

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1 THE WITNESS: -- the one with the
2 handwriting?

3 JUDGE FARRAR: -- with the handwriting.

4 THE WITNESS: No, Your Honor, I didn't see
5 the handwriting portion of this until we got involved
6 with this investigation.

7 JUDGE FARRAR: And what is the word after
8 "NRC"? "If NRC" --

9 THE WITNESS: I think --

10 JUDGE FARRAR: Oh, no. Not you.

11 MR. WISE: My reading is that it says, "If
12 NRC comes or sees tapes," and there clearly are --

13 JUDGE FARRAR: So there are tapes?

14 MR. WISE: -- and tapes, but I'm not sure
15 what it is.

16 JUDGE FARRAR: It's not -- yes, it's "our
17 tapes," but the word after "NRC"? "It comes"?

18 MR. WISE: I think that's "comes."

19 THE WITNESS: To me, it looks like there
20 might have been some stuff cut off by copying or
21 something.

22 JUDGE FARRAR: Yes. Okay. That's fine.
23 I'm sorry to interrupt, but it -- I wanted to make
24 sure --

25 MR. WISE: No. I think it bears to

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1 application.

2 JUDGE TRIKOUROS: Yes. Why don't you
3 finish this exhibit, but I have a number of questions
4 on -- or at least an area I'd like to explore when you
5 get done.

6 MR. WISE: Very well.

7 JUDGE TRIKOUROS: All right.

8 MR. WISE: Your Honor, I was going to go
9 into the call the next day. So I think if you have
10 questions, now would be --

11 JUDGE TRIKOUROS: Which exhibit was this
12 from?

13 MR. WISE: This is Staff 47, and it's the
14 second page of the exhibit.

15 JUDGE TRIKOUROS: This -- your exhibit?

16 MR. WISE: No, the Staff's exhibit.

17 JUDGE TRIKOUROS: Staff's Exhibit 47.

18 MR. WISE: Yes.

19 JUDGE FARRAR: Do we know yet why this
20 agenda keeps changing, one draft after another, or do
21 we not know that yet?

22 BY MR. WISE:

23 Q Do you know why it kept changing?

24 A I have no idea.

25 Q Do you know who was changing it?

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1 A I don't know whose this was or whose
2 handwriting this is.

3 JUDGE FARRAR: Oh. This is a Staff
4 exhibit.

5 MR. WISE: This is a Staff exhibit.

6 JUDGE FARRAR: Okay.

7 JUDGE TRIKOUROS: Yesterday, I asked the
8 question -- I guess Mr. Miller -- we're attributing
9 these notes to Mr. Miller, is that the idea?

10 THE WITNESS: No. Mr. Miller's was the
11 handwritten notes.

12 JUDGE TRIKOUROS: Whoever wrote this note
13 was aware that these videotapes would result in a
14 shutdown. That's how I read that note. Is that -- am
15 I reading that incorrectly?

16 MR. WISE: I think you could certainly
17 read it to say --

18 THE WITNESS: I think, in light of what
19 we --

20 MR. WISE: -- it would be problematic.

21 JUDGE TRIKOUROS: All right.

22 JUDGE FARRAR: But that could be because
23 the tapes showed dreadful stuff or the tapes don't
24 show anything, much like the 1996 tape, you couldn't
25 identify what nozzle they were looking at.

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1 MR. WISE: I think that's right. I think
2 without knowing who the author was, or what the
3 context was, it's hard to put a definitive read on
4 this.

5 JUDGE TRIKOUROS: But it's clear to me
6 that whoever wrote this was aware that the 100 percent
7 discussion in the response to the bulletin was
8 incorrect, misleading. And that if those videotapes
9 were viewed that would become evident. And I think at
10 this stage we all know that that's true. Both of
11 those things are true, correct?

12 MR. WISE: I think that's --

13 JUDGE TRIKOUROS: But someone knew it
14 then.

15 MR. WISE: It appears that way.

16 JUDGE TRIKOUROS: And certainly whoever
17 wrote this was at least one person who knew that. And
18 I explored yesterday this issue of notes that
19 indicated that a request was made by the NRC staff for
20 those videotapes, in addition to a table -- a nozzle-
21 by-nozzle table. The nozzle-by-nozzle table was done.
22 In fact, you were tasked to do it, if I remember
23 correctly. Or have it done.

24 THE WITNESS: Have it done. That's
25 correct, Your Honor.

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1 JUDGE TRIKOUROS: And the videotapes were
2 never sent to the NRC.

3 THE WITNESS: That's my understanding.

4 JUDGE TRIKOUROS: So who in your
5 organization would -- or in the Davis-Besse
6 organization would make the decision regarding whether
7 those videotapes would go to the NRC or not? Was it
8 Licensing?

9 THE WITNESS: I would say it would be --
10 if we've made a commitment to provide something,
11 Licensing would take the lead to provide that
12 information and docket it. If the decision is made
13 not to, you know, I don't know. Someone might have
14 told Licensing not to send it, but that's pure
15 speculation on my behalf. I mean, anything we send
16 out to the NRC went through Licensing.

17 JUDGE TRIKOUROS: We know that Prasoon
18 Goyal was aware of it. We know that Rod Cook was
19 aware of it. We know that Mr. Siemaszko was aware of
20 it, because the latter two convinced the first two to
21 sign it -- this document.

22 So somehow there's a portion -- what we're
23 supposed to discern here is how a small portion of the
24 organization at the lower levels -- in fact, possibly
25 at the lowest -- the working level basically, knew

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1 things that were communicated to -- that were wrong
2 that were communicated to the NRC staff, and that no
3 one at the management level was aware of that.

4 Yet whoever it was that made the decision,
5 or had the authority to not allow those tapes to be
6 sent to the NRC staff, or to ignore the request by the
7 NRC staff, could not have been somebody like Mr.
8 Siemaszko or Mr. Goyal or Mr. Cook, right?

9 They would not have had the authority to
10 make a decision to not release those videotapes. It
11 would have been somebody in a higher level position.
12 I'm not saying it was you, but somebody in a higher
13 level position, possibly a Licensing manager. I don't
14 know. Does this make sense?

15 THE WITNESS: Yes, Your Honor. If the --
16 if the -- I guess the underlying assumption there is
17 is that the tapes were not sent to the NRC
18 intentionally versus just sheer lack of followthrough.
19 And I -- I can't speak to either one of those, so I'm
20 not sure how to answer your question.

21 JUDGE TRIKOUROS: Well, whoever wrote that
22 note knew, clearly, that if those tapes were sent to
23 the NRC -- I mean, that's what the note says. "If the
24 NRC comes" --

25 THE WITNESS: I agree.

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1 JUDGE TRIKOUROS: -- "or sees these tapes,
2 we are" -- you know, I don't know what the term was,
3 but it was not good. You know, certainly not
4 something that we like to hear.

5 THE WITNESS: I agree. But without
6 knowing -- I don't know who wrote those. And without
7 knowing that, I don't know that I can answer your
8 question.

9 JUDGE TRIKOUROS: I understand. I just
10 want you to understand what our problem is here.
11 That's fine.

12 JUDGE FARRAR: Just to review the bidding
13 -- this page that was just up on the screen of
14 Staff 47 with the notes, that's not your handwriting.

15 THE WITNESS: That's correct, Your Honor,
16 it's not.

17 JUDGE FARRAR: Do you recall from your
18 time with the company whose handwriting that is?

19 THE WITNESS: No, I don't, Your Honor.

20 JUDGE FARRAR: Some people in the company
21 have distinctive handwriting. You can see it 10 years
22 later and you say, "Yep, that was old Joe." You don't
23 recall that --

24 THE WITNESS: No.

25 JUDGE FARRAR: This is a Staff Exhibit,

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1 Ms. Clark. Does the Staff know whose handwriting this
2 is?

3 MS. CLARK: We do not.

4 JUDGE FARRAR: In all the Department of
5 Justice investigation, in all the Office of Inspection
6 investigation, in the six years -- sorry, four years
7 it took to issue this order, nobody in the government
8 talked to any of these people and said, "Let's see
9 your handwriting." We have handwriting forensic
10 experts, and so forth. As far as you know, no one in
11 the NRC, no one in the Department of Justice, has
12 said, "We know whose handwriting this is."

13 MS. CLARK: I really can't speak to what
14 extent the investigation went into that.

15 JUDGE FARRAR: But no -- you're the
16 lawyer.

17 MS. CLARK: And I don't know.

18 JUDGE FARRAR: You're the head lawyer on
19 this case, Ms. Clark.

20 MS. CLARK: But I don't know -- yes, I
21 don't know --

22 JUDGE FARRAR: Nobody came to you --

23 MS. CLARK: And said that they know --

24 JUDGE FARRAR: -- and said this.

25 MS. CLARK: -- can identify those notes.

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1 JUDGE FARRAR: And an order was issued,
2 effective immediately, banning this man for five
3 years.

4 JUDGE TRIKOUROS: Okay. Well, I guess we
5 should proceed.

6 JUDGE FARRAR: Judge Trikouros has
7 performed one of his functions and hit me in the arm
8 and told me to calm down. And I was not upset with
9 you, Ms. Clark. I had -- just want to make sure that
10 you have no -- you have told us you have no
11 information about this.

12 Go ahead, Mr. Wise.

13 MR. WISE: Let me ask a couple more
14 questions on this, and then we'll move to the actual
15 call.

16 BY MR. WISE:

17 Q Judge Trikouros asked you some questions
18 about who would make the decisions about when and
19 whether to send the tapes. Did you have any role in
20 deciding what went to the NRC and when?

21 A With regard to the tapes, no.

22 Q Anything.

23 A Well, I mean, there has been times that I
24 have had to respond to like RAIs in the past, and I
25 would respond to that through the licensing group. So

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1 I don't want to put an all-encompassing statement out
2 there.

3 Q In connection with this bulletin, did you
4 have any control over the timing of when the serial
5 letters went in?

6 A No.

7 Q Other than your input into the content of
8 the later letters, did you have any say in how
9 communications were handled?

10 A No.

11 Q Did you have any role in setting up the
12 meeting with the technical assistants we have heard so
13 much about?

14 A No.

15 Q On the October 3rd phone call, we have
16 stipulated that you are the one that is identified as
17 speaking about the past inspections, correct?

18 A That's correct.

19 Q If you had been in a conference the day
20 before and had heard the words spoken that are
21 contained in the exhibit we were just looking at,
22 would you have agreed to speak about the past
23 inspections?

24 A Sure.

25 Q Would you have said what you said?

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1 A Certainly.

2 Q You would have said that there was 100
3 percent inspection except for five or six, if you knew
4 there was a note that said, "Concerned that we don't
5 have a frame-by-frame review, and, if the NRC comes
6 in, we're wide open"?

7 A No, not that note. I thought you were
8 talking about the agenda that we had minus those.

9 Q I'm glad that we've cleared that up.

10 JUDGE FARRAR: Ask those questions again.

11 THE WITNESS: Sorry.

12 BY MR. WISE:

13 Q If you had known that there was someone in
14 the organization that had concerns that Davis-Besse
15 didn't have a frame-by-frame review, and if the NRC
16 came in and saw the tapes Davis-Besse was wide open,
17 would you have made the representations on October 3rd
18 that you made about the quality of the video
19 inspections?

20 A Certainly not.

21 Q What was -- give the Board some sense for
22 how long these preparation meetings lasted on the 2nd.

23 A I've got to be honest, I don't remember
24 the meeting all that well. My memory of the meeting
25 is being generated by reviewing these agenda notes and

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1 stuff. So I couldn't -- I couldn't even begin to
2 hazard a guess. It's not like it was all day.

3 Q Let me ask you this. Do you recall any
4 involvement of Framatome in the preparation meetings
5 and in the October 3rd phone call?

6 A Yes. They were -- I believe we had them
7 on teleconference. I don't think there was anyone
8 actually physically present at Davis-Besse, but I
9 believe they were tied in by teleconference. And the
10 intent was also I think to tie them in, also by
11 teleconference, the next day.

12 Q Is that significant to you in terms of the
13 statements about the past inspections?

14 A Well, given the fact that they did the
15 inspections, you know, I -- you know, I guess I would
16 have expected, if I had misspoke substantially over
17 what they had witnessed or were familiar with, they
18 would have spoken up.

19 Q Do you recall --

20 A But that's 20/20 hindsight.

21 Q Do you recall whether Mr. Siemaszko or Mr.
22 Goyal was present for the October 3rd conference call?

23 A I don't believe they were.

24 Q Do you have any sense as you look back now
25 why it is that you were the one that ended up speaking

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1 about the past inspections?

2 A Because I was the first one to speak up.

3 Q Give the Board a sense of what the
4 October 3rd conference call consisted of. How long
5 did it last?

6 A I'm going to say probably an hour, an hour
7 and a half. But I'm not exactly positive. It was not
8 a very fruitful phone call.

9 Q Why not?

10 A Because we didn't get any answers.

11 Q To what?

12 A We wanted to know what they knew, what the
13 NRC knew, that was causing them to come to the
14 conclusion that we needed to shut down. And when we
15 asked those questions, we were told they couldn't tell
16 us, because it was predecisional.

17 Q You spoke to the issue of the past
18 inspections. Did you speak to the questions of what
19 Davis-Besse wanted to know, what information Davis-
20 Besse wanted from the staff, or was that handled by
21 someone else on your side of the call?

22 A I thought that was handled by Mr. Moffitt,
23 but I'm not 100 percent sure.

24 Q And why would you think that?

25 A He was the one that was leading the

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1 meeting.

2 Q Assuming that you are the one that spoke
3 the words "100 percent inspection, except for five or
4 six nozzles," was it your intention to communicate
5 that an entire -- that every nozzle had been seen?

6 A No. I was just saying that it wasn't a
7 sample-type inspection where you go and say, "I'm
8 going to choose 10 percent."

9 Q In addition to reviewing the serial
10 letter, and your involvement in the preparation
11 meetings, do you recall whether you did anything else
12 to get ready for the October 3rd phone call?

13 A Not that I recall.

14 Q After the phone call ended --

15 MR. WISE: Does the Board have any
16 questions about the content of the call before I move
17 to the next --

18 JUDGE HAWKENS: I do. Earlier I
19 understood you to say you did not really own the head,
20 it came under the purview of some other member of the
21 management team. Is that --

22 THE WITNESS: Correct.

23 JUDGE HAWKENS: -- correct? I'm just
24 wondering why you volunteered this? Was it Mr.
25 McLaughlin? Is he the individual?

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1 THE WITNESS: No. Mr. McLaughlin was in
2 the Life Cycle Management Group. He was actually
3 responsible for -- he had a task -- Life Cycle
4 Management was a group that was assigned with long-
5 term planning. But -- and I don't know if it was
6 really a function of Life Cycle Management or a
7 collateral duty, but it was in charge of the
8 inspections going forward.

9 Systems Engineering is who I would say
10 owned the head. They owned all of the equipment.
11 System Engineering has always been considered the
12 owners on a system-by-system basis. There was nobody
13 there to speak up for systems. So I said I would take
14 care of it, and I did.

15 JUDGE HAWKENS: We're talking about the
16 head, and the head owner is not there. Did that --
17 does that make sense? It doesn't make sense to me.

18 THE WITNESS: I think at -- if you take it
19 in the context of we're talking about the head now,
20 but at the time we were talking about we weren't sure
21 why we were being asked to shut down, other than our
22 bulletin response. And from that standpoint, the
23 important people to be present for that would be
24 licensing. They were the owners of the bulletin
25 response.

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1 BY MR. WISE:

2 Q As you look back on October 3rd, do you
3 wish that Mr. Siemaszko and Mr. Goyal had been present
4 at the conference call?

5 A Absolutely. It would also have been nice
6 to have maybe a manager or supervisor from Systems
7 there.

8 MR. WISE: Anything further Judge?

9 JUDGE FARRAR: That answer to your last
10 question assumes if they had been on the call they
11 would have alerted someone to the truth. Or at least
12 you would have made them make the statement instead of
13 you making the statement.

14 THE WITNESS: That's correct, Your Honor.

15 JUDGE TRIKOUROS: Are you done with you --

16 MR. WISE: I'm done with the content of
17 the call. I was going to move on to the -- afterward,
18 but --

19 JUDGE FARRAR: Ms. Clark, one followup
20 question. How did you come by this exhibit? Is this
21 part of the inspection?

22 MS. CLARK: I believe it came by subpoena.
23 Our Office of Investigations subpoenaed all the
24 documents from FENOC.

25 JUDGE FARRAR: From the company.

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1 MS. CLARK: From the company. So this
2 came --

3 JUDGE FARRAR: Yes, okay.

4 JUDGE TRIKOUROS: Can I go back to
5 September 28th with you, to when Mr. Campbell came in?
6 He was upset, you said.

7 THE WITNESS: Yes, Your Honor.

8 JUDGE TRIKOUROS: Did he speak directly
9 with Mr. Moffitt initially, or did he speak to both of
10 you? You were both at the INPO audit exit, right?

11 THE WITNESS: Yes, Your Honor. The entire
12 manager and above team was there, as well as some
13 other people. I'm trying to recall it in as much
14 detail as possible. But it -- to the best of my
15 recollection, Mr. Moffitt and Mr. Campbell were -- or
16 Mr. Campbell pulled Mr. Moffitt and Mr. Lockwood out
17 of the meeting.

18 And I don't know what kind of conversation
19 they had that was outside of the 4th floor conference
20 room. But then Mr. Moffitt came back in and said he
21 was directed to finish up this meeting. "Dave, you go
22 with Mr. Lockwood, Mr. Campbell, as" -- you know, in
23 his stead, basically. So there might have been some
24 conversation that occurred during that timeframe that
25 I was not privy to, so I don't know.

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1 Mr. Campbell was visibly agitated and
2 angry.

3 JUDGE TRIKOUROS: Who actually told you
4 about the communication that Mr. Campbell had had with
5 Mr. Saunders who had had a communication with Brian
6 Sheron?

7 THE WITNESS: I'm not 100 percent certain,
8 but I think it was Mr. Moffitt told me that when he
9 came back and told me to go with them.

10 JUDGE TRIKOUROS: And in all of this,
11 people were very upset. Was there any -- what was the
12 attitude about shutting this plant down?

13 THE WITNESS: Well, I would say that it --
14 with regard to people upset, the -- I'm sorry, too
15 close -- with regard to people upset, at that point
16 the person that was upset was Mr. Campbell. Okay?
17 The rest of us were not. It wasn't like we were
18 upset; we were just confused.

19 If he was upset, I don't believe he was
20 upset from -- you know, and I'm speaking to his
21 feelings -- I don't believe he was upset over the
22 prospect of shutting the plant down. I think he was
23 visibly upset over the fact that his boss just chewed
24 his butt out for getting blindsided.

25 So, you know, at that point, it wasn't --

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1 there wasn't a lot of thought of, okay, what are the
2 ramifications of shutting the plant down? The biggest
3 thing was is, okay, what is going on? I mean, when
4 you're not expecting a message like that and it comes
5 across, there's a lot of things that run through your
6 mind as to, okay, what's going on? What do they know
7 that we don't know? type thing.

8 I think at that time, honestly, all of us
9 just felt as though this was just an issue where we
10 had to answer some questions, and we'd be done. I
11 mean, I really think that's our approach -- that we
12 would get hold of the NRC, we would talk, we would
13 figure out what the shortcomings are, we'd answer
14 those, and the issue would be over with.

15 JUDGE TRIKOUROS: Okay for now.

16 JUDGE FARRAR: Mr. Wise, when are you
17 going to ask Mr. Geisen about his interaction with Mr.
18 Martin? Does that come later? We're not doing this
19 chronologically?

20 MR. WISE: We can do it now. I think it
21 -- I mean, there are plenty of times where it's
22 appropriate, but --

23 JUDGE FARRAR: No, no. You do it when you
24 want, but I was thinking chronologically --

25 MR. WISE: Right.

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1 JUDGE FARRAR: -- we have now been through
2 August.

3 MR. WISE: It will come in the coming
4 week, and I mean in the chronology, not that this
5 direct is going to take another week.

6 (Laughter.)

7 JUDGE FARRAR: Okay. Go ahead. We had
8 hoped -- are we going to finish your direct this
9 evening? That has an advantage in that then the Staff
10 has the whole evening and early morning to prepare.

11 MR. WISE: I'm not sure that's an
12 advantage.

13 (Laughter.)

14 JUDGE FARRAR: But I -- but we went late
15 last night, and we are on a good pace. I mean, we now
16 have Friday almost as a bonus day, so there's little
17 possibility we would not finish. So tell me how long
18 you --

19 MR. WISE: Your Honor, I actually think I
20 have another hour and a half probably.

21 JUDGE FARRAR: Okay. When do you get to
22 the impact of this order on Mr. Geisen's life? That's
23 part of the --

24 MR. WISE: That's going to be the end.

25 JUDGE FARRAR: The end. But that's part

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1 of the hour and a half.

2 MR. WISE: Yes. I think it may make
3 sense, actually, if the Court if willing, to just
4 break at this point. We can start early tomorrow.

5 JUDGE FARRAR: You're not in the middle
6 of --

7 MR. WISE: Not really. I mean, where
8 we're going to go next is the assignments he is given,
9 and then next we -- you are going to hear about his
10 meetings with Andrew and the beginning of the
11 construction of the table, which will then encompass
12 the discussion with Mr. Martin. But it's pretty
13 substantive, and I think that is going to take a
14 fairly good chunk. And I wouldn't mind doing that
15 when we're all fresh in the morning.

16 JUDGE FARRAR: Ms. Clark, who is doing the
17 cross?

18 MS. CLARK: I will be.

19 JUDGE FARRAR: Any idea, from what you've
20 heard so far, how long it will be? I mean --

21 MS. CLARK: It's difficult for me to
22 estimate. And I don't want to mislead you.

23 JUDGE FARRAR: You're not talking a full
24 day.

25 MS. CLARK: I don't think so. No, I don't

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1 think so.

2 JUDGE FARRAR: Try not.

3 MS. CLARK: Forgive me, but I am not as
4 experienced as they are with these matters. And I
5 am --

6 JUDGE FARRAR: I don't want -- I am not
7 wanting to hurry you, because we have waited a long
8 time to get to this point. And we do have -- we are
9 a bit ahead of schedule. But if we started at --
10 start at 9:00, then we are guaranteed you finish
11 before lunch. We could take an early -- early long
12 lunch, if you wanted, and --

13 MS. CLARK: And then, I will try -- try to
14 finish tomorrow.

15 JUDGE FARRAR: Well, we -- I would --
16 tomorrow is what, Thursday?

17 JUDGE HAWKENS: Yes.

18 JUDGE FARRAR: Now, your direct of your
19 Staff penalty witnesses is reasonably short?

20 MS. CLARK: Yes, it is. That won't be
21 long.

22 JUDGE FARRAR: Yes.

23 MR. WISE: Your Honor, if the Court wanted
24 to start at 8:30, I think we could do that, and we
25 could probably be finished with Mr. Geisen's direct at

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1 the mid-morning break.

2 JUDGE FARRAR: Yes. Can everybody make it
3 at 8:30? Okay.

4 MS. CLARK: That's fine.

5 JUDGE FARRAR: Then -- and, Ms. Clark, I
6 have been thinking -- and you may want to tell your
7 witnesses --

8 MS. CLARK: And, actually, Mr. Luehman is
9 here now also.

10 JUDGE FARRAR: Okay. All right. Thank
11 you, Mr. Luehman.

12 There might be some overlap in their
13 testimony. So while I'm happy, in fact delighted,
14 that they are both here to hear Mr. Geisen, when
15 O'Brien takes the stand I might want to -- we might
16 want to sequester the two of them. In other words, it
17 was important that they hear Mr. Geisen, because we'll
18 have some questions of that. But it may also be
19 important that they not hear each other. So when we
20 get to that point, we'll treat them the same as we did
21 the other witnesses.

22 MS. CLARK: Okay.

23 JUDGE FARRAR: Okay? Then, being almost
24 6:00, let's adjourn. We'll come back at 8:30 on --
25 what's that day? Thursday?

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1 (Laughter.)

2 8:30 on Thursday, and try to finish up.

3 Thank you, all.

4 And, Mr. O'Brien, Mr. Luehman, thank you
5 particularly for being here today.

6 MS. CLARK: Your Honors, we have the
7 unredacted version of the document we were talking
8 about, so we can give that to you now.

9 JUDGE FARRAR: Okay. We will review the
10 unredacted version tonight. And it's an unredacted
11 version indicating where the redactions -- so we'll
12 know what --

13 MR. HIBEY: You should have it off of the
14 exhibits that were handed to you.

15 JUDGE FARRAR: Yes. But I want it on a --
16 on one sheet I can read what I -- by reading one sheet
17 we can tell what the whole document is and what you
18 don't have.

19 MR. GHASEMIAN: I bracketed that --

20 JUDGE FARRAR: Appreciate that. Thank you.

21 MR. HIBEY: Thank you, Your Honor.

22 MR. GHASEMIAN: Thank you.

23 (Whereupon, at 5:54 p.m., the proceedings
24 in the foregoing matter were adjourned, to reconvene
25 at 8:30 a.m., the following day.)

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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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